

STOLEN IDEAS? BE PREPARED!

The Chinese economy is booming; that is also true for the brand imitators, copycats and plagiarists. Unfortunately, China has long had the reputation of being the home to skilled and expert plagiarists: just about every second company whose business has suffered from 'copycats', names China as the culprit. But, if a company adopts the right strategy, it can gain effective protection.

Many Western companies want to get a slice of China's rapid economic growth. Frequently, business executives make rapid deliberations on how the company can get started in China. However, it must be remembered that although the Chinese market holds out great potential, there are also considerable risks. Speaking for the German Shanghai Chamber of Commerce at the recent interzum congress: Marktchancen China? ('China - the market opportunity?') Dr. Bernd Uwe Stuecken - a partner in Haarmann, Hemmelrath & Partner, one of the leading consultancies in China - set out effective strategies to counter product forgery and plagiarism. His advice: forget the old stories and myths. Start by gathering up-to-date information on Chinese culture, people, business methods and commercial law.

MAKE AN ACCURATE ASSESSMENT OF THE RISKS

The fact is, that people in different countries have varying perceptions of what is right and what is wrong. When a German company is confronted with a good copy or forgery of its product, it will perceive this as a gross calumny. But by contrast, the Chinese miscreant will not infrequently be proud of his ability to produce such a superb imitation. In China, low-cost imitations have long been a perfectly normal and accepted part of business and commerce.

So a Western manufacturer embarking on new business in China must start by making an accurate assessment of the risks associated with his brand and products. By so doing, he can select manufacturing tooling and techniques which will

make life very difficult for the plagiarist.

He must stand back and take a look at his own product range; what does it look like? Will the plagiarists try to copy components, or the end product? What is it that makes the product unique? What is the key, underlying sales proposition? What is the nature and structure of the production set-up, sales and distribution network? It is absolutely essential that a manufacturer addresses these questions if he is to achieve effective protection for his products and brands. He needs to know from start to finish, who is involved; how and where they are engaged in product development, production and distribution. This will enable him to increase his protection level and his ability to identify any leak associated with subsequent plagiarism.

LEGAL STATUS AND PROTECTION

When the above questions have been dealt with, the next item on the list is to take the appropriate steps which arise. Generally, this embraces patents, registered utility models, registered designs and brands. This secures product rights and the requisite competitive advantage vis-à-vis the competition and market. Exercise of these legally-established claims guarantees that the original

packing material also contains an original product. It is important to remember that only a company, which can prove it is the legal owner of the product brand, patent or licence, will get any support from the authorities and enjoy any prospect of enforcement. China has entered into numerous international agreements and organisations whose objective is to counteract product forgeries and plagiarism. These include the 1863 Paris Agreement and the Madrid Brand Agreement.

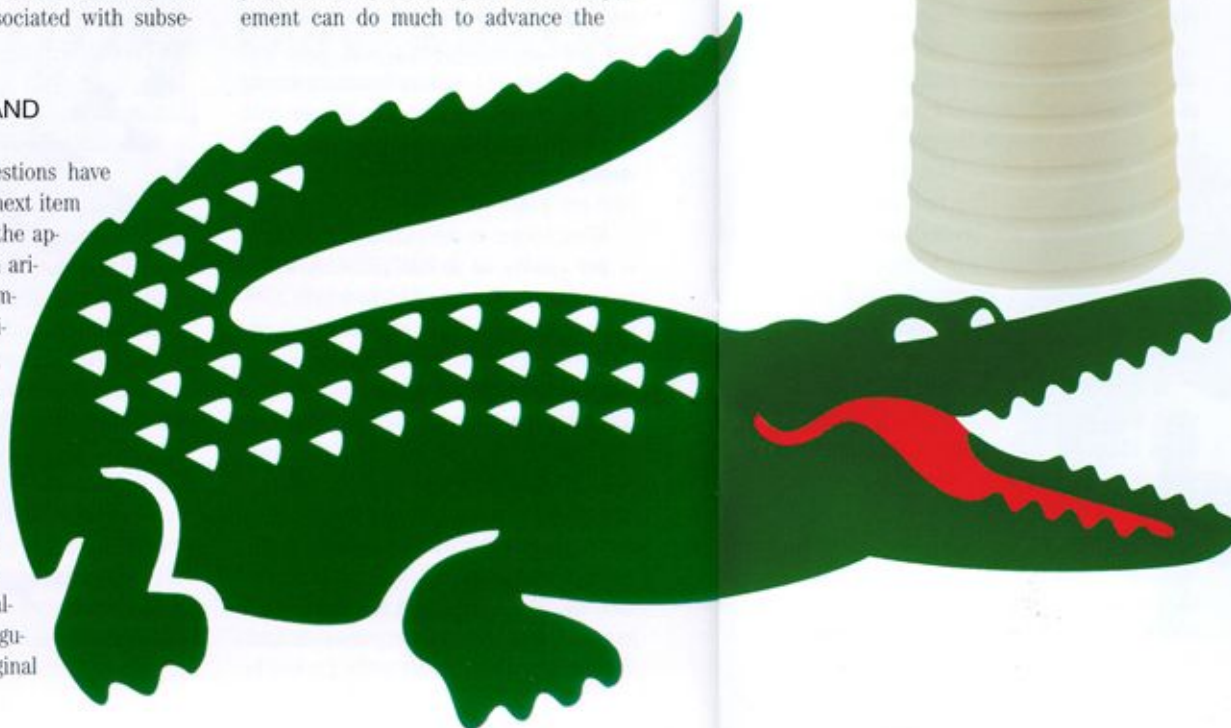
HUMAN RESOURCES

It goes almost without saying that there must be careful selection of Chinese business partners and personnel. For example, a carefully drafted joint venture agreement can do much to advance the

Original and forgery - there is hardly a single product, where there is no attempt made to mislead the customer. Here are a few examples from Koziol (right), Dornbracht and Alfi (below, left)



Photos: Aktion Plagiarius



Especially when it comes to household equipment, there are frequent attempts to make cheap imitations, though these are rarely really successful



business. Likewise, great care must be exercised in the choice of employees. It is very advisable to fill the key positions with home-based staff and define a clear set of rules for all employees.

When it comes to the product itself, the plagiarist's task can be made as difficult as possible by the incorporation of unusual materials or the use of security printing technologies. Going a stage further, the entire marketing strategy can also form part of the protection strategy.

Advertising and promotional literature should not only present the product, but also itemise the unique properties and advantages of the original. Coupled with a well thought-out price strategy, the vendor is onto a winner.

STUDY THE MARKET

Having got started, it is important to maintain a continual and careful watch on the market. A Chamber of Commerce survey indicates that half of all German companies doing business in China maintain such a watch, with the objective of identifying plagiarists at the earliest possible moment. For a charge and a pre-arranged bank guarantee, Chinese Customs authorities will assist foreign companies enforce their legal rights by seizing suspicious shipments. Customs officers use detailed product descriptions and defined criteria to identify the genuine, original products. If the shipment appears not to be genuine, customs officials have the power to block onward transmission for up to ten days. During this time, the manufacturer of the original product has the opportunity to prove the goods are forged.

But China is not the only country to suffer from forgery and plagiarism. Even in Germany good ideas are not immune from the attentions of forgers. The word has it, that some of the best forgers are to be found in Italy. The real trick is to design and make the product in such a way that it is impossible to forge; plus the right precautions, a continual watch on the market and working hand-in-hand with the right partners.

Is it an original, or a forgery? The question then no longer arises. The interzum team supports its industrial customers with a combination of information and special events such as the interzum-congress: Marktchancen China? Exhibitors at interzum guangzhou will also have access to a series of presentations and events in which they will get plenty of help to tackle the Chinese market.



Above: Well-established brand owners employ the full range of their marketing strategies to maximise protection from plagiarists



When it comes to the product itself, a manufacturer can make life tough for the forger by the incorporation of unusual materials or the use of special manufacturing processes