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Trade Marks Act 1976: A 2019 Outfit on its Way (Part 2)

As noted in our previous update ([“Trade Marks Act 1976: A 2019 Outfit on its Way \(Part 1\)”](#)), the House of Representatives had its first reading of the Trademarks Bill 2019 recently.

In this Bill, Malaysia may finally recognise “sounds” and “smells” as trademarks in addition to the conventional trademarks.

The amendments proposed in the Trademarks Bill 2019 include defining non-traditional marks such as “colour, sound, scent, [and] hologram”.

Currently, “sound” and “scent” are expressly excluded as “*references to the use of a mark shall be construed as references to the use of a printed or other visual representation of mark*”. Under the current regime, a “mark” expressly includes elements capable of visual representation, such as “a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof”.

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