

ACKNOWLEDGEMENT

The Author would like to praise God Almighty for His everlasting grace have enabled the Author to write and finish this Thesis as one of the prerequisites to obtain the Bachelor of Law Degree in Business Law Concentration at the Faculty of Law of Universitas Pelita Harapan in 2020. This Thesis is titled **“LEGAL ANALYSIS ON CONSUMER PROTECTION AGAINST PERSONAL DATA THEFT FROM E-COMMERCE PLATFORMS IN INDONESIA”**.

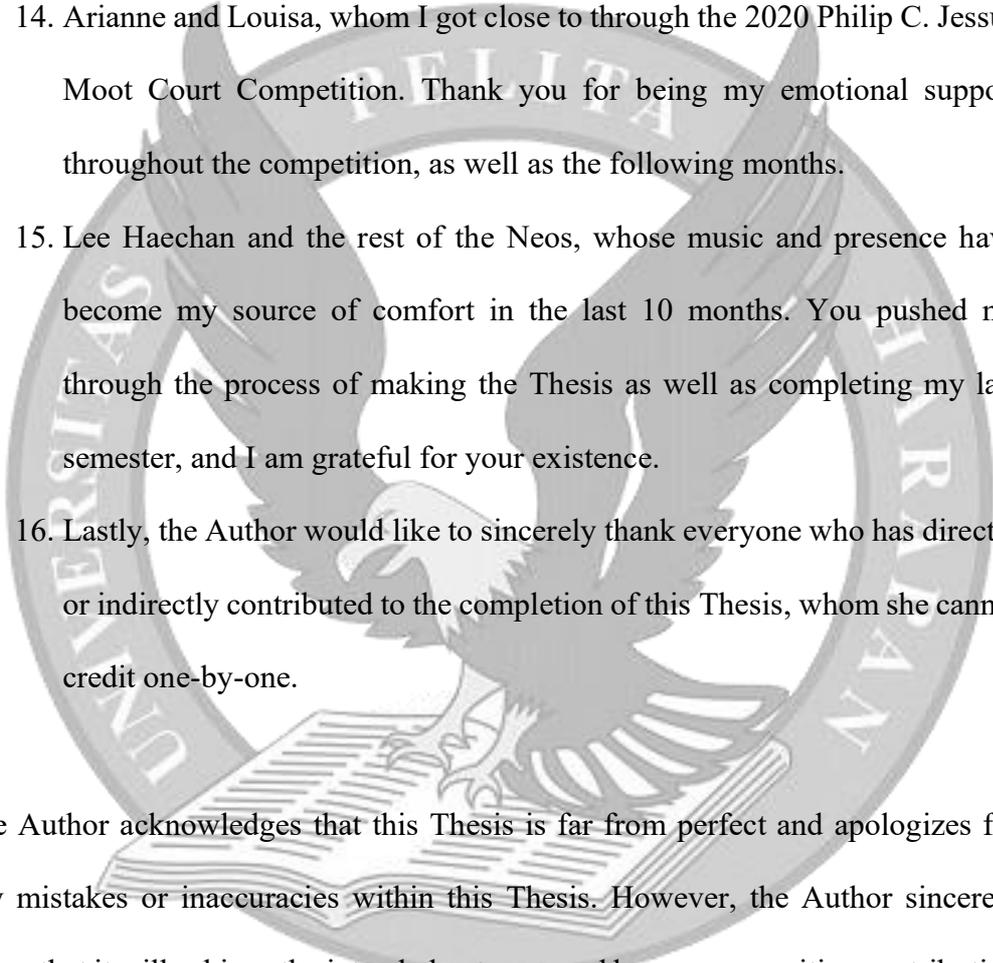
The Author chose to analyze Indonesia’s legal framework on the protection of personal data stored in e-commerce platforms against the act of theft as she became aware of the concern arising from the gap in the law that may hinder victims of personal data theft from obtaining adequate and effective remedy in such cases. The Author hopes that this Thesis can contribute to spreading awareness to and widening the knowledge of Indonesian citizens on the possible legal recourses for victims of personal data theft from e-commerce platforms, as well as to the development of law in Indonesia in this field. The Author acknowledges that the completion of this Thesis as well as her effort to obtain her degree would not be possible without the support and guidance from many of those who have helped the Author throughout her years in law school. Therefore, the Author would like to extend her utmost gratitude to:

1. Prof. Dr. Bintan R. Saragih, S.H., as the Dean of Faculty of Law Universitas Pelita Harapan.

2. Dr. Vincensia Esti Purnama Sari, S.H., M.Hum, as the Head of Faculty of Law Universitas Pelita Harapan.
3. Dr. Velliana Tanaya, S.H., M.H, as the Director of Faculty of Law Universitas Pelita Harapan.
4. Bpk. Alexander Ery Wibowo, S.H., LL.M, J.S.D., as the Author's Thesis supervisor who has advised as well as patiently guided the Author throughout the journey of writing this Thesis.
5. Author's faculty advisors during her Moot Court Competitions, Ms. Jessica Los Banos, LL.B., MTM., M.B.A., and Ms. Jessica V. Marpaung, S.H., LL.M., Ph.D., for guiding and teaching the Author on every legal skill that the Author has acquired, for it has all been very helpful not only for the competitions, but also in the process of finishing her university years and writing this Thesis.
6. All lecturers in Universitas Pelita Harapan Faculty of Law that have taught the Author throughout her university years.
7. Author's family, Mom, Dad, and Lisa, thank you for your continuous support all these years, and for always believing in the Author when she herself could not.
8. The soulmates whom the Author have met through university: Maria Hartanty, Jannah Mumtaza, and Arianne Kumara, I am truly grateful to you all for adding colors to my university days. I am here because of your constant support and company even when I was at my lowest point. Thank

you for your constant encouragement when I had questioned myself in the past, and the time we spent together is certainly the most memorable to me.

9. The close friends the Author acquired in Universitas Pelita Harapan: Andrieta Rafaela Arifin, Erica Felicity, Jesslyn Gouwandi, Natasha Sagita, thank you for being there for me from day one until the end. Thank you for being such good friends to me and supporting me in every step. Truly, I would not be here if not for your warm welcome.
10. The Author's classmates who have contributed to the Author's growth as a person, as well as a portion of the laughs she let out through the years.
11. The friends who accompanied the Author throughout the pandemic, Aileen, and Halfi. Thank you for bringing laughter in difficult times, and always pushing me to do better throughout the process of making this Thesis. It was truly an unexpected turn of events, but I am very grateful to share common interests, as well as find comfort in conversing with you.
12. The International Law Moot Court Community: seniors who have helped me grow as a person, I am eternally grateful to be given the chance to participate in moot court competitions, and for all the time and effort you have given to teach me along the journey. I also want to express my gratefulness to Laras for taking a chance in me and choosing me as your Vice General Director. The experience I gained from working alongside you, as well as Sarah, whom I would also like to thank, have all been very memorable.

- 
13. The 2019 Philip C. Jessup Moot Court Team: Agnes, Kalista, Manika, and Qaila. Thank you for the amazing experience that I will never forget, I have learned a lot from working with you all. To Agnes, thank you for being a great team captain, as well as for never failing to check in with me despite your hectic schedule.
14. Arianne and Louisa, whom I got close to through the 2020 Philip C. Jessup Moot Court Competition. Thank you for being my emotional support throughout the competition, as well as the following months.
15. Lee Haechan and the rest of the Neos, whose music and presence have become my source of comfort in the last 10 months. You pushed me through the process of making the Thesis as well as completing my last semester, and I am grateful for your existence.
16. Lastly, the Author would like to sincerely thank everyone who has directly or indirectly contributed to the completion of this Thesis, whom she cannot credit one-by-one.

The Author acknowledges that this Thesis is far from perfect and apologizes for any mistakes or inaccuracies within this Thesis. However, the Author sincerely hopes that it will achieve the intended outcome and becomes a positive contribution to Indonesia's legal system and education.

Tangerang, 3 December 2020

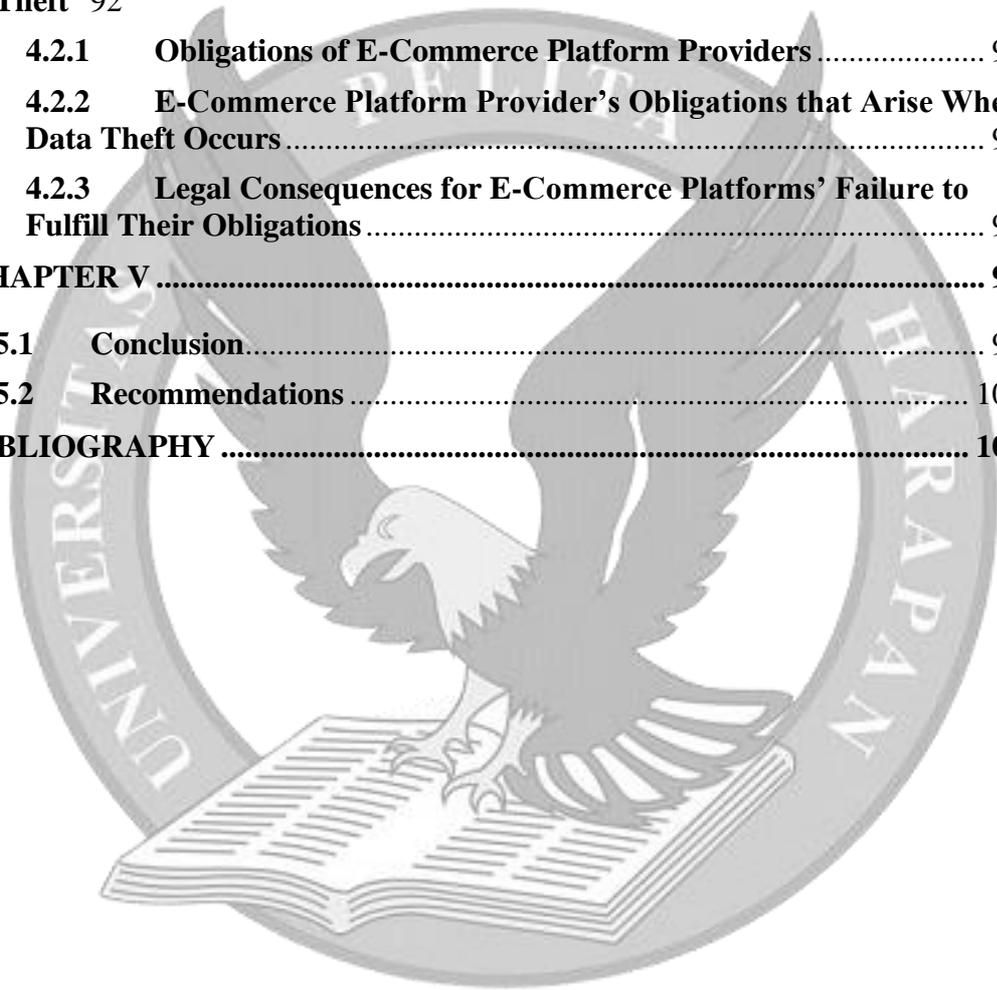
Olivia Karlina

TABLE OF CONTENTS

COVER.....	i
THESIS AUTHENTICITY STATEMENT.....	ii
APPROVAL OF THESIS SUPERVISOR.....	iii
APPROVAL OF THE EXAMINING COMMITTEE	iv
ABSTRAK	v
ACKNOWLEDGEMENT.....	vi
TABLE OF CONTENTS.....	x
LIST OF TABLES	xiii
LIST OF ABBREVIATIONS	xiv
1.1 Background of the Issue	1
1.2 Formulation of Issues.....	8
1.3 Research Purpose	8
1.4 Benefits of Research.....	9
1.4.1 Theoretical Benefits	9
1.4.2 Practical Benefits.....	10
1.5 Structure of Writing	10
CHAPTER II.....	13
2.1 Theoretical Framework.....	13
2.1.1 Indonesian Criminal Law.....	13
2.1.1.1 Crime.....	13
2.1.1.2 Theft	15
2.1.1.3 Criminal Investigation Procedures.....	16
2.1.1.4 Documents as Evidence	20
2.1.2 Indonesian Civil Law	22
2.1.2.1 Torts	22
2.1.2.2 Civil Procedures	23
2.1.3 Indonesian Consumer Protection Law.....	26
2.1.3.1 Introduction to Indonesian Consumer Protection Law.....	26
2.1.3.2 Consumer Protection	27

2.1.3.3	Consumers' Rights and Obligations.....	27
2.1.3.4	Entrepreneurs' Rights and Obligations.....	29
2.1.3.5	Settlement of Consumer Protection Disputes.....	31
2.1.3.6	Sanctions for Violations of Consumer Protection Law	34
2.1.4	Indonesian Information and Electronic Transactions Law	35
2.1.4.1	Introduction to Indonesian Information and Electronic Transactions Law	35
2.1.4.2	Electronic Information and Documents.....	35
2.1.4.3	Operation of Electronic Systems	37
2.1.4.4	Protection of Privacy Rights	38
2.1.4.5	Prohibited Acts and Related Criminal Sanctions	39
2.1.4.6	Settlement of Disputes Regarding EIT Law	42
2.2	Conceptual Framework.....	43
2.2.1	Personal Data.....	43
2.2.2	Protection of Personal Data Contained in a Digital Platform.....	44
2.2.3	Dispute Settlement for Matters Concerning the Application and Implementation of PERMENKOMINFO No. 20/2016	46
CHAPTER III		50
3.1	Type of Research Method.....	50
3.2	Legal Research Materials	52
3.3	Data Analysis Technique.....	54
3.4	Legal Research Approach	54
3.5	Data Analysis	55
CHAPTER IV.....		57
4.1	Legal Actions/Remedies Available for Victims of Data Theft from E-Commerce Platforms Under Indonesian Law.....	57
4.1.1	Criminal Provisions	58
4.1.1.1	Substantive Violations on Personal Data Theft from E- Commerce Platform.....	58
1.	Satisfying the elements under Article 30 of EIT Law.....	59
2.	Satisfying the elements under Article 32 of EIT Law.....	66
4.1.1.2	Criminal Procedures on Obtaining Reparation for Victims.....	74
4.1.2	Civil Provisions.....	79
4.1.2.1	Legal Reparations Due to the Infringement of Privacy Rights under Cyber Law	79

4.1.2.2	Legal Reparations Due to the E-Commerce System Provider’s Failure in Protecting the Personal Data of Users	79
1.	Violation of E-Commerce System Providers’ Obligation to Ensure Data Safety	79
2.	Procedures for Filing a Claim for E-Commerce Platform Providers’ Failure to Protect Personal Data	82
3.	The Form and Determination of Legal Remedy	91
4.2	Legal Actions of E-Commerce Platform Provider in Cases of Data Theft	92
4.2.1	Obligations of E-Commerce Platform Providers	92
4.2.2	E-Commerce Platform Provider’s Obligations that Arise When Data Theft Occurs	94
4.2.3	Legal Consequences for E-Commerce Platforms’ Failure to Fulfill Their Obligations	95
CHAPTER V	98
5.1	Conclusion	98
5.2	Recommendations	102
BIBLIOGRAPHY	106



LIST OF TABLES

Table 4.1	Elements required to satisfy Article 30 of EIT Law.....	65
Table 4.2	Elements required to satisfy Article 32 of EIT Law.....	72
Table 4.3	Procedures for criminal cases against personal data thieves.....	78
Table 4.4	Procedures for civil claim against e-commerce platforms.....	85
Table 4.5	Legal procedures for filing a civil lawsuit.....	86



LIST OF ABBREVIATIONS

EIT Law	Law Number 11 of 2008 Regarding Electronic Information and Transactions
AEIT Law	Law Number 19 of 2016 Regarding Amendment to Law Number 11 of 2008 Regarding Electronic Information and Transactions
KUHP	Indonesian Criminal Code
KUHAP	Indonesian Criminal Procedural Code
KUHPer	Indonesian Civil Code
HIR	1941 Renewed Indonesia Code or Het Herziene Indonesich Reglement
Government Regulation 71/2019	Government Regulation Number 71 Year 2019 on Electronic Systems and Transactions
PERMENKOMINFO No. 20/2016	Communication and Information Ministerial Regulation Number 20 Year 2016
Consumer Protection Law	Law Number 8 of 1999 concerning Consumer Protection

Law No. 48 of 2009	Law Number 48 of 2009 regarding Judicial Power
ICCPR	1966 International Covenant on Civil and Political Rights
E-commerce	Electronic commerce

