

World Trademark Review Daily

**Defendants ordered to stop using Narry name in tailors dispute
Thailand - Tilleke & Gibbins International Ltd**

Unfair use

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In *Singh Suriyaammaritr v Narry Tailors Co Ltd* (Case 4583/2552, November 24 2009), the Supreme Court has applied Section 18 of the [Civil and Commercial Code](#) to protect the plaintiffs' right in their trade name.

Section 18 provides as follows:

"If a person's right to use a name is disputed by another, or if the interest of the person is injured by the fact that another uses the same name without authorization, then that person may demand from the other abatement of the injury. If the injury continues, the person may apply for an injunction."

In 1989 the first plaintiff founded Narry Limited Partnership (the second plaintiff), which offers tailor services. The first plaintiff then licensed the use of the mark and trade name NARRY to the second plaintiff. The plaintiffs claimed that Narry is the nickname of the first plaintiff, Narinder Singh Suriyaammaritr, who registered the name as a trademark and service mark in several classes of the [Nice Classification](#), including Class 40 (couture services). The plaintiffs subsequently discovered that the defendants operated a business under the name Narry Tailors Co Ltd in Krabi Province. In June 2002 the plaintiffs filed a civil suit against the defendants for infringement of the trademark, service mark and trade name NARRY. The plaintiffs sought an injunction preventing the defendants from using the name Narry as a trade name.

The first and second defendants filed an answer and counterclaim denying all of the plaintiffs' allegations, stating that the plaintiffs' trademark was identical or similar to an earlier trademark owned by the first and second defendants. The defendants thus requested that the court cancel the plaintiffs' trademark and service mark.

The Central Intellectual Property and International Trade Court (IP & IT Court) found that the plaintiffs had a better right to the name Narry and held that the defendants should not use it as a trade name. The first and second defendants appealed to the Supreme Court.

The Supreme Court found that the plaintiffs had provided a great deal of evidence demonstrating that they had a better right to the name Narry. The plaintiffs had submitted a certificate of incorporation demonstrating that Narry Limited Partnership was incorporated in 1989. The second defendant countered that Narry was also his nickname, and that he had opened a tailor shop in Bangkok under the name Narry before 1989. However, the defendants failed to prove this claim. In addition, the court found that the defendants' shop in Krabi Province was incorporated in December 1999 - that is, 10 years after the first plaintiff's shop was established. Finally, the second defendant admitted during cross-examination that he had seen advertisements for the plaintiff's business before the defendants' shop was opened.

The court concluded that the first and second plaintiffs had started using the name Narry as a trade name before the defendants. The court thus affirmed the judgment of the IP&IT Court and ordered that the defendants stop using the name Narry as a trade name. The defendants' counterclaim was dismissed.

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