

Intellectual property  
creations of the mind:  
inventions, literary  
and artistic wo...



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## **CHAPTER1**

### **INTRDUCTION**

#### **Problem Statement**

Intellectual belongings ( IP ) refers to a creative activities of the head: innovations, literary and artistic plants, and symbols, names, images, and designs used in commercialism. Nowadays, the rational belongings plays an importance function in concern worldwide and a current concern policy tendency alteration from selling a large volume to diminish production capital to make high quality and alone product. A This policy has advantage over a rival in term of commercial investing because people who own rational belongings will hold an sole right to utilize it and it can increase value in merchandise.

Counterfeit is an imitation, normally one that is made a consumer perceive that the transcript one is an echt. Counterfeit merchandises are normally produced with the purpose to take advantage of the superior value of the imitated merchandise. The word forgery often describes as the imitations of plants such as art, apparels, package, pharmaceuticals, tickers, electronics and trade names. Furthermore the TRIPS understanding stated that “ counterfeiting and buccaneering are defined and used in assorted ways, depending on the state and the context andA in general counterfeiting typically relates to violations of hallmarks, whereas buccaneering is normally associated with infringements of right of first publication or related rights. In add-on, both footings are usually used in connexion with instances of

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knowing violations of rational belongings rights, related to commercial intents of the infringer, or doing important economic injury to the right holder" ( wipo, 2011 )

Now, the rational belongings counterfeiting is a planetary job. A article in The Economist informs that the spread of counterfeiting: Knock-offs gimmick on, cites an administration for Economic Co-operation and Development ( OECD ) statistic that the international trade in forgery and pirated goods was deserving about \$ 250 billion in 2007. Furthermore, the article besides quotes the International Anti-Counterfeiting Coalition ( IACC ) , a anteroom group, who says the true figure is really closer to \$ 600 billion, because the OECD ' s estimation does non include on-line buccaneering or forgeries that are sold in the same state as they are made. Counterfeit goods make up five to seven per centum of universe trade, harmonizing to the IACC.

Harmonizing to the forgery is a planetary job, there are many planetary leader and of import individual concerned the job and provided cooperation sing the fillet forgery. Therefore, in the Sixth Global Congress on Battling Counterfeiting and Piracy Opens in Parisin 2011, Mr. Kunio Mikuriya, Secretary General of World Custom Organization, states that " to successfully tackle counterfeiting and buccaneering requires committed international cooperation and coordinated national action and the public-private partnership which underpins the Global Congress is the ideal platform for happening advanced solutions to the menaces that counterfeit and pirated goods pose to consumer wellness and safety" . Mr. Jean-Guy, Secretary of International of Chamber Commerce, stated that "

counterfeiting and buccaneering continue to bring forth monolithic economic  
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and employment disruptions at a clip when authorities are most distressed to keep economic stability and make occupation despite more visibility, more plans and more cooperation among assorted stakeholders, the job continues to intensify and new research to be reported at the Congress will demonstrate that the entire impact of this illicit trade in shams is reeling, with more than US \$ 1-trillion in one-year losses to planetary economic systems, authorities and consumers and potentially more than 2 million occupations at hazard. It is indispensable that all stakeholders renew their committedness to happen new and original solutions" and ICC, through its BASCAP plan is making that, and we will present new enterprises at this Congress supplying new information, new support for the function of IP in driving invention and new plans to educate consumers on why they should halt purchasing shams. INTA President Gerhard Bauer said that "counterfeiting and buccaneering cost authorities and concerns one million millions of Euros in gross each twelvemonth, and the societal and wellness hazards they have on the populace are dismaying. In today ' s interrelated universe, these hazards are no longer isolated to one state, part, demographic or economic class." This is why the Global Congress on Battling Counterfeiting and Piracy is so of import. It allows committed authorities and organisations from all over the universe to beef up their co-ordinated attempts to battle counterfeiting, and to further educate the populace on the economic, societal and wellness hazards posed by these offenses.

The imitative goods can be unsafe for client because the forgers normally do not follow with wellness and safety criterion. Therefore, forgery merchandises can be risky to the wellness and safety of consumers. In add-

on, it is hard for consumer to happen out if the merchandises comply with the safety ordinances. For a figure of goods, the hazard consists in the merchandises incorporating substances which have non been approved. These include apparels or playthings which contain illegal dyes or hygienic merchandises incorporating illegal chemical substances. Contact with these merchandises may sometimes take to allergic reactions. Examples of the CE grade being misused besides exist. The CE grade on a merchandise signifies that the merchandise is manufactured to run into the joint European minimal criterion of wellness and safety. Many merchandises can non be marketed in Europe, unless they got a CE grade. The enfranchisement system includes playthings, edifice stuffs, and electrical and medical merchandises. These yearss counterfeiting is so professional that the CE grade is copied alongside with merchandises and hallmarks. Therefore, the CE grade on a imitative merchandise is non a warrant that the merchandise meets the European criterion. e. g. , forgery electronics and machines may present a safety hazard, because they may interrupt down, explode, self ignite, daze, etc. ( stoppiraterne, 2010 )

Brian Duggan, a manager with the Motor & A ; Equipment Manufacturers Association ( MEMA ) , said that “ counterfeiting do economic injury, defrauds consumers, constitutes unjust competition to legalize concern and poses a danger to public wellness and safety” ( Counterfeit Auto Partss: A Turning Industry Epidemic, 2007 )

The U. S. Chamber of Commerce revealed that Ford entirely is losing about \$ 1 billion yearly from imitative car parts. “ And that does n’t include the wellness and safety branchings of sham or defective points such as car  
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glass, brakes, tyres, suspension and matching mechanisms, and even place belts. Driver safety is merely non quantifiable, ( Counterfeit Auto Partss: A Turning Industry Epidemic, 2007 )

Residents in North Somerset are being warned of the dangers of purchasing illicit or forgery coffin nails and baccy from unauthorized mercantile establishments. The two local work forces, both in their 60s, received cautiousnesss from our Trading Standards service after the decision of an probe following a ictus of unsafe coffin nails from a auto boot sale in Weston-super-Mare. Trading Standards are so concerned that these unsafe coffin nails are go arounding on the local black market that they are inquiring the populace to describe the sale of inexpensive coffin nails or baccy. The trade names seized included Lambert and Butler, Raquel, Palace, Richman Royal, MG Gold, Drum, Golden Virginia and Cutters Choice. Analysis carried out on the seized coffin nails indicated that they all grossly exceeded the permitted degrees of both pitch and C monoxide, yet were well deficient in the declared degree of nicotine. The worst illustration exceeded the permitted degrees of pitch by 86 % and C monoxide by 82 % , yet had some 56 % less nicotine content than was indicated on the battalions. These consequences clearly demonstrate that illicit or forge baccy merchandises, being unregulated and hence unseasoned, can be both really insecure and of a really hapless quality. ( North Somerset council, 2010 )

In Thailand, rational belongings consist of patent, junior-grade patent, hallmark and right of first publication, trade secret, traditional cognition and etc. Thailand faces forgery job in rational belongings every bit good as other states. Thailand ' s economic will turn down due to the forgery goods.  
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Furthermore, the endeavor can non vie with the forgery goods which have lower cost. Third, the authorities loses revenue enhancement gross yearly approximate more than hundred million Baht. ( The Royal Thai Customs, 2011 ) At the present, imitative goods is non merely trade name name merchandise but besides consumer goods in day-to-day life. In add-on, Thailand was perceived as a imitative goods bring forthng state.

From table 1, it shows that there are three sorts of rational belongings rights misdemeanor ; copyright misdemeanor, hallmark misdemeanor, patent misdemeanor and commanding the cassette concern and telecasting device misdemeanor. The tabular array shows that the figure of stuffs seized from suppression from 2006 to 2008 addition continuously even the authorities tries to suppress. A It means that there are many imitative goods in the market. The inquiry is “ Why there are still imitative goods in market while the authorities has suppressed continuously” Due to the economic sciences theory, the provider produce goods because of demand from consumer. So the suppression is the last solution to halt people purchasing forgery goods and the best solution is to supply the public consciousness efficaciously. To analyze of consumers behavior helps the authorities can better scheme to halt purchasing forgery goods and the moral logical thinking is one of consumer behaviour that we need to cognize and utilize the appropriate scheme to halt them purchasing imitative goods.

Table 1: The Statisticss on Suppression of Intellectual Property Rights  
Misdemeanor

The consequence of forgery goods affects to consumer, enterpriser or Godhead and authorities. First, the consumer will acquire danger from imitative goods. Furthermore, the consumer will blow money to purchase inexpensive merchandise but subsequently they realize that the existent values of merchandise bought is below the degree of the monetary value paid. Second, the enterpriser will competes straight with the forgery of their merchandise which make them lose a immense in gross revenues because the client will purchase the forgery goods due to the lower cost. They spend their money or budget to protect the reproduce their merchandise alternatively to pass money for development of merchandise. Then the Godhead will hold no motive to make a new merchandise and halt making eventually. Then there is no invention goods in market. Third, the authorities will lose the revenue enhancement gross and lose national budget from suppression alternatively to develop other thing such as rational belongings instruction. Furthermore, the net income from imitative goods are used in support other illegal activities and lead to the offenses.

At the present, the Department of Intellectual Property is a nucleus organisation to responsible for ( 1 ) supplying efficient protection of rational belongings ( 2 ) safeguarding rational belongings rights in a just mode ( 3 ) advancing creationA and commercial development of rational belongings ( 4 ) Strengthening cognition and apprehension related to rational belongings ( The Department of Intellectual Property. 2011 ) . In add-on, the Department of Intellectual Property has cooperate with other authorities organisation such as the Royal Thai Police, Custom Department, the Department of Special Investigation to stamp down the forgery goods Presently, the



Department of Intellectual Property usage methods to halt buccaneering by making suppression or setting up punishment and advancing public consciousness. However, there is no ground to prove that which method will be the most effectual for halting buccaneering. So the survey of moral concluding toward purchasing or non purchasing forged goods helps us to cognize the best method to halt buccaneering accurately.

Human behavior refers to the scope of behaviours exhibited by worlds and which are influenced by two factors: attitudes towards the behaviour ; the influence of societal environment. ( oregonstate. edu, 2011 )

At the foundation of our moral thought is our apprehension that some things are deserving making or prosecuting for their own interest. It makes sense to move on them even when we expect no farther benefit from making so.

When we see the point of executing a friendly act, for illustration, or when we see the point of person ' s analyzing Shakespeare or the construction of distant galaxies, we understand the intrinsic value of such activities. We grasp the worth of friendly relationship and cognition non simply as agencies to other terminals but as terminals in themselves. Unlike money or insurance coverage, these goods are non valuable merely because they facilitate or protect other goods. They are themselves constituent facets of our own and others ' fulfilment as human individuals. Of class, feelings and emotions can and make actuate our actions. But the point here is that certain per se worthwhile terminals or intents appeal non simply to our emotions but besides to our apprehension ( what Aristotle called our " practical ground " ) . A complete history of human action can non go forth out the actuating

function of grounds provided by these terminals or intents, which are sometimes called “ basic human goods. ” ( SDC News, 2011 )

The psychologist provinces that every behaviour is caused. Human behaviour is from ground of organic structure or environment. To analysis human behaviour is used for understand the factors which indicate the manner of behaviour, called motivation. Furthermore, understanding human behaviour is a basic of understand all phenomenon in the society. There are two factors which indicate behaviour. First factor is personal characteristic such as believe. It means people think about anything which may be right or incorrect and the believe comes from the visual perception, reading or value related the human behaviour. Second, societal influences on human behaviour.

Buying or non purchasing forgery goods is one of human behaviour and the ground is one motivation to show the behaviour and there is no consumer ' s demand, there is no supply all of a sudden. If the Department of Intellectual Property wants to halt people to purchase forgery, the Department of Intellectual Property should understand the ground of people sing purchasing forgery goods. Therefore, this survey used the theory of Kohlberg on moral development as a model to analyze ground of people toward purchasing or non purchasing forgery goods.

### **Aims**

1. To analyze moral logical thinking of people toward bargain or non purchase imitative goods.

2. To compare moral concluding toward bargain or non purchase imitative goods among people with different demographic factors

### **Expected Consequences**

1. The consequence of the survey will bring forth benefit for the authorities organisation and instruction institute to utilize the consequence of moral ground toward purchasing or non purchasing forgery goods
2. The consequence of the survey will be utile for the authorities organisation and instruction institute to educate and implicate scheme of halting purchasing forgery goods.

### **Scope of Study**

1. The mark population: A the people in Bangkok and metropolitan country who buy imitative goods or non purchase imitative goods.
2. The primary informations collect from the self-administrated questionnaire and e-survey during 1 March until 30 March 2011.

### **Definition**

There are several footings which are frequently use throughout this survey as follow:

1. The moral reasoning defined as the grounds for against moral belief in an effort to do determination toward purchasing or non purchasing forgery goods. There are 6 phases in moral logical thinking ; obeisance and penalty orientation, naively egocentric orientation, good-boy orientation, authorization and societal order keeping orientation, contractual legalistic orientation, scruples or rule orientation

2. Obedience and penalty orientation was defined as people express peculiar behaviour because of avoiding penalty. In this survey, people buy or non purchase forgeries goods because of non acquiring serious punishment or afraid the penaltyA such as all right and imprison.
3. Naively egocentric orientation was defined as people express peculiar behaviour because of acquiring benefit themselves. In this survey, people buy or non purchase forgeries goods because of acquiring the trade name merchandise with low cost or acquiring low quality merchandise.
4. Good-boy orientation was defined as people express peculiar behaviour because they do n't necessitate closed people feel disappointment. In this survey, people buy or non purchase forgeries goods because ofA devising or non doing closed individual such as friend and household sorrow and disappoint.
5. Authority and societal order keeping orientation was defined as people express peculiar behaviour because they do n't desire to interrupt the jurisprudence. In this survey, people buy or non purchase forgeries goods because of go againsting or non go againsting the jurisprudence.
6. Contractual legalistic orientation was definedas people express peculiar behaviour because they do n't desire to go against other rights. In this survey, people buy or non purchase forgeries goods because of go againsting or non go againsting other right.
7. Conscience or rule orientation was defined as people express peculiar behaviour because of moral. In this survey, people buy or non purchase forgeries goods because of non interrupting the moral or non the right thing.

8. Intellectual Property refers to creations of the head: innovations, literary and artistic plants, and symbols, names, images, and designs used in commercialism. ( wipo, 2011 ) The rational belongings in this survey consists of hallmark, right of first publication and patent.
9. Infringement refers to the misdemeanor of a jurisprudence or a right. ( reply, 2011 ) This survey focal point on rational belongings violations such as: right of first publication violation, hallmark violation and patent violation.
10. Counterfeit goods refer to an imitation of goods, normally one that is made with the purpose of fraudulently go throughing it off as genuine. Counterfeit merchandises are frequently produced with the purpose to take advantage of the superior value of the imitated merchandise.