

INTELLECTUAL PROPERTY RIGHTS

ISSUES AND RECOMMENDATIONS

STRENGTHENED & CONTINUOUS ACTIONS TO ELIMINATE COUNTERFEIT PRODUCTS FROM ONLINE MALLS IN JAPAN & ABROAD

Strengthened & Continuous Actions to Eliminate Counterfeit Products From Online Malls in Japan & Abroad

YEARLY STATUS REPORT: Some Progress

- While major internet shopping portals have succeeded in reducing the proportion of counterfeit products on their sites to less than 1%, some shopping websites have only recently decided to take the necessary measures and so the share of counterfeits of certain brands on their sites still remains relatively high.
- The delay in taking action by shopping websites can be explained partly by the fact that most uploaded image data are not adequate for determining whether the items for sale are counterfeit or not, and it is often necessary to make test purchases to verify authenticity.
- Additionally, countermeasures against counterfeit products are not yet effective in respect of flea markets sites, where counterfeits may sometimes account for as much as 99% of the total merchandise being sold.

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YEARLY STATUS REPORT: Some Progress

- Moreover, in general, initiatives against websites selling counterfeits, fraudulent websites and spoof websites are progressing far too slowly.
- Measures already put in place by the relevant Japanese ministries and agencies include the freezing of bank accounts used by the operators of such websites, publication of their URLs, and display of alerts via security software or browsers, but these have not yielded fundamental results.
- ☐ Given that consumer interest in and public awareness of the need to protect IPR are undoubtedly rising, now is the time to take bold and swift action to combat the sale of counterfeit products.

Strengthened & Continuous Actions to Eliminate Counterfeit Products From Online Malls in Japan & Abroad

RECOMMENDATIONS

- □ Japan's Specified Commercial Transaction Law should be amended to strengthen checks on branded goods sold on the internet, with a view to eliminating counterfeit goods from shopping websites. In addition, the Government should encourage ISPs, distributors and IP rights-holders to establish their own anti-counterfeit guidelines to promote private sector initiatives in this field.
- Radical measures should be taken against websites selling counterfeits, fraudulent websites, and spoof websites hosted by foreign servers, for example: blocking access to them or removing them from search engines.
- ☐ The Government should continue to encourage all ISP companies to join the fora where ISP companies and right holders discuss measures against counterfeit products. This is imperative to achieve the objective of further combatting counterfeit goods.



TIGHTER DEFINITION OF "FOR PERSONAL USE"



Tighter Definition of "For Personal Use"

YEARLY STATUS REPORT: No Progress

- ☐ The fact that the importation and purchase of counterfeits for "personal use" are lawful in Japan offers a loophole to dealers importing fake goods for commercial purposes.
- ☐ As a result, the Customs Authorities waste manpower and time detecting counterfeits only to find they have no choice but to grant import permits.
- ☐ If this loophole cannot be closed, at the very least the definition of "personal use" should be tightened.

Tighter Definition of "For Personal Use"

YEARLY STATUS REPORT: No Progress

- □ Dealers importing numerous counterfeit watches by postal mail several times a year, for example, could be stopped simply by defining the minimum period of possession (such as one year) and the maximum number of items that may be presumed to be "for personal use".
- ☐ Given that the resale and transfer of counterfeits remain lawful if they are for "personal use", relevant laws and regulations must be improved to prevent such dealers from being able to claim that the goods are for their personal use.

Tighter Definition of "For Personal Use"

RECOMMENDATIONS

- ☐ The importation and purchase of counterfeits, even for "personal use", should be controlled under the law.
- ☐ If the importation and purchase of counterfeits "for personal use" cannot be prohibited by law, the definition of such use should be tightened to address the current situation where importation of unlimited numbers of fake products is permitted so long as they are declared to be "for personal use".