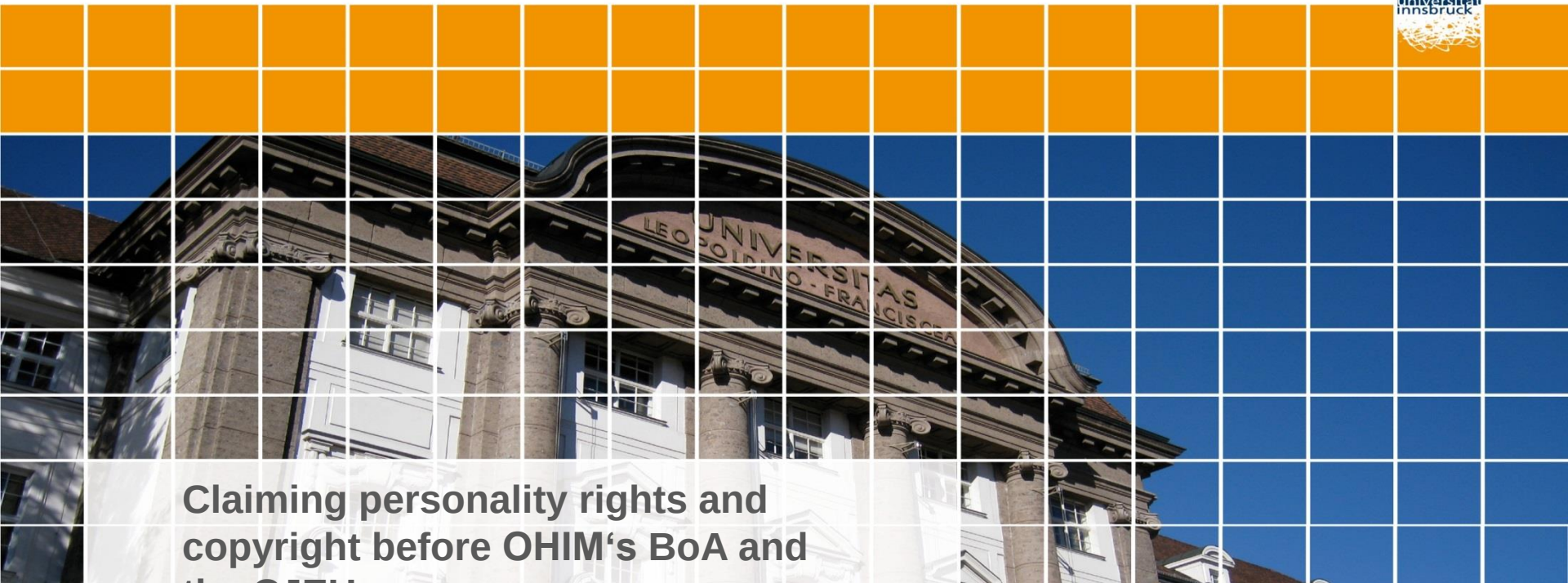




Claiming personality rights and copyright before OHIM's BoA and the CJEU

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Contents – Grounds for invalidity of a EUTM (i.a.)

- **Prior right to a name:** Article 53(2)(a) EUTMR
 - *Marqués de Ballestar* (BoA R 1288/2008-1)
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 - *Cipriani* (BoA R 224/2012-4)
 - *DEF-TEC* (BoA R 871/2007-4)
 - *Telesis* (BoA R 134/2009-2)
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- **Prior copyright:** Article 53(2)(c) EUTMR
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Ground for invalidity of a Community Design (i.a.)

- **Prior copyright:** Article 25(1)(f) CDR
 - *Children's high chair* (BoA R 781/2012-3 and R 951/2012-3)



Article 53 paragraph 2 EUTMR

- A **EU trade mark** may be **declared invalid** where the use of such trade mark may be prohibited pursuant to another **earlier right** under EU or national law governing its protection, and in particular
 - (a) a right to a name,
 - (b) a right of personal portrayal,
 - (c) a copyright or
 - (d) an industrial property right
- **Precise scope** of some rights is difficult to ascertain
- **Research** in non or partly harmonised areas of national law is often required



Prior right to a name: Article 53(2)(a) EUTMR

- *Marqués de Ballestar* (BoA R 1288/2008-1)



EUTM

- *Maria Callas* (BoA R 285/2014-2)



EUTM



Prior right to a name: Article 53(2)(a) EUTMR

- *Cipriani* (BoA R 224/2012-4)  EUTM
- *DEF-TEC* (BoA R 871/2007-4)  EUTM
- *Telesis* (BoA R 134/2009-2)  EUTM
- *Elio Fiorucci* (BoA R 238/2005-1, GC T-165/06, ECJ C-263/09 P, BoA R 2463/2011-2)



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- *Arena di Verona* (BoA R 113/2005-2)



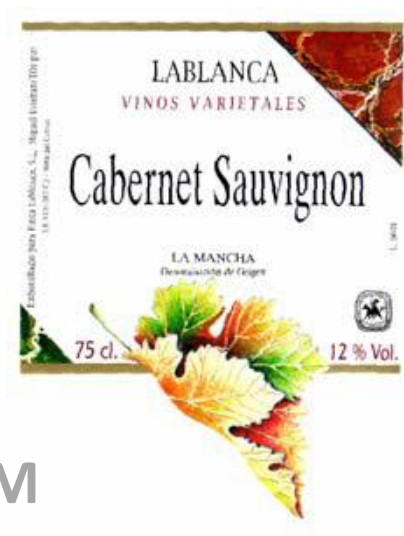
EUTM



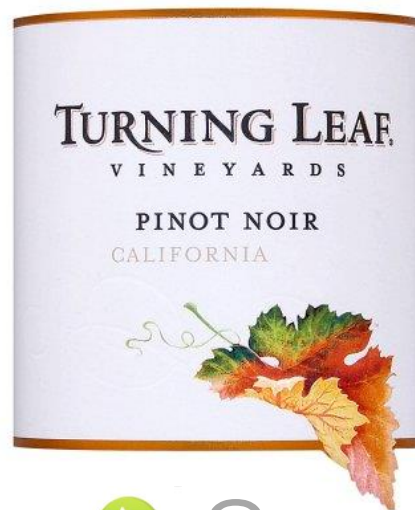


Prior copyright: Article 53(2)(c) EUTMR

- *Lablanca Vinos / Turning Leaf* (BoA R 869/2004-1)



EUTM





Prior copyright: Article 53(2)(c) EUTMR

- *G Glitzy / G* (BoA R 1757/2007-2)



EUTM





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EUTM



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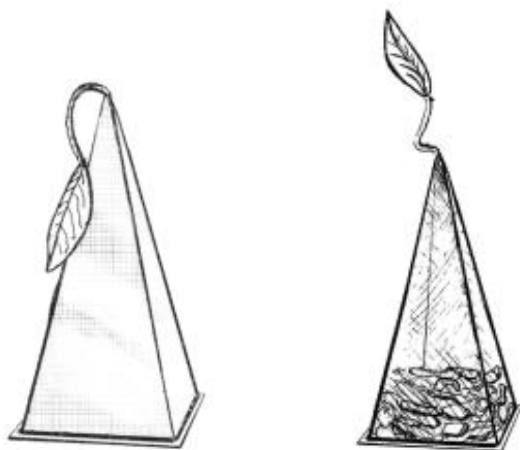


EUTM



Prior industrial property right: Article 53(2)(d) EUTMR

- *Shape of a tea bag (BoA R 2492/2010-2)*



RCDs



EUTM



Prior copyright: Article 25(1)(f) CDR

- *Children's high chair* (BoA R 781/2012-3 and R 951/2012-3)





**Thank you
for your attention!**

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