



Intellectual Property Awareness Network

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Topic Brief 4

Intellectual property crime - society is the loser

Brief 4



Customs witnessed a further increase in the proportion of products for daily use that would be potentially dangerous to the health and safety of consumers.

Intellectual property crime – society is the loser

The size of the problem

Across the world national economies, industries and consumers are all being threatened by the continuous growth of intellectual property crime (IP crime), or as it is more commonly known – counterfeiting and piracy.

Historically this particular form of criminality has been difficult to measure. However, over the past ten years and as far back as 2009 the OECD¹³ estimated that the international trade in counterfeiting could be as large as \$250 billion (US), which is larger than the national GDPs of 150 economies¹⁴. Since then counterfeiting across the world has been on the increase and in 2012 the International Chamber of Commerce (ICC) updated the OECD findings, forecasting increases in counterfeiting to \$770–\$960 billion in 2015, in G20 countries alone. The effect of this would result in employment losses of 2.5 million, which will have a devastating impact on G20 economies, businesses and society in general.

The most recent EU Customs figures report (2014)¹⁵, published in October 2015, show an increase in the high number of shipments violating IP rights. Over 35 million fakes were seized at EU borders, with an estimated retail value of over €617 million. Of these, Customs witnessed a further increase in the proportion of products for daily use that would be potentially dangerous to the health and safety of consumers. These accounted for almost 29% of the total goods seized and included food and beverages, body care articles, medicines, electrical household goods and toys. As many experts estimate that Customs are only able to seize around 2% of all illicit products entering the EU, we continue to face an enormous wave of fake goods, which not only threaten consumers but have broader economy-wide effects on trade, investment, employment, innovation and the environment.

¹³ Organization for Economic Cooperation and Development (OECD)

¹⁴ OECD, Magnitude of counterfeiting and piracy of tangible products – November 2009 update, <http://www.oecd.org/document/23/0,3343>.

¹⁵ http://ec.europa.eu/taxation_customs/resources/documents/customs/customs_controls/counterfeit_piracy/statistics/2015_ipr_statistics.pdf

On the copyright side, the International Chamber of Commerce estimates that digitally pirated music, movies and software accounts for between \$80 billion and \$240 billion worldwide¹⁶. The ICC predicted that these figures could have tripled by the end of 2015¹⁷, so left unchecked piracy could destroy the UK's invaluable copyright-based industries and with them our global lead in innovation and creativity. A recent reminder of just how much this could affect the UK comes in a report compiled by NetNames¹⁸, and commissioned by the Digital Citizens Alliance. The study found that the top 30 "cyberlockers" (online file storage providers) generate nearly \$100 million (£62 million) a year from stolen creative work. But perhaps the most surprising aspect is that these rogue websites are run by major credit card companies and have average profit margins of 63 per cent, which is far in excess of what companies who legally produce or distribute music, film, games or software can hope to make.

Over the years numerous other studies, from a range of international organisations, further confirm the global growth and damage that this insidious crime causes, concluding that it: significantly reduces investment and destroys jobs¹⁹; threatens the health and safety of European consumers (see EU customs above); creates serious problems for European based SMEs²⁰; results in serious tax and exchequer losses, due to undeclared sales; and is extremely attractive to organised crime due to the comparatively low risk and high profits it engenders.

Moreover, institutions such as Europol²¹, Interpol²², UNICRI²³, UNDOC²⁴ and the World Customs Organisation (WCO) have all produced evidence and reports that have acknowledged the links between counterfeiting and organised crime and, in turn, the massive profits from fake products that are being channelled into areas such as the trafficking of drugs and human beings and related financial crimes such as money laundering and corruption.

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- 16 <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/>
- 17 <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/BASCAP-Research/Economic-impact/Global-Impacts-Study/>
- 18 <http://www.netnames.com/>
- 19 TERA Consultants, Building a Digital Economy: March 2010 <http://www.iccwbo.org/bascap/id35360/index.html>
- 20 Technopolis (2007), 'Effects of counterfeiting on EU SMEs', http://ec.europa.eu/enterprise/enterprise_policy/industry/doc/Counterfeiting_Main%20Report_Final.pdf
- 21 <https://www.europol.europa.eu/content/counterfeit-goods-produced-eu-rise>
- 22 <http://www.interpol.int/Crime-areas/Trafficking-in-illicit-goods-and-counterfeiting/Trafficking-in-illicit-goods-and-counterfeiting>
- 23 http://www.unicri.it/topics/counterfeiting/organized_crime/reports/
- 24 https://www.unodc.org/documents/counterfeit/FocusSheet/Counterfeit_focussheet_EN_HIRES.pdf

2015 saw the emergence of a number of new and important reports, which focused on the impact of counterfeiting in specific business sectors in the EU. The reports are part of a series, which will be produced by the European Observatory on infringements of Intellectual Property Rights²⁵ based at the Office for Harmonisation in the Internal Market (OHIM, the EU's central IP office), are the first independent studies of their kind. In brief, they aim at improving both the understanding of the importance of Intellectual Property (IP) in society today and the consequences of IP infringements (*counterfeiting and piracy*) and make a major contribution to the overall picture in Europe.

So far the Observatory has published four reports²⁶ covering the clothing, footwear and accessories sector, the cosmetics and personal care sector, the sporting goods sector and most recently, the toys and games industry. More are to come. In parallel, OHIM has also begun to work with the OECD to update their 2009 study, which estimated the value of counterfeit goods in international trade. Alongside this OHIM will support the Joint Research Centre of the European Commission²⁷ to study infringements in the music, film and e-book industries. These reports will add considerably to the evidence landscape and it is hoped that they will be concluded and produced during 2016.

In the UK it has proved to be very difficult to put figures together on the scale and impact of counterfeiting. One of the reasons is that there is no statutory recording of offences by UK enforcement agencies. Therefore, the IP Crime Report 2014/15 (by the IP Crime Group)²⁸ centres on an annual survey of Trading Standards, which focused on consumer behaviour, and where the impact of initiatives to tackle IP crime can be measured. Research undertaken as part of Creative Content UK²⁹ on the scale and scope of online infringement, also helped to build knowledge and the Intellectual Property Office³⁰ is now funding further work on an Online Copyright Infringement Tracker and has also commissioned research into the scale and scope of designs infringement in the UK. This is due to be published in 2016.

Due to the complexities currently being faced in building a robust estimate of the scale and scope of IP crime in the UK, the IP Crime Group has used evidence based on many operational successes undertaken by law enforcement and industry groups.

25 <https://oami.europa.eu/ohimportal/en/web/observatory/about-us>

26 <https://oami.europa.eu/ohimportal/en/web/observatory/quantification-of-ipr-infringement>

27 <https://ec.europa.eu/jrc/>

28 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461792/ip-crime-report-2014-15.pdf

29 <https://www.bpi.co.uk/home/uk-creative-industries-and-isps-partner-in-major-new-initiative-to-promote-legal-online-entertainment.aspx>

30 <https://www.gov.uk/government/organisations/intellectual-property-office>

IP crime prevention

The UK IP Crime Group concludes that IP crime is detrimental at local, national and international levels.

On a daily basis, UK Trading Standards authorities, police and Customs deal with the consequences of counterfeiting and piracy. Closures of businesses, losses of jobs, benefit fraud and potential harm from dangerous fakes are all evident in their work. In addition, strong links have been found to organised crime, drug dealing and violence. This has a tangible effect on the safety and security of communities across the UK.

Public and private sector bodies focus on numerous approaches to tackle the problem, including prevention, disruption, and enforcement and building greater public understanding.

Successful examples include the work of the National Markets Group's Real Deal initiative³¹, which has become an EU benchmark and has led to the seizure of over 30,000 counterfeit items. Almost 400 markets have signed up to the *Real Deal* Charter to commit to tackling the sale of counterfeit goods on market stalls.

In addition, Anti-Counterfeiting Group (ACG)³², which represents members that own over 2,400 multi-international brands, has worked with Trading Standards and police throughout the UK to tackle specific hot spots.

Working in partnership is a major aim for the UK, and law enforcement and industry have developed innovative partnerships of disrupting and enforcing against IP crime. The IPO enforcement team and the Police Intellectual Property Crime Unit (PIPCU)³³ are working assiduously with a range of enforcement authorities, private sector business and national anti-counterfeiting and piracy associations to deal with rogue websites and their facilitators, including advertisers. The IPO have also joined with other government authorities such as the Food Standards Agency (FSA) to deliver sustainable responses. Operation OPSON³⁴, carried out in partnership with Europol and almost 50 other countries successfully led to the removal of tons of fake and substandard food.

Moreover, national associations such as FACT³⁵ and the BPI³⁶ have had significant successes to prevent and disrupt online crime while ACG have collaborated with the National Trading Standards e-crime team³⁷ and social media platforms, such as Facebook, to disrupt new criminal business models and remove online images and sellers of counterfeits.

31 <http://www.realdealmarkets.co.uk/>

32 <http://www.a-cg.org/>

33 <https://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/default.aspx>

34 <https://www.europol.europa.eu/content/record-seizures-fake-food-and-drink-interpol-europol-operation>

35 <http://www.fact-uk.org.uk/>

36 <https://www.bpi.co.uk/default.aspx>

37 <http://www.tradingstandardsecrime.org.uk/crack-down-on-counterfeiting-and-piracy-on-social-media/>

But this operational work is supported by continual efforts to help build public understanding in the UK. As a result of industry, law enforcement and government working together there has been a continuous upsurge in awareness. The Creative Content UK³⁸ initiative and working with national businesses and associations and European and international partners to provide more robust evidence will continue to help to build a more sustainable approach in 2016.

Suggested further information:

- IP Crime – annual report 2014/15 of the UK IP Crime Group³⁹
- Counterfeiting Intelligence Bureau webpage – International Chamber of Commerce (ICC)⁴⁰
- Business Action to Stop Counterfeiting and Piracy (BASCAP) webpage – ICC⁴¹
- eBay Safety Centre advice about counterfeits webpage⁴²
- Interpol webpage about Trafficking in Illicit Goods⁴³
- Europol⁴⁴
- OHIM EU Observatory⁴⁵
- ACG⁴⁶
- UNICRI⁴⁷

38 <https://www.bpi.co.uk/home/uk-creative-industries-and-isps-partner-in-major-new-initiative-to-promote-legal-online-entertainment.aspx>

39 <https://www.gov.uk/government/publications/annual-ip-crime-report-2014-to-2015>

40 <http://www.icc-ccs.org/icc/cib>

41 <http://www.iccwbo.org/advocacy-codes-and-rules/bascap/>

42 <http://pages.ebay.co.uk/safetycentre/counterfeits.html>

43 <http://www.interpol.int/Crime-areas/Trafficking-in-illicit-goods-and-counterfeiting/Trafficking-in-illicit-goods-and-counterfeiting>

44 <https://www.europol.europa.eu/category/press-release-category/intellectual-property-crimes>

45 <https://oami.europa.eu/ohimportal/en/web/observatory/about-us>

46 <http://www.a-cg.org/>

47 http://www.unicri.it/topics/counterfeiting/organized_crime/reports/