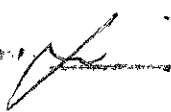


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**SENATE**

Senate Bill No. **2487**

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**INTRODUCED BY SEN. MANNY VILLAR**

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**EXPLANATORY NOTE**

Article XIV Section 13 of the 1987 Constitution states that "[t]he State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law."


Considering the growing literary and artistic works of our countrymen and those that they are exposed to, an amendment of the Intellectual Property Code is proper. Under this amendment, a Bureau of Copyright is created to focus on these literary and artistic works and its derivatives with the end in view of ensuring that any dispute that may arise related to the same may be swiftly addressed.

Further, in view of the changing times, i.e. the evolution of contracts, leap in the electronic age and information technology, the Intellectual property Code is likewise amended to adjust to these changes. For example the rights enjoyed by assignees of a copyright are now also enjoyable by licensees, the reproduction of a copyrighted work will not be considered an infringement if reproduced in a specialized format for use of visually impaired persons, the concept of "technological measure" is introduced to prevent the public from circumventing ways of gaining access to an otherwise restricted copyright, the power of the Customs Commissioner as regards infringing materials is now expanded not only to cover those imported protected materials but also those that are exported, and the rights of producers of sound recordings are also expanded to include the authority to permit and/or restrict public access of the same.

Instances when there are infringement and remedies if such arise are likewise amended. The principle of double the damage under certain circumstances is introduced to increase the penalty imposed against infringers and thereby dissuade future infringers from committing the *acts prohibited under the law*. A provision of disclosure of information is likewise inserted to provide notice to the owners of such copyright of any discovered copyright infringement.

These amendments are aimed to make our current Intellectual Property Code adapt to the inevitable changes we now face.

With this in mind, the passage of this bill is earnestly sought.

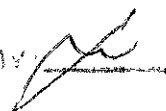
  
**MANNY VILLAR**

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

SEP 13 1976

SENATE

RECEIVED BY



S. B. No. **2487**

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Introduced by **SENATOR MANNY VILLAR**

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**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:*

**SECTION 1.** Section 6 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines, is hereby amended to read as follows:

*"Sec. 6. The Organizational Structure of the IPO. –*

x x x

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

- (a) The Bureau of Patents;
- (b) The Bureau of Trademarks;
- (C) THE BUREAU OF COPYRIGHT;**
- (D) [c] The Bureau of Legal Affairs;**
- (E) [d] The Documentation Information and Technology Transfer Bureau;**
- (F) [e] The Management Information System and EDP Bureau; and**
- (G) [f] The Administrative, Financial and Personnel Services Bureau. "**

**SEC. 2.** Section 7 of R.A. No. 8293 is hereby amended to read as follows:

*"Sec. 7. The Director General and Deputies Director General. –*

- (b) Exercise exclusive appellate jurisdiction over all decisions rendered by the Director of Legal Affairs, the Director of Patents, the Director of Trademarks, **THE DIRECTOR OF COPYRIGHT**, and the Director of the Documentation, Information and Technology Transfer Bureau. The decisions of the Director General in the exercise of his appellate jurisdiction in respect of the decisions of the Director of Patents, and the Director of Trademarks shall be appealable to the Court of Appeals in accordance with the Rules of Court; and those in respect of the decisions of the Director of Documentation, Information and Technology Transfer Bureau shall be appealable to the Secretary of Trade and Industry; and
- (c) Exercise [original] **APPELLATE** jurisdiction [to resolve disputes] **OVER DECISIONS MADE BY THE DIRECTOR OF COPYRIGHT OVER DISPUTES** relating to the terms of a license involving the author's right to public performance or other communication of his work. The decisions of the Director General in these cases shall be appealable to the Secretary of Trade and Industry. ”

**SEC. 3.** A new Section 9A is hereby inserted after Section 9 of R.A. No. 8293, to read as follows:

**“Sec. 9A. THE BUREAU OF COPYRIGHT. – THE BUREAU OF COPYRIGHT SHALL HAVE THE FOLLOWING FUNCTIONS:**

- 9A.1. ACCEPT, REVIEW AND DECIDE ON APPLICATIONS FOR THE ACCREDITATION OF COLLECTIVE MANAGEMENT ORGANIZATIONS OR SIMILAR ENTITIES;**
- 9A.2. CONDUCT STUDIES AND RESEARCHES IN THE FIELD OF COPYRIGHT AND RELATED RIGHTS IN ORDER TO ASSIST THE DIRECTOR GENERAL IN FORMULATING POLICIES ON THE ADMINISTRATION AND MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS;**
- 9A.3. EXERCISE ORIGINAL JURISDICTION TO RESOLVE DISPUTES RELATING TO THE TERMS OF A LICENSE INVOLVING THE AUTHOR'S RIGHT TO PUBLIC PERFORMANCE OR OTHER COMMUNICATION OF HIS WORK. THE DECISIONS OF THE DIRECTOR OF COPYRIGHT IN THESE CASES SHALL BE APPEALABLE TO THE DIRECTOR GENERAL;**
- 9A.4. ASSIST THE DOCUMENTATION, INFORMATION AND TECHNOLOGY TRANSFER BUREAU (DITTB) IN EDUCATING THE PUBLIC AND BUILDING AWARENESS OF COPYRIGHT AND RELATED RIGHTS THROUGH SEMINARS, LECTURES AND OTHER SIMILAR ACTIVITIES;**
- 9A.5. PROVIDE INFORMATION TO THE DIRECTOR GENERAL REGARDING MATTERS OF COPYRIGHT AND RELATED RIGHTS THAT REQUIRE PUBLICATION IN THE IPO GAZETTE;**



SEC. 7. There shall be two new subsections to be added at the end of Sec. 171.11, to be known as 171.12 and 171.13, both to read as follows:

171.12 "TECHNOLOGICAL MEASURE" MEANS ANY TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL COURSE OF ITS OPERATION, RESTRICTS ACCESS IN RESPECT OF A WORK, PERFORMANCE OR SOUND RECORDING, WHICH ARE NOT AUTHORIZED BY THE AUTHORS, PERFORMERS OR PRODUCERS OF SOUND RECORDINGS CONCERNED OR PERMITTED BY LAW.

171.13 "RIGHTS MANAGEMENT INFORMATION" MEANS INFORMATION WHICH IDENTIFIES THE WORK, SOUND RECORDING OR PERFORMANCE; THE AUTHOR OF THE WORK, PRODUCER OF THE SOUND RECORDING OR PERFORMER OF THE PERFORMANCE; THE OWNER OF ANY RIGHT IN THE WORK, SOUND RECORDING OR PERFORMANCE; OR INFORMATION ABOUT THE TERMS AND CONDITIONS OF THE USE OF THE WORK, SOUND RECORDING OR PERFORMANCE; AND ANY NUMBERS OR CODES THAT REPRESENT SUCH INFORMATION, WHEN ANY OF THESE ITEMS IS ATTACHED TO A COPY OF THE WORK, SOUND RECORDING OR FIXATION OF PERFORMANCE OR APPEARS IN CONJUNCTION WITH THE COMMUNICATION TO THE PUBLIC OF A WORK, SOUND RECORDING OR PERFORMANCE.

SEC. 8. Section 180 of R.A. No. 8293 is hereby amended to read as follows:

"Sec. 180. *Rights of Assignee OR LICENSEE*. - 180.1. The copyright may be assigned **OR LICENSED** in whole or in part. Within the scope of the assignment **OR LICENSE**, the assignee **OR LICENSEE** is entitled to all the rights and remedies which the assignor **OR LICENSEE** had with respect to the copyright.

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

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

180.5 **THE COPYRIGHT OWNER HAS THE RIGHT TO REGULAR STATEMENTS OF ACCOUNTS FROM THE ASSIGNEE OR THE LICENSEE WITH REGARD TO ASSIGNED OR LICENSED WORK. THE ACCOUNTING SHALL BE MADE IN WRITING AND SHALL BE GIVEN TO THE AUTHOR AT LEAST ONCE A YEAR ACCOMPANIED BY SUCH INFORMATION, INCLUDING BOOKS OF ACCOUNTS, CONTRACTS RE-ASSIGNING HIS RIGHTS TO HIS WORK, AND OTHER SUCH DOCUMENTS THAT WILL HELP THE AUTHOR OR COPYRIGHT OWNER DETERMINE THE PROPER REMUNERATION DUE HIM."**

**SEC. 9.** Section 181 of R.A. No. 8293 is hereby amended to read as follows:

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

**SEC. 10.** Section 183 of R.A. No. 8293 is hereby amended to read as follows:

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

**SEC. 11.** Section 185.1 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 185. *Fair Use of a Copyrighted Work.* -185.1 The fair use of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright. Decompilation, which is understood here to be the reproduction of the code and translation of the forms of [the] A computer program to achieve the interoperability of an independently created computer program with other programs may also constitute fair use **UNDER THE CRITERIA ESTABLISHED BY THIS SECTION, TO THE EXTENT THAT SUCH DECOMPILATION IS DONE FOR THE PURPOSE OF OBTAINING THE INFORMATION NECESSARY TO ACHIEVE SUCH INTER-OPERABILITY.** In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include:

- (a) The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
- (b) The nature of the copyrighted work;
- (c) The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (d) The effect of the use upon the potential market for or value of the copyrighted work

**IT IS ALSO NOT AN INFRINGEMENT OF THE COPYRIGHTED WORK TO REPRODUCE OR DISTRIBUTE COPIES OF PUBLISHED ARTICLES OR MATERIALS IF SUCH COPIES ARE REPRODUCED OR DISTRIBUTED IN A SPECIALIZED FORMAT EXCLUSIVELY FOR THE USE OF THE BLIND OR VISUALLY IMPAIRED PERSONS: PROVIDED, THAT SUCH COPIES AND DISTRIBUTION SHALL BE MADE ON A NON-PROFIT BASIS AND SHALL INDICATE THE COPYRIGHT OWNER AND THE DATE OF THE ORIGINAL PUBLICATION: PROVIDED FURTHER, THAT SUCH REPRODUCTION OR DISTRIBUTION IS NOT IN CONFLICT WITH THE NORMAL EXPLOITATION OF THE WORK AND DOES NOT PREJUDICE THE NORMAL EXPLOITATION OF THE COPYRIGHT OWNER. THIS DISTRIBUTION IS ALSO PERMITTED IN CASE THE COPIES HAVE BEEN**

**MADE ABROAD AND THE CONDITIONS MENTIONED HAVE BEEN FULLFILLED.”**

**SEC. 12. *Implementing Rules and Regulations on the Reproduction or Distribution of Published Articles/Materials in Specialized Format for the Blind or Visually Impaired.*** - Within one hundred twenty (120) days from the effectivity of this Act, the Intellectual Property Office, in consultation with the National Book Development Board (NBDB), shall promulgate the rules and regulations necessary to effectively implement the provisions of Section 185.1, as amended.

**SEC. 13.** Section 188.1 of R.A. No. 8293 is hereby amended to read as follows:

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

X X X

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

**SEC. 14.** Sections 190.1 and 190.2 of R.A. 8293 are deleted in their entirety.

**SEC. 15.** Section 190.3 of R.A. No. 8293 is hereby renumbered and amended as the sole provision under Section 190 to read as follows:

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

**SEC. 16.** Section 191 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 191. [Registration and ] **DEPOSIT AND NOTICE OF DEPOSIT** with **THE National Library and the Supreme Court Library.** – **WITHIN THREE (3) WEEKS** [A] after the first public dissemination [of] **OR** performance by authority of the copyright owner of a work falling under Subsections [172.1, 172.2 and 172.3] **172.1 (A), 172.1 (B), 172.1 (C) AND 173.1** of this Act, there shall, for the purpose of completing the records of the National Library and the Supreme Court Library, [within three (3) weeks,] be registered and deposited with it by personal delivery or by registered mail, two (2) complete copies or reproductions of the work in such form as the directors of said

libraries may prescribe **IN ACCORDANCE WITH REGULATIONS: PROVIDED THAT, ONLY WORKS IN THE FIELD OF LAW SHALL BE DEPOSITED WITH THE SUPREME COURT LIBRARY.** A [certificate] **NOTICE** of deposit shall be issued for which the prescribed fee shall be collected. [If, within three (3) weeks after receipt by the copyright owner of a written demand from the directors for such deposit, the required copies or reproductions are not delivered and the fee is not paid, the copyright owner shall be liable to pay a fine equivalent to the required fee per month of delay and to pay to the National Library and the Supreme Court Library the amount of the retail price of the best edition of the work. Only the above mentioned classes of work shall be accepted for deposit by the National Library and the Supreme Court Library.](Sec. 26, P.D. No. 49a).”

**SEC. 17.** Section 198 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 198. *Term of Moral Rights.* – 198.1. The rights of an author under this chapter shall last during the lifetime of the author and [for fifty (50) years] **IN PERPETUITY** after his death and shall not be assignable or subject to license. The person or persons to be charged with the posthumous enforcement of these rights shall be named in writing to be filed with the National Library. In default of such person or persons, such enforcement shall devolve upon either the author’s heirs, and in default of the heirs, the Director of the National Library.”

**SEC. 18.** Section 208 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 208. *Scope of Right.* -Subject to the provisions of Section 212, producers of sound recordings shall enjoy the following exclusive rights:

- 208.1 The right to authorize the direct or indirect reproduction of their sound recordings, in any manner or form; [the placing of these reproductions in the market and the right of rental or lending;]
- 208.2 The right to authorize the first public distribution of the original and copies of their sound recordings through sale or rental or other forms of transferring ownership; [and]
- 208.3 The right to authorize the commercial rental to the public of the original and copies of their sound recordings, even after distribution by them by or pursuant to authorization by the producer [.]; (Sec. 46, P.D. No. 49a) **AND,**
- 208.4 THE RIGHT TO AUTHORIZE THE MAKING AVAILABLE TO THE PUBLIC OF THEIR SOUND RECORDINGS IN SUCH A WAY THAT MEMBERS OF THE PUBLIC MAY ACCESS THE SOUND RECORDING FROM A PLACE AND AT A TIME INDIVIDUALLY CHOSEN OR SELECTED BY THEM, AS WELL AS OTHER TRANSMISSIONS OF A SOUND RECORDING, WITH LIKE EFFECT.**



SEC. 19. Section 212 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 212. *Limitations on Rights.* – [Sections 203, 208 and 209 shall not apply where the acts referred to in those Sections are related to:] **THE PROVISIONS OF CHAPTER VIII SHALL APPLY *MUTATIS MUTANDIS* TO THE RIGHTS OF PERFORMERS, PRODUCERS OF SOUND RECORDINGS AND BROADCASTING ORGANIZATIONS.**”

SEC. 20. Section 216 of R.A. No. 8293 is hereby amended to read as follows:

“Sec. 216. ***INFRINGEMENT.*** A PERSON INFRINGES A RIGHT PROTECTED UNDER THIS ACT WHEN HE:

- (A) DIRECTLY COMMITS AN INFRINGEMENT;
- (B) BENEFITS FINANCIALLY FROM THE INFRINGING ACTIVITY OF ANOTHER PERSON WHO COMMITS AN INFRINGEMENT IF THE PERSON BENEFITING HAS BEEN GIVEN NOTICE OF THE INFRINGING ACTIVITY AND HAS THE RIGHT AND ABILITY TO CONTROL THE ACTIVITIES OF THE OTHER PERSON; OR
- (C) PURPOSELY AND WITH THE INTENT TO ENABLE OR INDUCE INFRINGEMENT BY ANOTHER PERSON, AND MATERIALLY CONTRIBUTES TO IT.”

216.1 *Remedies for Infringement.* - Any person infringing a right protected under this law shall be liable:

x      x      x

- (b) TO [P]pay to the copyright proprietor or his assigns or heirs such actual damages, including legal costs and other expenses, as he may have incurred due to the infringement as well as the profits the infringer may have made due to such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or, in lieu of actual damages and profits, such damages which to the court shall appear to be just and shall not be regarded as penalty: ***PROVIDED, THAT, IN CASES OF THE FOLLOWING, THE AMOUNT OF DAMAGES TO BE AWARDED SHALL BE DOUBLED AGAINST ANY PERSON WHO:***
  - (i) CIRCUMVENTS EFFECTIVE TECHNOLOGICAL MEASURES; OR
  - (ii) HAVING REASONABLE GROUNDS TO KNOW THAT IT WILL INDUCE, ENABLE, FACILITATE OR CONCEAL THE INFRINGEMENT, REMOVE OR ALTER ANY ELECTRONIC RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND RECORDING, OR FIXATION OF A PERFORMANCE, OR DISTRIBUTE, IMPORT FOR DISTRIBUTION, BROADCAST, OR COMMUNICATE TO THE PUBLIC WORKS OR COPIES OF WORKS WITHOUT AUTHORITY, KNOWING THAT

**ELECTRONIC RIGHTS MANAGEMENT INFORMATION  
HAS BEEN REMOVED OR ALTERED WITHOUT  
AUTHORITY.**

- (c) **TO [D]deliver under oath, for impounding during the pendency of the action, upon such terms and conditions as the court may prescribe, sales invoices and other documents evidencing sales, all articles and their packaging alleged to infringe a copyright and implements for making them.**
- (d) **TO [D]deliver under oath for destruction without any compensation all infringing copies or devices, as well as all plates, molds, or other means for making such infringing copies as the court may order.**
- (e) **TO [S]such other terms and conditions, including the payment of moral and exemplary damages, which the court may deem proper, wise and equitable and the destruction of infringing copies of the work even in the event of acquittal in a criminal case.**
- (f) **THE COPYRIGHT OWNER MAY ELECT, AT ANY TIME BEFORE FINAL JUDGMENT IS RENDERED, TO RECOVER INSTEAD OF ACTUAL DAMAGES AND PROFITS, AN AWARD OF STATUTORY DAMAGES FOR ALL INFRINGEMENTS INVOLVED IN AN ACTION IN A SUM OF NOT MORE THAN FIFTY THOUSAND PESOS (Php50,000.00). IN AWARDED STATUTORY DAMAGES, THE COURT SHALL CONSIDER THE FOLLOWING FACTORS:**
  - (1) **THE NATURE AND PURPOSE OF THE INFRINGING ACT SUCH AS WHETHER IT WAS OF A COMMERCIAL NATURE;**
  - (2) **THE FLAGRANCY OF THE INFRINGEMENT;**
  - (3) **WHETHER THE DEFENDANT ACTED IN BAD FAITH;**
  - (4) **THE NEED FOR DETERRENCE;**
  - (5) **ANY LOSS THAT THE PLAINTIFF HAS SUFFERED OR IS LIKELY TO SUFFER BY REASON OF THE INFRINGEMENT;  
AND**
  - (6) **ANY BENEFIT SHOWN TO HAVE ACCRUED TO THE DEFENDANT BY REASON OF THE INFRINGEMENT.**

**IN CASE THE INFRINGER WAS NOT AWARE AND HAD NO REASON TO BELIEVE THAT HIS/HER ACTS CONSTITUTED AN INFRINGEMENT OF COPYRIGHT, THE COURT IN ITS DISCRETION MAY REDUCE THE AWARD OF STATUTORY DAMAGES TO A SUM OF NOT MORE THAN TEN THOUSAND PESOS (Php 10,000.00).**

**IN CASES OF THE FOLLOWING, THE AMOUNT OF DAMAGES TO BE AWARDED SHALL BE DOUBLED AGAINST ANY PERSON WHO:**

- (i) CIRCUMVENTS EFFECTIVE TECHNOLOGICAL MEASURES; OR**
- (ii) HAVING REASONABLE GROUNDS TO KNOW THAT IT WILL INDUCE, ENABLE, FACILITATE OR CONCEAL THE INFRINGEMENT, REMOVE OR ALTER ANY ELECTRONIC RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND RECORDING, OR FIXATION OF A PERFORMANCE, OR DISTRIBUTE, IMPORT FOR DISTRIBUTION, BROADCAST, OR COMMUNICATE TO THE PUBLIC WORKS OR COPIES OF WORKS WITHOUT AUTHORITY, KNOWING THAT ELECTRONIC RIGHTS MANAGEMENT INFORMATION HAS BEEN REMOVED OR ALTERED WITHOUT AUTHORITY.**

216.2 In an infringement action, the court shall also have the power to order the seizure and impounding of any article which may serve as evidence in the court proceedings [.] , **IN ACCORDANCE WITH THE RULES ON SEARCH AND SEIZURE INVOLVING VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS ISSUED BY THE SUPREME COURT.** (Sec. 28, P.D. No. 49a)

**THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT SUIT FOR RELIEF BY THE INJURED PARTY BY WAY OF DAMAGES, INJUNCTION, ACCOUNTS OR OTHERWISE.**

**SEC. 21.** Section 217.2 of R.A. No. 8293 is hereby amended as follows:

“217.2. In determining the number of years of imprisonment and the amount of fine, the court shall consider the value of the infringing materials that the defendant has produced or manufactured and the damage that the copyright owner has suffered by reason of the infringement[.]: **PROVIDED, THAT, THE MAXIMUM PENALTY STATED IN SEC. 217. 1 (A), (B) AND (C) FOR THE FIRST, SECOND, THIRD AND SUBSEQUENT OFFENSE, RESPECTIVELY, SHALL BE IMPOSED WHEN THE INFRINGEMENT IS COMMITTED BY:**

- (i) THE CIRCUMVENTION OF EFFECTIVE TECHNOLOGICAL MEASURES; OR**
- (ii) THE REMOVAL OR ALTERATION OF ANY ELECTRONIC RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND RECORDING, OR FIXATION OF A PERFORMANCE, BY A PERSON, KNOWINGLY AND WITHOUT AUTHORITY; OR**
- (iii) THE DISTRIBUTION, IMPORTATION FOR DISTRIBUTION, BROADCAST, OR COMMUNICATION TO THE PUBLIC OF WORKS OR COPIES OF WORKS, BY A PERSON WITHOUT AUTHORITY, KNOWING THAT ELECTRONIC RIGHTS**

**MANAGEMENT INFORMATION HAS BEEN REMOVED OR ALTERED WITHOUT AUTHORITY.”**

**SEC. 22.** Section 218.1 of R.A. No. 8293 is hereby amended to read as follows:

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

- (a) At the time specified therein, copyright subsisted in the work or other subject matter;
- (b) He or the person named therein is the owner of the copyright; and
- (c) The copy of the work or other subject matter annexed thereto is a true copy thereof [,];

shall be admitted in evidence in any proceedings [for an offense] under this Chapter and shall be *prima facie* proof of the matters therein stated until the contrary is proved, and the court before which such affidavit is produced shall assume that the affidavit was made by or on behalf of the owner of the copyright.”

**SEC. 23.** A new Section 220A shall be inserted after Section 220.2 of R.A. No. 8293 to read as follows:

**“SEC. 220A. DISCLOSURE OF INFORMATION.**

**220A.1. WHERE ANY ARTICLE OR ITS PACKAGING OR AN IMPLEMENT FOR MAKING IT IS SEIZED OR DETAINED UNDER A VALID SEARCH AND SEIZURE UNDER THIS ACT IS, OR IS REASONABLY SUSPECTED BY AN AUTHORIZED ENFORCEMENT OFFICER TO BE IN VIOLATION OF THIS ACT, THE SAID OFFICER SHALL, WHEREVER REASONABLY PRACTICABLE, NOTIFY THE OWNER OF THE COPYRIGHT IN QUESTION OR HIS AUTHORIZED AGENT OF THE SEIZURE OR DETENTION, AS THE CASE MAY BE.**

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

- (A) THE TIME, AND THE ADDRESS OR PLACE, OF SEIZURE OR DETENTION OF THE ARTICLE;**
- (B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE ARTICLE HAD BEEN SEIZED OR DETAINED;**
- (C) THE NATURE AND QUANTITY OF ARTICLES SEIZED OR DETAINED;**

- (D) ANY STATEMENT MADE TO AN AUTHORIZED ENFORCEMENT OFFICER BY THE PERSON IN CONNECTION WITH THE SEIZURE OR DETENTION, EITHER WITH THE PRIOR CONSENT IN WRITING OF THAT PERSON, OR WITHOUT SUCH CONSENT WHERE THE PERSON IS DEAD OR CANNOT AFTER REASONABLE ENQUIRIES BY AN AUTHORIZED ENFORCEMENT OFFICER AS TO HIS WHEREABOUTS BE FOUND; AND
- (E) ANY OTHER INFORMATION OR DOCUMENT RELATING TO THE ARTICLE SEIZED OR DETAINED WHICH AN AUTHORIZED ENFORCEMENT OFFICER DEEMS FIT TO DISCLOSE.

220A.3. THE OWNER OF THE COPYRIGHT OR HIS AUTHORIZED AGENT SEEKING DISCLOSURE OF ANY INFORMATION OR DOCUMENT THAT IS NOT REFERRED TO IN THE PREVIOUS PARAGRAPH OR THAT IS NOT DISCLOSED BY THE AUTHORIZED ENFORCEMENT OFFICER MAY APPLY TO THE COURT FOR AN ORDER REQUIRING THE SAID OFFICER TO DISCLOSE SUCH INFORMATION OR DOCUMENT AND THE COURT MAY ON SUCH AN APPLICATION MAKE SUCH ORDER FOR DISCLOSURE AS IT THINKS FIT. ”

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

**“SEC. 224A. PROTECTION OF EXISTING SUBJECT MATTER.**

224A.1. THE PROTECTION PROVIDED UNDER PART IV OF THIS ACT SHALL ALSO APPLY TO WORKS, SOUND RECORDINGS AND PERFORMANCES FIXED IN SOUND RECORDINGS AND BROADCASTING IN EXISTENCE UPON THE EFFECTIVITY OF THIS ACT, AND WHICH ARE THE SUBJECT OF INTERNATIONAL CONVENTIONS, TREATIES, OR AGREEMENTS TO WHICH THE PHILIPPINES IS A PARTY, PROVIDED THAT, ON SUCH DATE THE WORK, SOUND RECORDING, OR PERFORMANCE FIXED IN A SOUND RECORDING HAS NOT YET FALLEN INTO THE PUBLIC DOMAIN IN ITS COUNTRY OF ORIGIN OR IN THE PHILIPPINES THROUGH THE EXPIRY OF THE TERM OF PROTECTION WHICH WAS PREVIOUSLY GRANTED.

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

**224A.3. NO OTHER EXERCISE OF EXCLUSIVE RIGHTS UNDER THIS ACT WITH RESPECT TO SUCH WORK, SOUND RECORDING, OR PERFORMANCE FIXED IN A SOUND RECORDING SHALL BE PERMITTED WITHOUT THE CONSENT OF THE AUTHOR OR OTHER RIGHTHOLDER OF SUCH WORK, SOUND RECORDING, OR PERFORMANCE FIXED IN A SOUND RECORDING.”**

**SEC. 25.** Section 226 of R.A. No. 8293 is hereby amended to read as follows:

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

**SEC. 26.** Chapter XX of R.A. No. 8293 is hereby amended by adding a new Section at the end thereof to be denominated as Section 230, to read as follows:

**“SEC. 230. ADOPTION OF INTELLECTUAL PROPERTY (IP) POLICIES. – SCHOOLS AND UNIVERSITIES SHALL TO ADOPT INTELLECTUAL PROPERTY POLICIES THAT WOULD GOVERN THE USE AND CREATION OF INTELLECTUAL PROPERTY WITH THE PURPOSE OF SAFEGUARDING THE INTELLECTUAL CREATIONS OF THE LEARNING INSTITUTION AND ITS EMPLOYEES, AND ADOPTING LOCALLY-ESTABLISHED INDUSTRY PRACTICE FAIR USE GUIDELINES. THESE POLICIES MAY BE DEVELOPED IN RELATION TO LICENSING AGREEMENTS ENTERED INTO BY THE LEARNING INSTITUTION WITH A COLLECTIVE LICENSING ORGANIZATION.”**

**SEC. 27.** Section 230 of R.A. No. 8293 is hereby renumbered as Section 231, and all succeeding sections of the same Act are hereby renumbered accordingly.

**SEC. 28 *Repealing Clause.*** – All laws, decrees, executive orders, issuances or regulations inconsistent with the provisions of this Act are hereby revised or amended accordingly

**SEC. 29 *Separability Clause.*** – If any part of this law is declared unconstitutional or invalid, such parts or provisions thereof not so declared shall remain valid and subsisting.

**SEC. 30 *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in the country.

Approved,