



IPOPHL Memorandum Circular No. 2023-025

SUBJECT: Supplemental Rules to Memorandum Circular No. 2020-049 known as the “Revised Rules of Procedure on Administrative Enforcement of Intellectual Property Rights (IPR), otherwise known as the Rules on Voluntary Administrative Site Blocking”

WHEREAS the Intellectual Property Office of the Philippines (“IPOPHL”) aims to provide speedy, quality, and effective legal remedies to resolve IPR disputes;

WHEREAS to achieve the aforementioned goal, the IPOPHL’s IP Rights Enforcement Office (“IEO”) continuously reviews and streamlines its operations, systems, processes, and procedures;

WHEREAS on December 17, 2020, the IPOPHL issued Memorandum Circular No. 2020-049 entitled Revised Rules of Procedure for Administrative Enforcement of Intellectual Property Rights (IPR) (“Rules”);

WHEREAS under Sec. 6(f) Rule IV thereof, the IEO can request for the removal of counterfeit goods or pirated goods or content, or block access thereto, in coordination with the appropriate agency, body, or intermediary service provider;

WHEREAS there is a need to provide a more expedited process for the blocking of a pirate website through a voluntary mechanism with internet service providers (ISP/s);

WHEREAS pursuant to this *Memorandum*, a “pirate website” is defined as a website that has the primary purpose or effect of infringing copyright or facilitating copyright infringement and/or that contains goods, materials, or contents which are made, produced, or replicated, without the consent of the copyright owner, right holder, or person duly authorized by the right holder.

NOW, THEREFORE, pursuant to the authority of the Director General under Sections 7.1 (c), (d) and (e) of RA 8293, also known as the Intellectual Property Code of the Philippines, as amended (“IP Code”), the rules on voluntary administrative site blocking is hereby promulgated, as follows:

Section 1. Who May File. - A copyright owner or right holder or its duly authorized representative may file an application with the IEO for the issuance of a *Request to an ISP to Block or Disable Access to Websites (“Request”)* against a pirate website by filing a verified Complaint pursuant to Section 1, Rule IV of the Revised Rules of Procedure for Administrative Enforcement of Intellectual Property Rights (IPR) (“Rules”);

Section 2. Requirements and Manner of Filing. - The Complaint shall be in writing and shall conform to the requirements under Section 2, Rule IV of the Rules, including the payment of filing fees.

Section 3. Manner of Filing. - The Complaint shall be filed in accordance with Section 3, Rule IV of the Rules.

Section 4. Assignment of the Complaint and Submission of Evaluation Report. - The Complaint shall immediately be assigned by the Chief of IEO to an Evaluation Officer for evaluation. Within ten (10) calendar days from the assignment of the Complaint, the Evaluation Officer shall submit an Evaluation Report to the Supervising Director or Deputy Director General who shall make a decision within five (5) calendar days from receipt of the Evaluation Report.

Section 5. Issuance of the Request and Protest - The Supervising Director or the Deputy Director General shall, within a reasonable time, based on the finding of piracy, issue a Request to the Internet Service Providers (ISP/s) to take one or more of the following steps to disable access to the pirate website, which includes:

- a. Domain Name System ("DNS") blocking with respect to all Domain Names where the infringing online location operates;
- b. IP address blocking or re-routing with respect to static IP addresses for infringing online locations;
- c. Uniform Resource Locator ("URL") blocking of the target online location and their domain names; or
- d. Any other alternative technical means for disabling access.

The Request shall also be served on the administrator of the website complained of. In the event that no contact details of the website administrator are available despite the exhaustion of all reasonable means, a copy of the Request shall be published on the IPOPHL website, which shall serve as due notice to the website administrator. [See Rule IV Section 12 of Circular 49 of 2020]

A verified protest may be filed by the website owner, administrator or the duly authorized representative within five (5) calendar days from receipt or from the date of publication of the Request, to rebut the propriety of the issuance of the Request. The protest shall be evaluated by the Evaluation Officer, who shall, within five (5) calendar days, recommend to the Supervising Director or the Deputy Director General whether such verified protest is sufficient and proper to so as to deny the issuance of the Request. The Supervising Director or Deputy Director General shall make a decision on the protest within five (5) calendar days from receipt of the Evaluation Report, with notice to the concerned parties.

If after the lapse of five (5) calendar days from the time the website owner, administrator or the duly authorized representative of the website complained of has been notified, or after the lapse of the same period from the time the Request has been published on the IPOPHL website, no verified protest was filed by the website owner, administrator or the duly authorized representative, the right to file a protest is deemed waived.

Section 6. Request to Block or Disable Access to Websites. - Upon the denial of the protest or after the lapse of the period to file the protest, the Supervising Director or the Deputy Director General shall, within twenty-four (24) hours, issue a request to the ISP/s and/or NTC to block or disable access to the pirate website.

Section 7. Blocking/Disabling of Access to Pirate Website by ISP. - Upon receipt of the Request, the ISP/s shall, within forty-eight (48) hours, implement an efficient and effective Site Blocking mechanism to block its subscribers' access to the Website complained of.

The ISP/s shall submit, within five (5) calendar days from the implementation, a written notification of the action taken, to the IPOPHL pursuant to Section 3.3 of the MoU.

The ISP/s may also file a written objection thereto or request for modification of the Request, within forty-eight (48) hours, by stating the grounds of its objections or request for modification. The Evaluation Officer shall act upon the objection or request for modification within five (5) calendar days from receipt of the objection or request. The Supervising Director or Deputy Director General shall thereafter issue a resolution on the objection or request for modification.



Section 8. Referral to the National Telecommunications Commission ("NTC") in case of Inaction by the ISP/s. - In case of failure to comply with the provisions of Section 7, the IOPHL shall, within three (3) days from the lapse of the period provided therein, report the same to the NTC for its appropriate action.

Section 9. Change of Domain Name or IP Address to Circumvent the Site Blocking Request. - In case a website subject of a blocking request has changed its domain name or IP address to evade the Site Blocking Request, the Complainant may file a written notice thereof and attach thereto evidence to prove the same. If after evaluation it is found that the claim is true, the Request incorporating the new domain name or IP address shall be issued to the ISP/s within five (5) working days from receipt of such written notice.

Section 10. Executory Nature of the Decision and Appeal. - The decision to issue a Site Blocking Request is final and executory in accordance with the Rules and is not appealable to the Director General. Appeals on the decision shall be in accordance with Rule 22, Rule IV of the Rules.

Section 11. Safe Harbor Provision. - No administrative, criminal, or civil proceedings shall lie against any Internet Service Provider/s (ISP/s) in the regular performance of its duties under this Memorandum, done in good faith, provided however that:

11.1. The ISP/s does not have actual knowledge, or is not aware of the facts or circumstances from which it is apparent, that the making, publication, dissemination, or distribution of such material is unlawful or infringes any rights subsisting in or in relation to such material;

11.2. The ISP/s does not knowingly receive a financial benefit directly attributable to the unlawful or infringing activity; and

11.3. The ISP/s does not directly commit any infringement or other unlawful act and does not induce or cause another person or party to commit any infringement or other unlawful act and/or does not benefit financially from the infringing activity or unlawful act of another person or party: *Provided, further,* That nothing in this Section shall affect —

11.3.1. Any obligation founded on contract;

11.3.2. The obligation of a service provider as such under a licensing or other regulatory regime established under written law; or

11.3.3. Any obligation imposed under any written law;

11.3.4. The civil liability of any party to the extent that such liability forms the basis for injunctive relief issued by a court under any law requiring that the service provider take or refrain from actions necessary to remove, block or deny access to any material, or to preserve evidence of a violation of law.

Section 12. Separability Clause. - If any section or provision of this Memorandum shall be held invalid, the remaining provisions shall remain in full force and effect as completely as if the part held invalid had not been included therein.

Section 13. Confidentiality of Records. - Confidentiality of the records shall be observed



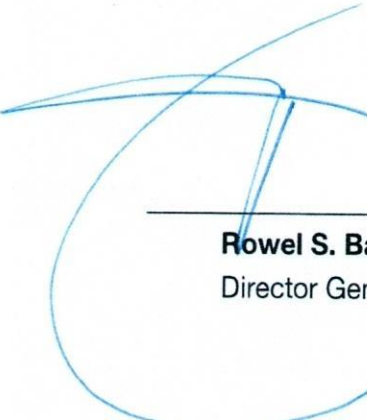
pursuant to Section 2, Rule V of the Rules.

Section 14. *Furnishing of Certified Copies.* - The IPOPHL Financial Management and Administrative Service (FMAS) is hereby directed to immediately submit three (3) certified copies of these Rules to the University of the Philippines Law Center, and one (1) certified copy each to the Department of Trade and Industry, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines, and the National Library.

Section 15. *Amendments.* - The provisions of Memorandum Circular No. 2020-049 insofar as it is inconsistent with these supplemental Rules are hereby deemed amended accordingly.

Section 16. *Effectivity.* - These Rules shall take effect two (2) months from publication in a newspaper of general circulation.

Done this 20th day of September 2023, City of Taguig, Metro Manila.



Rowel S. Barba
Director General

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