

- Subordinately, for all goods or services other than 'hotels and hotel reservation' services or;
- Subordinately in relation to services of 'restaurants, cafeterias, public eating places, bars, catering, delivery of drinks and beverages for immediate consumption' or;
- Remit the proceedings to the OHIM so that it may issue that declaration of nullity;
- Order that Mr Arrigo Cipriani's costs for these proceedings be entirely reimbursed.

### **Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* The word mark 'CIPRIANI' for goods and services in Classes 16, 35 and 42 — Community trade mark No 115 824

*Proprietor of the Community trade mark:* Hotel Cipriani

*Applicant for the declaration of invalidity of the Community trade mark:* The applicant

*Grounds for the application for a declaration of invalidity:* The trade mark had been registered in bad faith and infringed the right to a renowned personal name 'CIPRIANI'

*Decision of the Cancellation Division:* The application for a declaration of invalidity was rejected

*Decision of the Board of Appeal:* The appeal was dismissed

*Pleas in law:*

- Violation of Article 53(2)(a) of Regulation No 207/2009 in relation to article 8.3 of the Italian Code of Industrial Property;
- Violation of Article 52(1)(b) of Regulation No 207/2009.

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### **Action brought on 20 May 2014 — Construlink/OHIM — Wit-Software (GATEWIT)**

**(Case T-351/14)**

(2014/C 261/54)

*Language in which the application was lodged:* English

### **Parties**

*Applicant:* Construlink — Tecnologias de Informação, SA (Lisboa, Portugal) (represented by: M. Lopes Rocha, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Wit-Software, Consultoria e Software para a Internet Móvel, SA (Coimbra, Portugal)

### **Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 March 2014 in Case R 1059/2013-1;

- Consider the trade mark application No 10 128 262 GATEWIT fully sustained;
- Order the OHMI and the Opponent to pay the costs.

### **Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* Word mark 'GATEWIT' for services in Class 42 — Community trade mark application No 10 128 262

*Proprietor of the mark or sign cited in the opposition proceedings:* Wit-Software, Consultoria e Software para a Internet Móvel, SA

*Mark or sign cited in opposition:* The figurative mark containing the word elements 'wit software' for goods and services in Classes 9, 38 and 42 as well as the national registration of the company name 'Wit-Software, Consultoria e Software para a Internet Móvel, SA'

*Decision of the Opposition Division:* The opposition was rejected

*Decision of the Board of Appeal:* The decision of the Opposition Division was annulled and the trade mark applied for rejected

*Pleas in law:*

- Violation of Article 8(1)(b) of Regulation No 207/2009;
- Violation of Article 8(4) of Regulation No 207/2009.

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### **Action brought on 27 May 2014 — REWE-Zentral/OHIM — Vicente Gandia Pla (MY PLANET)**

**(Case T-362/14)**

**(2014/C 261/55)**

*Language in which the application was lodged: English*

### **Parties**

*Applicant:* REWE-Zentral AG (Köln, Germany) (represented by: M. Kinkeldey, S. Brandstätter and A. Wagner, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Vicente Gandia Pla, SA (Chiva, Spain)

### **Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 March 2014 in Case R 201/2013-1;
- Condemn the defendant to the costs of the proceedings.

### **Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant