

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



'11 MAY 25 A9:30

SENATE

COMMITTEE REPORT NO. 38

RECEIVED BY: *[Signature]*

Submitted by the Committee on Trade and Commerce joint with the Committees on Constitutional Amendments, Revision of Codes and Laws; Justice and Human Rights; Finance; and Science and Technology on MAY 25 2011.

Re: Senate Bill No. 2842, prepared by the Committees

Recommending its approval in substitution of Senate Bill Nos. 301, 707, 962, 1818, 2431, 2487, 2553 and 2628 taking into consideration P.S. Resolution Nos. 244 and 365.

Sponsor: Senator Villar

Mr. President:

The joint Committees on Trade and Commerce; Constitutional Amendments, Revision of Codes and Laws; Justice and Human Rights; Finance; and Science and Technology, to which were referred Senate Bill No. 301, introduced by Senator Trillanes IV, entitled:

**“AN ACT
GRANTING EXEMPTIONS FROM SECURING PERMISSION FROM
THE PUBLISHER OR COPYRIGHT OWNER OF PRINTED
MATERIALS TO REPRODUCE THE SAME IN A SPECIALIZED
FORMAT FOR THE EXCLUSIVE USE OF BLIND OR VISUALLY-
HANDICAPPED INDIVIDUALS, AMENDING FOR THIS PURPOSE
SECTION 185 OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS
THE ‘INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES’,
AND FOR OTHER PURPOSES”**

Senate Bill No. 707, introduced by Senator Estrada, entitled:

**“AN ACT
DECLARING AS UNLAWFUL THE REPRODUCTION OF
COPYRIGHTED BOOKS AND PRINTED MATERIALS THROUGH
PHOTOCOPYING, DUPLICATING, PRINTING MACHINES OR
SIMILAR MEANS WITHOUT THE WRITTEN CONSENT OF THE
COPYRIGHT OWNER, WHETHER THE PUBLISHER OR THE
AUTHOR OR BOTH”**

Senate Bill No. 962, introduced by Senator Lapid, entitled:

**“AN ACT
STRENGTHENING THE ENFORCEMENT OF THE COPYRIGHT
PROTECTION OF INTELLECTUAL PROPERTY RIGHT OWNERS
OF COMPUTER PROGRAMS CREATING FOR THIS PURPOSE THE
BUSINESS SOFTWARE COPYRIGHT PIRACY ENFORCEMENT
UNIT, DEFINING ITS POWERS AND FUNCTIONS,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES”**

Senate Bill No. 1818, introduced by Senator Santiago, entitled:

**“AN ACT
CREATING THE INTELLECTUAL PROPERTY ASSET
MANAGEMENT COUNCIL”**

Senate Bill No. 2431, introduced by Senator Angara, entitled:

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

Senate Bill No. 2487, introduced by Senator Villar, entitled:

**“AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293
ENTITLED "AN ACT PRESCRIBING THE INTELLECTUAL
PROPERTY CODE AND ESTABLISHING THE INTELLECTUAL
PROPERTY OFFICE, PROVIDING FOR ITS POWERS AND
FUNCTIONS AND FOR OTHER PURPOSES”**

Senate Bill No. 2553, introduced by Senator Villar, entitled:

**“AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293
ENTITLED “AN ACT PRESCRIBING THE INTELLECTUAL
PROPERTY CODE AND ESTABLISHING THE INTELLECTUAL
PROPERTY OFFICE, PROVIDING FOR ITS POWERS AND
FUNCTIONS AND FOR OTHER PURPOSES”**

and Senate Bill No. 2628, introduced by Senator Legarda, entitled:

**“AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293,
OTHERWISE KNOWN AS THE 'INTELLECTUAL PROPERTY CODE
OF THE PHILIPPINES' AND FOR OTHER PURPOSES”**

and taking into consideration P.S. Resolution No. 244, introduced by Senator Villar, entitled:

**“RESOLUTION
DIRECTING THE SENATE COMMITTEE ON TRADE AND
COMMERCE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION,
ON THE SYSTEM OF PATENT PROCESSING IN THE PHILIPPINES
FOR THE PURPOSE OF ENCOURAGING MORE PATENT
APPLICATIONS AND PROTECTING GENUINE FILIPINO
INNOVATIONS”**

and P.S. Resolution No. 365, introduced by Senator Villar, entitled:

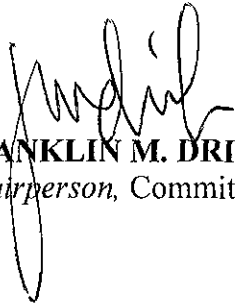
**“RESOLUTION
URGING THE SENATE COMMITTEE ON TRADE AND COMMERCE
AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF
THE INTELLECTUAL PROPERTY RIGHTS CODE VIS-A-VIS THE
ALLEGED HELPLESSNESS OF CONCERNED GOVERNMENT
AGENCIES TO CURB SOFTWARE PIRACY”**

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill, S.B. No. 2842, prepared by the Committees, entitled:


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

be approved in substitution of Senate Bill Nos. 301, 707, 962, 1818, 2431, 2487, 2553 and 2628 taking into consideration P.S. Resolution Nos. 244 and 365 with Senators Trillanes IV, Estrada, Lapid, Santiago, Angara, Villar and Legarda as authors thereof.


Respectfully submitted:



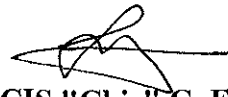
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Chairperson, Committee on Science and Technology
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Vice-Chairpersons:

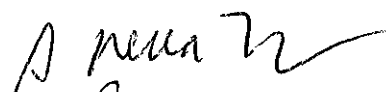


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Vice-Chairperson, Committee on Justice and Human Rights



JUAN MIGUEL F. ZUBIRI
Vice-Chairperson, Committee on Science and Technology


Members:



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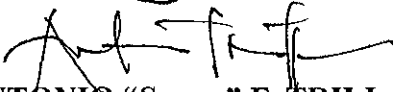
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RALPH G. RECTO

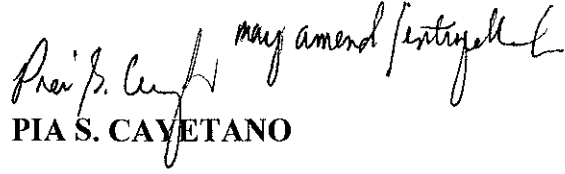


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ANTONIO "Sonny" F. TRILLANES IV

JOKER P. ARROYO



PIA S. CAYETANO



PANFILO M. LACSON

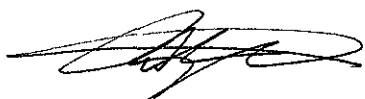
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Senate President
Senate of the Philippines
Pasay City

FIFTEENTH (15TH) CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'11 MAY 25 19:30

SENATE

RECEIVED BY: *[Signature]*

S. B. No. 2842

(In Substitution of Senate Bill Nos. 301, 707, 962, 1818, 2431, 2487, 2553 and 2628 taking into consideration P.S. Resolution Nos. 244 and 365)

Prepared by the Joint Committees on Trade and Commerce; Constitutional Amendments, Revision of Codes and Laws; Justice and Human Rights; Finance; and Science and Technology with Senators Trillanes IV, Estrada, Lapid, Santiago, Angara, Villar and Legarda as authors thereof

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

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

1 **SECTION 1.** Section 6 of Republic Act No. 8293, otherwise known as the Intellectual
2 Property Code of the Philippines, is hereby amended to read as follows:

3

4 “Sec. 6. *The Organizational Structure of the IPO.*— x x x

5

6 6.2 The Office shall be divided into [six (6)] **SEVEN (7)** Bureaus, each of which
7 shall be headed by a Director and assisted by an Assistant Director. These Bureaus
8 are:

9

x x x

10

11 (f) The Administrative, Financial and Personnel Services Bureau; **AND,**

12

13 **(G) THE BUREAU OF COPYRIGHT.”**

14

1 **SEC. 2.** Section 7 of RA No. 8293 is hereby amended to read as follows:

2
3 “Sec. 7 The Director General and Deputies Director General. –

4
5 x x x

6
7 (b) Exercise exclusive appellate jurisdiction over all decisions rendered by the
8 Director of Legal Affairs, the Director of Patents, the Director of
9 Trademarks, **THE DIRECTOR OF COPYRIGHT**, and the Director of
10 the Documentation, Information and Technology Transfer Bureau. The
11 decisions of the Director General in the exercise of his appellate
12 jurisdiction in respect of the decisions of the Director of Patents, the and
13 the Director of Trademarks shall be appealable to the Court of Appeals in
14 accordance with the Rules of Court; and those in respect of the decisions
15 of the Director of the Documentation, Information and Technology
16 Transfer Bureau **AND THE DIRECTOR OF COPYRIGHT** shall be
17 appealable to the Secretary of Trade and Industry;

18
19 **C) UNDERTAKE ENFORCEMENT FUNCTIONS SUPPORTED BY**
20 **CONCERNED AGENCIES SUCH AS THE PHILIPPINE**
21 **NATIONAL POLICE, NATIONAL BUREAU OF INVESTIGATION,**
22 **BUREAU OF CUSTOMS, OPTICAL MEDIA BOARD, LOCAL**
23 **GOVERNMENT UNITS, AMONG OTHERS;**

24
25 **D) CONDUCT VISITS DURING REASONABLE HOURS TO**
26 **ESTABLISHMENTS AND BUSINESSES ENGAGING IN**
27 **ACTIVITIES VIOLATING INTELLECTUAL PROPERTY RIGHTS**
28 **AND PROVISIONS OF THIS ACT BASED ON REPORT,**
29 **INFORMATION OR COMPLAINT RECEIVED BY THE OFFICE;**
30 **AND,**

31
32 **E) SUCH OTHER FUNCTIONS IN FURTHERANCE OF**
33 **PROTECTING IP RIGHTS AND OBJECTIVES OF THIS ACT. “**

34
35 **SEC. 3.** A new Section 9A is hereby inserted after Section 9 of R.A. No. 8293, to read as
36 follows:

1 **“Sec. 9A. THE BUREAU OF COPYRIGHT. – THE BUREAU OF COPYRIGHT**
2 **SHALL HAVE THE FOLLOWING FUNCTIONS:**

3
4 **9A.1. EXERCISE ORIGINAL JURISDICTION TO RESOLVE DISPUTES**
5 **RELATING TO THE TERMS OF A LICENSE INVOLVING THE**
6 **AUTHOR’S RIGHT TO PUBLIC PERFORMANCE OR OTHER**
7 **COMMUNICATION OF HIS WORK.**

8
9 **9A.2. ACCEPT, REVIEW AND DECIDE ON APPLICATIONS FOR THE**
10 **ACCREDITATION OF COLLECTIVE MANAGEMENT**
11 **ORGANIZATIONS OR SIMILAR ENTITIES;**

12
13 **9A.3. CONDUCT STUDIES AND RESEARCHES IN THE FIELD OF**
14 **COPYRIGHT AND RELATED RIGHTS; AND;**

15
16 **9A.4 PROVIDE OTHER COPYRIGHT AND RELATED RIGHTS**
17 **SERVICE AND CHARGE REASONABLE FEES THEREFOR.”**

18
19 **SEC. 4.** Section 171.3 of R.A. No. 8293 is hereby amended to read as follows:

20
21 “Sec. 171. *Definitions.* – x x x

22
23 171.3 “Communication to the public” or “communicate to the public” means
24 **ANY COMMUNICATION TO THE PUBLIC, INCLUDING**
25 **BROADCASTING, REBROADCASTING, RETRANSMITTING BY CABLE,**
26 **BROADCASTING AND RETRANSMITTING BY SATELLITE, AND**
27 **INCLUDES** the making of a work available to the public by wire or wireless means
28 in such a way that members of the public may access these works from a place and
29 time individually chosen by them;”

30
31 **SEC. 5.** Section 171.9 of R.A. No. 8293 is hereby amended to read as follows:

32
33 “171.9 “Reproduction” is the making of one (1) or more copies, **TEMPORARY**
34 **OR PERMANENT, IN WHOLE OR IN PART,** of a work or a sound recording in
35 any manner or form **WITHOUT PREJUDICE TO THE PROVISIONS OF**
36 **SECTION 185 OF THIS ACT (Sec.41[E], P.D. No. 49a);”**

37
38 **SEC. 6.** There shall be two new subsections to be added at the end of Sec. 171.11, to be

1 known as 171.12 and 171.13, both to read as follows:

2
3 **“171.12 “TECHNOLOGICAL MEASURE” MEANS ANY**
4 **TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL**
5 **COURSE OF ITS OPERATION, RESTRICTS ACTS IN RESPECT OF A**
6 **WORK, PERFORMANCE OR SOUND RECORDING, WHICH ARE NOT**
7 **AUTHORIZED BY THE AUTHORS, PERFORMERS OR PRODUCERS OF**
8 **SOUND RECORDINGS CONCERNED OR PERMITTED BY LAW.**

9
10 **171.13 “RIGHTS MANAGEMENT INFORMATION” MEANS**
11 **INFORMATION WHICH IDENTIFIES THE WORK, SOUND RECORDING**
12 **OR PERFORMANCE; THE AUTHOR OF THE WORK, PRODUCER OF**
13 **THE SOUND RECORDING OR PERFORMER OF THE PERFORMANCE;**
14 **THE OWNER OF ANY RIGHT IN THE WORK, SOUND RECORDING OR**
15 **PERFORMANCE; OR INFORMATION ABOUT THE TERMS AND**
16 **CONDITIONS OF THE USE OF THE WORK, SOUND RECORDING OR**
17 **PERFORMANCE; AND ANY NUMBERS OR CODES THAT REPRESENT**
18 **SUCH INFORMATION, WHEN ANY OF THESE ITEMS IS ATTACHED TO**
19 **A COPY OF THE WORK, SOUND RECORDING OR FIXATION OF**
20 **PERFORMANCE OR APPEARS IN CONJUNCTION WITH THE**
21 **COMMUNICATION TO THE PUBLIC OF A WORK, SOUND RECORDING**
22 **OR PERFORMANCE.”**

23
24 **SEC. 7.** The Chapter Title of Chapter VII, Part IV, the Law on Copyright, is hereby
25 amended as follows:

26 Chapter VII

27 “Transfer [or], Assignment **AND LICENSING** of Copyright”

28
29 **SEC. 8.** Section 180 of R.A. No. 8293 is hereby amended to read as follows:

30
31 “Sec. 180. *Rights of Assignee* **OR LICENSEE**. - 180.1. The copyright may be
32 assigned **OR LICENSED** in whole or in part. Within the scope of the assignment **OR**
33 **LICENSE**, the assignee **OR LICENSEE** is entitled to all the rights and remedies
34 which the assignor **OR LICENSOR** had with respect to the copyright.

35
36 180.2 The copyright is not deemed assigned **OR LICENSED** *inter vivos*, in
37 whole or in part, unless there is a written indication of such intention.

38 x x x

1 **180.4 ANY EXCLUSIVITY IN THE ECONOMIC RIGHTS IN A WORK**
2 **MAY BE EXCLUSIVELY LICENSED. WITHIN THE SCOPE OF THE**
3 **EXCLUSIVE LICENSE, THE LICENSEE IS ENTITLED TO ALL THE**
4 **RIGHTS AND REMEDIES WHICH THE LICENSOR HAD WITH RESPECT**
5 **TO THE COPYRIGHT.**

6
7 **180.5 THE COPYRIGHT OWNER HAS THE RIGHT TO REGULAR**
8 **STATEMENTS OF ACCOUNTS FROM THE ASSIGNEE OR THE**
9 **LICENSEE WITH REGARD TO ASSIGNED OR LICENSED WORK.”**

10
11 **SEC. 9.** Section 181 of R.A. No. 8293 is hereby amended to read as follows:

12
13 “Sec. 181. *Copyright and Material Object.* – The copyright is distinct from the
14 property in the material object subject to it. Consequently, the transfer [or],
15 assignment **OR LICENSING** of the copyright shall not itself constitute a transfer of
16 the material object. Nor shall a transfer or assignment of the sole copy or of one or
17 several copies of the work imply transfer [or], assignment **OR LICENSING** of the
18 copyright. (Sec. 16, P.D. No. 49)”

19
20 **SEC. 10.** Section 183 of R.A. No. 8293 is hereby amended to read as follows:

21
22 “Sec. 183. *Designation of Society.* – The [copyright] owners **OF COPYRIGHT**
23 **AND RELATED RIGHTS** or their heirs may designate a society of artists, writers,
24 [or] composers **AND OTHER RIGHT-HOLDERS** to [enforce] **COLLECTIVELY**
25 **MANAGE** their economic or moral rights on their behalf. **FOR THE SAID**
26 **SOCIETIES TO ENFORCE THE RIGHTS OF THEIR MEMBERS, THEY**
27 **SHALL FIRST SECURE THE NECESSARY ACCREDITATION FROM THE**
28 **INTELLECTUAL PROPERTY OFFICE.** (Sec. 32, P.D. No. 49a)”

29
30 **SEC. 11.** Section 184.1 of R.A. No. 8293 is hereby amended to read as follows:

31
32 “Section. 184. Limitations on Copyright. - x x x
33
34 **(I) THE REPRODUCTION OR DISTRIBUTION OF PUBLISHED ARTICLES**
35 **OR MATERIALS IN A SPECIALIZED FORMAT EXCLUSIVELY FOR THE**
36 **USE OF THE BLIND, VISUALLY- AND READING-IMPAIRED PERSONS:**
37 **PROVIDED, THAT SUCH COPIES AND DISTRIBUTION SHALL BE MADE**

1 **ON A NON-PROFIT BASIS AND SHALL INDICATE THE COPYRIGHT**
2 **OWNER AND THE DATE OF THE ORIGINAL PUBLICATION.”**

3
4 **SEC. 12.** Section 185.1 of R.A. No. 8293 is hereby amended to read as follows:

5
6 “Sec. 185. *Fair Use of a Copyrighted Work.* -185.1 The fair use of a copyrighted
7 work for criticism, comment, news reporting, teaching including [multiple]
8 **LIMITED NUMBER OF** copies for classroom use, scholarship, research, and
9 similar purposes is not an infringement of copyright. Decompilation, which is
10 understood here to be the reproduction of the code and translation of the forms of
11 [the] A computer program to achieve the inter-operability of an independently created
12 computer program with other programs may also constitute fair use **UNDER THE**
13 **CRITERIA ESTABLISHED BY THIS SECTION, TO THE EXTENT THAT**
14 **SUCH DECOMPILATION IS DONE FOR THE PURPOSE OF OBTAINING**
15 **THE INFORMATION NECESSARY TO ACHIEVE SUCH INTER-**
16 **OPERABILITY.**

17 x x x

18
19 **SEC. 13.** Section 188.1 of R.A. No. 8293 is hereby amended to read as follows:

20
21 “Sec. 188. *Reprographic Reproduction by Libraries.* - 188.1 Notwithstanding the
22 provisions of Subsection [177.6] **177.1**, any library or archive whose activities are not
23 for profit may, without the authorization of the author [of] **OR** copyright owner, make
24 a [single copy] **LIMITED NUMBER OF COPIES** of the work, **AS MAY BE**
25 **NECESSARY FOR SUCH INSTITUTIONS TO FULFILL THEIR MANDATE,**
26 by reprographic reproduction:

27 x x x

28 (c) Where the making of such [a copy] **LIMITED COPIES** is in order to preserve and, if
29 necessary in the event that it is lost, destroyed or rendered unusable, replace a copy,
30 or to replace, in the permanent collection of another similar library or archive, a copy
31 which has been lost, destroyed or rendered unusable and copies are not available with
32 the publisher.”

33
34 **SEC. 14.** Sections 190.1 and 190.2 of R.A. 8293 are deleted in their entirety.

35
36 **SEC. 15.** Section 190.3 of R.A. No. 8293 is hereby renumbered and amended as the sole
37 provision under Section 190 to read as follows:

1 “SEC. [190.3] **190.** [Importation for Personal Purposes] **IMPORTATION AND**
2 **EXPORTATION OF INFRINGING MATERIALS** – Subject to the approval of
3 the Secretary of Finance, the Commissioner of Customs is hereby empowered to
4 make rules and regulations for preventing the importation **OR EXPORTATION** of
5 articles the importation **OR EXPORTATION** of which is prohibited under this
6 [Section] **ACT** and under treaties and conventions to which the Philippines may be a
7 party and for seizing and condemning and disposing of the same in case they are
8 discovered after they have been imported **OR BEFORE THEY ARE EXPORTED.**
9 (Sec. 30, P.D. No. 49)”

10
11 **SEC. 16.** Section 191 of R.A. No. 8293 is hereby amended to read as follows:

12
13 “Sec. 191. [Registration and] **DEPOSIT AND NOTICE OF DEPOSIT** with *THE*
14 *National Library and the Supreme Court Library.* – **WITHIN THREE (3) WEEKS**
15 **[A]** after the first public dissemination [of] **OR** performance by authority of the
16 copyright owner of a work falling under Subsections [172.1, 172.2 and 172.3] **172.1**
17 **(A), 172.1 (B), 172.1 (C) AND 173.1** of this Act, there shall, for the purpose of
18 completing the records of the National Library and the Supreme Court Library,
19 [within three (3) weeks,] be registered and deposited with it by personal delivery or
20 by registered mail, two (2) complete copies or reproductions of the work in such form
21 as the directors of said libraries may prescribe **IN ACCORDANCE WITH**
22 **REGULATIONS: PROVIDED, THAT ONLY WORKS IN THE FIELD OF**
23 **LAW SHALL BE DEPOSITED WITH THE SUPREME COURT LIBRARY.”**

24
25 **SEC. 17.** Section 198 of R.A. No. 8293 is hereby amended to read as follows:

26
27 “Sec. 198. *Term of Moral Rights.* – 198.1. The right[s] of an author under [this
28 chapter] **SECTION 193.1** shall last during the lifetime of the author and [for fifty
29 (50) years] **IN PERPETUITY** after his death [and shall not be assignable or subject
30 to license.] **WHILE THE RIGHTS UNDER SECTIONS 193.2, 193.3 AND 193.4**
31 **SHALL BE COTERMINOUS WITH THE ECONOMIC RIGHTS, THE**
32 **MORAL RIGHTS SHALL NOT BE ASSIGNABLE OR SUBJECT TO**
33 **LICENSE.** The person or persons to be charged with the posthumous enforcement of
34 these rights shall be named in [writing to] **A WRITTEN INSTRUMENT WHICH**
35 **SHALL** be filed with the National Library. In default of such person or persons, such
36 enforcement shall devolve upon either the author’s heirs, and in default of the heirs,
37 the Director of the National Library.”

1 **SEC. 18.** Section 208 of R.A. No. 8293 is hereby amended to read as follows:

2
3 “ Sec. 208. Scope of Right. x x x

4
5 **208.4 THE RIGHT TO AUTHORIZE THE MAKING AVAILABLE TO**
6 **THE PUBLIC OF THEIR SOUND RECORDINGS IN SUCH A WAY THAT**
7 **MEMBERS OF THE PUBLIC MAY ACCESS THE SOUND RECORDING**
8 **FROM A PLACE AND AT A TIME INDIVIDUALLY CHOSEN OR**
9 **SELECTED BY THEM, AS WELL AS OTHER TRANSMISSIONS OF A**
10 **SOUND RECORDING WITH LIKE EFFECT.”**

11
12 **SEC. 19.** Section 212 of R.A. No. 8293 is hereby amended to read as follows:

13
14 “Sec. 212. *Limitations on Rights.* – [Sections 203, 208 and 209 shall not apply where
15 the acts referred to in those Sections are related to:] **THE PROVISIONS OF**
16 **CHAPTER VIII SHALL APPLY *MUTATIS MUTANDIS* TO THE RIGHTS OF**
17 **PERFORMERS, PRODUCERS OF SOUND RECORDINGS AND**
18 **BROADCASTING ORGANIZATIONS.”**

19
20
21 **SEC. 20.** Section 216 of R.A. No. 8293 is hereby amended to read as follows:

22
23 “Sec. 216. ***INFRINGEMENT.*** **A PERSON INFRINGES A RIGHT**
24 **PROTECTED UNDER THIS ACT WHEN ONE:**

- 25
26 **(A) DIRECTLY COMMITS AN INFRINGEMENT;**
27 **(B) BENEFITS FROM THE INFRINGING ACTIVITY OF ANOTHER**
28 **PERSON WHO COMMITS AN INFRINGEMENT IF THE PERSON**
29 **BENEFITING HAS BEEN GIVEN NOTICE OF THE INFRINGING**
30 **ACTIVITY AND HAS THE RIGHT AND ABILITY TO CONTROL**
31 **THE ACTIVITIES OF THE OTHER PERSON; OR**
32 **(C) PURPOSELY AND WITH THE INTENT TO ENABLE OR**
33 **INDUCE INFRINGEMENT BY ANOTHER PERSON, AND**
34 **MATERIALLY CONTRIBUTES TO IT.**

35
36 **216.1 *Remedies for Infringement.*** - Any person infringing a right protected under
37 this law shall be liable:

38 x x x

1 (b) TO [P]pay to the copyright proprietor or his assigns or heirs such actual
2 damages, including legal costs and other expenses, as he may have incurred
3 due to the infringement as well as the profits the infringer may have made
4 due to such infringement, and in proving profits the plaintiff shall be
5 required to prove sales only and the defendant shall be required to prove
6 every element of cost which he claims, or, in lieu of actual damages and
7 profits, such damages which to the court shall appear to be just and shall not
8 be regarded as penalty: **PROVIDED, THAT THE AMOUNT OF**
9 **DAMAGES TO BE AWARDED SHALL BE DOUBLED AGAINST**
10 **ANY PERSON WHO:**

11
12 (i) **CIRCUMVENTS EFFECTIVE TECHNOLOGICAL**
13 **MEASURES; OR**

14 (ii) **HAVING REASONABLE GROUNDS TO KNOW THAT IT**
15 **WILL INDUCE, ENABLE, FACILITATE OR CONCEAL THE**
16 **INFRINGEMENT, REMOVE OR ALTER ANY ELECTRONIC**
17 **RIGHTS MANAGEMENT INFORMATION FROM A COPY**
18 **OF A WORK, SOUND RECORDING, OR FIXATION OF A**
19 **PERFORMANCE, OR DISTRIBUTE, IMPORT FOR**
20 **DISTRIBUTION, BROADCAST, OR COMMUNICATE TO**
21 **THE PUBLIC WORKS OR COPIES OF WORKS WITHOUT**
22 **AUTHORITY, KNOWING THAT ELECTRONIC RIGHTS**
23 **MANAGEMENT INFORMATION HAS BEEN REMOVED OR**
24 **ALTERED WITHOUT AUTHORITY.**

25 X X X

26
27 **THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME BEFORE**
28 **FINAL JUDGMENT IS RENDERED, TO RECOVER INSTEAD OF**
29 **ACTUAL DAMAGES AND PROFITS, AN AWARD OF STATUTORY**
30 **DAMAGES FOR ALL INFRINGEMENTS INVOLVED IN AN ACTION IN**
31 **A SUM EQUIVALENT TO THE FILING FEE OF THE INFRINGEMENT**
32 **ACTION BUT NOT LESS THAN FIFTY THOUSAND PESOS**
33 **(Php50,000.00). IN AWARDING STATUTORY DAMAGES, THE COURT**
34 **MAY CONSIDER THE FOLLOWING FACTORS:**

- 35
36 (1) **THE NATURE AND PURPOSE OF THE INFRINGING ACT;**
37 (2) **THE FLAGRANCY OF THE INFRINGEMENT;**
38 (3) **WHETHER THE DEFENDANT ACTED IN BAD FAITH;**

- 1 **(4) THE NEED FOR DETERRENCE;**
2 **(5) ANY LOSS THAT THE PLAINTIFF HAS SUFFERED OR IS**
3 **LIKELY TO SUFFER BY REASON OF THE INFRINGEMENT;**
4 **AND,**
5 **(6) ANY BENEFIT SHOWN TO HAVE ACCRUED TO THE**
6 **DEFENDANT BY REASON OF THE INFRINGEMENT.**

7
8 **IN CASE THE INFRINGER WAS NOT AWARE AND HAD NO REASON**
9 **TO BELIEVE THAT HIS/HER ACTS CONSTITUTE AN**
10 **INFRINGEMENT OF COPYRIGHT, THE COURT IN ITS DISCRETION**
11 **MAY REDUCE THE AWARD OF STATUTORY DAMAGES TO A SUM**
12 **OF NOT MORE THAN TEN THOUSAND PESOS (PhP 10,000.00):**
13 **PROVIDED, THAT THE AMOUNT OF DAMAGES TO BE AWARDED**
14 **SHALL BE DOUBLED AGAINST ANY PERSON WHO:**

- 15
16 **(i) CIRCUMVENTS EFFECTIVE TECHNOLOGICAL MEASURES;**
17 **OR**
18 **(ii) HAVING REASONABLE GROUNDS TO KNOW THAT IT WILL**
19 **INDUCE, ENABLE, FACILITATE OR CONCEAL THE**
20 **INFRINGEMENT, REMOVE OR ALTER ANY ELECTRONIC**
21 **RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A**
22 **WORK, SOUND RECORDING, OR FIXATION OF A**
23 **PERFORMANCE, OR DISTRIBUTE, IMPORT FOR**
24 **DISTRIBUTION, BROADCAST, OR COMMUNICATE TO THE**
25 **PUBLIC WORKS OR COPIES OF WORKS WITHOUT**
26 **AUTHORITY, KNOWING THAT ELECTRONIC RIGHTS**
27 **MANAGEMENT INFORMATION HAS BEEN REMOVED OR**
28 **ALTERED WITHOUT AUTHORITY.**

29
30 x x x

31
32 216.2 In an infringement action, the court shall also have the power to order the
33 seizure and impounding of any article which may serve as evidence in the
34 court proceedings [.], **IN ACCORDANCE WITH THE RULES ON**
35 **SEARCH AND SEIZURE INVOLVING VIOLATIONS OF**
36 **INTELLECTUAL PROPERTY RIGHTS ISSUED BY THE**
37 **SUPREME COURT. (Sec. 28, P.D. No. 49a)**
38

1 **THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT SUIT**
2 **FOR RELIEF BY THE INJURED PARTY BY WAY OF DAMAGES,**
3 **INJUNCTION, ACCOUNTS OR OTHERWISE.”**
4

5 **SEC. 21.** Section 217.2 of R.A. No. 8293 is hereby amended as follows:
6

7 “217.2. In determining the number of years of imprisonment and the amount of fine,
8 the court shall consider the value of the infringing materials that the defendant has
9 produced or manufactured and the damage that the copyright owner has suffered by
10 reason of the infringement[.]: **PROVIDED, THAT THE RESPECTIVE**
11 **MAXIMUM PENALTY STATED IN SEC. 217. 1 (A), (B) AND (C) HEREIN**
12 **FOR THE FIRST, SECOND, THIRD AND SUBSEQUENT OFFENSE, SHALL**
13 **BE IMPOSED WHEN THE INFRINGEMENT IS COMMITTED BY:**

14 **(i) THE CIRCUMVENTION OF EFFECTIVE TECHNOLOGICAL**
15 **MEASURES; OR**

16 **(ii) THE REMOVAL OR ALTERATION OF ANY ELECTRONIC**
17 **RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A WORK,**
18 **SOUND RECORDING, OR FIXATION OF A PERFORMANCE, BY A**
19 **PERSON, KNOWINGLY AND WITHOUT AUTHORITY; OR**

20 **(iii) THE DISTRIBUTION, IMPORTATION FOR DISTRIBUTION,**
21 **BROADCAST, OR COMMUNICATION TO THE PUBLIC OF WORKS OR**
22 **COPIES OF WORKS, BY A PERSON WITHOUT AUTHORITY, KNOWING**
23 **THAT ELECTRONIC RIGHTS MANAGEMENT INFORMATION HAS**
24 **BEEN REMOVED OR ALTERED WITHOUT AUTHORITY.”**
25

26 **SEC. 22.** Section 218.1 of R.A. No. 8293 is hereby amended to read as follows:
27

28 “Sec. 218. *Affidavit Evidence* – x x x
29

30 (c) The copy of the work or other subject matter annexed thereto is a true copy
31 thereof [,].
32

33 **THE AFFIDAVIT** shall be admitted in evidence in any proceedings [for an offense]
34 under this Chapter and shall be *prima facie* proof of the matters therein stated until
35 the contrary is proved, and the court before which such affidavit is produced shall
36 assume that the affidavit was made by or on behalf of the owner of the copyright.”
37

38 **SEC. 23.** A new Section 220A shall be inserted after Section 220.2 of R.A. No. 8293 to

1 read as follows:

2
3 **“SEC. 220A. DISCLOSURE OF INFORMATION. - WHERE ANY ARTICLE**
4 **OR ITS PACKAGING OR AN IMPLEMENT FOR MAKING IT IS SEIZED**
5 **OR DETAINED UNDER A VALID SEARCH AND SEIZURE UNDER THIS**
6 **ACT IS, OR IS REASONABLY SUSPECTED TO BE, BY AN AUTHORIZED**
7 **ENFORCEMENT OFFICER, IN VIOLATION OF THIS ACT, THE SAID**
8 **OFFICER SHALL, WHEREVER REASONABLY PRACTICABLE, NOTIFY**
9 **THE OWNER OF THE COPYRIGHT IN QUESTION OR HIS AUTHORIZED**
10 **AGENT OF THE SEIZURE OR DETENTION, AS THE CASE MAY BE. ”**

11
12 **SEC. 24.** Chapter XVIII of R.A. No. 8293 is hereby amended by adding a new Section at
13 the end thereof to be denominated as Section 224A, to read as follows:

14
15 **“SEC. 224A. PROTECTION OF EXISTING SUBJECT MATTER. - THE**
16 **PROTECTION PROVIDED UNDER PART IV OF THIS ACT SHALL ALSO**
17 **APPLY TO WORKS, SOUND RECORDINGS AND PERFORMANCES**
18 **FIXED IN SOUND RECORDINGS AND BROADCASTING IN EXISTENCE**
19 **UPON THE EFFECTIVITY OF THIS ACT, AND WHICH ARE THE**
20 **SUBJECT OF INTERNATIONAL CONVENTIONS, TREATIES OR**
21 **AGREEMENTS TO WHICH THE PHILIPPINES IS A PARTY, PROVIDED**
22 **THAT ON SUCH DATE THE WORK, SOUND RECORDING, OR**
23 **PERFORMANCE FIXED IN A SOUND RECORDING HAS NOT YET**
24 **FALLEN INTO THE PUBLIC DOMAIN IN ITS COUNTRY OF ORIGIN OR**
25 **IN THE PHILIPPINES THROUGH THE EXPIRY OF THE TERM OF**
26 **PROTECTION WHICH WAS PREVIOUSLY GRANTED.”**

27
28 **SEC. 25.** Chapter XX of R.A. No. 8293 is hereby amended by adding a new Section at
29 the end thereof to be denominated as Section 230, to read as follows:

30
31 **“SEC. 230. ADOPTION OF INTELLECTUAL PROPERTY (IP) POLICIES. –**
32 **SCHOOLS AND UNIVERSITIES SHALL ADOPT INTELLECTUAL**
33 **PROPERTY POLICIES THAT WOULD GOVERN THE USE AND**
34 **CREATION OF INTELLECTUAL PROPERTY WITH THE PURPOSE OF**
35 **SAFEGUARDING THE INTELLECTUAL CREATIONS OF THE LEARNING**
36 **INSTITUTION AND ITS EMPLOYEES, AND ADOPTING LOCALLY-**
37 **ESTABLISHED INDUSTRY PRACTICE FAIR USE GUIDELINES. THESE**
38 **POLICIES MAY BE DEVELOPED IN RELATION TO LICENSING**

1 **AGREEMENTS ENTERED INTO BY THE LEARNING INSTITUTION**
2 **WITH A COLLECTIVE LICENSING ORGANIZATION.”**

3
4 **SEC. 26.** Section 230 of R.A. No. 8293 is hereby renumbered as Section 231, and all
5 succeeding sections of the same Act are hereby renumbered accordingly.

6
7 **SEC. 27. *Implementing Rules and Regulations.*** - Within one hundred eighty (180) days
8 from the effectivity of this Act, the Intellectual Property Office, in consultation with the
9 National Book Development Board, the National Library, the Supreme Court Library and
10 other relevant agencies, shall promulgate the rules and regulations necessary to
11 effectively implement the provisions of this Act.

12
13 **SEC. 28. *Repealing Clause.*** - All laws, decrees, executive orders, issuances or
14 regulations inconsistent with the provisions of this Act are hereby revised or amended
15 accordingly.

16
17 **SEC. 29. *Separability Clause.*** - If any part of this law is declared unconstitutional or
18 invalid, such parts or provisions thereof not so declared shall remain valid and subsisting.

19
20 **SEC. 30. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
21 publication in at least two (2) newspapers of general circulation.