

Thesis Title : Legal measures for the protection of a Non-Copyrightable database.
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ABSTRACT

Even though the Copyright Act B.E. 2537, as the existing law, provides the protection for the database as a compilation of work but there is still a number of database which is a non-copyrightable work. This sort of database includes those that were generated from the compilation of works or fact for the benefit of their business or for the use in their organization but the process of compilation might not meet the legal requirement, such as lacking of the level of creativity as required by the copyright law, for the protection under the copyright law. On the other hand, the compiler may have invested some amount of either financial investment or labor investment, which is a substantial investment, in order to create, arrange, verify, organize, and present such database to the public.

According to the process of gathering the fact or information or works may, somehow, lack of the level of creativity as required by law that will consider being a non-copyrightable work. Further, any unauthorized extraction of information contained in a database or any misappropriation will not consider being an illegal. Hence, it does not seem to be fair to let the others utilize or use the database as a free-ride even there might be some significant law or Act that might applicable as case by case but those laws must have a specific purposes to protect each type of intellectual property work and may not effectively applicable to all the cases that might be arisen in the future.

According to the legal comparative study among the English law, American law and the international Treaties including the draft Treaty and the currently enforced Treaty concerning the database protection as well as the EU Directive, it is clear that many countries are concerning about the legal status and legal protection for database in their countries either under the copyright law or the *Sui Generis*. Because the value of the database itself that can be used in the organization in order to develop or improve the organization and the compiler or the maker of database may gain a huge amount of money from doing the business of providing database. Hence, an effective legal protection for database has apparently become an important issue. However, in some countries, the unanimous legal opinion, whether there should be further *Sui Generis* for the database protection or not, is still unreachable at the moment. The main controversy focuses on the monopoly of database business market and also the suitable term of protection or the suitable term of protection for database. Thus, this issue would be very much interesting whether there will be any promulgation concerning legal protection for database, as a *Sui Generis*, in the near future or not.

In Thailand, as mention earlier, such compilations of works created by a substantial investment in order to gather the information, arrange, verify, organize, and present such database to the public. The specific legal measure for a non-copyrightable database either by amending the copyright law or the promulgation of *Sui Generis* for database protection becomes essential and will probably be the solution for the problems that might be arisen in the near future.