Collective Management Organizations in the Philippines

GINALYN SACMAR-BADIOLA
Attorney IV, Bureau of Legal Affairs
(By Designation) Bureau of Copyright and Related Rights
Republic Act No. 8293

An Act Prescribing the Intellectual Property Code and Establishing the Intellectual Property Office, Providing for its Powers and Functions, and for Other Purposes

Effective 01 January 1998
Amended by RA 10372
Functions of IPOPHL

✧ Examine applications for IP rights
✧ Register & settle disputes on technology transfer arrangements
✧ Promote the use of patent information
✧ Publish regularly the IPRs registered
✧ Administrative adjudication
✧ Coordination with gov’t & private sectors
✧ Enforcement, visitorial powers
Establishment of Copyright Bureau

- Resolve disputes relating to the terms of a license involving the author’s right to public performance or other communication of his work;

- Accredit CMOs or similar entities;

- Conduct studies and researches in the field of copyright and related rights; and

- Other copyright and related rights service; charge reasonable fees.

Sec. 1 (amend Sec. 6); Sec. 3 (amend Sec. 9)
“Designation of Society. – The owners of copyright and related rights or their heirs may designate a society of artists, writers, composers and other right-holders to collectively manage their economic or moral rights on their behalf. For the said societies to enforce the rights of their members, they shall first secure the necessary accreditation from the Intellectual Property Office.”

Sec. 183, IP Code
Collective Management of Copyright

CMO Activities:

- Negotiation and grant of licenses
- Collection of royalties; proceeds in subsequent transfers; additional remuneration for subsequent broadcast; single equitable remuneration
- Distribution of collection to the rights holders

Rules on the Accreditation of CMOs, Rule I Sec. 2a
Collective Management of Copyright

Minimum requirements:

- Non-stock, non-profit corporation
- Membership: right holders belonging to sector
- Officers’ 16 hours training on copyright
- Managerial and administrative capability

Rules on the Accreditation of CMOs, Rule II Sec. 1
Collective Management of Copyright

Documentary requirements:

- Articles of Incorporation & By-Laws
- SEC/BIR registration/permits
- Organizational structure
- List of board members, officers, with biodata
- List of members and current licensees
- List of collecting agents
- Business manual (tariff rates/distribution rules)
- Membership agreement/deed of assignment
- Reciprocal agreement
- Licensing agreement
- Audited financial statements

Rules on the Accreditation of CMOs, Rule II Sec. 2
Third party observation:

Any interested party may submit written observations thereon to the Bureau of Copyright and other Related Rights within thirty (30) days. The observations shall forthwith be communicated to the applicant who may comment on them within ten (10) days from receipt of said communication.

Rules on the Accreditation of CMOs, Rule II Sec. 4
Decision:

- By BCRR Director, within 30 days from filing
- May engage the assistance of experts
- Effective for 3 years and renewable at least 30 days before expiry

Appeal:

- To the Director General
- Uniform Rules on Appeal

Rules on the Accreditation of CMOs, Rule II Sec. 5,7,8; Rule IV Sec. 1
Collective Management of Copyright

Denial of Accreditation: grounds

- Non-compliance with minimum & documentary requirements.

- Information supporting the application reveals that the CMO is unable to effectively manage and administer intermediary affairs as well as the rights of their members.

Rules on the Accreditation of CMOs, Rule II Sec. 6
Publication upon Approval of Accreditation

IPOPHL shall publish, in the IPOPHL Website, the accreditation certificates, statutes, rates for collecting licensing fees, and distribution mechanism of the accredited CMO.

Rules on the Accreditation of Collective Management Organizations, Rule II Sec. 9
Collective Management of Copyright

Rights of Accredited CMOs

- Administer rights assigned by members
- Engage in negotiation, licensing, collecting and distributing royalties
- Sue and enforce administered rights

Rules on the Accreditation of Collective Management Organizations, Rule III Sec. 1
Collective Management of Copyright

Duties of Accredited CMOs:

- Faithfully discharge obligations & comply w/ laws, IPOPHL rules & orders;
- Submit audited financial statements & requested information to IPOPHL;
- Notify & welcome IPOPHL reps to meetings;
- Report changes in statutes or business.

Rules on the Accreditation of Collective Management Organizations, Rule III Sec. 2
Collective Management of Copyright

Suspension of Accreditation:

- CMO/board member/officer found (by final order or conviction) to have violated copyright/any related law, rules.
- Any of the submitted docs found to be false or untrue.
- Failure to maintain minimum requirements.
- Failure to engage in any CMO activities.
- Failure to observe the parameters for royalty distribution.
- Malicious breach of contract or fiduciary duty.
- Failure to give proper accounting to its members.

Rules on the Accreditation of CMOs, Rule IV Sec. 2
Collective Management of Copyright

Effect of Non-accreditation, Denial, or Suspension of Accreditation

- CMO cannot engage in CMO activities.

- CMO may re-apply for accreditation or move for lifting of suspension, provided, that the ground/s for denial/suspension had ceased to exist and it has complied with the minimum requirements.

Rules on the Accreditation of CMOs, Rule IV Sec. 3
# Status of Accreditation

<table>
<thead>
<tr>
<th>Name</th>
<th>Sector</th>
<th>Right granted under IP Code</th>
<th>First Accredited</th>
<th>Renewal/Subsequent Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filipino Society of Composers, Authors and Publishers, Inc. (FILSCAP)</td>
<td>Composers, lyricists, music publishers and other music copyright owners</td>
<td>reproduction, public performance and communication to the public</td>
<td>Feb. 20, 2014</td>
<td>Feb. 20, 2017 N.B. other rights granted: transformation, first public distribution</td>
</tr>
<tr>
<td>Filipinas Copyright Licensing Society, Inc. (FILCOLS)</td>
<td>Authors, publishers other right holders in the text &amp; image</td>
<td>Right of reproduction</td>
<td>Apr. 21, 2014</td>
<td>Lapsed</td>
</tr>
<tr>
<td>Performers Rights Society of the Philippines, Inc. (PRSP)</td>
<td>Performers</td>
<td>Economic rights; additional remuneration for subsequent comm. or broadcasts; and single equitable remuneration</td>
<td>Oct. 15, 2014</td>
<td>Jan. 26, 2018; Aug. 19, 2019 - suspended</td>
</tr>
<tr>
<td>Sound Recording Rights Society of the Philippines (SOUNDSRIGHT)</td>
<td>Sound recording producers</td>
<td>Sound recording rights; and single equitable remuneration</td>
<td>Mar. 30, 2015</td>
<td>Apr. 1, 2018; Aug. 19, 2019 - suspended</td>
</tr>
</tbody>
</table>
Thank you!

Intellectual Property Office of the Philippines
Intellectual Property Center,
# 28 Upper McKinley Road, McKinley Hill Town Center,
Fort Bonifacio, Taguig City
238-6300 loc. 121/122
www.ipophil.gov.ph
mail@ipophil.gov.ph