

Counterfeit Pool Cues: Let the Buyer & Seller Beware

Whether it's fake Gucci handbags, Rolex watches, Viagra or, more recently, pool cues, counterfeiting represents a serious threat to consumers and businesses alike. Those who buy these products may be unwitting victims of fraudulent business conduct or merely hoping to find a great deal. Regardless, they soon find that the goods purchased wear out quickly, fail to operate or, in the case of medical products, often cause illness or prove fatal.

Those who sell counterfeit products violate the intellectual property rights of companies that have invested millions in research, product development, marketing and product support. Due to the illicit manner by which counterfeiters distribute their goods, they avoid regulation by the Federal Trade Commission and Food & Drug Administration designed to protect consumers. Perpetrators operate outside of the laws, failing to comply with either the Uniform Commercial Code or the United Nations Convention on Contracts for the International Sale of Goods. They are, in a word, "pirates" and they cost legitimate businesses more than \$200 billion per year.

Why is this of interest? In March at Guangzhou Billiards Expo or GBE in Guangzhou, China, a Chinese company exhibited under the name and marks of McDermott Cues though they had no business relationship with the long established cue company from Wisconsin. Rather, they had registered the McDermott name and trademark as their own in China and set up shop at GBE as McDermott. To make matters worse, personnel from this company reportedly threatened to sue any company that attempted to manufacture and distribute legitimately branded McDermott Cue products within China.

Closer to home, and by way of example, Predator Group recently discovered fake Predator and Poison cues in the U.S. Instead of bearing the *PREDATOR* and *POISON* brands, both of which are registered in China, these cues bore the names *PREOAI DR* and *POINOS*. All other brand markings such as BK2, Ikon and Venom, identically matched Predator Group's legitimate marks. Many of these cues come with packaging and warranty cards that appear nearly identical, save the name, to those offered by Predator Group. Caveat emptor or let the buyer beware.

Trademark law in the U.S. clearly prohibits such activity. Further, U.S. law prohibits attempts to confuse consumers by misrepresenting another company's marks and/or intellectual property. The U.S. Departments of Commerce, Homeland Security, Justice and State police the illegal importation and sale of counterfeit products, as do others. Those convicted face fines in the millions of dollars and years of imprisonment. Caveat vendor or let the seller beware.

The same company that registered the McDermott name in China has also applied for registration of the following marks: Adam, J. Pechauer, Lucasi, *Preoaidr*, Schon and others. Based on observation at GBE, one can only assume the intent behind these trademark applications. Further, one can easily imagine where counterfeit products bearing these brand names might appear for sale.

Predator Group's registration in China may have thwarted the efforts of one counterfeiter, if not more. Companies invested in their brands might therefore consider broader registration using, as one option, the Madrid Protocol. China's laws, or rather the enforcement thereof, may not adequately protect intellectual property rights but they have, apparently, afforded some protection.

As for the consumer, it is not illegal to purchase a counterfeit item but consumers should exercise care when making purchases. For example, think twice before purchasing from an unknown individual or at a flea market. Carefully examine both products and packaging. Consider design elements, markings, serial numbers and overall quality. Lastly, ask about the warranty and customer service.

A fake Rolex purchased for \$15 may work for only two weeks and thus, in reality, offer less real value than a \$10,000 Rolex with a useful life of 25 years. In other words, when something seems too good to be true, it generally is.