

ORDER

Matter No S409/2011

JT INTERNATIONAL SA

v

COMMONWEALTH OF AUSTRALIA

Matter No S389/2011

BRITISH AMERICAN TOBACCO AUSTRALASIA LIMITED AND ORS

v

COMMONWEALTH OF AUSTRALIA

Matter No S409/2011

1. The demurrer by the plaintiff to the defence of the defendant be overruled.
2. Judgment be entered in the action for the defendant.
3. The plaintiff pay the defendant's costs in this action, including the demurrer.

Matter No S389/2011

The questions reserved on 28 February 2012 for determination by the Full Court under s 18 of the *Judiciary Act* 1903 (Cth) be answered as follows:

Question 1

Apart from s 15 of the *Tobacco Plain Packaging Act* 2011 (Cth), would all or some of the provisions of the *Tobacco Plain Packaging Act* 2011 (Cth) result in an acquisition of any, and if so what, property of the plaintiffs or any of them otherwise than on just terms, of a kind to which s 51(xxxi) of the Constitution applies?

Answer

No.

Question 2

Does the resolution of Question 1 require the judicial determination of any and if so what disputed facts following a trial?

Answer

No.

Question 3

If the answer to Question 1 is "yes" are all or some, and if so which, provisions of the *Tobacco Plain Packaging Act 2011* (Cth) in whole or in part beyond the legislative competence of the Parliament by reason of s 51(xxxi) of the Constitution?

Answer

Does not arise.

Question 4

Are all or some, and if so which, provisions of the *Tobacco Plain Packaging Act 2011* (Cth) in whole or in part beyond the legislative competence of the Parliament by reason of the matters raised in pars 10-12 of the statement of claim?

Answer

No.

Question 5

What order should be made in relation to costs of the questions reserved?

Answer

The plaintiffs pay the defendant's costs.