



By Ben Simpfendorfer

Protecting your IPR in Asia

For many brand owners, fear of IPR theft is a major concern when first entering Asia's markets. Even for the region's more established brands, the rise of e-Commerce has created new challenges. Fortunately, the most successful companies have developed innovative strategies for protecting and enforcing their intellectual property rights, of which litigation is just one alternative among many.

For many companies, protecting and enforcing their intellectual property rights (IPR) ranks among the most critical business challenges in Asia. Hong Kong offers a neat illustration of the challenges and solutions, and so we recently collaborated with KPMG, Mayer Brown JSM, and the European Brands Council in Hong Kong to produce a study on the subject.

Hong Kong has made significant improvements in its protection and enforcement of IPR over the past decade, to the government's credit. Whereas fakes were once readily available in the city's markets and stores, Hong Kong has since earned a reputation as a place to buy genuine goods, and the city is on a par with most developed countries.

What changed? For a start, brand owners and the government have cooperated more strategically after establishing the Intellectual Property Rights Protection Alliance (IPRPA). The government has equally recognized the economic value to Hong Kong as promoting the city as a place to buy genuine goods, such as through its "No Fakes Pledge" campaign.

Fakes are still an issue

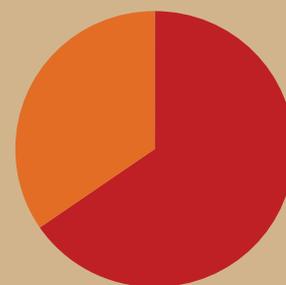
Yet, even today, some 51 percent of Hong Kong consumers have purchased counterfeit branded goods, and a still high 37 percent will do so again, according to the study's survey of over 800 consumers.¹

For luxury goods brand owners, the good news is that shoppers are far less likely to buy fake branded products, such as shoes, handbags, or watches, than they are movies,

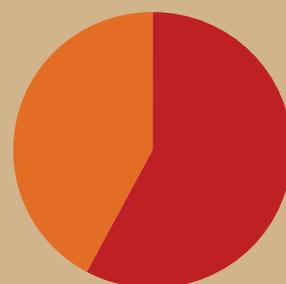
What are Hong Kong shoppers buying?

More than one in two Hong Kong shoppers have purchased counterfeit branded goods, such as bags, shoes, or watches. The share who intend to buy counterfeit goods again in the future is smaller, but a still sizeable one in three.

51%
of respondents have
purchased counterfeit
branded goods



37%
of respondents intend to
buy counterfeit branded
goods in the future



Source: TNS

Not all strategies are suitable for both MNCs and mid-sized brand owners

Mid-sized brand owners are often less obvious targets for counterfeiters, but they equally lack the resources of larger MNCs to tackle the problem of fake goods

MNCs	Mid-sized	
✓		Target counterfeiters through litigation.
✓		Join industry groups to engage with peers and government.
✓	✓	Educate consumers on the value of a brand's inherent values (e.g. safety).
✓	✓	Focus on product availability across multiple regions and channels.

CDs, or software. For some, quality is a concern (85 percent). Others find it harder to find a fake product (62 percent). And others still worry about the effect on their image (52 percent) if caught with a fake.

Moreover, an even smaller share of respondents was likely to buy alcoholic or cosmetic products for health concerns. Just consider how China's milk-powder scandal led many Chinese shoppers to stock-up in Hong Kong. So strong was there demand that the Hong Kong government imposed legal limits on the amount that could be taken out of the territory.

And that's why foreign brand owners have invested so much in consumer education over the past decade, rather than just chased counterfeiters through litigation. Billboards, celebrity endorsements, and social media among a range of media channels, have constantly drilled consumers about the importance of a brand's inherent values.

As a result, Hong Kong's consumers have come to recognize the value in genuine products, at the same as affordability has improved owing to the city's rising incomes.

Equally important, though, is market access. Only 21 percent of respondents said that they purchased fake goods because there were easier to access. That owes partly to the sheer number of stores foreign brand owners

have opened in Hong Kong during the past decade. Most consumers are only 30 minutes away (or less) from a Nike, Louis Vuitton, or Rolex store.

Indeed, we ran a similar survey in Bangkok asking shoppers much the same question. Here, the share of respondents citing market access as a reason for buying fake goods was much higher (59 percent). Not only does the city have fewer luxury goods stores (albeit the number is rising), but a more congested city makes them less accessible for many shoppers.

For brand owners, having a multi-channel strategy to reach the maximum number of consumers is a critical part of any IPR protection and enforcement strategy. If not, companies risk encouraging counterfeiters to supply those parts of a market where aspiration to buy a genuine branded product is high, but availability is low.

Retail stores are just the beginning. The growth of online sales offers an alternative and less capital intensive method of reaching those consumers in smaller cities or more remote districts.

Having an online strategy is also critical for combating the rapid growth in fake goods sold online. For brand owners, the explosion in express freight has created new challenges, as counterfeits are increasingly shipped in smaller quantities. And whereas customs officials might have once stopped a container with 10,000 fake T-shirts,

they now have to chase down 10,000 parcels.

The lesson for large and mid-sized brand owners alike is that litigation is just a start. Consumer education is equally important, especially as Asia's shoppers either find genuine branded goods more affordable, or increasingly worry about health consequences of buying fake (or even simply poor quality) alcoholic, food, or cosmetic goods.

Online sales are also vital in order to sell to increasingly affluent shoppers in more remote parts of the region, either using corporate websites or one of the region's growing numbers of online marketplaces. Mid-market firms will find this especially helpful if they lack the capital to invest in multiple retail outlets, as might a large MNC brand owner.

The fact that counterfeit goods are still available in the developed countries, underscores that no strategy is perfect. But companies do enjoy a variety of methods to protect their brands in Asia. ■

1. Survey was conducted by TNS in September 2013 for the "Intellectual Property Rights Study", a report authored by Silk Road Associates, and sponsored by KPMG, Mayer Brown JSM, the European Brands Council in Hong Kong, and TNS.



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Founded by Ben Simpfendorfer, a world-leading specialist in the commercial rise of Asia and the Middle East, we understand the challenges of operating across multiple countries and within an increasingly interconnected region. With offices in Hong Kong, Beijing, and Melbourne, we also provide insightful and independent local knowledge on the region's fast changing markets.

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