

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

5 APR -5 AIO:40

SENATE

RECEIVED BY: _____

S. B. NO. 1973

Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

Since 1980, the Philippines has been a member of the World Intellectual Property Organization ("WIPO") which seeks "to promote the protection of intellectual property throughout the world through cooperation among States."

Likewise, the Philippines is a signatory to other international treaties and conventions on intellectual property rights, to wit: 1) Convention Establishing the World Intellectual Property Organization [since 1980]; 2) Paris Convention for the Protection of Industrial Property [since 1965]; 3) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for Purposes of Patent Procedure [since 1981]; 4) Berne Convention for the Protection of Literary and Artistic [since 1951]; 5) International Convention for the Protection of Performers, Producers of Phonographs and Broadcasting Organizations [since 1984]; and 6) Agreement on Trade-Related Aspects of Intellectual Property Rights [since 1996].

Year 1998, in adherence to these international treaties for a universal or global protection of intellectual property and in keeping with the Constitutional mandate enshrined in Article XIV, Section 13, which enjoins the State to "protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creation," Congress passed Republic Act 8293 or the Intellectual Property Code (IPC) of the Philippines.

Four years after, or on 4 October 2002, the Philippines ratified two (2) additional treaties, the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). These treaties, commonly referred to as the "Internet Treaties," were intended to modernize and supplement the existing international treaties (Berne Convention and the Rome Convention) on copyright. The treaties respond to critical issues formed by the introduction of digital technologies, especially in the area of dissemination of protected material over the internet.

While our IPC was shaped with a consummate vision at the time of its enactment, its provisions have not kept pace with the advances made in the area of intellectual property rights infringement in E-Commerce. Thus, with the Philippines' ratification of the WCT and WPPT, there is a need for amendments to the IPC to contain the additional obligations imposed by the provisions in said treaties. More particularly, our laws must address two new issues: 1) the technological measures provisions (Article 11 of the WCT and Article 18 of the WPPT); and 2) the rights management information provisions (Article 12 of the WCT and WPPT) of the Internet Treaties.

This bill therefore seeks to amend the Code through the integration of comprehensive and efficient strategies to respond to the upsurge of internet piracy. Also, it seeks to give recognition to the rights of performers, phonogram producers and broadcasters as are accorded authors of artistic and literary works, by acknowledging their right to control or be compensated for the various ways in which their works are used or enjoyed by others. This measure also seeks to recognize rights to distribution and rental, and rights to receive payments for certain forms of broadcasting or communication to the public.

Indeed, through these amendments, Philippines is doing its share in providing safeguards to insure that rights-holders can effectively use technology to protect their own rights and to license their own works online. More stringent penalties are likewise recommended for rights-violators, while immediate judicial relief and alternative options are proposed to be accorded actual and potential victims of infringement who would sustain incalculable losses for every minute that their works are used or exploited in the internet by infringers.

To sum, the overriding goal of this proposal is to provide an Internet environment where it is safe to distribute and license protected material. Because in an increasingly global arena, nothing less than a global effort will ensure the effective protection and development of intellectual property.

For this, I urge my esteemed colleagues in the Chamber to support the immediate passage of the bill.


EDGARDO J. ANGARA
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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5 APR -5 10:40

SENATE
S. B. NO. 1973

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Introduced by SENATOR EDGARDO J. ANGARA

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

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

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

2
3
4 **SEC. 171. Definitions.** – For the purpose of this Act, the following
5 terms have the following meaning:

6
7 x x x

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

16
17 x x x

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

22
23 X x x

1 "171.12 **"EFFECTIVE TECHNOLOGICAL MEASURE"** MEANS ANY
2 TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL
3 COURSE OF ITS OPERATION, CONTROLS ACCESS TO A PROTECTED
4 WORK, SOUND RECORDING, OR OTHER SUBJECT MATTER, OR
5 PROTECTS ANY COPYRIGHT OR ANY RIGHTS RELATED TO COPYRIGHT
6 AS PROVIDED BY THIS ACT.
7

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

27 **Section 2.** Section 177.3 is hereby amended to read as follows:

28
29 SEC. 177. *Copyright or Economic Rights.* – Subject to the provisions of
30 Chapter VIII, copyright or economic rights shall consist of the exclusive right
31 to carry out, authorize or prevent the following acts:

32 x x x

33
34 177.3 "THE IMPORTATION INTO THE PHILIPPINES, AND the first public
35 distribution within the Philippines, of the original and each copy of
36 the work, by sale or other forms of transfer of ownership.
37

38 **Section 3.** Section 178.5 is hereby amended by striking "exhibition" and
39 inserting "exploitation" and to read as follows:

1
2 **SEC. 178.** *Rules on Copyright Ownership.* – Copyright ownership
3 shall be governed by the following rules:

4 x x x

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

15
16 **Section 4.** Section 180 is hereby amended by inserting the following new
17 paragraph to be known as 180.4 to read as follows:

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

22 x x x

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

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

31 **SEC. 183.** *Designation of Society.* - The copyright owners
32 or their heirs may designate a society of artists, writers, or composers,
33 OR A SIMILAR AGENT, to enforce their economic rights or moral rights
34 on their behalf.
35

36
37 **Section 6.** Section 184, sub-sections (i) and (k) is hereby amended to read
38 as follows:
39

1 **SEC. 184. *Limitations on Copyright.*** – 184.1. Notwithstanding
2 the provisions of Chapter V, the following acts shall not constitute
3 infringement of copyright:

4 x x x

5
6 (i) The public performance or the communication to the public of
7 a work, in a place where no admission fee is charged DIRECTLY
8 OR INDIRECTLY in respect of such public performance or
9 communication, by a club or institution for charitable or
10 educational purpose only, whose aim is not profit making;
11 WHERE NO COMPENSATION OR FEE IS PAID TO ANY
12 PERFORMER, PROMOTER, OR ORGANIZER OF THE PUBLIC
13 PERFORMANCE OR COMMUNI-CATION; AND subject to such
14 other limitations as may be provided in the Regulations.

15
16 x x x

17
18 (k) Any use made of a work for the purpose of any judicial
19 proceedings or for the giving of professional advice by a legal
20 practitioner WITH RESPECT TO SUCH A WORK, ITS CREATION
21 OR EXPLOITATION.

22
23
24 **Section 7.** Section 185.1 is hereby amended to read as follows:

25 **SEC. 185. *Fair Use of a Copyrighted Work.*** – 185.1 The fair use of
26 a copyrighted work for criticism, comment, news reporting, teaching
27 including multiple copies for classroom use, scholarship, research, and
28 similar purposes is not an infringement of copyright. Decompilation, which
29 is understood here to be the reproduction of the code and translation of the
30 forms of [the] A computer program to achieve the inter-operability of an
31 independently created computer program with other programs may also
32 constitute fair use UNDER THE CRITERIA ESTABLISHED BY THIS SECTION, TO
33 THE EXTENT THAT SUCH DECOMPILATION IS INDISPENSABLE IN ORDER TO
34 OBTAIN THE INFORMATION NECESSARY TO ACHIEVE SUCH INTER-
35 OPERABILITY. In determining whether the use made of a work in any
36 particular case is fair use, the factors to be considered shall include:
37

38
39
40 **Section 8.** Section 188 is hereby amended to read as follows:
41

1
2 **SEC. 188. *Reprographic Reproduction by Libraries.*** – 188.1

3 Notwithstanding the provisions of Subsection 177.6, any library or archive
4 whose activities are not for profit may, without the authorization of the
5 author of copyright owner, make a single copy of the work by reprographic
6 reproduction:

7 x x x

8
9 188.2 Notwithstanding the above provisions, it shall not be permissible
10 to produce a volume of work published in several volumes or to
11 produce missing tomes or pages of magazines or similar works,
12 unless the volume, tome or part is out of stock: *Provided*, That
13 every library which, UNDER SECTION 191, is entitled to receive
14 copies of a printed work, shall be entitled, when special reasons so
15 require, to reproduce a SINGLE REPROGRAPHIC copy of a
16 published work which is considered necessary for the collection of
17 the library but which is out of stock AND NOT REASONABLY
18 AVAILABLE TO IT THROUGH COMMERCIAL CHANNELS.

19
20
21 **Section 9.** Section 190, Subsection 190.1 is hereby amended by striking
22 “Subsection 177.6” and in lieu thereof, substituting “Subsection 177.3,” and by
23 striking “Subsection 185.2” and in lieu thereof, substituting “Subsection 184.2”, to
24 read as follows:

25
26 190.1. ***Importation for Personal Purposes*** – Notwithstanding the provision
27 of Subsection [177.6] **177.3** but subject to the limitation under the
28 Subsection [185.2] **184.2** the importation of a copy of a work by an
29 individual for his personal purposes shall be permitted without the
30 authorization of the author of, or other owner of copyright in, the
31 work under the following circumstances:

- 32 (a) When copies of the work are not available in the Philippines and:
- 33 (i) Not more than one (1) copy at one time is imported by strictly
34 individual use only; or
- 35 (ii) The importation is by authority of and for the use of the
36 Philippine Government; or
- 37 (iii) The importation, consisting of not more than three (3) such
38 copies or likenesses in any one invoice, is not for sale but for
39 the use only of any religious, charitable, or educational society
40 or institution duly incorporated or registered, or is for the

1 encouragement of the fine arts, or for any state school,
2 college, university, or free public library in the Philippines.

3
4 (b) When such copies forms parts of libraries and personal baggage
5 belonging to persons or families arriving from foreign countries
6 and are not intended for sale: *Provided*, That such copies do not
7 exceed three (3).

8
9 X x x

10 190.3. Subject to the approval of the Secretary of Finance, the Commissioner
11 of Customs is hereby empowered to make rules and regulations for
12 preventing the importation OR EXPORTATION OF INFRINGING
13 ARTICLES OR of articles the importation OR EXPORTATION of which is
14 prohibited under this [Section] ACT and under treaties and
15 conventions to which the Philippines may be a party and for seizing
16 and condemning and disposing of the same in case they are
17 discovered after they have been imported OR BEFORE THEY ARE
18 EXPORTED, OR WHILE IN TRANSIT, THROUGH THE CUSTOMS
19 TERRITORY OF THE REPUBLIC OF THE PHILIPPINES.

20
21 **Section 10.** Section 191 is hereby amended by striking "Subsections 172.1,
22 172.2 and 172.3," and in lieu thereof, substituting "Subsections 172.1(a), (b) and (c)",
23 to read as follows:

24
25 **Sec. 191. Registration and Deposit with National Library and**
26 **the Supreme Court Library.** – After the first public dissemination of
27 performance by authority of the copyright owner of a work falling under
28 Subsections [172.1, 172.2 and 172.3] **172.1(a), (b) and (c)** of this Act, there
29 shall, for the purpose of completing the records of the National Library and
30 the Supreme Court Library, within three (3) weeks, be registered and
31 deposited with it, by personal delivery or by registered mail, two (2)
32 complete copies or reproductions of the work in such form as the directors
33 of said libraries may prescribe. A certificate of deposit shall be issued for
34 which the prescribed fee shall be collected and the copyright owner shall be
35 exempt from making additional deposit of the works with the National
36 Library and the Supreme Court Library under other laws. If, within three (3)
37 weeks after receipt by the copyright owner of a written demand from the
38 directors for such deposit, the required copies or reproductions are not

1 delivered and the fee is not paid, the copyright owner shall be liable to pay a
2 fine equivalent to the required fee per month of delay and to pay to the
3 National Library and the Supreme Court Library the amount of the retail
4 price of the best edition of the work. Only the above mentioned classes of
5 work shall be accepted for deposit by the National Library and the Supreme
6 Court Library. (Sec. 26, P.D. No. 49a).

7
8
9 **Section 11.** Subsection 205.2 is hereby amended to read as follows:

10
11
12 205.2. The provisions of Sections 184, [and Section] 185, AND 190
13 shall apply *mutatis mutandis* to performers.

14
15
16
17
18 **Section 12.** Section 208 is amended by amending subsection 208.1 and
19 adding a new subsection 208.4 and to read as follows:

20
21 **SEC. 208. *Scope of Right.*** – Subject to the provisions of Section 212,
22 producers of sound recordings shall enjoy the following exclusive rights:

23
24 208.1 The right to authorize the direct or indirect reproduction of
25 their sound recordings, in any manner or form, TEMPORARY
26 OR PERMANENT, the placing of these reproductions in the
27 market and the right of rental or lending.

28
29 X x x

30 208.4 THE RIGHT TO AUTHORIZE THE MAKING AVAILABLE TO THE
31 PUBLIC OF THEIR SOUND RECORDINGS IN SUCH A WAY THAT
32 MEMBERS OF THE PUBLIC MAY ACCESS THE SOUND
33 RECORDING FROM A PLACE AND TIME, INDIVIDUALLY
34 CHOSEN OR SELECTED BY THEM, AS WELL AS OTHER
35 TRANSMISSIONS OF A SOUND RECORDING WITH LIKE EFFECT.

36
37
38 **Section 13.** Section 210 is hereby amended to read as follows:

39
40 **SEC. 210. *Limitation of Right.*** - Sections 184, [and] 185, AND 190
41 shall apply *mutatis mutandis* to the producer of sound recordings. (Sec. 48,
42 P.D. No. 49a).

1 **Section 14.** Section 212 is hereby amended to read as follows:

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

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

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

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

- (a) DIRECTLY COMMITS AN INFRINGEMENT OR CAUSES AN
INFRINGEMENT TO BE COMMITTED;
- (b) BENEFITS FINANCIALLY FROM THE INFRINGING ACTIVITY OF
ANOTHER PERSON WHO COMMITS AN INFRINGEMENT IF THE
PERSON BENEFITING HAS THE RIGHT AND ABILITY TO CONTROL THE
ACTIVITIES OF THE OTHER PERSON; OR
- (c) ENABLES OR INDUCES INFRINGEMENT BY ANOTHER PERSON
ENABLING OR INDUCING THE INFRINGEMENT WHICH HE HAS OR
REASONABLY SHOULD HAVE KNOWLEDGE OF AND MATERIALLY
CONTRIBUTES TO IT.

Section 16. Section 216.1 is hereby amended as follows:

"Sec. 216.1 REMEDIES FOR INFRINGEMENT – Any person
infringing a right protected under this law shall be liable:

x x x

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

13
14 X x x

15 (f) THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME BEFORE FINAL
16 JUDGMENT IS RENDERED, TO RECOVER AN AWARD OF STATUTORY
17 DAMAGES, INSTEAD OF ACTUAL DAMAGES AND PROFITS, FOR ALL
18 INFRINGEMENTS INVOLVED IN THE ACTION WITH RESPECT TO ANY
19 ONE WORK FOR WHICH AN INFRINGER IS LIABLE, AS THE COURT MAY
20 CONSIDER JUST. IN CASES WHERE THE COURT FINDS THAT THE
21 INFRINGEMENT WAS COMMITTED WILLFULLY, THE COURT, IN ITS
22 DISCRETION, MAY INCREASE THE AWARD OF STATUTORY DAMAGES.

23
24
25 **Section 17.** Subsection 216.2 is hereby amended by adding a proviso at
26 the end of said subsection, to read as follows:

27
28 216.2 In an infringement action, the court shall also have the power
29 to order the seizure and impounding of any article which may serve as
30 evidence in the court proceedings: *PROVIDED, HOWEVER, THAT:*

31
32 (a) UPON APPLICATION OF THE HOLDER OF ANY RIGHT UNDER THIS
33 ACT, THE COURT MAY ORDER AS PROVISIONAL MEASURES, ANY OF
34 THE RELIEF IT IS AUTHORIZED TO AWARD UNDER THE PROVISIONS
35 OF THIS SECTION, EXCEPT FOR MONETARY DAMAGES, WITHOUT
36 NOTICE TO THE OTHER PARTY, WHEN THE COURT DEEMS IT
37 NECESSARY TO PREVENT AN INFRINGEMENT OF AN INTELLECTUAL
38 PROPERTY RIGHT, OR TO PRESERVE RELEVANT EVIDENCE OF ALLEGED
39 INFRINGEMENT;

1
2 (b) SUCH RELIEF MAY INCLUDE, BUT IS NOT LIMITED TO, SEIZURE OR
3 IMPOUNDMENT OF INFRINGING COPIES OF EQUIPMENT WHICH CAN
4 BE USED TO MAKE INFRINGING COPIES OF BUSINESS RECORDS, AND
5 OF DOCUMENTARY EVIDENCE IN ANY FORM, INCLUDING
6 ELECTRONIC FORM;

7
8 (c) THE COURT MAY ORDER PROVISIONAL MEASURES WITHOUT NOTICE
9 TO THE OTHER PARTY WHEN IT DETERMINES THAT DELAY IS LIKELY
10 TO CAUSE IRREPARABLE HARM TO THE RIGHT HOLDER OR WHEN
11 THERE IS A DEMONSTRABLE RISK OF EVIDENCE BEING DESTROYED
12 OR WHEN THE COURT OTHERWISE DEEMS IT APPROPRIATE;

13
14 (d) THE COURT MAY CONDITION THE AVAILABILITY OF PROVISIONAL
15 MEASURES UNDER THIS SECTION UPON SUFFICIENT SHOWING,
16 BASED ON REASONABLY AVAILABLE EVIDENCE, THAT THE
17 APPLICANTS RIGHTS HAVE BEEN OR ARE ABOUT TO BE INFRINGED,
18 AND UPON SUBMISSION TO THE COURT OF A SUFFICIENT SECURITY
19 TO PROTECT THE OTHER PARTY AND TO PREVENT ABUSE;

20
21 (e) UPON REQUEST BY THE OTHER PARTY, THE PROVISIONAL MEASURES
22 SHALL CEASE TO HAVE EFFECT IF PROCEEDINGS LEADING TO
23 DECISION ON THE MERITS ARE NOT INITIATED BY OR ON BEHALF OF
24 THE APPLICANT WITHIN TWENTY (20) WORKING DAYS OR THIRTY-
25 ONE (31) CALENDAR DAYS, FROM THE DATE OF IMPOSITION OF THE
26 PROVISIONAL MEASURES, WHICHEVER IS LONGER, OR WITHIN SUCH
27 OTHER REASONABLE PERIOD AS THE COURT MAY DETERMINE; AND

28
29 (f) THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT SUIT FOR
30 RELIEF BY THE INJURED PARTY BY WAY OF DAMAGES, INJUNCTION,
31 ACCOUNTS, OR OTHERWISE.

32
33
34 **Section 18.** Subsections 217.3(b) and (c) are hereby amended to read as

35 follows:

36 Sec. 217.3 Any person who, at the time when copyright subsists
37 in a work, has in his possession an article which he knows, or ought to know,
38 to be infringing copy of the work for the purpose of:

39 X X X

1 (b) Distributing, INCLUDING IMPORTING OR EXPORTING the
2 article, for purpose of trade or for any other purpose to an
3 extent that will prejudice the rights of the copyright owner in
4 the work; or

5 (c) [Trade exhibit of the article] EXHIBITING THE WORK in public,
6 OR OTHERWISE USING THE ARTICLE FOR TRADE OR BUSINESS,
7 shall be guilty of an offense and shall be liable on conviction to
8 imprisonment and fine as above mentioned. (Sec 29, P.D. No.
9 49a).

10
11
12 **Section 19.** Subsection 218.1(c) is hereby amended to read as follows:

13
14 Sec. 218. *Affidavit Evidence* - 218.1. In an action under this
15 Chapter, an affidavit made before a notary public by or on behalf of the
16 owner of the copyright in any work or other subject matter and stating that:

17 x x x

18
19 (c) The copy of the work or other subject matter annexed thereto
20 is a true copy thereof, shall be admitted in evidence in any
21 proceedings [for an offense] under this Chapter and shall be
22 *prima facie* proof of the matters therein stated until the
23 contrary is proved, and the court before which such affidavit is
24 produced shall assume that the affidavit was made by or on
25 behalf of the owner of the copyright.

26
27
28 **Section 20.** There shall be two new sections to be added at the end of
29 Section 220.2 to be known as Section 220A and 220B, to read as follows:

30
31 **SEC 220A** DISCLOSURE OF INFORMATION

32
33 220A.1. WHERE AN ARTICLE OR ITS PACKAGING OR AN IMPLEMENT FOR
34 MAKING IT IS SEIZED OR DETAINED UNDER THIS ACT, OR IS
35 REASONABLY SUSPECTED BY AN AUTHORIZED OFFICER TO BE IN
36 VIOLATION OF THIS ACT, THE AUTHORIZED OFFICER SHALL,
37 WHENEVER REASONABLY PRACTICABLE, NOTIFY THE OWNER OF
38 THE COPYRIGHT IN QUESTION OR HIS AUTHORIZED AGENT OF THE
39 SEIZURE OR DETENTION, AS THE CASE MAY BE.

1
2 220A.2. IN THE ABOVE-MENTIONED CIRCUMSTANCES, AN AUTHORIZED
3 OFFICER MAY DISCLOSE TO THE OWNER OF THE COPYRIGHT OR
4 TO HIS AUTHORIZED AGENT THE FOLLOWING:

5
6 (A) THE TIME AND PLACE, OF SEIZURE OR DETENTION OF THE
7 ARTICLE;

8
9 (B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM
10 THE ARTICLE HAS BEEN SEIZED OR DETAINED;

11
12 (C) THE NATURE AND QUANTITY OF ARTICLES SEIZED OR
13 DETAINED;

14
15 (D) ANY STATEMENT MADE TO AN AUTHORIZED OFFICER BY
16 THE PERSON IN CONNECTION WITH THE SEIZURE OR
17 DETENTION, EITHER WITH THE PRIOR CONSENT IN WRITING
18 OF THAT PERSON OR WITHOUT SUCH CONSENT WHERE
19 THE PERSON IS DEAD OR CANNOT AFTER REASONABLE
20 ENQUIRIES BY AN AUTHORIZED OFFICER AS TO HIS WHERE-
21 ABOUTS BE FOUND; AND

22
23 (E) ANY OTHER INFORMATION OR DOCUMENT RELATING TO
24 THE ARTICLE SEIZED OR DETAINED WHICH AN
25 AUTHORIZED OFFICER DEEMS FIT TO DISCLOSE.
26

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

35
36
37 **SEC 220B** ACCEPTANCE OF PROPORTIONAL EXAMINATION OF
38 ARTICLES SEIZED.

39
40 220B.1. WHERE PACKAGES, RECEPTACLES OR CONTAINERS CONTAINING
41 COPIES OR IMPLEMENTS SUSPECTED OF VIOLATING THIS ACT ARE

1 SEIZED OR DETAINED, IT SHALL BE SUFFICIENT ONLY TO OPEN
2 AND EXAMINE THREE PERCENT (3%) OR ANY TEN (10) COPIES,
3 WHICHEVER IS HIGHER, OF THE CONTENTS OF EACH PACKAGE,
4 RECEPTACLE OR CONTAINER SEIZED.

5
6 220B.2. WHERE PROCEDURES WERE CARRIED OUT IN ACCORDANCE WITH
7 THE PREVIOUS PARAGRAPH, THE COURT SHALL PRESUME THAT
8 THE REMAINING COPIES CONTAINED IN THE PACKAGE OR
9 RECEPTACLE ARE OF THE SAME NATURE AS THOSE COPIES
10 EXAMINED.

11
12
13 **Section 21.** Chapter XVIII is hereby amended by adding a new Section at
14 the end thereof to be known as Section 224A, to read as follows:

15
16 **SECTION 224A , PROTECTION OF EXISTING SUBJECT MATTER:**

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

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

37
38 (224A.3.) NO OTHER EXERCISE OF EXCLUSIVE RIGHTS UNDER THIS ACT
39 WITH RESPECT TO SUCH WORK, SOUND RECORDING, OR
40 PERFORMANCE FIXED IN A SOUND RECORDING SHALL BE

1 PERMITTED WITHOUT THE CONSENT OF THE AUTHOR OR OTHER
2 RIGHTHOLDER OF SAID WORK, SOUND RECORDING, OR
3 PERFORMANCE FIXED IN A SOUND RECORDING.

4
5
6 **Section 22.** Part IV is hereby amended by adding a new Chapter at the end
7 thereof to be known as Chapter XXI, to read as follows:

8
9 CHAPTER XXI. TECHNOLOGICAL PROTECTION MEASURES AND
10 RIGHTS MANAGEMENT INFORMATION

11
12 **SECTION 229A** TECHNOLOGICAL PROTECTION MEASURES
13

14 229A.1. ANY PERSON WHO DOES EITHER OF THE FOLLOWING SHALL BE
15 GUILTY OF A CRIME, PUNISHABLE TO THE SAME EXTENT AS
16 PROVIDED IN SECTION 217.1(B) OF THIS ACT FOR THE FIRST
17 OFFENSE, AND TO THE SAME EXTENT AS PROVIDED IN SECTION
18 217.1(C) FOR THE SECOND OR SUBSEQUENT OFFENSE, AND SHALL
19 ALSO BE LIABLE UPON THE SUIT OF ANY INJURED PARTY, TO A
20 RELIEF, INCLUDING BUT NOT LIMITED TO, DAMAGES, INJUNCTION,
21 IMPOUNDMENT, AND DESTRUCTION. THE REMEDIES PROVIDED IN
22 SECTION 216 SHALL APPLY, *MUTATIS MUTANDIS*, TO VIOLATIONS
23 OF THIS SECTION:

24
25 (a) KNOWINGLY, OR HAVING REASONABLE GROUNDS TO
26 KNOW, CIRCUMVENTS WITHOUT AUTHORITY ANY
27 EFFECTIVE TECHNOLOGICAL MEASURE; OR

28
29 (b) MANUFACTURES, IMPORTS, EXPORTS, DISTRIBUTES,
30 OFFERS TO THE PUBLIC, PROVIDES, OR OTHERWISE
31 TRAFFICS IN DEVICES, PRODUCTS OR COMPONENTS OR
32 OFFERS TO THE PUBLIC OR PROVIDES SERVICES:

33
34 (i) THAT ARE PROMOTED, ADVERTISED OR MARKETED
35 FOR THE PURPOSE OF CIRCUMVENTION OF ANY
36 EFFECTIVE TECHNOLOGICAL MEASURE; OR

37
38 (ii) THAT HAVE ONLY A LIMITED COMMERCIALY
39 SIGNIFICANT PURPOSE OR USE OTHER THAN TO
40 CIRCUMVENT ANY EFFECTIVE TECHNOLOGICAL
41 MEASURE; OR

1
2 (iii) THAT ARE PRIMARILY DESIGNED, PRODUCED,
3 ADAPTED OR PERFORMED FOR THE PURPOSE OF
4 ENABLING OR FACILITATING THE CIRCUMVENTION
5 OF ANY EFFECTIVE TECHNOLOGICAL MEASURE.
6

7
8 229A.2. THIS SECTION PROHIBITS CIRCUMVENTION OF TECHNOLOGICAL
9 MEASURES, AND DOES NOT REQUIRE AN AFFIRMATIVE RESPONSE
10 TO SUCH MEASURES. THIS SECTION DOES NOT REQUIRE THAT THE
11 DESIGN OF, OR THE DESIGN AND SELECTION OF PARTS AND
12 COMPONENTS FOR A CONSUMER ELECTRONICS,
13 TELECOMMUNICATIONS OR COMPUTING PRODUCT PROVIDE FOR
14 A RESPONSE TO ANY PARTICULAR TECHNOLOGICAL MEASURE.
15 THIS PARAGRAPH DOES NOT PROVIDE A DEFENSE TO A CLAIM OF
16 VIOLATION OF PARAGRAPH (1)(B).
17

18
19 229A.3. A VIOLATION OF THIS SECTION IS INDEPENDENT OF ANY
20 INFRINGEMENT THAT MIGHT OCCUR UNDER THIS ACT.
21

22
23 **SECTION 229B** INTEGRITY OF RIGHTS MANAGEMENT INFORMATION

24
25 ANY PERSON WHO DOES EITHER OF THE FOLLOWING SHALL
26 BE GUILTY OF A CRIME, PUNISHABLE TO THE SAME EXTENT AS
27 PROVIDED IN SECTION 217.1 OF THIS ACT, AND SHALL ALSO BE
28 LIABLE UPON THE SUIT OF ANY INJURED PARTY, TO RELIEF BY WAY
29 OF DAMAGES, INJUNCTION, IMPOUNDMENT, DESTRUCTION OR
30 OTHERWISE, AND THE REMEDIES PROVIDED IN SECTION 216 SHALL
31 APPLY, *MUTATIS MUTANDIS*, TO VIOLATIONS OF THIS SECTION:
32

33 (a) KNOWINGLY AND WITHOUT AUTHORITY REMOVES OR ALTERS
34 ANY ELECTRONIC RIGHTS MANAGEMENT INFORMATION
35 FROM A COPY OF A WORK, SOUND RECORDING, OR FIXATION
36 OF A PERFORMANCE, OR KNOWINGLY AND WITHOUT
37 AUTHORITY DISTRIBUTES, IMPORTS FOR DISTRIBUTION,
38 BROADCASTS, COMMUNICATES OR MAKES AVAILABLE TO THE
39 PUBLIC COPIES OF WORKS, SOUND RECORDINGS, OR
40 FIXATIONS OF PERFORMANCES FROM WHICH ELECTRONIC

1 RIGHTS MANAGEMENT INFORMATION HAS BEEN REMOVED;
2 OR

3
4 (b) ALTERS ELECTRONIC RIGHTS MANAGEMENT INFORMATION
5 WITHOUT AUTHORITY, KNOWING OR (WITH RESPECT TO CIVIL
6 REMEDIES) HAVING REASONABLE GROUNDS TO KNOW THAT
7 SUCH ACTIVITY WILL ENABLE OR FACILITATE AN
8 INFRINGEMENT OF ANY RIGHT PROTECTED UNDER THIS LAW.
9

10
11 **Section 23.** All laws, decrees, executive orders, issuances or regulations
12 inconsistent with the provisions of this Act are hereby revised or amended
13 accordingly
14

15
16 **Section 24.** If any part of this law is declared unconstitutional or invalid,
17 such parts or provisions thereof not so declared shall remain valid and subsisting.
18

19
20 **Section 25.** This Act shall take effect fifteen (15) days from publication in
21 two (2) newspapers of general circulation in the country.
22

23
24 *Approved,*