

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of EUIPO of 18 January 2017, in so far as it found that the services at issue in Case R 2350/2015-5 were different;
2. Dismisses the action as to the remainder;
3. Orders EUIPO to bear its own costs and to pay those incurred by Unipreus, SL;
4. Orders Wallapop, SL, to bear its own costs.

⁽¹⁾ OJ C 161, 22.5.2017.

Judgment of the General Court of 27 September 2018 — M J Quinlan & Associates v EUIPO — Intersnack Group (Shape of a kangaroo)

(Case T-219/17) ⁽¹⁾

(EU trade mark — Revocation proceedings — Three-dimensional trade mark in the shape of a kangaroo — Declaration of revocation — Genuine use of the mark — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation (EU) 2017/1001) — Proof of genuine use — Nature of use)

(2018/C 427/69)

Language of the case: 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) (represented by: A. Söder and D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Intersnack Group GmbH & Co. KG (Düsseldorf, Germany) (represented by: T. Lampel, J. Heidenreich and M. Pfaff, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 27 January 2017 (Case R 218/2016-2) relating to revocation proceedings between M J Quinlan & Associates Pty and Intersnack Group.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders M J Quinlan & Associates Pty Ltd to pay the costs.

⁽¹⁾ OJ C 178, 6.6.2017.