

Trading in goods that bear counterfeit trademarks

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: What is the ruling regarding trading in goods bearing counterfeit trademarks? And what is the ruling about buying them? May Allaah reward you.

Answer: All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

If the goods that are for sale bear trademarks belonging to other companies without their authorisation, it is then considered as an infringement upon the right of industrial innovation and commercial trademark. This comes under the financial rights, and the basic principle as regards money is the prohibition except that which is taken under the owners' consent, according to his saying صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ: "**The wealth of the Muslim is unlawful unless he gives it willingly**"¹; the same applies to the intellectual, tangible and dependency rights.

Therefore, it is incumbent upon the one who has such goods that he knows neither the nature nor the ruling, to get rid of them and never resume trading thereof. Nevertheless, if he has not received them (goods) yet, he has to refrain from trading in them, knowing that the ways of sustenance are wide. So, he has to choose those through which he can disseminate virtue and achieve the lawful good sustenance.

When it comes to the buyer who is compelled by a dire need due to a breakdown in his tools, machines or car, and could not find the original spare parts except the counterfeit ones, then -in such a case- it is permissible -if he wishes- to buy the counterfeit and defective ones even if he knows that due to the need, according to the jurisprudential rule that says: "**Need is judged as necessity, be it public or private**".

The perfect knowledge belongs to Allaah عَزَّ وَجَلَّ; and our last prayer is all the praises and thanks are to Allaah, the Lord of the Worlds, and prayers of Allaah are to Muhammad and his Family, Companions and Brothers until the Day of Resurrection.

Algiers on Dhu Al-Qa'da 27th, 1427 H. corresponding to December the 19th, 2006 G.

¹ Reported by Ad-Daaraqutnee (2886) and by Al-Baihaqee in "As-Sunan Al-Kubraa" (11545). This hadeeth is judged authentic by Al-Albaanee in "Al-Irwaa'" (5/ 279) (1459) and in "Saheeh Al-Jaami'" (7662).