

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
First Regular Session )

04 JUN 30 P5:26

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S E N A T E

S. No. 432

Introduced by Senator S. R. Osmeña III

**EXPLANATORY NOTE**

Internet technology has gone a long way after it was first invented in the 1960s as part of the United States military tool for research and intelligence purposes. Four decades later, it evolved from a basic chatting service to exchange information and scientific researches to become a giant cybermall offering services and products of all shapes and sizes, to and from the ends of the earth.

The possibilities of internet technology is almost boundless and limitless. Yet, with all its infinite possibilities come the limitless problems and conflicts. One of the most common and expensive problem is Cyber Squatting.

Cyber Squatting is the act of acquiring a domain name in the cyberspace before the rightful and legitimate owner of trademark or a personal/business name can do so. Consequently, the cyber squatter sells the domain back to the legitimate owner but with an appalling price that runs into millions of pesos.

The most celebrated example is the Philippine Long Distance Telecommunications (PLDT) Inc. case against a certain Gerry Kaimo who owns the pldt.com domain which he uses for political commentaries. Kaimo's Philippine League for Democratic Telecommunications Inc. (PLDTi) was sued for P1.35 million pesos on the ground of intellectual property infringement but PLDT lost the case in the January 29, 2004 ruling stating that "the plaintiff (PLDT) has not been able to show its entitlement to the relief prayed for". This is very unfortunate as PLDT has been using the acronym for over 70 years.

To discourage future predicaments such as this one, this measure is hereby proposed to ensure the integrity of domain names. It is in every intention of this measure to help the legitimate owners stake a rightful claim to their domain names.

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

*S. Osmeña III*

**SERGIO OSMEÑA III**  
Senator

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**AN ACT**  
**TO PREVENT FRAUDULENT ACQUISITION OF A PHILIPPINE DOMAIN OR**  
**.PH DOMAIN NAME OVER THE INTERNET AND FOR OTHER PURPOSE**

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

1           SECTION 1. Title - This Act shall be known as the "**Anti-Cyber**  
2 **Squatting Act of 2004**".

3           SEC. 2. **Declaration of State Policies** - The state recognizes the vital  
4 role of communication and information in nation building.

5           SEC. 3. **Definition of Terms** - For purposes of this Act, the following  
6 terms shall mean:

7           Philippine Domain Name or .PH Domain - any alphanumeric designation  
8 with a .ph suffix which is registered with or assigned by any Phillipines' country  
9 code top level domain (ccTLD) registrar as part of the electronic address on the  
10 Internet.

11           Web Site - shall refer to the electronic address or home page of a person  
12 or entity in the Internet.

13           Domain Name Registration - is a service provided by any domain name  
14 registrar to obtain a domain name for use of web site.

15           Philippine Domain Name Registrar - is an organization awarded by  
16 Internet Corporation for Assigned Names and Numbers (ICANN), the highest

1 governing body for Internet addresses, to manage and distribute the .PH domain  
2 names to local customers.

3 Internet - shall refer to the myriad of computer and telecommunications  
4 facilities, including equipment and operating software, which comprise the  
5 interconnected world-wide network of networks that employ the Transmission  
6 Control Protocol/ Internet Protocol (TCP/IP), or any predecessor or successor  
7 protocols to such protocol, to communicate information of all kinds.

8 **SEC. 4. Cyber Piracy Prevention** - it shall be unlawful for any person or  
9 entity to acquire a domain name over the Internet if there is a bad faith intent to  
10 profit, mislead, destroy reputation, and deprive others from registering, if such  
11 domain name is:

12 a.) similar, identical, or confusingly similar to an existing trademark  
13 registered with the appropriate government agency at the time of the  
14 domain name registration;

15 b.) identical or in any way similar with the name of a person other than  
16 the registrant, in case of a personal name; and

17 c.) acquired with no rights or intellectual property interests in it.

18 **SEC. 5. Liability of a Philippine Domain Name Registrar** - Any Domain  
19 Name Registrar or any of its authorized domain name distributor, shall be civilly  
20 liable for accepting the registration of a fraudulent domain name.

21 **SEC. 6. Penalties** - Any person who violates any provision of this Act  
22 shall, upon conviction, will be penalized by imprisonment of *prision correccional*  
23 in its maximum period up to *prision mayor* in its minimum period, or a fine of not  
24 less than P2,000,000 nor more than P50,000,000; or both such fine and  
25 imprisonment at the discretion of the court.

26 The remedies of an *in rem action* under this Act shall be limited to a court  
27 order for the forfeiture or cancellation of the domain name or the transfer of the  
28 domain name to the legitimate owner.

1           SEC. 7. **Repealing Clause** - The provision of any law, Issuance,  
2   Executive Order, Letter of Instruction, Rules or Regulations which are  
3   inconsistent with the provision of this Act are hereby repealed, amended, pr  
4   modified accordingly.

5           SEC. 8. **Separability Clause** - If for any reason, any provision of this Act  
6   is declared invalid or unconstitutional, the remainder of this Act shall not be  
7   affected.

8           SEC. 9. **Effectivity** - This Act shall take effect immediately upon  
9   publication in a newspaper of general circulation.

Approved ,