

# House Committee on Ways and Means

Statement of Peter Baranay, Chief Executive Officer, ABRO Industries, Inc., South Bend, Indiana

Testimony Before the Subcommittee on Trade  
of the House Committee on Ways and Means

February 15, 2007

Good morning Chairman Levin and members of the House Ways and Means Subcommittee on Trade.

Thank you for giving me an opportunity to testify today regarding China's enforcement of Intellectual Property Rights.

My name is Peter F. Baranay and I am President of ABRO Industries, Inc. in South Bend, Indiana. I am here representing the Motor Equipment Manufacturer's Association known as MEMA and the Brand Protection Council of MEMA whose purpose is to "provide a forum for manufacturers to discuss counterfeiting, intellectual property rights, gray market or diversion, share best practices, recommend solutions, formulate future seminars and promote networking."

This group was started nearly three years ago and has over 50 members. Most of the names you will recognize: Ford, General Motors, Dana, Delphi, and Tenneco to name a few.

You may be wondering why I am here instead of one big name company. The answer is simple. Many companies do not want to talk publicly about their counterfeiting problem and specifically with respect to China and its booming automotive industry. These companies are concerned the publicity will have a negative impact on their customers. As a member of the President's Advisory Committee on Trade Policy and Negotiation (ACTPN), I know this failure to disclose counterfeit issues facing American companies was a problem when the U.S. Trade Representative's Office tried to build an out-of cycle WTO complaint against China.

I am pleased to be here today to share with you some details of the types of counterfeit problems and issues ABRO and other members of MEMA are facing.

ABRO Industries traces its corporate roots back to 1939 when our founder started a translation service. In 1944 he had incorporated and was working with manufacturers in the United States selling their products in the international market place. In the mid 1970's, the "ABRO" brand was developed as part of a long term strategy to continue to sell U.S. manufactured products into the International market place.

ABRO is perhaps unique in that 100% of our business activity is conducted overseas. Although we do business in over 165 countries, not one dollar of ABRO products are sold in the United States. We began to trademark the ABRO name beginning in the U.S. followed by Singapore in 1980. 27 years later the ABRO trademark is registered in 167 countries and we own 1,085 registrations in numerous international classifications. ABRO considers Intellectual Property Protection of paramount importance. Although we can point to many examples of counterfeiters, the one specific company who is the most egregious and a dangerous economic terrorist with respect to Intellectual Property is Hunan Magic of China. Beginning as early as 2001, Hunan Magic Power Inc. Company Ltd. not only began to counterfeit ABRO products, but began to represent themselves as ABRO itself. A brazen example of

Corporate identify theft.

This story was the subject of a Page One article in the Wall Street Journal in November 2004.

### **Intellectual Property Piracy in China**

The last five years have been enormously frustrating in spite of ABRO holding numerous valid Chinese registrations and Hunan Magic holding none. They have operated with relative impunity in their local community and have shipped tens of millions of dollars of counterfeit ABRO goods around the world.

Fortunately, with aggressive legal action and the support of the U.S. Trade Representative's office and the U.S. Patent and Trademark Office, ABRO has legal action on a number of succeeded fronts against Hunan Magic. We have succeeded in stopping Hunan Magic from registering the ABRO mark, although Hunan Magic continues to claim their application as legal basis for continuing to counterfeit. Hunan Magic has gone so far as to claim that they independently created the ABRO mark and our packaging. A claim that is rather far fetched as the photograph on one of our often counterfeited products is the wife of our corporate Vice President.

ABRO has received fair hearings by the Chinese Trademark Office, and on the Federal level we are prevailing in China. We have conducted a series of raids against Hunan Magic's manufacturing operations during which counterfeit ABRO products were seized. We aggressively pursued Hunan Magic within the China legal system, and the case was ultimately decided in our favor in December 2006 with damages of \$64,000 awarded to ABRO Industries, Inc. Again at the Federal level, ABRO registered the ABRO mark with Chinese customs and a significant number of export containers from Hunan Magic and others have been seized with the goods ultimately destroyed and fines levied against the exporter, and Hunan Magic.

We have been extremely satisfied with the cooperation we received from China customs.

Regrettably, business is ultimately local in nature and Hunan Magic operates openly within Hunan Province as they employ individuals and pay taxes.

Many American companies have found themselves victimized in China and other countries because they failed to adequately protect their intellectual property. Other companies such as ABRO Industries, Inc. have been pro-active, but still find themselves the victims of counterfeit some of whom are just as audacious and tenacious as Hunan Magic.

I believe that senior members of the Chinese Government fully recognize the need to be compliant with respect to Intellectual Property, but in many respects actions have not followed their words.

Thank you for giving me the opportunity to testify today and I look forward to any questions you may have.