



FSC Trademark Enforcement

Reinforcing the Backbone of the FSC System

The idea of a trademarked label is the backbone of a third-party certification system like FSC. Protection of those trademarks is a very serious issue for FSC, as the label is what gives FSC its strength in the marketplace. When the trademark is violated, everyone involved in the system—members, certificate holders, stakeholders, and consumers of FSC-certified products—is affected. FSC has the ability to take legal recourse whether or not the company involved actually holds a certificate, and regularly pursues action against trademark violators.

FSC-US interviewed Heiko Liedeker, executive director of FSC International Center about trademark protection, how misuses are dealt with and what is being done to curb possible future violations.

NEWS

Who owns the trademark?

The trademarks are owned by Forest Stewardship Council A.C. The FSC logo holds copyright protection. This means that FSC is the sole owner of the logo design and that the originality of the artwork is protected. The FSC has also registered its logo, the FSC initials and the name 'Forest Stewardship Council' as trademark. FSC holds property titles over its trademarks in a wide range of countries.

Trademark registration and copyright protection is the basis for the enforcement of the FSC trademark requirements.

What options does FSC have to enforce its trademarks requirements?

FSC has strict rules on who can use the FSC trademarks and in what context. These rules have a strong preventive element built into them: before anybody is allowed to use any of the FSC trademarks, it has to be checked and verified that the use of the FSC trademarks is according to FSC rules and does not challenge the integrity of the FSC system through misleading, exaggerated or

simply incorrect claims. The rules of FSC trademark use are accessible to everybody through the world wide web and are delivered to each FSC certificate holder when the FSC certificate is issued.

FSC accredited certification bodies are the contact for FSC certificate holders who would like to advertise their products. So-called 'Nominated Agents' support and advise non-FSC certificate holders—usually retailers or organizations that would like to promote FSC certified products. Nominated Agents are usually the FSC National Initiative in the country or an appointed person from an FSC Working Group. (In the U.S., Katie Miller of FSC-US is the Nominated Agent.)

If, despite the preventive approach taken, we hear of trademark misuses, we take these very seriously and react immediately by investigating all facts and evidence available to us. In most cases the misleading statements are quickly rectified and the company signs a legal agreement with FSC stating that it understands and agrees to respect the FSC trademark rules. In the worst case these investigations may result in the suspension, or even withdrawal, of FSC certificates by FSC accredited certification bodies, and can go even as far as the prosecution of organizations and companies misusing the FSC trademarks.

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FSC-US Welcomes Newly Elected Board Members

DAVIS AND HANNA JOIN BOARD AS NEW DIRECTORS, DICKINSON RE-ELECTED TO SECOND TERM

FSC-US announced earlier this month the election of three members to its Board of Directors. The new members are: Paul Davis, senior marketing analyst and FSC group certification manager for Columbia Forest Products in Portland, Oregon, and Ian Hanna, director of Northwest certified forestry for Northwest Natural Resource Group in Port Townsend, WA. In addition, Josh Dickinson, executive director of Forest Management Trust in Gainesville, FL, was re-elected to serve a second full term.

BOARD OF DIRECTORS

Paul Davis is taking the vacated seat of Paul Harlan of The Collins Companies, who has fulfilled two terms on the Board and was not eligible for re-election. Ian Hanna is taking the seat of Barbara Bramble of National Wildlife Federation, who also served two terms and was not eligible for re-election.

The Board of FSC-US is comprised of nine members (three elected from each chamber of the membership—economic, environmental and social) elected by its membership. The elected Board members have appointed three additional members, and may appoint up to three more, for a total of two appointed members in each chamber.

"We are pleased to have veteran Board member Josh rejoin us for another term. We are also very excited to have two brand new board members in Paul and Ian, who we are sure will bring new viewpoints, and experiences to the oversight of the FSC-US organization," said Barbara Bramble, chair of the FSC-US Board of Directors.

Bramble will retire as chair when her term ends on July 31st, and Bill Hayward of Hayward Lumber in Monterey, CA, will assume the chairmanship.

The newly elected Directors will assume their roles on August 1, 2007.

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BOARD OF DIRECTORS

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Paul Davis – Columbia Forest Products Economic Chamber

Paul Davis is presently a senior marketing analyst and FSC group certification manager for Columbia Forest Products. Over the last ten years, he has been in a unique position to help Columbia develop one of North America's most extensive FSC-wood-panel-manufacturing, distribution and fabrication networks.



A LEED-Accredited Professional, he has identified, developed and pro-

moted the "fit" of Columbia's green panel, veneer and flooring product lines to the United States Green Building Council's emerging family of LEED high performance green building standards.

Prior to working for Columbia, Paul was employed for eight years with Georgia-Pacific as a wood products buyer, claims manager and decorative hardwood plywood sales representative.

He currently represents Columbia as the marketing chairman and a board member of the Hardwood Plywood and Veneer Association (HPVA). This association represents over 80% of the hardwood plywood and veneer industry in North America. Within the HPVA, he teams with peer firms to promote the differentiated, green attributes of decorative wood products manufactured here in North America. The HPVA, at present, has 23 members with FSC COC certifications.

He holds a B.S. in business administration from Oregon State University and resides in the Portland area.

Joshua Dickinson – Forest Management Trust Social Chamber

Josh Dickinson is Executive Director of the Forest Management Trust which he founded in 1992. He

participated in the Trust coordinated Southeastern FSC standard development process and most recently as a Social Chamber member of the FSC Plantations Review Policy Working Group. In 1994, he engaged FSC in the Bolivia Sustainable Forestry project that over a 5 year period



brought a million hectares of tropical forest under certified management. In Quintana Roo, Mexico the Trust helped women artisans make and sell products made from certified woods. Through the Trust he is working with the Southern Forests Network and Handley Forest Services to promote uneven-aged management of southern yellow pine by family forest owners under group certification. He is a current and past member of the FSC-US board, an associate member of the Forest Guild, and Executive Committee member of the Alachua County NAACP.

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Social Impacts of the Paper Industry**ENVIRONMENTAL PAPER NETWORK ISSUES NEW REPORT**

This July, Environmental Paper Network, a group of environmental organizations joined together to support socially and environmentally sustainable transformations within the pulp and paper industry, released a new report discussing the social impacts of the paper industry around the globe.

The report highlights some of the ways in which the pulp and paper industry can cause social impacts, giving both good and bad examples in two areas: land rights and livelihoods. These impacts can be on indigenous peoples and on forest communities in areas where the industry sources fiber, communities neighboring and downstream from pulp and paper mills, and employees and contractors of the industry.

PAPER

Regarding the issue of land rights, the report states that the land rights of indigenous peoples and rural communities must be respected, but in some regions they are violated in the course of activities by pulp and paper corporations. When paper companies are granted concessions to log forests and/or establish fiber plantations without gaining the full and informed prior consent of local communities or indigenous peoples with customary rights on that land, this is an abuse of the land rights of those people and communities. Unfortunately these abuses are far too widespread. Indigenous people are struggling for their rights in many paper producing regions, from the Sami in Finland to the Maori in New Zealand, from the Haida in Western Canada to the Udege in the Russian Far East.

As an example of "worst practice" in this area, the report details bitter conflict in the state of Espírito Santo, Brazil, surrounding the acquisition by Aracruz Cellulose, the world's biggest producer of eucalyptus pulp, of land claimed by indigenous peoples. In Brazil, there is now more than 11 million acres of eucalyptus plantation growing in vast monocultures, termed 'green deserts' by their opponents, who complain that the plantations consume vast quantities of water, causing rivers to dry up and leading to erosion, deterioration of water quality and loss of fishing and water resources to local communities.

Regarding the issue of livelihood, the report points out that there are often economic and social impacts to local communities when pulp and paper companies begin operations in their area. There is thus a profound responsibility on these companies to work to ensure that these impacts are beneficial rather than detrimental. Progressive paper companies embrace the opportunity to work with local communities as allies and beneficiaries without making them dependent on the company and supporting economic diversification. The worst companies ride roughshod over local community livelihoods.

As an example of "worst practice," the report states that China, the second biggest producer of paper in the world after the USA, uses agricultural residues as the basic ingredient in a great deal of its paper. All over China, when farmers harvest rice, maize and sugar cane, they sell the straw to pulp mills—an important aspect of rural economies. Unfortunately, many of the thousands of small pulp mills are old and polluting and the Chinese state is closing many of them down, whilst encouraging paper corporations to invest in new modern pulp mills: 40 new pulp mills are predicted to be built in China by 2010. However, modern technology exclusively uses wood as its input, not straw, and a shift on this scale from agricultural waste fiber to wood will remove an important income stream from millions of farmers as well as causing the loss of up to a million jobs.

The report also uses Klabin, an FSC certificate holder in Brazil as an example of "best practice" in terms creating livelihood for a local community. Klabin is the largest forest products and paper producer in Brazil with activities in paper, forestry, and recycling. All of the company's forests and plantations are FSC-certified. The company has recently initiated a program they call 'Legal Woods,' in collaboration with a local NGO to promote planting and conservation among small farmers and landholders in Parana state, where Klabin has a major mill.

Klabin is helping these farmers to diversify their economic activities, increase sales of their products, protect waterways and other ecologically sensitive areas as well as protect and rehabilitate forests for conservation. The program helps the small landowners compete for better prices for their wood, but ultimately strengthens the community's ability to have a strong economic base, raise wages and rural income and protect ecological values.

The report ends with recommendations to the paper buyers, investors and the paper industry, including that when virgin fiber is necessary, sourcing only Forest Stewardship Council (FSC) certified paper. The FSC's Principles and Criteria include complying with laws and international rights agreements, respecting legal and customary land tenure, managing disputes and conflicts appropriately, respecting indigenous peoples rights, giving opportunities to local communities, ensuring health and safety and taking due account of social impacts of forest management. No other forest certification system comes close to adequately addressing all of these issues.

To read the complete report, please go to www.environmentalpaper.org/socialimpactsfactsheet/.

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Ian Hanna – Northwest Natural Resource Group Environmental Chamber

Ian's career is dedicated to forest conservation and, in the last ten years, specifically to the FSC system. His professional experience crosses many related disciplines—conservation, ecological forestry, manufacturing, sales, market development, and advocacy.



Ian's formal training is as an ecologist and his early career focused on rare habitat restoration with The Nature Conservancy. In

1997 he founded Windfall Lumber, one of the first companies in Washington State with an FSC certificate. After selling the business in 2001, he broadened his skills in market, policy and organizational development as a regional manager for Certified Wood & Paper Association and Certified Forest Products Council. His current mission as the Director of Northwest Certified Forestry of NNRG is to bring a broad suite of benefits to non-industrial landowners in Oregon and Washington.

Ian's educational background includes a B.S. in Ecological Sciences from The Evergreen State College and numerous short courses in sustainable forestry. His professional affiliations include Built Green MBAKS, Forest Guild, FSC, Northwest Ecobuilding Guild, Oregon Small Woodlands Association, the U.S. and Cascadia Region Green Building Councils, and Washington Farm Forestry Association.

Designing & Building with FSC Award

CALL FOR SUBMISSIONS FOR THIRD ANNUAL AWARD

FSC-US is currently accepting applications for its third annual Designing & Building with FSC Award. Applications must be received by 5:00pm (PST) Friday September 14th, 2007.

This award is open to owners, architects, interior designers, general contractors, builders, consultants or other professionals. Projects can be any building type, including commercial, institutional, mixed-use, or residential. To submit a project, it must have used a significant amount (at least 50% of the new wood by cost) of FSC-certified wood and been completed during or since 2004.

The award winner will be featured in a profile on the 'Green Building' page of the FSC-US website and featured in green building related print media. Further details, along with application materials and profiles of past winners can be found at www.fscus.org.



NWF Issues Garden Furniture Report

CRATE & BARREL, PIER 1 IMPORTS TOP LIST OF BEST RETAILERS SELLING FSC-CERTIFIED OUTDOOR WOOD FURNITURE PRODUCTS

Consumers looking to green up their patios with sustainable garden furniture have more products to choose from, but still face challenges finding them in stores, according to a new report of major outdoor furniture retailers issued by the National Wildlife Federation.

The U.S. is the world's largest single importer of wooden furniture from tropical timber-producing countries. Garden furniture represents about one-fifth of the wooden furniture market. U.S. imports of all tropical wood products have increased four-fold over the past decade. As a result, the once biologically rich forests of countries such as Indonesia, Malaysia and Brazil, are being depleted at an unprecedented rate.

NEWS

"Deforestation, especially in tropical forests, accounts for approximately one quarter of global greenhouse gas emissions as well as the rapid disappearance of the world's remaining natural forest habitats," said Eric Palola, executive director of the National Wildlife Federation's wildlife restoration campaign. "The good news is more and more retailers are offering wooden garden furniture made from sustainably-harvested forests. The bad news is retailers don't always make them easy to find."

A major cause of deforestation is the legal and illegal logging of remaining primary forests to meet the global appetite for tropical wood products. At current rates of deforestation, the remaining biodiversity-rich natural forests in countries such as Indonesia, Burma, Ecuador, Columbia, Guyana, and the Democratic Republic of Congo are expected to disappear within a decade.

Stacy Brown, forest certification coordinator for the National Wildlife Federation, recommends that consumers look for and ask for products with a Forest Stewardship Council (FSC) logo, which means the wood is traceable to a sustainably-managed forest.

"Buying FSC-certified garden furniture helps support sustainable forest management, which reduces the emission of greenhouse gases and protects wildlife habitat," Brown said. "Similar to the rapid expansion in the organic food market which led to dramatic shifts in the agriculture industry, we can help change the forest products industry by voicing our preferences through our pocketbooks."

"We want consumers to know they can make a huge difference in the fate of the world's forests by acting with their wallets. If buyers don't ask for FSC-certified products, retailers won't supply them," Brown said. "And we want retailers to know that people are paying attention to which companies make it easiest to find sustainable products. Vague public relations assurances—now found on many wood and paper products—are not enough, and in many cases amount to 'greenwashing.'"

According to the survey, Crate & Barrel and Pier 1 Imports currently offer the largest selection of FSC-certified garden furniture compared to their total wooden outdoor furniture offerings. Both companies clearly identify FSC-certified products in their catalogs and online. Both companies also make sustainable forest management an important criterion for selecting product offerings.

The Home Depot, Lowe's and IKEA have a moderate range of offerings (36-70 percent) of wooden outdoor furniture that is FSC-certified or sources from forests working toward FSC certification.

NWF plans to conduct annual surveys of major outdoor furniture retailers to track the progress of making FSC-certified products available to consumers. To download the scorecard, go to www.nwf.org/news/



NWF has been a member of FSC since 1995, and NWF staff member Eric Palola currently serves on the Board of FSC International.

FSC TRADEMARK

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How do FSC International Center, FSC accredited certification bodies and National Initiatives work together to protect the FSC trademarks? Who does what?

FSC A.C. owns the FSC trademarks. 'Accreditation Services International' (ASI), a subsidiary of FSC, which manages the FSC accreditation program manages the FSC trademarks. FSC accredited certification bodies and FSC Nominated Agents monitor and control the use of the FSC trademark in their respective fields. In the case of the FSC accredited certification bodies this includes at least annual audits with each FSC certificate holder.

How does FSC learn of trademark violations?

We often learn of trademark violations through our large global network of which many national and international organizations are members and many more are supporting partners. This is supplemented by the global network of FSC accredited certification bodies and nominated agents. FSC certificate holders also watch out for unfair competition through overstated or unwarranted claims.

Each FSC certificate holder is audited at least once a year by an FSC accredited certification body. The use of the FSC trademarks is carefully checked at these occasions. And last but not least, the FSC International office and some FSC national initiatives regularly visit fairs to verify the appropriate use of the FSC trademarks.

Taken together, this has become a tight-knit, effective way of detecting FSC trademark misuses.

What actions does FSC take?

FSC has developed a dedicated 'Trademark Integrity Project' in 2003. The project introduced new mechanisms for better monitoring of trademark uses and procedures for prosecution of FSC trademark violations.

The Trademark Integrity Project was the response to FSC stakeholders—environmental groups and garden furniture manufacturers from Asia in particular—who were concerned that the number of products receiving the FSC label could exceed the volume of FSC-certified timber. Reports or even proof of concrete misuses were the exception, but it became important for FSC to increase its security measures to keep track with the sustained growth in FSC-certified timber and products.

Leading garden furniture retailers and producers offered their support to this project. A joint campaign to prevent fraudulent and misleading use of the FSC trademark during the European garden furniture season in 2004 was very successful.

The Trademark Integrity Project has become a core program of FSC trademark management. It has led to increased protection of the FSC trademarks, the development and enhancement of control systems, and contractual relationships to

"The Trademark Integrity Project ... has led to increased protection of the FSC trademarks, the development and enhancement of control systems, and contractual relationships to regulate the use of the FSC trademark by certificate holders and other users."

regulate the use of the FSC trademark by certificate holders and other users.

How many staff are working to protect the FSC trademark?

FSC maintains a global network of 15 FSC accredited certification bodies and a local network of 15 FSC Nominated Agents which are working towards the protection and monitoring of the FSC trademarks. The 15 FSC accredited certification bodies employ more than 300 auditors to conduct on-site inspections.

FSC collaborates closely with a network of lawyers around the world and maintains rigorous enforcement on pending trademark issues through its legal department and trademark management program in FSC International and ASI. This year, ASI has also hired an additional staff member dedicated to work on trademark issues.

Is there much misuse of the FSC trademarks?

We investigate around 45 cases of infringement and misuse every year. From these cases around 15% are considered major, which means that they require investigation through the chain-of-custody system and supply chain.

Can you give any specific examples of trademark violations that were reported and what the outcomes were?

Let me give you some examples that show the variety of approaches and tools we use to protect the FSC trademarks.

As a result of the Trademark Integrity Project, investigations were carried out on one particular product chain involving a shipment of some 2,000 pieces of FSC labeled Yellow Balau garden furniture. Working in close cooperation with certification bodies around the world, these investigations led to the suspension of the certificates of one producer of garden furniture as well as of a wholesaler in Europe at the end of March 2004. They did not comply with FSC percentage based claim requirements. The certificate of the producer was reinstated at the beginning of June 2004 after all violations were corrected. The certificate of the wholesaler was withdrawn in the middle of June because unresolved violations of FSC requirements persisted. The retailers returned the entire shipment of garden furniture because of the lack of a valid FSC certificate.

Other examples include cases of infringements in South Africa and Vietnam in 2005, where two trading companies delivered timber from questionable sources as FSC-certified. This was immediately

stopped. The companies signed an agreement to cease the use of FSC trademarks, which is a necessary first step for subsequent legal follow up, and applied immediately for chain-of-custody certification with FSC accredited certification bodies. In close teamwork, both FSC and our accredited certification bodies agreed on a course of action to ensure compliance with FSC standards and the establishment of safeguards to avoid future misuses.

In 2006, FSC conducted a major investigation around un-certified products supplied to a big retailer in the USA, which were labeled as FSC-certified by a large distributor in Latin America and the USA. In this case, legal mediation was necessary and the products were confirmed to be removed from stock by both organizations.

That same year, FSC stopped the exaggerated and misleading claims about FSC certification by a large corporation in Europe. Such exaggerated claims were challenged strongly by an environmental organization which discovered several inconsistencies in marketing and sales information with respect to FSC-certified products. The respective FSC accredited certification body contacted the company and enforced the trademark requirements.

Can you say something about current cases?

This year, investigations have focused on plywood coming from Asia. Subsequent findings have led to the suspension of a number of companies in Asia through the FSC accredited certification bodies for the illegal use of the FSC label on products which were not manufactured according to the FSC chain-of-custody standards. Such products were removed from final points of sale and collected by the companies involved. FSC accredited certification bodies have also been involved in ensuring that stocks of mislabeled products are quickly removed from markets around the world.

All in all, how good would you rate FSC trademark protection?

The examples have shown that strong, decisive action is necessary to guarantee the credibility and proper use of the FSC trademarks. Considering the limited resources available, I believe we currently have a good system in place making best use of the wide FSC network.

However, it is also clear, that as FSC and the market for FSC products continues to grow, more resources will be needed to expand the registration of FSC trademarks, ensure consistent and rigorous identification and follow-up of trademark misuses and if necessary prosecute and claim damages.

OUR MISSION: Create a marketplace that promotes well-managed forests by ensuring forestry practices that are environmentally responsible, socially equitable, and economically viable.

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