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¹ "Adaptation" is not used as a term to indicate a class of Work in Philippine Copyright Law. It is however adopted herein to differentiate paragraph 1 of Section 173.1 PIPC from paragraph 2 of the same section, which refers to the term "collection" used under Creative Common licenses.

² The license used the word "phonogram," which cannot be found in Philippine Copyright Law. Instead the use of "sound recording, audiovisual work or fixation" is used as defined in Section 202.2 to 202.4 of the Philippine Intellectual Property Code (PIPC, Republic Act 8293). Under Section 202.2, "'sound recording' means the fixation of the sounds of a performance or of other sounds, or representation of sound, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work." Under Section 202.3, "an 'audiovisual work or fixation' is a work that consists of a series of related images which impart the impression of motion, with or without accompanying sounds, susceptible of being made visible and, where accompanied by sounds, susceptible of being made audible." Under Section 202.4, "'fixation' means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device."

³ See note in footnote 2.

⁴ This term refers to Section 173.1 (2) of the PIPC. This should be distinguished with "collective work," which as defined by Section 171.2, means "a work which has been created by two (2) or more natural persons at the initiative and under the direction of another with the understanding that it will be disclosed by the latter under his own name and that contributing natural persons will not be identified." Under Section 196, PIPC, "when an author contributes to a collective work, his right to have his contribution attributed to him is deemed waived unless he expressly reserves it."

⁵ See note in footnote 2.

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⁶ The additional wordings try to clarify the transfer of ownership in the definition. Section 182, PIPC, provides that "the copyright is distinct from the property in the material object subject to it. Consequently, the transfer or assignment of the copyright shall not itself constitute a transfer of the material object. Nor shall a transfer or assignment of the sole copy or of one or several copies of the work imply transfer or assignment of the copyright."

⁷ The licensor should be the owner of the copyright of the Work to allow him to offer it to the public under these licenses. Under Section 178, the Copyright ownership is governed by the following rules:

- (1) Subject to the provisions of Section 178, in the case of original literary and artistic works, copyright shall belong to the author of the work;
- (2) In the case of works of joint authorship, the co-authors shall be the original owners of the copyright and in the absence of agreement, their rights shall be governed by the rules on co-ownership. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the copyright in the part that he has created;
- (3) In the case of work created by an author during and in the course of his employment, the copyright shall belong to: (a) the employee, if the creation of the object of copyright is not a part of his regular duties even if the employee uses the time, facilities and materials of the employer; or (b) the employer, if the work is the result of the performance of his regularly-assigned duties, unless there is an agreement, express or implied, to the contrary.
- (4) In the case of a work commissioned by a person other than an employer of the author and who pays for it and the work is made in pursuance of the commission, the person who so commissioned the work shall have ownership of the work, but the copyright thereto shall remain with the creator, unless there is a written stipulation to the contrary;
- (5) In the case of audiovisual work, the copyright shall belong to the producer, the author of the scenario, the composer of the music, the film director, and the author of the work so adapted. However, subject to contrary or other stipulations among the creators, the producer shall exercise the copyright to an extent required for the exhibition of the work in any manner, except for the right to collect performing license fees for the performance of musical compositions, with or without words, which are incorporated into the work; and
- (6) In respect of letters, the copyright shall belong to the writer subject to the provisions of Article 723 of the Civil Code of the Philippines. Under Article 723 of the Civil Code, "letters and other private communications in writing are owned by the person to whom they are addressed and delivered, but they cannot be published or disseminated without the consent of the writer or his heirs. However, the court may authorize their publication or dissemination if the public good or the interest of justice so requires."
- (7) Further, Section 180.1 provides that "the copyright may be assigned in whole or in part. Within the scope of the assignment, the assignee is entitled to all the rights and remedies which the assignor had with respect to the copyright."

⁸ The distinction between the "licensor" and "original author" indeed is important for the purposes of licensing. As the original author may or may no longer have the right to license the copyrighted work.

⁹ □ Under Section 171.1, PIPC, "Author" is the natural person who has created the work.

⁹ Under Section 179, PIPC, it is provided that for the purposes of PIPC, "the publishers shall be deemed to represent the authors of articles and other writings published without the names of the authors or under pseudonyms, unless the contrary appears, or the pseudonyms or adopted name leaves no doubt as to the author's identity, or if the author of the anonymous works discloses his identity."

¹⁰ See note in footnote 2.

writing; a periodical and a newspaper; a letter; a lecture, sermon, address, dissertation prepared for oral delivery, whether or not reduced in writing or other material form, or other work of the same nature; a dramatic or dramatico-musical composition or work; a choreographic work or entertainment in dumb show; a musical composition with or without words; an audiovisual work and a cinematographic work, and a work produced by a process analogous to cinematography or any process for making audio-visual recordings; a work of drawing, painting, architecture, sculpture, engraving, ~~or lithography, or other works of art;~~ a drawing or plastic work of a scientific or technical character; a photographic work including work produced by a process analogous to photography; a lantern slide; a pictorial illustration and advertisement; a model or design for works of art; an original ornamental design or model for articles of manufacture, whether or not registrable as an industrial design, and other work of applied art; an illustration, map, plan, sketch, chart or three-dimensional work relative to geography, topography, architecture or science; a performance; a broadcast; a sound recording, audiovisual work, or fixation; ~~a compilation of data to the extent it is protected as a copyrightable work; or a work performed by a variety or circus performer to the extent it is not otherwise considered a literary or artistic work;~~¹¹ and other literary, scholarly, scientific and artistic works.¹³

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¹¹ See note in footnote 2.

¹² These enumerations have been removed as they are not explicitly provided by the PIPC

¹³ The definition of "Work" in Section 1 (f) is reconciled with the enumeration of Original Literary and Artistic Works under Section 172, PIPC. All enumerated items under the law were changed to their singular forms. Section 172.1(n) which lists "Computer programs;" as copyrightable Work was removed as computer programs / software is a better subject of GNU-GPL and GNU-LGPL licenses.

¹⁴ The term "publicly perform" under Section 1 (h) is reconciled with Section 171.6 (Public Performance) and Section 171.3 (Communication to the Public), PIPC.

¹⁵ "A copy or copies" is used since under Section 171.9, PIPC, provides that "'Reproduction' is the making of one (1) or more copies of a work or a sound recording in any manner or form"

¹⁶ See note in footnote 2.

¹⁷ The additional sentences merely illustrate what these fair use rights are under Sections 185.1 and 185.2, PIPC. The sentence involving decompilation of computer software in Section 185.1 was removed as software is a better subject of GNU-GPL and GNU-LGPL licenses.

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