

YAHOO!'S YODEL FIRST SOUND MARK GRANTED IN INDIA

Yahoo!'s yodel became the first sound mark to be granted by Indian Trade Marks Registry. As per the definition of mark under the Indian Trademark Act, a 'Mark' includes a device, brand, heading, label, ticket, name (including abbreviations), signature, word, letter, numerals, shape of goods, packaging or combination of colors and any combination thereof. As per the provision of the Indian Trade marks Act a 'Trademark' means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others. It also denotes the origin of goods and carries goodwill of the business in respect of which it is used.

Further, the Indian Act requires that trademark must be distinctive (adapted to distinguish the goods/services of the applicant from that of others) and must not be deceptive.

The Trademarks Registry granted registration to Yahoo!' yodel on August 18, 2008. The sound mark can be registered in India as they are capable of being represented graphically i.e. in the form of musical notes thus satisfying the requirement of the Indian Trade Marks Act. As per the Indian Trade Marks Act one of the essential and inherent requirements of a trade mark is that it should be capable of being represented graphically and must be able to distinguish the goods or services in respect of which it is employed from that of others.

Smell marks are still not registered in India as they cannot be represented graphically like musical notes although they satisfy other requirements of the Indian Trade Marks Act.