

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



23 MAY -9 A8 :49

SENATE
S. No. 2150

RECEIVED BY: 

Introduced by Senator Jinggoy Ejercito Estrada

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

Piracy is considered as the greatest threat to Philippine cinema. It deeply hurts the creative industry, as it discourages production, affects the livelihood of its workers and significantly diminishes revenues from the sector. Take for instance the unfortunate case of the 2020 Metro Manila Film Festival (MMFF) which reportedly earned less than 50 million pesos only, a substantial loss from the billion-peso box-office gross from the preceding years. The culprit was the massive piracy, illegal access and unlawful consumption of MMFF entries across the cyberspace. One film producer shared that they monitored illegal online streaming and found 10 to 20 links per hour.

The COVID-19 pandemic saw an unprecedented rise of film piracy in many countries. In the Philippines, illegal online links to Filipino movies which are still being shown in cinemas are also simultaneously and indiscriminately shared in social media platforms. The Intellectual Property Office of the Philippines (IPOPHL) also disclosed an "obviously striking surge" in counterfeiting and piracy activities in 2020, surpassing the number of reports and complaints received from the five-year period


(2016 to 2020). Movies and shows were most reported for alleged piracy (40%), followed by e-books (25%) and software products (16%)¹.

A study further showed that more than 60% of Filipino consumers watch pirated content. All in all, the country has one the highest piracy rates in Southeast Asia.

Considering the pervasiveness of these illegal activities which severely hamper the growth of the creative economy and lead to loss of jobs or displacement of workers, there is a need to establish regulations and effective mechanisms to protect intellectual property rights.

This bill proposes to disable access to online sites which facilitate copyright infringement and introduces procedure for preventive action and site blocking. It also recommends imposition of higher fines from P5,000 to a minimum of P100,000 up to a maximum of P1,000,000, and an additional P10,000 for each day of continuing violation.

In the interest of revitalizing the film and creative sectors and realizing their full potential as one of the major drivers of growth of the national economy, the immediate passage of this legislation is earnestly sought.


JINGGOY EJERCITO ESTRADA

¹ "Reports, complaints against piracy, counterfeiting surge in 2020 amid COVID-19 disruption." February 12, 2021. <https://www.ipophil.gov.ph/news/reports-complaints-against-piracy-counterfeiting-surge-in-2020-amid-covid-19-disruption/>

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**AN ACT
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REPUBLIC ACT NO. 8293, AS AMENDED, 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 Section 1. Section 4 of Republic Act No. 8293, as amended, otherwise known
2 as the "Intellectual Property Code of the Philippines," is hereby amended to read as
3 follows:

4 "Sec. 4. *Definitions.* – 4.1. x x x.

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

1 **"4.6 THE TERM "PIRATED GOODS" REFER TO GOODS OR**
2 **MATERIALS OR CONTENT, WHETHER TANGIBLE AND**
3 **INTANGIBLE, IN ELECTRONIC OR DIGITAL FORM, WHICH ARE**
4 **MADE, PRODUCED, COPIED, REPRODUCED, DISSEMINATED,**
5 **DISTRIBUTED, IMPORTED, USED, REMOVED, ALTERED,**
6 **SUBSTITUTED, MODIFIED, STORED, UPLOADED,**
7 **DOWNLOADED, COMMUNICATED, MADE AVAILABLE TO THE**
8 **PUBLIC, OR PROTECTED MATERIAL BROADCASTED, OR**
9 **REPLICATED WITHOUT THE CONSENT OF THE RIGHT HOLDER**
10 **OR PERSON DULY AUTHORIZED BY THE RIGHT HOLDER AND**
11 **WHICH ARE MADE, PRODUCED, REPLICATED, DIRECTLY OR**
12 **INDIRECTLY FROM AN ARTICLE WHERE THE MAKING OF THAT**
13 **COPY WOULD HAVE CONSTITUTED AN INFRINGEMENT OF**
14 **COPYRIGHT OR RELATED RIGHTS."**

15 Sec. 2. Section 5 of Republic Act No. 8293, as amended, is hereby amended
16 to read as follows:

17 *"Sec. 5. Functions of the Intellectual Property Office (IPO). – x x x*

18 *"x x x*

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

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

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

31 **"(C) DEVELOP A DATABASE OF PENDING CASES**
32 **INVOLVING VIOLATIONS OF THIS ACT;**

1 **“(D) UNDERTAKE ANY OR ALL OF THE FOLLOWING**
2 **ENFORCEMENT ACTIONS:**

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

7 **“(2) ISSUE NOTICE OR WARNING TO THE**
8 **RESPONDENT OR RESPONDENTS;**

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

20 **“(4) REQUEST THE CONCERNED LOCAL**
21 **GOVERNMENT UNIT OR OTHER**
22 **GOVERNMENT AGENCIES TO IMPLEMENT**
23 **THE DECISIONS OF THE INTELLECTUAL**
24 **PROPERTY RIGHTS ENFORCEMENT**
25 **PURSUANT TO THEIR RESPECTIVE**
26 **MANDATES;**

27 **“(5) REPORT THE RESULT OF SERVICE AND**
28 **EXECUTION OF ADMINISTRATIVE ORDERS;**
29 **AND,**

30 **“(6) SUCH OTHER ORDERS OR ACTIONS**
31 **NECESSARY TO ENSURE COMPLIANCE WITH**
32 **THE PROVISIONS OF THIS ACT.**

- 1 “(E) COORDINATE WITH OTHER GOVERNMENT
2 AGENCIES AND PRIVATE SECTOR EFFORTS ON
3 MATTERS RELATED TO INTELLECTUAL PROPERTY
4 RIGHTS ENFORCEMENT;
5 “(F) ASSIST IN THE ENFORCEMENT OF ORDERS, WRITS,
6 AND PROCESSES ISSUED BY THE BUREAU OF
7 LEGAL AFFAIRS AND THE OFFICE OF THE
8 DIRECTOR GENERAL;
9 “(G) CONDUCT MONITORING ACTIVITIES RELATED OR
10 RELEVANT TO INTELLECTUAL PROPERTY RIGHTS
11 ENFORCEMENT;
12 “(H) EXERCISE INTER-AGENCY SPECIAL ENFORCEMENT
13 COORDINATION FUNCTIONS; AND,
14 “(I) SUCH OTHER POWERS AND FUNCTIONS AS MAY BE
15 NECESSARY OR INCIDENTAL TO THE ATTAINMENT
16 OF THE PURPOSES AND OBJECTIVES OF THIS ACT
17 OR AS MAY BE ASSIGNED BY THE DIRECTOR
18 GENERAL.”

19 Sec. 3. Section 10 of Republic Act No. 8293, as amended, is hereby amended
20 to read as follows:

21 “Sec. 10. *The Bureau of Legal Affairs.* – The Bureau of Legal
22 Affairs shall have the following functions:

23 “10.1 x x x;

24 “10.2 (a) x x x;

25 “10.2 (b) After formal investigation, the Director for Legal
26 Affairs may impose one (1) or more of the following administrative
27 penalties:

28 “x x x

29 “(v) The imposition of administrative fines in such amount as
30 deemed reasonable by the Director for Legal Affairs, which shall in no
31 case be less than [~~Five thousand pesos (Php 5,000)~~] **ONE HUNDRED**
32 **THOUSAND PESOS (PHP 100,000)** nor more than [~~One hundred~~

1 ~~fifty thousand pesos (Php 150,000)]~~ **ONE MILLION PESOS (PHP**
2 **1,000,000)**. In addition, an additional fine of not more than [~~One~~
3 ~~thousand pesos (Php 1,000)]~~ **TEN THOUSAND PESOS (PHP**
4 **10,000)** shall be imposed for each day of continuing violation.

5 "x x x

6 **"THE DECISIONS OF THE ADJUDICATION OFFICERS ARE**
7 **APPEALABLE TO THE DIRECTOR.**

8 **"10.3. ESTABLISH AND ADMINISTER ALTERNATIVE**
9 **DISPUTE RESOLUTION MECHANISMS; AND**

10 **"10.4 PROVIDE ASSISTANCE TO OTHER BUREAUS AND**
11 **OFFICES OF THE IPOPHL, INCLUDING LEGAL REVIEW, STUDY**
12 **AND SIMILAR TASKS.**

13 "10.[3]5. The Director General may by Regulations establish the
14 procedure to govern the implementation of this Section."

15 Sec. 4. Section 216 of Republic Act No. 8293, as amended, is hereby further
16 amended to read as follows:

17 "Sec. 216. *Infringement.* – Any person infringes a right
18 protected under this act when one:

19 "(a) x x x;

20 "(b) x x x;

21 "(c) x x x.

22 **"216-A. PREVENTIVE ACTION ON ONLINE**
23 **INFRINGEMENT. – UNLESS OTHERWISE PROVIDED BY LAW,**
24 **OR UNLESS OTHERWISE ORDERED BY THE APPROPRIATE**
25 **COURT OF LAW, THE INTELLECTUAL PROPERTY OFFICE SHALL**
26 **HAVE THE POWER, AFTER DUE NOTICE AND HEARING, TO**
27 **DISABLE ACCESS TO AN ONLINE LOCATION IN ORDER TO**
28 **PREVENT FURTHER ACCESS TO AN ONLINE LOCATION WHOSE**
29 **PRIMARY PURPOSE OR PRIMARY EFFECT OF WHICH IS TO**
30 **INFRINGE COPYRIGHT OR FACILITATE COPYRIGHT**
31 **INFRINGEMENT.**

1 **"THE COPYRIGHT OWNER OR THE EXCLUSIVE LICENSEE**
2 **OF COPYRIGHT, HEREINAFTER REFERRED TO AS THE**
3 **"ELIGIBLE PARTY," MAY SUBMIT AN APPLICATION TO THE**
4 **INTELLECTUAL PROPERTY OFFICE TO ORDER THE DISABLING**
5 **OF ACCESS TO ANY INFRINGING ONLINE LOCATION**
6 **IDENTIFIED IN THE APPLICATION.**

7 **"THE APPLICATION TO THE INTELLECTUAL PROPERTY**
8 **OFFICE SHALL BE SUBMITTED BY COMPLETING IN ITS**
9 **ENTIRETY THE FORMS AND DOCUMENTATION AS REQUESTED**
10 **BY THE INTELLECTUAL PROPERTY OFFICE TO ALLOW THE**
11 **INTELLECTUAL PROPERTY OFFICE TO ESTABLISH THAT THE**
12 **PARTY FILING THE APPLICATION IS AN ELIGIBLE PARTY, OR**
13 **IS AUTHORIZED TO FILE THE APPLICATION ON BEHALF OF AN**
14 **ELIGIBLE PARTY AND VERIFY THROUGH EVIDENCE THAT THE**
15 **SUBJECT OF THE ORDER APPLIED FOR IS AN INFRINGING**
16 **ONLINE LOCATION.**

17 **"FOR PURPOSES OF THIS CHAPTER, "ONLINE**
18 **LOCATION" SHALL REFER TO ANY SINGLE OR COLLECTION OF**
19 **RELATED WEB PAGES ACCESSIBLE BY A USER THROUGH A**
20 **DOMAIN, IP ADDRESS, OR UNIFORM RESOURCE LOCATOR**
21 **(URL), OR A SPECIFIC DOMAIN, IP ADDRESS, OR UNIFORM**
22 **RESOURCE LOCATOR (URL) WHICH SERVES TO OPERATE, IN**
23 **WHOLE OR IN PART, AN APPLICATION ON THE INTERNET."**

24 **"216-B. *PROCEDURE OF INQUIRY FOR PREVENTIVE***
25 ***ACTION.* – THE INTELLECTUAL PROPERTY OFFICE SHALL**
26 **FORMULATE THE PROCEDURE OF INQUIRY FOR PREVENTIVE**
27 **ACTION ON ONLINE INFRINGEMENT, ACCORDING TO THE**
28 **FOLLOWING STANDARDS:**

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

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

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

10 "(II) WHETHER THE OWNER OR OPERATOR OF
11 THE ONLINE LOCATION DEMONSTRATES A
12 DISREGARD FOR COPYRIGHT GENERALLY;
13 OR

14 "(III) WHETHER ACCESS TO THE ONLINE
15 LOCATION HAS BEEN DISABLED BY ORDERS
16 FROM ANY COURT OF ANOTHER COUNTRY
17 OR TERRITORY ON THE GROUND OF OR
18 RELATED TO COPYRIGHT INFRINGEMENT.

19 "(2) ONE APPLICATION MAY BE SUBMITTED FOR
20 MULTIPLE INFRINGING ONLINE LOCATIONS, AND
21 THE REQUIREMENTS OF THIS SECTION MUST BE
22 MET AND SET OUT IN THE APPLICATION.

23 "(3) THE APPLICANT MUST NOTIFY THE PERSON WHO
24 OPERATES THE ONLINE LOCATION OF THE
25 MAKING OF AN APPLICATION UNDER SECTION 1,
26 BUT THE INTELLECTUAL PROPERTY OFFICE MAY
27 DISPENSE, ON SUCH TERMS AS IT SEES FIT, WITH
28 THE NOTICE REQUIRED TO BE SENT TO THE
29 PERSON WHO OPERATES THE ONLINE LOCATION
30 IF THE INTELLECTUAL PROPERTY OFFICE IS
31 SATISFIED THAT THE APPLICANT IS UNABLE,
32 DESPITE REASONABLE EFFORTS, TO DETERMINE

1 THE IDENTITY OR ADDRESS OF THE PERSON WHO
2 OPERATES THE ONLINE LOCATION, OR TO SEND
3 NOTICES TO THAT PERSON.

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

22 "(5) THE INTERNET SERVICE PROVIDERS MUST
23 COMPLY WITH THE DISABLING ORDERS WITHIN
24 FORTY-EIGHT (48) HOURS OF THE ISSUANCE OF
25 THE DISABLING ORDER AND MUST DISABLE THE
26 IDENTIFIED INFRINGING ONLINE LOCATIONS BY
27 IMPLEMENTING AN EFFECTIVE TECHNICAL
28 MEASURE, OR A MEASURE UNDERTAKEN BY THE
29 INTERNET SERVICE PROVIDER TO DISABLE OR
30 PREVENT ACCESS TO AN INFRINGING ONLINE
31 LOCATION, AND MAY INCLUDE DOMAIN NAME
32 SYSTEM (DNS) BLOCKING, IP BLOCKING, URL

1 **BLOCKING, SERVER NAME INDICATOR BLOCKING,**
2 **OR OTHER MEANS.**

3 **“(6) THE INTELLECTUAL PROPERTY OFFICE MAY AT**
4 **ANY TIME DURING THE OPERATION OF THE**
5 **ORDERS NOTIFY THE INTERNET SERVICE**
6 **PROVIDERS SHOULD IT BECOME AWARE THAT**
7 **ANY INFRINGING ONLINE LOCATION IS**
8 **ACCESSED FROM AN ADDITIONAL ONLINE**
9 **LOCATION, INCLUDING ONE THAT APPEARS TO BE**
10 **ASSOCIATED WITH ANY INFRINGING ONLINE**
11 **LOCATION BASED ON ITS NAME, BRANDING OR**
12 **THE IDENTITY OF ITS OPERATOR, AND MAKE**
13 **SUCH DIFFERENT ONLINE LOCATION SUBJECT TO**
14 **THE ORDERS.”**

15 "x x x.

16 *Sec. 5. Implementing Rules and Regulations.* – Within ninety (90) days from
17 the effectivity of this Act, the Intellectual Property Office shall promulgate the
18 necessary rules and regulations for the implementation of this Act.

19 *Sec. 6. Separability Clause.* – If any provision of this Act is declared invalid or
20 unconstitutional, the remaining provision not affected thereby shall continue to be in
21 full force and effect.

22 *Sec. 7. Repealing Clause.* – All laws, decrees, orders or regulations or part
23 thereof inconsistent with this Act are hereby repealed or modified accordingly.

24 *Sec. 8. Effectivity.* – This Act shall take effect fifteen (15) days following the
25 completion of its publication in the *Official Gazette* or in a national newspaper of
26 general circulation.

Approved,