

Index

References given are to page numbers.

- ARTISTIC WORKS**, *see also* COPYRIGHT PROTECTION — PRODUCT PACKAGING
- defined, 276
 - derived from other artistic works, 276-277
 - generally, 276-278
 - rights associated with artistic work, 277-278
- ASSIGNMENT OF COPYRIGHT**, *see also* COPYRIGHT PROTECTION — PRODUCT PACKAGING
- generally, 291-294
 - must be in writing, 292-293
 - statutory provisions, 291-292
 - subject matter, 293-294
- BORDER ENFORCEMENT**, *see also* ENFORCEMENT OF BRAND NAMES
- border enforcement measures, 296-297
 - detaining goods at rights owner's expense, 220-222
 - generally, 217-222
 - measures relating to detained goods, 219-220
 - prohibition on importation and exportation, 218
 - request for assistance, 218-219
- BRAND ADVERTISING**
- brand execution, 301
 - brand positioning, 301-302
 - comparative advertising, *see* COMPARATIVE ADVERTISING
 - copyright protection, *see* COPYRIGHT PROTECTION — BRAND ADVERTISING
 - importance of advertising, 302
 - introduction, 301-302
 - passing off, 304, *see also* PASSING OFF
 - misleading advertising, *see* MISLEADING ADVERTISING
 - summary and checklist, 328-330
 - trade mark protection, *see* TRADE MARK PROTECTION — BRAND ADVERTISING
- BRAND COMPONENTS**
- brand expression, 2
 - brand identity, 3
 - control of distribution channels, 4
 - differentiated brands, 2-3
 - “fluid” versions, 3
 - generally, 1-5
 - internal branding, 4-5
 - repositioning or revitalization, 3
 - summary and checklist, 13-14
- BRAND EQUITY**
- brand associations, 7
 - brand awareness, 7
 - brand knowledge and, 7
 - brand loyalty, 7
 - definitions, 6-7
 - generally, 6-8
 - importance of, 7-8
 - summary and checklist, 13-14
- BRAND IMAGE**
- brand execution, 5

BRAND IMAGE (*cont'd*)

- brand positioning, 5
- corporate social responsibility programs, 6
- environmental programs, 6
- generally, 5-6
- summary and checklist, 13-14

BRAND EXTENSIONS

- adverse implications, 9
- benefits, 9, 19
- brand equity and, 8-9
- decision to extend brand, 9
- generally, 8-10, 19
- licensing, 9-10
- risks, 19
- summary and checklist, 13-14

BRAND MANAGEMENT POLICIES

- controlling brand expression, 333-335
- educational programs, 337
- enforcing rights, 339-340
- introduction, 331
- licensing programs, 335-336
- obtaining and maintaining trade mark registrations, 332-333
- online branding, 332
- policing marketplace, 337-339
 - monitoring trade marks journal, 337-338
 - specific investigations carried out by brand owner, 339
 - watch services, 338
- protecting brand advertising, 341
- protecting product packaging, 340
- protecting product shape and appearance, 340
- records retention, 336-337
- selecting brand name, 331-332

BRAND NAME, SELECTION OF

- availability searches, 51-54
 - common law searches, 53
 - impediments, 53-54
 - importance of adequate searches, 54
 - legal opinions, 53
 - limitations, 53
 - preliminary screening searches, 52-53
 - required information, 52
- brand extensions, *see* BRAND EXTENSIONS
- cautions, 17-19
 - coined words, 17
 - compliance with legislation, 19
 - descriptive mark, 18
 - initials, 17-18
 - non-suggestive names, 18
 - trade or business names, 18
 - undesirable associations, 18
- certification mark, 42-44
 - geographical certification mark, 44
 - who can adopt or register, 43-44
- desirable brand name characteristics, 16-17
 - brevity, 16
 - easily readable and pronounceable, 16-17
 - easily remembered, 16
 - flexible, 17
 - legally available and registrable in countries of proposed use, 17
 - meaningful, 17
 - protectable and registrable, 17
 - suggestive of product class, 17
 - works with symbol or slogan, 17
- distinctiveness and secondary meaning, 40-42

BRAND NAME, SELECTION**OF** (*cont'd*)

- • acquired or lost over time, 41-42
- • conditions for, 41
- • inherent distinctiveness, 42
- • onus of proving, 42
- generally, 15-19
- international considerations, *see* INTERNATIONAL CONSIDERATIONS
- introduction, 15
- name changes, 19-20
 - • considerations, 19-20
 - • implementing, 19
- official marks, 48-51
 - • applications, 49-50
 - • challenges, 49-50
 - • limitations on what constitutes, 50
 - • public authority, 48-49
 - • test of resemblance, 51
- prohibited marks, 44-48
 - • list of, 44-46
 - • *Olympic and Paralympic Marks Act*, 48
 - • *Trade-marks Act*, 44-48
- registrability, *see* REGISTRABILITY OF BRAND NAMES AS TRADE MARKS
- summary and checklist, 66-67
- trade mark, 39
 - • definition, 39
 - • proposed trade mark, 39
 - • use, 39
- trade mark protection in Canada, *see* TRADE MARK PROTECTION IN CANADA

BRAND SYSTEMS

- brand portfolio strategy, 11-12
- generally, 10-12
- summary and checklist, 13-14

- system of strong autonomous brands relating to specific products, 10
- system or hierarchy of brands which are used concurrently, 10

CO-BRANDING

- consequences and challenges, 12
- forms of, 12
- generally, 12-13
- steps to take, 13
- summary and checklist, 13-14

COMPARATIVE ADVERTISING,
see also BRAND ADVERTISING

- *Competition Act*, 324-325
- *Copyright Act*, 327
- generally, 323-328
- injurious falsehood, 327-328
- *Trade-marks Act*, 325-327
- unlawful interference with economic relations, 327-328

CONFUSING TRADE MARKS, *see also* ENFORCEMENT OF BRAND NAMES

- applicable situations, 179-180
 - • degree of resemblance, 191-195
 - • appearance, 191-193
 - • idea, 194-195
 - • sound, 193-194
- duration of use, 186-187
- generally, 179-195
 - • inherent distinctiveness, 184-186
 - • nature of trade, 190-191
 - • nature of wares, service or business, 187-190
 - • consumer attitudes, 189
 - • famous marks, 188
- statutory criteria, 180-184
 - • confusion test, 181
 - • “initial interest confusion”, U.S. doctrine of, 184

CONFUSING TRADE**MARKS** (*cont'd*)

- • surrounding circumstances, 182
- • weight given to each criterion, 182-183

COPYRIGHT, *see also***COPYRIGHT PROTECTION —
PRODUCT PACKAGING**

- acquisition, 271-272
- • automatic protection, 271
- • international protection, 271
- • registration is permissive and unnecessary, 271
- compilations, 274
- • copyright protection independent from copyright subsisting in parts, 274
- • defined, 274
- derivative works, 274-275
- • consent of author, 275
- • sufficient skill and judgment, 274-275
- fixation, 273-274
- • capable of identification, 273
- • character of reasonable substance or permanence, 273
- • expressed in material form, 273
- generally, 271-275
- originality, 272-273
- • exercise of skill and judgment, 272-273
- • no entitlement to monopoly, 273

COPYRIGHT PROTECTION —**BRAND ADVERTISING**, *see also* BRAND ADVERTISING

- generally, 303-304
- ownership, 303
- parodies, 303-304

COPYRIGHT PROTECTION —**PRODUCT PACKAGING**, *see also* PRODUCT PACKAGING

- artistic works, *see* ARTISTIC WORKS
- assignment, *see* ASSIGNMENT OF COPYRIGHT
- copyright generally, *see* COPYRIGHT
- infringement, *see* INFRINGEMENT OF COPYRIGHT
- literary works, *see* LITERARY WORKS
- marking, 280
- • advantages of, 280
- • copyright notice is permissive, 280
- moral rights, *see* MORAL RIGHTS
- ownership, *see* OWNERSHIP OF COPYRIGHT
- registration, *see* REGISTRATION OF COPYRIGHT
- term of protection, 280-281

CRIMINAL OFFENCE, *see also***ENFORCEMENT OF BRAND NAMES**

- *Combating Counterfeit Products Act*, 24-25, 217
- s. 51.01 of *Trade-marks Act*, 222-224

DISTINGUISHING GUISE, *see**also* PRODUCT SHAPE AND APPEARANCE

- defined, 238
- generally, 238-241
- registration, 238-241

DOMAIN NAME SYSTEM, *see**also* INTERNET BRANDING

- generally, 72-75
- Internet Corporation for Assigned Names and Numbers (ICANN), 74

DOMAIN NAME SYSTEM (*cont'd*)

- Top Level Domains (TLDs), 72-75, 75-77

DOMAIN NAMES, *see also* INTERNET BRANDING

- availability, 77-78
- • assessment, 77
- • registration system, 77-78
- • WHOIS search, 78
- generally, 77-84
- management, 82-84
- • generic contact information, 83
- • guidelines, 83
- • ongoing issues, 82-83
- • proactive management, 84
- • recovery policy, 84
- • search for similar or confusing domain names, 83
- protecting domain names as trade marks, 84
- registration, 78-82
- • Canadian presence requirements, 80-81
- • compliance, 80
- • policies, 79-81
- • procedure, 79

ENFORCEMENT OF BRAND NAMES

- border enforcement regime, *see* BORDER ENFORCEMENT
- confusing trade marks, *see* CONFUSING TRADE MARKS
- criminal offence, *see* CRIMINAL OFFENCE
- introduction, 179
- opposition proceedings, *see* OPPOSITION PROCEEDINGS
- passing off, *see* PASSING OFF
- summary and checklist, 235-236

- trade mark infringement, *see* TRADE MARK INFRINGEMENT

EXPUNGEMENT, *see also* TRADE MARK REGISTRATION — BRAND NAMES

- absence of use, 166-167
 - • circumstances excusing, 167
 - appeal to Federal Court, 168-169
 - decision, 167-168
 - evidence, 163-165
 - • affidavits or statutory declarations, 163-164
 - • evidence of use, 163-165
 - Federal Court, 169-176
 - • application procedure, 162
 - • jurisdiction over register, 169-170
 - • person interested, 170-171
 - generally, 161-169
 - grounds for expungement, 172-176
 - • abandonment, 175-176
 - • lack of entitlement, 176
 - • non-statutory grounds for invalidity, 173
 - • not distinctive, 174-175
 - • not registrable, 173-174
 - • statutory grounds for invalidity, 172-173
 - limitations, 171-172
 - s. 45 of *Trade-marks Act*, 161-163
 - • issues to consider, 162
 - • purpose of section, 162
 - • summary proceedings, 161-162
- GET-UP OF GOODS, *see* TRADE DRESS OR GET-UP OF GOODS**
- INDUSTRIAL DESIGNS, *see also* PRODUCT SHAPE AND APPEARANCE**
- amendment of register, 258-259
 - • expungement, 259
 - • statutory provisions, 258-259

INDUSTRIAL DESIGNS (*cont'd*)

- amendments to *Industrial Design Act*, 241
- appeal to and be judged solely by eye, 243-244
- applications, 252-254
 - • design requirements, 253
 - • examination by examiner, 253
 - • replies and appeals, 254
 - • required documents and information, 252-253
- assignment and licence, 257-258
 - • registration, 258
 - • requirements, 257-258
- basic elements of design, 241-243
 - • colour not design feature, 243
 - • exceptions to protection, 242
 - • *Industrial Design Act*, 241-243
 - • pattern and ornament, 243
 - • shape and configuration, 242
- generally, 241-246
- infringement, 259-262
 - • action for infringement, 260
 - • determining infringement, 260-261
 - • exclusive right, 259-261
- marking, 255-256
 - • indicating industrial design registration, 255-256
 - • precludes lack of knowledge defence, 256
- originality, 249-251
 - • determining, 250
 - • ordinary trade variants, 251
 - • required for design registration, 249
 - • when assessed, 251
- other intellectual property rights, in relation to, 246-249
 - • copyright, 246-249
 - • patents, 249
 - • trade marks, 246
- proprietor, 256-257
 - • designs executed for consideration, 257
 - • first proprietor, 256-257
- protection of separate features, 254
 - • impact on infringement actions, 254
 - • need to describe protected portions, 254
- publication, 251-252
 - • commercial publication, 252
 - • prior publication, 252
 - • registration and, 251-252
- registration, 254-255
 - • certificate of registration, 255
 - • exclusive right, 254-255
- sets and kits, 245-246
 - • conditions for protection, 245
 - • defined, 245
- term of protection, 258
- useful article dictated solely by utilitarian function, 244-245
 - • no protection for features applied to, 244
 - • useful article, 244
 - • utilitarian function, 244

INFRINGEMENT OF**COPYRIGHT**, *see also***COPYRIGHT PROTECTION —
PRODUCT PACKAGING**

- border enforcement measures, 296-297
- direct infringement, 294-295
- generally, 294-297
- secondary infringement, 295-296

INTERNATIONAL**CONSIDERATIONS, *see also*
BRAND NAME, SELECTION OF**

- brand image, 21
- brand names, 20-21
- • cultural and linguistic issues, 21
- • design presentation, 21
- • legal issues, 21
- generally, 20-21

INTERNET BRANDING

- domain name system, *see* DOMAIN NAME SYSTEM
- domain names, *see* DOMAIN NAMES
- internet concerns, *see* INTERNET CONCERNS
- internet generally, 72
- introduction, 69-72
- • advantages of internet, 69-70
- • coordination with traditional branding, 71
- • successful brand development, 70-71
- summary and checklist, 129-130

**INTERNET CONCERNS, *see also*
INTERNET BRANDING**

- actions in courts, 86-87
- *Anticybersquatting Consumer Protection Act (ACPA)*, 101
- anti-spam legislation, 117-126
- • altering transmission data, 123
- • basic rule, 118
- • *CASL*, 117
- • commercial electronic message, 117-118
- • compliance programs, 126
- • computer programs, 123-124
- • full exceptions, 119-121
- • implied consent, 122-123
- • partial exceptions, 121-122

- • penalties for non-compliance and enforcement, 125-126
- • seeking consent, 119
- • transitional provisions, 124-125
- Canadian Internet Registration Authority's Dispute Resolution Policy (CDRP), 92-95
- • applicability, 92-94
- • remedies, 95
- criticism or gripe sites, 103-105
- • cybersmearing, 103
- • possible responses, 103-105
- cybersquatting and related problems, 85-86
- framing, 110
- generally, 85-129
- jurisdictional issues, 110-114
- • dealing with potential liability, 114
- • lack of territorial boundaries, 111
- • real and substantial connection test, 111-112
- • sufficient connection to Canada, 111
- • United States, 112-113
- keywords, 107-108
- linking, 109-110
- metatags, 105-107
- mouse trapping, 105
- phishing and related problems, 101-102
- • potential safeguards, 101-102
- pop-up advertisements, 105
- privacy issues, 115-117
- • compliant privacy policies, 116
- • *Personal Information Protection and Electronic Documents Act (PIPEDA)*, 115-117
- sale of counterfeits on internet, 102-103
- search engine rankings, 109

INTERNET CONCERNS (*cont'd*)

- social media, 126-129
 - generally, 126-127
 - hash tags, 127
 - summary, 129
 - trademark claims, 128-129
 - unauthorized or negative publicity, 127-128
 - user names, 127
- Uniform Domain Name Dispute Resolution Policy (UDRP), 87-91
 - complaints, 88-90
 - development, 87
 - evidence of bad faith, 89
 - remedies, 90-91
- Uniform Rapid Suspension System (URS), 95-101
 - grounds for complaint, 96-97
 - procedure, 97-101

LITERARY WORKS, *see also* COPYRIGHT PROTECTION — PRODUCT PACKAGING

- expressed in print or writing, 275
- generally, 275-276
- literary quality or merit not relevant, 275
- originality, 275
- rights associated with literary work, 275-276

MISLEADING ADVERTISING, *see also* BRAND ADVERTISING

- access to competition tribunal, 313
- correction notices, 316-317
- criminal offences, 307-309
- generally, 305-323
- introduction, 305
- legislative framework, 305-307
- misleading price representations, 320-323
- misleading representations, 313-316

- product performance claims, 317-319
- remedies for reviewable matters, 311-313
- responsibility for representations, 310-311
- reviewable matters, 309-310

MORAL RIGHTS, *see also* COPYRIGHT PROTECTION — PRODUCT PACKAGING

- generally, 290-291
- not assignable, 291
- right of integrity, 290
- right to be associated with work or to remain anonymous, 290-291
- waiver of rights, 291

OPPOSITION PROCEEDINGS, *see also* ENFORCEMENT OF BRAND NAMES

- appeal to Federal Court, 208-210
 - availability, 208
 - notice of appeal, 208
 - sole method of judicial intervention, 210
 - standard of review, 209-210
- evidence, 202-206
 - experts and non-experts, 205, 206
 - format, 204
 - further evidence adduced with leave, 203
 - necessity and reliability, 204
 - onus of proof, 203
 - previous use of mark, 203
 - settlement discussions, 206
 - time to file and serve, 202
 - unlawful marks, 206
- generally, 195-210
- hearing, 206-208
 - decision and reasons for decision, 207-208

OPPOSITION**PROCEEDINGS** (*cont'd*)

- • oral arguments, 207
- • written arguments, 206-207
- instituting opposition, 195-202
 - • grounds for opposition, 196-199
 - • monitoring applications advertised in *Trade-marks Journal*, 195
 - • statement of opposition, 195-196, 199-201

OWNERSHIP OF COPYRIGHT,
see also **COPYRIGHT**
PROTECTION — PRODUCT
PACKAGING

- author, 282
- compilations, 283
- computer generated works, 282
- contracts of service, 287-290
 - • absence of agreement to contrary, 290
 - • control test, 288-289
 - • economic reality test, 289-290
 - • organization or integration test, 289
 - • work must be made in course of employment, 290
- engravings, 286-287
 - • engravings made after November 7, 2012, 287
 - • engravings made before November 7, 2012, 286-287
- general principle, 281-282
- generally, 281-290
- photographs, 283-286
 - • photographs made before November 7, 2012, 286
 - • photographs made before November 7, 2012, 283-285
- sketches and drawings, 287

PASSING OFF, *see also***ENFORCEMENT OF BRAND NAMES**

- basis of action, 224-227
 - • elements to prove, 224-225
 - • development of tort, 225-226
 - • misrepresentation and resultant confusion, 224
 - • passing off action vs. infringement action, 226-227
- damage, 231
- defences, 231-234
 - • consent, 234
 - • descriptive trade marks, 232-233
 - • functionality, 233
 - • geographical words, 233
 - • loss of distinctiveness, 233
 - • plaintiff's own wares, 231-232
 - • use of defendant's own name, 234
- use of registered trade mark, 234
- generally, 222-234
- misrepresentation, 230-231
 - • examples of, 230
 - • required proof, 230-231
- reputation or goodwill, 229-230
- importance of proving, 229
- statutory codification of tort, 227-229

PRODUCT PACKAGING

- introduction, 269-270
- protection under *Copyright Act*, *see* **COPYRIGHT PROTECTION — PRODUCT PACKAGING**
- registration under *Trade-marks Act*, *see* **TRADE MARK PROTECTION — PRODUCT PACKAGING**
- summary and checklist, 297-299

PRODUCT SHAPE AND APPEARANCE

- distinguishing guise, *see* DISTINGUISHING GUISE
- industrial designs, *see* INDUSTRIAL DESIGNS
- introduction, 237-238
- primary methods of protection, 238
 - passing off action, 238
 - registration under *Industrial Design Act*, 238
 - registration under *Trade-marks Act* as distinguishing guise, 238
- summary and checklist, 266-267
- trade dress or get-up of goods, *see* TRADE DRESS OR GET-UP OF GOODS

REGISTRABILITY OF BRAND NAMES AS TRADE MARKS, *see also* BRAND NAME, SELECTION OF

- characteristics precluding registration, 54-55
- confusing with registered trade mark, 65-66
 - associated trade marks, 65
 - surrounding circumstances, 65
- descriptive or deceptively misdescriptive trade marks, 56-62
 - coined or invented words, 60-61
 - conditions of or persons employed in production of wares, 61
 - disclaimer, 62
 - general principles, 56-60
 - geographical words, 61
 - suggestive words, 60
- generally, 54-66
- names of wares or services, 64
 - genericization, 64
 - in any language, 64

- portion of name, 64
- primarily merely name or surname, 55-56
 - determining whether, 55
- prohibited trade marks, 66
- secondary meaning, 62-64
 - acquired distinctiveness, determination of, 62
 - burden of proving, 63
 - registration, 62-63

REGISTRATION OF COPYRIGHT, *see also* COPYRIGHT PROTECTION — PRODUCT PACKAGING

- effect of registration, 278-280
- generally, 278-280
- permissive and unnecessary, 271, 278

TRADE DRESS OR GET-UP OF GOODS, *see also* PRODUCT SHAPE AND APPEARANCE, PASSING OFF

- common to trade, 265
- functionality, 265
- generally, 262-266
- similarity of get-up, 263-265
- substitution of goods, 266

TRADE MARK INFRINGEMENT, *see also* ENFORCEMENT OF BRAND NAMES

- concept, 210-215
 - burden of proof, 214
 - border enforcement, 211-213
 - declaration of non-infringement, 215
 - establishing infringement, 212-213
 - exceptions, 213
 - generally, 210-211
 - infringement action vs. passing off action, 214-215

TRADE MARK**INFRINGEMENT** (*cont'd*)

- infringement proceedings, 211-214
- depreciating value of goodwill attached to trade mark, 214, 215-217
 - establishing depreciation, 217
 - generally, 215-217
 - test to be used, 216
- generally, 210-217

TRADE MARK PROTECTION —**BRAND ADVERTISING**, *see also* BRAND ADVERTISING

- advertising as whole not protected, 302
- generally, 302-303
- parodies, 303
- slogans and taglines, 302-303

TRADE MARK PROTECTION —**PRODUCT PACKAGING**, *see also* PRODUCT PACKAGING

- added protection, 270-271
- generally, 270-271
- practical problems with registration, 270
 - determining what constitutes trade mark, 270
 - disclaimers, 270
 - label presentation changes, 270

TRADE MARK PROTECTION IN CANADA, *see also* BRAND NAME, SELECTION OF

- amendments to Trade-marks Act, 24, 25-38
 - applications, 31-32
 - associated trademarks, 36
 - broadened scope of applications, 27-28
 - certification marks, 26
 - changes in nomenclature, 25-26

- claiming Convention priority, 32
- correction of errors, 35-36
- distinctiveness, 26-27
- distinguishing guise, 27
- divisional applications, 34
- entitlement, 28-29
- Nice Classification, 30-31
- no more declarations of use, 35
- not to limit any art or industry, 29
 - oppositions, 33-34
 - registration without use, 25
 - regulations, 37-38
 - section 45, 36
 - term of protection, 37
 - transfer of trademarks, 36
 - utilitarian function, 29-30
- *Combating Counterfeit Products Act*, 24-25
 - generally, 21-24
 - Canadian Intellectual Property Office proposals, 23-24
 - common law, 22
 - Quebec, 22-23
 - *Trade-marks Act*, 22

TRADE MARK**REGISTRATION — BRAND NAMES**

- acquisition of rights, *see* TRADE MARK RIGHTS, ACQUISITION OF
- applications for registration, 148-153
 - advertisement, 153
 - colours, 150-151
 - disclaimer, 152-153
 - examination procedure, 151-152
 - required information, 148-150
 - sound marks, 151
- assignments, 157-159

TRADE MARK REGISTRATION —

BRAND NAMES (*cont'd*)

- deemed separate ownership and separate registration, 159
- generally, 157
- loss of distinctiveness, 157-158
- registration not necessary for enforcement of rights, 158-159
- territorial assignments, 158
- transferability, 157
- expungement, *see* EXPUNGEMENT
- introduction, 131-133
 - benefits of registration, 132-133
 - common law rights, 131
 - *Trade-marks Act* public registry system, 131
- licences, 159-161
 - amendments to *Trade-marks Act*, 159
 - control by trade mark owner, importance of, 160
 - general rule at common law and under earlier legislation, 159-160
 - generally, 157
 - instituting infringement proceedings, 161
 - no fiduciary duty, 161
 - permitted use, 159
- marks registered and used abroad, 146-147
 - foreign filing date, 147
 - obstacles to registration, 146-147
 - priority date for application, 147
- marks used or made known in Canada, 145-146
 - obstacles to registration, 145
 - priority date for application, 146
 - rights of first user, 146
- proposed use marks, 147-148
 - obstacles to registration, 147-148
 - priority date for application, 148

- registration, 153-157
 - allowance, 153-154
 - effect of registration, 154
 - expungement requirements, 155-156
 - incontestable registration, 156
 - invalidity, grounds for, 155-156
 - marking, 154-155
 - registration of concurrent rights, 156
 - term of protection and renewal, 156-157
 - trade mark notice, advantages of, 155
- summary and checklist, 177-178
- trade mark use, *see* USE

**TRADE MARK RIGHTS,
ACQUISITION OF, *see also*
TRADE MARK
REGISTRATION — BRAND
NAMES**

- adoption, 133-134
- generally, 133-138
- making known, 134-135
- proposed use, 135-136
- trade marks registered abroad, 136-138

**USE, *see also* TRADE MARK
REGISTRATION — BRAND
NAMES**

- concept of use, 138-140
 - business-oriented rules, 139-140
 - deemed use, 138-139
 - deviating use, 143-144
 - degree of deviation, 144
 - potential expungement, 143-144
 - use in conjunction, 144
- exported wares, 143
- generally, 138-144
- services, 142-143

USE (*cont'd*)

- wares, 140-142
- • deemed use, 140
- • requirements for showing use,
140-141

