

**TECHNOLOGY AND THE LAW**  
**Study guide on Intellectual Property Law**  
*(RA 8293, as amended by RA 9150, RA 9502, and RA 10372)*  
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INTELLECTUAL PROPERTY RIGHTS

1. Inclusions.(Section 4.1, RA 8293)

I. PATENTS, UTILITY MODELS, INDUSTRIAL DESIGN, and TOPOGRAPHY/LAYOUT

A. General provision

1. Patentable inventions

a. Requisites. (Section 21, RA 8293)

(1) Novelty (Section 23, RA 8293)

(a) Prior Art (Section 24, RA 8293)

(b) Non-Prejudicial Disclosure (Section 25, RA 8293)

(2) Inventive Step (Section 26, RA 8293; as amended by Section 6, RA 9502)

(3) Industrial Applicability (Section 27, RA 8293)

b. Exclusions (Section 22, RA 8293; as amended by Section 5, RA 9502)

2. *Patent Application* (Sections 32-66, RA 8293)

3. Patent Rights

a. To whom belongs.

(1) Generally. (Section 28, RA 8293)

(a) Inventions Created Pursuant to a Commission (Section 30, RA 8293)

(2) First to File Rule. (Section 29, RA 8293)

(a) Right of Priority (Section 31, RA 8293)

b. Term of patent. (Section 54, RA 8293)

(1) Additional incident for lapse of patent right: failure to pay annual fees (Section 55.2, RA 8293), beyond grace period (Section 55.3, RA 8293)

c. Scope of rights (Section 71, RA 8293)

d. Limitation of rights

(1) Generally. (Section 72, RA 8293; as amended by Section 7, RA 9502)

(2) Prior User (Section 73, RA 8293)

(3) Use of Invention by Government. (Section 74, RA 8293; as amended by Section 8, RA 9502)

e. Licensing

(1) Voluntary Licensing

(a) Contract (Section 85, RA 8293)

(b) Mandatory Provisions (Section 88, RA 8293)

(c) Prohibited Clauses (Section 87, RA 8293)

(d) Technology transfer arrangements

[1] Definition. (Section 4.2, RA 8293)

[2] Rights of Licensor (Section 89, RA 8293)

[3] Rights of Licensee (Section 90, RA 8293)

[4] Exceptional Cases (Section 91, RA 8293)

(2) Compulsory licensing

(a) Generally

[1] Grounds (Section 93, RA 8293; as amended by Section 10, RA 9502)

[2] Terms and Conditions (Section 100, RA 8293)

[3] Licensee's Exemption from Liability (Section 102, RA 8293)

(b) Specifically

[1] Compulsory Licensing of Patents Involving Semi- Conductor Technology. (Section 96, RA 8293)

[2] Compulsory License Based on Interdependence of Patents. (Section 97, RA 8293)

(c) *Petition for compulsory licensing* (Sections 94 [as amended by Section 11, RA 9502], 95 [as amended by Section 12, RA 9502], 98, and 99)

(d) Cancellation (Section 101, RA 8293)

f. Assignment (Sections 103-107, RA 8293)

4. Remedies

a. As to application

(1) Patent Application by Persons Not Having the Right to a Patent (Section 67, RA 8293)

(2) Remedies of the True and Actual Inventor (Section 68, RA 8293)

(3) Time to File Action in Court (Section 70, RA 8293)

b. As to right itself

(1) Civil Action for Infringement (Section 76, RA 8293; as amended by Section 9, RA 9502)

(a) Infringement Action by a Foreign National. (Section 77, RA 8293)

(b) Defenses (Section 81, RA 8293)

(c) Patent Found Invalid May be Cancelled (Section 82, RA 8293)

(2) Damages

(a) Limitation of Action for Damages. (Section 78, RA 8293)

(b) Requirement of Notice (Section 79, RA 8293)

(3) Criminal Action for Repetition of Infringement. (Section 84, RA 8293)

B. UTILITY MODELS

1. Requisites (Section 109.1, RA 8293)

2. Term (Section 109.3, RA 8293)

C. INDUSTRIAL DESIGN

1. Definition (Section 112, RA 8293; as amended by Section 1, RA 9150 [set as Section 112.1, RA 8293])

2. Conditions (Section 113, RA 8293; as amended by Section 1, RA 9150 [set as Sections 113.1 and 113.2, RA 8293])

3. Term of protection (Section 118, RA 8293; as amended by Section 1, RA 9150 [set as Sections 118.1 and 118.2, RA 8293])

4. Rights (Section 119, RA 8293, as amended by Section 1, RA 9150)

5. *Application registration, and cancellation* (Sections 114-117, 120 RA 8293, as amended by Section 1, RA 9150)

D. TOPOGRAPHY/LAYOUT

1. Definition (Section 1, RA 9150 [set as Section 112.3, RA 8293])

a. Integrated Circuits (Section 1, RA 9150 [set as Section 112.2, RA 8293])

2. Conditions (Section 1, RA 9150 [set as Sections 113.3 and 113.4, RA 8293])

3. Term of protection (Section 1, RA 9150 [set as Section 118.5, RA 8293])

4. Rights (Section 119, RA 8293, as amended by Section 1, RA 9150)

5. *Application registration, and cancellation* (Sections 114-117, 120 RA 8293, as amended by Section 1, RA 9150)

II. MARKS

A. General Provisions

1. Definitions (Section 121, RA 8293)

2. Acquisition of Rights (Section 122, RA 8293)

3. Registrability

a. Exceptions (Section 123, RA 8293)

4. Goods Bearing Infringing Marks or Trade Names.(Section 166, RA 8293)

B. Trademarks

1. *Application* (Sections 124-130, 132-144, RA 8293)

a. Priority Right (Section 131, RA 8293)

2. Term of Protection and Renewal

a. Duration (Section 145, RA 8293)

b. Renewal (Section 146, RA 8293)

3. Rights (Section 147, RA 8293; as amended by Section 14, RA 9502)

a. Limitation: Use of Indications by Third Parties for Purposes Other than those for which the Mark is Used (Section 148, RA 8293)

4. Assignment and Licensing

a. Assignment of Rights (Section 149, RA 8293)

b. Licensing (Section 150, RA 8293)

5. Cancellation (Section 151, RA 8293)

a. Non-use of a Mark When Excused. (Section 152, RA 8293)

b. *Petitions for cancellation* (Sections 153-154, RA 8293)

C. Tradenames (Section 165, RA 8293)

D. Collective Marks (Section 167, RA 8293)

E. Actions and Remedies

1. Remedies for trademark infringement. (Section 155, RA 8293)

a. Actions, and Damages and Injunction for Infringement. (Section 156, RA 8293)

(1) Requirements for damages (Section 158, RA 8293)

(2) Limitations (Section 159, RA 8293; as amended by Section 15, RA 9502)

b. Power of Court to Order Infringing Material Destroyed. (Section 157, RA 8293)

c. (See also Sections 160-164, RA 8293)

2. Unfair competition (Section 168, RA 8293)

3. False Designations of Origin (Section 169, RA 8293)

4. Penalties (Section 170, RA 8293)

III. COPYRIGHT

A. Subject of protection

1. Works

a. Original Works (Section 172.1, RA 8293)

(1) Definition of Works of Applied Art (Section 171.10, RA 8293)

(a) Brandir International v. Cascade Pacific, 834 F.2d 1142 (2nd Cir. 1987) See

[http://scholar.google.com/scholar\\_case?case=1003724633672058808](http://scholar.google.com/scholar_case?case=1003724633672058808)

(2) Work of Architecture (Section 186, RA 8293)

b. Derivative Works (Section 173, RA 8293)

c. Distinction of Copyright and Material Object (Section 181, RA 8293; as amended by Section 9, RA 10372)

2. Unprotected Subject Matter.(Section 175, RA 8293)

3. Works of Government

a. Definition (Section 171.11, RA 8293)

b. Dynamics (Section 176, RA 8293)

c. (See also RA 10055)

B. Determination of author and copyright owner

1. Author (Definition, Section 171.1, RA 8293)

2. Copyright owner (Section 178, RA 8293)

3. Publishers, as to Anonymous and Pseudonymous Works (Section 179, RA 8293)
- C. Rights
1. Economic Rights (Section 177, RA 8293), as to copyright owner
    - a. Reproduction (Definition, Section 171.9, RA 8293; as amended by Section 5, RA 10372)
    - b. Transformation
      - (1) Editing, Arranging and Adaptation of Work; in relation to moral rights (Section 197, RA 8293)
    - c. First public distribution
    - d. Rental (Definition, Section 171.8, RA 8293)
      - (1) Rental, not public lending (Definition, Section 171.5, RA 8293)
    - e. Public display
    - f. Public performance (Definition, Section 171.6, RA 8293)
    - g. Communication to the public (Definition, Section 171.3, RA 8293; as amended by Section 4, RA 10372)
  2. Moral rights
    - a. As to author
      - (1) Scope (Section 193, RA 8293)
      - (2) Waiver (Section 195, RA 8293)
      - (3) Collective work
        - (a) Definition (Section 171.2, RA 8293)
        - (b) Contribution to Collective Work (Section 196, RA 8293)
    - b. As to performers (Section 204, RA 8293; as amended by Section 19, RA 10372)
  3. Right to proceeds of subsequent transfers, as to author (Section 200, RA 8293)
    - a. Works not covered (Section 201, RA 8293)
  4. Publisher's rights (Section 174, RA 8293)
    - a. Definition, published works (Section 171.7, RA 8293)
  5. Other neighboring rights
    - a. Performers' rights
      - (1) Definitions
        - (a) Performers (Section 202.1, RA 8293)
        - (b) Fixation (Section 202.4, RA 8293)
        - (c) Publication of a fixed performance or a sound recording (Section 202.6, RA 8293)
        - (d) Communication to the public of a performance or a sound recording (Section 202.9, RA 8293)
      - (2) Scope (Section 203, RA 8293; as amended by Section 18, RA 10372)
        - (a) Additional Remuneration for Subsequent Communications or Broadcasts (Section 206, RA 8293)
        - (b) Contract terms (Section 207, RA 8293)
    - b. Producers of sound recordings
      - (1) Definitions
        - (a) Producer of a sound recording (Section 202.5, RA 8293)
        - (b) Sound recording (Section 202.2, RA 8293)
        - (c) Audiovisual work or fixation (Section 202.3, RA 8293)
        - (d) Publication of a fixed performance or a sound recording (Section 202.6, RA 8293)
        - (e) Communication to the public of a performance or a sound recording (Section 202.9, RA 8293)
      - (2) Scope (Section 208, RA 8293; as amended by Section 20, RA 10372)
        - (a) Remuneration for communication to the Public. (Section 209, RA 8293)
    - c. Broadcasting organizations
      - (1) Definitions
        - (a) Broadcasting organization (Section 202.8, RA 8293)
        - (b) Broadcasting (Section 202.7, RA 8293)
      - (2) Scope (Section 211, RA 8293)
- D. Term of protection
1. Start (Section 172.2, RA 8293)
  2. Periods
    - a. Authors (Sections 198, RA 8293; as amended by Section 17, RA 10372)
    - b. Copyright owners (Section 213, RA 8293)
    - c. Performers, Producers and Broadcasting Organizations (Section 215, RA 8293)
  3. Calculation of Term (Section 214, RA 8293)
- E. Transfer of Rights
1. Assignment (Sections 180 [as amended by Section 8, RA 10372], and 182 RA 8293)
  2. License (Section 182, RA 8293)
  3. Collecting Society (Section 183, RA 8293; as amended by Section 10, RA 10372)
- F. Limitations on Copyright (Section 184, RA 8293; as amended by Section 11, RA 10372; Section 212; as amended by Section 21, RA 10372)
1. Fair Use of a Copyrighted Work (Section 185, RA 8293; as amended by Section 12, RA 10372)
  2. As to reproductions
    - a. Reproduction of Published Work (Section 187, RA 8293)
    - b. Reprographic Reproduction by Libraries (Section 188, RA 8293; as amended by Section 13, RA 10372)
    - c. Reproduction of Computer Program. (Section 189, RA 8293)
  3. Importation (Section 190, RA 8293; as amended by Sections 14 and 15, RA 10372)
- G. Technological Measures and Rights Management Information (Section 6, RA 10372 [set as Sections 171.12 and 171.13, RA 8293])
- H. Remedies
1. Moral rights infringement (Section 199, RA 8293)

2. Infringement, in general (Section 216, RA 8293; as amended by Section 22, RA 10372)
  3. Criminal Penalties (Section 217, RA 8293; as amended by Section 23, RA 10372)
    - a. (See also Section 33[b], RA 8792)
    - b. (See also RA 10088)
  4. Institution of Actions (Section 225, RA 8293)
  5. Damages (Section 226, RA 8293; as amended by Section 26, RA 10372)
  6. Disclosure of information (Section 25, RA 10372 [set as Section 220-A, RA 8293])
- I. Miscellaneous
1. Deposit and Notice (Sections 191 and 192, RA 8293; as amended by Section 16, RA 10372)
  2. Affidavit evidence (Section 218, RA 8293; as amended by Section 24, RA 10372)
  3. Presumption of Authorship (Section 219, RA 8293)
  4. Adoption of Intellectual Property (IP) Policies (Section 27, RA 10372 [set as Section 230, RA 8293])
  5. International Registration of Works (Section 220, RA 8293)
  6. Points of Attachment
    - a. In general (Section 221, RA 8293)
    - b. Performers (Section 222, RA 8293)
    - c. Sound Recordings (Section 223, RA 8293)
    - d. Broadcasts (Section 224, RA 8293)