



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2021-030¹

30 July 2021



RE: PUBLICATION OF COPYRIGHT REGISTRATIONS

Dear 

We write in response to your request received by the National Privacy Commission (NPC) asking for guidance on the publication of copyright registrations.

We understand that the Bureau of Copyright and Other Related Rights (Bureau) of the Intellectual Property Office of the Philippines (IPOPHL) plans to publish a list of copyright registrations received and processed by the Bureau. The list will contain copyright registrations by category of copyrighted work and four data elements: (1) registration number, (2) name of copyright owner, (3) title of the work, and (4) date of registration.

We understand that the new form of the Bureau contains the standard data privacy notification and consent adopted by IPOPHL.

We understand further that the purposes of publication are the following:

1. To operate as notice to the public of the fact of registration of a copyrighted work;
2. To allow aggrieved and/or contesting parties to put forward a challenge to erroneously registered works because the registrant is not the true owner, or the work is not an original creative expression of the registrant; and
3. To encourage the registration of more works.

We understand finally that the IPOPHL relies on Section 182 of RA No. 8293, also known as the Intellectual Property Code of the Philippines² mandating the publication in the IPOPHL Gazette of the fact of assignment, transfer, and exclusive licensing of copyright, which

¹ Tags: criteria for lawful processing; legal obligation; mandate; copyright; general data privacy principles.

² An Act Prescribing the Intellectual Property Code and Establishing the Intellectual Property Office, providing for its Powers and Functions, and for Other Purposes [Intellectual Property Code of the Philippines], Republic Act No. 8293 (1997).

mandate extends to copyright registration by way of necessary implication.

Criteria for lawful processing of personal data; legal obligation; mandate

The Data Privacy Act of 2012³ (DPA) applies to the processing of personal and sensitive personal information (collectively, personal data) and to any natural and juridical person involved in the processing within and outside the Philippines.

Under the law, personal data processing may be based any of the various criteria for lawful processing provided under Sections 12 and 13 of the DPA, respectively.

Particularly applicable for IPOPHL's proposed processing is Section 12 (c) of the DPA which recognizes processing that is necessary for compliance with a legal obligation and/or Section 12 (e) which allows processing for the fulfillment of the functions of a public authority which necessarily includes the processing of personal data for the fulfillment of its mandate. We assume in this instance that the registration number pertains to the copyrighted work.

In this scenario, the IPOPHL posits that the basis for the publication of copyright registration is by virtue of Section 182 of the Intellectual Property Code of the Philippines, by way of necessary implication:

"SECTION 182. Filing of Assignment or License. - An assignment or exclusive license may be filed in duplicate with the National Library upon payment of the prescribed fee for registration in books and records kept for the purpose. Upon recording, a copy of the instrument shall be returned to the sender with a notation of the fact of record. Notice of the record shall be published in the IPO Gazette."

We defer to the IPOPHL's authority on the proper interpretation of the above provision as to whether the mandate extends to copyright registration by way of necessary implication. As mentioned in the IPOPHL's letter, the above provision is applicable since there is nothing to amend, assign, transfer, or grant exclusive license on IPOPHL's records if the same has not been first registered.

Nevertheless, other provisions of the Intellectual Property Code of the Philippines support the publication of copyright registration, to wit:

"SECTION 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.

The use of intellectual property bears a social function. 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.

³ An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this purpose a National Privacy Commission and for other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 (2012).

It is also the policy of the State to streamline administrative procedures of registering patents, trademarks and copyright, to liberalize the registration on the transfer of technology, and to enhance the enforcement of intellectual property rights in the Philippines.”⁴

The publication of copyright registration to inform the public of such fact may be considered as lawful processing under the DPA as authorized by virtue of law or regulation.

*Adherence to the general data privacy principles;
transparency; privacy notice; data subject rights*

Nevertheless, even if the processing of personal data has a lawful basis under the DPA, the same must still adhere to the other general data privacy principles, specifically in this case, the principle of transparency.

We recall that your letter mentioned that the new form of the Bureau contains the standard data privacy notification and consent adopted by the IPOPHL.

We wish to clarify that since the lawful basis of the IPOPHL in the processing of copyright registrations is its mandate, there is no need to obtain consent of the data subject for such processing. The standard data privacy notification, which we assume to be the privacy notice, should already suffice for this purpose.

Kindly refer to Section 16 of the DPA and NPC Advisory No. 2021 – 01 on Data Subject Rights (available at this link: <https://www.privacy.gov.ph/wp-content/uploads/2021/02/NPC-Advisory-2021-01-FINAL.pdf>) for a discussion of privacy notices vis-à-vis transparency and the data subject right to be informed.

This opinion is based solely on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of facts. We are not privy to the contents of the IPOPHL form reflecting the standard data privacy notification and consent, and the same was not reviewed for purposes of this opinion. This opinion does not adjudicate issues between parties nor impose any sanctions or award damages.

For your reference.

Very truly yours,

(Sgd.) IVY GRACE T. VILLASOTO
OIC – Director IV, Privacy Policy Office

⁴ Intellectual Property Code of the Philippines, § 2.