

Commission on Crime Prevention and Criminal Justice

Measures to combat counterfeit
consumer goods



Forum	The Commission on Crime Prevention and Criminal Justice (CCPCJ)
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Introduction

Counterfeiting is the creation of a product that is to imitate another with the goal of deceiving the consumer. Counterfeit goods has been an active crime throughout different eras of history, its origin being counterfeit money. An example of this can be seen in the early 18th century in America or early 17th century when native Americans used shells for their currency. This started the first movement of counterfeiting as people would create counterfeit money by dyeing the shells and using it as real currency.

One of the first counterfeiting laws was made in 1790 by the founding fathers in America. Since then, counterfeiting has grown into a bigger issue in which a person/groups of people have disregarded the trademarking, patents and copyrights of a product made by someone else. The modern day issue with counterfeit goods however can vary. They can have economic impacts, legal issues and health and safety risks. Economically, when a consumer buys from a counterfeit organisation, revenue is being lost through the legitimate organisation. Within legal issues it is illegal in many places to buy counterfeit goods and can lead to different negative outcomes.

The health and safety risks that come with counterfeit products is something that is overlooked but is just as worrying. A lot of the time, certain counterfeit products use cheap and toxic materials to create a product and can put a consumer at risk. If caught distributing counterfeit goods, a person can face up to 5-10 years in jail, possible fines and authorities can request for them to give any profit and property back of where the counterfeit product was created and distributed. This research report will discuss a general overview of the issue as well as looking at major parties involved, past attempts at resolving the issue and possible solutions that could be beneficial.



Definition of Key Terms

Counterfeit consumer goods

Items of low quality that have been designed to resemble named brands. An example of this can be counterfeit make-up, bags, shoes, etc.

Trademark

A name or symbol that a company uses on their products and therefore cannot be legally used by another company.

Patent

The legal right to sell or distribute a product for a certain amount of time.

Copyright

The legal right to sell, reproduce, distribute and the publication of a product.

Carcinogens

Cancer causing substances. Examples are tar and carbon monoxide, commonly found in cigarettes.

E-commerce

Refers to the buying and selling of goods online. Examples of this are online stores such as Amazon, Ebay, etc.

General Overview

Counterfeiting refers to the concept of purposefully deceiving someone by creating an imitation of something else. There are numerous amounts of issues with counterfeit goods. One of the most overlooked issues being the health risks that come along with purchasing a counterfeit product. Although some counterfeit products can be electronics, there are some counterfeit products in the market that target the beauty industry as well as the pharmaceutical. With 70% of counterfeit goods being sold online and the industry alone being worth half a trillion dollars, it can be expected that a large sum of this goes to the beauty industry. One of the health risks that comes along with the low cost of the counterfeit goods, however, is the fact that some of these products may contain carcinogens such as



beryllium, cadmium and arsenic. On top of that, but many counterfeit products used on skin can also contain infectious types of bacteria that can have bad consequences.

The issue with counterfeit goods in the pharmaceutical department is that the products do not have certain important characteristics. They may contain non active ingredients, the wrong concentrations, wrong dosage, harmful ingredients and they may even sell out of date drugs. Another issue of counterfeit consumer goods is that the whole process is being done illegally and with the intent to deceive consumers. Buying counterfeit products is illegal however it can be difficult to distinguish between those who have bought the products knowing they were counterfeit and those who were simply scammed. There are many different laws that should prohibit the production and distribution of counterfeit products such as the Anticounterfeiting Consumer Protection Act (ACPA) in the United States.

Another issue that must be highlighted is the economic impact that counterfeit goods has. When a consumer purchases a counterfeit goods, knowingly or not, the legitimate company ends up losing revenue through the lack of that sale. By doing this, the group who created the counterfeit have stolen the legitimate companies intellectual property (IP) without having to pay the same taxes nor follow the same safety regulations. When buying the counterfeit products, a consumer also supports criminal activity by offering them the funds to do so. In 2009 BASCAP did a study that showed a 1% increase in criminal activity due to counterfeiting. Globally, it is estimated that, using the same techniques, counterfeiting is a US\$60 billion dollar market.

The history of counterfeiting

Counterfeiting is said to be as old as the concept of money. With the native americans using shells for currency, some people dyed shells to match the colour and used it as counterfeit money. Most of the history regarding counterfeit primarily focuses on the counterfeiting of money. Throughout different periods of time, new ways of counterfeiting were discovered and popularized. An example being Mary Butterworth, a woman living in 18th century America who popularized the counterfeiting of paper money. She used a starched cloth and an iron to copy the pattern on paper before completing the rest of the



details by hand. Counterfeiting money was the most popular form of counterfeit “goods” however it can be argued that the 21st century is what really pushed the popularity and rise of counterfeit consumer goods.

Nowadays, North Korea is very advanced with the faking of American US dollars and the currency has been called “superdollars” for the strong resemblance between the currencies. Counterfeiting has also spread into different markets other than money such as electronics, toys, beauty and pharmaceuticals.

The current issue with counterfeit consumer goods

Current issues with counterfeit goods have not changed much since the original issues of counterfeit products. With social media growing and becoming more popular to a variety of age groups, it creates a new and unstable platform for the sale of counterfeit goods. An example of this can be seen with the social media app, Instagram. It has recently introduced a space for pages to post advertisements with links so that consumers can immediately buy. The issue with this is that a majority of these advertisements are a scam promoting counterfeit goods at what seems to be a price that is “too good to be true”. A report released by the analytical firm, Ghost Data, showed that since 2016, the number of counterfeit products promoted on Instagram have increased by 171% with 64 million posts recorded in 2019 alone. This is a growth rate of 341% within the past 3 years. Instagram does have a strict filtration system however it also encourages its users to report pages by filling out a form on their website and reporting their page.

Another area with high amounts of counterfeit goods being sold is Amazon. On Amazon there are around 2.5 million sellers selling their own products with rights to advertise and ship through Amazon's postal service. The issue with this is that some sellers advertise the products as the “real deal” and the consumer ends up with a counterfeit. Amazon recently introduced a new campaign called Project Zero. This program looks to help reduce the number of counterfeit sellers on the website by inviting sellers to remove the accounts without having to report them and wait. The list of those on Project Zero are currently set, however, sellers can apply to be added to the list and either be accepted or rejected. Another part of the project is that they ask manufacturers to add a unique manufacturer code so that the authenticity can be confirmed before an item is shipped off. Although a huge majority of the counterfeit products is purchased through e-commerce, there are still areas globally that offer counterfeit. Areas around Hollywood in America offer counterfeit beauty products, bags and designer clothing. Whilst in other areas of China, tourists flock to markets in order to buy



counterfeit products. This is a concerning issue globally because consumers often don't think about the consequences of buying counterfeit on themselves and to the companies and government.

Major Parties Involved

China

A large majority of counterfeit products come from China where they are either sold within the country or shipped internationally. According to a study done in 2018 by Global Brand Counterfeiting Report, the amount of losses made by a company is around USD 323 billion on the average company. It is important to bare in mind that at least 80% of global counterfeit products come from China.

Mexico

Mexico has been seen to be involved with counterfeit money however over the past few years, there has been an increase in activity regarding counterfeit products and their distribution internationally. During April of 2019, mexican authorities seized MXN\$200 million worth of counterfeit items that were found at their national airport.

Thailand

It is known that many shopping centres and markets often sell plenty of counterfeit goods from people ranging from "gangsters" to housewives. The sellers often try to explain why it isn't a bad thing and convince a consumer to buy into their product. Some of the market areas get raided but is difficult to shut down the operations as there are so many stalls that sell these illegal products. Some sellers have even admitted to bribing the police with large sums of money monthly or every other month to avoid fines and warranted searches.

Russia

Counterfeit goods such as fashion have been very popular and can be dated back to when russia was still in its communist society. There are many e-commerces available and active in Russia however the use of social media is also a common source of finding counterfeit products.



Previous Attempts to solve the Issue

Laws

Different countries have dealt with counterfeit consumer goods in many different ways. However, most countries have introduced laws regarding counterfeiting when looking into trademarks and copyright disputes. All countries that signed the Geneva convention of 1929 do have counterfeit laws and although some may be different to others, their goal is to prevent the issue of counterfeiting. Most laws outline the concept of imprisonment, fines and more however if you possess a counterfeit item or possess items to create the counterfeit, the punishment given can be less severe. All though these laws have helped tackle some of the counterfeit, these laws in particular don't necessary help the prevention of counterfeit products, however, offer insight on some of the consequences by counterfeiting. An example of one of the older counterfeit laws is the Trademark Counterfeit Act of 1984, an american law. This law states that it is illegal for someone else / groups of people to sell a product with the original companies trademark.

E-commerce

With E-commerce becoming more popular, certain websites have taken action and began searching for possible retailers who offered counterfeit items and shut down their platform. The same can be said with social media platforms. Big companies such as Amazon have come up with the Project Zero initiative that looks to take down pages that offer counterfeit products. If other companies began to involve themselves with this, it could greatly help the e-commerce sector when regarding counterfeit goods. However not all brands sell on online retailers, making it more difficult to create a plan of action that can be as immediate as Project Zero.

Education

Another big way that countries have attempted to deal with the issue of counterfeiting is by simply informing their people of what counterfeiting goods are and the damage they can cause. On the national geographic, they have an education system in which they offer materials for teachers to use to educate students on counterfeit. They give step by step instructions on how to discuss this however not all schools want to or find the need to educate students on counterfeit. It is not a mandatory topic for schools to teach so a lot of students have to self-educate which can be more difficult.



Possible Solutions

With e-commerce becoming increasingly popular, many different companies have offered their services to big companies with protections in forms of unique codes, packaging and tracking. A company called Sunchemical offers this service as do many others. This can help individual companies keep control of their products as well as advise their consumers to look out for certain qualities that are unique to their brand.

Another area that should be looked into when resolving this issue is the online patrolling aspect. Although consumers can report pages online, it is very difficult for consumers to find them all. There have been discussions of creating sectors within governments to specifically look into counterfeiting within the e-commerce. By having sectors or task forces created, it can help with the removal of these sites as well as have specific people who are trained to deal and find websites that offer counterfeit products. It also allows for a wider education of the topic that can then be shared with younger consumers who use the internet to shop.

A subsection of the e-commerce is social media. Some social media offers ads or pages where people can submit items to be sold. With the advertisements in particular, there needs to be more research done on any of the links attached as well as the product before promoting it. Instagram has recently created more strict filtration systems which look for keywords. If other social media apps were to adopt this, this could help lessen the amount of counterfeit products sold online through social media. Another important area that could be touched upon in the education system during IT classes could be the discussion of the e-commerce and what is safe and what is not. With the younger generation adapting to using electronic devices that have access to the internet, it is important they are taught what counterfeiting is and how to prevent purchasing counterfeit items as well as knowing what to do if they find a website that might offer counterfeit goods.

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