



LEATHER GOODS COUNTERFEITING

CONSUMER GUIDELINES



Know the problem to deal with it better

IO SONO ORIGINALE Project



with funding from the

Ministry of Economic Development

Directorate General for the Fight against Counterfeiting
Italian Patent and Trademark Office.



*Ministero
dello Sviluppo Economico*

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WHAT IS COUNTERFEITING

The term “counterfeit” refers to the reproduction of an item in such a way that it is mistaken as an original product or the production, importation, sale or use of products or services covered by intellectual property rights. Counterfeiting is an ancient phenomenon that affects many product sectors. The sale of counterfeit goods not only affects the country’s economy, as the fraudulent imitation of a product can lead to trade deflections and unfair competition causing serious damage to the development of research and innovation capacity, According to research carried out by DGLC-UIBM in collaboration with Censis, the counterfeiting turnover in Italy in 2013 was of Euro 6.5 billion, with a loss to the exchequer of approx. 5.3 billion.

HOW TO PROTECT YOURSELF

Counterfeit goods are sold through various distribution channels, where counterfeiting is not always obvious. They are often sold in markets outside legal points of sale, such as on stalls or beaches, or through the internet and finally, in shops belonging to legal distribution channels. This handbook provides useful advice to protect ourselves from the danger of unknowingly purchasing counterfeit goods.



GOOD RULES

COUNTERFEITING IS NOT ALWAYS OBVIOUS.

TO AVOID UNKNOWINGLY PURCHASING COUNTERFEIT GOODS

IT IS NEVERTHELESS IMPORTANT TO FOLLOW SOME SIMPLE BASIC RULES:

- avoid buying products that are a lot cheaper than the market price. It can be tempting but it is indicative that the product is not an original;
- always use **authorised sellers** for purchases;
- before making purchases of significant value, always seek the advice of persons who have greater knowledge of the product;
- always check the label of the purchased products (the label is their “identity card”) and be wary of those written in lowercase or that are illegible or without indications of origin and “CE marking” for products that require it (such as pharmaceutical products, vehicles, toys, chemical substances, electrical and mechanical equipment, medical devices);
- only buy products that are packaged with intact packaging, that bears the name of the manufacturer, check their origin and that they bear quality or certification marks;
- exercise caution for “door to door” sales: if you do not get accurate information on the identity and contact details (telephone, address etc.) of the seller, it is possible that the goods are counterfeit;
- pay attention when purchasing products on the internet or from television programs, especially if there is no way of inspecting the goods before purchasing or returning them once purchased.

COUNTERFEITING IN THE LEATHER GOODS SECTOR

It is well known that the leather goods sector is one of the areas where Italian creativity is most appreciated. The sector has 5,700 companies, employing 31,000 workers (source AIMPEs); with an official production value in 2013 of 6.5 billion euro, it is estimated that there is a parallel turnover of counterfeit goods worth 5.3 billion (source CENSIS).

Within the leather goods industry, the sector that has best withstood the economic crisis, which has affected and affects the world economy, is that of luxury goods and so-called affordable luxury goods along with that of contract manufacturing. The companies, however, that do not have a brand of some significance are struggling to stay on the market; not to mention the increasing competition from developing countries and, in particular, from Asian countries.

It is in this scenario that the relevant phenomenon of counterfeiting fits.

Products of Italian manufacture are well known on the world market. A made in Italy bag has a particular commercial value by the mere fact of having been manufactured in Italy.

Among the most counterfeited goods, women's bags hold first place: it is estimated that about 70% of the illegal turnover involving leather goods relates to these items, a key share of the sector, with a value of 1.2 billion; then next is small leather goods and belts, with a 20% share and an estimated value of 340 million Euros, then luggage and travel goods, with a more modest share (between 8 and 10%), which are largely low cost imported goods of well-known brands¹.

¹ Source AIMPEs

REGULATORY REFERENCES

In Italy, as regards the legislative framework to protect against counterfeiting in the leather goods sector there are no specific regulations, but general rules are applied with regard to counterfeiting. In particular with regard to defending the so-called made in (Italy) sector, Italy has tried to adopt a specific regulation, namely **Law n. 55/2010 (Provisions concerning the sale of textiles, leather goods and footwear)**. This initiative, although established for the protection of a legitimate interest, suffered from a genetic error, namely the infringement of the relevant European regulations which, in the event of a conflict, prevail over the national legislation of all the Member States of the European Union. The contrasting national legislation therefore does not have any worthwhile legal effect.

That said, the legal reference framework on the indications of source is the following:

- **the International Madrid Agreement of 1891**, which prohibits the use of false or misleading indications;
- **law n. 350/2003** which punishes by criminal penalty the importation, exportation and sale of products bearing indications of source or origin that are false (Made in Italy stamp on products which, according to the European Customs Code² are not of Italian origin) or misleading (application on products without origin of labels or figures or other references that would lead consumers to believe that the article is of Italian origin, or to affix on an item, of non-Italian origin, labels or other references that mislead the consumer that the product is of Italian origin)³;
- **consumer code** with respect to the so-called unfair trade practices⁴.

² Under the European Customs Code a product is deemed to originate in a country where the last substantial processing or transformation has taken place that is economically justified, which led to the manufacture of a new product or a significant step in the manufacture of a product.

³ art. 1, paragraph 49 and seq.

⁴ amended articles 18-27 Leg. decree. n. 206/2005

THE SCALE OF THE PHENOMENON

From the point of view of the extent of the phenomenon of counterfeiting in the leather goods sector, available data reveals that approximately **40% of Italians who bought counterfeit merchandise, bought a leather item** (2010 data).

According to IPERICO data (www.uibm.gov.it/iperico), during the period 2008–2013 there were over 36,000 seizures in Italy for the counterfeiting of clothing accessories (excluding footwear) representing over 36% of total seizures, totalling approx. 64.404 million seized items with an estimated total value of over Euro 1.3 billion. More than 37% of the goods were seized in Lombardy, approx. 16% in Campania and Lazio respectively.

The Associazione Italiana Manifatturieri Pelli e Succedanei (AIMPES Italian Manufacturing and Leather Substitutes Association) calculated that the **turnover of the counterfeit industry is equal to about one third of annual turnover of the sector**.

The main products that are counterfeited are luxury goods whose brand represents for many, a so-called *status symbol*. The registered brand of a famous manufacturer (e.g. Prada, Gucci etc.) is therefore copied, and so are their registered models or designs. In other cases the offence concerns the affixing of false indications of origin (*Made in* or similar). The lever which moves the counterfeiting sector is the extremely low price of the copy compared to the original, which for many would be an object unlikely to be affordable. Counterfeiting not only affects the famous excellence of luxury goods, but also the products of all those companies which create, invent and launch on the market a certain design. In this case we are dealing with a different type of counterfeiting the so-called **infringement of design**, namely the copying of a registered design. As for the items most counterfeited within this sector, they are bags, wallets, clutches, belts, suitcases.

For the leather goods sector, counterfeiting has taken on certain characteristics, closely related to the sales channels used. Legal and illegal market trading has a predominant value in the retail distribution of counterfeit leather goods: the market share of this channel on the overall sales of the counterfeit goods sector, is estimated between 50% and 60%; then there is the “parallel” trade and the commercial activity of small businesses which operate illegally, then the channelling through traditional points of sale, including large retail stores; finally, there is internet sales which is taking on an increasingly important role⁵.

ORIGIN AND DISTRIBUTION

Over the years even the counterfeit goods market has changed to the point that today the goods can present varying degrees of “quality” to the buyer. The same article (e.g. a *Vuitton* bag) can be found more or less similar to the original depending on the origin of the counterfeit goods. The counterfeit goods that are available in our cities come from abroad (80% of accessories and footwear seized by Customs at EU borders in 2013), or they are manufactured in workshops in the industrial districts of our country where even the legal products are manufactured. The counterfeiting of “quality” at the moment seems to come from workshops managed by Italians who are not just concerned about the best reproduction of imitation goods, but also about producing false authenticity certificates and packaging bearing the original brand for the counterfeit goods, which makes it increasingly more difficult to recognise a counterfeit.

⁵ Source AIMPES



WARNINGS

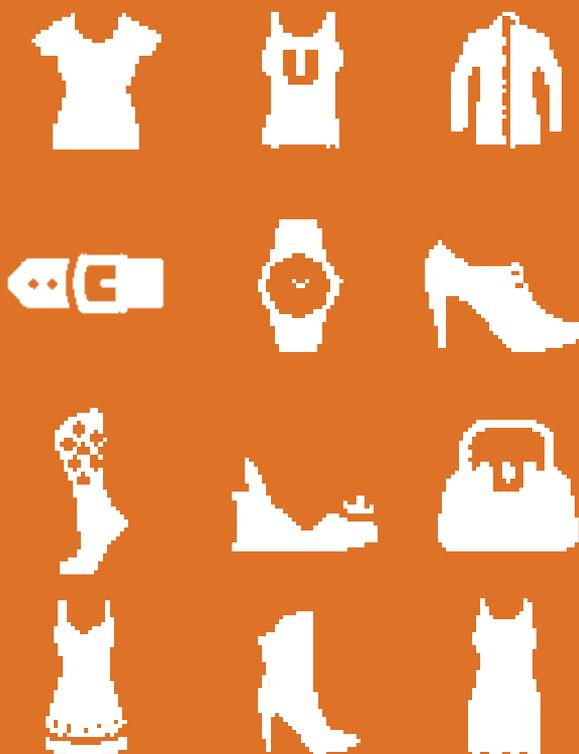
A peculiar feature of the trade of counterfeit leather goods is the attitude of the final consumer, who nearly always knowingly buys, especially when in contact with the illegal street seller, a privileged distribution channel for counterfeit goods.

The types of disincentives provided by way of an administrative sanction to the consumer-buyer remain largely unapplied.

There is a lack of awareness on the part of those who voluntarily buy a counterfeit product, that counterfeiting and illegitimate sale are criminal activities which not only affect the rich multinationals of luxury goods, but also those who operate legally as they lose market share, which is already eroded by competitors in the global market.

Another distribution channel for these products is the introduction of counterfeit goods in the official sales channels. This phenomenon occurs especially where there is the strongest activity of organized crime which manages to put pressure on traders to place counterfeit goods in the various points of sale.

Sometimes they appear to be the same as originals, but the counterfeit product is a product with very cheap leather in which there are harmful agents (such as organochlorine preservatives) which are harmful to your health and are no longer used in Italian and European production as a result of regulatory restrictions.



BUYING GOODS ON LINE: A GROWING PHENOMENON

The growth in e-commerce represents an opportunity for profit even for the counterfeiting world. You can buy counterfeit goods on numerous internet sites. The offer is suitably presented as the advertised products appear to be original products (in some cases even the supply of a guarantee certificate is advertised) which are sold at much lower prices compared to that of the original products. In the eyes of the consumer these prices are justified by end of line sales, company closures and the like. Websites allow the buyer to navigate through the entire collection. **Very often the consumer becomes such an unknowing proliferation tool of the counterfeit industry.** The mechanism is always the same: the website looks like a clone of the original and leads the consumers to believe that they can buy at extremely low prices, with discounts of up to 70%, similar to what you pay in the outlets, products of the so-called big brands, such as, for example among others, Prada bags, Tod's footwear and Gucci accessories. As they come across as quite credible offers and apparently motivated by reasons of stock renewal, bankruptcy, purchases of stock, the perception of the consumer is altered to such an extent at that point that they are convinced they are buying original products. In reality these are counterfeit goods, as reported by the owners of the brands who have visited the sites involved.

These type of websites can be exposed by simply paying attention to some details that almost all illegal sites have in common:

- the service provider is not identified, nor his address;
- there is no information on guarantees and the right to reconsider;
- there are no specific addresses or contacts in the event of a complaint or, if so, the relevant page will not open;
- shipping is often free;
- there are large discounts if the purchase is immediate.

As previously reported, the Antitrust Authority has already intervened with a series of fines against the owners of these websites, with penalties of approximately 100 thousand Euro for each site identified. It should be noted that, in order to make an impact on the thriving e-commerce market for counterfeit goods, on January 1, 2014 the EU regulation 608/2013 came into effect, which gave greater enforcement powers to Customs in terms of postal consignments of counterfeit goods of small quantities⁶. In practice, a simplified ad hoc procedure was introduced to facilitate the “automatic” destruction of small consignments of goods suspected of breaching intellectual property rights (by small consignments one intends parcels of up to 2 kg or containing up to three articles). Thanks to the new European legislation, it is required that the Customs Agency may now proceed with the rapid destruction of counterfeit goods, after notifying the owner, the shipper or the recipient of the goods. If the recipient of the notice does not lodge an objection within ten days, this will imply a sort of tacit agreement which will result in the automatic destruction of the seized goods.

- A good starting point may be to go to a shop which sells originals or to the website of the brand in question and study every detail of your object of desire. By paying a little attention you will be able to memorise a lot of information on the product quality, which you can use when making your purchase.
- Beware of those who send you photos from the official website of the product. Specifically request original photos of your bag. Or better still a small video which shows all the details that you can then check.
- Furthermore, something always useful to note: make sure that the model for sale actually exists.

⁶ In 2012 in the EU, there were 90,473 custom seizures of counterfeit goods of approximately 40 million articles including clothing items, leather goods and electronic equipment (see 2013 EU Customs Report). 70% of these goods were shipped in small postal packages or by courier.

DAMAGES CAUSED BY COUNTERFEITING

With regard to the aspect of the sanctions, Art. 1 paragraph 7 of Decree Law n. 35 of 2005 which prescribes that: *“The final purchaser is punishable with a fine ranging from **100 Euro up to 7,000 Euro** if they buy things which, because of their quality or because of the conditions of those that offer them or for the price, lead one to believe that the regulations concerning the origin of the products and industrial property have been violated. In every case one proceeds with the administrative confiscation of the items referred to in this paragraph, without prejudice to the regulations regarding Leg. decree n. 70/2003. Unless the act constitutes a crime, if the purchase is made by a trader or importer or by any person other than the final purchaser, the fine that is set goes from a minimum of 20,000 euro up to one million euro”*. At risk, therefore is also the common figure of the consumer-purchaser; in fact, the law also applies to *«the one that does not participate in any way in the chain of production or distribution and sale of counterfeit products, but only buys them for personal use»*. The law therefore sets out clear obligations of verification for the buyer, who is required to check the origin and the legitimate nature of the purchased goods. Therefore, even a willing buyer, as well as the one **who unknowingly buys counterfeit goods**, but could have discovered the illicit origin of the goods had due diligence been used, **is punished with a fine ranging from 100 to 7,000 euro**. On the other hand those that are exempt from liability are those who, while paying attention to all the circumstances of the case (the quality of the product, the condition of the seller and the price), could not reasonably realise the counterfeit nature of the purchased goods. **The fight against counterfeiting must therefore start with the fight against the indifference and the unconsciousness of the consumer.** We must act, as well as with a punitive level through the tools provided by the law, also and especially by prevention; this is why an ongoing awareness of civil society is necessary against a phenomenon which is often overlooked, even by the media, which is considered the exclusive prerogative of the big brand industry: the defence of the private interests of the companies affected by counterfeiting, as well as that of the consumers themselves when the imprudent purchase has health consequences, must be translated into the protection of interests that are collective in nature, primarily by protecting jobs, ensuring government revenue, and protecting the rights and health of consumers.

GUIDELINES

How to avoid counterfeit goods

Finally, some tips when making a purchase:

- check the inside of the bag, especially the lining: this is usually “branded” with the logo of the brand;
- check that there is packaging which is usually of fabric and which always comes with original designer bags;
- most branded products have their handles and finishes in leather and not in plastic;
- many designer bags have a security hologram;
- check that the seams are not crooked or double and are the same colour as the leather of the bag, because the branded bag is a quality product, beautifully finished;
- the zips of designer bags often have grommets or tie rods with the logo on them;
- some brands incorporate a sort of identity card of the product with a variety of information ranging from the material used to an identification code, to the colour: designer products rarely have external labels affixed to them with these indications.

WHAT TO DO IN CASE OF COUNTERFEIT GOODS

It is important to remember that, in order to have greater guarantees regarding safety, authenticity and the guarantee, **you should only buy from authorized sellers** (officially authorized by the manufacturers) also for exercising your rights in case of product defects or failure.

WHOM TO CONTACT TO PROTECT YOURSELF

In the event that the buyer has a reasonable doubt to have unknowingly bought a counterfeit product, he can report the matter to:

**Directorate General for the Fight against Counterfeiting - I. P. T. O.
Ministry of Economic Development**

→ CALL CENTER



| +39 06 4705 5800



| +39 06 4705 5750

From Monday to Friday, from 9,00 to 17,00



| contactcenteruibm@mise.gov.it

→ ANTI-COUNTERFEITING HOTLINE



| +39 06 4705 3800



| +39 06 4705 3539

From Monday to Friday, from 9,00 to 17,00



| anticontraffazione@mise.gov.it

→ INFORMATION CENTRE

From Monday to Friday, from 9,30 to 13,30

For afternoon appointments please contact the Call Center

→ For further information **visit the WEB** at the following addresses:

www.mise.gov.it

www.uibm.gov.it

Customs Agencies

→ F.A.L.S.T.A.F.F. PROJECT

Developed and launched in 2004, the FALSTAFF project aims to promote the distribution of

original goods, complying with quality and safety standards, in order to ensure free competition in the market. The FALSTAFF project team can be contacted at the following address:

 | dogane.falstaff@agenziadogane.it

Finance Guard

→ S.I.A.C. PROJECT

The Anti-counterfeiting Information System (S.I.A.C.) is a project co-financed by the European Commission and assigned by the Ministry of the Interior to the Guardia di Finanza, confirming the important role of the Body in the specific operating sector.

The initiative was inspired by the acquired knowledge that to combat a multidimensional and transversal illicit phenomenon like that of counterfeiting it is necessary “to create a system” among all the institutional components and those involved in the fight against the “counterfeit industry”. On this basis, the project was designed as a multifunctional online platform consisting of several applications which serve the functions of:

- information for consumers;
- cooperation between the institutional actors and, especially, between the Police Forces and between these and the Municipal Police;
- collaboration between the institutional components and companies.

The website of the Anti-Counterfeiting Information System is managed by the staff of the Special Market Protection Unit, employed by the Special Forces Command of the Guardia di Finanza.

The editorial office of S.I.A.C. can be contacted at the number:

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