

# *Counterfeiting and Piracy The Worldwide Phenomenon*

## *APEC – IPR Workshop*

*“Using Market Research to Develop Effective IPR Campaigns”*

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# Overview

- Counterfeiting and piracy : a global problem
  - The new forms of counterfeiting and piracy
  - The cost of counterfeiting and piracy
  - The role of consumers
  
- WIPO enforcement activities
  
- Ongoing initiatives at the international level
  
- Possible combative measures



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## *A global problem*

- ☞ Growth in scale, reach and sophistication
  - All countries are concerned
  - All economic sectors are concerned
  - All means are used



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# Causes

- Globalization of international trade
- Development of regional economic integration
- Lack of public education
- Inadequate penalties
- Sophistication of technology and communications means
- Development of reprographic technologies



# *What does counterfeiting and piracy costs?*

## ☞ Economic and social considerations

- Economic losses
- Loss of jobs
- Organized crime and terrorism

## ☞ Attitude of consumers:

- Tackling consumer attitudes
- Health and safety of consumers

## ☞ Some specific data



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# *Why consumers are buying?*

- The price for a genuine trademark product was too high
- I wanted to buy the same quality at a better price as compared to genuine trademark product
- It was easily available (easy to find)
- I wanted to buy it earlier than the licensed copies appeared (CD/DVD/software/audio-video cassettes)

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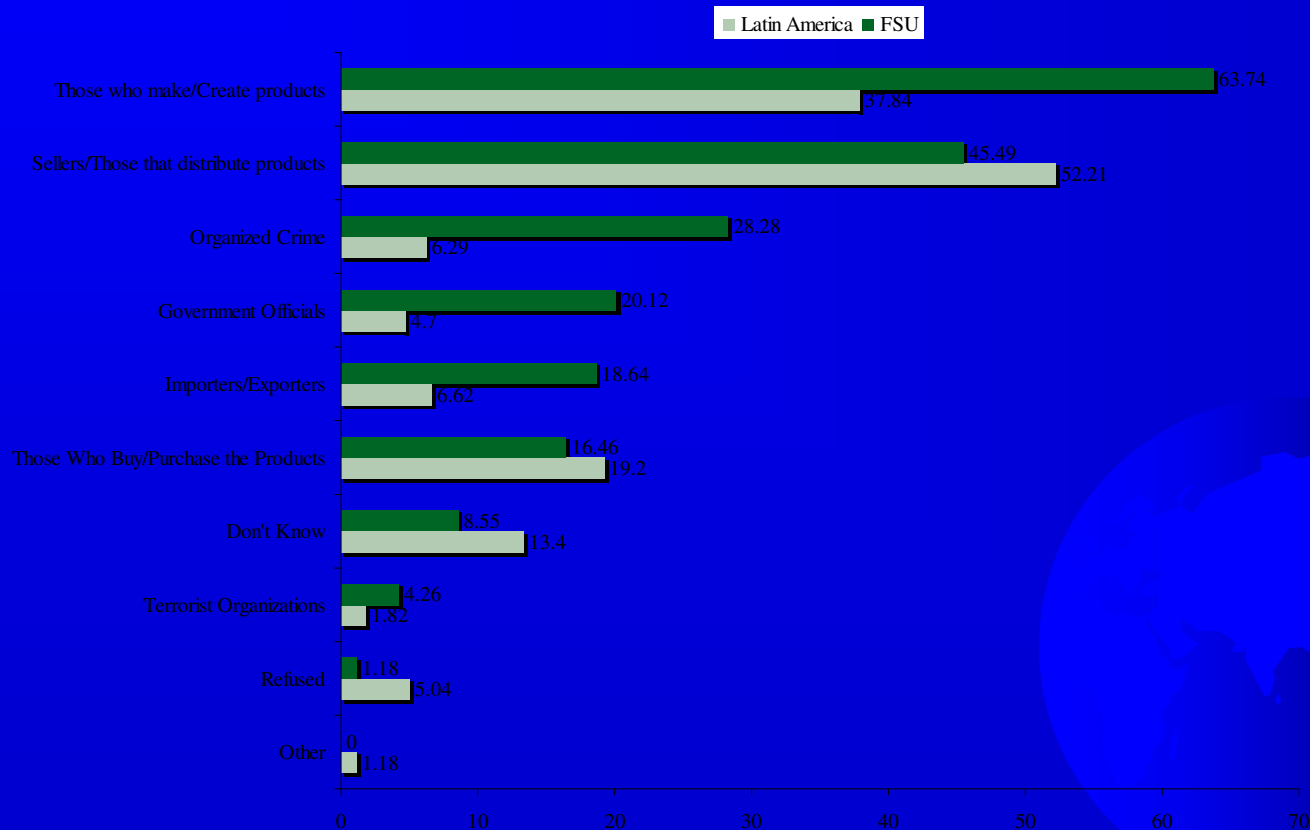


## *Places where the pirated goods can be purchased*

- Open markets
- Traditional/small shops
- Drugstore
- Supermarkets
- Street vendors
- Department stores
- Private sellers
- Less in boutiques, duty-free shops, restaurants



# *Groups or Organizations benefiting from piracy or counterfeiting (Gallup survey 2006)*



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***Products Purchased by Category  
(Past 12 months among those that indicated purchase)  
GALLUP survey 2006***

	<u>FSU</u>	<u>Latin America</u>	<u>Asia</u>
Brand Name Fashion Clothing, Designer Bags and Footwear	27.30%	25.96%	31.75%
Brand Name Watches	4.46%	5.47%	9.25%
Music CDs or Audiocassettes	37.87%	42.64%	43.5%
Movies (VHS, VCDs, DVDs)	27.00%	22.95%	27.13%
Computer Operating Systems (Windows, Mac) or Computer Application Software	7.46%	1.30%	4.6%
Perfumes and Cosmetics	18.33%	10.62%	10.31%
Video Games and Toys	6.55%	2.19%	3.6%
Pharmaceuticals or Medicines, not generics	12.40%	2.16%	4.2%
Alcoholic Beverages, Soft Drinks, Mineral Water	23.60%	2.87%	3.56%
Tobacco	13.54%	1.24%	4.12%
Tools and Auto Parts	3.37%	2.96%	6.25%
Jewelry	1.61%	1.48%	4.56%
Food	34.54%	10.17%	4.81%
Other	-	6.9%	7.63

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# *WIPO Enforcement Activities*

- Advisory Committee on Enforcement (ACE)
- Cooperation and coordination
- Technical assistance (Training and awareness)
- Legislative assistance
- Information, newsletters, studies



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# *Enforcement Division*

## *Key strategies*

- ☞ Raising the awareness of Governments on the importance of effective IP protection and enforcement for economic and social development
- ☞ Fostering strategic partnership and joint activities with other IGOs and NGOs to bundle resources and expertise
- ☞ Strengthen cooperation and coordination between public and private sector and among different governmental institutions to make IP enforcement action more coherent and effective
- ☞ Render advice on, and assistance in, the implementation of efficient national, sub-regional and regional IP enforcement
- ☞ Provide information and training to improve knowledge and experience of law enforcement officials in handling enforcement matters

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# *The Advisory Committee on Enforcement (ACE)*

- ☞ One single Committee in charge of global enforcement issues since 2002
- ☞ The mandate of the ACE:
  - Coordination with certain organizations and the private sector to combat counterfeiting and piracy
  - Technical assistance
  - Public education and coordination of national and regional training
  - Exchange of information
  - Excludes norm setting

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# *ACE sessions*

- ☞ First session agreed on a thematic approach with presentation by experts and noted the establishment of an electronic forum on IP enforcement issues and strategies, June 2003
- ☞ Second session addressed the role of judiciary, quasi-judiciary authorities and prosecution in the enforcement of IP rights as well as related issues such as specialization of the judiciary and litigation costs, June 2004; (Supreme Court Judges and senior Government officials)

# *ACE Sessions*

- ☞ Third session : Education and awareness building, including training, concerning all factors related to enforcement, May 2006 (presentations on activities and experiences of selected countries from all regions)
- ☞ Fourth session : exchange of views on cooperation and coordination at the international, regional and national levels, with focus on relevant issues of criminal enforcement of IP rights, November 1 and 2, 2007

# Fourth Session

## Global IP Crime analysis

- ☞ Coordination and cooperation at the international, regional and national levels
- ☞ Global comparative analysis
  - Scope and definition of IP crimes
  - Investigation and initiation of criminal proceedings
  - Jurisdiction evidentiary issues
  - Sentencing options
  - Level of penalties
- ☞ *<http://www.wipo.int/enforcement/en/activities>*

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# *Training and Awareness Raising*

Upon request of its Member States, WIPO provides:

- ☞ Training programs designed to meet the interests of justice, customs and police officers, experts from IP Offices, IP attorneys, representatives from the business community and consumers groups were organized in all regions in cooperation with national authorities, other IGOs and NGOs as well as with other sectors of WIPO

*<http://www.wipo.int/enforcement/en/activities>*

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# *Case books and studies*

- ☞ Case books providing practical tools for handling IP disputes, especially for judges and lawyers
  - in common law countries (Dec. 2005); in process of updating
  - in civil law countries (Sept. 2007)
- ☞ Studies: a comparative study on criminal enforcement of IP rights served as background document for the fourth session of the ACE

# *Exchange of information*

- ☞ For the purpose of providing a source of information on the current global developments in the field of enforcement, WIPO makes available , on a quarterly basis , enforcement newsletters at:

(<http://www.wipo.int/enforcement/en/news.html>)

- ☞ Following the request of a number of Member States to facilitate access to information on IP enforcement issues at national and regional level available on their websites, the link Portal to Member States online information was set up in March on the WIPO website at:

[http://www.wipo.int/enforcement/en/member\\_states.html](http://www.wipo.int/enforcement/en/member_states.html))

## *Ongoing initiatives at the international level*

- ☞ WIPO plays a prominent role in coordinating international efforts to combat counterfeiting and piracy and awareness raising:
  - Global Congress on Combating Counterfeiting and Piracy (WIPO, Interpol and WCO, BASCAP, INTA, ISMA)
  - OECD - Economic Impact of counterfeiting and piracy
  - WHO - IMPACT project on counterfeit medicines
  - G8 IPR Experts Group's meetings

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## *Global Congress on Combating Counterfeiting and Piracy*

- Objectives: high-level public/private partnership to more effectively combat counterfeiting and piracy; raise the issue on the global political and business agenda; generate conditions which will lead to greater investment in anti-counterfeiting and anti-piracy measures
- Co organized by WIPO, the World Customs Organizations (WCO) and Interpol
- With private sector partners: ICC –BASCAP Initiative, INTA and ISMA
- <http://www.ccapcongress.net>

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# *Global Congress events*

- ☞ First Global Congress hosted by WCO in Brussels, May 2004
  - Regional forums were organized in: Rome, October 2004, Shanghai, November 2004, Rio de Janeiro, June 2005
  
- ☞ Second Global Congress hosted by Interpol in Lyon, November 2005
  - Regional Congress was organized in Bucharest, July 2006;
  
- Third Global Congress hosted by WIPO in Geneva, January 2007
  
- Fourth Global Congress hosted by WCO and Dubai Customs and scheduled on February 3-5, 2008 in Dubai, United Arab Emirates

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# *Third Global Congress*

[http://www.wipo.int/enforcement/en/global\\_congress](http://www.wipo.int/enforcement/en/global_congress)

- ☞ Theme: “Shared Challenges-Common Goals”
- ☞ Structure of the program: focus areas (Enhancing cooperation and coordination; Promoting better legislation and enforcement; Building capacity; Raising awareness and panel discussions (Health and Safety risks and Moving forward)
- ☞ Over 1,000 participants from 105 countries representing the public and the private sector
- ☞ Delegates and Congress Steering Group highlighted a number of items for further discussion and possible action

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# *OECD Study*

- ☞ **OECD** study – Executive summary of phase I made available in June 2007 indicates that international trade in counterfeit and pirated products could have been up to USD 200 billion in 2005 at :  
<http://www.oecd.org/dataoecd/11/38/38704571.pdf>
- ☞ Phase II – limited to the digital piracy of copyright content consisting in two Modules: one would analyze the market and the corresponding regulatory framework providing case study and the second would aim to assess the quantification of such piracy and its damaging effects

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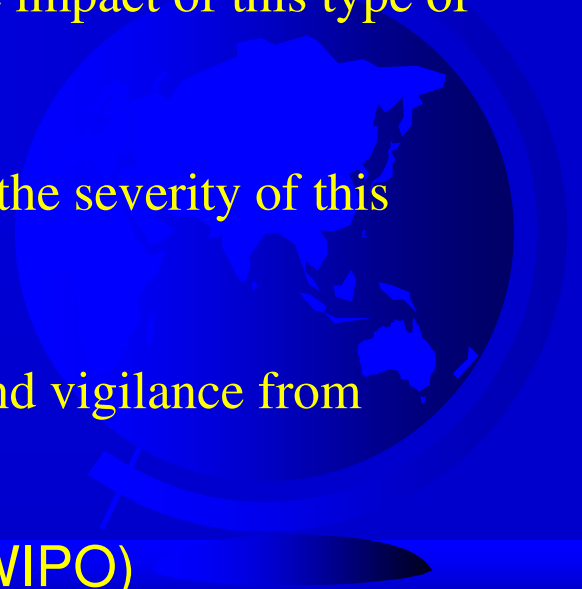
# *WHO - IMPACT Project*

☞ **WHO** International Medical Products Anti-Counterfeiting Taskforce (IMPACT) was established in 2006 following the WHO International Conference “Combating Counterfeit Drugs: Building Effective International Collaboration” based on the following principles:

[http://www.who.int/medicines/counterfeit\\_conference/en](http://www.who.int/medicines/counterfeit_conference/en)

- political will and adequate legal framework to the impact of this type of counterfeiting
- inter-sectoral coordination
- creating awareness among all stakeholders about the severity of this problem
- development of technical competence and skills
- and appropriate mechanisms for ensuring input and vigilance from health care professionals and the public

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## *Cont' d*

- Five areas and working groups: legislative and regulatory infrastructure, regulatory implementation, technology, enforcement and communications
- Its goal is to develop guiding principles that national and regional institutions may use as reference for developing ad hoc legislation aimed at effectively combating counterfeit medical products within their jurisdiction e.g. “Draft principles and elements for national legislation against counterfeit medical products”
- IMPACT meetings: Rome and Berlin (2006), Brussels and Lisbon (2007)

# *G8 IPR Experts Group*

- ☞ **G8 IPR Experts Group** – Heiligendamm Declaration (2007) –  
”Intellectual Property Protection” part at:  
<http://www.g-8.de/Webs/G8/EN/G8Summit/SummitDocuments/summit-documents.html>
- ☞ Emphasis on counterfeiting and piracy regarded as threatening health, safety and security of consumers world wide
- ☞ Strengthen cooperation in the fight against counterfeiting and piracy among G8 and other countries...as well as competent organizations
- ☞ “ New guidelines for Technical Assistance on intellectual property rights to interested developing countries, as well as mechanism to better coordinate and leverage existing G8 assistance”
- ☞ The IPR Taskforce focusing on anti-counterfeiting and piracy to look together at how best to improve the working of the international IPR protection and enforcement, and produce recommendations for action including peer review

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## *Possible combative measures*

- ☞ Protecting the integrity of the supply chain
- ☞ Global cooperation to stop piracy and fake drugs and catch the counterfeits
- ☞ Cooperation between and among health officials, customs, law enforcement agencies and government
- ☞ Education and awareness raising of consumers
- ☞ Improved market surveillance
- ☞ Enhanced partnership between public and private sectors
- ☞ Better communication: avoid-detect-report

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*Thank you!*



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