

MEDIA MENTION

David Weslow Discusses Efforts to Combat Foreign Counterfeiters' Spoof Websites

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David Weslow, a partner in Wiley Rein's Intellectual Property Practice, was interviewed by *Policy and Regulatory Report* for a story on efforts to crack down on foreign counterfeiters that mimic, or "spoof," U.S. companies' websites.

The U.S. Commerce Department is prepared to advocate with foreign governments on behalf of U.S. businesses targeted by spoofers, but the agency's resources are very limited, Susan Wilson, director of the Office of Intellectual Property Rights at Commerce's International Trade Administration, told *PaRR*, which is part of the Financial Times Group.

The ITA will only step in if U.S. companies provide evidence that their own efforts to have the spoof sites taken down were unsuccessful, Ms. Wilson said. The practice of copying a company's website to sell counterfeit products is increasingly common and many of the perpetrators operate in China, she said. Spoofing scams are of particular concern to companies such as LVMH Moet Hennessy Louis Vuitton and Christian Dior, according to the October 22 report.

"If you spoke to the luxury goods industry, they're very concerned with ghost or secondary [or] mirror businesses where they're selling ... counterfeit goods," Mr. Weslow told *PaRR*. He said increased involvement by government agencies could be very helpful but concurred with Ms. Wilson's assessment that federal resources are limited.

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Intellectual Property

"Businesses, in the vast majority of cases, will have to pursue their own civil claims," Mr. Weslow said. "Federal law enforcement does not have the resources."

There are currently about 350 million websites worldwide that use 272 generic top-level domains (TLDs) such as .com or .uk, according to the report. The Internet Corporation for Assigned Names and Numbers (ICANN), the Internet's governing body, is preparing to approve almost 1,400 new TLDs such as .bank, .poker and .yoga.

That will create a "staggering" potential for new websites that are one letter off, or have added the word "corp.," to mimic a company's legitimate website, Mr. Weslow told *PaRR*.

Taking down spoof websites could become more difficult after the new TLDs come into force – expected in the second or third quarter in 2013 – because the registries controlling the new domains will be "all over the world," Mr. Weslow said.

Currently, mirrored websites using a ".com" domain can be targeted through a U.S. court order because VeriSign, based in Virginia, administers the .com TLD, according to the report.

"Where it matters is where you have a .cn [China]...outside of the U.S., and hosting services are out of the U.S.," Mr. Weslow told *PaRR*. "In that situation, it's more difficult to find a court or an administrative body to issue an order."

And as possible new TLDs such as .baseball, .app, .book, and .movie come online and are used by consumers to make low- to mid-priced purchases, the potential for counterfeiters to use spoof websites to make fraudulent sales could increase, according to the article.

"Many of my clients are most concerned with that exact issue," Mr. Weslow said.