



Best Practices in the Fight

against **Global Counterfeiting**

An **Action Guide** to Strengthen Cooperation
and Collaboration across Industry Sectors
and among Global Supply Chains





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The rapid growth and sophisticated organization of counterfeiting operations is increasingly threatening legitimate business and the health and safety of millions of people.

The issue crosses all borders, and it reaches from the highest levels of government and industry to the average consumer on the street.

*We must work in collaboration to develop the **public-private partnership** needed to identify and address counterfeiting health and safety issues.*

Counterfeit merchandise has led to numerous risks for consumers worldwide, from significant health and safety concerns over counterfeit lifesaving drugs, to flammable electrical devices, to tremendous financial loss for U.S. businesses, government, and individuals. With up to \$250 billion in business losses and 750,000 American jobs at stake each year, it's clear that these illegal and unethical actions have led to economic instability and decreased quality of life for people all over the world.

In the past year, the American National Standards Institute (ANSI) has held a workshop¹ and a conference² to examine the health and safety issues surrounding global counterfeiting. Participants at both events were tasked with defining the scope of the problem and identifying anti-counterfeiting solutions that are applicable across industries, market sectors, and global supply chains. The overarching goal of both of these ANSI events was to develop a consensus among involved industry groups and policymakers on the need for:

1. practicable³ and implementable cross-sector best practices, and
2. better utilization of private-sector resources for developing effective public-private partnerships to combat global counterfeiting.

¹ "Workshop on Anti-Counterfeiting Standards and Conformance Measures: Developing a public-private partnership for addressing gaps in the global supply chain" – April 14, 2010

² "Crossing Borders and Sectors: Exploring Robust Anti-Counterfeiting Solutions" – September 22, 2010

³ "Practicable" in the sense used here refers to a countermeasure of action that is both cost-effective and capable of reducing the threat of existing counterfeiting activities and/or creating deterrence to opportunities for counterfeiting.

The Need for Cross-Border Solutions

During both the workshop and the conference, members of the international standards-setting community spoke to the global nature of counterfeiting and to the vulnerabilities endemic to global industry supply chains. And while national regulatory, oversight, and law enforcement agencies will often cooperate across borders, as well as through international agreements and investigative agencies such as INTERPOL, the statutory authority of these agencies ends at national borders.

Public-sector agencies are currently overwhelmed by the counterfeiting problem and need the support of private enterprise. Fighting counterfeit products at ports of entry is – as most will acknowledge – a case of too few resources targeted far too late in the supply chain to make more than a dent in the problem. For this reason, private-sector entities should recognize that relying solely on law enforcement to solve their counterfeiting issues is a very poor strategy. Organizations need to be proactive in developing an anti-counterfeiting strategy that includes law enforcement and legislation as just one critical component of their overall anti-counterfeiting efforts.

***What's Being Done?* U.S. Department of Commerce Bureau of Industry and Security Study**

At the workshop, officials from the U.S. Department of Commerce's Bureau of Industry and Security (BIS) gave a thoughtful and provocative run-down of their recent seminal study on Counterfeit Electronics⁴ in the defense aerospace industry. They came to the conclusion that, while a great deal of effort is currently expended by affected parties, overall there remain the following areas of concern:

- Lack of dialogue between organizations in the supply chain
- Insufficient chain of accountability for product security
- Need for stricter testing protocols and quality-control practices to help protect global supply chains from this evolving threat

The BIS participants – at both the workshop and the conference – made clear that they felt their conclusions were not particular to vulnerabilities in the aerospace industry, but were common across all industry sectors that have global supply chains. Their conclusions are similar to those reached by ANSI in its work on global supply chain issues, such as the health and safety aspects of imported toys and food products.

Many of the approaches that were identified by the BIS study as missing from current efforts to fight counterfeiting are already part of the ANSI toolbox.

⁴ *Defense Industrial Base Assessment: Counterfeit Electronics* Jan. 2010
<http://www.bis.doc.gov/defenseindustrialbaseprograms/index.htm>

For example, within the International Organization for Standardization (ISO), Technical Committee (TC) 247 on *Fraud countermeasures and controls* is currently developing a security assurance management system standard that directly supports anti-counterfeiting efforts. Working under U.S. leadership, this TC is also developing conformance processes for security assurance that are based upon current American National Standards. As the U.S. member body to ISO, ANSI facilitates the participation of U.S. technical experts in this critical work area.

Security Assurance Versus Quality

Security assurance through standards and best practices does not in itself guarantee a quality product. Security assurance's goal is to provide a level of certainty of the authenticity of the product regardless of the quality. Security assurance programs can decrease the need for stricter testing protocols and quality-control practices.

Private-Sector Leadership Needed – Why Is ANSI Involved?

ANSI entered into the anti-counterfeiting arena with the support of many organizations who have worked diligently over many decades to combat counterfeiting. Many experts involved in these efforts were in attendance at the two ANSI events, either as speakers or in the audience.

ANSI understands that there is potential benefit to adding its own insight and resources to ongoing initiatives. Workshop attendees explored some ideas about where ANSI's competencies could be most helpful and effective, and the issues identified and conclusions reached at the workshop were then showcased at the conference.

The Institute brings to the table a great deal of experience in developing consensus processes – where motivated experts from both the private sector and the government come together to share ideas and develop standards and conformance-based solutions that can solve problems in the public-policy arena.

The counterfeiting issue – both in defining the problem and in crafting solutions – certainly encompasses many facets of the economy, including intellectual property rights (IPR), security concerns, global trade, and competitive advantage issues. And again, numerous industry organizations have been working for many years to address these concerns within their specific industry sectors. ANSI's particular expertise can be targeted on issues concerning the health and safety of products that travel through global supply chains. These are foundational issues for the Institute to address because they are well-recognized public policy concerns including but not limited to the health and safety hazards of counterfeit drugs, medical devices, aerospace parts, and electrical equipment.

And as discussed in the section above, the private sector can operate more efficiently than the U.S. government outside of our national borders. As a nation-state, the United States must defer to the authority of other nation-states for the monitoring and enforcement of supply chains located within those other countries. This means that the U.S. government's role can only begin once an imported

product arrives at a U.S. border. But as a private-sector entity, ANSI can undertake voluntary consensus standards coordination and third-party conformity assessment activities anywhere in the world because the Institute is:

1. the convener and coordinator of the U.S. standardization community;
2. the U.S. member body to international standards bodies such as ISO and, via the U.S. National Committee, the International Electrotechnical Commission (IEC); and
3. a U.S. representative to international accreditation bodies such as the International Accreditation Forum (IAF) and the International Laboratory Accreditation Cooperation (ILAC).

What Is ANSI?

The American National Standards Institute (ANSI) is a private, non-profit organization that administers and coordinates the U.S. voluntary standards and conformity assessment system. In this role, the Institute works in close collaboration with stakeholders from both industry and government to identify standards-based solutions to national and global priorities.

Since its formation, ANSI has held the unique responsibility of coordinating the standardization efforts of diverse interests and SDOs. In its role as a neutral forum, the Institute has helped to forge and continues to facilitate our nation's robust public-private partnership. This neutrality is especially key where significant cross-sectoral collaboration is required – the infrastructure provided by the Institute provides the facilitation and mediation required to bring stakeholders together on issues such as smart grid, healthcare, cybersecurity, and more.

Two Overarching Issues Identified at the ANSI Workshop and Conference

Better Communication

Companies, organizations, academics, consumer groups, and agencies that are focused on combating counterfeiting must increase the quality and frequency of their dialogue. By sharing ideas, these groups can further the development of shared best practices, voluntary consensus standards, and conformance solutions. ANSI can help coordinate the cross-sector, cross-discipline, public-private partnership that is needed to facilitate this dialogue.

Global Nature of the Issue

Counterfeiting is a global supply chain problem. No one entity can effectively monitor, inspect, and enforce anti-counterfeiting measures across national boundaries or for the entire continuum of a global supply chain. While the U.S. government has ultimate responsibility to protect the health and safety of its citizenry (*parens patriae*), it cannot do so alone. And while many industry sectors have good relationships with foreign counterparts and foreign law enforcement officials, the problems are huge and complex, and responses have been mostly sector specific.

ANSI has a great deal of experience dealing with global supply chain issues where accredited third-party organizations are brought in to monitor (test, inspect, and audit) organizations at the point of manufacture and throughout the distribution process, not at the point of entry into the U.S.

Integrating these third-party conformance solutions into existing global supply chains and existing anti-counterfeiting measures could be of significant help in reducing and even preventing the entry of counterfeit product into the global marketplace.

Four Consensus Conclusions

Public-Private Partnerships

The most effective means of fighting counterfeiting worldwide will come through collaboration. Counterfeiting is a global problem that cannot be handled or resolved by just one agency or group with limited jurisdiction. Shared discussions, best practices, standards, conformity assessment efforts, and initiatives among all stakeholders will lead to the best solutions. Public- and private-sector stakeholders throughout and across industries must work together, including national and international law enforcement and government officials, and private-sector participants from all industry sectors and all points in the supply chain.

Education

Many people affected by counterfeiting, including both manufacturers and consumers, are unaware of the true scope and impact of this issue. It can be seen as a victimless or inconsequential crime, when in reality it causes safety risks and financial detriment on a monumental scale while supporting criminals, terrorists, and organized crime around the globe. Consumers must be educated on the true impact of purchasing counterfeit goods, as well as how to avoid making such purchases. Manufacturers should be given case studies and statistics on the effects that counterfeit goods have in their industry, and simple steps to reduce the presence of counterfeit parts and products.

A Victimless Crime?

It is often said that counterfeiting is a victimless crime, and that the purchase of a cheap purse or DVD on a corner means nothing when the consumer can plainly see that the goods are of low quality.

But what the consumer doesn't recognize is that the profits raised by these "victimless" purchases are used to perpetrate very real and very alarming crimes.

Enforcement

Policies and laws that fight counterfeiting must be supported on every level, by refusing to use, pay for, or return counterfeit parts. Sales of counterfeit parts and products must be reported to the proper legal authorities, continual testing of critical components must be conducted to assure the quality of parts

that appear legitimate, and finally, an effective security assurance program must be in place coupled with the use of effective authentication technologies. Certification and other conformity assessment activities play an important role, allowing industries to rely on certified, trusted suppliers and accredited product assessors. These and other supply chain processes are key to the prevention of counterfeit products entering the distribution chain. Many of the existing public and private initiatives begin and end with enforcement and prosecution – some participants felt that other tools were also needed as “we can not incarcerate our way to safety.”

Standards

As in many cross-industry international issues, standards play a critical role in spreading best practices and assuring safety and quality. While no standards can completely stop counterfeiting, they can bring awareness to industries, encouraging them to institute checks and balances throughout their supply chains. As a starting point, ISO TC 247 is developing a glossary of common terms relevant to fraud countermeasures and controls. However, access to standards must be considered as counterfeiters could potentially refer to them as a resource when creating parts and products.

SAE International has also published AS5553, *Counterfeit Electronic Parts; Avoidance, Detection, Mitigation, and Disposition*, which outlines detailed procedures on how to establish a counterfeit parts control plan for electronic parts. This standard has been adopted for use by the U.S. Department of Defense and NASA, and is gaining widespread acceptance among aerospace and defense companies and government agencies around the globe. In addition, SAE is nearing completion on standards pertaining to all types of counterfeit material that apply to purchasers, brokers, accreditation bodies, and test labs.

Seven Recommended Best Practices

1. It is important for those at risk of purchasing and/or accepting counterfeit products to develop practicable policies and procedures on how to identify, avoid, and correctly handle and dispose of counterfeit products. Management must develop clear written directions on how employees should combat counterfeiting in all three scenarios.
2. Management should be aware of legal resources available to offer guidance to combat counterfeiting, including the U.S. Department of Justice website, www.cybercrime.gov.⁵

⁵ Counterfeiting was criminalized under the *Trademark Counterfeiting Act of 1984*, 18 U.S.C.2320.

3. Organizations should develop a systematic approach to their anti-counterfeiting program. Included in the program should be:
 - Reliance upon standards and best practices to develop a comprehensive anti-counterfeiting strategy, including proactive best practices and reactive processes
 - Evaluation of organizational and product risk and threats
 - Use of authentication technologies appropriate to the organization and product
 - Collaboration with local and national law enforcement agencies as the case may require
4. Develop a trusted supplier network and/or look to organizations that have developed such networks.
5. Require audits of suppliers as part of contractual obligations to assure that security assurance policies and screening and testing procedures are adequate.
6. When counterfeit parts are discovered, organizations must keep them from being returned to the supply chain. Suspected counterfeit parts should not be returned to suppliers or recycled, but rather turned over to proper legal authorities and destroyed (rendered useless in the intended function). There are numerous examples of seized goods that did not pose a public health threat and were assigned to be destroyed or sent to the disadvantaged, but instead the goods were hijacked and reintroduced into commerce.
7. Organizations should urge the federal government to establish a centralized reporting mechanism and database for collecting information on suspected/confirmed counterfeit products and parts discovered in global supply chains.

Seven Global Supply Chain Solutions

1. In order to better trace products through global supply chains, end users should demand certificates of conformance to affirm that all purchase order requirements have been met, as well as testing certifications to affirm that parts were found to conform to requirements.
 - In support of this effort, Japan has proposed the development of an anti-counterfeiting track and trace International Standard as part of the work effort of ISO TC 247.
2. Organizations should confirm that suppliers use desired security assurance policies and practices through use of applicable contract requirements in purchase orders.

3. Third-party testing, inspection, and auditing requirements can be effective in policing global supply chains, as they are not limited by national borders or other jurisdictional issues. However, third-party vendors must themselves be trusted parties, and thus accreditation by internationally recognized accreditation bodies is important.
4. Quality control and third-party testing must be a continual process, and not just as a tool for fighting counterfeiting. Suppliers may change specifications or cut corners after initial testing (“golden samples”) has been completed. Parties should be aware of the concept of “quality fade,” where product and cost start out at a certain level, but over time it is understood in certain business situations that both will drop. Health and safety concerns such as lead in toys and melamine in milk products surfaced after third-party conformance efforts slackened after initial rigorous scrutiny.
5. Employees with responsibility to access and accept products and parts from suppliers must be trained to have the tools and abilities to spot counterfeit items. A comprehensive and accredited credentialing process to ensure the necessary level of training may be needed. This level of training should cover not just quality assurance, but also security assurance to ensure that deliberate efforts to contaminate the supply chain are discovered and effectively curtailed.
6. In large part because of the global nature of many supply chains, it is difficult to find sources of information on others’ experiences combating counterfeiting. Organizations are often reluctant to share information that may appear to highlight their own failures or limitations in fighting counterfeiting. It would be helpful to develop “safe harbor” sites where companies can share generic information on counterfeiting efforts, such as case studies stripped of identifying information that can serve as lessons learned for others. It should be noted that this is one of the significant benefits of the voluntary consensus standards development process: experts can work on problems and contribute solutions without relating them directly to a particular organization.
7. A gap analysis project should be undertaken involving a larger universe of affected parties, including corporations, agencies, and end users. Such an analysis can dive deeper into the identification of the issues, problems, and solutions that continually occur regardless of industry sector, and thus should lend themselves to cross-industry solutions.

Summary

When ANSI decided last year to undertake an analysis of counterfeiting as a cross-sectoral, global supply chain issue, the Institute did not want its effort to be a one-off event. Following a workshop, conference, and the development of this action guide document, ANSI is confident that the conclusions reached can be useful to a larger audience, and can potentially be of significant help in efforts underway to combat counterfeiting.

When a health and safety issue becomes a matter of global concern, all affected parties must contribute to the solution; traditional methods of government oversight and enforcement are simply not enough. Manufacturers, suppliers, and end users, as well as those who test, inspect, and defend the authenticity and transparency of the supply chain, must become more actively involved.

ANSI looks forward to working in partnership with all affected parties as we craft practical, consensus-based solutions to counterfeiting threats to global supply chains.

Appendix 1: Conference Report

ANSI Conference: Crossing Borders and Sectors: Exploring Robust Anti-Counterfeiting Solutions

Report prepared February 2011

1.0 Background for Conference

Counterfeit merchandise has led to numerous risks for consumers worldwide, from significant health and safety concerns over counterfeit lifesaving drugs, to flammable electrical devices, to tremendous financial loss for U.S. businesses, government, and individuals.

In an effort to help find cross-sector solutions to this global challenge, the American National Standards Institute (ANSI) convened a conference on September 22, 2010 – *Crossing Borders and Sectors: Exploring Robust Anti-Counterfeiting Solutions* – as part of ANSI’s annual World Standards Week events in Arlington, Virginia.

High-level speakers from government, industry, international law enforcement, the military, and academia led attendees in collaborative discussions of effective solutions for addressing health and safety concerns and significantly reducing the massive economic impact of counterfeiting worldwide. Representing everything from consumer goods and pharmaceuticals to aerospace electronics and certification marks, attendees agreed that taking stronger action and increasing cooperation and communication are key to reducing counterfeiting in the U.S. and abroad.

In his introductory remarks, ANSI president and CEO S. Joe Bhatia focused on the importance of having the standardization community address this topic:

“The rapid growth and sophisticated organization of counterfeiting operations is increasingly threatening legitimate business and the health and safety of millions of people. The issue crosses all borders, and it reaches from the highest levels of government and industry to the average consumer on the street. This conference provides a venue for the collaboration needed to develop a public-private partnership that can identify and address counterfeiting health and safety issues.”

2.0 Report Format

The conference provided attendees with an opportunity to understand the current national and global climate in the ongoing mission to defeat counterfeiting, opening with the United States Patent and Trademark Office's efforts to fight counterfeiting and protect intellectual property rights (IPR). Proceedings were organized into a morning panel on cross-sector needs in anti-counterfeiting efforts, followed by several guided discussions that gave attendees the opportunity to contribute their perspectives. Each of these components of the workshop is addressed briefly in this report, organized in accordance with the agenda, which is provided in Appendix 2.

Representatives from a range of interested stakeholder groups participated in the workshop; a complete list of in-person attendees is available in Appendix 3.

Workshop-related presentations and collateral documents posted by participants and contributors as well as other interested parties are available at http://www.ansi.org/meetings_events/WSW10/Anti_Counterfeiting_proceedings.aspx?menuid=8.

3.0 Keynote Address – U.S.PTO Efforts to Fight Counterfeiting and Protect Intellectual Property Rights

Lynne G. Beresford of the U.S. Patent and Trademark Office (U.S.PTO) provided attendees with an overview of the U.S.PTO's efforts to fight counterfeiting and protect IPR, highlighting several important initiatives and inviting impassioned feedback on the role that other countries play in the success of these efforts.

Registering Federal Trademarks

Ms. Beresford emphasized the importance of registering federal trademarks – a key tool in the U.S.PTO's arsenal to fight counterfeiting. Without a registered trademark, customs cannot seize counterfeit items, making it much more difficult to control the flow of these products across international borders.

***What's Being Done?* Stopfakes.gov**

To underscore the importance of registering of federal trademarks, Ms. Beresford encouraged attendees to explore the resources provided at stopfakes.gov, a U.S.PTO website that provides toolkits for protecting trademark, intellectual property, and goods in other countries. Outreach to small business is critical, said Ms. Beresford. Everyone should make use of these tools and protect their companies while aiding the greater fight against counterfeiting.

***What's Being Done?* Intellectual Property Attaché Program**

Another initiative of the U.S.PTO, the Intellectual Property Attaché Program, stations representatives in international locations to monitor counterfeiting problems, build international agreements, and protect U.S. trademark holders internationally. The program has already placed attachés in China, Thailand, Brazil, India, Russia, and Switzerland; further locations are being sought.

China's Role

Attendees raised several questions on China's role in the counterfeiting problem worldwide. In response, Ms. Beresford emphasized that the problem is not just "black and white" – there is a delicate balance when addressing challenges with Chinese officials. Stakeholders need to build a united front against counterfeiting, and yet many are hesitant to jeopardize their stake in China's vast market. Ms. Beresford also noted that all countries are doing what is best for themselves, so there must be an incentive to stop counterfeiting before real progress will be made in any country.

4.0 Panel – Identifying Cross-Sector Needs

Led by moderator Scott Cooper of ANSI, this panel covered the particular and urgent challenges faced by several divergent industries: consumer goods, aerospace electronics, food ingredients, pharmaceuticals, and IPR. Discussions centered on identified areas where the needs of these industries cross sectors.

Panelists included:

- Brian Monks, Vice President, Anti-Counterfeiting Operations, Underwriters Laboratories (UL)
- Don Davidson, Chief, Outreach and Standardization, Trusted Mission Systems and Networks, U.S. Department of Defense (DOD)
- Markus Lipp, Director, Food Ingredients Standards, U.S. Pharmacopeia
- Edward Gibson, Director, U.S. Forensics Technology Solutions, PricewaterhouseCoopers
- Michael O'Neil, Executive Director, North American Security Products Organization (NASPO)

Need for a Public-Private Partnership

Mr. Cooper opened the session by outlining the overarching issues that must be addressed in order to combat counterfeiting. Counterfeiting is a global supply chain problem that cannot be handled or resolved by just one agency. Public- and private-sector stakeholders across many industries must work together, and ANSI can help to develop crosshairs that target focused issues horizontally across sectors and vertically through the supply chain.

Mr. Cooper cited several examples where ANSI has facilitated partnerships between the public and private sectors to address large-scale issues, including the reformation of the toy industry supply chain to assure third-party testing for lead at manufacturing sites in China, and conformity assessment measures instituted to improve the safety of food imported across international borders.

Panelists shared their feedback on how their industries have been affected by, and are dealing with, the threat of counterfeit goods and services.

Counterfeiting Is More Than DVDs and Designer Purses

The scope of counterfeiting is far greater – and far more dangerous – than many realize, said Mr. O’Neill. It impacts everyone from consumers to businesses to government, supporting local and international criminals, terrorists, and organized crime. Even goods not commonly thought of as potential counterfeits are susceptible, such as nuclear components and airplane parts.

What Tools Are Needed to Fight Counterfeiting?

- Education on the severity of the issue with customs officials and law enforcement
- Raised awareness among consumers and government
- Globally aligned standards
- Default privacy settings on social media websites
- Cooperation and coordination of efforts

“You Have to Be Involved”

Mr. Monks stressed the importance of being actively involved in fighting counterfeiting. Twice as big as the narcotics industry, counterfeiting is omnipresent and while a trademark is the first step to fighting it, it is only the beginning. Mr. Monks urged stakeholders to go to China and build relationships with officials. UL collaborated with Chinese police on the raid of a factory making counterfeit UL labels and fixtures – a successful initiative in part because UL made it easy for police to authenticate. You have to be involved, and see your strategies through to fruition.

***What’s Being Done?* DOD List of Definitions and Best Practices**

The DOD plans to publish a list of definitions and best practices on anti-counterfeiting. The document, which will be centered on the multi-pronged approach to global supply chain risk management, is slated for publication presently.

Cooperation Is Crucial

Overall, panelists stressed the need for more cooperation across industries to defeat counterfeiting. In working together, stakeholders can develop non-industry-specific initiatives that cross sectors and address a multitude of needs, ultimately providing the most effective solutions to a universal problem.

What's Being Done? Promoting the Quality of Medicines Program

One initiative of the U.S. Pharmacopeia is the Promoting the Quality of Medicines (PQM) program, which fights counterfeit medicine by strengthening quality assessment systems, increasing the supply of quality assured medicines, and assisting INTERPOL and other agencies in fighting counterfeiting, especially in Africa, Asia, Latin America, and Europe.

How Can We Collaborate in Standards Development?

Dr. Mary McKiel, U.S. Environmental Protection Agency (EPA) standards executive, asked panelists how they foresee successful collaboration across industries in standards development. Who would develop them, and how would they be enforced? Many standards are compliance-based, with audits built into their structure. It was agreed that while no standards can completely stop counterfeiting, they can bring awareness to industries, encouraging them to institute checks and balance systems throughout their supply chains.

What's Being Done? Existing Standards and Committees

Several standards are in place to address the threats of counterfeiting, including the American National Standard (ANS) ANSI/NASPO, SA-2008 Security Assurance Standards, and the work of ISO TC 247, *Fraud countermeasures and controls*, and ISO Project Committee (PC) 246, *Anti-counterfeiting tools*. In addition, SAE International has two committees addressing counterfeit mitigation: G-19, *Counterfeit Electronic Parts*, and G-20, *Counterfeit Materiel*.

The Role of Education

Better education on anti-counterfeiting measures benefits professionals as well as students and scholars. Dr. John Spink from the Anti-Counterfeiting and Product Protection Program at Michigan State University (MSU) described a research program at the Workshop, which includes curriculum targeting professionals as well as university students. The current research has been focused on educating brand owners, corporate managers, and engineers so they can make better and more informed decisions. The program has begun to expand to international companies – leading to a better understanding of the value of intellectual property rights. Once the value of protecting IP is clear for all involved, the initiatives will have a higher level of universal buy-in.

***What's Being Done?* Online Professional and Graduate Curriculum**

MSU is playing a leading role with the development of a program focused on anti-counterfeit strategy, online graduate courses, and a series of graduate certificates (e.g., counterfeit medicines, product protection, and counterfeiting criminology). Wide access is key to the success of this program, which is enabled through the online environment.

Are Standards Helpful in the Internet Age?

Mr. Gibson questioned modern use of standards in an age where any and all information is on the Internet. American stakeholders may find reassurance in following a standard, but these guidelines are meaningless outside of the U.S., where a standard won't be followed – or may even serve as a roadmap for counterfeiters to hone their craft. Ensuring conformance to the standard can often be the most difficult issue with global supply chains.

Standards May Cross Industries, but Enforcement Does Not

Compliance to standards is therefore critical, but the degree and type of enforcement must be specific to each industry. If each industry can educate its members on the unique costs and risks associated with the counterfeiting of their goods, more may employ stricter enforcement.

Breaches Often Come from Within

One third of breaches come from within the supply chain, Mr. Davidson stated. That's why supply chain processes are key. Where does the product come from? What processes occur during the chain? These must be examined at every step to determine the source of the problem. Outsourcing steps in the supply chain can lead to further problems: costs may be lower, but the manufacturer has less control over the processes.

“Made in the U.S.A.”

Is supporting American-made merchandise an effective tool to fight counterfeiting? Panelists said no. Globalization is here to stay, and many nationally produced products have international parts. A product made in the U.S.A. is not guaranteed to be high quality or legitimate. In fact, the “Made in the U.S.A.” tag, itself, could be counterfeited. This is a global concern—for example, there is evidence of origin laundering of counterfeit product labeled as “Made in India.”

Consumer Awareness

While anti-counterfeiting efforts may succeed in making products safer, they can also drive up costs by requiring more testing. Consumers who are inclined to choose cheaper – and possibly counterfeit – products need to be educated on the risks associated with their purchase. Little has been done to date to inform consumers of the links between counterfeit items and organized crime, or the safety risks of counterfeit items. To many, it seems like a victimless crime.

How Can We Begin to Take Action on Counterfeiting?

- Assume there are counterfeit goods in your industry.
- Find out if there are any standards on anti-counterfeiting for your industry.
- Make all relevant standards available at every level of the supply chain.
- Make it easier for someone to verify the supply chain and authorized vendors.
- Document ongoing activities related to counterfeiting.
- Make anti-counterfeiting efforts visible so that all can benefit.

5.0 Presentation – Working Together to Combat Transnational Organized Counterfeiting

John Newton of INTERPOL outlined his organization’s mission and how its work benefits anti-counterfeiting solutions worldwide.

INTERPOL brings together the world’s police forces, forming a network to help solve international crimes, analyze and share information, warn police of upcoming activities, and develop a real-time database of global crime. The organization facilitates the partnership and collaboration needed on an international level to establish effective measures that combat counterfeiting.

Focus on Partnership, Collaboration, and Trust

Mr. Newton stressed the importance of collaboration in finding anti-counterfeiting solutions. Partnership brings money by pooling resources and aims for a win-win solution that will generate success. Trust is an important element of this partnership as well. Stakeholders cannot say that they will “collaborate,” but merely piggy-back on the work of others. The industries that join the efforts must be engaged and contribute their energy, information, and time in order to have success.

What’s Being Done? Certification Industry Against Counterfeiting (CIAC)⁶

CIAC is an international network of certification organizations that works to prevent the spread and sale of products bearing counterfeit certification marks. The initiative

⁶ <http://www.interpol.int/public/financialcrime/intellectualproperty/DiiplicagCiac/Default.asp>

uses a broad, integrated, cross-industry approach with a focus on electrical products. Mr. Newton explained that while CIAC cannot force stakeholders to follow guidelines, they can persuade them that they should come to the table to help find a solution. Involvement in developing anti-counterfeiting solutions can be good for both a country's image and its financial security.

International Efforts, from Mexico to China

INTERPOL's work is seen as non-threatening by national enforcement agencies, and inclusive across international borders, said Mr. Newton. For example, the organization is working to build a strong relationship with Chinese officials and is looking to deploy a training program in Mexico City.

***What's Being Done?* IPR Training and Operational Workshops**

INTERPOL provides training to police and customs workers on IPR, giving them the tools needed to stop the flow of counterfeit merchandise. Custom solutions are developed as needed: for example, in Zambia, where there is no legislation for counterfeiting, INTERPOL crafted an intervention involving licensing pharmacies that worked with the country's existing resources. While these efforts have been successful in building closer relationships across public and private sectors, international borders, and many industries, problems still arise due to language barriers and a lack of relevant legislation in many areas.

6.0 Guided Discussion – Best Practices

Brad Botwin of the Office of Technology Evaluation at the DOC and Ric Loeslein of the Naval Air Systems Command led the next panel discussion.

U.S. Navy and DOC Report on Counterfeiting

Mr. Botwin and Mr. Loeslein outlined an initiative where the Navy asked the DOC to develop a report on counterfeiting, including findings of the scope of the problem and best practices. The DOC looked at the Navy's supply chain integrity, and surveyed five industry and government groups for their feedback. While 39 percent of respondents said they had encountered counterfeit goods, that estimate is low because many stakeholders do not track counterfeits or know how to identify them.

Key Findings of the U.S. Navy and DOC Report

- Dialogue across supply chain wasn't happening.
- Everyone thought someone else was checking for counterfeits, but that wasn't the case.

- No accountability, databases, or specific people were designated responsible for counterfeits.
- Stricter testing protocols are needed.
- Most organizations don't know who to contact in the government about counterfeiting.
- Most organizations don't know about the laws for counterfeiting.
- Every company surveyed has been touched by counterfeit parts.
- Everyone must work together to solve the problem of counterfeit parts.

Best Practices Suggested in the U.S. Navy and DOC Report

- Increase communication in supply chain.
- Institute training programs.
- Establish clear written rules and policies.
- Ensure physical destruction of all defective, substandard parts.
- Inspect all returns and buy-backs to verify authenticity.
- Buy parts from Original Component Manufacturers (OCMs) and authorized distributors.
- Require traceability of parts back to OCMs.
- Share lists of trusted and unapproved suppliers. You shouldn't be ashamed that you purchased them.
- Don't return counterfeit parts.
- Contact the FBI when there is suspicion of discovering counterfeit products using:
<http://www.fbi.gov/contact/fo/fo.htm>

Don't Point the Finger

One element of the U.S. Navy and DOC's initiatives has been to avoid laying blame on one source for counterfeiting problems. All parties are to blame, as all have been lax in preventing the counterfeits from getting to the marketplace or infiltrating the supply chain. What's more important is to take the initiative going forward, and to try to get ahead of the problem where it stands today.

Testing, Testing

If a company makes it clear that they will test parts from all non-qualified suppliers, the cost of the test will be added to the product, mitigating some or all of the savings that come from using untested, unguaranteed products. This may effectively weed out counterfeit suppliers, as the purchaser has the power to say, "I'll test what you sell and if it passes, I will pay you. If it doesn't pass, I'll cancel the check and report you for distributing counterfeit goods."

However, it's cost-prohibitive to test every single part – and that's where a list of trusted suppliers that don't merit repeated testing comes in.

Higher Costs Upfront May Enable Savings Over the Life Cycle

While industries or companies have reduced conformity assessment testing in the acquisition stage in the past in order to keep costs down, many may want to consider using these tests to assure legitimate parts and products. This balance of cost and performance must be considered against the entire life cycle of the product, and not just the initial price.

7.0 Guided Discussion – Global Supply Chain Monitoring

William G. Raisch of the International Center for Enterprise Preparedness at New York University led a valuable question and answer session on the types of conformity assessment activities that are currently working in the marketplace, and where we can target areas for improvement.

Challenges: From Legal to Financial

Common challenges that are faced across industries in the fight against counterfeiting include both legal and enforcement issues, as well as marketing anti-counterfeiting solutions to necessary stakeholders when the threat is high impact, low probability.

Furthermore, attendees questioned how deep into the supply chain that testing requirements may exist, and how these requirements may inhibit international marketability. As Mr. Raisch asked attendees, how do you address one market's needs without pricing yourself out of other markets that may not have the same needs?

Quality Management Goes Further Than Anti-Counterfeiting

Quality control and testing of products must be continual, and not just to fight counterfeiting. Suppliers may change specifications or cut corners after initial testing has been completed, and manufacturers need to account for that and take measures to prevent it. Bob Noth, immediate past chairman of ANSI's Board of Directors, offered the 2008 melamine milk crisis as one such example. The original product was safe for consumption, but later shipments contained melamine, which made the product appear to meet specifications to consumers, but was in fact toxic.

Supply Chain Management Is a Partnership

Mr. Bhatia added that the management of supply chains is a partnership among buyers, suppliers, and the people in charge of the process. For example, federal agencies rely on many elements to assure proper supply chain management, including buyer-supplier agreements, spot inspections by third-party resources, on-dock inspections, and more.

Credentials in the Monitoring System

Spot checks and a thorough monitoring system are critical, but both are far less effective if the people conducting these assessments are not properly trained. A comprehensive credentialing process could assure that these assessors have the tools and abilities to know what they're looking for and identify counterfeits when presented with them.

Attendees also pointed out the key difference between a quality assurance audit and a security assurance audit. While quality assurance auditors do honest work in the best interest of their company, security assurance auditors must be specifically trained to look for the "bad guys" that are trying to trick the company and the consumer.

Risk Vs. Reward

Several attendees stressed the need for a risk analysis to determine which counterfeit products would be the most productive, for both financial and safety reasons, to target. There are millions of parts that could be counterfeit, and while some components are critical, others may not be as important. A more targeted view on what we're looking for and what carries the greatest risk is needed.

Identify Industries, Not Companies

Companies are hesitant to bring attention to counterfeit products because it can damage their brand's reputation. However, they may be more willing to do a general product category campaign in cooperation with other companies in their industry. This will call attention to the issue as it affects certain products and can lead to added security features that protect the industry, without linking specific brands to the existence of counterfeit merchandise.

Do Standards Need to Be Industry-Specific?

Levels of acceptance for quality management standards depend on the sector. Standards that are customized for specific industries seem to work better and are perceived to have more value. We need to capture the best practices used in all sectors and committees, and pick from that what can be used for different applications and industries. Mr. Bhatia emphasized that ANSI welcomes all contributions on best practices as the Institute compiles resources on defeating counterfeiting across sectors.

Enforcement in the Internet Age

Counterfeit products may reach even greater markets through Internet purchasing, and enforcement strategies must address this online component. How can consumers contact companies if they have accidentally purchased counterfeit products online? And further, how can customers verify a product's authenticity online? One suggestion was a system where customers can enter the month and year that a

product was manufactured, and then check if that month and year correspond to a run at an authorized factory. Big players in Internet sales, such as eBay, are also encouraged to get involved.

***What's Being Done?* PayPal's Counterfeit Reporting System**

Michael Carson of PayPal detailed his company's procedures that allow customers to report counterfeit goods. PayPal's homepage links to a Security Center where customers can open a dispute if they have purchased goods through PayPal that turn out to be counterfeit.

Don't Compromise with Counterfeits!

Mr. Bhatia stressed the importance of taking a firm stance when encountering counterfeit parts or merchandise. These products cannot be returned to the supplier. You must destroy the product and pursue legal action. This will stop the products from entering the marketplace through another venue while satisfying the legal authorities that can help your company's efforts. There is a role for standards and experts to assess how and if specific types of fraud and classes of criminals can be found and stopped. This is a complex component of combating counterfeiting, which underscores the need for global collaboration.

***What's Being Done?* Cisco Raids**

Cisco's Brand Protection team monitors its channels closely to curb sales of fake hardware. In recent years, the team has organized multiple raids and has uncovered thousands upon thousands of counterfeit products valued in the millions of dollars. Following a full investigation, Cisco turns the information over to the authorities.

Anti-Counterfeiting Vs. Sustainability

While destroying counterfeits is essential, recycling e-waste from legitimate products may also lead to counterfeiting. And whether destroying or recycling, you can never fully guarantee that a discarded product won't be used to make a counterfeit product that will re-enter the marketplace. Measures should be taken to effectively destroy the functionality of the fraudulent component or product while still exploring opportunities to allow recycling or remanufacturing. Especially with respect to 2011 U.S. government measures to increase the exports of quality remanufactured products, particular attention must be paid to the proper balance between product destruction and potential re-use.

Unfortunately, the no-questions-asked destruction model runs counter to best practices for sustainability. The two are at cross purposes, and sustainability and supply chain stakeholders must come to an agreement that meets the needs of both parties.

Educate with a Simple Message

Attendees again emphasized the importance of educating manufacturers, suppliers, and consumers on the dangers of counterfeiting as a critical step in implementing anti-counterfeiting measures. There are millions of small businesses that are trying to provide quality products, follow all laws, and assure the safety of their customers, but they are still affected by counterfeit materials.

As a group already familiar with some of the effects of counterfeiting on health, safety, and the economy, we need to develop a simple message and basic steps that can be given to small and large businesses alike. With basic steps, these companies will be better equipped to slow the spread of counterfeit supplies and products in their market.

We Need Case Studies, from Horror Stories to Near Misses

Education is key, but how can we get stakeholders to pay attention? We need to compile examples of when counterfeit products have led to serious problems, whether they be horror stories of unsafe products and thousands of dollars lost, or near misses such as testing products and having them catch fire. Manufacturers need to hear that the first time you find out you have a counterfeiting problem may be when you're the defendant in a liability suit.

Outreach Opportunities

Suggested venues for outreach include trade associations, small business administrations, community colleges with small business programs, and local chambers of commerce.

8.0 Next Steps and Wrap Up

Three possible courses of action were identified at the conclusion of the event.

Conduct Gap Analysis

What ideas are out there? What needs to be taken into consideration?

Facilitate Communication

How can we develop a more formal way to discuss and collaborate on anti-counterfeiting measures? We don't want to lose what we started at this workshop.

Guide Interaction with and Certification of Suppliers

What methods can we use to assure that suppliers are trusted? By certifying trusted suppliers, companies can highlight the good that they're doing in the fight against counterfeiting, rather than the negative ways that their brand has been affected.

Mr. Bhatia concluded the event by summarizing the main points discussed over the course of the day, highlighting the key needs of continuing dialogue, increased cooperation, stricter enforcement, and further awareness and education.

Counterfeiting is a global problem. In some cases, supply chain management, certification, auditing, and higher resources can help, but each company needs to be dedicated to making sure that its products, systems, and intellectual property are defended. Company management needs to be out there, on site, defending products and capital. The counterfeiting aspects discussed during this workshop are the tip of the iceberg. Eight to ten percent of all global trade is done in counterfeiting or unauthorized IPR interaction, and the Internet plays a huge role.

The anti-counterfeiting action guide in which this report appears is just the start; ANSI does not purport to have the final solution on this large issue. The Institute welcomes all input and thoughts as we move forward in these efforts.

Acknowledgments

Recognition and sincere appreciation are due to the following:

- Lynne G. Beresford, Commissioner for Trademarks, U.S. Patent and Trademark Office (U.S.PTO), U.S. Department of Commerce (DOC), for providing the keynote address.
- Brad Botwin, director of Industrial Base Studies for the Office of Technology Evaluation, and Mark Crawford, Senior Analyst for the Bureau of Industry and Security, of DOC for sharing their “lessons learned” on counterfeit electronics and for their leadership and constructive participation.
- John Newton, Intellectual Property Program Manager, INTERPOL, for his presentation on combating transnational organized counterfeiting.
- Dr. John Spink, Associate Director and Assistant Professor, Anti-Counterfeiting and Product Protection Program, School of Criminal Justice, Michigan State University
- The moderators from each of the panels for their effective role in facilitating the sessions, including Brad Botwin, Director, Industrial Base Studies, Office of Technology Evaluation, U.S. DOC; Scott Cooper, Vice President, Government Relations, ANSI; Ric Loeslein, Naval Air Systems Command; and William G. Raisch, Director of the International Center for Enterprise Preparedness at New York University.
- All of the speakers listed on the agenda for sharing their expertise and introducing key ideas and concepts utilized during the open dialogue sessions.

Appendix 2: Conference Agenda



Crossing Borders and Sectors: Exploring Robust Anti-Counterfeiting Solutions

AGENDA

Wednesday, September 22, 2010 – 9:00 a.m. – 5:00 p.m.

A World Standards Week 2010 event

Crowne Plaza Washington National Airport
1480 Crystal Drive, Arlington, Virginia 22202

This one-day conference will define and address the need for anti-counterfeiting solutions that are applicable across industries, market sectors, and national borders. Participants will work collaboratively through several panels, presentations, and guided discussions to input to a final deliverable report.

Time	Topic	Presenter
9:00 am	Welcome and Opening Remarks	Joe Bhatia President and CEO, American National Standards Institute (ANSI)
9:10 am	<p>Keynote Address</p> <p>Commissioner Beresford will present an overview of the United States Patent and Trademark Office’s efforts to fight counterfeiting and protect intellectual property rights.</p> <p>The Commissioner’s 20-minute presentation will be followed by 20 minutes of interactive Q&A with participants.</p>	Lynne G. Beresford Commissioner for Trademarks, U.S. Patent and Trademark Office, U.S. Department of Commerce

<p>9:50 am</p>	<p>Identifying Cross-Sector Needs</p> <p>During this session, panelists will discuss the particular and urgent challenges their industry is facing, and will identify areas where their needs cross sectors.</p> <p><i>This hour-long discussion will be followed by 30 minutes of interactive Q&A with participants.</i></p> <ul style="list-style-type: none"> ■ Consumer Goods ■ Aerospace Electronics ■ Food Ingredients and Pharmaceuticals ■ Intellectual Property Rights 	<p>Moderator: Scott Cooper Vice President, Government Relations, ANSI</p> <p>Panelists: Brian Monks Vice President, Anti-Counterfeiting Operations, Underwriters Laboratories</p> <p>Don Davidson Chief, Outreach and Standardization, Trusted Mission Systems and Networks, U.S. Department of Defense</p> <p>Markus Lipp Director, Food Ingredients Standards, U.S. Pharmacopeia</p> <p>Edward Gibson Director, U.S. Forensics Technology Solutions, PricewaterhouseCoopers</p> <p>Michael O’Neil Executive Director, North American Security Products Organization</p>
<p>11:20 am</p>	<p>Break</p>	
<p>11:35 am</p>	<p>Working Together to Combat Global Transnational Organized Counterfeiting</p> <p><i>A 20-minute presentation followed by 20 minutes of interactive Q&A with participants</i></p>	<p>John Newton Intellectual Property Program Manager, INTERPOL</p>
<p>12:15 pm</p>	<p>Networking Lunch</p>	
<p>1:30 pm</p>	<p>Guided Discussion: Best Practices</p> <p>Currently, stakeholders rely upon their own solutions to manage the counterfeiting challenge with varying levels of success. But for organizations and government agencies that operate many different product lines and in different jurisdictions, a more robust and effective cross-sector focus is needed.</p> <p>This session will examine the specific areas where cross-industry standards or best practices can be developed.</p>	<p>Moderators:</p> <p>Brad Botwin Director, Industrial Base Studies, Office of Technology Evaluation, U.S. Department of Commerce</p> <p>Ric Loeslein Naval Air Systems Command</p>
<p>2:50 pm</p>	<p>Break</p>	

3:10 pm	<p>Guided Discussion: Global Supply Chain Monitoring</p> <p>Standards are just good ideas without robust conformance practices, especially when goods and services cross borders. What types of conformity assessment activities are currently working in the marketplace, and where might we target areas for improvement?</p>	<p><i>Moderator:</i></p> <p>William G. Raisch Director of the International Center for Enterprise Preparedness at New York University</p>
4:30 pm	Next Steps and Wrap Up	Scott Cooper
4:50 pm	Closing Remarks	Joe Bhatia

Appendix 3: Conference Attendees

The following individuals were registered to attend the ANSI conference as of September 16, 2010. This list is sorted alphabetically by organization/company/agency.

Organization / Company / Agency	Individual
Aerospace Industries Association	Kirsten Koepsel
American National Standards Institute	S. Joe Bhatia
	Stephanie Carroll
	Scott Cooper
	Art Cote (Chairman of the Board)
	Susanah Doucet
	Patricia Griffin
	George Gulla
	Lane Hallenbeck
	Joyce Hsu
	Karen Hughes
	Peggy Jensen
	Rena Krumholz
	Gary Kushnier
	James McCabe
	Brian Meincke
	Elizabeth Neiman
	Robert Noth (Immediate Past Chairman)
Michael Petosa	
Frances Schrotter	
Joseph Tretler	
Margaret Voizard	
American Society of Mechanical Engineers	William Berger
ASIS International	Susan Carioti
Boeing Company, The	Joy Fitzpatrick
	Christopher Veith
Cactus Commerce	Rob Neilly
CSA America, Inc.	Kay Winn
Defense Logistics Agency (DLA) Land and Maritime	Paul Granchi
Gemalto	Michael Magrath
Hayes & Associates, Inc.	Charles Hayes

Organization / Company / Agency	Individual
International Association of Plumbing & Mechanical Officials	Neil Bogatz
	GP Russ Chaney
	Allen Inlow
International Safety Equipment Association	Daniel Shipp
INTERPOL	John Newton
Kavi Corporation	Tricia Butler
	David Coryell
	Phil Wentworth
Microsoft	Amy Marasco
National Association of Consumer Agency Administrators	Kathleen Thuner
National Electrical Manufacturers Association	Clark Silcox
National Fire Protection Association	Amy Cronin
	Christian Dubay
Naval Air Systems Command	Ric Loselein
New York University - INTERCEP	Bill Raisch
National Institute of Standards and Technology	Alim Fatah
North American Security Products Organization	Michael O'Neil
NSF International	Jane Wilson
Panasonic Corporation of North America	Paul Schomburg
PayPal	Michael Carson
PriceWaterhouseCoopers	Edward Gibson
Qualcomm Incorporated	Susan Hoyler
SAE International	Bruce Mahone
Siemens USA	John Kulick
U.S. Department of Commerce	Brad Botwin
U.S. Department of Commerce – International Trade Administration	William Thorn
	Everett Wakai
U.S. Department of Defense	Don Davidson
	Trudie Williams
U.S. Department of Homeland Security – National Cybersecurity Division	Willie Garrett
	Kenneth Lee
U.S. Patent and Trademark Office	Lynne Beresford
U.S. Pharmacopeia	Bill Koch
	Markus Lipp
	Laura Provan
	Edward Zhao

Organization / Company / Agency	Individual
Underwriters Laboratories, Inc.	Brian Monks
	Charles Rego
	Donald Snyder
	Lauren Starck

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