

Methods of representation and description of marks

1. 3D marks

We require an indication that it is a 3D mark. If none is given, but the depiction is of a 3D item then it will be assumed that the mark is 3D.

A description is not required.

Perspective views may be requested if, in our view, there may be obscured matter not visible.

2. Colour marks (ie marks where colour is the object of the mark)

We require the colour to be identified by reference to an internationally accepted colour code such as Pantone, RAL or RGB. Applicant does not have to supply a representation, but may do if they wish.

3. Holograms

We would require the various views to be illustrated.

4. Slogans

A slogan presents no problem in terms of graphic representation.

5. Titles of books

Ditto slogans

6. Motion, gesture marks

It is unlikely we would accept anything more than a single gesture or motion which would be illustrated by way of 'frames' accompanied by a description.

7. Position marks

Provided the description is unambiguous we would accept it as graphically represented.

9. Smell

After the ECJ Sieckmann decision, it is not likely that an olfactory mark can be graphically represented in accordance with TM law.

10. Sounds

We follow the ECJ 'Shield' decision, but note also that if the musical notation is unaccompanied by indications such as instrument, tempo etc, it would constitute a broad claim. It may be hard therefore to eg establish that such a 'bare' tune has

acquired distinctiveness. At the evidence stage therefore it is entirely feasible that the tune has to be further particularised.

11. Taste/texture/feel

We would apply the ECJ Sieckmann criteria.