When Art Meets Science in Trademark Law: Reflections on India's First Smell Mark

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There are areas of intellectual property law where one can sense, quite literally, the convergence of disciplines that do not often meet. This convergence has now found formal recognition in India's first smell mark, where fragrance, science, and trademark law intersect in an unprecedented manner.

Smell marks are one such area. They draw together the lived, sensory, almost artistic experience of fragrance with the exacting demands of legal precision. It is this rare intersection where art and science must speak to each other that has long made the subject personally meaningful to me.

A Personal Beginning: Where the Interest Started

My interest in the theory of odour goes back much further than my professional life. It began in my third year at St. Stephen's College, when I participated in the All-India Paper Reading Competition. I spoke on the stereochemical theory of odour, a field that was both scientifically intriguing and conceptually elegant.

The idea that molecules possess specific shapes that "fit" into olfactory receptors in the nose fascinated me. That elongated molecular structures might give rise to a floral smell, that circular molecules could produce musky tones, and that combinations of shapes could yield entirely new scents this interplay between structure and sensation captured my imagination.

I was fortunate to secure the first prize at that competition, but more importantly, it marked the beginning of a curiosity that would resurface much later in my professional work, especially in matters involving smell marks where science, art, and law converge.

Why Non-Conventional Trademarks Matter

Non-conventional trademarks represent the natural next stage in the evolution of brand identity. As markets develop, consumers form associations not only through visual cues but also through sound, movement, shape, and scent. For India, recognising these marks is important not simply to keep pace with global practice, but because it reflects the adaptability of our statutory framework.

The recognition of India's first smell mark constitutes a direct manifestation of this evolution,

illustrating the capacity of Indian trademark law to accommodate non-visual identifiers within its statutory framework.

These marks compel us to rethink traditional concepts of representation and distinctiveness while allowing scientific tools to support legal certainty. In doing so, they reinforce the central purpose of trademark law: clarity, reliability, and the prevention of consumer confusion.

The Matter Before the Registry

Against this backdrop, the application, now recognised as India's first smell mark, seeking registration of a rose-like fragrance applied to tyres came before the Registry.

Several hearings were held, and the inherent challenges were clear: distinctiveness, yes, but above all, the requirement of graphical representation the principal point of difficulty for olfactory marks.

Given the novelty and complexity of the questions, the Controller General appointed me as amicus curiae. This allowed me to assist the Registry by presenting comparative jurisprudence and examining scientific methods capable of translating a scent into a stable, objective form.

A central part of this effort was the scientific depiction developed by researchers at IIIT-Allahabad, who represented the fragrance as a vector in a multi-dimensional olfactory space. This method provided a reproducible, structured, and intelligible depiction precisely the type of clarity the statute requires.

The Procedural Course

The order dated 05.08.2025 makes it apparent that until that stage, the Applicant had not adopted or relied upon the scientific representation, even though it had been placed on record. Their initial submissions rested primarily on the argument that the verbal description of the scent should suffice.

However, the Registry's final order indicates that the evidence originally submitted did not independently meet the statutory requirement. Once this position crystallised, the Applicant appears to have reconsidered its stance and elected to adopt the scientific evidence. This step ultimately enabled the application to proceed; without it, the matter would likely have failed for want of compliance.

Experience as an Amicus Curiae

As an amicus, one strives to maintain balance to offer a neutral, objective evaluation that assists the Registry without advocating for any party. This matter was a reminder of the value of that role, especially where law and science intersect.

Considerable work had gone into developing the scientific representation, yet until the penultimate hearing, it had not been adopted. Only when the Controller indicated that the application could not proceed without such compliance was the evidence finally embraced.

While the eventual outcome was satisfying, the journey underscored how emerging areas of law often require persistence, dialogue, and interdisciplinary openness.

The Registry's Conclusion

In the final order dated 21.11.2025, the Registry concluded that the scientific representation met the standards of clarity, precision, intelligibility, durability, and objectivity, paving the way for acceptance of what would become India's first smell mark. The rose-like fragrance, thus represented, was considered both graphically representable and distinctive in relation to tyres. The mark was accordingly accepted for advertisement.

A Small Step, But a Meaningful One

This decision demonstrates that Indian trademark law is capable of accommodating new and complex forms of brand identity when supported by rigorous scientific and legal evidence. It also exemplifies the very theme that first drew me to this field the interplay of sensory experience, scientific structure, and legal reasoning.

As the field evolves, I hope this development encourages practitioners and applicants alike to explore how interdisciplinary tools can help satisfy statutory requirements for non-traditional trademarks. It represents not only progress in one application, but also a modest yet meaningful expansion of what our trademark system is capable of recognising.

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