



## On Top of the Underworld

### Foiling Counterfeiters from Stealing Brands and Endangering Lives

#### Resting easy

In 2011, OmniWatch intellectual property services became part of Pinkerton Consulting & Investigations (C&I) trademark protection group, allowing Securitas USA clients to rest easier, knowing they are now privy to the best possible tools and services to mitigate counterfeiting.

Drawing upon more than 10 years of 3,000-plus intellectual property-related investigations, OmniWatch brings a comprehensive suite of IP investigative services to efficiently and creatively meet the needs of attorneys and brand owners. Providing cost efficient services for start ups, small and large, regional and global in scope, Pinkerton OmniWatch enhances, maximizes and protects the value of brands, trademarks, patents, copyrights, licensing, and domains.

Assignments begin by working with IP attorneys and branders on a strategy and action plan. The goal is to get into the heads of the criminals, understand the workings of their fake websites, or sometimes infiltrate their operations.

**Day and night, intellectual property (IP) protection companies scour the earth searching for and dismantling counterfeiting operations on land and by sea. While counterfeit goods may be a slap in the face to unknowing consumers, a company has much more to lose. This is big business, and trillions of dollars – and lives – are at stake.**

Intellectual property attorneys, brand owners and private investigators have faced counterfeiters for centuries. Traditionally, criminals manufactured fakes, or stole branded products, reselling them as if they were authentic goods. They profited from stealing brand trust built at great expense and effort over time.

Now, counterfeiting exceeds \$1 trillion annually, producing global networks of savvy criminals, stealing and faking in epic proportions.

"Every company has intellectual property," explains Stephen Ward,

managing director of Pinkerton OmniWatch, an intelligence service that specializes in intellectual property rights investigations. He notes that intellectual property can range from the Apple brand and product line to a company selling house paint. He says while Apple obviously has a lot to protect, the paint company has just as much to lose. If someone makes a knockoff paint and it contains lead, then a child eats a paint chip and contracts lead poisoning, the legitimate paint company could lose everything.

Pharmaceutical companies are always working toward

removing counterfeit drugs from the market for the same reasons. And it's quite a battle. Ward, a veteran in protecting intellectual property for clients, says in Kenya the counterfeit market for prescription drugs is so prevalent that 80% of the drugs in that country are estimated to be fakes.

Even more disturbing is that an estimated 30% of parts made for our military, including bulletproof vests, have been found to be inferior counterfeits.

Sometimes it's on a much smaller scale of repercussion. For example, a well-known soft drink company employs

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undercover agents to examine the myriad of drinks on the market, protecting the company's signature, patented hourglass bottle shape.

"It's all about protecting the brand," Ward says.

### I'm being ripped off

A company usually discovers it is a victim of counterfeiting by an unexplained change in sales, explains Ward. Many firms also find out from their own customers that they may be getting ripped off.

"Most people are shocked how loyal customers can be," he says. Consumers sometimes forward emails that look suspicious. Or fans of a designer shoe brand may see what they consider a knock off in a store, and they alert the company. And when a company realizes its brand is being compromised, it needs to be stopped immediately.

"Ninety percent of the work we do is aimed at getting fake products off the market," notes

Ward. "But the tighter the controls, the

more apt counterfeiting won't occur."

He says that delivery company,

UPS is proactive in that sense, holding seminars on what to look for and designating special phone lines for employees to call.

Ward notes that problems usually start in a company's own supply chain. A manufacturer in a chain not properly monitored may begin by selling some of the company's legitimate product on the

gray market, then advance to manufacturing counterfeits. And sometimes it's right under the company's nose. A high-end designer handbag company discovered knockoff purses were being made at its very own factory by second shift employees using scrap material from the day shift.

Counterfeiters are also adept at creating false brand identities on the web, enough so that some companies, like Breitling watches, refuse to sell online.

"Brick and mortar locations are still your best bet for buying genuine goods," Ward says, noting he believes 99% of storefronts are legitimate. Nevertheless, he has seen an entire brick and mortar Apple store in China set up to sell fake Apple products, complete with employees wearing counterfeit logoed uniforms.

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### How it all goes down

If you have reason to believe your company is being victimized by counterfeiters, you need to act fast. Contacting a company like OmniWatch puts the wheels in motion, starting with an investigation. Ward says OmniWatch's fact-gathering includes undercover work and cyber surveillance. If it is determined there is a counterfeiting operation in progress, OmniWatch will conduct a civil seizure of merchandise and instruments of infringement, including paperwork, potentially incriminating items and computer hard drives, the latter of which are extremely important. Computer forensics services help obtain crucial intelligence about counterfeiters' operations and revenue from the

sales of counterfeited goods.

"Without solid, admissible evidence of the actual revenue generated by these sales, a brand owner's financial recovery against a counterfeiter can be unnecessarily limited," says Mimi Rupp, Associate Counsel with Kenyon and Kenyon LLP, a New York-based intellectual property law firm.

Photos, video and surveillance reports about various counterfeit factories also increase the IP team's ability to make the right decisions on behalf of brand owners and determine a course of action.

Ward says firms like OmniWatch delve into all aspects of where counterfeiters may be doing business. They conduct cyber surveillance (especially looking at online auctions), and they buy and sample products from sellers of counterfeit goods in order to develop relationships with those sellers. They use those relationships to eventually locate the origin or ring leader of the counterfeiting operation. OmniWatch also looks internally for any corporate espionage, which can be quite prevalent. According to the Association of Certified Fraud Examiners, 82% of small- to mid-size businesses report they have experienced employee theft.

And it's in this underworld of deceit, corruption, IP attorneys, and private investigators where you will also find some of the oddest bedfellows. It is here you discover giants in corporate America like Coke and Pepsi, who compete daily for market share and sales, collaborating and working as one to protect their biggest asset — their brand. ■





## Case Study: The Cosmetic Mafia



Dr. Denese Skin Science Labs, a manufacturer of high-end women's skin care and beauty products developed a loyal following over the past decade. Dermatologist Dr. Adrienne Denese has become well known to millions, presenting her products on the QVC television network. A few years ago, for no obvious reason, sales dropped off considerably.

OmniWatch discovered that gray market, counterfeit, and stolen products were flooding the market, adding up to a 30% drop in business.

"Our company's growth and success depends upon honest, valued products meeting the expectations of customers on a continuing basis," says Bob du Purton, who is responsible for brand protection at Dr. Denese Skin Science Labs. "If that promise is broken, the brand suffers."

"After running multiple leads and conducting buy-and-bust investigations throughout five states, we secured the identity of the alleged master supplier of the goods," explains Stephen Ward, managing director of Pinkerton OmniWatch. "This family gang is well known in the industry as the cosmetics mafia."

OmniWatch conducted an in-depth 12-month investigation, encompassing hidden surveillance and exploring databases for clues and evidence of the counterfeiting operation.

"While conducting surveillance, we found that the targets worked under the radar from an estate in an upscale

Long Island neighborhood," says Ward. "Pinkerton OmniWatch agents led a team of U.S. Marshals to hit the targets' home."

The location warehoused thousands of products and functioned as a manufacturing center and laboratory. Young, female, illegal immigrants mixed and created fake brand name cosmetic products. The suspects had thousands of bottles and packages made to resemble

original and authentic branded products. In addition to the 15,000-plus Dr. Denese items, products secured were from Victoria's Secret, Cover Girl, Izod, Polo and many others, with a street value of \$60,000 to \$180,000. The seizure included five desktop computers, three laptops, two external storage devices, and five cell phones.

The FDA advised of their plans to charge the family gang under the 2005 FDA Cosmetics Act and money laundering. The home has been seized by the United States government. OmniWatch is now working with the government and many of the brand owners, assisting with the launch of a joint criminal and civil action spanning 14 states.

"We were successful with the raid because we began with careful, selective intelligence, combined with a legal and tactical strategy," notes Ward. "Followed by forensics of seized computers, paperwork, vehicles and the counterfeit goods themselves, a range of remedies will be employed to put an end to their counterfeiting and theft."

## Case Study: U.S. to Africa Pharmaceutical Boomerang



Humanitarian efforts from pharmaceutical companies often include the gift of branded pharmaceuticals to people in poorer countries. But what happens when heart medication or painkillers are stolen, and sent

back to the U.S. and improperly and often dangerously put back into the system?

"Sometimes expired drugs are funneled into the U.S., putting patients at risk of using ineffective drugs," says Stephen Ward, managing director of Pinkerton OmniWatch. "In some cases

these illegal drugs cause patient suffering, or even death, because treatment needs are not met. Our expanded team can sift out criminals in Lagos, Nigeria or Gurgaon, India. We minimize liability and in some cases help save lives."

**\$8B** counterfeit pharmaceuticals sold per year

More than \$8 billion worth of counterfeit pharmaceuticals are sold each year throughout the world. Sophisticated methods of reproduction allow the prescription drugs to be sold in fake packages that look just like the real thing. Counterfeiters are adept at setting up phony websites to sell the counterfeit drugs.