SENATE

Senate Bill No. 665

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Internet technology has gone a long way after its first invention in the 1960s as part of the United States military tool for research and intelligence purposes. More than four decades later, it evolved from a basic chatting service to exchange information and scientific researches into a giant cybermall offering services and products of all shapes and sizes from all over the world.

The possibilities of internet technology are almost boundless and limitless. Yet, with all its infinite possibilities come the limitless problems and conflicts. One of the most common and expensive of these problems is Cyber Squatting, an act of acquiring a domain name in the cyberspace before the rightful and legitimate owner of a trademark or a personal/business name can do so. This has led to the unscrupulous practice of cyber squatters selling the domain back to the legitimate owner but with an appalling price that runs into millions of pesos.

Cyber Squatting usually affects businesses and their trade names causing confusion to their clients and even diverting them away. According to the World Intellectual Property Organization (WIPO), a specialized agency of the United Nations dedicated to developing a balanced and accessible international intellectual property (IP) system, cyber squatting is on the increase all over the globe and it often entails bad faith intent by the cyber squatter to profit from the domain name acquired.

This measure is hereby proposed to ensure the integrity of domain names. It intends to help the legitimate owners stake a rightful claim to their domain names and preclude bad faith registration of the same. It is hoped that through this bill, personal/business names and trademarks will be protected against fraudulent individuals or groups that cause identity confusion and intellectual property infringement with their trade names.

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

JINGGOY EJERCITO ESTRADA
Senator

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

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

SECTION 1. *Title.* - This Act shall be known as the *"Anti-Cyber Squatting Act of 2010".*

SEC. 2. *Declaration of Policy.* - The State recognizes the vital role of information and communications technology (ICT) in nation building. In furtherance thereof, the State hereby advocates for the protection of the people against cyber piracy and fraud.

SEC. 3. *Definition of Terms.* - For purposes of this Act, the definitions of the following terms are:

(a) ***"Philippine Domain Name or .PH Domain"*** refers to any alphanumeric designation with a (.ph) suffix which is registered with or assigned by any Philippine country code top level domain (CCTLD) registrar as part of the electronic address on the internet.

(b) ***"Web Site"*** refers to the electronic address or home page of a person or entity in the internet.

(c) ***"Domain Name Registration"*** refers to service provided by any domain name registrar to obtain a domain name for use of web site.

(d) ***"Philippine Domain Name Registrar"*** refers to an organization awarded by Internet Corporation for Assigned Names and Numbers (ICANN), the highest governing body for internet addresses, to manage and distribute the .PH domain names to local customers.

(e) ***"Internet"*** refers to the myriad of computer and telecommunications facilities, including equipment and operating software, which comprises the interconnected world-wide network of networks that employ the Transmission Control Protocol/ Internet Protocol (TCP/IP), or any predecessor or successor protocols to such protocol, to communicate information of all kinds.

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

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

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

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

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

SEC. 6. *Penalties.* Any person who violates any provision of this Act shall, upon conviction, will be penalized by imprisonment of *prision correcional* in its maximum period up to *prision mayor* in its minimum period, or a fine of not less than P2,000,000.00 nor more than P50,000,000.00o;r both such fine and imprisonment at the discretion of the court.

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

SEC. 7. *Repealing Clause.* - All laws, decrees, executive orders, proclamations and administrative regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 8. *Separability Clause.* - Any portion or provisions of this Act that may be declared unconstitutional or invalid shall not have the effect of nullifying other portions and provisions hereof as long as such remaining portion or provision can still subsist and be given effect in their entirety.

SEC. 9. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,