

Thesis Title : Trademarks as Commercial Securities

Author Name : Mr. Natthawut Chinpraditsuk

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Advisory Committee:

1. Assoc.Prof. Nattapong Posakabutra Chairperson

2. Dr. Wariya Lamlert Member

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## ABSTRACT

Due to the business expansion in these present days, it is taking up the necessity of bringing forth some types of intellectual property rights namely trademark to be a commercial security. Nonetheless, the rights in trademark as a commercial security are not basically approved under the Thai Civil and Commercial Code, which merely deals with the general commercial security. Thus, there is no provision relates to the rights in trademark as a commercial security in the Thai Civil and Commercial Code. As a result, this thesis aims to examine in two main issues: (1) to study the nature of rights in trademark and how it can be used as a commercial security; and (2) to analyze the problems arising from using trademark as a commercial security.

It is found in this thesis that there is currently no provision and legislation relating to bring trademark as a commercial security. However, according to the analysis of advantages and disadvantages of bringing forth trademark as a commercial security, the researcher is convinced that trademark should be used as a commercial security. Notwithstanding, to use trademark as a commercial security can pointedly cause the problem on the appraisal cost and the execution. Since the right in trademark is an intangible property, when it is used as a commercial security; it is in doubt as to whether what the measure should be used to estimate the value of right in trademark. In the event where the execution adopted when the debtor is in default, because the rights in trademark are not used as a commercial security by the means of mortgage or pledge, the provisions relating to mortgage or pledge under the Thai Civil and Commercial Code cannot be applied in such cases. This can cause the question that how to execute the debtor if he defaults.

The researcher proposes the recommendations namely (1) enacting the law applied to bring the trademark as a commercial security; and (2) setting the restrictions about the appraisal cost of trademark and the execution. The draft created by the Department of Intellectual Property can be a useful guideline for trademark appraisal cost. In the case of the execution, the law should be enacted that when the debtor is in default, the creditor is eligible to take an action to the court in order to be granted the court's order regarding the name must be changed by registration in favor of the creditor.

