

# GRAY MARKET & DIVERTED GOODS

**QUESTION:** Another company is using our logo to promote their business. How can we stop it?

**G**ray market and diverted goods can be just as harmful as counterfeits. They decrease sales of legitimate products. They tarnish and dilute your brand. They can be fractious to your relationships with your sales force, your manufacturers and your business partners.

As manufacturing and distribution becomes more



globalized, the problem of gray market and diverted goods continues to increase. As a result, most companies face this problem on some level.

One of the biggest problems with gray market merchandise is that it can spring from any point along the manufacturing-distribution chain. Two common sources for gray market merchandise are factories producing additional goods and leaks in the distribution chain.

In order to address gray market goods coming out of your factories' back doors, we believe that prevention is the best medicine. To that end, we can assist you in performing due diligence on manufacturing facilities which includes

background research on factories' principals, including former and current partners, as well as undercover investigations of the factory itself.

For existing and newly established manufacturers, we can conduct ongoing compliance checks. We do this through both undercover investigations as well as means that are more conspicuous. These two tactics play a valuable role in preventing and uncovering sources of gray market merchandise.

As with the factory-level investigations, we uncover and address distribution chain problems through a combination of both discreet and forthright activities. Our investigators can conduct undercover investigations of importers and distributors and make trap purchases of pilfered goods. Our staff can also obtain valuable information directly from retailers concerning their sources. By scrutinizing your distribution chain

and applying pressure to the outlets of gray market goods, we can identify and remedy leaks in your system.

Finally, in addition to tried and true

**About \$40 billion of tech products are sold on the gray market each year.**

Source: Alliance for Gray Market and Counterfeit Abatement

investigation techniques and direct interactions with factories, distributors and retailers, we also bring our creativity and ingenuity to the gray market problem. For example, we are developing ways in which the concept of retained ownership can give intellectual property ("IP") owners more effective control over the distribution of their merchandise. This involves re-crafting the exchanges of your products and IP so that you



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retain a level of ownership over the product until the consumer receives it. This allows the gray market problem to be described as conversion, which is a powerful deterrent and a valuable enforcement mechanism.

Ultimately, gray market merchandise is not just a cost of doing business in a global economy. You have the right to demand that your IP is used only in the manner that you prescribe, that your products are only manufactured at the levels you authorize and that your goods are distributed in accordance with the terms and conditions you dictate. Preventing and stopping deviations from these approved practices is essential to building, maintaining and protecting your brand and your organization.

