

3. Third plea in law, alleging that the Commission has infringed Article 52(2) of Regulation 1306/2013 and the Guidelines on the calculation of the financial corrections in the framework of the conformity and financial clearance of accounts procedures (C(2015)3675 of 8 June 2015). It is clear from those guidelines and the principle of proportionality, which is also expressed in Article 52(2) of Regulation 1306/2013, that the flat-rate correction imposed is not justified or proportionate. Neither the extent of the alleged infringement, with regard to its nature and scope, nor the financial damage that the infringement might have caused the European Union can justify a flat-rate correction of 5 % calculated on the basis of all the pastureland that was subject to image updating over the 2016-2018 period, corresponding to the sum of EUR 13 856 996,64. The flat-rate correction at issue in the contested decision is therefore not compatible with the aforementioned provisions or the principle of proportionality.

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<sup>(1)</sup> OJ 2022 L 157, p. 15.

<sup>(2)</sup> Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ 2013 L 347, p. 549).

<sup>(3)</sup> OJ 2014 L 227, p. 69.

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**Action brought on 8 August 2022 — Zitro International v EUIPO — e-gaming (Smiley wearing a top hat)**

**(Case T-491/22)**

(2022/C 380/25)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Zitro International Sàrl (Luxembourg, Luxembourg) (represented by: A. Canela Giménez, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* e-gaming s. r. o. (Prague, Czech Republic)

**Details of the proceedings before EUIPO**

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

*Trade mark at issue:* Application for European Union figurative mark (Representation of a smiley wearing a top hat) — Application for registration No 17 884 680

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 30 May 2022 in Case R 2005/2021-4

**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO and whoever opposes the action in this case to pay the costs.

**Plea in law**

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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