

CVSA



December 6, 2006

Agenda

- Who We Are MEMA / HDMA / HDBMC
- Forms of Intellectual Property Rights Violations
- Extent of Counterfeiting Problem
- Counterfeiting Consequences
- Actions Being Taken
- Q&A

The Nature of the Brand Counterfeiting and Diversion Problem

Product counterfeiting enabled by packaging reproduction and manufacturing distribution

Diverted auto parts raise big concerns

Fake parts hobble car industry



AVOIDING COUNTERFEIT PRODUCTS

15 USC 1114, Remedies; infringement; innocent infringement by printers and publishers

The Economic Impact of Counterfeiting

Counterfeit parts cause industry \$12 billion headache

Sherri Begin
RUBBER & PLASTICS NEWS

Forms of Intellectual Property Violations

- Counterfeiting: Products that are “faked” by non-legitimate manufacturers and sold as though they were genuine
- IP Theft: Theft of ideas, designs, etc. (OE issue)
- Diversion: Product that is destined for one area and diverted to another market
- Gray Market: Legitimate product that is not sold through approved distribution

Forms of Intellectual Property Violations

- Country of Origin: Product identification (product must identify where product is made)
- Non-compliant products: Products falsely claiming to meet DOT-SAE standards
- Trademark and copyright issues

The Size and Scope of the Problem

- Any recognizable brand is at risk – leisure, fashion, music, electronics, auto parts
- Commercial Vehicle counterfeiting – like pharmaceuticals – represent legitimate safety concerns
- Impact to world trade: \$350-\$500 billion/year
 - Growing 10% a year
- 6-7% of all world trade in counterfeit parts

The Size and Scope of the Problem

- Best estimate indicates \$12 billion in lost sales to the supplier industry on a global basis annually -- \$3 billion alone in the U.S. (note: very conservative figures)
- Does not account for other associated costs:
 - dilution and destruction of brand names
 - packaging and product redesign
 - costs of legal fees and investigations
 - warranty claims caused by counterfeit products

Counterfeiting in the Automotive Parts Industry

- Not a new issue
 - Japan was a major counterfeiter in the 1980s
- Has gotten progressively worse as emerging economies develop
 - China is worst offender (account for about 80% of violations) – but not alone!
 - Eastern Europe and India also strong violators
 - Also happening in our backyard

Counterfeit Reality

- **Here are the results of one bust. Products that are most often counterfeited are those that are replaced most often such as air and oil filters, brake pads, belts and hoses, mechanical parts such as alternators and starters – to name just a few.**

Counterfeit Reality

- How can you tell the difference?



Counterfeit Reality

- This product group is a little closer to home



Counterfeiting in the Automotive Parts Industry

- Problem surfaced as major industry issue mid-2003 (as Chinese economy began to strengthen)
 - Fastest and cheapest way to market is by stealing a company's technology, brand and market position
 - Counterfeiters today are more sophisticated and “better”

Counterfeiting has gotten “better:”
It’s harder than ever to identify counterfeit products
from genuine products.



What Can a Fleet or Distributor Do?

- No laws to protect the fleet or distributor from unknowingly buying this safety related product on the market and putting their business and other's lives in jeopardy.
- Some options are:
 - Know your Friction Supplier.
 - Ask for supporting dynamometer data.
 - Buy O.E.M. branded or O.E.M. lining.
 - Use TMC's RP628

The Other Problem...

- If the industry is having trouble telling the difference, than consumers will too.
- When you buy a knock-off Rolex or Coach bag, you know it is fake
 - Worst-case scenario: Watch stops working or purse strap breaks
- Auto & Commercial Vehicle products pose significant safety risks
 - Non-compliant brake linings & slack adjusters

Method to Safeguard Dyno Test

- The following 4 FMVSS 121 Summary Sheets illustrate 4 materials varying significantly in safe stopping performance:
- #1 good safe materials typical of North American manufacture, which meet all the legal requirements.
- #2 an offshore material, which marginally fails one of the legal requirements.
- #3 a **DANGEROUS** offshore material, which fails two of the legal requirements.
- #4 a **VERY DANGEROUS** offshore material, which fails every legal requirement and which won't stop a vehicle after being heated by only 6 or 7 brake applications.
- NOT NECESSARILY COUNTERFEIT, but THIS IS AN EXAMPLE OF THE RISK TAKEN WHEN USED or SUPPLIED!

**BRAKE DYNAMOMETER TEST
PROCEDURE C-121-EF**

TEST #02C324

BRAKE SIZE: 16.5x7

BRAKE TYPE: MERITOR DRIVE

GAWR (lbs): 23000

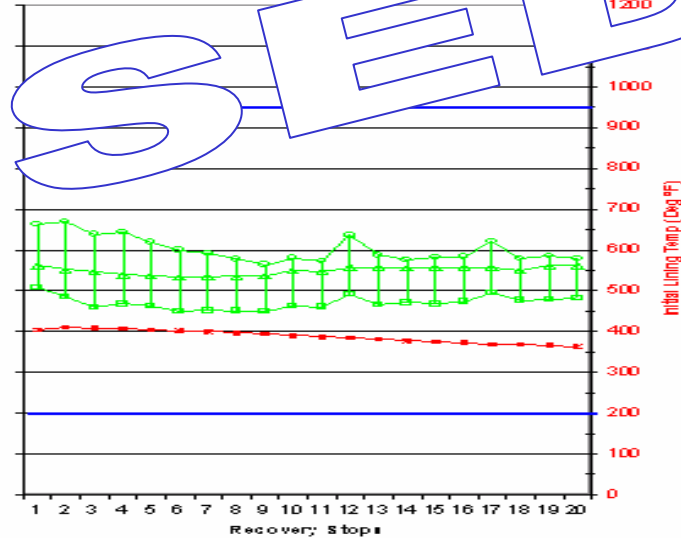
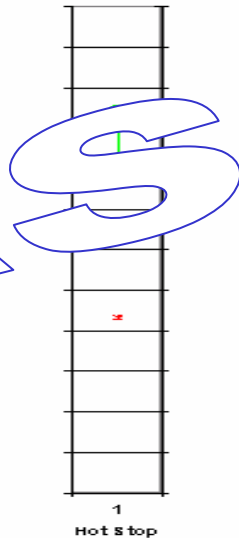
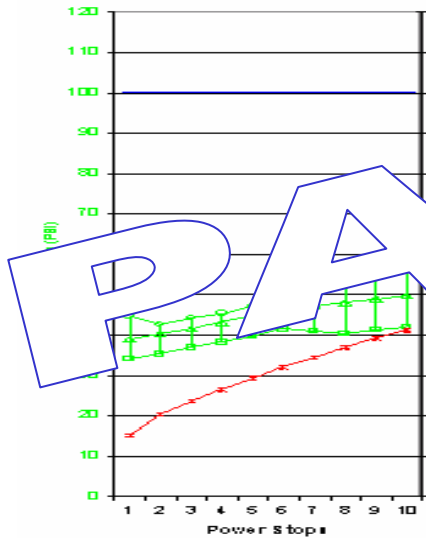
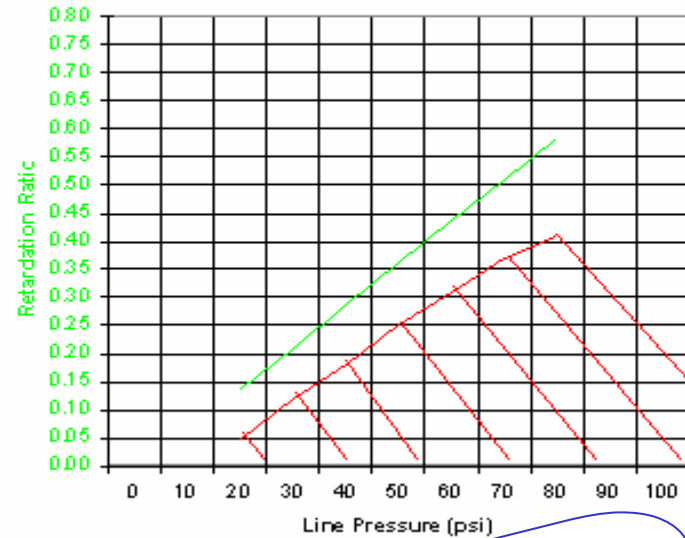
ROLLING RADIUS (in): 19.6

LEADING LINING:NORTH AMERICAN BRAND A1

TRAILING LINING:NORTH AMERICAN BRAND A1

AIR CHAMBER: Type 30/30 MGM

SLACK ADJUSTER: HALDEX 5.5



PASSED



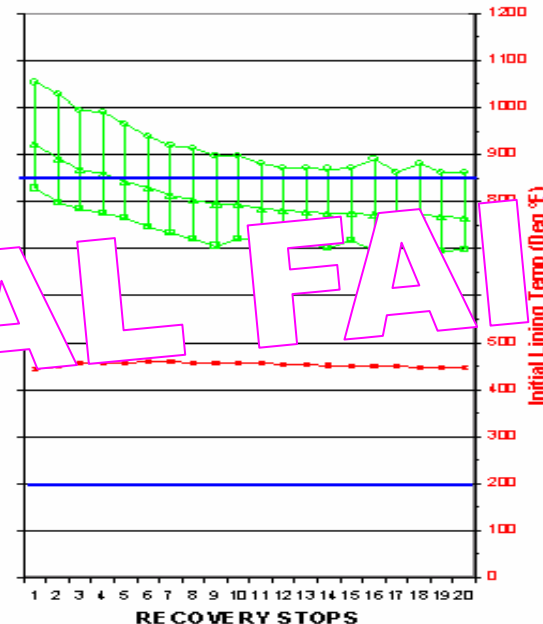
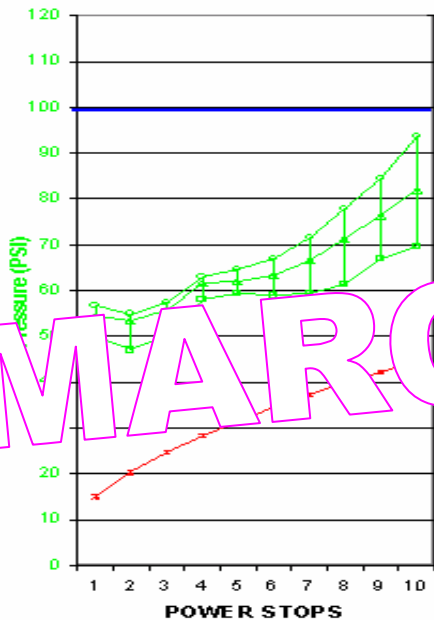
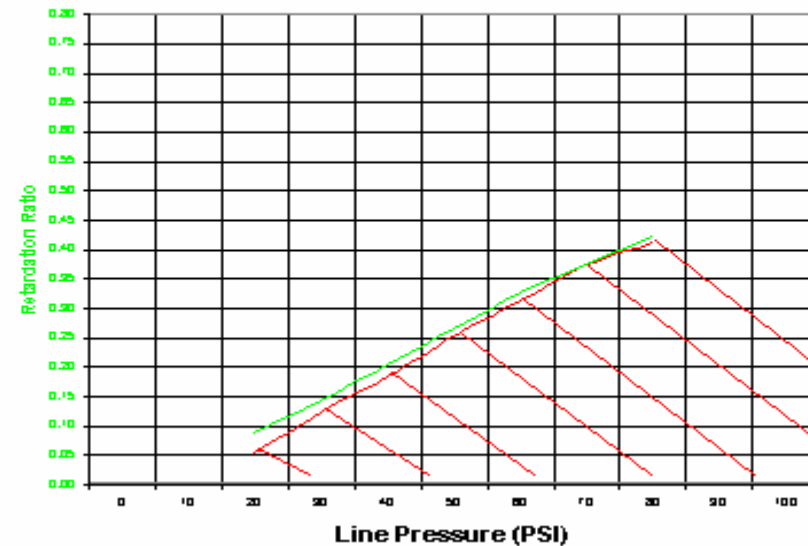
**BRAKE DYNAMOMETER TEST
PROCEDURE: C-121-EF**

Link Test #: 04Q038

Cust Ref:

N/A

BRAKE SIZE: 16.5 x 7
 BRAKE TYPE: Meritor Drive
 GAWR (lbs): 23000
 ROLLING RADIUS (in): 19.6
 LEADING LINING: INDIAN BRAND C
 TRAILING LINING: INDIAN BRAND C
 AIR CHAMBER: Type 30/30
 SLACK ADJUSTER: Haldex 5.5 Inch Automatic



MARGINAL FAIL



BRAKE DYNAMOMETER TEST

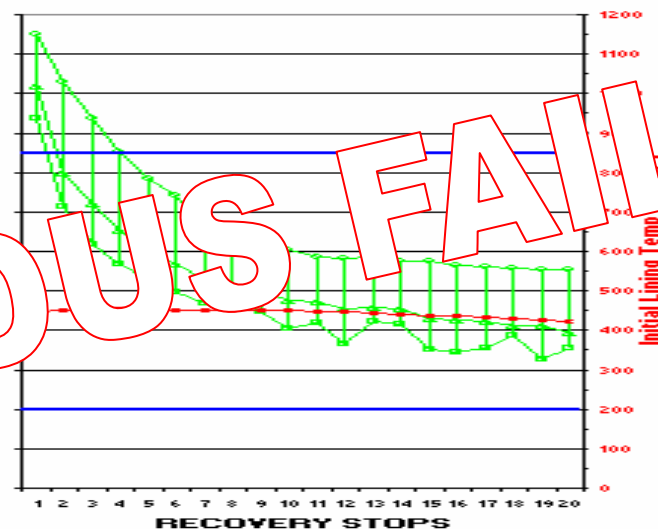
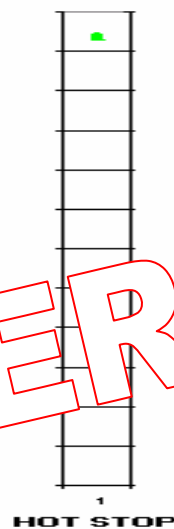
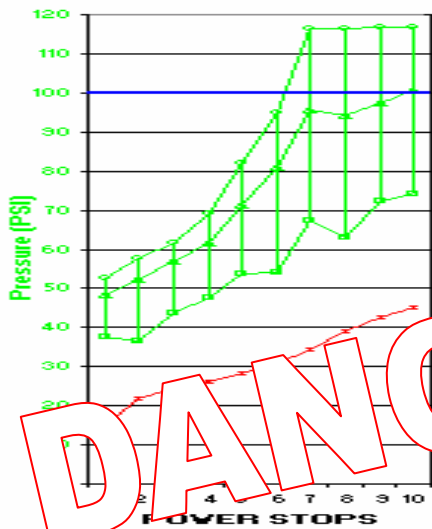
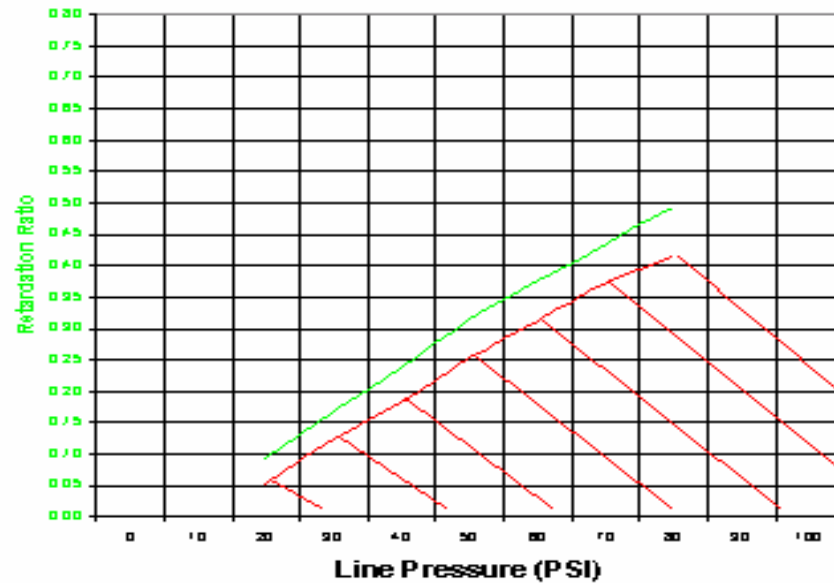
Link Test #: 04Q050

Cust Ref:

N/A

PROCEDURE: C-121-EF

BRAKE SIZE: 16.5 x 7
BRAKE TYPE: Meritor Drive
GAWR (lbs): 23000
ROLLING RADIUS (in): 19.6
LEADING LINING: CHINESE BRAND D
TRAILING LINING: CHINESE BRAND D
AIR CHAMBER: Type 30/30
SLACK ADJUSTER: Haldex 5.5 Automatic



DANGEROUS FAIL



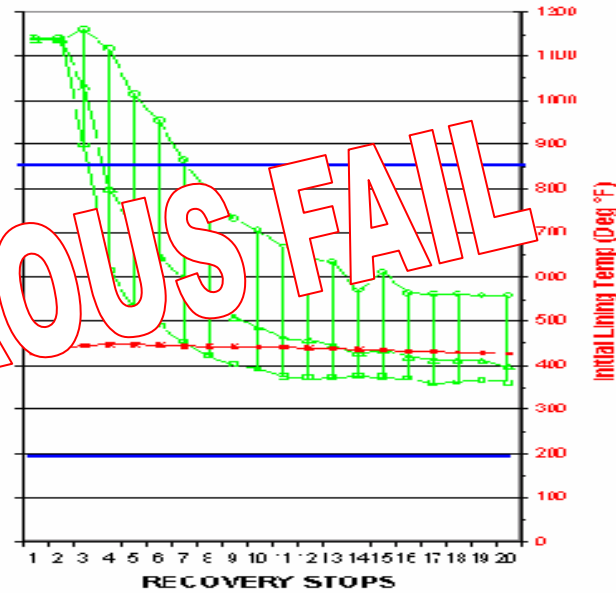
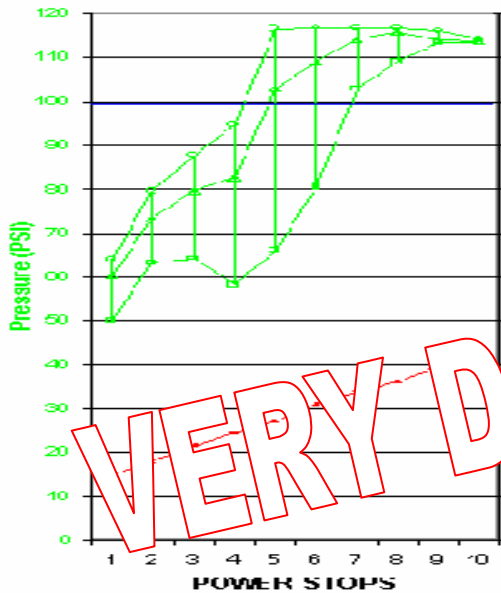
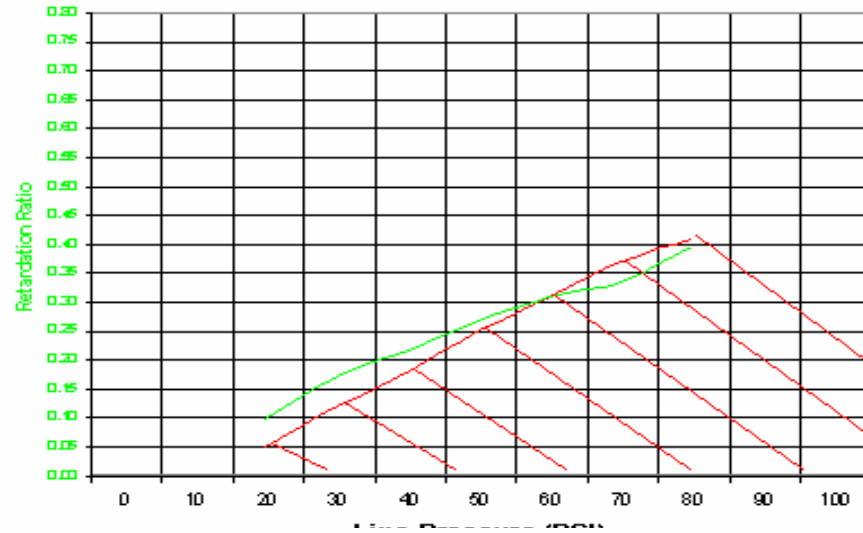
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PROCEDURE: C-121-EF**

Link Test #: 04Q058

Cust Ref:

N/A

BRAKE SIZE: 16.5 x 7
 BRAKE TYPE: Meritor Drive
 GAWR (lbs): 23000
 ROLLING RADIUS (in): 19.6
 LEADING LINING: CHINESE BRAND E
 TRAILING LINING: CHINESE BRAND E
 AIR CHAMBER: Type 30/30
 SLACK ADJUSTER: Haldex 5.5' Automatic



VERY DANGEROUS FAIL



End User Protection

- Safety
 - Found brake pads made from compressed grass instead of friction materials
 - Look for out of the ordinary changes:
 - Form & Appearance - external
 - » Hose missing lay line “J1402 A1 / A2”, “100R5”
 - » “It’s always been black & red”
 - » Brand appears different
 - » Difference in size
 - The exploding brake drum
 - Copy of aftermarket product – including part number
 - Company made part number intellectual property

What Can Users Do?

Inspect the packaging – it may give it away

- Packaging may be flimsy
- Colors may not be right
- Misspelled words or brands
- Lack of 800 number or web site

Formation of Brand Protection Council

- More than 30 action items developed by Council, including:
 - Web site – www.aftermarketsuppliers.org
 - Pushing for stronger criminal penalties
 - Educate media and industry
 - Country of origin
 - Monitor and enforce at trade shows
 - Assistance on how to report violations

Actions Taken

- Meeting with appropriate government agencies
 - Department of Homeland Security
 - Immigration and Customs Enforcement (ICE)
 - Department of Commerce
 - Justice Department
 - Customs and Border Protection
 - Patent/Trademark Agency
 - World Trade Organization

Lobbying Action

- Successfully drove legislation in the House and Senate: “Stop Counterfeiting” in Manufactured goods Act”
- - Signed by President Bush 2006
 - HR 32 introduced by Rep. Joe Knollenberg

- **Educating the industry is critical**
- The key to stopping counterfeiting auto parts:
Stop them from entering the distribution
channel

Actions Proving to be Successful

- Manufacturer interest and action growing
- House and Senate passed legislation
- Media becoming educated
- Outstanding support and cooperation with government
- Collaboration with U.S. Chamber, NAM, IACC, Pharmaceutical, etc.
- Members taking action
- Industry rallying around the issue

Our Message

- Counterfeiting is not a victimless crime. It's not about just “getting a good deal.”
 - Counterfeiting must be viewed as a serious crime – same as drug dealing
 - Many drug dealers are turning to counterfeiting: Less risk and lighter penalties
 - Counterfeit automotive products are a consumer safety problem. It hurts unsuspecting consumers and automotive technicians.
 - This is now a public health/safety issue
 - National security is at risk; Counterfeiting generates cash for organized crime. It has even been linked to terrorism.

Our Message

- Counterfeiting hurts U.S. Manufacturing's competitiveness:
 - Steals good manufacturing jobs. Counterfeiting destroys the brand reputation of legitimate companies, hurting them at home and in foreign markets.
 - Legitimate American companies cannot gain market share in China, the Middle East and other places as long as counterfeiting is allowed to proliferate.
 - American companies must fight to clear their name (possible litigation, costs to investigate, etc.) and restore their brand name

Our Message

- Suppliers, distributors, retailers and service professionals all have a role in maintaining the integrity of the supply and distribution chain and ensuring consumer safety.
- China is the major source of counterfeit automotive products, but is not the only source.
 - The government must put pressure on China to live up to their WTO obligations

What Can Suppliers Do?

- Proper registration and recordation of their patents and trademarks with:
 - Customs and Border Protection
 - The U.S. Patent and Trademark Office and their foreign counterparts
- Report IP issues to local Customs and Border Protection officials. They can only investigate offenses they know about.
- Become acquainted with the Strategy Targeting Organized Piracy (STOP) – www.stopfakes.gov and other government initiatives

What Can Distributors/Dealers Do?

- Buy directly from the manufacturer or their authorized representatives
- Be careful about deals that sound too good to be true
- Get contact information for follow-up
- Contact the legitimate manufacturer if you suspect anything!

Summary

- Counterfeiting hurts:
 - Consumers:
 - Safety
 - Financial (further repairs)
 - Manufacturers:
 - Lost sales
 - Jobs
 - Ability to re-invest in company/grow business outside U.S.
 - United States:
 - Lost taxes
 - National security – proceeds have been traced back to organized crime and terrorist organizations