



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART I

#### REGISTERED TRADE MARKS

##### *Effects of registered trade mark*

#### **10      Infringement of registered trade mark**

- (1) A person infringes a registered trade mark if he uses in the course of trade a sign which is identical with the trade mark in relation to goods or services which are identical with those for which it is registered.
- (2) A person infringes a registered trade mark if he uses in the course of trade a sign where because—
  - (a) the sign is identical with the trade mark and is used in relation to goods or services similar to those for which the trade mark is registered, or
  - (b) the sign is similar to the trade mark and is used in relation to goods or services identical with or similar to those for which the trade mark is registered,there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the trade mark.
- (3) A person infringes a registered trade mark if he uses in the course of trade a sign which—
  - (a) is identical with or similar to the trade mark, and
  - (b) is used in relation to goods or services which are not similar to those for which the trade mark is registered,where the trade mark has a reputation in the United Kingdom and the use of the sign, being without due cause, takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the trade mark.
- (4) For the purposes of this section a person uses a sign if, in particular, he—
  - (a) affixes it to goods or the packaging thereof;

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*Status: This is the original version (as it was originally enacted).*

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- (b) offers or exposes goods for sale, puts them on the market or stocks them for those purposes under the sign, or offers or supplies services under the sign;
  - (c) imports or exports goods under the sign; or
  - (d) uses the sign on business papers or in advertising.
- (5) A person who applies a registered trade mark to material intended to be used for labelling or packaging goods, as a business paper, or for advertising goods or services, shall be treated as a party to any use of the material which infringes the registered trade mark if when he applied the mark he knew or had reason to believe that the application of the mark was not duly authorised by the proprietor or a licensee.
- (6) Nothing in the preceding provisions of this section shall be construed as preventing the use of a registered trade mark by any person for the purpose of identifying goods or services as those of the proprietor or a licensee.

But any such use otherwise than in accordance with honest practices in industrial or commercial matters shall be treated as infringing the registered trade mark if the use without due cause takes unfair advantage of, or is detrimental to, the distinctive character or repute of the trade mark.