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Vikrant Rana is the managing partner of S.S Rana & Co., a premier Intellectual Property Law Firm of India. He is an Advocate-on-Record with the Supreme Court of India (2006) and is a registered patent agent. For over a decade, Vikrant has been providing practical legal advice to many Fortune 500 companies and some of the world's most esteemed corporations on securing, protecting, and enforcing their IP assets in India and world over. He is a proficient litigator and appears in Courts all over India, primarily at the Supreme Court of India, various High Courts, Intellectual Property Appellate Board (IPAB), Trade Marks Registry, Patent Office, and the Copyright Board of India

Counterfeit Food And Medicinal Products

The challenge of counterfeited and smuggled goods has emerged as a global problem. With low barriers to the market entry and infiltration and with the advent of e-commerce, no country is immune from the impact of counterfeiting and no single sector can be said to be an exception. Counterfeit food/beverages and medicines, apart from causing significant economic loss to the government in terms of taxes, customs duty, loss of jobs etc., also pose risks to millions of individual consumers in terms of health and safety.

Counterfeit/fake medicines may be contaminated or contain the wrong or no active ingredients. Alternatively, they could have the right active ingredient but at the wrong dose. For example, some spurious drugs contain chalk or talcum powder mixed with a pain reliever to trick and defraud the patients. A survey of New Delhi pharmacies found that 12 percent of sampled drugs were spurious.[1]

India's drug industry is one of the country's most important economic engines, exporting $15 billion in products annually, making India one of the major exporters of medicines and prescription drugs.[2] However, today there is a growing concern over the safety of Indian medicines around the world. The World Health Organization estimated that one in five drugs made in India are fakes.[3] The Commissioner of the United States Food and Drug Administration, Dr. Margaret A. Hamburg, on her recent official visit to India expressed her unease over safety lapses, falsified drug test results and selling fake medicines.

Legislative and Regulatory Infrastructure: In India, the Drugs and Cosmetics Act, 1940 and the Food Safety and Standards Act, 2006 regulate the import, manufacture, distribution and sale of drugs/cosmetics and articles of food respectively. The Drugs and Cosmetics Act, 1940 defines and provides various prohibitions on misbranded, adulterated, spurious drugs/cosmetics and similarly the Food and Safety and Standards Act, 2006 provide various prohibitions on unsafe, misbranded, sub-standard food or food containing extraneous matter. However, for effective regulatory implementation and enforcement, a coordinated action at the local level is essential between health authorities, police, customs, and judiciary institutions to ensure proper regulation, control, investigation and prosecution.

Intellectual property and Counterfeit products: Intellectual property rights protection especially trademark protection in India must be improved to tackle the issue of counterfeiting and smuggling. The intellectual property right holder should be urged to use various technological measures to secure the identity and authenticity of the product.

Awareness among the key stakeholders: In light of the dangerous consequences of counterfeit food and medicinal products it becomes extremely important to alert key audiences, stakeholders and the general public about counterfeit products. Increased public information is essential for patients, dispensers, pharmacies etc. about suspected goods in the market and awareness of the risks they run when purchasing medicines from internet through unknown sources.

[1] *Fake Drugs being offered at cheaper rates, The Hindu, New Delhi, May 21, 2010 available at http://www.thehindu.com/news/cities/Delhi/fake-drugs-being-offered-for-cheaper-rates-survey/article435268.ece*

[2] *Gardiner Harris, Medicines Made in India Set Off Safety, The New York Times, February 14, 2014*
India is the second largest exporter of over-the-counter and prescription drugs to the United States. It highlights United States unease with the safety of Indian medicines available at http://www.nytimes.com/2014/02/15/world/asia/medicines-made-in-india-set-off-safety-worries.html?_r=0 (Last visited on May 3, 2014)

[3] *Counterfeit Medicines, World Health Organization, 2006 available at http://www.who.int/medicines/services/counterfeit/impact/ImpactF_S/en/index1.html*