

## **File 1: Thai Business Law Exam Case Study**

### **Question 1.1: Legal Capacity**

Basic Answer: Benz is currently a minor under Thai law, but he can validly enter into the business and become a partner or shareholder if he obtains parental consent.

Legal Analysis: Under Thai law, a person reaches the legal age of majority at twenty years old. Since Benz is nineteen, he is classified as a minor. Minors generally lack the full capacity to perform juristic acts, such as entering into binding contracts or forming business entities, on their own. To ensure these acts are legally valid and not voidable, Benz must obtain the consent of his legal representative, which is typically his parents.

Secondary Considerations: If Benz were to enter into these contracts without parental consent, the acts would be considered voidable. This means that his parents, or Benz himself upon reaching the age of majority, could choose to cancel the contracts. This creates significant uncertainty for the business, making it essential to secure consent beforehand to ensure the stability of the venture.

### **Question 1.2: Business Organization**

Basic Answer: The Private Limited Company is the most appropriate structure for this venture to protect the personal assets of the owners.

Legal Analysis: The primary legal distinction between the two proposed structures is liability. In an Ordinary Partnership, as suggested by Benz, all partners are jointly and unlimitedly liable for the debts and obligations of the partnership. This implies that if the business faces a lawsuit, the personal assets of both Arthit and Benz could be seized. In a Private Limited Company, however, the business exists as a separate legal entity. The liability of the shareholders is limited to the unpaid amount on the shares they hold, protecting their private wealth from business risks.

Secondary Considerations: Although Benz prefers the partnership model because it is easier to set up, the nature of their business—manufacturing robotic arms—carries a high risk of causing physical injury or property damage. This high-risk environment makes the unlimited liability of a partnership extremely dangerous for the owners. Therefore, the administrative burden of forming a company is outweighed by the necessary protection it provides.

### **Question 2.1: Contract Classification**

Basic Answer: The agreement with Khun Dang is a Hire of Work contract, whereas the agreement with Nop is a Hire of Services, or employment, contract.

Legal Analysis: The contract with Khun Dang is classified as Hire of Work because the agreement focuses on the result—the finished wooden housing—rather than the labor process. Khun Dang is paid a fixed fee for the completion of the job, uses his own tools, and retains autonomy over his schedule. In contrast, Nop is under a Hire of Services contract because

he is subject to the employer's control. He receives a monthly salary, is required to wear a uniform, and must strictly follow a script provided by Arthit, indicating a clear employer-employee relationship.

Secondary Considerations: The distinction is critical for liability and benefits. As an independent contractor, Khun Dang is generally responsible for his own actions and taxes. Nop, as an employee, is entitled to labor protection rights, and his actions bind the employer vicariously, which is central to the liability for the accident that occurs later in the scenario.

### **Question 2.2: Liability for the Accident**

Basic Answer: The business owners are legally responsible for the damages caused to Ms. Mali through the principle of vicarious liability.

Legal Analysis: Under the Civil and Commercial Code, an employer is jointly liable with their employee for any wrongful acts committed in the course of employment. Nop caused the accident while he was performing his specific duty of moving the robot unit as instructed by Arthit. Since the injury to Ms. Mali and the damage to her phone occurred while Nop was acting within the scope of his employment duties, the liability extends to the business owners.

Secondary Considerations: While Nop is the individual who physically caused the harm, Ms. Mali is likely to sue the business because it presumably has greater assets to satisfy the claim. The business could potentially seek reimbursement from Nop later, but vis-à-vis the third party (Ms. Mali), they are fully liable.

### **Question 2.3: Hire of Property**

Basic Answer: To be enforceable for the full five-year term, the lease contract must be made in writing and registered with the competent official.

Legal Analysis: Thai law distinguishes between short-term and long-term leases regarding formal requirements. A lease for immovable property generally requires written evidence to be enforceable. However, if the lease duration exceeds three years, as is the case with this five-year proposal, it must be registered with the Land Department. Without this registration, the lease is only enforceable for a period of three years, regardless of what the contract document says.

Secondary Considerations: Failing to register the lease poses a significant commercial risk. After three years, the landlord could legally evict the business or drastically increase the rent, arguing that the enforceable period of the lease has expired. Registration provides security of tenure for the entire agreed period.

### **Question 3.1: Intellectual Property Protection**

Basic Answer: The robotic arm should be protected by a Patent, while the User Instruction Manual is protected by Copyright.

**Legal Analysis:** The robotic arm represents a mechanical invention involving a unique software algorithm, which fits the criteria for a Patent. A patent protects the underlying invention and its industrial application, provided it is new and involves an inventive step. The User Instruction Manual, written by Benz, is a literary work. Copyright law protects the expression of ideas in literary works automatically from the moment of creation, without the strict need for registration.

**Secondary Considerations:** For the patent, Benz must ensure the invention has not been publicly disclosed prior to the application, as novelty is a strict requirement. For the manual, while copyright is automatic, recording the creation with the IP department can serve as valuable evidence in case of a dispute.

### **Question 3.2: Trademarks**

**Basic Answer:** If the logo is registered, the business can sue for trademark infringement; if unregistered, they must rely on the tort of passing off.

**Legal Analysis:** If Siam Smart-Coffee has registered the "blue elephant" logo, they have the exclusive right to use it. They can sue the competitor for infringement if the competitor's mark is confusingly similar, which is a straightforward legal process. If the logo is not registered, they have no rights under the Trademark Act. Instead, they must sue under the Civil and Commercial Code for passing off, claiming that the competitor is wrongfully deceiving the public and damaging their goodwill.

**Secondary Considerations:** Relying on passing off is much more difficult and expensive than a trademark infringement suit because the plaintiff must prove that they have an established reputation and that actual confusion is occurring. Registration removes this heavy burden of proof.

## **File 2: Mock Exam Nov 2025**

### **Scenario 1, Question 1: Legal Issues of the Laptop Spill**

**Basic Answer:** The primary legal issue is a Wrongful Act (Tort) under Section 420 of the Civil and Commercial Code, which provides the main ground for Arthit to claim full compensation for the damaged laptop.

**Legal Analysis:** Under Section 420 CCC, liability arises when a person willfully or negligently injures the life, body, health, or property of another unlawfully. In this scenario, the coffee shop staff acted negligently by providing a cup with a poorly sealed lid. This failure to ensure the product was safe for handling constitutes a breach of the duty of care owed to customers. The negligence directly resulted in the lid popping off and the coffee spilling, which caused the laptop to malfunction. Because all elements of a wrongful act—negligence, causation, and damage to property—are present, the shop is liable to compensate Arthit for the full extent of the damage caused to his device.

Secondary Considerations: While a contract of sale was formed when Arthit paid 80 THB, suing for breach of contract is less effective in this specific instance. The remedy for a defective product under contract law might primarily entitle Arthit to a replacement drink or a refund of the 80 THB, whereas the Tort claim allows for the recovery of consequential damages, specifically the value of the ruined laptop

### **Scenario 1, Question 2: Business Organization for the Coffee Shop**

Basic Answer: The Coffee Shop D'Oro should be organized as a Private Limited Company to limit the owner's liability.

Legal Analysis: Operating a coffee shop involves daily interactions with the public and inherent risks such as customers getting burned, slipping, or property damage incidents like Arthit's. If the business operates as a sole proprietorship, the owner is personally liable for all these damages. By forming a Private Limited Company, the business becomes a separate legal entity. Any claims for damages, such as the cost of a ruined laptop, would be made against the company's assets, leaving the owner's personal savings untouched.

Secondary Considerations: While a limited company requires more paperwork and compliance than a sole proprietorship, the protection it offers against the high frequency of small-to-medium risks in the food and beverage industry makes it the superior choice.

### **Scenario 1, Question 3: Unregistered Logo**

Basic Answer: Since the logo is unregistered, the shop has no strong protection under the Trademark Act and must rely only on the passing off action.

Legal Analysis: An unregistered logo does not grant the owner the statutory right to exclude others from using it or to sue for infringement. To protect the brand, the shop must prove "passing off". This requires demonstrating that the logo has acquired significant reputation or goodwill in the market and that a third party is misrepresenting their goods as D'Oro's, thereby confusing the public.

Secondary Considerations: This situation highlights the risk of delaying registration. Without registration, the shop has a much weaker legal position and faces higher legal costs to stop copycats compared to if they had secured a registered trademark.

### **Scenario 2, Question 1: Legal Issues of the Slip and Fall**

Basic Answer: The primary legal issue is the vicarious liability of the employer for the negligence of the maid who failed to place warning signs.

Legal Analysis: The maid committed a tort (wrongful act) by mopping the floor and failing to place warning signs, which breached the duty of care owed to pedestrians like Napat. Under Thai law, the employer (the cleaning company or university) is vicariously liable for torts committed by employees in the course of their employment. Therefore, Napat can hold the employer

responsible for his injuries. The case does not clearly state who the employer is: MUIC (hire of services between maid and MUIC) or external company (hire of work between MUIC and external company).

Secondary Considerations: Napat's remedies would typically include compensation for medical expenses related to his wrist injury. He may also claim non-pecuniary damages for the loss of opportunity regarding his missed exam, although this is harder to quantify.

### **Scenario 2, Question 2: Business Organization for Cleaning Venture**

Basic Answer: A Private Limited Company is the most appropriate structure for a business that depends on cleaning staff to third-party sites.

Legal Analysis: This business model carries high liability risks because staff are working on client premises where accidents like slips and falls are common. If the business is a partnership, every partner is personally responsible for the negligence of every maid. A Private Limited Company structure confines this liability to the entity, protecting the owners' personal assets from the multiple potential lawsuits that could arise from staff negligence.

Secondary Considerations: This structure also adds professional credibility when bidding for contracts with large institutions like universities, which often prefer dealing with incorporated entities rather than informal partnerships.

### **Scenario 2, Question 3: IP Classification of Cleaning Method**

Basic Answer: The new cleaning method would be classified for legal protection as a Process Patent.

Legal Analysis: Intellectual property law distinguishes between products (machines, chemicals) and processes (methods, techniques). Since the innovation described is a "method for cleaning floors" that reduces time and improves safety, it is a process invention. If this process meets the criteria of being novel, involving an inventive step, and being industrially applicable, it can be patented.

Secondary Considerations: Protecting a process can be more challenging to enforce than a product patent because it is harder to detect infringement. However, it prevents competitors from legally using that specific efficient methodology without a license. Alternatively, the business could treat the method as a Trade Secret to avoid the public disclosure required by patent registration. Trade secret protection is automatic and indefinite as long as the information remains confidential and has commercial value. However, this is risky for a cleaning process performed in public spaces; if competitors can observe the staff and figure out the technique (reverse engineering), trade secret protection is lost, whereas a patent would protect the method even if it becomes known.