



RED IN THE FACE

AND IN THE SHOES

On August 10th a judge in New York refused to grant a preliminary injunction stopping fashion firm Yves Saint Laurent from selling high heel shoes with a red sole. Christian Louboutin, the famous French designer, is furious and claims YSL has infringed his trademark on women's shoes using red outsoles and is seeking more than \$1 million in damages in a Manhattan federal court. The judge however considered that no designer can trademark or monopolize a colour because artists need to be able to use the full palette. It would be like Picasso taking Monet to court over the use of a particular shade of blue that he had previously used to represent melancholy.

Louboutin's shoe business is expected to earn \$135 million in 2011. He sells 240,000 pairs of his almost unwearable creations a year, and that is in the US alone. His incredibly tall shoes, worn by celebrities like Madonna, Jennifer Lopez or Sarah Jessica Parker, can cost anywhere from \$395 to \$6,000 a pair.

In legal documents Louboutin's lawyers claim that the French designer was the first to use red outsoles in shoes, and that this use is protected by America's Patent and Trademark Office. YSL has argued that Louboutin should have never gotten that trademark in the first place and that no one can prove that YSL red soled shoes hurt Louboutin's sales or that they can cause any confusion in the eyes of the consumer. They also explained that it is a known fact that King Louis XIV had red-heeled shoes and that Dorothy also had ruby-coloured slippers in *The Wizard of Oz*.

YSL is not the only brand being sued though. On a second front, Louboutin's lawyers have also launched a legal action against footwear brand Carme Steffens of Brazil, for the same type of trademark infringement. The São Paulo-based company has similarly considered surprising that any particular brand could be granted exclusive rights to the use of any colour and say that their brand has always used soles of all colours, including red. Not happy with two lawsuits, private investigators working for Louboutin learnt from a salesperson at Dior that this French luxury house was also planning to come out with red-soled shoes. Dior immediately denied this.

So, when is the use of colour a design element and when is it a trademark? This will be very difficult to demonstrate for Louboutin. According to the firm, the particular shade of red they use is "Chinese red", however, they argue that any other similar shade of red would also infringe the trademark. The company says it will take its case all the way to the Supreme Court if necessary. Both parties have to appear in court again.



Sources:
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