What does the law say?

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<th>Counterfeits</th>
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Because counterfeits cause a great deal of damage and can be dangerous, manufacturing and selling them is against the law. For the same reasons, importing them into Switzerland is also forbidden. This prohibition also applies to private individuals. The Trade Mark Protection Act (TmPA) and the Designs Act (DesA) not only prohibit the illegal copying of protected products and the trading of such counterfeits, but also the import, export and transit of such goods through Switzerland (Art. 13 para. 2bis and Art. 71 TmPA; Art. 9 para. 1bis and Art. 47 DesA).

If customs find counterfeit goods in personal luggage or in parcels being sent by post, it can withhold and destroy them. Customs will also inform the rights owner (e.g. the owner of the trade mark or design). The rights owner can then initiate civil proceedings against the individual who attempted to bring a counterfeit of their product into Switzerland. Those who deliberately infringe trade mark or design rights for commercial purposes are also liable to prosecution.

If customs discover large consignments where there is suspicion that someone has attempted to import counterfeits commercially, for example to trade them in Switzerland, the state must take action on its own initiative, in other words without a request from the rights owner. In such cases, those convicted face a custodial sentence of up to five years or a monetary penalty of up to CHF 1,080,000 (Art. 61 para. 3 TmPA; Art. 41 para. 2 DesA; Art. 81 para. 3 PatA and Art. 67 para. 2 CopA).
Copyright

Copyright protects a wide variety of works ranging from music, films and computer programs to advertising copy and website layouts. In copyright, these are called works. If, for example, you make a film, then as the author, you can decide when and how your film is used. This also includes uploading and downloading from the internet because such actions have copyright implications.

As the author, you can prevent your work being made available on the internet without your permission on the basis of on-demand rights (Art. 10 CopA). One exception to this rule is downloading a work for private use (e.g. a film or a piece of music). Downloading copyright-protected works for private use is permitted in Switzerland (Art. 19 CopA). Uploading a work is forbidden in all instances if the work is still protected by copyright. This rule also applies to uploading works onto private websites such as a Facebook account.

You can find more information about counterfeiting and piracy on the STOP PIRACY website.

Legislation

* Trade Mark Protection Act (SR 232.11)
* Designs Act (SR 232.12)
* Copyright Act (SR 231.1)
* Patents Act (SR 232.14)

DOCUMENTS & LINKS

* Swiss Anti-Counterfeiting and Piracy Platform

STOP PIRACY