



Companies and Intellectual
Property Commission

a member of **the dti** group

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The Pandemic Is Not an Excuse to Exploit Writers

The traffic of counterfeit and pirated products is a serious threat to consumers, business and the national economy. Intellectual property (IP) crime threatens to overwhelm honest business. Jobs are lost and prices increase. Overall, South Africa's creative economy contributes around R90bn to the national economy. This is why publically funded arts, culture and heritage sector projects, events and organisations are key to economic growth and job creation.

The Companies and Intellectual Property Commission (CIPC) has as one of its core objectives the responsibility to support and promote local innovation and creativity. Part of this function is to supervise and regulate the distribution of collected royalties by accredited collecting agencies and protect existing rights.

The primary function of the Innovation and Creativity Promotion Programme is the coordination of appropriate enforcement actions, educating and creating awareness of the requirements and benefits of the

- *registration of IP rights,*
- *remedies available*
- *opportunities for commercialisation and*
- *industrial development through efficient management of IP assets.*

The programme is also responsible for monitoring the unauthorised use of private and public IP rights, with a particular focus on the protection of IP rights holders in the creative industries.

The enforcement environment has changed significantly over the last 10 years. The challenges faced are uniquely different, with social media platforms often abused to promote the sale of pirated and counterfeited goods.

IP crime is more generally known as counterfeiting and piracy. Counterfeiting is, wilful trade mark infringement, while piracy involves, wilful copyright infringement. These are very similar and often overlapping crimes. Whereas trade mark infringement generally comprises the counterfeiting of brand name products, such as designer clothes, sportswear and expensive jewellery; piracy is copyright abuse involving the illicit copying of computer software, recorded music, books and film.

IP crime is not a new phenomenon but due to globalisation and advances in technology counterfeiting and piracy has become big business. The criminals involved are often well-

organized as a result of other endeavours and are set up to sell the counterfeited or pirated items for vast profits. However, public perception has not developed as quickly and the common view is that counterfeiting and piracy causes little harm.

The Counterfeit Goods Act, 1997 defines unlawful acts in section 2 and amongst others acts makes it also an offence to deal in counterfeit and pirated goods if the owner of the intellectual property right in respect of any particular protected goods suffers prejudice. Authors have been hit hard by the pandemic, especially emerging writers who have books coming out in the next few months. With bookstores and libraries closed and book tours cancelled, they are facing an enormous challenge in connecting with potential readers. It could be a career-destroying time for some authors, many of whom are struggling to make a living.

Sharing unauthorised books on social media platforms, commonly known as 'WhatsApp Book Clubs' is a crime. Your participation in and actively sharing of, copyright protected material on any social media platform prejudice the owner of the IP right and may be regarded as piracy. It could result in criminal prosecution with penalties of up to R10 000 per item, or on conviction of up to 10 years jail time.

Kindly note that you are required to take all reasonable steps in order to avoid any act or conduct that may result in piracy.

CIPC Copyright and Intellectual Property Enforcement

Further information is available on www.cipc.co.za or form ALotheringen@cipc.co.za