

## Non-Traditional Marks Matrix

**A report prepared by the APEC, ASEAN and Greater China Task Groups of the East Asia & Pacific Subcommittee of the Non-Traditional Marks Committee (2018-2019 Term).**

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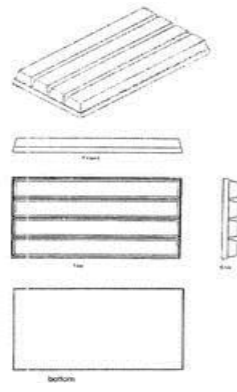







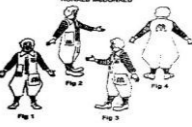

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**August 2018**

		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Single Color	Statutory / case law prohibition / allowance?	Provided for under Sections 6 & 17 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Indicated in Trademark Law Act 2 (1)	Indication in Trademark Law Act 2 (1) I, ii	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the color is defined by a given form.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Single colors are not eligible for registration unless they combine with literal/figurative elements or are presented in forms of characters/shapes (IP Law).
	Inherent / acquired distinctiveness?	Some have been considered inherently distinctive; evidence of acquired distinctiveness prior to the filing date is usually required.	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	Acquired distinctiveness	Acquired distinctiveness	Generally not registrable as deemed not distinctive	Only registrable on evidence of acquired distinctiveness.	May be inherently distinctive. Examiners may require a sample of the colour on paper, the designation of the colour using its common name or a description of how the colour is applied to the goods or services.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	Trade Mark No. 704779 	N/A	No registered marks so far.	No registered mark as of March 30, 2018	Registration No. 1183777 	N/A	Trade Mark No. 211575 	DEVICE Registration No. 42015008271 	Registration No. T9900636A 	N/A	No registered marks so far

		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Combination of Colors	Statutory / case law prohibition / allowance?	Provided for under Sections 6 & 17 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Act 2 (1) I, ii	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Explicitly foreseen by Section 7 (5) of the Trademark Act as eligible for registration if it is presented in a stylized form.	Colors are not eligible for registration unless they combine with literal/figurative elements or are presented in forms of characters/shapes (IP Law).
	Inherent / acquired distinctiveness?	Some have been considered inherently distinctive, but usually acquired distinctiveness is required. For some marks, acquired distinctiveness must be from before the filing date of the application.	Evidence of distinctiveness may be required if an objection is raised.	Inherently distinctive.	Acquired distinctiveness	Acquired distinctiveness	May be registrable subject to establishing acquired distinctiveness	Only registrable on evidence of acquired distinctiveness.	May be inherently distinctive. Examiners may require a sample of the colour on paper, the designation of the colour using its common name or a description of how the colour is applied to the goods or services.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Unregistrable without exception.
	Examples	Trade Mark No. 749403 	N/A		4 registered marks as of March 30, 2018 Example: Reg. No. 5930334  	Registration No. 1289480 	Shell (yellow and red combination) TM Nos 99003242 and 99003241 	Trade Mark No. 829135 	DEVICE Registration No. 42016500488 	Registration No. T9906795F 	No.595727/TM3308 57 	Reg. No. 169002 (combination of red and yellow for Class 09 and 36)

		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Sound	Statutory / case law prohibition / allowance?	Provided for under Sections 6 & 17 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation thereof	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Not explicitly mentioned in the IP Code, but eligible for registration if it can be represented graphically in a way that it is visible and distinctive.	Not explicitly mentioned in the law, but eligible for registration if it can be represented graphically.	Explicitly foreseen by Section 7 (11) of the Trademark Act as eligible for registration if it is not directly to the character and/or quality of the applied goods/services; or not a natural sound associate with the applied goods/service; or not a sound produced by the operation of the applied goods/services.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Primarily considered inherently distinctive; however evidence of acquired distinctiveness may be requested.	Evidence of distinctiveness may be required if an objection is raised.	Inherently distinctive.	Depending on composition of sound marks, acquired distinctiveness is required.	Acquired distinctiveness except including distinctive words	May not be registered in either event.	Primarily considered inherently distinctive.	May be inherently distinctive. If the sign consists of a melody, jingle, tone, song or other musical sound that can be represented clearly and accurately by musical notation, such notation must be submitted with the application and will suffice to comply with the requirement of graphic representation. If the sign consists of a non-musical sound or noise that cannot clearly and accurately be	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Unregistrable without exception.
	Examples	Trade Mark No. 759707 'AH MCCAIN YOU'VE DONE IT AGAIN'.  sk텔레콤.WAV	N/A	No registered marks so far.	221 registered marks as of March 30, 2018 Example: Reg. No. 5985747 	Registration No. 41-282558	N/A	Trade Mark No. 252035 'The Warehouse, The Warehouse Where Everyone Gets A Bargain' 	No registered marks so far.	Registration No. T1316926G 	As the registration of sound mark has been possible since 1 September 2017, the applications for sound mark are still in the examination period.	No registered marks so far.






		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Three-dimensional	Statutory / case law prohibition / allowance?	Provided for under Sections 6 & 17 of the Trade Marks Act 1995	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Act 2 (1) I, ii	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Explicitly foreseen by Section 7 (10) of the Trademark Act as eligible for registration if it is not the natural form of the applied goods/services; or not necessary to obtain a technical result of the applied goods/services; or not give value to the applied goods/services.	Registrable with unclear regulations on protection criteria (IP Law).
	Statutory / case law prohibition / allowance?	Primarily considered inherently distinctive; however evidence of acquired distinctiveness may be requested.	Evidence of distinctiveness may be required if an objection is raised.	Inherently distinctive.	Depending on composition of 3D marks, acquired distinctiveness is required.	Depending on composition of 3D marks, acquired distinctiveness is required.	May be registrable subject to establishing acquired distinctiveness	Primarily considered inherently distinctive (particularly if not purely functional)	May be inherently distinctive. A drawing of the mark showing a single view is sufficient if the distinctive character of the mark is evident from the drawing. If necessary, the examiner may ask the applicant to submit drawings showing more views.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Both
	Examples	Trade Mark No. 822780 	N/A		2282 registered marks as of March 30, 2018 Example: Reg. No. 5225619 	Registration No. 40-1183779 	Trade Mark No. 06000665 for Coca Cola bottle 	Trade Mark No. 661428 	PHOENIX SUPER GAS Registration No. 42017009628 	Registration No. T9910979I 	No.231595/SM896 	Registration Nos. 105452 for Coke's bottle 


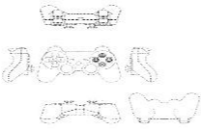





		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Touch	Statutory / case law prohibition / allowance?	Not explicitly provided for; however it is included under the definition of 'Sign' in Section 6 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation thereof.	Not explicitly provided for; however the definition of 'Sign' is under Section 5 is not exhaustive.	Not explicitly mentioned in the IP Code, but eligible for registration if it can be represented graphically to the extent that they consist of physical features of the particular products or of their packaging, or of objects used in connection with the services for which the marks are to be used.	Not explicitly mentioned in the law, but eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Possible in theory, open to inherently distinctive marks or marks with acquired distinctiveness.	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	N/A	Acquired distinctiveness	May not be registered in either event.	In theory, registrable on evidence of acquired distinctiveness.	May be inherently distinctive.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	N/A	No registered marks so far.	No registered marks so far.	N/A


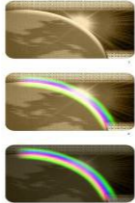




		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Smell	Statutory / case law prohibition / allowance?	Provided for under Sections 6 & 17 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation thereof.	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Not explicitly mentioned in the IP Code.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Currently only an inherently distinctive scent mark has been registered. Possible for a mark without inherent distinctiveness to be registered if it is factually distinctive prior to	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	N/A	Acquired distinctiveness	May not be registered in either event.	In theory, registrable on evidence of acquired distinctiveness.	There is presently no set of definite rules that could be applied for purposes of trademark registration of smells,	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	Trade Mark No. 1241420 Eucalyptus scent in relation to Class 28: Golf tees.	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	N/A	No registered marks so far.	No registered marks so far.	N/A

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Taste	Statutory / case law prohibition / allowance?	Not explicitly provided for; however it is included under the definition of 'Sign' in Section 6 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Provided for under Section 5 of the Trade Marks Act 2002 and Part 2 of the IPONZ Practice Guidelines.	Not explicitly mentioned in the IP Code.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Possible in theory, open to inherently distinctive marks or marks with acquired distinctiveness.	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	N/A	Acquired distinctiveness	Not registrable	In theory, registrable on evidence of acquired distinctiveness.	There is presently no set of definite rules that could be applied for purposes of trademark registration of taste.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	N/A	No registered marks so far.	No registered marks so far.	N/A






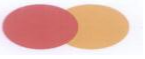


		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Motion	Statutory / case law prohibition / allowance?	Not explicitly provided for; however it is included under the definition of 'Sign' in Section 6 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Not explicitly provided for; however the definition of 'Sign' is under Section 5 is <b>not</b> exhaustive.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Currently all movement marks have been considered inherently distinctive. Possible for a mark without inherent distinctiveness to be registered if it is factually distinctive prior to application.	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	Depending on composition of motion marks, acquired distinctiveness is required.	Inherently distinctive.	May not be registered in either event.	In practice, often regarded as inherently distinctive.	May be inherently distinctive. The examiner may require drawings of the mark (consisting of a series of still images which depict movement when puttogether) or a description of the movement.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	Trade Mark No. 1681093 Toyota - silhouette jumping.  <a href="#">Media File</a>	N/A	No registered marks so far.	93 registered marks as of March 30, 2018 Example: Int'l Reg. No. 1290466 	Registration No. 40-869737 	N/A	Trade Mark No. 775926  The mark comprises an animated visual sequence, as shown in the below representation. 	COLT 45 SMOOTH STRONG BEER Registration No. 42014004214 	Registration No. T0501369E 	N/A	No registered marks so far.





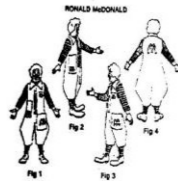

		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Position	Statutory / case law prohibition / allowance?	Not explicitly provided for; however where a trade mark consists of the positioning of other registrable features, including colour, shape or plain words, the position of those features may be registrable.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Act 2 (1) I, ii	Not registrable as unlikely to be construed as a "mark" even if definition is non-exhaustive. No provision on the manner of affixing the mark under the Regulations.	Not explicitly provided for; however the definition of 'Sign' is under Section 5 is <b>not</b> exhaustive.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but the Registrar allow it to be registered in the past. However, under current practice the Registrar and the Board of Trademarks considered that this kind of mark is not distinctive.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Possible in theory, open to inherently distinctive marks or marks with acquired distinctiveness.	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	Depending on composition of position marks, acquired distinctiveness is required.	Acquired distinctiveness	May not be registered in either event.	Inherently distinctive marks or marks with acquired distinctiveness, largely dependent on the purpose of the mark, and consumer expectations.	May be inherently distinctive. The drawings may consist of a single view and the examiner may require that the part(s) of the mark not claimed for protection be drawn in dotted or broken lines.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered under current practice because it is not explicitly mentioned in the law.	Unregistrable without exception.
	Examples	Trade Mark No. 774622 A red stripe along the heel of the shoe 	N/A	No registered marks so far.	52 registered marks as of March 30, 2018 Example: Reg. No. 5858802 	Registration No. 40-1031206 	N/A	Trade Mark No. 60280 The mark consists of three lateral stripes of a colour contrasting with that of the sporting footwear to which they are applied. 	CAMPHOR DOUBLE PRAWN BRAND HERBAL OIL Registration No. 42014003917 	Registration No. T0115261E 	No.496439/TM1817 65 	No registered marks so far.

		Australia	Brunei	Indonesia	Japan	Korea	Malaysia	New Zealand	Philippines	Singapore	Thailand	Vietnam
Hologram	Statutory / case law prohibition / allowance?	Not explicitly provided for; however it is included under the definition of 'Sign' in Section 6 of the Trade Marks Act 1995.	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Indicated in Trademark Law Art 2 (1)	Indicated in Trademark Law Art 2 (1) i. ii	May fall within the definition of a "mark" but unlikely to be registrable as there is no express provision on the manner of affixing the mark under the Regulations.	Not explicitly provided for; however the definition of 'Sign' is under Section 5 is <b>not</b> exhaustive.	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Primarily considered inherently distinctive, however evidence of acquired distinctiveness may be requested.	Evidence of distinctiveness may be required if an objection is raised.	Inherently distinctive.	Depending on composition of hologram marks, acquired distinctiveness is required.	Inherently distinctive.	Unlikely to be registrable	Primarily considered inherently distinctive, although in some circumstances registrability is reliant on evidence of acquired distinctiveness.	May be inherently distinctive. A single view which captures the holographic effect in its entirety is acceptable, although the examiner may require multiple views where necessary.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	Trade Mark No. 759893 	N/A	No registered marks so far.	11 registered marks as of March 30, 2018 Example: Reg. No. 5908592 	Registration No. 40-931826 	N/A	Expired Trade Mark No. 272411 The mark consists of a plain hologram, which reflects all colours, or any colour. 	MASTERCARD & GLOBE HOLOGRAM DESIGN Registration No. 63546 	Registration No. T1305027H 	N/A	No registered marks so far.

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Single Color	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not explicitly mentioned in the law.	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Not available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the color is defined by a given form.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Single colors are not eligible for registration unless they combine with literal/figurative elements or are presented in forms of characters/shapes (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	Generally not registrable as deemed not distinctive	May not be registered in either event.	May be inherently distinctive. Examiners may require a sample of the colour on paper, the designation of the colour using its common name or a description of how the colour is applied to the goods or services.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	DEVICE Registration No. 42015008271 	Registration No. T9900636A 	N/A	No registered marks so far

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Combination of Colors	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Not explicitly mentioned in the law.	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Not available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Explicitly foreseen by Section 7 (5) of the Trademark Act as eligible for registration if it is presented in a stylized form.	Colors are not eligible for registration unless they combine with literal/figurative elements or are presented in forms of characters/shapes (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	Combination of Colors trademarks can also be registered if they comport with the statutory requirements of "distinctiveness."	Inherently distinctive.	May not be registered in either event.	May be registrable subject to establishing acquired distinctiveness	May not be registered in either event.	May be inherently distinctive. Examiners may require a sample of the colour on paper, the designation of the colour using its common name or a description of how the colour is applied to the goods or services.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Unregistrable without exception.
	Examples	N/A	N/A		N/A	Shell (yellow and red combination) TM Nos 99003242 and 99003241 	N/A	DEVICE Registration No. 42016500488 	Registration No. T9906795F 	No.595727/TM330857 	Reg. No. 169002 (combination of red and yellow for Class 09 and 36) 

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Sound	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Not explicitly mentioned in the law.	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation thereof	Not Available	Not explicitly mentioned in the IP Code, but eligible for registration if it can be represented graphically in a way that it is visible and distinctive.	Not explicitly mentioned in the law, but eligible for registration if it can be represented graphically.	Explicitly foreseen by Section 7 (11) of the Trademark Act as eligible for registration if it is not directly to the character and/or quality of the applied goods/services; or not a natural sound associate with the applied goods/service; or not a sound produced by the operation of the applied goods/services.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	Inherently distinctive.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May be inherently distinctive. If the sign consists of a melody, jingle, tone, song or other musical sound that can be represented clearly and accurately by musical notation, such notation must be submitted with the application and will suffice to comply with the requirement of graphic representation. If the sign consists of a non-musical sound or noise that cannot clearly and accurately be represented by musical notation, and such signs are admissible for registration under the law, the examiner may require a graphic representation consisting of a sonogram, sonograph or oscillogram accompanied by a corresponding electronic sound file (sound record) submitted by electronic filing or in a standard electronic format.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	No registered marks so far.	Registration No. T1316926G	As the registration of sound mark has been possible since 1 September 2017, the applications for sound mark are still in the examination period.

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Three-dimensional	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Provided for under Article 16 of the Law on Intellectual Property No. 38/NA dated 15 November 2017, as amended	Not expressly provided in the Trade Marks Act 1976 although definition of "mark" is non-exhaustive	Not Available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Explicitly foreseen by law as per Section 2(1) of the Trade Marks Act as eligible for registration.	Explicitly foreseen by Section 7 (10) of the Trademark Act as eligible for registration if it is not the natural form of the applied goods/services; or not necessary to obtain a technical result of the applied goods/services; or not give value to the applied goods/services.	Registrable with unclear regulations on protection criteria (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	three-dimensional trademarks can also be registered if they comport with the statutory requirements of "distinctiveness."	Inherently distinctive.	Even it is allowed to be registered under the the Law on Intellectual Property No. 38/NA dated 15 November 2017, as amended, the registration applications of such cannot be filed now as the Department of Intellectual Property has been awaiting the issuance of further regulations to a clear requirements and process for this.	May be registrable subject to establishing acquired distinctiveness	May not be registered in either event.	May be inherently distinctive. A drawing of the mark showing a single view is sufficient if the distinctive character of the mark is evident from the drawing. If necessary, the examiner may ask the applicant to submit drawings showing more views.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	Inherent distinctiveness only in exceptional cases. May be registered if acquired distinctiveness is proven.	Both
	Examples	N/A	N/A		N/A	Trade Mark No. 06000665 for Coca Cola bottle 	N/A	PHOENIX SUPER GAS Registration No. 42017009628 	Registration No. T99109791 	No.231595/SM896 	Registration Nos. 105452 for Coke's bottle 




		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Touch	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not explicitly mentioned in the law.	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Not Available	Not explicitly mentioned in the IP Code, but eligible for registration if it can be represented graphically to the extent that they consist of physical features of the particular products or of their packaging, or of objects used in connection with the services for which the marks are to be used.	Not explicitly mentioned in the law, but eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May be inherently distinctive.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	No registered marks so far.	No registered marks so far.	N/A






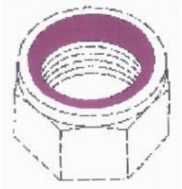
		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Smell	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not explicitly mentioned in the law.	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Not Available	Not explicitly mentioned in the IP Code.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	There is presently no set of definite rules that could be applied for purposes of trademark registration of smells, odours or scents.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	No registered marks so far.	N/A	No registered marks so far.



		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Taste	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not explicitly mentioned in the law.	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Not Available	Not explicitly mentioned in the IP Code.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not falling into signs eligible for registration as trademarks (IP Law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	Not registrable	May not be registered in either event.	There is presently no set of definite rules that could be applied for purposes of trademark registration of taste.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	No registered marks so far.	No registered marks so far.	N/A

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Motion	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Provided for under Article 16 of the Law on Intellectual Property No. 38/NA dated 15 November 2017, as amended	Not registrable. No provision on the manner of affixing the mark under the Regulations. Enforcement is also doubtful as section 3(2)(a) of the Trade Marks Act 1976 construes use of a mark to be reference to printed or other visual representation	Not Available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	Moving image/Motion mark is not registered.	May not be registered in either event.	Even it is allowed to be registered under the the Law on Intellectual Property No. 38/NA dated 15 November 2017, as amended, the registration applications of such cannot be filed now as the Department of Intellectual Property has been awaiting the issuance of further regulations to a clear requirements and process for this.	May not be registered in either event.	May not be registered in either event.	May be inherently distinctive. The examiner may require drawings of the mark (consisting of a series of still images which depict movement when put together) or a description of the movement.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	COLT 45 SMOOTH STRONG BEER Registration No. 42014004214 	Registration No. T0501369E 	N/A

		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Position	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Not explicitly mentioned in the law.	Not registrable as unlikely to be construed as a "mark" even if definition is non-exhaustive. No provision on the manner of affixing the mark under the Regulations.	Not Available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but the Registrar allow it to be registered in the past. However, under current practice the Registrar and the Board of Trademarks considered that this kind of mark is not distinctive.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May not be registered in either event.	May be inherently distinctive. The drawings may consist of a single view and the examiner may require that the part(s) of the mark not claimed for protection be drawn in dotted or broken lines.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered under current practice because it is not explicitly mentioned in the law.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	CAMPHOR DOUBLE PRAWN BRAND HERBAL OIL Registration No. 42014003917 	Registration No. T0115261E 	No.496439/TM181765 




		Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
Hologram	Statutory / case law prohibition / allowance?	Section 4(1) of the Trade Marks Act (Cap 98) expressly provides that it is eligible for registration.	Not explicitly mentioned in the law.	Explicitly foreseen by law as per Article 2 (3) of the Trade Marks Law as eligible for registration.	Not explicitly mentioned in the law.	May fall within the definition of a "mark" but unlikely to be registrable as there is no express provision on the manner of affixing the mark under the Regulations.	Not Available	Explicitly foreseen by Section 121 (1) of the IP Code as registrable as long as the mark is visible and distinctive.	Not explicitly mentioned in the law, but should be eligible for registration, as long as the mark is capable of graphical representation.	Not explicitly mentioned in the law, but in practice (implicitly) assumed to be not eligible for registration.	Unregistrable (but not explicitly mentioned in signs ineligible for registration by law).
	Inherent / acquired distinctiveness?	Evidence of distinctiveness may be required if an objection is raised.	hologram marks can also be registered if they comport with the statutory requirements of "distinctiveness."	Inherently distinctive.	May not be registered in either event.	Unlikely to be registrable	May not be registered in either event.	May be inherently distinctive. A single view which captures the holographic effect in its entirety is acceptable, although the examiner may require multiple views where necessary.	May be inherently distinctive, the Registrar will determine on a case by case basis if acquired distinctiveness must be proven.	May not be registered in either event.	Unregistrable without exception.
	Examples	N/A	N/A	No registered marks so far.	N/A	N/A	N/A	N/A	MASTERCARD& GLOBE HOLOGRAM DESIGN Registration No. 63546 	Registration No. T1305027H 	N/A

		Mainland China	Hong Kong	Macao	Taiwan
Single Color	Statutory / case law prohibition / allowance?	Prohibited	Section 3(2) of the Trade Marks Ordinance (Cap. 559) provides that trade mark may consist of colours but whether single color is registrable as a trade mark is not explicitly	Prohibited by Law	Article 18 of the Trademark Act expressly provides that it is eligible for registration.
	Inherent / acquired distinctiveness?	x	Unless the mark is for very specific goods for a very specific clientele, or comprises a colour or shade which is extremely unusual and peculiar in the relevant trade, evidence will normally be required to establish factual distinctiveness. In such cases, the burden of proof is likely to be substantial.	x	Acquired distinctiveness
	Examples	Application No. 4265815 in the name of Mars, Incorporated. Finally rejected. 	x	x	

		Mainland China	Hong Kong	Macao	Taiwan
Combination of Colors	Statutory / case law prohibition / allowance?	Allow.	Section 3(2) of the Trade Marks Ordinance (Cap. 559) expressly provides that it is eligible for registration.	Allowed by Law, if the combination is inherently distinctive (art, 199, no.1, d) Macau IP Code)	Article 18 of the Trademark Act expressly provides that it is eligible for registration.
	Inherent / acquired distinctiveness?	acquired distinctiveness is required	In general, it is inherently distinctive but acquired distinctiveness may be required depending on the circumstances. For instance, acquired distinctiveness will be required for combination colour used on service or appearing on the entire surface or substantial part of the product or packaging.	inherent distinctiveness	Acquired distinctiveness
	Examples	Registration No. 9137205 in the name of ANDREAS STIHL AG & CO.KG 	Trade Mark No.: 1994B07356 	7/11 color combination	



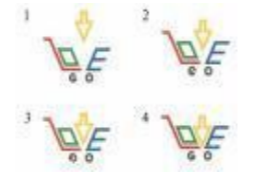



		Mainland China	Hong Kong	Macao	Taiwan
Three-dimensional	Statutory / case law prohibition / allowance?	Allow.	Section 3(2) of the Trade Marks Ordinance (Cap. 559) expressly provides that it is eligible for registration. However, section 11(3) provides that the following shapes are debarred absolutely from registration, in relation to goods, as trade marks: (i) shape resulting from the nature of the goods themselves (ii) shape of goods that is necessary to obtain a technical result and (iii) shape which gives substantial value to the	Allowed by Law, if able to be graphically represented (art. 199 Macau IP Code)	Article 18 of the Trademark Act expressly provides that it is eligible for registration.
	Inherent / acquired distinctiveness?	inherent distinctiveness or acquired distinctiveness is required	Objection is likely to be raised unless the 3D mark also contains distinctive word/device element. Evidence of use is required if objection is raised.	inherent distinctiveness	Acquired distinctiveness
	Examples		Trade Mark No.: 301218870 	x	

		Mainland China	Hong Kong	Macao	Taiwan
Touch	Statutory / case law prohibition / allowance?	Prohibited	Not explicitly mentioned in the law.	Not explicitly prohibited by Law, but the IP Office has unofficially confirmed its unwillingness to accept	Not explicitly mentioned in the Trademark Act but it is allowed.
	Inherent / acquired distinctiveness?	x	Acquired distinctiveness is likely to be required.	x	Acquired distinctiveness
	Examples	x	x	x	x

		Mainland China	Hong Kong	Macao	Taiwan
Smell	Statutory / case law prohibition / allowance?	Prohibited	Section 3(2) of the Trade Marks Ordinance (Cap. 559) expressly provides that it is eligible for registration.	Not explicitly prohibited by Law, but the IP Office has unofficially confirmed its unwillingness to accept	Not explicitly mentioned in the Trademark Act but it is allowed.
	Inherent / acquired distinctiveness?	x	Acquired distinctiveness is likely to be required.	x	Acquired distinctiveness
	Examples	x	x	x	x

		<b>Mainland China</b>	<b>Hong Kong</b>	<b>Macao</b>	<b>Taiwan</b>
<b>Taste</b>	<b>Statutory / case law prohibition / allowance?</b>	Prohibited	Not explicitly mentioned in the law.	Not explicitly prohibited by Law, but the IP Office has unofficially confirmed its unwillingness to accept	Not explicitly mentioned in the Trademark Act but it is allowed.
	<b>Inherent / acquired distinctiveness?</b>	x	Acquired distinctiveness is likely to be required.	x	Acquired distinctiveness
	<b>Examples</b>	x	x	x	x

		Mainland China	Hong Kong	Macao	Taiwan
<b>Motion</b>	<b>Statutory / case law prohibition / allowance?</b>	Prohibited	Not explicitly mentioned in the law.	Not explicitly prohibited by Law, but the IP Office has unofficially confirmed its unwillingness to accept	Article 18 of the Trademark Act expressly provides that it is eligible for registration.
	<b>Inherent / acquired distinctiveness?</b>	acquired distinctiveness is required	Acquired distinctiveness may be required in some cases.	x	Acquired distinctiveness
	<b>Examples</b>	x	Trade Mark No.: 303561877 	x	

		<b>Mainland China</b>	<b>Hong Kong</b>	<b>Macao</b>	<b>Taiwan</b>
<b>Position</b>	<b>Statutory / case law prohibition / allowance?</b>	Prohibited	Not explicitly mentioned in the law.	Not explicitly mentioned in the Law. But may be registrable if inherently distinctive or if acquired distinctiveness by use. The IP office has no official or unofficial position.	Not explicitly mentioned in the Trademark Act but it is allowed.
	<b>Inherent / acquired distinctiveness?</b>	x	Acquired distinctiveness may be required in some cases.	x	Acquired distinctiveness
	<b>Examples</b>	x	x	x	x

		Mainland China	Hong Kong	Macao	Taiwan
Hologram	Statutory / case law prohibition / allowance?	Prohibited	Not explicitly mentioned in the law.	Not explicitly prohibited by Law, but the IP Office has unofficially confirmed its unwillingness to accept	Article 18 of the Trademark Act expressly provides that it is eligible for registration.
	Inherent / acquired distinctiveness?	x	Acquired distinctiveness will likely be required.	x	x
	Examples	x	x	x	