

# Starbucks Coffee vs. Starbung Coffee: A Win/Win Possibility on the Trademark Infringement Issue

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## Abstract

Violating intellectual property has been a major issue across developing countries, including Thailand. In this connection, in 2013, a Thai coffee vendor named “Starbung” was sued by the globally popular American coffee house chain, Starbucks. The US firm claimed that Starbung coffee logo was very similar to its trademark. They argued the appearances of the two trademarks could confuse the public and customers and lead them to believe that Starbung coffee was part of its successful business. Therefore, Starbucks demanded the local Thai street vendor stop using the logo. To retrospectively determine whether Maslai should have rejected the request and fought against the lawsuit or accepted the demands and thus stopped using the logo, the analyst must explore the specifics of the story behind this intellectual property infringement issue. This case study provides an insightful story from both the perspective of both parties, which would benefit those whose work concern the areas of creative design, creative communication, and brand management.

**Keywords:** Starbung, Starbucks, Intellectual Property, Trademark, Communication

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# สตาร์บัคส์ vs. สตาร์บัง: แนวโน้มการประสานประโยชน์ จากการละเมิดสิทธิเครื่องหมายการค้า

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## บทคัดย่อ

การละเมิดทรัพย์สินทางปัญญา (Intellectual Property: IP) กลายเป็นภาระสำคัญในประเทศไทยกำลังพัฒนาร่วมกับประเทศไทย ในปี พ.ศ. 2556 ร้านกาแฟไทยชื่อ “สตาร์บัง” ถูกฟ้องร้องโดยร้านกาแฟเมริกันชื่อดังอย่างสตาร์บัคส์ เนื่องจากเห็นว่าโลโก้ของสตาร์บังมีความเหมือนคล้ายกับเครื่องหมายการค้าของสตาร์บัคส์ อันจะก่อให้เกิดความสับสนต่อสาธารณชนและกลุ่มลูกค้าว่ากาแฟสตาร์บังเป็นส่วนหนึ่งของความสำเร็จทางธุรกิจของสตาร์บัคส์ ด้วยเหตุนี้ สตาร์บัคส์จึงมีคำสั่งให้สตาร์บังหยุดใช้โลโก้ได้ตั้งแต่ล่ามในการประกอบธุรกิจ ทั้งนี้ ในการพิจารณาว่า นายดำรงค์ มั้สและคุณที่จะปฏิเสธข้อเรียกร้องและต่อสู้ในชั้นศาลหรือควรที่จะยอมรับข้อเรียกร้องและหยุดใช้โลโก้สตาร์บัง ผู้วิเคราะห์จำเป็นอย่างยิ่งที่จะต้องศึกษาเหตุการณ์เบื้องหลังอย่างละเอียด กรณีศึกษาขึ้นนี้จึงได้ทำการรวบรวมเรื่องราวเชิงลึกจากมุมมองของทั้งสองฝ่าย เพื่อให้เป็นประโยชน์ต่อผู้ที่ทำงานเกี่ยวกับความคิดสร้างสรรค์ เช่น วงการการออกแบบ การสื่อสาร และการบริหารจัดการตราสินค้า คำสำคัญไทย: สตาร์บัง สตาร์บัคส์ ทรัพย์สินทางปัญญา เครื่องหมายการค้า การสื่อสาร

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## Introduction

In mid-October 2012, Damrong Maslae, owner of Thai coffee vendor, Starbung Coffee, received a polite, but decisively worded “cease and desist” letter pertaining to its recently launched street vending coffee business. Dated October 17, 2012, the letter was sent by an associate of the law firm of Tilleke and Gibbins<sup>1</sup>, attorneys representing Starbucks Coffee (Thailand). (See Exhibit 1 for the original Thai version of the letter.)

Dear Mr. Damrong

*I am Serbsiri Tavipon, Attorney-at-Law on behalf of Starbucks Coffee (Thailand) Co., Ltd., which is the owner of “Starbucks Coffee and the two overlapping rings in green”. Thus, these identifications are not only recognized as my client’s business trademark and an official trade name, but also my client has an entirety right in intellectual property right that relates to your and others’ products domestically and internationally.*

*Recently, my client has [been] informed that you are the owner of the Thai coffee street vendor entitled Starbung Coffee, which serves coffee and other beverages in Bangkok.*

*The trademark design of your Starbung Coffee and the two overlapping rings [are] obviously similar to the renowned trademark of my client. Especially, the word “Star” and “Coffee” that are designed, positioned, colored – including text design – in the same [manner] as my client’s trademark. Moreover, the overview of your trademark presenting the two overlapping green circles is very much like my client’s trademark. I am pleased to inform you that the aforementioned detail of your business practice is considered to be violating my client’s trademark.*

To buttress the argument that Starbung’s logo was imitative of Starbuck’s trademark, the letter continued with a juxtaposition of the two logos – following which was laid out a series of actions that Starbucks demanded of Starbung, as well as an intimation of what actions Starbucks was prepared to take, absent the cooperation demanded of Starbung. To wit:



เครื่องหมายการค้าของลูกค้าความข้าพเจ้า



เครื่องหมายของท่านที่คล้ายกัน

My Client Trademark (Left) and Your Logo (Right)

Anyhow, even though we have the right to take you to the court according to the law, . . . my client chooses to compromise with you in order to find dispute resolution. In this regard, we would ask for your cooperation to respond in [this] matter in writing back to us within 7 consecutive days [from] the date you have received this letter to insist [sic] your cooperation in following as below:

- 1) On hold and stop violating my client's trademark. Don't use the similar name and trademark that relate to my client's trademark in your business again.
- 2) Remove and destroy your existing products, signs, and online and office line advertising and promotional materials immediately, such as store decorations, stickers, leaflets, handouts, etc. that contain the word "Starbung Coffee" associating with the two overlapping green circles within 7 consecutive days [of] the date you have received this letter.
- 3) Once you have taken the action as the above requests, please forward pictures to Tilleke and Gibbins International Ltd. immediately to clarify your action.
- 4) Agree to not launch an application to register your trademarks or business names that are similar to my clients' trademark.
- 5) Sign your name on page 3 and forward this letter to Tilleke and Gibbins International Ltd. within 7 consecutive days of the date you have received this letter, and agree to not violating intellectual property of my client in the future.

*I hope I will receive the signed letter from you to confirm that you will take action following the aforementioned requests by October 26, 2012.*

*If I have not heard from you within 7 consecutive days [from] the date you have received this letter, my client has the right to proceed with a legal action to protect his intellectual property right without letting you know in advance.*

*If you have further questions, please contact Serbsiri Tavipon [per] the contact detail at the top of this letter head. Thank you in advance and hope to receive your cooperation.*

*Yours Respectfully*

*Tilleke and Gibbins International Ltd.*

*Serbsiri Tavipon*

*Attorney-at-Law*

## **Intellectual Property**

As indicated by the demands contained in the letter sent by legal counsel for Starbuck's (Thailand), the basis for Starbuck's complaint was grounded in the legal concept of "intellectual property" – i.e., "*creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce*". As such intellectual property ("IP") – e.g., patents, copyrights, and trademarks – enjoyed a protect status in law, the justification for which was the principle that owners of such IP assets were entitled to earn recognition or financial benefit from what they invent or create. That is, by striking the right balance between the interests of innovators and the wider public interest, the IP system aimed to foster an environment in which creativity and innovation could flourish (WIPO, 2014a).

In recent years, allegations of intellectual property violations had become a major issue in relations between "developed" and "developing" countries. European and American corporations purveying all kinds of merchandise, from

clothing to jewelry to movies, had become increasingly concerned about the near-ubiquity of encroachments on their IP assets in a number of countries, including Thailand. In fact, in U. S. government ratings of nations deemed to be among the largest violators of the IP rights of American corporations, Thailand had often appeared among the top ten. Hence, Starbuck's cease-and-desist demand letter could be seen as part of the effort by some Western business establishments to corral what they believed to be infringements on their IP rights.

### Types of Intellectual Property (IP)

The term, "intellectual property (IP)," applied to several distinct forms of *"creations of the mind,"* each of which vested the IP owner with certain legal rights and protections (WIPO, 2014e). The three most commonly encountered types were trademarks, patents, and copyrights.

#### Trademark

A "trademark" was a specific symbol that differentiated the goods or services of one company from those of other competitors (WIPO, 2004). A trademark could be any word, phrase, name logo, symbol, device, or any unification of these elements (Meier-Ewert, 2012), as well as any drawing, three dimensional features such as the shape and packaging of goods, non-visible signs such as sounds or fragrances, or color shades used as distinguishing features. All of these elements of trademark were legally protected by intellectual property rights (WIPO, 2004).

In seeking a trademark protection, business owners had to apply to the trade office of each country in which they sought protection (WIPO, 2004). Once granted, a registered trademark usually enjoyed protected status for ten years, and was renewable. This meant that: "The owner of the trademark ha[d] the exclusive right to use it in the market place to identify certain goods and services, or to authorize (or license) others to use it in return for payment or other benefits" (Meier-Ewert, 2012, p. 55).

The trademark system thus set out to secure the right of business owners against unfair competition from other endeavors seeking to pursue a free ride on

the affirmative reputation earned by the trademark owners. It also assisted customers in distinguishing the trademark-protected product from similar goods and services produced by other entities. In essence, then, the trademark system endeavored to protect an undertaking's goodwill, as well as prevent consumer confusion and forestall fallacious competitive practices (Meier-Ewert, 2012).

The trademark system worked according to the *Classification Systems of Goods and Services for the Purposes of Trademark Registrations*, as agreed to in the Nice Agreement<sup>2</sup>, under the administration of the World Intellectual Property Organization<sup>3</sup> (Meier-Ewert, 2012). While Thailand had not yet become a contracting party to the Nice Agreement, the Thai Trademark Office had, as of 2013, adopted the 10<sup>th</sup> Edition of the Nice Classification System to improve the social and commercial practices relating to intellectual property rights in Thailand. This action brought the country's trademark filing practices in parallel with the international standard (Sriwatanakul, 2013).

In general, trademark rights were typically obtained by the registration of a sign as a trademark. In some parts of the world, however, the legal concept of "common law trademarks" applied, in that there existed the presumption of a trademark that accrued to a symbol or design even in the absence of its official registration. Thus, *per* the wording of Article 16 of the TRIPS<sup>4</sup> (*Trade-Related Aspect of Intellectual Property Rights*) Agreement that seemingly only obliged members to accord rights to the owners of registered trademarks, Annex 1 of the Agreement on TRIPS 1994, Article 16.1 provided that members were entitled to enjoy trademark rights without registration based on "existing prior rights" or "on the basis of use." This stipulation automatically allowed unregistered but well-known trademarks to be protected (Meier-Ewert, 2012).

#### *Article 16: Right Conferred*

*1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs*

*for goods and services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of use an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use” (Taubman, Wager, & Watal, 1994, p. 256).*

### Patent

Patents represented a second type of “creation of the mind” within the realm of intellectual property. Patents were granted to protect new inventions which often, but not always, concerned a new solution to a technical problem. Many national laws did not include scientific theories, aesthetic creations, schemes, and rules and methods for performing mental acts in the definition of “invention” because the results from these activities were invariably intangible, abstract, and of an intellectual character, instead of being technical outcomes (Watal, 2012).

Importantly, a patent only gave legal protection in the country where it was registered. There was no such thing as an “international patent” that was valid in every country in the world. Therefore, for a patent to be legally protected it had to be obtained in each country where protection was sought (Rungry, 2013).

The patent system granted an exclusive right to the patent owner to prevent others from capitalizing on the patented invention in that jurisdiction for a prescribed period of time without his or her authorization. Patent applicants were required to disclose certain details of their invention that was illustrated in the application for protection. This requirement was imposed to allow others to learn about the invention in order to undertake make further development on it, if interested. As set forth in Article 7 of the TRIPS Agreement, this system was designed to encourage further investment in research and development (R&D) in order to make new inventions (Watal, 2012).

### **Article 7: Objectives**

*The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations* (Taubman et al., 1994, p. 252).

### **Copyright**

*Copyright*, the third commonly encountered form of “creations of the mind,” was the legal term used to describe the rights that creators have over their literary, artistic, and other works. Historically, the term “copyright” was associated with the domains of literature, art and other cultural activities which often refer to the rights of performers, producers of phonograms and broadcasting organizations. In time, however, it was extended to protect new areas such as computer programs and databases (Taubman et al., 1994). Hence, works covered by copyright ranged from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings (WIPO, 2014d).

Copyright increasingly played a significant role in knowledge-based economies. Creators often exploited their works by licensing them to publishers and producers. Thus, it was fair that creators would draw some benefit from others using the fruits of their creative efforts. This practice was set to bolster and prize creative work. The income generated by copyright would encourage creators to dedicate themselves to creative work and help to warrant the substantial upfront investment (Taubman et al., 1994).

There were two types of rights under copyright: economic rights and moral rights. Economic rights allowed the rights owner to gain financial reward from the use of his or her works by others. Moral rights were the rights to maintain authorship of a work, and the right to prevent modifications to the work that could damage the

creator's reputation. Like trademarks, according to the Berne Convention, copyright protection was automatically gained without the necessity for registration (WIPO, 2004).

In summary, trademarks, patents, and copyright were common types of intellectual property, each of which had different legal protections. Trademark and copyright were automatically protected by law, while patent protection ensued only upon proper registration. Ultimately, the IP system shared the same common aim – the fostering of a setting in which creativity and innovation could blossom.

It was against this backdrop of rights in law conferred on IP owners that Starbucks had instructed its legal counsel in Thailand to demand that Starbung cease and desist from what Starbucks deemed an infringement on its trademark. The US firm claimed that Starbung coffee logo was very much similar to its trademark. They argued that the appearances of the two trademarks could confuse the public and customers leading them to believe that Starbung coffee was part of its successful business. Therefore, through its local Thai legal counsel, Starbucks demanded that the local Thai street vendor stop using the logo.

## Starbucks History, Philosophy, and Select Policies

Starbucks coffee house began operations in Seattle, Washington, on March 30, 1971. It was run by a group of three entrepreneurs who had earlier been classmates at the University of San Francisco: Jerry Baldwin, a high school English teacher; Zev Siegl, a high school history teacher; and, Gordon Bowker, a freelance writer (Bryner, 2013). (Commentators would later speak of the irony of this world-famous coffee house having been the “brainchild” of individuals with backgrounds in the humanities and with neither previous formal instruction nor previous experience in the world of commerce.)

“Starbucks” was originally inspired by *Moby-Dick*<sup>5</sup> or *The Whale* to evoke the romance of the high seas and the seafaring tradition of the early coffee traders (Starbucks Coffee Company, 2014a). In 1971, Gordon Bowker wished to name the company “Pequod” after the chief last mate on the Pequod, the fictitious 19th

century Nantucket whale ship that appeared in the 1851 novel *Moby-Dick* by American author Herman Melville. However, his creative partner, Terry Heckler, objected, saying that “No one’s going to drink a cup of Pee-quod!” (Cotkin, 2012, p. 156). Ultimately, the business partners agreed on adopting “Starbucks” *per* Heckler’s initial proposal (Schultz, 2012).

With the inspiration arising out of the choice of the seafaring tale of *Moby-Dick* as the genesis of the name, “Starbucks,” the founders continued with the theme of the seas with its choice of a *Siren* as its unique trademark. The logo that would in time instantly evoke the name, “Starbucks,” featured a Siren<sup>6</sup>, a “twin-tailed mermaid from Greek mythology,” initially enhanced by a brown color before being replaced by deep green and white (Starbucks Coffee Company, 2014a). Following the initial design (See Figure 1 below), the trademark underwent a series of re-designs, ultimately culminating in the 1992 design that was still used as a secondary logo to the most current logo introduced in 2011 (Steve, 2011). (See Figure 2 below.)



Figure 1: The Original Norse Woodcut of a Twin-tailed Mermaid, or Siren, Used from 1971–1987 (Starbucks Coffee Company, 2014a)



Figure 2: The Development of Starbucks Trademark 1971 – Present (Cotter Visual Communications, 2011)

### Transformation

When Howard Schultz joined Starbucks as director of retail operations and marketing, Starbucks began purveying coffee to fine restaurants and espresso bars. Then, in 1983, upon his return from Milan, Italy, where he had been impressed by the culture of the Italian coffee house, Schultz championed the adoption of the coffee house style into Starbucks business. This new business model represented a significant turn, leading directly to the Starbucks Coffee house of the present day. Later in 1987, Schultz bought out the three founders to become the company's sole owner (Starbucks Coffee Company, 2011b).

By 2013, under the leadership of Schultz (Chairman, President and Chief Executive Officer), Starbucks had become the world largest coffee house with 18,000 stores in 62 countries world-wide, including more than 13,000 in the United States (Loeb, 2013). Throughout its history, Starbucks pursued a mission “to inspire and nurture the human spirit – one person, one cup, and one neighborhood at a time”. To this end, they adhered to the belief that “conducting business ethically

and striving to do the right thing [were] vital to the success of the company" (Starbucks Coffee Company, 2014a). Schultz stressed that:

*We are all caretakers of Starbucks reputation. How we conduct our business and how we treat others—our fellow partners, customers, communities, suppliers and shareholders—will continue to determine how the world views Starbucks. . . . Each of us is personally responsible for supporting our core values, which require compliance with the law as well as ethical conduct. . . . As we move forward, the Standards will help ensure that our values continue to be reflected in each Starbucks store and business activity. A commitment to integrity, acting honestly and ethically, and complying with the letter and intent of the law are critical to our continued success* (Starbucks Coffee Company, 2011a).

In regard to Starbucks in the Kingdom of Thailand, the business chain was founded in July 1998. In early 2013, there were 169 retail locations throughout the country. The business strictly operated under its philosophy of contributing a positive experience to customers and community. For example, among its community contributions was ongoing sponsorship of sustainable coffee production in conjunction with Thai hill tribes, *Muan Jai®* (Starbucks Coffee Company, 2014b).

### **Select Operating Policies**

A central Starbucks operating philosophy and policy was the strong commitment to deal honestly and fairly with government authorities and to obey with valid governmental rules and process. This commitment included operating their business accordingly to the laws, rules and regulations of the countries in which they operated. Specifically, any remittance made to any foreign agent or government official must be lawful under the laws of the United States and the foreign country (Starbucks Coffee Company, 2011a). In particular, Starbucks employees and business airlines were prohibited from making available payment or

gift of any kind in order to “smooth” local processes or to influence a local government official. This prohibition extended to enjoining Starbucks employees from lending direct or indirect support or otherwise motivating anyone to trash records relevant to an investigation (Starbucks Coffee Company, 2011a):

The degree to which Starbucks was determined to adhere to legal and ethical conduct at all times and in all matters was suggested by the following policy statement concerning how employees were expected to handle gifts and favors.

*A gift or favor should not be accepted or given if it might create a sense of obligation, compromise your professional judgment or create the appearance of doing so. . . . However, during traditional gift-giving seasons in areas where it is customary to exchange gifts of money, such as China, Japan, Malaysia, Singapore and Thailand, partners should not solicit but may exchange cash with nongovernmental business associates in nominal amounts up to the equivalent of US \$20. . . . Partners [employees and business airlines] may offer or accept meals and entertainment if they are reasonable and customary, appropriate, occur infrequently and are not expensive* (Starbucks Coffee Company, 2011a, p. 16).

Starbucks’ attitude toward brands was also instructive, particularly insofar as it suggested the extent to which the company was willing to go to protect its name and brand.

*... [R]emember, . . . that our brands, including the Starbucks name, are extremely valuable to Starbucks’ success. Brands are fragile and must be used carefully and protected from misuse* (Starbucks Coffee Company, 2011a, p. 20). (Also, see “Starbucks Guidelines for Proper Trademark Usage” in Exhibit 3).

Not to be overlooked was the company’s support for diversity and competition in the context of a free market.

## Reactions of Starbung Coffee<sup>7</sup> Proprietor to the Lawsuit

Damrong Maslae, the 44-year-old proprietor of Starbung Coffee and the object of Starbucks' complaint, was a Thai Muslim who originally hailed from from Krabi Island, Nakhon Sri Thammarat, one of Thailand's southern provinences. Known to his customers as "Bung," Maslae stated that he had run his coffee business for approximately about 20 years in various locations in Bangkok. In recent years, he operated his coffee vending business in front of the *Baan Phra Arthit Building*, where the *Manager Daily*<sup>8</sup> newspaper office was located. He said that he had settled on this location as the permanent one in response to an invitation by the newspaper's owner, who felt that the ready availability of coffee at this spot would be convenient for his employees to get a cup of coffee during the work break.

### The Surprise at the Initial Complaint

Maslae admitted to having been "shocked" by the letter from Starbucks' attorney. In reaction, he asserted that his recollection was that he had started using the Starbung logo at some point in 2009. Not long after receiving the complaint, Maslae consulted with his legal counsel and thereafter decided to add a moon beside the stars in order to show that far from being a "knock-off" imitation of the Starbucks' logo, the Starbung logo design had been inspired by Islamic religious symbols, and was intended as expression of his religious profession (see Figures 3 and 4 below).



Figure 3: Starbung Coffee Logo before the Lawsuit (Mallon, 2013)



Figure 4: Damrong Maslae with the First Redesigned Logo. He Added Moons besides Stars after Receiving the Initial Complaint from Starbucks' Legal Counsel (Hirunard, 2013)

Maslae stated further that the Starbung logo was initially designed by the cartoonist aliased "Lame Phu Chat Kung," a full-time social caricature artist at *Manager Today*, one of the Thai leading newspapers (See Figure 5 below). Maslae insisted that he initially hesitated to use the designed logo when he first saw it and even questioned the cartoonist about whether "it was ok to use it in my business?" According to Maslae, Lame Phu Chat Kung had responded that "it was ok because my intention [in designing the Starbucks' logo look-alike] was just to create a social caricature rather than [the intent] to violate Starbucks' intellectual property".



Figure 5: A Cartoonist aliased Lame Phu Chat Kung, a Full Time Social Caricature Artist at *Manager Daily* (Lame Phu Chat Kung, 2014)

### Support from Customers and Others

Further, regarding the first notice from Starbucks' legal counsel, Maslae pointed out that his coffee, which he roasted and mixed according to his own recipe, enjoyed a loyal following, including from regular customers who worked in the Baan Phra Arthit area, as well as from tourists. Tilleke and Gibbins, he insisted that:

*English tourists have become friends with me and love my coffee. Every time they come to Bangkok, they visit and buy coffee from me. If they were to read about this drama with Starbucks, they would laugh their heads off* (Hodal, 2013).

Maslae was not alone in his view that the threatened lawsuit was unwarranted and perhaps even lamentable, if not laughable. During the interview, the researcher coincidentally met Erik Ryzna – a tourist from Seattle, Washington, where Starbucks Coffee was founded. Ryzna allowed that he disagreed with the US firms lawsuit against this local coffee street vendor. “That made me very angry,” he stated. “Why would you [Starbucks] spend a lot of money to sue this guy? It [is] not a big deal. It was just ridiculous!” (See Figure 6 below).



Figure 6: Erik Ryzna – a Tourist from Seattle, WA where Starbucks Coffee Was Started – Buying a Cup of Starbung Coffee (Original photo by Case Author)

In addition, there was a parallel thinking by Casey Hynes, a news correspondent at Asian Correspondent.com, who offered the view that:

*This seems unlikely – after all, how often does one buy Starbucks from a roadside? Most travelers in South East Asia learn quickly that shops and vendors take on logos similar to popular brands, and do not expect it's the real deal* (Hynes, 2013).

### Starbucks' Follow-up on Its Initial Complaint

Starbucks, however, was undeterred by what it regarded as an inadequate attempt on Starbung's part to resolve the alleged infringement problem. Deeming Starbung's actions an unsatisfactory response to the complaint, Starbucks' legal counsel in Thailand sent a follow-up letter to Damrong Maslae. This second letter (translated from Thai into English) was forwarded to Damrong Maslae on January 14, 2013 (see the original copy in Exhibit 2). The letter stated the following:

Dear Mr. Damrong

Regarding the letter that you received on October 19, 2012, it demanded you to stop using the similar trademark to Starbucks' trademark. We acknowledged that after you received the letter you made changes in your logo. However, in regard to the change it was just a minor change, and we thought that the redesigned logo was still similar to Starbucks' trademark.



เครื่องหมายการค้าจดทะเบียนของสตาร์บัคส์



เครื่องหมายของคุณที่มีการปรับเปลี่ยน

Starbucks' Trademark (Left) and the Redesigned Starbung Logo (Right)

We wanted to clarify to you that Starbucks Coffee has the intellectual property right such as [the] copyright, trademark, and business name. They are important symbols that communicate goodwill to customers. Starbucks spent 40 years to establish the coffeehouse business and the value of its intellectual property through creating a relationship with each individual customer.

Customers know and like Starbucks because of the quality of food and beverages, including the friendliness of Starbucks barista. Moreover, Starbucks pays attention to ethic in seeking raw materials as well as environment responsibility. The firm also gives back to local communities in the areas where Starbucks purchases coffee beans from and where Starbucks shops are situated. Therefore, the experiences that customers receive will engage with Starbucks' trademark. Thus, it is necessary for Starbucks to proceed an appropriate way to protect its reputation, including the uniqueness of its trademark in relation to intellectual property. As you are also a business owner, you might understand that in order to create popularity among customers, maintaining the reputation are crucial to your business.

We would ask for your cooperation to protect Starbucks' intellectual property rights by making a major change to your logo in order to distinguish [it]

from Starbucks' trademark. In order to settle this issue as soon as possible, we [would] welcome assisting you in designing a new logo that is unique and different from Starbucks' trademark for your own use.

If you want to discuss anything relating to this letter, please contact Serbsiri Tavipon, Tilleke and Gibbins International Ltd., on behalf of Starbucks Coffee (Thailand) Co., Ltd. at 02653-5842.

Thank you in advance and hope to receive your cooperation.

Yours Respectfully

**Tilleke and Gibbins International Ltd.**

Serbsiri Tavipon

Attorney-at-Law

Department of Intellectual Property

Thereafter the second notice from Tilleke and Gibbins, Damrung Maslse deigned to reconsider Starbucks' demand that he compromised by making further changes to the Starbung logo design and business name. He realized, he explained, that as just a small coffee street vendor, it was not worth it to fight with the giant US multinational firm in the court. Further, he also had no time and funds to pursue a defense against the threatened lawsuit. "I [have] a huge responsibility to look after my elderly mother and my six children," he stated. "That was more important to me".

Hence, rather than risk a lawsuit by continuing to resist acceding to Starbucks' demands, Maslæ eventually decided that the best option might be to re-name his coffee vending business. The name he chose was "*Bung Star*". In addition, he also created another logo that he dubbed "*Bung's Tears*" in order to symbolize his feeling that he had been abused by the US firm, as well as demonstrate his sense of humor to customers (See Figure 7 below). Indeed, as he uttered the words "*Bung Tears*," he could not help but laugh out loud at how well the phrase captured his emotions.



Figure 7: The Redesigned Logo for Maslae's Business following Receipt of the Second Letter from Starbucks' Legal Counsel (Original photo by Case Author)

Notwithstanding these actions aimed at placating Starbucks, Maslae was resentful about having to acquiesce to Starbucks' demands. It was "ridiculous," he felt, that [his] younger, Damras, and [he], operating just a single coffee stand, should find itself having to alter the public identity of their business in order to avoid an expensive legal fight with a multinational corporation that was larger and more financially powerful by some order of magnitude. In his bitterness, he went on to say, "Do you know that I started to use the cup holder before Starbucks?" (See Figure 8 below). [When the researcher immediately asked whether he had proof, Maslae responded with, "Throughout my time in this business I was pretty sure that I did it before Starbucks".]



Figure 8: Dumrong Maslae Displaying His Coffee Cup Holder (Original photo by Case Author)

Additionally, because of the lawsuit, filed on October 9, 2013, Maslae accepted the proposal by Tilleke and Gibbins that a second coffee vending business that Maslae and his younger brother operated in the Kong Load area be renamed “Bung Style” coffee. Maslae explained that in adopting a new name that swapped the position of the letters “B” and “S,” the aims were both to maintain their business identity while simultaneously striving to avoid any nomenclature bearing a similarity to the name “Starbucks” where the first letter was “S, followed by “B” for the second word. These changes were sufficiently satisfactory to Starbucks that it sought dismissal of the case by the court on the grounds that the two parties had succeeded in settling the matter among themselves. Accordingly, the lawsuit was dismissed by the court on November 18, 2013 (The Central IP & IT Court of Thailand, 2013). Maslae subsequently opined, “I was not very happy though because my original business name, *Starbung*, was more catching and [had] been well regarded by my regular customers”. Sarcastically, he pointed out that the one thing that he could not change was that each cup of his coffee contained caffeine, just as Starbucks’ coffee offered – a fact that he hoped would not prompt another Starbucks infringement charge!

Wistfully, Maslae recalled that at no point during the communication with Starbucks’ legal counsel in Bangkok was he invited to join the Starbucks business

chain (although he admitted that his lack of funds would have prevented his being able to afford to do so, even had such an invitation been extended). Instead, Starbucks had merely sent him two “cease and desist” legal notices to “intimidate” him and his brother with what he construed to be a threat of imprisonment should he not do as Starbucks had demanded.

Maslae pointed out that in contrast to Starbucks, *his* business offered an affordable coffee to customers. He exclaimed that at 80 baht per cup for American coffee at Starbucks, customers paid fully more than *three* times the 25 baht per cup that he charged – all the more reason, he felt, that Thais should henceforth consume Thai local coffee and thereby support local small business owners. Waxing philosophically, Maslae asserted that most of the things on earth were facilitated through an innovation process which meant a new product or thing was developed on top of one another. That his participation in such innovation should be construed as an infringement on Starbucks’ intellectual property rights just did not seem right. Nevertheless, there was nothing else to do other than put the matter behind him and move forward with his business under a new name and re-conceptualized logo.

## An Addendum of Exhibits

### Exhibit 1: A Notice from Starbucks on October 17, 2012

**Tilleke & Gibbins**  
bangkok | hanoi | ho chi minh city

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วันที่ 17 ตุลาคม พ.ศ. 2555

หมายเลขอ้างอิง S1826-467TC

เรียน นายค่ารังค์ มัสดะลະ  
星巴克 คอฟฟี่ (STARBUNG COFFEE)

เรื่อง การละเมิดเครื่องหมายการค้าของ星巴克 คอร์ปอเรชั่น

เรียนคุณค่ารังค์

ข้าพเจ้าเป็นผู้รับอนุญาตโดยชอบด้วยกฎหมายในประเทศไทยของ 星巴克 คอร์ปอเรชั่น ("ลูกความข้าพเจ้า") ซึ่งเป็นเจ้าของทะเบียนเครื่องหมายการค้า "STARBUCKS COFFEE" และรูป "ดวงล้มสีเขียวข้อก้น" ซึ่งเป็นทั้งเครื่องหมายการค้า เครื่องหมายบริการ และชื่อทางการค้าของลูกความข้าพเจ้า ตลอดจนเป็นเจ้าของสิทธิในทรัพย์สินทางปัญญาที่เกี่ยวข้องทั้งหมดในผลิตภัณฑ์ของลูกความข้าพเจ้าในหลายประเทศ รวมถึงประเทศไทย

เมื่อไม่นานนี้ลูกความข้าพเจ้าได้ทราบมาว่าท่านเป็นเจ้าของมอร์โตริชีคขายกาแฟชื่อ 星巴克 คอฟฟี่ (STARBUNG COFFEE) ซึ่งขายกาแฟและเครื่องดื่มอื่นๆ ในกรุงเทพมหานคร

การใช้โลโก้ STARBUNG COFFEE และรูปวงกลมสีเขียวข้อก้นกับธุรกิจร้านกาแฟของท่านนั้นเห็นได้อย่างชัดเจนว่ามีลักษณะคล้ายกับเครื่องหมายการค้าอันมีชื่อเดียวกันของลูกความข้าพเจ้า โดยเฉพาะอย่างยิ่ง ในส่วนของคำว่า "star" และ "coffee" นั้นอยู่ในคำແนงเดียวกัน ใชสีเดียวกัน และตัวอักษรเดียวกัน กับคำว่า "star" และ "coffee" ในเครื่องหมายของลูกความข้าพเจ้า อีกทั้งการออกแบบโดยรวมของโลโก้ รูปวงกลมข้อก้นนั้นก็เหมือนกับเครื่องหมายของลูกความข้าพเจ้า ข้าพเจ้าขอเรียนว่า การที่ท่านนำชื่อและเครื่องหมายการค้าของลูกความข้าพเจ้าไปใช้หรืออ้างถึงในการดำเนินธุรกิจของท่านนั้นถือเป็นการละเมิดเครื่องหมายการค้าของลูกความข้าพเจ้า

  
เครื่องหมายการค้าของลูกความข้าพเจ้า

  
เครื่องหมายของท่านที่คล้ายกัน

หน้า 1 จาก 3 หน้า  
Member | Lex Mundi | Multilaw | Pacific Rim Advisory Council | State Capital Group  
Tilleke & Gibbins practices law independently and not in a relationship for the joint practice of law.

อย่างไรก็ แม้ว่าการกระทำดังกล่าวอาจนำไปสู่การเริ่มดำเนินคดีตามกฎหมายต่อท่านได้ แต่ถูกความชั้พเจ้าเลือกที่จะบุคคลพิพากษายังสันติ จึงขอความร่วมมือจากท่านโดยให้ท่านส่งหนังสือตอบกลับมาภายในเจ็ด (7) วันปฏิทินนับจากวันที่ได้รับหนังสือนี้ เพื่อยืนยันว่าท่านคงลงที่จะดำเนินการต่อไปนี้

- (1) ระงับและยุติการละเมิดเครื่องหมายการค้าของลูกความชั้พเจ้า และไม่หวานกลับมาใช้ชื่อและเครื่องหมายการค้าดังกล่าวที่คล้ายหรือเกี่ยวข้องกับชื่อและเครื่องหมายการค้าของลูกความชั้พเจ้า กับธุรกิจของท่านอีก
- (2) ถอนและทำลายสินค้าที่มีอยู่ ป้าย และวัสดุโฆษณาทั้งหมดโดยทันที ทั้งที่จับต้องได้และที่อยู่ในรูปแบบอิเล็กทรอนิกส์ รวมถึงแต่ไม่จำกัดเฉพาะการตอกแต่งในร้านกาแฟของท่าน เมนูเครื่องดื่มสต็อกเกอร์ แผ่นพับ ฉลาก ในบล็อก และวัสดุอื่นๆ ที่ใช้ค้าว่า STARBUCK COFFEE ในรูปแบบสื่อสืบฯ ภายในเจ็ด (7) วันปฏิทินนับจากวันที่ได้รับหนังสือฉบับนี้
- (3) เมื่อดำเนินการตามข้อ (2) ข้างต้นแล้ว ให้ท่านส่งมอบรูปถ่ายอันเป็นหลักฐานแสดงว่าท่านได้ดำเนินการดังกล่าวแล้วให้กับบริษัท ดิลลิกแอนด์กิบบินส์ อินเตอร์เนชันแนล จำกัด โดยทันที
- (4) ตกลงว่าจะไม่ยื่นคำขอจดทะเบียนเครื่องหมายการค้าหรือชื่อบริษัทใดๆ ที่เหมือนคล้ายกับเครื่องหมายการค้าของลูกความชั้พเจ้า
- (5) ลงลายมือชื่อของท่านท้ายหน้า 3 ของหนังสือนี้และส่งหนังสือนี้คืนมายังบริษัท ดิลลิกแอนด์กิบบินส์ อินเตอร์เนชันแนล จำกัด ภายในเจ็ด (7) วันปฏิทินนับจากวันที่ได้รับหนังสือนี้ และตกลงว่าจะไม่ทำการละเมิดลิขสิทธิ์ในทรัพย์สินทางปัญญาของลูกความชั้พเจ้าอีกในภายหน้า

ชัพเจ้าหวังว่าจะได้รับหนังสือตอบกลับจากท่านเพื่อยืนยันว่าท่านจะดำเนินการตามที่ร้องขอข้างต้น ภายในวันที่ 26 ตุลาคม พ.ศ. 2555 โดยการส่งหนังสือฉบับนี้กลับมาพร้อมลายมือชื่อของท่าน

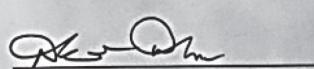
หากชัพเจ้าไม่ได้รับคำตอบจากท่านภายในเจ็ดวันนับจากวันที่ท่านได้รับหนังสือฉบับนี้ ลูกความชัพเจ้าขอสงวนสิทธิ์ในการดำเนินการทั้งปวงตามกฎหมายเพื่อปกป้องสิทธิ์ในทรัพย์สินทางปัญญาของคุณทันทีโดยไม่มีการแจ้งเตือนล่วงหน้า

หากท่านมีข้อสงสัยประการใด กรุณาติดต่อกับท่านนายสินธิร ทวีผล ตามที่อยู่ที่แสดงไว้บนหัวกระดาษ หรือที่หมายเลขโทรศัพท์ 0-2653-5842

ขอขอบคุณล่วงหน้า และหวังว่าจะได้รับความร่วมมือจากท่านเป็นอย่างดี

หน้า 2 จาก 3 หน้า  
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ขอแสดงความนับถือ  
บริษัท ติลลิกิแอนด์กิบบินส์ อินเตอร์เนชันแนล จำกัด



นายสินธิ ทวีผล  
ทนายความ

ตกลงตามข้อ (1) - (5) ในหน้า 2 และยอมรับโดย

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นายค่ารังศ์ มั้สແຮຂ

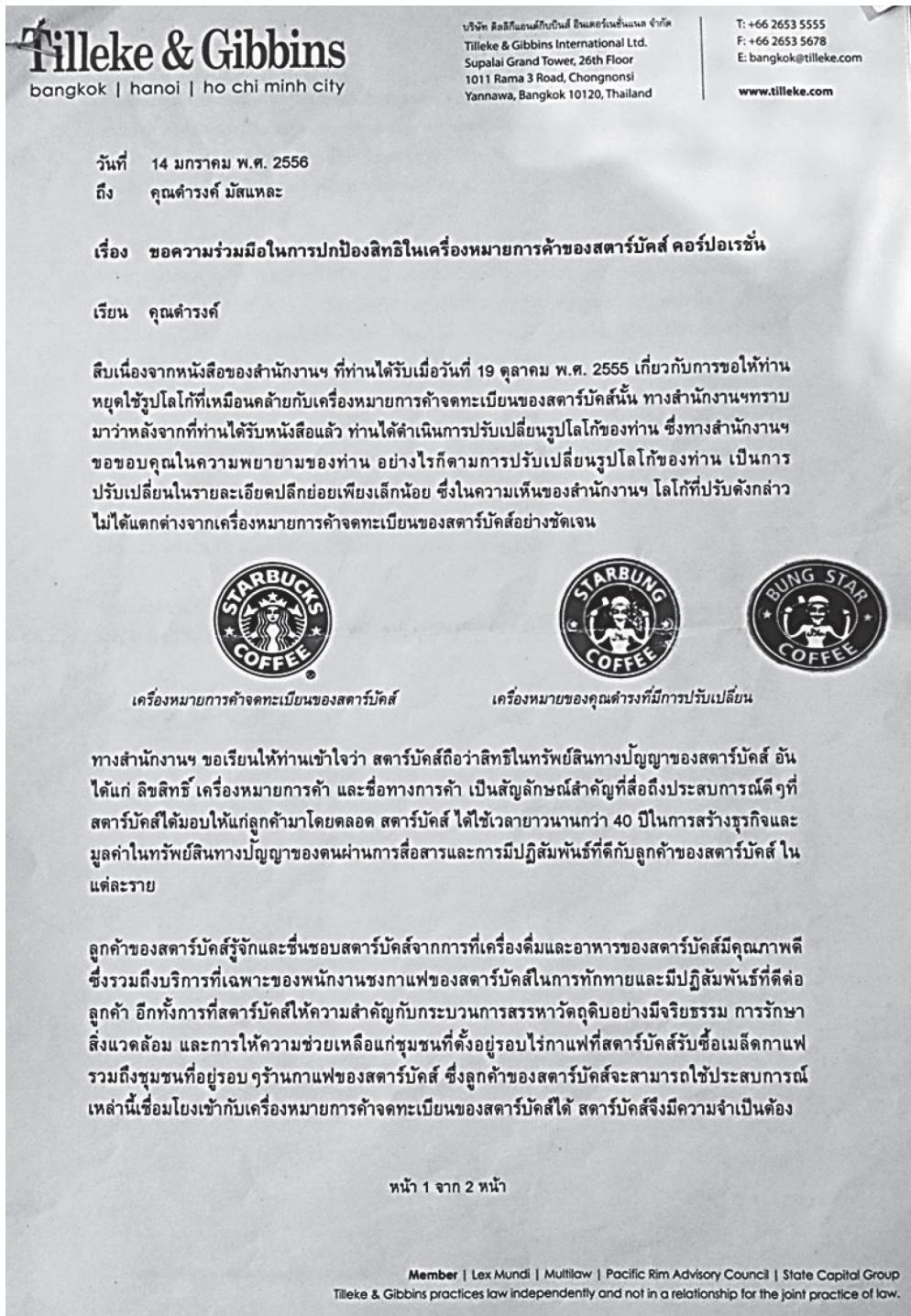
วันที่ \_\_\_\_\_

หน้า 3 จาก 3 หน้า

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Source: Collected from Damrong Maslae, the Starbung Coffee Business Owner

#### Exhibit 2: A Notice from Starbucks on January 14, 2013



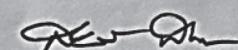
ดำเนินการที่เหมาะสมในการปักป้องชื่อเสียงของคน รวมถึงความเป็นคริสต์ศาสนิกชน์มีเอกลักษณ์เฉพาะโดย การปักป้องคุ้มครองและการจดทะเบียนเครื่องหมายการค้าของสตาร์บัคส์ ในฐานะที่ทำนองก็เป็น เจ้าของธุรกิจเช่นกัน ท่านคงจะเข้าใจดีว่าการสร้างชื่อเสียงให้เป็นที่รู้จักในหมู่ลูกค้าและการรักษา ชื่อเสียงไว้นั้น เป็นสิ่งที่มีความสำคัญสำหรับท่านเพียงใด

ทางส้านักงานฯ ได้รับความร่วมมือจากท่านในการปักป้องลิขสิทธิ์ในทรัพย์สินทางปัญญาของสตาร์บัคส์ โดยการเปลี่ยนรูปปีโลโก้ของท่านให้มีความแตกต่างจากเครื่องหมายการค้าจดทะเบียนของสตาร์บัคส์ อย่างชัดเจน ทั้งนี้ เพื่อให้เรื่องนี้ยุติลงโดยเร็ว ทางส้านักงานฯ มั่นใจที่จะให้ความช่วยเหลือท่านในการ ออกแบบรูปปีโลโก้ของท่านใหม่ให้มีเอกลักษณ์และแตกต่างจากเครื่องหมายการค้าของสตาร์บัคส์ เพื่อใช้ กับธุรกิจของท่านเองโดยเฉพาะ

หากท่านต้องการหารือเรื่องใดๆ ที่เกี่ยวข้องกับหนังสือฉบับนี้ กรุณาติดต่องามได้ที่คุณสินธิริ ทวีผล บริษัท ติลลิกกิแอนด์บินส์ อินเตอร์เนชันแนล จำกัด ส้านักงานที่ปรึกษาด้านกฎหมายของสตาร์บัคส์ คอร์ปอเรชั่น ที่หมายเลขโทรศัพท์ 0-2653-5842

ขอขอบคุณล่วงหน้า และหวังว่าจะได้รับความร่วมมือจากท่านเป็นอย่างดี

ขอแสดงความนับถือ  
บริษัท ติลลิกกิแอนด์บินส์ อินเตอร์เนชันแนล จำกัด



นายสินธิริ ทวีผล  
หน้า 2 จาก 2 หน้า

หน้า 2 จาก 2 หน้า

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www.tilleke.com | T: +66 2653 5555 F: +66 2653 5678 E: bangkok@tilleke.com

Source: Collected from Damrong Maslae, the Starbung Coffee Business Owner

Exhibit 3: Starbucks Identity and Logo Usage Guidelines



## "We Proudly Serve" Identity and Logo Usage Guidelines

Starbucks Coffee Company  
Spring 2011

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### Contents

- 3 Guidelines Overview
- 4 Logo Variations
- 5 Logo Color Variations
- 6 Color Print Specifications
- 7 Logo Background Control
- 8 Logo Clear Space and Minimum Size
- 9 Logo Improper Use
- 10 Appropriate/Unauthorized Logo Applications
- 11 Placement Guidelines/Approval Process
- 12 Photography/Internet/Company and Product Name Guidelines

## These Guidelines



### The "We Proudly Serve" (WPS) Logo and What It Represents

The Starbucks brand is one of the most recognized and admired in the world. We believe our people and our products form the foundation for our marketing strategy. The uncompromising quality of our products and our focus on making a genuine, personal connection with our customers have enabled us to create uplifting experiences that currently define and differentiate us. And this has enabled us to inspire moments of connection that create a brighter outlook for ourselves and our world. That is the brand promise of Starbucks and the heritage entrusted to those who market the brand.

We are pleased that you have chosen to serve Starbucks® coffee or beverages to your customers, and delighted that you wish to use your time and resources to promote our coffee. To help you, Starbucks Coffee Company has created the Foodservice Marketing Tool Kit, complete with promotion suggestions as well as customizable brochures and other templates.

*If you find a need for custom marketing that is not addressed in the tool kit, we offer these guidelines to assist you in the development of artwork that supports both your business objectives and Starbucks branding objectives.*

**Note:** Whether you customize templates from the Foodservice Marketing Tool Kit or design your own art, remember that Starbucks must review and explicitly approve all artwork prior to production. Please email all artwork submissions to: [fsmarketing@starbucks.com](mailto:fsmarketing@starbucks.com) or [fsmarketingcanada@starbucks.com](mailto:fsmarketingcanada@starbucks.com).

This is to ensure you're getting the full advantage of your association with Starbucks Coffee Company, as well as help you avoid any incorrect and/or inappropriate usage of the Starbucks "We Proudly Serve" logo and brand identity. For further details, please see the Approval Process on page 10. Note also that the Starbucks Coffee logo may never be used independent of the "We Proudly Serve" text.

Starbucks Coffee Company reserves the right to decline usage of the Starbucks name or brand representation in any situation the company deems inappropriate for any reason even if the WPS logo usage meets these guidelines. Please remember that anything Starbucks doesn't expressly approve in writing is considered not approved. Starbucks Coffee Company may also require you to recall and/or reprint any marketing materials that do not meet with Starbucks current brand standards.

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### Logo Variations

The primary WPS logo is composed of the Siren symbol and the phrase "We Proudly Serve."

The WPS wordmark is composed of the phrase "We Proudly Serve" locked up with the Starbucks wordmark. It always appears vertically reading upward, and should have a™ symbol.

Primary WPS logo



WPS wordmark

WE PROUDLY SERVE STARBUCKS™

Dual-language logo



Dual-language wordmark

WE PROUDLY SERVE STARBUCKS™  
PIÈRES DE VOUS SERVIR

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## Logo Color Variations

Consistent adherence to the color guidelines will help build visibility and recognition of your association with the brand.

**Full-Color Logo**  
In the preferred use of the primary WPS logo, the logo is Starbucks Green and white and is placed on a white/light-color background.



**Full-Color Reverse Logo**  
Use when background color or imagery adversely affects the legibility of the wording. Note that background color or imagery cannot appear through the WPS logo nor can the logo be altered in any way including, without limitation, to make it fit any theme, ambiance or external environment. The WPS logo can only be used as shown here.



**One-Color Black Logo/One-Color Reverse Logo**  
Use is limited to one-color or two-color printing where Starbucks Green is not available.

**One-color black logo**



**One-color reverse logo**



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## Color Print Specifications

### Color Specifications

Print the primary WPS logo in its three correct colors: Starbucks Green, black and white. (For Starbucks Green, use Pantone® 3425 C. Do not use any other green.) Print on uncoated stock, matching Pantone® 3425 C ink to coated hue. No other colors may be substituted. The Starbucks logo on any other material must visually match Pantone® 3425 C. If you are unable to print in color, or if you are unsure that you can visually match to Starbucks Green, you must print in two-color black and white, or black only on a white background. No other colors may be substituted.

Colors shown in this guide have not been evaluated by PANTONE, Inc., and may not match the PANTONE Color Standards. PANTONE is a registered trademark of PANTONE, Inc.

Note: For consistent color reproduction, always match to Pantone® solid-coated swatches.

	Pantone	CMYK	RGB	HTML
	Black	C0 M0 Y0 K100	R0 G0 B0	000000
	3425	C100 M0 Y78 K42	R0 G112 B74	00704A
	White	C0 M0 Y0 K0	R255 G255 B255	FFFFFF

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## Logo Background Control

### Full-Color Logo

Use the full-color logo when the background color value is between 0% and 60% after conversion to grayscale.

### Full-Color Reverse Logo

Use the full-color reverse logo when the background color value is between 80% and 100% after conversion to grayscale.

### One-Color Black Logo

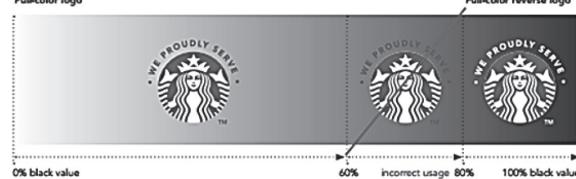
Use the one-color black logo when the background color value is between 0% and 80% after conversion to grayscale.

### One-Color Reverse Logo

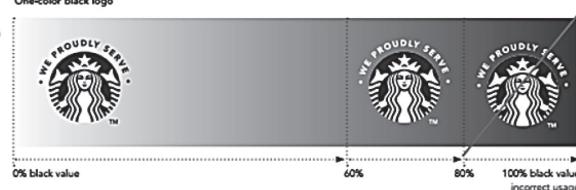
Use the one-color black Siren symbol with white type when the background color value is between 60% and 80% (after conversion to a grayscale).

**Note:** Apply the logo on light-color backgrounds whenever possible. Avoid darker background values and colors that provide insufficient contrast (e.g., Starbucks Green).

### Full-color logo



### One-color black logo



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## Logo Clear Space and Minimum Size

Clear space frames the logo, separating it from other elements such as headlines, text, imagery and the outside edge of printed materials. The clear space indicated is the minimum. Whenever possible, allow more than this amount of clear space.

### Primary WPS Logo

Minimum clear space is at least 2X, where X equals the distance from the side of the Siren symbol to the widest part of the logo.

### WPS Wordmark

Minimum clear space is equal to 150% of the height of the "B" letterform.

### How Small Can I Go?

In the primary WPS logo, the Siren symbol should be no smaller than .35" (9mm) width, while the word Starbucks in the WPS wordmark should be no smaller than .5" (13mm) height.

**Primary WPS Logo with the Operator's Logo**  
The primary WPS logo should be  $\frac{1}{3}$  of the operator logo size for pieces 8.5" x 11" and under. The primary WPS logo should be  $\frac{1}{4}$  of the operator logo size for pieces larger than 8.5" x 11". This helps reinforce the relationship (e.g., it's Joe's Cafe first and Starbucks plays a supporting role).

**Note:** The trademark and registration marks scale independently of the symbol/wordmark when enlarged or reduced dramatically. For smallest print size, set registration marks in Avenir Regular 4pt.

### Primary WPS logo



### WPS wordmark



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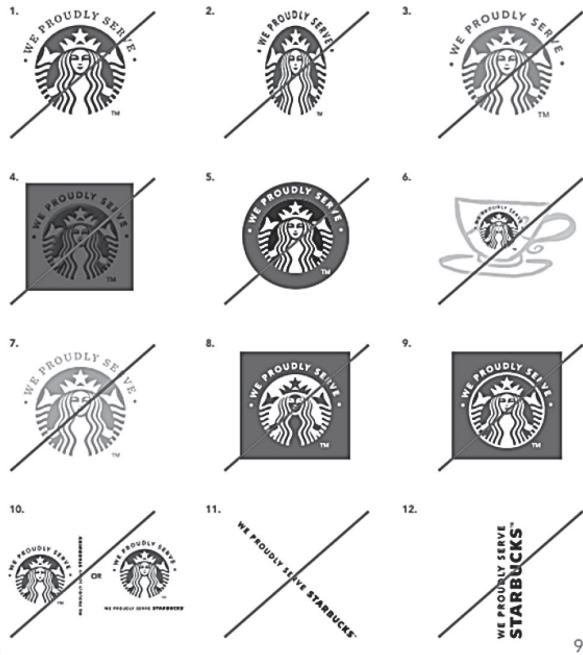
## Logo Improper Use

We encourage you to become familiar with the correct uses of the primary WPS logo and WPS wordmark. The integrity of the logo must be respected at all times. Don't stretch, condense or otherwise alter or manipulate it. Any modification of the logo confuses its meaning and diminishes its impact.

1. Do not re-create or retype the words.
2. Do not stretch or alter our logo in any way.
3. Do not change our logo color.
4. Do not use graphic effects or outlines on our logo.  
Do not emboss the logo out of a color background.
5. Do not place our logo in a shape.
6. Do not overlap other graphics or text or photography.
7. Do not screen the logo. It should always print at 100% ink density.
8. Do not reverse logo out of a color.
9. Do not add a ring around the siren.
10. Do not pair the primary WPS logo with the WPS wordmark.
11. Do not angle the WPS wordmark. Always use it vertically reading upward.
12. Do not rearrange the type, or change the size of "We Proudly Serve" in proportion to the Starbucks wordmark.

For questions regarding logo usage, please contact Foodservice Marketing Services at [fsmarketing@starbucks.com](mailto:fsmarketing@starbucks.com) or [fsmarketingcanada@starbucks.com](mailto:fsmarketingcanada@starbucks.com).

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## Applying the Guidelines

Because your relationship with Starbucks is specific to brewing and serving our coffee, it is important that your use of the primary WPS logo or WPS wordmark clearly conveys that message to your customers, while also aligning with Starbucks brand image. The following examples of appropriate logo use are applications that directly support the presence of Starbucks® coffee in your establishment, and protect the integrity of the Starbucks brand. The following examples of unauthorized logo use could misrepresent your relationship with Starbucks by potentially causing customers to confuse your operation with a Starbucks retail operation, or by devaluing the premium positioning of the Starbucks brand.

In addition, keep in mind that all of your marketing initiatives should first and foremost promote your own operation, with only a secondary focus on Starbucks as your coffee provider. The primary WPS logo or WPS wordmark should function to identify the coffee you serve and/or as a feature of your operation. It should never function as your operator's identity. Also remember, if your number of "authorized" uses or the relative significance of any one use makes it seem like Starbucks® coffee or beverages are more than just featured items with your operation, it may still be an inappropriate overall use.

**Note:** The primary WPS logo and WPS wordmark should be reproduced using only an electronic file provided by Starbucks, and they may not be altered in any way. Do not scan any Starbucks logo from this document or any other printed piece. Use only the electronic file provided by Starbucks.

## Appropriate Logo Use

- menus
- in-house menu boards
- counter sign messaging (featured beverages, etc.)
- promotional brochures\*
- bag/back stuffers\*
- closed-circuit television ads (as in hotels, conference centers)
- directional signage on venue premises (either permanent signage or elevator inserts)
- venue website
- surprise and delight programs\*
- grand opening complimentary product offers\*

\*Please refer to the Foodservice Marketing Tool Kit for recommended formats and templates.

## Unauthorized Logo Use

- logo usage on delivery trucks or vehicles
- street-level branding (windows, doors, awnings, freestanding signs)
- transparent signs with backlighting
- billboards, highway/roadside signs
- neon signs
- generic cents-off, free-offer or bundling coupons
- packaging
- customer-designed cups/sleeves/ napkins, co-branded with the primary WPS logo or WPS wordmark
- Starbucks products used as premiums in customer acquisition programs for other brands or as gifts with purchase
- apparel (hats, T-shirts, aprons)
- letterhead, business cards
- magnets, keychains, pens, etc.
- any hand-drawn logo
- telephone book ads
- any reproduction of the WPS logo by any means other than printing (e.g., etching, engraving, painting, embroidery)
- use of Starbucks Coffee logo alone (must be WPS version)
- operator-created customer frequency cards with logo (e.g., buy 10 get one free)

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## Placement Guidelines

1. The primary WPS logo or WPS wordmark must be presented in conjunction with your operation's own name or logo to be a complete message. However, the WPS logo or WPS wordmark must be clearly secondary to your name and branding. Your name or logo identifies the "We" who is brewing and serving Starbucks® coffee.
2. While the primary WPS logo or WPS wordmark should never stand alone, it must still hold its own space, apart from your own logo.
3. The primary WPS logo or WPS wordmark must never be incorporated into the design of your operation's logo. Customers approaching your venue must immediately understand that it serves Starbucks® coffee, but is not a Starbucks retail location.
4. The visual appearance of the venue and the balance of branding messages (size, quantity, placement and relative weight) must reinforce your venue name or logo as the primary means of identification.

*When in doubt about whether your artwork falls within our placement guidelines, ask yourself, "Is my operation's brand/logo most prominent in this representation?" "Will a customer think that my operation is only serving Starbucks® beverages?" If your answer is "yes," then you are on track! If you answer "no," then you must make some placement or proportion changes to ensure that your brand takes center stage.*

## Approval Process

Starbucks can provide you with electronic files of the primary WPS logo and WPS wordmark in several styles and graphic formats. When your artwork is relatively complete, you are ready to submit the piece to Starbucks Foodservice Marketing Services for approval.

**Note:** If final designs are not submitted for review or are used without our approval, you will be responsible for removing unauthorized materials or correcting any mistakes at your own cost. The approval process is outlined below:

1. Submit artwork to the Foodservice Marketing Services address in your country.

**United States**  
Email: fsmarketing@starbucks.com  
Mail: Starbucks Coffee Company  
Attn: Foodservice Marketing Services  
Mail Stop 54-56 Box 34067  
Seattle, WA 98124-1067 USA

**Canada**  
Email: fsmarketingcanada@starbucks.com  
Mail: Starbucks Coffee Canada, Inc.  
Attn: Foodservice Marketing Services  
5140 Yonge Street, Suite 1205  
Toronto, Ontario M2N 6J7 Canada

2. For a review of your project, allow at least five working days from receipt by Starbucks. We will let you know of any changes that are needed. If the artwork is approved, we will email, call or fax you with approval. If you do not hear from us within 30 days, assume your artwork has NOT been approved, and that you may not proceed with production. In this case, please email us at fsmarketing@starbucks.com or fsmarketingcanada@starbucks.com.

3. Before printing, insert the Starbucks approval code into your piece. This code will be provided by Starbucks Foodservice Marketing Services and will signify approval.

4. When the piece is finalized, we ask that you provide Starbucks with three samples of the finished version for us to keep in our archives. Please send these copies to Foodservice Marketing Services at the appropriate address above.

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## Photography

Only product photographs provided by Starbucks may be used in the marketing of your Starbucks® coffee program. The same policy also applies to video. Please refer to the Foodservice Marketing Tool Kit for these photographs. Should needs arise that are not addressed by this document or the tool kit, email fsmarketing@starbucks.com or fsmarketingcanada@starbucks.com.

## Internet

If you plan to use the primary WPS logo or WPS wordmark on your venue's website, please keep in mind that Starbucks must approve the size and placement, and any related copy, just as we would a printed piece.

Please contact Foodservice Marketing Services for a graphic file of the primary WPS logo or WPS wordmark formatted for web use.

**Correct web logo:** Starbucks green (HTML 00704A or R0 G112 B74), White (HTML FFFFFF or R255 G255 B255), Black (000000 R0 G0 B0). If you are unable to visually match green to HTML 00704A, you must show the WPS logo in black and white. Minimum size is 50x50 pixels at 72 dpi (the ™ will have to be created separately to read clearly).

All graphics on the Starbucks.com website are property of Starbucks Corporation. Please do not take logos, photographs or any other artwork from the Starbucks website.

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Source: (Starbucks Coffee Company, 2011c)

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## Company and Product Name Guidelines

Any copy using the Starbucks name must comply with these basic guidelines and must be approved by Starbucks.

"Starbucks" never has an apostrophe, even when used in possessive form.

When using product names, attach the proper registration symbol ® to the name at least one time per document when the mark first appears and/or when it is most prominent.

To the extent it is necessary to explain your relationship with Starbucks Coffee Company, please refer to yourself as an authorized purveyor of Starbucks® coffee.

Include the following copyright language: © 2011 Starbucks and the Starbucks logo are trademarks or registered trademarks of Starbucks Corporation. Approval code: \_\_\_\_\_

## Thank You

We realize these guidelines can seem complicated and challenging to follow. And we appreciate the energy you put into protecting the brand you are proud to have in your venue—and the brand we are proud to share with you.



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## Endnotes

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<sup>1</sup> Tilleke and Gibbins is a leading Southeast Asia regional law firm. It represents international companies which operate businesses in Asia in the key areas of commercial transactions and M&A, dispute resolution and litigation, and intellectual property (Tilleke and Gibbins, 2014).

<sup>2</sup> The Nice Agreement was a result from the diplomatic conference of 1957 in Nice, France which aims to categorize goods and services applied for the registration of trademarks and service marks called the Nice Classification (NCL). It contains 45 classes of goods and services and nowadays used by 148 countries worldwide (WIPO, 2014c).

<sup>3</sup> WIPO is the global forum for intellectual property services, policy, information and cooperation. It is a self-funding agency of the United Nations established in 1967, with 187 member states. WIPO aims to lead the development of a balanced and effective international intellectual property (IP) system that enables innovation and creativity for the benefit of all (WIPO, 2014b).

<sup>4</sup> “The TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement of the World Trade Organization (WTO) established minimum standards of protection that each government has to give to the IP [Intellectual Property] of fellow WTO

[World Trade Organization] members, thus limiting the former scope for flexible national approaches" (WIPO, 2014a).

<sup>5</sup> *Moby-Dick* or *The Whale* is one of the greatest American novels and a leading work of American romanticism, was first published in 1851(Lawrence, 1923). It is an epic sea story of Captain Ahab's voyage in pursuit of Moby Dick, a great white whale. Its main characters include:

- *Ishmael* - *The narrator, and a junior member of the crew of the Pequod*
- *Captain Ahab* - *Lost his leg to Moby Dick and is in a search for the monstrous sperm whale.*
- *Starbuck* - *The first mate of the Pequod.*
- *A Quaker who believes that Christianity offers a way to interpret the world around him.*
- *Stubb* - *The second mate of the Pequod, characterised by his good.*
- *Flask* - *The third mate of the Pequod with a confrontational attitude that earned him the nickname King-Post*
- *Queequeg* - *Starbuck's skilled harpooner and Ishmael's best friend, a former prince from South Sea island*
- *Tashtego* - *Stubb's harpooner and a Gay Head Indian*
- *Daggo* - *Flask's harpooner*
- *Pip* - *A young black boy who fills the role of a cabin boy or jester.*
- *Fedallah* - *An old Persian fire-worshipper* (Madison, 2011).

<sup>6</sup> The Siren has always been at the heart of Starbucks since 1971. Steve M., a senior writer at Starbucks Corporation asserted that:

*As a writer, though, I can tell you that there is a lot more to her than just the design and how she looks. This is what she means to me, and to us. She is a storyteller, carrying the lore of Starbucks ahead, and remembering our past. In a lot of ways, she's a muse –always there, inspiring us and pushing us ahead. And she's a promise too, inviting all of us to find what we're looking for, even if it's something we haven't even imagined yet. ...*

*Here we are today. Our new evolution liberates the Siren from the outer ring, making her the true, welcoming face of Starbucks. For people all over the globe, she is a signal of the world's finest coffee – and much more. She stands unbound, sharing our stories, inviting all of us in to explore, to find something new and to connect with each other. And as always, she is urging all of us forward to the next thing. After all, who can resist her”* (Steve, 2011).

<sup>7</sup> An in-depth interview was conducted by the researcher, Wichian Lattipongpun on March 18, 2014 at *Baan Phra Arthit Building* where *Manager Daily* office located.

<sup>8</sup> *Manager Daily* is one of the leading Thai newspapers printed in Thai. They also run another version in English named *Thai Day*.