THE STATE OF PLAY ON INTERNATIONAL PIRACY AND ANTI-COUNTERFEITING STRATEGIES

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On September 8, 1989, a Partnair CV-580 double-engine passenger propeller on route from Oslo, Norway to Hamburg, Germany crashed off the Danish coast, killing 55 people onboard. It remains the deadliest Norwegian aviation disaster to date and eventually resulted in the closing of Partnair.1 Several investigations all pointed to improper maintenance as the primary cause. Most notably, three of the bolts used to secure the tail section were found to be counterfeit products of inferior quality that could not sustain the resonant vibration that occurred in the auxiliary power unit.2

Counterfeiting is a serious problem which transcends borders, industries, and consumers. Cars and planes provide two ready examples. Unapproved or counterfeit parts3 played a role in 174 aircraft crashes or less serious accidents from May 1973 through April 1993.4

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3. The Federal Aviation Administration (FAA) defines “counterfeit parts” as: “A part made or altered to imitate or resemble an approved part without authority or right, and with the intent to mislead or defraud by passing as original or genuine.” FAA Advisory Circular 21-29C, Detecting and Reporting Suspected Unapproved Parts 3(d), updated Aug. 11, 2011, available at http://www.faa.gov/aircraft/draft_docs/media/Draft_AC-21-29C-CHG-2.pdf. Because not all substandard parts are counterfeit per se, the FAA rules often combine the term counterfeit with “unapproved parts.” 3o defines “unapproved parts” as: “A part that does not meet the requirements of an approved part (refer to definition of approved parts in subparagraph 3b). This term also includes parts that may fall under one or more of the following categories: (1) Parts shipped directly to the user by a manufacturer, supplier, or distributor, where the parts were not produced under the authority of (and in accordance with) an FAA production approval for the part (e.g., production overruns where the parts did not pass through an approved quality system). (2) New parts that have passed through a PAH’s quality system which do not conform to the approved design/data. (3) Parts that have been intentionally misrepresented, including counterfeit parts.