

Republic of Costa Rica
On Procedures for Enforcement of Intellectual Property Rights
Law No.8039 of October 12, 2000
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CHAPTER I General provisions

Article 1 Scope of Application

Any violation of intellectual property rights established in national legislation or international conventions shall result in administrative actions before the Industrial Property Registry or the National Registry of Copyright and Related Rights, as well as judicial actions prescribed by this Law, without prejudice to other legal provisions. This Law also governs the jurisdiction of the Administrative Registry Court regarding appeals on all National Registry entries.

The authorization of the intellectual property rights owner must always be explicit and in writing.

Article 2 Interpretation

During judicial and administrative reviews of violations of rights established and protected under this Law, the judge, the Industrial Property Registry, or the Director of the National Registry of Copyright and Related Rights may apply interpretative rules considering the manner, timing, and location of harmful actions. This ensures that procedural formalities do not obstruct the practical application of legal protections in specific cases. In any administrative proceeding before the Industrial Property Registry or the National Registry of Copyright and Related Rights, or in judicial processes, the competent authority shall consider the proportionality between the unlawful conduct and the harm caused to the protected legal asset when applying sanctions.

Article 2bis Definitions

For the purposes of this Law, the following definitions apply:

(a) **Effective technological measure:** Any technology, device, or component that, in its normal operation, controls access to a work, performance, phonogram, or other protected subject matter, or safeguards copyright or related rights.

(b) **Rights management information:**

(i) Details identifying the work, performance, or phonogram; the author, artist, performer, producer, or any rights holder.

(ii) Terms and conditions governing the use of the work, performance, or phonogram.

(iii) Any number or code representing such information.

These elements apply when affixed to a copy of the work,

performance, execution, or phonogram, or when presented in connection with public communication or availability of the work, performance, execution, or phonogram.

(c) **Base salary:** As used in this Law, "base salary" corresponds to the definition in Article 2 of Law No. 7337 (May 5, 1993) and its amendments.

CHAPTER II Provisional measures

SECTION I General provisions

Article 3 Adoption of Provisional measures

Before initiating proceedings for intellectual property rights infringement whether during the process or enforcement phase the competent judicial authority, the Industrial Property Registry, or the National Registry of Copyright and Related Rights, as appropriate, shall adopt sufficient Provisional measures to prevent serious and irreparable harm to the rights holder and to provisionally ensure the effectiveness of the final ruling or judgment.

An Provisional measures shall only be granted when the requester proves their status as the rights holder or authorized representative and provides reasonably available evidence demonstrating, to the satisfaction of the authority, a sufficient degree of certainty that the plaintiff's right is being or will imminently be infringed. Before granting the measure, the judicial authority, the Industrial Property Registry, or the National Registry of Copyright and Related Rights shall require the requester to provide a reasonable guarantee or equivalent security sufficient to protect the defendant, prevent abuse, and ensure that the defendant is not unreasonably discouraged from seeking legal remedies.

In proceedings for injunctions related to patent enforcement, there shall be a rebuttable presumption of the patent's validity.

Article 4 Proportionality of the measure

Any decision resolving a request for Provisional measures must consider both the interests of third parties and the proportionality between the effects of the measure and the damages it may cause.

Article 5 Measures

The following Provisional measures, among others, may be ordered:

- (a) The immediate cessation of the acts constituting the violation.
- (b) The seizure of counterfeit or illegal goods.
- (c) The suspension of customs clearance of the goods, materials or means referred to in paragraph b).
- (d) The posting of a bond or other sufficient guarantee by the alleged offender.

Article 6 Procedure

Judicial and Administrative Procedures for Provisional measures
Within forty-eight hours of filing a request for a provisional measure, the judicial authority, the Industrial Property Registry, or the National Registry of Copyright and Related Rights must grant the parties a hearing, allowing them to provide comments on the request within three business days. Once this period has elapsed, the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the competent Court regardless of whether a response has been received shall issue a ruling on the provisional measure within three days. The decision rendered by these entities must be executed immediately, and an appeal does not suspend the execution of the measure.

If holding a hearing could nullify the effects of the measure, the judicial authority, the National Registry of Copyright and Related Rights, or the Industrial Property Registry must determine the admissibility of the request within forty-eight hours of its submission.

Article 7 Preliminary Measure without Participation of the Alleged Infringer

When a provisional measures is executed without first hearing the other party, the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the competent judicial authority shall notify the affected party within three business days of its execution. The affected party may appeal the executed measure.

Article 8 Time limit for filing a complaint or lawsuit

If the provisional measures is requested before initiating the proceedings and is granted, the petitioning party must file the lawsuit within one month of notification of the ruling granting it. If the lawsuit is not filed in time, or if it is determined that no intellectual property right has been infringed, the provisional measures will be deemed revoked, and the party requesting it will be liable for the damages incurred, which will be settled through the enforcement of the judgment.

Article 9 Damages

If a lawsuit is not filed in a timely manner, or if a provisional measure is revoked or rendered ineffective for any reason, any party

seeking compensation for damages caused by its enforcement must submit a request within one month to the authority overseeing the underlying proceedings. Failure to submit the request within the specified period or establish the right to compensation shall result in the plaintiff being required to return the security for damages. In cases where the provisional measure originates from an administrative decision, the affected party must initiate judicial proceedings to claim compensation for damages arising from its execution.

SECTION II Border measures

Article 10 Application of border measures

When a provisional measure is required at the time of customs clearance of counterfeit or illegal goods, the administrative decision of the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the judicial decision ordering such measure must be immediately communicated to the customs authorities and to the defendant.

Article 11 Request for border measures

A holder of intellectual property rights who has well-founded knowledge of the arrival or dispatch of goods that infringe their rights may request the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the judicial authority to order the customs authorities to suspend the dispatch of such goods.

Any holder of protected intellectual property rights, or their authorized representative, requesting the suspension of goods release must, at a minimum:

(a) Prove ownership or representation of an intellectual property right. In the case of copyright and related rights, the presumptions established in Article 155 of the Copyright and Related Rights Law No. 6683 (October 14, 1982) shall apply.

(b) Provide reasonable security or an equivalent guarantee before the suspension is issued. This guarantee must be sufficient to protect the defendant and competent authorities while preventing abuse. It must not unduly discourage the use of such procedures. The security may take the form of an instrument issued by a financial services provider to protect the importer or owner of the goods from loss or harm caused by the suspension, provided the competent authorities determine that the goods do not constitute infringing items.

(c) Provide sufficient information about the goods, reasonably known to the rights holder, to ensure they can be easily recognized by the competent authorities. The requirement to provide such information must not unreasonably discourage access to these procedures.

(d) Submit sufficient evidence to demonstrate, to the satisfaction of the competent authorities, a presumption of infringement of intellectual property rights.

Once the suspension of goods release is executed, the Industrial

Property Registry, the National Registry of Copyright and Related Rights, or the judicial authorities shall immediately notify the importer or exporter of the goods and the party requesting the measure.

Article 12 Cases in which border measures do not apply

The border measures contained in this chapter shall not be required to apply to the following:

(a) Imports of goods placed on the national market by the right holder or with his consent and imports made by those authorized by the State or in accordance with the laws of the country, once the right holder or his representative has lawfully introduced them into the country or abroad.

(b) The quantities of merchandise that constitute part of the passenger's personal luggage.

Article 13 Duration of the suspension

If ten business days elapse from the date the applicant was notified of the suspension, without the applicant having filed a claim or without receiving notification from the Industrial Property Registry, the National Registry of Copyright and Related Rights, or a judicial authority that Provisional measures have been taken to extend the suspension of clearance, the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the competent judge shall notify the customs authorities so that the measure may be lifted and the clearance of the goods ordered, provided that the other required conditions have been met.

Article 14 Special requirements for industrial designs and models, Patents, layout designs, or undisclosed information

If customs authorities suspend the release of goods for free circulation under a provisional measure involving industrial designs, patents, layout designs, or undisclosed information, and it is verified that:

(a) The provisional measure has not been executed without justification within three business days; and

(b) A customs-certified sample has been provided, and all other importation conditions have been met;

Then, the owner, importer, or consignee of the goods shall be entitled to customs clearance upon depositing a guarantee with the Industrial Property Registry, the National Registry of Copyright and

Related Rights, or the judicial authority that issued the provisional measure, ensuring protection of the right holder in case of infringement.

Payment of the guarantee shall not affect the remedies available to the right holder. The guarantee shall be returned if no complaint or claim is filed within the period specified in Article 13 of this Law.

Article 15 Inspection

Once customs clearance of goods has been suspended by the customs authorities, the Industrial Property Registry, the National Registry of Copyright and Related Rights, or the judicial authority shall allow the copyright holder or his or her representative to inspect them, for the sole purpose of substantiating their claims. When permitting inspection, and where appropriate, the customs authority may take the necessary steps to protect any right to undisclosed information (trade or industrial secrets).

Once an infringement has been verified by the Industrial Property Registry, the National Registry of Copyright and Related Rights, or a judicial authority, and at the request of the copyright holder or his or her representative, the customs authorities must provide the name and address of the consignor, importer or exporter, and consignee of the goods, as well as the quantity and description of the goods subject to suspension.

Article 16 Ex-officio action

When the customs authorities have sufficient reason to consider that an intellectual property right has been violated, they must act ex officio and withhold the release of imported, exported or in-transit goods that are suspected of infringing an intellectual property right, without requiring a formal request from a private individual or the owner of the right. Within ten (10) business days following the retention of the goods, the customs authorities must report to the Public Prosecutor's Office the commission of any of the crimes contemplated in this Law. Otherwise, the merchandise must be returned and the customs authority will be liable for any damages caused, in accordance with the rules of the General Law of Public Administration. To the extent possible, the customs authorities will inform the holder about the rights that may be infringed.

Article 17 Destruction and confiscation of goods

When goods are determined to be pirated or counterfeit, the judicial authority shall order customs authorities to destroy them unless the rights holder consents to an alternative method of disposal.

Customs authorities shall not permit the export of counterfeit, pirated, or illegal goods in their original condition or subject them to any separate customs procedure, except in exceptional circumstances and pending a final determination by the competent judicial authority regarding their disposal or destruction.

In cases involving goods bearing counterfeit trademarks, if the owner of the infringed intellectual property right consents, the judicial authority may, in a final judgment, authorize their donation to social welfare programs for use outside commercial channels provided that the removal of the affixed trademark eliminates the infringing characteristics of the goods, rendering them unidentifiable with the removed trademark. However, the mere removal of an illegally affixed trademark shall never be sufficient to permit the goods' entry into commercial circulation.

If a charge is imposed for the application or storage of goods in relation to border measures for intellectual property enforcement, such charges shall not be set at an amount that unreasonably discourages recourse to such measures.

For food consumer goods that meet health requirements, they shall be delivered to the Joint Institute of Social Assistance (IMAS). Upon removal of any branding, packaging, and other distinctive signs in compliance with current legislation, these goods may be reassigned appropriately.

Article 18 Unfounded retention

When there has been unfounded retention of the goods, the judicial authorities shall order the plaintiff to pay for the damages caused to the importer, the consignee, and the owner of the goods; such payment shall be liquidated upon execution of the judgment.

CHAPTER III

SECTION I Creation of the Administrative Registry Court and Administrative Procedures

Article 19 Administrative Registry Court

The Administrative Registry Court is hereby established as a fully decentralized body under the Ministry of Justice and Grace, with instrumental legal personality to carry out the functions and powers assigned to it by this Law. It shall be headquartered in San José and have jurisdiction throughout the national territory. Its powers shall be exclusive, and it shall operate with functional and administrative independence. Its rulings shall constitute the final exhaustion of all administrative remedies.

The Administrative Registry Court shall submit its draft budget to the Administrative Board of the National Registry, which shall approve and forward it to the Ministry of Justice and Peace. This budget shall be funded by the income received by the Administrative Board of the National Registry, with an allocation of no less than six percent (6%) of the ordinary income of the National Registry, as calculated for the fiscal year, or from its surplus. The budget shall not be subject to economic or budgetary constraints that could limit its execution and operation. Staff salaries shall be financed through funds from the Administrative Board of the National Registry, either for a fixed period or indefinitely.

If necessary, state institutions may transfer officials to the Administrative Registry Court and donate assets, whether movable or immovable, to enhance its functionality. The Court is also authorized to receive donations from state-owned or public enterprises, as well as from private, national, or international entities.

Article 20 Composition

The Court shall consist of five members, two of whom shall be appointed by the Minister of Justice and Grace. The Administrative Board of the National Registry shall submit three lists of candidates to the Executive Branch for the appointment of the remaining three members. All appointments shall be made through a competitive examination based on qualifications and must be ratified by the Legislative Assembly.

The Court shall also have five alternate members, appointed in the

same manner as the regular members.

Members of the Court shall serve a four-year term and may be reappointed following a competitive examination based on their experience, under the same conditions outlined in the first paragraph of this article. The formalities and substantive provisions established in the competitive examination and legal system shall also apply to their removal.

The remuneration of Court members shall be equivalent to the salary of superior Court judges. Compensation for other staff members shall be aligned, as appropriate, with the salaries of corresponding positions within Judiciary bodies where similar roles exist.

Alternate members shall be compensated only when they actively perform their substitution duties, regardless of the circumstances necessitating their service.

Article 21 Requirements for Members

The members of this Court must have extensive experience in registry matters or other related matters, possess recognized moral standing, and be individuals whose background, professional qualifications, and proven competence in the field guarantee impartiality and success in the performance of their duties.

This Court shall annually elect a president, a vice president, and a secretary from among its members. The Rules of Procedure shall govern the requirements for the proper and efficient performance of its duties. The president shall act as the legal representative of the body.

Article 22 Legal Principles

The Court shall exercise its functions in accordance with the principles of oral proceedings, official authority, efficiency, and immediacy of evidence. It shall also adhere to the procedural and operational rules established in this Law, its regulations, and, where applicable, the provisions of Book II of the General Law of Public Administration No. 6227 (May 2, 1978), Chapter "Ordinary Procedure," the Law Regulating Contentious-Administrative Jurisdiction, and the Organic Law of the Judiciary.

To manage the matters under its jurisdiction, the Court shall establish common, non-extendable deadlines for parties to present their arguments and supporting evidence in their defense. This process shall uphold the principles of seeking the factual truth, ensuring procedural efficiency, and maintaining oral proceedings.

To dispute statements or charges made by the various Registries of the National Registry including the Public Registry of Real Property, the Registry of Legal Entities, the Registry of Movable Property, the Registry of Industrial Property, the National Registry of Copyright and Related Rights, the National Cadaster, and any other Registry incorporated into the National Registry parties may use any form of evidence permitted by the applicable legal system. Reports and certifications issued by certified public accountants or other professionals with public attestation shall constitute full proof.

In such cases, the burden of proof to challenge these assessments or resolutions shall rest with the Registry that issued them.

Article 23 Advice to the Court

The Court is obligated to seek the advice it deems appropriate and necessary when the technical level warrants it, in order to resolve each issue raised, as its decisions must always be reasoned. Advice may not be provided by persons related to or interested in the matter to be resolved.

Article 24 Expeditionousness of the process

The Court shall expedite the proceedings and handling of matters within its jurisdiction with the speed required by the situation at hand.

The ruling must be issued within a maximum of thirty calendar days, counted from the date the case is received by the Court; in special cases, the deadline may be extended for up to thirty more days. The obligation is established of the Court to provide a prompt and complete response.

Article 25 Jurisdiction of the Court

The Administrative Registry Court shall have jurisdiction over:

(a) Appeals filed against acts and final resolutions issued by all Registries within the National Registry.

(b) Appeals against previous rulings issued by the Registries of the National Registry.

The Court's rulings shall be final and not subject to further appeal, thereby exhausting all administrative remedies.

Additionally, the Court may engage in administrative activities and contracts necessary for its operations, including:

- Accepting donations of movable or immovable property,

- Approving personnel transfers,
- Hiring advisors and technicians for staff counseling and training,
- Conducting research and training in collaboration with public or private institutions, both domestic and international.

Furthermore, the Court shall have the authority to enter into cooperation agreements with public or private entities.

The Administrative Registry Court shall establish its own salary system for its staff and may hire technical and professional personnel as needed to fulfill its public service responsibilities. To qualify under this salary system, civil servants must pass the examinations determined by the Court and meet the requirements set forth in the relevant competitive examination regulations.

The salary scale, job categories, and other implementation requirements under the fourth paragraph of Article 20 of this Law shall be defined by executive decree.

Article 26 Deadlines

The corresponding appeal must be filed within five business days from the date of notification of the ruling. It must be submitted to the Registry that issued the ruling. If it is timely, the Registry will accept it and forward it to the Court along with the file and all its background information. The deadline for filing an appeal for revocation will be three business days from the date of notification of the ruling.

SECTION II Administrative procedures regarding trademarks and distinctive signs and unfair competition

Article 27 Rules on administrative procedures

The administrative procedures regarding trademarks and distinctive signs shall be those provided for in the LAW ON TRADEMARKS AND OTHER DISTINCTIVE SIGNS, No. 7978, of January 6, 2000.

Article 28 Administrative procedures for cases of unfair competition in trademarks and distinctive signs

In addition to the acts indicated in Article 17 of the Law on the Promotion of Competition and Effective Consumer Protection, No. 7472, of December 20, 1994, and its amendments, any act carried out in the exercise of a commercial activity or in connection therewith, that is contrary to honest commercial customs and practices, is considered unfair. Likewise, the following constitute acts of unfair competition, among others:

(a) Any conduct that tends to mislead regarding the origin, nature, method of manufacture, suitability for use or consumption, quantity or other characteristics of the products or services, in order to take advantage of the rights of a rights holder, protected by this Law.

(b) Any conduct tending to reproduce, without authorization from the owner, brands, insignia and any other protected element for the benefit of its legitimate owner, to take advantage, on a commercial scale, of the results of the efforts and prestige of others.

(c) Any use of a sign whose registration is prohibited pursuant to sections k) and q) of Article 7 of the LAW ON TRADEMARKS AND OTHER DISTINCTIVE SIGNS, No. 7978, of January 6, 2000.

(d) The use, in commerce, of a sign whose registration is prohibited according to the sections(c), (d), (e), (g) and (h) of article 8 of the Law on trademarks and distinctive signs, No. 7978, of January 6, 2000.

In administrative proceedings related to cases of unfair competition involving trademarks or distinctive signs, with a knock-on effect for the consumer due to the illicit use of trademarks or distinctive signs, the National Consumer Commission shall order the adoption of any of the Provisional measures referred to in this Law, without prejudice to those cited in Article 58 of the Law on the Promotion of Competition and Effective Consumer Protection, No. 7472, of December 20, 1994.

SECTION III Administrative procedures for patents, industrial designs and utility models

Article 29 Rules on administrative procedures

The administrative procedures for patents, industrial designs, and utility models shall be those prescribed in the Law on Patents, Industrial Designs, and Utility Models, No. 6867, of April 25, 1983.

Article 30 Appeals against decisions of the Industrial Property Registry

Decisions of the Industrial Property Registry may be revoked before the body that issued the respective resolution, and appealed before the Administrative Registry Court.

SECTION IV Administrative procedures regarding copyright and related rights

Article 31 Rules on administrative procedures

The administrative procedures relating to copyright and related rights shall be those defined in the Copyright and Related Rights Law, No. 6683, of October 14, 1982.

Article 32. Appeals against decisions of the National Registry of Copyright and Related Rights

Decisions of the National Registry of Copyright and Related Rights may be revoked before the body that issued the respective resolution and appealed before the Administrative Registry Court.

SECTION V Administrative procedures regarding undisclosed information

Article 33 Rules on administrative procedures

The administrative procedures for undisclosed information shall be those established in the Undisclosed Information Law, No. 7975, of January 4, 2000.

Article 34. Appeals against decisions of the Industrial Property Registry

Decisions of the Industrial Property Registry may be revoked before the body that issued the respective resolution, and appealed before the Administrative Registry Court.

SECTION VI Administrative procedures regarding integrated circuits

Article 35 Rules on administrative procedures

The administrative procedures for integrated circuits shall be those contained in the Law on the Protection of Layout-Design Integrated Circuits, No. 7961, of December 17, 1999.

Article 36. Appeals against decisions of the Industrial Property Registry

Decisions of the Industrial Property Registry may be revoked before the body that issued the respective resolution and appealed before the Administrative Registry Court.

CHAPTER IV Processes

SECTION I Civil proceedings

Article 37 Preliminary Measures in Civil Proceedings

Without prejudice to the provisions of Title IV, Book I of the Code of Civil Procedure, in all proceedings relating to the protection of the rights of intellectual property owners, the judge may adopt the Provisional measures referred to in this Law.

Article 38 Civil proceedings

Claims by intellectual property owners including federations, associations, exclusive licensees, and other duly authorized licensees who have the legal capacity to assert their rights shall be processed and decided through the expedited procedure established in Title II, Book II of the Code of Civil Procedure.

Judicial authorities may require an infringing party to cease its actions to prevent, among other things, the entry of imported goods that violate intellectual property rights into commercial channels within their jurisdiction. This order may take effect immediately after customs clearance or before the goods are exported.

Unfair competition cases shall be processed through summary proceedings, in accordance with Article 17 of the Competition Promotion and Effective Consumer Protection Act No. 7472 (December 20, 1994).

Article 38bis Civil Remedies

Civil remedies including but not limited to provisional measures, compensation for damages as provided in Articles 40 and 40 bis, payment of legal costs and fees, and the destruction of implements and products related to infringing activities shall be available to any person harmed by the acts described in this Law or by any infringement of intellectual property rights. This includes individuals with an interest in encrypted programming signals or their content in cases of infringement as outlined in Articles 61 and 61 bis.

For the purposes of Articles 62, 62 bis, and 63 of this Law, compensatory damages shall not be awarded against libraries, archives, educational institutions, or non-commercial, non-profit public broadcasting organizations that can demonstrate that they were unaware and had no reason to believe that their actions

constituted prohibited activity.

Article 38ter Compensation to the other party

The judicial authority may order a party at whose request measures have been taken and who has abused the enforcement process to adequately compensate the party on whom an obligation or restriction has been wrongfully imposed for the harm suffered as a result of such abuse. The judicial authorities shall also be empowered to order the plaintiff to pay the defendant's costs, which may include appropriate attorneys' fees.

Article 39 Evidence under the control of the opposing party

In summary proceedings or cases of unfair competition, when a party has identified relevant evidence to substantiate its allegations and this evidence is under the control of the opposing party, the judge shall have the authority to order its production. If appropriate, such evidence shall be submitted, provided that the protection of undisclosed information is ensured.

Regarding process patents, unless proven otherwise, any identical product produced without the patent holder's consent shall be presumed to have been obtained through the patented process, provided that the product resulting from the patented process is new.

Additionally, the judge may order the alleged infringer to disclose any relevant information in their possession concerning individuals involved in any aspect of the infringement, as well as details regarding the means of production or distribution channels for the infringing products or services. This includes identifying third parties involved in their production and distribution and specifying their distribution networks. Such information must be made available to the holder while respecting applicable constitutional principles. However, any information deemed by the judge to be intimate or sensitive, and irrelevant to resolving the litigation, shall not be disclosed.

Article 40 Criteria for determining damages

Damages resulting from civil and criminal violations of this Law shall be determined by the judge and may be based on an expert opinion.

The resolution by which the case is finalized must order the infringer to pay the rights holder the following:

(a) Adequate compensation to compensate for the damage suffered as a result of the infringement, including but not limited to the benefits the owner would have obtained had the infringement not occurred.

(b) The offender's profits attributable to the infringement and which have not been considered when calculating the amount of damages referred to in paragraph a) above.

When determining damages for infringement of intellectual property rights, judicial authorities must consider, among other elements, the value of the good or service subject to the infringement, based on the suggested retail price or other legitimate measure of value presented by the right holder.

Article 40bis Predetermined compensation

As an alternative to damages suffered and at the request of the rights holder, in civil judicial proceedings relating to infringements of copyright and related rights, or counterfeiting of trademarks and other distinctive signs, the judge, after hearing the defendant, in accordance with due process, may use predetermined compensation. When the judge decides to apply predetermined compensation, weighing criteria of equity and proportionality, he or she must use the following parameters of minimum and maximum amounts for determining damages, provided that the amounts assigned are sufficient to compensate the rights holder for the damage caused by the infringement and serve to deter future infringements:

(a) In the case of infringements of copyright and related rights:

(i) From one to fifty base salaries, for all infringements involved in the action, with respect to a protected work, performance or phonogram, as the case may be.

(ii) From fifty to three hundred base salaries, for all the infringements involved in the action, with respect to a protected work, interpretation or performance or phonogram, as the case may be, when the owner of the right demonstrates, to the satisfaction of the judge, that the defendant committed the infringement intentionally.

(iii) From half to twenty-five base salaries, for all infringements involved in the action, with respect to a protected work, performance or phonogram, as the case may be, when the alleged infringer demonstrates, to the satisfaction of the judge, that he had no knowledge or reason to believe that his acts constituted an infringement of copyright or related rights.

The judge may exempt the infringer from payment of damages, in any case, if the infringer believes and has sufficient grounds to consider that the use made of the protected work constituted an exception permitted by the Copyright and Related Rights Act, Act No. 6683, of October 14, 1982, provided that the infringer is:

(i) An employee or agent of a nonprofit educational institution, library, or archive, acting in the course of his or her duties, has committed the infringement by reproducing the work in copies or phonograms.

(ii) A non-commercial, non-profit public broadcasting organization, or a person who, as part of the regular non-profit activities of a non-commercial, non-profit public broadcasting organization, has committed the infringement by performing a published non-dramatic literary work, excluding cinematographic works, or by reproducing a broadcast program incorporating the performance of such a work.

(b) In the case of counterfeiting of trademarks and other distinctive signs, from three to three hundred base salaries for each counterfeit trademark."

(Note from Sinalevi : Regarding this article, transitory provision I of Law No. 8656 of July 18, 2008, establishes: ". It grants the Judiciary a period of two (2) years, from the publication of this law, for the implementation of the parameters of minimum and maximum amounts for the determination of damages established in article 40 bis of the Law of procedures for the enforcement of intellectual property rights, No. 8039, of October 12, 2000")

Article 41 Confiscation and destruction of goods in civil judgment

At the request of a party or ex officio, the judicial authority may order, either through an interlocutory decision or final judgment, the confiscation of allegedly infringing goods and any materials or implements related to the claim. In cases of trademark counterfeiting, documentary evidence relevant to the infringement shall also be included. The destruction of goods determined to be counterfeit or pirated may only be ordered by judgment.

Judicial authorities may mandate the prompt destruction of materials and implements used in the manufacture or creation of pirated or counterfeit goods without compensation. In exceptional circumstances, these items may be disposed of outside commercial channels without compensation in a manner that minimizes the risk of future infringements. When considering requests for destruction, judicial authorities shall take into account various factors,

including the seriousness of the infringement and the interests of third parties who hold real rights, possessory rights, or a contractual or secured interest.

Pursuant to the preceding paragraph, the Court may order that materials and implements, which could be used for legitimate purposes but were involved in the manufacture or creation of pirated or counterfeit goods, be donated to charity for use outside commercial channels in exceptional circumstances and without compensation, thereby reducing the risk of future infringements. The judicial authority may not authorize the donation of goods bearing counterfeit trademarks or goods that infringe copyright and related rights to social welfare programs without the rights holder's approval. However, in appropriate circumstances, counterfeit trademarked goods may be donated for charitable purposes for use outside commercial channels, provided that the removal of the trademark eliminates the infringing characteristics and renders the goods unidentifiable with the removed trademark. In no case shall the mere removal of the illegally affixed trademark be sufficient to permit the goods' entry into commercial channels.

SECTION II Criminal proceedings

Article 42 Provisional measures in criminal proceedings

In addition to the Provisional measures governed by the Code of Criminal Procedure, the Provisional measures mentioned in this Law shall apply in criminal proceedings, to the extent they are compatible.

Article 43 Criminal Action

The common criminal procedural regime shall govern proceedings relating to the offenses referred to in this Law, the action for which shall be public at the request of a private individual. Any decision on criminal action shall not affect the right to pursue civil action before the corresponding Courts, without prejudice to the provisions of Article 164 of the Code of Civil Procedure. However, authorities may conduct investigations or take other enforcement measures ex officio, without the need for a formal complaint from a private individual or rights holder, for the purpose of preserving evidence and preventing the continuation of the infringing activity.

CHAPTER V Criminal Offenses

SECTION I Crimes against intellectual property rights arising from trademarks and distinctive signs

Article 44 Trademark counterfeiting

Anyone who counterfeits a registered trademark or distinctive sign in such a way as to damage the exclusive rights conferred by the registration of the trademark or distinctive sign shall be punished as follows:

- (a) With a fine of five to twenty base salaries, when the value of the genuine products subject to the infringement does not exceed five base salaries.
 - (b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the value of the genuine products subject to the infringement is greater than five base salaries and does not exceed twenty base salaries.
 - (c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the value of the genuine products subject to the infringement is greater than twenty base salaries and does not exceed fifty base salaries.
 - (d) With three to five years of imprisonment or a fine of two hundred to five hundred base salaries, when the value of the genuine products subject to the infringement exceeds fifty base salaries.
- For the purposes of this article and its interpretation, as well as for subsequent articles that also refer to registered trademarks or distinctive signs, the concepts contained in the LAW ON TRADEMARKS AND OTHER DISTINCTIVE SIGNS, No. 7978, of January 6, 2000, shall be used.

Article 45 Sale, storage, and distribution of fraudulent products

Anyone who sells, offers for sale, stores, distributes, deposits, imports, or exports fraudulent products, including their packaging, containers, or wrapping, that contain or incorporate a registered trademark, in such a way as to harm the exclusive rights conferred by the registration of the trademark or distinctive sign, shall be sanctioned as follows:

- (a) With a fine of five to twenty base salaries, when the value of the genuine products subject to the infringement does not exceed five base salaries.
- (b) With six months to two years ~~of~~²⁹ imprisonment or a fine of twenty

to eighty base salaries, when the value of the genuine products subject to the infringement is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the value of the genuine products subject to the infringement is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of imprisonment or a fine of two hundred to five hundred base salaries, when the value of the genuine products subject to the infringement exceeds fifty base salaries.

Article 46 Sale, acquisition, and offering of designs or copies identical to an already registered trademark

Anyone who sells, offers for sale, or acquires designs or copies of trademarks identical to a registered trademark, separately from the products for which they are intended, in such a way as to harm the exclusive rights conferred by the registration of the trademark or registered distinctive sign, shall be sanctioned as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 47 Fraudulent identification as a distributor

Anyone who identifies themselves in the market as an authorized distributor of a specific company whose trade name is registered, without actually being one, in such a way as to harm the exclusive rights conferred by the registration of the duly registered trade name, shall be sanctioned as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 48 Fraudulent use of indications or designations of origin

Anyone who uses or revokes geographical indications or designations of origin that are likely to mislead the public about the origin, identity, or manufacturer or trader of a product, in such a way as to cause harm to intellectual property rights arising from the use, identification, and enjoyment of an indication or designation of origin, shall be sanctioned as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

SECTION III Crimes against copyright and related rights

Article 51 Public performance, communication or making available to the public, without authorization, of literary or artistic works

Whoever represents or communicates to the public protected literary or artistic works, directly or indirectly, whether by wire or wireless means, including making their works available to the public, in such a way that members of the public may access these works from the place and at the time they choose, without authorization from the author, the owner or the representative of the right, shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of imprisonment or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 52 Communication or making available to the public of phonograms, performances, interpretations, or broadcasts without authorization

Whoever communicates to the public, whether by wire or wireless means, phonograms, performances, interpretations, or broadcasts, including satellite broadcasts, protected by the Copyright and Related Rights Law No. 6683 of October 14, 1982, as amended, or whoever makes such phonograms, performances, interpretations, or broadcasts available to the public in such a manner that members of the public may access these works from a place and at a time of their choice, without authorization from the author, the owner, or the representative of the right, shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) Imprisonment of six months to two years or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) Imprisonment of one to four years or a fine of eighty to two

hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With imprisonment of three to five years or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 53 Registration of another's copyright

Anyone who registers as their own, in the National Registry of Copyright and Related Rights, literary or artistic works, phonograms, performances or executions, whether fixed or not, or broadcasts, including satellite broadcasts, protected by the Copyright and Related Rights Law No. 6683 of October 14, 1982, and its amendments, if they are another person's rights, shall be punished with imprisonment of one to five years or fines of five to five hundred base salaries.

Article 54 Unauthorized reproduction of literary or artistic works or phonograms

Anyone who fixes and reproduces protected literary or artistic works or phonograms without authorization from the author, owner, or representative of the rights shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

The non-profit reproduction of literary or artistic works or phonograms shall not be punishable to the extent required to fulfill illustrative teaching purposes, provided that such reproduction conforms to proper uses and the source and the name of the author are mentioned, if this name appears on the source.

Article 55 Fixation, reproduction, and transmission of protected performances and interpretations

Anyone who fixes, reproduces, or transmits protected performances or

interpretations without authorization from the author, owner, or representative of the rights shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

The same penalty shall apply to anyone who records, reproduces, or retransmits protected broadcasts, including satellite broadcasts, without authorization from the author, owner, or representative of the rights, in such a way that harm may result.

Article 56 Printing of a work in excess of the number of copies.

Any publisher or printer who reproduces a number of copies greater than the number agreed upon with the author, owner, or representative of the rights, in such a way that damage may result, shall be penalized as follows:

(a) With a fine of five to twenty base salaries, when the value of the copies reproduced without authorization does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the value of the copies reproduced without authorization is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the value of the copies reproduced without authorization is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of imprisonment or a fine of two hundred to five hundred base salaries, when the value of the copies reproduced without authorization exceeds fifty base salaries.

Article 57 Publication of another's works as one's own

Anyone who publishes, as one's own or as another author's, protected works of another author whose title has been changed or removed, or

whose text has been altered, shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 58 Unauthorized adaptation, translation, modification, and compendium of literary or artistic works

Anyone who adapts, transforms, translates, modifies, or compiles protected literary or artistic works without the authorization of the author, rights holder, or their representative resulting in potential harm shall be subject to a penalty of one to five years' imprisonment or a fine ranging from five to five hundred base salaries.

However, the use of literary or artistic works shall not be punishable when required for illustrative teaching purposes through publications, radio broadcasts, or sound and visual recordings. Such use must comply with proper practices, and the source and author's name must be credited, provided the name appears in the source.

Article 59 Sale, offering, storage, deposit and distribution of fraudulent copies

Whoever sells, offers for sale, stores, distributes, keeps in deposit, imports or exports fraudulent copies of a literary or artistic work, or phonogram, in such a way that the rights conferred on the owner by the Copyright and Related Rights Law, No. 6683, of October 14, 1982, and its amendments, shall be sanctioned as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of prison or a fine of eighty to two

hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries .

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 60 Leasing of literary or artistic works, or phonograms, without authorization from the author or representative

Anyone who rents or leases literary or artistic works, or phonograms, without authorization from the author, the owner, or the representative of the rights, shall be punished as follows:

(a) With a fine of five to twenty base salaries, when the amount of the damage does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries, when the amount of the damage is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the amount of the damage is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the amount of the damage exceeds fifty base salaries.

Article 61 Manufacturing, assembly, modification, import, export, sale, leasing or distribution, by other means, of decoding devices or mechanisms

Whoever manufactures, assembles, modifies, imports, exports, sells, leases or distributes, by other means, a tangible or intangible device or system, knowing or having reason to know that the device or system primarily serves to decode an encoded satellite signal carrying programs, without authorization from the legitimate distributor of said signal, shall be punished with one to five years in prison or a fine of five to five hundred base salaries.

Article 61bis Reception and distribution of encrypted satellite signals carrying programs

Anyone who receives and distributes a program-carrying signal originating as an encrypted satellite signal, knowing that it has been decoded without the authorization of the legitimate distributor of the signal, shall be sanctioned as follows:

(a) With a fine of five to twenty base salaries, when the value of

the authorization of the legitimate distributor of the signal does not exceed five base salaries.

(b) With six months to two years of imprisonment or a fine of twenty to eighty base salaries when the value of the authorization of the legitimate distributor of the signal is greater than five base salaries and does not exceed twenty base salaries.

(c) With one to four years of imprisonment or a fine of eighty to two hundred base salaries, when the value of the authorization of the legitimate distributor of the signal is greater than twenty base salaries and does not exceed fifty base salaries.

(d) With three to five years of prison or a fine of two hundred to five hundred base salaries, when the value of the authorization of the legitimate distributor of the signal exceeds fifty base salaries.

Article 62 Alteration, evasion, suppression, modification or deterioration of effective technological measures against the reproduction, access or making available to the public of works, interpretations or performances, or phonograms

Anyone who alters, evades, suppresses, modifies, or degrades effective technological measures designed to control access to works, performances, phonograms, or other protected subject matter shall be subject to a penalty of one to five years' imprisonment or a fine ranging from five to five hundred base salaries.

No criminal penalties shall apply to such conduct when performed by officials of libraries, archives, educational institutions, or non-commercial, nonprofit public broadcasting organizations in the course of their official duties.

Any act described in the first paragraph shall constitute a separate civil offense, independent of any violation under the Copyright and Related Rights Act.

Only the following activities shall not be punishable, provided they do not undermine the adequacy of legal protections or the effectiveness of legal remedies against the circumvention of effective technological measures:

(a) Non-infringing reverse engineering activities with respect to a lawfully obtained copy of a computer program, with respect to particular elements of that computer program that have not been available to the person engaged in those activities, for the sole purpose of achieving interoperability of a computer program computing independently with other programs.

(b) Bona fide non-infringing activities undertaken by a duly qualified researcher who has lawfully obtained a copy, performance, or sample of an unfixed work, performance, or phonogram and who has made an effort to obtain authorization to engage in such activities, to the extent necessary and for the sole purpose of identifying and analyzing flaws and vulnerabilities in technologies for encoding and decoding information.

(c) The inclusion of a component or part, for the sole purpose of preventing minors from accessing inappropriate online content, of a technology, product, service, or device that is not itself prohibited.

(d) Bona fide, non-infringing activities authorized by the owner of a computer, computer system, or network, performed for the sole purpose of testing, investigating, or correcting the security of that computer, computer system, or network.

(e) Access by officials of a nonprofit library, archive, or educational institution to a work, performance, or phonogram to which they would not otherwise have access, for the sole purpose of making acquisition decisions.

(f) Non-infringing activities, for the sole purpose of identifying and disabling the ability to compile or disseminate undisclosed personally identifiable information reflecting a natural person's online activities, in a manner that does not otherwise affect any person's ability to gain access to any work.

(g) Legally authorized activities carried out by government employees, agents, or contractors to implement the law, fulfill intelligence functions, national defense, essential security, or similar governmental purposes.

Article 62bis Manufacturing, importing, distributing, offering or trafficking in devices, products, components or services for the evasion of effective technological measures against communication, reproduction, access, making available to the public or publication of works, interpretations or performances or phonograms

Anyone who manufactures, imports, distributes, offers to the public, provide or otherwise traffic devices, products or components, or offer to the public or provide services, which:

(i) Be promoted, advertised or marketed for the purpose of evading an effective technological measure.

(ii) Be designed, produced or executed primarily for the purpose of enabling or facilitating the evasion of an effective technological

measure.

The penalty will also apply to anyone who manufactures, imports, distributes, offers to the public, provides or otherwise traffics devices, products, components or offers to the public or provides services that have only a limited purpose or use of commercial importance other than evading an effective technological measure. No criminal penalty will be imposed for the aforementioned conduct when carried out by officials of non-profit libraries, archives, educational institutions, or non-profit public broadcasting organizations in the exercise of their functions.

With respect to products, services, or devices that circumvent effective technological measures protecting any of the exclusive copyright or related rights in a work, performance, or phonogram, only the following activities shall not be punishable, provided that they do not affect the adequacy of legal protection or the effectiveness of legal remedies against the circumvention of effective technological measures:

(a) Non-infringing reverse engineering activities, with respect to a lawfully obtained copy of a computer program, carried out in good faith with respect to particular elements of that computer program that have not been previously available to the person engaging in such activities, for the sole purpose of achieving interoperability of an independently created computer program with other programs.

(b) Legally authorized activities carried out by officials, agents, or contractors of the Public Administration or the Public Sector to implement the law, fulfill intelligence functions, essential security, or similar governmental purposes.

With respect to products, services, or devices that circumvent effective technological measures that control access to a protected work, performance, or phonogram, only the following activities shall not be punishable, provided that they do not affect the adequacy of legal protection or the effectiveness of legal remedies against the evasion of effective technological measures:

(i) Non-infringing reverse engineering activities, with respect to a legally obtained copy of a computer program, carried out in good faith with respect to the particular elements of said computer programs that have not been made available to the person involved in those activities, for the sole purpose of achieving interoperability of an independently created computer program with other programs.

(ii) Legally authorized activities carried out by officials, agents, or contractors of the Public Administration or the Public Sector to

implement the law, fulfill intelligence functions, essential security, or similar governmental purposes.

(iii) Non-infringing, bona fide activities undertaken by a duly qualified researcher who has lawfully obtained a copy, performance, or sample of an unfixed work, performance, or phonogram, and who has made a good faith effort to obtain authorization to engage in such activities, to the extent necessary, and for the sole purpose of identifying and analyzing flaws and vulnerabilities in technologies for encoding and decoding information.

(iv) The inclusion of a component or part, for the sole purpose of preventing minors from accessing inappropriate online content, in a technology, product, service, or device that is not, in and of itself, prohibited by this section.

(v) Bona fide non-infringing activities authorized by the owner of a computer, computer system, or network, performed for the sole purpose of testing, investigating, or correcting the security of that computer, computer system, or network.

(Note from Sin Alevi : Regarding this article, transitory article II of Law No. 8656 of July 18, 2008, provides that: ".the provisions incorporated in article 62 bis of the law on procedures for the enforcement of intellectual property rights, No. 8039, of October 12, 2000, will enter into force one (1) year after the publication of this law.)

Article 63 Alteration, distribution, importation, transmission, or communication of rights management information

Anyone who, without authorization, commits the following shall be punished with imprisonment of one to five years or a fine of five to five hundred base salaries:

(a) Delete or alter any rights management information.

(b) Distribute or import for distribution rights management information, knowing that such information has been removed or altered without authorization.

(c) Distribute, import for distribution, transmit, communicate or make available to the public copies of works, performances, executions or phonograms, knowing that the rights management information has been removed or altered without authorization.

No penalty will be imposed for the aforementioned conduct when carried out by officials of non-profit libraries, archives, and educational institutions or by non-commercial, non-profit public broadcasting organizations.

(Note: from Sin Alevi: With respect to the previous paragraph, transitory III of Law No. 8656 of July 18, 2007, provides that: the provisions incorporated in the second paragraph of Article 63 of the Law on Procedures for Enforcement of Intellectual Property Rights, No. 8039, of October 12, 2000, will enter into force one (1) year after the publication of the law)

Nor will legally authorized activities carried out by officials, agents or contractors of the Public Administration or the Public Sector be punishable, in order to implement the law, fulfill intelligence functions, national defense, essential security or similar governmental purposes.

**SECTION V Crimes against rights over layout designs (topographies)
of integrated circuits**

**Article 69 Violation of rights derived from an original layout
design (topography) of integrated circuits**

Anyone who reproduces, exploits, sells, offers for sale, stores, distributes, imports, or exports fraudulent copies, or incorporates an integrated circuit containing an illicitly reproduced layout design in such a way as to harm the rights derived from an original layout design (topography) or any of its parts, shall be punished with imprisonment of one to three years.

For the purposes of this article and its interpretation, the concepts of integrated circuit and layout design, as set forth in the Law on the Protection of Integrated Circuit Layout Systems, No. 7961, of December 17, 1999, shall be used.

SECTION VI Provisions common to all criminal types of this chapter

Article 70 Application criteria

For any of the articles contained in Chapter V of this Law, criminal sanctions shall apply at least to cases of trademark counterfeiting or piracy harmful to copyright or related rights, import or export of counterfeit or pirated products, on a commercial scale. Piracy harmful to copyright or related rights, on a commercial scale, includes significant infringement of copyright and related rights, for the purpose of obtaining a commercial advantage or private economic gain, as well as infringement that is not directly or indirectly motivated by economic gain, provided that it causes economic damage greater than half of a base salary.

Article 70bis Assessment criteria.

The amount of the damages contained in articles 46 to 48 of chapter V of this Law shall be determined using the value of the genuine products that are the subject of the infringement or the value of the authorization, as appropriate.

The amount of the damage contained in articles 51, 52, 54, 55, 57, 59 and 60 of chapter V of this Law shall be determined using the following elements, as the case may be:

(a) The retail price for each original work, performance, or phonogram infringed, multiplied by the total number of infringing copies of the work, performance, or phonogram.

(b) The license fee applicable to the public performance, communication to the public, making available, fixation, reproduction, or transmission of the work, performance, or phonogram, as set by the collective management societies.

In determining the amount of damages, the Court shall also consider any other legitimate measure of the value of the original works, performances, or phonograms that is presented, including licensing fees established for comparable works, performances, or phonograms.

Article 71 Confiscation and destruction of goods ordered in a criminal judgment

At the request of a party or ex officio, the judges of the Republic may order, interlocutory or in the criminal judgment of conviction, the following:

(a) The seizure of suspected counterfeit or pirated goods, all materials and accessories used in the commission of the crime, all

assets related to the infringing activity, and all relevant evidence of the crime. The materials subject to seizure in the warrant do not need to be individually identified, as long as they fall into the general categories specified in the warrant.

(b) The confiscation of all assets related to the infringing activity.

(c) The seizure of all counterfeit or pirated merchandise, without any compensation to the defendant, in order to prevent its entry into commercial channels.

(d) Regarding piracy that infringes copyright or related rights, the confiscation of the materials and implements used in the creation of the infringing merchandise.

Likewise, the judicial authority may order, in a criminal judgment, the destruction of illegal or pirated counterfeit goods, as well as the destruction of materials, accessories, and implements used in the commission of the crime.

CHAPTER VI Final provisions

Article 72 Additions

(a) A new final paragraph is added to article 95 of the Copyright Law and related rights. No. 6683, of October 14, 1982. The text shall read:

"Article 95 -

(...)

In addition to the functions established in this Law, the National Registry of Copyright and Related Rights, in the person of its Director, may order Provisional measures under the terms and conditions established in the Law on procedures for the enforcement of intellectual property rights."

(b) A new paragraph is added to article 95 of the Law on trademarks and other signs, distinctive signs. No. 7978, of January 6, 2000.

The text will read as follows:

"Article 95-

(...)

In addition to the functions established in this Law, the Industrial Property Registry, represented by its Director, may order Provisional measures under the terms and conditions established in the Law on Procedures for Enforcement of Intellectual Property Rights."

Article 73 Repeals

The following provisions are hereby repealed:

(a) Articles 117 to 120, 122 and 124, 126 to 131, and 133 to 146 of the Copyright and Related Rights Act, No. 6683 of 14 October 1982.

(b) Articles 36, 37, and 38 of the Law on Patents, Industrial Designs, and Utility Models, No. 6867, of April 25, 1983.

(c) Sections (a) and (c) of Article 1 of the Law establishing the Third Section of the Contentious-Administrative Court, No. 7274, of December 10, 1991, regarding the registries that make up the National Registry.

Article 74 Regulations

The Executive Branch shall regulate this Law within six months of its publication.

Transitory I

The processes pending resolution and those initiated during the transition period from the entry into force of this Law until the constitution and exercise of the Administrative Registry Court, will be heard, until their completion, by the Third Section of the Superior Contentious-Administrative Court, created by Law No. 7274, of December 10, 1991.

Transitory II

The Executive Branch is hereby granted a period of one year from the publication of this Law for the establishment and operation of the Administrative Registry Court.

Transitory III

The Administrative Registry Court created by this Law may acquire the goods and services necessary to operate, which may be financed through the operating surplus of the National Registry budget. It is effective from the date of its publication. Presidency of the Republic.-San José, on the twelfth day of the month of October of the year two thousand.