

SERVING INTELLECTUAL PROPERTY SINCE 1872

The **Union des Fabricants** was created by several pharmaceutical manufacturers at the end of the 19th century, when they realised that their products were being counterfeited in Germany and came together to create the “*Charte de l’Union des Fabricants*”.

The Union des Fabricants began working for the international protection of industrial property. It took part in drawing up the Paris Convention for the Protection of Industrial Property (1883) and the Madrid Arrangement concerning international trade mark registration (1891). Encouraged by these successes, it helped to draw up a large number of bilateral treaties to increase the protection of industrial property between France and Austria, Portugal, the United States, Greece, Peru, Russia etc.

In France, it was recognised as a public interest organisation as early as 1877 and came under the system created by the Associations Act in 1901. It took part in the creation of the National Trade Mark and Patent Office in 1901 and recommended the creation of the first register of trademarks, which was later used as the basis for the *Institut National de la Propriété Industrielle* (INPI, the French Industrial Property Office).

Today, the Union des Fabricants includes 400 French companies and professional federations from all sectors of the economy. It is a unique observatory of the protection of intellectual property rights, a source of information and a discussion forum.

GOALS

PROMOTING INTELLECTUAL PROPERTY RIGHTS
HELPING COMPANIES TO HAVE THEIR RIGHTS RESPECTED
FRENCH, EUROPEAN AND INTERNATIONAL LOBBYING
INCREASING PUBLIC AWARENESS WITH REGARD TO COUNTERFEIT PRODUCTS

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MISSIONS

SUPPORTING THE BUSINESS COMMUNITY

SPECIAL COMMITTEES to develop practice and legislation in protecting industrial property and combating counterfeiting. These commissions initiate the signing of charters, the writing of “green papers” and codes of conduct, the production of dossiers, studies etc.

THE ANNUAL SEMINAR providing a broad discussion forum and meeting point for all intellectual property professionals, **the European Intellectual Property Forum** tackles the year’s major intellectual property issues. And many **symposium** held in partnership with various organisations deal with a range of subjects.

PUBLICATIONS provide all the main news in the field of intellectual property: a quarterly newsletter, which presents the activities of the **Union des Fabricants**, the *Revue Internationale de la Propriété Industrielle et Artistique* (RIPIA) which informs of the jurisprudence, the *Manuel of the Union des Fabricants*, practical guides ...

A NETWORK OF INTELLECTUAL PROPERTY EXPERTS: the **Union des Fabricants** can provide its members with the contact details of all those concerned by the defence of intellectual property: industrial property consultants, lawyers specialising in intellectual property, official agencies and authorities (Customs Department, Competition Consumer Affairs and Anti-Fraud Directorate General (DGCCRF), criminal investigation departments, police forces, justice systems, foreign trade missions), various national associations for the prevention of counterfeiting, etc.

THE UNION DES FABRICANTS TAKES PART IN PROFESSIONAL EXHIBITIONS by setting up stands providing information on protecting and defending companies against counterfeiting. Its activities also include meetings with professional federations and creating and monitoring anti-counterfeiting charters.

IN TOKYO, SINCE 1980, AND IN BEIJING, SINCE 1998, the main activities of these **Union des Fabricants** offices are:

- Lobbying officials in order to improve legal provisions and enforcement
- Market monitoring
- Providing practical data on products and information on counterfeiting
- Supporting authorities requests for seizures, prosecutions and trials

ABROAD, organising missions in countries in close connections with French Trade Commissions, its international operations mean that the **Union des Fabricants** can provide its members with useful information on protecting and defending intellectual property abroad.

PROVIDING AUTHENTICATION SERVICES

THE UNION DES FABRICANTS represents certain Rights Holders, in order **TO IDENTIFY PRESUMED COUNTERFEIT PRODUCTS** in association with the customs department or any public authorities during the suspension for release or seizure procedures.

TRAINING

TRAINING PUBLIC AGENCIES: customs department, police forces, foreign trade missions, competition consumer affairs and anti-fraud directorate, justice system...

- To make them more aware of counterfeits and to help them recognise these products
- To support public enforcement, publishing the Manual for criminals investigations

LOBBYING AND COLLABORATION WITH PUBLIC AGENCIES

PARTICIPATION IN THE NATIONAL ANTI-COUNTERFEITING COMMITTEE (CNAC), COLLABORATION WITH THE EUROPEAN COMMISSION, the INPI, the Office for Harmonization in the Internal Market (OHIM), the European Patent Office (EPO), the World Industrial Property Organisation (WIPO), the World Customs Organisation (WCO), the World Trade Organisation (WTO), the International Criminal Police Organization (Interpol), the European Brand Association (AIM) and professional organisations .

THE UNION DES FABRICANTS IS ALSO A FOUNDER MEMBER OF THE GLOBAL ANTI-COUNTERFEITING GROUP (GACG), which brings together all the national anti-counterfeiting associations on an international level. Its aims are to be an international forum for national information and to issue joint communications to heighten the awareness of the general public across the world.

- To improve legal provisions and enforcement
- To inform public and private agencies
- To be kept updated on any project concerning Intellectual property

The **Union des Fabricants** therefore contributes to both preventive action and repressive measures.

INCREASING CUSTOMER AWARENESS

HEIGHTENING THE AWARENESS OF THE CONSUMER, THE FINAL LINK IN THE CHAIN, IS A PRIORITY TO CURB THE MARKETING OF COUNTERFEITS.

- Being in permanent contacts in connection with **media**

- Informing the general public of the dangers, extent and development of counterfeiting at the **Museum of Counterfeiting** where a large number of sectors are represented.
- Organising the French part of the **World Anti-Counterfeiting Day**
- **Participating to miscellaneous contribution to communication campaigns**
- **THE INTERNET SITES** set up by the **Union des Fabricants** contributes to rising awareness of the problems and risks of counterfeiting (www.unifab.com).

COUNTERFEITING GEOGRAPHY

- **Traditional zones:** South-Eastern Asia (China, Korea), the Mediterranean Basin (Turkey, Morocco, Tunisia), Europe (Italy, Spain, Portugal)
- **Newcomers:** countries of Central and Eastern Europe, United States
- **The virtual world:** Websites dedicated to fakes, e-auctions... The Internet has become a very important channel for the distribution of counterfeits

SANCTIONS

Every infringement of different rights guaranteed by the Intellectual Property Code is a misdemeanour: trademarks, model designs, copyright and patents. The holder, as well as the producer, is liable to sanctions.

Counterfeiting is punished like theft:

Penal sanctions

Up to 300 000 euros' fine and three years of imprisonment

These penalties may reach five years of prison and 500 000 euros' fine in case of organised groups, and be doubled in case of second offence, aggravating circumstances or counterfeits hazardous to health and safety (law of 2007).

- Closing of the building exploited by the counterfeiter
- Depriving of the right to vote and to be elected (trademarks and model designs)

Civil sanctions

Damages and interests demanded by the rights holders.

Customs sanctions

Confiscation of counterfeited goods and means of transport.

Counterfeiting is a customs infringement: in case of violation, customs may immediately seize the products and/or apply customs detention, with 10 days' delay for the rights holders to authenticate the goods and file a complaint.

SOME ALARMING FIGURES

38 000 jobs (KPMG study for UNIFAB) a year are being lost in France (200 000 in Europe); the annual financial loss for France is 6 billion euros.

The French report

These figures prove the increased activity of the Customs which are mobilised by governmental instances, for which the fight against counterfeiting has become a priority. In **2010**, customs seizures have steadily increased, representing about 6.2 million products worth about 421 million euros. Must be added to these figures a total of 1.3 million packs of cigarettes, which brings the number of seized products to 7.5 million in 2010.

These figures translate the constant effort of customs in the fight against counterfeiting, but also the shocking development of this illegal and dangerous activity in Europe. **More than 52% of fake products seized where destined to the French market.**

With no surprise, **70% of fakes have come from Asia** which remains the main fake production area. Surprisingly, Europe holds the 2nd place, before Africa, with 16% of seizures of products coming from close-by countries. The last 14% of products come from the rest of the world.

Unifab noticed an increase in the seizures of foodstuff (576 000 products), mobile phones (475 000 products) as well as a permanent increase of seizures of individual online ordered merchandises, which represent more than a million goods for French Internet users.

Internet, a distribution network for counterfeits in constant development:

In 2009, PriceMinister, a buying/selling website blocked 2661 accounts for counterfeiting and attacks to selective distribution networks for 242 brands.

63% of counterfeit products concerned fashion, perfumes, cosmetics and high-tech. It is interesting to point out that 84% of sellers allegedly got their supplies on the Internet, which means that the World Wide Web is now an important distribution network for counterfeiting.

Number of articles seized by customs

2005	5 600 000
2006	6 005 096
2007	4 000 000
2008	6 500 000
2009	7 000 000 (cigarettes not included)
2010	6 200 000 (cigarettes not included)

Some remarkable seizures in 2009– 2010

- June 2010 : 650 000 fake diet pills and 240kg of raw medical substances were seized by customs in Taiwan.
- May 2010 : 160.000 fake deodorants (Armani, Hugo Boss, Dior, Lacoste) were seized at Le Havre Harbour coming from Turkey.
- Mars 2010 : British Police seized counterfeited medicine worth 207 000 euros as well as an important quantity of marijuana (worth 70 000 euros) in the house of two men who were then arrested.
- Mars 2010 : Croatian police seized 46 000 fake perfume bottles, worth 630 000 euros.
- February 2010: 12 persons have been given a prison sentence and a large fine for selling 18 millions bottles of fake Pinot Noir to an important American wine merchant.
- January 2010: an IT specialist from Reims has been charged with fraud, import and resale of fake products. Since 2006, he has been selling fake goods on the Internet, mainly trainers manufactured in China, with a turnover of 150 000 euros and a profit 50 000 euros.

- 42% of the software available on the market was pirated in 2010, worth 59 million dollars. In the EU, 35% of the software available was pirated in 2009 and 2010. For the first time, more fake computer hardware has been sent to emerging countries instead of industrialised countries (174 millions vs 173 millions).

The European report

NUMBER OF SEIZED ARTICLES

2005	75 733 387
2006	128 631 295
2007	79 076 458
2008	178 908 278
2009	118 000 000

Over 118 000 000 products have been seized in the 27 member states of the European Union in 2009, in 43 500 cases.

This year has been marked, for the sixth time in a row, by a strong rise in the number of procedures: 43 500. They concern in 55 % the violation of trademarks (in 42,5 % patents). Like the year before, these procedures concerned in the first place the **clothes and accessories** sector (56%). The following sectors are: **jewellery** (10%, watches included), **electronic apparel** (7%) and finally **medicine** (6.5%). **These sectors are naturally linked to air and postal traffic.**

When it comes to figures, the biggest increase concerns **CDs and DVDs** (+2300%). The following places are occupied by **medicine** (+118%) and **cigarettes** (+54%). These rises are almost entirely due to seizures in **sea transport**, as CDs and DVDs are usually transported in large quantities in containers.

China remains the **main exporter of counterfeiting products**, with **64 % of seized products** coming from this country (54% in 2008). However, this figure has fallen by 3 points . Also, other countries are becoming “leaders” in certain categories: **Indonesia – foods and beverages, United Arab Emirates – cigarettes and India for medicine.**

Among the member countries of the European Union, it is the **Netherlands** who take first place for the highest number of seized articles (37%), and **France** for established procedures (19%).