

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

H. B. No. 267

Introduced by HONORABLE JUAN EDGARDO "SONNY" M. ANGARA

EXPLANATORY NOTE

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

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

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

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

While our IPC was shaped with a consummate vision at the time of its enactment, its provisions have not kept pace with the advances made in the area of intellectual property rights infringement in E-Commerce. Thus, with the Philippines' ratification of the WCT and WPPT, there is a need for amendments to the IPC to contain the additional obligations imposed by the provisions in said treaties. More particularly, our laws must address two new issues: 1) the technological measures provisions (Article 11 of the WCT and Article 18 of the WPPT); and 2) the rights management information provisions (Article 12 of the WCT and WPPT) of the Internet Treaties.

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

seeks to recognize rights to distribution and rental, and rights to receive payments for certain forms of broadcasting or communication to the public.

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

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

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



JUAN EDGARDO "SONNY" M. ANGARA
Representative
Lone District, Province of Aurora

H. B. No. 267

Introduced by Honorable JUAN EDGARDO "SONNY" M. ANGARA

AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8293, OTHERWISE KNOWN
AS THE "THE INTELLECTUAL PROPERTY CODE
OF THE PHILIPPINES", AND FOR OTHER PURPOSES

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

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

"**SEC. 171.** Definitions. - For the purpose of this Act, the following terms have the following meaning:

x x x

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

x x x

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

x x x

171.12 "**EFFECTIVE TECHNOLOGICAL MEASURE**" MEANS ANY TECHNOLOGY, DEVICE OR COMPONENT THAT, IN THE NORMAL COURSE OF ITS OPERATION, CONTROLS ACCESS TO A PROTECTED WORK, SOUND RECORDING, OR OTHER SUBJECT MATTER, OR PROTECTS ANY COPYRIGHT OR ANY RIGHTS RELATED TO COPYRIGHT AS PROVIDED BY THIS ACT.

171.13 "**RIGHTS MANAGEMENT INFORMATION**" MEANS INFORMATION WHICH IDENTIFIES THE WORK, SOUND RECORDING OR PERFORMANCE; THE AUTHOR OF THE WORK, PRODUCER OF THE SOUND RECORDING OR PERFORMER OF THE PERFORMANCE; THE OWNER OF ANY RIGHT IN

THE WORK, SOUND RECORDING OR PERFORMANCE; OR INFORMATION ABOUT THE TERMS AND CONDITIONS OF THE USE OF THE WORK, SOUND RECORDING OR PERFORMANCE; AND ANY NUMBERS OR CODES THAT REPRESENT SUCH INFORMATION, WHEN ANY OF THESE ITEMS IS ATTACHED TO A COPY OF THE WORK, SOUND RECORDING OR FIXATION OF PERFORMANCE OR APPEARS IN CONNECTION WITH THE COMMUNICATION TO THE PUBLIC OF A WORK, SOUND RECORDING OR PERFORMANCE. NOTHING IN THIS ACT REQUIRES THE OWNER OF ANY RIGHT IN THE WORK, SOUND RECORDING, OR PERFORMANCE TO ATTACH RIGHTS MANAGEMENT INFORMATION TO COPIES OF IT OR TO CAUSE RIGHTS MANAGEMENT INFORMATION TO APPEAR IN CONNECTION WITH A COMMUNICATION OF THE WORK, SOUND RECORDING OR PERFORMANCE TO THE PUBLIC.

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

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

x x x

177.3 **"THE IMPORTATION INTO THE PHILIPPINES, AND** the first public distribution within the Philippines, of the original and each copy of the work, by sale or other forms of transfer of ownership."

SEC. 3. Section 178.5 is hereby amended by striking "exhibition" and inserting "exploitation" and to read as follows:

"SEC. 178. *Rules on Copyright Ownership.* - Copyright ownership shall be governed by the following rules:

x x x

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

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

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

x x x

180.4 "ANY EXCLUSIVE) RIGHT 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."

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

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

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

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

x x x

- (i) The public performance or the communication to the public of a work, in a place where no admission fee is charged DIRECTLY OR INDIRECTLY 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; WHERE NO COMPENSATION OR FEE IS PAID TO ANY PERFORMER, PROMOTER, OR ORGANIZER OF THE PUBLIC PERFORMANCE OR COMMUNI-CATION AND subject to such other limitations as may be provided in the Regulations.

x x x

- (k) Any use made of a work for the purpose of any judicial proceedings or for the giving of professional advice by a legal practitioner WITH RESPECT TO SUCH A WORK, ITS CREATION OR EXPLOITATION."

SEC. 7. Section 185.1 is hereby amended to read as follows:

"SEC. 185. *Fair Use of a Copyrighted Work.* - 185.1 The fair use of a copyrighted work for criticism, comment, news reporting, teaching including multiple copies for classroom use, scholarship, research, and similar purposes is not an infringement of copyright, Decompilation, which is understood here to be the reproduction of the code and translation of the forms of [the] A computer program to achieve the inter-operability of an independently created computer program with other programs may also constitute fair use UNDER THE CRITERIA ESTABLISHED BY THIS

SECTION, TO THE EXTENT THAT SUCH DECOMPILATION IS INDISPENSABLE IN ORDER TO OBTAIN THE INFORMATION NECESSARY TO ACHIEVE SUCH INTER-OPERABILITY. In determining whether the use made of a work in any particular case is fair use, the factors to be considered shall include:"

SEC. 8. Section 188 is hereby amended to read as follows:

"SEC. 188. Reprographic Reproduction by Libraries. - 188.1 Notwithstanding the provisions of Subsection 177.6, any library or archive whose activities are not for profit may, without the authorization of the author of copyright owner, make a single copy of the work by reprographic reproduction:

x x x

188.2 Notwithstanding the above provisions, it shall not be permissible to produce a volume of work published in several volumes or to produce missing tomes or pages of magazines or similar works, unless the volume, tome or part is out of stock: *Provided*, That every library which, UNDER SECTION 191, is entitled to receive copies of a printed work, shall be entitled, when special reasons so require, to reproduce a SINGLE REPROGRAPHIC copy of a published work which is considered necessary for the collection of the library but which is out of stock AND NOT REASONABLY AVAILABLE TO IT THROUGH COMMERCIAL CHANNELS."

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

"190.1. Importation for Personal Purposes - Notwithstanding the provision of Subsection [177.6] 177.3 but subject to the limitation under the Subsection [185.2] 184.2 the importation of a copy of a work by an individual for his personal purposes shall be permitted without the authorization of the author of, or other owner of copyright in, the work under the following circumstances:

- (a) When copies of the work are not available in the Philippines and:
 - (i) Not more than one (1) copy at one time is imported by strictly individual use only; or
 - (ii) The importation is by authority of and for the use of the Philippine Government; or
 - (iii) The importation, consisting of not more than three (3) such copies or likenesses in any one invoice, is not for sale but for the use only of any religious, charitable, or educational society or institution duly incorporated or registered, or is for the encouragement of the fine arts, or for any state school, college, university, or free public library in the Philippines.

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

x x x

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

SEC. 10. Section 191 is hereby amended by striking "Subsections 172.1, 172.2 and 172.3," and in lieu thereof, substituting "Subsections 172.l(a), (b) and (c)", to read as follows:

"SEC. 191. *Registration and Deposit with National Library and the Supreme Court Library.* - After the first public dissemination of performance by authority of the copyright owner of a work falling under Subsections [172.1, 172.2 and 172.3] 172.l(a), (b) and (c) of this Act, there shall, for the purpose of completing the records of the National Library and the Supreme Court Library, within three (3) weeks, be registered and deposited with it, by personal delivery or by registered mail, two (2) complete copies or reproductions of the work in such form as the directors of said libraries may prescribe. A certificate of deposit shall be issued for which the prescribed fee shall be collected and the copyright owner shall be exempt from making additional deposit of the works with the National Library and the Supreme Court Library under other laws. If, within three (3) weeks after receipt by the copyright owner of a written demand from the directors for such deposit, the required copies or reproductions are not delivered and the fee is not paid, the copyright owner shall be liable to pay a fine equivalent to the required fee per month of delay and to pay to the National Library and the Supreme Court Library the amount of the retail price of the best edition of the work. Only the above mentioned classes of work shall be accepted for deposit by the National Library and the Supreme Court Library. (Sec. 26, P.D. No. 49a).

SEC. 11. Subsection 205.2 is hereby amended to read as follows:

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

SEC. 12. Section 208 is amended by amending subsection 208.1 and adding a new subsection 208.4 and to read as follows:

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

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

x x x

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

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

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

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

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

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

212.2 Using short excerpts for reporting current events;

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

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

SEC. 15. Section 216 of the same Act is hereby amended and renumbered to read as follows:

"SEC 216. INFRINGEMENT, WHAT CONSTITUTES. - [Remedies for Infringement]. A PERSON INFRINGES A RIGHT PROTECTED UNDER THIS ACT WHEN HE OR SHE:

(a) DIRECTLY COMMITS AN INFRINGEMENT OR CAUSES AN INFRINGEMENT TO BE COMMITTED:

- (b) BENEFITS FINANCIALLY FROM THE INFRINGING ACTIVITY OF ANOTHER PERSON WHO COMMITS AN INFRINGEMENT IF THE PERSON BENEFITING HAS THE RIGHT AND ABILITY TO CONTROL THE ACTMTIES OF THE OTHER PERSON; OR
- (c) ENABLES OR INDUCES INFRINGEMENT BY ANOTHER PERSON ENABLING OR INDUCING THE INFRINGEMENT WHICH HE HAS OR REASONABLY SHOULD HAVE KNOWLEDGE OF AND MATERIALLY CONTRIBUTES TO IT.

SEC. 16. Section 216.1 is hereby amended as follows:

"SEC. 216.1 REMEDIES FOR INFRINGEMENT – Any person infringing a right protected under this law shall be liable:

x x x

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

x x x

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

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

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

- (a) UPON APPLICATION OF THE HOLDER OF ANY RIGHT UNDER THIS ACT, THE COURT MAY ORDER AS PROVISIONAL MEASURES, ANY OF THE RELIEF IT IS AUTHORIZED TO AWARD UNDER THE PROVISIONS OF THIS SECTION, EXCEPT FOR MONETARY DAMAGES, WITHOUT NOTICE TO THE OTHER PARTY, WHEN THE COURT DEEMS IT NECESSARY TO PREVENT AN INFRINGEMENT OF AN INTELLECTUAL PROPERTY RIGHT, OR TO PRESERVE RELEVANT EVIDENCE OF ALLEGED INFRINGEMENT;
- (b) SUCH RELIEF MAY INCLUDE, BUT IS NOT LIMITED TO, SEIZURE OR IMPOUNDMENT OF INFRINGING COPIES OF EQUIPMENT WHICH CAN BE USED TO MAKE INFRINGING COPIES OF BUSINESS RECORDS, AND OF DOCUMENTARY EVIDENCE IN ANY FORM, INCLUDING ELECTRONIC FORM;
- (c) THE COURT MAY ORDER PROVISIONAL MEASURES WITHOUT NOTICE TO THE OTHER PARTY WHEN IT DETERMINES THAT DELAY IS LIKELY TO CAUSE IRREPARABLE HARM TO THE RIGHT HOLDER OR WHEN THERE IS A DEMONSTRABLE RISK OF EVIDENCE BEING DESTROYED OR WHEN THE COURT OTHERWISE DEEMS IT APPROPRIATE;
- (d) THE COURT MAY CONDITION THE AVAILABILITY OF PROVISIONAL MEASURES UNDER THIS SECTION UPON SUFFICIENT SQUOWING, BASED ON REASONABLY AVAILABLE EVIDENCE, THAT THE APPLICANTS RIGHTS HAVE BEEN OR ARE ABOUT TO BE INFRINGED, AND UPON SUBMISSION TO THE COURT OF A SUFFICIENT SECURITY TO PROTECT THE OTHER PARTY AND TO PREVENT ABUSE;
- (e) UPON REQUEST BY THE OTHER PARTY, THE PROVISIONAL MEASURES SHALL CEASE TO HAVE EFFECT IF PROCEEDINGS LEADING TO DECISION ON THE MERITS ARE NOT INITIATED BY OR ON BEHALF OF THE APPLICANT WITHIN TWENTY (20) WORKING DAYS OR THIRTY-ONE (31) CALENDAR DAYS, FROM THE DATE OF IMPOSITION OF THE PROVISIONAL MEASURES, WHICHEVER IS LONGER, OR WITHIN SUCH OTHER REASONABLE PERIOD AS THE COURT MAY DETERMINE; AND
- (f) THE FOREGOING SHALL NOT PRECLUDE AN INDEPENDENT SUIT FOR RELIEF BY THE INJURED PARTY BY WAY OF DAMAGES, INJUNCTION, ACCOUNTS, OR OTHERWISE.

SEC. 18. Subsections 217.3 (b) and (c) are hereby amended to read as follows:

"SEC. 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 infringing copy of the work for the purpose of:

x x x

- (b) Distributing, INCLUDING IMPORTING OR EXPORTING 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] EXHIBITING THE WORK in public, OR OTHERWISE USING THE ARTICLE FOR TRADE OR BUSINESS, shall be guilty of an offense and shall be liable on conviction to imprisonment and fine as above mentioned. (See 29, P.D. No. 49a).

SEC. 19. Subsection 218.1(c) is hereby amended to read as follows:

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

x x x

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

SEC. 20. There shall be two new sections to be added at the end of Section 220.2 to be known as Section 220A and 220B, to read as follows:

"SEC 220A. DISCLOSURE OF INFORMATION

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

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

- (A) THE TIME AND PLACE, OF SEIZURE OR DETENTION OF THE ARTICLE;
- (B) THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE ARTICLE HAS BEEN SEIZED OR DETAINED;
- (C) THE NATURE AND QUANTITY OF ARTICLES SEIZED OR DETAINED;
- (D) ANY STATEMENT MADE TO AN AUTHORIZED OFFICER BY THE PERSON IN CONNECTION WITH THE SEIZURE OR DETENTION, EITHER WITH THE PRIOR CONSENT IN WRITING OF THAT PERSON OR WITHOUT SUCH CONSENT WHERE THE PERSON IS DEAD OR CANNOT AFTER REASONABLE ENQUIRIES BY AN AUTHORIZED OFFICER AS TO HIS WHERE-ABOUTS BE FOUND; AND
- (E) ANY OTHER INFORMATION OR DOCUMENT RELATING TO THE ARTICLE SEIZED OR DETAINED WHICH AN AUTHORIZED OFFICER DEEMS FIT TO DISCLOSE.

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

SEC 220B ACCEPTANCE OF PROPORTIONAL EXAMINATION OF ARTICLES SEIZED.

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

220B.2.WHERE PROCEDURES WERE CARRIED OUT IN ACCORDANCE WITH THE PREVIOUS PARAGRAPH, THE COURT SHALL PRESUME THAT THE REMAINING COPIES CONTAINED IN THE PACKAGE OR RECEPTACLE ARE OF THE SAME NATURE AS THOSE COPIES EXAMINED."

SEC. 21. Chapter XVIII is hereby amended by adding a new Section at the end thereof to be known as Section 224A. to read as follows:

"SECTION 224A, PROTECTION OF EXISTING SUBJECT MATTER:

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

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

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

SEC. 22. Part IV is hereby amended by adding a new Chapter at the end thereof to be known as Chapter XXI, to read as follows:

"CHAPTER XXI. TECHNOLOGICAL PROTECTION MEASURES AND RIGHTS MANAGEMENT INFORMATION

SECTION 229A TECHNOLOGICAL PROTECTION MEASURES

229A.1. ANY PERSON WHO DOES EITHER OF THE FOLLOWING SHALL BE GUILTY OF A CRIME, PUNISHABLE TO THE SAME EXTENT AS PROVIDED IN SECTION 217.1(B) OF THIS ACT FOR THE FIRST OFFENSE, AND TO THE SAME EXTENT AS PROVIDED IN SECTION 217.1(C) FOR THE SECOND OR SUBSEQUENT OFFENSE, AND SHALL ALSO BE LIABLE UPON THE SUIT OF ANY INJURED PARTY, TO A RELIEF, INCLUDING BUT NOT LIMITED TO, DAMAGES, INJUNCTION, IMPOUNDMENT, AND DESTRUCTION. THE REMEDIES PROVIDED IN SECTION 216 SHALL APPLY, *MUTATIS MUTANDIS*, TO VIOLATIONS OF THIS SECTION:

- (a) KNOWINGLY, OR HAVING REASONABLE GROUNDS TO KNOW, CIRCUMVENTS WITHOUT AUTHORITY ANY EFFECTIVE TECHNOLOGICAL MEASURE; OR
- (b) MANUFACTURES, IMPORTS, EXPORTS, DISTRIBUTES, OFFERS TO THE PUBLIC, PROVIDES, OR OTHERWISE TRAFFICS IN DEVICES, PRODUCTS OR COMPONENTS OR OFFERS TO THE PUBLIC OR PROVIDES SERVICES:
 - (i) THAT ARE PROMOTED, ADVERTISED OR MARKETING FOR THE PURPOSE OF CIRCUMVENTION OF ANY EFFECTIVE TECHNOLOGICAL MEASURE; OR
 - (ii) THAT HAVE ONLY A LIMITED COMMERCIAL SIGNIFICANT PURPOSE OR USE OTHER THAN TO CIRCUMVENT ANY EFFECTIVE TECHNOLOGICAL MEASURE; OR
 - (iii) THAT ARE PRIMARILY DESIGNED, PRODUCED, ADAPTED OR PERFORMED FOR THE PURPOSE OF ENABLING OR FACILITATING THE CIRCUMVENTION OF ANY EFFECTIVE TECHNOLOGICAL MEASURE.

229A.2. THIS SECTION PROHIBITS CIRCUMVENTION OF TECHNOLOGICAL MEASURES, AND DOES NOT REQUIRE AN AFFIRMATIVE RESPONSE TO SUCH MEASURES. THIS SECTION DOES NOT REQUIRE THAT THE DESIGN OF, OR THE DESIGN AND SELECTION OF PARTS AND COMPONENTS FOR A CONSUMER ELECTRONICS, TELECOMMUNICATIONS OR COMPUTING PRODUCT PROVIDE FOR A RESPONSE TO ANY PARTICULAR TECHNOLOGICAL MEASURE. THIS PARAGRAPH DOES NOT PROVIDE A DEFENSE TO A CLAIM OF VIOLATION OF PARAGRAPH (1)(B).

229A.3. A VIOLATION OF THIS SECTION IS INDEPENDENT OF ANY INFRINGEMENT THAT MIGHT OCCUR UNDER THIS ACT.

SECTION 229B INTEGRITY OF RIGHTS MANAGEMENT INFORMATION

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

- (a) KNOWINGLY AND WITHOUT AUTHORITY REMOVES OR ALTERS ANY ELECTRONIC RIGHTS MANAGEMENT INFORMATION FROM A COPY OF A WORK, SOUND RECORDING, OR FIXATION OF A PERFORMANCE, OR KNOWINGLY AND WITHOUT AUTHORITY DISTRIBUTES, IMPORTS FOR DISTRIBUTION, BROADCASTS, COMMUNICATES OR MAKES AVAILABLE TO THE PUBLIC COPIES OF WORKS, SOUND RECORDINGS, OR FIXATIONS OF PERFORMANCES FROM WHICH ELECTRONIC RIGHTS MANAGEMENT INFORMATION HAS BEEN REMOVED; OR
- (b) ALTERS ELECTRONIC RIGHTS MANAGEMENT INFORMATION WITHOUT AUTHORITY, KNOWING OR (WITH RESPECT TO CIVIL REMEDIES) HAVING REASONABLE GROUNDS TO KNOW THAT SUCH ACTIVITY WILL ENABLE OR FACILITATE AN INFRINGEMENT OF ANY RIGHT PROTECTED UNDER THIS LAW."

SEC. 23. All laws, decrees, executive orders, issuances or regulations inconsistent with the provisions of this Act are hereby revised or amended accordingly

SEC. 24. If any part of this law is declared unconstitutional or invalid, such parts or provisions thereof not so declared shall remain valid and subsisting.

SEC. 25. This Act shall take effect fifteen (15) days from publication in two (2) newspapers of general circulation in the country.

Approved,