The Psychology Behind Trademark Infringement and Counterfeiting

Trademark infringement and counterfeiting (hereinafter, TIC) is a menace, and TIC-related trade is estimated to have surpassed $500 billion. Examples of companies routinely dealing with TIC problems at the global level include Proctor & Gamble, Gillette, Yamaha, Nike, Microsoft, Anheuser-Busch, Honda, Toyota, Daimler-Chrysler, Pfizer, Louis Vuitton, and ACDelco, among hundreds of other firms. Trademark infringement and counterfeiting cannot be neglected, because of the associated tangible and intangible losses; not a day goes by without problems of TIC being discussed by aggrieved parties in the business world because of substandard products, quality issues, and corporate reputations (e.g., Belk, Devinney, and Eckhardt 2005; Boyle 2006; Fairclough 2006; Financial Times 2006; Gutierrez et al. 2006; Jaffe and Lerner 2006; Khouja and Smith 2007). As Balfour (2005, p. 54) correctly observes, "The global counterfeit business is out of control, targeting everything from computer chips to life-saving medicines. It’s so bad that even China may need to crack down."

In this context, Zaichkowsky’s book elaborates on TIC issues that are faced by business and law enforcement agencies worldwide. The book contains nine lucid and well-researched chapters that build a foundation on which to understand and address trademark infringement and counterfeiting infractions. The nine chapters are full of tables, charts, and figures that incorporate consumer behavior–related research, and the book is an amalgamation of marketing theories, legal citations (of 150 cases), and practitioner-oriented literature, which are all critical to understanding the various facets of TIC.

The target audience for the book is diverse, including academicians, practitioners, and legal experts; it is for anyone who wants to be acquainted with TIC in marketing. Zichkowsky begins by noting (p. 1), "The equity of successful brands is routinely stolen because it is a cheap effective way to make short-term economic gains." From there, the author systematically builds the theoretical foundation for understanding and addressing TIC and takes the reader on a journey that is neither boring nor simplistic.

In Chapter 1, Zichkowsky sorts out the issues of TIC in layman’s terms to build the foundation for theory. Chapter 2 highlights key aspects of consumer behavior, and Chapter 3 discusses consumer perceptions of imitation brands and the underlying psychological principles. Chapter 4 focuses on legal cases in which consumers’ confusion (over the real and the imitated) played a key role and expounds on imitation related to brand name, shape, symbols, color, and gestalt.
over competing brands and related/unrelated product categories.

Combating TIC and its associated problems is well elaborated and illustrated with useful charts and figures in Chapter 5. In Chapter 6, Zaichkowsky systematically discusses data and techniques of brand imitation research; this content is particularly relevant to readers who are interested in demonstrating (e.g., in a legal context) the impact of any alleged infraction. Chapter 7 discusses the ongoing issues of cyberspace and its infringement domains. This covers domain names, online trademark infringement techniques, "cybersquatting" (intentionally registering a domain name and selling it back to the original owner), and "typosquatting" (targeting a Web site that generates a good traffic by coming up as the domain name with typographical errors and misspellings to attract visitors). This chapter also discusses the changing consumer behavior on the Internet by using the Web as a complaint medium.

Chapter 8 analyzes TIC-related issues in the Chinese market. Of particular interest is Zaichkowsky's comparison of trademark laws and legal environments of China, Hong Kong Special Administrative Region, and Taiwan. This chapter also presents the author's views on seven possible factors that can influence the purchase of imitations in China and, consequently, encourage piracy and counterfeiting. The seven factors encompass consumer behavior perspectives and are labeled as follows: "confusion," "utility," "social influence," "cultural influence," "ethical perceptions," "risk perceptions," and "local interests." Zaichkowsky concludes the book in Chapter 9 by providing some of the trends and forthcoming changes in TIC. In addition, Appendix 1 compares and contrasts trademark definitions in the United States, Canada, and the European Union, followed by 150 citations of well-researched legal cases (grouped into 18 categories).

What does the reader take away from The Psychology Behind Trademark Infringement and Counterfeiting? There is benefit on two dimensions. First, Zaichkowsky correctly argues that today's brands are more than words, objects, ideas, and subjects, so it is critical to understand the issues of TIC from the consumer perspective. Second, traditional firms and information technology companies need to be aware of TIC-related abuse because of lost revenues, negative publicity, and corporate reputations (Skibell and Kazemi 2005), and they should develop suitable strategies to counter the abuse. This book develops an appreciation of both dimensions without alienating the reader.

Although the book is fascinating in its content, coverage, and delivery, it could benefit from a broader global perspective. Revisions of the book should consider including a well-researched chapter on the issues of global TIC. There is a need to examine countries and markets that remain at the helm of the TIC issues, particularly because of enforcement issues and legal jurisdictions.

Some of the TIC issues have been previously discussed in the marketing literature (e.g., Gillespie, Krishna, and Jarvis 2002; Givon, Mahajan, and Muller 1995; Paradise 1999) and continue to attract researchers because of the wide-ranging implications of market imperfections (e.g., Antia et al. 2006; Chaudhry 2006; Chellappa 2005; Dunning 2006; Goode and Cruise 2006; Greene 2006; Khouja and Smith 2007). Regardless of the issues of gray products (Antia et al. 2006) and dominant designs (Sririnivasan, Lilien, and Rangaswamy 2006), companies' intellectual property assets, firm-specific advantages, and TIC will continue to pose challenges to firms worldwide (Hafner 2006; Hopkins, Kontnik, and Turnage 2003; Rufino 2006; Varian 2005).

Therefore, this book is an excellent addition to the current literature on TIC and will prove attractive to a wide array of audiences. In an era of changing markets and corporate frustrations with TIC, Zaichkowsky's work is expected to have a long shelf life. Marketers need to read this informative book, and it is a "must read" for those grappling with TIC issues.
REFERENCES


Balfour, Frederik (2005), "Fakes!" BusinessWeek, (February 7), 54–64.


Fairclough, Gordon (2006), "From Hongda to Wumart, Brand Names in China Have Familiar, if Off-Key Ring," The Wall Street Journal, (October 19), B1, B7.


Jaffe, Adam and Josh Lerner (2006), "Innovation and Its Discontents," The Wall Street Journal,
(March 21), A14.


Rufino, Filipe (2006), "EU, China Target Counterfeit Drugs," The Wall Street Journal, (October 18), B2A.


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