

CLICKBAITS: LIABILITY UNDER COPYRIGHT LAW IN THAILAND*

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ABSTRACT

At present, the internet has become one of the most important information sources. Moreover, the price of communication devices is cheaper than before. Therefore, people are able to access interesting information via internet. Unfortunately, some people who understands a modernist behavioral lifestyle has discovered a method earning money from this and seeks benefit by using a tactic called “Clickbait”.

“Clickbait” consisted of two words. One is “click” means “an instance of selecting an item in a website or app by clicking or tapping on a mouse, touchscreen, or other input device.” Another is “bait” means “to entice or provoke, especially by trickery or strategy.” Once they are merged, it means “[a] provocative or sensationalistic headline text that entices people to click on a link to an article, used as publishing tactic to increase webpage views and associated ad revenue.”

Because clickbait websites aim only on increasing webpage views, hence, it needs more and more contents to fulfill its sites. Unfortunately, many of these sites do not create contents by themselves, but steals contents from legitimate and hardworking authors. This execution may deem as a copyright infringement.

After conducting comparative study on Thai and foreign copyright laws, namely US law and UK law, it was found that clickbait websites are not in favor of fair use and fair dealing doctrine

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and being considered as a copyright infringement. Furthermore, it was found that the US law is effective to tackle online copyright infringed contents and suitable for applying to click-baiting offences.

In Thailand, the Thai Copyright Act B.E.2537 (1994) is a main statute to deal with copyright infringement offence. Even though it was recently amendment in B.E.2558 (2015) but it is unable to tackle click-baiting problems effectively, since clickbait websites abruptly generate a huge amount of income to clickbait website owner within a short period. In addition, the Computer Crime Act B.E.2550 (2007) has no measure for tackling online copyright infringed contents. Thus, the revision of the Thai Laws should be seriously taken into consideration. In this regard, the author provided not only proposed solutions to resolve this fashionable issue but also a recommendation format for a good digital online content.

Keywords: Clickbait, Copyright, Copyright Infringement

บทคัดย่อ

ปัจจุบันนี้ อินเทอร์เน็ตเป็นแหล่งข้อมูลข่าวสารที่สำคัญ อีกทั้งอุปกรณ์อิเล็กทรอนิกส์สำหรับการสื่อสารมีราคาย่อมเยา ทำให้ประชาชนสามารถเข้าถึงข้อมูลข่าวสารบนอินเทอร์เน็ตได้อย่างกว้างขวาง จึงมีคนกลุ่มหนึ่งซึ่งสามารถจับทางในการสร้างธุรกิจและเข้าใจในพฤติกรรมของผู้บริโภคยุคใหม่ เริ่มต้นแสวงหาประโยชน์จากผู้ใช้งานอินเทอร์เน็ตด้วยสิ่งที่เรียกว่า **Clickbait**

Clickbait (คลิกเบท) เป็นคำประสมกันระหว่างคำว่า **Click** (การกด) และคำว่า **Bait** (สิ่งล่อใจ) ซึ่งคำว่า **Clickbait** นั้น อธิบายถึงเนื้อหาของเว็บไซต์ใด ๆ ที่มีวัตถุประสงค์หลักในการ “สร้างรายได้จากการโฆษณา” โดยอาศัยการเขียนพาดหัวข่าวที่สร้างให้คนเกิดความอยากรู้อยากเห็นเพื่อให้ “คลิก” เข้าไปอ่านเนื้อหา เมื่อคนคลิกเข้าไปมาก ๆ เจ้าของเว็บไซต์เก็บสะสมสถิติการเข้าชมไปเสนอต่อเอเจนซีโฆษณา เพื่อขายโฆษณา และรอรับรายได้จากการโฆษณาโดยไม่ต้องลงทุนลงแรงอะไรมากนัก

เมื่อการทำ **Clickbait** มีวัตถุประสงค์หลักในการเพิ่มจำนวนผู้เข้าชมเว็บไซต์ จึงทำให้เว็บไซต์ **Clickbait** ส่วนใหญ่ เน้นสร้างเว็บไซต์ให้มีเนื้อหาที่หลากหลาย โดยไม่สนใจคุณภาพของ

เนื้อหา และมักจะคัดลอกเนื้อหาจากเว็บไซต์อื่น ๆ มาใช้เป็นเนื้อหาในเว็บไซต์ของตนเอง ซึ่งการกระทำดังกล่าว เข้าข่ายเป็นการกระทำที่ละเมิดลิขสิทธิ์

จากการศึกษาเปรียบเทียบกฎหมายลิขสิทธิ์ รวมถึงกฎหมายที่เกี่ยวข้องในการจัดการเนื้อหาที่ละเมิดลิขสิทธิ์บนระบบอินเทอร์เน็ตของประเทศสหรัฐอเมริกา และประเทศอังกฤษ พบว่าลักษณะของการนำเนื้อหาจากแหล่งอื่นมาใช้ในเว็บไซต์ Clickbait นั้น ไม่เข้าข่ายกเว้นของการละเมิดลิขสิทธิ์ตามหลัก Fair Use และ Fair Dealing และจากการศึกษายังพบว่าระบบการจัดการกับเนื้อหาที่ละเมิดลิขสิทธิ์บนระบบอินเทอร์เน็ตของประเทศสหรัฐอเมริกา มีความสะดวก รวดเร็ว และเหมาะสมในการนำมาปรับใช้กับการละเมิดลิขสิทธิ์ของการทำ Clickbait

สำหรับประเทศไทย พ.ร.บ.ลิขสิทธิ์ พ.ศ.๒๕๓๗ เป็นกฎหมายหลักในการจัดการเกี่ยวกับเรื่องการละเมิดลิขสิทธิ์ ซึ่งได้ประกาศใช้มาเป็นระยะเวลากว่า ๒๐ ปีแล้ว ถึงแม้ว่าจะมีการแก้ไขเพิ่มเติมล่าสุดในปี พ.ศ.๒๕๕๘ แต่ก็ยังไม่สามารถจัดการกับ Clickbait ได้อย่างมีประสิทธิภาพ เพราะการละเมิดลิขสิทธิ์โดยการทำ Clickbait นั้น สามารถเกิดขึ้นได้โดยง่าย รวดเร็ว และสร้างรายได้จำนวนมากให้แก่ผู้กระทำละเมิดลิขสิทธิ์ในระยะเวลาอันสั้น นอกจากนี้ พ.ร.บ.ว่าด้วยการกระทำความผิดเกี่ยวกับคอมพิวเตอร์ พ.ศ.๒๕๕๐ ยังไม่มีบทบัญญัติของการจัดการกับเนื้อหาที่ละเมิดลิขสิทธิ์บนระบบอินเทอร์เน็ต จึงสมควรที่จะปรับปรุงแก้ไขบทบัญญัติกฎหมายเพื่อรับมือกับปัญหาดังกล่าว ทั้งนี้ ผู้เขียนได้เสนอข้อคิดเห็นในการปรับปรุงแก้ไขบทบัญญัติกฎหมาย และเสนอรูปแบบในการเขียนบทความออนไลน์ที่ดีมาด้วยในโอกาสเดียวกัน

คำสำคัญ: คลิ๊กเบท, ลิขสิทธิ์, ละเมิดลิขสิทธิ์

1. The Overview of Clickbait

“You will Never Believe ... what’s contained in this article!!!”

Are you familiar with this type of headline? If you do, then you may have once faced with it; Clickbait.

Clickbait is a new phenomenon of wicked business emerged on the internet. It defines as “[a] provocative or sensationalistic headline text that entices people to click on a link to an article, used as publishing tactic to increase webpage views and associated ad

revenue”.¹ Clickbait websites are not only appear in foreign websites but also in Thai websites. Many Thai clickbait websites such as www.ohozaa.com, petmaya.com or www.catdumb.com are the websites that make a living on Portal Web (website that gather all interesting article in one place),² which is known as Parasite Web. These clickbait websites do not create contents by themselves, but lean on others websites by filching contents from others, changing the words, and use provocative or sensationalistic headline text to make them being excited and entices people to click on a link to the article. These technique is also popular in foreign websites because it really works well and increases the webpage views.³

Inside each page of clickbait website, there has an advertising unit called “Contextual Advertising”. The owners of the sites will be paid according to how many clicks the page has received; meaning that the more the page is being accessed, the more income the site owner generates. That is why clickbait website owners try to increase the webpage views as much as they can.

There are two stealing methods employed by Thai clickbait websites. One is by translating from the foreign news, and another is by copying contents from the local websites within the country.⁴

Mister Tham Chuasathapanasiri, a scholar of Academic Institute of Public Media (AIPM) gave the suggestion about the characteristic of clickbait websites as:⁵

1) Copy contents from original source and modify the wording;

¹ The Free Dictionary by Farlex, *clickbait*, available at <http://www.thefreedictionary.com/clickbait> (last visited Jun. 19, 2015).

² Yugioh2500, “เว็บไซต์พอร์ทัล (Web Portal) คืออะไร? มาทำความรู้จักกัน”, 11 กันยายน 2557, (Yugioh2500, “What is Web Portal? Let’s know about it”, Sep. 11, 2014), available at <http://ireview.in.th/what-is-a-web-portal/> (last visited Jun 9, 2015).

³ หายนะออนไลน์ “เว็บปรสิต” ก๊อปข่าวจนยอดวิวกระจาย!, ASTV ผู้จัดการรายวัน, 10 พฤษภาคม 2558, (*Online Disaster: “Parasite Web” Earned webpage views from stolen contents!*, ASTV Daily Manager, May 10, 2015), available at <http://www.manager.co.th/Daily/ViewNews.aspx?NewsID=9580000053326> (last visited May 17, 2016).

⁴ *Id.*

⁵ *Id.*

2) Not prepare hyperlink to the original source because they want to increase their webpage views;

3) Using a headline that encourages people to click, to see more, without telling them much information about what they will see;

4) There is no editorial department to control the quality of journalism, no pressman, and also no editor-in-chief.

Stealing contents from others websites and repost on his own website is considered committing a copyright infringement by reproduction and communication to the public.⁶ Other than copyright infringement, clickbait website owners sometimes copy or translate contents from others sources without verify the truth of those contents and makes detriment to the original source of information.⁷ Moreover, some clickbait websites owners create nonsense contents and or contents without any subject matters there are only some contents for click-baiting purpose.⁸

2. Liability for Clickbait under Foreign Copyright Law

The author decided to choose the copyright law and others relevant laws of these two countries: The United States of America (U.S.) and the United Kingdom to conduct a comparative study. Since the U.S. Copyright Law has provisions to tackle with modern type of copyright infringement, and also has fair use doctrine. While English Law has fair dealing doctrine which are able to determine the infringement of contents under clickbait website.

⁶ Thai Copyright Act B.E.2537 (1994) Section 27 states that

“Any act against a copyright work under this Act, carried out without the licence of the copyright owner according to section 15(5), shall be deemed an infringement of copyright provided that such act is any of the following:

(1) reproduction or adaptation;
(2) communication to the public.”

⁷ Obassblog, “*Clickbait คืออะไร? ทำไมเราไม่ควร Click?*”, 28 มิถุนายน 2558, (Obassblog, “*What is Clickbait? Why We should Avoid It?*”, Jun. 28, 2015), available at <http://obass.orgfree.com/index.php/2015/06/28/clickbait/> (last visited May 11, 2016).

⁸ *Id.*

2.1 Liability for Clickbait under U.S. Law

2.1.1 The Code of Laws of the United States of America (U.S.C.)

The Code of Laws of the United States of America (variously abbreviated to Code of Laws of the United States, United States Code, U.S. Code, or U.S.C.) is the official compilation and codification of the general and permanent federal statutes of the United States. The highlight provision related to clickbait issue is the Title 17 of U.S.C. § 107⁹ – Limitations on exclusive rights: Fair use.

If clickbait applied with four factors of fair use doctrine, it's result shall be like these as follow:

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational study.

Clickbait website aims to use others copyright work in order to gain benefit from webpage views, this use is a commercial purpose. Fair use is more likely to be found when the copyrighted work is “transformed” into something new or of new utility or meaning, while clickbait website often does no change to others

⁹ 17 U.S.C. § 107 states that

“Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”

works or only make a little change. Hence, clickbait is not favor for this factor.

(2) the nature of the copyrighted work

This factor concerns about works itself whether it is fictional or non-fictional. A judge is more likely to find a determination of fair use if the copy material is taken from a factual work such as a biography than from a fictional work such as a novel.

The stolen contents by clickbait website always be a fictional work which has to use idea and effort to create such work. Thus, clickbait is not favor for this factor.

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole

Clickbait always use all of copyrighted work for their contents, both writing and photograph work. Therefore, clickbait is not favor for this factor.

(4) the effect of the use upon the potential market for or value of the copyrighted work

The last factor is concerning on the effect of the usage of the copy work in the potential market. Contents which internet users have read already tend to never read twice, this effect potential market for copyrighted work – internet users, and made the copyright owner loss profit from earning income from webpage views.

Being considered all factors in the fair use principle, click-baiting is no favor for the fair use.

About the remedies aspect. In the U.S.A., in addition to demanding for “Actual Damages”, copyright owner who won the case can demand for “Statutory Damages”, which give the choice to copyright owner not to prove the actual damages but a

chance to use criterion per work to calculate statutory. The court has discretion to award this damage from \$750 – \$30,000 per one work.¹⁰

If that infringement was willfully committed, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000.¹¹ Conversely, in a case where the infringer sustains the burden of proving, and the court found that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than \$200.¹²

2.1.2 Digital Millennium Copyright Act (DMCA)

The Digital Millennium Copyright Act (DMCA) enacted in 1998 implemented treaties (the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty) signed at the 1996 World Intellectual Property Organization (WIPO) Geneva conference. DMCA was signed into law by President Clinton on

¹⁰ 17 U.S.C. § 504(C)(1)

“Except as provided by clause (2) of this subsection, the copyright owner may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for all infringements involved in the action, with respect to any one work, for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in a sum of not less than \$750 or more than \$30,000 as the court considers just. For the purposes of this subsection, all the parts of a compilation or derivative work constitute one work.”

¹¹ 17 U.S.C. § 504(C)(2)

“In a case where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000. In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than \$200. The court shall remit statutory damages in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under Section 107 ...”

¹² *Id.*

October 28, 1998.¹³ The DMCA is divided into five titles. Clickbait issue is involved with the Title II, the “Online Copyright Infringement Liability Limitation Act” concerning Notice and Takedown Measure. This measure allows the copyright owners to inform the Internet Service Provider (ISP) to take a file out of the system, or disallow users’ access to the file. Once ISP take out the file from the system or obstruct the accessing of the users, the ISP will not have to liable for an infringement of users.

2.2 Liability for Clickbait under English Law

2.2.1 Fair Dealing

The fair dealing is a doctrine which provides an exception to United Kingdom’s Copyright Law, in cases where the copyright is infringed for the purposes of non-commercial research or study, criticism or review, or for the reporting of current events. This principle is narrower than the U.S.’s fair use doctrine. There is no statutory definition of fair dealing. It will always be a matter of fact, degree and impression in each case.¹⁴ Considering click-baiting under the fair dealing principle, it has no purpose in non-commercial research or private study, criticism or review, reporting current events, or illustration for instruction, quotation, or parody, caricature or pastiche. Therefore, click-baiting is no favor under the fair dealing principle.

2.2.2 Intellectual Property Offences

A person who infringing copyright which committed for commerce is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.¹⁵

¹³ U.S. Copyright Office Summary, “*The Digital Millennium Copyright Act of 1998*”, Dec. 1998, *available at* www.copyright.gov/legislation/dmca.pdf (last visited Dec. 10, 2015)

¹⁴ Intellectual Property Office, “*Exceptions to Copyright*”, *available at* <https://www.gov.uk/guidance/exceptions-to-copyright> (last visited Dec. 10, 2015).

¹⁵ English Copyright, Design and Patents Act 1988, sec. 107(5).

The standard scale of fines for summary offences states in Criminal Justice Act 1982 Section 37. It shows that the level 5 on the standard scale has the £5,000 amount of fine. Therefore, if a person commits an offence who, without the license of the copyright owner in the course of a business – exhibits in public (Section 107(1)(d)(iii)) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding £5,000, or both.

3. Liability for Clickbait under Thai Copyright Law

Clickbait has no any condition which be the act under exception to copyright infringement according to Section 32¹⁶ of the Thai Copyright Act B.E.2537 (1994) because contents of clickbait website has been stolen from others websites are conflict with a normal exploitation of the copyright work by the copyright owner

¹⁶ Thai Copyright Act B.E.2537 (1994) Section 32 states that

“Any act against a copyright work of another person under this Act, which does not conflict with a normal exploitation of the copyright work by the copyright owner and does not unreasonably prejudice the legitimate interests of the author, shall not be deemed an infringement of copyright.

Subject to the provision in the first paragraph, any act against a copyright work referred to in the first paragraph shall not be deemed an infringement of copyright provided that such act is any of the following:

- (1) research or study of the work provided that such act is not for profit;
- (2) use for personal benefit or for the benefit of the user and his family members or close relatives;
- (3) criticism, review or recommendation of the work, accompanied by an acknowledgement of the ownership of copyright in such work;
- (4) news reporting through mass communication, accompanied by an acknowledgement of the ownership of copyright in such work;
- (5) reproduction, adaptation, exhibition or presentation for the benefit of judicial proceedings or proceedings by authorised officials, or reporting the result of such proceedings;
- (6) reproduction, adaptation, exhibition or presentation by a teacher for the benefit of his teaching provided that such act is not for profit;
- (7) reproduction, adaptation of part of the work or abridgement or making a summary by a teacher or an educational institution for distributing or selling to students in class or in an educational institution provided that such act is not for profit;
- (8) use of the work as part of questions and answers in an examination.”

and does not unreasonably prejudice the legitimate interests of the author, the original websites also want to increase their webpage views. Therefore, we do not need to consider that whether the act is under (1) – (8) in paragraph two of Section 32 of Copyright Act B.E.2537 (1994) or not, because paragraph two is subject to the provision in the first paragraph.

As click-baiting is a copyright infringement, there is the Safe Harbor for Service Providers principle in Section 32/3 of the Copyright Act B.E.2537 (1994) to cope with digital online infringed contents. It states that *“In the case where there is reliable evidence showing that there is a copyright infringement in the computer system of a service provider, a copyright owner may submit a petition requesting the court to order the service provider to cease such copyright infringement...”* However, this provision may not provide completely the capability in dealing with clickbait and copyright infringement offences. We need a quick method to cease the click-baiting because the characteristic of clickbait is different from other formats of copyright infringement. Making clickbait website is only copy and paste the contents into it which always be the interesting substance of people in that period. For example, the news about a raping which draw user’s attention and raise the emotion. This type of contents may attract many users and remained the popularity for one or two days, then fading out. This incident is quickly happened and gone. Thus, submitting a petition requesting the court to order the service provider may delay the take down process. Another issue is, there is no clear definition for the word “to cease the infringement” that whether or not included the “website blocking”.

There also has Punitive Damages principle in Section 64¹⁷ paragraph two of the Copyright Act B.E.2537 (1994). However, to

¹⁷ Thai Copyright Act B.E.2537 (1994) Section 64 states that

“In the case of infringement of copyright or performer's rights, the court has the authority to order the infringer to compensate the owner of copyright or performer's rights with damages the amount which the court considers appropriate by taking into account the gravity of injury, including the loss of benefits and the expenses necessary for the enforcement of the right of the owner of copyright or performer’s rights.

recover punitive damages, the copyright owner has to provide evidences to proof the actual damage as paragraph one states before getting additional damages, which is more complicate and difficult of proving, besides in some cases there are too many clickbait websites infringing one copyright work. If the copyright owner is able to recover statutory damages the same as Section 504 of the U.S.C., it will help the copyright owner to recover damages easier and also decrease the court's work load.

In present, there is no court decision about click-baiting. However, in authors' opinion, the action of clickbait website owner is clearly shows that they use such infringed work for profit, even if it is not the direct profit collecting from viewers. Therefore, clickbait website owners should liable as the copyright infringement which committed for commerce as states in Section 69¹⁸ paragraph two of the Thai Copyright Act B.E.2537 (1994). Nevertheless, someone may think that the penalties are quite low, in addition, click-baiting can make high profit. Therefore, it worth to take risk for committed the offence.

Aside from the Thai Copyright Act B.E.2537 (1994), the Computer Crime Act B.E.2550 (2007) is another law that relevant to clickbait issue. Since clickbait websites may host their contents by local hosting or international hosting. If clickbait website is hosted by local hosting, it is easily to find hosting provider to proceed Notice and Take Down process, but when the clickbait website is hosted by

In the case where there is clear evidence that infringement of a copyright or performers' right was committed with intent to enable the public to access the copyrighted work or the performers' right widely, the court shall have the power to order the infringer to pay additional damages not exceeding twice the amount of damages under paragraph one."

¹⁸ Thai Copyright Act B.E.2537 (1994) Section 69 states that

"Any person who infringes copyright or performers' rights according to Section 27, Section 28, Section 29, Section 30 or Section 52 shall be liable to a fine of twenty thousand baht to two hundred thousand baht.

If any offence referred to in the first paragraph is committed for commerce, the offender shall be liable to imprisonment for a term of six months to four years or to a fine of one hundred thousand baht to eight hundred thousand baht, or to both."

international hosting provider, it is rather difficult to carry out this process.

To tackle with clickbait website which hosted by international hosting provider is running website blocking. At present, website blocking could be done under Section 20¹⁹ and Section 14²⁰ of the Computer Crime Act B.E.2550 (2007) which has no offense about copyright infringement, there has only offence that might have an impact on the Kingdom's security as stipulated in Division 2 type 1 or type 1/1 of the Criminal Code, or that it might be contradictory to the peace and concord or good morals of the people that is able to run website blocking. Hence, if copyright infringement become one offense under Section 20 that can request the court to restrain the dissemination of infringed data, this will help us to block these clickbait websites from accessing.

¹⁹ Computer Crime Act B.E.2550 (2007) Section 20 states that

“If an offence under this Act is to disseminate computer data that might have an impact on the Kingdom's security as stipulated in Division 2 type 1 or type 1/1 of the Criminal Code, or that it might be contradictory to the peace and concord or good morals of the people, the competent official appointed by the Minister may file a petition together with the evidence to a court with jurisdiction to restrain the dissemination of such computer data.

If the court gives an instruction to restrain the dissemination of computer data according to paragraph one, the relevant competent official shall conduct the restraint either by himself or instruct the Service Provider to restrain the dissemination of such computer data.”

²⁰ Computer Crime Act B.E.2550 (2007) Section 14 states that

“If any person commits any offence of the following acts shall be subject to imprisonment for not more than five years or a fine of not more than one hundred thousand baht or both:

(1) that involves import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public;

(2) that involves import to a computer system of false computer data in a manner that is likely to damage the country's security or cause a public panic;

(3) that involves import to a computer system of any computer data related with an offence against the Kingdom's security under the Criminal Code;

(4) that involves import to a computer system of any computer data of a pornographic nature that is publicly accessible;

(5) that involves the dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4);”

4. Conclusions and Recommendations

4.1 Conclusions

At present, clickbait problem is still easy to experience. If we do not control or take action on this problem, copyright owners will suffer and lose all enthusiasm in creating new works. The internet users will always feel annoy with these digital online garbage and be suspicious every time when they had to click through link in order to read the contents.

Apart from copyright infringement problem, clickbait is the worsen. Sometimes it creates an untrue story or trivial matter in order to deceive readers to read and spread out by abusing among others readers even they reprimanded. These distort stories makes some peoples believed in and spread out to others, after sharing it is difficult to correct that misunderstanding. Moreover, some contents are different from headline, furthermore, after click through, it is not content – shopping webpage instead! Clickbait is very annoyed and we should call that, this is the way of earning income by “swindling”.

Clickbait is more insidious than even some old ways of flogging newspaper stories, because “*readers are being treated as stupid*” – said Beckman.²¹

4.2 Recommendations

After conduct the comparative study, these are the proposed solutions and recommendations for tackle with click-baiting problem:

A) Increase the penalties for committed copyright infringement offence by prolong the imprisonment penalty and increase the penalty fine to the point that it is not worth for commit the offence;

B) Having regulations that allow the copyright owner to recover statutory damages like Section 504 of the U.S.C.

²¹ Andrew Beaujon, “*The real problem with clickbait*”, Jul. 16, 2014, available at <http://www.poynter.org/2014/the-real-problem-with-clickbait/258985/> (last visited May 16, 2016).

C) Amending the Safe Harbor for Service Provider principle in the Thai Copyright Act B.E.2537 (1994) to allow the copyright owners to directly inform the Service Provider to take a file out of the system, or disallow users' access to the file. Another point is obviously identify the meaning of "to cease the infringement" that included "website blocking" which will able to block website which has infringing contents.

D) Amending Section 20 of the Computer Crime Act B.E.2550 (2007) by adding a copyright infringement offence that allows the Court to restrain the dissemination of infringed data.

E) Having particular legal provision about click-baiting in the Computer Crime Act B.E.2550 (2007), because the characteristic of clickbait is a bad conduct executed on the internet which resemble to others offences stated in such act.

F) Recommend the website owners to create contents by themselves and have the proper format for the article, such as provided clickable hyperlink that take the readers to the original source of the article. Moreover, please do not create nonsensical or carelessly contents with only purpose to earning webpage views.

Eventually, the author hope that this article will be able to provoke about clickbait problem and has a proper law provision to handle with it. Whenever we have powerful law and conscious users, clickbait problem will annihilate from the internet. If we do not aware of this phenomenon and do not solve it right now, then, in the future, internet will full of these waste websites, quality contents will disappear, nonsensical, unscreened, and untrue story will occupy in every space. When we search for information on the internet, we have to waste time in screening these waste data and have some troubled in further reference. If the clickbait is still remaining, apart from us that be anxious with these scraps, our descendant who must confront with it will have a hard time to differentiate that which one is true, which one is untrue, which one is good, which one is bad, from something called "Clickbait."

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