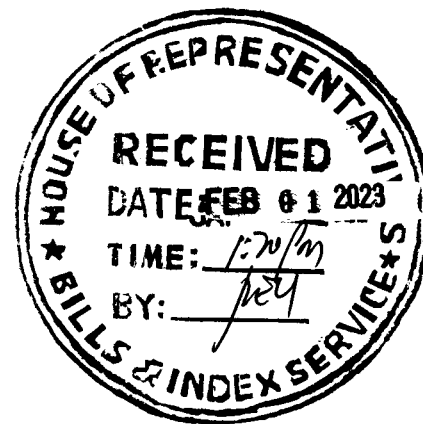


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. 7028



Introduced by **Representative JOEY SARTE SALCEDA**

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

EXPLANATORY NOTE

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

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

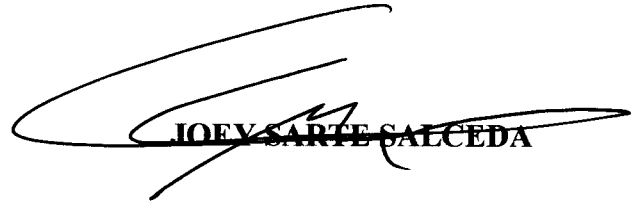
In 2020, at the start of the pandemic-induced lockdowns, online content piracy was estimated to have translated to P1 billion in potential revenue losses to local video producers, distributors and aggregators in 2020, according to a study by Media Partners Asia. Such losses were most felt during the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

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

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

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

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



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

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

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

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

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

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

an application on the Internet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved,