

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



23 AUG -1 P 3 :38

SENATE
S. No. 2385

RECEIVED BY: _____

Introduced by SENATOR RAMON BONG REVILLA, JR.

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

Creative industries have been one of the pillars of our society which provide contents and services that not only entertain, but more importantly, provide an avenue for people to exercise their Constitutional right to freedom of speech and expression.

However, despite the significance that this sector has played in shaping our culture and history, it has been suffering tremendously in the last few years due to efforts which cripple the industry.

Whereas previously, the battle was out there in the streets where sellers illegally peddle compact disks (CDs) filled with pirated content; with technology opening up the space to commit piracy, the battle has now become not only even more widespread, but more difficult to pursue. With the Philippines being among the leading consumers of pirated content in the Asia Pacific Region, it is of vital importance that the State implements drastic changes and measures that would ensure that piracy will not thrive, and that piracy will not kill the industry.

In order to give aid to the creative industries, this measure endeavors to cloak them with a mantle of protection against piracy which has now transcended into the online realm. The proposed amendments contemplate the new issues which enfeeble their growth and progress.

This bill seeks to empower the Intellectual Property Office of the Philippines to disable access to sites which infringes copyright and initiate action for site blocking, as well. This legislative action is a step towards the full rehabilitation and renewal of the creative industries.

In view of the foregoing, immediate passage of this measure is earnestly sought.


RAMON BONG REVILLA, JR.

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 Senate
Office of the Secretary

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**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**

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

1 Section 1. Section 4 of Republic Act 8293, as amended, otherwise known as
2 the "Intellectual Property Code of the Philippines", is hereby amended to read as
3 follows:

4

5 **"SEC. 4. Definitions. - 4.1 xxx.**

6

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**"4.5 THE TERM "COUNTERFEIT GOODS" REFER TO
GOODS OR MATERIALS INCLUDING PACKAGING BEARING
WITHOUT AUTHORIZATION A TRADEMARK WHICH IS
IDENTICAL TO A TRADEMARK VALIDLY REGISTERED WITH THE
INTELLECTUAL PROPERTY OFFICE OF THE PHILIPPINES
(IPOP HL) OR ALREADY DECLARED AS A WELL-KNOWN MARK
INTERNATIONALLY OR IN THE PHILIPPINES BY A COMPETENT
AUTHORITY IN RESPECT OF SUCH GOODS OR WHICH CANNOT
BE DISTINGUISHED IN ITS ESSENTIAL ASPECTS FROM SUCH A
TRADEMARK AND WHICH THEREBY VIOLATES THE RIGHTS OF
THE OWNER OF THE TRADEMARK IN QUESTION.**

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

16
17 Sec. 2. Section 5 of Republic Act 8293, as amended, is hereby amended to read
18 as follows:

19
20 **"SEC. 5. *Functions of the Intellectual Property Office (IPO).* - x x x**

21
22 **"x x x**

23
24 **"5.3. THE OFFICE SHALL PERFORM THE FOLLOWING**
25 **ENFORCEMENT FUNCTIONS:**

26
27 **"(A) GATHER INTELLIGENCE INFORMATION RELATED TO THE**
28 **VIOLATIONS OF THIS ACT, CONDUCT INQUIRY AND**
29 **INVESTIGATION, AND DEVELOP EFFECTIVE**
30 **COUNTERMEASURES TO DETER COUNTERFEIT OR PIRATED**
31 **GOODS OR CONTENT;**

1 **"(B) CONDUCT VISITS DURING REASONABLE HOURS TO**
2 **ESTABLISHMENTS AND BUSINESSES OF ACTIVITIES**
3 **SUSPECTED TO BE IN VIOLATION OF THIS ACT IN**
4 **ACCORDANCE WITH THE PROCEDURES PRESCRIBED HEREIN;**

5
6 **"(C) DEVELOP A DATABASE OF PENDING CASES INVOLVING**
7 **VIOLATIONS OF THIS ACT;**

8
9 **"(D) UNDERTAKE ANY OR ALL OF THE FOLLOWING**
10 **ENFORCEMENT ACTIONS:**

11
12 **"(1) SERVE AND EXECUTE THE ADMINISTRATIVE**
13 **ORDERS DULY ISSUED BY THE OFFICE OF THE DIRECTOR**
14 **GENERAL IN ACCORDANCE WITH ITS POWERS UNDER**
15 **THIS ACT;**

16
17 **"(2) ISSUE NOTICE OR WARNING TO THE**
18 **RESPONDENT/S;**

19
20 **"(3) RECOMMEND THAT THE CONCERNED LOCAL**
21 **GOVERNMENT UNIT AND/OR OTHER GOVERNMENT**
22 **AGENCY CANCEL LICENSES AND BUSINESS PERMITS OF**
23 **ESTABLISHMENTS OR BUSINESSES FOR ENGAGING IN**
24 **SELLING OR MAKING AVAILABLE TO THE PUBLIC**
25 **COUNTERFEIT OR PIRATED GOODS OR FILE CHARGES**
26 **AGAINST THE RESPONDENTS FOR VIOLATION OF**
27 **APPLICABLE LAWS, RULES OR REGULATIONS;**

28
29 **"(4) REQUEST THE CONCERNED LOCAL GOVERNMENT**
30 **UNIT OR OTHER GOVERNMENT AGENCIES TO**
31 **IMPLEMENT THE DECISIONS OF THE INTELLECTUAL**

1 **PROPERTY RIGHTS ENFORCEMENT PURSUANT TO THEIR**
2 **RESPECTIVE MANDATES;**

3
4 **"(5) REPORT THE RESULT OF SERVICE AND EXECUTION**
5 **OF ADMINISTRATIVE ORDERS; AND**

6
7 **"(6) SUCH OTHER ORDERS OR ACTIONS NECESSARY TO**
8 **ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS**
9 **ACT.**

10
11 **"(E) COORDINATE WITH OTHER GOVERNMENT AGENCIES AND**
12 **PRIVATE SECTOR EFFORTS ON MATTERS RELATED TO**
13 **INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT;**

14
15 **"(F) ASSIST IN THE ENFORCEMENT OF ORDERS, WRITS, AND**
16 **PROCESSES ISSUED BY THE BUREAU OF LEGAL AFFAIRS AND**
17 **THE OFFICE OF THE DIRECTOR GENERAL;**

18
19 **"(G) CONDUCT MONITORING ACTIVITIES RELATED OR**
20 **RELEVANT TO INTELLECTUAL PROPERTY RIGHTS**
21 **ENFORCEMENT;**

22
23 **"(H) EXERCISE INTER-AGENCY SPECIAL ENFORCEMENT**
24 **COORDINATION FUNCTIONS; AND**

25
26 **"(I) SUCH OTHER POWERS AND FUNCTIONS AS MAY BE**
27 **NECESSARY OR INCIDENTAL TO THE ATTAINMENT OF THE**
28 **PURPOSES AND OBJECTIVES OF THIS ACT OR AS MAY BE**
29 **ASSIGNED BY THE DIRECTOR GENERAL."**

30
31 Sec. 3. Section 10 of Republic Act No. 8293, as amended, is hereby further
32 amended to read as follows:

1
2 "SEC. 10. The Bureau of Legal Affairs. - The Bureau of Legal Affairs
3 shall have the following functions:

4
5 "10.1 xxx;

6
7 "10.2 (a) xxx;

8
9 "10.2 (b) After formal investigation, the Director for Legal Affairs may
10 impose one (1) or more of the following administrative penalties:

11
12 "x x x

13 "(v) The imposition of administrative fines in such amount as deemed
14 reasonable by the Director of Legal Affairs, which shall in no case be less
15 than [~~Five thousand pesos (Php 5,000)~~] **ONE HUNDRED THOUSAND**
16 **PESOS** (PHP 100,000) nor more than [~~One hundred fifty thousand pesos~~
17 ~~(Php 150,000)~~] **ONE MILLION PESOS (PHP 1,000,000)**. In addition,
18 an additional fine of not more than [~~One thousand pesos (Php 1,000)~~]
19 **TEN THOUSAND PESOS (PHP 10,000)** shall be imposed for each day
20 of continuing violation;

21
22 "x x x

23
24 **"THE DECISIONS OF THE ADJUDICATION OFFICERS ARE**
25 **APPEALABLE TO THE DIRECTOR.**

26
27 **"10.3. ESTABLISH AND ADMINISTER ALTERNATIVE**
28 **DISPUTE RESOLUTION MECHANISMS; AND**

29
30 **"10.4. PROVIDE ASSISTANCE TO OTHER BUREAUS AND**
31 **OFFICES OF THE IPOPHL, INCLUDING LEGAL REVIEW, STUDY,**
32 **AND SIMILAR TASKS.**

1
2 "10.[3]5. The Director General may by Regulations establish the
3 procedure to govern the implementation of this Section."
4

5 Sec. 4. Section 216 of Republic Act No. 8293, as amended, is hereby further
6 amended to read as follows:
7

8 "SEC. 216. *Infringement.* - Any person infringes a right protected under
9 this Act when one:

10
11 "(a) x x x;

12
13 "(b) x x x;

14
15 "(c) x x x;

16
17 **"216-A. PREVENTIVE ACTION ON ONLINE INFRINGEMENT. -**
18 **UNLESS OTHERWISE PROVIDED BY LAW, OR UNLESS OTHERWISE**
19 **ORDERED BY THE APPROPRIATE COURT OF LAW, THE INTELLECTUAL**
20 **PROPERTY OFFICE SHALL HAVE THE POWER, AFTER DUE NOTICE**
21 **AND HEARING, TO DISABLE ACCESS TO AN ONLINE LOCATION**
22 **PREVENT FURTHER ACCESS TO AN ONLINE LOCATION WHOSE**
23 **PRIMARY PURPOSE OR PRIMARY EFFECT OF WHICH IS TO INFRINGE**
24 **COPYRIGHT OR FACILITATE COPYRIGHT INFRINGEMENT.**

25
26 **"THE COPYRIGHT OWNER OR THE EXCLUSIVE LICENSEE OF**
27 **COPYRIGHT, HEREINAFTER REFERRED TO AS THE "ELIGIBLE PARTY,"**
28 **MAY SUBMIT AN APPLICATION TO THE INTELLECTUAL PROPERTY**
29 **OFFICE TO ORDER THE DISABLING OF ACCESS TO ANY INFRINGING**
30 **ONLINE LOCATION IDENTIFIED IN THE APPLICATION.**

1 **"THE APPLICATION TO THE INTELLECTUAL PROPERTY OFFICE**
2 **SHALL BE SUBMITTED BY COMPLETING IN ITS ENTIRETY THE FORMS**
3 **AND DOCUMENTATION AS REQUESTED BY THE INTELLECTUAL**
4 **PROPERTY OFFICE TO ALLOW THE INTELLECTUAL PROPERTY OFFICE**
5 **TO ESTABLISH THAT THE PARTY FILING THE APPLICATION IS AN**
6 **ELIGIBLE PARTY, OR IS AUTHORISED TO FILE THE APPLICATION ON**
7 **BEHALF OF AN ELIGIBLE PARTY AND VERIFY THROUGH EVIDENCE**
8 **THAT THE SUBJECT OF THE ORDER APPLIED FOR IS AN INFRINGING**
9 **ONLINE LOCATION.**

10
11 **"FOR PURPOSES OF THIS CHAPTER, "ONLINE LOCATION"**
12 **SHALL REFER TO ANY SINGLE OR COLLECTION OF RELATED WEB**
13 **PAGES ACCESSIBLE BY A USER THROUGH A DOMAIN, IP ADDRESS,**
14 **OR UNIFORM RESOURCE LOCATOR (URL), OR A SPECIFIC DOMAIN,**
15 **IP ADDRESS, OR UNIFORM RESOURCE LOCATOR (URL) WHICH**
16 **SERVES TO OPERATE, IN WHOLE OR IN PART, AN APPLICATION ON**
17 **THE INTERNET.**

18
19 **"216-B. PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION. -**
20 **THE INTELLECTUAL PROPERTY OFFICE SHALL FORMULATE THE**
21 **PROCEDURE OF INQUIRY FOR PREVENTIVE ACTION ON ONLINE**
22 **INFRINGEMENT. ACCORDING TO THE FOLLOWING STANDARDS:**

23
24 **"(1) MINIMUM REQUIREMENTS OF THE APPLICATION FOR ACTION**
25 **BY AN ELIGIBLE PARTY. THE APPLICATION REFERRED TO IN**
26 **SECTION 84A SHALL INDICATE: THE FACT THAT, AND THE MANNER**
27 **BY WHICH, THE INFRINGING ONLINE LOCATION IS ACCESSIBLE;**
28 **AND OTHER MATTERS WHICH THE INTELLECTUAL PROPERTY OFFICE**
29 **MAY TAKE INTO ACCOUNT, INCLUDING:**

30
31 **"(I) WHETHER THE ONLINE LOCATION MAKES AVAILABLE OR**
32 **CONTAINS DIRECTORIES, INDEXES OR CATEGORIES OF THE**

1 **MEANS TO INFRINGE, OR FACILITATE AN INFRINGEMENT OF,**
2 **COPYRIGHT;**

3
4 **“(II) WHETHER THE OWNER OR OPERATOR OF THE ONLINE**
5 **LOCATION DEMONSTRATES A DISREGARD FOR COPYRIGHT**
6 **GENERALLY; OR**

7
8 **“(III) WHETHER ACCESS TO THE ONLINE LOCATION HAS BEEN**
9 **DISABLED BY ORDERS FROM ANY COURT OF ANOTHER**
10 **COUNTRY OR TERRITORY ON THE GROUND OF OR RELATED TO**
11 **COPYRIGHT INFRINGEMENT.**

12
13 **“(2) ONE APPLICATION MAY BE SUBMITTED FOR MULTIPLE**
14 **INFRINGING ONLINE LOCATIONS, AND THE REQUIREMENTS OF THIS**
15 **SECTION MUST BE MET AND SET OUT IN THE APPLICATION.**

16
17 **“(3) THE APPLICANT MUST NOTIFY THE PERSON WHO OPERATES THE**
18 **ONLINE LOCATION OF THE MAKING OF AN APPLICATION UNDER**
19 **SECTION 1, BUT THE INTELLECTUAL PROPERTY OFFICE MAY**
20 **DISPENSE, ON SUCH TERMS AS IT SEES FIT, WITH THE NOTICE**
21 **REQUIRED TO BE SENT TO THE PERSON WHO OPERATES THE ONLINE**
22 **LOCATION IF THE INTELLECTUAL PROPERTY OFFICE IS SATISFIED**
23 **THAT THE APPLICANT IS UNABLE, DESPITE REASONABLE EFFORTS,**
24 **TO DETERMINE THE IDENTITY OR ADDRESS OF THE PERSON WHO**
25 **OPERATES THE ONLINE LOCATION, OR TO SEND NOTICES TO THAT**
26 **PERSON.**

27
28 **“(4) UPON RECEIPT OF THE APPLICATION, THE INTELLECTUAL**
29 **PROPERTY OFFICE SHALL, WITHIN FIVE (5) DAYS, REVIEW THE**
30 **SAME AND DETERMINE WHETHER THE ONLINE LOCATION MEETS**
31 **THE REQUIREMENTS OF PARAGRAPH (A). IF AN APPLICATION MEETS**
32 **THE REQUIREMENTS OF PARAGRAPH (A), THE INTELLECTUAL**

1 **PROPERTY OFFICE SHALL GIVE DUE NOTICE OF THE SAME TO THE**
2 **PERSON WHO OPERATES THE ONLINE LOCATION EITHER BY**
3 **DIRECTLY CONTACT SUCH PERSON OR BY POSTING SUCH NOTICE**
4 **PUBLICLY. THE INTELLECTUAL PROPERTY OFFICE SHALL, WITHIN**
5 **FIVE (5) DAYS OF GIVING DUE NOTICE, RENDER AN ORDER**
6 **REQUIRING INTERNET SERVICE PROVIDERS TO TAKE REASONABLE**
7 **STEPS TO DISABLE ACCESS TO THE INFRINGING ONLINE LOCATION.**
8 **A COPY OF THE SAID ORDER SHALL LIKEWISE BE GIVEN TO THE**
9 **ELIGIBLE PARTY.**

10
11 **"(5) THE INTERNET SERVICE PROVIDERS MUST COMPLY WITH THE**
12 **DISABLING ORDERS WITHIN 48 HOURS OF THE ISSUANCE OF THE**
13 **DISABLING ORDER AND MUST DISABLE THE IDENTIFIED**
14 **INFRINGING ONLINE LOCATIONS BY IMPLEMENTING AN EFFECTIVE**
15 **TECHNICAL MEASURE, OR A MEASURE UNDERTAKEN BY THE**
16 **INTERNET SERVICE PROVIDER TO DISABLE OR PREVENT ACCESS TO**
17 **AN INFRINGING ONLINE LOCATION, AND MAY INCLUDE DOMAIN**
18 **NAME SYSTEM (DNS) BLOCKING, IP BLOCKING, URL BLOCKING,**
19 **SERVER NAME INDICATOR BLOCKING, OR OTHER MEANS.**

20
21 **"(6) THE INTELLECTUAL PROPERTY OFFICE MAY AT ANY TIME**
22 **DURING THE OPERATION OF THE ORDERS NOTIFY THE INTERNET**
23 **SERVICE PROVIDERS SHOULD IT BECOME AWARE THAT ANY**
24 **INFRINGING ONLINE LOCATION IS ACCESSED FROM AN**
25 **ADDITIONAL ONLINE LOCATION, INCLUDING ONE THAT APPEARS TO**
26 **BE ASSOCIATED WITH ANY INFRINGING ONLINE LOCATION BASED**
27 **ON ITS NAME, BRANDING OR THE IDENTITY OF ITS OPERATOR, AND**
28 **MAKE SUCH DIFFERENT ONLINE LOCATION SUBJECT TO THE**
29 **ORDERS.**

30
31 **"X X X."**

1 Sec. 5. *Implementing Rules and Regulations (IRR)*. – Within sixty (60) days
2 from the effectivity of this Act, the Intellectual Property Office shall promulgate the
3 necessary rules and regulations for the implementation
4 of this Act.

5
6 Sec. 6. *Separability Clause*. – If any provision or part hereof is held invalid or
7 unconstitutional, the remainder of the law or the provision or part not otherwise
8 affected shall remain in full force and effect.

9 Sec. 7. *Repealing Clause*. – Any law, presidential decree or issuance, executive
10 order, letter of instruction, administrative order, rule, or regulation contrary to or
11 inconsistent with the provisions of this Act are hereby repealed, modified, or amended
12 accordingly.

13 Sec. 8. *Effectivity*. – This Act shall take effect fifteen (15) days after its
14 publication in the *Official Gazette* or in two (2) newspapers of general circulation in
15 the Philippines.

Approved,