
John Deere asserts rights over Green and Yellow colours


Deere group commonly referred to as John Deere after its founder and Chairman Mr. John Deere (John Deere) filed a suit for permanent injunction for restraining infringement, dilution of trademarks, passing off trade dress, unfair competition, rendition of accounts, delivery up and damages etc. against Surindera Agro Industries and Harcharan Singh (Surindera) before the Delhi High Court on the basis of their use and registration of several colour marks in class 12 and 28.

John Deere contention's in support of the case


1. John Deere established in the year 1837 is a Fortune 500 company employing over 55,000 members in 27 countries worldwide. John Deere claims to be one of the largest agricultural and construction equipment manufacturers in the world including India.

2. John Deere adopted the trademark JOHN DEERE in the year 1837 and the said trademark






has been continuously used since then. John Deere logo  comprises of a 'leaping

deer' in conjunction with the trade mark JOHN DEERE.  has been recognised as a well-known mark in the United States.




3. In the year 1910, John Deere started using a combination of the colours Green and

Yellow  in relation to its agricultural implements in a unique and distinct manner which was further adopted for tractors in the year 1918. The manner of use of the combination of colours included the body of the vehicle being painted 'Green' while the seat and the wheels of the vehicle being painted 'Yellow' in the manner depicted herein below:



5. John Deere is the registered proprietor of trademarks Green and Yellow  colour scheme and  logo in more than 20 countries including in India. The use of  Green and Yellow colour scheme dates back to 1943 in India.
6. John Deere maintains the websites www.deere.com, www.johndeereclassic.com and www.deere.co.in which are accessible to the public in Delhi and other parts of India as well as across the world. The John Deere's  (green and yellow) colour scheme and  logo is displayed extensively and also forms basic colour scheme and layout of these websites.
7. John Deere has sold their products in Indian agricultural market, including first sales of equipment in India at least 6 decades ago. John Deere entered directly into the Indian market in 1997 with the incorporation of its wholly owned subsidiary 'John Deere India Private Limited' and strengthened its presence in India with the incorporation of 'John Deere Financial India Private Limited' in the year 2011. John Deere's network comprises of more than 400 authorized dealers spread across India.
9. In October 2014, John Deere noticed that the Surindera is manufacturing and selling lookalikes of the John Deere 's farm equipment including but not limited to Tractors, Harvesters and Combines under their trading name/mark "SURINDERA" with trade dress which had striking resemblance to the John Deere's registered trademarks. The images of the John Deere's and Surindera's products are represented below:



10. John Deere alleged that Surindera has blatantly copied the  (Green and Yellow) colour scheme for which the John Deere's have secured trademark registrations in India for its agricultural equipments. Further, the manner of use of this colour combination by Surindera is also deceptively similar to that adopted by John Deere, i.e. the body of the vehicle being painted Green  with the wheels and the seat of the vehicle being painted Yellow .


11. John Deere sought an ex parte interim injunction at the stage of admission of the lawsuit

Court ruling:

- a) The Court held that John Deere has established strong prima facie case in their favour. The balance of convenience also lies in favour of John Deere and against the Surindera. In case the interim orders are not issued, John Deere would suffer irreparable loss and injury.
- b) The Court held that from the definition of trade mark provided under the Trade Marks Act, it appears that colour/colour combination can become trade marks if these are distinctive and exclusively associated with the trader. Once the same is registered, exclusive rights are granted and rights to initiate infringement proceedings and such party can obtain injunction as well.

- c) The Court proceeded to restrain Surindera from manufacturing, selling, offering for sale, advertising agricultural products and/or any other goods and/or services using the John

Deere 's word mark JOHN DEERE,  logo, registered trademark  including trade dress and the colour combination thereof and any other mark deceptively similar thereto

leading to infringement of the word mark JOHN DEERE,  logo and the trade (colour) mark, overall colour scheme and trade dress in relation to their agricultural equipment and vehicles and/or passing off their products (agricultural equipment) as belonging to the John Deere by using marks, colour combination and the consequent trade dress which is identical and/or deceptively similar to the John Deere 's word mark

JOHN DEERE; the  logo; , overall colour scheme and trade dress.

Our Comment

The ruling and observation of the court helps to support the argument that the presentation of a product or its trade dress has become an essential component in product distinction and brand recall.

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