

Thesis Title : Problem on Over-Criminalization in Thai Copyright Law  
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## ABSTRACT

Practically, in Thailand, the criminal enforcement has been mostly used for the copyright infringement by the copyright owner while the Copyright Act B.E.2537 does not categorize the degree of liability if the criminal penalty is considered. The result of this practice put an impact on the offender who has infringed the copyright on small commercial scale shall be punished as same as the offender who has infringed the copyright on large commercial scale, which could be raised up the problem of "Over-Criminalization" on the copyright infringement.

The objective of this research is to analyze the effect of enforcement by Over-Criminalization to specifically focus on resolving the problem of Over-Criminalization according to the Copyright Act B.E.2537 which is a commercial law. This research found that the criminal enforcement has been used more than civil enforcement in Thailand. The copyright owner often authorizes an agent to take the offender by means of criminal enforcement, which is a chance to inappropriately demand compensation or benefit illegally from the offender by an agent. Furthermore, criminal punishment applied to the copyright infringement between the case of the infringement having caused serious consequence and having caused less serious consequence can stimulate the unfairness if the punishment is made in the same level of criminal penalty. There may be the case of basically motive to the offender to involve into make an offence in higher degree - more serious consequence.

Therefore, the researcher is of an opinion that the criminal punishment indicated in the Copyright Act B.E.2537 should be amended to separate into three levels, which are the infringement without commercial scale, the infringement on small commercial scale with having caused less serious consequence and the infringement on large commercial scale with having caused serious consequence. Consequently, this separated degree of criminal liability will enhance the appropriate and fair punishment to the offender in all criminal cases.

