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)
  - *Maria Callas* (BoA R 285/2014-2)
  - *Cipriani* (BoA R 224/2012-4)
  - *DEF-TEC* (BoA R 871/2007-4)
  - *Telesis* (BoA R 134/2009-2)
  - *Elio Fiorucci* (BoA R 238/2005-1, GC T-165/06, ECJ C-263/09 P, BoA R 2463/2011-2)

- **Prior copyright**: Article 53(2)(c) EUTMR
  - *Arena di Verona* (BoA R 113/2005-2)
  - *Lablanca Vinos / Turning Leaf* (BoA R 869/2004-1)
Continued ...

- **Prior copyright**: Article 53(2)(c) EUTMR
  - *G Glitzy / G* (BoA R 1757/2007-2)
  - *KMM The Original Style* (BoA R 904/2013-4)
  - *CzechTrade* (BoA R 1299/2011-4)
  - *Happy Angels* (BoA R 1925/2011-4)

- **Prior industrial property right**: Article 53(2)(d) EUTMR
  - *Shape of a tea bag* (BoA R 2492/2010-2)

**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

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

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- Happy Angels (BoA R 1925/2011-4)
Prior industrial property right: Article 53(2)(d) EUTMR

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