

Efforts to Prevent Criminal Typosquatting Domain Banking Websites

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ABSTRACT: With the development of advanced technology, this has been abused by perpetrators to commit a crime, namely typosquatting. Typosquatting is usually done on large companies assuming a typo in the domain name. With this incident, it is necessary to prevent efforts about typosquatting crimes against banks. The study uses normative juridical methods. The research results show that repressive and preventive efforts are very important. Perpetrators will be subject to penalties according to their actions and on a non-criminal basis, namely companies improving security systems and conducting outreach to customers.

Keywords : Crime Prevention Measures, Typosquatting, Domain Banking Websites

INTRODUCTION

With the development of the internet, more and more people are enjoying the new reality offered. One area that has a big impact is in the banking sector. In the banking world, the internet has made it easy for the public or better known as customers to carry out online transactions wherever and whenever. Customers do not need to come to the bank to make transactions such as transfers and payments. Before the existence of the internet, banking transactions were carried out conventionally, ie customers had to come to the bank and had to queue for hours that would waste time. Now with the internet, conventional transactions have been replaced with online transactions that can be done in seconds.

Although the internet provides many conveniences in supporting the process of banking transactions. But everything that develops will certainly have both positive and negative impacts. Similarly, the rapid development of the internet will also bring positive impacts and negative impacts on the lives of the user community (users). In general, the positive impact of the use of the internet is the ease of communication with anyone around the world, as a medium for exchanging data quickly, cheaply, importantly and accurately so that people can know what is happening, used as a land of information for education, banking, culture, etc. Besides the positive impacts, there are also negative impacts that arise as a result of the development and use of the internet to date. With the development of technology and internet facilities, everyone can easily use and enjoy everything that is presented on the internet.

Besides causing the world to become borderless and causing significant social changes that take place so quickly as a shift in the social values of society and tend to create individualistic personalities, it also opens up great opportunities for crime through the use of the cyber world or known as the term cybercrime / cyber (cybercrime). Cybercrime is an attempt to enter and or use a computer or computer network facility without permission and against the law with or without causing changes and or damage to the computer facilities entered or used.¹

Rapid developments in internet technology have caused new crimes in the field to emerge such as data manipulation, espionage, sabotage, provocation, money laundering, hacking, software theft and hardware

¹ Dikdik M Arief Mansur dan Elisatris Gultom. *Cyber Law Aspek Hukum Teknologi Informasi*. PT.Refika Aditama. Bandung. 2005, hal.8.

destruction and various other types of crimes. As in current banking, all transactions can be done online to make it easier for its customers, such as through electronic banking or known as internet banking. However, the use of internet banking in addition to facilitating customers, on the other hand, the use of internet banking is also used by people who are not responsible for committing crimes. Criminals deliberately enter the web of a particular agency/institution and then commit crimes in it, be it stealing data, use, disclosure, deletion, theft or destruction of data (use, disclosure, alteration, theft, or destruction of data), or aim to disrupt/disrupt or destroy the electronic funds transfer system itself (disruption or destruction of the EFT system).²

One type of cybercrime crime that has occurred in banking companies in Indonesia is typosquatting. Typosquatting usually occurs in large companies, especially in banking where ordinary people are not careful about writing domain names because the appearance on the website is similar to the original appearance in general. Banking companies in Indonesia that have been affected by typosquatting are PT. Bank Central Asia, Tbk (BCA). For companies that already have a good reputation and are known in the wider community, this is certainly very unsettling, because this relates to the big name and good name of the company. Companies that are targeted are usually reputable companies that already have big names.³

In 2001, the banking world was fussed over by the BCA internet banking burglary case. The case was carried out by Steven Haryanto, a hacker and journalist with Master Web magazine. Steven Haryanto, who is from Bandung and is an ITB student, intentionally created an authentic but fake website for BCA internet banking services. This idea arose when Steven Haryanto also once typed in a website address. Steven Haryanto bought internet domains for around the US \$ 20 with a name similar to <http://www.klikbca.com> (BCA's original internet banking site). There are 5 (five) fake sites created by a former ITB student named Steven Haryanto. The perpetrator makes a play on the domain name where if there is a typing error it will enter the fake site, including www.klikbca.com, kilkbca.com, klikbca.com, klickbca.com, klikbac.com. The user (customer) will not realize that he has used a fake site because the appearance on the screen is similar to the original appearance. This is exploited by the perpetrators (hackers) to get user IDs and passwords from users who enter the fake site.

With the occurrence of acts against the law, the scope of the law must be expanded to reach the acts.⁴ To overcome illegal actions, cyber law is born. Cyber Law is a legal aspect whose scope encompasses every aspect relating to individuals or legal subjects who use and utilize internet technology that begins when online starts and enters cyberspace or cyberspace.⁵ Cyber Law covers part of the entire legal system related to the internet, cyberspace, and legal issues, each covering a wide enough area, covering several subtopics including freedom of expression, access to and use of the internet, and online privacy.⁶

FORMULATION OF THE PROBLEM

How to prevent the typosquatting crime of banking website domains?

METHOD

The research method used is empirical or non-doctrinal juridical. The approach used is sociological/empirical using a non-positivistic approach and uses a qualitative analysis by examining the types of crime that are the object of research and then projected to the standards of legal norms/legislation that apply ideals which are expected to be further interpreted (interpreted) based on theory (theoretical interpretation) and then generalization is drawn as an ideal formula (*ius constitutum*).

DISCUSSION AND RESULTS

² Barda Narwawi Arief. *Tindak Pidana Mayantara Perkembangan Kajian Cybercrime di Indonesia*. PT.Raja Grafindo Persada. Jakarta. 2005, hal. 53.

³ Alusyanti Primawati, "Etika IT di Indonesia Studi Kasus: *Cybersquatting* Pada Domain PT.Mustika Ratu", *Jurnal SIMETRIS Vol 7 No. 1, hal. 423, April 2016*.

⁴ Budi Suhariyanto, 2012, *Tindak Pidana Teknologi Informasi (Cybercrime) Urgensi //pengaturan dan Celah Hukumnya*, Jakarta: Rajawali Pers, hal 3.

⁵ <<http://helkuchiki.wordpress.com/cyberlaw/apa-itu-cyberlaw/>>, [24/03/2019].

⁶ <<https://www.computerhope.com/cyber-law/>>, [24/03/2019].

According to R. Soesilo, the notion of crime is divided into 2 (two) points of view, namely a juridical perspective and a sociological perspective. From a juridical point of view, crime is an act of behavior that is against the law. And from a sociological point of view, crime is an act or behavior that is not only detrimental to the sufferer, but also very detrimental to the community, namely the loss of balance, peace, and order.⁷ In his theory, Soedjono D. formulated crime countermeasures as follows:

"Crime as an act which is very detrimental to the community is carried out by that community as well, so the community is also charged with obligations for the sake of safety and involvement, the community as a whole joins together with the body authorized to deal with crime".⁸

Based on the description above, it can be concluded that crime is an act that violates the law, behavior that is contrary to applicable values and norms, and can be detrimental to society. In the case of overcoming crime, prevention efforts can be made before it is found guilty and sentenced.

These efforts are efforts to prevent before the occurrence of crime. It can be said that the ultimate goal to be achieved from efforts to tackle crime is to provide protection, security, and welfare to the community.

According to G.P. Hoefnagels quoted by Barda Nawawi Arief, crime prevention efforts can be achieved by:⁹

1. Application of criminal law (criminal law application)
2. Prevention without crime (prevention without punishment)
3. Influencing the public's view of crime and conviction through mass media (influences views of society on crime and media punishments).

Based on the opinion expressed by G.P. Hoefnagels quoted by Barda Nawawi Arief, efforts to tackle crime, in general, can be divided into two, namely:

1. Crime prevention with criminal law (Penal Efforts)

According to Barda Narwawi Arief, that countermeasures through this penalty can also be referred to as efforts made through criminal law. This effort is an overcoming effort that emphasizes repressive attitudes, namely actions taken after a crime has occurred with law enforcement and sentencing of crimes that have been committed. Besides, through this penal effort, actions taken in the context of overcoming crime to the stage of coaching and rehabilitation.¹⁰

Criminal law policy (penal policy) is a related action in matters of:¹¹

- a. How is the government's effort to tackle crime with criminal law;
- b. How to formulate criminal law so that it can be following the conditions of the community;
- c. What is the government policy to regulate the community with criminal law;
- d. How to use criminal law to regulate society to achieve greater goals.

According to Roeslan Saleh, there are 3 (three) reasons for the need for criminal and criminal law, namely as follows:¹²

- a. The need for criminal law does not lie in the problem of the objectives to be achieved, but lies in the issue of how far to achieve that goal may use coercion, the problem lies not in the results to be achieved, but in consideration of the value of the results and the value of the boundary -the limits of each other's personal freedom.
- b. There are efforts to repair or care money has no meaning at all for the condemned; and besides that, there must be a reaction to the violations of the norms that he has done and cannot be left alone.
- c. The influence of the criminal or criminal law is not solely aimed at the criminal, but also to influence people who are not evil, ie citizens who obey the norms of society.

⁷ Soesilo, R. *Kitab Undang-Undang Hukum Pidana serta Komenta-Komenta Lengkap Pasal demi Pasal*. Politeia. 1985.

⁸ Soedjono D. *Penanggulangan Kejahatan (crimer Prevention)*. Alumni.Badung. 1976,hal.31.

⁹ Arief, Barda Narwawi. *Bunga Rampai Kebijakan Hukum Pidana*. Fajar Interpratama. Semarang. 2011, hal. 45.

¹⁰ *Ibid*, hal. 46

¹¹ Mulyadi, Lilik. *Bunga Rampai Hukum Pidana: Perspektif, Teoritis, dan Praktik*. Bandung. 2008, hal. 390.

¹² Muladi dan Barda Narwawi Arief. *Teori-Teori dan Kebijakan Hukum Pidana*. Bandung. 2010, hal. 153.

According to Soedarto, because the occurrence of crime is caused by causes that are very complex and outside the reach of criminal law, it is natural that criminal law has limited ability to deal with it and according to the use of criminal law is the handling of a symptom (*kurieren am symptom*) and not a solution by eliminating the causes. So the limitations of criminal law so far have also been caused by the nature / nature and function of the criminal law itself, because criminal law sanctions are not drugs (*remedium*) to overcome the causes of disease, but merely to overcome the symptoms / consequences of the disease. In other words, criminal law sanctions are not a causative treatment but are merely "symptomatic treatment" and with symptomatic treatment in the form of "criminal sanctions" this still contains many weaknesses so that its effectiveness is always questioned.¹³

2. Crime prevention without criminal law (Non Penal Efforts)

According to Barda Nawawi Arief, that countermeasures through non-penal channels can also be called efforts made through channels outside criminal law. This effort is a response that focuses more on the nature of preventive measures, namely actions in the form of prevention before the occurrence of crime. The goal of this non-penal effort is to deal with social problems that can directly or indirectly lead to crime.¹⁴

According to W.A. Bongger said that:

"Judging from the efficiency and effectiveness of prevention efforts is better than repressive measures. In the world of criminal medicine, a thought has been agreed that preventing crime is better than trying to educate criminals to be good again, better here also means it's easier, cheaper and more attainable."¹⁵

According Soedjono D. said that the following efforts could be made:

"Preventive crime in a broad sense, includes preventive and repressive measures. Starting with the idea that efforts to tackle juvenile crime is a major step for overcoming crime in general".¹⁶

According to A. Qirom Samsudin M, concerning taking preventive action is to prevent crime is better than educating criminals to be good again, because not only is calculated in terms of costs, but this effort is easier and will get satisfactory results or achieve goals.¹⁷

From the above explanation, it can be concluded that prevention efforts (non-penal) are better than law enforcement efforts (penal) so that people are aware of the existence of the law and for that must be obeyed.

Efforts to prevent law in preventing crime are:

1. Penal Efforts (Litigation)

Mitigation efforts through this penalty can also be referred to as efforts made through criminal law. This effort is an effort to overcome which focuses more on repressive attitudes, namely actions taken after a crime has occurred with law enforcement and sentencing of crimes that have been committed. In a policy perspective, the use of criminal law as a means of combating crime is not a necessity. There are no absolutes in the field of policy, because in essence, in choosing a policy people are faced with a variety of alternatives.¹⁸

However, if criminal law is chosen as a crime prevention tool, then the final policy must be planned and systematically this means that choosing and establishing criminal law as a crime prevention tool must take into account all the factors that can support the functioning and operation of criminal law in reality.¹⁹

According to Sudarto, the problem of criminalization must pay attention to the following matters:²⁰

¹³ Arief, Barda Narwawi. *Bunga Rampai Kebijakan Hukum Pidana*. Fajar Interpratama. Semarang. 2011, hal. 72.

¹⁴ *Ibid*, hal. 46

¹⁵ W.A. Bongger. *Pengantar Tentang Kriminologi Pembangunan*. Ghalia Indonesia. Bogor. 1995, hal. 167

¹⁶ Soedjono D, *Penanggulangan Kejahatan (Crime Prevention)*. Alumni. Bandung. 1976, hal. 32.

¹⁷ A. Qirom Samsudin M, Sumaryo E., *Kejahatan Anak Suatu Tinjauan Dari Segi Psikologis dan Hukum*. Liberti. Yogyakarta. 1985, hal. 46

¹⁸ Muladi dan Barda Narwari. *Op. Cit*, hal 89

¹⁹ Arief, Barda Narwawi. *Bunga Rampai Hukum Pidana*. Alumni, Bandung. 2007, hal 40.

²⁰ Hamdan, M. *Politik Hukum Pidana*. PT Raja Grafindo Persada. Jakarta. 1997, hal 30.

1. The use of criminal law must pay attention to the goals of national development, which is to realize a just and prosperous society that is equally material and spiritual based on Pancasila. In this case, the use of criminal law is aimed at overcoming crime and providing granting to the act of overcoming the crime itself, for the sake of people's welfare and protection;
2. Acts which are endeavored to be prevented or overcome by criminal law must constitute "undesirable acts", that is actions that cause harm (material and / or spiritual) to the community members;
3. The use of criminal law must also take into account the principle of "costs and results" (cost-benefit principle). For this reason, it is necessary to calculate the amount of costs spent and the expected results to be achieved;
4. The use of criminal law must also pay attention to the work capacity or capability of law enforcement agencies, that is, there must be no over-blasting of tasks.

According to De Ross, some things must be considered as follows:²¹

1. The plausibility of the loss described;
2. There is tolerance based on individual honor or freedom and responsibility;
3. Can the interests that have been violated still be protected in other ways;
4. There is a balance between loss, tolerance and criminal threats;
5. Are we able to formulate a loss, tolerance and criminal threat;
6. The possibility of practical and effective enforcement (and their impact on general prevention).

According to Muladi, there are 2 (two) problem centers in criminal policy using the means of punishment (criminal law) including the problem of determining:²²

1. What actions should be made as a crime, and
2. What sanctions should be used or imposed on the offender.

Basically, criminal law has *ultimum remedium* which contains the imposition of suffering on the perpetrators of crime. The use of penal measures (sanctions / criminal law) in regulating society (through legislation) is essentially part of a policy step (Policy).

According to Barda Narwawi Arief, said that the reasons for the limitations of criminal law in dealing with crime as follows:²³

1. The causes of such crimes are beyond the scope of criminal law.
2. Criminal law is a small part (subsystem) of means of social control that is impossible to overcome the problem of crime as a very complex human and social problem (as a socio-psychological, socio-political, socio-economic, socio-cultural, etc.).
3. The use of criminal law in overcoming crime is only "kurieren am symptom", therefore criminal law is only "symptomatic treatment" and not "causative treatment".
4. Criminal law sanctions are "remedium" which contain a "contradictory / paradoxical" nature and contain negative side effects and elements.
5. Criminal systems are fragmentair and individual / personal, not structural / functional.
6. Limitations on the types of criminal sanctions and the formulation of criminal sanctions systems that are rigid and imperative in nature.
7. Working / functioning of criminal law requires supporting facilities that are more varied and more demanding of "high costs".

Because with the efforts made after the crime and the bank has bank secrets that must be kept, then the solution is done by mediation. However, the incident occurred in 2001 where Indonesia did not yet have specific laws such as the Information and Electronic Transaction Act, the Copyright Act, the Trademark Rights Act and Geographical Indications. Therefore, the settlement is done by negotiation or agreement. The agreement was written by Steven Haryanto where the offender will delete all fake domains and return the customer's user ID and password to BCA.

2. Non Penal Efforts (Non Litigation)

²¹ Reksodiputro, Marjono. *Cybercrime: Intellectual Property Rights, Ecommerce, Penataran Nasional Hukum Pidana dan Kriminologi Indonesia (ASPEHUPIKI)*. FH Universitas. Surabaya. 13-19 Januari 2002.

²² Hamdan, M. Op.Cit, hal 29

²³ Arief, Barda Narwawi. Op. Cit, hal 45-47.

Mitigation efforts through non-penal channels can also be called efforts made through channels outside criminal law. This effort is a response that focuses more on the preventive nature, namely actions in the form of prevention before the occurrence of crime.

Prevention efforts before the crime can be done by:

- a. The bank can socialize to customers and the general public about being alert when typing the website address where the official website is www.klikbca.com. And for those who find the same appearance with a different website address can immediately report to the bank.
- b. Banks through the security system can enhance security for internet banking users so that data is not easily synchronized.
- c. Display information alert to data synchronization on internet banking display.

CONCLUSION

Efforts to prevent the typosquatting crime of banking website domains can be carried out in a penal manner, the perpetrators will be punished according to their actions and on a non-criminal basis, namely companies improving the security system and conducting socialization to customers.

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