

THEMATIC TITLE	LEGAL PROBLEMS ON ENFORCEMENT UNDER THE BUSINESS SECURITY ACT 2015 B.E.: CASE OF DOMAIN NAME AS COLLATERAL FOR BUSINESS
KEYWORDS	DOMAIN NAME COLLATERAL FOR BUSINESS
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ABSTRACT

This Independent Study aims to study the Problems on Enforcement under the Business Collateral Act B.E. 2558 (2015). Comparative studies have been conducted between the enforcement of the Law of Thailand and the Law of the United States and the Law of England. Since the domain name is one type of intellectual property, which such domain owner has the sole right to use and forbid anyone else, without the domain name owner's permission, to seek benefits from such domain name. Implementing domain name in commercial business thus makes a domain name an asset with economic value that can be used as collateral.

According to studies, the Business Collateral Act B.E. 2558 (2015) has come into force. It's defined in the provisions under Section 8 (5) that intellectual property with economic value can be used as collateral for the loan. However, there are provisions that define enforcement under the Business Collateral Act including depriving of collateral and the sale of collateral for repayment. This may not be the proper enforcement and effective for domain name enforcement. In addition, there's also uncertainty in taking possession of domain name collateral because domain name is an intangible property, there could be a problem that the interpretation on acquisition of domain name as collateral is not obvious as well as issue in valuation of domain name taken as collateral, since domain name is intellectual property no such evaluation method applicable to tangible property can be used. Appropriate valuation method should be used to ensure fairness to the parties.

This Independent Study therefore purposes amendment to the Business Collateral Act B.E. 2558 (2015) so that banks or financial institutions officially and effectively accept domain name as collateral for a loan. Enforcement under the Law of United States and the Law of England should be deployed as guidelines in order to suit the property used as collateral. Possession of domain name should be specifically determined for clarification. Appropriate valuation approach to the domain name taken as collateral should be defined to create confidence and fairness to the parties.