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REVISED RULES AND REGULATIONS ON RESOLUTION OF DISPUTES RELATING TO THE TERMS OF A LICENSE INVOLVING THE AUTHOR'S RIGHT TO PUBLIC PERFORMANCE OR OTHER COMMUNICATION OF HIS WORK

IPO OFFICE ORDER NO. 13-169, October 04, 2013

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Whereas, the State recognizes that the use of intellectual property bears a social function and to this end, the State shall promote the diffusion of knowledge and information for the promotion of national development and progress and the common good;

Whereas, it is the policy of the State to enhance the enforcement of intellectual property rights in the country; and, to protect and secure the exclusive rights of artists and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people;

Now, therefore, pursuant to the provisions of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines, as amended by Republic Act No. 10372, the following rules and regulations on the resolution of disputes relating to the terms of a license involving the author's right to public performance or other communication of his work are hereby promulgated:

Section 1. Title. These rules and regulations shall be referred to as "Rules on Resolution of Public Performance Disputes."

Section 2. Definition of Terms. Unless otherwise specified, the following terms shall have the meaning herein provided:

(a)

"Author" means the natural person who has created the work;

(b)

"Bureau" means the Bureau of Copyright and Other Related Rights of the Intellectual Property Office;

(c)

"Communication to the public" or "communicate to the public" means any communication to the public, including broadcasting, rebroadcasting, retransmitting by cable, broadcasting and retransmitting by satellite, and includes the making of a work available to the public by wire or wireless means in such a way that members of the public may access these works from a place and time individually chosen by them;

(d)

"Director General" means the head of the Intellectual Property Office;

(e)

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“Director” means the Director of the Bureau of Copyright and Other Related Rights;

(f)

“Alternative Dispute Resolution Service” means the unit within the Intellectual Property Office primarily in charge of mediation proceedings;

(g)

“Mediator” means any officer designated by the Alternative Dispute Resolution Service to amicably resolve disputes;

(h)

“Office” means the Intellectual Property Office;

(i)

“Public performance” means (1) in case of a work other than an audiovisual work, the recitation, playing, dancing, acting or otherwise performing the work, either directly or by means of any device or process; (2) in the case of an audiovisual work, the showing of its images in sequence and the making of the sounds accompanying it audible; and (3) in the case of a sound recording, the act of making the recorded sounds audible at a place or at places where persons outside the normal circle of a family and that family’s closest social acquaintances are or can be present, irrespective of whether they are or can be present at the same place and at the same time, or at different places and/or at different times, and where the performance can be perceived without the need for communication within the meaning of ‘communication to the public’ or ‘communicate to the public’.

Section 3. Jurisdiction of the Director. The Director of the Bureau of Copyright and Other Related Rights exercises original jurisdiction to resolve disputes relating to the terms of a license involving the author’s right to public performance or other communication of his work.

Section 4. Jurisdiction of the Director General. The Director General shall exercise exclusive appellate jurisdiction over cases brought before the Director of the Bureau of Copyright and Other Related Rights in the latter’s exercise of original jurisdiction.

Section 5. Who may File a Complaint. Any aggrieved party may file a complaint with the Bureau upon payment of the required filing fee.

Section 6. Contents of Complaint. The complaint shall be in writing and shall state the following:

(a)

Name and address of the complainant and the name and address of the respondent;

(b)

Brief statement of the nature of the complaint;

(c)

The demands or reliefs sought for;

(d)

Verification and certification of non-forum shopping.

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Section 7. Escrow. Should any party elect to avail of the provisions of the Civil Code of the Philippines on consignation with respect to the royalty or any sum of money that may be involved in the dispute, the complainant shall submit to the Bureau a certified copy of the Contract of Escrow.

Section 8. Answer. Within three (3) days from receipt of the complaint, a Notice to Answer, with a copy of the complaint attached thereto, shall be served upon the respondent by mail or personal service. The respondent shall file the answer to the complaint within ten (10) days from receipt thereof, specifically denying the material allegations of the complaint or alleging any affirmative defense. No motion to dismiss shall be allowed.

Section 9. Mediation Process. Within three (3) days from receipt of the answer or last pleading, the Director shall refer the same to the Alternative Dispute Resolution Service for mediation. The rules of the Alternative Dispute Resolution Service shall be applicable during the mediation period until the case is referred back to the Bureau.

Section 10. Memoranda. Within five (5) days after the case has been referred back to the Bureau, in case of successful mediation, the Director shall render a judgment based on compromise; otherwise, the Director shall order the parties to submit their respective memoranda, attaching all the evidence thereto, within ten (10) days from receipt of said order.

Section 11. Clarificatory hearing. If necessary, the Hearing Officer may, within ten (10) days from receipt of the last memorandum, call the parties to a clarificatory hearing.

Section 12. Decision of Director. Within thirty (30) days after receipt of the last memorandum or after the clarificatory hearing, the Director shall render a decision.

Section 13. Appeal to the Director General. The decision of the Director shall become final and executory fifteen (15) days after receipt of a copy thereof by the parties unless within the said period, a motion for reconsideration is filed with the Director or an appeal to the Director General has been perfected by filing a notice of appeal and payment of the required fee.

Only one motion for reconsideration of the decision or order of the Director shall be allowed. If the motion is denied, the movant shall file his appeal within the balance of the period prescribed above to which he was entitled at the time of serving his motion.

Section 14. Suppletory Application of the Rules of Court. These rules and regulations shall primarily govern the resolution of disputes before the Bureau. However, relevant provisions of the Rules of Court shall apply suppletorily.

Section 15. Amendment. All rules and regulations, office orders, memoranda, circulars and memorandum circulars and parts thereof inconsistent with these rules are hereby amended.

Section 16. Separability. If any provision in these Regulations or application of such provision to any circumstance is held invalid, the remainder of these Regulations shall not be affected thereby.

Section 17. Furnishing of Certified Copies. The IPOPHL Financial Management and Administrative Services (FMAS) is hereby directed to immediately file three (3) certified copies of these Rules with the University of the Philippines Law Center, and one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines and the National Library of the Philippines.

Section 18. Effectivity. These rules and regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.

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(SGD) ATTY. RICARDO R. BLANCAFLOR
Director General

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