Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8620

Introduced by Representative Wes Gatchalian

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

EXPLANATORY NOTE

The existing law on intellectual property (IP), Republic Act No. 8293, also
known as the IP Code, was enacted in 1997, at a time when the Philippines was
opening up its borders for a free flow of information, as well as goods and services.
Although primarily an effort to consolidate the three then-existing laws on patents,
trademarks, and copyright, the IP Code introduced amendments not only to comply
with treaty obligations on IP, but also to harmonize our own IP system with that of
the international scene.

Since then, the fundamental law on IP in the country underwent three (3)
major changes, particularly, Republic Acts Nos. 9150 (2001), 9502 (2008), and 10372
(2013), introducing protection for integrated circuits, amendments to the patent
system in view of the Universally Accessible Cheaper and Quality Medicines Act, and
updating of the copyright law to be more attuned to the digital age.

Today, the world is in the midst of an industrial revolution that can serve as
a defining moment for the Philippines. Modern technologies literally and figuratively
affect and shape our lives, individually and collectively. The physical world is
shrinking, with the digital world gaining more prominence. Thanks to technology, we
now live in a world that is markedly different than what it was at when the IP Code
was enacted into law twenty-four (24) years ago.

Therefore, to keep pace with such developments, both technologically and in
the international IP scene, there is a pressing need to introduce further amendments
to the law.

Since 1998, the international legal framework, norms, standards and best
practices have changed. Thus, having a more robust, effective, modern, and forward-
looking IP legal system will make the Philippines an increasingly attractive
investment destination that values intellectual property creation, protection,
utilization and commercialization, and enforcement.
There have also been rapid advancements in technology influence consumer behavior. Business operations are forced to evolve and thrive not only in the physical markets, but also in a borderless digital world. Hence, there is a necessity to ensure that the legal system and regulations are adequate to protect the consuming public.

Thus, we need to create an enabling environment that will promote and steer creativity, innovation, and development not only for large companies but more so for micro, small and medium enterprises, including start-ups. There is a need to further intensify the government’s efforts to deter counterfeiting and piracy in the physical and online markets.

In addition, innovation is one of the main thrusts of the government. This is reflected in the 10-Point Socioeconomic Agenda of the President, which aims to “promote science, technology, and the creative arts to enhance innovation and creative capacity towards self-sustaining, inclusive development”. Consequently, the recently legislated Republic Act Nos. 11293 (Philippine Innovation Act) and 11337 (Innovative Startup Act) ensure that efforts on innovation will benefit all stakeholders especially, micro, small and medium enterprises (MSMEs). This bill is submitted to support, as well, the innovation agenda of the government.

Finally, security or protection to IP must be ensured to fuel the drive and motivation to create and innovate. Infringement of IP Rights is tantamount to theft and technology has equipped counterfeiters, pirates, and infringers with handy tools to ply their illegal trade. Hence, there is a need to respond to this challenge by adopting measures specifically designed to combat infringement and piracy in the digital environment. This bill proposes the taking down or blocking websites and online posts that advertise, sell or offer to sell, promote, and influence consumers to patronize counterfeit products, or to download pirated music, movies, and other materials. Adequate and deterrent penalties have to be imposed, especially if the counterfeiting and infringing acts pose danger to safety, life and health. In the end, a strong and effective multi-front enforcement initiatives, involving the executive, legislative and judicial branches of government will benefit the Filipinos and the public in general, as they deserve quality, reliable and safe products and genuine and authentic music, works of arts, and literature.

With the passage of this bill, the Philippines takes one step closer to fostering and protecting Filipino creativity and innovation in a highly competitive borderless world.

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

HON. WES-GATCHALIAN
Representative
1st District, Valenzuela City
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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

Section 1. Section 5 of Republic Act No. 8293; otherwise known as the “Intellectual
Property Code of the Philippines”, is hereby amended to read as follows:

“SEC. 5. Functions of the Intellectual Property Office OF THE PHILIPPINES
(IPOPHIL).

“5.1. The Intellectual Property Office of the Philippines is mandated to
administer and implement the State policies declared in this Act, having the
following functions:

"a. Examine applications and grant letters patent for inventions and register
utility models, industrial designs, layout-designs (topographies) of
integrated circuits, trademarks and other marks of ownership; [Sec.
5.1(a,b), R.A. No. 8293a]

"b. Provide protection for geographical indications; (n)

"c. Register technology transfer arrangements and settle disputes on payments
involving the same and develop and implement strategies to promote and
facilitate technology transfer; [Sec. 5.1(c), R.A. 8293a]

"d. Promote the use of copyright and related rights as a tool to foster a culture
of creativity and respect for artistic creation; (n)"
"e. Promote the use of patent information as a tool for policy making and technology development; [Sec.5.1(d), R.A. 8293a]

"f. Publish regularly in its own publication the patents, marks, utility models and industrial designs, issued and approved, and the technology transfer arrangements registered; [Sec.5.1(e), R.A. 8293]

"g. Administratively adjudicate disputes involving intellectual property rights; [Sec.5.1(f), R.A. 8293a]

"h. Undertake enforcement functions supported by concerned agencies; (n)

"i. Coordinate with and enter into partnerships with other government agencies, institutions, and the private sector efforts to formulate and implement plans and policies to strengthen the creation, promotion, protection, utilization, and enforcement of intellectual property rights in the country; [Sec.5.1(g), R.A. 8293a]

"j. Secure and receive bilateral and international grants and endowments to support its programs/projects; (n) and [n]

"k. Formulate policies to promote creativity, innovation, and respect for intellectual property. (n)

"5.2. x x x

"5.3. The Office shall have the authority to establish and collect fees and other charges in the exercise of its functions and rendering of services including the holding of trainings and seminars. In relation to and in the performance of its functions and promotion of intellectual property, the Office shall have the authority to sell educational and promotional materials, and import and accept donations consisting of equipment or similar items to be exclusively used for official purposes. (n)

" 5.4. The Office shall promulgate rules and procedures, including reasonable timelines consistent with international agreements and best practices, and commensurate to the extremely complicated and exceptionally technical field of intellectual property. These rules of procedure include the grant of letters patents, registration of utility models, industrial designs, layout-designs (topographies) of integrated circuits, marks of ownership, the adjudication of intellectual property disputes, and other similar or related services. (n)"
Section 2. Section 6 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 6. The Organizational Structure of the IPOPHL-

"x x x

"6.2. The Office shall be divided into seven (7) Bureaus, x x x

"x x x

d. The Bureau of Innovation and Business Development;

"e. The Information Technology Management Service;

"f. The Finance, Administrative, and Human Resource Development Services

"g. The Bureau of Copyright and Related Rights.

Section 3. Section 7 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 7. The Office of the Director General and Deputies Director General. –

"7.1. Composition. –a. The Office of the Director General shall consist of the Director General and the Deputies Director General, their immediate staff, and such Offices and Services that the Director General will set up to support the plans and programs of the Director General, including but not limited to the Strategy Management and Planning; Learning Environment, Accreditation and Research Network; Intellectual Property Rights Enforcement and Coordination; Intellectual Property Field Operations; Appeals and Legal; Policy and International Affairs; and Internal Audit and Quality Management. (Sec.7.4, R.A. 8293a)

"7.2 Powers and Functions. - The Director General shall exercise the following powers and functions:

"a. Manage and direct all functions and activities of the Office, including the promulgation of rules and regulations to implement its mandates, objectives, policies, plans, programs and projects; and the recognition of attorneys, agents, or other persons representing applicants or other parties
before it. In the exercise of the authority to propose policies and standards in relation to the following:

"1. the effective, efficient, and economical operations of the Office requiring statutory enactment;

"2. coordination with other agencies of government in relation to the enforcement of intellectual property rights; and

"3. the establishment of fees for the filing and processing of an application for a patent and registration of utility model or industrial design, layout-design (topography) of an integrated circuit, or mark or a collective mark, geographical indication and other marks of ownership, and for all other services performed and materials furnished by the Office, the Director General shall be subject to the supervision of the Secretary of Trade and Industry; [Sec.7.1(a), R.A. 8293a]

"b. Exercise

"1. Exclusive original jurisdiction over petitions for the grant of compulsory licenses or special compulsory licenses. The decisions of the Office of the Director General over compulsory licensing cases shall be appealable to the Court of Appeals in accordance with the Rules of Court;

"2. Exclusive appellate jurisdiction over all decisions rendered by the Director of Legal Affairs, Director of Patents, Director of Trademarks, Director of Copyright and Related Rights, and Director of Innovation and Business Development in the performance of their quasi-judicial functions.

The decisions of the Director General in the exercise of his appellate jurisdiction in respect of the decisions of the Director of Legal Affairs, Director of Patents, Director of Trademarks and Director of Copyright and Related Rights, shall be appealable to the Court of Appeals in accordance with the Rules of Court; : Provided, That the decisions of the Director of Bureau of Innovation and Business Development on technology transfer arrangements shall be appealable to the Secretary of Trade and Industry; [Sec.7.1(b), R.A. 8293a]
"c. Undertake enforcement functions supported by concerned agencies, such as:

"1. "Conduct of visits during reasonable hours to establishments and businesses based on report or information by owner(s) or holder(s) of the intellectual property rights received by the Office, of activities suspected to be in violation of this Act and issue provisional or final confiscation orders against the counterfeit and pirated goods in accordance with law.

"2. "Issuance of provisional and final take down orders or cease-and-desist orders to the internet service providers, domain name registries and registrars, website owners, online intermediaries, online platforms, social media platforms, or any similar medium as a component of injunctive relief or as a relief granted and in coordination with the appropriate agency, body, or intermediary service provider; and to order provisional remedies to address any alleged violation of intellectual property rights.; and

"3. Directive to owner of the internet service providers, domain name registries and registrars, website owners, online intermediaries, online platforms, social media platforms, or any similar medium to specifically comply with the provisions of this Code. (n)

d. The power to hold in contempt all those who disregard orders of writs issued in the exercise of the powers and functions provided in this subsection; and (n)

e. Such other functions in furtherance of the objectives of this Act.

"x x x

"7.4. Qualifications. – x x x

"7.5 Term of Office. - The Director General and the Deputies Director General shall be appointed by the President for a term of five (5) years and shall be eligible for reappointment only once. Appointment to any vacancy shall be only for the unexpired term of the predecessor. (Sec.7.3, R.A. 8293a)"

Section 4. A new Section 7A is hereby inserted after Section 7 of Republic Act No. 8293 to read as follows:
"SEC. 7A. The Strategy Management and Planning under the Office of the Director General shall have the following functions:

"a. Provide efficient and effective services related to the formulation of data-driven plans and programs, monitoring of organizational performance, and review of strategic priorities;

"b. Drive IPOPHL's strategic planning process by enhancing its knowledge of the driving forces in its operating environment; and

"c. Identify and develop future-ready capabilities to improve IPOPHL’s work.

Section 5. A new Section 7B is hereby inserted before Section 8 of Republic Act No. 8293 to read as follows:

"SEC. 7B. Learning Environment, Accreditation and Research Network. –

"7B.1. The learning and research network on intellectual property under the Office of the Director General shall 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 lawyers, 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 programmes, advanced courses, learning tracks and continuing professional development programs and other similar activities;

"c. "Assist and support the research initiatives and capacity building programs of Bureaus and offices in relation to learning management and evaluation processes;

"d. Support and establish the creation of scientific, interdisciplinary, evidence-based and other related research and studies on intellectual property and related matters through the conduct of conferences, conventions, and other similar activities on research;
"e. Enhance and integrate intellectual property in the learning system of the country through the establishment of partnerships and cooperation with local or foreign educational and learning institutions, government agencies, and other professional development organizations; and

"f. Enrich and expand the collection of intellectual property and related learning materials knowledge and research resources, and publishing materials such as journals, books and other similar publications. (n)"

Section 6. A new Section 7C is hereby inserted before Section 8 of Republic Act No. 8293 to read as follows:

"7C. The Intellectual Property Rights Enforcement and Coordination. -The Intellectual Property Rights Enforcement and Coordination under the Office of the Director General shall have the following powers and functions, subject to the jurisdiction of the Bureau of Legal Affairs:

1. Exercise jurisdiction over administrative complaints against counterfeiting and piracy which cover the following:

a. Enforcement against manufacturing, production, importation, exportation, distribution, trading, and offering for sale, including other preparatory steps necessary to carry out the sale of counterfeit and pirated goods or content, provided that there is no pending case before any office, tribunal, quasi-judicial body, or court involving the same issue/s or subject matter.

b. Enforcement against the sale, offering for sale, distribution, trade, display, streaming, broadcasting, and other preparatory steps necessary to make available counterfeit and pirated goods or content to the public via electronic, digital, or online means, provided that there is no pending case before any office, tribunal, quasi-judicial body, or court involving the same issue/s or subject matter.

As used in Section 7C, the following terms are defined as follows:

a. Counterfeit Goods - shall mean any goods or materials including packaging bearing without authorization a trademark which is identical to a trademark validly registered with the IPOPHL or already declared as a well-known mark internationally and 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.

"b. Pirated Goods - shall mean any goods or materials which are made, produced, or replicated 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. -

"2. Conduct visits during reasonable hours to establishments and businesses based on report or information by owner(s) or holder(s) of the intellectual property rights received by the Office, of activities suspected to be in violation of this Act;

"3. Undertake any or all of the following enforcement actions:

"a. Issue notice/warning to the respondent/s;

"b. Issue administrative orders such as visitorial order on premises, confiscation orders against counterfeit and pirated goods in accordance with law, enforcement orders, and take down and/or blocking orders against websites or online platforms in coordination with the appropriate agency or intermediary service provider;

"c. "If warranted, impose fines which shall in no case be less than One hundred thousand pesos (Php 100,000) nor more than One Million pesos (PHP 1,000,000). In addition, an additional fine of not less than Five thousand pesos (Php 5,000) shall be imposed for each day of continuing violation.

"d. "Recommend that the concerned local government unit and/or other government agency cancel licenses and business permits for engaging in selling or making available to the public counterfeit and pirated goods or file charges against the respondents for violation of their respective laws, rules or regulations;

"e. Request the concerned local government unit concerned and/or other government agencies to implement the decisions of the IEO pursuant to their respective mandates; and
"f. Such other orders or actions necessary to ensure compliance with the provisions of this Code.

"4. Coordinate with other government agencies and the private sector efforts on matters related to intellectual property rights enforcement;

"5. Formulate policies and programs to ensure enforcement of IPR, and to prepare an annual report on the accomplishments, progress, and challenges of IPR enforcement in the country;

"6. Assist in the enforcement of orders, writs, and processes issued by the Bureau of Legal Affairs and the Office of the Director General;

"7. Conduct monitoring activities related or relevant to Intellectual Property rights enforcement;

"8. The Intellectual Property Rights Enforcement and Coordination Office shall exercise inter-agency special enforcement coordination functions; and

"9. Such other powers and functions as may be necessary or incidental to the attainment of the purposes and objectives of this Act or as may be assigned by the Director General and the Deputy Director General. (n)

Section 7. A new Section 7D is hereby inserted before Section 8 of Republic Act No. 8293 to read as follows:

"SEC. 7D. Intellectual Property Field Operations. - The Intellectual Property Field Operations under the Office of the Director General shall have the following functions:

"a. Implement programs and render intellectual property-related services to promote the effective use and respect of intellectual property, and foster an intellectual property-inspired culture of innovation and creativity in the regions of the country; (n)

"b. Develop linkages and partnerships with regional offices of other government agencies, local government units and local academic institutions to advance intellectual property-focused programs in the regions; (n)

"c. Perform such other functions that will promote the mandate of the Office. (n) –
Section 8. Section 8 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 8. The Bureau of Patents. - The Bureau of Patents shall have the following functions:

\\*x x x\\

"8.3. x x x; and

"8.4. Provide other administrative support services related to the foregoing and charge reasonable fees therefor. (Sec. 8, R.A. 8293a)

Section 9. Section 9 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 9. The Bureau of Trademarks. - The Bureau of Trademarks shall have the following functions:

\\*x x x\\

"9.3. x x x; and

"9.4. Provide other administrative support services related to the foregoing and charge reasonable fees therefor. (Sec. 9, R.A. 8293a)

Section 10. Section 9A of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 9A. The Bureau of Copyright and Related Rights. -

\\*x x x\\

"9A.1. Exercise original jurisdiction to resolve disputes relating to copyright and related rights, except those falling within the jurisdiction of the Bureau of Legal Affairs.

"9A.2. Accept, review, and decide x x x

"9A.3. Formulate and implement plans and projects to promote the use of copyright and related rights as a tool to foster a culture of creativity and respect for artistic creations; (n)
"9A.4. Receive, evaluate and allow the voluntary registration and deposit of works as provided under Section 191.

"9A.5. Establish and maintain registries or databases involving copyright and related rights in coordination with other government agencies, entities and private stakeholders; (n)

"9A.6. Conduct researches and education activities, to enhance public awareness on copyright and of fair use of works; (Sec.9A.3, R.A. 8293a)

"9A.7. Approve, after careful deliberation and/or public consultation, matters concerning the rate or amount of fees and royalties of collective management organizations mentioned in Sec. 183 of this Act; and

"9A.8. Perform other functions to the foregoing and charge reasonable fees therefor. (Sec.9A.4, R.A. 8293a)"

"9A.9. The Director General may by Regulations establish the procedure to govern the implementation of this Section: Provided, That in all proceedings before the Bureau, the equitable principles of laches, estoppel and acquiescence, where applicable, may be considered and applied; Provided further, that in the exercise of its adjudication function, relevant provisions of this Act may apply in suppletory character. (n)

Section 11. Section 10 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 10. The Bureau of Legal Affairs. - The Bureau of Legal Affairs shall have the following functions:

10.1. Adjudicate:

"a. opposition to the application for registration of trademarks and other marks of ownership;

"b. cancellation of trademarks and other marks of ownership;

"c. subject to the provisions of Section 64, cancellation of patents, utility models, industrial designs, and layout-designs (topographies) of integrated circuits;
d. petition for declaration as true and actual inventor;

e. revocation of declaration as true and actual inventor;

f. petition for declaration of ownership or of having the right to intellectual property; and

g. revocation of declaration of ownership or of having the right to intellectual property. (Sec.10.1, R.A. 8293a)

10.2.

a. Exercise original and exclusive jurisdiction in administrative complaints for violations of laws involving intellectual property rights. Provided, That availing of the provisional remedies may be granted in accordance with the Rules of Court. The Bureau, after notice and hearing shall have the power to impose fines of not less than Five thousand Pesos (Php5,000) but not more than Ten thousand pesos (Php 10,000) all those who disregard orders or writs issued in the course of the proceedings, and/or prohibition to practice before the Bureau of Legal Affairs in case of repetition thereof. (Sec. 10.2a, R.A. 8293a)

b. After formal investigation, the Bureau may impose one (1) or more of the following administrative penalties:

(i) The issuance of a cease and desist order which shall specify the acts that the respondent shall cease and desist from and to require the submission of a compliance report within a reasonable time which shall be fixed in the order;

(ii) xxx

The Bureau may also require xxx

(iii) xxx The goods seized hereunder shall be disposed of in such manner as may be deemed appropriate by the Bureau, such as by destruction, sale, xxx under such guidelines as the Bureau may provide;

(iv) The forfeiture of paraphernalia, machines, equipment and personal properties which have been used in the violation of intellectual property rights;
(v) The imposition of administrative fines, which shall in no case be less than One hundred thousand pesos (Php 100,000) nor more than One million pesos (Php 1,000,000). In addition, an additional fine of not less than Five thousand pesos (Php 5,000) shall be imposed for each day of continuing violation;

(vi) The SUSPENSION of any license, authority, or x x x as the Bureau may deem reasonable which shall not exceed one (1) year;

(vii) The withholding of any license, authority, x x x

(viii) The assessment and award of damages, including such profits the infringer may have made due to such infringement and advertising revenues; and when appropriate, exemplary, nominal or moral damages, attorney's fees, and costs of litigation;

(ix) Censure; and

(x) Other analogous penalties or sanctions.(Sec. 6, 7, 8, and 9, EO No. 913 [1983] a Sec. 10.2b, R.A. 8293a)

"10.3. Establish and administer alternative dispute resolution mechanisms; (n) and

10.4. Provide assistance to other bureaus and offices of the IPOP, including legal review, study, and similar tasks.

10.5. The Director General may by Regulations establish the procedure to govern the implementation of this Section: Provided, That in all proceedings before the Bureau, the equitable principles of laches, estoppel and acquiescence, where applicable, may be considered and applied. (Secs. 10.3 and 235, R.A.8293a)"

Section 12. Section 11 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 11. The Bureau of Innovation and Business Development. - The Bureau of Innovation and Business Development shall have the following functions:

11.1. Foster creativity, innovation, and business development such as:
a. Encouraging the utilization and commercialization of intellectual property through various modes in coordination and collaboration with other government agencies; (n)

b. Promoting the use of intellectual property information as a strategic tool to facilitate the development of technology in the country; (Sec. 11.6, R.A. 8293a)

c. Performing patent search, analytics mapping, and similar activities; (Sec. 11.5, R.A. 8293a)

d. Register technology transfer arrangements; and settle disputes involving technology transfer payments.

e. Adapt and package intellectual property information; and (Sec. 11.1d, R.A. 8293a)

f. Provide advisory services for the determination of search patterns; (Sec.11.7, R.A. 8293a)

11.2. Building public awareness on intellectual property through information dissemination and the conduct of seminars, lectures, capacity building exercises and other similar activities; (Sec. 11.3, R.A. 8293a) and

11.3. Establish a unit or division focusing on marketing of services, advocacy, and external communications; (n)"

11.5. The Director General may by Regulations establish the procedure to govern the implementation of this Section: Provided, That in all proceedings before the Bureau, the equitable principles of laches, estoppel and acquiescence, where applicable, may be considered and applied. (n)

Section 13. Section 12 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 12. The Information Technology Management Service. - The Information Technology Management Service shall:

12.1. Plan, develop, and implement information technology (IT) strategies and policies in collaboration with all offices, bureaus and other government agencies to ensure the optimal application and utilization of IT resources and services; and (n)
“12.2. Develop and maintain databases, application systems, and network infrastructure systems to support all office and bureau operations. (n)"

**Section 14.** Section 13 of Republic Act No. 8293 is hereby amended to read as follows:


"a. Formulate and manage a financial program to ensure availability and proper utilization of funds; and

"b. Provide for an effective monitoring system of the financial operations of the Office; (Sec.13.3, R.A. 8293a)

"13.2. The Administrative service shall:

"a. Provide services relative to procurement and allocation of supplies and equipment, transportation, messengerial work, cashiering, payment of salaries and other obligations of the Office, maintenance, and proper safety and security of the Office, as well as other utility services; and

"b. Receive all applications filed with the Office and collect fees therefore. (Sec.13.1, R.A. 8293a)

"13.3. The Human Resource Development service shall

"a. Design and implement human resource development plans x x x

"b. Provide for present and future x x x

"c. Maintain high morale x x x

"d. Comply with government regulatory requirements in the areas of performance appraisal, compensation and benefits, employment records and reports. (Sec. 13.1.a, R.A. 8293)

**Section 15.** Section 20 of Republic Act No. 8293 is hereby amended to read as follows:

**SEC. 20. Definition of Terms.** –
"20.5. "Patent application" or "application" means an application for a patent for an invention except in Chapters XII and XIII, where application means an application for a utility model and an industrial design or layout-design (topography) of integrated circuit, respectively, respectively; (Sec.20.5, R.A. 8293a)

"x x x

"20.7. "Provisional Patent Application" refers to a temporary application filed to establish an early filing date and shall be replaced by a patent application that complies with Section 32.1 filed within twelve (12) months from the filing date otherwise it shall be considered forfeited. (n)"

Section 16. Section 24 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 24. Prior Art. - Prior art shall consist of:

"24.1. Everything which has been made available to the public anywhere in the world, before the filing date or the priority date of the application claiming the invention; Provided, that a provisional application shall not be considered as prior art; and

"24.2. x x x"

Section 17. Section 31 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 31. Right of Priority.

"x x x

"31.2 The filing date of a provisional application may be claimed as the priority date of the patent application provided the latter was filed within 12 months from such date complying with the requirements in Section 32.1. (n)"
Section 18. Section 32 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 32. The Application. - 32.1. The patent application shall be in Filipino or English and shall contain the following:

"x x x

"(d) At least one claim;

"x x x

"(f) Payment of required fees at the time of filing; (n) and

"(g) The appointment of an agent or representative, if the applicant is not domiciled in the Philippines upon whom notice or process for judicial or administrative procedure relating to the application for patent or the patent may be served. (Sec. 33, R.A. 8293a)

"32:2. A Provisional Patent Application shall contain the following:

"(a) Request Form for Provisional Application; (n)

"(b) Provisional description of the invention; (n)

"(c) Provisional drawings and/or sequence listings, if applicable; (n)

"(d) At least one provisional claim; (n)

"(e) Provisional abstract; (n)

"(f) Payment of required fees at the time of filing; (n) and,

"(g) The appointment of an agent or representative, if the applicant is not domiciled in the Philippines upon whom notice or process for judicial or administrative procedure relating to the application for patent or the patent may be served. (Sec. 33, R.A. 8293a)

"32.3. No patent x x x"
Section 19. Section 33 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 33. Provisional Application – 33.1 A provisional application may be filed to establish an early filing date but shall be replaced by a patent application filed within 12 months from such date complying with the requirements in Section 32.1 otherwise it shall be considered forfeited. A provisional application shall not be examined and published.

33.2 The benefits of filing a provisional application refer only to right of priority and for establishing novelty.

Section 20. Section 41 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 41. According a Filing Date. - The Office shall examine whether the patent application or a provisional application satisfies the requirements for the grant of date of filing as provided in Section 40 hereof xxx xxx xxx. Sec. 41, R.A. 8293a)"

Section 21. Section 45 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 45. Confidentiality Before Publication. –

"x x x

45.2. Strict Confidentiality of Provisional Patent Application. – A provisional patent application that has complied with the requirements in Sections 43 and 44 shall be kept in the strictest confidence by the Office and as such, will not be published in the IPOPHL Gazette or in any other means of publication. Provisional applications filed that are forfeited shall be destroyed and no records of which shall be kept by the Office. (n)"

Section 22. Section 54 of Republic Act No. 8293 is hereby amended to read as follows:
"SEC 54. Term of Patent. - The term of a patent shall be twenty (20) years from the filing date of the application. For patent which was originally filed under provisional patent application, the protection period shall be reckoned from the filing date of the provisional patent application. (Sec. 21, R.A. No. 165a) (Sec. 54, R.A. 8293a)

Section 23. Section 84 of Republic Act No. 8293 is hereby amended to read as follows:

SEC. 84. Criminal Action and Penalties – 84.1 Independent of the civil and administrative remedies, persons liable for infringement shall, upon conviction, be punished, by imprisonment and/or fine, or both, at the discretion of the court, as follows:

a. Patent Infringement. – In infringement of industrial design, the offender shall suffer imprisonment for a period of not less than three (3) years but not more than five (5) years and/or a fine of not less than One hundred thousand pesos (PHP 100,000.00) but not more than Three hundred thousand pesos (PHP 300,000.00).

b. Repetition of Patent Infringement. - If infringement of invention patents, utility models, layout of integrated circuits is repeated by the infringer or by anyone in connivance with him after finality of the judgment of the court against the infringer, the offender shall suffer imprisonment for the period of not less than three (3) years but not more than five (5) years and/or a fine of not less than Five hundred thousand pesos (Php 500,000) but not more than One Million pesos (Php 1,000,000). (Sec. 48, R.A. No. 165a) (Sec. 84, R.A. 8293a)

Section 24. A new title before Section 85 of Republic Act No. 8293 is hereby inserted to read as follows:

“INNOVATION SUPPORT AND LICENSING”

Section 25. Section 85 of Republic Act No. 8293 is hereby renumbered as Section 85B. A new Section 85 now read as follows:

“SEC. 85. Definition of Terms. – As used in Part III:

85.1. "Bureau" means the Bureau of Innovation and Business Development; (n)
“85.2. "Commercialization" as a form of utilization, refers to the process of deriving economic gain from a technology, such as but not limited to the creation of a spin-off company, or through licensing, or the sale of the technology and/or intellectual property rights; (n)

“85.3. "Licensing" refers to the act of engaging in a contract or agreement wherein an intellectual property rights owner and another who is authorized to use such rights in exchange for an agreed payment, fee, or royalty; (n)

“85.4. "Neutral Country" refers to a country other than the Philippines without legal ties to any of the parties to a technology transfer arrangement; (n)

“85.5. "Utilization" refers to the use of intellectual property or intellectual property rights, whether or not for commercial use. (n)"

Section 26. A new Section 85A is hereby inserted before Section 85 of Republic Act No. 8293, to read as follows:

"SEC. 85A. Stimulating Innovation. – The Bureau shall implement policies and programs to promote and support innovation through, but not limited to the following:

“85A.1. Capacity building on intellectual property management and commercialization;

“85A.2. Technical assistance on valuation of intellectual property;

“85A.3. Assistance to inventors and micro, small, and medium enterprises in getting support for research and development, management, and commercialization of their intellectual property; and

“85A.5. Establishment of network in research and development institutions, state universities and colleges, other higher educational institutions, technical-vocational institutions, and other relevant public or private institutions. (n)"

Section 27. Section 88 of Republic Act No. 8293 is hereby amended to read as follows:
SEC. 88. Mandatory Provisions. - The following provisions shall be included in voluntary license contracts:

x x x

88.3. In the event the technology transfer arrangement shall provide for arbitration, the venue of arbitration shall be the Philippines or any neutral country; and

x x x

Section 28. Section 92 of Republic Act No. 8293 is hereby amended to read as follows:

SEC. 92. Non-Registration with the Bureau of Innovation and Business Development. - Technology transfer arrangements that conform with the provisions of Sections 87 and 88 need not be registered with the Bureau of Innovation and Business Development.

Non-conformance with any of the provisions of Sections 87 and 88, however, shall automatically render the technology transfer arrangement unenforceable, unless said technology transfer arrangement is approved and registered with the Bureau of Innovation and Business Development under the provisions of Section 91 on exceptional cases. (Sec. 92, R.A. 8293a)

Section 29. Section 111 of Republic Act No. 8293 is hereby amended to read as follows:

SEC. 111. Parallel Applications. - 111.1. An applicant may file two (2) applications for the same subject x x x

111.2 If the UM application is granted registration, a certificate shall be issued to the applicant and it shall be protected as a registered UM. The Invention application shall proceed separately and independently, unless the applicant withdraws the application.

111.3 If the Invention application is granted a patent, the certificate will be issued but the applicant must surrender the UM Registration which shall be deemed cancelled upon the date of grant of the patent unless the applicant chooses the UM Registration.
"111.4 There shall be only one protection given and in case of infringement, only one cause of action shall be invoked regardless of the presence of two (2) applications.

"111.5 The period of protection for Utility Model pursuant to Section 109.3 and Invention pursuant to Section 54 shall apply accordingly and shall not be vested cumulatively. (Sec. 111, R.A. 8293a)

**Section 30.** Section 112 of Republic Act No. 8293 is hereby amended to read as follows:

"**SEC. 112.** Definition of Terms. x x x

"Parts or components of such product or handicraft may be subject for industrial design registration independent of the protection given to industrial designs of such product or handicraft as a whole, Provided, that such parts or components meet the requirements for protection of industrial designs. (Sec. 112.1, R.A. 8293a)

"x x x"

**Section 31.** Section 113 of Republic Act No. 8293 is hereby amended to read as follows:

"**SEC. 113.** Conditions for Protection. 113.1. Only industrial designs that are new or original shall benefit from protection under this Act. (Sec. 113.1, R.A. 8293a)

"x x x"

**Section 32.** The title of Section 116 of Republic Act No. 8293 is hereby amended to read as follows:

"**SEC. 116.** Formal Examination. x x x"

**Section 33.** Section 121 of Republic Act No. 8293 is hereby amended to read as follows:
"SEC. 121. Definitions. As used in Part III, the following terms have the following meanings:

"121.1. Mark" means any sign or any combination of signs as may be prescribed by the Regulations, capable of distinguishing the goods (trademark) or services (service mark) of an enterprise and may include a stamped or marked container of goods; (Sec. 121.1, R.A. No. 8293a)

"x x x

"121.8. "Certification mark" means any sign, used or intended for use in commerce with the owner's permission by someone other than its owner, to certify regional or other geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of someone's goods or services, or that the work or labor on goods or services was performed by members of a group or association. (n)"

Section 34. Section 123 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 123. Registrability. - 123.1. A mark cannot be registered if it:

"(a) Consists of matter which:

"1. is immoral, deceptive or scandalous; or

"2. may disparage or falsely suggest a connection with living or dead persons, institutions, entities, beliefs, customs, values or national symbols, national identity, heritage or patrimony; or

"3. brings any of the foregoing into contempt, disrespect, or disrepute; (Sec. 123.1(a), R.A. 8293a)

"(b) Consists of the flag, coat of arms or other insignia of the Philippines or any of its political subdivisions, or of its agencies, or of any foreign nation, or of any international intergovernmental organization, or any simulation thereof; (Sec. 123.1(b), R.A. 8293a)

"(c) Consists of a name, portrait or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the Philippines, during the life of the
surviving spouse, if any, except by written consent of the latter; (Sec. 123.1(c), R.A. 8293a)

"(d) Is identical with a registered mark belonging to a different proprietor or a mark with an earlier filing or priority date, in respect of the same goods or services, or closely related goods or services, or nearly resembles a registered mark or a mark with an earlier filing or priority date as to likely deceive or cause confusion; (Sec. 123.1(d), R.A. 8293a)

"(e) Is identical with, or confusingly similar to, or constitutes a translation of a mark which is considered by a competent national authority as prescribed in the Regulations to be well-known internationally or in the Philippines, whether or not it is registered here, as being already the mark of a person other than the applicant for registration, and used for identical or similar goods or services:

"Provided, That use of the mark in relation to those goods or services which are not similar to those with respect to which registration is applied for and that the use of such mark in those goods and services would indicate a connection between those goods or services, and the owner of the well-known mark and that the interests of the owner of the well-known mark are likely to be damaged by such use;

"Provided finally, that in determining whether a mark is well-known, account shall be taken of the knowledge of the relevant sector of the public, rather than of the public at large, including knowledge in the Philippines which has been obtained as a result of the promotion of the mark; (Sec. 123.1(c), R.A. 8293a)

"(f) Is likely to mislead the public, particularly as to the nature, quality, characteristics or geographical origin of the goods or services; (Sec. 123.1(g), R.A. 8293)

"(g) Consists exclusively of signs that are generic for the goods or services that they seek to identify; (Sec. 123.1(h), R.A. 8293)

"(h) Consists exclusively of signs or of indications that have become customary or usual to designate the goods or services in everyday language or in bona fide and established trade practice; (Sec. 123.1(i), R.A. 8293)
"(i) Consists exclusively of signs or of indications that may serve in trade to designate the kind, quality, quantity, intended purpose, value, geographical origin, subject matter, time or production of the goods or rendering of the services, or other characteristics of the goods or services, except when the application is for the registration of a collective or certification mark covering geographical indication; (Sec. 123.1(j), R.A. 8293a)

"(j) Consists of shapes that may be necessitated by technical factors or by the nature of the goods themselves or factors that affect their intrinsic value; (Sec. 123.1(k), R.A. 8293a)

"(k) Consists of color alone, unless defined by a given form; (Sec. 123.1(l), R.A. 8293a)

"(l) Lacks distinctiveness;

"(m) Impairs or dilutes the distinctiveness, or harms the reputation of a well-known mark, as declared by competent authority, whether registered or not; (n) or

"(n) Is contrary to public order; or public policy. (Sec. 123.1(m), R.A. 8293a)

"123.2. For the purpose of declaring a mark well-known as provided in paragraph (e), the Director General, Bureau of Legal Affairs, Director of Bureau of Trademarks and judicial authorities are considered competent authorities in relation to their respective functions or jurisdictions. (n)

"123.3. As regards signs or devices mentioned in paragraphs (i), (k), and (l) or those where the shapes of the goods themselves or portion thereof, their packaging, or containers are not necessitated by technical factors or those factors only affect their intrinsic value, nothing shall prevent the registration of any such sign or device which has become distinctive in relation to the goods for which registration is requested as a result of the use that have been made of it in commerce in the Philippines. The Office may accept as prima facie evidence that the mark has become distinctive, as used in connection with the applicant’s goods or services in commerce, proof of substantially exclusive and continuous use thereof by the applicant in commerce in the Philippines for three (3) years before the date on which the claim of distinctiveness is made. (Sec. 123.2, R.A. 8293a)
“123.5. The nature of the goods to which the mark is applied will not constitute
an obstacle to registration. (Sec. 4, R.A. No. 166a) (Sec. 123.3, R.A. 8293)”

**Section 35.** Section 124 of Republic Act No. 8293 is hereby amended to read as
follows:

**“SEC. 124. Requirements of Application.** - 124.1. The application for the
registration of the mark shall be in Filipino or in English and shall contain the
following:

“x x x

“(i) One or more reproductions of the mark or series marks, as prescribed in the
Regulations;

“x x x

“124.2. To maintain the application or registration of the mark, it must be used
on goods or services. For this purpose, the applicant or registrant shall file a
declaration of actual use of the mark with evidence to that effect within:

“a. Three (3) years and six (6) months from the filing date of the
application; (Sec. 124.2, R.A. 8293a)

“b. One (1) year from the fifth anniversary of the registration; [n]

c. One (1) year from date of renewal to be reckoned from the date of
renewal; [n] and

d. One (1) year from the fifth anniversary of each renewal. (n)

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

**Section 36.** Section 131 of Republic Act No. 8293 is hereby amended to read as
follows:

**“SEC. 131. Priority Right.** - 131.1. An application for registration of a mark filed
in the Philippines by a person referred to in Section 3, and who previously duly
filed an application for registration of the same mark in one of those countries,
shall be considered as filed as of the day the application was first filed in the
foreign country. *Provided*, That the application in the Philippines is filed within six months from the date on which the application was first filed in the foreign country. (Sec. 131.1, R.A. No. 8293a)

"131.2. Nothing in this section shall entitle the owner of a registration granted under this section to sue for acts committed prior to the date on which his mark was registered in this country xxx xxx xxx (Sec. 131.3, R.A. 8293a)

"131.3. In like manner and subject to the same conditions and requirements, the right provided in this section xxx xxx xxx (Sec. 37, R.A. No. 166a)"

**Section 37.** Section 145 of Republic Act No. 8293 is hereby amended to read as follows:

"**SEC. 145. Duration.** - A certificate of registration shall remain in force for ten (10) years from the date of registration. (Sec. 145, R.A. 8293a)

"In case where a motion for extension for the period to file an opposition is granted by the Bureau of Legal Affairs, the mark is deemed registered the day following the expiration of the extension period. (n)

"When an opposition is filed, a mark shall be considered registered on the date the decision or final order giving due course to the application becomes final and executory. [n]"

**Section 38.** Section 151 of Republic Act No. 8293 is hereby amended to read as follows:

**SEC. 151. Cancellation.** - 151.1. A petition to cancel a registration of a mark under this Act xxx xxx

xxx

(c) At any time, if the registered owner of the mark without legitimate reason fails to use the mark within the Philippines, or to cause it to be used in the Philippines by virtue of a license during an uninterrupted period of three years and six months (3and1/2) or longer.
Section 39. A new Section 155A is hereby inserted after Section 155 of Republic Act No. 8293, to read as follows:

"SEC. 155A. Solidary Liability. The following, who for profit or benefit shall be held solidarily liable for the following acts:

"a. one who permits the use of the latter’s premises in selling, offering for sale, manufacturing, or distribution of any infringing, counterfeit or pirated goods or content, unless, the latter can prove having no knowledge of such fact and has no participation in the infringing act of the tenants;

"b. when internet service providers, domain name registries and registrars, website owners, online intermediaries, online platforms, social media platforms, or any similar medium is used in selling, offering for sale, use, or making available to the public, any infringing, counterfeit or pirated goods or content, and the latter fails to exercise due diligence in complying with the minimum requirements set by law or fails to take down or block access to the infringing material or website within a reasonable time, as well as enforce its policy against infringement, counterfeiting or piracy, unless, the former can prove having no knowledge of such fact and has no participation in the infringing act." (n)

Section 40. Section 156 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 156. Actions, and Damages and Injunction for Infringement. xxx

"156.2. On application of the complainant, the court may impound during the pendency of the action, materials and implements predominantly used in the act of infringement, sales invoices and other documents evidencing sales."

Section 41. Section 167 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 167. Collective Marks and Certification Marks. - 167.1. Subject to Subsections 167.2 and 167.3, Sections 122 to 164 and 166 shall apply to collective marks and certification marks, except that references therein to "mark" shall be read as "collective mark" or "certification mark."
"167.2(a) An application for registration of a collective mark shall designate the mark as a collective mark and shall be accompanied by a copy of the agreement governing the use of the collective mark. An application for registration of a certification mark shall designate the mark as a certification mark and shall be accompanied by a copy of the standards set by the certifier governing the use of the certification mark.

"167.2 (b) The registered owner of a collective mark or a certification mark shall notify the Director of any changes made in respect of the agreement referred to in Sec. 167.2 (a) paragraph (a).

"167.3. In addition to the grounds provided in Section 149, the Office or the court shall cancel the registration of a collective mark or certification mark if the person requesting the cancellation proves that the registered owner uses the mark, or uses or permits its use in contravention of the agreements referred to in Sections 167.2 or he uses or permits its use in a manner liable to deceive trade circles or the public as to the origin or any other common characteristics of the goods or services concerned.

"167.4. The registration of a collective mark or certification mark, or an application therefor shall not be the subject of a license contract. (Sec. 40, R.A. No. 166a)

Section 42. Section 170 of Republic Act No. 8293 is hereby amended to read as follows:

SEC. 170. Penalties. - Independent of the civil and administrative remedies, persons liable for infringement shall, upon conviction, be punished, by imprisonment and/or fine, or both, at the discretion of the court, as follows:

"1. In trademark infringement, the infringer shall suffer:

"a. Imprisonment from three (3) years to five (5) years, or a fine ranging from One hundred thousand pesos (PHP 100,000.00) to Four hundred thousand pesos (PHP 400,000.00), or both for the first offense;

"b. Imprisonment from five (5) years and one (1) day to seven (7) years, or a fine ranging from over Four hundred thousand pesos (PHP 400,000.00) to Two million pesos (PHP 2,000,000.00), or both for the second offense;
"c. Imprisonment from seven (7) years and one (1) day to ten (10) years, or a fine ranging from over Two million pesos (PHP 2,000,000.00) to Four million pesos (PHP 4,000,000.00), or both for the third or oftener offense;

"d. In cases of counterfeit goods that threaten life, public health and safety, the court shall impose the maximum penalty of ten (10) years of imprisonment or a fine of Four million pesos (PHP 4,000,000), or both. (Arts. 188 and 189, Revised Penal Code) (Sec. 170, R.A. 8293a)

"2. False Designations of Origin; False Description or Representation. — Any person committing the acts under Sec. 151 shall be guilty of a crime punishable by imprisonment of two (2) years to five (5) years and a fine ranging from Fifty thousand pesos (PHP 50,000.00) to Two hundred thousand pesos (PHP 200,000.00) (Sec. 170, R.A. 8293)

Section 43. Section 171 of Republic Act No. 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

"171.5. "Orphan works" shall refer to works that are still protected by copyright but whose authors or other right holders are not known or cannot be located. (a)

"171.6. "Public lending" x x x

"171.7. "Public performance", x x x

"171.8. "Published works" x x x

"171.9. "Rental" x x x

"171.10. "Reproduction" x x x

"171.11. A "work of applied art" x x x

"171.12. A "work of the Government of the Philippines" x x x (Sec. 171, R.A. 8293a)
Section 44. Section 178 of Republic Act No. 8293 is hereby amended to read as follows:

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

x x x

"178.4. In the case of a work commissioned by a person other than an employer of the author and who pays for it and the work is made in pursuance of the commission, x x x unless there is a written stipulation to the contrary.

"The foregoing notwithstanding, with respect to photographs, films and paintings, commissioned for private and domestic purposes, the following rights belong to the person who commissioned the work:

"a. distribution/issuance of the work to the public,

"b. exhibition/display of the work in public, or

"c. communication to the public of the work;

Provided, that any of the following acts shall not constitute a violation of such rights belonging to the person who commissioned the work:

"a. incidental inclusion of work in an artistic work;

"b. Legislative and judicial proceedings and inquiries;

"c. Upon expiry of the copyright to the photographs; and

"d. Such other exceptions as may hereafter be provided in laws or regulations. (n)"

x x x

Section 45. A new Section 179A is hereby inserted after Section 179 of Republic Act No. 8293, to read as follows:

"SEC. 179A. The use and exploitation of orphan works shall be allowed subject to the rules and regulations to be promulgated. (n)"
Section 46. Section 182 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 182. Filing of Assignment or License. - An assignment or exclusive license may be filed with the Bureau of Copyright and Related Rights upon payment of the prescribed fee for registration in books and records kept for the purpose. Upon recording, a copy of the instrument shall be returned to the sender with a notation of the fact of record. Notice of the record shall be published in the IPO Gazette. (Sec. 182, R.A. 8293a)"

Section 47. Section 183 of Republic Act 8293 is hereby amended to read as follows:

SEC. 183. Designation of Society Collective Management Organizations. – The owners of copyright and related rights or their heirs may designate a society of artists, writers, composers and other right-holders to collectively manage their economic or moral rights on their behalf; to be otherwise known as a Collective Management Organization (CMO). For the said societies to enforce the rights of their members, they shall first secure the necessary accreditation from the Intellectual Property Office. (Sec. 32, P.D. No. 49a)"

Section 48. A new Section 183A is hereby inserted after Section 183 of Republic Act No. 8293, to read as follows:

"SEC. 183A. Extended collective license may also be invoked by users who, within a specified field, have made an agreement on the exploitation of works with an accredited collective management organization comprising a substantial number of authors of a certain type of works which are used in the Philippines within the specified field. However, this does not apply, if the author has issued a prohibition against use of his work in relation to any of the contracting parties, and where the work is an "orphaned" work as provided in Sec. 179A. (n)"

Section 49. Section 184 of Republic Act No. 8293 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"
"(h) The use made of a work by or under the direction or control of the Government, by the Bureau of Copyright and Related Rights, by the National Library or by educational, scientific or professional institutions where such use is in the public interest and is compatible with fair use;

"x x x

"(m) The copyright in a work that is situated, otherwise than temporarily, in a public place, or in premises open to the public, is not infringed by the making of a painting, drawing, engraving or photograph of the work or by the inclusion of the work in a cinematograph film or in a television broadcast. (n)"

Section 50. Section 190 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 190. Importation and Exportation of Copyrighted Works.- x x x

"Copyrighted works that have been legitimately acquired or bought from another country can be legally brought, in any quantity and for whatever reason, into the country, subject to the rules and regulations of the Commissioner of Customs." (n)"

Section 51. A new Section 191 is hereby inserted after Section 190 of Republic Act No. 8293, to read as follows:

SEC.191. Transfer of powers from National Library and the Supreme Court Library to Bureau of Copyright and Related Rights. - The powers, duties and functions vested in, or performed and exercised by, the National Library and the Supreme Court Library in connection with the registration of copyrights are hereby transferred to the Bureau of Copyright and Related Rights.

Section 52. Section 191 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 191A. Copyright Registration and Deposit - At any time during the subsistence of the copyright, the owner/s of the copyright or of any exclusive right in the work may, register and deposit the works with the Bureau of Copyright and Related Rights in such manner and form as may be prescribed in accordance with regulations. Such registration and deposit is not a condition of copyright protection. (Sec. 191, R.A. 8293a)
“No award of statutory damages shall be made for any infringement of copyright in an unregistered work. (n)”

Section 53. Section 202 of Republic Act No. 8293 is hereby amended to read as follows:

“SEC. 202. Definitions. - For the purpose of this Act, the following terms shall have the following meanings:

xxx

“202.3. An "audiovisual work or fixation" is a production 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; (Sec. 202.3, R.A. 8293a)

“202.4. "Fixation" means 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; (Sec. 202.4, R.A. 8293a)

xxx

“202.6. "Publication of a fixed performance or a sound recording means x x x: Provided, That copies are offered to the public in reasonable quantity; (Sec. 202.6, R.A. 8293a)

“202.7. "Broadcasting" means 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; (Sec. 202.7, R.A. 8293a)

xxx

Section 54. Section 203 of Republic Act No. 8293 is hereby amended to read as follows:

“SEC. 203. Scope of Performers’ Rights. - Subject to the provisions of Section 212, performers shall enjoy the following exclusive rights:
"203.2. The right of authorizing the direct or indirect reproduction, in any manner or form of their performances fixed in sound recordings or audiovisual works or fixations; (Sec. 203.2, R.A. 8293a)

"203.3. The right of authorizing the first public distribution of the original and copies of their performance fixed in the sound recordings or audiovisual works or fixations through sale or other forms of transfer of ownership; (Sec. 203.3, R.A. 8293a)

Section 55. Section 205 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 205. Limitation on Right. - Subject to the provisions of Section 206, once the performer has authorized the broadcasting or fixation of his performance, the provisions of Sections 203 shall have no further application."

Section 56. Section 206 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 206. Additional Remuneration for Subsequent Communications or Broadcasts.- Performers as a collective group shall have an inalienable right to participate in the gross proceeds of any subsequent use or communication to the public of his performance, to the extent of five percent (5%), as additional remuneration." (Sec. 206, R.A. 8293a)

Section 57. Section 215 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 215. Term of Protection for Performers, Producers and Broadcasting Organizations. - 215.1. The rights granted to performers and producers of sound recordings under this law shall expire:

"a. For sound or sound and images recordings and for performances incorporated therein, fifty (50) years from the end of the year in which the recording took place. (Sec. 215, R.A. 8293a)

"215.2. In case of broadcasts, x x x"
Section 58. Section 217 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 217. Criminal Penalties. - 217.1. Independent of the civil and administrative remedies, persons liable for infringement shall, upon conviction, shall be punished, by imprisonment and/or fine, or both, at the discretion of the court, as follows:

(a) Imprisonment from three (3) years to five (5) years, or a fine ranging from one hundred thousand pesos (P100,000) to Three hundred thousand pesos (P300,000), or both for the first offense.

(b) Imprisonment from five (5) years and one (1) day to seven (7) years or a fine ranging from over Three hundred thousand pesos (P300,000) to One Million pesos (P1,000,000), or both for the second offense.

(c) Imprisonment from seven (7) years and one (1) day to ten (10) years or a fine ranging from over One million pesos (P1,000,000) to Three million pesos (P3,000,000), or both for the third or oftener offense.

(d) In all cases, subsidiary imprisonment in cases of insolvency. (Sec. 217.1(d), R.A. 8293)

xxx

Section 59. Section 227 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 227. Ownership of Deposit and Instruments. - All copies deposited and instruments in writing filed with the Bureau of Copyright and Related Rights in accordance with the provisions of this Act shall become the property of the Government. (Sec. 60, P.D. No. 49) (Sec. 227, R.A. 8293a)

Section 60. Section 228 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 228. Public Records. - The section or division of the Bureau of Copyright and Related Rights charged with receiving copies and instruments deposited and with keeping records required under this Act and everything in it shall be opened to public inspection. The Bureau Director is empowered to issue such safeguards and regulations as may be necessary to implement this Section." (Sec. 228, R.A. 8293a)
Section 61. Section 229 of Republic Act No. 8293 is deleted in its entirety. Section 238 of Republic Act No. 8293 is hereby renumbered as Section 229.

"SEC. 229. Compulsory License on Copyright. The Philippines shall by proper compliance with the requirements set forth under the Appendix of the Berne Convention (Paris Act, 1971) avail itself of the special provisions regarding developing countries, including provisions for licenses grantable by competent authority under the Appendix and as may be prescribed by the Regulations. (n) (Sec. 238, R.A. 8293a)

Section 62. Section 230 of Republic Act No. 8293 is hereby amended to read as follows:

"SEC. 230. Adoption of Intellectual Property (IP) Policies. – Schools, universities, research and development institutions and public entities shall adopt intellectual property policies and programs that would govern the use and creation of intellectual property with the purpose of safeguarding the intellectual creations of the learning institution and its employees, and adopting locally-established industry practice fair use guidelines. Similarly, private entities are encouraged to adopt intellectual property policies. These policies may be developed in relation to licensing agreements entered into for purposes of implementing the state policies under this Act. (Sec. 230, R.A. 8293a)

Section 63. A new Section 231-A is hereby inserted after Section 231 of Republic Act No. 8293, to read as follows:

"SEC. 231-B. Revocation of Business Permit, License, or Authority, Blacklisting from Government Procurement. – Any person, natural or juridical who refuses or fails to comply with the decision or order of the Director General or of any Bureau or Office of the Intellectual Property Office of the Philippines, the appropriate agency including local government units, upon recommendation of the Office, shall cancel, revoke, or suspend any business permit, license and/or authority. Such person shall be blacklisted from government procurement transactions. (n)"

Section 64. Repealing Clause. – All laws, decrees, executive orders, issuances or regulations inconsistent with the provisions of this Act are hereby revised or amended accordingly.
Section 65. Separability Clause. – If any part of this Act is declared unconstitutional or invalid, such parts or provisions thereof not so declared shall remain valid and subsisting.

Section 66. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.