

COLUMNS

Knockoffs: Creating an effective strategy on a tight budget, part 2: Prioritizing among the problems

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This is the second in our four-article series about developing an effective strategy to deal with knockoffs and counterfeits when faced with a limited budget.

The **first article** detailed how to assess the scope of the problem in the marketplace, create a list of sources of knockoffs, and categorize them by type and by harms that they cause your company.

In this second article, we consider how to use this categorized list to prioritize dealing with the different knockoffs that your company faces.

First things first

At the outset it should be understood that there is no one right answer to the question of prioritization.

Brand owners will employ different business strategies, emphasizing different parts or facets of the business and those differences translate into different priorities in dealing with knockoffs.

To illustrate, one client, a prominent luxury goods company, at one point determined to significantly reduce and restrict its authorized retailer network to achieve a more upscale image.

In our anti-counterfeiting enforcement efforts for that brand owner, stopping sales of high-end counterfeits in discount chains became a priority. That priority dovetailed with the brand owner's business strategy.

As companies implement different business strategies and priorities, they may come to different conclusions as to their enforcement priorities.

There are at least three possible approaches to prioritizing: the emotional, the financial and the guided subjective ranking approach.

The emotional approach involves gauging one's reaction to various knockoffs which ones bother you the most? The least?

Obviously inexact, yet it should not be discounted if done by a person who is well conversant with the brand's business strategy, and thus has a good intuitive feel for which knockoffs are more prone to hurt and which hurt less.

Such a person should go through the list of knockoffs we discussed creating in the first article, and ordering them in priority of which hurt the brand owner's business, from most to least.

At the other extreme is what we characterize as the financial approach.

How much will each knockoff likely affect the company's bottom line?

Such an approach would involve reviewing the various harms identified in our first article, assigning an estimated dollar figure to each identified harm, then adding up the total financial harm from each type of knockoff and creating a ranking.

Though ostensibly more precise and scientific, it is almost impossible to accurately predict the dollar loss from any particular harm.

First, the brand owner is generally unaware of the volume of knockoffs sold by any source.

Second, measuring the financial impact of any particular harm is difficult to do.

For example, as we pointed out in the first article, knockoffs can tarnish the brand owner's reputation shoddy knockoffs are blamed on the brand owner. But how much that impacts the bottom line in dollars is truly difficult to measure.

In most cases, the brand owner will not be in a position to measure the expected impact in financial terms.

That leaves what we call the guided subjective ranking approach.

Scale of problem

This involves reviewing the categorized list of each of the knockoffs which we discussed in Part 1 and evaluating how much each impacts the brand owner's business. It is an intermediate between the purely emotional approach and the exact financial approach but often the best the brand owner can do.

The brand owner should review each knockoff with its categorizations and try to evaluate how great the potential harm.

One might use a scale from 1 (minor problem) to 10 (huge harm to the brand), guided by the answers to the following questions:

A. Is there an overlap in marketing channels between your products and the knockoffs? That will likely increase the impact of harms. So, add points for such a market overlap.

B. Reputation. How important is reputation for quality, exclusivity, or anything else to the brand's success? And how much of a negative impact to reputation does the knockoff present are the goods shoddy, or promoted in an environment that could tarnish the brand?

The bigger a reputation problem a particular knockoff source represents, the higher on the scale it needs to be.

C. Exclusivity. Use a similar analysis as for reputation. How important is exclusivity to your brand? To what extent does the knockoff reduce exclusivity?

The greater the importance of brand reputation, and the negative impact of the knockoffs to reputation, the higher the priority should be given to that source of knockoffs.

D. How much of a direct impact on sales, either at wholesale or at retail, do the knockoffs have? Very cheap knockoffs might have none few who purchase the proverbial \$25 Rolex on the street corner could or would spend what it takes to buy the real thing.

But for relatively expensive knockoffs, this might not be so.

Someone paying 65 percent of the regular sale price might well be willing to pay full price.

We generally use a rough percentage rule the same percentage discount used by the pirate, times the volume, to represent the estimated loss of sales. While this is only a guess, of course, it is a rough way to estimate this particular

impact.

E. Timing. Is the product or design you are trying to protect going to be around for the short or long term?

For example, it might be the It item for this season and then of little moment next season.

At the other extreme, it might be your brand name, which you hope to keep on a wide variety of products for decades to come.

Less direct harms (harm to reputation, brand dilution) tend to operate over the long term, while more immediate harms (direct sales losses, misuse of post-sale services) tend to be more short term.

The longer the life of product, design or name being infringed, the more you should prioritize knockoffs that cause less direct harms.

REVIEWING THE ANSWERS to each of these questions, for each known source of knockoffs, should facilitate the brand owner making an educated, guided judgment about where on a 1 to 10 scale to place each source for knockoffs.

Preferably, people familiar with the brand's business strategy should do this review and how the business operates in a competitive environment.

The assigned scale can then be used to compare and prioritize among the different sources of knockoffs known by the company.

In the next article, we will discuss making sure that the company has a proper IP foundation in place.

[Please click here to read part 1 of Knockoffs: Creating an effective strategy on a tight budget, part 1](#)

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