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ARTICLES

Passing Off in the UK: A Normal Expansion or an Undue Extension? – *Mohammad Amin Naser*

The core merit of the tort of passing off in the UK lies in its dual purpose of protecting the public and the owner of the goodwill. This dual purpose is best manifested in the so-called “classic trinity” of passing off, which requires the existence of goodwill, misrepresentation, and likelihood of damage. It is suggested by this paper that the British courts, with time, have deviated the tort of passing off from its basic aims and purposes, by abandoning the “classic trinity”, which resulted in an undue extension of this tort. This article is a call to return to the basics of passing off in order for it to restore its just and attractive image. Yet, any reform in this area of law should take into consideration the “classic trinity” and the interests which this trinity aims to preserve. 4

Critical Examination of the Concepts of Same Description and Closely Related in Australian Trade Marks Law: What are the Relevant Tests? – *Janice Luck*

Several provisions in the *Trade Marks Act 1995* (Cth) require a determination on whether goods are of the same description or whether services are of the same description or whether goods and services are closely related. The most important provisions are s 44(1) and (2) and s 120(2) where the same description and closely related concepts are used to extend these provisions beyond the goods and services for which a trade mark is registered or sought to be registered. The same description and closely related concepts are thus important concepts in Australian trade marks law but they have never been legislatively defined. This article analyses much of the Australian case law considering these concepts in an endeavour to ascertain what are or should be the tests to determine whether goods or services are of the same description or are closely related. 18

