Counterfeit Products and Actor Proximity: An Exploratory Multidimensional Study
Design

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Biographies

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Abstract

Bargains or deceit. Counterfeit or original products. What are the motivational factors for consumer purchases? The authors posit that the proximity away from the perceived harm to oneself or to family, rather than society, would cause a significant difference in the choice to purchase a counterfeit product. By utilizing the proposed model, the authors can assess the motivational factors for purchases. With this information, firms can begin to develop marketing programs to target consumers to convince them to purchase original products.
“Psst... Wan’t to buy a Burberry purse? Give you a good deal.”

Everyone is always looking for a bargain. Why pay full retail price when the item will be on sale next week? Even better, why pay full retail price when the item can be purchased as a counterfeit product for even less monies?

Seemingly an innocuous situation. However, the ramifications from these decisions to purchase counterfeit goods are global. According to the World Trade Organization, counterfeits account for an estimated $456 billion, 7 percent of global trade (Balfour, 2005). Safety concerns abound since counterfeit products are not held to the same manufacturing standards of genuine products. The legal ramifications are also significant, if the counterfeiter gets caught. New York City Police Department's Trademark Infringement Unit is one of the few departments in the nation with police officers dedicated to dealing with issues of trademark infringement (Buzzeo, 2005). Variances between countries referencing their enforcement powers and their willingness, or lack thereof, to enforce existing trademark laws culminates in conflicting legal decisions and implications.

Much has been written regarding these legal, financial, and marketing implications of purchasing counterfeit products. Much has also been written regarding person’s free will to choose to do or not to do certain things. In Spring 2005, Gallop released the results of a poll which identified the most popular reason for buying counterfeit good, i.e., they were easily available (Derby, et. al, 2005). Other stated reasons are that the consumer could "buy the same quality at a better price" and that the genuine product price was too high.

Are these really the motivational factors for all consumer purchases? Or, do consumers differentiate between their purchases based upon proximity to harm? Is it possible that cultural or economic differences among purchasers result in different decisions to purchase counterfeits?

The authors posit that the proximity away from the perceived harm to oneself or to family, rather than to overall society, would cause a significant difference in the choice to purchase a counterfeit product. By way of a potential solution, the authors present a model for assessing the motivational factors behind a purchase. The model presented will identify levels of cultural and physical distance and the potential for physical danger inherent in consumption of the product. Based on these levels, a “proximity” between the buyer and seller can be established.

Background

The days of manufacturing a product in your hometown and selling it directly from your manufacturing facility are long gone. Nowadays, a firm manufactures a product in the least expensive labor market and ships it around the world to the faceless consumer. The advent of the internet and selling online has perpetuated the lack of interaction between the seller and the buyer.

But, at what cost to society? An average consumer visualizes the “big bad corporation” as a money-grabbing conglomerate trying to lure the innocent purchaser into their clutches. Marketing campaigns bombard a consumer into believing that they must have the latest Gucci purse, Izod sweater, Estee Lauder perfume, or Oakley sunglasses in order to be popular, pretty, successful – or, at least, acceptable to be seen in public. The consumer begins to believe that the firm does not care about the person purchasing the item just the fact that the item is purchased.
The firm becomes an inanimate object and one not worthy of consideration. When purchases become so depersonalized and the consumer does not care about the continued existence of a corporation, it becomes easier and easier for the consumer to begin to act not for the betterment of the corporation or society but only for the betterment of self.

Thus, the average consumer when faced with the choice of purchasing an item from the “big bad corporation” may consciously turn away from that choice and purchase the counterfeit item since, after all – is it really harming anyone? If a consumer cannot visualize the manufacturing firm as an “anyone”, is it not logical to presume that the consumer would have no qualms about purchasing counterfeit items.

From a legal perspective, it is clear that the manufacturing and selling of counterfeit products is illegal. Typically, trademark, patent, and/or copyright laws are violated. Upon violation, various legal avenues of redress are available, including but not limited to seizure of the items, pursuing punitive damages, criminal prosecution. However, these options are reactive remedies. A more positive approach to this problem is attacking it from a proactive legal perspective. Since 70% of all counterfeits and piracy items are seized by customs (Pattulo, 2005) one proactive approach to stopping counterfeits/piracy items from coming into the country is to utilize Custom Regulation 1383/2003 (OJ 2003 L 196). This regulation provides for an application form to be filed with the Customs office alerting Customs to the fact that there either are or are believed to be counterfeits and pirated items coming into the country. This form provides Customs the technical information about a particular product so that there could be an initial determination by Customs that the product might not be an original.

While this application does provide significant proactive legal relief, it is not a cure-all for the problem. Part of the difficulty in this arena is that laws dealing with counterfeits and piracy vary among countries. Specifically dealing with criminal law, each member of the European Union has authority over its own criminal laws, leading to varying results of criminal sanctions against counterfeiters. There is some movement toward harmonizing the civil laws, including the European Union’s IP Enforcement Directive (2004/48 OJ 2004 L 157). This Directive deals with all intellectual property infringement issues. A practical Directive, it provides for protection of the evidence prior to trial, allows judges to order defendants to provide evidence and to require the defendants to divulge those individuals involved in the manufacturing and distribution of the counterfeit products.

From a financial perspective, total yearly losses in the U.S. are estimated by the FBI at $250 billion, resulting in lost revenue and job loss (Knight, 2004). Indeed, from a marketing perspective, the loss of brand name value can be devastating. Most Fortune 500 companies spend $2 to $4 million per year combating the problem (Knight, 2004).

Counterfeits have become such a problem in some industries that members of congress have proposed specific approaches to deal with it. Michigan Representative Joe Knollenberg proposed in HB 32 that in addition to the destruction of counterfeit goods, the equipment that manufactures the goods should also be destroyed. This is in response to losses in the automotive industry that approach $12 billion annually and cause the loss of 200,000 jobs. His bill, Stop Counterfeiting in Manufactured Goods Act, passed the House on May 23, 2005 (H.B. 32, 2005). Senators Dianne Feinstein and John Cornyn introduced an amendment to Senate Bill 167, Artists’ Rights and Theft Prevention Act ( ART Act), aimed at protecting the entertainment sector of the economy (S.B. 67, 2005). The law passed the Senate in February, the House in April and was signed into law by President Bush in April as well. The speed with which this
legislation is handled would appear to be a clear indication of the public/government recognition of the problem of counterfeits.

The problem has become staggering in dimension. Seizures of counterfeit goods, which rose 46% in 2004, included $46 billion in bogus pharmaceuticals, $1 million in Hewlett Packard ink cartridges, 11,000 fake assemblies for Nokia cell phones, and an entire GM car duplicated and now sold by a Chinese manufacturer (Balfour, 2005). The fakes are becoming so sophisticated that it is increasingly difficult for even company engineers to tell the difference. The problem has lead to many companies employing numerous people around the globe whose sole purpose is rooting out the manufacturers that should not be building their products. Yamaha licenses 5 companies in China to produce its motorcycles. The company estimates that fifty companies actually produce the bikes (Balfour, 2005). China continues to be the most significant producer of fake manufactured goods. The problem has led companies to produce some interesting methods to thwart the counterfeitors. Pfizer, for example, is using ID tags that track its drugs from the laboratory to a person’s home (Balfour, 2005). More of this type of effort will be needed if these activities are to be curtailed in the future.

From a prescriptive organizational implication perspective, firms must balance the twin strategies of more efficiently enforcing laws and regulations against the wide-spread and growing problem of counterfeits (reactive mode), while concurrently creating an institutional marketing plan (proactive mode) to convince would be, potential purchasers of counterfeits that counterfeits are not in the consumer’s best long term interests. The problem is to efficiently target those groups most likely to engage in counterfeit purchasing, and to create corporate programs to proactively and reactively deal with the issue in as cost-efficient a manner as possible.

Legal, financial, and organizational, or political, implications notwithstanding, the authors posit that the average consumer does not consider these overall societal issues when faced with the option of purchasing an original or a counterfeit product. Rather, the authors believe that the rationalization of a consumer when making the decision to purchase/not to purchase focuses instead on proximity and cultural issues.
The Model is presented as follows:

**Figure 1: Proximity and Cultural Model**

**Dimensions Contributing to “Proximity” Between Product and Customer**

<table>
<thead>
<tr>
<th>D1 - Nature of the Product</th>
<th>D2 - Distance between Location of Production and Location of Consumption</th>
<th>D3 - Consequences of Consuming a Counterfeit “Potential for Harm”</th>
<th>D4 - Finance Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convenience goods</td>
<td>Decreased physical distance</td>
<td>High</td>
<td></td>
</tr>
<tr>
<td>Shopping Goods</td>
<td>Decreased cultural distance</td>
<td>Low</td>
<td></td>
</tr>
<tr>
<td>Specialty Goods</td>
<td></td>
<td>Heightened sense of Proximity between product and person leading to…</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Heightened sense of connection to product firm and less likelihood of purchasing counterfeit</td>
<td></td>
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</tbody>
</table>

**Proximity and Cultural Model**

*Proximity – Cultural and Physical*

The authors posit that “proximity” is a multi-faceted dimension. Proximity, per this model, refers to cultural as well as physical distance. Cultural differences would refer to the concept that a purchaser of an item would or would not purchase a counterfeit item based upon the purchaser’s perception of the “value” of the item. In terms of value, it is not only the financial value of the item alone but also it is the value that the item has contributed to society.

Physical proximity refers to the relationship of the purchaser to the item to be purchased. The consumer might purchase a counterfeit good for a friend or neighbor but not for a family member, or vice versa. Or, a consumer might purchase a counterfeit item for him/herself but not for anyone else. More specifically, the physical proximity to harm is key. If a consumer perceives that the product is likely to harm them or their family versus “just society”, would that make a difference in their purchasing patterns. Thus, the authors posit that the physical proximity of the purchase and purchaser might be the deciding factor regarding whether the item should be purchased or not.

**Product Category**

The Model also divides into general categories of the type of product to be consumed or purchased. Specialty goods refer to items such as purses or fashion items, Cuban cigars, perfumes, and similar unique items. Shopping goods refers to automobile parts, airplane parts,
toasters, and similar manufacturing items. Convenience goods refer to items such as bubble gum, soda, batteries, and razors (Ferrell and Pride, 1982).

The rationalization for the division of the types of products in this manner is the hypothesis that every purchase (or action) results in a consequence – negative or positive. Purchases of products have consequences – keeping you alive with your purchased medicine, making you look pretty with your new Burberry scarf, insuring your safety with quality brake pads. The authors posit that the consequence to your safety and well-being due to a particular purchase of a counterfeit or real product will have an effect upon your decision.

Financial

Does the product to be purchased add value to the consumer’s life? This value does not have to be only the “need” or perceived “need” for the item but also this value could be the actual cost of the item. With combining these values, does this make a difference in the consumer’s decision to purchase or not purchase a counterfeit item? Will a consumer be more likely to purchase counterfeit items resembling those manufactured by the impersonal corporation or the “mom and pop” grocery store? The authors suggest that the more expensive the product in terms of value added cost benefit analysis the more likely a consumer is to purchase a counterfeit item.

Application of the Model

The authors hypothesize that a potential decision-makers’ reaction to a counterfeit product will be less positive as the combined “proximity” increases and, correspondingly, less negative as “proximity” decreases. By presenting scenarios dealing with various forms of specialty goods, shopping goods, and convenience goods, the authors will examine the responses in terms of the likelihood that the consumer would purchase or not purchase a counterfeit product. The authors will not forewarn the surveyors of the impending ethical dilemma, thus, suggesting to the participants that there is an “ethically correct” choice, a philosophy characterized as “quandry ethics” (Pincoff, 1984). Rather, the participant will be presented with multiple questions with multiple responses, a more realistic approach to split-second decisions in the business world (Mintzberg, 1988).

The application of this Model and the results to a real-world business scenario net interesting possibilities. If patterns of behavior of purchase can be established and the motivational factors behind those purchases can be categorized, firms could identify and develop appropriate plans to encourage consumers not to purchase counterfeit products.

Speaking to the previously discussed idea of organizational applications, both reactive and proactive efficiencies may be provided by this Model. By understanding those groups most likely to lack a sense of “proximity” and therefore be most prone to engage in the purchase of counterfeit products, firms may focus attention on those market segments (age, geographic location, demographic characteristics) most likely to engage in the purchase of counterfeits. Once these “high risk” (e.g. low proximity) market segments are identified, firms may explore up and down relevant distribution chains for “pressure points” for legal action, in combination with local or national law enforcement as well as professional trade associations.

Acting proactively, firms may act on three fronts. First, firms must communicate the what the Model labels “the nature of the product” more clearly, explaining to potential and existing customers how the value of purchasing – and related product benefits – stem not from the outward label or obvious surface brand name, but rather from the longer term and “deeper”
qualities inherent in the design and materials of the product. In a sense this is an effort to more fully assist the customer in seeing the nature of the good, a more complete “differentiation” marketing strategy, if you will (Ferrell and Pride, 1982).

Second, firms must make an effort, by increasing the inclusiveness of their marketing programs, increasing the diversity of the firm’s employees to more closely parallel customer backgrounds, and to create a more wide-spread set of firm locations (virtual or real), to reach customers and close what the model has labeled as “cultural and physical distance.” By altering marketing programs, hiring policies, and the distribution of firm activities to more closely match consumer location, proximity is enhanced and the consumption of counterfeits is predicted to decrease (Phillips, 2003).

Finally from the firm perspective, companies must more completely communicate to potential customers the long-term negative consequences (what the Model refers to as “consequences for harm”) of purchasing counterfeit products. In the medical/pharmaceutical industry, this argument may be easier to make. For other less immediately harmful products, this argument may be more problematic.

**Future Research Directions**

The proposed Model presents a unique methodology to ascertain the relationship between proximity to harm and the perceived “need” for the product to be purchased. Upon development of a survey instrument utilizing various scenarios, the authors would administer the survey to a cross-section of society, e.g., based upon gender, geographical location, educational background, and numerous other variables. The data recovered could help marketers’ better target the individuals who are purchasing counterfeit goods in order to persuade them to instead purchase the original product. With understanding of the motivational factors behind purchases in relationship to the proximity to harm, firms could begin to combat the ever-growing problem of consumer purchases of counterfeit goods.

**Summary**

The financial impact of counterfeit goods has the possibility of devastating a firm. With loss of sales, loss of consumer confidence due to confusion regarding counterfeit products, and safety issues due to inferior products, a firm must take pro-active steps to combat this problem or face bankruptcy. Legal restrictions notwithstanding, a consumer makes choices to violate various applicable laws and purchase counterfeit products. Can society physically stop the sales of all of these black market items? Probably not. Should society try to physically stop the sales of all of these black market items? Yes. However, the practical answer is that societal laws and regulations alone will not stop this epidemic, rather, it is the consumer’s own choices based upon their own value system, coupled with the product proximity to harm, that will halt the purchases of counterfeit products. Each consumer must make that decision. Firms need to know the reasons behind that decision.
References


