

**WIPO Conference on Copyright Documentation and Infrastructure
Held in Geneva, Switzerland on October 12-14, 2011**

**PANEL I: PUBLIC REGISTRATION AND LEGAL DEPOSITS
SYSTEM IN THE PHILIPPINES*
Professor Antonio M. Santos****

INTRODUCTION

This presentation deals with the roles and functions of the National Library of the Philippines (NLP) in so far as the copyright registration and legal deposit system.

In pursuance to the 1987 Philippines Constitution in Article XIV, section 13, the state is mandated to protect and secure the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property, particularly when beneficial to the people.

Likewise, the Philippines has been signatories to several international conventions and treaties which included membership in World Intellectual Property Organization (WIPO) since 1980 and has signed Paris Convention for the Protection of Property, Budapest Treaty on International Recognition of Deposit of Microorganism for Purpose of Patent Procedure, Berne Convention for the Protection of Library and Artistic Works, International Convention for the Protection of Performers, Producers of Phonographs and Broadcasting Organizations, Agreement on Trade Related Aspects of Intellectual Property Rights, WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). These last two (2) "Internet Treaties" were intended to modernize and supplement existing treaties on copyright. The treaties respond to critical issues formed by the introduction of digital technologies especially in the area of dissemination of protected material over the internet.

COPYRIGHT LAW

Republic Act No. 8293 otherwise known as the Intellectual Property (IP) Code of the Philippines was signed into law on June 6, 1997 and took effect on January 1, 1998. Prior to this Code, there were enacted the following laws: Presidential Decree No. 49, the former Copyright Law; Republic Act. No. 165, the former Patent Law; Republic Act no. 166, which provided for the protection of Trademark, Trade Names and Services Markers.

Under the IP Code Part IV is on Copyright with twenty Chapters. Specifically, the following sections are about the NLP, such as section 191 to receive registration of literary and artistic works and deposit with the NLP and the Supreme Court Library (SCL). This mandate is for the

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purpose of completing the records of the NLP and the SCL. Two (2) copies or reproductions of the work shall be deposited within three (3) weeks after the first dissemination or performances of the work by authority of the copyright owner. Section 182 provides that an assignment or exclusive license may be filed in duplicate with NLP upon payment of the prescribed fee for registration in books and record kept for the purpose. Another section 198.1 is for the NLP to receive the written instrument which names the person or persons to be charged with the posthumous enforcement of these rights. Section 227-29 refers to ownership of deposit and instrument to the government through NLP and SCL; the record of NLP on the matter shall be open to public inspection and lastly, the power to determine and collect such fees for the discharge of services under the Act.

At present, the NLP and Intellectual Office of the Philippines (IPOPIL) have entered into a Memorandum of Agreement (MOA) in June, 2011, deputizing the IPOPIL in the registration of copyright and the creation of a national database for copyright works and the introduction of online registration through the IPO Satellites in the different regions and the deposit of e-copies of the copyrighted works. The Technical Working Committee (TWG) is finalizing the guidelines to efficiently implement the MOA.

Meanwhile there have been moves in Congress to amend the IP Code and the matters of registration for copyright is proposed to be a function of another government agency other than the NLP. The NLP has been asked to assist and comment on the proposed bills that affect the NLP. It has been our institutional stand that for as long as the depository requirement makes the NLP as the beneficiary of printed or e-copies of books, the NLP will support any registration requirements by a different body in keeping with the mandate on the very creation and existence of NLP – to be a repository of cultural heritage of printed and non-printed resources and the recently enacted Heritage Law of the Philippines with the NLP as the cultural agency mandated to established as Philippine Registry of Cultural Property on Printed Materials. This copyright depository mechanism will be a big boost to the collection development plan of the NLP to effect the twin function of collection and providing access to Filipiniana materials of non-allocation in the government budget for the acquisition of books of the NLP in recent year.

LEGAL AND CULTURAL DEPOSIT LAW

Presidential Decree No. 812 was enacted on October 16, 1975 and is popularly known as Decree on Legal and Cultural Deposit. In its preamble, it stated that the acquisition, organization and preservation of a nation's intellectual and cultural heritage, which is a prime duty of the state, can best be achieved by providing that all published and printed materials be deposited to NLP and certain government libraries.

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The law states, that within one month from the date any printed book is first delivered out of the press, the publisher of such book shall furnish, free of charge and in the same finish as the best copies of the same are produced, two (2) copies thereof to the National Library of the Philippines, and a copy each to the UP Main Library, UP Library at Cebu City, the Mindanao State University Library and the Cultural Center of the Philippines Library.

The law likewise mandated that the heads of the various departments, bureaus, offices and branches of the government, including the province and municipalities, and government-owned and government-controlled corporations to furnish NLP two (2) free copies of any printed book published by them and a copy each to the aforementioned libraries, within the period specified.

The law also mandated that departments, bureaus, offices, and branches of the government including LGUs, government-owned or government-controlled corporations ordering the printing of any publication are directed to furnish, without charge, to the NLP at least fifty (50) copies of all printed reports or document of any kind to serve as the mainstay of the exchange commitments of the NLP both national and international.

The above requirements, however, does not apply in cases of copyrighted work since the IP Code already required the copyright owner or publisher to deposit two (2) copies to NLP and Supreme Court Library when applying for copyright registration.

In case of total or partial non-fulfillment of the deposit as required by the law the publisher shall upon conviction be liable to a fine of not less than P50.00 or more than P500.00 and shall likewise be obliged to deliver the materials published or printed. If the copy of the material is no longer available, a reproduction thereof, or the value of the work, shall be added to the fine.

The above law has not been fully implemented and compliance to it is very wanting. Although, still a good law, it is tantamount to become a dead letter law due to its inoperativeness. Short of having to repeal or amend the law, revisiting the intent and implementing it must be undertaken. Also the above law or issuance were enacted at a time when development in digital environment are not yet present. Hence, a legislative revision attuned to the present environment is but proper.