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Sejak 2021

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[K Benuf](#), [B Rahmanda](#), [S Mahmudah](#), [A Soemarmi](#)... - U. Pa. J. Int'l L, 2013 - ijsshr.in

This study will describe examples of cases of brand counterfeiting that endanger human health and will analyze how the legal protection for trademark rights holders for brand counterfeiting endangers human health, the comparison of Indonesian law with the United States of America. This research is a normative legal research with a statutory approach and a case approach. The data used is secondary consisting of primary and secondary legal materials. Based on the research results, it is known that examples of brand counterfeiting ...

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Ph.D. (Management Science)
Akintobal Street Agbowo U I Ibadan

“ Senior scientific researcher, Al-Beruni Institute of Oriental Studies, Academy of Sciences of the Republic of Uzbekistan, Tashkent, Uzbekistan



👤 **DR. HAMIDILLO LUTFILLAEV**

Doctor of philosophy in history (Ph.D),
81, Mirzo Ulugbek str. Tashkent 100170

“ Associate Professor of Source Studies and Archival Studies, National University of Uzbekistan named after Mirzo Ulugbek



👤 **DR. KHAYRIYA AMANULLAEVNA BURIEVA**

Ph.D. (Historical Sciences)
Tashkent city, Yashnabad district

“ Senior scientific researcher, Al-Beruni Institute of Oriental Studies, Academy of Sciences of the Republic of Uzbekistan, Tashkent, Uzbekistan



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PhD on historical sciences
Tashkent, Uzbekistan

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INDIA

“ Departmental Exam Officer, English Department,
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DR. IDEGBEKWE, DESTINY

Ph.D(English Studies (Applied English Linguistics)),
Agbor, Delta State

“ Ph.D. Student, Tashkent State University of Oriental
Studies, Tashkent, Uzbekistan



KARIMOV NODIR RAKHMONQULOVICH

Pursuing Ph. D.
Uzbekistan

“ Assistant Professor at Bhilai Mahila Mahavidyalaya -
Bhilai, C.G



DR. M. MADHURI DEVI

Ph.D(Commerce),
C.G. India

“ Faculty of Human Science Sultan Idris Education
University, Malaysia



PROF.DR. MOHD ADERI BIN CHE NOH

PhD: Pedagogy Islamic Education
Malaysia

“ Associate Professor, Surkhandarya regional center for
retraining and advanced training of public educators, head of
the department “Methods of exact and natural sciences”,



DR OYGUL B. BERDIEVA

Ph.D(Pedagogical sciences),
Surkhandarya region, Termez city

“ Acting Associate Professor of “Methods of preschool,
primary and special education” in the Territorial Center for
Retraining and Advanced Training of Public Education in
Surkhandarya region.



DR NIGORA M. KENJABOEVA

Doctor of Philosophy in Pedagogy (PhD)
Termez city, Istiqlol street

“ Faculty Member, Department of English – Aden
University – Southern Yemen



SABRI AL-QUTAIBI

Pursuing Ph. D.(English),
India

“ Assistant Professor in Accounting Bryant University-
BITZ US,China



PROF.DR. MOHD ADERI BIN CHE NOH

Ph.D.: (Accounting and Finance)
US,China

“ Acting Associate Professor of “Social Sciences” Tashkent
State Pedagogical University named after Nizami



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Doctor of Philosophy in Philosophical Sciences,
Tashkent city, Yunusabad district

“ Tashkent Higher Military Technical School of the
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“ Professor in Financial Management Head, Dept. of
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Uzbekistan

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Doctor of Philosophy in Pedagogical Sciences
Tashkent city, Yunusabad district

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Nigeria

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Lapai, Nigeria

“ Department of History Sonapur College Kamrup Metro
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India

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Indonesia

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“ Master of Public Health (community medicine) Course
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Ph.D.(Hotel Management)
Egypt



Professor of the Department of Uzbek Language and Literature of Tashkent State Pedagogical University named after Nizami



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Doctor of Philological Sciences
Tashkent city, Sergeli district,Uzbekistan



Associate Professor of "History and Folklore of Uzbek Literature" Tashkent State University of Uzbek Language and Literature named after Alisher Navoi



DR TOZAGUL RAJAOVNA MATYOKUBOVA
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Malaysia

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Ph.D.
(Mfilou,Brazzaville)

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Geographical Sciences
Tashkent, Uzbekistan

“ Associate Professor, National University of Uzbekistan, Tashkent, Uzbekistan



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Uzbekistan

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Candidate of Historical Sciences
Namangan region, Namangan city,Uzbekistan

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PhD (linguistics)
Ukraine

“ Associate Professor of “History of Uzbekistan”, Faculty of History, National University of Uzbekistan named after Mirzo Ulugbek



DR AKBAR TURGINOVICH ZAMONOV
Doctor of Philosophy in History (PhD)
Tashkent city, Sergeli district,Uzbekistan

“ Associate Professor of “History and Ethnology of the Peoples of Central Asia” Tashkent State University of Oriental Studies



DR IZZATILLA MAKHMUTALIEVICH KHAYDAROV
Ph.D.
Uzbekistan

“ Senior teacher of the department “Methods of teaching history” of Jizzakh State Pedagogical Institute



DR FARRUKH SHAYKATOVICH AQCHAEV
Doctor of Philosophy in History
Jizzakh city, Obod mahalla, I.Karimov street

“ Head of the Department of History of Uzbekistan, Tashkent State Technical University



DR RAKHBAR E. KHALIKOVA
Doctor of Historical Sciences
Tashkent city, Almazar district,

“ Associate Professor of “Organization and Management of Culture and Arts” at the Uzbek State Institute of Arts and Culture



DR DILAFRUZ K. YUSUPALIEVA
Doctor of Philosophy in History
Tashkent city, Mirzo-Ulugbek district,

“ Head of the Department of Social and Economic Sciences, Regional Center for Retraining and Advanced Training of Public Education Workers under the Kashkadarya Region



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Doctor of Historical Sciences
Kashkadarya region, Guzar district,

“ Head of the Department of Theory and Practice of Primary Education of Jizzakh State Pedagogical Institute



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Doctor of Philological Sciences
Jizzakh city, “Navruz” mahalla,

“ Professor, Department of Management Studies, Vivekanandha Institute of Information and Management Studies.



DR. V. MOHANA SUNDARAM
Ph.D.(Management),
INDIA

“ Senior Lecturer, Department of Methods of Teaching History, Navoi State Pedagogical Institute, Doctor of Philosophy (PhD) in History



DR SHAKHNOZA B. KHOLIKULOVA
Doctor of Philosophy in History
Navoi city, Tolstoy street,

“ Tashkent State University of Uzbek Language and Literature



DR SULAYMONKUL A. KHAYDAROV
Doctor of Philosophy in Pedagogical Sciences,
Tashkent city, Chilanzar district

“ Faculty of the College of Business of Divine Word College of Vigan and Divine Word College of Laoag



_ABUN DAMEANUS
Ph.D
Indonesia

“ Professor III (History & English) at Amity Institute of English Studies & Research, Amity University, Noida.



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Ph. D
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Doctor of Philosophy in Economic Sciences
Tashkent city, Chilanzar district



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Bangladesh



Professor, Founder and Director of Miroslaw-Matyja-Academia for Democracy



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Ph.d
USA



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Ph.D
South Africa



Working as Teaching Assistant from Institute of Agricultural & Resource Economics, University of Agriculture, Faisalabad"



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Ph.D
INDIA



Asst. Professor in Commerce



DR. M. MADHURI DEVI

Ph.D
INDIA



Department of Management Faculty of Management Sciences University of Port Harcourt Port Harcourt, Rivers State, Nigeria



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Nigeria



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Ph.D
INDIA



Head of the Department of "Economic efficiency and accounting in animal husbandry" Samarkand Institute of Veterinary Medicine



DR ABDMUMIN I. ALIKULOV

Doctor of Economics
Samarkand city. Sattepo district 148



Departmental Exam Officer, English Department, University of Africa



IDEGBEKWE, DESTINY

Ph.d
Nigeria



Department of Management Studies, SRMIST, Vadapalani Campus



DR. V.MOHANA SUNDARI

Ph.D
INDIA



Scientist/Subject Matter Specialist at Krishi Vigyan Kendra-Leh, Sher-e-Kashmir University of Ag. Sciences and Technology of Kashmir



DR. PARVEEN KUMAR

Ph.d
INDIA



Department of Financial Management, Faculty of Management Studies & Commerce, University of Jaffna, Thirunelvely, Jaffna.



PROF. RATHIRANEE YOGENDRARAJAH

Ph.D
Sri Lanka



Department of Educational Psychology, Faculty of Education, University of Buea



IJANG BIH NYGAH-ETCHUTAMBE

Ph.D
Buea



Senior High School Faculty Member, High School Department, Espiritu Santo Parochial School of Manila, Inc., Manila, Philippines



ALMIGHTY C. TABUENA

Ph.D
Philippines



Secretary for Academic Affairs, Sudan Academy for Banking and Financial Sciences - Khartoum, Sudan



DR. OMER ALLAGABO OMER MUSTAFA

PhD. in Economics
North Africa

“ NNAMDI AZIKIWE UNIVERSITY, AWKA. ANAMBRA



DR. ANEKWE RITA IFEOMA
Doctorate Degree in Management (Ph. D)
Nigeria

“ Lecturer – Ho Chi Minh City University of Food Industry.



MAI QUỐC DŨNG
Ph.D (HISTORY)
Asia

“ Asst. Professor, Department of Political Science in Government Degree College Hyderabad



DR. KANDI. KAMALA
Ph.D
.INDIA

“ Senior Lecturer, Department of Uzbek Language and Literature, Namangan State University



DR KHAVASKHON. Z. SALIKHODJAEVA
Ph.D Philological Sciences
Namangan region

“ ASSISTANT PROFESSOR | JIMS Engineering Management Technical Campus (GURU GOBIND SINGH-INDRAPRASTHA UNIVERSITY)



DR. SHALINI SINGH
Ph. D (Philosophy)
INDIA

“ Department of Entrepreneurial Studies, Nnamdi Azikiwe University Awka, Anambra State



OKOLI, IFEANYI EMMANUEL
(Ph.d)Business Administration
Nigeria

“ Senior Lecturer at the Department of Accounting, Tashkent Financial Institute, PhD



DR ZAFAR U. GANIEV
Doctor of Philosophy in Economics
Tashkent city, Yunusabad district

“ Faculty of Human Development



DR. AZIZAH BINTI ZAIN
Ph.D
Malaysia

“ Acting Professor of the Department of History of Uzbekistan, Faculty of History, National University of Uzbekistan



DR AVAZ A. ERMETOV
Doctor of Historical Sciences
Tashkent city, Almazar district

“ Service: 25 Years in Higher Education / Univ. of Thi-

PROF. DR. MOHAMMED JASIM BETTI

“ ASSOCIATE PROFESSOR OF GEOGRAPHY



DR. DADAPIR MOULASAB. JAKATI
Ph.D (Science and technology)
.INDIA

“ Associate Professor Department of Agricultural Economics, Science and Research Branch ,Islamic Azad University



PROF. REZA MOGHADDASI
Ph.D. (Agricultural Economics)
Iran

“ Department of Education, Schools Division of Bulacan, Philippines



DR. RICO PAULO G. TOLENTINO
(Philosophy) Ph.D
, Philippines

“ Head of the Namangan regional branch of the Center for Training and Advanced Training in the Basics of Business Administration in the state language



DR NOZIMA A. KAZAKOVA
(Philological Sciences) Ph.D
Namangan region, Uychi district

“ Pure and Applied Sciences Department of General Studies/English



OLAGUNJU, CAROLINE SADE
Ph.D (English Language)
Nigerian

“ College Library, Michael Oredola College of Primary Education, PMB 1028, Epe Lagos State, Nigeria.



ADESANYA, OLUSEGUN OYELEYE
(Ph.D) Library and Educational Media Resource Management
Nigeria.

“ Dean of the Faculty of Primary Education of Jizzakh State Pedagogical Institute



DR FAZILAT E. IBRAGIMOVA
Candidate of Philological Sciences
Jizzakh region, Zaamin district

“ Associate Professor Department of Management Faculty of Management Sciences University of Port Harcourt Port Harcourt, Rivers State, Nigeria



DR. ADEKEMI DRUSILIA ALAGAH
Ph.D. - (ORGANIZATIONAL BEHAVIOUR)
Nigeria

“ Department of Business Administration (Marketing Unit)



SAJUYIGBE ADEMOLA SAMUEL
(Ph.D) Management Science
Nigeria

“ Researcher and English Education Lecturer at Batanghari University – Indonesia

DR. (CAND) ERISA KURNIATI





Ph.D (Teaching English Drama)
Iraq

“ *Doctor of Philosophy in Pedagogy, Associate Professor, (PhD), Department of Preschool Education Methods, Jizzakh State Pedagogical Institute*



DR GULNORA E. KUSHAKOVA
Doctor of Philosophy in Pedagogical Sciences
Jizzakh region, Jizzakh district

“ *48 Kpakani Street off Obi Wali Road, Rumuigbo, Port Harcourt*



OJIMA, DAVIS
Ph.D., Doctor of Philosophy (Economics)
Nigeria

“ *Senior Lecturer of “General Pedagogy” at Jizzakh State Pedagogical Institute*



DR KHAKNAZAR KH. KHAMZAEV
Doctor of Philosophy in Pedagogical Sciences
Hamza bashi berk street

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Doctor of Philosophy in Philosophy
Karshi city, Xontepa mahalla

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Ph.D(Historical Sciences)
Tashkent region, Quyichirchik district

“ *Department of Islamic Studies, Faculty of Arts and Culture, Eastern University, Sri Lanka*



MOHAMED BUHARY FOWZUL
Ph.D(Muslim Family Law)
Sri Lanka

“ *Vice-Rector for Youth Affairs of the Uzbek State University of World Languages*



DR KHAMIDULLO I. KHAKIMOV
Uzbekistan

“ *Dept. of Political Science Osmania University Hyderabad Telangana India. 500007*



DR.GEDAM. KAMALAKAR RESEARCHER
Ph.D
INDIA

“ *Senior lecturer at the Karakalpak Faculty of Philology and Journalism. Doctor of Philosophy in Philology*



DR AMANLIK SH. NAJIMOV
Doctor of Philosophy in Philology (PhD)
Nukus city, Ya.Dosumov 59 house

“ *Associate Professor of Extension Education and Communication*



Ph.D
Indonesia

“ *Professor of Translation Theory and Comparative Linguistics, Faculty of Foreign Philology, National University of Uzbekistan*



DR IRODA A. SIDDIKOVA
Doctor of Philological Sciences
Tashkent city, Almazar district

“ *Professional Address City Hall of Estancia Turistica de Tupã, Municipal Secretary of Tourism*



ARACELIS GOIS MORALES RIGOLDI
(Ph.d) in Administration
Brazil

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DR P.KARTHIKEYAN
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india

“ *Senior Lecturer, Department of Finance and Accounting, Correspondence Department, Tashkent State University of Economics*



DR NASIBA M. IMAMOVA
Doctor of Philosophy in Economics
Tashkent city, Uchtepa district

“ *University Lecturer, Associate Professor, PhD, Faculty of Economics, SWU “Neofit Rilski”-Blagoevgrad*



ELENA
Ph.D. (Economics)
Europe

“ *Acting Associate Professor, Department of Social Sciences, Jizzakh Polytechnic Institute*



DR KHULKAR YU. KHOLIKULOVA
Doctor of Philosophy in History (PhD)
Jizzakh city, Dustlik mahalla

“ *Faculty of Politics and Law - Ho Chi Minh City University of Food Industry*



DUNG MAI QUOC
Ph.D (History)
VIETNAM

“ *Lecturer at the Department of “Methods of Primary Education” Jizzakh State Pedagogical Institute*



DR GULJAN T. KUTTIBEKOVA
Doctor of Philosophy in Pedagogical Sciences
Jizzakh city, Turan mahalla

“ *Senior Lecturer in English Linguistics and Education Studies Faculty of Education*





DR. HITASHI SINGH

Ph. D. (Home Science)
INDIA

“ Head of the “Audit” department of the Tashkent Financial Institute



DR ISLOMJON N. KUZIEV

Doctor of Economics
Tashkent city, Yunusabad district

“ Professor of the Department of “Information and Communication Technologies in Management” of the Academy of Public Administration under the President of the Republic of Uzbekistan



DR ANVAR E. YULDASHEV

Candidate of Political Science, Doctor of Historical Sciences
Tashkent city, Mirzo Ulugbek district

“ Department of Psychology, Dev Sanskriti Vishwavidyalaya, Haridwar, Uttarakhand



DR. MANORANJAN TRIPATHY

(Ph.D) Psychology
INDIA

“ Professor Department of Law, University of Rajshahi,



DR. MD. ABDUL ALIM

Ph.D.(Gender Law and Development)
Bangladesh

“ Acting Associate Professor of the Department of Methods of Teaching the Uzbek Language at Jizzakh State Pedagogical Institute



DR FERUZA U. JUMAEVA

Doctor of Philosophy in Philology
Jizzakh city, “Zargarlik” mahalla

“ Assistant Professor



DR. S. MOHANKUMAR

Ph.D
INDIA

“ Associate Professor of the Department of “Spirituality and Enlightenment” of the ASU under the President of the Republic of Uzbekistan



DR ULUGBEK A. SAIDOV

Candidate of Philological Sciences
Tashkent city, Chilanazar district

“ Associate Professor of “Pedagogy and Physical Culture” Tashkent Institute of Textile and Light Industry



DR VAKHOB N. SATTOROV

Candidate of Pedagogical Sciences
Yakkasaray District

“ Assistant Professor of English – Dept. of English, Faculty of Arts Jouf University, Saudi Arabia Minia University, Egypt



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DR. HUYNH THANH TIEN

Ph.D
VIETNAM

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DR DILAFUZ A. KURBONOVA

Doctor of Historical Sciences
Tashkent city, Chilanazar district

“ Working as Professor and Director in Institute of Media Studies, Shri Ramswaroop Memorial University, Lucknow



DR. NEERAJ KHATTRI

Ph.D (Journalism)
INDIA

“ Senior Lecturer, Department of Pedagogy and Psychology, Uzbek State University of World Languages



DR DJAVDAT A. PULATOV

Doctor of Philosophy in Pedagogical Sciences (PhD)
Tashkent city, Yashnaabad district,

“ Designation: Assistant Professor



DR. CHITTURU.SAIGITA

Doctoral Degree in Social Work from RTM Nagpur University,
Nagpur

INDIA

“ University professor



HUSAM MOHAMMED KAREEM AL-KHAZAALI

Ph.D
Iraq

“ Assistant Professor in Economics



SUFIAN ELTAYEB MOHAMED ABDEL- GADIR

Ph.D (Economics)
Oman

“ Department of Translation, University of Mosul, Mosul, Iraq



MUHAMMED IBRAHIM HAMOOD ASHIQ

Ph.D. in translation from Faculty of Modern Languages, UPM,
Malaysia

Iraq

“ Acting Associate Professor of the Department of Teaching Methods of Uzbek Literature, Jizzakh State Pedagogical Institute



DR DILNAVOZ A. SALIMOVA

Doctor of Philosophy in Philology
Jizzakh city, Zilol mahalla

“ Center for Teaching and Learning Excellence (CTLE)



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Philippine



Ph.D in English Literature
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Philippine

“ Department of Preschool Education, University Campus, Gallos



STAMATIOS PAPADAKIS

Ph.D
Greece

“ Tashkent State Pedagogical University named after Nizami Tashkent, Uzbekistan



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Associate Professor Doctor of Philosophy in Geography (PhD.)
Uzbekistan

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Doctor of Philosophy in Pedagogics (PhD)
Uzbekistan

“ RESEARCH INSTITUTE OF PEDAGOGICAL SCIENCES named after Kari Niyazi, Tashkent, Uzbekistan



DR. KOMILJON A. KARIMOV

Associate Professor, Doctor of Philosophy (PhD) in Pedagogical Sciences,
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VOLUME 04 ISSUE 07 JULY 2021

✂ DEATH AND DISEASE IN RABINDRANATH TAGORE'S WORKS: STILL THE
MUSIC WILL PLAY ON (V4I7/1.PHP)

MAMTA

ASSOCIATE PROFESSOR AND HEAD DEPT. OF ENGLISH, HANS RAJ MAHILA MAHA
VIDYALAYA JALANDHARDOI : <https://doi.org/10.47191/ijsshr/v4-i7-01> (<https://doi.org/10.47191/ijsshr/v4-i7-01>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ EFFECT OF PAPER FOLDING (ORIGAMI) INSTRUCTION IN TEACHING
GEOMETRY (V4I7/2.PHP)¹JOVEN P. BORNASAL, ²JUNE REY S. SULATRA, PHD, ³HELEN A. GASAPO, EDD,
⁴FRANCIS B. GASAPO, EDD¹DON CASIMERO ANDRADA NATIONAL HIGH SCHOOL, PHILIPPINES^{2,3,4}NORTHERN ILOILO POLYTECHNIC STATE COLLEGE, PHILIPPINESDOI : <https://doi.org/10.47191/ijsshr/v4-i7-02> (<https://doi.org/10.47191/ijsshr/v4-i7-02>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ IMPLEMENTATION OF ANTI-CORRUPTION EDUCATION IN CIVICS SUBJECTS
BASED ON PROJECT CITIZEN AT SMAN 6 TANGERANG REGENCY, BANTEN
(V4I7/3.PHP)¹LUKMAN HAKIM, ²REZA PRADITYA YUDHA^{1,2}GUNADARMA UNIVERSITYDOI : <https://doi.org/10.47191/ijsshr/v4-i7-03> (<https://doi.org/10.47191/ijsshr/v4-i7-03>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ COMPARISON OF FIRST TO FILE DOCTRINE AND TRADEMARK DISPUTE
SETTLEMENT MECHANISM IN INDONESIA AND THE UNITED STATES
(V4I7/4.PHP)¹M. IQBAL SIMATUPANG, ²RAHAYU^{1,2}MAGISTER ILMU HUKUM UNIVERSITAS DIPONEGORODOI : <https://doi.org/10.47191/ijsshr/v4-i7-04> (<https://doi.org/10.47191/ijsshr/v4-i7-04>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ AMIRI BARAKA'S "IN MEMORY OF RADIO": MARXIST DIALECTICS
(V4I7/5.PHP)¹AHEEL HATIF JASSAM, ²HADEEL HATIF JASSAM¹COLLEGE OF BASIC EDUCATION, UNIVERSITY OF MUSTANSIRIYAH²COLLEGE OF EDUCATION FOR HUMANITIES, UNIVERSITY OF DIYALADOI : <https://doi.org/10.47191/ijsshr/v4-i7-05> (<https://doi.org/10.47191/ijsshr/v4-i7-05>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ THE RESPONSIBILITY OF THE CURATOR FOR SETTLEMENT OF BANKRUPTCY
BOEDEL IF ENFORCED BY CRIMINAL CONFISCATION (V4I7/6.PHP)¹AYU RIZKY SAPUTRI, ²BUDI ISPRIYARSO^{1,2}FACULTY OF LAW, UNIVERSITAS DIPONEGORODOI : <https://doi.org/10.47191/ijsshr/v4-i7-06> (<https://doi.org/10.47191/ijsshr/v4-i7-06>)

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VOLUME 04 ISSUE 07 JULY 2021 ()

✂ READING LITERARY THEORY BETWEEN THE LINES OF CREATIVE WRITING:
THE DIALECTICS OF THEORY AND PRACTICE IN THE CREATIVE WRITING
PEDAGOGY (V4I7/7.PHP)

SPYROS KIOSSIS

DEPARTMENT OF GREEK PHILOLOGY, DEMOCRITUS UNIVERSITY OF THRACE, GREECE

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THE ROLE OF FINANCIAL SERVICES AUTHORITY AND LEGAL PROTECTION OF DEBTOR IN FINANCIAL TECHNOLOGY (FINTECH) BASED LENDING AGREEMENTS (V417/8.PHP)

¹HIMAWAN PRASETYO,² JEANE NELTJE SALY

¹MASTER PROGRAM OF LAW, FACULTY OF LAW, STATE UNIVERSITY OF VETERAN JAKARTA

²LECTURER OF POSTGRADUATE MASTERS IN LAW, STATE UNIVERSITY OF VETERAN JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

RESTRUCTURING INSURANCE POLICY AS AN ULTRA VIRES ACTION BASED ON LIMITED LIABILITY COMPANY LAW (V417/9.PHP)

¹HANDOYO PRASETYO, ²SUBAKDI, ³ROBINSAR MARBUN

^{1,2,3}LAW FACULTY, UNIVERSITAS PEMBANGUNAN NASIONAL VETERAN JAKARTA JL. RS. FATMAWATI, KOTA JAKARTA SELATAN, 12450, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

FAIR TRIAL PRINCIPLES IN THE BASIS OF JUDGES CONSIDERING DECISIONS BASED ON TESTIMONIUM DE AUDITU (V417/10.PHP)

YANELS GARSIONE DAMANIK

PASCASARJANA FAKULTAS HUKUM UNIVERSITAS BRAWIJAYA; JALAN MT. HARYONO No.169; MALANG; JAWA TIMUR ; INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

CRIMINAL LIABILITY OF CHILDREN WHO CAUSE A FIRE (V417/11.PHP)

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¹MASTER PROGRAM OF LAW, FACULTY OF LAW STATE UNIVERSITY OF VETERAN JAKARTA

²LECTURER FACULTY OF LAW, STATE UNIVERSITY OF VETERAN JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

ELECTION CRIMINAL LAW ENFORCEMENT IN THE ERA OF SIMULTANEOUS GENERAL ELECTION 2019 (V417/12.PHP)

¹NARWANTO, ²SUPARDI

^{1,2}FACULTY OF LAW, UNIVERSITAS PEMBANGUNAN NASIONAL VETERAN JAKARTA, RS. FATMAWATI STREET, SOUTH JAKARTA CITY, 12450

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VOLUME 04 ISSUE 07 JULY 2021 ()

RESPONSIBILITY OF AIR TRANSPORT COMPANIES AS BUSINESSES ACTORS FOR THE LOSS OF PASSENGERS' BAGGAGES IN REVIEW OF LAW NUMBER 8 OF 1999 CONCERNING CONSUMER PROTECTION (V417/13.PHP)

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¹FACULTY OF LAW, UNIVERSITY OF NATIONAL DEVELOPMENT VETERANS JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

LEGAL PROTECTION TO CONSUMERS AGAINST HOARDING MASKS AS CONSEQUENCES OF THE SPREAD OF COVID-19 (V417/14.PHP)

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¹MASTER PROGRAM OF LAW, FACULTY OF LAW, STATE UNIVERSITY OF VETERAN JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

CARTEL PERFORMED BY AIRLINES (STUDY OF KPPU'S DECISION NUMBER: 15/KPPU-II/2019) (V417/15.PHP)

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JAKARTA

²LECTURER OF POSTGRADUATE MASTERS IN LAW, STATE UNIVERSITY OF VETERAN
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VOLUME 04 ISSUE 07 JULY 2021 ()

**LEGAL CONSEQUENCES OF THE DISCREPANCY ON CONSTRUCTION OF LAND
SALE AND PURCHASE DEED TOWARDS THE PROCEDURE FOR DEDICATION
(ANALYSIS OF THE JURISDICTION OF THE SUPREME COURT NUMBER-
967K/PDT/2010) (V4I7/16.PHP)**

¹DIDIK SETYAWAN , ²SUHERMAN

¹MASTER PROGRAM OF LAW, FACULTY OF LAW, STATE UNIVERSITY OF VETERAN
JAKARTA

²LECTURER OF POSTGRADUATE MASTERS IN LAW, STATE UNIVERSITY OF VETERAN
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VOLUME 04 ISSUE 07 JULY 2021 ()

E-LEARNING IN INSTITUTE OF HIGHER EDUCATION (V4I7/17.PHP)

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^{1,2}UNIVERSITI PUTRA MALAYSIA

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A STUDY OF NOUNS IN GU-MAWASANGKA LANGUAGE (V4I7/18.PHP)

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¹DEPARTMENT OF INDOONESIAN AND ART LANGUAGE EDUCATION, TEACHER AND
EDUCATION SCIENCE FACULTY, KAMPUS HIJAU BUMI TRIDHARMA, HALU OLEO
UNIVERSITY, KENDARI 93232, SOUTHEAST CELEBES, INDONESIA

²DEPARTMENT OF ECONOMY COOPERATIVE EDUCATION, TEACHERS AND EDUCATION
SCIENCE FACULTY, KAMPUS HIJAU BUMI TRIDHARMA, HALU OLEO UNIVERSITY,
KENDARI 93232, SOUTHEAST CELEBES, INDONESIA

³DEPARTMENT OF PRIMARY TEACHER EDUCATION, TEACHER AND EDUCATION SCIENCE
FACULTY, KAMPUS HIJAU BUMI TRIDHARMA, HALU OLEO UNIVERSITY, KENDARI 93232,
SOUTHEAST CELEBES, INDONESIA

⁴DEPARTMENT OF LANGUAGE AND LITERATURE, CULTURAL SCIENCE FACULTY, KAMPUS
HIJAU BUMI TRIDHARMA, HALU OLEO UNIVERSITY, KENDARI 93232, SOUTHEAST
CELEBES, INDONESIA

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**RESOLVING THE FARMERS- HERDERS CONFLICT IN NIGERIA: A WAY
FORWARD FOR SUSTAINABLE NATIONAL DEVELOPMENT (V4I7/19.PHP)**

EMMANUEL MAMMAN, PHD

INSTITUTE FOR PEACE AND CONFLICT RESOLUTION (IPCR), ABUJA

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**LEGAL PROTECTION OF BUSINESS ACTORS SUB AGENT GAS ELPIJI FOR
UNILATERAL TERMINATION OF BUSINESS RELATIONSHIP BY THE AGENT
(V4I7/20.PHP)**

¹RIZKI INDRA PERMANA, ²IMAM HARYANTO

^{1,2}FACULTY OF LAW, UNIVERSTAS PEMBANGUNAN NASIONAL "VETERAN" JAKARTA RS.
FATMAWATI STREET, SOUTH JAKARTA. 12450.

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**APPLICATION AND DEVELOPMENT OF HO CHI MINH THOUGHTS ON MASS
MOBILIZATION AFFAIRS IN THE PARTY CONGRESS XIII DOCUMENTS
(V4I7/21.PHP)**

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HO CHI MINH NATIONAL ACADEMY OF POLITICS

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**NEW TERMINOLOGIES AMONG MILLENNIALS: UPSHOT OF COIN AGE
(V4I7/22.PHP)**

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¹NORTHERN ILOILO POLYTECHNIC STATE COLLEGE MAIN CAMPUS, ESTANCIA, ILOILO,
PHILIPPINES

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE STUDENTS' PERCEPTION TOWARDS THE ONLINE LEARNING IMPLEMENTATION OF HAIR TRIMMING COURSE (V4I7/23.PHP)

¹CICA SYAHRILLA PUTRI,²VIVI EFRIANOVA

^{1,2}DEPARTMENT OF MAKE-UP AND BEAUTY, FACULTY OF TOURISM AND HOSPITALITY, UNIVERSITAS NEGERI PADANG

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VOLUME 04 ISSUE 07 JULY 2021 ()

INTERNAL DEFENSE IN CONTAINMENT THEORY IN THE CONTEXT OF TEENAGERS ENGAGEMENT IN INDONESIA TERRORISM (V4I7/24.PHP)

¹ARIJANI LASMAWATI,²ADRIANUS E. MELIALA,³NI MADE MARTINI PUTERI

¹DOCTORAL CANDIDATE, DEPARTMENT OF CRIMINOLOGY, UNIVERSITAS INDONESIA

²PROFESSOR, DEPARTMENT OF CRIMINOLOGY, UNIVERSITAS INDONESIA

³LECTURER, DEPARTMENT OF CRIMINOLOGY, UNIVERSITAS INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

LEXICAL-SEMANTIC ANALYSIS OF "ALLAH" COMPONENT EXPRESSIONS IN RASHOD NURI GUNTEKIN'S NOVELS (V4I7/25.PHP)

MUZZAMA FOZILIYA

STUDENT, FACULTY OF TURKIC STUDIES TASHKENT STATE UNIVERSITY OF ORIENTAL STUDIES

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VOLUME 04 ISSUE 07 JULY 2021 ()

CONSIDERATION OF THE JUDGE'S DECISION REGARDING THE PRINCIPLE OF UNGOOD FAITH IN THE BRAND REGISTRATION DISPUTE CASE STUDY BETWEEN RSO VS PT. AGBS (V4I7/26.PHP)

¹TIO LUCITO, ²IWAN ERAR JOESOEF

^{1,2}FACULTY OF LAW, UNIVERSITAS PEMBANGUNAN NASIONAL VETERAN JAKARTA, JL. RS FATMAWATI RAYA No. 1, JAKARTA SELATAN, 12450, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

EVIDENTIARY OF THE CRIMINAL ACT OF CORRUPTION IN TELECONFERENCE TRIALS DURING THE COVID-19 PANDEMIC (V4I7/27.PHP)

ARYAGUNA

FACULTY OF LAW, UNIVERSITAS PEMBANGUNAN NASIONAL VETERAN JAKARTA JL. R.S. FATMAWATI No. 1 SOUTH JAKARTA 12450

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE EFFECTIVENESS OF GUIDED INQUIRY-BASED LKPD TO IMPROVE THE STUDENT'S CRITICAL AND CREATIVE THINKING SKILLS (V4I7/28.PHP)

¹ENDELA. ELIFIA ZULFA, ²S. SYAMSURIZAL

^{1,2}DEPARTMENT OF BIOLOGY EDUCATION, FACULTY OF MATH AND SCIENCE, UNIVERSITAS NEGERI PADANG, SUMATERA BARAT, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE EFFECTIVENESS OF PBL-BASED LKPD FOR EMPOWERING THE SENIOR HIGH SCHOOL STUDENT'S CRITICAL AND CREATIVE THINKING SKILLS (V4I7/29.PHP)

¹LESTARI, DELLA, ²S. SYAMSURIZAL

^{1,2}DEPARTMENT OF BIOLOGY EDUCATION, FACULTY OF MATH AND SCIENCE, UNIVERSITAS NEGERI PADANG, SUMATERA BARAT, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE EFFECTIVENESS OF PROBLEM BASED LEARNING (PBL) BASED E-MODULE ON THE CLASSIC GENETIC MATERIALS TO IMPROVE THE STUDENT'S CRITICAL THINKING SKILLS (V4I7/30.PHP)

¹DINA RISTIANA ANESA, ²YUNI AHDA

^{1,2}DEPARTMENT OF BIOLOGY EDUCATION, FACULTY OF MATH AND SCIENCE,
UNIVERSITAS NEGERI PADANG, SUMATERA BARAT, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

OPERATION LAM SON 719 AMID "VIETNAMIZATION" STRATEGY DURING VIETNAM WAR (V4I7/31.PHP)

¹ASSOC. PROF. NGUYEN NGOC DUNG, ²MA. NGUYEN MINH SON

¹UNIVERSITY OF SOCIAL SCIENCES AND HUMANITIES, HO CHI MINH CITY,
VIETNAM; INTERNATIONAL RELATIONS PROGRAM, THU DAU MOT UNIVERSITY, BINH
DUONG, VIETNAM

²PH.D. STUDENT, UNIVERSITY OF SOCIAL SCIENCES AND HUMANITIES, HO CHI MINH
CITY, VIETNAM

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VOLUME 04 ISSUE 07 JULY 2021 ()

DOWNSIZING: CAUSES, EFFECT, AND STRATEGIES, A CONCEPTUAL APPROACH (V4I7/32.PHP)

¹DR ANEKWE RITA IFEOMA, ²DR. NWANAH CHIZOBA PATIENCE

¹NNAMDI AZIKIWE UNIVERSITY, NIGERIA

²UNIVERSITY OF NIGERIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

Waqf INSTITUTIONS AS A FRAMEWORK FOR SOCIAL ENTERPRISES IN ISLAM (V4I7/33.PHP)

¹MURTADHO RIDWAN, ²SAHID HM, ³ISKANDAR RITONGA, ⁴M. LATHOIF GHOZALI, ⁵LISA
IRWIT SANTI

¹STATE ISLAMIC INSTITUTE OF KUDUS, INDONESIA

^{2,3,4}STATE ISLAMIC UNIVERSITY OF SUNAN AMPEL, INDONESIA

⁵SMA 1 BAE KUDUS, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

IMPACT ASSESSMENT OF PROLONGED QUARANTINE ON SENIOR HIGH SCHOOL STUDENTS IN A STATE COLLEGE IN ZAMBOANGA CITY, PHILIPPINES (V4I7/34.PHP)

¹KURT JHAY S. ABSARI, ²JOHN CHRISTIAN T. JALON, ³NATHAN KYLE R. SAML, ⁴NAVY
CHRISTIAN S. ABUJEN, ⁵XENIA C. JAGOLINO, ⁶ZAKI A. RIVERA, ⁷ROMENICK MOLINA

^{1,2,3,4,5,6,7}SENIOR HIGH SCHOOL DEPARTMENT, ZAMBOANGA CITY STATE POLYTECHNIC
COLLEGE, ZAMBOANGA CITY, PHILIPPINES

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VOLUME 04 ISSUE 07 JULY 2021 ()

IMPLEMENTATION OF TECHNOLOGY-BASED LENDING AND LENDING SERVICES IN REGULATION OF THE FINANCIAL SERVICES AUTHORITY REGULATION NO. 77/POJK.01/2016 (V4I7/35.PHP)

¹RICKY YOSUA CHRISTIAN, ²ARRISMAN

¹MASTER OF LAW PROGRAM, FACULTY OF LAW, STATE UNIVERSITY OF VETERAN
JAKARTA

²LECTURER OF POSTGRADUATE MASTERS IN LAW, STATE UNIVERSITY OF VETERAN
JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

DEATH PENALTY FOR CORRUPTORS IN INDONESIA (V4I7/36.PHP)

¹HISYAM FAHMI, ²SUPARDI

^{1,2}FACULTY OF LAW, UNIVERSITAN PEMBANGUNAN NASIONAL VETERAN JAKARTA, RS.
FATMAWATI STREET, SOUTH JAKARTA CITY, 12450

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VOLUME 04 ISSUE 07 JULY 2021 ()

COMPARATIVE ANALYSIS OF THE STORY BY A. KUPRIN "GARNET BRACELET" AND THE NOVEL BY S. ZWEIG "LETTER OF A STRANGER (V4I7/37.PHP)

N.V. GONCHAROVA

SENIOR LECTURER, KOKAND STATE PEDAGOGICAL INSTITUTE KOKAND, UZBEKISTAN



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VOLUME 04 ISSUE 07 JULY 2021 ()

LEGAL PROTECTION ON VIOLATIONS RELATED TO CONSUMER FINANCIAL SERVICES IN TRANSACTIONS THROUGH THE PHONE MEDIA (STUDY OF FINANCIAL SERVICES AUTHORITY REGULATION NUMBER 1/POJK.07/2013) (V4I7/38.PHP)

¹SEJAHTERA GIOVANI,²JEANE NELTJE SALY

¹MASTER OF LAW PROGRAM, FACULTY OF LAW, STATE UNIVERSITY OF VETERAN JAKARTA

²LECTURER OF POSTGRADUATE MASTERS IN LAW, STATE UNIVERSITY OF VETERAN JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

AN EVALUATION OF CLIMATE CHANGE AND WATER SCARCITY AS A CAUSATIVE FACTOR OF POLITICAL INSTABILITY IN THE MIDDLE EAST REGION: THE CASE OF SYRIA. (V4I7/39.PHP)

¹ABRAHAM LUBEM, ABADO,²OLUSHOLA ADEBORODE, KOLAWOLE,³AKINYEMI, OYAWALE

¹DEPARTMENT OF PEACE AND INTERNATIONAL DEVELOPMENT (PSID), UNIVERSITY OF BRADFORD, UNITED KINGDOM.

²BUSINESS ANALYTICAL, LOGISTICS AND SUPPLY CHAIN MANAGEMENT, SCHOOL OF MANAGEMENT, UNIVERSITY OF BRADFORD, UNITED KINGDOM

³DEPARTMENT OF POLITICS AND INTERNATIONAL SECURITY (PAIS) UNIVERSITY OF WARWICK, UNITED KINGDOM.

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VOLUME 04 ISSUE 07 JULY 2021 ()

LEGAL PROTECTION TOWARDS FIDUCIARY RECIPIENTS IN DISPUTES OF FIDUCIARY OBJECT (V4I7/40.PHP)

¹NIKEN SARAH DAYANTI,²IWAN ERAR JOESOEK

¹POSTGRADUATE STUDENT OF MASTER OF LAW UPN VETERAN JAKARTA.

²LECTURER OF MASTER OF LAW UPN VETERAN JAKARTA.

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VOLUME 04 ISSUE 07 JULY 2021 ()

ANALYSIS OF THE ROLE OF THE PUBLIC PROSECUTORS ON THE ACTION OF THE SHIP SUNNING IN FISHERY (V4I7/41.PHP)

INES RACHMAWATI PAILALAH

MASTER & FACULTY OF LAW STUDY PROGRAM "VETERAN" NATIONAL DEVELOPMENT UNIVERSITY JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE URGENCY OF PUBLIC PROSECUTION SERVICE OF THE REPUBLIC OF INDONESIA IN THE SETTLEMENT OF REPLACEMENT MONEY IN CRIMINAL ACTS OF CORRUPTION BASED ON LAW NUMBER 3 OF 1971 (V4I7/42.PHP)

LUSIANA LAMTURE, SUPARDI.S

FACULTY OF LAW, UNIVERSITY OF PEMBANGUNAN NASIONAL VETERAN JAKARTA

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VOLUME 04 ISSUE 07 JULY 2021 ()

TRANSNATIONAL ORGANISED CRIMES: AN ASSESSMENT OF HUMAN TRAFFICKING AND THE CHALLENGES MILITATING AGAINST A TOTAL ELIMINATION IN NIGERIA (V4I7/43.PHP)

¹ABRAHAM LUBEM, ABADO,²ASSOCIATE PROF. ENOCH TERLUMUN ,IORTYOM,³TERNA VINCENT TAVERSHIMA

¹DEPARTMENT OF PEACE STUDIES AND INTERNATIONAL DEVELOPMENT, UNIVERSITY OF BRADFORD, UNITED KINGDOM

²DEPARTMENT OF GEOGRAPHY, ENVIRONMENT AND SUSTAINABILITY STUDIES, ERNEST BAI KOROMA UNIVERSITY OF SCIENCE AND TECHNOLOGY, REPUBLIC OF SIERRA LEONE.

³DEPARTMENT OF POLITICAL SCIENCE, FEDERAL UNIVERSITY KASHERE GOMBE STATE, NIGERIA.

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ENGLISH EDUCATION IN SRI LANKA WITH EMPHASIS ON ENGLISH MEDIUM INSTRUCTION AT SECONDARY AND TERTIARY LEVELS: THE PAST, PRESENT AND FUTURE (V4I7/44.PHP)

DR. ABDUL MAJEED MOHAMED NAVAZ

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VOLUME 04 ISSUE 07 JULY 2021 ()

COMPARING TRADITIONAL AND NOVEL METHODS IN DETERMINING REACH IN BICYCLE FITTING (V4I7/45.PHP)

¹KURT WILLIAMS, ²MARY ZADNIK, ³SUNDDIP PANESAR-AGUILAR

¹PIMA MEDICAL INSTITUTE, SEATTLE, WA

^{2,3}UNIVERSITY OF ST. AUGUSTINE FOR HEALTH SCIENCES, ST. AUGUSTINE, FL

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VOLUME 04 ISSUE 07 JULY 2021 ()

AN APPRAISAL OF INSECURITY AND THE CONSEQUENCES ON RESIDENTS IN CALABAR METROPOLIS, CROSS RIVER STATE, NIGERIA (V4I7/46.PHP)

¹AGBOR, EMMANUEL A, ²OBONGHA, UKPALI E, ³ITA, EMMANUEL. E

^{1,2,3}DEPARTMENT OF URBAN AND REGIONAL PLANNING CROSS RIVER UNIVERSITY OF TECHNOLOGY, CALABAR

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VOLUME 04 ISSUE 07 JULY 2021 ()

COMPARISON OF TRADEMARK COUNTERFEITING LAWS THAT HARM HUMAN HEALTH IN INDONESIA AND THE UNITED STATES (V4I7/47.PHP)

¹KORNELIUS BENUF, ²BAGUS RAHMANDA, ³SITI MAHMUDAH, ⁴AMIEK SOEMARMI, ⁵KHOLIS ROISAH

^{1,2,3,4,5}FACULTY OF LAW, UNIVERSITAS DIPONEGORO

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VOLUME 04 ISSUE 07 JULY 2021 ()

THE APPLICATION OF REALITY THERAPY GROUP COUNSELING TO OVERCOME BEHAVIOR SELF-ESTEEM LOW ON COMMERCIAL SEX WORKERS (PSK) (V4I7/48.PHP)

¹ANASTASIA SRI MARYATMI, ²SUSAN RAHMAYANI

¹PROGRAM STUDY MASTERS PSYCHOLOGY PROFESSIONAL (PSMPP)

²PERSADA INDONESIA UNIVERSITY YAI JAKARTA, INDONESIA

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VOLUME 04 ISSUE 07 JULY 2021 ()

EXPERIENCES OF DISTANCE EDUCATION STUDENTS WITH THEIR STUDY MODULES: THE CASE OF UNIVERSITY OF EDUCATION, WINNEBA (UEW), GHANA (V4I7/49.PHP)

¹FRANCIS OWUSU-MENSAH PH.D, ²ABIGAIL MERCY OPONG TETTEH PH.D, ³LAURETHA OWUSU-MENSAH

¹COLLEGE FOR DISTANCE AND E-LEARNING, UEW.

²DEPARTMENT OF EDUCATIONAL FOUNDATIONS, UEW.

³DEPARTMENT OF BASIC EDUCATION, UEW

²PERSADA INDONESIA UNIVERSITY YAI JAKARTA, INDONESIA

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ASSETS RECOVERY OF MONEY LAUNDERING CRIMINAL ACTS: A STUDY OF RESTORING ASSETS FOR MONEY LAUNDERING CRIMINAL ACTS RELATED IN THE ACCOUNT OF OVERSEAS BANK (V4I7/50.PHP)

¹SRI LESTARI HANDAYANI, ²IWAN ERAR JOESOEF

^{1,2}FACULTY OF LAW, UNIVERSITY OF PEMBANGUNAN NASIONAL VETERAN JAKARTA, RS. FATMAWATI STREET, SOUTH JAKARTA CITY, 12450

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VOLUME 04 ISSUE 07 JULY 2021 ()

DETERMINANTS OF FOOD SAFETY REGULATION IN BANGLADESH: AN EMPIRICAL ANALYSIS (V4I7/51.PHP)

¹Mst. SANDA KHATUN, ²Dr. Md. NURUL AMIN

¹MASTER OF PUBLIC ADMINISTRATION, DEPARTMENT OF PUBLIC ADMINISTRATION, JAHANGIRNAGAR UNIVERSITY, SAVAR, DHAKA-1342, BANGLADESH

²ASSOCIATE PROFESSOR AND CHAIRMAN, DEPARTMENT OF PUBLIC ADMINISTRATION, JAHANGIRNAGAR UNIVERSITY, SAVAR, DHAKA-1342,

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VOLUME 04 ISSUE 07 JULY 2021 ()

✍️ POLY-MULTICULTURALITY IN HIGHER EDUCATION: METHODOLOGICAL LEVEL OF THE RESEARCH CONCEPT (V4I7/S2.PHP)

¹OKSANA CHAIKA (ЧАЙКА), ²LIUDMYLA VOROTNIAK

¹NATIONAL UNIVERSITY OF LIFE AND ENVIRONMENTAL SCIENCES OF UKRAINE, 15, HEROYIV OBORONY ST., KYIV 03041, UKRAINE

²KHMELNYTSKY HUMANITARIAN PEDAGOGICAL ACADEMY, 139, PROSKURIVSKOHO PIDPILLIA ST., KHMELNYTSKY 29013, UKRAINE

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Comparison of Trademark Counterfeiting Laws that Harm Human Health in Indonesia and the United States



Kornelius Benuf¹, Bagus Rahmanda², Siti Mahmudah³, Amiek Soemarmi⁴, Kholis Roisah⁵

^{1,2,3,4,5} Faculty of Law, Universitas Diponegoro

ABSTRACT: This study will describe examples of cases of brand counterfeiting that endanger human health and will analyze how the legal protection for trademark rights holders for brand counterfeiting endangers human health, the comparison of Indonesian law with the United States of America. This research is a normative legal research with a statutory approach and a case approach. The data used is secondary consisting of primary and secondary legal materials. Based on the research results, it is known that examples of brand counterfeiting that endanger human health are the counterfeiting of the “One Care” brand and the “Bango” soy sauce brand counterfeiting. Legal protection for trademark rights holders for brand counterfeiting that endangers human health, the comparison of Indonesian law with the United States is that they both follow the development of international legal principles. The difference in Indonesia is regulated in the Trademark and Geographical Indication Law and the Perlinkos Law, while in the United States it is regulated in the Lanham Act of 1946 or the Federal Trademark Lanham Act.

KEYWORDS: Protection, Brand Rights, Health, Human

I. INTRODUCTION

Trademarks are part of the big building Intellectual Property Rights (IPR).¹ As part of the IPR, the mark also contains exclusive rights for the holder of the rights to the registered mark.² In the business world, a brand is something that is important for the existence of a business. The brand becomes the identity of a product, namely as a distinguishing element between the product and similar or dissimilar products. The function of a brand for a product is not only as an identity that distinguishes between products but also as a guarantee of the quality of the product.³ Through its product brand, a company is known to the wider community, so that the brand will lead to public trust.⁴ Even the thing that makes the brand important for the company is through its well-known brand, the price of a company's product can be expensive, the use of a brand on a product must be based on good faith.⁵ Because the function of the brand is so important for the business world, especially for a company, making a brand an object that must be protected by law.⁶

The business world is very synonymous with a company. Companies in Indonesia have at least 2 (two) main functions, namely as a subject that meets human needs and as a provider of job vacancies.⁷ In the first function, namely as a subject that meets human needs, a company or a business entity sells its products to the public through the market. The product is attached to a brand that becomes an identity in the market.⁸ A company considers a brand as an asset of the company, which is included in the group of

¹ Ruth L. Okedij, ‘Is Intellectual Property “Investment”?’ Eli Lilly V. Canada And The International Intellectual Property System’, *U. Pa. J. Int’l L.*, 35.1 (2013), 1121–1138. Hlm. 1122.

² Ety Susilowati, *Hak Kekayaan Intelektual Dan Kontrak Lisensi HKI* (Semarang: Magister Ilmu Hukum Universitas Diponegoro, 2012). Hlm. 5.

³ Claudio Fassio Suma Athreye, ‘Why Do Innovators Not Apply for Trademarks? The Role of Information Asymmetries and Collaborative Innovation’, *Industry and Innovation*, 27.2 (2020), 1–21. Hlm. 2.

⁴ Renny N.S Koloay, ‘Fungsi Pendaftaran Merek Sebagai Upaya Menjamin Kepastian Hukum Bagi Pemegang Hak Eksklusif Atas Merek’, *Jurnal Hukum UNSRAT*, 19.2 (2011), 90–100. Hlm. 92

⁵ Ifrani ND, Mukti Fajar, Yati Nurhayati, ‘Iktikad Tidak Baik Dalam Pendaftaran Dan Model Penegakan Hukum Merek Di Indonesia’, *Jurnal Hukum IUS QUIA IUSTUM*, 25.2 (2018), 219–236. Hlm. 220.

⁶ Beata Smarzynska Javorcik Eugenia Baroncelli, Carsten Fink, ‘The Global Distribution of Trademarks: Some Stylised Facts’, *The World Bank*, 12.1 (2004), 765–782. Hlm. 767.

⁷ Muh. Ali Masnun, ‘Reorientasi Pengaturan Pemberdayaan Hukum Usaha Mikro, Kecil, Dan Menengah Melalui Hak Atas Merek Kolektif’, *Jurnal Wawasan Yuridika*, 3.2 (2019), 217–234. Hlm. 218.

⁸ Marcel Seip Meindert Flikkema, Carolina Castaldi, Ard-Pieter de Man, ‘Trademarks’ Relatedness to Product and Service Innovation: A Branding Strategy Approach’, *Research Policy*, 48.2 (2019), 1340–1353. Hlm. 1342.

Comparing Traditional and Novel Methods in Determining Reach in Bicycle Fitting



Kurt Williams¹, Mary Zadnik², Sunddip Panesar-Aguilar³

¹Pima Medical Institute, Seattle, WA

^{2,3}Univeristy of St. Augustine for Health Sciences, St. Augustine, FL

ABSTRACT: In bicycle fitting, the literature has focus historically on the saddle height and knee flexion angle. There has been little focus in the literature on postural reach; this is the distance between the saddle and handlebars. Currently, this distance is determined by a specialist, a *bicycle fitter*, and is generally based on a trunk, shoulder, and elbow angle; however, it is primarily based on what "looks right" to the fitter and "feels right" to the client, rather than using anthropometric measurement. This study examined whether there was a relationship between anthropometric measures and postural reach, or if ideal fit should continue to be determined by a trial-and-error process, informed by expert opinion and client feedback. This study found that there was a moderate correlation $r(9) = 0.663, p < .05$ between the upper extremity measure and postural reach and a fair correlation $r(9) = 0.296, p < .05$ between the trunk measure and postural reach. A significant regression was found between the upper extremity length and the postural reach $F(1, 9) = 7.06$. The finding of this study does suggest that there is a relationship between the anthropometric measures and the postural reach. However, due to the low number of data points, the external validity may be somewhat limited, and it is suggested that the study be only used as a guide for future exploration.

KEYWORDS: bicycle fitting, postural reach, ideal bicycle fit, sports research, human subjects

I. INTRODUCTION

A national survey found that 18% of the population that were 16 years or older used a bicycle at least one time during the summer of 2012¹. Of those who rode their bicycle, 33% rode for recreational purposes, 28% for exercise or health, 17% for errands, 8% to visit friends, 7% commuted for work, and 4% commuted for school. The average trip length was 65 minutes, with 42% lasting less than 30 minutes¹. This demonstrates that while riding time varies between cyclists, most riders spend a reasonable amount of time in contact with their bicycles.

When on a bicycle, the rider has multiple points of contact. These points of contact include the hands, the buttocks, and each foot. In many cases, these points of contact become relatively fixed and possibly become points of pressure and friction. These contact points, and the surrounding joints, can become areas of discomfort for many riders. While on the bicycle the cyclists have tried to adapt their bodies to the bicycle instead of the bicycle to their bodies. It seems reasonable to think that these areas of contact can lead to non-traumatic overuse injuries. Dettori and Norvell² reported that non-traumatic overuse injuries are a common complaint among cyclists, with the projection that 85% develop one or more injuries within their lifetime. However, because these types of injuries are not always reported, the true frequency of non-traumatic injury is not really known².

The most common sites of injury that cyclists report include the knees, lower extremities, the neck and shoulders, the low back, the perineum and buttocks, and the wrist and hands². The areas of reported non-traumatic injury coordinate with the areas of contact that cyclists have with their bicycles. Currently, as many authors have confirmed, there is insufficient literature to make the connection between these injuries and a poor bicycle fit^{2,3}.

Bicycle fitting has historically been a process-based mostly on opinion and empiric methods; much of what has been studied and reported has focused on how to produce the maximum power output on a bicycle with the least metabolic cost⁴. An often overlooked author himself, Too did attempt to track down the sources for some of the standard measurements and approaches that are still practiced with contemporary cycling⁴. Even many of Too's citations are from the late nineteen-sixties and early nineteen-seventies and not from peer-reviewed journals⁴.

Since the development of the bicycle, people have been trying to not only go faster for longer periods but also to maintain greater comfort while they ride. The first bicycle looked much like a strider bike that you might see a small child using as their first bicycle today; it had hard wooden wagon-like wheels, a plank seat, and was powered by walking your feet along the ground^{5,6}.