

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

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 8001



Introduced by Representatives Ron P. Salo and Ciriaco S. Calalang

EXPLANATORY NOTE

Technology is evolving, and it is evolving fast. Every day, the internet breeds new technological advances that are placed under the control of our fingertips: may it be new mobile applications or a new internet discovery to shape and re-shape the world of internet experience. Powerful innovations of the internet age such as uploading/downloading, linking, torrenting, and streaming create opportunities but also enormous challenges – and unfortunately have been used to significantly impede the goals of intellectual property protection online.

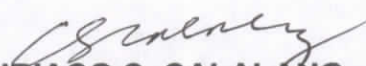
The Philippines is sadly one of the countries described by internet pirates as “safe”, meaning one can upload, download, link, torrent, and stream infringing content without fear of any consequence, including arrest, prosecution, or penalty. Unlike in countries such as Australia, Indonesia, Malaysia, Singapore, and Thailand where there are strict laws that provide for disabling access to these infringement platforms, the Philippines continues to be a haven for cyber criminals who illegally make content available on the internet.

Years ago, the Intellectual Property Office was able to disrupt the notorious pirate torrent site, “KickAssTorrents (kat.ph)” by seizing the “.ph” domain (our country code domain). However, these prolific pirates simply changed their domain to that of another country (to .to for Tonga or .so for Somalia, for example). Since the Philippine IPO had no jurisdiction over these countries’ domain registrars, the IPO could not further disrupt KickAssTorrents. However, if the Philippines implements a law to disable access to sites that infringe or facilitate infringement of copyright, it can ensure no one in the Philippines can access such sites. Hundreds if not thousands of sites have sprouted all over the web, including download sites, linking sites, streaming sites, and cyberlockers that broadcast or allow unauthorized access to copyrighted materials, often with a single click of a button. To date in the Philippines, motion pictures and television programs, music, books, and other copyrighted material have been relentlessly shared, copied, distributed, or streamed over servers without much hope for protection for the copyright owner. This situation can be remedied by the passage of a law that will empower the Intellectual Property Office and enable local Internet Service Providers (ISPs) to take reasonable steps to disable access to sites whenever these sites are reported to be infringing copyright or facilitating copyright infringement.

RA 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. "Whereas, it is a sad phenomenon that the works of the Filipino artists; including but not limited to, actors, singers, painters and apps. developers are easily subjected to counterfeiting and piracy in the internet. It is the obligation of the State to protect these works by enacting legislation enabling Filipino artists to stop such piracy. To these effect, the crop of Filipino artist, both current and past, are willing to support the proactive action in protecting their rights.

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


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KABAYAN Partylist


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AN ACT
ENABLING THE INTELLECTUAL PROPERTY OFFICE THROUGH THE
NATIONAL TELECOMMUNICATIONS COMMISSION TO CANCEL LICENSES OF
INTERNET SERVICE PROVIDERS THAT ALLOW WEBSITES TO INFRINGE OR
TO FACILITATE INFRINGEMENT OF COPYRIGHT

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

SECTION 1. Short Title. – This Act shall be known as the “Philippine Online Infringement Act”

SEC. 2. Declaration of Policy. – The State recognizes the protection of intellectual property as an integral aspect of national development and growth. Being a signatory to global intellectual property laws and agreements, the State shall respect and abide by the policies of these international agreements and shall strive to provide adequate protection and effective enforcement of intellectual property rights.

It is a policy of the State to recognize the vital role of communication and information in nation-building. As such, government agencies dedicated to the promotion and administration of communication and information should be empowered to regulate private companies that operate businesses which operate in the internet space, some of whom may be violating or facilitating violations of intellectual property rights.

ARTICLE I
DEFINITION OF TERMS

SEC. 3. Definition of Terms. – As used in this Act, the following terms shall mean:

- a) “Commission” shall mean the National Telecommunications Commission.

- b) "Copyright" shall be defined consistent with that term in Republic Act RA 8293 as amended.
- c) "Online location" shall mean any collection of related web pages accessible by a user through a domain, IP address, or uniform resource locator (URL);
- d) "Infringing online location" shall mean any online location the primary purpose of which is to infringe copyright or facilitate copyright infringement;
- e) "Internet service provider" shall mean any person or legal entity operating in the Philippines that provides customers with access to an online location, including through information location tools;

ARTICLE II

APPLICATION FOR DISABLING ACCESS TO INFRINGING ONLINE LOCATIONS

SEC. 4. Application to the Office. – A copyright owner, or an exclusive licensee thereof, may file an application to the Intellectual Property Office (IPO) to require internet service providers to take reasonable steps to disable access to an infringing online location.

- a) To accommodate requests of both local and international applicants, the application may be made by completing a form available at the IPO website;
- b) The application shall indicate:
 - i) the domains, IP addresses, and/or URLs by which each infringing online location is accessible;
 - ii) the copyrighted material of the applicant which is being infringed;
 - iii) other matters which the IPO may consider including:
 - a. the flagrancy of such infringement;
 - b. whether the online location makes available or contains directories, indexes or categories of the means to infringe, or facilitate an infringement of, copyright;
 - c. whether the owner or operator of the online location demonstrates a disregard for copyright generally;
 - d. 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;

- e. the proportionate effects and impact that blocking may have on local users, whether individually or collectively; and/or
 - f. any other relevant matter.
- c) One application may be submitted for multiple infringing online locations, however, the requirements of this Section must be met and set out in the application.

SEC. 5. Review by the IPO. – Upon receipt of the application form, the IPO shall review the same and determine whether the online location meets the requirements of Section 4 of this Act.

- a) The IPO shall, within fifteen (15) days from the filing of the application, prepare a report of its findings and provide the applicant and internet service providers with the same;
- b) A Review Committee shall be formed to review all applications received and the IPO report; and
- c) The Committee, in reviewing the application and IPO report, may give due consideration to all the matters set out in Section 4(b).

SEC. 6. Action by the IPO. – If the Committee agrees with the IPO report and its findings that the online location meets the requirements of Section 4 of this Act, the Committee shall within ten (10) days from the promulgation of the IPO report send a Notice of approval back to the IPO.

- a) The IPO shall then, 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 applicant;
- b) Otherwise, the IPO shall, within five (5) days, send a Notice to the applicant that its application is denied, setting forth the grounds for denial; and
- c) Whether the application is granted or denied, the IPO shall submit its Report accompanied by the Order, if any, to the National Telecommunications Commission.

SEC. 7. Watch List. – Even if the online location does not meet the requirements of Section 4 of this Act, the IPO shall keep a watch list of all online locations for which there has been an application under this Act.

- a) The IPO shall keep a list of all infringing online locations for which Orders have been rendered under this Act. The IPO may at any time during the operation of the Orders notify the internet service providers should it become known that the infringing online location be accessible from a

different domain name, IP address, or URL, and make such different domain name, IP address, or URL subject to the Orders.

ARTICLE III RESPONSIBILITIES OF THE ISPs

SEC. 8. Response to the Order of the Office. – Upon receipt of the Order enjoining them to block a website, Internet Service Providers (ISPs) may, if they object to any part of the Order, submit a response to the Office setting out the grounds for such objection within five (5) calendar days. In this case, the Office may alter the Order within ten (10) calendar days as it thinks fit, or, if no alteration is required, then the Response is deemed rejected and the Order shall remain in force.

SEC. 9. Complying with the Order. – Subject to Section 8, within ten (10) days following the issuance of an Order, or an alteration of an Order, as the case may be, the internet service providers must comply with the Order.

- a) Should the internet service provider be unable to comply with the Order within ten (10) days from its issuance, it must submit a written explanation and an action plan to the IPO; and
- b) Failure to comply with the Order within ten (10) days of its issuance and without a written explanation and action plan shall subject the internet service provider to liability for penalties under Article IV of this Act.

SEC. 10. Actions to be Taken. – Reasonable steps to disable access to an infringing online location shall include DNS blocking in respect of all Domain Names from which the infringing online location operates; IP Address blocking or re-routing in respect of static IP Addresses for infringing online locations; URL blocking in respect of all URLs of the Target Online Locations and their Domain Names; or any alternative technical means for disabling access to the infringing online location as agreed in writing between the applicants and an internet service provider.

- a) The internet service provider must redirect any communication by a user of its service seeking access to an infringing online location disabled pursuant to an Order to a webpage informing users who have been redirected to the webpage that access to that infringing online location has been disabled by Order of the IPO because the infringing online location infringes or facilitates the infringement of copyright; and
- b) The internet service provider subject to the Order shall submit a quarterly report to the IPO and to the Commission informing them of the status of compliance with the Order, namely, any relevant information regarding the availability of the infringing online location in the Philippines via the internet service provider.

ARTICLE IV CANCELLATION OF LICENSE

SEC. 11. *Recommendation to the Commission.* – The IPO shall make recommendations to the Commission to cancel the license of an internet service provider that commits the following acts:

- a) refusal to comply with an Order from the IPO to take reasonable steps to disable access to an infringing online location;
- b) failure to comply with an Order within ten (10) days of its issuance and without the requisite written explanation and action plan; and
- c) any gross violation of Article III of this Act;

SEC. 12. *Notice and Conference.* – Within five (5) days upon receipt of the Recommendation from the IPO, the Commission shall schedule a hearing to investigate alleged violations of the internet service provider described in the preceding section.

The Commission shall serve a Notice to the internet service provider and schedule a conference for the same to determine whether the cancellation of the license of the internet service provider shall be proper.

The conference shall be scheduled no more than fifteen (15) days from the date the Commission receives the recommendation from the IPO. The conference shall be concluded within a single day and a final judgment must be rendered therein.

SEC. 13. *Cancellation of License.*—If the recommendation of the IPO to cancel the license of the internet service provider is proper and meritorious, the Commission shall facilitate the prompt cancellation of the license of the internet service provider.

ARTICLE V MISCELLANEOUS PROVISIONS

SEC. 14. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Office, in consultation with the appropriate agencies and departments, shall promulgate the necessary rules and regulations for the implementation of this Act.

SEC. 15. *Appropriations.* – The amount necessary for the implementation of this Act shall be included in the General Appropriations Act.

SEC. 16. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain valid.

SEC. 17. 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 repealed or modified accordingly.

SEC. 18. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.

