

**RULES AND REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 9239, OTHERWISE
KNOWN AS THE “ OPTICAL MEDIA ACT OF 2003.”**

Whereas, it is the declared policy of the State to ensure the protection and promotion of intellectual property rights.

Whereas, the unregulated mastering, manufacturing, replication, importation, and exportation of optical media in all forms are inimical to economic growth and public interest.

Whereas, there is a need for the State to institute the means to regulate the manufacture, mastering, replication, importation and exportation of optical media.

NOW, THEREFORE, pursuant to Section 34 of Republic Act No. 9239, the following rules and regulations are hereby promulgated:

**Title I – General Provisions
Rule 1-Title**

Section 1. Title. - These Rules shall be referred to as the Implementing Rules and Regulations of the Optical Media Act of 2003.

Rule 2 – Definition of Terms

Section 1. Definitions. - As used in these Rules, the following terms shall mean:

- (a) Act - Republic Act 9239 or the Optical Media Act of 2003;
- (b) Acquisition - the act of acquiring or procuring manufacturing equipment; parts and accessories, and manufacturing materials used or intended for use in the mastering, manufacture or replication of optical media;
- (c) Duplication – the act or business of reproducing analog or digital content in any recordable media through the use of optical or magnetic process, or any technical variation thereof, now known or to be known in the future. The term shall include “burning.” Duplication in these rules shall refer to duplication for commercial purposes.
- (d) Economic Zone – the Special Economic Zones, Industrial Estates, Export Processing Zones and Free Trade Zones as defined in Republic Act No. 7916 or the PEZA Law including the Clark Special Economic Zone, the Cagayan Special Economic Zone, the Zamboanga City Special Economic Zone, the Subic Bay Freeport and other economic zones now in existence in the Philippines or as may be established in the future;
- (e) Exportation – the act or business of bringing out of the country optical media, manufacturing equipment; parts and accessories and manufacturing materials used or intended for use in the mastering, manufacture, or replication of optical media;
- (f) Importation - the act or business of bringing into the country optical media, manufacturing equipment; parts and accessories and manufacturing materials used or intended for use in the mastering, manufacture, or replication of optical media;
- (g) IP Code – Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines.
- (h) License – the authority granted by the Optical Media Board (OMB) to persons, establishments or entities registered with the OMB to engage in the businesses or activities enumerated in Section 1, Rule 1, Title II of these Rules. For the purposes of these rules, license shall also mean commercial license;
- (i) Magnetic Media – a storage medium or device characterized by a base, usually plastic, coated with ferric oxide powder, in which visual and/or aural information, or software code, may be recorded or stored, including, but not limited to, magnetic tapes, cassettes, video

tapes, diskettes and floppy discs or any technical variation thereof as may be determined by the Board;

- (j) Manufacture – the act or business of producing optical media or devices containing sounds and/or images, or software code, including any work protected in Part IV of the IP Code, by mastering and/or replication. In relation to equipment, “manufacture” shall refer to the assembly or integration of various components into any equipment useful for the mastering, manufacture and/or replication of optical media;
- (k) Manufacturing Equipment – any and all equipment, machine, device, including parts and accessories thereof, now known or to be known in the future, intended or designed for the production or manufacture, mastering and/or replication of optical media, optical media masters, or production parts thereof, including but not limited to those listed in Schedule “A” of these Rules, or such others, as may be determined by the Board. For purposes of these Rules, optical disc writers and other blank media burners or any technical variation thereof, found or installed in personal computers, but not used for commercial purposes, shall not be considered manufacturing equipment.
- (l) Manufacturing Material – any material such as, but not limited to, those listed in Schedule “B” suitable for the manufacture of optical media;
- (m) Mastering – the act or business of producing a stamper made of glass, metal or other material, intended for the manufacture of optical media;
- (n) Optical Media – a storage medium or device in which information, including sounds and or images or software code, has been stored, either by mastering and/or replication, which may be accessed and read using a lens scanning mechanism employing a high intensity light source such as laser or any such other means as may be developed in the future. The term shall include, but not be limited to those listed in Schedule “C”;
- (o) OMB – the Optical Media Board;
- (p) Replication – the process of manufacturing optical media by reproducing or generating copies of the stamper in an injection molding machine or other forms of replicating equipment.
- (q) Source Identification Code or SID Code – a system of codes to identify the source of all optical media mastered, manufactured, or replicated by any establishment or entity.

Rule 3- Coverage

Section 1. Coverage. - The authority of the OMB shall cover the entire territory of the Republic of the Philippines including the economic zones as defined in these Rules and in R.A. 7916.

Title II - LICENSING AND REGULATION

Rule 1 – Registration

Section 1. Registration. - Any person, establishment or entity shall, prior to engaging in one or more of the businesses or activities enumerated hereunder, register with the OMB:

- (a) Importation, exportation, or acquisition of optical media;
- (b) Importation, exportation, acquisition, sale or distribution of manufacturing equipment, parts and accessories and manufacturing materials used or intended for use in the mastering, manufacture or replication of optical media;
- (c) Possession or operation of manufacturing equipment, parts and accessories;
- (d) Possession, acquisition, sale or use of manufacturing materials for the mastering, manufacture or replication of optical media;

- (e) The mastering, manufacture or replication of optical media; and
- (f) Offering to the public with intent to profit the use of optical disc writers and re-writers.

Section 2. Registration Fee. - Any person, establishment or entity applying for registration shall fill up the prescribed form and pay the corresponding registration fee which shall be fixed by the OMB.

Section 3. Effectivity and Lapse of Registration. - The registration shall be valid and effective for as long as the registrant shall apply for and continue to renew his license and shall lapse after one year from his failure to renew the same.

Rule 2 - Licensing

Section 1. Licensing. – Apart from the registration with the OMB, as required in the preceding Rule, any person, establishment or entity shall, prior to engaging in one or more of the businesses or activities enumerated in the preceding Rule, secure the appropriate commercial license or licenses from the OMB.

Section 2. Licensing Regarding Optical Media. - Every application for importation, exportation, or acquisition, of optical media, or for the mastering, manufacture or replication of optical media, shall include the following, and such other information, as the OMB may require:

- (a) In the case of audio content, the title of the album, the names of the featured recording artists and the title of each work recorded;
- (b) In the case of computer or entertainment software, the name of the software program and the name of the software publisher;
- (c) In the case of audio-visual content, the main title of the work and of each audio-visual work;
- (d) In the case of other works, such as literary or other multimedia works, the title of the work and the name of the publisher;
- (e) Any Source Identification Code (SID Code) that appears on each optical media;
- (f) Name and address of the consignor, and, if different, name and address of the seller;
- (g) Name and address of the consignee, and if different, name and address of the purchaser;
- (h) Total quantity of each title in optical media to be exported;
- (i) Total quantity of each production part title to be imported or exported; and
- (j) Estimated date of import or export.

Section 3. Licensing Regarding Manufacturing Equipment. - Every application for the importation, exportation, acquisition, sale, distribution, possession or operation of manufacturing equipment, parts and accessories, used or intended for use in the mastering, manufacture or replication of optical media, shall include the following, and such other information, as the OMB may require:

- (a) Make, model and serial number, if applicable, and description of the equipment;
- (b) Quantity of each piece of equipment to be imported or exported;
- (c) If the equipment is a mould, a signal processor or a laser beam recorder,
 - (i) whether each such piece of equipment has been modified to apply a SID Code, and

(ii) if so, the SID Code that each such piece of equipment has been modified to apply.

- (d) Name and address of the consignor, and, if different, name and address of the seller;
- (e) Name and address of the consignee, and if different, name and address of the purchaser; and
- (f) Estimated date of import or export.

Section 4. Licensing Regarding Manufacturing Materials. - Every application for the importation, exportation, acquisition, sale, distribution or possession of manufacturing materials, used or intended to be used for the mastering, manufacture or replication of optical media, shall include the following, and such other information, as the OMB may require:

- (a) Make, product code and description of the manufacturing materials;
- (b) Quantity of the manufacturing materials to be imported;
- (c) Name and address of the consignor, and, if different, name and address of the seller;
- (d) Name and address of the consignee, and, if different, name and address of the purchaser; and
- (e) Estimated date of import or export.

Section 5. Licensing Fee. - The OMB shall issue commercial license or licenses to qualified applicants upon payment of a fee as fixed by the OMB.

Section 6. Surcharges and Penalties. - Surcharges and penalties, as fixed by the OMB, shall be imposed for late renewal of a commercial license.

Section 7. Conditions Precedent. -

- (a) The licenses issued by the OMB for the mastering, manufacture, replication, importation or exportation of optical media are conditions precedent for securing the necessary business permits, licenses or registration from the appropriate authorities.
- (b) The licenses issued by the OMB shall be a necessary condition for the release of any optical media, manufacturing equipment, parts and accessories, and materials intended for use in mastering and/or manufacturing optical media, from customs or economic zones exercising independent customs laws.

Section 8. Form and Term of Commercial License. - Every license shall be in a form prescribed by the OMB and shall be valid for a period of not more than three (3) years, and subject to such conditions and requirements as the OMB may impose.

Section 9. Automatic Cancellation of permits, license or registration. - Failure to register and obtain a license from the OMB shall automatically cancel any permit, license or registration issued by any national or local government unit, agency or office.

Section 10. Amendment of Commercial License. - Upon meritorious grounds, the OMB may amend a license upon application made by the license holder in accordance with the Act or these Rules.

Section 11. General Terms and Conditions of a Commercial License. - Every license issued by the OMB shall, where applicable, be subject to the following terms and conditions:

- (a) The license holder undertakes that he shall comply with all requirements imposed by the OMB pursuant to the Act and these Rules;

- (b) The license holder undertakes that he shall keep and maintain for a period of at least five (5) years true and complete records of all activities related to the conduct of its business and produce such records and samples of optical media from each mastering, manufacturing or replicating, as well as duplicating line, as required by the OMB;
- (c) The license holder undertakes that he shall voluntarily allow inspection of his business premises at any time, with or without prior notice;
- (d) The license holder represents that he or, in the case of juridical persons, any of its officers, directors, managers, shareholders, or partners, has not been convicted by final judgment of any offense punishable under the Act, these Rules or any law relating to the protection of intellectual property rights;
- (e) The license holder represents that the application does not involve a place, location or premises where an offense punishable under the Act, these Rules or under any law relating to the protection of intellectual property rights has been committed: *Provided*, That the offenders have been finally convicted of such offense;
- (f) The license holder represents that he has not furnished the OMB with any false or misleading information in connection with any application for or renewal of a license.
- (g) The license holder undertakes that he shall not engage in the mastering, manufacture, replication or duplication, sale or distribution of any optical media containing intellectual property, except with authority or consent of the owner thereof, or his duly authorized representative;
- (h) Any violation of any of these General Terms and Conditions shall be a ground for suspension and/or cancellation of the license, and imposition of fines and other penalties, as may be determined by the OMB.

Section 12. Specific Terms and Conditions of Commercial License/s to Master, Manufacture, Replicate or Duplicate Optical Media. – In addition to the terms and conditions provided in the preceding Section, a Commercial License to Master, Manufacture and/or Replicate optical media shall provide that, prior to servicing any job order for the mastering, manufacture, replication or duplication of optical media by any customer with respect to any copyrighted content, the license holder shall verify that said customer is authorized to use said content, by performing steps including, but not limited to the following:

- (a) To require the customer to identify the copyrighted material and other intellectual properties to be used on the optical media ordered, or on any accompanying packaging thereof; and provide documentary evidence of the customer's authority;
- (b) In cases where the customer is unable to provide such documentary evidence, or there are circumstances relating to the order that may reasonably give rise to suspicion that the customer may not have been authorized, to confirm such authority by contacting directly the owners, or their representatives, of the copyrighted material and other intellectual properties to be used on the optical media ordered, or on any accompanying packaging thereof;
- (c) To ensure that the identity of the copyrighted material and other intellectual properties to be used on the optical media ordered, or on any accompanying packaging thereof corresponds with the information supplied by the customer;
- (d) To ensure that the customer's order shall not violate the terms of the authority or license granted to him if and when the license holder performs the mastering, manufacture, replication or duplication.

Rule 3 - Grounds for Non-issuance or Non-renewal of Commercial License

Section 1. Grounds for Non-issuance or Non-renewal of Commercial License. - The OMB may refuse to grant a license, or to renew a license, upon any of the following grounds:

- (a) The applicant has failed to comply with any requirement imposed by the OMB pursuant to the Act and these Rules;
- (b) The applicant or, in the case of juridical persons, any of its officers, directors, managers, shareholders, or partners, is convicted by final judgment of an offense punishable under the Act or any law relating to the protection of intellectual property rights;
- (c) The application involves a place, location or premises where an offense punishable under the Act or under any law relating to the protection of intellectual property rights has been committed: *Provided*, That the offenders have finally been convicted of such offense;
- (d) The applicant has furnished the OMB with any false or misleading information in connection with any application for or renewal of a license; or
- (e) The applicant has been previously issued a license that has been cancelled for cause within the preceding five (5) years from the date of the application.

Section 2. Period to Decide on Applications. - The OMB shall decide whether or not to grant or renew a license within fifteen (15) working days from the filing of the application. An application is considered filed when all requirements for the application have been submitted to the OMB.

Rule 4 - Grounds for Suspension or Cancellation of Commercial License

Section 1. Grounds for Suspension or Cancellation of Commercial License. - The OMB may, *motu proprio* or upon motion of any interested party, after notice and hearing, suspend or cancel a license on any of the following grounds:

- (a) When the license holder has ceased to engage in the activities authorized under the license or in the place, location or premises indicated in the license;
- (b) When the license holder has been convicted of an offense under this Act or under any other law relating to the protection of intellectual property rights;
- (c) When the license holder is in breach of, or is unable to comply with any of the conditions prescribed in the license;
- (d) When any of the grounds enumerated under Section 1, Rule 3, Title II is present.

Section 2. Voluntary Suspension or Cancellation of Commercial License. - The OMB may, *motu proprio*, suspend or cancel a license when requested by the license holder;

Rule 5 - Provisions Common to Licensing and Registration

Section 1. Separate Registration and Licensing. - Those engaged or intending to engage in more than one of the activities enumerated in the preceding sections and/or conduct or intend to conduct business in more than one location shall separately register with and secure the license from the OMB for every business activity at each place of business.

Section 2. Conduct of Business in Different Locations. - No business activity registered with and licensed by the OMB for a specific place of business shall be conducted in any place and/or location other than that indicated in the license, without the prior written approval of the OMB.

Section 3. Display of License. - The registration and license issued by the OMB shall be prominently and conspicuously displayed at the designated place of business.

Section 4. Submission of Information. – To determine the qualifications and fitness of applicants for registration and/or license, OMB shall require the submission of such information, as the OMB may require.

Section 5. New or Change in Information. - The license holder shall, within fifteen (15) working days, inform the OMB in writing of any new information or change in the previously submitted information as required in the preceding section.

Rule 6 – Inspections

Section 1. Inspections. - The OMB shall, on the strength of Inspection Orders duly signed by the Chairman or his duly authorized representative, conduct inspections of commercial or business establishments or entities including those within the economic zones, engaged in the activities enumerated in Section 1, Rule 1, Title II of these Rules, to determine and enforce compliance therewith.

Section 2. Conduct of Inspections. - As and when warranted, said inspections shall be conducted by organic or deputized agents of the OMB or in coordination with other competent agencies of the government, at any time, with or without prior notice to the establishment or entity concerned.

Section 3. Employment of Reasonable Force during Inspections. - The OMB may employ reasonable force during inspections in the event that the responsible person or persons of such establishment or entity sought to be inspected evades, obstructs, or refuses such inspection. For this purpose, the agents of the OMB shall be considered agents of persons in authority;

Rule 7 – Preventive Custody

Section 1. Preventive Custody. - When there is reasonable ground to believe that a violation of the Act or of these Rules has been committed, is being committed or is about to be committed, the OMB shall take into preventive custody all optical media and/or material or equipment, including parts, accessories and paraphernalia subject of such violation for further investigation.

Section 2. Issuance of Receipt. - The OMB personnel or agent taking preventive custody of the properties referred to in the preceding section shall issue a detailed receipt to the owner or holder of said properties.

Section 3. Return of Property. - Properties taken into preventive custody shall be returned to their owner or holder within thirty (30) days from the date of the taking into preventive custody unless appropriate criminal or administrative complaint has been instituted against the persons or entities which appear to be liable for the offense or violation of the Act or these Rules.

Section 4. Due Process. - In appropriate proceedings, the owner or holder of the subject properties shall be afforded ample opportunity to prove to the OMB that said properties are not subject of any offense or violation of the Act or these Rules.

Rule 8 – Reportorial Requirements

Section 1. Keeping of Records. - All persons, establishments and entities engaged in the activities enumerated in Section 1, Rule 1, Title II of these Rules shall keep and maintain for a period of five (5) years true and complete records of all activities related to the conduct of business.

Section 2. Nature of Records relating to Manufacturing Equipment and Manufacturing Materials. – The records referred to in the preceding Section shall include the following, and such other matters, as the OMB may require:

a) Every purchase, lease, sale, disposal or other transaction relating to any manufacturing equipment, the import or export of which requires a license under these Rules, specifying the following:

- (i) make, model and serial number of the equipment;
- (ii) SID Code, if any, which the equipment has been adapted to apply;
- (iii) date and nature of each transaction;
- (iv) name and address of the party with whom the transaction was entered into;
- (v) if the manufacturing equipment had, at any stage, been imported or exported, the license application receipt number in respect of such import or export; and

b) Every purchase, lease, sale, disposal or other transaction relating to any manufacturing materials used in the manufacture of optical media, the import or export of which requires a license under these Rules, specifying the following:

- (i) make, product code or name;
- (ii) date of each transaction;
- (iii) name and address of the party with whom the transaction was entered into;
- (iv) if the manufacturing materials had, at any stage been imported or exported, the license application receipt number in respect of such import or export.

Section 3. Nature of Records relating to Job Orders for the Mastering, Manufacture, Replication or Duplication of Optical Media. – The records referred to in Section 1 shall include the following, and such other matters, as the OMB may require.

Every job order received by the license holder for the manufacture or duplication of optical media, stampers and/or masters shall be evidenced by the following records:

- (a) duplicate originals of Job Orders;
- (b) name and address of each Customer. In case the order is placed by a representative or agent, name and address of the principal;
- (c) job number(s) assigned by the license holder to the order.
- (d) full description of the content of the optical media or production part that has been ordered, specifying:
 - (i) in the case of audio content, the title of the album, the names of the featured recording artists and the title of each work recorded;
 - (ii) in the case of computer or entertainment software, the name of the software program and the name of the software publisher;
 - (iii) in the case of audio-visual content, the title of each audio-visual work; and
 - (iv) in the case of other works, such as literary or other multimedia works, the title of the work and the name of the publisher.
- (e) date the order was fulfilled and the quantity of optical media or stampers and masters supplied in respect of each title.
- (f) address to which the optical media or stampers and masters were consigned, together with copies of all shipping documents.
- (g) information whether the optical media or stampers and masters were exported, and if so, the license application receipt number in respect of such export, unless this is not reasonably obtainable by the license holder.

- (h) copies of all invoices and details of the customer's method of payment, including bank or credit card details, where applicable.
- (i) copies of all documents supplied by the customer to show its authority to make the job order;
- (j) record of all steps taken by the license holder to verify the claim by the customer that he is so authorized.

Every production undertaken by the license holder shall be evidence by the following records:

- (a) job number.
- (b) date of each production run and whether the production was of stampers and masters or manufactured optical media.
- (c) quantity of good copies of each optical disc title produced.
- (d) quantity of reject copies of each optical disc title produced.
- (e) quantity and title of optical media remaining in stock.
- (f) quantity, date of delivery and Source Identification Code or SID Codes of any discs or stampers and masters that were produced by a subcontractor, and the name and address of the subcontractor.
- (g) weight of reject discs produced.
- (h) weight of reject discs disposed of.

Section 4. Production or Submission of Records. - The OMB may, at any time, require, said persons, establishments and entities to cause the production and submission of such records to the OMB.

Section 5. Submission of Samples. - The OMB may, at any time, also require said persons, establishments and entities to submit samples of optical media and other products for forensic examination and investigation.

Title III - SOURCE IDENTIFICATION CODES

Rule 1 - Mandatory Use of SID Codes

Section 1 Adoption of IFPI Codes. - For purposes of these Rules, the OMB hereby adopts the Source Identification Code System devised by Philips Intellectual Property and Standards Office (PIPSO), and administered by the International Federation of the Phonographic Industry (IFPI), or such other acceptable standard as the OMB may, in the future, deem necessary.

Section 2. Mandatory Use of SID Codes in Manufacturing Equipment. - All mastering, stamping, mould equipment and other such devices, as may be determined by the OMB, shall bear, carry or incorporate a Source Identification Code (SID Code) which shall be assigned by the OMB. All persons, establishments or entities who shall import, export, acquire, possess, operate, sell or distribute the same shall comply or ensure compliance herewith.

Section 3. Mandatory Use of SID Codes in Optical Media. -Each and every optical disc, manufactured, mastered or replicated in and/or exported from the Philippines, shall bear the SID Code. All persons, establishments or entities who shall sell, trade, distribute, export or possess, for the purpose of sale, trade, distribution or export, optical discs manufactured, mastered or replicated in the Philippines, shall comply or ensure compliance herewith.

Section 4. SID CODE Specifications. - The specifications for the SID Code shall be as provided in Schedule "D".

Title IV – ADMINISTRATIVE OFFENSES AND PENALTIES

Rule 1- Offenses And Penalties

Section 1. Administrative Sanctions. - Without prejudice to the filing of criminal or civil actions in appropriate cases, the OMB shall file administrative complaints against and impose administrative penalties in the following cases:

- (a) Closure of establishment, confiscation of manufacturing equipment, parts, materials or optical media products and/or a fine of not less than Php 300,000.00, but not more than Php 1,500,000.00, shall be imposed upon any person, establishment or entity who shall commit any of the following:
 - (i) Engage in one or more of the businesses or activities enumerated under Section 1, Rule 1, Title II, without registering with and/or securing a license from the OMB. Provided, that, the conduct of any business activity in any place other than the place or location registered and licensed by the OMB, shall be deemed as engaging in the said business or activity without the necessary registration or license, as the case may be; Provided, further, that any person, establishment or entity who fails to renew an expired license within thirty (30) days from the date of expiration shall be penalized under subsection (j), or
 - (ii) Employ fraud or misrepresentation or otherwise furnish the OMB with any false or misleading information in connection with any registration statement or application for or renewal of a license.
- (b) Closure of establishment, confiscation of manufacturing equipment, parts, materials or optical media products, cancellation or suspension of license and/or a fine of not less than Php 300,000.00, but not more than Php 1,500,000.00, shall be imposed upon any person, establishment or entity who, charged with the obligation to install, affix or adopt the SID Code assigned by the OMB, shall commit any of the following:
 - (i) Fail to comply therewith;
 - (ii) Affix or install false, falsified, imaginary or unauthorized SID or other codes;
 - (iii) Deface, remove, erase, obliterate the SID or other codes on manufacturing equipment, parts or optical media;
 - (iv) Affix or install or appropriate the SID Code, and/or other codes that have been assigned by the OMB to another person;
 - (v) Having been assigned and authorized SID Code by the OMB, allow or authorize another person, establishment or entity to use, affix or install such codes in the latter's manufacturing equipment, parts or optical media products;
- (c) Closure of establishment, confiscation of manufacturing equipment, parts, materials or optical media products, cancellation or suspension of license and/or a fine of not less than Php 300,000.00 but not more than Php 1,500,000.00 shall be imposed upon any person, establishment or entity who, by himself, or through another, cause the duplication, mastering, manufacture or replication of any intellectual property in optical media intended for commercial profit or pecuniary gain without authority or consent of the owner thereof.
- (d) Closure of the establishment, confiscation of manufacturing equipment, parts, manufacturing materials or optical media products, accessories and paraphernalia and/or a fine of not more than twice the value of the products produced but, in no case less than Php 500,000.00, shall be imposed upon any person, establishment or entity who, being licensed to engage in the duplication, mastering, manufacture or replication of optical media, knowingly renders the service to any person, in respect of any intellectual property, who does not have the consent by the owner of the intellectual property or his representatives or assigns. Provided,

that for this purpose, any person, establishment or entity that is licensed by the OMB to engage in the abovementioned activities shall be considered to have acted in good faith in respect of any transaction entered into by him in respect to the preceding paragraph, if he notifies the OMB in writing of such transaction within five (5) working days from receipt of the job order, furnishing to the OMB all material information thereof, as specified under Section 3, Rule 8, Title II;

- (e) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months, confiscation of manufacturing equipment, parts, manufacturing materials or optical media products, accessories and paraphernalia and/or a fine of not less than Php 100,000.00 but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall evade, obstruct, or refuse or cause to evade, obstruct, or refuse any inspection by the OMB or any of its duly authorized agents or deputies, after being duly informed of the order to conduct such inspection.
- (f) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months, confiscation of manufacturing equipment, parts, manufacturing materials or optical media products, accessories and paraphernalia and/or a fine of not less than Php 100,000.00, but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall refuse to comply with a preventive custody order, or otherwise refuse, to surrender to the OMB for preventive custody any or all optical media and/or material or equipment, including parts, accessories and paraphernalia, after having been duly informed of the order for preventive custody.
- (g) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months and/or a fine of not less than Php 100,000.00, but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall:
 - (i) fail to keep and maintain for a period of at least five (5) years true and complete records of all activities related to the conduct of business;
 - (ii) fail to produce or cause the production and submission of such records to the OMB within a reasonable period of time after notice, as and when required;
 - (iii) fail to submit samples of optical media and other products within a reasonable period of time after notice, as and when required.
- (h) Suspension of operations of the establishment for a period of not less than one (1) month, but not more than three (3) months, confiscation of optical media products accessories and paraphernalia and/or a fine of not less than Php 50,000.00, but not more than Php 100,000.00, shall be imposed upon any person, establishment or entity who shall knowingly possess optical media produced in violation of the Act and/or these Rules, for the purpose of sale, rental, distribution or any other commercial purpose or with the intent to profit. Possession under this section shall be deemed for "the purpose of sale, rental, distribution or any other commercial purpose" if the person, establishment or entity shall have in its possession of at least three (3) pieces of media containing the similar copyrighted content, or at least 6 pieces of media containing dissimilar copyrighted content.
- (i) Suspension of operations of the establishment for a period of not less than one (1) month, but not more than three (3) months, confiscation of optical media products, accessories and paraphernalia and/or a fine of not less than Php 50,000.00, but not more than Php 100,000.00, shall be imposed upon any person, establishment or entity who shall engage in the sale, rental, distribution, importation, exportation of, or any other commercial activity involving optical media that are in violation of this Act.
- (j) A fine of not less than Php 5,000.00, but not more than Php 50,000.00, shall be imposed upon any person, establishment or entity who shall fail to renew his commercial license within thirty (30) days from the date of expiration thereof.

(k) A fine of not less than Php 1,000.00, but not more than Php 5,000.00, shall be imposed upon any person, establishment or entity who shall fail to prominently display the registration and license issued by the OMB at the designated place of business.

Section 2. For Subsequent and/or repeated offenses – Closure of the establishment, confiscation of manufacturing materials, equipment, parts, accessories and paraphernalia, cancellation of license and/or a fine not less than twice the amount prescribed for the offense.

Section 3. Determination of Administrative Penalties. - In imposing administrative penalties, the OMB shall consider the size of the operations of the offender, the value of the articles involved, and the period of the violation.

Title V - TRANSITORY PROVISIONS

Rule 1- Regulation of Magnetic Media

Section 1. Application of these Rules to Magnetic Media. – Except as hereinafter provided, Title II of these Rules shall apply to the regulation of magnetic media. Where the phrase “optical media” occurs, the phrase “magnetic media” shall be substituted. All references to “manufacture”, “manufacturing equipment, parts, materials” are deemed deleted.

Section 2. Registration and Licensing. – In lieu of the provisions of Section 1, Rule 1 and Section 1, Rule 2 of Title II, any person, establishment or entity shall, prior to engaging in the importation, exportation, acquisition, or duplication of magnetic media, register with and apply for a license with the OMB.

Section 3. Administrative Offenses and Penalties relating to Magnetic Media. - Without prejudice to the to the filing of criminal or civil actions in appropriate cases, the OMB shall file administrative complaints against and impose administrative penalties in the following cases:

- (a) Closure of establishment, confiscation of duplicating equipment, including parts, accessories and paraphernalia and/or magnetic media products and/or a fine of not less than Php 300,000.00, but not more than Php 1,500,000.00, shall be imposed upon any person, establishment or entity who shall:
 - (i) Engage in the importation, exportation, acquisition, or duplication of magnetic media without registering with and/or securing a license from the OMB. Provided, that, the conduct of any business activity in any place other than the place or location registered and licensed by the OMB, shall be deemed as engaging in the said business or activity without the necessary registration or license, as the case may be; Provided, further, that any person, establishment or entity who fails to renew an expired license within thirty (30) days from the date of expiration shall be penalized under subsection (j), or
 - (ii) Employ fraud or misrepresentation or otherwise furnish the OMB with any false or misleading information in connection with any registration statement or application for or renewal of a license.
- (b) Closure of establishment, confiscation of magnetic media products, cancellation or suspension of license and/or a fine of not less than Php 300,000.00 but not more than Php 1,500,000.00 shall be imposed upon any person, establishment or entity who, by himself, or through another, cause the duplication of any intellectual property in magnetic media intended for commercial profit or pecuniary gain without authority or consent of the owner thereof.
- (c) Closure of the establishment, confiscation of duplicating equipment, including parts, accessories and paraphernalia or magnetic media products and/or a fine of not more than twice the value of the products produced but, in no case less than Php 500,000.00, shall be imposed upon any person, establishment or entity who, being licensed to engage in the duplication of magnetic media, knowingly renders the service to any person, in respect of

any intellectual property, who does not have the consent by the owner of the intellectual property or his representatives or assigns. Provided, that for this purpose, any person, establishment or entity that is licensed by the OMB to engage in the abovementioned activity shall be considered to have acted in good faith in respect of any transaction entered into by him in respect to the preceding paragraph, if he notifies the OMB in writing of such transaction within five (5) working days from receipt of the job order, furnishing to the OMB all material information thereof, as specified under Section 3, Rule 8, Title II;

- (d) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months, confiscation of duplicating equipment, including parts, accessories and paraphernalia or magnetic media products and/or a fine of not less than Php 100,000.00 but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall evade, obstruct, or refuse or cause to evade, obstruct, or refuse any inspection by the OMB or any of its duly authorized agents or deputies, after being duly informed of the order to conduct such inspection.
- (e) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months, confiscation of duplicating equipment, including parts, accessories and paraphernalia or magnetic media products and/or a fine of not less than Php 100,000.00, but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall refuse to comply with a preventive custody order, or otherwise refuse, to surrender to the OMB for preventive custody any or all magnetic media or equipment, including parts, accessories and paraphernalia, after having been duly informed of the order for preventive custody.
- (f) Suspension of operations of the establishment for a period of not less than three (3) months, but not more than six (6) months and/or a fine of not less than Php 100,000.00, but not more than Php 500,000.00, shall be imposed upon any person, establishment or entity who shall:
 - (i) fail to keep and maintain for a period of at least five (5) years true and complete records of all activities related to the conduct of business;
 - (ii) fail to produce or cause the production and submission of such records to the OMB within a reasonable period of time after notice, as and when required;
 - (iii) fail to submit samples of magnetic media and other products within a reasonable period of time after notice, as and when required.
- (g) Suspension of operations of the establishment for a period of not less than one (1) month, but not more than three (3) months, confiscation of duplicating equipment, including parts, accessories and paraphernalia or magnetic media products and/or a fine of not less than Php 50,000.00, but not more than Php 100,000.00, shall be imposed upon any person, establishment or entity who shall knowingly possess magnetic media produced in violation of the Act and/or these Rules, for the purpose of sale, rental, distribution or any other commercial purpose or with the intent to profit. Possession under this section shall be deemed for "the purpose of sale, rental, distribution or any other commercial purpose" if the person, establishment or entity shall have in its possession of at least three (3) pieces of media containing the similar copyrighted content, or at least 6 pieces of media containing dissimilar copyrighted content.
- (h) Suspension of operations of the establishment for a period of not less than one (1) month, but not more than three (3) months, confiscation of duplicating equipment, parts and paraphernalia or magnetic media products and/or a fine of not less than Php 50,000.00, but not more than Php 100,000.00, shall be imposed upon any person, establishment or entity who shall engage in the sale, rental, distribution, importation, exportation of, or any other commercial activity involving magnetic media that are in violation of this Act.
- i) A fine of not less than Php 5,000.00, but not more than Php 50,000.00, shall be imposed upon any person, establishment or entity who shall fail to renew his commercial license within thirty (30) days from the date of expiration thereof.

- (j) A fine of not less than Php 1,000.00, but not more than Php 5,000.00, shall be imposed upon any person, establishment or entity who shall fail to prominently display the registration and license issued by the OMB at the designated place of business.

Section 4. Subsequent and/or repeated offenses - Closure of establishment, confiscation of duplicating equipment, including parts, accessories and paraphernalia and/or magnetic media products, cancellation of license and/or a fine of not less than twice the amount prescribed for the offense.

Section 5. Determination of Administrative Penalties. - In imposing administrative penalties, the OMB shall consider the size of the operations of the offender, the value of the articles involved, and the period of the violation.

Rule 2 - Classification of Motion Pictures and Cinematographic Works For Home viewing.

Section 1. The function of classification for audience suitability of motion pictures and cinematographic works in optical media shall be transferred to the Movie and Television Review and Classification Board (MTRCB) on or before 31 May 2005.

Rule 3 - Registration and Licensing of Existing Businesses, Establishments or Operations

Section 1. Registration and Licensing of Existing Establishments. - All existing establishments or entities engaged in activities enumerated in Section 1, Rule 1, Title II, whether or not registered with or licensed by the Videogram Regulatory Board pursuant to Pres. Decree No. 1987, shall, within thirty (30) calendar days from the effectivity of these Rules, register with and secure the necessary licenses from the OMB.

Title V - Final Provisions

Section 1. Separability Clause. - If any section or provision of these Rules shall be held to be invalid, the remaining provisions shall remain in full force and effect as completely as if the part held invalid had not been included therein.

Section 2. Effectivity. - These Rules shall take effect fifteen (15) days after publication in a newspaper of general circulation..

Schedule "A"**List of Manufacturing Equipment for Optical Media****Direct Stamper Recording System,****DVD upgrade kits.****Electro forming equipment that make stampers,****Equipment for Coating Laser Sensitive Substance on Compact Disc or Recordable Compact Disc,****Equipment for spin coating glass, masters with a photo resistant layer****Equipment for spin coating optical media with lacquer coating,****Glass or polymer masters****Injection molding machinery,****Integrated optical disc replication lines,****Laser Beam recorders,****Metalizers for applying reflective layers to optical media,****Moulds and components thereof.****Signal processing system for Laser Beam Recorder,****Stamper or other metal parts (or parts made of other materials)****And/or other equipment, part, accessories as may be determined by the OMB**

Schedule “B”**List of Manufacturing Material for Optical Media**

Any material, such as, but not limited to, optical grade polycarbonate or polycarbonate substitutes with physical properties suitable for the manufacture of optical media. Suitability shall be measured by a melt flow index (MFI) which shall be determined by the OMB. Unless otherwise determined, polycarbonate or polycarbonate substitutes with MFI of not less than 45 grams per ten (10) minutes at 300 degrees Celsius at 1.2 kilogram load shall be considered as suitable as manufacturing material, for purposes of these Rules.

Schedule “C”**Types of Optical Media**

**CD (compact disc),
CD-A (compact disc digital audio),
CD-I (compact disc – interactive),
CD-P (compact disc – photo),
CD-R (compact disc recordable),
CD-ROM (compact disc read-only memory),
CD-RW (compact disc rewritable),
CD-WO (compact disc write once),
CVD (China video disc),
DVD (digital versatile disc),
DVD-RAM (digital versatile disc random access memory),
DVD-ROM (digital versatile disc read-only memory),
EVD (enhanced versatile disc),
LD (laser disc),
MD (mini disc),
SACD (Super audio compact disc),
SVCD (super video compact disc),
VCD (video compact disc),
or any technical variation thereof, now known or to be known in the future;**

Schedule “D”

Technical Specifications of the Source Identification Code

The Source Identification (SID) Codes devised by the Philips Intellectual Property and Standards Office (PIPSO) and administered by the International Federation of the Phonographic Industry (IFPI), is adopted by the OMB, for purposes of these Rules.

Its technical specifications are as follows:

(a) The Mould Code

- Each Mould SID Code shall consist of the digits “IFPI” followed by a four or five digit code. The last two digits of the code are to be allocated by the license holder who shall ensure that each mould under his control, including spare moulds, has a unique SID Code. The first two or three digits, as the case may be, will be issued by the OMB and shall uniquely identify the license holder.

Example: A Mould SID Code of “IFPI A01xx” may be issued by the OMB to an applicant for a license. The digits “A01” are unique to the license holder. The license holder must then use the last two digits to allocate a unique code for each mould. The code for the first mould might be IFPI A0100, the code for the second “IFPI A0101”, and so on. Using alphanumeric digits consisting of the numbers 0 through 9 and the letters of the Western alphabet A through Z, excluding “I”, “O”, “S” and “Q”, the license holder has the ability to allocate unique codes to 1,024 different moulds.

- The Mould SID Code shall be etched on the mirror block of each mould, so that the Mould SID Code is moulded on the read-out, or play surface of each disc during the manufacturing process.
- The Mould SID Code shall not be etched on any easily removable part, or applied to the other (stamper) side of the disc (see Fig.1, Schedule 1).
- The Mould SID Code shall be positioned at a radius of between 7.5 mm and 22 mm from the center of the disc.
- The Mould SID Code shall have a character height of between 0.5mm and 1.0mm.
- The Mould SID Code shall be etched to a depth of between 10 to 25 microns and shall be legible throughout the lifetime of the mould.
- The Mould SID Code shall read from left to right when viewed from the read-out, or play side of the disc (see Fig.1, Schedule 1).
- The digits “IFPI” shall be in upper case characters and may have either a linear or a radial layout.

Additional Requirements for High-Density Optical Disc Formats (E.g., SACD, DVD)

- The Mould SID Code shall not be placed in an area that obscures the Mastering SID Code, or any user defined characters.
- The Mould SID Code shall be imprinted on all substrates whether containing valid programme content or not, including blank discs and recordable discs.
- The Mould SID Code shall not be imprinted in the clamping area.
- The Mould SID Code must be readable from left to right when viewed from the outside surfaces of the disc.
- Overprinting of the Mould Code for decorative purposes is permissible on a high density optical disc only.

(b) The Mastering, or LBR, SID Code

- Each Mastering SID Code that is issued will consist of the digits “IFPI” followed by a four, five or six digit code commencing with the letter “L”. A license holder will be issued a batch of sequential codes and must allocate a unique code to each separate Signal Processor or Laser Beam Recorder, depending on which piece of mastering equipment has been modified to apply the SID

Code, under his control.

- The Mastering SID Code shall be added to the matrix band of the master during exposure on the Laser Beam Recorder. All subsequent stampers and masters (including mothers and stampers) and all discs manufactured from that master shall then bear the Mastering SID Code.
- The Mastering SID Code shall be positioned at a radius of between 18.0 mm and 22 mm from the center of the disc.
- The Mastering SID Code shall have a minimum character height of 0.5 mm.
- The Mastering SID Code shall be located in a metallized region of the disc.
- The Mastering SID Code shall be legible without magnification.
- The Mastering SID Code shall read from left to right when viewed from the read-out, or play side of the disc (see Fig.1, Schedule 1).
- The Mastering SID Code shall be installed in either the firmware of the Laser Beam Recorder (i.e. the software that forms an intrinsic part of the machinery and is not readily accessible by the operator of the facility) or embedded in the system controller (i.e. the signal processing system that controls the operation of the LBR) in such a way that the operator of the system is not able to alter the code.
- It is recommended that the space allocated exclusively for the Mastering SID Code_(determined by the user and LBR supplier) shall consist of an arc of 30°. The Mastering SID Code shall be clearly separate from other features.

Additional Requirement for High-Density Optical Disc Formats (E.g., SACD, DVD)

The Mastering SID Code must not be obscured by the stack ring.

Variations for Different High-Density Disc Formats

- **For the single layer, single side disc:** If the dummy side of the disc is made from a scrap program disc, it shall bear the SID Code, even if not metallized.
- **For the dual layer, single side disc:** The Mastering SID Code must be recorded for both Layer 1 and Layer 0. At least one of the Mastering SID Codes (for either Layer 1 or Layer 0) must be clearly visible.
- **For the single layer, double side disc:** The Mastering SID Codes must be recorded on both sides of the disc. It is desirable that both Mastering SID Codes are clearly visible, but it is acceptable if the code is obscured due to restrictions of the printed area.

Fig.1: Cross-section of an Optical Disc

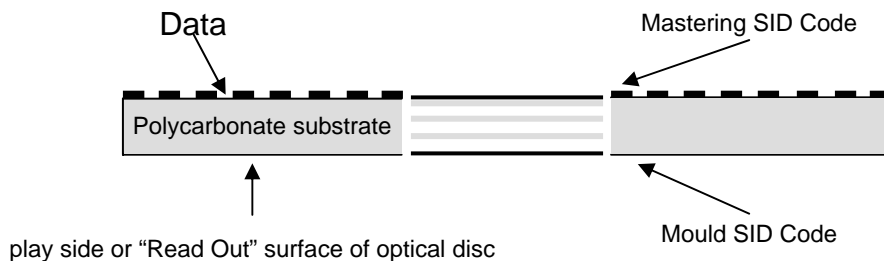
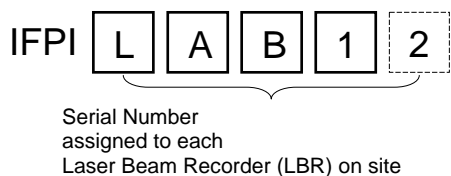


Figure 1
(flat view of an optical disc)

The Mastering or LBR



The Mould

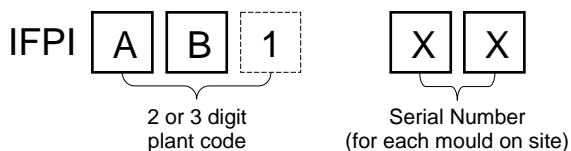
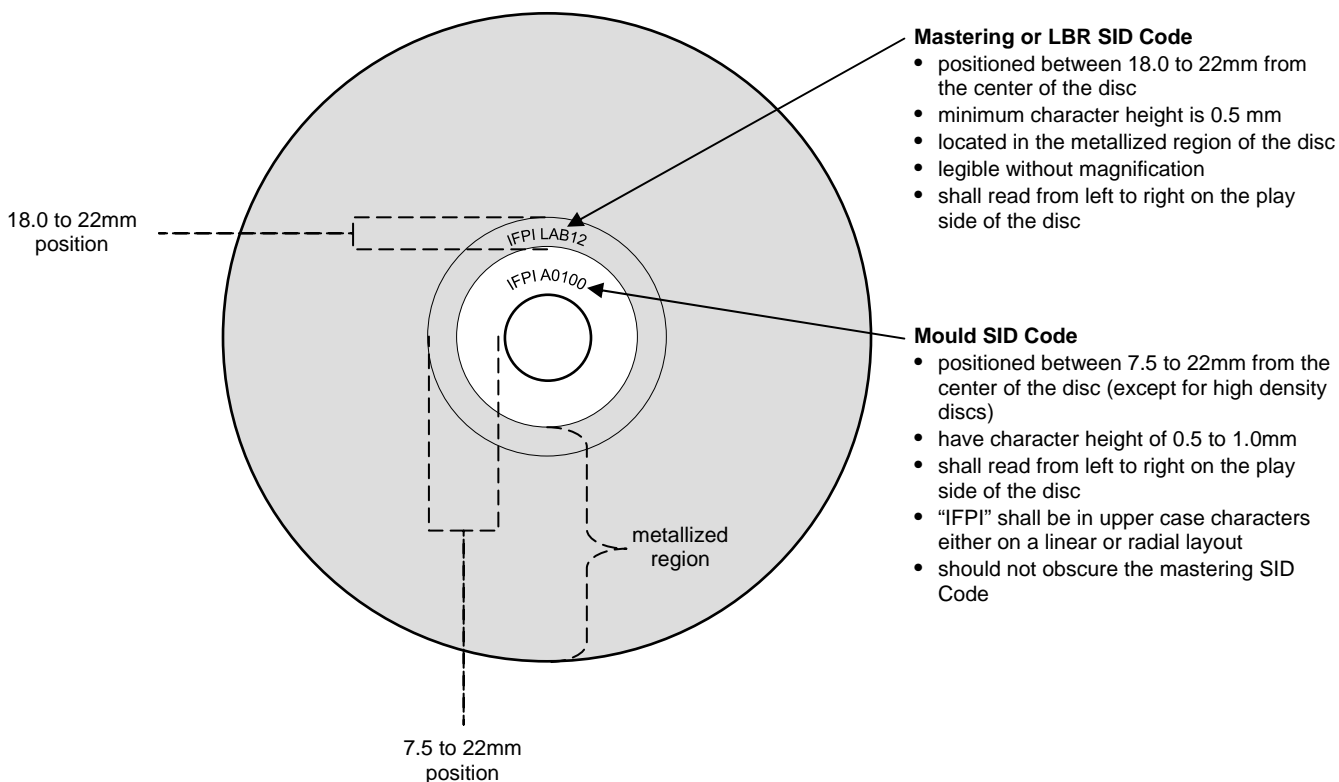


Figure 2



- Mastering or LBR SID Code**
- positioned between 18.0 to 22mm from the center of the disc
 - minimum character height is 0.5 mm
 - located in the metallized region of the disc
 - legible without magnification
 - shall read from left to right on the play side of the disc
- Mould SID Code**
- positioned between 7.5 to 22mm from the center of the disc (except for high density discs)
 - have character height of 0.5 to 1.0mm
 - shall read from left to right on the play side of the disc
 - "IFPI" shall be in upper case characters either on a linear or radial layout
 - should not obscure the mastering SID Code

Figure 3
(play side of an optical disc)