

COMMERCE

Luxury brands look elsewhere after UK counterfeit victory

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Cartier's mechanical panther

By JOE MCCARTHY

Luxury conglomerate Richemont recently won a significant court decision against counterfeits in the United Kingdom, but could such a ruling ever arrive in the United States?

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While Europe sharply defends copyrights and related issues in most situations, the U.S. has traditionally lagged, choosing instead to uphold the personal liberty side of the debate, but then usually relenting to corporate pressure. Whether or not the U.S. would ever take a similar approach to online counterfeits is hard to say.

"We have a tendency to mimic the U.K. with some of our laws," said Rania Sedhom, managing partner at [Sedhom & Mayhew](#), Pllc., New York.

"Even though we want to protect freedom of expression and surfing the net and all the things attendant with the Web, at the same time we are against counterfeiting," she said. "I think there is an argument to be made that [counterfeiters] shouldn't be able to sell with such ease online.

"If you go to certain neighborhoods to buy a counterfeit good it's not so easy. It's usually a

bit clandestine, so you really have to make a considered effort. A lot of consumers are actually duped by some of these sites."

Plus one

On Oct. 20, Richemont won a U.K. court order that calls for British ISPs to block Web sites selling counterfeits, the first time that an Internet provider has been required to protect trademarks, not just copyrights.

Now, rather than engaging in protracted, expensive and largely symbolic fights against individual Web sites, brands can go straight to Internet providers and ask for a site to be blocked, thwarting rogues when they are discovered.

The amount of hassle that this gets rid of is hard to overstate. Brands now have a reliable tool to fight the plague of online counterfeits in Britain.



Cartier is routinely counterfeited

Online counterfeiters are sometimes hard to identify. Credulous Web sites can be created with pirated product images and information and a path to purchase familiar to consumers. For consumers accustomed to buying on third-party Web sites, the process may never generate suspicion.

Consignment Web sites have proliferated in recent years, and counterfeiters have not wasted time exploiting this consumer destination.

Ms. Sedhom argues that the results of these transactions are varied. Most ostensibly, brands lose the chance to make a sale and the market gets flooded with cheap products that dampen brand allure.

More insidious is the long-term hit that brand reputation can take. A consumer that purchases a counterfeit item may be dissatisfied with product quality and avoid the brand wrongfully tied to that product in the future. She may also tell friends about her bad experience, leading to an infectious aversion to the brand in question.

On social media, this consequence can be amplified.

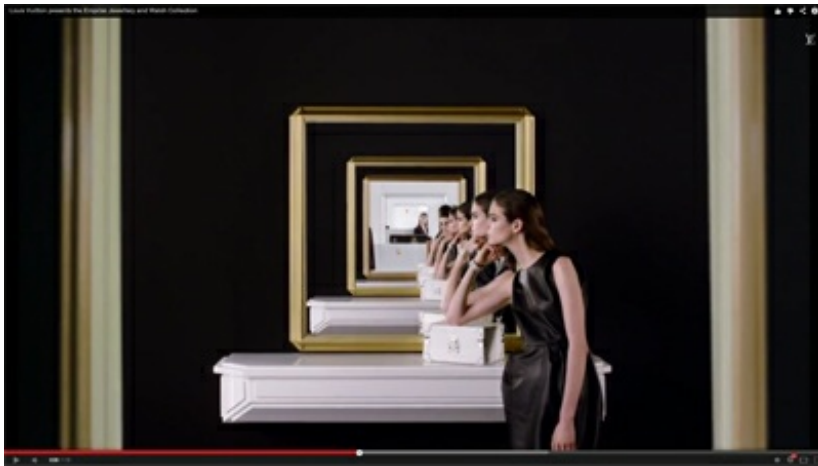
Global problem

In the digital age, counterfeiting is a splintered problem that almost always goes beyond borders. Brands cannot lobby for global measures to be taken. They must instead contend with fake products in a fragmented and, at times, futile way.

While the U.K. ruling may influence the rest of Europe to adopt similar measures, the U.S. may be wary at first about putting locks on Internet providers.

The U.S. has had a complicated history with online liberties, ramping up enforcement for various violations in recent years, but traditionally letting the "wild west" atmosphere exist.

Counterfeiting is an issue that is painted in stark colors, with rogue merchants and duped or corrupt consumers on one side and trademark-wielding brands and legitimate consumers on the other.



Louis Vuitton consistently goes after counterfeits

In the end, Ms. Sedhom believes that courts will likely side with brands to protect their place in the market. After all, a copyright once extended no more than 28 years after publication in the U.S. and has incrementally climbed, following the model of Europe, to 95 years after the death of the copyright holder.

Other major luxury markets such as China deal with a far more severe and less regulated counterfeit problem. Ultimately, counterfeiting is not going away anytime soon, but legal victories here and there will make the fight less lopsided.

Some luxury players have gone after ad providers and marketplaces to make counterfeits as hard as possible to find.

For instance, luxury conglomerate LVMH Moët Hennessy Louis Vuitton is joining forces with Google to combat the persistence of counterfeit goods.

LVMH argued that counterfeiters exploited Google AdWords to attract consumers, a charge that Google denied. This case was referred to the EU European Court, which ruled in favor of Google, except for if the company failed to act immediately when a counterfeit activity occurred.

However, Google has long said that it investigates counterfeit claims at the request of trademark holders. Regardless, both parties will be working together more closely going forward.

The fight against counterfeits is a never-ending struggle, exacerbated by the global, online marketplace.

Luxury brands continually seek to win far-reaching court decisions to thwart the capabilities of counterfeiters, only to encounter new opponents and tactics. Now, new technologies are popping up to help brands crowdsource enforcement, but it is still too early to see if they will catch on ([see story](#)).

"The more countries that reject counterfeits and impose some kind of rigidity to thwart them, the better," Ms. Sedhom said.

"How we protect ourselves varies from place to place," she said. "I think we need to be united against counterfeiting, but we have to take different tactics.

"It's more than a bad thing in principle."

Final Take

Joe McCarthy, staff writer on Luxury Daily, New York

Embedded Video: [//www.youtube.com/embed/tCo125FaQgQ](http://www.youtube.com/embed/tCo125FaQgQ)

1 thought on "Luxury brands look elsewhere after UK counterfeit victory"

1. [Maria K Todd](#) says:

[October 30, 2014 at 8:46 am](#)

I would like to start the whistleblowing with <http://www.solepen.com> that just ripped me off on two cheap Chinese Montblanc knockoff pens. I am surprised that they made it to me through customs and were not confiscated.

In retrospect, I should have studied their website closer, but didn't. Now I have two fake pieces of garbage, and am lighter in the wallet. I would have preferred not to have ever been able to see this website, had it been blocked from my view as suggested in the article.

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