

PRESS RELEASE

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Negative Award “Plagiarius“ sheds public light on shameless counterfeits!

Globalisation, digital communication, the Internet and gullible (online) bargain-hunters are the major catalysts for the rampant spread of brand and product piracy. Yet, plagiarisms and counterfeits are neither compliment nor trivial offence. For counterfeiters, it is an extremely lucrative business model. However, the reputation damages for the brand name producers as well as the safety risks for consumers are immense. As long as there is demand for copied products, there will be adequate supply. A realistic information and sensitisation of the consumer world is crucial.

1977 – 2017: 40 years Negative Award “Plagiarius” against brazen theft of ideas

On February 10, 2017 the negative award “Plagiarius” - initiated by designer Prof. Rido Busse - was bestowed at the annual “Ambiente” in Frankfurt, the world’s largest consumer goods trade fair, during an international press conference. Since 1977, Aktion Plagiarius e.V. grants this anti-prize to those manufacturers and distributors whom the jury has found guilty of making or selling “the most flagrant” imitations and fakes. The goal is to denounce the unscrupulous business practices of counterfeiters who pilfer intellectual property and pass it off as their own creative achievement; as well as to raise public awareness of this complex problem that exists among industry, politicians and consumers. The black gnome with a *golden nose* trophy awarded is a symbol of the exorbitant earnings product pirates collect at the cost of innovative companies. This gnome was created to express the German aphorism “*to earn oneself a golden nose*” which means, “to earn a fortune”.

Forty years of “Plagiarius” has included about 400 prize-winning products and more the 1,600 submitted cases of plagiarism. Rewarded were products from all different kinds of businesses: cutlery and household items, sanitary products, tools, furniture, stationery supplies, toys, perfumes, jewellery, technical products and devices, such as non-functioning emergency ventilators, car wheels, chain saws, mopeds etc. Encouraging is the fact that over the past decades – and also this year – the huge publicity of “Plagiarius” has successfully accomplished a deterring effect: Prior to evaluating submissions and selecting the “anti-prize winners”, Aktion Plagiarius notifies the imitator that he has been nominated and provides him with an opportunity to share his point of view. The annually changing Plagiarius Jury takes this response, in addition to general case-related information, into consideration during their evaluation. Due to fear of public disgrace and bad publicity, many of the nominated imitators have withdrawn their remaining stock from the market, have signed cease and desist letters or revealed their suppliers.

Law vs. morality: Even “Principle of freedom to copy” means progress, not clumsy 1:1 copies

Naturally, the “Plagiarius” award remains silent about on whether a plagiarism is legal or otherwise. That decision depends on numerous factors, such as registered intellectual property rights for the original product or unfair competitive conduct of the imitator. Aktion Plagiarius does not, nor wants to, pass judgement. However, Aktion Plagiarius can call attention to the problems that affected businesses and consumers must face, and express the opinion, that clumsy 1:1 imitations are unimaginative and morally objectionable and lead to stagnation. Even legislature formulates the so called “principle of freedom to copy” as follows: (Technical) progress is only possible, when already existing inventions may serve as “*a basis or inspiration for new products*”. Thus, even freedom to copy does not legitimise almost identical products that could be confused with the original product. In this context, Aktion Plagiarius emphasises that legally competing products which follow a trend, but differ sufficiently in design and technology from the original product, do not have to fear a Plagiarius nomination, but in fact are explicitly appreciated, as they stimulate fair competition.

Principle “Counterfeit“: Minimal Input – Maximal profit – no entrepreneurial risk

What was once a cottage industry, has in times of Internet and globalisation developed into a professionally operating counterfeiting business with a global network. The facets of product and brand piracy are quite diverse: they include brand name counterfeits, design plagiarism, technology theft and pirate copies. Meanwhile, all of these are available at diverse prices and quality levels,

from cheap and dangerous knock-offs to high-quality imitations, that are hardly cheaper than the original product. No matter what category, cheap copies are not created inadvertently. The counterfeiters act rather deliberately, unscrupulously and driven by greed. They only copy market-ready products for which there is already a demand and thus minimise their own entrepreneurial risk - and all too often also their entrepreneurial responsibility. The majority of counterfeiters still use inferior materials, deliberately omit quality- and safety controls and produce under degrading working conditions. Thus, they recklessly put factory workers' and consumers' health at risk. De facto the "business model counterfeit" is extremely lucrative while the risk of being prosecuted is very low. Accordingly, the offenders are comprised of unimaginative competitors, small-time up to organised criminals, and, recently verified: terrorist groups. The last mentioned used cigarette smuggling and trade of counterfeits to finance their terroristic activities. In regards to the world-wide distribution of illicit goods, they often used the existing infrastructure, for example: traffic in drugs, arms and human beings.

Globalisation, digital communication, Internet and gullible bargain hunters

The internet and digital communication are major factors for the immense increase of brand and product piracy. Although international police authorities close down tens of thousands of websites for trade of counterfeits annually, the supply of illegal fakes and design imitations is unabatedly high. Often, these vendors reappear in a minimum of time with new brand and domain names to continue their business. Clearly, the convenient 24-hour worldwide availability of large quantities of alleged brand products at bargain prices motivates consumers to purchase. The counterfeiters easily deceive and insidiously entice the online-shoppers with photos of the original products as well as fake customer ratings and fake quality seals. Also, gullible bargain hunters often follow recommendations made in social networks and quickly and uncritically click on "Purchase", without thoroughly verifying the site notice, the payment terms, the cancellation policy and the general integrity of the provider. Yet, especially when buying on the Internet, common sense and a close inspection of the offer are essential. Experts from the consumer advice centres warn customers to conclude their purchase when the website contains all too many grammar and spelling mistakes or when e.g. "advance payment" is the only payment term offered. We know from the experience of cheated buyers that dubious vendors usually do not accept returns or provide refunds. The operators of Fake-Shops successfully veil themselves in the anonymity of the World Wide Web and sellers on huge online marketplaces often use fake identities and daily changing accounts. In order to protect consumers from fraudulent sellers, many brand owners provide lists of authorised retailers on their websites. Frighteningly, even leading marketplace operators (e.g. Amazon USA) do not make serious efforts to support brand name producers in their fight against illegal offers.

Supply vs. Demand: Buyers of counterfeits responsible for the success of fraudsters

When it comes to buying fake products, consumers often apply double standards. Bearing in mind an alleged bargain, all scruples vanish into thin air and social standards in the counterfeiters' factories do not seem to matter anymore. Generally, the evaluation of brand- and product piracy highly depends on the perspective. Entrepreneurs or consumers - as offenders they downplay the problem as a trivial offence, because they are beneficiaries of the circumstances. However, when being a victim of fraud and suffering financial losses or damages to health, the evaluation of the problem changes abruptly. In fact, original and plagiarised products are only misleadingly similar at first glance. Thus, consumers should not delude themselves into thinking that an identical product appearance automatically implies the same quality, functionality, precision and safety. As markets regulate themselves by *supply and demand*, each consumer bears considerable responsibility: Users who deliberately purchase counterfeit products, not only specifically undermine the brand name producers, they also support child labour and criminal business practices.

Anyone can make copies – but not everybody can create something new

Often affected brand name producers suffer even more from unjustified reputation losses – generated by substandard forgeries - than from factual financial losses due to non-realised sales. It is a fact that disappointed customers are likely to turn away from a brand and may even influence other customers with their negative comments. However, product development is a time-consuming and costly process and each new product is the result of creativity and technical know-how. Therefore, it is essential for brand name producers that customers show more appreciation and respect for the product creator's accomplishment in creating the original product. Innovative companies should enthrall consumers with the original product and convince them of the added value of their product in comparison with a visually identical but substandard plagiarism. Thus, brand name producers should not only invest in trademark protection but amplify their investments

in consumer protection and sensitisation, in order to create higher awareness of the problem of counterfeits.

Customs support enterprises and consumers in the fight against product- and brand piracy

According to the European Commission, in 2015 European customs officials seized more than 40 million IP infringing goods, with an estimated value of 650 million EURO at the EU borders – an increase of 15% compared to 2014. The majority of products seized had their origin in China and Hong Kong. Others among the countries of origin include the United Arab Emirates, Turkey and India. However, EU customs statistics can only shed light on part of this global problem. It is a fact that many Asian companies develop from the extended workbench of Western enterprises and become serious competing firms that successfully operate on global markets, register IP rights, and also consistently prosecute infringers. Furthermore, companies from industrial nations are often those responsible for ordering or importing these imitations. Also, in recent years, there were more and more European companies among the nominees of the negative “Plagiarius” award – often the genuine producer and the imitator come from the same country. And increasingly, the imitators turn out to be former production or retailing partners. In fact, nowadays, the offenders select a competitor’s successful product and purposefully check whether the product is protected by IPR. And when no such protection exists, they blatantly copy the product. To best secure their product know-how and trade secrets against theft, entrepreneurs should focus on a holistic strategy that involves legal, organisational and technical measures.

Museum Plagiarius – Original vs. Plagiarism

The Museum Plagiarius in Solingen (Germany) displays more than 350 product units, that are originals of all sectors and their brazen plagiarisms in direct comparison. In guided tours, seminars and consumer events, both industry and consumers experience a ‘first-hand view’ of the problem and receive information about the sweeping extent of the damages and dangers incurred by fakes. The collection is complemented by counterfeits seized by customs.

The Jury of the Plagiarius-Competition 2017:

Each year the jury is put together individually with specialists from diverse sectors. The following persons formed this years' jury:

Ulrike Adorf

Senior Clerk REACT Germany, Anti-Counterfeiting Network, Düren Germany

Martin Bendel

1. Mayor of the City of Ulm, Germany

Carin Benter

Managing Director daff GmbH & Co. KG, Düsseldorf, Germany

Ingrid Bichelmeir-Böhn

Head of Global Brand Protection, Schaeffler Technologies AG & Co. KG, Herzogenaurach, Germany

Cornelia Dollacker

Director Hessen Design e.V., Darmstadt, Germany

Mario Hehle

Head of Scouting & Venturing / Technology & Innovation, Linde AG, Linde Gases Division, Pullach, Germany

Dr. Oliver Schön

Judge at the Land Court Munich, 7th Civil Chamber, Germany

Karin Strübing

Managing Director Karin Strübing Innenarchitektur, Ulm, Germany

Jan F. Timme

Senior Partner Black IP GmbH, Insheim, Germany

Legal Advice:

Dr. Alik Busse

Certified IP-Lawyer, Lawfirm Busse & Partner, Munich, Germany

The **award ceremony of “Plagiarius 2017“** took place during the Consumer Goods Trade Fair “Ambiente“ at the Congress Center of Frankfurt Fair in Room “Illusion 1-3“ on Friday, **February 10, 2017, 1:00 p.m.**

The **‘laudatory speech’** on the prize winners was made by **Minister of State Boris Rhein**, The Hessen State Ministry for Higher Education, Research and the Arts. The Plagiarius prize winners 2016 and 2017 will be presented at the **Special Show “Plagiarius”** from February 10-14, 2017 at the **Foyer 5.1. / 6.1.** After the Ambiente the prize winners 2017 will be presented in the Museum Plagiarius in Solingen. (Bahnhofstr. 11, 42651 Solingen, Germany).

The Prize Winners of the Plagiarius-Competition 2017:

The jury met on January 14, 2017. Three main prizes and seven distinctions (equal in rank) were awarded; total entities: 27.

1. Prize

Retractable Dog Leash “flexi Explore L”

Original: flexi-Bogdahn International GmbH & Co. KG, Bargteheide, Germany

Forgery: Various anonymous online sellers, using fake identities and daily changing accounts on amazon.com (USA). The inferior quality (e.g. dysfunctioning retraction mechanism) already led to customer complaints and reputation damages in the US.

2. Prize

Office Chair “Silver”

Original: Interstuhl Büromöbel GmbH & Co. KG, Meßstetten-Tieringen, Germany

Plagiarism: Distribution: Shenzhen Chunshan Trading Co. Ltd., Shenzhen, PR China

3. Prize

Pressure Gauge

Original: WIKA Alexander Wiegand SE & Co. KG, Klingenberg, Germany

Forgeries: Manufacture: Ma Anshan Exact Instrument Co., Ltd., PR China

Distribution: Buu Ky, Ho Chi Minh City, Vietnam

In 2015 the Economic Police confiscated “WIKA“-counterfeits within the scope of a raid at Buu Ky. In 2016, within the scope of a 2. raid, the “VIKA“-falsifications were found. Partially, the producer simply scraped off the first part of the “W”, partially he changed the “W” into a “V” (see the blank space at the VIKA-logo).

Seven “Distinctions“ (equal in rank) were awarded:

Wash Basin Mixer “AXOR Starck V” and “Metris Classic”

Originals: Hansgrohe SE, Schiltach, Germany

Plagiarism “AXOR”: Taizhou Ranbo Sanitary Ware Co., Ltd., Zhejiang, PR China

Plagiarism “Metris”: Heshan Khone Sanitary Ware Technology Co., Ltd., Zhejiang, PR China

Vacuum Flask “Ciento”

Original: Helios Dr. Bulle GmbH & Co. KG, Wertheim, Germany

Design-Plagiarism incl. Trademark Infringement:

Distribution: Bazaar vendor in Dubai, UAE United Arab Emirates

The imitator copies the design of the vacuum flask “Ciento” of Helios. However, he sells the copies neither under his own trademark nor under “Helios”, but illegally uses the Swiss trademark “Zepter” of the company Zepter International. He combines the design of one renowned company with the trademark of another well-known company. Also, there is no link between “Zepter” and “Prima Germany”. The background of “Prima Germany” is unidentified.

Bag “Taschelini”

Originals: Koziol ideas for friends GmbH, Erbach, Germany

Plagiarisms: Manufacture: PR China

Distribution: TOKYO 1, Japan Houseware, Indonesia

Pilot Jacket “Mascot Safe Image”

Original: Mascot International A/S, Silkeborg, Denmark

Plagiarism: rukka AG, Tübach, Switzerland

Distribution of the plagiarism only in Switzerland

Nutcracker “Naomi”

Original: Take2-Design GmbH & Co. KG, Rosenheim, Germany

Forgery: Distribution via AliExpress.com, Chinese Online Vendor, unknown identity

Endless Julienne Cutter

Original: triangle GmbH, Solingen, Germany

Plagiarism: Distribution: YDD Trade s.r.o., Prague, The Czech Republic

Professional Transport Helper “StarCarrier”

Original: Wagner System GmbH, Lahr, Germany

Plagiarism: Distribution: MERKUR trgovina, d.d., Naklo, Slovenia

Imprint

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