



Overview

Projects

50 brand protection programs completed since 2012



Blackpeak has conducted work throughout the region:

- China
- Japan
- Korea
- Indonesia
- Malaysia
- Philippines
- Vietnam

Industries

Blackpeak has investigated IP infringement in various industries including the following sectors:

Automotive	Healthcare - Medical Equipment
Chemical - Commodity Chemicals	Healthcare - Pharmaceuticals
Chemical - Specialty Chemicals	Office Supplies
Durable and Nondurable Household Products	Garments and Footwear
Electronic Equipment	Home Construction
Food Products	Toys

Our Services

Blackpeak provides end-to-end IP protection for select clients on a country-specific, regional and global basis. Our typical clients are dissatisfied with brand protection programs merely focused on enforcement but not addressing prevention. Our program recognizes that brand protection starts at the IP owner's front door. Counterfeiters no longer wait for new product launches to copy designs. Pre-launch counterfeits can fetch high prices on the black market. Employees are targeted and offered significant sums of money to steal the latest designs and photos of products still under development. Counterfeiters intent on replicating genuine products also steal labels and packing cartons from brand owners' factories.



1. Prevention

Blackpeak's IP protection program starts with assessing the reliability of licensee companies. If you are considering licensing your product, especially abroad, you should thoroughly research companies and individuals receiving your technology. These due diligence steps are increasingly important to minimize the risks of IP infringement. Our expertise in due diligence coupled with our experience in every market in the Asia-Pacific region makes Blackpeak an ideal partner to investigate your licensee.

Blackpeak security reviews include a fundamental understanding of our client's corporate culture and values, critical intellectual property assets and past experiences with contract manufacturers. We understand that factories are operating businesses and can't be managed as fortresses in which everything is permanently locked down. Therefore, through our dialogue with IP owners, we will learn about key areas where maximum security is required. While our security reviews are founded on industry best practices, our clients help in identifying the most critical IP assets so we can prioritize our security recommendations. We have done factory security reviews in a number of countries in Asia: from China to the Philippines and Indonesia.

2. Monitoring

Blackpeak is also at the forefront of leveraging our due diligence expertise to help IP licensors assess risk. How do potential business partners handle their own IP protection? Our research determines if partners have a track record of weak security and enforcement, past information leaks and IP-related litigation. The chemical and pharmaceutical sectors are particularly at risk when they license technology. Local chemical manufacturers have been moving from low-priced bulk chemicals up the value chain to higher-end specialty chemicals, through increased R&D, acquisition and restructuring. Facing intense competition, some manufacturers unfortunately may abuse licensing agreements to push their own products into the marketplace.

Security reviews and IP due diligence, both of which should be conducted before problems arise, can minimize risk. As part of our brand protection programs, Blackpeak also does routine monitoring of markets, both physically and in cyberspace. Our investigators, who are based strategically in Shanghai, Beijing and Guangzhou, regularly attend trade fairs to look for repeat offenders and identify new threats; this is coupled with an in-house 12-language research capability to monitor B2B and B2C online market places for infringing activity. Security managers and brand protection managers should not wait until they receive reports from customers or their own business heads about counterfeits. Counterfeits can be proactively identified at trade fairs. Blackpeak can assist to lodge a complaint to remove a counterfeiter's booths, and conduct follow-up investigations to identify manufacturing locations for future raid action.

3. Evidence Collection & Enforcement

Our end-to-end program is completed by our suite of investigative and enforcement services in every major Asian jurisdiction. We regularly work with public notaries to gather evidence for future litigation in Chinese court. Our work includes mystery shopper purchases done with notaries, factory visits, and more complex operations. When sufficient evidence is collected, we can organize enforcement actions with law enforcement agencies in multiple countries, prepare affidavits and work closely with the client's legal counsel.

At the behest of global IP owners, our directors have liaised extensively with law enforcement agencies in several countries in the Asia-Pacific region to enhance their authentication and interdiction of counterfeit goods:

- Hong Kong Customs and Excise Department
- General Administration of Customs (China)
- Polda Metro Jaya (Jakarta, Indonesia)
- Ministry of Public Security (Vietnam)
- General Department of Customs (Vietnam)
- National Bureau of Investigation (Philippines)
- Indian Police Service

4. Best Practices & Collaboration

Blackpeak is an active supporter of the anti-counterfeiting profession. In August 2016 we shared best practices for investigations in the chemical industry with the Quality Brands Protection Committee (“QBPC”). Blackpeak is open to both sharing best practices and learning from others’ experiences. Through our presentation, Blackpeak advised on techniques for gathering evidence for process patent infringement and identifying collusion and undisclosed relationships that can lead to trade secret theft. We also discussed how Chinese judges might issue judicial instruction for wide-sweeping evidence preservation on the basis of notarized evidence.

WHAT’S THE TREND?

According to the OECD report “Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact,” trade of counterfeit and pirated products accounted for 2.5% of the total world trade in 2013 and is worth USD 461 billion a year. Much of it is concentrated in a few countries – emerging countries that benefit from solid infrastructure but lack legislation – with China (including Hong Kong) at the top, followed distantly by Turkey, Singapore and Thailand:

PROVENANCE COUNTRIES OF FAKE GOODS (% of total seizures in 2013)	
1. China - 63.2%	6. India - 1.2%
2. Hong Kong (China) - 21.3%	7. Morocco - 0.6%
3. Turkey - 3.3%	8. United Arab Emirates - 0.5%
4. Singapore - 1.9%	9. Pakistan - 0.4%
5. Thailand - 1.6%	10. Egypt - 0.4%

No doubt China will continue to rank among the world’s top counterfeiters in the near future.

However, companies should be aware of a new trend in the Asia-Pacific region that is impacting counterfeiting.

Production bases once centralized in a few provinces in China, such as Guangdong, are now becoming more diverse. Factories are laying off skilled staff due to the slowing economy. Some workers in industrial cities like Dongguan now prefer to find jobs (including setting up small production workshops) closer to their hometowns in inland provinces. Many hope their skills and know-how will be picked up by manufacturers relocating to inland cities such as Changsha and Chongqing. Yet the diffusion of skills and industry knowledge creates a vulnerability for brand owners trying to contain IP problems. Investigations on suspects must now be conducted further inland.

Manufacturers are also moving to lower cost jurisdictions such as Vietnam and Indonesia. According to the Hanoi Market Management Department, 80% of counterfeit goods in Vietnam come from China: goods arrive in spare parts or imported materials before being assembled in factories in Vietnam, making them harder to detect. Several factors including geographic proximity with China, cheap labor and growing customer demand contribute to the increase of fake products in Vietnam. The Department of the Intellectual Property under the Ministry of Science and Technology acknowledges that Vietnam could become a major hub for counterfeit products in the near future. This new trade fuels organized crime, which concentrate its activities in the assembly and distribution of counterfeits.

As technology and control over branded materials spreads to Southeast Asia and inland provinces in China, IP owners will face a wider geographic chessboard when dealing with investigations and raid actions.

Sources

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About Us

Blackpeak is an international investigative research and risk advisory firm dedicated to uncovering critical risk-related information for our clients worldwide.

Blackpeak specializes in investigative due diligence, investigations and security, and business intelligence research.

Our team members have been managing risk consulting projects for more than 20 years. We have completed more than 2,500 risk advisory engagements across the globe and covering all industries.

Each project is executed by our in-house team with unmatched in-country expertise, using customized investigative methodologies.

Founded in Asia, the firm now operates from strategic locations in key financial and economic centers, including Hong Kong, Singapore, Tokyo, New York, Shanghai, Beijing and Guangzhou.

Ethics and Compliance

We understand the legal, regulatory and compliance challenges facing investors in Asia markets. We operate under a comprehensive written Ethics and Compliance Policy and all of our staff are fully trained in its requirements.

We understand the requirements of the Foreign Corrupt Practices Act, the Bribery Act and equivalent legislation in Asia, including data protection requirements in local and international markets.