

## **Counterfeiting and piracy An appraisal of the current situation in Switzerland**

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A survey of Swiss companies  
by the Swiss Federal Institute of Intellectual Property (2004)

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## Summary

The survey questionnaire was sent to individual members and the head management of economiesuisse, to associations, special interest organizations and companies from various branches of industry. The questionnaire was completed by 72 Swiss companies or companies doing business in Switzerland. Of this number, 64% claim to be affected by **counterfeiting and piracy** while 54% had been directly confronted with specific cases of counterfeiting and/or piracy of their products over the past twelve months.

**Counterfeiting** refers to the unauthorized use and unauthorized imitation of protected designs, trademarks and indications of source as well as patented inventions, while **piracy** refers to the unauthorized duplication of products and services protected by copyright or related rights.

The companies that responded to the survey are **particularly impacted by trademark and design counterfeiters** on the European and Asian markets. Out of the companies that responded to the survey, 79% are affected by trademark counterfeiting and 66% by designs counterfeiting. In third and fourth position are copyrights piracy and counterfeiting of indications of source. 54% respondents stated that they are impacted by piracy of their copyrights while 50% reported being affected by counterfeiting of their indications of sources. Patent-protected products, on the other hand, are less victims of counterfeiting and piracy and 29% of respondents stated that their patent-protected products had been forged.

Of the participating companies, 47% observed a sharp or very sharp increase in the counterfeiting of trademarks, designs, indications of source and patent-protected products in Switzerland over the past three years and 31% registered a sharp or very sharp increase in the piracy of copyright-protected products. Internationally, 69% of the responding companies reported a sharp or very sharp increase in piracy and 50% a sharp or very sharp increase in counterfeiting. 100% of the companies in the luxury goods sector reported a very sharp increase in the number of trademark infringements on both a national and international level.

The **food industry, luxury goods industry and tobacco industry** are particularly negatively impacted by counterfeiting and piracy, according to the survey. The food industry particularly suffers from forged trademarks and indications of source in the EU (including Switzerland). In the luxury goods industry<sup>1</sup> trademark infringements are most prevalent. Counterfeited trademark products in the lucrative markets of the EU/Switzerland and the USA/Canada were particularly emphasized as problematic. Within the luxury goods industry, the **watch industry** is badly affected by counterfeiting and piracy, in particular infringements of trademarks and indications of source. Finally, the tobacco industry has been impacted by

an ever-increasing number of infringements of trademarks, copyrights and designs in recent years, both in Switzerland and abroad. More detailed investigation is required to find out where these goods originate from, and whether they are actually produced in the markets specified or just exported to them or brought through as goods in transit.

The survey responses show that it is **very difficult** to estimate the **damage caused** by the counterfeiting and piracy of original products. This is especially due to the difficulty involved in ascertaining the damage to image and loss of sales caused by forged products and unauthorized copies of products. The figures given vary depending on the size of the companies or the trade association representing the companies and can range from tens of thousands of Swiss francs to annual losses of CHF 800 million in the watch industry.

According to the companies concerned, particularly important measures in the struggle against counterfeiting and piracy include improved training of national and international authorities responsible for the enforcement of intellectual property rights (customs, police and judiciary) and increased public awareness by drawing attention to both the illegality and dangers of such products. For the enforcement of these and other **measures**, respondents support closer coordination among the federal authorities (Swiss Federal Institute of Intellectual Property, customs authorities, police and judiciary) and increased cooperation between these authorities and the commercial enterprises affected in the form of a “**public-private partnership**.”

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<sup>1</sup> In this survey the term “luxury goods” is to be taken to include cosmetics, clothing, shoes and accessories as well as works of art.

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# 1. Introduction

In the spring of 2004, the Institute launched a survey on the subject of counterfeiting and piracy. The aim of the survey was to ascertain the extent to which Swiss companies and foreign companies active in Switzerland are affected by counterfeiting and piracy at a national and international level. The results of the survey also offer a point of reference for improvement of existing measures and the development of new measures in the fight against counterfeiting and piracy.

In the following report, the term “counterfeiting” refers to the unauthorized use of (and unauthorized imitation of) protected designs, trademarks and indications of source and patented inventions. The term “pirated products” refers to the unauthorized duplication of products and services which are protected by a copyright or related right.

The questionnaire was completed by 72 Swiss companies or foreign companies active in Switzerland<sup>2</sup>. The responses are analyzed from two viewpoints: firstly, the extent of counterfeiting and piracy with regard to the separate intellectual property rights (Section 2). And secondly, the extent of impact by counterfeiting and piracy on the individual sectors of industry (Section 3). Section 3 particularly looks at the responses by a holding company and an association responding on behalf of all its members. The main results of the survey are detailed in Section 4 while Section 5 discusses measures which should allow a more effective approach to be taken to the problem in the future.

## 2. Extent of Counterfeiting and Piracy

### 2.1 Intellectual property rights affected by counterfeiting and piracy

The companies surveyed were asked to state, on a scale of 1 (not affected at all) to 4 (seriously affected), whether counterfeiting and piracy impacts them and, if so, to specify the extent according to type of intellectual property right.

The separate intellectual property rights were broken down into trademark rights, design rights, copyrights and patent rights and rights to indications of source. A trademark is taken to refer to a mark capable of distinguishing the products and services of one company from those of another. Design is to be taken to refer to a product or product component which is characterized in particular by the configuration of lines, surfaces, shapes or colors and materials used. Copyright refers to the exclusive right to use a work, i.e. an original literary or artistic creation. A patent refers to the exclusive right to use an invention for commercial purposes and to prevent direct competitors from using it.

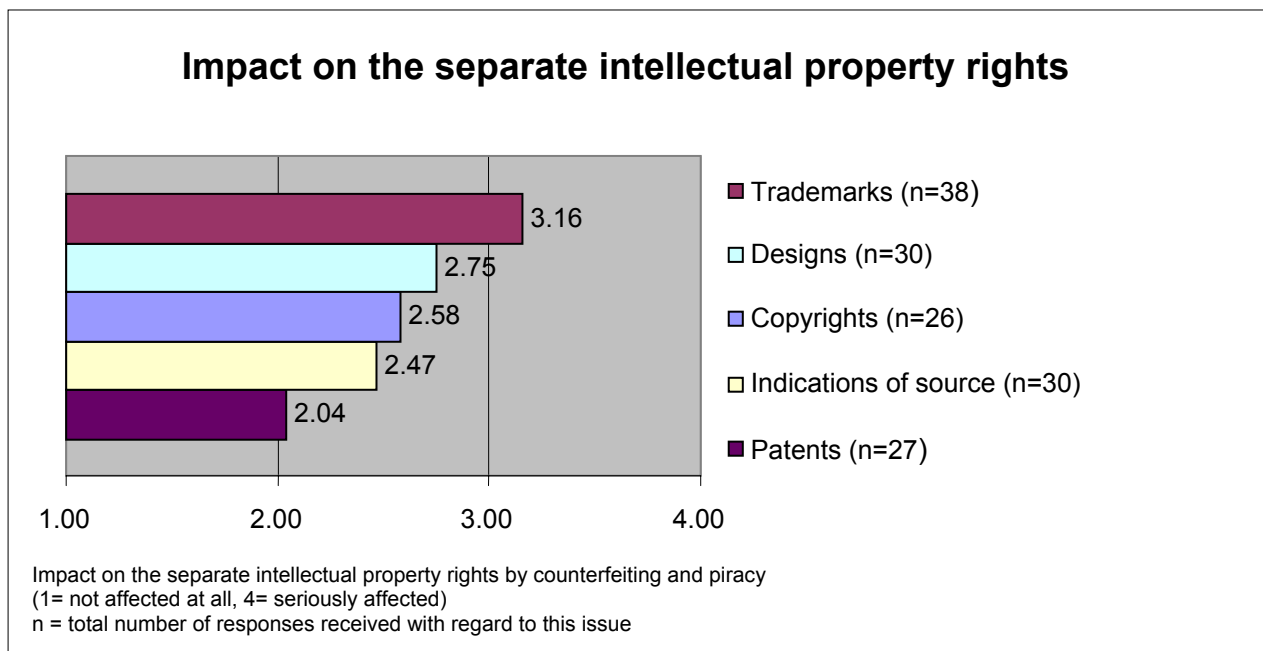
Out of the 72 responses received, 46 companies stated that they were affected by counterfeiting and piracy. According to these responses, 39 of the companies have been confronted by specific cases of counterfeiting and/or piracy over the past twelve months.

*64% of the companies that responded to the survey are affected by counterfeiting and piracy and 54% have been confronted by specific cases of counterfeiting and/or piracy of their products over the past twelve months.*

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<sup>2</sup> Trade associations communicated that, in some instances, companies did not have enough time to answer the questionnaire. The low levels of participation in the survey in certain sectors of industry should therefore not be interpreted as a lack of interest in the subject of counterfeiting and piracy.

**Diagram 1:** Which intellectual property rights are affected by counterfeiting and piracy and to what extent?



*79% of the companies that responded to the survey are affected by counterfeiting of their trademark-protected products and 66% are affected by counterfeiting of their design-protected products. 54% indicated that they are impacted by infringement of their copyrights and 50% are affected by counterfeiting of their indications of source.*

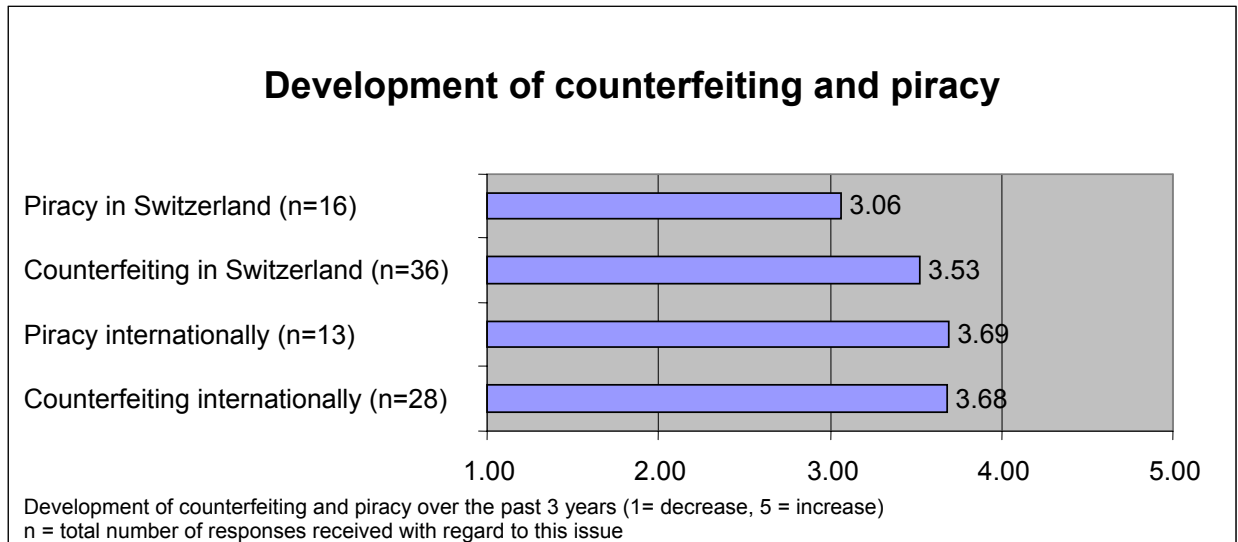
The responses from the companies show that trademark rights of Swiss companies or companies active in Switzerland are infringed on a particularly frequent basis. Out of a total of 38 companies which responded to this item, 30 stated that they are either seriously affected (20) or affected (10) by counterfeiting of their trademarks. Out of a total of 30 companies, 20 stated that they are seriously affected (9) or affected (11) by counterfeiting of their designs. Over half of the 26 companies affected by piracy of their copyrights stated that they are either seriously affected (7) or affected (7) by piracy of their copyrights and half of the 30 companies stated that they were either seriously affected (8) or affected (7) by counterfeiting of their indications of source. Patent-protected products are forged less frequently in comparison with the other intellectual property rights. Nevertheless 8 companies of a total of 27 stated that they are either seriously affected (4) or affected (4) through infringement of their patent rights by illegally produced products.

## 2.2 Development of counterfeiting and piracy

The companies were asked to evaluate the development of counterfeiting and piracy in their sector of business over the past 3 years on a scale of 1 (decrease) to 5 (increase) and to differentiate between the development of the problem on a national and international level.

*47% of the companies that responded to the survey had observed a sharp or very sharp increase in counterfeiting of trademarks, designs, indications of source and patent-protected goods produced by Swiss companies in Switzerland over the past three years. 31% of the companies that responded to the survey recorded a sharp or very sharp increase in piracy of copyright-protected Swiss works in Switzerland over the past three years.*

**Diagram 2:** Has counterfeiting and piracy (in your sector of industry) increased or decreased over the past 3 years?



### 2.2.1 Nationally

*47% of the companies that responded to the survey had observed a sharp or very sharp increase in counterfeiting in Switzerland over the past three years.*

According to the details provided by the companies surveyed, the average level of piracy in Switzerland have remained unchanged over the past three years, while the problem of counterfeiting has increased.

Out of 16 companies responding to this item, 5 reported that there has been either a sharp increase (2) or increase (3) in piracy in Switzerland. 7 companies felt that there has been no change in the levels of piracy. The other 4 companies had observed a decrease (2) or sharp decrease (2) in piracy in Switzerland. Out of 36 companies, 17 indicated that there had been either a sharp increase (10) or an increase (7) in counterfeiting in Switzerland over the past three years. 14 companies felt that the number of cases of counterfeiting remained unchanged. The other 5 companies had observed a decrease (2) or sharp decrease (3) in cases of counterfeiting.

### 2.2.2 Internationally

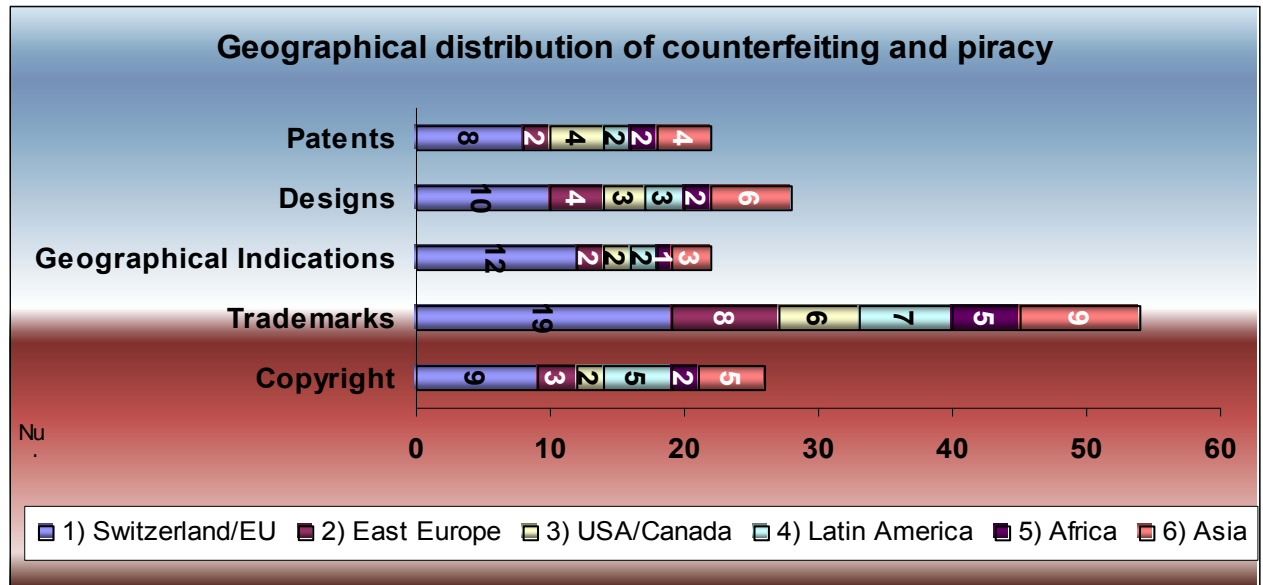
Out of the companies that responded to the survey, 69% had observed a sharp or very sharp increase in cases of piracy over the past three years and 50% had observed a sharp or very sharp increase in cases of counterfeiting outside Switzerland.

Out of 13 companies responding to this item, 9 reported that there had had been either a sharp increase (4) or increase (5) in piracy. One company felt that the number of cases of piracy remained unchanged. The other 3 companies had observed a decrease (2) or sharp decrease (1) in piracy. Out of 28 companies, 14 had observed a sharp increase (10) or increase (4) in cases of counterfeiting on an international level. 11 companies felt that the number of cases of counterfeiting remained unchanged. The other 3 companies reported that that there had either been a decrease (1) or sharp decrease (2) in the number of cases of counterfeiting.

## 2.3 Geographical distribution of counterfeiting and piracy

In the survey the companies were asked to indicate which intellectual property rights had been affected by counterfeiting and piracy in which regions.

**Diagram 3:** Which intellectual property rights have been affected in which regions?



*According to the companies that responded to the survey, forged products and/or unauthorized copies of products made by Swiss companies or companies active in Switzerland are predominantly available in the area of the EU<sup>3</sup> (incl. Switzerland) and in Asia.*

According to the responses received, counterfeited products and unauthorized copies of products made by Swiss companies or foreign companies active in Switzerland are predominantly available in the markets of the EU/Switzerland although the Asian and Eastern European markets are also affected: The EU/Switzerland (58) was in first position with Asia (49) and Eastern Europe (39) next, followed by Africa and Latin America (30 and 26), and finally the USA and Canada (total of 23).

With regard to the separate intellectual property rights, the survey shows that infringements of trademark rights are most frequent in the EU/Switzerland (26). Asia comes next (16), followed by Eastern Europe (14) and Africa (11). Designs infringements are also most frequent in Europe (13) and Asia (10), although it is also an issue in Eastern Europe (9) and Africa (6). The same tendency is apparent for infringements of copyrights, patent rights and indications of origin.

On the basis of the results of the survey, it is impossible to determine whether the counterfeited products or unauthorized copies of products are produced in the specified regions themselves or elsewhere for these markets. The origin of these products requires further investigation.

<sup>3</sup> EU with 15 Member States.

## 2.4 Damage

*The results of the survey confirm that it is difficult to evaluate the financial damage caused by counterfeiting and piracy of original products.*

The companies were asked to estimate the damage caused by counterfeiting and/or piracy of their products in Swiss francs.

The responses confirm that it is extremely difficult to estimate the damage caused by counterfeiting and piracy. For this reason, the majority of the companies left the question unanswered. The difficulty in quantifying the financial consequences caused by a damaged image and loss of sales was additionally mentioned.

For the companies who did specify their losses, the size of the losses were dependent on the size of the company and ranged from thousands of Swiss francs to annual losses in the millions. On average, SMEs reported annual losses ranging from tens of thousands to hundreds of thousands of Swiss francs, while larger companies reported losses of between CHF 1 - 3 million. Major companies, associations and a Holding representing entire sectors of industry, on the other hand, gave amounts ranging from CHF 9 to 800 million per annum in damage or loss of sales.

The difficulties specified above prohibit exact statements about the total damage caused by counterfeiting and piracy in Switzerland.

## 3 Industrial Sectors

In order to make valid statements concerning the impact on individual sectors of industry, industries were grouped together into the following sectors: the food industry, the luxury goods industry and the manufacturing industry. Two trade associations also responded on behalf of all their members: a Holding from the luxury goods industry and an association for the watch industry. These responses and the responses from an international tobacco company are commented on separately.

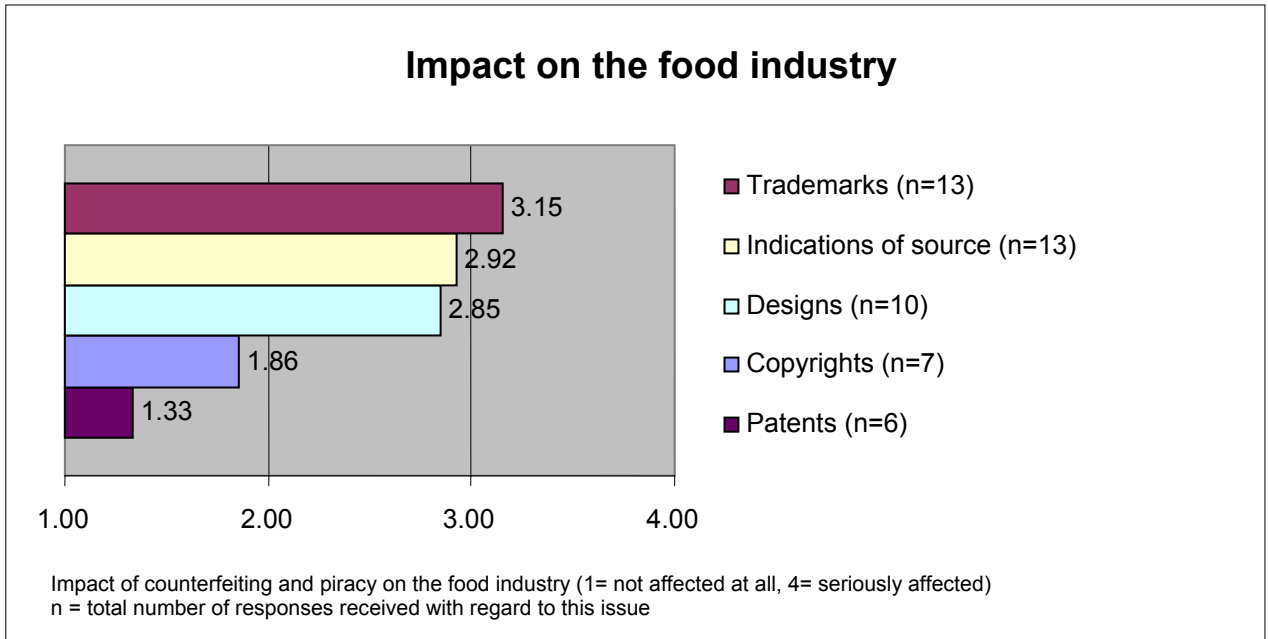
*Companies in the food industry, luxury goods industry and tobacco industry claim that they are particularly hard hit by counterfeiting and piracy.*

### 3.1 Food sector

Out of a total of 21 companies in the food industry, 17 claimed to be impacted by counterfeiting and/or piracy of their products. According to the responses received, 15 of the 17 companies concerned have been confronted by specific cases of counterfeiting and/or piracy over the past twelve months.

*81% of the companies that responded to the survey in the food industry are affected by counterfeiting and/or piracy of their products and 88% of them have been confronted by specific cases within the past twelve months.*

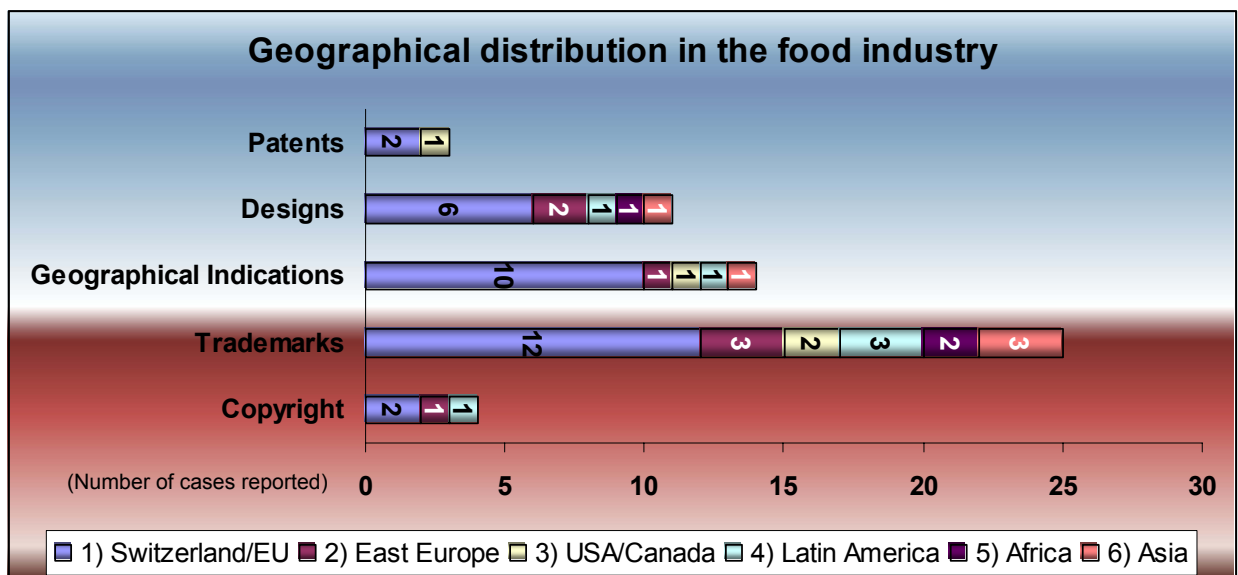
**Diagram 4:** Which intellectual property rights are affected by counterfeiting and piracy in the food industry and to what extent?



*Out of the companies which responded to the survey from the food industry, 84% are affected by infringement of their trademark rights, 80% by infringement of their design rights and 69% by infringement of their indications of source.*

The responses received show that trademark rights, indications of source and design rights in particular are infringed in the food industry. Out of a total of 13 companies responding to this item, 11 reported that they are seriously affected (6) or affected (5) by counterfeiting of their trademarks and 9 companies are seriously affected (4) or affected (5) by counterfeiting of their indications of source. Out of a total of 10 companies concerned, 8 reported that they were seriously affected (2) or affected (6) by infringement of their design rights. In the food industry copyrights are rarely or never infringed and patent rights are almost never infringed.

**Diagram 5:** Which intellectual property rights are affected by counterfeiting and piracy in which regions?

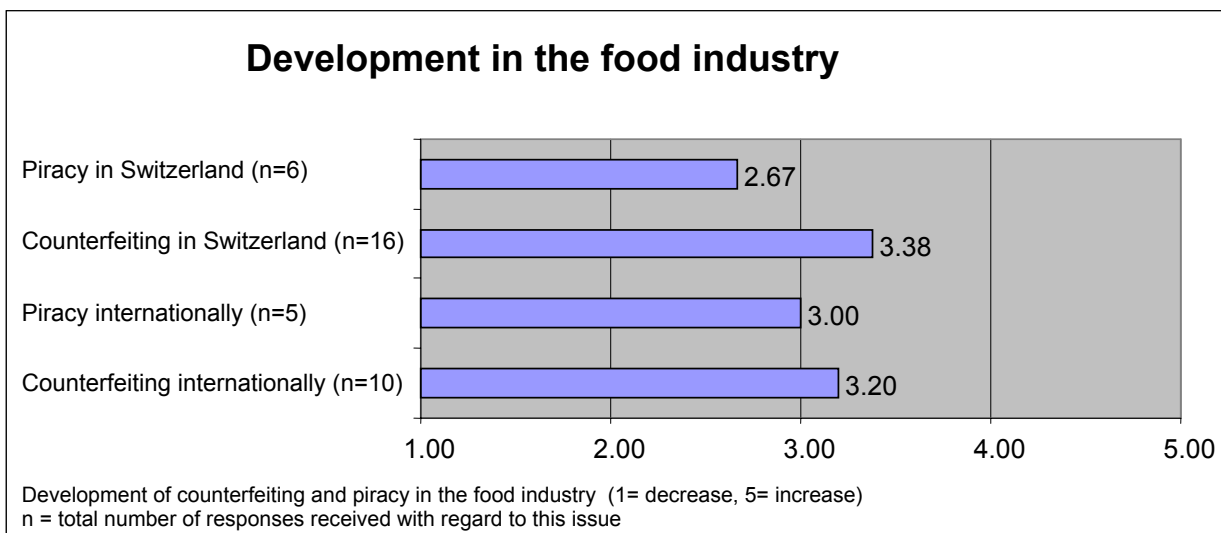


The responses from the companies show that infringements of rights relating to foodstuffs are most frequent in the markets of the EU/Switzerland (32). Eastern Europe (7) comes a distant second, followed by Latin America (6), Asia (5) and the USA/Canada (4). According to the responses received, the region least affected by the problem is Africa (3).

On the basis of the results of the survey, it is impossible to tell whether these counterfeited or pirated foodproducts are produced in the regions specified or whether they are just sold on these markets. The question of whether these products are actually produced in the regions mentioned or are just exported to these regions or brought through as goods in transit is therefore an open issue.

*According to the results of the survey, forgeries or unauthorized copies of products made by Swiss companies or companies represented in Switzerland in the food industry are particularly prevalent in the markets of the EU (incl. Switzerland).*

**Diagram 6:** Has counterfeiting and piracy in the food industry increased or decreased over the past 3 years?



*37% of the companies from the food industry that responded to the survey had observed a sharp or very sharp increase in counterfeiting and a slight fall in piracy in Switzerland over the past three years.*

### 3.1.1 Nationally

According to the responses of the companies surveyed, the extent of counterfeiting and piracy in the food industry has remained unchanged on average over the past three years. This applies to development on a national and international level.

Out of 6 companies answering this item, one stated that there had been an increase in piracy in Switzerland. 3 companies felt that piracy remained unchanged. The other 2 companies had observed a decrease (1) or sharp decrease (1) in piracy in Switzerland. Out of a total of 16 companies that responded to the survey, 6 reported that there had been either a sharp increase (3) or increase (3) in counterfeiting in Switzerland over the past three years. 8 companies felt that the number of cases of counterfeiting remained unchanged. The other 2 companies had observed a decrease (1) or sharp decrease (1) in cases of counterfeiting.

### 3.1.2 Internationally

According to the responses received, the extent of counterfeiting and piracy of Swiss foods outside Switzerland has remained unchanged on average over the past three years.

Out of 10 companies that responded to the survey, 3 had observed a sharp increase (1) or increase (2) in cases of counterfeiting on an international level. 6 companies considered that the number of cases of counterfeiting remained unchanged and one company reported a sharp fall in the number of cases of counterfeiting. Out of 5 companies that responded to the survey, 3 claimed that piracy of food had increased over the past three years. The other 2 companies had observed a decrease (1) or sharp decrease (1) in piracy.

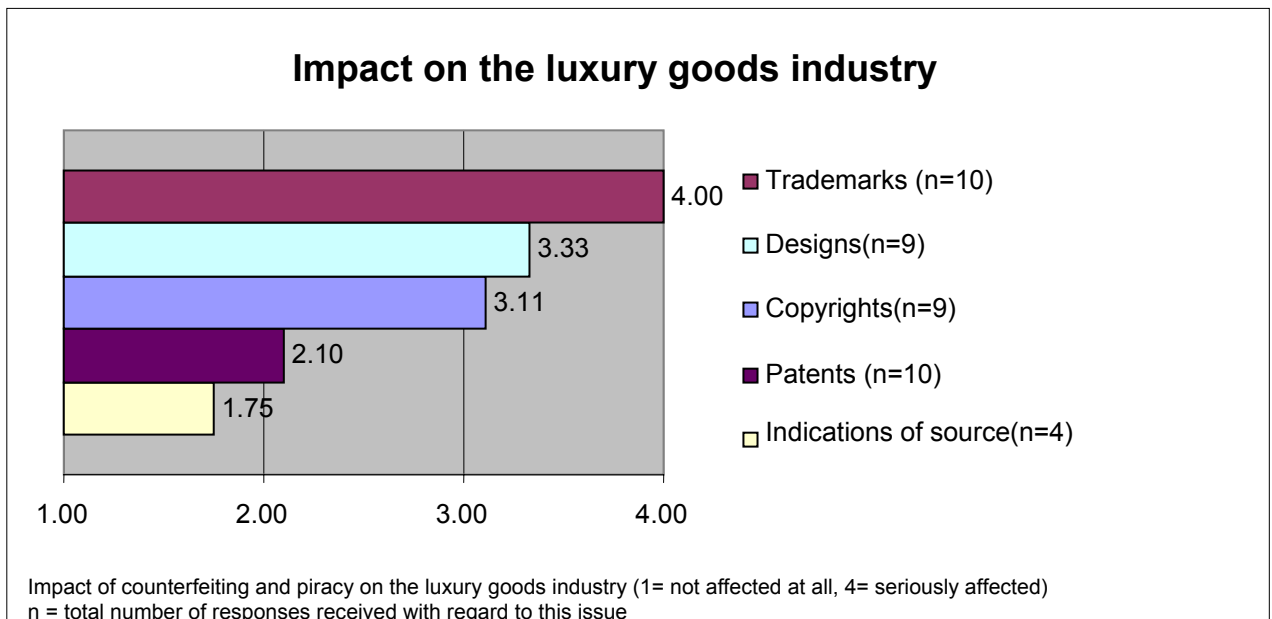
## 3.2 Luxury goods sector

### 3.2.1 Summary of responses<sup>4</sup>

All the companies that responded to the survey from the luxury goods sector (10) reported that they have been impacted by counterfeiting and/or piracy of their products. All these companies had been confronted by specific cases of counterfeiting and/or piracy in the past twelve months.

*100% of the companies that responded to the survey from the luxury goods sector claimed to be seriously affected by infringement of their trademark rights.*

**Diagram 7:** Which intellectual property rights are affected by counterfeiting and piracy in the luxury goods industry and to what extent?

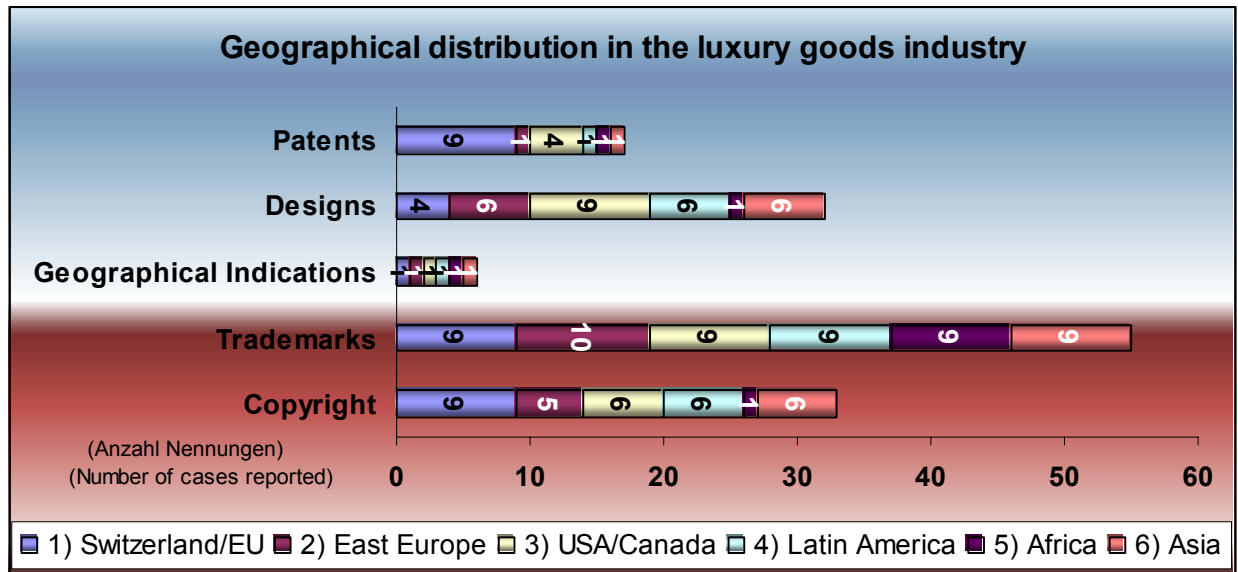


100% of the companies that responded to the survey from the luxury goods industry reported being seriously affected by counterfeiting of their trademarks. 66% of the companies felt that they were also confronted by infringement of their design rights and 55% felt that they were confronted by infringement of their copyrights.

Out of 9 companies responding to this item, 6 reported being seriously affected by counterfeiting of their designs, while 3 stated that their design rights had not been affected. Out of a total of 9 companies, 5 claimed that their copyrights had been seriously impacted, while 4 stated that their copyrights had not been affected. It should be stressed that in the luxury goods industry patent rights are clearly rarely infringed and that indications of source are almost never infringed. The watch industry, however, represents a notable exception to this (cf. the observations under Section 3.2.3).

<sup>4</sup> In this survey the term “luxury goods” is to be taken to include cosmetics, clothing, shoes and accessories as well as works of art.

**Diagram 8:** Which intellectual property rights are affected by counterfeiting and piracy in which regions?

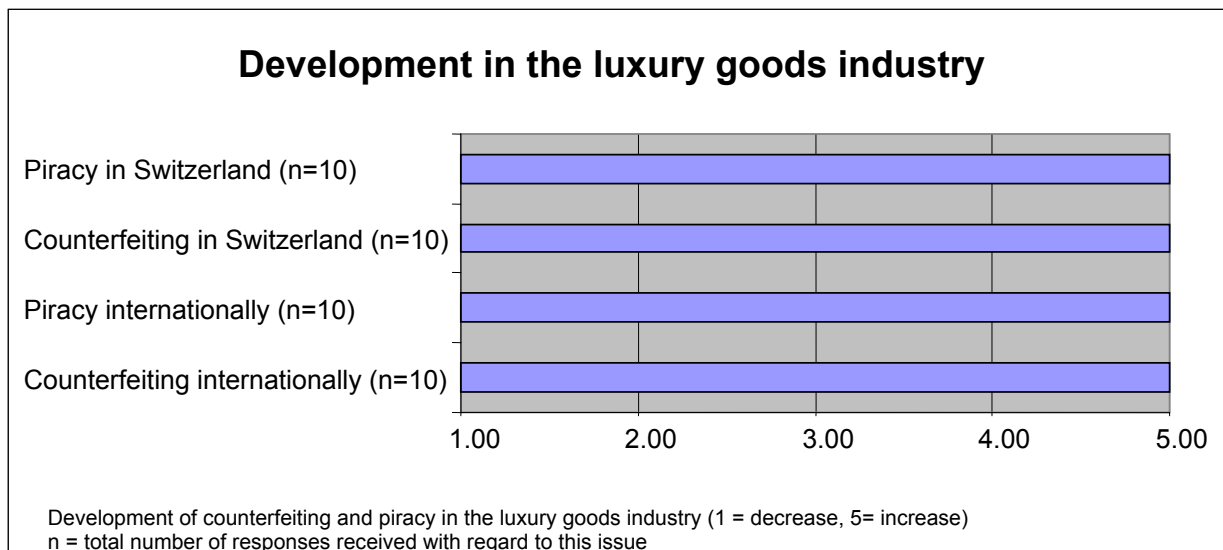


*According to the responses received, counterfeiting or unauthorized copies of Swiss luxury goods are particularly prevalent on the markets of the EU (including Switzerland) and the USA/Canada.*

According to the responses from the companies, counterfeited or unauthorized copies of Swiss luxury goods are particularly available on the EU/Switzerland and USA/Canada markets. The EU/Switzerland comes clearly first here (32) with the USA/Canada in second place (29). They are then followed by Eastern Europe, Asia and Latin America (23 each). Least affected by the problem is Africa (13).

On the basis of the results of the survey, it is impossible to ascertain whether the forged luxury goods or unauthorized copies of the luxury goods are also manufactured in the regions specified or whether they are just exported to or brought through these regions, and thus on the markets. Further clarification is required to resolve this.

**Diagram 9:** Has counterfeiting and piracy in the luxury goods industry increased or decreased over the past 3 years?



*100% of the companies that responded to the survey had observed a very sharp increase in counterfeiting and piracy in the luxury goods industry in Switzerland and internationally over the past three years.*

When evaluating the development of counterfeiting and piracy over the past three years, all the companies in the luxury goods sector indicated that there has been a very sharp increase in counterfeiting and piracy of Swiss luxury goods on a national and international level.

### 3.2.2 Collective response of a Holding in the luxury goods industry

The group of companies involved in the luxury goods sector own 18 internationally renowned luxury brands for goods such as watches, jewelry, leather goods and writing goods as well as “prêt-à-porter” clothing.

The responses from the group show that holders of intellectual property rights to luxury articles are seriously affected by counterfeiting and piracy. Particularly frequent is the counterfeiting or unauthorized copying of trademark-protected and design-protected products and products protected by copyright. Patent rights, on the other hand, are seldom infringed in the luxury goods industry. According to the group’s statements, it is very difficult to estimate the development of the problem over recent years. The productivity of the counterfeiters can be measured, however, by the number of legal actions initiated in the past twelve months: 2,500 around the world.

In Latin America, Asia, the USA and Canada, trademarks, copyrights and design rights are most frequently infringed, while in Europe, it is trademarks, copyrights and patents. In other words, in Europe patent rights are most affected while in Latin America, Asia, the U.S. and Canada the problem occurs more frequently with design rights. In Africa it is primarily trademark rights which are infringed.

According to the statements provided by the group, it is impossible to estimate the damage caused by counterfeiting and piracy. However, the sum of US\$ 2 million awarded for compensation of damage over the past three years for counterfeiting with regard to *one single* mark could at least serve as a point of reference for the extent of the damage caused by counterfeiting and piracy.

### 3.2.3 Collective response of a watch industry association

The trade association specializing in the watch industry is made up of 520 members and represents over 90% of the Swiss watch industry. As an end product a watch is protected by various intellectual property rights, meaning it can be protected simultaneously under copyright, and as a mark, an indication of origin, and a design and as a patent.

The responses from the trade association show that intellectual property rights to watches or watch components are very negatively impacted by counterfeiting and piracy. Trademark rights, indications of source and designs are particularly frequently infringed. Patent rights and copyrights are also affected. According to the information provided by the trade association, there has been an increase in counterfeiting and piracy in the watch industry over the past three years. For instance over 2 million forged watches were seized in 2003. Over half of these were in the People’s Republic of China alone. The trade in forged watches causes the Swiss watch industry *annual* damage estimated at CHF 800 million.

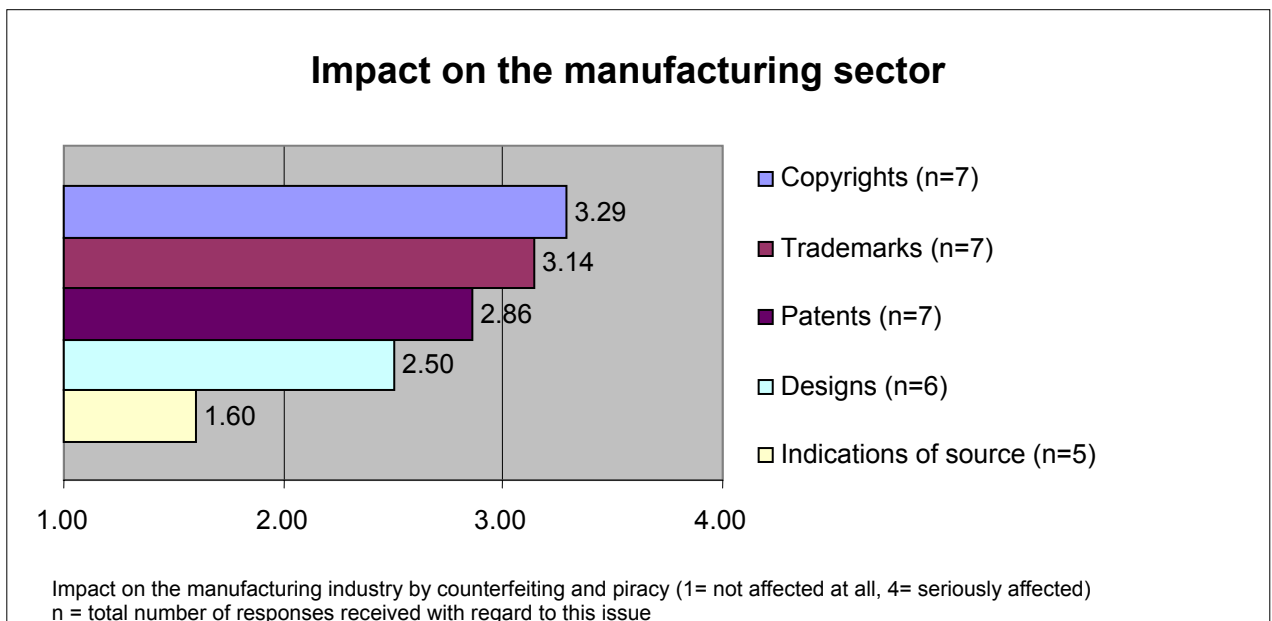
Intellectual property rights to watches or watch parts are infringed in all the regions specified in the survey. In 2003, the trade association registered specific cases primarily all in China and the United Arab Emirates, but customs authorities also seized forged watches and watch parts in Belgian, Spanish and Brazilian ports and at the Zurich airport.

### 3.3 Manufacturing sector

Out of 17 companies in the manufacturing sector (engineering, furniture and automobiles) nearly half (8) claimed to be affected by counterfeiting and/or piracy of their products. Over three-quarters (6) of the latter had also been confronted by specific cases of counterfeiting and/or piracy within the past twelve months.

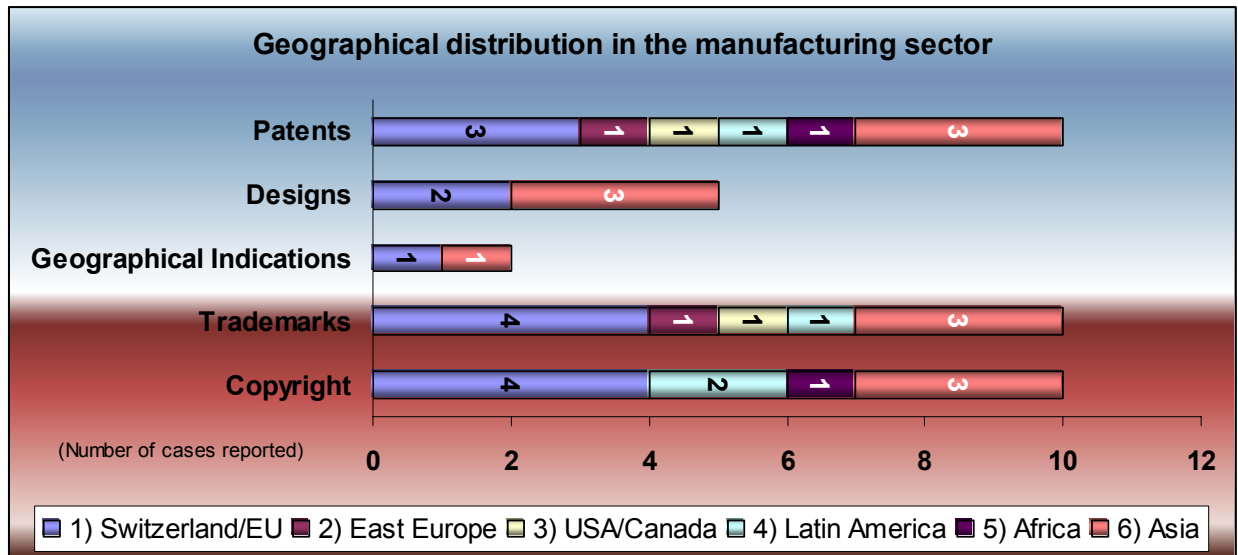
*47% of the companies that responded to the survey from the manufacturing sector are affected by counterfeiting and/or piracy of their products, and 35% have been confronted by specific cases of counterfeiting and/or piracy of their products within the past twelve months.*

**Diagram 10:** Which intellectual property rights are affected in the manufacturing industry by counterfeiting and piracy and to what extent?



The responses received show that in the manufacturing sector, primarily copyrights and trademarks are infringed. Out of 6 companies responding to this item, 5 claimed that their copyrights are seriously affected (3) or affected (2). 5 out of the 6 companies also reported that their trademark rights are seriously affected (2) or affected (4). In third place came patent rights. Out of 6 companies, 4 stated that their patent-protected products are seriously affected (3) or affected (1) by counterfeiting. The responses received also show that indications of source are less often infringed in the manufacturing sector in comparison with the other intellectual property rights.

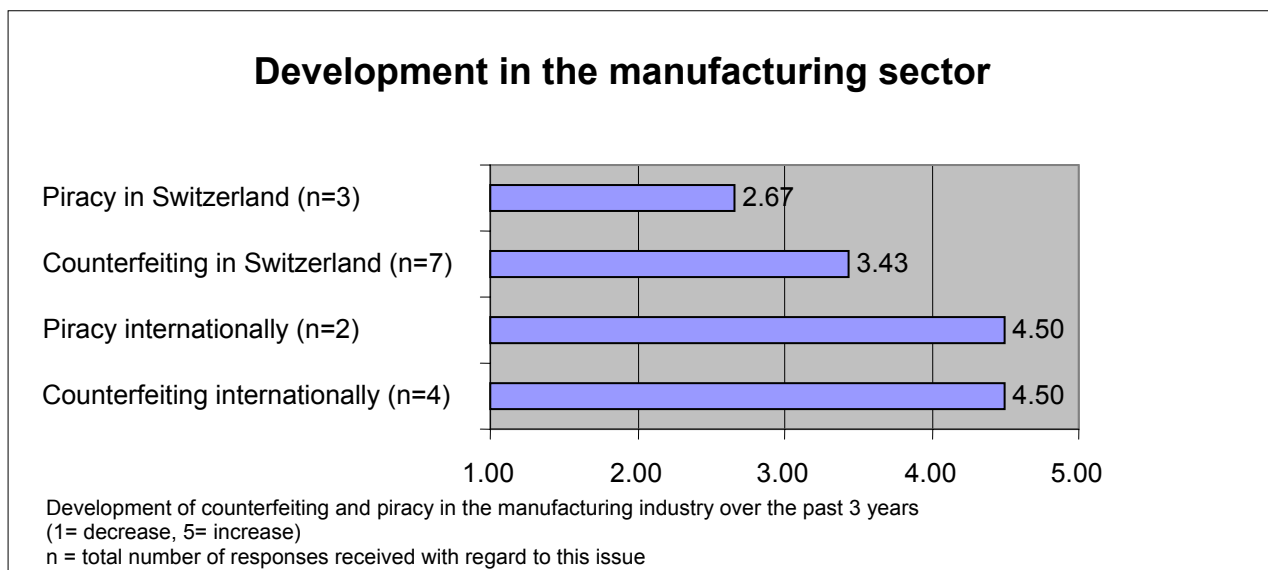
**Diagram 11:** Which intellectual property rights are affected by counterfeiting and piracy in which regions?



According to the information provided by the companies, forgeries and illegal copies in the engineering, furniture and automobile industries can be found in particular on the European and Asian markets. The EU/Switzerland (14) comes just ahead of Asia (13) in this respect. They are followed by Latin America (4) and Eastern Europe with the USA/Canada and Africa bringing up the rear (2 each).

On the basis of the results of the survey, it is impossible to determine whether the forged or unauthorized copies of furniture, machines/machine parts or cars/car parts are produced in the regions specified or whether they are just exported to/brought through these regions which is why they are to be found on these markets. Further clarification is required here.

**Diagram 12:** Has counterfeiting and piracy in the manufacturing industry increased or decreased over the past 3 years?



*According to the companies that responded to the survey, there has been a slight increase in counterfeiting in the manufacturing sector over the past three years in Switzerland and a slight decrease in piracy. On an international level, on the other hand, there has been a sharp increase in counterfeiting and piracy.*

Statistically it is impossible to make any generally valid statements because of the low number of responses to the survey received regarding the effect, geographical distribution and development of counterfeiting and piracy in the manufacturing sector. A tendency can be seen, however, for copyrights and trademark rights to be predominantly affected. In certain cases the patent rights of companies from the manufacturing industry are also affected. In this case the damage potential is particularly high. The companies concerned had observed an increase in cases of counterfeiting in Switzerland over the past three years and a sharp increase in cases of piracy and counterfeiting outside Switzerland. The geographical focal points of counterfeiting and piracy are Europe and Asia.

### **3.4 Tobacco -- Representative response from one company**

Tobacco articles can be protected by various intellectual property rights. For instance a tobacco product and its packaging can be protected by trademark rights, copyrights and design rights and indications of source.

The international tobacco company responding to the survey sells tobacco articles under 90 different brandnames. The company stated that its intellectual property rights to tobacco articles are seriously affected by counterfeiting and piracy. The infringement of trademark rights, copyrights and design rights is particularly frequent. Indications of source are less affected. According to the information provided by the company, there has been a sharp increase in counterfeiting and piracy over the past three years on a national and international level. The company surveyed asserted that it is confronted by cases of counterfeiting and piracy on a daily basis. Over the past year specific cases of counterfeiting and piracy of tobacco products were discovered in the United Arab Emirates, Europe, Pakistan, Iraq, Paraguay and China. These caused damage amounting to CHF 20 million. Intellectual property rights relating to tobacco articles were infringed in all the regions specified in the survey. In Eastern Europe, Africa and Asia trademarks, copyrights, designs and indications of source are all infringed. In Europe, the USA/Canada and Latin America trademark rights and design rights are infringed, but there is less infringement of copyrights or indications of source.

## 4 Conclusions

64% of the companies surveyed are currently impacted by counterfeiting and piracy in Switzerland and/or abroad while 47% of them responded that they had noted an increase in counterfeiting in Switzerland over the past three years. In the luxury goods industry, 100% of the companies which responded indicated that there had been a very sharp increase in counterfeiting and piracy in Switzerland and abroad over the past three years. The increase in infringements of trademark-protected products was categorized as very high in this industry.

79% of the companies responding are impacted by counterfeiting of their trademark-protected products and 66% by counterfeiting of their design-protected products. 54% of the companies that responded to the survey reported that they are affected by infringement of their copyrights and 50% by infringement of their indications of source. According to the information provided by the companies concerned, forged or unauthorized copies of products made by Swiss companies or foreign companies active in Switzerland are prevalent on markets in the EU/Switzerland and in Asia. The Eastern European market is also affected. It should be noted that no distinction was drawn within the survey between the place of manufacture and place of sale of a forged product or unauthorized copy of a product. Further clarification is required as to whether these products are actually manufactured in the regions specified, are just exported to these regions, or are brought through as goods in transit.

The luxury goods industry, food industry and tobacco industry are particularly affected by counterfeiting and piracy according to the responses received. The annual damage caused in some sectors of Swiss industry reaches sums of up to CHF 800 million. The luxury goods industry is hit hardest where trademark rights, copyrights and design rights are regularly infringed. In the watch industry, indications of source are also constantly infringed. According to the responses received, forged luxury goods can not only be found in Asia and Eastern Europe, but also in the EU/Switzerland and North America, contrary to the prevailing view. The food industry is also affected by the problem. In this branch of industry, there are infringements of trademark rights and design rights in particular, as well as rights to indications of source. These products are apparently primarily to be found in the markets of the EU/Switzerland. Finally the tobacco industry has also been suffering from a constantly increasing number of infringements of trademark rights, copyrights and design rights in recent years on a national and international level.

The responses received confirm that it is extremely difficult to estimate the damage caused by counterfeiting and piracy. One of the reasons identified for this is that it is difficult to quantify the financial consequences caused by damage to image and loss of sales.

## 5. Prospects

A sustained fight against the problem and improved enforcement of intellectual property rights are only possible if the existing judicial and institutional tools are optimized and new effective tools can be developed in the battle against counterfeiting and piracy. The companies were therefore asked within the survey to specify measures that would bring about an improvement in their situation or allow a more effective approach against the counterfeiting and/or piracy of their products.

The companies concerned are pinning their hopes for success in the battle against counterfeiting and piracy, in particular on improved training of the authorities responsible for the enforcement of intellectual property rights (customs, police and judiciary) and increased public awareness, for example through information campaigns. The introduction of new legislative measures, primarily to stiffen criminal sanctions, and improved exchange of information between the sectors concerned and more effective customs measures were also considered appropriate tools in the fight against counterfeiting and piracy.

The companies were asked in the survey whether they would welcome the creation of a task force composed of administrative authorities and companies concerned by the problem as well as miscellaneous representatives from trade and industry. They were also asked whether they were prepared to participate actively in the work of this team. Out of the companies concerned, 76% answered that they would. The Swiss Federal Institute of Intellectual Property, in conjunction with other administrative authorities and commercial enterprises concerned, intends to contribute to the coordination of national activities in the sense of a "public-private partnership" in the battle against counterfeiting and piracy.