

## **INTELLECTUAL PROPERTY RIGHTS (R.A. 8293)**

### **Comprehensive Summary and Violations Guide**

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#### **DEFINITION OF INTELLECTUAL PROPERTY**

Intellectual Property (IP) refers to creations of the mind — inventions, literary and artistic works, designs, and symbols, names, and images used in commerce — protected by law to give creators exclusive rights over their works.

**Legal Basis:** Republic Act No. 8293 (Intellectual Property Code of the Philippines)

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#### **COPYRIGHTS**

##### **Meaning**

Protection for original literary and artistic works such as books, music, films, paintings, computer programs, and architecture. It grants creators economic and moral rights to control use and distribution of their works. (Secs. 171–173)

##### **What, When, and How to Protect**

- Protection starts **automatically upon creation** (Sec. 172.2)
- Optional **registration and deposit** at the National Library or Supreme Court Library (Sec. 191)

**Protected Works:** Books, music, films, computer programs, artworks, etc.

**Not Protected:** Ideas, systems, data, government works (Sec. 175–176)

##### **Ownership (Sec. 178)**

- **Author** is first owner.
- **Joint authorship** → co-ownership.
- **Employer-employee:** employer owns if work done as part of regular duties.
- **Commissioned work:** physical object belongs to commissioner; copyright remains with creator unless agreed otherwise.
- **Audiovisual works:** shared between producer, composer, director, and author.

##### **Remedies for Infringement (Secs. 216–217)**

**Civil Remedies:** - Injunction, damages, destruction of infringing materials, moral/exemplary damages.

**Criminal Penalties:** - 1st offense: 1–3 years + ₱50,000–₱150,000 fine

- 2nd offense: 3–6 years + ₱150,000–₱500,000 fine

- 3rd offense: 6–9 years + ₱500,000–₱1.5M fine

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## TRADEMARKS

### How Acquired and Protected (Secs. 122–126, 145–146)

- Acquired through **registration with IPOPhil**.
- Valid for **10 years**, renewable every 10 years.
- Requires **Declaration of Actual Use (DAU)** within 1 year from 5th anniversary.

### Registrability (Secs. 122–123)

**Registrable:** Distinctive marks identifying goods/services.

**Not Registrable:** Generic or descriptive marks, immoral or deceptive marks, or those confusingly similar to existing marks.

### Rights of Owner (Sec. 147)

- Exclusive right to use and prevent others from using similar marks.
- Right to assign, transfer, or license the mark.
- Right to sue for infringement.

### Remedies for Infringement (Secs. 155–158, 170)

- **Trademark Infringement:** Unauthorized use causing confusion.
- **Unfair Competition:** Deceptive imitation of goods/services.
- **False Designation:** Misleading use of origin or sponsorship.

**Penalties:** - 2–5 years imprisonment + ₱50,000–₱200,000 fine. - Civil action for injunction, damages, and destruction of counterfeit goods.

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## PATENTS

### When Protected (Secs. 21–55)

- Granted to **new and useful inventions** after registration with IPOPhil.
- Valid for **20 years from filing date** (Sec. 54).

### Conditions for Patentability (Secs. 21–24)

1. **Novelty** – Not disclosed or used before filing.
2. **Inventive Step** – Not obvious to skilled persons.
3. **Industrial Applicability** – Can be made or used in industry.

### Ownership (Secs. 28–31)

- **Inventor** is first owner.
- **Employee inventions:** employer owns if made as part of regular duties.

- **Joint inventors:** co-ownership.

## **Patentable vs. Non-Patentable (Sec. 22)**

**Patentable:** New products, machines, or processes offering technical solutions.

**Non-Patentable:** Discoveries, theories, math methods, business methods, medical/surgical methods, artistic creations, computer programs *as such*, and inventions contrary to morality or public order.

## **Remedies for Infringement (Secs. 76–78)**

- Injunction and damages.
  - Destruction of infringing goods.
  - Administrative penalties under IPOPhil.
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## **COMMON VIOLATIONS**

### **COPYRIGHT VIOLATIONS**

- Unauthorized reproduction, distribution, or display of works.
- Piracy (selling or distributing pirated books, movies, or software).
- Plagiarism (using another's work without attribution).
- False or fraudulent copyright registration (Sec. 162).
- Unauthorized use of performances or recordings (Secs. 203–212).

### **TRADEMARK VIOLATIONS**

- Using counterfeit or colorable imitation marks (Sec. 155).
- Importing fake or deceptive goods (Sec. 166).
- Passing off one's goods/services as those of another (Sec. 168).
- Misrepresentation of origin or sponsorship (Sec. 169).

### **PATENT VIOLATIONS**

- Making, using, selling, or importing patented inventions without authorization (Sec. 71).
  - Inducing or aiding infringement.
  - Disclosing confidential invention information before publication.
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## **SUMMARY TABLE**

| Aspect                  | COPYRIGHT  | TRADEMARK                                      | PATENT                              |
|-------------------------|--|--|-------------------------------------|
| <b>What it protects</b> | Literary, artistic, musical, audiovisual, and computer works | Names, logos, words identifying goods/services | New inventions, processes, machines |

| Aspect                 | COPYRIGHT                           | TRADEMARK                          | PATENT                        |
|------------------------|-------------------------------------|------------------------------------|-------------------------------|
| <b>How acquired</b>    | Automatic upon creation             | Registration with IPOPhil          | Registration with IPOPhil     |
| <b>Duration</b>        | Life + 50 years                     | 10 years, renewable                | 20 years from filing          |
| <b>Owner</b>           | Author/creator                      | Registrant                         | Inventor/employer             |
| <b>Main violations</b> | Piracy, plagiarism, illegal copying | Counterfeiting, unfair competition | Unauthorized use/ manufacture |
| <b>Penalty</b>         | 1–9 yrs + ₱50k–₱1.5M                | 2–5 yrs + ₱50k–₱200k               | Civil damages + injunction    |

**Prepared Summary based on Republic Act No. 8293 – Intellectual Property Code of the Philippines (1997)**