CREATORS’ RIGHTS IN THE MODERN DAY BLACK MARKETS

BY VINCENT VOLPI, JUAN DAVID CASTRO GARCÍA & TC BROWN

So what’s the harm in downloading music or images from the Internet, buying a counterfeit purse or other luxury item, or allowing generic drugs to hit the market before their time? After all, it’s only rich artists, multi-national brand-holding companies and pharmaceutical giants who suffer, right? But when you take a closer look at the “black markets” that exist in our modern world, you will find some surprising and even disturbing realities.

Dig just a little bit and you soon discover that the widespread commerce involving illegal intellectual property (IP) and counterfeits nurts not only the creators of these products, it also costs legitimate businesses billions of dollars every year. That, literally, translates into skewed economies and job losses.

A darker element lurks beneath the public’s radar – organized crime plays a major role in intellectual property theft and counterfeit goods, says Alan Drewsen, executive director of the International Trademark Association.

“By using the Internet to open new channels of distribution,” Drewsen says, “crime networks, which view the practice as a low-risk, high-revenue producing activity. But agencies are fighting back.

The office of the United Nations Interregional Crime and Justice Research Institute (UNICRI) works globally to raise the awareness of the consequences of counterfeiting and its links with organized crime, and thus counterfeiting and its links with organized crime, and thus reduce the demand for fakes.”

Since 2004, the State Department has distributed up to $3 million annually through its IPR Enforcement Training Program to assist foreign governments in areas of customs, police and the courts. International governments have received more than $145 million for 68 programs in targeted countries.

The State Department also actively participates in the global Strategy Targeting Organized Piracy (STOP) initiative, a comprehensive approach to fight global piracy. The agency works with U.S. counterparts to systematically dismantle piracy networks, block counterfeiters at the nation’s borders and help American businesses secure and enforce their rights around the world.

So, what contributes to this fragility in an increasingly modernized and globalized world? Simply put, two major revolutions.

The first radical change occurred in the late 1990s, when digital technologies, new media (mainly the Internet)
and novel systems of information exchange began to grow and spread, which led to inventions such as peer-to-peer or Usenet. These systems stimulate and facilitate the need for access to information that we all have today.

Prior to the digital revolution, one was required to resort to conventional means to obtain copyright, patent or trademark use for art, science and designs. That necessitated contact with the owner of the intellectual property to obtain print or reprint rights, the formula or engineering specifications, or the means to reproduce designs.

In today's world, the public is a couple of clicks away from obtaining almost every popular image on the Internet, along with easy access to patent and design information. New printing and engineering technology allows one to reproduce just about anything by sending this information to an overseas producer via the Internet.

Obviously, this breaches intellectual property law, but it has also spawned the second metamorphosis revealed in the changing attitudes of consumers in relation to the goods (creations) protected by intellectual property. In Spring 2009, the Central University of London conducted a study on consumer online behavior (www.ucl.ac.uk/info/studies/research/venues/SABIP-executive.pdf) and found that the huge increase in the scale of illegal downloading was due to shifting perspectives toward intellectual property and widespread confusion about copyright law.

Digital consumers live and act in an age of one-click searches, downloading and sharing billions of pounds of copyrighted material, which they believe to be free. The scale of illegal downloading is vast and growing, and it has never been so easy to break the law, according to the study.

Consumers are confused about what is legal or illegal. There are fewer considerations guiding ethical behavior in the online world and there is a strong belief that there is "no crime." The production of a counterfeit "Italian" designer purse. The market and political situation in Latin America is even worse. Over half the CDs sold in Peru are counterfeit or pirated software is even greater. Some countries are exhibiting troubling signs of change where political parties are emerging with a focus on issues of intellectual property and widespread confusion about copyright law.

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