



CARIFORUM Intellectual Property Rights and Innovation

NEW TRADE MARK TYPES



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CARIFORUM



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caripi-hub.eu



ESTONIA

- **Digital nation**
- E-state 99% state services online
- E-government; e-residency, e-voting
- **Clean environment**
- 23% of our country is wildlife
- 51% of Estonian territory is forestland



NEW TRADE MARK TYPES

LEGAL REQUIREMENTS

A trade mark may consist of any sign, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

- distinguishing the goods and services of one undertaking from those of other undertakings;
- being represented on the Register in a manner which enables the competent authorities and the public to determine the **clear and precise subject matter** of the protection afforded to its proprietor.

TRADE MARK TYPES

- Word mark
- Figurative mark
- *Shape mark*
- *Position mark*
- *Pattern mark*
- *Colour mark*
- **Sound mark**
- **Motion mark**
- **Multimedia mark**
- **Hologram mark**

COMMON PRACTICE CP11

FORMAL REQUIREMENTS

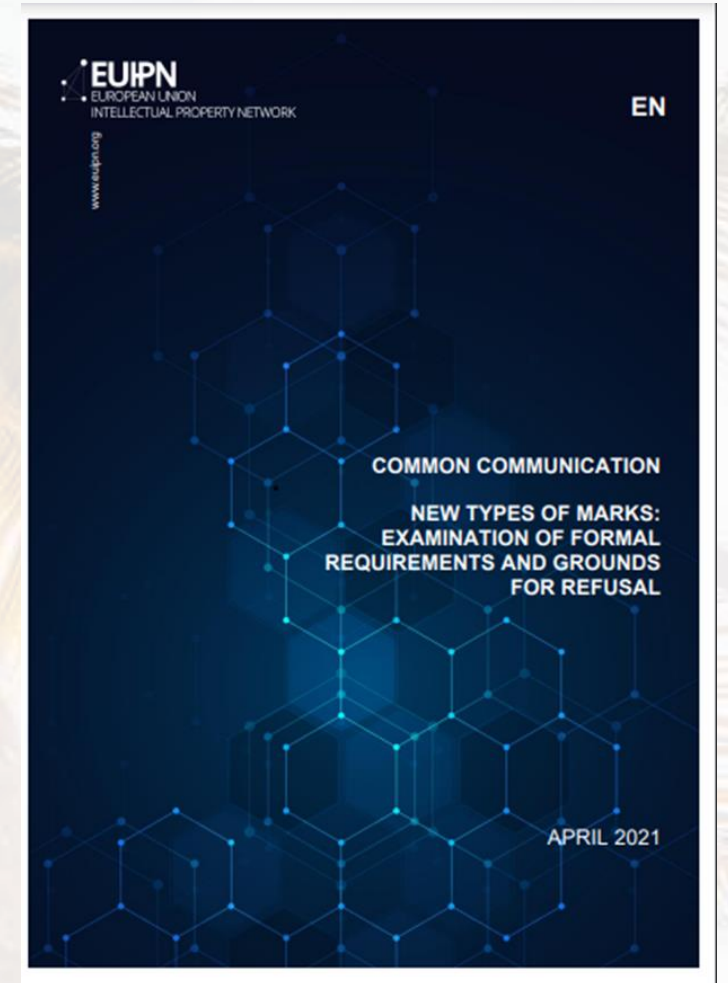
Representation, description, priority

ABSOLUTE GROUNDS

Distinctivness, descriptivness

RELATIVE GROUNDS

Visual, oral and conceptual comparison



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS

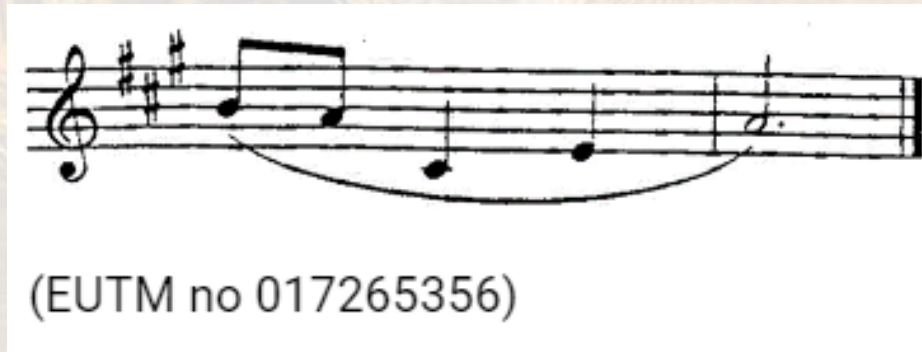
What can be protected as a sound mark?

Any sign containing one or more sounds, regardless of the kind of sound



An audio file

[EUTM 017592031](#)



Musical notation

NEW TRADE MARK TYPES

FORMAL REQUIREMENTS

What can be protected as a motion mark?

Any sign depicting movement, a change in the position of the elements, a change of colour and/or a change of elements



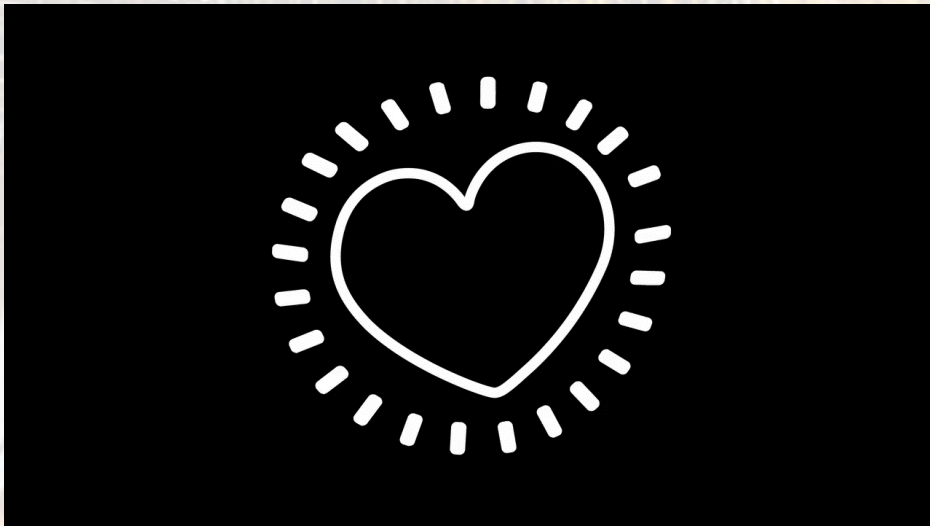
NEW TRADE MARK TYPES

FORMAL REQUIREMENTS

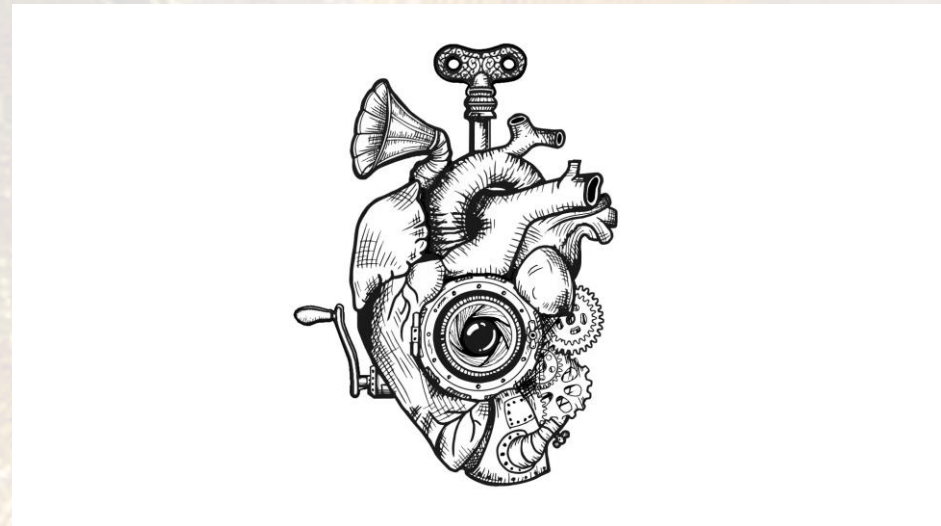
What can be protected as a multimedia mark?

Any sign consisting of a combination of visual and audio elements

EUTM no 017868267



EUTM no 017279704



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS

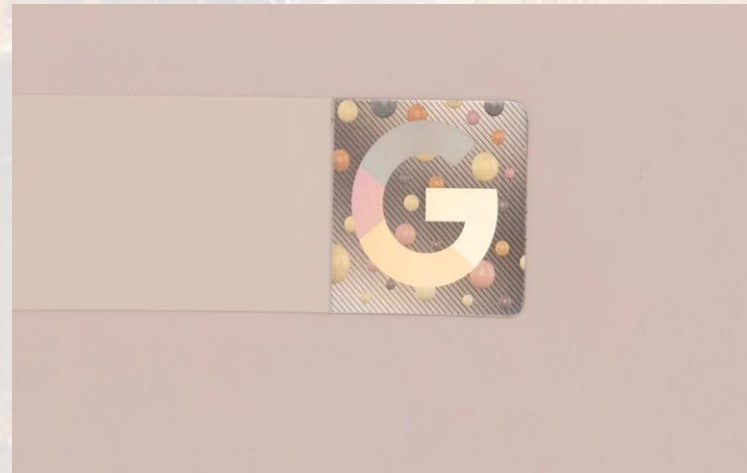
What can be protected as a hologram mark?

Any sign consisting of elements with holographic characteristics

CP 11



EUTM 017993401



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS

PRIORITY The same principles that apply to traditional trade marks with regard to the examination of priority claims also apply to new types of trade mark, with some particularities.

Priority claim will be accepted if the subject matter and the trade mark are the same, regardless of the format. Additionally, it may be accepted when the second filing is of a different type of trade mark but has identical subject matter.

NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS, SOUND MARKS

SOUND MARKS

FIRST FILING



FIRST FILING



SECOND FILING



SECOND FILING



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS, MOTION MARKS

MOTION MARKS

FIRST FILING



SECOND FILING



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS, MOTION MARKS

MOTION MARKS

FIRST FILING



SECOND FILING



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS, HOLOGRAMM MARKS

HOLOGRAMM MARKS

FIRST FILING



SECOND FILING



NEW TRADE MARK TYPES

FORMAL REQUIREMENTS, PRIORITY CLAIMS, HOLOGRAMM MARKS

HOLOGRAMM MARKS

FIRST FILING



SECOND FILING



NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY

SOUND MARKS

The general criteria for assessing distinctiveness of traditional types of trade mark must also apply when assessing the required degree of distinctiveness of new types of trade mark

SOUND MARK



Class 41: Providing films for entertainment purposes

SOUND MARK



Class 12: Cars

NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY, NON-DISTINCTIVE MARK

MOTION MARK



**Class: 3 Washing powder
powder**

MOTION MARK



Class: 3 Washing

NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY, NON-DISTINCTIVE MARK

MOTION MARK



Class: 39 Travel services

MOTION MARK



Class: 3 Washing powder

NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY, NON-DISTINCTIVE MARK

MULTIMEDIA MARK



Class: 31 Fresh bananas

MULTIMEDIA MARK



Class: 31 Foodstuffs for
animals

NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY

HOLOGRAMM MARKS



Class: 12 cars

When the hologram mark consists of a non distinctive/descriptive/generic verbal and/or figurative element, it will be considered non-distinctive

NEW TRADE MARK TYPES

ABSOLUTE GROUNDS/INVALIDITY, DESCRIPTIVE MARK

DESCRIPTIVE MARK

SOUND MARK



Class 31: Foodstuffs and fodder for animals

Class: 25 Clothing

SOUND MARK



NEW TRADE MARK TYPES

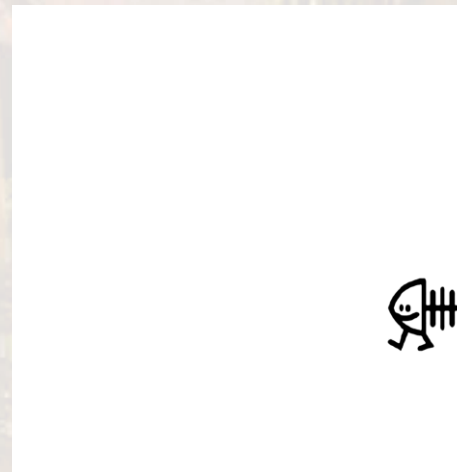
ABSOLUTE GROUNDS/INVALIDITY, DESCRIPTIVE MARK

MOTION MARK



Class 31: Fresh bananas

MOTION MARK



Class 29: Tinned sardines

NEW TRADE MARK TYPES

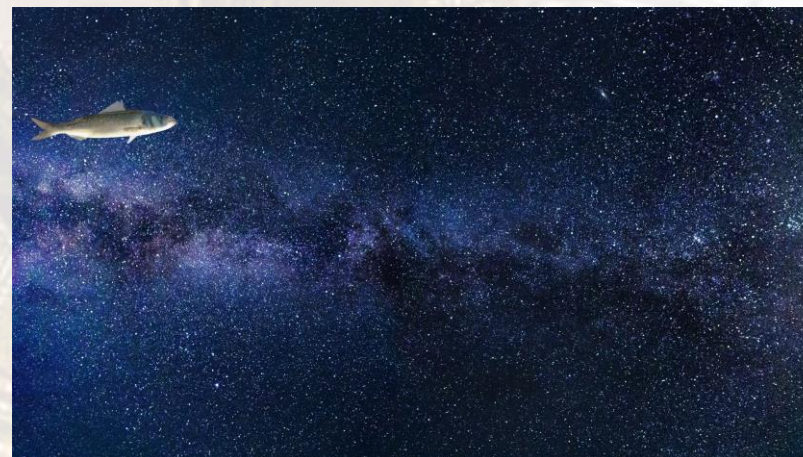
ABSOLUTE GROUNDS/INVALIDITY, DESCRIPTIVE MARK

MULTIMEDIA MARK



Class 41: DJ-services

MULTIMEDIA MARK



Class 29: Tinned sardines

NEW TRADE MARK TYPES

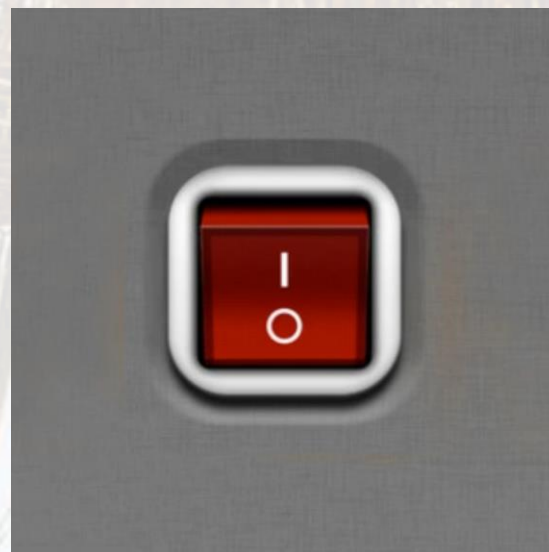
ABSOLUTE GROUNDS/INVALIDITY, TMD 4(e)

AUDIO MARK



Class 9: Audio-sensitive controls for lighting apparatus

MOTION MARK



Class 9: Electrical switches

MULTIMEDIA MARK



Class 9: Metronomes

NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

General principles established in respect of traditional marks, equally apply when comparing new types of mark

The concept of identity applicable to relative grounds for refusal and to priorities must be interpreted in the same way

NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

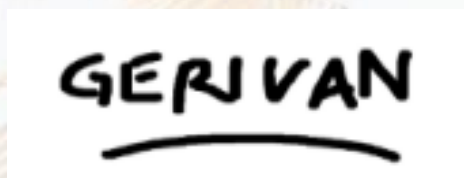
COMPARISON OF SOUND MARKS- AURAL COMPARISON

Coincidence in/similarity between distinctive verbal elements, if identified as such by a significant part of the relevant public, will, in principle, lead to a finding of aural similarity

EARLIER MARK



EARLIER FIGURATIVE MARK



CONTESTED MARK



CONTESTED MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MOTION MARKS-VISUAL COMPARISON

When comparing motion marks or a motion mark with another type of mark, the similarity between, the elements present in the trade marks (the verbal figurative elements, and the movement or transformation of those elements) has to be considered

EARLIER MOTION MARK

GERIVAN

CONTESTED MOTION MARK

NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MOTION MARKS: VISUAL COMPARISON

EARLIER MOTION MARK



CONTESTED MOTION MARK



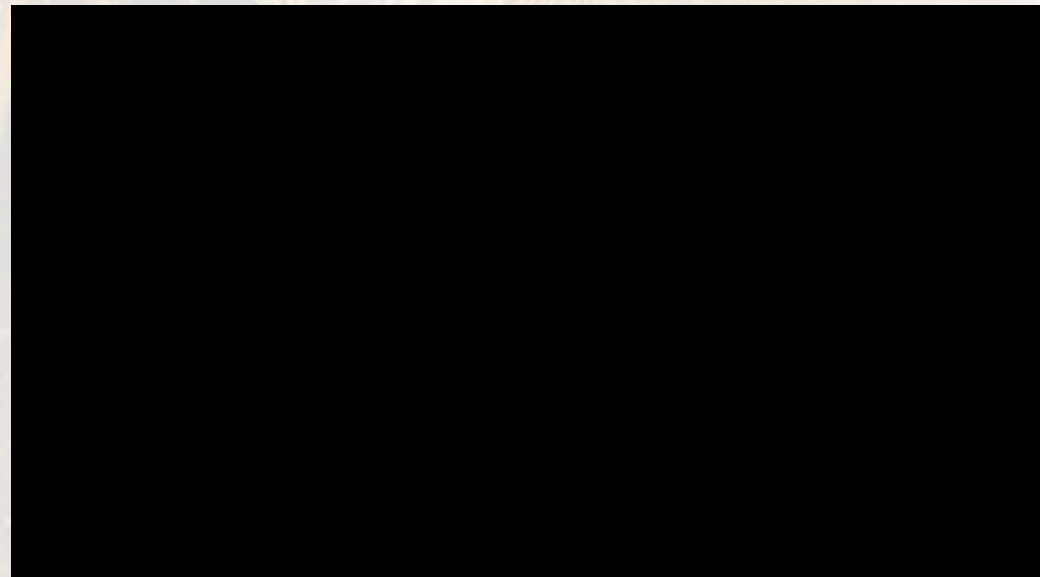
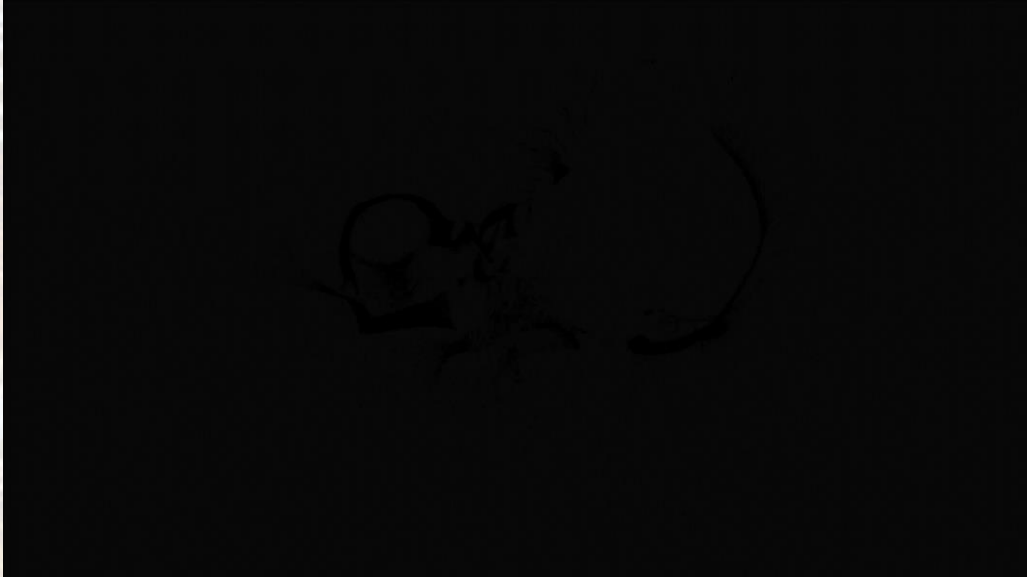
NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MOTIN MARKS-VISUAL COMPARISON

EARLIER MOTION MARK

CONTESTED MOTION MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MOTION MARKS-VISUAL COMPARISON

EARLIER MOTION MARK

FRED

CONTESTED MOTION MARK

GERIVAN

NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MOTION MARKS- CONCEPTUAL COMPARISON

A conceptual comparison between two can be made in cases where a concept can be identified

EARLIER FIGURATIVE MARK



CONTESTED MOTION MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

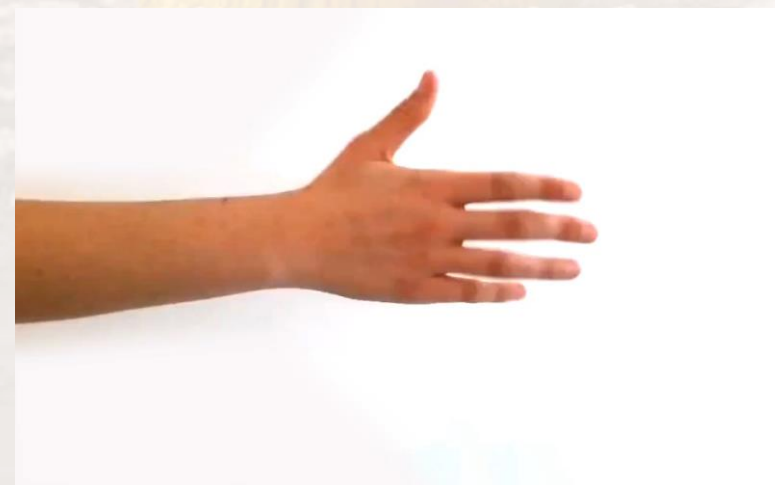
COMPARISON OF MOTION MARKS- CONCEPTUAL COMPARISON

A conceptual comparison between two can be made in cases where a concept can be identified

EARLIER FIGURATIVE MARK



CONTESTED MOTION MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

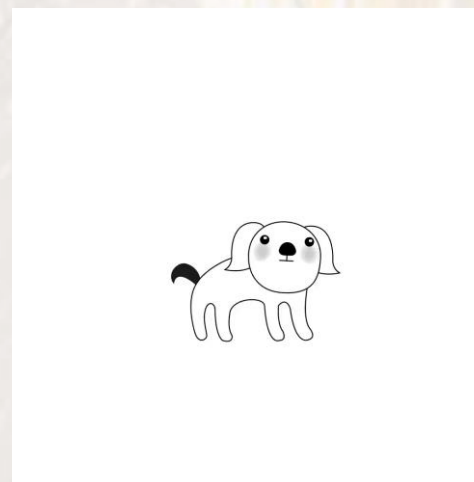
COMPARISON OF MULTIMEDIA MARKS-VISUAL COMPARISON

There is a degree of visual similarity between two marks or between a if they share the same or similar distinctive graphically depicted verbal or figurative elements

EARLIER FIGURATIVE MARK



CONTESTED MULTIMEDIA MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MULTIMEDIA MARKS-AURAL COMPARISON

EARLIER WORD MARK

GERIVAN

CONTESTED MULTIMEDIA MARK

GERIVAN

NEW TRADE MARK TYPES

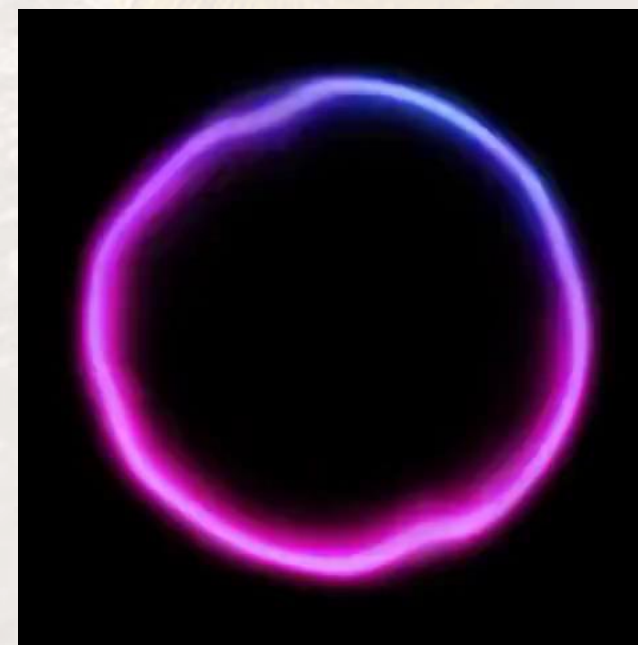
RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MULTIMEDIA MARKS-AURAL COMPARISON

EARLIER MULTIMEDIA MARK



CONTESTED MULTIMEDIA MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF MULTIMEDIA MARKS-CONCEPTUAL COMPARISON

Multimedia marks can be compared conceptually as long as a concept is conveyed

EARLIER WORD MARK

ALARM

CONTESTED MULTIMEDIA MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF HOLOGRAM MARKS- VISUAL COMPARISON

The established principles for traditional marks and motion marks should be also applicable when assessing similarity between hologram marks or between hologram marks and other types of trade mark

EARLIER HOLOGRAMM MARK



CONTESTED HOLOGRAMM MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF HOLOGRAM MARKS-AURAL COMPARISON

EARLIER SOUND MARK



CONTESTED HOLOGRAMM MARK



NEW TRADE MARK TYPES

RELATIVE GROUNDS FOR REFUSAL/ INVALIDITY

COMPARISON OF HOLOGRAM MARKS

CONCEPTUAL COMPARISON can be performed in cases where a concept can be identified. The meaning of the verbal elements and/or figurative elements contained in the marks will have to be taken into account when determining the concept of the trade mark

EARLIER FIGURATIVE MARK



CONTESTED HOLOGRAM MARK



Thank you * Gracias * Merci * Bedankt

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