



# Copyright Law :

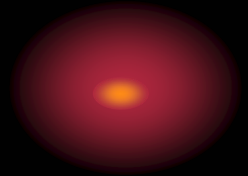
## Its Academic Applicability and Implications



by  
**Fe Angela M. Verzosa**

Lecture presented at the Forum held at St. Thomas of Villanova Libraries of San Sebastian College-Recoletos de Cavite in the observance of the 2008 Library and Information Services Month, Cavite City, 2008 November 24

# Scope of the Lecture

- ❖ What is protected by Copyright Law?
- ❖ What reproduction rights do libraries/archives have under the law?
- ❖ How can libraries/archives avoid copyright liability?
- ❖ What can we do to help in the enforcement of the law?





When may libraries or archives reproduce  
a literary work without permission  
from its copyright owner?

- If the work is not available in their collection?
- If the original copy is expensive?
- If the work is a prescribed course reading of a faculty for his class?
- If the work is fragile/rare and cannot be lent out in its original form?

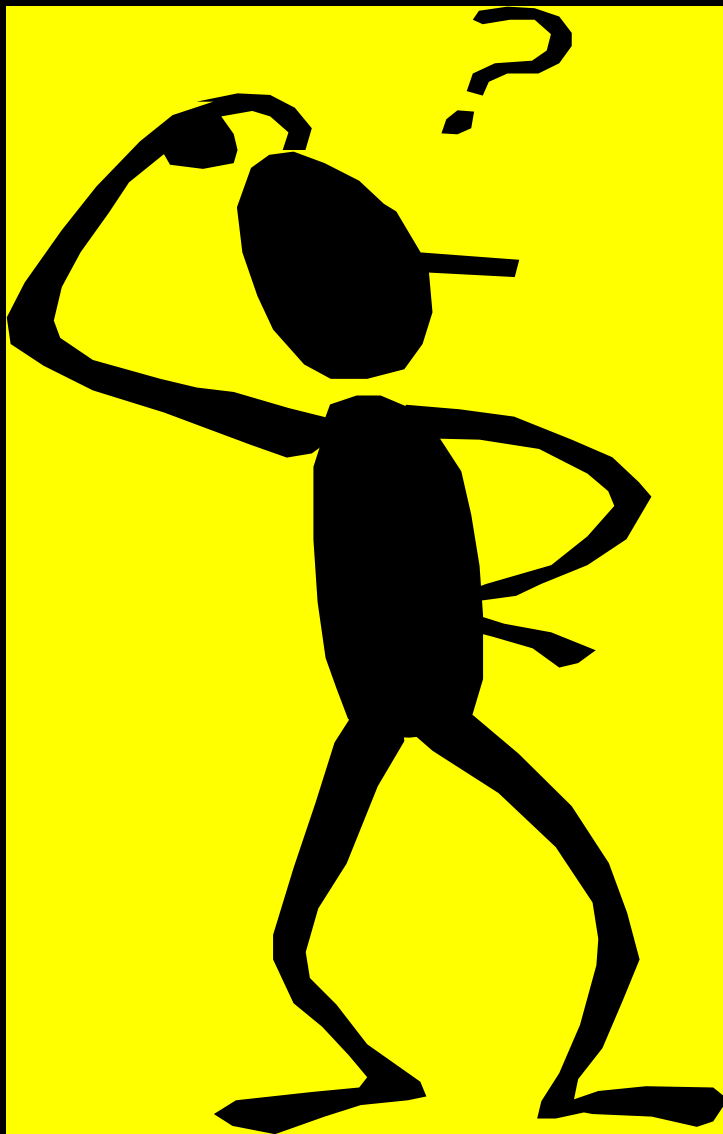


When may libraries or archives reproduce  
its own copy of a sound recording  
or a videotape ?

- When it is needed by the library for rental purposes.
- When it is needed to provide a copy to another library.
- When it is needed for public showing in a place where no admission fee is charged.
- When permission from the creator/producer has been obtained.

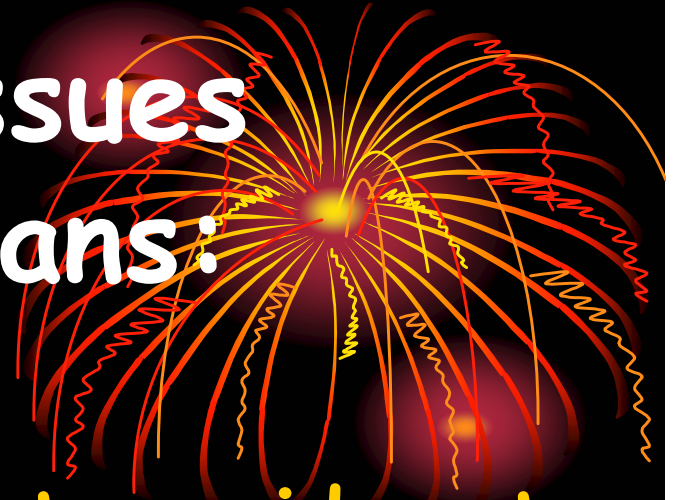


How many copies of a book or pamphlet  
may libraries or archives make for  
preservation or security?



- One copy
- Two copies
- Three copies
- Ten copies

# Survey on copyright issues encountered by librarians:

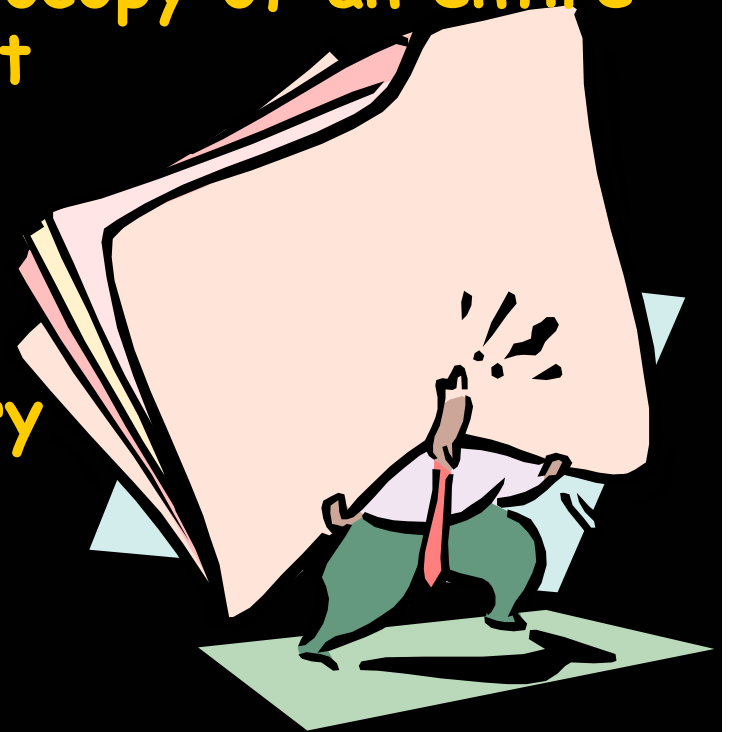


- students photocopy textbooks to avoid cost of expensive original copies (60%)
- readers photocopy portions of theses without permission (55.1%)
- requests to copy entire books by researchers from other institutions (48%)

(From Felicitas de la Rosa, thesis on  
Copyright Law Awareness and Compliance in Selected University  
Libraries in Metro Manila, 2000 )

# Copyright problems

- Photocopying multiple copies of textbooks to avoid purchase
- Photocopying theses without author's permission
- Arranging with faculty multiple copying of materials for class use
- Requesting thru interlibrary loan photocopy of an entire book to accommodate user request
- Allowing unsupervised copying
- Making extra copies of films/videos
- Supplying chapters or articles from journal for document delivery
- Buying pirated editions to economize





# What is Intellectual Property Code (RA No. 8293) ?

- Prescribes the law on –
  - Copyright and Related rights
  - Trademarks and Service Marks
  - Geographic Indications
  - Industrial Designs
  - Patents
  - Layout Designs of Integrated Circuits
  - Protection of Undisclosed Information
- Establishes the Property Intellectual Office, providing for its powers and functions







# Copyright is



- an intangible, incorporeal right
- granted by statute to the author or originator of certain literary or artistic productions
- whereby he is invested, for a limited period,
- with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them. (Sibal, 1986)



# Copyright -



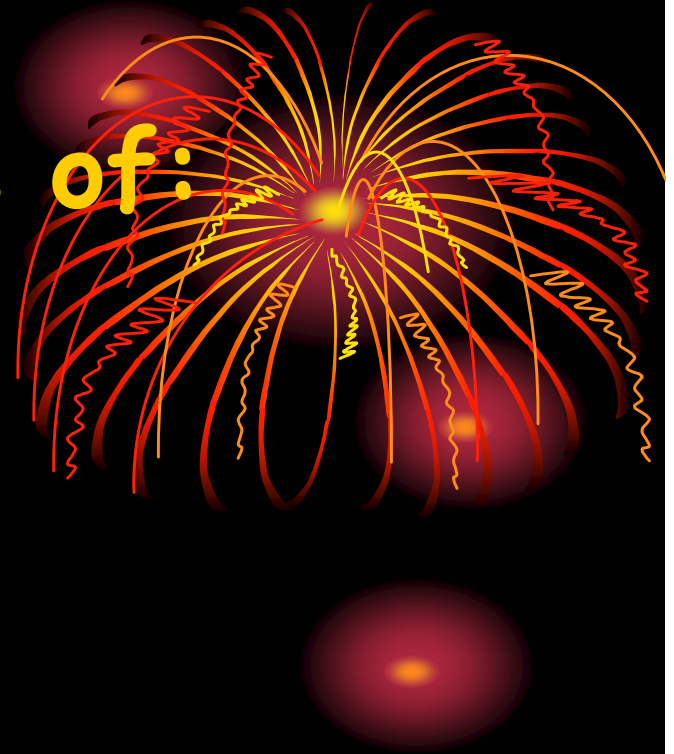
- Works are protected from the moment of creation
- Not protected are ideas, procedure, system, method of operation, discovery, concept or mere data
- No copyright for government works (but prior approval from the gov't agency is required for the exploitation of such work for profit)

# Copyright protects creators of:



## Original works

- literary
- dramatic
- musical
- artistic
- other forms of expressions
  - *sound recordings*
  - *cinematographic works*
  - *sound/tv broadcasts*
  - *pictorial illustrations and advertisements*
  - *other scholarly or scientific works*



# Copyright protects creators of:



## Derivative (or new) works

- Dramatizations, translations, adaptations, abridgements, arrangement, and other alterations of literary or artistic works
- Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination or arrangement of their contents



# New Works Protected



- ↙ Multi-media e.g.  
cd-roms
- ↙ Databases
- ↙ Software protected  
as a literary work



# Exclusive rights of creators of:



## literary, dramatic, & musical works

- reproduce
- publish if unpublished
- perform in public/ or display in public
- broadcast
- include in cable program
- make an adaptation/ dramatization/translation
- Right to first sale
- Rental right

## artistic work

- reproduce
- include in a tv broadcast
- display in public
- include in a cable program
- Right to first sale





# RENTAL RIGHT -

## Right to make commercial rental arrangements



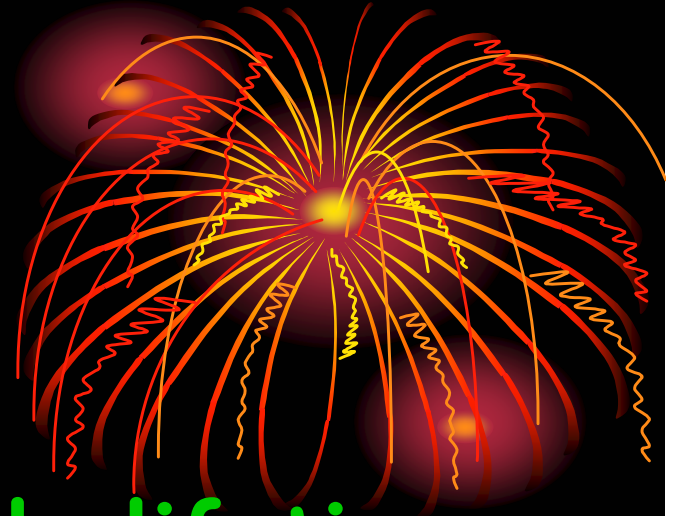
applies to :

- computer programs
- sound recordings
- cinematographic works





# Ownership and Duration



Generally owned by author/creator except:

- **journalists' works**
- **commissioned photos, engravings, drawings, paintings, etc.**
- **employee works**
- **government works**

Generally lifetime of author/creator

plus 50 years, except

- unpublished works
- anonymous/pseudonymous
- photos
- government works



# Terms of Protection



- ✓ Authors/creators : 50 years after death
- ✓ Joint authors : 50 years after death of last surviving author
- ✓ Anonymous/pseudonymous works : 50 years from date when work was first lawfully published
- ✓ Applied art : 25 years from date of making
- ✓ Photographic works : 50 years from publication, and if unpublished, 50 years from the making
- ✓ Performers : 50 years from the end of year when performance took place
- ✓ Recording companies: 50 years from end of year when recording took place
- ✓ Broadcasters : 20 years from date broadcast took place



# Deposit requirements



- ❖ 2 copies of all works must be deposited with The National Library and Supreme Court Library.
- ❖ Failure to deposit despite written demand would subject copyright owner to daily fine.



# Copyright Infringement



- **Violating** exclusive rights of copyright owner
- **Possession** for sale, hire, distribution or trade exhibit by person who knows or ought to know that copies are pirated

**COPYRIGHT**



sampling  
sharing  
copying

**CRIMINAL**

## Penalties



- ❖ **First Offense:** imprisonment of 1 to 3 years and fine of P 50,000 to P 150,000
- ❖ **Second Offense:** imprisonment of 3 to 6 years and fine of P 150,000 to P 300,000
- ❖ **Third Offense:** imprisonment of 6 to 9 years and fine of P 500,000 to P 1.5 M



# When a single copy may be reproduced:

- works of fragile character or rarity
- isolated articles or brief portions of works... for study or research
- for preservation
- for replacing lost or destroyed copies, if no longer available with publisher



What cannot be reproduced even  
for **PRIVATE** study and  
research:



- works of architecture
- entire book or substantial part thereof
- musical works in graphic form
- compilations
- computer program (except back-up)
- any reproduction that will conflict with normal use or prejudice author's interests





# Library right to reproduce one copy of:



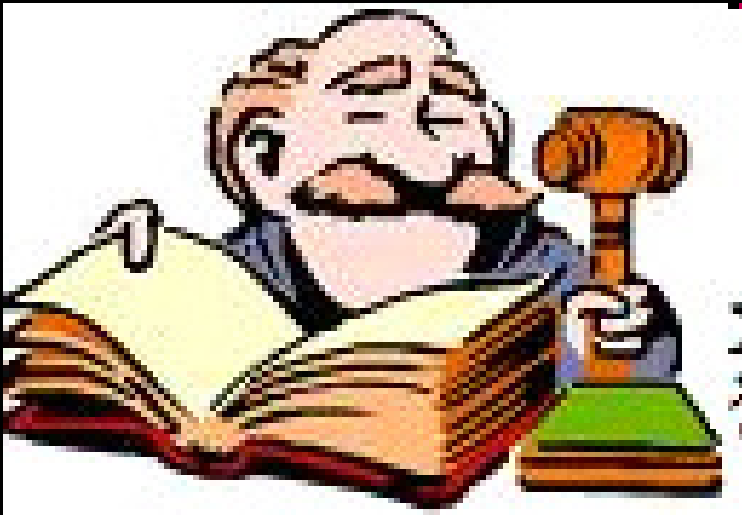
- ❖ **Original works** whose fragility/rarity justifies their not being lent out ;
- ❖ **Articles contained in composite works or brief portions of other published works**, for reason of expediency, may be copied for purposes of research and private study, instead of lending the entire volumes containing them;
- ❖ For preservation or replacement of **lost, stolen, destroyed, unusable copy** in the library's collection or in another library/archives collection, provided, they are **NO LONGER** available from publisher.



# General defenses against Copyright



- ❖ out of print, out of stock, rare
- ❖ for preservation
- ❖ For security (as in back-up copy for computer programs)
- ❖ Fair use for purposes of scholarship, research and private study, criticism and review, news reporting, classroom teaching and similar purposes (provided it is not for an entire book or a substantial part of it)



# Factors in determining what is "fair use"



- ✓ purpose and character of the use -  
-- commercial or non-profit,  
educational purposes
- ✓ nature of the copyrighted work -  
for general audience or textbook
- ✓ amount and substantiality of the  
portion used in relation to the work  
as a whole
- ✓ effect of the use on the potential  
market for or value of the work



FAIR USE!



# Philippine law on "fair use"

- for criticism, comment
- news reporting
- teaching, including multiple copies for classroom use
- scholarship, research and similar purposes

# Acceptable conditions for classroom copying



- single copy (not an entire book, or database, or computer program) for teaching / research
- multiple copies, provided copy is brief, and for one course
- provided such copy is not repeated by the same faculty for the same material from term to term
- provided such copying is done at the instance of the individual faculty and not by a higher authority
- provided only the actual photocopying cost is charged to the student

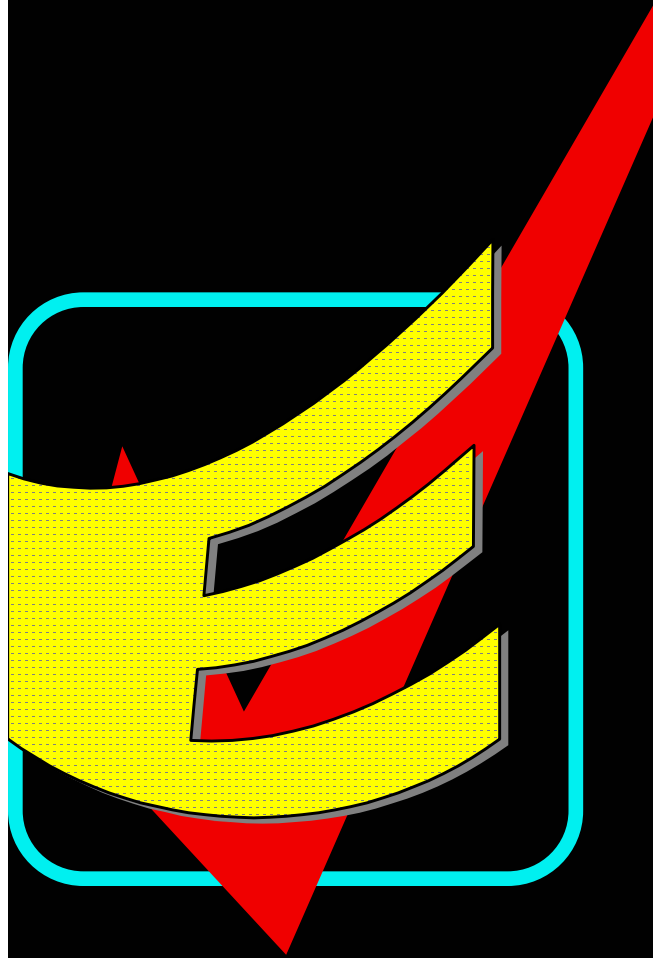


# Infringement under E-Commerce Act



- Piracy or the unauthorized copying,
- Reproduction, dissemination, distribution
- Importation, use
- Removal, alteration, substitution, modification
- Storage, uploading, downloading
- Communication, making available to the public, or broadcasting

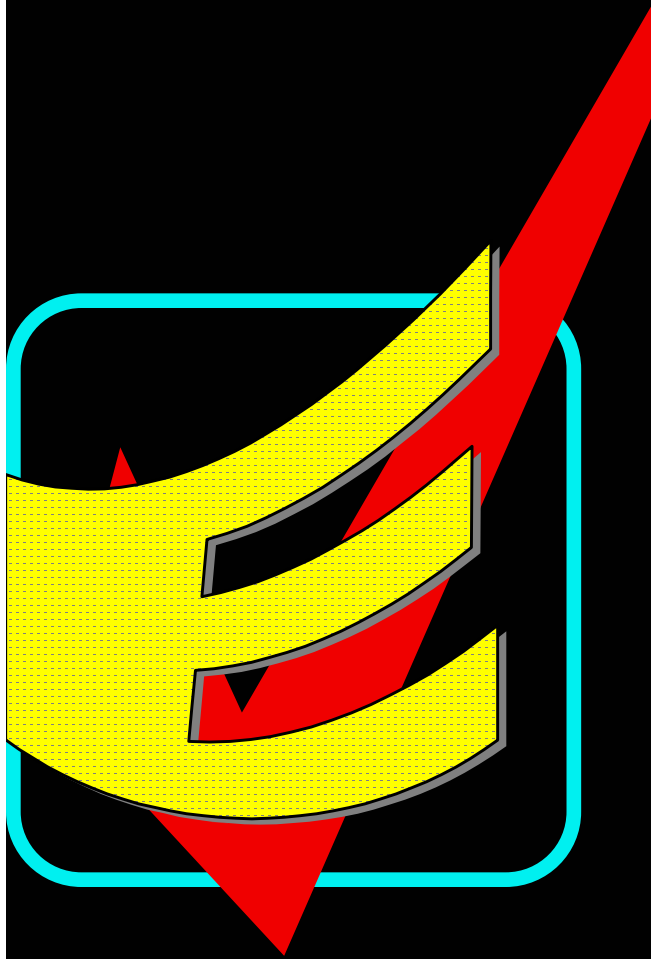
of protected material, electronic signature, or copyrighted works







# Infringement under e-Commerce Act



legally protected sound through the use of telecommunication networks, such as, but not limited to, the Internet, in a manner that infringes intellectual property rights.





# Optical Media Act of 2003



## Prohibits

- 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



# How can Libraries/Archives avoid copyright liability



- Post a warning sign/notice on every location of unsupervised copying machines concerning copyright restrictions
- Include in published rules that the library reserves the right to refuse to accept a copying request
- In circulating materials for home use, users must be reminded that copying the books lent out may exceed fair use privileges in violation of copyright



# Library policies implementing Copyright Law



- Include photocopying guidelines in Library Guide and library orientation program
- Avoid library arrangement for systematic reproduction of multiple copies for users
- Include policy of requesting author's / publishers permission to photocopy his textbook
- Prohibit copying of copyrighted materials not allowed by fair use, license agreement, or permission of copyright owner
- Include in student/faculty handbook rules that place liability for willful infringement on student/faculty violators
- Keep records regarding requests for permissions, responses to requests, and license agreements



# OTHER Library policies...




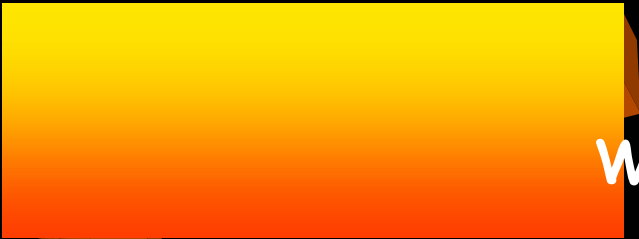
- ✓ Document delivery policy
- ✓ Interlibrary loan policy
- ✓ Photocopying/digitizing Preservation Copies
- ✓ Policy on Nonbook materials Reproduction
- ✓ Guidelines for Fair Use of Copyrighted Materials
- ✓ Guidelines for Fair Use of Unpublished Materials
- ✓ Guidelines for Use of Films and Video
- ✓ Guidelines on Photographic Services



# Promoting Copyright Law enforcement...



- ❖ By discussing copyright problems encountered in the workplace during meetings with staff
- ❖ By discussing copyright policies during Student/Faculty Orientation
- ❖ By encouraging librarians and staff to attend seminars on Copyright Law
- ❖ By strict implementation of library policies related to copyright protection
- ❖ By reporting violations to proper authorities



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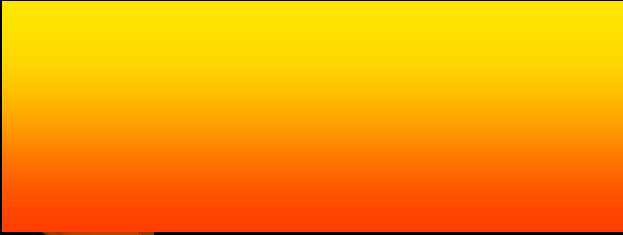




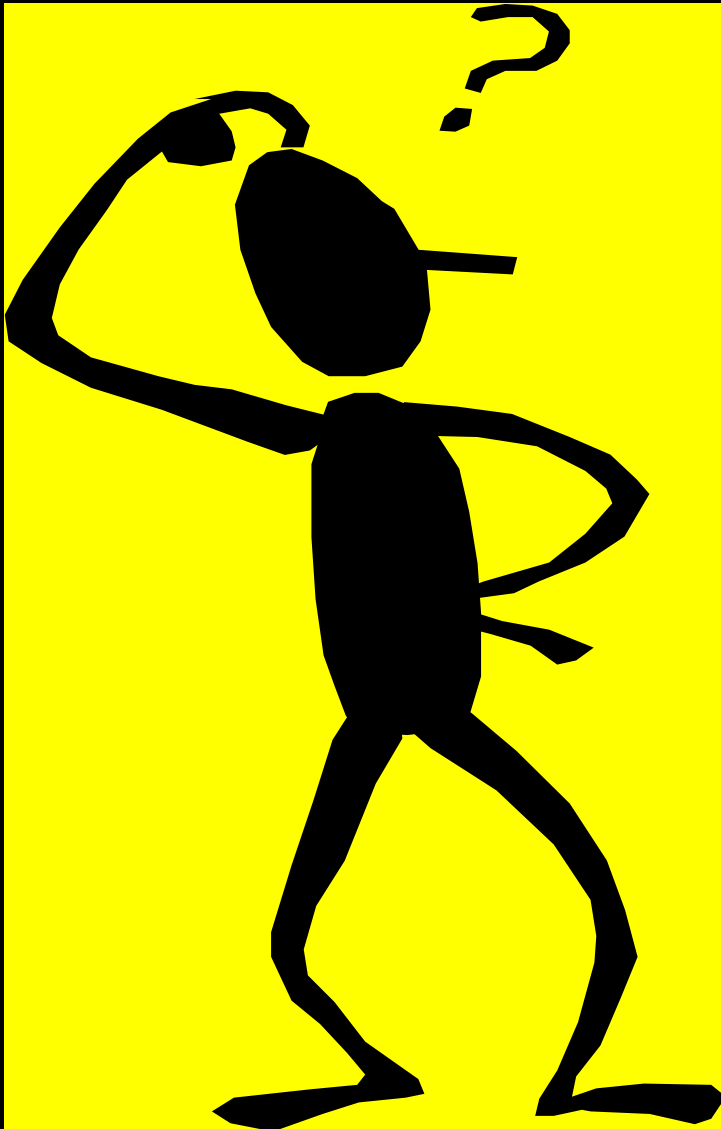
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You can get in touch with me at my email address -  
verzosaf@dlsu.edu.ph - and at our PAARL website -  
<http://groups.yahoo.com/group/PAARL/>

