

Will the real Chanel please stand up?

The emergence of extremely well-made counterfeit goods is breathing new life into an old industry *By Erika Fry and Maximilian Wechsler*

Six months ago, following a tip-off from the maker of an international brand of handbags, the Department of Special Investigation launched a four-month investigation focusing on a handful of high-end Patpong boutiques that were selling copies of the manufacturer's bags — deemed by investigators to be the best fakes they'd ever come across — for as much as 30,000 baht.

The investigation, conducted with the help of intellectual property rights investigators from the IP specialty law firm Tilleke and Gibbins, ended in a simultaneous supper-time raid on five shops. Forty DSI agents, a handful of lawyers and a crowd of journalists were present for the event.

By the end of the evening the five shops were emptied and four individuals were in custody. Thousands of bags, watches, belts and wallets were seized, and at least one tourist, having returned to the shop at the time of the raid to buy another 15,000 baht handbag he thought was real, was seriously discouraged.

The months of surveillance had also uncovered a nearby Patpong storeroom, which was also raided. The months of surveillance had not, however, uncovered sufficient evidence to nab the manufacturer of the bogus handbags, the suppliers, distributors or anyone else involved in the operation.

In interviews with the IP infringers, the lawyers did learn the methods of the operation, which they suspect took place entirely in Thailand. As discussed later, this situation is not necessarily the norm.

According to the lawyers, the counterfeiters buy real bags, completely disassemble them and then — carefully and with great attention to materials and detail — copy and manufacture all the parts and assemble them into very high quality, or "triple A", fakes. The lawyers say there are many distinct phases

of the operation, with the players connected only by the business.

The lawyers at T&G expect the case against the four suspect infringers will be wrapped up in a year or so, when they will face a fine, jail time or both if found guilty.

Yet the same five shops have since reopened; their shelves hold the same high-quality, high-price handbags that were the focus of the four-month investigation only six months before.

The T&G lawyers, sitting in a pristine new office tower overlooking the port of Klong Toey, called the shops "outstanding" both in terms of the quality of the fakes — repre-

senting 10 to 15 brands — and the effort put into merchandise display and store decor.

They also admit their client is less than thrilled with the turn of events.

"Our client's objective is to disrupt these counterfeiting activities," explained lawyer Titirat Wattanachewanopakorn. "Further actions will be carried out to ensure that these activities are eliminated."

While IP protection in Thailand has won the attention and resources of government agencies, law firms, brand owners and police units for at least 20 years, the trade has only grown in scale and sophistication.

Witness the recent rise of numerous "super

fake" knock-offs. It may be mind-boggling to most people that anyone would pay in excess of 10,000 baht for a handbag, watch or other accessory that isn't even real, but those involved in Thailand's anti-counterfeiting forces say such deep-pocketed customers are increasingly common.

Besides the increase in triple A handbags and leather goods, law enforcement officials and IP attorneys report a rise in expensive fake jewellery, automotive accessories and electronic goods.

• Unlike the inferior quality bags, belts and watches that can be bargained down to a few hundred baht on Patpong, these super fakes >>



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The consensus among IP lawyers is that the appeal of the 'super fake' among brand-name buyers makes it a business threat far more serious than the typical 300-baht Patpong knock-off

PHOTO: ERIKA FRY

SPECTRUM

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>> sold exclusively in shops, attract a new, more affluent sort of customer, the kind that may be accustomed to buying designer goods, and who may never have considered buying counterfeits in the past, said Mr Titirat.

"These are usually marketed at upper-middle class locals or tourists with lots of money. The buyer thinks the product looks real, but they won't break the bank. The quality is almost equal. There are some people who will mix genuine and fake," added the lawyer.

A SERIOUS THREAT

The consensus among IP lawyers is that the super fake's appeal among brand-name buyers makes it a business threat far more serious than the typical 300-baht Patpong knock-off.

Police Maj-Gen Kowit Vongrungrot, head of the Economic and Cyber-Crime Division (ECD), said the high-end counterfeits are usually sold in tourist locations, and sometimes — as was the case with a shop raided in the Nana district several months back — in shops with a "no-Thais" policy. In such cases the ECD uses foreigners in their investigations.

Mr Titirat said the exceptional quality of many of the fakes can be attributed to the fact they're produced in factories formerly licensed to produce a particular brand. While the facility no longer retains the rights to produce the goods, "they know the product and have the know-how. It's not supposed to happen, but it does."

In other cases — including the Patpong boutique mentioned earlier — the products are totally a product of the counterfeiters' skill.

Often the fake goods are produced outside

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We try to look at the distributors, not just those who are selling the goods, to cut the supply chain

POL MAJ-GEN KOWIT VONGRUNGROT



UNREAL: Fake watches are sold in Patpong

the country and smuggled in. Mr Titirat said Koreans were known especially for their expertise at copying luxury goods, particularly handbags. He said some brand owners had been frustrated by South Korean counterfeiters for several years.

Customers may pay tens of thousands of dollars and wait several years for a legitimate bag, but the South Korean knock-off is available on demand, and for just a fraction of the cost of the real thing.

"The main focus of the counterfeiter is to make the product as similar as possible to the original," said Mr Titirat. "They will never

test for safety, and they don't have to worry about marketing or R&D. Their only concern is if it is sufficiently similar to the real thing."

Pol Maj-Gen Kowit said the triple A goods available in Thailand were almost all imported, and emerged in the Thai market more than 10 years ago, probably when a Thai tourist came back with a then-novel high-end fake found during his/her travels. He believes most super fakes now come from China or Korea and are smuggled over the country's northern borders, trundled into commercial centres in one- or two-tonne truckloads.

"We can't estimate the overall volume,

Another day at MBK

HIGH QUALITY LEATHER and fashion goods, and watches that could be classified as "perfect fakes", are sold in large quantities on a daily basis at the bustling Mahboonkroong Centre in central Bangkok.

Shops selling the top-flight fakes typically open around 10am and close around 9pm, seven days a week.

One seller said most of the shops operate discretely to put off the police. At most watch shops customers are shown catalogues of imitations of popular brands like Cartier, Patek Philippe and Rolex. At one, prices start at 3,000 baht, with the most expensive fakes selling for about 12,000 baht.

While the MBK vendors take precautions, they don't ordinarily have much fear of being arrested or having their goods seized.

In fact, it was quite entertaining to observe the charade that followed a call to a leading "triple A" (highest quality counterfeit) leather goods vendor warning him of an imminent police raid.

The staff began immediately running around hurling fakes into plastic bags in what appeared to be a well-rehearsed routine. This triggered a chain reaction in other shops which took their cue from the leading shops that are obviously well-connected to the authorities.

Everyone ran with their bags to the car park and threw them into pick-up trucks parked in "reserved zones". Merchandise bearing brand names the police aren't interested in was left on the shelves of the shops.

After the police arrived (usually 5-10 minutes after the warning call or SMS), the

merchants and their staff sat calmly eating or reading newspapers, paying little attention to the officers or the lawyers who accompanied them to examine the goods.

After it was apparent the fake brands of interest were not still on sale, the raid was promptly called off and the authorities left. After a few minutes, the leading merchant declared "all clear" and all the leather goods were brought back from the car park.

Of course, there are some rare occasions

when the police do succeed in arriving without warning. That is what happened on the evening of October 31, when one person was arrested and a number of bags were confiscated from the biggest "triple A" shop at MBK.

"The case will go to the court. From my experience, they will most probably fine us 3,000 or 4,000 baht, which doesn't worry me," the shop owner said. "But what is worrying is the lost merchandise."

According to one major merchant, many triple

A items are made in China, Korea or Taiwan, and brought here in containers — not by air hostesses, as they might tell the customers.

But it is a mystery how these goods are able to pass through Customs in such large amounts. It is also curious that one of the most sought-after brands, Louis Vuitton, is not on display in these shops.

One merchant said this is because the lawyer representing Louis Vuitton in Thailand is very effective and has initiated many raids that have caused considerable financial loss to the sellers.

However, the merchant said there are triple A Louis Vuitton bags kept in the MBK car park for customers who specifically request the brand.

Similar to the case with the watch shops, the customer is shown a catalogue. After a choice is made the bag will be brought from the car park within a few minutes.

"Of course, this procedure cuts down on the sales volume, and the profit is much less than when the actual bags are on display," said the merchant, who went on to say the customers most likely to be looking for triple A bags were overwhelmingly women from the Middle East.

"They arrive in groups of three or four and buy mainly Chanel and Gucci bags, which are sold from 7,000 to 25,000 baht. The price for wallets is 3,000 to 7,000 baht. They usually don't bargain and pay in cash, no credit cards," he said.

"We don't advertise or have a web page. Most customers know about us from word-of-mouth."



PHOTO: ENKHA PUN

MBK Counterfeit goods are available from 10am to 9pm, seven days a week.

By Maximilian Wechsler

but the margin of high-end should goods should be minimal compared to the large number of inferior counterfeits that can be found roadside."

Nonetheless, he said the ECD had seen a rise in visits from representatives of the licensed manufacturers of luxury goods regarding these sorts of products. Pol Maj-Gen Kowit explained the ECD works closely with rights owners to investigate any information about counterfeit factories, warehouses or other inventory locations.

"We try to look at the distributors, not just those who are selling the goods, to cut the supply chain," he explained.

In most cases a representative of the IP rights owner will accompany police when they make a raid, to verify the goods are in fact fake. Mr Titirat said T&G, which works with thousands of different brands, is typically involved in dozens of raids per month. One to three of these will target a manufacturer, while the rest will go after vendors.

"The biggest challenge to investigators is leaks, which can ruin a month's worth of work," said Pol Maj-Gen Kowit. "There is a huge amount of money involved with these goods, and the counterfeiters have a very good defence system and a network of informants to protect themselves." He said because the ECD invests considerable time and resources into investigating the triple A manufacturers/vendors, there are relatively few raids on them compared to the routine street-side vendors.

NOT-SO-CHEAP THRILL

According to one customer, besides the savings, another lure of high-end fakes is the "thrill of it". Jane, an American corporate executive, owns many genuine designer handbags and can easily afford more. She discovered the Patpong shop (after it re-opened) through her tour guide when she was in Bangkok on business last month, after she had expressed an interest in seeing high-quality fake bags. The guide took her to the shop, where triple A bags were on the shelves, but even better ones were listed in a catalogue and kept hidden behind a curtain. She was told the shop carried two kinds of bag — real and very good copies. She was sceptical, but bought one anyway, unsure whether the product was real or fake. Another customer at the same shop was told by the owner that all the bags were fake. The owner then somewhat surprisingly began to point out the discernible differences in the fakes, as opposed to the genuine items.

Nevertheless, the customer and her friends left the store after having purchased eight triple A bags.

Another visitor to the shop, a young expat named Pam who has previously worked in the fashion industry, found out about it through a family friend. She introduced a handful of friends (all similarly "brand-named buyers") to the shop, who altogether have purchased around 10 bags.

Although Pam said she had never anticipated buying a fake bag herself, she was so impressed with the shop's products that she paid about 5,000 baht for a bag that would have retailed for at least three times that. Having friends who have purchased (and been disappointed by) Chinese-produced fake designer handbags on eBay for hundreds of dollars also made it seem like a good deal to her.

She brought out the bag and pointed out

all the detail, which made her question if the bag actually was a counterfeit. Because of her fashion background, she is especially aware of signs of authenticity. In the end, she decided that if the bag was not real, it was at least a "very, very good fake".



Among other details, she pointed out the placement of logos, the enclosed certificate of authenticity, and the interior fabric. Still, she confessed to some guilt.

"I know it's not right, and when I go back to New York and have the income to buy the real thing, I will," she said.

For the time being though, she plans to keep visiting the shop, and if the past is any judge it's unlikely the authorities' counterfeiting suppression efforts will stop her.

DISMAL RESULT

A retired IP investigator living in Bangkok said that although counterfeits are a mainstay in Thailand, particularly in tourist markets, this most visible form of the trade only accounts for a fraction of Thailand's counterfeit business. Far more money is involved in the export of goods overseas. The former investigator added that the streetside stalls simply serve as showrooms.

"With all the millions of dollars and euros spent by brand names to suppress this illegal trade — money which goes mostly to lawyers — and with the thousands of seizures and arrests made by the police, the final result is more than dismal and totally unsatisfactory," said the former investigator.

Raids which result in the confiscation of goods, if not the ultimate shuttering of the shops, are considered a success, he added. "This mess is a result of corruption on the part of some low-ranking officials and others who collude with the counterfeiters, for instance in warning them about impending raids.

"That doesn't mean that everyone involved in the suppression of the counterfeits is corrupt, but unfortunately even a minority can cause a lot of damage to the whole effort."

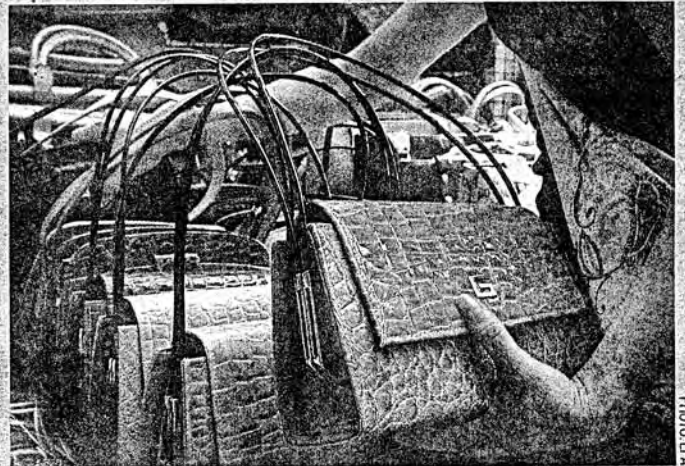
The seizure by Thai authorities of around 35,000 fake watches in Bangkok and Samut Sakhon on Nov 5, after so many years of suppression, is clear evidence of the failure in combating this type of crime. One official commented that it is not a cat-and-mouse game, but rather an elephant-and-ant game between counterfeiters and authorities.

Even Mr Titirat conceded that T&G had only a maintenance role in the fight against fakes, and was just trying to keep them somewhat under control. Completely eradicating this problem would be almost impossible without the full participation of everyone involved, including the customers. The best brands can do, he said, was to be diligent enough to defend, deter and encourage the copiers to fake products that are less well protected. Pol Maj-Gen Kowit, while noting Thailand's limited resources, said the police were doing what they could.

"Statistics show arrests have gone up, but it's a low risk, high return business. That attracts people to come in."

T&G's chairman, David Lyman, compared anti-counterfeiting efforts to "taking a thimble to drain a rowing boat".

The new super fakes may not have changed the game, but they have certainly raised the stakes. ■



POPULAR Fake Gucci bags are found across Thailand.

PHOTO: EPA

Counterfeits in Thailand; a history

NO ONE REALLY knows when the first fake product appeared in Thailand or what it was. It is obvious, though, that Thailand has now developed into one of the worst offenders of intellectual property rights laws, whether in the manufacture, export/import or sale of counterfeit products.

Among the hundreds of fake products available in Thailand but not normally in public view are machine and auto parts, electronic goods, household appliances, pharmaceuticals and chemicals. The most common items, sold at thousands of sites country-wide, are watches, leather and fashion goods. These latter attract constant complaint from the name brands and their governments and their production and sale here has severely tarnished the country's image.

A multi-million baht business has emerged over the past three decades around the counterfeit watches and leather and fashion goods. They are sold on nearly every street and at shopping centres in Bangkok, Chiang Mai, Pattaya, Phuket and elsewhere. A side-product of this trade is the income it generates for corrupt officials and the lawyers who represent the brands in any legal action they take.

Sources say one of the first outlets to pioneer the trade, back in 1978, was a watch repair shop at the corner of Ratchaprarop and New Phetchaburi roads in the Pratunam area of Bangkok. Its owner assembled fake Rolex watches with parts imported from Hong Kong. The first model had a leather strap and didn't actually resemble a Rolex. Yet the watches were distributed to shops in Bangkok and he couldn't satisfy the market.

The success of the Rolex fakes encouraged others to follow his lead. A watch shop on Pradiphat Road in the Saphan Khwai area — which is still open — began assembling and selling the Rado brand watches, together with Mido and Oris. These became very popular in Bangkok and outlying areas — so much so that the shop was probably the first in Thailand to be raided by police, following a complaint from a Rado representative.

As different genuine brand watches were introduced to the upscale market at the beginning of 1990s, so there was an increase in counterfeits. That was when the fake watch boom really took off. A whole new industry

emerged. At first there was no police division charged specifically with dealing with this new type of crime, and the fake watch mania expanded rapidly. And watches assembled here began being exported all over the world.

Now, as in the past, most bogus watches are assembled locally with parts legally imported from China, Korea or Hong Kong. Logos, whether on the dial, strap, bracelet or back plate are printed or punched here, just as with the first fakes in 1978.

High quality and more expensive fakes manufactured abroad also made their way to Thailand in the mid 1990s and quickly captured a segment of the market.

Most people who deal with fake watches made a good profit. A medium quality fake costing just 50 baht to produce would sell for 200-600 baht, or much more, on the street, depending on the sales ability of the vendor.

Fashion products, especially T-shirts, began to emerge in the early 1990s. Products bearing the name of fashion brands soon followed, including shirts, scarves and even socks. They were sold along Sukhumvit and Silom roads, in Pratunam and many places up-country.

Fashion products, unlike watches, were at the time made solely in Thailand, mainly in small factories located in the Din Daeng and Huay Kwang districts of Bangkok, sold by street vendors and in shops country-wide, with large quantities being exported.

Later in the decade, counterfeiters began to produce leather goods with famous foreign labels. Some were sold locally, but a large portion was shipped abroad.

The demand for expensive fakes started to develop in the late 1990s, along with a new awareness among Thais of exclusive brands, fed by the opening of new malls and advertising. This also propelled the counterfeit trade.

Most vendors in Patpong say they couldn't survive by selling only to foreign tourists. Many sales points actually double as showrooms which wait for large orders, mainly from abroad.

Some vendors in Patpong have been in business for 20 years and have become very wealthy, despite the fact some can be seen pleading with foreign tourists to buy a T-shirt for 200 baht because they have to feed their family. ■

By Maxmillian Wechsler