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6th Global Conference on Business and Social Sciences on
"Contemporary Issues in Business and Social Sciences Research"
(CIBSSR – 2017)

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(GATR)
Kuala Lumpur, Malaysia

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Acknowledgment

Welcome to proceeding of the 6th Global Conference on Business and Social Sciences 2017, with the theme of "Contemporary Issues in Business and Social Sciences Research".

It was pleasure to edit the conference proceeding which contains all accepted abstracts that were presented and considered for publication at the 6th GCBSS, held on 4th and 5th December, 2017 in Bangkok, Thailand in cooperation with international and national universities, institutes and publishers, namely, Cairo University (Egypt), Kalasalingam University (India), Brawijaya University (Indonesia), Asia Pacific Institute of Dispute Management (Australia), Elsevier (UK), Inderscience (Switzerland) and UPM Press (Malaysia).

6th GCBSS received a great number of abstracts for presentation, many of which high-quality scholarly works. As a result, the selection panel had to make decisions with considerable care. We are highly grateful to the authors for their enthusiasm, and to the reviewers for their painstaking work. Some of the accepted papers were selected for publishing in the Polish Journal of Management Studies (ISI & Scopus), Pertanika Journal of Social Sciences and Humanities (ISI & Scopus), International Journal of Economics and Management (Scopus), and in GATR Journals: Global Journal of Business Social Sciences Review (GJBSSR), Accounting and Finance Review (AFR), Journal of Business and Economics Review (JBER), Journal of Finance and Banking Review (JFBR), and Journal of Management and Marketing Review (JMMR) and all full paper publications are sponsored by Global Academy of Training & Research (GATR), the leading organizer of this conference.

The conference provided a platform for sharing novel ideas and inspiring research outcomes of the academics from different countries, including the USA, UK, Australia, UAE, Poland, Latvia, The Netherlands, New Zealand, South Africa, Malaysia, Iran, India, Indonesia, Iraq, Georgia, Pakistan, Philippines, Sri Lanka, Saudi Arabia, Austria, Thailand, Vietnam, Hungary, China, Taiwan, Nigeria, Italy, Norway, Lebanon, Mauritius, Slovakia, Japan, Korea, Czech Republic and Morocco. It was also attended by three prominent keynote speakers: Professor Danture Wickramasinghe, University of Glasgow, UK and Professor Gabriël A. Moens, Curtin University, Australia and Professor Bjoren Willy Aamo, University of Norland, Norway, we are grateful to them for their invaluable contribution.

We hope this conference will contribute to meaningful paradigm shifts in business and social sciences research, in general, and the delegates' career development, in particular. Finally, we would like to thank everybody who contributed in many ways to the success of the conference, especially to session chairs and the members on organizing committee.

We wish to see you all in 6th GCBSS in Bangkok, Thailand.

Guest Editors:

Professor Dr. Danture Wikramasinghe, University of Glasgow, UK

Professor Dr. Gabriël A Moens, Curtin University, Australia

Professor Dr. Bjoren Willy Aamo, University of Norland

Dr. Kashan Pirzada, Chairman Advisory, Global Academy of Training and Research, Malaysia

Professor Dr. Gabriël A Moens

Curtin Business School,
Curtin University, Australia



Gabriël A Moens is Professor of Law and Director of Research, Curtin Law School. He is also Emeritus Professor of Law at the University of Queensland. Prior to his current positions he served as Pro Vice Chancellor (Law, Business and Information Technology) and as a long-serving Dean and Professor of Law at Murdoch University. He also served as Professor of Law and Head, Graduate School of Law, University of Notre Dame Australia and as Garrick Professor of Law and Director, The Australian Institute of Foreign and Comparative Law, The University of Queensland. He undertakes teaching and research in Constitutional Law, Banking Law, European Union Law, International Commercial Law, International Arbitration Law and Comparative Law. He also teaches International Business Law and European Union Law at the University of Notre Dame, London Law Centre. Professor Moens is a past winner of a University of Queensland Excellence in Teaching Award. In 1999, he received the Australian Award for University Teaching in Law and Legal Studies. He is the Editor-in-Chief of *International Trade and Business Law Review*. In 2003, the Prime Minister of Australia awarded him the Australian Centenary Medal for services to education. In 1995-1996 he was a Visiting Professor of Law at J. Reuben Clark Law School, Brigham Young University, Utah. He served as a Visiting Professor of Law at Loyola University, New Orleans School of Law in 2002-2003. In 1997 and 2000 he successfully coached the T C Beirne School of Law (The University of Queensland) team to win the prestigious Willem C Vis International Commercial Arbitration Moot in Vienna, Austria. He also co-coached the winning City University of Hong Kong team in the Ninth Willem C Vis (East) Moot in 2012 and the 20th Willem C Vis Moot in Vienna in 2013. He is a Fellow (FCI Arb) and Chartered Arbitrator (CArb) of the Chartered Institute of Arbitrators, London and Fellow and Deputy Secretary General of the Australian Centre for International Commercial Arbitration (ACICA). He is also the Editor-in-Chief of the ACICA Review and is the co-author of a Commentary to the ACICA Arbitration Rules. Professor Moens is a Membre Titulaire, International Academy of Comparative Law, Paris, a Fellow of the Australian Institute of Management (AIM WA) and a Director of the College of Law Western Australia. In 1998, the Asian Development Bank, Manila retained him to train officials of the Ministry of Law and Justice of his Majesty's Government of Nepal. He has taught extensively in the United Kingdom, Germany, Belgium, Italy, Austria, Australia, Indonesia, Thailand, Singapore, Hong Kong, Japan and the United States. He is co-author of *The Constitution of the Commonwealth of Australia Annotated* (8th ed, 2012), *Jurisprudence of Liberty* (2nd. ed.

2011), *Commercial Law of the European Union*, 2010, and *International Trade and Business: Law, Policy and Ethics* (2nd ed, 2006).

Professor Dr. Danture Wickramasinghe

Adam Smith Business School,

University of Glasgow, United Kingdom



Danture Wickramasinghe is professor of management accounting at the University of Glasgow. He has joined Glasgow after 19 years of research and teaching at the University of Manchester and a 1 and ½ years at the University of Hull as

Professor of Management Accounting and the Director of the Centre for Accounting and Accountability Research. Previously, he has taught management accounting and related subjects at the University of Colombo (Sri Lanka) and the University of Ruhuna (Sri Lanka), and had a visiting appointment at Paris-Dauphine

University, France. Formerly, he was the Dean of the Faculty of Management and Finance and the Head of the Department of Commerce at the University of Colombo, and the Head of the Department of Business Administration at the University of Ruhuna. At Manchester, he was the Programme Director of M.Sc. (Accounting & Finance) programme and the Coordinator of the Management Accounting Module on the MBAworldwide programme.

He has produced a number of research papers out of a large project funded by CIMA and has publications in international journals including Accountability, Auditing, and Accountability Journal, Critical Perspectives on Accounting, Advances in Public Interest in Accounting, Qualitative Research in Accounting and Management, International Journal of Entrepreneurial Behavioral & Research and Journal of Accounting and Organizational Change. He is the co-author of Management Accounting Change: Approaches and Perspectives (2007), a social theory based management accounting text, a guest editor of the special issue on Management Accounting in Less-developed Countries (2007) at Accounting and Organizational Change and the co-editor of Handbook of Accounting and Development (2012). He continues researching on management accounting issues in both advanced capitalist countries and emerging/ less-developed countries. Professor Wickramasinghe has over 25 years of experience as an enthusiastic and talented university teacher at undergraduate, postgraduate and MBS levels, has produced a number of PhDs, supervised 100s of Master's dissertations, and acted as internal and external examiner for over 10 PhD candidates. He is a regular speaker at research and professional forums, including the workshops organized by CIMA. Currently, he is the Chief External Examiner at Manchester Metropolitan University and the External Examiner at the University of Aberdeen and continues PhD supervision at Manchester.

Professor Dr. Kamran Ahmed

La Trobe University,
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Kamran Ahmed is Professor of Accounting & Finance, La Trobe Business School. He was Head of School of accounting from 2006-2010. Professor Ahmed began his academic career in Australia in 1988 at the Australian National University, and later had academic appointments at Victoria University of Wellington and the University of New England prior to joining La Trobe University in 1999.

He had visiting appointments at the University of British Columbia, Exeter University, the University of Houston and Monash University. Professor Ahmed's research interests are corporate disclosure, corporate accounting policy choice, earnings management, international accounting harmonization, accounting and reporting practices in South Asia, and microfinance reporting.

Professor Ahmed has published in such scholarly journals as Abacus, Accounting and Business Research, Accounting Education, Accounting and Finance, British Accounting Review, Corporate Governance: an International Review, Critical Perspective on Accounting, International Journal of Accounting, Journal of Accounting and Public Policy, Journal of Business Finance and Accounting, Journal of Contemporary Accounting and Economics, and Journal of International Accounting Research. Professor Ahmed has supervised several Honors, Master and Ph.D. candidates. He is currently on the editorial board of several journals including International Journal of Accounting, International Journal of Accounting, Auditing and Performance Evaluation, International Journal of Accounting and Information Management, Journal of Accounting and Organizational Change, and Research in Accounting in Emerging Economies, and has been an ad hoc reviewer for several other reputed refereed journals.

Professor Dr. Bjoren Willy Aamo

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Bjørn Willy Åmo works as a professor of Marketing and Entrepreneurship at the Bodø Graduate School of Business at University of Norland, Norway. He has published more than 50 ISI papers in various research journals on different topics of entrepreneurship. His research interests relate to entrepreneurship education, corporate entrepreneurship, intrapreneurship, social entrepreneurship and business start-up.

He is also a senior reviewer of many international journals of repute and performed guest editor services in many conferences. He teaches Marketing, entrepreneurship and small business management as well as in research methods. He is a member of the Norwegian Global Entrepreneurship Monitor team.

Professor Dr. Ahmad Fauzi Abdul Hamid

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Ahmad Fauzi Abdul Hamid is a Chairman & Professor of Political Science, School of Distance Education, Universiti Sains Malaysia (USM), Penang, Malaysia. He graduated from the University of Oxford (B.A. Hons. Philosophy, Politics and Economics) in 1992, the University of Leeds (M.A. Politics of International Resources and Development) in 1994 and the University of Newcastle upon Tyne (Ph.D. Politics), United Kingdom, in 1998.

At USM, since July 1998, he has been teaching undergraduate courses in political science at the School of Distance Education, and managed a postgraduate course, 'Islam in Southeast Asia', for the M.A. in Asian Studies offered by the School of Social Sciences from 2010 to 2013. He has been held visiting research fellowships at the S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University (NTU), Singapore (September 2008 – January 2009), and the Asia Research Institute (ARI), Murdoch University, Perth, Australia (February 2009).

Professor Ahmad Fauzi has participated in international research projects funded by, among others, the Ford Foundation, the National Bureau of Asian Research (NBR), USA, and the Japan International Cooperation Agency Research Institute (JICA-RI). He has published in leading international journals such as *Indonesia* and the *Malay World*, *Islamic Culture*.

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“Haven For Counterfeit International Branded Bags”: Challenges for Trademark Protection in Batam City, Indonesia

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ABSTRACT

Batam City of the Riau Island Province is the Indonesian territory which is very closed to Singapore and Malaysia. Due this geographical proxy, imported goods, including international branded bags such as Channel, Gucci, Prada, Hermes can be obtained easily from overseas in Batam City. Unfortunately, most of them are counterfeit bags which are commonly referred to the term ‘KW bags’. In 2016 the Indonesian Government has renewed the Trademark Law by enacting Law No.20 of 2016 concerning Trademark and Geographical Indications to replace the former Law No.15 of 2001. As a member of WIPO, Indonesia must not differentiate between the protection of national and international trademarks. However, KW bags from China have been circulated and sold in Batam City. This research analyses the effective implementation of the Trademark Law in Batam City. It found that KW bags have been legally imported into Batam City from China since 2005 because they have met all the required documents for import. Batam City police have no authority to investigate the KW bags because a trademark infringement is qualified as a warrant complaint under the Trademark Law. It also found that most respondents have bought the KW bags because their cheaper price and their appearance is very much the same as the original ones. Yet, they mostly understand that the KW bags violate the Trademark Law and disadvantage the owner of the marks.

Type of Paper: Empirical

Keywords: counterfeit goods; branded bags; trademark protection; Batam City; Indonesia.

5. Introduction

Batam City of the Riau Island Province is the Indonesian territory which is bordered to Singapore and Malaysia. Consequently, imported goods, including international well-known brands from overseas may be obtained easily in Batam City comparing to other cities in Indonesia. Unfortunately, Batam City is also famous as a haven for counterfeit goods, particularly bags with international well-known trademarks, such as Channel, Gucci, Prada, Hermes, Louis Vuitton, etc. Counterfeit bags are commonly referred to the term KW products or KW bags in Batam City. This term is used by bag sellers in Batam City to distinguish the bags from the original ones. The KW bags have been openly circulated and sold in the shopping streets of Batam City, especially in the area of Nagoya, Judah, and Penuin. Similarly malls in Batam City, for example the BCS Mall, Nagoya Hill, DC Mall. This research question why counterfeit bags with international well-known trademarks can be freely circulated and sold in Batam City even though Indonesia has renewed its Trademark Law to provide better protection to trademark owners. It also aims to investigate what challenges are faced by the law

enforcers to effectively implement the Trademark Law in Batam City in relation to the sale of KW bags.

6. Literature Review

2.1 Conceptual Framework

The term ‘mark’ is defined by Article 1 point 1 of Law No.20 of 2016 concerning Trademark and Geographical Indications (the New Trademark Law) as ‘a sign that may be displayed graphically in the form of pictures, logos, names, words, letters, figures, composition of colours, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) or more of such elements to distinguish goods and/or services produced by persons or legal entities in the goods and/or service trade activities’.

R.M. Suryodiningrat in H.Ok. Saidin (2010) classifies trademark into the following types, namely:

The word trademarks which consist of words alone. Example : Good Year and Dunlop are trademark of car tires and bicycle tires.

Paint trademark is a trademark that consists of paintings or a combination of words and painting.

Hukum Online (<http://www.hukumonline.com>) points out that the main functions of trademark are:

to distinguish between the production of a person or persons jointly or a legal body with the production of another person or legal entity;

as a promotional tool, thus promoting a production by referring to the brands;

as a guarantee of the quality of the goods;

to show the origin of goods / services produced.

A well-known mark is generally given a high degree of recognition and reputation by Indonesian public. Hence, the Indonesian Supreme Court provided the criteria of a well-known brand under its decision Number 1486 K / PDT. / 1991 which explicitly provides that ‘a brand included in the definition of well-known marks in principle means that the brand has circulated out of its regions and its across the transnational borders, therefore if a brand has been registered in many countries in the world, it is qualified as a well-known brand because it has circulated to the borders outside its home country’.

Well-known marks are give protection against ‘signs which are considered a reproduction, imitation or translation of the marks provided that they are likely to cause confusion to public’ (WIPO). An exclusive right is given to trademark owners as it is provided by Article 1 point 5 of the New Trademark Law that ‘mark right is an exclusive right granted by the state to the owner of a registered mark for a certain period of time by using the mark itself or granting the other party a permission to use it.’

2.2 Legal Framework

In order to provide more protection to trademarks in Indonesia, in 2016 the Government has renewed the Trademark Law by enacting Law No.20 of 2016 concerning Trademark and Geographical Indications (the New Trademark Law) to replace the former Law No.15 of 2001. This Law has a significant difference from the previous one pertaining to the protection of a well-know trademark.

Different from the previous Trademark Law, the new one renders a legal protection to owners of well-known trademarks even though they have registered their marks in Indonesia (Am Badar and Partners, 2017).

2.3 Theoretical Framework

In order to answer the research questions, this research adopts the Legal Protection Theory by Philips M. Hadjon (2007) which asserts that there are two types of legal protection, namely Preventive Legal Protection and Repressive Legal Protection. The preventive legal protection aims to prevent conflicts by using the rules and regulations, while the repressive legal protection aims to prevent conflicts by using the agreement of the parties. In short, legal protection constitutes a protection given to a society or subject of law, according to the rules or regulations of law either written or unwritten in order to establish the rule of law.

7. Research Methodology

This research adopted a social-legal research method, which considers law as a social phenomenon with a structural approach (Wignyosoebroto, 1993). Socio-legal research constitutes an empirical research because it serves to examine how the law actually works in the community (Soekanto and Mamudji, 2003). Hence, it requires both primary and secondary data. The primary data was collected through observation in Nagoya, Penuin, Jodoh area and malls (BCS Mall, Nagoya Hill, and DC Mall). Questionnaires were distributed to 150 respondents (15 sellers and 135 buyers) in Batam City as a sample of those who have or have not bought KW bags. This research applied the Guttman Scale (Scalogram analysis) whose objective is ‘to establish a one-dimensional continuum for a concept that is measured’ (<http://www.socialresearchmethods.net/kb/scalgutt.php>). This scale was used to determine the knowledge of respondents in Batam City regarding KW bags and the New Trademark Law. Secondary data were analysed by using the qualitative approach and the questionnaires were analysed statistically using the Chi-square.

4. Results

Based on the observation in Batam City, it was found that high circulations of KW bags are in Nagoya areas compared to other locations such as Penuin and Jodoh. The shops display more than 50 pieces of bags with well-known trademarks. However, 90% of them are KW bags. The KW bags are famous not only for Batam City people, but also for those from other parts of Indonesia including tourists from Singapore and Malaysia. In addition to offline selling, they are also sold online by using social media such as instagram, Facebook, Whatsapp (WA) and Line. Figure 1 shows, shops along Nagoya area which sells KW bags with well-known international brands.



Figure 1. The sales of KW bags with well know international brands

The results of questionnaires distributed to 135 buyers are shown by Table 1.

Table 1. Buyers' responses to KW bags

No	Questions	Scale
1	How often do you buy bags?	Below two times a month (31) Above two time a month (53) Not frequently (51)
2	Have you ever purchased counterfeit/KW bags with well-known brands/trademarks? (Such as Gucci, Channel, LV, etc.)	a. Yes (32) b. No (103)
3	Where do you normally buy your KW Bags?	Fashion stores in Nagoya or Penuin (83) Malls (30) Online (22)
4	Do you know how to identify the differences of KW Bags from well-known brands/trademarks?	a. Yes (94) b. No (41)
5	How different is the price between KW bags and well-known brands/trademarks?	Below Rp.500.000,- (95) Above Rp.500.000,- (40)
6	Do you think the sale of KW bags in Batam City has been increasing?	a. Yes (89) b. No (46)
7	What makes you buy KW bags?	Cheaper (122) Not much different appearance from the original bags (23)
8	Do you know that KW bags violate the Trademark Law?	a. Yes (103) b. No (32)

Source: Data analyzed by the authors

The results of questionnaires distributed to 15 bag sellers are shown by Table 2.

Table 2. Sellers' responses to KW bags

No	Questions	Scale
1	Why do you sell KW bags?	Cheaper price (6) Lots of demands from customers (7) Good quality (2)
2	How different is the price of KW bags from the original ones?	KW bags are much cheaper than the original ones (12) KW bags are quite cheaper than the original ones (2) KW bags are a bit cheaper than the original ones (1)
3	Are KW bags' materials different from the original ones?	a. Yes (15) b. No (0)
4	Are selling KW bags more profitable than the original ones?	a. Yes (15) b. No (0)
5	Have your customers ever made complaints to KW bags?	a. Yes (1) b. No (14)
6	Do you feel ashamed to sell KW bags?	a. Yes (1) b. No (14)
7	Do you wear KW bags?	a. Yes (3) b. No (12)
8	Do you know that KW bags violate the Trademark Law?	a. Yes (14) b. No (1)

Source: Data analyzed by the authors

Based on the questionnaire results, it can be summarized that most respondents have bought KW bags and they are familiar with the differences between KW bags and the original bags with international well-known marks. They are willing to buy the KW bags because the prices of KW bags are much cheaper and their appearances are very much the same as the original ones. Customers of KW bags can purchase them in fashion stores, malls and online. Yet, they mostly understand that KW bags violate the Trademark Law.

5. Discussion

The research findings reveal that KW bags in Batam City are highly demanded by customers even though most of sellers and buyers are fully aware that they have infringed the New Trademark Law. The Law in principle protects the owner of international well-known marks as the Elucidation of Article 83 (2) of the Law, which points out that owner of well-known marks may file a lawsuit even though the marks have not been registered in Indonesia. This approach is newly introduced by the

New Trademark Law; consequently it can be said that it has provided a legal protection platform (preventive protection) from the perspectives of the Legal Protection Theory. In addition, Article 100 of the New Trademark Law also provides legal protection since it imposes sanctions, namely fines from RP. 2,000,000,000.00 (two billion rupees) up to RP. 5,000,000,000.00 (five billion rupees) and imprisonment from 4 (four) years up to 5 (five) years depending the types of trademark infringement. Yet, it is arguable that legal protection under the New Trademark Law is not effective since up to the present, the sale of KW bags still occurs in Batam City. Even though it is a challenged faced by legal enforcers, they argue that the trademark infringement is qualifies as a warrant complaint (delik aduan) under Article 103 of the New Trademark Law. This means that the legal enforcers can only process the case after the complaint has been submitted. In the late 2015 an investigation was conducted in Batam City due to the circulation and sale of 'Chanel' KW bags. This investigation was made because Chanel has been registered in Indonesia and its owner submitted a warrant complaint. It was submitted that KW Chanel bags were circulated in a number of fashion shops in Nagoya area of Batam City. In response to the complaint, approximately 400 KW bags of Chanel brand that were seized by the Batam police during the inspections.

The research results also reveal that the sale of KW bags is more profitable and buyers prefer to buy them because of their cheaper prices and their appearances are similar to the original ones. It is obvious that even if the enactment of the New Trademark Law has fulfilled its legal protection function for trademark owners, it still fails to stop the sale of KW bags. Due to the requirement of complaints from trademark owners, the authority of law enforcers to raid and seize KW bags is very limited. This situation is worsened since KW bags sellers have compelling arguments that the imports of KW bags have been permitted by the Office of Customs and Excise of Batam City.

Although the Office of Customs and Excise is a main entrance of imported goods to Batam City, it has no authority to check them in great details. It only conducts a regular physical check for imported goods. For example, it checks the amount, type and weight of goods based on the Regulation of Minister of Finance No. 47/Pmk.04/2012 concerning Procedure of Importing and Exporting Goods to and from the Area that has been Established as A Free Trade Area, Port and Clean Exemption (Peraturan Menteri Keuangan No. 47/Pmk.04/2012 Tentang Tata Laksana Pemasukan Dan Pengeluaran Barang Ke Dan Dare Kawasan Yang Telah Ditetapkan Sebagai Kawasan Perdagangan Bebas Dan Pelabuhan Bebas Dan Pembebasan Cukai). In relation to counterfeit goods, Article 54 of Law No.17 of 2006 concerning Customs only provides that 'upon the request of the owner of trademark or copyright rights, the Head of the Commercial Court may issue a written order to the Customs and Excise Authority to temporarily suspend the release of imported or exported goods from the customs zone on the basis of sufficient evidence alleged to be the result of a breach of the trademarks and copyright rights that protected in Indonesia.' It is clear here that in the absence of a written order from the Commercial Court, the Customs Office and Excise of Batam City cannot take any action. Up to the present, the actions to temporarily suspend KW bags with international well-know marks in Batam City have never been conducted by the Office.

6. Conclusion

It is obvious that even though the New Trademark Law provides legal protection, there is still a challenge to stop the sale of KW bags with international well-known marks in Batam City. The main challenge is because in the absence of complaints from owners of international well-known marks, legal enforcers cannot take any action at all. Similarly, in the absence of the Commercial Court's written order, the Customs and Excise Office of Batam City has no authority to temporarily suspend the release of imported KW bags from the customs zone. Hence, it can be concluded that legal protection for international well-known marks against KW bags in Batam City cannot be fully implemented because of the requirement of trademark owner's complaint and the Commercial Court's written order to legally take action against the bags.

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