

The contrarian

Don't harbour the patent pirates

Activists that want copyrights lifted are blind to the dangers, argues **Jon Entine**

People are calling Marcia Bergeron the proverbial canary in the coalmine. The British Columbia woman was found dead in her home last December, felled by chemicals laced with lethal heavy metals believed to have been packed into a counterfeit pill she bought over the internet.

The Canadian woman was the first westerner known to have died from fake drugs. Her death, followed by the headlined scandals over Colgate and Sensodyne toothpastes containing antifreeze and the flood of stories about lead-soaked toys, has finally brought the counterfeiting crisis to the world's consciousness.

Knock-off branded goods cost businesses at least \$500 billion a year and governments billions of dollars in tax revenues. And sham products can kill. The UN estimates that half the drugs sold in the developing world – worth \$45 billion annually – are bogus and often deadly. As many as 200,000 malaria deaths each year could be prevented if only genuine drugs were used.

"The organised and sophisticated criminal syndicates behind this illicit trade subject the world's consumers to life-threatening risks, and impose enormous costs on developed and developing economies around the world," says William Dobson, a leader of the International Chamber of Commerce's Business Action to Stop Counterfeiting and Piracy initiative.

With so many potential profiteers on the piracy pipeline – ingredients makers, assemblers, shippers, wholesalers, retailers – easy solutions are elusive. The international property rights treaty, known as Trips, was extremely difficult to get passed, and it is Swiss cheese. In September the World Trade Organisation upped the pressure on the epicentre of the

problem, China, creating an investigatory panel to probe its lackadaisical approach to piracy. With its brand name in jeopardy, China made a show of cracking down, passing some anti-counterfeiting laws. But as locals there say, Beijing is a long way from Guangzhou, the province near Hong Kong, where many pirate factories are headquartered.

What's to be done?

So far, the G8 leaders have not moved to shut down known counterfeit markets or websites. They have also been unwilling to grant customs officials more jurisdiction to enforce existing anti-counterfeiting laws at the legal laundrettes known as world free trade zones, such as in Dubai, Paraguay and Panama. National governments could increase penalties, including setting jail terms that provide real deterrents, rather than slap-on-the-wrist fines.

Meanwhile, in the name of cheap drugs, advocacy groups are doing their best to undermine the international property rights system. Anti-globalist gatherings are peppered with signs arguing "No Patents on Life". They play to those pushing for a "development agenda" that discounts the importance of intellectual property rights.

Pharmaceutical companies could abandon key patents, but that would put a brake on innovation – research costs would never be recouped – and could exacerbate the health crisis. Counterfeiters using chalk or even poisonous fillers will always be able to undercut the cost of genuine drugs. With no brand protection, the flood of fakes could soar, not decline.

That is already happening. As Roger Bate of the American Enterprise Institute points out in a 2006 Lancet article, in an attempt to



Cheap can mean deadly

Counterfeiters using chalk or even poisonous fillers will always be able to undercut the cost of genuine drugs

circumvent international patents, the World Bank authorised buying Indian-made anti-malarial drugs that turned out to be bogus, "wasting both money and children's lives".

It may be that change will only occur if driven at the grass roots level. But at this point, few people have qualms about buying cheap CDs and Rolex watches; the only victims are big, bad brand-holding corporations. Stories of dying Africans have not yet moved consumers to change their buying habits or governments to mobilise against the counterfeit cowboys.

This battle over international property rights highlights a war of values between the developing world and industrialised countries. The patent and copyright system ensures a creator's control over an innovation, recouping research costs and encouraging risk taking. But indifferent governments and underground firms, enabled by journalists and activists in the west, see only venality in the patent system.

Fair warning: once the ability to protect innovations become situational, business models crumble, leaving corporations little incentive to risk capital to develop new products. That could kill the market for everything from designer handbags to life-saving designer drugs. And it will kill people. ■



**COLUMNIST:
JON ENTINE**

Jon Entine is a scholar at the American Enterprise Institute and a senior editorial consultant to Ethical Corporation.
runjonrun@earthlink.com
www.jonentine.com