

**Organic Law 10/1995, of November 23, 1995—Criminal Code\***

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**CHAPTER XI  
OFFENSES AGAINST INTELLECTUAL AND  
INDUSTRIAL PROPERTY, THE MARKET AND  
CONSUMERS**

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**Section 1  
Offenses Against Intellectual Property**

**270.** Any person shall be punished with a prison term of six months to two years or a fine of six to 24 monthly units who, with gainful intent and to the detriment of third parties, reproduces, plagiarizes, distributes or communicates to the public all or part of a literary, artistic or scientific work or transformation or artistic performance thereof fixed in any kind of material or communicated by any medium, acting without the authority of the owners of the corresponding intellectual property rights or their licensees.

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\* *Spanish title:* Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal.

*Entry into force:* May 25, 1996.

*Source:* Communication from the Spanish authorities.

*Note:* Translation by the International Bureau of WIPO.

<sup>1</sup> Section 1 (Offenses Against Intellectual Property) is published in *Copyright and Neighboring Rights Laws and Treaties*, SPAIN—Text 2-01 (*Editor's note*).

\*\* Added by the International Bureau of WIPO.

<sup>1</sup> Section 1 (Offenses Against Intellectual Property) is published in *Copyright and Neighboring Rights Laws and Treaties*, SPAIN—Text 2-01 (*Editor's note*).

<sup>2</sup> Section 3 (Offences Against the Market and Consumers) is not reproduced here (*Editor's note*).

The same penalty shall be inflicted on any person who intentionally imports, exports or stocks copies of such works or productions or performances without the said authority.

The said penalty shall likewise be applicable to the manufacture, distribution and stocking of any medium specifically intended to facilitate the unauthorized removal or disablement of any technical device used for the protection of computer programs.

**271.** A prison term of one to four years, a fine of eight to 24 monthly units and specific disqualification for a period of two to five years from the exercise of the profession to which the offense committed relates shall be inflicted where any of the following circumstances obtains:

- (a) the profit made has particular economic implications;
- (b) the harm done is of particular seriousness.

In such cases the judge or court may likewise order the temporary or permanent closure of the condemned party's industry or business. Temporary closure may not exceed five years.

**272.**—(1) The extent of civil liability deriving from the offenses defined in the foregoing two Articles shall be governed by the provisions of the Law on Intellectual Property<sup>3</sup> that relate to cessation of unlawful activity and to indemnification for damages and prejudice.

(2) In the case of a condemnatory sentence, the judge or court may order the publication of the said sentence in an official periodical at the expense of the infringer.<sup>1</sup>

## **Section 2**

### **Offenses Against Industrial Property**

**273.**—(1) Any person shall be punished with a prison term of six months to two years and a fine of six to 24 monthly units who, for industrial or commercial purposes, without the consent of the owner of patent or utility model rights but knowing that they are registered, manufactures, imports, stocks, uses, offers or brings onto the market subject matter covered by such rights.

(2) The same penalties shall be inflicted on any person who, in the same way and for the purposes mentioned, makes or offers use of a process forming the subject matter of a patent, or stocks, offers, brings onto the market or uses the product directly obtained by means of the patented process.

(3) Any person shall be punished with the same penalties who engages in any of the acts specified in [paragraph \(1\)](#) of this Article, the circumstances being the same, in relation to subject matter covered by the registration in favor of a third party of an industrial or artistic design or topography of a semiconductor product.

**274.**—(1) Any person shall be punished with a prison term of six months to two years and a fine of six to 24 monthly units who, for industrial or commercial purposes

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<sup>3</sup> See footnote 2 (*Editor's note*).

and without the consent of the owner of industrial property rights registered in accordance with trademark legislation, but knowing that such registration exists, reproduces, imitates, modifies or otherwise uses a distinctive sign identical to or susceptible of confusion with the subject matter of the registration to distinguish the same or similar goods, services, activities or businesses as those for which the industrial property rights are registered.

(2) The same penalties shall be inflicted on any person who knowingly stocks, with a view to marketing, or places on the market, goods or services under distinctive signs which, according to [paragraph \(1\)](#) of this Article, constitute an infringement of the exclusive rights of the owner thereof, even in the case of goods imported from abroad.

**275.** The same penalties as are specified in the foregoing Article shall be inflicted on any person who intentionally and without the authority to do so uses, in business dealings, a legally protected appellation of origin or other geographical indication denoting a specific quality to distinguish goods covered by such indication in the knowledge that it is protected.

**276.—**(1) A prison term of two to four years, a fine of eight to 24 monthly units and specific disqualification for a period of two to five years from the exercise of the profession related to the offense committed shall be inflicted where the offenses specified in the foregoing Articles are of particular seriousness, due regard being had to the value of the unlawfully produced objects or to the particular importance of the prejudice caused.

(2) In such circumstances the judge may order the temporary or permanent closure of the condemned party's industry or business. Temporary closure may not exceed five years.

**277.** Any person shall be punished with a prison term of six months to two years and a fine of six to 24 monthly units who has intentionally disclosed an invention forming the subject matter of a secret patent application in breach of the provisions of patent legislation, insofar as such disclosure is prejudicial to national defense.

### **Section 3**

...<sup>3</sup>

### **Section 4**

#### **Provisions Common to the Foregoing Sections**

**287.—**(1) In order to be proceeded against, the offenses provided for in the foregoing Articles of this Chapter must be reported by the aggrieved party or his legal representatives. Where the aggrieved party is a minor, incompetent or incapacitated, the offense may also be reported by the Treasury Ministry.

(2) The report required under the foregoing paragraph shall not be necessary where the offense committed affects the public interest or the interest of two or more persons.

**288.** In the circumstances provided for in the foregoing Articles, publication of the sentence in official periodicals shall be ordered, and, where the aggrieved party so requests, the judge or court may likewise order full or partial reproduction in any other information medium, all at the expense of the condemned party.

In consideration of the circumstances of the case the judge or court may also adopt the measures provided for in Article 129 of this Code.

*(This text replaces the one previously classified under the same code number.)*