

The Roles of the Respective Enforcement Agencies

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Critical components of an effective IPR enforcement response

- In general, Customs administrations are responsible for border surveillance and national or local police agencies for those cases involving market control, manufacturing and suppressing the involvement of organized crime.
- Need to recognize that national models differ due to different structural mandates and legal frameworks – for example, contribution of CamControl.
- It is no different to many other aspects of law enforcement: narcotics control, money laundering, pornography, CITES, fraud etc.
- Equally important is the role of the judiciary and those structural elements within the justice system



Importance of Co-ordination

- The growing impact of IPR crime makes it imperative that the different components work together in the national interest.
- Who should co-ordinate IPR enforcement?
- What is the purpose of the co-ordination?
- How can it be achieved?
- What is the role of the private sector in such a national framework. How can they be integrated?



Potential advantages of co-ordination

- Improving overall resource utilization
- Promoting the sharing of information
- Priority setting
- Design and updating of a national strategy
- Championing legislative change
- Maintenance of national statistics
- Encouraging relationship building and joint operations



Border Measures





Border measures

- ☐ TRIPS recognizes the importance of effective IPR border measures
- Customs administrations control the movement of goods, people and conveyances across frontiers and borders
- Customs officials have a unique understanding of international trade
- Special relationship with those involved in trade and transport



Border measures

- Customs administrations seize approx 80% of all counterfeit or pirated goods seized, internationally
- Customs has powerful weapons available to it to combat cross border crime
- □ The Customs community is organized internationally and has a culture of co-operation and mutual assistance.
- Opportunity to participate in regional/international interdiction operations co-ordinated by the WCO and Interpol/ICPO



Border measures

The World Customs Organization provides international focus:

- Tools: Customs Enforcement Network (CEN) and Regional Intelligence Liaison Office network
- Counterfeiting & Piracy Working Group
- Capacity building and training role of Asia Pacific Regional Office of Capacity Building (ROCB), Bangkok, e-learning,
- Relationship with other intergovernmental and non governmental organizations



Generic techniques & skills

- Document interpretation
- Profiling
- Information and intelligence analysis
- Use of information technology
- Goods inspection including x-ray examination
- Interview and questioning



What is the relevance of the TRIPS Agreement to Customs authorities ?

- The Agreement acknowledges the importance of effective border control procedures and the role of Customs
- Section 4 outlines a series of Special Requirements related to Border Measures
- It also outlines the application of the provisions to Customs Unions and defines counterfeit trademark and pirated copyright goods



The key requirements

- Article 51 Suspension of release by Customs
- Article 52 Application
- Article 53 Security or Equivalent Assurance
- Article 54 Notice of Suspension
- Article 55 Duration of Suspension
- Article 56 Indemnification of the Importer/Owner
- Article 57 Right of Inspection and Information
- Article 58 Ex Officio Action
- Article 59 Remedies
- Article 60 De Minimis Imports



Criminal procedures

Article 61, Section 5 of the Agreement

 Provides for criminal procedures and penalties - at least in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale







Control methods

- Raids on factories with associated seizure of infringing goods and production equipment
- Market surveillance including seizure of infringing goods
- Arrests of culpable persons
- Liaison with rights holders
- Participation in regional/global enforcement operations e.g. actions against fake pharmaceuticals co-coordinated by Interpol/ICPO and WCO

Strengthening relationships

- Driven by public interest considerations of consumer safety, revenue protection and other regulatory imperatives
- Increase dialogue and use the specialist knowledge and skills of public and private organizations
- Engagement is critical in developing a "whole of government" approach



Some examples

- Consumer organizations
- Free trade zone operators
- Logistics operators (UPU, express carriers)
- Bureau of Standards, Weights & Measures
- Media
- Internet organizations
- Financial institutions (FATF)
- Regional/sub-regional compliance activity
- Environmental agencies

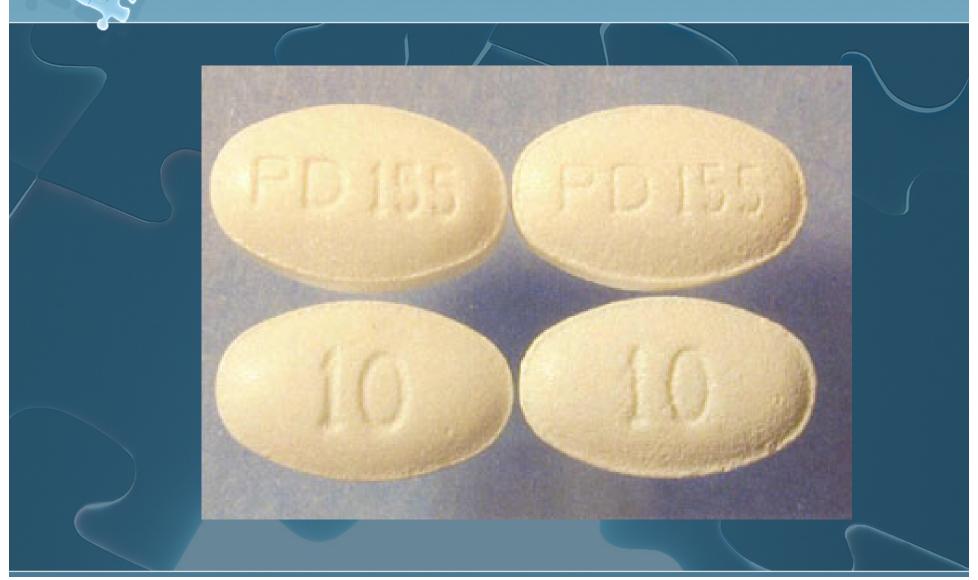


Rights holders

- Invest heavily in enforcement actions and investigative/intelligence gathering to protect their rights
- Should make full use of statutory provisions
- Lodging a customs notice should be the start of an on-going dialogue not the end of contact
- Offer swift expert support to enforcement agencies
- Provide regular identification training to frontline law enforcement officials
- Contribute to public education programs



Which is the genuine product?

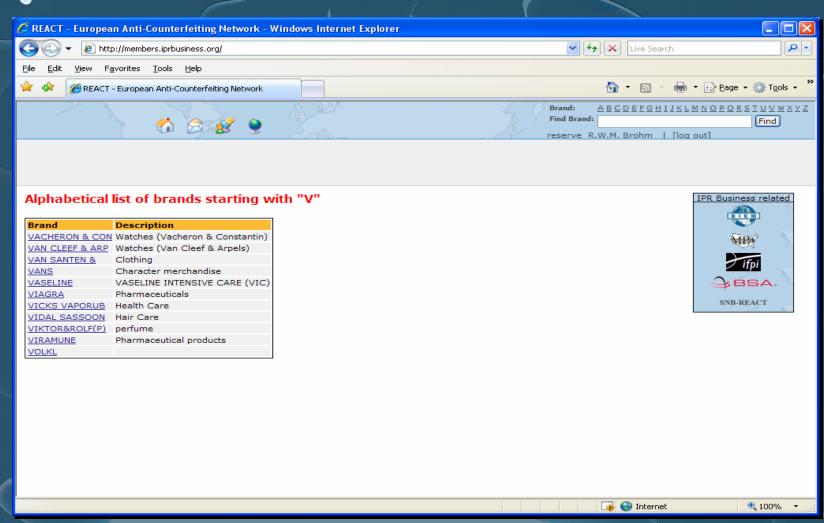






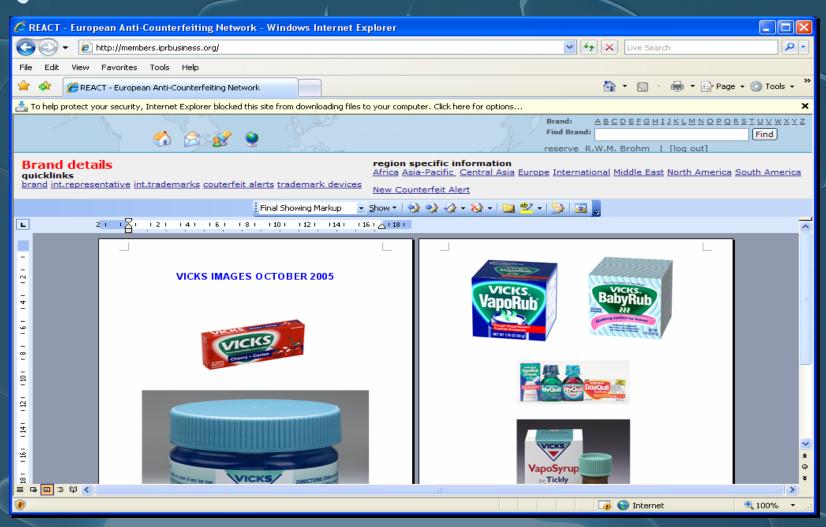


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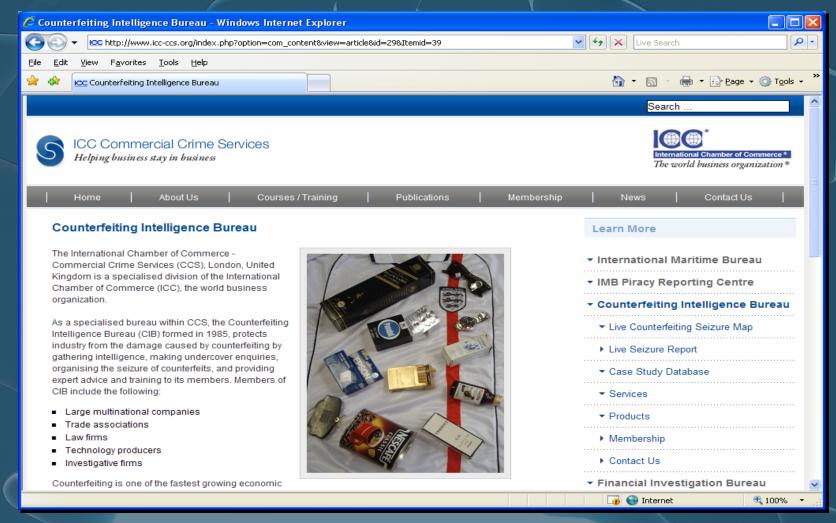


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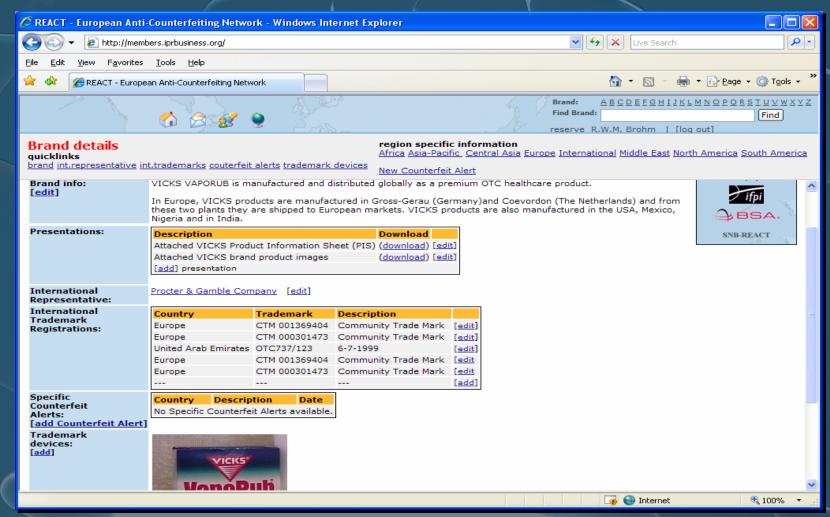


Other sites.....

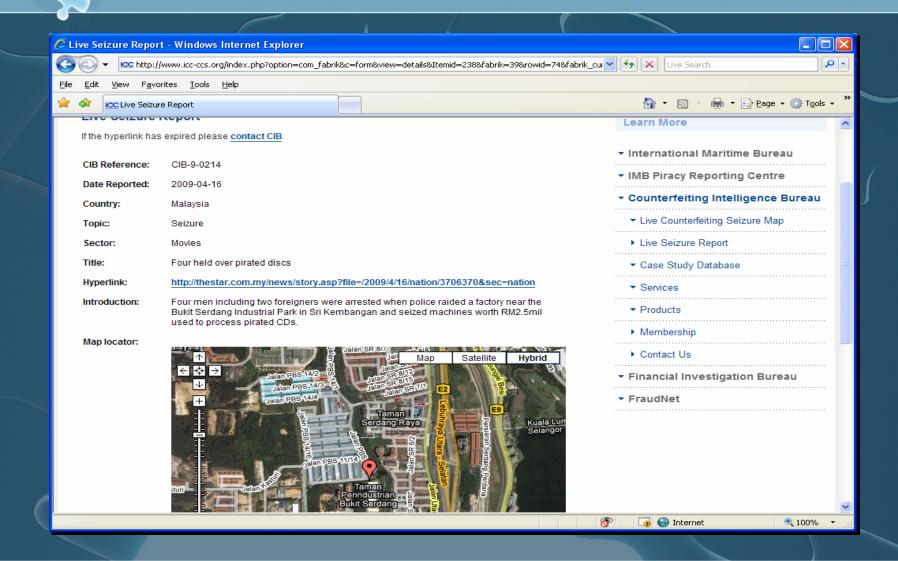




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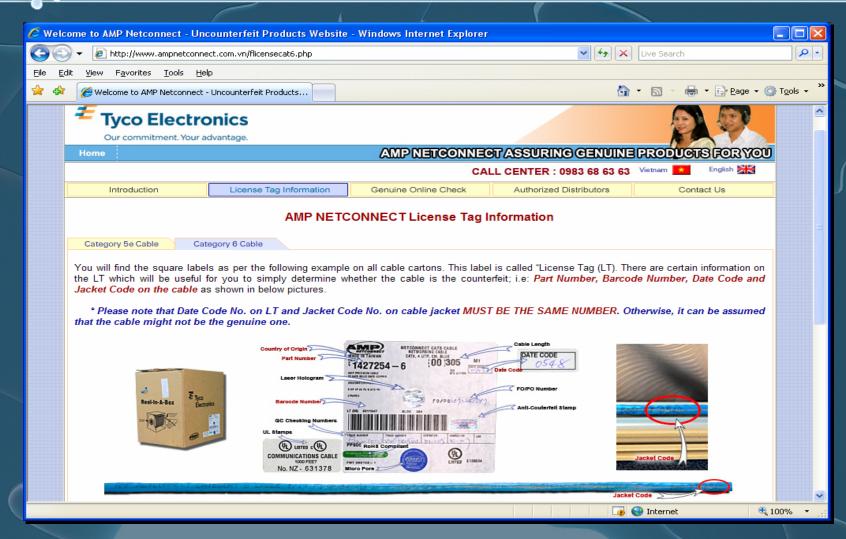


ICC Counterfeiting Intelligence Bureau

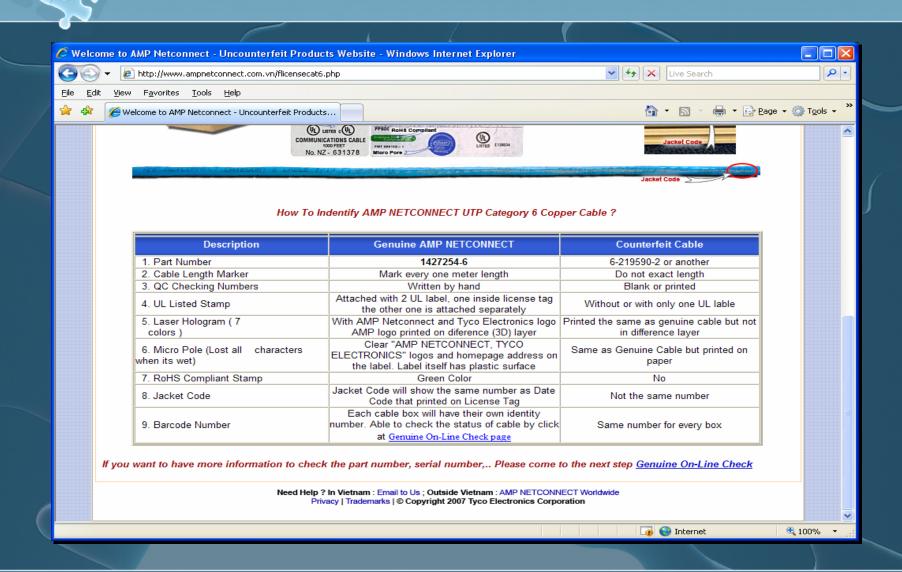




Telling right from wrong – external packing



Telling right from wrong – the goods





Contact details

- David Blakemore,
 Executive Director,
 IPR Business Partnership
 (Asia Pacific)
- 47 Springwater Avenue, Christchurch 8051, New Zealand
- Telephone: 0064 3 323 5213
- E-mail: asiaacificipr@msn.com
- Web-site: www.iprbusiness.org