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Fake goods are proliferating, to the alarm of companies and governments

[*The Economist*](#) 4 March 2010

Imitation is supposed to be the sincerest form of flattery, but that is not how most brands see it. Thanks to the rise of the internet and of extended international supply chains, and more recently, to the global economic downturn, counterfeit goods are everywhere.

5 Counterfeiting “used to be a luxury goods problem”, says Therese Randazzo, who is in charge of protecting intellectual property at America’s customs service. Now people are trying to traffic counterfeit items that have a “wider effect on the economy”, she says, such as pharmaceuticals and computer parts. A new study by America’s Department of Commerce shows that fakes have even infiltrated the army. The number of counterfeit parts in military
10 electronics systems more than doubled between 2005 and 2008, potentially damaging high-tech weapons.

The Organization for Economic and Cooperation Development estimates that the international trade in counterfeit and pirated goods was worth around \$250 billion in 2007.
15 Counterfeit goods make up 5-7% of world trade, according to the International Anti-Counterfeiting Coalition.

Several factors have contributed to the growth of counterfeiting in recent years. The shift of much of the world’s manufacturing to countries with poor protection of intellectual property
20 has provided both the technology and the opportunity to make knock-offs. The internet in general, and e-commerce sites like eBay in particular, have made it easier to distribute counterfeit goods. [...]

The recession in the rich world may also have given a boost to counterfeit goods. [...] An
25 anti-counterfeiting group, has noticed a peak in knock-offs as consumers short of money do not buy the real thing but go for the cheaper version. In 2008 the value of fake goods seized at America’s borders increased by nearly 40% over the year before.

Businesses, which feel the revenues lost because of counterfeiters all the more strongly in
30 an economic crisis, are making an even greater effort to root out impostors. Complaints from Louis Vuitton, a luxury-goods firm, for example, led to nearly 9,500 seizures of knock-offs last year, 31% more than in 2008. There have never been so many lawsuits brought by companies against manufacturers and distributors of counterfeits, says Kirsten Gilbert, a British law firm. [...]

35 Governments are also boosting their efforts to crack down on counterfeiting which makes them lose tax revenue in addition to harming legitimate businesses. Counterfeiting and piracy cost G20 economies €62 billion (\$85 billion) a year in lost taxes. In recent years France and Italy, among others, have voted laws that threaten consumers who buy fake goods with
40 heavy fines and even imprisonment. [...]

Brand piracy: faking it can be good

<http://www.intangiblebusiness.com> 15 May 2006 Adapted from *Brand Strategy*

By S. Whitwell

5 If, as the old expression goes, imitation is the sincerest form of flattery then the top brands such as Louis Vuitton, Sony and Microsoft must feel really flattered. About seven percent of world trade is in counterfeit goods, according to The International Chamber of Commerce and 40% of brands counterfeited are composed of a list of only 25 brands. That's \$350 billion a year that could go into the hands of companies that invest in their development and promotion.

10 That counterfeiting is a criminal activity that can have tragic consequences is not in dispute. What is in dispute, however, is that counterfeiting is not always damaging to brands and can actually be used to a brand's advantage. There is a lot of brands for which counterfeiting is advantageous. Counterfeiting can give brands access to new markets and be a measure of a brand's health. It increases a brand's popularity so that when the economic climate of a country or an individual's improves, sales migrate from counterfeit to original. And it can also force the authentic brand owner to protect, innovate and expand its products, services and markets to keep ahead of its imitators.

15 Contrary to popular belief this doesn't actually damage the brand but actually supports it. The people who generally buy these fake products are not in a position to buy the original - as soon as their economic condition changes they will run to the front of the queue to buy the original.

20 The perception of the product's value is also not affected as the owner of the counterfeit products knows it is just a fake, and therefore does not expect the same performance from it. In fact, decisions to purchase the counterfeit products reaffirm the brand's values: the customer buys the article to project the very image the brand is trying to portray through its advertising and promotion.

25 Another reason brand piracy can help increase a brand's value is it is a good indicator of a brand's strength. Brands which are not faked are considered too weak to generate consumer demand, and so are not produced.

30 If counterfeiting is damaging to brands, how come none of the most commonly counterfeited brands, such as Nike, Gucci, Adidas, Prada, Chanel or Burberry are suffering? Profits at Nike, for example, have increased by 45% since 2001. Burberry has seen turnover increase by 68% over the same period. And Microsoft, which accounts for more incidents of intellectual property theft than any other brand, has seen its turnover up by 57%. Figures like these defend the position that counterfeited brands are more likely to succeed.

35 Some brands do embrace the counterfeit market rather than seeing it as a threat. Giorgio Armani, on a recent trip to Shanghai, purchased a fake Armani watch for \$22 instead of the £710 regular price. He said "It was an identical copy of an Emporio Armani watch... it's flattering to be copied. If you are copied, you are doing the right thing."

Are donations of counterfeit goods to charities socially acceptable?

<http://www.worldservicesgroup.com/publicationspf.asp?id=3860>

Donations of counterfeit goods to charities can lead to several types of risk for trademarks:

- By definition counterfeit goods are manufactured clandestinely, and thus are not tested to ensure they do not pose health and safety risks. Allowing the secondary use of such products is therefore potentially dangerous for consumers, and can engage the legal responsibility of brands. The fact that goods have been donated to charities, and thus removed from commercial channels, does not exclude such risks: fake goods are, and remain, necessarily hazardous. Who would dare to claim that it would be ethically acceptable to expose some people to such a threat simply because they are disadvantaged? In an attempt to minimise such risks, some countries have forbidden their law enforcement authorities from donating counterfeit goods other than clothes or shoes to aid organisations. However, they are forgetting that even clothes or shoes can be potentially dangerous. For example, on several occasions the Red Cross has reportedly refused donations of counterfeit shoes which had proved to be highly inflammable.
- Removing counterfeit goods from commercial channels does not guarantee that they will not be sold again nor fall into the wrong hands (as frequently happens with food aid consignments, for example).
- The distribution to the public of counterfeit goods, even if they are offered free of charge by charities, retains the risk of damaging the brand. This can potentially affect the communication and advertising functions of the trademark, and can also damage its image of quality. [...]

That is the reason why three non-negotiable conditions should be applied to any decision to donate counterfeit goods:

- The consent of brands should be obtained and the goods should be meticulously checked for potential safety or health problems [...]
- All signs or logos should be removed from the goods; and
- The goods must be marked as charitable donations in such a way that no one is tempted to re-affix counterfeit brands, logos or trademarks to them.

At the end of the day, is it not better to leave it to trademarks to help the needy, be it by making financial donations to charities or by supplying them with their choice of genuine goods?

The reduction of the costs supported by brands for the storage and destruction of counterfeit goods could, potentially, encourage them to be even more generous. It costs between €500 and €1,000 each month to store a container of seized goods in some ports. Lawsuits in some countries can take several years, and it often proves to be difficult to recover such costs from the counterfeiter. [...]

Facing Counterfeiting Crackdown, Beijing Vendors Fight Back

By S. LaFRANIERE — 2 March 2009

<http://www.nytimes.com/2009/03/02/world/asia/02piracy.html>

BEIJING — When the managers of Beijing’s famous Silk Street Market temporarily shut down 29 shops over the past month for selling counterfeit goods, no one expected the merchants to agree quietly to the loss of business.

5 “We expected trouble,” said Zhao Tianying, a legal consultant with IntellecPro, a Beijing firm specializing in intellectual property rights, who represents five foreign luxury-brand manufacturers that have sued the market for trademark violations. “But we never imagined this.”

10 The vendors have responded with ferocity. Dozens of them have staged weekly protests against IntellecPro lawyers, mocking them as bourgeois puppets of foreigners. A few characters scrawled in pencil on the wall outside IntellecPro’s office sums up the vendors’ message: “We want to eat!”

15 The conflict between the smart but mostly uneducated shopkeepers and five of the world’s best known producers of designer goods is part of a much bigger fight over China’s vast counterfeit industry. American movie, music and software companies alone estimate that Chinese pirated goods cost them more than \$2 billion a year in sales.

20 Any successful product is likely to be illegally copied in China, warns the Web site of the American Embassy here. China’s government has pledged to crack down, and it faces increasing pressure to show progress. But some doubt much will change until China graduates from manufacturing goods to designing them, and has more to lose than gain. The Silk Street Market case suggests that change is slow and painful.

25 It has been four years since Burberry, Gucci, Chanel, Louis Vuitton and Prada first sued the market’s operator, the Beijing Silk Street Company, and individual vendors for trademark violations. Only now has the legal pressure produced tangible results. As part of a court-mediated agreement, the market’s managers agreed to punish offending vendors, shutting down six to eight at a time for up to a week. [...]

30 “We are trying to run businesses here,” said a vendor, a fake Dolce & Gabbana handbag on her arm. “They don’t have any proof.”

35 Asked about her handbag, she insisted: “We don’t read English. We don’t know what the letters mean. We just think it is pretty.”

Mr. Wang, the market’s amiable, 43-year-old manager, said he was “stuck in a terrible position.”

40 “The five brands are saying, ‘You are not doing a good enough job in protecting our intellectual property rights,’ ” he said. “And the vendors are saying, ‘You are going too far in protecting intellectual property rights.’ But hey, what can we do?”

45 Xu Shengzhong, the vendors’ lawyer, tries to portray his clients as too ignorant to distinguish fake goods from real or to recognize brand names. “They have no idea this says Louis Vuitton,” he said, tapping a brown wallet with the brand’s distinctive logo.

Mr. Wang said he hoped that shoppers changed their habits, too. At present, “they want the knockoffs,” he said. “You can see it in their eyes. That is the brutal reality.”