



# Wiesbaden Legal Center Legal Assistance Office

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## Copyright Infringement by Illegal File Sharing in Germany

It has become very popular to download music, films, and TV series in the privacy of the home. Downloading copyright protected material whilst making it available to the public via peer to peer file sharing software is an offence in Germany and the user can also be held liable for damages to the copyright holder under German Copyright laws.

Why is this illegal? German Copyright laws grant the owner of copyrighted work an exclusive right to reproduce, distribute, publicly perform and publicly display the work or to authorize such. Downloading and uploading copyrighted works without permission contravenes the copyright holder's right of reproduction and distribution.

It is not surprising that for some time now German law firms acting on behalf of proprietors of copyright of literary/artistic/musical work mail out cease and desist letters to hundreds if not thousands of internet users alleging that those users made unauthorized use of such copyrighted work, by way of having illegally downloaded music, audio books or films from the internet and made those works available to other internet users. The allegations and the wording of those letters are almost identical and consist of having downloaded and at the same time made available to other users by way of mainly p2p file sharing programs on a particular day at a particular time copyright protected works under the particular user's IP address.

Copyright holders identify illegal downloading activities by using the services of Anti Piracy firms to track and search copyrighted works, often current chart hits or movies on popular file sharing/ P2P networks. The software such firms use can match an offered upload to the IP number assigned at that time. Next, a court order is applied for and usually granted whereby internet service providers, who store user data, are ordered to release contact information such as the name and address of the user to whom the investigated IP address was assigned.

As a rule, the contracting party of the service provider is legally responsible for any illegal download activity whether carried out by family members, visitors, or neighbors. Also, leaving a WLAN unsecured makes a user responsible for any violations third parties may cause on the network. As a protection it is recommended to set up a username and password for a Wireless Router or any similar equipment. Once it is set up, only those who are informed of the password would be able to connect and use the Internet connection through the Wireless router. It is mandatory to keep the password safe.



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So what should you do if you received a demand letter from a law firm alleging an illegal download? Don't ignore it, because mostly it can be assumed that the issued notice letter is basically legally sufficient. Most attorneys insist on payment of damages, a statement of cease and desist as well as the respective legal fees. Recent statutory amendments of the Copyright Act have introduced a limitation of legal fees in reference to just a cease and desist letter to €147, 50. It is advisable not to communicate with the law firm and also not to sign any document, or to make any payments before consulting with an attorney.

This information paper provides only general guidance. If you require legal advice in relation to a downloading allegation, make an appointment to see a legal assistance attorney at the Wiesbaden Legal Center DSN 337-4725 or Civilian 0611-7054725.