

Example of case study on trademark law counterfeit goods

[Law](#), [Criminal Justice](#)



QUESTION ONE:

Dubai is a city where both marketing and launch of both products and services takes place especially the fashion industry. It is an international centre for the lucrative trade of the goods and services where it mainly deals with the shipping and the logistics of the goods. This has led to the upcoming of the counterfeit products which may be made to resemble the original products illegally. The city of Dubai therefore also deals with re-export of counterfeit products to other countries. This practice is not healthy because counterfeit products will affect the price of the original products which are sold at a higher price. This therefore makes it an illegal practice to deal with the counterfeit products. The trademark law was therefore initially formulated in 1992 where the law was amended in order to reflect the agreements of the World Trade Organization especially with regard to the intellectual rights. The legal framework therefore provides terms of registering trademarks with respect to the goods and services (Lind, 2006 pg 19) . The legal framework also makes recognition of the trademarks as well as broader protection of such marks. Trademarks acts as the rights of the company to enjoy the profits of from the product over a specified period of time.

The UAE has clearly shown the means both civil and criminal which can manage or conduct the use of trademark rights with regard to protection of the original products from the competition caused by the counterfeit products. The legal measures are therefore put in place to ensure that the trademarks of the products are sufficiently protected such that they continue to enjoy the profits. The courts often issue the destruction and confiscation

finances and orders. The UAE is a signatory to different treaties regarding regulation of trade with respect to protection of the trademarks and other rights regarding intellectual property. The regulations cover the civil transaction law, custom law at the gulf cooperation which are unified as well as Anti-fraud and cheating law.

In relation to the protection and regulation of trademarks in the UAE, various measures have been taken into place to ensure that the owners of the products can fetch their profits without the interference by the counterfeit products which are rampant in the market. The government of the UAE have signed the law which strengthens the trademarks through custom duties (Lind, 2006 pg 34). The custom duties are unified in order to facilitate trademark protection and effectiveness at the border of countries. The customs department puts measures in place which will ensure that trademarks are properly utilized in deriving the utility of the products which are trademarked. This is done by thorough examination of the containers in order to check and verify the products being exchanged at the borders. Thorough training should therefore be imposed or imparted on the custom officers such that they can fight with the counterfeit products.

In relation to criminal prosecution, the complaints which pertain to the counterfeit products or services are handled through the public prosecutor and the police in UAE. The police in Dubai have a special department concerned with the economic frauds as well as the trademark infringement. The public prosecutor always receive the complains regarding trademark infringement and then forwarded to the police for thorough investigation of the counterfeit products as well as the processes involved in making the

counterfeit products. The case is thereafter referred back to the public prosecutor or approval. This procedural law helps in curbing trade infringement. The police action with respect to trade mark infringement is deterrent against the traders who cannot be frightened by the imposition of fines. The infringing goods are always destroyed as well as fining those who infringe the trademarks and infringement. The evidence of both the trademark and the counterfeit products should be available in order to assess the damage such good brought out or caused. This will therefore help prevent further infringement of the trademarks due the heavy penalties involved. The trademark certificates and the evidence of infringement are presented to the court in order to make decisions regarding both parties. The trademark laws have not given much attention to the specific remedies of such violation of the trademarks therefore it results in low payment of damages to the holders of the trademark rights.

In relation to a civil enforcement, a court order can be filed both in the company of the criminal case or separately against the infringing party in order to account for the damages the owner of the trademark have faced due the presence of the counterfeit products both in the short term and long-term. However, the infringing parties are forced to compensate the holders of the trademark losses incurred as a result of infringement.

QUESTION TWO

In the case of the Eveready batteries, the infringement of trademark is infringed by a branding name called Every day. This was basically meant to divert the attention of the customers in the market. This has played a big

role in decrease in profits of Eveready since the products were very similar resulting in charges related to the damages which the company holding the trademark will be compensated for. This infringement is illegal because it diverts the attention of customers of the common Eveready without noticing the loophole in the market. The confusion created in the market makes customers buy the counterfeit products which could not last long as per the expectations of the customer. This contradicts with the UAE trademark law because the name has been manipulated by everyday in order to take advantage of the already stable company called Eveready in order to enjoy the popularity already existing (Stim, 2000 pg 29).

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In relation to the Nike shoes, the tick has been used severally by other companies in making profits but no payment they did it back to the company. The name Nike which was our trademark has been greatly overused and misused by people who do not deserve these products. Nike swoosh fine is a registered trademark and deserves compensation since its trademark has been overutilized. This trademark has been widely misused for the purposes not intended to for the trademark Nike swoosh has therefore been manipulated to produce another sample of shoes which led to a completely different shoe which was made due to the infringement of the Nike trademark. This gave many loopholes which made the commodity to be self-compromised in quality and size (Stim, 2000 pg 19). The misappropriation of the trademark led to diversion of the attention of the customers to buy the counterfeit products due to the alteration of the trademark.

The trademark, Nike swoosh was meant to guard and protect the interest of

the shoe and clothes company. The distinct Nike trademark was therefore altered in order to market the products with the same trade mark . The trademark was therefore manipulated to ensure that the slogan was fully utilized in marketing the products as especially in relation to quality of the product.

QUESTION THREE:

In relation to the breaches of the trademark laws especially in UAE, many are the effects to the owners or holders of the trademark rights. The owners are faced with the challenge of los of customers since the cheap counterfeit products may divert the attention of the customers. The company may face challenges in marketing its products from the competition posed by the counterfeit products. The owner of the trademark may therefore experience a decrease in value of his rights because the profits may go down leading to losses. The breach of trademarks therefore have a greater impact on the owners because they are not given chance to enjoy their levels of creativity and innovation to the fullest (Taiwan, 2004 pg 25).

The agents of UAE also had an impact n the breaching of trademark laws since the law is straightforward on the action to be taken with regard to those who breach the trademark law. The agents include the custom department and the police who will take action based on the action of the situation where the trademark law was breached. This will affect the decisions of the agents because they may not be comfortable to work with company where its trademark is being used by others sine profits will go down. The agents like those involved in promotion and advertisement will

face more tasks and duties due to the stiff competition from the counterfeit products. It will therefore be difficult and burdensome to promote the products.

In the context of consumers, they will be dissatisfied because they may find themselves using the counterfeit products which may affect their lives. When the satisfaction of the consumers goes down, the general market will drop leading to losses in the sales of the product. The consumers will compromise on the quality of what they consume. This will also make the consumers difficult to make choices of what they consume since it will be difficult to differentiate products in the market. The levels of satisfaction of consumers may therefore go down and consumption of the product decreases. The consumers may also shift to consume other products which are well protected by the trademarks.

QUESTION FOUR:

The UAE law tries as much as possible to curb this issue of trademarks infringement. The legal framework therefore is effective since the legal action is taken against those who breach the trademark rights concerning production of goods or services. Those who go against the terms of the trademarks will be subjected to penalties or even fines with respect to the intensity of the infringement.

The holders or owners of the trademark rights may be paid damages or compensation when their rights are infringed by the other parties in the course of business. The damages are often paid to compensate for the loss of profits due to competition from those who infringe the trademark legal

issues. The legal framework is of essence in curbing the problems related to counterfeit products through the use of courts and police. The court process to be followed in the case of trademark infringement is clearly stipulated such that no many complications are faced in tackling this issue (Taiwan, 2004 pg 18). For damages or compensation to be paid for infringement of the trademark, enough evidence must be collected regarding the issue at hand in order to prove the holder the trademarks.

The use of the legal framework is positive in solving the problems related to infringement of trademark rights. It is therefore advisable to use the legal framework in solving the infringement of rights due to the various issues in the organization. The terms regarding the trademarks should also be made in the law. This will eventually deter crimes which could have been committed by hum beings

QUESTION FIVE:

The people or stakeholders responsible for reduction of the counterfeit products sold in UAE include the police, the public prosecutor. These stakeholders will help facilitate the process of justice in its organization. The damages or compensation paid to the infringed party should be stipulated in order to avoid the problems relate to infringement especially loss of customers. The court process is the commonly used in processing the infringement claims pertaining to business.

The intellectual property or trademarks deserves proper consideration mostly with respect to infringement of trademarks. The trademarks should be distinct such that they will not collide with the interest of other entities

such that the business will run smoothly. The counterfeit products sold in UAE can be reduced because through the legal framework I place as well as through proper management of the fundamentals of the trademarks.

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