

LEGAL/PRIVACY

## Michael Kors protects brand reputation in Costco lawsuit

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By ERIN SHEA

U.S. label Michael Kors is protecting the reputation of its brand by filing a lawsuit against Costco Wholesale Corp. for falsely advertising that its products were sold at the retailer.

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Michael Kors is going after Costco for an email sent out to its customers offering handbags on sale for \$99.99 that used images of Michael Kors products. Since Costco does not sell Michael Kors handbags, but sells other high-end products, this email could have tricked consumers.

“Michael Kors is protecting the reputation of its brand, which is exactly what it should be doing,” said Al Ries, founder and chairman of [Ries & Ries](#), a Roswell, GA-based marketing strategy consultancy.

“One of the biggest attributes of a luxury brand is its high price,” he said.

“If consumers believe a luxury brand can be bought at a low price, it destroys the value of the brand.”

Mr. Ries is not affiliated with Michael Kors or Costco, but agreed to comment as an industry expert.

**Michael Kors** declined to comment directly. **Costco** did not respond by press deadline.

### Bait and switch

Costco sent an email out to its customers April 16 that advertised designer handbags starting at \$99.99 for Mother's Day.

The ads used images of Michael Kors handbags that used the label's trademarked logo and design. However, Costco is not an authorized retailer of Michael Kors products.

Michael Kors filed a complaint July 12 that said the purpose of the ads are to "lure unsuspecting consumers away from bona fide Michael Kors retailers and into Costco stores," according to **Reuters**.

The price listed on Costco's ads is vastly different from Michael Kors' price of handbags, which range from \$128 to \$1,395.



*Michael Kors fall 2013 ad*

However, Michael Kors is likely most concerned with the advertising being out of its control, as this could potentially hurt the brand.

"Any loss of control or advertising that is off-message damages a brand," said Chris Ramey, president of **Affluent Insights**, Miami, FL. "Consumers likely believed that Michael Kors branded handbags were sold at Costco.

"However, research tells us that Costco is one of the favorite stores of the affluent," he said. "So the mere presence at Costco does not damage the brand.

"Michael Kors isn't Tiffany & Co. or Louis Vuitton. It is more surprising that the brand isn't sold at Costco, or at least, not yet."

### Maintaining a reputation

Costco has had legal issues with other luxury brands.

Earlier this year, Tiffany & Co.'s trademark infringement suit against Costco Wholesale Corp. and the wholesaler's counterclaims could result in deeming "tiffany" a generic diamond setting and create challenges for the brand.

Costco filed counterclaims including the argument that the tiffany setting is a generic term used to describe a ring after the jeweler sent a cease-and-desist letter last year ordering the wholesaler to take down signs in its Huntington Beach, CA, warehouse store that promoted "Tiffany setting" rings.

While the counterclaims give Tiffany the opportunity to defend its brand name in court, the process could also position its rings as commonplace and dilute the brand name ([see story](#)).

These lawsuits are similar to a number of counterfeit cases in which luxury brands have been involved.

For instance, Richemont-owned Cartier's win with a trademark infringement lawsuit against China-based companies indicates that luxury marketers should not ignore threats to brand equity in the country and send a message to counterfeiters.

Cartier won in a Shanghai court in April after it filed a lawsuit against two jewelry companies based in Beijing and a Chinese online supermarket that sells these companies' products for using the brand name without the French jeweler's consent ([see story](#)).

Just like the Tiffany and Richemont case, the lawsuit filed by Michael Kors is a way for the brand to protect its name and help maintain its reputation.

"If Costco can figure out a quick way to settle the issue, then the controversy won't hurt Michael Kors," Ries & Ries' Mr. Ries said. "But if the issue continues to be covered in the media, then it could hurt the brand.

"There's always a big difference between a one-time, one-day story and a long-term story that drags on for months at a time," he said.

"Consumers forget the one-time story, but remember the long-term stories."

Final take

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