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ENFORCEMENT AND CHALLENGES IN NON-TRADITIONAL IP PROTECTION

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Abstract

Intellectual property disputes are no longer limited to copied books, familiar logos or inventions that can be described in technical language. In many markets, consumers learn to recognise a business through less obvious features: a short sound, a particular colour arrangement, the shape of packaging, a moving image or another sensory element used consistently in trade. These features are often discussed as non-traditional intellectual property, although the phrase does not describe one separate legal right. Depending on the subject matter, protection may have to be considered under trademark, design, copyright, patent, trade-secret or unfair-competition principles. The real difficulty begins when a business seeks to turn an unusual feature into an enforceable right. It must define the feature precisely, show that the feature performs a legally recognised function, establish the limits of its claim and prove that another trader's conduct crosses those limits. This article examines those questions with particular attention to India, while drawing comparisons with the United States and the European Union and considering enforcement approaches discussed in the supplied literature on China. It explores the problems of distinctiveness, representation, functionality, evidence, online infringement, cross-border trade, cost and delay. It argues that effective protection should not mean granting exclusivity over every feature that attracts attention. A sound system protects signs that genuinely indicate commercial origin, offers practical remedies against proven infringement and preserves room for competitors to make and sell useful products. Clearer registration guidance, reliable evidence practices, proportionate relief and better coordination between enforcement bodies can help achieve that balance.

Keywords: non-traditional intellectual property; unconventional trademarks; enforcement; distinctiveness; representation; India; TRIPS; online infringement; functionality; cross-border enforcement.

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1. Introduction

A customer does not always need to read a brand name before recognising a product. Sometimes the shape of a bottle, the opening sound of an advertisement or a familiar arrangement of colours is enough to create an association with a particular business. Companies invest in these features because they can make a product recognisable in a crowded market. Once consumers begin to connect a feature with a particular commercial source, the feature may have value beyond its appearance or sensory effect. It may help the business build reputation and may influence a consumer's purchasing decision.

The law, however, cannot assume that every unusual feature deserves exclusive protection. A product can be attractive without functioning as a trademark. A shape may be chosen because it makes the product easier to hold, a colour may be common in an industry, and a sound may be an ordinary alert rather than a badge of origin. The legal question is therefore not simply whether a feature is distinctive in everyday language. It is whether the feature satisfies the requirements of the relevant intellectual property regime and whether the claimed right can be defined and enforced without unfairly restricting competition.

The expression "non-traditional IP" is used broadly in this article. The focus is on nonconventional trademarks, including sound, colour, shape, movement and other sensory signs, but the discussion also recognises that different subject matter may be protected through different legal routes. A product's visual appearance, for example, may raise design-law questions, while original audiovisual material may engage copyright. These regimes have different purposes and should not be treated as interchangeable. Choosing the correct legal basis is the first step towards a claim that can withstand scrutiny.

The three supplied articles provide the principal foundation for this discussion. Rachna R. Kurup and Nimita Aksa Pradeep examine the meaning and registration of non-conventional trademarks in India and compare approaches in other jurisdictions. Apsi Adithyakumar considers the difficulties that arise when applicants seek protection for signs outside familiar categories. Suryansh Mishra places enforcement within a broader comparative setting, including civil, administrative, online and border measures. Read together, these works show that registration is only one part of the problem. A right that cannot be clearly identified, supported by convincing evidence or enforced at a reasonable cost may offer little practical protection.

This article proceeds from a straightforward argument: non-traditional IP rights should be recognised where the law permits them and the evidence justifies them, but their scope must

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remain precise. A workable system must protect legitimate commercial identity without allowing a business to control ordinary product features or basic elements of communication. That balance is especially important as digital marketplaces make it easier to reproduce and distribute content across borders.

2. Meaning and Scope of Non-Traditional IP Protection

Traditional intellectual property categories developed around subject matter that could usually be identified with relative ease. A literary work can be read, a musical composition can be recorded, an invention can be described, and a conventional trademark can be shown as a word or logo. Modern commerce has not abandoned these forms, but it has added other ways of creating brand recognition. A company may use a distinctive sound at the beginning of an advertisement, a particular colour combination on its packaging, or a product configuration that consumers have learned to associate with its goods. Movement marks and holographic presentations may also communicate identity, particularly in digital or highly visual markets.

The category is not uniform. Some non-traditional signs are visible and can be represented in an image; others unfold over time or are experienced through hearing, smell or touch. A sound mark may be described through musical notation or recorded in an audio file, while a movement mark may require a sequence of images or a digital recording. A scent or taste raises a more difficult question: how can the sign be described in a way that is accurate, stable and accessible to examiners, competitors and the public? The fact that a feature can be experienced does not automatically mean that the legal system can define it with sufficient certainty.

A trademark's central role is to distinguish the goods or services of one undertaking from those of another. This source-identifying function is the key to understanding non-traditional marks. A feature is not protected merely because it is unusual, expensive to develop or attractive to consumers. It must operate as a sign that consumers understand, in the relevant commercial context, as indicating origin. In some cases, that association may develop through long and consistent use. Evidence of advertising, market presence, consumer recognition and the manner in which the feature is presented can therefore become important.

It is also necessary to distinguish a mark from the product itself. A company should not be able to claim trademark control over a useful feature simply by showing that buyers recognise it. Where a shape or other feature is dictated by the nature of the goods, affects their performance or gives them substantial value, functionality and competition concerns may limit protection. Otherwise, trademark law could be used to obtain a continuing monopoly over features that

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should be assessed, if at all, under regimes with different requirements and limited terms. This boundary is not a technical detail; it is central to maintaining fair competition.

The phrase "non-traditional IP protection" therefore describes a set of questions rather than a single legal category. The appropriate remedy depends on what the claimant owns and what the defendant has done. Copying an original animation may raise copyright issues; copying a registered source-identifying sound may raise trademark issues; and reproducing a product's ornamental appearance may require analysis under design law. A claim can sometimes involve more than one regime, but each element must be established independently. Treating all copying as the same kind of infringement can obscure the legal test and weaken an otherwise sound case.

3. Why Enforcement Matters

Registration gives a proprietor a legal position, but it does not end the dispute. If another trader begins using a similar sign, the proprietor must identify the use, collect evidence, determine which law applies and decide whether the facts justify legal action. In a conventional logo dispute, a court may be able to compare two images directly. In a sound-mark dispute, the court may need to examine recordings, the context in which the sound appears and whether consumers are likely to understand it as a brand identifier. A shape dispute may require photographs, product samples, technical evidence and an explanation of which aspects are claimed as distinctive rather than functional.

Enforcement matters for consumers as well as businesses. If a competitor adopts a sign that causes confusion, consumers may purchase goods under a mistaken belief about their source, quality or commercial connection. The original trader may lose sales or suffer damage to its reputation. At the same time, enforcement that is too broad can harm consumers by reducing choice and allowing a single business to control ordinary visual or sensory features. Courts and enforcement agencies must therefore consider both the claimant's legitimate interest and the effect of the proposed remedy on others.

A further difficulty is that the infringing conduct may be dispersed. A product may be designed in one country, manufactured in another, listed by a seller on an online platform, shipped through a third country and purchased somewhere else. Evidence may disappear when a listing is removed or a seller changes accounts. The proprietor may know that copying is occurring but struggle to identify the responsible party or obtain records held by a platform or intermediary. Enforcement is consequently a practical process, not merely a legal declaration

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that a right exists.

4. Legal Framework in India

In India, the Trade Marks Act, 1999 provides the central statutory framework for trademark registration and enforcement. Its definition of a trademark is broad enough to accommodate signs beyond words and logos, provided the relevant statutory conditions are met. Section 2(1)(zb) connects a trademark with the ability to distinguish the goods or services of one person from those of others and addresses representation of the mark in a manner that permits the relevant requirements to be applied. The Trade Marks Rules, 2017 provide more detailed procedures, including provisions relevant to the representation of certain non-traditional marks. Sound marks, for example, require an appropriate representation and submission of the sound in the prescribed format.

The statutory definition does not mean that every unusual sign will be registered. The applicant must still satisfy the applicable conditions, including distinctiveness and the absence of relevant grounds for refusal. Section 9 of the Trade Marks Act addresses absolute grounds for refusal, including marks that lack distinctive character and certain signs whose characteristics arise from the nature of the goods, are necessary to obtain a technical result or give substantial value to the goods. The exact application of these provisions depends on the facts and the category of sign. In practice, the applicant should explain what the mark is, how it is represented and why consumers would perceive it as identifying commercial origin.

India has recognised that non-traditional signs can, in appropriate circumstances, function as trademarks. Sound marks are a useful illustration because a sound can be filed and examined through a recording together with a suitable representation. Colour and shape claims may also be considered, but the applicant must establish the precise subject matter and demonstrate that it performs the required distinguishing function. Claims involving scent, taste or other difficult-torepresent sensory features raise greater practical uncertainty. The central issue is not whether a sensory experience exists, but whether the proposed mark can be represented clearly and consistently enough for the register to inform both the proprietor and the public.

Enforcement of registered trademarks may involve civil proceedings, injunctions, damages or an account of profits, delivery up of infringing goods and other relief available under the Act and procedural law. The appropriate remedy depends on the nature of the infringement and the evidence. Criminal provisions may be relevant in particular cases involving falsification or false application of trademarks, but they should not be treated as a universal response to every

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disagreement over brand similarity. A sound enforcement strategy identifies the legal basis first and selects remedies proportionate to the conduct proved.

India's wider IP framework may also be relevant. The Designs Act, 2000 protects qualifying designs, while the Copyright Act, 1957 may apply to original artistic, musical or audiovisual expression. Patent law and trade-secret principles may be relevant in other circumstances. The availability of multiple routes can help a right holder, but it can also create confusion if the claim is not carefully framed. A product feature that is functional cannot necessarily be converted into a trademark claim simply because design or patent protection is unavailable or has expired. Each regime has its own boundaries, and those boundaries must be respected.

The practical challenges in India include the cost of litigation, delays, uneven technical familiarity and the difficulty of collecting evidence from digital platforms or across jurisdictions. These problems affect smaller businesses especially sharply. A large company may be able to commission consumer surveys, retain experts and pursue litigation in several markets; a small trader may not. Registration guidance that explains the required form of representation and the evidence expected for distinctiveness can reduce uncertainty before disputes arise. More predictable procedures would also help courts focus on the real questions instead of resolving avoidable confusion about what exactly the proprietor claims.

5. Comparative Approaches: United States, European Union and China

Comparative law helps show that there is no single global formula for non-traditional marks. The United States permits protection for a range of non-conventional signs where the applicant can establish that the sign identifies source and satisfies the applicable legal standards. Product design generally requires proof of acquired distinctiveness, and functionality remains a significant limit. The United States approach illustrates the importance of asking how consumers perceive the feature and whether exclusive rights would interfere with legitimate competition. A feature's commercial success alone does not necessarily establish that it is a trademark.

The European Union also recognises that a trademark may consist of a range of signs, including shapes, colours, sounds and movement, provided the sign can be represented on the register in a manner that enables authorities and the public to determine clearly and precisely what is protected.

Modern registration rules are less dependent on traditional paper-based graphical representation than earlier approaches, but clarity and precision remain essential. A digital file

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can help represent a sound or movement, yet it does not remove the need to define the claim. The sign must still be distinctive and must not fall within exclusions relating to the nature of the goods, technical result or substantial value.

These approaches share an important principle: the legal system may accept an unconventional sign, but it does not dispense with the basic trademark function. Distinctiveness and functionality remain separate questions. A sign may be clearly represented yet fail to distinguish source. Another may be familiar to consumers but be excluded because it consists of a functional product feature. Registration authorities need to assess both issues, and enforcement courts must avoid treating registration as proof that every use of a similar feature necessarily infringes.

The supplied comparative enforcement literature also discusses China's enforcement architecture, including administrative and judicial routes. The broader lesson is that enforcement systems can use different institutional combinations, but their effectiveness depends on accessibility, consistency and the ability to respond to the actual infringement. Administrative procedures may be useful where rapid action is needed, while courts may be better placed to resolve complex questions of scope, evidence and remedies. No route works well if the right is poorly defined or if evidence cannot be obtained in a reliable form.

International differences remain significant. A mark accepted in one jurisdiction may face objections elsewhere because the legal test, consumer context or registration practice differs. A business selling across borders should not assume that registration in its home country creates worldwide protection. It should identify the markets that matter, confirm the status of its rights in each jurisdiction and preserve evidence of use and consumer recognition. International treaties establish common obligations in some areas, but they do not erase national differences in registration and enforcement.

6. Major Challenges in Registration and Enforcement

Representation is one of the first obstacles. Before a right can be examined or enforced, the claimed sign must be described in a way that tells others what falls within its scope. A word mark can usually be written down. A sound can be recorded, but the applicant may still need to identify its duration, sequence and relevant characteristics. A movement mark may require a series of images or a video. A colour claim should identify the colour and explain whether the claim concerns one colour, a combination or a particular arrangement. If the description is vague, it becomes difficult to know what competitors may lawfully use and what a court is

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being asked to protect.

The problem is more acute for smell and taste. Descriptions in ordinary language may be subjective, and chemical formulas may describe a substance without adequately defining the sign as consumers experience it. A sample can change over time and may not be easy to store or reproduce. These difficulties help explain why legal recognition on paper does not necessarily translate into routine registration. The aim should not be to exclude sensory marks simply because they are unfamiliar, but to insist on a representation that is stable, understandable and sufficiently precise for public inspection.

Distinctiveness is a second major challenge. Consumers may see a product shape as part of the product rather than as an indication of who made it. A colour may be used widely in a sector, and a short sound may resemble a common notification tone. The applicant may need to show that consumers have learned to treat the feature as a sign of origin. Evidence can include length and consistency of use, advertising that draws attention to the feature as a brand, sales and market data, and appropriately designed consumer evidence. No single item should automatically decide the question; the evidence must be assessed in context.

Functionality is closely related but should not be confused with distinctiveness. A feature can be recognised by consumers and still be unsuitable for trademark protection if it is functional under the applicable law. If a particular shape makes an object easier to stack, improves its performance or is needed to achieve a technical result, exclusive control may prevent competitors from offering practical alternatives. A similar concern arises where a feature contributes substantially to a product's appeal. The law must distinguish a sign that tells consumers who made the product from a feature that competitors should remain free to use.

Proving infringement presents another set of difficulties. Similarity is not always easy to measure when the sign is experienced through sound, movement, colour or shape. A side-by-side comparison may not reflect the way an ordinary consumer encounters the goods in the market. The court may need to consider the overall impression, the relevant consumers, the goods or services involved, the context of use and the likelihood of confusion under the applicable law. Expert evidence can be useful, but it should clarify the dispute rather than replace the court's legal judgment. Consumer surveys may help in some cases, although their value depends on sound methodology and careful interpretation.

The boundary between different IP rights can also complicate litigation. A claimant may invoke trademark, copyright and design law over aspects of the same product. Sometimes more than one right genuinely applies; in other cases, the claim may attempt to use one regime to

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obtain a level of control that another regime deliberately limits. Courts should examine the subject matter and elements of each claim separately. Clear pleading helps the defendant understand the case and helps the court avoid granting overlapping remedies for the same harm without justification.

Digital platforms have made it easier for sellers to reach consumers, but they have also made infringement fast and difficult to trace. Listings can be copied, removed, reposted or placed under new seller names. A platform may host millions of listings and may not be able to assess every complaint in advance. A rights holder may need to preserve screenshots, timestamps, transaction records, product samples and correspondence before the material disappears. At the same time, an inaccurate complaint can cause a lawful seller to lose access to a marketplace. Effective procedures must therefore allow prompt action while offering a meaningful way to challenge mistakes.

Cross-border enforcement creates further complications. The proprietor may need to establish which court has jurisdiction, which country's law applies and whether a judgment or order can be enforced where the seller or goods are located. Evidence may be held by foreign platforms or intermediaries, and customs authorities may need reliable information to identify suspected goods. A registration in one country does not automatically settle the position in another. Cooperation between authorities, consistent documentation and careful choice of enforcement venue can make a substantial difference.

Finally, litigation is expensive and slow. Technical evidence, expert reports, consumer studies and cross-border proceedings can make a dispute unaffordable for smaller businesses. Delay may allow the alleged infringement to continue while the case is pending. Yet shortcuts can create their own problems if a broad interim order restricts lawful trade before the disputed right has been properly tested. The system must balance urgency with procedural fairness. Targeted interim relief, clear evidence requirements and predictable case management can help protect legitimate rights without treating every allegation as established fact.

7. Enforcement Tools and Their Appropriate Use

A sensible enforcement plan begins before a dispute arises. Businesses should keep clear records of the sign they use, the date and manner of adoption, advertising campaigns, sales, licensing arrangements and the markets in which the sign appears. For non-traditional marks, the record should include the exact sound file, colour specifications, images, movement sequences or other materials that define the claimed feature. Version control matters: if the

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feature changes over time, the proprietor should be able to show which version is registered and which version is used commercially.

When infringement is suspected, the first step is usually to preserve reliable evidence. Screenshots should record the date, URL and relevant seller information; where appropriate, purchases can help establish what was actually supplied. Product samples and technical comparisons may be needed for shape or material features. A rights holder should avoid making unsupported accusations or sending notices that claim more than the registration covers. A carefully drafted notice identifies the right, the conduct complained of and the action requested. It also leaves room for a genuine dispute about scope or identity to be resolved fairly.

Civil proceedings can be appropriate where the infringement is serious, repeated or unlikely to stop after notice. Injunctions may prevent continued use, while damages or an account of profits may address proven loss or wrongful gain, subject to the governing law and evidence. Interim relief can be important when delay would cause irreparable harm, but it should be tied to the strength of the claim and the urgency shown. Orders that are too broad can affect lawful products and third parties, so courts should define the prohibited conduct with care.

Administrative mechanisms and customs measures may assist in suitable cases, particularly where counterfeit goods move through established supply chains. Their effectiveness depends on accurate identification. A customs officer or administrative official cannot reliably distinguish a genuine product from an infringing one if the registered feature is ambiguous or if the proprietor's instructions are too general. Rights holders should provide clear images, sound files, product details and practical indicators that help officials recognise the alleged infringement without assuming that every similar-looking item is unlawful.

Online enforcement requires a similar balance. Platforms need workable systems for receiving complaints, reviewing supporting material, removing clearly infringing listings and responding to counter-notices. Automated tools can identify repeated images, similar text or matching sound files, but they cannot decide every legal question. Similarity does not always mean infringement, and a matching feature may be functional or used in a lawful descriptive way. Human review and a route to contest mistaken takedowns remain important, especially when a complaint threatens a seller's livelihood.

Negotiation and alternative dispute resolution should not be dismissed as weak responses. A dispute may be resolved through a licence, a change to packaging, an agreed phase-out period or a clearer separation between brands. Such solutions can save cost and reduce uncertainty where the parties have a continuing commercial relationship. They are not suitable in every

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case, particularly where conduct is deliberate or repeated, but they can be useful when the real problem is confusion that can be corrected without prolonged litigation.

8. Evidence and Litigation Strategy for Non-Traditional Marks

The evidence needed in a non-traditional IP case should match the feature and the legal issue. In a sound-mark dispute, the original registration materials, audio files, evidence of actual use and the context in which consumers hear the sound may all be relevant. In a colour dispute, precise colour identification and evidence of how the colour is presented in the marketplace can matter. In a shape dispute, the parties may need product samples, diagrams and technical evidence to distinguish decorative elements from functional ones. A court should be able to understand both what the claimant seeks to protect and why the defendant's conduct is said to fall within that protection.

Evidence of consumer recognition should be collected carefully. Advertising expenditure or sales volume can show that a business has a substantial market presence, but they do not necessarily prove that consumers recognise a particular feature as a trademark. Advertising that repeatedly highlights the sound, colour or shape as a brand identifier may be more probative than advertising that focuses only on price or product quality. Survey evidence can assist, but poorly framed questions may lead respondents towards a desired answer. Courts should consider the survey's sample, wording, methodology and relation to actual purchasing conditions before assigning it weight.

The litigation strategy should also separate legal questions that are often blended together. First, what is the precise right and is it valid? Second, what did the defendant do? Third, does that conduct satisfy the applicable infringement test? Fourth, what harm has been shown and what remedy is proportionate? This sequence helps prevent the existence of a registration from becoming a shortcut to a finding of infringement. It also makes the dispute easier to manage because each party can focus evidence on the issue that actually matters.

Digital evidence needs particular care. Web pages can change, accounts can disappear and a screenshot may not reveal the identity of the person behind a listing. Preserving the URL, date, account details, transaction records and relevant communications improves reliability. Where a dispute concerns a sound or moving image, the original file should be retained rather than relying only on a compressed copy or a verbal description. Evidence should be stored securely and documented so that its origin and integrity can be explained if challenged.

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9. Policy Recommendations

The first priority is clearer registration guidance. Applicants should be told, in practical terms, how to represent different categories of marks, what level of precision is expected and what kinds of evidence may help establish distinctiveness. Guidance should explain the difference between a feature that identifies origin and one that is merely attractive or useful. Clearer examples would help applicants prepare stronger applications and allow examiners to apply the law more consistently. Such guidance need not guarantee registration; its purpose is to make the process more predictable.

Second, registration systems should be technically capable of preserving and displaying the subject matter claimed. Audio and video files, precise colour information and sequences of images may be more suitable than forcing every mark into a static picture. The technical format should remain accessible over time and should allow the public to inspect what is protected. Digital filing must not create new uncertainty: if a file cannot be opened, reproduced or understood consistently, it does not serve the purpose of a public register.

Third, enforcement bodies and courts need access to appropriate technical knowledge. Training on sound, colour, shape and digital evidence would help decision-makers distinguish genuine issues from unnecessary complexity. Expert assistance should be available where it is needed, but the legal test must remain transparent. Technology can support comparison and evidence management; it should not silently decide whether a mark is distinctive, functional or infringed.

Fourth, remedies should be proportionate and accessible. Fast action is important where infringement is clear and ongoing, but the procedure should also protect lawful traders against unsupported complaints. Small businesses need practical ways to preserve evidence, respond to allegations and resolve disputes without disproportionate expense. Clearer procedures for interim relief, reasoned decisions by platforms and meaningful counter-notice mechanisms can improve fairness on both sides.

Fifth, authorities should improve coordination across borders and between institutions. Customs, online platforms, police, administrative bodies and courts often encounter different parts of the same problem. Sharing accurate registration information and consistent evidence can reduce duplication and help officials identify genuine infringement. International cooperation is especially important when production, sale and distribution take place in different countries, although each authority must still act within its legal powers.

Finally, reform should preserve competition as a central consideration. Non-traditional marks can be commercially valuable, but exclusivity must not extend beyond the feature that actually

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identifies source. Functionality exclusions, careful definition of the mark and proportionate remedies protect competitors and consumers as well as the public domain. The objective should be reliable protection for legitimate brand identity, not a general right to control a product's appearance or sensory qualities.

10. Critical Analysis

The development of non-traditional IP protection exposes a tension within trademark law. Businesses understandably want the law to recognise the ways consumers encounter brands in modern life. Yet the broader the range of signs that may qualify, the more important it becomes to define the protected subject matter precisely. If the boundaries are uncertain, competitors may avoid ordinary design choices out of fear of litigation, while courts may struggle to distinguish genuine imitation from coincidental similarity. Legal flexibility is useful only when it is accompanied by clear limits.

It would be a mistake to assume that more registrations automatically produce better protection. A register filled with vague or overbroad claims can increase disputes rather than prevent them. The strength of a system should be judged by whether it identifies valid rights, gives competitors fair notice and provides remedies where infringement is proved. A narrow, clearly defined right may be more valuable in practice than a sweeping claim that is difficult to enforce or vulnerable to challenge.

The same caution applies to technology. Artificial intelligence and image-matching tools may help identify copied product images, repeated listings or similar audio files. But the tools detect patterns, not legal conclusions. They may miss context, overlook lawful use or flag a feature that is common because it serves a practical purpose. Human judgment remains necessary, and automated decisions should be explainable enough to permit correction. A technologically advanced enforcement system is not necessarily a fair one unless it can account for error.

A balanced framework should therefore treat enforcement and public safeguards as complementary. Strong protection is justified where a business has established a genuine sourceidentifying sign and another trader has used it in a legally actionable way. Strong safeguards are equally justified where a claim would monopolise a useful shape, a common colour or a basic sensory feature. This approach supports innovation without confusing the purpose of trademark law with a general reward for investment or popularity.

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11. Conclusion

Non-traditional IP protection reflects the changing ways in which businesses distinguish their products and consumers recognise commercial origin. Sound, colour, shape, movement, texture and other sensory or digital features may carry brand significance, but their legal treatment requires careful analysis. The question is not whether a feature is unusual; it is whether the relevant law protects it, whether the right is clearly defined and whether the evidence establishes infringement. The supplied literature highlights different parts of the problem. Kurup and Pradeep explain the

categories of non-conventional trademarks and the challenges of registration in India and other jurisdictions. Adithyakumar focuses on representation, distinctiveness, functionality and emerging forms of commercial activity. Mishra places enforcement within a broader comparative framework and draws attention to the practical importance of institutional coordination, online procedures and cross-border remedies. Taken together, these perspectives show that effective protection depends on both sound legal rules and workable procedures.

For India, progress will depend on clear administrative guidance, technically appropriate registration formats, stronger handling of digital and sensory evidence, and remedies that can be used without unreasonable cost or delay. Courts and enforcement bodies should define rights carefully, examine functionality independently and ensure that the remedy fits the infringement proved. Businesses, in turn, should maintain reliable records and avoid asserting rights more broadly than their registrations and evidence allow.

Ultimately, the purpose of intellectual property law is not to give one trader control over every feature that makes a product memorable. It is to protect legitimate interests while allowing others to compete, innovate and offer meaningful alternatives. Non-traditional marks deserve recognition when they genuinely identify commercial origin, but their enforcement must remain proportionate. A system built around clarity, evidence and fair competition is more likely to support both brand identity and a healthy marketplace.

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