



SANGGUNIANG PANLUNGSOD

(City Council)

PO2001-225

28th Regular Session

ORDINANCE NO. SP 1142, S-2002

AN ORDINANCE DECLARING QUEZON CITY AS THE PREMIERE "ANTI-PIRACY CITY" IN THE COUNTRY AND PROVIDING FINES AND PENALTIES FOR VIOLATORS OF INTELLECTUAL AND INDUSTRIAL PROPERTY.

Introduced by Councilors RICARDO R. DEL ROSARIO, VINCENT P. CRISOLOGO, ELIZABETH A. DELARMENTE, BERNADETTE HERRERA-DY, ROMMEL R. ABESAMIS, VOLTAIRE GODOFREDO L. LIBAN III, AIKO M. YLLANA, RAMON P. MEDALLA, ERIC Z. MEDINA, MARY ANN L. SUSANO, JORGE L. BANAL, JULIAN ML. COSETENG, WENCEROM BENEDICT C. LAGUMBAY, DANTE M. DE GUZMAN, JESUS "Bong" C. SUNTAY, ALMA F. MONTILLA, ANTONIO E. INTON, JR., JANET M. MALAYA and RESTITUTO B. MALAÑGEN.

WHEREAS, the State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitate transfer of technology, attracts investments and ensures market access for our products;

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, the State has been a signatory of several international treaties and conventions on intellectual properties including the convention establishing the World Intellectual Property Organization (since 1980), the Paris Convention for the Protection of industrial Property (since 1965), Budapest Treaty on the International Recognition of Deposit of Microorganisms for Purposes of Patent Procedure (since 1981), the Berne Convention for the Protection of Literary and Artistic Works (since 1951), the International Convention for the Protection Performers, Producers of Phonographs and Broadcasting Organizations (since 1984) and the Agreement of Trade-Related Aspects of Intellectual property Rights (TRIPS Agreement);

[Handwritten signatures and initials]

WHEREAS, it is the policy of the State to enhance the enforcement of intellectual property rights in the country to protect and secure the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property and creation, particularly when beneficial to the people rights as embodied in 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), otherwise known as the "Intellectual Property Code of the Philippines", Presidential Decree No. 1987 (Creating the Videogram Regulatory Board), Executive Order No. 60 (Creating the Presidential Inter-Agency Committee on Intellectual Property Rights) and Executive Order No. 913 (Strengthening the Rule-Making and Adjudicatory Powers of the Minister of Trade and Industry to Further Protect Consumers), among others;

WHEREAS, despite all these legislative and national executive actions, blatant violations and/or piracy of intellectual rights continue unabated and with impunity especially within the territorial jurisdiction of Quezon City;

WHEREAS, the unabated piracy of intellectual property right within the very heart of Quezon City, like the sale (retail or wholesale), distribution, advertising or offering for sale through the false designation of the origin of a whole spectrum of products including but not limited to designer clothes, jeans, computer software programs, electronic appliances, movies, songs and even batteries, continue to cause unfair competition resulting to substantial financial and economic prejudice to the owners thereof and to legitimate establishments operating within the City;

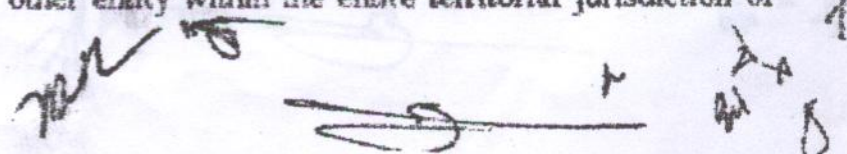
WHEREAS, there is now the urgent need to combat these pirates and unfair competitors (and even economic saboteurs) by ensuring that Quezon City becomes a "piracy-free" city as a pledge of support to the national government and to the intellectual property, its owners and advocates.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN SESSION ASSEMBLED:

SECTION 1. Short Title. - This Ordinance shall be known as "Anti-Piracy Ordinance of Quezon City".

SECTION 2. Mandate - The Quezon City government, through the Office of the Mayor on its own and/or in coordination with related agencies of the government, ensure that only legitimate and authorized products, goods and services covered by intellectual property rights as defined and enumerated above, are sold, retail or wholesale, either on cash or credit or other payment terms, offered for sale or rent or lease, distributed, displayed, and/or advertised in all stores, outlets, malls, department stores, tiangge, fairs (including school, office and others), offices and fairs, either on a permanent or temporary basis, by any person, natural or juridical, or any other entity within the entire territorial jurisdiction of Quezon City.



SECTION 3. Definition of Terms. - For purposes of this Ordinance, the following terms shall mean:

a. **Intellectual Property Rights** - include copyright and related rights, trademarks and service marks, geographic indications, industrial designs, patents, lay-out designs (topographies) of integrated circuits and undisclosed information.

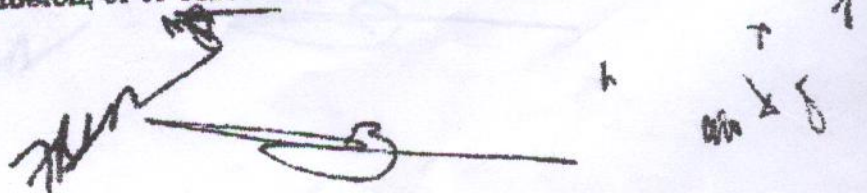
b. **False Designation of Origin** - the act of any person who, on or in connection with any goods, or services or any container for goods, uses in commerce any word, term, name symbol, or device or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact which (i) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services or commercial activities by another person; or (ii) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities or geographic origin of his or her or another person's goods, services or commercial activities.

c. **Infringement of Copyright and Related Rights** - any violation of the rights as defined in RA. 8293 (Intellectual Property Code of the Philippines) including the act of any person who at the time when copyright subsists in a work has in his possession an article which he knows, or ought to know, to be an infringing copy of the work for the purpose of: (i) selling, letting for hire or by way of trade offering or exposing for sale or hire, the article; (ii) distributing the article for purpose of trade, or for any other purposes to an extent that will prejudice the rights of the copyright owner in the work; or (iii) trade exhibit of the article in public.

d. **Infringement of Patent** - any violation of any of the rights of the patentees and holders of utility model patents and industrial designs registrations, including the act of making, using, offering for sale, selling or importing a patented product or products obtained directly or indirectly from a patented process, or the use of a patented process without the authorization of the patentee;

e. **Infringement of Mark** - any violation of the registered owner, including the act of any person who shall, without the consent of the owner of the registered mark, and regardless of whether there is actual sale of goods or services using the infringing material:

(1) use in commerce any reproduction, counterfeit, copy or colorable imitation of a registered mark or the same container or a dominant thereof in connection with the sale, offering for sale, distribution, advertising of any goods or services including other preparatory steps necessary to carry out the sale of any good or service on or in connection with which such use is likely to cause confusion, or to cause mistake or to deceive; or



(2) reproduce, counterfeit, copy or colorable imitate a registered mark or a dominant feature thereof and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services or in connection with which such use is likely to cause confusion, or to cause mistake or to deceive.

SECTION 4. Fines and Penalties. - Any person or entity performing any and all acts in violation of the above mandate shall, in addition to their liability as provided for under RA 8293 (the Intellectual Property Code of the Philippines), PD 1987 (creating the Videogram Regulatory Board) and other related laws and decrees, shall be subject to the following sanctions:

- 1st Offense:**
1. A fine of One Thousand Five Hundred Pesos (P1,500);
 2. Confiscation and forfeiture of all pirated/unauthorized products and goods in favor of Quezon City government, for eventual destruction/disposition; and
 3. Closure of business establishment for one (1) week.

- 2nd Offense:**
1. A fine of Three Thousand Pesos (P3,000);
 2. Confiscation and forfeiture of all pirated/unauthorized products and goods in favor of Quezon City government, for eventual destruction/disposition; and
 3. Closure of business establishment for three (3) weeks.

- 3rd Offense:**
1. A fine of Five Thousand Pesos (P5,000);
 2. Confiscation and forfeiture of all pirated/unauthorized products and goods in favor of Quezon City government, for eventual destruction/disposition; and
 3. Revocation and cancellation of business/mayor's permit and permanent closure of business establishment.

[Handwritten signatures and initials at the bottom of the page]

It is understood that sale, retail or wholesale, either on cash or credit or other payment terms, offered for sale or rent or lease, distributed, displayed, and/or advertised in all stores, outlets, malls, department stores, tiangge, fairs (including school, office and others), offices and fairs, of even only one (1) of the pirated/unauthorized products, goods or services, regardless of value or amount thereof, shall constitute sufficient violation of this Ordinance.

SECTION 5. Persons Liable. - The following shall be liable jointly and severally for any and all violations of this Ordinance:

- a. Buyer
- b. Sales Clerks
- c. Merchandisers
- d. Street vendors, hawkers
- e. Store Caretakers/Consignees
- f. Supervisors
- g. Manager
- h. Owners
- i. Officers, directors, partners (of partnership or corporation)
- j. Head of Office, Building Administrators (if prohibited acts are done within office premises)
- k. Dean, principal, school head/administrator (if prohibited acts are done within school grounds)

Owners, officers, administrators of malls, department stores, superstores, thrift shops and/or tiangges and fairs in Quezon City where the pirated and/or unauthorized goods, products and services are sold on retail or wholesale, either in cash or credit or other payment terms, offered for sale or rent or lease, distributed, displayed, and/or advertised, shall ensure that none of the prohibited acts above are carried on in their establishments. Any violation of this Ordinance committed and discovered within their establishments shall be considered as aiding and/or abetting the illegal actions of their tenants, concessionaires and/or franchises and shall be subject to the same fines and penalties.

SECTION 6. Separability Clause. - If any provision or part hereof is held invalid or unconstitutional, the remainder of the ordinance or the provision not otherwise affected shall remain valid and subsisting.

SECTION 7. Repealing Clause. - All ordinances and resolutions inconsistent herewith are hereby repealed and/or modified accordingly.

r +
2002
10

