

• GTS231:

► L 7 & 8 : Computer & Cyber Crime

- Example case of physical vs Digital Case

- Physical : Taking away of tangible property

↳ Charged in Criminal Law Code § 334.

"Whoever dishonestly take away any property of another person or which the other person to be co-owner to be said to commit the theft, shall be imprisoned not out of 3 years and fined not more of sixty thousand baht"

- Digital : criminal who copies data inform of digital information
only gets an imitation of digital file

- Unique Characteristics of Computer Crime Law

- Enables investigations / searching / collecting electronics evidence.

- Ensure security & stability in the information technology society

● Criminal Liability

- Criminal Law Code | pg. 2 To commit an act intentionally is to do an act

§ 59 | consciously and at the same time the doer desired

or could have foreseen the effect of such doing

{ "Intentionally" → desired the effect & foreseen the effect of such doing
"Unintentionally" → not intentional

pg. 3 To commit an act by negligence is to commit an offence unintentionally but w/o exercising such care as might be expected from a person under such condition and circumstances, and the doer could exercise such care but did not do so sufficiently

"By negligence" ↳ * unintentionally *

and ↳ w/o exercising such care

or ↳ could exercise such care but didn't do so sufficiently

pg. 4 An act shall also include any consequence brought about by the omission to do an act which must be done in order to prevent such consequence.

- Criminal law code pg. 1 Whoever commences to commit an offence, but does not carry it through, or carries it through but does not achieve its end, is said to "attempt to commit an offence"
 - § 80 pg. 2 Whoever attempts to commit an offence shall be liable to two-thirds of the punishment as provided by the law for such offence "attempt to commit an offence" → commence to but doesn't carry through (2/3 of punishment) or → carry through but doesn't achieve its end.
- Criminal law code In case of any offence is accrued by commission of the person as from two persons upwards, such accomplices deemed to be principals shall be punished as provided by the law for such offence.
 - § 83 "Principals" / mains
- Criminal law code pg. 1 Whoever, whether by employment, compulsion, threat, hire, asking at favor or instigation, or by any other means, causes another person to commit any offence, is said to be an instigator
 - § 84 "Instigator" (จี้ตัว)
- Criminal law code Whoever does for any reason whatsoever as giving assistance or facility to any other person committing an offence before or late time of committing the offence, even though such assistance or facility is not known by the offender, such assistant deemed to be a supporter in committing such offence shall be punished by two-thirds of the punishment as provided for such offence.
 - § 86 "Supporter" (ผู้ช่วย)
- Thai Computer - related Crime Act. B.E. 2550 / Amending 2560 (^{my acronyms}: TCCA'50 & ATCCA'60)
 - ▷ Definition § 3 → Offences § 5 - § 17 → Competent Officials § 18 - § 30
 - TCCA'50 § 14 pg. 1 Whoever commits the following offences shall be liable to an imprisonment for terms not exceeding five years or fine not exceeding 100 k baht or both to false data etc.
 - (1) dishonestly or by deception, entering wholly or partially distorted or false computer data into a computer system in a manner likely to cause damage to the general public; which is not a defamation under the Criminal law Code
 - (2) Entering false computer data into a computer system in manner which likely to cause damage to the protection of national security / public, economic safety / infrastructure for public benefit / or cause panic to general public.

- (3) Entering into a computer system, any computer data which is an offence related to national security of kingdom of Thailand or related to terrorism under ELC.
- (4) Entering any obscene data into a computer system which could be accessed by the general public
- (5) Disseminating or forwarding computer data despite knowing of the fact that it is computer data under (1), (2), (3), (4) above

pg. 2. In case that offence under Paragraph one (1) is not committed against the general public but rather against certain person, n, the offender, the disseminator or the forwarder of such shall be liable to an imprisonment for a term not exceeding 3 years, a fine not exceeding 60 K baht or both and such offence shall be deemed a compoundable offence.

• TCCA '50

§ 3

↳ Definition!

may refer to (1 com.)

or (many com. connected by networks)

• Computer System

means any device or a group of interconnected or related devices, one or more of which pursuant to a program or instruction or anything else, performs automatic processing of data

• Computer data

means information, message and concepts or instruction, a program or anything else in a form suitable for processing in a computer system and shall include electronics data under the law on electronic transaction.

(1) → Telecom Carrier
 ↳ fixed-line
 ↳ mobile service
 ↳ satellite
 ↳ Access Provider
 ↳ Host Services
 ↳ Internet Store

• Traffic data

means any data relating to communication by means of a computer system, indicating the communication's origin, destination, route etc. or other information relating to communication of such computer system

• Service Provider

(2) → Content provider
 (blog / ID / Web)

means (1) a person who either in his own name or in the name or for the benefit of another data provider to other persons with access to the internet or ability to communicate by other means of computer

(2) a person who stores computer data for benefit of other persons

↳ security measure (Username / PW / Firewall etc.)

• TCCA'50

§ 5

"Unauthorized Access to System"

Whoever illegally accesses to a computer system that has specific security measures and such measures are not intended for his/her use shall be liable to an imprisonment for a term not exceeding 6 months or fine not exceeding 10K baht or both.

↳ Component : Access / Illegal / Computer System / Security measure but not for offender / Intention

* Digital Trespass (hacking) / Physical Access (Offence to trespass + Access computer in physical)

• Criminal Law

Code § 362

"Physical Trespass"

Whoever entering into immovable property belonging to another person so as take the possession of such property in whole or in any part or entering into a property to do any act disturbing the peaceful possession of such person, he shall be imprisoned not over 1 year or fined not over 20k Baht or both.

• TCCA'50

§ 7.

"Unauthorized access to data"

Whoever illegally accesses to a computer data that has specific security measures which are not intended for his/her use shall be liable to an imprisonment for a term not exceeding 2 years or a fine not exceeding 40K baht or both.

↳ "Data is matter of offence"

• TCCA'50

§ 6

"Disclosure of Security"

Whoever having knowledge of security measures to access to a computer system created specifically by another person, wrongfully disclose, without right, such security in a manner that likely to cause damage to another person, shall be liable to an imprisonment for a term not exceeding 1 year or a fine not exceeding 20k baht or both.

↳ Component : Having knowledge of measure / Wrongfully & without right disclose / likely to cause damage + Intention.

• TCCA'50

§ 9

"Interference with data"

Whoever illegally acts in a manner that causes damage, impairment, deletion, alteration or addition, either in whole or in part of computer data of another person, shall be liable to an imprisonment for a term not exceeding 5 years, or fine not exceeding 100K baht or both

↳ Integrity and authentication protection

ex : Salami Techniques (little money but many times)

Logic bombing (monitor account movement & change figures)



• TCCA '50

§ 15

"Services Provider
Offences"

- A services provider, who cooperates, consents or supports the perpetration of the offences under section 14 by using a computer system under his/her control, shall be liable to the same penalty as the offender under section 14

- The minister shall issue a notification specifying the process of warning as well as blocking the dissemination of such computer data and removal of such from the system
- A service provider who can prove that he/she has complied with the notification under paragraph 2 shall not subject to the penalty

• TCCA '50

§ 26

"Maintain the traffic"

- A service provider shall maintain traffic data for a period not less than ninety days from the date on which such data was entered into the computer system. If necessary, the competent official may, on case by case basis for particular cases and certain situations, order any services provider to maintain computer traffic for a period longer than 90 days but not exceeding 2 years.

• TCCA '50

§ 8

"Interception of
Computer Data"

- Whoever illegally makes, by any electronic means, an inception of computer data of another person that is being transmitted in a computer system and such computer data is not for the benefit of public or not available for any other persons to generally utilize, shall be liable to an imprisonment not exceeding 3 years, or fine not exceeding 60k or both

• BT5231

Date : _____

L9: Intellectual Property (IP)

- G.G.G. Things are corporeal objects. § 137
- C.C.C. Property includes things as well as incorporeal object, susceptible of having a value and being appropriated. § 138

- Tangible vs Intangible : Tangible = Things / Intangible = Property but not thing.

- Intellectual property rights ↗ IP = intangible ↗

↳ the collective name given to a suite of legal protection.

↳ protect (creator, author, inventor) of intangible creation

↳ Copyright / Patent / Trademark

Why we need to have IP Rights & law?

- Protection of incentive-innovation-reward cycle. / a free-rider will be committed a wrongful act.
- now being challenged by information society & digitization process

• Copyright.

- The exclusive right to perform any act according to the copyright Act with respect to the work created by the author

- Rights are : Reproduce / Adapt / Broadcast to public

- TCrA '37 § 3
- Author : a person who makes/creates any work which is a copyright work by virtue of this act

- Definitions " Literary Work : books, pamphlets, writings, printed matter, lectures, sermons, addresses, speeches and shall include computer program

- Computer Program : instructions, a sequence of coded instructions or anything used w/ a computer to make the computer perform its functions.

no matter what kind of computer language it is.

- Musical Work : a song composed for playing or singing, melody or lyrics or both, include musical notes and diagrams which is arranged and harmonised

- Audiovisual Work : a series of images recorded on any kind of medium, which is capable of being replayed by using a device which is suitable for such, and shall include accompanying sound if any.



• TGA'37

§ 6

"Copyrightable
Work"

Copyright subsists, in accordance with this act, in works of authorship, namely, literary, dramatic, artistic, musical, audiovisual, cinematographic, recording or any other work in literary, scientific or artistic field, regardless of the method or form in which such works are expressed.

In no case does copyright protection extend to ideas, procedures, process, system, method, principles, concepts, discoveries, scientific mathematical theories.

• TGA'37

§ 7

"Noncopyrightable
Work"

Following shall not be considered as copyright works

(1) news of the day & facts.

(2) constitution and legislation

(3) regulations, order by governmental agency.

(4) judgments, orders, decisions, official report

(5) translations and compilations of (1) to (4), commissioned by governmental agency.

• TGA'37

Copyright owner shall have exclusive rights of

§ 15

(1) reproduction & adaptation

(2) communicate to public

"Exclusive Rights
of Author"

(3) rental of original or copy of computer program, audiovisual, cinematographic, recording

(4) giving benefits accruing from copyright to others.

(5) licensing as (1)(2)(3) to other, w/o or w/o conditions, such conditions shall not prescribed in a way that unfairly restrict competition

• TGA'37

Copyright is assignable

§ 17

The owner may assign his copyright in whole or in part to another

"Copyright
Assignment"

person and may assign for a limited period of time or entire term of protection

The assignment, which is not by inheritance, shall be made in writing and

signed by assignor and assignee. If duration is not specified, shall be deemed to be last for 10 years.

• TGA'37

Any act against a computer program, copyrighted, w/o license of owner, shall be deemed

§ 30

as infringement (1) reproduction & adaptation

(2) communication to the public

(3) rental of the original or copies of the work

"Infringement:

Computer Program"

not for profit / personal use / acknowledgement

• TCA '37

§ 32

"Exception to
Infringement"

any act against a copyright work, which doesn't conflict w/ normal exploitation, shall not be deemed an infringement of copyright.

(1) research or study, such that act is not for profit

(2) personal benefit

(3) criticism, review, recommendation w/ acknowledgement of ownership.

(4) news reporting w/ acknowledgement

(5) reproduction, adaptation, exhibition or presentation for judicial proceedings by authorized official

(6) reproduction — n — by a teacher, such is not for profit

(7) reproduction or making summary by a teacher/institution for distributing to student, not for profit

(8) as a part of question and answer in examination.

• TCA '37

§ 35

"Exception of
Infringement
of Computer Program"

any act against computer program... such act is not for profit and § 32 pg. 1 has complied

(1) Research or study

(2) for benefit of owner of the copies.

(3) criticism, review or recommendation w/ acknowledgement of ownership.

(4) news reporting w/ acknowledgement

(5) reproduction, adaption, exhibition or presentation for benefit of judicial proceedings.

(6) making copies in reasonable quantity, lawfully bought or obtain, keep for maintenance

(7) as part of question and answer in the exam

(8) making adaptation where it is necessary to use.

(9) copies as preservs for reference or research for public interest.

• Patent.

• A document which is issued to grant protection for an invention or a design.

• Invention \Rightarrow an innovation or an invention which results in the new creation of a product or a process, or any act which improves a product or a process.

• Process \Rightarrow a method, procedure, process of producing, preserving, improving, developing the quality of a product, including the use of such process.

• Design \Rightarrow a form or composition of lines or colors of a product which gives a product a special characteristic which can be used as a pattern for industrial product, including handicrafts.



• TPA'22 = Thai Patent Act BE.2522

- TPA'22 Subject to Section 9, an invention eligible for a patent application shall consist of the following characteristics:

"Application"

- (1) invention is new;
- (2) invention involves inventive step;
- (3) invention is industrially applicable.

- TPA'22 The following inventions shall be excluded from patent protection under this Act.

§ 9

- (1) natural micro-organism and any component of micro-organism plants or

"Exclusion"

extract from animals or plants;

(2) scientific and mathematical methods and theories;

(3) Data system for an operation of a computer/computer program

(4) methods of diagnosis, treatment, cure of human disease/animal disease.

(5) Invention contrary to public order, good moral, health or welfare.

• Trademark

- A mark used or proposed to be used on or in connection with goods to distinguish the goods which the trademark of the owner of such trademark is used from goods under another person's trademark.

- A mark = photograph, drawing, device, brand, name, word, message, ---; combination of colours, shape or configuration of an object, sound or any one of combination.

• TTmA'34 To be registerable,

"Register"

- Trademark must (1) distinctive

(2) not prohibited

(3) not same or similar to another registered trademark

Lecture 10 : Torts.

- CCC §420 : a person who willfully or negligently, unlawfully injures the life, body, health, liberty, property or any right of another person is said to commit a wrongful act and is bound to make compensation therefore.
- The law of torts :
 - regarding about wrongful act committed by a person and its consequences which result in an obligation, person has to compensate.
 - wrongful act is considered as juristic cause (kind of juristic relation)
- Compensation. Has 3 types of compensation.
 - (1) Restitution of property
 - (2) Restitution of the value of property
 - (3) Damages to be granted for any injury caused.

- Torts are defined in C.C.C. / Civil liability = compensation, Civil offences = wrongful act.
- Comparison b/w Torts & Criminal.

	Torts Law	Criminal Law
Objective	Compensation for damage should be given to the injured party	Punishments must be given to the liable person
Application	come within the letter or the spirit of the provision	Strictly follow the criminal law and other related law.
Termination	Doesn't terminate w/ death, heirs still liable	End with death
Co-offender	Jointly bound in equal shares	liable with different degree.

- Wrongful act committed by
 - employee
 - incapacitated person
 - Animal
- §425 : employer are jointly liable for the consequences.
- §429 : even minority or unsound mind still liable for the consequences.
- §433 : owner of animal is bound to make compensation unless, exercised proper care, nature of species).
- §426 : employer is entitled to reimbursement from employee
- * parents/guardian are jointly liable
- * unless can prove that exercised proper care.



2-10

- Prescription:

§ 448: Claim for wrongful act is barred by prescription.

1 Year: from the day when wrongful act and person to make compensate become known to Injurer.

10 Years: from the day when wrongful act was committed.

However, if damage claimed on act in criminal law, which longer prescription, longer shall apply.

- Torts and electronic contract.

- seller or provider state disclaimer clause to limit their liability to the user.

- willful torts.

- malfunction of program

- Bugs

- Online defamation

- Cyberstalking, trolling, harassment.

- negligent torts

- false info by mistake

- program didn't respond.

Lecture 11 : Privacy

• Privacy = Right to be left alone.

↳ Physical world : Protect from being invaded, w/o even the gov. are watching

↳ Digital world : Protect the rights of the personal information.

↳ * State or condition of being Alone / Undisturbed / Free from public attention

as a matter of Choice or right / Seduction / Freedom from interference.

• Privacy also include the right to manage / keep / share personal information, how data is collected / communicated.

• Privacy vs. Security Trade-off ; the more gov. collect info, the higher security, lower privacy. (maybe)

• International Convention on Civil and Political Rights

§ 17 : (1) No one shall be subject to arbitrary/unlawful interference

with family / privacy / home / correspondence nor to unlawful attacks on honor & reputation.

(2) Everyone has the right to the protection of law against interference / attacks

❖ Types of Privacy

(1) Bodily Privacy Constitution of TH'60 § 28

- A person shall enjoy the right and liberty in life and person

- Arrest / Detention / Search of any act shall not be permitted

except. issued / provided by the law

- Torture / brutal acts by cruelty / inhuman shall not be permitted

(2) Information Privacy Constitution of TH'60 § 32

- A person shall enjoy the right of privacy, dignity, reputation and family

* personal information is protected

* w/o permission of the owner, information cannot be lawfully utilized

(3) Communication Privacy Constitution of TH'60 § 36

- A person shall enjoy the liberty of communication by any means

* censorship / detention / disclosure of communication shall not be permitted

except. issued by court / provided by law

(4) Territorial Privacy

Constitution of TH'60 § 33

- A person shall enjoy the liberty of dwelling

except issued by court

* Enter the dwelling w/o consent / search shall not be permitted

/ provided by law

- GDPR : General Data Protection Regulations.

- EU
 - regulate activities of any individual/organization who processes or controls the personal data either, goods or services offering w/in EU moniti behav, take place w/in EU

- Consumer Protection : Importance.

- e-commerce is complex.

- Therefore, consumer rights in distance contracts are needed.

- never meet a retailer / Never inspect retailer / Cannot inspect sample.

- TCPA'22 (Thai Consumer Protection Act BE. 2522)

§4. A consumer has the rights to be afforded the following protection

- (1) the right to information correct and adequate description of quality to goods/services
- (2) the right to enjoy freedom in the selection in goods/services
- (3) the right to be afforded safety in goods/services.

- (3 bis) / (4) the right to fairness in concluding contracts

- (4) / (5) the right to have injury considered and compensated.

- Defamation

- CLC §326 Whoever falsely accuses the other person before a third person,

in manner likely to impair the reputation or to expose to be hated/seen
is said to commit defamation

shall imprisonment < 1 Year, fine < 20K or both

- CLC §328 If defamation is committed by means of publication or

letter made visible by any means, by broadcasting / sending, by propagation
the offender shall be imprisonment < 2 Y.

and fine < 200K