



# Cases study and analysis of the court judgement of cybercrimes in Taiwan

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## Abstract

With the development of information technology and Internet, the criminal model has been changed. The Internet has become an instrument of crime as a new type of criminal means, which is called cybercrime. Since the implementation methods are different between cybercrime and traditional crime, the crime evidences will also different. And the court judgments will be affected by the evidences, the results of judgment will also be different. Furthermore, the litigation proceedings used in the cybercrime and traditional crime are slightly different. It will affect the results of court judgment whether it is guilt or innocence. In this paper, we describe the common cybercrimes and the results of actual court judgement in Taiwan, collate the common evidence types of cybercrime, propose a cybercrime selection method used for court judgements to collect the judgements, analyze the statistics results, and compare the litigation processes between the traditional crime and cybercrime. According to the above results, we wish the judges process the cybercrime cases will be more careful to avoid misjudgements.

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*Keywords:* Cybercrime; Digital evidence; Cybercrime judgement

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## 1. Introduction

In recent years, the development of information technology and Internet has increased convenience in people's lives. However, many social problems have occurred online, even including criminal acts. In the criminal codes amendment of Taiwan, the computer crimes have two aspects, broad sense and narrow sense. The computer crimes using computers or Internet equipment belong to the broad sense; the narrow sense of computer crimes means the acts which target to attack computers and Internet. In this paper, we opine the cybercrime (Lin, 2009) as one of computer crimes, and it's an illegal act by using computers or electronic equipment to connect Internet from a wireless or wired network.

In fact, if the perpetrator uses computer to commit the traditional crimes on Internet, the traditional crimes act will become the cybercrimes. For example, the perpetrator commits traditional crime acts by using wireless, VOIP (Voice over Internet Protocol), Smartphone, or Cloud to make some illegal act. About the problems of investigation and forensics in the foregoing cybercrime act there are many methods proposed, including investigation procedures (Alghaffi et al., 2012; Andriotis et al., 2012; Castiglione et al., 2013; Jiang et al., 2012; Marturana et al., 2012; Yin, 2012), the ways of collecting digital evidences (Guangxuan et al., 2012; Ibrahim et al., 2012; Sibiya et al., 2012), and the ways of identifying digital evidences (Castiglione et al., 2012; Tanner et al., 2012; Xiong and Li, 2012). However, when the cybercrime cases are transferred to the court, the digital evidences and litigation procedures will become the keys for the court judgements. In addition to the types of cybercrime of the chapter 36 of Taiwan's Criminal Code, other traditional crime types also may occur online, such as verbal abuse, sending threatening letter, or breaching copyright. If the perpetrator uses computers to implement the criminal acts online, it will become one of the cybercrimes. In this paper, we describe the common cybercrimes and the results of actual court judgement in Taiwan, and then collate the common evidence types of cybercrime. After this, we propose a cybercrime selection method used for court judgements to collect the judgements into our statistics data, and compare as well as analyze the statistics results. At last, we compare the litigation processes between traditional crime and cybercrime.

The remainder of this paper is organized as follows. In Section 2, we describe the common cybercrimes in Taiwan. In Section 3, we analyse the standard of proof as well as the main types of evidence from cybercrime court judgements. In Section 4, we propose a cybercrime selection method for court judgements, and use this method to compare and analyze the statistics results, including common evidence types and digital evidence types. In Section 5, we compare the litigation processes between traditional crime and cybercrime. Finally, we draw our conclusions in Section 6.

## 2. The types of cybercrime

In Taiwan, the criminal law follows a legal principle called “No penalty without a law”, and it means when people do something that is not prohibited by law, they cannot be punished. On the other words, this existing criminal law is a narrow and clear concept with high immutability, and the features will provide clear and stable rules for every people. The purposes of this legal principle is used to protect people's freedom, and prevent them from suffering unreasonable punishment. This legal principle is also applicable to cybercrime types. Hence, according to the cybercrime reports of Taiwan Nation Police Agency (National Police Agency, 2012c) and the

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