

Normative Analysis of Online Registration of Sound Trademarks in Indonesia

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Abstract

The development of non-traditional brands has led to the expansion of trademark legal protection, including against sound brands. In Indonesia, voice trademarks have been recognized normatively in Law Number 20 of 2016 concerning Trademarks and Geographical Indications and are registered through an online trademark registration system managed by the Directorate General of Intellectual Property. However, this recognition raises various legal and institutional issues, especially related to legal certainty, technical standards for registration, and the effectiveness of the online registration mechanism. This study aims to analyze the normative regulation of voice trademark registration in the Indonesian legal system and examine the legal implications of online voice trademark registration. This study uses a normative legal research method with a legislative approach and a comparative legal approach, by comparing the regulation and practice of voting trademark registration in Indonesia, Australia, and the European Union. In addition, a conceptual approach is used to examine the concept of non-traditional brands, differentiating power, and legal



certainty. The results show that although sound trademarks have been normatively recognized, the trademark registration system in Indonesia has not been supported by adequate technical arrangements and operational standards. The absence of examination guidelines and limited transparency in the online registration system create legal uncertainty and expand the administrative discretion of the examiner. This condition has an impact on weak legal protection for applicants and interested parties. This study concludes that strengthening implementing and institutional regulations is needed to realize effective, transparent, and fair registration of voice trademarks.

KEYWORDS

sound brands; online trademark registration; non-traditional brands; legal certainty; Brand legal system

Introduction

The development of trademark law initially relied on signs that were visual in nature, such as words, images, letters, numbers, color arrangements, or combinations of these elements. This visual orientation is reflected in various national and international legal instruments that from the beginning designed the concept of a brand as a sign that can be seen and distinguished by the naked eye. In the international scope, Article 15 paragraph (1) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) does open space for any mark that is able to distinguish goods and/or services to be protected as a trademark, but in practice initially the regulation was more translated in the form of visual signs.¹ Along with the development of technology and people's consumption patterns, the function of brands is no longer limited to visual identification, but rather develops towards strengthening the sensory experience of consumers more broadly.

¹ Budi Santoso Erlangga Dana Arta, "Pelaksanaan Pendaftaran Merek Barang Berdasarkan Undang-Undang Merek Dan Indikasi Geografi," *Notarius* 18, no. 2 (2025): 498–517, <https://doi.org/https://doi.org/10.14710/nts.v18i2.67361>.

This development has encouraged the birth of the concept of non-traditional trademarks, namely brands that are not solely manifested in visual form, but can also be in the form of sounds, aromas, three-dimensional shapes, movements, or combinations of other non-visual elements. In the creative economy and technology-based industry sectors, voice has a strategic role as a tool for differentiation and commercial identification. The use of advertising jingles, sonic logos, digital application opening tones, notification voices, and artificial intelligence voices have become part of modern branding strategies.² Sound not only serves as a complement to marketing communications, but also as a sign capable of creating a strong psychological association between consumers and a particular product or service.³

The recognition of voice as a trademark in Indonesia has obtained a clear legal basis through Law Number 20 of 2016 concerning Trademarks and Geographical Indications. Article 1 number 1 of the law states that a trademark is a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, in the form of two and/or three-dimensional, sounds, holograms, or a combination of two or more of these elements to distinguish goods and/or services produced by persons or legal entities in the trading of goods and/or services.⁴ This provision indicates a shift in the paradigm of national trademark law towards explicit recognition of non-traditional trademarks, including sound marks.

² Hosiana Daniel Adrian Gultom, Ellora Sukardi, and Serlly Waileruny, "KAJIAN TERHADAP HAK EKSKLUSIF ATAS JINGLE DARI PERSPEKTIF HAK CIPTA DAN MEREK," *AJUDIKASI: Jurnal Ilmu Hukum* 5, no. 2 (2021): 135–50, <https://doi.org/10.30656/ajudikasi.v5i2.3978>.

³ Ni Desak et al., "Registrasion of Sound Marks in Indonesia," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 11, no. 2 (2022): 392–405, <https://doi.org/10.24843/JMHU.2022.v11.i02>.

⁴ Made Gede Subha Karma Resen Kristina Sanca Ngunas, "Tinjauan Yuridis Suara Sebagai Merek Dalam Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis," *Pemuliaan Keadilan* 1, no. 4 (2024): 15–27, <https://doi.org/https://doi.org/10.62383/pk.v1i3.94>.

Technical arrangements regarding trademark registration are regulated in the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration as last amended by the Regulation of the Minister of Law and Human Rights Number 12 of 2021. The regulation regulates the procedures, administrative requirements, and trademark examination mechanism which is carried out electronically through an online registration system managed by the Directorate General of Intellectual Property (DJKI). The digitization of the trademark registration system is part of bureaucratic reform and modernization of public services in the field of intellectual property.⁵

Normative recognition of voting brands and the implementation of online registration systems still pose challenges. Unlike visual marks that can be represented through images or writing, sound marks require a special form of representation in order to be examined, announced, and assessed for their distinguishing power. The Regulation of the Minister of Law and Human Rights on trademark registration does open the possibility of filing a sound mark in the form of a sound file and/or musical notation, but it has not provided detailed guidelines regarding representation standards, substantive examination methods, and parameters for assessing similarity between sound brands. This condition has the potential to cause legal uncertainty for the applicant as well as inconsistencies in trademark inspection practices.⁶

The digitization of trademark registration must also be seen within the framework of sustainable legal development. Within the framework of the Sustainable Development Goals (SDGs), especially Goal 16 on **Peace, Justice, and Strong Institutions**, an effective, transparent, and accessible trademark registration system is a reflection of strong and accountable legal institutions. The articles in Law No. 20 of 2016 basically

⁵ Azizan Khair Atika Sunarto, Muhammad Ali Adnan, Christina Karo Karo, "IMPLEMENTASI HUKUM TERHADAP MEREK SEBAGAI KONSEP HAK KEKAYAAN INTELEKTUAL," *Jurnal Preferensi Hukum* 4, no. 3 (2023): 2746–5039, <https://doi.org/10.55637/jph.4.3.7543.389-395>.

⁶ Atika Sunarto, Muhammad Ali Adnan, Christina Karo Karo.

aim to provide legal certainty and fair protection for brand owners. However, if the online registration system is not fully able to accommodate the characteristics of the sound brand, then this goal has the potential to not be achieved optimally.

International practice shows that some jurisdictions have been more progressive in regulating the registration of sound trademarks. In Australia, the regulation of voting marks is regulated in the Trade Marks Act 1995 and the Trade Marks Regulations 1995. The Australian Trade Marks Office provides clear guidance on the representation of sound marks through an audio file accompanied by a written description. This approach provides legal certainty for the applicant while making it easier for the examiner to assess the discriminating power of a sound brand.

The European Union through Regulation (EU) 2017/1001 on the European Union Trade Mark has removed the requirement of graphic representation and replaced it with the principle that a mark must be able to be represented in a clear, precise, independent, accessible, understandable, durable, and objective manner. This provision allows the registration of sound marks through audio files without having to be expressed in musical notation. The European Union Intellectual Property Office (EUIPO) also provides detailed technical guidelines for sound mark checks, including distinctiveness standards and likelihood of confusion assessments.⁷

Comparisons with Australia and the European Union are important to assess the extent to which online voting trademark registration arrangements in Indonesia have met the principles of legal certainty and good governance. This comparison is also relevant to identify good practices that can be adapted into the national legal system, without ignoring the characteristics and needs of Indonesian law.

⁷ Syifa Rahmatul Ummah Arif, "Pelindungan Hukum Merek Terkenal Atas Tindakan Passing Off Passing Off Di Indonesia Berdasarkan Doktrin Likelihood of Confusion," *Khatulistiwa: Jurnal Pendidikan Dan SosialHumaniora* 5, no. 1 (2025): 747–69, <https://doi.org/10.55606/khatulistiwa.v5i1>.

Studies on sound brands have been conducted by a number of researchers before. Dynda Fanisha (2016) in her research discusses the urgency and basis of sound law thinking as a brand element through a comparative juridical approach between Indonesia and Singapore. This study emphasizes the importance of voice recognition as a brand, but still uses the legal basis of Law Number 15 of 2001 so that it does not reflect the latest regulatory developments and has not touched the aspect of online registration.

Alfaina Sakinah (2019) examines the legal protection of aroma brands as part of non-traditional trademarks based on Law Number 20 of 2016, with international comparisons including the European Union, the United States, and Australia. Although relevant in the scope of the expansion of brand objects, this study does not specifically address sound marks or electronic registration mechanisms.

Markus Yohanis Hage (2021) examines the registrability of voting brands in Indonesia, Australia, and the European Union. This study provides a comparative overview of legal norms and voice trademark registration requirements, but has not placed online registration as the main focus of the analysis and has not linked it to the principle of strengthening legal institutions.⁸

Kristina Sanca Ngunas and Made Gede Subha Karma Resen (2024) highlight the lack of registration of voting brands in Indonesia and the problem of bad faith from registrants, with a comparison to Australia. This research contributes to the understanding of the legal substance of sound trademarks, but has not comprehensively examined the normative and technical barriers in online registration systems. Meanwhile, Rouf Fajrin Widianoro (2022) discusses trademark registration as a means of legal protection in general. This study identifies various administrative and

⁸ Markus Yohanis Hage, "PERBANDINGAN REGISTRABILITAS MEREK SUARA DI UNI EROPA, AUSTRALIA DAN INDONESIA SERTA PROBLEMATIKANYA," *Masalah-Masalah Hukum* 50, no. 3 (2021): 339–50, <https://doi.org/10.14710/mmh.50.3.2021.339-350>.

substantive obstacles in trademark registration, but does not specifically review sound brands or digitization of the registration system.

The problems that arise in practice show that normative recognition has not been fully followed by the readiness of its implementation apparatus. Significant normative and institutional problems still exist in the practice of registration of sound trademarks, despite the accommodation of recognition of sound trademarks in Law Number 20 of 2016 and the implementation of an online registration system through DJKI. These problems include the lack of clarity of the standard for graphic representation of voices, the absence of technical guidelines for substantive examination, limited public access to registered voice mark data, and the absence of special operational standards that regulate the mechanism for evaluating differentiating power and equality in principle between sound brands. This condition has the potential to create legal uncertainty, expand the auditor's administrative discretion, and hinder the effectiveness of the voting trademark registration system in ensuring fair and transparent legal protection.

This condition requires a study that comprehensively examines the normative arrangements for the registration of voting marks in the Indonesian legal system, including in the context of the implementation of the online registration system, and identifies the accompanying legal and institutional challenges. This study is expected to provide a clearer mapping of the gap between legal norms and administrative practices, as well as formulate directions for strengthening the regulation and governance of trademark registration institutions to be more responsive to the development of non-traditional brands. Thus, the voting trademark registration system in Indonesia is expected to develop towards a more transparent, accountable, and consistent mechanism with the principles of legal certainty and institutional strengthening as reflected in **Goal 16 of the Sustainable Development Goals**.

Methods

This study uses a normative legal research method, which is a research that focuses on the study of positive legal norms that govern voice trademark registration, especially in the online trademark registration system in Indonesia. This approach was chosen because the research aims to analyze the applicable legal arrangements, principles, and principles, as well as evaluate the adequacy of norms in providing legal certainty and protection for sound brands.

The approach used in this study includes a statute approach by examining Law Number 20 of 2016 concerning Trademarks and Geographical Indications and its implementing regulations, as well as a comparative approach by comparing the regulation and practice of voting trademark registration in Indonesia with Australia and the European Union. In addition, a conceptual approach is also used to examine the concept of non-traditional trademarks, distinctiveness, and legal representations of non-visual signs.

The legal materials used consist of primary legal materials, in the form of national and international laws and regulations related to brands, secondary legal materials, in the form of books, scientific journals, and relevant previous research results, as well as tertiary legal materials as support. The analysis of legal materials is carried out qualitatively and prescriptively, with the aim of formulating conclusions and normative recommendations related to strengthening the regulation of online voting trademark registration in Indonesia, in line with the principles of transparency, legal certainty, and strengthening legal institutions as reflected in **SDGs Goal 16**.

Result and Discussion

1. Normative Analysis of Online Registration of Sound Trademarks in Indonesia

a. The Position of Sound Trademarks in the Indonesian Trademark Legal System

The recognition of voting marks in Indonesia's positive law is explicitly reflected in Article 1 number 1 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications. This article states that a trademark is a sign that can be displayed graphically in the form of an image, logo, name, word, letter, number, color arrangement, in the form of two dimensions and/or three dimensions, sound, hologram, or a combination of two or more of these elements to distinguish goods and/or services. Normatively, the inclusion of the element of "voice" indicates that lawmakers have adopted the concept of non-traditional trademarks into the national trademark legal regime.⁹

The acknowledgment does not stand alone, but is structurally tied to the phrase "graphically displayable" which is still the main requirement for a mark to qualify as a brand. This phrase has significant juridical implications for sound brands. In visual brands, graphic requirements serve to ensure the clarity of the object of protection. However, when applied to sound marks, this condition actually causes a reduction in meaning, because sound as an object of protection is forced to be translated into a visual medium that is not its natural character.¹⁰

The modern legal system places legal certainty as one of the fundamental values that must be realized through the formulation of norms that are clear, firm, and do not cause multiple interpretations. Gustav Radbruch placed legal certainty (*Rechtssicherheit*) as one of the three fundamental values of law in addition to justice and utility, which demands

⁹ Isnaeni Yuliani Khasna Syarifa, "Transformasi Digital Pendaftaran Merek: Menilai Kualitas, Efisiensi, Dan Tantangan Pelayanan Bagi UMKM Di Yogyakarta," *Reformasi: Jurnal Ilmiah Ilmu Sosial Dan Ilmu Politik* 14, no. 2 (2024): 473–88, <https://doi.org/10.33366/rfr.v%vi%i.6646>.

¹⁰Luthfi Nurul, Hidayah Mudofi, and Kholis Roisah, "Perlindungan Hukum Pemilik Merek Terdaftar Berdasarkan Prinsip First To File," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 2 (2024): 1057–66, <https://doi.org/10.38035/jihhp.v5i2>.

that law be able to provide predictability and consistency in its application.¹¹ In online registration of voting marks in Indonesia, this principle is relevant to assess whether the provisions in Law Number 20 of 2016 and its implementing regulations have provided clarity on representation standards, substantive examination parameters, as well as criteria for assessing differentiating power and equality in essence for sound marks. The absence of detailed and measurable guidelines has the potential to create uncertainty for applicants as well as inconsistencies in the examination practices by the Directorate General of Intellectual Property.

The theory of legal protection, as put forward by Philipus M. Hadjon, emphasizes the importance of ensuring preventive and repressive protection for citizens in dealing with government actions.¹² In this study, the theory is used to assess whether the online voice trademark registration system has provided adequate protection to trademark applicants, either through transparent procedures, clear access to information, and objective examination mechanisms (preventive protection), or through the availability of legal remedies such as objections, appeals, and lawsuits in the event of rejection or dispute (repressive protection). Legal protection theory helps evaluate the role of the state through the DJKI in guaranteeing the applicant's right to voice trademark protection in a fair and accountable manner.

The further implication of the construction of Article 1 number 1 can be seen in Article 20 of Law No. 20 of 2016, which regulates the absolute reasons for refusal of trademark registration. This article basically prohibits the registration of trademarks that do not have discriminating powers, are descriptive, or are contrary to public order. However, the law does not

¹¹ Heather Leawoods, "Gustav Radbruch: An Extraordinary Legal Philosopher Gustav Radbruch: An Extraordinary Legal Philosopher Gustav Radbruch: An Extraordinary Legal Philosopher," *Washington University Journal of Law & Policy* 2 (2000): 489–515, https://openscholarship.wustl.edu/law_journal_law_policy/vol2/iss1/16.

¹² Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987).

provide further explanation as to how the discriminating power criterion is applied to vote marks. As a result, there is a normative vacuum in determining whether a sound is considered to have discriminating power or is just a sound commonly used in commerce.¹³

Article 21 of Law No. 20 of 2016 which regulates the relative reasons for trademark rejection, especially related to the similarity in principle with other brands, also faces obstacles in the application of sound brands. In the absence of a publicly accessible audio database, it is difficult for both the applicant and the examiner to make an objective comparison of the registered sound marks. This shows that although the norm of rejection has been clearly defined, its application to the ballot mark is not optimal due to the limitations of its supporting mechanisms.

In terms of normative position, it can be concluded that Law No. 20 of 2016 has recognized the ballot mark as an object of legal protection, but has not established a comprehensive and coherent regulatory regime.¹⁴ Sound brand recognition is still textual and has not been followed by conceptual adjustments to the basic principles of trademark law that have been oriented towards visual signs.

The mechanism for online trademark registration in Indonesia derives its main legal basis from Article 4 of Law No. 20 of 2016, which states that the right to a trademark is obtained after the trademark is registered. This provision emphasizes that registration is a constitutive condition for the birth of trademark rights. In this regard, the clarity of the registration procedure is a crucial factor in ensuring legal protection, including for sound brands.

¹³ Hage, "PERBANDINGAN REGISTRABILITAS MEREK SUARA DI UNI EROPA, AUSTRALIA DAN INDONESIA SERTA PROBLEMATIKANYA."

¹⁴ Wahyu Prabowo, Rani Pajrin, and Erinda Lamonti, "Perlindungan Hukum Pendaftar Pertama Hak Atas Merek (Hak Eksklusif)," *Jurnal Penelitian Ilmu Hukum* 3, no. 1 (January 28, 2023): 6–12, <https://doi.org/10.56393/nomos.v3i1.1470>.

Regulations regarding trademark registration procedures are regulated in the Regulation of the Minister of Law and Human Rights Number 67 of 2016 concerning Trademark Registration, which has been implemented through the DJKI electronic registration system since 2019. This Regulation stipulates that the application for trademark registration is submitted electronically by attaching a sample of the trademark and a description of the goods and/or services being requested. However, this regulation does not explicitly distinguish the registration procedure between traditional and non-traditional brands, including sound brands.

The practice of registering a voice mark requires the applicant to attach a graphic representation of the requested voice as well as an audio file as a support. This obligation is basically an administrative elaboration of the phrase "can be displayed graphically" in Article 1 number 1 of Law No. 20 of 2016. However, normatively, there are no provisions that govern the standards of graphic representation, both in terms of form, format, or substance. As a result, the fulfillment of these requirements becomes highly subjective and depends on DJKI's internal policies.

Article 14 of Permenkumham No. 67 of 2016 regulates the examination of formalities, while substantive examination is regulated in the following provisions. However, there is no norm that explains how substantive checks of sound marks are conducted, particularly in assessing the discriminating power and potential similarities with other brands. This shows that there is a significant legal gap between legal norms and their implementation in the online registration system.

The limitations of these norms have a direct impact on transparency and legal certainty. In the visual trademark registration system, the public can access examples of registered trademarks to conduct searches and avoid conflicts. In contrast, in voice trademark registration, access to registered trademark audio files is severely limited and not publicly available. This condition is normatively contrary to the purpose of the trademark

registration system which is supposed to provide certainty and openness for the public.

The Regional Office of the Ministry of Law (Regional Office of the Ministry of Justice) has the position of an extension of the Directorate General of Intellectual Property (DJKI) in the regions. This position is administratively functional, because all substantive authority in trademark registration is vested in the DJKI as a central unit. Since the enactment of the online trademark registration system in 2019, the position of the Regional Office in the registration of voting trademarks has become increasingly limited, because applicants can apply directly through the DJKI electronic system without needing the Regional Office as an intermediary.

The change in the registration system has significant implications for the role of the Regional Office. If previously the Regional Office functioned as the starting point for receiving applications and administrative verification, then in the online system this role is structurally eliminated. Based on the results of the interview, the Regional Office is no longer directly involved in the trademark registration process, including sound brands, and only carries out non-technical supporting functions. Normatively, this change can be understood as a logical consequence of the digitization of public services, but on the other hand it raises problems related to the effectiveness of legal services in the regions.¹⁵

The main function of the Regional Office in the current trademark registration regime is more focused on socialization and education activities of Intellectual Property Rights to the public. The socialization is thematic and adjusted to the segmentation of the community, such as brand socialization for MSME actors and copyright socialization for artists or writers. However, the results of the interviews show that the socialization carried out is still general and has not specifically discussed the vote mark as an object of legal protection. This condition shows that the voice

¹⁵ Interview with the Ministry of Law of the Central Java Regional Office

trademark has not been a priority in the IPR dissemination agenda, which has an impact on the low level of public knowledge about its existence and registration mechanism.

In addition to socialization, the Regional Office also carries out non-technical administrative assistance functions, such as providing general explanations of the trademark registration procedure and the use of the DJKI online system. However, this assistance is limited because the Regional Office does not have the authority to provide technical or substantive interpretations related to the registration of sound trademarks. This is due to the absence of a special Standard Operating Procedure (SOP) that governs sound brands. Based on interviews, the SOP used by the Regional Office to date is still a derivative of the DJKI and is designed for visual brands, so it is not able to answer technical problems related to non-traditional brands.¹⁶

These limitations have a serious impact on legal certainty and the quality of public services. In the theory of legal certainty, a norm must be understandable, predictable, and applied consistently by the apparatus and society. If the Regional Office as the spearhead of services in the regions does not have clear guidelines regarding vote brands, then the legal interpretation becomes non-uniform. This certainly has the potential to cause inconsistencies in understanding between the Regional Office, DJKI, and the applicant, which ultimately harms the legal interests of the community.

The reality of the implementation of voting trademark registration in Indonesia shows that there is a significant gap between legal norms and practices. Based on the results of the interviews, until now there has not been a single application for registration of a ballot mark from the Central Java region. This fact is an empirical indicator that although voice marks have been recognized normatively since the enactment of Law No. 20 of

¹⁶ Interview with the Ministry of Law of the Central Java Regional Office

2016, their implementation at the regional level is still very limited. Even nationally, the number of registered voice brands is still at a very minimal number compared to traditional brands.

This condition cannot be separated from various causative factors that are structural and normative. First, the lack of specific socialization regarding voting brands causes the public to not have adequate knowledge about the possibilities and procedures for registration. Generalized socialization is not enough to introduce relatively new and complex non-traditional brand concepts. As a result, business actors tend to continue to use visual brands as the main instrument of legal protection.

Second, the lack of clarity in legal rules is the main inhibiting factor in the registration of sound trademarks.¹⁷ The absence of detailed technical arrangements regarding registration standards and examination of voting marks creates legal uncertainty for the applicant. Based on the perspective of legal certainty theory, this condition shows that the law has not been able to carry out its function as a clear and reliable guideline of behavior. The applicant does not have a definite picture of the chances of receiving a vote mark application, so he is reluctant to apply for registration.

Third, there is a growing perception that a sound mark can only be registered if it is widely known or has a certain level of fame. This perception is in line with the view expressed by WIPO that voice marks are generally used by large business actors with established reputations. However, normatively, Law No. 20 of 2016 does not require fame as a prerequisite for trademark registration. This perception reflects a gap in understanding due to the absence of a clear normative explanation of the criteria for sound brands.

¹⁷ Tri Vebri Yance Irfan Ridha, Meriza Elpha Darnia, Ghina Meilani Rizki, "Hambatan Pendaftaran Merek Makanan Pelito Daun Berkaitan Dengan Perlindungan Hukum Pelaku Usaha Di Kabupaten Kampar," *Riau Law Journal* 9, no. 2 (2025): 209–21, <https://doi.org/https://doi.org/10.30652/1h9h7738>.

The perspective of legal effectiveness theory shows that the low number of voice trademark registrations reflects that existing legal norms have not been effective in achieving trademark protection goals. Legal effectiveness requires conformity between norms, implementing apparatus, and public legal awareness. In the context of sound brands, these three elements have not worked synergistically. Legal norms are inadequate, apparatus has not been equipped with clear technical guidelines, and the public does not have a sufficient understanding of sound brands.

b. Comparison of Voice Trademark Registrations: Indonesia, Australia, and the European Union

1) Sound Trademark Registration in Australia

Australia is one of the countries that expressly and explicitly recognizes voice trademarks in its trademark legal system. The main legal basis for voting mark regulation in Australia is the Trade Marks Act 1995 with the Trade Marks Regulations as the implementing regulations.

In Section 6 of the Trade Marks Act 1995, the term *sign* is broadly defined, including "any letter, word, name, signature, numeral, device, brand, heading, label, ticket, aspect of packaging, shape, colour, sound or scent". The explicit mention *of sound* in the definition indicates that sound has been placed as a legitimate sign and on par with other visual signs from the beginning. Furthermore, Section 17 of the Trade Marks Act 1995 states that a mark is a mark that is used or intended to be used to distinguish one's goods or services from the goods or services of another. Based on this, as long as a voice has a distinguishing function, it fulfills the brand element juridically.¹⁸

This arrangement shows that Australian trademark law does not require extensive interpretation or analogy to incorporate sound

¹⁸ Samiha Marium A Sowbarnika V, "From Silence to Sound Marks: A Comparative Study," *International Journal of Legal Science and Innovation* 7, no. 1 (2025): 01–14, <https://doi.org/10.1000/IJLSI.112328>.

trademarks into the trademark protection regime. On the contrary, the recognition is normative, explicit, and systematic, so as to provide high legal certainty for the applicant and the examining authority.

The trademark registration system in Australia does not require the representation of sound marks in graphic form. Under the Trade Marks Regulations, the applicant may attach an audio file as the main representation of the sound mark, accompanied by a written description describing the characteristics of the sound. This approach places sound as an auditory object represented according to its natural nature.

This registration model reflects the compatibility between the form of the sign and the method of representation, thus avoiding the reduction of meaning that often occurs when sound is forced to be expressed in musical notation or graphic visualization alone. Audio representations are considered to be more capable of accurately and consistently portraying voice identities.

The substantive examination stage of the Australian trademark authority assesses sound marks based on the general criteria of the trademark, in particular distinctiveness. The examination includes an assessment of whether the voice:¹⁹

1. Has unique characteristics;
2. Not descriptive or functional;
3. Able to function as a marker of the origin of goods or services.

Once the ballot mark is received, publication is carried out publicly through the official online system. The public can access and listen directly to the audio files of registered sound brands. The function of such publications is not only administrative, but also allows third parties to

¹⁹ Hage, “PERBANDINGAN REGISTRABILITAS MEREK SUARA DI UNI EROPA, AUSTRALIA DAN INDONESIA SERTA PROBLEMATIKANYA.”

conduct independent assessments regarding potential conflicts or brand similarities.

Compared to Indonesia, the Australian system has several key advantages, namely:

1. Explicit recognition of voice marks in legislation;
2. No obligation of graphic representation;
3. Clear and consistent inspection SOPs;
4. Transparency and public access to registered voice brands.

These advantages show that Australia has successfully built a voice trademark registration system that is not only normative, but also operational.

2) Registration of Sound Trademarks in the European Union

The regulation of sound marks in the European Union is based on the EU Trade Mark Regulation (EUTMR). In Article 4 of the EUTMR, it is stated that EU trademarks can be in the form of "any signs" as long as they are capable of distinguishing goods or services and can be represented in the proper list of EU trade marks.²⁰

A fundamental change in the EU system is the removal of the "graphical representation" requirement, which was previously a major barrier to registration of non-traditional trademarks. This reform aims to adapt brand law to the development of modern technology and business practices, especially in the digital realm.

²⁰ Simon Geiregat, "Trade Marks in Sounds and Gestures: A Critical Analysis of Two Non-Traditional Signs in the EU," *GRUR International* 71, no. 8 (August 1, 2022): 702–18, <https://doi.org/10.1093/grurint/ikac053>.

In lieu of graphic requirements, the EU applies the principle of representation which requires that a brand be represented by:

1. Clear,
2. Precise,
3. Self-contained,
4. Easily accessible,
5. Intelligible and durable.

This principle allows the use of audio files as a means of representation of sound brands, as long as they meet the technical standards set by the EUIPO. This approach ensures that sound marks can be objectively understood by authorities, applicants, and the public without requiring additional interpretation.²¹

The practice of registering a voting mark in the European Union allows the applicant to upload audio files directly to the EUIPO registration system. The file then becomes part of the brand's publication and can be accessed by the public online. This transparency allows third parties to more accurately assess similarities or potential conflicts. The consistency between legal norms and administrative implementation in the European Union shows that the removal of graphic requirements does not create a legal vacuum, but rather increases the effectiveness of the trademark system.

2. Legal and Institutional Implications for Voice Trademark Registration in Indonesia

Normative and implementive comparisons between Indonesia, Australia, and the European Union show that the main problem of voting trademark registration in Indonesia does not lie in the absence of legal recognition, but in the inequality between normative recognition and

²¹ Geiregat.

institutional readiness to implement these norms. Normatively, Indonesia has recognized sound marks as part of non-traditional trademarks through Article 1 number 1 of Law Number 20 of 2016 concerning Trademarks and Geographical Indications, which states that a trademark is a sign that can be displayed graphically, including sound. This formulation textually opens up a space of protection for sound brands, but it is not accompanied by adequate technical arrangements for how voices should be represented, examined, and published in the trademark registration system.²² As a result, these legal norms have not fully functioned as an instrument of legal certainty.

When associated with SDG point 16 **Peace, Justice, and Strong Institutions**, this condition shows that Indonesia's main challenge is not only in the aspect of legislation, but in strengthening legal institutions to be able to implement norms fairly and effectively. SDG 16 emphasizes that laws must be accessible, predictable, and enforced by strong institutions. When the applicant for a ballot mark does not have clarity regarding the registration standards that must be met, access to administrative justice is hampered. In this condition, trademark law does not fully guarantee procedural fairness for the applicant.²³

In contrast, Australia provides examples of more mature practices in the regulation and implementation of sound brands. The Trade Marks Act 1995 explicitly recognises sound marks as one of the types of registered marks. This recognition is reinforced by the Trade Marks Regulations which stipulate that graphic representation is no longer a prerequisite, as long as the sound can be clearly identified through an audio file. In practice, IP Australia as a registration authority provides a dedicated field for uploading audio files in the online registration system, and the files are publicly

²² Janpatar Simamora Maria Simamora, "MEKANISME HUKUM PENDAFTARAN MEREK DALAM RANGKA MELINDUNGI HAK KEKAYAAN INTELEKTUAL Maria," *Jurnal Dimensi Hukum* 9, no. 10 (2024): 44–54, <https://law.ojs.co.id/index.php/jdh/article/view/777>.

²³ Maria Simamora.

published so that they can be accessed by the public. An example that is often cited is the registration of the sound of MGM's lion roar or the broadcasting company's typical jingle, which can be heard directly by the public through official databases.

The practice reflects the principles of transparency and institutional accountability, two key elements in SDG point 16 **Peace, Justice, and Strong Institutions**. By providing public access to the object of legal protection, the registration authority not only protects the applicant, but also provides a space for participation for third parties to file objections. This strengthens the function of law as a means of resolving potential conflicts peacefully and institutionally.

The EU even went a step further through the EU Trade Mark Regulation by completely removing graphical representation requirements. The principle used is that the brand must be clear, precise, self contained, easily accessible, intelligible, durable, and objective. In sound brands, this principle is embodied through the use of audio files as the main representation. The European Union Intellectual Property Office provides a publication system that allows the public to hear the voice of brands directly. Therefore, legal norms and administrative practices are in harmony, so that the applicant and the public have the same understanding of legal protection standards.

This comparison confirms that in Indonesia, although normative recognition of voice marks already exists, public accessibility to voice mark information is still very limited. The DJKI system has not provided a standard audio publication mechanism for sound brands, so the function of brand announcements as a means of social control has not run optimally. This condition has implications for weakening legal protection for interested third parties.²⁴ From the perspective of SDG 16, the limited access

²⁴ Dinda Aprilia Batubara, OK. Saidin, and Edy Ikhsan, "Legal Protection of Well-Known Marks Against Passing Off: A Comparative Perspective," *Jurist-Diction* 8, no. 3 (November 3, 2025): 301–24, <https://doi.org/10.20473/jd.v8i3.68772>.

to this kind of information shows that legal institutions have not fully implemented the principle of openness that is the foundation of public trust.

Similar problems are also seen in the clarity of standard operating procedures. In Australia and the European Union, there are technical guidelines that specifically govern the examination of non-traditional marks, including sound differentiating parameters, levels of distinctibility, and methods of proof of use. This guideline serves to limit the discretion of the examiner so as not to exceed his authority. In Indonesia, the SOP for trademark inspection is still general and does not accommodate the characteristics of sound as an object of protection. As a result, the assessment of the distinctiveness of a vote mark relies heavily on the examiner's individual interpretation. This condition has the potential to give birth to administrative decisions that are inconsistent and contrary to the principle of equality before the law.²⁵

From a legal point of view, the most basic implication can be seen in the unclear operational norms that govern the representation and examination of sound marks. Article 1 number 1 of Law Number 20 of 2016 requires that a trademark must be able to be displayed graphically, but does not provide further explanation on how sound, as an auditory and non-visual object, can meet these requirements.²⁶ The absence of this explanation creates normative ambiguity that has a direct impact on the practice of examination. In the scope of administrative law, unclear norms open up too wide a space of discretion for the examining apparatus, so that it has the potential to give birth to inconsistent administrative decisions between applications and between time periods. This condition is in principle contrary to the principle of legal certainty which should be the main

²⁵ Yenny Permata Liegestu and Asmin Patros, "PENYELESAIAN SENGKETA MEREK DI INDONESIA: STUDI PUTUSAN," *Jurnal Sapientia et Virtus* |, vol. 7, 2022, <https://repositori.usu.ac.id/handle/123456789/34138>,.

²⁶ Isradi Maesa, Anggun Lestari Suryamizon, and Jasman Nazar, "Pelaksanaan Pendaftaran Merek Dagang Pada Usaha Mikro Kecil Dan Menengah Di Bukittinggi," *UNES Law Review* 6, no. 1 (2023): 602–13, <https://doi.org/10.31933/unesrev.v6i1>.

foundation in the implementation of public services in the field of intellectual property.²⁷

The legal implications are even more pronounced when associated with the position of the voice mark applicant. In the absence of clear technical guidelines, the applicant is in a structurally unbalanced position as it has to interpret the registration standards expected by the authority on its own. This uncertainty not only increases the risk of application rejection, but also creates barriers to access to legal protection. In many cases, the ballot mark applicant has to make repeated adjustments to his or her application without clarity regarding the examination benchmark used.²⁸ This situation shows that substantively, the right to voice trademark protection has not been fully accessible fairly to all business actors, especially small and medium enterprises that have limited legal resources.

Based on the perspective of SDG point 16 **Peace, Justice, and Strong Institutions**, the lack of clarity in the SOP reflects the weak capacity of institutions in ensuring substantive justice. Strong institutions should be able to provide clear guidelines for administrative authority to be exercised uniformly and non-discriminatoryly. Without these guidelines, the law risks losing legitimacy in the eyes of the public.

Sound brand SOPs are ideally designed as specific administrative and technical guidelines, given that the characteristics of sound brands differ fundamentally from conventional visual brands. Unlike word brands or logos that can be instantly captured visually, sound brands require a technological medium to be identifiable and comparable. Therefore, the SOP not only serves as an internal procedural guide for examiners, but also

²⁷ Uha Suhaeruddin, "Hak Kekayaan Intelektual Dalam Era Digital: Tantangan Hukum Dan Etika Dalam Perlindungan Karya Kreatif Dan Inovasi," *Jurnal Hukum Indonesia* 3, no. 3 (July 12, 2024): 122–28, <https://doi.org/10.58344/jhi.v3i3.888>.

²⁸ Muhammad Farhan, Muhammad Afdal Zikri, and Muhammad Idrus Ilham, "ANALISIS PENERAPAN PRINSIP FIRST TO FILE DAN HAMBATAN PENDAFTARAN MEREK SERTA POTENSI PELANGGARAN HAK CIPTA LOGO PADA UMKM KULINER DI KABUPATEN BANJAR," *Indonesian Journal of Islamic Jurisprudence, Economic, and Legal Theory* 4, no. 1 (2026): 595–608, <https://shariajournal.com/index.php/IJIJEL/>.

as a guarantee of legal certainty for applicants that their applications will be processed based on clear, objective, and measurable standards. Without a specific SOP, the examination of the voice mark has the potential to depend on the subjectivity of the examiner's individual, ultimately undermining the principles of administrative justice and equality of treatment before the law.²⁹

Within the institutional framework, the SOP for the ballot mark should comprehensively regulate all stages of registration, from the receipt of applications to the issuance of certificates. In the initial stage, SOPs need to provide operational definitions of acceptable sound brands, including basic criteria regarding sound form, duration, and distinguishing properties. This definition is important to avoid misunderstandings from the start, both at the applicant and service officer level. For example, sounds that are functional or naturally inherent in a particular product, such as engine noise or standard alarms, should be excluded from protection because they lack discriminating power. With a clear definition in the SOP, the interpretation space can be narrowed so that the risk of inconsistencies can be minimized.

SOPs are also considered necessary to regulate in detail the requirements for voice brand representation. In international practice, such as in Australia and the European Union, a voice mark application requires the uploading of audio files in a specific publicly accessible format through an online registration system. In addition to the audio file, the applicant is also required to include a written description of the characteristics of the sound, and in some cases, a supporting visual representation such as a sonogram. This model ensures that the object of protection can be clearly and unambiguously identified.³⁰ In the Indonesian legal system, SOPs that adopt a similar approach will provide certainty as to how the phrase "may

²⁹ Permata Liegestu and Patros, "PENYELESAIAN SENGKETA MEREK DI INDONESIA: STUDI PUTUSAN."

³⁰ Daniel Adrian Gultom, Sukardi, and Waileruny, "KAJIAN TERHADAP HAK EKSKLUSIF ATAS JINGLE DARI PERSPEKTIF HAK CIPTA DAN MEREK."

be displayed graphically" in the Trademark Law is interpreted and applied to sound marks.³¹The SOP functions as a concrete instrument to overcome the ambiguity of norms that have been a source of legal uncertainty.

At the formality examination stage, the SOP for the vote mark should regulate the mechanism for verifying the completeness of documents and the quality of voice representation objectively. This check should not stop at the administrative aspect alone, but also ensure that the audio file can be played properly and according to the description submitted. The SOP also needs to set a clear procedure for notification of shortcomings and repair deadlines, so that the applicant is not disadvantaged by the unclear procedure. This mechanism reflects the principle of due process in government administration, where each party is given a fair opportunity to meet legal requirements.³²

The substantive examination stage is the core of the SOP for the vote brand and determines the quality of the legal protection provided. SOPs should provide clear assessment parameters regarding the distinguishing power of sound brands. Examiners need to be provided with guidelines on how to assess whether a sound is able to distinguish a particular good or service from another, as well as how to identify the fundamental similarities between two sound brands. Without structured guidelines, substantive assessments risk becoming highly subjective and difficult to account. Therefore, SOPs should stipulate that the examination is carried out through a combination of technical analysis of audio characteristics and perceptual assessment based on consumer standards in general. This approach is in line with practice in the European Union, where the

³¹ Ido Pranata Nainggolan, "Analisis Yuridis Pendaftaran Paten Dan Merek Dagang Bagi UMKM Dalam Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Jurnal Hukum, Administrasi Publik Dan Negara* 3, no. 1 (January 24, 2026): 121–35, <https://doi.org/10.62383/hukum.v3i1.860>.

³² Simona Bustani Kara Morinka, Elfrida Ratnawati, Dhany Rahmawan, Novina Sri Indirahati, "TINJAUAN ATAS KONFLIK PROSEDUR VERIFIKASI PENDAFTARAN MEREK DI DIREKTORAT JENDERAL KEKAYAAN INTELEKTUAL," *Ensiklopedia of Journal* 7, no. 2 (2025): 224–33, <http://jurnal.ensiklopediaku.org>.

examination of sound marks does not only rely on technical analysis, but also considers how the sound is perceived by the public.

The aspects of announcements and objections also need to be strictly regulated in the SOP. One of the main weaknesses of the current voting mark registration system in Indonesia is the limited public access to the information on the registered voting trademarks. The SOP ideally requires that the announcement of the sound brand be made through the publication of an audio file that can be played by the wider public during the announcement period. This mechanism allows third parties to directly assess whether the voice mark has the potential to infringe their rights, so that they can file an objection in a timely manner. This arrangement not only increases transparency, but also strengthens the function of brand publications as a means of social control. From a procedural justice perspective, information disclosure is an important prerequisite for the rights of third parties not to be neglected.

After passing the examination and announcement stages, SOPs need to regulate the procedures for determining and recording sound marks systematically. A sound mark certificate should contain a clear description of the object of protection, including a reference to the registered audio file. It is important to ensure that the scope of protection can be definitively determined, both by the brand owner and by other interested parties. Without clear records, law enforcement against trademark infringement will face serious obstacles because the protected object is not strictly defined.

The SOP should also provide a clear administrative and legal objection mechanism for applicants aggrieved by the examiner's decision. This arrangement is a manifestation of the principle of access to justice, where every administrative decision can be tested through a legitimate mechanism. With the SOP that regulates the objection and appeal pathway in detail, the applicant for the ballot mark is not in a weak position before

the registration authority. On the contrary, the relationship between the applicant and the registration institution becomes more balanced and accountable.

When associated with the principles **of Peace, Justice, and Strong Institutions**, the existence of a comprehensive SOPs reflects efforts to strengthen legal institutions through transparent, consistent, and rules-based governance. A strong institution is not only measured by the existence of laws, but by its ability to translate legal norms into fair and reliable practices.³³ SOPs serve as a bridge between written law and administrative actions, thereby reducing the potential for conflicts, disputes, and mistrust of public institutions. The sound brand SOP not only serves as a technical tool, but also serves as an instrument for building credible and equitable institutions.

Lessons from Australia and the European Union show that the success of voice trademark protection is largely determined by the quality of SOPs and technical guidelines that registration authorities have. In those jurisdictions, clear SOPs allow the applicant to understand from the outset what the authority expects, while the examiner has a strong grip on decision-making. This model creates a predictable registration system, thus supporting a healthy and competitive business climate. Indonesia can adopt a similar approach by adapting it to the national context, without having to radically change the existing legal framework.³⁴

Other institutional implications are reflected in the inconsistency of understanding between DJKI, the Regional Office of the Ministry of Law and Human Rights, and the applicant. The absence of specific technical guidance regarding voice marks causes the information conveyed to the

³³ Prasetyo Kamila, "KEPASTIAN HUKUM ATAS PEMBERLAKUAN SISTEM PENDAFTARAN MEREK FIRST TO FILE TERHADAP MEREK TERKENAL DI INDONESIA," *Jurnal Notarius* 1, no. 2 (2022): 300–309, <https://jurnal.umsu.ac.id/index.php/notarius/article/view/15719>.

³⁴ Elfrida Ratnawati Gultom Dina Fitria, "IMPLIKASI HUKUM UNDANG-UNDANG NOMOR 06 TAHUN 2023 PADA SISTEM PENDAFTARAN MEREK DI INDONESIA," *Ensiklopedia of Journal* 5, no. 4 (2023): 498–503, <http://jurnal.ensiklopediaku.org>.

applicant to often differ between regions. In practice, the Regional Office only plays a role in non-technical administrative assistance, while substantive authority remains with the DJKI. However, the limitation of technical capacity at the Regional Office level makes it difficult for applicants to obtain accurate information from the initial stage. This condition shows the weak internal coordination of institutions, which in the framework of SDG 16 shows the need to strengthen institutional governance.

The transparency aspect is also an important concern. In Indonesia, the reasons for the rejection of non-traditional brands are often not published in detail. This is in contrast to the European Union, where the judgment of the examination and the reasons for the refusal are accessible for public reference. The lack of transparency in Indonesia hinders the establishment of administrative precedents and weakens institutional accountability. In the perspective of SDG point 16 **Peace, Justice, and Strong Institutions**, transparency is a key prerequisite for preventing arbitrary scrutiny practices and ensuring that administrative powers are exercised responsibly.

The need for cross-sector synergy is also an important part of strengthening institutions. Sound brands are closely related to the creative, broadcasting, and commerce industries. Without coordination between the DJKI, the Ministry of Industry, and the Ministry of Trade, the sound brand policy has the potential to be unresponsive to the needs of the business world. Within the framework of SDG 16, cross-sector synergy reflects efforts to build institutions that are adaptive and able to respond to socio-economic dynamics in a sustainable manner.

Based on the overall analysis, regulatory reform and strengthening the implementation of voting trademark registration in Indonesia are part of the big agenda to strengthen legal institutions. The revision of the law or the establishment of implementing regulations that specifically regulate sound

marks, the preparation of national SOPs, integrated technical guidance, and increased transparency are concrete steps to realize a fair and accessible legal system. Voting trademark registration reform is ultimately not only relevant in the scope of trademark law, but also a real contribution to Indonesia in realizing the SDG goals of point 16 **Peace, Justice, and Strong Institutions** through strong, transparent, and fair legal institutions.

Conclusion

The regulation of voice trademark registration in Indonesia has normatively obtained legal recognition through Law Number 20 of 2016 concerning Trademarks and Geographical Indications. However, such recognition has not been followed by adequate institutional readiness and technical arrangements in practice. The absence of special operational standards, the lack of national technical guidance on sound trademarks, and differences of understanding between the Directorate General of Intellectual Property, the Regional Office of the Ministry of Law and Human Rights, and trademark applicants pose a risk of legal uncertainty. This condition has an impact on the weak legal protection for the applicant and limited access to justice, because the examination process is still highly dependent on the administrative discretion of the examiner. Within the framework **of Peace, Justice, and Strong Institutions**, the situation shows that strengthening institutions and legal governance is an important prerequisite for the voting trademark registration system to run in a fair, transparent, and accountable manner.

The effectiveness of voice trademark protection is determined not only by normative recognition in laws and regulations, but also by consistency between legal norms, implementing regulations, and administrative practices. Practice in Australia and the European Union shows that clarity of registration mechanisms, the use of audio files as brand representations,

and the openness of public access to brand information are important factors in ensuring legal certainty and protection. Therefore, regulatory reform in Indonesia is needed through the drafting or improvement of implementing regulations that specifically regulate voting marks, including operational standards for examination procedures, publication mechanisms, and objection procedures. Strengthening implementation also needs to be supported by national technical guidance and sustainable thematic socialization. These steps are important to ensure the fulfillment of legal certainty, effective legal protection, and access to justice for voice trademark applicants, in line with efforts to strengthen legal institutions with justice and integrity.

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