

Despite the lesser-known term, the crime of counterfeiting is quite common, and you've certainly come across it in large shopping centers or online.

**Counterfeiting** is nothing more than the [unauthorized reproduction of copyrighted works](#), such as music, software, and books.

In this way, counterfeiting consists of the illegal use of intellectual property assets through a product that is the same or similar to another already registered.

In addition to its illegality, this crime can cause severe commercial and profitability damage to trademarks, patents, or designs already registered.

## LEGAL PROVISION



What is counterfeiting and how to protect yourself from it

According to art. 5, VII of the Copyright Law is “the unauthorized reproduction” of legally protected works.

First, it is essential to understand what can be protected by copyright.

According to art. 7 of Federal Law 9.610/98 are **intellectual works** protected by the creations of the spirit, expressed by any means or fixed in any support, among them:

- Literary works
- Musical compositions
- Graphics
- Audiovisual works, with or without sound, including cinematographic works
- Photographic works
- Computer programs

If the work is protected by copyright, [the property and moral rights linked to this creation will be the property of its author.](#)

Said illicit act constitutes a violation not only of copyright but also of the rights related to it.

As will be seen below, such conduct is punishable by civil and criminal law.

In this way, we will face this crime when a person illicitly enjoys someone else’s work, normally without removing the author’s right of authorship.

## **THE MISUSE OF AN AUTHOR’S WORK**

It is important not to confuse it with plagiarism. In this type of fraud, the practitioner reproduces the work as if it were his own or omits the **authorial reference**.

In counterfeiting, the primary bias is economic: the absence of the author’s consent in the reproduction of the work aims to cause financial benefit to its practitioner or third parties.

For example, the plagiarist reproduces an excerpt from a famous book as if it were his own.

On the other hand, the counterfeiter makes copies of a book, uses an unlicensed computer program, reproduces images in commercialized works, etc.

All this is without the author’s license, aiming not to pay due royalties.

These royalties can occur in different ways: book value, ECAD fees, and computer program license value, among others.

Thus, this hypothesis is essentially linked to the patrimonial aspects, as it unduly removes from the work the economic benefits that, by right, would belong to the author.

## **LEGAL CONSEQUENCES**

Despite being a common practice, such acts are serious crimes under national law.

The Brazilian Penal Code, in its art. 184, provides penalties for those who violate copyright, which can reach imprisonment of up to 4 years.

It will also punish those who “with the intention of direct or indirect profit, distributes, sells, exposes for sale, rents, introduces in the country, acquires.”

As well as the one who hides, has in deposit, the original or copy of intellectual work or phonogram reproduced in violation of copyright.

The punishments are also in the Copyright Law, in its arts. 102 to 110, which brings a series of predictions about civil sanctions to the practitioners of this act.

In addition to the prediction of loss and seizure of fraudulently reproduced works, compensation is provided for moral and property damage caused to the owner of the work.

## **HOW TO PROTECT YOURSELF**

The first step is registering the creation and, if applicable, filing an innovation patent application.

There are also preventive methods such as prior registration of products at customs, regular visits to places where counterfeit products are sold, and registration of defensive trademarks, among others.

Monitoring online platforms and websites to detect illicit copying or piracy activity can also be an interesting strategy.

Finally, hiring professionals qualified to identify and prosecute violators aims to guarantee the legal protection of a company’s brand and products.

These are some important considerations about the crime of **counterfeiting**. Did you like it and want to know more? [Keep following our blog and follow our Instagram for more content.](#)