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A Vital Tool for Industries with High Intangible Value

#### Luxury Brands and Piracy

The luxury industry is probably the first one to have understood the value of Intellectual Property Rights (IPRs) and to have equipped itself with tools and systems to defend brands and products.

For many decades, luxury products have been the victims of piracy. This piracy can have many faces:

- Wrong usage of a brand name. It is not unusual to find barber shops, coffee shops, bars or even less honorable retail businesses appropriating the names of famous French or Italian fashion brands.

Fighting against such infringements is like playing the popular "Mogura Tataki (Whack-A-Mole)" game in Japan. One way is to periodically flip through the Yellow Pages of telephone books or browse on the Internet and then send a warning letter, which is often sufficient to get the individual to drop the name that he/she is misusing for his/her business.

- Mis-appropriation of brands: In the past, luxury brands that were not vigilant enough to register their names sometimes ended up being registered by companies in Japan or other Asian countries they had no business ties with. They could not sell their products in the country unless they negotiated the re-purchase of their own name with the companies at an outrageous price!

- Another very common violation of IPRs is of course the manufacturing and marketing of counterfeit products: Having been based in Japan for a very long time and working for very famous French luxury brand companies, I have witnessed the evolution of the way Japan behaves against such infringements.

#### The Authorities' Changing Attitude

Some 30 years ago, counterfeits were simply manufactured in Japan. The attitude of the Japanese government was, to say the least, extremely lenient. I remember a case when I discovered a factory faking the logo of the company I was working for. When I went to the local police with all the elements of proof in my hands, I was simply told: "Just negotiate!" There was of course nothing to negotiate about, and I just wanted the law to be enforced as our logo was properly registered in Japan, but it was impossible... "Just negotiate!" was the official reply.

Today, the attitude of the government, police, customs and judicial system enforcement officers has totally changed. Not only do we meet a very high level of understanding and attention to IPR infringement, but actions are swift, punishment increasingly severe, and the cost to the infringer becomes prohibitive: counterfeit products when they are seized are no longer sent back to the source. They are destroyed. The importer, when appropriate, is sued and punished. Japan and France are among the most advanced countries for IPR protection and Japan should be highly praised for its enormous efforts.

#### Legal penalties

There is one last step that Japanese law makers could contemplate to make IPR protection perfect: adopt as France did some years ago with a law called "Loi Longuet (Longuet law)" tough measures against the users of such counterfeit products.

As a matter of fact, the principle being that there are IPR infringements because there is a market for such counterfeit items, if the consumers for such products are equally penalized, then the chain of manufacture, marketing and retail would have no reason to exist and the spring would naturally "dry up."

But, as we say in France, there is a long way from the drinking cup to the thirsty mouth...

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