"My ultimate question is what is the difference between a company selling big-brand knock-offs and the same big brands sending our fabric overseas to be copied at a fraction of the price?"

A genuine problem with fakes

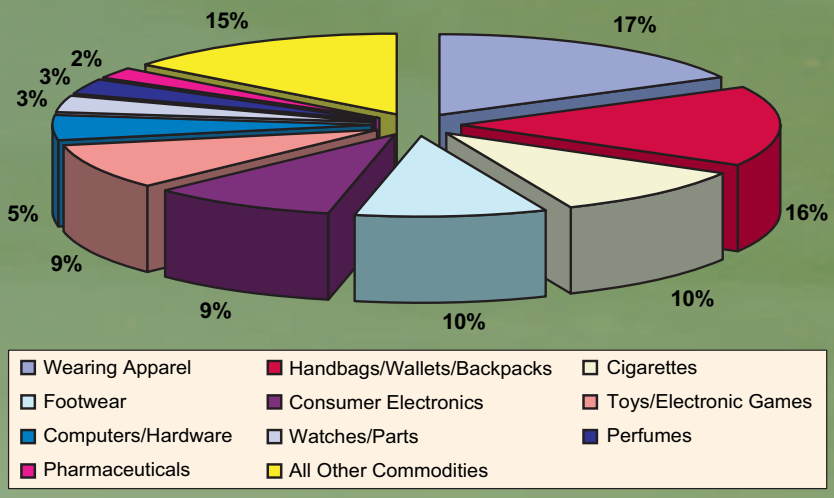
In the last two years, the world of counterfeiting and intellectual property has changed drastically for the worse. It has been identified as a lucrative business which has led to more than just designer goods being copied, but now also includes components, spare parts and drugs. It has also become a new domain of globally organised crime at a time when these organisations are co-operating more closely than seemingly our international police forces, and appear to have better resources.

The last two years have raised two new issues that are a serious cause for concern for business, the law and the politicians involved in fighting counterfeiting. The first is the undermining of Western companies' resources for the development of new components and materials, as their customers hand over samples and information to allow cheap copies to be made near to the centres of manufacture. The second is the damage being done to some of the poorest countries in the world as local markets are swamped with low cost counterfeits.

We live in a world which is becoming less and less dependant on traditional resources such as land, labour and capital. The major producers of wealth are now knowledge and information. It is therefore not surprising that we continue to hear complaints from major producers about the problem of the loss of intellectual property and the criminality of counterfeiting. Figures produced by the Organisation for Economic Cooperation and Development (OECD) and the World Customs Organisation indicate that counterfeiting costs the global economy as much as $512 billion a year. This figure is now more than 7% of total of world trade, although some figures put it as high as 9%. Evidence from the USA makes it clear that much of this is in clothing and footwear, or even hard goods such as golf clubs, related to either the luxury or the sports industries.

China is the major culprit, with the EU placing Thailand a distant but important second, although the number of countries involved has hugely accelerated over the last three years, and the problem of identification has been made difficult through the increased use of transshipment through places such as the United Arab Emirates, Paraguay and even the USA.

US Customs top IPR commodities seized in 2005.



All charts: US Customs and Border Protection

To demonstrate the extent of what is happening across the globe the Global Business Leaders' Alliance Against Counterfeiting (GBLAAC) highlighted the following:

- A survey in Nigeria indicated that 80% of the drugs distributed in major pharmacies in the capital city, Lagos, were counterfeit.
- Annual losses caused by counterfeiting of European cosmetics were estimated to exceed $3 billion.
- Spurious car parts took up an estimated 37% of the market in India.
- The City of New York estimated that it loses $500 million annually in state sales taxes due to the sale of counterfeit goods.

The EU has not yet published its 2005 data, but for 2004 it noted that the number of customs operations involving counterfeit goods more than doubled to 22,000 by comparison with 2003.

- The figure of 7.8 million textile seizures was 102% greater than that of 2003
- The seizure of 103 million counterfeit and pirated goods represents an increase of more than 12% compared with 2003 and almost 1000% compared with 1998.



Until now much of the concern of international fashion and sports brands has been to persuade consumers that this is a serious problem, and that purchasing counterfeit goods is not an acceptable thing to do. This was, at first, because of concerns about the loss of sales revenue, market share and investments, and even more the devaluation of their brand image. The important factor that is often not mentioned is the damage to their investments in research and development and especially those of their suppliers.

Concerns about components and advanced materials

Part of the concern for component suppliers is often created by the brands themselves. Under pressure to reduce lead times and therefore pushed to source locally, there is a danger that a brand provides the specification of a material or component to its offshore manufacturing facility and asks it to find a near substitute at a lower price. As one major US fabric producer says, "My ultimate question is what is the difference between a company selling big-brand knock-offs and the same big brands sending our fabric overseas to be copied at a fraction of the price? If the fabric used is a copy then I bet the material technologies are roughly the same. They would be different if the big brands stuck to North American/European quality."

There are sophisticated ways of beating some forms of counterfeiting but few can work with materials or components. These include the complex algorithms used by TUV Rheinland, RFID (Radio Frequency Identification) tags, or even authenticity SMS messages as used by Spalding. Other hard to copy logos or identity tags have been used successfully in some sports areas, such as FootJoy golf gloves, for some years. However, in areas such as golf where the sales outlets world-wide are well-known and serviced by the brand, the company has a good chance of identifying when false goods are turning up in the stores. One area where this knowledge has allowed them to take action is in China itself and two years ago Acushnet (who own Cobra and Titleist as well as FootJoy) joined Callaway Golf, Cleveland Golf, Nike, Ping, and TaylorMade-adidas to form the US Golf Manufacturers Anti-Counterfeiting Working Group and managed to convince Chinese officials to make raids in Guangzhou to close many counterfeit golf shops.

This collaboration has continued and in the latest series of raids, in May this year, four factories and three warehouses involved in the production and distribution of counterfeit golf clubs and equipment in Guangdong province were raided.

Moulds and machinery used to make counterfeit golf clubs along with more than 16,000 items of counterfeit golf equipment valued at an estimated $3 million were seized from the seven raid locations—the largest seizure to date of moulds and other tooling equipment used in the manufacture of counterfeit golf equipment. The products discovered included golf clubs, shafts, club heads, golf bags and apparel.

Rob Duncanson, an attorney representing the US Golf Manufacturers Anti-Counterfeiting Working Group in the United States commented that, "The Working Group is very pleased and encouraged by the results of these recent raids. Progress is being made in the fight against counterfeiting, however, counterfeiting remains a very serious problem. Golf Working Group representatives are committed to taking all appropriate steps to enforce intellectual property rights in China and will continue to assist the US and Chinese governments in their respective efforts to protect consumers and brand owners."

As a result of this continuing problem, it is vital for brands to match sales figures and inventory around the world and to look for discrepancies.

With this in mind the Sporting Goods Federation recommends that great care is taken with the design of the distribution channel, especially in countries such as China. It states, "For manufacturers, choice of the proper distributor or agent remains critical, and will be dependent upon the region of entry. The degree to which IPR [Intellectual Property Rights] infringement becomes an issue is also linked to this decision. For example, strict vertical integration of the supply chain will make it more difficult for counterfeit goods to cross into the authentic goods market. This can be accomplished through tight integration with key trusted retailers, or through a company running its own storefronts."

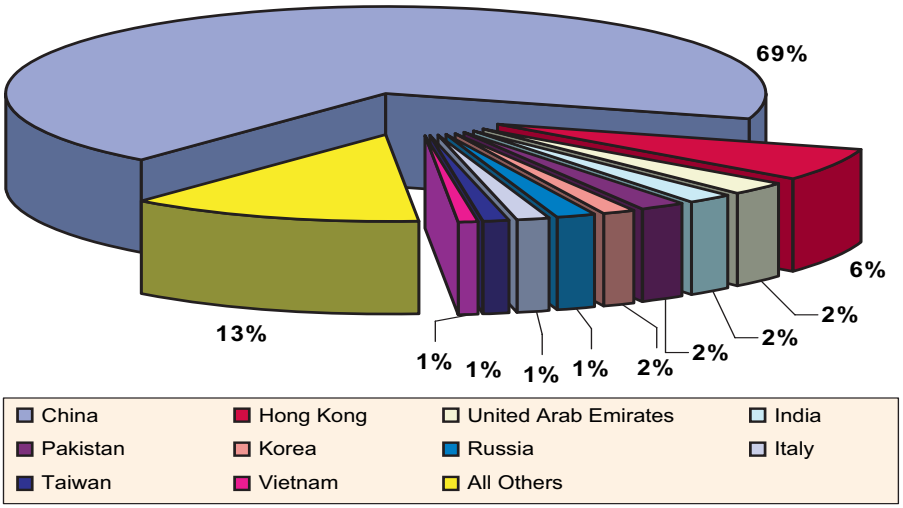
For some sports products, especially those whose use extends into casual wear, this is much harder. Thus it took two years for VF Corporation to succeed with a multi-million dollar claim against Nabil Saleh, Ibrahim Saleh and Toufic Saleh, who used a variety of corporate aliases to run a counterfeiting enterprise selling counterfeit jackets bearing The North Face trademarks throughout the US. Some reports indicate that more than 56,000 such jackets were involved. Equally concerning is the cost of the detective work and the prosecution of such cases which require the use of private detection agencies and lawyers setting up hoax buyers.

Organised Crime is now involved

According to recent reports from the EU, the increasingly sophisticated industrial production capacity in certain countries (again, particularly in China) has provided the counterfeit industry with a massive opportunity. The public version of the 2005 EU Organised Crime Report argues that the "delocalisation and the industrialisation of the production plants in emerging countries has led to the structuring of this illegal market, from the production site, through complex routes of transportation to the final distribution to end users, and so opened the door for criminal networks."

The luxury and designer goods sector was the first to be targeted by traffickers some years ago but now "the logic of easy profits" has meant that luxury goods represent less than 4% of seizures nowadays. High profits run alongside comparatively low risks in terms of the penalties involved for criminal organisations. Fake DVDs are a good example: profits are higher than for an equivalent weight in soft drugs while the penalties, if detected, are much lower. These trends have been reinforced by the growing interest of organised crime in taking a share of these high profits. Consignments often contain not only counterfeit products but also other illegal goods such as illicit drugs. Terrorist groups have also been linked to counterfeiting activities. Counterfeiting

Country of origin or export for US Customs seizures in 2005.



provides criminals with a useful means of laundering their criminal proceeds. The report identifies that one of the major difficulties in tracing a counterfeited product lies in the identification of the location of the production of its different components. That is to say that the conditioning, packaging and the product itself can be produced in three different places, sent to a fourth country to be assembled, and sold to a fifth country for final consumption. Most of the time, these products are sold on the black market, which means that traffickers will benefit from illegal distribution networks specially set up for the sale, or originally set up for other kinds of traffic such as drugs.

This has become increasingly noticeable in areas such as Eastern Europe, Africa and Latin America. While all three areas are well-known for the increasing role organised crime is taking in their economies, they are also suffering from increased penetration of fake sportswear and footwear, especially from China. Some of these items are said to exit via Russia through Eastern Europe and on to the rest of the world. Some also transfer via Dubai and the World Customs Organisation is anxiously awaiting a date for its inspection visit there as it stated in March this year that Dubai "is considered one of the main transit points of counterfeit goods".

World leaders are concerned that their attempts to help Africa trade itself out of poverty are being undermined by the collapse of their local markets, where a mix of imported counterfeits and second-hand goods from the West are killing off domestic purchases.

Fighting in the market place.

Some major locations where counterfeit goods are traded have been identified in China, Eastern Europe and South America.

Although the Chinese government has started to prosecute traders in the infamous Beijing Silk market, it is recognised that this is indicative of intention rather than a meaningful attack on volumes. The Xiangyang Market in Shanghai was set to be closed in the first quarter of 2006 but this has now been put back until the end of June. Yet, with so much potential profit involved it is hard to see this stemming the flood.