A STUDY ON THE EFFECTIVENESS OF ACTIONS TAKEN BY GOVERNMENT (MINISTRY OF DOMESTIC TRADE AND CONSUMER AFFAIRS) IN CONTROLLING PIRATED OPTICAL MEDIA IN MALAYSIA

By

Hanani Binti Ariffin (2004614665) Marshita Bt. Mohd Khairi (2004614706) Ernie Norhuda Binti Che Mamat (2004614633)

Submitted in Partial Fulfillment of the Requirements for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

October 2006

The students/authors confirm that work submitted is their own that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

First of all, we would like to thank God because of giving us opportunity, strength and patient in order to do the process of completing this assignment. Although this assignment was not too difficult, but we still have a problem in doing it. Before we do a further research on the particular area, we have problem in certain part, like to decide whose parties could give some information about our research in order to finish this assignment.

Secondly, we would like to thank our respectful supervisor that is Puan Farizah Bt. Md. Isa, for her guidance and assistance. As far as we can see, she has put a lot of effort in order to give the best for us. Her explanations and advise in our research so valuable. Thank you so much for your support, suggestions, motivations and guidance to finish this assignment.

In particular we wish to thank and appreciation goes to Assoc. Prof. Rohazarwati Bt. Zuallcobley, Deputy Director General (Industrial Property) of Intellectual Property Corporation of Malaysia (Myipo). Thanks a lot also to En. Mohd.Aizuddin and En.Fitri B.Ali from Enforcement Department Unit, Ministry of Domestic Trade and Consumer Affairs. They gave commentary about pirated disc and much information relating the actions taken by government in this issue.

ABSTRACT

In Malaysia, we has significant problem with piracy of copyright materials, particularly those embodied on optical media. The government has made many actions to stop the distributing and the producing of pirated optical media. The Copyright Act 1987 and the Optical Disc Act 2000 supported their actions.

By conducting this research, we would like to analysis whether their action to control the pirated disc is effective or not for curing this problem including the sufficiency of the law relating in protecting this. This research also includes several recommendations in controlling pirated optical media in Malaysia.

For our research, we have collected information from various articles and relate books, commentary from government department officers in our interview session to access additional material regarding this issue.

By our research, we hope the aggressive action by government can decrease the number of cases as regard the pirated CDs, VCDs, and DVDs in our market. We also emphasis in creating awareness to our consumers, don't give support the piracy of optical product and also to create awareness to the parties, who produces the pirated optical disc to respect the owner of intellect property right.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Table of Contents	iv
List of Cases	vii
List of Statutes	viii
CHAPTER ONE: INTRODUCTION	
1.0 Background	1
1.1 Problem Statement	5
1.2 Objective of Study	5
1.3 Literature Review	6
1.4 Methodology	8
1.5 Limitations	9
1.6 Contribution of Study	9
1.7 Provisional Plan of Research	10
CHAPTER TWO: PROVISION OF COPYRIGHT ACT 1987 AND OPT	ICAL DISCS
ACT 2000	
2.0 Introduction2.1 Provision of Optical Discs Act 1987	11
2.1.1 Basic Principle of Copyright Law	12
2.1.2 Definition of Copyright	13
2.1.3 Infringement of Copyright	16
2.1.4 Who Enforces Copyright	18
2.1.5 Penalties for Officers	19

2.1.6 Court Discussion and Cases on Copyright	21
2.1.7 Other Copyright Issues	23
2.2 Provision of the Optical Discs Act 2000	
2.2.1 Definition of Optical Discs Act 2000	25
2.2.2 Infringement of Optical Discs Act 2000	26
2.2.3 Penalty for Offence under Optical Discs Act 2000	28
2.2.4 Enforcement of the Optical Discs Act 2000	30
2.3 Conclusions	31
CHAPTER THREE: THE EFFECTIVENESS OF ACTIONS TAKEN BY	7
GOVERNMENT IN CONTROLLING PIRATED O	PTICAL
MEDIA IN MALAYSIA	
3.0 Introduction	32
3.1 Enforcement by Malaysian Government (Ministry of Domestic and	
Consumer Affairs)	34
3.2 Problems Faced by the Government (Ministry of Domestic Trade and	
Consumer Affairs)	
3.2.1 General Problems	37
3.2.2 Procedural Problems	39
3.3 Action Done Ministry of Domestic Trade and Consumer Affairs	
According to Special Report 301 International Intellectual Property Allian	ice
3.3.1 Factory Raids	42

43

3.3.2 Retail Raids