Chapter:

15. Trade marks 3: relative ground for refusal and invalidation, infringement, and defences

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DOI: 10.1093/he/9780198799801.003.0015

This chapter discusses the relative grounds for refusal or invalidation of a registered trade mark, the circumstances in which a trade mark can be infringed, and defences to an action of infringement and their limits. As relative grounds and infringement overlap, these are considered together. Important additional legal issues on infringement—such as what constitutes infringing ‘use’ of a trade mark—are also considered. Key questions are the power conferred by a trade mark over the activities of others and the extent to which activities of others can prevent the registration of a trade mark. Again, the chapter reflects evolving legislation at an EU level (particularly the EU’s 2015 trade mark reform package), together with a rich body of case law.
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