

FIFTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
First Regular Session

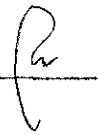
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Senate  
Office of the Secretary

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SENATE  
S.B. No. 2628

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Introduced by Senator LOREN LEGARDA

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#### EXPLANATORY NOTE

Article XII, Section 14 of the Philippine Constitution mandates the State to promote "the sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields."

In adherence to this provision and as part of its commitment to the various international treaties on intellectual property rights to which the country is a signatory to, the Philippine Congress passed in 1998 Republic Act 8293, or the Intellectual Property Code (IPC) of the Philippines.

However, in this modern age when the internet has become a necessity to access, send, spread, download and upload almost all kinds of information and materials, the protection from piracy of protected data and other literary and artistic works has become more challenging. Unfortunately, the IPC does not cover the unlawful use or proliferation of protected material over the internet.

In 2002, the Philippines ratified two additional treaties that address the intellectual property concerns that have cropped up due to the introduction of digital technologies. These two agreements are the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). To fulfill our obligations as signatory to these treaties, the provisions in the WCT and the WPPT, particularly those on technological measures and rights management information, must be incorporated into our laws; thus, the need to amend the IPC.

The International Telecommunications Union, an agency of the United Nations, estimates that in 2010, there are more than two billion internet users worldwide, about 1.2 billion of which come from developing countries like the Philippines. While many people are gaining access to the internet, the responsibilities of internet users have not been specified, which at times result to the unlawful and irresponsible use, spread, and even reproduction of protected materials.

It is our obligation to ensure not only the promotion and recognition of the talents, but also the protection of the rights, of performers and producers of artistic and literary works. It is their right to disallow or allow, and therefore be compensated for, the use, production and reproduction of their works even over the internet and through other technological advancements that are available.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



LOREN LEGARDA

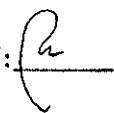
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SENATE

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AN ACT  
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293,  
OTHERWISE KNOWN AS THE "THE INTELLECTUAL PROPERTY CODE OF  
THE PHILIPPINES" AND FOR OTHER PURPOSES

*Be it enacted in the Senate and House of Representatives of the Philippines in the Congress assembled:*

1 SECTION 1. Section 171 of R.A. 8293 is hereby amended to read as follows:  
2

3 "SEC. 171. Definitions. - For the purpose of this Act, the following terms  
4 have the following meaning:  
5

6 xxx  
7

8 171.3 "Communication to the public" or "communicate to the public" is the  
9 making of a work available to the public by wire or wireless means in  
10 such a way that members of the public may access the works from a place  
11 and at a time individually chosen by them, AND SHALL  
12 INCLUDE ANY COMMUNICATION TO THE PUBLIC, THROUGH  
13 BROADCASTING, REBROADCASTING, RETRANSMITTING BY  
14 CABLE, BROADCASTING AND RETRANSMITTING BY SATELLITE.  
15

16 xxx  
17

18 171.9 "Reproduction" is the making of one (1) or more copies, TEMPORARY  
19 OR PERMANENT, IN WHOLE OR IN PART, of a work or sound  
20 recording in any manner or form.  
21

22 xxx  
23

24 171.12 "EFFECTIVE TECHNOLOGICAL MEASURE" MEANS ANY  
25 TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL

1 COURSE OF ITS OPERATION, CONTROLS ACCESS TO A PROTECTED  
2 WORK, SOUND RECORDING, OR OTHER SUBJECT MATTER, OR  
3 PROTECTS ANY COPYRIGHT OR ANY RIGHTS RELATED TO  
4 COPYRIGHT AS PROVIDED BY THIS ACT.  
5

6 171.13 "RIGHTS MANAGEMENT INFORMATION" MEANS INFORMATION  
7 WHICH IDENTIFIES THE WORK, SOUND RECORDING  
8 OR PERFORMANCE; THE AUTHOR OF THE WORK, PRODUCER  
9 OF THE SOUND RECORDING OR PERFORMER OF THE  
10 PERFORMANCE; THE OWNER OF ANY RIGHT IN THE  
11 WORK SOUND RECORDING OR PERFORMANCE; OR  
12 INFORMATION ABOUT THE TERMS AND CONDITIONS OF  
13 THE USE OF THE WORK, SOUND RECORDING OR  
14 PERFORMANCE; AND ANY NUMBERS OR CODES THAT  
15 REPRESENT SUCH INFORMATION, WHEN ANY OF THESE  
16 ITEMS IS ATTACHED TO A COPY OF THE WORK, SOUND  
17 RECORDING OR FIXATION OF PERFORMANCE OR APPEARS IN  
18 CONNECTION WITH THE COMMUNICATION TO THE PUBLIC  
19 OF A WORK, SOUND RECORDING OR PERFORMANCE.  
20 NOTHING IN THIS ACT REQUIRES THE OWNER OF ANY RIGHT  
21 IN THE WORK, SOUND RECORDING, OR PERFORMANCE  
22 TO ATTACH RIGHTS MANAGEMENT INFORMATION TO  
23 COPIES OF IT OR TO CAUSE RIGHTS MANAGEMENT  
24 INFORMATION TO APPEAR IN CONNECTION WITH A  
25 COMMUNICATION OF THE WORK, SOUND RECORDING OR  
26 PERFORMANCE TO THE PUBLIC.  
27

28 SEC. 2. Section 177.3 is hereby amended to read as follows:  
29

30 "SEC. 177. *Copyright or Economic Rights.* - Subject to the provisions  
31 of Chapter VIII, copyright or economic rights shall consist of the exclusive  
32 right to carry out, authorize or prevent the following acts:  
33

34 xxx  
35

36 177.3 "THE IMPORTATION INTO THE PHILIPPINES, AND the first public  
37 distribution within the Philippines, of the original and each copy  
38 of the work, by sale or other forms of transfer of ownership."  
39

40 SEC. 3. Section 178.5 is hereby amended by striking "exhibition" and  
41 inserting exploitation" and to read as follows:  
42

43 "SEC. 178. *Rules on Copyright Ownership.* - Copyright ownership shall  
44 be governed by the following rules:  
45

46 xxx

1  
2 178.5 In the case of audiovisual work, the copyright shall belong to the  
3 producer, the author of the scenario, the composer of the music, the film  
4 director, and the author of the work so adapted. However, subject to  
5 contrary or other stipulations among the creators, the producer shall  
6 exercise the copyright to an extent required for the [exhibition]  
7 EXPLOITATION of the work in any manner, except for the right to  
8 collect performing license fees for the performance of musical  
9 compositions, with or without words, which are incorporated into the  
10 work.  
11

12 SEC. 4. Section 180 is hereby amended by inserting the following new  
13 paragraph to be known as 180.4 to read as follows:  
14  
15

16 "SEC. 180. *Rights of Assignee.* - 180.1. The copyright may be assigned  
17 in whole or in part. Within the scope of the assignment, the assignee is  
18 entitled to all the rights and remedies which the assignor had with respect to  
19 the copyright.  
20

21 xxx  
22

23 180.4 "ANY EXCLUSIVE RIGHT IN A WORK MAY BE  
24 EXCLUSIVELY LICENSED. WITHIN THE SCOPE OF THE  
25 EXCLUSIVE LICENSE, THE LICENSEE IS ENTITLED TO  
26 ALL THE RIGHTS AND REMEDIES WHICH THE LICENSOR  
27 HAD WITH RESPECT TO THE COPYRIGHT."  
28

29 SEC. 5. Section 183 is hereby amended to read as follows:  
30

31 "SEC. 183. *Designation of Society.* - The copyright owners or their  
32 heirs *may* designate a society of artists, writers, or composers, OR A SIMILAR  
33 AGENT, to enforce their economic rights or moral rights on their behalf."  
34

35 SEC. 6. Section 184, sub-sections (i) and (k) is hereby amended to read as  
36 follows:  
37

38 "SEC. 184. *Limitations on Copyright.* - 184.1. Notwithstanding  
39 the provisions of Chapter V, the following acts shall not constitute  
40 infringement of copyright:  
41

42 xxx  
43

44 (i) The public performance or the communication to the public  
45 of a work, in a place where no admission fee is charged  
46 DIRECTLY OR INDIRECTLY in respect of such public

1 performance or communication, by a club or institution for  
2 charitable or educational purpose only, whose aim is not  
3 profit making; WHERE NO COMPENSATION OR FEE IS  
4 PAID TO ANY PERFORMER, PROMOTER, ORGANIZER OF THE  
5 PUBLIC PERFORMANCE OR COMMUNICATION AND  
6 subject to such other limitations as may be provided in the  
7 Regulations.

8  
9 xxx

10  
11 (k) Any use made of a work for the purpose of any judicial  
12 proceedings or for the giving of professional advice by a legal  
13 practitioner WITH RESPECT TO SUCH A WORK, ITS  
14 CREATION OR EXPLOITATION."

15  
16 SEC. 7. Section 185.1 is hereby amended to read as follows:

17  
18 "SEC. 185. *Fair Use of a Copyrighted Work.* - 185.1 The fair use of a  
19 copyrighted work for criticism, comment, news reporting, teaching  
20 including multiple copies for classroom use, scholarship, research, and  
21 similar purposes is not an infringement of copyright, Decompilation, which is  
22 understood here to be the reproduction of the code and translation of the  
23 forms of [the] A computer program to achieve the inter-operability of an  
24 independently created computer program with other programs may also  
25 constitute fair use UNDER THE CRITERIA ESTABLISHED BY  
26 THIS SECTION, TO THE EXTENT THAT SUCH DECOMPILATION  
27 IS INDISPENSABLE IN ORDER TO OBTAIN THE INFORMATION  
28 NECESSARY TO ACHIEVE SUCH INTER-OPERABILITY. In determining  
29 whether the use made of a work in any particular case is fair use, the factors  
30 to be considered shall include:"

31  
32 SEC. 8. Section 188 is hereby amended to read as follows:

33  
34 "SEC. 188. *Reprographic Reproduction by Libraries.* 188.1  
35 Notwithstanding the provisions of Subsection 177.6, any library or archive  
36 whose activities are not for profit may, without the authorization of the author  
37 of copyright owner, make a single copy of the work by repro graphic  
38 reproduction:

39  
40 xxx

41  
42 188.2 Notwithstanding the above provisions, it shall not be permissible to  
43 produce a volume of work published in several volumes or to  
44 produce missing tomes or pages of magazines or similar works,  
45 unless the volume, tome or part of it is *out* of stock: *Provided*, That  
46 every library which, UNDER SECTION 191, is entitled to receive

1 copies of a printed work, shall be entitled, when special reasons  
2 so require, to reproduce a SINGLE REPROGRAPHIC copy of a  
3 published work which is considered necessary for the collection  
4 of the library but which is out of stock AND NOT REASONABLY  
5 AVAILABLE TO IT THROUGH COMMERCIAL CHANNELS."  
6

7 SEC. 9. Section 190, Subsection 190.1 is hereby amended by striking  
8 "Subsection 177.6 and in lieu thereof, substituting "Subsection 177.3," and by  
9 striking "Subsection 185.2" and in lieu thereof, substituting "Subsection 184.2", to read  
10 as follows:  
11

12 "190.1. *Importation for Personal Purposes* - Notwithstanding the provision of  
13 Subsection [177.6] 177.3 but subject to the limitation under the  
14 Subsection [185.2] 184.2 the importation of a copy of a work by an  
15 individual for his personal purposes shall be permitted without the  
16 authorization of the author of, or other owner of copyright in,  
17 the work under the following circumstances:  
18

- 19 (a) When copies of the work are not available in the Philippines and:  
20 (i) Not more than one (1) copy at one time is  
21 imported by strictly individual use only; or  
22 (ii) The importation, consisting of not more than three (3)  
23 such copies or likenesses in anyone invoice, is not for  
24 sale but for the use only of any religious, charitable, or  
25 educational society or institution duly incorporated or  
26 registered, or is for the encouragement of the fine arts,  
27 or for any state school, college, university, or free public  
28 library in the Philippines.

29  
30 (b) When such copies forms parts of libraries and personal  
31 baggage belonging to persons or families arriving from foreign  
32 countries and are not intended for sale: *Provided*, That such copies do not  
33 exceed three (3).  
34

35 xxx  
36

37 190.3. Subject to the approval of the Secretary of Finance, the Commissioner  
38 of Customs is hereby empowered to make rules and regulations for  
39 preventing the importation OR EXPORTATION OF INFRINGING  
40 ARTICLES OR of articles the importation OR EXPORTATION of  
41 which is prohibited under this [Section] ACT and under treaties  
42 and conventions to which the Philippines may be a party and for  
43 seizing and condemning and disposing of the same in case they are  
44 discovered after they have been imported OR BEFORE THEY ARE  
45 EXPORTED, OR WHILE IN TRANSIT, THROUGH THE  
46 CUSTOMS TERRITORY OF THE REPUBLIC OF THE PHILIPPINES.

1  
2 SEC. 10. Section 191 is hereby amended by striking "Subsections 172.1, 172.2  
3 and 172.3," and in lieu thereof, substituting "Subsections 172.1(a), (b) and (c)",  
4 to read as follows:

5  
6 "SEC. 191. *Registration and Deposit with National Library and the*  
7 *Supreme Court Library.* - After the first public dissemination of performance  
8 by authority of the copyright owner of a work falling under Subsections  
9 [172.1, 172.2 and 172.3] 172.1 (a), (b) and (c) of this Act, there shall, for  
10 the purpose of completing the records of the National Library and the  
11 Supreme Court Library, within three (3) weeks, be registered and deposited  
12 with it, by personal delivery or by registered mail, two (2) complete copies  
13 or reproductions of the work in such form as the directors of said libraries  
14 may prescribe. A certificate of deposit shall be issued for which the  
15 prescribed fee shall be collected and the copyright owner shall be exempt  
16 from making additional deposit of the works with the National Library and  
17 the Supreme Court Library under other laws. If, within three (3) weeks after  
18 receipt by the copyright owner of a written demand from the directors for such  
19 deposit, the required copies or reproductions are not delivered and the fee  
20 is not paid, the copyright owner shall be liable to pay a fine equivalent to the  
21 required fee per month of delay and to pay to the National Library and  
22 the Supreme Court Library the amount of the retail price of the best  
23 edition of the work. Only the above mentioned classes of work shall be  
24 accepted for deposit by the National Library and the Supreme Court Library.  
25 (Sec. 26, P.D. No. 49a).

26  
27 SEC. 11. Subsection 205.2 is hereby amended to read as follows:

28  
29 "205.2. The provisions of Sections 184, [and Section] 185, AND 190  
30 shall apply *mutatis mutandis* to performers."

31  
32 SEC. 12. Section 20S is amended by amending subsection 20S.1 and adding  
33 a new subsection 20S.4 and to read as follows:

34  
35 "SEC. 208. *Scope of Right.* - Subject to the provisions of Section 212,  
36 producers of sound recordings shall enjoy the following exclusive rights:

37  
38 208.1 The right to authorize the direct or indirect reproduction of  
39 their sound recordings, in any manner or form,  
40 TEMPORARY OR PERMANENT, the placing of these  
41 reproductions in the market and the right of rental or lending.

42  
43 xxx

44  
45 208.4 THE RIGHT TO AUTHORIZE THE MAKING AVAILABLE TO  
46 THE PUBLIC OF THEIR SOUND RECORDINGS IN SUCH



1 A WAY THAT MEMBERS OF THE PUBLIC MAY ACCESS  
2 THE SOUND RECORDING FROM A PLACE AND  
3 TIME, INDIVIDUALLY CHOSEN OR SELECTED BY  
4 THEM, AS WELL AS OTHER TRANSMISSIONS OF  
5 A SOUND RECORDING WITH LIKE EFFECT.  
6

7 SEC. 13. Section 210 is hereby amended to read as follows:

8  
9 "SEC. 210. *Limitation of Right.* - Sections 184, [and] IS5, AND 190  
10 shall apply *mutatis mutandis* to the producer of sound recordings. (*See. 48,*  
11 *P.D. No. 49a).*"  
12

13 SEC. 14. Section 212 is hereby amended to read as follows:

14  
15 "SEC. 212. *Limitations on Rights.* - SUBJECT TO THE APPLICATION  
16 *MUTATIS MUTANDIS* OF SECTION 184.2 OF THIS ACT, Sections 203,  
17 208 and 209 shall not apply where the acts referred to in those Sections are  
18 [related to] CARRIED OUT IN CONNECTION WITH:  
19

- 20 212.1 The use by a natural person exclusively for his own personal purposes;  
21 212.2 Using short excerpts for reporting current events;  
22 212.3 Use solely for the purpose of teaching or for scientific research; and  
23 212.4 Fair use of the broadcast subject to the condition under Section 185 (*See.*  
24 *44, P.D. No. 49a).*  
25

26 SEC. 15. Section 216 of the same Act is hereby amended and renumbered  
27 to read as follows:

28  
29 "SEC 216. *INFRINGEMENT, WHAT CONSTITUTES.* - [Remedies for  
30 Infringement]. A PERSON INFRINGES A RIGHT PROTECTED UNDER  
31 THIS ACT WHEN HE OR SHE:  
32

- 33 (a) DIRECTLY COMMITS AN INFRINGEMENT OR CAUSES  
34 AN INFRINGEMENT TO BE COMMITTED:  
35  
36 (b) BENEFITS FINANCIALLY FROM THE INFRINGING ACTIVITY  
37 OF ANOTHER PERSON WHO COMMITS AN INFRINGEMENT  
38 IF THE PERSON BENEFITING HAS THE RIGHT AND ABILITY TO  
39 CONTROL THE ACTIVITIES OF THE OTHER PERSON; OR  
40  
41 (c) ENABLES OR INDUCES INFRINGEMENT BY ANOTHER  
42 PERSON ENABLING OR INDUCING THE INFRINGEMENT WHICH HE  
43 HAS OR REASONABLY SHOULD HAVE KNOWLEDGE OF  
44 AND MATERIALLY CONTRIBUTES TO IT.  
45

46 SEC. 16. Section 216.1 is hereby amended as follows:

1  
2 "SEC. 216.1 REMEDIES FOR INFRINGEMENT - Any  
3 person infringing a right protected under this law shall be liable:  
4

5 xxx  
6

7 (b) TO [P]pay to the copyright proprietor or his assigns or heirs such  
8 actual damages, including legal costs and other expenses, as he may  
9 have incurred due to the infringement as well as the profits the  
10 infringer may have made due to such infringement, and in  
11 proving profits the plaintiff shall be required to prove sales only  
12 and the defendant shall be required to prove every element of cost  
13 which he claims, *or*, in lieu of actual damages and profits, such  
14 damages which to the court shall appear to be just AND  
15 WHICH IT FINDS TO BE SUFFICIENT TO FULLY  
16 COMPENSATE THE RIGHT HOLDER FOR THE INJURY HE HAS  
17 SUFFERED, AND SUFFICIENT TO CONSTITUTE AS A  
18 DETERRENT TO FURTHER INFRINGEMENTS, and shall not be  
19 regarded as penalty.  
20

21 xxx  
22

23 (f) THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME  
24 BEFORE FINAL JUDGMENT IS RENDERED, TO RECOVER AN  
25 AWARD OF STATUTORY DAMAGES, INSTEAD OF ACTUAL  
26 DAMAGES AND PROFITS, FOR ALL INFRINGEMENTS INVOLVED  
27 IN THE ACTION WITH RESPECT TO ANY ONE WORK FOR  
28 WHICH AN INFRINGER IS LIABLE, AS THE COURT MAY  
29 CONSIDER JUST. IN CASES WHERE THE COURT FINDS  
30 THAT THE INFRINGEMENT WAS COMMITTED WILLFULLY,  
31 THE COURT, IN ITS DISCRETION, MAY INCREASE THE AWARD  
32 OF STATUTORY DAMAGES.  
33

34 SEC. 17. Subsection 216.2 is hereby amended by adding a proviso at the  
35 end of said subsection, to read as follows:  
36

37 "216.2 In an infringement action, the court shall also have the  
38 power to order the seizure and impounding of any article which may serve  
39 as evidence in the court proceedings: *PROVIDED, HOWEVER, THAT:*  
40

41 (a) UPON APPLICATION OF THE HOLDER OF ANY RIGHT  
42 UNDER THIS ACT, THE COURT MAY ORDER AS  
43 PROVISIONAL MEASURES, ANY OF THE RELIEF IT IS  
44 AUTHORIZED TO AWARD UNDER THE PROVISIONS OF  
45 THIS SECTION, EXCEPT FOR MONETARY DAMAGES,  
46 WITHOUT NOTICE TO THE OTHER PARTY, WHEN THE

1 COURT DEEMS IT NECESSARY TO PREVENT AN  
2 INFRINGEMENT OF AN INTELLECTUAL PROPERTY RIGHT, OR  
3 TO PRESERVE RELEVANT EVIDENCE OF ALLEGED  
4 INFRINGEMENT;

- 5
- 6 (b) SUCH RELIEF MAY INCLUDE, BUT IS NOT LIMITED TO,  
7 SEIZURE OR IMPOUNDMENT OF INFRINGING COPIES OF  
8 EQUIPMENT WHICH CAN BE USED TO MAKE  
9 INFRINGING COPIES OF BUSINESS RECORDS, AND OF  
10 DOCUMENTARY EVIDENCE IN ANY FORM, INCLUDING  
11 ELECTRONIC FORM;
- 12
- 13 (c) THE COURT MAY ORDER PROVISIONAL MEASURES  
14 WITHOUT NOTICE TO THE OTHER PARTY WHEN IT  
15 DETERMINES THAT DELAY IS LIKELY TO CAUSE  
16 IRREPARABLE HARM TO THE RIGHT HOLDER OR WHEN  
17 THERE IS A DEMONSTRABLE RISK OF EVIDENCE BEING  
18 DESTROYED OR WHEN THE COURT OTHERWISE DEEMS  
19 IT APPROPRIATE;
- 20
- 21 (d) THE COURT MAY CONDITION THE AVAILABILITY  
22 OF PROVISIONAL MEASURES UNDER THIS SECTION  
23 UPON SUFFICIENT SHOWING, BASED ON REASONABLY  
24 AVAILABLE EVIDENCE, THAT THE APPLICANTS RIGHTS HAVE  
25 BEEN OR ARE ABOUT TO BE INFRINGED, AND UPON  
26 SUBMISSION TO THE COURT OF A SUFFICIENT SECURITY  
27 TO PROTECT THE OTHER PARTY AND TO PREVENT ABUSE;
- 28
- 29 (e) UPON REQUEST BY THE OTHER PARTY, THE  
30 PROVISIONAL MEASURES SHALL CEASE TO HAVE EFFECT IF  
31 PROCEEDINGS LEADING TO DECISION ON THE MERITS ARE  
32 NOT INITIATED BY OR ON BEHALF OF THE APPLICANT  
33 WITHIN TWENTY (20) WORKING DAYS OR THIRTY-ONE (31)  
34 CALENDAR DAYS, FROM THE DATE OF IMPOSITION OF THE  
35 PROVISIONAL MEASURES, WHICHEVER IS LONGER, OR WITHIN  
36 SUCH OTHER REASONABLE PERIOD AS THE COURT MAY  
37 DETERMINE; AND
- 38
- 39 (f) THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT  
40 SUIT FOR RELIEF BY THE INJURED PARTY BY WAY OF  
41 DAMAGES, INJUNCTION, ACCOUNTS, OR OTHERWISE.
- 42

43 SEC. 18. Subsections 217.3 (b) and (c) are hereby amended to read as follows:  
44

1 "SEC. 217.3 Any person who, at the time when copyright subsists  
2 in a work, has in his possession an article which he knows, or ought to  
3 know, to be infringing copy of the work for the purpose of:

4 xxx

5 (b) Distributing, 'INCLUDING IMPORTING OR EXPORTING  
6 the article, for purpose of trade or for any other purpose to an  
7 extent that will prejudice the ,rights of the copyright owner in the  
8 work or

9 (c) [Trade exhibit of the article] EXHIBITING THE WORK in  
10 public, OR OTHERWISE USING THE ARTICLE FOR  
11 TRADE OR BUSINESS, shall be guilty of an offense and  
12 shall be liable on conviction to imprisonment and fine as  
13 above mentioned. (See 29, P.D. No. 490).

14  
15 SEC. 19. Subsection 218.1(c) is hereby amended to read as follows:

16  
17 "SEC. 218. Affidavit Evidence - 218.1. In an action under this  
18 Chapter, an affidavit made before a notary public by or on behalf of the  
19 owner of the copyright in any work or other subject matter and stating that:

20 xxx

21 (c) The copy of the work or other subject matter annexed thereto  
22 is a true copy thereof, shall be admitted in evidence in any  
23 proceedings [for an offense] under this Chapter and shall be  
24 prima facie proof of the matters therein stated until the  
25 contrary is proved, and the court before which such affidavit  
26 is produced shall assume that the affidavit was made by or  
27 on behalf of the owner of the copyright."

28  
29 SEC. 20. There shall be two new sections to be added at the end of Section 220.2  
30 to be known as Section 220A and 220B, to read as follows:

31  
32 "SEC 220A. DISCLOSURE OF INFORMATION

33  
34 220A.1. WHERE AN ARTICLE OR ITS PACKAGING OR AN  
35 IMPLEMENT FOR MAKING IT IS SEIZED OR DETAINED  
36 UNDER THIS ACT, OR IS REASONABLY SUSPECTED BY AN  
37 AUTHORIZED OFFICER TO BE IN VIOLATION OF THIS ACT,  
38 THE AUTHORIZED OFFICER SHALL, WHENEVER  
39 REASONABLY PRACTICABLE, NOTIFY THE OWNER OF THE  
40 COPYRIGHT IN QUESTION OR HIS AUTHORIZED AGENT OF  
41 THE SEIZURE OR DETENTION, AS THE CASE MAY BE.

42  
43 220A.2. IN THE ABOVE-MENTIONED CIRCUMSTANCES, AN AUTHORIZED  
44 OFFICER MAY DISCLOSE TO THE OWNER OF THE COPYRIGHT OR  
45 TO HIS AUTHORIZED AGENT THE FOLLOWING:

- 1 (A) THE TIME AND PLACE, OF SEIZURE OR DETENTION OF THE  
2 ARTICLE;
- 3
- 4 (B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM  
5 THE ARTICLE HAS BEEN SEIZED OR DETAINED;
- 6
- 7 (C) THE NATURE AND QUANTITY OF ARTICLES SEIZED OR  
8 DETAINED;
- 9
- 10 (D) ANY STATEMENT MADE TO AN AUTHORIZED OFFICER BY  
11 THE PERSON IN CONNECTION WITH THE SEIZURE OR  
12 DETENTION, EITHER WITH THE PRIOR CONSENT IN  
13 WRITING OF THAT PERSON OR WITHOUT SUCH CONSENT  
14 WHERE THE PERSON IS DEAD OR CANNOT AFTER  
15 REASONABLE ENQUIRIES BY AN AUTHORIZED OFFICER AS  
16 TO HIS WHERE-ABOUTS BE FOUND; AND
- 17
- 18 (E) ANY OTHER INFORMATION OR DOCUMENT RELATING  
19 TO THE ARTICLE SEIZED OR DETAINED WHICH  
20 AN AUTHORIZED OFFICER DEEMS FIT TO DISCLOSE.  
21

22 220A.3. THE OWNER OF THE COPYRIGHT OR HIS AUTHORIZED  
23 AGENT SEEKING DISCLOSURE OF ANY INFORMATION OR  
24 DOCUMENT THAT IS NOT REFERRED TO IN THE PREVIOUS  
25 PARAGRAPH OR THAT IS NOT DISCLOSED BY THE  
26 AUTHORIZED OFFICER MAY APPLY TO THE COURT FOR  
27 AN ORDER REQUIRING THE AUTHORIZED OFFICER TO  
28 DISCLOSE SUCH INFORMATION OR DOCUMENT AND THE  
29 COURT MAY ON SUCH AN APPLICATION MAKE SUCH ORDER  
30 FOR DISCLOSURE AS IT THINKS FIT.  
31

32 SEC 220B ACCEPTANCE OF PROPORTIONAL EXAMINATION  
33 OF ARTICLES SEIZED.  
34

35 220B.1. WHERE PACKAGES, RECEPTACLES OR CONTAINERS  
36 CONTAINING COPIES OR IMPLEMENTS SUSPECTED OF  
37 VIOLATING THIS ACT ARE SEIZED OR DETAINED, IT SHALL BE  
38 SUFFICIENT ONLY TO OPEN AND EXAMINE THREE  
39 PERCENT (3%) OR ANY TEN (10) COPIES, WHICHEVER IS  
40 HIGHER, OF THE CONTENTS OF EACH PACKAGE,  
41 RECEPTACLE OR CONTAINER SEIZED.  
42

43 220B.2. WHERE PROCEDURES WERE CARRIED OUT IN  
44 ACCORDANCE WITH THE PREVIOUS PARAGRAPH, THE  
45 COURT SHALL PRESUME THAT THE REMAINING COPIES

1 CONTAINED IN THE PACKAGE OR RECEPTACLE ARE OF  
2 THE SAME NATURE AS THOSE COPIES EXAMINED."  
3

4 SEC. 21. Chapter XVIII is hereby amended by adding a new Section at  
5 the end thereof to be known as Section 224A. to read as follows:  
6

7 "SECTION 224A, PROTECTION OF EXISTING SUBJECT MATTER:  
8

9 (224A.1.) THE PROTECTION PROVIDED UNDER PART IV OF THIS  
10 ACT SHALL ALSO APPLY TO WORKS, SOUND  
11 RECORDINGS AND PERFORMANCES FIXED IN  
12 SOUND RECORDINGS IN EXISTENCE UPON THE  
13 EFFECTIVITY OF THIS ACT, AND  
14 WHICH ARE THE SUBJECT OF INTERNATIONAL  
15 CONVENTIONS, TREATIES, OR AGREEMENTS TO WHICH  
16 THE PHILIPPINES IS A PARTY, PROVIDED, HOWEVER,  
17 THAT ON SUCH DATE, THE WORK, SOUND  
18 RECORDING, OR PERFORMANCE FIXED IN A SOUND  
19 RECORDING HAS NOT YET FALLEN INTO THE PUBLIC  
20 DOMAIN IN ITS COUNTRY OF ORIGIN OR IN THE  
21 PHILIPPINES THROUGH THE EXPIRY OF THE TERM OF  
22 PROTECTION WHICH WAS PREVIOUSLY GRANTED.  
23

24 (224A.2.) COPIES OF WORKS, SOUND RECORDINGS AND  
25 PERFORMANCES FIXED IN SOUND RECORDINGS THAT  
26 ARE NEWLY PROTECTED SOLELY AS A RESULT  
27 OF THE APPLICATION OF THIS SECTION WHICH ARE  
28 IN EXISTENCE UPON THE EFFECTIVITY OF THIS ACT,  
29 MAY BE SOLD OR OTHERWISE DISPOSED OF BY THE  
30 OWNER OF SUCH COPY UNTIL THE EXPIRATION OF  
31 THREE (3) MONTHS FROM THE DATE OF EFFECTIVITY OF  
32 THIS ACT.  
33

34 (224A.3.) NO OTHER EXERCISE OF EXCLUSIVE RIGHTS UNDER  
35 THIS ACT WITH RESPECT TO SUCH WORK, SOUND  
36 RECORDING, OR PERFORMANCE FIXED IN A SOUND  
37 RECORDING SHALL BE PERMITTED WITHOUT THE  
38 CONSENT OF THE AUTHOR OR OTHER RIGHT HOLDER OF  
39 SAID WORK, SOUND RECORDING, OR PERFORMANCE  
40 FIXED IN A SOUND RECORDING."  
41

42 SEC. 22. Part IV is hereby amended by adding a new Chapter at the end  
43 thereof to be known as Chapter XXI, to read as follows:  
44

45 "CHAPTER XXI. TECHNOLOGICAL PROTECTION MEASURES AND  
46 RIGHTS MANAGEMENT INFORMATION

1  
2 SECTION 229A TECHNOLOGICAL PROTECTION MEASURES  
3

4 229A.1. ANY PERSON WHO DOES EITHER OF THE FOLLOWING  
5 SHALL BE GUILTY OF A CRIME, PUNISHABLE TO THE SAME  
6 EXTENT AS PROVIDED IN SECTION 217.1 (B) OF THIS ACT FOR  
7 THE FIRST OFFENSE, AND TO THE SAME EXTENT AS  
8 PROVIDED IN SECTION 217.1(C) FOR THE SECOND OR  
9 SUBSEQUENT OFFENSE, AND SHALL ALSO BE LIABLE UPON  
10 THE SUIT OF ANY INJURED PARTY, TO A RELIEF, INCLUDING  
11 BUT NOT LIMITED TO, DAMAGES, INJUNCTION,  
12 IMPOUNDMENT, AND DESTRUCTION. THE REMEDIES  
13 PROVIDED IN SECTION 216 SHALL APPLY, MUTATIS  
14 MUTANDIS, TO VIOLATIONS OF THIS SECTION:  
15

- 16 (a) KNOWINGLY, OR HAVING REASONABLE GROUNDS TO  
17 KNOW, CIRCUMVENTS WITHOUT AUTHORITY ANY  
18 EFFECTIVE TECHNOLOGICAL MEASURE; OR  
19  
20 (b) MANUFACTURES, IMPORTS, EXPORTS, DISTRIBUTES, OFFERS  
21 TO THE PUBLIC, PROVIDES, OR OTHERWISE TRAFFICS IN  
22 DEVICES, PRODUCTS OR COMPONENTS OR OFFERS TO  
23 THE PUBLIC OR PROVIDES SERVICES:  
24  
25 (i) THAT ARE PROMOTED, ADVERTISED OR MARKETED  
26 FOR THE PURPOSE OF CIRCUMVENTION OF ANY  
27 EFFECTIVE TECHNOLOGICAL MEASURE; OR  
28  
29 (ii) THAT HAVE ONLY A LIMITED COMMERCIALY  
30 SIGNIFICANT PURPOSE OR USE OTHER THAN TO  
31 CIRCUMVENT ANY EFFECTIVE TECHNOLOGICAL  
32 MEASURE; OR  
33  
34 (iii) THAT ARE PRIMARILY DESIGNED, PRODUCED,  
35 ADAPTED OR PERFORMED FOR THE PURPOSE OF  
36 ENABLING OR FACILITATING THE  
37 CIRCUMVENTION OF ANY EFFECTIVE  
38 TECHNOLOGICAL MEASURE.  
39

40 229A.2. THIS SECTION PROHIBITS CIRCUMVENTION OF  
41 TECHNOLOGICAL MEASURES, AND DOES NOT REQUIRE  
42 AN AFFIRMATIVE RESPONSE TO SUCH MEASURES. THIS  
43 SECTION DOES NOT REQUIRE THAT THE DESIGN OF, OR THE  
44 DESIGN AND SELECTION OF PARTS AND COMPONENTS FOR  
45 A CONSUMER ELECTRONICS, TELECOMMUNICATIONS OR  
46 COMPUTING PRODUCT PROVIDE FOR A RESPONSE TO ANY

1 PARTICULAR TECHNOLOGICAL MEASURE. THIS  
2 PARAGRAPH DOES NOT PROVIDE A DEFENSE TO A  
3 CLAIM OF VIOLATION OF PARAGRAPH (1)(B).  
4

5 229A.3.A VIOLATION OF THIS SECTION IS INDEPENDENT OF ANY  
6 INFRINGEMENT THAT MIGHT OCCUR UNDER THIS ACT.  
7

8 SECTION 229B INTEGRITY OF RIGHTS MANAGEMENT INFORMATION  
9

10 ANY PERSON WHO DOES EITHER OF THE FOLLOWING SHALL  
11 BE GUILTY OF A CRIME, PUNISHABLE TO THE SAME EXTENT  
12 AS PROVIDED IN SECTION 217.1 OF THIS ACT, AND SHALL  
13 ALSO BE LIABLE UPON THE SUIT OF ANY INJURED PARTY, TO  
14 RELIEF BY WAY OF DAMAGES, INJUNCTION, IMPOUNDMENT,  
15 DESTRUCTION OR OTHERWISE, AND THE REMEDIES PROVIDED IN  
16 SECTION 216 SHALL APPLY, MUTATIS MUTANDIS, TO VIOLATIONS OF  
17 THIS SECTION  
18

19 (a) KNOWINGLY AND WITHOUT AUTHORITY REMOVES  
20 OR ALTERS ANY ELECTRONIC RIGHTS MANAGEMENT  
21 INFORMATION FROM A COPY OF A WORK, SOUND RECORDING,  
22 OR FIXATION OF A PERFORMANCE, OR KNOWINGLY  
23 AND WITHOUT AUTHORITY DISTRIBUTES, IMPORTS FOR  
24 DISTRIBUTION, BROADCASTS, COMMUNICATES OR MAKES  
25 AVAILABLE TO THE PUBLIC COPIES OF WORKS, SOUND  
26 RECORDINGS, OR FIXATIONS OF PERFORMANCES FROM WHICH  
27 ELECTRONIC RIGHTS MANAGEMENT INFORMATION HAS BEEN  
28 REMOVED; OR  
29

30 (b) ALTERS ELECTRONIC RIGHTS MANAGEMENT INFORMATION  
31 WITHOUT AUTHORITY, KNOWING OR (WITH RESPECT TO CIVIL  
32 REMEDIES) HAVING REASONABLE GROUNDS TO KNOW THAT  
33 SUCH ACTIVITY WILL ENABLE OR FACILITATE AN INFRINGEMENT  
34 OF ANY RIGHT PROTECTED UNDER THIS LAW."  
35

36 SEC. 23. All laws, decrees, executive orders, issuances or regulations  
37 inconsistent with the provisions of this Act are hereby revised or amended  
38 accordingly.  
39

40 SEC. 24. If any part of this law is declared unconstitutional or invalid, such  
41 parts or provisions thereof not so declared shall remain valid and subsisting.  
42

43 SEC. 25. This Act shall take effect fifteen (15) days from publication in two  
44 (2) newspapers of general circulation in the country.  
45

46 Approved,