14. Defences to trade mark infringement

This chapter looks at the various defences against trade mark infringement and the way in which the courts have interpreted them. A defendant's principal argument will be to deny that there has been any infringing conduct, and/or that what has been done is not within the scope of protection given to the registered mark. There are, however, a number of statutory defences. These defences span from the use of one's own name to a framework outlining the conditions of comparative advertisement and the role of exhaustion of rights as a defence to an action for trade mark infringement, including the ways in which the intellectual property owner can object to the parallel importation of non-European Economic Area (EEA) goods.

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