

Client Alert

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Amendments to trademark law to expand protection of non-traditional marks

A revision to the Japanese Trademark Act will come into effect on 1 April 2015. The revision will expand the scope of protection to the following types of non-traditional trademarks:

- i. sound,
- ii. motion,
- iii. hologram,
- iv. color *per se*, and
- v. position marks (marks which are applied to a particular part of a product).

Other non-traditional marks, such as scents and trade dress, have not been included in this recent amendment.

Trademark applications for motion marks can be presented through single or multiple drawings or pictures illustrating the motion including a reference to the time of each motion and position of the objects contained in the drawings. For sound marks, these can be presented in the form of sheet music which can include notes, types of clefs, tempo, beats to a measure, and lyrics.

As the Japan Patent Office adopts a first-to-file principle, where such non-traditional marks are important to a company, it is recommended to file such non-traditional trademarks as soon as possible after 1 April 2015.