

SPECIAL REPORT | LEGAL



Jamie Scott Lytle
Ethna Piazza, general counsel for El Cajon-based Taylor Guitars, and Bruce Patterson, an attorney with the intellectual property law firm Patterson & Sheridan LLP, hold Chinese-made knockoffs of Taylor's 916 CE models.

Brand Theft

Taylor Guitars Among Premium Manufacturers Battling Trademark Violations

BY EMMET PIERCE

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Musicians buy high-end guitars for their craftsmanship and superior performance, but overseas counterfeiters are deceiving some consumers with cheaply made copies.

"When these manufacturers are trying to make inexpensive guitars more presentable they use our designs," said Ethna Piazza, general counsel for El Cajon-based Taylor Guitars, which is known for its high-quality acoustic instruments. "When someone sees those designs they say, 'It's a quality guitar.' They may not realize it's not made by us."

One way to know you're buying a fake is if the deal is just too good to be true.

"They may be selling a guitar for \$300, but if it was a genuine Taylor it would sell for \$3,000 or more," Piazza said.

Many of these copies are made in China, where intellectual property laws aren't enforced as strictly as in the U.S. When they find their way to America, attorneys for legitimate manufacturers attempt to intercept them by handing out cease-and-desist letters and reporting the suppliers of counterfeits to the U.S. Customs and Border Protection.

Sometime counterfeits are detected by authorized Taylor Guitars dealers when an unsuspecting owner tries to trade them in for new guitars. These instruments primarily fool entry-level guitar players, not experienced musicians, Piazza explained. They lack the fine craftsmanship that Taylor strives for.

"You will see excess glue," she said. "You will see wires hanging on the inside of the guitar if it has electronics. The pegs that hold down the strings will be a different color. There are multiple things."

Buyer Beware

Piazza said some marketing websites allow sellers to post photos of actual Taylor guitars when they advertise their copies online. Buyers sometimes don't realize they are getting an inferior product until it is shipped to their home.

Mary Luehresen, director of public affairs and government relations for National Association of Music

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Jamie Scott Lytle
Knockoffs, such as one shown here, might sell for as little as one-tenth of the cost of a genuine Taylor Guitar.

Stopping Slippery Imitators

WD-40 Counters The Counterfeiters Around the Globe

BY BRAD GRAVES

Imitation may be the sincerest form of flattery, but it's a headache for WD-40 Co.

The company sells its multipurpose lubricant worldwide. It has scores if not hundreds of imitators on the world's store shelves.

The San Diego company spends hundreds of thousands of dollars every year trying to protect its brand from such imitators, said **Richard Clampitt**, general counsel for WD-40 (Nasdaq: WDFC). "It's a substantial part of our legal spend."

Some counterfeiters attempt to put exact copies of WD-40 cans on the market. "Some are better than others," he said.

Then there are the sometimes-amusing imitators who sell product knockoffs under names such as WD-80 or MD*70 — in cans that look very similar to WD-40's blue and yellow livery.

"They will call it WQ-40 with what looks like a D with a little curl," Clampitt said. WD-40's headquarters has a room that employees call the "mortuary," which

contains counterfeit and knockoffs that the company's legal team has removed from the market.

The Danger Zones

There isn't so much trouble in the United States, which has strong intellectual property protections. "It's harder to operate a clandestine business," Clampitt added.

There is more trouble in countries where markets are the equivalent of garage sales.

"Obviously China is top of mind" for counterfeiters and infringement, the attorney said. The country has improved, but it is still a huge economy, he said.

Regions such

as Eastern Europe, Russia and Ukraine don't have institutions that are as strong as the West's, he added.

Part of the problem may be brand awareness. In Russia, a vendor brought out a can of lubricant with a name and a color scheme similar to WD-40's. The local court, however, determined that the product hadn't created confusion in the marketplace.

The company was more pleased with an unrelated enforcement effort, when Russian authorities seized 90,000 units of phony WD-40 during a raid.

What do such cans contain? It's often pretty nasty, and it's not WD-40's blend of ingredients. (WD-40 does not disclose the contents of its multiuse product. It's a trade secret.)

Usually the coun-



WD-40 CO.

CEO: Garry Ridge

Revenue: \$378.1 million in 2015; \$383.0 million in 2014

Net income: \$44.8 million in 2015; \$43.7 million in 2014

No. of local employees: 115

Headquarters: Bay Park

Year founded: 1953 as Rocket Chemical Co.

Stock symbol and exchange: WDFC on Nasdaq

Company description: Maker of multipurpose lubricant as well as other chemicals and cleaning supplies

feit cans contain noxious chemicals and hydrocarbon propellant. WD-40 uses carbon dioxide propellant. "It's expensive to make a good product, and they want to sell these as cheaply as they

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Merchants (NAMM), which is headquartered in Carlsbad, said global commerce and the widespread use of social media has made counterfeit instruments more prevalent in recent years.



Mary Luehrsen

"We really strive to bring education and understanding to NAMM members so they can make the best possible decisions," she said. "We've ramped up the issue around intellectual property within the last three years. It has become an urgency within the global trade... That is a new business reality."

That reality is recognized at the retail level. At **Freedom Guitar** on El Cajon Boulevard, co-owner **Dewey Bowen** often sees counterfeit guitars when the owners seek to trade them in.

Taylor is not the only brand that is being copied, Bowen said. He often sees counterfeit versions **Fender** and **Gibson** electric guitars.

Fooling the Public

While fakes are easy for sellers to detect, "the inexperienced buyer can be tricked," Bowen said. "They get snookered buying what they think was a Gibson. It's an inferior product and the name is diminished that way. It is just wrong. We see it often."

Piazza said the amount of money counterfeit instruments cost legitimate

manufacturers like Taylor is difficult to estimate. Last year Taylor requested that online ads be removed for nearly \$2 million worth of counterfeit instruments. However, some fakes are sold at trade shows or shipped to American sellers. Recently customs agents seized two shipments containing 1,200 guitars.

Many guitars are seized by customs agents at the Port of Los Angeles. Piazza noted that guitars that copied Taylor trademarks were among more than 185 instruments that U.S. Customs and Border Protection confiscated at a bulk mail center in Jersey City in 2014.

Bruce Patterson, an attorney with the intellectual property law firm **Patterson &**

Sheridan LLP has been hired by Taylor. He also works on the counterfeiting issue. He said many of the fakes are made in China. They are sold chiefly in the U.S. and Europe, often at trade shows.

"When we go to these shows we probably serve 10 or 15 different Chinese booths," he said. "We have done it three years in a row. If they get hassled enough I think it will have an effect."

Diluting Trademark Value

If counterfeiters are allowed to go unchallenged, "it dilutes the value of the trademark," Patterson said.

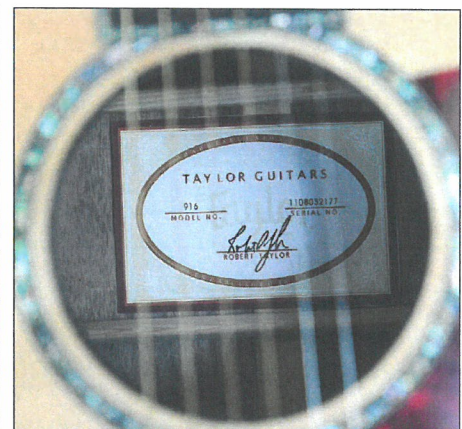
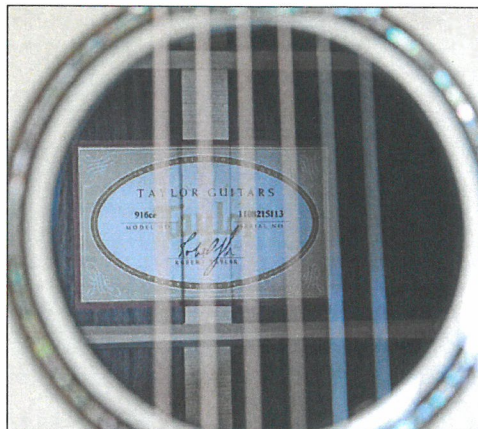
Patterson said China is working to stop counterfeiting, but the progress has

been slow.

"They have laws against counterfeiting," he said. "They have made pretty good strides in the last 10 years, but they have a long way to go."

In the meantime, the federal government has created a **National Intellectual Property Rights Coordination Center** to coordinate agencies that are involved in detecting counterfeit products. Consumers can report intellectual property law violations by visiting the IPR website at <https://www.iprcenter.gov>.

The federal government also has created a website called www.stopfakes.gov, to provide information to businesses and consumers.



The distinctive center ridge is one way to tell a genuine Taylor Guitar (left) from a knockoff (right).

Jamie Scott Lytle