Counterfeiting: conceptual issues and implications for branding

Bradley P. Evans
Graduate School of Management, University of Auckland, Auckland, New Zealand, and
Richard G. Starr and Roderick J. Brodie
Department of Marketing, University of Auckland, Auckland, New Zealand

Abstract

Purpose – This paper aims to apply a broader perspective of branding to foster new insights and develop strategies to address product counterfeiting.

Design/methodology/approach – A review of the counterfeiting and branding literature leads to the development of a new conceptual framework that incorporates proactive, collaborative processes, in addition to the traditional product branding approach.

Findings – The integrative framework provides a basis to develop innovative, proactive strategies that complement traditional branding approaches to address product counterfeiting. The complexity of an integrative framework (or network) offers more opportunities for the firm to co-create robust meaning with multiple stakeholders. Identity elements are readily copied, whereas meanings are not. These strategies help to control counterfeiting by developing deep and inimitable relationships between managers and other stakeholders in a marketing network.

Research limitations/implications – A research agenda is proposed to structure future studies on counterfeiting.

Practical implications – The framework outlines how to leverage collaboration between managers and brand stakeholders to complement conventional approaches to control counterfeiting based on traditional product branding.

Originality/value – This paper contributes to the growing body of counterfeiting and brand protection literature by adapting and applying contemporary integrative branding concepts, leading to novel strategies to address the issue.

Keywords Branding, Counterfeiting, Conceptual framework, Brand identity, Brand meaning, Brand protection, Integrative branding

Paper type Conceptual paper

1. Introduction

Product counterfeiting creates a range of potential problems for legitimate brands, including loss of sales and profits, consumer dissatisfaction, safety issues, supply chain concerns and even liability risks to the firm. Each of these factors can damage brand equity (Wilson et al., 2016). Companies typically combat the production and distribution of counterfeit goods through legal enforcement of trademark rights (Post and Post, 2008; Stewart and Norwinski, 2011). Despite a sustained increase in enforcement activities, the availability of counterfeits is growing (OECD/EUIPO, 2016). This fact suggests that a reactive legal-based approach is inadequate, and a broader proactive strategy is needed.

Counterfeits derive their identity by mirroring legitimate brands, thereby inextricably linking the fake to the original. Because of this linkage, our conceptualization of brands directly impacts how one understands counterfeits. To gain better insight, a more explicit conceptualization of counterfeits, brands, and how they interrelate is needed. This paper draws upon newer perspectives on brands and demonstrates how these can better inform our understanding of counterfeiting phenomena.

There is a spectrum of activities that comprise product counterfeiting and related fraudulent behaviors. Many authors accept definitions similar to Cordell, Wongtada, and Kieschnick (1996) who state that counterfeiting is “any unauthorized manufacturing of goods whose special characteristics are protected as intellectual property (IP) rights, or trademarks, patents, and copyrights” (p. 41). This definition explicitly relies on identity-based elements of a brand and emphasizes physical attributes. The traditional identity-based view of the brand views the producing firm as the creator and owner of the brand, actively transmitting meanings to relatively passive brand-using consumers. This ignores the complex co-creation of brand meanings by active stakeholders through their shared stewardship of the brand (Merz et al., 2009).

A newer perspective suggests that the identity and meanings associated with a brand are co-created in a network and are not owned by a single firm or actor (Brodie et al., 2017). Thus a brand is a semiotic entity composed of shared associations within a marketing network (Conejo and Wooliscroft, 2015). The producing firm owns the trademark, but a network of stakeholders (including the producing firm) develops brand meanings from the relationships they develop with the brand.
Chaudhry, appear, and lessening their impact if they do. Imitated, but complex network meanings and strategies cannot. Understood by the network can be codified into a whole that is its legal embodiment. A brand includes not only its intellectual property (IP) including trademarks and designs, copyrights, patents and trade secrets (Chaudhry, 2006). These identity elements, when registered, become property rights that are conferred on a single owner. Legal strategies against counterfeiting usually entail a relatively small proportion of proactive activity (developing standard IP protection for the brand), and a large proportion of reactive enforcement and litigation to combat infringements – if defendants can be found (Clements, 2016). The majority of legal activity takes place only after counterfeiting, and its associated damage has occurred.

There is an opportunity to develop proactive protection against counterfeiting by considering the brand more broadly than its legal embodiment. A brand includes not only its IP but additional meanings, benefits and associations (Aaker, 1991). These meanings are created and held by a broad network of stakeholders who take a proprietary interest in the brand. This network includes the producer, channel partners, consumers, users, and even brand communities (Brodie et al., 2017). Legal protection is always necessary, but adopting a network perspective on the brand offers strong additional opportunities for anti-counterfeiting strategy. The rich vein of brand meanings and benefits understood by the network can be codified into a whole that cannot be imitated by a counterfeiter: identity elements can be imitated, but complex network meanings and strategies cannot. Furthermore, the network strategies can be proactive: deterring counterfeiting by strengthening the brand before imitators appear, and lessening their impact if they do.

The purpose of this study is to apply a broader contemporary perspective of branding in the context of product counterfeiting with three objectives:

1. Develop new insights into the issues posed by counterfeiting;
2. Explore the link between counterfeiting and branding; and
3. Provide the foundation for future research into product counterfeiting.

Our paper proceeds as follows. First, we review the literature on counterfeits and counterfeiting in Sections 2 and 3. We then examine traditional and contemporary theories that integrate the identification and meanings of brands in Section 4. Finally, we develop a conceptual framework that leads to managerial implications and research questions in Section 5 and 6. Section 7 concludes the paper.

2. Counterfeiting

2.1 Background

The interplay of counterfeit products and brands has existed since ancient times (Hopkins et al., 2003), but globalization of markets has greatly increased the size of the counterfeiting problem (Lybecker, 2008). Brands and their associated counterfeits can be viewed as driving, and simultaneously being driven by trends in globalization (Nakassis, 2013). Because the global counterfeit trade is usually stigmatized and illegal (Bush et al., 1989; Hopkins et al., 2003), data is difficult to obtain and victimized firms can be reluctant to disclose information (Wilson et al., 2016). However, there is general agreement that the scope of counterfeit and fraudulent products is vast. The Organisation for Economic Co-operation and Development (OECD) found large social and economic effects from counterfeiting, with losses estimated at US$461bn in 2013, or roughly 2.5 per cent of world trade (OECD/EUIPO, 2016).

Historically, counterfeiters focused on narrow, high margin markets such as consumer electronics, luxury products, apparel and accessories, and pharmaceuticals. The scope of counterfeit products has increased to include convenience goods (shampoo, toothpaste, condoms, etc.), toys, auto and airplane parts, food, fertilizers and pesticides, and medical devices (Chapa et al., 2006). Detection of counterfeits has also become more difficult as quality improves and co-mingling within legitimate supply channels has increased (Levy, 2016; Mann, 2017; Sheppard, 2017).

Online retailing presents additional challenges to detection, including the inability of consumers to examine goods before purchase. In the past, distribution of counterfeit goods was often segregated in atypical physical retail channels such as flea markets or street vendors. This distribution model requires the seller and buyer to meet, allowing a detailed pre-purchase inspection of the goods. This combination of geographic proximity and quality oversight moderated the spread of illicit goods. Online retailing now allows global distribution and eliminates pre-purchase inspection, significantly increasing the availability of counterfeits (Robertson et al., 2012).

Academic studies of counterfeit began to appear in the late 1970s (Staake et al., 2009), but the terminology has continued to evolve. Kaikati and LaGarce’s (1980) article referred to counterfeiting as piracy, a term later reassigned to the illicit trade in copyrighted software, music, and video content. A Google Scholar search confirms that research into counterfeiting is growing, but studies on counterfeit products are much more prevalent than research on counterfeit brands. Similarly, Bian and Moutinho (2009) note only a limited number of studies exploring branding or positioning aspects relevant to counterfeiting before 2009.

There are commonalities in the research on counterfeit products and counterfeit brands. Most find counterfeits to be negative and destructive to the value of legitimate brands (Chaudhry and Stumpf, 2011; Feinberg and Rousslang, 1990; Hetzer, 2002; Shultz and Saporito, 1996; Yang et al., 2004). More recently, a few studies suggest that counterfeits can be beneficial for a brand under certain circumstances (Qian, 2011; Wang et al., 2017; Wu et al., 2016), for example, by raising brand awareness in emerging markets (Wall and Large, 2010). Nevertheless, there is agreement that counterfeiting negatively impacts brand value in most cases.

To date, the counterfeiting literature has primarily taken a consumer behavior focus using concepts such as cues, intentions, purchasing decisions, and attitudes toward counterfeiting (Bachmann et al., 2018; Baghi et al., 2016; Bian and Moutinho, 2009; Bian and Veloutsou, 2017; Bloch et al., 1993; Eisend and Schuchert-Güler, 2006; Hieke, 2010; Le Roux et al., 2016; Michaelidou and Christodoulides, 2011; Viot et al., 2014; Wiedmann et al., 2012; Zaichkowsky, 2006). Consumers frequently need to
assess whether a product is authentic (Starr and Brodie, 2016). These judgements are often reliable, but consumers can easily be misled when the authenticity of a product is unclear or misstated. Grossman and Shapiro (1988) categorized the purchase of counterfeits in two ways: as deceptive when the consumer is misled and believes they are buying legitimate goods, or non-deceptive when the consumer is aware that the offering is a counterfeit, but purchases nonetheless and is complicit with the fraud. Thus, a counterfeit can have markedly different effects depending on consumer perceptions and actions. These differences have significant implications for firm strategies.

Warning consumers about counterfeits of a particular brand may lead to brand switching to avoid the risk of buying a counterfeit (Amar et al., 2012; Commuri, 2009; Spink et al., 2011). This brand avoidance would logically occur among a minority of purchasers, those who seek only legitimate products but may be deceived. On the other hand, publicizing the existence of counterfeits could prompt complicit consumers (potentially the majority) to accept or even seek out counterfeits. Thus, regardless of consumer propensities, governments rarely prioritize resources to help combat product counterfeiting. Hence, governments could potentially be confused with goods that rightfully use this reference manufacturer, or any organization that warrants for the quality or standard conformity of the goods in such a way that the counterfeit merchandise could, potentially, be confused with goods that rightfully use this reference.

Our review found a third research stream that focused on defining the conceptual domain of counterfeiting. One set of studies considers the appropriation of physical identity elements and intellectual property, whereas another set examines fraudulent activities based on process-related violations (Table 1). This distinction is important because identity and process violations result in a different channel and consumer behaviors. Identity-based counterfeiting copies the physical properties of the brand. This may be a well or poorly executed replication (direct counterfeiting), or a non-replication that intentionally infringes identity elements (near-counterfeiting).

In contrast, process violations are based on overproduction and diversion into gray (unauthorized) markets. These products are essentially physically identical to the legitimate brand but marketed and sold in ways that violate the contractual rights of the trademark owner and legitimate channel partners. When processes are violated, brand IP is technically used correctly, but contractual agreements are violated to circumvent accepted supply chain processes. These gray market activities are liminal: they are not legitimate, but yet often retain some partial authenticity (such as a genuine product sold in an unauthorized channel). This liminality—neither legitimate nor wholly criminal—can make gray market activities harder to recognize and address (Naim, 2010).

We now elaborate on the distinctions outlined in Table 1.

3. Conceptual domain of counterfeiting

The most common form of counterfeiting relies on the appropriation of the exact IP (including brand name, logo, color, and product design) of the copied brand. Near-counterfeits depend on a similar but inexact simulation of IP in which counterfeiters modify brand identity elements so the copy can be mistaken for or seen as comparable to the original brand. Appropriation of physical identity-based elements is a common feature of most definitions for product counterfeiting. For example, the OECD describes counterfeits as “tangible goods that infringe trademarks, design rights or patents” (OECD/EUIPO, 2016, p. 16). Cordell et al. (1996) suggest “counterfeiting involves any unauthorized manufacturing of goods whose special characteristics are protected as intellectual property rights, or trademarks, patents, and copyrights” (p. 41). Staake et al. (2009) provide an expanded definition as follows:

[…] trade in goods that, be it due to their design, trademark, logo, or company name, bear without authorisation a reference to a brand, a manufacturer, or any organisation that warrants for the quality or standard conformity of the goods in such a way that the counterfeit merchandise could, potentially, be confused with goods that rightfully use this reference (p. 321).

Five additional studies (Jacobs et al., 2001; Sonmez and Yang, 2005; Berman, 2008; Chaudhry et al., 2009; Spink et al., 2013) also generally concur that counterfeiters imitate all the important IP elements of a legitimate brand, including the trademarked name, logo, design, shape, color (s), packaging, tags, and labels. However, the literature suggests that counterfeiting also includes a collection of other related ideas and variants that go beyond the core definition.
Several studies address copied products that do not directly copy brand IP, categorizing them as near brand usage (Jacobs et al., 2001), knock-offs (Chaudhry et al., 2009) and simulation (Spink et al., 2013). In these cases, some elements of the physical identity of a brand may be perfectly copied, such as color or typeface, while other elements are intentionally misused, such as the spelling of the brand name. A store-brand product that mirrors some elements of the legitimate brand would fall within any of these definitions. The Mars Wrigley confectionary product M&M’s, reworked as W&W’s, is an example of a near-counterfeit. A more extreme illustration is the Ferrari store at the Silk Market in Beijing which sells branded apparel and accessories that come as close to genuine Ferrari branded products as possible.

Much of the literature using physical identity-based definitions of counterfeiting (reviewed in Staake et al., 2009) suggests an implicit dyadic relationship between the brand and consumer or the counterfeit and consumer. Brands are viewed as IP owned by a firm, and that firm actively transmits selected messages to create perceptions among the relatively passive target audience.

### 3.2 Definitions based on process violations

The literature also identifies a variation of counterfeiting based on process violations. This has been labeled as licensing speculation (Sonmez and Yang, 2005), third shift (Berman, 2008) and over-run (Spink et al., 2013). All of these center on third-party manufacturers producing more than the quantities specified in a contract. This over-production then enters authorized and/or illegitimate channels through a process described as a diversion (Spink et al., 2013) in which the oversupply is sold as gray goods (Chaudhry et al., 2009), now commonly referred to as gray market goods. Diversion also occurs when product intended to be legitimately sold in one market is sold in another market. Over-production and diversion are inextricably linked because the output of over-production is diverted into markets, and competes with fully legitimate goods. These over-runs typically end up in unauthorized channels but sometimes compete head-to-head with legitimate goods in authorized channels.

The authors cited above also suggest other conceptualizations not included in Table I. Sonmez and Yang (2005) refer to a category they call forgery—“a complete change to the style of the original product, replacing it with a new design, color or material, and other details, but retaining the original trademark.” Berman (2008) adds seconds, which are “goods produced by outsource suppliers that do not meet a manufacturer’s standards but were not properly labeled as seconds or destroyed” (p. 192). These unlabeled seconds are...
misleadingly resold as first-quality products. Using a wider lens, Spink et al. (2013) advocate the umbrella term product fraud and extend their list to include three processes: tamper ("legitimate product and package are used in a fraudulent way"), adulterate ("a component of the legitimate finished product is fraudulent"), and theft ("legitimate product is stolen and passed off as legitimately procured").

4. Conceptualizing the brand-counterfeit interface

We identify three themes to explore the interaction between counterfeits and their legitimate brand counterparts to develop our conceptual framework. The first of these themes, brand identity, is relatively well-integrated with the counterfeiting literature. However, the two other themes, relational branding and managing in a network are newer and have not previously been applied to counterfeiting.

4.1 Theme I – brand identity

Consistent with the taxonomic literature, most studies investigating consumers and counterfeiting also emphasize physical elements that lead to the identification of the brand (Amaral and Loken, 2016; Baghi et al., 2016; Higgins and Rubin, 1986; Penz and Stöttinger, 2005). This perspective aligns with the 1960 American Marketing Association (AMA) version: "a name, term, sign, symbol, or design or a combination of them intended to identify the goods and services of one seller or group of sellers and to differentiate them from those of competitors." More than 50 years later, the current AMA definition differs only slightly with the addition of "any other feature".

Zaichkowsky (2006) states that a critical brand element is a trademark: "Trademarks are types of intellectual property consisting of a term, symbol, design, or combination of these cues to protect the identification of a business or product," (p. 15) enabling customers to differentiate one product from another. She continues that trademarks generate goodwill 

Simonson (1994) also focuses on physical identity elements and suggests that trademarks have traditionally acted as the quality signal for a brand along with an instrument for advertising and promotion.

Although the 1960 AMA definition of branding remains pervasive, it has been criticized for being too product focused, too mechanical, deconstructionist, reductionist, and restrictive (de Chernatony and Dall’Olmo Riley, 1998). Furthermore, it fails to recognize the importance of other brand elements. For example, over half a century ago Gardner and Levy (1955) state: "A brand name is more than a label […] It is a complex symbol that represents a variety of ideas and attributes" (p. 35).

Given these traditional definitions of brand, it is no surprise that the counterfeiting literature strongly emphasizes the physical elements that identify a brand. These identity elements are solely controlled by the brand marketer and transmitted directly to customers. Recently, Le Roux et al. (2016) adopt this perspective to outline a typology of counterfeits using only two brand identity elements: logotype and product appearance. Given this binary conceptualization of branding, consumers in the study were more likely to categorize based on brand name rather than the logo.

While focusing on the physical identity elements to combat counterfeiting is necessary, we suggest it is not sufficient. Counterfeiters will always appropriate brand identity elements, in whole or in part, because they are the symbols most readily linked to brand identity (Aaker, 1991). Unfortunately, the majority of strategies to defend brand IP are reactive, and leverage enforcement efforts after counterfeiting, brand damage, and losses have occurred. Avoiding this problem requires a different understanding of the issues. We proceed to describe broader conceptualizations of branding, emphasizing image and goodwill created and held within a relational network of actors. These conceptualizations offer the opportunity to undertake proactive anti-counterfeiting strategies.

4.2 Theme II – relational branding

Research around relational branding between producers and consumers started to emerge in the 1990’s. Studies began to consider the consumer’s role in determining brand value through perceived value-in-use rather than value-in-exchange (Merz et al., 2009). Aaker (1991) went beyond simple identity elements. He emphasized the importance of brand meaning and provided a less legal and physical identity-based definition for branding:

Several authors subsequently considered brands as a set of associations in consumers’ minds or perceived brand image (de Chernatony, 1993; Keller, 1993; Fournier, 1998). Aaker (1996) defined brand equity in terms as “a set of assets and liabilities) linked to a brand’s name and symbol that adds to (or subtracts from) the value provided by a product or service to a firm and that firm’s customers” (p. 7). Stern’s (2006) assessment also recognizes the traditional view that the firm creates meanings on behalf of the consumer:

As a noun, brand refers to entities such as people, places, things, and ideas; as a verb, it refers to processes included in a firm’s endeavor to make a product meaningful, such as naming the product, targeting and positioning it, and communicating benefits (p. 218).

Burbmann et al. (2009) and Brodie (2009) also challenge what they call a static definition of the brand. They propose that branding is a dynamic relationship between internal and external stakeholders. Brand promises and features are transmitted to external stakeholders with brand expectations – resulting in an impact on customer satisfaction. Nevertheless, it should be noted that the relational branding perspective is still developing, and many authors continue to apply the more traditional dyadic view.

A shift from the active producer and the passive consumer is now emerging in the branding literature. These changes recognize the role of the customers as active agents creating meaning for themselves. Fournier (1998) took relational branding in a very literal vein, arguing that consumers develop intense and emotional relationships with brands that take different forms akin to relationships between people. Such relationships suggest that active consumers are fulfilling needs.
that go far deeper than the simple, functional benefits provided by a brand. Batey (2015) also emphasizes the active consumer, stating: “Though companies create brand identities, people create brand meaning” (p. 13). He goes on to assert:

A sea change is afoot in the nature of consumer-brand relationships. Whereas brands were previously selected for their capacity to confer values on the consumers who use them, it is increasingly and more pertinently the case that consumers are conferring values on the brands they use. More and more, ‘ownership’ of brands is passing to consumers (p. 15).

A limited number of studies have explored managerial responses to counterfeiting. These studies focus on interactions between the firm and its consumers and emphasize firms’ strategies, tools and actions, often repeating and categorizing similar solutions (Cesareo, 2015; Clements, 2016).

Much of the considerable literature about authenticity (Beverland, 2005; Grayson and Martinec, 2004; Peterson, 2005; Pine and Gilmore, 2008; Starr and Brodie, 2016) is consistent with the relational concept of brand meanings. Grayson and Martinec’s (2004) label of iconic authenticity is directly related to the physical identity elements of a brand. Other considerations such as Grayson and Martinec’s (2004) indexical authenticity and Beverland’s (2005) authenticity and brand communities viewpoint provide perspectives that are more consistent with the brand meanings conceptualization.

Moreover, authenticity is a judgment, and as such, counterfeits may be misperceived as authentic because a visual assessment of the item is usually insufficient to determine legitimacy when it is imitated in every physical respect.

4.3 Theme III – managing in a network

Brands always require the creation and transmission of identity elements such as trademarks and design. These elements allow the brand to be recognizable and provide visible cues to which deeper meanings can be linked. However, recent branding research recognizes that transmission of identity elements by the seller, while necessary, is insufficient to explain the deep relationships that consumers develop with their brands. The whole brand emerges from a range of processes through which active stakeholders create common and shared meanings by processing brand communications and developing an image in use. Authors who have adopted this perspective include Brodie et al. (2017), Conejo and Wooliscroft (2015); MacInnes and Park (2015), Merz et al. (2009); Prahalad and Ramaswamy (2004); and Tierney et al. (2016). The new perspective has important research implications for conceptualizing counterfeiting. When using a network approach, the overall number of elements for consideration and the sphere of influencers have the potential to grow exponentially. The breadth, richness and wide dispersion of brand image across a network offers new and potentially powerful approaches to address product counterfeiting. This section explores these contemporary multi-dimensional views of branding and network interactions.

Merz et al. (2009) adopt an approach stating that the:

[...] the logic of brand and branding is also evolving and has shifted from the conceptualization of brand as a firm-provided property of goods to brand as a collaborative, value co-creation activity of firms and all of their stakeholders (p. 329).

They recognize branding has shifted from a relationally focused period in the 1990s – in which brands deliver knowledge, relationship qualities, and promises, to a stakeholder focused period today – in which brands have dynamic social processes.

Brands have evolved from a simple identity embedded in the physical product to a continuous, social and highly dynamic value co-creation process. This includes the firm as brand guardian, the brand, and all related stakeholders (Merz et al., 2009).

The traditional approach considers dyadic seller-buyer or marketer-consumer relationships. This is now evolving toward a conceptualization in which value is generated through complex stakeholder interactions (Brodie et al., 2017). Figure 1 shows the dramatic increase in the number of brand and stakeholder interactions when considered from a network perspective. The complexity of the network offers more opportunities for the firm to collaborate and co-create robust meaning with multiple stakeholders. This offers a potentially robust defense against counterfeiting because identity elements are readily copied, whereas meanings are not.

The existing literature overwhelmingly considers counterfeiting regarding IP violations within a firm to consumer dyad. Framing counterfeiting in this way inherently

Figure 1  Branding in a dyad vs branding in a complex network

<table>
<thead>
<tr>
<th>Branding Transactions in a Dyad</th>
<th>Branding Interactions in a Network</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Firm</strong></td>
<td><strong>Firm</strong></td>
</tr>
<tr>
<td><strong>Brand</strong></td>
<td><strong>Brand</strong></td>
</tr>
<tr>
<td><strong>Customers</strong></td>
<td><strong>Stakeholders</strong></td>
</tr>
</tbody>
</table>

- individual customer
- employee
- different stakeholders
- brand community

Source: Adapted from Merz et al. (2009)
leads to a constrained set of solutions. To date, the dyadic-identity perspective has led to reliance on reactive enforcement strategies that have shown limited effectiveness. Cesareo (2015) notes managers would benefit from an underpinning perspective on branding to help them choose among a multitude of strategies and tools to combat counterfeiters. The new perspective based on networks and engagement provides an opportunity to develop a richer and more effective approach to counterfeiting.

4.4 An integrative branding framework

Figure 2 illustrates how our three themes build on each other. The integrative branding perspective views the brand identification and consumer relationships themes as complementary to “managing in a network.” In the integrative model, all stakeholder activities are heightened by interactions focused on and with the brand. Thus, shared and common brand meanings develop along with specific, individual, and experience-based meanings. In some cases, diverse meanings also result (Brodie et al., 2017). Developing branding capabilities within the firm and in a network requires varied functions and processes as the set of capabilities available to an organization “is a product of (functional) capabilities coordinated by business processes and other integrated managerial activities” (Vesalainen and Hakala, 2014, p. 939). Also, the role and importance of different stakeholders in a brand, as well as the managerial facilitation role, can vary considerably in the integrative branding process.

A range of legal and trade agreement protections that rely on the physical identity elements of brands already exist. While these may discourage some counterfeiters, enforcement can only occur after a violation occurs and it is discovered. Consequently, although these safeguards may reduce the marketplace impact of counterfeit products, they do little or nothing to prevent counterfeiting in advance. Again, we believe that taking a broader perspective of brand offers the potential for a wider range of innovations and strategies. The result is a shift from reactive enforcement tactics to a model and mindset based on more proactive prevention.

Figure 3 draws on Brodie et al. (2017) to provide the new theoretical framework to address counterfeiting. Initially, the firm’s managers focus on brand awareness and features using trademark-related communication and other dyadic marketing activities to industry customers and end consumers. After the trademark for a brand has been established in the marketplace, activities shift to elevating the image of the brand. To develop branding as meaning, managerial communication and other marketing activity changes to directing activities within the network. This involves facilitating engagement between the stakeholders who enable alignment of common and shared meanings for the integrative brand (Brodie et al., 2017).

The framework also suggests the potential for substantially stronger strategies to prevent and control product counterfeiting. As noted earlier, plans focused on protecting physical identification alone are necessary but insufficient and offer little potential for proactive prevention. Including brand meaning-focused activities, either within a dyad or a network, complements efforts to protect brand identity. The greatest impact comes from leveraging all three areas – physical identity and related enforcement, brand as meaning and related dyadic activities particularly with consumers and, finally, brand as meaning with all stakeholders. By taking an integrative approach, the firm can transition from a reactive enforcement role to a proactive facilitator to collaboratively develop novel strategies to protect the brand and deliver value. We posit that an integrated approach offers the greatest potential for innovative strategies to address product counterfeiting.

5. Implications

5.1 Physical identity

The physical identification of a brand is important in all counterfeiting situations. The physical identity elements of brands are tangible cues that are used for associating brand meanings, and protecting these cues is essential. Although necessary, protection of identity elements alone is typically not sufficient to solve counterfeiting.

Counterfeiters automatically benefit by copying physical identity elements. The act of intentionally appropriating the name, shape, symbol, color, or look of a legitimate brand creates misidentification or confusion because similar cues can lead consumers into believing that two products are interchangeable (Zaichkowsky, 2006). Developing perceptions of similarity and substitutability are key motivators for stealing brand equity. Zaichkowsky (2006) states that such theft is cheap and effective, especially for visible, desirable or expensive brands. Because physical identity elements are easy to imitate and difficult to deter, counterfeiting will continue to occur. Whenever possible, it is necessary to defend brand IP, but enforcement actions are far from ideal: they are slow, expensive, take place after the damage has occurred and may not be feasible if the counterfeiter is unknown or inaccessible. For these reasons, strategies based on IP alone are unlikely to be successful in the long term.

Bastos and Levy (2012) suggest that brand recognition is more valuable than product performance and acknowledge that branding also attracts counterfeiters. Furthermore, the brand identifiers that attract consumers (such as logo, color, shape and scent) are inseparable from the physical identity of a legitimate brand, easily copied and can be used to produce an exact duplicate of a legitimate product. New technology aids and abets this process. Digital printing allows can duplication of packaging and labels colors quickly and cheaply at low
volumes. The growth of 3D printing is expected to exacerbate challenges by enabling easy replication of the product itself (Üstünkaya, 2018). From a strategy standpoint, managerial options may be limited once the physical elements of a product have been effectively copied by counterfeiters. After a counterfeit is made available in the marketplace, brand managers have few options other than to pursue reactive enforcement measures.

Reactive enforcement is essential, but also broad in scope, logistically difficult, and expensive. A range of tactical efforts may be required, including automated monitoring and removal of online marketplace listings. These approaches focus on removing the counterfeit product after it is available for sale, and none offers a way to preempt or discourage the counterfeiting in advance. Many physical retailers have refined their supply chain processes to eliminate counterfeit products. Online retailers such as Amazon and eBay offer well-documented steps to expedite the removal of listings for trademark or copyright infringing products. Smaller retail chains are arguably less responsive and capable in these areas. Enforcement activities have grown into an industry. The International Trademark Association (INTA) has more than 10,000 participants at their annual conference. Specific actions and related success levels vary and are country specific. For example, what might end with a warning in New Zealand could result in a prison sentence in the USA.

5.2 Relational

As firms attempt to deal one-to-one with consumers, channel partners, and other stakeholders, branding as meanings can be leveraged. Thus, it supplements the limitations of physical identity-based counterfeiting enforcement. Greater understanding here can potentially help provide firms and their managers with templates to develop consumer-focused communication strategies with the goal of reaching a deeper level of brand differentiation, understanding, experience, and ideally – brand love (Batra et al., 2012).

A relational approach can also be used to study the implications of counterfeiting for and with other stakeholders. For example, how does the firm evaluate the integrity of a raw materials supplier? While managing dyads may prove sufficient and effective in some situations, it may also prove problematic or even disastrous in others. A chain is only as strong as its weakest link. Although a food manufacturer may believe it has a superior relationship and communication plans in place with an overseas sales agent, if that same agent has weak arrangements...

---

**Figure 3** Theoretical framework for multi-dimensional brand protection strategies

<table>
<thead>
<tr>
<th>Actor Interactions</th>
<th>Branding as Physical Identity</th>
<th></th>
<th>Branding as Meanings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unidimensional – the firm</td>
<td>Dyadic</td>
<td>Two-dimensional (dyadic) – relational</td>
</tr>
<tr>
<td></td>
<td>initiates and directs</td>
<td>Network</td>
<td>transactions primarily centered on the</td>
</tr>
<tr>
<td></td>
<td>communication with consumers</td>
<td></td>
<td>firm transmitting supplemented by</td>
</tr>
<tr>
<td></td>
<td>and other stakeholders.</td>
<td></td>
<td>activities focused on obtaining feedback</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>from consumers.</td>
</tr>
</tbody>
</table>

**Outcomes**

- Reactive and proactive defensive anti-counterfeiting activities primarily focused on consumer demand.

**Marketing Activity**

- Signals featuring trademark and related identification cues, e.g., logo or color.

**Impact on Counterfeiting**

- Low
- Medium
- High

**Source:** Adapted from Brodie et al. (2017)
in place with its distributors or retailers, all sorts of calamities may impact the supply chain and the brand.

5.3 Networks
Brands have the potential to amass an enormous amount of meaning from a network of relationships and activities with suppliers, agents, distributors, retailers, governments, competitors and media. Leveraging these relationships offers an opportunity to develop novel and powerful strategies to address counterfeiting because they can be used to proactively strengthen branding elements that are within the firm’s control and not easily copied by counterfeiters.

As an example of the network advantage, a leading English Premier League football club[1] actively worked with stakeholders including Chinese government authorities to address their counterfeits challenges with counterfeit apparel. Chinese Customs officials were engaged both in China and also flown to the UK for brand immersion activities including attending a match. These efforts reportedly paid dividends with a marked increase in the level of counterfeit products seized at shipping ports within the borders of China and a noticeable reduction in the volume of goods reaching illicit markets in Europe. Another illustration comes from an apparel manufacturer in Canada[2] who quickly engaged with their branded zipper supplier after finding genuine zippers in counterfeit products. The zipper supplier collaborated with the Canadian firm to ensure that the problem was addressed and proactively controlled to avoid similar problems in the future. Both examples go beyond simple physical identity-based elements and instead recognize the value of integrative branding and managing in the network. The end goal here is to advance brand protection strategies and more effectively isolate counterfeiters (and counterfeits). Thus, restricting things such as shipping access and the supply of genuine components, and consequently, quality matching capabilities.

To summarize, a strong brand that achieves congruence amongst its stakeholders can diminish reliance on physical identity elements and transcend some of the limitations posed by a dyadic meaning perspective. An integrative branding approach ensures that third-party organizations such as suppliers, shippers, and even competitors are no longer treated in an external reactive manner by managers. Instead, engagement and collaboration activities become both the focus and the opportunity. Also, because the firm is in control, it is difficult, as well as costly, for counterfeiters to duplicate these branding elements. Therefore, we conclude that firms need to re-think branding and apply a broader perspective to their product anti-counterfeiting strategies.

6. Research agenda
Extensive counterfeiting research has been conducted, but our review indicates that little has explicitly gone beyond physical identity-based elements of brands such as colors, shapes, and logos which are relatively easy for counterfeiters to imitate. Studies about consumer demand and motivations for buying counterfeits have focused mainly on descriptive details around existing practitioner methods (Wilson et al., 2016; Stumpf and Chaudhry, 2010). Few academic studies involve practitioners in hypothesizing about theory, innovations, or strategies beyond identity-centric activities. This suggests that future research would be well served by investigating integrative branding and brand protection by engaging with managers and their stakeholders. This approach can include the necessary physical identity and legal-based enforcement tactics but needs to go further to broader aspects of the counterfeiting problem.

Future counterfeiting research must include broader approaches to the problem. Both theoretical and empirical research agendas should incorporate an integrative perspective, recognizing the benefits of collaboration and branding in a network, and investigating both the firm’s and its stakeholder’s perceptions of the brand (legitimate and counterfeit) and related strategies. Stokes (1997) and Corley and Gioia (2011) highlight the need for a greater effort to link scholarly inquiry in management and marketing to usefulness in practice. They suggest research should aspire to develop both new theoretical understandings and practical applications (Stokes, 1997). Descriptive research on how managers use specific tactics to combat counterfeits has been limited, usually to particular case studies (Wilson et al., 2016). We believe that applying the integrative branding framework and testing context specific premises using an abductive model such as the Nenonen et al. (2017) theorizing with managers framework has the potential to yield powerful new strategies for dealing with counterfeiting. Leveraging an abductive approach to the study of counterfeiting is novel and sees theory informing empirical research and practice, while at the same time, practice informs empirical research and theory. Applying this approach, theory is not treated as an outcome. Instead, the focus becomes the process of theorizing itself (Brodie, 2017). Involving managers in the theory development process as active, reflective, and empowered participants should yield findings with greater managerial relevance and help to refine strategy development in a new and more productive way. Again, this process for studying counterfeiting and related strategies would allow theory to inform the empirical work and managerial practice to inform further refinement.

There is also a need for normative research to inform managerial actions by suggesting a set of reliable best practices. These could be developed by synthesizing descriptive research (describing what managers are doing), explanatory research (explaining effective strategies, under what conditions, and building theoretical principles) and empirical research (providing insight into which practices work).

Consistent with our proposed conceptual framework around branding as identity, relational branding as meanings in a dyad and branding as meanings in a network, research questions have been developed to provide direction for future investigations into product counterfeiting and propose innovative ways to study counterfeiting. The questions posed have been grouped under one of the three perspectives outlined in our conceptual framework, and focus on either unanswered brand identification questions, complement extant work about meaning and relational branding in the context of counterfeiting, or pose new questions focused on managing the problem of counterfeiting in a network.

Because managers are intimately involved with counterfeiting issues, it could be useful to explore research questions with them. Questions such as those noted in Table II have the potential to provide a foundation to both supplement...
knowledge around existing identity-based anti-counterfeiting activities, and also develop novel relational and network-centric strategies to deal with the issue of counterfeiting.

Table III identifies related managerial implications and outlines value to practitioners.

Finally, we note a prevalence of studies focused on luxury and fashion goods (Amaral and Loken, 2016; Baghi et al., 2016; Cesareo, 2015; Cesareo and Stöttinger, 2015; Hieke, 2010; Penz and Stöttinger, 2012; Wall and Large, 2010). We propose that future research activities could concentrate on additional industry sectors and product categories where liability risk to the firm and consumer safety are key factors, such as food and pharmaceuticals.

7. Conclusion

It is generally accepted that counterfeits and counterfeiting damage brands. Despite an ever-increasing body of scholarly knowledge and practical efforts to combat the problem, very few firms – including billion dollar multinationals with extensive budget allocations – have established sustainable success against counterfeiting. While there has been considerable research on counterfeits and counterfeiting, little attention has been given to the influence of counterfeit products on branding, and existing branding research neglects the area of counterfeiting. This conceptual research has developed new insights into the issues posed by counterfeiting, and several themes have been uncovered around the limitations of framing product counterfeiting using a physical identity only approach, the potential of leveraging brand meanings, and a need for deeper research about managers and related stakeholders. Accordingly, we have proposed a conceptual framework that will facilitate broader future research into product counterfeiting. Our framework leverages integrative branding approaches to develop strategies to supplement the current reliance on reactive enforcement based on traditional branding elements around physical elements. The complexity of the network offers more opportunities for the firm to co-create robust meaning with multiple stakeholders. Identity elements are readily copied, whereas meanings are not. We propose that integrative branding in a network has the potential to drive more proactive prevention via conscious and active engagement with the full network of brand stakeholders. We suggest empirical activity aimed at advancing academic contributions and facilitating a better understanding of firms’ and related stakeholder viewpoints to develop innovative strategies for the to address product counterfeiting.
Notes

1 Documented in an unrelated research project interview between one of the authors and a brand protection team member on December 14, 2011.

2 One of the authors of this paper was exposed to this example via external consulting work.

References


### Counterfeiting: conceptual issues and implications

<table>
<thead>
<tr>
<th>Source</th>
<th>Details</th>
</tr>
</thead>
</table>

### Journal of Product & Brand Management

Counterfeiting: conceptual issues and implications

Bradley P. Evans, Richard G. Starr and Roderick J. Brodie


Zaichkowsky, J.L. (2006), The Psychology behind Trademark Infringement and Counterfeiting, Lawrence Erlbaum, Mahwah, NJ.

Further reading


Corresponding author

Bradley P. Evans can be contacted at: bradley.evans@auckland.ac.nz