



ANTI-COUNTERFEITING WORLD DAY

June 5th is World Anti-Counterfeiting Day, as a way of raising awareness about the negative effects of counterfeiting and piracy, and the damage caused by these illicit practices.

To mark this date, several actions are planned during the week that runs from June 5 to 9 (Anti-Counterfeiting Week), such as the organization of awareness sessions at schools, as a way to create among young people a greater respect and appreciation of Intellectual Property.

Awareness-raising measures seek to demonstrate how counterfeiting has detrimental effects on various perspectives of our lives: health, safety, economy, society and environment, as well

as the risks that accessing illegal content online can pose to cybersecurity.

Legal alternatives are also suggested for purchasing original products and accessing legal content online, either through more competitive prices, or in some cases even for free.

Counterfeiting is, according to the definition contained in the Priberam dictionary, the act of "fraudulently reproducing or imitating something to the detriment of the author or inventor. Normally, in counterfeiting situations, besides the reproduction of the product itself, there is also the reproduction of the brand/logotype that accompanies them.

LEGAL FRAMEWORK

Articles 196 and 197 of the Copyright and Related Rights Code stipulate that *"anyone who uses as his own creation or performance, a work, artist's performance, phonogram, videogram or broadcast that is a mere total or partial reproduction of a work or a broadcast that is a mere reproduction is guilty of counterfeiting. It is a crime of counterfeiting to use as one's own creation or performance, a work, performance by an artist, phonogram, videogram or broadcast that is a mere total or partial reproduction of another's work or performance, disclosed or not disclosed, or is so similar that it has no individuality of its own"*, being punished with *"imprisonment for up to three years and a fine of 150 to 250 days, according to the gravity of the infraction, both of which are doubled in case of a repeated offense, if the fact constituting the infraction does not typify a crime punishable with a more serious penalty,"* and *"negligence is punishable by a fine of 50 to 150 days"*.

On the other hand, with regard to industrial property rights, namely trademarks, Article 320 of the Industrial Property Code stipulates that anyone who, without the consent of the owner of the right, is punished with a prison sentence of up to three years or a fine of up to 360 days:

- a) Manufacture, import, acquire or keep, for himself or for another person, with any of the purposes referred to in the following paragraphs, any media that reproduces or imitates a registered trademark, in whole or in some of its characteristic parts;
- b) Using, in their products or respective packages, counterfeit or imitated brands;
- c) Offering or providing services under counterfeit or imitated trademarks;
- d) Import, export, distribute, place in the market or store with these purposes, products with counterfeit or imitated brands;
- e) Use reproduction or imitation of a trademark registered as a firm or corporate name;
- f) Using, in the course of the activities referred to in paragraphs b) to e), counterfeited or imitated trademarks in commercial documents or in advertising;
- g) Using, counterfeiting or imitating well-known marks whose registrations have already been applied for in Portugal;
- h) Using, even if on products or services without identity or affinity, trademarks that constitute translation or are equal or similar to earlier trademarks whose registration has been applied for and that enjoy prestige in Portugal, or in the European Union if they are European Union trademarks, whenever the use of the later trademark seeks, without just cause, to take undue advantage of the distinctive character

or prestige of the earlier ones or is capable of damaging them;

- i) Use, in its products, services, establishment or company, packaging, labels or any other support with legitimately affixed trademarks.

ANTI-COUNTERFEITING GROUP

During the year 2022, the Anti-Counterfeiting Group, in Portugal, composed of ASAE, AT, GNR, and PSP, seized 1,040,345 units of counterfeit or pirated products, of which 60% corresponded to clothing and complementary items of clothing and footwear, 11% to perfumes and cosmetics, and 7% to accessories.

Regarding copyright and related rights, the General Inspection of Cultural Activities (IGAC) determined the removal/blocking of access to about 1300 domains, of which 15% were illicitly making protected works available, such as games, streaming, books and audiovisual.

FINAL NOTES

Counterfeiting represents, on the one hand, a huge risk to safety and health, and on the other hand, a huge loss for companies and authors and/or rights holders.

EUIPO (European Union Intellectual Property Office) conducted a study in 2022, which showed that in Portugal 34% of young people have intentionally bought counterfeit products and 17% have knowingly accessed pirated content.

The awareness activities, carried out by INPI (National Institute of Intellectual Property), City Halls and entities of the Anti-Counterfeiting Group, with the purpose of alerting to the importance of Intellectual Property and the dangers of counterfeiting, have been reinforced with the public, through several initiatives, especially in teaching establishments, with the youngest members of the public.

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