

Colour Marks Under Indian Trademark Law: Registrability and Challenges

Registrability Requirements for Colour Marks

- **Graphical Representation:** The colour mark must be represented clearly (Colour samples, Pantone references).
- **Distinctive Character:** The colour must distinguish the applicant's goods or services from competitors.
- **Non-Functionality:** A colour cannot be monopolized if it serves a practical or utilitarian purpose.
- **Acquired Distinctiveness:** Requires strong evidence like years of use, high market share, and consumer recognition surveys.

Functional Colours (Not Registrable)

Functional Colour	Reason
Red for warning labels	Safety function
Green for eco products	Descriptive function
Orange for visibility equipment	Utility purpose

Conclusion

As branding becomes increasingly visual, colour can evolve from a marketing element into a valuable intellectual property asset. Indian trademark law recognizes colour marks, but obtaining protection requires demonstrating distinctiveness, consumer recognition, and non-functionality. For most businesses, the challenge lies not in selecting a unique colour but in proving that consumers associate that colour exclusively with their brand. Companies that consistently use and promote distinctive colours while maintaining strong evidence of market recognition stand the best chance of securing protection.