

Thesis Title : Legal Problems on Protection of Software Computer According to Thai Patent Act B.E.2522

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Degree : Master of Laws (Business Law)

Academic Year : 2010

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ABSTRACT

The development on industry and technology nowadays has gone so far, causes higher competition on invention and continuous discovery of innovation, every country therefore places importance on protection of invention in term of patent registration more than ever. Thailand, under the Thai Copyright Act B.E. 2537, has been granting protection on computer software, an intellectual property, and recognizes as one of the literary work but not a work applicable for patent protection under the Patent Act B.E. 2522, as observably seen through Section 9(3). Nevertheless, in consideration of the current situation where Thais, many in number, have more capability in inventing and developing computer software, which has complicated idea and difficulty in imitating and that is important in term of economics than before, and while the objective of patent law is aimed to grant IP right protection on invention and product design to inventors, we see that this would be unfair if inventors cannot gain protection on information system for operation of a computer. As a result, I came to my interest to research on legal problems on protection of computer software due to Thai Patent Law. This is in order to study on the problems encountering and exploiting as a model for our solution in the future.

According to our study, it is found out that an invention on computer software can be classified into 2 categories, which is computer software with inventive step and without

inventive step. Though the Copyright Act B.E. 2537 has been granting protection on computer software as a literary work, such protection granted is not sufficient for protection inventors' right based on differences of copyright and patent legal system, such as the condition of right acquisition, the disclosure of procedures on steps of invention, period of protection, and exclusive right of an inventor. Therefore, the invention on computer software with inventive step, that is used as an information system for operation of a computer, shall be granted protection based on the patent law as well. This is in addition to the copyright and in order to maximize profit for inventors and people in general. However, in order to do as such, it is required that the law shall be amended by coining a definition of "Computer Software" in primary.

Furthermore, according to the TRIPS, the Agreement on Trade-Related Aspect of Intellectual Property Rights, we see no prohibition or provision that bars information system for operation of a computer from receiving protection as an invention under the scope of patent law. Accordingly, there shall be no confliction or disagreement with the TRIPS if Thailand amends the provision of the Patent Act B.E. 2522, Section 9(3), by expanding its protection to cover the invention of information system for operation of a computer or computer software. Supporting by our study on pros and cons of such amendment, hence, by amending the provision of Patent Act B.E. 2522 to cover the invention of such work, it shall provide inventors more fairness and benefit society more in general. Thus, advantage is weighted higher in responding our research work.