

Institut national de la propriété industrielle

**Benoît
BATTISTELLI,
Commissioner,
INPI**

Mumbai – February 26th 2008

**The French Anti-
counterfeiting Policy
INPI and the National
Anti-counterfeiting
Committee
(CNAC)**

A STATEMENT

Counterfeiting Has *Turned* Into A Major Economic Plague

- **In volume**

OECD report on the Economic Impact of Counterfeiting and Piracy, estimated in 2005 that trade in counterfeit and pirated goods have totalled around USD 200 billion in 2005.

More recently a KROLL (*world's risk consulting company*) study evaluates this cost at USD 650 billion.

In the EU, Customs now seize more than 100 million articles every year.

In France, Customs seized 260.000 articles in 1994 and more than 6 million in 2007 with an increase in value of 70% compared to 2006

- **In nature**

Organization and industrialization.

- **Sectors of the economy impacted**

All without exception.

A CHOICE

Strong Private/Public Partnership

- **A National Anti Counterfeiting Committee (CNAC) was created in April 1995.**
- **It is a forum of exchange between private and public actors.**
- **Its main purpose is to coordinate actions undertaken by the whole set of actors in the anti-counterfeiting struggle.**

The Committee is chaired by a member of Parliament.

Its secretariat general has been managed by INPI since 2003.

A PRIORITY

The Government's leadership

- **In May 2003, the minister for Industry adopted a national action plan against counterfeit based on three general goals:**
 - Public awareness
 - Repression
 - International cooperation
- **In June 2004, a set of 11 measures was introduced to reinforce this plan.**

A STRATEGY

- **The idea is to influence both supply and demand for counterfeited goods:**

Supply, in its major part, comes from production sites situated outside national borders.

Demand is represented by purchases by consumers on the French territory or when on holidays abroad.

Acting On Supply By ...

- **Enhancing sanctions**
- **Making the action of enforcement authorities more effective**
- **Improving the judiciary response to counterfeit**
- **Reinforcing international cooperation**

Enhancing Sanctions

- **Progressive legislative process to introduce more dissuasive sanctions**

Criminalization of counterfeiting in 1994

The Perben Act of March 2004, i.e.

Increases the threshold of criminal sanctions

*3 years imprisonment
a fine of 430 000 USD (300 000 euros)*

Foresees the aggravating circumstance of organized crime possibly leading to

*5 years imprisonment
a fine of 730 000 USD (500 000 euros)*

The new law (October 29th 2007) implementing EC Directive 2004/48, i.e. *introduction of a new aggravating circumstance: acts of counterfeiting harmful to the health or safety of humans or animals*

Increasing Enforcement Authorities' Efficiency

- **Several examples...**

Representatives of the Customs, the Police, the Anti-fraud and the Justice Departments meet at regular intervals within the TRACFIN structure.

Customs have annual targets for the seizures of counterfeited goods.

Joint operations are carried out every summer by enforcement agencies on the French Riviera and in the French airports.

Improving the Judiciary Response

- **The 2007 Law on the fight against counterfeiting which implemented the EU directive of April 2004.**

Few examples of improvement

Stronger measures for preserving evidence : “*saisie-contrefaçon*” : Ex Parte Seizure Order;

Stronger provisional and precautionary measures : reinforcement of simplified and streamlined procedures for bringing proceedings before civil courts;

Consecration of a right of information designed to fight counterfeiting networks;

Stronger corrective measures : recall from the stream of commerce, definitive removal from the stream of commerce, destruction;

Better compensation for the damage caused by acts of infringement.

- **Creation of specialized jurisdictional pole.**

Reinforcing International Cooperation

- **At the bilateral level**

Setting up bilateral ad hoc committees with: Italy, Russia, Morocco;

French Indian (IP) Protocol signed between Ministers of Industry of both States in July 2006;

Network of experts located within our Embassies : 45 IP specialists covering 70 countries;

Provision for an « anti-counterfeiting » clause in the cooperation agreements between INPI and its foreign counterparts.

Reinforcing International Cooperation *(cont.)*

- **At the multilateral level**

Creation of an ad hoc commission at the G8 's meeting;

France co-finances with WIPO enforcement's programs in Africa, Middle East and Asia;

WHO and the Council of Europe suggest an international convention addressing counterfeit drugs;

Negotiation of an Anti-counterfeiting trade agreement (ACTA);

Launching of the China IPR II Project aiming to improve IP enforcement domestically with the collaboration of Chinese authorities and the expertise of EU member States including France (INPI).

Acting On Demand By ...

- **Raising consumers' awareness**

National awareness campaigns 2006 - 2007

Exhibitions

Publication of brochures

Organizing workshops, e.g. last one : South European countries roving seminar, held in Paris, in November 30th, 2007

Raising Consumers' Awareness

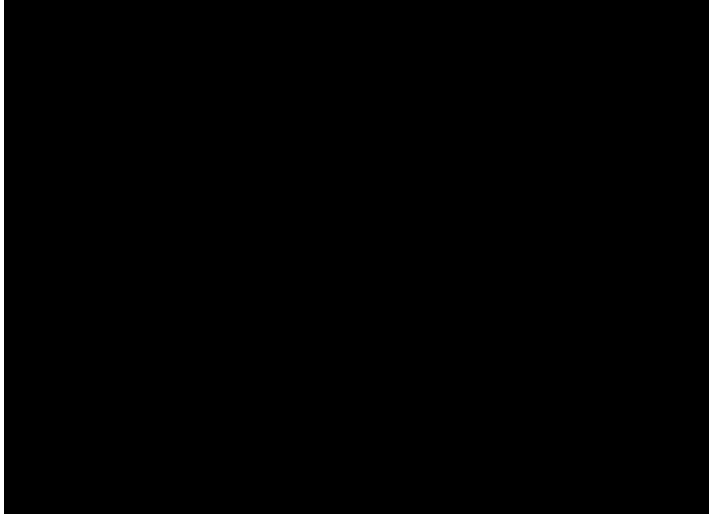
- **A 6 Mo US Dollars campaign Counterfeit No Thanks !**
- **The exhibition Counterfeit No Thanks !**

At the French Parliament

In many towns around France

An English version abroad (Brussels, Geneva, Washington, Mexico, Bombay...)

Campaign Movies





counterfeit

NO THANKS

Raising Consumers' Awareness (*cont.*)

- Setting up a national Call center : [0820222622](tel:0820222622)

- Opening of a specific website : www.inpi.fr

One click to : contrefacon-danger

CONCLUSION

- **A priority for the French authorities and private sector.**

A strong private-public partnership

- **A constantly improved legal, regulatory and administrative framework.**
- **A strong repression towards the counterfeiters (producers, distributors, importers).**

CONCLUSION *(cont.)*

- **A direct involvement of the end consumer: buying a counterfeit good means breaking the law.**
- **An awareness policy endowed with important resources and calling upon the end consumer's responsibility.**
- **An active approach to international cooperation.**