JUSTIFYING IP RIGHTS

Trademark on the sound of a motorcycle

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ARE SOUND TRADEMARKS
REGISTRABLE?

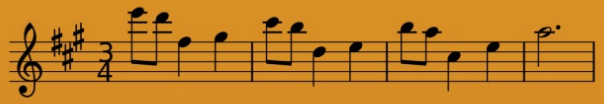
WHAT IS A TRADEMARK?

- Nature of the Trademark

Conventional

NIKE

Non Conventional



- TRADEMARK DIRECTIVE (EU) 2015/243

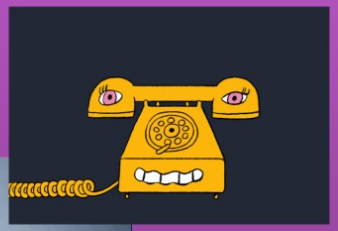
DISTINCTIVENESS

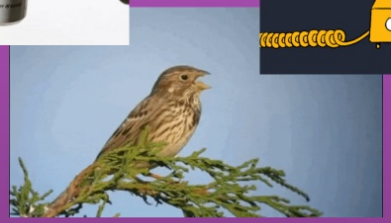
EXCEPTION:
secondary meaning

REPRESENTATION

graphic?

Any sound can be registered as a trademark?





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THEORIES OF IP LAW

1. Labour Theory

relies on labour exertion

2. Personality Theory

intellectual work reflective of one's personality

3. Utilitarian Theory

greatest good for greatest number

4. Social Planning Theory

culture important than welfare

Consumers help in creation of attractive culture and shape ideas.

cultural communication between users.

owner creates and chooses a trademark.

Public start recognizing it and use it in cultural context to express ideas/ messages.

indicator of quality

HARLEY DAVIDSON

V- Twin and common cranking

Precedents:

CRITICISM:

- 9 competitor's objections.
- sound of a vacuum cleaner or blender blades.

ASSESSMENT:

1) symbol
2) secondary meaning

3) functionality

THEORIES AND RATIONALES

Labour Theory:

sufficiency proviso

General:

- high quality of the products.
- consumer confusion/ distinctiveness.

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