



The IFW Approach to Emerging Trends and Issues in Anti-Counterfeiting and Brand Protection in the Asia-Pacific Region

The purpose of this White Paper is to provide insights into the proliferation of online counterfeit products, related intellectual property issues with such illicit trade, and to outline IFW's approach to anti-counterfeiting and illicit trade to assist with tackling the issues at hand.

The White Paper will highlight key emerging trends and issues in the counterfeit market and brand protection with a particular focus on the Asia-Pacific region.

While IFW offers investigative and monitoring services of counterfeit products, brand protection and related intellectual property issues around the globe, we have unique expertise in anti-counterfeiting and brand protection in the Asia Pacific region.

It will further explain how IFW has aided many brands in better protecting their products, particularly in the Asia region, with the following focuses:

1. Anti-Counterfeiting
2. Online IP & Brand Protection
3. Cybercrime Investigations
4. Anti-Piracy

Emerging Trends and Issues

The trade in counterfeit goods has been described as the 21st Century's great crime. China continues to be the main source where counterfeit goods are produced and shipped globally, this in spite of the fact that China is one of the few Asian countries that actively pursues counterfeit goods investigations, has strong laws to protect brands, and where many forms of intellectual property infringements are crimes.

The production of counterfeit goods in the Philippines, Thailand, Laos and Cambodia is on the rise. This is a trend that we think will continue to escalate as cheap manufacturing operations migrate to these countries with counterfeit goods following location of source production.

Many of the Asian countries are developing, and as such their laws around counterfeit goods and intellectual property are also developing.

Corruption and bribery are common problems in many parts of Asia making investigations into counterfeit goods and intellectual property infringements challenging. These factors combine to make local knowledge and strong and experienced relationships with local law enforcement imperative to any successful investigation and legal efforts to combat the problem.

IFW has 20 years of experience of coordinating with local law enforcement in the Asia Pacific region in coordinating investigations, recovering funds, arresting and prosecuting counterfeit producers, seizing goods, and shutting down illegal operations.

The Counterfeit Problem Explored Deeper

According to GSI, the only global not-for-profit organisations working to set and enforce standards to combat counterfeit goods, there are emerging micro issues:¹

- Unbranded physical objects are shipped separately from their labels, insignia and brand packaging.
- Counterfeiters specialising in producing either counterfeit labels, insignia or consumer packaging export these products to assemblers who complete the final assembly of the counterfeit objects.
- Counterfeit components or sub-assemblies are shipped separately to Free Trade Zones (FTZ) to be assembled and distributed within the FTZ or to countries outside the FTZ.
- FTZs are used to mask the origin of counterfeits
- Part of a genuine shipment or container/pallet of goods are replaced with counterfeits (i.e. genuine and counterfeit co-mingled).

¹ GSI, "The Need for Global Standards and Solutions to Combat Counterfeiting" 2015.

- Sales on the Internet of counterfeit goods indicated as excess, over-stock or returns.
- Consumer-to-consumer (C2C) sales of counterfeit products take place both online and offline.
- Differences and gaps in local laws, regulations and enforcement ability are taken advantage of to keep as many stages of counterfeit activities from being shut down for as long as possible, exposing lower-level traffickers to legal ramifications.
- Increasing use of the Internet as a sales channel.
- Increasing use of legitimate courier and regular post for small packages, making it more difficult for enforcement to curtail such activity.

The threat that counterfeit products pose is a relatively unknown problem among the general public. Counterfeits products involve many risks including consumer safety, corruption of global supply chain supplies, undermining of legitimate businesses, and tarnishing of national interest in counterfeit production source countries.

How does a company protect their brand and tackle the counterfeiting of their products and services?

IFW believes in a tri-partite approach to tackling the proliferation of counterfeit goods and brand infringements.

1. Real-time Online Monitoring of the Counterfeit Goods
2. Physical surveillance and private investigation into the source of counterfeit goods.
3. Cooperation with local authorities and law enforcement to disrupt the operations and pursue appropriate remedies.

Case Studies

Pfizer (Online Pharmacy Raid, Tarlac Philippines)

IFW was instructed to monitor a number of online pharmacies selling counterfeit Pfizer and Roche products in the Philippines.

IFW investigated the offenders, conducted test purchases of product and conducted cyber research on the domains, IP addresses, hosting companies and other cyber related information associated with the offenders. IFW traced numerous IP addresses used by call centre employees to a location at No. 14 F. Timbol Street, San Jose, Concepcion, Tarlac. In coordination with the Philippines National Police, Anti Cybercrime Group, IFW Investigators conducted "on the ground" surveillance and intelligence gathering to confirm that an illegal online call centre was operating with about 20 employees, selling counterfeit drugs over the Internet. A raid was organised by PNP on Feb 10, 2014, and six persons were charged with offences relating to violating Republic Act 8484 (Access Devices Regulation Act). Seized in the raid were bank passbooks, documents, identification cards, mobile phones, laptops, network devices, desktop computers, and cards believed to be used in the online pharmacy's activities. Also confiscated were a sachet containing suspected residue of methamphetamine hydrochloride (shabu), foil and pipe; and cal-.45 and cal-.38 handguns, ammunition, shells, an air gun rifle, a shotgun and a hand grenade.

Procter & Gamble (unauthorised Facebook sellers)

IFW was instructed to commence monitoring Facebook to profile over 60 unauthorised sellers of suspected counterfeit P&G product (shampoo & laundry powder) being sold over the Facebook platform. All of the sellers were based in the Philippines. IFW conducted research and intelligence gathering and commenced conducting test purchasing operations so the products can be tested and analysed. After a number of test purchases, the product was found to be genuine product without any packaging. IFW's investigations and forensic research, tracked all the sellers to two major suppliers and distributors who are now under investigation to identify the source of the product, which is suspected to be either stolen or illegally manufactured possibly using P&G proprietary trade secrets. The possibility also exists that the product is being unlawfully removed from a P&G facility. IFW will engage the PNP, Anti-Cybercrime Group when necessary if any unlawful activity is proven.

Weir Group Plc (Theft of IP)

IFW was instructed to monitor certain Chinese pump and part replicators selling Warman pumps over the Internet to customers in the Europe market. Using a front company in Europe, IFW undercover agents travelled to China to meet with the Chinese sellers to inspect their factories and conduct test purchasing of products so they could be examined by Weir engineers for breaches of patents and theft of technology. IFW ran a successful 6-month undercover operation and built up a relationship with the Chinese sellers. IFW agents were even offered a European distributor agreement by the Chinese offenders. Using information gathered during the investigations, Weir's lawyers in China (Jones Day) liaised with Chinese law enforcement authorities and the Chinese Police conducted a successful raid on the Chinese factory, closing down the operations and dismantling a major international distribution network of replicated pumps and parts, some of them bearing the Warman trade marks. Weir Group is the world's largest engineering company.