

IPR Center Report

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Partners in Action

Inside This Issue

- IACC Launches Worldwide Public Messaging Campaign ... 2
- Awareness Against Counterfeiting 3
- Social Networking Sites vs. Brand Protection 4

The IPR Center stands as a focal point in the U.S. government's fight against counterfeiting and the flow of counterfeit goods into the commerce of the U.S. The center employs a true task force model to optimize the roles and enforcement efforts of member agencies, while enhancing government-industry partnerships to support ongoing IPR enforcement initiatives.

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Major Supplier of Counterfeit Goods Receives 17½-Year Sentence

By U.S. Immigration and Customs Enforcement, Office of the Special Agent in Charge, New Orleans

In September 2006, U.S. Immigration and Customs Enforcement (ICE) special agents executed 15 federal search warrants at various independent urban clothing stores and convenience stores throughout the New Orleans area. As agents began seizing hundreds of counterfeit goods, they also uncovered a larger scheme. Through interviews and other investigative techniques, agents soon discovered that the counterfeit goods were all supplied by one individual, southern Louisiana resident Charles Neuman. It was further revealed that Neuman had an extensive criminal history, with prior convictions for first-degree robbery and felony possession with intent to distribute over 100 lbs. of marijuana.

Neuman, once a legitimate businessman, modified his business to sell counterfeit Nike shoes along with counterfeit clothing and handbags. The illicit goods were purchased in bulk from international importers in New York City that had direct connections to illicit manufacturers in China. Neuman used tractor-trailer trucks to transport the counterfeit merchandise from New York to his warehouse in Louisiana. Neuman and his associates then used his storefront XXXCYTE to sell counterfeit goods to store owners and individuals throughout Louisiana, Mississippi, Alabama and Florida.

In a separate, parallel investigation, ICE special agents in Buffalo, New York, identified Hebin "Julie" Wang



Workers unload counterfeit goods at Louisiana warehouse (left) belonging to Charles Neuman (right).

as a purchaser and importer of container loads of counterfeit Nike shoes directly from China. Buffalo agents identified several telephone conversations between Wang and Neuman, during which the targets negotiated the sale and transportation of counterfeit Nike shoes from Wang's warehouse in New York City to Neuman's warehouse in Louisiana. Though Buffalo's investigation resulted in Wang's arrest, Neuman and his business associates throughout the Gulf Coast went on with their business as usual.

In October 2007, ICE agents executed six federal search warrants, resulting in the seizure of four vehicles and \$764,125 in counterfeit goods from Neuman. Within several days, agents served three more search warrants at UPS, intercepting and seizing deliveries of counterfeit Nike shoes and Polo shirts being shipped from New York to Neuman's business. Once again, Neuman was undeterred, as he continued to sell his counterfeit Nike shoes throughout the South.

ICE agents continued to take action against Neuman, and in February 2008, he and his warehouse manager Justin Nichols were indicted in the Eastern District *continued on page 2*

By Robert C. Barchiesi,
President, International
AntiCounterfeiting Coalition

IACC Launches Worldwide Public Messaging Campaign

The International AntiCounterfeiting Coalition (IACC) is the world's largest nonprofit organization devoted solely to protecting intellectual property and deterring counterfeiting. Our membership covers a wide span of American industry, including automotive, apparel, luxury goods, pharmaceutical, software, entertainment and more.

In support of our members, the IACC has embarked on a worldwide messaging campaign designed to reduce consumer demand for cheap “knock-off” products. Promoting consumer awareness and reducing demand is one of the most important missions of the IACC and is key to winning the battle against the counterfeit trade. To consumers, the price of a counterfeit pocketbook might seem like a bargain, but the societal costs of these knockoffs are enormous and can be measured in terms of jobs, tax revenue, health and safety, and now more than ever, national security.

The IACC has taken a variety of approaches to get this message out by targeting specific areas for public

service announcement activities and partnering with leading companies and government agencies. These programs have garnered international attention.

- In 2008, the IACC partnered with New York City Mayor Michael Bloomberg to actively target consumers with digital ads strategically placed in Times Square on Kodak's jumbotron screen, the CBS super-screen and on the Reuters and NASDAQ digital billboards. It is estimated that the message reached millions of consumers.
- In June 2009, the IACC supported the Global Anti-Counterfeiting Network's World Anti-Counterfeiting Day, by launching events in New York City, Paris, Los Angeles and cities in Mexico. The campaign began in New York City, with streaming anti-counterfeiting messages displayed in Times Square on the Reuters and NASDAQ digital billboards. The ads reached millions of visitors, local residents and commuters, running in English, French, Spanish, Italian, German and Mandarin Chinese.
- In France, all major French airports featured anti-counterfeiting posters. Furthermore, these

same posters have been displayed at 500 customs checkpoints throughout Europe.

- In Mexico, billboards featuring anti-counterfeiting messages went up at the Mexican Institute of Industrial Property and in front of the Mexican Trademark Office.
- Lastly, in Los Angeles, Sheriff Lee Baca hosted a press conference to highlight the specific piracy and counterfeiting issues there and his department's response.

The IACC's anti-counterfeiting messaging campaign alerts consumers the world-over to the huge negative effects that counterfeiting has on the economy. The IACC wants the consumer to know that counterfeiting is not a victimless crime and every dollar spent on knockoffs feeds an underground economy that does not pay taxes, and supports forced child labor, organized crime and the funding of terrorist activities. ■

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Major Supplier of Counterfeit Goods Receives 17½-Year Sentence, continued from page 1

of Louisiana. The following month, ICE agents arrested Neuman at a casino in Biloxi, Miss., and Nichols was arrested the following day in Louisiana. Nichols pled guilty to misprision of felony and was later sentenced to two months in federal prison.

Neuman opted for a jury trial and was ultimately convicted on all five

counts of the indictment: two separate counts of trafficking in counterfeit goods, one count of facilitating the importation of counterfeit goods, one count of conspiracy to traffic in counterfeit goods and one count of felon in possession of a firearm.

On July 29, Neuman was sentenced to 210 months—17½ years—in federal prison, a severe punishment that sends a firm message to others involved in the counterfeiting trade. ■

Let's Hear from You

The IPR Center staff welcomes all of our law enforcement and business partners to submit articles to the quarterly *IPR Center Report*. Our editorial board will consider any article presented in an electronic format to IPRCenter@dhs.gov.

In the subject line, please write **IPR Center Report**.



By Arturo Bustamante Loranca,
Schneider Electric Mexico

Traditionally, while law enforcement agencies and anti-counterfeiting services focus on stopping the sales of counterfeit products, the task of prevention has mostly fallen to the trademark and intellectual property (IP) rights holders. Unfortunately, many rights holders have not educated their consumers on how to tell an original from a fake.

If consumers are unable to recognize counterfeits, the expectation is that the consumer will purchase the knock off, especially if the seller is offering them at half the price of the original.

Recent studies show that even if the average consumer buys counterfeits because they are cheaper, they will not buy counterfeit products that may affect their health (i.e., beverages, medicines or cigarettes). With this in mind, the IP rights holder should devise measures by which to authenticate products and share this information with the public.

Our own investigations into several counterfeiting cases have provided surprising results, as many consumers stated that they never thought Schneider Electric's products could be counterfeited.

The consumers understanding that all products are susceptible to counterfeiting, that buying counterfeits may be harmful, and that there are ways to authenticate a product, is the responsibility of the rights holders.

The hazards of counterfeiting are not limited to one market. Pirated software might crash computers;



Display of counterfeit Schneider Electric products; Flier for anti-counterfeiting training.

counterfeit perfumes might cause rashes; counterfeit clothing might dye other pieces of clothing when washed; and counterfeit electrical devices might explode. Consumers need to know the risks associated with using counterfeit items and how to avoid them.

Our experience has shown us that most consumers will eagerly pay an extra 30 percent for the assurance that the product they are buying is safe; however, it is not good news for copyright holders that find illegal copies of their products being sold at less than 70 percent of their retail price.

Unfortunately, consumers in Mexico perceive counterfeiting as a good thing, because it gives them the opportunity to satisfy their needs at lower prices, while "teaching a lesson" to "big companies."

It is imperative that we change that viewpoint.

Prosecuting the average consumer for buying or even exchanging counterfeits or unauthorized copies of products might not be the best option; our perspective of the situation in Mexico City is that more than one percent of the population of many cities survive on the pro-

duction and/or distribution of pirated and/or counterfeited items.

There is no Mexican law enforcement agency capable of dealing with those numbers while combating other crimes as well.

Schneider Electric Mexico and many of its distributors have begun a strong campaign to identify original products through an authentication seal which all molded case circuit breakers must have in Mexico.

We encourage consumers and distributors not to buy or accept products that do not bear the authentication seal, and to report instances of counterfeiting to the appropriate authorities.

Our goal is to lower the public's acceptance of purchasing counterfeits while at the same time making consumers and distributors a part of our efforts to stop them.

We strongly hope that efforts like these will prove useful and that the number of counterfeits will begin to diminish. ■

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By Lorne M. Lipkus, Partner,
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Brand recognition and distinctiveness are primary reasons for trademark holders to use advertising. Advertising on the Internet has become the norm as it reaches millions of people worldwide on a daily basis. Today, Facebook appears to be the most popular social networking tool on the Internet; this popularity encourages companies to advertise their brand and products on this site with its large worldwide audience.

There has been considerable discussion in the trademark community of the impact Facebook has had on trademarks since June 13th, 2009, when Facebook started accepting registrations for URL's. Instead of

random numbers being associated with user accounts, Facebook users became empowered to select any username to appear in the following format: www.facebook.com/THISISANEXAMPLE. Trademark owners quickly became aware of the implications of Facebook's new policy, most notably that a trademark name belonging to one brand could be selected by a third party, or even worse, a competitor. Some brands became aware of this emerging Internet issue and were able to notify Facebook prior to June 13, 2009, of their protected trademarks, making these marks ineligible to be selected as a username, but others may not have been so fortunate.

Currently, Facebook has an intellectual property infringement form to assist trademark owners in reporting usernames that infringe on their rights. Clearly the battle trademark owners must fight is evolving. As the rights holder's brand becomes more popular and the number of Internet users continues to grow at a rapid pace, policies and practices will change to meet the challenges. There once was a time when many trademark owners worried about little more than trying to stop others from using their logo on a t-shirt. Even though that crime is still evident on a large scale, the Internet in general, and especially social networking sites like Facebook, expands the complex issue of trademark infringement for rights holders.

The risk that brands confront on the Internet is climbing rapidly and legitimate trademark holders do not seem able to keep up with

the pace of the counterfeiters, especially as the cost of protecting their trademarks also increases. As new situations arise relating to trademark infringement, so too must those in charge of protecting trademarks adapt and change their brand protection strategies. Rights holders must keep abreast of the emerging issues relating to trademark infringement in order to protect their intellectual property. This may include looking at new laws to protect trademark owners or applying existing laws in a manner not contemplated when they were first enacted.

Rights holders continue to actively pursue methods to strengthen and protect their trademarks on the Internet. As law enforcement increases its use of the Internet as a means of investigating crimes, so too do counterfeiters use the Internet to reach a broader and more diverse consumer base. It is important that rights holders be aware of the ongoing battle that intellectual property industries face on a daily basis. While the Internet is a marvellous tool for legitimate companies to reach a huge consumer base around the world, it is just as easily a tool for unscrupulous infringers to fool customers, undermine legitimate product sales and hide from law enforcement. ■

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IPR Center Renovation

On August 31, 2009, the IPR Center began a major renovation project that is expected to last through November 2009. The renovation will enable the IPR Center to accommodate additional FBI personnel dedicated to IP enforcement and improve the infrastructure supporting the IPR Center's initiatives. Most importantly, the increase in manpower and resources further enhances the IPR Center's ability to provide a comprehensive and coordinated response to IP crime. The IPR Center can continue to host meetings and presentations during this time, though we appreciate advanced notice for such activities, as we work to accommodate various schedules throughout the renovation process.