

THE APPLICATION OF UNIVERSAL MEASURES IN THAI COPYRIGHT LAW

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ABSTRACT

The objectives of this research were to analyze the problems and obstacles of enforcing the Copyright Act B.E.2537 in order to apply suitable measures of the International Copyright Act to the Thai context.

Qualitative and quantitative research design were used in this study. The sample consisted of 570 individuals. The research instruments were in-depth interviews, focus group discussions, and questionnaires. Subjects were divided into sub groups; 20 executives and experts, 150 staff members, and 400 individual from the public.

The results of the research reveal that the Copyright Act B.E.2537 had prejudiced enforcement in 4 main areas as follows: (1) The severe penalty could not effectively apply to minor infringement and could not stop violations of the law. (2)

The injured person tends to use Criminal rather than Civil action in order to avoid complicated procedures, which is against the fundamental principles of the Copyright protection. (3) The problems caused by the copyright owner entrap the offender to commit the crime. (4) The lack of understanding of Thai in the Copyright Act. The suitable measures of the International Copyright Act that should apply to Thai s are (1) The measure that only commercial scale piracy should be prosecuted as a criminal case while the minute piracy should not be prosecuted in the criminal court and the small scale piracy should be a compoundable offence with specific conditions. (2) The punitive damages should be applied to commercial scale piracy. And (3) The control operation of Enforcement officers should be applied to commercial scale piracy. The result of the application of measures from the International Copyright Act to five Thai Justice Organizations indicated that Thai officers, on average, agreed that the application was suitable (mean 3.30 standard deviation .35) and they were not different from the application of international laws ($F=1.545$, $p\text{-value}=.192$).

Recommendations for this research are as follows: (1) The amendment of the Copyright Act B.E.2537 ; the promulgation of the Exoneration in minute piracy cases, an innocent action should have no criminal penalty, the Exhaustion of Rights, the promulgation of double Restitution, and specific regulations for officers' entrapment. (2) The Thai Government should promote Intellectual property in terms of using copyright for commerce such as; the presentation of Thai tradition and indigenous knowledge values to global markets, the stipulating of laws in limiting the exclusive rights of the copyright holder and reducing the exclusive rights of the products. (3) The adjustment of Thais' attitude on the use of the copyright infringing products.

KEY WORDS: COPYRIGHT INFRINGEMENT/ UNIVERSAL MEASURE
/COMMERCIAL SCALE /PUNITIVE DAMAGES /
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