

[PRESIDENTIAL DECREE NO. 49, November 14, 1972]

DECREE ON THE PROTECTION OF INTELLECTUAL PROPERTY

WHEREAS, tremendous strides in science and technology have made necessary the updating of the Copyright Law to give fuller protection to intellectual property and to encourage arts and letters, as well as stimulate scientific research and invention, at the same time safeguard the public's right to cultural information;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, do hereby decree, order and make as part of the law of the land the following measure:

CHAPTER I. — Preliminary Provisions

SECTION 1. This Decree shall be known as the "Decree on Intellectual Property."

SEC. 2. The rights granted by This Decree shall, from the moment of creation, subsist with respect to any of the following classes of works:

- A. Books, including composite and cyclopedic works, manuscripts, directories, and gazetteers;
- B. Periodicals, including pamphlets and newspapers;
- C. Lectures, sermons, addresses, dissertations prepared for oral delivery;
- D. Letters;
- E. Dramatic or dramatico-musical compositions; choreographic works and entertainments in dumb shows, the acting form of which is fixed in writing or otherwise;
- F. Musical compositions, with or without words;
- G. Works of drawing, painting, architecture, sculpture, engraving, lithography, and other works of art; models or designs for works of art;
- H. Reproductions of a work of art;
- I. Original ornamental designs or models for articles of manufacture, whether or not patentable, and other works of applied art;
- J. Maps, plans, sketches, and charts;
- K. Drawings or plastic works of a scientific or technical character;
- L. Photographic works and works produced by a process analogous to photography; lantern slides;
- M. Cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- N. Computer programs;
- O. Prints, pictorial illustrations, advertising copies, labels, tags, and box wraps;
- P. Dramatizations, translations, adaptations, abridgements, arrangements and other alterations of literary, musical or artistic works or of works of the Philippine Government as herein defined, which shall be protected as *provided* in Section 8 of this Decree;
- Q. Collections of literary, scholarly, or artistic works or of works referred to in Section 9 of this Decree which by reason of the selection and arrangement of

their contents constitute intellectual creations, the same to be protected as such in accordance with Section 8 of this Decree;

R. Other literary, scholarly, scientific and artistic works.

SEC. 3. The rights granted by this Decree shall not be lost except in the manner specifically *provided* herein. Neither shall they be subject to levy and attachment while in the possession of the creator or his heirs.

SEC. 4. Nothing in this Decree shall be deemed to alter or in any manner impair any other right or remedy of the persons protected by its provisions.

CHAPTER II — Copyright

ARTICLE I. — *Scope and beneficiaries of copyright*

SEC. 5. Copyright shall consist in the exclusive right;

- A. To print, reprint, publish, copy, distribute, multiply, sell, and make photographs, photo-engravings, and pictorial illustrations of the works;
- B. To make any translation or other version or extracts or arrangements or adaptations thereof; to dramatize it if it be a non-dramatic work; to convert it into a non-dramatic work if it be a drama; to complete or execute it if it be a model or design;
- C. To exhibit, perform, represent, produce, or reproduce the work in any manner or by any method whatever for profit or otherwise; if not reproduced in copies for sale, to sell any manuscripts or any records whatsoever thereof;
- D. To make any other use or disposition of the work consistent with the laws of the land.

SEC. 6. The creator or his heirs or assigns shall own the copyright in any of the works mentioned in Section 2 of this Decree. If the works is produced by two or more persons, the copyright shall belong to them jointly and their respective rights thereto shall be governed by the Rules of the Civil Code on co-ownership.

If the work in which copyright subsists was made during and in the course of the employment of the creator, the copyright shall belong to:

- A. 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.
- B. 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.

Where the work is commissioned by a person who is not the employer of the creator and who pays or agrees to pay for it and the work is made in pursuance of the commission, the person who so commissioned the work shall have ownership of it but the copyright thereto shall belong in joint ownership to him and the creator, unless there is a stipulation to the contrary.

The creators of a cinematographic or analogous work are the producer, the author of the scenario, the composer of the music, the film director, the photographic director, and the author, of the work adapted. However subject to contrary or other stipulation among the creators, the producer shall exercise the copyright to an extent required for the exhibition of the work in any manner, except for the right to

collect performing fees for the musical compositions, with or without words, which may be incorporated into the work.

The copyright in letters shall belong to the writer, subject to the provisions of Article 723 of the Civil Code.

SEC. 7. For purposes of this Decree, articles and other writings published without the names of the authors or under pseudonyms are considered as the property of the publishers, unless the contrary appears.

SEC. 8. The works referred to in subsections (P) and (O) of Section 2 of this Decree shall, when produced with the consent of the creator or proprietor of the original works on which they are based, be protected as new works; however, such new works shall not affect the force of any subsisting copyright upon the original works employed or any part thereof, or be construed to imply an exclusive right to such use of the original works, or to secure or extend copyright in such original works.

SEC. 9. No copy shall subsist in any work of the Government of the Philippines. However, prior approval of the government agency or office wherein the work is created shall be necessary for exploitation of such work for profit. Such agency or office may, among other things, impose as a condition the payment of royalties. No prior approval or condition shall be required for the use for any purpose of statutes, rules and regulations, and speeches, lectures, sermons, addresses, and dissertations pronounced, read or rendered in courts of justice before administrative agencies, in deliberative assemblies, and in meetings of character.

A "Work of the Government of the Philippines" is a 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 a part of his regularly prescribed official duties.

Notwithstanding the foregoing provisions, the Government is not precluded from receiving and holding copyrights transferred to it by assignment, bequest or otherwise; nor shall publication or republication by the Government in a public document of any work in which copyright is subsisting be taken to cause any abridgement or annulment of the copyright or to authorize any use or appropriation of such work without the consent of the copyright proprietor.

ARTICLE II. — *Limitations on copyright*

SEC. 10. When a work has been lawfully made accessible to the public, the author shall not be entitled to prohibit:

1. Its recitation or performance (A) if done privately and free of charge; or (B) if made for strictly charitable or religious institution or society;
2. Reproductions, translations and adaptations thereof destined exclusively for personal and private use;

SEC. 11. To an extent compatible with fair practice and justified by the scientific, critical, informatory or educational purpose, it shall be permissible to make quotations or excerpts from a work already lawfully made accessible to the public. Such quotations may be utilized in their original form or translation.

News items, editorials, and articles on current political, social, economic, scientific or religious topic may be reproduced by the press or broadcast, unless they contain or

are accompanied by a notice that their reproduction or publication is reserved. In case of musical works, parts of little extent may also be reproduced.

Quotations and excerpts as well as reproductions shall always be accompanied by an acknowledgment of the source and name of the author, if his name appears thereon.

SEC. 12. In reports of a current event by means of photography, cinematography or broadcasting, literary, scientific or artistic works which can be seen or heard in the course of said event may be reproduced and communicated to the public to the extent necessary for the purpose.

SEC. 13. Libraries, public archives and museums have the right, subject to the conditions specified in the succeeding paragraphs, to produce for purposes of their activities, by photographic means, and without the consent of the creator or proprietor, copies of a literary or artistic work.

Material forming part of the collections mentioned in the preceding paragraph which, by reason of their fragile character or rarity, cannot be lent to users in its original form, may be reproduced by photography for the purpose of loans. Nevertheless, except in cases where special reasons justify it, not more than two copies may be made.

It is equally permissible to make, by means of photography, reproductions of isolated articles contained in composite works, as well as brief portions of other published works, in order to supply them, when this is considered expedient, to persons requesting their loan for purposes of research or study, instead of lending the volumes or booklets which contain them. Each person seeking loan may only receive one copy of each article or each portion of a work.

When a copy of a work is found to be incomplete) the missing portions may be reproduced by means of photography, *provided* they only constitute a minor portion of the total work. Nevertheless, it shall not be permitted to produce a volume of a work published in several volumes or to produce missing tomes or parts of magazines or similar works, unless the volume, tome or part is out of stock with booksellers, the printing house and the publisher.

Every library which, by law, is entitled to receive one or two copies of a printed work shall be entitled, when special reasons so require, to reproduce, by means of photography or process analogous to photography, a copy of a published work, the acquisition of which is considered necessary for the collections of the library, but which is out of stock with booksellers, the printing house and the publisher.

A work belonging to the collections mentioned in the first paragraph of this section which has not been disseminated may not be reproduced or published without the consent of the creator or proprietor. However, such work may be reproduced for purposes of preservation.

SEC. 14. If, after the expiration of five years from the date of the first publication of a writing, a translation of such writing has not been published in the national or other local language, as the case may be, by the owner of the right of translation or with his authorization, any citizen may obtain a non-exclusive license from the Director of the National Library, to translate the work and publish the work so translated in the national or other local language in which it has not been published: *Provided*, That such citizen establishes either that he has requested, and been

denied, authorization by the proprietor of the right to make and publish the translation, or that, after due diligence on his part, he was unable to find the owner of the right. A license may also be granted on the same conditions if all previous editions of a translation in such language are out of print. In both cases the terms and conditions of the license, including the royalties of the author or proprietor of the original work, shall be stated therein.

If the owner of the right of translation cannot be found, then the applicant for a license shall send copies of his application to the publisher whose name appears on the work and, if the nationality of the owner of the right of translation is known, to the diplomatic or consular representative of the state of which such owner is a national, or to the organization which may have been designated by the government of that state. The license shall not be granted before the expiration of two months from the date of the dispatch of the copies of the application. Neither shall it be granted when the author has withdrawn from circulation all copies of the work.

The original title and the name of the author of the work shall be printed on all copies of the published translation.

ARTICLE III. — *Transfer of work and copyright*

SEC. 15. The copyright may, by gift, inheritance or otherwise, be transferred or assigned in whole or in part. Such transfer or assignment shall entitle the transferee or assignee to all the rights and remedies which the transferer or assignor had with respect to the copyright.

The copyright is not deemed transferred or assigned *inter vivos* in whole or in part, unless there is a written indication that such is the intention.

The submission of a literary, photographic or artistic work to a newspaper, magazine or periodical for publication shall constitute only a license to make a single publication unless a greater right is expressly granted.

SEC. 16. The copyright is distinct from the property in the material object subject to it. Consequently, the transfer or assignment of the copyright shall not itself constitute a transfer of the material object. Nor shall a transfer or assignment of the sole copy or of one or several copies of the work imply transfer or assignment of the copyright.

SEC. 17. An assignment or transfer *inter vivos*, or a license, must be in writing, acknowledged before a notary public or other officer authorized to administer oaths or perform notarial acts and certified under the hand and seal of the notary or other officer.

This section and Section 19 shall not apply to cases covered by the last paragraph of Section 15 of this Decree.

SEC. 18. If two or more persons jointly own a copyright or any part thereof, neither of the owners shall be entitled to grant licenses without the consent of the other owner or owners.

SEC. 19. Every assignment, license or other instrument relating to any right, title or interest in a copyright and to the work subject to it shall be filed in duplicate with the National Library upon payment of the prescribed fee for registration in books and records kept for the purpose. Upon recording a copy of the instrument shall be