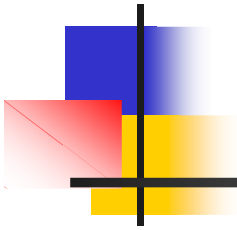


***Online Counterfeiting & Piracy:
New Challenges, New Strategies***



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Introduction

- Director, Infinitus Law Corporation
- Specialist practice area – product security, anti-counterfeiting and intellectual property litigation.
- Oversee interests of LVMH Group since 1993.
- Experience in most product categories impacted by counterfeiting.



What Is Counterfeiting?

- New Oxford Dictionary defines counterfeiting as:
 - *Adjective*: made in **exact imitation** of **something valuable or important** with the **intention to deceive or defraud**.
 - *Noun*: a fraudulent imitation of something else; a forgery.



Counterfeiting : General

- Counterfeiting is sometimes known as the second oldest business in the world
- Its roots are in currency counterfeiting.
- It has taken off in a big way in the 20th Century as a result of mass production.
- It is constantly evolving and takes advantages of technical developments.
- The law unfortunately, has to play “catch up”



The Underworld Links

- Counterfeiting is
 - Global
 - Sophisticated
 - Unscrupulous
 - Linked with organized crime and terrorism



LV Counterfeiting: General

- The business is **HUGE**.
 - In 1994, Louis Vuitton estimated its lost sales in Singapore to be about S\$100 million
 - In 2007, estimated lost sales in Singapore is about \$50 million



Case Study: Singapore

- *1970s to early 2000s - Singapore was one of “THE” places to buy a fake LV handbag (usually manufactured in Korea)*
- *Lucky Plaza and Bugis Village were “icons” for sale of counterfeits*



Online Counterfeiting: “Hard” Goods

- *For “hard” goods such as Louis Vuitton products, sales are now transacted by:*
 - *Email and mail order;*
 - *“Replica” sites*
 - *Online auctions*
 - *Online forums & discussion groups*



Online Counterfeiting: “Hard” Goods

- *Advantages:*
 - *Anonymity*
 - *Difficulty of detection*
 - *Lessened risk of seizure and cost of inventory*
 - *International market*
 - *Stocks can be held offshore*



Online Counterfeiting: “Soft” Goods

- *“soft goods” are electronic files, mainly software, movies and music*
- *For “soft” goods, piracy are now transacted by:*
 - *Email and mail order;*
 - *“Leech” and “warez” sites*
 - *File sharing - eg Napster, Limewire, Kazaa*
 - *File sharing - BitTorrent*



Strategies For Combating Piracy

- There is no single, one-size-fits-all solution to combating piracy.
- There are, however, four foundations that must be present in all cases:
 - Education
 - Policy and Law
 - Enforcement
 - Technology



Combating Piracy: Education

- Education:
 - Educating the public who may be fooled into buying counterfeits when they intend to purchase originals - how to identify counterfeits - overt identification measures.
 - Educating the public who are deliberately out to get counterfeits that they are supporting criminal enterprises - including organized crime, terrorists and child labour



Combating Piracy: Policy & Law

- Policy & Law:
 - The legal and administrative framework for enforcement has to be in place, and up-to-date;
 - The framework has to be constantly reviewed and adapted to changing market conditions
 - See e.g., Alliance Entertainment v Sim Kay Teck



Combating Piracy: Enforcement

- Enforcement is a cooperative programme between public and private sectors:
 - Everyone has a part to play - the IPR owners, police, customs, licensing and regulatory authorities, censorship authorities
 - Engagement with landlords
 - ISPs and site owners



Combating Piracy: Technology

- Technology may be used to prevent piracy, or detect piracy
 - As a preventive measure - technology's success is not consistent
 - As a detection measure - technology is absolutely crucial. It is an essential tool in establishing the fact of piracy in Court.



Case Study: The LVMH Experience

- The LVMH Group strives to have a complete anti-counterfeiting strategy at all levels:
 - Public Education
 - Cooperation with authorities
 - Aggressive enforcement
 - Complete technical support
 - Engagement with ISPs and site owners such as eBay and Yahoo.



Combating Piracy: The Challenges

- Fighting piracy is a JOINT enterprise!
- It is everybody's responsibility
- There has to be cooperation between the public and the private sectors.



Conclusion

Thank You For Your
Attention