12. Relative grounds for refusal of registration

This chapter analyses the relative grounds for refusal of trade marks from registrability. Whilst absolute grounds are concerned with an analysis of a proposed mark's innate qualities, covering defects in the mark as such, relative grounds involve a comparison of the mark with prior rights. In particular, relative grounds occur when a mark applied for is already in use or when a similar mark is already in use. The chapter notes that s. 5 of the Trade Marks Act 1994 recognises three instances in which relative grounds for refusal will succeed: where the sign is identical to an earlier sign and the goods and/or services applied for are also identical; where the sign is identical to an earlier sign and the goods and/or services applied for are similar; and where the sign is similar to an earlier sign and the goods and/or services applied for are identical or similar.
12. Relative grounds for refusal of registration

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