What’s in a colour?

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Colour trademarks were strictly categorized as unconventional trademarks along with sound and olfactory marks, but they are seen to be getting wider protection than their counterparts. Jurisdictions have recognized distinctive marks which involve a combination of colours. Jurisprudence has also evolved to protect single colour marks that may not be distinctive enough to protect as a trademark, but when such marks acquire a secondary meaning through use, they cduld be protected. An Indian court recognised John Deere's rights in the colour mark and not in the colours green and yellow in general. These shades of the green and yellow colours have been expressly recognized by Pantone as John Deere Green and John Deere Yellow. Moreover, it has also been established that while monopolizing any of the seven primary colours is excellent fodder for the colour depletion theory, securing trademark registrations over particular shades and combination of such shades is keeping in line with the principles of trademark law. *Authored by Pravin Anand, D. Neha Reddy and Siddhant Chamola. This article was published in Asia IP August 2015.* Read more

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