

ปีการศึกษา.....2547.....ลายมือชื่ออาจารย์ที่ปรึกษา.....*[Signature]*

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JIRAVARAT BUDDHARUNGSRI : THE EXHAUSTION OF INTELLECTUAL PROPERTY :
 INDUSTRIAL PROPERTY : (PATENT, PLANT PATENT AND PLANT VARIETIES).
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The negotiation on intellectual property laws in the Uruguay Round (1989-1993) led to the adoption of the TRIPS Agreement. From international trade law perspective intellectual property are inter-mined with international trade issue. Property right regime also plays a key role in the trade related IP policy. IP-laws-protected goods have both intellectual property rights and ownership rights in themselves. These dual protections lead to the overlapping and conflicting between IP rights and rights relating to ownership. A case at point is whether it is legally permissible for an exclusive distributor to stop parallel import.

This thesis aims to investigate and identify different doctrines which effect the limit and boundaries of aforementioned competing proprietary rights. They are the doctrines of National Exhaustion, Regional Exhaustion and, International Exhaustion. It identifies the type of exhaustion doctrine which is appropriate for Thailand. It investigates legal doctrines relating to intellectual property law and rights relating to ownership, judicial precedents and practices relating exhaustion doctrines in advanced economies. The author also investigates important factors that should be taken into consideration when one has to identify the appropriate type of exhaustion doctrine suitable for Thailand. However, the focus of this thesis is limited to patent, plant patent and plant varieties.

The author concludes that the International Exhaustion Doctrine is the appropriate legal doctrine for Thailand. The reasons are; (1) it is fair to both an IP-Rights holder and an owner of IP-Law protected goods – their interests are well-balanced by the First-Sale Doctrine; (2) it reduces monopoly power of an exclusive distributor and provides Thai end-users with perfect substitute goods at lower price; (3) it provides incentive to Thai end-users to import new and more advanced capital goods and this should led to better technology transfer by mode of capital goods import.

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