

10 OCTOBER 2025

GREEN TRADEMARKS



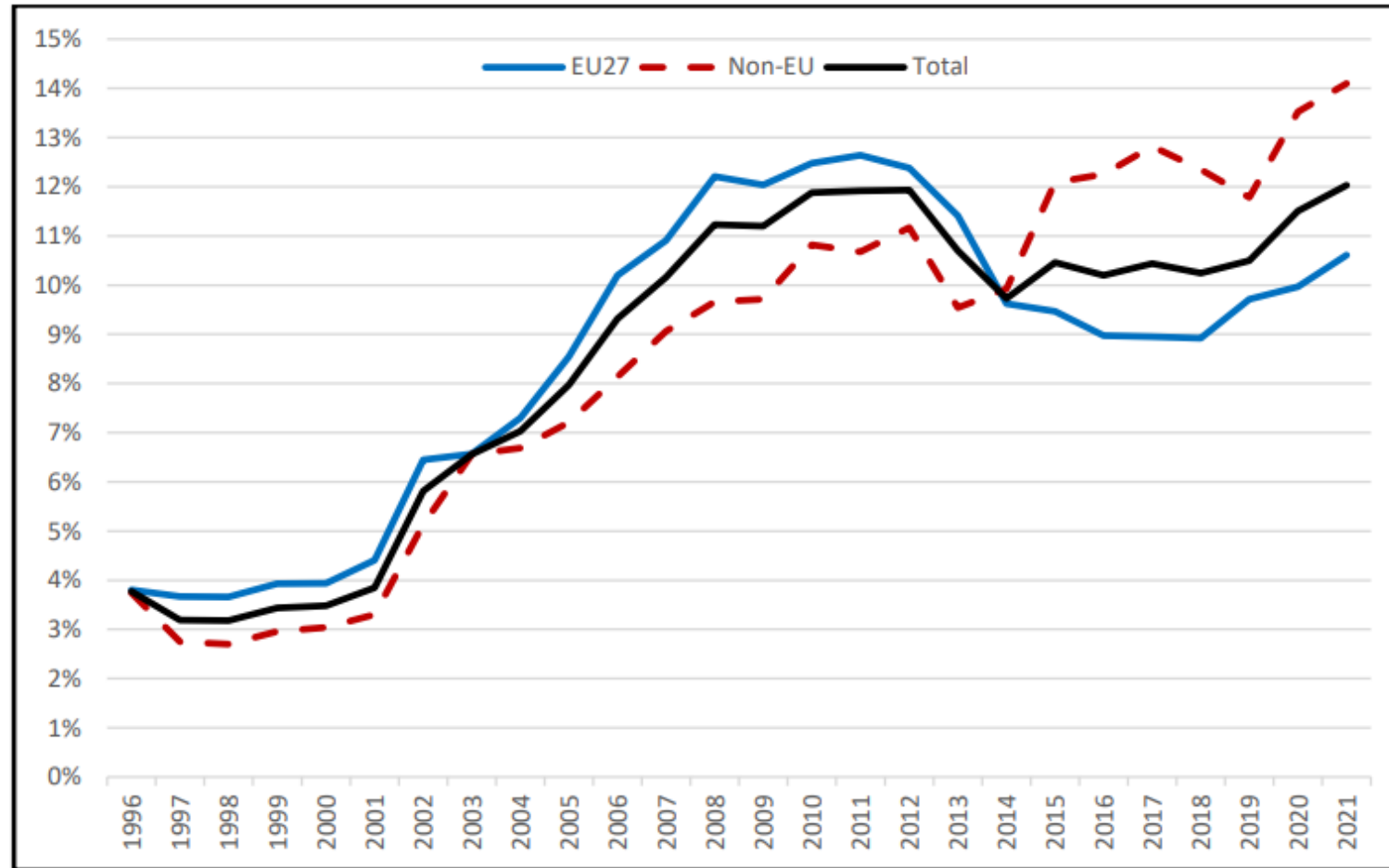
dirkzwager
legal & tax



Joost Becker

EUIPO study (2022/2023)

The green advantage: IP's role in sustainable branding – EUIPO



‘green EUTMs performed better than non-green trade marks’

BE 14,6 %

NL 15.5 %

LU 12,6 %

What's in a name?



➤ EUIPO:

*“a collective term for specific trademarks, service marks, and certification marks that communicate **environmentally friendly products, services, or practices**”*

➤ Eurostat:

*“Environmental goods and services either **reduce environmental pressures** or help **maintain the stock of natural resources** (e.g. vehicle catalysts, soil remediation services) or they are **designed to be cleaner and more resource efficient** than conventional products (e.g. electric cars, zero-energy buildings). Environmental goods and services can be produced by corporations, households, governments and non-profit institutions.”*

“It’s not easy
being green.”
—Kermit the Frog





GREEN

- Art. 2.2bis, 2.11 BCIP / art. 7, 42 EUTMR
- Section 1 sub (b), (c): trade marks which are devoid of any distinctive character, consist exclusively of signs or indications which may serve to designate the characteristics of goods and services
- EUIPO Guidelines [2.2]:

“Greenline’ for goods in Classes 1, 5, 6, 8, 20 and 21 that can conform to a philosophy of care for the environment”

GREENLINE

BoA 30 March 2007, R 125/2007-2

- Class 1, 5, 6, 8, 20 and 21: chemicals, pesticides, gardening tools, containers
- Sub (c)

*“GREENLINE (...) merely conveys to the relevant consumers that the goods (...) conform to a **philosophy of care for the environment**. The ‘line’ of goods are ‘green’ (or ‘ecological’): hence GREENLINE (...)*

*Consumers will expect that these goods either pose a **low threat to the ecosystem** or that they may be used in gardens and parks **in harmony with nature**. Alternatively, they may simply believe that GREENLINE merely refers to tools and utensils for garden (‘green’) use.”*

GREEN CEMENT

EUIPO 30 October 2008, 0979089

- Sub (c)
- Class 19: cementitious materials, building materials made from concrete

*“The expression GREEN CEMENT taken as a whole immediately informs consumers without further reflection that the goods applied for, are construction material made completely or partially of cement which is ecological, environment-friendly or non-polluting (...) **descriptive of an essential characteristic of the goods: that they are cement related and environmentally friendly.**”*

CARBON GREEN

GC 11 April 2013, case T-294/10

- Sub (c)
- Class 17: reclaimed rubber, recycled carbonaceous materials, plastic, filler material

*“‘green’ denotes ecological benefits. (...) it is apparent from **the actual description of the goods concerned, which refers to ‘reclaimed’ and ‘recycled’ goods**, that a feature of the goods is that they contribute to **maintaining ecological balance**. In that context, the word ‘green’ has a direct and specific relationship with the goods concerned (...) although the combination of the words ‘carbon’ and ‘green’ may appear paradoxical, it corresponds **precisely to the description of the goods which, although composed of a chemical element associated with detrimental effects on the environment, are developed from reclaimed and recycled materials**”*

GREENWORLD

GC 27 February 2015, case T-106/14

- Sub (c)
- Class 4, 35 and 39: fuels, electrical energy, transport of electricity, heat, gas or water

*“Eine Ware oder eine Dienstleistung, die als grün beschreiben wird (...) die umweltfreundlich oder zumindestens weniger umweltschädlich ist. (...) **Selbst bei fossilen Brennstoffen kan dat maßgebende Publikum dazu verleitet werden, zu glauben, dass die Waren oder Dienstleistungen dieser Marke Teil eines umweltfreundlichen Erzeugungs- oder Verteilungsvorgangs sind.**”*

GREEN COTTON

BoA 30 March 2023, R 1701/2022-2

- Sub (c)
- Class 35: retail services for textile products, clothing

*“consumers will immediately and without an intellectual effort recognise in the combination of verbal elements ‘GREEN COTTON’ the mere conjunction of a noun and an adjective referring to two characteristics of the goods in question (...) that the **contested retail and wholesale services relate to the selling of textile articles and clothing made from environmentally friendly cotton, or cotton products in green color**”*

GREEN LABEL

BoA 28 April 2008, R1685/2007-5

- Class 9: optical instruments, data- and measuring apparatus, software, hardware

*“The mere fact that the word ‘GREEN’ may have various meanings of which one could refer to the environmentally friendly character of the goods does not make the sign descriptive for the goods applied for. (...) Indeed, the sign would not be perceived by the relevant public, immediately and without any particular effort of analysis, as referring to one of the essential characteristics of the goods applied for. In the Board’s view, the message expressed by the sign applied for is not clear, direct and immediate to the consumer. (...) With respect to the **goods applied for that are high-tech goods, the message perceived by the consumer will not be about the ecological character of the goods**, as the characteristics of the goods will lie on their technical qualities as well as in their effectiveness, reliability and their cost.”*

GREENSEA

EUIPO Guidelines 2025 [2.2]

- Class 1, 3, 5 and 42

“accepted for registration: GREENSEA for goods and services in Classes 1, 3, 5 and 42”

Be green not mean

Benelux trademark registration (2020)

- Class 3, 18 and 25

CARBON GREEN

EU trademark registration (2016)

- Class 1, 2 and 4

“carbon, lamp black, fuels, coal”

Benelux trademark registration (2024)

- Class 9, 11, 35, 36, 39, 40, 42, 44





ECO

➤ BOIP Guidelines [108]:

*“gebruikelijke verkortingen, zoals ‘eco’
(voor ecologisch)”*

EcoPerfect

GC 24 April 2012, case T-328/11

- Sub (c)
- Class 21: household and kitchen utensils, cleaning equipment

*“dass die Vorsilbe **“eco”** eine **gebrauchliche Abkürzung des englischen Begriffs “ecological”** (...) Was den zusammengesetzten Begriff **“ecoperfect”** betrifft (...) unmittelbar als Aneinandereihung der Wörter **“eco”** und **“perfect”** mit der Bedeutung **“ökologisch vollkommen”** verstanden werden wird (...) die Angabe **“eco”** wird oft bei der Vermarktung von Waren und Dienstleistungen verwendet, um auf die umweltfreundliche Herkunft der Ware hinzuweisen oder darauf, **dass ihre Verwendung die Umwelt nicht belastet**. (...) das Zeichen **EcoPerfect** dazu dienen kann, die Umweltfreundlichkeit der betreffenden Waren zu bezeichnen, ist zu gewährleisten, dass es von allen Wirtschaftsteilnehmern frei verwendet werden kann”*

ecoDoor

GC 15 January 2013, case T-625/11

- Sub (c)
- Class 7, 9 and 11: household and kitchen machines and apparatus, automatic vending machines, apparatus for heating, steam, refrigerators

*“Consumers are **increasingly mindful of the ecological quality of goods**, including their energy consumption, and of environmentally friendly manufacturing processes (...) The term ‘eco’ is often used when marketing goods and services to **indicate the ecological origin of the product or the fact that it does not have any impact on the environment** (...) will be interpreted by the relevant public as meaning ‘a door the construction and mode of operation of which are ecological’”*

- See also **CJEU 10 July 2014, case C-126/13**

ECOFLOW

EUIPO 4 August 2025, 019143610

- Sub b
- Class 9: electricity meters, plugs, wireless chargers, electric control devices for energy management

*"'ECOFLOW' will be perceived immediately and without further analysis as a reference to **an eco-friendly or efficient flow**, which is directly relevant for the goods in question (...) a flow or circulation that is **efficient or sustainable from an environmental standpoint** (...) an efficient or environmentally friendly 'flow' of energy or electricity"*

- Registered for: decorative refrigerator magnets; flat panel displays; ethernet switches

“EcoPerfect”

EU trademark registration (2011)

- Same class 21



EU word mark ECOLAND-CLIMATE (2021)

- Class 29, 30, 31, 32, 33, 37, 39, 40, 43, 44: meat/fish/dairy, confectionery, agricultural crops, building, air and water conditioning, distribution by pipeline

“ECODOOR”

EU trademarks registration (2014)

- Same class 7, 9 and 11



EU word mark ECORE Score (2022)

- Class 35 and 42: benchmarking, testing services for certification



BIO

➤ EUIPO study (2022/2023):

“biological (...) organic, biodegradable”



GC 10 September 2015, case T-610/14

- Sub (c)
- Class 3 and 5: cosmetics, pharmaceutical and hygiene products

*“word element “bio” ... refers in general terms to the **idea of respect for the environment** and the use of **natural substances and ecological production methods** (...) enabling the relevant public to perceive immediately, without further thought, a description of a characteristic of those goods, namely that they are all ‘bio’ and ‘organic’ (...) **leaves** stylised in an equally banal manner, **emphasising the descriptive, factual message** conveyed by the word elements regarding the “biological” and “organic” origin of the goods”*

BIO LATTE

GC 5 June 2019, case T-229/18

- Sub (b)
- Class 5: dietary supplements for humans; probiotic supplements; digestive enzymes

*“as referring to: for the first element, the ‘**organic**’ production process and, as regards the second element, to the foodstuff ‘milk’ which is commonly consumed in households”*



GC 13 July 2022, case T-641/21

- Sub (c)
- Class 3, 5, 25, 29, 30-32, 35 and 43: supermarket products

*“das Wort “bio” auf den Gedanke der Achtung der Umwelt, der verwendung natürlicher Stoffe bzw. Ökologischer Herstellungsverfahren hinweise und zum anderen dieser Begriff in Bezug auf landwirtschaftliche Erzeugnisse und Lebensmittel als **Hinweis auf Methoden des biologischen Landbaus** verwendet werde (...) **Blättern** in Verbindung gebracht werden können, **sowie die Verwendung der Farbe Grün**, wobei es sich um Elemente handelt, die häufig dafür verwendet werden, um auf die biologische oder ökologische Herkunft der Waren und Dienstleistungen hinzuweisen, sogar als geeignet, den beschreibenden Charakter des Wortbestandteils „**Biomarkt**“ zu verstärken.”*

Biorepair

GC 29 January 2025, case T-1128/23

- Sub (c)
- Class 3, 5 en 21: toothpastes, medicinal substances for teeth whitening, tooth brushes

*“la perception du mot « biorepair », par la partie anglophone du public pertinent, en tant qu’une « **réparation biologique** » (...) et des caractéristiques potentielles des produits (...) Plus précisément, le mot « biorepair » signifiera pour la partie anglophone du public pertinent que les produits en cause, qui sont de nature biologique et, dès lors, naturelle, ont pour fonction de réparer l’émail dentaire ou sont indiqués à la suite d’un traitement dentaire visant à la réparation des dents”*

“BIO HIT”

EUIPO 24 August 2020, R 829/2020-4

- Class 3, 5, 29-33, 35: supermarket products



“the word element ‘hit’ — unlike ‘BIO’ — is distinctive on its own”

“BIO qualität”

EU merkenschrijving (2023)

- Same class 3: cosmetics



EU merkenschrijving
“bio verde” (2020)



- Class 29, 30 and 31



MISC.

- Call-to-action
- Colour
- Slogans
- Figurative
- Etc.

SAVE OUR EARTH NOW

BoA 19 December 2008, R 1198/2008-4

- Sub (b)
- Class 3, 17, 18, 20, 22, 24, 25 and 28: cleaning preparations, packing materials, leather, furniture, raw fibrous materials, textile goods, clothing, games and playthings

*“a simple and straightforward **appeal to take action** and to **contribute to the earth’s wellbeing** by favouring the purchase of environment-friendly products (...) the word ‘NOW’ commonly used in marketing (...); it is a call to action.”*

Enercon

GC 3 May 2017, case T-36/16

- Sub (b)
- Class 7: wind energy converters

“five different shades of the simple and popular primary color green, and white. (...) green, as the color of nature, refers to the fact that the goods at issue are ecological or environmentally friendly”

- See also **CJEU 25 October 2018, case C-433/17**

Zero Waste

EUIPO 22 September 2020, 18204740

- Sub (b)
- Class 35, 36, 41, 42: business management, financial affairs, education scientific services, technological services

*“The sign will be perceived by the relevant public as an expression indicating a certain lifestyle of **waste prevention based on the concept ‘Zero Waste’** The term ‘Zero Waste’ will be immediately understood (...) as a well-known sustainability philosophy (...) not the commercial origin.”*

- Registered for: class 9 (specific computer software), 36 (insurance underwriting), 38 (telecommunications), 42 (development of specific computer hardware and software)

Sustainability through quality

GC 1 February 2023, case T-253/22

- Sub (b)
- Class 7, 9, 16 en 42 : engines, software, paper, scientific and technological service

*“hat immer dieselbe Bedeutung, nämlich dass Nachhaltigkeit durch Qualität erreicht wird oder erreicht werden soll. (..) Botschaft, dass **Nachhaltigkeit durch ein Qualitätsprodukt oder eine Qualitätsdienstleistung** erreicht wird oder erreicht werden soll und dass diesen das Nachhaltigkeitsprinzip zugrunde liegt (...) da die Themen der **Dringlichkeit des Umweltschutzes und der Klimaschutzmaßnahmen** die Nachrichten und das tägliche Leben stark beeinflussen. Die gemeinsame Verwendung der Wörter „sustainability“ und „quality“ in einem Slogan weist daher keine Originalität auf und erscheint kohärent“*

The future is plant-based

GC 15 March 2023, case T-133/22

- Sub (b)
- Class 5, 30 and 32: fibers, vitamins, bread, vegan chocolate, effervescent powder for drinks

*“dass die Marke als Bezugnahme auf die Diskussionen über den Klimaschutz und den Aspekt, inwiefern die vegetarische oder vegane Ernährung zu einer Minderung der Treibhausgasemissionen beitragen kann, gesehen werden kann (...) dass es einen Trend zur fleischfreien und folglich pflanzlichen Ernährung gebe (...) dahin verstehen werden, dass die **betreffenden Waren auf Pflanzenbasis hergestellt worden und damit Produkte der Zukunft sind**. Denn (...) dass es wegen des Klimawandels aus Umweltschutzgründen einen Trend zur fleischfreien Ernährung gibt, ist der Slogan aus der Sicht der maßgeblichen Verkehrskreise ausschließlich belobigend. Er weist keine Originalität oder Prägnanz auf“*

BACK-2-NATURE

GC 12 July 2023, case T-772/22

- Sub (b)
- Class 3, 5, 16 and 21: pet shampoo, grooming tools, deodorizing preparations and plastic bags for disposing of pet waste

*“since the goods concerned may contain ingredients or materials of natural origin, the public concerned will associate immediately and unequivocally the contested sign with the message that the applicant, by means of its goods, is **returning to a past in which goods were made that did not harm the environment** (...) the relevant public will therefore not tend to perceive the commercial origin in the sign, beyond the promotional information highlighting the positive aspects of the goods concerned, namely that those **goods are natural and environmentally friendly**.”*



GC 12 February 2025, case T-434/23

- Sub (b)
- Class 16 en 21: paper, cardboard, dispensers and paper holders

*“the relevant public would understand this mark either as referring to **the ecological characteristics** of the products concerned or as being **purely decorative or ornamental** without being accompanied by any term directly expressing this message, as well as (...) depicted in colours other than green”*

ESG DATABOARD

BoA 12 April 2025, R 78/2025-4

- Sub (b), (c)
- Class 9, 35, 38, 41, 42: datasets, software, data transmission, environmental inspection

EUIPO: *“perceived by the relevant public, namely as **sets of data related to environment, social and governance**”*

*“Even if the mark applied for is strongly suggestive, evocative or allusive, as the applicant also acknowledges, the Board considers that the relevant **public would need to take several mental steps** to arrive at the descriptive meaning (...) despite the well-recognised meaning of the element ‘ESG’ (...) the unclear meaning of the second element, ‘databoard,’ is likely to obscure the EUTM application’s semantic content and prompt a cognitive response from the relevant public”*

“recycle”

EU trademark RECYCLE (2017)

- i.a. class 16: paper



Nature for tomorrow

Benelux wordmark (2024)

- Class 35, 42: analysis of business information, economic studies, financial, monetary and banking services

ITS LIKE MILK BUT MADE FOR HUMANS

GC 20 January 2021, case T-253/20

- Class 29, 30, 32: dairy substitutes, oat milk, non-dairy ice cream, nut/soy based beverages

*“conveys not only the idea that the goods are akin to milk and intended for human consumption, but also the idea that milk itself is not (...) a non-negligible part of the relevant public, **for ethical or physiological reasons, avoids consuming dairy products** (...) conveys a message capable of setting off a cognitive process in the minds of the relevant public.”*



Acquired distinctiveness?

➤ Art. 2.2bis (3) BCIP / art. 7(3) EUTMR

BIO-BEAUTÉ

BoA 27 February 2024, R 1871/2020-5 and R 1891/2020-5

- Art. 7(3) EUTMR
- Class 3: perfumes, essential oils

*“bio’ and ‘beauté’, separated by a hyphen (...) taken as a whole, when used in relation to (...) beauty products, will be perceived as **providing information that those products are manufactured organically, in a natural way, from natural materials** (...) on the basis of their purpose beauty products include perfumes and the link between the contested EUTM ‘BIO-BEAUTÉ’ and these goods is sufficiently close for the mark to be considered descriptive for these goods”*

*“BIO-BEAUTÉ branded products **became particularly well-known** in France in 2008 and were since then distributed through the European Union, as shown by the surveys carried out per Member State, and the French speaking public has been in contact with the BIO-BEAUTÉ branded products for many years”*



Otherwise (not) registerable?

- Deceptive (art. 2.2bis(1)(g) / art. 7(1)(g) EUTMR)
- Contrary to public policy or to accepted principles of morality (sub f)

BIOsmoke

EUIPO 4 June 2012, 10493245

- Sub (f) and (g)
- Class 5, 9 and 34: tobacco, tobacco products, e-cigarettes

*“ist BIOsmoke nicht zu schützen, weil die Kombination „biologisch“/“gesund“ einfach nicht mit „rauchen“ kombiniert werden kann. **Rauchen ist niemals gesund, auch nicht mit Tabakersatzstoffen. Zudem sind noch immer Waren, wie Tabakextrakte, Nikotin und Tabakersatzstoffe im Verzeichnis, nicht gerade „biologische“ Produkte!**“*

BIO-INSECT Shocker

GC 13 May 2020, case T-86/19

- Sub (g)
- Class 1, 5 and 31: biocidal preparations, disinfectants, insect repellents, live animals

*“actual deceit or a sufficiently serious risk that the consumer will be deceived (...) the word element ‘bio’ as a prefix or suffix has acquired a highly suggestive connotation, which may be perceived in different ways according to the product offered for sale, but which, in general, refers to the **idea of environmental protection, the use of natural materials or even ecological manufacturing processes**”*



SOLAR

GC 9 October 2023, R 504/2023-5

- Sub (g)
- Class 9, 35 en 42: software, business management, software development
“none of the aforesaid for or relating to electrical, heating, plumbing, ventilation, climate or energy solutions, gas and steam turbine engines, any power generation packages containing gas and steam turbine engines, or equipment for use in the oil and gas industry”

“as a result of the applicant’s restriction of the list of goods and services in a negative way (none of the aforesaid for or relating to [...] energy solutions), the Board notes that a non-deceptive use of the contested mark is impossible; the word ‘SOLAR’ creates a clear expectation of goods and services related to solar energy, which are expressly excluded from the specification at issue”

Contrary to public policy/principles of morality?

Sub (f)

- In case of statutory provisions e.g. when a trademark is a misleading environmental claim?
- Fundamental moral values and standards that are accepted by the social consensus?
- BoA 9 September 2025, R 1119/2022-2:



*“argument is based primarily on the premise that infringement of specific sectoral regulations—in this case, those relating to the marketing of olive oil—is equivalent to a violation of public policy. The Board **cannot agree** with this broad interpretation. (...) In the present case a **non-misleading use** of the trademark is **perfectly possible**”*

Collective mark (art. 2.34bis BCIP/art. 74 EUTMR)

CJEU 12 December 2019, case 143/19 P

➤ Der Grüne Punkt



*“that the use of the mark at issue is in fact perceived by the relevant public as indicating the fact that manufacturers and distributors of the goods covered are affiliated with the **common system of environmentally sound disposal** established by DGP and that that system enables the consumer, when purchasing those goods, to **take the packaging waste to a local collection point for its disposal and recovery.**”*

Certification mark (art. 2.35bis BCIP/art. 83 EUTMR)

EUIPO 27 October 2021, R-2110-2112/2019-5

➤ bio mineralwasser



“The sign indicates a characteristic of mineral water, but does not fulfil the primary function of a certification mark, namely to distinguish certified beverages from uncertified drinks”

BoA 5 May 2023, R 2229/2022-2

➤ Ohne Gentechnik



“Die beanspruchten Waren können bis zu 0,1% je Zutat gentechnisch veränderte Bestandteile enthalten.”



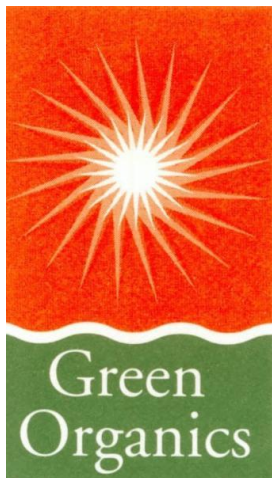
Likelihood of confusion?

➤ Infringement test sub (b)

Green Organics/The Greenery

Court of Appeal The Hague, 10 Februari 2005, ECLI:NL:GHSGR:2005:AU6801

➤ Infringement?



“Organics [is] een beschrijvende aanduiding voor biologisch/organisch geproduceerde (etens)waren (...) groen inmiddels een gangbare uitdrukking is voor biologisch/organisch, milieuvriendelijk, etc.”

BOIP 12 March 2014
(2008210)



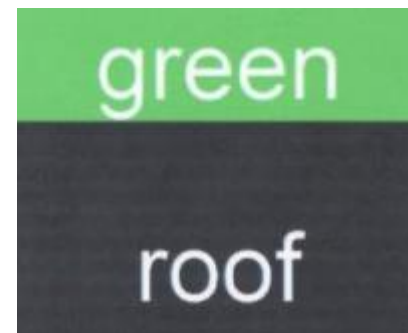
GREENY BROS.



BOIP 12 May 2014
(2004444)



GREEN^PROOF
G R O E N D A K G R O E P



BOIP 17 January 2013
(2006232)



BOIP 14 December 2018
(2006232)



V-Label

**Summary Court The Hague 5 March 2025, IEF 22470
(V-Label en Nederlandse bond vegetariërs/PowerFood)**

- Art. 9(1)(b) EUTMR
- Logo's used after (license)agreement



**BoA 21 Juni 2024, R2348/2023-2
(V-label/Vriendly.org)**

- Art. 8 (1)(b) EUTMR



ECOVER / ECOVIE



ECOVER

versus



GC 5 March 2025, case T-277/24 e.v.

➤ Art. 8(1)(b) EUTMR

*“ regards the figurative elements of the mark applied for (...) where a mark is composed of word and figurative elements, the former are, in principle, more distinctive than the latter. (...) **distinctive character** of that mark should be considered to be **average** (...)*

*the prefix cannot be regarded as negligible in the overall impression (...) despite the fact that the prefix ‘eco’ of the signs at issue is descriptive, it must nevertheless be taken into account in assessing the **visual, phonetic and conceptual similarity** of those signs”*

➤ See also GC 30 June 2021, case T-232/20 (BIORENE / BIOVÈNE)



Will the future be easy on green trademarks?

- Will application numbers of ‘green trademarks’ continue to grow?
- Monopolizing generic terms such as *green*, *eco* and *bio* remains (nearly) impossible; are there exceptions for figurative trademarks, for certain classifications and slogans?
- Risk of “greenwashing” for deceptive trademarks, public policy/morality?
- Interplay with “green claims”?
- Nuanced assessment regarding infringement?



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