

**Intellectual Property Rights in the Philippines: A Comprehensive Examination of
Copyright, Trademarks, and Patents, Including Notable Legal Cases**

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ABSTRACT

This research provides a comprehensive overview of intellectual property rights in the Philippines, focusing on copyright, trademarks, and patents. It highlights the historical evolution of IPR in the country, influenced by Spanish civil law and U.S. intellectual property laws during different colonial periods. The primary legal framework governing IPR in the Philippines is the Intellectual Property Code of 1997, Republic Act No. 8293, which covers various aspects of IPR protection.

The research delves into copyright protection, explaining that it automatically applies to a wide range of creative works and extends for the author's lifetime plus 50 years. Copyright grants authors both economic and moral rights, and legal remedies are available in cases of infringement, including damages and criminal penalties. The discussion underscores the importance of copyright in protecting creators' rights and fostering innovation.

In the context of trademarks, the research outlines the regulatory framework for trademark registration, which takes 8 to 10 months and follows the Nice Classification system. The Philippines allows divisional and multi-class applications and trademark enforcement can occur through various avenues, such as the Bureau of Customs, the Intellectual Property Office, or the court system. The consequences of trademark infringement are detailed, with penalties ranging from imprisonment to fines. Alternative dispute resolution methods, like mediation, are available for trademark disputes.

Regarding patents, the research explains the exclusive rights granted to inventors, allowing them to prevent others from using their inventions for 20 years. The renewal

process for patents is discussed, starting in the fifth year. This comprehensive overview of IPR in the Philippines showcases the country's commitment to safeguarding intellectual property rights, promoting innovation, and fostering a competitive environment.

INTRODUCTION

Intellectual property rights are legal protections for mental creations such as inventions, artistic works, designs, symbols, names, and images. IPR are essential for fostering innovation, creativity, and economic growth. They also help to prevent unfair competition and consumer deception. Different types of IPR have different purposes and scopes, such as patents for inventions, trademarks for distinctive signs, and copyrights for literary and artistic works.

The concept of intellectual property has a rich and evolving history in the Philippines. Over the years, the country has developed and adapted its legal framework to protect the rights of creators, innovators, and businesses. Historically, the Philippines inherited a legal system heavily influenced by Spanish civil law, a legacy of its colonial past. During the American colonial period, U.S. intellectual property laws began to take root. Later, in the aftermath of World War II, the country saw the establishment of a more comprehensive legal framework that addressed intellectual property rights.

The Philippines is a country that recognizes and respects IPR, both domestically and internationally. The Philippines has established several laws and regulations to implement and enforce intellectual property rights, as well as to meet its duties under international treaties and accords. The primary law that governs IPR in the Philippines is the Intellectual Property Code of 1997, Republic Act No. 8293, which repealed and replaced the previous laws on patents, trademarks, and copyrights.

The Intellectual Property Code establishes the Intellectual Property Office of the Philippines as the central agency responsible for administering and adjudicating IPR.

The IPOPHL can grant patents, register trademarks and industrial designs, issue registration certificates for layout designs of integrated circuits, and record technology transfer arrangements. The IPOPHL also has primarily administrative powers to settle complaints concerning IPR infringement, unfair competition, cancellation, opposition, and compulsory licensing.

The Intellectual Property Code also provides for the protection of other types of IPR, such as geographic indications, trade secrets, traditional knowledge, and plant variety protection. Moreover, the Intellectual Property Code incorporates the provisions of the international conventions and treaties that the Philippines is a party to or extends reciprocal rights to its nationals. In recent years, the Philippines has made significant steps to enhance its IPR system and enforcement. It has enacted several laws and policies to strengthen its legal framework and institutional capacity, including the Anti-Counterfeiting Law of 2008, Republic Act No. 10372, the Cybercrime Prevention Act of 2012, Republic Act No. 10175, and the National Intellectual Property Strategy of 2019-2023. To improve cooperation and collaboration with many stakeholders, it has also built collaboration between agencies, coordination mechanisms, and public-private partnerships. It has also participated in regional and worldwide initiatives to raise IPR awareness and harmonization.

The Philippines is committed to safeguarding and developing intellectual property rights as a crucial engine of social and economic progress. It tries to instill in its workforce a respect for intellectual property rights and to increase its competitiveness in the global market by fostering an atmosphere conducive to innovation and creativity.

METHODS

Literature Review

The literature review was an essential phase of this research, aimed at providing a comprehensive examination of intellectual property in the Philippines. Our examination included critical factors, such as the legislative framework, historical evolution, enforcement issues, and the economic implications of intellectual property rights in the Philippines, with a particular focus on copyright, patents, and trademarks.

The search strategy employed was both exhaustive and systematic. To ensure inclusivity, we engaged with prominent academic databases such as Google Scholar. We also enacted specific search criteria that underscored the importance of peer-reviewed articles and official government publications. Additionally, when addressing court issues in the results and discussion, information was gathered through an extensive review of legal databases, court documents, and official legal reports. This information was critical for providing a comprehensive understanding of how intellectual property rights are interpreted and enforced through the legal system in the Philippines.

RESULTS AND DISCUSSION

Copyright

A crucial legal protection for original work creators in the Philippines concerning intellectual property rights is copyright. The Philippines' Intellectual Property Code grants copyright protection to literary and creative works, encompassing a broad spectrum of intellectual goods. Notably, one of the main features of copyright protection is that it takes effect automatically after a work is created and requires no special registration. Copyright protection in the Philippines extends during the author's lifetime and for 50 years following their death, including posthumous works. This duration commences from the first day of January of the year after the author's demise or publication of their work.

Furthermore, copyright endows authors with both economic and moral rights. Economic rights encompass the exclusive control over the reproduction, adaptation, distribution, rental, public display, performance, and communication of their work to the public. In contrast, moral rights allow authors to assert their authorship, control alterations, and prevent derogatory actions in their work. However, it is essential to note that not all types of works enjoy copyright protection. Specific categories, such as ideas, systems, and official texts of a legislative nature, are exempted from copyright protection. Moreover, the government's works are generally only protected when prior approval is required for profit-making endeavors.

In cases of copyright infringement, legal remedies are available to copyright owners. These remedies include injunctive relief, damages, and the potential doubling of

damages in specific cases, such as the circumvention of technical measures. Criminal penalties are also imposed on infringers, with imprisonment and fines increasing with the number of offenses. Incorporating the essence of copyright law in the Philippines, it is evident that a comprehensive understanding of intellectual property rights is paramount. These legal provisions not only safeguard the rights of creators but also encourage innovation and the dissemination of knowledge.

SC Champions FILSCAP's Rights over Copyrighted Works - Supreme Court of the Philippines

The Filipino Society of Composers, Authors and Publishers, Inc. (FILSCAP) has been granted permission by the Supreme Court to appeal and set aside earlier decisions that had prohibited it from collecting license fees and royalties for the copyrighted works of its member artists. Anrey, Inc. was required to pay FILSCAP 10,000 in moderate damages for the unauthorized public performance of copyrighted works, as well as 50,000 for legal costs. On these sums, interest rates were also mentioned.

The decision was forwarded to the Intellectual Property Office of the Philippines, the House of Representatives, and the Senate for possible statutory amendments to the Intellectual Property Code. The case involved FILSCAP's claim that Anrey's restaurants in Baguio City had played copyrighted music owned by FILSCAP without proper licensing. Anrey initially claimed they were playing whatever music was broadcast on the radio. However, the court ruled that this constituted a separate performance and did not qualify for exemptions or fair use. The court emphasized that the case has broader

implications for commercial establishments using radio broadcasts for profit without obtaining the necessary licenses, potentially affecting the music industry. The Supreme Court acknowledged the need for possible amendments to the Intellectual Property Code due to the broad definition of public performance in the code. This situation emphasizes the value of safeguarding intellectual property rights in the music industry as well as the requirement for proper licensing and payment of royalties when employing copyrighted material.

Trademarks

In the Philippines, trademark protection is governed by several legal instruments, including the Intellectual Property Code and its amendments. Trademarks are defined as visible signs that can distinguish goods or services and can even include marked containers. Interestingly, common law trademarks can be established through actual use in commerce. However, there are restrictions on what can be registered as a trademark, including immoral, deceptive, or scandalous content, symbols of the Philippines, and names or portraits of living individuals without their consent.

Applications for trademark registration are categorized using the Nice Classification system for products and services, and trademark registration takes between 8 and 10 months from the filing date. The Philippines allows for divisional and multi-class applications, giving trademark applicants options. The procedure typically entails filing, review, publishing, and a 30-day objection period that can be extended to 90 days after publication.

For trademark enforcement, proceedings can be initiated through the Bureau of Customs, the Intellectual Property Office, or the court system. Infringement actions can be criminal, civil, or administrative proceedings, each with varying burdens of proof. The criminal procedure includes pre-raid investigations, police inquiries, search warrants, raids, legal filings, trials, and potential appeals.

Penalties for trademark infringement in the Philippines range from imprisonment for 2 to 5 years and fines ranging from PHP 50,000 to PHP 200,000. Appeals can be made, depending on the nature of the case, with the possibility of administrative actions being appealed to higher authorities and civil or criminal actions moving through the court system.

In addition to legal proceedings, the Philippines allows alternative dispute resolution methods like mediation. Trademark owners have a range of remedies available, including seeking reasonable profits, doubled damages, impoundment of infringing goods, removal of infringing trademarks, and injunctive relief.

VICTORIO P. DIAZ, Petitioner, vs. PEOPLE OF THE PHILIPPINES AND LEVI STRAUSS [PHILS.], INC., Respondents.

The case in question revolves around a trademark issue, explicitly dealing with the alleged infringement of trademark rights. Victorio P. Diaz was accused of violating Section 155 of the Intellectual Property Code of the Philippines, which pertains to trademark infringement. The charges were related to his production and sale of jeans

under the trademark "LS JEANS TAILORING," which was claimed to be confusingly similar to the trademark "LEVI STRAUSS & CO" used on Levi's 501 jeans. The prosecution argued that Diaz's actions constituted trademark infringement, suggesting that using a similar mark could confuse consumers.

However, the court applied the holistic test to evaluate the likelihood of confusion and concluded that there was no substantial risk of confusion between the two trademarks. It considered various factors, such as the differences between the marks, the distinct class of customers they targeted, and the distinct trade channels they operated in. Furthermore, it was revealed that Diaz's "LS JEANS TAILORING" trademark was registered with the Intellectual Property Office prior to the case filing, and the registration process would have required an assessment of its similarity to other trademarks.

The court determined that the evidence did not satisfy the level of proof beyond a reasonable doubt necessary for a criminal conviction in light of these factors. Victorio P. Diaz was, therefore, exonerated of the accusations of trademark infringement, reiterating the idea that probability of confusion is a crucial factor in situations involving trademark infringement. This case underscores the importance of a comprehensive evaluation of trademarks to protect intellectual property rights and prevent unwarranted criminal charges.

Patents

A patent is an exclusive right that gives the inventor the ability to prevent others from producing, utilizing, or commercializing his invention during the duration of the patent. On mutually agreed-upon terms, patent owners may also provide permission to or license other parties to use their ideas. Additionally, owners have the option of selling their patent rights to a third party, who will then take ownership of the innovation. A new invention must also involve an innovative step and apply it to the industry to be considered patentable under the Philippines' Intellectual Property Code. A patent has a twenty-year (20) duration starting on the application filing date. The patent must be renewed each year, starting in the fifth year.

SAHAR INTERNATIONAL TRADING, INC., PETITIONER, VS. WARNER LAMBERT CO., LLC AND PFIZER, INC. (PHILIPPINES), RESPONDENTS.

In a patent dispute involving Sahar International Trading, Inc. (Sahar), Warner-Lambert Co., LLC, and Pfizer, Inc. (Philippines), the Supreme Court of the Philippines issued a resolution. The core issue was the validity of a preliminary injunction. Warner-Lambert owned patents for the pharmaceutical substance Atorvastatin. Pfizer was the exclusive licensee for distributing these products in the Philippines. Sahar was accused of selling "Atopitar," which claimed to infringe on Warner Lambert's patents.

The Regional Trial Court initially denied the application for a preliminary injunction. However, the Court of Appeals (CA) overturned this decision and granted the injunction, stating that Warner Lambert's rights were infringed. Subsequently, the trial court dismissed

the main case because of a lack of cause of action. The CA reversed this decision, finding Sahar liable for patent infringement and issuing a permanent injunction. In light of these developments, the Supreme Court declared the petition moot and academic because the main issue concerning the preliminary injunction had been resolved.

As a result, the Supreme Court did not provide a verdict on the preliminary injunction's merits or the patent infringement claims. The resolution dismissed the petition without issuing a substantive ruling, as the matter had been effectively addressed by the CA's decision in the main case.

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