

II. REVISED INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES

- **HOUSE BILL NO. 799 - "AN ACT ESTABLISHING THE REVISED INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES"**, introduced by Rep. Joey S. Salceda;
- **HOUSE BILL NO. 888 - "AN ACT AMENDING REPUBLIC ACT NO. 8293 OTHERWISE KNOWN AS THE 'INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES', INCREASING ITS PENALTIES AND SANCTIONS, RATIONALIZING ITS POWERS AND FUNCTIONS, AND FOR OTHER PURPOSES"** introduced by Rep. Michael L. Romero;
- **HOUSE BILL NO. 2672 - "AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS "THE INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES' AND FOR OTHER PURPOSES"** introduced by Rep. Christopher V.P. De Venecia;
- **HOUSE BILL NO. 3838 - "AN ACT PROVIDING FOR THE REVISED INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES"** introduced by Rep. Lex Anthony Cris A. Colada; and
- **HOUSE BILL NO. 7028 - "AN ACT AMENDING XVII OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN AS THE INTELLECTUAL PROPERTY CODE OF THE PHILIPPINES, AS AMENDED"** introduced by Rep. Joey S. Salceda.

In this regard, may we respectfully request **comments/recommendations from your office on the abovementioned matter, in preparation for the Committee meeting**, as requested by the Committee. Kindly send them on or before **13 November 2023, at 5 PM** via email at denrlo@denr.gov.ph. Further, kindly inform us of the name/s of the representative/s from your office who will participate in the meeting so we may include him/her/them as resource person/s.

Attached herewith is the copy of the Letter Invitation, the draft Substitute bill and the House bills for your reference.

For information and appropriate action, please.


ROMIROSE B. PADIN

OSEC-2023-007019: CTI MEETING ON NOVEMBER 14, 2023, RE: GI & RIPC

From: Office of the DENR Secretary (osec@denr.gov.ph)

To: denrlegislative@yahoo.com

Cc: jperez@denr.gov.ph; iarodriguez@denr.gov.ph; ouscla@denr.gov.ph; osec.referral@denr.gov.ph; denr_heal@denr.gov.ph; jloyzaga@denr.gov.ph; merni@denr.gov.ph

Date: Wednesday, November 8, 2023 at 11:33 AM GMT+8

Ma'am/Sir,

This is to respectfully refer, for information and appropriate action, the herein invitation to a meeting on November 14, 2023.

We will appreciate informing this office, citing document number OSEC-2023-007019, of the action taken on the matter.

Thank you.

**Office of the Secretary
Department of Environment and Natural Resources**



----- Forwarded message -----

From: **Committee on Trade and Industry** <trade_hor@yahoo.com>

Date: Tue, Nov 7, 2023 at 11:28 AM

Subject: CTI MEETING ON NOVEMBER 14, 2023, RE: GI & RIPC

To: ohea@denr.gov.ph <ohea@denr.gov.ph>, osec@denr.gov.ph <osec@denr.gov.ph>

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Second Regular Session

COMMITTEE ON TRADE & INDUSTRY

04 November 2023

Secretary MARIA ANTONIA YULO LOYZAGA
Department of Environment and Natural Resources
Visayas Ave., Diliman
Quezon City

Dear Secretary Loyzaga,

The **COMMITTEE ON TRADE & INDUSTRY** of the House of Representatives cordially invites you to its meeting on **November 14, 2023, Tuesday, 9:30 A.M.**, at the **Speaker Villar Hall, G/F South Wing Annex, House of Representatives, Quezon City**.

During the same meeting, the Committee will conduct its initial hearing on the following bills on the proposed Protected Geographical Indications Act, specifically:

1. **House Bill No. 531**, entitled: **"AN ACT PROVIDING FOR PROTECTED GEOGRAPHICAL INDICATIONS OF LOCALLY PRODUCED FOOD PRODUCTS, FOODSTUFF, HANDICRAFT, WINES AND SPIRITS"**, introduced by Representative **GERALDINE B. ROMAN**; and,

2. **House Bill No. 8657**, entitled: **AN ACT PROVIDING FOR THE PROTECTION OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL OR NATURAL (UNPROCESSED OR WILD) PRODUCTS, PROCESSED PRODUCTS, WINES AND SPIRITS, OR ANY PRODUCTS OF HANDICRAFT OR INDUSTRY**, introduced by Representative **MARIO VITTORIO "MARVEY" A. MARIÑO**.

Likewise, the Committee will deliberate on the **draft substitute bill** on the **proposed Revised Intellectual Property Code of the Philippines**, in substitution of House Bill Nos. 799, 888, 2672, 3838, and 7028.

Attached are copies of the aforesaid measures for your ready reference.

In this regard, may we request you to share and manifest your views and comments on aforesaid measures during the meeting.

We look forward to your confirmation of attendance to the subject meeting not later than November 10, 2023 via email at trade_hor@yahoo.com.

Should you have any query, please do not hesitate to contact us thru Mr. Valentino R. Palanca, Committee Secretary (Head of Secretariat), Committee on Trade & Industry (cel.0917-8065747), Supervising Legislative Staff Officers II Jessica Fradejas (cel. 0915-8508219), Supervising Legislative Staff Officer I Roselyn F. Jarilla (cel. 0947-3512219), or Supervising Legislative Staff Officer I Arlene Solomon (cel. 0939-9570481).

Thank you.

Very truly yours,

MARIO VITTORIO "MARVEY" A. MARIÑO

Chairman

Committee on Trade & Industry

FOR THE CHAIRMAN:

(Sgd.) VALENTINO R. PALANCA

Committee Secretary (Head of Secretariat)

Committee on Trade & Industry



HB00531.pdf
2.9MB



HB08657.pdf
505.7kB



RIPC as of 23Aug2023.doc
406.4kB



HB00799.pdf
7.3MB



HB00888.pdf
445.9kB



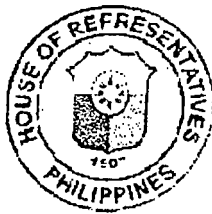
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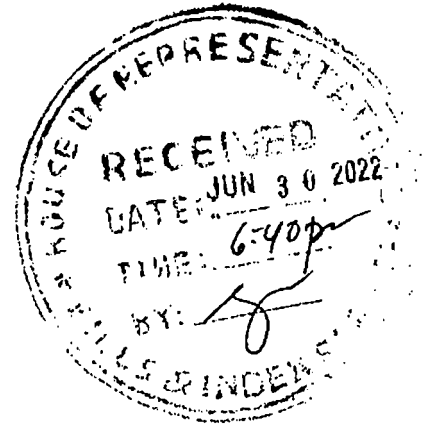
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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 531



Introduced by Representative **GERALDINE B. ROMAN**

EXPLANATORY NOTE

It is not hard to think of a province or region in the Philippines with a globally-competitive product. To name a few, we have the Bataan *Tinapa*, Ilocos *Bagnet*, Guimaras Mango or Davao Durian. These products are closely associated with their origin that mere mention of the province is enough guaranties that the product is world-class.

However, due to the commercial viability and lack of regulation on the use of these geographical indications, it has been subject to abuse by many unscrupulous producers. Ultimately, the names of these products are being tarnished, degraded and cheapened to the detriment of the legitimate producers.

Hence, it is the duty of the State to protect the products, producers and consumers from this practice. In fact, Art. XII, Sec. 12 of the 1987 Constitution provides that: "The State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive." It is envisioned that with the passage of this Bill, the local producers will be incentivized to preserve their methods of production which have close ties to Filipino culture and tradition. Non-discerning consumers will also be protected by being informed.

Further, this Bill will establish a foothold of Filipino products in the international market. In this age of globalization, our local goods, which are truly internationally competitive, will be given the chance to shine.

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


GERALDINE B. ROMAN



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 531

Introduced by Representative **GERALDINE B. ROMAN**

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GERALDINE B. ROMAN



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 531

Introduced by Representative **GERALDINE B. ROMAN**

AN ACT
PROVIDING FOR PROTECTED GEOGRAPHICAL INDICATIONS OF LOCALLY
PRODUCED FOOD PRODUCTS, FOODSTUFF, HANDICRAFT, WINES AND
SPIRITS

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Protected Geographical Indications Act.”

SECTION 2. *Declaration of Policy* – The State recognizes the economic and cultural contribution of locally produced agricultural products, foodstuff, handicrafts, wines and spirits. These products create value for local communities or regions since they are deeply rooted in tradition, culture and geography. Further, rural socio-economic development is bolstered by the consequent creation of job opportunities from production, processing and distribution.

Towards this end, the State shall endeavor to protect and promote these industries by helping producers to communicate the product characteristics and attributes of the produce and foodstuffs to buyers and consumers so as to ensure:

- (a) fair competition of producers;
- (b) availability of reliable information to consumers;
- (c) respect for intellectual property rights; and
- (d) integrity of the market.

SECTION 3. *Definition of Terms.* – As used in this Act:

- a) **Geographical indication** refers to indications which identify a good as originating in a territory, region or locality, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin and/or human factors;
- b) **Goods/Products** refer to agricultural products, foodstuff, any products of handicraft, or wines and spirits;
- c) **Registrar** refers to the Registrar of Geographical Indications;
- d) **Producer** refers to any person who exploits, processes, or produces agricultural goods and/or foodstuffs, or wines and spirits, makes or manufactures handicrafts, and/or exercises control over the use of GI, standards of production and other product specifications;
- e) **Office** refers to the Intellectual Property Office;
- f) **Bureau** refers to the Bureau of Trademarks;
- g) **IP Code** refers to Republic Act No.8293, otherwise known as the Intellectual Property Code of the Philippines;
- h) **Rules** refers to the Rules and Regulations on Geographical Indications;

ARTICLE II
PROTECTED GEOGRAPHICAL INDICATIONS

SECTION 4. *Objective.* – A scheme for protected geographical indications is established in order to help producers of products linked to a geographical area by:

- (a) Securing fair returns for the qualities of their products;
- (b) Ensuring uniform protection of the names as an intellectual property right;

- (c) Providing clear information on the value-adding attributes of the product to the consumers.

SECTION 5. *Requirements for Geographical Indications.* – ‘Geographical Indication’ is a name which identifies a product:

- (1) Originating in a specific place, region or country;
- (2) Whose given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
- (3) At least one of the production steps of which take place in the defined geographical area.

SECTION 6. *Generic nature, conflicts with names of plant varieties and animal breeds, with homonyms and trademarks.* – Generic terms shall not be registered as protected geographical indications.

A name may not be registered as geographical indication where it conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.

A name proposed for registration that is wholly or partially homonymous with a name already entered in the register may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the name already entered in the register, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

SECTION 7. *Names, Symbols and Indications.* – Protected geographical indications may be used by any operator marketing a product conforming to the corresponding specification.

Symbols designed to publicize protected geographical indications shall be established. The indications ‘protected geographical indication’ or the corresponding abbreviations ‘PGI’ may appear on the labeling.

ARTICLE III PROTECTION

SECTION 8. *Registration.* – The protection afforded under this Act to any indication constituting geographical indication shall be obtained through a valid registration and a certificate issued to that effect by the Office.

SECTION 9. *Rights of Registrants.* – Registered names shall be protected against:

- (a) Any direct or indirect commercial use of a registered name in respect of products not covered by the registration where those products are comparable to the products registered under that name or where using the name exploits the reputation of the protected name, including when those products are used as an ingredient;
- (b) Any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or similar, including when those products are used as an ingredient;
- (c) Any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging, advertising material or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
- (d) Any other practice liable to mislead the consumer as to the true origin of the product.

Where a protected geographical indication contains within it the name of a product which is considered to be generic, the use of that generic name shall not be considered to be contrary to sub-paragraphs (a) and (b) of the preceding paragraph.

Protected geographical indications shall not become generic.

SECTION 10. ~~Implementing~~ Rules and Regulations. ~~Within~~ Within ninety (90) days from the approval of this Act, the Office, in consultation with the concerned stakeholders shall, promulgate the rules and regulations implementing the provisions of this Act. The implementing rules and regulations issued pursuant to this section shall take effect after thirty (30) days after its publication in two (2) newspapers of general circulation.

ARTICLE IV MISCELLANEOUS PROVISIONS

SECTION 11. *Repealing Clause.* – All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, rules or regulation inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 12. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

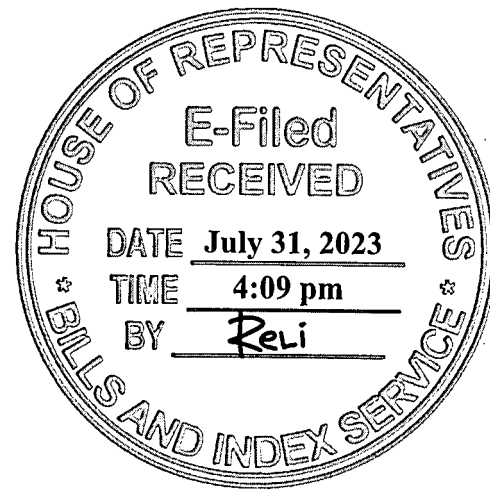
SECTION 13. *Effectivity.* – This Act shall take effect fifteen (15) days after the publication in the Official Gazette or in a newspaper of general circulation.

Approved,

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Second Regular Session

House Bill No. 8657



Introduced by **Rep. MARIO VITTORIO "MARVEY" A. MARIÑO**
5th District, Batangas

EXPLANATORY NOTE

Our country prides itself on goods and products that are uniquely characterized to be part of our Filipino culture and heritage. In the international marketplace, these products should ideally represent our people's creativity and innovativeness. These products should hallmark the Filipino brand of quality to its global and local consumers. Nonetheless, this framework finds difficulty in application largely because of our country's weak regulation and lack of protection of our product's identity or geographical indication.

Ultimately, this proposed bill would not only safeguard our local producers' superior quality of manufacturing and craftsmanship, but would also protect consumers from disingenuous and substandard products that pose to be truly "Filipino-made."

Through this measure, not only do we want to ensure that products sold in the market were indeed produced, grown, or manufactured in the places they were said to have been produced, grown, or manufactured. We also want to ensure that products that bear any mark of having come from anywhere in the Philippines, are in fact things that all Filipinos can be proud of and showcase around the world.

This bill serves as the House's counterpart measure to the bill filed by Senator Sonny Angara in the Senate.

In view of the foregoing, the early passage of this bill is earnestly requested.


MARIO VITTORIO "MARVEY" A. MARIÑO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
Second Regular Session

House Bill No. 8657

Introduced by Rep. MARIO VITTORIO "MARVEY" A. MARIÑO
5th District, Batangas

AN ACT
PROVIDING FOR THE PROTECTION OF GEOGRAPHICAL
INDICATIONS FOR AGRICULTURAL OR NATURAL (UNPROCESSED
OR WILD) PRODUCTS, PROCESSED PRODUCTS, WINES AND
SPIRITS, OR ANY PRODUCTS OF HANDICRAFT OR INDUSTRY

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

Article I

General Provisions

Section 1. *Short Title.* – This Act shall be known as the "*Protected Geographical Indications Act.*"

Sec. 2. *Declaration of Policies.* – The State recognizes the importance of geographical indications in agricultural, economic, and cultural development. It increases the competitive advantage of agricultural and industrial products with unique quality, reputation or characteristics that are essentially attributable to their geographical origin, thereby facilitating local and foreign market access and recognition. Further, rural socio-economic development is bolstered by the consequent creation of job opportunities from production, processing, and distribution.

Towards this end, the State shall endeavor to protect and promote these industries by helping producers communicate the product characteristics and their attributes to buyers and consumers to ensure:

- a) Fair competition of producers;

- b) Availability of reliable information to consumers;
- c) Respect for intellectual property rights; and
- d) Integrity of the market.

Sec. 3. Definition of Terms. – For purposes of this Act, the following terms are hereunder defined accordingly:

- a) *Bureau* refers to the Bureau of Trademarks;
- b) *Control System* refers to the verification of the compliance of goods with the Manual of Specifications, either by internal or external authorities;
- c) *Director General* refers to the Director General of the IPOPHL;
- d) *E-Gazette* refers to the IPOPHL's own publication where all matters required to be published under the IP Code shall be published;
- e) *Evocation of a geographical indication* refers to a term, sign, or other labelling or packaging device that presents a direct and clear link with the product covered by a protected geographical indication in the mind of the reasonably intelligent consumer, thereby exploiting, weakening, diluting or being detrimental to the reputation of the registered name;
- f) *Fees* refer to costs imposed on direct recipients of public goods and services provided and performed by the IPOPHL in the exercise of its functions; they also include charges and other costs;
- g) *Geographical indication (GI)* refers to indications which identify a good or product as originating in a territory, region, or locality, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin and/or human factors;
- h) *Goods/Products* refer to any agricultural or natural (unprocessed or wild) products, processed products, including foodstuff and alcoholic beverages, or any products of handicraft or industry;
- i) *Homonymous geographical indication* refers to a geographical indication that, in part or in whole, has the same spelling as, or

sounds alike as, another geographical indication but identifies goods having a different geographical origin;

j) *Indigenous Cultural Communities/Indigenous Peoples (ICC/IPs)* refers to a group of people or homogenous societies identified by self-ascription and ascription by others, who have continuously lived as organized communities on communally bounded and defined territories, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of language, customs, traditions and other distinctive cultural traits, or who have, through resistance to political, social and cultural inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos. ICC/IPs shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of conquest or colonization, or at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who retain some or all of their own social, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains;

k) *Indication* refers to a sign which is used to identify a good, either a geographical name (name of a territory, region, or locality, or under exceptional circumstances, the name of a country), a non-geographical name, an emblem or any other distinctive symbol;

l) *IP Code* refers to Republic Act No. 8293 otherwise known as the Intellectual Property Code of the Philippines;

m) *IPOPHL* refers to the Intellectual Property Office of the Philippines;

n) *Manual of Specifications* refers to a document that contains the name to be protected as a geographical indication, description of the goods, the delimited geographical area where the goods are produced, and an explanation of the link between the said area and its quality, reputation, or characteristics; description of its production

- processes; control system and quality standards; labeling rules, among others;
- o) *Paris Convention* refers to the Convention for the Protection of Industrial Property signed at Paris on 20 March 1883, and any revision or amendment thereto which has become into force in the Philippines;
 - p) *Person* refers to any juridical person, organization, association or duly constituted government unit, body, or agency;
 - q) *Producer* refers to:
 - i. any producer of agricultural product or natural products;
 - ii. any processor of natural or agricultural or agri-food products;
 - iii. any industry or manufacturer of products of handicraft; and
 - iv. any trader dealing in the products mentioned in paragraphs (i), (ii), and (iii);
 - r) *Registrar* refers to the Registrar of Geographical Indications;
 - s) *Rules* refers to the Rules and Regulations on Geographical Indications;
 - t) *Use of geographical indication* refers to offer for sale, production, sale, export or import of geographical indication goods as well as any promotion and communication material in relation to the geographical indication goods and other preparatory steps necessary to carry out the sale or export of goods protected as geographical indications.

Article II

Protected Geographical Indications

Sec. 4. Objectives. – A scheme for protected geographical indications is established in order to help producers of products linked to a geographical area by:

- a) Securing fair returns for the qualities of their products;
- b) Ensuring uniform protection of the product's geographical indication as an intellectual property right;

- c) Providing clear information on the value-adding attributes of the product to the consumers;
- d) Regulating or managing the procedure related to the registration of GIs;
- e) Protecting GI, including in the unfair competition procedures;
- f) Promoting the GI rights and products; and
- g) Protecting producers from anti-competitive practices in the registration and use of GI.

Sec. 5. *Generic nature, conflicts with names of plant varieties and animal breeds, with homonyms and trademarks.* – Generic terms shall not be registered as protected geographical indications. A name may not be registered as a geographical indication where it conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.

A name proposed for registration that is wholly or partially homonymous with a name already entered in the register may not be registered, unless, after comparing the homonym sought to be registered and the name already entered in the register, there is sufficient distinction in practice between the conditions of their local and traditional usage and presentation, taking into consideration the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

Sec. 6. *Names, Symbols, and Indications.* – Protected geographical indications may be used by any operator marketing a product which conforms to its corresponding specifications.

A national logo designed to publicize protected geographical indications shall be established. The Bureau shall constitute a National Logo to certify all registered geographical indication goods in the Philippines.

Sec. 7. *Acquisition of Rights.* – The enhanced protection afforded under this Act to any indication constituting a geographical indication shall be obtained through valid registration and a certificate issued to that effect by the Bureau.

Sec. 8. *Rights of Registrants.* – Registered Geographical Indications shall be protected against:

- a) Any direct or indirect commercial use of a registered name with respect to products not covered by the registration where those products are comparable to the products registered or where using the name exploits the reputation of the protected name, including when those products are used as an ingredient;
- b) Any misuse, imitation, or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or similar, including when those products are used as an ingredient;
- c) Any other false or misleading indication as to the provenance, origin, nature, or essential qualities of the product that is used on the inner or outer packaging, advertising material, or documents relating to the product concerned, and the packing of the product in a container tending to convey a false impression as to its origin;
- d) Any use of a geographical indication which constitutes an act of unfair competition within the meaning of Article 10^{bis} of the Paris Convention; and
- e) Any other practice that tends to mislead the consumer as to the true origin of the product.

Where a protected geographical indication contains within it the name of a product which is considered to be generic, the use of that generic name shall not be considered to be contrary to sub-paragraphs (a) and (b) of the preceding paragraph.

Protected geographical indications shall not become generic.

Article III

Powers and Authority of the IPOPHL

Sec. 9. *Geographical Indications Registrar.* – The Director of the Bureau of Trademarks shall act as the Registrar of Geographical Indications

who has the authority to examine and register applications for the registration of geographical indications, and implement the provisions of this Act.

Sec. 10. *Register of protected Geographical Indications.* – The Registrar shall keep and maintain a register to be known as the Register of Protected Geographical Indications which shall contain all the recorded particulars as the Registrar deems appropriate.

The Register shall be open to the inspection of the public during business hours, and accessible/searchable online, subject to certain conditions as the Registrar may prescribe. A certified true copy or extract of any entry in the Register shall be provided to any person requiring the copy or extract upon payment of the prescribed fee.

The Registrar, as soon as practicable, shall make applications for registration available and allow for the filing of observation or objections online or in electronic form.

Sec. 11. *Powers of the Bureau of Legal Affairs.* – The Bureau of Legal Affairs (BLA) of the IPOPHL shall have the authority to adjudicate on oppositions to the application for geographical indication and cancellations of registered geographical indications. The BLA shall also exercise original and exclusive jurisdiction in administrative complaints for GI infringement and other violations of this Act.

The BLA shall also have the power to resolve disputes other than the aforementioned through alternative modes of dispute resolution.

Sec. 12. *Roles of Relevant Government Agencies.* – Pursuant to their respective mandates, the IPOPHL, the Department of Agriculture (DA), the Department of Trade and Industry (DTI), the Department of Science and Technology (DOST), the Department of Environment and Natural Resources (DENR), the National Commission for Culture and the Arts (NCCA), the National Commission on Indigenous Peoples (NCIP), the Cooperative Development Authority (CDA), and such other agencies and local government units as may be appropriate, shall collaborate to support and encourage the development of domestic products with origin-linked quality, characteristics, or reputation to be granted GI protection under the provisions of this Act.

The IPOPHL, DA, DTI, DOST, DENR, NCCA, NCIP, CDA, or such other relevant agencies as may be appropriate, shall conduct capacity-building and research and development activities and/or projects for potential GI producers and stakeholders, such as but not limited to the formulation of a manual of specifications, branding, packaging, and marketing of the GI protected product. The agencies shall assist these potential GI producers and stakeholders in ascertaining, validating, and certifying, as needed, the link of the quality, characteristics, or reputation of the goods to the territory, and shall provide such other services to support their needs.

The agencies shall allocate the necessary appropriations of their respective annual budget to implement these mandates subject to existing budgeting, accounting, and auditing laws, rules, and regulations.

Article IV

Registration

Sec. 13. *Applicants.* – The following may make an application to the Registrar for the registration of a geographical indication:

- a) Producers referred in Section 3(q) or producers' organization or association representing stakeholders directly involved in the extraction, production manufacture and trade of the goods covered by the geographical indication;
- b) Government agencies or local government units having area of responsibility covering the geographical origin of the goods, as well as representatives of foreign governments, relative to the geographical indication of its nationals, whose laws afford the same rights and protection to Philippine nationals; and
- c) Organizations or associations or indigenous cultural communities/indigenous peoples which are specifically entrusted with the task of regulating and/or protecting geographical indication by paragraphs (a) or (b).

Sec. 14. *Representation; Address for Service.* – If the applicant is not domiciled nor has no real and effective commercial establishment in the Philippines, it shall designate by a written document filed in the IPOPHL, the

name and address of a Philippine resident or representative from the Embassy, Consulate or Chamber of Commerce in the Philippines of the country where the goods originated, who may be served notices or process in proceedings affecting the geographical indication. Such notices or services may be served upon the person so designated by leaving a copy thereof at the address specified in the last designation filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Registrar.

Sec. 15. *Additional Qualifications for Non-Filipino Applicants.* –

The applicant, as defined in Section 13, who is neither a domestic corporation or organization/association nor a local government unit, body or agency and intends to apply for registration of a geographical indication of a foreign country must also have any of the following qualifications:

- a) a juridical entity incorporated or organized in a country which is a party to the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Right or to other international convention or agreement concerning the protection of geographical indication, to which the Philippines is also a party; or
- b) domiciled or has a real and effective industrial or commercial establishment in the Philippines or in a country which is a party to an international convention or agreement concerning the protection of geographical indications, to which Philippines is also a party.

Sec. 16. *Requirements of Application.* – The application for the registration of the geographical indication shall be in the prescribed form, may be in Filipino or in English and, shall be filed before the Registrar, containing the following details:

- a) name and address of the applicant;
- b) name of the State of which the applicant is a juridical entity or the law under which it is organized and existing; or name of the State in which the applicant has domicile or has a real and effective industrial or commercial establishment;
- c) name of the geographical indication sought to be registered;

- d) the goods to which the geographical indication applies;
- e) description of the geographical area to which the geographical indication applies, including its territorial limitations or boundaries;
- f) description of the specific quality, reputation or other characteristic of the goods and how that quality, reputation or other characteristic, as the case may be, is essentially attributable to the geographical origin and/or human factors;
- g) copy of the Manual of Specifications duly formulated and adopted by the stakeholders or its governing board or council;
- h) certification from the concerned government agency or equivalent independent body:
 - i. validating the causal link between specific quality, reputation or other characteristic of the goods and the geographical area where it originated or produced as described in paragraph f; and
 - ii. the technical information pertaining to the product specifications in the Manual of Specifications.

The Registrar may require the submission of other details as may be necessary.

Sec. 17. *Proof of GI Protection from Foreign Authorities.* –

Foreign applicants shall also submit within a reasonable period as may be determined by the IPOPHL, proof issued by competent agency of the government or any private certifying entity, showing that the subject of the application is a registered or protected geographical indication. Other analogous legal documents or proof may also be accepted.

Sec. 18. *Filing Date.* – The filing date of an application shall be the date on which the Registrar received a fully accomplished application form, containing all the details set forth under Section 16 of this Act, together with the proof of payment of the required fee.

Article V

Examination

Sec. 19. *Examination; Deficiencies.* – The Registrar shall examine the applications for registration of geographical indication in accordance with this Act or in accordance with an international treaty to which the Philippines is a party, according to procedures approved thereunder. Should there be any deficiency in the application, the applicant shall be notified by the Registrar to remedy the same, and if deemed necessary, shall be requested to submit additional information or documents within two (2) months from mailing date of the notice. The period to respond may be extended upon written request by the applicant and payment of the required fee for an additional period of one (1) month each but not to exceed the total of four (4) months from mailing date of the official action. Any request for such extension must be filed on or before the day on which the response of the applicant is due.

In case the deficiencies are not remedied or if the applicant failed to submit the additional information or documents within the prescribed period, the application shall be considered withdrawn without prejudice to the right of the applicant to re-file the same application subject to the requirements set forth under this Act.

Sec. 20. *Disclaimer.* – A generic or customary term or common name component of a geographical indication should be disclaimed. In general, a name or term is considered generic, customary or common if it is understood by the general public in the Philippines or the relevant consumers of the goods covered by the geographical indication to be the product itself or the name and denomination used to refer to the goods themselves.

Sec. 21. *Withdrawal of Application.* – The application may be withdrawn at any time by filing with the Registrar a written declaration of withdrawal signed by the applicant or its authorized representative or agent and upon payment of the prescribed fee.

Article VI

Homonymous Geographical Indications

Sec. 22. *Protection for Homonymous Geographical Indications.*
– In the case of homonymous geographical indications for goods as defined in Section 3(i), the protection shall be accorded to each indication.

Sec. 23. *Differentiation of Homonymous Geographical Indications.* – The Registrar, in cases of bona fide concurrent use of homonymous geographical indications, shall determine the practical conditions under which the homonymous geographical indications in question will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that the public are not misled.

Article VII

Refusal of the Application

Sec. 24. *Grounds for Refusal.* – The following names shall not be registered as geographical indication and shall be refused:

- a) Those which are contrary to laws and regulations, public order, public policy or morality;
- b) Geographical indications of a foreign country which are not or have ceased to be protected in their country or territory of origin;
- c) Those which mislead or deceive the public as to the characteristic, nature, quality, place of origin, production process of the good and/or its use;
- d) Those which consist exclusively of, or identical with, a generic, common or customary name of the goods in the Philippines and the geographical indication sought to be registered will be applied for the same goods;
- e) Those which are identical with or confusingly similar to the name of a plant variety or animal breed and is likely to mislead the consumer as to the true origin of the goods;
- f) Those which do not fall within the prescribed definition of geographical indication; and
- g) Those which are identical with, or confusingly similar to, or an evocation of, an earlier filed or registered geographical indication in the Philippines or in a treaty or international agreement of which the Philippines is a member in respect of the same goods or closely related goods as to cause confusion.

Sec. 25. *Order of Refusal.* – Upon proper notification, an Order of Refusal shall be issued by the Registrar to the applicant who may appeal the same to the Director General in accordance with the Uniform Rules on Appeal. No motion for reconsideration of the Registrar's decision is allowed.

Article VIII

Publication

Sec. 26. *Publication.* – When the Registrar finds that the requirements prescribed by this Act are satisfied, it shall, upon payment of the prescribed fee, forthwith cause the application to be published in the e-Gazette for a period of one (1) month. The publication shall include the following:

- a) Application number;
- b) Filing date;
- c) All the details set forth under Section 16; and
- d) Other matters which the Registrar may deem necessary.

Article IX

Opposition to the Registration of Geographical Indication

Sec. 27. *Opposition.* – a) Within one (1) month from the publication of the application of the geographical indication and upon payment of the prescribed fee, any interested person who may be damaged by its registration may file a notice to oppose the registrability of the geographical indication before the Bureau of Legal Affairs (BLA) of the IPOPHL. The interested party may, in lieu of a notice, file a written request for extension of one (1) month for good cause and upon payment of the required fee.

b) Within one (1) month from receipt by the BLA of such notice or request for extension, a verified and written opposition, including supporting documents, must also be submitted, without need of any notification from the BLA. Failure to comply within the prescribed period will result to the dismissal of the Opposition. In no case shall the filing of the verified opposition exceed two (2) months from the publication date of the application.

(c) A copy of the opposition shall be furnished by the BLA to the applicant who may comment on it within one (1) month from receipt of the order. The

opposition will be taken into consideration by the BLA in deciding whether to grant or refuse protection to the geographical indication being applied for.

Article X

Term of Protection

Sec. 28. *Finality of Decision; Registration and Term of Protection.* – If no opposition is filed within the prescribed period, the geographical indication shall be granted protection on the day immediately after the last day of publication and entered in the Register of Protected Geographical Indications. In case there is an opposition, the protection shall be reckoned from the finality of the decision that the geographical indication is entitled to registration and protection. The registered geographical indication is protected for an unlimited term until or unless revoked with finality.

Article XI

Amendment

Sec. 29. *Amendment of an Application or Registration.* – The application for registration or the registration of a geographical indication may be amended, at the request of the applicant or registrant, to correct the formalities in the application or registration and the details in the Manual of Specifications.

Article XII

Cancellation of Registration; Dispute Resolution

Sec. 30. *Cancellation of Registration.* – At any time, upon payment of the prescribed fee and upon a verified petition by any interested person that the protection of geographical indication accorded under Section 7 is no longer warranted, due notice and opportunity to be heard shall be given to the registrant. If the same petition is found to be meritorious, the BLA shall cancel the registration based on any of the following grounds:

- a) The conditions for protection specified under Section 3(g) have not been fulfilled;
- b) There has been a change in the geographical origin of the goods including the natural and human factors, which are determinative of the quality, reputation or characteristics of the goods bearing a

geographical indication and such change results to the disqualification;

- c) Based on the ruling or decision of the court or tribunal, the applicant-registrant referred to under Section 13 has no effective control over the use of the geographical indication, standards of production of the goods and other product specifications;
- d) The registration of the geographical indication was obtained through false statements and documents during the course of the application; and
- e) The registered or protected geographical indication has been proven to be generic or a common or customary name of the goods covered thereby in the Philippines prior to the grant of protection.

Sec. 31. *Notice of Verified Petition.* – The BLA shall notify and furnish a copy of the verified petition to the concerned registrant of the geographical indication who may comment to it within one (1) month from receipt of the order.

The period to file the comment may be extended for another one (1) month upon written request of the registrant for good and sufficient cause and upon payment of the required fee. Thereafter, the petition shall be submitted for decision of the Director of the BLA. In no case shall the filing of the comment exceed two (2) months from the date of receipt of the notice to comment.

Sec. 32. *Appeal.* – The decision of the BLA shall be final and executory unless appealed to the office of the Director General as provided under the uniform rules on appeal. No motion for reconsideration of the BLA Director's decision is allowed.

Sec. 33. *Dispute Resolution.* – Notwithstanding any contrary provision in the Manual of Specifications, if the approval of the association cannot be obtained as regards the formulation and/or implementation of any of the provisions and requirements in the Manual, including control processes and standards, and labeling rules, the same shall also be referred to the BLA for mediation, and as provided under the implementing rules.

In case of any internal dispute, or any issue on the use and/or misuse of the GI on the products specified in the registration by members of the applicant/registrant or authorized users thereof, or those involving conflicts and issues in the admission of stakeholders to the association and/or in imposing prohibitions on use of the registered GI, these may be referred to the BLA for mediation as governed by the relevant implementing rules and regulations.

If the settlement agreement involves the implementation of the Manual of Specifications, the same is subject to review by the Registrar and/or any certifying government agency if the issue relates to the causal link of the products with the geographical area or any technical information on the product specification embodied in the Manual of Specifications. Upon clearance by the Registrar and/or certifying government agency, the settlement agreement shall be deemed final and will be incorporated in the Manual of Specifications.

In the event mediation proceedings fail, the parties may be referred to the BLA for arbitration as provided in the rules and regulations.

Article XIII

Exceptions

Sec. 34. Prior Users of Geographical Indications and Trademarks. –

1) Nothing in this Act shall prevent the continued or similar use of a particular geographical indication of another country identifying goods in connection with goods or services by any national or domiciliary of Philippines or any national with real or effective commercial establishment in, or doing business in the Philippines, who have used said geographical indication in a continuous manner with regard to the same or related goods or services in the Philippines either -

- a) For at least 10 years before April 15, 1994; or
- b) In good faith before April 15, 1994.

2) Where the trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either –

- a) Before the effectivity of this Act; or

- b) Before the geographical indication is protected in its country of origin.

Measures adopted to implement this Act shall not prejudice the eligibility for, or the validity of the registration of the trademark, or the right to use a trademark, on the basis that such trademark is identical with or similar to, a geographical indication.

Article XIV

Indigenous Cultural Communities/Indigenous Peoples

Sec. 35. *Additional mechanism.* – Considering the rights accorded to the indigenous cultural communities/indigenous peoples under the pertinent laws and international instruments, this Act shall serve as an additional mechanism towards recognition of the full ownership and control and protection of their cultural and intellectual rights.

Sec. 36. *Filing and compliance assistance.* – Recognizing the importance and benefits of protecting, promoting and preserving traditional knowledge and traditional cultural expressions through geographical indications, the IPOPHL shall endeavor to capacitate and assist the indigenous cultural communities/indigenous peoples in the filing of their applications and compliance of the prescribed requirements.

Sec. 37. *Waiver of fees.* – The Director General is authorized to grant partial or total waiver of fees for applications filed by recognized indigenous cultural communities/indigenous peoples prescribed by the Bureau relevant to the GI registration.

Sec. 38. *Non-diminution of rights.* – Nothing in this Act may be construed as diminishing or extinguishing the rights that indigenous cultural communities/indigenous peoples have or may acquire in the future.

Article XV

Infringement of Geographical Indications, Sanctions and Penalties

Sec. 39. *Infringement of Geographical Indications.* – Any willful use of registered geographical indications in a manner prescribed under Section

8, without the consent or authorization from the registrant, is considered as an infringement and offense against the economic interest of the State. The State can motu proprio take administrative or legal measures to enforce protection of geographical indication against the geographical indications' infringers.

Sec. 40. *Penalties.* – Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment from two (2) years to five (5) years and a fine ranging from five hundred thousand pesos (P500,000.00) to one million pesos (P1,000,000.00), shall be imposed on any person who is found guilty of committing infringement of geographical indications.

Article XVI

Final Provisions

Sec. 41. *Appropriations.* – The amount necessary for the conduct of activities and projects in relation to capacity-building, research and development, and assistance to potential and registered GI producers shall be sourced from the budgets of the different government agencies tasked to implement the same.

Sec. 42. *Implementing Rules and Regulations.* – Within ninety days (90) after the effectivity of this Act, the IPOPHL, in consultation with the relevant stakeholders, shall formulate the implementing rules and regulations (IRR) necessary to carry out the provisions of this Act.

Sec. 43. *Transitory Provision.* – Geographical indications registered by the IPOPHL under Republic Act No. 8293 and its regulations prior to the effectivity of this Act shall remain valid and effective. They shall automatically be transferred to, and form part of, the register created under this Act.

Sec. 44. *Repealing Clause.* – All laws, acts, presidential decrees or proclamations, issuances, executive orders, letters of instruction, administrative orders, rules and regulations, or parts thereof inconsistent with any of the provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 45. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

Sec. 46. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



19TH CONGRESS
First Regular Session

HOUSE BILL NO. 888

Introduced by Representative Michael L. Romero

EXPLANATORY NOTE

The Republic of the Philippines recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products. It 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 periods as provided in this Act.

The use of intellectual property bears a social function. To this end, the State shall promote the diffusion of knowledge and information for the promotion of national development and progress and the common good.

This House Bill seeks to streamline all administrative procedures of registering patents, trademarks and copyright, to liberalize the registration on the transfer of technology, and to enhance the enforcement of intellectual property rights in the Philippines.

Thus, the early passage of this bill is earnestly requested.

A handwritten signature in black ink, appearing to read "Michael L. Romero".

MICHAEL L. ROMERO Ph.D.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

19TH CONGRESS
First Regular Session

HOUSE BILL NO. 888

Introduced by Representative Michael L. Romero

AN ACT
AMENDING **REPUBLIC ACT NO.8293** OTHERWISE KNOWN
AS THE “**INTELLECTUAL PROPERTY CODE OF THE**
PHILIPPINES”, INCREASING ITS PENALTIES AND SANCTIONS,
RATIONALIZING ITS POWERS AND FUNCTIONS, AND FOR OTHER
PURPOSES

*Be it enacted by the Senate and House of Representative of the Philippines
in congress assembled:*

SECTION 1. Declaration of Policy

Section 145, of Republic Act No. 8293 is hereby amended to read:

Section 145. Duration - A certificate of registration shall remain in
force for Fifteen **(15)** years:

Provided, That the registrant shall file a declaration of actual use
and evidence to that effect, or shall show valid reasons based on the
existence of obstacles to such use, as prescribed by the Regulations,
within two **(2)** years from the fifth anniversary of the date of the
registration of the mark.

Otherwise, the mark shall be removed from the Register by the Office. (Sec. 12, R.A. No. 166a)

SECTION 2. Declaration of Policy

Section 146, of Republic Act No. 8293 is hereby amended to read:

Section 146. Renewal –

146.1. A certificate of registration may be renewed for periods of Fifteen **(15)** years at its expiration upon payment of the prescribed fee and upon filing of a request. The request shall contain the following indications:

- (a)** An indication that renewal is sought;
- (b)** The name and address of the registrant or his successor-in-interest, hereafter referred to as the "right holder";
- (c)** The registration number of the registration concerned;
- (d)** The filing date of the application which resulted in the registration concerned to be renewed;
- (e)** Where the right holder has a representative, the name and address of that representative;
- (f)** The names of the recorded goods or services for which the renewal is requested or the names of the recorded goods or services for which the renewal is not requested, grouped according to the classes of the Nice Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification; and
- (g)** A signature by the right holder or his representative.

146.2. Such request shall be in Filipino or English and may be made at any time within six (6) months before the expiration of the period for which the registration was issued or renewed, or it may be made

within six (6) months after such expiration on payment of the additional fee herein prescribed.

146.3. If the Office refuses to renew the registration, it shall notify the registrant of his refusal and the reasons, therefore.

146.4. An applicant for renewal not domiciled in the Philippines shall be subject to and comply with the requirements of this Act. (Sec. 15, R.A. No. 166a)

SECTION 3. Declaration of Policy

Section 170, of Republic Act No. 8293 is hereby amended to read:

Section 170. Penalties - Independent of the civil and administrative sanctions imposed by law, a criminal penalty of imprisonment of a minimum of three **(3)** years to six **(6)** years and a fine ranging from three hundred fifty thousand pesos **(P350,000.00)** to Five hundred thousand pesos **(P500,000.00)**, shall be imposed on any person who is found guilty of committing any of the acts mentioned in Section 155, Section 168 and Subsection 169.1. (Arts. 188 and 189, Revised Penal Code)

SECTION 4. Declaration of Policy

Section 200, of Republic Act No. 8293 is hereby amended to read:

Section 200. Sale or Lease of Work - In every sale or lease of an original work of painting or sculpture or of the original manuscript of a writer or composer, subsequent to the first disposition thereof by the author, the author or his heirs shall have an inalienable right to participate in the gross proceeds of the sale or lease to the extent of eight percent **(8%)**. This right shall exist during the lifetime of the author and for fifty (50) years after his death.

SECTION 5. Declaration of Policy

Section 217, of Republic Act No. 8293 is hereby amended to read:

Section 217. Criminal Penalties –

217.1. Any person infringing any right secured by provisions of Part IV of this Act or aiding or abetting such infringement shall be guilty of a crime punishable by:

(a) Imprisonment of three **(3)** years to six **(6)** years plus a fine ranging from two hundred fifty thousand pesos **(P250,000.00)** to Three hundred thousand pesos **(P300,000.00)** for the first offense.

(b) Imprisonment of a minimum of four **(4)** years and one (1) day to six **(6)** years plus a fine ranging from Three hundred thousand pesos **(P300,000.00)** to Five hundred thousand pesos **(P500,000.00)** for the second offense.

(c) Imprisonment of a minimum of six **(6)** years and one (1) day to twelve **(12)** years plus a fine ranging from five hundred thousand pesos **(P500,000.00)** to One million five hundred thousand pesos **(P1,500,000.00)** for the third and subsequent offenses.

(d) In all cases, subsidiary imprisonment in cases of insolvency.

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.

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

(a) Selling, letting for hire, or by way of trade offering or exposing for sale, or hire, the article;

(b) Distributing the article for purpose of trade, or for any other purpose to an extent that will prejudice the rights of the copyright owner in the work; or

(c) Trade exhibit of the article in public, shall be guilty of an offense and shall be liable on conviction to imprisonment and fine as above mentioned. (Sec. 29, P.D. No. 49a)

SECTION 6. SEPARABILITY CLAUSE - If any provision or section of this Act or the application thereof to any person or circumstances is held invalid, the other provisions or sections of this Act shall remain valid, and the application of such remaining provisions or sections to the other persons or circumstances, shall not be affected thereby.

SECTION 7. REPEALING CLAUSE - All laws, executive orders, issuances, rules and regulations inconsistent with this Act are hereby amended, repealed or modified accordingly.

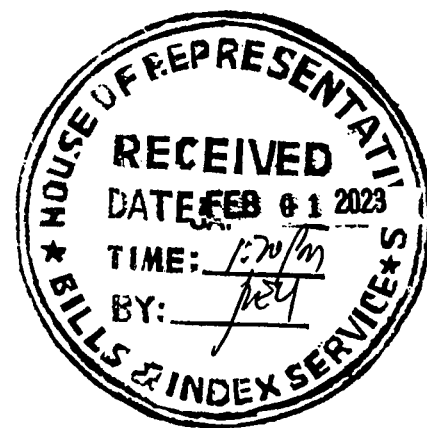
SECTION 8. EFFECTIVITY CLAUSE - This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. 7028



Introduced by **Representative JOEY SARTE SALCEDA**

**AN ACT
AMENDING CHAPTER XVII OF REPUBLIC ACT NO. 8293,
OTHERWISE KNOWN AS THE INTELLECTUAL PROPERTY CODE
OF THE PHILIPPINES, AS AMENDED**

EXPLANATORY NOTE

Republic Act No. 8293 declares as its policy that “The State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products.” This intellectual property system must constantly improve and evolve so as to meet the rapidly changing landscape of the internet.

Copyright-related industries account for around 7.3% of the country’s GDP. As such, protecting copyrights from infringement is essential to protecting the legal and taxpaying jobs and commercial activities created by such sectors. With content generation migrating dramatically to the digital space, the need for more dynamic and proactive enforcement of copyright laws has also become clearer.

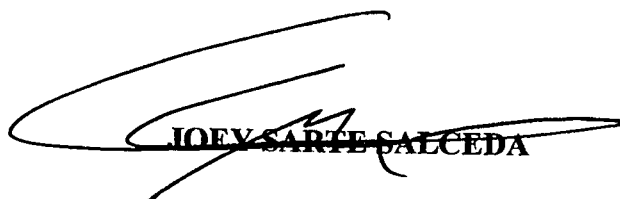
In 2020, at the start of the pandemic-induced lockdowns, online content piracy was estimated to have translated to P1 billion in potential revenue losses to local video producers, distributors and aggregators in 2020, according to a study by Media Partners Asia. Such losses were most felt during the 2020 Metro Manila Film Festival, which had to migrate to streaming due to COVID-19 restrictions.

As content has become more easily transmissible in the digital space, infringement has also become more prevalent in the online space. As such, a more dynamic and proactive manner to prevent such infringement is necessary, but is currently unclear or absent in current law. Particularly, there is a need for an explicit mandate and clear regulations and standards to allow Rights Holders to apply to the Intellectual Property Office to order the disabling of access to Infringing Piracy Services.

This measure aims to promote the development of the legal offering of digital works, and contains the procedures for identifying and eliminating infringements of copyright and related rights, howsoever committed, conducted on electronic communications networks.

Under this measure, the Intellectual Property Office's order to disable access to Infringing Piracy Services will comply with the principles of due process, proportionality and effectiveness.

In view of the foregoing, the approval of this bill is urgently sought.



JOEY SARTE SALCEDA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. 7028

Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
AMENDING CHAPTER XVII OF REPUBLIC ACT NO. 8293,
OTHERWISE KNOWN AS THE INTELLECTUAL PROPERTY CODE
OF THE PHILIPPINES, AS AMENDED

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

SECTION 1. Chapter XVII of Republic Act No. 8293 is hereby amended by adding a new section to be denominated as Section 221A, to read as follows:

Section 221A. *Preventive action on online infringement.* – Unless otherwise provided by law, or unless otherwise ordered by the appropriate Court of law, the Intellectual Property Office shall have the power to disable access to an online location prevent further access to an online location whose primary purpose or primary effect of which is to infringe copyright or facilitate copyright infringement.

The Copyright Owner or the exclusive licensee of copyright, hereinafter referred to as the “Eligible Party,” may submit an application to the Intellectual Property Office to order the disabling of access to any Infringing Online Location identified in the application.

The application to the Intellectual Property Office shall be submitted by completing in its entirety the forms and documentation as requested by the Intellectual Property Office to allow the Intellectual Property Office to establish that the party filing the application is an Eligible Party, or is authorized to file the application on behalf of an Eligible Party and verify through evidence that the subject of the order applied for is an Infringing Online Location.

For purposes of this Chapter, “Online location” shall refer to any single or collection of related web pages accessible by a user through a domain, IP address, or uniform resource locator (URL), or a specific domain, IP address, or uniform resource locator (URL) which serves to operate, in whole or in part,

an application on the Internet.

SEC. 2. Chapter XVII of Republic Act No. 8293 is hereby amended by adding a new section to be denominated as Section 221B, to read as follows:

Section 221B. Procedure of inquiry for preventive action. – The Intellectual Property Office shall formulate the procedure of inquiry for preventive action on online infringement, according to the following standards:

(a) Minimum requirements of the application for action by an Eligible Party. The application referred to in Section 84A shall indicate: the fact that, and the manner by which, the Infringing Online Location is accessible; and other matters which the Intellectual Property Office may take into account, including:

- (1) whether the Online Location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;
- (2) whether the owner or operator of the online location demonstrates a disregard for copyright generally; or
- (3) whether access to the online location has been disabled by orders from any court of another country or territory on the ground of or related to copyright infringement.

(b) One application may be submitted for multiple Infringing Online Locations, and the requirements of this Section must be met and set out in the application.

(c) The Applicant must notify the person who operates the online location of the making of an application under Section 1, but the Intellectual Property Office may dispense, on such terms as it sees fit, with the notice required to be sent to the person who operates the Online Location if the Intellectual Property Office is satisfied that the Applicant is unable, despite reasonable efforts, to determine the identity or address of the person who operates the online location, or to send notices to that person.

(d) Upon receipt of the application, the Intellectual Property Office shall review the same and determine whether the online location meets the requirements of subsection 1, and if so, shall within five (5) days, render an Order requiring Internet Service Providers to take reasonable steps to disable access to the Infringing Online Location. A copy of the said Order shall likewise be given to the Eligible Party.

(e) The Internet Service Providers must comply with the disabling orders within 48 hours of the issuance of the disabling order and must disable the identified Infringing Online Locations by implementing an Effective Technical Measure, or a measure undertaken by the Internet Service Provider to disable or prevent access to an Infringing Online Location, and may include

Domain Name System (DNS) blocking, IP blocking, URL blocking, Server Name Indicator blocking, or other means.

(f) The Intellectual Property Office may at any time during the operation of the Orders notify the Internet Service Providers should it become aware that any Infringing Online Location is accessed from an additional Online Location, including one that appears to be associated with any Infringing Online Location based on its name, branding or the identity of its operator, and make such different Online Location subject to the Orders.

SEC. 3. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Intellectual Property Office shall promulgate the necessary rules and regulations for the implementation of this Act.

SEC. 4. *Separability Clause.* – If any provisions of this Act are declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain valid.

SEC. 5. *Repealing Clause.* – All acts, executive orders, administrative orders, proclamations, rules and regulations or parts thereof inconsistent with any of the provisions of this Act, are hereby expressly repealed or modified accordingly.

SEC. 6. *Effectivity.* – This Act shall take effect immediately upon its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,

1 **Sec. 2. *Declaration of State Policy.*** -The State recognizes that an
2 effective and efficient intellectual property system is vital to the development of
3 domestic and creative industries, facilitates transfer of technology, attracts
4 foreign investments, promotes business confidence and ensures market access for
5 our products. Towards this end, the State shall:

- 6 a. Modernize and improve certain aspects of the law on intellectual
7 property to ensure that the intellectual property system operates
8 more efficiently and is more accessible for all scientists, inventors,
9 creators, artists and other gifted citizens, including the indigenous
10 peoples and local communities;
- 11 b. Streamline administrative procedures relating to intellectual
12 property rights, liberalize the registration on the transfer of
13 technology, enhance the enforcement of intellectual property rights
14 in the Philippines;
- 15 c. Promote the use of relevant, emerging, advanced, and state-of-the-
16 art technologies to provide more efficient and higher quality service
17 to the public; and
- 18 d. Recognize, protect, and promote the rights of the indigenous peoples
19 and communities to their intellectual and cultural rights under the
20 principles of free and prior informed consent and benefit sharing.
21 Thus, the State shall implement appropriate measures to prevent
22 misuse and misappropriation of the indigenous peoples' and
23 communities' intellectual and cultural properties.

24 **Sec. 3. *International Conventions and Reciprocity.*** - Any person who
25 is a national or who is domiciled or has a real and effective industrial
26 establishment in a country which is a party to any convention, treaty or
27 agreement relating to intellectual property rights or the repression of unfair
28 competition, to which the Philippines is also a party, or extends reciprocal rights
29 to nationals of the Philippines by law, shall be entitled to benefits to the extent
30 necessary to give effect to any provision of such convention, treaty or reciprocal
31 law, in addition to the rights to which any owner of an intellectual property right
32 is otherwise entitled by this Act. (n)

33 **Sec. 4. *Definitions.***- a. The term “intellectual property rights”
34 consists of:

- 35 (1) Copyright and Related Rights;
- 36 (2) Trademarks and Service Marks;
- 37 (3) Geographical Indications;
- 38 (4) Industrial Designs;
- 39 (5) Patents;

(6) Layout-Designs (Topographies) of Integrated Circuits;

(7) Protected Undisclosed Information; and

(8) Utility Models.

b. The term "**technology transfer arrangements**" refer to contracts or agreements involving intellectual property rights with the transfer of systematic knowledge or technology for the manufacture of a product, the application of a process, or rendering of a service including management contracts; and the transfer, assignment or licensing of all forms of intellectual property rights, including licensing of computer software except computer software developed for mass market.

c. The term "**Office**" refers to the Intellectual Property Office of the Philippines (IPOPHL).

d. The term "**IPO Gazette**" refers to the gazette published by the Office.

e. The term "**Counterfeit goods**" refer to any goods or materials including packaging bearing without authorization a trademark which is identical to a trademark validly registered with the Office 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.

f. The term "**Innovation**" refers to the creation of new ideas that results in the development of new or improved products, processes, or services, which are then spread or transferred across the market;

g. The term "**Pirated goods**" refer to any goods or materials or content, whether tangible and intangible, in electronic or digital form which are made, produced, replicated, reproduced, distributed, used, uploaded, downloaded, communicated or made available to the public, or protected material broadcasted without the consent of the right holder or person duly authorized by the right holder and which are made, produced, or replicated directly or indirectly from an article where the making of that copy would have constituted an infringement of copyright or related rights.

Sec. 5. Functions of the Office. – a. The Office is mandated to administer and implement the State policies declared in this Act, having the following functions:

(1) Examine applications and grant letters patent for inventions and

1 register utility models industrial designs, layout-designs
2 (topographies) of integrated circuits, trademarks and other marks of
3 ownership;

4 (2) Provide protection for geographical indications;

5 (3) Register technology transfer arrangements and settle disputes on
6 payments involving the same and develop and implement strategies
7 to promote and facilitate technology transfer;

8 (4) Promote the use of patent information as a tool for policy making
9 and technology development;

10 (5) Publish regularly in its own publication the patents, marks,
11 copyright, utility models and industrial designs, issued and
12 approved, and the technology transfer arrangements registered;

13 (6) Administratively adjudicate disputes involving intellectual property
14 rights;

15 (7) Coordinate with and enter into partnerships with other government
16 agencies, institutions, and the private sector efforts to formulate
17 and implement plans and policies to strengthen the creation,
18 promotion, protection, utilization, and enforcement of intellectual
19 property rights in the country;

20 (8) Register copyright, issue certificates of deposit or registration and
21 promote the use of copyright and related rights as a tool to foster a
22 culture of creativity and respect for artistic creation;

23 (9) Undertake enforcement functions supported by concerned agencies;

24 (10) Secure and receive bilateral and international grants and
25 endowments to support its programs and projects; and
26

27 (11) Formulate policies to promote creativity, innovation, and respect for
28 intellectual property.

29 b. The Office shall have custody of all records, books, drawings,
30 specifications, documents, and other papers and things relating to
31 intellectual property rights applications filed with the Office.

32 c. The Office shall have the authority to establish and collect fees and
33 other charges in the exercise of its functions and rendering of
34 services including the holding of trainings and seminars. In
35 relation to and in the performance of its functions and promotion of
36 intellectual property, the Office shall have the authority to sell
37 educational and promotional materials, and import and accept
38 donations consisting of equipment or similar items to be exclusively
39 used for official purposes.

1 d. The Office shall promulgate rules and procedures, including
2 reasonable timelines consistent with international agreements and
3 best practices. The Office shall adhere as closely as possible to the
4 mandated timelines for processing transactions under Republic Act
5 No. 11032, or the "Ease of Doing Business and Efficient
6 Government Service Delivery Act of 2018": *Provided*, That for
7 specific transactions and procedures stipulated under this Act, the
8 prescribed timeline shall commence from the time of the submission
9 of all the requirements and completion of all the stages of the
10 prescribed processes, including post grant publications, *inter partes*
11 and intellectual property rights violations and proceedings.

12 The rules of procedure shall include the grant of letters patents,
13 registration of utility models, industrial designs, layout-designs
14 (topographies) of integrated circuits, marks of ownership, the
15 adjudication of intellectual property disputes, and other similar or
16 related services.
17

Sec. 6. Organizational Structure of the Office. – a. The Office shall be
headed by a Director General who shall be assisted by two (2) Deputies Director
General.

18 b. The Office shall be divided into eight (8) Bureaus, each of which
19 shall be headed by a Director and assisted by an Assistant Director.
20 These Bureaus are:

21 (1) The Bureau of Patents;

22 (2) The Bureau of Trademarks;

23 (3) The Bureau of Legal Affairs;

24 (4) The Bureau of Innovation Support and Business Development;

25 (5) The Information Technology Management Service;

26 (6) The Finance, Administrative, and Human Resource Development
27 Services;

28 (7) The Bureau of Copyright and Related Rights; and

29 (8) The Intellectual Property Academy.

30 c. The Director General, Deputies Director General, Directors and
31 Assistant Directors shall be appointed by the President. The other
32 officers and employees of the Office shall be appointed by the
33 Secretary of Trade and Industry, conformably with and under the
34 Civil Service Law: *Provided*, That such power may be delegated to
35 the Director General.

1 **Sec. 7. The Director General and Deputies Director General. – a.**
2 **Powers and Functions.-** The Director General shall exercise the following powers
3 and functions:

- 4 (1) Manage and direct all functions and activities of the Office,
5 including the promulgation of rules and regulations to implement
6 its mandates, objectives, policies, plans, programs and projects and
7 the recognition of individuals representing applicants or other
8 parties before the Office or handling services related to intellectual
9 property: *Provided*, That for recognition of lawyers, such rules and
10 regulations shall be subject to Rule 138 of the Rules of Court of the
11 Philippines.

12
13 In the exercise of the authority to propose policies and standards in
14 relation to the following: (1) the effective, efficient, and economical
15 operations of the Office requiring statutory enactment; (2)
16 coordination with other agencies of government in relation to the
17 enforcement of intellectual property rights; and (3) the
18 establishment of fees for the filing and processing of an application
19 for a patent, and registration of utility model or industrial design,
20 layout-design (topography) of an integrated circuit, or mark or a
21 collective mark, and other marks of ownership, and for all other
22 services performed and materials furnished by the Office.

23 The Director General shall be subject to the supervision of the
24 Secretary of Trade and Industry;

25 (2) Exercise

- 26
27 i. exclusive original jurisdiction over petitions for the grant of
28 compulsory licenses or special compulsory licenses. The
29 decisions of the Office of the Director General over
30 compulsory licensing cases shall be appealable to the Court of
31 Appeals in accordance with the Rules of Court;

- 32 ii. exclusive appellate jurisdiction over all decisions rendered by
33 the Director of Legal Affairs, the Director of Patents, the
34 Director of Trademarks, the Director of Copyright and
35 Related Rights, and the Director of Innovation Support and
36 Business Development in the performance of their quasi-
37 judicial functions.

38 The decisions of the Director General in the exercise of his
39 appellate jurisdiction in respect of the decisions of the
40 Director of Legal Affairs, Director of Patents, the Director of
41 Trademarks, and the Director of Copyright and Related
42 Rights shall be appealable to the Court of Appeals in
43 accordance with the Rules of Court: *Provided*, That the
44 decisions of the Director of Innovation Support and Business

1 Development on technology transfer arrangements shall be
2 appealable to the Secretary of Trade and Industry.

3 (3) Undertake enforcement functions supported by concerned agencies
4 such as:

- i. Issue visitorial orders in relation to violations of intellectual property rights involving counterfeit and pirated goods and materials, and if necessary, issue provisional cease and desist and preventive custody orders: *Provided*, That the issuance of such orders are in accordance with the procedure under this Act: *Provided however*, That the complainant shall post a bond sufficient to answer for any and all damages that the respondent may suffer because of the wrongful order.

5 For purposes of the issuance of the orders under this
6 Section, the following shall be strictly complied with:

7 A. Issuance of Visitorial Orders

8 The visitorial order shall be issued in relation to
9 violations of intellectual property rights involving
10 counterfeit and pirated goods and materials, and only
11 upon filing of a verified complaint by the owner(s) or
12 holder(s) of intellectual property rights or their
13 authorized representatives, accompanied by (a) a
14 certificate of registration or sworn statement of
15 ownership, (b) a sample of the authentic and
16 counterfeit or pirated goods and materials subject of
17 the complaint, and (c) a sworn statement by the
18 complainant or its expert on the lack of authenticity of
19 the product or lack of authority of the respondent to
20 sell, offer for sale, display or make available to the
21 public the said goods and materials. Any visitorial
22 order shall be issued only upon showing of reasonable
23 cause by the complainant and any visit shall only be
24 conducted during reasonable hours to open
25 establishments and businesses where the
26 counterfeiting or piracy is alleged to be taking place or
27 counterfeit goods or pirated goods or materials are
28 alleged to be sold, offered for sale, displayed or made
29 available to the public.

30 During the visit, the Director General, or any officer
31 authorized in writing by the Director General, shall
32 give the respondent reasonable time and opportunity
33 to provide evidence of authenticity or authority for the
34 goods sold, offered for sale, displayed or made available
35 to the public, or kept in storage.

1 B. Cease and Desist Order; Preventive Custody Order

2 A cease-and-desist order may be issued after due notice
3 and hearing, and only if the respondent fails to
4 produce such evidence of authenticity or authority, in
5 which case, the subject goods may be placed in
6 preventive custody. Goods placed in preventive custody
7 shall be subject to inventory, appropriately marked,
8 and segregated from the rest of the products in the
9 establishment but shall physically remain in the
10 establishment of the respondent or in a place mutually
11 agreed upon by the complainant, the respondent, and
12 the Director General or any officer authorized in
13 writing by the Director General. The inventory shall be
14 witnessed and accepted by the respondent.

15 C. Compliance to Cease-and-Desist and Preventive
16 Custody

17 The preventive custody of the goods shall be effective
18 for a maximum period of five (5) days which may be
19 extendible for a maximum of another five (5) days upon
20 reasonable ground. Within this period, the respondent
21 should be able to show cause why the preventive
22 custody should be revoked, amended or not made
23 permanent, and the Director General shall make a
24 determination thereof.

25 If the goods are determined to be not counterfeit or
26 pirated, the preventive custody shall be revoked within
27 twenty-four (24) hours and an Order for Release of the
28 goods subject of preventive custody shall be issued
29 within the said period.

30 Should the Director General determine that the goods
31 are counterfeit or pirated, the Director General, after
32 due notice and hearing, shall issue an Order of
33 Confiscation and the goods shall be confiscated and
34 removed from the establishment of the respondent and
35 subjected to forfeiture, destruction, or disposal
36 proceedings in accordance with law.

37 The Office shall issue the necessary implementing
38 rules and regulations (IRR) for the proper
39 implementation of the visitorial powers of the Director
40 General, consistent with the Rules of the Supreme
41 Court and the Rules of Court of the Philippines.

- 42 ii. After due notice and hearing, issue temporary and
43 permanent blocking orders, take down orders, cease-and-

1 desist, or disable access orders, to the intermediary service
2 providers, domain name registries and registrars, website
3 owners, online intermediaries, online platforms, social media
4 platforms, or any similar medium in relation to an online
5 violation of intellectual property rights involving counterfeit
6 goods, copyright infringing or pirated goods, materials, and
7 content, infringement of copyright, and other violations of
8 intellectual property rights and this Act, upon filing of a
9 verified complaint by the owner(s) or holder(s) of the
10 intellectual property rights or their authorized representative
11 accompanied by a certificate of registration or sworn
12 statement of ownership, and a sworn statement by the
13 complainant or its expert on the lack of authenticity of the
14 product or lack of authority to sell, offer for sale, display or
15 make available to the public the counterfeit or pirated goods
16 and materials. In the case of online platforms, the take down
17 or cease and desist orders may, as the Director General may
18 deem appropriate, be limited to directing the online platform
19 or the persons operating them to (i) take down, or compel the
20 sellers on the platform to take down, infringing products or
21 listings from the platform as identified in the complaint; or (ii)
22 block specific sellers from the platform when such sellers
23 have been found to infringe intellectual property rights
24 pursuant to at least three (3) verified complaints filed with
25 the Office.

26 The temporary blocking, takedown, cease and desist or other
27 orders or measures shall be issued only upon showing of
28 grave injury on the part of the applicant and shall only be
29 effective for forty-eight (48) hours and in no case longer than
30 seventy-two (72) hours. Within this period, the Director
31 General shall conduct a hearing and order the respondent to
32 show cause why the temporary order or measure should be
33 revoked, amended or not made permanent. The Director
34 General shall determine within the same period whether the
35 temporary order or measure should be amended, revoked or
36 made permanent.

37 The Director General shall issue fair and equitable
38 procedures to implement its enforcement powers, which
39 procedures shall be applied in a manner as to avoid the
40 creation of barriers to legitimate trade and to provide for
41 safeguards against their abuse.

- 42 (4) The power to hold in contempt, in accordance with the procedure
43 provided in the implementing rules and regulations of the Office, on
44 all those who disregard orders or writs issued in the exercise of the
45 powers and functions provided for in this Section, and to impose a
46 fine of not less than Twenty thousand pesos (P20,000) but not more
47 than Three hundred thousand pesos (P300,000); and

1 (5) Such other functions in furtherance of the objectives of this Act.

2 b. *Qualifications.* - The Director General and the Deputies Director
3 General must be natural born citizens of the Philippines, at least thirty-five (35)
4 years of age on the day of their appointment, holders of a college degree, and of
5 proven competence, integrity, probity and independence: *Provided*, That the
6 Director General and at least one (1) Deputy Director General shall be members
7 of the Philippine Bar who have engaged in the practice of law for at least ten (10)
8 years: *Provided further*, That in the selection of the Director General and the
9 Deputies Director General, consideration shall be given to such qualifications as
10 would result, as far as practicable, in the balanced representation in the
11 Directorate General of the various fields of intellectual property.

12 c. *Term of Office.* - The Director General and the Deputies Director
13 General shall be appointed by the President for a term of five (5) years and shall
14 hold office until the successor is appointed and qualified. The Director General
15 and each of the Deputies Director General shall be eligible for reappointment
16 only once. Appointment to any vacancy shall be only for the unexpired term of
17 the predecessor.

18 d. *The Office of the Director General.* - The Office of the Director
19 General shall consist of the Director General and the Deputies Director General,
20 their immediate staff and such Offices and Services that the Director General
21 will set up to support the plans and programs of the Director General such as,
22 but not limited to:

- 23 (1) Strategy Management and Planning;
- 24 (2) Intellectual Property Rights Enforcement;
- 25 (3) Intellectual Property Field Operations;
- 26 (4) Legal and Appeals;
- 27 (5) Policy and International Affairs; and
- 28 (6) Internal Audit and Quality Management.

29 e. *Strategy Management and Planning.* - The Strategy Management
30 and Planning under the Office of the Director General shall have the following
31 functions:

- 32 (1) Provide efficient and effective services related to the formulation of
33 data-driven plans and programs, monitoring of organizational
34 performance, and review of strategic priorities;
- 35 (2) Drive the Office's strategic planning process by enhancing its
36 knowledge of the driving forces in its operating environment; and

- 1 (3) Identify and develop future-ready capabilities to improve the work
2 of the .

3 f. *Intellectual Property Rights Enforcement.* – The Intellectual
4 Property Rights Enforcement under the Office of the Director General shall have
5 the following powers and functions:

- (1) Gather intelligence information related to the violations of this Act,
conduct inquiries and investigation and develop effective
countermeasures to deter counterfeit and pirated goods or content;

- (2) Conduct visits during reasonable hours to establishments and
businesses suspected to be engaging in activities in violation of this
Act in accordance with the procedure provided for under Section 7 of
this Act;

- (3) Develop a database of pending cases involving violations of this Act;

- (4) Undertake any or all of the following enforcement actions:

- i. Serve and execute the administrative orders duly issued by
the Office of the Director General in accordance with its
powers granted under this Act, such as but not limited to,
visitorial order on premises, confiscation orders against
counterfeit and pirated goods, enforcement orders, and take
down or blocking orders against websites or online platforms
in coordination with the appropriate agency or intermediary
service provider;

- ii. Issue notice or warning to the respondent or respondents;

- iii. Issue Compliance Order to the respondent or respondents;

- iv. Order the concerned local government unit concerned or
other government agencies to implement the decisions of the
Intellectual Property Rights Enforcement including but not
limited to cancellation of business permits or licenses issued
by such concerned local government unit or other government
agencies, pursuant to their respective mandates;

- v. Such other orders or actions necessary to ensure compliance
with the provisions of this Act.

- (5) Coordinate with other government agencies and the private sector
efforts on matters related to intellectual property rights
enforcement;

- (6) Assist in the service or execution of orders, writs, and processes
issued by the Bureau of Legal Affairs and the Office of the Director
General;

- 1 (7) Conduct monitoring activities related or relevant to intellectual
2 property rights enforcement;
- 3 (8) Exercise inter-agency special enforcement coordination functions;
4 and
- 5 (9) Such other powers and functions as may be necessary or incidental
6 to the attainment of the purposes and objectives of this Act or as
7 may be assigned by the Director General or the Deputy Director
8 General-in-charge.

9 g. *Intellectual Property Field Operations.* – The Intellectual Property
10 Field Operations under the Office of the Director General shall have the
11 following functions:

- 12 (1) Implement programs and render intellectual property-related
13 services to promote the effective use and respect of intellectual
14 property, and foster an intellectual property-inspired culture of
15 innovation and creativity in the regions of the country;
- 16 (2) Develop linkages and partnerships with regional offices of other
17 government agencies, local government units and local academic
18 institutions to advance intellectual property-focused programs in
19 the regions;
- 20 (3) Perform such other functions that will promote the mandate of the
21 Office.

22 **Sec. 8. *The Bureau of Patents.*** - The Bureau of Patents shall have the
23 following functions:

- 24 a. Search and examination of patent applications and the grant of
25 patents;
- 26 b. Registration of utility models, industrial designs, and integrated
27 circuits;
- 28 c. Conduct studies and researches in the field of patents in order to
29 assist the Director General in formulating policies on the
30 administration and examination of patents; and
- 31 d. Provide other administrative support services related to the
32 foregoing and charge reasonable fees therefor.

33 **Sec. 9. *The Bureau of Trademarks.*** -The Bureau of Trademarks shall
34 have the following functions:

- 35 a. Search and examination of the applications for the registration of
36 marks, geographical indications and other marks of ownership and
37

1 the issuance of the certificates of registration;

2 b. Conduct studies and researches in the field of trademarks in order
3 to assist the Director General in formulating policies on the
4 administration and examination of trademarks;

5 c. Establish and maintain registers of trademarks, well-known marks,
6 and other marks of ownership; and

7 d. Provide other administrative support services related to the
8 foregoing and charge reasonable fees therefor.

9 **Sec. 9-A. *The Bureau of Copyright and Related Rights.*** -The Bureau of
10 Copyright and Related Rights shall have the following functions:

11 a. Exercise original jurisdiction to resolve disputes relating to
12 copyright and related rights, except for copyright infringement
13 cases, cancellation of copyright registration, and those other cases
14 which are within the jurisdiction of the Bureau of Legal Affairs
15 under Section 10 of this Act;

16 b. Accept and review applications for the accreditation of collective
17 management organizations or similar entities; and within twenty
18 (20) days from the submission of complete application documents
19 and observation of interested parties, decide on the said
20 applications for accreditation. The Bureau of Copyright and Related
21 Rights recognizes the importance of the role of collective
22 management organizations and shall encourage accreditation
23 thereof.

24 c. Formulate and implement plans and projects to promote the use of
25 copyright and related rights as a tool to foster a culture of creativity
26 and respect for artistic creations;

27 d. Provide other copyright and related rights service and charge
28 reasonable fees therefor;

29 e. Receive, evaluate and allow the voluntary registration and deposit
30 of works as provided for under Chapter IX of this Act;

31 f. Establish and maintain registries or databases involving copyright
32 and related rights in coordination with other government agencies,
33 entities and private stakeholders;

34
35 g. Conduct researches and education activities, to enhance public
36 awareness on copyright and of fair use of works;

37 h. Approve, after careful deliberation or public consultation, matters
38 concerning the rate or amount of fees and royalties of collective
39 management organizations mentioned in Section 183 of this Act.

1 The Director General may, by regulations, establish the procedure to
2 govern the implementation of this Section.

3 **Sec. 10. *The Bureau of Legal Affairs.*** –The Bureau of Legal Affairs
4 shall have the following functions:

5 a. Adjudicate on the following:

6 (1) Opposition to the application for registration of trademarks and
7 other marks of ownership;

8 (2) Cancellation of the registration of patents, utility models, industrial
9 designs, layout designs of integrated circuits, geographical
10 indications, trademarks, service marks and trade names, collective
11 marks and certification marks, and copyrights in accordance with
12 the provisions under this Act;

13 (3) Opposition to application or request for, and revocation of, the
14 declaration of well-known marks by the Bureau of Trademarks;

15 (4) Petition for declaration as true and actual inventor; and

16 (5) Revocation of declaration as true and actual inventor,

17 *Provided,* That decisions of the adjudication officers are appealable to the
18 Director.

19 b. Exercise jurisdiction in the following manner:

20 (1) Exercise original and exclusive jurisdiction in administrative
21 complaints for violations of laws involving intellectual property
22 rights: *Provided,* That availment of the provisional remedies may
23 be granted in accordance with the Rules of Court. The Bureau shall,
24 after notice and hearing, have the power to impose fines of not
25 less than not less than Fifty thousand pesos (P50,000) but not more
26 than Three hundred thousand pesos (P300,000) for all those who
27 disregard orders or writs issued in the course of the proceedings and
28 recommend or pursue contempt actions as provided for under
29 Section 7.a (4) of this Act, or the revocation or suspension of the
30 relevant business permit, license or authority as provided for under
31 Section 231-A of this Act, or both.

32 (2) After formal investigation, the Bureau may impose one (1) or more
33 of the following administrative penalties:

34 i. The issuance of a cease and desist order which shall
35 specify the acts that the respondent shall cease and
36 desist from and shall require him to submit a
37 compliance report within a reasonable time which

shall be fixed in the order;

ii. The acceptance of a voluntary assurance of compliance or discontinuance as may be imposed. Such voluntary assurance may include one or more of the following:

- (A) An assurance to comply with the provisions of the intellectual property law violated;
- (B) An assurance to refrain from engaging in unlawful and unfair acts and practices subject of the formal investigation;
- (C) An assurance to recall, replace, repair, or refund the money value of defective goods distributed in commerce; and
- (D) An assurance to reimburse the complainant the expenses and costs incurred in prosecuting the case in the Bureau of Legal Affairs.

The Bureau may also require the respondent to submit periodic compliance reports and file a bond to guarantee compliance of his undertaking.

iii. The condemnation or seizure of products which are subject of the offense. The goods seized hereunder shall be disposed of in such manner as may be deemed appropriate by the Bureau, such as by destruction, sale, donation to distressed local governments or to charitable or relief institutions, exportation, recycling into other goods, or any combination thereof, under such guidelines as the Bureau may provide;

iv. The forfeiture of paraphernalia, machines, equipment, and personal properties used primarily or predominantly in the violation of intellectual property rights;

The imposition of administrative fines, which shall in no case be less than One hundred thousand pesos (P100,000) nor more than One million pesos (P1,000,000). In addition, an additional fine of not less than Ten thousand pesos (P10,000) shall be imposed for each day of continuing violation;

v. The cancellation of any license, authority, or registration which may have been granted by the Office, or the suspension of the validity thereof for such period as the Bureau may deem reasonable which shall not exceed one (1) year;

vi. The withholding of any license, authority, or registration

1 which is being secured by the respondent from the Office;

2 vii. The assessment and award of damages , including such
3 profits the infringer may have made due to such infringement
4 and advertising revenues; and when appropriate, exemplary,
5 nominal or moral damages, attorney's fees, and costs of
6 litigation;

7 viii. Censure; and

8 ix. Other analogous penalties or sanctions,

9 *Provided*, that decisions of the adjudication officers are appealable to
10 the Director.

11 c. Establish and administer alternative dispute resolution
12 mechanisms; and

13 d. Provide assistance to other bureaus and offices of the Office,
14 including legal review, study, and similar tasks.

15 The Director General may by Regulations establish the procedure to
16 govern the implementation of this Section. (n)

17 **Sec. 11. *The Bureau of Innovation Support and Business***
18 ***Development.*** - The Bureau of Innovation Support and Business Development
19 shall have the following functions:

20 a. Foster creativity, innovation, and business development by
21 implementing policies, programs, and activities therefor, through the following:

22 (1) Promote and provide assistance on the utilization and
23 commercialization of intellectual property through various modes in
24 coordination and collaboration with other government agencies and
25 the relevant private institutions;

26 (2) Promote the use of intellectual property information as a strategic
27 tool to facilitate the development of technology in the country;

28 (3) Perform patent searches, analytics mapping and similar activities;

29 (4) Register technology transfer arrangements, and settle disputes
30 involving technology transfer payments;

31 (5) Adapt and package intellectual property information; and

32 (6) Provide advisory services for the determination of search patterns.

33 b. Support advocacy programs and initiatives of the office
34 through marketing of services, and external communications; and

- 1 c. Build public awareness on intellectual property through
2 information dissemination and the conduct of seminars, lectures,
3 capacity building exercises and other similar activities.

4 The Director General may, by implementing rules and regulations,
5 establish the procedure to govern the implementation of this Section.

6 **Sec. 12. *The Information Technology Management Service.*** -The
7 Information Technology Management Service shall:

- 8 a. Plan, develop, and implement information technology (IT) strategies
9 and policies in collaboration with all offices and bureaus to ensure
10 the optimal application and utilization of IT resources and services;
11 and

- 12 b. Develop and maintain databases, application systems, and network
13 infrastructure systems to support all office and bureau operations.

14 **Sec.13. *The Finance, Administrative, and Human Resource***
15 ***Development Services.***– a. The Administrative Service shall:

- 16 (1) Provide services relative to procurement and allocation of supplies
17 and equipment, transportation, messengerial work, cashiering,
18 payment of salaries and other Office's obligations, office
19 maintenance, proper safety and security, and other utility services;
20 and

- 21 (2) Receive all applications filed with the Office and collect fees
22 therefore.

- 23 b. The Finance Service shall formulate and manage a financial
24 program to ensure availability and proper utilization of funds;
25 provide for an effective monitoring system of the financial
26 operations of the Office.

- 27 c. The Human Resource Development Service shall design and
28 implement human resource development plans and programs for
29 the personnel of the Office; provide for present and future
30 manpower needs of the organization; maintain high morale and
31 favorable employee attitudes towards the organization through the
32 continuing design and implementation of employee development
33 programs. (n)

34 **Sec. 13-A. *Intellectual Property (IP) Academy.*** – The IP Academy shall
35 have the following functions:

- a. Support the agent accreditation process of the Office by facilitating or conducting the accreditation training, examination, registration, and other supporting activities to accredit and register intellectual property agents, and representatives;
- b. Build high-level understanding, competence and expertise in the fields of intellectual property and other related areas through the conduct of certification programs, advanced highly-technical courses, learning tracks system, continuing professional development programs and other similar activities;
- c. Create and formulate the training and learning outlines, methods, curricula, modules, programs, and instructional materials for the training, learning, education programs, and other similar activities on intellectual property and other relevant disciplines;
- d. Assist and support the capacity building programs of Bureaus and offices in relation to learning management, learning evaluation processes, as well as research initiatives and knowledge-building programs of intellectual property and other relevant disciplines;
- e. Support and establish the creation of scientific, interdisciplinary, evidence-based and other related research and studies on intellectual property and related disciplines through the conduct of conferences, conventions, publications, and other similar activities on research and knowledge-creation; and
- f. Enhance and integrate intellectual property in the learning system of the country through the establishment of partnerships and cooperation with local or foreign educational, learning and research institutions, government agencies, private sectors, and other professional organizations.

Sec. 13-B. *The National Committee on Intellectual Property Rights.* - a. *Composition.* - The composition of the National Committee on Intellectual Property Rights (NCIPR), created under Executive Order No. 736, series of 2008, entitled "Institutionalizing Permanent Units to Promote, Protect and Enforce Intellectual Property Rights (IPR) in Different Law Enforcement and Other Agencies under the Coordination of the National Committee on Intellectual Property Rights (NCIPR)", is hereby expanded to include the following member agencies:

- (1) Department of Trade and Industry (DTI);
- (2) Intellectual Property Office of the Philippines (IPOPHL);
- (3) Department of Justice (DOJ);
- (4) Department of Interior and Local Government (DILG);

- (5) Department of Information and Communications Technology (DICT);
- (6) Bureau of Customs (BOC);
- (7) National Telecommunications Commission (NTC);
- (8) Optical Media Board (OMB);
- (9) National Bureau of Investigation (NBI);
- (10) Philippine National Police (PNP);
- (11) Food and Drug Administration (FDA);
- (12) National Book Development Board (NBDB);
- (13) Bureau of Internal Revenue (BIR);
- (14) National Commission on Indigenous People (NCIP);
- (15) Office of the Special Envoy for Transnational Crimes;
- (16) Such other agencies as may be called upon by the NCIPR; and
- (17) A representative from the private sector to be appointed by the Secretary of Trade and Industry upon the recommendation of the Director General, and who shall have a term of two (2) years, without reappointment.

The NCIPR shall be co-chaired by the Secretary of Trade and Industry and by the Director General. Each member shall designate a permanent representative with the rank of Undersecretary or Assistant Secretary. The Office shall provide secretariat services to the NCIPR.

b. *Functions.* – The NCIPR shall act as the primary inter-agency body on efforts against intellectual property rights violations and shall have the following functions:

- (1) Formulate strategic plans and programs;
- (2) Assist in the public information and education campaign on the importance of intellectual property rights;
- (3) Facilitate and assist in the effective enforcement and prosecution of violators of intellectual property rights;
- (4) Recommend measures to the legislative, executive, and judicial departments to ensure timely and effective enforcement and adjudication of intellectual property rights cases;

1 (5) Maintain a database and enforcement monitoring system,
2 consolidated information and reports from other agencies, and
3 submit periodic reports; and

4 (6) Coordinate with other government agencies and the private sector
5 efforts on matters related to intellectual property rights
6 enforcement.

7 To perform these functions, all NCIPR member-agencies shall
8 establish and maintain a permanent intellectual property unit with regular and
9 adequate resources, personnel, and budgetary support allocated from their
10 respective funds.

11 **Sec. 14. *Use of Intellectual Property Rights Fees by the IPOPHL.*** -a.
12 For a more effective and expeditious implementation of this Act, the Director
13 General shall be authorized to retain, without need of a separate approval from
14 any government agency, and subject only to the existing accounting and auditing
15 rules and regulations, all the fees, fines, royalties and other charges, collected by
16 the Office under this Act and the other laws that the Office will be mandated to
17 administer, for use in its operations, like upgrading of its facilities, equipment
18 outlay, human resource development, and the acquisition of the appropriate
19 office space, among others, to improve the delivery of its services to the public.
20 This amount, which shall be in addition to the Office's annual budget, and
21 including interests earned from the same, shall be deposited and maintained in a
22 separate account or fund, which may be used or disbursed directly by the
23 Director General.

24 b. The Director General shall, subject to the approval of the Secretary
25 of Trade and Industry, determine if the fees and charges mentioned in Section
26 14.a hereof are sufficient to meet its budgetary requirements. If so, it shall retain
27 all the fees and charges it shall collect under the same conditions indicated in
28 said Section 14.a but shall forthwith, cease to receive any funds from the annual
29 budget of the National Government.

30 **Sec. 15. *Special Technical and Scientific Assistance.*** - The Director
31 General is empowered to obtain the assistance of technical, scientific or other
32 qualified officers and employees of other departments, bureaus, offices, agencies
33 and instrumentalities of the Government, including corporations owned,
34 controlled or operated by the Government, when deemed necessary in the
35 consideration of any matter submitted to the Office relative to the enforcement of
36 the provisions of this Act. (Sec. 3, R.A. No. 165a)

37 **Sec. 16. *Seal of Office.*** - The Office shall have a seal, the form and
38 design of which shall be approved by the Director General. (Sec. 4, R.A. No. 165a)

39 **Sec. 17. *Publication of Laws and Regulations.*** -The Director General
40 shall cause to be printed and make available for distribution, pamphlet copies of
41 this Act, other pertinent laws, executive orders and information circulars
42 relating to matters within the jurisdiction of the Office. (Sec. 5, R.A. No. 165a)

1 **Sec. 18. *The IPO Gazette.*** -All matters required to be published under
2 this Act shall be published in the Office's own publication to be known as the
3 IPO Gazette. (n)

4 **Sec. 19. *Disqualification of Officers and Employees of the Office.*** -
5 All officers and employees of the Office shall not apply or act as an attorney or
6 agent of an application for a grant of patent, for the registration of a utility
7 model, industrial design, layout-design (topographies) of an integrated
8 circuit, mark, other marks of ownership, nor acquire, except by hereditary
9 succession, any patent or utility model, design registration, or mark or any right,
10 title or interest therein during their employment and for one (1) year thereafter.

11 **PART II.**
12 **THE LAW ON PATENTS**

13 **Chapter I.**
14 **GENERAL PROVISIONS**

15 **Sec. 20. *Definition of Terms.*** – As used in Part II, the following terms
16 shall have the following meanings:

- 17 a. **"Bureau"** means the Bureau of Patents;
- 18 b. **"Director"** means the Director of Patents;
- 19 c. **"Regulations"** means the Rules of Practice in Patent Cases
20 formulated by the Director of Patents and promulgated by the
21 Director General;
- 22 d. **"Examiner"** means the patent examiner;
- 23 e. **"Patent application"** or "application" means an application for a
24 patent for an invention except in Chapters XII and XIII, where
25 application means an application for a utility model an industrial
26 design, and layout-design design (topography) of integrated circuit,
27 respectively;
- 28 f. **"Priority date"** means the date of filing of the foreign application
29 for the same invention referred to in Section 31 of this Act;
- 30 g. **"Provisional Patent Application"** means a temporary patent
31 application that complies with Section 32-A of this Act and filed for
32 purposes of establishing an early filing date; and
- 33 h. **"Regulations"** mean the Rules of Practice in Patent Cases
34 formulated by the Director of the Bureau of Patents and
35 promulgated by the Director General.

Chapter II.
PATENTABILITY

Sec. 21. Patentable Inventions. -Any technical solution of a problem in any field of human activity which is new, involves an inventive step and is industrially applicable shall be patentable. It may be, or may relate to, a product, or process, or an improvement of any of the foregoing. (Sec. 7, R.A. No.165a)

Sec. 22. Non-Patentable Inventions. -The following shall be excluded from patent protection:

- a. Discoveries, scientific theories and mathematical methods, and in the case of drugs and medicines, the mere discovery of a new form or new property of a known substance which does not result in the enhancement of the known efficacy of that substance, or the mere discovery of any new property or new use for a known substance, or the mere use of a known process unless such known process results in a new product that employs at least one new reactant.

For the purpose of this clause, salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations, and other derivatives of a known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy;

- b. Schemes, rules and methods of performing mental acts, playing games or doing business, and programs for computers;

- c. Methods for treatment of the human or animal body by surgery or therapy and diagnostic methods practiced on the human or animal body. This provision shall not apply to products and composition for use in any of these methods;

- d. Plant varieties or animal breeds or essentially biological process for the production of plants or animals. This provision shall not apply to micro-organisms and non-biological and microbiological processes.

Provisions under this Section shall not preclude Congress to consider the enactment of a law providing *sui generis* protection of plant varieties and animal breeds and a system of community intellectual rights protection;

- e. Aesthetic creations; and

- f. Anything which is contrary to public order or morality. (Sec. 8, R.A. No. 165a)

Sec. 23. Novelty. -An invention shall not be considered new if it forms part of a prior art. (Sec. 9, R.A. No. 165a)

1 **Sec. 24. Prior Art.** -Prior art shall consist of:

- 2 a. Everything which has been made available to the public anywhere
3 in the world, before the filing date or the priority date of the
4 application claiming the invention: *Provided*, That an undisclosed
5 provisional patent application shall not be considered as prior art;
6 and
- 7 b. The whole contents of an application for a patent, utility model, or
8 industrial design registration, published in accordance with this Act,
9 filed or effective in the Philippines, with a filing or priority date
10 that is earlier than the filing or priority date of the application:
11 *Provided*, That the application which has validly claimed the filing
12 date of an earlier application under Section 31 of this Act, shall be
13 prior art with effect as of the filing date of such earlier application:
14 *Provided further*, That the applicant or the inventor identified in
15 both applications are not one and the same. (Sec. 9, R.A. No. 165a)

16 **Sec. 25. Non-Prejudicial Disclosure.** -a. The disclosure of information
17 contained in the application during the twelve (12) months preceding the filing
18 date or the priority date of the application shall not prejudice the applicant on
19 the ground of lack of novelty if such disclosure was made by:

20 (1) The inventor;

21 (2) A patent office and the information was contained (a) in another
22 application filed by the inventor and should not have been disclosed
23 by the office, or (b) in an application filed without the knowledge or
24 consent of the inventor by a third party which obtained the
25 information directly or indirectly from the inventor; or

26 (3) A third party which obtained the information directly or indirectly
27 from the inventor.

28
29 b. For the purposes of Section 25.a hereof, "inventor" also means any
30 person who, at the filing date of application, had the right to the
31 patent. (n)

32 **Sec. 26. Inventive Step.**- a. An invention involves an inventive step if,
33 having regard to prior art, it is not obvious to a person skilled in the art at the
34 time of the filing date or priority date of the application claiming the invention.
35 (n)

36 b. In the case of drugs and medicines, there is no inventive step if the
37 invention results from the mere discovery of a new form or new property of a
38 known substance which does not result in the enhancement of the known efficacy
39 of that substance, or the mere discovery of any new property or new use for a
40 known substance, or the mere use of a known process unless such known process
41 results in a new product that employs at least one new reactant.

1 **Sec. 27. Industrial Applicability.** - An invention that can be produced
2 and used in any industry shall be industrially applicable. (n)

3 **Chapter III.**
4 **RIGHT TO A PATENT**

5 **Sec. 28. Right to a Patent.** - The right to a patent belongs to the
6 inventor, his heirs, or assigns. When two (2) or more persons have jointly made
7 an invention, the right to a patent shall belong to them jointly. (Sec. 10, R.A. No.
8 165a)

9 **Sec. 29. First to File Rule.** - If two (2) or more persons have made the
10 invention separately and independently of each other, the right to the patent
11 shall belong to the person who filed an application for such invention, or where
12 two or more applications are filed for the same invention, to the applicant who
13 has the earliest filing date or, the earliest priority date. (3rd sentence, Sec. 10,
14 R.A. No. 165a.)

15 **Sec. 30. Inventions Created Pursuant to a Commission.** - a. The
16 person who commissions the work shall own the patent, unless otherwise
17 provided in the contract.

18 b. In case the employee made the invention in the course of his
19 employment contract, the patent shall belong to:

20 (1) The employee, if the inventive activity is not a part of his regular
21 duties even if the employee uses the time, facilities and materials of
22 the employer.

23 (2) The employer, if the invention is the result of the performance of his
24 regularly-assigned duties, unless there is an agreement, express or
25 implied, to the contrary. (n)

26 **Sec. 31. Right of Priority.**- a. An application for patent filed by any
27 person who has previously applied for the same invention in another country
28 which by treaty, convention, or law affords similar privileges to Filipino citizens,
29 shall be considered as filed as of the date of filing the foreign application:
30 *Provided, That:* (a) the local application expressly claims priority; (b) it is filed
31 within twelve (12) months from the date the earliest foreign application was filed;
32 and (c) a certified copy of the foreign application together with an English
33 translation is filed within six (6) months from the date of filing in the Philippines.

34 b. The date of filing of a provisional patent application may be claimed
35 as the priority date of the patent application: *Provided, That* such patent
36 application was filed within twelve (12) months and in accordance with the
37 requirements of Section 32.a hereof.

38 **Chapter IV.**
39 **PATENT APPLICATION**

1 **Sec. 32. *The Application.*** – a. The patent application shall be in Filipino
2 or English and shall contain the following:

- 3 (1) A request for the grant of a patent;
- 4 (2) A description of the invention;
- 5 (3) Drawings necessary for the understanding of the invention;
- 6 (4) At least one (1) claim;
- 7 (5) An abstract;
- 8 (6) Payment of required fees at the time of filing; and
- 9 (7) If the applicant is not domiciled in the Philippines, the appointment
10 of an agent or representative upon whom notice or process for
11 judicial or administrative procedure relating to the application for
12 patent or the patent may be served.

13 b. No patent may be granted unless the application identifies the
14 inventor. If the applicant is not the inventor, the Office may require him to
15 submit said authority. (Sec. 13, R.A. No. 165a)

16 **Sec. 32-A. *Provisional Patent Application.***– a. A provisional patent
17 application shall be replaced by a patent application that complies with Section
18 32-A.b hereof: *Provided*, That such patent application is filed within twelve (12)
19 months from the filing date of the provisional patent application: *Provided*
20 *further*, That if new matter not included in the provisional application is
21 introduced, the filing date shall be when the regular application is filed,
22 otherwise such provisional patent application shall be considered forfeited.

23 b. A provisional patent application shall contain the following:

- 24 (1) Request Form for Provisional Application;
- 25 (2) Provisional description of the invention;
- 26 (3) Provisional drawings or sequence listings, if applicable;
- 27 (4) At least one (1) provisional claim;
- 28 (5) Provisional abstract;
- 29 (6) Payment of required fees at the time of filing; and
- 30 (7) If the applicant is not domiciled in the Philippines, the appointment
31 of an agent or representative upon whom notice or process for
32 judicial or administrative procedure relating to the application for
33 patent or the patent may be served.

1 c. The benefits of filing a provisional patent application refer only to
2 the right of claiming priority date under Section 31.b hereof and for
3 establishing novelty under Section 23 hereof. The protection period
4 referred to in Section 54 of this Act shall be reckoned from the filing
5 date of the provisional patent application.

6 **Sec. 33. *Appointment of Agent or Representative.***- An applicant who
7 is not a resident of the Philippines must appoint and maintain a resident agent
8 or representative in the Philippines upon whom notice or process for judicial or
9 administrative procedure relating to the application for patent or the patent may
10 be served. (Sec. 11, R.A. No. 165a)

11 **Sec. 34. *The Request.*** - The request shall contain a petition for the grant
12 of the patent, the name and other data of the applicant, the inventor and the
13 agent and the title of the invention. (n)

14 **Sec. 35. *Disclosure and Description of the Invention.*** -a. *Disclosure.* -
15 The application shall disclose the invention in a manner sufficiently clear and
16 complete for it to be carried out by a person skilled in the art. Where the
17 application concerns a microbiological process or the product thereof and involves
18 the use of a micro-organism which cannot be sufficiently disclosed in the
19 application in such a way as to enable the invention to be carried out by a person
20 skilled in the art, and such material is not available to the public, the application
21 shall be supplemented by a deposit of such material with an international
22 depository institution.

23 b. *Description.*- The Regulations shall prescribe the contents of the
24 description and the order of presentation. (Sec. 14, R.A. No. 165a)

25 **Sec. 36. *The Claims.*** -a. The application shall contain one (1) or more
26 claims which shall define the matter for which protection is sought. Each claim
27 shall be clear and concise, and shall be supported by the description.

28 b. The Regulations shall prescribe the manner of the presentation of
29 claims. (n)

30 **Sec. 37. *The Abstract.*** - The abstract shall consist of a concise summary
31 of the disclosure of the invention as contained in the description, claims and
32 drawings in preferably not more than one hundred fifty (150) words. It must be
33 drafted in a way which allows the clear understanding of the technical problem,
34 the gist of the solution of that problem through the invention, and the principal
35 use or uses of the invention. The abstract shall merely serve for technical
36 information. (n)

37 **Sec. 38. *Unity of Invention.*** -a. The application shall relate to one
38 invention only or to a group of inventions forming a single general inventive
39 concept.

b. If several independent inventions which do not form a single general inventive concept are claimed in one application, the Director may require that the application be restricted to a single invention. A later application filed for an invention divided out shall be considered as having been filed on the same day as the first application: *Provided*, That the later application is filed within four (4) months after the requirement to divide becomes final, or within such additional time, not exceeding four (4) months, as may be granted: *Provided further*, That each divisional application shall not go beyond the disclosure in the initial application.

c. The fact that a patent has been granted on an application that did not comply with the requirement of unity of invention shall not be a ground to cancel the patent. (Sec. 17, R.A. No. 165a)

Sec. 39. Information Concerning Corresponding Foreign Application for Patents.— The applicant shall, at the request of the Director, furnish him with the date and number of any application for a patent filed by him abroad, hereafter referred to as the "foreign application," relating to the same or essentially the same invention as that claimed in the application filed with the Office and other documents relating to the foreign application. (n)

Chapter V. PROCEDURE FOR GRANT OF PATENT

Sec. 40. Filing Date Requirements. —a. The filing date of a patent application shall be the date of receipt by the Office of at least the following elements:

- (1) An express or implicit indication that a Philippine patent is sought;
- (2) Information identifying the applicant; and
- (3) Description of the invention and one (1) or more claims in Filipino or English.

In the case of the provisional patent application, the filing date shall be the date of receipt by the Office of all of the requirements in Section 32-A.b of this Act.

b. If any of these elements is not submitted within the period set by the Regulations, the application shall be considered withdrawn. (n)

Sec. 41. According a Filing Date. - The Office shall examine whether the patent application or a provisional patent application satisfies the requirements for the grant of date of filing as provided in Section 40 hereof. If the date of filing cannot be accorded, the applicant shall be given an opportunity to correct the deficiencies in accordance with the implementing Regulations. If the application does not contain all the elements indicated in Section 40 hereof, the filing date should be that date when all the elements are received. If the deficiencies are not remedied within the prescribed time limit, the application

1 shall be considered withdrawn. (n)

2 **Sec. 42. Formality Examination.** -a. After the patent application has
3 been accorded a filing date and the required fees have been paid on time in
4 accordance with the Regulations, the applicant shall comply with the formal
5 requirements specified by Section 32 of this Act and the Regulations within the
6 prescribed period, otherwise the application shall be considered withdrawn.

7 b. The Regulations shall determine the procedure for the re-
8 examination and revival of an application as well as the appeal to the Director of
9 Patents from any final action by the examiner. (Sec. 16, R.A. No. 165a)

10 **Sec. 43. Classification and Search.** - An application that has complied
11 with the formal requirement shall be classified and a search conducted to
12 determine the prior art. (n)

13 **Sec. 44. Publication of Patent Application.** -a. The patent application
14 shall be published in the IPO Gazette together with a search document
15 established by or on behalf of the Office citing any documents that reflect prior
16 art, after the expiration of eighteen (18) months from the filing date or priority
17 date.

18 b. After publication of a patent application, any interested party may
19 inspect the application documents filed with the Office.

20 c. The Director General, subject to the approval of the Secretary of
21 Trade and Industry, may prohibit or restrict the publication of an application, if
22 in his opinion, to do so would be prejudicial to the national security and interests
23 of the Republic of the Philippines. (n)

24 **Sec. 45. Confidentiality Before Publication.** - a. A patent application,
25 which has not yet been published, and all related documents, shall not be made
26 available for inspection without the consent of the applicant. (n)

27 b. *Confidentiality of Provisional Patent Application.* -A provisional
28 patent application that has complied with the requirements in Sections 41 and
29 42 of this Act shall be kept in confidence by the Office and as such, will not be
30 published in the IPO Gazette or in any other means of publication. Provisional
31 patent applications that are forfeited shall be destroyed or permanently deleted
32 and no records of which shall be kept by the Office.

33 **Sec. 46. Rights Conferred by a Patent Application After Publication.**
34 - The applicant shall have all the rights of a patentee under Section 76 of this
35 Act against any person who, without his authorization, exercised any of the
36 rights conferred under Section 71 of this Act in relation to the invention claimed
37 in the published patent application, as if a patent had been granted for that
38 invention: *Provided*, That the said person had:

39 a. Actual knowledge that the invention that he was using was the
40 subject matter of a published application; or,

- 1 b. Received written notice that the invention that he was using was
2 the subject matter of a published application being identified in the
3 said notice by its serial number: *Provided*, That the action may not
4 be filed until after the grant of a patent on the published
5 application and within four (4) years from the commission of the
6 acts complained of. (n)

7 **Sec. 47. Observation by Third Parties.** - Following the publication of
8 the patent application, any person may present observations in writing
9 concerning the patentability of the invention. Such observations shall be
10 communicated to the applicant who may comment on them. The Office shall
11 acknowledge and put such observations and comment in the file of the
12 application to which it relates. (n)

13 **Sec. 48. Request for Substantive Examination.** -a. The application
14 shall be deemed withdrawn unless within six (6) months from the date of
15 publication under Section 41, a written request to determine whether a patent
16 application meets the requirements of Sections 21 to 27 and Sections 32 to 39 of
17 this Act and the fees have been paid on time.

- 18 b. Withdrawal of the request for examination shall be irrevocable and
19 shall not authorize the refund of any fee. (n)

20 **Sec. 49. Amendment of Application.** - An applicant may amend the
21 patent application during examination: *Provided*, That such amendment shall
22 not include new matter outside the scope of the disclosure contained in the
23 application as filed. (n)

24 **Sec. 50. Grant of Patent.** - a. If the application meets the requirements
25 of this Act, the Office shall grant the patent: *Provided*, That all the fees are paid
26 on time.

- 27 b. If the required fees for grant and printing are not paid in due time,
28 the application shall be deemed to be withdrawn.

- 29 c. A patent shall take effect on the date of the publication of the grant
30 of the patent in the IPO Gazette. (Sec. 18, R.A. No. 165a)

31 **Sec. 51. Refusal of the Application.** -a. The final order of refusal of the
32 examiner to grant the patent shall be appealable to the Director in accordance
33 with this Act.

- 34 b. The Regulations shall provide for the procedure by which an appeal
35 from the order of refusal from the Director shall be undertaken. (n)
36

37 **Sec. 52. Publication Upon Grant of Patent.** - a. The grant of the
38 patent together with other related information shall be published in the IPO
39 Gazette within the time prescribed by the Regulations.
40

b. Any interested party may inspect the complete description, claims, and drawings of the patent on file with the Office. (Sec. 18, R.A. No. 165a)

Sec. 53. Contents of Patent. - The patent shall be issued in the name of the Republic of the Philippines under the seal of the Office and shall be signed by the Director, and registered together with the description, claims, and drawings, if any, in books and records of the Office. (Secs. 19 and 20, R.A. No. 165a)

Sec. 54. Term of Patent. - The term of a patent shall be twenty (20) years from the filing date of the application. For a patent which was originally filed under a provisional patent application, the protection period shall be reckoned from the filing date of the provisional patent application.

Sec. 55. Annual Fees. -a. To maintain the patent application or patent, an annual fee shall be paid upon the expiration of four (4) years from the date the application was published pursuant to Section 44 hereof, and on each subsequent anniversary of such date. Payment may be made within three (3) months before the due date. The obligation to pay the annual fees shall terminate should the application be withdrawn, refused, or cancelled.

b. If the annual fee is not paid, the patent application shall be deemed withdrawn or the patent considered as lapsed from the day following the expiration of the period within which the annual fees were due. A notice that the application is deemed withdrawn or the lapse of a patent for non-payment of any annual fee shall be published in the IPO Gazette and the lapse shall be recorded in the Register of the Office.

c. A grace period of six (6) months shall be granted for the payment of the annual fee, upon payment of the prescribed surcharge for delayed payment. (Sec. 22, R.A. No. 165a)

Sec. 56. Surrender of Patent. -a. The owner of the patent, with the consent of all persons having grants or licenses or other right, title or interest in and to the patent and the invention covered thereby, which have been recorded in the Office, may surrender his patent or any claim or claims forming part thereof to the Office for cancellation.

b. A person may give notice to the Office of his opposition to the surrender of a patent under this Section, and if he does so, the Bureau shall notify the proprietor of the patent and determine the question.

c. If the Office is satisfied that the patent may properly be surrendered, he may accept the offer and, as from the day when notice of his acceptance is published in the IPO Gazette, the patent shall cease to have effect, but no action for infringement shall lie and no right compensation shall accrue for any use of the patented invention before that day for the services of the government. (Sec. 24, R.A. No. 165a)

Sec. 57. Correction of Mistakes of the Office. -The Director shall have the power to correct, without fee, any mistake in a patent incurred through the

1 fault of the Office when clearly disclosed in the records thereof, to make the
2 patent conform to the records. (Sec. 25, R.A. No. 165)

3 **Sec. 58. *Correction of Mistake in the Application.*** -On request of any
4 interested person and payment of the prescribed fee, the Director is authorized
5 to correct any mistake in a patent of a formal and clerical nature, not incurred
6 through the fault of the Office. (Sec. 26, R.A. No. 165a)

7 **Sec. 59. *Changes in Patents.*** -a. The owner of a patent shall have the
8 right to request the Bureau to make the changes in the patent in order to:

9 (1) Limit the extent of the protection conferred by it;

10 (2) Correct obvious mistakes or to correct clerical errors; and

11 (3) Correct mistakes or errors, other than those referred to in letter (b),
12 made in good faith: *Provided*, That where the change would result in
13 a broadening of the extent of protection conferred by the patent, no
14 request may be made after the expiration of two (2) years from the
15 grant of a patent and the change shall not affect the rights of any
16 third party which has relied on the patent, as published.

17 b. No change in the patent shall be permitted under this Section,
18 where the change would result in the disclosure contained in the patent going
19 beyond the disclosure contained in the application filed.

20 c. If, and to the extent to which the Office changes the patent
21 according to this Section, it shall publish the same. (n)

22 **Sec. 60. *Form and Publication of Amendment.*** - An amendment or
23 correction of a patent shall be accomplished by a certificate of such amendment
24 or correction, authenticated by the seal of the Office and signed by the Director,
25 which certificate shall be attached to the patent. Notice of such amendment or
26 correction shall be published in the IPO Gazette and copies of the patent kept or
27 furnished by the Office shall include a copy of the certificate of amendment or
28 correction. (Sec. 27, R.A. No. 165)

29 **Chapter VI.**
30 **CANCELLATION OF PATENTS AND**
31 **SUBSTITUTION OF PATENTEE**

32 **Sec. 61. *Cancellation of Patents.*** - a. Any interested person may, upon
33 payment of the required fee, petition to cancel the patent or any claim thereof, or
34 parts of the claim, on any of the following grounds:

35 (1) That what is claimed as the invention is not new or patentable;

36 (2) That the patent does not disclose the invention in a manner
37 sufficiently clear and complete for it to be carried out by any person
38 skilled in the art; or

1 (3) That the patent is contrary to public order or morality.

2 b. Where the grounds for cancellation relate to some of the claims or
3 parts of the claim, cancellation may be effected to such extent only. (Secs. 28 and
4 29, R.A. No. 165a)

5 **Sec. 62. Requirement of the Petition.** - The petition for cancellation
6 shall be in writing, verified by the petitioner or by any person in his behalf who
7 knows the facts, specify the grounds upon which it is based, include a statement
8 of the facts to be relied upon, and filed with the Office. Copies of printed
9 publications or of patents of other countries, and other supporting documents
10 mentioned in the petition shall be attached thereto, together with the translation
11 thereof in English, if not in the English language. (Sec. 30, R.A. No. 165)

12 **Sec. 63. Notice of Hearing.** - Upon filing of a petition for cancellation,
13 the Director of Legal Affairs shall forthwith serve notice of the filing thereof
14 upon the patentee and all persons having grants or licenses, or any other right,
15 title or interest in and to the patent and the invention covered thereby, as
16 appears of record in the Office, and of notice of the date of hearing thereon on
17 such persons and the petitioner. Notice of the filing of the petition shall be
18 published in the IPO Gazette. (Sec. 31, R.A. No. 165a)

19 **Sec. 64. Committee of Three.** - In cases involving highly technical issues,
20 on motion of any party, the Director of Legal Affairs may order that the petition
21 be heard and decided by a committee composed of the Director of Legal Affairs as
22 chairman and two (2) members who have the experience or expertise in the field
23 of technology to which the patent sought to be cancelled relates. The decision of
24 the committee shall be appealable to the Director General. (n)

25 **Sec. 65. Cancellation of the Patent.** -a. If the Committee finds that a
26 case for cancellation has been proved, it shall order the patent or any specified
27 claim or claims thereof cancelled.

28 b. If the Committee finds that, taking into consideration the
29 amendment made by the patentee during the cancellation proceedings, the
30 patent and the invention to which it relates meet the requirement of this Act, it
31 may decide to maintain the patent as amended: *Provided*, That the fee for
32 printing of a new patent is paid within the time limit prescribed in the
33 Regulations.

34 c. If the fee for the printing of a new patent is not paid in due time,
35 the patent should be revoked.

36 d. If the patent is amended under Section 65.b hereof, the Bureau
37 shall, at the same time as it publishes the mention of the cancellation decision,
38 publish the abstract, representative claims and drawings indicating clearly what
39 the amendments consist of. (n)

40 **Sec. 66. Effect of Cancellation of Patent or Claim.** -The rights

1 conferred by the patent or any specified claim or claims cancelled shall terminate.
2 Notice of the cancellation shall be published in the IPO Gazette. Unless
3 restrained by the Director General, the decision or order to cancel by Director of
4 Legal Affairs shall be immediately executory even pending appeal. (Sec. 32, R.A.
5 No. 165a)

6 **Chapter VII.**
7 **REMEDIES OF A PERSON WITH A RIGHT TO A PATENT**

8 **Sec. 67. *Effect of Declaration as the True and Actual Inventor or a***
9 ***Person Having the Right to a Patent.*** – a. If a person declared by final order
10 or decision of the court or by the Bureau of Legal Affairs to be the true and
11 actual inventor or to have the right to the patent or to file a patent application,
12 may, within three (3) months after the decision has become final and executory,
13 notify the Bureau of Patents of any or more applicable options, namely:

14 (1) Prosecute the application as his own in place of the applicant;

15 (2) File a new patent application in respect of the same invention:
16 *Provided*, That the filing or priority date of the old application is
17 retained;

18 (3) Request that the application be rejected; or

19 (4) Seek cancellation of the patent, or to be substituted as patentee, if
20 one has already been issued.

21 b. In case of fraud, the court or Bureau of Legal Affairs may, when
22 appropriate and necessary, award actual and other damages in favor of the true
23 and actual inventor or person having the right to a patent.

24 **Sec. 68. *Remedy of the True and Actual Inventor or a Person***
25 ***Having the Right to a Patent.*** - A person, who was deprived of the patent or
26 the right to file a patent application may file with the court or with the Bureau of
27 Legal Affairs, an action for a declaration as the true and actual inventor or as a
28 person having the right to a patent or to file a patent application, or raise the
29 same as a defense in an action for patent infringement.

30 **Sec. 69. *Publication of the Court Order.*** -The court shall furnish the
31 Office a copy of the order or decision referred to in Sections 67 and 68 of this Act,
32 which shall be published in the IPO Gazette within three (3) months from the
33 date such order or decision became final and executory, and shall be recorded in
34 the register of the Office. (n)

35 **Sec. 70. *Time to File Action in Court.*** - The actions indicated in
36 Sections 67 and 68 hereof shall be filed at any time but not later than one (1)
37 year from the date of publication of the grant.

Chapter VIII.
RIGHTS OF PATENTEES AND INFRINGEMENT OF PATENTS

Sec. 71. *Rights Conferred by Patent.* -a. A patent shall confer on its owner the following exclusive rights:

- (1) Where the subject matter of a patent is a product, to restrain, prohibit and prevent any unauthorized person or entity from making, using, offering for sale, selling or importing that product;
- (2) Where the subject matter of a patent is a process, to restrain, prevent or prohibit any unauthorized person or entity from using the process, and from manufacturing, dealing in, using, selling or offering for sale, or importing any product obtained directly or indirectly from such process.

b. Patent owners shall also have the right to assign, or transfer by succession the patent, and to conclude licensing contracts for the same. (Sec. 37, R.A. No. 165a)

Sec. 72. *Limitations of Patent Rights.* -The owner of a patent has no right to prevent third parties from performing, without his authorization, the acts referred to in Section 71 hereof in the following circumstances:

- a. Using a patented product which has been put on the market in the Philippines by the owner of the product, or with his express consent, insofar as such use is performed after that product has been so put on the said market: *Provided*, That with regard to drugs and medicines, the limitation on patent rights shall apply after a drug or medicine has been introduced in the Philippines or anywhere else in the world by the patent owner, or by any party authorized to use the invention: *Provided further*, That the right to import the drugs and medicines contemplated in this Section shall be available to any government agency or any private third party;
- b. Where the act is done privately and on a non-commercial scale or for a non-commercial purpose: *Provided*, That it does not significantly prejudice the economic interests of the owner of the patent;
- c. Where the act consists of making or using the invention exclusively for experiments for scientific or educational purposes and such other activities directly related to such scientific or educational experimental use;
- d. In the case of drugs and medicines, where the act includes testing, using, making or selling the invention including any data related thereto, solely for purposes reasonably related to the development and submission of information and issuance of approvals by government regulatory agencies required under any law of the

Philippines or of another country that regulates the manufacture, construction, use or sale of any product without prejudice to the protection of the data submitted by the original patent holder from unfair commercial use as provided for under Article 39.3 of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);

e. Where the act consists of the preparation for individual cases, in a pharmacy or by a medical professional, of a medicine in accordance with a medical prescription or acts concerning the medicine so prepared; and

f. Where the invention is used in any ship, vessel, aircraft, or land vehicle of any other country entering the territory of the Philippines temporarily or accidentally: *Provided*, That such invention is used exclusively for the needs of the ship, vessel, aircraft, or land vehicle and not used for the manufacturing of anything to be sold within the Philippines. (Secs. 38 and 39, R.A. No. 165a)

Sec. 73. Prior User. –a. Notwithstanding Section 72 hereof, any prior user, who, in good faith was using the invention or has undertaken serious preparations to use the invention in his enterprise or business, before the filing date or priority date of the application on which a patent is granted, shall have the right to continue the use thereof as envisaged in such preparations within the territory where the patent produces its effect.

b. The right of the prior user may only be transferred or assigned together with his enterprise or business, or with that part of his enterprise or business in which the use or preparations for use have been made. (Sec. 40, R.A. No. 165a)

Sec. 74. Use of Invention by Government. –a. A Government agency or third person authorized by the Government may exploit the invention even without agreement of the patent owner where:

(1) The public interest, in particular, national security, nutrition, health or the development of other sectors, as determined by the appropriate agency of the government, so requires; or

(2) A judicial or administrative body has determined that the manner of exploitation, by the owner of the patent or his licensee, is anti-competitive; or

(3) In the case of drugs and medicines, there is a national emergency or other circumstance of extreme urgency requiring the use of the invention; or

(4) In the case of drugs and medicines, there is a public non-commercial use of the patent by the patentee, without satisfactory reason; or

1 (5) In the case of drugs and medicines, the demand for the patented
2 article in the Philippines is not being met to an adequate extent and
3 on reasonable terms, as determined by the Secretary of the
4 Department of Health.

5 b. Unless otherwise provided herein, the use by the Government, or
6 third person authorized by the Government shall be subject, where applicable, to
7 the following provisions:

8 (1) In situations of national emergency or other circumstances of
9 extreme urgency as provided under Section 74.a(3) hereof, the right
10 holder shall be notified as soon as reasonably practicable;

11 (2) In the case of public non-commercial use of the patent by the
12 patentee, without satisfactory reason, as provided under Section 74.a
13 (4) hereof, the right holder shall be informed promptly: *Provided,*
14 That, the Government or third person authorized by the Government,
15 without making a patent search, knows or has demonstrable ground
16 to know that a valid patent is or will be used by or for the
17 Government;

18 (3) If the demand for the patented article in the Philippines is not being
19 met to an adequate extent and on reasonable terms as provided
20 under Section 74.a(5) hereof, the right holder shall be informed
21 promptly;

22 (4) The scope and duration of such use shall be limited to the purpose for
23 which it was authorized

24 (5) Such use shall be non-exclusive;

25 (6) The right holder shall be paid adequate remuneration in the
26 circumstances of each case, taking into account the economic value of
27 the authorization; and

28 (7) The existence of a national emergency or other circumstances of
29 extreme urgency, referred to under Section 74.a(3) hereof, shall be
30 subject to the determination of the President of the Philippines for
31 the purpose of determining the need for such use or other
32 exploitation, which shall be immediately executory.

33 c. All cases arising from the implementation of this provision shall be
34 cognizable by courts with appropriate jurisdiction provided by law.

35 No court, except the Supreme Court of the Philippines, shall issue any
36 temporary restraining order or preliminary injunction or such other provisional
37 remedies that will prevent its immediate execution.

38 d. The Office, in consultation with the appropriate government
39 agencies, shall issue the appropriate implementing rules and regulations for the

1 use or exploitation of patented inventions as contemplated in this Section within
2 one hundred twenty (120) days after the effectivity of this law.

3 **Sec. 75. *Extent of Protection and Interpretation of Claims.*** – a. The
4 extent of protection conferred by the patent shall be determined by the claims,
5 which are to be interpreted in the light of the description and drawings.

6 b. For the purpose of determining the extent of protection conferred by
7 the patent, due account shall be taken of elements which are equivalent to the
8 elements expressed in the claims, so that a claim shall be considered to cover not
9 only all the elements as expressed therein, but also equivalents. (n)

10 **Sec. 76. *Civil Action for Infringement.*** – a. The making, using, offering
11 for sale, selling, or importing a patented product or a product obtained directly or
12 indirectly from a patented process, or the use of a patented process without the
13 authorization of the patentee constitutes patent infringement. *Provided*, That,
14 this shall not apply to instances covered by Sections 72.a and 72.a(4)
15 (Limitations of Patent Rights); Section 74 (Use of Invention by Government);
16 Section 93.f (Compulsory Licensing); and Section 93-A (Procedures on Issuance of
17 a Special Compulsory License under the TRIPS Agreement) of this Code.

18 b. Any patentee, or anyone possessing any right, title or interest in
19 and to the patented invention, whose rights have been infringed, may bring a
20 civil action before the appropriate Regional Trial Court to recover from the
21 infringer such damages sustained thereby, plus attorney's fees and other
22 expenses of litigation, and to secure an injunction for the protection of his rights.

23 c. If the damages are inadequate or cannot be readily ascertained with
24 reasonable certainty, the court may award by way of damages a sum equivalent
25 to reasonable royalty.

26 d. The court may, according to the circumstances of the case, award
27 damages in a sum above the amount found as actual damages sustained:
28 *Provided*, That the award does not exceed three (3) times the amount of such
29 actual damages.

30 e. The court may, in its discretion, order that the infringing goods,
31 materials and implements predominantly used in the infringement be disposed
32 of outside the channels of commerce or destroyed, without compensation; and

33 f. Anyone who actively induces the infringement of a patent or
34 provides the infringer with a component of a patented product or of a product
35 produced because of a patented process knowing it to be especially adopted for
36 infringing the patented invention and not suitable for substantial non-infringing
37 use shall be liable as a contributory infringer and shall be jointly and severally
38 liable with the infringer. (Sec. 42, R.A. No. 165a)

39 **Sec. 77. *Infringement Action by a Foreign National.*** - Any foreign
40 national or juridical entity who meets the requirements of Section 3 of this Act
41 and not engaged in business in the Philippines, to which a patent has been

1 granted or assigned under this Act, may bring an action for infringement of
2 patent, whether or not it is licensed to do business in the Philippines under
3 existing law. (Sec. 41-A, R.A. No. 165a)

4 **Sec. 78. *Process Patents; Burden of Proof.*** - If the subject matter of a
5 patent is a process for obtaining a product, any identical product shall be
6 presumed to have been obtained through the use of the patented process if the
7 product is new or there is substantial likelihood that the identical product was
8 made by the process and the owner of the patent has been unable despite
9 reasonable efforts, to determine the process actually used. In ordering the
10 defendant to prove that the process to obtain the identical product is different
11 from the patented process, the court shall adopt measures to protect, as far as
12 practicable, his manufacturing and business secrets. (n)

13 **Sec. 79. *Limitation of Action for Damages.*** -No damages can be
14 recovered for acts of infringement committed more than four (4) years before the
15 institution of the action for infringement. (Sec. 43, R.A. No. 165)

16 **Sec. 80. *Damages; Requirement of Notice.*** -Damages cannot be
17 recovered for acts of infringement committed before the infringer had known, or
18 had reasonable grounds to know of the patent. It is presumed that the infringer
19 had known of the patent if on the patented product, or on the container or
20 package in which the article is supplied to the public, or on the advertising
21 material relating to the patented product or process, are placed the words
22 "Philippine Patent" with the number of the patent. (Sec. 44, R.A. No. 165a)

23 **Sec. 81. *Defenses in Action for Infringement.*** -In an action for
24 infringement, the defendant, in addition to other defenses available to him, may
25 show the invalidity of the patent, or any claim thereof, on any of the grounds on
26 which a petition of cancellation can be brought under Section 61 hereof. (Sec. 45,
27 R.A. No. 165)

28 **Sec. 82. *Patent Found Invalid May be Cancelled.*** -In an action for
29 infringement, if the court shall find the patent or any claim to be invalid, it shall
30 cancel the same, and the Director of Legal Affairs upon receipt of the final
31 judgment of cancellation by the court, shall record that fact in the register of the
32 Office and shall publish a notice to that effect in the IPO Gazette. (Sec. 46, R.A.
33 No. 165a)

34 **Sec. 83. *Assessor in Infringement Action.*** - a. Two (2) or more assessors
35 may be appointed by the court. The assessors shall be possessed of the necessary
36 scientific and technical knowledge required by the subject matter in litigation.
37 Either party may challenge the fitness of any assessor proposed for appointment.

38 b. Each assessor shall receive a compensation in an amount to be fixed
39 by the court and advanced by the complaining party, which shall be awarded as
40 part of his costs should he prevail in the action. (Sec. 47, R.A. No. 165a)

41 **Sec. 84. *Criminal Action and Penalties.*** - Independent of the civil and
42 administrative remedies, persons liable for infringement shall, upon conviction,

1 be punished, by imprisonment and/or fine, or both, at the discretion of the court,
2 as follows:

- 3 a. **Patent Infringement.** - In infringement of industrial design, the
4 offender shall suffer imprisonment for a period of not less than three
5 (3) years but not more than five (5) years and/or a fine of not less
6 than four hundred thousand pesos (P400,000.00) but not more than
7 one million pesos (P1,000,000.00).
- 8 b. **Repetition of Patent Infringement.** - If infringement of invention
9 patents, utility models, layout-design (topographies) of integrated
10 circuits is repeated by the infringer or by anyone in connivance with
11 him after finality of the judgment of the court against the infringer,
12 the offender shall suffer imprisonment for the period of not less than
13 three (3) years but not more than five (5) years and/or a fine of not
14 less than One million pesos (P1,000,000) but not more than two
15 million pesos (P2,000,000).

16 **Chapter IX.**
17 **VOLUNTARY LICENSING**

18 **Sec. 85. Voluntary License Contract.** - To encourage the transfer and
19 dissemination of technology, prevent or control practices and conditions that may
20 in particular cases constitute an abuse of intellectual property rights, or will
21 substantially prevent, restrict or lessen competition in the market and
22 have adverse effect on trade, all technology transfer arrangements shall comply
23 with the provisions of this Chapter. (n)

24 **Sec. 86. Jurisdiction to Settle Disputes on Royalties.** -The Director of
25 the Bureau of Innovation Support and Business Development shall exercise
26 quasi-judicial jurisdiction in the settlement of disputes between parties to a
27 technology transfer arrangement arising from technology transfer payments,
28 including the fixing of appropriate amount or rate of royalty. (n)

29 **Sec. 87. Prohibited Clauses.** - Except in cases under Section 91 hereof,
30 the following provisions are prohibited from inclusion in Technology Transfer
31 Arrangements:

- 32 a. Those which impose upon the licensee the obligation to acquire from
33 a specific source capital goods, intermediate products, raw materials,
34 and other technologies, or of permanently employing personnel
35 indicated by the licensor, except if these will be sourced locally
36 when comparable alternatives are locally available and such
37 imposition is essential for maintaining the quality of the products or
38 services produced or rendered under the agreements;
- 39 b. Those pursuant to which the licensor reserves the right to fix the
40 sale or resale prices of the products manufactured on the basis of
41 the license;

- 1 c. Those that contain restrictions regarding the volume and structure
2 of production;
- 3 d. Those that prohibit the use of competitive technologies in a non-
4 exclusive technology transfer agreement;
- 5 e. Those that establish a full or partial purchase option in favor of the
6 licensor;
- 7 f. Those that obligate the licensee to transfer for free to the licensor
8 the inventions or improvements that may be obtained through the
9 use of the licensed technology;
- 10 g. Those that require payment of royalties to the owners of patents for
11 patents which are not used;
- 12 h. Those that prohibit the licensee to export the licensed product
13 unless justified for the protection of the legitimate interest of the
14 licensor such as exports to countries where exclusive licenses to
15 manufacture and/or distribute the licensed product(s) have already
16 been granted;
- 17 i. Those which restrict the use of the technology supplied after the
18 expiration of the technology transfer arrangement, except in cases
19 of early termination of the technology transfer arrangement due to
20 reason(s) attributable to the licensee;
- 21 j. Those which require payments for patents and other industrial
22 property rights after their expiration, termination arrangement;
- 23 k. Those which require that the technology recipient shall not contest
24 the validity of any of the patents of the technology supplier;
- 25 l. Those which restrict the research and development activities of the
26 licensee designed to absorb and adapt the transferred technology to
27 local conditions or to initiate research and development programs in
28 connection with new products, processes or equipment;
- 29 m. Those which prevent the licensee from adapting the imported
30 technology to local conditions, or introducing innovation to it, as
31 long as it does not impair the quality standards prescribed by the
32 licensor;
- 33 n. Those which exempt the licensor for liability for non-fulfillment of
34 his responsibilities under the technology transfer arrangement
35 and/or liability arising from third party suits brought about by the
36 use of the licensed product or the licensed technology; and
- 37 o. Other clauses with equivalent effects, such as those which impose
38 upon the licensee unreasonable post-termination non-compete

covenants surviving more than one (1) year after termination of the technology transfer arrangement.

The Bureau's findings and decision on the above may serve as *prima facie* evidence before the Philippine Competition Commission that the subject technology transfer arrangement does not violate Philippine competition laws.

Sec. 88. *Mandatory Provisions.* -The following provisions shall be included in voluntary license contracts:

- a. That the laws of the Philippines shall govern the interpretation of the same and in the event of litigation, the venue shall be the proper court in the place where the licensee has its principal office;
- b. Continued access to improvements in techniques and processes related to the technology shall be made available during the period of the technology transfer arrangement;
- c. In the event the technology transfer arrangement shall provide for arbitration, the venue of arbitration shall be the Philippines or any neutral country; and
- d. The Philippine taxes on all payments relating to the technology transfer arrangement shall be borne by the licensor. (n)

Sec. 89. *Rights of Licensor.* - In the absence of any provision to the contrary in the technology transfer arrangement, the grant of a license shall not prevent the licensor from granting further licenses to third person nor from exploiting the subject matter of the technology transfer arrangement himself. (Sec. 33-B, R.A. 165a)

Sec. 90. *Rights of Licensee.* -The licensee shall be entitled to exploit the subject matter of the technology transfer arrangement during the whole term of the technology transfer arrangement. (Sec. 33-C (1), R.A. 165a)

Sec. 91. *Exceptional Cases.* - In exceptional or meritorious cases where substantial benefits will accrue to the economy, such as high technology content, increase in foreign exchange earnings, employment generation, regional dispersal of industries and/or substitution with or use of local raw materials, or in the case of companies with pioneer status registered with the Board of Investments, exemption from any of the above requirements may be allowed by the Bureau of Innovation Support and Business Development after evaluation thereof on a case by case basis.

Sec. 92. *Registration with the Bureau of Innovation Support and Business Development.* -Technology transfer arrangements that conform with the provisions of Sections 87 and 88 hereof need not be registered with the Bureau of Innovation Support and Business Development. Non-conformance with any of the provisions of Sections 87 and 88 hereof, however, shall automatically render the technology transfer arrangement unenforceable, unless said

1 technology transfer arrangement is approved and registered with the Bureau of
2 Innovation Support and Business Development under the provisions of Section 91
3 of this Act on exceptional cases.

4 Chapter X. 5 COMPULSORY LICENSING

6 **Sec. 93. *Grounds for Compulsory Licensing.*** - The Director General of
7 the Intellectual Property Office may grant a license to exploit a patented
8 invention, even without the agreement of the patent owner, in favor of any
9 person who has shown his capability to exploit the invention, under any of the
10 following circumstances:

- 11 a. National emergency or other circumstances of extreme urgency;
- 12 b. Where the public interest, in particular, national security, nutrition,
13 health or the development of other vital sectors of the national
14 economy as determined by the appropriate agency of the
15 Government, so requires; or
- 16 c. Where a judicial or administrative body has determined that the
17 manner of exploitation by the owner of the patent or his licensee is
18 anti-competitive; or
- 19 d. In case of public non-commercial use of the patent by the patentee,
20 without satisfactory reason;
- 21 e. If the patented invention is not being worked in the Philippines on a
22 commercial scale, although capable of being worked, without
23 satisfactory reason: *Provided*, That the importation of the patented
24 article shall constitute working or using the patent. (Secs. 34, 34-A,
25 34-B, R.A. No. 165a); and
- 26 f. Where the demand for patented drugs and medicines is not being
27 met to an adequate extent and on reasonable terms, as determined
28 by the Secretary of the Department of Health.

29 **Sec. 93-A. *Procedures on Issuance of a Special Compulsory License***
30 ***under the TRIPS Agreement.*** – a. The Director General of the Office, upon the
31 written recommendation of the Secretary of the Department of Health, shall,
32 upon filing of a petition, grant a special compulsory license for the importation of
33 patented drugs and medicines. The special compulsory license for the
34 importation contemplated under this provision shall be an additional special
35 alternative procedure to ensure access to quality affordable medicines and shall
36 be primarily for domestic consumption: *Provided*, That adequate remuneration
37 shall be paid to the patent owner either by the exporting or importing country.
38 The compulsory license shall also contain a provision directing the grantee the
39 license to exercise reasonable measures to prevent the re-exportation of the
40 products imported under this provision.

1 The grant of a special compulsory license under this provision shall be an
2 exception to Sections 100 and 100.6 of Republic Act No. 8293 and shall be
3 immediately executory.

4 No court, except the Supreme Court of the Philippines, shall issue any
5 temporary restraining order or preliminary injunction or such other provisional
6 remedies that will prevent the grant of the special compulsory license.

7 b. A compulsory license shall also be available for the manufacture
8 and export of drugs and medicines to any country having insufficient or no
9 manufacturing capacity in the pharmaceutical sector to address public health
10 problems: *Provided, That*, a compulsory license has been granted by such
11 country or such country has, by notification or otherwise, allowed importation
12 into its jurisdiction of the patented drugs and medicines from the Philippines in
13 compliance with the TRIPS Agreement.

14 c. The right to grant a special compulsory license under this Section
15 shall not limit or prejudice the rights, obligations and flexibilities provided under
16 the TRIPS Agreement and under Philippine laws, particularly Section 72.1 and
17 Section 74 of Republic Act No. 8293, as amended, or the "Intellectual Property
18 Code of the Philippines", as amended under this Act. It is also without prejudice
19 to the extent to which drugs and medicines produced under a compulsory license
20 can be exported as allowed in the TRIPS Agreement and applicable laws.

21 **Sec. 94. *Period for Filing a Petition for a Compulsory License.*** –a. A
22 compulsory license may not be applied for on the ground stated in Section 93.e
23 hereof before the expiration of a period of four (4) years from the date of filing of
24 the application or three (3) years from the date of the patent whichever period
25 expires last.

26 b. A compulsory license which is applied for on any of the grounds stated
27 in Section 93.b, 93.c, 93.d and 93.f and Section 97 of this Act may be applied for
28 at any time after the grant of the patent. (Sec. 34(1), R.A. No. 165)

29 **Sec. 95. *Requirement to Obtain a License on Reasonable***
30 ***Commercial Terms.*** – a. The license will only be granted after the petitioner
31 has made efforts to obtain authorization from the patent owner on reasonable
32 commercial terms and conditions but such efforts have not been successful within
33 a reasonable period of time.

34 b. The requirement under Section 95.a hereof shall not apply in any of the
35 following cases:

36 (1) Where the petition for compulsory license seeks to remedy a
37 practice determined after judicial or administrative process to be
38 anti-competitive;

39 (2) In situations of national emergency or other circumstances of
40 extreme urgency;

1 (3) In cases of public non-commercial use; and

2 (4) In cases where the demand for the patented drugs and medicines in
3 the Philippines is not being met to an adequate extent and on
4 reasonable terms, as determined by the Secretary of the
5 Department of Health.

6 c. In situations of national emergency or other circumstances of
7 extreme urgency, the right holder shall be notified as soon as reasonably
8 practicable.

9 d. In the case of public non-commercial use, where the government or
10 contractor, without making a patent search, knows or has demonstrable grounds
11 to know that a valid patent is or will be used by or for the government, the right
12 holder shall be informed promptly. (n)

13 e. Where the demand for the patented drugs and medicines in the
14 Philippines is not being met to an adequate extent and on reasonable terms, as
15 determined by the Secretary of the Department of Health, the right holder shall
16 be informed promptly.

17 **Sec. 96. Compulsory Licensing of Patents Involving Semi-Conductor**
18 **Technology.** - In the case of compulsory licensing of patents involving semi-
19 conductor technology, the license may only be granted in case of public non-
20 commercial use or to remedy a practice determined after judicial or
21 administrative process to be anti-competitive. (n)

22 **Sec. 97. Compulsory License Based on Interdependence of Patents.-**
23 If the invention protected by a patent, hereafter referred to as the "second
24 patent," within the country cannot be worked without infringing another patent,
25 hereafter referred to as the "first patent," granted on a prior application or
26 benefiting from an earlier priority, a compulsory license may be granted to the
27 owner of the second patent to the extent necessary for the working of his
28 invention, subject to the following conditions:

29 a. The invention claimed in the second patent involves an important
30 technical advance of considerable economic significance in relation
31 to the first patent;

32 b. The owner of the first patent shall be entitled to a cross-license on
33 reasonable terms to use the invention claimed in the second patent;

34 c. The use authorized in respect of the first patent shall be non-
35 assignable except with the assignment of the second patent; and

36 d. The terms and conditions of Sections 95, 96 and 98 to 100 of this Act.
37 (Sec. 34-C, R.A. No. 165a)

38 **Sec. 98. Form and Contents of Petition.** -The petition for compulsory
39 licensing must be in writing, verified by the petitioner and accompanied by

1 payment of the required filing fee. It shall contain the name and address of the
2 petitioner as well as those of the respondents, the number and date of issue of the
3 patent in connection with which compulsory license is sought, the name of the
4 patentee, the title of the invention, the statutory grounds upon which compulsory
5 license is sought, the ultimate facts constituting the petitioner's cause of action,
6 and the relief prayed for. (Sec. 34-D, R.A. No. 165)

7 **Sec. 99. Notice of Hearing.** -a. Upon filing of a petition, the Director of
8 Legal Affairs shall forthwith serve notice of the filing thereof upon the patent
9 owner and all persons having grants or licenses, or any other right, title or
10 interest in and to the patent and invention covered thereby as appears of record
11 in the Office, and of notice of the date of hearing thereon, on such persons and
12 petitioner. The resident agent or representative appointed in accordance with
13 Section 33 of this Act shall be bound to accept service of notice of the filing of the
14 petition within the meaning of this Section.

15 b. In every case, the notice shall be published by the said Office in a
16 newspaper of general circulation, once a week for three (3) consecutive weeks
17 and once in the IPO Gazette at applicant's expense. (Sec. 34-E, R.A. No. 165)

18 **Sec. 100. Terms and Conditions of Compulsory License.** - The basic
19 terms and conditions including the rate of royalties of a compulsory license shall
20 be fixed by the Director of Legal Affairs subject to the following conditions:

- 21 a. The scope and duration of such license shall be limited to the
22 purpose for which it was authorized;
- 23 b. The license shall be non-exclusive;
- 24 c. The license shall be non-assignable, except with that part of the
25 enterprise or business with which the invention is being exploited;
- 26 d. Use of the subject matter of the license shall be devoted
27 predominantly for the supply of the Philippine market: *Provided*,
28 That this limitation shall not apply where the grant of the license is
29 based on the ground that the patentee's manner of exploiting the
30 patent is determined by judicial or administrative process, to be
31 anti-competitive.
- 32 e. The license may be terminated upon proper showing that
33 circumstances which led to its grant have ceased to exist and are
34 unlikely to recur: *Provided*, That adequate protection shall be
35 afforded to the legitimate interest of the licensee; and
- 36 f. The patentee shall be paid adequate remuneration taking into
37 account the economic value of the grant or authorization, except
38 that in cases where the license was granted to remedy a practice
39 which was determined after judicial or administrative process, to be
40 anti-competitive, the need to correct the anti-competitive practice
41 may be taken into account in fixing the amount of remuneration.

Sec. 101. Amendment, Cancellation, Surrender of Compulsory License. – a. Upon the request of the patentee or the licensee, the Director General may amend the decision granting the compulsory license, upon proper showing of new facts or circumstances justifying such amendment.

b. Upon the request of the patentee, the Director General may cancel the compulsory license:

(1) If the ground for the grant of the compulsory license no longer exists and is unlikely to recur;

(2) if the licensee has neither begun to supply the domestic market nor made serious preparation therefor;

(3) if the licensee has not complied with the prescribed terms of the license;

c. The licensee may surrender the license by a written declaration submitted to the Office.

d. The Director General shall cause the amendment, surrender, or cancellation in the Register, notify the patentee, and/or the licensee, and cause notice thereof to be published in the IPO Gazette.

Sec. 102. Licensee's Exemption from Liability. - Any person who works a patented product, substance and/or process under a license granted under this Chapter shall be free from any liability for infringement: *Provided however*, That in the case of voluntary licensing, no collusion with the licensor is proven. This is without prejudice to the right of the rightful owner of the patent to recover from the licensor whatever he may have received as royalties under the license. (Sec. 35-E, R.A. No. 165a)

Chapter XI.

ASSIGNMENT AND TRANSMISSION OF RIGHTS

Sec. 103. Transmission of Rights. –a. Patents or applications for patents and invention to which they relate, shall be protected in the same way as the rights of other property under the New Civil Code of the Philippines.

b. Inventions and any right, title or interest in and to patents and inventions covered thereby, may be assigned or transmitted by inheritance or bequest or may be the subject of a license contract. (Sec. 50, R.A. No. 165a)

Sec. 104. Assignment of Inventions. - An assignment may be of the entire right, title or interest in and to the patent and the invention covered thereby, or of an undivided share of the entire patent and invention, in which event the parties become joint owners thereof. An assignment may be limited to a

1 specified territory. (Sec. 51, R.A. No. 165)

2 **Sec. 105. Form of Assignment.** - The assignment must be in writing,
3 acknowledged before a notary public or other officer authorized to administer
4 oath or perform notarial acts, and certified under the hand and official seal of the
5 notary or such other officer. (Sec. 52, R.A. No. 165)

6 **Sec. 106. Recording.** -a. The Office shall record assignments, licenses
7 and other instruments relating to the transmission of any right, title or interest
8 in and to inventions, and patents or application for patents or inventions to which
9 they relate, which are presented in due form to the Office for registration, in
10 books and records kept for the purpose. The original documents together with a
11 signed duplicate thereof shall be filed, and the contents thereof should be kept
12 confidential. If the original is not available, an authenticated copy thereof in
13 duplicate may be filed. Upon recording, the Office shall retain the duplicate,
14 return the original or the authenticated copy to the party who filed the same and
15 notice of the recording shall be published in the IPO Gazette.

16 b. Such instruments shall be void as against any subsequent
17 purchaser or mortgagee for valuable consideration and without notice, unless, it
18 is so recorded in the Office, within three (3) months from the date of said
19 instrument, or prior to the subsequent purchase or mortgage. (Sec. 53, R.A. No.
20 165a)

21 **Sec. 107. Rights of Joint Owners.** - If two (2) or more persons jointly
22 own a patent and the invention covered thereby, either by the issuance of the
23 patent in their joint favor or by reason of the assignment of an undivided share in
24 the patent and invention or by reason of the succession in title to such share,
25 each of the joint owners shall be entitled to personally make, use, sell, or import
26 the invention for his own profit: Provided, however, That neither of the joint
27 owners shall be entitled to grant licenses or to assign his right, title or interest or
28 part thereof without the consent of the other owner or owners, or without
29 proportionally dividing the proceeds with such other owner or owners. (Sec. 54,
30 R.A. No. 165)

31 **Chapter XII.**
32 **REGISTRATION OF UTILITY MODELS**

33 **Sec. 108. Applicability of Provisions Relating to Patents.** - a. Subject
34 to Section 109 hereof, the provisions governing patents shall apply, *mutatis*
35 *mutandis*, to the registration of utility models.

36 b. Where the right to a patent conflicts with the right to a utility
37 model registration in the case referred to in Section 29 of this Act, the said
38 provision shall apply as if the word "patent" were replaced by the words "patent
39 or utility model registration." (Sec. 55, R.A. No. 165a)

40 **Sec. 109. Special Provisions Relating to Utility Models.** -a.

41 (1) An invention qualifies for registration as a utility model if it is new

1 and industrially applicable.

- 2 (2) Section 21, "Patentable Inventions", shall apply except the reference
3 to inventive step as a condition of protection.

4 b. Sections 43 to 49 hereof shall not apply in the case of applications
5 for registration of a utility model: *Provided*, That applications for registration
6 shall be published in the IPO Gazette. Within thirty (30) days from publication,
7 third parties may file with the Director a sworn adverse information citing
8 grounds or information that the utility model is non-registrable. The Director
9 shall decide whether or not to register the utility model application based on
10 information or registrability report that the application does not comply with
11 Section 108 of this Act.

12 c. A utility model registration shall expire, without any possibility of
13 renewal, after seven (7) years from the filing date of the application.

14 d. In proceedings under Sections 61 to 64 hereof, the utility model
15 registration shall be cancelled on the following grounds:

- 16 (1) That the claimed invention does not qualify for registration as a
17 utility model and does not meet the requirements of registrability, in
18 particular having regard to Section 109.a and Sections 22, 23, 24 and
19 27 of this Act;

- 20 (2) That the description and the claims do not comply with the
21 prescribed requirements;

- 22 (3) That any drawing which is necessary for the understanding of the
23 invention has not been furnished;

- 24 (4) That the owner of the utility model registration is not the inventor or
25 his successor in title. (Secs. 55, 56, and 57, R.A. No. 165a)

26 e. Any utility model registrant, or anyone possessing any right, title or
27 interest in and to the utility model invention, whose rights have been infringed,
28 may bring a civil action before the appropriate Regional Trial Court, to recover
29 from the infringer such damages sustained thereby, plus attorney's fees and
30 other expenses of litigation, and to secure an injunction for the protection of his
31 or her rights: *Provided*, That the complaint shall include a registrability report.

32 **Sec. 110. Conversion of Patent Applications or Applications for**
33 **Utility Model Registration.** - a. At any time before the grant of a patent, an
34 applicant may, upon payment of the prescribed fee, convert his application into
35 an application for registration of a utility model, which shall be accorded the
36 filing date of the initial application. An application may be converted only once.

37 b. At any time before the grant or refusal of a utility model
38 registration, an applicant for a utility model registration may, upon payment of
39 the prescribed fee, convert his application into a patent application, which shall

1 be accorded the filing date of the initial application. (Sec. 58, R.A. No. 165a)

2 **Sec. 111. *Parallel Applications.***— a. An applicant may file two (2)
3 applications for the same subject, one for utility model registration and the other
4 for the grant of an invention patent whether simultaneously or consecutively.

5 b. If the utility model application is granted registration, a certificate
6 shall be issued to the applicant and it shall be protected as a registered utility
7 model. The invention application shall be deemed withdrawn unless the
8 applicant confirms and proceeds with the invention application within fifteen (15)
9 days from the utility model registration.

10 c. If the applicant confirms and proceeds with the invention patent
11 application, the utility model registration shall be deemed cancelled upon the
12 date of grant of the corresponding patent application. If the patent application is
13 denied, the utility model registration remains valid unless the denial is due to
14 the lack of novelty of the invention.

15 d. There shall only be one protection granted at any given time and in
16 case of infringement, only one cause of action shall be invoked regardless of the
17 presence of two (2) applications.

18 e. For applications involving drugs and medicines subject of parallel
19 applications, the early working provision under Section 72.d of this Act shall not
20 be prejudiced.

21 **Chapter XIII.**
22 **INDUSTRIAL DESIGN AND LAYOUT-DESIGNS (TOPOGRAPHIES)**
23 **OF INTEGRATED CIRCUITS**

24 **Sec. 112. *Definition of Terms.*** — As used in this Chapter, the following
25 terms shall have the following meanings:

26 a. “**Industrial Design**” is any composition of lines or colors or any
27 three-dimensional form, whether or not associated with lines or
28 colors: *Provided*, That such composition or form gives a special
29 appearance to and can serve as pattern for an industrial product or
30 handicraft. (Sec. 55, R.A. No. 165a)

31 b. “**Integrated Circuit**” means a product, in its final form, or an
32 intermediate form, in which the elements, at least one of which is an
33 active element and some or all of the interconnections are integrally
34 formed in and/or on a piece of material, and which is intended to
35 perform an electronic function; and

36 c. “**Layout-Design**” is synonymous with 'Topography' and means the
37 three-dimensional disposition, however expressed, of the elements,
38 at least one of which is an active element, and of some or all of the
39 interconnections of an integrated circuit, or such a three-
40 dimensional disposition prepared for an integrated circuit intended

1 for manufacture.

2 **Sec. 113. *Conditions for Protection.*** –a. Only industrial designs that are
3 new or ornamental shall benefit from protection under this Act.

4 b. Industrial designs dictated essentially by technical or functional
5 considerations to obtain a technical result or those that are contrary to public
6 order, health or morals shall not be protected. (n)

7 c. Only layout-designs of integrated circuits that are original shall
8 benefit from protection under this Act. A layout-design shall be considered
9 original if it is the result of its creator's own intellectual effort and is not
10 commonplace among creators of layout-designs and manufacturers of integrated
11 circuits at the time of its creation.

12 d. A layout-design consisting of a combination of elements and
13 interconnections that are commonplace shall be protected only if the combination,
14 taken as a whole, is original.

15 **Sec. 114. *Contents of the Application.*** – a. Every application for
16 registration of an industrial design or layout-design shall contain:

17 (1) A request for registration of the industrial design or layout-design;

18 (2) Information identifying the applicant;

19 (3) An indication of the kind of article of manufacture or handicraft to
20 which the industrial design or layout-design shall be applied;

21 (4) A representation of the article of manufacture or handicraft by way
22 of drawings, photographs or other adequate graphic representation
23 of the industrial design or of the layout-design as applied to the
24 article of manufacture or handicraft which clearly and fully
25 discloses those features for which protection is claimed; and

26 (5) The name and address of the creator, or where the applicant is not
27 the creator, a statement indicating the origin of the right to the
28 industrial design or layout-design registration.

29 b. The application may be accompanied by a specimen of the article
30 embodying the industrial design or layout-design and shall be subject to the
31 payment of the prescribed fee. (n)

32 **Sec. 115. *Several Industrial Designs in One Application.*** - Two (2) or
33 more industrial designs may be the subject of the same application: *Provided,*
34 That they relate to the same sub-class of the International Classification or to the
35 same set or composition of articles. (n)

36 **Sec. 116. *Formality Examination.*** – a. The Office shall accord as the
37 filing date the date of receipt of the application containing indications allowing

1 the identity of the applicant to be established and a representation of the article
2 embodying the industrial design or the layout-design or a pictorial
3 representation thereof.

4 b. If the application does not meet these requirements, the filing date
5 should be that date when all the elements specified in Section 114 of this Act are
6 filed or the mistakes corrected. Otherwise if the requirements are not complied
7 within the prescribed period, the application shall be considered withdrawn.

8 c. After the conduct of a formality examination and upon full
9 compliance with the prescribed formality requirements, the application for
10 registration shall be published in the IPO Gazette. Within thirty (30) days from
11 the date of publication, third parties may file with the Director adverse
12 information citing grounds or information that the design is not new or not
13 registrable. The Director shall decide whether or not to grant the layout-design
14 registration based on such information.

15 An applicant has the option to file a request for deferred publication
16 simultaneously with the filing of the application or at any time prior to
17 publication date. The maximum period allowed for the deferred publication of a
18 layout-design application shall be thirty (30) months from the filing date or
19 priority date of the application. In case the request for the deferred publication is
20 made after the filing of the application, the allowable period for the deferred
21 publication shall be the remaining time from the allowed thirty (30) months
22 deferred publication period. The applicant or applicants may request for a
23 specific time for the Office to publish the application: *Provided*, That it does not
24 go beyond the allowed deferment period of thirty (30) months.

25 **Sec. 117. Registration.** – a. Where the Office finds that the conditions
26 referred to in Section 113 of this Act are deemed fulfilled, it shall order that
27 registration be effected in the industrial design or layout-design register and
28 cause the issuance of an industrial design or layout-design certificate of
29 registration in the absence of adverse information or where an adverse
30 information was resolved by the Director in favor of the applicant, the Director
31 shall issue the registration of the layout-design; otherwise, it shall refuse the
32 application.

33 The Director may decide whether or not to register the layout-design
34 application based on information or registrability report that the application does
35 not comply with Section of this Act.

36 b. The form and contents of an industrial design or layout-design
37 certificate shall be established by the Regulations: *Provided*, That the name and
38 address of the creator shall be mentioned in every case.

39 c. Registration shall be published in the form and within the period
40 fixed by the Regulations.

41 d. The Office shall record in the register any change in the identity of
42 the proprietor of the industrial design or layout-design or his representative, if

proof thereof is furnished to it. A fee shall be paid, with the request to record the change in the identity of the proprietor. If the fee is not paid, the request shall be deemed not to have been filed. In such case, the former proprietor and the former representative shall remain.

e. Anyone may inspect the Register and the files of registered industrial designs or layout-designs including the files of cancellation proceedings. (n)

Sec. 118. Term of Industrial Design or Layout-Design Registration.

– a. The registration of an industrial design shall be for a period of five (5) years from the filing date of the application.

b. The registration of an industrial design may be renewed for not more than two (2) consecutive periods of five (5) years each, by paying the renewal fee.

c. The renewal fee shall be paid within twelve (12) months preceding the expiration of the period of registration. However, a grace period of six (6) months shall be granted for payment of the fees after such expiration, upon payment of a surcharge.

d. The Regulations shall fix the amount of renewal fee, the surcharge and other requirements regarding the recording of renewals of registration.

e. Registration of a layout-design shall be valid for a period of ten (10) years, without renewal, and such validity to be counted from the date of commencement of the protection accorded to the layout-design. The protection of a layout-design under this Act shall commence:

(1) on the date of the first commercial exploitation, anywhere in the world, of the layout-design by or with the consent of the right holder: *Provided*, That an application for registration is filed with the Intellectual Property Office within two (2) years from such date of first commercial exploitation; or

(2) on the filing date accorded to the application for the registration of the layout-design if the layout-design has not been previously exploited commercially anywhere in the world.

Sec. 119. Application of Other Sections and Chapters. – a. The following provisions relating to patents shall apply *mutatis mutandis* to an industrial design registration:

Section 21

Novelty

Section 24

Prior art; *Provided*, That the disclosure is contained in printed documents or in any tangible form;

Section 25	Non-prejudicial Disclosure;
Section 28	Right to a Patent;
Section 29	First to File Rule;
Section 30	Inventions Created Pursuant to a Commission;
Section 31	Right of Priority: <i>Provided</i> , That the application for industrial design shall be filed within six (6) months from the earliest filing date of the corresponding foreign application;
Section 33	Appointment of Agent or Representative;
Section 51	Refusal of the Application;
Sections 56 to 60	Surrender, Correction of and Changes in Patent;
Chapter VII	Remedies of a Person with a Right to Patent;
Chapter VIII	Rights of Patentees and Infringement of Patents;
	and
Chapter XI	Assignment and Transmission of Rights

1 b. If the essential elements of an industrial design which is the subject
2 of an application have been obtained from the creation of another person without
3 his consent, protection under this Chapter cannot be invoked against the injured
4 party. (n)

5 c. The following provisions relating to patents shall apply *mutatis*
6 *mutandis* to a layout -design of integrated circuits registration:

Section 28	Right to a Patent;
Section 29	First to File Rule;
Section 30	Inventions Created Pursuant to a Commission;
Section 33	Appointment of Agent or Representative;
Section 56	Surrender of Patent;
Section 57	Correction of Mistakes of the Office;
Section 58	Correction of Mistakes in the Application;
Section 59	Changes in Patents;
Section 60	Form and Publication of Amendment;
Chapter VII	Remedies of a Person with a Right to Patent;
Chapter VIII	Rights of Patentees and Infringement of Patents: <i>Provided</i> , That the layout-design rights and

limitation of layout-design rights provided
hereunder shall govern:

Chapter X

Compulsory Licensing;

Chapter XI

Assignment and Transmission of Rights

d. *Rights Conferred to the Owner of a Layout-Design Registration.* - The owner of a layout-design registration shall enjoy the following rights:

- (1) to reproduce, whether by incorporation in an integrated circuit or otherwise, the registered layout-design in its entirety or any part thereof, except the act of reproducing any part that does not comply with the requirement of originality; and
- (2) to sell or otherwise distribute for commercial purposes the registered layout-design, an article or an integrated circuit in which the registered layout-design is incorporated.

e. *Limitations of Layout Rights.* - The owner of a layout design has no right to prevent third parties from reproducing, selling or otherwise distributing for commercial purposes the registered layout-design in the following circumstances:

- (1) Reproduction of the registered layout-design for private purposes or for the sole purpose of evaluation, analysis, research or teaching;
- (2) Where the act is performed in respect of a layout-design created on the basis of such analysis or evaluation and which is itself original in the meaning as provided herein;
- (3) Where the act is performed in respect of a registered lay-out-design, or in respect of an integrated circuit in which such a layout-design is incorporated, that has been put on the market by or with the consent of the right holder;
- (4) In respect of an integrated circuit where the person performing or ordering such an act did not know and had no reasonable ground to know when acquiring the integrated circuit or the article incorporating such an integrated circuit, that it incorporated an unlawfully reproduced layout-design: *Provided however,* That after the time that such person has received sufficient notice that the layout-design was unlawfully reproduced, that person may perform any of the said acts only with respect to the stock on hand or ordered before such time and shall be liable to pay to the right holder a sum equivalent to at least 5% of net sales or such other reasonable royalty as would be payable under a freely negotiated license in respect of such layout-design; or
- (5) Where the act is performed in respect of an identical layout-design

1 which is original and has been created independently by a third
2 party.

3 **Sec. 120. Cancellation of Design Registration.** – a. At any time during
4 the term of the industrial design registration, any person upon payment of the
5 required fee, may petition the Director of Legal Affairs to cancel the industrial
6 design on any of the following grounds:

7 (1) If the subject matter of the industrial design is not registrable
8 within the terms of Sections 112 and 113 of this Act;

9 (2) If the subject matter is not new; or

10 (3) If the subject matter of the industrial design extends beyond the
11 content of the application as originally filed.

12 b. Where the grounds for cancellation relate to a part of the industrial
13 design, cancellation may be effected to such extent only. The restriction may be
14 effected in the form of an alteration of the effected features of the design. (n)

15 c. *Grounds for Cancellation of Layout-Design of Integrated Circuits.*–
16 Any interested person may petition that the registration of a layout-design be
17 cancelled on the ground that:

18 (1) the layout-design is not protectable under this Act;

19 (2) the right holder is not entitled to protection under this Act; or

20 (3) where the application for registration of the layout-design, was not
21 filed within two (2) years from its first commercial exploitation
22 anywhere in the world.

23 Where the grounds for cancellation are established with respect only to a
24 part of the layout-design, only the corresponding part of the registration shall be
25 cancelled.

26 Any cancelled layout-design registration or part thereof, shall be regarded
27 as null and void from the beginning and may be expunged from the records of the
28 Intellectual Property Office. Reference to all cancelled layout-design registration
29 shall be published in the IPO Gazette.

30 **PART III.**
31 **THE LAW ON TRADEMARKS, SERVICE MARKS**
32 **AND TRADE NAMES**

33 **Sec. 121. Definitions.** -As used in Part III, the following terms have the
34 following meanings:

- 1 a. **"Mark"** means any sign or any combination of signs as may be
2 prescribed by the Regulations, capable of distinguishing the goods
3 (trademark) or services (service mark) of an enterprise and may
4 include a stamped or marked container of goods; (Sec. 38, R.A. No.
5 166a)
- 6 b. **"Collective Mark"** means any visible sign designated as such in
7 the application for registration and capable of distinguishing the
8 origin or any other common characteristic, including the quality of
9 goods or services of different enterprises which use the sign under
10 the control of the registered owner of the collective mark; (Sec. 40,
11 R.A. No. 166a)
- 12 c. **"Trade Name"** means the name or designation identifying or
13 distinguishing an enterprise; (Sec. 38, R.A. No. 166a)
- 14 d. **"Bureau"** means the Bureau of Trademarks;
- 15 e. **"Director"** means the Director of Trademarks;
- 16 f. **"Regulations"** means the Rules of Practice in Trademarks and
17 Service Marks formulated by the Director of Trademarks and
18 approved by the Director General;
- 19 g. **"Examiner"** means the trademark examiner; and
- 20 h. **"Certification mark"** means any sign, used or intended for use in
21 commerce with the owner's permission by someone other than its
22 owner, to certify regional or other geographic origin, material, mode
23 of manufacture, quality, accuracy, or other characteristics of
24 someone's goods or services, or that the work or labor on goods or
25 services was performed by members of a group or associations.

26 **Sec. 122. How Marks are Acquired.** - The rights in a mark shall be
27 acquired through registration made validly in accordance with the provisions of
28 this law. (Sec. 2-A, R.A. No. 166a)

29 **Sec. 123. Registrability.** -a. A mark cannot be registered if it:

- 30 (1) Consists of matter, which:
- 31 i. is deceptive or scandalous;
- 32 ii. may disparage or falsely suggest a connection with living or dead
33 persons, institutions, entities, beliefs, customs, values, or national
34 symbols, national identity, heritage or patrimony; or
- 35 iii. brings any of the foregoing into contempt, disrespect, or disrepute.
- 36 (2) consists of the flag, coat of arms or other insignia of the Philippines

1 or any of its political subdivisions, or of its agencies, or of any
2 foreign nation, or of any international intergovernmental
3 organization, or any simulation thereof;

4 (3) consists of a name, portrait or signature identifying a particular
5 living individual except by his written consent, or the name,
6 signature, or portrait of a deceased President of the Philippines,
7 during the life of the surviving spouse, if any, except by written
8 consent of the latter;

9 (4) is identical with a registered mark belonging to a different
10 proprietor or a mark with an earlier filing or priority date, in
11 respect of the same goods or services, or closely related goods or
12 services, or nearly resembles such a registered mark with an earlier
13 filing or priority date as to likely deceive or cause confusion;

14 (5) is identical with, or confusingly similar to, or constitutes a
15 translation of a mark which is considered by a competent authority
16 of the Philippines to be well-known internationally or in the country
17 following the criteria prescribed in the Regulations, whether or not
18 it is registered here, as being already the mark of a person other
19 than the applicant for registration, and used for identical or similar
20 goods or services: *Provided*, That use of the mark in relation to
21 those goods or services which are not similar to those with respect
22 to which registration is applied for and that the use of such mark in
23 those goods and services would indicate a connection between those
24 goods or services, and the owner of the well-known mark and that
25 the interests of the owner of the well-known mark are likely to be
26 damaged by such use: *Provided further*, That in determining
27 whether a mark is well-known, account shall be taken of the
28 knowledge of the relevant sector of the public, rather than of the
29 public at large, including knowledge in the Philippines which has
30 been obtained as a result of the promotion of the mark;

31 (6) is likely to mislead the public, particularly as to the nature, quality,
32 characteristics or geographical origin of the goods or services;

33 (7) consists exclusively of signs that are generic for the goods or
34 services that they seek to identify;

35 (8) consists exclusively of signs or of indications that have become
36 customary or usual to designate the goods or services in everyday
37 language or in *bona fide* and established trade practice;

38 (9) consists exclusively of signs or of indications that may serve in
39 trade to designate the kind, quality, quantity, intended purpose,
40 value, geographical origin, subject matter, time or production of the
41 goods or rendering of the services, or other characteristics of the
42 goods or services, except when the application for registration is for
43 a geographical indication either as a collective or certification mark;

1 (10) consists of shapes that may be necessitated by technical factors or
2 by the nature of the goods themselves or factors that affect their
3 intrinsic value;

4 (11) consists of color alone, unless defined by a given form;

5 (12) is contrary to public order or public policy;

6 (13) lacks distinctiveness; or

7 (14) impairs or dilutes the distinctiveness, or harms the reputation of a
8 well-known mark, as declared by competent authority, whether
9 registered or not.

10 b. For the purpose of declaring a mark well-known as provided for
11 under Section 123.a(5) and Section 123.a(12) hereof, the Director General,
12 Director of the Bureau of Legal Affairs, Director of the Bureau of Trademarks
13 and judicial authorities are considered competent authorities in relation to their
14 respective functions or jurisdictions. The Adjudication Officers are also
15 considered competent authorities if an issue of well-known status of a mark is
16 raised before them.

17 c. As regards signs or devices mentioned in Section 123.a (10), (11),
18 and (12) hereof or those where the shapes of the goods themselves or portion
19 thereof, their packaging, or containers are not necessitated by technical factors
20 or those factors only affect their intrinsic value, nothing shall prevent the
21 registration of any such sign or device which has become distinctive in relation to
22 the goods for which registration is requested as a result of the use that have been
23 made of it in commerce in the Philippines. The Office may accept as *prima facie*
24 evidence that the mark has become distinctive, as used in connection with the
25 applicant's goods or services in commerce, proof of substantially exclusive and
26 continuous use thereof by the applicant in commerce in the Philippines for three
27 (3) years before the date on which the claim of distinctiveness is made.

28 d. The nature of the goods to which the mark is applied will not
29 constitute an obstacle to registration. (Sec. 4, R.A. No. 166a)

30 **Sec. 124. Requirements of Application.** – a. The application for the
31 registration of the mark shall be in Filipino or in English and shall contain the
32 following:

33 (1) A request for registration;

34 (2) The name and address of the applicant;

35 (3) The name of a State of which the applicant is a national or where he
36 has domicile; and the name of a State in which the applicant has a
37 real and effective industrial or commercial establishment, if any;

- (4) Where the applicant is a juridical entity, the law under which it is organized and existing;
- (5) The appointment of an agent or representative, if the applicant is not domiciled in the Philippines;
- (6) Where the applicant claims the priority of an earlier application, an indication of:
- i. The name of the State with whose national office the earlier application was filed or if filed with an office other than a national office, the name of that office,
 - ii. The date on which the earlier application was filed, and
 - iii. Where available, the application number of the earlier application;
- (7) Where the applicant claims color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;
- (8) Where the mark is a three-dimensional mark, a statement to that effect;
- (9) One or more reproductions of the mark or series marks, as prescribed in the Regulations;
- (10) A transliteration or translation of the mark or of some parts of the mark, as prescribed in the Regulations;
- (11) The names of the goods or services for which the registration is sought, grouped according to the classes of the Nice Classification, together with the number of the class of the said Classification to which each group of goods or services belongs; and
- (12) A signature by, or other self-identification of, the applicant or his representative.
- b. To maintain the application or registration of the mark, it must be used on goods or services covered in the registration. For this purpose, the applicant or registrant shall file a declaration of actual use of the mark with evidence to that effect within:
- (1) three (3) years and six (6) months from the filing date of the application;
 - (2) One (1) year from the fifth (5th) anniversary of the registration;
 - (3) One (1) year from date of each renewal; and

(4) One (1) year from the fifth (5th) anniversary of each renewal.

Otherwise, the application shall be refused or the mark shall be removed from the Register by the Director.

Sec. 125. Representation; Address for Service. -If the applicant is not domiciled or has no real and effective commercial establishment in the Philippines, he shall designate by a written document filed in the office, the name and address of a Philippine resident who may be served notices or process in proceedings affecting the mark. Such notices or services may be served upon the person so designated by leaving a copy thereof at the address specified in the last designation filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Director. (Sec. 3, R.A. No. 166a)

Sec. 126. Disclaimers. - The Office may allow or require the applicant to disclaim an unregistrable component of an otherwise registrable mark but such disclaimer shall not prejudice or affect the applicant's or owner's rights then existing or thereafter arising in the disclaimed matter, nor such shall disclaimer prejudice or affect the applicant's or owner's right on another application of later date if the disclaimed matter became distinctive of the applicant's or owner's goods, business or services. (Sec. 13, R.A. No. 166a)

Sec. 127. Filing Date. -a. *Requirements.* - The filing date of an application shall be the date on which the Office received the following indications and elements in English or Filipino:

- (1) An express or implicit indication that the registration of a mark is sought;
- (2) The identity of the applicant;
- (3) Indications sufficient to contact details of the applicant or his representative, if any;
- (4) A reproduction of the mark whose registration is sought to be registered; and
- (5) The list of the goods or services for which covered by the mark to be registered the registration is sought.

b. Payment of the required filing fee on or immediately after the date of filing of the above requirements shall confirm the filing date and application number accorded to the application. No filing date shall be accorded until the required fee is paid. (n)

Sec. 128. Single Registration for Goods and/or Services. -Where goods and/or services belonging to several classes of the Nice Classification have been included in one (1) application, such an application shall result in one

1 registration. (n)

2 **Sec. 129. Division of Application.** - Any application referring to several
3 goods or services, hereafter referred to as the "initial application," may be divided
4 by the applicant into two (2) or more applications, hereafter referred to as the
5 "divisional applications," by distributing among the latter the goods or services
6 referred to in the initial application. The divisional applications shall preserve
7 the filing date of the initial application or the benefit of the right of priority. (n)

8 **Sec. 130. Signature and Other Means of Self-Identification.** - a.
9 Where a signature is required, the Office shall accept:

10 (1) A hand-written signature; or

11 (2) The use of other forms of signature, such as an electronic, digital,
12 printed or stamped signature, or the use of a seal, instead of a
13 hand-written signature: *Provided*, That where a seal is used, it
14 should be accompanied by an indication in letters of the name of the
15 signatory.

16 b. The Office shall accept communications to it by electronic means or
17 the latest technologies subject to the conditions or requirements that will be
18 prescribed by the Regulations.

 c. No attestation, notarization, authentication, legalization or other
certification of any signature or other means of self-identification referred to in
the preceding paragraphs, shall be required. Where the signature concerns the
surrender of a registration, the request must be notarized and if notarized in
another country, apostilled. (n)

19 **Sec. 131. Priority Right.** -a. An application for registration of a mark
20 filed in the Philippines by a person referred to in Section 3 of this Act, and who
21 previously duly filed an application for registration of the same mark in one of
22 those countries, shall be considered as filed as of the day the application was first
23 filed in the foreign country: *Provided*, That the application in the Philippines is
24 filed within six (6) months from the date on which the application was first filed
25 in the foreign country.

26
27 b. Nothing in this Section shall entitle the owner of a registration
28 granted under this Section to sue for acts committed prior to the date on which
29 his mark was registered in this country: *Provided*, That, notwithstanding the
30 foregoing, the owner of a well-known mark as defined in Section 123.a(5) of this
31 Act that is not registered in the Philippines may, against an identical or
32 confusingly similar mark, oppose its registration, or petition the cancellation of
33 its registration or sue for unfair competition, without prejudice to availing
34 himself of other remedies provided for under the law.

35 c. In like manner and subject to the same conditions and requirements,
36 the right provided in this Section may be based upon a subsequent regularly
37 filed application in the same foreign country: *Provided*, That any foreign

1 application filed prior to such subsequent application has been withdrawn,
2 abandoned, or otherwise disposed of, without having been laid open to public
3 inspection and without leaving any rights outstanding, and has not served, nor
4 thereafter shall serve, as a basis for claiming a right of priority. (Sec. 37, R.A. No.
5 166a)

6 **Sec. 132. *Application Number and Filing Date.*** –The Office shall
7 examine whether the application satisfies the formalities and substantive
8 requirements for the grant of registration. If the application does not satisfy the
9 registration requirements, the applicant shall be given the opportunity to
10 complete or correct the application as required, otherwise, the application shall
11 be considered abandoned.

12 **Sec. 133. *Examination and Publication.*** – a. Once the application
13 meets the filing requirements of Section 127 of this Act, the Office shall examine
14 whether the application meets the requirements of Section 124 hereof and the
15 mark as defined in Section 121 hereof is registrable under Section 123 of this
16 Act.

17 b. Where the Office finds that the conditions referred to in Section
18 133.a hereof are fulfilled, it shall, upon payment of the prescribed fee, forthwith
19 cause the application, as filed, to be published in the prescribed manner.

20 c. If after the examination, the applicant is not entitled to registration
21 for any reason, the Office shall advise the applicant thereof and the reasons
22 therefor. The applicant shall have a period of four (4) months in which to reply or
23 amend his application, which shall then be re-examined. The Regulations shall
24 determine the procedure for the re-examination or revival of an application as
25 well as the appeal to the Director of Trademarks from any final action by the
26 Examiner.

27 d. An abandoned application may be revived as a pending application
28 within three (3) months from the date of abandonment, upon good cause shown
29 and the payment of the required fee.

30 e. The final decision of refusal of the Director of Trademarks shall be
31 appealable to the Director General in accordance with the procedure fixed by the
32 Regulations. (Sec. 7, R.A. No. 166a)

33 **Sec. 134. *Opposition.*** - Any person who believes that he would be
34 damaged by the registration of a mark may, upon payment of the required fee
35 and within thirty (30) days after the publication of the application, file with the
36 Bureau of Legal Affairs an opposition thereto. For good cause shown and upon
37 payment of the required surcharge, the time for filing an opposition may be
38 extended by the Director of the Bureau of Legal Affairs, who shall notify the
39 applicant of such extension.

40 **Sec. 135. *Notice and Hearing.*** - Upon the filing of an opposition, the
41 Office shall serve notice of the filing on the applicant, and of the date of the
42 hearing thereof upon the applicant and the oppositor and all other persons

1 having any right, title or interest in the mark covered by the application, as
2 appear of record in the Office. (Sec. 9 R.A. No. 165)

3 **Sec. 135-A. Remand of Application to the Examiner.** - The Examiner
4 may again exercise jurisdiction over the application upon remand of the Director
5 on the ground of newly discovered information or objection to the registration of
6 the mark prior to the registration thereof and subject to the jurisdiction of the
7 Bureau of Legal Affairs. After remand of an application, the amendment(s)
8 recommended by the Examiner, if any, may be approved by the Director and may
9 be made without withdrawing the allowance. The Examiner may likewise issue a
10 subsequent action on the basis of the newly discovered information or objection.

11 **Sec. 136. Issuance and Publication of Certificate.** - When the
12 period for filing the opposition or appeal has expired or the decision or order
13 granting the application has become final and executory, and upon payment by
14 the applicant of the required fee, the Office shall issue the certificate of
15 registration with notice thereof published in the IPO Gazette.

16 **Sec. 137. Registration of Mark and Issuance of a Certificate to the**
17 **Owner or his Assignee.** -a. The Office shall maintain a Register in which shall
18 be registered marks, numbered in the order of their registration, and all
19 transactions in respect of each mark, required to be recorded by virtue of this law.

20 b. The registration of a mark shall include a reproduction of the mark
21 and shall mention: its number; the name and address of the registered owner
22 and, if the registered owner's address is outside the country, his address for
23 service within the country; the dates of application and registration; if priority is
24 claimed, an indication of this fact, and the number, date and country of the
25 application, basis of the priority claims; the list of goods or services in respect of
26 which registration has been granted, with the indication of the corresponding
27 class or classes; and such other data as the Regulations may prescribe from time
28 to time.

29 c. A certificate of registration of a mark may be issued to the assignee
30 of the applicant: *Provided*, That the assignment is recorded in the Office. In case
31 of a change of ownership, the Office shall at the written request signed by the
32 owner, or his representative, or by the new owner, or his representative and
33 upon a proper showing and the payment of the prescribed fee, issue to such
34 assignee a new certificate of registration of the said mark in the name of such
35 assignee, and for the unexpired part of the original period.

36 d. The Office shall record any change of address, or address for service,
37 which shall be notified to it by the registered owner.

38 e. In the absence of any provision to the contrary in this Act,
39 communications to be made to the registered owner by virtue of this Act shall be
40 sent to him at his last recorded address and, at the same, at his last recorded
41 address for service. (Sec. 19, R.A. No. 166a)

42 **Sec. 138. Certificates of Registration.** - A certificate of registration of a

1 mark shall be *prima facie* evidence of the validity of the registration, the
2 registrant's ownership of the mark, and of the registrant's exclusive right to use
3 the same in connection with the goods or services and those that are related
4 thereto specified in the certificate. (Sec. 20, R.A. No. 165)

5 **Sec. 139. *Publication of Registered Marks; Inspection of Register.* -**

6 a. The Office shall publish, in the form and within the period fixed by the
7 Regulations, the mark registered, in the order of their registration, reproducing
8 all the particulars referred to in Section 137.b of this Act.

9 b. Notwithstanding the provisions of Republic Act No. 10173, or the
10 "Data Privacy Act of 2012", and in accordance with the provisions of Executive
11 Order No. 2, series of 2016, entitled "Operationalizing in the Executive Branch
12 the People's Constitutional Right to Information and the State Policies to Full
13 Public Disclosure and Transparency in the Public Service and Providing
14 Guidelines Therefor", all official documents pertaining to a registered mark,
15 including the application, prosecution history and declaration of actual use, shall
16 be open to the public for inspection upon request and payment of the prescribed
17 fee.

18 **Sec. 140. *Cancellation upon Application by Registrant; Amendment***
19 ***or Disclaimer of Registration.* -** Upon application of the registrant, the Office
20 may permit any registration to be surrendered for cancellation, and upon
21 cancellation the appropriate entry shall be made in the records of the Office.
22 Upon application of the registrant and payment of the prescribed fee, the Office
23 for good cause may permit any registration to be amended or to be disclaimed in
24 part.

25 **Sec. 141. *Sealed and Certified Copies as Evidence.* -** Copies of any
26 records, books, papers, or drawings belonging to the Office relating to marks, and
27 copies of registrations, when authenticated by the seal of the Office and certified
28 by the Director of the Bureau of Trademarks or in his name by an employee of
29 the Office duly authorized by said Director, shall be evidence in all cases wherein
30 the originals would be evidence; and any person who applies and pays the
31 prescribed fee shall secure such copies.

32 **Sec. 142. *Correction of Mistakes Made by the Office.* -** Certificate of
33 trademark registration may be cancelled or corrected in accordance with the
34 Regulations. All certificates of registration heretofore issued in accordance with
35 the Regulations and the registration to which they are attached shall have the
36 same force and effect as if such certificates and their issuance had been
37 authorized by this Act.

38 **Sec. 143. *Correction of Mistakes in the Trademark Registration.*-**
39 Upon request of any interested person and payment of the prescribed fee, the
40 Office is authorized to correct any formal or clerical mistake in trademark
41 registrations not incurred through the fault of the Office.

42 **Sec. 144. *Classification of Goods and Services.* -** a. Each registration,
43 and any publication of the Office which concerns an application or registration

1 effected by the Office shall indicate the goods or services by their names, grouped
2 according to the classes of the Nice Classification, and each group shall be
3 preceded by the number of the class of that Classification to which that group of
4 goods or services belongs, presented in the order of the classes of the said
5 Classification.

6 b. Goods or services that are in the same class are not necessarily
7 similar. On the other hand, goods or services that are in different classes of the
8 Nice Classification are not necessarily dissimilar.

9 **Sec. 145. *Duration.*** - A certificate of registration shall remain in force for
10 ten (10) years from the date of registration.

11
12 **Sec. 146. *Renewal.*** - A certificate of registration may be renewed for
13 periods of ten (10) years at its expiration upon payment of the prescribed fee and
14 upon filing of a request.

15 **Sec. 147. *Rights Conferred.*** - a. Except in cases of importation of drugs
16 and medicines allowed under Section 72.a of this Act and of off-patent drugs and
17 medicines, the owner of a registered mark shall have the exclusive right to
18 prevent, prohibit, and restrain all third parties not having the owner's consent
19 from using in the course of trade identical or similar signs or containers for goods
20 or services which are identical or similar to those in respect of which the
21 trademark is registered where such use would result in a likelihood of confusion.
22 In case of the use of an identical sign for identical goods or services, a likelihood
23 of confusion shall be presumed.

24 There shall be no infringement of trademarks or tradenames of imported
25 or sold patented drugs and medicines allowed under Section 72.a of this Act, as
26 well as imported or sold off-patent drugs and medicines; *Provided*, That said
27 drugs and medicines bear the registered marks that have not been tampered,
28 unlawfully modified, or infringed upon, under Section 155 of this Code.

29 b. The exclusive right of the owner of a well-known mark defined in
30 Section 123.a(5) hereof which is registered in the Philippines, shall extend to
31 goods and services which are not similar to those in respect of which the mark is
32 registered: *Provided*, That use of that mark in relation to those goods or services
33 would indicate a connection between those goods or services and the owner of the
34 registered mark: *Provided further*, That the interests of the owner of the
35 registered mark are likely to be damaged by such use. (n)

36 **Sec. 148. *Lawful Use of Indications by Third Parties.*** -a. *Use of*
37 *Indications of Third Parties for Purposes Other than Use of the Mark; Descriptive*
38 *Fair Use.* - Registration of the mark shall not confer on the registered owner the
39 right to preclude third parties from using bona fide their names, addresses,
40 pseudonyms, a geographical name, or exact indications concerning the kind,
41 quality, quantity, destination, value, place of origin, or time of production or of
42 supply, of their goods or services: *Provided*, That such use is confined to the
43 purposes of mere identification or information and cannot mislead the public as

1 to the source of the goods or services.

2 b. *Other Use of the Mark; Normative Fair Use.* – The registered owner
3 of a protectable trademark cannot preclude third parties from nominative use of
4 a registered mark: *Provided*, That the following requisites occur:

5 (1) The goods or service of the third party is not readily identifiable
6 without the use of indication;

7 (2) That only so much of the registered trademark as is reasonably
8 necessary to identify the product or service is used, and

9 (3) That such use does not suggest sponsorship, endorsement, or
10 affiliation with the trademark owner.

11 **Sec. 149. Assignment and Transfer of Application and Registration.**

12 – a. An application for registration of a mark, or its registration, may be assigned
13 or transferred with or without the transfer of the business using the mark. (n)

14 b. Such assignment or transfer shall, however, be null and void if it is
15 liable to mislead the public, particularly as regards the nature, source,
16 manufacturing process, characteristics, or suitability for their purpose, of the
17 goods or services to which the mark is applied.

18 c. The assignment of the application for registration of a mark, or of
19 its registration, shall be in writing and require the signatures of the contracting
20 parties. Transfers by mergers or other forms of succession may be made by any
21 document supporting such transfer.

22 d. Assignments and transfers of registration of marks shall be
23 recorded at the Office on payment of the prescribed fee; assignment and
24 transfers of applications for registration shall, on payment of the same fee, be
25 provisionally recorded, and the mark, when registered, shall be in the name of
26 the assignee or transferee.

27 e. Assignments and transfers shall have no effect against third parties
28 until they are recorded at the Office. (Sec. 31, R.A. No. 166a)

29 **Sec. 150. License Contracts.** –a. Any license contract concerning the
30 registration of a mark, or an application therefor, shall provide for effective
31 control by the licensor of the quality of the goods or services of the licensee in
32 connection with which the mark is used. If the license contract does not provide
33 for such quality control, or if such quality control is not effectively carried out, the
34 license contract shall not be valid.

35 b. A license contract shall be submitted to the Office which shall keep
36 its contents confidential but shall record it and publish a reference thereto. A
37 license contract shall have no effect against third parties until such recording is
38 effected. The Regulations shall fix the procedure for the recording of the license
39 contract. (n)

1 **Sec. 151. Cancellation of Registration.** – a. A petition to cancel a
2 registration of a mark under this Act may be filed with the Bureau of Legal
3 Affairs by any interested person at any time:

- 4 (1) If the registration was contrary to the provisions of this Act;
- 5 (2) If the registration was obtained fraudulently;
- 6 (3) If the registration was obtained in bad faith;
- 7 (4) If the mark has been abandoned;
- 8 (5) If the mark is being used to misrepresent the source of the goods or
9 services on or in connection with which the mark is used;
- 10 (6) If the registered owner of the mark without legitimate reason fails
11 to use the mark within the Philippines, or to cause it to be used in
12 the Philippines by virtue of a license during an uninterrupted
13 period of forty-two (42) months or longer; or
- 14 (7) If the mark has become generic.

15
16 If the registered mark becomes the generic name for less than all of the
17 goods or services for which it is registered, a petition to cancel the
18 registration for only those goods or services may be filed. A registered
19 mark shall not be deemed to be the generic name of goods or services
20 solely because such mark is also used as a name of or to identify a unique
21 product or service. The primary significance of the registered mark to the
22 relevant public rather than purchaser motivation shall be the test for
23 determining whether the registered mark has become the generic name of
24 goods or services on or in connection with which it has been used. (n)
25

26 b. Notwithstanding the foregoing provisions, the court or the
27 administrative agency vested with jurisdiction to hear and adjudicate any action
28 to enforce the rights to a registered mark shall likewise exercise jurisdiction to
29 determine whether the registration of said mark may be cancelled in accordance
30 with this Act. The filing of a suit to enforce the registered mark with the proper
31 court or agency shall exclude any other court or agency from assuming
32 jurisdiction over a subsequently filed petition to cancel the same mark. On the
33 other hand, the earlier filing of petition to cancel the mark with the Bureau of
34 Legal Affairs shall not constitute a prejudicial question that must be resolved
35 before an action to enforce the rights to same registered mark may be decided.
36 (Sec. 17, R.A. No. 166a)

37 **Sec. 152. Non-use of a Mark When Excused.** – a. Non-use of a mark
38 may be excused if caused by circumstances arising independently of the will of
39 the trademark owner. Lack of funds shall not excuse non-use of a mark.

40 b. The use of the mark in a form different from the form in which it is

1 registered, which does not alter its distinctive character, shall not be ground for
2 cancellation or removal of the mark and shall not diminish the protection
3 granted to the mark.

4 c. The use of a mark in connection with one or more of the goods or
5 services belonging to the class in respect of which the mark is registered shall
6 prevent its cancellation or removal in respect of all other goods or services of the
7 same class.

8 d. The use of a mark by a company related with the registrant or
9 applicant shall inure to the latter's benefit, and such use shall not affect the
10 validity of such mark or of its registration: *Provided*, That such mark is not used
11 in such manner as to deceive the public. If use of a mark by a person is controlled
12 by the registrant or applicant with respect to the nature and quality of the goods
13 or services, such use shall inure to the benefit of the registrant or applicant. (n)

14 **Sec. 153. Requirements of Petition; Notice and Hearing.** - Insofar as
15 applicable, the petition for cancellation shall be in the same form as that provided
16 in Section 134 hereof, and notice and hearing shall be as provided in Section 135
17 of this Act.

18 **Sec. 154. Cancellation of Registration.** - If the Bureau of Legal Affairs
19 finds that a case for cancellation has been made out, it shall order the
20 cancellation of the registration. When the order or judgment becomes final, any
21 right conferred by such registration upon the registrant or any person in interest
22 of record shall terminate. Notice of cancellation shall be published in the IPO
23 Gazette. (Sec. 19. R.A. No. 166a)

24 **Sec. 155. Infringing Acts.**- The following acts committed without the
25 consent of the owner, shall constitute infringement:

26 a. Use in commerce any reproduction, counterfeit, copy, or colorable
27 imitation of a registered mark or the same container or a dominant
28 feature thereof in connection with the sale, offering for sale,
29 distribution, advertising of any goods or services including other
30 preparatory steps necessary to carry out the sale of any goods or
31 services on or in connection with which such use is likely to cause
32 confusion, or to cause mistake, or to deceive; or

33 b. Reproduce, counterfeit, copy or colorably imitate a registered mark
34 or a dominant feature thereof and apply such reproduction,
35 counterfeit, copy or colorable imitation to labels, signs, prints,
36 packages, wrappers, receptacles or advertisements intended to be
37 used in commerce upon or in connection with the sale, offering for
38 sale, distribution, or advertising of goods or services on or in
39 connection with which such use is likely to cause confusion, or to
40 cause mistake, or to deceive, shall be liable in a civil action for
41 infringement by the registrant for the remedies hereinafter set forth:
42 *Provided*, That the infringement takes place at the moment any of
43 the acts stated in Section 155.a hereof or this Section are

1 committed regardless of whether there is actual sale of goods or
2 services using the infringing material. (Sec. 22, R.A. No 166a)

3 **Sec. 155-A. *Solidary Liability.*** - The following shall be held solidarily
4 liable with the infringer only to the extent of civil damages suffered by the
5 complainant:

6 a. One who, for profit or benefit, permits the use of the latter's
7 premises in selling, offering for sale, manufacturing, or distribution
8 of any infringing, counterfeit or pirated goods or content, and has
9 been proven to have knowledge of such fact and participated in the
10 infringing act of the tenants;

11 b. Internet service providers, domain name registries and registrars,
12 website owners, online intermediaries, online platforms, social
13 media platforms, or any similar entities engaged in selling, offering
14 for sale, or making available to the public any infringing,
15 counterfeit or pirated goods or content, who (i) fail to exercise due
16 diligence in complying with the minimum requirements set by law,
17 or (ii) fail to take down or block access to the infringing material or
18 website within a reasonable time or enforce their policy against
19 infringement, counterfeiting or piracy, after notice of the fact of
20 infringement or counterfeiting has been given.

21 The concerned entity referred to in this paragraph (b) shall not be
22 held liable if it is able to prove that it has exercise due diligence in
23 ascertaining the accuracy and reliability of the documents or
24 information submitted by the online merchant or exhibitor and that
25 it has no knowledge of such fact of infringement and counterfeiting
26 and no participation in the infringing and counterfeiting act.

27 **Sec. 156. *Actions, and Damages and Injunction for Infringement.*** -

28 a. The owner of a registered mark may recover damages from any person who
29 infringes his rights, and the measure of the damages suffered shall be either the
30 reasonable profit which the complaining party would have made, had the
31 defendant not infringed his rights, or the profit which the defendant actually
32 made out of the infringement, or in the event such measure of damages cannot be
33 readily ascertained with reasonable certainty, then the court may award as
34 damages a reasonable percentage based upon the amount of gross sales of the
35 defendant or the value of the services in connection with which the mark or trade
36 name was used in the infringement of the rights of the complaining party. (Sec.
37 23, first par., R.A. No. 166a)

38 b. On application of the complainant, the court may impound during
39 the pendency of the action, materials and implements primarily or
40 predominantly used in the act of infringement, sales invoices and other
41 documents evidencing sales. (n)

42 c. In cases where actual intent to mislead the public or to defraud the
43 complainant is shown, the damages may be doubled in the discretion of the court.

1 d. The complainant, upon proper showing, may also be granted
2 injunction. (Sec. 23, second par., R.A. No. 166a)

3 **Sec. 157. Power of Court to Order Infringing Material Destroyed.** - a.
4 In any action arising under this Act, in which a violation of any right of the
5 owner of the registered mark is established, the court may order that goods found
6 to be infringing be, without compensation of any sort, disposed of outside the
7 channels of commerce in such a manner as to avoid any harm caused to the right
8 holder, or destroyed; and all labels, signs, prints, packages, wrappers, receptacles
9 and advertisements in the possession of the defendant, bearing the registered
10 mark or trade name or any reproduction, counterfeit, copy or colorable imitation
11 thereof, all plates, molds, matrices and other means of making the same, shall be
12 delivered up and destroyed.

13 b. In regard to counterfeit goods, the simple removal of the trademark
14 affixed shall not be sufficient other than in exceptional cases which shall be
15 determined by the Regulations, to permit the release of the goods into the
16 channels of commerce. (Sec. 24, R.A. No. 166a)

17 **Sec. 158. Damages; Requirement of Notice.** - In any suit for
18 infringement, the owner of the registered mark shall not be entitled to recover
19 profits or damages unless the acts have been committed with knowledge that
20 such imitation is likely to cause confusion, or to cause mistake, or to deceive.
21 Such knowledge is presumed if the registrant gives notice that his mark is
22 registered by displaying with the mark the words "Registered Mark" or the letter
23 R within a circle or if the defendant had otherwise actual notice of the
24 registration. (Sec. 21, R.A. No. 166a)

25 **Sec. 159. Limitations to Actions for Infringement.** - Notwithstanding
26 any other provision of this Act, the remedies given to the owner of a right
27 infringed under this Act shall be limited as follows:

28 a. Notwithstanding the provisions of Section 155 hereof, a registered
29 mark shall have no effect against any person who, in good faith, before the filing
30 date or the priority date, was using the mark for the purposes of his business or
31 enterprise: *Provided*, That his right may only be used in, or transferred or
32 assigned together with the existing enterprise or business or with that part of his
33 enterprise or business in which the mark is used.

34 b. Where an infringer who is engaged solely in the business of printing
35 the mark or other infringing materials for others is an innocent infringer, the
36 owner of the right infringed shall be entitled as against such infringer only to an
37 injunction against future printing.

38 c. Where the infringement complained of is contained in or is part of paid
39 advertisement in a newspaper, magazine, or other similar periodical or in an
40 electronic communication, the remedies of the owner of the right infringed as
41 against the publisher or distributor of such newspaper, magazine, or other
42 similar periodical or electronic communication shall be limited to an injunction

1 against the presentation of such advertising matter in future issues of such
2 newspapers, magazines, or other similar periodicals or in future transmissions of
3 such electronic communications. The limitations of this subparagraph shall
4 apply only to innocent infringers: *Provided*, That such injunctive relief shall not
5 be available to the owner of the right infringed with respect to an issue of a
6 newspaper, magazine, or other similar periodical or an electronic communication
7 containing infringing matter where restraining the dissemination of such
8 infringing matter in any particular issue of such periodical or in an electronic
9 communication would delay the delivery of such issue or transmission of such
10 electronic communication is customarily conducted in accordance with the sound
11 business practice, and not due to any method or device adopted to evade this
12 Section or to prevent or delay the issuance of an injunction or restraining order
13 with respect to such infringing matter; and

14 d. There shall be no infringement of trademarks or tradenames of
15 imported or sold drugs and medicines allowed under Section 72.a of this Act, as
16 well as imported or sold off-patent drugs and medicines: *Provided*, That said
17 drugs and medicines bear the registered marks that have not been tampered,
18 unlawfully modified, or infringed upon as defined under Section 155 of this Code.

19 **Sec. 160. *Right of Foreign Corporation to Sue in Trademark or***
20 ***Service Mark Enforcement Action.*** – Any foreign national or juridical person
21 who meets the requirements of Section 3 of this Act and does not engage in
22 business in the Philippines may bring a civil or administrative action hereunder
23 for opposition, cancellation, infringement, unfair competition, or false designation
24 of origin and false description, whether or not it is licensed to do business in the
25 Philippines under existing laws. (Sec. 21-A, R.A. No. 166a)

26 **Sec. 161. *Authority to Determine Right to Registration.*** - In any
27 action involving a registered mark, the court or the Office may determine the
28 right to registration or ownership, and if applicable, order the cancellation of a
29 registration, in whole or in part, and otherwise rectify the register by the
30 substitution of the rightful owner as the registrant with respect to the
31 registration of any party to the action in the exercise of this right. Where the
32 determination was made by the court, the judgment or order shall be certified by
33 the court to the Director General, who shall cause the entry of the appropriate
34 annotation upon the records of the respective Bureau, and shall be controlled
35 thereby.

36 **Sec. 162. *Action for False or Fraudulent Declaration.*** – Any person
37 who shall procure registration in the Office of a mark by a false or fraudulent
38 declaration or representation, whether oral or in writing, or by any false means,
39 shall be liable in a civil action by any person injured thereby for any damages
40 sustained in consequence thereof. (Sec. 26, R.A. No. 166)

41 **Sec. 163. *Jurisdiction of Court.*** - All actions under Sections 150, 155,
42 164, and 166 to 169 of this Act shall be brought before the proper courts with
43 appropriate jurisdiction under existing laws. (Sec. 27, R.A. No. 166)

44 **Sec. 164. *Notice of Filing Suit Given to the Director.*** – It shall be the

1 duty of the clerks of such courts within one (1) month after the filing of any action,
2 suit, or proceeding involving a mark registered under the provisions of this Act,
3 to notify the Director in writing setting forth: the names and addresses of the
4 litigants and designating the number of the registration or registrations and
5 within one (1) month after the judgment is entered or an appeal is taken, the
6 clerk of court shall give notice thereof to the Office, and the latter shall endorse
7 the same upon the file wrapper of the said registration or registrations and
8 incorporate the same as a part of the contents of said file wrapper. (n)

9 **Sec. 165. Trade Names or Business Names.** – a. A name or designation
10 may not be used as a trade name if by its nature or the use to which such name
11 or designation may be put, it is contrary to public order or morals and if, in
12 particular, it is liable to deceive trade circles or the public as to the nature of the
13 enterprise identified by that name.

14 b. Notwithstanding any laws or regulations providing for any
15 obligation to register trade names, such names shall be protected, even prior to
16 or without registration, against any unlawful act committed by third parties.

17 c. In particular, any subsequent use of the trade name by a third
18 party, whether as a trade name or a mark or collective mark, or any such use of a
19 similar trade name or mark, likely to mislead the public, shall be deemed
20 unlawful.

21 d. The remedies provided for in Sections 153 to 156 and Sections 166
22 and 167 of this Act shall apply *mutatis mutandis*.

23 e. Any change in the ownership of a trade name shall be made with
24 the transfer of the enterprise or part thereof identified by that name. The
25 provisions of Sections 149.b to 149.d of this Act shall apply *mutatis mutandis*.

26 **Sec. 166. Goods Bearing Infringing Marks or Trade Names.** – a.
27 *Imported Goods.* – Imported goods, which shall copy or simulate the name of any
28 domestic product, or manufacturer, or dealer, or which shall copy or simulate a
29 mark registered in accordance with the provisions of this Act, or shall bear a
30 mark or trade name calculated to induce the public to believe that the article is
31 manufactured in the Philippines, or that it is manufactured in any foreign
32 country or locality other than the country or locality where it is in fact
33 manufactured, shall, upon notice and hearing, be seized and disposed of or
34 destroyed. In order to aid the officers of the customs service in enforcing this
35 prohibition, any person who is entitled to the benefits of this Act, may require
36 that his name and residence, the name of the locality in which his goods are
37 manufactured, and a copy of the certificate of registration of his mark or trade
38 name, to be recorded in books which shall be kept for this purpose in the Bureau
39 of Customs, under such regulations as the Collector of Customs with the approval
40 of the Secretary of Finance shall prescribe, and may furnish to the said Bureau
41 facsimiles of his name, the name of the locality in which his goods are
42 manufactured, or his registered mark or trade name, and thereupon the Collector
43 of Customs shall cause one (1) or more copies of the same to be transmitted to
44 each collector or to other proper officer of the Bureau of Customs.

1 b. *Exported Goods.* – Exported goods, or goods intended to be exported,
2 which shall copy or simulate the name of any domestic product, or manufacturer,
3 or dealer, or which shall copy or simulate a mark registered in accordance with
4 the provisions of this Act, or shall bear a mark or trade name calculated to induce
5 the public to believe that the article is manufactured in the Philippines, or that it
6 is manufactured in any foreign country or locality other than the country or
7 locality where it is in fact manufactured, shall, upon notice and hearing, be seized
8 and disposed of or destroyed.

9 **Sec. 167. Collective Marks and Certification Marks.** –a. Subject to
10 Sections 167.b and 167.c hereof, Sections 122 to 164 and 166 of this Act shall
11 apply to collective marks and certification marks, except that references therein
12 to "mark" shall be read as "collective mark or "certification mark."

13 b.

14 (1) An application for registration of a collective mark shall designate
15 the mark as a collective mark and shall be accompanied by a copy of
16 the agreement, if any, governing the use of the collective mark. An
17 application for registration of a certification mark shall designate
18 the mark as a certification mark and shall be accompanied by a
19 copy of the standards set by the certifier governing the use of the
20 certification mark.

21 (2) The registered owner of a collective mark or a certification mark
22 shall notify the Director of any changes made in respect of the
23 agreement referred to in paragraph b(1).

24 c. In addition to the grounds provided in Section 149, the Office or the
25 court shall cancel the registration of a collective mark or certification if the
26 person requesting the cancellation proves that only the registered owner uses the
27 mark, or that he uses or permits its use in contravention of the agreements
28 referred to in Section 166.b or that he uses or permits its use in a manner liable
29 to deceive trade circles or the public as to the origin or any other common
30 characteristics of the goods or services concerned.

31 d. The registration of a collective mark or certification mark, or an
32 application therefor shall not be the subject of a license contract.

33 **Sec. 168. Unfair Competition, Rights, Regulation and Remedies.** – a.
34 A person who has identified in the mind of the public the goods he manufactures
35 or deals in, his business or services from those of others, whether or not a
36 registered mark is employed, has a property right in the goodwill of the said
37 goods, business or services so identified, which will be protected in the same
38 manner as other property rights.

39 b. Any person who shall employ deception or any other means
40 contrary to good faith by which he shall pass off the goods manufactured by him

1 or in which he deals, or his business, or services for those of the one having
2 established such goodwill, or who shall commit any acts calculated to produce
3 said result, shall be guilty of unfair competition, and shall be subject to an action
4 therefor.

5 c. In particular, and without in any way limiting the scope of
6 protection against unfair competition, the following shall be deemed guilty of
7 unfair competition:

8 (1) Any person, who is selling his goods and gives them the general
9 appearance of goods of another manufacturer or dealer, either as to
10 the goods themselves or in the wrapping of the packages in which
11 they are contained, or the devices or words thereon, or in any other
12 feature of their appearance, which would be likely to influence
13 purchasers to believe that the goods offered are those of a
14 manufacturer or dealer, other than the actual manufacturer or
15 dealer, or who otherwise clothes the goods with such appearance as
16 shall deceive the public and defraud another of his legitimate trade,
17 or any subsequent vendor of such goods or any agent of any vendor
18 engaged in selling such goods with a like purpose;

19 (2) Any person who by any artifice, or device, or who employs any other
20 means calculated to induce the false belief that such person is
21 offering the services of another who has identified such services in
22 the mind of the public; or

23 (3) Any person who shall make any false statement in the course of
24 trade or who shall commit any other act contrary to good faith of a
25 nature calculated to discredit the goods, business or services of
26 another.

27 d. The remedies provided by Sections 156, 157 and 161 of this Act
28 shall apply *mutatis mutandis*. (Sec. 29, R.A. No. 166a)

29 **Sec. 169. False Designations of Origin; False Description or**
30 **Representation.** – a. Any person who, on or in connection with any goods or
31 services, or any container for goods, uses in commerce any word, term, name,
32 symbol, or device, or any combination thereof, or any false designation of origin,
33 false or misleading description of fact, or false or misleading representation of
34 fact, which:

35 (1) Is likely to cause confusion, or to cause mistake, or to deceive as to
36 the affiliation, connection, or association of such person with
37 another person, or as to the origin, sponsorship, or approval of his
38 or her goods, services, or commercial activities by another person; or

39 (2) In commercial advertising or promotion, misrepresents the nature,
40 characteristics, sponsorship, qualities, or geographic origin of his or
41 her or another person's goods, services, or commercial activities,
42 shall be liable to a civil action for damages and injunction provided

1 in Sections 156 and 157 of this Act by any interested person.

2 b. Any goods marked or labeled in contravention of the provisions of
3 this Section shall not be imported into the Philippines or admitted entry at any
4 customhouse of the Philippines. The owner, importer, or consignee of goods
5 refused entry at any customhouse under this Section may have any recourse
6 under the customs revenue laws or may have the remedy given by this Act in
7 cases involving goods refused entry or seized. (Sec. 30, R.A. No. 166a)

8 **Sec. 170. Penalties.** – Independent of the civil and administrative
9 remedies, persons liable for trademark infringement, unfair competition, false
10 designations of origin, or false designation or representation shall, upon
11 conviction, be punished by law, imprisonment or fine, or both, at the discretion of
12 the court, as follows:

13 a. Imprisonment from three (3) years to five (5) years or a fine ranging
14 from Four hundred thousand pesos (P400,000) to One million pesos
15 (P1,000,000), or both for the first offense;

16 c. Imprisonment from five (5) years and one (1) day to seven (7) years,
17 or a fine ranging from over One million pesos (P1,000,000) to Two
18 million pesos (P2,000,000), or both for the second offense; and

19 c. Imprisonment from seven (7) years and one (1) day to ten (10) years,
20 or a fine ranging from over Two million pesos (P2,000,000) to Four
21 million pesos (P4,000,000), or both for the third and subsequent
22 offenses.

23 d. In cases of counterfeit goods that threaten life, public health and
24 safety, the court shall impose the maximum penalty of ten (10) years
25 of imprisonment or a fine of Four million pesos (P4,000,000), or both.

26 **PART IV.**
27 **THE LAW ON COPYRIGHT**

28 **Chapter I.**
29 **PRELIMINARY PROVISIONS**

30 **Sec. 171. Definitions.** - For the purpose of Part IV of this Act, the
31 following terms have the following meaning:

32 a. "Author" is the natural person who has created the work;
33

34 b. A "collective work" is a work which has been created by two (2) or
35 more natural persons at the initiative and under the direction of
36 another with the understanding that it will be disclosed by the
37 latter under his own name and that contributing natural persons
38 will not be identified;

39 c. "Communication to the public" or "communicate to the public"

1 means any communication to the public, including broadcasting,
2 rebroadcasting, retransmitting by cable, broadcasting and
3 retransmitting by satellite, and includes the making of a work
4 available to the public by wire or wireless means in such a way that
5 members of the public may access these works from a place and
6 time individually chosen by them;

7 d. A "**computer**" is an electronic or similar device having information-
8 processing capabilities, and a "computer program" is a set of
9 instructions expressed in words, codes, schemes or in any other
10 form, which is capable when incorporated in a medium that the
11 computer can read, or causing the computer to perform or achieve a
12 particular task or result;

13 e. "**Public lending**" is the transfer of possession of the original or a
14 copy of a work or sound recording for a limited period, for non-profit
15 purposes, by an institution the services of which are available to the
16 public, such as public library or archive;

17 f. "**Public performance**," in the case of a work other than an
18 audiovisual work, is the recitation, playing, dancing, acting or
19 otherwise performing the work, either directly or by means of any
20 device or process; in the case of an audiovisual work, the showing of
21 its images in sequence and the making of the sounds accompanying
22 it audible; and, in the case of a sound recording, making the
23 recorded sounds audible at a place or at places where persons
24 outside the normal circle of a family and that family's closest social
25 acquaintances are or can be present, irrespective of whether they
26 are or can be present at the same place and at the same time, or at
27 different places and/or at different times, and where the
28 performance can be perceived without the need for communication
29 within the meaning of Section 171.c hereof;

30 g. "**Published works**" means works, which, with the consent of the
31 authors, are made available to the public by wire or wireless means
32 in such a way that members of the public may access these works
33 from a place and time individually chosen by them: *Provided*, That
34 availability of such copies has been such, as to satisfy the
35 reasonable requirements of the public, having regard to the nature
36 of the work;

37 h. "**Rental**" is the transfer of the possession of the original or a copy of
38 a work or a sound recording for a limited period of time, for profit-
39 making purposes;

40 i. "**Reproduction**" is the making of one (1) or more copies, temporary
41 or permanent, in whole or in part, of a work or a sound recording in
42 any manner or form without prejudice to the provisions of Section
43 185 of this Act (Sec. 41 [E], P.D. No. 49a);

- 1 j. A **"work of applied art"** is an artistic creation with utilitarian
2 functions or incorporated in a useful article, whether made by hand
3 or produced on an industrial scale;
- 4 k. A **"work of the Government of the Philippines"** is a work
5 created by an officer or employee of the Philippine Government or
6 any of its subdivisions and instrumentalities, including
7 government-owned or controlled corporations as part of his
8 regularly prescribed official duties.
- 9 l. **"Technological measure"** means any technology, device or
10 component that, in the normal course of its operation, restricts acts
11 in respect of a work, performance or sound recording, which are not
12 authorized by the authors, performers or producers of sound
13 recordings concerned or permitted by law;
- 14 m. **"Rights management information"** means information which
15 identifies the work, sound recording or performance; the author of
16 the work, producer of the sound recording or performer of the
17 performance; the owner of any right in the work, sound recording or
18 performance; or information about the terms and conditions of the
19 use of the work, sound recording or performance; and any number
20 or code that represent such information, when any of these items is
21 attached to a copy of the work, sound recording or fixation of
22 performance or appears in conjunction with the communication to
23 the public of a work, sound recording or performance.
- 24 n. **"Copyright"** is the bundle of exclusive economic rights and moral
25 rights;
- 26 o. **"Collective Management Organization"** is any entity engaged in
27 collective management of copyright and related rights subject to the
28 rules and regulations of the Office.
- 29 p. **"Orphan works"** are works that are still protected by copyright but
30 whose authors or other right holders are not known or cannot be
31 located;
- 32 q. **"Right holder"** refers to a person or entity who owns a copyright or
33 related right; and
- 34 r. **"Bureau"** means the Bureau of Copyright and Related Rights.

35 Chapter II.
36 ORIGINAL WORKS

37 Sec. 172. *Literary and Artistic Works.* – a. Literary and artistic works,
38 hereinafter referred to as "works", are original intellectual creations in the
39 literary and artistic domain protected from the moment of their creation.
40 Originality means that the work was independently created by the author.

Literary and artistic works shall include in particular:

- (1) Books, pamphlets, articles and other writings;
- (2) Periodicals and newspapers;
- (3) Lectures, sermons, addresses, dissertations;
- (4) Letters and other private communications;
- (5) Dramatic or dramatico-musical compositions; choreographic works and entertainment in pantomimes;
- (6) Musical compositions, with or without words;
- (7) Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- (8) Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art;
- (9) Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- (10) Drawings or plastic works of a scientific or technical character;
- (11) Photographic works including works produced by a process analogous to photography; lantern slides;
- (12) Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- (13) Pictorial illustrations and advertisements;
- (14) Computer programs and databases; and
- (15) Other literary, scholarly, scientific and artistic works.

b. Works are protected by the sole fact of their creation, without need of any formality or registration, irrespective of their mode, medium, or form of expression, as well as of their content, quality and purpose.

Chapter III. DERIVATIVE WORKS

Sec. 173. *Derivative Works.* – a. The following derivative works shall also be protected by copyright:

(1) Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and

(2) Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents. (Sec. 2, [P] and [Q], P.D. No. 49)

b. The works referred to in Sections 173.a(1) and 173.a(2) hereof shall be protected as new works: *Provided however*, That such new work shall not affect the force of any subsisting copyright upon the original works employed or any part thereof, or be construed to imply any right to such use of the original works, or to secure or extend copyright in such original works. (Sec. 8, P.D. 49; Art. 10, TRIPS)

Sec. 174. *Published Edition of Work.* - In addition to the right to publish granted by the author, his heirs or assigns, the publisher shall have a copyright consisting merely of the right of reproduction of the typographical arrangement of the published edition of the work. (n)

Chapter IV. WORKS NOT PROTECTED

Sec. 175. *Unprotected Subject Matter.* - Notwithstanding the provisions of Section 172 and 173 of this Act, no protection shall extend, under this law, to any idea, procedure, system, method of operation, concept, principle, discovery or mere data as such, even if they are expressed, explained, illustrated or embodied in a work; news of the day and other miscellaneous facts having the character of mere items of press information; or any official text of a legislative, administrative or legal nature, as well as any official translation thereof. (n)

Sec. 176. *Works of the Government.* - a. No copyright shall subsist in any work of the Government of the Philippines. However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit. Such agency or office may, among other things, impose as a condition the payment of royalties. No prior approval or conditions shall be required for the use of any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations, pronounced, read or rendered in courts of justice, before administrative agencies, in deliberative assemblies and in meetings of public character. (Sec. 9, first par., P.D. No. 49)

b. The author of speeches, lectures, sermons, addresses, and dissertations mentioned in the preceding paragraphs shall have the exclusive right of making a collection of his works. (n)

c. Notwithstanding the foregoing provisions, the Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest or otherwise; nor shall publication or republication by the government in

1 a public document of any work in which copyright is subsisting be taken to cause
2 any abridgment or annulment of the copyright or to authorize any use or
3 appropriation of such work without the consent of the copyright owner. (Sec. 9,
4 third par., P.D. No. 49)

5 Chapter V. 6 COPYRIGHT OR ECONOMIC RIGHTS

7 **Sec. 177. *Economic Rights.***—Subject to the provisions of Chapter VIII,
8 copyright or economic rights shall consist of the exclusive right to carry out,
9 authorize or prevent the following acts:

- 10 a. Reproduction of the work or substantial portion of the work;
- 11 b. Dramatization, translation, adaptation, abridgment, arrangement
12 or other transformation of the work;
- 13 c. The first public distribution of the original and each copy of the
14 work by sale or other forms of transfer of ownership;
- 15 d. Rental of the original or a copy of an audiovisual or cinematographic
16 work, a work embodied in a sound recording, a computer program, a
17 compilation of data and other materials or a musical work in
18 graphic form, irrespective of the ownership of the original or the
19 copy which is the subject of the rental; (n)
- 20 e. Public display of the original or a copy of the work;
- 21 f. Public performance of the work; and
- 22 g. Other communication to the public of the work (Sec. 5, P.D. No. 49a).

23 Chapter VI. 24 OWNERSHIP OF COPYRIGHT

25 **Sec. 178. *Rules on Copyright Ownership.*** – Copyrightownership shall
26 be governed by the following rules:

- 27 a. Subject to the provisions of this Section, in the case of original
28 literary and artistic works, copyright shall belong to the author of
29 the work;
- 30 b. In the case of works of joint authorship, the co-authors shall be the
31 original owners of the copyright and in the absence of agreement,
32 their rights shall be governed by the rules on co-ownership. If,
33 however, a work of joint authorship consists of parts that can be
34 used separately and the author of each part can be identified, the
35 author of each part shall be the original owner of the copyright in
36 the part that he has created;

1 c. In the case of work created by an author during and in the course of
2 his employment, the copyright shall belong to:

3 (1) The employee, if the creation of the object of copyright is not a part
4 of his regular duties even if the employee uses the time, facilities
5 and materials of the employer.

6 (2) The employer, if the work is the result of the performance of his
7 regularly-assigned duties, unless there is an agreement, express or
8 implied, to the contrary.

9 d. In the case of a work commissioned by a person other than an
10 employer of the author and who pays for it and the work is made in pursuance of
11 the commission, the person who so commissioned the work shall have ownership
12 of the work, but the copyright thereto shall remain with the creator, unless there
13 is a written stipulation to the contrary;

14 The foregoing notwithstanding, with respect to commissioned photographs,
15 films and paintings intended for private use, the following rights belong to the
16 person who commissioned the work:

17 (1) Distribution or issuance of the work to the public,

18 (2) Exhibition or display of the work in public, and

19 (3) Communication of the work in public.

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

27 f. In respect of letters, the copyright shall belong to the writer subject
28 to the provisions of Article 723 of the New Civil Code of the Philippines.

29 **Sec. 179. Anonymous and Pseudonymous Works.** –a. For purposes of
30 this Act, the publishers shall be deemed to represent the authors of articles and
31 other writings published without the names of the authors or under pseudonyms,
32 unless the contrary appears, or the pseudonyms or adopted name leaves no
33 doubts as to the author's identity, or if the author of the anonymous works
34 discloses his identity.

b. *Exploitation of Orphan Works.* – (1) Where any person, despite his considerable efforts in accordance with the criteria as prescribed under the Rules and Regulations promulgated by the Bureau of Copyright and Related Rights, could not identify the owner of author's property rights in works being made public (except foreigner's works), or his place of residence, and therefore considered orphan work, is unable to obtain the authorization of the author for its exploitation, he may exploit such orphan work after obtaining the approval of the Director of the Bureau of Copyright and Related Rights, and depositing a sum of compensation money according to the criteria as determined by the latter.

(2) The person who exploits an orphan work under the provision of paragraph (1) of this Section shall indicate the fact that the exploitation is made with the appropriate approval and the date when the same is issued.

(3) If, within one (1) year from the date of approval of the use and exploitation issued by of the Director of the Bureau of Copyright and Related Rights in accordance with the provisions of Section 199 of this Act, the author or owner of such orphan work does not or is unable to lodge an objection to, or make a claim against, such use or exploitation in accordance with the prescribed procedures, then such owner or author of the orphan work can no longer lodge his objection to or claim against the use and exploitation of his work thereafter and this right shall be deemed forfeited.

(4) The Bureau shall provide for the regular or periodic publication of the content of all issued licenses.

Chapter VII. TRANSFER, ASSIGNMENT AND LICENSING OF COPYRIGHT

Sec. 180. *Rights of Assignee or Licensee.*– a. 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 licensor had with respect to the copyright.

b. The copyright or related rights are not deemed assigned or licensed *inter vivos*, in whole or in part, unless there is a written indication of such intention.

c. The submission of a literary, photographic or artistic work to a newspaper, magazine or periodical for publication shall constitute only a license to make a single publication unless a greater right is expressly granted. If two (2) or more persons jointly own a copyright or any part thereof, neither of the owners shall be entitled to grant licenses without the prior written consent of the other owner or owners. (Sec. 15, P.D. No. 49a)

d. 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.

1 e. The copyright owner has the right to regular statements of accounts
2 from the assignee or the licensee with regard to assigned or licensed work.

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

9 **Sec. 182. *Filing of Assignment or License.***–An assignment or exclusive
10 license may be filed with the Bureau upon payment of the prescribed fee for
11 registration in books and records kept for the purpose. Upon recording, a copy of
12 the instrument shall be returned to the sender with a notation of the fact of
13 record. Notice of the record shall be published in the IPO Gazette.

14 **Sec. 183. *Designation of Collective Management Organizations.*** – a.
15 The owners of copyright and related rights or their heirs may designate a society
16 of artists, writers, composers and other right-holders to collectively manage their
17 economic or moral rights on their behalf.

18 b. *Mandatory Accreditation with the Office.* – For the said collective
19 management organizations to enforce or license the rights they administer, they
20 shall first secure the necessary accreditation from the Bureau of Copyright and
21 Related Rights. The accreditation regulation shall apply to local and foreign
22 collective management organizations and individuals or entities engaging,
23 directly or indirectly, in any of the activities in Section 202.c hereof in behalf of
24 more than one right holder, but only organizations duly organized under the
25 laws of the Philippines may be accredited to operate as a collective management
26 organization. The Bureau of Copyright and Related Rights may impose such
27 restrictions or limitations in the accreditation regulations as may be necessary to
28 serve public interest.

29 Any person may refuse the payment or remittance of royalties to a
30 collective management organization which is not accredited. Any person may
31 also refuse payment or remittance of royalties to a collective management
32 organization for a rights holder if the latter is not represented by a registered
33 member of the collective management organization. In addition, any such
34 organization found functioning as a collective management organization without
35 said accreditation after due notice and hearing shall be liable for an
36 administrative fine equivalent to one hundred percent (100%) of the gross
37 revenue it earned for the Philippine territory, or which shall in no case be less
38 than Fifty thousand pesos (P50,000) but shall not exceed One million pesos
39 (P1,000,000), whichever is higher.

40 The users who dealt with the non-accredited collective management
41 organization knowing that said collective management organization is not
42 accredited shall, after due notice and hearing, likewise be held solidarily liable
43 for the aforementioned fine equivalent to one hundred percent (100%) of the total

1 payment they have made to the said non-accredited collective management
2 organization.

3 c. *Effect of Accreditation.*— Accreditation shall authorize a local
4 collective management organization to negotiate, grant licenses, collect and
5 distribute royalties, and other remuneration of its members.

6 **Sec. 183-A. *Extended Collective License.***— Extended collective license
7 may also be invoked by users who, within a specified field, have made an
8 agreement on the exploitation of works with an accredited collective
9 management organization comprising a substantial number of authors of a
10 certain type of works which are used in the Philippines within the specified field.
11 However, this does not apply, if the author has issued a prohibition against use
12 of his work in relation to any of the contracting parties, and where the work is an
13 “orphaned” work as provided in Sec. 199.

14 **Sec. 183-B. *Limitations to the Retention of Unclaimed Royalties.***—
15 Royalties allocated for right holders who have not expressly authorized the
16 collective management organization to represent them shall only be retained for
17 three (3) years from the date of collection. Any amounts left unclaimed or
18 undistributed after such period shall be turned over to the Office to fund late
19 claims for orphan works and government programs or projects for the copyright
20 and related rights sectors, undertaken or recommended by the Bureau of
21 Copyright and Related Rights.

22 Chapter VIII. 23 LIMITATIONS ON COPYRIGHT

24 **Sec. 184. *Limitations on Copyright.*** – a. Notwithstanding the provisions
25 of Chapter V, the following acts shall not constitute infringement of copyright:

- 26 (1) The recitation or performance of a work, once it has been lawfully
27 made accessible to the public, if done privately and free of charge or
28 if made strictly for a charitable or religious institution or society;
29 (Sec. 10(1), P.D. No.49)
- 30 (2) The making of quotations from a published work if they are
31 compatible with fair use and only to the extent justified for the
32 purpose, including quotations from newspaper articles and
33 periodicals in the form of press summaries: *Provided*, That the
34 source and the name of the author, if appearing on the work, are
35 mentioned; (Sec. 11, third par., P.D. No. 49)
- 36 (3) The reproduction or communication to the public by mass media of
37 articles on current political, social, economic, scientific or religious
38 topic, lectures, addresses and other works of the same nature, which
39 are delivered in public if such use is for information purposes and
40 has not been expressly reserved: *Provided*, That the source is
41 clearly indicated; (Sec. 11, P.D. No. 49)

- (4) The reproduction and communication to the public of literary, scientific or artistic works as part of reports of current events by means of photography, cinematography or broadcasting to the extent necessary for the purpose; (Sec. 12, P.D. No. 49)
- (5) The inclusion of a work in a publication, broadcast, or other communication to the public, sound recording or film, if such inclusion is made by way of illustration for teaching purposes and is compatible with fair use: *Provided*, That the source and of the name of the author, if appearing in the work, are mentioned;
- (6) The recording made in schools, universities, or educational institutions of a work included in a broadcast for the use of such schools, universities or educational institutions: *Provided*, That such recording must be deleted within a reasonable period after they were first broadcast: *Provided, further*, That such recording may not be made from audio-visual works which are part of the general cinema repertoire of feature films except for brief excerpts of the work;
- (7) The making of ephemeral recordings by a broadcasting organization by means of its own facilities and for use in its own broadcast;
- (8) The use made of a work by or under the direction or control of the Government, by the Office, the National Library or by educational, scientific or professional institutions where such use is in the public interest and is compatible with fair use;
- (9) The public performance or the communication to the public of a work, in a place where no admission fee is charged in respect of such public performance or communication, by a club or institution for charitable or educational purpose only, whose aim is not profit making, subject to such other limitations as may be provided in the Regulations; (n)
- (10) Public display of the original or a copy of the work not made by means of a film, slide, television image or otherwise on screen or by means of any other device or process: *Provided*, That either the work has been published, or, that the original or the copy displayed has been sold, given away or otherwise transferred to another person by the author or his successor in title;
- (11) Any use made of a work for the purpose of any judicial proceedings or for the giving of professional advice by a legal practitioner;
- (12) The reproduction or distribution, and making available to the public or works in an accessible format or copy for of published articles or materials in a specialized format exclusively for the use of the blind, or visually-impaired and those unable, through physical disability,

1 to hold or manipulate a book or to focus or move the eyes to the
2 extent that would be normally acceptable for reading. These
3 limitations on copyright cover the changes needed to make the work
4 in accessible format copies for the aforementioned beneficiaries:
5 *Provided*, That such copies and distribution shall be made on a non-
6 profit basis and shall indicate the copyright owner and the date of
7 the original publication; and

- 8 (13) The copyright in a work that is situated, otherwise than
9 temporarily, in a public place, or in premises open to the public, is
10 not infringed by the making of a painting, drawing, engraving, or
11 photograph of the work or by the inclusion of the work in a
12 cinematograph film or in a television broadcast.

13 **Sec. 185. *Fair Use of a Copyrighted Work.***—a. The fair use of a
14 copyrighted work for criticism, comment, news reporting, teaching including
15 limited number of copies for classroom use, scholarship, research, and similar
16 purposes is not an infringement of copyright. Decompilation, which is understood
17 here to be the reproduction of the code and translation of the forms of a computer
18 program to achieve the interoperability of an independently created computer
19 program with other programs may also constitute fair use under the criteria
20 established by this Section, to the extent that such decompilation is done for the
21 purpose of obtaining the information necessary to achieve such interoperability.
22 In determining whether the use made of a work in any particular case is fair use,
23 the factors to be considered shall include:

- 24 (1) The purpose and character of the use, including whether such use is
25 of a commercial nature or is for non-profit educational purposes;
- 26 (2) The nature of the copyrighted work;
- 27 (3) The amount and substantiality of the portion used in relation to the
28 copyrighted work as a whole; and
- 29 (4) The effect of the use upon the potential market for or value of the
30 copyrighted work.

31 b. The fact that a work is unpublished shall not by itself bar a finding
32 of fair use if such finding is made upon consideration of all the above factors.

33 **Sec. 186. *Work of Architecture.***—Copyright in a work of architecture
34 shall include the right to control the erection of any building which reproduces
35 the whole or a substantial part of the work either in its original form or in any
36 form recognizably derived from the original; *Provided*, That the copyright in any
37 such work shall not include the right to control the reconstruction or
38 rehabilitation in the same style as the original of a building to which that
39 copyright relates. (n)

40 **Sec. 187. *Reproduction for Research and Private Study.***— a.
41 Notwithstanding the provisions of Section 177 of this Act, and subject to the

provisions of Section 187.b hereof, the reproduction in a single copy, for research or private study, of a work kept in a library, museum, or other institution to which the public has access, shall be permitted, without the authorization of the owner of copyright in the work: *Provided*, That where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, as the case may be, the above provisions shall apply only if such reproduction is made at a time more than forty (40) years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the last surviving author whose identity is known or, if the identity of more authors than one is known from the death of such of those authors who dies last.

b. The permission granted under Section 187.a hereof shall not extend to the reproduction of:

- (1) A work of architecture in the form of building or other construction;
- (2) A compilation of data and other materials;
- (3) A computer program except as provided in Section 189; and
- (4) Any work in cases where reproduction would unreasonably conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author. (n)

Sec. 188. Reprographic Reproduction by Libraries—a. Notwithstanding the provisions of Section 177.a of this Act, any library or archive whose activities are not for profit may, without the authorization of the author or copyright owner, make a limited number of copies of the work, as may be necessary for such institutions to fulfill their mandate, by reprographic reproduction:

- (1) Where the work by reason of its fragile character or rarity cannot be lent to user in its original form;
- (2) Where the works are isolated articles contained in composite works or brief portions of other published works and the reproduction is necessary to supply them; when this is considered expedient, to persons requesting their loan for purposes of research or study instead of lending the volumes or booklets which contain them; and
- (3) Where the making of such 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.

b. Notwithstanding the above provisions, it shall not be permissible to produce a volume of a work published in several volumes or to produce missing

1 tomes or pages of magazines or similar works, unless the volume, tome or part is
2 out of stock; *Provided*, That every library which, by law, is entitled to receive
3 copies of a printed work, shall be entitled, when special reasons so require, to
4 reproduce a copy of a published work which is considered necessary for the
5 collection of the library but which is out of stock. (Sec. 13, P.D. 49a)

6 c. Notwithstanding Section 177.a of this Act, a library may create a
7 digital reproduction of a work and lend out the secured digital reproduction to
8 one valid user at a time: *Provided*, That the library shall –

- 9 (1) own a legal copy or copies of the work;
- 10 (2) maintain a corresponding ratio of legal copies of the work to the
11 copies of the work lent, such that, at any given time, it shall not
12 lend more physical and digital copies than the number of the copies
13 it legally owns; and
- 14 (3) use technological measures to ensure that the digital file cannot be
15 copied or redistributed.

16 **Sec. 189. *Reproduction of Computer Program.*** – a. Notwithstanding
17 the provisions of Section 177 hereof, the reproduction in one (1) back-up copy or
18 adaptation of a computer program shall be permitted, without the authorization
19 of the author of, or other owner of copyright in, a computer program, by the
20 lawful owner of that computer program: *Provided*, That the copy or adaptation is
21 necessary for:

- 22 (1) The use of the computer program in conjunction with a computer for
23 the purpose, and to the extent, for which the computer program has
24 been obtained; and
- 25 (2) Archival purposes, and, for the replacement of the lawfully owned
26 copy of the computer program in the event that the lawfully
27 obtained copy of the computer program is lost, destroyed or
28 rendered unusable.

29 b. No copy or adaptation mentioned in this Section shall be used for
30 any purpose other than the ones determined in this Section, and any such copy
31 or adaptation shall be destroyed in the event that continued possession of the
32 copy of the computer program ceases to be lawful.

33 c. This provision shall be without prejudice to the application of
34 Section 185 hereof whenever appropriate. (n)

35 **Sec. 190. *Importation and Exportation of Infringing Materials.***–
36 Subject to the provisions of Republic Act No. 10863, or the "Customs
37 Modernization and Tariff Act (CMTA)", and upon the approval of the Secretary
38 of Finance, the Commissioner of Customs is hereby empowered to promulgate
39 rules and regulations for preventing the importation or exportation or
40 transshipment of infringing articles prohibited under Part IV of this Act and

1 under relevant treaties and conventions to which the Philippines may be a party
2 and, upon notice and hearing, for seizing and condemning and disposing of the
3 same.

4 Chapter IX. 5 REGISTRATION AND DEPOSIT

6 Sec. 191. *Transfer of Powers from the National Library and the* 7 *Supreme Court Library to the Bureau of Copyright and Related Rights.* –

8 a. The powers, duties and functions vested in, or performed and exercised by, the
9 National Library and the Supreme Court Library in connection with the
10 registration of copyrights are hereby transferred to the Bureau of Copyright and
11 Related Rights.

12 b. At any time during the subsistence of the copyright, the owner or
13 owners of the copyright or of any exclusive right in the work may, register and
14 deposit the works with the Bureau in such manner and form as may be
15 prescribed in accordance with regulations. Such registration and deposit is not a
16 condition of copyright protection.

17 c. *Cancellation of Certificate of Registration and Deposit.*– (1) A
18 certificate of registration and deposit shall be cancelled by the Bureau of
19 Copyright and Related Rights by virtue of a final order or decision of the Director
20 of the Bureau of Legal Affairs, or the Director General, or of the appropriate
21 court, pursuant to which a new certificate may be issued.

22 (2) Upon submission of any instrument or deed transferring, assigning,
23 or conveying the copyright ownership, the existing certificate shall be cancelled
24 and a new one issued.

25 Sec. 192. *Notice of Copyright.*–Each copy of a work published or offered
26 for sale may contain a notice bearing the name of the copyright owner, and the
27 year of its first publication, and, in copies produced after the creator's death, the
28 year of such death. (Sec. 27, P.D. No. 49a)

29 Chapter X. 30 MORAL RIGHTS

31 Sec. 193. *Scope of Moral Rights.*–The author of a work shall,
32 independently of the economic rights in Section 177 of this Act or the grant of an
33 assignment or license with respect to such right, have the right:

34 a. To require that the authorship of the works be attributed to him, in
35 particular, the right that his name, as far as practicable, be
36 indicated in a prominent way on the copies, and in connection with
37 the public use of his work;

38 b. To make any alterations of his work prior to, or to withhold it from
39 publication;

1 c. To object to any distortion, mutilation or other modification of, or
2 other derogatory action in relation to, his work which would be
3 prejudicial to his honor or reputation; and

4 d. To restrain the use of his name with respect to any work not of his
5 own creation or in a distorted version of his work. (Sec. 34, P.D. No.
6 49)

7 **Sec. 194. Breach of Contract.**—An author cannot be compelled to perform
8 his contract to create a work or for the publication of his work already in
9 existence. However, he may be held liable for damages for breach of such contract.
10 (Sec. 35, P.D. No. 49)

11 **Sec. 195. Waiver of Moral Rights.**— An author may waive his rights
12 mentioned in Section 193 of this Act by a written instrument, but no such waiver
13 shall be valid where its effects is to permit another:

14 a. To use the name of the author, or the title of his work, or otherwise
15 to make use of his reputation with respect to any version or
16 adaptation of his work which, because of alterations therein, would
17 substantially tend to injure the literary or artistic reputation of
18 another author; or

19 b. To use the name of the author with respect to a work he did not
20 create. (Sec. 36, P.D. No. 49)

21 **Sec. 195-A. Non-transferability of Moral Rights.**— Moral rights shall
22 not be assignable or subject to license.

23 **Sec. 196. Contribution to Collective Work.**—When an author contributes
24 to a collective work, his right to have his contribution attributed to him is deemed
25 waived unless he expressly reserves it. (Sec. 37. P.D. No. 49)

26 **Sec. 197. Editing, Arranging and Adaptation of Work.** – In the
27 absence of a contrary stipulation at the time an author licenses or permits
28 another to use his work, the necessary editing, arranging or adaptation of such
29 work, for publication, broadcast, use in a motion picture, dramatization, or
30 mechanical or electrical reproduction in accordance with the reasonable and
31 customary standards or requirements of the medium in which the work is to be
32 used, shall not be deemed to contravene the author's rights secured by this
33 chapter. Nor shall complete destruction of a work unconditionally transferred by
34 the author be deemed to violate such rights. (Sec. 38, P.D. No. 49)

35 **Sec. 198. Term of Moral Rights.** – a. The rights of an author under
36 Section 193.a. of this Act shall last in perpetuity, while the rights under Sections
37 193.b. 193.c. and 193.d of this Act shall be coterminous with the economic rights.
38 The person or persons to be charged with the posthumous enforcement of these
39 rights shall be named in a written instrument which shall be filed with the
40 Bureau of Copyright and Related Rights.

1 In default of such person or persons, such enforcement shall devolve upon
2 either the author's heirs, and in default of the heirs, the Director of the Bureau of
3 Copyright and Related Rights.

4 b. For purposes of this Section, "Person" shall mean any individual,
5 partnership, corporation, association, or society. The Director of the Bureau of
6 Copyright and Related Rights may prescribe reasonable fees to be charged for his
7 services in the application of provisions of this Section. (Sec. 39, P.D. No. 49)

8 **Sec. 199. *Enforcement Remedies.***—Violation of any of the rights
9 conferred by this Chapter shall entitle those charged with their enforcement to
10 the same rights and remedies available to a copyright owner. In addition,
11 damages which may be availed of under the New Civil Code of the Philippines
12 may also be recovered. Any damage recovered after the creator's death shall be
13 held in trust for and remitted to his heirs, and in default of the heirs, shall belong
14 to the government.

15 Chapter XI.

16 RIGHTS TO PROCEEDS IN SUBSEQUENT TRANSFERS

17 **Sec. 200. *Sale or Lease of Work.*** – a. In every sale or lease of an original
18 work of painting or sculpture or of the original manuscript of a writer or
19 composer, subsequent to the first disposition thereof by the author, the author or
20 his heirs shall have an inalienable right to participate in the gross proceeds of the
21 sale or lease to the extent of five percent (5%). This right shall exist during the
22 lifetime of the author and for fifty (50) years after his death. (Sec. 31, P.D. No. 49)

23 b. ***Liability to Pay Resale Royalty.*** – Payment of resale royalty shall be
24 made by the seller to the author or his heirs, within sixty (60) days from the date
25 of sale or lease of the work.

26 c. For purposes of monitoring the implementation of this particular
27 provision, there is hereby created a National Registry of Qualified Works to be
28 maintained by the Bureau of Copyright and Related Rights. This registry shall
29 provide the means for the enrollment and registration of works qualified for the
30 application of resale right. It shall also serve as the repository of information on
31 the author or his heirs, for purposes of remittance of the resale royalty. Auction
32 houses, art galleries, art salesrooms, or any dealers of works of art are required
33 to report compliance with payment of the resale royalty to the Bureau of
34 Copyright and Related Rights with regularity and in such periods as may be
35 provided by regulations to be issued for this purpose.

36 **Sec. 201. *Works Not Covered.*** – The provisions of this Chapter shall not
37 apply to prints, etchings, engravings, works of applied art, or works of similar
38 kind wherein the author primarily derives gain from the proceeds of
39 reproductions. (Sec. 33, P.D. No. 49)

Chapter XII.
RIGHTS OF PERFORMERS, PRODUCERS OF SOUND RECORDINGS
AND BROADCASTING ORGANIZATIONS

Sec. 202. Definitions. – For the purpose of this Chapter, the following terms shall have the following meanings:

- a. **"Performers"** are actors, singers, musicians, dancers, and other persons who act, sing, declaim, play in, interpret, or otherwise perform literary and artistic work;
- b. **"Sound recording"** means the fixation of the sounds of a performance or of other sounds, or representation of sound, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;
- c. An **"audiovisual work or fixation"** is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible;
- d. **"Fixation"** is the embodiment of sounds, or of moving images, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device;
- e. **"Producer of a sound recording"** means the person, or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representation of sounds;
- f. **"Publication of a fixed performance or a sound recording"** is the offering of copies of the fixed performance or the sound recording to the public, with the consent of the right holder: *Provided*, That copies are offered to the public in reasonable quantity;
- g. **"Broadcasting"** is the transmission by wireless means for the public reception of sounds or of images or of representations thereof; such transmission by satellite is also "broadcasting"; transmission of encrypted signals is broadcasting where the means for decrypting are provided to the public by the broadcasting organization or with its consent;
- h. **"Broadcasting organization"** is a natural person or a juridical entity duly authorized to engage in broadcasting;
- i. **"Communication to the public of a performance or a sound recording"** is the transmission to the public, by any medium,

1 otherwise than by broadcasting, of an unfixed performance, or of a
2 performance fixed in an audiovisual fixation, or of the
3 representation of sounds fixed in a sound recording. For purposes of
4 Section 209 hereof, "communication to the public" includes the
5 making of a performance fixed in an audiovisual fixation audible
6 and visible to the public; and

- 7 j. **"Rebroadcasting"** is the simultaneous broadcasting by one
8 broadcasting organization of the broadcast of another broadcasting
9 organization.

10 **Sec. 203. Scope of Performers' Rights.**— Subject to the provisions of
11 Section 212 of this Act, performers shall enjoy the following exclusive rights:

- 12 a. As regards their performances, the right of authorizing:

13 (1) The broadcasting and other communication to the public of their
14 performance; and

15 (2) The fixation of their unfixed performance.

16 b. The right of authorizing the direct or indirect reproduction, in any
17 manner or form of their performances fixed in sound recordings or audiovisual
18 works or fixations;

19 c. The right of authorizing the first public distribution of the original and
20 copies of their performance fixed in the sound recordings or audiovisual works or
21 fixations through sale or other forms of transfer of ownership;

22 d. The right of authorizing the commercial rental to the public of the
23 original and copies of their performances fixed in sound recordings or audiovisual
24 works or fixations, even after distribution of them by, or pursuant to the
25 authorization by the performer; and

26 e. The right of authorizing the making available to the public of their
27 performances fixed in sound recordings or audiovisual works or fixations, by wire
28 or wireless means, in such a way that members of the public may access them
29 from a place and time individually chosen by them. (Sec. 42, P.D. No. 49a)

30 **Sec. 204. Moral Rights of Performers.** — a. Independently of a
31 performer's economic rights, the performer, shall, as regards his live aural
32 performances or performances fixed in sound recordings or in audiovisual works
33 or fixations, have the right to claim to be identified as the performer of his
34 performances, except where the omission is dictated by the manner of the use of
35 the performance, and to object to any distortion, mutilation or other modification
36 of his performances that would be prejudicial to his reputation.

37 b. The right to be identified as the performer in accordance with Section
38 203.a hereof shall last in. The person or persons to be charged with the
39 posthumous enforcement of all the rights under Section 204.a hereof shall be

1 named in a written instrument which shall be filed with the Bureau.

2 In default of such person or persons, such enforcement shall devolve upon
3 either the author's heirs, and in default of the heirs, the Bureau of Copyright and
4 Related Rights.

5 **Sec. 205. *Limitation on Right.***— Subject to the provisions of Section 206
6 hereof, once the performer has authorized the broadcasting or fixation of his
7 performance, the provisions of Section 203 of this Act shall have no further
8 application.

9 **Sec. 206. *Additional Remuneration for Subsequent***
10 ***Communications or Broadcasts.***— Performers shall have an inalienable right
11 to participate in the gross proceeds of subsequent commercial use or
12 communication to the public of his performance, to the extent of five percent (5%),
13 as additional remuneration.

14 **Sec. 207. *Contract Terms.***— Nothing in this Chapter shall be construed to
15 deprive performers of the right to agree by contracts on terms and conditions
16 more favorable for them in respect of any use of their performance. (n)

17 **Chapter XIII.**
18 **PRODUCERS OF SOUND RECORDINGS**

19 **Sec. 208. *Scope of Right.***— Subject to the provisions of Section 212 hereof,
20 producers of sound recordings shall enjoy the following exclusive rights:

- 21 a. The right to authorize the direct or indirect reproduction of their
22 sound recordings, in any manner or form;
- 23 b. The right to authorize the first public distribution of the original
24 and copies of their sound recordings through sale or other forms of
25 transferring ownership;
- 26 c. The right to authorize the commercial rental to the public of the
27 original and copies of their sound recordings, even after distribution
28 by them by or pursuant to authorization by the producer. (Sec. 46,
29 P.D. No. 49a); and
- 30 d. The right to authorize the making available to the public of their
31 sound recordings in such a way that members of the public may
32 access the sound recording from a place and at a time individually
33 chosen or selected by them, as well as other transmissions of a
34 sound recording with like effect.

35 **Sec. 209. *Communication to the Public.***— If a sound recording published
36 for commercial purposes, or a reproduction of such sound recording, is used
37 directly for broadcasting or for other communication to the public, or is publicly
38 performed with the intention of making and enhancing profit, a single equitable
39 remuneration for the performer or performers, and the producer of the sound

recording shall be paid by the user to both the performers and the producer, who, in the absence of any agreement shall share equally. (Sec. 47, P.D. No. 49a)

Sec. 210. *Limitation of Right.*— Sections 184 and 185 of this Act shall apply *mutatis mutandis* to the producer of sound recordings. (Sec. 48, P.D. No. 49a)

Chapter XIV. BROADCASTING ORGANIZATIONS

Sec. 211. *Scope of Right.*— Subject to the provisions of Section 212 hereof, broadcasting organizations shall enjoy the exclusive right to carry out, authorize or prevent any of the following acts:

- a. The rebroadcasting of their broadcasts;
- b. The fixation of the broadcast for the purpose of communication to the public; and
- c. The use for fresh transmissions of the fixated broadcast or the reproduction of the fixated broadcast.

Chapter XV.

LIMITATIONS ON PROTECTION

Sec. 212. *Limitations on Rights.*—The provisions of Chapter VIII shall apply *mutatis mutandis* to the rights of performers, producers of sound recordings and broadcasting organizations.

Chapter XVI.

TERM OF PROTECTION

Sec. 213. *Term of Protection.*— a. Subject to the provisions of Sections 213.b to 213.e hereof, the copyright in works under Sections 172 and 173 of this Act shall be protected during the life of the author and for fifty (50) years after his death. This rule also applies to posthumous works. (Sec. 21, first sentence, P.D. No. 49a)

b. In case of works of joint authorship, the economic rights shall be protected during the life of the last surviving author and for fifty (50) years after his death. (Sec. 21, second sentence, P.D. no. 49)

c. In case of anonymous or pseudonymous works, the copyright shall be protected for fifty (50) years from the date on which the work was first lawfully published: *Provided*, That where, before the expiration of the said period, the author's identity is revealed or is no longer in doubt, the provisions of Sections 213.a and 213.b hereof shall apply, as the case may be: *Provided, further*, That such works if not published before shall be protected for fifty (50) years counted from the making of the work. (Sec. 23, P.D. No. 49)

d. In case of works of applied art the protection shall be for a period of twenty-five (25) years from the date of making. (Sec. 24(B), P.D. No. 49a)

e. In case of photographic works, the protection shall be for fifty (50) years from publication of the work and, if unpublished, fifty (50) years from the making. (Sec. 24(C), P.D. 49a)

f. In case of audio-visual works including those produced by process analogous to photography or any process for making audio-visual recordings, the term shall be fifty (50) years from date of publication and, if unpublished, from the date of making. (Sec. 24(C), P.D. No. 49a)

Sec. 214. Calculation of Term.—The term of protection subsequent to the death of the author provided in the preceding Section shall run from the date of his death or of publication, but such terms shall always be deemed to begin on the first day of January of the year following the event which gave rise to them. (Sec. 25, P.D. No. 49)

Sec. 215. Term of Protection for Performers, Producers and Broadcasting Organizations.— a. The rights granted to performers and producers of sound recordings under this law shall expire:

(1) For performances not incorporated in recordings, fifty (50) years from the end of the year in which the performance took place; and

(2) For sound or image and sound recordings and for performances incorporated therein, fifty (50) years from the end of the year in which the recording took place.

b. In case of broadcasts, the term shall be twenty (20) years from the date the broadcast took place. The extended term shall be applied only to old works with subsisting protection under the prior law. (Sec. 55, P.D. No. 49a)

Chapter XVII. INFRINGEMENT

Sec. 216. Infringement. — a. Any person infringes a right protected under this Act when one:

(1) Directly commits an infringement;

(2) Benefits 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; and

(3) With knowledge of infringing activity, induces, causes or materially contributes to the infringing conduct of another.

b. *Remedies for Infringement.* — Any person infringing a right

protected under this law shall be liable:

- (1) To an injunction restraining such infringement. The court may also order the defendant to desist from an infringement, among others, to prevent the entry into the channels of commerce of imported goods that involve an infringement, immediately after customs clearance of such goods.
- (2) To 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 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.
- (3) 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.
- (4) 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.
- (5) 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.

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 equivalent to the filing fee of the infringement action but not less than Fifty thousand pesos (P50,000). In awarding

1 statutory damages, the court may consider the following factors:

- 2 (i) The nature and purpose of the infringing act;
- 3 (ii) The flagrancy of the infringement;
- 4 (iii) Whether the defendant acted in bad faith;
- 5 (iv) The need for deterrence;
- 6 (v) Any loss that the plaintiff has suffered or is likely to suffer by
7 reason of the infringement; and
- 8 (vi) Any benefit shown to have accrued to the defendant by
9 reason of the infringement.

10 In case the infringer was not aware and had no reason to believe
11 that his acts constitute an infringement of copyright, the court in its
12 discretion may reduce the award of statutory damages to a sum of
13 not more than Ten thousand pesos (P10,000): *Provided*, That the
14 amount of damages to be awarded shall be doubled against any
15 person who:

- 16 (i) Circumvents effective technological measures; or
- 17 (ii) Having reasonable grounds to know that it will induce,
18 enable, facilitate or conceal the infringement, remove or alter
19 any electronic rights management information from a copy of
20 a work, sound recording, or fixation of a performance, or
21 distribute, import for distribution, broadcast, or communicate
22 to the public works or copies of works without authority,
23 knowing that electronic rights management information has
24 been removed or altered without authority.

25 c. In an infringement action, the court shall also have the power to
26 order the seizure and impounding of any article which may serve as evidence in
27 the court proceedings, in accordance with the rules on search and seizure
28 involving violations of intellectual property rights issued by the Supreme Court.
29 (Sec.28, P.D. No. 49a)

30 The foregoing shall not preclude an independent suit for relief by the
31 injured party by way of damages, injunction, accounts or otherwise.

32 **Sec. 216-A. Preventive Action on Online Infringement.** – Unless
33 otherwise provided by law, or unless otherwise ordered by the appropriate court
34 of law, the Office shall have the power to order, after due notice and hearing, to
35 disable access to an online location to prevent further access to an online location,
36 the primary purpose or primary effect of which is to infringe copyright or
37 facilitate copyright infringement.

1 The copyright owner or the rights holder, hereinafter referred to as the
2 “eligible party,” may submit an application to the intellectual property office to
3 order the disabling of access to any infringing online location identified in the
4 application.

5 The application to the Office shall be submitted by completing in its
6 entirety the forms and documentation as requested by the intellectual property
7 office to allow the intellectual property office to establish that the party filing the
8 application is an eligible party, or is authorised to file the application on behalf
9 of an eligible party and verify through evidence that the subject of the order
10 applied for is an infringing online location.

11 For purposes of this chapter, “online location” shall refer to any single or
12 collection of related web pages accessible by a user through a domain, IP address,
13 or uniform resource locator (URL), or a specific domain, IP address, or uniform
14 resource locator (URL) which serves to operate, in whole or in part, an
15 application on the internet.

16 **Sec. 216-B. Procedure of Inquiry for Preventive Action.** – The Office
17 shall formulate the procedure of inquiry for preventive action on online
18 infringement, according to the following standards:

19 a. Minimum requirements of the application for action by an eligible
20 party. The application shall indicate: the fact that, and the manner by which, the
21 infringing online location is accessible; and other matters which the Office may
22 take into account, including:

23 (1) whether the online location makes available or contains directories,
24 indexes or categories of the means to infringe, or facilitate an
25 infringement of, copyright;

26 (2) whether the owner or operator of the online location demonstrates a
27 disregard for copyright generally; or

28 (3) whether access to the online location has been disabled by orders
29 from any court of another country or territory on the ground of or
30 related to copyright infringement.

31 b. One application may be submitted for multiple infringing online
32 locations, and the requirements of this Section must be met and set out in the
33 application.

34 c. The applicant must notify the person who operates the online
35 location of the making of an application under Section 216-A of this Act, but the
36 Office may dispense, on such terms as it sees fit, with the notice required to be
37 sent to the person who operates the online location if the intellectual property
38 office is satisfied that the applicant is unable, despite reasonable efforts, to
39 determine the identity or address of the person who operates the online location,
40 or to send notices to that person.

1 d. Upon receipt of the application, the Office shall review the same
2 and determine whether the online location meets the requirements of Paragraph
3 (a) hereof. If an application meets the requirements of Paragraph (a) hereof, the
4 Office shall give due notice of the same to the person who operates the online
5 location either by directly contact such person or by posting such notice publicly.
6 The Office shall, within five (5) days of giving due notice, render an order
7 requiring internet service providers to take reasonable steps to disable access to
8 the infringing online location. A copy of the said order shall likewise be given to
9 the eligible party.

10 e. The internet service providers must comply with the disabling
11 orders within forty-eight (48) hours of the issuance of the disabling order and
12 must disable the identified infringing online locations by implementing an
13 effective technical measure, or a measure undertaken by the internet service
14 provider to disable or prevent access to an infringing online location, and may
15 include domain name system (DNS) blocking, internet protocol (IP) blocking,
16 Uniform Resource Locator (URL) blocking, server name indicator blocking, or
17 other means.

18 f. The Office, may at any time, during the operation of the orders
19 notify the internet service providers should it become aware that any infringing
20 online location is accessed from an additional online location, including one that
21 appears to be associated with any infringing online location based on its name,
22 branding or the identity of its operator, and make such different online location
23 subject to the orders.

24 **Sec. 217. Criminal Penalties.**— a. Independent of the civil and
25 administrative remedies, persons liable for willful infringement shall, upon
26 conviction, be punished, by imprisonment or fine, or both, at the discretion of the
27 court, as follows:

28 (1) Imprisonment of three (3) years to five (5) years, or a fine ranging
29 from Four hundred thousand pesos (₱400,000) to One million pesos
30 (₱1,000,000) for the first offense.

31 (2) Imprisonment from five (5) years and one (1) day to seven (7) years
32 or a fine ranging from One million pesos (₱1,000,000) to Two
33 million pesos (₱2,000,000) for the second offense.

34 (3) Imprisonment from seven (7) years and one (1) day to ten (10) years
35 or a fine ranging from Two million pesos (₱2,000,000) to Four
36 million pesos (₱4,000,000) for the third and subsequent offenses.

37 (4) In all cases, subsidiary imprisonment in cases of insolvency.

38 b. In determining the number of years of imprisonment and the
39 amount of fine, the court shall consider the value of the infringing materials that
40 the defendant has produced or manufactured and the damage that the copyright
41 owner has suffered by reason of the infringement: *Provided*, That the respective
42 maximum penalty stated in Sections 217.a (1), 217.a (2), and 217.a (3) of this Act

herein for the first, second, third and subsequent offense, shall be imposed when the infringement is committed by:

- (1) The circumvention of effective technological measures;
- (2) 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
- (3) 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.

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

- (1) Selling, letting for hire, or by way of trade offering or exposing for sale, or hire, the article;
- (2) Distributing the article for purpose of trade, or for any other purpose to an extent that will prejudice the rights of the copyright owner in the work; or
- (3) Trade exhibit of the article in public, shall be guilty of an offense and shall be liable on conviction to imprisonment and fine as above mentioned. (Sec. 29, P.D. No. 49a)

Sec. 218. Affidavit Evidence.— a. 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:

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

The affidavit shall be admitted in evidence in any proceedings 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.

b. In an action under this Chapter:

- (1) Copyright shall be presumed to subsist in the work or other subject matter to which the action relates if the defendant does not put in

1 issue the question whether copyright subsists in the work or other
2 subject matter; and

3 (2) Where the subsistence of the copyright is established, the plaintiff
4 shall be presumed to be the owner of the copyright if he claims to be
5 the owner of the copyright and the defendant does not put in issue
6 the question of his ownership.

7 (3) Where the defendant, without good faith, puts in issue the
8 questions of whether copyright subsists in a work or other subject
9 matter to which the action relates, or the ownership of copyright in
10 such work or subject matter, thereby occasioning unnecessary costs
11 or delay in the proceedings, the court may direct that any costs to
12 the defendant in respect of the action shall not be allowed by him
13 and that any costs occasioned by the defendant to other parties
14 shall be paid by him to such other parties. (n)

15 **Sec. 219. *Presumption of Authorship.***— a. The natural person whose
16 name is indicated on a work in the usual manner as the author shall, in the
17 absence of proof to the contrary, be presumed to be the author of the work. This
18 provision shall be applicable even if the name is a pseudonym, where the
19 pseudonym leaves no doubt as to the identity of the author.

20 b. The person or body corporate whose name appears on an
21 audiovisual work or sound recording in the usual manner shall, in the absence of
22 proof to the contrary, be presumed to be the maker of said work or the producer
23 of said sound recording.

24 **Sec. 220. *International Registration of Works.*** — A statement
25 concerning a work, recorded in an international register in accordance with an
26 international treaty to which the Philippines is or may become a party, shall be
27 construed as true until the contrary is proved except:

28 a. Where the statement cannot be valid under this Act or any other
29 law concerning intellectual property.

30 b. Where the statement is contradicted by another statement recorded
31 in the international register. (n)

32 **Sec. 220-A. *Disclosure of Information.***—Where any article or its
33 packaging or an implement for making it is seized or detained under a valid
34 search and seizure under this Act is, or is reasonably suspected to be, by an
35 authorized enforcement officer, in violation of this Act, the said officer shall,
36 wherever reasonably practicable, notify the owner of the copyright in question or
37 his authorized agent of the seizure or detention, as the case may be.

38 **Chapter XVIII.**
39 **SCOPE OF APPLICATION**

40 **Sec. 221. *Points of Attachment for Works under Sections 172 and***

1 **173. a.** The protection afforded by this Act to copyrightable works under Sections
2 172 and 173 hereof shall apply to:

- 3 (1) Works of authors who are nationals of, or have their habitual
4 residence in, the Philippines;
- 5 (2) Audio-visual works the producer of which has his headquarters or
6 habitual residence in the Philippines;
- 7 (3) Works of architecture erected in the Philippines or other artistic
8 works incorporated in a building or other structure located in the
9 Philippines;
- 10 (4) Works first published in the Philippines; and
- 11 (5) Works first published in another country but also published in the
12 Philippines within thirty days, irrespective of the nationality or
13 residence of the authors.

14 b. The provisions of this Act shall also apply to works that are to be
15 protected by virtue of and in accordance with any international convention or
16 other international agreement to which the Philippines is a party. (n)

17 **Sec. 222. *Points of Attachment for Performers.***— The provisions of this
18 Act shall be extended to:

- 19 a. Performers who are nationals of the Philippines;
- 20
21 b. Performers who are not nationals of the Philippines subject to any
22 of the following conditions:
 - 23 (1) Performance takes place in the Philippines; or
 - 24 (2) Performance is incorporated in sound recordings or in audiovisual
25 fixations that are protected under this Act; or
 - 26 (3) Performance which has not been fixed in sound recording or in
27 audiovisual fixations but are carried by broadcast qualifying for
28 protection under this Act.

29 **Sec. 223. *Points of Attachment for Sound Recordings.***— The provisions
30 of this Act on the protection of sound recordings shall apply to:

- 31 a. sound recordings the producers of which are nationals of the
32 Philippines; and
- 33 b. sound recordings that were first published in the Philippines. (n)

34 **Sec. 224. *Points of Attachment for Broadcasts.***— a. The provisions of
35 this Act on the protection of broadcasts shall apply to:

1 (1) Broadcasts of broadcasting organizations the headquarters of which
2 are situated in the Philippines; and

3 (2) Broadcasts transmitted from transmitters situated in the
4 Philippines.

5 b. The provisions of this Act shall also apply to performers who, and to
6 producers of sound recordings and broadcasting organizations which, are to be
7 protected by virtue of and in accordance with any international convention or
8 other international agreement to which the Philippines is a party. (n)
9

10 Chapter XIX. 11 INSTITUTION OF ACTIONS

12 **Sec. 225. *Jurisdiction.***—Civil or administrative actions under Chapter
13 VIII of Part II, Chapters VI and VII of Part IV and Chapter XVIII of Part V of
14 this Act shall be cognizable by the Regional Trial Courts or by the Office and
15 other administrative agencies with appropriate jurisdiction under existing laws.

16 **Sec. 226. *Damages.***— No damages may be recovered under this Act after
17 the lapse of four (4) years from the time the cause of action arose. (Sec. 58, P.D.
18 No. 49)

19 Chapter XX. 20 MISCELLANEOUS PROVISIONS

21 **Sec. 227. *Ownership of Deposit and Instruments.*** —All copies deposited
22 and instruments in writing filed with the Bureau in accordance with the
23 provisions of this Act shall become the property of the Government.

24 **Sec. 228. *Public Records.*** — The section or division of the Bureau charged
25 with receiving copies and instruments deposited and with keeping records
26 required under this Act and everything in it shall be opened to public inspection.
27 The Bureau Director is empowered to issue such safeguards and regulations as
28 may be necessary to implement this Section.

29 **Sec. 229. *Compulsory License on Copyright.***—The Philippines shall by
30 proper compliance with the requirements set forth under the Appendix of the
31 Berne Convention (Paris Act, 1971) avail itself of the special provisions regarding
32 developing countries, including provisions for licenses grantable by competent
33 authority under the Appendix and as may be prescribed by the Regulations.

34 PART VI 35 FINAL PROVISIONS

36 **Sec. 230. *Adoption of Intellectual Property (IP) Policies.*** — Schools
37 and universities, research and development institutions and public entities shall
38 adopt intellectual property policies and programs that would govern the use and
39 creation of intellectual property with the purpose of safeguarding the intellectual

1 creations of the learning institution and its employees, and adopting locally-
2 established industry practice fair use guidelines. Similarly, private entities are
3 encouraged to adopt intellectual property policies. These policies may be
4 developed in relation to licensing agreements entered into for purposes of
5 implementing the state policies under this Act.

6 **Sec. 231. *Equitable Principles to Govern Proceedings.*** – In all *inter*
7 *partes* proceedings in the Office under this Act, the equitable principles of laches,
8 estoppel, and acquiescence where applicable, may be considered and applied. (Sec.
9 9-A, R.A. No. 165)

10 **Sec. 231-A. *Revocation of Business Permit, License, or Authority.*** –
11 The appropriate agency, including local government units shall, upon receipt of
12 order of the Office, cancel, revoke, or suspend any business permit, license or
13 authority of any person, natural or juridical, who refuses or fails to comply with
14 the decision or order of the Director General or of any Bureau or Office of the
15 Intellectual Property Office of the Philippines.

16 **Sec. 232. *Reverse Reciprocity of Foreign Laws.*** – Any condition,
17 restriction, limitation, diminution, requirement, penalty or any similar burden
18 imposed by the law of a foreign country on a Philippine national seeking
19 protection of intellectual property rights in that country, shall reciprocally be
20 enforceable upon nationals of said country, within Philippine jurisdiction. (n)

21 **Sec. 233. *Appeals.*** – a. Appeals from decisions of Regional Trial Courts
22 shall be governed by the Rules of Court. Unless restrained by a higher court, the
23 judgment of the Regional Trial Court shall be executory even pending appeal
24 under such terms and conditions as the court may prescribe.

25 b. Unless expressly provided in this Act or other statutes, appeals
26 from decisions of administrative officials shall be provided in the Regulations. (n)

27 **Sec. 234. *Organization of the Office; Exemption from the Salary***
28 ***Standardization Law and the Attrition Law***– a. The Office shall not be
29 subject to the provisions of Republic Act. No. 7430, entitled: “An Act Providing for
30 Optimum Utilization of Personnel in Government Service through a System Of
31 Attrition, Providing Penalties for Violation thereof, and for Other Purposes”.
32

33 b. The Office shall institute its own compensation structure: *Provided,*
34 That the Office shall make its own system to conform as closely as possible with
35 the principles provided for under Republic Act No. 6758, as amended. (n)

36 **Sec. 235. *Applications Pending on Effective Date of Act.***
37 Notwithstanding the repeals under this Act, all pending applications for the
38 grant of patents and registration of utility models, layout designs of integrated
39 circuits, trademarks and industrial designs filed and processed, granted or
40 registered under the previous acts shall be proceeded and prosecuted under said
41 laws, , unless the applicant opts the same to be processed, granted or registered
42 under this Act. Likewise, all existing grants and registrations under the same act
43 shall continue to be enforced.

1 **Sec. 236. *Preservation of Existing Rights.*** – Nothing herein shall
2 adversely affect the rights on the enforcement of rights in patents, utility models,
3 industrial designs, marks and works, acquired in good faith prior to the effective
4 date of this Act. (n)

5 **Sec. 237. *Public Domain.*** – a. Patents, utility models, layout designs,
6 industrial designs and copyright shall belong to the public domain pursuant to
7 the relevant sections of Part II - Law on Patents, Part IV- Law on Trademarks,
8 and Part V- Copyright and Related Rights of this Act.

9 b. The Bureau of Innovation Support and Business Development shall
10 create immediately and maintain an updated digital registry of
11 all works, inventions, industrial and lay-out designs that has become part of the
12 public domain. The public shall have access to the registry subject to the
13 payment of reasonable fees.

14 c. The Bureau of Copyright and Related Rights shall
15 create immediately and maintain an updated digital registry of all copyright
16 works that has become part of the public domain.

17 d. The contents of the registries, and the public's access thereto
18 subject to payment of reasonable fees, shall be prescribed in the Implementing
19 Rules and Regulations.

20 **Sec. 238. *Separability.***– If any provision of this Act is subsequently
21 declared invalid or unconstitutional, the remainder of this Act which are not
22 affected thereby shall remain in full force and effect. (n)

23 **Sec. 239. *Repealing Clause.*** – a. Republic Act No. 165, entitled “An Act
24 Creating a Patent Office, Prescribing Its Powers and Duties, Regulating the
25 Issuance of Patents, and Appropriating Funds Therefor”, as amended; Republic
26 Act No. 166, entitled “An Act to Provide for the Registration and Protection of
27 Trade-Marks, Trade-Names and Service-Marks, Defining Unfair Competition
28 and False Marking and Providing Remedies Against the Same, and for Other
29 Purposes”, as amended; Articles 188 and 189 of Act No. 3815, or the “Revised
30 Penal Code”, as amended; Presidential Decree No. 49, series of 1972, entitled
31 “Decree on the Protection of Intellectual Property”, and Presidential Decree No.
32 285, series of 1973, entitled “Authorizing the Compulsory Licensing or Reprinting
33 of Educational, Scientific or Cultural Books and Materials as a Temporary or
34 Emergency Measure Whenever the Prices Thereof Become So Exorbitant as to be
35 Detrimental to the National Interest”, as amended, are hereby repealed.

36 b. Republic Act No. 8293, or the “Intellectual Property Code of the
37 Philippines”, as amended by Republic Act No. 9150, Republic Act No. 9502 and
38 Republic Act No. 10372, is hereby repealed.

39 c. Executive Order No. 736, series of 2008, entitled: “Institutionalizing
40 Permanent Units to Promote, Protect and Enforce Intellectual Property Rights
41 (IPR) in Different Law Enforcement and Other Agencies under the Coordination

1 of the National Committee on Intellectual Property Rights (NCIPR)", is hereby
2 amended accordingly.

3 d. All other laws, presidential decrees or issuances, executive orders,
4 letters of instruction, administrative orders, rules and regulations or parts
5 thereof which are contrary or inconsistent with any provisions of this act are
6 hereby repealed or amended accordingly.

7 **Sec. 240. Effectivity.** – This Act shall take effect fifteen (15) days after its
8 publication in the Official Gazette or in newspaper of general circulation. (n)

9 Approved,