

Manufacturers Propose Tools to Fight Counterfeiting

A group of manufacturers, trade groups and others are calling for tougher laws, increased government support and technology solutions—such as RFID—to fight counterfeit and pirated goods.

By Beth Bacheldor

June 19, 2007—Earlier this month, investigators from the U.S. Food and Drug Administration (FDA) found a poisonous chemical in counterfeit Colgate toothpaste being sold by a discount store in Maryland. FDA investigators began spot-checking toothpaste at retailers and distributors on May 31, after tainted toothpaste from China had been discovered in Australia, the Dominican Republic and Panama.

This discovery prompted consumer goods manufacturer Colgate-Palmolive Co. to issue a statement warning that toothpaste falsely packaged as "Colgate" had been found in several discount stores in New York, New Jersey, Pennsylvania and Maryland, and that some counterfeit product samples had contained diethylene glycol, a chemical used in antifreeze. Consequently, the distributor of the counterfeit product, MS USA Trading, of North Bergen, N.J., is now recalling all lots of 5-ounce "Colgate" tubes it had previously sold to retailers.

Numerous manufactured products—from luxury items to sporting goods to pharmaceuticals—are counterfeited, trafficked and sold every year. Now, the National Association of Manufacturers (NAM), along with other members of the Coalition Against Counterfeiting and Piracy (CACP), has completed a white paper intended to encourage legislation, policies and technology that will help combat the counterfeiting and piracy. NAM is an industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states; the CACP is a coalition of more than 300 businesses and associations working with Congress and the Bush administration to drive government-wide efforts.

The white paper, announced last week and titled the "Intellectual Property Rights Enforcement Initiative," offers a number of recommendations that could be brought to bear in the fight against counterfeiting and piracy. Work on the initiative got underway about three months ago, says Mark-Anthony Signorino, NAM's director of technology policy, at the behest of numerous NAM members.

RFID tags provide unique ID numbers that can be associated to specific manufacturing data, such as the date and time of manufacturing, the product lot numbers and information regarding which companies distributed the goods. When attached to cases and pallets of goods, such tags have the potential to prevent product counterfeiting, because at various points in a supply chain—from the manufacturer to a logistics company and on to customs, then to distributor sites and, ultimately, at retail sites—the tags can be read to ensure goods are authentic. While NAM and the other CACP members did not specifically name RFID in the document, Signorino says RFID tagging is definitely something the manufacturing industry should—and is—considering. "We want to encourage new technologies," he says. "While we don't name RFID specifically—because we don't want to create technology winners and losers—RFID is one of the things we

were thinking about."

For example, the white paper suggests there be regulatory and policy changes within the U.S. Customs and Border Protection (CBP) that would enable the "use of cost-effective new technological means for the identification of pirate or counterfeit product (e.g., authentication technologies)." To that end, the paper asserts that CBP should be allowed to accept donations of hardware and software.

"The pharmaceutical companies are starting to use RFID for track and trace," says Signorino. "Why can't we do that with other products? Anything we can do to help promote technology or new solutions that can protect folks from bad products, and protect the industry from counterfeiting, is worth our efforts."

The pharmaceutical industry, with backing from the FDA, is exploring RFID's potential to help prevent drug counterfeiting (see FDA Issues New 'Counterfeit Drug Task Force' Report and Pfizer Prepares for Viagra E-Pedigree Trial). In addition, the organization is encouraging—and may require—medical device companies to use RFID and/or other technologies to help track and trace the products they manufacture and supply (see FDA Reviews Comments on Device-ID System).

In addition to calling on the use of technology to help fight the counterfeiting and piracy of manufactured goods, the white paper also makes a number of other recommendations, such as education, training, enforcement and punishment. For example, the group recommends that federal criminal liability with regard to counterfeit goods be extended beyond the current law, which covers only trafficking, to incorporate the entire distribution chain of counterfeit goods—including those who knowingly manufacture counterfeit products.

RELATED_ARTICLES The paper recommends the U.S. Commerce Department designate, train and assign 10 additional intellectual property (IP) attachés at key U.S. embassies and other diplomatic missions. It also advocates that there be additional direct funding to the U.S. Justice Department's Computer Crime and Intellectual Property Section, to train law enforcement counterparts overseas in prosecuting intellectual property rights cases, among other things.

Now that the white paper has been completed, NAM, CACP and fellow member organizations plan to meet with legislators. "Our next step is to build support up on the Hill," says Signorino. "There are a number of members of Congress that have asked to talk to us, that want to hear more and look for ways to help. Once we get a definite champion [of this initiative], I think we can come out and work with members of Congress to draft real legislation."

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