

Enforcing Intellectual Property Rights in the Philippines: A Private Affair

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Today, intellectual property (IP) rights are undeniably private in nature. Enforcing such rights is the sole prerogative of the holder of the rights, and of nobody else. Thus, the government, through the Intellectual Property Office of the Philippines, cannot enforce IP rights *motu proprio*. After all, for the entire government mechanism to start working in the enforcement of IP rights, a complaint or an information must be instituted by the rights holder.

However, at the same time, it can also be said that the government is not totally powerless to go after infringers of IP rights, despite the private nature of such rights. Where the object of the IP rights involves matters of public health and safety, such as food and drugs, then mechanisms afforded by law to several government agencies can be availed of. The interests of upholding the IP rights are incidentally promoted while the functions of these agencies are fulfilled.

The Article expounds on the private nature of IP. It starts with a discussion of the TRIPS Agreement, the treaty evincing the private nature of IP rights. It then follows with procedural manifestations of this private nature, both judicially and administratively. The Article then discusses further the different implications of such private nature. Lastly, it concludes by discussing the various other laws that relate to IP rights, such as the different charters of relevant government agencies, and, most especially, the 1987 Philippine Constitution.