

Thesis Title : The Liability of Internet Service Provider: A Case Study on Liability Arising from the Storage of Data in the Sale of Pirated Goods through Internet

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ABSTRACT

At present, any transaction of trading goods through internet involves the host provider who stores the user's data in the space of their website for accommodating buyer and seller to make a transaction via internet. Such a storage of information of violating goods in the website may cause the host provider to become liable in damage occurred to copyright owner. Hence, the objective of this thesis is to study liability of host provider from the storage of data in the sale of pirated goods through internet.

It is found that there is no provision which is related to liability of host provider arising from sale of pirated goods through internet in Thai law, neither in the Thai Copyright Act B.E. 2537 nor in the Computer Crime Act B.E. 2550. Section 432 of the Civil and Commercial Code might be applied to the liability of host provider but its provision and the basic principle on the burden of proof is not appropriate for cases whereby new technology is involved. In comparison to the law of United States and Australia, there are clear, appropriate and specific provisions about the liability of host provider which are useful for both copyright owner to increase staff to check the information system and internet service providers shall not be liable if they do follow the law, and then make them more confident to give service.

Therefore, the law to impose liability on the host provider arising from sale of pirated goods should be clearer and should include a better provision on the burden of proof which is suitable to new technology.