



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^{F1}, in relation to goods or services,] a sign which—
 - (a) is identical with or similar to the trade mark, ^{F2}...
 - ^{F2}(b)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.

^{F3}(3A) Subsection (3) applies irrespective of whether the goods and services in relation to which the sign is used are identical with, similar to or not similar to those for which the trade mark is registered.

Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 10. (See end of Document for details)

- (3B) Where the risk exists that the packaging, labels, tags, security or authenticity features or devices, or any other means to which the trade mark is affixed could be used in relation to goods or services and that use would constitute an infringement of the rights of the proprietor of the trade mark, a person infringes a registered trade mark if the person carries out in the course of trade any of the following acts—
- (a) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark may be affixed; or
 - (b) offering or placing on the market, or stocking for those purposes, or importing or exporting, packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark is affixed.]
- (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;
 - (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;^{F4} ...
 - [^{F5}(ca) uses the sign as a trade or company name or part of a trade or company name;]
 - (d) uses the sign on business papers [^{F6}and] in advertising[^{F7}; or]
 - [^{F8}(e) uses the sign in comparative advertising in a manner that is contrary to the Business Protection from Misleading Marketing Regulations 2008.]

^{F9}(5)

^{F9}(6)

Textual Amendments

- F1** Words in s. 10(3) inserted (5.5.2004) by Trade Marks (Proof of Use, etc.) Regulations 2004 (S.I. 2004/946), regs. 1, **7(2)(a)**
- F2** S. 10(3)(b) and preceding word omitted (5.5.2004) by virtue of Trade Marks (Proof of Use, etc.) Regulations 2004 (S.I. 2004/946), regs. 1, **7(2)(b)**
- F3** S. 10(3A)(3B) inserted (14.1.2019) by The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(2)** (with Pt. 5)
- F4** Word in s. 10(4)(c) omitted (14.1.2019) by virtue of The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(3)** (with Pt. 5)
- F5** S. 10(4)(ca) inserted (14.1.2019) by The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(4)** (with Pt. 5)
- F6** Word in s. 10(4)(d) substituted (14.1.2019) by The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(5)(a)** (with Pt. 5)
- F7** Word in s. 10(4)(d) inserted (14.1.2019) by The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(5)(b)** (with Pt. 5)
- F8** S. 10(4)(e) inserted (14.1.2019) by The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(6)** (with Pt. 5)
- F9** S. 10(5)(6) omitted (14.1.2019) by virtue of The Trade Marks Regulations 2018 (S.I. 2018/825), regs. 1(1), **10(7)** (with Pt. 5)

Changes to legislation:

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 10.