

**ASCDI/NATD**  
**ANTI-COUNTERFEIT POLICY**  
**REVISION 1 – SEPTEMBER 10, 2012**

**Preamble:**

Members of the Association of Service and Computer Dealers International and the North American Association of Telecommunications Dealers (“ASCDI/NATD”), and Subscribers to the ASCDI/NATD Equipment Trading Network (“eTN”) have pledged to honor and abide by the ASCDI/NATD Anti-Counterfeit Policy in order to eliminate, or mitigate the impact of, counterfeit IT goods and develop best practices and strategies to identify, inspect, test, properly dispose of and report encounters with counterfeit product.

The ASCDI/NATD Anti-Counterfeit Policy reflects the dedication of ASCDI/NATD Members (“Members”) and eTN Subscribers (“Subscribers”) to maintain the highest level of integrity and responsibility toward the information technology industry, customers and members of public and private enterprises.

The ASCDI/NATD will enforce its Anti-Counterfeit Policy through its Ethics Committee, which considers alleged violations and renders Sanctions, including suspension or expulsion from the ASCDI/NATD and/or the eTN.

The ASCDI/NATD will maintain a Counterfeit Database that will 1) identify known or admitted individuals and companies that originate or traffic in counterfeit products; 2) track known counterfeiting techniques and methods; 3) track known sales transactions and ASCDI/NATD ethics matters that have involved *confirmed* counterfeit products; and 4) track known sales transactions and ASCDI/NATD ethics matters that have involved *suspect* counterfeit products. ASCDI/NATD The potential uses of the Counterfeit Database are described in Article 6.

Terminology - *confirmed* counterfeit vs. *suspect* counterfeit : Only when an item can be determined with certainty as counterfeit will it be described as *confirmed* counterfeit. Such determination may require the involvement of the manufacturer, an acknowledged third-party testing facility, and/or mutual agreement of the purchaser and supplier. In the absence of the such determination, all other items thought to be counterfeit will be described as *suspect* counterfeit.

**ASCDI/NATD Anti-Counterfeit Policy**

Members of the ASCDI/NATD and Subscribers to the eTN agree to the following:

### **Article 1 – “No Tolerance” Policy**

Members and Subscribers agree to maintain and enforce a “No Tolerance” policy against knowingly and intentionally trafficking in counterfeit products. Any owner, director, officer, employee or contractor found to be knowingly and intentionally trafficking in counterfeit products will be subject to immediate termination.

### **Article 2 – Replacement or Refund**

Members and Subscribers agree that if they have supplied a counterfeit product, as determined by agreement between the supplier and a customer or by competent authority as recognized by the ASCDI/NATD, they will immediately replace the product with a genuine product or refund payment of the purchase price to the customer. Members and Subscribers agree that counterfeit products have no value.

### **Article 3 – Quarantine Requirement**

Members and Subscribers agree that every effort must be made to eliminate counterfeit products from the information technology supply chain and, in so doing, they agree that no claim or demand will be made seeking return of a counterfeit product, and they agree they will quarantine any suspect or confirmed counterfeit product coming into their possession pending proper disposal. [Note - The ASCDI/NATD is working to clarify what constitutes “proper disposal,” taking into consideration such issues as statutory retention periods for evidence in criminal proceedings, limits to quarantine periods, accepted methods of product destruction and documentation of such. Clarification will be issued as soon as it is obtained and vetted.]

The only exception to this mandatory Quarantine Requirement will be the release of suspect counterfeit product for evaluation purposes, either to the Manufacturer or to a recognized third-party testing facility, with the objective of determining with certainty whether or not an item is counterfeit. Such release will only take place under the mutual agreement of the supplier and purchaser. Under no circumstances will suspect or confirmed counterfeit product be returned by the Manufacturer or third-party test facility to the supplier.

Members and Subscribers recognize that violation of this Quarantine Requirement, except for testing purposes as outlined in the preceding paragraph, could result in criminal penalties for trafficking in counterfeit goods.

### **Article 4 – No Physical Possession**

Members and Subscribers agree that even if they sell IT products without taking physical possession of the products, they fully agree to and adopt this Policy and acknowledge they are bound by its terms.

## **Article 5– Members & Subscribers Pledge**

In keeping with these principles, Members and Subscribers make the following pledge:

- (a) They will ban counterfeit products from their premises, except as necessary to comply with quarantine requirements;
- (b) They will adopt and enforce internal anti-counterfeit protocols designed to identify and quarantine confirmed and suspect counterfeit products, and will report all encounters with confirmed and suspect counterfeit products as prescribed ASCDI/NATD in Article 6;
- (c) They will participate in the ASCDI/NATD ethics process, which for suspected counterfeit products shall include the following:
  - 1. They will respond to any Ethics Complaint and will participate in all relevant ethics proceedings;
  - 2. The parties to a transaction that may be subject to an Ethics Complaint by reason of suspected counterfeit product, will cooperate in attempting to determine if the product is counterfeit;
  - 3. If the product is suspected to be counterfeit, the parties will cooperate in identifying the ultimate supplier of the counterfeit product; if product is determined to be counterfeit, they will file an ASCDI/NATD Ethics Complaint against the ultimate supplier;
  - 4. If the supplier of a suspect counterfeit product is not cooperating with the investigation and is not complying with other elements of the Policy, then the supplier may be subject to an Ethics Complaint.
- (d) They will provide written communication to all employees via email and posted notices, advising employees of their adoption of the ASCDI/NATD Anti-Counterfeit Policy. The written communication will include the following information and directions:
  - 1. The details and requirements of the ASCDI/NATD Anti-Counterfeit Policy;
  - 2. Directions to employees that, upon discovery of a counterfeit item, they shall immediately report all evidence of suspected or confirmed counterfeit products to their immediate supervisor, and the supervisor shall immediately notify management who shall immediately commence the company quarantine process;
  - 3. Directions to employees that, upon being advised that the employer may have supplied counterfeit products to a third party, the employees shall obtain all evidence available about the suspected or confirmed counterfeit products and report the evidence to their immediate supervisor. Employees shall not request return of the suspected counterfeit product.
  - 4. The specific actions to be taken to complete the quarantine process;
  - 5. The specific actions to be taken to report the suspect or confirmed counterfeit product(s) ASCDI/NATD as outlined in Article 6.

- (e) They will promptly respond to any notice provided by any customer of a suspected counterfeit product supplied by the Member or Subscriber.
- (f) They will cooperate with any reasonable request for information related to a specific suspected counterfeit product.
- (g) They agree that if they are in violation of the ASCDI/NATD Anti-Counterfeit Policy, they are subject to disciplinary action consistent with the ASCDI/NATD Code of Ethics remedies, which may include suspension and/or expulsion from the ASCDI/NATD and/or the eTN.

### **Article 6 – Reporting**

- (a) ASCDI/NATD encourages the reporting of confirmed and suspect counterfeit items/transactions to the attention of Joseph Marion, President (jmarion@ASCDI/NATD.com), on a confidential basis.
- (b) ASCDI/NATD will enter this information into a confidential database to ascertain trends regarding to products that are suspected of being counterfeited
- (c) Reports/updates regarding products that are suspected to be counterfeit will be sent to the ASCDI/NATD membership
- (d) For legal reasons, the identity of suppliers of suspect counterfeit items will remain confidential until/unless: (1.) The supplier is found guilty or is non-responsive to an Ethics complaint; or (2.) Law enforcement subpoenas the information from ASCDI/NATD
- (e) If a supplier is found guilty or is non-responsive to an Ethics complaint, ASCDI/NATD will report the identity of the supplier and details of the suspicious transaction(s) to law enforcement. In the United States of America, this information will be reported to the National Intellectual Property Rights Coordination Center ([www.IPRCenter.gov](http://www.IPRCenter.gov)). In other jurisdictions, the appropriate law enforcement contact will be determined by ASCDI/NATD.
- (f) If a supplier is cooperating in good faith with the other parties to the suspect counterfeit transaction(s), is following the ASCDI/NATD Anti-Counterfeit policy to the best of its ability, and has not been found guilty of an Ethics violation with regard to the Anti-Counterfeit Policy, it will not be reported to law enforcement (unless law enforcement subpoenas this information)

### **Conclusion**

The Ethics Committee reviews infractions of the ASCDI/NATD Anti-Counterfeiting Policy by its Members, eTN Subscribers, and Non-Members. Members and/or Subscribers found in violation of the ASCDI/NATD Anti-Counterfeiting Policy will be subject to disciplinary action as set forth in the ASCDI/NATD Procedure for Filing and Processing Complaints.