

Knockoff: The Deadly Trade in Counterfeit Goods

By Tim Phillips

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The global counterfeit market currently wields nearly \$538 billion annually.¹ The U.S. counterfeit market alone is estimated to rake in between \$200 - \$250 billion a year,² greater than the entire annual GDP of Ireland, South Africa, Argentina, or Thailand.³ Yet cultural attitudes, industry responses, and legal remedies for combating intellectual property (IP) theft are mixed at best. Some view gaining access to free music, the latest movie or video game before it is released, or a “designer” purse, with not only a sense of entitlement, but as a status symbol. Others may not know they purchased a knockoff until a counterfeit drug or car part causes injury or even death. In his new book, *Knockoff: The Deadly Trade in Counterfeit Goods*, Tim Phillips dives into this complex global market and the underlying normative attitudes that drive it. Utilizing a myriad of examples from all over the world, Phillips successfully and accessibly unpacks the global counterfeit market and the forces that drive it.

Phillips argues that in order to combat an economy that is as old as it is global, IP must first be viewed as a benefit to society – as a tool for the encouragement of “liberal

¹ HAVOSCOPE ILLICIT MARKETS, COUNTERFEIT GOODS AND PIRACY INDUSTRY: MARKET DATA, <http://www.havoscope.com/Counterfeit/counterfeit.htm> (last visited March 29, 2007).

² U.S. CHAMBER OF COMMERCE, THE STATE OF AMERICAN BUSINESS 2007, 26 (January 8, 2006) available at <http://www.uschamber.com/publications/reports/sab.htm>.

³ THE WORLD BANK, DATA & STATISTICS: TOTAL GDP 2005 (last visited March 29, 2007) available at <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf>.

thought,”⁴ rather than one for censorship and protection of the elite. Phillip’s background as a business journalist and broadcaster comes through in his approachable language, and his ability to draw the reader in. The author traces the life of counterfeit goods through back alleys, mafia connections, and sweat-shops into the homes of middle-class Westerners, and impoverished children trying to obtain malaria medicine. “When you shower or brush your teeth tomorrow morning, imagine what it would be like if you didn’t know what was going to come of the shampoo bottle or toothpaste tube,”⁵ Phillips writes. The first section of the book “Anything Under the Sun,” captures the sheer magnitude of the global market. Phillips demonstrates the sharp contrast between the *Sex in the City* idealization of a good knockoff Hermes bag as a status symbol, and the overnight “ghost shift” worked at factories, pumping out counterfeit goods. If you think purchasing knockoffs combats the abuses of outsourcing by sending the profits straight to the factory owners -- think again, Phillips argues. As the author points out, ghost shift workers are not legal workers, and purchasing knockoffs only encourages their exploitation because consumers send the message straight to the factory floor that there is a demand, rather than sending a message to multi-national corporations to increase wages or improve working conditions.

Next, Phillips takes the reader “Inside the Knockoff Economy,” where he delves into many routes taken by counterfeit trade. Counterfeits are openly traded on Silk Alley in China, where, Phillips argues, cultural norms place more value on copying art than creating it. On the other side of the world, in Warsaw, Poland’s Stadium Market, the

⁴ TIM PHILLIPS, *KNOCKOFF: THE DEADLY TRADE IN COUNTERFEIT GOODS*, 13 (Kogan Page, 2005). Some of history’s earliest knockoffs date to 27 B.C. Thomas Jefferson created some of the first IP laws in the U.S. argued that they encouraged “liberal thought.”

⁵ PHILLIPS, *supra* note 4, at 24.

cultural norm encourages solidarity against reporting to the state, and vendors stand in doorways, their winter jackets filled with knockoff watches. Yet, it is the Internet itself that provides the easiest avenue for the disregard of IP and the sale of knockoffs. Phillips reveals how companies like eBay both provide a worldwide forum for the global exchange in counterfeit goods, while shifting the onus of controlling the counterfeits back onto the companies who are being knocked off. In contrast, it is the strategies of companies like Disney, who embrace the counterfeiting problem with authority and incentives for counterfeiters to go legit, that are the most successful. By recognizing that many counterfeiters were not career criminals, but simply trying to make a living, the company brought products up to standard and the former counterfeiters policed the market themselves because it benefited their underlying business model.

Not all counterfeiters, however, are trying to feed their families. Companies like eBay are one thing, but combating “The Scene,” an organization dedicated to stealing everything from software to movies before they are released legitimately to the public in order to provide them for free. Phillips notes, “almost two-thirds of the internet is devoted to the knockoff economy.”⁶ Policing a culture where the incentive to steal IP is not money, but clout in the subculture, presents an interesting dilemma from the policing perspective. Phillips posits: do companies try to destroy “The Scene” or use it to their advantage? Moreover, in some cultures, there is simply no value attached to buying the “real thing” in the mind of consumers. In Russia, the value of personal property is not the cultural norm, and strikingly, over 87 per cent of Microsoft software in Russia is

⁶ PHILLIPS, *supra* note 4, at 147.

counterfeit.⁷ When consumers receive weak customer service, the norm is reinforced, because there is no added value in purchasing legitimate products.

Perhaps most disturbing, however, is the final section of the book where Phillips unveils the “Counterfeit Killers,” such as counterfeit drugs, car parts and even airplane parts. While the more benign market of counterfeit “lifestyle drugs” such as Viagra may leave readers feeling slightly flaccid about counterfeit drugs, counterfeit HIV drugs that make the immune system unable to later utilize the legitimate drug that would have been effective underscores how serious counterfeit drugs really are. Furthermore, pharmaceutical companies are reluctant to announce the presence of counterfeits in the market place out of fear that it will drive consumers away from their products. Ironically, Phillips points out, the pharmaceutical industry has taken IP to the opposite extreme. Corporate culture so prioritizes secrecy and caution that meaningful solutions to counterfeit drugs are not discussed.

Ultimately, Phillips asks the reader to buy into the concept of IP in the first instance. We must consider the consequences of our individual contributions in the market – an argument that sounds more like a sociologist than a business analyst. Phillips’ book *Knockoff: The Deadly Trade in Counterfeit Goods* is a balanced presentation of the complex forces that contribute to the counterfeit market. Government, culture, consumers, and companies must work in harmony to create not only a counterfeit free market, but also a safe market that will result in better quality products for consumers, better protection for workers, and a less dangerous global economy.

⁷ PHILLIPS, *supra* note 4, at 156.