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Avoiding Counterfeit Goods: A How-To Guide for Consumers

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I. Background: Counterfeiting and the Growth of Intellectual Property Crime

Counterfeiting and piracy cost the global economy billions of dollars per year, and the economic damage done to emerging economies is hindering development and endangering lives. Not only are businesses losing money in sales, but governments are losing considerable amounts of tax revenue. The rise of intellectual property related crime is a global epidemic threatening to undermine vital efforts in economic development. By purchasing counterfeit goods, consumers not only endanger themselves and others, but unwittingly support organized criminal syndicates. This guidebook is designed to educate consumers regarding how to spot and avoid purchasing counterfeit and pirated products.

Nearly all products can be counterfeited. Examples include essential medicines, medical devices, shampoo, cosmetics, auto parts, toys and sunglasses. Many counterfeit goods are bought with full knowledge of their counterfeit nature, including sunglasses, CDs and handbags. The knowing purchase of counterfeit products is often referred to as a “victimless crime;” however, as we shall point out, the victims may reside in sweatshops that utilize forced labor or in the victims of other international crimes financed through the sale of counterfeit goods.

The concept of the “victimless crime” is born out of the idea that the consumer, knowingly purchasing a fake, would never buy the real product. Therefore, neither the consumer nor the legitimate company suffers any harm. The victims lie elsewhere. The case consumers must strive to avoid is when an everyday item sold at the local corner store or used by your mechanic is counterfeit, and the consumer does not get the chance to inspect the item or make a decision regarding its use. Who then is the victim if the perfume purchased on the street has now caused a severe allergic reaction or the flame retardant children’s clothing you purchased didn’t go through the same inspection or testing regime as legitimate goods and wasn’t flame resistant after all? Finally, for all those counterfeit fashion items and handbags, there are often exploited workers being used. In all circumstances of counterfeiting, there is a real identifiable victim.

a. Counterfeits Pose A Clear Risk to Consumer Health and Safety

Counterfeiting and piracy consists of much more than downloading music and copying movies from the internet. Counterfeiting and piracy are about the trade in fake goods including car and aircraft parts, toys, apparel and essential pharmaceuticals; counterfeiting is a problem that has metastasized, infecting nearly every market of the economy. Counterfeit products pose a nearly incalculable risk to human health and safety, and the health of the global economy.

Counterfeit products cause harm in many ways. When counterfeit goods are purchased, individuals are put at risk of contaminated products, poisonous ingredients or malfunctioning parts. Even counterfeit pieces of apparel and a pair of sunglasses pose a threat by not performing to expectations, for example by not being wired correctly as claimed, or not blocking UV sunlight. Consumers may even be financing organized criminal gangs engaged in serious international crime, including terrorism.

Worldwide, 5 to 7 percent of products are counterfeit, and the risk of exposure to counterfeit products is significant. Customs seizures, health and regulatory requirements and intellectual property rights enforcement efforts are in place to attempt to keep counterfeit products out of the

United States, but in many developing countries, legal underpinnings of intellectual property rights, inadequate customs training and an underdeveloped public health and safety system expose consumers to greater exposure to counterfeit goods.

i. Automobile and Airplane Parts

Car and airplane parts are a commonly counterfeited product that has infiltrated supply chains worldwide. Such items rarely, if ever, are ever submitted to the same rigorous safety testing used by legitimate manufacturers. Such parts are often churned out of makeshift factories to be sold to mechanics who then install them in the cars of the unsuspecting public. Clearly, cars fitted with counterfeit items such as brake pads, fuel injectors or even steering and wheel mechanisms face constant danger from parts failing which causes serious injury to the driver, passengers or other people.

Spotting fakes is difficult for consumers when dealing with spare and replacement parts, so identifying counterfeit parts is often left to the person who installs them. By beginning with a visual inspection of the car part, identifying a fake part is made more likely. If the part feels or looks different from the part that it is replacing, then that can be a sure sign that it is a counterfeit. In addition, a prospective purchaser should check the packaging carefully: odd shaped or odd fitting packaging, mismatched logos, misspelled words or bad grammar, anything out of the ordinary should make a trained or experienced mechanic suspect the part may not be genuine. If you believe parts are fake contact the retailer and inform them that you suspect they sold a counterfeit part.

Never purchasing a counterfeit auto part can not be guaranteed, but the chance of this occurring can certainly be reduced by taking rational precautions. Consumers should only deal with reputable retailers.

Among the parts frequently counterfeited are:

Camshafts	Valves
Rocker arms	Alternators
Antifreeze	Distributor caps
Transmission fluids	Spark plugs
Bearings	Brake pads
Belts	Air conditioner condensers
Shocks and struts	

ii. Pharmaceuticals

A poignant example of how counterfeit products harm or even kill innocent consumers is in the global pharmaceutical industry. An estimated ten percent of all prescription drugs sold globally is counterfeit, including an estimated 50% of pharmaceuticals in sub-Saharan Africa. These are shocking percentages when you consider the societal need for drugs that combat malaria and treat HIV/AIDS. Many of these counterfeit essential medicines often contain inactive chemicals,

lower than usual dosages, or even such chemical “binders” as gypsum, talc and brick dust; binding agents that can pose lethal to those who ingest them.

Obviously, with increased technological sophistication by counterfeiters, it is difficult to discover fake drugs. The best advice to give is to know your medications. If you know the size, shape, color, taste, and side effects of the prescriptions you take, you will be in a better position to more easily identify possible counterfeits. Also, be sure to contact your pharmacist or doctor if you notice anything different about a medication. As usual, pay attention to packaging and check for altered or unsealed containers, or changes in the packaging or label. By comparing old containers side-by-side with new containers, mistakes in packaging become more apparent. Furthermore, ask your pharmacist or doctor to notify you in case packaging changes.

Only buy prescription medications from a safe, reputable source. If the seller is unfamiliar check with your national health regulatory agency to try to discover if there is a licensing mechanism in place and enquire whether the seller is actually licensed.

If you believe you have bought a counterfeit drug, report it. Contact the pharmacist who sold you the medication. Your pharmacist will know if there has been a legitimate change in the color, shape, taste or packaging of the medication. In addition, ask your doctor for medical advice if you have taken drugs you suspect may be counterfeit.



Photo from the website of Congressman Mike Rogers depicting a make-shift lab producing counterfeit Viagra™



The pictures to the left were taken during law enforcement activities and are from the website of United States Congressman Mike Rogers.

The first picture shows a Viagra manufacturing site in Egypt. These tablets were given their blue color in the cement-mixer shown in the second photograph. This is a typical method of applying pigment to fake drugs. This fake Viagra would then be sold to unsuspecting consumers.




The third and fourth picture shows a site in Colombia that was manufacturing Ponstan, an anti-inflammatory drug, and large quantities of the antibiotic Terramycin. The Ponstan tablets shown below that resulted from the Colombian manufacture contained no active ingredient. Instead, it was composed of boric acid, brick dust and paint. Boric Acid is a pesticide that can cause gastrointestinal problems and renal failure.



Cell phone batteries are another frequently counterfeited product. As recently as June 2006, the Canadian government issued warnings regarding fake and counterfeit consumer batteries. These batteries are prone to overheating and, in extreme cases, exploding.

In 2004, Verizon had to recall 50,000 counterfeit cell phone batteries. The batteries, normally manufactured by LG Infocomm, USA, stated that there were counterfeit LG-branded batteries that did not contain a safety device in the circuitry to prevent overcharging. In turn, the counterfeit batteries were subject to overheating, posing a fire and burn hazard.

Outrage of the Month for June 2005 – from the US Chamber of Commerce:¹



Outrage of the Month for June 2005 – from the US Chamber of Commerce:

“What is worse than an injured child? Maybe knowing the accident could have been caused by something as simple as a defective, counterfeit cell phone battery...”

That’s what happened to 13-year-old Michael Sathre from Oceanside, Calif. when his counterfeit cell phone battery exploded. The force from the explosion blew fragments of the cell phone into the ceiling. So you can imagine what it did to his face and ears

© Verizon 2005

His father, Curtis Sathre, thought a bomb had exploded. The Sathres are not alone. Exploding counterfeit cell phone batteries are becoming more and more common. In fact, the Consumer Products Safety Commission (CPSC) is receiving an increasing number of such complaints about cell phones exploding or catching fire. When counterfeit cell phone batteries do explode, the resultant fire can melt nearly anything it touches with temperatures reaching nearly 600 degrees.

Picture the devastating result to cell phone users like Michael Sathre. Recently, the CPSC announced three recalls of counterfeit batteries. Also, a major mobile phone company voluntarily recalled 1 million batteries because fakes infiltrated the legitimate supply chain.”

iv. Personal Care Products and Cosmetics

China is both one of the world's largest markets for premium personal care in terms of spending per capita; it is also a hot spot for counterfeit cosmetics. Leading personal care giant Procter & Gamble estimates that counterfeit goods in China cost it more than 10% in lost revenue. Along this line, the China Consumers' Association (CCA) claims that smuggled and fake cosmetics constitute the majority of complaints by consumers, highlighting the fact that grey market

¹ From the US Chamber of Commerce, <http://www.uschamber.com/NR/rdonlyres/ed4gnhm6j6nxcehq4fqszhujbd4ib5t2j2mcwh4nzahlrjbydg4cirxxi6iz7j2winrw2gurc7jql7dycgnpcwziuc/OutrageoftheMonthExplodingCellPhonesJune2005.pdf>

cosmetics are also unsafe, having side-stepped the rigorous testing procedures required of legitimate personal care items.

Personal care items such as shampoo, toothpaste, lotions, facial creams and make-up are often subject to counterfeiting. Always be sure to check the texture, smell, feel and look of such products if purchased under imprudent situations.



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EU Must Curb Counterfeit Cosmetic Trade

EU figures show that seizures of counterfeit cosmetics and perfumes increased by 800 per cent in the period 2002 - 2003, prompting the European Commission to draft new legislations aimed at reducing the problem.

The Commission proposed criminal-law provisions to combat infringements of intellectual property rights.

Counterfeiting of consumer goods is becoming a major challenge for EU authorities, and one that is continuing to grow. Manufacturers from Eastern Europe and Asia tend to target the replication of luxury goods. Along with the counterfeiting of designer clothes and jewelry, expensive anti-ageing treatments and cosmetics including fragrances are becoming a primary target for counterfeiters.

Not only do pirated products represent a big problem for the cosmetics and toiletries industry - costing it millions in revenue every year - they also represent a safety risk for consumers, due to hazardous or banned alternative ingredients being incorporated into formulations that have little to do with the original product.

In total, 100 million counterfeit goods were seized in 2003 with an estimated value of \$1.3 billion, compared to 85 million goods seized in 2002. Some 70 per cent of these goods are estimated to have come from Asia.

v. Wiring and Electrical

Increasingly, name-brand consumer electronics such as VCR's, DVD players and personal computers are being added to the list of goods to distrust. Some estimate that as many as one in ten high-tech electrical products sold worldwide are actually knockoffs. In contrast to watches, handbags and optical discs, far more counterfeit technology products are hawked over the

internet than on street corners. China is a hotbed for the origination of counterfeit and knockoff consumer electronic devices, which range in quality from obviously inferior imitations to fakes that are hard to differentiate from the real thing.

The variety of counterfeits on the market today is vast, and more counterfeits of established brand-name electronic products like the Sony PlayStation™ and Dell™ computers will be seen. Furthermore, it will not be long until you see counterfeit versions of Apple Computer's digital music player iPod.

But imitations aren't limited to well-known consumer devices. Office equipment is also subject to counterfeiters and recently a counterfeiter selling fake versions of a switch used to network office equipment was detected. Also, printer toner cartridges have been a target for knockoffs. Batteries aren't the only tech item that counterfeiters love to mimic. In October 2004, U.S. Customs and Border Protection officials in Anchorage, Alaska, seized 20,000 suspected fake Memorex USB memory key thumb drives from Asia. And last year, Miami officials seized 900 allegedly phony laptops valued at \$700,000.

Other commonly counterfeited products include electronic devices such as electrical fuse boxes, home appliances and cell phone batteries. Underwriters Laboratories is one of the trusted names in testing household electrical devices such as fuse boxes and appliances. The certification label used by Underwriters Laboratory has become one of the most faked labels in the world today.

Recent Examples of Counterfeit Electronics

- A police raid on a suspected counterfeiter in China's Guangdong province turns up US \$1.2 million in fake computer parts and documents—enough to produce not only complete servers and personal computers but also the packaging material, labels, and even the warranty cards to go with them. All the parts are neatly labeled with the logo of Compaq Computer Corp.
- A capacitor electrolyte made from a stolen and defective formula finds its way into thousands of PC motherboards, causing the components to burst and leak and the computers to fail and eventually costing more than \$100 million to rectify.
- Eight local authorities in Suffolk County, N.Y., seize counterfeit electrical safety outlets—used in bathrooms, kitchens, and garages to guard against electrical shock—bearing phony Underwriters Laboratories logos. The bogus parts had no ground-fault-interrupt circuitry. Had they been installed anywhere near water, the results could have been fatal.
- Dozens of consumers worldwide are injured, or surprised, when their cellphones explode, the result of counterfeit batteries that short-circuit and suddenly overheat.

vi. Cigarettes and Alcohol

The trade in counterfeit cigarettes is a rapidly growing global problem. Almost 90% of the smuggled cigarettes bearing Philip Morris International brand names seized by governments in 2002 were actually counterfeit.

Not only do tobacco manufacturers lose hundreds of millions of dollars each year, but smokers who are tricked into buying fake cigarettes are put at greater risk than they already face. In a recent BBC documentary, for example, counterfeit cigarettes were reported to have "75% more tar, 28% more nicotine and about 63% more carbon monoxide" than genuine cigarettes in the UK market, and many were even "contaminated with sand and other packaging materials such as bits of plastic."² It was estimated that one in five of all cigarettes sold in Britain was a counterfeit.

According to the European Commission, international criminal organizations involved in counterfeit production exploit their workforce, often largely consisting of children who are locked up in cramped conditions without any concern for personal safety or human rights.³ And the Commission estimates that counterfeit products of all kinds account for the loss of 100,000 jobs in Europe each year.

A recent study indicated that larger than normal quantities of carcinogens are delivered to the lungs when smoking counterfeit cigarettes. An investigation into UK tobacco products found that counterfeit cigarettes are substantially contaminated with toxic elements such as arsenic and lead compared with genuine brands. This study spanned 14 months and found cadmium in counterfeits to average more than five times the concentrations in genuine brands.⁴ Though cadmium in low doses is beneficial to humans, an excess amount of this metal is adverse to the health. Other metals were similarly enriched. This is very worrying for the health of those who are heavy and habitual smokers of counterfeits. These products are not just cheap, they are also very nasty.

Heavy metals such as cadmium and lead as well as arsenic are well known to occur in tobacco in small quantities and many public health websites list them as harmful agents in tobacco smoke. High levels of metals in tobacco are far more dangerous for two reasons – firstly, because the plant is very efficient at concentrating metals in its leaves and secondly because combustion releases some of these metals into smoke and delivers them directly to the lungs when smoke is inhaled. Almost all counterfeits are seriously contaminated with heavy metals.

Identifying the source of these contaminants was a significant challenge for Dr Stephens because of the clandestine nature of the counterfeit industry. Working with Dr Jason Newton at the Scottish Universities Environmental Research Centre, they found geochemical characteristics that primarily implicate the use of contaminated fertilizers. Analysis of heavy metal patterns and stable isotope ratios narrowed down the possibilities to either sewage sludge (nitrate) or

² Crooked Britain, BBC Two, The British Broadcasting Corporation, 2003

³ European Commission Taxation and Customs Union, 2001, Report on counterfeiting and piracy

⁴ W. Edryd Stephens* and Angus Calder, *Source and Health Implications of High Toxic Metal Concentrations in Illicit Tobacco Products*, Journal of Environment, Science and technology, 39, 2, 479 - 488, (2005)

phosphate fertilizer, the evidence favoring latter source.⁵ Contaminated fertilizers are no longer used in countries with strong environmental legislation but this does not apply universally. “Even at low concentrations, arsenic and cadmium can cause cancers in humans, and, like lead they can give rise to a range of other disorders. Research in our laboratories confirms earlier findings that unlike many trace elements that are largely immobilized in the cigarette ash, substantial amounts of heavy metal toxins escape into smoke to be inhaled by smokers and bystanders alike. All smoking is potentially harmful, but a high concentration of these particular heavy metals, in a cocktail with other tobacco smoke toxins, is likely to add significantly to the health risks faced by habitual and heavy smokers of counterfeits,” concluded Dr Stephens.⁶



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⁵ *Id.*

⁶ *Id.*

b. Linking IP Crime to Global Criminal Organizations and Terrorist Activities

Though economic globalization is mostly beneficial for the global economy, there exists a dark side in the form of counterfeiting and piracy that can be traced to organized criminal gangs. Developing countries and emerging economies are swept up in the scourge of counterfeiting; some having the view that copying and counterfeiting is a legitimate money-making enterprise while others are bullied by powerful criminal gangs.

Counterfeiting and piracy have been estimated to account for 7 to 8 percent of world trade and cost businesses billions in lost revenue annually.⁷ In 2003, The World Intellectual Property Organization placed the cost to businesses at nearly 450 Billion Euros (\$575 Billion).⁸ Sales of pirated CDs accounted for nearly 28% of this total.⁹ And most worrisome, counterfeiting and piracy have been linked to organized crime and even funding for terrorism.

Counterfeiters and pirates, wherever they operate, exploit the lack of laws, inaction on the part of local authorities, and the general lack of knowledge and legal expertise when tackling IP-related criminal activity. Economic globalization and the expansion of international trade have facilitated the emergence of structured and organized counterfeiting networks that operate across international borders. It is these organized criminal gangs that can afford setting up extensive distribution channels capable of the transshipment of counterfeited and pirated goods into the market. Factories producing counterfeit goods increasingly are being found in developing countries (e.g. China, Thailand, Turkey, Morocco and across Eurasia). Counterfeiting operations have become highly structured and include obvious ties to organized criminal gangs, money laundering and terrorism.

Counterfeiting is extremely profitable. A counterfeit item can often be sold at the same price as the original, for high demand fake fashion, or readily available at knock-down prices for quicker sales. Often it is the lack of adequate enforcement by customs officials, police and judges, many of whom are not adequately trained in this area of the law, who inadvertently allow counterfeiting to flourish. In light of the profits to be made, and the lack of enforcement or slap-on-the-wrist approach of many judges faced with such cases, the counterfeiters see imposed fines as merely a cost of doing business. The lack of deterrence of the penalties therefore explains the steadily increasing attraction of this illegal activity. While trafficking in illegal illicit narcotics may cost a criminal a hefty prison sentence, trafficking in counterfeit prescription drugs poses far less risk with similar financial rewards.

In short, counterfeiting is an extremely attractive means for criminals to make large profits while facing little risk of imprisonment. Organized crime syndicates taking advantage of economies of scale have now made counterfeiting and piracy a major component of their activities; by taking advantage of experts specializing in production, logistics, wholesaling and distributing to the consumers, these syndicates have clearly made counterfeiting and piracy the crime of the 21st century.

⁷ OECD report on the economic effects of counterfeiting, 1998

⁸ "World Customs Organisation tells World Economic Forum of concern at the scale of global counterfeiting," WCO press release, 27 January 2003

⁹ Music Piracy Report 2002, IFPI

II. Avoiding Fakes

Consumers have a duty to avoid purchasing fake products, and there have been several suggestions mentioned above. There are several ways to avoid situations where you might be exposed to fake products or be tempted to purchase them. We offer below, several methods you can employ to avoid their purchase and avoid putting you or your loved ones at risk.

a. Scrutinize labels, packaging and contents; look at the words and designs

Inspect the items, labels and packaging closely. Avoid purchasing products that have misspelled words on the label or packaging. Also check whether there is poor print or package quality; a sign that items have not been packaged according to the manufacturers' specifications or control. Inaccurate labels are a universal giveaway that the product itself is counterfeit. You will also want to be wary of products that include a "made in China" sticker unless you know such merchandise is usually produced in China. This can be a daunting exercise; however, one knows that certain brands will not originate in China as claimed. Therefore, there is a high likelihood that those products are counterfeit.

b. Seek only "authorized dealers" when purchasing replacement parts

Do not pass on the opportunity to buy from an "authorized dealer." This becomes especially important when purchasing spare or replacement parts for automobiles, airplanes or other specialized items.

c. Watch for deals that allow you to purchase without VAT or Sales Tax

Countries, states and municipalities lose untold revenue every year from the lack of sales tax or VAT on purchases of counterfeit goods.

d. Avoid purchasing from websites that are not secure or that do not allow you to phone your payment details

When purchasing goods from the Internet, make certain that the website you are buying from provides a secure on-line environment. Legitimate retailers will ensure that their customers shop in a secure setting.

e. If you see a deal that is "too good to be true" – it probably is

Consumers know what items ought to cost. While some "deals" appear too good to pass up, often times this can be an indication that the product is counterfeit and priced to sell quickly. If the deal being made is profoundly skewed in the consumer's favor, then proceed to scrutinize the labels and packaging to find other signs of counterfeiting.

f. Pay attention to performance problems

Counterfeit computer memory can lead to PC system freezes or crashes. Fake inkjet cartridges may produce substandard printouts, have a shorter-than-expected life span, and leak all over the inside of your printer. A bogus cell phone battery may overheat, yield reduced airtime, or even explode. Make sure the product meets your PC's required specs before you buy, and keep track of your device's performance before and after the new purchase; if it isn't performing properly, demand your money back, or remove the offending part to determine its authenticity.

III. Conclusion

There is no sure method to use when avoiding fake merchandise. Hopefully, the above suggestions can aid consumers with identifying and avoiding suspected counterfeit goods.