

**JUNE 27, 2007**

## **Busted!**

**By Ross Tucker**

NEW YORK — In one of the biggest counterfeit busts in years, a 19-month investigation reached its climax on Tuesday as federal officials conducted early-morning raids throughout the metropolitan area, arresting 29 people, seizing more than \$230 million in merchandise and ultimately dismantling three operations believed to have imported more than \$700 million in fake products over the last 24 months.

Raids conducted at warehouse facilities in Queens and Brooklyn turned up hundreds of thousands of pieces of counterfeit apparel and accessories bearing the logos of the fashion industry's most recognized brands, including Cartier, Coach, Gucci, Louis Vuitton, Rolex, Nike, Prada and Chanel.

Most of the fake merchandise was destined for the warren of stalls in and around Canal Street and lower Broadway, officials said.

"Today's arrests represent our intolerance for criminals who seek to circumvent the legal customs process to smuggle contraband onto our streets," said Julie L. Myers, assistant secretary of Homeland Security for Immigration and Customs Enforcement, in a statement. "Counterfeiting has risen to the level of an economic pandemic costing the legitimate U.S. economy more than \$200 billion annually. Targeting these illicit networks will remain one of the most important crimes we pursue."

On Tuesday afternoon, the first batch of 13 of the 29 accused were processed at a federal building in lower Manhattan, before being handcuffed and marched out in a line in front of a waiting press corps. Officials from Immigration and Customs Enforcement followed up the perp walk with a brief presentation and display of the types of counterfeit goods found at the warehouse facilities, adding the task of emptying them out likely would continue well into the night. Timberland shoes; Prada sunglasses; Rolex watches; handbags from Chanel, Louis Vuitton, Burberry and Kate Spade; a range of Nike footwear, and True Religion jeans were a few of the scores of brands and counterfeit products presented. Officials also reported having found more than \$1 million in cash.

ICE and Customs & Border Protection, both divisions of the Department of Homeland Security, coordinated the investigations and used undercover officers and numerous informants to collect evidence that showed several independent customs brokers were involved in facilitating the entry of counterfeit goods into the market. Kevin Delli-Colli, ICE's acting special agent in charge of New York, described the sting as the department's most successful operation to date.

"It's certainly the largest [intellectual property rights] case we've had since inception in March 2003, but it's by no means an isolated case.... Today was the culmination of 19 months of work," an ICE spokesman said. "We looked at the infrastructure for the conspiracy and eviscerated it in one fell swoop."

In three separate complaints, federal authorities charged 29 defendants with conspiracy to smuggle more than 950 shipments of fake merchandise into the U.S. valued at more than \$700 million. Other charges included counterfeiting and money laundering. Court documents filed in U.S. District Court in Brooklyn show that importers and freight handlers at warehouses employed a series of strategies to circumvent customs altogether or to mislead customs officials.

To bring goods into the country, importers work with customs brokers, which are private companies and individuals who are licensed by U.S. Customs to conduct business on behalf of the importers. The broker provides Customs with the documentation that allows goods to officially enter the U.S. If U.S. Customs decides to examine containers, the broker must bring them from their customs-bonded facility to an examination site. Investigations found that customs brokers involved in these cases were actively assisting importers of counterfeit goods and charging fees for their services.

The first case charges 18 defendants with employing two strategies to move more than 900 shipments of merchandise into the country. The importers and warehouse officials often would label a container of counterfeit goods as children's toys or picture frames — essentially anything with a lower duty — on official documents. In other cases, the importers and brokers would steal identities, using the ID numbers of legitimate importers in order to get the goods into the country and disguise their destination. If Customs made a request to examine a container, the warehouses were prepared with containers of stand-in product.

"Often, the 'dummy' freights were containers of children's toys (or whatever was fraudulently listed on the documents supporting the entry) that were stored at the defendants' warehouses for the purpose of deceiving Customs when they asked to inspect the containers that were being smuggled in the United States," said a special agent in court documents.

Another scheme employed by the defendants was to file an application with Customs for a "transport and export bond." The bond allowed containers to enter the U.S. only so they could be moved through the country to Canada. However, the goods never made it to Canada.

Documents obtained during the investigations showed that the vast majority of goods came from China. Delli-Colli said the U.S. government was working with its trade officials in China to identify the Chinese manufacturers of the goods. "ICE is always trying to identify the source.... We are working with our customs attaché in China on this," he said.

The government's case against 18 defendants was particularly active. Records indicated that between June 2005 and the present day, the ring had smuggled more than 900 40-foot containers into the U.S., 100 of which were seized. The value of the goods seized in those 100 containers was estimated at more than \$650 million.

Customs brokers, also referred to as freight forwarders, were raking in sizeable amounts

of money by cooperating with importers of counterfeit goods. According to the court filings, one forwarder received between \$25,000 and \$30,000 for each smuggled shipment. The documents said a Customs-bonded warehouse located near John F. Kennedy International Airport smuggled in goods arriving via air freight. Employees of the warehouse would load the cargo onto trucks without entering the cargo into computer systems or before it had officially cleared Customs. The defendants in the case said they received \$2 per kilogram of cargo they moved through the warehouse without obtaining Customs clearance.

The amount of counterfeit product one container can hold also can be substantial. One container seized at JFK on June 30 was found to have fake goods amounting to 7,500 Rolex watches, 4,512 Coach bags, 1,440 Louis Vuitton handbags, 1,540 Nike sneakers and smaller amounts of fake products with labels such as Marc Jacobs, Jimmy Choo, Balenciaga, Chloé and Christina Dior.

The smuggling operations were not confined to the East Coast. With the majority of goods being manufactured in Asia, most reached the U.S. via the Ports of Los Angeles and Long Beach. However, the bonded-warehouse system allows those containers to be shipped to the East Coast via rail, road and air without officially entering the country.

Investigations also took ICE officials to Laredo, Tex., a major entry point for trucks from Mexico. The defendants in the complaint also planned to use transport and export bonds to allow containers to enter the U.S. from Mexico without being inspected, claiming the shipments were bound for Canada. Approximately seven containers entered the U.S. through Mexico in this manner. Five of those containers were seized and contained goods with a value of more than \$11.4 million.

While the sheer volume of confiscated goods was cause for celebration, brand owners were even more pleased with the government's decision to target not just importers, but the individuals and companies that knowingly helped circumvent customs and allowed the goods to enter the consumer market.

Barbara Kolsun, senior vice president and general counsel for Seven For All Mankind, applauded the government for targeting the distributors, many of whom are believed to be national suppliers of counterfeit goods. Seven For All Mankind was among the brands found during the seizures.

"I understand this is a major raid and that the people who have been arrested may have been major suppliers to the Broadway buildings," said Kolsun, referring to a stretch of Broadway that runs between 24th and 34th Streets, where entire buildings have been illegally subdivided into virtual malls of counterfeit merchandise. "Those buildings are a major source of counterfeit goods to the city and a major source of distribution to the rest of the country. Tenants of those buildings ship products to people all over the country."

The Broadway buildings have been a focus of the Mayor's Office of Midtown Enforcement in recent years. The city has raided many such buildings and cleared out the counterfeit vendors that operate out of closet-sized stalls. The city also has taken the additional step of issuing fire-safety violations that effectively shutter the building to all activity. Ultimately, it's a tactic that puts considerable pressure on landlords and is meant to encourage them to take responsibility for the actions of their tenants.

"You can chase the street vendors away, but they're not the problem," said Kolsun. "Finding higher-level distributors is really what we're after because we dry up the source of the supply that way."

Street-level raids often pick up on Broadway and in Chinatown around Christmas and are often considered more of a show of force rather than having any significant impact. Those in the apparel industry who work on counterfeiting operations said this operation had serious teeth.

Kevin Dougherty, president of private investigators Counter-Tech Investigations Inc., was involved in the raids and works with many of the brands found during the raids.

"A lot of the investigations that we were conducting paralleled the federal investigations," said Dougherty. "We took a step to the side as a result, but the case is extremely significant because of the people they dropped the net on."

Dougherty was present for a raid in Queens and said more than \$875,000 worth of merchandise had been discovered, predominantly luxury handbags and Nike footwear.

Heather McDonald, a partner with Baker & Hostetler in New York, which also represents a number of the brands involved, said the significance stemmed from the range of defendants.

"It's a very significant case because it involves a spectrum of people along the continuum of counterfeiters," said McDonald. "Anytime the government does an operation of this scale, it's just a great thing all around. It shows a commitment to go after large-scale counterfeiting operations."

Counterfeit goods — both made in China and exported and sold in China — are a major problem in fashion, but it is a problem that is affecting all industrial sectors, from electronics to pharmaceuticals. Surveys conducted with industry and public authorities indicate that "there is a notable expansion from luxury to everyday products," John Dryden, deputy director at the Paris-based Organization for Economic Cooperation & Development, told a conference on the issue in Geneva in January. Customs statistics indicate infringements throughout the product groupings. Textile products are the most common, with 30 percent of the total, followed by machinery and equipment at 17 percent. The economic cooperation and development official said the customs suggests "counterfeiting and piracy are taking place in virtually all economies."

Based on customs seizures, estimates of the amount of counterfeit goods traded internationally reach \$176 billion, he said, not including the large number of fakes produced and consumed within economies. An analysis from the economic cooperation group's 30 member countries show that close to 60 percent of all seizures originated in China, Thailand, Hong Kong, South Korea and Malaysia, Dryden noted.

Meanwhile, a U.S. Trade Representative Office study released in April found that, while there was "increasing attention from foreign governments, the media and China's central and local governments, the Silk [Street] Market in Beijing remains possibly the world's most notorious market for counterfeit goods."

Other "hot spots" in Beijing continue to be the Chaoyang, Tianyi and Yaxiu Markets,

according to the report, which cited "local protectionism" as an underlying factor. The survey also found rampant counterfeiting of apparel, footwear and accessories in other provinces, including Fujian and Guangdong, which the USTR studied for the first time. The report cited improvements in intellectual property rights enforcement in some regions, including Shanghai. U.S. trade officials said in the report that the fashion industry has cited Beijing's Silk Street Market, a shopping mall that opened last year, as "perhaps the single biggest symbol of China's [intellectual property] enforcement problems."

Luxury and fashion brands have become much more aggressive in recent years in battling counterfeits. In a recent case, Fendi sued the Sam's Club division of Wal-Mart Stores Inc. for selling fake Fendi bags and leather goods in five states. Earlier this month, Sam's Club agreed to pay the Italian luxury firm a confidential amount to settle the dispute and dismiss the action, which had charged the retailer with selling "significant quantities" of counterfeit items valued "in the millions of dollars."

— With contributions from John Zarocostas, Geneva; Kristi Ellis, Washington; Miles Socha, Paris, and Sharon Edelson, New York