

ARTICLE:

THE FIRST 'TROJAN HORSE' CASE PROSECUTED IN CHINA

By **Jihong Chen and Bing Cheng**

Under the 7th Amendment of the Criminal Law of the People's Republic of China, which came into effect on 28 February 2009, stealing data from a computer information system, or gaining unauthorized control of a computer information system is a crime. In March 2009, the People's Procuratorate of Gulou District of Nanjing City prosecuted a matter concerning access to computer systems and theft of virtual assets by the use of a Trojan horse program. This was the first criminal prosecution in China for such a crime after the law was put into place.

Case background

In 2008, the Nanjing Public Security Bureau ('PSB') arrested 10 suspects who allegedly made, sold or used a Trojan horse program named 'Young Lady' which was designed to acquire the account information of computer users who play on-line games. According to the Nanjing PSB, the Trojan horse program had been used to acquire user account information for over 40 popular on-line game sites on the Chinese market. Nanjing PSB assessed that the 'Yong Lady' accounted for more than sixth per cent of the total sales of Trojan horse programs used for stealing user account information.

The court ruling

After a trial, the court found all ten of the accused guilty of stealing virtual currency from a distributor of such currency using a Trojan horse program, and sentenced the suspects from one year to one year and two months in prison respectively.

Criminal liabilities of Trojan horse crimes under Chinese law

In China, depending on the circumstance, a person who makes, distributes, or uses a Trojan virus may be

prosecuted for the crimes of theft, damaging a computer information system or obtaining access to a computer information system. Under current Chinese criminal law, it is a crime to steal virtual assets or currency or data or to provide programs aimed at invading a computer information system using a Trojan horse program.

Significance of the case

During the case examination process, the court encountered a few new problems that have never been dealt with before. Consideration had to be given to how to assess the records of on-line transactions, how to ensure the electronic evidence was not altered, and how to decide whether the accused were conspirators, considering they had never been met each other.

Effect of the case

After this case, there are similar cases being handled by the courts. For example, a Xuzhou court in Jiangsu Province handed down terms of imprisonment of up to three years to eleven people for their roles in writing and distributing viruses designed to steal usernames and passwords of on-line games. The criminals also received a total fine of 833,000 RMB (US\$121,980).

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Zhong Lun Law Firm (Beijing)

<http://www.zhonglun.com>
chenjihong@zhonglun.com
Chengbing@zhonglun.com