



Trade Marks Act 1938

1938 CHAPTER 22

REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE PROVISIONS.

Effect of registration and the action for infringement

6 Infringement by breach of certain restrictions

- (1) Where, by a contract in writing made with the proprietor or a registered user of a registered trade mark, a purchaser or owner of goods enters into an obligation to the effect that he will not do, in relation to the goods, an act to which this section applies, any person who, being the owner for the time being of the goods and having notice of the obligation, does that act, or authorises it to be done, in relation to the goods, in the course of trade or with a view to any dealing therewith in the course of trade, shall be deemed thereby to infringe the right to the use of the trade mark given by the registration thereof, unless that person became the owner of the goods by purchase for money or money's worth in good faith before receiving notice of the obligation or by virtue of a title derived through another who so became the owner thereof.
- (2) The acts to which this section applies are—
 - (a) the application of the trade mark upon the goods after they have suffered alteration in any manner specified in the contract as respects their state or condition, get-up or packing;
 - (b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;
 - (c) in a case in which the trade mark is upon the goods, and there is also thereon other matter, being matter indicating a connection in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partly, of the trade mark unless that other matter is wholly removed or obliterated;
 - (d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;
 - (e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

Status: This is the original version (as it was originally enacted).

- (3) In this section references in relation to any goods to the proprietor, to a registered user, and to the registration, of a trade mark shall be construed, respectively, as references to the proprietor in whose name the trade mark is registered, to a registered user who is registered, and to the registration of the trade mark, in respect of those goods, and the expression " upon " includes in relation to any goods a reference to physical relation thereto.