

Covid-19 counterfeiters: Faking it till they make it

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Counterfeiting is already a billion-dollar global problem, but the Covid-19 health crisis is making it worse. Specifically, opportunistic counterfeiters are taking advantage of the pandemic to market and distribute fake essential products - spurred on by increased demand and perceived shortages of essential goods.



Image: Anna Shvets - [Pexels](#)

The World Health Organisation (WHO) explains that a growing volume of fake medicines are on sale in developing countries, while Interpol has seen an increase in fake medical products. Seizures of fake Covid-19 tests and personal protective equipment (PPE) have been reported by both the US CBP and the World Customs Organisation.

Closer to home, reports indicate that the most widely counterfeited essential products include face masks, face shields and hygiene products.

Origins of the phenomenon

When the WHO recommended that nations adhere to social distancing protocols, among other measures geared to curb the spread of the novel coronavirus, we saw an increase in consumers using e-commerce platforms to purchase essential products.

Online shopping has always made consumers vulnerable to counterfeit goods. But, with the pandemic, counterfeiters' touchpoints have expanded beyond the usual e-commerce marketplaces to social media channels including Facebook, Instagram, and TikTok.

Like hackers, counterfeiters are extremely opportunistic, and as a result, even the most tech-savvy consumers can find themselves tricked. After all, many criminals operate behind sophisticated-looking websites, using fake trademarks, brands and emblems - and even artificial certification labels - to create the impression of safe genuine products.

Bans, confiscations and findings

So far, reports Laura Urquizo for FastCompany (2020), Amazon has banned more than 1-million products claiming to protect against or cure Covid-19. China has confiscated 31-million counterfeit face masks. Counterfeiters have been caught selling or advertising masks, lab coats, and even infant gas masks on Facebook, Craigslist, and Etsy. Most recently, 3M discovered that third-party sellers are impersonating 3M brand to sell overpriced fake masks.

But these cases are only a sampling of what's been reported.

We're finding that African countries are bearing the brunt of coronavirus-related counterfeiting – which extends to selling low-quality face masks, sub-standard hand sanitisers, non-functional testing kits, fake treatment kits including mouthwash, and even artificial soap. As a result, Tanzania is one of several African countries currently focusing its resources on conducting search and seizure operations for counterfeit essential goods.

Why is the effect so enormous?

Even before the coronavirus was unleashed on the world, it was estimated that by 2022, counterfeiting would be a US\$4.2 trillion industry (International Chamber of Commerce, 2017) and that global damage from counterfeit goods would exceed \$323 billion.

These staggering figures highlight the potential profit losses suffered by rightful owners.

Furthermore, many companies that have their goods counterfeited have already invested heavily in costly tech solutions, the Internet of Things (IoT) and Artificial Intelligence (AI) to authenticate their products.

They must also rely on enforcement bodies, under the guidance of their IP attorneys, to conduct search and seizure operations, and must work to prosecute sellers and manufacturers and to block access to websites that sell counterfeit goods.

What shoppers should look out for

If you are a shopper who is searching the internet for PPE or essential products, it is a good idea to educate yourself on how to spot a fake in the wild.

- Price is usually one of the first indicators that an item is fake. Unusually low prices can mean that a product is made from poor-quality materials and does not comply with relevant safety standards.
- Assurance is another. If an item doesn't seem authentic, contact the seller and ask about their supplier quality assurance processes. If they are reputable, they'll have inspection and authentication procedures in place.
- Reviews are a third focus area. Pay attention to how closely together reviews were published, and be suspicious of those that are similarly worded or include photos that appear similarly staged.
- Finally, to ensure that you only buy essential goods from reputable sources, avoid third-party sellers or advertisements on social media networks.

Considerations for companies

Be aware that a 'one size fits all' anti-counterfeiting strategy cannot be applied. But many strategies and initiatives exist for successfully identifying and pursuing action against counterfeiters.

The range of responses includes border measures, civil enforcement and criminal prosecution. Because dealing in counterfeit goods constitutes a criminal offence, offenders can be prosecuted by the South African Police Service and the National Prosecuting Authority. Severe penalties can be imposed by the court and counterfeit goods can be ordered to be delivered to the rights-holder, regardless of whether conviction takes place.

If you have an anti-counterfeiting matter to discuss, please contact us for more information.

ABOUT THE AUTHOR

Masi Mshali is an Associate Attorney at Spoor & Fisher. Mshali has an LLB from the University of KwaZulu-Natal and is an Attorney of the High Court of South Africa. His years of experience have mainly spanned trade marks, anti-counterfeiting and copyright.

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