



## Motor & Equipment Manufacturers Association

*Your First Call for Global Intelligence on the Motor Vehicle Supplier Industry*

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March 24, 2010

**VIA ELECTRONIC MAIL**

[intellectualproperty@omb.eop.gov](mailto:intellectualproperty@omb.eop.gov)

Victoria A. Espinel  
U.S. Intellectual Property Enforcement Coordinator  
Office of Management and Budget  
Executive Office of the President  
The White House  
Washington, DC 20500

**RE: Coordination and Strategic Planning of Federal Effort Against Intellectual Property Infringement: Request of the IPEC for Public Comments Regarding Joint Strategic Plan [75 FR at 8137-8139]**

Dear Ms. Espinel:

The Motor & Equipment Manufacturers Association (MEMA) represents nearly 700 companies that manufacture motor vehicle parts for use in the light vehicle and heavy-duty original equipment and aftermarket industries. MEMA represents its members through three affiliate associations: Automotive Aftermarket Suppliers Association (AASA), Heavy Duty Manufacturers Association (HDMA), and Original Equipment Suppliers Association (OESA).

Motor vehicle parts suppliers are the nation's largest manufacturing sector, directly employing over 685,000 U.S. workers and contributing to over 3.2 million jobs across the country. Every supplier job creates another 4.8 jobs in local and state economies. Automotive suppliers are the largest manufacturing employer in eight states: Indiana; Kentucky; Michigan; Missouri; Ohio; Oklahoma; South Carolina; and, Tennessee. The supplier industry is a leader in the development of innovative technology critical to creating safer, energy-efficient, and low-emission vehicles.

### **Introduction**

The manufacture and trafficking of counterfeit products is a serious problem for the motor vehicle supplier industry. A wide range of products are being counterfeited, including many safety-related parts such as brakes, brake pads, brake fluid, tires, belts, structural parts, and vehicle lighting. In 2004, MEMA created the Brand Protection Council to organize industry action against these problems.

MEMA supported and applauded the passage of the Prioritizing Resources and Organization for Intellectual Property (PRO-IP) Act in 2008. While the PRO-IP Act strengthens the nation's trademark and copyright laws and increases domestic enforcement efforts to protect intellectual property rights (IPR), it does not directly address international issues relating to counterfeit goods, including trans-shipment, border, and port issues. International issues remain a critical component to motor vehicle supplier efforts to combat counterfeit goods.



Automotive Aftermarket  
Suppliers Association



Heavy Duty  
Manufacturers Association



Original Equipment  
Suppliers Association

Legislation introduced in the Senate this past August – the Customs Facilitation and Trade Enforcement Reauthorization Act of 2009 (S. 1631) – will strengthen IPR enforcement by amplifying targeting efforts of the Customs and Border Protection (CBP) to detect goods that violate IPR and requires CBP to dedicate port personnel with a primary responsibility of enforcing IPR. Companion House legislation has not been introduced at this time.

MEMA urges you, in conjunction with the Administration, to support these efforts in Congress so that the larger scale issues can be more completely addressed.

## **Response to Request for Comments**

MEMA appreciates the opportunity to present comments regarding the IPEC's Joint Strategic Plan and IP enforcement efforts. Intellectual property is critical to the success of motor vehicle parts manufacturers, who continually innovate and develop new technologies. Suppliers are responsible for two-thirds of the value of today's vehicles, for nearly 30 percent of the total \$16.6 billion automotive research and development investment, and provide much of the intellectual capital required for the design, testing, and engineering of new parts and systems.

Therefore, when suppliers' technologies and brands are violated by IP thieves, those companies' businesses and reputations can be seriously compromised – particularly on safety-critical parts and components. Comprehensive IP laws must be a top priority for the U.S. to spur the creation of new technologies and to protect the investment throughout a product's viable life. IP protection is vital to our nation's competitiveness and to domestic job creation and retention.

## **Part I**

The following MEMA comments are responses to impact issues listed in Part I of the notice. [75 FR at 8137]

- **Impact on Economy and Industry.**

The magnitude of the overall global counterfeit problem is significant. According to private sector estimates, annually motor vehicle suppliers lose an estimated \$12 billion worldwide and \$3 billion domestically in sales to product counterfeiting. These losses correlate to potentially 200,000 to 250,000 fewer supplier manufacturing jobs nationwide. The FBI estimates that counterfeit goods cost U.S. businesses up to \$250 billion in annual revenue. It is widely believed in the industry that this problem grows each year.

- **Impact on Public Safety.**

There is a wide range of counterfeit parts and components for cars, light trucks, buses, and commercial vehicles that are manufactured and distributed globally. Many counterfeit products, especially in the automotive parts industry, go undetected and are purchased unintentionally. Because trademark and brand infringement are so convincing, many times consumers or installers of these components may not be able to recognize or distinguish the genuine part from the counterfeit part. In many instances, the part manufacturer becomes aware of counterfeit products when responding to warranty claims of a failed product.

Counterfeit parts may fail to meet the U.S. Federal Motor Vehicle Safety Standards (FMVSS), or other industry-accepted safety standards; likewise, these parts may have a significantly shorter-than-average service life. Thus, the use of these counterfeit vehicle

parts – such as brakes, brake pads, brake fluid, tires, belts, and automotive lighting – may result in sudden, catastrophic failures of the brakes or engine, or may cause malfunctions of other systems.

## Part II

The following MEMA comments are responses to some of the Joint Strategic Plan objectives listed in Part II of the notice. [75 FR at 8137]

- **Identifying weaknesses, duplication of efforts, waste, and other unjustified impediments to effective enforcement actions.**

MEMA believes that the primary issue is the enforcement of existing laws. It is our understanding that enforcement is a function of resources and priorities. Lack of resources forces agencies to make decisions on pursuing an investigation and prosecution based on a level of provable damages or perceived threat level to the public health and welfare. The scope of risk and/or financial size of a case must be significant enough to justify pursuit of a case.

Access to more resources – human, financial, technical – is a key component to reduce impediments to effective enforcement. The PRO-IP Act does help some in that regard by providing more funding resources to domestic enforcement agencies. Furthermore, the establishment of the IPEC position at the Office of Management and Budget is another step forward in coordinating authority among those agencies responsible for investigation and prosecution. MEMA would also like to stress the importance of training existing enforcement personnel. IP violations, particularly with vehicle parts, are complex and unfamiliar and may result in cases being passed over that might otherwise merit prosecution.

- **Promoting information sharing between participating agencies to the extent permissible by law.**

Prior to the establishment of the IPEC, suppliers frequently encountered the dilemma of having to ‘shop around’ cases to various agencies in hopes that their case would be deemed actionable. Previous Administrations tried to address this by creating the National Intellectual Property Rights Coordination Center (IPR Center) under the Department of Homeland Security. The center – created in 2000 and restructured in 2008 – hosts several federal components (U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, with the Department of Commerce, the Food and Drug Administration, the Federal Bureau of Investigation, and the U.S. Postal Inspection Service) to combat counterfeiting and trademark piracy. While this effort was a step in the right direction, MEMA strongly believes that the newly established IPEC will provide a more centralized authority to coordinate activities, information sharing, and resource and enforcement collaboration. This concentration of coordination will help boost businesses’ confidence and provide a direct conduit for assistance on cases.

## Supplemental Comment Topics

The following MEMA comments are responses to some of the Joint Strategic Plan objectives listed in the *Supplemental Comment Topics* section of the notice. [75 FR at 8138-8139]

6. **Suggest new methods for rights holders and importers to provide information to U.S. Customs and Border Protection (CBP) on distribution and supply chains. Such information could enable**

**CBP to increase the effectiveness of its process for selecting (“targeting”) imports for inspection by creating a segment of trusted imports, which would allow CBP to better focus its targeting on high risk imports and imports for which advance information is lacking.**

In 2009, the MEMA Brand Protection Council published a document entitled, “Understanding the Flow of Counterfeit and Gray Market Goods through the U.S. Automotive and Commercial Vehicle Parts Marketplace,” which outlines how counterfeit motor vehicle parts enter the domestic supply chain. A copy of this document is included as “Attachment I.”

- 12. Suggest ways to improve the adequacy, effectiveness and/or coordination of the enforcement training and technical assistance provided by the U.S. Government, including (but not limited to):**
- a. Identification of specific countries or geographical regions that could benefit from U.S. Government training and technical assistance and the program areas where training and assistance should focus;**
  - b. Suggestions for how to leverage resources or partnerships to broaden the impact of U.S. Government training and assistance; and**
  - c. Suggestions to enhance industry participation in relevant training programs.**

MEMA strongly supports the development of new tools to help the effectiveness of enforcement activities in protecting intellectual property. In some instances, the federal government requires rights holders to file duplicative paperwork with different federal agencies. For example, a rights holder will file similar, or in many cases identical, information with the Patent and Trademark Office (PTO) through the PTO’s trademark registration process and with CBP through the trademark recordation process. MEMA encourages the federal government to harmonize these applications to ease the paperwork burden on IP owners and to streamline information sharing with the agencies.

- 20. Provide specific suggestions on the need for public education and awareness programs for consumers, including a description of how these programs should be designed, estimates of their cost, whether they should focus on specific products that pose a threat to public health, such as counterfeit pharmaceuticals, or whether should they be general infringement awareness programs.**

There are opportunities, perhaps, where government and industry can partner on outreach campaigns to consumers. Below are a few examples of this type of outreach.

*“Know Your Parts” Campaign*

The Automotive Aftermarket Suppliers Association (AASA), an MEMA affiliate association, recently launched the “Know Your Parts” campaign. Over the years, AASA has studied a growing trend among various channel partners featuring lower-cost, often lower-performing aftermarket parts in an attempt to offer more competitive pricing and/or improve profit margins.

Low-cost, off-shore, generic auto parts are flooding the aftermarket throughout every level in the distribution channel. These parts may not meet original specifications and could pose a potential danger to both the technician installing them and the consumer driving the vehicle

on which they are installed. The entire aftermarket could suffer from the resulting loss of public confidence in our parts and services.

Education is the key to the AASA “Know Your Parts” campaign. AASA hopes to raise the awareness of everyone throughout the supply chain from the manufacturer to the consumer. The message, “Know Your Parts,” holds unique but similar meanings to everyone in the supply chain. Ultimately, anyone purchasing auto parts or having them installed should do their homework prior to authorizing repairs. It is important to identify which companies stand behind the products.

AASA has reached out to technicians and shop owners via advertisements and industry publications and events to share and communicate the “Know Your Parts” message and encourages them to investigate before installing a low-cost part. Furthermore, AASA has reached out to professional technician trade associations and offered to provide materials through their communication media. AASA also encourages consumers to become more proactive in learning about the aftermarket parts installed on their vehicles by calling on vehicle owners to research a part before authorizing repair. The technician and shop owner can play a vital role to educate their customers on the importance of brand name, quality parts.

#### *U.S. DOT Guidance and Recommended Best Practices for Import Safety*

While not directly germane to intellectual property, import safety is a component of the overall problem with counterfeit or non-compliant motor vehicle parts. The National Highway Traffic Safety Administration (NHTSA) dedicated resources to reaching out to other nations and to domestic importers to educate them about compliance with FMVSSs and their legal obligations as importers (manufacturer of record). NHTSA also reached out to familiarize importers with relevant industry voluntary standards.

MEMA worked very closely with the agency on the issue of import safety and provided input to the agency’s Import Safety Best Practices. The final version was published Dec. 24, 2008. [73 FR at 79201] MEMA strongly supported NHTSA’s efforts in this area and continues to look for ways to improve outreach on import safety.

There is some overlap with non-compliant and counterfeit products, but they are not mutually exclusive. The universe of specific motor vehicle parts subject to FMVSS is a small one. So while there might be some overlap, often times, the universe of counterfeit products – particularly for replacement parts (aftermarket) is much larger.

#### *Government-Industry Cooperation at Industry Trade Shows*

To supplement U.S. industry efforts to curb IP theft and counterfeit products as well as to assist the U.S. federal government outreach on import safety and compliance, MEMA provides a forum for cooperative activities during the annual Automotive Aftermarket Products Expo (AAPEX). This event is co-hosted by MEMA/AASA and the Automotive Aftermarket Industry Association (AAIA). Any and all suspected intellectual property violations are investigated by AAPEX Show legal counsel representatives. Typically, there are three full-time attorneys on site and eight security people dedicated to enforcing counterfeiting and anti-camera AAPEX Show policies.

Also, representatives from NHTSA attend the AAPEX Show to patrol the exhibit floor looking for proper compliance of regulated products (e.g. vehicle lighting, tires) and notifying

exhibitors when they are in violation of U.S. regulations (FMVSS). In cases where NHTSA has cautioned or notified an exhibitor about non-compliant product, the agency will issue a notice on-site and follow up with written correspondence.

These cooperative enforcement efforts have been successful. When exhibitors are found in violation of Show rules and policies, Show staff can require them to remove the offending products and/or they will confiscate the items and hold until the Show's conclusion. There have been several cases where exhibitors' booths were shut down because they failed to heed the warnings/cautions and to comply with Show policies.

### **In Closing**

MEMA is encouraged by the Administration's implementation of the IPEC position at the OMB. We strongly believe this is the first best step forward to coordinating the various agencies with the like-minded goals to protect domestic companies from IP theft, to consistently and regularly enforce the laws, to prosecute to the fullest extent, and to impose stiffer penalties on violators. While the PRO-IP Act puts the government on the right path, there is more legislation needed to continue to move the ball forward. Therefore, we urge the Administration to support efforts in Congress with legislation like S. 1631. There are a range of IP tools needed on the international front that need to include protections for trademarks, trade dress, patents, and copyrights.

MEMA intends to continue to actively educate our members through the AASA "Know Your Parts" campaign and to participate, as appropriate, in federal actions to educate manufacturers and importers about their obligations for compliance and voluntary industry standards.

As IPEC considers the comments of the MEMA, should you have any questions or require more information, please do not hesitate to contact us.

Regards,



Ann Wilson  
Senior Vice President  
Motor & Equipment Manufacturers Association

*Attachment*



**Special Report**  
**Special Report**  
**Special Report**  
**Special Report**

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Understanding the Flow of Counterfeit and Gray  
Market Goods through the U.S. Automotive and  
Commercial Vehicle Parts Marketplace

# Understanding the Flow of Counterfeit and Gray Market Goods through the U.S. Automotive and Commercial Vehicle Parts Marketplace

Presented by  
The Brand Protection Council of the Motor & Equipment Manufacturers Association

## TABLE OF CONTENTS

Counterfeiting: The Crime of the 21st Century.....	3
Counterfeit Parts and the U.S. Motor Vehicle Parts Supply Chain.....	4
The Legitimate U.S. Motor Vehicle Parts Supply Chain.....	4
How Counterfeit and Gray Market Products Enter the Parts Supply Chain.....	6
The Normal Flow of Legitimate International Products to U.S. Buyers.....	8
The Flow of Counterfeit/Gray Market International Products To U.S. Buyers.....	9
About the MEMA Brand Protection Council and MEMA.....	10
Glossary of Terms.....	11





# Counterfeiting: The Crime of the 21st Century

Intellectual property – the process which includes the creation, manufacture and marketing of a product – can be a manufacturer’s most valuable asset. Intellectual property rights (IPR) violations can come in a variety of forms including counterfeiting, trademark infringement, gray market, diversion, country of origin or non-compliant parts. It is a serious issue and, in today’s global marketplace, a company may never know its rights are being violated.

Counterfeit products are at the forefront of these IPR issues. Any recognizable brand is at risk of being counterfeited – from clothing and handbags, music and movies, pharmaceuticals and parts for automobiles and heavy duty trucks and equipment. The global counterfeit problem is estimated at \$600 billion per year, according to the Federal Trade Commission (FTC) and the World Customs Organization in Interpol. As a result, the FBI has labeled counterfeiting as the “Crime of the 21st Century”.

Counterfeiting is not a victimless crime. Consider that:

- Counterfeiting steals desirable manufacturing jobs.
- Counterfeiting destroys brand reputation of legitimate companies and poses product liability claims.
- The sale of counterfeit goods has been linked to organized crime and terrorist organizations.

The motor vehicle parts industry – those manufacturers who produce the parts and components used to repair everything from passenger cars to over-the-road trucks – have been hit hard by counterfeiting. It is estimated that counterfeiting costs the global motor vehicle parts industry \$12 billion a year and \$3 billion in the United States alone, according to the Federal Trade Commission (FTC) and the World Customs Organization in Interpol. The problem grows larger every year – in a report released in June 2006, Frost & Sullivan projected global losses as high as \$45 billion by 2011.

In addition to the other considerations listed above, counterfeit motor vehicle parts pose **serious safety risks** to unsuspecting consumers. Counterfeit motor vehicle parts may not meet safety standards and the criminals who produce these parts frequently use dangerous, inferior materials in production.

As a result, these counterfeit parts – which may look identical to quality, brand name parts – can endanger the repair professional installing the part, the car or heavy duty truck driver operating the vehicle and all motorists traveling the same roads with these vehicles.

In order to address the serious threat of this “Crime of the 21st Century” to the motor vehicle parts industry, the Brand Protection Council of the Motor & Equipment Manufacturers Association (MEMA) has produced “Understanding the Flow of Counterfeit and Gray Market Goods through The U.S. Automotive and Commercial Vehicle Parts Marketplace” to demonstrate how these counterfeit parts enter the U.S. motor vehicle parts market supply chain.

This guide is designed for use by law enforcement agencies, government agencies involved with the entry of goods and products through the U.S. ports, and anyone with an interest in the U.S. motor vehicle parts marketplace.



## Counterfeit Parts and the U.S. Motor Vehicle Parts Supply Chain

The majority of counterfeit auto parts in North America are imported. A large percentage is produced in China, accounting for more than **80 percent** of the goods seized at U.S. borders. However, other countries such as Taiwan, Hong Kong, Russia, India, Pakistan and Uruguay also have been reported as major producers and exporters of counterfeit goods.

All the partners in the motor vehicle parts supply chain can help stem the tide of counterfeit parts by working together in traditional channels and on the Internet. The vital first step is to understand these traditional channels of the parts supply chain.

### Editor's Note: Definitions

*Before reviewing the text and charts which follow, it will be helpful to understand a few commonly used industry terms describing the U.S. Automotive and Commercial Vehicle Parts Distribution Supply Chain Model. The definitions of terms used will be included with each chart and a complete glossary of industry terms is at the end.*

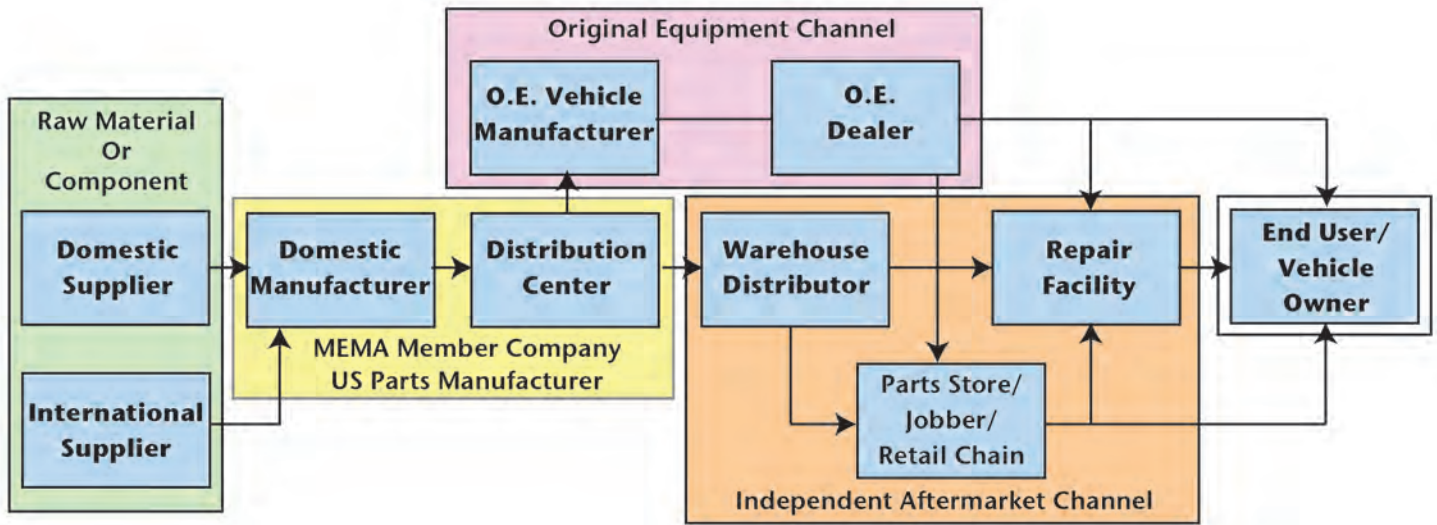
## The Legitimate U.S. Motor Vehicle Parts Supply Chain

To understand how counterfeit parts end up on cars, trucks and commercial vehicles, it is important to understand the chain of supply to the U.S. motor vehicle industry – which includes both **Original Equipment (OE) Channel**, which includes the OE vehicle manufacturer and the subsequent replacement parts sales and/or repair through OE dealerships, or the **Aftermarket**, which supplies parts and components which are added to or replaced on vehicles after they are already on the road.

**Figure 1** depicts the normal supply chain for the distribution of parts in the United States. **Raw material and Component Suppliers** are responsible for the supply of these to the **Manufacturer**. The manufacturer in turn produces finished parts from raw materials and/or components. Finished parts are moved to the **Distribution Center** where they are packaged and shipped to either the **Original Equipment Channel** or to a **Warehouse Distributor** for the aftermarket supply chain. The warehouse distributor or WD may sell parts to **Jobbers** and **Retain Chains**, which in turn sell the part to a **Repair Facility**, which may be independent or part of a car dealership, or the WD may sell directly to Repair Facilities. Jobbers also may sell parts directly to the vehicle owner for do-it-yourself repairs.



**Figure 1: U.S. Automotive and Commercial Vehicle Parts Distribution Supply Chain Model – Simplified**



**Color Key:**

- = Raw Materials and/or Components
- = MEMA Member Companies / U.S. Manufacturers
- = Original Equipment Channel
- = Independent Aftermarket Channel
- = Steps in the legitimate Supply Chain Model

**Legitimate**

**Definitions**

**Raw material and component suppliers** – parts used in light duty vehicles or commercial vehicles; may be international or domestic

**Manufacturer** – includes the actual manufacture, assembly and completion of a finished component or part

**Distribution Center** – manufacturer’s facility for packaging, warehousing and shipping of finished parts

**Original Equipment Channel** –includes the OE vehicle manufacturer and the subsequent replacement parts sales and/or repair through OE dealerships

**Aftermarket** – parts and accessories not supplied by the vehicle maker but added or replaced after the vehicle’s purchase.

**Warehouse Distributor** – wholesalers of vehicle parts

**Parts Store / Jobber / Retail Chain** – WDs may sell through independent or company owned parts stores; Jobbers are auto parts store owners/operators and may sell products to volume purchasers (repair facilities, fleet owners and industrial firms) and/or retail to walk-in customers (do-it-yourselfers)

**Repair Facility** – where parts are installed professionally (as opposed to consumer / do-it-yourselfers); may be independent or a car dealer

**End User / Vehicle Owner** – The ultimate end-user or consumer of the part



## How Counterfeit and Gray Market Products Enter the Parts Supply Chain

In the case of counterfeit or gray market products, different players enter the U.S. parts distribution supply chain. As **Figure 2** demonstrates, the methods of entering the marketplace are diverse – so diverse and convoluted at times that legitimate partners and the supplier may unwittingly sell unsafe, counterfeit parts to the end user.

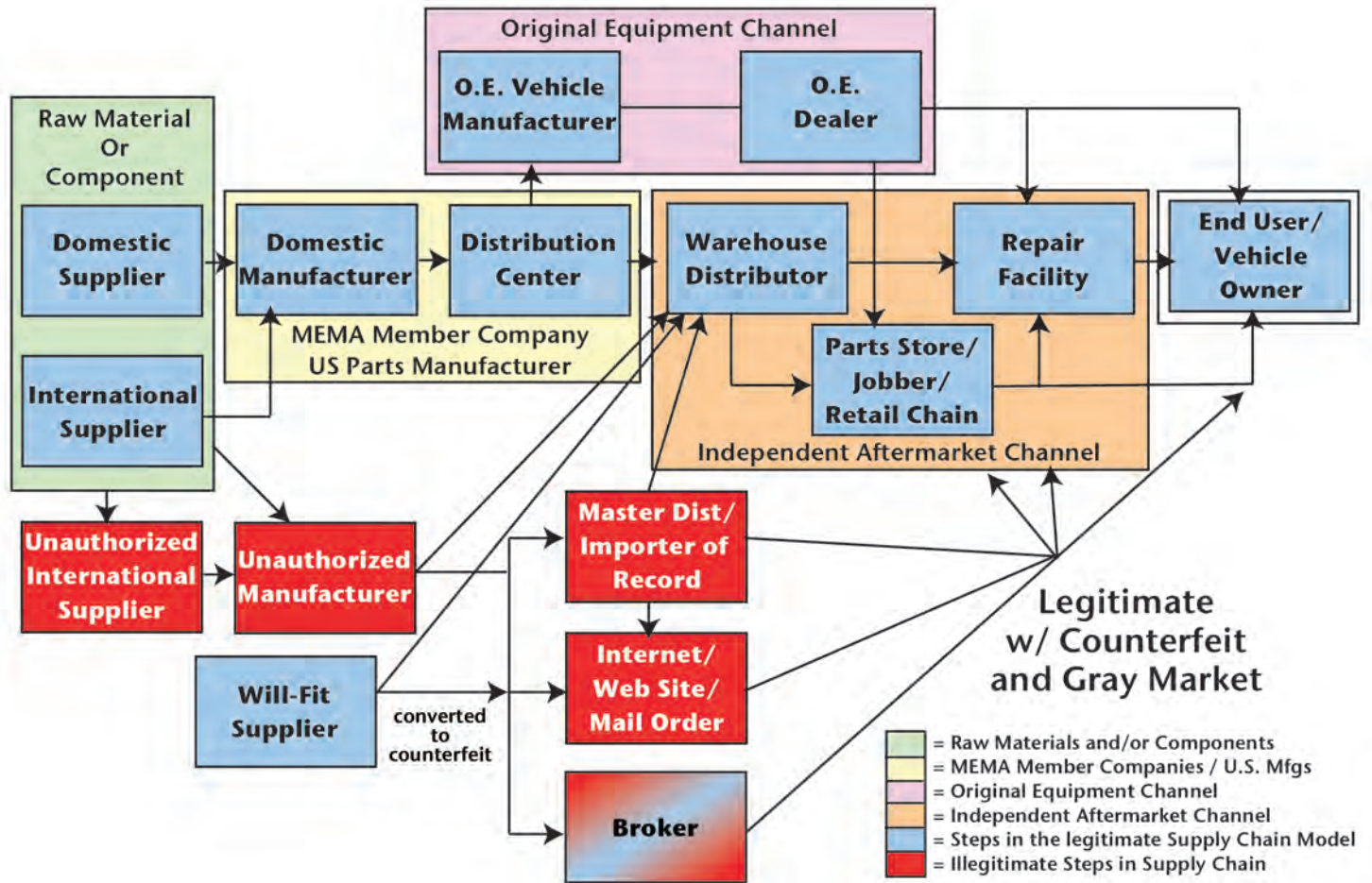
Before discussing the entry of these parts into the supply chain, an important distinction must be drawn between **counterfeit products** and **gray market products**. Counterfeit products are produced by **unauthorized suppliers** – these parts may appear identical to legitimate products in terms of packaging, branding and trademarks, but they have been produced without the original manufacturer’s authorization and may disregard adherence to safety and quality standards. Gray market products may be produced by **authorized** or **unauthorized manufacturers** – they were made for the replacement of the original part but are being distributed in an unauthorized channel in violation of the original manufacturer’s distribution agreement. These unauthorized suppliers and manufacturers may have links to international suppliers as subcontractors for production of legitimate parts.

Parts produced by the unauthorized supplier or manufacturer may be sold directly to the warehouse distributor. They also may begin their journey into the U.S. market through one of three points: through a **Master Distributor** or **Importer of Record**, on the **Internet** through a **Web site** or **Mail Order site**, or through a **Broker**. The **Will-fit Supplier**, which produces legitimate replacement parts which can be converted to counterfeit, also enters the supply chain through these three points.

Parts from the Master Distributor/Importer may be sold to a warehouse distributor, or may be sold directly to the parts store/jobber/retail chain, the repair facility or the end user/vehicle owner. The broker and the Internet/Web site/Mail Order sites may sell directly to the parts store/jobber/retail chain, the repair facility or the end user.



**Figure 2: U.S. Automotive and Commercial Vehicle Parts Distribution Supply Chain Model - Simplified**



**Definitions**

**Raw material and component suppliers** – parts used in light duty vehicles or commercial vehicles; may be international or domestic

**Manufacturer** – includes the actual manufacture, assembly and completion of a finished component or part

**Distribution Center** – manufacturer’s facility for packaging, warehousing and shipping of finished parts

**Original Equipment Channel** – includes the OE vehicle manufacturer and the subsequent replacement parts sales and/or repair through OE dealerships

**Aftermarket** – parts and accessories not supplied by the vehicle maker but added or replaced after the vehicle’s purchase.

**Warehouse Distributor** – wholesalers of vehicle parts

**Parts Store / Jobber / Retail Chain** – WDs may sell through independent or company owned parts stores; Jobbers are auto parts store owners/operators and may sell products to volume purchasers (repair facilities, fleet owners and industrial firms) and/or retail to walk-in customers (do-it-yourselfers)

**Repair Facility** – where parts are installed professionally (as opposed to consumer / do-it-yourselfers); may be independent or a car dealer

**End User / Vehicle Owner** – The ultimate end-user or consumer of the part

**Counterfeit Products** – parts and products bearing the appearance, branding, packaging and trademarks of legitimate manufacturers without authorization

**Gray Market Products** – legitimate products diverted for sale in an unauthorized market

**Unauthorized Suppliers** – producers of raw materials or components not commissioned by the original manufacturer

**Unauthorized Manufacturers** – producers of replacement products in violation of the original manufacturer’s intellectual property

**Will-fit Supplier** –producer of legitimate replacement products not in violation of intellectual property which may later be converted to counterfeit by affixing trade marks or other trade dress violations by another party

**Master Distributor / Importer of Record** – company that receives illegitimate products within the U.S. with the intent to distribute; also may convert legitimate replacement products to counterfeit through the use of markings, packaging, etc.

**Internet / Web Sites / Mail Order** – Also may be distributors of illegitimate products; may or may not be located in the United States

**Broker** – Generally not product experts but in the business of selling large quantities of overrun, overstock products which may or may not contain counterfeit goods

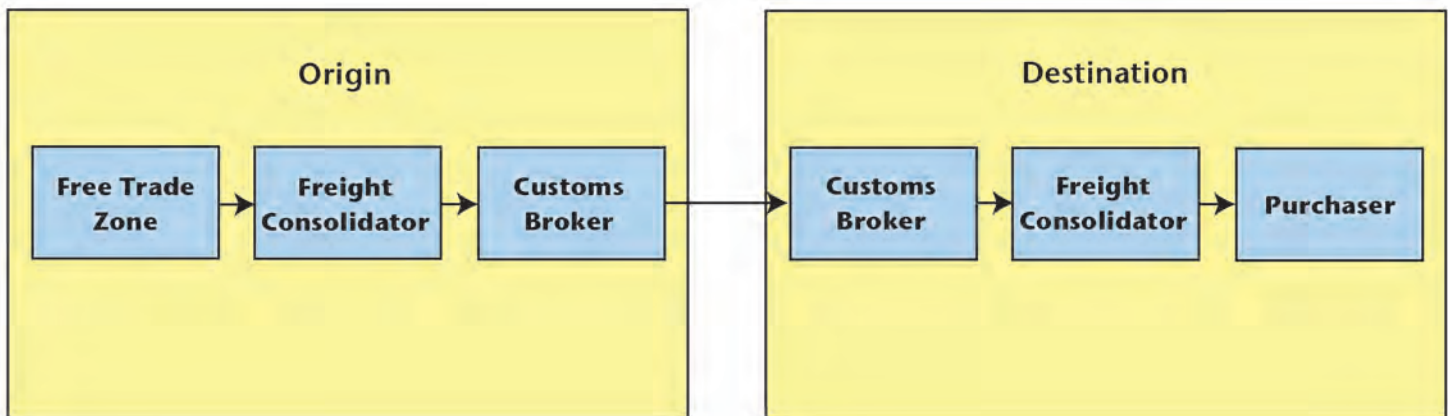




## The Normal Flow of Legitimate International Products to U.S. Buyers

The simplified flow chart shown in *Figure 3* illustrates the normal flow of products from international sources to U.S. buyers. The points of origin may include a **Free Trade Zone**, approved trade between businesses within international borders; a **Freight Consolidator** which transports goods internationally; and a **Customs broker** which completes the documentation needed for export of international goods. The process is then reversed upon receipt within U.S. borders.

**Figure 3: U.S. Automotive and Commercial Vehicle Parts Distribution Product Flow – Simplified**



Legitimate

### Definitions

**Free Trade Zone** – Within international borders

**Freight Consolidator** – Actual transporter of goods

**Customs Broker** – Completes necessary documentation for export of goods

**Purchaser** – May include all the parties in the Legitimate Supply Chain:

**Raw material and component suppliers** – parts used in light duty vehicles or commercial vehicles; may be international or domestic

**Manufacturer** – includes the actual manufacture, assembly and completion of a finished component or part

**Distribution Center** – manufacturer's facility for packaging, warehousing and shipping of finished parts

**Original Equipment Channel** – includes the OE vehicle manufacturer and the subsequent replacement parts sales and/or repair through OE dealerships

**Warehouse Distributor** – wholesalers of vehicle parts

**Parts Store / Jobber / Retail Chain** – WDs may sell through independent or company owned parts stores; Jobbers are auto parts store owners/operators and may sell products wholesale to volume purchasers (repair facilities, fleet owners and industrial firms) and/or retail to walk-in customers (do-it-yourselfers)

**Repair Facility** – where parts are installed professionally (as opposed to consumer / do-it-yourselfers); may be independent or a car dealer

**End User / Vehicle Owner** – The ultimate end-user or consumer of the part

**Aftermarket** – parts and accessories not supplied by the vehicle maker but added or replaced after the vehicle's purchase.

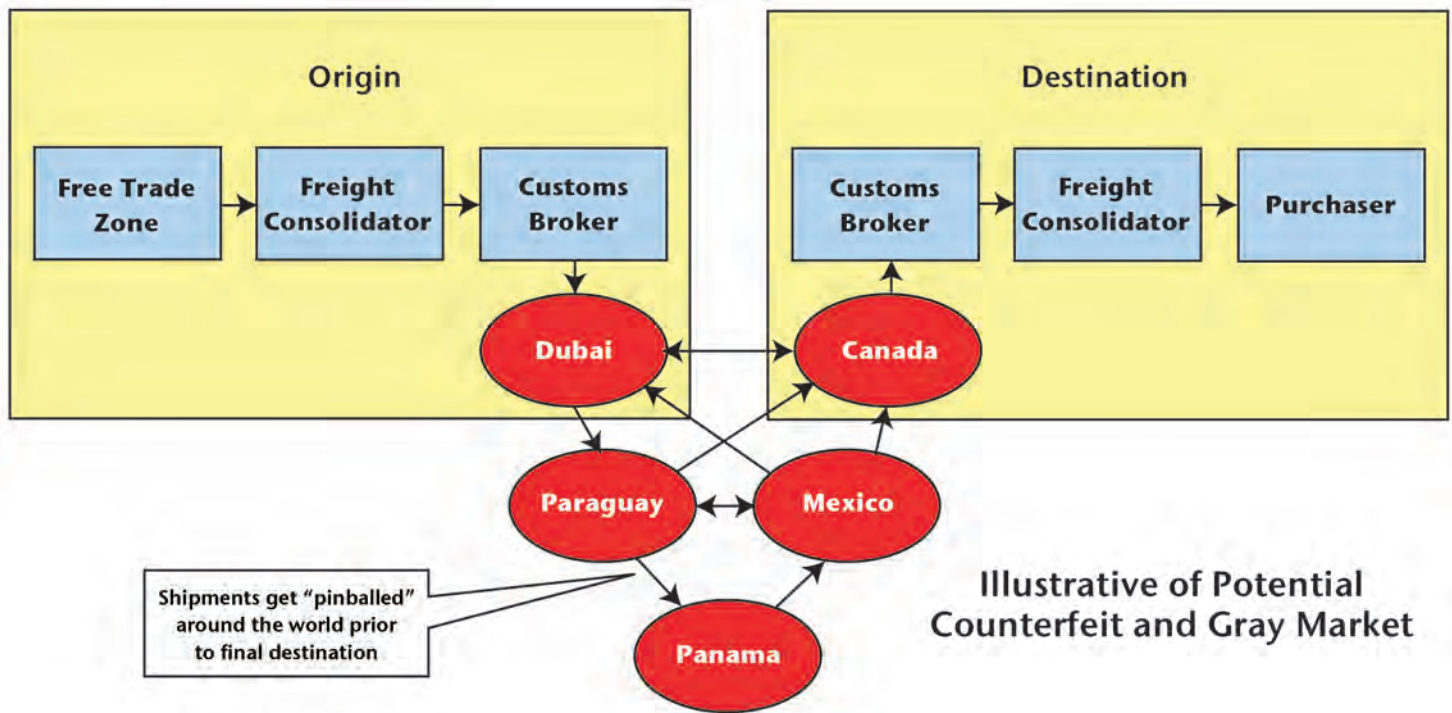
## The Flow of Counterfeit/Gray Market International Products to U.S. Buyers

In the case of counterfeit or gray market products, shipments are generally not direct to U.S. borders but may include many stops along the way. In today's fast-paced global marketplace, there are too many to name and frequently change. Some countries currently include:

- Dubai
- Paraguay
- Panama
- Mexico
- Canada

In countries with less complicated import restrictions, the entry of counterfeit goods are more likely. As depicted in *Figure 4*, counterfeiters also may add stops along the way to create a lengthy paper trail which makes country of origin more difficult to detect.

**Figure 4: U.S. Automotive and Commercial Vehicle Parts Distribution Product Flow**



### Definitions

**Free Trade Zone** – Within international borders

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**Repair Facility** – where parts are installed professionally (as opposed to consumer / do-it-yourselfers); may be independent or a car dealer

**End User / Vehicle Owner** – The ultimate end-user or consumer of the part

**Aftermarket** – parts and accessories not supplied by the vehicle maker but added or replaced after the vehicle's purchase.

## **About The Brand Protection Council**

To address the serious issue of counterfeiting and other IPR violations within the motor vehicle parts manufacturing industry, the Motor & Equipment Manufacturers Association (MEMA) created the Brand Protection Council to provide a forum for manufacturers to discuss counterfeiting and other IPR violations with a focus on North America. Its efforts include providing a best practices discussion forum for its members; working with elected officials and government agencies to stem the tide of counterfeit parts; and supporting legislative solutions improve enforcement actions against counterfeiters.

For more information on the Brand Protection Council or for assistance in contacting automotive brand owners, contact Jack Cameron at 919-406- 8856 or e-mail [jcameron@mema.org](mailto:jcameron@mema.org).

## **About MEMA**

The Motor & Equipment Manufacturers Association (MEMA) ([www.mema.org](http://www.mema.org)) represents motor vehicle parts suppliers, the nation's largest manufacturing sector which directly employs 783,100 U.S. workers and contributes to 4.5 million private industry jobs across the country. Suppliers manufacture the parts and technology used in the domestic production of more than 11 million new cars and trucks produced each year, and the aftermarket products necessary to repair and maintain more than 247 million vehicles on the road today. MEMA supports its members through its three market segment associations, Automotive Aftermarket Suppliers Association (AASA), Heavy Duty Manufacturers Association (HDMA), and Original Equipment Suppliers Association (OESA).





## Glossary of Terms

**Aftermarket** – The parts and accessories that are not supplied by the vehicle maker but are added to and/or replaced on the vehicle after it has been purchased.

**Broker** – In the commodities business. Generally not product experts but in the business of selling large quantities of overrun, overstock products which may or may not contain counterfeit goods.

**Counterfeit Products** – Those parts and products which bear the appearance, branding, packaging and trademarks of legitimate manufacturers without authorization.

**Customs Broker** – Completes necessary documentation for export of goods.

**Distribution Center** – This facility is owned by the manufacturer where finished parts are moved for packaging, warehousing and shipping.

**End User / Vehicle Owner** – The ultimate end-user or consumer of the part.

**Free Trade Zone** – Within international borders.

**Freight Consolidator** – Actual transporter of goods.

**Will-fit Supplier** – May produce legitimate replacement products not in violation of intellectual property but may later be converted to counterfeit by affixing trade marks or other trade dress violations by another party.

**Gray Market Products** – Legitimate products which have been diverted for sale in an unauthorized market.

**Internet / Web Sites / Mail Order** – May also be distributors of illegitimate products and may or may not be located in the United States.

**Manufacturer** – This includes the actual manufacture, assembly and completion of a finished component or part.

**Master Distributor / Importer of Record** – Generally the company that takes receipt of legitimate or illegitimate products within the U.S. with the intent to re-distribute throughout the channel. They may also be the converters of legitimate replacement products to counterfeit through the use of markings, packaging, etc.

**Original Equipment (OE) Channel** – Includes the OE vehicle manufacturer and the subsequent replacement parts sales and/or repair through OE dealerships.

**Parts Store / Jobber / Retail Chain** – In the aftermarket distribution channel, a warehouse distributor may elect to sell through a **parts store** which is either independent or company owned. **Jobbers** are the owners or operator of an auto parts store which may sell products wholesale to volume purchasers such as dealers, fleet owners and industrial firms, and/or retail to walk-in customer who repair their vehicles themselves (do-it-yourselfers).

**Purchaser** – Includes all the parties in the Legitimate Supply Chain

**Raw material and component suppliers** – These may include parts used in light duty vehicles (passenger cars, pick-up trucks, light duty vans, minivans, sports utility vehicles, etc.) or commercial vehicles (Class 6, 7, & 8 trucks, buses, heavy-duty vans and pick-up trucks, construction equipment). They may be international or domestic.

**Repair Facility** – If the part is installed professionally (as opposed to installation by the consumer or do-it-yourselfer), the part is sold directly or indirectly to a repair facility. This may be independent or a car dealer.

**Unauthorized Manufacturers** – Producers of products made for the replacement of the original but in violation of the original manufacturer's intellectual property.

**Unauthorized Suppliers** – Producers of raw materials or components that were not commissioned by the original manufacturer.

**Warehouse Distributor** – The same parts manufacturer that supplies OE parts often sells products into the aftermarket distribution channel which begins at the Warehouse Distributor or WD. The WD may sell parts through Jobbers and Retail Chains or directly to Repair Facilities.

