



HOUSE OF REPRESENTATIVES

H. No. 7600

BY REPRESENTATIVES SALCEDA, MARIÑO, SACDALAN, ALVAREZ (J.), GARCIA (M.A.), HORIBATA, ESCUDERO, TAMAYO, VILLA, LIMKAICHONG, GO (M.), BASCUG, CALIXTO, DY (F.M.C.), GO (E.C.), MOMO, UNABIA, VALERIANO, BONDOC, TIENG, VIOLAGO, GATCHALIAN, GOLEZ, AGARAO, AUMENTADO, DIONISIO, EUDELA, GARCIA (D.), GUINTU, GULLAS, MATIBAG, MERCADO, OAMINAL, PANCHO, SOLON, TANJUATCO, TOLENTINO, VELOSO-TUAZON, BAUTISTA, CRUZ (R.), NOGRALES (M.), CHAN, ALVAREZ (M.), ENVERGA, COJUANGCO (J.), DUAVIT, ABUNDA, CASTRO (J.), SALLI, VERGARA, QUIMBO, CHUNGALAO, VELASCO, BIRON, ABALOS, ONGCHUAN, ESPARES, BORDADO, LEE, TAN (R.M.), REVILLA (R.J.) AND DALIPE, PER COMMITTEE REPORT NO. 443

AN ACT
STRENGTHENING THE POWERS AND FUNCTIONS OF THE INTELLECTUAL
PROPERTY OFFICE OF THE PHILIPPINES, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 8293, AS AMENDED, OTHERWISE KNOWN AS THE
“INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES”

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

1 SEC. 1. Section 4 of Republic Act No. 8293, as amended, otherwise known as the
2 “Intellectual Property Code of the Philippines”, is hereby amended to read as follows:

3 “SEC. 4. *Definitions.* – 4.1 x x x.

4 “4.5 THE TERM “COUNTERFEIT GOODS” REFER TO GOODS
5 OR MATERIALS INCLUDING PACKAGING BEARING WITHOUT
6 AUTHORIZATION A TRADEMARK WHICH IS IDENTICAL TO A
7 TRADEMARK VALIDLY REGISTERED WITH THE INTELLECTUAL

1 PROPERTY OFFICE OF THE PHILIPPINES (IPOPHL) OR ALREADY
2 DECLARED AS A WELL-KNOWN MARK INTERNATIONALLY OR IN
3 THE PHILIPPINES BY A COMPETENT AUTHORITY IN RESPECT OF
4 SUCH GOODS OR WHICH CANNOT BE DISTINGUISHED IN ITS
5 ESSENTIAL ASPECTS FROM SUCH A TRADEMARK AND WHICH
6 THEREBY VIOLATES THE RIGHTS OF THE OWNER OF THE
7 TRADEMARK IN QUESTION.

8 "4.6. THE TERM "PIRATED GOODS" REFER TO GOODS OR
9 MATERIALS OR CONTENT, WHETHER TANGIBLE AND
10 INTANGIBLE, IN ELECTRONIC OR DIGITAL FORM, WHICH ARE
11 MADE, PRODUCED, COPIED, REPRODUCED, DISSEMINATED,
12 DISTRIBUTED, IMPORTED, USED, REMOVED, ALTERED,
13 SUBSTITUTED, MODIFIED, STORAGE, UPLOADED, DOWNLOADED,
14 COMMUNICATED, MADE AVAILABLE TO THE PUBLIC, OR
15 PROTECTED MATERIAL BROADCASTED, OR REPLICATED
16 WITHOUT THE CONSENT OF THE RIGHT HOLDER OR PERSON
17 DULY AUTHORIZED BY THE RIGHT HOLDER AND WHICH ARE
18 MADE, PRODUCED, OR REPLICATED DIRECTLY OR INDIRECTLY
19 FROM AN ARTICLE WHERE THE MAKING OF THAT COPY WOULD
20 HAVE CONSTITUTED AN INFRINGEMENT OF COPYRIGHT OR
21 RELATED RIGHTS."

22 SEC. 2. Section 5 of Republic Act No. 8293, as amended, is hereby amended to read
23 as follows:

24 "SEC. 5. *Functions of the Intellectual Property Office (IPO).* - x x x

25 "x x x

26 "5.3. THE OFFICE SHALL PERFORM THE FOLLOWING
27 ENFORCEMENT FUNCTIONS:

28 "(A) GATHER INTELLIGENCE INFORMATION RELATED TO
29 THE VIOLATIONS OF THIS ACT, CONDUCT INQUIRY
30 AND INVESTIGATION, AND DEVELOP EFFECTIVE
31 COUNTERMEASURES TO DETER COUNTERFEIT OR
32 PIRATED GOODS OR CONTENT;

33 "(B) CONDUCT VISITS DURING REASONABLE HOURS TO
34 ESTABLISHMENTS AND BUSINESSES OF ACTIVITIES
35 SUSPECTED TO BE IN VIOLATION OF THIS ACT IN
36 ACCORDANCE WITH THE PROCEDURES PRESCRIBED
37 HEREIN;

38 "(C) DEVELOP A DATABASE OF PENDING CASES
39 INVOLVING VIOLATIONS OF THIS ACT;

40 "(D) UNDERTAKE ANY OR ALL OF THE FOLLOWING
41 ENFORCEMENT ACTIONS:

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- “(1) SERVE AND EXECUTE THE ADMINISTRATIVE ORDERS DULY ISSUED BY THE OFFICE OF THE DIRECTOR GENERAL IN ACCORDANCE WITH ITS POWERS UNDER THIS ACT;**
 - “(2) ISSUE NOTICE OR WARNING TO THE RESPONDENT OR RESPONDENTS;**
 - “(3) RECOMMEND THAT THE CONCERNED LOCAL GOVERNMENT UNIT AND/OR OTHER GOVERNMENT AGENCY CANCEL LICENSES AND BUSINESS PERMITS OF ESTABLISHMENTS OR BUSINESSES FOR ENGAGING IN SELLING OR MAKING AVAILABLE TO THE PUBLIC COUNTERFEIT OR PIRATED GOODS OR FILE CHARGES AGAINST THE RESPONDENTS FOR VIOLATION OF APPLICABLE LAWS, RULES OR REGULATIONS;**
 - “(4) REQUEST THE CONCERNED LOCAL GOVERNMENT UNIT OR OTHER GOVERNMENT AGENCIES TO IMPLEMENT THE DECISIONS OF THE INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT PURSUANT TO THEIR RESPECTIVE MANDATES;**
 - “(5) REPORT THE RESULT OF SERVICE AND EXECUTION OF ADMINISTRATIVE ORDERS; AND**
 - “(6) SUCH OTHER ORDERS OR ACTIONS NECESSARY TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS CODE ACT.**
 - “(E) COORDINATE WITH OTHER GOVERNMENT AGENCIES AND PRIVATE SECTOR EFFORTS ON MATTERS RELATED TO INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT;**
 - “(F) ASSIST IN THE ENFORCEMENT OF ORDERS, WRITS, AND PROCESSES ISSUED BY THE BUREAU OF LEGAL AFFAIRS AND THE OFFICE OF THE DIRECTOR GENERAL;**
 - “(G) CONDUCT MONITORING ACTIVITIES RELATED OR RELEVANT TO INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT;**

1 “(H) EXERCISE INTER-AGENCY SPECIAL ENFORCEMENT
2 COORDINATION FUNCTIONS; AND

3 “(I) SUCH OTHER POWERS AND FUNCTIONS AS MAY BE
4 NECESSARY OR INCIDENTAL TO THE ATTAINMENT
5 OF THE PURPOSES AND OBJECTIVES OF THIS ACT OR
6 AS MAY BE ASSIGNED BY THE DIRECTOR GENERAL.”

7 SEC. 3. Section 10 of Republic Act No. 8293, as amended, is hereby further amended
8 to read as follows:

9 “SEC. 10. *The Bureau of Legal Affairs.* – The Bureau of Legal Affairs shall have
10 the following functions:

11 “10.1 x x x;

12 “10.2 (a) x x x.

13 “10.2 (b) After formal investigation, the Director for Legal Affairs may
14 impose one (1) or more of the following administrative penalties:

15 “x x x

16 “ (v) The imposition of administrative fines in such amount as deemed
17 reasonable by the Director of Legal Affairs, which shall in no case be less
18 than [Five thousand pesos (Php 5,000)] ONE HUNDRED THOUSAND
19 PESOS (PHP 100,000) nor more than [One hundred fifty thousand pesos
20 (Php 150,000)] ONE MILLION PESOS (PHP 1,000,000). In addition, an
21 additional fine of not more than [One thousand pesos (Php 1,000)] TEN
22 THOUSAND PESOS (PHP 10,000) shall be imposed for each day of
23 continuing violation;

24 “x x x

25 “THE DECISIONS OF THE ADJUDICATION OFFICERS ARE
26 APPEALABLE TO THE DIRECTOR.

27 “10.3. ESTABLISH AND ADMINISTER ALTERNATIVE DISPUTE
28 RESOLUTION MECHANISMS; AND

29 “10.4. PROVIDE ASSISTANCE TO OTHER BUREAUS AND
30 OFFICES OF THE IPOPHL, INCLUDING LEGAL REVIEW, STUDY,
31 AND SIMILAR TASKS.

32 “10.[3]5. The Director General may by Regulations establish the
33 procedure to govern the implementation of this Section.”

34 SEC. 4. Section 216 of Republic Act No. 8293, as amended, is hereby further
35 amended to read as follows:

1 **“SEC. 216. *Infringement.* – Any person infringes a right protected under this Act when**
2 one:

3 “(a) x x x;

4 “(b) x x x;

5 “(c) x x x.

6 **“216-A. *PREVENTIVE ACTION ON ONLINE INFRINGEMENT.* – UNLESS**
7 **OTHERWISE PROVIDED BY LAW, OR UNLESS OTHERWISE ORDERED BY**
8 **THE APPROPRIATE COURT OF LAW, THE INTELLECTUAL PROPERTY**
9 **OFFICE SHALL HAVE THE POWER, AFTER DUE NOTICE AND HEARING,**
10 **TO DISABLE ACCESS TO AN ONLINE LOCATION PREVENT FURTHER**
11 **ACCESS TO AN ONLINE LOCATION WHOSE PRIMARY PURPOSE OR**
12 **PRIMARY EFFECT OF WHICH IS TO INFRINGE COPYRIGHT OR**
13 **FACILITATE COPYRIGHT INFRINGEMENT.**

14 **“THE COPYRIGHT OWNER OR THE EXCLUSIVE LICENSEE OF**
15 **COPYRIGHT, HEREINAFTER REFERRED TO AS THE “ELIGIBLE PARTY,”**
16 **MAY SUBMIT AN APPLICATION TO THE INTELLECTUAL PROPERTY**
17 **OFFICE TO ORDER THE DISABLING OF ACCESS TO ANY INFRINGING**
18 **ONLINE LOCATION IDENTIFIED IN THE APPLICATION.**

19 **“THE APPLICATION TO THE INTELLECTUAL PROPERTY OFFICE**
20 **SHALL BE SUBMITTED BY COMPLETING IN ITS ENTIRETY THE FORMS**
21 **AND DOCUMENTATION AS REQUESTED BY THE INTELLECTUAL**
22 **PROPERTY OFFICE TO ALLOW THE INTELLECTUAL PROPERTY OFFICE**
23 **TO ESTABLISH THAT THE PARTY FILING THE APPLICATION IS AN**
24 **ELIGIBLE PARTY, OR IS AUTHORISED TO FILE THE APPLICATION ON**
25 **BEHALF OF AN ELIGIBLE PARTY AND VERIFY THROUGH EVIDENCE**
26 **THAT THE SUBJECT OF THE ORDER APPLIED FOR IS AN INFRINGING**
27 **ONLINE LOCATION.**

28 **“FOR PURPOSES OF THIS CHAPTER, “ONLINE LOCATION” SHALL**
29 **REFER TO ANY SINGLE OR COLLECTION OF RELATED WEB PAGES**
30 **ACCESSIBLE BY A USER THROUGH A DOMAIN, IP ADDRESS, OR**
31 **UNIFORM RESOURCE LOCATOR (URL), OR A SPECIFIC DOMAIN, IP**
32 **ADDRESS, OR UNIFORM RESOURCE LOCATOR (URL) WHICH SERVES TO**
33 **OPERATE, IN WHOLE OR IN PART, AN APPLICATION ON THE**
34 **INTERNET.**

35 **“216-B. *PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION.* – THE**
36 **INTELLECTUAL PROPERTY OFFICE SHALL FORMULATE THE**
37 **PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION ON ONLINE**
38 **INFRINGEMENT, ACCORDING TO THE FOLLOWING STANDARDS:**

39 **“(1) MINIMUM REQUIREMENTS OF THE APPLICATION FOR**
40 **ACTION BY AN ELIGIBLE PARTY. THE APPLICATION**
41 **REFERRED TO IN SECTION 84A SHALL INDICATE: THE FACT**

1 THAT, AND THE MANNER BY WHICH, THE INFRINGING
2 ONLINE LOCATION IS ACCESSIBLE; AND OTHER MATTERS
3 WHICH THE INTELLECTUAL PROPERTY OFFICE MAY TAKE
4 INTO ACCOUNT, INCLUDING:

5 “(I) WHETHER THE ONLINE LOCATION MAKES
6 AVAILABLE OR CONTAINS DIRECTORIES, INDEXES
7 OR CATEGORIES OF THE MEANS TO INFRINGE, OR
8 FACILITATE AN INFRINGEMENT OF, COPYRIGHT;

9 “(II) WHETHER THE OWNER OR OPERATOR OF THE
10 ONLINE LOCATION DEMONSTRATES A DISREGARD
11 FOR COPYRIGHT GENERALLY; OR

12 “(III) WHETHER ACCESS TO THE ONLINE LOCATION HAS
13 BEEN DISABLED BY ORDERS FROM ANY COURT OF
14 ANOTHER COUNTRY OR TERRITORY ON THE
15 GROUND OF OR RELATED TO COPYRIGHT
16 INFRINGEMENT.

17 “(2) ONE APPLICATION MAY BE SUBMITTED FOR MULTIPLE
18 INFRINGING ONLINE LOCATIONS, AND THE
19 REQUIREMENTS OF THIS SECTION MUST BE MET AND SET
20 OUT IN THE APPLICATION.

21 “(3) THE APPLICANT MUST NOTIFY THE PERSON WHO
22 OPERATES THE ONLINE LOCATION OF THE MAKING OF AN
23 APPLICATION UNDER SECTION 1, BUT THE INTELLECTUAL
24 PROPERTY OFFICE MAY DISPENSE, ON SUCH TERMS AS IT
25 SEES FIT, WITH THE NOTICE REQUIRED TO BE SENT TO
26 THE PERSON WHO OPERATES THE ONLINE LOCATION IF
27 THE INTELLECTUAL PROPERTY OFFICE IS SATISFIED THAT
28 THE APPLICANT IS UNABLE, DESPITE REASONABLE
29 EFFORTS, TO DETERMINE THE IDENTITY OR ADDRESS OF
30 THE PERSON WHO OPERATES THE ONLINE LOCATION, OR
31 TO SEND NOTICES TO THAT PERSON.

32 “(4) UPON RECEIPT OF THE APPLICATION, THE INTELLECTUAL
33 PROPERTY OFFICE SHALL REVIEW THE SAME AND
34 DETERMINE WHETHER THE ONLINE LOCATION MEETS
35 THE REQUIREMENTS OF PARAGRAPH (A). IF AN
36 APPLICATION MEETS THE REQUIREMENTS OF PARAGRAPH
37 (A), THE INTELLECTUAL PROPERTY OFFICE SHALL GIVE
38 DUE NOTICE OF THE SAME TO THE PERSON WHO
39 OPERATES THE ONLINE LOCATION EITHER BY DIRECTLY
40 CONTACT SUCH PERSON OR BY POSTING SUCH NOTICE
41 PUBLICLY. THE INTELLECTUAL PROPERTY OFFICE SHALL,
42 WITHIN FIVE (5) DAYS OF GIVING DUE NOTICE, RENDER AN
43 ORDER REQUIRING INTERNET SERVICE PROVIDERS TO
44 TAKE REASONABLE STEPS TO DISABLE ACCESS TO THE

1 INFRINGING ONLINE LOCATION. A COPY OF THE SAID
2 ORDER SHALL LIKEWISE BE GIVEN TO THE ELIGIBLE
3 PARTY.

4 “(5) THE INTERNET SERVICE PROVIDERS MUST COMPLY WITH
5 THE DISABLING ORDERS WITHIN 48 HOURS OF THE
6 ISSUANCE OF THE DISABLING ORDER AND MUST DISABLE
7 THE IDENTIFIED INFRINGING ONLINE LOCATIONS BY
8 IMPLEMENTING AN EFFECTIVE TECHNICAL MEASURE, OR
9 A MEASURE UNDERTAKEN BY THE INTERNET SERVICE
10 PROVIDER TO DISABLE OR PREVENT ACCESS TO AN
11 INFRINGING ONLINE LOCATION, AND MAY INCLUDE
12 DOMAIN NAME SYSTEM (DNS) BLOCKING, IP BLOCKING,
13 URL BLOCKING, SERVER NAME INDICATOR BLOCKING, OR
14 OTHER MEANS.

15 “(6) THE INTELLECTUAL PROPERTY OFFICE MAY AT ANY TIME
16 DURING THE OPERATION OF THE ORDERS NOTIFY THE
17 INTERNET SERVICE PROVIDERS SHOULD IT BECOME
18 AWARE THAT ANY INFRINGING ONLINE LOCATION IS
19 ACCESSED FROM AN ADDITIONAL ONLINE LOCATION,
20 INCLUDING ONE THAT APPEARS TO BE ASSOCIATED WITH
21 ANY INFRINGING ONLINE LOCATION BASED ON ITS NAME,
22 BRANDING OR THE IDENTITY OF ITS OPERATOR, AND
23 MAKE SUCH DIFFERENT ONLINE LOCATION SUBJECT TO
24 THE ORDERS.

25 “x x x.”

26 SEC. 5. Within ninety (90) days from the effectivity of this Act, the Intellectual
27 Property Office shall promulgate the necessary rules and regulations for the implementation
28 of this Act.

29 SEC. 6. If any provisions of this Act are declared invalid or unconstitutional, the
30 remaining parts or provisions not affected shall remain valid.

31 SEC. 7. All acts, executive orders, administrative orders, proclamations, rules and
32 regulations or parts thereof inconsistent with any of the provisions of this Act, are hereby
33 expressly repealed or modified accordingly.

34 SEC. 8. This Act shall take effect immediately upon its publication in the *Official*
35 *Gazette* or in a newspaper of general circulation in the Philippines.

Approved,