

Pantone's Color Monopoly?

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Pantone is a company that has created a common language of color. For thousands of dollars, artists, printers, and other companies buy their color books and digital plug ins with accompanying color recipes to maintain consistency of color across products and, relatedly, a consistent brand identity that matters for trademark protection. In a previous article, *Color and Cultural Functionality* (forthcoming in the *American University Law Review*, 2025) I've proposed that monochromatic colors be channeled to a public domain through the functionality doctrine and that other trademarkable subject matter, like color combinations and designs, might also fall under the cultural functionality test. In this paper, I turn my focus more fully to the role that Pantone has in creating an artificial difference between colors that consumers see by assigning text to colors and making their recipes and color language the standard across industries. Is Pantone illegally limiting the use of some colors or properly creating standardization in colors through contracts, copyright in their selection and arrangement of their system, and related trademarks in their "chip" motif? Is Pantone's business activity an illegal monopoly? Should we think of Pantone as holding colors in trust? The paper is in early stages and I would appreciate feedback from the IP scholarly community!