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INDIA: Recognition of Color Trademarks in India: John Deere's Yellow and Green

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The Deere Group, commonly referred to as John Deere, is a US Fortune 500 company and a leading agricultural and construction equipment manufacturer in the world. The company's logo comprises a leaping deer and green and yellow color combination. The logo was the basis of a December 2014 suit seeking a permanent injunction restraining third parties against infringement and dilution of the company's registered trademarks, passing off of trade dress, unfair competition, rendition of accounts, delivery up and damages (*Deere & Co. & Anr. vs. S. Harcharan Singh & Anr.* CS(OS) No. 3760/2014 before the High Court of Delhi). Concurrently, an application was filed seeking a temporary injunction.

Tracing first use to 1905, John Deere established evidence that by 1956 internal guidelines had clearly defined the "color standards" for the use of the green and yellow combination on agricultural equipment. The company also declared that its first inroads into the Indian agricultural market were made in 1943 and between then and now it had grown to become one of India's leading tractor brands.

In October 2014, John Deere became aware of the manufacture and sale of farm equipment, including tractors, harvesters and combines across India, under the trading name/mark SURINDERA, which bore a striking resemblance to John Deere's products and also incorporated use of its well-known logo and color combination. SURINDERA's green and yellow colors had been used in a manner very similar to John Deere's—the body of the vehicle had been painted green with the wheels and the seat painted yellow. The present suit was thus filed and injunctions sought.

Section 2(zb) of the Trade Marks Act, 1999 clearly defines a trademark to include a combination of colors provided such a combination is capable of distinguishing the goods of one person from those of others. However, not many judicial precedents exist on this point. In this instance, John Deere established that the green and yellow combination was a distinctive and well-known feature of its mark on the back of Indian trademark registrations as well as very strong sales and publicity figures. It further proved a pan-India business network, a visible, local presence on the Internet and television and asserted that it was the largest exporter of tractors from India.

In the face of such weighty evidence of acquired distinctiveness, this case assumed significance for being one of the few where trademark rights in a color combination were expressly recognized by the court and misuse halted speedily through grant of a permanent injunction by way of interim relief.

Although every effort has been made to verify the accuracy of items in the *INTA Bulletin*, readers are urged to check independently on matters of specific concern or interest.

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