



## Product and Brand Piracy at Trade Fairs

In order to ensure the success of your visit to the trade fair, you should be well prepared not only in terms of business issues, but also in a legal sense. Extensive, even surprising circumstances may arise that require immediate, precise decisions and initiation of the right measures. Take the time before the trade fair to also ensure that you are prepared for any legal challenges that may occur.

We wish you happy reading. Questions?  
Please ask us!

**avocado rechtsanwälte**

schillerstraße 20

60313 **frankfurt**

t +49 [0]69.9133010

f +49 [0]69.91330119

frankfurt@avocado.de

www.avocado.de



## Legal Protection against Product and Brand Piracy at Trade Fairs

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## Legal Protection against Product and Brand Piracy at Trade Fairs

### How can you prepare yourself before the trade fair?

At trade fairs, intellectual property rights (e.g. copyrights, trademarks, patents, utility models and other industrial property rights) are regularly infringed upon. If well prepared, you will be able to react appropriately – and most importantly, quickly – to each incident.

Check in advance that you have registered all of your **industrial property rights** and that you hold copyrights to the goods or services you intend to present at the trade fair.

When presenting your goods or services to third parties, make sure that you have the relevant **licenses from the owners** of the IP rights.

Be particularly diligent when it comes to **supporting documents that verify** your IP rights. For example, keep your registration certificates or the confirmations of registration applications related to your trademarks, patents, utility models and registered designs readily available. Carry copies of license agreements with third parties or affidavits that document your right to present and sell the respective goods or services. With regard to copyrights, affidavits and development documents can also serve as evidence.

Bring a **camera or other recording device** (e.g. a smart phone with appropriate functions) to the trade fair in order to be able to document any legal infringements by your competitors.

Find an **attorney specialized in IP law**. Inform yourself before the start of the trade fair about the threat of any specific legal infringements as well as warnings already issued, cease and desist declarations subject to penalty, or court decisions issued against your competitors and send your attorney these documents as well as the abovementioned supporting documents verifying your IP rights. By doing so, your attorney is then in the position to react promptly to infringements of protective rights and if necessary, can even initiate necessary measures on your behalf before the start of the trade fair.



## Legal Protection against Product and Brand Piracy at Trade Fairs

### Which measures can you take during the trade fair to protect against product/brand piracy or other legal infringements?

If you should become aware of an infringement of your rights, gather **evidence**, for example, take photos or videos on site, collect available advertising material or take screenshots of your competitor's website. In particular, find out your competitor's precise contact information (name of the company and address, which can be discovered, for example, via the trade fair catalogue or from advertising materials at the booth).

Ensure that your **attorney** can be reached at any time during the trade fair; **inform** him/her of the incident and send him/her the evidence.

In the event of a legal infringement, your attorney will file an **application for interim injunction** with the court against your competitor. If necessary, your attorney will issue a warning to your competitor beforehand. Because the courts are prepared for such cases, it is often possible to receive a decision during the trade fair.

A court appointed bailiff can deliver an interim injunction to the competitor directly at the trade show. If your competitor continues to commit the legal infringement and thus violates its obligation to cease and desist, the court can impose **finances of up to €250,000.00 or a term of imprisonment**.

Based on your right to claim reimbursement of attorney and court fees, you can have the **goods** presented at your competitor's trade fair booth **seized as security** by the court appointed **bailiff**.



## Legal Protection against Product and Brand Piracy at Trade Fairs

### How can you defend yourself against third party accusations?

If a competitor has accused you of legal infringement before the trade fair, you should consult with your attorney regarding the necessary legal measures, in particular to prevent the threat of interim injunction being issued against you.

Therefore, **notify your attorney** and send him/her **all available information and documents related to your competitor's allegation**. Your attorney can submit a **protective letter** to the competent court which will detail why no legal infringement exists or why an injunction should not be ordered against you. With this protective letter, the court is in the position to take your arguments into consideration while deliberating on the competitor's application for interim injunction against you. As a result, the court may dismiss the competitor's application or at least not issue a decision without a hearing.

Your attorney can also provide you with information about other **defense possibilities**. For example, a settlement can be drafted and suggested to your competitor. Even if an evaluation of the accusation shows that a cease and desists declaration subject to penalty must be issued, the precise content and scope of such should be assessed.

If an **interim injunction brought against** you by a competitor is issued directly during the trade fair, you are obliged to **fulfil** the requirements stipulated in the injunction. Unfair advertising, for example, or another behavior can be prohibited based on the alleged legal infringement (trademark infringement, patent infringement, etc.). If you do not comply with the court ordered injunction, you may be subject to a severe penalty fine or term of imprisonment imposed by the court.

**Inform your attorney without delay** and send him/her the injunction. Your attorney will discuss the next steps with you and can file an objection against the injunction for you with the competent court.



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**Consult your attorney before issuing any press releases.** With regard to public statements in response to a competitor's allegations, it is not only tactical considerations that must be taken into account, but especially legal requirements, for example pertaining to competition law. If you should publish an incorrect press release, you may be subject to further assertion of claims by the competitor.

Ensure that you have the required **amounts of money to cover attorney and court fees** available at your trade fair booth. In this way, you can prevent the goods at your booth from being seized as security by your competitor to cover his/her claim for reimbursement of costs.

### What should you consider overall in order to prevent product/brand piracy?

Develop **strategies for protective rights**. Review your individual protective rights (trademarks, patents, utility models, registered designs) and register them at the national, European or international level, as necessary.

**Resolutely pursue infringements** of your protective rights. Monitor the internet and trade shows and work together with commercial, customer and law enforcement agencies and their attorneys.

**Secure your protective rights in your contractual relationships**. Formulate your contracts clearly. Be aware of the contractual rights and obligations of your suppliers and license holders and conclude the necessary non-disclosure agreements to protect your know-how.



## Legal Protection against Product and Brand Piracy at Trade Fairs

**Inform your customers and contractual partners** about your protective rights, the damages and dangers related to counterfeit goods as well as the legal consequences of trading or selling pirated goods.

Develop internal **company strategies as well as distribution strategies**. Establish an in-house point of contact for the protection of your IP rights and raise employee awareness in your company. Carefully select your suppliers. If possible, offer your customers product-related services and maintenance services.

Utilize modern **security procedures and technologies** to protect and monitor your IP rights and inform the customs authorities about such.

Obtain information regarding **the contact person for the trade show organizer, the state attorney and customs agencies as well as local specialized attorneys** who can also be reached on weekends. Begin working together with these parties before the start of the trade fair in order to ensure prompt legal protection even on the weekends.



## Legal notice

### **avocado rechtsanwälte**

schillerstraße 20

60313 **frankfurt**

t +49 [0]69.9133010

f +49 [0]69.91330119

frankfurt@avocado.de

www.avocado.de

www.brak.de

ust-id-nr. de 814 17 29 76

steuer nr. 13/225/62722

fa berlin-charlottenburg

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