



## The Trade in Counterfeit Goods

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Canadian importers will be interested to learn that the Canada Border Services Agency cooperates with other Canadian law enforcement agencies, including the RCMP, to combat the importation and trade in counterfeit goods. Attacking this problem at the border makes good sense when one considers that a very effective way of removing counterfeit goods from the stream of commerce is to identify and intercept these goods before they have a chance to enter the commerce of the country. The United States has been protecting the rights of American Intellectual Property (IP) holders in this way for years.



Product counterfeiting is no longer a localized industry concentrated mainly in the copying of high-end designer goods like Rolex watches and Louis Vuitton handbags. In the past few years counterfeiting has become a massive and sophisticated global business affecting everything from razors, batteries and cigarettes to automobile parts, medications and health care products. According to U.S. Customs and Border Protection, “pirated and counterfeit goods are estimated to account for approximately \$512 billion or roughly 7 percent of global trade.”

One of the major problems with counterfeit goods is that even legitimate businesses can inadvertently find themselves involved — and the cost to a company caught unwittingly with counterfeit goods can be devastating. For example, an importer of legitimately trademarked jeans may find his goods detained or seized at the border or after they have been imported because the garments contain a counterfeit name-brand zipper.

Canadian buyers must exercise extreme vigilance when purchasing or manufacturing overseas by verifying the legitimacy of both the end-products and the components used to produce them. One of the best ways to avoid a problem is to source only from trusted overseas suppliers.

Another problem importers may encounter are trademarked goods sold by a foreign manufacturer as surplus stock. If the royalty on these goods has not been paid, or if the sale of the goods has not been authorized by the trademark licensor, the goods may be considered counterfeit and will be dealt with accordingly. Even if the importer does not know that the goods are counterfeit, the goods will be lost and the company may find itself facing civil or criminal charges and costly penalties.

Canadian companies who export to the United States may be surprised to hear that Canada is considered to be both a significant source and an in-transit point for counterfeit goods, particularly goods produced in China. Because of this, U.S. Customs and Border Protection is becoming increasingly vigilant at the border in an effort to prevent the importation of these goods and apprehend the companies involved in their trade.

As always, *Caveat Emptor*.

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