Cybercrimes

Legal Aspects of E-Commerce

Dr. Emmanuel GILLET (吉曼宁)
Email: emmanuel.gillet@polyu.edu.hk
Phone: 27667070
Office: M1041

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⑩ Internet Governance (11 April 2014)

1. Cybercrimes
2. International framework
3. EU
4. US
5. China
6. Hong Kong

cyber

crime

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1. Cybercrimes

- Fraud, forgery, financial crimes
- Obscene or offensive content
- Counterfeiting and piracy
- Harassment
- Threats
- Drug trafficking
- Cyber terrorism
- Cyber warfare

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1. Cybercrimes

- Illegal access
- Illegal interception
- Offences related to child pornography
- Etc.

2. International framework

International convention

Budapest Convention on Cybercrime, 1 July 2004

2. International framework

International cooperation


Computer Crime & Intellectual Property Section
Romanian agents discover attack came from Vancouver
Canadian agents make the arrest
A Criminal Intrudes into a Bank in Bangkok
Argentinean investigators discover attack came from Bucharest
Thai investigators discover attack came from computer in Buenos Aires

3. EU

No directive
No harmonization

3. EU

Domestic laws apply

4. USA

Patchwork

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4. USA

For example:

- UNITED STATES CODE
- TITLE 18. CRIMES AND CRIMINAL PROCEDURE
- PART I -CRIMES
- CHAPTER 47-FRAUD AND FALSE STATEMENTS
- Section 1030. Fraud and related activity in connection with computers.
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5. PRC

Patchwork

5. PRC

Examples

- **Criminal Law of the People's Republic of China *(March 14, 1997),* Article 285.**

"Whoever violates state regulations and intrudes into computer systems with information concerning state affairs, construction of defense facilities, and sophisticated science and technology is be sentenced to not more than three years of fixed-term imprisonment or criminal detention".

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5. PRC

Examples

- **Criminal Law of the People's Republic of China (*March 14, 1997),* Article 285.**

- Whoever violates states regulations and deletes, alters, adds, and interferes in computer information systems, causing abnormal operations of the systems and grave consequences, is to be sentenced to not more than five years of fixed-term imprisonment or criminal detention; when the consequences are particularly serious, the sentence is to be not less than five years of fixed-term imprisonment.

- Whoever violates state regulations and deletes, alters, or adds the data or application programs installed in or processed and transmitted by the computer systems, and causes grave consequences, is to be punished according to the preceding paragraph.
- Whoever deliberately creates and propagates computer virus and other programs which sabotage the normal operation of the computer system and cause grave consequences is to be punished according to the first paragraph.

5. PRC

Examples

- **Criminal Law of the People's Republic of China (*March 14, 1997*), Article 287.**

- Whoever uses a computer for financial fraud, theft, corruption, misappropriation of public funds, stealing state secrets, or other crimes is to be convicted and punished according to relevant regulations of this law.

6. Hong Kong

Patchwork

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6. Hong Kong

Example

Telecommunication Ordinance (CAP 106) Section 161: Access to computer with criminal or dishonest intent.

- (1) Any person who obtains access to a computer-
  (a) with intent to commit an offence;
  (b) with a dishonest intent to deceive;
  (c) with a view to dishonest gain for himself or another; or
  (d) with a dishonest intent to cause loss to another,
  whether on the same occasion as he obtains such access or on any future occasion, commits an offence and is liable on conviction upon indictment to imprisonment for 5 years.
  (2) For the purposes of subsection (1) "gain" and "loss" are to be construed as extending not only to gain or loss in money or other property, but as extending to any such gain or loss whether temporary or permanent; and-
  (a) "gain" includes a gain by keeping what one has, as well as gain by getting what one has not; and
  (b) "loss" includes a loss by not getting what one might get, as well as a loss by parting with what one has.