

ORIGINAL ARTICLE



Perceived Benefits of Trademark Infringement Law to Thai Sports Industry

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ABSTRACT

Background. The sports industry is comprised of a multitude of for-profit and non-profit organizations. It is therefore unsurprising that there are disputes between organizations and that some of these disputes center on the use of trademarks. **Objectives.** This study seeks to identify the perceived benefits of trademark infringement law in the Thai sports industry. **Methods.** This study employed a mixed-method design. In the quantitative phase was characterized by an initial quantitative phase of data collection by the questionnaire with 300 participants by selecting through non-probability sampling, and analyzed with the descriptive statistic and factor analysis research method. In the qualitative phase, two people with legal expertise, two entrepreneurs, and two consumers participated in semi-structured interviews. **Results.** The results of the quantitative phase identified seven key components: 1) Ethics; 2) Needs; 3) Attitudes and values; 4) Product; 5) Society; 6) Law and 7) Economics with a total cumulative variance of 71.957 percent. The qualitative data confirmed the quantitative findings. **Conclusion.** An improved understanding and application of trademark infringement law would benefit the Thai sports industry.

KEYWORDS: *Trademarks, Sports Industry, Sports Law, Sports Economy, Sports Products, Sports Society, Sports Ethic, Infringement*

INTRODUCTION

The sport industry is comprised of a multitude of organizations. It is therefore unsurprising that there are conflicts between organizations (1) and that some of these disputes center on the use of trademarks. Efficiency in law means upholding the process of law enforcement with fairness under the rule of law (2). This concept of efficiency is pertinent to trademark law inside out outside of sport (3). Trademark infringement in sport is an economic crime due to changes from globalization and the information technology era, and these changes cause violations to occur very quickly which has led to the continuous development of so-called intellectual property (4). Creating intellectual property requires a lot of effort, skill, and resources (5). Inventing and creating are critical for a prosperous industry (6). Furthermore, trademarks are powerful and indispensable marketing

tools. In the world of sports, their strategic use opens up significant commercial opportunities to generate income (7). Nowadays we rarely see a sport event without sponsorship. In most local or international sports events, sponsors have an important role and position (8), and this is also the benefit for the company in the issue of marketing strategy for attracting the attendants from many countries (9). The exchange of benefits may also lead to an exchange of brand image. Therefore, a brand sponsoring a property expects the goodwill associated with the property to transfer to the sponsor (8). On the other hand, trademark can cause massive damage to sports businesses, if there's an infringement. There is a concern within Thailand that attitudes towards trademarks are limit the professionalization of Thailand's sports industry. The capacity of Thai sport

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organizations is increasing, in part because of the Thai government policies. This research examines sports trademark infringement law in the Thai sports industry. The purpose of the study is to identify the perceived benefit of trademark infringement law to Thai sports industry.

MATERIALS AND METHODS

This study utilized a mixed method design, beginning with a quantitative phase. This was followed by a qualitative phase using semi-structured interviews.

Quantitative Study

Participants. Three hundred people completed the quantitative survey. The sample was comprised of 100 people with legal expertise (i.e., judges, police officers, and intellectual property officers), 100 entrepreneurs and 100 consumers. All were selected through non-probability sampling.

Instrument. The researcher developed a questionnaire based on the previous literature. The survey consisted of external factors (economic, social, law, product, and attitude and value) and internal factors (ethics and needs) related to the perceived benefits of the trademark infringement law. The final survey comprised 33 items. The content validity of this survey was determined through Item-Objective Congruence (IOC) (10). Furthermore, the reliability was .85 (Cronbach's Alpha Coefficient). Questionnaires including 5 points of strongly agree, agree, neither agree nor disagree, disagree, strongly disagree.

Analysis. The quantitative data was analyzed through descriptive statistics including frequency, mean and standard deviation. The suitability of the data for factor analysis was measured using the Kaiser-Meyer-Olkin (KMO) statistic. A significance level of .05 was used for the Bartlett's Test of Sphericity (11).

Qualitative Study

Participants. The six participants included two people with legal expertise, two entrepreneurs and two

consumers. Participants were again recruited using purposive sampling.

Procedures. The researchers discussed the findings from the quantitative process with the six participants. A semi-structured interview protocol guided the interview.

RESULTS

The factor analysis studied the correlation between the variable and the component for priority the factors. This was a two-step process.

Step 1. Verifying the fundamental data before analyzing the components in order to see the correlation of the information for analyzing by considering the fit of the data which was the statistic of Kaiser-Meyer-Olkin (KMO) and the statistic of Bartlett's Test. Table 1 shows the testing result of KMO and Bartlett's Test of analyzing the perceived benefits of trademark infringement law.

Table 1. The testing result of KMO and Bartlett's Test

Kaiser-Meyer-Olkin Measure of Sampling Adequacy	0.915
Bartlett's test of sphericity	
Approx. chi-square	7270.439
Df	528
Sig	0.000

Table 1 shows that Kaiser-Meyer-Olkin (KMO) equaled 0.915 which means the data and the variable were related, and could be used the data for the hypothesis testing (Bartlett's Test of Sphericity). The Chi-square value equals 7270.439, and the statically significant at 0.00 which was less than 0.5. It also showed that the correlation matrix of the variables was related.

The factor analysis on the use of the trademark infringement law among sports-industry stakeholders is shown in Table 2.

Table 2. Seven Components Identified Through Factor Analysis

Component	Eigenvalues	Contributing Variance (%)	Cumulative Variance (%)
Ethics	3.904	11.831	11.831
Needs	3.744	11.346	23.178
Attitude and value	3.669	11.117	34.295
Products	3.599	10.905	45.200
Society	3.071	9.306	54.506
Law	3.023	9.160	63.665
Economy	2.736	8.292	71.957

Table 2 shows the extraction of seven primary components by Principal Component Analysis with Eigenvalues ranging from 2.736 - 3.904 with the total cumulative variance of 71.957 percent. From the factor loading results after rotating by orthogonal rotation using the Varimax Method, the analysis showed seven priority components as follows:

Factor 1 was the ethics factor (Eigenvalue: 3.904). Factor 2 was the needs factor (Eigenvalue: 3.744).

Factor 3 was the attitude and value factor (Eigenvalue: 3.669). Factor 4 was the product factor (Eigenvalue: 3.569). Factor 5 was the social factor (Eigenvalue: 3.071). Factor 6 was the law factor (Eigenvalue: 3.023). Factor 7 was the economic factor (Eigenvalue: 2.736).

Step 2. The component rotation was used by orthogonal rotation using the Varimax Method. Refer Table 3 below.

Table 3. The Component Loading of the Factor Analysis

Items	The component loading						
	1	2	3	4	5	6	7
1. The economic factors							
Distributing the product in many levels							0.777
Observing the changing and the trend of the economic growth							0.801
Proceeding the business with caution							0.738
Consulting with the economic specialist							0.561
Studying in the business strategy							0.334
2. The social factors							
Making the member to live peacefully					0.785		
Creating the fairness by allocating the benefits to the member base on their works					0.725		
Driving to have the creative thinking					0.676		
Creating the new innovation for the society growth					0.398		
Creating the awareness to the people in the society, and teaching the kids to behave well					0.700		
The community needs to stop the opportunity of committing the crime					0.421		
3. The law factors							
The interpreting and legislating need to be considered in the law's objective and the constitution right							0.547
When occurs the law's gap, the comparative law, the customary law, the principal of the law should be used							0.502
The law should have the decisive punishment							0.808
Should have the decisive law enforcement for the fairness and equality							0.803
4. The product factors							
Defining the product's standard into the same criteria				0.690			
Defining the details of the trademark infringement product which affects the consumer's buying decision				0.587			
The difficulty to approach the product				0.722			
5. The attitude and the value factors							
Understanding in the product buying selection			0.425				
Never support the infringement consumer			0.558				
Don't have the value in using the world-class product			0.775				
Having a very good attitude for the society			0.695				
Respecting the law			0.661				
Thinking about the society's benefit more than oneself			0.636				
6. The needs factors							
Without using the brand-named product, you can be loved by others		0.771					
Without being the owner of the infringement brand-named product, you can be loved by others		0.791					
Without using the brand-named product, you can be safe and healthy		0.810					
Without using the brand-named product, you can be the famous athlete		0.768					
7. The morale and the ethics factors							
Building the toleration for not to use the trademark infringement product	0.679						
Keep the good moral and ethics as a traditional Thai	0.774						
Living by using the philosophy of the sufficient economy from King Rama 9	0.734						
Strength in physical and mental	0.736						
Keep the good moral and ethics to others	0.733						

Table 3 identifies seven factors. First, the moral and ethics factor consisted of five variables with the component ranging from 0.679 - 0.774. Second, the four needs variables ranged from 0.768 - 0.810. Third, the six attitude variables ranged from 0.425 - 0.775. Fourth, the three product variables ranged from 0.587 - 0.722. Fifth, five society variables ranged from 0.398 - 0.785. Sixth, the four law variables ranged from 0.502 - 0.808. Last, the economic five variables ranged from 0.334 - 0.801.

The qualitative findings verified the seven factors from the quantitative phase. One participant remarked, "The priority ordering of those factors are proper, I do agree with that". Furthermore, the researchers can be concluded into each factor for finding the relation between the quantitative and qualitative parts in this research as follows: The moral and ethics factor which related to the key informant A who said, "The moral

and the ethics factor is very important priority to promote, the related person should set the plan in many stages in the issue of giving the knowledge in the punishment of committing the crimes to people". The needs factor which related to the key informant B who indicated that "Even the expensive product might have the same quality as the trademark infringement product". The attitude and value factor which related to one of the key informant C who expressed that "People should think about the society's benefit more than oneself". The product factor which related to one of the key informant D who revealed that "Easy to find the world-class products with the very good prices because there are so many sport exhibitions these days and the trademark product creates the fundamental relationship between product and consumer" The social factor which related to the key informant E who explained that "Creating the new innovation for the

society growth is the important thing that all the entrepreneurs should do". The law factor which related to the key informant F who discussed that "Some people may not understand the law, but the law supports every department in the organization". The economic factor which related to the key informant G who presented that "The operational obstacle is the limitation which comes from the external environment. Lacking awareness in the difficult time might be affect towards the consumer's buying decision".

DISCUSSION

The findings of this study are consistent with previous research about the factors affecting product infringements of Chiang Mai's teenage consumers. This research showed how different cultural, social, and psychological factors changed product consumption patterns (12).

Component 1 was the ethical consideration, similar to that of the sufficiency economy philosophy (13), the stages of moral development (14), the moral intelligence theory (15), the locus of control theory (16). This finding is supported by a previous study which concluded with a discussion of how to use of these trademark does not fulfill the three principles of social responsibility which are human dignity, truth-telling, and nonmaleficence (17).

Component 2 is concerned with needs, as seen in economic development theory (18), and Maslow's Hierarchy of Needs (19). These needs defined essentials of living, such as the needs to be accepted by friends, the needs to be famous, and the needs to be healthy and secure. There is support from previous research which shows that the satisfaction of each higher-level need was statistically predicted by the satisfaction of the need immediately below it (20).

Component 3 concerned attitudes and values, as part of social learning theory (21) which deals with the level of acceptance of ideas. According to Gregory and James (22) values are an important predictor of attitudes and behavioral intentions.

Component 4 concerned the product, as seen in marketing theory and practice (23) which involved setting product standards and distinguishing one's product. Trademark infringement can enhance consumer confusion and subsequently impact consumer decision making. Furthermore, it is also relevant to another study which found that moderately famous sport trademarks suffered dilutive harm from customers, whereas exceptionally famous marks were immune to dilution effects (24).

Component 5 is concerned the social implications of the law as seen in the social exchange theory (25), and the structural-functional approach (26). It is supported by previous research which identified several key mechanisms to help increase customers' trust of e-commerce and decrease privacy concerns (27).

The previous article provided an introduction to the jurisprudence of trademark law particularly related to

sport properties or organizations and the use of survey evidence in trademark litigation (28). This relates to Component 6 and the nature of the legal framework as seen in hermeneutics theory and the interpretation of legal theory (29).

The previous study of Chapagai (30) supported Component 7 and the effect on the economy (18). Economic perspectives of trademark were also relevant to many types of Nepalese businesses, including manufacturing, services and entrepreneurship (18).

CONCLUSION

From the research's findings, it can be concluded that the moral issue was one of the very important factors. This not surprising because if every person was guided by morals, then infringements are not likely to occur. Another important point is the fundamental relationship between the law and marketing (31). From the marketer's perspective trademarks and brands cannot be separated. A brand is as the representative of a company image, which builds and develops over time by creating trust, while a trademark provides legal protection for the brand (32).

A major method in reducing the trademark infringement in Thailand is to respect the law, and apart from anything else, Thai people should follow King Bhumibol Adulyadej Rama 9's philosophy which has been proved that it is a good thing and useable, and also each country shall to adapt this theory into their own context (13). Moreover, the government should arrange practical seminar training providing knowledge to stakeholders in Thailand, and facilitate meetings with specialists and academics which informs stakeholders of policies and practical guidelines useful for Asia-Pacific Economic country members. In the end, the government should campaign against the sale and purchase of trademark-infringing products.

One limitation of this research was the data gathered came from a limited sample group. To provide future generalizability research should collect the data from a larger, more diverse population. Future research on trademark infringement should consider Thai attitudes towards ambush marketing (33). Another opportunity is understanding the perceived benefits of trademark law in other countries, especially those with more relaxed or more stringent approaches to trademark law.

APPLICABLE REMARKS

- This research is innovative law research because of its empirical foundations.
- The seven priority components enable people and organizations to more easily prioritize tasks to solve infringement law problems.
- An improved understanding and application of trademark infringement law would clearly benefit the Thai sports industry.

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