

Unfortunately counterfeiting is a problem experienced by most SMEs and it is not an easy issue to resolve. If your company experiences counterfeit products, there is an array of options your company can choose to implement.

Overall factors to consider when choosing to fight counterfeit products

Taking action against a counterfeiting manufacturer and/or distributor is a complex matter, which in general contains three elements:

- In depth knowledge of the SME's product and the counterfeiting product
- In depth knowledge of IPR-legislation in China, and which legislation to be considered in a given case and
- An analysis of what effect the counterfeit product has on your business, both in the short term as well as the long term.

Gathering the facts

When dealing with counterfeiters, the first step is to identify the infringer and gather intelligence. Helpdesk team leader Simon Cheetham of ERINYES INTERNATIONAL, an expert in securing evidence and taking administrative actions in China explains:

"There are several issues to consider when securing evidence in China. We have found that counterfeit manufacturers close down and open up again if they find out that we are investigating them. It therefore becomes an issue of securing evidence the first time you have the chance, and making sure they are not aware of you being there, until you have the case ready."

Resources are needed

Anti-counterfeiting is a task which takes up resources. A well prepared plan heightens your chances of a positive outcome for any given case. Often when no action is taken, the counterfeiting problem and the counterfeiting company grow.

Question whether you have the internal expertise

If you do not have an internal resource which is used to being engaged in anti-counterfeit preparations in China, it is an option to contact external IPR consultants that can take care of the SMEs needs in a given case in China. Helpdesk expert Karin Beukel, IPR-consultant with experience in anti-counterfeiting in China from The IPR Company explains:

"Often European SME´s do not think that they can do anything against Chinese counterfeiting companies, due to IPR-legislation, this is however not the truth! In China the IPR legislation provides a number of anti-counterfeit options. In China you take civil action, an administrative action or you have the option to use PSB and take criminal action. What is often the challenge for the European SME navigating the IPR-system in China is to make the right choices at the right time. Solutions can be found to many of the problems European SMEs find to be show stoppers in China."

IPR experts in the field getting acquainted with IPR

For an SME it is important to consider the type of IPR expert needed in order to take the next step. Here, can find a description of the IPR services available in the market, and how to get in contact with the different experts.

If your company has experienced counterfeit products, and has no previous knowledge on anti-counterfeit actions in China, you should start by learning more about IPR is about. Furthermore, the options you have when dealing with counterfeiting is very much dictated by the preventive measures that have already been implemented in your business model in China. To read more about pro-active measures to be considered please see the main sections which relate to different business set-ups in China: 'Sourcing', 'Manufacturing', 'Licensing', 'Business Promotion', 'Research & Development', 'Sales & Distribution' and 'Business Partners'.

Finding the right lawyer can often be difficult, and retaining a lawyer who really understands your case and has the relevant experience is crucial. You can read more about how to find the right lawyer in the 'Finding the Right Lawyer' section.

To get an idea of what lessons have been learned by others, read the following case stories.

[» Case Study 1 - Counterfeiting of Mechanical Products](#)

[» Case Study 2 - Trademarks case study 3: Sales of Counterfeit Air and Oil Filters](#)

[» Case Study 3 - Patents case study 5: IPR abuses experienced by a toy manufacturer](#)

[» Case Study 4: Patents case study 6: Counterfeiting of Technology after break up of a JV](#)