

Institut national de la propriété

THE FRENCH ANTICOUNTERFEIT POLICY

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industrielle

A statement

Counterfeit has turned into a major economic plague

■ in volume

- *OECD report on the Economic Impact of Counterfeiting and Piracy, estimates that trade in counterfeit and pirated goods across national borders may have totaled around USD 200 billion*

- *in the EU, Customs now seize more than 100 million articles per year*

- *in France, Customs seizures were 300 000 in 1995 and 6,5 millions in 2008*

■ in nature (organization and industrialization)

■ as for the trade areas concerned (all without exception)

A choice : a strong private/public partnership

The National Committee was created in April 1995

- The Committee is chaired by a member of parliament
- Its secretariat general is managed by INPI

It brings together private and public partners in order to :

- Facilitate exchange of information
- Coordinate practical actions
- Formulate new proposals with a view to improving legislation

An annual action plan is determined by the Minister in accordance with the partners during a general assembly

In 2008, a working program of the CNAC created 5 thematic commissions :

- Awareness raising – communication
- Legislative and jurisdictional aspects
- International cooperation
- Internet counterfeiting
- Technical authentication solutions

The strategy

To be efficient, we must act, the same time :

➤ *On supply by repression*

and

➤ *On demand by raising the consumer's awerness*

Acting on supply by repression

- **enhancing sanctions**
- **making the action of repressive authorities more effective**
- **improving the judiciary response to counterfeit**
- **reinforcing international cooperation**

More dissuasive sanctions

Different legislative steps for repression of infringement

- **Criminalization of counterfeiting in 1994**

- **The Perben Act of March 2004**
 - = increases the threshold of criminal sanctions*
 - 3 years imprisonment
 - a fine of 300 000 euros

 - = foresees the aggravating circumstance of organized crime possibly leading to:*
 - 5 years imprisonment
 - a fine of 500 000 euros

- **The new law (October 29th 2007) implementing EC Directive 2004/48**
 - = introduction of a new aggravating circumstance of counterfeiting which is harmful to the health or safety of humans or animals*

The action of the public authorities

Several examples of coordinated actions :

- Representatives of the Customs, the Police, the Anti-fraud and the Justice Departments meet at regular intervals with TRACFIN
- Joint operations are carried out every summer by repressive forces on the French Riviera
- 34 regional task forces composed by police, army, customs and social affairs agents to fight delinquency (in 2008, + 50% of operations relating to counterfeiting)
- Creation in 2008 of an inter ministry delegation to fight frauds
- Annual figures are targeted by the Customs Dept for seizures of counterfeit goods (in 2008, Customs seized 6,5 millions counterfeits goods = + 41%)

The judiciary response

The 2007 Law on the fight against counterfeiting which implemented the EC directive of April 2004

Few examples of improvement :

- *stronger measures for preserving evidence : saisie-contrefaçon*
- *stronger provisional and precautionary measures : reinforcement of simplified and streamlined procedures for bringing proceedings before civil courts*
- *consecration of a right of information designed to fight counterfeiting networks*
- *stronger corrective measures : recall from the channels of commerce, definitive removal from the channels of commerce, destruction*
- *better compensation for the damage caused by acts of infringement*

Designation of a limited number of courts competent for IP civil cases

International cooperation

At the bilateral level

- bilateral *ad hoc* committee with Italy since 2002
- French – Indian and French – UAE IP Protocols signed between Ministers of Economy and Industry of both States in 2008
- network of experts located within our Embassies since 2004
- provision for an « anticounterfeit » clause in the cooperation agreements between INPI and its foreign counterparts

At the multilateral level

- Plurilateral *ad hoc* committee : « Cannes Declaration against counterfeiting » since 2008
- G8 Intellectual Property Experts' Group
- France co-finances with WIPO enforcement's programs in Africa, Middle East and Asia
- Negotiation of an Anti-counterfeiting trade agreement (ACTA)
- EU China IPR II Project forcing the enforcement improvement in this territory with the collaboration of Chinese authorities and the expertise of EU member States whose notably France (INPI)

Actions during the French Presidency of the UE

Adoption of a Council Resolution on a comprehensive European anticounterfeiting and anti-piracy plan

In particular, acting by :

- **setting up a European counterfeiting and piracy observatory**
- **developing action to raise awareness and to communicate**
- **anti-counterfeiting customs plan for the years 2009 to 2012**
- **setting up a network for the rapid exchange of information on counterfeit products and services**
- **promoting coordination between institutions involved in combating counterfeiting and piracy**

Actions during the French Presidency of the UE

Adoption of « Cannes Declaration against counterfeiting » signed by representatives of the national anti-counterfeiting coalitions in Bulgaria, France, Italy, Morocco, Portugal, Romania and Spain, in Cannes on October 27th, 2008 for the opening of the Tax Free World Association World Exhibition :

These States will :

- maintain and strengthen domestic coordination in the fight against counterfeiting both between government authorities and between private and public entities ;
- maintain a high level of consumer awareness and enforcement in the fight against counterfeiting ;
- in their best effort, impose sanctions against infringements of intellectual property rights, and in particular criminalize the sale or incitation to sale counterfeits including jail sanctions, in the terms of the legislative framework already existing in each State ;
- implement effective mechanisms to fight counterfeiting and piracy on the Internet ;
- intensify the fight against counterfeiting related to tourism, develop awareness actions in tourist areas on an on-going basis and support the adoption of the "Code of *Ethics*" project of the World Tourism Organization ;
- develop awareness for organizers, exhibitors and visitors of trade shows, increase information of intellectual property rights holders and plan on strong enforcement on trade shows venues ;
- strengthen their cooperation through exchange of information ;
- meet at least once a year in order to assess improvements made.

Acting on demand by raising the consumer's awareness...

- **National awareness campaign 2006 – 2007**
- **Exhibitions**
- **Organizing workshops**
- **Publication of brochures**

Raising the consumers 's awareness : some examples in France : INPI & CNAC

A 6 Mo US Dollars campaign *Counterfeit No Thanks !*

- TV spots
- Dedicated website
- Partnership with travel agencies

The exhibition *Counterfeit No Thanks !*

- At the French Parliament
- Permanent exhibition at INPI
- Traveling in many towns around France (more than 40)
- An English version itinerant abroad (Brussels, Geneva, USA, Mexico, India... United Arab Emirates in 2009)

Day-to-day :

- National Call center : 0820222622 : INPI Direct deliver any information relating to protection and enforcement of IPR, anticounterfeiting policy
- Website : www.contrefacon-nonmerci.com

General public exhibition

- In April 2010, a major exhibition on the false and counterfeiting issues will be organized at the "City of Science and Industry"; it is foreseen that this event will draw some 300,000 visitors

Raising the consumer's awareness : actions made by CNAC members :

Customs and General Directorate for Competition Policy, Consumer Affairs and Fraud Control :

- Publication of a brochure in French, English and Spanish « Welcome in France » with useful tips for a pleasant stay, including several clues to help tourist to detect a counterfeit product and information on dangers and sanctions

Ministry of Foreign affairs :

- Dedicated page on the website “Advice to travellers”

Comité Colbert & Customs :

- Campaign in the Airports in partnership with Air France

Unifab :

- Exhibitions at the Museum of Counterfeiting
- Summer communication campaign in the French Riviera
- Annual European Intellectual Property Rights Forum
- Activities to mark a world anti-counterfeiting day

Conclusion

- **To act on supply and demand**
 - Repression (the final consumer included)
 - Pedagogy
- **A strong public / private partnership**
- **An enhanced European dimension**
 - Effective implementation of the Observatory
 - Communication campaigns funded in part by the Commission
 - A more engaged standpoint in international cooperation
- **To actively prospect international cooperation**





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