

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

7 JUL -3 P5:45

SENATE

RECEIVED BY: 

S. B. NO. 880

Introduced by SENATOR EDGARDO J. ANGARA

**EXPLANATORY NOTE**

Since 1980, the Philippines has been a member of the World Intellectual Property Organization ("WIPO") which seeks "to promote the protection of intellectual property throughout the world through cooperation among States."

Likewise, the Philippines is a signatory to other international treaties and conventions on intellectual property rights, *to wit*: 1) Convention Establishing the World Intellectual Property Organization [since 1980]; 2) Paris Convention for the Protection of Industrial Property [since 1965]; 3) Budapest Treaty on the International Recognition of the Deposit of Microorganisms for Purposes of Patent Procedure [since 1981]; 4) Berne Convention for the Protection of Literary and Artistic [since 1951]; 5) International Convention for the Protection of Performers, Producers of Phonographs and Broadcasting Organizations [since 1984]; and 6) Agreement on Trade-Related Aspects of Intellectual Property Rights [since 1996].

Year 1998, in adherence to these international treaties for a universal or global protection of intellectual property and in keeping with the Constitutional mandate enshrined in Article XIV, Section 13, which enjoins the State to "protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creation," Congress passed Republic Act 8293 or the Intellectual Property Code (IPC) of the Philippines.

Four years after, or on 4 October 2002, the Philippines ratified two (2) additional treaties, the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). These treaties, commonly referred to as the "Internet Treaties," were intended to modernize and supplement the existing international treaties (Berne Convention and the Rome Convention) on copyright. The treaties respond to critical issues formed by the introduction of digital technologies, especially in the area of dissemination of protected material over the internet.

While our IPC was shaped with a consummate vision at the time of its enactment, its provisions have not kept pace with the advances made in the area of intellectual property rights infringement in E-Commerce. Thus, with the Philippines' ratification of the WCT and WPPT, there is a need for



amendments to the IPC to contain the additional obligations imposed by the provisions in said treaties. More particularly, our laws must address two new issues: 1) the technological measures provisions (Article 11 of the WCT and Article 18 of the WPPT); and 2) the rights management information provisions (Article 12 of the WCT and WPPT) of the Internet Treaties.

This bill therefore seeks to amend the Code through the integration of comprehensive and efficient strategies to respond to the upsurge of internet piracy. Also, it seeks to give recognition to the rights of performers, phonogram producers and broadcasters as are accorded authors of artistic and literary works, by acknowledging their right to control or be compensated for the various ways in which their works are used or enjoyed by others. This measure also seeks to recognize rights to distribution and rental, and rights to receive payments for certain forms of broadcasting or communication to the public.

Indeed, through these amendments, Philippines is doing its share in providing safeguards to insure that rights-holders can effectively use technology to protect their own rights and to license their own works online. More stringent penalties are likewise recommended for rights-violators, while immediate judicial relief and alternative options are proposed to be accorded actual and potential victims of infringement who would sustain incalculable losses for every minute that their works are used or exploited in the internet by infringers.

To sum, the overriding goal of this proposal is to provide an Internet environment where it is safe to distribute and license protected material. Because in an increasingly global arena, nothing less than a global effort will ensure the effective protection and development of intellectual property.

For this, I urge my esteemed colleagues in the Chamber to support the immediate passage of the bill.

  
EDGARDO J. ANGARA  
Senator

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**“AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT  
NO. 8293 OR THE “THE INTELLECTUAL PROPERTY CODE  
OF THE PHILIPPINES” AND FOR OTHER PURPOSES.”**

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

1           **Section 1.** Section 171 of R.A. 8293 is hereby amended to read as  
2 follows:

3  
4  
5           **SEC. 171. Definitions.** – For the purpose of this Act, the  
6 following terms have the following meaning:

7  
8                   x   x   x

9  
10          **171.3 “Communication to the public”** or **“communicate to the**  
11 **public”** is the making of a work available to the public by wire or  
12 wireless means in such a way that members of the public may  
13 access the works from a place and at a time individually chosen  
14 by them, **AND SHALL INCLUDE ANY COMMUNICATION TO**  
15 **THE PUBLIC, THROUGH BROADCASTING,**  
16 **REBROADCASTING, RETRANSMITTING BY CABLE,**  
17 **BROADCASTING AND RETRANSMITTING BY SATELLITE.**

18  
19                   x   x   x

1 171.9 ***“Reproduction”*** is the making of one (1) or more copies,  
2 TEMPORARY OR PERMANENT, IN WHOLE OR IN PART, of  
3 a work or sound recording in any manner or form.  
4

5  
6 <sup>x x x</sup>  
7 “171.12 ***“EFFECTIVE TECHNOLOGICAL MEASURE”*** MEANS  
8 ANY TECHNOLOGY, DEVICE OR COMPONENT THAT, IN  
9 THE NORMAL COURSE OF ITS OPERATION, CONTROLS  
10 ACCESS TO A PROTECTED WORK, SOUND RECORDING,  
11 OR OTHER SUBJECT MATTER, OR PROTECTS ANY  
12 COPYRIGHT OR ANY RIGHTS RELATED TO COPYRIGHT  
13 AS PROVIDED BY THIS ACT.

14 “171.13 ***“RIGHTS MANAGEMENT INFORMATION”*** MEANS  
15 INFORMATION WHICH IDENTIFIES THE WORK, SOUND  
16 RECORDING OR PERFORMANCE; THE AUTHOR OF THE  
17 WORK, PRODUCER OF THE SOUND RECORDING OR  
18 PERFORMER OF THE PERFORMANCE; THE OWNER OF  
19 ANY RIGHT IN THE WORK, SOUND RECORDING OR  
20 PERFORMANCE; OR INFORMATION ABOUT THE TERMS  
21 AND CONDITIONS OF THE USE OF THE WORK, SOUND  
22 RECORDING OR PERFORMANCE; AND ANY NUMBERS OR  
23 CODES THAT REPRESENT SUCH INFORMATION, WHEN  
24 ANY OF THESE ITEMS IS ATTACHED TO A COPY OF THE  
25 WORK, SOUND RECORDING OR FIXATION OF  
26 PERFORMANCE OR APPEARS IN CONNECTION WITH THE  
27 COMMUNICATION TO THE PUBLIC OF A WORK, SOUND  
28 RECORDING OR PERFORMANCE. NOTHING IN THIS ACT  
29 REQUIRES THE OWNER OF ANY RIGHT IN THE WORK,  
30 SOUND RECORDING, OR PERFORMANCE TO ATTACH  
31 RIGHTS MANAGEMENT INFORMATION TO COPIES OF IT  
32 OR TO CAUSE RIGHTS MANAGEMENT INFORMATION TO  
33 APPEAR IN CONNECTION WITH A COMMUNICATION OF  
34 THE WORK, SOUND RECORDING OR PERFORMANCE TO  
35 THE PUBLIC.  
36

37 **Section 2.** Section 177.3 is hereby amended to read as follows:

2           SEC. 177. *Copyright or Economic Rights.* – Subject to the  
3 provisions of Chapter VIII, copyright or economic rights shall consist of  
4 the exclusive right to carry out, authorize or prevent the following acts:

5                           x    x    x

6  
7       177.3 “THE IMPORTATION INTO THE PHILIPPINES, AND the  
8 first public distribution within the Philippines, of the original  
9 and each copy of the work, by sale or other forms of transfer of  
10 ownership.

11  
12       **Section 3.** Section 178.5 is hereby amended by striking “exhibition”  
13 and inserting “exploitation” and to read as follows:

14           SEC. 178. *Rules on Copyright Ownership.* – Copyright  
15 ownership shall be governed by the following rules:

16  
17                           x    x    x

18  
19       178.5 In the case of audiovisual work, the copyright shall belong to  
20 the producer, the author of the scenario, the composer of the  
21 music, the film director, and the author of the work so  
22 adapted. However, subject to contrary or other stipulations  
23 among the creators, the producer shall exercise the copyright  
24 to an extent required for the [exhibition] EXPLOITATION of  
25 the work in any manner, except for the right to collect  
26 performing license fees for the performance of musical  
27 compositions, with or without words, which are incorporated  
28 into the work.

29  
30       **Section 4.** Section 180 is hereby amended by inserting the following  
31 new paragraph to be known as 180.4 to read as follows:

32           SEC. 180. *Rights of Assignee.* – 180.1. The copyright may be  
33 assigned in whole or in part. Within the scope of the assignment, the  
34 assignee is entitled to all the rights and remedies which the assignor  
35 had with respect to the copyright.

36  
37                           x    x    x

1 180.4 "ANY EXCLUSIVE RIGHT IN A WORK MAY BE  
2 EXCLUSIVELY LICENSED. WITHIN THE SCOPE OF THE  
3 EXCLUSIVE LICENSE, THE LICENSEE IS ENTITLED TO  
4 ALL THE RIGHTS AND REMEDIES WHICH THE  
5 LICENSOR HAD WITH RESPECT TO THE COPYRIGHT."  
6

7 **Section 5.** Section 183 is hereby amended to read as follows:

8  
9 **SEC. 183. *Designation of Society.*** - The copyright  
10 owners or their heirs may designate a society of artists, writers,  
11 or composers, OR A SIMILAR AGENT, to enforce their economic  
12 rights or moral rights on their behalf.  
13

14 **Section 6.** Section 184, sub-sections (i) and (k) is hereby amended to  
15 read as follows:  
16

17 **SEC. 184. *Limitations on Copyright.*** - 184.1.  
18 Notwithstanding the provisions of Chapter V, the following acts shall  
19 not constitute infringement of copyright:

20 x x x

21  
22 (i) The public performance or the communication to the  
23 public of a work, in a place where no admission fee is  
24 charged DIRECTLY OR INDIRECTLY in respect of such  
25 public performance or communication, by a club or  
26 institution for charitable or educational purpose only,  
27 whose aim is not profit making; WHERE NO  
28 COMPENSATION OR FEE IS PAID TO ANY  
29 PERFORMER, PROMOTER, OR ORGANIZER OF THE  
30 PUBLIC PERFORMANCE OR COMMUNI-CATION;  
31 AND subject to such other limitations as may be provided  
32 in the Regulations.  
33

34 x x x

35  
36 (k) Any use made of a work for the purpose of any judicial  
37 proceedings or for the giving of professional advice by a

1 legal practitioner WITH RESPECT TO SUCH A WORK,  
2 ITS CREATION OR EXPLOITATION.

3  
4  
5 **Section 7.** Section 185.1 is hereby amended to read as follows:

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

21  
22  
23  
24 **Section 8.** Section 188 is hereby amended to read as follows:

25  
26 **SEC. 188. *Reprographic Reproduction by Libraries.*** –  
27 188.1 Notwithstanding the provisions of Subsection 177.6, any library  
28 or archive whose activities are not for profit may, without the  
29 authorization of the author of copyright owner, make a single copy of  
30 the work by reprographic reproduction:

31 x x x

32  
33 188.2 Notwithstanding the above provisions, it shall not be  
34 permissible to produce a volume of work published in several  
35 volumes or to produce missing tomes or pages of magazines or  
36 similar works, unless the volume, tome or part is out of stock:  
37 *Provided,* That every library which, UNDER SECTION 191,  
38 is entitled to receive copies of a printed work, shall be  
39 entitled, when special reasons so require, to reproduce a

1 SINGLE REPROGRAPHIC copy of a published work which is  
2 considered necessary for the collection of the library but  
3 which is out of stock AND NOT REASONABLY AVAILABLE  
4 TO IT THROUGH COMMERCIAL CHANNELS.

5  
6  
7 **Section 9.** Section 190, Subsection 190.1 is hereby amended by  
8 striking "Subsection 177.6" and in lieu thereof, substituting "Subsection  
9 177.3," and by striking "Subsection 185.2" and in lieu thereof, substituting  
10 "Subsection 184.2", to read as follows:

11  
12 190.1. *Importation for Personal Purposes* – Notwithstanding the  
13 provision of Subsection [177.6] 177.3 but subject to the  
14 limitation under the Subsection [185.2] 184.2 the importation of  
15 a copy of a work by an individual for his personal purposes shall  
16 be permitted without the authorization of the author of, or other  
17 owner of copyright in, the work under the following  
18 circumstances:

19 (a) When copies of the work are not available in the  
20 Philippines and:

21 (i) Not more than one (1) copy at one time is imported by  
22 strictly individual use only; or

23 (ii) The importation is by authority of and for the use of the  
24 Philippine Government; or

25 (iii) The importation, consisting of not more than three  
26 (3) such copies or likenesses in any one invoice, is not for  
27 sale but for the use only of any religious, charitable, or  
28 educational society or institution duly incorporated or  
29 registered, or is for the encouragement of the fine arts, or  
30 for any state school, college, university, or free public  
31 library in the Philippines.

32  
33 (b) When such copies forms parts of libraries and personal  
34 baggage belonging to persons or families arriving from  
35 foreign countries and are not intended for sale: *Provided,*  
36 That such copies do not exceed three (3).



1  
2 190.3. Subject to the approval of the Secretary of Finance, the  
3 Commissioner of Customs is hereby empowered to make rules  
4 and regulations for preventing the importation OR  
5 EXPORTATION OF INFRINGING ARTICLES OR of articles  
6 the importation OR EXPORTATION of which is prohibited  
7 under this [Section] ACT and under treaties and conventions to  
8 which the Philippines may be a party and for seizing and  
9 condemning and disposing of the same in case they are  
10 discovered after they have been imported OR BEFORE THEY  
11 ARE EXPORTED, OR WHILE IN TRANSIT, THROUGH THE  
12 CUSTOMS TERRITORY OF THE REPUBLIC OF THE  
13 PHILIPPINES.  
14

15 **Section 10.** Section 191 is hereby amended by striking “Subsections  
16 172.1, 172.2 and 172.3,” and in lieu thereof, substituting “Subsections  
17 172.1(a), (b) and (c)”, to read as follows:  
18

19 **Sec. 191. *Registration and Deposit with National***  
20 ***Library and the Supreme Court Library.*** – After the first public  
21 dissemination of performance by authority of the copyright owner of a  
22 work falling under Subsections [172.1, 172.2 and 172.3] **172.1(a), (b)**  
23 **and (c)** of this Act, there shall, for the purpose of completing the  
24 records of the National Library and the Supreme Court Library, within  
25 three (3) weeks, be registered and deposited with it, by personal  
26 delivery or by registered mail, two (2) complete copies or reproductions  
27 of the work in such form as the directors of said libraries may  
28 prescribe. A certificate of deposit shall be issued for which the  
29 prescribed fee shall be collected and the copyright owner shall be  
30 exempt from making additional deposit of the works with the National  
31 Library and the Supreme Court Library under other laws. If, within  
32 three (3) weeks after receipt by the copyright owner of a written  
33 demand from the directors for such deposit, the required copies or  
34 reproductions are not delivered and the fee is not paid, the copyright  
35 owner shall be liable to pay a fine equivalent to the required fee per  
36 month of delay and to pay to the National Library and the Supreme

1 Court Library the amount of the retail price of the best edition of the  
2 work. Only the above mentioned classes of work shall be accepted for  
3 deposit by the National Library and the Supreme Court Library. (Sec.  
4 26, P.D. No. 49a).

5  
6  
7 **Section 11.** Subsection 205.2 is hereby amended to read as follows:  
8

9  
10 205.2. The provisions of Sections 184, [and Section] 185, AND  
11 190 shall apply *mutatis mutandis* to performers.

12  
13  
14  
15  
16 **Section 12.** Section 208 is amended by amending subsection 208.1  
17 and adding a new subsection 208.4 and to read as follows:  
18

19 **SEC. 208. Scope of Right.** – Subject to the provisions of Section  
20 212, producers of sound recordings shall enjoy the following exclusive  
21 rights:  
22

23 208.1 The right to authorize the direct or indirect reproduction  
24 of their sound recordings, in any manner or form,  
25 TEMPORARY OR PERMANENT, the placing of these  
26 reproductions in the market and the right of rental or  
27 lending.

28  
29 X x x

30 208.4 THE RIGHT TO AUTHORIZE THE MAKING  
31 AVAILABLE TO THE PUBLIC OF THEIR SOUND  
32 RECORDINGS IN SUCH A WAY THAT MEMBERS OF  
33 THE PUBLIC MAY ACCESS THE SOUND RECORDING  
34 FROM A PLACE AND TIME, INDIVIDUALLY CHOSEN  
35 OR SELECTED BY THEM, AS WELL AS OTHER  
36 TRANSMISSIONS OF A SOUND RECORDING WITH  
37 LIKE EFFECT.  
38  
39

1           **Section 13.** Section 210 is hereby amended to read as follows:

2  
3           **SEC. 210. *Limitation of Right.*** - Sections 184, [and] 185,  
4 AND 190 shall apply *mutatis mutandis* to the producer of sound  
5 recordings. (*Sec. 48, P.D. No. 49a*).

6           **Section 14.** Section 212 is hereby amended to read as follows:

7  
8           **SEC. 212. *Limitations on Rights.*** - SUBJECT TO THE  
9 APPLICATION *MUTATIS MUTANDIS* OF SECTION 184.2 OF THIS  
10 ACT, Sections 203, 208 and 209 shall not apply where the acts referred  
11 to in those Sections are [related to] CARRIED OUT IN CONNECTION  
12 WITH:

13  
14           212. 1 The use by a natural person exclusively for his own personal  
15 purposes;

16           212.2 Using short excerpts for reporting current events;

17           212.3 Use solely for the purpose of teaching or for scientific research;

18 and

19           212.4 Fair use of the broadcast subject to the condition under Section  
20 185 (*Sec. 44, P.D. No. 49a*).

21  
22           **Section 15.** Section 216 of the same Act is hereby amended and  
23 renumbered to read as follows:

24           **“SEC 216. *INFRINGEMENT, WHAT CONSTITUTES.*** -  
25 [Remedies for Infringement]. A PERSON INFRINGES A RIGHT  
26 PROTECTED UNDER THIS ACT WHEN HE OR SHE:  
27

28           (a) DIRECTLY COMMITS AN INFRINGEMENT OR CAUSES AN  
29 INFRINGEMENT TO BE COMMITTED;

30  
31           (b) BENEFITS FINANCIALLY FROM THE INFRINGING  
32 ACTIVITY OF ANOTHER PERSON WHO COMMITS AN  
33 INFRINGEMENT IF THE PERSON BENEFITING HAS THE  
34 RIGHT AND ABILITY TO CONTROL THE ACTIVITIES OF  
35 THE OTHER PERSON; OR  
36  
37

1 (c) ENABLES OR INDUCES INFRINGEMENT BY ANOTHER  
2 PERSON ENABLING OR INDUCING THE INFRINGEMENT  
3 WHICH HE HAS OR REASONABLY SHOULD HAVE  
4 KNOWLEDGE OF AND MATERIALLY CONTRIBUTES TO IT.

5  
6  
7 **Section 16.** Section 216.1 is hereby amended as follows:

8  
9 “**Sec. 216.1 REMEDIES FOR INFRINGEMENT** – Any  
10 person infringing a right protected under this law shall be liable:

11 x x x

12  
13 (b) TO [P]pay to the copyright proprietor or his assigns or heirs  
14 such actual damages, including legal costs and other expenses,  
15 as he may have incurred due to the infringement as well as the  
16 profits the infringer may have made due to such infringement,  
17 and in proving profits the plaintiff shall be required to prove  
18 sales only and the defendant shall be required to prove every  
19 element of cost which he claims, or, in lieu of actual damages  
20 and profits, such damages which to the court shall appear to be  
21 just AND WHICH IT FINDS TO BE SUFFICIENT TO FULLY  
22 COMPENSATE THE RIGHT HOLDER FOR THE INJURY HE  
23 HAS SUFFERED, AND SUFFICIENT TO CONSTITUTE AS A  
24 DETERRENT TO FURTHER INFRINGEMENTS, and shall not  
25 be regarded as penalty.

26  
27 X x x

28 (f) THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME  
29 BEFORE FINAL JUDGMENT IS RENDERED, TO RECOVER  
30 AN AWARD OF STATUTORY DAMAGES, INSTEAD OF  
31 ACTUAL DAMAGES AND PROFITS, FOR ALL  
32 INFRINGEMENTS INVOLVED IN THE ACTION WITH  
33 RESPECT TO ANY ONE WORK FOR WHICH AN INFRINGER  
34 IS LIABLE, AS THE COURT MAY CONSIDER JUST. IN  
35 CASES WHERE THE COURT FINDS THAT THE  
36 INFRINGEMENT WAS COMMITTED WILLFULLY, THE

1 COURT, IN ITS DISCRETION, MAY INCREASE THE  
2 AWARD OF STATUTORY DAMAGES.  
3  
4

5 Section 17. Subsection 216.2 is hereby amended by adding a proviso  
6 at the end of said subsection, to read as follows:  
7

8 216.2 In an infringement action, the court shall also have the  
9 power to order the seizure and impounding of any article which may  
10 serve as evidence in the court proceedings: *PROVIDED, HOWEVER,*  
11 *THAT:*  
12

13 (a) UPON APPLICATION OF THE HOLDER OF ANY RIGHT  
14 UNDER THIS ACT, THE COURT MAY ORDER AS  
15 PROVISIONAL MEASURES, ANY OF THE RELIEF IT IS  
16 AUTHORIZED TO AWARD UNDER THE PROVISIONS OF  
17 THIS SECTION, EXCEPT FOR MONETARY DAMAGES,  
18 WITHOUT NOTICE TO THE OTHER PARTY, WHEN THE  
19 COURT DEEMS IT NECESSARY TO PREVENT AN  
20 INFRINGEMENT OF AN INTELLECTUAL PROPERTY  
21 RIGHT, OR TO PRESERVE RELEVANT EVIDENCE OF  
22 ALLEGED INFRINGEMENT;

23 (b) SUCH RELIEF MAY INCLUDE, BUT IS NOT LIMITED TO,  
24 SEIZURE OR IMPOUNDMENT OF INFRINGING COPIES OF  
25 EQUIPMENT WHICH CAN BE USED TO MAKE  
26 INFRINGING COPIES OF BUSINESS RECORDS, AND OF  
27 DOCUMENTARY EVIDENCE IN ANY FORM, INCLUDING  
28 ELECTRONIC FORM;  
29

30 (c) THE COURT MAY ORDER PROVISIONAL MEASURES  
31 WITHOUT NOTICE TO THE OTHER PARTY WHEN IT  
32 DETERMINES THAT DELAY IS LIKELY TO CAUSE  
33 IRREPARABLE HARM TO THE RIGHT HOLDER OR WHEN  
34 THERE IS A DEMONSTRABLE RISK OF EVIDENCE BEING  
35 DESTROYED OR WHEN THE COURT OTHERWISE DEEMS  
36 IT APPROPRIATE;  
37

1  
2 (d) THE COURT MAY CONDITION THE AVAILABILITY OF  
3 PROVISIONAL MEASURES UNDER THIS SECTION UPON  
4 SUFFICIENT SHOWING, BASED ON REASONABLY  
5 AVAILABLE EVIDENCE, THAT THE APPLICANTS RIGHTS  
6 HAVE BEEN OR ARE ABOUT TO BE INFRINGED, AND  
7 UPON SUBMISSION TO THE COURT OF A SUFFICIENT  
8 SECURITY TO PROTECT THE OTHER PARTY AND TO  
9 PREVENT ABUSE;

10  
11 (e) UPON REQUEST BY THE OTHER PARTY, THE  
12 PROVISIONAL MEASURES SHALL CEASE TO HAVE  
13 EFFECT IF PROCEEDINGS LEADING TO DECISION ON  
14 THE MERITS ARE NOT INITIATED BY OR ON BEHALF OF  
15 THE APPLICANT WITHIN TWENTY (20) WORKING DAYS  
16 OR THIRTY-ONE (31) CALENDAR DAYS, FROM THE DATE  
17 OF IMPOSITION OF THE PROVISIONAL MEASURES,  
18 WHICHEVER IS LONGER, OR WITHIN SUCH OTHER  
19 REASONABLE PERIOD AS THE COURT MAY DETERMINE;  
20 AND

21  
22 (f) THE FOREGOING SHALL NOT PRECLUDE AN  
23 INDEPENDENT SUIT FOR RELIEF BY THE INJURED  
24 PARTY BY WAY OF DAMAGES, INJUNCTION, ACCOUNTS,  
25 OR OTHERWISE.

26  
27  
28 **Section 18.** Subsections 217.3(b) and (c) are hereby amended to read  
29 as follows:

30 Sec. 217.3 Any person who, at the time when copyright  
31 subsists in a work, has in his possession an article which he knows, or  
32 ought to know, to be infringing copy of the work for the purpose of:

33 x x x

34 (b) Distributing, INCLUDING IMPORTING OR  
35 EXPORTING the article, for purpose of trade or for any

1 other purpose to an extent that will prejudice the rights of  
2 the copyright owner in the work; or

3 (c) [Trade exhibit of the article] EXHIBITING THE WORK  
4 in public, OR OTHERWISE USING THE ARTICLE FOR  
5 TRADE OR BUSINESS, shall be guilty of an offense and  
6 shall be liable on conviction to imprisonment and fine as  
7 above mentioned. (Sec 29, P.D. No. 49a).  
8

9  
10 **Section 19.** Subsection 218.1(c) is hereby amended to read as follows:

11 Sec. 218. *Affidavit Evidence* - 218.1. In an action under this  
12 Chapter, an affidavit made before a notary public by or on behalf of the  
13 owner of the copyright in any work or other subject matter and stating  
14 that:  
15

16 x x x

17 (c) The copy of the work or other subject matter annexed  
18 thereto is a true copy thereof, shall be admitted in  
19 evidence in any proceedings [for an offense] under this  
20 Chapter and shall be *prima facie* proof of the matters  
21 therein stated until the contrary is proved, and the court  
22 before which such affidavit is produced shall assume that  
23 the affidavit was made by or on behalf of the owner of the  
24 copyright.  
25

26  
27  
28 **Section 20.** There shall be two new sections to be added at the end of  
29 Section 220.2 to be known as Section 220A and 220B, to read as follows:  
30

31 **SEC 220A DISCLOSURE OF INFORMATION**

32  
33 220A.1. WHERE AN ARTICLE OR ITS PACKAGING OR AN  
34 IMPLEMENT FOR MAKING IT IS SEIZED OR DETAINED  
35 UNDER THIS ACT, OR IS REASONABLY SUSPECTED BY  
36 AN AUTHORIZED OFFICER TO BE IN VIOLATION OF  
37 THIS ACT, THE AUTHORIZED OFFICER SHALL,  
38 WHENEVER REASONABLY PRACTICABLE, NOTIFY THE

1 OWNER OF THE COPYRIGHT IN QUESTION OR HIS  
2 AUTHORIZED AGENT OF THE SEIZURE OR  
3 DETENTION, AS THE CASE MAY BE.

4  
5 220A.2. IN THE ABOVE-MENTIONED CIRCUMSTANCES, AN  
6 AUTHORIZED OFFICER MAY DISCLOSE TO THE OWNER  
7 OF THE COPYRIGHT OR TO HIS AUTHORIZED AGENT  
8 THE FOLLOWING:

9  
10 (A) THE TIME AND PLACE, OF SEIZURE OR  
11 DETENTION OF THE ARTICLE;

12  
13 (B) THE NAME AND ADDRESS OF THE PERSON FROM  
14 WHOM THE ARTICLE HAS BEEN SEIZED OR  
15 DETAINED;

16  
17 (C) THE NATURE AND QUANTITY OF ARTICLES  
18 SEIZED OR DETAINED;

19  
20 (D) ANY STATEMENT MADE TO AN AUTHORIZED  
21 OFFICER BY THE PERSON IN CONNECTION WITH  
22 THE SEIZURE OR DETENTION, EITHER WITH  
23 THE PRIOR CONSENT IN WRITING OF THAT  
24 PERSON OR WITHOUT SUCH CONSENT WHERE  
25 THE PERSON IS DEAD OR CANNOT AFTER  
26 REASONABLE ENQUIRIES BY AN AUTHORIZED  
27 OFFICER AS TO HIS WHERE-ABOUTS BE FOUND;  
28 AND

29  
30 (E) ANY OTHER INFORMATION OR DOCUMENT  
31 RELATING TO THE ARTICLE SEIZED OR  
32 DETAINED WHICH AN AUTHORIZED OFFICER  
33 DEEMS FIT TO DISCLOSE.

34  
35 220A.3. THE OWNER OF THE COPYRIGHT OR HIS AUTHORIZED  
36 AGENT SEEKING DISCLOSURE OF ANY INFORMATION  
37 OR DOCUMENT THAT IS NOT REFERRED TO IN THE  
38 PREVIOUS PARAGRAPH OR THAT IS NOT DISCLOSED



1 BY THE AUTHORIZED OFFICER MAY APPLY TO THE  
2 COURT FOR AN ORDER REQUIRING THE AUTHORIZED  
3 OFFICER TO DISCLOSE SUCH INFORMATION OR  
4 DOCUMENT AND THE COURT MAY ON SUCH AN  
5 APPLICATION MAKE SUCH ORDER FOR DISCLOSURE  
6 AS IT THINKS FIT.

7  
8  
9 **SEC 220B ACCEPTANCE OF PROPORTIONAL**  
10 **EXAMINATION OF ARTICLES SEIZED.**

11  
12 **220B.1. WHERE PACKAGES, RECEPTACLES OR CONTAINERS**  
13 **CONTAINING COPIES OR IMPLEMENTS SUSPECTED OF**  
14 **VIOLATING THIS ACT ARE SEIZED OR DETAINED, IT**  
15 **SHALL BE SUFFICIENT ONLY TO OPEN AND EXAMINE**  
16 **THREE PERCENT (3%) OR ANY TEN (10) COPIES,**  
17 **WHICHEVER IS HIGHER, OF THE CONTENTS OF EACH**  
18 **PACKAGE, RECEPTACLE OR CONTAINER SEIZED.**

19  
20 **220B.2. WHERE PROCEDURES WERE CARRIED OUT IN**  
21 **ACCORDANCE WITH THE PREVIOUS PARAGRAPH, THE**  
22 **COURT SHALL PRESUME THAT THE REMAINING**  
23 **COPIES CONTAINED IN THE PACKAGE OR**  
24 **RECEPTACLE ARE OF THE SAME NATURE AS THOSE**  
25 **COPIES EXAMINED.**

26  
27  
28 **Section 21.** Chapter XVIII is hereby amended by adding a new  
29 Section at the end thereof to be known as Section 224A, to read as follows:

30  
31 **SECTION 224A , *PROTECTION OF EXISTING SUBJECT***  
32 ***MATTER:***

33  
34 **(224A.1.) THE PROTECTION PROVIDED UNDER PART IV OF**  
35 **THIS ACT SHALL ALSO APPLY TO WORKS, SOUND**  
36 **RECORDINGS AND PERFORMANCES FIXED IN SOUND**  
37 **RECORDINGS IN EXISTENCE UPON THE EFFECTIVITY**  
38 **OF THIS ACT, AND WHICH ARE THE SUBJECT OF**  
39 **INTERNATIONAL CONVENTIONS, TREATIES, OR**

1           AGREEMENTS TO WHICH THE PHILIPPINES IS A  
2           PARTY, *PROVIDED, HOWEVER*, THAT ON SUCH DATE,  
3           THE WORK, SOUND RECORDING, OR PERFORMANCE  
4           FIXED IN A SOUND RECORDING HAS NOT YET  
5           FALLEN INTO THE PUBLIC DOMAIN IN ITS COUNTRY  
6           OF ORIGIN OR IN THE PHILIPPINES THROUGH THE  
7           EXPIRY OF THE TERM OF PROTECTION WHICH WAS  
8           PREVIOUSLY GRANTED.

9  
10       (224A.2.) COPIES OF WORKS, SOUND RECORDINGS AND  
11       PERFORMANCES FIXED IN SOUND RECORDINGS  
12       THAT ARE NEWLY PROTECTED SOLELY AS A RESULT  
13       OF THE APPLICATION OF THIS SECTION WHICH ARE  
14       IN EXISTENCE UPON THE EFFECTIVITY OF THIS ACT  
15       , MAY BE SOLD OR OTHERWISE DISPOSED OF BY THE  
16       OWNER OF SUCH COPY UNTIL THE EXPIRATION OF  
17       THREE (3) MONTHS FROM THE DATE OF  
18       EFFECTIVITY OF THIS ACT.

19  
20       (224A.3.) NO OTHER EXERCISE OF EXCLUSIVE RIGHTS UNDER  
21       THIS ACT WITH RESPECT TO SUCH WORK, SOUND  
22       RECORDING, OR PERFORMANCE FIXED IN A SOUND  
23       RECORDING SHALL BE PERMITTED WITHOUT THE  
24       CONSENT OF THE AUTHOR OR OTHER RIGHTHOLDER  
25       OF SAID WORK, SOUND RECORDING, OR  
26       PERFORMANCE FIXED IN A SOUND RECORDING.

27  
28  
29       **Section 22.** Part IV is hereby amended by adding a new Chapter at  
30       the end thereof to be known as Chapter XXI, to read as follows:

31  
32           CHAPTER    XXI.    TECHNOLOGICAL    PROTECTION  
33       MEASURES AND RIGHTS MANAGEMENT INFORMATION

34  
35  
36       **SECTION 229A** TECHNOLOGICAL PROTECTION MEASURES

37       229A.1. ANY PERSON WHO DOES EITHER OF THE FOLLOWING  
38       SHALL BE GUILTY OF A CRIME, PUNISHABLE TO THE

1 SAME EXTENT AS PROVIDED IN SECTION 217.1(B) OF  
2 THIS ACT FOR THE FIRST OFFENSE, AND TO THE  
3 SAME EXTENT AS PROVIDED IN SECTION 217.1(C) FOR  
4 THE SECOND OR SUBSEQUENT OFFENSE, AND SHALL  
5 ALSO BE LIABLE UPON THE SUIT OF ANY INJURED  
6 PARTY, TO A RELIEF, INCLUDING BUT NOT LIMITED  
7 TO, DAMAGES, INJUNCTION, IMPOUNDMENT, AND  
8 DESTRUCTION. THE REMEDIES PROVIDED IN  
9 SECTION 216 SHALL APPLY, *MUTATIS MUTANDIS*, TO  
10 VIOLATIONS OF THIS SECTION:

11  
12 (a) KNOWINGLY, OR HAVING REASONABLE  
13 GROUNDS TO KNOW, CIRCUMVENTS WITHOUT  
14 AUTHORITY ANY EFFECTIVE TECHNOLOGICAL  
15 MEASURE; OR

16  
17 (b) MANUFACTURES, IMPORTS, EXPORTS,  
18 DISTRIBUTES, OFFERS TO THE PUBLIC,  
19 PROVIDES, OR OTHERWISE TRAFFICS IN  
20 DEVICES, PRODUCTS OR COMPONENTS OR  
21 OFFERS TO THE PUBLIC OR PROVIDES  
22 SERVICES:

23  
24 (i) THAT ARE PROMOTED, ADVERTISED OR  
25 MARKETED FOR THE PURPOSE OF  
26 CIRCUMVENTION OF ANY EFFECTIVE  
27 TECHNOLOGICAL MEASURE; OR

28  
29 (ii) THAT HAVE ONLY A LIMITED  
30 COMMERCIALY SIGNIFICANT PURPOSE  
31 OR USE OTHER THAN TO CIRCUMVENT  
32 ANY EFFECTIVE TECHNOLOGICAL  
33 MEASURE; OR

34  
35 (iii) THAT ARE PRIMARILY DESIGNED,  
36 PRODUCED, ADAPTED OR PERFORMED  
37 FOR THE PURPOSE OF ENABLING OR  
38 FACILITATING THE CIRCUMVENTION OF

1 ANY EFFECTIVE TECHNOLOGICAL  
2 MEASURE.

3  
4  
5 229A.2. THIS SECTION PROHIBITS CIRCUMVENTION OF  
6 TECHNOLOGICAL MEASURES, AND DOES NOT  
7 REQUIRE AN AFFIRMATIVE RESPONSE TO SUCH  
8 MEASURES. THIS SECTION DOES NOT REQUIRE THAT  
9 THE DESIGN OF, OR THE DESIGN AND SELECTION OF  
10 PARTS AND COMPONENTS FOR A CONSUMER  
11 ELECTRONICS, TELECOMMUNICATIONS OR  
12 COMPUTING PRODUCT PROVIDE FOR A RESPONSE TO  
13 ANY PARTICULAR TECHNOLOGICAL MEASURE. THIS  
14 PARAGRAPH DOES NOT PROVIDE A DEFENSE TO A  
15 CLAIM OF VIOLATION OF PARAGRAPH (1)(B).

16  
17  
18 229A.3. A VIOLATION OF THIS SECTION IS INDEPENDENT OF  
19 ANY INFRINGEMENT THAT MIGHT OCCUR UNDER  
20 THIS ACT.

21  
22  
23 **SECTION 229B INTEGRITY OF RIGHTS MANAGEMENT**  
24 **INFORMATION**

25  
26 ANY PERSON WHO DOES EITHER OF THE  
27 FOLLOWING SHALL BE GUILTY OF A CRIME,  
28 PUNISHABLE TO THE SAME EXTENT AS PROVIDED IN  
29 SECTION 217.1 OF THIS ACT, AND SHALL ALSO BE  
30 LIABLE UPON THE SUIT OF ANY INJURED PARTY, TO  
31 RELIEF BY WAY OF DAMAGES, INJUNCTION,  
32 IMPOUNDMENT, DESTRUCTION OR OTHERWISE, AND  
33 THE REMEDIES PROVIDED IN SECTION 216 SHALL  
34 APPLY, *MUTATIS MUTANDIS*, TO VIOLATIONS OF THIS  
35 SECTION:

36  
37 (a) KNOWINGLY AND WITHOUT AUTHORITY REMOVES  
38 OR ALTERS ANY ELECTRONIC RIGHTS

1 MANAGEMENT INFORMATION FROM A COPY OF A  
2 WORK, SOUND RECORDING, OR FIXATION OF A  
3 PERFORMANCE, OR KNOWINGLY AND WITHOUT  
4 AUTHORITY DISTRIBUTES, IMPORTS FOR  
5 DISTRIBUTION, BROADCASTS, COMMUNICATES OR  
6 MAKES AVAILABLE TO THE PUBLIC COPIES OF  
7 WORKS, SOUND RECORDINGS, OR FIXATIONS OF  
8 PERFORMANCES FROM WHICH ELECTRONIC  
9 RIGHTS MANAGEMENT INFORMATION HAS BEEN  
10 REMOVED; OR

11  
12 (b) ALTERS ELECTRONIC RIGHTS MANAGEMENT  
13 INFORMATION WITHOUT AUTHORITY, KNOWING  
14 OR (WITH RESPECT TO CIVIL REMEDIES) HAVING  
15 REASONABLE GROUNDS TO KNOW THAT SUCH  
16 ACTIVITY WILL ENABLE OR FACILITATE AN  
17 INFRINGEMENT OF ANY RIGHT PROTECTED  
18 UNDER THIS LAW.

19  
20  
21 **Section 23.** All laws, decrees, executive orders, issuances or  
22 regulations inconsistent with the provisions of this Act are hereby revised or  
23 amended accordingly

24  
25  
26 **Section 24.** If any part of this law is declared unconstitutional or  
27 invalid, such parts or provisions thereof not so declared shall remain valid  
28 and subsisting.

29  
30  
31 **Section 25.** This Act shall take effect fifteen (15) days from  
32 publication in two (2) newspapers of general circulation in the country.

33  
34  
35 *Approved,*