



HOUSE OF REPRESENTATIVES

H. No. 3841

BY REPRESENTATIVES RODRIGUEZ (R.), RODRIGUEZ (M.), ANGARA, TIENG, VELARDE, AUMENTADO, EVARDONE, GARCIA (A.), APACIBLE, DUAVIT, BIRON, DEFENSOR, ALVAREZ (A.), TREÑAS, CASIÑO, VILLARICA, MANDANAS, FERNANDEZ, GARAY, TEODORO, DEL ROSARIO (A.G.), SACDALAN, OSMEÑA, JOSON, RODRIGUEZ (I.), LACSON-NOEL, YU, FERRER (J.), SAHIDULLA, LAGDAMEO (A.), BONOAN-DAVID, MELLANA, SAKALURAN, QUISUMBING, UNABIA, BATOCABE, COLMENARES, HARESCO, VILLAR, PANCHO, ENVERGA, COJUANGCO (E.); CAJAYON, TUGNA, TY, ROMUALDEZ, ARROYO (D.), GONZALES (A.), PANOTES, MERCADO-REVILLA, CALIMBAS-VILLAROSA, CO, GARBIN AND HERRERA-DY, PER COMMITTEE REPORT NO. 421

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"

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

1 SECTION 1. Section 6.2. of Republic Act No. 8293, otherwise known
2 as the "Intellectual Property Code of the Philippines", is hereby amended to
3 read as follows:

4 "SEC. 6. *The Organizational Structure of the IPO.* –

5 "x x x

1 “6.2. The Office shall be divided into [six (6)] SEVEN (7)
2 Bureaus, each of which shall be headed by a Director and assisted
3 by an Assistant Director. These Bureaus are:

4 “(a) The Bureau of Patents;

5 “(b) The Bureau of Trademarks;

6 “(c) **THE BUREAU OF COPYRIGHT;**

7 “[(c)](d) The Bureau of Legal Affairs;

8 “[(d)](e) The Documentation, Information and Technology
9 Transfer Bureau;

10 “[(e)](f) The Management Information System and EDP
11 Bureau; and

12 “[(f)](g) The Administrative, Financial and Personnel
13 Services Bureau.”

14 SEC. 2. Section 7 of Republic Act No. 8293 is hereby amended to read
15 as follows:

16 “SEC. 7. *The Director General and Deputies Director General.* —

17 7.1. The Director General shall exercise the following powers and
18 functions:

19 “x x x

20 “(b) Exercise exclusive appellate jurisdiction over all
21 decisions rendered by the Director of Legal Affairs, the Director of
22 Patents, the Director of Trademarks, **THE DIRECTOR OF**
23 **COPYRIGHT**, and the Director of the Documentation, Information
24 and Technology Transfer Bureau. The decisions of the Director
25 General in the exercise of his appellate jurisdiction in respect of the
26 decisions of the Director of Patents, and the Director of
27 Trademarks shall be appealable to the Court of Appeals in

1 accordance with the Rules of Court; and those in respect of the
2 decisions of the Director of Documentation, Information and
3 Technology Transfer Bureau shall be appealable to the Secretary of
4 Trade and Industry;

5 “(c) Exercise [original] APPELLATE jurisdiction [to resolve
6 disputes] OVER DECISIONS MADE BY THE DIRECTOR OF
7 COPYRIGHT OVER DISPUTES relating to the terms of a license
8 involving the author’s right to public performance or other
9 communication of his work. The decisions of the Director General
10 in these cases shall be appealable to the Secretary of Trade and
11 Industry.

12 “(D) UNDERTAKE ENFORCEMENT FUNCTIONS SUPPORTED
13 BY CONCERNED AGENCIES SUCH AS THE PHILIPPINE NATIONAL
14 POLICE, NATIONAL BUREAU OF INVESTIGATION, BUREAU OF
15 CUSTOMS, OPTICAL MEDIA BOARD, LOCAL GOVERNMENT UNITS,
16 AMONG OTHERS;

17 “(E) CONDUCT VISITS TO ESTABLISHMENTS AND
18 BUSINESSES ENGAGING IN ACTIVITIES VIOLATING
19 INTELLECTUAL PROPERTY RIGHTS AND PROVISIONS OF THIS ACT
20 BASED ON REPORT, INFORMATION OR COMPLAINT RECEIVED BY
21 THE OFFICE; AND

22 “(F) SUCH OTHER FUNCTIONS IN FURTHERANCE OF
23 PROTECTING INTELLECTUAL PROPERTY RIGHTS AND
24 OBJECTIVES OF THIS ACT.”

25 SEC. 3. A new Section 9A is hereby inserted after Section 9 of
26 Republic Act No. 8293 to read as follows:

27 “SEC. 9A. *THE BUREAU OF COPYRIGHT.* – THE BUREAU OF
28 COPYRIGHT SHALL HAVE THE FOLLOWING FUNCTIONS:

1 **"9A.1. ACCEPT, REVIEW AND DECIDE ON APPLICATIONS**
2 **FOR THE ACCREDITATION OF COLLECTIVE MANAGEMENT**
3 **ORGANIZATIONS OR SIMILAR ENTITIES;**

4 **"9A.2. CONDUCT STUDIES AND RESEARCHES IN THE FIELD**
5 **OF COPYRIGHT AND RELATED-RIGHTS IN ORDER TO ASSIST THE**
6 **DIRECTOR GENERAL IN FORMULATING POLICIES ON THE**
7 **ADMINISTRATION AND MANAGEMENT OF COPYRIGHT AND**
8 **RELATED RIGHTS;**

9 **"9A.3. EXERCISE ORIGINAL JURISDICTION TO RESOLVE**
10 **DISPUTES RELATING TO THE TERMS OF A LICENSE INVOLVING**
11 **THE AUTHOR'S RIGHT TO PUBLIC PERFORMANCE OR OTHER**
12 **COMMUNICATION OF HIS WORK. THE DECISIONS OF THE**
13 **DIRECTOR OF COPYRIGHT IN THESE CASES SHALL BE**
14 **APPEALABLE TO THE DIRECTOR GENERAL;**

15 **"9A.4. ASSIST THE DOCUMENTATION, INFORMATION AND**
16 **TECHNOLOGY TRANSFER BUREAU (DITTB) IN EDUCATING THE**
17 **PUBLIC AND BUILDING AWARENESS OF COPYRIGHT AND RELATED**
18 **RIGHTS THROUGH SEMINARS, LECTURES AND OTHER SIMILAR**
19 **ACTIVITIES;**

20 **"9A.5. PROVIDE INFORMATION TO THE DIRECTOR**
21 **GENERAL REGARDING MATTERS OF COPYRIGHT AND RELATED**
22 **RIGHTS THAT REQUIRE PUBLICATION IN THE IPO GAZETTE;**

23 **"9A.6. COORDINATE WITH THE NATIONAL LIBRARY AND**
24 **THE SUPREME COURT LIBRARY FOR THE BUREAU TO MAINTAIN**
25 **A DATABASE OF DEPOSITED WORKS, ASSIGNMENTS OR**
26 **EXCLUSIVE LICENSES OF COPYRIGHTED WORKS AND OTHER**
27 **DOCUMENTS, PARTICULARLY THOSE MENTIONED IN SECTIONS**
28 **182, 183, 191 AND 198 OF REPUBLIC ACT NO. 8293;**

1 **"9A.7. COORDINATE WITH OTHER GOVERNMENT AGENCIES**
 2 **AND THE PRIVATE SECTOR EFFORTS FOR THE BUREAU TO**
 3 **FORMULATE AND IMPLEMENT PLANS AND POLICIES TO**
 4 **STRENGTHEN THE PROTECTION OF COPYRIGHT AND RELATED**
 5 **RIGHTS; AND**

6 **"9A.8. PROVIDE OTHER COPYRIGHT AND RELATED RIGHTS**
 7 **SERVICE AND CHARGE REASONABLE FEES THEREFOR."**

8 SEC. 4. Section 13.2. of Republic Act No. 8293 is hereby amended to
 9 read as follows:

10 **"13.2. The Patent,[and] Trademark AND COPYRIGHT**
 11 **Administration Services shall perform the following functions**
 12 **among others:**

13 **"(a) Maintain registers of assignments, mergings, licenses,**
 14 **and bibliographic on patents, [and] trademarks[;] AND**
 15 **COPYRIGHT: PROVIDED, THAT NOTHING IN THIS SECTION SHALL**
 16 **BE DEEMED TO AMEND SECTION 172.2. OF REPUBLIC ACT NO.**
 17 **8293;**

18 **"(b) x x x**

19 **"(c) x x x."**

20 SEC. 5. Section 171.3. of Republic Act No. 8293 is hereby amended to
 21 read as follows:

22 **"SEC. 171. Definitions. – For the purpose of this Act, the**
 23 **following terms have the following meaning:**

24 **"x x x**

25 **"171.3. 'Communication to the public' or 'communicate to**
 26 **the public' means ANY COMMUNICATION TO THE PUBLIC,**
 27 **INCLUDING BROADCASTING, REBROADCASTING,**
 28 **RETRANSMITTING BY CABLE, BROADCASTING AND**

1 **RETRANSMITTING BY SATELLITE, AND INCLUDES** the making of a
2 work available to the public by wire or wireless means in such a
3 way that members of the public may access these works from a
4 place and time individually chosen by them;”

5 SEC. 6. Section 171.9. of Republic Act No. 8293 is hereby amended to
6 read as follows:

7 “171.9. ‘Reproduction’ is the making of one (1) or more
8 copies, **TEMPORARY OR PERMANENT, IN WHOLE OR IN PART,** of a
9 work or a sound recording in any manner or form **WITHOUT**
10 **PREJUDICE TO THE PROVISIONS OF SECTION 185 OF THIS ACT**
11 **(Sec. 41[(E)], P.D. No. 49a);”**

12 SEC. 7. There shall be two (2) new subsections to be added at the end
13 of Section 171.11. to be known as 171.12. and 171.13., both to read as
14 follows:

15 “**171.12. ‘TECHNOLOGICAL MEASURE’ MEANS ANY**
16 **TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL**
17 **COURSE OF ITS OPERATION, RESTRICTS ACTS IN RESPECT OF A**
18 **WORK, PERFORMANCE OR SOUND RECORDING, WHICH ARE NOT**
19 **AUTHORIZED BY THE AUTHORS, PERFORMERS OR PRODUCERS OF**
20 **SOUND RECORDINGS CONCERNED OR PERMITTED BY LAW;**

21 “**171.13. ‘RIGHTS MANAGEMENT INFORMATION’ MEANS**
22 **INFORMATION WHICH IDENTIFIES THE WORK, SOUND**
23 **RECORDING OR PERFORMANCE; THE AUTHOR OF THE WORK,**
24 **PRODUCER OF THE SOUND RECORDING OR PERFORMER OF THE**
25 **PERFORMANCE; THE OWNER OF ANY RIGHT IN THE WORK,**
26 **SOUND RECORDING OR PERFORMANCE; OR INFORMATION ABOUT**
27 **THE TERMS AND CONDITIONS OF THE USE OF THE WORK, SOUND**
28 **RECORDING OR PERFORMANCE; AND ANY NUMBER OR CODE**

1 THAT REPRESENTS SUCH INFORMATION, WHEN ANY OF THESE
 2 ITEMS IS ATTACHED TO A COPY OF THE WORK, SOUND
 3 RECORDING OR FIXATION OF PERFORMANCE OR APPEARS IN
 4 CONJUNCTION WITH THE COMMUNICATION TO THE PUBLIC OF A
 5 WORK, SOUND RECORDING OR PERFORMANCE.”

6 SEC. 8. The Chapter Title of Chapter VII, Part IV, the Law on
 7 Copyright, is hereby amended to read as follows:

8 “CHAPTER VII

9 “*TRANSFER, [OR] ASSIGNMENT AND LICENSING OF COPYRIGHT*”

10 SEC. 9. Section 180 of Republic Act No. 8293 is hereby amended to
 11 read as follows:

12 “SEC. 180. *Rights of Assignee OR LICENSEE.* – 180.1. The
 13 copyright may be assigned OR LICENSED in whole or in part.
 14 Within the scope of the assignment OR LICENSE, the assignee OR
 15 LICENSEE is entitled to all the rights and remedies which the
 16 assignor OR LICENSOR had with respect to the copyright.

17 “180.2. The copyright is not deemed assigned OR LICENSED
 18 *inter vivos*, in whole or in part, unless there is a written indication
 19 of such intention.

20 “x x x

21 “180.4. ANY EXCLUSIVITY IN THE ECONOMIC RIGHTS IN A
 22 WORK MAY BE EXCLUSIVELY LICENSED. WITHIN THE SCOPE OF
 23 THE EXCLUSIVE LICENSE, THE LICENSEE IS ENTITLED TO ALL
 24 THE RIGHTS AND REMEDIES WHICH THE LICENSOR HAD WITH
 25 RESPECT TO THE COPYRIGHT.

26 “180.5. THE COPYRIGHT OWNER HAS THE RIGHT TO
 27 REGULAR STATEMENTS OF ACCOUNTS FROM THE ASSIGNEE OR
 28 THE LICENSEE WITH REGARD TO ASSIGNED OR LICENSED WORK.
 29 THE ACCOUNTING SHALL BE MADE IN WRITING AND SHALL BE

1 GIVEN TO THE AUTHOR AT LEAST ONCE A YEAR ACCOMPANIED
2 BY SUCH INFORMATION, INCLUDING BOOKS OF ACCOUNTS,
3 CONTRACTS REASSIGNING HIS RIGHTS TO HIS WORK, AND SUCH
4 OTHER DOCUMENTS THAT WILL HELP THE AUTHOR OR
5 COPYRIGHT OWNER DETERMINE THE PROPER REMUNERATION
6 DUE HIM.”

7 SEC. 10. Section 181 of Republic Act No. 8293 is hereby amended to
8 read as follows:

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

16 SEC. 11. Section 183 of Republic Act No. 8293 is hereby amended to
17 read as follows:

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

26 SEC. 12. Section 185.1. of Republic Act No. 8293 is hereby amended
27 to read as follows:

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

16 “(a) The purpose and character of the use, including whether
17 such use is of a commercial nature or is for non-profit educational
18 purposes;

19 “(b) The nature of the copyrighted work;

20 “(c) The amount and substantiality of the portion used in
21 relation to the copyrighted work as a whole; and

22 “(d) The effect of the use upon the potential market for or
23 value of the copyrighted work.

24 “IT IS ALSO NOT AN INFRINGEMENT OF THE COPYRIGHTED
25 WORK TO REPRODUCE OR DISTRIBUTE COPIES OF PUBLISHED
26 ARTICLES OR MATERIALS IF SUCH COPIES ARE REPRODUCED OR
27 DISTRIBUTED IN A SPECIALIZED FORMAT EXCLUSIVELY FOR THE
28 USE OF THE BLIND, VISUALLY- AND READING-IMPAIRED

1 **PERSONS: PROVIDED, THAT SUCH COPIES AND DISTRIBUTION**
 2 **SHALL BE MADE ON A NON-PROFIT BASIS AND SHALL INDICATE**
 3 **THE COPYRIGHT OWNER AND THE DATE OF THE ORIGINAL**
 4 **PUBLICATION; PROVIDED, FURTHER, THAT SUCH REPRODUCTION**
 5 **OR DISTRIBUTION IS NOT IN CONFLICT WITH THE NORMAL**
 6 **EXPLOITATION OF THE WORK AND DOES NOT UNREASONABLY**
 7 **PREJUDICE THE LEGITIMATE INTERESTS OF THE COPYRIGHT**
 8 **OWNER. THIS DISTRIBUTION IS ALSO PERMITTED IN CASE THE**
 9 **COPIES HAVE BEEN MADE ABROAD AND THE CONDITIONS**
 10 **MENTIONED HAVE BEEN FULFILLED.”**

11 SEC. 13. Section 188.1. of Republic Act No. 8293 is hereby amended
 12 to read as follows:

13 “SEC. 188. *Reprographic Reproduction by Libraries.* – 188.1.
 14 Notwithstanding the provisions of Subsection [177.6.] 177.1., any
 15 library or archive whose activities are not for profit may, without
 16 the authorization of the author [of] OR copyright owner, make a
 17 [single copy] LIMITED NUMBER OF COPIES of the work, AS MAY
 18 BE NECESSARY FOR SUCH INSTITUTIONS TO FULFILL THEIR
 19 MANDATE, by reprographic reproduction:

20 “x x x

21 “(c) Where the making of such [a copy] LIMITED COPIES is
 22 in order to preserve and, if necessary in the event that it is lost,
 23 destroyed or rendered unusable, replace a copy, or to replace, in
 24 the permanent collection of another similar library or archive, a
 25 copy which has been lost, destroyed or rendered unusable and
 26 copies are not available with the publisher.”

27 SEC. 14. Sections 190.1. and 190.2. of Republic Act No. 8293 are
 28 deleted in their entirety.

1 SEC. 15. Section 190.3. of Republic Act No. 8293 is hereby
2 renumbered and amended as the sole provision under Section 190 to read as
3 follows:

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

15 SEC. 16. Section 191 of Republic Act No. 8293 is hereby amended to
16 read as follows:

17 “SEC. 191. [*Registration and*] **DEPOSIT AND NOTICE OF**
18 **DEPOSIT** with *THE National Library and the Supreme Court*
19 *Library.* -- **WITHIN THREE (3) WEEKS [A]**after the first public
20 dissemination [of] OR performance by authority of the copyright
21 owner of a work falling under Subsections [172.1, 172.2, and
22 172.3] **172.1.(A), 172.1.(B), 172.1.(C) AND 173.1.** of this Act, there
23 shall, for the purpose of completing the records of the National
24 Library and the Supreme Court Library, [within three (3) weeks,]
25 be registered and deposited with it, by personal delivery or by
26 registered mail, two (2) complete copies or reproductions of the

1 work in such form as the directors of said libraries may prescribe
 2 **IN ACCORDANCE WITH REGULATIONS: PROVIDED, THAT ONLY**
 3 **WORKS IN THE FIELD OF LAW SHALL BE DEPOSITED WITH THE**
 4 **SUPREME COURT LIBRARY. A [certificate] NOTICE of deposit**
 5 **shall be issued for which the prescribed fee shall be collected [and**
 6 **the copyright owner shall be exempt from making additional**
 7 **deposit of the works with the National Library and the Supreme**
 8 **Court Library under other laws. If, within three (3) weeks after**
 9 **receipt by the copyright owner of a written demand from the**
 10 **directors for such deposit, the required copies or reproductions are**
 11 **not delivered and the fee is not paid, the copyright owner shall be**
 12 **liable to pay a fine equivalent to the required fee per month of**
 13 **delay and to pay to the National Library and the Supreme Court**
 14 **Library the amount of the retail price of the best edition of the**
 15 **work. Only the above mentioned classes of work shall be accepted**
 16 **for deposit by the National Library and the Supreme Court**
 17 **Library]. (Sec. 26, P.D. No. 49a)”**

18 **SEC. 17. Section 198 of Republic Act No. 8293 is hereby amended to**
 19 **read as follows:**

20 **“SEC. 198. *Term of Moral Rights.* – 198.1. The right[s] of an**
 21 **author under [this chapter] SECTION 193.1. shall last during the**
 22 **lifetime of the author and [for fifty (50) years] IN PERPETUITY**
 23 **after his death [and shall not be assignable or subject to license.]**
 24 **WHILE THE RIGHTS UNDER SECTIONS 193.2., 193.3. AND 193.4.**
 25 **SHALL BE COTERMINOUS WITH THE ECONOMIC RIGHTS, THE**
 26 **MORAL RIGHTS SHALL NOT BE ASSIGNABLE OR SUBJECT TO**
 27 **LICENSE. The person or persons to be charged with the**

1 posthumous enforcement of these rights shall be named in [writing
2 to] A WRITTEN INSTRUMENT WHICH SHALL be filed with the
3 National Library. In default of such person or persons, such
4 enforcement shall devolve upon either the author's heirs, and in
5 default of the heirs, the Director of the National Library."

6 SEC. 18. Section 208 of Republic Act No. 8293 is hereby amended to
7 read as follows:

8 "SEC. 208. *Scope of Right.* - Subject to the provisions of
9 Section 212, producers of sound recordings shall enjoy the
10 following exclusive rights:

11 "208.1. The right to authorize the direct or indirect
12 reproduction of their sound recordings, in any manner or form; [the
13 placing of these reproductions in the market and the right of rental
14 or lending;]

15 "208.2. The right to authorize the first public distribution of
16 the original and copies of their sound recordings through sale or
17 rental or other forms of transferring ownership; [and]

18 "208.3. The right to authorize the commercial rental to the
19 public of the original and copies of their sound recordings, even
20 after distribution by them [by] or pursuant to authorization by the
21 producer[.]; AND

22 "208.4. THE RIGHT TO AUTHORIZE THE MAKING
23 AVAILABLE TO THE PUBLIC OF THEIR SOUND RECORDINGS IN
24 SUCH A WAY THAT MEMBERS OF THE PUBLIC MAY ACCESS THE
25 SOUND RECORDING FROM A PLACE AND AT A TIME INDIVIDUALLY
26 CHOSEN OR SELECTED BY THEM, AS WELL AS OTHER

1 **TRANSMISSIONS OF A SOUND RECORDING WITH LIKE EFFECT.”**

2 (Sec. 46, P.D. No. 49a)

3 SEC. 19. Section 212 of Republic Act No. 8293 is hereby amended to
4 read as follows:

5 “SEC. 212. *Limitations on Rights.* – [Sections 203, 208 and
6 209 shall not apply where the acts referred to in those Sections are
7 related to:

8 “212.1. The use by a natural person exclusively for his own
9 personal purposes;

10 “212.2. Using short excerpts for reporting current events;

11 “212.3. Use solely for the purpose of teaching or for scientific
12 research; and

13 “212.4. Fair use of the broadcast subject to the conditions
14 under Section 185. (Sec. 44, P.D. No. 49a)] **THE PROVISIONS OF**
15 **CHAPTER VIII SHALL APPLY *MUTATIS MUTANDIS* TO THE RIGHTS**
16 **OF PERFORMERS, PRODUCERS OF SOUND RECORDINGS AND**
17 **BROADCASTING ORGANIZATIONS.”**

18 SEC. 20. Section 216 of Republic Act No. 8293 is hereby amended to
19 read as follows:

20 “SEC. 216. ***INFRINGEMENT.*** – **A PERSON INFRINGES A**
21 **RIGHT PROTECTED UNDER THIS ACT WHEN ONE:**

22 “(A) **DIRECTLY COMMITS AN INFRINGEMENT;**

23 “(B) **BENEFITS FINANCIALLY FROM THE INFRINGING**
24 **ACTIVITY OF ANOTHER PERSON WHO COMMITS AN**
25 **INFRINGEMENT IF THE PERSON BENEFITING HAS BEEN GIVEN**
26 **NOTICE OF THE INFRINGING ACTIVITY AND HAS THE RIGHT AND**
27 **ABILITY TO CONTROL THE ACTIVITIES OF THE OTHER PERSON;**

28 **OR**

1 “(C) PURPOSELY AND WITH THE INTENT TO ENABLE OR
2 INDUCE INFRINGEMENT BY ANOTHER PERSON, AND MATERIALLY
3 CONTRIBUTES TO IT.

4 “216.1. *Remedies for Infringement.* - {216.1.] Any person
5 infringing a right protected under this [law] ACT shall be liable:

6 “x x x

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

18 “(1) CIRCUMVENTS EFFECTIVE TECHNOLOGICAL
19 MEASURES; OR

20 “(2) HAVING REASONABLE GROUNDS TO KNOW THAT IT
21 WILL INDUCE, ENABLE, FACILITATE OR CONCEAL THE
22 INFRINGEMENT, REMOVE OR ALTER ANY ELECTRONIC RIGHTS
23 MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND
24 RECORDING, OR FIXATION OF A PERFORMANCE, OR DISTRIBUTE,
25 IMPORT FOR DISTRIBUTION, BROADCAST, OR COMMUNICATE TO
26 THE PUBLIC WORKS OR COPIES OF WORKS WITHOUT AUTHORITY,
27 KNOWING THAT ELECTRONIC RIGHTS MANAGEMENT

1 **INFORMATION HAS BEEN REMOVED OR ALTERED WITHOUT**
2 **AUTHORITY.**

3 “(c) **TO [D]**deliver under oath, for impounding during the
4 pendency of the action, upon such terms and conditions as the court
5 may prescribe, sales invoices and other documents evidencing
6 sales, all articles and their packaging alleged to infringe a copyright
7 and implements for making them.

8 “(d) **TO [D]**deliver under oath for destruction without any
9 compensation all infringing copies or devices, as well as all plates,
10 molds, or other means for making such infringing copies as the
11 court may order.

12 “(e) **TO [S]**such other terms and conditions, including the
13 payment of moral and exemplary damages, which the court may
14 deem proper, wise and equitable and the destruction of infringing
15 copies of the work even in the event of acquittal in a criminal case.

16 **“THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME**
17 **BEFORE FINAL JUDGMENT IS RENDERED, TO RECOVER INSTEAD**
18 **OF ACTUAL DAMAGES AND PROFITS, AN AWARD OF STATUTORY**
19 **DAMAGES FOR ALL INFRINGEMENTS INVOLVED IN AN ACTION IN**
20 **A SUM EQUIVALENT TO THE FILING FEE OF THE INFRINGEMENT**
21 **ACTION BUT NOT LESS THAN FIFTY THOUSAND PESOS**
22 **(P50,000.00). IN AWARDING STATUTORY DAMAGES, THE COURT**
23 **MAY CONSIDER THE FOLLOWING FACTORS:**

24 **“(1) THE NATURE AND PURPOSE OF THE INFRINGING ACT;**

25 **“(2) THE FLAGRANCY OF THE INFRINGEMENT;**

26 **“(3) WHETHER THE DEFENDANT ACTED IN BAD FAITH;**

27 **“(4) THE NEED FOR DETERRENCE;**

1 “(5) ANY LOSS THAT THE PLAINTIFF HAS SUFFERED OR IS
2 LIKELY TO SUFFER BY REASON OF THE INFRINGEMENT; AND

3 “(6) ANY BENEFIT SHOWN TO HAVE ACCRUED TO THE
4 DEFENDANT BY REASON OF THE INFRINGEMENT.

5 “IN CASE THE INFRINGER WAS NOT AWARE AND HAD NO
6 REASON TO BELIEVE THAT HIS/HER ACTS CONSTITUTE AN
7 INFRINGEMENT OF COPYRIGHT, THE COURT IN ITS DISCRETION
8 MAY REDUCE THE AWARD OF STATUTORY DAMAGES TO A SUM
9 OF NOT MORE THAN TEN THOUSAND PESOS (P10,000.00):
10 *PROVIDED*, THAT THE AMOUNT OF DAMAGES TO BE AWARDED
11 SHALL BE DOUBLED AGAINST ANY PERSON WHO:

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 RIGHTS
17 MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND
18 RECORDING, OR FIXATION OF A PERFORMANCE, OR DISTRIBUTE,
19 IMPORT FOR DISTRIBUTION, BROADCAST, OR COMMUNICATE TO
20 THE PUBLIC WORKS OR COPIES OF WORKS WITHOUT AUTHORITY,
21 KNOWING THAT ELECTRONIC RIGHTS MANAGEMENT
22 INFORMATION HAS BEEN REMOVED OR ALTERED WITHOUT
23 AUTHORITY.

24 “216.2. In an infringement action, the court shall also have
25 the power to order the seizure and impounding of any article which
26 may serve as evidence in the court proceedings[.], IN
27 ACCORDANCE WITH THE RULES ON SEARCH AND SEIZURE
28 INVOLVING VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS
29 ISSUED BY THE SUPREME COURT.

1 **THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT**
2 **SUIT FOR RELIEF BY THE INJURED PARTY BY WAY OF DAMAGES,**
3 **INJUNCTION, ACCOUNTS OR OTHERWISE.” (Sec. 28, P.D. No. 49a)**

4 **SEC. 21. Section 217.2. of Republic Act No. 8293 is hereby amended**
5 **to read as follows:**

6 “217.2. In determining the number of years of imprisonment
7 and the amount of fine, the court shall consider the value of the
8 infringing materials that the defendant has produced or
9 manufactured and the damage that the copyright owner has suffered
10 by reason of the infringement[.]: **PROVIDED, THAT THE**
11 **RESPECTIVE MAXIMUM PENALTY STATED IN SECTION 217.1.(A),**
12 **217.1.(B) AND 217.1.(C) HEREIN FOR THE FIRST, SECOND, THIRD**
13 **AND SUBSEQUENT OFFENSE, SHALL BE IMPOSED WHEN THE**
14 **INFRINGEMENT IS COMMITTED BY:**

15 **“(A) THE CIRCUMVENTION OF EFFECTIVE TECHNOLOGICAL**
16 **MEASURES; OR**

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

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

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

1 “SEC. 218. *Affidavit Evidence.* – 218.1. In an action under
2 this Chapter, an affidavit made before a notary public by or on
3 behalf of the owner of the copyright in any work or other subject
4 matter and stating that:

5 “(a) At the time specified therein, copyright subsisted in the
6 work or other subject matter;

7 “(b) He or the person named therein is the owner of the
8 copyright; and

9 “(c) The copy of the work or other subject matter annexed
10 thereto is a true copy thereof[,]; shall be admitted in evidence in
11 any proceedings [for an offense] under this Chapter and shall be
12 *prima facie* proof of the matters therein stated until the contrary is
13 proved, and the court before which such affidavit is produced shall
14 assume that the affidavit was made by or on behalf of the owner of
15 the copyright.”

16 SEC. 23. A new Section 220A shall be inserted after Section 220.2. of
17 Republic Act No. 8293 to read as follows:

18 “**SEC. 220A. DISCLOSURE OF INFORMATION. – 220A.1.**
19 **WHERE ANY ARTICLE OR ITS PACKAGING OR AN IMPLEMENT**
20 **FOR MAKING IT IS SEIZED OR DETAINED UNDER A VALID SEARCH**
21 **AND SEIZURE UNDER THIS ACT IS, OR IS REASONABLY SUSPECTED**
22 **TO BE, BY AN AUTHORIZED ENFORCEMENT OFFICER, IN**
23 **VIOLATION OF THIS ACT, THE SAID OFFICER SHALL, WHEREVER**
24 **REASONABLY PRACTICABLE, NOTIFY THE OWNER OF THE**
25 **COPYRIGHT IN QUESTION OR HIS AUTHORIZED AGENT OF THE**
26 **SEIZURE OR DETENTION, AS THE CASE MAY BE.**

1 **"220A.2. IN THE CIRCUMSTANCES DESCRIBED IN THE**
2 **PREVIOUS PARAGRAPH, AN AUTHORIZED ENFORCEMENT**
3 **OFFICER MAY DISCLOSE TO THE OWNER OF THE COPYRIGHT OR**
4 **TO HIS AUTHORIZED AGENT THE FOLLOWING:**

5 **"(A) THE TIME, AND THE ADDRESS OR PLACE, OF SEIZURE**
6 **OR DETENTION OF THE ARTICLE;**

7 **"(B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM**
8 **THE ARTICLE HAD BEEN SEIZED OR DETAINED;**

9 **"(C) THE NATURE AND QUANTITY OF ARTICLES SEIZED OR**
10 **DETAINED;**

11 **"(D) ANY STATEMENT MADE TO AN AUTHORIZED**
12 **ENFORCEMENT OFFICER BY THE PERSON IN CONNECTION WITH**
13 **THE SEIZURE OR DETENTION, EITHER WITH THE PRIOR CONSENT**
14 **IN WRITING OF THAT PERSON, OR WITHOUT SUCH CONSENT**
15 **WHERE THE PERSON IS DEAD OR CANNOT AFTER REASONABLE**
16 **ENQUIRIES BY AN AUTHORIZED ENFORCEMENT OFFICER AS TO**
17 **HIS WHEREABOUTS BE FOUND; AND**

18 **"(E) ANY OTHER INFORMATION OR DOCUMENT RELATING**
19 **TO THE ARTICLE SEIZED OR DETAINED WHICH AN AUTHORIZED**
20 **ENFORCEMENT OFFICER DEEMS FIT TO DISCLOSE.**

21 **"220A.3. THE OWNER OF THE COPYRIGHT OR HIS**
22 **AUTHORIZED AGENT SEEKING DISCLOSURE OF ANY**
23 **INFORMATION OR DOCUMENT THAT IS NOT REFERRED TO IN THE**
24 **PREVIOUS PARAGRAPH OR THAT IS NOT DISCLOSED BY THE**
25 **AUTHORIZED ENFORCEMENT OFFICER MAY APPLY TO THE**
26 **COURT FOR AN ORDER REQUIRING THE SAID OFFICER TO**
27 **DISCLOSE SUCH INFORMATION OR DOCUMENT AND THE COURT**
28 **MAY ON SUCH AN APPLICATION MAKE SUCH ORDER FOR**
29 **DISCLOSURE AS IT THINKS FIT."**

1 SEC. 24. Chapter XVIII of Republic Act No. 8293 is hereby amended
2 by adding a new Section at the end thereof to be denominated as Section 224A
3 to read as follows:

4 **"SEC. 224A. PROTECTION OF EXISTING SUBJECT MATTER.**

5 **-- THE PROTECTION PROVIDED UNDER PART IV OF THIS ACT**
6 **SHALL ALSO APPLY TO WORKS, SOUND RECORDINGS AND**
7 **PERFORMANCES FIXED IN SOUND RECORDINGS AND**
8 **BROADCASTING IN EXISTENCE UPON THE EFFECTIVITY OF THIS**
9 **ACT, AND WHICH ARE THE SUBJECT OF INTERNATIONAL**
10 **CONVENTIONS, TREATIES OR AGREEMENTS TO WHICH THE**
11 **PHILIPPINES IS A PARTY: PROVIDED, THAT ON SUCH DATE THE**
12 **WORK, SOUND RECORDING, OR PERFORMANCE FIXED IN A SOUND**
13 **RECORDING HAS NOT YET FALLEN INTO THE PUBLIC DOMAIN IN**
14 **ITS COUNTRY OF ORIGIN OR IN THE PHILIPPINES THROUGH THE**
15 **EXPIRY OF THE TERM OF PROTECTION WHICH WAS PREVIOUSLY**
16 **GRANTED."**

17 SEC. 25. Section 226 of Republic Act No. 8293 is hereby amended to
18 read as follows:

19 **"SEC. 226. Damages. -- No damages may be recovered under**
20 **this Act after THE LAPSE OF four (4) years from the time the cause**
21 **of action arose. (Sec. 58, P.D. No. 49)"**

22 SEC. 26. Chapter XX of Republic Act No. 8293 is hereby amended by
23 adding a new Section at the end thereof to be denominated as Section 230 to
24 read as follows:

25 **"SEC. 230. ADOPTION OF INTELLECTUAL PROPERTY (IP)**
26 **POLICIES. -- SCHOOLS AND UNIVERSITIES SHALL ADOPT**
27 **INTELLECTUAL PROPERTY POLICIES THAT WOULD GOVERN THE**
28 **USE AND CREATION OF INTELLECTUAL PROPERTY WITH THE**
29 **PURPOSE OF SAFEGUARDING THE INTELLECTUAL CREATIONS OF**

1 THE LEARNING INSTITUTION AND ITS EMPLOYEES, AND
2 ADOPTING LOCALLY-ESTABLISHED INDUSTRY PRACTICE FAIR
3 USE GUIDELINES. THESE POLICIES MAY BE DEVELOPED IN
4 RELATION TO LICENSING AGREEMENTS ENTERED INTO BY THE
5 LEARNING INSTITUTION WITH A COLLECTIVE LICENSING
6 ORGANIZATION.”

7 SEC. 27. Section 230 of Republic Act No. 8293 is hereby renumbered
8 as Section 231, and all succeeding sections of the same Act are hereby
9 renumbered accordingly.

10 SEC. 28. *Implementing Rules and Regulations.* – Within one hundred
11 eighty (180) days from the effectivity of this Act, the Intellectual Property
12 Office, in consultation with the National Book Development Board, the
13 National Library, the Supreme Court Library and other relevant agencies, shall
14 promulgate the rules and regulations necessary to effectively implement the
15 provisions of this Act.

16 SEC. 29. *Repealing Clause.* – All laws, decrees, executive orders,
17 issuances or regulations inconsistent with the provisions of this Act are hereby
18 revised or amended accordingly.

19 SEC. 30. *Separability Clause.* – If any part of this Act is declared
20 unconstitutional or invalid, such parts or provisions thereof not so declared
21 shall remain valid and subsisting.

22 SEC. 31. *Effectivity Clause.* – This Act shall take effect fifteen (15)
23 days after its publication in at least two (2) newspapers of general circulation.

Approved,