

The Internet of Counterfeiting

Presented to Oregon Chapter of the Association
of Corporate Counsel
September 23, 2014



 Davis Wright
Tremaine LLP
DEFINING SUCCESS TOGETHER



HOW LARGE IS THE PROBLEM



Counterfeiting and piracy represent 5 to 7 percent of world trade or \$500 - \$600 billion in sales annually.

Source: US Trade Representative's 2012 Annual Special 301 Report

- More than 3 times the \$165 billion combined annual revenue of the entire US Clothing retail store business

First Research, <http://www.firstresearch.com/Industry-Research/Clothing-Stores.html>

- Almost twice the estimated annual profits from the sale of illegal drugs worldwide (\$321 billion)

Thematic Debate of the 66th Session of the UN General Assembly on Drugs and Crime, <http://www.un.org/en/ga/president/66/Issues/drugs/drugs-crime.shtml>

- Almost twice the total prescription drug sales in the United States (\$320 billion in 2011)

IMS Institute for Healthcare Informatics, www.imshealth.com



Online counterfeiting will soon surpass the volume sold by street vendors and in other physical markets

Source: 2013 Special 301 Report

Almost 25% of global Internet traffic is attributable to copyright or infringing content

Source: Envisional report (January 2011)

Rogue websites selling pirated digital content and counterfeit goods generate more than 53 billion visits per year.

Source: MarkMonitor Market Study 2011



SHIFT FROM BRICK & MORTAR TO ONLINE

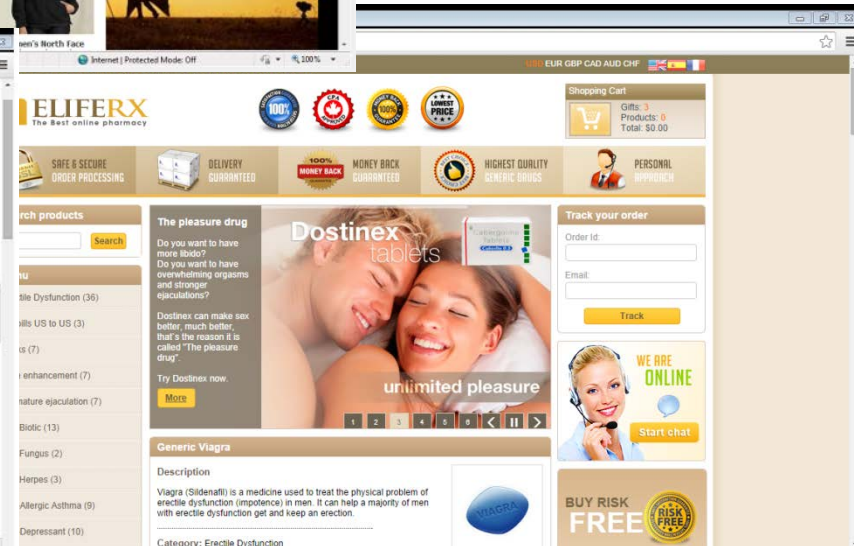
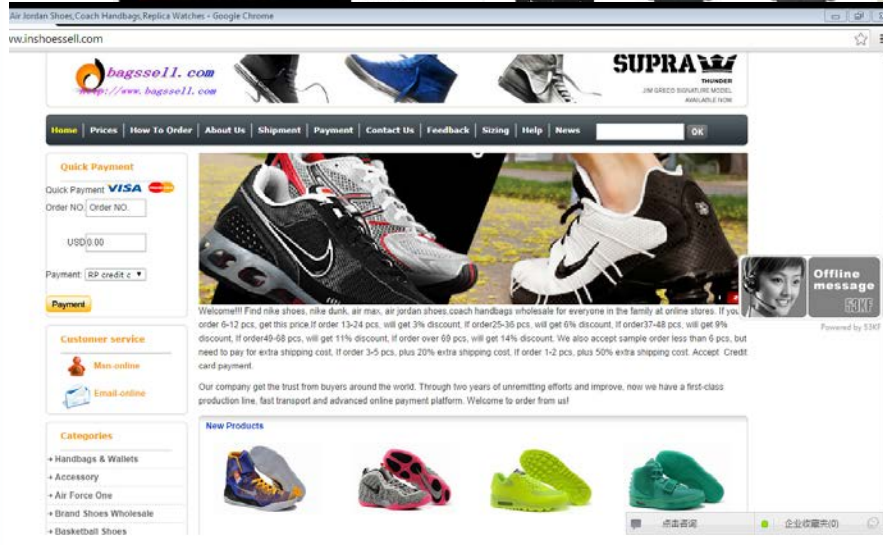
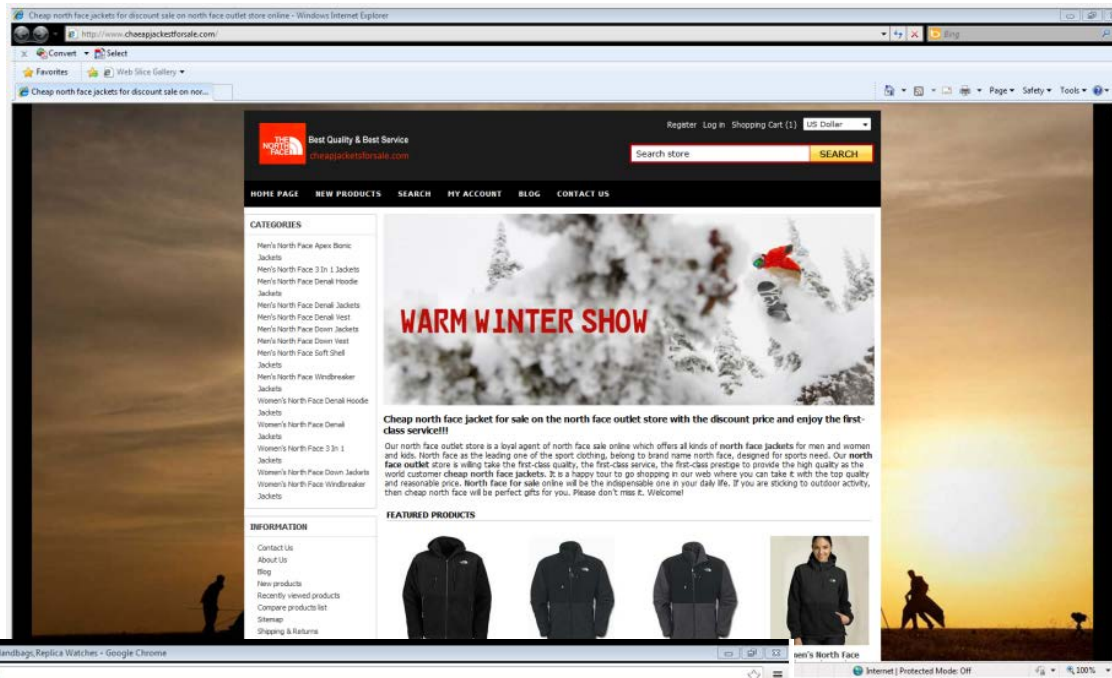


COUNTERFEITING/PIRACY IS NO LONGER CONFINED TO NEW YORK'S CHINATOWN, BEIJING'S SILK ALLEY OR LA'S SANTEE ALLEY





COUNTERFEITING/PIRACY IS NOW FOUND ON HUNDREDS OF THOUSANDS OF WEBSITES





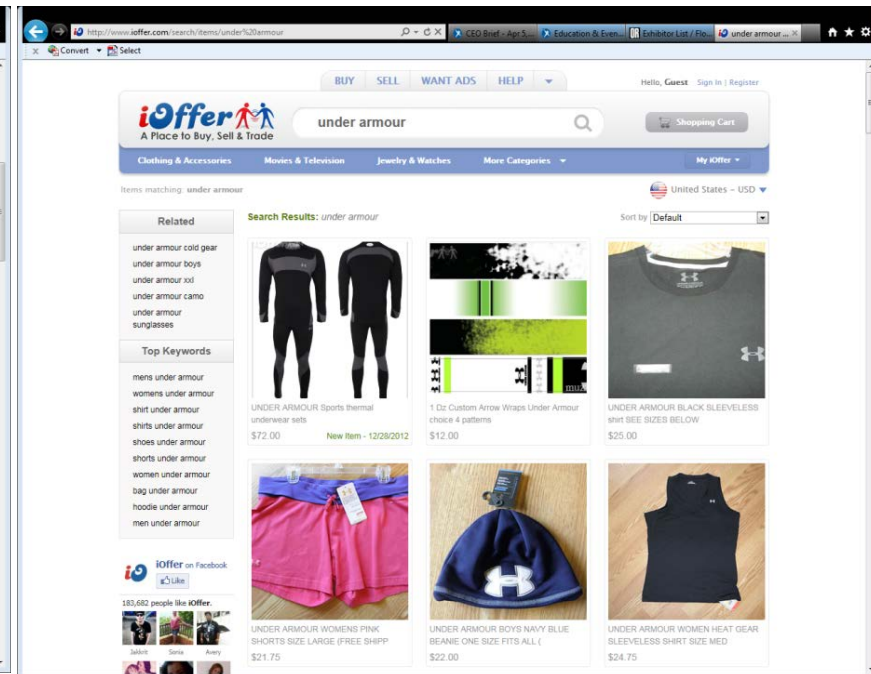
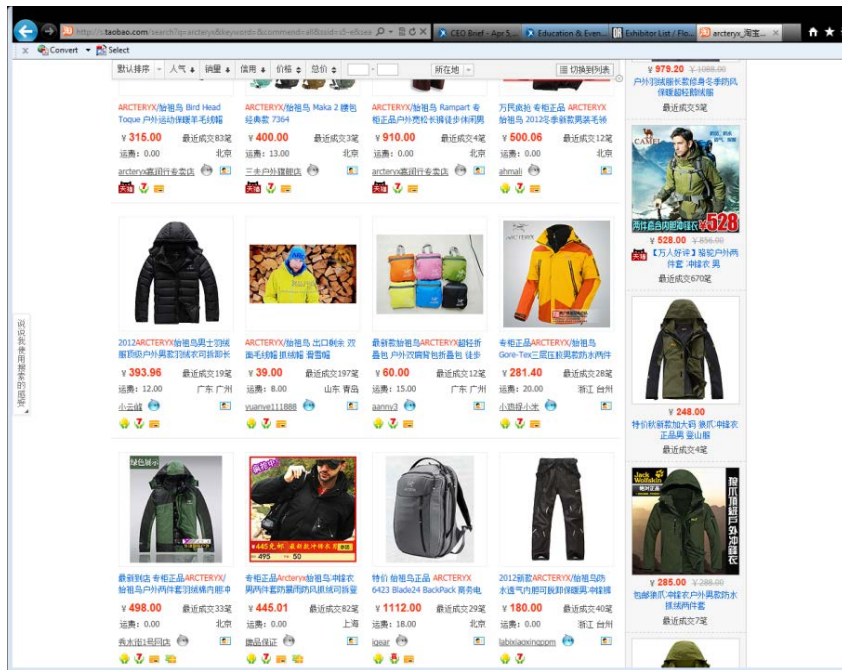
Multiple Websites Attract More Consumers

Cluster	# of Sites	Monthly Sessions
Cluster 1	7,861	20,463,703
Cluster 2	1,282	12,596
Cluster 3	111	7,915
Cluster 4	24	1,333
Cluster 5	12	158

MarkMonitor Data Based on Apparel and Footwear Websites

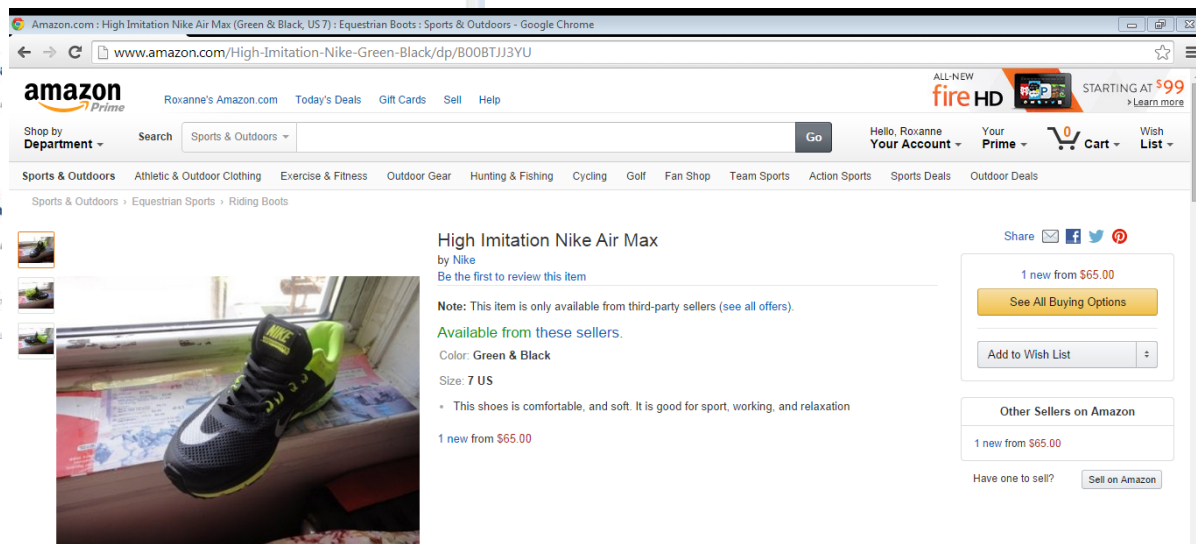
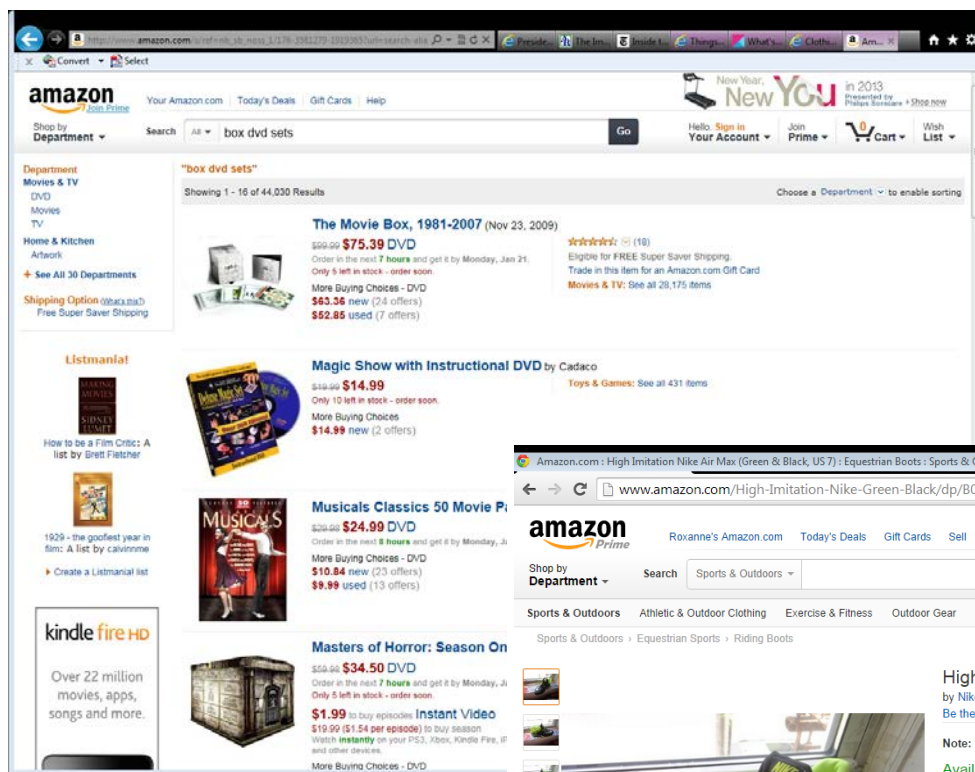


COUNTERFEITING/PIRACY IS NOW FOUND ON AUCTION SITES AND TRADEBOARDS



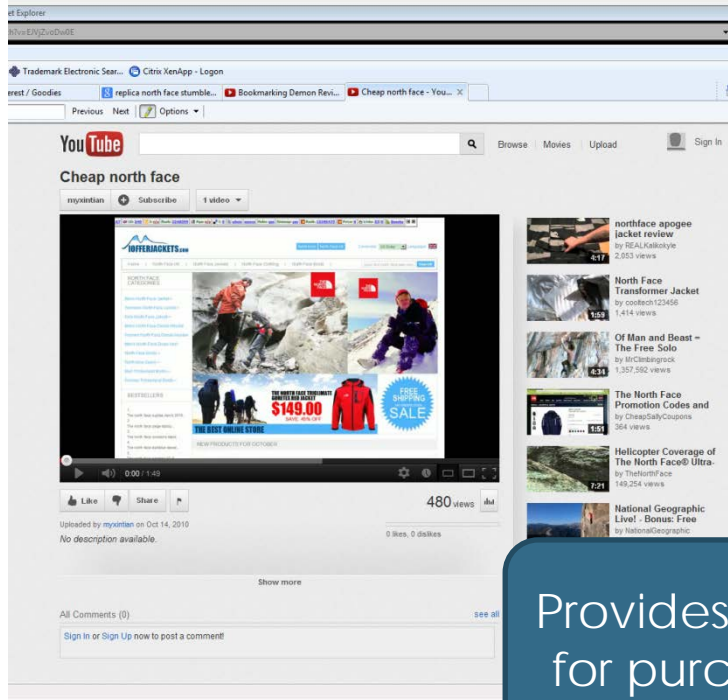


COUNTERFEITING/PIRACY IS NOW FOUND ON THIRD PARTY RETAIL WEBSITES



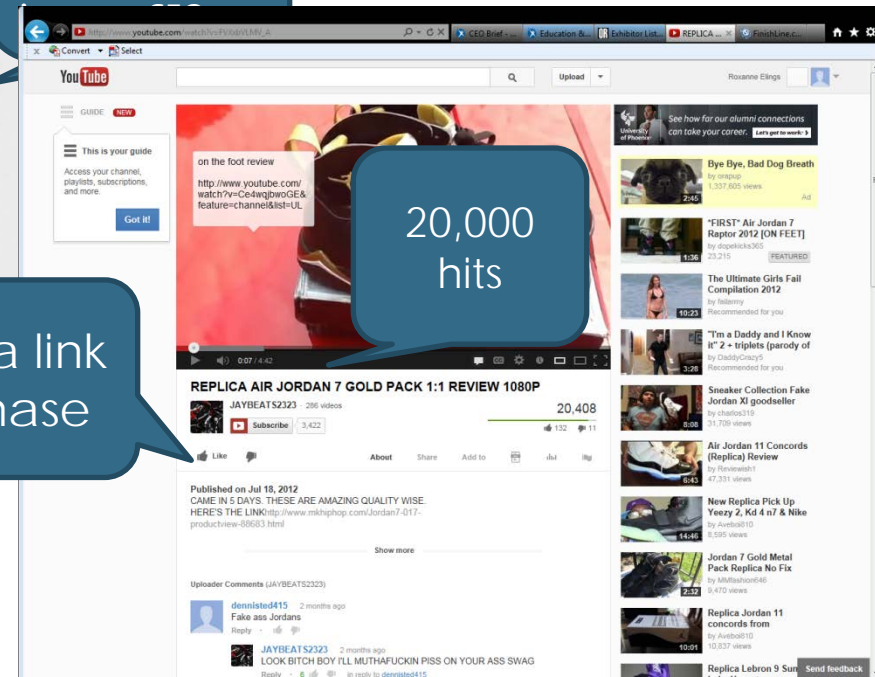


COUNTERFEITING/PIRACY IS NOW FOUND ON SOCIAL MEDIA



Use descriptors to position with highly trafficked videos, get more views and

Provides a link for purchase



YouTube







Polo Ralph Lauren Wholesaler | Facebook - Google Chrome
https://www.facebook.com/polowholesaler


facebook

Email or Phone: elingsr@gmail.com Password: [] Log In
☒ Keep me logged in Can't log in?

Create Page

Recent
2014
2013
Founded








 **Polo Ralph Lauren Wholesaler**
Clothing

Timeline About Photos Likes

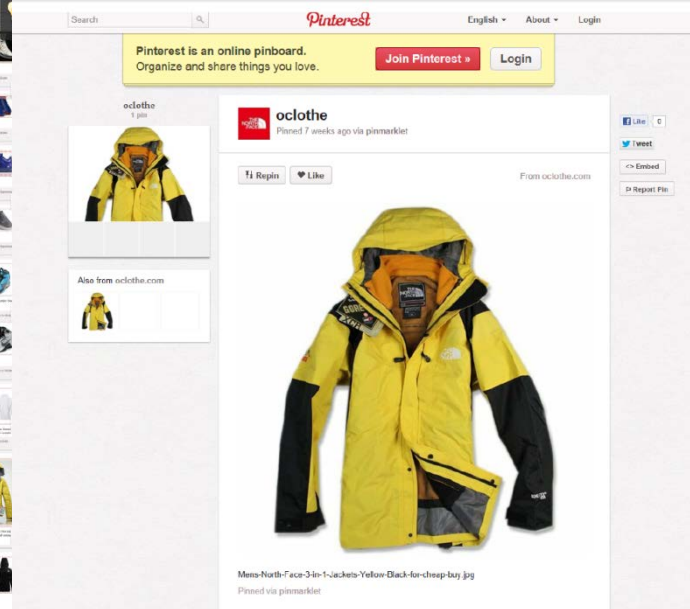
PEOPLE >
214 likes

ABOUT >
Wholesale and Retail Authentic Polo Ralph Lauren Clothing for Men and Women, Free shipping on all Orders.
<http://www.wholesale-ralphlauren.com/>

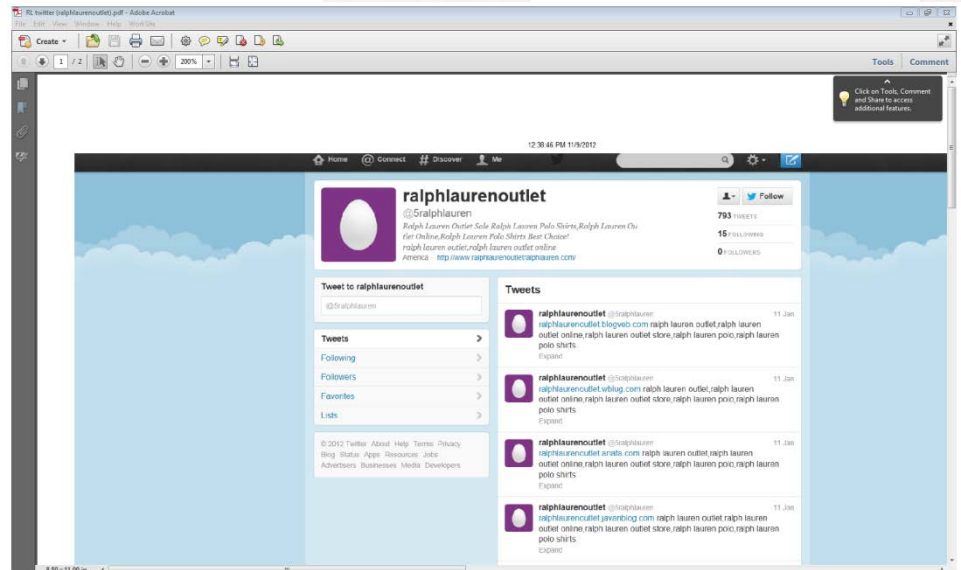
 **Polo Ralph Lauren Wholesaler** shared a link.
September 10
Authentic and cheap Ralph Lauren Polos clothing for men and women, discount up to 95% off!
=> <http://www.wholesale-ralphlauren.com/>

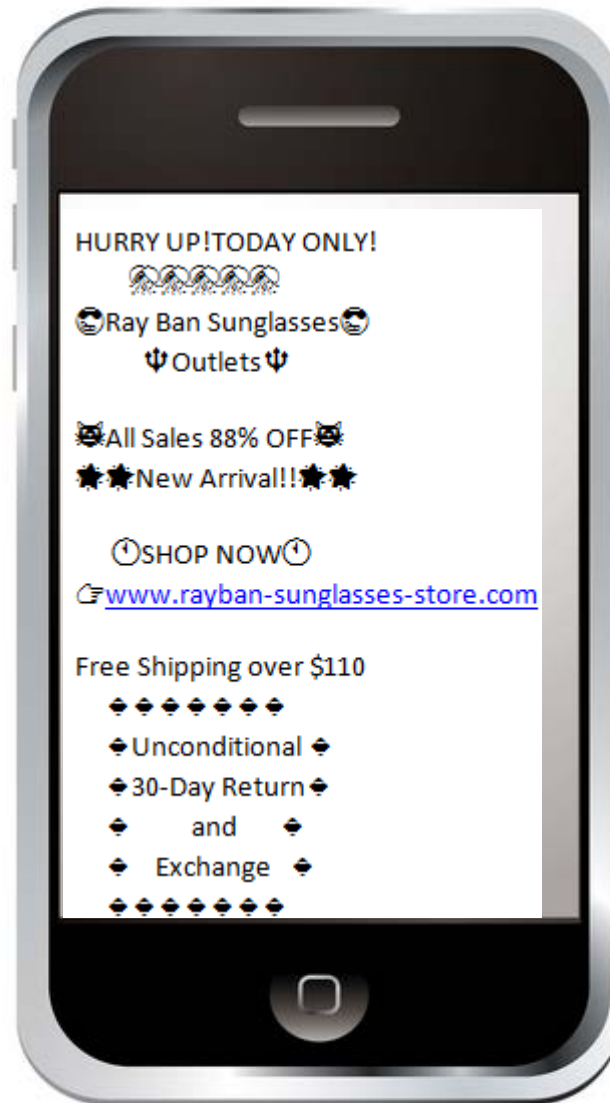


Facebook



Pinterest/Twitter





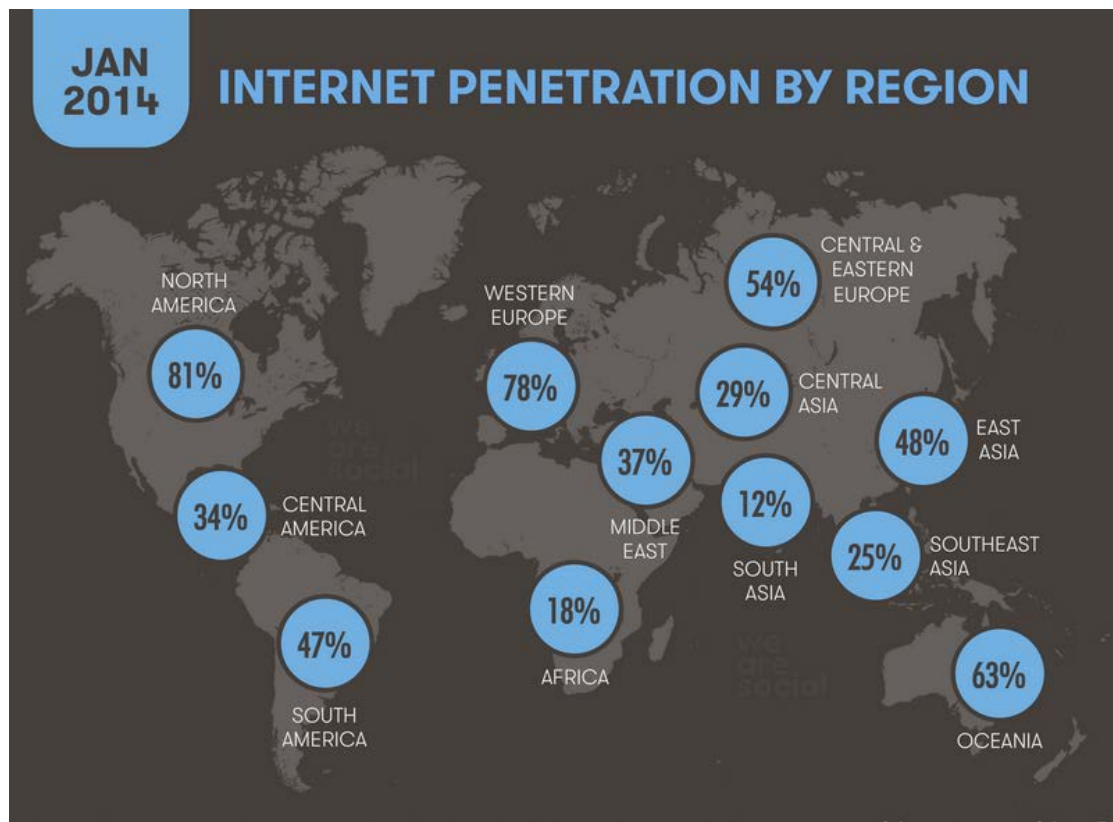
TEXT MESSAGING



WHAT DOES ONLINE COUNTERFEITING MEAN FOR THE CONSUMER



ACCESS 24/7 TO MORE CONSUMERS





LOOKING FOR BARGAINS, FINDING FAKES

“The prices of the imitators are rising, confusing customers who are looking for the real deal at a discounted price. Still, the higher-priced fakes are just a fraction of what a real item would cost.”

-- *Fashion Fakes Get More Sophisticated*
The Wall Street Journal, June 30, 2011



Price Conscious Shoppers Are Confused

About one in five U.S. and European bargain hunters (e.g., those searching on terms such as cheap, discount, or outlet without brand names) land on sites selling counterfeits and they were more likely to convert—in other words, put something in the shopping cart—than those who land on a site selling legitimate merchandise.”

Full Study Period – United States	Legitimate Session Conversion Rate	Counterfeit Session Conversion Rate
Sessions Involving Searches for Counterfeits	10%	16%
Sessions Involving Searches for Bargains Only	12%	16%
Full Study Period – Europe	Legitimate Session Conversion Rate	Counterfeit Session Conversion Rate
Sessions Involving Searches for Counterfeits	4%	9%
Sessions Involving Searches for Bargains Only	3%	17%



What Does Online Counterfeiting Mean For The Brand?



IMPACT ON BUSINESS

Multinational brand owners lose approximately 10% of their top-line revenue to counterfeiters.

-- Secretary-General
International Chamber of Commerce

- Traffic is diverted from legitimate distribution channels to counterfeiters who can offer very competitive pricing
- Marketing costs rise when illicit sellers bid up paid advertising costs and/or erode legitimate search engine optimization
- Increased brand protection costs
- Increased costs to handle increased consumer complaints



IMPACT ON BRAND VALUE

- Perceived brand value plummets when counterfeits become or appear to be plentiful
- Quality problems with fake goods affect the legitimate brand's customer base
- Product safety issues





How Does a Brand Respond?

- Understand the scope of their problem, which varies across industries and even across brands
- No one-size-fits-all approach and it usually makes sense for brand owners to employ various tactics simultaneously
- Imperative to create an effective online brand protection strategy to ensure that brand integrity, marketing investments and customer trust are not being undermined



Remedies/Resources Available To The Brand Owner

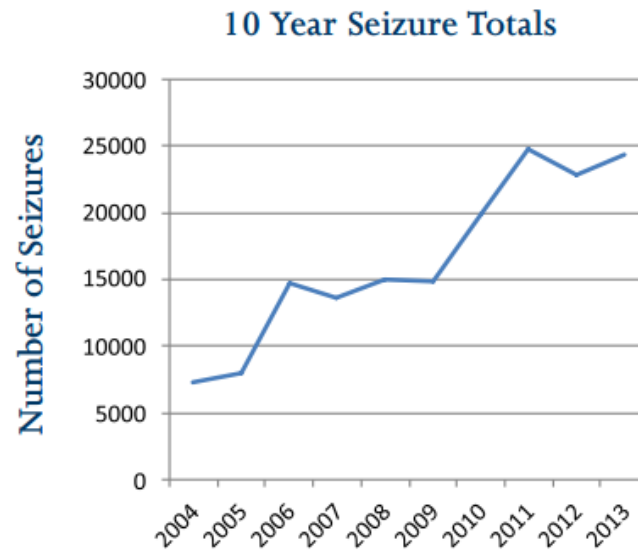


Government Actions

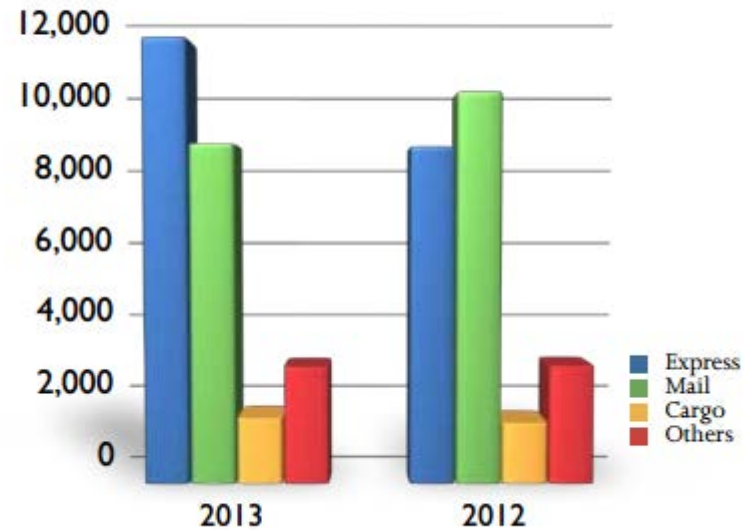
- The National Intellectual Property Rights Center's Operation In Our Sites targets websites that sell counterfeit goods.
 - The IPR Center -- with the U.S. Department of Justice -- prosecutes and convicts individuals, as well as seize profits.
 - 1,719 domain names have been seized since June 2010. These websites have received more than 112 million individual views.
- Cooperation among customs Agencies
- Customs Seizures



- # Customs Seizures



Number of IPR Seizures



Third Party Cooperation



- Report posts to trade boards/auction websites
 - Alibaba and 20 other Chinese Internet firms, including social media giant Tencent Holdings Ltd. and search provider Baidu Inc., vowed to cooperate to fight online counterfeiting
- Work with Third Party Suppliers
 - In 2013, Google reported disabling 2 million bad ads; banning 14,000 advertisers
 - IACC and G2 Web Services reported terminating 906 individual merchant accounts as of October 2012
- Educate Third Party Suppliers

Rogue Website Litigation



- Take down websites en masse
- Disrupt revenue flow to counterfeiters
- Take down online social media
- Track counterfeiters' changing methods of business
- Only viable ongoing solution against rogue websites
- Curtails direct supply to trading platforms (eBay/iOffer); brick & mortar



ROI for DWT clients since March 2010



Polo And North Face Prevail In Web Counterfeiting Case.

WWD | September 16, 2010 | Steigrad, Alexandra | [Copyright](#)

Byline: Alexandra Steigrad

Polo and North Face Prevail In Web Counterfeiting Case

Polo Ralph Lauren Corp. and VF Corp.'s the North Face unit scored a major victory against cybersquatters, but collecting the damages may be another matter entirely.

A court in the Southern District of New York awarded the brands \$78 million, the highest sum of damages ever awarded in an Internet counterfeiting case.

Initially filed in March, the lawsuit pitted the apparel brands against a network of Web sites selling counterfeit goods to U.S. customers through up to 6,500 domains: laurenpolo.com and officialnorthface.com. ...

- **50,000+** websites disabled
- **50%-90%** decrease in presence of rogue sites
- **\$10 million+** returned to clients/currently seized
- **200 million+** visits per month averted



The rise of counterfeiting is a global problem that requires an aggressive solution and international cooperation. Brand owners should not lose hope – a comprehensive brand protection strategy, including a legal enforcement component, will lead to a return on investments for years to come.

Roxanne Elings



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