

The Implementation of Anti-Circumvention Legislations in Thai Copyright System

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Abstract : The WIPO copyright treaty (WCT) was established by the World Intellectual Property Organisation (WIPO). This agreement required the contracting nations to provide adequate protection to technological measures to prevent massive copyright infringement in the internet system. Thailand had to implement the anti-circumvention rules into domestic legislation to comply with this international obligation. The purpose of this paper is to critically discuss the legislative standard under the WCT. It also aims to examine the legal development of technological protection measures in Thailand and demonstrate that the scope of prohibitions under the copyright Act 2022 (NO.5) is similar to the Digital Millennium Copyright Act 1998 (DMCA) of the United States (US). It could be found that the anti-circumvention laws of Thailand prohibit the circumvention of access-control technologies, and the regulation on trafficking circumvention devices has been added to the latest version of the Thai Copyright Act. These legislative evolutions have revealed the attempt to reinforce the legal protection of technological measures and copyright holders in order to be in line with global practices. However, the amendment has problems concerning the legal definitions of effective technological measure and the prohibited act of circumvention. The vagueness might affect the scope of protection and the boundary of prohibition. With this aspect, the DMCA will be evaluated and compared to gain guidelines for interpretation and enforcement in Thailand. The lessons and experiences learned from this study might be useful to correct the flaws or at least clarify the ambiguities embodied in Thai copyright legislation.

Keywords : legal development, technological protection measure, circumvention, Thailand

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