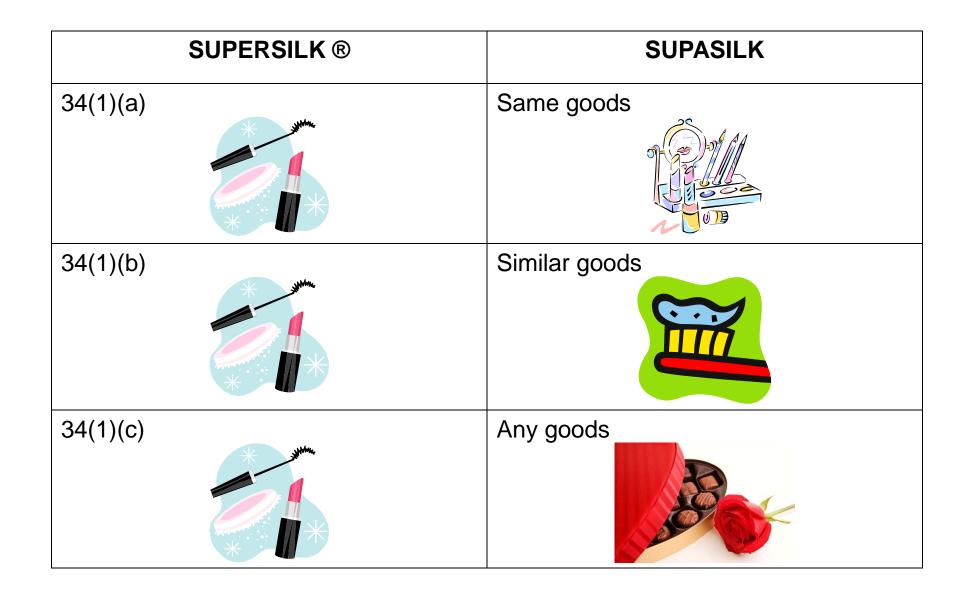
## **INFRINGEMENT OF A TRADE MARK** (ss 34(1) & 35)

## Section 34(1)

Sec 34 (1)	(a)	Registered in SA	unauthorised use	Same or similar mark	Same goods or services	Likelihood of deception or confusion	
	(b)	Registered in SA	unauthorised use	Same or similar mark	Similar goods or services	Likelihood of deception or confusion	
	(c)	Registered in SA + WELL KNOWN	unauthorised use	Same or similar mark	Any goods or services (usually not similar)		Likely to take <b>unfair</b> <b>advantage</b> of, OR be detrimental to the distinctive character or <b>repute</b>



## Section 34(1)(c) vs Section 35

Sec 34 (1) (c) e.g. SU	Registered in SA + WELL KNOWN	Un- authorised use metics / SUPASI	Same or similar mark LK for chocolates (Activity 50	Any goods or services		Likely to take <b>unfair</b> <b>advantage</b> of, OR be detrimental to the distinctive character or <b>repute</b>				
Sec 35	WELL KNOWN (not registered in SA)	Un- authorised use	Reproduction/ imitation/ translation	Similar goods or services	Likelihood of deception or confusion					
e.g. No (4) of the summary activity on p252 of the study guide: M, a German manufacturer, markets a range of clothing under the mark ROAMER. ROAMER is not registered in South Africa but has become well known here as a result of extensive advertising in overseas fashion magazines which are circulated in South Africa. M discovers that P has commenced using the mark ROMA on clothing. Can M stop P from using the ROMA mark on clothing?										