

# What can SMEs do when their products get copied?

*Professor Torger Reve  
BI Norwegian School of Management*

PATSOFT 2007  
Fornebu  
June 4, 2007

**BI**

# What can small and medium size business firms do when their products get copied?

## Outline

1. The problem of product and marketing copying
2. The EKORNES case
3. A proposal for free legal aid and advice for SMEs through Innovation Norway

# The problem of product and marketing copying

*Most companies experience being copied by competitors*

Products are reversed engineered and copied

Patents are challenged and violated

Product designs and marketing are imitated

Trademarks and branding are taken over

# The problem of product and marketing copying exists in all markets

*Product copying is most pronounced in China and other emerging economies*

Product copying also takes place among competitors in Norway

Product copying can never be completely protected against, and the measures taken are uncertain

SMEs are particularly vulnerable for product copying due to limited capacity and competence in IPR

## **What are the legal actions to be taken when your products or processes are copied?**

Legal actions in country of origin such as China are very difficult and costly, the outcomes are uncertain, and implementation is not observed

Legal actions in country of final sales such as EU are less difficult and costly, the outcomes are more certain, and implementation of corrective actions apply to all EU member countries

# THE EKORNES CASE



**EKORNES®**



Products:





## The Comfort story

- The Stressless® Original was introduced in 1971



## **The Comfort story**

- The Wooden base was introduced in 1981



## The Comfort story

- Stressless® Plus System was introduced in 1991



Torgler Reve



## The Comfort story

- The "sleep-function" was introduced in 2001



Torgler Reve



## The Stressless<sup>®</sup> Glide System

- Double
- Patented
- Perfectly balanced
- No hands
- Must not be over-tightened



Torgler Reve



## Stressless<sup>®</sup> Plus<sup>™</sup> -System

- Lumbar support
- Headrest
- Sleep-function



Torger Reve

# Ekornes marketing concept is based on a "Total product concept" with many different elements working together

1. Core Product
2. The Physical Product-  
with differentiating  
product features
3. The Total Product - with  
all additional elements



## **Ekornes and Stressless are constantly being copied**

1. Local competitors imitate Ekornes products and marketing concept, but without violating patents
2. A large European competitor markets their products under the Zero Stress brand
3. Single products are constantly being copied by Chinese manufacturers, but they do not reach the same luxury market segments
4. In 2006, we found a complete 'Stressless' factory in China, copying our full product line

## **What do Ekornes do when product copies are discovered?**

1. Copy products are always purchased and reversed engineered. (Sometimes we even learn small improvements.)
2. Serious manufacturers are always threatened by legal actions
3. Chinese manufacturers are too difficult to sue
4. The most effective legal actions are taken against retailers in EU or US, and one victory typically bars the copy product from the EU or US retail market

**Ekornes ASA is fairly large Norwegian company with economic resources to go after IPR violations.**

**What can the smaller companies do to protect themselves against copying?**

## **SMEs need free legal aid and advice to protect themselves against copying**

- Free IPR legal aid and advice ('Fri rettshjelp') for Norwegian SMEs is a protective measure that will reduce copying by increasing copying costs
- The free IPR legal aid may be administered by Innovation Norway and monitored through their international network
- The central IPR unit at Innovation Norway should engage top lawyers to implement IPR standards (EU)
- Norway should write bilateral agreements with non EU nations to implement stricter IPR standards

## Conclusions

- Product and marketing copying is an increasing international problem
- Norwegian companies often take few protective measures against product and marketing copying
- Ekornes and its Stressless brand is constantly being copied, but violations are always pursued legally
- Norwegian SMEs do not have the capacity, nor the resources, to take effective legal actions against copying
- A system of free legal aid and advice in IPR cases is proposed, organized through Innovation Norway