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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **PROTECTING THE UNSEEN, UNHEARD, AND UNFORGETTABLE: AN EXAMINATION OF NON-TRADITIONAL TRADEMARKS**

AUTHORED BY- ANISHA SEN<sup>1</sup>

## **ABSTRACT-**

An overview of non-traditional trademarks and their importance in the current intellectual property landscape is given in this research study. Historically, only names, words, logos, and symbols could be used as trademarks. Non-traditional trademarks, on the other hand, have become popular as a way to safeguard distinctive qualities of a brand that go beyond the norm. The present research delves into the different types of non-traditional trademarks, their legal structure, obstacles associated with their registration and enforcement, and their influence on consumer perception and brand identification. Sensual components like colour, sound, and aroma are being used by brands more often to develop distinctive brand identities. This examines the legal environment pertaining to non-conventional trademarks, with an emphasis on colour, aroma, and sound. It looks at the difficulties of registering these elements and how they can be secured.

**Keywords:** Non-conventional trademark, colour mark, shape mark, trademark protection, IPR

## **INTRODUCTION-**

### **Background**

Historically, phrases, symbols, and logos were the main visual identification components of trademarks. However, as the marketing industry has grown more complex, brands are increasingly using sensory experiences to establish a distinctive personality. Non-traditional trademarks can be useful in this situation. Although the idea of identifying goods and services has existed for centuries, trademark law is a relatively new field of study. Originally, trademarks were generally just physical signs or symbols attached to goods. But when industrialization and mass production increased in the 19th century, the modern idea came into being.

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Trademarks continued to be centered on visual components for the majority of the 20th century. The late 20th century did, however, witness a change in favour of a more comprehensive brand experience. Businesses started to realize how important sensory components were for building brand identification, including colour, sound, scent, and even texture. Brands began to invest in these sensory components, and it became clear that they needed legal protection. Conventional trademark law was ill-prepared to deal with these novel forms of identification. As a result, the idea of non-traditional trademarks was developed<sup>2</sup>

### **Research Objectives**

All things considered, non-traditional trademarks are an effective tool for consumer involvement and brand distinctiveness. That being said, in order to optimize their efficacy and steer clear of potential hazards, thoughtful deliberation and considered use are essential. We anticipate seeing even more creative applications of these sensory components in the future as the marketing scene develops.

The classic logo is simply insufficient these days. Non-traditional trademarks are becoming a brand's new weapon in the congested marketplace of today. These sensory components—which include colour, sound, scent, and even texture—offer a special method to stand out from the competition and leave a lasting effect on customers. Brands must come up with unique ideas to stand out in crowded markets. A distinctive method of differentiating and forging a distinctive brand identity is through non-traditional trademarks.<sup>3</sup>

## **TRADITIONAL TRADEMARK: A BRIEF OVERVIEW**

A trademark is a legal concept that protects words, symbols, designs, or even sounds that distinguish a source of goods or services from others. In simpler terms, it's a recognizable sign that allows consumers to identify a specific brand. **In essence, the scope of a trademark aims to balance the rights of the brand owner with fair competition in the marketplace.** While a brand deserves protection for its unique identifiers, overly broad protection shouldn't prevent competitors from using generic terms or creating their own distinct marks.

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<sup>2</sup> Jeffrey Podoshen, *Brand Sense: How to Build Powerful Brands Through Touch, Taste, Smell, Sight and Sound* 2005; Martin Lindstrom, *Brand Sense: How to Build Powerful Brands Through Touch, Taste, Smell, Sight and Sound*. London and Sterling, VA: Kogan Page 2005. 237 Pp., 14 JOURNAL OF PRODUCT & BRAND MANAGEMENT 278 (2005).

<sup>3</sup> Dr Mwirigi K Charles & T Sowmya Krishnan, *Registrability of Non-Conventional Trademarks: A Critical Analysis*, 6.



## The Long March of the Mark: A Look at Trademark Law's Evolution

Trademark law, like many legal concepts, has undergone a fascinating transformation over time. From humble beginnings to the complex system of today, here's a glimpse into its evolution:

### **Early Markings: The Seeds of Protection (Pre-19th Century)**

- The concept of identifying goods and services with a mark can be traced back centuries.
- Artisans and guilds might have used symbols or stamps on their products to indicate origin or quality.
- However, there wasn't a formal legal framework for protection.

### **The Rise of Industrialization and the Birth of Trademark Law (19th Century)**

- The Industrial Revolution brought mass production and the need to distinguish goods in the marketplace.
- England enacted the first trademark legislation in 1266, known as the Bakers Marking Law, requiring bakers to identify their bread.
- In the US, the first federal trademark statute was passed in 1870, but it was later struck down by the Supreme Court.

### **The 20th Century: Refining the System (Early to Mid-20th Century)**

- The 20th century saw the development of a more comprehensive trademark legal framework.
- The US Lanham Act of 1946 established a national system for registering trademarks and protecting them from infringement.
- The concept of "common law" trademarks, established through use and consumer recognition, also gained importance.
- The focus remained primarily on visual elements like logos and word marks.

### **The Late 20th Century and Beyond: The Rise of Non-Traditional Trademarks**

- The latter part of the 20th century witnessed a shift in marketing strategies.
- Brands began to recognize the power of sensory experiences in creating brand identity.
- This led to the emergence of non-traditional trademarks, encompassing sound, colour, scent, and even texture.

- Legal frameworks have begun to adapt to protect these new types of marks, but challenges regarding distinctiveness and graphical representation remain.

### **The Ongoing Evolution: Looking Ahead**

- The future of trademark law is likely to be shaped by technological advancements.
- Virtual reality, artificial intelligence, and other innovations might introduce new categories of trademarks.
- International cooperation and harmonization of standards will be crucial for protecting brands in a globalized marketplace.

### Limitations of traditional trademark

- **Focus on Visuals:** They primarily protect logos, word marks, and symbols. Non-sensory elements like sound, scent, and texture are harder to protect.
- **Descriptiveness Challenge:** Generic terms or terms describing product features are difficult to trademark. ("Super Clean" for detergent might not be protectable)
- **Limited Geographical Scope:** Trademark protection is typically territorial. A registered trademark in the US might not be protected in Europe.
- **Fair Use Considerations:** Limited use of a trademark for criticism, parody, or news reporting might be allowed even without permission.
- **Challenges with Functionality:** Functional designs or features of a product cannot be trademarked. (The shape of a screwdriver wouldn't be protectable)

## **NON-TRADITIONAL TRADEMARK: CONCEPT AND CLASSIFICATION-**

**A non-traditional trademark is a legally protectable element that uses sensory characteristics, beyond sight, to identify a specific brand and differentiate it from competitors.** Non-traditional trademarks are a category of trademarks that extend beyond the traditional realm of logos, words, and symbols. These marks encompass sensory elements that create a unique brand identity and can be registered for protection under certain circumstances<sup>4</sup>.

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<sup>4</sup> Unconventional Trademarks in India: Protection Challenges & Prospects, (Mar. 27, 2024), <https://depenning.com/blog/unconventional-trademarks-evolution/> (last visited Jul 21, 2024).

## The Sensory World of Branding: Exploring Different Types of Non-Traditional Trademarks

### 1. Auditory Marks: The Power of Sound

- **Jingles:** Catchy tunes like the Coca-Cola jingle or the Intel "bong" instantly trigger brand recognition.
- **Product Sounds:** The distinctive roar of a Harley-Davidson engine or the IBM Selectric typewriter's clicking sound can be trademarked.
- **Character Voices:** The iconic voices of cartoon characters like Mickey Mouse or Tony the Tiger become trademarks associated with their respective brands.

### 2. Olfactory Marks: The Allure of Scent

- **Signature Scents:** Yankee Candle's "Beach Escape" or the specific scent used in Abercrombie & Fitch stores are examples of protected olfactory marks.
- **Product Scents:** The unique scent of a new car or a specific type of playdough can be trademarked if it's distinctive enough.

### 3. Gustatory Marks: The Taste of a Brand (Rare Case)

- While uncommon due to registration challenges, a specific flavour combination associated with a candy brand could potentially be a trademark.

### 4. Tactile Marks: The Sense of Touch

- **Unique Packaging Textures:** The bumpy texture of a certain brand's beverage can might be a tactile mark, but achieving protection is difficult.
- **Fabric Feel:** The distinct, luxurious feel of a high-end clothing brand's fabric could be a potential tactile trademark.

### 5. Shape Marks: The three-dimensional brand identity

Shape marks are a specific type of non-traditional trademark that utilizes the three-dimensional form of a product, packaging, or even the product itself, as a brand identifier. Here's a breakdown of this unique category

### 6. Taste Mark

Taste marks are perhaps the most intriguing and controversial category of non-traditional trademarks.



They attempt to protect the unique flavour or taste associated with a particular brand's product. While the concept holds potential, obtaining legal protection for taste marks presents significant challenges.

## 7. Hologram Mark

Hologram marks, a relatively new concept in the world of trademarks, utilize holographic technology to create a three-dimensional image or visual effect associated with a brand. While not yet as widespread as traditional or other non-traditional trademarks, holograms offer a unique and potentially powerful branding tool.<sup>5</sup>

## 8. Colour Mark

Colour can be a powerful branding tool, instantly triggering brand recognition and evoking emotions. In the realm of trademarks, colour marks attempt to protect a specific hue or colour combination associated with a particular brand. While not as straightforward as traditional trademarks, colour marks can offer valuable brand protection under certain circumstances.

## 9. Motion Mark

Motion marks, a dynamic form of non-traditional trademark, leverage animation or moving images to create a unique brand identifier. Imagine the iconic MGM lion roaring or the NBC peacock spreading its colourful feathers. These are examples of motion marks that have become instantly recognizable symbols associated with their respective brands.

## 10. Emerging Categories:

- **Kinaesthetic Marks:** This proposed category might encompass body movements or positions associated with a brand, like a specific yoga pose used in branding.
- **Combinations:** Brands can leverage multiple sensory elements to create a truly multisensory experience. Imagine a retail store combining a signature scent with a calming colour scheme and a specific type of music for a unique brand identity.

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<sup>5</sup> Geiregat, S. Trade Mark Protection for Smells, Tastes and Feels – Critical Analysis of Three Non-Visual Signs in the EU. IIC 53, 219–245 (2022). <https://doi.org/10.1007/s40319-022-01160-3>

## LEGAL FRAMEWORK FOR NON-TRADITIONAL TRADEMARK-

The legal framework for non-traditional trademarks is still evolving and can vary depending on the jurisdiction.

### General Principles:

- Non-traditional trademarks are protected under the same general principles as traditional trademarks.
- They must be used to identify and distinguish the source of a particular brand's goods or services.

### Challenges:

- **Distinctiveness:** Non-traditional marks often face a higher bar for establishing distinctiveness compared to traditional logos. A single colour or sound might not be inherently distinctive, requiring evidence of acquired distinctiveness through extensive use.
- **Descriptiveness:** Certain elements, like the colour red for fire trucks, might be considered descriptive and not protectable.
- **Graphical Representation:** Trademark registration often requires a clear graphical representation. Capturing a scent or sound can be difficult.<sup>6</sup>

### International Considerations:

- The World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) recognizes the potential protection of non-traditional trademarks.
- However, specific requirements and levels of protection can vary significantly by country.

### The Way Forward:

- As brands increasingly utilize non-traditional elements for branding, the legal framework is likely to adapt and evolve.
- Harmonization of standards across different jurisdictions could be crucial for effective global brand protection.

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<sup>6</sup> Should Trademark Law Protect Non-Traditional Trademarks? A Look at How Marketing Practices Try to Capture Essences | The Protection of Non-Traditional Trademarks: Critical Perspectives | Oxford Academic, <https://academic.oup.com/book/26798/chapter/195754760> (last visited Jul 21, 2024).

- Staying updated on legal developments and consulting with trademark professionals is important for navigating the complexities of non-traditional trademark protection.

International treaties and conventions of non-traditional trademark:

The world of non-traditional trademarks is relatively new compared to traditional visual marks. While the legal framework is constantly evolving, there isn't a single international treaty solely dedicated to their protection. However, some existing agreements lay the groundwork for potential protection:

### **1. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS):**

- Administered by the World Trade Organization (WTO), TRIPS sets minimum standards for intellectual property protection, including trademarks, for member countries.
- Article 15 of TRIPS mentions that trademarks can be "signs" and doesn't limit them to visual elements. This opens the door for the possibility of protecting non-traditional trademarks under certain conditions.

### **2. Paris Convention for the Protection of Industrial Property:**

- This long-standing agreement (1883) focuses on protecting intellectual property rights, including trademarks, among member states.
- While not explicitly mentioning non-traditional marks, it requires member countries to grant protection to trademarks "capable of distinguishing the goods or services of one undertaking from those of other undertakings." This principle can be interpreted to potentially encompass non-traditional elements if they meet the distinctiveness criteria.

### **3. The Trademark Law Treaty (TLT):**

- Signed in 1994, the TLT aims to simplify and harmonize the procedures for registering trademarks internationally.
- Interestingly, the TLT specifically excludes the protection of holograms and non-visible marks (like sound and scent) from its scope. This doesn't necessarily prevent non-traditional mark protection altogether, but it highlights the ongoing debate and challenges surrounding them.



## Important Considerations:

- Even with these agreements, the specific legal framework for non-traditional trademarks varies significantly by country.
- Each nation might have its own requirements for distinctiveness, graphical representation, and registration procedures for non-traditional elements.

While there's no single overarching international treaty specifically focused on non-traditional trademarks, existing agreements like TRIPS and the Paris Convention lay the groundwork for potential protection under certain conditions. However, navigating the legal complexities and varying national frameworks remains a challenge for brands seeking global protection for their non-traditional trademarks<sup>7</sup>.

## CHALLENGES IN REGISTRATION AND ENFORCEMENT-

Non-traditional trademarks, while offering exciting branding possibilities, come with a unique set of challenges when it comes to registration and enforcement. Here's a breakdown of the key hurdles:

### Registration Challenges:

- **Distinctiveness:** Unlike a logo, a single sound, scent, colour, or texture might not inherently be distinctive enough to identify a brand. Extensive use and acquired distinctiveness are often crucial for successful registration. (Imagine trying to trademark the colour red for all clothing)
- **Descriptiveness:** Certain elements inherent to the product itself might not be protectable. For example, the blue colour of swimming pool chlorine would likely be considered descriptive.
- **Graphical Representation:** Trademark registration often requires a clear graphical depiction. Capturing a scent or sound for filing purposes can be difficult. While some countries might accept written descriptions or sound recordings, the standards can vary.<sup>8</sup>

### Enforcement Challenges:

- **Subjectivity:** Elements like scent or taste can be subjective. Enforcing a taste mark against a competitor can be difficult due to individual taste perception and cultural variations.
- **Global Variations:** Legal frameworks for non-traditional trademarks differ across countries.

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<sup>7</sup> Securing Registration For Non-Traditional Trademarks in India, <https://www.worldtrademarkreview.com/guide/india-managing-the-ip-lifecycle/2024/article/securing-registration-non-traditional-trademarks-in-india> (last visited Jul 21, 2024).

<sup>8</sup> Abanti Bose, *Challenges in Protecting a Non-Conventional Trademark*, IPLEADERS (Nov. 14, 2021), <https://blog.ipleaders.in/challenges-in-protecting-a-non-conventional-trademark/> (last visited Jul 21, 2024).

A protected sound mark in one country might not be enforceable elsewhere.

- **Difficulty in Proof:** Demonstrating infringement of a non-traditional mark, especially for elements like scent or sound, can be more complex compared to visual marks. Technical expertise and specialized evidence might be required.

#### **Strategies for Overcoming Challenges:**

- **Focus on Distinctiveness:** Building a strong brand association with a non-traditional element through extensive use can help establish distinctiveness.
- **Combinations:** Registering a combination of non-traditional elements (e.g., colour + sound) can be easier to prove distinctiveness than a single element.<sup>9</sup>
- **Clear Descriptions:** Providing detailed written descriptions and technical specifications when registering can be helpful.
- **Strategic Use:** Utilizing non-traditional elements alongside traditional trademarks can strengthen overall brand protection.
- **International Considerations:** Consulting with trademark professionals familiar with the specific legal landscape of target markets is crucial for global protection.
- The registration and enforcement of non-traditional trademarks present significant challenges compared to traditional visual marks. However, with a strategic approach, understanding the legal complexities, and focusing on distinctiveness, brands can leverage these unique elements to create a powerful and memorable brand identity.

## **CONSUMER PERCEPTION AND BRAND RECOGNITION-**

### **Impact on Consumer Perception:**

Non-traditional trademarks, encompassing elements beyond sight, offer brands a powerful tool to connect with consumers on a deeper level. Let's delve into how these sensory experiences can influence consumer perception and brand recognition.

- **Emotional Connection:** Non-traditional elements can evoke emotions and memories associated with a brand. A familiar scent can trigger positive nostalgia, while a pleasant texture can create a sense of luxury.

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<sup>9</sup> ILE LAW LETTER, <https://lawletter.iled.edu.in/intellectual-property-laws-and-fragrances-navigating-subjectivity-and-cultural-significance-in-protection-and-regulation/> (last visited Jul 21, 2024).

- **Enhanced Brand Recall:** Multisensory experiences are more likely to be remembered than visual cues alone. The distinct sound of a car engine or the unique scent of a store can leave a lasting impression.
- **Brand Differentiation:** In a crowded marketplace, non-traditional elements can help a brand stand out from the competition. A catchy jingle or a signature scent can create a unique brand identity. Pen spark<sup>10</sup>

### Consumer Research and Testing:

Understanding how consumers perceive and respond to non-traditional trademarks is crucial. Brands can conduct:

- **Focus groups:** To gauge consumer reactions to potential non-traditional elements.
- **Surveys:** To understand consumer preferences and associations with certain sounds, scents, or textures.
- **Neuromarketing:** To measure subconscious responses to different sensory stimuli associated with a brand

As technology advances, new possibilities for non-traditional trademarks might emerge. Imagine interactive packaging with unique textures or virtual reality experiences that incorporate brand-specific scents. Understanding how consumers perceive these sensory elements will be crucial for creating effective branding strategies in the future.

## INTERNATIONAL PERCEPTION ON NON-TRADITIONAL TRADEMARK-

The international perception of non-traditional trademarks (NTTMs) is a complex landscape, marked by both growing recognition and significant variations across different countries. Here's a breakdown of the key aspects:

### Growing Recognition:

- **Globalized Marketplace:** As brands increasingly operate internationally, the need for strong trademark protection, including NTMMs, is gaining recognition.
- **Consumer Trends:** Consumers are bombarded with visual stimuli, and brands are exploring NTMMs to create a more differentiated and memorable experience.

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<sup>10</sup> Decoding Consumer Perception: How Trademarks Shape Your Choices, (Mar. 4, 2024), <https://depenning.com/blog/trademarks-on-consumer-perception/> (last visited Jul 21, 2024).



- **International Agreements:** Agreements like TRIPS (Trade-Related Aspects of Intellectual Property Rights) lay the groundwork for potential NTM protection

### Variations in Legal Frameworks:

- **Levels of Protection:** The level of protection offered for NTMMs varies significantly by country. Some countries, like the US and EU, have granted protection for sound and colour marks in specific cases, while others have stricter requirements.
- **Registration Challenges:** The distinctiveness and graphical representation requirements for NTM registration can be more complex compared to traditional trademarks. Capturing a scent or sound for legal filing can be challenging.
- **Cultural Differences:** The perception of NTMMs can also vary culturally. A scent that is considered pleasant in one culture might be offensive in another. This can create enforcement difficulties for globally operating brands.<sup>11</sup>

### Challenges and Considerations:

- **Harmonization:** A lack of international harmonization in NTM protection creates uncertainty for brands seeking global protection.
- **Enforcement:** Enforcing NTM rights across borders can be complex due to varying legal frameworks and difficulty in providing concrete evidence of infringement.
- **Consumer Acceptance:** Consumers in some regions might be less familiar with the concept of NTMs and their role in brand identity.

### The Way Forward:

- **International Cooperation:** Efforts by organizations like WIPO (World Intellectual Property Organization) to promote discussions and potentially develop more standardized guidelines for NTM protection are crucial.
- **Strategic Use:** Brands should carefully consider the legal landscape and cultural context of target markets before using NTMMs internationally.

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<sup>11</sup> Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, Representation of Non-Traditional Marks, Areas of Convergence, Twentieth Session, Geneva, December 1 to 5, 2008

- **Focus on Distinctiveness:** Building a strong brand association with a NTM through extensive use and clear differentiation is essential for successful protection.<sup>12</sup>

### **Examples of International Perception:**

- **Europe:** The European Union Trademark Office (EUIPO) has shown a more open approach to registering sound and colour marks compared to the US Patent and Trademark Office (USPTO).
- **Asia:** Some Asian countries, like China, are starting to recognize the potential of NTMs, but the legal framework is still evolving.

The international perception of NTMMs is gradually shifting towards greater recognition. However, significant variations in legal frameworks and cultural considerations remain. Brands seeking to leverage NTMs internationally must navigate these complexities with a strategic and nuanced approach.<sup>13</sup>

## **FUTURE, PROSPECTS OF NON-TRADITIONAL TRADEMARK-**

The future of non-traditional trademarks looks bright, with potential for increased use and legal acceptance. Here's a breakdown of why:

### **Growing Importance:**

- **Standing Out in a Crowd:** In today's saturated markets, traditional trademarks like logos can struggle to grab attention. Non-traditional forms like sounds, scents, or shapes offer a unique way to differentiate a brand.
- **Emotional Connection:** These trademarks can create a stronger emotional connection with consumers. For example, the distinct jingle associated with a brand can trigger positive memories.

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<sup>12</sup> Smell, Sound and Taste – Getting a Sense of Non-Traditional Marks, WIPO MAGAZINE, February 2009, also available at [https://www.wipo.int/wipo\\_magazine/en/2009/01/article\\_0003.html](https://www.wipo.int/wipo_magazine/en/2009/01/article_0003.html)

<sup>13</sup> Sankalp Malik, Keshav Seth, Aditya Puri, PROPERTY RIGHTS OVER FRAGRANCES, SMELLS AND PERFUMES PROTECTING YOUR AROMA CREATION AGAINST COMPETITIVE IMITATION & REGISTERING SCENTS AS COMMUNITY TRADE MARKS, The Law Brigade (Publishing) Group, August 2018, <http://thelawbrigade.com/wp-content/uploads/2019/05/Sankalp-Keshav-Aditya.pdf>

### **Legal Developments:**

- **Evolving Laws:** Trademark law is constantly adapting to keep pace with marketing trends. Many countries are already recognizing non-traditional trademarks, and this trend is likely to continue.
- **Clearer Guidelines:** We can expect clearer guidelines and streamlined registration processes for these types of trademarks, making it easier for businesses to protect their intellectual property.<sup>14</sup>

### **Benefits for Businesses:**

- **Stronger Brand Identity:** A non-traditional trademark can become a core element of a brand's identity, fostering recognition and loyalty.
- **Licensing Potential:** These trademarks can become valuable assets, with potential for licensing deals that generate additional revenue.

### **Challenges Remain:**

- **Legal Uncertainties:** In some jurisdictions, the legal protection for non-traditional trademarks might still be evolving. This can make it challenging to enforce trademark rights.
- **Distinctive Enough?** For a non-traditional trademark to be registered, it needs to be distinctive enough to identify a specific brand. This can be subjective and may require working closely with trademark lawyers.

Overall, non-traditional trademarks are likely to play an increasingly important role in brand strategy. As legal frameworks adapt and consumers become more accustomed to these unique identifiers, expect to see even more creative and memorable trademarks emerge.

## **CONCLUSION-**

To sum up, in the dynamic commercial environment of today, non-traditional trademarks have grown in significance and worth. Non-traditional trademarks give firms distinctive methods to stand out from the competition and safeguard their intellectual property, even while traditional trademarks like words, logos, and slogans continue to be important. A vast array of components can be used in non-

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<sup>14</sup> Chandler Burr, Ahhh, the Seductive Fragrance of Molecules Under Patent, THE NEW YORK TIMES (February 23, 2008), <https://www.nytimes.com/2008/02/23/business/worldbusiness/23perfume.html>

traditional trademarks, such as colours, sounds, scents, product forms, and even holograms. Strong brand awareness and consumer association are two of the main benefits of non-traditional trademarks. Customers may quickly associate a certain brand with memorable jingles or noises, for instance, or associate a specific business or product category with unique product designs or packaging. But trademarks that aren't conventional can be hard to protect. As non-traditional trademarks are not like other trademarks, they can need more proof or distinctiveness to prove their originality and avoid consumer misunderstanding. Non-traditional trademarks are now protected by intellectual property laws and regulations, albeit the exact legal framework varies from state to jurisdiction and can be rather complex.

Non-traditional trademarks, despite these difficulties, present firms with chances for creativity, innovation, and edge in the marketplace. Companies may differentiate themselves in competitive markets and draw in customers in novel ways with their help. The development of non-traditional trademarks like virtual or augmented reality experiences is something we can anticipate, and it will further influence the direction of trademark law and protection in the future.



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