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FAKING IT

15.09.2011 22:59



From watches and handbags to food, furniture and even cars, the variety and number of counterfeit products being sold in Thailand are on the increase - and unlikely to disappear anytime soon

By Maxmilian Wechsler Pictures courtesy of The Department of Special Investigation

AN evening stroll through lower Sukumvit, Silom or the Patpong market takes you by hundreds of stalls displaying counterfeit goods.

These include watches, many types of clothing and accessories like handbags, most of which bear famous brand names.

Fake goods are not confined to Bangkok's streets and markets; they can also be found in boutiques and shopping malls, especially in popular tourist destinations like Chiang Mai, Hat Yai, Koh Samui, Pattaya and Phuket.

It's all part of a vast business that's been around for many years, despite periodic crackdowns on manufacturers, smugglers and sellers by various Thai law enforcement agencies The Department of Special Investigation (DSI), Customs Department and various units of the Royal Thai Police (RTP) arrest thousands of offenders and seize goods worth many millions of baht annually.

However, according to a survey conducted by The BigChilli in recent weeks, the trade in fakes is not decreasing. It continues to be a multi-million baht business. As has been the case for decades, the most common products sold right across Thailand are still watches, garments and accessories.

What can be seen on the streets of Bangkok and in the provinces is actually only the tip of the iceberg when it comes to the counterfeit trade in Thailand.

An astonishing variety of items are being made here or smuggled in from other countries. The list is long and includes alcohol, auto parts and accessories, batteries, bearings, cigarettes, cosmetics, chemicals, electronic goods, eyewear, food products, furniture, household appliances, jewelry, mobile phones, motor vehicles, musical instruments, office supplies, pharmaceuticals and sports equipment.

Talking with lawyers, sellers and off-the-record with officials involved in the

suppression of counterfeits, it soon becomes clear that a huge number of people are benefiting financially from the trade and it will be very difficult if not impossible to stop.

But it's not all bad news. A representative of a well known European clothes firm whose products have been counterfeited for decades once told this writer that the brand actually benefited from the fakes because it is displayed in many places and therefore known to more people. It is like free advertising."

Nonetheless, some manufacturers are worried by the business. One police officer explained that the illegal trade is extremely hard to eradicate for several reasons: First, the profits are enormous for all involved - manufacturers, smugglers, distributors and sellers. And it's unlikely they will just give up easily.

"Second, there's a continuous demand for counterfeits, mainly from foreigners who usually buy the cheaper fakes, but also from Thais who are more likely to go for 'top quality' and more expensive items.

Third, the corruption on the part of some officials charged with suppression continues unabated. It should not be assumed that all officials involved are corrupt; there are many honest ones who strive to do their job according to the law and their own moral codes. But as the saying goes, it only takes a few bad apples to spoil the bunch.





Finally, despite long jail or even death sentences imposed for dealers in illicit drugs, these activities increase every year. So how can you expect that the counterfeiters will stop or slow down? When they are arrested the penalty is a small fine or a relatively short prison sentence, which is actually a very rare occurrence anyway.”

A tourist who recently visited Patpong after a 10-year hiatus confirmed that nothing has changed, except there are more goods and a bigger variety nowadays.

A prime example of suppression not working can be seen at MBK in central Bangkok, one of the city’s most popular shopping centers. Many of the shoppers go there in search of fakes, particularly well-made watches and handbags smuggled primarily from China, according to the sellers. However, despite frequent raids, the trade in fakes continues to flourish.

MBK has recently gained a new audience-women from the Middle East who are famously willing to spend whatever is demanded for the fake goods, contributing to the vendors enormous profits.

Most sellers involved in the counterfeit trade are happy to pay for protection against routine raids and advance information about impending crackdowns. The cost of the bribes is more than made up for by the fact that they don’t pay taxes.

Many sellers have been in the business for years and have become extremely wealthy. They will say to the customer: I know what I am doing is illegal but I must feed my family. The BigChilli learned that one long-time offender who sells fake leather goods at a Bangkok shopping center recently purchased a house for more than 50 million baht. Another who sells garments has a fleet of four imported German-made luxury cars. Many street vendors are also wealthy, mainly the ones operating in Patpong.

This might surprise some observers who wonder how the vendors can even survive, as very few people actually stop to browse at most stalls and even fewer buy anything. In fact many vendors could not survive by selling only to foreign tourists passing by. Big orders are their bread-and-butter, and their stalls are de-facto showrooms for these special clients, many of whom have been placing orders with the vendors for years.



Blame it on Pratunam

NOBODY knows when the first fake product appeared in Thailand or what it was, but the earliest outlet for the still-popular trade in copy watches was a small watch repair shop in Pratunam, back in 1978.

The young owner of the shop assembled counterfeit Rolex watches from parts imported from Hong Kong. He would print the Rolex trademark on the dial and assemble the watches by himself inside his shop using simple tools. He also distributed his counterfeits to other shops.

The first model came with either a leather or plastic strap and didn't actually resemble any Rolex model, but before long his skills and materials improved and he was assembling all-steel Rolex copies that would fool most people. Other shops started to assemble Rado watches with other brands following. The fake watch business quickly developed into a major money-making enterprise.

It was not long before Thailand began to develop a reputation as a major offender of intellectual property rights laws. Several other countries, especially Hong Kong South Korea and Taiwan, were similarly accused.

Garments like polo shirts, jeans, scarves and even socks bearing the names of famous brands emerged in the early 1990s. Within a decade, the counterfeiters began to produce accessories such as handbags, wallets, belts and shoes of famous brand names.

Interestingly, Thailand was once strictly a manufacturer and exporter of fake garments and accessories. In recent few years, however, it has become a major importer as well. Low and medium quality watches are still assembled locally from parts imported, but the high-quality fakes are generally smuggled from abroad. This also applies to garments and accessories.

Museum of fakes that failed

FOR an idea of the scope of the problem of counterfeiting, a visit to the Museum of Counterfeit Goods at the Tilleke & Gibbins (T&G) International law firm offices in Bangkok is enlightening.

Established in 1989, the museum displays more than 3,500 counterfeit items divided into 14 broad categories, all seized in Thailand and either made locally or smuggled into the country.

T&G is Thailand's oldest and biggest independent law firm in the country, dating back to 1890, and has been defending intellectual property rights for decades. The firm has also been involved with a number of seizures of fake goods.

David Lyman, the firm's Chairman and Chief Values Officer, told The BigChilli: "Counterfeiting started to become a problem in Thailand during the 1960s. One of our earliest cases involved fake Vick's Vapo Rub, which was then sold in little tins for one baht each. The fake stuff was made in a garage. When we went in by the front door, the maker escaped through the back door. The product itself was as good as the original."

David said that the most popular fake items are still watches and handbags because these are on display and therefore visible to people. He confirmed that the majority of fake goods in Thailand are now imported from abroad, especially from China.

The rarest fakes T&G ever seized were break shoes for railroad cars. "This is a circle that goes around the wheel; when hydraulic (air) pressure is applied, it grabs the wheel and stops the train," said David, who then noted that according to estimates from the International Chamber of Commerce, seven to eight percent of the total world trade is in counterfeit products.

Thailand has good laws but penalties for offenders are too low. It is a fact that people in the illicit drugs industry are moving away from trafficking drugs into counterfeiting because, first, the profit margins are better, second, the cops aren't looking for them and lastly, when they do go to court, the penalty is a slap on the wrist, then they're back in business. But if you get caught in the drug business you will go to jail."

David suggests that the Thai police are not overly enthusiastic about going after the hawkers because they say that they are just poor people trying to make living. He also pointed out that another element in the counterfeit is the involvement of mafia.

Titirat Wattanachewanopakorn, an attorney-at-law who specializes in IP enforcement at the firm's Bangkok office, said: We do raids, investigations, litigation and other kinds of enforcement like warnings, legal notices and so on.

We are working mainly with the RTP, DSI, Customs Department, Department of Intellectual Property and with the International Property and International Trade Court." T&G also cooperates with certain trusted investigation firms to carry out some cases.

When asked how the fake market has changed over the past 10 years, Titirat said: "The counterfeiters follow the demand of the customers, so when one brand is popular they will make and sell it. They will quit if the brand is not fashionable and switch to a new brand."

He explained why watches, garments and accessories are still sold in large

numbers. "This is the part of the market that is most visible. You don't have to look for these items because they are always there. Others like car parts or electronic devices, you don't really see on display unless you want to buy a specific item, and then you will go to the place where they sell it."

Titirat gave guidance on how to distinguish a fake from the original: "There are three Ps to help you to determine that: Place, Price, Packaging-at what place they are sold; at what price and whether they have the proper packaging from the genuine factory."

He reckons that about 50 percent of fake garments and bags sold here are still produced locally, and many other items as well. "Recently we raided a factory making brakes for automobiles and managed to seize about 200,000 pieces."

Stopping the import of counterfeit goods is difficult but not impossible. "The Customs Department monitors shipments, and sometimes they use X-ray machines," said Titirat. Sometimes they will open containers and check them if there is something suspicious. If they find something they will detain the shipment and the products and will request the representatives of the brand to confirm if the goods are fakes.

"One reason why the authorities are working better these days," he added, "is because we are cooperating closely with them. We provide them with training and give some legal knowledge so they can work better. We conduct training to help them to identify counterfeit goods more easily. The training sessions occur two or three times a year."



James Evans, a British lawyer and consultant with T&G's IP group, had this to say: Despite a huge amount of effort from the police, DSI and Customs, to suppress counterfeiting in Thailand, it is obviously still a big problem.

"Our cooperation with the authorities is steadily improving. They are more helpful and proactive. Over the last six to seven years we've seen the Customs Department has been empowered to confiscate goods going in and out of Thailand, leading to a big increase in seizures. This is just one example of the improvement. Dedicated police teams are working on raids and investigations as well."

James acknowledged that the sheer volume and variety of fakes has increased mostly due to the huge influx of goods made in China and smuggled here.

“As for cooperation with the legitimate brands, there are several problems. It is sometimes difficult to persuade them to take immediate action, especially if it is a new brand and their product has just appeared on the market. But big established companies know that they have to dedicate a budget to enforce trademark and copyright protection and they have in-house lawyers who are dealing with us as well.”

So, what’s the future? “Life can be made more difficult for the counterfeiters, but in the end they will just shift to another brand. For example, when a counterfeiter is making fake T-shirts and gets raided by representatives from brand X, he will shift to brand Y.”

James stressed that in order to try to stop counterfeiting, you have to stop corruption as well. Corruption is problem in a lot of industries in Thailand and this applies to the counterfeit one as well.

He echoed David’s belief that penalties for the offenders in Thailand are too low. However, some countries do take it more seriously. “In France, for example, a man who came back from Thailand with a fake watch on his wrist was arrested and fined 300,000 euro.”

“It is also true that everyone in the fakes business is making money. If there is a demand, there is a supply,” said James. Added David: We can say the same about drugs and all other illegal activities.

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