

**IPOPHL MEMORANDUM CIRCULAR NO. 021**  
Series of 2023

**SUBJECT: IMPLEMENTING RULES AND REGULATIONS ON THE TERM OF  
COPYRIGHT PROTECTION AND THE PUBLIC DOMAIN**

**Whereas**, Section 13, Article XIV of the Philippine Constitution provides that:

The State shall protect and secure the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people, for such period as may be provided by law;

**Whereas**, the Intellectual Property Office of the Philippines (IPOPHL) is mandated to administer and implement the state policies declared in Republic Act No. 8293, the Intellectual Property Code of the Philippines (IP Code), as amended by Republic Act No. 10372;

**Whereas**, the IP Code defines the period of protection, consistent with treaty obligations. In particular, the period of copyright protection follows the minimum period prescribed under the Berne Convention, and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement;

**Whereas**, works the period of protection of which has expired fall into the public domain;

**Whereas**, the concept of public domain exemplifies the balancing of rights principle laid out in the Philippine Constitution and Section 2 of the IP Code. Furthermore, research has linked public domain to boost the creation of more derivative works;

**Whereas**, Philippine copyright laws have evolved, altering the requirements for copyright protection and the term and period of protection thereof;

**Whereas**, there is a need to establish regulations to clarify the period of copyright protection and to provide guidance to creators, authors, as well as the general public, and taking into account the evolution of the law.

**NOW, THEREFORE**, pursuant to the authority of the Director General under Section 7.1(a) of the IP Code to manage and direct all functions and activities of the IPOPHL including the promulgation of rules and guidelines to implement the objectives, policies, plans, programs, and projects of the Office, the following Rules are hereby adopted and promulgated, as follows:

## RULE I GENERAL PROVISIONS

**Section 1. *Short Title.*** – These Rules shall be known as the "Public Domain Rules."

**Section 2. *Coverage.*** – These Rules shall apply to:

- 2.1 Original literary, artistic, scientific, and derivative works whose authors are:
  - a) Nationals or habitual residents of the Philippines;
  - b) Nationals or habitual residents of countries that are parties to the *Berne Convention for the Protection of Literary and Artistic Works*;
  - c) Nationals or habitual residents of countries that extend reciprocal rights to nationals of the Philippines or otherwise grant, by bilateral agreement, copyright protection substantially equal to the protection secured to such foreign nationals under the IP Code; and
- 2.2 Original literary, artistic, scientific, and derivative works which are first published:
  - a) In the Philippines; or
  - b) In another Contracting Party to the Berne Convention and the TRIPS Agreement; Provided, that if the work was first published in a non-Contracting State but was also published, within thirty (30) days of its first publication, in the Philippines or in another Contracting State, it shall be considered as first published in the latter.
- 2.3 The works provided above are covered by these Rules regardless of whether or not they are registered in a foreign jurisdiction or locally through the National Library of the Philippines (NLP) or the IPOPHL.

**Section 3. *Exclusion.*** – These Rules shall not apply to performances, sound recordings and broadcasts. These are covered by separate Implementing Rules and Regulations (IRR) on related or neighboring rights.

**Section 4. *Definitions.*** –

- 4.1 "*Author*" - the natural person who has created the work;
- 4.2 "*Habitual Residents*" – authors who have stayed in a country for an aggregate period of at least 180 days prior to the creation of the work;
- 4.3 "*Published works*" – works which, with the consent of the authors, are made available to the public by wire or wireless mean in such a way that members of the public may access these works from a place and time individually chosen by them: Provided, that availability of such copies has been such,



as to satisfy the reasonable requirements of the public, having regard to the nature of the work;

4.4 “Works” – refer to original literary, artistic, and scientific works. It also includes derivative works. In particular, the term refers to the following:

a. Original literary, artistic and scientific works

- i. Books, pamphlets, articles and other writings;
- ii. Periodicals and newspapers;
- iii. Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;
- iv. Letters;
- v. Dramatic or dramatico-musical compositions; choreographic works or entertainment in dumb shows;
- vi. Musical composition, with or without words;
- vii. Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- viii. Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art;
- ix. Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- x. Drawings or plastic works of a scientific or technical character;
- xi. Photographic works including works produced by a process analogous to photography; lantern slides;
- xii. Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- xiii. Pictorial illustrations and advertisements;
- xiv. Computer programs; and
- xv. Other literary, scholarly, scientific and artistic works.

b. Derivative works

- i. Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and
- ii. Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents.

4.5 "*Work of applied art*" – an artistic creation with utilitarian functions or incorporated in a useful article, whether made by hand or produced in an industrial scale.

## RULE II COPYRIGHT PROTECTION

**Section 1. *General Principles of Protection.*** - These Rules are guided by the following principles:

- 1.1 Literary and artistic works that are original are copyright protected from the moment of their creation;
- 1.2 Works are not required to be fixed in order to vest copyright protection. However, fixation is required for purposes of copyright registration and deposit;
- 1.3 Works are protected irrespective of their mode or form of expression;
- 1.4 Works are protected irrespective of their content, quality, morality and purpose; and
- 1.5 Works in the public domain, as provided in Rule IV hereof, do not enjoy copyright protection.

**Section 2. *Rights of a Copyright Owner.*** - Authors and copyright owners have the following rights:

2.1 *Moral rights* –

- a. *Right of Attribution.* To require that the authorship of their work be attributed to them. In particular, the right that their name be indicated in a prominent way, and in the usual manner as the author in their respective industry, on the copies and in connection with the public use of their work;

- b. *Right Against False Attribution.* To restrain the use of their name with respect to any work not of their own creation or in a distorted version of their work;
- c. *Right of Integrity.* Shall include the following rights:
  - i. *Right of Alteration.* To make any alterations of their work prior to, or to withhold it from publication;
  - ii. *Right of Objection to Modification.* To object to any distortion, mutilation or other modification of, or other derogatory action in relation to, their work which would be prejudicial to their honor or reputation;

2.2 *Economic Rights.* – the exclusive right to carry out, authorize or prevent the following acts:

- a. Reproduction of the work or a substantial portion thereof. What is “substantial” is both a quantitative and qualitative measure, determined on a case-to-case basis;
- b. Dramatization, translation, adaptation, abridgment, arrangement or other transformation of the work;
- c. The first public distribution of the original and each copy of the work by sale or other forms of transfer of ownership;
- d. Rental of the original or a copy of an audiovisual or cinematographic work, a work embodied in a sound recording, a computer program, a compilation of data and other materials or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental;
- e. Public display of the original or a copy of the work;
- f. Public performance of the work; and
- g. Other communication to the public of the work.

**Section 3. *Period of Protection of Copyright Owner's Moral Rights.* –**

- 3.1 The right of attribution shall last during the lifetime of the author and in perpetuity after his death.



- 3.2 The right against false attribution and the right of integrity shall be co-terminus with the author's economic rights. The moral rights of an author shall not be assignable or subject to license.

**Section 4. Period of Protection of Copyright Holder's Economic Rights. –**

- 4.1 Authors shall enjoy exclusive economic rights in their creations for such period of time as provided in the IP Code and reproduced in the table below:

Category of copyrighted works	Duration of copyright protection
Original literary, artistic and scientific works	Lifetime of the author and for 50 years after death
Works of joint authorship	Lifetime of the last surviving author and for 50 years after death
Anonymous or pseudonymous works	Published: 50 years from date of first lawful publication of the work
	Unpublished: 50 years from date of making
Works of applied art	25 years from date of making
Photographic works	Published: 50 years from date of publication
	Unpublished: 50 years from date of making
Audiovisual works, including those produced by a process analogous to cinematography or any process for making audiovisual recordings	Published: 50 years from date of publication
	Unpublished: 50 years from date of making

*Provided*, that in the case of anonymous or pseudonymous works where, before the expiration of the said period, the author's identity is revealed or is no longer in doubt, the relevant provisions on original works either of individuals or joint authorship shall apply, as the case may be.

- 4.2 The category "posthumous works," despite the specific reference to it in the IP Code, has been rendered ineffective by the principle that works are protected from the moment of creation. Thus, "posthumous works" follow the general period of protection for original literary and artistic works.

**Section 5. Calculation of Term. –** The term of protection subsequent to the death of the author or publication shall always be deemed to begin on the first day of January of the year following the event which gave rise to them.

### **RULE III LIMITATIONS AND EXCEPTIONS**

**Section 1.** The author's rights shall be subject to the limitations and exceptions provided for under Chapter VIII of Republic Act No. 8293, as amended.

### **RULE IV PUBLIC DOMAIN**

**Section 1. Coverage.** – The following are considered as belonging to the public domain:

- 1.1 Unprotected subject matter under the IP Code;
- 1.2 Domestic and foreign works the term of protection of which, as provided in R.A. 8293 as amended, have already expired; *Provided*, that the country of origin of the foreign work is a signatory to the Berne Convention for the Protection of Literary and Artistic Works; *Provided further*, that in all cases of use of a foreign work here in the Philippines, the applicable term of protection for such foreign work shall be that indicated in R.A. 8293 as amended; and
- 1.3 Works that have been dedicated to the public domain.

**Section 2. Unprotected Subject Matter.**

- 2.1 No protection shall extend to the following:
  - a) Any idea, procedure, system, method of operation, concept, principle, discovery or mere data as such, even if they are expressed, explained, illustrated or embodied in a work;
  - b) News of the day and other miscellaneous facts having the character of mere items of press information; and
  - c) Any official text of a legislative, administrative or legal nature, as well as any official translation thereof.

**Section 3. Works with Expired Copyright Protection.**

- 3.1 Works falling under the following categories are already part of the public domain:
  - a. Works created prior to November 14, 1972 that were not registered or the registrations of which were not renewed prior to such date, whether the author is alive or deceased;



- b. Works created prior to November 14, 1972 that were registered or the registrations of which were renewed: *Provided*, that the author has died and more than 50 years has elapsed from said death;
- c. Irrespective of Sections 3.1a. and 3.1b. above, any work belonging to the category of work below which has been created or published for more than 30 years as of January 1, 1998:
  - i. Periodicals and newspapers;
  - ii. Works of applied art; and
  - iii. Cinematographic or photographic works as well as those produced by any process analogous to cinematography or any process for making audio-visual recordings.

3.2 No action shall operate to extend or revert expired copyright protection.

#### **Section 4. Works Dedicated to the Public Domain.**

- 4.1 Copyright owners whether authors, employers, assignees, or their successors-in-interest, may refuse copyright protection by dedicating a work to the public domain.
- 4.2 The rule on dedicating a work to the public domain shall not apply to works the copyright of which is co-owned by several persons, except when all co-owners agree to such dedication.
- 4.3 The dedication of a work to the public domain shall not carry with it the waiver of the right of attribution unless reduced in writing submitted to the Bureau. It also does not include a waiver:
  - a. To use the name of the author, or the title of his work, or otherwise to make use of his reputation with respect to any version or adaptation of his work which, because of alterations therein, would substantially tend to injure the literary or artistic reputation of another author; or
  - b. To use the name of the author with respect to a work he did not create.
- 4.4 To be valid, dedication to the public domain shall be made by the copyright owner by surrendering a copy of the registration certificate with the Bureau, if previously registered, and by submitting a notarized copy of the filled-out form provided for such purpose. The form shall include the following information:
  - a. Name and age of declarant;
  - b. Title of the work;



- c. Name of the creator/s, if the declarant is not creator of the work;
  - d. Basis of declarant's copyright ownership of the work, if declarant is not the creator;
  - e. Declaration that the work is not governed by co-ownership, or if it is governed by the rule on co-ownership, all co-owners consented to the dedication of the work to the public domain;
  - f. Copy of the work;
  - g. A statement that, as far as the declarant is aware, there exists no conflicting claim relating to ownership or royalty sharing over the work or that any such conflict had already been resolved by final court judgment or an amicable settlement;
  - h. A statement that the declarant understands the effects of dedicating the work to the public domain; and
  - i. A statement that the declarant is aware that the act of dedicating the work to the public domain is irrevocable.
  - j. Other information necessary to establish necessary facts.
- 4.5 No fees shall be required for the processing of the dedication of a work to the public domain.
- 4.6 In cases where surrendered certificates were issued by the National Library of the Philippines, due notice of such surrender shall be given to the said office.
- 4.7 All works dedicated to the public domain shall be treated as belonging to the public domain without regard to the fact of death of the author. The decision to dedicate a work to the public domain shall be irrevocable.
- 4.8 No license agreements relative to the work may be entered into after its dedication to the public domain.

## RULE V WORKS OF THE GOVERNMENT

**Section 1. *Works of the Government.*** – No copyright subsists in any of the works of the Government of the Philippines. The application of this rule is governed by IPOPHL Memorandum Circular No. 2020-024, and its amendments and supplements.

## RULE VI COPYRIGHT TERM ASSESSMENT REQUEST

**Section 1. *Copyright Assessment Request.*** – While works become part of the public domain without need of official declaration, any party who wishes to use a work but has reservations whether it is in the public domain may request for an assessment with the Bureau.

**Section 2. *Authority to Accept Requests.*** – Requests for assessment shall be filed with the Accreditation and Standards Division (ASDiv) of the Bureau.

**Section 3. *How Request is Made.*** – Parties may request assessment by filling out the form provided therefor, and submit the same electronically before the ASDiv.

**Section 4. *Request Form.*** – The form in the immediately preceding section shall include information such as:

- 4.1 Identity of the author;
- 4.2 Title of the work;
- 4.3 Authorship of the work;
- 4.4 Date of death of the author; and
- 4.5 Country of origin or country of first publication of the work, whichever is applicable;
- 4.6 Other facts necessary to establish the lapse of copyright protection.

**Section 5. *Payment of Fees.*** – The payment of assessment fees shall be required before the ASDiv takes cognizance of the request.

**Section 6. *Evaluation Report.*** – Within twenty (20) days from receipt of the last document sufficient to determine whether the subject work is in the public domain, the ASDiv shall submit to the Director of the Bureau an evaluation report stating therein the result of its assessment.

**Section 7. *Authority of the Bureau Director.*** – Within seven (7) days from receipt of the ASDiv report, the Director of the Bureau may either approve or disapprove the findings of the ASDiv. In case of approval, the immediately succeeding section will apply. In case of disapproval, the Bureau Director will issue an order to ASDiv to submit a new report which will follow the same rule as in the immediately preceding section.

**Section 8. *Notice.*** – The approved evaluation report of the ASDiv shall be transmitted to the applicant through personal service or, if not practicable, through registered mail or electronic mail.



**Section 9. *Effect of Approved Evaluation Report.*** - An approved evaluation report shall have the effect of enlisting the subject work in the registry of works in the public domain.

## **RULE VII COPYRIGHT CLAIM CHALLENGE**

**Section 1. *Challenge Against Copyright Claim.*** - Any person prevented from using a work believed to be in the public domain may challenge the copyright claim of another party.

**Section 2. *Authority to Receive Challenges.*** - The ASDiv shall receive and evaluate challenges against copyright claims.

**Section 3. *Period of Filing.*** - Challenges made according to this Rule may be filed at any time from the time the challenging party was prevented from using the work, subject to the rules on prescription of actions under the Civil Code of the Philippines.

**Section 4. *How Challenge is Made.*** - In filing a challenge, the challenging party must fill out the form issued by the Bureau.

**Section 5. *Payment of Fees.*** - The payment of filing fees shall be required before the ASDiv takes cognizance of the request.

**Section 6. *Challenge Form.*** - The form mentioned in the immediately preceding section shall be required to be notarized and shall include the following information:

- 6.1 Name and address of the challenging and challenged parties;
- 6.2 Brief narrative of the facts that led to the filing of the challenge;
- 6.3 Title of the disputed work;
- 6.4 Name of the author of the disputed work;
- 6.5 Country of origin or country of first publication of the work, whichever is applicable;
- 6.6 Date of the death of the author, if applicable;
- 6.7 Other relevant facts.

**Section 7. *Dismissal.*** - Upon examination of challenging party's form and without the necessity of a hearing and submission of additional documents, the ASDiv may dismiss the challenge within seven (7) days from receipt thereof. The same shall also be dismissed in cases when an action for infringement has been filed concerning the same work, and whether or not it involves the challenging party under this Rule. In both cases, the dismissal shall require the confirmation of the Bureau Director.

**Section 8. Notice of Challenge.** – Should the ASDiv find a ground to entertain the challenge, it shall send a Notice of Challenge to the challenged party within five (5) days from receipt of the challenge form.

**Section 9. Copyright Claim.** – A response to the challenge shall be submitted within ten (10) days from the receipt of the above notice stating therein the challenged party's copyright claim over the subject work. The response shall be in the form of an affidavit and may be submitted together with other evidence to prove the challenged party's claim.

**Section 10. Clarificatory Hearing.** – Within ten (10) days from receipt of the challenged party's copyright claim, the ASDiv may call the parties to a clarificatory hearing, if deemed necessary.

**Section 11. Evaluation Report.** – Within twenty (20) days from receipt of the last document or clarificatory hearing the ASDiv shall submit to the Director of the Bureau an evaluation report stating therein the result of its assessment of the claims of the concerned parties.

**Section 12. Authority of the Bureau Director.** – Within twenty (20) days from receipt of ASDiv's report, the Director of the Bureau may either approve or disapprove the findings of the ASDiv. In case of approval, the immediately succeeding section will apply. In case of disapproval, the Bureau Director will issue an order to the ASDiv to submit a new report which will follow the same rule as in the immediately preceding section.

**Section 13. Notice.** – The approved evaluation report of the ASDiv shall be served to each of the parties through personal service or, if not practicable, through registered mail or electronic mail.

## **RULE VIII REVIEW OF EVALUATION REPORT**

**Section 1. Request for Review.** – Any party to the proceedings under Rules VI and VII aggrieved by the evaluation report may request a review within ten (10) days from receipt of the report.

**Section 2. How Request for Review is Made.** – The aggrieved party will submit a letter requesting review of the evaluation report with the Office of the Bureau Director accompanied by evidence to support the reconsideration of the issued evaluation.

**Section 3. Copy for the Opposing Party.** – All requests for review shall be accompanied by proof that the opposing party was served a copy thereof. Lack of proof of service will result in dismissal of the request.

**Section 4. Payment of Fees.** – The payment of assessment fees shall be required before the Office of the Bureau Director takes cognizance of the request.



**Section 5. *Decision of the Bureau Director.*** – Within fifteen (15) days, the Director will issue a decision on the request for review without the necessity of waiting for a response from the opposing party.

**Section 6. *Notice.*** – The decision of the Bureau Director on the request for review shall be served to each of the parties through personal service or, if not practicable, through registered mail or electronic mail.

**Section 7. *Finality of the Decision of the Director.*** – The decision of the Bureau Director shall be final.

**Section 8. *Entry in the Public Domain Registry.*** – Within five (5) days from the issuance of the Bureau Director's decision, the work subjected to scrutiny shall be entered in the Public Domain Registry.

**Section 9. *Challenge Against the Bureau Director's Decision.*** – Any challenge against the decision of the Bureau Director shall be governed by IPOPHL Memo. Circular No. 2020-041 or the Revised Uniform Rules on Appeal in the Office of the Director General.

## **RULE IX PUBLIC DOMAIN REGISTRY**

**Section 1. *Public Domain Registry.*** – There is hereby established a Public Domain Registry to be managed and maintained by the Bureau within one (1) year from the effectivity of these Rules. The Bureau shall coordinate with other agencies of government and private institutions to populate the registry, applying the herein provisions.

## **RULE X FINAL PROVISIONS**

**Section 1. *Information Dissemination.*** – The Bureau, with the assistance of concerned government agencies, authors', creators', and performers' groups, shall make these Rules widely known, through active and appropriate means and formats, to concerned stakeholders and to the general public.

**Section 2. *Separability Clause.*** – If any section or provision of these Rules shall be held to be invalid, the remaining provisions shall remain in full force and effect as completely as if the part held invalid has not been included therein.

**Section 3. *Effectivity.*** – These Rules shall take effect after fifteen (15) days from publication in a newspaper of general circulation.

**Section 4. *Mandatory Review.*** – These Rules shall be subject to review every five (5) years or earlier, if deemed necessary.

**Section 5. *Furnishing of Certified Copies.*** – Certified copies of this Memorandum Circular shall be filed with the University of the Philippines Law Center, 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.

Done this 08 day of SEP 2023, at Taguig City, Philippines.



**ROWEL S. BARBA**  
Director General