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WORANUCH SIENGPUDSAR : CANCELLATION OF TRADEMARK REGISTRATION.

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This dissertation has the objective of making a study of the principles of law, their enforcement and practice with respect to the cancellation of trademark registration. The dissertation focuses on the important issues concerning the reason for the cancellation of trademark registration and the development of trademark registration cancellation in Thailand. The dissertation also studies other related issues such as the appropriateness of the five year period for cancellation action against trademark registration on the ground of better title under Section 67 of Trademark Act B.E. 2534, proof of a well-known trademark under Section 8(11) of said Act, the requirement of evidence of trademark use and registration in Thailand for proof of better right, and the burden of proof for trademark use in a court cancellation action against trademark registration on the ground of non-use under Section 63 of said Act. A study is also made of the principles of law under the Trademark Act B.E. 2534 in comparison with those in Trademark Act B.E. 2474 and the Law on Trade Marks and Trade Names of B.E. 2457, as well as international laws and foreign laws.

As a result of the research and study, it is found that the principles and enforcement of law concerning the cancellation of trademark registration in Thailand have developed considerably under the Trademark Act B.E. 2474 with the purpose of granting protection to bona-fide business operators who have used their trademarks prior to others. Thus the right resulting from the prior trademark use, especially with goods in Thailand, prevails over the right resulting from registration. The trend under the Trademark Act B.E. 2534 is to emphasize more on trade development by adopting the legal principles of a well-known trademark. The five year period under Section 67 is appropriate only in the case of the prior registrant which acts in good faith without imitating another person's trademark. This five year period is not appropriate where the prior registrant acts in bad faith and imitates and registers another person's trademark thereby causing unfair trade competition. This five year period should also not apply in the case of a well-known trademark because business operators with ability and good faith should be protected. In case of a cancellation action for non-use the burden of proof of trademark use should be with the registrant because he is well aware of the related facts and evidence.