



WHITE PAPER

**The Threat of Counterfeit Product
Approval Marks Warrants Aggressive
Detection and Enforcement Action**

Counterfeit Product Approval Marks Threaten Mark Value and Undermine Confidence in Legitimate Products

Widespread use of counterfeit marks undermines the entire U.S. system of test standards, and testing and certification that has been put in place to protect the safety of product users and the interests of retailers, regulators, and product manufacturers.

If unchecked, proliferation of counterfeit approval marks can enable unsafe or otherwise deficient products to gain widespread access to the U.S. market. This can place consumers at direct risk of exposure to unsafe or deficient products and increase retailers' risk of legal action and unfavorable publicity should they unwittingly supply those products. Widespread counterfeiting can also jeopardize public confidence in products bearing legitimate approval marks, posing a significant threat to leading national brands and the profits of the companies behind them.

Proprietary, trademarked approval marks are among the most valuable brand assets of testing laboratories. Counterfeit marks pose a very real threat to the acceptance of these legitimate marks. Reduced acceptance represents a significant loss of brand equity, and could place a testing laboratory at a competitive disadvantage, ultimately resulting in significant loss of business.

The Global Product Counterfeiting Threat

The threat of counterfeiting is not limited to product approval marks. The appearance of counterfeit products in the U.S. has increased dramatically over recent years. These products are often unsafe, compete unfairly with legitimate business and can damage legitimate manufacturers' reputations

Product counterfeiters often illegally display counterfeit approval marks on products as a part of their deception, to further gain the trust of purchasers and specifiers.

The ICC (International Chamber of Commerce — www.icc.cca.org) estimates that trademark counterfeiting accounts for about 6% of world trade and is worth an estimated \$350 billion annually.

In the mid-year report for 2005, the U.S. DHS (U.S. Department of Homeland Security's Customs and Border Protection — www.cbp.gov) reports that customs seized more than sixty-four million dollars worth of counterfeit products during 3,693 seizures. Electrical equipment, much of it intended for the U.S. workplace, alone accounted for over six million dollars worth.

The IACC (International Anti-Counterfeiting Coalition — www.iacc.org) reports the majority of counterfeit products come from Asia, primarily China, and that Eastern Europe has also become a significant source. The manufacture and distribution of counterfeit products has been linked to organized crime.

A Wide Range of Potentially Unsafe Products Could Have Counterfeit Approval Marks

- Counterfeit approval marks have been found on electrical products built using substandard materials and exhibiting compromised electrical spacing—both of which pose potential shock and fire hazards to U.S. employees
- Safety footwear bearing counterfeit approval marks has been found to offer substandard toe protection. These shoes were also deficient in dielectric protection creating a potential shock hazard.
- Recently, circuit breakers bearing counterfeit approval marks were found in a hospital panel board supplying power to life-support equipment in the intensive care ward.

Who Buys Counterfeit Products?

Anyone could unwittingly purchase a counterfeit product or a product bearing counterfeit approval marks. These are the real victims of counterfeiting because they believe they are purchasing or specifying a legitimate product and are paying for the value they associate with that product.

While these people may be disappointed in the performance, reliability, and durability of the product, the real threat posed by many counterfeit products is in safety. If the product has not been tested and certified to meet applicable standards and does not bear legitimate approval marks, it could pose a serious fire, shock, or other hazard to the user and present a serious liability risk to retailers, distributors or others who may have supplied the product.

Some people actually choose to purchase counterfeit products under the assumption that they are paying less for products that are equal in value to the legitimate products they mimic. People who deliberately choose to buy counterfeit products are not victims. Instead they support the criminally deceptive practices of counterfeiters by creating a built-in market for their goods. If consumers stopped using counterfeit products, counterfeiting would not disappear. However, in many cases counterfeiting would be less profitable and more risky without these easy sales.

Approved Marks for the U.S. Market

The U.S. Government through OSHA (Occupation Safety and Health Administration) has certified private laboratories to test and certify that products meet certain product safety standards. These laboratories are referred to as Nationally Recognized Testing Laboratories or NRTLs.

For a complete list of these laboratories and their approved marks visit: <http://www.osha.gov/dts/otpcantrl/index.html>

How Products are Properly Authorized to Display NRTLs Approval Marks

NRTL laboratories allow the use of their approval marks only under licensed agreements with product manufacturers. The manufacturers are authorized to use the mark or marks on products that have been tested and certified to meet applicable standards for safety or performance, and whose manufacturing facilities are under periodic monitoring by the NRTL.

A counterfeiter is one who uses one of these approval marks and does not have a licensed service agreement with one or more of the NRTL Laboratories. Such an agreement provides for the display of an approval mark on a website, on packaging, in advertising media, or on the product.

How to Determine if a NRTL Approval Mark is Counterfeit

Sometimes the appearance of the mark itself is an obvious indication that it is counterfeit. Most NRTLs' marks have distinctive graphic features that are often not accurately reproduced by counterfeiters. A common example is a difference in the proportion of the letters in the marks.

NRTLs supply licensed manufacturers with their approval marks' artwork or labels to ensure that their products are properly marked. Marks on products that deviate from these official designs should be viewed with suspicion.

Examination of products and their packaging can sometimes also indicate a counterfeit. For example, unclear printing on products, labels, or packaging or spelling mistakes can be an indication that the product is counterfeit and may have counterfeit approval marks. A discrepancy between the contents of the product package and the description on the package may also be a sign of counterfeiting. Missing product information or other package enclosures are another reason to be suspicious.

Significantly lower prices or a deal that is "too good to be true" can be a sign that a product is counterfeit. In addition, the availability of a product through an unauthorized distributor can indicate that the product is not legitimate and should not be used in the workplace.

Aggressive Action is Called For

The threat posed by counterfeit approval marks calls for decisive detection and enforcement action to defend the interests of employers, and businesses and consumers in general who rely on approval marks for assurance that products or components meet applicable standards.

Like leading manufacturers who have been victimized by counterfeiters, NRTLs have taken aggressive actions against unauthorized use of their marks. The NRTLs work with police, customs officials, electrical inspectors, and the International Anti-Counterfeiting Coalition here in the U.S. and abroad to fight against counterfeit products in the workplace.