

Independent Study Title : The Overlapping Protections of Product  
Design Patent and Copyright Law  
Author : Mr. Suparak Toomkosita  
Degree : Master of Laws (Business Law)  
Academic : 2006  
Advisor : Mr. Sthianrapab Naluang

---

## ABSTRACT

Product design can be protected under Copyright Act B.E.2537 section 4 (7), 6 and Patent Act. B.E.2522, section 56 causes the problems of overlapping protection in design work because in Thailand, there is no prohibition by law to limit the protection. Currently, artistic works can be protected under Copyright Act B.E.2537 and Patent Act B.E.2522. This causes the problems of overlapping protection.

The overall objective of this research is to focus on the problems of the overlapping protection between products design patent and copyright in Thailand in order to discover the proper methodology to be the alternative guideline to solve the problems.

The method that was used to the research is the comparison between the protections between products design patent and copyright in the developed country such as United State of America and United Kingdom and the current protections between products design patent and copyright in Thailand.

The research found that characteristics of overlapping protection that happens afterward: the proprietor broadens his right claiming that provisions of law do not prohibit such action. This is the problem caused by Copyright and Patent Law. For example, Figurative elements include both copyright law for applied art with patent law in design for Figurative elements.

These problems lead to methods of solutions providing suggestions in problem solving concerning overlap protection. Two basic solutions appear below:

### 1. Department of Intellectual Property

Department of Intellectual Property as an administrator of the entire systems of Intellectual property law whose officials communicate and encourage people to know, maintain and protect their own intellectual property rights. It is the initiator to systemize the administration of laws by the authority given by law to administer as well as to set the procedure. This strategy will be made it understandable and obvious in terms of the protection as basic law enforcement in order to prevent overlapping protection which leads to excessive protection that can be unfair to public.

### 2. Amendment of Laws

Solution by amending the laws regarding the overlap protection of Copyright, Patent and Laws can be effective but they take an enormous effort and time. For the administration of law to be in accordance with the modern principles, it becomes necessary to amend the laws. This can be done by writing of laws to prevent, systemize the laws by bring together the intellectual property laws. The solution aims to adapt the law of Copyright and Patent to work in the same direction. That is to lay the fundamental restrictions for protection of rights by stating the obvious exceptions in order to eliminate the claim of “the law does not prohibit of such action”.