

Hong Kong steps up fight against counterfeits



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If Hong Kong is reputed for being a luxury shopping destination, it also used to be a counterfeit buyer's paradise. However, the coordinated efforts of Hong Kong's authorities over the last decade have succeeded in reducing the trade in counterfeit luxury products. Huang Zhen and Daniel R. Plane of Gide Loyrette Nouel tell us more.

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As one of Asia's shopping paradises Hong Kong has always attracted consumers seeking the latest and most fashionable brands. As a result, and as the gateway to China, it has also long been positioned as something of a one-stop market for counterfeit goods, particularly for those with luxury labels. Recognising this, and with the aims of cracking down on knock-off products, strengthening consumer confidence and building a reputation as a model for the enforcement of intellectual property rights, Hong Kong authorities have been ramping up their efforts in recent years.

Purchasers of fake luxury goods often claim, most likely as a salve to their guilty consciences, that luxury brands actually appreciate the "free promotion" of their goods by counterfeiters. The truth, however, is very different: the fake luxury and premium goods market in Asia costs the industry an estimated US\$27 billion in lost sales annually, according to the World Customs Organisation.

Copyright protection since 1912

Fortunately, Hong Kong has been a pioneer of intellectual property (IP) protection in Asia, with a history stretching all the way back to 1874 when a trademark registration system was initially established. A copyright protection scheme was then set up in 1912 and a patent protection scheme in 1934. Following Hong Kong's return to China in 1997 it continued to build upon this framework, launching a set of new regulations notably different from the underlying UK regime upon which the previous laws were based. As a part of this updating, the Trade Marks Ordinance and Trade Descriptions Ordinance were issued in 2003 to further modernise and strengthen the IP regulatory environment.

Unlike mainland China's multi-pronged registration and enforcement system, Hong Kong has adopted a more streamlined organisation: (1) the Intellectual Property Department (IPD), established in 1990, administers and handles



People queuing in front of a Louis Vuitton Boutique in Tsim Sha Tsui. Ten minutes from there, in the same area, fakes and genuine fakes can be found very easily

registration of all forms of IP activity; and (2) the Customs and Excise Department (Customs), has assumed responsibility for the investigation and imposition of criminal sanctions for copyright and trademark infringements within Hong Kong.

Fines up to HK\$500,000

To ensure Customs has sufficient fire power in the fight against counterfeiters, the government has provided for severe punishments against those trading in counterfeit or infringing products. Under the Trade Descriptions Ordinance, offenders are liable to fines of as much as HK\$500,000 and imprisonment for up to five years.

Over the last decade authorities have taken further steps to stem the supply of counterfeit and pirated products by establishing the "No Fakes Pledge" campaign under which local retailers vow not to engage in the sale of fake products. The initiative, co-led by the Hong Kong IPD and a number of leading Hong Kong retailers, involves participating businesses being permitted

to display the “No Fakes” logo at their business premises, thus providing consumers with additional peace of mind.

Similarly, Customs has joined with the Hong Kong Brands Protection Alliance in launching a “Fast Action Scheme” to rapidly identify and deal with IP infringements at the numerous large-scale exhibitions and conventions for which Hong Kong is known.

Complete eradication impossible

The success of these and other initiatives has resulted in the Hong Kong government being awarded a number of prizes by international governmental and industry organisations for their efforts. Nevertheless, counterfeits of a wide variety of goods, including luxury brands in particular, are still readily available. Consumer demand and Hong Kong’s proximity to China, one of the main sources of counterfeits in the global market, combine to make complete eradication virtually impossible.


Hong Kong does not punish consumers for possessing or even buying fake products. Customs instead focuses on the sellers of those goods, consistently modifying its techniques and tactics in an effort to stay one step ahead of the counterfeiters. In the Ladies Market and Tsim Sha Tsui, both located in Kowloon, they are tackling two of the most common supply methods.

Unable to openly display fake products, traders in these areas have developed two common ways of attracting potential customers. The first involves showing shoppers catalogues or glossy magazines depicting a broad range of the latest leather goods from Louis Vuitton, Gucci, Hermès and other popular brands. After choosing a selection of items, a runner will retrieve the chosen goods from a nearby warehouse, returning to permit the customer to examine their selections. Authorities have been fairly successful in tailing these runners and identifying the storage locations for surveillance and enforcement action.

A more difficult target for authorities comes in the form of “secret shops”, locations set up by counterfeiting rings in the tightly-packed high rise buildings so prevalent in Hong Kong and Kowloon. Touts on the streets of Tsim Sha Tsui approach potential customers with a whispered come-on of “handmade suits, copy watch, fake bag”. Customers expressing an interest are then led down back alleys to gated warehouses decked out like small-scale showrooms.

Finding new tactics

In the past, Customs agents were able to pose successfully as customers themselves, gaining access to showrooms to facilitate raids against them. However, touts have shifted their tactics to focus instead on Westerners, in many cases refusing to even talk to potential Chinese customers. Customs has responded to this development by working hand-in-hand with brand owners and their Western investigators posing as tourists. Using this tactic, once the undercover “customers” have gained access to the secret shops, Customs is able to quickly obtain search warrants against and raid multiple targets in coordinated sweep actions. These efforts have resulted in a number of successful multi-target raids over the last year, putting a significant dent in the operations – and the profits – of Hong Kong-based counterfeiters.

It remains to be seen what further methods the counterfeiters will use to overcome this latest pressure, but given the large profits still associated with the sale of fake luxury goods it is likely that counterfeiters will do their best to retaliate. As a result, the Hong Kong authorities still face a difficult task in their fight against counterfeiting activities in South China. 

¹The newly issued IP regulations in Hong Kong include Trade Mark Ordinance, Trade Description Ordinance, Patent Ordinance, Registered Design Ordinance and Copyright Ordinance and other sub regulations. So far the Copyright Ordinance is under amendment.

“No Fakes” Pledge Scheme: boosting the public’s confidence in shopping

To strengthen Hong Kong’s reputation as a “Shopping Paradise” for genuine products, the Intellectual Property Department has launched the “No Fakes” Pledge Scheme. Established in 1998, the scheme involves bodies such as Hong Kong & Kowloon Electrical Appliances Merchants’ Association Limited, Hong Kong Coalition for Intellectual Property Rights of the Federation of Hong Kong Industries, Hong Kong General Chamber of Pharmacy Limited, Hong Kong Jewellers’ & Goldsmiths’ Association, Hong Kong Record Merchants Association Ltd, Hong Kong Retail Management Association, and the Chamber of Hong Kong Computer Industry.

To participate in the scheme, a retail merchant has to be a member of one of the above issuing bodies. All

participating retail merchants of the “No Fakes” Pledge Scheme have committed not to sell or deal in counterfeit or pirated goods and to sell only genuine goods. They have “No Fakes” stickers and tent cards in their shops, so tourists and consumers can easily identify them as reliable and shop with confidence.

In 2004, Hong Kong Intellectual Property Department cooperated with Guangdong Intellectual Property Office to launch the “No Fakes” Pledge in Guangdong province. As at July 2007, the scheme accepted 511 retail merchants covering 3,800 outlets.

Source: The Intellectual Property Department of the Hong Kong SAR