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A typology of brand counterfeiting and imitation based on a semiotic approach☆

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ABSTRACT

Counterfeiting and imitation are major issues for luxury products and brands. This research proposes a conceptualization of brand based on a semiotic approach and a typology of counterfeit and imitation comprising two dimensions: logotype and product appearance. A survey testing stimuli developed according to the typology explores consumer reactions to different modalities of counterfeiting and imitation on five brands. A dominant categorization schema based on brand name emerged, although some product categories deviate from this pattern. The discussion draws implications for brand research, suggesting that typicality may explain the dichotomy in the categorization schema and acceptability of stimuli, as well as managerial implications.

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1. Introduction

Counterfeiting is a major issue for luxury brands. According to a Chinese expert, half of the Chateau Lafite sold in China, a Bordeaux red wine that can trade up to 10,000 Euros a bottle, would be fake (La Tribune, 2014). The Swiss Clock Industry Federation indicates that about a million fake Swiss watches were seized and destroyed in 2013, causing an estimated loss of CHF 800 million—about USD 855 million (AFP, Agence France Presse, 2014). In 2012, Hermes obtained a USD 100 million repair fine from Internet sites that sold counterfeit products from this famous luggage and clothing brand (Le Parisien, 2012). Initially considered as marginal, the phenomenon has been continually expanding for years. Although many manufacturing parts are counterfeited each year (Naim, 2006), counterfeiting mostly concerns brands and branded products. Luxury brands and exclusive products are key targets for counterfeiters, due to their symbolic and experiential dimensions.

In addition to fakes, luxury brands are confronted to products that look similar to their own items. These products are called copycats and lookalikes. This practice is widespread: half of the store brands in national US supermarkets imitates a leader brand package at least in color, size and shape (Scott-Morton & Zettelmeyer, 2004). Two thirds of shoppers report that imitations confused them, one third admits being fouled by similar packaging (Satomura, Wedel, & Pieters, 2014). Counterfeiting and imitation threaten hard-won competitive positions, dilute brand equity and undermine the status associated with products. Counterfeiting and imitation are thus vital issues for luxury brands.

The marketing literature addresses diverse topics such as the motivations for purchasing counterfeit products (Ang, Cheng, Lim, & Tambyah, 2001; Gistri, Romani, Pace, Gabrielli, & Grappi, 2009; Viot, Le Roux, & Kremer, 2014; Wilcox, Kim, & Sen, 2009), the consequences of counterfeiting on original brands (Nia & Zaichkowsky, 2000) and on original brand owners (Commuri, 2009). Recently, Zaichkowsky (2006) provides a comprehensive cover of the topic of counterfeiting. Regarding imitation, authors focus on confusion between leading brands and imitators (Kapferer, 1995; Loken, Ross, & Hinkle, 1986; Miaoulis & D'Amato, 1978) or on similarity (Howard, Kerin, & Gengler, 2000; Van Horen & Pieters, 2012a,2012b). Although the literature covers counterfeiting and imitation (Hilton, Choi, & Chen, 2004; Lai & Zaichkowsky, 1999; Zaichkowsky, 2006), the definition of what is a counterfeit or an imitation, their forms, characteristics and boundaries, are still far from obvious.

This study defines and explores different forms of counterfeiting and imitation and tests the reactions these forms trigger among consumers. After reviewing the literature concerning the definition of counterfeiting and imitation, a semiotics-based conceptualization of brand is presented, and a typology defining different forms and modalities of counterfeiting and imitation is proposed. Stimuli are developed to test consumer reactions to different instances of counterfeiting and imitation on convenience samples. Results suggest a dominant identification, categorization and evaluation schema based on brand name. This paper concludes with a discussion of the results and a brief presentation of future research possibilities.

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2. Literature review

2.1. Defining counterfeiting and imitation

The literature refers to counterfeits as exact replicas of branded products. According to Bian and Moutinho (2009), "Counterfeit brands are those bearing a trademark that is identical to, or indistinguishable from, a trademark registered to another party and infringes on the right of the holder of the mark" (p. 368). Lai and Zaichkowsky (1999) consider that "a counterfeit is a 100% direct copy usually having inferior quality, although not always" (p. 180). For Wilcox et al. (2009) "counterfeit goods are illegal, low-priced and often lower-quality replicas of products that typically possess high brand value" (p. 259). Imitations, also called copycats, lookalikes or me-too products are products that look similar to other branded products, but are not identical. Balabanis and Craven (1997) define lookalikes as "a new generation of own brand products that have similar packaging characteristics to leading brands products" (p. 299). According to Lai and Zaichkowsky (1999), an imitation is a "product or service, though not identical, (which) is viewed as similar in substance, name, shape, form, meaning or intent to an acknowledged and widely known product or service currently in the marketplace" (p. 180). Copycats "imitate the name, logo, and/or package design of a leading national brand to take advantage of the latter's positive associations and marketing efforts" (Van Horen & Pieters, 2012b, p. 83). Therefore, counterfeiting and imitation appear to be clear distinct concepts in the literature. A counterfeit is an exact copy of an original item. An imitation looks similar to another product but is not identical.

However, some authors envision different forms of counterfeiting. Lai and Zaichkowsky (1999) distinguish two types of fakes, counterfeit and piracy, depending on the intention of counterfeiters: "Piracy is counterfeiting. However, the intention is not always to deceive the consumer. The customer is aware that the product he is buying is an unauthorized copy of the original product. The consumer consciously seeks out and purchases the fake product through purchase location, price, obvious differences in design, quality, or other feature realized by the customer" (p.180). This concept of piracy corresponds to the distinction made by Bamossy and Scammon (1985), Bloch, Bush, and Campbell (1993) and Bian and Veloutsou (2007) between deceptive and non-deceptive counterfeiting, depending on the consumer's awareness that he is buying a non-genuine item. Besides, Lai and Zaichkowsky (1999) define an additional category: gray marketing, which is "when manufacturers produce more than the quantity required by Western companies and subsequently sell the overruns to the market illegally". Hilton et al. (2004) distinguish between four different types of counterfeit products in the fashion industry: "vanity fakes or low intrinsic, low perceived value product, overruns or copies made from leftover material, condoned copies made by other designers or fashion houses, copies made by the fashion houses themselves" (p. 349). Therefore, counterfeiting is far from being a homogeneous category. As for counterfeiting, imitation comprises several levels and forms. A product may imitate the whole trademark (brand, logo…) and/or trade-dress (shape, design, colors…), or only some of these elements. Besides, another question arises about the boundaries between an imitation and a counterfeit: when does an imitation become a counterfeit, that is, an exact copy of an original item? Exact reproduction creates clear infringement and is, by law, never allowed. In the case of imitation, the court decides on the existence of transgression, depending on the likelihood of confusion (Zaichkowsky, 2006). In addition, some imitation strategies are fully legitimate (me-too products and some private labels).

Therefore, the definition of what is a counterfeit or an imitation, their forms and characteristics, are far from obvious in the marketing literature. What makes an unauthorized copy or a legitimate imitation relies on perceptual criteria, either on a court decision or on consumers' judgments. Few research investigate the criteria a consumer uses in order to identify a fake from an original (Gentry, Putrevu, & Shultz, 2006; Gentry, Putrevu, Shultz, & Commuri, 2001). The cues that allow identifying a fake from an original are place of purchase, price and quality and performance. Research on imitation is based on the concept of similarity. Similarity is a necessary condition for an imitation strategy, through the transfer of meaning (Fazio, 1986). Marketing literature on imitation focuses on perceived similarity (see Zaichkowsky, 2006 for a comprehensive review). Howard et al. (2000) analyze similar-sounding names (versus similar-meaning names) and find a significant impact on brand confusion. Van Horen and Pieters (2012a) distinguish between two types of similarity: literal and semantic. Literal similarity is based on the consumer's evaluation of common characteristics and corresponds to imitation strategies based on the number of common letters or on similar sequences of letters. Semantic similarity is based on meaning and aims at activating higher-level semantic signification in order to create inferences about the imitator, based on copied attributes. This strategy corresponds to an imitation of the concept rather than an exact copy of the product: copying the Alpine theme of Milka, for example, rather than copying the actual brand name. Results show that consumers, while conscious of an imitation strategy, consider meaning imitation as "more acceptable and less unfair" (Van Horen & Pieters, 2012a, p. 247). Recently, Satomura et al. (2014) proposed a new method and metric to detect a copycat from a leader brand, based on consumer's visual judgments and established the impact of copycat packaging visual features on consumer's confusion.

As Van Horen and Pieters (2012b, p. 90) state, a need exists to develop "theories and methodologies that would be crucial tools for managers and lawyers who need to determine the degrees of visual similarity between the leader brand and copycats unequivocally and perhaps even a priori". The present research differs from Satomura et al. (2014) as it aims at proposing a conceptual framework based on objective characteristics of product, thanks to a definition of brand from semiotics. The semiotic theoretical background permits to specify independent levels on which to create objective variations in stimuli, in a systematic and controlled manner, and to build a typology of stimuli. Stimuli developed according to this typology are then confronted to consumers' judgment in terms of categorization (genuine item, imitation or counterfeit) evaluation, and purchase intention.

2.2. Defining brand: the legal, marketing and semiotic approach

As for counterfeiting and imitation, *brand* has different conceptions. The law considers a brand as a set of distinctive signs that represent property. Registration or well-known and constant use allows for the protection of these distinctive signs. Thus, the legal approach to the concept of branding is restrictive and limited to issues of intellectual property, the definition of signs of identification, and protection. The marketing approach is broader. A brand is seen as a promise to the consumer, an asset comprising several dimensions: awareness, evidence of perceived quality, brand image, brand positioning and brand loyalty (Aaker, 1991; Kapferer & Laurent, 1983).

The semiotic approach is even broader and conceives a brand as a poly-sensorial set of organized signs (Greimas & Courtès, 1979). This branded meaningful set, called "plane of immanence", comprises three levels. The first level is the logotype (Heilbrunn, 2006), which encompasses a verbal aspect (spelling, wording and sound) and a visual aspect (colors, iconic units, typesetting). The second level is the specific appearance or trade-dress, peculiar to the product, including the shape, design, packaging, etc. The third level corresponds to the continuous sensorial characteristics of this product: sound, taste and smell. Counterfeiting and imitation can use any element, or combination of elements, of these levels and can also use different degrees of similarity of all these elements to the copied goods to create forged products.

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