2017 IPO Anti-Counterfeiting Committee Survey

October 2017
Key Takeaways

a) The main anti-counterfeiting challenge identified by both corporate and law firm members is in identifying those who are truly responsible for counterfeit products.

b) A second challenge identified by corporate members, in particular, is in identifying the sale of counterfeit products. Almost 50% of corporate members who completed the survey learn of alleged counterfeits through customer complaints, returns, or warranty claims. This figure likely grossly underestimates the number of counterfeits in the stream of commerce, representing a subset of total sales in which consumers believe they have purchased legitimate product, found the products to be defective, and have taken the time to bring the issue to the attention of the brand owner.

c) Finally, while the vast majority of IPO corporate members have formal brand protection programs, the percentage who use Customs is much lower (fewer than 70% of corporate members have recorded any of their marks with Customs), and overall just over 50% of corporate members have recorded their marks and find them effective. This suggests that brands are either not aware of the various tools available via Customs offices, or that they have used the available tools and do not find them to be effective.

Responses from Corporate Members

Question 1:

Are you a Corporate member, i.e. brand owner?

- Yes: 120
- No: 66
Question 2:

What are the greatest problems your Company faces with counterfeiting issues? (Select all that apply)

- Identifying the identity of the true responsible party: 29 responses
- Locating and seizing the counterfeit goods: 17 responses
- Becoming aware of the sale of counterfeit goods and/or services in a timely manner: 22 responses
- Coordinating with local officials and/or border control services: 13 responses
- Lack of adequate penalty to deter the counterfeiters: 15 responses
- Extraterritoriality issues: 2 responses
- Secure and efficient means to distinguish real products from fakes

*Other Responses:

Question 3:

Which function withing your Company handles alleged counterfeits? (Select all that apply)

- Law Department: 32 responses
- Corporate Security: 12 responses
- Quality: 6 responses
- Other Responses: 3 responses

*Other Responses:

- Brand protection group
- Global supply management
- IP management
Question 4:

Does your Company have a formal brand protection program in some form?
(defined as proactively monitoring for counterfeits or other brand abuse, and taking enforcement action, if deemed applicable)

- Yes: 31
- No: 5

Question 5:

How do you generally learn of alleged counterfeits?
(Select all that apply)

- Via your Company’s internal efforts (i.e. brand protection programs; sales force; other employees): 35
- Via warranties; returns; customer complaints: 18
- Via officials (i.e. Customs; Health or Regulatory Authorities): 17
- *Other Responses: 3

*Other Responses:
- External investigators and market sweeps
- Reports from authorized partners, and third parties
- Distributors
**Question 6:**

How do you Measure the success of your anti-counterfeiting actions? What metrics or Key Performance Indicators are used? (Select all that apply)

- **Recaptured web traffic:** 5
- **Decrease in online listings by counterfeits:** 17
- **Increase in market share:** 7
- **Increase in sales in the market:** 9
- **Percentage of favorable judgement to number of raid actions:** 8
- **Number of prosecutions:** 14
- **Number of raid actions:** 12
- **Value of confiscated goods:** 20

*Other Responses:
- Number of online takedowns
- None
- No real metrics to assess

**Question 7:**

Based on your company’s experience, please rank the following in order of severity of counterfeit problems from 1 to 5, with 1 being the most severe:

- **#1 Asia Pacific:** 1.95
- **#2 Online Platforms:** 2.73
- **#3 Latin America:** 3.11
- **#4 North America:** 3.59
- **#5 Europe:** 3.62
Question 8:

To Combat illegal export or import, have you recorded any of your marks within any Custom Offices?

- Yes [25]
- No [11]

Question 9:

If yes, do you find it effective?

- Yes [19]
- No [5]
Question 10:

Which countries have been the most effective at combatting illegal export or import?

- United States
- China
- Belgium
- Japan
- African countries
- France
- Poland
- The Netherlands
- None

Question 11:

Which countries, if any, have not been very effective at combatting illegal export or import?

- China
- France
- Russia
- Indonesia
- None
Responses from Law Firm Members

Question 1:

What are the greatest problems your clients face with counterfeiting issues? (Select all that apply)

- Identifying the identity of the true responsible party: 35
- Locating and seizing the counterfeit goods: 20
- Becoming aware of the sale of counterfeit goods and/or services in a timely manner: 16
- Coordinating with local officials and/or border control services: 21
- Lack of adequate penalty to deter the counterfeiters: 24
- *Other Responses: 4

*Other Responses:
- Being able to afford the litigation costs
- Inadequate protection by courts and officials of other countries
- Undue delays sometimes occasioned by client bureaucracy in providing relevant information and supporting documents
- Unknown

Question 2:

Which function within your clients’ organizations handle alleged counterfeits? (Select all that apply)

- Law Department: 47
- Corporate Security: 10
- Quality: 13
- *Other Responses: 8

*Other Responses:
- IP
- CEO
- Marketing/Sales
- Management
Question 3:

Do your clients typically administer formal brand protection programs in some form? (Defined as proactively monitoring for counterfeits or other brand abuse, and taking enforcement action, if deemed appropriate?)

- Yes
- No
- *Other Responses

*Other Responses:
- Some do, some do not
- Depends on the client
- Unknown

Question 4:

How do your clients generally learn of alleged counterfeits? (Select all that apply)

- Via internal efforts (i.e. brand protection programs; sales force; other employees)
- Via warranties; returns; customer complaints
- Via officials (i.e. Customs; Health or Regulatory Authorities)
- *Other Responses

*Other Responses:
- Observing competitors from time to time
- Unknown
- Information from out law firm/investigators
- Also through our “Client Portfolio Watch” program
Question 5:

How do you measure the success of anti-counterfeiting actions? What metrics or Key Performance Indicators are used? (Select all that apply)

*Other Responses:  
- Proliferation of sales by copycats of counterfeiters as the original pirate is confirmed  
- Decrease in identified counterfeit components  
- Unknown  
- None

Question 6:

Based on your firm's experience, please rank the following in order of severity of counterfeit problems from 1 to 5, with 1 being the most severe.
Question 7:

To combat illegal export or import, do you record your clients' marks with any Customs Offices?

- Yes: 35
- No: 22

Question 8:

If yes, do you find it effective?

- Yes: 21
- No: 13
Question 9:

Which countries have been the most effective at combatting illegal export or import?

- United States
- UAE
- Mauritius
- Panama
- Australia
- Mexico
- Japan
- Germany
- Canada
- Europe
- China
- Malaysia
- United Kingdom

Question 10:

Which countries, if any, have not been very effective at combatting illegal export or import?

- Madagascar
- China
- Thailand
- The Phillipines
- Malaysia
- United States
- India
- Other