

3. Third plea in law, alleging a manifest error of assessment, [infringement] of the obligation to provide assistance and the duty of care and infringement of Articles 12a and 24 of the Staff Regulations.

Action brought on 12 April 2017 — M J Quinlan & Associates v EUIPO — Intersnack Group (Shape of a kangaroo)

(Case T-219/17)

(2017/C 178/45)

Language in which the application was lodged: German

Parties

Applicant: M J Quinlan & Associates Pty Ltd (Hope Island, Queensland, Australia) (represented by: M. Freiherr von Welser and A. Bender, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Intersnack Group GmbH & Co. KG (Düsseldorf, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU tridimensional mark (Shape of a kangaroo) — European Union trade mark No 13 342

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 27 January 2017 in Case R 218/2016-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs;
- conduct an oral hearing, in order to ensure the parties' right to a full hearing.

Pleas in law

- Infringement of Article 51(1)(a) of Regulation No 207/2009;
- Infringement of Article 51(1)(a) in conjunction with Article 15(2) of Regulation No 207/2009;
- Infringement of Article 51(1)(a) in conjunction with Article 15(1)(2)(b) of Regulation No 207/2009.

Action brought on 12 April 2017 — Pfalzmarkt für Obst und Gemüse v EUIPO (100 % Pfalz)

(Case T-220/17)

(2017/C 178/46)

Language of the case: German

Parties

Applicant: Pfalzmarkt für Obst und Gemüse eG (Mutterstadt, Germany) (represented by: C. Gehweiler, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union figurative mark containing the word elements '100 % Pfalz' — Application for registration No 15 085 475

Contested decision: Decision of the First Board of Appeal of EUIPO of 7 February 2017 in Case R 1549/2016-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 7(1)(b) of Regulation No 207/2009;
- Infringement of Article 7(1)(c) of Regulation No 207/2009;
- Infringement of Article 75(1) of Regulation No 207/2009.

Action brought on 18 April 2017 — Rstudio v EUIPO — Embarcadero Technologies (RSTUDIO)

(Case T-230/17)

(2017/C 178/47)

Language in which the application was lodged: English

Parties

Applicant: Rstudio, Inc. (Boston, Massachusetts, United States) (represented by: M. Edenborough, QC, and G. Smith, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Embarcadero Technologies, Inc. (San Francisco, California, United States)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the word mark 'RSTUDIO' – International registration designating the European Union No 999 644

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 6 February 2017 in Case R 493/2016-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in its entirety;
- order EUIPO to pay to the applicant the costs of and occasioned by this appeal and the costs below; in the alternative, if the potential intervener actually intervenes, order EUIPO and the intervener to be jointly and severally liable for the applicant's costs of and occasioned by this appeal and the costs below.