

Counterfeits and intellectual property

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The protection of intellectual property at the border is another task that the customs administration performs on behalf of private rights holders. The Trademark Protection Act, the Design Act, the Patents Act and the Copyright Act allow rights holders to file applications for assistance with the FOCBS, which will then withhold goods suspected of infringing their rights and inform them so that they can seek court orders. Since 2008, Swiss law has also allowed the seizure of counterfeit goods imported for private use, an import that had previously escaped control. A tourist who brings back a fake watch or handbag from a holiday may therefore see it destroyed at the border, although no criminal sanction is imposed in ordinary cases of private import.¹

For the pharmaceutical industry of Basel, counterfeit medicines are the most serious concern. Fake medicines, ordered online and sent by post, may contain no active ingredient, the wrong one or dangerous impurities. The FOCBS cooperates with Swissmedic, the Swiss Agency for Therapeutic Products, to intercept such consignments. Together the two authorities report several thousand seizures each year, many of them involving erectile dysfunction drugs, slimming products and, increasingly, weight-loss injections. The industry itself contributes intelligence through its own security services. On the European side, the Falsified Medicines Directive introduced serialisation and verification of packs, which Switzerland adopted in a comparable form.²

1 Notes

1. Articles 70 et seq. of the Trademark Protection Act of 28 August 1992 (TmPA/MSchG, SR 232.11) and the corresponding provisions in the Design Act, the Patents Act and the Copyright Act; on the revision of 2008 allowing the seizure of counterfeits imported for private use, see Article 13 para. 2bis TmPA. To be verified. ↩

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2. On seizures of illegally imported medicines by the FOCBS and Swissmedic, see Swissmedic's annual reports and press releases; Directive 2011/62/EU (Falsified Medicines Directive) and Commission Delegated Regulation (EU) 2016/161 on safety features; on the Swiss implementation, see the Therapeutic Products Act and the related ordinances. Figures to be verified. ↩

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