



## CHANGING TRENDS OF COUNTERFEIT AND PIRACY

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### Abstract

*Intellectual Property Rights became very predominant within the globalized world and therefore the economic importance of intellectual assets is rapidly increasing. However this rising importance of intellectual property have created various opportunities for criminal networks to free ride on other's intellectual assets and pollute trade routes through means like counterfeit and piracy. Counterfeit and Piracy ends up in downfall of several local industries, loss of revenue, curtails innovation, dilution of name value and reputation. Fake products are often found in large in growing number of industries. The act of Counterfeit and Piracy acts as a significant threat to the economy of intellectual property rights which hamper the originality and innovation of creators. The effect of trade in counterfeit and piracy challenge the well-being of consumers and efficient business and effective government. The scale of the pirated and counterfeiting market is increasing over time. Trade in counterfeit and pirated goods is very dynamic and is constantly a changing phenomenon. The paper concentrates on the broadening scope of counterfeiting and piracy and its impact in trade and economy. This illegal business activity deprives*

*government of revenues, dislocates legitimate jobs and exposes consumers to danger due to the inefficient duplicate and faux products. The paper also analyses the rise in fakes and duplicates in certain industries attempting to quantify the extent of the effects of the same within the industry and an overview of the legal framework that governs the protection of intellectual property rights, primarily against pirates and fakes.*

### INTRODUCTION

Intellectual Property Rights protects creativity, research and innovation but counterfeiting and piracy pose a great and severe threat. Illegal trade in fake goods is a major challenge in an innovation-driven global economy. It has an adverse effect on the sales and profits of affected firms, as well as broader negative effects on the economy as well as public health, safety and security. Counterfeiting and Piracy is a global problem impacting virtually every sector around the world.

Counterfeiting and piracy are more blatant and egregious forms of infringing activity. The Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement provides the following interpretation-  
'For the purposes of this Agreement:

- "counterfeit trade mark goods" shall mean any goods, including packaging, bearing without authorization a trade mark which is identical to the trade mark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the owner of the trade



mark in question under the law of the country of importation;

- “pirated copyright goods” shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.<sup>1</sup>

Counterfeiting and piracy are pervasive across countries and sectors, representing a multibillion-dollar illegal industry that creates a significant drain on the global economy – crowding out billions in legitimate economic activity and facilitating an underground economy that deprives governments of revenues for vital public services, forces higher burdens on taxpayers, dislocates hundreds of thousands of legitimate jobs and exposes consumers to dangerous and ineffective products.<sup>2</sup>

## EFFECTS OF COUNTERFEITING AND PIRACY

### Effects on original rights holders

Intellectual Property Rights gives exclusive rights to the original owners to use and exclude others from using it. But, Counterfeiting and piracy is a form of infringing such rights of the owners. Counterfeiting and piracy cause losses to original rights holders in terms of reduced sales, lower profits, brand value, reputation

impairment, consumer distrust and many more. The counterfeiters or pirates defeats the legal objectives of the Intellectual Property Laws.

Rights holders are directly affected by the loss of royalties due to the infringements of trademark and copyrights. Rights holders’ brands or products are pushed out of the market by counterfeit and pirated products, as the latter are offered at lower prices due to lower reproduction costs, insignificant staff, and bypassing research and development costs. When a consumer without knowledge purchases a pirated good that do not meet the expectations set out by the original manufacturer the customer unaware of the fact is likely to form bad opinion on the original brand and manufacturer. If the consumer never discovers the deception he may be reluctant to buy the same brand again and would communicate their dissatisfaction to other possible consumers, resulting in a loss of sale of genuine products, brand value and decrease in firm reputation. The counterfeiters run their business on the goodwill of the right holder’s mark which has been created through their continuous efforts and hard work.

The rights holders are also affected by the preventive and reactive costs spent in preventing or in combating illegal activities, drawing money away that could be used in innovation, improvements in quality, or other enhancements of the genuine product.<sup>3</sup>

<sup>1</sup> Footnote 14 of Article 51 of *TRIPS: Agreement on Trade-Related Aspects of Intellectual Property Rights*, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994), [www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](http://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

<sup>2</sup> WORLD TRADEMARK REVIEW, <https://www.worldtrademarkreview.com/anti->

[counterfeiting/estimating-global-economic-and-social-impacts-counterfeiting-and-piracy](https://www.worldtrademarkreview.com/anti-counterfeiting/estimating-global-economic-and-social-impacts-counterfeiting-and-piracy) (last visited on 15 December 2020).

<sup>3</sup> *International Survey on Anti-Counterfeiting and Piracy Report*, Intellectual Property and Entertainment Law Committee, p.16, (2008). <https://www.ibanet.org/Document/Default.aspx?Doc>



### Effects on Economy and Government

Inventions/innovations help in economic growth of a country, since foreign investments and technology transfers in developing countries depend directly on the adequate recognition and protection of Intellectual Property. Intellectual Property protection encourages fair trade which contributes to economic and social development. Intellectual Property protection has direct influence on GDP growth, employment rate and other economic gains of a country.

The effect of counterfeiting has great impact on undermining the innovations. Without a working protection of copyrights and trademarks, the motivation to develop new ideas and products will weaken.<sup>4</sup> The objective behind protecting Intellectual Property is to provide incentives to the creator; encourage technological advancement and to promote creativity, but when infringers (counterfeiters/ pirates) ponder upon the work of the right holder and create income and benefit out of such

counterfeited goods/ pirated goods, it undermines the innovations.

The Foreign Direct Investment flow is relatively low in a country where there is more counterfeited and pirated goods in the market and which has weak legal framework for enforcement of Intellectual Property Rights. The Counterfeiting and piracy has an adverse effect on Government as it causes loss of revenue due to tax evasion.<sup>5</sup>

### Effect on Consumer

Counterfeits of many types of trademarked medicine, automotive, food and drink, electrical, chemical, household and other products can pose risks of harm, sometimes severe injury or even death to consumers.<sup>6</sup> It should be noted that a growing scope of counterfeit products can pose significant threats to the environment or to consumer health and safety. For example, counterfeit chemical products, pesticides or fungicides that do not correspond to safety norms often pose serious environmental hazards.<sup>7</sup>

Consumer satisfaction is compromised when consumers start buying counterfeited, pirated goods or when they are fraudulently

counterfeit and pirated products, others may purchase counterfeit and pirated products believing they have purchased genuine articles. In both cases, products are often sub-standard and carry health and safety risks that range from mild to life threatening. Sectors where health and safety effects tend to occur include: car parts (brake pads, hydraulic hoses, engine and chassis parts, suspension and steering components, airbags, spark plugs, filters), electrical components (circuit breakers, fuses, switches, batteries), food and drink (tea, rice, vodka, raw spirits, baby formula), chemicals, toiletry, household products and tobacco products.

<sup>7</sup> OECD/EUIPO (2019), *Trends in Trade in Counterfeit and Pirated Goods*, Illicit Trade, OECD Publishing, Paris/European Union Intellectual Property Office. <https://doi.org/10.1787/g2g9f533-en>.

umentUid=41EF4282-938C-4AD3-8551-A1DBE7A10508.

<sup>4</sup> *International Survey on Anti-Counterfeiting and Piracy Report*, Intellectual Property and Entertainment Law Committee, p. 12, (2008). <https://www.ibanet.org/Document/Default.aspx?DocumentUid=41EF4282-938C-4AD3-8551-A1DBE7A10508>.

<sup>5</sup> Veer Singh, *Combating Counterfeiting And Piracy: An Overview*, Vol. 6 No. 1, NALSAR LAW REVIEW, p. 20 (2011).

<sup>6</sup> European Commission, *Conference on Counterfeiting and Piracy: Frequently Asked Questions (FAQs)* (2008), <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/299&format=HTML&aged=0&language=E> "While some consumers are looking for what they believe to be bargains, knowingly buying



made or represented counterfeit goods as original to buy such goods. The value or satisfaction that consumers derive from a product is based in large measure on the quality of the products and / or its performance, taking the price paid for the product into account. When the quality and / or performance of a counterfeit or pirated product is inferior to a genuine product, consumer utility is decidedly lower for those individuals who pay full price, believing the product that they have purchased is genuine. A consumer who unknowingly pays full price for a low quality counterfeit product, gains far lower value than someone who purchases a genuine product according to expectations.<sup>8</sup> Due to counterfeiting and piracy the innovation rate by rights holders is less which could translate into slower product development, thereby slowing growth in consumer utility. Few rights holders has abandoned markets altogether because of counterfeiting and piracy.

### PRESENT TRENDS OF COUNTERFEIT AND PIRACY

Counterfeiting and piracy are not victimless crimes. The scope of products covers almost all products that are protected by Intellectual Property laws and has broadened from luxury watches and designer clothing to include items which impact directly on health and safety including food, and pharmaceutical products. The infringing products are being produced and consumed in virtually all economies. The Organization for Economic Co-operation and Development (OECD) and the *European Union Intellectual Property*

*Office* (EUIPO) carried out a series of analytical studies and reported that trade in counterfeit and pirated goods amounted to USD 461 billion which is up to 2.5 % of world trade in 2013 and in 2016 counterfeit and pirated goods amounted to as much as USD 509 billion which represents upto 3.3% of world trade<sup>9</sup> over the three-year period 2013-16 in nominal terms, the share of trade in counterfeit and pirated goods in global trade grew very significantly, as trade in fake goods increased during a period of relative slowdown in world trade overall.

### Factors Influencing the Increasing Rate of Sale of Counterfeited and Pirated products

#### a. Market

Counterfeiters and pirates target products where profit margins are high, taking into account the risks of detection, the potential penalties, the size of the markets that could be exploited and the technological and logistical challenges in producing and distributing products.

The market for counterfeit and pirated products can be divided into two important sub-markets. In the *primary market*, consumers purchase counterfeit and pirated articles believing they have purchased genuine articles. The products are often sub-standard and carry health and safety risks that range from mild to life threatening. In the *secondary market*, consumers looking for what they believe to be bargains knowingly

<sup>8</sup> OECD (2007), *The Economic Impact of Counterfeiting and Piracy: Executive Summary*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264037274-en>.

<sup>9</sup> OECD/EUIPO (2019), *Trends in Trade in Counterfeit and Pirated Goods*, Illicit Trade, OECD Publishing, Paris/European Union Intellectual Property Office. <https://doi.org/10.1787/g2g9f533-en>.



buy counterfeit and pirated products.<sup>10</sup> The change in mindset of the people of the society to buy counterfeited products is the main cause in rising of the rate of the Counterfeiting and piracy.

*b. Demand and Consumption*

It is apparent that counterfeit and pirated products are being sold in virtually all economies across globe. The consumption of counterfeited and pirated product is widespread across the globe though the consumption pattern varies from country to country. The levels appear to be higher in economies where informal, open-air markets predominate due to weak enforcement in those markets. The increased consumption rate of counterfeited and pirated products encourages the counterfeiters and pirates to involve in counterfeiting and piracy. With the increase in standard of living and people's capacity of spending on one side and on the other the people's desire towards luxury products have given a path for act of counterfeiting and piracy.

*c. Expanding Channels of distribution of counterfeited and pirated products*

Counterfeit and pirated products, previously largely distributed through informal markets, are infiltrating legitimate supply chains, with products now appearing on the shelves of established shops.

Internationally, Free Trade Zones (FTZs), which are areas where international traders can store, assemble and manufacture

products that are moving across borders with minimal regulation, are of increasing concern since such zones provides opportunities for parties to falsify shipping documents in ways that disguise their original point of manufacture and helps them to export to other countries for sale. Within the zones, goods can be repackaged with counterfeit trademarks, before they are exported to other economies.

The Internet has provided an important platform for increasing sales and has greater role in increase of counterfeit and piracy rate. It has provided counterfeiters and pirates with a new and powerful means to sell their products via auction sites, stand-alone e-commerce sites and email solicitations. The online environment is attractive to counterfeiters and pirates for a number of reasons, including the relative ease of deceiving consumers and the market reach.<sup>11</sup> With the advancement and progress in technology, services rendered in the Internet has also come to be recognized and accepted and are being given protection so as to protect such provider of service from passing off the services rendered by others as that of the plaintiff. As a matter of fact in a matter where services rendered through the domain name in the Internet, a very alert vigil is necessary and a strict view is to be taken for its easy access and reach by anyone from any corner of the globe.<sup>12</sup> The consumers are more inclined towards replicas, which is called as 'first copy' due to its lower prices. There are many social media handles especially Instagram pages which deal with sale of

<sup>10</sup> OECD (2007), *The Economic Impact of Counterfeiting and Piracy: Executive Summary*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264037274-en>.

<sup>11</sup> OECD (2007), *The Economic Impact of Counterfeiting and Piracy: Executive Summary*,

OECD Publishing, Paris, <https://doi.org/10.1787/9789264037274-en>.

<sup>12</sup> Yahoo! Inc v Akash Arora & Ors, 78 (1999) DLT 285.



counterfeited and pirated products. The Internet and Social media era has paved way for such fraudulent activities.

### Indian Scenario

According to European Commission, in terms of overall seizures of quantities, China is the principal source with 79% of all articles seized originating from China. Counterfeit industry accounts for 8% of China's GDP. Around 40% of Music Productions are copied and sold illegally and loss comes to 600 crores annually. Counterfeiting and Piracy costs Indian Entertainment industry a loss of US\$ 4 Billion and loss of approximately 800,000 jobs annually.<sup>13</sup> Roughly international trade in pirated goods may be in excess of US\$500 billion. This amount is larger than the Gross domestic product of more than 100 countries. The Federation of Indian Chambers of Commerce & Industry (FICCI) study showed that nearly 30% of the automobile components market in India is counterfeit and the loss has been calculate upto 9,198 crores to the Industry for the year 2012.<sup>14</sup>

After China, India figures most in Counterfeiting and piracy. In Pharmaceutical sector, India and UAE are the principal sources accounting for 31%, followed by China. Together, these three countries account for 80% all Counterfeit medicines. According to some studies, fake drugs make

up 20% of the pharmaceutical market in India. These products are no longer limited to lifestyle drugs, but now also include vital medication like cough syrups, painkillers, and even vitamin supplements. The Health ministry estimates that 5% of drugs in India are counterfeit, while 0.3% is spurious.<sup>15</sup>

As per the Motion Pictures Distributors Association (MPDA), India is among the top nations in the world in terms of video piracy. MPDA India estimates that the loss due to piracy in 2012 was \$1.1 billion, an increase of 15.79% from 2008. In India, BSA estimates the software piracy rate as 63%, with the commercial value of software theft as \$2.9 billion. One of the estimates puts the number of pirated software and music CDs to one in three of the total produced.<sup>16</sup>

### Global Scenario

Counterfeiting is rapidly growing in scale. It is a fast-growing industry that has huge impact on world trade and also has sinister effects on health and safety. The Frontier Economics study commissioned by The International Chamber of Commerce Business Action to Stop Counterfeiting and Piracy (ICC BASCAP) found that the total global economic value of counterfeit and pirated products was as much as US\$650 billion in 2008 and was estimated to increase more than double to US\$1.7 trillion by

<sup>13</sup> Veer Singh, *Combating Counterfeiting And Piracy: An Overview*, Vol. 6 No. 1, NALSAR LAW REVIEW, p. 20 (2011).

<sup>14</sup> ICC, BASCAP and FICCI CASCADE (2012), *Counterfeiting, Piracy and Smuggling in India— Effects and Potential Solutions*, [http://www.ficciscascade.in/wpcontent/uploads/2018/07/ValueOfIP\\_India\\_Sept2013\\_FINAL091513.pdf](http://www.ficciscascade.in/wpcontent/uploads/2018/07/ValueOfIP_India_Sept2013_FINAL091513.pdf).

<sup>15</sup> ICC, BASCAP and FICCI CASCADE (2012), *Counterfeiting, Piracy and Smuggling in India— Effects and Potential Solutions*, [http://www.ficciscascade.in/wpcontent/uploads/2018/07/ValueOfIP\\_India\\_Sept2013\\_FINAL091513.pdf](http://www.ficciscascade.in/wpcontent/uploads/2018/07/ValueOfIP_India_Sept2013_FINAL091513.pdf).

<sup>16</sup> Zachary A. Pollinger1, *Counterfeit Goods and Their Potential Financing of International Terrorism*, THE MICHIGAN JOURNAL OF BUSINESS, Harvard University (2008).



2015.<sup>17</sup> In each analyzed year (2014, 2015 and 2016), the total number of customs seizures of counterfeit and pirated goods worldwide consistently exceeded 1, 30,000. Overall, the unified database on customs seizures of Intellectual Property infringing goods includes almost 4, 65,000 observations.<sup>18</sup> The study shows that 58.5% of counterfeit and pirated products traded worldwide in 2016 were sold to consumers who actually knew they were buying fake products, with the remaining share purchased unwittingly. In some nations, the vast majority of the software and musical recordings sold are counterfeit versions.<sup>19</sup> More than 90 per cent of the recordings sold in China and Paraguay are pirated.<sup>20</sup> The magnitude of counterfeiting and piracy tends to be higher in developing economies due, in part, to relatively weak enforcement. China and Hong-Kong (China) have been dominating global trade in counterfeit goods during 2014-16 and as well as during 2011-13. The study conducted by FICCI suggest that 5 economies, namely China, Hong Kong (China), India, the United Arab Emirates and Singapore together exported almost 73% of fake goods traded worldwide in 2016.

- Counterfeiting in the US

U.S. Customs reported a 24% increase in seizure of counterfeit goods from 2010 to 2011. These goods represented more than US\$1.1 billion in lost sales.<sup>21</sup>

- Counterfeiting in the European Union According to statistics published by the European Commission in July 2012, more than 91,000 detention cases were registered by Customs in 2011 — an increase of 15%, as compared to 2010. The value of the intercepted goods represented nearly €1.3 billion, as compared to €1.1 billion in 2010. In 2016, imports of fake products into the EU were up to EUR 121 billion (USD 134 billion); up to 6.8% of EU imports, against 5% of imports of fakes in 2013.<sup>22</sup> Further, Business Software Alliance has estimated global software piracy rate to be 42% in 2011, with the commercial value of software theft to be \$63.4 billion.

#### EFFORTS TO COMBAT COUNTERFEITING AND PIRACY

Protection of Intellectual Property Rights is an issue to which governments and industry have given higher priority in recent times. The governments established an agreed framework for recognizing and enforcing Intellectual Property Rights both in national

<sup>17</sup> BASCAP and UNICRI (2013), *Confiscation of the Proceeds of IP Crime A modern tool for deterring Counterfeiting and Piracy*, <https://iccwbo.org/publication/confiscation-of-the-proceeds-of-ip-crime-2013/>.

<sup>18</sup> OECD/EUIPO (2019), *Trends in Trade in Counterfeit and Pirated Goods*, Illicit Trade, OECD Publishing, Paris/European Union Intellectual Property Office. <https://doi.org/10.1787/g2g9f533-en>.

<sup>19</sup> Veer Singh, *Combating Counterfeiting And Piracy: An Overview*, Vol. 6 No. 1, NALSAR LAW REVIEW, p. 20 (2011).

<sup>20</sup> Robin J Shapiro and Kevin A Hassett, *The Economic Value of Intellectual Property*, [www.usaforinnovation.org/news/ip\\_master.pdf](http://www.usaforinnovation.org/news/ip_master.pdf).

<sup>21</sup> FICCI CASCADE - EY (2013), *Counterfeiting, Piracy & Smuggling - Growing Threat to National Security*, <http://www.ficci.in/spdocument/20307/FICCI-Anti-piracy-paper.pdf>.

<sup>22</sup> OECD/EUIPO (2019), *Trends in Trade in Counterfeit and Pirated Goods*, Illicit Trade, OECD Publishing, Paris/European Union Intellectual Property Office. <https://doi.org/10.1787/g2g9f533-en>.



and international contexts in the Uruguay Round through TRIPS. In addition, governments, working with industry, have been working through international institutions, such as the World Intellectual Property Organization (WIPO), Interpol and the World Customs Organization (WCO), to improve enforcement.<sup>23</sup> Counterfeiting and piracy issues are also being addressed in the context of the G8 summit meetings, with the aim of developing more effective global solutions. The governments should consider the following to combat counterfeit and piracy:

- (i) Strengthening civil and criminal remedies to more effectively redress the harm caused to IPR holders;
- (ii) Expanding the scope of border measures to cover exports as well as goods in transit; and
- (iii) Requiring that certain types of information related to counterfeiting and piracy is made available to the public.<sup>24</sup>

Governments have strengthened legal frameworks, enforcement efforts and have launched awareness-raising initiatives. Improved enforcement appears essential to reduce illegal activities and well-publicized enforcement actions have a greater effect in reversing the trend. It is necessary to increase the civil and criminal sanctions that apply to IP crime. It is necessary to keep the Internet from becoming a more prominent distribution channel for infringing items, for that end actions should be taken by government authorities.

### Indian Legislative and Judiciary's Role in Combating Counterfeit and Piracy

<sup>23</sup> Veer Singh, *Combating Counterfeiting And Piracy: An Overview*, Vol. 6 No. 1, NALSAR LAW REVIEW, p. 20 (2011).

The rising spread of counterfeiting and piracy has led to various stricter enforcement provisions introduced in legislations and changes made to regulations to control the menace of counterfeiting and piracy in India. The Intellectual Property regulations in India i.e. Trademark Act and Copyright Act envisage provisions which prohibit counterfeiting and piracy.

- **Copyright Act, 1957**– The Act confers power on the Police to seize infringed copies of copyrighted works. Section 63 of the Act provides for the offence of infringement of copyright or other rights conferred by the Copyright Act and Section 64 empowers the Police to seize infringing copies.
- **Trademark Act, 1999**– The Act nowhere mentions the term “counterfeit”, however the Act provides for civil remedies in the form of injunction, damages, delivery-up, Anton pillar and John Doe orders under Relief in suit for infringement under Section 135 of Trademark Act. The Act also provides for criminal remedies. It enumerates provision in the event of falsifying or falsely applying for a trademark under Section 102 and 103 of the Act.

- **Anti-Counterfeiting regulations under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007**

The Intellectual Property Rights Rules, 2007 empowers the competent authority of Customs to seize **counterfeit/ pirated goods** or suspend the clearance of such goods at the port. The Rules additionally empowers the Custom Department to destroy goods infringing Intellectual Property Rights. These are also termed as border protection measures

<sup>24</sup> OECD (2007), *The Economic Impact of Counterfeiting and Piracy: Executive Summary*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264037274-en>.



which are very essential to ensure that counterfeit products are not being exported from India and not being imported to India.

Apart from legislative measures, the Judiciary is also actively taking part in combatting Counterfeit and Piracy and has greater role in stopping counterfeiting activities through its judgments.

In *Cartier International AG & Ors. v. Gaurav Bhatia*<sup>25</sup> the Plaintiff sought to restrain the Defendant from operating an e-commerce website [www.digaaaz.com](http://www.digaaaz.com) which allegedly was offering counterfeit goods bearing registered trademarks of luxurious brands like Cartier, Panerai, and Pasha etc. at heavily discounted prices. The anti-counterfeiting raids were conducted by the Chandigarh Cyber Cell which pursuant to investigation confirmed that the Defendant was offering for sale counterfeit goods on their e-commerce websites. The Court granted punitive damages of INR 1 crores to the Plaintiff.

The courts have also observed that counterfeiting can be curbed by passing appropriate orders of punitive damages including imposition of exemplary costs<sup>26</sup> so that the defendant in future does not enjoy the benefit of counterfeiting well known trademarks/ trade dress.<sup>27</sup> Apart from damages the courts also grants injunction against the defendants in case where infringement takes place through a website such as Domain Name infringement<sup>28</sup> or on-line sale of.

<sup>25</sup> *Cartier International AG & Ors. v. Gaurav Bhatia*, 226 (2016) DLT 662.

<sup>26</sup> *Time Warner v. Lokesh Srivastava*, (2006) 131 Comp Lab 198(Delhi).

## CONCLUSION

The menace of counterfeiting, and piracy has assumed enormous proportions across the world, and is affecting industry and governments in terms of economic loss, and is also affecting customers. Counterfeiters and pirates are taking advantage of gaps in legislation, governance and information capabilities in various jurisdictions as an arbitrage opportunity. Though there are anticounterfeiting and antipiracy regulations adopted by government and other technologies adopted by the individual industries in curbing such activities, the rate of counterfeit and piracy is rising, showing that there is need for stronger enforcement actions to be adopted. The global cooperation is required to fight against the illegal activities and illicit trade affecting all the sectors, all the countries should join hands and collaborate on creating a legal and regulatory framework, which is supported by effective enforcement mechanisms to prevent this from growing. It is also to be noted that consumer plays an important and major role in increase of counterfeit and piracy, therefore, it is necessary to spread awareness to people who unknowingly purchases the counterfeited and pirated products and are fascinated by the lower prices for the branded goods, and to such other consumers who knowingly deal with such illegal products should be subjected to penalties.

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<sup>27</sup> *Hindustan Lever Ltd & Anr v. Satish Kumar*, CS (OS) no. 646/2005.

<sup>28</sup> *Rediff Communication Limited v. Cyber Booth*, AIR 2000 Bom 27.



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