

The fight against counterfeit products in Zimbabwe: a case study at a South African automotive component manufacturer

MJ NAUDE

(University of KwaZulu-Natal)

[naudem@ukzn.ac.za]

Abstract

Counterfeiting is a significant widespread problem, which is growing in scope and the economic and social impact is considerable. In spite of legislation, legal enforcement and efforts to fight counterfeits, the number of counterfeits available in the market increases. This study contributes to an understanding of counterfeiting within a Zimbabwean context.

This study attempts to provide insight into a South African automotive component manufacturer's fight against counterfeit products in Zimbabwe. Data were gathered through in-depth semi-structured interviews with two senior executive members of the participating company who deal with counterfeiting matters. The results were analysed using thematic analysis.

Recommendations to address counterfeits include the following: educating the stakeholders at the source; advertising and promotions; investigation and surveillance; creating new packaging; and legislation. There is a dearth of research on counterfeiting and this article provides a contribution to the existing body of knowledge, by demonstrating how brand owners can detect and fight counterfeiters.

Key phrases

automotive components; counterfeit market; counterfeit products

1. INTRODUCTION

Historically, counterfeit products have been predominantly restricted to watches, designer clothes, designer handbags and movies (Berman 2008:191). Counterfeiting is a long-standing challenge, which is growing in scope, magnitude and economic and social impact (Berman 2008:191; Bian & Moutinho 2011:191; Dryden 2007:2). Today counterfeit products include diverse product categories such as chemicals and pesticides, jewellery, pharmaceuticals, computer software, consumer electronics, cigarettes, toys and automotive parts (Wilson & Kinghorn 2015:1).

While counterfeit products are a major challenge in most countries, some countries have become notorious for producing and exporting large quantities of counterfeits. Counterfeiters target consumers who tend to be brand conscious and spend money on a trusted brand. Many consumers are being sold counterfeit products, either purposefully or unknowingly. This poses a problem for companies who are aware of these developments and have strategies in place to limit the damage to their company's brand, reputation and profits (Penz & Stöttinger 2005:568).

ACM Company (a fictitious name used to represent the company for the purpose of this article), based in South Africa, has found its brand under attack in Africa and has launched a fight against counterfeit automotive parts in that continent. This article, however, specifically focuses on ACM Company' strategy to detect and fight counterfeiting activities in Zimbabwe. The reason being is that ACM Company has good relations with customs officials and parts distributors in Zimbabwe and has managed to restrict the supply of counterfeits in that country. In other words, ACM Company has won battles against counterfeiters, but has not yet won the war.

Despite the fact that companies and governments are able to restrict the supply of counterfeit products - selling and manufacturing counterfeits are considered to be crimes in countries such as the United States and the United Kingdom - counterfeiters have consistently demonstrated ways to supply the market (Bian & Moutinho 2011:192; Penz & Stöttinger 2005:568). Furthermore, it is estimated that one-third of consumers knowingly purchase counterfeit products, regardless of the potential consequences associated with counterfeits (Bian & Moutinho 2011:192). Unarguably, demand is a key driver of a market and it has been proposed that the demand for counterfeits is one of the primary reasons for the continuation and rise in growth of counterfeiting (Bian & Veloutsou 2007:212).

The focus of this article is on the supply and demand side, in order to provide insight into what drives customers to purchase counterfeit products. However, in some cases the consumer is unaware that s/he has purchased a counterfeit, as s/he is unable to distinguish between the counterfeit and the legitimate product. Against this background, the aim of this article is to describe ACM Company' strategy to detect and restrict counterfeiting activities related to its ACM component brand in Zimbabwe. The article consists of five parts: (1) background to the organisation; (2) a literature review on counterfeiting from different perspectives; (3) the purpose and methodology of the study; (4) the analysis and results; and (5) concluding remarks.

2. BACKGROUND TO ACM COMPANY

ACM Company is a medium-sized automotive component manufacturer that has manufacturing facilities in Durban, Pietermaritzburg, Cape Town and Zimbabwe. It also has two distribution centres, one in Pinetown, which supplies KwaZulu-Natal and the export market (currently it exports to five continents), and the other in Johannesburg. The company's head office is in Durban, and it employs in excess of 1500 people.

The company was founded in 1958, and building on the solid foundations laid by the founders, the current managing director identified opportunities to grow the company in different directions. This marked a new phase of expansion and the acquisition of new ventures that manufacture automotive components.

The first ACM component was manufactured in 1958 and, as the automotive industry grew, the company expanded over time. Today, ACM Company is a market leader in South Africa. The company manufactures a full range of automotive components for South African local original equipment manufacturers and the local and global aftermarket. ACM Company places great emphasis on quality to exceed the requirements of all its market. Indeed, the ACM brand in South Africa is known for its commitment to quality, service and product innovation. This has placed the company at the forefront of automotive component suppliers.

3. LITERATURE REVIEW

Staake, Thiesse and Fleisch (2009:324) structured a broad framework for understanding counterfeiting, which is illustrated in Figure 1. This study is structured around six categories, and provides insight into the relationship between the licit and illicit supply chain.

As can be seen from Figure 1, the six categories that are dealt with in this study are: a general description of counterfeiting, the impact of counterfeits, the determinants of counterfeits (supply-side and demand-side); legal issues and legislative concerns; and managerial guidelines to counterfeiting.

3.1 General description of counterfeiting

Counterfeiting is the imitation of a product. Counterfeit products are those bearing the brand name that is identical to, or is impossible to tell apart from, a registered brand, which are then distributed to another party thus infringing the rights of the holder of the brand (Ang, Chen & Lim 2001:219; Bian & Moutinho 2011:191; WIPO 2008:90).

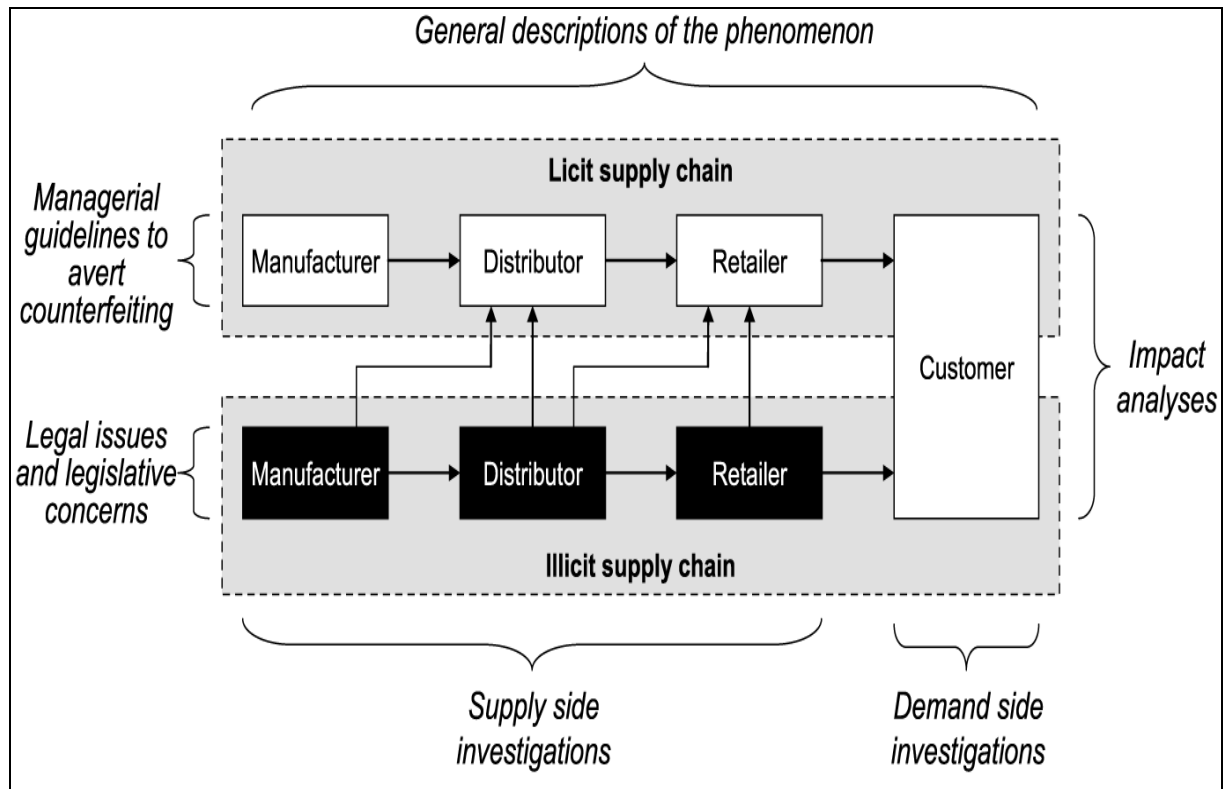


FIGURE 1: Components of counterfeiting along the supply chain

Source: Staake et al. 2009:324

Berman (2008:191) states that counterfeit products can be classified into four types as outlined in Table 1. Penz and Stöttinger (2005:568) identify two different forms of counterfeiting: (1) deceptive; and (2) non-deceptive counterfeiting.

The focus of this article is on the second type of counterfeits outlined in Table 1. These are genuine products that are reverse engineered through a breakdown analysis of the genuine product – through this process, a number of counterfeit ACM components have penetrated the Zimbabwe market. This trade, amongst others, has negatively impacted on the company's sales, reputation and brand image.

TABLE 1: Types of counterfeit products

	Type of counterfeit product	Brief explanation
1.	Knock-off	Consumers are aware that they are purchasing a copy due to the low price relative to the genuine product, the lack of packaging, or the odd distribution channel. Examples include: Louis Vuitton handbags, Rolex Watches, toys, perfumes. This type of

	Type of counterfeit product	Brief explanation
		counterfeiting is non-deceptive .
2.	Genuine products that are reverse engineered through a break down analysis of the genuine product, or through the use of stolen and/or copied blueprints	This form of counterfeit is meant to deceive the public. Here counterfeits are passed off as the genuine product. In this scenario, the holder of the brand can suffer loss in its quality image when consumers have a complaint about the quality of the product, not realising that they purchased a counterfeit. Examples include: Windows 7 software, Bosch power drills, ACM components. This type of counterfeiting is meant to deceive .
3.	Produced by outsourced suppliers using a "third shift" that the original product manufacturer is unaware of	An example that has been well documented is that of New Balance sneakers after its contract had been terminated. This type of counterfeit is difficult to distinguish from the genuine product as it is manufactured on the same machinery using the same processes of the genuine product. This type of counterfeiting is meant to deceive .
4.	Goods produced by outsourced suppliers that do not meet the manufacturing standards, but are not properly labelled as seconds or destroyed	These products are reclaimed and sold as first-quality products. This type of product is meant to deceive and is difficult to distinguish from the genuine product. Example: Kyocera vs. Hecmma. Hecmma sold batteries prone to overheating bearing Kyocera's brand name. This happened after Kyocera had terminated its order.

Source: Adapted from Berman 2008:191-192

3.2 Impact of counterfeits

The consequences of counterfeits on businesses can be grouped as follows: loss of business; loss of employment; damage to reputation, brand and image; risks to health and safety (for example prescription drugs and brakes parts) (Berman 2008:192; Dryden 2007:14; Stevenson & Busby 2012: 110; Wilson & Kinghorn 2015:1). In addition, a business's cost base increases because of its need to fight counterfeiters and protect its brand (Hoecht & Trott 2014:101). For example, in 2001, Louis Vuitton employed 20 full-time staff solely to work with teams of investigators and lawyers to protect its brand from counterfeiters, which subsequently increased its cost base (Green & Smith 2002:91).

Counterfeiters, as observed by Berman (2008:192), are unfair competitors because they do not have the expenses associated with advertising; trademark licensing; royalties; research

and development costs; design and engineering costs; quality control; customer support; warranty claims; and product recall. In addition, as Hoecht and Trott (2014:101) remark, counterfeiting activities have a negative effect on society. These negative effects, among others, include the following: loss of revenue to governments; links to criminal activities that have been funded by counterfeiters; damage to the local economy/employment; and an increase in grey market activity.

Due to inherent measurement problems, there is no valid empirical evidence of the amount of revenue that is lost to counterfeiting (Lee & Yoo 2009:1; Staake *et al.* 2009:328). Commuri (2009:86) notes that in 2006, it was estimated that counterfeiting and illegal trade offset sales of genuine products by between US\$15 billion and US\$50 billion.

Another estimate in 2005, lists the figure as US\$250 Billion (United States Senate Committee on Homeland Security and Governmental Affairs 2005:1). Today, it is estimated that the value of counterfeit products marketed globally is over US\$1 trillion, and that 10% to 20% of all counterfeit products are produced in China (Hoecht & Trott 2014:98). From these figures it can be deduced that trade in counterfeit goods is a substantial threat to various industries as the production and sale of counterfeits is big business in the global economy.

3.3 Determinants of counterfeits

Lee and Yoo (2009:6) observe that counterfeiting is driven by demand-side and supply-side factors. Therefore, recommendations to curtail counterfeiting can arise from the supply-side or the demand-side. Government authorities can allocate resources to control illegal counterfeiting activities, but as long as the demand is there, counterfeiters will find a way to meet that demand (Ang *et al.* 2001:220).

As indicated in Staake *et al.* (2009:324), the supply-side involves the production settings, tactics and motives of the counterfeiters (*the illicit supply chain*) and the way counterfeits enter the *licit* supply chain (Figure 1). The demand-side focuses on customer behaviour and attitudes towards counterfeit products. Insight into the supply-side and demand-side is provided in the next two sub-sections.

3.3.1 Supply-side

There is a dearth of research that focuses on the supply-side of counterfeiting (Lee & Yoo 2009:8; Staake *et al.* 2009:329).

Staake *et al.* (2009:329) are of the opinion that the reason for this is the lack of access to illicit market participants and thus the difficulty in obtaining information on covert illicit market activities. However, knowledge on how this market operates is vital so that licit brand owners can fight illicit producers. Indeed, Lee and Yoo (2009:19) suggest that by better understanding the supply-side of the counterfeit market, brand owners will gain an understanding of its growth progression and thus may improve strategies to protect their brands. Essentially, Lee and Yoo (2009:22) have identified three dimensions that influence the production and supply of counterfeits. These are (1) market characteristics; (2) technological and logistical factors; and (3) efforts of brand owners to protect their brand.

3.3.2 Demand-side

As indicated earlier in this article, demand has been identified as a key driver of a market (Bian & Veloutsou 2007:21; Chakraborty, Allread, Sukhdial & Bristol 1997:345). It is on this premise that it is argued that the demand for counterfeits is one of the primary reasons for the continuation and rise in growth of counterfeiting (Bian & Veloutsou 2007:212).

Research has also found that consumer attitudes toward counterfeiting are affected by factors ranging from product attributes to a consumer's socio-demographic status, attitudes and safety concerns. Product characteristics include price - "people are getting prestige without paying for it" (Bloch, Bush & Campbell 1993:31), quality, and image (Radón 2012:77). Socio-demographic characteristics include income, education, age and gender (Lee & Yoo 2009:9).

Penz, Schlegelmilch and Stöttinger (2008:69) found in their study that consumers justify the purchase of counterfeits through feelings of sympathy for the smaller business, based on the perception that large businesses are impersonal and socially distant. In a similar justification, consumers believe that counterfeiters deserve support, as they are seen to be more efficient in terms of how they conduct business, and more customer-focused in charging lower margins than the brand owner, despite the fact that counterfeiters do not have the cost base of brand owners. Unfortunately both arguments serve as rationalisations for consumer misbehaviour and this creates positive reinforcement for counterfeiters.

3.4 Legal issues and legislative concerns

Hoecht and Trott (2014:106) state that legislation and legal enforcement is the most recommended action for businesses that are affected by counterfeiters. As indicated by WIPO (2008:91), counterfeiters do not operate from a normal business address, and in the

event of prosecution are difficult to trace. More often than not, counterfeiters can only be found after a long and thorough investigation.

As acknowledged by Berman (2008:93), counterfeiters mainly use strategies to avoid detection and to minimise losses when caught. For example, some counterfeiters use "front companies" or "front" personnel to register companies that produce counterfeits. Payment is also often made to third parties. Another example is that counterfeiters minimise losses and penalties by keeping separate facilities to produce and store counterfeits, and ensure that they keep low inventory levels (Berman 2008:93).

It is for this reason that most actions against counterfeits start with an application for some form of preliminary relief, such as interim injunctions. In the United Kingdom, an *Anton Piller* Order, named after the English case of *Anton Piller KG v Manufacturing Processes Limited* [1976] (Erasmus 1984:324), is a useful relief measure. By such a provisional measure, the counterfeit goods may be confiscated and the holder of such goods is obliged to inform the genuine brand owner of their source. In sum, an *Anton Piller* Order is a court order that provides the right to search premises and seize the counterfeit goods without prior warning. This prevents the destruction or disposal of the counterfeits.

Pasipanodya (2012:internet) acknowledges that the *Anton Piller* remedy soon spread to many other countries, including South Africa and Zimbabwe. However, this legal remedy is granted upon the applicant convincing the court that:

1. the applicant has a course of action that they contemplate pursuing against the counterfeiter;
2. the respondent possesses information or materials that the applicant views as vital in the prosecution of the contemplated infringement suit; and
3. there is real and well-founded apprehension or fear that the counterfeits may be destroyed or disposed of before the stage of discovery (Pasipanodya 2012:internet).

To conclude this section, it is clear that counterfeiting is a phenomenon that happens globally, and it must be emphasised that it is also necessary to empower customs authorities to check goods at the border of their country and confiscate counterfeit goods at the request of the original brand owner (WIPO 2008:91).

3.5 Managerial guidelines to counterfeiting

A number of studies suggest defensive mechanisms against counterfeits, for example, warning consumers and traders of the danger and risks of counterfeit products (Harvey & Ronkainen 1985:38); taking assertive action and following up through legal means (Harvey 1987:6); financial incentives for rejecting counterfeits; and high-tech security labelling to protect brands (Chaudry & Walsh 1996:37; Olsen & Granzin 1993:147; Stevenson & Busby 2014:123). Qian (2014:326) suggests quality differentiation, price signalling and enforcement activities as strategies against counterfeiters. Hoecht and Trott (2014:106-113) identify ten options that businesses can apply when contending with counterfeiters. These are:

1. Do nothing. Ignore the counterfeits if they are not threatening your brand.
2. Co-opt the counterfeiters. Negotiate with the counterfeiters to make them part of the business' channel of distribution.
3. Educate the stakeholders at the source. Convince government leaders that protection of intellectual property is in the interest of the country.
4. Advertise. Educate consumers on how to identify a counterfeit, that the buying of counterfeits is stealing, and that the genuine product has a better reputation.
5. Investigation and surveillance. Hire investigators to find the perpetrators and distributors of counterfeits and report them to the authorities.
6. High-tech labelling. Develop labels that are difficult to duplicate.
7. Create a moving target. Continuously change aspects of the design that are difficult to duplicate.
8. Legislation. Work with government officials to have legislation ratified that better controls counterfeiting.
9. Coalitions. Work with other industry members to fight counterfeiters.
10. Cede the industry. Leave the market where the counterfeiting is being done.

Even though these options are viable alternatives, they do not provide insight into the extent businesses may have to go to fight counterfeiters, and the threat counterfeits pose to their brands. Green and Smith (2002:90) provide insight into the efforts of an international company to detect and eliminate the production and distribution of counterfeit alcoholic beverages in an emerging Asian market. Their study reveals that consistent seizures and raids have the potential to drive counterfeiters out of business.

Hung (2003:59), on the other hand, states that not many businesses are able to oppose counterfeit trade on a managerial and legal basis. In order to support his statement, Hung

(2003:59) provides an example of the Chinese environment, where options recommended by businesses in literature to address counterfeiters only show limited effect. Hung is of the opinion that only when China itself becomes a victim of counterfeiting will it rely on better protection of its intellectual property.

This completes the literature review on counterfeiting from different perspectives. The next section presents the purpose and methodology of the study.

4. RESEARCH METHOD

The aim of this article is to report how ACM Company detects and restricts counterfeiting activities of its brand components in Zimbabwe. In this way, the study seeks to contribute to the body of knowledge, by demonstrating how one company has had some successes in restricting the supply of its brand counterfeits in Zimbabwe.

A case study approach is adopted in order to outline the components of the study. A case study approach is often descriptive and can provide a rich multi-faceted body of information about particular situations (Ghuri & Grønhaug 2010:111; Saunders, Lewis & Thornhill 2007:146; Terre Blanche, Durheim & Painter 2012:461). Terre Blanche *et al.* (2012:461) elaborate that case studies have the "advantage of allowing new ideas to emerge from careful and detailed observation". However, case studies have limitations with regard to the validity of information as causal links are difficult to test and generalisations cannot be made from a single case study.

The case study focuses on ACM Company, which has a manufacturing plant in Zimbabwe. Insight is provided as to why consumers purchase counterfeit ACM branded components and how ACM Company detects and restricts the trading of counterfeits of its brand in that country. In order to gather the data, in-depth semi-structured interviews were held with two senior executive members of ACM who deal with counterfeiting matters, using a semi-structured interview guide. The interview guide consisted of two parts, namely, how the company detects counterfeits and what their defensive mechanisms are against counterfeits.

The results were analysed using thematic analysis, which is a general approach to analysing qualitative data. It involves identifying themes and patterns in the data (Wagner, Kawulich & Garner 2012:231). The interviews were recorded using a digital voice recorder. Once the recordings were transcribed, the data were unitised and categorised and any data that did not pertain to this study were discarded. The results are presented in the next section, the fifth part of the article.

5. RESULTS AND EXPLANATION OF FINDINGS

The results and discussion of this study are explained in line with the purpose and research objectives. The aim of this article is to describe ACM Company' strategy to detect and restrict counterfeiting activities of its ACM component brand in Zimbabwe. The findings of the research revealed the following:

5.1 General description of type of counterfeit components

ACM Company carries two brands (ACM and XYZ) of components, but in Zimbabwe only the ACM brand is counterfeited. ACM counterfeits are passed off as the genuine product and are meant to deceive the consumer. Most consumers purchase these counterfeits, not realising that they have not purchased the genuine brand.

As indicated by Berman (2008:191-192), in this scenario the holder of the brand can suffer loss in its quality image when consumers have a complaint about the quality of the product, not realising that they purchased a counterfeit. ACM Company cannot be sure whether these counterfeits have damaged its reputation, but if a component fails, it obviously creates the notion that ACM's component is not up to the requisite quality standard.

5.2 Impact of counterfeits

Both participants indicated that the presence of counterfeits had negatively impacted on their business. The participants estimate that ACM Company is probably losing about 15% to 20% of monthly sales to counterfeits, but they are unable to accurately quantify this. The inability to accurately identify the amount of revenue that is lost to counterfeiting (see Lee & Yoo 2009:1; Staake *et al.* 2009:328) and loss of sales (see Berman 2008:192; Dryden 2007:14) are recognised as being consequences of counterfeits in businesses.

Both participants confirmed that this loss in sales has not resulted in a direct loss of employment. However, the loss of sales means that ACM Company could have employed more staff, particularly on the customer service side, if its sales volumes were larger. The reality is that the growth of the business has been restricted by these counterfeits. This finding corresponds with the literature, for example Hoecht and Trott (2014:101), who remark that counterfeits have a negative effect on the local economy/employment.

While Berman's (2008:192) and Dryden's (2007:14) findings indicate that such counterfeit products do not pose a risk to the health and safety of the consumer, in this situation they do pose a risk to the consumer's vehicle engine. The efficient and effective performance of the

vehicle is affected negatively and so is the overall “health” of the engine. Consumers are purchasing the counterfeit component on the basis that the product will meet and exceed the recommended service interval of between 10 000 to 15 000 km (depending on the part concerned), while the failure of the component before this time increases the wear and tear on the engine. The worst-case scenario being that damage is done and that the engine has to be replaced.

It was found that ACM Company’s cost base increased because of its need to fight counterfeit products in the market place. However, the company is not able to quantify this increase, although on the marketing and advertising side it is estimated that probably half of ACM Company marketing spend in Zimbabwe is pointing out to consumers the risk of using counterfeit product.

For example, ACM Company has a promotion where it encourages stockists who do not trade in counterfeit product to come forward and register themselves as “genuine” ACM stockists. They get a genuine ACM stockist label on their window and in turn, ACM Company warns consumers, through advertising, that they must ensure that they purchase their components from a genuine stockist. This is in line with the findings of Hoecht and Trott (2014:101).

Unfortunately, ACM Company is spending much of its time protecting rather than focusing on growing its market share. Therefore, ACM Company is planning to employ a staff member who will focus solely on fighting these counterfeits. If the company does not continue to fight counterfeiters, counterfeiters are going to continue to take away market share, which will also increase the operations costs.

5.3 Determinants of counterfeits

The aim of this section is to determine the strategies ACM Company has in place to curtail counterfeiting from the supply- and demand-side.

5.3.1 Supply-side

ACM Company has a good understanding of the supply-side counterfeit market in Zimbabwe. The participants indicated that from their private detectives carrying out investigations, they gained insight into how the counterfeit ACM brand enters Zimbabwe. The components are manufactured in Chinese factories and are channelled into Sub-Saharan Africa, particularly Zimbabwe.

When the counterfeit products arrive in Harare, they are kept in a central warehouse and they are distributed to the various traders. Due to the success of ACM Company's *Anton Piller* action, counterfeiters tend to carry only a small amount of stock in every trading operation and pull stock from the central warehouse, as and when necessary. Obviously, through the *Anton Piller* action they can have their stock confiscated. ACM Company has only recently learnt about this channel and is trying to find the root cause in order to try to stop counterfeits from entering Zimbabwe.

Armed with this information, ACM Company will now be able to go to the customs authorities in Zimbabwe, and point out that these counterfeits, (1) are not a product originating from a Southern African Development Community (SADC) region and therefore they should not be duty free; and (2) they are counterfeit products. Products not originating from SADC countries carry a 15% to 20% import duty depending on the type of the product coming into Zimbabwe. This could stop them entering into the country. Indeed, as indicated in the literature, this knowledge is vital so that licit brand owners can fight illicit producers and protect their brand (Lee & Yoo 2009:19).

5.3.2 Demand-side

Various authors (Bian & Veloutsou 2007:21; Chakraborty *et al.* 1997:345) identified demand as the key driver of a market and it is argued that this is the primary reason for the continuation of the rise and growth of counterfeiting. The participants of this study are of the opinion that some of the consumers want a cheaper product and willingly purchase a counterfeit component, but most consumers purchase these out of ignorance. The Zimbabwean consumer, despite a shortage of currency, has become more and more wary of substandard, poor-quality, cheap products coming into the country and hence, there is a negative reaction towards counterfeits. The Zimbabwean consumer feels that counterfeiters are trying to sell them inferior products.

However, some consumers buy counterfeit components, knowing they are not the real thing, because for them it is all about price. They justify this by thinking that they will change the component at shorter service intervals and that it will not damage their vehicle engine. However, ACM Company has tested counterfeit components and the results have shown that the counterfeit component will fail long before the designated service interval.

It was found that there used to be a significant price differential between the genuine and the counterfeit component, but over the years this gap has closed. The counterfeiters realised

that if the counterfeit component is too cheap, it will be recognised as an imitation. However, the traders are willing to drop the selling price of the counterfeit component, if the consumer enters into negotiation.

It can therefore be assumed that in order to grow their market share, ACM counterfeits are passed off as the genuine product and are meant to deceive the consumer. This is in line with the findings of Pens and Stöttinger (2005:568) who remarked that counterfeiting appears in two different forms: (1) deceptive; and (2) non-deceptive.

5.4 Legal issues and legislative concerns

The participants agree that legislation and legal enforcement is a recommended action for fighting counterfeits. The participants indicated that they went to the Higher Court of Zimbabwe three years ago and were granted an *Anton Piller* Order. This order allows ACM Company to go to any trader stocking ACM counterfeits. If the company can prove that the trader stocks ACM counterfeits, it can go with the legal police authorities to seize these components. However there is a cost to this process.

To date, the *Anton Piller* Order is still valid. This is in line with the literature. Hoecht and Trott (2014:106) observe that legislation and legal enforcement is the most recommended action for businesses that are affected by counterfeiters. Most actions start with an application for some form of preliminary relief, such as an interim injunction, for example an *Anton Piller* Order (Pasipanodya 2012:Internet).

It was found that when ACM Company finds and removes the counterfeit parts, such as filters, through search and seizure, they are held by the police for destruction, and the company takes legal action against those traders. However, the delays in the courts, due to the inefficiency in the court system, have led to no success in prosecution of those traders. Therefore, the best recourse is to get the counterfeits out of the market, as it is unlikely that actual legal success against illicit traders will be achieved. This could be attributed to the fact that, in the past, the legal police authorities had an agency that dealt with this sort of white-collar crime through the police department, but unfortunately, it no longer exists. Subsequently, it is much harder to get the right authorities involved to actually assist with investigation; hence the involvement of private investigators.

In addition to the *Anton Piller* Order, the participants have a reasonable relationship with the customs authorities in Harare and Beit Bridge. ACM Company is in continuous contact with them and has provided customs officials in Harare and Beit Bridge with training, to show

them the difference between the genuine and counterfeit product. However, ACM Company has not been successful in developing a relationship with the custom officials at the Mutare border post. The participants are aware that the components come from Beira into Mutare and then into Harare. This finding concurs with the literature; for example, WIPO (2008:1) emphasised that it is necessary to empower customs authorities to check goods on the border of their country and confiscate counterfeit goods at the request of the original brand owner.

5.5 Defensive mechanisms to counterfeiting

Ten options that businesses can apply to address counterfeits were presented by Hoecht and Trott (2014:106-112). The aim of this section was to find out from the participants what options ACM Company uses to fight counterfeiters. It was found, that out of the ten options, five are appropriate options that ACM Company has followed and used. These are discussed hereafter.

1. Do nothing. Both participants indicated that this is not a viable option.
2. Co-opt the counterfeiters. Both participants indicated that this is not a viable option.
3. Educate the stakeholders at the source. Convince government leaders that protection of intellectual property is in the interest of the country. The participants indicated that they have been in communication with the Zimbabwe Intellectual Property Organisation to express the view that the protection of intellectual property is in the interest of Zimbabwe and that counterfeit goods are also defrauding the fiscus of import duties. ACM Company also continually educates consumers and the traders of the dangers of using counterfeit components in that they damage vehicle engines.
4. Advertise. It was found that ACM Company advertises and identifies the traders of the genuine product who have entered into agreement with them. These traders are certified by ACM Company and have been provided with a certificate and labelling that indicates that the particular trader is a stockist of the genuine ACM product. The agreement also allows ACM Company access into traders' shops at any given time during business hours, to make sure that the trader is not stocking counterfeits. It was found that most reputable traders in Zimbabwe have come on board and signed this agreement.
5. Investigation and surveillance. The participants noted that they have employed private investigators, but they could not reveal any information at this stage.

6. High-tech labelling. The participants indicated that they do not use high-tech labelling as it is very expensive on higher volume consumable-type items. However, it was found that they created new packaging three years ago, but the counterfeiters were quick to emulate that. Therefore, the next option will be a hologram, but this is expensive when labeling each component. However, it is believed that this could be an option against counterfeiting as counterfeiting is a problem in the broader SADC region – mainly Mozambique and Zambia.
7. Create a moving target. Not a viable option.
8. Legislation. As discussed earlier, the participants indicated that they have been through the courts and have been awarded an *Anton Piller* Order.
9. Coalitions with other industry members. It was found that this is not being done, as other industry members have not found their market under threat and therefore counterfeiting is not affecting their brands.
10. Cede the industry. It was noted that leaving the market where the counterfeiting is being done is not a viable option, as Zimbabwe is an important market for ACM Company.

6. CONCLUSION

Counterfeiters consistently find ways to supply markets in most countries, despite the fact that companies and governments are able to restrict the supply of counterfeit products. It is argued that demand for counterfeits is one of the primary reasons for the continuation and rise in growth of counterfeiting. In some cases, consumers are deceived into purchasing a counterfeit product and in the minority of cases buy the imitation to reduce their cash outlay. It is important that licit brand owners protect their brand as failure to do so may result in loss of business, loss of employment, damage to reputation, brand and image, and in some cases may cause risks to health and safety.

The focus of this article was on one automotive component manufacturer, ACM Company in Zimbabwe, which has found its market under threat. The aim of this article is to describe ACM Company's strategy to detect and restrict counterfeiting activities related to its ACM brand in Zimbabwe. Interviews were conducted with two executive staff who are directly involved in addressing counterfeits, using a semi-structured interview guide.

Data reveal that ACM counterfeits are passed off as the genuine product and are meant to deceive the consumer. The company cannot confirm whether these counterfeits have damaged its reputation. However, the presence of these counterfeits negatively impacts on

its business, as it is estimated that ACM Company is probably losing about 15% to 20% of monthly sales to counterfeits. This loss impacts on the business's ability to employ additional sales and marketing staff as, in order to protect its market share rather than focusing on growing its market share, the company's cost base has increased. It is vital for ACM Company to continue to fight counterfeiters; otherwise, counterfeiters will continue to take away its market share, which affects company revenues.

The options that ACM Company uses to address counterfeits include the following: educating the stakeholders at the source; advertising and promotions; investigation and surveillance; creating new packaging; and legislation.

A limitation of this study is that only two interviews were conducted in one company, which has found its market under threat. These are the only two participants who are directly involved in counterfeit matters in the company. The main concern from the participants was that it would not be wise for the counterfeiters to learn how they detect and restrict counterfeiting activities of their brand, hence the name of the company and brand have been masked.

Counterfeiting is an illicit activity that has a negative effect on society as, for example, it robs the government of revenue and damages the local economy from an employment perspective (Hoecht & Trott 2014:101). Counterfeiting is an increasingly significant problem as it affects many industries, and this article provides a contribution to the existing body of knowledge by demonstrating how brand owners can detect and fight counterfeiters. However, it is suggested that further research be conducted in a sector or various sectors to determine how other companies detect and restrict counterfeiting of their brand. As one participant of this study asserted, "the war against counterfeits is on and we will never give up". Giving up is not a viable option as counterfeiting, in one way or another, has a negative impact on the whole of society.

REFERENCES

- ANG SH, CHENG PS, LIM EAC & TAMBYAH SK.** 2001. Spot the difference: consumer responses towards counterfeits. *Journal of Consumer Marketing* 18(3):219-235.
- BERMAN B.** 2008. Strategies to detect and reduce counterfeiting activity. *Business Horizons* 51:191-199.
- BIAN X & VELOUTSOU C.** 2007. Consumers' attitudes regarding non-deceptive counterfeit brands in the UK and China. *Journal of Brand Management* 13(3):211-222.

- BIAN X & MOUTINHO L.** 2011. The role of brand image, product involvement and knowledge in explaining consumer purchase behaviour of counterfeits. Direct and indirect effects. *European Journal of Marketing* 51(1/2):191-216.
- BLOCH PH, BUSCH RF & CAMPBELL L.** 1993. Consumer accomplices in product counterfeiting: a demand-side investigation. *Journal of Consumer Marketing* 10(4):37-36.
- CHAKRABORTY G, ALLREAD A, SUKHDIAL A & BRISTOL T.** 1997. Use of negative cues to reduce demand for counterfeit products. *Advances in Consumer Research* 24(1):345-349.
- CHAUDRY PE & WALSH MG.** 1996. An assessment of the impact of counterfeiting in international markets: the paradox persists. *Columbia Journal of World Business* 31(3):34-48.
- COMMURI S.** 2009. The impact of counterfeiting on genuine-item consumers' brand relationships. *Journal of Marketing* 73:86-98, May.
- DRYDEN J.** 2007. Counting the cost: the economic impacts of counterfeiting and piracy. *Third Global Congress on Combating Counterfeiting and Piracy*. Geneva: ICC. (International Conference Centre; 30-31 January 2007).
- ERASMUS HJ.** 1984. Anton Piller Orders in South African practice. *Citation: 101. South African L.J.* 324:324-345.
- GHAURI P & GRØNHAUG K.** 2010. Research methods in business studies. 4th ed. London, UK: Financial Times Prentice Hall.
- GREEN RT & SMITH T.** 2002. Executive insights: countering the counterfeiters. *Journal of International Marketing* 10:89-106, January.
- HARVEY MG.** 1987. Industrial product counterfeiting: problems and proposed solutions. *Journal of Business and Industrial Marketing* 2(4):5-14.
- HARVEY M & RONKAINEN IA.** 1985. International product counterfeiter: marketing success without the cost and the risk. *Columbia Journal of World Business* 20(3): 37-45.
- HOECHT A & TROTT P.** 2014. How should firms deal with counterfeiting? A review of the success conditions of anti-counterfeiting strategies. *International Journal of Emerging Markets* 9(1):98-119.
- HUNG CL.** 2003. The business of product counterfeiting in China and the post-WTO membership environment. *Asia Pacific Business Review* 10(1):58-77.
- LEE SH & YOO B.** 2009. A review of the determinants of counterfeiting and piracy and the proposition for future research. *The Korean Journal of Policy Studies* 24(1):1-38.
- OLSEN JE & GRANZIN KL.** 1993. Using channels constructs to explain dealers' willingness to help manufacturers combat counterfeiting. *Journal of Business Research* 27:147-170.
- PASIPANODYA R.** 2012. Efficacy of IP enforcement, remedies. *Zimbabwe Independent*. [Internet: <http://www.theindependent.co.zw/2012/11/09/efficacy-of-ip-enforcement-remedies>; downloaded 2014-04-21.]
- PENZ E & STÖTTINGER B.** 2005. Forget the "real" thing - take the copy! An explanatory model for the volitional purchase of counterfeit products. *Advances in Consumer Research* 32:568-575.
- PENZ E, SCHLEGELMILCH BB & STÖTTINGER B.** 2008. Voluntary purchase of counterfeit products: empirical evidence from four countries. *Journal of International Consumer Marketing* 21(1):67-84.
- SAUNDERS M, LEWIS P & THORNHILL A.** 2007. Research methods for business studies. 5th ed. London, UK: Financial Times Prentice Hall.
- QIAN Y.** 2014. Brand management and strategies against counterfeits. *Journal of Economics & Management Strategy* 23(2):317-343.

RADÓN A. 2012. Counterfeit luxury goods online: an investigation of consumer perceptions. *International Journal of Marketing Studies*. 4(2):74-79.

STAAKE T, THIESSE F & FLEISCH E. 2009. The emergency of counterfeit trade: a literature study. *European Journal of Marketing* 43(3/4):320-349.

STEVENSON M & BUSBY J. 2012. An exploratory analysis of counterfeiting strategies. Towards counterfeit resilient supply chains. *International Journal of Operations & Production Management*. 35(1):110-144.

TERRE BLANCHE M, DURRHEIM K & PAINTERS D. 2012. Research in practice: applied sciences for the social sciences. 2nd ed. Cape Town: University of Cape Town.

UNITED STATES SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS. 2005. Counterfeit goods: easy cash for criminals and terrorists. Hearings 109th Congress, First Session. Washington DC: Government Printing Office.

WAGNER C, KAWULICH B & GARNER M. 2012. Doing social research: a global context. London, UK: McGraw-Hill Higher Education.

WILSON JM & KINGHORN R. 2015. The global risk of product counterfeiting: facilitators of the criminal opportunity. *Centre for Anti-Counterfeiting and Product Protection*. Michigan State University. [Internet: http://a-capp.msu.edu/sites/default/files/PC_Opportunity_Backgrounder_02.18.15FINAL.pdf; downloaded on 2015-05-29]

WIPO see **WORLD INTELLECTUAL PROPERTY ORGANISATION**

WORLD INTELLECTUAL PROPERTY ORGANISATION. 2008. World intellectual property handbook policy: law and use. No. 489E. 2nd ed. Geneva, SUI. [Internet: http://www.wipo.int/export/sites/www/freepublications/en/intproperty/489/wipo_pub_489.pdf; downloaded on 2014-04-18.]