




WEEK 16

ETHICS AND LAW (Digital Intellectual Property IP)

SPI101 – SOCIAL PROFESSIONAL ISSUES



LEARNING OUTCOMES:

- 
- Describe ethics and laws applicable to social and professional issues.
 - Differentiate and understand the ethics and law.
 - Interpret the Intellectual Property and the Philosophical Justification of the proprietary and free open source software.



Applicable Philippine Law

The Philippine legal system is a mixture of customary usage, Roman (civil law) and Anglo-American (common law) systems, and Islamic law. The legal system is the result of the immigration of Muslim Malays in the fourteenth century and the subsequent colonization of the islands by Spain and the United States. The civil law operates in areas such as family relations, property, succession, contract and criminal law while statutes and principles of common law origin are evident in such areas as constitutional law, procedure, corporations law, taxation, insurance, labor relations, banking and currency.

The main sources of Philippine law are:

- **The Constitution** - the fundamental and supreme law of the land
- **Statutes** - including Acts of Congress, municipal charters, municipal legislation, court rules, administrative rules and orders, legislative rules and presidential issuances.
- **Treaties and Conventions** - these have the same force of authority as statutes.
- **Judicial Decisions** - Art 8 of the Civil Code provides that 'judicial decisions applying to or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines'.

CYBERCRIME PREVENTION ACT OF 2012

REPUBLIC ACT NO. 10175

AN ACT DEFINING CYBERCRIME, PROVIDING FOR THE PREVENTION, INVESTIGATION, SUPPRESSION AND THE IMPOSITION OF PENALTIES THEREFOR AND FOR OTHER PURPOSES.

CYBERCRIME PREVENTION ACT OF 2012

The **Cybercrime Prevention Act of 2012**, officially recorded as **Republic Act No. 10175** by President Aquino on **Sept. 12, 2012.**, is a law in the Philippines approved on September 12, 2012. It aims to address legal issues concerning online interactions and the Internet in the Philippines. Among the cybercrime offenses included in the bill are cybersquatting, cybersex, child pornography, identity theft, illegal access to data and libel.

Computer-related Offenses

1. Computer Forgery

The intentional input, alteration, deletion or suppression of any computer data, without right resulting in unauthentic data WITH THE INTENT that it be considered or acted upon for legal purposes as if it were authentic, regardless whether or not the data is directly readable and intelligible.

Computer-related Offenses cont'd

2. Computer-related Fraud

The intentional and unauthorized input, alteration, or deletion of computer data or program or interference in the functioning of a computer system including, but not limited to, phishing, causing damage thereby, WITH THE INTENT of procuring an economic benefit for oneself or for another person.

3. Computer-related Identity Theft

The intentional acquisition, use, misuse, transfer, possession, alteration or deletion of identifying information BELONGING TO ANOTHER, whether natural or juridical, without right.

INTELLECTUAL PROPERTY RIGHTS

Intellectual property rights are legal rights that provide creators protection for original works, inventions, or the appearance of products, artistic works, scientific developments, and so on.

There are four types of intellectual property rights (IP):

1. patents
2. trademarks
3. copyrights
4. trade secrets

What are Patents?

Patents are a set of exclusive rights granted by a sovereign state to an inventor. These rights are granted for a limited period of time, usually about twenty years. The granting of these rights is in return for public disclosure of the invention.

Ideas/inventions are patentable.

Criteria for Patentability

Patents protect inventions. These inventions could be either products or processes. All inventions are required to meet the criteria for patentability. These criteria are the presence of a patentable subject matter, novelty, non-obviousness and utility/industrial application. The criterion of an inventive step is particularly important. Mere discoveries are not patentable, and neither are algorithms.

Patents and the Law

Patents are the subject matter of national legislation. Besides prescribing the patentability criteria laid out in the previous section, legislations also provide the term of protection, the role of patent examiners, ,rights of patent holders, exceptions to patentability, provisions around compulsory licensing, conditions for licensing etc.

What is a Trademark?

A trademark is a recognizable symbol, sign, expression, design or the like which is used to identify and differentiate one product or service emanating from a particular source against one emanating from another source

Legal Aspects of Trademarks

The holder of a trademark has the benefit of rights associated with trademarks and these rights can be enforced when an action for trademark infringement is brought. It must be noted that for this, the trademark has to be registered. In cases of unregistered trademarks, remedy may have to be sort elsewhere. In this case, it could be under the common law wrong of “passing off”.

WHAT IS COPYRIGHT?

Copyright, as the name suggests, is a kind of right that protects the ‘expressions’ of some ideas, but not the idea itself. This concept where the expression is protected, but not the idea itself, is called the idea- expression dichotomy.

Copyright protects a range of works that are expressions of ideas. These include literary works, artistic works and dramatic works.

Copyright and the Law

Copyright is the subject matter for national legislations. Subject matter of protection, term of protection, whether registration is mandatory or not, the rights associated with copyright and term of copyright are some of the main subjects addressed by these legislations.

Trade Secrets

To identify the trade secrets in your idea, you need to understand the definition of a trade secret. Under trade secret law, a “trade secret” is any valuable information that is not publicly known and of which the owner has taken “reasonable” steps to maintain secrecy. These include information, such as business plans, customer lists, ideas related to your research and development cycle, etc.

You don't submit your trade secret for approval. No government body examines, approves, or registers your trade secret. To establish your information as a trade secret, you need to treat the information as a trade secret.

Electronic Commerce Act of 2000 (RA No. 8792)

AN ACT PROVIDING FOR THE RECOGNITION AND USE OF ELECTRONIC COMMERCIAL AND NON -COMMERCIAL TRANSACTIONS AND DOCUMENTS, PENALTIES FOR UNLAWFUL USE THEREOF AND FOR OTHER PURPOSES.

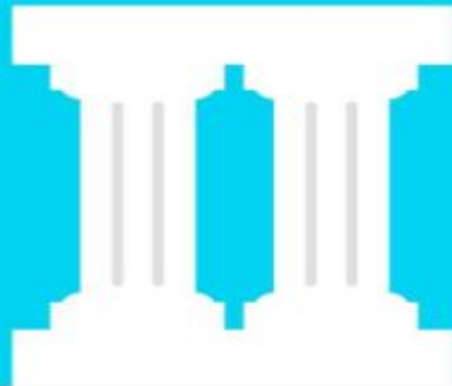
E-COMMERCE ACT aims to facilitate domestic and international dealings, transactions, agreements, contracts and exchanges including storage of information through the utilization of electronic, optical and similar medium, mode, instrumentality and technology. THE E-COMMERCE ACT OF 2000 OR REPUBLIC ACT 8792 WAS SIGNED INTO LAW ON JUNE 14, 2000.

Data Privacy Act of 2012

DATA PRIVACY ACT OF 2012

Republic Act No. 10173 or The Data Privacy Act of 2012 was approved into law last August 15, 2012.

Its Implementing Rules and Regulations was promulgated by the National Privacy Commission on August 24, 2016.



WHAT DOES THE LAW SAY ABOUT DATA PRIVACY?

The law upholds the right to privacy by **protecting individual personal information.**

The National Privacy Commission protects individual personal information by **regulating the processing of personal information.**

Gov't agencies that are engaged in the processing of personal information

Social Security System
Government Service Insurance System
Land Transportation Office
Bureau of Internal Revenue
Philippine Health Insurance Corporation
Commission on Elections
Department of Foreign Affairs
Department of Justice
Philippine Postal Corporation

Optical Law

The Optical Media Board (OMB) was created pursuant to Republic Act (RA) No. 9239 known as the Optical Media Act of 2003, which was approved on February 10, 2004. It is mandated to regulate the mastering, manufacture, replication, importation and exportation of optical media in all forms. Coverage of authority is the entire territory of the Republic of the Philippines including the economic zones as defined both under RA Nos. 9239 and 7916.

Civil Code

The **Civil Code of the Philippines** is the product of the codification of private law in the Philippines. It is the general law that governs family and property relations in the Philippines. It was enacted in 1950, and remains in force to date with some significant amendments.

Revised Penal Code

The **Revised Penal Code** contains the general penal laws of the Philippines. First enacted in 1930, it remains in effect today, despite several amendments thereto. It does not comprise a comprehensive compendium of all Philippine penal laws. The Revised Penal Code itself was enacted as Act No. 3815, and some Philippine criminal laws have been enacted outside of the Revised Penal Code as separate Republic Acts.

What is Criminal Law?

Criminal law concerns the system of legal rules that define what conduct is classified as a crime and how the government may prosecute individuals that commit crimes. Federal, state, and local governments all have penal codes that explain the specific crimes that they prohibit and the punishments that criminals may face. Individuals who violate federal, state, and local laws may face fines, probation, or incarceration. Lawsuits against criminals are initiated by prosecuting attorneys who act on behalf of the government to enforce the law.

SOURCES OF CRIMINAL LAW

1.The Revised Penal Code

2. Special Penal Laws - Acts enacted of the Philippine Legislature punishing offenses or omissions

Definition of crimes

- **AGAINST PERSON**
- **AGAINST PROPERTIES**

Unfair Competition Act

The **Philippine Competition Act** (Republic **Act** 10667 or the “**Act**”) defines, prohibits and penalizes three types of anti-competitive conduct: anti-competitive agreements, abuse of dominant position, and anti-competitive mergers and acquisitions.

"Unfair competition" is a term that applies to dishonest or fraudulent rivalry in trade and commerce. It's a branch of intellectual property law that particularly relates to the practice of endeavoring to substitute one's own goods or products in the market for those of another for the purpose of deceiving the public.

What is Competition Law?

Broadly refers to all laws, government policies and regulations aimed at establishing competition and maintaining the same. It includes measures intended to promote, advance and ensure competitive market conditions by the removal of control, as well as to redress anti-competitive results of public and private restrictive practices.

Examples of unfair competition

- Trademark infringement
- False advertising, false representation of products or services,
- Unauthorized substitution
- Bait-and-switch tactics
- Misappropriation of trade secrets
- Below-cost selling
- Dumping
- Rumor Mongering

Internet Pornography

Internet pornography is any pornography that is accessible over the Internet, primarily via websites, peer-to-peer file sharing, or Usenet newsgroups. The availability of widespread public access to the World Wide Web in late 1990s led to the growth of Internet pornography.

REPUBLIC ACT 9775“Anti-Child Pornography Act of 2009.”

AN ACT DEFINING THE CRIME OF CHILD PORNOGRAPHY, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES.

"Child" refers to a person below eighteen (18) years of age or over, but is unable to fully take care of himself/herself from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

PENALTY

Any ISP found guilty of willfully and knowingly failing to comply with the notice and installation requirements under RA 9775 shall suffer the penalty of a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) for the first offense. In case of subsequent offense, the penalty shall be a fine of not less than One million pesos (Php1,000,000.00) but not more than Two million pesos (Php2,000,000.00) and revocation of its license to operate.



**END OF PRESENTATION.
THANK YOU!**

