

Sound Marks are Now Registrable in Thailand

Starting from 1st September 2017, sound marks are now practically allowed registration in Thailand according to the Ministerial Regulation B.E. 2535 as amended up to the Ministerial Regulation (No.5) B.E. 2560 issued under the Trademark Act B.E. 2534 (A.D. 1991) as amended by the Trademark Act (No. 3) B.E. 2559 (A.D. 2016) (“**Amended TMA**”).

The Amended TMA, which has been effective since 28th July 2016, allows registration of sound marks if they are not directly descriptive of the character or nature of the applied goods, the natural sound of the applied goods, the sound resulting from the function of the applied goods or sound that is common to trade of certain type of goods. However, filing an application for a registration of a sound mark had not been possible before as the Ministry of Commerce had not yet enacted the Ministerial Regulation for its implementation.

On 1st September, the Ministerial Regulation (No. 5) B.E. 2560 (A.D.2017) under the Trademark Act B.E. 2534 (A.D. 1991) (“**Ministerial Regulation**”) was published in the Royal Gazette and it has become effective since then. The Ministerial Regulation includes, but not limited to, the filing requirements for a sound mark under the Amended TMA.

For filing a trademark application for a sound mark, the applicant is required to provide a clear description of the sound and submit a soft file of a clear audio record of the sound in a portable device. In addition, in the application form, the applicant is to indicate the type of the sound, i.e. whether it is a human sound, an animal sound, a song or musical sound or another type of sound. Additionally and optionally, the applicant may also submit a musical score, sound-graph or other kind of sound representation to support the application.

The Trademark Office (“**TMO**”) of the Department of Intellectual Property (“**DIP**”) has recently published its handbook for filing a trademark application, including a sound mark application (“**Handbook**”). In the Handbook, some examples of non-distinctive sound marks are a cow’s moo for milk products, duck sounds like quacks for ducks, and the sound of toilet flushing for sanitary ware.

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