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My Computer, Your File — Discussion about the Scope of Criminal Law Article 359 “Magnetic Record of Another”

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Abstract

As to the question of how to interpret the “magnetic record of another’s computer/another’s magnetic record in computer” in Criminal Law Article 359, also known as “obtaining, deleting or altering Magnetic Record of Another without reason,” the recent judgment from the Supreme Court has tried to interpret the term as “magnetic record of another,” and then define the scope of the object, depending on who has the “disposition authority” of the magnetic record. However, if the reasons for the judgment are carefully investigated, it is certain that the judgment has neither responded to the existing doctrines and opinions, nor explained the reasons behind its choice. In the worst case, it may even have logically inappropriate links, which in turn touches the limits set by legislators on “computer users” and “security of computer use”. In order to clarify the above disputes, the author explores the basic consensus of the meaning of legal interests from the controversy for more

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than a decade. At the same time, the German criminal law's discussion on the privilege of the "magnetic record" has also been considered, in an attempt to construct the standard that conforms to the status quo of Taiwan's legal system.

Keywords: Computer Crime, Magnetic Record, Disposition Authority, Security of Computer Use, Legal Benefit of Computer