



## EURO 2024, COUNTERFEITING AND THE “PLAY FAIR” CAMPAIGN

World Anti-Counterfeiting Day, celebrated every year on June 5<sup>th</sup>, aims to raise awareness of the negative effects of counterfeiting and piracy, and the damage caused by these illegal practices.

This year, with the start of the European Football Championship in Germany, the EUIPO (European Union Intellectual Property Organization) has launched a campaign under the slogan "Play Fair", with the aim of making fans aware of the negative effects of counterfeiting, leading them to opt for official broadcasts and the purchase of authorized products.

According to an EUIPO study, "8% of Portuguese young people aged between 15 and 24 admit to having intentionally bought fake sports equipment. On the other hand, 7% of young Portuguese consumers have inadvertently bought counterfeit goods."

Counterfeiting has detrimental effects on various aspects of our lives: health, safety, the economy, society and the environment, as well as the risks that access to illegal content online can pose in terms of cybersecurity.

Counterfeiting is the act of "fraudulently reproducing or imitating something, to the detriment of the author or inventor". Normally,

in situations of counterfeiting, in addition to the reproduction of the product itself, there is also reproduction of the accompanying trademark/logo.

## LEGAL FRAMEWORK

Articles 196.<sup>o</sup> and 197.<sup>o</sup> of the Code of Copyright and Related Rights state that *"it is a crime to counterfeit a work, performance of an artist, phonogram, videogram or broadcast that is merely a total or complete reproduction of the work or performance"*. Ans also that *"a crime of counterfeiting is committed by anyone who uses, as their own creation or performance, a work, performance by an artist, phonogram, videogram or broadcast that is merely a total or partial reproduction of another person's work or performance, disclosed or not disclosed, or so similar that it has no individuality of its own"*, It is punishable by *"imprisonment of up to three years and a fine of 150 to 250 days, according to the seriousness of the offense, both of which are doubled in the event of a repeat offense, if the constitutive fact of the offense does not typify a crime punishable by 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, particularly trademarks, Article 320 of the Industrial Property Code stipulates that anyone who, without the right holder's consent:

a) Manufacturing, importing, acquiring or keeping, for themselves or for others, for

any of the purposes referred to in the following paragraphs, any media that reproduce or imitate a registered trademark, in whole or in some of its characteristic parts;

- b) Use counterfeit or imitated brands on their products or their packaging;
- c) Offering or providing services under counterfeit or imitated brands;
- d) Importing, exporting, distributing, placing on the market or storing for these purposes, products with counterfeit or imitated brands;
- e) Using a reproduction or imitation of a trademark registered as a business name or company name;
- f) Use counterfeit or imitated trademarks in commercial documents or advertising when carrying out the activities referred to in points b) to e);
- g) Use, counterfeit or imitate well-known trademarks whose registrations have already been applied for in Portugal;
- h) Use, even if on products or services that have no identity or affinity, trademarks that are a translation of or are the same as or similar to earlier trademarks whose registration has been applied for and which 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 may harm them;

- i) Use packaging, labels or any other support with legitimately registered trademarks on their products, services, establishment or company.

## FINAL NOTES

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

In addition to revenue losses and job destruction, as shown by another recent EUIPO study on the economic impact of counterfeiting

in the clothing, cosmetics and toy sectors in the EU, companies suffer reputational damage due to lower quality copies.

As far as sport is concerned, there are several soccer stars who use intellectual property protection to boost their popularity, such as Kylian Mbappé, Cristiano Ronaldo, Vinícius Júnior or Lionel Messi.

In terms of design, most of the shoes, official equipment and balls are registered community designs.

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