

**Judgment of the General Court of 8 March 2018 — Claro Sol Cleaning v EUIPO — Solemo (Claro Sol Facility Services desde 1972)**

(Case T-159/17) <sup>(1)</sup>

*(EU trade mark — Opposition proceedings — Application for the EU figurative mark Claro Sol Facility Services desde 1972 — Earlier national figurative mark SOL — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))*

(2018/C 142/66)

Language of the case: English

**Parties**

*Applicant:* Claro Sol Cleaning, SLU (Madrid, Spain) (represented by: N. Fernández Fernández-Pacheco, lawyer)

*Defendant:* European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* Solemo Oy (Helsinki, Finland) (represented by: M. Müller and A. Fottner, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of EUIPO of 9 January 2017 (Case R 478/2016-1), relating to opposition proceedings between Solemo and Claro Sol Cleaning.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 9 January 2017 (Case R 478/2016-1);
2. Orders Solemo Oy to bear its own costs and to pay those incurred by Claro Sol Cleaning, SLU;
3. Orders EUIPO to bear its own costs.

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<sup>(1)</sup> OJ C 195, 19.6.2017.

**Judgment of the General Court of 7 March 2018 — Rstudio v EUIPO — Embarcadero Technologies (RSTUDIO)**

(Case T-230/17) <sup>(1)</sup>

*(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark RSTUDIO — Earlier EU word mark ER/STUDIO — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001)*

(2018/C 142/67)

Language of the case: English

**Parties**

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

*Defendant:* European Union Intellectual Property Office (represented by: D. Gája and D. Walicka, acting as Agents)

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

**Re:**

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 6 February 2017 (Case R 493/2016-5), relating to opposition proceedings between Embarcadero Technologies and Rstudio.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*
2. *Orders Rstudio, Inc. to pay the costs.*

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<sup>(1)</sup> OJ C 178, 6.6.2017.

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**Action brought on 19 January 2018 — La Marchesiana v EUIPO — Marchesi Angelo (MARCHESI)**

**(Case T-35/18)**

(2018/C 142/68)

*Language in which the application was lodged: Italian*

**Parties**

*Applicant:* La Marchesiana Srl (Milan, Italy) (represented by: M. Franzosi, F. Santonocito and A. Sobol, lawyers)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Marchesi Angelo Srl (Milan, Italy)

**Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Applicant

*Trade mark at issue:* European Union figurative mark MARCHESI consisting of seven brush strokes coloured orange, blue, yellow, red, green, black and violet — European Union trade mark No 4 187 159

*Procedure before EUIPO:* Application for a declaration of invalidity

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 14 November 2017 in joined Cases R 1753/2016-4 and R 1802/2016-4

**Form of order sought**

The applicant claims that the Court should:

- amend the contested decision and dismiss in its entirety Angelo Marchesi's request for cancellation of EU trade mark No 4 187 159 for non-use;
- find, by way of variation of the contested decision, that EU trade mark No 4 187 159 was put to genuine use within the European Union during the reference period, pursuant to Article 58(1) EUTMR, in relation to goods/services in Classes 8 (Hand tools and implements, in particular kitchen utensils), 16 (Paper, cardboard, printed matter, books, magazines, artists' materials, stationery, teaching material), 21 (Household or kitchen utensils and containers, cooking pots, plates, glasses, glassware, porcelain and earthenware), 29 (Foodstuffs of animal origin, preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats), 30 (Coffee and artificial coffee, tea, cocoa, sugar, rice, flour, bread, pasta, pastries, ices, additives for improving the flavour of the foods), 33 (Alcoholic beverages), as well as goods/services in Classes 30 (Coffee), 41 (Educational and training activities, training courses) and 43 (Providing of food and drink, services provided by businesses which undertake to obtain food and drink ready for consumption provided by bars, restaurants, self-service restaurants, canteens);