

MARKETING PERSPECTIVE: PRODUCT COUNTERFEITING DILEMMA¹

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Abstract

Kawasan Negara-negara Asia telah menjadi tertuduh utama bisnis pembajakan produk. Di kawasan ini nampaknya tidak ada produk yang memiliki reputasi bebas dari pembajakan, mulai dari produk makanan sampai produk teknologi canggih (Johnson, 2001/2002). Namun bukan berarti Negara kawasan Asia tidak memiliki niat baik membrantas bisnis ini, misalnya Indonesia telah meluncurkan produk hukum HaKI pada tahun 2000, China mengizinkan pelaku bisnis pemegang merek membentuk asosiasi (the Quality Brand protection Committee atau QBPC) dalam upaya memantau produk bajakan. Ketidakefektifan pembantasan karena belum adanya sebuah tindakan yang terpadu antar negara akibat perbedaan cara pandang HaKI. Akibatnya Hukum dan peraturan tidak membuat jera pelaku bahkan menciptakan strategi baru bagi pembajak bagaimana menghindari produk hukum dan aturan tsb. (Johnson, 2001/2002). Hasilnya, bisnis bidang ini tetap subur di Asia.

Dilemma di atas membangkitkan kesadaran peneliti dengan melihatnya dari berbagai sudut pandang keilmuan. Penelitian pembajakan produk yang dikaitkan dengan disiplin ilmu pemasaran memang sudah dilakukan, baik sisi permintaan maupun sisi penawaran (Chaudhry and Walsh, 1996; Phau et al. 2000); and Miller, 1999). Akan tetapi, meskipun penelitian di bidang pembajakan produk sudah mulai menadapatkan apresiasi dari para ahli, penelitian yang dikaitkan dengan ilmu pemasaran masih tergolong baru, dan hasilnya masih bersifat sporadis, belum menemukan konsep teori yang kuat, baik penelitian pada sisi permintaan maupun sisi penawaran produk. Dengan demikian, banyak ahli setuju bahwa penelitian di bidang pemasaran dikaitkan dengan produk bajakan belum menemukan bentuk yang kuat untuk memetakan bisnis produk bajakan. Karenanya, penelitian di bidang ini masih terbuka lebar.

Keywords: *Product counterfeiting, Demand side studies, supply side studies, counterfeiting strategies, and anti-counterfeiting strategies.*

INTRODUCTION

Relevant theories can be very helpful and supportive of the research in hand; therefore a critical literature review is always better for the researcher understand the theory or the theories discussed. Consequently, the quality of the review is a good measure of the researcher's theoretical understanding (Hackley 2003). This chapter

attempts to frame previous scholars' work as related to the current study. Based on this in-depth review, the current study is enabled to examine any gaps in previous scholars' work, and therefore to identify a gap in current knowledge, which, if studied can contribute to a better understanding of the topic under consideration, especially in relation to consumer purchase infringement of counterfeit, branded, product regulations.

This chapter is structured as follows: firstly is to explore the general phe-

¹ This article is part of PhD dissertation focusing on product counterfeiting and has been granted by Edith Cowan University, Australia (2008)

nomena of counterfeit business, its typology and the impact of any infringement on real business will be explored first. Then follows a literature review of previous studies which have dealt with the demand side as well as the supply side of studies on counterfeiting. Finally, possible gaps in the former studies will be identified by the literature review, so leading to a decision about the core concepts to be studied in this research.

DEFINITION OF COUNTERFEIT PRODUCTS

The concept of trademark has been used for centuries. In fact, the problem of counterfeiting, the most common form of trademark infringement, has been around as long as the use of trademarks. For instance, Greek inscriptions were found on Etruscan vases dating from 800 - 400 BC. These were used to indicate the products were made by actual Greek makers or that counterfeiters had copied the trademark of some famous Greek makers. Likewise, laws to prohibit counterfeiting have existed since these times. Although Roman laws criminalising counterfeits have not been found, it is believed that some did exist. The first recorded criminal anti-counterfeiting charge dates to medieval times. In the fourteenth century, for example, counterfeiters received harsh punishments, e.g., the Elector of Palantine issued an act which punished by hanging any proprietor who sold ordinary wine as Rudesheimer² (Jennings 1989).

Counterfeiting today occurs on a global scale and creates significant problems that can affect the economic welfare of legitimate companies. In addition, this counterfeiting can pose potential dangers to consumers (Lynch 2002). The attractions of counterfeiting are many ranging from high profit margins, tax free income, and low

overhead. These provide far lower risk in terms of consequences than activities such as drug trafficking (Alcock, Chen, Ching & Hodson 2003). However, counterfeiters take advantage of the enormous consumer trust that has been established by famous brands. Some counterfeit products can be especially dangerous because they may involve health and safety risks (Green & Smith 2002). For example, pharmaceuticals and airplane parts can cause illness and tragic accidents due to poor manufacturing (Grossman & Shapiro 1988). Moreover, the latest trends suggest that luxury products are no longer the sole focus of counterfeiters³, but rather, mass convenience products (Alcock, Chen, Ching & Hodson 2003), such as shampoo, toothpaste, condoms, and birds' nests for soup (McDonald & Roberts 1994) have fallen prey to the practice.

In short, the production and sale of counterfeit products constitute criminal offences in most countries (Vagg & Harris 2000). The counterfeiting business is the direct opposite of fair competition where genuine manufacturers compete against each other on the basis of quality and price. The counterfeiters have no interest in investing in good quality materials, quality control, research and development, and advertising and marketing. Therefore they are able to sell their products more cheaply without consideration of consumers' benefits and safety (Lynch 2002). As a result, both genuine manufacturers and the government become victims because the genuine manufacturers will face loss of profit and damage to their reputation, while governments will lose out on unpaid tax and incur large costs in

² A German wine made near R[ü]desheim, on the Rhine.

³ **Luxury branded products** are more largely counterfeited such as watches: Cartier, Rolex, Bulgari; handbags: Prada, Gucci, Louis Vuitton, Chanel; shoes: Timberland; sunglasses: Ray Ban, Armani; Blue jeans and prêt-porter: Versace, Armani, and Lacoste (Benghozi & Santagata 2000).

enforcing intellectual property rights (Vithlani 1998).

In general, ‘infringement’ of products can be defined as: “The deliberate attempt to deceive consumers by copying and marketing goods bearing well known trademarks, generally together with packaging and product configuration.” This means that the counterfeit product seems to be made by a reputable manufacturer when it is, in fact,

an inferior copy (Lynch 2002). Previous research has identified six categories of product infringements: counterfeiting, piracy, imitation, grey market (Lai & Zaichkowsky 1999), custom-made copies (Phau, Prendergast & Chuen 2001) and softlifting (Shore, Venkatachalam, Solorzano, Burn, Hassan & Janczewski 2001). Table 1 provides summarises the definitions of product infringement used in various studies.

Table 1: The Definition of Infringement Products

Category	Definition	Examples	Authors
Counterfeiting	100 % copy to deceive consumers to believe that it is the genuine article	Counterfeit currency, airline parts, Cartier watches (Warneminde 1991)	Bamossy 1985; and Lai & Zaichkowsky 1998
Piracy	Customer is aware that it is a fake usually sold at a fraction of the original price. Termed “non-deceptive goods” by Wee et al (1995)	Pirated video tapes, CD, video games, computer software, branded copies of clothes and watches	Bamossy 1985; and Lai & Zaichkowsky 1998; and McDonald & Roberts 1994
Imitation Brands	Also termed “knock-offs” or imitators. Though not identical to the original, it is similar in substance, name, form to an acknowledged product or service (Lai and Zaichkowsky 1998)	“Cimega for “Omega” or “Asikon” for “Seiko watches (Bamossy 1985)	Bamossy 1985; and Lai & Zaichkowsky 1998; and McDonald & Roberts 1994
‘Grey’ goods (parallel import)	Manufacturers producing greater quantity than required and selling excess legally as unintended product. Product specification may be different for different markets (Lynch 2002)	Sale of ‘grey’ goods by legitimately contracted manufacturers	Lai & Zaichkowsky 1998; McDonald & Roberts 1994; and Lynch 2002
Overruns	An original product that has reached the market without the trademark producer’s authorisation. It is likely an issue of quality control which could affect safety depending on the product (Lynch 2002)	Sale of overruns by legitimately contracted manufacturers	Lynch 2002
Custom-Made Copies	Replicas of trademark designs of branded products made by legitimate craftsmen. Raw materials are usually of good quality. The only item missing from the original is the emblem or brand name	“Cartier” and “Tiffany” rings custom made by jewellers; Versace or Armani suits and Chanel designs custom made by tailors	Phau & Prendergast 1998
Soft-lifting	The unauthorised copying of software for personal use and without monetary gain	A person copies a friend’s software or brings a copy home from work for personal use	Koen & Im 1997; and Shore, Venkatachalam, Solorzano, Burn, Hassan & Janczewski 2001

Source: Phau and Prendergast (1998) with authors' addition

The two most common forms of IPR (Intellectual Property Rights) infringement are counterfeiting and piracy. The difference between counterfeiting and piracy is that with piracy consumers knowingly buy pirated goods, while with counterfeiting, consumers are deceived into thinking that the product they buy is genuine (McDonald & Roberts 1994). In some studies, however, the term counterfeit and piracy are used interchangeably.⁴

The term counterfeit as used in the proposed study refers to the infringement of trademarks. More specifically, it refers to the illegal use of trademarks for producing fake products. Although this infringement may deceive consumers into believing they are buying genuine products, this current study will purposely make the subjects aware that they are buying counterfeit products.⁵

EMERGENCE OF THE COUNTERFEIT PRODUCT BUSINESS

The counterfeiting business is one of the fastest growing industries in the world (Alcock, Chen, Ching & Hodson 2003). Actual losses are extremely difficult to predict because reliable counterfeiting figures for each industry are rare (Callan 1998), with the existing estimates of losses varying widely. Examples of estimated losses include \$ 200 billion in for US firms (Jacobs, Samli & Jedlik 2001; and Yao 2005), and an estimated percentage of worldwide sufferers ranging from 5 to 10 per cent of world trade (Alcock, Chen, Ching, Hodson 2003; Green & Smith 2002; and Jayakar 2003). This estimate does not include counterfeit products that are produced and sold locally. The latest

estimation of world trade losses is about \$ 10 trillion (Green & Smith 2002).⁶

There is no reputable product that does not run a severe risk of counterfeiting (Johnson 2001/2002). The main reason for counterfeiting activities is that, due to the inexpensive price of counterfeit products⁷, the demand is strong; therefore the margins are high (Ang, Cheng, Lim & Tambyah 2001). However, the sale of counterfeit products has become a serious threat to consumers and national economies (Cakraborty, Alfred & Bristol 1996; Bloch, Bush & Campbell 1993). Furthermore, the consumer who buys a counterfeit product, believing it to be genuine, will blame the legitimate manufacturer when it fails. The producers thus lose both reputation and future sales potential, resulting in a decline in profitability, which, in turn, can have a serious impact on the labour force (Lynch 2002), and the government's tax revenue.

A United States House Subcommittee named the worst counterfeiting offenders: Taiwan, South Korea, Hong Kong, Singapore, Thailand, Philippines, Indonesia, Brazil, Colombia, Mexico, and Nigeria. Some of them seemed to utilise counterfeiting as a *de facto* national industrial development strategy (Jennings 1989; and Harvey & Walls 2003). While not named, China also suffers from rampant counterfeiting as every product that is valued for its reputation runs a severe risk of counterfeiting in China (Johnson 2001/2002; and Choi 2003). Recently China, along with other countries such as Taiwan and Singapore, has enacted tougher laws/regulations against counterfeiting (Globerman 1988). China, for example, has registered the Quali-

⁴ See: Wee, Tan & Cheok 1996; Ang, Cheng, Lim & Tambyah 2001; and Kwong, Yau, Lee, Sin & Tse. 2003.

⁶ See: Cordell, Wongtada & Kieschnik. 1996; and Field 2000.

⁶ Based on various trade associations and press, Vithlani (1998) estimates shares of counterfeit products in total sales of each sector in the world as seen in Appendix 1.

⁷ See: Appendix 2 for an example for prices of some genuine and counterfeit products in US market

ty Brand Protection Committee (QBPC) under the China Association of Enterprises with Foreign Investment in response to anti-counterfeiting issue.⁸ Nevertheless, one problem in the development of domestic policies regarding counterfeiting is the absence of a uniform definition of the practice. As a consequence, the existing laws/regulations have rarely been enforced with an aggressive approach that would create fear of further infringement (Johnson 2001/2002).

Currently, the range of goods being counterfeited is limited only by the boundaries of the human imagination (Harvey 1988); thus the practice has become an escalating worldwide phenomenon (Grossman & Shapiro 1998; Chaudhry & Walsh 1996; Schultz II & Saporito 1996; and Benghozi & Santagata 1998). As a result, product infringements in the worldwide market become the 'new real' products, meaning that these products seem to be 'the new original products' with almost no boundaries, few business costs, and little or no risk, with no labour costs involved in research and development (Glass & Saggi 2002; and Coriat & Orsi 2002).

COUNTERFEITING IN ASIA AND THE LAW IN INDONESIA

The selling of counterfeit products has been a growing problem in the USA, and products originating in Asia are of particular concern. Asia is home to a number of big emerging markets (BEM) such as China, India, Indonesia, and South Korea (Slough,

Miesing & Brain 2004), whose population and purchasing power are rapidly expanding and promising an ever richer consumer base for IP products. However, many of these countries have technology intensive sectors which are in competition with US firms. In addition, Asia's emerging markets are also home to some of the world's most virulent producers of counterfeit goods (Callan 1998), with, as previous noted, Asia being considered the worst violator of intellectual property rights in the world (Pandegrast, Chuen & Phau 2002).⁹

Even though the World Trade Organisation (WTO) has been working on reducing IPR infringement through worldwide business agreements, the mushrooming of counterfeit products still becomes a serious problem in international trade agreements. Jacobs, Samli and Jedlik (2001) argue that many Asian countries have been industrialised for but a short time; therefore these nations do not have the legal infrastructure to support IPR. Often, even, if laws are established, their enforcement is 'sluggish, irregular, or nonexistent' (Jacobs, Samli & Jedlik 2001, p. 503). Indeed, most business people from this area are entrepreneurial in nature and have no moral restraints against using another's means as their own (Harvey & Ronkainen 1985). In fact, it may be culturally acceptable to take part in actions that would be considered counterfeiting in other cultures.

The statement above is also supported by McDonald and Roberts (1994) who point out that most of the IPR infringements taking place in Asian countries may stem from cultural differences in morality and perspectives between people in the East and the West. Cultures differ in terms

⁸ The Quality Brands Protection Committee (QBPC) was established by many international trademark owners, and was launched in March 2000. QBPC's objectives for 2003 'broadly concern informing local and national officials of the issues involved with trademark protection, trying to encourage changes in legislation and practice, and educating the Chinese population about the importance of respecting trademark rights' (Anonymous 2003a, p.1)

⁹ As seen in Appendix 3, Bush, Bloch & Dawson's (1989) study examined the nations where the counterfeit products were produced by interviewing respondents whose firms had been victims of counterfeiting.

of the entity to which they assign a right of ownership (Mittelstaedt & Mittelstaedt 1997) and Asian cultures have traditionally emphasised that individual developers or creators are obliged to share their developments with society (Lai & Zaichkowsky 1999). Consequently, new ideas and technology are considered as public means (Jacobs, Samli & Jedlik 2001).¹⁰ The phenomenon of counterfeiting, therefore, seems to be supported by culture.

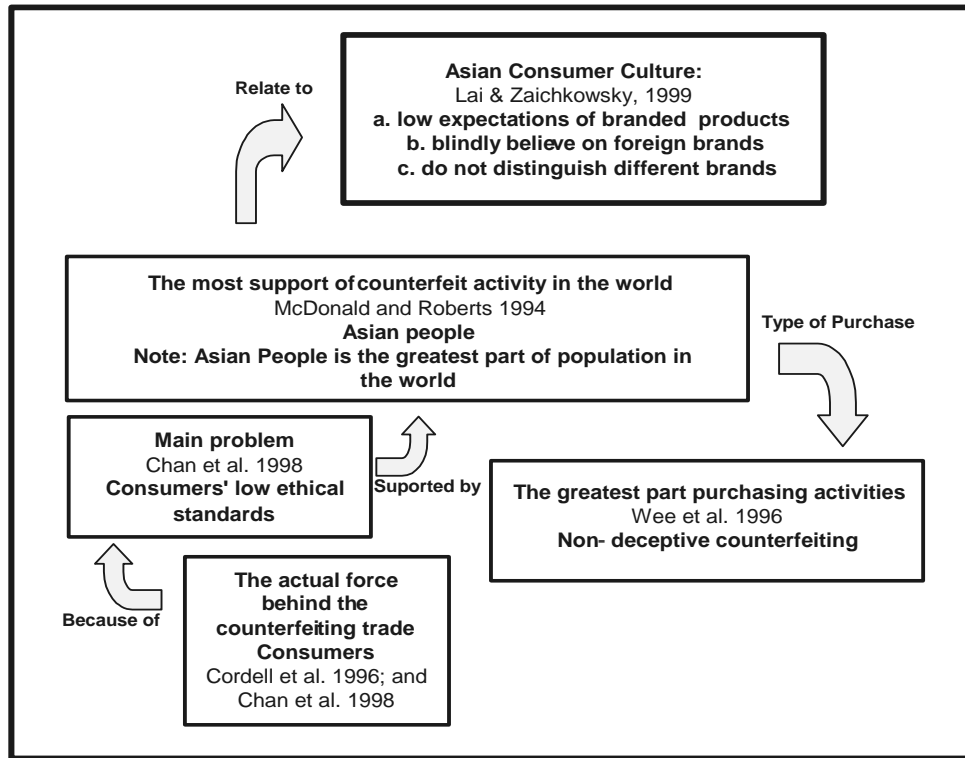
IPR, on the other hand, reflects a characteristic value of the Western World in general. Indeed, some Asian nations seem to believe that IPR is a Western concept created to maintain a monopoly over the distribution and production of knowledge and knowledge based products (Altbach 1988; and Swinyard, Rinnie & Kau 1990). Addi-

tionally, Deng, Townsend, Robert & Quesnel (1996) also argue that protection of IPR will create artificially higher prices. Therefore, when pressure is placed by foreign countries on the government of Asian countries such as China to develop laws to counter trademark infringements, the availability of counterfeit products has not diminished. In fact, as the laws change, we may see the practice of infringement change (Birden 1996; and Wilkie & Zaichkowsky 1999). So, it is not surprising if Asian countries have been active in producing and marketing counterfeit products. For this reason, the mushrooming counterfeit products business has become an issue of concern to marketers in Asia (Chan, Wong & Leung 1998). The following diagram, Figure 1, summarises the participation of Asian consumers in the counterfeit trade.

In Indonesia, The President of Perhimpunan Masyarakat HaKI (Intellectual Property Rights Alliance), Cita Citrawinda Priapantja identified that weaknesses in the Act of Law enforcement, lack of understanding regarding IPR, and low buying power of the societies as the factors supporting the growing numbers of counterfeit products in Indonesia. Some actions have been taken to overcome these causes both by the government as well as related parties or alliances. They undertook sweeping operations directly into the market places for counterfeit products. The results showed a significant decrease of illegal counterfeit selling. However, once the on-site enforcement ceased, counterfeit selling returned to the market place as before. The enforcement action did not solve the counterfeiting problem.

¹⁰ Wilkie & Zaichkowsky (1999) state: 'The past tendency of Asian cultures to imitate can be traced to their history and value systems, which are reflected in their legal systems. Furthermore, the traditional methods of teaching and learning are one of copying. From the time children can hold a writing instrument, they are taught to outline, transcribe, and repeat. These cultures are also very family-oriented. The family comes first, and its members provide for one another. The state does not provide, so it is secondary. It is perhaps not a priority to enforce a law that would deny profit to an individual at the expense of a large manufacturer, especially when that a large manufacturer is not Asian in origin' (p. 12).

Confucian and Islamic values, furthermore, are strong in Asian Regions where there is a concept that replication is not a dishonourable act. Islam argues that without God, man is unable to create knowledge (Mandhachitara et al. 2000). This view diminishes the role of the inventor (Mittelstaedt & Mittelstaedt 1997). However, in the Islamic community, debate about IPR is still in progress. In this case, the majority of the Indonesian population is Islamic. There is a different perspective on IPR in Islamic Law, e.g., between Majelis Ulama Indonesia (Indonesian Clerics Foundation) and Jamaah Murabitun Nusantara (Murabitun Nusantara Foundation). The Indonesian Clerics Foundation states that IPR is protected under Islamic Law, whereas Murabitun Nusantara Foundation says that all belongs to God including man and knowledge. Man, therefore, is able to disregard IPR protection (Anonymous 2003b).



Sources: This figure, based on literature reviews of previous studies, has been pictorialised by the researcher.

Figure 1: Asian Consumers Participation in Counterfeit Trade

In fact, Indonesian government has taken seriously the combating of the illegal counterfeit trade. To do so, it established a Bureau of Intellectual Property Rights within the Ministry Department of Justice and Human Rights to make policies and carry out strategy, action, and activities according to regulations; and to educate about IPR and socialise it into both business and communities. In practice, the government realised that the Law of Copyrights, Undang Undang (UU) No. 8/1992, had not been successful in curbing the activities of counterfeit sellers; and additionally, it had not met the demands of some society groups who opposed the concept of IPR (Tiara 205, 1998; Hukum Online 1999).

Based on those facts, the government attempted to revise the existing copyright laws and regulations by launching a new law called UU No. 19/2002 mandating stronger penalties for those who infringe. This new law was also in line with the government's intention to take part in the Berne Convention, and as a member of the World Trade Organisation. However, it could not be denied that the new law basically appeased the warning forces from developed countries such as USA and Japan who applied the strongest sanction for every infringement caught (Tempo Interactive 2003; and Pikiran Rakyat 2003).

Historically, Indonesia had been involved in IPR issues for more than two

decades as evidenced by the law and associated regulations of UU No. 6/1982. This law had been revised twice as UU No.7/1987 and UU No. 12/1997.

Because of the pressure for transparency from foreign countries and international businesses had increased rapidly due to the IPR protection given, the government then to launch its latest IPR laws and regulations including Copyright (UU No.19/2002); Patents (UU No. 14/2001); Trademarks (UU No.15/2001); Plant Variety Protection (UU No. 29/2000); Trade Secrets (UU No. 30/2000); Design Protection (UU No. 31/2000); and Design Layout and Integrated Circuits (UU No. 32/2000). However, IPR infringements dealing with commercial crimes that impact business loss and economic prosperity still concern, essentially, copyright, trademarks, and patents (Paradise 1999). The current study will investigate trademark infringement.

TYOLOGY OF COUNTERFEIT CONSUMERS

Two separate types of transactions are involved in counterfeiting - deceptive and non-deceptive. Deceptive counterfeits represent situations in which consumers do not know they are buying a counterfeit product at the time of purchase (Chakraborty, Alfred & Bristol 1996). In this case, consumers think they have purchased a genuine product when in fact it is a fake. This type of counterfeiting arises in a market with imperfectly informed consumers (Grossman & Shapiro 1988); as a result, they are always victims.

Non-deceptive counterfeits represent situations in which consumers may be fully aware based on cost, quality, and the type of outlet from which the product is purchased, that they are buying a counterfeit at the time of purchase. At this point, the public is well aware of illegal markets and the

availability of bogus products (Chakraborty, Alfred & Bristol 1996).

In cases of non-deceptive counterfeiting, the bogus products may fulfill the needs of a group of consumers looking for cheaper products, notably where genuine manufacturers or their distributors fail to adequately service the marketplace by providing a reasonably priced product (Lai & Zaichkowsky 1999).

However, consumers who knowingly buy cheap copies usually consider the level of risk. For example, it seems likely a consumer who knowingly buys counterfeit clothing, would not buy a risky counterfeit product such as auto parts or drugs (Delener 2000).

TYOLOGY OF BUSINESS ENTRY STRATEGIES OF COUNTERFEITS

According to Harvey and Ronkainen (1985) and Delener (2000), there are two typologies of business entry strategies of counterfeits employed by international counterfeiters - 'direct and indirect'. These are discussed below.

Direct counterfeiting strategies

The first direct counterfeiting strategy involves the foreign firm that wishes to counterfeit. The counterfeiters purchase a genuine product to be counterfeited which is then manufactured in bulk in a different country. The product is then sold on the counterfeiter's home market. One of the reasons of manufacturing this product in the third market is to reduce the risk of legal remedies and costs.

The second direct counterfeiting strategy is the theft "formula" by employees of the genuine company. The employee involved in the production process steals the product information then sells it to the counterfeiter. The counterfeiter uses it to manufacture large production runs of the product in the counterfeiter's home country, before

selling it back the original market. This strategy has become common place in the computer industry (Harvey & Ronkainen 1985).

Indirect counterfeiting strategies

These strategies, however, are usually utilised by intermediaries to steal “product formula” or specifications to be used by the counterfeiter.

The first indirect counterfeiting occurs when the counterfeiters sign a contract with an intermediary to obtain the original product or “formula of the product” for counterfeiting purposes. The bogus products then are manufactured in the counterfeiter’s home market and sold in other foreign markets. It might be argued that the use of these intermediaries is to reduce probabilities of legal remedies. For example, in 2003, the US Customs seized a total of 94 million counterfeit products in ports of US entry. Of this total of counterfeits products, 66% were originated from China (Chow 2004).

The second indirect counterfeiting strategy involves the use of an intermediary and manufacturing of the counterfeit product in an overseas market. The counterfeit product is then sold in all markets including the counterfeiter’s home market. This type of strategy is used by firms located in developed countries such as the USA and Western Europe. The counterfeit products are manufactured in less developed countries, the reason being to take advantage of lower labour costs and weaker legal restraints. At the same time, the counterfeiters are better able to protect themselves from legal inquiries.

REASONS OF COUNTERFEITING STRATEGIES

With regard to cultural matters, research findings (Marron & Steel 2000) have shown that countries with a collective culture have significantly higher counterfeit rates than do countries with an individualist culture. Western developed countries have individualistic cultures that naturally embrace individual ownership of intellectual property. On the other hand, many non-Western countries, represented by developing and under developed countries, have collective cultures that emphasise sharing over individual ownership. As a consequence, these societies have been unwilling to adopt the Western understanding of IPR (Swinyard, Rinnie & Kau 1990).

Thus, developing countries argue that IPR demonstrates economic development by protecting use of existing knowledge, the developed countries believe that such rights are essential for promoting innovation and economic growth (Marron & Steel 2000). However, research evidence (Rapp & Rozek 1990) finds that patent protection is strongly correlated with economic development, high income and strong patent laws, characteristic determinants of a developed country’s business ethics.

In addition, counterfeiters also consider other reasons to utilise counterfeiting strategies such as high profit business practice and advanced technology diffusion. Those reasons can be examined by perusing Table 2 below.

Table 2: Reason for counterfeiting strategies

Reasons for counterfeiting strategies	Authors
Lower price than original brand that creates tremendous profit margins or provides huge financial incentives	Zaichkowsky & Simpson 1996; Dodd & Zaichkowsky 1999; Bush, Bloch, & Dawson 1989; Delener 2000; Nill & Shultz II 1996; Lynch 2002; Wijk 2002.
The global diffusion of technologies for mass production; and producing counterfeit goods which often almost replicate authentic merchandise	Nill & Shultz II 1996; Bush, Bloch & Dawson 1989; and Bamossy & Scammon 1985;
The offer of tremendous cost advantages because almost no investment is made in product research and development resulting in low financial risk business	Nill & Shultz II 1996; and Delener 2000
The lower income of consumers and lack of regulations and laws that make it attractive to produce	Bush, Bloch & Dawson 1989; Delener 2000; Wilkie & Zaichkowsky 1999; Lynch 2002; Simone 1999 and Banerjee 2003
The lack the name of brand recognition, thus finding it difficult to compete with established product	Nill & Shultz II 1996

HARMFUL OUTCOMES OF COUNTERFEITING

Research on counterfeiting activities has expanded over the last two decades. However, this has not translated into success in eradicating fraudulent practice. The magnitude of counterfeit products has escalated over the years and it is not likely this phenomenon will decline (Phau & Prendergast 1998). In fact, the phenomenal growth of

counterfeiting has threatened the lives of innocent consumers, wreaks economic destruction, and weakens consumer confidence in branded products (Tom, Garibaldi, Zeng & Pilcher 1998). The most commonly cited danger is the intangible damage to the goodwill of the genuine brand names. Table 3 classifies the harm caused by counterfeits, characterising the many forms.

Table 3: Harmful Outcomes of Counterfeiting

Harm	Examples
Damaging the reputation of manufacturers and brand equity	Poor quality of fakes can be hazardous to the innocent end purchaser; confusion between genuine articles and fakes (Bush, Bloch & Dawson 1989; Olsen & Granzin 1992, 1993; Michael & Papavassiliou 1997; Nash 1989; Bazan 1999; Wilkie & Ziachkowsky 1999; Delener 2000; Harvey & Walls 2003)
Jeopardising consumer safety	Inaccurately formulated medicines, automation parts, faulty aircraft parts, brake linings, bogus auto parts, and fake vaccines; pebbles and beans sold as coffee grains in Rumania (Bush, Bloch & Dawson 1989; Crandall 1986; Harvey & Ronkainen 1985; Harvey 1988; Dugan 1984; and Shultz II & Saporito 1996)
Damaging the economy	Kenya and Zaire lost 2/3 of cash crops due to counterfeit fertilisers. A million tons of rice lost in Vietnam due to phoney insecticides (Bush, Bloch & Dawson 1989); In 1994, Mark Green, NYC Consumer Affairs Commissioner, estimated counterfeiting costs the city over \$ 350 million in lost tax revenues (IACC 2002) US business lose roughly US \$ 200 billion to counterfeiters each year (Delener 2000; and Shultz & Saporito 1996), compared to US \$ 61 billion in 1986 (Shultz & Saporito 1996) World-wide, counterfeiting costs companies anywhere between 10-20 % of sales
Creating business losses	In 1994, the personal computer software industry lost \$8.08 billion due to illegal copying of business application software alone (Gabella & Picasso 1995) A ski equipment and apparel manufacturer estimates their losses at \$ 1 million annually to copycat snow boarding boats made in Korea and South (IACC 2002) Devalued R&D cost and incurred legal fees. (Nash 1989)
Politicising sensitive issues	In Thailand, a US threat to retaliate against intellectual property violations, by withdrawing trade privileges, promoted heated discussions about the impact of product piracy on economic development.(McDonald & Roberts 1994) Taiwan's administration has increased efforts to diminish all form of media piracy to avoid jeopardising the country's entrance into the World Trade Organization (Boyarski, Fishman, Lawrence, Linn & Young 2001)

Source: From Phau and Prendergast (1998) and augmented by the researcher.

SUPPLY AND DEMAND SIDE INVESTIGATION

The topic of counterfeiting has generated a substantial body of scholarly research (Olsen & Granzin 1992, 1993; Bloch, Bush & Campbell 1993; McDonald & Roberts 1994; Chaudhry & Walsh 1995; Chakraborty, Alfred & Bristol 1996; Wee, Tan & Cheok 1996; Lai & Zaichkowsky 1997; Chan, Wong & Leung 1998; Cordell, Wongtada & Kieschnik 1996; Tom, Garibaldi, Zeng & Pilcher 1998; Wilkie & Zaichkowsky 1999; Miller 1999; Field 2000; Delener 2000; d'Astous & Gargouri 2001; Dodd & Zaichkowsky 2000; Phau,

Prendergast & Chuen 2000; Ang, Cheng, Lim & Tambyah 2001; Lynch 2002; and Kwong, Yau, Lee, Sin & Tse 2003). Researchers in this area are divided by the counterfeiting literature into supply side studies (Bush, Bloch & Dawson 1989; Harvey 1987; and Harvey & Ronkainen 1985, and Olsen & Granzin 1992, 1993) and demand-side studies (Bloch, Bush & Campbell 1993; Tom, Garibaldi, Zeng & Pilcher 1998). Previous studies of counterfeiting, however, have focused more on the supply-side issues, resulting in the lack of literature studying the demand-side issues (Field 2000). Findings relating to impact on sellers

and manufacturers, as well as on consumer behaviour, have contributed significantly to marketing knowledge.

Supply Side Investigations

Efforts to reduce counterfeiting activities have been taken into account by legitimate manufacturers, government, and scholars. “The emphasis of this stream of supply side studies has been on strategies to

reduce or eliminate the supply of counterfeit products and their infiltration into the channels of distribution” (Field 2000). Efforts to fight counterfeiting have taken many forms. A review of the academic literature reveals numerous managerial tactics suggested for battling international counterfeiting. Some of the anti-counterfeiting strategies and tactics are illustrated Table 4 below.

Table 4: Anti-Counterfeiting Strategies

Study	Type of Anti-Counterfeiting Strategy
Harvey & Ronkainen 1985	Warning strategy; Withdrawal strategy; Prosecution strategy; Hands-Off strategy
Harvey 1988	Awareness; Action; Assertion
Bush, Bloch & Dawson 1989	Participate in the IACC; Pursue litigation; Lobby for stronger anti-counterfeiting laws; encourage enforcement of laws; add unique identifier to the product for identification; provide financial incentives for channel members to reject counterfeits; inform the public and trade about risks; monitor and investigate channel members
Chaudhry & Walsh 1996	Consulted with government agencies; consulted with other manufacturers; hired investigators, increased distributor monitoring; added serial numbers or codes; placed ads in trade publications; changed labels or packaging; changed product itself; taken legal action
Shultz II & Saporito 1996	Do nothing; co-opt offenders; educate stakeholders at the source; don't despise, advertise; investigation and surveillance; high-tech labelling; create moving target; and legislation
Dodd & Zaichkowsky 1999	Legal action; package changes; product improvements; negotiated settlements; enhanced promotion; and increased trade supports
Delener 2000	Awareness; prosecution; monitoring; modification; hands-off; and consultation
Conner and Rumelt 1991; Olsen and Granzin 1992; and Jacobs, Samli & Jedlik 2001	Using communication to remind consumers of the superiority of the genuine product; Using legal action that provides an agreement to enforce intellectual property rights; calling on the power of government agencies to avoid the existence of the pirating problem; acquiring the pirate company especially in cases where, for instance, the imitations are of high quality and cheaper than the original; labelling the original product in such a way as to discourage counterfeiting activity; using strong proactive marketing that focuses on policies of product, price, channel, and promotion; taking advantage of the pirate company promotion to broaden public knowledge of the original product.

Source: Chaudhry & Walsh (1996); augmented by the researcher.

Table 5: Anti-Counterfeiting Labelling Methods

No.	Method	Products
1	■ Hologram	■ Direct Card ■ CD
2	■ Hidden Words	■ Check ■ Student Transcript ■ Credit Card
3	■ Fluorescent Light ■ Invisible ■ Safety Paper	■ Paper Document
4	■ Polaproof	■ Packaging label
5	■ DNA Security Maker	■ Passport ■ Currency ■ CD ■ Software packages ■ Pens ■ Telephone card
6	■ Sigma Three Secure	■ Paper document
7	■ Document System ■ PIN Number	■ Credit card ■ ATM card ■ Telephone card
8*	■ Watermarks ■ Color	■ Paper documents ■ Paper documents

Source: Delener 2000;

* Chaudhry & Walls 1996

However, anti-counterfeiting strategies alone are not effective in combating counterfeiters in the market. Studies of the supply side have found that retailers occupy a key position in the distribution of counterfeit products (Bamossy & Scammon 1984). The retailer's internalisation of responsibility plays a major part in the network of influences leading to a dealer's willingness to help (Olsen & Granzin 1992, 1993), and relating to control of supply (Bush, Bloch & Dawson 1989; Harvey 1987; and Harvey & Ronkainen 1985). It seems that manufacturers' efforts are most effective if they are directed through a dealer network. Therefore it follows that dealers must be willing to reject counterfeits: and manufacturers must be prepared to cooperate with dealers/retailers to combat fakes (Olsen & Granzin 1992). Business practices also develop anti-

counterfeiting labelling methods to detect counterfeit products. Various types of technology have been developed to distinguish between the original and the counterfeit products (see table 5). Although it seems that labelling methods can diminish counterfeiters, in fact, the counterfeiters are also soon able to develop their own anti-counterfeiting methods (Chaudhry & Walls 1996). For example, when holograms are used in credit cards for anti-counterfeiting reasons, counterfeiters are also able to fabricate fake holograms without significant difficulty.

Demand Side Investigation

Consumers, however, are the actual force behind this counterfeiting trade (Chan, Wong & Leung 1998; Cordell, Wongtada & Kieschnik 1996). Indeed, Miller (1999) notes that the main problem of the demand side is clearly an issue of consumer misbehaviour (Miller 1999). Such behaviour is potentially harmful to business (Harvey & Ronkainen 1985; Globerman, 1988; Olsen & Granzin 1992, Miller 1999), the consumers themselves (Harvey 1988; Dillon 1989; Pinkerton 1990), and society as a whole (Stotland 1977). Behaviour leading to the consumption of counterfeit products directly contributes to legitimate manufacturers' loss of reputation, loss of profits and loss of jobs. Consumer demand becomes the counterpart to illegal acts on the part of the makers and sellers. Their low ethical standards may be the key variable that breeds unethical behaviour (Chan, Wong & Leung 1998). However, their involvement may be either as victim or as willing collaborator.

The greater part of such purchasing activities consists of non-deceptive counterfeiting in which consumers knowingly choose to buy counterfeit products (Wee, Tan & Cheok 1996). Lai and Zaickhowsky (1999) have conducted an exploratory study on willingness to buy brands in Chinese

societies, which imitate the look of multinational brands (China Mainland, Hong Kong, and Taiwan), they argue that Asian people, who are the majority population in the world, support this activity. Asian people generally have low expectations of branded products, because they tend to blindly believe that foreign brands are best, and they do not distinguish among different brands.

The study of consumer behaviour toward counterfeit products is more complicated, as so many variables must be considered such as consumer characteristics and environmental factors. Consumer characteristics, including value consciousness, integrity, and the need for personal fulfilment, are relevant in studying counterfeit buying behaviour. Scholars also believe that environmental factors are a strong influence on the behaviour of businesses and the purchase of counterfeit products. Environmental factors that need to be considered, for example, are public policy, cross cultural perspectives, differences in economic and political development, rules of businesses, law, and cultural factors such as traditions and beliefs (Lai & Zaichkowsky 1999).

Ang, Cheng, Lim and Tambyah (2001), for example, conducted a study in Singapore focusing on consumers who buy and did not buy counterfeit CDs. The study examines consumers' motivation for buying counterfeits. The findings indicated that, compared to respondents who did not buy counterfeit CDs, respondents who bought the counterfeits viewed such purchases as less risky, and trusted stores that sell counterfeits more. Respondents did not see counterfeits as unfair to singers or the music industry, thought counterfeits benefit the society more, and did not see consumers who buy them as unethical. The study also investigated the influence of social, personality, and demographic factors on consumers' attitude towards counterfeits. The study found that the more value-conscious and less nor-

mally susceptible a consumer was, and the less integrity a consumer had, the more favorable was a consumer's attitude towards counterfeits. Finally, attitude towards counterfeit products were significant in influencing purchase intention.¹¹

From the view of demand-side issues, there are few empirical studies that have focused on consumer's intention to purchase in counterfeiting activities (Bloch, Bush & Campbell 1993; Cordell, Wongtada & Kieschnik 1996; Wee, Tan & Cheok 1996; Tom, Garibaldi, Zeng & Pilcher 1998; Field 2000; and Ang, Cheng, Lim & Tambyah 2001). Tom, Garibaldi, Zeng & Pilcher (1998) have reported on three studies in assessing pre-purchase, purchase, and post-purchase factors. Wee, Tan and Cheok (1996) examined the effects of non-price determinants on a consumer's intention to purchase counterfeit products. Meanwhile, Bloch, Bush and Campbell (1993) presented survey participants with three shirts identified as a genuine, a counterfeit, and private label brand then recorded the participants' evaluations of the shirts and their purchase intention result. Cordell, Wongtada and Kieschnik (1996) examined counterfeit product purchase intentions based on effects of lawfulness, extrinsic cues, risk aversion, and performance expectations. Field (2000) further examined the consumer demand side

¹¹ Also see such studies on demand side of infringement products as Kwong, Yau, Lee, Sin & Tse 2003, focusing on social cost, anti-big business attitude, social benefit of dissemination, ethical beliefs; Cordell, Wongtada & Kieschnik 1996, dealing with lawfulness, product performance expectation, and extrinsic cues; Swinyard, Rinnie & Kau 1990, addressing cross national studies examines differences in morality and behaviour between Singapore and United States; Chan, Wong & Leung 1998, examining ethical beliefs of Chinese consumers in Hong Kong; and Lai & Zaichkowsky 1999, by considering different environmental aspects of economic, technological, legal, social, and cultural development, the study examine perception and attitude of consumers from China mainland, Hong Kong and Taiwan.

issue of product counterfeiting in an attempt to identify differences between those consumers who would and would not purchase counterfeit products. Meanwhile, Ang, Cheng, Lim and Tambyah (2001) focused on consumers' motivation for buying counterfeit goods. Findings of the above research can be seen in table 6 following.

Table 6: Demand side investigation

Author	Title	Publication	Finding
Bloch, Bush & Campbell 1993	Consumer Accomplices in Product Counterfeiting. A Demand Side Investigation	Journal of Consumer Marketing	Although the genuine shirt was rated highest on attributes of quality and prestige, the counterfeit was rated equivalent to the designer logo shirt on the attribute of fissionability, comfort and being well made and had the highest response in terms of purchase intent
Cordell, Wongtada & Kieschnik 1996	Counterfeit Purchase Intention: Role of Lawfulness Attitudes and Product Traits as Determinants	Journal of Business Research	Branding and price conditions influences willingness to purchase low investment at risk products. Retailer condition influences willingness to purchase high investment at risk product
Wee, Tan & Check 1996	Non-Price Determinants of Intention to Purchase Counterfeit Goods	International Marketing Review	Consumer intention to purchase counterfeit product is dominated by attribute concerns of appearance, image, purpose, and perceived quality
Tom, Garibaldi, Zeng & Pilcher 1998	Consumer Demand of Counterfeit Goods	Psychology and Marketing	Consumer accomplices hold attitudes more supportive of counterfeiting and are sufficiently satisfied with fake goods
Field 2000	An Empirical Investigation of Consumers' Perception and Purchase Intentions of Counterfeit Products. A Means-End Chain Analysis	Dissertation	Industry experts have long held the belief that price is the motivating factor with respect to consumers' purchase intentions of counterfeit products. However, the result of the research indicates that perceptions of quality and value were more important.
Ang, Cheng, Lim & Tambyah 2001	Spot the Difference: Consumer Response toward Counterfeits	Journal of Consumer Marketing	The more value-conscious and less normatively susceptible a consumer was, and the less integrity a consumer had, the more favorable was a consumer's attitude towards counterfeits, thus influencing purchase intention.
Hidayat, A 2008	The Role of Lawfulness Attitudes and Product Characteristics toward Willingness to Buy Non-Deceptive Counterfeit Branded Products: The Case Study of Indonesian Consumers	Dissertation	Findings of the current research indicated that no matter the level of product involvement, consumers' expected product performance (consumers' attitude toward behavior), and consumers' lawfulness attitudes (consumers' subjective norms) are significant predictors of consumers' willingness to buy (behavioral intention). However, contrary to what was hypothesised, consumers' status consumption (perceived behavioral control) could not always explain their willingness to buy counterfeit products. Rather, consumers' status consumption was significantly related to willingness to buy counterfeit branded products for HPI category, but not for LPI category.

It was summarised by the author.

Based on the previous studies above, Field (2000, p. 11) notes that:

“The demand side literature to date provides insight to consumer behaviour and counterfeit product purchases but lacks a strong theoretical foundation. Furthermore rigorous testing through replications and extensions has not occurred. Therefore, further research investigating counterfeit demand side is warranted.”

CONCLUSION

Many illegitimate manufacturers around the world have pirated a wide variety of branded products. These fake products were associated with both luxury and common goods (Olsen & Granzin 1992; Masland & Marshall 1990; and Field 2000), ranging from high involvement goods such as aircraft parts (Bloch, Bush & Campbell 1993) and prescription drugs (Harvey & Ronkainen 1985), to low involvement products such as literature and leather wallets (Wee, Tan & Cheok 1996). Currently, the range of goods being counterfeited is limited only by the boundaries of the human imagi-

nation (Harvey 1988); thus the practice has become an escalating worldwide phenomenon (Grossman & Shapiro 1998; Chaudhry & Walsh 1996; Schultz II & Saporito 1996; and Benghozi & Santagata 1998).

However, the topic of counterfeiting has generated a substantial body of scholarly research (see: Olsen & Granzin 1992; Bloch et al. 1993; McDonald & Roberts 1994; Field 2000; Delener 2000; d'Astous & Gargouri 2001; Dodd & Zaick-howsky 2000; Phau et. al. 2001; Ang et al. 2001; Lynch 2002; Kwong et al. 2003). Research in this area is divided into supply and demand-side issues (Bloch et al. 1993; Bush et al. 1989; Tom et al. 1998) with the majority of counterfeiting studies focusing on the supply-side issues (Harvey and Ronkainen 1985; Bush et al. 1989; Olsen and Granzin 1992, 1993), the resulting of this is a lack of literatures studying the demand-side issues (Field 2000). For this reason, future researches focusing demand side will be more beneficial for overcoming counterfeiting product dilemma in worldwide market since unethical consumer behaviour become the main suspect of mushrooming counterfeiting product trade.

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