



Intellectual
Property
Office

IP  CRIME GROUP



IP CRIME AND ENFORCEMENT

REPORT 2016/17

AT A GLANCE



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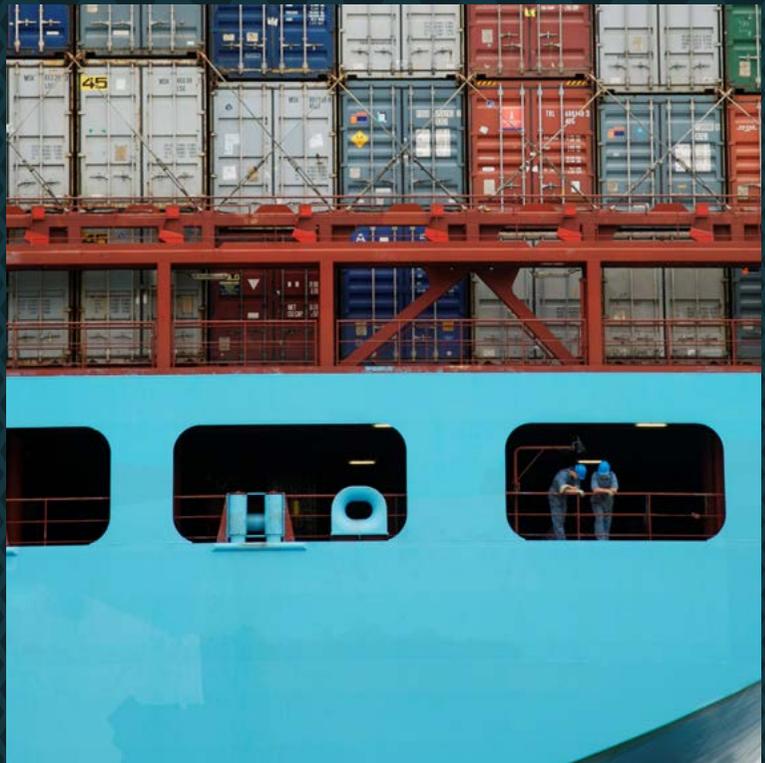
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DISCLAIMER

The findings, facts and opinions in the IP Crime and Enforcement Report are those of the IP Crime Group members and not necessarily the views of the IPO or the Government. The data has not been substantiated by the IPO.

Chapter 1

WELCOME TO THE IP CRIME AND ENFORCEMENT REPORT 2016/17



FOREWORD



Jo Johnson

Commerce is about copying. Making exact, reliable copies of consumer products characterises industrial production. In the creative economy, copying through printing has driven innovation.

In digital Britain copying can be instantaneous, faultless and universally available. Guaranteeing the validity of copies is central to the success of all businesses and economies. Today, a ‘genuine article’ is a ‘legitimate copy’, protected and

identified by intellectual property rights and licences. Without these guarantees, innovators do not get paid, legitimate business cannot thrive, consumers suffer and, because the technology needed to make illegal copies is universally available, criminals prosper.

In a world where copying is easy, the guarantee of origin legitimises all production.

Intellectual property law was developed to defend the rights of legitimate businesses to copy and sell goods of their own design, invention and brand. It is no surprise that the regional hubs of the UK economy, not just the capital itself, led the drive to organise and authorise copying. In Sheffield and Manchester registers of steel and textile makers’ marks and designs were created to protect the public and businesspeople from illegal copying.

As a result of the success of online platforms, from Facebook to eBay, imports of counterfeit goods are no longer necessarily transported in shipping containers. Fake goods can be ordered directly, by individuals from criminals anywhere in the world and delivered by post

The Intellectual Property Office’s (IPO) partners at the European Observatory on Infringements of Intellectual Property Rights and the Organisation for Economic Co-operation and Development (OECD) estimate that the value of Europe’s illegal market is £76bn¹. UK government figures suggest that the annual loss to our economy through IP crime is £9bn².

Recently commissioned research from the IPO estimates 15%, approximately 6.7 million of UK internet users, consumed at least one item of online content illegally during the 3 months prior to March 2017³. Moreover, because technology has made copying easier - it can be done through set-top boxes, streaming unlicensed tv programmes in the living room. In this way criminality threatens to implicate millions of ordinary consumers.

1 <https://euiipo.europa.eu/ohimportal/en/web/observatory/mapping-the-economic-impact> - figures relate to 2013 website as of 24/72017. Full report (OECD/EUIPO (2016), Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact, OECD Publishing, Paris. <http://dx.doi.org/10.1787/97892642653-en>

2 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60942/THE-COST-OF-CYBER-CRIME-SUMMARY-FINAL.pdf and OECD/UK GOV report: (2017) Fake goods, real losses, trade in counterfeit products in the UK Economy.

3 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/628704/OCI_-tracker-7th-wave.pdf

Illegal copies come from illegal businesses. This report stresses that these ‘businesses’ may be run by organised criminal gangs with international networks. Criminals have no regard to the safety of goods and the danger to the public from fake pharmaceuticals, engine parts and electrical goods is obvious.

The importance to UK business of successful inter-agency national and international IP protection and collaboration cannot be over-emphasised. Last year the value of the UK’s export of Scotch whisky rose to almost £4bn⁴. By its very nature Scotch whisky must be produced in Scotland. The direct threat to the local economy from counterfeiting at a global level is easy to imagine. In this report a landmark case from China, in which The Scotch Whisky Association, with support from the British Embassy’s IP Attaché team, used their Chinese trade mark registrations to prosecute a manufacturer capable of producing tens of thousands of bottles of counterfeit Scotch whisky, illustrates international collaboration at its best.



**In a world where copying is easy,
the guarantee of origin legitimises
all production.**

4 Scotch Whisky Association website: <http://www.scotch-whisky.org.uk/news-publications/news/scotch-whisky-exports-return-to-growth/#.WXXepbFzug> (checked - 24/7/2017)

This year’s IP Crime Report brings together the key partners who are protecting our businesses and consumers against criminality. The IP crime protection community represents a blending of government, law-enforcers, trade and industry groups and individual companies. This report provides an insight into the work of our IP crime fighters, from local initiatives against street traders in Manchester, to complex multi-agency initiatives like Operation Jasper, to the development of effective legal remedies against IP crime through the courts.

As well as fighting crime, we also recognise the importance of educating our consumers so they understand the harm IP crime causes to creative businesses and our communities. The report highlights work by partners such as Aardman, Electrical Safety First and Industry Trust in delivering this message to consumers.

The UK’s work on IP crime protection is recognised as one of our great strengths, part of the valuable infrastructure which encourages and protects investments made here. Our modern industrial strategy will also set out how we will take steps to support sectors such as our world leading creative industries, to ensure they continue to grow.

This report characterises that commitment - the operational efficiency, the determination of organisations to collaborate and innovate, a willingness to take action and a commitment to defend the rights of consumers and traders in a commercial environment that they can trust.

Jo Johnson
**Minister of State for Universities, Science, Research
and Innovation**

INTRODUCTION



Giles York

This year's IP Crime and Enforcement Report contains a broad and fascinating summary of the diverse and successful approaches to tackling IP Crime across the UK. Despite the fiscal restriction being placed on front line enforcement teams across agencies, the report still contains many diverse examples of successful targeted multi-agency operations.

During 2016, over 2 million suspected infringing items were detained by Border Force. In 2013 counterfeit trade according to the OECD, cost the UK government and taxpayers an estimated £3.8bn in unclaimed tax revenue. This crime impacts on the UK economy at a national level but also locally undermining legitimate businesses and individuals working hard to innovate and create in a range of industries vital to our forthcoming industrial strategy.

E-commerce continues to expand and is a significant factor on the proliferation and availability of counterfeit merchandise and underpins the need to focus on enabling consumers to understand that products purchased in this way are often unsafe or potentially harmful with profits supporting criminal lifestyles and organised crime investing in other types of crimes.

Key trends identified as coming to the fore since last year's report include use of auction sites and other online sales platforms, especially Facebook Marketplace and Instagram, to bring counterfeit goods directly to consumers, often facilitated by smartphone apps.

'Fulfilment Houses' are being used as a method for organised crime to facilitate importation of counterfeit and unsafe goods alongside legitimate goods. They are used to bypass UK legislation and border checks, concealing the country of origin to UK consumers or for export into Europe.

Online, a trend of illicit streaming devices has been highlighted as another emerging threat from last year and has developed to mainstream products in some parts of the UK, undermining the creative industries involved in bringing Films and TV shows to market.

Key trends identified as coming to the fore since last year's report include use of auction sites and other online sales platforms.

However these threats are being met head on by a diverse and innovative range of approaches to the threat that the report details. Some examples include; a landmark voluntary agreement this year, between IP rights holders bodies and the search engines Google and Bing, to stop links to infringing content featuring prominently in search results to consumers in the UK, raising penalties for online copyright infringement to match that for offline under the new Digital Economy Act 2017, the first successful criminal prosecution relating to IPTV, and the addition of Financial Investigators to the IPO Intelligence Hub.

The ambition of the UK Enforcement Strategy to support UK businesses have confidence in UK and global IP protection, have access to the effective mechanisms to tackle infringements and raising awareness of the IP to consumers is being achieved. The report illustrates how some of these successes are being enforced but also the measures that achieve longer lasting changes like the programmes in SE Asia and India to promote IP protection and important judicial exchanges with China.

Without doubt Brexit will be an important influence on UK IP industries, however the UK also has a recognised world class IP enforcement regime. This report, containing a wealth of detail that fully illustrates the success of continued effective partnership working across industry, rights holder and enforcement communities here and abroad.

I commend all those enforcement officers who continue to work diligently and imaginatively in this area, sometimes taking personal risks to secure the right results for rights owners, the UK economy and most importantly the safety of the public.

Giles York
Chief Constable Sussex Police

EXECUTIVE SUMMARY

This report offers all agencies, businesses, enforcement officers and trade organisations involved in IP crime prevention a chance to reflect on the year's work and consider what needs to be done. The overall picture, notwithstanding pressure on front line enforcement officers in Border Force, Trading Standards and the police force to respond to tight fiscal restrictions, is very positive. We have evolved efficient networks. We are developing skill in organising and delivering targeted, multi-agency operations. We are seeing the benefits of improved communication between law enforcers, market specialist and lawmakers. Our effectiveness is growing and so is our confidence. As a group we understand more about IP crime than the people we oppose – IP criminals. We are winning the fight against IP crime.

All members of our group should be congratulated for their work.

Smart crime prevention

We know that the estimated headline figure for IP crime in the UK is down. We also know that the echoes of Donald Rumsfeld's famous aphorism concerning 'known knowns' and 'known unknowns' reverberate across our landscape perhaps more than any other. The certainty we all share is that we must be ready to confront both 'known unknowns' and 'unknown unknowns'. Not long ago illegal streaming through Kodi Boxes was an 'unknown'. Now, this technology updates copyright infringement by empowering TV viewers with the technology they need to subvert copyright law at the flick of a remote control. Statistics from Google, published in a report for The Industry Trust for IP Awareness, show that the number of searches for Kodi Boxes in the UK had reached 206,000 per month by November 2016.

Persuading the public

Consumers who buy counterfeit goods are not necessarily duped by sales talk – OECD report estimated that almost half of consumers know that the goods they purchase are fake⁵. Perhaps they don't realise, as industry experts point out in this report, just how dangerous these goods can be, or, how damaging copyright infringement is. As well as collaborating as a team, we must also engage with consumers. Throughout this report, all agencies demonstrate increasingly active public profiles. Indeed, the wider narrative of IP protection is no longer a surprising intrusion into mainstream media. The public's willingness to buy counterfeit products and, in particular, watch copyright infringing content is now a major driver behind IP crime. Re-educating consumers is a key priority. Securing funding for measures such as this is an immediate challenge. At present the IPO and its partners operate a number of educational initiatives, they are detailed in this report.

Our unique team approach

This report is written by our team. It reflects the views of both the centre and the specialists. It offers statistical information and the strategic assessments of experts. This year we also focus on the specific. Through the individual reports from leading Trading Standards authorities we demonstrate how we link the strategic goals of improved communication, shared intelligence and inter-organisational collaboration with real action delivering tangible results. From the City of York, Hampshire and Newport

⁵ OECD/UK GOV report: (2017) *Fake goods, real losses, trade in counterfeit products in the UK Economy (pg36)* <http://www.oecd.org/publications/trade-in-counterfeit-products-and-the-uk-economy-9789264279063-en.htm>

we experience how Trading Standards Officers follow trails of evidence; from Glasgow City we see how brand protection at major sporting and entertainment events can be efficiently delivered; from Hartlepool, we understand how legal guidance on the definition of ‘nuisance’ can be shared and used to take action where criminals are not UK residents; from Lancashire we see how specialised, professionally managed printing machines may be indicative of the challenges 3D printing will bring with in the future; from Manchester long-term collaborative work in Strangeways brings 35 illegal traders to justice; Southwark Trading Standards reveal the links between organised crime and IP crime, and Rhondda Cynon Taf and Moray Trading Standards Officers demonstrate how to take action against small scale, persistent IP criminals on social media.



As a group we understand more about IP crime than the people we oppose – IP criminals.



Brand protection at major sporting and entertainment events was efficiently delivered by Glasgow City Council Trading Standards



Southwark Trading Standards revealed the links between organised crime and IP crime.

IP LANDSCAPE IN FIGURES

The IP Enforcement Strategy 2020 committed to publishing data on the prevalence of intellectual property crime and the economic impact caused by it. The figures contained within this scorecard, many of which are contained elsewhere within this report, demonstrate the ongoing demand for IP rights in our economy, work being done to analyse the impact of IP crime in the UK, as well as help provided to UK businesses operating abroad. It also gives a fascinating insight into the role that social media plays in the sale and distribution of counterfeited and pirated physical goods.

Input

Applications to the IPO for all granted rights have seen large increases in recent years, largely as a result of the economic recovery post-recession and recent fee decreases. 2016/17 saw large increases in applications for registered designs, reaching nearly 13,000 compared to just over 6,500 the year before. Trade marks have also seen notable increases year on year, the IPO receiving just under 65,000 applications this year.

IPO Intelligence

The IPO's Intelligence Hub collates and disseminates intelligence relating to IP crime. Data shows that intelligence submissions sent to the IPO from enforcement agencies and private industry partners have remained relatively stable across the year with some variations month-by-month.

Criminal sentencing

According to the Ministry of Justice 433 people were found guilty of offences under the Trade Marks Act and 47 people under the Copyright, Designs and Patents Act during 2016 compared with 490 and 69 in the previous year. The number of people cautioned was the same as the previous year.

Border Force detentions, seizures and detentions.

The number of infringing items detained at UK borders in 2016/17 stood at 2,000,000. The number of items detained at the EU external border was over 26,000,000 with the majority of items being tobacco products coming from China and Hong Kong.

Attachés

The UK IPO has specialist IP attaches based in key economies around the world. Their purpose is to help UK businesses operating overseas to exploit their IP and navigate the issues involved in building their business. Last year they helped over 5,500 businesses.

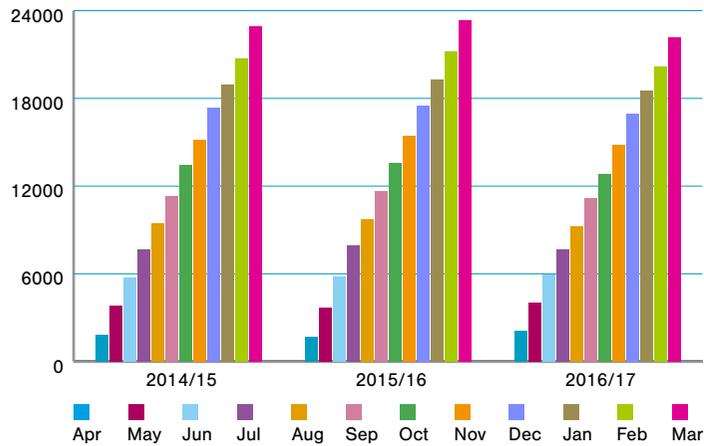
OCI tracker

The IPO conducts an annual survey to help understand people's habits for consuming material online. Between March and May 2017 15% of all internet users aged 12+ consumed at least one item of illegal content.

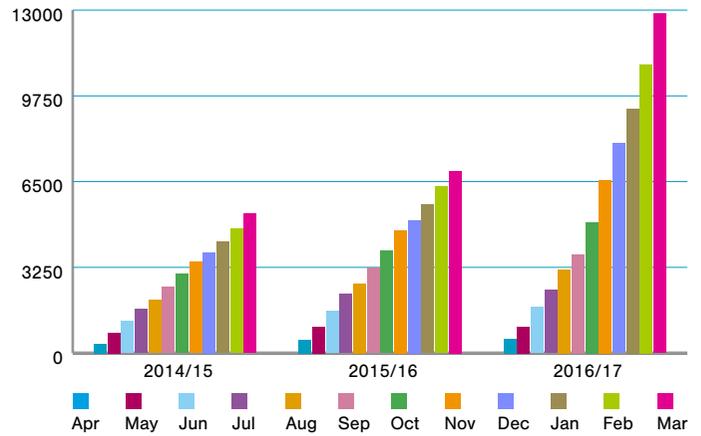
TS investigations

A significant contribution to the IP Crime Report is the annual survey of Trading Standards activity to tackle IP crime. This year the top five products investigated were cigarettes and tobacco, clothing, alcohol, footwear and cosmetics/makeup. The top five locations in which they were investigated were ordinary shops, social media, auction sites, websites and private residences. This represents a similar picture to the previous year.

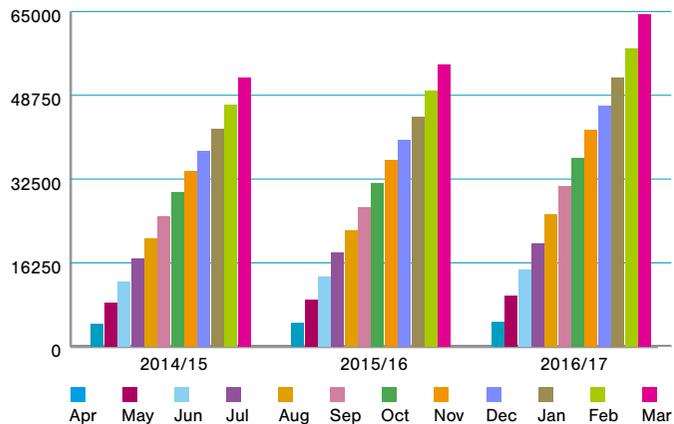
Patent applications (cumulative)



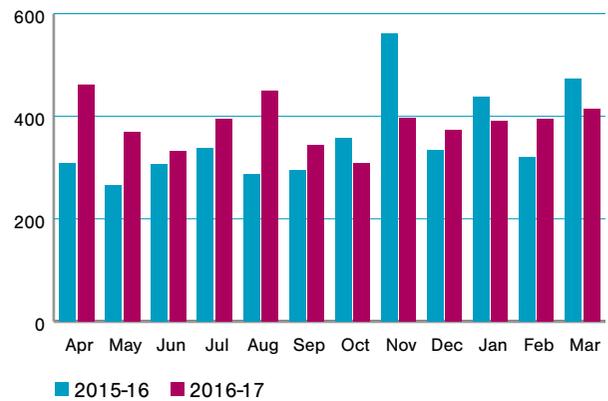
Registered design applications (cumulative)



Trade mark applications (cumulative)

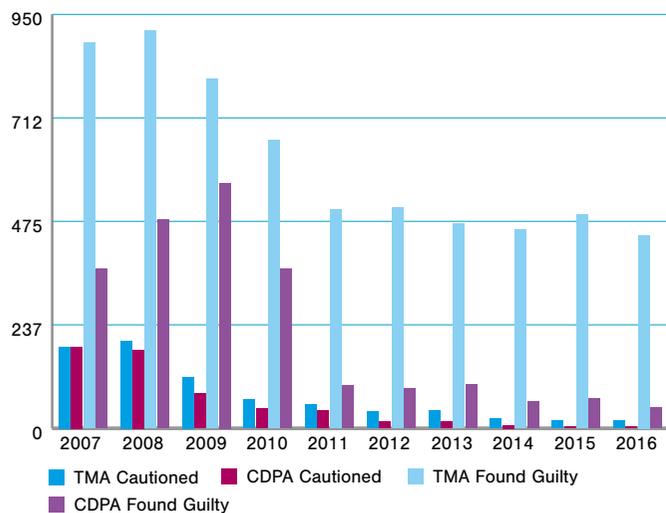


All intelligence submissions

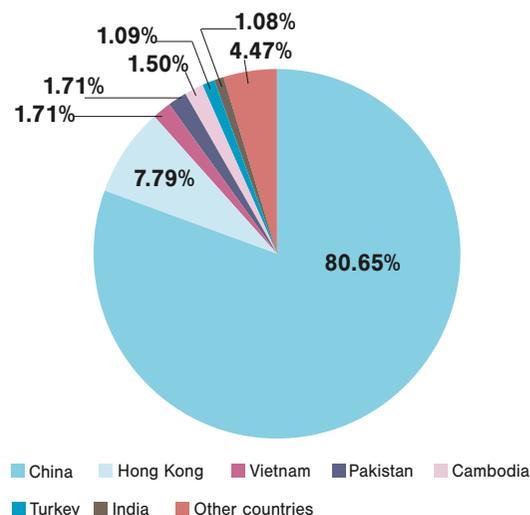


IP DATA

Sentencing statistics



Country of provenance and number of goods seized at EU external borders



Border Force detentions



Product	Number of articles seized	Retail value original products (€)
Tobacco products	9,935,215	37,611,620
Toys, games and sporting articles	6,918,768	119,772,144
Foodstuffs, alcoholic and other beverages	5,459,084	10,642,268
Body care including perfumers and cosmetics	2,238,320	63,248,911
Clothing and clothing accessories	2,154,046	55,455,790

IPO attaché network



The attaché network helped 5528 UK businesses operating overseas during 2016/17

Top counterfeit products investigated by Trading Standards

1	Cigarettes/Tobacco
2	Clothing
3	Alcohol
4	Footwear
5	Cosmetics/Makeup

Top locations investigated by Trading Standards for IP infringing products

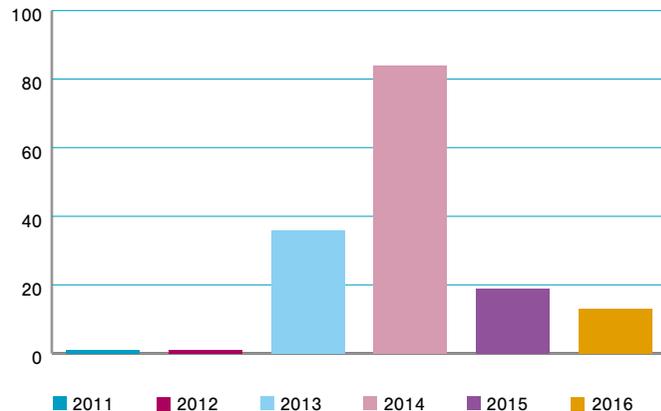
1	Ordinary Shops
2	Social Media
3	Auction sites
4	Websites
5	Private residences

Infringing content online



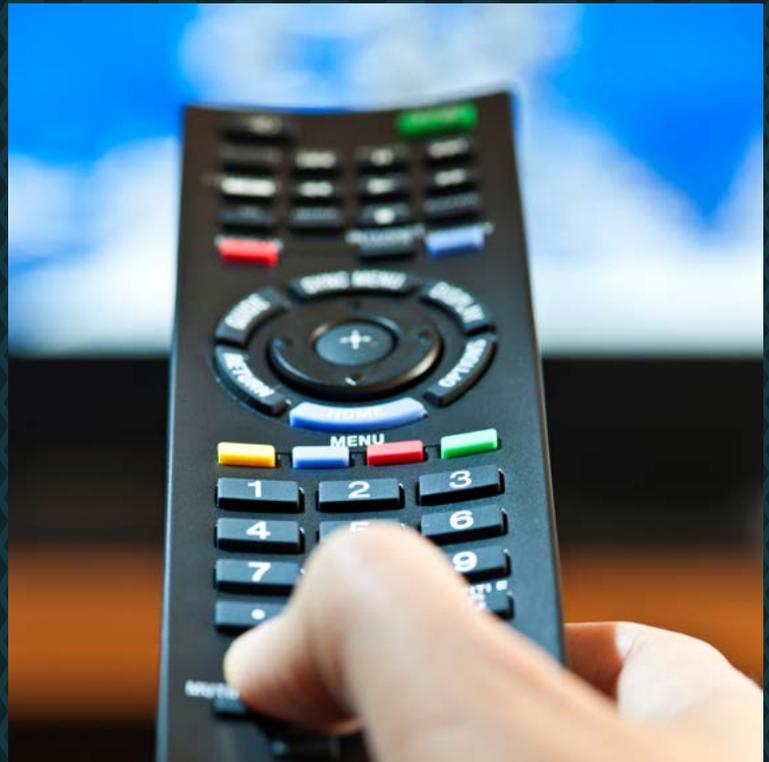
15% of all internet users aged 12+ consumed at least one item of illegal content between March and May 2017. No change from same period in 2016

Number of websites blocked using section 97a of the Copyright Designs and Patents Act 1988



Chapter 2

IP CRIME TODAY



OVERVIEW – THE SCALE AND SCOPE OF IP CRIME

The shock of the new

At its cutting edge IP crime is innovative. It exploits technological loopholes before they become apparent. IP crime involves sophisticated hackers, criminal financial experts, international gangs and service delivery networks. Keeping pace with criminal innovation places a burden on IP crime prevention resources. It should also be remembered that, because IP crime often occurs alongside other, organised criminal activity, defining and recording IP crime is a challenge in itself. In this report we see how all partners in the fight against crime are innovating new responses to IP crime.

Size matters

“During 2016, over 2 million suspected infringing items have been detained at the UK external border,” write Border Force. “This level of detentions has been achieved through active detection of suspected infringing goods at UK external borders by Border Force Officers. The scale of the threat the UK faces from being targeted by criminals consigning IP infringing goods to the UK in commercial quantities was starkly highlighted by the substantial results of two short, sharp intensification operations carried out at two import locations in the run-up to Christmas 2016: over 80k items, worth in excess of £3.6m (equivalent value of genuine product) were detected and prevented from reaching the market place.”

The scale and nature of IP Crime is best understood in context. For example, the value of imported counterfeit electrical goods has been estimated at £2.4bn in 2013⁶. Overall, in 2013, counterfeit trade cost the UK government and taxpayers an estimated £3.8bn in unclaimed tax revenue⁷. The most recent government statistic suggest that 15% of online users consume

at least one item of infringing online content in a three month period.⁸ According to a recent survey for PRS for Music, stream-ripping of copyright material onto mobile phones is the biggest problem facing artists and producers. 30% of consumers accessing these illegal services wrongly believe that they are properly licensed. Similarly, a report from the Industry Trust for IP suggests that 19% of adults watch copyright free material through IPTV – also known as ‘set-top boxes’ and ‘streaming boxes’, ‘Android boxes’ and ‘Kodi boxes’. Policing technological missuses and social media distribution requires investment, cooperation and, perhaps most importantly of all, raising the levels of awareness of the consequences of IP Crime amongst consumers and business people.

‘Deterrent sentencing is appropriate’

In this report we showcase best practice and share advice on the most efficient ways to prevent IP crime and apprehend criminals. The Crown Prosecution Service (CPS) makes particular reference to the case of R v Wayne Evans which took place earlier this year. Here valuable guidelines were provided by the Court of Appeal concerning prosecution for illegal downloading and the seriousness of the offence was confirmed.

‘First, illegal downloading and distribution is very often difficult to investigate and detect. It can give rise to serious problems and losses (none the less real for not being readily quantifiable) to the music an entertainment industry, deterrent sentencing in such a context is appropriate.’

The CPS also refers to successful prosecutions regarding the illegal use of set-top boxes as downloading is replaced by live streaming. FACT reports that copyright crime involving infringing DVDs dropped by half, whilst online copyright infringement has risen by a third.

6 OECD/UK GOV report: (2017) Fake goods, real losses, trade in counterfeit products in the UK Economy (pg36) <http://www.oecd.org/publications/trade-in-counterfeit-products-and-the-uk-economy-9789264279063-en.htm>

7 ibid

8 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/628704/OCI_tracker-7th-wave.pdf

Similarly, several partners including the Alliance for Intellectual Property, the Professional Publishers Association (PPA) and Electrical Safety First all acknowledge the importance of 2017's Digital Economy Act in bringing parity between online and offline copyright infringement with a maximum penalty of 10 years.

Of course, some members of the IP Crime Group identify new threats and believe there is a need to increase funding for Trading Standards Officers and the Police Force so that they can carry out more investigative work. In this report key areas where action is required include: the issue of funding for enforcement authorities; the threat posed by 3D printing; the continuing need to reach out to the public to emphasise the fact that copyright theft deprives industries and artists of revenue and lines the pockets of criminals. UK exiting the EU and the need to sustain the UK's international position as a leader in the field of IP crime prevention on the international stage is a concern for many team members, the issue is specifically referred to by the Alliance for Intellectual Property, Anti Copying in Design (ACID) and Electrical Safety First.

Code of conduct

The Anti-Counterfeiting Group (ACG) describe Facebook and other online trading platforms as conduits for crime which may mask an overall picture that suggest falling levels of IP crime. Our challenge is to intervene successfully online, without adversely affecting the positive characteristics of online trade.

As the Alliance for Intellectual Property makes clear in this report, we must engage with search engine and platform providers. The Alliance for Intellectual Property stresses that the development of the voluntary code between rights owners and the search engine providers, Google and Bing, brokered by the IPO and Ministers, is a significant step forward in an ongoing process. In this report, Nominet, the .UK internet domain name register provider, highlights the fact that it suspended over 8000 domain names last year for criminal activity.

The big picture

Pressure on resources for customs, police and Trading Standards Officers, a widespread shift to online copyright trade (and fraud), and, within that, movement from centralised to a diversified criminal distribution model, mean that statistics concerning the use of the IPO's Intelligence Hub give an important snapshot of the true level of IP crime in the UK.

Use of the IP Hub increased by 8% compared to last year. 55% percent of queries to the IP Hub concerned online fraud. The following account from our members further characterises the nature of IP crime in the UK today.

According to the Ministry of Justice, 443 people were found guilty of offences under the Trade Marks Act (TMA) and 47 under the Copyright, Designs and Patents Act 1988 (CDPA) during 2016, compared with 490 and 69 in the previous year. The number of people cautioned for TMA and CDPA offences in 2016 where the same as in the previous year.

YEAR	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
TMA Cautioned	187	201	118	66	54	39	40	23	17	17
CDPA Cautioned	187	180	79	45	41	16	15	7	4	4
TMA Found Guilty	884	913	801	662	502	506	469	456	490	443
CDPA Found Guilty	365	478	563	366	99	92	100	61	69	47

Table showing Ministry of Justice statistics on CDPA and TMA convictions 2007-2016

ALLIANCE FOR INTELLECTUAL PROPERTY

Established in 1998, the Alliance for Intellectual Property is a UK-based coalition of over 20 organisations with an interest in ensuring intellectual property rights receive the protection they need and deserve. Our members include representatives of the audio-visual, toy, music, games, business software, sports, brands, publishing, retailing and design industries.

In February 2017 agreement was reached between IP rights owners, represented by the Alliance, BPI and Motion Picture Association, and search engines, Google and Bing to stop links to infringing content featuring prominently in search results returned to consumers in the UK. This voluntary code, brokered by the IPO, and Ministers, is a world first and outlines ongoing technical consultation, collaboration and information sharing between all parties to develop and improve the process and, where needed, adopt new practices. The next steps are to measure the impact of changes made by search engines and then to expand to cover other sectors and other online platforms, including social media.

For many years we have campaigned for an increase in penalties for online copyright infringement to match that for offline criminality and we were therefore delighted that this landmark was reached with the Digital Economy Act 2017.

Alliance members continue to engage across the board in tackling counterfeiting and piracy but there are still areas where we need better and more effective enforcement to protect British jobs and businesses. Illicit streaming devices, which were highlighted as an emerging threat in last year's IP Crime Report, have become mainstream products in some parts of the UK, and the subsequent threat to those working to create, produce, distribute and sell films and TV programmes is enormous. The Alliance has called for changes to legislation to deal with this specific area of criminal activity alongside consumer awareness campaigns and training and advice for law enforcement agencies and prosecutors.

As well as challenges, Brexit also presents some unique opportunities to secure our borders against counterfeits, to find ways to protect consumers online and to fix some anomalies, such as delivering decent protection for unregistered design rights. The UK can continue to lead the way by forging ahead with innovative solutions that will allow for even greater growth in our IP-rich industries.



Illicit streaming devices have become mainstream products, and the threat to those working to create, produce, distribute and sell films and TV programmes is enormous.

ANTI-COUNTERFEITING GROUP (ACG)

The Anti-Counterfeiting Group (ACG) is a not for profit trade association which will be celebrating its 37th year in 2017. ACG's membership comprises over 170 organisations globally, operating in, or providing specialist advice to, most industry sectors where counterfeiting is an issue. Collectively our members own over 3000 registered trade marks, the use of which plays a major role in driving and supporting the UK and global economies.

Using data from a number of ACG members, it is evident that, notwithstanding a reduction of seizures at border crossings, counterfeiting of all types of goods from toys to luxury goods, electrical to pre-cursor materials is still at a significant level.

One ACG member representative had over 413,000 counterfeit branded products seized by customs during 2016/2017. A reduction of over 100,000 items compared to the same period the previous year. Please see table on page 20.

Another ACG member had nearly 30,000 counterfeit handbags and accessories seized during the reporting period. Once again a reduction in seizures compared to the previous year.

The reduction in seized goods at the borders may indicate a lessening in the availability of physical counterfeit goods. However, evidence from members, in this instance a sports goods manufacturer suggests that illicit goods may be entering the UK market, undetected through other routes. The manufacturer states that:

- In 2016 they were involved in or notified of £4m worth of footwear and apparel seizures in the UK and Ireland;

- Large quantities of physical goods are coming into UK for onward transmission to Spain and other EU countries;
- They have provided logistical support for law enforcement regarding the provision of some 36 containers at a cost of £120K a year.

Emerging trends

The expansion of e-commerce is having a significant impact on the availability of counterfeit merchandise to both criminal businesses and the consumer alike.

Whilst auction sites and other online sales platforms are still of concern, the use of smartphone apps is on the increase providing the counterfeiter with an array of opportunities to ply their wares.

Social media, in particular Facebook and Instagram, continues to be a focus of brand protection teams trying to mitigate the risk to consumers from buying counterfeit and often unsafe counterfeit goods.

Whilst the main Facebook profiles and selling groups are still used to trade in counterfeit goods and associated criminality such as document fraud, drug trafficking etc., the increased use of Facebook Marketplace by counterfeiters to engage at a 'local' level with consumers opens up new avenues for criminals to dupe unsuspecting shoppers into buying often counterfeit and unsafe/dangerous goods such as chargers, hair straighteners and automotive accessories.

The use by organised crime groups (OCGs) of fulfilment houses in the UK to facilitate the importation and distribution of often unsafe counterfeit goods is a concern. Whilst in reality the goods are manufactured and distributed from countries such as China, the use of fulfilment houses allows the OCG to bypass UK legislation. In many cases consumers may be misled into believing that the goods imported in this way are genuine and manufactured in the UK.

The use of established manufacturing skills and equipment in industrial areas such as Manchester to import and or manufacture counterfeit goods for export to the Republic of Ireland is on the increase. In recent raid actions in the Republic of Ireland, Garda have identified Irish counterfeiters regularly travelling to Manchester to buy and export counterfeit goods.

Social media continues to be a focus of brand protection teams trying to mitigate the risk to consumers from buying counterfeit goods.

	Apr 16	May 16	Jun 16	Jul 16	Aug 16	Sep 16	Oct 16	Nov 16	Dec 16	Jan 17	Feb 17	Mar 17
Clothing & footwear	6561	12636	11167	7661	4101	3071	2116	2245	3510	1709	2983	2504
Luxury goods (handbags, purses, belts etc)	2998	1359	1184	434	1690	1125	646	1491	298	1305	1260	2529
Toys	48	330	6	60	415	20242	43660	137	260	1423	261	52
Electronics	6349	4960	4770	4019	10913	20121	92044	4760	9964	16367	11952	3951
Accessories (jewellery, watches, sunglasses etc)	3078	906	573	751	340	226	984	2610	1595	222	461	535
Labels, badges, packaging etc	287	26087	9334	9230	36	4802	200	2252	12833	1621	489	159
TOTAL amount seized = 413,204	19,321	46,278	27,034	22,155	17,495	49,587	139,650	13,495	28,460	22,593	17,406	9,730
TOTAL cases = 2,488	266	198	188	191	201	213	128	209	166	246	146	336

Customs seizures⁹

⁹ REACT UK

ANTI COPYING IN DESIGN (ACID)

Established in 1998, Anti Copying in Design (ACID) represents thousands of UK designers, mainly lone, micro and SMEs spanning 25 different industry sectors and is the leading campaigning voice for UK designers in respect of intellectual property awareness, enforcement and design law reform. ACID's members have a collective turnover of over £6bn.

The majority of designers work in small companies, but their impact is substantial. It is estimated that the GVA of the design economy grew at a faster rate than the UK average. Moreover, the value of exports where design had made a key contribution has been valued at £34bn. Design's annual contribution to the UK economy is £71.7bn in GVA equivalent to 7.2% of UK total GVA.¹⁰

KEY ISSUES FACING ACID'S MEMBERS

Access to justice and IP enforcement through the Intellectual Property Enterprise Court (IPEC)

Whilst ACID supports improvements which have been made to the actual process of handling cases, grass roots reality does not chime with the current government understanding of “cost and time effective access to enforcement”. Cost and time remain significant barriers to designers/makers who are consistently copied. Cases can take many months, or in some instances years, to reach the IPEC and a recent case study demonstrates this. In an award winning kitchen company case against an alleged copyist,

the costs were over £20,000 (20% of their profit) and the legal correspondence had taken over 18 months. A company spokesperson said “I am sure many companies similar to ourselves would think twice about spending this money before even getting to court to enforce our rights.” This and many other case studies reinforce the point that being able to benefit from the IPEC improvement in processing a case is the luxury of the few not the many. The legal business model and design business model are not compatible for lone, micro and SMEs, who cannot afford protracted legal correspondence to get to court. This is what copyists rely on.

Another company which has been producing cutting tools in Sheffield since the 1730s which has invested heavily in design to compete internationally and against lower cost commoditised products, was copied 23 times in 24 months. This company has decided that it is not cost or time effective to pursue a legal route to justice because of the scale of investment in legal costs required to take action through the courts. This scale of copying has the potential to significantly affect growth and job security.

IP Enforcement

ACID believes that some major retailers consistently copy lone innovators and the strategy appears deliberate; copying innovative designs once they see proven market success. Retailers then commission Chinese manufacturers to reproduce them cheaply. Often, lookalikes have been subtly changed so that it is very



The legal business model and design business model are not compatible for lone, micro and SMEs, who cannot afford protracted legal correspondence to get to court.

¹⁰ Design Council – The Value of Design to the UK Economy
http://www.designcouncil.org.uk/what-we-do/design-economy?gclid=CjwKEAajw07nJBRDG_tvshfHhWQSJABRcE-ZefazBy_u3gn0C8MuDy9W6nYaUUbpQCv31CobpX_p2xoCIMLw_wcB

difficult to legally challenge them. Their lawyers deliberately stonewall any legal challenge and perpetuate litigation making it almost impossible for the small designer to afford to continue to take legal action, let alone reach a final court hearing.

Brexit

Post-Brexit copyright will be about nuanced changes made to existing protection. But for design, Brexit offers an existential threat because of the possible loss of EU laws. UK designers will be severely disadvantaged if they lose EU unregistered design rights (UDR), on which the majority rely. EU design laws, both registered and unregistered, protect the individual character of a design in particular as they relate to the shape, texture, contours, lines, colours, ornamentation and materials of the design. UK UDR protects only the shape and configuration of a design. Entire design sectors such as fashion, lighting and furniture rely on the EU scope to protect their 3D designs; UK law alone cannot protect 3D designs whose individual character is defined by shape, texture, contours, lines, colours, ornamentation or materials. If these EU laws are not transposed into UK law post Brexit, design protection for many design sectors will be lost. Accordingly, this is a potentially calamitous issue for many design sectors.



Entire design sectors such as fashion, lighting and furniture rely on the EU scope to protect their 3D designs.

Online Infringement

Continues to escalate and, at a strategic level, more training of online trading platforms takedown procedures needs to be done to simplify the process of take down and track down. The process for take down is still lengthy and overcomplicated for many. In one ACID case study it took 23 emails over a period of a month to remove one infringing product. Apart from the debilitating effect on lone and micro businesses, this will eventually break them.

3D Printing

Following a report and recommendations by Professor Dinusha Mendis¹¹, government policy is to “wait & see”. ACID believes the approach should be, “Is IP law fit for purpose to deal with enforcement of IP through 3D printing?” Currently there are no criminal penalties for unregistered design rights infringement and there is a need to implement this. In 2014, in the UK, intentional copying with immaterial differences of a UK or EU registered design became a criminal offence (IP ACT 2014). This followed many years of campaigning by ACID. Unfortunately, ACID’s main objective was to make the copying of an unregistered design a criminal offence as the majority of UK designers rely on unregistered design. The UK Government did not agree, claiming that it would be difficult to create criminal liability for the copying of an unregistered IP right, even though there have been criminal offences in respect of copyright (also an unregistered right) since 1840, and the current maximum penalty for criminal copyright infringement is ten years.

¹¹ A Legal & Empirical Study into the Intellectual Property Implications of 3D printing <http://www.epip2015.org/wp-content/uploads/2014/07/EPIP2015-Glasgow.pdf>

3D printing is proving a boon to organised criminals who are exploiting this ground-breaking technology to counterfeit on an industrial scale in near perfect quality. However, unless unregistered design copying is made a criminal offence there are no criminal powers available to stop organised criminals, unless a prosecution for fraud or conspiracy is pursued. Accordingly, Government needs to plug this gap in the law which will have the same impact on manufacturing as the internet did on the creative industries.

ACTION FROM ACID

3D Printing

Hailed by some as the fourth industrial revolution, 3D printing was the subject of a recent ACID conference which brought together industry experts to discuss and debate the opportunities and intellectual property challenges in the future as thought leaders. On counterfeiting and copyright infringement DCI Mick Dodge of PIPCU said “With 3D printing machines readily available to consumers this is a “one stop shop” for criminal activity. But where is the legislation? I cannot act or enforce without a law to enforce – I need some legislation to work with to create an investigation strategy. Only time will tell whether 3D printing infringement becomes the next apocalypse but from now on we would like to take these valuable discussions forward.”

Access to Justice

ACID has received endorsement from its council to create a robust naming and shaming campaign to raise awareness about endemic copying.

Design-led SMEs – Online Infringement

In response to the increase in online infringement ACID has created a specially designed Online Enforcement Service (ABES) through Snapdragon IP. Concerned about the difficulties SMEs face, trying to take down of infringing products online, ACID provides a user friendly white label brand enforcement service through Snapdragon for its members. ABES (ACID Brand Enforcement Service) was launched with endorsement from the UK Intellectual Property Office (IPO) and PIPCU. <http://www.acid.uk.com/acid-brand-enforcement.html>

Preserving EU design laws after Brexit

ACID has submitted evidence to government and the IPO to substantiate their concerns and is pressing government to introduce a new law which mirrors the protection afforded by EU unregistered design, replacing existing UK unregistered design law to put UK designers on a level playing field with their EU counterparts in terms of IP protection.



ACID has received endorsement from its council to create a robust naming and shaming campaign to raise awareness about endemic copying.

BRITISH PHONOGRAPHIC INDUSTRY (BPI)

BPI represents the UK's recorded music industry, which is one of the most exciting and thriving music sectors in the world.

There are three main areas of concern for BPI. These are: threats from online piracy, the sale of illegal physical goods and the merging of the two with internet enabled physical piracy proving to be a major issue. Social media accounts are being run by criminals to promote their services and e-commerce platforms / online marketplaces are being used to sell illegal goods to unsuspecting consumers.

Online

The main online piracy threats to the UK recorded music industry at present are from BitTorrent networks, linking/aggregator sites, stream-ripping sites, unauthorised streaming sites and cyberlockers. If websites that are hosted by operators and hosts are non-compliant and will not cease operations then BPI will apply to the Court for them to be blocked in the UK under s.97A of the Copyright, Designs and Patents Act 1988 and/ or take direct legal action against them.

Search Engine Delisting

Search engines continue to provide millions of links to infringing content. Between October 2012 and May 2017, BPI has submitted over 490 million URLs to the Google and Bing search engines, requesting the removal of infringing search results. These high numbers demonstrate the large quantity of infringing content that is available online and accessible with ease by search engine users.

In February 2017, following a series of Government chaired round tables, a first of its kind code of practice was reached between the UK creative industries and search engines. Rights holders hope that the voluntary code of practice will accelerate the demotion of illegal sites, following notices from rights holders, and establish ongoing technical consultation, increased co-operation and information sharing to develop and improve on the process.

S.97A Website Blocking

Website blocking is a key part of BPI's content protection strategy. BPI has, to date, obtained court orders requiring the UK's five biggest ISPs to block 63 infringing websites and over 700 related URLs, IP addresses and proxy sites/ proxy aggregators.

Site blocking has proven to be a successful strategy as the longer the blocks are in place, the more effective they are. We have seen traffic to these sites reduce by an average of 70% or more.

Physical

In the physical space, counterfeit goods are still offered in large quantities. High Quality Counterfeits, known as HQCs, are being imported from outside of the UK from China or Russia and being sold in physical and online market places. The HQCs are very good copies of the original product that, to the untrained consumer cannot be told apart from the original. High quality counterfeits can affect the most popular musical releases or more specific genres of music; meaning music fans across all fan-bases are being duped by unauthorised sellers. We have seen an increasing number of these appearing on e-commerce platforms and are working with online marketplaces to help clean up the market place.



BPI has, to date, obtained court orders requiring the UK's five biggest ISPs to block 63 infringing websites.

BPI Seizures

Over a 24 month period (2015 to 2016) BPI have seized £12.5 million worth of music following criminal investigations. This is made up of CDs, vinyl and digital tracks stored on hard drives and removable storage. The average cost of the different music formats for each year was provided by Official Charts Company.

Enforcement

The BPI work closely with City of London Police (CoLP) Police Intellectual Property Crime Unit (PIPCU) on Operation Creative. Operation Creative is an initiative that disrupts illegal websites providing access to unlicensed music, TV and film etc. A tactic used by PIPCU is the Infringing Website List (IWL). The IWL is an online portal that provides the digital advertising sector and established brands with an up-to-date list of copyright infringing sites, identified by the creative industries.

A report by the Digital Citizens Alliance estimated that in 2013 piracy websites generated 227 million US dollars from advertising¹². A vital aspect of tackling online piracy is to follow the money and disrupt the advertising flow. The introduction of the IWL has seen a significant visible reduction in advertising on illegal websites across the globe. The co-operation of the advertising industry and brands involved in the sale and trading of digital advertising has assisted with this. Research conducted by whiteBULLET has now shown that in the past twelve months there has been a 64% decrease in advertising from the UK's top ad spending companies on copyright infringing websites.

12 <http://media.digitalcitizensactionalliance.org/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/4af7db7f-03e7-49cb-aeb8-ad0671a4e1e7.pdf>

CROWN PROSECUTION SERVICE (CPS)

The Crown Prosecution Service (CPS) Specialist Fraud Division (SFD) prosecutes the majority of intellectual property crimes. Whilst CPS areas retain responsibility for a small number of cases, SFD are particularly responsible for the most complex cases. The SFD have a great deal of experience in prosecuting a wide range of cases and are fully equipped to prosecute those that are more complex. SFD continue to work closely with the specialist Police Intellectual Property Crime Unit (PIPCU) in the City of London Police to make sure that the CPS is fully prepared for these cases and that we have a consistent and co-ordinated approach going forward.

NOTABLE CASES

Sentencing guidance

Since the last report, SFD have had a number of successful prosecutions, perhaps the most significant is the case of *R v Wayne Evans (2017)*¹³. This was a landmark case as it provided sentencing guidance for the Copyright, Designs and Patents Act 1988, where before there was no definitive guideline. The case concerned distributing material infringing copyright, contrary to section 107(1)(e) of the Copyright, Designs and Patents Act 1988. The Court of Appeal made it clear that the following considerations (although not exhaustive) are likely to be relevant in sentencing, involving the unlawful distribution of infringing copyright articles:

(1) First, illegal downloading and distribution is very often difficult to investigate and detect. It can give rise to serious problems and losses (none the less real for not being readily quantifiable) to the music and entertainment industry. Deterrent sentencing in such a context is appropriate.

(2) Second, the length of time (and including also any continuation after service of cease and desist notices) of the unlawful activity will always be highly relevant.

(3) Third, the profit accruing to the defendant as a result of the unlawful activity will always be relevant.

(4) Fourth, and whether or not a significant profit is made by the defendant, the loss accruing to the copyright owners so far as it can accurately be calculated will also be relevant: as will be the wider impact upon the music industry even if difficult to quantify in precise financial terms: because wider impact there always is.

(5) Fifth, even though this particular type of offending is not the subject of any Definitive Guideline there may be cases where it will be helpful to a judge to have regard to the Definitive Guidelines on fraud, bribery and money laundering offences. In some cases, such as the present, that will positively be required because one or more of the counts on the indictment, as here, will be a count which comes within the ambit of the guideline itself. But even where that is not the position there may be some cases where a judge, at least if only as a check, may wish to refer to the Definitive Guideline to get a feel, as it were, for the appropriate sentence. However, there will be other cases where the Definitive



The Crown Prosecution Service Specialist Fraud Division have a great deal of experience in prosecuting a wide range of cases and are fully equipped to prosecute those that are more complex.

¹³ *Regina v Wayne Evans* [2017] EWCA Crim 139, 14 February 2017

Guideline may be of marginal, and perhaps no, assistance at all. That will be a matter for the assessment of the judge in the individual case. Where the Definitive Guideline is required to be taken into account because one of the counts on the indictment is within the ambit of the guideline, that of itself will no doubt lend assistance in deciding what the appropriate overall sentence will be.

(6) Sixth, personal mitigation, assistance to the authorities and bases and pleas of guilt are to be taken into account in the usual way.

(7) Seventh, unless the unlawful activity of this kind is very amateur, minor or short-lived, or in the absence of particularly compelling mitigation or other exceptional circumstances, an immediate custodial sentence is likely to be appropriate in cases of illegal distribution of copyright infringing articles.

First successful IPTV prosecution

SFD and CoLP were also responsible for the successful prosecutions of R v Rosero (2016), which although small in scale, was our first successful IPTV prosecution.

The IPTV system involved used a legitimate viewing card to receive and decrypt a broadcast which was then copied and retransmitted by streaming the unencrypted content via the internet to users.

In this case SFD prosecuted for the offence of intentionally encouraging or assisting an offence contrary to section 44 (1) Serious Crime Act 2007. The defendant had placed for sale on an eBay account an IPTV receiver with the description 'MAG 250/254/255 IPTV 6 Months subs UK Premium+ HD Sports +Movies & VOD chn'.

An employee from Sky Plc, during a search of eBay, identified the defendant advertising IPTV boxes and subscriptions for sale. On the 16th March 2015 the employer purchased an IPTV receiver from the defendant for £108. When he received the IPTV box through the post he was required to enter the server details 'uk.itvworld.mx', which was provided by the defendant, along with instructions to provide the devices MAC address to the defendant to 'activate his account'. Once the MAC address had been provided a message was received to state that the box was now live and to reboot. Once the device was rebooted he was able to see stream for various channels, including Sky Sports 5 and Sky Sports 3, where he was able to watch and stream a football match on Sky Plc's platform.

In late October 2015, PIPCU received a referral from Sky Plc concerning the above defendant who was suspected to be selling android set top boxes (referred to as 'STBs' or 'IPTV' boxes) with the capability to allow the end user to watch premium Sky Plc content, such as sports and movies without paying the subscription fee.

The defendant's details and his address were present on his eBay account and on 16th February 2016 a section 8 warrant was executed at his address. Documentation was found at the address which supported the fact that the defendant was the operator of the eBay account. In total 27 IPTV receivers were seized during the search. Although the receivers did not contain any apps and were unable to be used to access Sky services, it was agreed that a prosecution focusing on the test purchase item itself should be sufficient.

The Defendant pleaded guilty and was sentenced to a fine of £392 and a victim surcharge of £39, along with a contribution to prosecution costs.

'Likely to be mistaken for, a registered trade mark'

We have also secured the successful prosecution of Janis Gravitis which involved counterfeit children's fancy dress clothing.

The defendant was charged under section 92(1)(B) and (6) of The Trade Marks Act 1994 and was selling children's fancy dress costumes on-line using Amazon and eBay. The victim, a company named Rubies, is the largest fancy dress company in the world. Rubies hold the licence to produce for many major brands including Marvel, Warner Bros and Disney which are the brands relevant to this case.

Rubies identified the seller and in May 2016 issued a notice of infringement to both eBay and Amazon to remove the listings. The listings were removed.

Mr Gravitis carried on selling the fancy dress costumes under a different Amazon listing and in July 2016 Rubies carried out a test purchase from Mr Gravitis' Amazon account. The costume was found to be faulty and potentially dangerous as it did not conform to the EU safety standards and the cords on the costume were too long.

Mr Gravitis admitted to owning and selling the fancy dress costumes. When told the costumes were potentially dangerous Mr Gravitis showed remorse and seemed genuine when he said he would not sell such goods again. The gross amount of stock if all costumes were sold has been calculated at a value of £27,412.50.

Mr Gravitis entered a guilty plea in the Magistrates Court and was sentenced to a £384 fine, a victim surcharge of £38, costs of £85 and all costumes were destroyed.



The costume was found to be faulty and potentially dangerous as it did not conform to the EU safety standards.

Furthermore, in a similar case we have seen a successful prosecution of Re Meraj Gul and Others. In July 2014 the City of London Police Intellectual Property Crime Unit (PIPCU) received a report of crime from Surelock International Limited (Surelock). Surelock are security consultants and investigators who are authorised to conduct investigations on behalf of music merchandising companies who hold the trade mark rights of various music artists and record labels.

Surelock identified that merchandising comprising of hooded tops, sweaters, t-shirts, vest tops and hats had been sold through the online auction site, eBay by a number of eBay sellers without the consent or authorisation of the genuine rights holder for each of the articles being infringed.

The proceeds of sale were received into PayPal accounts. Once money was deposited into the PayPal accounts it was withdrawn and transferred to personal bank accounts belonging to the sellers.

Between 1 March 2012 and 2 January 2014, Surelock made five test purchases from three eBay accounts which were identified as being used to sell merchandising.

Enquiries were made of eBay and PayPal and as a result suspicion centred on Meraj Gul and others who allowed their accounts to be used to receive funds received via PayPal.

On 3 February 2015 the accused were arrested. A small annex was also discovered at a property which was being used for the production of branded clothing items.

Seized items from this address comprised of electronic items, CCTV equipment, branded and non-branded clothing, documentation relating to the sale and supply of branded clothing, packaging materials, production machinery and vinyl transfers used to produce goods.

The various companies have confirmed that neither the accused nor Gul Enterprises Ltd had permission to sell their goods. In total Meraj Gul received £131,382 from PayPal into accounts in his name.

Meraj Gul pleaded guilty to a substantive offence contrary to section 92(1) (b) of the Trade Marks Act 1994.

He accepted that his co-defendants were just acting on his instructions.

In the circumstances it was decided to proceed solely against Meraj Gul.

On 2 June 2017 he was sentenced to 30 months imprisonment and confiscation proceedings were instituted.

Summary

Over the last 12 months SFD have continued to increase engagement and have built strong relationships with both public and private partners to build their knowledge and expertise in this developing area of law. Through our continued engagement with the European Intellectual Property Prosecutors Network (EIPPN) we were able to contribute to discussions from a CPS and prosecutorial perspective, sharing best practice and developing our knowledge. CPS Specialist Fraud Division were also represented at the IP Regional Enforcement Seminar, which took place in November 2016, where they were able to explain to attendees, who were from a vast variety of backgrounds, the role of prosecutors and in particular to encourage early engagement in a case.

ELECTRICAL SAFETY FIRST

Electrical Safety First is the UK's campaigning charity committed to reducing deaths, injuries and damage arising from electricity – which causes over 70 deaths and 350,000 serious injuries each year. Our consumer and industry campaigns cover issues relating to 'rogue' traders and dangerous counterfeits and have increasingly focused on the issue of the growing number of fakes sold online.

Unlike a fake designer handbag, counterfeit electricals can cause fires, maim and even kill – electricity is the cause of more than half of all domestic fires in the UK.¹⁴

Statistics

- The number of people who have seen counterfeit products for sale has doubled since 2015 (14% up from 7%)¹⁵
- Almost a quarter of people (24%) who have bought fake electrical goods have bought them via an online third-party marketplace (for example, Amazon, eBay, Gumtree)¹⁵
- One in 6 British consumers admit they have purchased a fake electrical product for someone as a Christmas gift¹⁶
- Over ¾ (76%) of UK consumers had difficulty in identifying fake electrical hair straighteners from the genuine article¹⁶
- Three in five consumers could not spot a fake Apple charger¹⁶

¹⁴ Source: Electrical Safety First Core Data Set.

¹⁵ Data from Electrical Safety First Annual Consumer Survey, undertaken by Ipsos Mori, May 2016, as part of Capibus, the weekly face to face omnibus survey.

- One in 6 consumers said they would consider buying a fake product if it was cheaper¹⁶

ELECTRICAL SAFETY FIRST GHD CASE STUDY



a. Genuine

b. Fake

Three in four consumers were unable to identify genuine GHD hair straighteners from two images of real and fake straighteners.

It is almost impossible to tell a counterfeit item from the authentic product due to sophisticated packaging and exteriors. The only way to be sure is by buying directly from an official retailer.

One person who knows how easy it is to be fooled into buying a fake product is Lucy Dibdin. Lucy purchased a Herstyler hair straightener from an online marketplace for a fraction of the advertised price in her local shopping centre. For some time, she had no issues with the item until she heard a strange crackling noise when she plugged it in.

¹⁶ Data from Censuswide UK survey 4-7 November 2016, undertaken on behalf of Electrical Safety First).

“It never occurred to me to check if it was genuine, as I presumed everything on Amazon was,” she said. “I picked it up but dropped it immediately when flames erupted from both sides. Luckily didn’t injure myself or get electrocuted but I was left with a tingling in my arm for about 20 minutes. Since this terrifying experience, I make sure I only buy electrical products from trusted retailers. Given what I know now, I strongly expect the product was a fake. I would not buy online again.”

ELECTRICAL SAFETY FIRST APPLE CHARGER CASE STUDY



Three in five people did not spot that this was a fake Apple charger.

What to look for

The safety mark box should be between the bottom two pins in a real Apple charger. Looking closer, “Safety” is spelled incorrectly; this is common in the packaging of fake and substandard products – look out for these signs. Sixty five per cent of people would assume that this fake CE mark was a sign that a product was tested to correct standards.

CE and other safety marks can be counterfeited and appear on fake or substandard goods as testified by Mandy Daniels of East London: “My original Apple charger had broken but I needed one fast and it was convenient to just get a cheap one for the time being. So I went to Stratford, where lots of stalls were selling chargers and mobile phone accessories.”

She bought what looked like a genuine iPhone charger from one of the market traders and it worked well for two days. The problem arose on the third day, when she plugged it into an extension lead and left it to charge in her bedroom.

“Suddenly I heard a loud popping noise – I wouldn’t quite call it a bang, more of a pop – then all my fuses blew and my electrics went off. The bedroom had black smoke everywhere and the black, burnt charger had been blown out of the socket onto the bedroom floor. I was terrified and from that day on I then made up my mind that I would never buy a fake iPhone charger ever again.”

Mandy, who has two small daughters, says she was relieved they were at school at the time, and is thankful there wasn’t a fire, “If it had caught fire, we would have lost everything – our home, the lot. It could’ve been a lot worse.”

These words do not necessarily mean what they say:

Genuine, Real, Authentic.

Over half (53%) of consumers said that they would be likely to buy a product that was described as ‘genuine,’ ‘real’ or ‘authentic’.¹⁶

If the seller claims the product is ‘genuine,’ ‘real’ or ‘authentic’ double check the source. Most reputable retailers don’t need to sell their products like this.

Most reputable retailers don’t need to describe their products as ‘genuine,’ ‘real’ or ‘authentic’.

FACT

Established in 1983 FACT is one of the leading intellectual property protection organisations working on behalf of the sports, TV and film industry.

One of the biggest challenges for FACT and its members/clients is the sale and use of illicit streaming devices. Illicit streaming devices are also commonly known as set-top boxes, IPTV boxes or 'Kodi' boxes and in their original form are legitimate. Using an internet connection, the device allows you to stream a wide range of content via a range of apps and add-ons – effectively turning your television into a smart TV. However, it is the use of third party unlicensed apps and add-ons that allow users to access copyright infringing material which turn the use from legal to illegal.

We highlighted this as a priority in last year's report and within the last 12 months we have seen the issue rise considerably.



Illicit streaming up nearly 30 percentage points

70% of active ongoing FACT cases relate to illicit streaming devices

18% of our public complaints in 2015/16 related to illicit streaming devices

47% of our public complaints in 2016/17 related to illicit streaming devices

64% of reports were of online copyright infringement in 2016/17 – up from 48% in 2015/16

36% of reports were of DVD counterfeiting in 2016/17 – down from 65% in 2015/16

However, we have also seen some significant action and legal developments which has allowed us to move forward in tackling this problem.

Education/awareness

With the challenge of the usage of illicit streaming devices rising we not only have stepped up our enforcement action but have paired this with increased messaging to the media to raise awareness and educate the public.

Our communications efforts have been well received by national, regional and trade press. Our North West day of Action received over 150 pieces of media coverage, with a potential reach of over 500 million people. Following this messaging we also noticed a significant increase in public complaints reporting this criminality, rising 350% compared to the week before.



One of the biggest challenges for FACT and its members/clients is the sale and use of illicit streaming devices.

IPO INTELLIGENCE HUB

The Intelligence Hub sits within the Copyright and Enforcement Directorate of the IPO. It comprises researchers, intelligence officers, financial investigators and analysts, who work together to deliver outcomes within the 2016-20 IP Enforcement Strategy and beyond. The team works with partners and stakeholders from industry, law enforcement as well as other Government departments to reduce IP infringement and the supply of counterfeit goods to the UK.

Work undertaken by staff in the Intelligence Hub includes intelligence profiling on suspected offenders or locations, as well as analysis of large data sources, to provide a clear picture of emerging threats and risks. They also support the Enforcement Policy team, providing up to date information on IP crime.

The Intelligence Hub, whilst not an enforcement agency able to take action or prosecute, researches and gathers intelligence so that enforcement agencies can coordinate and collaborate efficiently. They build complete intelligence pictures for partner organisations to take action upon. They do this through referrals to the Intelligence Hub and through collaborative work with our partners within the IP Crime Group.

In May 2009 the IPO was designated as a competent authority under article 2(4) of the Europol Convention in respect of Europol business. The IPO has been requested by the National Crime Agency and Europol to act as the UK's central point for collecting, analysing and disseminating IP crime intelligence.



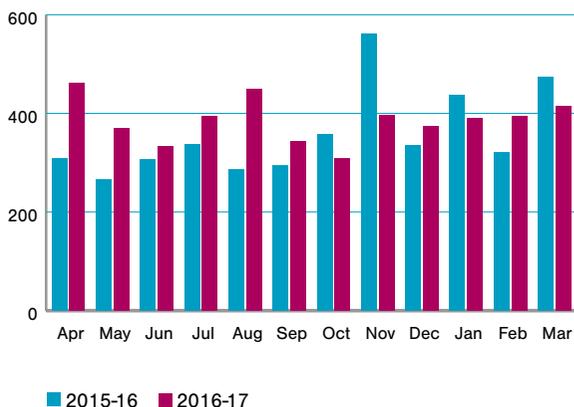
The Intelligence Hub researches and gathers intelligence so that enforcement agencies can coordinate and collaborate efficiently.

Statistics

During 2016-17, there were 4629 intelligence log submissions to the Intelligence Hub, which is an 8% increase from the previous year (equivalent to 344 more intelligence logs).

The following chart shows the comparison trend of all intelligence submissions:

All intelligence submissions



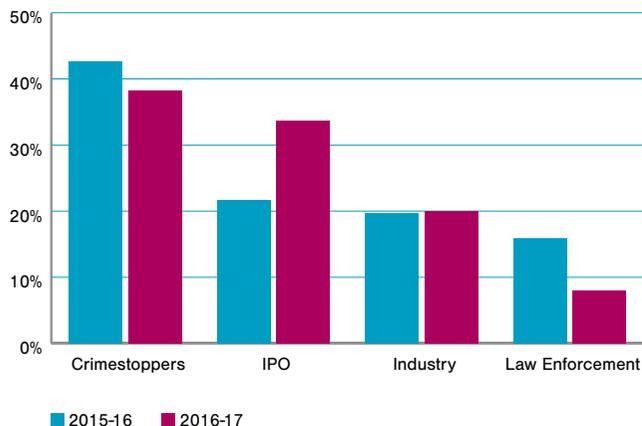
Collaborative work is carried out with external partners including Crimestoppers, law enforcement agencies and industry.

The all intelligence submissions per submitting agencies chart on page 35 illustrates the 2 year trend of submissions by partners.

As shown 2015-16 experienced substantial peak during November which is attributed to Border Force intensification at this time of year, but submissions during 2016-17 were more consistent.

Year on year, the proportion of Crimestoppers intelligence far outweigh other agencies, making up in the region of 40% of all submissions to the Hub. The following charts show the percentage proportion for each financial year period/submitting partner followed by a more detailed comparison of year on year submissions.

Proportion of contributions

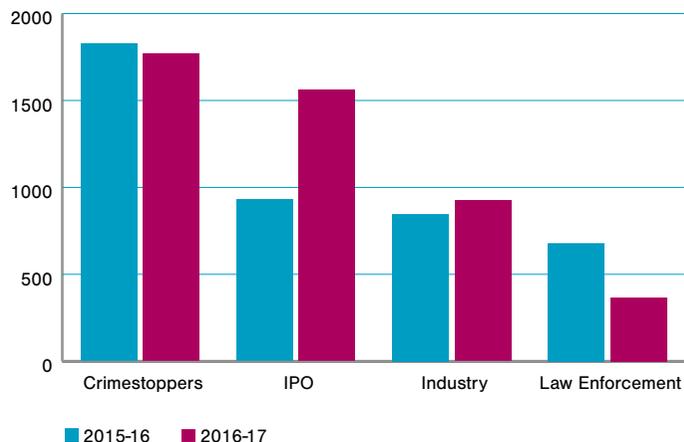


Crimestoppers intelligence has reduced slightly but the proportion of intelligence received is still 40% of the overall total for 2016-17.

As shown, there has been a marked increase in the number of intelligence submissions by the Intelligence Hub – increase of 68% (equivalent to 631 more intelligence logs). This is due to an increase in capacity to investigate financial matters and more focussed work on increasing knowledge and understanding of current issues such as illegal streaming devices and support to markets intelligence.

There has been a 46% reduction of intelligence submissions from law enforcement. This is a matter of concern and plans are in hand to increase the knowledge and understanding of IP crime within traditional law enforcement agencies.

Submissions by partners



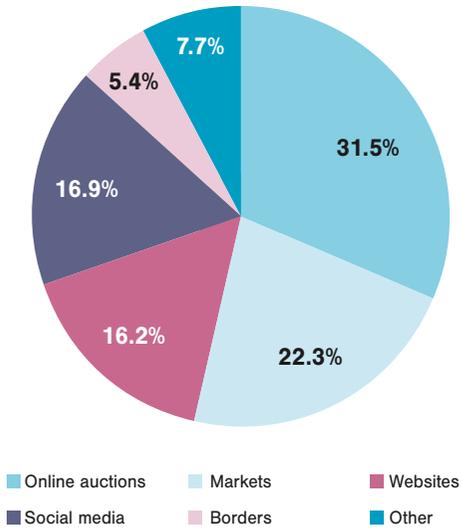
Referrals 2016/17

The IPO Intelligence Hub dealt with over 130 referrals which were submitted by partners from industry, brands, other Government offices and law enforcement agencies.

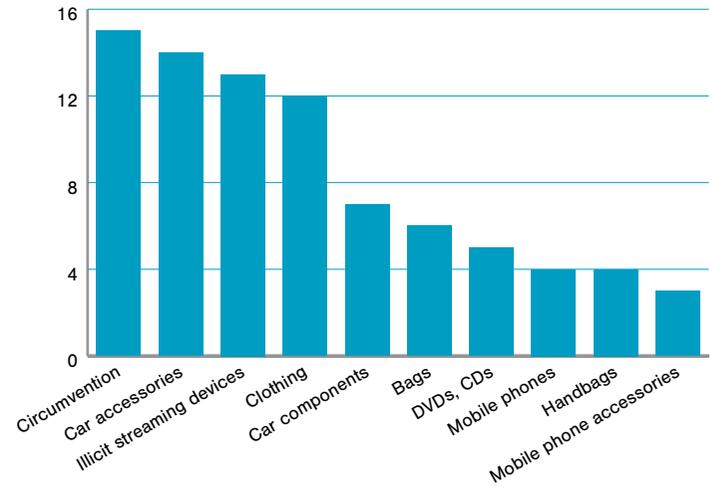
As appropriate, intelligence was then conveyed back to the referral agency, or forwarded on to Trading Standards or other law enforcement agency for their consideration.

Please note that the totals for 2015-16 from the available data sets do not correlate with the IP Crime Report published 2015-16, this must be borne in mind, should the previous report be used to confirm figures.

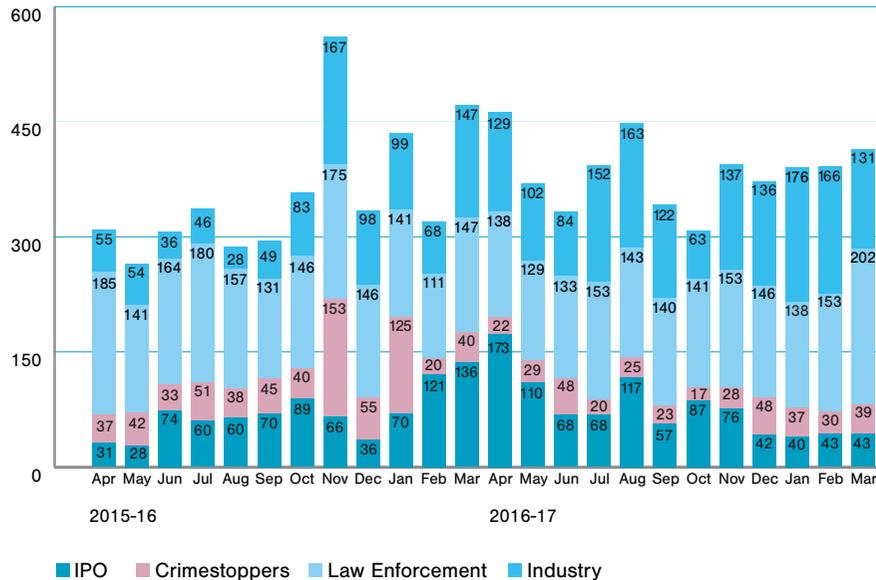
Top five entries used



Top ten referrals per type of goods



All intelligence submissions per submitting agency



PROFESSIONAL PUBLISHERS ASSOCIATION (PPA)

The PPA promotes and protects consumer and business media publishers in the UK.

Advertising continues to account for the largest source of revenue for sites hosting pirated content relevant to the magazine sector, both websites that exist solely to offer pirate content to consumers and hybrid sites that host both legitimate and pirated content.

Many websites continue to offer users the opportunity to upload and make available files with no verification of their ownership, allowing pirates to supply magazine content to consumers through ‘third party’ platforms.

In this context PPA welcomes the adoption of s 32 of the Digital Economy Act 2017 covering changes to the copyright criminal liability provisions of s 107 of the Copyright, Designs and Patents Act 1988 (including maximum online infringement penalty being increased from 2 to 10 years).

The growing threat from software being made widely available, which connects Internet Protocol Television (IPTV) boxes, is relevant to illicit uses for which legal framework provides proportionate redress.

PPA has supported a number of recommendations, including urging consideration of ways in which current provisions applicable to “decoders” might be developed to encompass more clearly the devices which are being used as illicit IPTV streaming devices.

More recently, a helpful judgment has been issued by the CJEU on 26 April 2017 in the case of Filmspeler¹⁷ which provided:

(The concept of “communication to the public” within the meaning of Article 3 (1) EC Copyright Directive 2001 must, now, be understood as covering the sale of a multimedia player on which there are pre-installed add-ons which are copyright protected.

In addition – Article 5 (1) and (5) should be interpreted as meaning that acts of temporary reproduction on a multimedia player, of a copyright protected work from a website belonging to a third party, offering that work without the consent of the copyright holder, is not necessarily exempt from prosecution.)

Finally, the IPO’s call for views on steps which might be taken to address how the legal framework might be adapted to provide sufficient tools to tackle the growing threat of IPTV is welcome.



Many websites continue to offer users the opportunity to upload and make available files with no verification of their ownership.

¹⁷ See judgment at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=190142&pageIndex=0&doclang=EN&mode=req&dir=&occ=first &part=1&cid=352143>

PRS FOR MUSIC

PRS for Music is at the forefront of tackling music piracy and through our active lobbying at government level, research and investment in new technologies, and partnership with enforcement agencies, our work continues to be a catalyst for change.

The established methods of piracy, such as torrent, pirate locker, aggregator and proxy sites continue to be popular avenues for consumers to obtain free copyright content. However, another form of piracy gaining popularity is stream-ripping.

Stream-ripping is the obtaining of a permanent copy of content that is streamed online. The process can be carried out on audio and audio-visual content and, in either case, it is possible to create an audio-only copy of the music. Once a copy is created and saved, it is possible for a user to listen to it offline and share it between their devices.

In 2016, PRS for Music in conjunction with the Intellectual Property Office commissioned two separate research studies, the first from INCOPRO on the operation and impact of stream-ripping services in the context of the music piracy landscape and the second from Kantar Media to assess the consumer attitude and behaviour towards the activity of stream-ripping.¹⁸

The key findings from the studies revealed

- Growth of usage: Since August 2013, the use of stream-ripping services has increased by 141.3%, dwarfing the growth seen for other types of illegal services, particularly when looking at music-specific infringing sites;
- Stream-ripping usage compared to other sites: Out of the 50 most popular music-only infringing sites, stream ripping sites made up the majority (68.2%) of the total usage across the 50. Other sites were cyberlocker host sites, cyberlocker link sites and BitTorrent.

¹⁸ <https://prsformusic.com/what-we-do/influencing-policy/stream-ripping>

Reasons driving stream-ripping (from a survey of 9,000 adults aged 16+)

- The most common response was that the music was already owned in another format (31%)
- Wanting to listen to the music offline (26%)
- Wanting to listen to music on the move (25%)
- Unaffordability of music (21%)
- Feeling official content is overpriced (20%)

Stream-ripping awareness

57% of those 9,000 UK adults surveyed (aged 16+) claimed to be aware of stream-ripping services.

Stream-rippers perception:

A quarter (24%) of stream-rippers believed that such services would have necessary rights and permissions to allow them to download and rip content.

18% said that these services did not have the necessary rights and permissions to rip content in this way.

A quarter of stream-rippers felt that downloading content in this way was wrong.



Stream-ripping – obtaining a permanent copy of content that is streamed online – is a form of piracy that is gaining popularity.

NATIONAL MARKETS GROUP FOR IP PROTECTION (NMG)

The National Markets Group for IP Protection (NMG) was established in 2008 to provide a forum for a national, coordinated, cross-sector approach to tackle the trade in counterfeit and pirated goods at markets and car boot fairs. More recently the group have added social media and online platforms to its remit.

Our collaborative approach in tackling counterfeiting and piracy brings together partners from industry, government and law enforcement whose combined knowledge, resource and aptitude in this crime area has realised some fantastic results.

With over 2000 markets and car boot sales in the UK, the temptation and opportunity for counterfeiters to infiltrate and take advantage of this great British culture and on the vulnerable consumer who 'like a bargain' is enormous.

Regular market visits and research carried out by our members demonstrates that there are still tens of thousands of counterfeit and pirated goods openly available to the UK consumer at markets and on social media such as Facebook and Instagram.

Products ranging from toys, car accessories, clothing, footwear, handbags, purses, jewellery, watches, perfume, cosmetics and electrical goods, many of which have the ability to maim or even cause fatal injury are available to purchase at far reduced prices to that of the genuine articles.

Sourced from China, Pakistan, India and closer to home in cities such as Leicester, Manchester and London, thousands of counterfeit goods enter the UK daily via sea, air and fast parcel ports which end up for sale at markets, car boot sales and online market places.

Emerging trends

Whilst the availability and threat from the sale of counterfeit goods at markets continues, a new threat comes from social media, including Facebook, Instagram and associated smartphone apps, where the sale of counterfeit goods through traditional markets advertised and coordinated.

Social media platforms have been infiltrated by thousands of counterfeiters and pirates engaged in the manufacture, supply and distribution of an array of counterfeit and pirated goods. Work by the NMG and partners shows that illicit traders set up bogus Facebook accounts using closed groups and operate within 'local selling group' to attract customers and sell infringing products including unsafe goods.

The Facebook Marketplace, which promotes localised trading, is being used by counterfeiters to ply their illegal products to unsuspecting consumers who share personal and financial details to so called 'friends' on Facebook.

The speed of transactions through Instagram and smartphone apps linked to social media sites provides anonymity to counterfeiters and rips off the consumer, legitimate business and the UK economy.



Products, many of which have the ability to maim or even cause fatal injury, are available to purchase at far reduced prices to that of the genuine articles.

NOMINET

Tackling online criminal activity

Nominet is an international internet company based in Oxford. It is a public benefit company, which has run the .UK domain name registry since 1996. Nominet's terms and conditions of domain name registration expressly prohibit the use of .UK domain names for any unlawful purpose. Nominet has established relationships with UK public law enforcement agencies and has worked with them to develop procedures for notifications leading to domain name suspensions. Suspended domain names cannot be used as part of website or email addresses.

Nominet publishes an annual report detailing the number of suspensions under this policy. The most recent report covers 1 November 2015 to 31 October 2016.¹⁹ Over this period:

- Notifications relating to 8126 .UK domain names were received
- In total 8049 domain names were suspended as a result of these notifications
- Notifications resulting in suspensions can be broken down by requesting authority as follows:
 - Police Intellectual Property Crime Unit (PIPCU) - 7617 domains suspended
 - National Fraud Intelligence Bureau (NFIB) - 251
 - Trading Standards – 119
 - Medicines and Healthcare Products Regulatory Agency (MHRA) - 45

- Metropolitan Police – Fraud and Linked Crime Online (FALCON) - 8
- National Crime Agency (NCA) – 7
- Financial Conduct Authority (FCA) – 1
- Counter Terrorism Internet Referral Unit (CITRU) – 1
- Notifications relating to 77 domain names did not result in a suspension, usually because the domain name had already been suspended due to another request or had already been transferred following a court ruling
- 13 suspensions were reversed after a request by the domain name registrant. Nominet refers requests to lift suspensions back to the relevant law enforcement agency

The number of suspensions is an increase on the 3,889 recorded over the preceding 12-month period. Nominet received more requests from all reporting agencies including, for the first time, requests from the Financial Conduct Authority (FCA) and the Counter Terrorism Internet Referral Unit (CTIRU). PIPCU, which processes and co-ordinates requests relating to IP infringements from nationwide sources, remains the main reporting agency.

Commenting on the figures Russell Haworth, Nominet's CEO, says: "We want to make .UK a difficult space for criminals to operate in and the number of suspensions shows how the wider law enforcement community and the domain name industry are able to use an established process to take action together."

The Dispute Resolution Service

Nominet established its Dispute Resolution Service (DRS) in 2001 to offer an efficient and transparent method for resolving disputes relating to .UK domain names. The DRS can usually provide a quicker and cheaper resolution to disputes than going through the courts as it aims to settle disputes through confidential mediation. In the event of deadlock, complainants can seek an independent and binding expert decision.

¹⁹ <https://www.nominet.uk/about/corporate-governance/annual-reports/>

To make a complaint an aggrieved party must be able to demonstrate rights (such as trade mark rights) in a name that is the same or similar to the domain name in question. To succeed, the complaining party must then prove, on the balance of probability, that the registration or use of the domain name is abusive as defined by the DRS policy. This means something about the registration or use of the domain name is unfair to the complaining party, confusing to internet users, or both.

Domains

10 million+ .UK domains registered

8049 domains suspended for criminal activity
– up from 3886 in the previous year

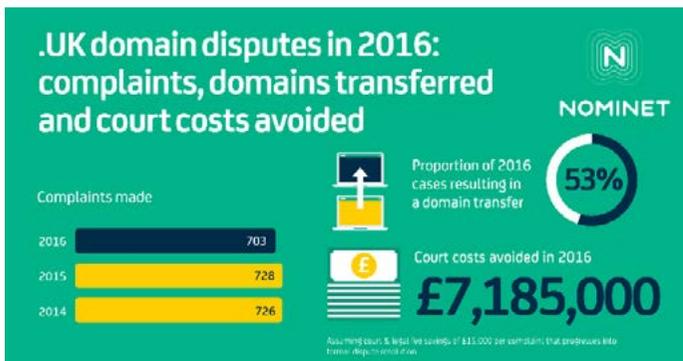
100%+ increase in domains suspended

Figures collated for the calendar year 2016 show a total of 703 complaints were made via the DRS, a slight fall from the 2015 figure. 179 cases were resolved by the parties themselves either directly or with the help of Nominet’s free mediation service. Just under 300 cases were decided by an independent expert decision. The remaining cases were discontinued for a variety of reasons.

There were five appeals against independent expert decisions, with four original decisions being upheld and one being overturned.

Brands using the DRS to address problem domain names during 2016 include: Facebook, Inc, O2 Worldwide, Jaguar Land Rover Limited, Virgin Enterprises Limited, JD Sports Fashion Plc and Ann Summers Ltd. Other users of the service included Brighton & Hove Albion Football Club, The National Council for Voluntary Organisations, and a campaign against gravel extraction in South Oxfordshire.

The industries most frequently employing the DRS were automotive and internet (14 domain names disputed each); retail (12); software and sports (7 and 6 respectively).



The year saw cases brought by complainants from 28 different countries, led by the UK (570 cases) followed by the US (46), France (13) and Germany (10). As with 2015, Respondents were even more widely dispersed, coming from 35 different countries. Again, the UK leads with 570 respondents, with the US second (22) and St Kitts and Nevis third with 16.

The figures quoted in this summary sit against a context of over 10.6 million .UK domain names on the register at the time of writing.

Noteworthy cases during 2016 included:

cheltenham-festival.co.uk

The complainant is the owner of the registered UK trade mark FESTIVAL/THE FESTIVAL for the organisation of race meetings and holds a portfolio of race courses including Cheltenham. The respondent provides services, including free betting tips in relation to horse racing. The expert decided that consumers were not able to tell if the website was connected with the complainant or not and this confusion was unfair to the complainant. The decision to transfer the domain name was upheld in an appeal.

britishredcross.org.uk

The complainant is the registered charity British Red Cross. Amongst other claims, they argued that the unauthorised use of the Red Cross name is a criminal offence under the Geneva Conventions Act 1957. The Respondent offer no response and an expert decision awarded the domain name to the Complainant.



The year saw cases brought by complainants from 28 different countries, led by the UK.

REACT

React is a Dutch based not-for-profit trade association headquartered in Amsterdam, focused on practical enforcement for its 235+ members.

React operates in 54 countries around the world, either through its own offices or through partnerships.

Scale and scope of IP crime

React had 71,288 cases in 2016/17 with 18,134,305 products seized. Of these, 735 cases were in the UK, involving more than 350,000 items for 76 different brands.

523 of these cases were Customs detentions, with the remaining 212 involving Trading Standards/Police.

Online, our WebCrawler identified 23,277 commercial websites offering counterfeit products for sale, of which 2610 carried a .co.uk extension. We successfully closed 2182 of the .co.uk sites.

Additionally, React's internet monitoring team successfully removed 110,024 listings from UK based e-commerce platforms.

Emerging trends

There is an increased number of infringing websites with a .co.uk extension, and most of these sites use the same template, and are usually multi-branded sites (offering many different brands and products). Most of these sites originate from China and do not have valid and disclosed owner's information.

Social Media is still a growing method of selling counterfeit goods, with closed groups and Facebook Marketplace proving challenging.

REAL DEAL

Launched in 2009, the Real Deal Campaign for Fake-Free Markets is an awareness/education initiative which complements the intelligence-led enforcement work of the National Market Group for IP Protection. Together we provide a 360-degree approach to tackling sales of IP infringing products at UK markets and car boot fairs.

The Real Deal initiative is used by local authorities across the UK to facilitate closer working relationships between market operators and their local Trading Standards services. We increase awareness amongst market and car boot fair operators of their responsibilities to ensure that their venues are fake-free, and we provide them with practical information, resources, guidelines and contacts that will help them in this endeavour.

Partnership collaborative working is central to the Real Deal's success. At the heart of the project is the voluntary Real Deal Charter signed by both the market operator and their local Trading Standards service to confirm a joint commitment to working together to ensure fake-free trading. The Charter is underlined by a code of practice which sets out procedures for markets and car boot fairs to abide by in order to display the Real Deal logo.

The Real Deal Charter is signed by both the market operator and their local Trading Standards service to confirm a joint commitment to working together to ensure fake-free trading.

The Real Deal programme delivers benefits to a range of stakeholders:

- It provides local authorities with a cost-effective, preventative strategy which recognises and rewards market and car boot venues that are committed to keeping their venues free from counterfeit and other illicit products;
- It gives market and car boot fair operators a practical framework and set of procedures to ensure that any would-be traders in illicit goods cannot get a foothold in their venues;
- It enables IP rights owners and local Trading Standards services to target resources more effectively on venues at which counterfeiting is problematic;
- It ensures a level playing field for legitimate market traders and local businesses so that they are not competing against traders in fake goods;
- It offers consumers a recognisable symbol for fair trading and fake-free market shopping.



Cannock Market Real Deal Launch with Staffordshire County Council's Trading Standards team

Uptake of the Real Deal Charter has grown year-on-year and the programme is now widely used by local authorities across England, Wales, Northern Ireland and Scotland.

Markets and Trading Standards authorities are provided with a range of practical resources, including an advice leaflet for market traders on How to Stay IP Legal and, for enforcement officers, a Practical Guide to IP Protection at Markets and Car Boot Fairs, which is an in-depth compendium of case studies, legal approaches, best practice and template documents. The Real Deal approach, and the importance of trade mark and copyright protection, have been included as one of the key learning modules in the National Association of British Markets Authorities (NABMA) Diploma in Market Administration.

The Real Deal project is endorsed by all the key stakeholders who have an interest in ensuring that markets are free from counterfeit goods, including the Chartered Trading Standards Institute and the IPO. It has been cited as best practice by previous IP Ministers – as well as organisations representing the interests of IP rights owners, and the national associations for market operators (NABMA) and market traders (NMTF). Financial support is provided by the project's industry sponsors: the Alliance for IP, the Industry Trust for IP Awareness, BPI, the Premier League, Surelock, WRI Group and members of the ACG such as SuperGroup PLC.

More information at www.realdealmarkets.co.uk.



SOCIAL MEDIA RESEARCH – IPO

The IPO 'Share and Share Alike' study²⁰, published 4 September 2017, was specifically aimed to assess the scale, impact and characteristics of infringements by reviewing the current literature and government and industry data, as well as conducting a 3,000 person online consumer survey.

Counterfeiters see social media as a haven and actively use both open and closed group pages, along with 'likes' and 'retweets', to flagrantly disseminate their offerings. The social media platforms make it easy to move channels by establishing fan pages and making it possible to carry out transactions on or off the social media platform. Social media is one aspect of a wider problem of traffic diversion and website impersonation; it is part of a range of online tools used by counterfeiters to divert traffic away from legitimate websites. A key focus of infringement is the proliferation of closed groups (i.e. invite-only groups) created on social media platforms. The consumer data from "Share and Share Alike" revealed Facebook groups represented the most exposed location for suspect communications, with suspect activity being five times more prevalent in closed groups than in open groups.

- There is a paucity of current scaled data due to brands/industry's reluctance to share confidential financial information.
- Claims that one in every five websites is fake and as many as 40,000 websites are compromised every week; meaning on average, at least 20% of a brand's online traffic could be diverted away from its websites.
- Also claims that one in every six products sold online is counterfeit and 30% of EU counterfeit seizures are linked to internet distribution channels.
- The counterfeiting industry accounted for 8% of China's GDP. Apart from Alibaba, there are a number of Chinese sites, such as Makepolo, with global reach. Online marketplaces were apparently the No1 online sales channels, with more than 700 active online marketplaces on the internet and 150 in China alone.

²⁰ <https://www.gov.uk/government/publications/share-and-share-alike>

TRADE MARK AND RIGHTS HOLDERS AGAINST PIRACY (TRAP)

Protecting intellectual property rights

Trade mark and Rights holders Against Piracy (TRAP) have a simple mission; to protect intellectual property rights with direct action. TRAP is a worldwide collective of rights holders and publishers working with the biggest names in music, film, TV, art and sport. Through lobbying and direct action, TRAP protects the public from purchasing counterfeit products whilst enabling musicians, artists, actors and athletes to provide their fans with official merchandise. Liaising with police and governmental bodies, TRAP maintain the services of global investigators and security consultants, a combination that has proven a continual success in prosecuting those infringing upon our rights in physical retail and online.



Online

287,363 UK Marketplace Offers reported for counterfeit merchandise since June 2016

11,391 Print On Demand Facebook campaigns closed in the last 12 months

In the last year we have seen the major western online marketplaces competing for market share with Alibaba, resulting in an influx of South East Asian sellers into the UK marketplace, thus increasing the visibility and availability of cheap counterfeit merchandise, affecting price, quality and product reviews negatively.

UK online retailers are suffering, resulting in the closure of some businesses and redundancy of staff.

Facebook sellers are also becoming a notable problem. TRAP receives weekly complaints direct from artists and producers regarding counterfeit product being offered via Facebook campaigns, with the adverts often appearing on the artist's Facebook feeds, enabling sellers to command a higher market price per item, than those on traditional platforms with less exposure.

Statistics

Over the past year TRAP has carried out the following physical enforcements and raids alongside local police and Trading Standards across the UK.

Martin Ochs, Partner at leading IP law firm Hamlins LLP said: "Unofficial products which infringe intellectual property rights deprive artists of important creative control and gives the fan an inferior product. Hamlins LLP have been advising TRAP for several years in its fight to tackle this ever increasing problem. Acting collectively, rights holders, manufacturers and distributors are able to combine resources to take legal action against unlawful infringers. This action, together with the assistance of law enforcement agencies to prosecute offenders, has seen a positive influence which will only continue to increase as TRAP continues its efforts."



Raids carried out

36 Retail outlets

37 Markets

22 Wholesalers

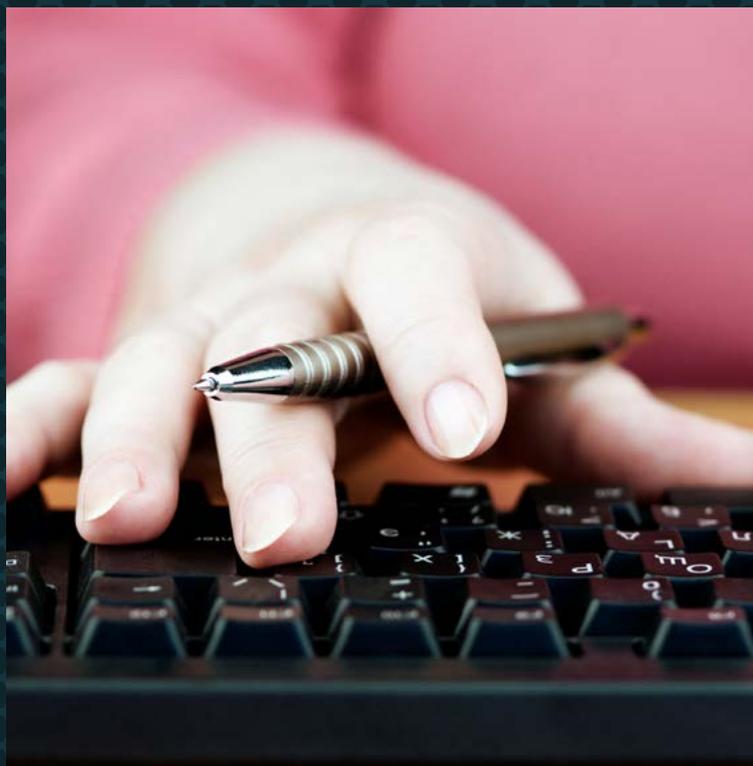
10 Screen printers

29 eBay sellers

203,468 infringing items seized

Chapter 3

TACKLING IP CRIME



OVERVIEW

The tools for the job

This year's IP Crime Report is a success story. The blend of enforcement authorities, industry representatives, consumer organisations, trade associations and legal and administrative specialists, who form our team, are no longer talking about collaboration – we are doing it. We no longer face the prospect of illegal downloading and streaming of copyright material from a position of weakness. We understand the threat, we understand how it is delivered, we are developing case law in national and international courts and we are taking action.

In this section

We can see clear evidence of the effectiveness of the measures we are taking and our increasing skill and knowledge in the joined-up world of tackling IP crime. Last year's report highlighted the need to tackle advertising from legitimate businesses on illegal, IP infringing websites. City of London Police's Police Intellectual Property Crime Unit (PIPCU), through the success of Operation Creative, reports a 64% fall in advertising on infringing websites over the last year. React report on a landmark case from the Court of Justice of the European Union (CJEU) giving trade mark owners authority to instruct market operators to intervene in illegal trading. The Anti-Counterfeiting Group (ACG) stress the importance of international collaboration and the IPO, the EU Observatory and the World Intellectual Property Organisation (WIPO), along with key contributors from the USA, China, India, Taiwan, Vietnam and Philippines showcase the valuable contribution of our international attaché network.



We can see clear evidence of the effectiveness of the measures we are taking.

Financial Investigators

Two financial investigators have been trained and have joined the IPO Intelligence Hub. Their expertise will assist in prosecutions and deliver more effective results in the drive to source proceeds of crime investigations. The ACG refer to a raft of collaborative ventures involving partners within the IP Crime Group and, significantly, brand owners, namely Imperial Tobacco, Jack Daniel's, Philip Morris and Epson. Moreover, training in technical aspects of enforcement delivery characterise much of the work of our partners. ACID have delivered training to 45 Trading Standards Officers to ensure they aware of new legal developments. Police Scotland refer to similar training events for enforcement officers relating to ISD. The IPO and the Alliance for IP have developed the 'IP In Practice' training programme which 150 (and counting) Trading Standards Officers have completed. In a related initiative, the Premier League has delivered awareness-raising events to prevent unauthorised broadcasts of Premier League matches in public venues.

Electrical Safety First and the Industry Trust for IP Awareness have strengthened initiatives on the dangers of counterfeit goods and the value of branded products, through carefully researched and well-focussed initiatives like 'Moments Worth Paying For' and 'FindAnyFilm.com'.

Public facing

The IPO continues to develop new awareness raising ventures and build on the success of established ones. The IPO's Cracking Ideas competition is now the most popular run by government, receiving more than 2,200 entries last year. The IPO's blogs, focussing on the value of IP, were voted best in government, last year, by the Government Digital Service.

From strategy to action

IP crime prevention initiatives build on previous successes. Operation Jasper has now led to 12,000 listings being removed from Facebook. The National Markets Group for IP Protection (NMG) and Real Deal continue to develop new strategies to protect the UK's 2000 traditional markets.

PPA and PRS for Music have both organised the removal of websites offering infringing copyright links, through Operation Creative and the Infringing Website List, which are administered by PIPCU. In total, BPI have referred over 490 million URLs containing infringing content to Google and Bing and blocked 63 infringing websites through the use of Court Orders. Whilst in the field of interactive games, UK Interactive Entertainment (Ukie) report that 150,000 suspicious links have been reported to Ukie's scanning services resulting in 85% of those links being removed.

Scottish Anti-illicit Trade Group (SAITG), Police Scotland and the Health and Safety Executive report successful anti-infringement and awareness raising initiatives in respect of potentially harmful fake pesticides. This operation involved the cooperation of the National Farmers Union and nationwide agricultural colleges.

From the private sector, TM Eye maintain an active portfolio of IP Crime prevention investigations detailing 272 successful private prosecutions since 2013, with 100% prosecution rate.



Operation Jasper has now led to 12,000 listings being removed from Facebook.

CRIME GROUP REPORTS

3a Governance

INTELLECTUAL PROPERTY OFFICE (IPO)

Enforcement Strategy 2020

In May 2016 the IPO published the Government's four year IP strategy, setting out core strategic ambitions to ensure that effective, proportionate and accessible enforcement of IP rights remain a priority.

The key ambitions are to ensure that:

- UK businesses, including small businesses, are more confident in operating internationally as a result of better IP protection globally;
- rights owners and rights users have access to proportionate and effective mechanisms to resolve disputes and tackle IP infringement;
- consumers and users are educated to the benefits of respecting IP rights, and do so.



The maximum prison sentence for online copyright infringement has been increased to ten years.

There have been many successes in the past 12 months. For example, we have continued judicial exchanges with China, developing our understanding of the challenges posed by illicit streaming devices and our ongoing work to improve the IP enforcement content on the gov.uk platform. Other highlights include:

Making the online world a place of legitimate activity for UK businesses and consumers

In February 2017 the IPO facilitated a landmark agreement with representatives from key search engines including Bing and Google and creative industry stakeholders (MPA, BPI, Alliance for IP) to introduce a Code of Practice that sets out a shared ambition for reducing the prominence of copyright infringing websites in search results. It also specifies certain areas, such as autocomplete, where rights holders and search engines have agreed to undertake work to help remove suggestions that may lead users towards pirate websites.

Strengthening the legal framework

The maximum prison sentence for online copyright infringement has been increased to ten years, equivalent to the maximum penalty of copyright infringement for physical goods. Following consultation in 2015, this amendment to the Copyright, Designs and Patents Act 1988, came into law as part of the Digital Economy Act 2017.

Section 26 of the Digital Economy Act amends the maximum sentence for online infringement to ten years and also re-casts the offence by requiring that, to be guilty of the offence, a person must either intend to make a monetary gain for himself or another, or know or have reason to believe that his actions will cause loss to the owner of the right or expose the owner to a risk of loss.

This amendment replaces the pre-existing concept of “prejudicial effect” with more precise notions of “gain” and “loss” in money. It will come into force on 1 October 2017.

Industrial Strategy

The UK’s industrial strategy will launch a major upgrade in the role of innovation in the UK economy. The UK’s IP enforcement strategy, and the IP system it supports, are fundamental to encouraging innovation and supporting innovative businesses to start and grow.

Another important priority of the industrial strategy is the encouragement of trade and inward investment, and the UK’s world class IP enforcement regime gives key trade partners the confidence to do business here.

CRIME GROUP REPORTS

3b Connectivity

ANTI COPYING IN DESIGN (ACID)

Intentional infringement of a registered design now a crime/ Trading Standards – ACID’s Chief Counsel has held a training day with 45 Trading Standards Officers to ensure they are aware of the recent legislative changes. We believe that, following the implementation of criminal penalties to deter the infringement of registered designs as a consequence of the Intellectual Property Act 2014, we should now consider unregistered design rights. Criminal penalties for the infringement of unregistered design rights, analogous to penalties for copyright infringement, outlined in Section 107 and 110 of the Copyright Designs and Patents Act 1988, would confirm the importance of unregistered designs. Indeed, unregistered design rights and copyright are, legally speaking, closely connected rights which both deserve to be upheld in the same way.

ACID’s Chief Counsel has held a training day with 45 Trading Standards Officers to ensure they are aware of the recent legislative changes.

ELECTRICAL SAFETY FIRST

CAMPAIGNS – for consumers

Electrical Fire Safety Week/ Black Friday, November 2016 – watch out for fake and substandard goods in the run-up to Christmas. Focus on increasingly sophisticated fake products, often sold online.

- Coverage included: 143 radio stations with potential audience reach of 47.69 million;
- A digital campaign (Counterfeit Elvis – short online video) to support the above. The video reached over 580,000 people with 4052 click throughs to our website in response.

World Anti-Counterfeiting Day, June 2016 – focus on increasing number of fakes sold online.

- Coverage included: Metro, The Daily Mirror, The Scotsman, plus a range of regional titles and significant coverage in over 100 radio stations.
- A digital campaign in support of the above (Charley Says) reached over 14,000 people in one day.

Lobbying UK Government – increasing Parliamentary awareness of counterfeits

Digital Economy Act– we proposed amendments to tackle the sale of fake goods online. While these were not included in the Act, we are continuing to lobby government to ensure that counterfeit electrical goods sales are tackled – particularly their sale and availability online. The Government must ensure that this becomes a priority for enforcement agencies.

We helped establish and provide the Secretariat to the All-Party Parliamentary Group on Home Electrical Safety, which has held debates on the increasing number of counterfeits entering the UK. We will continue to raise awareness of this issue amongst MPs.



We are continuing to lobby government to ensure that counterfeit electrical goods sales are tackled.

INDUSTRY TRUST FOR IP AWARENESS

The Industry Trust for IP Awareness is the UK film, TV and video industry's consumer education body, promoting the value of copyright and creativity.

There's no doubt that the way people watch film and TV has become truly multichannel in recent years. The good news is that most consumers choose a combination of authorised paid or authorised free content from the wealth of legal ways to watch. Infringement levels remain static at 23%, but there is an underlying, more worrying trend:²¹ those who do infringe are consuming more unauthorised content than before, fuelled by new technologies which make it even easier to infringe and blur the line between what's legal and what's not.

A recent consumer survey from YouGov²² suggests that 10% of the UK population (around 4.9 million adults) now has access to platforms such as pre-loaded streaming or boxes and sticks, and illegal streaming apps on smartphones and tablets, which allow them to access links to content from pirate sites.

The prospect of millions of people choosing to watch films and TV content illegally through a simple set-top device could have far-reaching consequences. In the immediate term, YouGov highlights the impact this is already having on paid-for TV providers, for example, suggesting that one in seven of those accessing infringing content in this way has already cancelled at least one legitimate paid-for service. For the longer term, the

21 The Industry Trust: IPTV Piracy: A study on set-top-box and stick infringement for the industry

22 <https://yougov.co.uk/news/2017/04/20/almost-five-million-britons-use-illegal-tv-streami/>

use of ISDs threatens to create wide social acceptability of infringement, across the generations, because the device is, more often than not, in the family living room.

The unparalleled threat from this new type of piracy will only be countered by a multi-pronged response that addresses both supply and demand. Consumer education will play a central role, and much work is already being undertaken across the industry to address the supply of devices that promote infringement.

In 2016-17, the Industry Trust continued to play its part in changing audience attitudes and behaviour through its established Moments Worth Paying For and FindAnyFilm campaigns and platforms, and worked closely with BASE, FACT, the MPA and multiple industry partners to ensure the industry, enforcement agencies and government officials fully understand the rapidly changing shape and scale of this new piracy challenge.

Moments Worth Paying For

Now in its seventh year, the Trust's Moments Worth Paying For campaign has been transformational in fusing consumer education with the content it seeks to protect, with trailers that turn the spotlight on the audience and celebrate their shared experience at the cinema.



The campaign continues to form the backbone of the Trust's consumer education activities and, with research pointing to the significant impact of IPTV piracy on cinema exhibition, the campaign's focus on the unique cinema experience could play an increasingly valuable role.

Thanks to ongoing evaluation and message evolution, campaign performance has improved year on year. In 2016, for every one pound spent, the campaign delivered a media value of £55 and reached an audience of 3,000, ending the year with just under £10m in media value. The campaign continues to direct consumers to legal film search-engine, FindAnyFilm.com, to encourage viewers to book, buy and watch from legal content sources.

FindAnyFilm.com

As more consumers migrate more of their viewing online, it remains imperative to help guide them towards sources of legal content. As the UK's only website to cover the content lifecycle, from theatrical, to disc to digital, as well as free-to-air availability, FindAnyFilm.com is a unique resource which underpins all of the Trust's consumer facing education campaigns. It has also been incorporated into CCUK's education activities to make it as easy as possible for consumers to search for specific titles from genuine sources.



In 2016, investment in a number of site enhancements has further improved the user experience. These included speeding up the processing times of search results, surfacing episodic TV content and digital availability and making TV listings for film and TV available thanks to a partnership with the Press Association. From TV listings search results, there is an option to “watch now” connecting users to transactional retailers. The Trust has also been working with trusted consumer champion Which? to integrate the Application Programming Interface (API) into the Which.co.uk website.



As more consumers migrate more of their viewing online, it remains imperative to help guide them towards sources of legal content.

INTELLECTUAL PROPERTY OFFICE (IPO)

Cracking Ideas hub: IP Education Hub

www.crackingideas.com is an interactive hub bringing together educational material for all forms of IP, along with resources developed by our key stakeholders.

Comparisons of site performance (April 16 – March 17)



Cracking Ideas Hub: IP Education Hub April 16 – March 17

7% bounce rate – down from **70%**

3mins dwell time – up from **1min** 21secs

60% more visitors to new education pages

9,500+ resource downloads

4,700 visitors – up from **31,200**

Think Kit

A schools based resource, linked to the curriculum, targeting Key Stage 4. “Think Kit” gives teachers of particular subjects’ access to brand new online resources designed to improve the next generation’s understanding of IP. Think Kit is already ranked the third most downloaded resource accounting for 15% of all downloads.

Cracking Ideas competition

It is one of the most popular run by government receiving more than 2,200 entries and the curriculum linked lesson plans and resources to accompany the competition were featured on Teaching resources - Tes. Last year's competition was in celebration of 40 years of Aardman Animations with the prizes being workshops run by Aardman and animation software.

Cracking Ideas resources

This is the most popular downloaded resource accounting for nearly 70% of all downloads. The resources cover Key Stage 1 to 4 and include study aids, teachers guides and lesson plans. The resources for 7 – 11 year old proving to be the most popular.



Cracking Ideas resources cover Key Stage 1 to 4

Nancy and the Meerkats

(Key Stage 1) – A series of radio broadcasts and online films targeting the under 12s. The series has been heard by an average 367,000 unique listeners, supported by 29,000 page views of the online pages to date for an average of 4.28 minutes per page.

There have been more than 1,750 views of the animated series through Fun Kids YouTube channel and we have built a database of parents who would like to be kept in touch with information related to the series and topics it covers.

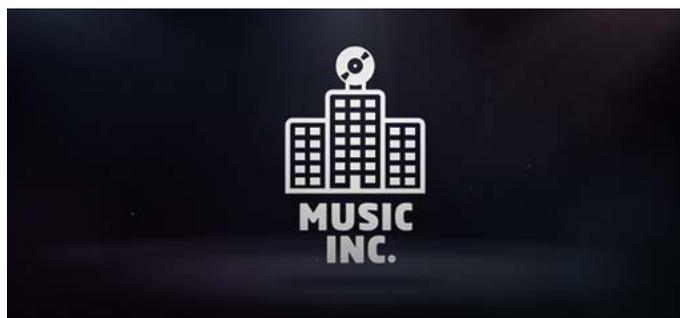
Creating Movie Magic (Key Stage 2 & 3)

A teaching resource for secondary school pupils including teaching notes, curriculum links and activities to support the teaching of intellectual property in design and technology. Developed by the Industry Trust and Into Film and supported by the IPO.

The resource has had more than 5,000 downloads to date and was awarded five stars by Tes. The resource trailer 'Vin Diesel's Socks' was nominated for a Royal Television Society (RTS) award and the competition winning trailer 'Zombie Fairy' has been seen over 567,000 times.



Nancy and the Meerkats is aimed at under 12s



Music Inc A downloadable game which educates gamers

Music Inc

A downloadable game which educates gamers Music Inc was developed in partnership with UK Music.

- Music Inc has been played more than 149,000 times in the UK
- Average time played in the UK is 22 minutes
- Music Inc has been played more than 1.1 million times globally
- Average time played globally is 22 minutes
- More than 78% of players make positive choices about IP

Business Battle

Funded by EUIPO, Business Battle is a fun and engaging multi-player game to be used in the classroom and linked to the business studies curriculum.

The aim is to encourage students to appreciate the importance of IP when developing and marketing a product. The game was launched at the Education Show at the NEC in Birmingham in March 2017 and is part of the Think Kit Business Studies suite of resources.

Social media activity

The Campaigns and Education team use various social media tools on the Cracking Ideas site to get our message across to the wider education community.

From April 16 – Mar 17 we achieved the following



Social Media Activity

43,143 Facebook reach

515,100 Twitter reach

103,438 YouTube views

First News

First News is a UK tabloid newspaper aimed at young people. It is the widest-read children's publication in the country; it is regularly used within schools as the basis for discussion based teaching.

2016/17 activities include: a mini invention competition for Cracking Ideas; social media support; junior journalist reports; newsletters to schools and subscribers and discussion provoking articles.

IP and Education Conference

The Education team attend a number of events and exhibitions throughout the year. In spring 2017 they were invited to speak at an IP and Education Conference hosted by the Lithuanian State Patent Office in Vilnius and Mark Skeggs the Education and Campaigns Manager took the opportunity to speak on the Cracking Ideas and other education resources.



Intellectual Property Office

BUSINESS BATTLE FREE!

THE GAME

CALLING ALL KS4 BUSINESS STUDIES TEACHERS!

BUSINESS BATTLE is a new resource to help engage and educate your students by turning the classroom into a micro-marketplace where teams fight it out for their rightful position at the top of the leaderboard.

The free online app brings to life key areas of the curriculum, providing a safe and fun environment to experience the financial rise & falls possible in business. It also introduces the role of IP within business - how ideas become products, product parts become patents, and all of that becomes cash.

Coming March 2017 - www.businessbattle.co.uk

Intellectual Property Office is an operating name of the Patent Office

Business Battle is a fun, multi-player game to be used in the classroom



IP Education Conference, Vilnius



IP Education Conference, Vilnius



Trading Standards Officer IP training – Stirling May 2016



Karaoke shower

The aim of the conference was to highlight and share best practice amongst different states, countries and organisation including Lithuania, Finland, Georgia, Romania, UK, EUIPO and WIPO.

Karaoke shower

Users learn about the importance of copyright, and the value of the UK music industry and are encouraged to share experience online. This is then used to promote our messages and products around respect for IP.

The Karaoke Shower has been placed in schools, shopping centres and at events including the World Skills Show, London Skills Show and the Big Bang Science and Engineering Show. The Karaoke Shower also went to the Houses of Parliament to support a UK Music event. This year over 10,000 people have taken the opportunity to sing in the shower.

3D printing research

The IPO has commissioned the Queensland University of Technology to deliver research into the future of 3D printing. Alongside a legal study, the team are holding workshops with practitioners in a range of territories, including China, India, Russia, Singapore and Western Europe. Additional desk research will be carried out to better understand developments in the US. The research considers the impact of 3D printing on all of the intellectual property rights and is due to deliver results in Spring 2018. A dedicated twitter feed and blog have been established to engage with interested parties and to build a network of interested parties.



Karaoke shower users learn about the importance of copyright, and the value of the UK music industry.

IP in Practice training

For 10 years the IPO has worked in partnership with the Alliance for IP and independent training providers, to offer courses to support candidates sitting the Intellectual Property element of the Diploma in Consumer Affairs (DCATS).

In 2015 the IPO and partners revised the IP enforcement training offered to Trading Standards Officers. Standalone courses were introduced to help broaden the appeal of the training, covering introduction and masterclass levels of IP training, alongside our existing copyright, designs and criminal law and private prosecutions courses.

To ensure as many people as possible were able to take part in the training, the IPO provided additional funding in 2015/16, which will continue in 2017/18. This enable the courses to be delivered in the regions and they were very competitively priced, at only £49 per person. As a result our training providers delivered courses for over 150 Trading Standards Officers.



Trading Standards Officer IP training – Stirling May 2016

SCOTTISH ANTI ILLICIT TRADE GROUP (SAITG)

Due to the diversification by organised criminal groups into the importation and distribution of illicit products, Police Scotland, in partnership with the Scottish Anti Illicit Trade Group, agreed to the formation of an enforcement subgroup – the Scottish Illicit Trade Enforcement Subgroup (SITES). This new group brings together both law enforcement agencies (LEAs), the IPO Intelligence Hub and the private sector to provide a strategic overview of enforcement activity throughout Scotland. It develops an accountable process for private sector investigative referrals and share best practice advice and training across the sector.

It was quickly identified that a core function of the group would be a multi-agency partnership approach to the investigation of large scale projects. We utilise expertise from across the LEAs from financial investigations and forensic capabilities to coordinate enforcement activities.

SITES produces a bi-monthly newsletter providing information on current and emerging trends, enforcement activities, media campaigns and court outcomes. This newsletter has now been formatted for distribution to partner agencies and the mainstream media outlets ensuring that the harm caused by the illicit trade in counterfeit goods is highlighted throughout our communities.

With several joint operations now completed there has been an increased understanding and communication between the public and private sectors leading to a significant rise in intelligence development between LEAs and the Intelligence Hub at the Intellectual Property Office.

CRIME GROUP REPORTS

3c Action

ANTI-COUNTERFEITING GROUP (ACG)

The ACG and its members are at the forefront of several campaigns and initiatives to reduce the availability of counterfeit goods and evidence the scale of this serious criminal activity.

Through its intelligence and enforcement coordination role the ACG have:

- worked in partnership with the National Markets Group and Trading Standards, providing actionable criminal intelligence, physical assistance on raid actions, transportation, storage and destruction of seized items reducing the burden on enforcement partners but enabling them to take more intelligence led coordination actions;
- worked in partnership with HMRC, Border Force and the IPO's Intelligence Hub by providing intelligence on active importers of counterfeit goods and physical assistance during intensification exercises at key border location, leading to the detention of some 80,000 counterfeit items destined for the UK market place – Operation PISA;
- worked in partnership with Manchester City Council and others under the auspices of Operation Strangeways, developing new and innovative ways to reduce the availability of counterfeit goods in the Strangeways area of Manchester which has led to over 40 criminal retail and wholesale businesses being closed down through the use of notices under Section 146, Law of Property Act, 1925;
- worked in partnership with Camden Trading Standards to develop innovative strategies to reduce the availability of counterfeit goods in high street shops and markets leading to over 40,000 counterfeit goods being seized and a national pilot between ACG, Camden TS and PIPCU being initiated;

Supported an array of enforcement partners including:

- Border Force at Coventry International Postal Hub, Southampton, Felixstowe, Heathrow Airport, Birmingham Airport, East Midlands Airport, Langleys Postal Hub.
- Trading Standards – Rhondda Cynon Taf, Merthyr Tydfil, Swansea, Ealing, Kent, Essex, Suffolk, Wandsworth, Caerphilly, Devon and Somerset, Glasgow, Aberdeen, Nottingham County, Liverpool, North Yorkshire, York, East Sussex, West Sussex, Surrey, Flintshire, Gwynedd, Powys, Newport, Blaenau Gwent, Cambridge, Warwickshire, Hertfordshire, Lincolnshire, Sheffield, Leicester City, Leicester County, Manchester, Salford, Brent & Harrow, Camden, Northern Ireland, Nottingham City, Tower Hamlets, and Birmingham.
- Police – PIPCU City of London, Metropolitan Police, Sussex, Devon and Somerset, South Wales, Gwent, Dyfed Powys, Northern Ireland, Garda, West Mercia, Surrey and Avon and Somerset.
- Other – Intellectual Property Office Intelligence Hub, National Trading Standards e-Crime Centre, National Trading Standards Intelligence Team, National Crime Agency, HMRC, Government Agency Intelligence Networks, Europol and Interpol.

Provided training and awareness sessions:

- IP roadshows - held four times a year – these training days raise awareness amongst police, Trading Standards and Customs/Border Force Officers. These events enable enforcement and government partners to interact with ACG member brand representatives in order to learn more about product counterfeiting, methodology of the counterfeiter, how to spot a fake as well as input from key IP organisations such as Trading Standards Institute and the Intellectual Property Office.
- Customs training days – ACG and its members provide in-depth training to Customs and Border Force staff on site at various locations across the UK. With the borders being the first line of defence against counterfeit goods entering the UK, this training has proven to be very popular and effective.

ACG is recognised for its lobbying ability, networking and more recently its intelligence coordination role. The aforementioned projects along with other similar activity enabled ACG to lobby and influence government to address major counterfeiting activities in the UK.

Below is a snapshot of the activity conducted between April 2016 and March 2017 by a number of ACG members:

Members from the tobacco industry have worked tirelessly with public and private sector partners to mitigate the inherent risks from the supply and use of counterfeit tobacco and cigarettes.

Imperial Tobacco

Nearly 700 seizures over the past 12 months resulting in legitimate retailers reporting an increase in sales of over £3000 per month following enforcement action against counterfeiters in their area.

Several notable convictions resulting from partnership working including:

- Nottingham/Derby: four retailers jailed for nearly six years; sales totaling £220k.
- Tamworth: nine months' custodial sentence for retailer - suspended for two years + 150 hours unpaid work
- Cheltenham: 36 months suspended sentence for a trader + 360 hrs unpaid work
- Durham: “fag house”/Chinese takeaway sales; 13 months custodial sentence and six months suspended for his spouse.

Use of alternative legislation:

- Cork (Ireland): seizures of vehicles (proceeds of crime) – 65k counterfeit cigarettes, 7.5kg illicit hand rolling tobacco, 57 litres of vodka and a car seized alongside this due to vehicle is being used to transport illicit/illegal product²³

Imperial Tobacco won ‘Brand Campaign of the Year’ at the NFRN national awards in London for “Suspect it? Report it!”. Since its creation in 2014, the brand has developed into the market-leading approach, raising awareness around illegal tobacco while engaging retailers, consumers and law enforcement alike in promoting a collaborative approach to tackling illicit trade across the UK.



ACG is recognised for its lobbying ability, networking and more recently its intelligence coordination role.

²³ http://www.thejournal.ie/cigarettes-seizure-3223228-Feb2017/?utm_source=shortlink&utm_campaign=email_share

The Suspect it? Report it! The website

Since the beginning of the NFRN campaign it has enjoyed a 25% rise in page views and over a 200% rise in the amount of time visitors are spending browsing through the site. A quiz module is being added soon.

Philip Morris

Philip Morris Limited has been researching low volume high frequency (LVHF) smuggling methods to expand on and understand the major themes common to illicit trade in general.

The project focused on tobacco products and their unlawful movement from two source countries, Poland and Lithuania, into the UK. The aim was to understand the modus operandi (processes, enablers and vulnerabilities) and why the activity was committed (motivation including risk vs. benefit, ease, profits).

The purpose of the project was to gather evidence on the LVHF methods and advocate for prevention techniques to disrupt key enablers of the illicit trade in partnership with various stakeholders. All intelligence was disseminated to UK, Polish and Lithuanian law enforcement.

Jack Daniel's

The brand representative dealt with 33 cases relating to counterfeit Jack Daniel's merchandise (16 of which were as a result of the ACG/TS coordinated raids in Camden) with most of the others in and around London. It may be that this counterfeiting activity concerning Jack Daniel's is particularly prevalent in London. However cases have also come to light in Lancashire, Lincolnshire, and North Wales.

EPSON

Has worked with National Trading Standards and others to raise consumer awareness of 'fake helplines'. Following a number of consumer complaints, EPSON was deeply concerned about the appearance of these "fake helplines" which used the EPSON trade mark, and has worked very closely with Trading Standards to have them removed as quickly as possible.

Consumers were complaining about poor service they had received from what they believed to be the EPSON service helpdesk, or from companies who were claiming to be working with them. The nature of the complaints raised their suspicions so after some initial investigation it very quickly became apparent that these "services" were absolutely nothing to do with EPSON.

Fake service providers were advertising technical advice and repairs for EPSON printers, and persuading users to allow them to take remote control of their computer. They would then explain that the printer problems were being caused by the customer's computer, and they would be charged for the supposed repair of non-existent faults.

In some cases the experience was more serious. Some customers reported being warned that their identity was at risk of theft unless they paid a large fee for protection and others that spyware aimed at password theft was installed onto their computers.

EPSON quickly issued advice on their website and on social media to make customers aware of these scams and provided steps on how to avoid becoming a victim.

They also worked closely with the National Trading Standards eCrime Team, and asked customers to report their experiences to Action Fraud and to Citizens Advice.



Fake service providers were advertising technical advice and repairs for EPSON printers, and persuading users to allow them to take remote control of their computer.

National Trading Standards e-Crime Team raised the issue via the national media and offered guidance on how to spot fake helplines. This very quickly led to the suspension of over 120 websites advertising the helpline numbers.

EPSON continue to be vigilant, and would always suggest that their customers do the same. If a customer ever needs support, they should use the contact details provided on the EPSON website, on their product packaging or in their literature.

The public should always be suspicious of helplines asking to take remote control of computer to fix printer problems. This is something that EPSON never does.

Their advice to consumers – make sure that your anti-virus and online security software is kept up-to-date, to reduce the risk of unwanted pop-ups on-screen that may advertise fraudulent services. If in any doubt, get in touch with EPSON direct.



Consumers should make sure that their anti-virus and online security software is kept up-to-date, to reduce the risk of unwanted pop-ups on-screen that may advertise fraudulent services.

ELECTRICAL SAFETY FIRST

Regardless of Brexit, UK trade is, at the moment – and for some time to come – still subject to European legislation, including product standards.

RAPEX – the European Rapid Alert System for the notification of dangerous consumer products places counterfeit and substandard electrical products as the third most frequently notified.

Failure to maintain a co-ordinated market surveillance operation could result in the UK becoming a dumping ground for non-compliant – fake or substandard products. (Establishing a UK-only system could impact severely on business exports and imports).

For industry and stakeholders

- The dangers of counterfeits and the need for co-ordinated market surveillance are incorporated into our annual product safety conferences, attended by senior delegates throughout the supply chain – with speakers including former lecturers at Interpol’s IP Crime Investigator’s College.
- Co-sponsors of a European Parliament briefing – ‘Consumers and Businesses at risk: counterfeit electrical products across Europe.’
- Raising awareness of the issue at the National Consumer Congress.
- Op/eds (i.e. opinion pieces) editorial and features for industry and related professional magazines and blogs are regularly published. A forthcoming feature considers the risk from fake after-market parts and ill-equipped repairers (now appearing on a high street near you).

FACT

Working with the Police Force and Trading Standards Officers we have made significant progress in disrupting the sale and distribution of illicit streaming devices.

In March 2016, we carried out multiple raids across North East England which saw six people believed to be selling illicit streaming devices arrested.

Following this action, a significant operation in Glasgow with Police Scotland was launched which resulted in two warrants being executed in May 2016. The investigation is ongoing and it is believed to be a significantly large to facilitate illegal streaming to boxes in more than 600 pubs in the UK and costing industry more than £40 million.

In August 2016 PIPCU, working together with FACT and Lancashire Police, disrupted an international criminal business selling thousands of illegally modified TV boxes to people across the globe. Three people were arrested and bailed whilst the investigation continues.

February 2017 saw five people arrested in a crackdown on the sale and distribution of illegal TV set-top devices in the North West of England. The multi-agency day of action saw FACT, Greater Manchester Police, PIPCU and the IPO join forces and executed six warrants in Tameside, Bolton, Bootle, Manchester, Cheadle. Collectively it is believed the suspects have made in the region of £250,000 across social media, online forums, as well as their own dedicated websites.

Also in February, FACT worked with the Police Service Northern Ireland in searching four properties as part of an investigation into illegal TV boxes. Officers seized a number of set-top boxes and computer equipment as well as mobile phones and £77,000 in cash.

Legal landmarks and prosecutions

There has always been an interest in the media regarding illicit streaming devices and this certainly increased with the publication of the last IP Crime Report in autumn 2016 and peaked in early 2017. However, there has also been a lack of clarity surrounding their legality and commonly reported as a 'grey area'.

2016/17 has seen significant results for illicit streaming device prosecutions, as well as legal rulings and remarks, which have all contributed to providing clarity on the issue.

The first legal case concerning these devices went to court in December 2016 and resulted in Mr Terry O'Reilly being sentenced to four years in prison and a second supplier who worked with O'Reilly, Mr Will O'Leary, receiving a two-year suspended prison sentence.

Then in March 2017, Malcolm Mayes of Hartlepool pleaded guilty to two offences contrary to Section 296ZB of the Copyright, Designs and Patents Act 1988 and received a 10-month prison sentence, suspended for one year. Mayes was also ordered to pay £250,000 (a confiscation order of £80,000 and costs of £170,000).

Both prosecutions send a strong warning and message to sellers and consumers that these pre-loaded devices are illegal.

Recent legal rulings have also provided further clarity on the illegality of not just selling these devices but viewing the infringing streams.



2016/17 has seen significant results for illicit streaming device prosecutions.

In March 2017, the UK High Court of Justice ruled that Internet Service Providers were to block access to illegal live streams of English Premier League football. In the judgment, Justice Arnold clarified that an end user is infringing copyright, meaning those viewing illegal streams are breaking the law.

This was then followed by a ruling of the EU Court of Justice in April 2017 which clarified that selling pre-configured multimedia devices allowing access to copyright infringing content is illegal, as well as stating that end users streaming content without the consent of the copyright holder, cannot be exempted from the right of reproduction. Providing further evidence that streaming copyrighted content without the right permissions is illegal.²⁴



Recent legal rulings have also provided further clarity on the illegality of not just selling these devices but viewing the infringing streams.

INTELLECTUAL PROPERTY OFFICE (IPO)

Financial investigation

After two years of training, the IPO Intelligence Hub now has two Accredited Financial Investigators (AFIs), to carry out money laundering investigations under the Proceeds of Crime Act (POCA) 2002. The focus on financial investigation by the IPO reinforces the commitment to the government's IP Enforcement Strategy 2020 and beyond.

Not only do financial investigations identify the assets acquired by criminals involved in IP Crime, they also provides information that would otherwise be missed or difficult to obtain through normal lines of enquiry, which can add value to an investigation.

Due to the level of intrusiveness involved in financial investigations, the IPO has strict measures in place, to ensure human rights are not breached and the level of enquiry is proportionate to the scale of suspected criminal conduct.

The benefits of high quality financial investigation are widely becoming the focus of other law enforcement agencies, realising the primary offence can be the tip of the iceberg in terms of a lifestyle funded by criminal conduct. Initial investigation and subsequent arrest are followed by enquiries into their lifestyle with a view to confiscating the assets they have identified as being acquired through the criminality.

The Proceeds of Crime Act 2002 places a 'reverse burden of proof' on the defendant in that if they cannot show their assets have been acquired through legitimate means, the Court will assume this has been derived through criminal conduct. The Court will then calculate the value of the defendant's benefit from the criminal conduct and order them to pay that amount (the recoverable amount), unless the value of the property (the available amount) is less than the recoverable amount. In this

²⁴ CJEU Case C-527/15, 26 April 2017 – "Filmspeler"

case the confiscation order may be made for the lower amount. Any available assets identified can be used to satisfy the order, including, any income or assets legitimately made.

Proceeds of Crime at work

In 2016/17 cases involving IPO staff working with Proceeds of Crime or assessed criminal taxes saw the removal from criminals of over £1.2million.

Intelligence Hub collaborative working

During the past year, members of the IPO Intelligence Hub have attended ten days of enforcement action, supporting partners from industry, government, Trading Standards and Police. Being present at these days of action proves invaluable for both the team and the colleagues they are working with.

Leading up to an operation, the Intelligence Hub team provides information on potential areas to focus on. On the day itself, the Hub offers assistance on the ground in the gathering and seizing of counterfeit goods.

In addition, through collaboration in 'live' operations the Intelligence Hub have been able to gather additional information, which after processing, is fed back to partners.



In 2016/17 cases involving IPO staff working with Proceeds of Crime or assessed criminal taxes saw the removal from criminals of over £1.2million.

Operation Copycat

This joint European operation led by Douane in France commenced targeting the production and sale of counterfeit goods relating to Euro 2016. Initial research was carried out by the IPO, which identified approximately 30,000 jerseys available in the UK on a variety of online platforms. There was also a link with items being sourced from various companies on website platforms in China.

A report was created by the IPO Intelligence Hub – working jointly with eBay and the sports brands - to identify manufacturers and online traders in the UK selling the goods.

This collaborative working resulted in the take down of over 40 eBay accounts and the seizure of almost 1000 fake football shirts. An intelligence profile was submitted to the relevant law enforcement authority for money laundering investigations into proceeds made from criminality under the Proceeds of Crime Act 2002.

Operation Pisa

Operation Pisa comprised a series of operations led by Border Force and HMRC at Manchester Airport and at the port of Felixtowe during November 2016. The operation was implemented following IPO intelligence which highlighted the use of large commercial courier companies by organised crime groups who were bringing counterfeit goods into Manchester.

Information was analysed prior to the exercise to highlight prominent cases to focus on. This assisted colleagues in the Border Force teams to select targets for examination.

83,000 items of goods were seized, and further intelligence has been developed from information gathered during the operation. This has fed into the ongoing work for Operation Magpie.

It was recognised that Operation Pisa, which focussed at border check points, had an immediate, tangible and beneficial impact on the work of Trading Standards Officers in Manchester and Salford.

Operation Magpie

This is the ongoing operation in the Strangeways area of Manchester, where traders are known to sell a wide range of counterfeit goods including clothing, footwear, jewellery and accessories. Several days of action have been undertaken resulting in seizures of goods, causing disruption to illegal traders, and the intelligence gathering and analysis continues.

The booklet “Counting the Cost of Counterfeit Goods”, which examines the situation in Manchester, was published in 2016.²⁵

National Markets Group

During the year, we have been able to support the National Markets Group by providing an intelligence overview focussing on problematic markets and the availability of counterfeit goods.

BORDER FORCE

During 2016, over 2 million suspected infringing items have been detained at the UK external border. This level of detentions has been achieved through active detection of suspected infringing goods at UK external borders by Border Force Officers, however the scale of the threat the UK faces from being targeted by criminals consigning IP infringing goods to the UK in commercial quantities was starkly highlighted by the substantial results of two short, sharp intensification operations carried out at two import locations in the run-up to Christmas 2016: over 80k items worth in excess of £3.6m (equivalent value of genuine product) were detected and prevented from reaching the market place.



**During 2016, over 2 million
suspected infringing items have been
detained at the UK external border.**

²⁵ <https://www.gov.uk/government/publications/counting-the-cost-of-counterfeit-goods>.

NATIONAL FOOD CRIME UNIT (NFCU)

The National Food Crime Unit is a standalone function within the Food Standards Agency. Our primary aim is to identify serious dishonesty within food supply chains and to instigate action by others capable of addressing it.

The unit does this by receiving, evaluating and disseminating information about food crime to stakeholders. Where serious dishonesty is apparent, the NFCU further develops and adds value to the information, building an actionable package for adoption and intervention by a partner agency.

The information the unit receives, the development work undertaken and the results of that work will contribute to the NFCU's analytical reporting on food crime issues. This will ensure that our assessment of the threat remains well-grounded and robust.

Insight provided by the NFCU is intended to reduce the threat to UK interests from food crime.

In this context, the primary customers of NFCU outputs are:

- Local authorities of England, Wales and Northern Ireland;
- Police forces of England, Wales and Northern Ireland;
- The food industry of England, Wales and Northern Ireland;
- European and global law enforcement partners;
- The general public.

The NFCU is a member of the IP Crime Group which we use to broaden our knowledge of IP matters and inform members of current issues.

The NFCU has received reports of counterfeit wine and branded vodka, including one report relating to the presence of acetaldehyde and ethyl acetate within the product. We have also received reports of sparkling wine in kegs sold as Prosecco to event organisers and branded chocolate confectionery eggs that were found to be counterfeit.



The NFCU has received reports of counterfeit wine and branded vodka, including one report relating to the presence of acetaldehyde and ethyl acetate within the product.

NATIONAL MARKETS GROUP FOR IP PROTECTION (NMG)

New/ongoing initiatives/coordinated action

The NMG is leading the work to reduce the availability of counterfeit and pirated goods at markets, car boot sales and social media.

Made up of representatives from industry, enforcement and government, this joined up intelligence led approach is underpinned by the very successful Real Deal initiative, which sees Trading Standards and market operators signing up to a self-regulating markets charter, affording consumers access to ‘fake free’ markets. To date there are nearly 500 markets signed up to the Real Deal.

This coordinated enforcement and harm reduction approach brings the following key benefits:

- Stakeholders can share ideas;
- Best-practice models can be developed;
- Consumer awareness campaigns and resources can be pooled;
- Intelligence on rogue traders and counterfeit products can be exchanged through secure channels.



In December 2016 five commercial vehicles full of over 7000 counterfeit items bound for Bristol Fruit Market were seized.

The NMG are running several key initiatives to reduce the availability of counterfeit and pirated goods, including:

Operation JASPER

Operation JASPER aims to reduce the availability of counterfeit and pirated goods on Facebook and Instagram. This coordinated effort by all NMG members had several facets including intelligence led enforcement, administrative takedown activity by rights owners and a PR programme to raise consumer awareness.

Since its inception, Operation Jasper has led to 12000 infringing listings being removed from Facebook, 75 full profiles being closed, 100+ raid actions and investigations being commenced and several thousand counterfeit and pirated products being seized.

In December 2016 the NMG took Operation Jasper direct to the counterfeiter. Working in partnership with Swansea, Carmarthen, Neath Port Talbot and Caerphilly Trading Standards and five Police forces, a successful Automatic Number Plate Recognition (ANPR) operation took place at Strensham services on the M5 resulting in five commercial vehicles full of over 7000 counterfeit items bound for Bristol Fruit Market, being seized.

The following week raids at Wellesbourne and again at Bescot market netted tens of thousands of counterfeit goods, much of which would have found its way onto Facebook and other social media platforms.

Operation BIG BEN

Operation BIG BEN targets traders who act as facilitators for the sale of counterfeit and pirated goods. Utilising the Directive 2004/48/EC on the enforcement of IP rights, industry members – working in partnership with Trading Standards Officers – are using an intelligence-led approach to influence market operators to make markets safer for the consumer and legitimate businesses.

This partnership approach has seen success at a number of locations across the UK as evidenced by coordinated and collaborative actions at:

- High street shops and markets in Camden Market, London
- Bescot Market, Walsall
- Dagenham Market, London
- Eastgate Market, Lincolnshire
- Wellesbourne Market, Warwickshire
- Bovingdon Market, Hertfordshire
- Bristol Fruit Market



Operation BIG BEN targets traders who act as facilitators for the sale of counterfeit and pirated goods.

NATIONAL TRADING STANDARDS E-CRIME TEAM

From the perspective of the National Trading Standards eCrime Team, our involvement in IP related issues continues to be with the National Markets Group (NMG) and the overall co-ordination of Operation Jasper. In the past year, we have delivered two further phases of Operation Jasper (phases three and four), with the latter phase also tackling the supply chain of the traders selling goods on Facebook, Instagram etc.

During the two phases the following actions were carried out by various local Trading Standards services and partners of NMG:

TS authorities taking part	80
Warrants executed	41
Warning notices	31
Cease and Desist notices	42
Delistings/pages taken down	3009

Specifically, in relation to phase four and the intention to disrupt the supply chain, an operation led by Swansea Trading Standards was carried out in the run up to Christmas 2016. This operation involved 23 Trading Standards Officers, five Police Officers and 10 industry representatives. Based on intelligence, 10 commercial vehicles were stopped on the M5 at Strensham Services. Five of the vehicles contained thousands of items of counterfeit products, including both unsafe electrical products and makeup. The five vehicles containing the products were seized, along with the counterfeit items. The vehicles were destined for Bristol Fruit Market where the goods were to be sold on to traders known to be selling on Facebook, Instagram and other social media platforms. We will be developing the intelligence gleaned as a result of this operation to further target members of the supply chain.

POLICE INTELLECTUAL PROPERTY CRIME UNIT (PIPCU)

The Police Intellectual Property Crime Unit (PIPCU) is funded by the Intellectual Property Office and coordinated by the City of London Police.

Much of our work relates to online crime and all of our cases are referred to us by Action Fraud. On average, we receive just under seven referrals per month. This number is increasing steadily over time. PIPCU also takes down, on average, 1000 infringing websites per month through a system called Operation Ashiko. Within this dataset there are some clear trends:

- Footwear routinely accounts for at least 45% of the website takedowns and is usually an even higher percentage. This data could be affected by footwear brands being more active than other brands in making referrals. However, in our case, approximately 60% of all takedowns are self-generated by PIPCU, they are not referred to us by (for example) manufacturers of footwear.
- Clothing is routinely the second most numerous category for website takedowns and with footwear accounts for approximately 75% of all website takedowns. The goods themselves come almost exclusively from China and are clearly mass produced.

Set-top boxes

Organised criminals, especially those in the UK who distribute set-top boxes, are aware of recent developments in the law and routinely exploit loopholes in it. Given recent judgments on the sale of pre-programmed set-top boxes it is now unlikely criminals would advertise the devices in a way which is clearly infringing by offering them pre-loaded or 'fully loaded' with apps and add-ons specifically designed to access subscription services for free.

There is no specific legislation currently in place for the prosecution of end users or sellers of set-top boxes. Indeed, the general public do not see the usage of these devices as potentially breaking the law. PIPCU are currently having to try and 'shoehorn' existing legislation to fit the type of criminality being observed, such as conspiracy to defraud (common law) to tackle this problem. Cases are yet to be charged and results will be known by late 2017. Due to the complexity of these cases it is difficult to substantiate charges under the Fraud Act (2006). PIPCU have convicted one person under the Serious Crime Act (2015) (encouraging or assisting s11 of the Fraud Act). However, this would not be applicable unless the suspect had made obvious attempts to encourage users to use the boxes to watch subscription only content. The selling community is close knit and adapts constantly to allow itself to operate in the grey area where current legislation is unclear and where they feel they can continue to sell 'under the radar'.

Online awareness

Unlike the purchase of counterfeit physical goods, consumers who buy unlicensed content online are not taking a risk. Faulty copyright doesn't explode, burn or break. For this reason the message as to why the public should avoid copyright fraud needs to be re-focussed. A more concerted attempt to push out a message relating to malware on pirate websites, the clear criminality and the links to organised crime of those behind the sites are crucial if public opinion is to be changed. The scale of the problem regarding public opinion of online copyright crime is evidenced by our own experience. After PIPCU executed a warrant against the owner of a streaming website, a tweet about the event (read by 200,000 people) produced a reaction heavily weighted against PIPCU's legitimate enforcement action.

Co-ordination and collaboration

FACT led 'days of action' have been successful and PIPCU have been happy to assist in their delivery. Law enforcement and private sector contact is vital and PIPCU has had best results when brand representatives and trade body employees attend warrants to help identify infringing items.

An excellent example is R vs Gravitis, a small case whereby a brand representative was able to identify 20,000 potentially fake fancy dress costumes at a police cease and desist visit. This resulted in arrest and charges being brought the same day as the representative was able to complete a full statement whilst the suspect was in custody.



IPTV seminar held at Scottish Police College in Tulliallan

Law enforcement and private sector contact is vital.

POLICE SCOTLAND

Due to the emerging threat of the sale and supply of Illicit Streaming Devices and the increasing use of illegal Internet Protocol TV (IPTV), Police Scotland, in partnership with the IPO, ran a seminar to increase the knowledge and skills of law enforcement investigators.

The seminar was facilitated at the Scottish Police College and involved wide-ranging inputs from several globally renowned experts from both the public and private sector. It provided the most relevant, up-to-date information and effective tactical options.

Over 180 delegates in key positions within HMRC, Trading Standards and Police Scotland attended, leading directly to the upskilling in investigatory techniques for various enforcement partners and a broader realisation of how industry partners can assist in criminal investigations.

Feedback from the event has shown that those who attended increased their knowledge; with 83% more likely to submit intelligence regarding involvement in the associated criminality and 77% more confident in dealing with related enforcement activity. More significantly, 63% reported that they were more likely to proactively target those involved in this crime type, evidenced by recent activity in that regard.

The event also received positive media attention, alerting consumers to the dangers and criminality, while highlighting ethical issues and wider benefits to society of legitimate trade.

PREMIER LEAGUE

The Football Association Premier League Limited (the “Premier League”) is the governing body of the top level competition for football clubs in England and Wales, which is currently known as the Premier League (the “Competition”). The Premier League is owned by the 20 constituent member clubs of the Competition, who each hold one share in the Premier League.

The Premier League has and continues to adopt a broad range of enforcement measures, both criminal and civil, to combat the piracy of its content and infringement of its intellectual property rights. Such measures generally include the following:

- Action to prevent the unauthorised broadcasts of Premier League matches in pubs, clubs and other commercial premises across the UK. Over the course of the 2016/17 season the Premier League conducted almost 9,000 investigative visits to commercial premises;
- Monitoring, disrupting and removing unauthorised online live streams and recorded clips of broadcasts of Premier League matches. This season the Premier League has taken down over 20,000 live streams and 160,000 clips of its matches from the internet. The Premier League also currently has website blocking orders in place against four groups of infringing websites, covering over 130 related domain names and IP addresses;
- Action to prevent the sale and distribution of counterfeit goods. This season the Premier League seized more than 170,000 counterfeit items, worth approximately £2.4 million.

In addition to the actions outlined above, a key focus of the Premier League’s enforcement activity, both in the UK and internationally, is the threat posed by the continued proliferation of Illicit Streaming Devices (“ISDs”)²⁶. There are now a high number of ISD suppliers in the UK, many of whom are involved in wider international networks and making vast amounts of revenue²⁷. As with all other elements of IP crime, the Premier League’s enforcement approach to this issue is multi-pronged, with notable examples in the UK over the last year including:

- Securing a Court Order in March 2017 that requires the six major UK ISPs to block access to the IP addresses of servers used to illegally stream broadcasts of Premier League matches;
- Securing civil injunctions against a number of suppliers of ISDs;
- Private criminal prosecutions of sophisticated supply networks, including the conviction of Terence O’Reilly and William O’Leary in December 2016 and the subsequent sentencing of Mr O’Reilly to four years in custody;
- Numerous criminal referrals to law enforcement agencies across the UK, 19 of which remain as active cases;
- Supporting FACT in the execution of a coordinated day of raid action in the North-West of England in February 2017;

²⁶ For example, a study conducted by the Industry Trust for IP Awareness in December 2016 estimated that 19% of adults in the UK have used ISDs to access infringing content (almost half of whom began doing so in the last 12 months), with more one in ten admitting to doing so in order to watch live sports more than once a week.

²⁷ By way of example, Leon Passlow and Simon Hopkins, two Defendants that were convicted for a conspiracy to defraud in 2015, in a case brought by the Premier League, were ordered in September 2016 to pay back almost £1,000,000 which they had made through the sale of illegal broadcasting systems.

- Disrupting the sale and use of ISDs by working with online marketplaces such as Amazon, eBay and Alibaba to remove and prevent listings for ISDs.

Whilst the above actions have been successful, they are not completely effective in combatting piracy and the Premier League anticipates that significant challenges will remain in tackling IP crime. This is particularly the case whilst ISDs continue to be perceived as high quality and reliable alternatives to legitimate providers of content and whilst criminal networks continue to grow and develop technical means to circumvent technical measures implemented to prevent unauthorised access to content.



During the 2016/17 season the Premier League conducted almost 9,000 investigative visits to commercial premises.

PROFESSIONAL PUBLISHERS ASSOCIATION (PPA)

Publishers continue to take a proactive approach to combatting digital piracy, issuing take-down notices to websites hosting infringing content, both directly and via the Publishers' Association Portal.

Since 2015, magazine publishers who use the PA Portal, either directly or through PA managed accounts, have reported a total of 287,885 infringing links – of which 158,321 went to searchable sites (aka referrer sites or aggregators) and 129,564 to infringing cyberlockers (aka infringers). The majority of those reported links went out from PA managed sites over the last twelve months.

From reported figures it appears that cyber-lockers are much more likely to comply with takedown notices (due to the terms of the DMCA) than some websites. This means that they appear to have higher take-down compliance figures.

Challenges exist for checking the compliancy rates for some sites (due to, for example, captcha codes or pop up ads).

Education and Awareness

The 6th wave of the Online Copyright Infringement Tracker study (March – May 2016) included questions that raised reference to unauthorised digital magazine publications for the first time²⁸. Research into changing attitudes towards infringement through consumer access and sharing of materials online is as important for book and magazine publishers as it is for the film and music sectors.

²⁸ See report here:- <https://www.gov.uk/government/publications/online-copyright-infringement-tracker-survey-6th-wave>

PRS FOR MUSIC

In March 2016, PRS for Music launched a bespoke notice and takedown system known as the ‘Member Anti-Piracy System’ (MAPS). MAPS works by tracking PRS for Music repertoire on unlicensed and infringing sites and enables users to request removal of their content. The tool also allows users to send take down notices to Google which has the power to remove search results.

Since its launch, the tool has been a huge success. MAPS has:

- Located over 7.1 million URLs for websites linking to or hosting PRS for Music repertoire
- Sent over 159,000 take down notices to websites
- Sent over 292,000 live links to Google for delisting from its search pages
- Forced 220 illegal websites to cease operating completely

MAPS has also been instrumental in streamlining other areas of the PRS for Music Anti-Piracy Unit’s (APU) work, in particular with our enforcement work with The City of London Police IP Crime Unit (PIPCU) in referring sites to Operation Creative.

Co-ordinated Action

During 2016, the APU investigated and submitted referrals for 75 infringing websites to Operation Creative.

Disrupting advertising is a vital part of Operation Creative, as it is a major source of income for unlicensed services. PRS for Music together with other Operation Creative partners invested in a service, supplied and monitored by third party vendor, Pathmatics, which monitors adverts on the Infringing Website List (IWL).

Pathmatics’ end of year report surveyed 685 websites on the IWL and it calculated that 4.15 billion legitimate adverts were placed on copyright infringing sites in 2016. This represents an

advertising spend of £3.85m that legitimate advertisers are paying to criminal websites.

Successful Prosecution

An investigation conducted by the APU in 2015 examined the activities of Wayne Evans which involved illegally distributing ‘a cappella’ tracks via his website www.deejayportal.com and uploading torrents of illegal compilations of ‘UK Top 40 Singles’ on a weekly basis on a number of torrent indexing websites. The investigation was referred to PIPCU, who arrested Evans. In 2016, the Crown Prosecution Service charged Evans for copyright and fraud offences. Evans pleaded guilty to the charges and was subsequently sentenced to 12 months imprisonment. The outcome was the first custodial sentence to arise from the collaborative working between PIPCU and PRS for Music.

In January 2017, Evans unsuccessfully appealed against his sentence to the Court of Appeal (Criminal Division). In dismissing the appeal, the Court established clear guidelines for trial judges to consider when sentencing cases involving the unlawful distribution of infringing copyright articles. The Court suggested the following (non-exhaustive) considerations that are likely to be relevant in sentencing cases of this particular nature:

- Illegal downloading and distribution is often difficult to investigate and detect. Deterrent sentencing in such a context is appropriate;
- The length of time (including any continuation after service of cease and desist notices) of the unlawful activity;
- The profit accruing to the defendant as a result of the unlawful activity;
- The loss accruing to the copyright owners (so far as it can accurately be calculated) and the wider impact upon the music industry;
- Criminal copyright offences are not the subject of any Definitive Guideline; however a judge may find it helpful to

have regard to the Definitive Guidelines on fraud, bribery and money laundering offences;

- Personal mitigation, assistance to the authorities, and pleas of guilt are to be taken into account in the usual way;
- Immediate custodial sentences are likely to be appropriate in cases of illegal distribution of copyright infringing articles, unless the activity is very amateur, minor or short-lived.

The Court of Appeal’s decision to lay down sentencing guidelines highlights that infringing activities on a large scale and conducted in a sophisticated nature will be taken very seriously.

Ongoing Initiatives

Recognising that stream-ripping is a growing threat, the APU established a reporting channel with SoundCloud, a licensed music streaming service, to report sites which access the service via an ‘API’ to stream-rip content from the service. The task was undertaken to determine whether this measure was effective enough to be incorporated in the APU’s operations.

The APU reported a total of 51 sites to SoundCloud and carried out an in-depth analysis of the work undertaken.

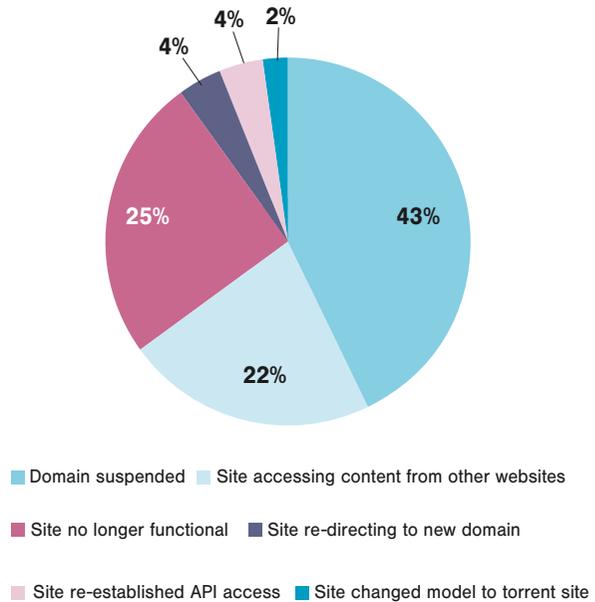
The chart below illustrates the various disruption outcomes which were achieved during the reporting exercise.

As can be seen from the chart below, all the reported sites were disrupted in some way by PRS’s reporting to SoundCloud. Most notably, a significant percentage of sites (43%) had their domains suspended. 22% of sites switched to other streaming services, such as YouTube, to source content. 25% of sites are no longer functional, meaning that users are not able to search, find or download content, although the sites themselves remain live. 4% of sites now re-direct to a new domain, enabling them to continue providing stream-ripping functionality to users.

Four per cent of sites have re-established API access, meaning that they have managed to setup a new SoundCloud API. Finally, 2% of sites have completely changed their model from stream-ripping to torrent indexing, meaning that no content is being sourced from legitimate streaming services.

The measures taken in conjunction with SoundCloud proved to be positively effective in disrupting sites engaging in stream-ripping from licensed services and further similar measures will be explored in light of the results.

Outcome of PRS reporting stream-ripping sites to SoundCloud for abuse of API



SCOTTISH ANTI ILLICIT TRADE GROUP (SAITG)

Operation Silver Axe II

Operation Silver Axe II was an international operation, led by Europol, to combat the growing threat from illegal and counterfeit pesticides.

Police Scotland, supported by its partners in the Scottish Anti Illicit Trade Group (SAITG), the Health and Safety Executive (HSE) and key industry partners assessed the UK intelligence picture in relation to counterfeit pesticides. With no known infiltration identified, a preventative strategy was developed to protect the UK markets and gather intelligence on potential risks.

Activity included producing posters and informative leaflets as part of a wide ranging media campaign to raise awareness of the dangers of counterfeit pesticides within the agriculture sector. The media strategy supporting the campaign saw the use of mainstream/social media with a number of interviews broadcast on TV and radio and informative articles shared through official outlets to promote national coverage on a multi-agency basis.

Visits were made to a number of pesticide distributors (both independent and larger national branches) and agronomists, as well as attending rural events and visiting members of the farming community, informing them of the operation and dangers of counterfeit pesticides.



Posters and leaflets were produced to raise awareness of the dangers of counterfeit pesticides within the agriculture sector.

Major rural community outlets such as the National Farmers Union were provided details of the emerging threat and this was shared with all their members.

Intelligence and briefing packages were shared with Border Force to highlight the issue and increase their knowledge of the subject with a view to seizures of any suspect packages.

A relationship with Agricultural Colleges in Scotland was established which will see officers from Police Scotland providing inputs to students about the dangers of counterfeit and illicit pesticides to all new students.



Officers from Police Scotland's Specialist Crime Division highlighting the dangers of illicit pesticides at Scotland's largest agricultural auction; with support from the Scottish Justice Minister, Michael Matheson.

TM EYE

Private Criminal Prosecutions

TM Eye has investigation teams that consist of experienced career detectives, skilled in gathering evidence, preparing case files and prosecuting in the criminal courts. These are supported by a fully RIPA compliant undercover team, dedicated surveillance operatives, intelligence operatives with technical surveillance capability.

TM Eye has persistently targeted organised criminals engaged in the sale and distribution of counterfeit goods worth many millions of pounds. The company works closely with its partner, Edmonds Marshall McMahon (“EMM”) to offer a fully integrated service of pro-active investigative capabilities combined with the legal capacity to prosecute offenders in the criminal courts for a wide variety of offences and/or to pursue civil redress in cases involving fraud and/or asset tracing.

EMM institute conduct private prosecutions on behalf of TM Eye and work closely with the company during the investigation stage. All prosecutions brought on behalf of TM Eye are conducted in the name of TM Eye and not the brand represented.

It’s a common misconception that only the Crown or Statutory Prosecuting Authorities can use the criminal system to prosecute people or companies. Section 6(1) Prosecution Offences Act 1985 provides the right for individuals and companies to bring a private prosecution in the criminal courts. Private prosecutions are almost always quicker, more focused and more efficient than public prosecutions, especially in cases involving counterfeiting and fraud.

TM Eye believes that private prosecutions have increased significantly in number over the last few years due to the cut backs in funding for police, Trading Standards and traditional law enforcement authorities. This has meant that those authorities no longer have the resources to investigate and prosecute certain types of crime.

A private prosecutor is subject to the same obligations as the public prosecuting authorities and has a duty to act fairly and independently.

Compensation/Restitution

Where loss has been suffered, compensation may be a primary motive of a private prosecutor. Given the cost and delays likely to be suffered in pursuing civil proceedings, a private prosecution can be a more attractive solution. Following conviction, the criminal courts have the power to make a compensation order, dependent on the means of the offender. A private prosecutor is also entitled to pursue confiscation proceedings against a convicted defendant under the Proceeds of Crime Act 2002.

Private prosecutions by TM Eye

TM Eye has conducted over 272 private criminal prosecutions since 2013 and has a 100 per cent conviction rate. TM Eye undercover teams operate in most of the markets throughout the UK that are prolific for the sale of counterfeit goods and on the internet. The table below shows the breakdown of prosecutions in UK markets and on the Internet.

TM Eye has an Information Sharing Agreement with the Association of Chief Police Officers Criminal Records Office to share information of previous convictions for criminal cases and to record TM Eye’s convictions on the Police National Computer.

TM Eye Private Prosecutions	
Bovingdon	60
Camden	35
Manchester	31
Kempton	23
Wellesbourne	16
Local Markets	19
Others	38
Internet	51
Total	272

All those convicted have their fingerprints, photographs and DNA taken by police for their authorised databases.

TM Eye are now progressing the use of the Proceeds of Crime Act in recovering criminal property by the use of ‘confiscation orders’ and compensation for the brands that support private criminal prosecutions.

The use of private criminal prosecutions has seen dramatic results in the markets and online for the companies that robustly defend their brands. The risk of criminal prosecution, conviction and imprisonment has reduced offending and the open sale of certain branded goods.

REACT

In 2016 React scored a major success in its fight against trade mark infringement. Markets selling counterfeit goods, despite law enforcement efforts to stop them, have long plagued the Czech Republic. For this reason, React filed a lawsuit in the Czech courts on behalf of six of its members, in order to prevent market operators from leasing space to subjects proven to be selling counterfeit goods. The company, Delta Centre, is the tenant of the marketplace (Prague Market Halls) and sublets various sales areas in the marketplace to individual market traders.

React asked the Czech Courts to order Delta Centre to stop renting sales areas to traders who were committing trade mark offences, because they believed the Directive 2004/48/EC on the enforcement of IP rights allowed trade mark holders to bring an action against intermediaries whose services are used by a third party to infringe their trade marks.

React believed that, like the operators of online marketplaces covered by the L’Oreal judgment, the operator of a physical marketplace may, pursuant to the directive, be forced in law to stop trade mark infringements committed by market traders, and to take measures in order to prevent new infringements.

The case went before the European Union Court of Justice in Luxembourg, which ruled that market operators should be considered intermediaries whose services are used by third parties to breach intellectual property rights pursuant to Article 11 of Directive No. 2004/48/EC. Under Article 11 an intermediary can, amongst other things, be forced to take measures intended to halt the breach of IP rights and prevent future breaches as well²⁹.

²⁹ Judgment of the Court (Second Chamber) of 7 July 2016 Case C-494/15

Trade mark owners can now instruct the market operator to take steps against subjects selling counterfeit goods, and if they refuse they can seek protection in court directly against the market operator.

React considers this ruling critical for rights owners who have struggle to fight trade mark infringement in marketplaces. Now companies no longer have to protect their rights at individual vendor level, which is expensive and time consuming, they can also address the problem at the level of the market operator itself.

As a result of this groundbreaking ruling, React now has actions ongoing in several European countries, and is working with the National Markets Group in the UK.

Also in the framework of its intermediary project, React launched a case against a forwarding agent of counterfeit goods in Slovenia, demanding they pay the costs of storage and destruction. In this case the consignor and consignee could not be traced.

The High Court in Slovenia confirmed that given the specific circumstances in this particular case (a non-existent final recipient) the forwarding agent “should at least have checked whether the consignee was an existing company or not.”

The court ordered the forwarding agent to pay storage and destruction costs, all with default interest.

React believes this is another major step towards secondary liability for the intermediary in an anti-counterfeiting matter.

React organises over 100 law enforcement trainings around the world every year, and in 2016 they held their first UK event in London. The event was judged a great success by all involved, and further UK trainings are now in the pipeline.



Trade mark owners can now instruct the market operator to take steps against subjects selling counterfeit goods, and if they refuse they can seek protection in court directly against the market operator.

UK INTERACTIVE ENTERTAINMENT (UKIE)

Games can be played alone or with others on a range of devices, from consoles and PCs, to Smart TVs and using virtual reality headsets. Due to the diverse range of platforms, the scope of IP crime varies. One example are PC titles, games designed for personal computers. These are still made available in high volume via infringing download and torrent sites. Online currency for popular online games is sold via unauthorised sites, which is usually obtained using fraudulent methods. There has also been an increase in ‘mod’ mobile games which are found alongside other premium mobile apps.

Mod mobile games change the original code of a game so there is no longer the ability to make purchases within the app, which results in loss revenue for the app developer. Improved DRM (Digital Rights Management) for consoles means there is no longer the same level of piracy seen for earlier consoles. Instead the focus has moved to counterfeit hardware (for example, controllers).

Merchandise for popular games is being targeted by counterfeiters, especially brands offering hundreds of different products. It has become essential to monitor online marketplaces to identify the unauthorised sellers and items in order to prevent consumers buying low quality and potentially dangerous items.

Over the past year the Ukie IP Scanning Service has reported over 150,000 infringing download and torrent links, removing 85% of the links. The volume of links for the entire games sector is much higher, and in order to disrupt and stop this type of activity Ukie is reaching out to game developers and publishers to encourage them to use the IP Scanning service. Our aim is to determine the overall IP infringement level affecting the games industry and provide better protection for all game developers and publishers.

Ukie is a stakeholder of Operation Creative and therefore supports the ‘Follow the Money’ approach to tackle IP crime. Ukie works as a collaborative group with other trade associations to target the most egregious sites, which has helped to change the type of brands advertising on the infringing sites submitted to the IWL.

Ukie made its first criminal referral to PIPCU last autumn which resulted in the administrators of a private BitTorrent site being arrested. At the time the site was the largest game only torrent site with over 30,000 registered members.

With the increase in Cyber Crime, Ukie is in partnership with the National Cyber Crime Unit (NCCU) to raise awareness of cyber related crimes against game companies. From phishing emails to targeted Distributed Denial of Service (DDoS) attacks aimed at large online gaming platforms. The financial and brand damage can cause serious harm, therefore the aim is to help prepare and protect companies against the attacks.

CRIME GROUP REPORTS

3d International

ANTI-COUNTERFEITING GROUP (ACG)

ACG is gaining influence on the international stage and in support of its members, regularly engages with the following agencies.

- EU IPO (the EU Observatory on IP Infringements)
- IPO's Attachés
- Europol
- Interpol
- EU Commission Unit on the "Fight against counterfeiting and piracy"
- DG TAXUD (Customs)
- DG GROW

ACG's intelligence coordination and practical enforcement facilitation activities enable us to gather real, rather than anecdotal evidence. This has strengthened our engagement with the aforementioned international institutions and agencies and allowed us to inform an influence strategies and policies to tackle IP crime in source countries.

In addition, improving the quality of our data enables ACG to connect more effectively with key UK Government, enforcement and industry figures and to focus our policy and lobbying activities to more productively influence the national agenda.

Multi-agency and multi-sector partnerships and collaboration are vital at every level. An effective impact to counterfeiting cannot be made unless alliances are truly inclusive.



ACG's intelligence coordination and practical enforcement facilitation activities enable us to gather real, rather than anecdotal evidence.

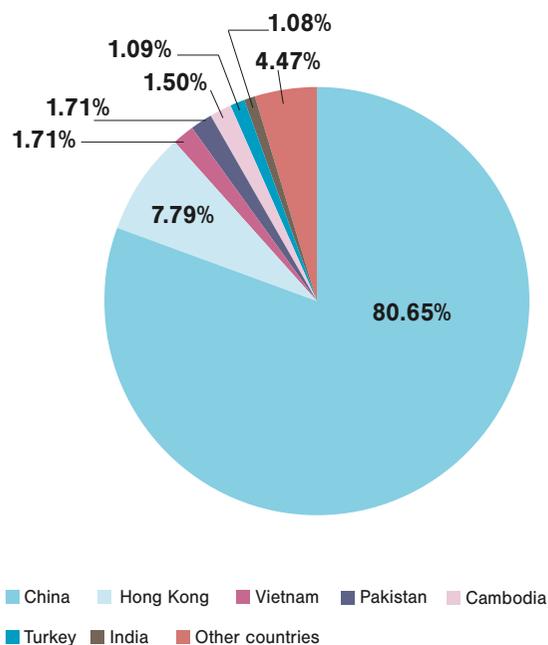
EUROPEAN UNION

Enforcements of IP rights at the EU external borders

The annual report³⁰ published on 20 July 2017 by the European Commission as a result of Customs actions at the EU external borders in 2016 highlights actions taken by EU Customs to enforce IP rights at the borders.

Provenance

China remains the main country of provenance for suspected IPR infringing goods coming into the EU followed by Hong Kong, Vietnam and Pakistan.



Quantities seized

Tobacco, toys, foodstuffs including beverages and body care products are some of the top products seized at the borders in 2016.

Product	Number of articles seized	Retail value original products (€)
Tobacco products	9,935,215	37,611,620
Toys, games and sporting articles	6,918,768	119,772,144
Foodstuffs, alcoholic and other beverages	5,459,084	10,642,268
Body care including perfumers and cosmetics	2,238,320	63,248,911
Clothing and clothing accessories	2,154,046	55,455,790

³⁰ https://ec.europa.eu/taxation_customs/sites/taxation/files/report_on_eu_customs_enforcement_of_ipr_at_the_border_2017.pdf

INTELLECTUAL PROPERTY OFFICE (IPO) – INTERNATIONAL ENGAGEMENT

Attaché Network

The IPO has attachés based in four key markets: South East Asia, Brazil, China and India. The attachés offer advice and support including 1-2-1 meetings, to UK businesses currently or considering operating in these diverse and challenging markets. In addition to their support functions, they also undertake outreach activities to equip businesses with essential ‘know before you go’ advice, and also work closely with host governments at a policy level to improve the IP framework for UK business, especially in the area of IP Enforcement which remains a key issue for many businesses operating overseas.

During 2016/17, the attaché network supported 5,528 businesses, exceeding our Ministerial target to “support the export activity of UK companies by providing education, advice and specific case support to 5000 businesses by March 2017”.

Of the 236 1-2-1 activities carried out by the attaché network this year, 18% were in direct support of British companies dealing with IP enforcement related issues.

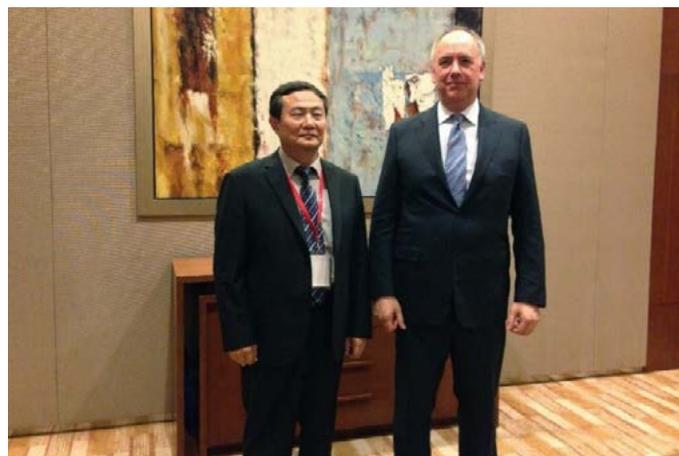
WIPO’s Advisory Committee on Enforcement (ACE)

The 11th Session of WIPO’s Advisory Committee on Enforcement took place 5-7 September 2016. This is an opportunity for WIPO members to share their experiences and best practice on IP enforcement issues and efforts to build respect for IP. In previous sessions we have presented on the methodology used in preparing the UK IP Crime Report, UK initiatives to tackle online IP infringement, and educational awareness raising initiatives to build respect for IP. At this session we invited His Honour Judge Hacon, presiding judge of the IP Enterprise Court (IPEC) to share his experiences of the specialised IP courts of England and Wales. His presentation was very well received, and participants particularly like his honesty (as he was clear that the IPEC predecessor, the Patents County Court, was not as effective as it

could have been). Our continued support of WIPO’s ACE, through presentations such as this, is a commitment in our IP Enforcement Strategy.

His Honour Judge Hacon visit to China

In August His Honour Judge Hacon (presiding judge of the IP Enterprise Court (IPEC)) accompanied Baroness Neville-Rolfe (at the time the Minister for IP) on her visit to Hong Kong and China. Judge Hacon’s visit is part of a long-term IPO programme of judicial exchanges with the Chinese, and follows on from a similar visit he made in August 2015. In Hong Kong Judge Hacon took part in a large scale public IP event, speaking about the latest developments in IPEC; met with senior Hong Kong lawyers; and, with Baroness Neville-Rolfe, met the Chief Justice of the Court of Final Appeal. In China he discussed procedures in IP cases with the IP courts of Guangzhou and Beijing, met with the Supreme People’s Court IP Tribunal, the Beijing High People’s Court IP Tribunal, and participated in the UK-China workshop on trade marks, brands and economic growth, and the UK-China IP Symposium.



His Honour Judge Hacon and Judge Su Chi of the Beijing IP Court

UK-US IP enforcement engagement

The UK and USA have many similar views regarding the enforcement of IPRs, and on 11 July 2016 Baroness Neville-Rolfe (then Minister for IP) and Danny Marti (then the US IP Enforcement Coordinator), co-hosted a roundtable discussion on the whole of government approach to tackling IP infringement. Representatives from a range of UK and US government departments and agencies shared best practice on initiatives they have been involved with, and discussed ways to work with third countries to improve IP enforcement regimes. Particular areas identified for follow up included: working with the private sector; small claims courts for IP cases; the role of e-commerce in IP infringement; efforts to build respect for IP; and good governance and operational coordination.



Photo courtesy of Baroness Neville-Rolfe Twitter account

**Baroness Neville-Rolfe and Danny Marti former
US IP Enforcement Coordinator**

Taiwan IP enforcement engagement

In September the IPO participated in the EU-Taiwan Seminar on Trade Secrets. We were invited to participate as a Member State with a long-standing tradition of protecting trade secrets through common law, and spoke about how this happens in the UK. Over 250 attendees from government departments, law enforcement, academia and business in Taiwan attended. In a meeting with the Taiwan IP Court we discussed the reforms that have been made to the IP Enterprise Court (which hears trade secrets cases), and in a separate bilateral UK IPO / Taiwan IPO meeting we discussed copyright enforcement initiatives. We are following up on a number of areas here, in particular to share our experience of tackling the funding of copyright infringing websites through legitimate advertising revenue.



Photo courtesy of European Chamber of Commerce Taiwan

Delegates at the EU-Taiwan seminar on Trade Secrets, September 2016

European Observatory on Infringements of IPRs

The European Observatory on Infringements of IPRs (commonly known as ‘the Observatory’) brings together a wide range of stakeholders who use their technical skills, experience and knowledge to protect and promote IP rights and support those directly engaged in enforcement. The UK IPO supports the work of the Observatory through active participation in its working groups, and by contributing to knowledge-building events. The Observatory’s website contains a wealth of information on its activities³¹.

European Commission

The Commission continued to take forward the actions set out in the Digital Single Market strategy³² and the Single Market strategy³³ during 2016. On 21 June 2016 a new Memorandum of Understanding on the online sale of counterfeit goods³⁴ was opened for signature. This builds on a previous version signed in 2011 between internet platforms, brand owners and trade associations. To track its impact and to objectively measure its success, the MoU includes key performance indicators. More information on the MoU and the work of the Commission in tackling IP infringement is available on its website.³⁵

UK joins high level discussions with Indonesia, Vietnam and the Philippines on regional IP enforcement

In October 2016, our IPO Attaché to SE Asia Christabel Koh led 34 delegates and experts on a four-day programme in Vietnam and the Philippines focusing on IP enforcement. She was joined by Bill Russell, Head of Global Cooperation IPO, Dave Lowe, Head of IP Enforcement Capacity & Delivery, IPO and

31 <https://euipo.europa.eu/ohimportal/en/web/observatory/home>

32 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0192&from=EN>

33 <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0550&qid=1465210916143&from=EN>

34 <http://ec.europa.eu/DocsRoom/documents/18023/attachments/1/translations/>

35 <http://ec.europa.eu/growth/industry/intellectual-property/enforcement/>

Detective Chief Inspector Pete Ratcliffe, Head of the IP Crime Unit, City of London Police (PIPCU).

Vietnam

At a roundtable in Hanoi in October 2016 with 60 government representatives, the UK spoke about the importance of coordination between IP rights enforcement agencies in the UK and discussed how to improve effective cooperation among agencies in Vietnam. The Vietnam National Steering Committee 389 recognised the importance of a strong IP enforcement framework in the country and shared more about their work.

This event coincided with the Prime Minister’s Trade and Cultural Envoy Lord Puttnam’s visit to the region, during which he opened an inter-agency roundtable on IP enforcement in Hanoi and spoke at the EuroCham Pharma Group IP seminar in Hanoi.

Philippines

In the Philippines, enforcement agencies and IP policy makers from Indonesia, Vietnam and the Philippines attended the 6th IP Summit organised by IPO Philippines in Mandaluyong City, Manila in December 2016. IPO officials shared their views on IP



South East Asean regional IP Enforcement Seminar in Philippines – Delegates from there, Indonesia and Vietnam – September 2016

rights enforcement in the context of consumer protection and the need for government intervention.

The IPO also hosted the first regional IP enforcement workshop themed “Stemming the tide: Dealing with physical goods to digital crime” in Manila in December 2016. This workshop was co-organised by IPO and IPO Philippines with experts from PIPCU, Rouse, and the Asian Coalition Against Counterfeiting and Piracy (ACACAP) also participating.

The interactive session hosted 60 enforcement agencies and IP policy makers from Indonesia, Vietnam and the Philippines who discussed national and regional priorities, barriers, and support needed to deal with online and offline counterfeiting and piracy. Our IP Attaché to SE Asia Christabel also took the opportunity to highlight the support British Embassies give business in the region.

India

2016 marked considerable advancement in our bilateral relations with the Indian government, with the exchange of a Memorandum of Understanding in the presence of Prime Ministers May and Modi. The MOU marks our mutual commitment to work together on improving protection, commercialisation and enforcement of IP in India. As IP enforcement remains a market issue for exporters to India, in May 2017 we signed a bilateral work plan under the MOU, requiring the Indian government to work with us on tackling key enforcement issues, amongst others. Last year, we ran a project with the Confederation of Indian Industry (CII) to raise awareness about designs in 4 Indian industrial hubs. We also collaborated with a premier Indian academic institute to study the feasibility of establishing a single IP court in India in order to ensure timely IP decisions. Further, the flagship India-UK Tech Summit in New Delhi in November 2016 gave us the opportunity to bring together IP stakeholders and enforcers from India and the UK together to talk about intellectual property.

Huw Watkins, Head of Intelligence at the IPO delivered a session on international collaboration and intelligence sharing to the Delhi ‘Academy for Smart Policing’, and with Jane Hedin, IPO’s Senior Policy Advisor took part in a conference at a Mumbai college in September 2016 focussing on ‘Respect for IP’ which was well attended by students. The college, based in the district of Mumbai



Huw Watkins delivering a session on international collaboration and intelligence sharing to the Delhi’s ‘Academy for Smart Policing’ – November 2016

which hosts the Bollywood film industry has 10,000 students, many of whom go on to work in the creative industries.

Developing UK IP Enforcement Capacity Building internationally

Effective IP enforcement cannot be achieved in national isolation and it is an important part of the enforcement strategy that the UK develops viable working relationships internationally.

The collateral benefit is that this provides a range of opportunities to reinforce the cross agency and sector partnerships within the UK by engaging them in the processes, underlining the value and need to work outside of normal organisational limits. This promotes the enforcement philosophy and practices that the UK adopts and adds further potential to them.

Within Europe, the IPO co-ordinates UK agencies with Europol and the EUIPO. UK agencies have attended and contributed to the various seminars and operational meetings and have provided detailed training in social media investigations through CEPOL (European Police College) through the National Trading Standards Board e-Crime Team and IPO. Scottish Police and Norfolk Police have provided training in Europol on Illegal Streaming Device investigations. PIPCU has worked with IPO in Vietnam and the

Philippines, Food Standards Agency have contributed to a variety of training programmes throughout Europe and MHRA are key players in the falsified medicines arena in Europe and further afield. Through the IPO, training and support has been provided by police in India and strategic support on criminal law enforcement provided to Denmark.

In support of the IP Attaché in South East Asia, IPO has worked with Vietnam to develop a resilient IP Crime Group, bringing all of the various ministries and departments together with a political lead for the first time. In the Philippines, the IPO has closely supported the IP Attachés regional role in promoting IP enforcement using the UK model of inter-agency co-operation adapted to their circumstances.

There is a variety of different European funded development programmes for prospective EU member states and the UK provides a number of different expert resources from the IPO, Trading Standards, industry, trade bodies and individual contractors.



Police training module to Macedonian Police – June 2016



Kosovo delegation visiting PIPCU – August 2016

The IPO has provided the Police and Customs training services for Macedonia. Additionally, the Chartered Trading Standards Institute has provided training for the Macedonian Market Surveillance Authority.

The IPO has arranged and organised study visits from Kosovo leading to the development of a new IP enforcement strategy there. It has also arranged a study visit from Turkish Customs that engaged every IP enforcement agency in the UK and created a new pathway for continued co-operation and development of better IP enforcement benefitting both countries.

The IPO was requested by EUIPO to organise and host a northern European IP Enforcement regional seminar that took place in September, 2016 in Newport. It was attended by officials from the Netherlands, Ireland, Germany, Belgium, Luxembourg and France and was very well received. The event produced tangible benefits, resulting in new operational opportunities and co-ordination such as the inclusion of UK agencies within a German Customs led European online IP initiative.

These activities have firmly established the UK and its various IP enforcement agencies, with the IPO recognised as a key part of them, within a network of experienced and active IP enforcement officials adding value and reach to its capability in delivering effective and proportionate IP enforcement.

CASE STUDIES – WORKING WITH THE IP ATTACHÉ TEAM IN CHINA

SCOTCH WHISKY SUCCESS AGAINST COUNTERFEITER IN THE CHINESE COURTS

By Lindesay Low, Senior Counsel, Scotch Whisky Association (SWA)

The Scotch Whisky Association (SWA) has been taking action to protect the Geographical Indication (GI) Scotch Whisky in China on behalf of the industry for more than a decade. But a recent decision of the Anqing Intermediate People’s Court, in Anhui province in Eastern China, and the subsequent conviction for criminal misuse of the collective trademark “Scotch Whisky”, can be heralded as an important breakthrough for a number of reasons.

In 2013, the SWA learned that a Chinese company, Anhui Guangyu Packaging Technology Company Ltd, was manufacturing bottle caps imprinted with the words “Scotch Whisky”. These caps were used on bottles of fake “Scotch” appearing on sale more than 1,000 miles away in Myanmar.

Chinese Packaging Company producing bottles caps with the words “Scotch Whisky” imprinted to be used on bottles of fake “Scotch”.

As far back as 2008, the SWA had registered the words “Scotch Whisky” as a collective trade mark in China which means the description may only be used on the genuine product, distilled and matured in Scotland. Relying on these intellectual property rights, the SWA successfully sued Guangyu and its main shareholder and director in the Chinese civil courts, proving personal as well as corporate liability.

Having considered the evidence, the court upheld the SWA’s complaint, granted an injunction ordering Guangyu to cease infringement of the “Scotch Whisky” trade mark and ordered the company and its director to pay damages and costs.

On account of the scale of the operation, the SWA pressed the authorities to bring criminal proceedings against Guangyu's managing director. Evidence from the civil case showed that over 100,000 bottle caps had been seized and Guangyu ran extensive online advertising campaigns, indicating criminal scale production.

Despite support from the police, the prosecuting authorities were reluctant to bring the case to court, possibly because it was one of the first prosecutions of its type. Eventually they were persuaded and decided to go ahead.

In January 2017, we learned that the director had been convicted of illegally manufacturing trademarked goods. He was fined and given a suspended sentence. As part of a deal to secure a lighter sentence, he undertook personally to pay some of the damages awarded against his company in the civil proceedings.

The case was a first for us in China in a number of respects. To begin with, although we have obtained many favourable administrative decisions against infringers, this was the first time we had concluded proceedings in the Chinese civil courts and the first time that we had initiated a criminal case. Not only were the penalties greater but also, after subjecting our evidence to careful scrutiny, the protected legal status of Scotch Whisky was upheld, sending a clear message to other would be counterfeiters. This success shows that rights holders can effectively use the Chinese legal and intellectual property systems to defend their rights.

It was also interesting due to its international aspect in that we had disrupted a cross-border supply chain. Previously we had only taken action against products manufactured and sold in China.

Finally, this was the first case where we had successfully taken action against a manufacturer of packaging. Normally we sue after demonstrating that the liquid inside the bottle is not Scotch. In this instance we were able to convince the court that the caps were going to be used illegally even where no complete bottles were discovered. This is helpful as increasingly manufacturers of fake

spirits split the production process between different locations to reduce the chance of being caught.

The British Embassy's IP Attaché team has supported our legal protection work in China for many years and this case illustrates the valuable assistance they can offer. These were complex proceedings in a part of China of which we had little knowledge. At various stages we felt that it would grind to a halt, but after the IP Attaché team persistently and skilfully communicated the importance of the issues at stake to the Chinese authorities, we were able to make progress.



Chinese Packaging Company producing bottles caps with the words "Scotch Whisky" imprinted to be used on bottles of fake "Scotch"

ALIBABA AND THE £40 MILLION IP THIEVES

The China-Britain Business Council and the IP Attaché in the British Embassy Beijing have been instrumental in helping the Chinese authorities crackdown on an international counterfeiting operation costing British companies millions.

The work of the China-Britain Business Council (CBBC) the IP Attaché team in the British Embassy Beijing has been hailed as a major contributing factor in the successful crackdown on intellectual property (IP) infringements of two British companies.

The sale of millions of pounds' worth of fake Castrol and Shell lubricants was stopped in a series of dramatic raids after many months of close collaboration between CBBC, the British companies involved, and Alibaba's Platform Governance Division.

In the initial raids, 50,000 barrels of fake lubricant were confiscated and destroyed, with a street value of RMB 100 million (approximately £9 million). Investigators have discovered records that show the criminal network had been operating for at least five years, providing the gang with a total estimated revenue of around RMB 500 million (£45 million).

In 2016, after seeing engine oils for sale on various e-commerce platforms in China, the legal counsel of BP (owners of the Castrol brand) and Shell were introduced to Alibaba's Platform Governance Division by the CBBC.

In the following months, CBBC and the IP rights owners worked with Alibaba's offline investigations team to gather evidence to map out the supply and sales network of the oils.

The investigators quickly discovered that the source of the fakes wasn't China, the products were coming from Malaysia, often labelled as being from Hong Kong. The IP rights owners then deployed investigators in Malaysia to get to the source of the supply chain, and to find the Chinese and Malaysia nationals responsible. The British Embassy supported the efforts by bringing the case to the attention of senior officers at the Ministry of Public Security, which has the authority to coordinate Chinese police in different provinces and cities.

Working under the framework of a Memorandum of Understanding signed in September 2014, CBBC and Alibaba worked behind the scenes throughout, cooperating with investigators who continued to provide Chinese police with intelligence relating to the on-the-ground activities of the criminals. In a simultaneous coordinated action, Chinese police raided premises of the criminal network across several Chinese provinces, detaining 11 suspects, including the dramatic arrest of a ringleader at the airport.

After the police actions, Chinese customs continued to gather evidence of shipments in an investigation coordinated by the General Administration of Chinese Customs (GACC).

CBBC Executive Director Jeff Astle provided a letter of appreciation to GACC during the investigation to show the support of UK industry for their diligent work. With GACC's support, CBBC and its members have been invited to provide counterfeit identification training at key ports for counterfeit trade – Nansha Customs and Huangpu Customs in Guangdong.

GACC were so pleased with CBBC's positive support for their work, CBBC has been invited to enhance cooperation with Chinese customs further in 2017, and have already attended their International IPR Dialogue in Yiwu.

“Castrol China is committed to the protection of intellectual property rights, with the aim of helping Chinese consumers to protect their interests. We are encouraged by the efforts of the Chinese authorities in clamping down on counterfeiting networks,” said Carlos Barrasa, regional vice president of lubricants China at BP.

“We would also like to acknowledge the support rendered to the given case by China Britain-Business Council, UK IP attaché (Beijing) and the British Embassy in China,” he said.

Ying Dong, senior legal counsel at Shell, also praised the work done. “Shell takes the protection of its brand very seriously and hopes that consumers know that anything carrying our trademark can be relied on. Therefore, we proactively fight against trademark infringements and take legal action against those responsible,” said Ying.

“As a successful example, our case against counterfeited lubricants imported from Malaysia last year was a huge success, greatly supported by the UK Embassy in China (IP attaché) and the China-Britain Business Council. They played a very important role for us to work with Chinese government authorities much more efficiently,” she said.

In collaboration with the British Embassy Beijing, CBBC runs an online IP programme to help British brand owners better enforce their IP on the Chinese internet. This includes cooperation agreements with Alibaba.com, Tencent and JD.com. CBBC’s formal cooperation with Alibaba Group goes back to 2014 when an agreement was signed during the visit to China of UK’s then IP minister. A major strand of the Alibaba cooperation is about improving offline enforcement actions, by facilitating better use of illicit sales data and sharing it with brand owners and the police.



Castrol China is committed to the protection of intellectual property rights, with the aim of helping Chinese consumers to protect their interests.

The case has influenced how China tackles cross-border anti-counterfeiting, and increased awareness of the growing threat of infringing goods produced in south-east Asia. The case has also been recognised for its size and influence, winning first place in the Typical Cases for Chinese Customs, and BP and Shell have been recognised for their success too by the Quality Brands Protection Committee's Top 10 Best Cases in IP Protection awards. Alibaba have also been promoting their big data analysis support for the case, in order to deter would-be criminals using their platform, naming it as their number one IPR case of 2016.



In the initial raids, 50,000 barrels of fake lubricant were confiscated and destroyed.



Working meeting including representatives from Alibaba and CBBC

SNAPDRAGON

Positive steps for online brand enforcement

SnapDragon delivers affordable, accessible and effective online brand protection to SMEs.

With counterfeit sales accounting for up to 5% of European trade, and 40% of the world's population expected to be online by 2020, online brand protection is more important than ever – particularly for the SME with a global footprint. Counterfeiters are no longer hitting (on) just FMCG and luxury brands, but carefully selecting smaller brands, with wide distribution networks and good PR (notable examples of various crowd-funded inventions brought to market by the counterfeiters before the original founders had agreed on their route to market can be found online).

Needless to say, online brand enforcement is just one, small, part of the jigsaw. For the smart SME, with some registered intellectual property (IP), online sales of counterfeits can be seriously dented by taking a methodical, consistent and tenacious approach to monitoring, identifying, and reporting for removal the infringing links. Copyright remains hugely important for those with non-registered IP rights.

In our experience however, trade marks remain the single most cost-effective piece of IP weaponry a brand can have. The more the merrier, of course, and that goes for both territories and marks.



In recent years, we have seen great strides in the working value of trade marks, notably with Alibaba.

Alibaba's Platform Governance team has upped its game on internal procedures, including seller proof of ID, implemented a penalty programme, engaged and built trust with household brands and trade bodies, prosecuted traders and, importantly now allows European – rather than just Chinese registered IP – to be used in any brand's defence on its international platforms, Alibaba.com and AliExpress. (Taobao, Tmall and 1688.com are specifically excluded).

Most recently, the problem of 'blurred trade marks' has, at last, been heard – and addressed. This signature component of so many counterfeits is now accepted as a viable complaint across all Alibaba platforms.

Together, these have been complete game changers for the previously thwarted SME suffering counterfeits on the Alibaba platforms. Equipped with European, or UK registered IP, and with copyright rules on side, the fight against online counterfeiting is not only on but, by working collectively, it can be won.

Nine fiery tips From SnapDragon to help protect your brand online

1. Register your trade mark/s in as many territories as you can afford, but particularly in China.
2. Ensure your product, when manufactured, includes at least three 'secret ingredients' which only you know about. Make them so small and 'insignificant' that a counterfeiter won't notice and if, by any chance, the factory 'runs on' additional stock, they are unlikely to make any changes mid-production. But, if you ask a suitably briefed customer to identify these three things, to guarantee originality, they can.

3. Keep a thorough back-catalogue of images and marketing materials, date them clearly, and put them on a (hidden) webpage, to which the link can easily be provided as evidence of copyright.
4. Translate your brand name/trade marks into the languages relevant to the territories in which you sell, including Chinese. Search regularly using these terms on key platforms, including eBay, Amazon, Alibaba, Allegro, Facebook, We Chat and others using literal, and poor, translations (which are often used by a counterfeiter to describe your product).
5. Register your brand/s with the free European Enforcement Database, formerly CITEEX, at <https://euipo.europa.eu> Do the same with the equivalent in the other territories with which you trade.
6. If you find a counterfeit, or copy, buy a sample – so you know what you are dealing with. Learn as much as you can from the way it’s delivered, the packaging, the smell, the components. Send it for lab testing if you need to. Do close comparisons so you, and your trusted network of distributors, can tell the difference. Alert the trading standards teams to the same. Include all this detail on the enforcement database, above. Report infringing links for removal.
7. Consider innovative labelling solutions, some include detailed tracking and ‘chain of custody’ information for cross referencing.
8. Be honest if you’ve got a problem. Your team – which includes your trusted distribution network – needs to know so they can also be on the look-out; and your customers must always be kept safe.
9. Don’t panic. You need to be proactive, persistent and tenacious to protect your brand, your revenues and your customers. But it is, entirely possible, without costing the earth or even involving too many lawyers!

THE PUBLISHERS ASSOCIATION

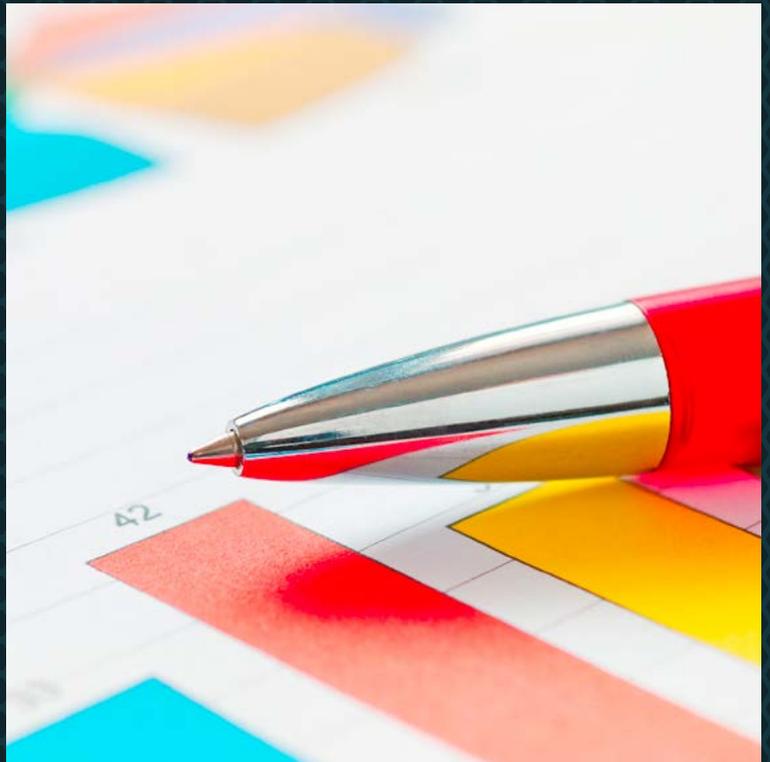
The Publishers Association has been working hard to communicate the value and importance of copyright to our audiences across the globe, at a time when there appears to be a global push towards a weakening of copyright regulations.

Publishing is a UK export success story, with international sales now equating to just over half of total sales for UK publishers. Key to our export success is the ability to protect our products in our overseas markets, as well as reducing the impact of non-tariff barriers to trade such as local censorship rules. As such UKIPO’s IP Attachés are an excellent resource. Not only do they support the work of rights owners in overseas markets but also, they facilitate greater understanding and engagement in IP issues in key territories across the world. Working collaboratively with UKIPO, the World Intellectual Property Organisation, national governments, stakeholders and customers has never been more important to our industry.

In the UK the sale of digital titles has continued to drop, resulting in an even greater importance in openly addressing and dealing with the issue of online infringements. A key tool to help publishers to manage online piracy is our bespoke tool, the Copyright Infringement Portal, which to date has reported over 4 million infringing links, delisted over 1.5 million Google Search links and documented the demise of over 145 infringing sites. As digital downloading (both legitimate and infringing) becomes more mainstream we continue to invest in the Portal’s scope and scale to help publishers protect their digital content more efficiently and more effectively.

Chapter 4

TRADING STANDARDS SURVEY RESULTS

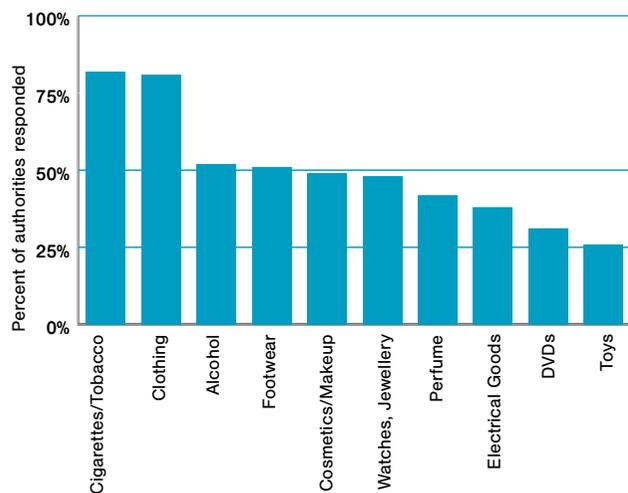


INTRODUCTION

The IPO survey of Trading Standards Officers' work on IP crime covers the period April 2016 to May 2017. The results offer an insight into the scale and scope of IP crime in the UK from the perspective of Trading Standards Officers. The survey includes details of the most investigated products, the location of IP investigations and links to other forms of criminality.

There are considerable demands on the trading standards service and we are grateful to the 86% of local authorities who completed this year's survey, and the work of the regional coordinators who helped gather this information.

Top ten counterfeit/pirate products investigated by Trading Standards

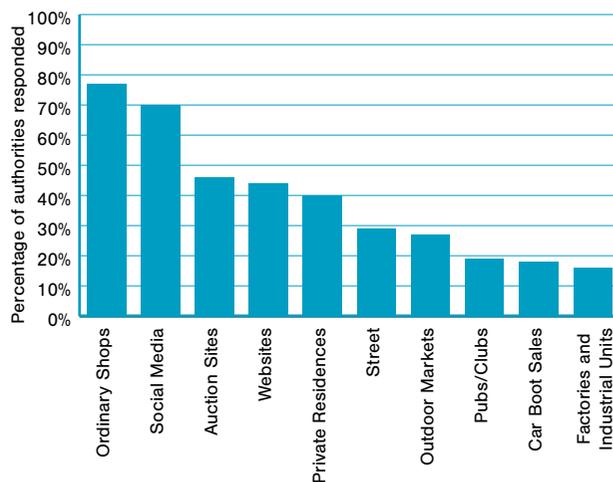


Highlights

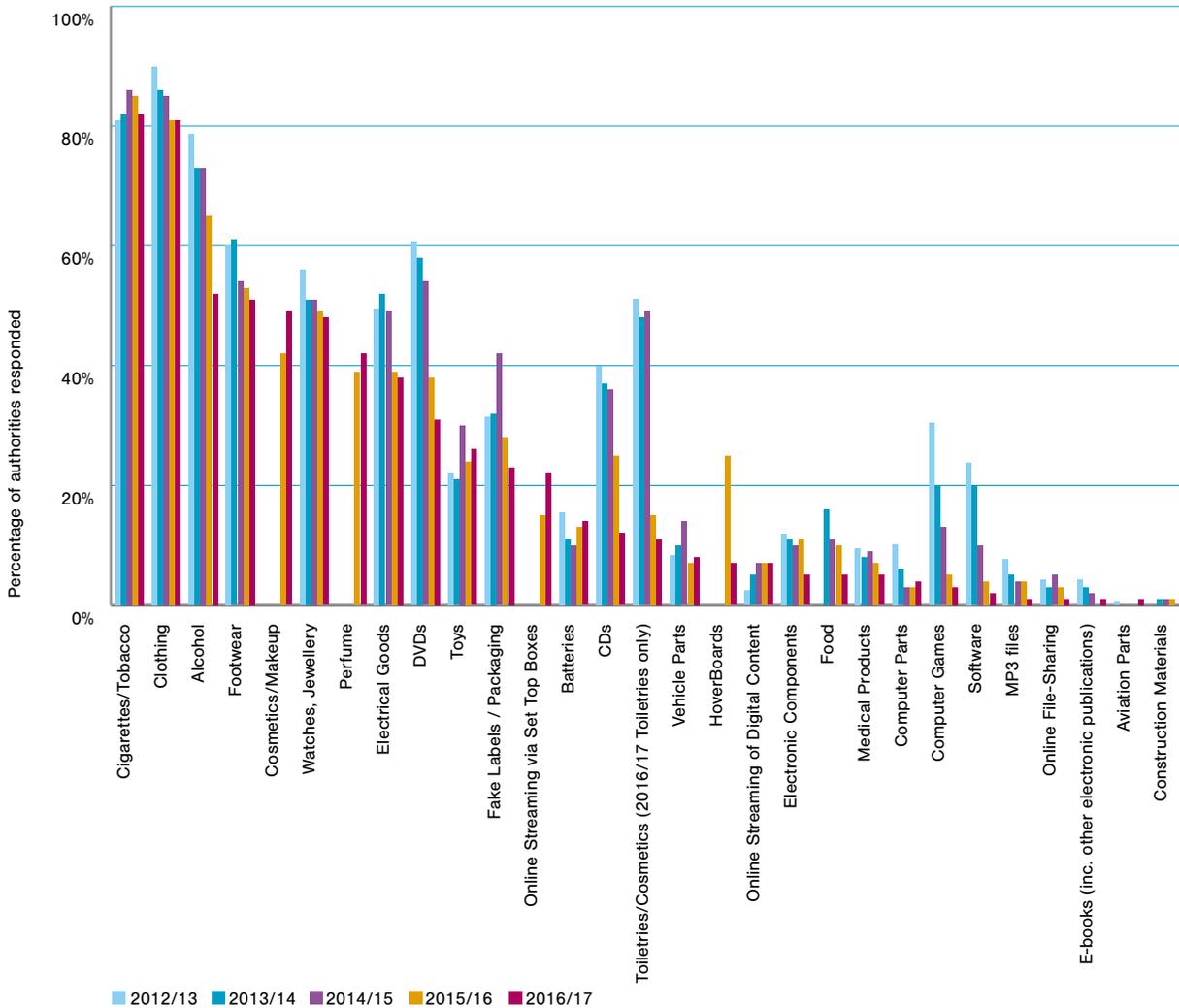
Cigarettes, clothing and alcohol remain the most investigated products. Counterfeit cosmetics, perfume and electrical goods continue to rank highly in the list of investigated goods. In this year's survey counterfeit toys replace packaging as a significant category.

- Although retail outlets remain the main source of counterfeit goods, the proportion of goods intercepted through social media has increased since last year. Disruption of online sales of counterfeit good now represents a significant proportion of Trading Standards Officers' work.
- As was the case last year, the top three crimes linked to IP crime remain benefit fraud, money laundering and organised criminal networks.

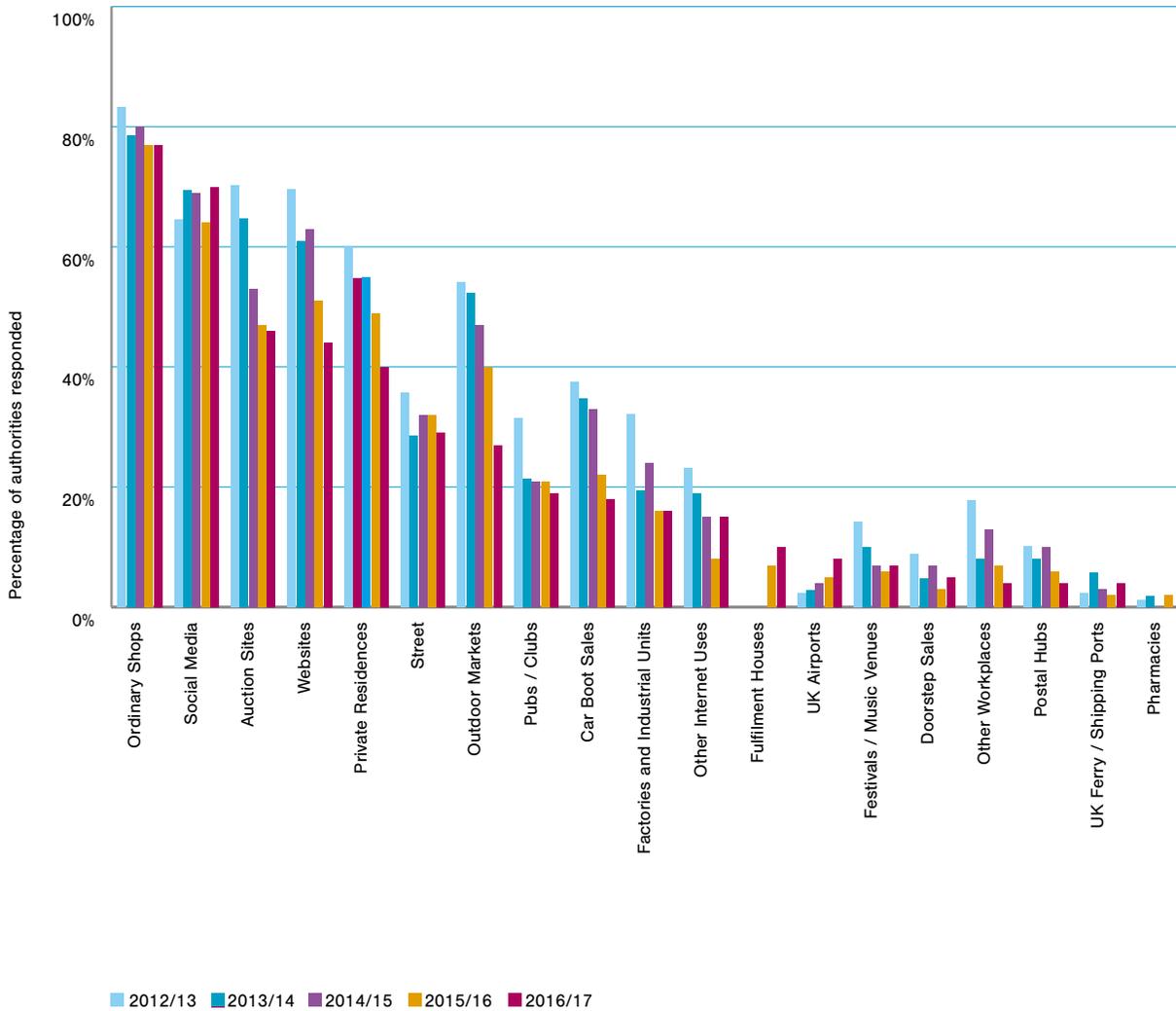
Top ten locations for counterfeit goods investigated Ordinary shops remain the most investigated location



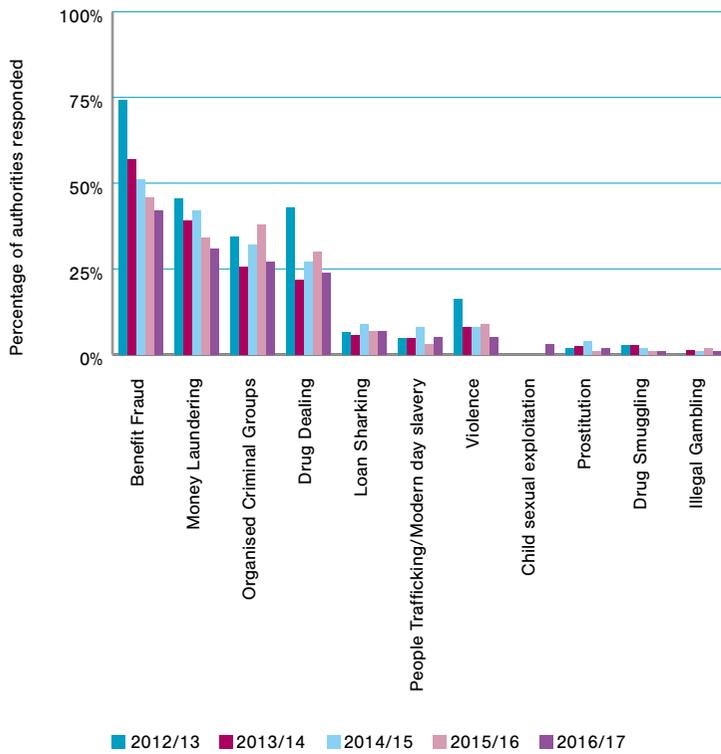
The top products investigated by Trading Standards continues to be cigarettes and tobacco closely followed by clothing



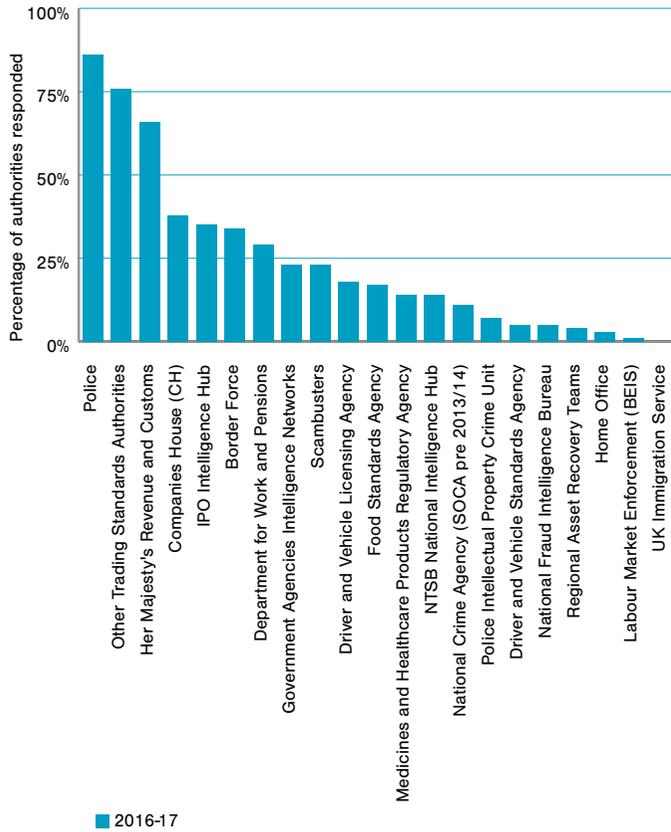
Although ordinary shops remain the most investigated location; social media, websites and private residences all figure in the top ten



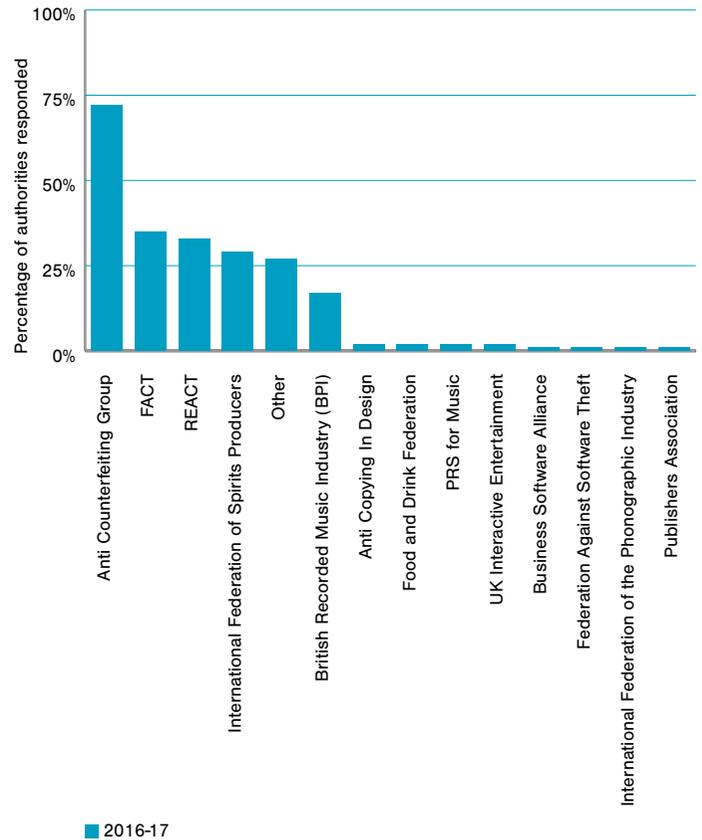
Links to other criminality – benefit fraud is still the main criminal link along with organised crime networks and money laundering



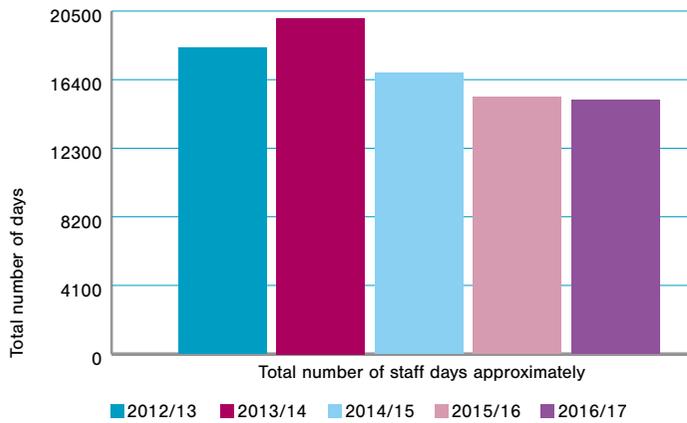
Working with other Public Sector Partner Organisations – Police and Trading Standards remain the principal partners



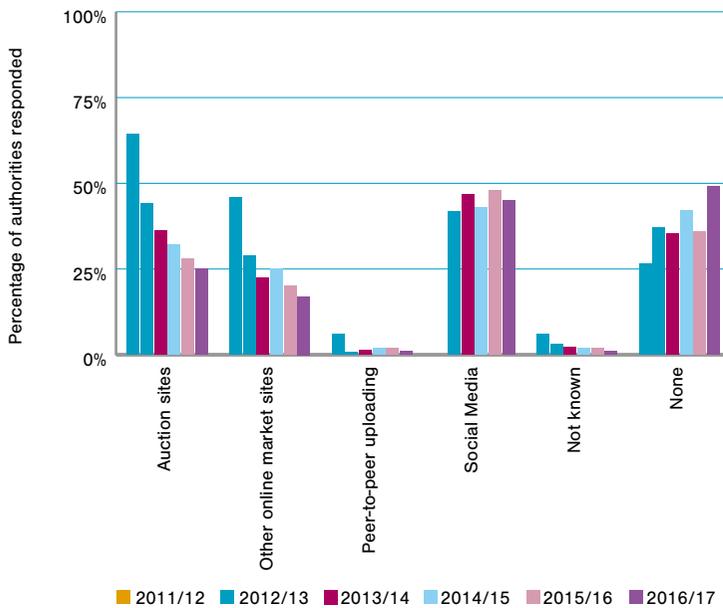
Working with Industry Bodies – The Anti-Counterfeiting Group and the main industry body Trading Standards work with



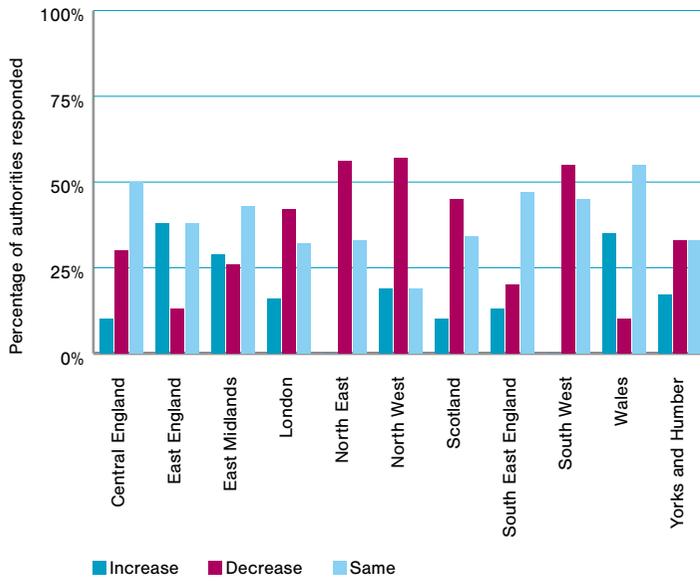
Total staff days dedicated to tackling IP Crime



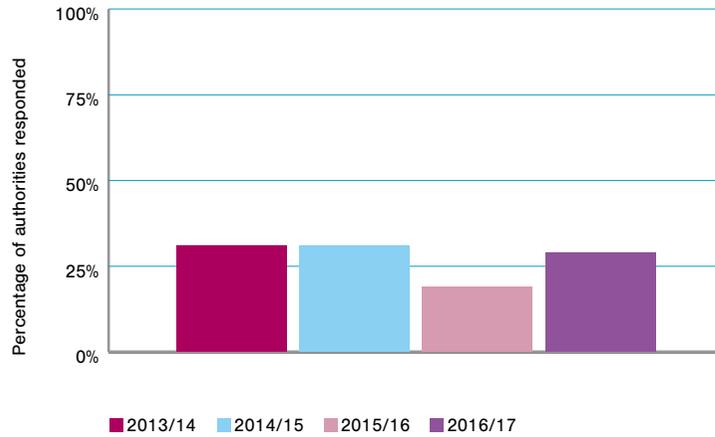
Proactive monitoring online



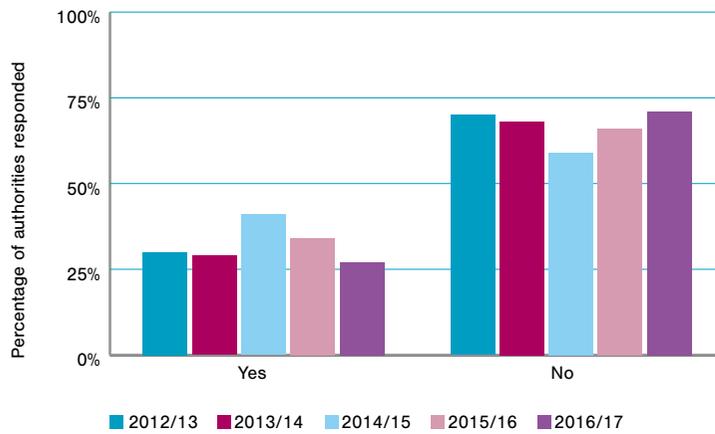
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Submissions or enquiries to the IPO Intelligence Hub



POCA Restraint Orders used



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