Plain Packaging: Undermining the Power of Brands?

Public policy justifications for refusing trademark registration is a common aspect of most trade mark regimes. But balancing the interests of potential trademark owners who wish to market their goods and services under vulgar signs and those who might be offended by such marks, has raised wider concerns about unnecessary restrictions on free speech, according to a white paper published by Primary Opinion.

The paper points to an opinion from the Court of Appeal for the Federal Circuit that upheld a refusal to register the mark THE SLANTS for "entertainment in the nature of live performances by a musical band," finding that the mark "… would be perceived as disparaging to a substantial composite of the referenced group, namely persons of Asian descent."

The paper considers some other U.S. cases, such as the case of the name of the Washington Redskins, as well as similar cases in Australia and Europe.

Read the white paper.