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<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>ASID</td>
<td>Anti-Smuggle Investigation Department under the General Department of Customs of Vietnam</td>
</tr>
<tr>
<td>DC 127</td>
<td>Provincial Directive Commission of Fighting Against Smuggling, Counterfeit and Trade Fraud</td>
</tr>
<tr>
<td>DMM</td>
<td>Provincial Department of Market Management under provincial Department of Industry and Trade</td>
</tr>
<tr>
<td>DoMM</td>
<td>Department of Market Management (“DoMM”) under the Ministry of Industry and Trade</td>
</tr>
<tr>
<td>GDOC</td>
<td>Vietnam General Department of Customs</td>
</tr>
<tr>
<td>MARD</td>
<td>Ministry of Agriculture and Rural Development</td>
</tr>
<tr>
<td>MoCST</td>
<td>Ministry of Culture, Sport and Tourism</td>
</tr>
<tr>
<td>MOF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>MOH</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td>MOIC</td>
<td>Ministry of Information and Communication</td>
</tr>
<tr>
<td>MOIT</td>
<td>Ministry of Industry and Trade</td>
</tr>
<tr>
<td>MoND</td>
<td>Ministry of National Defense</td>
</tr>
<tr>
<td>MOPS</td>
<td>Ministry of Public Security</td>
</tr>
<tr>
<td>MOST</td>
<td>Ministry of Science and Technology</td>
</tr>
<tr>
<td>NACC</td>
<td>National Directive Commission of Fighting Against Smuggling, Counterfeit and Trade Fraud</td>
</tr>
<tr>
<td>NOIP</td>
<td>National Office of Intellectual Property of Vietnam</td>
</tr>
<tr>
<td>VIPRI</td>
<td>Vietnam Intellectual Property Research Institute</td>
</tr>
</tbody>
</table>
I  INTRODUCTION

1. Objective of the Survey

In current years, trading flows between Vietnam and Italy are increasing rapidly. In 2009, total import value of products originated from Italy was 726 million USD and the value of export flow from Vietnam to Italy reached more than 804 million USD. The two Governments are both aware of the trading potential between the two countries. One of the key elements to boost the trading flows is the commitment of both countries to protect the intellectual property rights of the nationals and companies of the other. It is the fact that IPRs violation especially counterfeiting is one of most concerns of many Italian investors to invest in an emerging market like Vietnam where IPR resulting from their manufacturing, research or development operations and their reputed brand names can be easily pirated.

*The aim suggested of the survey is to carry out a market analysis of the main counterfeited Italian products commercialized in Vietnam and provide an overview on the legislation and active governmental actions for the fight to counterfeits.* It would help Italian investors and companies to understand the situation of counterfeits market, social awareness on IPRs and possibility of protection of their IPRs while investing and trading in Vietnam.

2. Scope of work and methodology

2.1. Scope of work

**Target Segments:** The tentative target segments are fashion, foods and beverage, machinery and household articles. Based on long list of Italian brands/trademarks provided by Head of the Intellectual Property Rights Desk of Italian Trade Commission, the survey team groups target products and product brands in 6 groups, each of such group will be limited to three (3) products and each of such three products will be limited to five Italian brands/trademarks. However, during the survey, bizconsult LLC still keep anyway its eye open on it for other possible Italian brands/trademarks on the market during the survey. The focus of the analysis will be the following marks/trade marks of target segments of the market of counterfeits to Italian genuine products in Vietnam.

i. Fashion – Cosmetic:
   a. Fashion: 10 brands of Armani, Gucci, Furla, Prada, Fendi, Versace, Dolce & Galbana, Zegna, Kappa and Luxottica;
   b. Cosmetic: Pupa, Keramine H, Topexan, Collistar, L'erbolario

ii. Food and Beverage
   a. Wine: Zonin, Antinori Santa Cristina and Bersano
   b. Confectionery: Perfetti Van Melle (Chupa Chups, Alpenliebe, Golia, Etc), Ferrero (Ferrero Rocher, Raffaello, Mon Cherie), Novi, and Mulino Bianco
   c. Canned Food: Annalisa, Cirio - De Rica, Sacla', Nostromo, Riomare and Barilla

iii. Machinery:
   a. Pump: Pentax, Caprari Pumps, Jet And Saer
   b. Hinges: FGV
   c. Sawblades and Cutting tools: Freud Pozzo and UFP
d. Automobiles and parts: Automobiles brands like Fiat, Ivecio and Piaggio and parts of MW

iv. Household articles:
   a. Water heater: Ariston
   b. Kitchenware: Elica
   c. Home appliance: Bticino
   d. Toys: Trudi, Chicco

**Geographical limits:** The survey will focus on shopping centers in Hanoi and Ho Chi Minh cities. Those are two largest cities in Vietnam concentrating almost business and trading activities of the country. Hanoi is the capital of the country with total area of 3344.6 km² and population of 6,472.2 thousand residents, population density of 1,935 person per square km. Hochiminh city is the biggest economical hub with total area of 2,095.5 km², population of 7,165.2 thousand residents in 2009, population density of 3,419 person per square km, (GSO, 2009 statistics).

Shopping centers are main locations to conduct survey. In Hanoi, the survey team implemented interviews with shop operators, distributors, visitors and customers in the following centers:

- Me Linh Plaza: hypermarket specialized in construction materials and interior equipment trading in suburb of Hanoi with total area of 7 hecta. This is a shopping centers with many showrooms of finished construction materials and household articles of both foreign and local manufacturers.
- Vincom Tower: a famous high-class shopping and entertainment centre in downtown of Hanoi. It includes of a supermarket of food and food stuff and household articles, a showroom of electric and electronics equipment and many malls for fashion brands.
- Ocean Park: A luxury Mall concentrating with many international prestige brands like D&G, Just Cavalli, Gianfranco Ferre, Versace Collection, GF Ferre, Roberto Cavalli, Kiton, Canali Boutique.

Areas focused by survey team in Hochiminh city encloses:

- Vincom Center Shopping Mall: a new shopping mall in the area of 57,704m2 which is known as one of the largest shopping malls in Vietnam.
- Diamond Plaza: This is the world of high class international brands in the downtown of the city where is attractive to youth and high-income people.
- Metro Cash and Carrier: This is the wholesale hypermarket with all kind of products from fashion, cosmetics, food to household articles and machinery.

**Aspects to be analyzed:** For each of the target segments the following aspects will be analyzed

i. Active operators in both the warehouse/shopping centers and retail sales;
ii. Prices practiced;
iii. Client profile per social status, age, origin etc.;
iv. Knowledge level of clients on the purchase of counterfeited products;
v. Active governmental actions for the fight to piracy, with a focus on Italian products and its real effects.
2.2. **Methodology:**

The survey will be undertaken in combination of field survey and desk study:

*Field survey.* Firstly, surveyors will have direct meetings and/or phone interviews with operators of the market in the Sites of Survey to gather necessary information on the counterfeits, which is designed beforehand. The operators to be met and/or interviewed will be final users, distributors, specialized shops, trading companies, representatives of imported Italian products target of falsifications, trademark attorneys, economic police, Inspectorate of Industrial Property, Market Management Agency, Association of Anti-Counterfeits of Foreign-Invested Enterprises, and the Association of Protection of Consumers.

By end of October and early November, surveyors met and interviewed with officers from state authorities involved in anti-counterfeiting as follows:

- Mr. Tran Minh Dung, Chief Inspector, Inspection Department under the Ministry of Science and Technology;
- Mr. Tran Van Long, Chief of Consulting and Assessment Department, Vietnam Intellectual Property Research Institute;
- Mr. Vuong Tien Dung, Vice Director of Hanoi Department of Market Management;
- Mr. Nguyen Van Thanh, Deputy Head of Consumers Protection Board, Vietnam Competition Authority, MoIT;
- Mr. Nguyen Van Thuy, Head, Division of Control for IPR Protection, Department of Investigation and Enforcement, General Department of Vietnam Customs
- Mrs. Doan Thu Ngan, Expert, Division of Control for IPR Protection, Department of Investigation and Enforcement, General Department of Vietnam Customs
- Mr. Hoang Minh Tuan, Vice Director, Department of Market Management, MoIT,
- Mr. Nguyen Dinh Thin, Head of General Information, Department of Market Management, MoIT

At the same time, surveyors strolled over selected survey sites as above to interview end-user and shop operators of targeted products and gather information related to counterfeiting activities. Number of interviewees is allocated evenly between Hanoi and Hochiminh city. Samples for each target product categories shall be selected diversely in respect of sex, age, incomes and education level. Number of interview samples per each product group is as follows:

- Fashion: 100 samples
- Food: 100 samples
- Machinery: 20 samples
- Automobiles and parts: 20 samples
- Household articles: 30 samples
- Toys: 20 samples

*Desk research.* Secondly, analyzer and experts of survey team conducted the desk research in order to identify and collect additional information and pertinent data on the counterfeits. Searching for secondary information sources available in the market, research activities, analyses
of updated reports of quantitative and qualitative relevance, acquisition of specific studies on the market and evaluation of possible official and non-official statistic data are used in desk research.

Analyses and report. The analyses will be conducted by the survey team leader on the information gathered from the survey on the counterfeits of the Italian products.

3. Executive Summary

Infringement of IPRs, especially marks and trade marks is a trouble to foreign investors, traders and distributors when coming to Vietnam. The production and trade of fake products was becoming increasingly common. Counterfeited products are available across the country in urban centers and in rural markets.

Counterfeit goods are produced with sophisticated methods and modern technology, which makes it hard for consumers to distinguish between fake and genuine products. Popular methods of marketing fake products include producing counterfeit registered trademarks. Production can include the use of low-quality materials mixed with genuine products. Modern technology gives producers of fake goods the opportunity to sell well-forged products, including official-looking wrapping and labeling.

However, the lack of a legal framework and technology to evaluate products, and ineffective co-operation between relevant ministries and agencies makes it difficult for authorized agencies to stamp out the production and trade of counterfeit products. Meanwhile, businesses themselves paid little attention to protecting their products with registered trademarks.

In order to make trade activities more reliable and create favorable conditions for businesses to boost production and development, it is essential to have close cooperation among management authorities to fight again counterfeiting activities. Additionally, it is necessary for enterprises to enhance awareness of protection of their IPRs and public awareness on utilization of counterfeits.

According to statistics, in the last ten years, market management parties dealt with more than 100,000 cases related to production of fake goods and violation of intellectual property rights with a total fine payment of VND124 billion. Customs officers also handled almost 200 cases of export and import of fake goods and goods violating intellectual property rights. Economic police dealt with more than 460 cases and prosecuted more than 550 law breakers in counterfeit goods dealing.

The survey is conducted on four groups of products, fashion and cosmetics, automobile and machinery, parts and components, household articles and foods in two cities of Hanoi and Hochiminh. The survey also screens the legislation and administrative procedure to help Italian investor to have information to take actions of protection and fighting against counterfeiting.

A list of potential of IP representatives is helpful for IPRs owner to find representatives in Vietnam to register their intellectual property, marks, and trade marks, patent, industrial design and geographical direction to establish foundation for protection of their IPRs. Those representatives can also assist IPRs owner in petition necessary authorities in inspection, evaluation and settlement of violations by counterfeits makers.
II. SEGMENT ANALYSIS

1. Fashion and cosmetics

1.1. Active Operators:

Interviewed active operators in fashion and cosmetics include distributors and retail shops in Hanoi and Hochiminh city.

<table>
<thead>
<tr>
<th>ID</th>
<th>Organization</th>
<th>Address</th>
<th>Trading Products</th>
<th>Interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Shoebox NewYork</td>
<td>Hoan Kiem, Hanoi</td>
<td>Distributors of shoes of BCBG, Jessica Simpson, DKNY, Emilio Pucci, Kenzo, Marc by Marc Jacobs, Celine, Givenchy and bags of DKNY</td>
<td>Luu Mai Chi, Brands Manager</td>
</tr>
<tr>
<td>2</td>
<td>Shop Dung</td>
<td>Ha Dong, Hanoi</td>
<td>Shops selling clothes in Ha Dong traditional market</td>
<td>Nguyen Thi Phuong Thao, Shop owner</td>
</tr>
<tr>
<td>3</td>
<td>Vietmart JSC</td>
<td>Dong Da, Hanoi</td>
<td>Distributor of “made in Vietnam” garment products</td>
<td>Nguyen Trong Nghia, Owner</td>
</tr>
<tr>
<td>4</td>
<td>Tan Thinh Trading Ltd</td>
<td>Tan Binh, HCM</td>
<td>Distributors of Fendi watches</td>
<td>Mr. Nhat, Sale Manager</td>
</tr>
<tr>
<td>5</td>
<td>Hoang Phuc International Ltd</td>
<td>District 1, HCM</td>
<td>Distributor of Kappa, DR Martens, Replay, Ecko clothes, shoes and bags</td>
<td>Sale Dept</td>
</tr>
<tr>
<td>6</td>
<td>AR Group JSC</td>
<td>District 3, HCM</td>
<td>Distributors of Gucci, Furla, D&amp;G, Zegna eye wares</td>
<td>Nguyen Dinh Hoang, Regional Manager</td>
</tr>
<tr>
<td>7</td>
<td>Thanh Bac Indochina Co.</td>
<td>Nam Ky Khoi Nghia, HCM</td>
<td>Distributor of Pupa cosmetics</td>
<td>Mrs, Tram, staff</td>
</tr>
<tr>
<td>8</td>
<td>Pupa shop</td>
<td>Diamond Plaza, district 1, HCM</td>
<td>Pupa cosmetic shop</td>
<td>Shop head</td>
</tr>
<tr>
<td>9</td>
<td>Bvlgari shop</td>
<td>Diamond Plaza, district 1, HCM</td>
<td>Bvlgari shop</td>
<td>Sale staff</td>
</tr>
<tr>
<td>10</td>
<td>Kappa shop</td>
<td>Diamond Plaza, district 1, HCM</td>
<td>Shop selling Kappa clothes, shoes, bags and hats</td>
<td>Sale staff</td>
</tr>
</tbody>
</table>

It is a sorrow but a fact that it is easy to find a shop selling counterfeit fashion products in Vietnam. Counterfeited products can be found in every corner of both cities from luxury shops in shopping centers to flee markets, from down town to suburb, from traditional markets to e-commerce websites. Fashion brands are target of counterfeits manufacturers, processors, traders and distributors due to high profit margin, pretty low risk and numerous consumers in such crowded markets like Hanoi and Hochiminh. Using genuine Italian fashion products is a trend in high-income class in Vietnam, especially showbiz world. Even though, they are willing to use fake products provided that it is fashionable and harmless to their health. For medium income and low income classes, using counterfeited products at cheap prices is very popular and perceived as nothing of illegal by everyone.

Surveyors have approached a number of authorized distributors of Italian products and shops specialized in some Italian brands. At the same time, surveyors also interviewed some shops
selling counterfeited products to have comprehensive and unbiased information related to trading and manufacturing of such products group.

**Findings from authorised Italian products distributors:**

*Measures to protect against counterfeits:* Authorized Italian products distributors and traders of genuine products are affected by counterfeiting activities. One of their efforts to protect their brand image and profit is to help clients to distinguish between their products and the counterfeits. A popular measure applied by some authorized distributors is to affix anti-counterfeit stamp on their products. The Criminal Science Institute under the MoPS is the most prestige organization supplying anti-counterfeits stamps. However, the institute only provides such stamps for imported products. Other products manufactured locally shall apply other type of anti-counterfeits stamps provided by local private printers. It is assessed that this is an effective measure assisting clients to differentiate genuine ones, especially for eye wares and cosmetics products.

*Sources of counterfeits supply:* Vietnam is neighbored to China, the industrial workshop of the whole world and the main sources of counterfeits to many countries. Besides China, sources of supplying fashion and cosmetic counterfeits to Vietnam are other regional countries like Hong Kong, Lao, Cambodia and Thailand.

**Findings from shop selling counterfeits**

It is found that the operation of state authorities in anti-counterfeiting is not effective in some respects. At least there are 3 state administrative bodies involved in such activities including tax agency, police and market management agency. However, number of violation found by such agencies does not reflect the real situation of fashion and cosmetic counterfeits overwhelming the market.

Counterfeits traders and manufacturers have many ways to evade from state management and settlement. Maintaining a “good relationship” with state officers directly managing the location where they are doing business is an effective way to ensure their business running without watching of other management agencies. In traditional markets where counterfeits of all kind of international brands are flooding, doing such business seems more convenient as the traders only need to “contact” with market management board. Unofficial fees contributed to such board regularly or irregularly can help them to carry, to store and to trade all kind of products normally and legally.

**Findings from governmental agencies:**

It is revealed by the governmental agencies that since Vietnam joining WTO, the government is more concern about the fighting against counterfeits. The management agencies from the central to the local have strived inspecting, finding and settling counterfeiting activities.

Fashion and cosmetics products are two essential products in the combat ion against counterfeits. Especially, cosmetics products are consumption goods under strict management of the state authority as they directly affect the human health. Cosmetics imported or produced locally shall be registered with the MoH before circulation in the market. However, illegal imported and produced products in the market are big trouble. The Government judged that trading and manufacturing counterfeits and fake products, products of low quality products of drugs and cosmetics is increasing and complicated that required central and local authorities to enhance measures to ensure the rights and interests of businesses and the health of consumers. The Government requested the MoH in cooperation with the MoST and other relevant authorities to take the following measures:
To increase the fines and sanctions in activities of cosmetics and drugs counterfeiting (even withdrawal of business certificate);

- To enhance market management, supervision and control;
- To promulgate, to educate and to increase public awareness on anti-counterfeiting activities;
- To upgrade, improve and invest in infrastructure for market control and management;
- To improve the coordination between authorities in the anti-counterfeiting battery, especially the MoH, MoST, NACC and other authorities.

According to the Inspectors of MoST and the Inspectors in the Division of Control for IPR Protection, Department of Investigation and Enforcement, General Department of Vietnam Customs, majority of violation cases settled by them are infringements related to fashion brands of America, France and Switzerland. There are few cases in violation of Italian brands are found and settled. However such conclusion does not mean Italian brands are unable to expose to counterfeiting as Italian fashion brands are really popular to Vietnamese. The reason is that state management agencies rarely received requests from Italian IPRs owners to inspect and settle counterfeiting activities related to their brands. It seems that Italian investors and manufacturers have not considered anti-counterfeiting in Vietnam market an urgent and high priority matter.

1.2. Flow of supply counterfeits to market and distribution channel

1.2.1. Import

Fashion and cosmetics counterfeits imported in to the country are mainly from China, Hong Kong, Lao, Cambodia and Thailand.

**From China:** China is the main source of counterfeits for all types of fashion products, clothes, bags, hats, belts, watches and cosmetics. Counterfeits can be imported to Vietnam via rail, land and sea way. Transportation of goods from China to Vietnamese market can run through rail road of Bang Tuong – Lang Son railway and road through border gates of Mong Cai (Quang Ninh province), Huu Nghi (Lang Son province) and Ha Khau (Lao Cai province). Besides such three main official border gates, there are hundreds of small and unofficial gates created by the local people and smuggling societies along the border line of more than 1,300km in the North. It creates many difficulties for anti-smuggling agencies to inspect and settle smuggling activities. Sea routes from China to Vietnam are important channels for transportation of counterfeits from China, Hong Kong and Taiwan to Vietnam.

**From Lao:** Roads from Lao to Vietnam run through border gates of Tay Trang, Na Meo, Nam Can, Cau Treo, Cha Lo, Lao Bao, Po Y from the North to the South to provinces of Dien Bien, Thanh Hoa, Nghe An, Ha Tinh, Quang Binh, Quang Tri and Kon Tum in Central of Vietnam.

**From Cambodia:** There are 9 border gates to trade between Vietnam and Cambodia located in provinces of Gia Lai, Binh Phuoc, Tay Ninh, Dong Thap, An Giang and Kien Giang in the West South of Vietnam. Amongs those, Tay Ninh, Kien Giang and An Giang are trouble localities with counterfeits transporting and smuggling.

**From other Asian countries:** Transportation by sea is a good method for imported goods to Vietnam. With a coast line of more than 3,200 km, Vietnam has a network of ports for both small and large ships.
Importation of counterfeits to Vietnam

Majority of fashion and cosmetics products imported are transported via border-line importation or hand carriage. It is easy for a local trader to find suppliers in China. Guang Zhou, China is the main area where Vietnamese traders find suppliers. Searching for suppliers can be conducted easily via internet or site visit to fairs and markets. The buyers then make orders. Goods are transported through special routes to Vietnam.

1.2.2. Local Production/Processing

Vietnam’s garment and textile and leather industries contributed considerably in the development of the country. Exportation of garment and textile is always in the top ten of exported products in respect of export value. The industry revenue comes mainly from production and processing for foreign manufacturers as the country has competitive advantages of cheap and skillful labor. For a couple of years, clothe products marked “Made in Vietnam” are beloved by almost local consumers of all ages, classes and occupations.

Besides “Made in Vietnam” products designed, manufactured, and branded by local manufacturers like Viet Tien, Duc Giang and May 10 with prestige marks and trade marks, there is a range of products “Made in Vietnam” with international marks and trade marks which are objected to counterfeiting. Those products can be classified into 4 categories as follows:

Those products are made by local manufacturers under processing for export agreements signed with foreign fashion companies. These agreements normally provide that all products shall be exported to exclusive markets and shall not be circulated in the domestic market. During processing, some products are made with flaws and fail to export. Staff of such manufacturers brought such products to sell to the
market. Main distributors of such products are “Made in Vietnam” fashion shops. Tags with marks/trade marks and other information related to products brands may or may not be removed from the products.

After a time dealing with such products, “Made in Vietnam” fashion shops realized such products were interested by consumers and gained high profit margin. They ordered with the manufacturers to produce extra products in comparison with processing agreements and sell the surplus to them. Such products may be made by surplus materials provided by the foreign party under the processing agreements or imported directly by the manufacturers from other sources.

The high profit margin in trading such “Made in Vietnam” products is attractive to many small manufacturers and traders. They replicate the genuine products sold in “Made in Vietnam” shops with materials including fabric, tags, marks, labels imported mainly from China then processed and circulated in the market. Materials imported from China are of lower quality and much cheaper than materials produced locally or imported from other countries.

The trend using “Made in Vietnam” fashion products by Vietnamese people in current years is also the trend of boycott Chinese fashion products. Understanding this psychology, some Vietnamese traders order Chinese manufacturers to mark their products made in China as “Made in Vietnam” products and sold in local market. Such products are made of lower quality materials with flaws in processing and cause troubles to Vietnamese consumers in distinguishing with local made products.

1.3. **Characteristics/identification of counterfeits**

The survey focuses on the following factors to differentiate between the genuine and the counterfeited products. Survey is conducted with 100 end-users to assess the trustfulness, importance and helpfulness of these factors in identifying counterfeits of fashion and cosmetics products.

- **Design**: distinguish between the perfect design of genuine Italian products and uncomfortable, flaw design of counterfeits.
- **Price**: Italian products prices are high due to high cost, import taxes and other duties to import to Vietnam.
- **Pattern**: Pattern of material and accessories built up Italian genuine products is fine, keen as the result of high tech processing machine and high quality materials.
- **Material**: Materials used in counterfeits products are low quality materials processed locally or imported from China.
- **Information related to origin, manufacturers of products**: Normally, Italian products tags provides with full information related to brands, the country of origin, manufacturers, products specification and other information guiding operation for consumers. Information provided in counterfeited products is inconsistent, inadequate and incomplete. For some specific products like watches, cosmetics, operation manual and user’s guide are integrated parts of the products that can help end-users to perceive their reality.
Warranty service: Warranty services of some genuine fashion products like eye wares, bags and watches are provided properly and fully to support the end-user. Sellers of counterfeits never provide such services with their products. Purchasers of counterfeits found it is hard to change the products when finding flaws on products after buying.

Packaging and information printed on the package: Packaging and its designing play an important role in branding a fashion product. Manufacturers of counterfeits sometimes try to replicate the packaging exactly the genuine ones that can cause trouble to buyers when identifying counterfeits.

Location of shops: Italian fashion products are luxury products affordable by a small proportion of high-income people in Vietnam. Normally, such products are exhibited in luxury shopping centers, in outlets located in high ranking hotels. Sometimes, they are imported by people travelling abroad or by staff of carriers, such vendors are called “hang xach tay” shops. However, buying products from “hang xach tay” vendors are mainly based on consumers’ relationship or introduction of other end-users and it take small portion in the market. End-users intend to buy such products in shopping malls like Diamond Plaza, Vincom Plaza, Parkson in Hochiminh city and Parkson, Ocean Park and Vincom Tower in Hanoi.

Authorized distributors: Authorized distributors are trustful sources supplying genuine Italian fashion products. However, there are few authorized distributors of Italian fashion and cosmetics in Vietnam market. Among 100 end-users interviewed by the survey team, there are only 8 people having bought a product from authorized distributors. Almost end-user does not know who the authorized distributor of such products is.

Other factors: Other factors including signs of anti-counterfeit stamps on the products, relation with the sellers and other factors that can be found in the survey.
Factors helpful in identifying cosmetic counterfeits

Interviewees are asked whether they base on such factors to differentiate counterfeit and genuine products. Factors received most positive response and less negative response are key factors in identification of the counterfeits. Data collected from survey shows that the key factors based on number of people used to identify counterfeits are as follows:

For fashion products, key factors are:

- Pattern of products
- Information related to origin and manufacturers of products
- Authorized distributors

For cosmetics, key factors are:

- Information related to origin and manufacturers of products
- Authorized agency
- Materials

Interviewees are also asked to select three key factors in identifying counterfeits. For fashion products, 3 factors most selected are materials (38 interviewees), design (29 interviewees) and information related to origin and manufacturers of products (29 interviewees). For cosmetics, 3 factors most selected are material (26 interviewees), price (20 interviewees) and information related to origin and manufacturers of products (19 interviewees).

1.4. Consumer profile of counterfeits:

1.4.1. Typical consumers:

The data is collected from 100 interview samples who are almost interested in shopping. Distribution of samples based on education level, income and other characteristics are below:
Education level: Income:
High school: 6 Low income: 35
College: 6 Low medium income: 40
Graduated from university: 75 High medium income: 18
Master: 13 High income: 7

End-users being interviewed are almost concern about the origin of products (94%), brands of the products (93%) and interested in Italian fashion brands (92%).

Typical users of counterfeited fashion products are young and middle-aged female. Low-income and medium-income classes are used to consuming counterfeits fashion products. Income seems have no effect on the interest of using counterfeits fashion products of consumers except for people of utmost high class and showbiz persons who need to use prestige brand products as the way to PR themselves.

Different from consumers of fashion products, consumers of cosmetics are really afraid of counterfeits as they know it is harm to their health. Typical users of counterfeits of this product are low educated and low-income young female. High-income and well-educated females always clarify the origins of cosmetics and the quality of products to decide to purchase and consume.

1.4.2. Knowledge level of purchaser of counterfeits

Statistics of ability of interviewees in identifying counterfeits show that nearly half of consumers are unable or unsure of their ability to identify counterfeits (42% confirm they are unable and 7% are unsure about their ability to identify fashion counterfeits and 44% unable and 6% are unsure about their ability in cosmetics products). While being asked about the location to buy genuine Italian fashion products, 55 peoples confirm they know where to buy it, 43 people answers they don’t know and the rest have no idea. For cosmetics products, number of people knowing about where to buy real cosmetics is much lesser (36) while number of people confirming they don’t know is 57.

---

1. Low income people are people earning less than 5 million VND (around 250 USD) per month
Low medium income people are people earning 5 million VND - 10 million VND (250 USD – 500 USD) per month
High medium income people are people earning 10 million VND - 30 million VND (500 USD – 1500 USD) per month
High income people are people earning more than 30 million VND (1500 USD) per month
Do you know where to buy genuine Italian products

- Yes, I do: 55
- No, I don’t: 43
- I have no idea: 2

Do you know any authorized distributor of genuine Italian products

- Yes, I do: 8
- No, I don’t: 86
- I have no idea: 6

While being asked about their attitude towards the counterfeits, 73% interviewees confirmed they are very afraid of buying counterfeited cosmetic and 53% interviewees said the same when buying counterfeited fashion products. There are number of reasons that purchasers are afraid of buying counterfeited, namely i) loss money when buying counterfeited products of low quality, ii) counterfeited products may cause trouble during utilization, iii) counterfeited products is harmful to the health, especially eye wares and cosmetics and iv) impression of guilty when using the counterfeited products.

Consumers’ attitude toward counterfeits

In order to avoid buying counterfeits and increase the ability to differentiate counterfeits, consumers often try to verify with their friends, with manufacturers/sellers and counsel information from internet. According to the survey data, people never approach any state authority for information related to counterfeits. The ven chart below illustrate the possibility of methods applied in verifying counterfeits collected from 100 interviewees for fashion and cosmetic products.

Ven Chart of typical measures applied in verifying counterfeits.
However, while being asked about their attitude toward a trend using counterfeits of international famous brands, number of person considering it is normal and acceptable and not considering it is an advocate for manufacturing and trading of counterfeits is high (39%). It is the evidence that using counterfeits is still a culture in a portion of population. According to the information found from interviews, consumers uses counterfeits as the following reasons:

- Lack of experience and knowledge to differentiate between the genuine and the counterfeited products;
- Consumer’s income is unaffordable for genuine Italian fashion;
- Using counterfeited fashion products is harmless and it is not criticized by the society;
- Consumers don’t want to waste money using expensive genuine fashion products while others can not differentiate and realize theirs are origin ones;
- Using counterfeits products cause no legal trouble to end-users
- Designs of fashion counterfeits are various and fashionable.

1.4.3. Practiced prices

Prices of counterfeits are various and fluctuate in high ranges depending on the locations of shops, purchasers and sellers bargaining powers and fissionability of the products. In luxury stores in big shopping centers, prices are quoted very high at fixed prices, purchasers normally can only bargain for a small reduction. On contrary, in flee market and other stores in downtown, prices are set by sellers depending purchasers appearance, attitude and style. They can quote exorbitant prices and the purchasers shall loss money if they don’t know the real cost of the products.

The chart of practiced prices below is based on the information achieved from end-user interviewees and just for reference as the number of interviewees providing the information related to prices are too small and unable to represent for the whole market. Ranging from lower prices to higher prices is extremely wide for all types of fashion and cosmetics products shall result in amazing big profit for counterfeits traders and distributors if they can cheat consumers.

1.4.4. Geographical concentration of counterfeits consumption
It is unfeasible to identify geographic concentration of counterfeits consumption in Vietnam as defined above, people of all age, location and education level are acquitted with fashion counterfeits. Surveyors are assessed the frequencies of buying fashion and cosmetics products based on the following location:

- Flee market
- Retail shop
- Luxury shopping centre
- Outlet in luxury hotel
- Abroad
- “Hang xach tay” shop
- Shopping malls in downtown streets.

Of the above shopping location, flee market and shopping malls in downtown street are main areas concentrated with counterfeits. It is realized from survey that people are still interested in buying in shopping malls in downtown street most. However, in the judgment of surveyors, shopping malls in downtown street and flee market are areas most concentrating with counterfeits.

Pyramid of counterfeits concentration with the base is most concentrated.

1.4.5. Brands objected to falsification

The survey targets on 10 fashion brands and 5 cosmetics brands. It is the fact that the more popular of the brand, the more possibility it would be exposed to counterfeiting activities.

The level of popularity applied by analyst in this report is based on the different between the possibility of positive judgment and possibility of negative judgment of interviewees in respect of the popularity of a brand. Positive judgments of the popularity are responses as “very popular” and “popular” and negative judgment of the popularity are “scarcity” and “don’t know”.

Based on data collected from interviewees, the most popular brands which are most possible to be counterfeited are Gucci, Armani, Versace, Kappa and D&G. Other brands are less possible to be counterfeited are Furla and Fendi. Zegna and Luxoticca are not popular brands appeared in the markets. These figures are also similar to assessment of surveyors team when screening counterfeits in the flee market and shop in downtown where most concentrated with counterfeits.
The most popular cosmetic brand is Pupa. Other brands targeted of the survey including Keramine H, Topexan, Collistar, L’erbolario are unpopular and scarcity in the market. Majority of responses from interviewees are “scarcity” and “don’t know”.

<table>
<thead>
<tr>
<th>Exposure to counterfeiting</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
<th>Extremely high</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armani</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gucci</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Furla</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prada</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fendi</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Versace</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D&amp;G</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zegna</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kappa</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Luxoticca</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pupa</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Keramine H</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Topexan</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Collistar</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>L’erbolario</td>
<td></td>
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</tr>
</tbody>
</table>

Exposure to counterfeiting of Italian cosmetics products is low for the following reasons:

- Organizations shall register cosmetics quality with MoH before circulation in the market;
- The state management on cosmetics circulation in the market is more strict as it is affect directly to consumers’ health;
- Consumers are more cautious about cosmetics origins and quality before purchasing
- Italian cosmetics brands are less popular to Vietnamese consumers than French, Japanese and USA brands
1.5. Case Study

In 2009 Inspectors of Ministry of Science and Technology settled the violation of marks “Louis Vuiton”, “LV”, “Figure”, “LV & Figure” protected for Louis Vuitton Malletier in series of shops in the downtown of Hanoi. This is the pilot case for fighting against counterfeited fashion products undertaken by the Inspectors of MoST.

“Louis Vuiton”, “LV”, “Figure”, “LV & Figure”.

Louis Vuitton Malletier (French).


Louis Vuitton Malletier is the owner of trade mark “Louis Vuiton”, “LV”, “Figure”, “LV & Figure” in accordance with the Certificate of Trade Mark Registration No. 25889, 25890, 25892, 29156, 84681, 84682 and 84683 in Vietnam.

Protected trade mark/mark Counterfeited product

On 11 June, 2009, Louis Vuitton Malletier had requested and petited Inspectors of Ministry of Science and Technology to inspect and settle businesses trading bags, hand bags, suitcase, wallet of male and female, belt and other products counterfeited with trade marks “Louis Vuiton”, “LV”, “Figure”, “LV & Figure”.

The inspectors of MoST inspected 28 busineses in Hang Bong, Hang Dao, Hang Duong, Dinh Tien Hoang, Quan Thanh streets, Hoan Kiem district, Hanoi and found that 21 businesses were trading bags, wallets, belt, telephone cases, key rings, PC cases and suit cases affixed with marks “Louis Vuiton”, “LV”, “Figure”, “LV & Figure” similar to those protected of Louis Vuitton Malletier.
After assessing bags, wallets, belt, telephone bags, key rings, PC cases and suit cases affixed with marks “Louis Vuiton”, “LV”, “Figure”, “LV & Figure” found in 21 businesses, it is concluded that those marks are quite similar to those protected for Louis Vuitton Malletier, representative of the mark owner determined that those are counterfeited products and those businesses also agreed those were not supplied by Louis Vuitton Malletier and they were not authorized distributors of such products. The inspector judged that storing products affixed with marks similar to those protected without permission of the mark owner is the activity trading of mark counterfeiting products.

The Inspectors decided to impose administrative fine to such 21 businesses with the total amount of 49,000,000 VND and confiscated and destructed all 438 products including 211 bags, 156 wallets, 39 belts, 11 mobile phone cases, 18 key rings, 02 PC cases and 01 suitcase counterfeited of Louis Vuiton”, “LV”, “Figure”, “LV & Figure” marks.
2. Food and Beverage

2.1. Active Operators:

List of active operators interviewed in the survey:

<table>
<thead>
<tr>
<th>ID</th>
<th>Organization</th>
<th>Address</th>
<th>Trading Products</th>
<th>Interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Speedy Shop</td>
<td>Binh Thanh, HCM</td>
<td>Distributor of various food and foodstuff products from Italy, Phillipin, Malaysia, Korea</td>
<td>Staff</td>
</tr>
<tr>
<td>2</td>
<td>Luna JSC</td>
<td>District 3, HCM</td>
<td>Food import and distribution</td>
<td>Mrs. Linh, staff</td>
</tr>
<tr>
<td>3</td>
<td>An Nam Food JSC</td>
<td>District 1, HCM</td>
<td>Food import and distribution</td>
<td>Mr. Duy, staff</td>
</tr>
<tr>
<td>4</td>
<td>Moo Stake Restaurant</td>
<td>Hanoi</td>
<td>Western restaurant</td>
<td>Mr. Quan, Chef</td>
</tr>
</tbody>
</table>

The most active food distributor is An Nam Fine Food JSC. Annam group is a full-service distribution company. It imports, distributes, markets, and retails premium global food, wine, cosmetics and equipment in Vietnam, Cambodia and Laos market. The company has an extensive range of products in these categories and is continually growing and adding more brands to increase its portfolio. Annam Fine Food JSC imports/searches, warehouses, and distributes products to different channels, mostly Wholesale Mass Distribution, Hotels/Restaurants/Cafes in the Indochine area, and its own Retail Stores in Vietnam. The company also distributes some Italian brands like Antirori, Prunotto, Tommasi wines, Barilla pasta and spaghetti.

Annam Group has its main depot center in Cat Lai, Ho Chi Minh City occupying 4,000 sqm to handle the storage and distribution of its 7,000 products all over Vietnam and neighboring countries. There are also two distribution platforms in the Northern and Central area of Vietnam to ensure timely distribution. The main distribution center in HCMC and that of Hanoi can accommodate products with storage requirement from 4 degree Celsius to room temperature which are sufficient for cheese, ham, wine, chocolates, and biscuits.

Findings from Italian products distributors:

Italian wine and food brand counterfeits are less popular in the local market than counterfeits of other international brands. For wine, French wine brands are imported to the country a long time ago before appearance of Italian wine brands. French wine has become very popular to majority of local consumers. Consequently, French wine brands are much attractive to counterfeiters manufacturers as it is easier to sell them in the market. For other canned food products like spaghetti, pasta and sauce, these products are western foods which are not popular to Vietnamese. Though Italian food is delicious and interested by many people, only a small portion of the population has customs of using western food daily. Main purchasers of such products are restaurants, foreigners living in Vietnam and some local people get acquainted with western life style. However, such consumers get used to shopping in supermarkets and western food shops where sources supplying products are certified and ensured.

Wine is the group of products to be counterfeited most frequently. Importers of wine always apply import-stamp (a variance of anti-counterfeit stamp) provided by the Criminal Science Institute under the MoPS like the case of imported cosmetics and eyeglasses. However, desiring attractive profit margin from trading of such counterfeits, counterfeiters even forge such import-stamps of wine to affix on their products.
Sources of counterfeits supply: Different from sources of fashion and cosmetics products, counterfeits of wine and food products are mainly processed locally. In the north, there are many localities specialized in counterfeits manufacturers like Bac Giang and Bac Ninh provinces for wine and Ha Tay (old province now merged into Hanoi) for confectionary. A case study below also describes a counterfeit case of confectionary in Hoai Duc, old Ha Tay province. In the South, Hochiminh city is the main market consuming counterfeits and also main workshop counterfeiting of wine distributed inside Hochiminh and to other regions. Suburb districts like Go Vap, Thu Duc, Cu Chi, Tan Binh, Tan Phu and Binh Thanh are troubles places of counterfeits processing and manufacturing.

Another issue of counterfeits of wine and foods is seasoning. Time around traditional Lunar New Year (“Tet”) festivals of the year is peak time of counterfeit food and wine transportation, trading and processing as the demand on such products jumps up. Every year, during such season, numerous of cases of counterfeiting are inspected and settled by the administrative authorities.

Findings from governmental agencies:

Management of counterfeits market of foods is the responsibility of multi authorities especially market management department under MoIT and provincial departments of Industry and Commerce, the MoH and border control police. Food hygiene and safety and conditions for food processing, manufacturing and trading are regulated strictly as follows:

- The MoH shall be responsible for promulgating general requirements on food hygiene and safety conditions.
- Other specialized management ministries shall, according to their assigned functions, tasks and powers for State management over food hygiene and safety, have to issue specific regulations on food hygiene and safety conditions in compliance with the regulations of the MoH and other relevant law provisions.

Food imported into Vietnam must ensure the following conditions:

- Being granted the product standard announcement certificates by the MoH.
- Having written certifications of satisfaction of food hygiene and safety requirements, issued by competent Vietnamese State agencies.

Annually, MoIT directs its provincial departments to cooperate with other related authorities, provincial departments of health and the police to strengthen supervision and settlement of counterfeits transportation, processing, manufacturing and trading during the time toward Tet festival.

2.2. Flow of supply counterfeits to market and distribution channel

2.2.1. Import

Trading of smuggled wine imported to Vietnam can creates high profit as it evades from import taxes and duties and luxury consumption taxes. Imported wine and alcohol drinking products are international prestige brands like Johny Walker, XO, Remi Martin etc and number of French wine brands. Those are popular brands to Vietnamese consumers. Italian brands as said before are not so popular that they are targeted by counterfeiting. Transportation of such products is mainly through sea, road and air way.

- Sea: Smuggled wine is transported from abroad in big vessels. While approaching local ports, smuggled wine is passed to small boats or fishing boats to hide away from supervision of border guard forces and customs.
- Road: transported mainly via Cambodia border line.
- Air way: smuggled wine are hand carried by passengers and carrier’s staff

Importation of canned food and confectionary counterfeits is not popular as it is more costly and leaves smaller margin to smugglers and counterfeits traders than processing locally. Counterfeits makers may
import low quality and cheap food and confectionary products or materials from China then pack in foreign famous brands package to sell into the market. Another issue in importation of canned food and confectionary is that importers may import out of date products and sell to the market after reaffixing the date and expiry of the products.

2.2.2. Local Production/Processing

Counterfeits of wine and food are mainly processed and produced with inputs from two sources:

- Low quality materials and packages are imported from China then processed by “ghost” factories and circulate in flee market and small food shops.
- Local manufacturers produce counterfeits from cheap local materials then pack and label with popular brands to circulate in the market.

2.3. Characteristics/identification of counterfeits

The survey focuses on the following factors to identify counterfeits of food and wine. Survey is conducted with 100 end-users to assess the trustfulness, importance and helpfulness of these factors in identifying counterfeits.

- Design: the design of label and products of counterfeits is not as the same to that of genuine products.
- Price: Imported genuine Italian food products are normally high, especially wine, due to import tax and duties. Low prices of counterfeits are attractive to some sellers and purchasers especially suppliers of restaurant, bars and catering businesses.
- Quality: High quality materials are key elements to differentiate the good taste and quality of genuine products.
- Information related to origin, manufacturers of products: Same to fashion and cosmetics products, labels of genuine products provide with full information related to brands, the country of origin, manufacturers, products specification and other information guiding operation for consumers. Information provided in counterfeited products are inconsistent, inadequate and incomplete especially information related to manufacturer’s name and contact. Besides, imported food and wine are required to have sub-label in Vietnamese providing full information related to products, manufacturer and local importer/distributor.
- Warranty service: Some prestige shops selling imported goods offer consumers to exchange the products in case there is any problem to the quality of the products within the expiry time. It is the signal of assured high quality products which is different from counterfeits trading businesses.
- Packaging and information printed on the package: Counterfeits makers always want to make materials and designing of packages of foods and wine similar to the origin products. For wine, some counterfeits makers even buy old bottles of origin wines then bottle with low quality local made wine to sell in the market under the origin brands.
- Location of shops: Original Italian food and wine are normally sold in big shops and supermarkets like Big C, Metro or big specialized shops like series of Western Canned Food Shops. People can even by such imported goods in “hang xach tay” shops. However, buying products from “hang xach tay” vendors are mainly based on consumers’ relationship or introduction of end-users and it take small portion in the market.
- Authorized distributors: Authorized distributors are trustful sources supplying genuine Italian food and wine products.
Other factors: Other factors including signs of anti-counterfeit stamps on the products, relation with the sellers and other factors that can be found in the survey.

Factors to distinguish genuine and fake food products

Data collected from survey shows that the key factors based on number of people used to identify counterfeits include:

- Information related to origin and manufacturers of products
- Warranty service and
- Packaging and information on package

Interviewees are also asked to select three key factors in identifying counterfeits. Responses from interviewees show that information related to origin and manufacturers of products is still the most important factor to indentify counterfeits.

2.4. Consumer profile of counterfeits:

2.4.1. Typical consumers:

The data is collected from 100 interview samples who are almost interested in shopping. Distribution of samples based on education level, income and other characteristics are below:

<table>
<thead>
<tr>
<th>Education level</th>
<th>Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>High school: 4</td>
<td>Low income: 19</td>
</tr>
<tr>
<td>College: 6</td>
<td>Low medium income: 36</td>
</tr>
<tr>
<td>Graduated from university: 68</td>
<td>High medium income: 41</td>
</tr>
<tr>
<td>Master: 22</td>
<td>High income: 4</td>
</tr>
</tbody>
</table>

End-users being interviewed are almost concern about the origin of products (95%), brands of the products (88%). Proportion of people interviewed interested in Italian fashion brands (81%) is less than that of food brands. It is the matter of the fact that Italian food brands are not as popular as those of fashion.
For canned food, as canned western food is not popular to majority of population, counterfeiting of such food is not attractive to counterfeit makers. Violation cases of imported canned food mainly relate to amendment of expiry date of out of date imported food. For confectionary, the main consumers for such products are low-income people living in suburb and country areas. People living in big cities like Hanoi and Hochiminh are cautious of origin and quality of foods as they are aware about low quality foods has adverse affects on their health. Consumers of counterfeits of wine are people of all ages and education level for the matter of the fact that it is hard to differentiate the counterfeits sold in the market. Niche market of wine counterfeits are bars and restaurants whose staff and even operators are willing to provide counterfeits to clients to gain high profits.

<table>
<thead>
<tr>
<th>Characteristics of typical consumers</th>
<th>Age</th>
<th>Income</th>
<th>Location</th>
<th>Sex</th>
<th>Education level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canned food</td>
<td>Undefined</td>
<td>Low</td>
<td>Suburb</td>
<td>Female</td>
<td>Low</td>
</tr>
<tr>
<td>Confectionary</td>
<td>Old</td>
<td>Low</td>
<td>Suburb</td>
<td>Female</td>
<td>Low</td>
</tr>
<tr>
<td>Wine</td>
<td>Various</td>
<td>Various</td>
<td>Everywhere</td>
<td>Male/Female</td>
<td>Low/Medium</td>
</tr>
</tbody>
</table>

### 2.4.2. Knowledge level of purchaser of counterfeits

**Statistics of interviewees’ ability in identify counterfeits**

Statistics of people capability to identify counterfeited products show that it is difficult for purchaser to differentiate counterfeits of such products. Only 35 people interviewed response they are able to identify counterfeits while the rest 65 confirmed they lack of that skill. Among food products, wine is the group most possible to be counterfeited and most difficult to differentiate counterfeits. From the survey data, the proportion of people knowing location to buy genuine Italian food products takes only 27%. There is only one person among 100 interviewees have heard about an authorized distributors of Italian food products.

**Do you know where to buy genuine Italian products**

- Yes, I do: 27
- No, I don’t: 73

**Do you know any authorized distributor of genuine Italian products**

- Yes, I do: 1
- No, I don’t: 97
- I have no idea: 2

While being asked about their attitude towards the counterfeits, 87% interviewees confirmed they are very afraid or afraid of buying counterfeited. It is the fact that food counterfeited products, especially wine are harmful to the health.
Consumers’ attitude toward counterfeits

Common methods to verify counterfeits applied by interviewees in the survey mainly are:

- Verify with friends;
- Verify with manufacturers/sellers;
- Verify via internet.

There are only two interviewees said they will verify with a state authority if they bough a counterfeited products. However, they will take such action after failure of other measures as above.

2.4.3. Practiced prices

It is the same to fashion and cosmetics products, prices of food counterfeits are various and fluctuate in high ranges depending on the locations of selling, purchasers and sellers bargaining power and fashion ability of the products. Especially for wine, wine counterfeits fluctuate from 90,000 VND to 150,000 VND per bottle in the market, however, operators of bars and restaurant can resell these products to clients with much higher prices 300,000 VND – 500,000VND.

The following charts of practiced prices below is just for reference as the number of interviewees providing the information related to prices are too small and unable to represent for the whole market.

Reference counterfeits price

2.4.4. Geographical concentration of counterfeits consumption

In the North, activities of counterfeiting manufacturing and processing are concentrated complicatedly in trade villages whose traditions are manufacturing such products. It is also a trouble for state authorities in inspection and settlement on counterfeiting as such activities are set in silence when local management officers are relatives of counterfeiting makers.
Wine: Some traditional villages in Bac Giang and Bac Ninh, provinces neighboring to Hanoi have long time working in wine processing industry. They are also sources supplying alcohol and wine for processing counterfeits. Inside Hanoi, the main source supplying alcohol for processing counterfeited alcohol is Thanh Oai, a district belonging to old Ha Tay.

Confectionary: Thanh Tri, Hoai Duc and other districts are localities concentrated with confectionary counterfeiting. A case study given below is an example of counterfeiting in Hoai Duc district that was settled by the Inspectors of MoST and Hanoi Police.

In the South, Hochiminh city is the crowd city most concentrated with counterfeiting activities. It is also the fruitful market for such products as a large proportion of the population are low income and low educated. Besides, the habit of eating outside of Hochiminh residents also creates conditions for consumption of counterfeits in bars, restaurants, especially wine and alcohol products.

Allocation of counterfeits sources in the vicinity of Hanoi
2.4.5. Brands objected to falsification

The survey targets on 3 Italian wine brands (Zonin, Antinori Santa Cristina and Bersano), a Spaghetti brand (Barilla), 3 confectionary brands (Mulino Bianco, Perfetti Van Melle) and Ferrero) and 6 canned food brands (Novi, Annalisa, Cirio – De Rica, Sacla, Nostromo and Riomare). It is the fact that the more popular of the brand, the more possibility it would be target of counterfeiting activities.
The level of popularity applied by analyst in this report is also based on the different between the possibility of positive judgment and possibility of negative judgment of interviewees in respect of the popularity of a brand as in the fashion and cosmetics products.

It is found that Perfetti Van Meller is the most popular brands in the market. Barrila is the top second popular one. Other name and trade marks are quite unpopular in the consumers’ awareness with the number of people responding it is scarcity and they haven’t heard about that overwhelms the number of people responding it is popular or very popular.

It is the same to judgment of surveyors when screening counterfeits market. Perfetti Van Meller products names and trade marks are the only one objected to counterfeiting in the market. Some factors reasoning this fact are as follows:

- People are more cautious about food origins and brands;
- Western food brands, especially canned food are less popular in the markets than other products.
- Italian food and wine brands are less popular than other European and American food brands;
- State control over counterfeiting of foods and wine is strict with many regulations on conditions of manufacturing, processing, circulating of foods.

<table>
<thead>
<tr>
<th>Exposures to counterfeiting</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
<th>Extremely high</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zonin (wine)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antinori Santa Cristina (wine)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bersano (wine)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barilla (spaghetti)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mulino Bianco (biscuit)</td>
<td></td>
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</tr>
<tr>
<td>Perfetti Van Melle (Chupa Chups, Alpenliebe, Golia)</td>
<td></td>
<td></td>
<td>●</td>
<td></td>
</tr>
<tr>
<td>Ferrero (Ferrero Rocher, Raffaello, Mon Cherie)</td>
<td></td>
<td></td>
<td></td>
<td>●</td>
</tr>
<tr>
<td>Novi</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annalisa (beans)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cirio – De Rica (sauce)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sacla (olive)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nostromo (tuna fish)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Riomare (canned fish)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2.5. **Case Study**

**Case in brief**

In 2010 Inspectors of Ministry of Science and Technology settled the violation of marks “Alpenliebe & Figure” protected for Perfetti Van Melle SPA (Italy). The business engaged in counterfeiting activity is Tien Thanh Phat Food Processing and Trading Ltd in Hoai Duc district, suburb of Hanoi. Hoai Duc is the trouble place manufacturing and processing counterfeited confectionary and low quality products in Hanoi.

**Marks/Trade marks**

“Alpenliebe & Figure”.
Perfetti Van Melle SPA (Italy) is the owner of Certificate of Trade Mark Registration No. 31426 protecting trade mark “Alpenliebe & Figure” (including colors) for products of group 30: coffee, tea, cocoa, sutar, rice, confectionary, candy, cream, honey.

On 25 Jan, 2010, Inspectors of Ministry of Science and Technology received request from the Department of Inspection of Crimes related to Economic and Position Management under Hanoi Public Security to settle violation of Tien Thanh Phat Food Processing and Trading Ltd. The Company had produced caramen milk candy labeled Applebe & Figure in violation of mark “Alpenliebe & Figure” protected for Perfetti Van Melle SPA.

Based on the information and evidences provided by the Department of Inspection for Crimes related to Economic Stability and Position Management (PC 15), the Head Inspector of Ministry of Science and Technology approved the examination of Tien Thanh Phat Ltd using Applebe & Figure in label of candy in violation of Alpenliebe & Figure mark. Based on the document provided by PC 15, at the time of inspection, there are 30 barrels of candy labeled Applebe & Figure (around 240 kg); 06 rolls of nylon used for packaging and 50 cartons printed with Applebe & Figure.

Conclusion

After assessing mark Applebe & Figure in the label of candy produced by Tien Thanh Phat Ltd, the inspector concluded that figure and letter on the mark are structured and arranged in combination with colors that can cause confusion with mark Alpenliebe & Figure protected for Perfetti Van Melle SPA (Italy) in Vietnam. This could affect the consumers to distinguish between the candy produced by Tien Thanh Phat Ltd and those of Perfetti Van Melle SPA. This is the action of violation of mark.

Enforcement

The Inspectors decided to impose administrative fine to Tien Thanh Phat Ltd with the total amount of 4,800,000 VND and compel to remove infringement elements of “Applebe & Figure” labeled on 30 candy barrel (270 kg); 06 rolls of nylon (24 kg) and 50 cartons containing candy.
3. Machinery

3.1. Active Operators:

Market of industrial machinery, parts and components are various and complexity. The survey just focuses on some types of machines (pumps, hinge, cutting machines and saw blades) and the market of automobiles and parts. Active operators are interviewed include:

<table>
<thead>
<tr>
<th>ID</th>
<th>Organization</th>
<th>Address</th>
<th>Products</th>
<th>Interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Trung Nguyen Trading and Technology Ltd</td>
<td>District 11, HCM</td>
<td>Caprari, Pentax pumps</td>
<td>Le Thanh Binh, Director</td>
</tr>
<tr>
<td>2</td>
<td>Dan Hung Trading Co.</td>
<td>Tan Binh, HCM</td>
<td>Pumps and other industrial machines</td>
<td>Ms. Ngo Thi No, staff</td>
</tr>
<tr>
<td>3</td>
<td>Bavico. Ltd</td>
<td>District 1, HCM</td>
<td>Pentax pump, FGV interiors equipment</td>
<td>Hoang Minh Trung, Director</td>
</tr>
<tr>
<td>4</td>
<td>Thanh Dat Ltd</td>
<td>Cu Chi dist, HCM</td>
<td>Automobile</td>
<td>Mr. Thinh, Owner</td>
</tr>
<tr>
<td>5</td>
<td>SaPa Automobile Ltd</td>
<td>Binh Thanh dist, HCM</td>
<td>Vespa scooters</td>
<td>Luong Minh Doan, Sale staff</td>
</tr>
<tr>
<td>6</td>
<td>Duc Thinh Automobile Ltd</td>
<td>Hai Ba Trung dist, Hanoi</td>
<td>Automobile parts</td>
<td>Tran Thinh Duc, Owner</td>
</tr>
<tr>
<td>7</td>
<td>Binh Duong Automobile Interior and Parts shop</td>
<td>Hai Ba Trung dist, Hanoi</td>
<td>Automobile parts and interior equipment</td>
<td>Ho Thanh Binh, Sale Manager</td>
</tr>
<tr>
<td>8</td>
<td>Topcom JSC</td>
<td>Hai Ba Trung dist, Hanoi</td>
<td>Vespa scooter</td>
<td>Le Trieu Han, Sale Manager</td>
</tr>
<tr>
<td>9</td>
<td>Topcom JSC</td>
<td>Hai Ba Trung, Hanoi</td>
<td>Vespa scooter</td>
<td>Nguyen Tri Tuan, Sale Manager</td>
</tr>
<tr>
<td>10</td>
<td>LISHA Ltd.</td>
<td>Hoang Mai, Hanoi</td>
<td>Motorbike parts</td>
<td>Quan Anh Lien, Director</td>
</tr>
</tbody>
</table>

Among machinery products targeted of the survey, Italian pumps brands like Pentax, Caprari are most famous and popular in local market. Other machines and components like hinge, saw blades are less popular. It is very hard to find distributors and traders of such products in the market.

For automobile market, though Vietnam population is very high, consumption of cars and automobiles are mainly concentrated in big cities like Hanoi and Hochiminh. The main transportation vehicle on the roads is motorbike. In consideration of motorbike market, Honda manufacturers of Japan has take the biggest market share from high class scooter to cheap motorbikes affordable to medium and low income people. In the view of local consumers, Vespa scooters of Piaggio are considered stylist and prestige ranges of motorbikes. For parts and components of cars, main Italian exporters are Parnti S.R.L, Intensa Sanpaolo SPA, Nencini group, Fiat Automotive Genuine Parts.

3.2. Flow of supply counterfeits to market and distribution channel

3.2.1. Import
Counterfeits of pumps and other industrial machinery and parts are imported mainly from China. Smugglers can imported completed knock down units and sell in the market or import parts and components from China and process and assembly domestically and sell to the market. China is the main market supplying automobiles parts and components counterfeits. Besides China, Lao, Thailand and Cambodia are also territories supplying counterfeits to the local market. Transportation via land road is the main transportation method for counterfeits from China, Lao and Cambodia as the long border line with Vietnam. Another selection of transportation for such product is by sea, mainly via Hai Phong, Nghe An and Hochiminh Ports.

In assessment of main operators interviewed in the survey, it is easy to find suppliers of parts and components counterfeits as number of such suppliers are abundant. Suppliers can approach directly with traders and sellers of such products. Sellers of such products normally do not check the production capability of manufacturers.

3.2.2. Local Production/Processing
Manufacturers of industrial machines, parts and components are hard to some local manufacturers as it required relative high technology. Main method of processing counterfeits in local market as follows:

- Import main parts and components (engine and other complex parts) counterfeited from China then assemble with other local made parts to make completed products and sell to the market.
- Purchase liquidated machines, parts and components with errors or failure that does not pass quality check from local manufacturers then fix and repair to work orderly before selling to the market.
- Make-up, repair and fix old machines, parts and components to make them as new and properly working ones.

3.3. **Characteristics/identification of counterfeits**

Identification of counterfeited machines, parts and components are difficult required purchasers have special knowledge and expertise related to the products. Engineers and technicians are smart consumers of such products. The following factors are assessed to evaluate its affect in identification of counterfeits of

- Design: distinguish between the perfect design of genuine Italian products and uncomfortable, flaw design of counterfeits
- Price: Counterfeits are offered with lower prices due to evasion from import taxes and other duties and low cost in manufacturing.
- Pattern: Pattern of designing, material processing on genuine products is fine, keen as the result of high tech processing machine and high quality materials.
- Material: Materials used in genuine products are normally high quality materials.
- Information related to origin, manufacturers of products: Normally, Italian products tags provides with full information related to brands, the country of origin, manufacturers, products specification and other information guiding operation for consumers. Information provided in counterfeited products is inconsistent, inadequate and incomplete.
- Warranty service: Warranty service is very important in machines, parts and components trading.
- Packaging and information printed on the package. This factor is not a key factor in identification of counterfeits but a supporting factor that can be used in combination with other factors.
- Product catalogues: Products catalogues provide important information related to utilization, operation and maintenance of machines, parts and components. For some products, catalogues and manuals are integrated accessories in supplying product.
- Fame of distributors/traders: Trading of machines, parts and components requires trustfulness and confidence of trader. Purchasers always find prestige distributors/traders to ensure the quality and origin of products.
- Authorized distributors: Authorized distributors of machines, parts and components are trustful source supplying genuine products.
- Other factors: Other factors including signs of anti-counterfeit stamps on the products, relation with the sellers and other factors that can be found in the survey.

Among the above mentioned factors and based on assessment of specialists, the key factors assisting in identification of counterfeits are:

- Materials producing the products
- Patents and design of the machines, parts and components
- Information related to origin and manufacturers of the products
3.4. Consumer profile of counterfeits:

3.4.1. Typical consumers:

<table>
<thead>
<tr>
<th>Characteristics of typical consumers</th>
<th>Age</th>
<th>Income</th>
<th>Location</th>
<th>Sex</th>
<th>Education level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automobiles</td>
<td>Medium/young</td>
<td>Medium and low</td>
<td>Suburb</td>
<td>Male</td>
<td>Low/Medium</td>
</tr>
<tr>
<td>Machines, parts and components</td>
<td>Various</td>
<td>Various</td>
<td>Undefined</td>
<td>Male</td>
<td>Low/Medium</td>
</tr>
</tbody>
</table>

3.4.2. Knowledge level of purchaser of counterfeits

Counterfeits of machines, parts and components causes many troubles to end-users in utilization, and operation. Purchasers normally base on their experience and knowledge to differentiate counterfeits. Main reasons of purchasing counterfeits are follows:

- Lack of experience and knowledge to differentiate between the genuine and the counterfeited products;
- Cheap prices of counterfeits are attractive to some low-income consumers.
- To supply machines, parts and components to projects or works financed by state budgets.

3.4.3. Practiced prices

Normally, prices of counterfeits are 20% to 50% lower than the price of official authorized distributors. Take an example of Piaggio in the Case Study, the price of Vespa scooter LX of Piaggio Vietnam is 70 million VND while Diamond Blue scooter of a local manufacturer replicating the design of Piaggio is only 50 million VND.

3.4.4. Geographical concentration of counterfeits consumption

In Hanoi and Hochiminh cities, there are some flee markets specialized in machines, parts and components. Those are ideal locations for trading and distribution of counterfeits machines, electric and electronics equipment as well as parts of automobiles.

In Hanoi, the street of Tran Nhat Duat in Hai Ba Trung street is the area exciting with trading of parts and components of motorbikes and automobiles including counterfeits, smuggled products and products supplied by thieves. Flee market in Thinh Yen street is the famous market selling all kind of machines, parts and components and motobike’s parts. Concentration of counterfeits trading and manufacturing in Hochiminh city is more complex as the geographical area is more wide and higher population condensity. Main streets concentrating with counterfeits trading of such products are To Hien Thanh and Ly Thuong Kiet and some areas in Tan Binh, District 4 and District 5.

3.4.5. Brands objected to falsification

<table>
<thead>
<tr>
<th>Possibility of being counterfeited</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pentax</td>
<td></td>
<td></td>
<td>●</td>
</tr>
<tr>
<td>Caprari</td>
<td>●</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Company</td>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>-------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jet</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sear</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>UFP²</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FGV</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Freud Pozzo</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inveco</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fiat</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piaggio</td>
<td>•</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MW</td>
<td>•</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 3.5. Case Study

**Case in brief**
Currently, industrial design of a range of motobike is a controversial topic in IP community in Vietnam. The story is that Vespa LX of Piaggio is very famous in the market for number of years in Vietnam and is considered high – class motorbike interested by Vietnamese high-income and young people. Since mid 2009, Vietnamese consumers could select Vespa LX motorbikes produced by Piaggio Vietnam besides those imported from Italy or from a third country. However, by September of 2010, a new motorbike brand appeared under the name Diamond Blue with design exactly similar to Vespa LX but manufactured by Vinashin Machines and Motorbike Company, a local company surprising both consumers and Piaggio Vietnam. It is silently agreed that Diamond Blue industrial design is a copy of Vespa LX but the matter of fact that Piaggio has not registered Vespa LX industrial design with any authority for protection. Consequently, Piaggio has no evidence to claim for any measures to stop production of Diamond Blue. Their rights, profits and interest in utilization, production and trading of such famous industrial design are in risk of infringement or even loss. This is an expensive lesson for Piaggio and any investor wishing to invest in Vietnam to take all necessary measures and actions to protect their intellectual property rights at the highest priority.

**Industrial Design**
Motorbike industrial design

**IPRs owner**
In controversy

**Parties in dispute**
Piaggio Vietnam Company Ltd and Vinashin Machines and Motorbike Company (“local company”)

**Details**
In 2007, Piaggio Group, the Italian famous motorbike manufacturer was approved to invest in a factory producing motorbike in Vietnam with total investment amount of 30 million USD. The factory commenced its operation in June, 2009 and planned to produce more than 100,000 Vespa scooters per year in full capacity. By end of September 2010, the factory had supplied 50,000 products to the market.

² Though there is no information related to counterfeits of Italian cutting tool brands, counterfeits of such products of other international brands have been inspected by state authorities like Apex (sawblade) and Husquavina (sawing machine). These violation has been settled by Inspectors of MoSC in 2010.
Also by end of September 2010, Vietnamese consumers were surprised by a new range of motorbike with the same design to Vespa LX in many colors, yellow, black, blue, cyan etc. It is advised that the products are assembled from parts and components imported from China, engine imported from Honda China. The price of this product of around 50,000,000 VND is very reasonable and affordable to many Vietnamese people and much cheaper than that of Vespa LX 125, around 70,000,000 VND.

Immediately, Piaggio Vietnam requested state authorities to inspect infringement of industrial design of its Vespa LX by the local company. Piaggio confirmed that Diamond Blue has no connection with Piaggio and Vespa LX manufactured and distributed by Piaggio Vietnam.

At the same time, the local company also informed in mass media that they assemble Diamond Blue from parts, components and engine imported from Shanghai Sundiro Honda Motorcyle, a Honda’s factory located in China. The local company reconfirmed that though their product’s design was similar to that of Piaggio, they were employing the industrial design legally and properly as they had registered the design of Diamond Blue with Vietnam NOIP.

Vietnam NOIP, VIPRI and Vietnam Register Agency ("VR") are state bodies requested to assess and settle the disputes. Vietnam Register Agency agreed that the Diamond Blue production was registered with Vietnam Register Agency in accordance with legal regulations. Vietnam NOIP, at request of VR also confirmed that Piaggio had not been granted certificate of intellectual property registry for its Vespa LX. VIPRI, a third independent body responsible for assessment of IPRs infringement also provided an assessment conclusion that there was not evidence of infringement of local company in production and trading its Diamond Blue.

Vespa LX of Piaggio

![Vespa LX of Piaggio](image1)

Diamond Blue of local company

![Diamond Blue of local company](image2)

Though Vespa LX industrial design is a well-known property of Piaggio, all three Vietnamese state authorities involved in IPRs protection, NOIP, VIPRI and Vietnam Register Agency have no foundation to protect Italian company. It is a regretful story of Piaggio who has invested a lot of money in brand and image promotion and building but forgot to take any action to protect its property.
## 4. Household Articles

### 4.1. Active Operators:

<table>
<thead>
<tr>
<th>ID</th>
<th>Organization</th>
<th>Address</th>
<th>Products</th>
<th>Interviewee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ferroli Indochina Ltd</td>
<td>Quoc Oai dist, Hanoi</td>
<td>Water heater</td>
<td>Dang Thi Hoai, Import Dept Head</td>
</tr>
<tr>
<td>2</td>
<td>Chicco Shop</td>
<td>Hoan Kiem dist, Hanoi</td>
<td>Chicco Toys</td>
<td>Sale staff</td>
</tr>
<tr>
<td>3</td>
<td>Soc &amp; Brother shop</td>
<td>Hoan Kiem dist, Hanoi</td>
<td>Toys of Munchkin, Canpol babies, Fisher Price</td>
<td>Sale staff</td>
</tr>
<tr>
<td>4</td>
<td>BG Home</td>
<td>District 1, HCM</td>
<td>Kitchenware tools</td>
<td>Sale staff</td>
</tr>
<tr>
<td>5</td>
<td>Nguyen Kim Mart</td>
<td>District 1, HCM</td>
<td>Water heater</td>
<td>Sale staff</td>
</tr>
<tr>
<td>6</td>
<td>Bellavita Ltd</td>
<td>District 1, HCM</td>
<td>Chicco toys</td>
<td>Mrs Diem, Staff</td>
</tr>
<tr>
<td>7</td>
<td>Chicco shop</td>
<td>HCM</td>
<td>Chicco toys</td>
<td>Sale staff</td>
</tr>
<tr>
<td>8</td>
<td>Tan Hiep Phu Ltd</td>
<td>HCM</td>
<td>Household articles</td>
<td>Sale staff</td>
</tr>
<tr>
<td>9</td>
<td>Smart House JSC</td>
<td>HCM</td>
<td>Bticino electric equipment</td>
<td>Mr. Son, Technician</td>
</tr>
<tr>
<td>10</td>
<td>TD&amp; Sons Ltd</td>
<td>HCM</td>
<td>Kitchenware tools</td>
<td>Distribution Dept</td>
</tr>
</tbody>
</table>

Italian water heaters with two brands of Ariston and Ferroli are overwhelming in Vietnam market. Those are famous and popular brands in view of Vietnamese consumers. Home appliance and kitchenware markets are various in types, categories, specification, brands, country of origin. There are some prestige supermarket specialized in selling home appliance apparatus and machines like Nguyen Kim (Hanoi and Hochiminh), Pico, Caring where consumers are confidence in sources of supply, after-sales services and warranty services. Besides, there are numerous small marts selling home appliance. Some of them can allow counterfeits and low quality products to get higher profit margin.

Using imported high quality toys is a trend in young and relative high income parents who wish to save the best for their children. Trudi and Chicco brands are now familiar with many people from feeding products to toys. Such products are normally sold in shops and marts specialized for maternal and pediatric consumers. Italian toys brands are normally presented in high-class marts or shops in luxury shopping centers.

### 4.2. Flow of supply counterfeits to market and distribution channel

#### 4.2.1. Import

Similar to machinery products, water heater, kitchen ware and home appliance apparatus counterfeits are imported mainly from China. Smugglers can imported completed knock down units and sell in the market or import parts and components from China and process and assembly domestically and sell to the market.
Based on information from interviewed with manufacturers and distributors of water heaters, though Ariston and Ferroli both have factory manufacturing water heaters in Vietnam, they still imports products to sell in the market for some ranges of products which are not produced locally. However, such products are not imported directly from Italy but from a third country like China, Singapore and Malaysia. It is unable to assure that all such imported products are genuine.

Besides toys imported directly from Italy by main importer like Bella Vitta, they are also imported from China. Importers may order manufacturers of toys in many famous brands of the world like Chicco, Trudi and Fisher Price even though such products are not allowed to export to Vietnam market.

4.2.2. Local Production/Processing

Manufacturers of water heaters, kitchenware and home appliance electric apparatus can fake the products in the following way:

- Import main parts and components (engine and other complex parts) counterfeited from China then assemble with other local made parts to make completed products and sell to the market.
- Purchase liquidated machines, parts and components with errors or failure that does not pass quality check from main local manufacturers then fix and repair to work orderly before selling to the market.
- Make-up, repair and fix old machines, parts and components to make them as new and properly working ones.

4.3. Characteristics/identification of counterfeits

Factors are assessed to evaluate its affect in identification of counterfeits are the same to factors for automobiles and machinery including design, price, pattern and material, information related to origin, manufacturers of products, warranty service, packaging and information printed on the package, product catalogues, fame of distributors/traders and authorized distributors:

Among the above mentioned factors and based on assessment of specialists, the key factors assisting in identification of counterfeits are:

- Materials producing the products
- Information related to origin, manufacturer of product
- Trustful shops, supermarkets

4.4. Consumer profile of counterfeits:

4.4.1. Typical consumers:

<table>
<thead>
<tr>
<th>Characteristics of typical consumers</th>
<th>Age</th>
<th>Income</th>
<th>Location</th>
<th>Sex</th>
<th>Education level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water heater</td>
<td>undefined</td>
<td>Low</td>
<td>Suburb</td>
<td>Male</td>
<td>Low</td>
</tr>
<tr>
<td>Home appliance</td>
<td>Medium/old</td>
<td>Low/Medium</td>
<td>Suburb</td>
<td>Female</td>
<td>Undefined</td>
</tr>
<tr>
<td>Kitchenware</td>
<td>Medium/old</td>
<td>Low/Medium</td>
<td>Undefined</td>
<td>Female</td>
<td>Undefined</td>
</tr>
<tr>
<td>Toys</td>
<td>Medium/old</td>
<td>Low/Medium</td>
<td>Undefined</td>
<td>Female</td>
<td>Low</td>
</tr>
</tbody>
</table>

4.4.2. Knowledge level of purchaser of counterfeits
Main reasons of purchasing household counterfeits are follows:

- Lack of experience and knowledge to differentiate between the genuine and the counterfeited products;
- Cheap prices of counterfeits are attractive to some low-income consumers.
- Counterfeits does not causes
- To supply machines, parts and components to projects or works financed by state budgets.

4.4.3. Practiced prices

Normally, prices of counterfeits are 20% to 50% lower than the price of official authorized distributors.

4.4.4. Brands objected to falsification

<table>
<thead>
<tr>
<th>Possibility of being counterfeited</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ariston</td>
<td>●</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Elica</td>
<td>●</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bticino</td>
<td>●</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trudi</td>
<td>●</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chicco</td>
<td>●</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Besides the above target of the survey, it is found from the survey that Italian furniture brands are objects exposed to counterfeiting. There are many Italian furniture brands exhibited in Me Linh Plaza and other furniture shops in Hanoi and Hochiminh like Nieri, Bardi, Italsofa, Giormani. Majority of such products are imported from Guang zhou, Zhejiang provinces of China.

4.5. Case Study

In 2008 Inspectors of Ministry of Science and Technology settled the violation of marks “Magic Bullet & Figure” protected for Homeland Housewares (USA). The Inspector decided to fine Tri Phuc Ltd, a local company engaged in counterfeiting activities, storing and trading of counterfeited multi purpose grinders labeled “Magic Bullet & Figure”. All counterfeited products were destructed and the violator was fined nearly 70,000,000 VND.

Homeland Housewares (USA) was granted the Certificate of Trade Mark Registration No. 111380 protecting trade mark “Magic Bullet & Figure” for products of group 07: electric fruit pressing machines, dish washing machines and washing machines.

On 12 Dec, 2008, Inspectors of Ministry of Science and Technology received request from the Department of Inspection of Crimes related to Economic
Stabilization and Position Management under Hanoi Public Security to settle Tri Phuc Ltd who engaged in storing and trading of counterfeited multi-purpose grinding machines labeled with “Magic Bullet & Figure” mark protected for Homeland House wares. The counterfeited products were sold at 1,200,000 VND which is 700,000 VND lower than genuine product price.

Based on the information and evidences provided by the Department of Inspection for Crimes related to Economic Stability and Position Management (PC 15), the Head Inspector of Ministry of Science and Technology approved the inspection of Tri Phuc Ltd storing and trading multi-purpose grinding machines labelled with “Magic Bullet & Figure”. Inspectors found 176 parts of multi-purpose grinding machines (mills with engines) marked “Magic Bullet & Figure” and 176 operating manuals of grinding machines marked with “Magic Bullet & Figure”.

<table>
<thead>
<tr>
<th>Counterfeited Product</th>
<th>Genuine Product</th>
</tr>
</thead>
<tbody>
<tr>
<td>After assessing mark “Magic Bullet &amp; Figure” in the parts of grinding machine (mills and engines) stored by Tri Phuc Ltd, the inspector concluded that the marks on products at Tri Phuc’s store are similar to that protected for Homeland House wares under the Certificate of IP Registry 111380 for products of group 07. The company’s storing and trading of such products without permission of Mark Owner shall cause confusion for consumers of manufacturer of products. This is the action of violation of mark.</td>
<td></td>
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<tr>
<td>The Inspectors decided to impose administrative fine on Tri Phuc Ltd with the total amount of 69,168,000 VND, confiscate for destruction of all 176 parts and components (mills and engines) marked with “Magic Bullet &amp; Figure”, 176 operation manual labeled “Magic Bullet &amp; Figure”.</td>
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III ACTIVE GOVERNMENTAL ACTIONS FOR THE FIGHT TO COUNTERFEITS, WITH A FOCUS ON ITALIAN PRODUCTS AND ITS REAL EFFECTS

1. Legislation and national programs on anti-counterfeiting activities

1.1. Legislation on anti-counterfeits

1.1.1. IPRs establishment:

The Law on Intellectual Property in 2005 and its amendments and supplements in 2009 is the highest legal regulations on intellectual property rights establishment and other relevant issues. The Law is guided for implementation by number of Decree including, Decree 103, 105 and 106 promulgated in 2006 and Decree 97 issued in 2010 by the Government.

1.1.2. Measures against counterfeits:

In order to satisfy conditions for joining WTO and to create a more safe market for foreign investors, Vietnamese Government and management authorities are striving to take measures against counterfeits. Measures employed by the Government include measures for long-term actions or urgent measures depending on the necessary of the real conditions. Based on the direction of the Government, lining ministries and local government shall promulgate relevant measures for implementation at central and provincial levels. Main legal documents governing this issue include:

- Directive 28/2008/CT-TTg in 2008 of the Prime Minister on a number of urgent measures against counterfeit and poor-quality goods.
  
  In the directive, Vietnam Prime Minister requests the ministers and head of ministry-equivalent offices, organizations of the government, chairperson of provinces at various levels as well as enforcement agencies to implement immediately 8 urgent measures to fight against counterfeiting activities: (1) strengthening their awareness of advantages of anti-counterfeiting activities; (2) in the impending time, applying necessary strong measures against counterfeiting activities of fertilizers, vegetable protection, veterinaries, animals’ foods, variations of plants and animals, pharmaceuticals, cosmetics and foodstuff. Authorizes Minister of Industry and Trade (“MOIT”) cum Director of National Directive Commission of Fighting Against Smuggling, Counterfeit and Trade Fraud (“NACC”) to coordinate with Ministries of Agriculture and Rural Development (“MARD”), Health (“MOH”), Science and Technology (“MOST”), Public Security (“MOPS”) and other related ministries to apply measures from now to the end of 2008 in order to prevent and to handle smuggling and counterfeiting activities; (3) the Ministry of Justice to coordinate with MOIT and National Anti-Counterfeiting Commission and related ministries to check the existing legal regulation system and propose the Prime Minister to issue necessary legal regulations on anti-counterfeiting actions; (4) the Ministry of Finance directs the customs force to strengthen the supervision and check of import, export goods and to handle infringing, counterfeiting goods; (5) market management agencies coordinate closely with each other to carry out better anti-counterfeiting actions; (6) private sector and rights owners comply with the laws on registration of IP rights, labeling regulations, etc; (7) mass media organizations publish policies and directives of the Prime Minister and Ministries on the anti-counterfeiting actions and measures; (8) MOIT to make report on anti-counterfeiting and anti-smuggling activities after 10 years of implementation of Directive 31/1999/CT-TTg dated 27 October 1999 on fighting against counterfeiting activities.

- Resolution 03/2008/NQ-CP in 2008 on action plan in the period of 2007-2011
The Resolution defines that Anti-Counterfeiting Actions and Consumers Protection are the two components of the Government’s 2007-2011 Action Plan, authorized to the MOIT to complete within the year 2008.

- Decree 105/2006/ND-CP detailing and guiding the implementation of a number of articles of the law on intellectual property on protection of intellectual property rights and on state management of intellectual property;
- Directive 03/CT-BCT in 2010 on enhancement supervision and control to stabilize market and prices before, in and after the Lunar New Year of 2010;
- Decision 36/2010/QD-Ttg in 2010 on promulgation of regulation on coordination of quality control of goods;
- Decree 105/2006/ND-CP detailing and guiding the implementation of a number of articles of the law on intellectual property on protection of intellectual property rights and on state management of intellectual property;

The Regulation sets forth the regulations of cooperation between the state competent authorities (inspectors, police, customs offices, market management agencies) in inspection of quality of goods and finding of counterfeits. The Regulation provides the terms of “convening state authority” and “coordinating state authority”.

- Dispatch No. 6142/VPCP-V.I in 2007 on enhancement of measures against fake products being drugs and cosmetic;
- Dispatch No. 44/BCD-QLTT in 2008 on implementation of some urgent remedies to fighting against counterfeits, low quality goods as stipulated in Directive 28/2008/CT-Ttg;

1.1.3. Identification of counterfeit and infringement of marks/trademarks:

Identification of counterfeit and infringement of marks/trademarks is a difficult technical aspect of anti-counterfeiting that is regulated detailing in the Law on Intellectual of Property and its guiding regulations, Decree 103, 105 and 97. Decree 105 detailing and guiding the implementation of a number of articles of the law on intellectual property on protection of intellectual property rights and on state management of intellectual property defines elements of marks/trade name infringements.

An infringing element of a mark/trade name is a sign affixed on goods, their packages, means of services, transaction documents, signboards, means of advertising or other means of business that is identical or confusingly similar to the protected mark/ trade name.

The basis for determination of an infringing element of a mark/trade name is the scope of protection of the mark including the mark specimen and a list of goods and services in the mark registration certificate or the certificate of protection in Vietnam of internationally registered mark and is the scope of protection of the trade name that is determined on the basis of evidence of the lawful use of the trade name, specifying the business owner, business establishment, business activities and products or services bearing the trade name.

Principles for determination of damage is actual losses including both physical and spiritual losses directly caused to the intellectual property right holder by acts of intellectual property right infringement

Additionally, some other measures applied to determination of violation of marks and trademarks and counterfeits are specified in the following regulations:
Decree No. 89/2006/ND-CP on labeling of goods circulated in Vietnam territory, imported and exported goods;

Circular No 93/2010/TT-BTC in 2010 guiding on determination of actions of administration violation in finance field which are actions of smuggling, commercial fraudulent and fake.

More specific guidance on administrative violations in the financial field with respect of smuggling, trade fraud and counterfeiting acts is provided in 2010 Circular 93 of the Vietnam Ministry of Finance on 28 June 2010, which help Vietnam government enforcement agencies to determine such violations for punishments. Some violations as guided on smuggling, trade fraud and counterfeiting acts are “export, import of goods without labels, brands, trademarks as stipulated under law; import, export of goods of forged origin; change of package, labels, brands, trademarks of goods being under supervision of customs office; sale of goods being under supervision of customs office; sale, purchase, transport of import/export goods without legitimate vouchers; dispersing, destroying or discarding goods for evading inspections, supervision of customs offices” etc.

1.1.4. Enforcement of IPRs violation and counterfeits

A) Domestic Enforcement
Enforcement of IPRs violation and counterfeits is conducted by administration measures or by courts. The advantages of administrative measures are time saving and simple procedure. However, the owners of IPRs are unable to claim for compensation against losses and damages caused by violation actions. In order to claim for such losses, IPRs owners may sue to a civil or crime courts depending on the seriousness of violation actions.

Administration procedures and measures are regulated in the following documents:

- Ordinance on administrative sanction in 2002 and its amendment and supplement in 2008
- Circular 12/2008/TT-BCT of October 22, 2008, guiding the order of and procedures for the market management offices to receive and accept for settlement petition for handling of administrative violations in the domain of intellectual property;
- Decree No. 97/2010/ND-CP on administrations to confiscate illicit profits from industrial property infringements;
- Decree 128/2008/ND-CP in 2008 providing details for implementation of several article of the Ordinance on administrative sanction and its amendment and supplement in 2008.
- Circular No. 12/2010/TT-BTC in 2010 guiding the handle of commodities, products in administrative violation

Court enforcement procedures and:

- The Civil Procedure Code in 2004
- The Law on Enforcement of Civil Judgments in 2008
- The Criminal Code in 2003 and its amendments and supplements in 2009
- The Crime Procedure Code in 2003
- Decree No. 120/2005/ND-CP in 2005 on settlement of violation in competition
B) Border Control

- The Law on Customs in 2001 and its amendments and supplements in 2005
- Decree No.97/2007/ND-CP in 2007 on sanctions of administrative violations and enforcement for execution of administrative decisions in filed of customs.
- Decree No. 103/2006/ND-CP in 2006, detailing and guiding the implementation of a number of articles of the law on intellectual property;
- Decree No. 106/2006/ND-CP in 2006, providing for sanctioning of administrative violations in the domain of industrial property;
- Joint Circular No. 129/2004/TTLT/BTC-BKHCN dated December 29, 2004 of the Ministry of Finance and the Ministry of Science and Technology providing guidelines on implementation of measures for border control of industrial property rights in import or export goods;
- Decree no. 154/2005/ND-CP in 2005, detailing the implementation of a number of articles of the customs law regarding customs procedures and supervision;
- Decision No.916/QD-TCHQ in 2008 of General Customs Department promulgating Regulations on receiving requests for checking import and export goods related to intellectual property;

*This Decision stipulates the receipt and handling by the customs offices of requests on control of export, import goods in connection with intellectual property. The requests include: Requests for applying inspection, supervision of import, export goods which are related to intellectual property and Requests for temporary suspension of customs procedure to import, export goods which are related to intellectual property.*

*This Decision sets out list of and requirements on documents to be submitted to the customs offices under a specific Request as well as duration for handling a specific Request.*

1.1.5. **Governmental agencies and independent bodies involved in anti-counterfeiting activities:**

Functions, tasks, powers and organization structure of governmental agencies and independent bodies involved in anti-counterfeiting activities are regulated in series of legal documents as follows:

- Decision No. 127/2001/QD-TTg in 2001 and its amendment under Decision No. 28/2008/QD-TTg in 2008 on the establishment of the Steering Committee for prevention of smuggling, counterfeits and trade frauds and its organization;
- Decision 28/2008/QD-TTg dated 14 February 2008 on amendment of, addition to Decision 127/2001/QD-TTg dated 27 August 2001 on the organizational structure of NACC.

*The NACC consists of a Director being the Minister of MOIT and a Vice Director being a Vice Minister of MOIT will be in charge of fighting against smuggling, counterfeits and trade frauds. Members to the NACC are representatives from MOPS, Ministry of National Defense (“MOND”), Ministry of Finance (“MOF”), MOST, MARD, MOH, Ministry of Culture, Sports and Tourism (“MOCST”), Ministry of Information and Communication (“MOIC”) and a Vice Chairperson of Government’s Office.*

*The standing committee of the NACC is the National Department of Market Management (“DOMM”) under the MOIT.*
Decision No. 24/2008/QD-BCD on approval of regulations of operation of the NACC for prevention of smuggling, fake goods and trade frauds;

Dispatch No. 3640/BCD-TW in 2001 on establishment of provincial and local Steering Committee for prevention of smuggling, fake goods and trade frauds;

Decision 1016/2010QD-BTC in 2010 on functions, tasks, powers and organizational structure of the Department of Anti-Smuggling Investigation;

More power, more clear competence and organizational structure of Anti-Smuggle Investigation Department (“ASID”) under the General Department of Customs are stipulated hereunder. One of the main tasks of ASID is to enforce intellectual property rights, anti-counterfeiting and anti-smuggling activities, cross border illegal transport of goods in the customs domain (customs control). ASID consists of a separate IPR Enforcement Force operating in close collaboration with other forces of ASID. The role of ASID is more enhanced.

Decision 19/2009/QD-Ttg in 2009 on functions, tasks, powers and organization structure of the National Department of Market Management;

More power, more clear competence and organizational structure of Department of Market Management Department (“DOMM”) under the Ministry of Industry and Trade are stipulated herein on functionalities, tasks, competence and organizational structure of DOMM. The main tasks of DOMM are to control the commercial activities in the markets and fighting against violations in commerce. The role of DOMM is more enhanced with a separate Anti-Counterfeiting Force and Anti-Smuggling Force operating in close collaboration with other forces of DOMM.

Decision No. 44/2004/QD-BNV on approval of regulations of operation of Vietnam Association of Anti-counterfeit and protection of Vietnam brands;

The purpose of establishment of VATAP is to take actions against counterfeiting activities and to protect intellectual property rights of its members being foreign invested enterprises in Vietnam.

Decision No. 103/2005/QD-BNV in 2005 on approval of establishment and operation of “Vietnam Anti-Counterfeiting and IPRs protection Association of Foreign Invested Enterprises”

The purpose of establishment of VACIP is to take actions against counterfeiting activities and to protect intellectual property rights of its members being foreign invested enterprises in Vietnam.

1.1.6. Budget for anti-counterfeiting activities

- Circular 02/2009/TT-BCT guiding the distribution and use of expenditure sources to support works that direct and guide the fight against smuggling, commercial fraud and counterfeit goods of market management forces’ superior authority;
- Circular No. 59/2008/TT-BTC in 2008, guiding the management and use of the revenue from the handling of illegal acts in the domain of smuggling, trade fraud and anti-counterfeit activities and its amendment and supplement under Circular No. 51/2010/TT-BTC;
- Circular 93/2000/TT-BTC guiding management and utilization of funds for anti-counterfeiting activities;
Resolution No.03/NQ-CP in 2010 of the Government on major solutions to directing and managing the implementation of the 2010 socio-economic development plan and state budget estimates;
Fig: Legislation system on anti-counterfeiting

- **Financing and Budgeting**
  - Circular 93/2000/TT-BTC

- **State agencies involved**
  - Decision 127/2001/QD-Ttg
  - Decision 24/2008/QD-BCD
  - Dispatch 3640/BCD-TW
  - Decision 1016/2010/QD-BTC
  - Decision 19/2009/QD-Ttg
  - Decision 44/2004/QD-BNV
  - Decision 103/2005/QD-BNV

- **Measures against counterfeits**
  - Directive 28/2008/CT-Ttg
  - Resolution 03/2008/NQ-CP
  - Decree 105/2006/ND-CP
  - Joint Circular 12/2007/TTLT-BTC-BTM-BCA
  - Directive 03/CT-BTC
  - Decision 36/2010/QD-Ttg
  - Dispatch 6142/VPCP
  - Dispatch 44/BCD-QLTT

- **IPRs establishment**
  - Law on IP 2005, 2009
  - Decree 103, 105, 106/2006/ND-CP

- **Identification of violation**
  - Decree 89/2006/ND-CP
  - Circular No.93/2010/TT-BTC

- **Domestic Enforcement**
  - Ordinance on Administrative sanction 2002, 2008
  - Circular 12/2008/TT-BTC
  - Decree 97/2010/ND-CP
  - Decree 128/2008/ND-CP
  - Circular 12/2010/TT-BTC

- **Court’s Enforcement**
  - Civil Procedure Code 2004
  - Law on Enforcement of Civil Judgments
  - Criminal Code 2003, 2009
  - Crime Procedure Code 2003
  - Joint-Circular 02/2001/TTLT-TANDTC-VKSNDTC-BCA-BTP

- **Border Control**
  - Law on Customs 2010
  - Decree 97/2007/ND-CP
  - Decree 103/2006/ND-CP
  - Decree 106/2006/ND-CP
  - Circular 129/2004/TTLT-BTC- BKHCN
  - Decree 154/2005/ND-CP
  - Decision 916/QD-TCHQ

- **Other matters**
  - Law on Customs 2010
  - Decree 97/2007/ND-CP
  - Decree 103/2006/ND-CP
  - Decree 106/2006/ND-CP
  - Circular 129/2004/TTLT-BTC-BKHCN
  - Decree 154/2005/ND-CP
  - Decision 916/QD-TCHQ
1.2. National Programs on anti-counterfeiting activities

National Program on Anti Smuggling, counterfeiting and trade fraud for the period of 2006 – 2010 (“Action Program 168) was engaged on 19th Jan, 2006 by Ministries of Science and Technology, Culture and Information, Agriculture and Rural Development, Finance, Trade and Public Security, then by the Ministry of Post and Communication. Those ministries shall act, coordinate, interchange and cooperate closely to conduct supervision and manage circulation, import and export of goods to enhance enforcement of IPRs. They are directive force guiding local provincial authorities to implement the program at grass-root levels.

The goal of the Program is to increase the public awareness of IPRs, to facilitate organization and individuals in building, register for protection, utilization, development and protection of their IPRs against intellectual property in accordance with the law. Secondly, the Program aims on enhancement of state management and enforcement of intellectual legislation in central and local level and protection of IPRs of companies and consumers in accordance with Vietnamese law and international treaty and agreement engaged by Vietnam government.

Main responsibilities at central level:

- To propagandize, publicize and guide the social to respect and to conform to regulations on IP rights, copyrights and related rights, rights for seeds.
- To supervise, examine and dispose of violations of IPRs.
- To prepare and promulgate regulations on IPRs, copyrights and related rights and rights for seeds.
- To coordinate, interchange and exchange information related to supervision of IPRs implementation and enforcement of IPRs
- To train and educate and to cooperate with international organizations
- To support operation of organizations working on management of IPRs, copyrights and related rights and rights for seeds.

Main responsibilities at provincial level:

- To update with news legislation and propagandize, publicize and guide the social to respect and to conform to regulations on IP rights, copyrights and related rights, rights for seeds in the local territory.
- To enhance supervision, examination and disposal of violations of IPRs
- To propose recommendation for supplementation and amendment of regulations on IPRs
- To enhance exchange and supply of information
- To train and educate the implementation force at grass-root level
- To support operation of organizations working on management of IPRs, copyrights and related rights and rights for seeds.

Implementation organization:

- Ministry of Science and Technology is the contact point for gather information related to enforcement of IPRs in accordance with the action plan of the Program and directly organizes governmental implementation on IP management.
- Ministry of Culture and Information is responsible for guiding information related to IPRs in conformity with requirement of international integration and implementation of copyright and related rights enforcement.
- Ministry of Agriculture and Rural Development is responsible for enforcement related to seeds.
- Ministry of Trade and Industry shall direct the Department of Market Management to supervise and dispose administrative violation of IPRs;
- Ministry of Public Security shall investigate manufacturing, trading of counterfeits and other violation of IPRs.
- The General Department of Customs shall be responsible to and coordinate with other authorities to prevent and fighting against IPRs violations of imported and exported goods.
- Ministry of Finance shall guide management, utilization and finalization of budget for anti-counterfeit and IPRs violation activities.

**Results:**
The National Action Programme will be finished by the end of this year. For 5 years of implementation, it has gained some achievement in respect of anti-counterfeiting. A set of legal document has been promulgated guiding enforcement of IPRs in which the decree No. 97/2010 effective by this November is the latest regulations replacing the Decree 106/2006 on administrative procedures and disposal of violation related to IPRs. Implementation force has been working actively with many cases of violation being disposed and fined. The NACC is drafting a new program for combat against smuggling, counterfeits and trade fraud for the period to 2015 and vision to 2020 to submit to the Government for approval.
2. Governmental agencies involved in anti-counterfeiting activities

2.1. National Directive Commission of Fighting Against Smuggling, Counterfeit and Trade Fraud (“NACC”) and its provincial agencies

NACC is the central government agency operating in the frontier against smuggling, counterfeit and trade fraud. It was established under the Decision No. 127/2001 by the Prime Minister in 2001 chaired by the Minister of Trade, now Minister of Industry and Trade (MoIT) and viced by a Vice Minister of Industry and Trade in charge of anti-smuggling, counterfeit and trade fraud.

The NACC’s members are vice ministers of Public Security, National Defense, Finance, Science and Technology, Agriculture and Rural Development, Health, Culture, Sport and Tourism, Information and Communication and a vice head of Government Office.

The tasks, functions and responsibilities of the NACC are as follows:

- To support the Prime Minister in direction and organization of collaboration amongst ministries and local authorities in fighting against smuggling, counterfeit and trade fraud;
- To follow-up, supervise and support other ministries and provincial people’s committee to implement assigned tasks and functions; to solve complicated cases related to various ministries and local authorities in combat against smuggling, counterfeit and trade fraud;
- To evaluate and collect information related to anti-smuggling, counterfeit and trade fraud activities by other ministries and local authorities, to report to the Prime Minister; to recommend the Prime Minister the policies and measures to enhance the effectiveness of anti-smuggling, counterfeit and trade fraud activities;
- To set up work-group to supervise the operation from time to time to ensure the effectiveness of the NACC’s operation.

NACC’s operation materials and human resources are based on those of the Department of Market Management (“DoMM”) under the Ministry of Industry and Trade and staff appointed by other relevant ministries and authorities.

At provincial level, it is requested that each province has to set a provincial Directive Commission of Fighting against Smuggling, Counterfeit and Trade Fraud (“DC 127”) to operate in the combat against smuggling, counterfeit and trade fraud. These DCs 127 are found from the provincial Department of Market Management (“DMM”) which is vertical network of the DoMM. This is the essential force to implement tasks and assignments of the NACC at the national wide.

2.2. Anti-Smuggle Investigation Department (“ASID”)

ASID under the General Department of Customs functions in enforcement of IPRs, anti counterfeits in customs practices; prevention and fighting against smuggling and border control and other tasks and duties in management, guiding, direction and supervision of other customs divisions and gathering and processing customs data and information etc. Detail functions related to anti-smuggling, counterfeit are:

- To petition to the Head of General Department of Customs for submission to the Ministry of Finance draft of regulations, action plans, long-term, short term and annual programs related to enforcement of IPRs, anti-counterfeit and border control
- To provide the Head of General Department of Customs with legal document related to enforcement of IPRs, anti-counterfeit and border control;
To guide, direct and supervise provincial Department of Customs in implementation of tasks related to enforcement of IPRs, anti-counterfeit and border control;

To implement technical measures in accordance with the regulations in prevention, finding, investigation and disposal of trans-border counterfeit activities;

To implementation measures in enforcement of IPRs, anti-counterfeits in customs practices.

The ASID is structures in four main divisions working on anti smuggling, counterfeit as follows:

- The North Smuggling Control Division, Division 1;
- The Central Smuggling Control Division, Division 2;
- The South Smuggling Control Division, Division 3;
- The Division of Control for IPR Protection, Division 4.

2.3. Vietnam Intellectual Property Research Institute (“VIPRI”)

VIPRI was established under the Decision of the Ministry of Science and Technology in 2007. This is the first and the unique organization permitted to provide assessment services related to industrial property in Vietnam. VIPRI officially starts receiving request and settling application for industrial property assessment on 15 July, 2009. Conclusion of VIPRI on industrial property disputes is considered the official evidence for courts and other administrative authority to enforcement of IPRs.

Domains of assessment services provided by VIPRI are patent, integrated mainboard, industrial design, mark and geographic direction.


The National Office of Intellectual Property of Vietnam (NOIP) is an Agency under the Ministry of Science and Technology, assuming the functions of exercising the State management and providing services in the field of intellectual property. Main duties and competence of NOIP are as follows:

- Submitting to the Minister of Science and Technology the strategies, master plans for development, long-term and 5-year plans, programs and projects concerning the development of intellectual property system nationwide;
- Chairing and coordinating with relevant agencies to draft legal documents, mechanisms and policies concerning intellectual property for the Minister to submit to competent authorities for issuance;
- Implementing legal documents, approved and promulgated strategies, master plans, programs, projects concerning intellectual property;
- Coordinating with relevant agencies to review documents, regulations issued by other Ministries and agencies to make suggestions to competent authorities on the amendment, termination or cancellation of regulations that are contrary to the intellectual property legislation;
- Publishing professional guidelines on intellectual property, building up forms, certificates, protection titles, regulations, standards concerning the establishment of industrial property rights and other intellectual property subject matters in compliance with legislation and submitting to the Minister to issue;
- Implementing the procedures for the establishment of industrial property rights according to the legislation;
- Implementing the procedures for maintaining, renewing, modifying and assigning industrial property rights in accordance with legislation;
- Taking measures to protect legitimate rights of the State within its authority, organizations, individuals in the field of intellectual property; coordinating with concerned agencies, organizations to protect the intellectual property rights and ensure the strict implementations of intellectual property legislation;
- Instructing intellectual property professions for administration agencies of other Ministries, localities;
- Guiding and supervising agencies, organizations, individuals with regard to the implementation of intellectual property legislation on the Minister’s assignment;
- Proposing and submitting to the Minister measures to strengthen creative and innovative activities nationwide; organizing innovative activities on the Minister’s assignment;
- Developing, managing and exploiting intellectual property information databases; ensuring intellectual property information to serve the administration activities, scientific researches and development activities, manufacture and business activities; disclosing information concerning IP rights being protected in Vietnam;
- Coordinating with concerned agencies to implement activities of intellectual property dissemination and education;
- Organizing the intellectual property training and research activities;
- Supervising the professional activities and the implementation of legislation of intellectual property associations, and non-governmental organizations as assigned by the Minister; receiving and resolving requests and making recommendations on measures to handle the violations of intellectual property legislation to enhance intellectual property activities;
- Participating in intellectual property dispute settlements; conducting legal appraisals to settle intellectual property disputes within the assigned authority;
- Other functions as stipulated by the Minister of Science and Technologies.

2.5. Functions and competence of other ministries and lining authorities

Official Letter 44/BCD-QLTT dated 16 September 2008 on implementation of some urgent remedies to fighting against counterfeits, low quality goods as stipulated in Directive 28/2008/TTg of the Prime Minister. This Official Letter addresses to NACC’s members and NACC’s branch at provinces, requesting the members to implement some urgent remedies to fighting against counterfeits, low quality goods in the country. The tasks of each Ministry are requested as follows:

MOIT:

To closely coordinate with the Ministries of Justice (“MOJ”), MOH, MARD and MOST to check the existing legal regulations related to the remedies and missions to fight against counterfeits, low quality goods in terms of clearly delimitating the functions, tasks and competence of functional forces in management of production activities in order to minimize and eliminate the existing overlapping and conflict among the competent authorities on settlement of violation acts as well as sanctions and remedies applied; through which to make recommendations on stronger sanctions and remedies.
To direct the DOMM to propose plans of fighting against counterfeits, low quality goods and essential goods distributing in market as well as plans to motivate roles and responsibilities of supervising force

MOH:
To coordinate with MOIT to strengthen measures and remedies of supervision to importers, wholesalers, retailers of drugs; to coordinate with DOMM and Police at provinces to apply regular inspection, supervision in order to prevent counterfeiting drugs distributed in the market.

MARD:
To check existing list of registered fertilizers, veterinary medicine, vegetable protection preparations, animal’s foods, variations of plants of enterprises and are permitted to produce, import, packed, bottled for use in Vietnam in order to inform to other competent authorities for coordination of inspection and supervision; to coordinate with NACC to make plans of inspection and supervision of producers, traders, distributors of such goods in order to discover and prevent counterfeiting activities.

MOPS:
To direct forces under its management to find, discover and apply strong measures and penalties (including criminal penalties) against counterfeiters, infringers.

MOF:
To direct General Department of Customs (“GDOC”) to apply measures of supervision, inspection of imported goods at the border gates to find, discover and handle counterfeits and goods infringing IPRs, etc.

MOST:
To build standard requirements on some essential goods; to improve operational capacity of Quality Assessment Centers in order to quickly provide quality assessment services to other functional forces; coordinate with Market Control Forces, Police and Customs Offices in inspection, assessment and supervision of counterfeits and low quality goods which are domestically produced.

MOIC:
To direct press organizations to coordinate with branch of NACC at provinces and other functional forces to disseminate damaging effects of and measures to identify and discover counterfeits, low quality goods in order to improve the awareness of consumers so that they will not abet to counterfeits, low quality goods.

NACC:
To coordinate with MOF to submit propose of financial supports to ant counterfeiting forces to Prime Minister for approval.
3. Financial supports from Government to anti-counterfeiting activities

Fund for government enforcement agencies’ operation in anti-smuggling, anti-counterfeiting and trade fraud activities is one of the most vital important issues for them to undertake their tasks of fighting against anti-smuggling, anti-counterfeiting and trade fraud activities, especially in the country of lacking capital sources like Vietnam. Funds for the anti-counterfeit activities include:

- Allocations from the State budget according the approved annual estimates.
- The whole amount of collected fines for administrative violations and proceeds from the sale of goods, material evidences and violation means confiscated in cases of fake goods handling, which are left by the State budget for anti-counterfeits activities.
- Financial assistance and voluntary contributions (if any) from organizations and individuals at home and abroad in service of anti-counterfeits activities.
- Support fund from sources of revenues earned in anti-smuggling activities in localities (if any) under decisions of the presidents of the People’s Committees of the provinces and centrally-run cities (hereinafter referred to as the provinces).

Principles in management and utilization of funds for anti-counterfeits activities:

- Fund allocated by the State budget according to the approved annual financing plan and support fund from the revenues earned in anti-smuggling activities in the concerned localities under decisions of the presidents of the provincial People’s Committees shall be managed and used according to the current financial management regulations.
- Funds being financial assistance and voluntary contributions from organizations and individuals locally and abroad to the agencies assigned the anti-counterfeits task shall be received and managed according to the current financial management regulations.
- Funds collected from anti-counterfeits activities are the State budget’s revenues fully left for use by the units in service of their anti-counterfeits activities and shall be managed and used under this Circular’s guidance.

Costs and expenses in anti-counterfeiting activities shall be covered comprises of the following:

- Expenses for investigation, pursuit and arrest, verification, test and expertise of goods.
- Expenses for propagation, professional training and fostering, preliminary review and overall review of the anti-counterfeits activities and organization of information.
- Information buying expenses
- Expenses for procurement, repair of means and tools in service of anti-counterfeits activities of the units
- Compensation for over-time work allowances; allowances for officials and soldiers who are hit by accidents, get wounded or killed in harness or their families.
- Costs for rewarding to organizations and individuals with meritorious achievements in taking part or coordinating with anti-counterfeits units in the investigation, detection, arrest and handling of cases involved in the anti-counterfeits work.
- Other costs related to remittance between anti-counterfeits forces, accounting, book-keeping and settlement related to anti-counterfeits activities.
The State Treasury’s units at all levels shall conduct the accounting of collection, remittance, entrusted collection and payment of anti-fake goods funds strictly according to the State Budget Contents and the current financial and accounting regime.

In 2010, government enforcement agencies are received more financial supports from the Government of Vietnam for their operations, which are institutionalized in the following legal regulations:

1. **2010 Circular 51 issued by Vietnam Ministry of Finance on 14 April 2010** (on amendment of **2008 Circular 59**) allows the government enforcement agencies to retain and use 100% of the total money collected from handling of the counterfeits; 50% of the total money collected from handling of the smuggled products for supporting their operations, while previously, such funds are only equivalent to 30%. In some specific cases, they are granted by max 10% of the total annually approved budget.

2. **2009 Circular 02 issued by Vietnam Ministry of Finance on 21 January 2009** guiding the allocation and use of financial supports to directive works of local agencies at higher level of Market Management Agencies for strengthening the anti-counterfeiting, anti-smuggling and trade fraud activities as stipulated in 2008 Circular 59 above.
4. Administrative procedures for anti-counterfeiting activities

The laws of Vietnam on anti-counterfeiting activities stipulate that all manufacturing, processing, packaging, assembling, storing, exporting, importing, transporting, advertising, marketing, promoting, offering for sale acts of counterfeits must be handled. Definition of counterfeits provided is broad, including counterfeits of quality, counterfeits of trademarks, brands/labels, industrial design, counterfeits of origin of products, counterfeits of packages.

Depending on nature and severity of counterfeiting activity, it may be handled by civil, administrative or criminal measures as follows:

- **Administrative measures** are applied to handle acts of infringement at the request of intellectual property right holders, organizations or individuals that suffer from the damage caused by those acts, organizations or individuals that detect those acts, or when those acts are detected by competent bodies. The new Decree 97 of 2010 stipulate two principal forms of sanctioning applied for each violation including caution and fine.
  - Caution shall apply to unintentional violations; minor and first-time violations involving extenuating circumstances or to any administrative violations committed by minors of between full 14 years and under 16 years of age.
  - The new Decree also increases the fine amounts for each fine bracket, in which, the maximum bracket allows the fine up to 500 million VND, equivalent to roughly 25,000 USD.

**Additional** sanctions may be applied on violating individuals or organization depending on the nature and severity of violations are:
  - **Confiscation** of counterfeited goods and raw materials, materials and equipment used mainly for producing or trading of those goods. Confiscation is applied in the following cases, i) emergency case in order to ensure that evidence is not destroyed, dispersed or altered or to prevent the possible commission of further acts of infringement, ii) The infringing organization or individual has no capability or condition to remove infringing elements from the goods or intentionally fails to comply with the request for removal of infringing elements from the goods or fails to take other measures as prescribed by the infringement-handling agency and iii) The goods are of unknown origin or belong to unknown owner while there are sufficient bases for determining that they are intellectual property counterfeit goods
  - **Suspension** for a definite time period of business related to infringing products.

Apart from the above principal and additional sanctions, individuals or organizations committing administrative violations may also be forced to apply one or some of the following remedies:
  - **Removal** of infringing elements on their products, goods or means of business;
  - **Distribution or putting in use** for non-commercial purposes of goods bearing counterfeit marks or raw materials, materials and means used mainly for producing or trading in those goods. Conditions to apply measures of distribution for non-commercial purposes include i) the goods are usable, ii) infringing

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3 The 2005 Law on Intellectual Property and Decree 105 guiding on determination of infringement of intellectual property rights and procedure for enforcement; Circular 10 of 2000 by Ministries of Trade, Finance, Police, and Science and Technology on definition of counterfeits and anti-counterfeiting activities
elements have been removed from the goods, iii) such distribution or use is for non-commercial purposes and does not unreasonably affect the normal exercise of the rights of the intellectual property right holder, where the purposes of humanity, charity and public interest shall be prioritized and iv) Persons to whom goods are distributed or delivered for use are not potential customers of the intellectual property right holder

- Bringing out of the territory of Vietnam of transit goods in infringement of industrial property rights or forcible re-export of infringing goods, goods with counterfeit marks or imported raw materials, materials and means used mainly for producing or trading in those goods, after removing the infringing elements on those goods;
- Destruction of infringing goods unable to remove infringing elements which cause harm to the human health, animals, plants or environment. This measure is applied when all the conditions for application of the measure of distribution or use of goods and materials for non-commercial purposes are not fully met

- Civil measures are applied to handle acts of infringement at the request of intellectual property right holders, organizations or individuals that suffer from the damage caused by those acts, even when those acts have been or are being handled by administrative or criminal measures. The procedures for request for application of civil measures and the competence, order and procedures for application of civil measures shall comply with the provisions of law on civil procedures.
- Criminal measures are applied to handle acts of infringement that contain criminal elements in accordance with the provisions of the Penal Code. The competence, order and procedures for application of criminal measures shall comply with the provisions of law on criminal procedures.
Counterfeits inspection and enforcement flow

1. Request for Inspection for local goods
2. Request for Customs Clearance Suspension for imported goods

- Acceptance of Request
  - Y: Inspection/Assessment of Violation
    - N: Continue Customs Clearance
    - Y: Evidenced violation
      - Y: Civil Litigation Procedure
        - Enforcement
      - N: Crime Litigation Procedure

- N: Acceptance of Request
  - Y: Civil Judgment
  - N: Crime Judgment

Administrative Decision

Civil Litigation Procedure

Crime Litigation Procedure

Civil Judgment

Crime Judgment

Enforcement
Vietnam Enforcement Flow Chart – Customs Control Processing
Vietnam Enforcement Flow Chart – Administrative Procedure
Vietnam Enforcement Flow Chart – Civil Procedure
### IV. DATABASE OF POTENTIAL IP FIRMS FOR ITALIAN CLIENTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Full name</th>
<th>Short name</th>
<th>Address</th>
<th>Tel</th>
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<tr>
<td>1.</td>
<td>BANCA Co., Ltd.</td>
<td>BANCA CO., LTD</td>
<td>15B Trieu Viet Vuong Street, Bui Thi Xuan Ward, Hanoi</td>
<td>84 4 3943 3007</td>
<td><a href="mailto:banca@fpt.vn">banca@fpt.vn</a></td>
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<tr>
<td>2.</td>
<td>BIZCONSULT LAW FIRM</td>
<td>BIZCONSULT Law LLC</td>
<td>Room 301- 302, 20 Tran Hung Dao Street, Phan Chu Trinh Ward, Hoan Kiem District, Hanoi</td>
<td>84 4 3933 2129</td>
<td><a href="mailto:info-hn@bizconsult-vietnam.com">info-hn@bizconsult-vietnam.com</a></td>
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<tr>
<td>3.</td>
<td>Bizlink Lawyers &amp; Consultants Co., Ltd.</td>
<td>BIZLINK LAWYERS &amp; CONSULTANTS</td>
<td>Room 1802, Building 25 Lang Ha, Dong Da District, Hanoi</td>
<td>84 4 3514 8355</td>
<td><a href="mailto:bizlink@bizlink.vn">bizlink@bizlink.vn</a></td>
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<tr>
<td>4.</td>
<td>Capital IP &amp; Technology Co., Ltd.</td>
<td>CAPITAL IP&amp;T CO., LTD</td>
<td>Room 1401B, 14th Floor Building 8C Dai Co Viet Street, Bach Khoa Ward, Hai Ba Trung District, Hanoi</td>
<td>84 4 3868 4621</td>
<td><a href="mailto:capital-ipt@hn.vnn.vn">capital-ipt@hn.vnn.vn</a></td>
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<tr>
<td>5.</td>
<td>D&amp;N International Co., Ltd</td>
<td>D&amp;N INTERNATIONAL</td>
<td>Suite 3, 23rd Floor, 101 Lang Ha, Dong Da, Hanoi</td>
<td>84 4 3 562 5016</td>
<td><a href="mailto:info@dnlaw.com.vn">info@dnlaw.com.vn</a></td>
</tr>
<tr>
<td>6.</td>
<td>Development Assistance Technology J.S.C</td>
<td>DETECH J.S.C</td>
<td>47 Hoa Ma Street, Ngo Thi Nham Ward, Hai Ba Trung District, Hanoi</td>
<td>84 4 3942 0032</td>
<td><a href="mailto:detech@hn.vnn.vn">detech@hn.vnn.vn</a></td>
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<tr>
<td>7.</td>
<td>Indochina Law Office</td>
<td>INDOCHINA LAWYERS</td>
<td>Group 12, Village 5, Dinh Cong Ward, Hoang Mai District, Hanoi</td>
<td>84 4 3513 0996</td>
<td><a href="mailto:indochinalaw@hn.vnn.vn">indochinalaw@hn.vnn.vn</a></td>
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<tr>
<td>8.</td>
<td>Indochine Counsel</td>
<td>INDOCHINE</td>
<td>Room 4A2, 4th Floor –</td>
<td>84 8 3823 9640</td>
<td><a href="mailto:info@indochinecounsel.co">info@indochinecounsel.co</a></td>
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<td>9.</td>
<td>International Law Office</td>
<td>ATTORNEY AT LAW INTERNATIONAL</td>
<td>8 Le Duan Street, Ben Nghe Ward, District 1, Ho Chi Minh</td>
<td>84 8 3824 6461</td>
<td><a href="mailto:contact@al-inter.com">contact@al-inter.com</a></td>
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<tr>
<td>10.</td>
<td>INVESTIP Industrial Property J.S.C</td>
<td>INVESTIP</td>
<td>5B, lane 55 Huynh Thuc Khang Street, Dong Da District, Ha Noi</td>
<td>84 4 3747 2503</td>
<td>investip <a href="mailto:hn@hn.vnn.vn">hn@hn.vnn.vn</a></td>
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<tr>
<td>11.</td>
<td>Investment Consultancy and Technology Transfer Co. Ltd.</td>
<td>INVESTCONSULT Group</td>
<td>26/41 Thai Ha Street, Trung Liet Ward, Dong Da District, Hanoi</td>
<td>84 4 3537 3262</td>
<td><a href="mailto:incom@hn.vnn.vn">incom@hn.vnn.vn</a></td>
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<td>12.</td>
<td>INVESTPRO &amp; ASSOCIATES CO., LTD</td>
<td>INVESTPRO &amp; ASSOCIATES CO., LTD</td>
<td>61 Hue Lane, Ngo Thi Nham Ward, Hai Ba Trung District, Hanoi</td>
<td>84 4 3976 4129</td>
<td><a href="mailto:investpro.ip@hn.vnn.vn">investpro.ip@hn.vnn.vn</a></td>
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<td>13.</td>
<td>Le &amp; Le Co., Ltd.</td>
<td>LE&amp;LE CO., LTD</td>
<td>5th Floor 30B Ba Trieu Street, Hang Bai Ward, Hoan Kiem District, Hanoi</td>
<td>84 4 3936 1314</td>
<td><a href="mailto:hanoi@lele.com.vn">hanoi@lele.com.vn</a></td>
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<tr>
<td>14.</td>
<td>Leadco Law Office</td>
<td>LEADCO</td>
<td>Room 404, 4th Floor – Pacific Place 83B Ly Thuong Kiet Street, Hoan Kiem District, Hanoi</td>
<td>84 4 3942 5633</td>
<td><a href="mailto:leadco@hn.vnn.vn">leadco@hn.vnn.vn</a></td>
</tr>
<tr>
<td>15.</td>
<td>Pham &amp; Associate Law Firm</td>
<td>PHAM &amp; ASSOCIATES</td>
<td>8 Tran Hung Dao Street, Hoan Kiem District,</td>
<td>84 4 3826 5524</td>
<td><a href="mailto:hanoi@pham.com.vn">hanoi@pham.com.vn</a></td>
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<td>16.</td>
<td>Research and technology transfer &amp; investment consultancy Co., Ltd</td>
<td>CONCETTI</td>
<td>34 Ly Thuong Kiet Street, Hang Bai Ward, Hoan Kiem District, Hanoi</td>
<td>84 4 3942 0031</td>
<td><a href="mailto:concetti@hn.vnn.vn">concetti@hn.vnn.vn</a></td>
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<tr>
<td>17.</td>
<td>Thao Tho Quyen IP Co., Ltd.</td>
<td>INVENCO</td>
<td>29 Truong Han Sieu Street, Hoan Kiem District, Hanoi</td>
<td>84 4 3822 2153</td>
<td><a href="mailto:invenco@hn.vnn.vn">invenco@hn.vnn.vn</a></td>
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<tr>
<td>18.</td>
<td>Top &amp; Partners International Co., Ltd.</td>
<td>TOP &amp; PARTNERS INTERNATIONAL CO., LTD</td>
<td>Group 12, Block A12/P103 Dong Xa Living Quarter, Mai Dich Ward, Cau Giay District, Hanoi</td>
<td>84 4 3837 0458</td>
<td><a href="mailto:contact@toppat.com.vn">contact@toppat.com.vn</a></td>
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<td>19.</td>
<td>Tran Huu Nam &amp; Associates Co., Ltd.</td>
<td>TRAN HUU NAM &amp; ASS.</td>
<td>1 Nguyen Gia Thieu Street, Hoan Kiem District, Hanoi</td>
<td>84 4 3942 0030</td>
<td><a href="mailto:postmaster@thna.com">postmaster@thna.com</a></td>
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<td>20.</td>
<td>VIETID J.S.C</td>
<td>VIETBID</td>
<td>Room 436 27 Ly Thai To Street, Hoan Kiem District, Hanoi</td>
<td>84 4 3934 4226</td>
<td><a href="mailto:vietbid@hn.vnn.vn">vietbid@hn.vnn.vn</a></td>
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<td>21.</td>
<td>Vietnam Chambers of Commerce and Industry</td>
<td>VCCI - IP CO., LTD</td>
<td>33 Ba Trieu, Hang Bai Ward, Hoan Kiem District, Hanoi</td>
<td>84 4 3826 6232</td>
<td><a href="mailto:champat@hn.vnn.vn">champat@hn.vnn.vn</a></td>
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<td>22.</td>
<td>VISION &amp; ASSOCIATES CO., LTD</td>
<td>VISION &amp; ASSOCIATES CO., LTD</td>
<td>Room 308 3310, 3rd Floor Hanoi Tower 49 Hai Ba Trung Street,</td>
<td>84 4 3934 0629</td>
<td><a href="mailto:vision@vision-associates.com">vision@vision-associates.com</a></td>
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<td>23.</td>
<td>Winco IP services Co., Ltd.</td>
<td>WINCO CO., LTD</td>
<td>343 Doi Can Street, Lieu Giai Ward, Ba Dinh District, Hanoi</td>
<td>84 4 37625838</td>
<td><a href="mailto:winco@fpt.vn">winco@fpt.vn</a></td>
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<td>24.</td>
<td>YKVN Law Firm</td>
<td>YKVN</td>
<td>Room 301, International Centre 17 Ngo Quyen Street, Hoan Kiem District, Hanoi</td>
<td>84 4 3934 5410</td>
<td><a href="mailto:hanoi.office@ykvn-law.com">hanoi.office@ykvn-law.com</a></td>
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V. CONCLUSION AND RECOMMENDATION

By screening counterfeits markets of the most vulnerable to counterfeiting products, fashion, cosmetics, machinery and equipment and household articles as well as management of governmental authorities related to IPRs, we goes to conclusions as below:

- With a crowded population and increasing consumption in Hanoi and Hochiminh cities, counterfeits manufacturing, processing and trading are attractive to many counterfeiters for high profit especially consumption goods like fashion and household articles.

- Italian fashion is the industry affected heavily by counterfeiting activities in which many brands are replicated abundantly in the market. The more popular of the brand the more it would be counterfeited.

- Public awareness on counterfeits and counterfeiting activities is limited. Consumers lack of information, experience and knowledge to identify counterfeits. Consumers are willing to use counterfeits provided that they are not harmful and cause no trouble.

- Though the legislation for IPRs establishment and protection has been promulgated properly in conformity with the international practices and requirements of joining WTO, sanctions on the IPRs infringement seem not threaten to counterfeits makers and enforcement is not implemented comprehensively and timely.

- Market management forces and anti-counterfeiting forces lack of knowledge and experience in inspecting, finding and settling counterfeiting activities. This is the most important shortage limits the operation of local authorities in anti-counterfeiting activities though central bodies regularly conduct training and educating local officers’ skills and practices related to identification and settlement of counterfeits.

- State authorities just involve in settling violation cases at the request of the IPRs owners. It is essential for IPR owners to gather information related to infringement as advocate for market management forces to settle.

- Border control faces many difficulties in respect of both natural conditions and cooperation of residents living along the border line. It is a favorable condition for smuggling and transportation of counterfeits and low quality from neighboring countries, especially China. The Government encourages IPRs owners to request border guard forces to increase border control related to their products without fees.

The main recommendations for Italian investors and authorities to protect rights and interest of Italian when investing in Vietnam are below:

- It is crucial for foreign investors to take all necessary actions to register for protection of their IPRs before starting investing in manufacturing, marketing and branding their products to protect their interest, rights and image.

- Manufacturers and investors shall promulgate and provide information to increase the ability to differentiate counterfeits of consumers. Increasing information dissemination to raise public and business awareness about protecting their legal rights is also important.

- It is necessary to increase the cooperation between Italian industrial associations and businesses with Vietnamese governmental agencies in information provision, training and education to increase the ability in identification of Italian brand counterfeits.

- Italian enterprises having invested, traded and distributed products to Vietnamese market should request and initiate local authorities in increasing border control and market
management over their products, inspecting and settling counterfeits and counterfeiting activities.