

Trade Marks Act 1994 c. 26

Part III ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

Offences

This version in force from: **October 31, 1994 to present**

92.— Unauthorised use of trade mark, &c. in relation to goods.

(1) A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

(a) applies to goods or their packaging a sign identical to, or likely to be mistaken for, a registered trade mark, or

(b) sells or lets for hire, offers or exposes for sale or hire or distributes goods which bear, or the packaging of which bears, such a sign, or

(c) has in his possession, custody or control in the course of a business any such goods with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).

(2) A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

(a) applies a sign identical to, or likely to be mistaken for, a registered trade mark to material intended to be used—

(i) for labelling or packaging goods,

(ii) as a business paper in relation to goods, or

(iii) for advertising goods, or

(b) uses in the course of a business material bearing such a sign for labelling or packaging goods, as a business paper in relation to goods, or for advertising goods, or

(c) has in his possession, custody or control in the course of a business any such material with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).

(3) A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

(a) makes an article specifically designed or adapted for making copies of a sign identical to, or likely to be mistaken for, a registered trade mark, or

(b) has such an article in his possession, custody or control in the course of a business,

knowing or having reason to believe that it has been, or is to be, used to produce goods, or material for labelling or packaging goods, as a business paper in relation to goods, or for advertising goods.

- (4) A person does not commit an offence under this section unless—
- (a) the goods are goods in respect of which the trade mark is registered, or
 - (b) the trade mark has a reputation in the United Kingdom and the use of the sign takes or would take unfair advantage of, or is or would be detrimental to, the distinctive character or the repute of the trade mark.
- (5) It is a defence for a person charged with an offence under this section to show that he believed on reasonable grounds that the use of the sign in the manner in which it was used, or was to be used, was not an infringement of the registered trade mark.
- (6) A person guilty of an offence under this section is liable—
- (a) on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding ten years, or both.

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