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Italian authorities join forces with Italian companies to fight counterfeits and piracy

An increasing number of recent cases show a new Italian perspective on non-traditional IPR remedies, such as the shutting down of websites found liable for unfair commercial practices, tax evasion, and unlawful data processing.

Below is some information on the criteria used by the Italian Antitrust Authority (AGCM) in connection with counterfeiting.

On 23 January 2013, AGCM ordered the shut-down of two China-based websites, www.guccioutlet-italy.org and www.pradaborselinea.com, which offered counterfeit products branded Gucci and Prada at outlet prices.

The AGCM's order came after two notices were filed by an association representing trademark owners, industry associations, law firms and other organizations daily engaged fighting counterfeiting activities, and a consumers' association.

AGCM found the two websites liable for unfair commercial practices towards Italian consumers on the bases that they:

- provided misleading information on the nature and characteristics of the products bearing the famous brands, which have been ascertained to be counterfeits;
- omitted relevant information on the vendor's identity and contact details and on post-sale consumer rights (e.g. withdrawal right);
- failed to inform consumers on their rights under the legal warranty, which could not be offered as the products were counterfeits.

Moreover, the unfair commercial practices carried out by the two websites were found to be particularly insidious as they imitated the look of the luxury companies' online stores and induced consumers into thinking they were purchasing genuine goods from official resellers.

Therefore, AGCM ordered the shut-down of the websites so that Internet users in Italy would be unable to access them. The websites were given two days as of the communication of AGCM's resolution to comply with the order. In case of non-compliance, AGCM could enforce the blocking measure with the assistance of the Italian tax police (Guardia di Finanza).

The two websites are currently unreachable.

Italy also stepped up its fight in recent months against piracy with regard to copyright. A few days ago, governmental body the Prefetto of Salerno fined the former administrator of one of Italy's largest pirate networks, Italianshare, with a record-breaking fine of €6.4 million, the largest fine ever imposed for Italian copyright infringement.

Moreover, in November 2012 the pirate network, including five file-sharing websites, was shut down by the Italian tax police. The owner will be now prosecuted for other related crimes, including tax evasion, forgery and unlawful data processing, in that he allegedly sold the personal data of about 300,000 users to marketing companies.

Similar anti-piracy actions were taken by Italian authorities against The Pirate Bay, BTjunkie, KickAssTorrents, Torrenreactor.net and Torrents.net.

Finally, in October 2012, AGCM further held that the registration of a domain name identical to a prior trademark distinguishing a third party's product ("domain grabbing") could be deemed as an unfair commercial practice under the Italian Consumer Code.

Tags: italy website ipr remedies unfair commercial practice tax evasion unlawful data processing italian antitrust authority agcm counterfeiting china gucci prada trademark warranty official resellers guardia di finanza prefetto of salerno italianshare copyright forgery domain grabbing