

EXPANDING HORIZONS: NON-TRADITIONAL TRADEMARKS TYPES AND REGISTRATION PRACTICES IN INDONESIA**Adfiyanti Fadjar¹, Nurul Barizah², Mas Rahmah³**¹Tadulako UniversityJL. Soekarno Hatta No.KM. 9, Tondo, Palu, Sulawesi Tengah, 94148, Indonesia
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Abstract

The escalating competition among multinational corporations has given rise to a new category of conventional or non-traditional marks. The scope of trademarks extends beyond mere words, numbers, letters, symbols, or combinations. Consequently, non-traditional trademarks are experiencing significant growth as new and previously unexplored trademarks are acknowledged and embraced. Other countries around the globe Indonesia also join the line in adopting Non-Traditional Trademark in its newest trademark, Law Number 16 of 2016. This article provides an overview of non-traditional trademarks in Indonesia, including their different types and the requirements for registration. It will emphasize each type of non-traditional trademark adopted in Indonesia and the specific requirements associated with these marks. This article adopts a normative approach and relies primarily on comprehensive library research as its methodology

Keywords: *Indonesia; Intellectual Property Rights; Non-traditional Trademarks***INTRODUCTION**

Trademarks as part of Intellectual property rights exist as old as civilization itself. Though, no systematic research was conducted when the history of trademarks began.¹ In the antiquity era, the brick

makers marked their production as a sign of origin. Marks on the bricks were also found in the ruins of the temples of Ninevah and Egypt. *Nebuchadnezzar*, the second king of the Neo-Babylonian Empire in 605 BC, aimed to preserve his name and

¹ Sydney A Diamond, "The Historical Development of Trademarks," *The Trademark Reporter* 73, no. 3 (May-June 1983). p. 222

reputation by engraving his name onto every brick in his palace alongside the Tigris River of Egypt.² The first recorded marks, among others, are found on the Chinese pottery crafts in the period of Emperor Hoang To. The art and skill of making pottery are known about 2698 B.C. in China, while in Europe, pottery art was introduced 1600 years later.³

In Ancient Greece, from 800 to 400 BC, artists and artisans began incorporating engravings and drawings into their creations.⁴ In France, craftsmen were required to affix unique signs to their works to safeguard against infringement and facilitate the identification of the creator.⁵ Around Europe the trade guilds established the mark protection system as an essential aspect of trade in the middle ages.⁶ During the era of guild regulations, it was mandatory for every product crafted by a guild member to bear the distinct mark of the Guild. During this period the use of the mark does not intend to have functioned as a trademark to distinguish one product

produced by one from another, but rather as a tool to maintain the quality of the guild product.⁷

Schechter has documented the existence of more than 20 guilds that were legally obligated to affix a trademark on their respective guild products. These guilds encompassed a diverse range of trades, including goldbeater, goldsmiths, armorers, potters, clock makers, stationers, braziers, cabinet makers, engravers, printers, cutlers, tanners, coopers, bakers, brewers, bottle makers, pewterers, shoemakers, weavers, fullers, hatmakers and blacksmiths.⁸

Interestingly, despite the widespread use of marks in daily activity and trade from ancient times to the medieval era, which was believed intended to serve as trademarks, there is no documented definition explicitly clarifying what trademark means. The first written text providing a comprehensive description of a trademark was only discovered in the mid-19th century in a book by **Francis H. Upton** in 1860. In his book titled “A Treatise on The

² Abraham S. Greenberg, "The Ancient Lineage of Trade-Marks," *Journal of the Patent Office Society* 33, no. 12 (December 1951), p. 877.

³ *Ibid*

⁴ Edward S. Rogers, *Some Historical Matter Concerning Trademark*, (Michigan Law Review Volume 9 No 1. November 1910), p. 29

⁵ *Ibid*, p.1

⁶ Guild is a medieval association of craftsmen or merchants, often having considerable power. The *trade*

guilds were associations of persons exercising the same craft, formed to protect and promote their common interests.

⁷ Bambang Kesowo, ‘*Pengantar Pemahaman Konsepsi Dasar Sekitar Hak Kekayaan Intelektual (HAKI)*’ Sinar Grafika, 2021, p. 55-56

⁸ Frank I. Schechter, “Historical Foundations of the L Relating to Trade-Marks” New York: Columbia University Press., 1925.p.38-77

Law of Trademarks with A Digest and Review,” **Upton** defines a trademark as follows⁹:

“...name, symbol, figure, letter, form or device, adopted and used by manufacturer or merchant, in order to designate the goods that manufacture, or sells, and distinguish them from those manufactured or sold by another to the end that they may be known in the market, as his, and thus enable him to secure such profit as a result from a reputation for superior skill or enterprise.”

In 1883 Paris Convention, the first international convention related to intellectual property, particularly in industrial property, was established. Nonetheless, this convention is silent on trademark definition. It has been 84 years since then. In 1967, The World Intellectual Property Organization (hereafter WIPO), the global organization for intellectual property, defined a trademark as a sign that is capable of distinguishing goods or services produced by one company from those made by another.¹⁰

Generally, a trademark is a term encompassing words, numbers, letters, symbols, or combinations, employed to differentiate products or services from one manufacturer from those of others. Its primary function is to provide consumers with information about the attributes and quality of the goods.¹¹ According to **OK Saidin**, one of Indonesia’s Intellectual Property scholars, a trademark is an intangible property right in the form of a sign, such as a name or a logo, intended to distinguish similar goods or services.¹² Trademarks are considered valuable assets, frequently worth more than the tangible assets of the company it represents.¹³ Additionally, it often establishes a connection between consumers’ previous purchasing experiences or exposure to advertisements, thus saving customers time in decision-making.¹⁴

In recent years, digital technology development and the expansion of marketing practices have profoundly impacted the concept of trademarks, which serve as distinctive signs for goods and services. The

⁹ Francis H Upton, *A treatise on The law of Trademarks with A Digest and Review*, Albany, We are C. Little , Law Bookseller, 1860,p. 9.

¹⁰ Trademark <https://www.wipo.int/trademarks/en/> Accessed on March 9, 2023.

¹¹ Melissa E. Roth, Something Old, Something New, Something Borrowed, Something Blue: A New Tradition in Non-Traditional Trademark Registration (Cardozo Law Review, Volume 27, Year 2005),p. 457

¹² OK Saidin, *Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)*, Raja Grafindo Persada, Jakarta. 2004,p.329.

¹³ Frank I. Schechter. No 9. Op Cit,p.38.

¹⁴ CDG Pickering in MC Garth dan Jacey K, *The New Breed of Trade Mark: Sound, Smells and Tastes*” (Victoria University Law Review Volume 11 Year 2001),p. 3

escalating competition among multinational corporations has given rise to a new category of conventional or non-traditional marks. The scope of trademarks extends beyond mere words, numbers, letters, symbols, or combinations. Consequently, non-traditional trademarks are experiencing significant growth as new and previously unexplored trademarks are acknowledged and embraced.

These new marks include smell, sound, three-dimensional shapes, holograms, and other forms.¹⁵ The use of non-traditional trademarks began to be widely used in the business and business world as a marketing strategy¹⁶ to strengthen the trademark's position in the consumer reference list due to the high competition in the market.

Indonesia, like many other countries worldwide, has also embraced the inclusion of non-traditional trademarks in its national legislation. Consequently, this article aims to offer a concise introduction to the different categories of non-traditional

trademarks in Indonesia. It will emphasize the registration procedure and the specific requirements associated with these unconventional assets. This article adopts a normative approach and relies primarily on comprehensive library research as its methodology.

ANALYSIS & DISCUSSION

Defining Non-Traditional Trademark

Undeniably, the creation of trademarks to make it more engaging in business and gain recognition among consumers and society involves intellectual effort. The more creative and innovative a trademark is, the more likely consumers will easily remember and recognize it.

The objective of trademarks is to safeguard consumers and enhance the quality of product information available in the market.¹⁷

As the opposite of a traditional trademark, a non-traditional trademark is a term to describe types of marks that are not

¹⁵ WIPO Standing Committee on The Law of Trademark, Industrial Designs and Geographical Indications, Sixteenth Session (SCT/16/2) 'New Types of Trademarks' https://www.wipo.int/edocs/mdocs/sct/en/sct_16/sct_16_2.pdf. Accessed March 9, 2023.

¹⁶ John A Tessensohn and Shusaku Yamamoto, "Three-dimensional cola bottle shape distinctive on the evidence", *Journal of Intellectual Property Law & Practice*, 2008, Vol. 3, No. 12. p.752 <https://doi.org/10.1093/jiplp/jpn198> Accessed date 9 March 2022: Jeremy Blum

and Amy Cullen, "The Apple store and unconventional Trademarks: How easy are they to enforce?" *Journal of Intellectual Property Law & Practice*, 2014, Vol. 9, No. 12.p.1008. *Journal of Intellectual Property Law & Practice*, Volume 9, Issue 12, December 2014, Pages 1008–1011, <https://doi.org/10.1093/jiplp/jpu198> . Accessed March 9, 2023.

¹⁷ Mark P Kenna, 'The Normative Foundation of Trademark Law', *Notre Dame Law Review*, Volume 82, issue number 5, 2013) P. 1839.

included in the list of common types of effects such as words, numbers, letters, etc. The most noticeable difference between traditional trademarks and non-traditional trademarks lies in the aspect of their representational forms. Traditional trademarks are exclusively visual, appealing to the sense of sight, while non-traditional trademarks go beyond visual representation and encompass non-visual cues that other senses, such as smell, sound, taste, and touch, can be perceived.

The expansion of these trademark types is driven not only by the development of marketing strategies, which believed that adding emotional engagement with a product or service impacts consumer choices¹⁸, but also by the outcome of international agreements on intellectual property, like the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereafter TRIPS).

TRIPS agreement is an additional agreement under the General Agreement on Tariffs and Trade (GATT) 1994, resulting from the Uruguay Round 1986. Article 15(1) of TRIPS defines a trademark as¹⁹

Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements, combinations of colors, and any combination of such signs, shall be eligible for registration as trademarks.

Based on the definition of a trademark, there are no specific terms or limitations on the forms or signs that can be recognized as a trademark. As a result, a trademark can be any sign or combination of signs that can distinguish the goods or services of one undertaking from others. The utilization of signs or forms not explicitly mentioned in Article 15 of TRIPS, as long as they fulfil the functions of a trademark, such as identifying the product and its origin, ensuring product quality, and serving as a valuable property interest.²⁰ TRIPS definition also implies that a sign does not require it to be in visual form. As further stated in the agreement, members may require signs to be visually perceptible as a condition of registration²¹.

¹⁸ WIPO Magazine, “Non-Traditional Marks Singapore Treaty Enter into Force.” 9, February 2009.p.4.

¹⁹ https://www.wto.org/english/docs_e/legal_e/27-trips.pdf Accessed March 9, 2023.

²⁰ Mark J Davidson, Ann I Monotti, Leane Wiseman, Australian Intellectual Property Law, (Cambridge University Press, 2008). p. 67.

²¹ Kritarth Pandey, ‘Non-Conventional Trade Mark: A Legal Analysis’, February 20, 2014. <https://ssrn.com/abstract=2399286> . Accessed March 9, 2023

In addition, TRIPS also asserts that member countries are not required to enact laws that provide more excellent protection than what is mandated by the agreement. As a result, the member States may choose the requirement of a trademark on their national law to be visually perceptible or capable of graphical representation.²² Since the primary requirement for a sign is must have the ability to differentiate the goods or services of one from others.²³ In other words, non-traditional trademarks are acceptable and registrable as long as they can serve their function.²⁴

In March 2006, an international conference known as the Diplomatic Conference for the Adoption of the Revised Trademark Law Treaty took place in Singapore. With the participation of around 147 WIPO member nations, the conference achieved the adoption of a new treaty concerning trademarks, referred to as the Singapore Treaty on the Law of Trademarks or Singapore Law Treaty.²⁵ For the treaty purpose, the sixteenth session of the Standing Law Committee on The Law of

Trademarks, industrial designs, and Geographical Indication (Hereafter SCT) prepared the document on new types of marks. The subject matter of protection states that the document classifies different types of signs that can be considered trademarks, both visually perceptible and may not be visually visible but still able to distinguish goods and services.²⁶

In other words, the Singapore Law Treaty acknowledges that trademarks are no longer restricted to two-dimensional shapes. The treaty explicitly mentions new trademarks, including sound, taste, and smell marks. However, it is worth noting that adopting the Singapore Treaty does not impose an international obligation on participating countries to register these non-traditional trademark forms introduced in the treaty.²⁷

The convergent area for the new types of marks, according to SCT as follows:²⁸

Visible Sign

- a. The three-dimensional marks
- b. Color marks

²² Ibid.

²³ Trade-Related Aspects of Intellectual Property Rights Agreement Article 15 (1) https://www.wto.org/english/docs_e/legal_e/27-trips.pdf. Accessed March 9, 2023

²⁴ Adfiyanti Fadjar, 'An Indonesian Perspective on Non-Traditional Trademark: The Effort to Follow the Crowd', Presented in APHKI International Conference in Mataram, 2017

²⁵ WIPO Magazine, No 19.Loc Cit,p.4.

²⁶ See WIPO Standing Committee on The Law of Trademark, Industrial Designs and Geographical Indications, Sixteenth Session (SCT/16/2), No 16.

²⁷ Fadjar Adam "Singapore Law Treaty and Non Conventional Law" Jurnal Toposantaro Fakultas Hukum Universitas Tadulako, volume 9 No. 3 Tahun 2009.

²⁸ See WIPO Standing Committee on The Law of Trademark, Industrial Designs and Geographical Indications, Sixteenth Session (SCT/16/2),No 16.

- c. Hologram marks
- d. Slogans
- e. Positions Marks
- f. Gesture Marks

Non-Visible Sign

- a. Sound
- b. Odor or smell
- c. Taste Sign

The SCT does not employ a specific criterion to determine the registrability of non-traditional trademarks mentioned above. However, those trademarks lack distinctiveness and essential elements. In that case, their registration may be rejected.²⁹ The SCT does not impose explicit rules or limitations regarding the terms of protection for non-traditional trademarks as long as they can fulfill their function as trademarks.

Additionally, **Thomas McCarthy**, cited in Lionel Bentley, outlines there are three essential criteria that a trademark must meet³⁰:

1. The tangible symbol: It can be a word, name, symbol, device, or combination of these elements.
2. Type of use: The trademark must be actively adopted and used as a mark by a manufacturer or seller of goods or services.

3. The function: The primary purpose of the trademark is to identify and differentiate the seller's goods from those of others.

Non-Traditional Trademarks in Indonesia

Like other nations, Indonesia is making efforts to synchronize and consolidate regulations concerning the safeguarding of trademarks in line with the emergence of non-traditional trademarks that have gained prominence in the trade of goods and services in recent times. In Indonesia, the non-traditional trademark was introduced in Law Number 20 Of 2016 regarding Trademark and Geographical Indication and further regulated in the Ministry of Law and Human Rights No 67 of 2016. Currently, Indonesia has adopted three types of non-traditional trademark which enunciate in Article 1 (1) of the law as follow:

A trademark is a sign that capable of being represented graphically in the form of an image, logo, name, word, letter, number, or arrangement of colors, in the form of 2 (two) dimensions and / or 3 (three) dimensions, sound, hologram, or combination of 2) or more of such element to

²⁹ Ibid

³⁰ Lionel Bentley, 'The semiotic Account of Trademark doctrine and Culture', in Graema B Dinwoodie dan Mark D Janis (Ed), *Trademark Law and Theory A Handbook of*

Contemporary Research, Edward Elgar, Cheltenham, UK, 2008) P. 46.

distinguish goods and/or services produced by a person or legal entity in the goods and/or service trade activities. As can be seen from the definition, three types of signs categorized as non-traditional trademarks are included: three dimensions, sound, and hologram marks.

Types of Non-Traditional in Indonesia **Three Dimension Mark**

In a Three-Dimensional Trademark or 3D mark, the product's shape, packaging, container, or wrapping is protected as a trademark. Three-dimensional trademarks also can be combined with other elements such as logos, words, or colors. Three-dimensional trademarks can also be represented as two-dimensional marks that depict the visual appearance of a three-dimensional form.³¹

The Coca-Cola bottle and Toblerone chocolate are notable examples of three-dimensional trademarks successfully registered in multiple countries. These

trademarks specifically protect the unique three-dimensional shapes of the products, such as the distinct contour of the Coca-Cola bottle and the triangular prism structure of the Toblerone chocolate bar, which gradually narrows towards the top.³² In Indonesia, several instances of three-dimensional trademarks have obtained registration. For instance, FreshCare Press³³, Madu TJ³⁴, Aqua³⁵, Kiranti³⁶

Sound Mark

A sound trademark is a form of trademark where the primary purpose of uniquely identifying the origin of commercial products or services is accomplished through an audio clip.³⁷ Sound marks are considered a non-traditional form of trademark that is unique. They have a significant potential for registration as trademarks.

The wide variety of sounds available all have the opportunity to be registered as sound trademarks as long as they meet the established requirements. Sound trademarks assist customers in recognizing and

³¹ Agung Indriyanto and Iriie Mela Yusnita, 'Aspek Hukum Pendaftaran Merek' Rajawali Press, Jakarta, 2017. p. 161

³² See Australia: IP Australia - <https://search.ipaustralia.gov.au/trademarks/search/view/411610>, European Union Intellectual Property Office (EUIPO): <https://euipo.europa.eu/eSearch/#details/trademarks/000020104>, Accessed March 15, 2023.

³³ <https://pdki-indonesia.dgip.go.id/detail/IPT2019027390?type=trademark&keyword=>, Accessed March 15, 2023.

³⁴ <https://pdki-indonesia.dgip.go.id/search?type=trademark&keyword=DID2019069232&id=IPT2019027390> Accessed March 15, 2023.

³⁵ <https://pdki-indonesia.dgip.go.id/search?type=trademark&keyword=DID2019075971&id=IPT2019027390&page=1> Accessed March 15, 2023.

³⁶ <https://pdki-indonesia.dgip.go.id/search?type=trademark&keyword=DID2019056054&id=IPT2019027390&page=1> Accessed March 15, 2023.

³⁷ Kritarth Pandey, *Op Cit*, No. 22

differentiating a particular product or service offered, whether it be goods or services, without the need to perceive the physical product visually. The example Sound marks that have been registered in Indonesia owned by Tokopedia, which has more than one sound mark³⁸, Hyudai³⁹

Hologram Mark

Hologram marks are non-traditional trademarks that utilize a blend of images and colors that can only be seen from a specific angle or direction. Unlike regular two-dimensional images, holograms possess depth information, enabling viewers to perceive them from various angles with various signs. In the beginning, holograms were mainly employed for product authentication purposes. However, today holograms have increasingly been adopted as prominent brands in the market due to their perceived ability to effectively inform the origin of a good or a service product.⁴⁰

Non-Traditional Trademarks Registration in Indonesia

The requirement for registration of non-traditional trademarks is similar to traditional trademarks.⁴¹ Non-traditional

trademarks can be registered if they do not violate Articles 20 and 21 of Law No 20/16 and fulfill other technical representation requirements. Article 20 of Law No 20/16 which is also known as the absolute ground for refusal, articulates that shall not be registered (a) a sign contrary to state ideology, laws, and regulations, morality, religion, decency, or public order; (b) the same as related to, or only mentions the goods and/or services being applied for registration; (c) contains elements that can mislead the public about the origin, quality, type, size, type, the purpose of using the goods and/or services being applied for registration or are names of protected plant varieties for similar goods and/or services; (d) contains information that is inconsistent with the quality, benefits, or efficacy of the goods and/or services produced; (e) has not distinctiveness; and/or is a public name and/or symbol of public property.

While Article 20 of Law No 20/16 as the relative ground for refusal states the 1. application is rejected if the trademark has similarity in principle or its entirety with;(a) a registered mark belonging to

³⁸<https://pdkiindonesia.dgip.go.id/search?type=trademark&keyword=JID2020020914&id=IPT2019027390&page=1,https://pdkiindonesia.dgip.go.id/search?type=trademark&keyword=JID2020020951&id=IPT2019027390&page=1>, Accessed March 15, 2023.

³⁹<https://pdki-indonesia.dgip.go.id/detail/D002017056396?type=trademark&keyword=D002017056396> Accessed March 15, 2023.

⁴⁰ Agung Indriyanto and Irnie Mela Yusnita. No. 32. Op Cit.p.165

⁴¹ Ibid.p.167

another party or applied in advance by another party for similar goods and/or services; (b) Famous mark owned by another party for similar goods and/or services; (c) Well-known marks belonging to other parties for goods and/or services that are not of the same type that meet specific requirements; or (d) registered Geographical Indication.

2. The application is rejected if the mark: (a) constitutes or resembles the name or abbreviation of a famous person's name, a photo, or the name of a legal entity owned by another person, except with written approval from the person entitled; (b) is an imitation or resembles the name or abbreviation of the name, flag, symbol or symbol or emblem of a country, or national or international institutions, except with written approval from the competent authority; or (c) constituting an imitation or resembling an official sign or stamp or stamp used by a state or government agency, except with written approval from the competent authority.

3. Applications will only be accepted if submitted by applicants in good faith.

The requirement of the application to register both traditional and non-traditional trademarks is governed by the Ministry of Law and Human Rights No 67 of 2016. Concerning a three-dimensional trademark, Article 3 (4) states that the attached mark label is essential for three dimensions in visual depictions showcasing the mark's characteristics and a written description outlining the specific elements being claimed for protection. This requirement helps establish a comprehensive understanding of the mark and its intended scope of legal protection. However, two aspects make the three-dimensional trademark mostly rejected, and those two are distinctiveness and technical function.⁴² Almost all countries stipulate that distinctive and non-functional technical elements must be present for registering a three Dimensional trademark to be accepted. Coca-Cola bottle is one example of a three-dimensional trademark which demonstrate that all three-dimensional trademark can be registered.⁴³

Regarding sound marks, the required label or representation should consist of

⁴² Kluwer Trademark Blog, '3D Trademark' <https://trademarkblog.kluweriplaw.com/category/3d-trademark/#:~:text=A%20three%2Ddimensional%20or%203D,registered%20as%20a%203D%20trademark>. Accessed 15 March, 2023

⁴³ Nishimura and Asahi, '*Shape of Coca Cola Bottle Registered as Three Dimensional mark*' <https://www.world-trademarkreview.com/article/shape-of-coca-cola-bottle-registered-three-dimensional-mark>' Accessed March 15, 2023.

musical notes and an accompanying sound recording.⁴⁴ If it is not possible to represent the sound mark using musical notation, an alternative option is to provide a label in sonographic form.⁴⁵ This means that instead of using musical notes, the visual representation of the sound mark would be presented in a graphic format that captures the waveforms or other visual elements associated with the sound. It accurately depicts the sound mark, even if it cannot be expressed through traditional musical notation.

When registering a hologram trademark, the application requirement is crucial to provide a visual representation or brand label that accurately displays the hologram from different perspectives. This requirement ensures a precise portrayal of the holographic mark's distinct characteristics and effectively represents its unique qualities throughout the registration process.⁴⁶

CONCLUSION

Non-traditional trademarks refer to marks that fall outside the usual categories of traditional trademarks, such as words, numbers, or letters. The critical distinction between traditional and non-traditional

trademarks lies in their representational forms. Traditional trademarks rely solely on visual elements that appeal to the sense of sight, whereas non-traditional trademarks extend beyond visual representation. They incorporate non-visual sensory marks such as smell, sound, and taste.

Through Law Number 20 of 2016 Regarding Trademark and Geographical Indication, Indonesia adopted three non-types: three-dimensional trademarks, sound, and holograms. The registration of a non-traditional trademark follows the exact requirement of a traditional trademark. However, applying non-traditional trademarks requires a more detailed presentation and description to reveal the unique character of the marks.

BIBLIOGRAPHY

Law & Agreements

- Law Number 20 of 2016 Regarding Trademark and Geographical Indication
Ministry of Law and Human Rights No 67 of 2016
Agreement on Trade-Related Aspects of Intellectual Property Rights 1994
WIPO Standing Committee On the Law Of Trademarks, Industrial Designs And

⁴⁴ See Ministry of Law and Human Rights No 67 of 2016 Article 3 (5)

⁴⁵ Ibid Point 6.

⁴⁶ Ibid, point 7.

Geographical Indications,(SCT 16/2. 2006), 'New Types of Marks'

WIPO Standing Committee On the Law Of Trademarks, Industrial Designs And Geographical Indications, Relation Of Established Trademark Principles To New Types Of Marks, (SCT 17/3,2007)

Books

Bentley, Lionel (2008), '*The semiotic Account of Trademark doctrine and Culture*', in Graema B Dinwoodie dan Mark D Janis (Ed), *Trademark Law and Theory A Handbook of (Contemporary Research)*, Edward Elgar, Cheltenham, UK.

Davidson, Mark J, Ann I Monotti, Leane Wiseman(2008), 'Cambridge University Press.

Francis H Upton (1860), 'A treatise on The law of Trademarks with A Digest and Review', Albany, We are C. Little, Law Bookseller.

Indriyanto, Agung and Irnie Mela Yusnita (2017), '*Aspek Hukum Pendaftaran-Merek*' Rajawali Press, Jakarta.

Schechter, Frank I.(1925) '*Historical Foundations of the L Relating to Trademarks*', New York: Columbia University Press.

Saidin, OK (2004) '*Aspek Hukum Hak Kekayaan Intelektual (Intellectual*

Property Rights)', Raja Grafindo Persada, Jakarta.

Journals

Adam, Fadjar (2009), '*Singapore Law Treaty and Non-Conventional Law*', Jurnal Toposantaro Fakultas Hukum Universitas Tadulako, volume 9 No. 3.

Fadjar, Adfiyanti (2017) . 'An Indonesian Perspective on Non-Traditional Trademark: The Effort to Follow the Crowd., Presented in APHKI International Conference in Mataram, 2017

A Diamond, Sydney (1983), '*The Historical Development of Trademarks*', The Trademark Reporter 73, no. 3 May-June

Abraham S. Greenberg (1951), '*The Ancient Lineage of Trademarks*', Journal of the Patent Office Society 33, no. 12, December.

Blum, Jeremy and Amy Cullen (2014), '*The Apple store and unconventional Trademarks: How easy are they to enforce?*' *Journal of Intellectual Property Law & Practice*, Volume 9, Issue 12, December.

Garth, MC dan Jacey K (2001), '*The New Breed of Trade Mark: Sound, Smells and Tastes*', Victoria University Law Review Volume 11.

- Kenna P , Mark (2013) *The Normative Foundation of Trademark Law*, Notre Dame Law Review, Volume 82, issue number 5.
- Pandey, Kritarth, Non-Conventional Trade Mark: A Legal Analysis, February 20.
- Rogers S, Edward (1910), *Some Historical Matter Concerning Trademark*, Michigan Law Review Volume 9 No 1. November
- Roth, Melissa E. (2005) *Something Old, Something New, Something Borrowed, Something Blue: A New Tradition in Non-Traditional Trademark Registration* Cardozo Law Review, Volume 27.
- Tessensohn, John A and Shusaku Yamamoto (2008), *Three-dimensional cola bottle shape distinctive on the evidence*, Journal of Intellectual Property Law & Practice, Vol. 3, No. 12.
- WIPO Magazine (2009), *Non-Traditional Marks Singapore Treaty Enter into Force.* 9, February.
- World Wide Web**
- Australia: IP Australia - <https://search.ipaustralia.gov.au/trademarks/search/view/411610>, European Union Intellectual Property Office (EUIPO): <https://euipo.europa.eu/eSearch/#details/trademarks/000020104>, Accessed March 15, 2023.
- Fresh Care Press Three dimensional mark. <https://pdki-indonesia.dgip.go.id/detail/IPT2019027390?type=trademark&keyword=>, Accessed March 15, 2023.
- Hyundai Sound Mark <https://pdki-indonesia.dgip.go.id/detail/D002017056396?type=trademark&keyword=D002017056396> Accessed March 15, 2023.
- Kiranti OT Three Dimensional Mark <https://pdki-indonesia.dgip.go.id/search?type=trademark&keyword=DID2019056054&id=IPT2019027390&page=1> Accessed March 15, 2023.
- Kluwer Trademark Blog , ' 3D Trademark' <https://trademark-blog.kluweriplaw.com/category/3d-trademark/#:~:text=A%20three%2Ddimensional%20or%203D,registered%20as%20a%203D%20trademark>. Accessed 15 March, 2023

Madu TJ Three Dimensional Mark
<https://pdki-indonesia.dgip.go.id/search?type=trade-mark&keyword=DID2019069232&id=IPT2019027390>, Accessed March 15, 2023.

Nishimura and Asahi, '*Shape of Coca Cola Bottle Registered as Three Dimensional mark*'
[https://www.worldtrademarkre-](https://www.worldtrademarkreview.com/article/shape-of-coca-)
[view.com/article/shape-of-coca-](https://www.worldtrademarkreview.com/article/shape-of-coca-)

[cola-bottle-registered-three-dimensional-mark](https://www.worldtrademarkreview.com/article/shape-of-coca-)' Accessed March 15, 2023.

Tokopedia Sound Mark <https://pdki-indonesia.dgip.go.id/search?type=trade-mark&keyword=JID2020020914&id=IPT2019027390&page=1>,
