

- 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.

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

Community trade mark concerned: The figurative mark containing the word elements 'MY PLANET' for goods in classes 25, 32 and 33 — Community trade mark application No 8 566 515

Proprietor of the mark or sign cited in the opposition proceedings: Vicente Gandia Pla, SA

Mark or sign cited in opposition: The word mark 'EL MIRACLE PLANET' for goods in classes 25, 32 and 33

Decision of the Opposition Division: The Opposition was allowed

Decision of the Board of Appeal: The appeal was dismissed

Pleas in law: Infringement of Articles 8(1)(b) and 41(1) of Regulation No 207/2009

Action brought on 23 May 2014 — Penny-Markt v OHIM — Boquoi Handels (B! O)

(Case T-364/14)

(2014/C 261/56)

Language in which the application was lodged: German

Parties

Applicant: Penny-Markt GmbH (Cologne, 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: Boquoi Handels OHG (Straelen, 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 Harmonisation in the Internal Market (Trade Marks and Designs) of 21 March 2014 in Case R 1201/2013-4;
- Order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the figurative mark including the word element 'B! O' for goods in Classes 29, 30, 31 and 32 — Community trade mark No 10 038 008

Proprietor of the Community trade mark: the applicant

Applicant for the declaration of invalidity of the Community trade mark: Boquoi Handels OHG

Grounds for the application for a declaration of invalidity: the national and Community trade mark 'bo' for goods and services in Classes 5, 16, 21, 29, 31, 32, 33 and 35

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

Decision of the Board of Appeal: the decision of the Cancellation Division was annulled and the Community trade mark was declared invalid