

Independent Study Title : Right Holder Protection: A Case Study of Parallel Import
on Intellectual Property

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ABSTRACT

The objective of this independent study is to examine the right holders' protection concerning the parallel import on their intellectual properties. Parallel import puts an effect to the national economy in term of unfair competition, progressive development, and balancing interest of stakeholders. At present, it seems to understand that while the provisions of intellectual property laws granted to protect the public interest by allowing the parallel import, the legitimate right holder interest is dramatically ignored. Accordingly, this study aims to analyze the problem found in Thailand with the comparison to the case analyzed in other foreign countries. Additionally, the guidelines which will be the potential solutions to such problems are proposed in order that the appropriation of parallel importation and balancing interest amongst the stakeholders will be in good order.

According to the findings, there are currently neither no specific rules to restrict the parallel import or a principle to determine the right holder's consent. Additionally, there is no furtherance of the establishment of the organization to protect parallel importation in Thailand. In comparison, United States of America grants the potential provisions to sustain the legitimate right of the right holders in case of the permission of parallel importation in the territory. Not only in U.S.A the provisions concerning parallel import granted, there are many countries comprehend the importance of the restriction of parallel import in order to uphold the rights in the intellectual property. Thus, it would be disadvantaged if Thailand does not provide the restrictions regarding parallel import.

This study concludes with the recommendations on the problems found. The postulation of the terms and conditions to determine the appropriate parallel importation is timely considered. By

flexibly applying the exhaustion of rights in intellectual property, effectively adding the criteria of the right holder's consent in parallel import, and establishing the organization to well control the parallel import in Thailand, the problems found presented in this study will be systematically solved. Additionally, these proposed solutions can be helpful to protect the right holder interest and at the meantime the public interest will also be protected so that the balancing interests between individuals and state will be productive.

