



# Trade Marks Act 1938

## 1938 CHAPTER 22

REGISTRATION, INFRINGEMENT AND OTHER SUBSTANTIVE PROVISIONS.

*Effect of registration and the action for infringement*

### **5 Right given by registration in Part B, and infringement thereof**

- (1) Except as provided by subsection (2) of this section, the registration (whether before or after the commencement of this Act) of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and the provisions of the last foregoing section shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have effect in relation to a trade mark registered in Part A of the register.
- (2) In any action for infringement of the right to the use of a trade mark given by registration as aforesaid in Part B of the register, otherwise than by an act that is deemed to be an infringement by virtue of the next succeeding section, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.