

IPAN issue brief - no. 2

intellectual property and cheap imports

Current Situation

If a trade mark owner puts its goods on the market within the EEA (European Economic Area) then those goods can circulate freely in the EEA. On the other hand, if the goods are put on the market outside the EEA, then they can only be imported into the EEA if the trade mark owner has consented to such import. But it may be that the trade mark owner does not consent to the marketing.

Benefits and disadvantages for Society

- Benefits: Traders import goods when there is a price differential between the EEA and another market. This can lead to lower prices for consumers.
- Disadvantages: The overall return for the trade mark owner is less. (Note that consumers are always free to buy competing branded or unbranded goods.)

The trade mark owner loses control of how the goods are sold. This can have a detrimental effect on brand image e.g. position in the marketplace.

When the products imported are of different quality from those normally sold in the UK under the trade mark, consumers can be deceived in what they purchase. Always this lowers the reputation of the product and in some cases there can be real dangers because of safety issues, for example with pharmaceuticals.

These factors can lead to companies being less likely to invest in the development of branded products. This will have an effect on the quality and variety of products available. It will also affect jobs.

In addition, the price differential may not always be large. The importer will want to maximise his profit.

But at the end of the day, the policy issue - rather than the interesting legal issue of what constitutes "consent" - is whether the possibility of cheap imports compensates for a reduction in the incentives to invest in development of branded goods.

last updated: dec 2006

suggested links for further reading:

parallel or grey imports:

- [UKIPO overview](#)

parallel trade in medicines:

- [ESRC overview](#) - Sep 2003 (Professor S Hall)
- [ABPI discussion paper](#): March 2006
- [EAEPC briefing paper](#): 2004