

Thesis Title : Protection of Trade name Similar to Trade mark
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Degree : Master of Laws (Business Laws)
Academic Year : 2011
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ABSTRACT

Currently, there is no explicit protection measure or legislation concerning the repetitive use of trade name with trademark. It would be great if the enactment of legal measure is made so that trade name will be protected under the Thai Trade Mark Act.

This study therefore is aimed to study the protection of trade name in Thailand. According to the findings, there is currently insufficient legislation to protect trade name. When the controversy occurs in the case that an entrepreneur's trade name is repeatedly used by other's trademark, there are merely sections 5, 18, 420, and 421 of the Civil and Commercial Code as well as section 272 of the Criminal Law are applied, which are not quite relevant to reach a settlement. Unlike the existing provisions applied to the case mentioned above, whenever the trademark infringement is found, the Trademark Act B.E.2534 is effectively applied. This can be supported by the implementation of trademark law when a trademark which obtains by used or registered is infringed from repeatedly used by other entrepreneur's trade name; which certainly causes confusing similarity and reputation damage to such trademark.

With respect to the study, there is not yet an explicit law to protect the trade name, when the trade name is repeatedly use by the trademark. As a result, recommendations on this problem are proposed. Provisions concerning Trade name protection should be imposed in sections 6 and

7, Part One, Chapter One entitled Registration of Trademark under the Trademark Act. Trade name should be registered as trademark if it has distinctive character. In the other words, trade name must not be the same as or similar to the trademark registered by another person and it must be distinctive to function as a trademark. Invented letter and vivid design should be optionally made to acquire distinctiveness. In addition, section 8 of the Trademark Act should be applied to protect trade name in terms of registrable trademark in order to meet efficiency protection as well as same principle applied in foreign laws.