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THE GREENSHEET

Auto Care Week

Perspective: IP Forum Strikes A Chord; More Events Like It Are Needed

08/29/2019

Warning: Like many U.S. manufacturers, xxxx has been confronted with counterfeit versions of its products. We take this problem seriously and want you to feel comfortable purchasing from us. ... They may look like real parts and even have the xxxx logo, but it's hard to tell a fake. ... Is it a genuine xxxx? About counterfeits and fakes. ... Visit xxxx's website for a list of known counterfeit offenders and knockoff red flags.

A few months ago, I stumbled across these advisories — all within the same hour — when researching stories completely unrelated to the topic of counterfeiting and intellectual property. (Note: Product and company names have been anonymized because they are not relevant to this discussion).

The point is to illustrate how prevalent these problems have become. Remember, I didn't go to these companies' websites looking for this kind of information. It jumped off the page while I was looking for material pertaining to personnel changes, new facilities and stories of that nature.

Earlier this month, I traveled to Michigan to attend the **Aftermarket IP Forum** in order to get myself up to speed on these issues and the measures companies can take to fight back. **AASA** organized the event in cooperation with a number of industry groups, including **SEMA**, **NASTF**, the **Battery Council International**, the **National IPR Center** and the **American Bearing Manufacturers Association**.

It's outstanding to see so many groups play a role in bringing this event to life and, in particular, to see representatives lead sessions and provide valuable insight.

Daniel Ingber, managing director of government and legal affairs at **SEMA**, provided behind-the-scenes information on how the **SEMA Show** handles intellectual property disputes on site. I'm no lawyer or brand manager, but I learned a great deal about how violators are served and how trade shows present a prime opportunity to confront violators, especially those from overseas that might be difficult to serve otherwise.

I also learned critical moves that companies need to make to prepare for incidents like this, such as filing the case in the jurisdiction of the trade show in order to avoid having temporary restraining orders (TROs) from other locations go through the cumbersome and lengthy process of being "domesticated."

Ravi Mohan and **Hani Sayed**, partners at **Rutan & Tucker**, discussed the prevalence of third-party registrations in China — outfits in bad faith getting the rights to, for example, a tool brand name by filing for the rights in an unrelated category such as toys. It's important to know that companies exist that monitor bad faith filings with Chinese trademark regulators.

Mohan and Sayed also highlighted new trademark rules set to take effect in November that allow China to stop people from squatting on registrations in the hope of a big payday from the authentic rights holders. They also said that China will begin denying people who apply for a large number of registrations without a valid reason.

It's hard to say if China is changing its tune because of pressure put on it by the White House or because there are legitimate Chinese companies that are now getting ripped off, too. Perhaps, it doesn't matter why it's happening, but rather how well China winds up enforcing these new rules.

Tamara Rabenold, CEO of **Vaudra International**, talked about outside investigative resources available to companies, such as the ability to make evidentiary purchases of suspected counterfeit items. Rabenold stressed that investigators have experience and access to information that can prove useful when tracking down information about an alleged violator, including where the product shipped from. She also noted that auto parts suppliers don't seem to use experts like this as widely as other manufacturers.

A few other things that stood out to me ...

- **Amazon** Global Relations Manager **Kaleigh Miller** discussed the company's "[Project Zero](#)" program, which allows participating rights holders to remove counterfeit items from Amazon's catalog. A proactive initiative like this sounds like an effective tool, although I wonder about the difficulty in achieving this status, as well as potential misuse.
- **William Ross**, former deputy director of the National IPR Center, advised attendees to have their companies' social media teams and brand protection teams aligned. Ross also stressed the importance of educating customers about intellectual property and counterfeiting issues and how to spot fakes.
- A speaker representing NASTF addressed why the aftermarket is an intellectual property target. In short, he said we're targeted because everybody has a car, cars need to be repaired and we don't crack down as much as other industries. He emphasized that we need to make intellectual property an "aftermarket" issue and not a "brand" issue by collaborating. He pointed out that, oftentimes, we're going after the same violators.

All in all, the Aftermarket IP Forum was a great event and one I hope returns in 2020 and beyond — perhaps even as a larger forum with the participation of additional industry groups and subject matter experts.

I found the information provided to be extremely interesting — so much so that I would like to circle back with some of the presenters and dig a little deeper into these topics in future issues of *The GreenSheet*. What do you think? Would that be valuable to you? Let me know at marc@autocareweek.com.

– Marc Vincent,
Editor

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Seeking Warehouse Operations Professional

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Seeking Sales Manager

Talented Sales Manager to develop product and account strategies to expand distribution within the aftermarket retailers, heavy-duty truck, online retailers, industrial aftermarket, industrial OE, motorcycle aftermarket and marine.

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Dorman: NAPA Business Development Manager, Eastern Division

The Area Sales Manager (ASM) is the primary contact for all assigned warehouse distributors within their area of responsibility, and secondary contact for all assigned jobbers.

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