

## Luxury goods

# Counterfeit.com

**Makers of expensive bags, clothes and watches are fighting fakery in the courts. But the battle seems to be getting tougher**

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THE grand golden doors of 500 Pearl Street, in Manhattan, have welcomed such glamorous names as Hermès, Tiffany & Co and Kering, a French conglomerate whose treasures include Gucci and Bottega Veneta. The building is not a posh hotel or department store. It is the federal court for the Southern District of New York, a favoured battleground for the decidedly unglamorous war against counterfeit goods.



The court is now the venue for Kering's suit against Alibaba, a Chinese e-commerce giant. Kering alleges that Alibaba helps fakers sell goods on its websites. The French firm is not the only one to be incensed. On July 17th the American Apparel & Footwear Association (AAFA) demanded that Alibaba crack down on counterfeits. Alibaba insists it has extensive measures in place to do just that. It is trying to distance itself from counterfeiters, who are also accused by Kering. On August 6th Alibaba plans to argue to the court that it risks being unfairly implicated as a co-conspirator. A bitter trial looks likely.

The fight against copycats has been long and arduous. Kering's suit is the industry's most important in a decade—Alibaba has more than 1 billion product listings and aspires to reach consumers around the world. But its sites are hardly the only places shoppers can find copies. Fake sales are proliferating online, with counterfeiters becoming more technologically adept, more difficult to track and harder to pursue in court.

Counterfeit sales are, by definition, difficult to tally. Last year American border officials nabbed copies that, had they been genuine, would have been worth \$1.2 billion. Their European Union counterparts seized €768m (\$1 billion) of fakes in 2013. But these were surely a fraction of the counterfeits being peddled. Estimates for the total value of fakes sold worldwide each year go as high as \$1.8 trillion.

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fake clothes and accessories amounted to 10% of the industry's revenue in Europe. This makes luxury firms shudder. They cherish their reputations for quality and exclusivity, explains Antonio Achille of the Boston Consulting Group. Ubiquitous, flimsy copies undermine them.

The problem has grown more complex as the fakery business has moved online. America's trade representative predicted in April that online sales of pirated goods might exceed those in physical markets, adding glumly: "Enforcement authorities, unfortunately, face difficulties in responding to this trend." Online, counterfeiters can stay anonymous, reach across borders and constantly launch new websites to evade legal action.

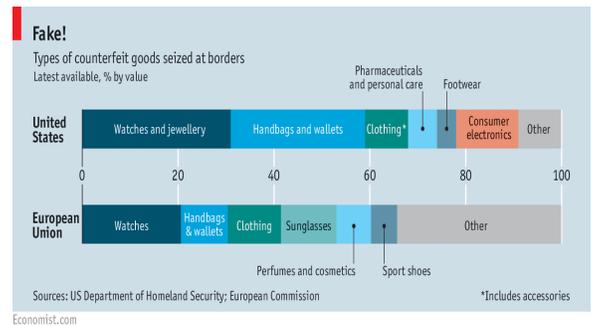
Governments have a devilish time tracking fakes sold online and delivered by post, explains Armando Branchini of Altagamma, the trade group for Italian luxury firms. Fakes shipped in bulk, destined to be sold in physical shops, are hard enough for border guards to spot. "But when it's a matter of millions of parcels, each with a pair of shoes or bag or shirt," Mr Branchini sighs, "it's quite impossible to check."

Since it is so difficult to fight both fake-goods websites and the counterfeiting operations behind them—if you shut one factory, another will crop up nearby—luxury-goods firms are increasingly taking aim at the legitimate firms that facilitate the business of counterfeiters, such as auction websites, internet-domain registries and payment processors. Sometimes brand-owners seek these firms' co-operation in court. Sometimes they sue them.

This has had mixed success. In 2004 Tiffany claimed that eBay was liable for the counterfeit sales on its site. eBay retorted that it could not prevent every illicit post, though it would work to remove them. Courts agreed. eBay and Google, which has also been the target of lawsuits, have systems to fight dubious sellers and advertisers. Neither, however, is foolproof.

### Alibaba and the forty fakers

According to Kering's lawsuit, Alibaba poses a new challenge. On eBay, a counterfeiter might auction one or two handbags at a time. Kering alleges that one wholesaler on Alibaba required a minimum purchase of 500 fake Gucci watches and claimed it could deliver up to 8m each month. Brand-owners tremble at the spectre of Alibaba's 8.5m sellers hawking masses of counterfeits both within China and around the world. Kering's investigators, for example, bought fake Gucci sneakers on Alibaba's Taobao.com and had them shipped to New York. Kering alleges that Alibaba not only provides a platform for these sales, but encourages them. Kering complains that if you type "replica" in the search bar in Alibaba.com, the site's algorithm will suggest "wristwatches".



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with Louis Vuitton, Coach and others to co-operate on fighting counterfeits. But its disputes look likely to heat up. The AAFA wants Alibaba to set up an automated system to take down dubious listings immediately, a demand that is unlikely to be met. The fight with Kering will continue. The two parties have already tried and failed to reach agreement outside court.

Meanwhile sales of counterfeits continue to sprawl across the internet. For example, it is common for Chinese consumers to dodge the high price of luxury goods in their own country by buying them on so-called *daigou* websites: a shopper might buy a handbag in Europe, then resell it on one of these websites for more than the European retail price but less than the Chinese one. Many products on such sites are genuine. Many are not.

More pervasive are the sites that pose as legitimate sellers of discounted goods. They may have domain names registered in one country, servers in another, payment-processing elsewhere and shipping from yet another place, according to MarkMonitor, which helps companies protect their brands online. Roxanne Elings, a lawyer at Davis Wright Tremaine, says one counterfeit outfit may run as many as 14,000 websites.

Firms have had some success in battling these sites, again by focusing their attention on legitimate companies that serve them. In 2010 Ms Elings helped North Face and Polo Ralph Lauren obtain court orders for domain registries to take down networks of rogue sites, and for PayPal to turn over fakers' assets. Tory Burch, Hermès and Michael Kors won similar cases in 2011 and 2012.

Since then, however, counterfeiters have become more slippery. Ms Elings says that networks of sites are using multiple registries and myriad fake names. Joseph Gioconda, a lawyer who has represented Hermès, Michael Kors and Lululemon, says that catching up with copycats is daunting when their assets are held outside America. Kering and Tiffany had sought to freeze counterfeiters' accounts at Chinese banks, but last year an American court refused to do so. That will make it harder to obtain foreign records that might expose counterfeit rings.

The role of consumers in all this is complex. Some are looking for the real thing at discount prices, and are deceived. Others are knowingly hunting for fakes. Both types may regret their penny-pinching. The most troubling recent trend is that online counterfeiters have discovered a new source of revenue. Some of their sites have no goods to sell, real or fake. They are simply out to steal unwitting shoppers' card details, a business that can enjoy higher margins than any handbag.

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