

**“Combating Intellectual Property Rights Infringement
In Hong Kong Special Administration Region:
Possible Additional Legal Tools”
Supplementary Comments from the French Luxury Goods Industry
Submitted by Louis Vuitton Hong Kong Limited**

We appreciate the opportunity afforded to us to make the following supplementary points:

- The import, sale and distribution of goods bearing counterfeit trade marks is at least as serious a problem as copyright piracy and it is a much more visible problem. However, far less attention has been focused on the problem of trade mark counterfeiting.
- Trade mark counterfeiting causes enormous damage to Hong Kong’s retail industry. Hong Kong’s reputation as a “shoppers’ paradise” is being destroyed by the counterfeits. Distributors of famous brand products, already hurt by the economic down turn, are finding it impossible to compete with the counterfeits. This is leading to lay-offs of staff, closure of shops and a general running down of Hong Kong’s once pristine image.
- By way of example, a recent market survey conducted by Louis Vuitton revealed 22 stalls and shops in Tung Choi Street with over 700 counterfeit Louis Vuitton products on display. Numerous complaints have been sent to the Customs & Excise Department about Tung Choi Street. Louis Vuitton recognises that Customs simply does not have the resources to monitor market areas such as this.
- There is a clear consensus in the IP community that, for all Customs’ good intentions, it does not have the resources needed to deal with the problem of counterfeiting and piracy at the retail level. The newly proposed 100 man “swat team” will simply not be able to do the job. We fully endorse the views of the copyright industries that it is essential that the Police be given a role in enforcing trade mark rights and copyright at the retail level.
- We also strongly urge the Administration and Legislators to reconsider their position in relation to consumer liability. The enactment of consumer offences will resolve the

problem at the retail level quickly and at virtually no cost to Hong Kong. As soon as consumers who purchase counterfeit goods realise that they face fines and confiscation of product and that they could be caught at any time by any passing policeman, they will stop buying fake goods and demand for counterfeits will dry up. If consumer offences are enacted, it will not be necessary for Customs' "swat team" and teams of police officers to expend vast resources trying to deal with this endemic problem.

- None of the arguments raised against consumer liability justify the abandonment of this proposal. For example, it has been suggested that Hong Kong consumers do not know what they are buying. But Hong Kong consumers are proud of their status as the most sophisticated consumers in the world. We do not believe that Hong Kong consumers of counterfeit Louis Vuitton handbags believe for one moment that they are buying the genuine product.
- We also wish to restate our support of the introduction of a smuggling offence. The purchase of counterfeit goods by Hong Kong consumers in Shenzhen and the hand-carry of those goods back to Hong Kong is reaching epidemic proportions and is causing untold damage to the retail industry in Hong Kong. If a criminal offence was introduced making it unlawful to carry counterfeit goods across the border into Hong Kong, even if such goods were purchased by the consumer for his/her own use, this would dramatically reduce the problem. Most people shopping for counterfeits in Shenzhen are otherwise honest and reputable people who would not consider engaging in any type of illegal activity.
- Members of the French luxury goods industry have exhausted every legal means available in their attempts to close down the outlets in Shenzhen that are selling counterfeit goods. The Shenzhen authorities consider this to be a "Hong Kong problem" because virtually all shoppers at centres such as the Lowu Shopping Centre are from Hong Kong. We are continuing to work with the Shenzhen authorities but, at the moment, the only option available to us is to take the necessary measures to ensure that Hong Kong consumers do not bring counterfeit products purchased in Shenzhen to Hong Kong.