

MOOT COURT PROBLEM 2019

INTRODUCTORY NOTE: Kindly note that this Moot Problem is an imaginary problem. Various elements have been incorporated in the said problem. The present matter pertains to a cybercrime trial in the Federal Court of Avocado. The Federal court is conducting the trial and has all the relevant powers for deciding the criminal matter and the commission of various offences by the accused.

The Last paragraph of the moot problem clearly asks the participants to argue on the side of the Prosecution as also on the side of the Defence in the Federal Court of Avocado pertaining to the above case.

The clarifications/answers to the various questions are as under:-

1. While giving the introduction of Dark Hill Pvt. Ltd. in paragraph 13, is the company a state owned company as well?

Ans- “Dark Hill Pvt. Ltd.” is the name of a limited company, whose shares are listed on the stock exchange.

2. With respect to paragraph 17, what proceedings are being launched against Dark Hill? If legal proceedings, then before which court is it tried?

Ans: These are cybercrime trial proceedings pending before the Federal Court of Avacodo.

The said company and the officials have been booked for offences under Section-43, 66, 66F, 70, 70B of the Information Technology Act of the Republic of Avocado. Further, the said persons have also been booked under Sections 19, 20 and 23 of the Republic of Avocado's Cybersecurity Act and under Sections 3, 4, 5, 6, 7, 8, 8A, 8B read with Section 9 of the Computer Misuse Act. Furthermore, Dark Hill Pvt. Ltd. and its top officials are also being prosecuted for contravention of data breach notifications and other provisions of GDPR. The accused are also being prosecuted for violation of the Republic of Avocado's Anti Encryption Law, specifically Schedule 1, 2 and 3. Dark Hill Pvt. Ltd. is also being prosecuted for offences done under the Penal Code of Republic of Avocado being exactly similar to the Indian Penal Code under Section 468, 469, 34, 120B thereof.

3. Does the Federal Court of Avocado amount to the Supreme Court of India? If so, then is the criminal trial an appeal case?

Ans- The Federal Court of Avocado does not amount to the Supreme Court of India as there is no such reference to that effect in the problem. In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well established.

4. According to the 1st paragraph of the moot problem, it is told that the Republic of Avocado is a Unitary Republic with a semi-presidential system with separate powers. Also as per paragraph 25, the Constitution of Republic of Avocado is based exactly on the Constitution of India. Aren't these two facts are contradictory in nature?

Ans- The Republic of Avocado is both a Unitary Republic and it also has a Constitution is based exactly on the Constitution of India. In case, the counsels feel that there is any intrinsic contradiction between the same, it is up to the relevant counsels to highlight the same in their respective submissions.

5. The Republic of Avocado is currently in a territorial dispute with one of its neighbouring country. Kindly name the country?

Ans: It is not relevant to answer the country.

6. Kindly explain the last lines of paragraph 1

Ans- The last line of para 1 only shows the membership of the Republic of Avocado in various international fora including United Nations, the Council of Europe, the OSCE, the GUAM organization, and the Commonwealth of Independent States (CIS).

7. What are the various constituent to which the Central Electricity Grid of the Republic of Avocado has allotted power?

Ans- The various constituents to which the Central Electrical Grid of the Republic of Avocado allocates power are the constituents stakeholders in the Republic of Avocado including private sector, critical information infrastructure sector, government departments, retail customers, basic infrastructure sectors and the chemical industry; commercial facilities; communications; critical manufacturing; dams; defense industrial base; emergency services; energy sectors; banking and finance; food and agriculture; Government facilities; healthcare and public health;

information and technology; nuclear reactors, materials and waste; transportation systems; water and wastewater systems.

8. What are the countries to which the central electricity grid of avocado supplies its powers?

Ans: Republic of Rickhaw, the Republic of Chico, Republic of Banana and various other countries. The said list is not exhaustive.

9. Para 3, pertaining to Para 3 last bullet, kindly explain the YARA Rules.

Ans: YARA is the name of a tool primarily used in malware research and detection. It provides a rule-based approach to create descriptions of malware families based on textual or binary patterns. A description is essentially a Yara rule name, where these rules consist of sets of strings and a boolean expression.

10. Para 4, what are the various destinations to which the electricity was diverted?

Ans-The destinations to which the electricity was diverted are currently not known.

11. Kindly elaborate the undisclosed locations mentioned in Para 4, line 5.

Ans- The undisclosed locations are those whose identities are currently not known at the time of arguments.

12. Who are the "un-stipulated" recipients to whom huge volume of electricity was supplied?

Ans- The un-stipulated recipients were those recipients who were not stipulated or programmed to receive the huge volume of electricity.

13. Para 7, for how long did the huge areas of ROA remained in complete darkness due to the cyberbreach?

Ans: The outage window lasted several hours.

14. Para 8, who is the 3rd party that gained illegal entry into the Black Pepper computers and distributed system?

Ans- It is for the court to adjudicate the identity of the third party.

15. What are the total number of sub stations and out of which how many of them got disconnected?

Ans: It has been stated in the moot problem that “Starting at approximately 3:35 p.m. local time(GMT+2), seven 110 kV and twenty three 35 kV substations were disconnected for three hours.”

16. What is the veracity of the statement that a foreign attacker remotely controlled the distribution management system?

Ans: The said event was elaborated on by the Avocado national news media, which conducted interviews and determined that a foreign attacker remotely controlled the distribution management system. The Government of Republic of

Avocado had not, till then, released any official statement either affirming or refuting the said Press statements.

It is up to the counsel to interpret the said facts.

17. Does TDSO's and sub stations means the same?

Ans: TDSO is Transmission And Distribution System Operators, whose work includes that of Transmission System Operator (TSO) and the Distribution System Operator (DSO) to solve problems related to frequency control, congestion management, and voltage control. Consequently, coordination between system operators is needed to guarantee a safe, reliable, and cost-efficient use of flexibility-based services whereas substations are different. They are a part of an electrical generation, transmission, and distribution system.

18. Para 10, what is the date of incident in which 30 sub-stations were disconnected for three hours?

Ans: 5th December, 2018

19. Para 11, line 2, how long the outage window lasted?

Ans: The outage window lasted several hours.

20. Does the Federal Court of Avocado imply Supreme Court of Avocado?

Ans: The Federal Court of Avocado does not amount to the Supreme Court of India as there is no such reference to that effect in the problem. In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well established.

21. Which Law is applicable to the jurisdiction? Constitution or GDPR?

Ans: Both Constitution and GDPR apply but the Constitution is the supreme law of the land.

22. Is there a typographical error in Paragraph 3 of the proposition pertaining to the cybersecurity parameter, namely- ISO-270001? { ISO 27001 (formally known as ISO/IEC 27001:2005) is a specification for an information security management system (ISMS) }

Ans: Yes, the same is a typo error. The standard is ISO 27001.

23. Is Dark Hill Pvt Ltd a DTSO? If yes, was it amongst the various other DTSO's affected by the cyber-attack dated 5 December 2018?

Ans: Facts as provided are the complete facts before the Federal Court of Avocado. Please examine the given facts in this regard, before coming to any conclusion.

24. Please provide an exhaustive list of businesses/ types of business, carried under the name - Dark Hill Pvt.Ltd.

Ans: Dark Hill Pvt Ltd. carries out all the businesses which a Power and Energy Sector company carries out in a routine manner.

25. Is Director General Security under Australia's Telecommunication Act a similar position as that of Director General of Investigation under IT Act of INDIA?

Ans: The IT Act, 2000 does not mention any position of Director General of Investigation.

26. Is the hierarchy of judicial courts in Republic of Avocado mutatis mutandis Republic of India?

Ans: Yes.

27. Which all matters can be adjudged by the federal court? Whether it can adjudicate on constitutional and criminal matters simultaneously?

Ans: No limits to the jurisdiction of the Federal Court of Avocado need to be presumed.

28. Is central grid of avocado a government body /agency and is it a judicial person?

Ans: The same is a Public Limited company, floated by the Government of Republic of Avocado.

29. Is power and energy sector under the ministry of fuel and energy?

Ans: Yes.

30. Are applications for prosecution moved by defence to be tried by the same court in the current matter?

Ans: Yes.

31. Please provide an exhaustive list of top officials accused.

Ans: Kindly presume that the fact sheet discloses the exhaustive list of top officials of the accused.

32. Para 25 provides that the Constitution of Avocado is based exactly on the Constitution of India. Constitution of India does not confer original criminal jurisdiction on Supreme Court whereas the facts (Para 24) mentions of ongoing 'trial' in the Federal Court of Avocado, which seems contradictory. Para 25 also speak of unconstitutionality of legislation being alleged. What is the exact jurisdiction of Federal Court of Avocado?

Ans: The Federal Court of Avocado does not amount to the Supreme Court of India as there is no such reference to that effect in the problem. In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well established. No limits to the jurisdiction of the Federal Court of Avocado need to be presumed.

33. Para 13 provides the name of the Company as Dark Hill Pvt. Ltd., From this it can be inferred that the company is a private company. However in Para 19 it is said that the company's publically traded shares took a hit. So, Is Dark Hill Pvt. Ltd. a private company or a public company?

Ans: "Dark Hill Pvt. Ltd." is the name of a limited company, whose shares are listed on the stock exchange.

34. Can you provide any more information on the nature of work carried on by Dark Hill Pvt. Ltd.?

Ans: Same as that carried out by a Power and Energy sector company.

35. Three laws of Republic of Avocado are modeled on the laws of 2 countries, so is the decisions of the courts of the countries on the legislation binding on the Courts of Avocado?

Ans: No. However, they are be of persuasive value only.

36. Does dark hill pvt Ltd have a DPO (Data Protection Officer)?

Ans: The facts before the Federal Court of Avocado are silent on this issue.

37. Does function/business of Dark Hill include handling of third party data?

Ans: Like all corporate, Dark Hill business includes handling of personal data.

38. Where is Dark Hill Ltd. Company registered and instituted?

Ans: In The Republic of Avocado.

39. Whether Australian Anti Encryption Law is notified yet in the official gazette?

Ans: The said law should be considered as notified for the purposes of the present moot court problem.

40. Whether the case instituted in Supreme Court of Rickshaw is to be accounted for during pleading?

Ans: It is up to the counsels of the parties.

41. Where is the bench of Federal Court in the current facts?

Ans: Located in the Capital of the Republic of Avocado.

42. What is the stature of the Federal Court in Avacado, in respect and consonance with Indian Judicial System?

Ans: The Federal Court of Avocado does not amount to the Supreme Court of India as there is no such reference to that effect in the problem. In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well

established. No limits to the jurisdiction of the Federal Court of Avocado need to be presumed.

43. Can we use other sections of the Act besides the ones given in the moot problem? Because the facts can be used to prosecute under other sections of the acts such as decryption in it act.

Ans: Yes, the participants are free to bring in new sections as well under which the accused can be charged.

44. Where is Dark Hill Pvt. Ltd. (inside or outside Avocado)? The location provides for certain clauses of tele act and may be used for determining jurisdiction (esp. EUGDPR)

Ans: It's inside the jurisdiction of the Avocado.

45. Are the other acts of India and Australia such as Surveillance Act (and of Singapore for that) similar or along same lines? The acts mention links to other acts of the relevant countries and may be used.

It is up to the counsels of the parties to rely upon the different provisions of different legislations to strengthen their respective arguments.

46. What is the position of the Federal Court in the hierarchy of judicial system of Avacado? To determine the jurisdiction issues arising out of its position in the hierarchy.

Ans: The Federal Court of Avocado does not amount to the Supreme Court of India as there is no such reference to that effect in the problem. In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well established. No limits to the jurisdiction of the Federal Court of Avocado need to be presumed. These facts could be used as a foundation for developing and addressing arguments.

47. What is the jurisdiction and cause title of the case?

Ans: Republic of Avocado versus unknown persons

48. What is the nature of work of Dark Hill Pvt. Ltd.?

Ans: Same as that of a power and energy sector company.

49. The prepositions given doesn't clarify about the evidence act and the court it's filed into.

Ans: In the Republic of Avocado, the Federal Courts jurisdiction to conduct the criminal trial is well established. No limits to the jurisdiction of the Federal Court of Avocado need to be presumed. It is submitted that the Republic of Avocado has laws in place which are exactly similar to the laws of the Republic of India, including the Evidence Act.