

- Consequently, annul the decision not to renew the appellant's contract and to transfer her to another department, dated 27 February 2012; order the defendant to compensate the appellant's material prejudice estimated at 1 320 euros per month from September 2012, to which must be added late interest at the key rate of the European Central Bank plus two percentage points; and order the defendant to compensate the appellant's moral prejudice evaluated *ex aequo et bono* at 50 000 euros; and
- Order the defendant to pay the costs in the first instance and appeal.

### Pleas in law and main arguments

In support of the appeal, the appellant relies on the following pleas in law.

1. Regarding the decision of non-renewal of the appellant's contract
  - Firstly, the appellant alleges that the Civil Service Tribunal violated the principle of the rights of defence and the right to be heard and of access to relevant information embodied in Article 41 of the EU Charter of Fundamental Rights and it distorted the evidence;
  - Secondly, the appellant alleges that by refusing to authorise a second exchange of pleadings and the production of relevant evidence in response to the observations of the defendant and at the hearing, the Civil Service Tribunal violated the appellant's rights of defence, committed a manifest error of assessment and denied to the appellant a fair trial;
  - Thirdly, the appellant alleges a manifest error made by the Civil Service Tribunal in the assessment of the first plea alleging a manifest error of assessment in the decision of the defendant and distortion of the facts and evidence;
  - Fourthly, the appellant alleges a manifest error in the assessment of the pleas on retaliation and misuse of powers, distortion of the facts and evidence.
2. Regarding the decision of reassignment
  - Firstly, the appellant alleges an illegal assessment by the Civil Service Tribunal of the second plea, alleging irregular and unilateral amendment of an essential element of the contract of service and a discrepancy between post and grade, and a distortion of evidence;
  - Secondly, the appellant alleges that the Civil Service Tribunal erred in law in the assessment of the appellant's

argument in relation to the absence of hearing by the defendant before the decision to transfer and a violation of the rights of defence.

3. The appellant alleges a violation of Article 87(2) and 88 of the Rules of Procedure of the civil Service Tribunal regarding the costs, and a violation of the duty to state reasons.

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### Action brought on 12 December 2013 — *dm-drogerie markt v OHIM — Diseños Mireia (D and M)*

(Case T-662/13)

(2014/C 61/21)

*Language in which the application was lodged: English*

#### Parties

*Applicant:* *dm-drogerie markt GmbH & Co. KG* (Karlsruhe, Germany) (represented by: O. Bludovsky and C. Mellein, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* *Diseños Mireia, SL* (Barcelona, 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 Harmonization in the Internal Market (Trade Marks and Designs) of 11 September 2013 given in Case R 911/2012-1 and cancel the contested trade mark;
- Alternatively: Annul the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 11 September 2013 given in Case R 911/2012-1 and remit the case;
- Alternatively: Annul the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 11 September 2013 given in Case R 911/2012-1.

#### Pleas in law and main arguments

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The figurative mark consisting of the letters 'D' and 'M' for goods in Class 14 — Community trade mark application No 9 737 917

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* The Community trade mark registration No 3 984 044 for the word mark 'dm' for goods in Class 14

*Decision of the Opposition Division:* Rejected the opposition

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Article 8 (1) (b) CTMR

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**Action brought on 16 December 2013 — Zitro IP v OHIM — Gamepoint (SPIN BINGO)**

(Case T-665/13)

(2014/C 61/22)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* Zitro IP Sàrl. (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Gamepoint BV (The Hague, Netherlands)

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 14 October 2013 given in Case R 1388/2012-4;
- Order the defendant and the other party, should it intervene, to bear the costs of proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The coloured figurative mark in colours containing the verbal element 'SPIN BINGO' for goods and services in Classes 9, 41 and 42 — Community trade mark application No 9 545 658

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* The word mark 'ZITRO SPIN BINGO' for goods and services in Classes 9, 28 and 41 — Community trade mark registration No 9 058 868

*Decision of the Opposition Division:* Upheld the opposition in part

*Decision of the Board of Appeal:* Annulled the contested decision and rejected the opposition

*Pleas in law:* Infringement of Article 8(1)(b) CTMR.

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**Action brought on 18 December 2013 — Gugler France v OHIM — Gugler (GUGLER)**

(Case T-674/13)

(2014/C 61/23)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* Gugler France SA (Besançon, France) (represented by: A. Grolée, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Alexander Gugler (Maxdorf, Germany)

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 16 October 2013 given in Case R 356/2012-4;
- Cancel the contested trade mark;
- Order the defendant and the other party, should it intervene, to bear the costs of proceedings.