



Crocs' distinctive water-resistant shoes are growing in popularity in Asia. PHOTO CREDIT: SHUTTERSTOCK

Crocs bite back

At the beginning of December, courts in China sentenced 18 individuals to more than 46 years in prison for manufacturing and selling fake Crocs goods. Seventeen individuals were convicted of counterfeiting, and two of the 17 also were convicted of offering bribes. Another was convicted on bribery charges in connection with the production of counterfeit Crocs shoes. In addition to prison sentences, the men, together with another two, face fines totalling RMB 2,832,500 (\$450,900). Nearly 128,800 pairs of counterfeit Crocs products valued at \$9.5 million were seized as part of these recent investigations.

"The lengthy prison terms and heavy fines handed down in these cases show that Chinese authorities are serious about assisting us to eradicate the production of counterfeit Crocs products in China, and so are we," comments Dan Hart, chief legal and administrative officer for the US-based footwear brand. "The Crocs intellectual property rights symbolise the reputation and hard-earned, valuable goodwill the company has acquired. We will not tolerate counterfeiters compromising our brand, and will continue to work with the authorities to hunt down and prosecute anyone who uses Crocs' name, design or other intellectual property without permission."

After a long investigation, the footwear brand successfully prosecuted a Chinese gang that had produced \$9.5 million-worth of fake goods. But faced with increasingly sophisticated counterfeit operations, are shoe companies fighting a losing battle?

More than 600,000 pairs of counterfeit Crocs shoes have been confiscated during factory raids and customs seizures throughout China in the last few years, resulting in 35 criminal convictions, mainly in Guangdong, Shanghai and Fujian Province. The numbers attest to the scale of counterfeiting in Asia, of which seized goods are merely the tip of the iceberg, with China accounting for about 80% of the counterfeit goods entering the US and EU, according to US officials. But is prosecution worth footwear brands' time and money, when they are so notoriously difficult to trace and when their manufacture can easily move elsewhere?

Hatching an idea

Since it launched in 2002, Crocs has sold more than 200 million pairs of shoes in more than 90 countries and now has more than 300 styles. It hit a low in 2007, knocked by changing trends, but returned to profitability in 2010 after a restructure that saw it close factories in Brazil and Canada as well as a number of distribution centres. Its CEO John McCarvel also ended a profit-swallowing \$10 million sponsorship deal of the AVP beach volleyball tour and moved some of its production from China to Vietnam to diversify the supply chain.

The clamp-down on counterfeiters in China coincides with a push to increase sales in that country; Mr McCarvel anticipates it will be the brand's most important market by the end of this year. "Asia is the future for many brands, and especially for ours," he told *USA Today*. "We think our product fits well into the Asian lifestyle: easy off, easy on, more casual footwear."

One of the reasons that Crocs have become an easy target for the counterfeiters is, despite being "instantly recognisable", they have a fairly simple shape to copy. The myriad of colours helps the criminals produce them in various shades without suspicion. What is more difficult to imitate is the texture of the trademarked proprietary foam resin they are made of, called Croslite, which is lightweight, non-marking and odour-resistant. Many of the fakes, while feeling similar, are reported to be of a lower quality material that can become slippery when wet.

Mr McCarvel attributes the manufacture of imitations to growing demand. "The products are so popular in Asia that we have significant counterfeiting. People even open up counterfeit Crocs stores," he said.

The recent clamp-down is part of an ongoing battle. In 2006 Crocs filed complaints in the US against 11 companies that manufactured, imported or distributed products they called 'Croc-offs'. Seizures of fake Crocs occurred in 2007 in the Philippines, Denmark and South Africa. In 2010, the Crocs' crackdown team returned to the Philippines, where they seized more than \$1.7 million-worth of fake merchandise in warehouses, stalls and malls. Raymond Rojas, the legal counsel for Crocs at the time, said the shoes had come from China using moulds, steel casings and other shoe components stolen from a factory where original Crocs are made. The faking of Crocs "resulted in brand confusion, trademark infringement and unfair competition", he added.

A more sinister problem

The prison sentences handed out in the Crocs case might serve as a deterrent to would-be counterfeiters, but unfortunately it has been estimated that between 7% and 10% of the world's trade - \$650 billion annually - is in counterfeit goods, according to consultancy Frontier Economics. Over the past decade, the item most often seized has been footwear, with more than two-thirds coming from China.

The market is flourishing, from the low-grade knock-offs to sophisticated imitations made in similar factories that are often difficult to tell from the real thing - both damage a brand's reputation and revenue. Counterfeit shoes are seized on a daily basis - Uggs, Clarks, adidas, Nike and Havaianas are among the brands that have made headlines recently. US Customs officials in August seized more than 20,000 pairs of counterfeit Christian Louboutin shoes with a street value of \$18 million.

The growth has coincided with the increase in internet shopping, offering a bigger 'shop window' to the world, as well

as harder-to-trace postal methods. Shipping from China has also become easier - shipments made via Hong Kong or elsewhere are difficult to prevent.

The CEO of footwear company Vibram, who found imitations of its Five Finger design being 'returned' to his office when they fell apart, told the BBC recently: "We knew if we didn't react quickly enough, the counterfeits were only going to get better." He put warnings on his website, asked bloggers to spread the word and offered vouchers to those who had bought fakes. "Candidly, you have to realise that intellectual property only gets you so far," he adds. "At the end of the day it's really about your relationship with the consumer."

While many companies operate a zero-tolerance policy against counterfeiting, others see it as an unavoidable evil. The *New York Times* quoted a senior employee at a major sports shoe company as saying: "Does it cut into our business? Probably not. Is it frustrating? Of course. But we put it as a form of flattery, I guess."

However, the consequences of counterfeiting, if left unchecked, can be more serious than simply brands going out of business. According to the World Health Organization, around 10% of drug supplies in developing countries are counterfeit medicines, causing thousands of deaths annually. "I thought it was just handbags and shoes, but it's way bigger than that - people are dying," said Geoff D'Eon, the director of a recently screened US documentary about counterfeiting in China. "The people who make fake hockey jerseys are also making fake antimalarial drugs."

The authorities in China take the situation seriously - which Crocs was quick to praise in its recent case. "The sentences and fines associated with these cases are encouraging and reflect the vigour with which the authorities prosecuted these matters," said Sara Hoverstock, Crocs' regional general counsel for Asia. "As we continue to monitor and take action against counterfeit activity, we recognise the important role of the Chinese authorities and appreciate their support."



Crocs classic clog, the most widely copied design.

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