

**Counterfeiting Trademark Violations** Counterfeiting trademarked goods is a growing problem in the United States. Counterfeiting of trademarked goods constitutes a felony offense. The offense involves the secret manufacture and distribution of imitation items. The counterfeited items consist of imitations of well-known products such as Louis Vuitton, Gucci, Ralph Lauren, and Coach. Both the Trademark Counterfeiting Act of 1984 and the Anticounterfeiting Consumer Protection Act of 1996 address the issues of counterfeiting of trademarked goods.

The prosecution is required to prove the following elements in a case involving the offense of counterfeiting trademarked goods:

- The defendant trafficked in or attempted to traffic in goods.
- The defendant transported the goods in a knowing manner.
- The defendant knowingly used a counterfeit marking on or in connection with the goods.
- The defendant knew the marking was counterfeit.

### **Elements Elaborated**

The first element requires that the defendant intentionally traffic in or attempt to traffic in counterfeited goods. Trafficking is defined as the transport, transfer, or disposal of goods. The second element requires that the defendant act in a knowing manner with respect to the trafficking of the goods. The defendant is not required to know that his conduct is illegal. The third element requires that the defendant used the counterfeit marking. The last element requires that the defendant know that the marking was counterfeit. This element may be established by showing that the defendant had awareness or a firm belief that the goods that he was trafficking in contained a counterfeit marking.

### **Penalties**

If the defendant is convicted of counterfeiting trademarked goods, the government may obtain an order for destruction of the counterfeited articles. The prosecution must show by a preponderance of the evidence that the goods in question actually bear the counterfeit markings as alleged.

If the defendant is convicted of the offense of counterfeiting trademarked items, he may be sentenced to prison time or fined. There are also civil penalties that may be imposed such as treble damages and attorney's fees.