

PHILIPPINES

COPYRIGHT SAFEGUARDS AND REGULATIONS

PART I

GENERAL PROVISIONS

Rule 1

State Policy and Statutory Basis

SECTION 1. State Policy. — The State recognizes that an effective intellectual and industrial property system is vital to the development of creative activity. To this end, it shall streamline and liberalize administrative procedures of registering property rights in the Philippines.

SECTION 2. Statutory Basis. — Section 228 of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines (hereinafter to be referred to as IPC), provides as follows:

“Sec. 228. Public Records. — The section or division of the National Library and the Supreme Court Library 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 Director of the National Library is empowered to issue such safeguards and regulations as may be necessary to implement this Section and other provisions of this Act.”

These Copyrights Safeguards and Regulations are, therefore, issued pursuant to the afore-quoted provision of the IPC.

Rule 2

Definition of Terms

For the purpose of these Copyright Safeguards and Regulations, the following terms are herein defined:

Author is the natural person who has created the work;

Collective work is work which has been created by two (2) or more natural persons at the initiative and under the direction of another with the understanding that it will be disclosed by the latter under his own name and that contributing natural persons will not be identified;

Communication to the public or communicate to the public means the making of a work available to the public by wire or wireless means in such a way that members of the public may access these works from a place and time individually chosen by them;

Computer program is a set of instructions capable, when incorporated in machine-readable medium, of causing a machine having information-processing capabilities, to indicate, perform, or achieve a particular function, task, or result;

Copyright is a right granted by statute to the author or originator of literary, scholarly, scientific, or artistic productions, including computer programs. A copyright gives him the legal right to determine how the work is used and to obtain economic benefits from the work. For example, the owner of a copyright for a book or a piece of software has the exclusive rights to use, copy, distribute, and sell copies of the work, including later editions or versions of the work. If another person improperly uses material covered by a copyright, the copyright owner can obtain legal relief;

Copyright Office refers to the Copyright Division of the National Library;

Copyright symbol is represented by ©;

Date of publication is the earliest date when a copy of the first authorized edition of the work was placed on sale, sold, distributed, or otherwise made available to the public, by the copyright owner or his representative;

Decompilation means the reproduction of the code and the translation of the forms of a computer program to achieve the inter-operability of an independently-created computer program with other programs;

Exhibition of an audiovisual work means any form of exploitation of a work, including its distribution in copies, its public performance, and its communication to the public, including broadcast or rebroadcast, cable retransmission, or satellite broadcast or transmission;

Fee refers to the amount prescribed by The National Library for the issuance of a Certificate of Registration and Deposit to claim copyright or for the filing of assignment or license, or for such other services or transactions as may be covered by these Copyright Safeguards and Regulations;

Performance symbol is represented by p;

Public lending is the transfer of possession of the original or a copy of a work or multimedia for a limited period, for non-profit purposes, by an institution the services of which are available to the public, such as a public library or archive;

Public performance is the recitation, playing, dancing, acting or any performance of the work, either directly or by means of any device or process; in the case of an audiovisual work, the broadcast or showing of its images in sequence and the making of the sounds accompanying it audible; and in the case of a sound recording, the making of the recorded sounds audible at a place or at places where persons outside the normal circle of a family and that family's closed social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and at the same time, or at different places and/or different times, and where the performance can be perceived without the need for communication within the meaning of "communication to the public" defined above;

Published work means work which, with the consent of the author, is made available to the public by wire or wireless means in such a way that members of the public may access the work from a place and time individually chosen by them: Provided, That availability of such copies has been such as to satisfy the reasonable requirements of the public, having regard to the nature of the work;

Publisher is one who produces and makes available for circulation or distribution the published work;

Rental is the transfer of the possession of the original or a copy of a work or multimedia for a limited period of time, for profit-making purposes;

Reproduction is the making of one (1) or more copies of a work, including multimedia, in any manner or form. A reprographic reproduction, as authorized under certain circumstances by the IPC, does not include a digital or machine-readable copy, but is limited to photography, xerography and similar processes, resulting in a paper or microform copy;

Reprographic right is one exercisable anywhere to reproduce or authorize the reproduction of the work by means of any appliance or process capable of producing multiple copies of the work in such a form that the work may be

perceived visually. Reprography and other forms of reproduction require the permission of the copyright holder;

SAR shall refer to these Copyright Safeguards and Regulations issued pursuant to the IPC;

SCL refers to the Library of the Supreme Court of the Republic of the Philippines;

TNL refers to The National Library of the Republic of the Philippines;

TNL Director refers to the head of The National Library of the Republic of the Philippines;

Unpublished work means work that has not been disseminated, circulated or distributed to the public prior to its registration with the Copyright Office;

Work refers to any original work, derivative work, performance of producers, sound recording, or recording of broadcasting organizations. Derivative work is work that is derived from another work;

Work of applied art is an artistic creation with utilitarian functions, or incorporated in a useful article, whether made by hand or produced on an industrial scale;

Work of the Government of the Philippines is work created by an officer or employee of the Philippine Government or any of its subdivisions and instrumentalities, including government-owned or controlled corporations, as part of his regularly prescribed official duties.

Rule 3

Scope of Safeguards and Regulations

These Copyright Safeguards and Regulations shall apply to original works, derivative works, performances of producers, sound recordings, and recordings of broadcasting organizations.

SECTION 1. The following are original works:

- (a) books, pamphlets, articles and other writings;
- (b) periodicals and newspapers;
- (c) lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;
- (d) letters;
- (e) dramatic or dramatico-musical compositions; choreographic works or entertainment in dumb shows;
- (f) musical compositions, with or without words;
- (g) works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- (h) original ornamental designs or models for articles of manufacture, whether or not registerable as an industrial design, and other works of applied art;
- (i) illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture, or science.
- (j) drawings or plastic works of a scientific or technical character;
- (k) photographic works including works produced by a process analogous to photography; lantern slides;
- (l) audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audiovisual recordings;
- (m) pictorial illustrations and advertisements;
- (n) computer programs;

(o) other literary, scholarly, scientific, and artistic works.

SECTION 2. The following are derivative works:

- (a) dramatizations, translations, adaptations, abridgments, arrangements, and other alterations or literary or artistic works;
- (b) collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents.

SECTION 3. Works of producers of sound recordings are those which contain the fixation of the sounds of a performance or of other sounds, or representation of sound, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work. Such fixations may include but are not limited to formats such as phonographic records, cassette tapes, optical discs, CDs, CD-ROMs, DVDs, etc.

SECTION 4. The following are works of broadcasting organizations: recordings, films, videotapes, televisions broadcasts, and other wire or wireless transmissions.

Rule 4

Rule on Copyright Ownership

SECTION 1. Rules on Copyright Ownership. — Copyright ownership shall be governed by the following rules:

- (a) Subject to the provisions of this section, in the case of original literary and artistic works, copyright shall belong to the author of the work.
- (b) In the case of works of joint authorship, the co-authors shall be the original owners of the copyright and in the absence of the agreement, their rights shall be governed by the rules on co-ownership. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the copyright in the part that he has created;
- (c) In the case of work created by an author during and in the course of his employment, the copyright shall belong to:
 - (i) the employee, if the creation of the object of copyright is not a part of his regular duties even if the employee uses the time, facilities, and materials of the employer.
 - (ii) the employer, if the work is the result of the performance of his regularly-assigned duties, unless there is an agreement, express or implied, to the contrary.
- (d) 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, the person who so commissioned the work shall have ownership of work, but the copyright thereto shall remain with the creator, unless there is a written stipulation to the contrary;
- (e) In the case of audiovisual work, the copyright shall belong to the producer, the author of the scenario, the composer of the music, the film director, and the author of the work so adapted. However, subject to contrary or other stipulations among the creators, the producers shall exercise the copyright to an extent required for the exhibition of the work in any manner, except for the right to collect performing license fees for the performance of musical compositions, with or without words, which are incorporated into the work; and

(f) In respect of letters, the copyright shall belong to the writer subject to the provisions of Article 723 of the Civil Code.

SECTION 2. Anonymous and Pseudonymous Works. — For purposes of this SAR, the publishers shall be deemed to represent the authors of articles and other writings published without the names of the authors or under pseudonyms, unless the contrary appears, or the pseudonym or adopted name leaves no doubt as to the author's identity, or if the author of the anonymous works discloses his identity.

PART II

REGISTRATION AND DEPOSIT OF COPYRIGHT WORKS

RULE 5

Registration and Deposit of Work

SECTION 1. Who May Apply. — The owner or assignee of the copyright or his duly authorized agent or representative, may apply for a certificate of registration and deposit of the work: Provided, That if an author could not claim the benefit of copyright protection, his assignee or agent cannot claim it. If the applicant is not the owner or author or assignee of the work, he shall be required to submit his authority to apply.

An assignee is a person to whom an author may assign copyright in whole or in part. The assignee is entitled to all the rights and remedies which the assignor has with respect to the copyright.

Although no copyright should subsist in any work of the government, any employee may claim it by submitting for registration any work that has been created during the time of his employment but which does not form part of his regularly prescribed official duties.

SECTION 2. Identification of Author or Authors. — An application for copyright certificate shall identify the author or authors, as far as practicable, without prejudice to the provisions of Sections 171.2 and 179 of the IPC.

SECTION 3. Non-Resident Applicant. — A non-resident applicant shall appoint a resident agent, by special power of attorney (SPA), who shall be authorized to pursue the copyright application for his/her/its behalf with TNL and/or the SCL and to receive service of notice or other legal process relating to the application and the copyright. In the event of death, absence or incapacity of the resident agent, the applicant shall appoint a new resident agent, by SPA with revocation of the prior SPA, and file notice and a copy thereof with TNL and/or the SCL.

SECTION 4. Works That Shall Be Registered and Deposited. — Two (2) copies or reproductions of the following classes of works, and transfers and assignments related thereto, shall be registered and deposited with TNL Copyright Division and another two (2) copies with the SCL:

- Books, pamphlets, articles and other writings;
- Periodicals and newspapers;
- Lectures, sermons, addresses, dissertations prepared for oral delivery whether or not reduced in writing or other material form;
- Letters;
- Musical compositions with or without words.

SECTION 5. Replicas and Pictures. — For practical purposes, only replicas and pictures of the following classes of works, shall be registered and deposited with TNL Copyright Division:

- Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art, models or designs for works of art;
- Original ornamental designs or models for articles of manufacture, whether or not registerable as an industrial design, and other works of applied art;
- Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- Drawings or plastic works of a scientific or technical character.

SECTION 6. Works that May be Registered and Deposited. — The following works may be registered and deposited:

- Dramatic or dramatic-musical compositions, choreographic works or entertainment in shows;
- Photographic works including works produced by a process analogous to photography, lantern slides;
- Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- Pictorial illustrations and advertisements;
- Computer programs;
- Other literary, scholarly, scientific and artistic works;
- Sound recordings;
- Broadcast recordings.

SECTION 7. When to Register and Deposit. — The registration and deposit of copies or reproductions of the work or works, using the prescribed form, shall be made personally or by registered mail within three (3) weeks after the first public dissemination or publication as authorized by the author.

Rule 6

Procedure for Registration and Deposit

SECTION 1. Filing of Application. — The application for a certificate of registration and deposit shall be filed, using the prescribed form, personally or by registered mail, with the Copyright Division of TNL and the SCL. Only complete applications complying with the requirements prescribed in Sec. 3 hereof shall be given due course.

SECTION 2. Fees. — Application and service fees shall be charged as prescribed.

Fees paid by mistake, when not required by law, in excess of the required amount, or erroneously charged, shall be refunded. However, a mere change of purpose after the payment of money, as when a party desires to withdraw his/her application, will not entitle a party to a refund of the fees paid.

When an application is withdrawn or refused, fees paid with the application will be considered as the examination and processing fees and shall not be refunded to the applicant.

SECTION 3. Supporting Documents. — All applications must be filed together with the following supporting documents:

- (a) duly accomplished application form in duplicate for each work, provided, that a separate application is submitted for each number of a periodical containing a notice of copyright;

- (b) a supporting document evidencing ownership of the copyright, the manner of its acquisition if the claimant is not the original author, translator, or editor, and where and in what establishment the work was made, performed, printed, or produced, and the date of its completion and publication;
- (c) receipt showing payment of the registration fee if the application is filed personally, or by postal money order if the application is filed by registered mail;
- (d) documentary stamps in the correct amount, which shall be affixed to the registration and deposit certificate;
- (e) two (2) complete copies or reproductions of the work or replica or picture provided under Rule 5;
- (f) two (2) printed copies with copyright notice printed in front or at the back of the title page or on any conspicuous space for a non-book material, if the work is a published work;
- (g) if the work is a musical work, two (2) copies of the original work, in the form of a music sheet, in cassette, optical disk, or multimedia;
- (h) if the work is an unpublished literary work, two (2) copies of the work without the copyright notice;
- (i) a technical description of the design, if the work is an original ornamental design;
- (j) two (2) duplicate originals or certified true copies of the deed of assignment, letters of administration, letters testamentary, letters of guardianship, or affidavit of extra judicial settlement of estate, as the case may be;
- (k) original special power of attorney appointing a resident agent who shall be authorized to pursue the copyright application for his/her/its behalf and to receive service of notice or other legal process relating to the application and the copyright, if the applicant is a non-resident alien;
- (l) a certified true copy of the certificate of registration for corporations and partnerships, or business name registration for sole proprietorships, to clarify doubts concerning the corporate, partnership or business name; and
- (m) original copyright waiver in writing and under oath executed by the author in favor of a third-party, if a third-party is claiming copyright ownership.

SECTION 4. Documents Executed Outside the Philippines. — All certifications and documents which are executed outside the Philippines shall be duly authenticated by either the proper diplomatic or consular representative of the Philippines, or by a notary public authorized to authenticate documents under the law of the country in which the certification and documents are executed.

SECTION 5. Copyright Notice of Published Works. — The form of the copyright notice for published works shall be as follows:

Philippine Copyright (year of publication)

By (name of copyright owner)

SECTION 6. Copyright Notice to be Clearly Printed Without Alterations, etc. — The copyright notice shall be clearly and neatly printed and shall be without any amendments, erasures, additions, or deletions whether handwritten, typewritten or otherwise.

SECTION 7. Affixing of Prescribed Copyright Notice. — The prescribed copyright notice must be affixed to each copy of the published work which is intended for circulation or sale in the Philippines. The name of the claimant given in the copyright notice should be the true legal name of the owner of the copyright.

However, a pseudonym or pen name may be used in the copyright notice. The year of the copyright notice must be the same as the year of publication.

SECTION 8. Processing of Applications. — Upon receipt of an application and the prescribed fees, the following procedure shall be observed:

- (a) Initial Processes — The application shall be processed to ascertain compliance with Rule 6, Sec. 3 of this SAR;
- (b) Review of Application – The application shall thereafter be reviewed and acted upon by the Chief of the Copyright Division and finally by the Director of TNL;
- (c) Issuance of Certificate — The Director of TNL shall issue the Certificate of Copyright Registration and Deposit immediately upon approval of the application therefor; In case there are two (2) or more copyright holders, each may receive, upon his application, an original copy of the registration;
- (d) Classification — Each work shall be classified and numbered consecutively upon its registration and deposit. Works shall be classified as follows :

Class Work

- A Books, pamphlets, articles and other writings
- B Periodicals and newspapers
- C Lectures, sermons, addresses, dissertations prepared for oral delivery whether or not reduced in writing or other material form
- D Letters
- E Dramatic or dramatico-musical compositions, choreographic works or entertainment in shows
- F Musical compositions with or without words
- G Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art, models or designs for works of art
- H Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art
- I Illustrations, maps, plans sketches, charts and three-dimensional works relative to geography, topography, architecture or science
- J Drawings or plastic works of a scientific or technical character
- K Photographic works including works produced by a process analogous to photography, lantern slides
- L Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings
- M Pictorial illustrations and advertisements
- N Computer programs
- O Other literary, scholarly, scientific and artistic works
- P Sound recordings

Q Broadcast recordings

(e) Recording — After classification, each work shall be recorded as provided in Rule 10;

(f) Safekeeping — Each work accepted for registration and deposit shall be kept in a proper repository by qualified custodians and curators.

Rule 7

Effectivity and Effects of Registration and Deposit

SECTION 1. Effectivity of Registration and Deposit of Work. — The registration and deposit of the work takes effect on the date specified on the Certificate of Regulation and Deposit covering the work.

SECTION 2. Effects of Registration and Deposit of Work. — The registration and deposit of the work is purely for recording the date of registration and deposit of the work and shall not be conclusive as to copyright ownership or the term of copyrights or the rights of the copyright owner, including neighboring rights.

SECTION 3. Effect of Non-Registration and Deposit. — If, within three (3) weeks after receipt by the copyright owner of a written demand from TNL and/or SCL for the deposit of a work listed in Rule 5 Sec. 4 of this SAR, the required copies are not delivered and the fee for registration and deposit is not paid, the copyright owner, his assignee, or his agent shall be liable to pay a fine equivalent to the required fee per month of delay and to pay to TNL and SCL the amount of the retail price of the best edition of the work.

SECTION 4. Other Laws. — Upon issuance of a certificate of deposit, the copyright owner shall be exempt from making additional deposits of the work with TNL or the SCL under other laws.

Rule 8

Cancellation of Certificate of Copyright Registration and Deposit

SECTION 1. Cancellation. — The TNL or SCL Director may cancel the Certificate of Copyright Registration and Deposit covering a specific work on the following grounds:

(a) Upon a final court decision ordering the cancellation of the certificate;

(b) By final order of proper quasi-judicial or administrative bodies;

(c) Upon registration of deeds of transfers, assignments, and other transactions affecting copyright, including transfers by inheritance, conveying copyright over a specific work;

(d) Upon expiration of the term of copyright.

Rule 9

Public Inspection and Reproduction

SECTION 1. Public Inspection. — All copies of works registered and deposited with TNL and the SCL are deemed the property of the Philippine government. All copies of works registered and deposited with TNL and the SCL, except for unpublished works, shall be open to public inspection, subject to the following conditions:

(a) The Director of TNL may open to public inspection only copies of deposited works that are fragile, rare, frequently used, or in other similar conditions;

(b) Under no circumstances will the public be allowed to reproduce any of the works during inspection;

(c) A written request signed by the interested party shall be submitted to TNL at least one (1) day prior to the requested inspection, and shall specify the work to be inspected, his/her purpose, his/her principal together with the proper authorization from the principal if he/she is an agent or representative, and the preferred date and time of inspection;

(d) Upon approval of the request and payment of the inspection and handling fees, the interested party, on the date and time specified, shall be accompanied by a designated TNL Copyright employee to an inspection officer to ascertain that the party does not have in his/her possession any camera, video or any other gadget for reproduction, and thereafter to the custodian of the work;

(e) The custodian shall designate the place for inspection after the party has signed the inspection register, and the work will thereafter be brought to the party by a TNL Copyright employee who shall remain to watch and ensure that the work or any part thereof is not copied and remains intact during the entire period of inspection; and

(f) After the inspection, the work shall be returned to the custodian who shall examine the work and ascertain that it is intact.

SECTION 2. Special Inspection Conditions. — The inspection of certain works shall be subject to special conditions, such that only authorized TNL Copyright employees shall operate or run the work for the party to view, listen, or perceive. The inspecting party shall in no case be permitted to handle the work, operate or, run the same.

SECTION 3. Inspection of Work Does Not Authorize Exploitation, Abuse or Misuse. — The opening for public inspection of a deposited copy of a work shall in no way authorize exploitation, abuse, or misuse of the work.

Rule 10

Documentation and Recording

SECTION 1. Documentation. — Each work registered and deposited with TNL, and/or SCL shall be issued a Certificate of Registration and Deposit.

SECTION 2. Recording. — Each work shall be recorded as classified in separate record books or through electronic processes. The records shall indicate, inter alia, the following: title of work, name of copyright owner, author, publisher, date applied, copyright registration number and the retail price of the work.

SECTION 3. Recording of Transfers, Assignments, and Other Transactions Affecting Copyright. — Deeds of transfers, assignments, or exclusive licenses, and other transactions affecting copyright, including transfer by inheritance, may be filed in duplicate with TNL upon payment of the prescribed fee. Notice of the record shall be published in the Intellectual Property Office Gazette.

After the record of the conveyance, the transferee of the copyright may obtain a certificate of registration in his/her/its own name to endure for such period as specified in the deed of conveyance but not to exceed the remaining life of the term of the copyright over the work.

SECTION 4. Safekeeping. — All works shall be kept by qualified custodians and curators separately as classified in suitable places to ensure their safety and preservation for posterity.

PART III

OTHER RULES ON COPYRIGHT

Rule 11

Communication to the Public of Copyrighted Works

SECTION 1. Communication to the Public of Copyrighted Work. —

“Communication to the public” or “communicate to the public,” also includes point-to-point transmission of a work, including video on demand, and providing access to an electronic retrieval system, such as computer databases, servers, or similar electronic storage devices. Broadcasting, rebroadcasting, retransmission by cable, and broadcast and retransmission by satellite are all acts of “communication to the public” within the meaning of the IPC.

Rule 12

First Public Distribution of Work

SECTION 1. First Public Distribution of Work. — An exclusive right of first distribution of work includes all acts involving distribution, specifically including the first importation of an original and each copy of the work into the jurisdiction of the Republic of the Philippines.

Rule 13

Enforcement of Economic and Moral Rights

SECTION 1. Role of Societies. — The role of societies of artists, writers, composers, or other copyright owners in enforcing copyright shall not prejudice the right of a copyright owner to designate an assignee, licensee, or other agent to carry out enforcement activities on his behalf. A copyright owner may also enter into agreements with more than one such society.

Rule 14

Limitations on Copyright

SECTION 1. Public Performance or Communication to the Public of Work by Non-Profit Institution. — The public performance or the communication to the public of a work, in a place where no admission fee is charged in respect of such public performance or communication, by a club or institution for charitable or educational purposes only, whose aim is not profit-making, shall not constitute infringement of copyright, if:

(a) The works are limited to non-dramatic literary works and non-copyrighted musical compositions, and do not include audiovisual works or computer programs;

(b) The clubs or institutions to which this subsection applies are limited to those organized exclusively for charitable or educational purposes; and if the following conditions are satisfied:

(i) No fee or compensation is paid to any performers, promoters or organizers of the public performance;

(ii) There is no direct or indirect admission charge to the place where the performance occurs; and

(iii) Admission to the performance is restricted to persons who are, and for at least the preceding thirty days have been, members in good standing of the club or the institution for whose charitable or education purposes the performance is being carried out.

SECTION 2. Use in Judicial Proceedings or by Legal Practitioners. — Without prejudice to other exceptions to protection, the use of copyrighted works as provided in the IPC “for the giving of professional advise by a legal practitioner” is limited to those uses directly connected to the rendering of legal advice with

respect to such works, or to individuals, institutions, events or circumstances to which the creation of exploitation of such works are directly related. This exception does not apply to the exercise of exclusive rights of copyright owners in legal research materials, legal-related computer software, legal-related on-line material, or the other works utilized in the practice of law on a regular basis.

SECTION 3. Uses Compatible with Fair Use. — To determine whether use of a copyrighted work is “compatible with fair use,” the criteria set forth in Sec. 185 of the IPC shall be applied.

SECTION 4. Fair Use and Decompilation of Computer Software. — An act of decompilation of software may qualify for analysis under the fair use provisions if it meets all of the criteria set out in the IPC, viz:

(a) It consist only of the reproduction of code and translation of the forms of a computer program;

(b) The reproduction and translation are indispensable to obtain information, such that information can be obtained in no other way than through decompilation;

(c) The information is necessary in order to achieve interoperability (i.e., interoperability cannot be achieved without obtaining the information and without using decompilation to obtain it) ; and

(d) The interoperability that is sought is between the decompiled program and an independently created computer program (i.e., a computer program that was created prior to and without reference to the decompilation).

If the above criteria are satisfied, then the fair use factors set forth in the IPC can be applied in order to decide whether or not the decompilation, in the particular circumstances involved, constitutes a fair use. The fact that a use is decompilation (as defined by the statutory criteria) creates no presumption that the use is fair.

SECTION 5. Effect on Value of the Work. — The effect of the use upon the value of the copyrighted work shall also constitute a limitation on fair use of works, particularly whenever their reproduction will affect their usefulness, reliability, and validity such as psychological tests and others of similar nature. Reproduction of these works shall, therefore, need prior authority of the copyright owner.

SECTION 6. Reproduction or Communication to the Public by Mass Media of Articles, Lecture, etc. — The reproduction or communication to the public by mass media of articles, such as those publish in newspapers or periodicals on current political, social, economic, scientific, or religious topics, as well as lectures, addresses, and other works of the same nature, which are delivered in public, shall not constitute infringement of copyright if such use is for information purposes and has not been expressly reserved: Provided, that the source is clearly indicated and that the use of the work should not unreasonably prejudice the right holder’s legitimate interests.

Rule 15

Importation for Personal Purposes

SECTION 1. Importation for Personal Purposes. — The importation of a copy of a work by an individual strictly for his own personal use is permitted when copies of the work are not available in the Philippines and is not intended for sale and subject to provisions of Sec. 190 of the IPC and to such rules and regulations as may be prescribed by the Commissioner of Customs, and approved by the

Secretary of Finance. This right to import without authorization a copy of a work for personal purposes, is an exemption to the distribution right only, not to the public performance right.

Rule 16

Rights of Producers of Sound Recordings

SECTION 1. Right of Rental or Lending. — The right of producers of sound recordings to “authorize the direct or indirect reproduction of their sound recordings, in any manner or form,” provided for in the IPC, shall include the right producers of sound recordings to make such works available to the public by placing these reproductions in the market, and the right of rental or lending.

Rule 17

Protection and Enforcement

SECTION 1. Works Protected Upon Creation. — Works are protected from the moment of their creation, irrespective of their mode or form of expression, as well as their content, quality, and purpose.

SECTION 2. Term of Protection of Economic Rights of Authors.

(a) Subject to the provisions of Subsections (b) to (e) hereof, the copyright in works shall be protected during the life of the author and for fifty (50) years after his death. This rule also applies to posthumous works.

(b) In the case of works of joint authorship, the economic rights shall be protected during the life of the last surviving author and for fifty (50) years after his death.

(c) In the case of anonymous or pseudonymous works, the copyright shall be protected for fifty (50) years from the date on which the work was first lawfully published: Provided, That where, before the expiration of the said period, the author’s identity is revealed or is no longer in doubt, the provisions of Subsections (a) and (b) shall apply, as the case may be: Provided, further, That such works if not published before shall be protected for fifty (50) years counted from the making of the work.

(d) In the case of works of applied art, the protection shall be for a period of twenty-five (25) years from the date of making.

(e) In the case of photographic works, the protection, shall be for fifty (50) years from publication of the work and, if unpublished, fifty (50) years from the making.

(f) In the case of audio-visual works including those produced by a process analogous to photography or any process for making audio-visual recordings, the term shall be fifty (50) years from the date of publication and, if unpublished, from the date of making.

SECTION 3. Term of Protection of Moral Rights of Authors. — The moral rights of an author shall last during the lifetime of the author and for fifty (50) years after his death and shall not be assignable or subject to license. The person or persons to be charged with the posthumous enforcement of these rights shall be named in writing to be filed with TNL. In default of such person or persons such enforcement shall devolve upon either the author’s heirs, and in default of the heirs, the Director of TNL.

SECTION 4. Term of Protection for Performers, Producers. — The rights granted to performers and producers of sound recordings under this law shall expire:

(a) For performances not incorporated in recordings, fifty years (50) from the end of the year in which the performance took place; and

(b) For sound or image and sound recordings and the performances incorporated therein, fifty (50) years from the end of the year in which the recording took place.

SECTION 5. Term of Protection of Moral Rights of Performers. — Independently of a performer's economic rights, the rights granted to a performer as regard his live aural performances or performances in fixed sound recordings, shall be maintained and exercised fifty (50) years after his death, by his heirs, and in default of heirs, the government, where protection is claimed.

SECTION 6. Term of Protection of Broadcast Organizations. — In the case of broadcasts, the term shall be twenty (20) years from the date the broadcast took place. The extended term shall be applied only to old works with subsisting protection under the prior law.

SECTION 7. Coordination by IPO. — The protection of intellectual property rights shall be coordinated by the Intellectual Property Office with other government agencies and the private sector.

SECTION 8. Protection by NBDB. — The protection of the rights of authors and publishers and the enforcement of copyright laws and extension of legal assistance to authors and publishers in suits related thereto shall devolve on the National Book Development Board (NBDB) pursuant to Sec. 4 (i) of Republic Act 8047, otherwise known as the "Book Publishing Industry Development Act".

PART IV

RECIPROCITY AND INTERNATIONAL CONVENTIONS

Rule 18

Reciprocity and International Conventions

SECTION 1. Reverse Reciprocity of Foreign Laws. — Any condition, restriction, limitation, diminution, requirement, penalty or any similar burden imposed by the law of a foreign country on a Philippine national seeking protection of intellectual property rights in that country, shall reciprocally be enforceable upon nationals of said country, within Philippine jurisdiction.

SECTION 2. International Conventions and Reciprocity. — Any person who is a national or who is domiciled or has a real and effective industrial establishment in a country which is a party to any convention, treaty, or agreement relating to intellectual property rights or the repression of unfair competition, to which the Philippines is also a party, or extends reciprocal rights to nationals of the Philippines by law, shall be entitled to benefits to the extent necessary to give effect to any provision of such convention, treaty or reciprocal law, in addition to the rights to which any owner of an intellectual property right is otherwise entitled by the IPC.

PART V

EFFECTIVITY AND AMENDMENT OF SAR

Rule 19

Effectivity

SECTION 1. Effectivity. — These Copyright Safeguards and Regulations shall be effective fifteen (15) days after filing with the University of the Philippines Law Center.

Rule 20

Amendment of Safeguards and Regulations

SECTION 1. Amendments. — The Director of TNL may amend, revise, repeal, or otherwise modify these Copyrights Safeguards and Regulations as may be necessary.

ISSUED this 13th day of August, Nineteen Hundred and Ninety Nine, in the City of Manila, Philippines.

(SGD.) ADORACION MENDOZA-BOLOS
Director
The National Library

Annex 'B'
Schedule of Fees
(effective____1999)

Application Fee for Registration and Deposit or Examination/Processing Fee

P100.00

P50.00

Recording of Assignment/Exclusive License, Notice or Other Instruments Affecting Copyright

P30.00

Certified True Copy P30.00

Certified Photocopy P30.00

Inspection Fee P30.00

Viewing Fee P30.00

Handling/Searching Fee P30.00