

PEERAPHOL SRISINGHA : PROTECTION OF TRADE SECRETS IN THAILAND.
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This research is intended to study the nature of trade secret and the measure of providing protection for trade secret in Thailand by comparatively examining the protection of such in the United Kingdom and the United States of America, both of which provide protection for trade secret more seriously than any other country. The study is aimed to bring about the precise understanding of the nature of trade secret, general characteristics of trade secret and the nature of right in trade secret, whether it is different from or similar to other types of intellectual property, and what legal principles are applied in other countries in providing such protection. The result is compared to the provisions in the Thai relevant law.

The findings of the research are that the trade secret is a type of confidential information which is recognized as proprietary right in the British and American legal systems. However, it is found that there are still various legal principles which are applied to the matter. In Thailand the provisions which provide protection to trade secret are only Sections 323 and 324 of the Criminal Code. Therefore, there are much restriction to the protection both in respect of the type of confidential information to be protected and in respect of the persons to be criminally liable. Further, this also has an impact of the civil liability for the persons who disclosed or use others trade secret without authorization. However, the procedural laws have sufficient provisions to provide protection for trial and the maintenance of confidentiality which is required to be disclosed during the trial.

This research proposes the following alternatives to substantiate the protection of trade secret in Thailand: 1. amend the Criminal Code and the Civil and Commercial Code by adding the provisions which explicitly recognized the right in trade secret; 2. let the court apply the existing laws to establish precedents; 3. enact legislation to protect trade secret exclusively or including others type of protectable secret; 4. add the provisions concerning trade secret as part of the law governing unfair trade practices.