

MEMA Member's Counterfeit Battles Highlighted in Wall Street Journal

ABRO Industries, a small seller of glues, tapes and epoxies, has just 24 employees and no U.S. sales. But the company made the spotlight when it was featured on the front page of the Nov. 22 Wall Street Journal in an article highlighting the firm's efforts to fight intellectual property rights violators. ABRO is a long-time MEMA member and is a charter member of the association's Brand Protection Council.

Peter Baranay, president of ABRO, discussed in the article the piracy of the ABRO brand name and its products, as well as its two-year fight with Hunan Magic Power Industrial Co. According to the article, Hunan isn't just knocking off a few of ABRO's products, it's acting as though it is ABRO Industries. The Chinese company advertises and ships around the world more than 40 "ABRO" products in exact replicas of ABRO's packaging. Hunan Magic's owner even has ABRO's logo on his business card. He touts his firm as the real ABRO and warns customers away from impostors.

The Journal noted that ABRO has "shown more mettle than many other U.S. companies that have railed about piracy in China." It has hired dozens of lawyers and investigators, sued Hunan Magic, and gotten raids conducted in the United Arab Emirates and other countries, at a cost to ABRO in 2004 of more than \$600,000.

According to Baranay, counterfeit products are costing ABRO at least \$10 million a year in lost sales. ABRO designs and distributes products but contracts the manufacturing to other U.S. companies. The company's corporate roots go back to the 1930s, and the ABRO brand goes back to the 1970s. ABRO is profitable because of its high volumes and strong market shares in many countries. For example, in Pakistan, the generic name for masking tape is "ABRO." "We live and die by the strength of our brand," Baranay said.



Peter Baranay



ABRO's Epoxy Steel on the left, counterfeit Hunan Magic's on the right

According to the WSJ article, part of the problem with Hunan Magic is that the quirky Chinese legal system makes it difficult to prosecute counterfeiters. Also, local authorities are reluctant to hassle Chinese companies exporting an estimated \$20 billion a year in counterfeit products. Baranay and Timothy Demarais, ABRO's vice president of international sales, first heard about Hunan Magic from ABRO's Bosnian distributor, who stumbled upon the company's booth, loaded with ABRO products, at the huge, twice-yearly Canton Trade Fair in Guangzhou, China, in 2002. ABRO sent investigators posing as buyers to Hunan Magic's offices in the provincial city of Liuyang. They finagled a tour of Hunan Magic's main supplier where they saw stacks of fake ABRO products labeled "Made in USA." ABRO's lawyers persuaded local trademark authorities to raid the factory that December.

For months, ABRO fought for a copy of the raid report, only to learn that authorities had fined the factory \$600 for "unfair competition," without mentioning trademark violations or Hunan Magic. In October 2003, Demarais flew to China for the Canton Trade Fair. "So I walk up to Hunan Magic's booth and my eyes bug out," he recalled. There was a huge sign overhead that said "ABRO," and stacks of catalogs filled with ABRO products. Dozens of buyers crowded around, "including many of my own customers," he said. Demarais complained to the fair's trademark police. A group of local officials charged up to Hunan Magic's booth, led by Demarais who told Hunan, "The party's over — meet Mr. ABRO."

Undaunted, a Hunan Magic salesman produced a catalog displaying ABRO products he said the company had a right to sell. One was an epoxy whose packaging for years had featured a photo of Demarais' wife fixing a bicycle. (see photo on left) Hunan Magic's version was identical. "There I was staring at my wife's face," Demarais said. "And this guy claimed to own her."

Only after he showed authorities a photo of his wife pulled from his wallet did they seize the ABRO products on display and detain the booth's salesmen. Again, victory was brief. The company received no fine and later sued the authorities.

The U.S. Trade Representative's office has been championing ABRO's cause in Beijing. The Bush administration's top official on China trade, Josette Shiner, heard about ABRO's struggles and decided to invite Baranay on a trade mission to Beijing. "Here was a small company that had done all its homework and taken all the right steps, and yet its problems illustrated all that is wrong in the Chinese system," Shiner said in the WSJ article.

While traveling with Shiner in July, Baranay won an audience with senior officials at the Chinese Commerce Ministry and the national trademark office. Within weeks, ABRO got an expedited hearing at China's trademark office, which ruled against Hunan Magic's attempt to win a trademark for certain ABRO glues. Hunan Magic is appealing. In October, ABRO sued Hunan Magic for trademark violations, seeking \$600,000 in damages. Even if ABRO prevails, though, Baranay has new battles to fight, with ABRO fakes popping up in Latin America and other places. The company now has more attorneys on hire than it has employees. 