

NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Second Regular Session* )



24 APR 29 P2:19

**SENATE**  
S. No. 2645

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Introduced by Senator MARK A. VILLAR

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**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**

**EXPLANATORY NOTE**

As technology constantly changes almost every aspect of entertainment and creative industries, so must the laws and policies which govern them. For example, the production of audio-visual media and their consumption have since rapidly evolved that some governmental regulations are deemed ineffectual. The need to update these laws echoes the constitutional directive for the State to provide protection and to secure exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people.

Piracy or the unauthorized duplication of copyrighted content, whether for profit or not, poses a fatal threat to these vital industries as it discourages artists, producers, and other creatives from making quality entertainment media, and it endangers employment which may result in crippling financial loss.

It is important to note that copyright-related industries constitute 7.3% of the country's Gross Domestic Product (GDP) and that a study by Media Partners Asia revealed that online content piracy during the start of the pandemic and lockdowns were at 1 billion pesos potential revenue losses to local video producers, distributors and aggregators.

Pursuant to Article 61 of the international agreement of World Trade Organization member nations on Trade-Related Aspects of Intellectual Property Rights or TRIPS Agreement, it is incumbent for the Philippines as signatory to adopt, enact and implement legislations for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale.

This bill aims to provide the Intellectual Property Office of the Philippines (IPOP HL) with the authority to disable access to online locations or sites infringing copyrighted materials and services, as well as the enforcement powers to prevent, investigate and conduct coordinated action on violations of the Intellectual Property Code.

Immediate passage of this bill is earnestly sought.



**MARK A. VILLAR**

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**INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES**

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

1 Section 1. Section 4 of Republic Act No. 8293, as amended, otherwise known  
2 as the "Intellectual Property Code of the Philippine", is hereby amended to read as  
3 follows:

4 **"SEC. 4. Definitions. – 4.1 xxx.**

5 **"4.5 THE TERM "COUNTERFEIT GOODS" REFER TO GOODS OR**  
6 **MATERIALS INCLUDING PACKAGING BEARING, WITHOUT**  
7 **AUTHORIZATION, A TRADEMARK WHICH IS IDENTICAL TO A**  
8 **TRADEMARK VALIDLY REGISTERED WITH THE INTELLECTUAL**  
9 **PROPERTY OFFICE OF THE PHILIPPINES (IPOPIL) OR ALREADY**  
10 **DECLARED AS A WELL-KNOWN MARK INTERNATIONALLY OR IN THE**  
11 **PHILIPPINES BY A COMPETENT AUTHORITY, WITH RESPECT TO**  
12 **SUCH GOODS OR WHICH CANNOT BE DISTINGUISHED IN ITS**  
13 **ESSENTIAL ASPECTS FROM SUCH A TRADEMARK AND WHICH**

1           **THEREBY VIOLATES THE RIGHTS OF THE OWNER OF THE**  
2           **TRADEMARK IN QUESTION.**

3           **"4.6. THE TERM "PIRATED GOODS" REFER TO GOODS OR**  
4           **MATERIALS OR CONTENT, WHETHER TANGIBLE OR INTANGIBLE, IN**  
5           **ELECTRONIC OR DIGITAL FORM, WHICH ARE MADE, PRODUCED,**  
6           **COPIED, REPRODUCED, DISSEMINATED, DISTRIBUTED, IMPORTED,**  
7           **USED, REMOVED, ALTERED, SUBSTITUTED, MODIFIED, STORED,**  
8           **UPLOADED, DOWNLOADED, COMMUNICATED, MADE AVAILABLE TO**  
9           **THE PUBLIC, BROADCASTED, OR REPLICATED WITHOUT THE**  
10           **CONSENT OF THE RIGHT HOLDER OR PERSON DULY AUTHORIZED BY**  
11           **THE RIGHT HOLDER AND WHICH ARE MADE, PRODUCED, OR**  
12           **REPLICATED DIRECTLY OR INDIRECTLY FROM AN ARTICLE WHERE**  
13           **THE MAKING OF THAT COPY WOULD HAVE CONSTITUTED AN**  
14           **INFRINGEMENT OF COPYRIGHT OR RELATED RIGHTS."**

15           Sec. 2. Section 5 of Republic Act 8293, as amended, is hereby amended to read  
16 as follows:

17           **"SEC. 5. Functions of the Intellectual Property Office (IPO). – xxx**

18           **" x x x**

19           **"5.3. THE OFFICE SHALL PERFORM THE FOLLOWING**  
20           **ENFORCEMENT FUNCTIONS:**

21           **"(A) GATHER INTELLIGENCE INFORMATION RELATED TO**  
22           **VIOLATIONS OF THIS ACT, CONDUCT INQUIRY AND INVESTIGATION,**  
23           **AND DEVELOP EFFECTIVE COUNTERMEASURES TO DETER**  
24           **COUNTERFEIT OR PIRATED GOODS OR CONTENT;**

25           **"(B) CONDUCT VISITS DURING REASONABLE HOURS TO**  
26           **ESTABLISHMENTS AND BUSINESSES WHOSE ACTIVITIES ARE**  
27           **SUSPECTED TO BE IN VIOLATION OF THIS ACT IN ACCORDANCE**  
28           **WITH THE PROCEDURES PRESCRIBED HEREIN;**

1           “(C) DEVELOP A DATABASE OF PENDING CASES INVOLVING  
2           VIOLATIONS OF THIS ACT;

3           “(D) UNDERTAKE ANY OR ALL OF THE FOLLOWING ENFORCEMENT  
4           ACTIONS:

5                   “(1) SERVE AND EXECUTE THE ADMINISTRATIVE ORDERS  
6                   DULY ISSUED BY THE OFFICE OF THE DIRECTOR GENERAL IN  
7                   ACCORDANCE WITH ITS POWERS UNDER THIS ACT;

8                   “(2) ISSUE NOTICE OR WARNING TO THE RESPONDENT/S;

9                   “(3) RECOMMEND THAT THE CONCERNED LOCAL GOVERNMENT  
10                   UNITS AND/OR OTHER GOVERNMENT AGENCIES CANCEL  
11                   LICENSES AND BUSINESS PERMITS OF ESTABLISHMENTS OR  
12                   BUSINESSES FOR ENGAGING IN SELLING OR MAKING  
13                   AVAILABLE TO THE PUBLIC COUNTERFEIT OR PIRATED GOODS  
14                   OR FILE CHARGES AGAINST THE RESPONDENTS FOR  
15                   VIOLATION OF APPLICABLE LAWS, RULES OR REGULATIONS;

16                   “(4) REQUEST THE CONCERNED LOCAL GOVERNMENT UNIT OR  
17                   OTHER GOVERNMENT AGENCIES TO IMPLEMENT THE  
18                   DECISION OF THE INTELLECTUAL PROPERTY RIGHTS  
19                   ENFORCEMENT PURSUANT TO THEIR RESPECTIVE MANDATES;

20                   “(5) REPORT THE RESULT OF SERVICE AND EXECUTION OF  
21                   ADMINISTRATIVE ORDERS; AND

22                   “(6) SUCH OTHER ORDERS OR ACTIONS NECESSARY TO  
23                   ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS ACT.

24           “(E) COORDINATE WITH OTHER GOVERNMENT AGENCIES AND  
25           PRIVATE SECTOR EFFORTS ON MATTERS RELATED TO INTELLECTUAL  
26           PROPERTY RIGHTS ENFORCEMENT;

27           “(F) ASSIST IN THE ENFORCEMENT OF ORDERS, WRITS, AND  
28           PROCESSES ISSUED BY THE BUREAU OF LEGAL AFFAIRS AND THE  
29           OFFICE OF THE DIRECTOR GENERAL;

1           “(G) CONDUCT MONITORING ACTIVITIES RELATED OR RELEVANT TO  
2           INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT;

3           “(H) EXERCISE INTER-AGENCY SPECIAL ENFORCEMENT  
4           COORDINATION FUNCTIONS; AND

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

9           Sec. 3. Section 10 of Republic Act 8293, as amended, is hereby further  
10          amended to read as follows:

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

13                         “10.1 xxx;

14                         “10.2 (a) xxx;

15                         “10.2 (b) After formal investigation, the Director of Legal Affairs may impose  
16                         one (1) or more of the following administrative penalties:

17                         “x x x

18                         “(v) The imposition of administrative fines in such amount as deemed  
19                         reasonable by the Director of Legal Affairs, which shall in no case be less than  
20                         [Five thousand pesos (Php5,000)] **ONE HUNDRED THOUSAND PESOS**  
21                         **(Php100,000)** nor more than [One hundred fifty thousand pesos  
22                         (Php150,000)] **ONE MILLION PESOS (PHP1,000,000)**. In addition, an  
23                         additional fine of not more than [(One thousand pesos (Php1,000)] **TEN**  
24                         **THOUSAND PESOS (PHP 10,000)** shall be imposed for each day of  
25                         continuing violation;

26                         “x x x

27                                 **“THE DECISION OF THE ADJUDICATION OFFICERS ARE**  
28                                 **APPEALABLE TO THE DIRECTOR GENERAL.**

1           **"10.3. ESTABLISH AND ADMINISTER ALTERNATIVE DISPUTE**  
2           **RESOLUTION MECHANISMS; AND**

3           **"10.4. PROVIDE ASSISTANCE TO OTHER BUREAUS AND**  
4           **OFFICES OF THE IPOPHIL, INCLUDING LEGAL REVIEWS, STUDY AND**  
5           **SIMILAR TASKS.**

6           "10.(3) 5. The Director General may by Regulations establish the  
7           procedure to govern the implementation of this Section."

8           Sec. 4. Section 216 of Republic Act 8293, as amended, is hereby further  
9           amended to read as follows:

10          "SEC. 216. *Infringement.* – Any person infringes a right protected under this  
11          Act when one:

12          "(a) x x x;

13          "(b) x x x;

14          "(c) x x x;

15                 **"216-A. PREVENTIVE ACTION ON ONLINE INFRINGEMENT. –**  
16                 **UNLESS OTHERWISE PROVIDED BY LAWS, OR UNLESS OTHERWISE**  
17                 **ORDERED BY THE APPROPRIATE COURT OF LAW, THE INTELLECTUAL**  
18                 **PROPERTY OFFICE SHALL HAVE THE POWER, AFTER DUE NOTICE**  
19                 **AND HEARING, TO DISABLE ACCESS TO AN ONLINE LOCATION,**  
20                 **STREAMING OR DIGITAL PLATFORMS, PREVENT FURTHER ACCESS**  
21                 **TO AN ONLINE LOCATION, STREAMING OR DIGITAL PLATFORMS,**  
22                 **WHOSE PRIMARY PURPOSE OR PRIMARY EFFECT OF WHICH IS**  
23                 **COPYRIGHT INFRINGEMENT.**

24                 **"THE COPYRIGHT OWNER OR THE EXCLUSIVE LICENSEE OF**  
25                 **COPYRIGHT, HEREINAFTER REFERRED TO AS THE "ELIGIBLE PARTY",**  
26                 **MAY SUBMIT AN APPLICATION TO THE INTELLECTUAL PROPERTY**  
27                 **OFFICE TO ORDER THE DISABLING OF ACCESS TO ANY INFRINGING**  
28                 **ONLINE LOCATION, STREAMING OR DIGITAL PLATFORMS,**  
29                 **IDENTIFIED IN THE APPLICATION.**

1           **"THE APPLICATION TO THE INTELLECTUAL PROPERTY OFFICE**  
2 **SHALL BE SUBMITTED BY COMPLETING IN ITS ENTIRETY THE FORMS**  
3 **AND DOCUMENTATION AS REQUESTED BY THE INTELLECTUAL**  
4 **PROPERTY OFFICE, TO ALLOW THE INTELLECTUAL PROPERTY**  
5 **OFFICE TO ESTABLISH THAT THE PARTY FILING THE APPLICATION**  
6 **IS AN ELIGIBLE PARTY, OR IS AUTHORIZED TO FILE THE**  
7 **APPLICATION ON BEHALF OF AN ELIGIBLE PARTY, AND VERIFY**  
8 **THROUGH EVIDENCE THAT THE SUBJECT OF THE ORDER APPLIED**  
9 **FOR IS AN INFRINGING ONLINE LOCATION, STREAMING OR DIGITAL**  
10 **PLATFORMS**

11           **"FOR PURPOSES OF THIS CHAPTER, "ONLINE LOCATION"**  
12 **SHALL REFER TO ANY SINGLE OR COLLECTION OF RELATED WEB**  
13 **PAGES ACCESSIBLE BY A USER THROUGH A DOMAIN, IP ADDRESS,**  
14 **OR UNIFORM RESOURCE LOCATOR (URL), OR A SPECIFIC DOMAIN,**  
15 **IP ADDRESS WHICH SERVES TO OPERATE, IN WHOLE OR IN PART,**  
16 **AN APPLICATION ON THE INTERNET. WHILE, "DIGITAL PLATFORM"**  
17 **REFERS TO INFORMATION AND COMMUNICATION TECHNOLOGY-**  
18 **ENABLED MECHANISMS THAT CONNECT AND INTEGRATE**  
19 **PRODUCERS AND USERS IN ONLINE ENVIRONMENTS WHERE GOODS**  
20 **AND SERVICES ARE REQUESTED, DEVELOPED, AND SOLD, AND DATA**  
21 **IS GENERATED AND EXCHANGED SUCH AS, BUT NOT LIMITED TO, E-**  
22 **MARKETPLACES, MOBILE APPLICATION PLATFORMS, ONLINE**  
23 **DELIVERY PLATFORMS, SOCIAL MEDIA PLATFORMS, TRAVEL**  
24 **PLATFORMS, AND STREAMING PLATFORMS.**

25           **"216-B. PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION. –**  
26 **THE INTELLECTUAL PROPERTY OFFICE SHALL FORMULATE THE**  
27 **PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION ON ONLINE**  
28 **INFRINGEMENT ACCORDING TO THE FOLLOWING STANDARDS:**

29           **"(1) MINIMUM REQUIREMENTS OF THE APPLICATION FOR ACTION**  
30 **BY AN ELIGIBLE PARTY. THE APPLICATION REFERRED TO IN**  
31 **SECTION 84A SHALL INDICATE: THE FACT THAT, AND THE MANNER**



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

4 "(I) WHETHER THE ONLINE LOCATION, STREAMING OR DIGITAL  
5 PLATFORMS MAKES AVAILABLE OR CONTAINS DIRECTORIES,  
6 INDEXES OR CATEGORIES OF THE MEANS TO INFRINGE, OR  
7 FACILITATE AN INFRINGEMENT OF, COPYRIGHT;

8 "(II) WHETHER THE OWNER OR OPERATOR OF THE ONLINE  
9 LOCATION DEMONSTRATES A DISREGARD FOR COPYRIGHT  
10 GENERALLY; AND/OR

11 "(III) WHETHER ACCESS TO THE ONLINE LOCATION, STREAMING  
12 OR DIGITAL PLATFORMS HAS BEEN DISABLED BY ORDERS FROM  
13 ANY COURT OF ANOTHER COUNTRY OR TERRITORY ON THE  
14 GROUND OF OR RELATED TO COPYRIGHT INFRINGEMENT.

15 "(2) ONE APPLICATION MAY BE SUBMITTED FOR MULTIPLE  
16 INFRINGING ONLINE LOCATIONS, STREAMING OR DIGITAL  
17 PLATFORMS, AND THE REQUIREMENTS OF THIS SECTION MUST BE  
18 MET AND SET OUT IN THE APPLICATION.

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

1           “(4) UPON RECEIPT OF THE APPLICATION, THE INTELLECTUAL  
2           PROPERTY OFFICE SHALL, WITHIN FIVE (5) DAYS, REVIEW THE  
3           SAME AND DETERMINE WHETHER THE ONLINE LOCATION,  
4           STREAMING OR DIGITAL PLATFORMS MEETS THE REQUIREMENTS OF  
5           PARAGRAPH (A). IF AN APPLICATION MEETS THE REQUIREMENTS OF  
6           PARAGRAPH (A), THE INTELLECTUAL PROPERTY OFFICE SHALL GIVE  
7           DUE NOTICE OF THE SAME TO THE PERSON WHO OPERATES THE  
8           ONLINE LOCATION, STREAMING OR DIGITAL PLATFORMS EITHER BY  
9           DIRECTLY CONTACTING SUCH PERSON OR BY POSTING SUCH  
10          NOTICE PUBLICLY. THE INTELLECTUAL PROPERTY OFFICE SHALL,  
11          WITHIN FIVE (5) DAYS OF GIVING DUE NOTICE, RENDER AN ORDER  
12          REQUIRING INTERNET SERVICE PROVIDERS TO TAKE REASONABLE  
13          STEPS TO DISABLE ACCESS TO THE INFRINGING ONLINE LOCATION,  
14          STREAMING OR DIGITAL PLATFORMS. A COPY OF THE SAID ORDER  
15          SHALL LIKEWISE BE GIVEN TO THE ELIGIBLE PARTY.

16          “(5) THE INTERNET SERVICE PROVIDER MUST COMPLY WITH THE  
17          DISABLING ORDERS WITHIN FORTY-EIGHT (48) HOURS FROM THE  
18          ISSUANCE OF THE DISABLING ORDER AND MUST DISABLE THE  
19          IDENTIFIED INFRINGING ONLINE LOCATION, STREAMING OR  
20          DIGITAL PLATFORMS BY IMPLEMENTING AN EFFECTIVE TECHNICAL  
21          MEASURE, OR A MEASURE UNDERTAKEN BY THE INTERNET SERVICE  
22          PROVIDER TO DISABLE OR PREVENT ACCESS TO AN INFRINGING  
23          ONLINE LOCATION, AND MAY INCLUDE DOMAIN NAME SYSTEM  
24          (DNS) BLOCKING, IP BLOCKING, URL BLOCKING, SERVER NAME  
25          INDICATOR BLOCKING, OR OTHER MEANS.

26          “(6) THE INTELLECTUAL PROPERTY OFFICE MAY, AT ANY TIME  
27          DURING THE OPERATION OF THE ORDERS, NOTIFY THE INTERNET  
28          SERVICE PROVIDERS SHOULD IT BECOME AWARE THAT ANY  
29          INFRINGING ONLINE LOCATION, STREAMING OR DIGITAL  
30          PLATFORMS IS ACCESSED FROM ANY ADDITIONAL ONLINE  
31          LOCATION, STREAMING OR DIGITAL PLATFORMS, INCLUDING ONE

1           **THAT APPEARS TO BE ASSOCIATED WITH ANY INFRINGING ONLINE**  
2           **LOCATION, STREAMING OR DIGITAL PLATFORMS, BASED ON ITS**  
3           **NAME, BRANDING OR THE IDENTITY OF ITS OPERATOR, AND MAKE**  
4           **SUCH DIFFERENT ONLINE LOCATION, STREAMING OR DIGITAL**  
5           **PLATFORMS SUBJECT TO THE ORDERS.**

6           "x x x."

7           *Sec. 5. Implementing Rules and Regulations (IRR).* – Within sixty (60) days  
8 from the effectivity of this Act, the Intellectual Property Office shall promulgate the  
9 necessary rules and regulations for the implementation of this Act.

10           *Sec. 6. Separability Clause.* – If any provision or part hereof is held invalid or  
11 unconstitutional, the remainder of the law or the provision or part not otherwise  
12 affected shall remain in full force and effect.

13           *Sec. 7. Repealing Clause.* - Any law, presidential decree or issuance, executive  
14 order, letter of instruction, administrative order, rule, or regulation contrary to or  
15 inconsistent with the provisions of this Act are hereby repealed, modified, or amended  
16 accordingly.

17           *Sec. 8. Effectivity.* - This Act shall take effect fifteen (15) days after its  
18 publication in the Official Gazette or in two (2) newspaper of general circulation in the  
19 Philippines.

*Approved,*