

between the Chinese hardware engineering firms and their software counterparts in India,” warns Sunil Mehta, Nasscom’s vice-president, commenting on international media reports that suggest imminent product-development opportunities.

Meanwhile, competition from Chinese firms is growing tougher all the time, as they speed up development in a bid to grab a larger slice of the global IT market and fend off their Indian rivals. Indeed, as the Indian giants build up their presence in China, many Chinese companies are hastening their own expansion, says Dong Lu, an associate with Granite Global Ventures, a specialist in expansion-stage venture capital in the US and Asia. For example, HiSoft Technology International, a leading Chinese software-services company based in Dalian, recently acquired two rivals: Beijing-based Ensemble International and Hong Kong-headquartered Teksen Horizon Systems. The companies declined to reveal the value of the deal, but said it was the biggest merger so far in the domestic software-services industry. “Chinese software companies are quite small and weak, but as more international companies are getting into this market and bringing us challenges, we must make ourselves stronger,” says Li Yuanming, HiSoft’s chairman and chief executive.

Chinese companies are expanding to fend off Indian rivals

Mission-critical phase

Some Indian companies have taken note of such drawbacks in their development plans and accordingly are treading cautiously. Wipro, a top Indian software concern, only has a skeletal presence in China, and its operations there are largely to service its Japanese and South Korean clients. So far, it has released no plans for serving the domestic Chinese market.

But Wipro is in the minority. Nasscom’s Mr Mehta believes Indian software companies will expand their presence eightfold or more in the coming 12-18 months. Adds TCS’s Mr Pande: “There are big opportunities out there. The Shanghai Stock Exchange recently had an RFP out. Similarly, the Olympics throw up their own possibilities. The banks are looking for core banking products. We can definitely transfer our Indian experience successfully.” If the Indian software industry’s Project China has completed the “discovery, design and architecture” stage, to borrow from system-delivery lifecycle terminology, it is now clearly moving into the “mission critical implementation” phase.

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How to catch a pirate

The fight against global trade in fake goods is not just China’s problem

In January when the Shanghai municipal government announced its plans to shut down Xiangyang Market—known simply as the “fake market” to locals—officials trumpeted the decision as a major victory in China’s battle against the rampant trade in pirated goods. Vice Mayor Zhou Taitong emphasised that the market was not just being “removed” but was being “abolished”. And the state media reminded readers that the Shanghai Industrial and Commercial Administrative Bureau handled 1,227 cases of trademark violation in 2005, confiscating 1.6m fake items from markets, including Xiangyang.

The government is quick to trumpet its battle against fake goods

Another property deal?

But the government’s crackdown-on-counterfeits spin seems simply to have been a convenient by-product of what the manoeuvre was really about: property. A few days after the Xiangyang announcement, local papers reported that Sun Hung Kai Properties, one of Hong Kong’s largest developers, was in “final talks” to purchase the market site—a prime plot on bustling Huaihai Road, in the heart of Shanghai’s commercial district—for US\$450m.

A Xiangyang salesperson says the merchants have been asked to leave the market before June 30, adding that many shopkeepers will be happy with a change of venue because rents at Xiangyang are

expensive, averaging about US\$5,000 per month per stall. “We will continue to sell the same products, but in a different part of the city,” says the 22-year-old, who specialises in fake luxury handbags. “The government is already telling some shops to move to the Longhua area. The market will not go away.” And what if it did? Fake goods can be found stocking storefronts on nearly every street in Shanghai.

Although international scrutiny of China’s piracy has intensified and several high-profile Chinese court rulings have gone against counterfeiters in recent months, those monitoring the problem from within the country say the situation is actually getting worse. The potential profits from manufacturing and selling fake goods are huge, but the penalties for those who get caught are minimal. According to David Fernyhough, executive vice president of Hill & Associates, a Hong Kong-based risk-management firm that investigates intellectual-property violations throughout Asia, counterfeit goods account for an estimated 5-7%—roughly US\$450bn—of global trade. And some 60-70% of such items worldwide are believed to have their origin in China.

Basically, that means any company with even the slightest name recognition should assume that its products are being counterfeited somewhere in the

world. Mr Fernyhough ticks them off with ease: “Batteries, toothpaste, razorblades. Everything from widgets to entire motor vehicles and engines.” Plane parts, too. And pharmaceuticals—60% of medicines found in developing countries are thought to be fakes.

But it is the pirated Chinese handbags, DVDs, CDs and software that grab most of the international headlines, with their legitimate producers claiming hundreds of millions of dollars in losses each year (for software, it is billions) due to Chinese counterfeits. Of course, this assumes that every person who buys a pirated item would have purchased the genuine article had a fake not been available—an assumption that is “absurd,” according to Paul French, a director with Access Asia, a business intelligence company based in Shanghai. “That just doesn’t stand up,” he says. “If every fake bag was moved off the market tomorrow, Prada wouldn’t sell one more bag in China.”

Court victories

Even if famous Western brands indulge in a fair amount of exaggeration, it cannot be denied that pirates are their public enemy No. 1 in China. In January Starbucks won its lawsuit against a local imitator which was using the Chinese translation of the US coffee-shop chain’s name. And it was Prada, along with fellow luxury brands Gucci, Louis Vuitton, Chanel and Burberry, which in December won a Beijing court ruling aimed at stopping the sale of knockoff handbags at Beijing’s equivalent to Xiangyang, the famed Silk Market.

What made this verdict unique is that it did not penalise those who sold the illegal items, rather it targeted the market’s landlord. But the fine levied was minimal—US\$24,800, which Mr Fernyhough says is less than what most counterfeiters pay in bribes to authorities responsible for enforcing intellectual-property rights every week—and the fake handbags were back out on the shelves in the following days. “This is a basic problem in the Chinese legal system,” says Access Asia’s Mr French. “You can win the case. You can win the decision. But you can’t get enforcement. Without enforcement, the legal system doesn’t work.”

Most observers agree that at the state level, China seems to be aware of the importance of trying to tackle its pervasive piracy problem. Officials realise that the issue has the potential to hamper trade relations and could convince some companies to stay out of China altogether. But, as is the case with so many problems in China, the farther you get from Beijing, the more difficult it is to police. Intellectual property is still a very foreign concept in China, and many insiders believe targeting such violations domestically will intensify only when China has intellectual property of its own to protect.

This lack of awareness, coupled with widespread corruption and under-staffed forces, places piracy pretty low on the list of priorities for local police. Some of their hesitation is understandable, when the social and economic implications of enforcement are considered. By some accounts, millions of Chinese—sometimes entire villages—rely on the counterfeit trade for their livelihood. Authorities must be asking themselves: does China need more unemployed and rural unrest?

Piracy cases in China can be handled criminally if the value of the goods involved is more than US\$30,000, but inspectors must rely on the whims of the local authorities to pursue them. Most cases are dealt with administratively, and many counterfeiters consider the fines handed down the price of doing business. Mr Fernyhough says it is easier to get police co-operation for cases that involve health and safety, like pharmaceuticals and car parts, or those that deal with dutiable items such as cigarettes and alcohol. But even then it is difficult, because the largest counterfeiting crime syndicates are well organised and managed, at times rivalling the ability of legitimate brands to produce and distribute goods. The syndicates are also very well protected within China—some can be traced back to former state-owned-enterprises or businesses that laid-off military officials got hold of through their political connections—so it is often easier to go after them abroad, where their protection does not extend, according to both Messrs Fernyhough and French.

All about money

At least that is the theory. But to get the attention of law-enforcement officials and agencies in the US, Europe and Australia, cases must be framed as more than simply counterfeiting. There are also border-integrity, tax-evasion and money-laundering charges involved. “It’s about the money,” Mr Fernyhough says. “It’s not about a handbag or a cigarette or a car part or a pill. It’s about the money. I think that is the key to understanding and unlocking the problem.”

The money trail, of course, snakes far beyond China. There is great demand worldwide for counterfeit products, the quality of which can now rival that of authentic items, and the market dictates that they be manufactured in a place like China with plenty of cheap labour. The problem, therefore, needs to be addressed along the entire slippery, serpentine global supply chain, through every jurisdictional loophole from manufacturing to retail sale—which often occurs outside China. As the Xiangyang Market knockoff handbag salesperson says, “I know morally it is wrong to sell fake things. But so many people want these products—and mainly, it’s foreigners.”

Many counterfeiters consider fines as the price of doing business

The counterfeit money trail snakes far beyond China