

A Summary About How Counterfeit Products Profoundly Influence a Brand

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A brand is an important form of business identity. It can be a symbol, design, term, or name that represents a seller's goods or services, distinguishing them from those of other sellers. Think "Coca-Cola", "Tesla", or "Golden State Warriors".

A brand or its products can be counterfeit. An equivalent word is "fake". A fake could be a cheaply made soft drink containing toxic levels of lead, a misrepresented after-market car part, or a non-existent scalped ticket for a basketball game.

Fakes can profoundly influence a brand. A fake might steal customers, sell poor quality products that the public associates with the legitimate brand, and subject a brand's owner to harassment lawsuits. Brand owners can be forced to implement authentication technologies. Technologies like watermarks and secured QR codes are able to identify legitimate and fake physical items.

Fakes can make it harder for a brand to stand out if its market is flooded with copycat products. A brand can be unfairly blamed for health and safety problems caused by poor quality knock-off products.

As of 2018 the U.S. Patent and Trademark Office estimated that total global annual counterfeit product sales were between \$1.7 and \$4.5 trillion.

The Law

From a legal viewpoint, brands and products can be defamed. False information that harms the reputation of a person or organization is termed "defamation". False information can be spread in many ways. A [March](#),

[2024 blog post by FastCapital](#) discusses online defamation. Dealing with defamation involves defamation laws, intellectual property laws, and variations specific to countries, states, cities and other jurisdictions.

In many countries, laws guarantee the right to speak out against a brand owner. On the other hand, brand owners have legal rights to defend themselves against false harmful information. Brand owners seeking to remove fake content must contend with laws and policies aimed at preserving online content.

Legal Remedies

A brand owner can consider various avenues of legal activity to slow counterfeiters or obtain compensation for damages. On its website in May of 2024, the UK law firm of [Lawdit Solicitors](#) offered advice that can be generally interpreted for dealing with product counterfeiting worldwide.

- Lawsuits can be filed. Lawsuits can keep fake goods from coming to market and can help compensate for losses.
- Criminals can be prosecuted. Counterfeiting and infringement of intellectual property (IP) rights are crimes in many locations. Counterfeit products can be seized.
- Counterfeit products can be detected and seized when they cross government borders. Brand owners can cooperate with customs authorities by recording their brand's IP rights and by providing information about how to identify legitimate products.
- A legitimate brand can gain legal control of a copycat website by disputing the copycat website's domain name.
- Collaborating with initiatives that fight counterfeiting can have a magnifying effect.

There are special legal challenges to protect trademarks and other intellectual property worldwide. UpCounsel has published a [2024 discussion of International Intellectual Property Law](#) on its website.

Managing An Organization's Efforts to Combat Counterfeiting

What can be done to protect against counterfeit products? What can a brand owner do about fake online product reviews and interviews? It can be difficult to identify the persons creating harmful products or online content. If bad actors are identified, can effective action be taken against them? These and other questions are addressed in [Taming the Counterfeiting Epidemic](#), a December 31, 2023 research article published by the *MIT Sloan Management Review*.

A brand owner can start by assembling a team capable of investigating inside and outside the brand's organization. The team needs to report to top management and have experience with and talent for brand protection, and have representatives from the organization's sales, marketing, operations, purchasing, logistics, finance, accounting, and security departments.

The investigation team can look at online listings for the brand's products, and other brands' similar products, watching for clues of faking. Fakes can also be uncovered by looking for mis-matches and unexpected quantities of returned products, warranty claims and service requests.

The team can also look for unexpected quantities produced by the brand's suppliers or by other suppliers. Clues to unexpected quantities include identical products being sold in countries where the brand owner does not do business, suppliers' purchase of unexpected quantities of raw materials, or a supplier's factory that's much larger than should be needed.

It may be most worthwhile for the brand protection team to concentrate its efforts on complex high margin products.

A brand owner's team can continuously search online offerings for suspicious features like vague wording, poor grammar, inaccurate claims and poor quality product illustrations. If suspected listings are reported to the operator of the marketplace (for example Amazon) the operator can investigate and take down fraudulent listings. A legitimate brand can discourage suspected counterfeiters by warning them that counterfeiters will be pursued.

The brand protection team can work with government agencies and shipping companies to find unexpected or suspicious products when products are observed or inspected at national borders, transshipment points, or customs offices. For U.S. products this includes registering brands with U.S. Customs and Border Protection and the U.S. Patent and Trademark Office.

Companies' advertising and sales information should educate customers about the quality, health and safety risks of buying fake products. For a product with an identifying number, a customer should be encouraged to register the product's number with the product's branding company.

Specific Actions

Where worthwhile, the following specific actions can limit future counterfeiting:

- Securely mark products and packaging
- Educate customers about the risks of buying from unauthorized sources
- Monitor for unexpected spurts in product returns, warranty claims and replacement parts sales - and use these situations to track down possible sources of counterfeit products
- Monitor for sudden increases or decreases in product sales, and investigate these occurrences. Legitimate product sales might decrease if a counterfeit product has just entered the market. Legitimate product sales might falsely appear to increase if

counterfeit products have gotten into the distribution chain and are unknowingly reported as sales of legitimate products.

- Monitor inventory levels of supplier facilities, looking for instances of overproduction
- Document and conduct test audits of handoffs at ports, warehouses and distribution centers
- Assure that distribution centers have legitimate personnel and locked gates
- Conduct product security training for personnel that handle products at high risk of being diverted to illegitimate distribution
- Conduct background checks of personnel that handle products that are at high risk of being diverted to illegitimate distribution
- Think about joining cooperative efforts that seek to discourage counterfeiting. like the Automotive Anti-Counterfeiting Council, Rx-360 for pharmaceuticals, and React.

To learn more about brands go to [Brand - Wikipedia](#)

To learn more about authentication technologies go to [What are the basics of product authentication technology?](#)

To learn more about watermarks go to <https://www.lenovo.com/us/outletus/en/glossary/watermark/>

To learn more about QR codes go to [QR code - Wikipedia](#)

To learn more about secured QR codes go to [Why secure QR codes are the future of anti-counterfeiting](#)

To learn more about how imitations affect the sales of brand products go to [How do counterfeit products affect sales of brand owners? - Quora](#)

To learn more about authentication go to [Authentication - Wikipedia](#)

To learn more about two-factor authentication go to [Multi-factor authentication - Wikipedia](#)

To learn more about the extent of counterfeit product sales go to [U.S. Intellectual Property and Counterfeit Goods— Landscape Review of Existing/Emerging Research](#)

To learn more about defamation go to [Defamation | Media Law 101 | PBS](#)

To read the March 2024 FasterCapital blog post discussing legal aspects of dealing with online defamation go to [The Legal Implications of Online Defamation in Reputation Management - FasterCapital](#)

To learn more about legal remedies for brand counterfeiting go to Lawdit Solicitors' website at [Combating Counterfeits: IP Law Enforcement Strategies for Fake Goods](#)

To learn more about infringement of intellectual property (IP) rights go to [What Is Intellectual Property Infringement? | Digital Guardian](#)

To learn more about intellectual property (IP) go to [What is Intellectual Property?](#)

To learn more about worldwide intellectual property (IP) law go to [International Intellectual Property Law | UpCounsel 2024](#).

To read “Taming the Counterfeiting Epidemic”, a research article published in the Fall 2023 issue of the *MIT Sloan Management Review*, go to [Taming the Counterfeiting Epidemic](#)

To learn more about faking go to [faking](#)

To learn more about product margin go to [Product Margin - AfterShip](#)

To learn more about U.S. Customs and Border Protection go to [Customs and Border Protection](#)

To learn more about the U.S. Patent and Trademark Office go to [USPTO](#)

To learn more about trademark services provided by the U.S. Patent and Trademark Office go to [Trademarks | USPTO](#)

To learn more about the Automotive Anti-Counterfeiting Council go to [Automotive Anti-Counterfeiting Council](#)

To learn more about Rx-360 go to [Rx-360](#)

To learn more about React go to [React - The Anti-Counterfeiting Network](#)