



Why Companies Should Seek Higher Damages for Counterfeiting

Bogus items can psychologically “infect” the real items they’re copied from.

Counterfeiting is widespread and rapidly expanding. In 2015, the value of fake and pirated products globally was estimated at US\$1.7 trillion (ICC, 2015), equivalent to the GDP of Canada. The scope of this phenomenon is vast – in both developing and developed countries around the world, counterfeiting affects many sectors including apparel, electronics, beverages, food, pharmaceuticals, tobacco, and even vehicle and airplane parts and heavy machinery.

Companies actively try to fight the trade. They seek damages for lost sales from other firms that rip off their designs and conduct major aggressive outreach campaigns to deter potential buyers from purchasing fake products. They also band together to raise awareness about how counterfeiting funds organised crime, terrorism and often involves child labour. The Business Action to Stop Counterfeiting and Piracy (BASCP), under the International Chamber of Commerce, for instance, represents 25 companies at intergovernmental forums, formulates best practices in supply chains, as well as funds outreach campaigns such as ibuyreal.org to fight the flood of fakes.

But our paper, “**How Counterfeits Infect Genuine Products: The Role of Moral Disgust**”, published in the *Journal of Consumer Psychology*, suggests that the companies being copied may want to consider a different approach to fighting this widespread

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practice. In an ironic twist, our research suggests that massive public awareness campaigns could make things worse.

Fake products taint real ones

Our findings suggest that damages can be broader than currently believed because when consumers learn about the existence of fakes this can hurt the consumption of genuine items that resemble the counterfeits. We find that exposure to fake products engenders ‘moral disgust’ in consumers’ minds. This repulsion appeared to reduce the efficacy of those products among study participants. Similarly, using counterfeit items caused the study subjects to have similar feelings of repulsion – and experience poor performance with – similar-looking authentic (non-fake) items. In other words, genuine articles can function not as well if we’ve been exposed to rip-offs of those articles.

We asked graduate students to use purportedly real and fake products such as Parker fountain pens, ballpoints, mechanical pencils and Microsoft computer mice. They used the writing instruments for word-completion activities, copying tasks, mazes and a balancing game (e.g. to balance a pen on their head for as long as possible). They also played electronic games such as virtual table tennis using the computer mice. In order to conceal the true purpose of the experiment, we told participants that

the aim was to measure differences in individual ability. We measured how skilled study participants were in games with the different writing tools and mice. We also discreetly tracked indications of disgust. The results revealed significant negative attitudes and experiences associated with the real products as a result of first having worked with fake versions. A control group was asked to perform similar activities but was not told whether the products they were using were real or counterfeit.

The reaction was so infectious that it even showed up when the fake product was a somewhat different kind of item than the real one. For example, when students wrote with an imitation Parker fountain pen, they performed worse in a later writing task with a genuine Parker ballpoint pen. The repulsion they felt had spread to another product from the same brand.

A new way to sue for damages

Victims of counterfeiting are stepping up their fight against pirates in the public domain. While their goals are justified and noble, our research suggests that shining the spotlight on counterfeits could backfire. We found that consumers who interact with a fake have a worse experience with the real thing. But we also show that just being told a product was counterfeit is enough to contaminate the real one or even a similar product within the same line. This suggests that when consumers learn that one product was counterfeited, other broadly similar products from the same firm could be “damaged”. The implications, therefore, go well beyond lost sales. It would behoove companies to pursue enforcement channels more quickly and aggressively when fakes are discovered.

We also suggest that when taking the matter to court, a broader calculation of damages may be necessary. Corporate lawyers can and should argue that widespread counterfeiting can have a longer term impact on a brand than immediate lost sales. Counterfeiting can harm a product’s efficacy which could impact customer satisfaction, loyalty and future sales. A pro golfer would have few qualms about switching brands if he or she feels their game is suffering at the hands of a genuine putter they know has been extensively ripped off.

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