

1<sup>st</sup> Anti-Media Piracy Summit  
“Fighting Piracy through Collaboration, Education,  
Innovation and Enforcement”

# Addressing IP and Media Piracy Laws and Trends: Evolution of Anti-Piracy Legislation

26 October 2018, 12:30 to 1:00 P.M.  
Winford Manila Resort and Casino  
352 Zone 35, 1800 Consuelo Street, Consuelo Street,  
Santa Cruz, Manila, 1014 Metro Manila

Delivered by:

**Rico V. Domingo, Esq.**

*Director, Intellectual Property Association of the Philippines*  
*First Chairman, Philippine Videogram Regulatory Board (1986)*  
*(now Optical Media Board)*

Copyright © 2018 by Rico V. Domingo, Esq.



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556

# ANTI-PIRACY LEGISLATION WITHIN THE RUBRIC OF INTELLECTUAL PROPERTY LAWS IN THIS JURISDICTION



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556

# APPLICATION OF INTELLECTUAL PROPERTY LAW

Intellectual property law encompasses all the statutes, government regulations and court decisions that determine who own intellectual property and what rights go along with that ownership.

Intellectual property law specifies:

- the conditions under which intellectual property rights may be transferred for specific purposes;
- how to settle contract disputes that arise from marketing intellectual property; and
- how to take advantage of substantive and procedural laws that establish or enhance protection of intellectual property rights.



# 1987 PHILIPPINE CONSTITUTION

## ARTICLE XII (NATIONAL ECONOMY AND PATRIMONY), Section 6

**Section 6.** The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.



## ARTICLE XII, SECTION 14

**Section 14.** The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State. The State shall encourage appropriate technology and regulate its transfer for the national benefit. The practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law.



## ARTICLE XIV, SECTIONS 10-18

### SCIENCE AND TECHNOLOGY

**Section 10.** Science and technology are essential for national development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to science and technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life.

**Section 11.** The Congress may provide for incentives, including tax deductions, to encourage private participation in programs of basic and applied scientific research. Scholarships, grants-in-aid, or other forms of incentives shall be provided to deserving science students, researchers, scientists, inventors, technologists, and specially gifted citizens.



## ARTICLE XIV, SECTIONS 10-18

### SCIENCE AND TECHNOLOGY

**Section 12.** The State shall regulate the transfer and promote the adaptation of technology from all sources for the national benefit. It shall encourage the widest participation of private groups, local governments, and community-based organizations in the generation and utilization of science and technology.

**Section 13.** The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law.



## ARTICLE XIV, SECTIONS 10-18

### ARTS AND CULTURE

**Section 14.** The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

**Section 15.** Arts and letters shall enjoy the patronage of the State. The State shall conserve, promote, and popularize the nation's historical and cultural heritage and resources, as well as artistic creations.

**Section 16.** All the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State which may regulate its disposition.



## ARTICLE XIV, SECTIONS 10-18

### ARTS AND CULTURE

**Section 17.** The State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies.

#### **Section 18.**

1. The State shall ensure equal access to cultural opportunities through the educational system, public or private cultural entities, scholarships, grants and other incentives, and community cultural centers, and other public venues.
2. The State shall encourage and support researches and studies on the arts and culture.



# CIVIL CODE OF THE PHILIPPINES

**ARTICLE 712.** Ownership is acquired by occupation and by intellectual creation.

Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition.

They may also be acquired by means of prescription. (609a)



**ARTICLE 721.** By intellectual creation, the following persons acquire ownership:

- (1) The author with regard to his literary, dramatic, historical, legal, philosophical, scientific or other work;
- (2) The composer; as to his musical composition;
- (3) The painter, sculptor, or other artist, with respect to the product of his art;
- (4) The scientist or technologist or any other person with regard to his discovery or invention. (n)



**ARTICLE 722.** The author and the composer, mentioned in Nos. 1 and 2 of the preceding article, shall have the ownership of their creations even before the publication of the same. Once their works are published, their rights are governed by the Copyright laws.

The painter, sculptor or other artist shall have dominion over the product of his art even before it is copyrighted.

The scientist or technologist has the ownership of his discovery or invention even before it is patented. (n)



**ARTICLE 723.** Letters and other private communications in writing are owned by the person to whom they are addressed and delivered, but they cannot be published or disseminated without the consent of the writer or his heirs. However, the court may authorize their publication or dissemination if the public good or the interest of justice so requires. (n)

**ARTICLE 724.** Special laws govern copyright and patent. (429a)



**ARTICLE 520.** A trade-mark or trade-name duly registered in the proper government bureau or office is owned by and pertains to the person, corporation, or firm registering the same, subject to the provisions of special laws. (n)

**ARTICLE 521.** The goodwill of a business is property, and may be transferred together with the right to use the name under which the business is conducted. (n)

**ARTICLE 522.** Trade-marks and trade-names are governed by special laws. (n)



# INTERNATIONAL CONVENTIONS

## (For reference)

- A. Berne Convention for the Protection of Literary and Artistic Works as revised in Brussels (Brussels Act)
- Ratified by the Senate on 26 June 1948. Instrument of Accession was signed by the President on 26 June 1950. It entered into force for the Philippines on 01 August 1951.
- B. Paris Convention for the Protection of Industrial Property Rights (Paris Convention)
- Ratified by the Philippine Senate on 10 May 1965. The Philippine instrument of ratification was deposited on 11 August 1965. It entered into force for the Philippines on 27 September 1965.



C. International Convention for the Protection of Performers, Producers of Phonogram and Broadcasting Organizations (Rome Convention)

- The Convention was adopted at Rome on 26 October 1961. The Philippine instrument of accession was signed by the President on 24 May 1984 and was deposited with the Secretary General of the United Nations on 25 June 1984. The Convention entered into force in the Philippines on 25 September 1984.

D. Convention Establishing the World Intellectual Property Organization

- The Convention entered into force in the Philippines on 14 July 1980.



E. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

- The Treaty entered into force in the Philippines on 21 October 1981.

F. Agreement on Trade Related Aspects of Intellectual Property, Including Trade In Counterfeit Goods of the General Agreement on Tariffs and Trade. Articles 1-14, 40-73. **Tanada v. Angara**, 272 SCRA 18

- One of the Multilateral Agreements annexed to the Agreement Establishing the World Trade Organization
- Adopted on 15 April 1994 at Marrakesh, Morocco
- Ratified by the Philippine Senate on 14 December 1994
- Instrument of Ratification signed by President Ramos on 16 December 1994

See also Doha Declaration on Public Health and the 30 August 2003 Decision of the WTO General Council



## G. Patent Cooperation Treaty

- The Philippine Senate ratified the Patent Cooperation Treaty (PCT) on 5 February 2001
- It entered into force on 17 August 2001. The IPO issued the Philippine Rules on PCT Applications (22 October 2001), as amended by Office Order No. 13, Series of 2002, (14 February 2002).

## H. Madrid Protocol

- *Intellectual Property Association of the Philippines (IPAP) v. Hon. Paquito Ochoa, et al.*, G.R. No. 204605 [19 July 2016].



# TYPES OF INTELLECTUAL PROPERTY LAW

Intellectual Property Law may be categorized into:

1. Trademark Law;
2. Unfair Competition Law;
3. Patent Law;
4. Copyright Law; and
5. Trade Secret Law

**Nota Bene:** The Intellectual Property Code of the Philippines, Republic Act No. 8293, as amended by R.A. No. 10372, includes among the “intellectual property rights” geographic indications, industrial designs, lay-out-designs (topographies) of integrated circuits, and protection of undisclosed information.



**Presidential Decree No. 1987**  
**An Act Creating The Videogram Regulatory Board,**  
**(5 October 1985)**



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556

**Republic Act No. 9239**  
**An Act Regulating Optical Media, Reorganizing for**  
**this Purpose the Videogram Regulatory Board,**  
**Providing Penalties Therefor, and for Other Purposes**  
**(10 February 2004)**



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556

## Evolutionary Tales: Best and Worst Times

*“It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity...”*

- Charles Dickens, *A Tale of Two Cities*



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556

# THANK YOU FOR YOUR ATTENTION



Please visit us at <http://www.rvdlaw.com>

Law Firm of R. V. DOMINGO & ASSOCIATES

*Attorneys and Counsellors-At-Law*

Executive Offices, 7th and 8th Floors, The Valero Tower

122 Valero Street, Salcedo Village

1227 Makati City, Metro Manila

Republic of the Philippines

Telephones: (63 2) 810-8266; (63 2) 818-5503

Facsimile : (63 2) 815-2485

Internet : [RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com); [Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



**R. V. Domingo & Associates**  
*Exalting Ethical Legal Practice*



7<sup>th</sup> Floor, The Valero Tower, 122 Valero Street,  
Salcedo Village, Bel-air, Makati City, Philippines



[www.rvdlaw.com](http://www.rvdlaw.com)



[RVD.Law@rvdlaw.com](mailto:RVD.Law@rvdlaw.com)  
[Law.Firm@rvdlaw.com](mailto:Law.Firm@rvdlaw.com)



(+63 2) 818 5503  
(+63) 927 389 0556