

**THE INTELLECTUAL PROPERTY CARIBBEAN ASSOCIATION (IPCA) ESSAY
COMPETITION**

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TOPIC:

**THE SOCIAL AND ECONOMIC IMPACT OF COUNTERFEITING
VERSUS THE EXISTING LEGAL AND ADMINISTRATIVE MEASURES IN YOUR
(CARIBBEAN) COUNTRY.**

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Counterfeiting dates as far back as the 5th century. This was long before bills were used as a form of money, Native Americans would trade shells otherwise called “wampum” as a form of currency. Those shells that had a lesser value would be dyed and passed off as a higher valued shell. Eventually coins replaced shells. Alexander the Barber was very successful and attracted a lot of fame from his counterfeiting trade by clipping the sides of the coins to reduce the weight and value of the original coin by at least half. Although counterfeiting was an illegal act, his success led him to become employed by the ruler Emperor Justinian while the others who participated in the trade were severely punished. Since then, products that have gained reputation in the marketplace have been imitated and passed as genuine products to gain profit without much effort.

Based on the Organization for Economic Co-operation and Development (OECD)¹, counterfeiting is a term used to describe a range of illicit activities linked to Intellectual Property rights infringement. When a counterfeit product is made, it is made to look exactly like the original item. Therefore, breaching the ²Trade Related Aspects of Intellectual Property Rights (TRIPS) described in the World Trade Organization Agreement, such as trademarks, copyright, patents, design rights etc. The act of counterfeiting is done to defraud customers and trick them into believing that they are purchasing an original product at a highly reduced cost.

¹ Vithlani, H, “The Economic Impact of Counterfeiting, *OECD*, The Head of Publication Service, OECD, Andre’ Pascal, 1998, pg. 5, <https://www.oecd.org/sti/ind/2090589.pdf> <Accessed August 14, 2019>

² Agreement on Trade Related Aspect of Intellectual Property Rights, *wto.org*. World Trade Organization, 1994, pg. 320, https://www.wto.org/english/docs_e/legal_e/27-trips.pdf <accessed August 20, 2019>

The purpose of this essay is to explore the social and economic impact of counterfeiting in relation to the existing legal and administrative measures that are taken to rectify the issue in Jamaica.

SOCIAL IMPACT

Health and safety

Presently, the practice of counterfeiting activities is considered to be the fastest growing phenomenon that mainly focuses on reputable international brands. Based on an article published in the gleaner on April 25, 2019, the Jamaica Constabulary Force destroyed \$2.6 billion worth of counterfeit goods between 2012 to present. Counterfeiting has a huge social impact on society, in view of the fact that counterfeiters have limited interest in ensuring that the goods are of the best quality and safe to use by their consumers. Thus leading to products being dangerous or even deadly. Common industries where consumers' safety becomes concerning include: food and drink, chemicals, toiletry and household products, automotive, pharmaceuticals just to name a few. Considering that, counterfeiting leads to dangerous working conditions due to the fact that these goods are illegal and production is often taken place in hidden facilities, and is not inspected under normal circumstances. Therefore, these workshops or factories are operating under poor conditions and are prone to illegal acts such as child labour and produces unhealthy working conditions for workers. Considering that counterfeit goods are not subject to the regulatory standards and production norms that govern legitimate products, the low quality product whether consumed or used may result in serious consequences for consumers in terms of

risks to health and safety. Based on studies done the ³World Trade Organization estimates that counterfeits comprises between 10-30% of the market value of drug sales. A recent 2013 study done by the American Society of Tropical Medicine and Hygiene⁴ found that sub-standard or degraded anti-malaria drugs contributed to the deaths of more than \$120,000 children under the age of 5 in Subharan Africa. Another example of counterfeit products potentially harming ones health is counterfeit cell-phone batteries. It is believed that these batteries do not contain adequate internal mechanisms that prevents overloading that may lead to explosion, also the high level of mercury present may compromise the proper functioning of the immune system and affect the kidneys, ears and eyes. This phenomena extends to the cosmetics industry as well. Even fake baby formula is distributed on the market that can potentially harm infants.

Stifling creativity and innovation

As explained above, counterfeiting diminishes innovation and creativity, owing to the act of making an almost exact imitation of the original product which will result in poor product sales. Counterfeiting is considered an intellectual property crime and is highly pervasive across countries and sectors, representing a multi-billion dollar industry globally that continues to grow, (INTA), International Trademark Association 2016)⁵. According to the World Intellectual

³ World Health Organization (WHO) (2006), *Counterfeit Medicines, Fact Sheet, 275*, Retrieved from: <http://www.who.int/mediacentre/factsheets/fs275/en/> < Accessed on August 26, 2019>

⁴ World Health Organization, "A Study on the Public Health and Socio Economic Impact of substandard and falsified medical product", Switzerland, 2017, pg. 1-19, retrieved from: https://www.who.int/medicines/regulation/ssffc/publications/SE_Study_EN.pdf?ug=1
<Accessed on August 19, 2019>

⁵ Razavi, M. (2016). "World Trade Review International Trademark Association: *Anti-Counterfeiting 2016: A Global Guide*", 2016,pg. 1-5, retrieved from: https://inta.org/Documents/WTR_AC%202016_Inro_INTA.pdf
<accessed on July 16, 2019>

Property Organization,⁶ intellectual property refers to creations of the mind: inventions, literary and artistic works; and symbols, names and images used in commerce. IP rights allows creators, or owners of patents, trademarks or copyrighted works to benefit from their own creations. These rights are outlined in Article 27 of the Universal Declaration of Human Rights⁷. Two important treaties that were administered by World Intellectual Property Organization (WIPO) and first recognized intellectual property (IP) was the Paris Convention for Protection of Industrial Property (1883)⁸ and the Berne Convention (1886)⁹.

Furthermore, counterfeiting is an infringement of the IP rights of the owner of the product undermining their creativity and effort. Innovators protect their ideas through patents, copyrights, trademarks etc. Without adequate protection of these intellectual property rights, the incentives to develop new ideas and products will be reduced. The progress and wellbeing of humanity rests on its capacity to create and invent new works in the areas of technology and culture. Therefore, the legal protection of new creations encourages the commitment of additional resources for further innovation. Thus, more needs to be done in protecting IP rights as it creates more jobs and industries as well as enhances quality and enjoyment of life. The Canadian Federal Court made precedence in the case of *Louis Vuitton and Burberry v Singa*

⁶ World Intellectual Property Organization. "What is Intellectual Property?", pg. 3-4, retrieved from: https://www.wipo.inta/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf < accessed on August 13, 2019>

⁷ United Nations. "Universal Declaration of Human Rights", 1948, Retrieved from: <https://www.un.org/en/universal-declaration-human-rights/> accessed on August 26, 2019

⁸ Paris Convention for Protection of industrial Property (1883), (177 contracting members), retrieved from: <https://www.wipo.int/treaties/en/ip/paris/> Accessed on august 26, 2019>

⁹ Berne Convention 1886, (177 contracting members), retrieved from: <https://copyright.house.org/countries-berne-convention> <accessed on August 26, 2019>

*Enterprises*¹⁰ which states that the shield provided by a company cannot be used to protect directors and senior employees from the results of their behavior if they deliberately engage in selling counterfeit goods. In this case, Louis Vuitton and Burberry are well known for their proactive stance on the prosecution of those who breach the copyright on their products and thereby defrauding the public into buying cheap imitations and thereby diminishing the value of their brands.

ECONOMIC IMPACT

Legal owners /consumers

To begin with, the replicas of original products and their introduction into the market poses some potentially devastating and noticeable costs to the legitimate producers as well as the economy on a broad scale. The negative impact to the economy can dampen economic growth and stifle the reputation of legitimate producers. One such area that is deeply affected is the Intellectual Property rights of owners being eroded¹¹. These losses weaken the incentives to innovate as mentioned above. This can directly impact an individual's wellbeing by reducing the range of products and services that consumers can access in terms of technological, progress and productivity. Since erosion of IP rights is analogous with poor standards of governance and transparency causing a reduction in incentives to invest. Moreover, the dispersion of genuine activity by illegal activities are also likely to reduce efficiency and government tax revenues thus

¹⁰ (2011 FC 776), retrieved from:
https://mobile.casselbrock.com/index.cfm?cm=CBArticle?&ce=details&primarykey=Landmark_Counterfeiting_Case_Awards_Louis_Vuitton_and_Burberry_2_5_million_in_Damages_i_Louis_Vuitton_Malletier_S_A_v_Singga_Enterprises_Canada_Inc_i <Accessed on August 26, 2019>

¹¹ Organization for Economic Cooperation and Development (OECD) (1998), *The Economic Impact*, cited, pg. 22

negatively impacting consumers due to regulatory non-compliance. In fact, the counterfeiting trade that involves production to distribution and selling is usually performed through underground channels, often times creating a parallel underground market whose dimensions and value are difficult to assess.

Similarly, not only does the legitimate producers/owners obtain losses from infringement of intellectual property rights but counterfeiters introduce an element of unfair competition into the market, because of the huge competitive advantage they garner owing to the fact that counterfeiting is a very profitable industry. Legitimate traders who manufacture their products according to established standards are forced to compete with illegitimate traders, who often sell their products at significantly reduced prices. Accordingly, counterfeiters are not subject to certain procedures as do the legitimate producers. This is so because, they are not required to comply with quality control measures, they certainly are not subject to taxation or are required to be in compliance with regulations governing workers compensation and health and safety. They do not incur costs for research and development since this is taken care of by the owners of the original product. This is so because they acquire low quality materials for production thus significantly reducing cost and profiting largely to re-invest into other operations whether legal or illegal. This can be intimidating for our local producers who operate in a lesser developed country, where they are forced to discontinue business or entrepreneurial activity and essentially undermining further development possibilities.

Another equal important impact of counterfeiting exist where distributors of original products may in good or bad faith decide to acquire supplies from insecure sources that offer the same goods at lower cost. The counterfeit product is meant to deceive customers into believing

that they are purchasing an original usually at what appears to be a great discount. The unaware buyer will directly associate the low quality of the acquired goods with the producer, which will possibly results in a loss of goodwill with respect to the producer and towards the efforts implemented by the company in order to guarantee product quality and gain market share. This can greatly impact a company's trademark, where loss of goodwill can result in a decrease in future sales of the company and adds to the previously discussed economic damages.

To add to the previous point in a case for which the illicit nature of the product will not be proven, the legislation of certain countries will hold a producer liable for any damages to the consumer caused by the product, since the latter has acquired the product in good faith and was unaware of the illegal origin of the product. The consumer may sue the producer for damages, with the obligation of the producer to sustain additional costs for legal defenses. The practice of counterfeiting also deprives IP rights holders of their royalties due to infringement. .

Environmental impacts

The proliferation in counterfeiting along with the storage and environmentally safe disposal of enormous quantities of confiscating IP infringing goods depicts major logistical challenges for national authorities. As the counterfeiting trade expands, so does the need arises for creative ways to dispose of these items in a safe and environmentally friendly manner. This can be a costly and technically complex undertaking. According to David Blakemore, of the IP Rights (IPR) Business Partnership¹² a forum for private/public sector discussions on issues relation to IP infringements, states that the main objectives of disposing of counterfeit goods is

¹² Blakemore, D. (2012). IPR Rights(IPR) Business Partnerships, retrieved from:
https://www.wipo.int/wipo_magazine/en/2012/06/article_0007.html <accessed on august 24, 2019>

the certainty that they are removed from the channels of commerce. Also to ensure that they are stored or disposed of in a manner which is less harmful for the environs and there is no diversion back in the economy. Based on the 2011 report done on EU Customs Enforcement of Intellectual Property Rights¹³, there was estimated 77 percent of intellectual property infringing goods confiscated by the European Customs authorities that were destroyed. The majority of the goods destroyed about 97% were suspected of infringing an European Community or national trademark. Notably, Article 46 of the TRIPS Agreement¹⁴ administered by the WTO states that the minimum international requirements for disposal of intellectual property infringing goods should be “disposed of outside the channels of commerce in such a manner as to avoid any harm caused to the right holder, or otherwise this would be contrary to existing constitutional requirements.” It goes on to say that “the simple removal of the trademark unlawfully affixed shall not be sufficient, other than exceptional cases, to permit release of the goods into the channels of commerce. Depending on the disposal facilities available the methods commonly adopted include and not limited to open air burning, recycling, shredding, crushing, burying in landfill sites and possibly donating to charities.

THE EXISTING LEGAL AND ADMINISTRATIVE MEASURES IN YOUR CARIBBEAN COUNTRY.

¹³ EU Customs Enforcement of Intellectual Property Rights. (2011), retrieved from: https://www.wipo.int/wipo_magazine/en/2012/06/article_0007.html

¹⁴ World Trade Organization. Article 46 of TRIPS Agreement-Part (iii_ Enforcement of Intellectual Property Rights, retrieved from: https://www.wto.org/english/docs_e/legal_e/27-trips_05_e.htm <accessed on August 29>

Various international and regional agreements exist with regard to border measures and combating counterfeit goods in transit at the international level, the provision relating to border measures were introduced in the Paris Convention and further improved in the TRIPS Agreement. The growth of counterfeit goods is not limited to the territories in which they are produced, as they are exported through multiple jurisdictions. For this reason the continued movement of counterfeit goods across the borders has become one of the major challenges for enforcement bodies in particular the Custom Authorities. The establishment of the WTO in 1995¹⁵, regulating trade between member states was an attempt to amend the 1948 GATT-General Agreements on Tariffs and Trade¹⁶, since trading goods cannot be achieved unless there are mechanisms put into place to safeguard intellectual property rights. This initiative stimulated even more the birth of the TRIPS Agreement. Which set the minimum global standard for intellectual property protection amongst trading nations and plays an integral role in assuring that the differences in domestic attention to IP protection can be systematically addressed on a global stage with some measure of consistency. Jamaica has been a member of WTO since March 1995 and was a member of the GATT since 1963. One main characteristic of the TRIPS is for the duty of the member states to introduce and adopt border control provisions for the protection of intellectual property rights. The key provisions relating to counterfeit goods entering the border is governed under section 4 Article (51-60) of the TRIPS Agreement.

With that being said the TRIPS Agreement only provides minimal degree of border control implementation measures for member states, however, legislation must be enacted and

¹⁵ World Trade Organization 1995, *Agreement Establishing the World Trade Agreement*, pg. 9, retrieved from: https://www.wto.org/english/docs_e/legal_e/04-wto.pdf <accessed on August 29, 2019>

¹⁶ World Trade organization, *General Agreement on Tariffs and Trade, 1948*, Retrieved on: https://www.wto.org/english/docs_e/legal_e/gatt47.pdf <accessed on August 29, 2019>

regulations enforced at the national level that must comply with the TRIPS provisions. The implementation of the TRIPS into national laws has proven to be insufficient due to various countries having different issues when it comes to implementing IP rights.

More importantly, Jamaica has established organizations charged with monitoring and administering the protection of IP rights of owners. The Jamaica Intellectual Property Office (JIPO)¹⁷ is the national IP office that covers copyright and industrial property protection. This body was established as a statutory body on February 1, 2002. As the focal point for IP in Jamaica, JIPO has made it more convenient for trademark and patent agents to conduct matters on behalf of their clients and a means of access to IP related information for the public. Other institutions such as the Jamaica Customs Agency (JCA)¹⁸, the Bureau of Standards, and the Organized Crime Investigation Division (OCID)¹⁹ of the Jamaica Constabulary Force (JCF) are partnering to serve and protect the right holders and their interest as well as ensuring the solidarity of the IP systems.

All customs activities are governed by the Jamaica Customs Act²⁰, which is a revenue collecting statute designed to regulate and prevent importation of goods and to ensure collection of duties which are payable. Under section 210²¹ of the this Act, any person who evades customs laws regarding to exportation or importation of goods for each offences “*shall incur a penalty of not less than treble the import duties payable on the goods nor more than treble the value of the*

¹⁷ Jamaica Intellectual Property office (JIPO), Office that covers copyright and other industrial property protection

¹⁸ Jamaica Customs Agency (JCA), assessing and collecting customs fees, duties and penalties due on imports.

¹⁹ Organized Crime Investigation Division (OCID), Investigating crimes and other criminal activities

²⁰ The Jamaica Customs Act (1941), Retrieved from:
<https://www.jacustoms.gov.jm/sites/default/files/docs/Legislation/Customs%20Act.pdf> <accessed on August 29, 2019>

²¹ Ibid, s. 210, pg. 103

goods; an all goods in respect of which any such offence shall be committed shall be forfeited.”

Section 215²² (1) stipulates that, whenever any seizure shall be made, the seizing officer shall give in writing of such seizure and the grounds thereof. This notice can be delivered to the master or owner of the ship, personally or addressed in a letter by post to his place of residence or business. The owner or someone authorized shall give notice to the Commissioner of Customs within one calendar month that he/she claims the goods and if that’s not the case the goods shall be forfeited and condemned. Additionally, section 203²³ of the Act states that *“if any officer shall have reasonable cause to suspect that any prohibited goods or any books relating to uncustomed goods are harboured, kept, or concealed in any house or other place in the island and it shall be made to appear by information on oath before any Resident Magistrate or Justice in the island. Who can lawfully authorize an officer by special warrant to enter and search such house, day or night and seize or carry away any prohibited goods and more importantly, where any resistance is incurred during the seizure they can break open any door or remove any obstruction to enter such premises. In the case of *The Attorney General v Danhai Williams and Danwills Construction Ltd*²⁴, the Privy Council reversed the decision of the Jamaican Court of Appeal on the validity of the warrants. Lord Hoffman²⁵ in his judgement stated that “there was good reason to believe that uncustomed goods were on the premises, it must follow that he was satisfied that the officer had reasonable cause to suspect this to be the case.” Furthermore, section 14 (1) (a)²⁶of the Merchandise Marks Act (1888) states that, “*all goods, which if sold**

²² Ibid, s. 215. Pg. 108.01

²³ Ibid, s. 203. Pg. 100

²⁴ (PCA NO.70 of 1995)

²⁵ Ibid, pg. 9

²⁶ The Merchandise Act (1888), pg. 13-14, retrieved from:

<https://www.jacustoms.gov.jm/sites/default/files/docs/Legislation/Merchandise%20Marks%20Act.pdf>
<accessed August 30,2019 >

would be liable to forfeiture under this Act, and also all goods not manufactured in this island, bearing any trademarks registered under the Trademarks Act, unless such trade mark is accompanied by a definite indication of the country in which the goods were made or produced.”

This provision is in alignment with section 40 (ii) and 44 of the Customs Act (1941)²⁷ as it relates to intellectual property rights violations.

Counterfeiting not only affects registered trademark owners but unregistered trademark owners are at risk as well. However, the law provides for protection of an unregistered trademark owner by the law of passing off. According to the doctrine of passing off, a person should not be allowed to pass his goods off as those of another trader. Section 32²⁸ of the Trademarks Act provides that a registered trademark is infringed where a person who is not the original owner of the trademark nor authorized by the proprietor of the trademark, uses a sign that is identical or similar to the registered trademark, and this use is in relation to the well-known mark that causes unfair advantage or is detrimental to the distinctive character of the reputation of the mark. Section 31²⁹ of the said Act provides that an infringement of a registered trademark is actionable by the proprietor of the trademark. Furthermore, section 34³⁰ states that a licensee is entitled to call on the proprietor of the registered mark to take proceedings in respect of any matter which affects his interest. In court proceedings the judge may admit evidence from expert witnesses to assist in identifying counterfeit products and assessing damages or other losses. This is done in

²⁷ Customs Act 1941, section 40&44, pg. 34&38, retrieved from: <https://www.jacustoms.gov.jm/sites/default/files/docs/Legislation/Customs%20Act.pdf> Accessed August 26, 2019>

²⁸ The Trademarks Act (1999), s. 32, pg. 27

²⁹ Ibid, s.31, pg. 27

³⁰ Ibid, s. 34, pg. 30

accordance with certain procedural rules, and these expert witnesses who is entitled to a level of impartiality to the court.

Conversely, there are administrative procedures that facilitates the efficient resolution of the breach without resorting to lengthy proceedings in the courts. Where a breach has been detected the following procedures can be applied, such as, the importer may deposit with the Commissioner, the applicable penalty and may apply for mitigation under section 219³¹ of the Customs Act (1941) and section 66³² of the Trademarks Act (1999) which empowers the Commissioner of Customs to: - mitigate or remit any penalty and restore anything seized under the Customs Law. This may be accompanied by a letter from the importer outlining the circumstances in which the breach occurred. However, this power may be exercised at any time prior to the commencement of proceedings. Otherwise, the importer may be charged for the breach under the Customs Act and prosecuted in the courts. Trademark owners and licensees can protect their businesses by submitting a written notice to the Commissioner of Customs that he is the proprietor or the licensee of the relevant trademark. Where a license is obtained which imposes certain conditions the importer may be liable if the conditions are not met. In the case of *R v George Barbar*³³, the appellant obtained a license to import antique furniture under the condition that they should be genuine. The furniture were examined and found out to be fake antiques, he was prosecuted and convicted. Trademark owners should also submit written information indicating the time of arrival of the shipment transporting the infringing items in

³¹ Ibid, s. 219, 108.02

³² The Trademarks Act (1999), pg. 47, retrieved from:
https://www.jipo.gov.jm/sites/default/files/PDF_Files/TrademarkAct.pdf <accessed on August 29, 2019>

³³ (1973) 21 WIR 343

Jamaica, along with a request to treat those goods as prohibited, under the Customs Act. Also important are certificates of the registration issued by JIPO in respect of the trademark. A letter of indemnity executed by a Justice of the Peace or notary public stating that the rights holder shall indemnify the Commissioner of Customs in respect of all claims, proceedings, demands, liabilities, costs or losses of any kind arising from any enforcement action taken by the Commissioner.

Jamaica is seeking to improve its customs inspection and evidence gathering procedures to combat the problem of undervaluation by importers, mainly through revising and strengthening relevant parts of the Customs Act. With the implementation of Automated Systems for Customs Data – ASYCUDA World, implemented since April 2016³⁴, that requires a Cargo Manifest Declarations be submitted to the JCA prior to arrival of a cargo, has strengthened the risk management capabilities of the Jamaica Customs Agency. This is assisted with modern imaging devices and increased scrutiny via risk assessment.

RECOMMENDATIONS

Counterfeiting of trademark goods is increasing significantly despite the best efforts of right holders, enforcement agencies and other governmental authorities. Select prominent actors in the distribution of counterfeit goods include diverse Chinese, south Asian and European groups, mediated by transit hubs such as Dubai and Europe. On this transit, containers and container

³⁴ Jamaica Customs Agency. (2017). “Customs continues to clamp down on breaches”. Retrieved from: <https://www.jacustoms.gov.jm/article/customs-continues-clamp-down-breaches> < Accessed on August 20, 2019>

terminals are a key issue for the spread of counterfeit goods. This is attributed to the growth of Chinese manufacturing in recent decades. Where counterfeiting seems more attractive than legal trading for the purpose of reducing cost in labour and raw material and increasing profits. Which has marked an increasing and serious rise of fake goods originating from China. As it relates to IP rights infringement it is very hard for right holders to chase the violating party.

Developing countries especially, are facing obstacles to effectively combat counterfeiting due to the lack of deterrence for infringers, the lengthy legal proceedings, and lack of trained officials including customs officials, judges, prosecutors and the police. Also inadequate enforcement of IP rights or expertise in the prosecution of criminal IP offences. The current high level of counterfeiting can be attributed to a number of factors including: - advances in technological devices and equipment, increased international trade and emerging markets as well as more products that are appealing to copy, such as branded clothing, cosmetics, pharmaceuticals, software etc. A report by the World Health Organization (WHO) ³⁵ indicates that nearly a quarter of pharmaceuticals in circulation in developing countries – including HIV/AIDS, TB, and malaria treatments are of poor quality and are unacceptable. Such medication is at best ineffective and at worst, deadly. Counterfeit motor vehicles and aircraft replacement parts are also alarming and concerning. As these items have now filtered into the legitimate distribution channels.

There are proposed amendments to certain outdated legislations that will be geared towards protecting intellectual property rights in Jamaica. Firstly, the amendments to the

³⁵ World Health organization. *Growing Treats from Counterfeit Medicines. 2019, retrieved from: <https://www.who.int/bulletin/volumes/88/4/10-020410/en>* <Accessed on August 29, 2019>

Customs Act will increase the fines and penalties payable under the law to bring them to more realistic levels in keeping with the value of the money. Also improving operational efficiencies and provide legal clarity of current policies. In addition, there are proposed amendments to the protection of Geographical Indications Act, there will be increase level of protection to the wines and spirits under the World Trade Organization, TRIPS agreement. This will extend to non-wines and spirits that uses geographical indications of goods that do not originate in the place identified.

CONCLUSION

In summary, counterfeiting is one of the fastest growing trends around the world. This is due to the increased international trade, advances in technology and the types of items that are so easy to imitate. This can be detrimental to the proper functioning of an economy and poses societal issues such as risks to health and safety. With the high rates of counterfeiting goods on the market, this can be very expensive and time consuming for governments to be continually finding unique ways to dispose of harmful counterfeit items. Legitimate owners of products will continue to suffer from this illegal act. Since counterfeited goods are highly discounted and knock offs of the original brand. This can stifle creativity and eliminate original business ideas and hard work. With the little resources, Jamaica continues to be a victim of being a country where illegal activity thrives. This is a result of the lack of adequate resources in the justice system and border protection. However, one way of putting a stop to this trade, that will reflect on the economy over time is to strengthen the outdated laws that govern border protection and Intellectual Property Rights. Improving the laws on protecting the rights of owners and their goods is the first avenue to correct this issue. There should be more strict penalties for person

who disobey the customs laws and infringe trademarks. And lastly, the public should be more informed about the benefits of IP right holders and how they can protect their businesses as well as the consequences suffered if they infringe upon a trademark.

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