

Abstract (Eng)

The submitted master's thesis discusses non-conventional signs and trade marks, which have grown in significance, especially from the perspective of marketing, traders and law, as was demonstrated by the recent amendments of the European trade mark law. The main aim of this thesis is to identify the particularities of non-conventional signs and obstacles to their registration from the perspective of the selected jurisdictions and consequently, to evaluate the reasons and justifications of the countries' approach. After a historical overview of trade mark functions and the development of law in the studied jurisdictions, the thesis is concerned with outlining the theoretical legal basis of trade mark protection in the European Union, Canada, Australia and the United States of America. The main focus of the thesis lies in the specific effects of the law on the individual types of non-conventional signs and trade marks, with a particular emphasis on the decisions of offices and courts, especially the Court of Justice of the European Union. The analysis includes sounds, scents, shapes and colours, as well as motion marks, holograms, position marks and tactile signs. The main part of the thesis is subdivided into several sections in order to grasp the particularities and singularities of each type of non-conventional signs. Each section deals primarily with two aspects, which are the most frequent cause of registration refusal, and that is the question of sign's distinctiveness and the options for its representation. While discussing the proper representation requirement, the thesis pays attention to the aforementioned European law amendment resulting from the Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015 amending Council Regulation (EC) No 207/2009 on the Community trade mark and Commission Regulation (EC) No 2868/95 implementing Council Regulation (EC) No 40/94 on the Community trade mark, which abolishes the graphic representation requirement. The thesis attempts to estimate the effects of the amendment on the studied types of marks and their registration. The last chapter is dedicated to a brief overview of alternative modes of protection of certain signs and an evaluation of their expediency.