

4. Fourth plea in law, alleging formal and procedural errors and breach of the duty to investigate thoroughly for both incriminatory and exculpatory purposes. The applicant claims that on 16 April 2018, the Criminal Court of [confidential] <sup>(1)</sup> held that none of the alleged facts had been established and acquitted the applicant 'of all the charges against him' and it should be noted that that court ruled on exactly the same facts on which the contested decision is based. The applicant thus takes the view that by failing to transmit to the Disciplinary Board an essential piece of evidence such as a court decision, which has become final, acquitting the applicant completely, the Appointing Authority breached its obligation to communicate to the Disciplinary Board all relevant and useful documents for the establishment of its opinion and thus committed a procedural irregularity.
5. Fifth plea in law, alleging breach of the presumption of innocence and the obligation to be impartial. According to the applicant, the Secretary General wrote to the Vice-Presidents of the Commission, to two Members of the Commission, to the Director-General he reports to, to the Director-General of Human Resources and to the Appointing Authority stating that the investigation 'confirmed the conflict of interests and highlighted various irregularities on the part of the person concerned', which constitutes a violation of the presumption of innocence and the obligation to be impartial.
6. Sixth plea in law, alleging the use of a document that should be considered legally non-existent, that that document does not exist and the breach of Article 1(1) of Annex IX to the Staff Regulations of the European Union ('the Staff Regulations'). The applicant notes that OLAF never heard him on the relevant facts between 3 May 2011 and 18 April 2012, the date on which his report was sent, and that that breach of its obligation to hear the applicant before finalising its report must render that report legal non-existent.
7. Seventh plea in law, alleging breach of Article 10 of Annex IX to the Staff Regulations, of the principle of legal certainty, of the principle of proportionality and of legitimate expectations and a manifest error of assessment, in so far as the sanction is not commensurate to the alleged facts. The applicant claims in that regard that the sanction imposed by the Appointing Authority is manifestly disproportionate. According to him, the relative seriousness of the alleged facts should be taken into account since the disputed sum amounts to EUR 2000. In addition, excessive length of time that has elapsed since the alleged facts. The sanction imposed resulted in depriving the applicant's family of all resources and health insurance, which is manifestly disproportionate.

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(1) Confidential information omitted.

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**Action brought on 15 May 2020 — Facegym v EUIPO (FACEGYM)**

**(Case T-289/20)**

(2020/C 247/36)

*Language of the case: English*

**Parties**

*Applicant:* Facegym Ltd (London, United Kingdom) (represented by: M. Edenborough, QC)

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

**Details of the proceedings before EUIPO**

*Trade mark at issue:* International registration designating the European Union in respect of the word mark FACEGYM — Application for registration No. WI 466 456

*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 27 February 2020 in Case R 70/2020-5

**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;

alternatively

— alter the contested decision so that it is now held that the allegedly offending goods and services of the International Trade Mark Registration do not offend against Article 7(1)(b) or (c);

— order EUIPO to pay the applicant's costs of and occasioned by this application and the costs below.

**Plea in law**

— Infringement of Article 7(1)(b) or (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 22 May 2020 — Talleres de Escoriaza v EUIPO — Salto Systems (KAAS KEYS AS A SERVICE)**

**(Case T-294/20)**

(2020/C 247/37)

*Language of the case: English*

**Parties**

*Applicant:* Talleres de Escoriaza, SA (Irún, Spain) (represented by: T. Müller and F. Togo, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Salto Systems, SL (Oiartzun, Spain)

**Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* European Union word mark KAAS KEYS AS A SERVICE — European Union trade mark No 14 899 439

*Procedure before EUIPO:* Cancellation proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 28 February 2020 in Case R 1363/2019-4

**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and the other party to pay the costs incurred by the applicant.

**Pleas in law**

— Infringement of the duty to state reasons;

— Infringement of the right to be heard;