

Examination Practice with respect to Shape Marks

(Circular No. 2/2017, dated 24 Feb 2017)

The Registry has reviewed its examination practice with respect to shape marks in light of the recent legal developments in this area, in particular, the decision of the Singapore Court of Appeal in *Société des Produits Nestlé SA and another v Petra Foods Ltd and another* [2017] 1 SLR 35.

Under section 7(3)(b) of the Trade Marks Act, a sign shall not be registered as a trade mark if it consists exclusively of the shape of the goods which is necessary to obtain a technical result.

From 1 March 2017, the Registry will implement a new examination practice for trade mark applications comprising shape marks where a section 7(3)(b) objection may be contemplated.

Under this practice, the Registry may request, by way of an Office Action, for additional information related to the trade mark application. Specifically, the applicant may be requested to:

- i. State the essential feature(s) of the shape mark; and
- ii. Provide relevant information on whether the essential feature(s) would be necessary to obtain a technical result.

This practice will apply to trade mark applications comprising shape marks filed on or after 1 March 2017.

For more information on shape marks, please refer to the Trade Marks Work Manual chapter on “Shape Marks” by clicking [here](#).