



The Counterfeit Problem in Retail

Retail Council of Canada
Retail Secure Conference

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Counterfeiting is the illegal production and sale of goods, including packaging, bearing without authorization a trademark which is identical to a validly registered trademark or which cannot be distinguished from such a trademark.



Counterfeiting

- A trademark is a combination of letters, words, sounds or designs that distinguishes one company's goods or services from those of others in the marketplace.
- By registering your trademark, you have exclusive rights to use it throughout Canada for 10 years (a term that you can renew).
- It gives a legal monopoly to its owner.
- Use it or lose it
- connected to specific goods or services



What Does a Trademark Do?

- Copyright is the exclusive legal right to produce, reproduce, publish or perform an original literary, artistic, dramatic or musical work. The creator is usually the copyright owner.
- Only the owner of a copyright is allowed to produce or reproduce a work, or to permit someone else to do so.

What is a Copyright?

- I don't care about foreign owners of intellectual property rights?
- I am not hurting these big companies by buying a "fake".
- I can't afford a "real one".
- These companies are just ripping me off anyways!"
- "Imitation is the sincerest form of flattery".

What's The Problem?

- 1985
- Late 1985-late 1990's
- Early 2000's
- Welcome to today



Evolution of Modern Day Counterfeiting

- **OECD: 'Trade in fake goods is now 3.3% of world trade and rising' ...** puts the value of imported fake goods worldwide at USD 461 billion in 2013, USD 509 billion in 2016 - OECD & EUIPO
- <https://www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm>
- NC State University: Supply Chain Resource Cooperative – September 29, 2021
"Counterfeiting is on the rise and projected to exceed \$3 trillion in 2022
- <https://scm.ncsu.edu/scm-articles/article/counterfeiting-is-on-the-rise-projected-to-exceed-3-trillion-in-2022> Robert Handfield Ph.D.

- Example: Charlie Hebdo attacks
- Example: Toronto gang related activity
- Example: 9/11



Is it really a big deal?

2ND LARGEST SOURCE OF CRIMINAL INCOMES WORLDWIDE

(According to the United Nations Commission
on Crime Prevention and Criminal Justice ...
Held on the 12th of May 2014.)

(See Counterfeiting & Terrorism Report 2016 of
UNIFAB)



Money Laundering

- The scale of money laundering is difficult to assess, but it is considered to be significant. The United Nations Office on Drugs and Crime (UNODC) estimates that between 2 and 5% of global GDP is laundered each year. That's between EUR 715 billion and 1.87 trillion each year
- <https://www.europol.europa.eu/crime-areas-and-trends/crime-areas/economic-crime/money-laundering>

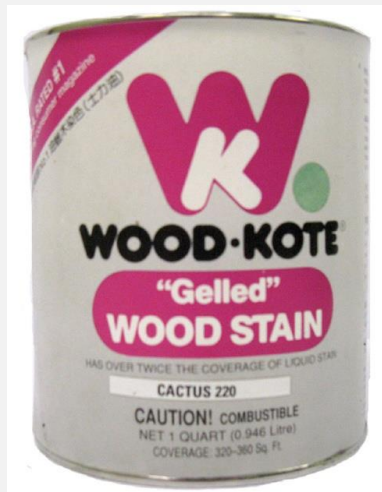


What is being Counterfeited

- Aircraft Parts
- Apparel
- Accessories
- Automotive parts
- Automotive accessories
- Batteries
- Blankets
- Cameras
- Cellular Phones
- Cellular phone cases
- Cellular Phone Accessories
- Cigarettes
- Computers
- Consumer Products of all kinds
- Cosmetics
- Handbags
- Electrical Products
- Movies
- Electronic Products
- Exercise Equipment
- Eyewear, most without UV protection
- Food
- Footwear
- Gas
- Health & Beauty Products
- Hockey Sticks
- Other Sports Equipment
- Ink Cartridges and Toners
- Jewelry
- Leather Goods
- Liquor
- Motor Vehicle
- Music
- NFT's
- Novelty items
- Optical Disks
- Perfumes
- Petroleum
- Pharmaceuticals
- PPE
- Refrigerant
- Software
- Video
- Satellite Decoders
- Tablets
- Toys
- Trading Cards
- Video Games
- Watches











real

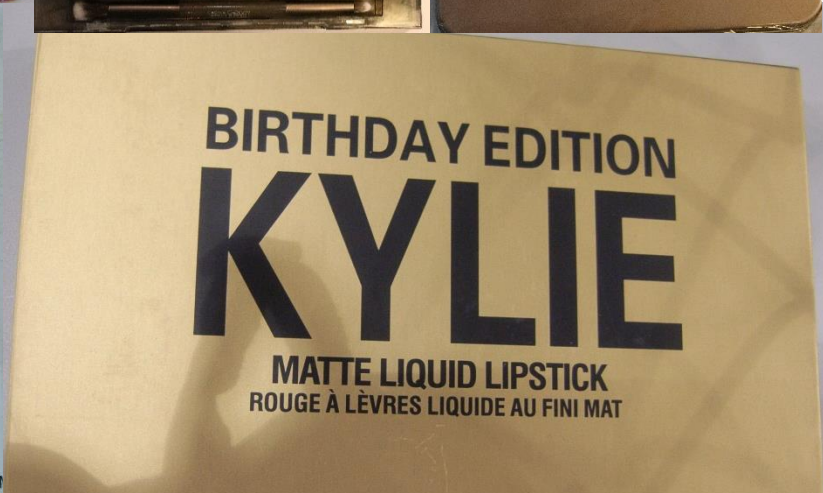


fake

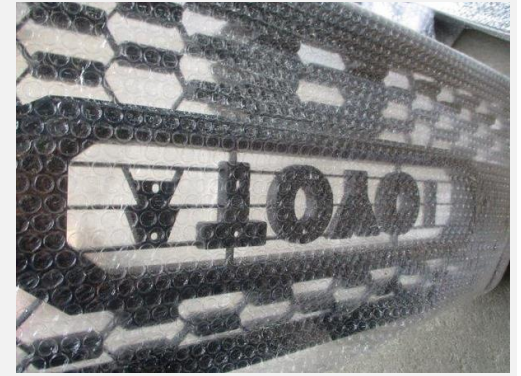
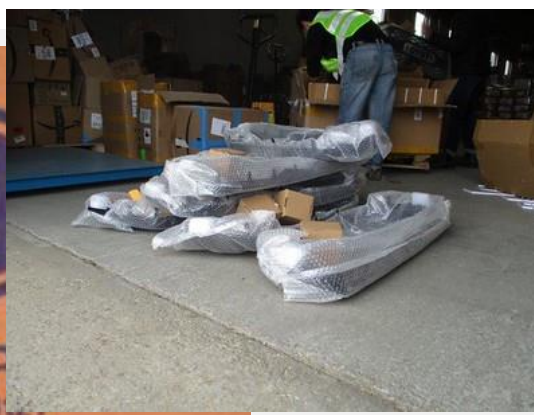
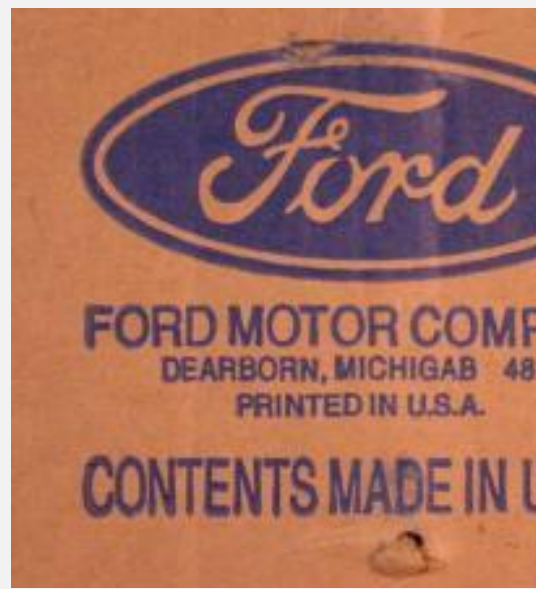


KSL



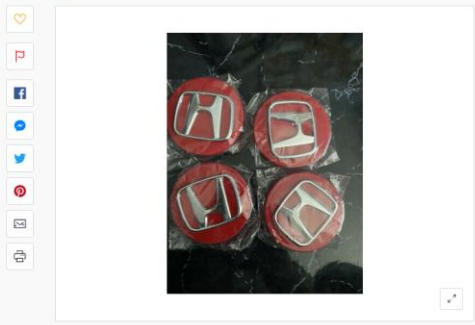






Ontario · Toronto (GTA) · City of Toronto · Cars & Vehicles · Vehicle Parts, Tires, & Accessories · Other Parts & Accessories in City of Toronto · Ad ID 1574390615

Honda Center Caps Red and Silver \$20 Firm
\$20



Posted 4 days ago
Toronto, ON M1C2P7 (View Map)

Contact Kijiji User

Your Message
Hi, I'm interested! Please contact me if this is still available.

Your Phone Number (optional)

Send message

To deter and identify potential fraud, spam or suspicious behavior, we automatically redact your email address in applications and we leave the app to monitor conversations. By sending the message you agree to our Terms of Use and Privacy Policy.

Kijiji User
Owner
View 3 listings
+2 hrs avg reply +75% reply rate 7 yrs on Kijiji

Description
I have a set of wheel caps for sale. No longer needed them so will be selling. Pickup in Scarborough

5 visits



HOME SHOP TOYOTA TACOMA SHOP TOYOTA TUNDRA SHOP TOYOTA 4RUNNER RESOURCES ABOUT CONTACT

HOME TOYOTA TACOMA GRILLES 2018 - 2021 TOYOTA TACOMA GRILLE INSERT (TSS READY)



2018 - 2021 TOYOTA TACOMA GRILLE INSERT (TSS READY)

\$250.00
Compare at \$325.00
or 4 interest-free installments of \$62.50 by [Afterpay](#) or [Mozo](#)

GRILLE TEXT
TOYOTA

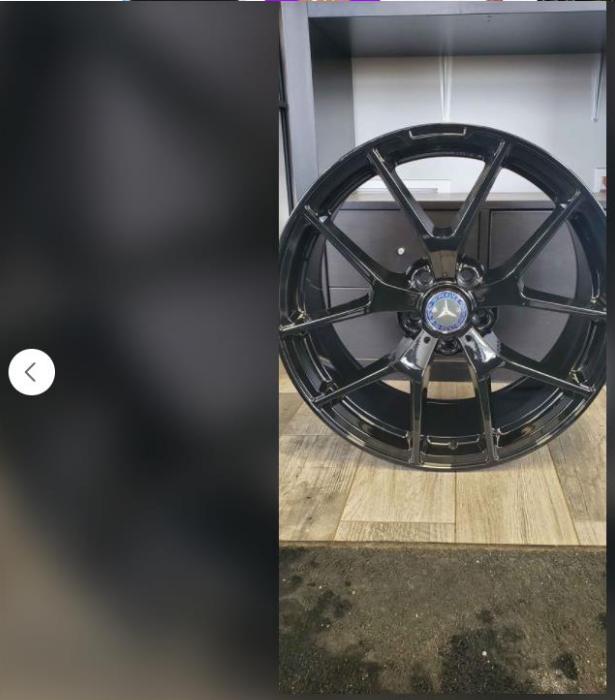
QUANTITY
1 ADD TO CART

This Toyota Tacoma grille is designed for the TSS enabled 3rd generation Tacoma (2018, 2019, 2020 & 2021). It is a full insert and comes with full mounting hardware and installation instructions. The grille proudly displays a tough Tacoma script and has a beautiful diamond pattern. It has been rigorously tested both on and off road to ensure it has enough airflow, no overheating issues or issues with the Safety-Sense monitor.

We know you'll love it so much that you can give it a try for 60 days. If you're not 100% happy with it, send it back and get a full refund. No questions asked!

All grilles are hand-inspected and touched up before shipping. All orders typically ship within 24 hours, but on occasion take an additional 1-2 days and are sent via UPS ground.

- SPECS**
- .090 Aluminum (Grille)
 - Removable 1/4 Gauge Stainless Steel Plate (Behind Logo)
 - These are very hard to put on and take off and make for easy grinding after the grille is received.
 - CNC Laser Cut & Bent



Rims For Sale

C\$0
Hobbies
Listed 7 weeks ago in Richmond Hill, ON

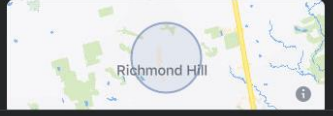
Message

Details
Condition New

Replica Rims For Sale
WINTERIZED
MERCEDES
BMW
AUDI
ANY VEHICLE
MESSAGE FOR PRICING

Tags
MERCEDES BENZ 5X120 5X112

AUDI BMW



Send seller a message
Hi JD, is this still available?

Send



nissan steering wheels
C\$1,000 · In Stock

Hobbies · Car Suspension & Steering
Listed in Toronto, ON

Message

Details
Condition New

All carbnastastic steering wheels are modified from an OEM core, allowing for the plug and play with no fitment issues. everything is customizable, select the colour and materials of your choice without additional cost. check out our ig for more @jdm autocare



Toronto, ON
Location is approximate

Seller Information
Jdm Steering Wheels
Joined Facebook in 2021

Send seller a message
Hi Jdm, is this still available?

Send





How can you tell?

- What's the goal?
 - Removing content online
 - Locating a seller (investigation)
 - Process a transaction
- Evidence Preservation
- Cost-effective enforcement strategies

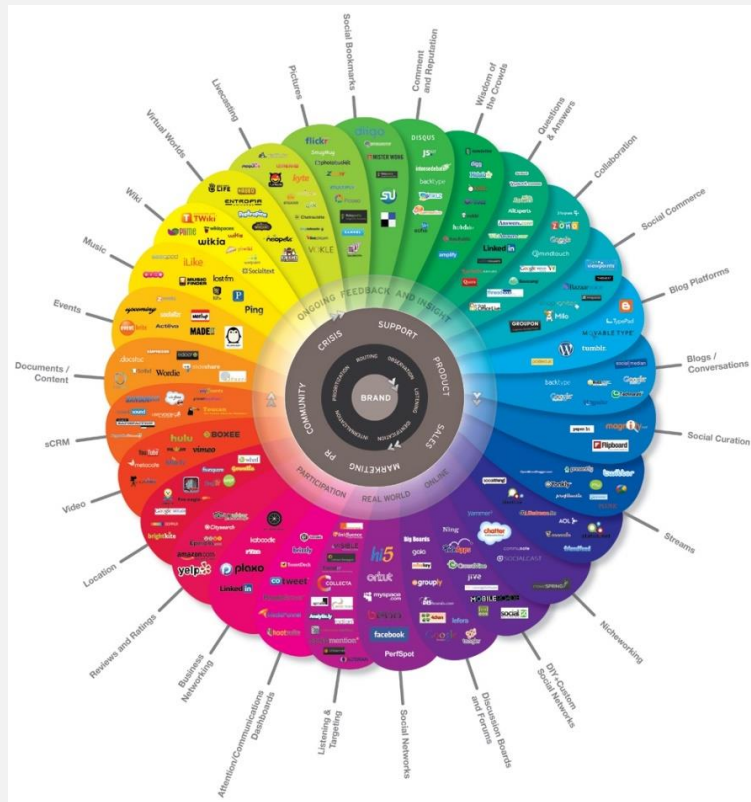


Internet Based Counterfeit Issues

1. Social Media
2. Third Party Marketplace
3. Websites
4. Live Sales
5. Apps, etc.
6. Dark Web



What's out there Now



Social media is online content created by people using highly accessible and scalable publishing technologies.

Social Media

Social Media Takedowns



- Many social media platforms offer their own shopping platforms
- It has become very easy for even unsophisticated sellers to sell online
- Marketplace platforms add additional social networking features



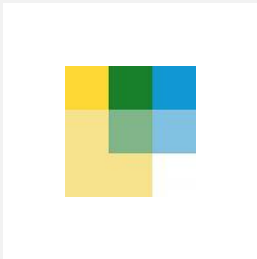
Marketplaces



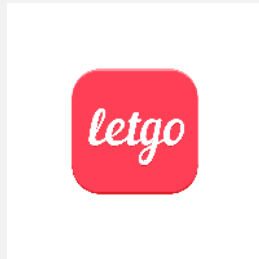
Facebook
Marketplace



Instagram
Shopping



Wanelo
"Digital Mall"



Letgo
Online classified ads
app and site

Marketplaces

Marketplaces



- Forms
- Review policies carefully
- Follow-up



Takedowns

- Popularized by Snapchat
- Content that disappears after a brief period of time
- Continues to increase in popularity
- Proper preservation of evidence even more important for investigators

Ephemeral Content

- **Looking for?**

- Phone number/e-mail address
- Username
- Address
- Friends/Likes

- **What am I really looking for?**

- IP ADDRESS?
- Real person?
- Physical location?



What are you
Investigating?



Websites

- Takedown Request
- C & D
- Registrar/ISP – go to web site
- Reach out to the Target
- Terminate Payment Processor
- Complain to Law Enforcement
- Litigation



Enforcement Options

Owners of Canadian trade-mark registrations or copyrights can now seek assistance/information from the Canada Border Services Agency to detain suspected counterfeit and pirated goods at the border and proceed with civil enforcement of their rights.

Border Enforcement



What does CBSA do to detect counterfeits

- The CBSA works with other government departments (eg: Health Canada, Food Inspection Agency) to interdict counterfeit goods that raise health, safety or security concerns.
- If a shipment of counterfeit goods presents health, safety and security risks, those risks could be dealt with before the IPR Border Regime is applied.
- Rights Holder can provide information to CBSA about a dangerous goods shipment that they suspect is counterfeit and/or pirated.

1. Rights holders/owners may file a Request for Assistance (RFA) with the CBSA re registered Canadian trademark or geographical indication and copyrights.
2. Complete the RFA form and submit it to the CBSA.
3. CBSA will confirm enrollment and send approval letter/email outlining program specific details.
4. 2 years



Procedure



REQUEST FOR ASSISTANCE - DEMANDE D'AIDE

SEE INSTRUCTIONS ON PAGE TWO

VOIR LES INSTRUCTIONS À LA PAGE DEUX

The filing of this application begins the enforcement process for the Canada Border Services Agency (CBSA) Intellectual Property Rights Program. This form has been developed by the CBSA in accordance with s. 44.02 of the Copyright Act and s. 51.04 of the Trademarks Act to assist right owners in protecting their rights against the prohibited importation of counterfeit, trademark and pirated copyright goods into Canada.

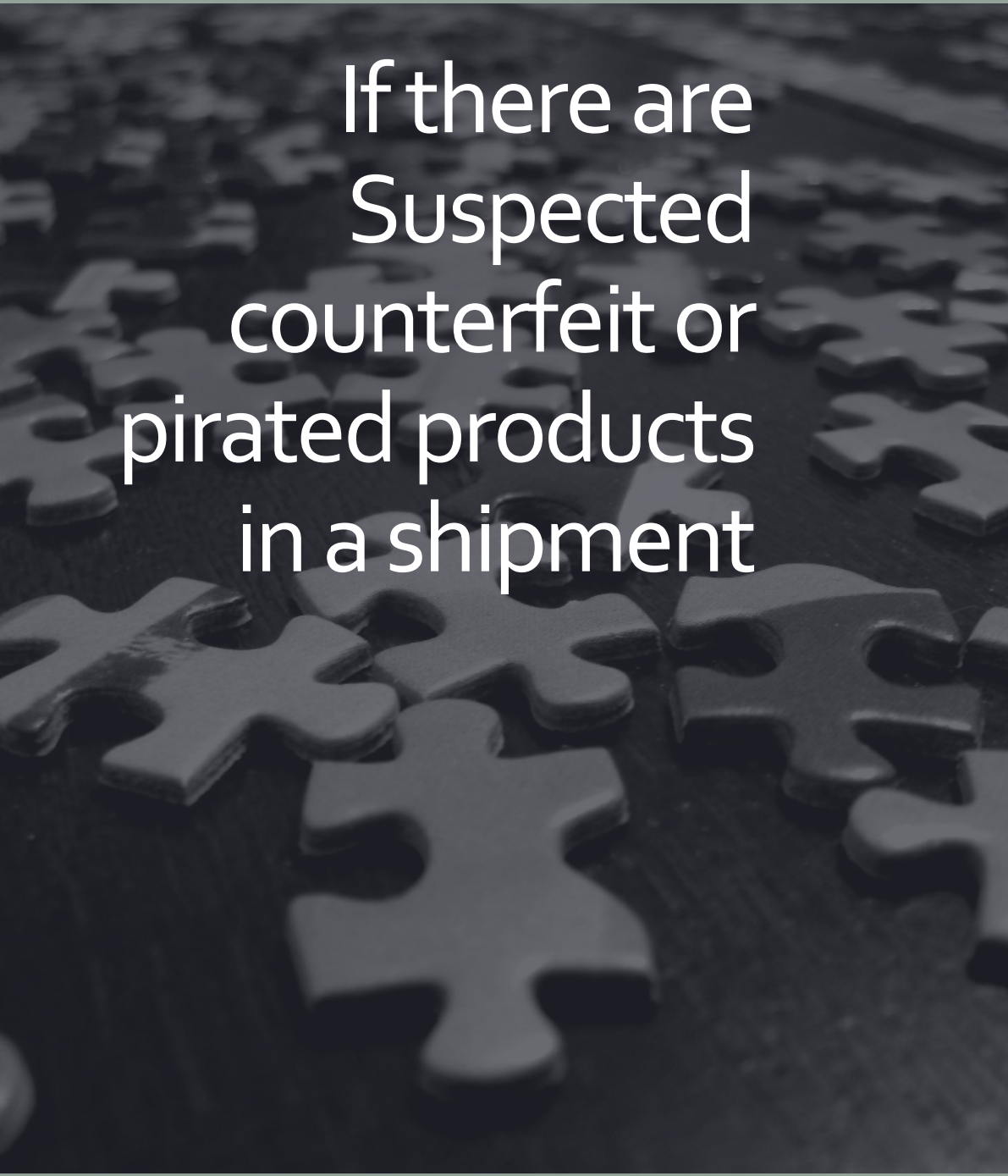
Le dépôt de cette demande commence le processus d'inscription pour l'Agence des services frontaliers du Canada (ASFC) Programme des droits de propriété intellectuelle. Ce formulaire a été développé par l'ASFC conformément à l'art. 44.02 de la Loi sur le droit d'auteur et s. 51.04 de la Loi sur les marques de commerce pour aider les titulaires de droits à protéger leurs droits contre l'importation illicite de la contrefaçon, de marque et de marchandises piratées au Canada.

Section A: Rights Owner Information - information sur le détenteur des droits	
1. Legal name of rights holder - Nom légal du détenteur des droits Valuable Brand Inc.	
2. Rights holder address - Adresse du détenteur des droits Address - Adresse 123 Anystreet Ave, Anyplace, Anyprovince	
Country - Pays CANADA	Postal code - Code postal / Zip code S1E S1E
3. Representative for service in Canada - Représentant du service à la clientèle au Canada	
Contact name - Nom du contact Lorne M. Lipkus (Kestenberg Siegal Lipkus LLP)	Phone number - Numéro de téléphone 647-929-2378
Address (street) - Adresse (rue) 65 Granby Street	
City - Ville Toronto	Province ON
Postal code - Code postal M5S1H8	
E-mail address - Adresse courriel fakes@kallaw.com	Alternate e-mail address - Adresse courriel de remplacement abc.defgh@gmail.com

Section B: Copyright and/or Trademark Information - Données sur l'intérêt de propriété	
(attach separate sheet if required - Joindre feuille supplémentaire si nécessaire)	
6. Trademark or copyright - Marque de commerce ou droit d'auteur <input checked="" type="checkbox"/> Trademark <input type="checkbox"/> Copyright	7. Trademark or copyright registration number (from CIPO) - Numéro d'enregistrement de la marque de commerce ou du droit (basé sur l'IPC) SM123,456 - ABCDE and SCHEDULE A
8. Number of entries in the CIPO register - Numéro de la demande de l'Office de brevets et de marques du Canada (IPC) SCHEDULE A	9. Harmonized system code - Code du système harmonisé
10. Intellectual Property Rights (IPR) - (Applicable to IPRs only - s'applique aux droits de propriété intellectuelle) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
11. Provide name and description of authentic goods, such as product features, packaging and trademark location. Fournir le nom et la description des biens authentiques, y compris les descriptions des produits, l'emballage et l'emplacement de la marque de commerce. SCHEDULE B	
12. List of known retailers and suppliers providing the long-term products into Canada or elsewhere. Fournir une liste des détaillants et fournisseurs qui ont fourni des biens authentiques au Canada ou ailleurs.	
13. Known distributors of counterfeit or suspect goods. Distributeurs connus des biens illicites ou suspects.	
1 SCHEDULE C	1 SCHEDULE D
2	2
3	3
4	4
5	5

Request for Assistance (RFA)

- The CBSA can provide **information** to the rights holder/owner who filed an RFA including importer, exporter particulars
- The rights holder/owner may be able to **examine** the detained shipment.
- Rights holders/owners can **pursue civil proceedings in court based on information** provided by the CBSA.



If there are
Suspected
counterfeit or
pirated products
in a shipment



- The CAFC is jointly managed by the RCMP, Competition Bureau, and the OPP.
- CAFC is receiving approximately 20,000 complaints involving cyber-related fraud per year
- Works with payment processors cancelling merchant accounts.
- Purchasing counterfeit/pirated works through credit/debit card, PayPal etc.
- Project Chargeback



Additional Resources in Canada

The Canadian Anti-Fraud Centre

A Canadian not-for-profit organization that represents a coalition of individuals, companies, firms and industry associations united in the fight against product counterfeiting and copyright piracy in Canada and internationally.



Canadian
Anti-Counterfeiting
Network

Réseau
anti-contrefaçon
canadien

Canadian Anti-Counterfeiting Network

- Canada Revenue Agency (CRA)
- CBSA
- Department of Homeland Security – Homeland Security Investigations (HSI)
- IPR Center
- A2C2
- IPIC (Intellectual Property Institute of Canada)
- IACC (International AntiCounterfeiting Coalition)
- INTA (International Trademark Association)
- International Cases – Interpol – Europol – Country specific contacts



Other Partners

Customs Notice 17-27

Ottawa, September 13, 2017

1. The purpose of this notice is to inform interested parties that the Canada Border Services Agency (CBSA) Border Watch Line accepts information (“intelligence”) on shipments of counterfeit or pirated goods that are dangerous (i.e. goods that represent a health, safety or security threat) destined to Canada.
2. Information regarding a shipment may include:
 - a description of the goods and their intended end use;
 - the reason that the goods are dangerous, and supporting documentary evidence;
 - countries of origin and export;
 - names and addresses of the exporter, shipper, importer, and consignee; and
 - mode of transport, expected date of arrival, and port of entry.
3. The [Border Watch Toll-free Line](#) may be reached at 1-888-502-9060 within the United States and Canada.



Dangerous Goods

- Investigator attends, warns counterfeiter to stop
- If counterfeiter continues, obtain Court Order and serve on counterfeiter
- If counterfeiter continues, investigator conducts surveillance, makes evidentiary buys, sends report to either assist further civil proceedings or file criminal complaint



Yesterdays Counterfeiting Case



Today's Counterfeiting Case

- Identify the problem
 - TM or Copyright or Grey Market or Industrial Design/Patent
- Investigate
 - Online Tools
 - Surveillance
 - Government database searches
 - Paid subscription services searches
- Obtain the Evidence
 - Online purchase
 - Physical Purchase
 - Credit Card – CAFC
- Evidence Continuity
- Authenticate the Evidence
 - Pictures vs. Shipping Evidence to authenticator
 - http://ksllaw.smugmug.com/NAME_OF_TARGET/ Password



Steps to a Successful Enforcement

- Brand Commitment to support criminal Enforcement
 - Provide what is required to obtain the search warrant
 - Prior information on target
 - Proof of IP Rights
 - Copies of registered TM's/Copyrights
 - Affidavits of Authenticity
 - Statements from IPO's investigators
 - Up-to-date purchases/evidence of continued counterfeiting
 - Provide assistance at the execution of the search warrant
 - Identification onsite
 - Exhibit cataloguing
 - Segregating of exhibits
 - Cartage
 - Storage
 - Destruction



- Provide assistance post-execution of the search warrant
 - Statements of those in attendance
 - Remember: You are now a witness
 - Affidavits of authenticity
 - Victim impact statements
 - Review of evidence seized
- Be Creative
 - CBSA
 - DHS – HSI
 - Foreign law enforcement/customs
 - Non-compliance with a Canadian Court Order
 - Government representatives
 - Health Canada
 - Food Inspection Agency
 - FINTRAC
 - CRA
 - GST
 - Municipal codes – Fire, Hydro, Gas etc



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**Questions,
Comments
& Thanks**