

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

)
)
)
24 MAY -2 P4:17

RECEIVED BY: di

SENATE

S. B. NO. 2651

Introduced by SENATOR JOEL VILLANUEVA

AN ACT
STRENGTHENING THE POWER AND FUNCTIONS OF THE
INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES TO
ENFORCE COPYRIGHT PROVISIONS, AMENDING FOR THE PURPOSE
CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293, OTHERWISE
KNOWN AS THE "INTELLECTUAL PROPERTY CODE OF THE
PHILIPPINES"

EXPLANATORY NOTE

The proliferation of digital piracy, facilitated through unauthorized online platforms and websites, poses a significant threat to the integrity of intellectual property rights in the Philippines and hinders the growth of legitimate creative industries. It is estimated that due to online video piracy alone, the Philippines lost USD 781 million in revenues in 2022.¹ If this problem is not addressed, the illicit video industry is projected to have 31 million users by 2027, with annual losses estimated at USD 1 billion.

Existing measures to combat digital piracy under Republic Act No. 8293, as amended, or the "Intellectual Property Code of the Philippines," require enhancement to effectively address emerging technologies and online practices that facilitate copyright infringement. This bill seeks to strengthen the enforcement powers of the Intellectual Property Office (IPO) to combat digital piracy by introducing a framework for blocking Internet sites, such as websites, that host or contain infringing goods or have the primary purpose or effect of infringing copyright or facilitating copyright infringement, upon the filing of a proper complaint with the IPO. This mechanism is based on the best practices

¹ Manila Standard (2023). Intellectual property violations: Dangers and consequences of digital piracy (available at <https://manilastandard.net/?p=314369945#~:text=According%20to%20a%20Media%20Partners,and%20leak%20%241%20billion%20annually,> last accessed April 18, 2024).

of other jurisdictions that have enacted legislation to address online piracy. These jurisdictions include Australia, which reported a 53% reduction in the use of pirate sites as a result of blocking orders that restrict access to these sites.²

The proposed legislation also aligns with constitutional principles aimed at protecting intellectual property rights³ and promoting innovation,⁴ which are essential for fostering a conducive environment for creativity and economic growth. By empowering the IPO to coordinate with relevant government agencies, particularly the National Telecommunications Commission (NTC), this bill aims to develop rules and regulations that enhance mechanisms for safeguarding intellectual property rights in the digital domain.

To ensure accountability and safeguard against misuse, the proposed measure also outlines the criteria for evaluating complaints filed by copyright holders and issuing Internet site blocking orders, considering the gravity of infringement, disregard for copyright, and public interest considerations. Moreover, the bill mandates the promulgation of joint rules by the IPO and NTC to protect non-infringing content and provide mechanisms for appeals and variations of site-blocking orders. It imposes penalties, including fines and criminal sanctions, to deter individuals and entities from engaging in or benefiting from digital piracy activities.

Thus, the expeditious passage of this bill is urged to address the evolving challenges posed by digital piracy and uphold the rights of creators and innovators in our society.


JOEL VILLANUEVA, *JP*

² Cory, N. (2018). The Normalization of Website Blocking Around the World in the Fight Against Piracy Online (available at <https://itif.org/publications/2018/06/12/normalization-website-blocking-around-world-fight-against-piracy-online/>, last accessed April 18, 2024).

³ Philippine Constitution, art. XIV, sec. 13.

⁴ *Id.*, art. XIV, sec. 10.

NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

)
)
)
24 MAY -2 P4 :16



SENATE
S. B. NO. 2651

Introduced by SENATOR JOEL VILLANUEVA

AN ACT
STRENGTHENING THE POWER AND FUNCTIONS OF THE
INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES TO
ENFORCE COPYRIGHT PROVISIONS, AMENDING FOR THE
PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293,
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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

SECTION 1. Section 5 of Republic Act No. 8293, as amended, otherwise known as the "Intellectual Property Code of the Philippines", is hereby amended to read as follows:

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

H) COORDINATE WITH THE NATIONAL TELECOMMUNICATIONS COMMISSION (NTC) AND OTHER RELEVANT GOVERNMENT AGENCIES FOR THE DEVELOPMENT OF RULES, REGULATIONS, GUIDELINES, AND OTHER POLICIES TO ENHANCE THE MECHANISMS TO PROTECT THE RIGHTS PROVIDED UNDER THIS ACT WITH DUE REGARD TO EMERGING TECHNOLOGIES;

I) CONDUCT MONITORING ACTIVITIES RELATED OR RELEVANT TO ENFORCING INTELLECTUAL PROPERTY RIGHTS, INCLUDING SITE VISITS TO INSPECT ESTABLISHMENTS AND BUSINESSES THAT ARE SUSPECTED TO BE IN VIOLATION OF THE PROVISIONS OF THIS ACT OR WHICH ARE IMPEADED OR OTHERWISE INVOLVED IN, OR THE SUBJECT OF, COMPLAINTS AND/OR PROCEEDINGS INVOLVING VIOLATIONS OF THE PROVISIONS OF THIS ACT;

1 J) SHARE RELEVANT INFORMATION WITH OTHER GOVERNMENT
2 AGENCY/IES AND/OR LOCAL GOVERNMENT UNIT/S WHEN IN THE
3 COURSE OF INSPECTIONS, REVIEWS, ADJUDICATIONS, AND
4 OTHER PROCESSES CONDUCTED PURSUANT TO THE
5 PROVISIONS OF THIS ACT, THE IPO COMES INTO POSSESSION
6 OF INFORMATION THAT WOULD LEAD TO A REASONABLE
7 SUSPICION THAT A PERSON, WHETHER NATURAL OR
8 JURIDICAL, IS GUILTY OF VIOLATING OR AIDING AND ABETTING
9 IN THE COMMISSION OF VIOLATIONS OF A PROVISION OF THIS
10 ACT. IN SUCH CASES, THE IPO MAY RECOMMEND THE
11 CANCELLATION OF APPLICABLE LICENSES, PERMITS, AND
12 REGISTRATIONS OF THE CONCERNED PERSON; AND

13
14 K) SUCH OTHER POWERS AND FUNCTIONS AS MAY BE
15 NECESSARY OR INCIDENTAL TO THE ATTAINMENT OF THE
16 PURPOSES AND OBJECTIVES OF THIS ACT.”

17
18 **SEC. 2.** Section 171 of R.A. No. 8293, as amended, is hereby amended
19 to read as follows:

20
21 “**SEC. 171. Definitions.** – xxx

22
23 **171.4-A.** AN “INTERNET SERVICE PROVIDER (ISP)” IS A PUBLIC
24 TELECOMMUNICATION ENTITY (PTE) OR VALUE-ADDED
25 SERVICE (VAS) PROVIDER DULY AUTHORIZED BY OR
26 REGISTERED WITH THE NTC THAT PROVIDES USERS OR OTHER
27 ENTITIES WITH DATA CONNECTION TO ACCESS THE INTERNET
28 THROUGH PHYSICAL TRANSPORT INFRASTRUCTURE, WHICH
29 ACCESS IS NECESSARY FOR INTERNET USERS TO OBTAIN,
30 RETRIEVE, OR EXAMINE CONTENT AND SERVICES ON THE
31 INTERNET, AND FOR CONTENT PROVIDERS TO PUBLISH OR
32 DISTRIBUTE MATERIALS ONLINE;

33
34 **171.4-B.** AN “INTERNET SITE” IS A WEBSITE, BULLETIN BOARD
35 SERVICE, INTERNET CHAT ROOM, OR ANY OTHER INTERNET OR
36 SHARED NETWORK PROTOCOL ADDRESS;

37
38 **171.4-C** “INFRINGING GOODS” ARE GOODS, MATERIAL, OR
39 CONTENT, WHETHER TANGIBLE OR INTANGIBLE, IN
40 ELECTRONIC OR DIGITAL FORM, WHICH ARE MADE,
41 REPRODUCED, DISTRIBUTED, OR OTHERWISE USED WITHOUT
42 THE CONSENT OF THE RIGHT HOLDER OR PERSON DULY
43 AUTHORIZED BY THE RIGHT HOLDER, AND WHICH ARE MADE
44 DIRECTLY OR INDIRECTLY FROM AN ARTICLE WHERE THE
45 MAKING OF THAT COPY WOULD HAVE CONSTITUTED AN
46 INFRINGEMENT OF A COPYRIGHT OR A RELATED RIGHT;

47
48 **SEC. 3.** Section 220-A of R.A. No. 8293, as amended, is hereby added
49 to read as follows:

50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

"SECTION 220-A. INTERNET SITE BLOCKING ORDER. –

220-A.1 IN CASE INFRINGING GOODS ARE MADE AVAILABLE THROUGH AN INTERNET SITE, THE OWNER OF THE COPYRIGHT OR RIGHT HOLDER OR HIS/HER DULY AUTHORIZED REPRESENTATIVE MAY FILE AN APPLICATION FOR THE ISSUANCE OF AN ORDER DIRECTING AN ISP TO BLOCK AND OTHERWISE PREVENT USER ACCESS TO SUCH INTERNET SITE: PROVIDED, THAT, SUCH INTERNET SITE HAS THE PRIMARY PURPOSE OR EFFECT OF INFRINGING COPYRIGHT OR FACILITATING COPYRIGHT INFRINGEMENT AND/OR THAT CONTAINS INFRINGING GOODS.

220-A.2 THE APPLICATION SHALL BE MADE THROUGH THE FILING OF A VERIFIED COMPLAINT IN ACCORDANCE WITH THE RULES OF PROCEDURE GOVERNING THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS. THE COMPLAINT SHALL INCLUDE SUPPORTING DOCUMENTS TO DEMONSTRATE THAT THE INTERNET SITE (A) CONTAINS INFRINGING GOODS, OR (B) HAS THE PRIMARY PURPOSE OF INFRINGING OR FACILITATING THE INFRINGEMENT OF COPYRIGHT.

A SINGLE APPLICATION UNDER THIS SUBSECTION MAY BE FILED FOR ONE (1) OR MORE INTERNET SITES.

220-A.3 UPON RECEIPT OF AN APPLICATION PURSUANT TO SUBSECTIONS 220-A.1 AND 220-A.2, THE IPO SHALL NOTIFY OR CAUSE THE OWNER OR OPERATOR OF THE INTERNET SITE TO BE NOTIFIED OF THE PENDING APPLICATION.

220-A.4 IN EVALUATING AN APPLICATION DULY FILED WITH THE IPO PURSUANT TO SECTIONS 220-A.1 AND 220-A.2 OF THIS ACT, AND FOR THE PURPOSE OF DETERMINING WHETHER TO GRANT THE APPLICATION FOR AN ORDER TO BLOCK ACCESS TO AN INTERNET SITE, THE IPO MAY TAKE THE FOLLOWING MATTERS INTO CONSIDERATION:

- (A) THE GRAVITY AND/OR FLAGRANCY OF THE INFRINGEMENT OR FACILITATION THEREOF ON THE INTERNET SITE;**
- (B) WHETHER THE INTERNET SITE MAKES AVAILABLE OR CONTAINS DIRECTORIES, INDICES, OR CATEGORIES OF THE MEANS TO INFRINGE OR FACILITATE AN INFRINGEMENT OF THE COPYRIGHT;**
- (C) WHETHER THE OWNER OR OPERATOR OF THE INTERNET SITE DEMONSTRATES A DISREGARD FOR COPYRIGHT GENERALLY;**
- (D) WHETHER ACCESS TO THE INTERNET SITE HAS BEEN DISABLED BY ORDERS FROM ANY COURT OR TRIBUNAL OF ANOTHER COUNTRY OR TERRITORY ON THE**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49

- GROUND OF, OR RELATED TO, COPYRIGHT INFRINGEMENT;
- (E) WHETHER IT IS IN THE PUBLIC INTEREST TO DISABLE ACCESS TO THE INTERNET SITE; AND
 - (F) ANY OTHER RELEVANT MATTER.

220-A.5 UPON A FINDING THAT THE INTERNET SITE HAS THE PRIMARY PURPOSE OR EFFECT OF INFRINGING COPYRIGHT OR FACILITATING COPYRIGHT INFRINGEMENT AND/OR CONTAINS INFRINGING GOODS, THE IPO SHALL ISSUE AN ORDER TO THE ISP DIRECTING IT TO:

- (A) BLOCK OR PREVENT USER ACCESS TO A DOMAIN NAME SYSTEM (DNS) WITH RESPECT TO ALL DOMAIN NAMES WHERE THE INTERNET SITE OPERATES;
- (B) BLOCK AN IP ADDRESS WITH RESPECT TO STATIC IP ADDRESSES FOR THE INTERNET SITE;
- (C) BLOCK OR PREVENT USER ACCESS TO A UNIFORM RESOURCE LOCATOR (URL) AND ASSOCIATED DOMAIN NAME/S FOR THE INTERNET SITE; AND/OR
- (D) REDIRECT USERS WHO ATTEMPT TO ACCESS THE INTERNET SITE TO A LANDING PAGE THAT CONTAINS RELEVANT INFORMATION ABOUT THE STATE POLICIES ON THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS AND APPLICABLE LAWS, RULES, AND REGULATIONS, AND OTHER EDUCATIONAL MATERIAL ABOUT LEGITIMATE SOURCES TO ACCESS WORKS PROTECTED BY COPYRIGHT.

IN THE ENFORCEMENT OF SUCH ORDER, THE IPO SHALL COORDINATE WITH THE NTC. FOR THIS PURPOSE, THE IPO AND THE NTC SHALL ENSURE, JOINTLY, THAT A COPY OF SUCH ORDER IS FURNISHED TO THE COPYRIGHT OWNER, RIGHT HOLDER, AND/OR HIS/HER DULY AUTHORIZED REPRESENTATIVE.

220-A.6 THE IPO MAY ALSO ISSUE AN ORDER TO THE OWNER OR OPERATOR OF AN INTERNET SITE TO TAKE DOWN THE INFRINGING GOODS. IN THE ENFORCEMENT OF THIS ORDER, THE IPO SHALL COORDINATE WITH THE NTC FOR ITS PROPER IMPLEMENTATION.

220-A.7. UPON RECEIPT OF A NEW APPLICATION FROM THE COPYRIGHT OWNER, RIGHT HOLDER, OR HIS/HER DULY AUTHORIZED REPRESENTATIVE THAT AN INTERNET SITE THAT HAS BEEN BLOCKED PURSUANT TO AN ORDER DULY ISSUED BY THE IPO UNDER SUBSECTION 220-A.5 MAY BE OR HAS BEEN ACCESSED FROM, OR IS ASSOCIATED WITH, AN ADDITIONAL INTERNET SITE BASED ON THE NAME, BRANDING, OR IDENTITY OF THE OWNER OR OPERATOR OF THE ADDITIONAL INTERNET

1 SITE, THE IPO MAY ISSUE ANOTHER ORDER DIRECTING THE
2 ISP/S TO BLOCK ACCESS TO THE ADDITIONAL INTERNET SITE.
3

4 220-A-9. THE OWNER OR OPERATOR OF AN INTERNET SITE THE
5 ACCESS TO WHICH HAS BEEN BLOCKED THROUGH AN ORDER
6 DULY ISSUED BY THE IPO PURSUANT TO SUBSECTION 220-A.5
7 MAY APPLY FOR A VARIATION OR REVOCATION OF SUCH
8 ORDER. THE IPO, IN COORDINATION WITH THE NTC, MAY GRANT
9 SUCH REQUEST IF IT IS SATISFIED THAT THERE HAS BEEN A
10 MATERIAL CHANGE IN THE CIRCUMSTANCES WHICH SHOWS
11 THAT:

- 12 (A) THE INTERNET SITE HAS CEASED TO HAVE THE
13 PRIMARY PURPOSE OR EFFECT OF INFRINGING
14 COPYRIGHT OR FACILITATING COPYRIGHT
15 INFRINGEMENT AND/OR NO LONGER CONTAINS
16 INFRINGING GOODS; AND/OR
17 (B) IT IS APPROPRIATE UNDER THE CIRCUMSTANCES TO
18 REVOKE OR VARY THE ORDER.
19

20 220-A-10. NO ADMINISTRATIVE, CRIMINAL, OR CIVIL
21 PROCEEDINGS SHALL LIE AGAINST ANY ISP THAT SHALL
22 IMPLEMENT AN ORDER ISSUED BY THE IPO PURSUANT TO
23 SUBSECTION 220-A.5 OF THIS ACT: *PROVIDED, HOWEVER, THAT:*

- 24 (A) THE ISP DOES NOT HAVE ACTUAL KNOWLEDGE THAT
25 THE INTERNET SITE HAS THE PRIMARY PURPOSE OR
26 EFFECT OF INFRINGING COPYRIGHT OR FACILITATING
27 COPYRIGHT INFRINGEMENT AND/OR CONTAINS
28 INFRINGING GOODS;
29 (B) THE ISP DOES NOT KNOWINGLY RECEIVE A FINANCIAL
30 BENEFIT DIRECTLY ATTRIBUTABLE TO THE INFRINGING
31 ACTIVITY/IES COMMITTED OR FACILITATED THROUGH
32 THE INTERNET SITE; AND
33 (C) THE ISP DOES NOT DIRECTLY COMMIT ANY
34 INFRINGEMENT OR OTHER UNLAWFUL ACT AND/OR
35 DOES NOT INDUCE OR CAUSE ANOTHER PERSON OR
36 PARTY TO COMMIT SUCH INFRINGEMENT OR OTHER
37 UNLAWFUL ACT, AND/OR DOES NOT BENEFIT
38 FINANCIALLY FROM THE INFRINGEMENT OR OTHER
39 UNLAWFUL ACT OF ANOTHER PERSON, OR PARTY;
40

41 *PROVIDED, FURTHER, THAT* NOTHING IN THIS SUBSECTION
42 SHALL AFFECT ANY OBLIGATION OF AN ISP THAT:

- 43 (A) IS ESTABLISHED BY CONTRACT, SUCH AS A LICENSING
44 OR OTHER REGULATORY REGIME ESTABLISHED
45 UNDER LAW;
46 (B) IS IMPOSED UNDER ANY WRITTEN LAW; OR
47 (C) ARISES FROM CIVIL LIABILITY OF A PARTY TO THE
48 EXTENT THAT SUCH LIABILITY FORMS THE BASIS FOR
49 INJUNCTIVE RELIEF ISSUED BY A COURT UNDER ANY
50 LAW REQUIRING THAT THE ISP TAKE OR REFRAIN FROM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

ACTIONS NECESSARY TO REMOVE, BLOCK, OR DENY ACCESS TO ANY MATERIAL, OR TO PRESERVE EVIDENCE OF A VIOLATION OF LAW.

SEC. 4. Section 217 of R.A. No. 8293, as amended, is hereby amended to read as follows:

“SEC. 217. Criminal Penalties. – xxx

SECTION 217.1-A.

(A) ANY PERSON FOUND GUILTY OF VIOLATING OR FAILING TO COMPLY WITH AN ORDER DULY ISSUED PURSUANT TO SUBSECTIONS 220-A.5 AND/OR 220-A.6 OF THIS ACT SHALL BE PUNISHED WITH IMPRISONMENT OF *PRISION MAYOR* OR A FINE RANGING FROM ONE HUNDRED THOUSAND PESOS (P100,000.00) TO ONE MILLION PESOS (P1,000,000.00). AN ADDITIONAL FINE OF NOT MORE THAN FIFTY THOUSAND PESOS (P50,000.00) SHALL BE IMPOSED FOR EACH CONTINUING VIOLATION OF OR NON-COMPLIANCE WITH SUCH ORDER.

(B) WHEN THE ACT PUNISHABLE UNDER SUBSECTION 217.1-A(A) IS COMMITTED BY A JURIDICAL PERSON, THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED ON ITS OFFICERS, DIRECTORS, OR EMPLOYEES HOLDING MANAGERIAL POSITIONS, WHO ARE KNOWINGLY AND WILLFULLY RESPONSIBLE FOR SUCH VIOLATION, AND SUCH JURIDICAL PERSON SHALL BE HELD LIABLE FOR A FINE EQUIVALENT TO AT LEAST DOUBLE THE FINES IMPOSABLE IN SUBSECTION 217.1-A(A) OF THIS ACT UP TO A MAXIMUM OF FIVE MILLION PESOS (PHP5,000,000.00). THE LIABILITY IMPOSED ON THE JURIDICAL PERSON SHALL BE WITHOUT PREJUDICE TO THE CRIMINAL LIABILITY OF THE NATURAL PERSON WHO HAS COMMITTED THE OFFENSE.

SEC. 5. Implementing Rules and Regulations. – Within four (4) months from the effectivity of this Act, the IPO, NTC, and other concerned agencies, upon consultation with relevant stakeholders, shall issue the implementing rules and regulations, including the appropriate rules of procedure, for the effective implementation of this Act.

SEC. 6. Separability Clause. – If any provision of this Act is held invalid or unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 7. Repealing Clause. – All laws, decrees, orders, rules, and regulations or parts thereof inconsistent with this Act, including but not limited to issuances promulgated by the IPO, NTC, and other agencies, are hereby repealed or modified accordingly.

1
2
3
4
5

SEC. 8. Effectivity. – This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or a newspaper of general circulation.

Approved,