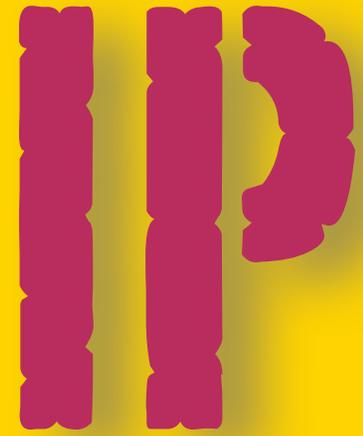


Perspectives in the Enforcement of IP Rights and the Need for IP Courts



by Numeriano F. Rodriguez, Jr.

IP COALITION

primary policy caucus

TOPIC

**IP COURTS:
TOWARDS THE CREATION OF AN
EFFECTIVE IP SYSTEM**

IP CODE SAYS:

Sec. 2. Declaration of State Policy. - **The State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products.** It 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 periods as provided in this Act.

Public Education
and Awareness

Enforcement and
Adjudication

Legislative and
Regulatory
Framework

IP SYSTEM

ELAWMOLK

Phl Population 2011

101 million

35 years or younger

70%

PC Penetration rate

32%

HSBC SAYS:

The Philippines (and Peru) are among emerging economies that would become much more prominent in the next few decades, helped by demographics and rising education standards, with the Philippines set to leapfrog 27 places to become the 16th largest economy by 2050, according to a prediction of international bank HSBC.

BSA STUDY

**REDUCTION TO 69%
FROM 71% PIRACY RATE**

BSA SAYS:

“This report shows that we are making some progress in the Philippines in the battle against software piracy. But the fight continues as the rate remains high and the losses from the IT industry have risen due to the exchange rate and growth in PC sales xxx ”

IACC SAYS:

xxx the significant investment of IP owners and government authorities in arranging raid actions continues to be undermined by the persistent failure of the Philippine courts to process both criminal and civil cases in a more timely manner. It currently takes anywhere from two to even ten years for most cases to reach a conclusion, with infringers routinely extending the duration of cases by exploiting procedural loopholes and raising appeals against minor rulings.

IIPA SAYS:

The Philippine Court System Does Not Deter Piracy...
Two aspects of the Philippine court system thwart successful judicial enforcement in the Philippines. Court cases drag on for years and rarely result in successful judgments or criminal convictions; due to incessant appeals processes, the chances of a convicted criminal going to jail for piracy are remote.

USTR SAYS:

“The U.S. copyright and trademark industries also report continued difficulty protecting their rights through the Philippine legal system due to low conviction rates and imposition of nondeterrent (sic) sentences.” (2006 USTR Report)

USTR SAYS:

USTR urged the Philippines to “increase the numbers of arrests, prosecutions, and convictions of pirates arising out of the optical disc plant inspections; ensure that courts impose deterrent sentences against criminal IPR infringers (i.e. significant fines or prison sentences that are actually served) xxx, among other matters. (2007 USTR Report)

USTR SAYS:

the USTR again urged the Philippines to “pursue final determinations in outstanding IPR cases, including those related to cable piracy, with imposition and implementation of deterrent-level penalties xxx”.
(2008 USTR Report)

CJ SAYS:

One of the perennial complaints of litigants is the long delay in the resolution of cases. There are many causes for this malady, like the humongous number of pending cases, the dilatory tactics of lawyers, the laziness of some judges, and yes, the large number of vacant judgeship positions.

PHI. STAR SAYS:

Justice delayed is justice denied. The slow pace of justice has eroded public confidence in the judiciary.

IPC SAYS:

xxx a court that can devote more time on IP cases will, at least, theoretically, mean less time for IP owners to wait. As a result, the trial period of each case can be considerably reduced from two to ten years to six months to one year.