

# CONSUMER ATTITUDES TOWARDS COUNTERFEITS, LEGAL RESPONSES, AND MARKET ANALYSIS IN INDIA

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## Abstract

*Industry and the global market currently face a severe economic and social dilemma due to the prevalence of counterfeiting. The counterfeit goods market has grown increasingly perilous for the global economy. Several well-known brands, both in India and beyond, are stunted by the prevalence of counterfeiting. Consumers' welcoming attitudes and weak legal systems throughout the world are encouraging counterfeiting. As a result, research into the problem is essential if effective corporate strategies and a robust regulatory framework are to be established to combat counterfeiting. With this research, we want to take a fresh look at what has already been done in the field. This study intends to delve into the available literature on the topic of counterfeit brands, as well as consumer perceptions of them and the legal actions taken against them. The market share of counterfeit items across India's various manufacturing sectors has also been analyzed in this study. Last but not least, the existing legislative structure in India to combat counterfeiting and the consumer education campaigns that preceded it were examined. These findings shed light on the counterfeiting process in India. It also aids the legitimate brand's maker and retailer in developing*

*more effective marketing tactics to curb the spread of fakes.*

## Paper Identification



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## 1. Introduction

Fake goods have become an international issue in recent years, posing a danger to economies all around the world. Fake and pirated brands currently hold a 2.5% share of the worldwide market. By 2022, the estimated worldwide economic value of counterfeited and pirated items might exceed \$2.3 trillion, according to research by the International Trademark Association and the International Chamber of Commerce. In 2015, the counterfeit industry was worth \$1.7 trillion worldwide (Jeffrey H, 2015). Ray-Ban, Rolex, Louis Vuitton, and Nike are the most often counterfeited brands in the world, according the Organization for Economic Co-operation and Development (OECD) (Ball, 2016).

Pirate activity is rampant in the fast-moving consumer goods (FMCG) industry, which includes packaged foods, personal care products, cell phones, alcoholic drinks, bottled water, pharmaceuticals, and more. There is a significant loss of revenue for businesses and tax revenue for governments due to piracy. In 2014, the government lost Rs. 392 billion due to counterfeit brands, up from Rs. 130 billion the previous year (FICCI, 2016). Losses of Rs. 39,239 crores were incurred in 2014 due to the illicit market in seven manufacturing industry sectors (FICCI, 2016). In India, counterfeit and substandard pharmaceuticals account for fifteen to twenty percent of the market. It's disheartening to learn that fake drugs worth Rs. 2500 crore are pushed on the Indian market every year. In India, 10 percent of all soft drinks available on the market are knockoffs. There is a 10-30% prevalence of counterfeit drugs, pharmaceuticals, and packaged foods in India. Pirated software accounts for 74% of the market, while counterfeit cigarette brands account for 21.5%. The United States produced a study in 2015 detailing the world's most untrustworthy marketplaces. The New Delhi neighborhoods of Tank Road and Sadar Bazaar are notorious for selling knockoffs. According to research by the Confederation of Indian Industry (CII) and Deloitte, the counterfeit brand market in Indian online shopping would grow to \$1 trillion (Rs. 660 trillion) by 2020. (Business Line, 2015).

According to Jones (2018), counterfeiting harms the reputation of domestic brands. The article "Counterfeit Products and Brands are Beneficial for Luxury Brands" by Ritson (2017) was published in Brand Strategy Insider. The source of the conflict is the two parties' divergent views about the authenticity of the fake. Due to the fact that their views are diametrically opposed to one another, they do not have a common concept of what constitutes fake goods or brands. Consequently, this study has taken

the problem's cue from the scenario described above and has given the direction to investigate the literature around counterfeit brands, consumer attitudes against counterfeit brands, and lawsuits brought by consumers on phoney brands. In addition, this research looked at how much of India's market was taken over by fake goods across a variety of industries. Last but not least, the existing legislative structure in India to combat counterfeiting and the consumer education campaigns that preceded it were examined.

## 2. Literature Review

A Counterfeit Products and Brands literature review delves into the existing body of knowledge on the topic at hand, covering both the substantive results and theoretical and methodological contributions. All of the literature is secondary. In order to shed light on the topic, a thorough literature analysis was done, drawing on sources from a variety of management studies.

### 2.1 Counterfeit Brands

Brands that are counterfeited are copies made without permission of the original brand. The goal of making counterfeit versions of popular brands is to profit off of the goodwill associated with the originals. A logo is copied by the manufacturer and then used to sell the product. Unfortunately, many of lives have been lost because of counterfeit goods. Pirated vehicle parts and counterfeit medications are directly responsible for the tragic loss of human life (Phau et al., 2001). Counterfeiting is the unauthorised production of commodities or things whose distinctive qualities are the subject of legal protections (such as trademarks, licences, and copyrights) (Zaichkowsky, 2000). Similarly, the fact that the products are carbon duplicates of the originals—down to the packaging, trademarks, and labeling—helps to clarify the notion.

Copies and forgeries are made of the same material (Zaichkowsky, 2000). Fake goods aren't made by the real ones (Nordin, 2009), aren't up to par quality-wise (Phillips, 2005), and exploit the trademark of a legitimate company without permission (Chaudhry, Zimmerman) (2009). Counterfeiting is a form of fraud in which a fake product or brand is intentionally made to look like the real thing (Bhatt and Reddy, 1998).

There are two types of counterfeiting: those that are dishonest and those that are not (Prendergast et al., 2002). Deceptive counterfeiting occurs when a buyer purchases an illegal knockoff but is under the impression that they are purchasing the genuine article. Counterfeit brands are marketed in the market under the guise of a legitimate brand in an attempt to deceive the consumer (Prendergast et al., 2002). In contrast, non-deceptive counterfeiting occurs when consumers are able to tell the difference between a genuine and counterfeit goods based on information provided on the packaging, price, retail location, and materials utilised to create the fakes.

For any society, economy, or legal system, counterfeiting is a terrible problem (Prendergast, Hing chuen & Phau, 2002). In some cases, consumers having positive prior experiences with a particular brand or product are more likely to choose it over a generic version of the same or similar quality (Grossman and Shapiro, 1988). False or counterfeit brands are a drain on legitimate ones because they cut into profits, devalue research and development, and need costly legal battles to safeguard their reputation (Nash, 1989). For the average citizen, luxury goods are just like any other commodity on the market, but for the average person, a false product is just spectacular (Bastien, 1995). Consumers who buy fake brands are stereotyped as having low incomes and even less concern for the quality of the goods they purchase (Ike and Swee, 2001).

## 2.2 Consumer Attitude for Counterfeit Brands

Several academics have spent decades studying consumers' attitudes. Studies in this field have extended to nearly every category of commercial and industrial goods. In light of this, the research project's literature assessment will focus entirely on phoney goods.

Consumers' perceptions of differences between fake and authentic items were discussed by Huang et al., 2004. Consumers' favorable and negative attitudes towards fake brands were discovered by Mathieson et al. (2001). Consumers in Pakistan are generally accepting of knockoff clothing, according to research by Khan et al. (2020).

Consumers are more receptive to fake goods when they are offered at a lower price, have a weaker warranty, and carry some degree of risk (Huang et al., 2004). Buying fake goods increases the financial risk because they are not covered by a warranty (De Matos, 2007). Consumers' attitudes towards knockoffs of high-end labels are influenced by Chakraborty (1996) elements like knowledge, avarice, and peer pressure. Consumers' perspectives are influenced by economic, quality, legal, and ethical considerations (Wang et al., 2005). According to research by Quique et al. (2016), consumers' views on fake goods in the Malaysian market are affected by characteristics like religious belief, moral concern, and the ability to maintain objectivity. Luxury brand knockoffs are heavily influenced by their affordability and useful features (Chaudry 2008).

Customers are willing to pay for the image feature and usefulness without intention for association excellence when purchasing luxury fashion brands (Tom et al., 1998). This explains why consumers prefer buying counterfeit goods with a well-known brand name attached (Cordell et al., 1996). This further supports the idea that only popular or lucrative



brand names are the targets of counterfeiters (Krishnan et al., 2017).

Luxury brand knockoffs are using the fact that their items are priced lower and more competitively to their advantage (Gentry et al., 2006). When it comes to buying a premium brand, there's a certain ferocity and devotion that customers bring to the table (Cordell et al., 1996). If a consumer believes that the real and counterfeit versions of a product are qualitatively equivalent, he or she is more likely to make a purchase of the latter (Wee et al., 1995). Luxury goods lose their symbolic worth and their brand equity when counterfeits flood the market (Zhou and Hui, 2019).

Clients that are conversant with general ideas might rationalise their decision to buy knockoff products (Gupta et al., 2004). While huge firms may not suffer a little loss of earnings from the sale of counterfeit goods, situational ethics demonstrates callous disregard for the welfare of consumers (Ang et al., 2001).

It is clear that several factors, including those we've already addressed, contribute to customers' perceptions of the legitimacy of brand counterfeits.

The evaluation of existing literature reveals several research gaps. The study addresses the paucity of literature on consumer purchasing habits and the characteristics linked to fake brands. A significant instance of Counterfeit Brand is not included in the study. Neither the industry distribution of fake products nor the efforts by government and business to combat counterfeiting in India are covered.

### 3. Statement of the Problem

For fake goods, India is a major market. The counterfeiting and piracy of legitimate trademarks has cost the Indian economy and industry billions of dollars. Millions of customers are at risk because of the dangers that counterfeit goods provide to their

health and safety. Counterfeiting is a major problem in almost every industry in India. Fake items are damaging the reputation of legitimate ones, which in turn hurts the local economy and discourages legitimate imports. The government loses out on money because of the decline in sales of these brands. Key features of a counterfeit brand include deceptive packaging, trademark infringement, price gouging, and the use of low-quality components.

“The fraudulent items and brand tarnishes the image of legitimate and indigenously established businesses,” Jones (2018) writes in a news magazine article. A major threat to the continued survival of firms and manufacturers is posed by phoney and counterfeit brands, Ritson (2017) said. Although one article by Mahajan (2013) argues that "counterfeit brands are good for the authentic brands and economy because they give the scope for innovation, help to rethink about price, give the benefits of free advertising, cause a positive effect on high end brands, and also increase the brand awareness," this view is disputed by another research. Conflicting claims are made, thereby deepening the distance between the ideal and the actual. A muddled picture of the effects of the Counterfeit brand may emerge from the apparently conflicting assertions. So, the following objectives have been set for the research.

### 4. Objectives of the Study

This literature review sets out to investigate the following questions.

- For research on the Indian legal proceedings involving counterfeit goods.
- Examining the economic toll that fake goods are taking on the market.
- Examine the Government's Efforts and the Legislative Framework Established to Combat Counterfeiting in India.

### 5. Methodology Used

For a researcher to find answers to their questions and evaluate their goals using the data and information at their disposal, they need to employ a research technique. The success of a study depends on its authenticity, its source, and its methodological approach. Hence, by methodically selecting the most suitable study approach, a researcher may get the intended outcome.

The authors of this research want to shed some insight on some of the fundamental questions that underlie shoppers' perceptions of fake goods. This study used a qualitative, exploratory research strategy. So, we gathered information from secondary sources such as scholarly publications, public records, and published marketing materials. Last but not least, content analysis was used to compile the concerns taken into account in the objectives and to arrive at the conclusions.

## **6. Discussion and Findings**

### **6.1 Court cases on Counterfeit Brands in India**

#### **6.1.1 Skechers: US based Sports Footwear Brand**

Skechers, with headquarters in Manhattan Beach, California, is an American footwear and lifestyle brand that caters to men, women, and children. Skecher, a popular American sports shoe manufacturer, has sued Flipkart and four other e-commerce businesses (including Retail Net, Tech Connect, Unichem Logistics, and Marco Wagon) in Delhi's high court (Malviya, 2017). Skechers obtained authorization from a court-appointed authority and then invaded the factories of counterfeit-goods producers in Delhi and Ahmadabad. The equivalent of around 15,000 pairs of counterfeit Skechers sneakers were seized in a government operation. The court issued monetary penalties to all of those businesses based on evidence presented in court.

#### **6.1.2 Hawkins Cooker**

Hawkins Cookers Ltd filed a lawsuit against Rakesh Kumar, Mukesh Kumar, and Others, claiming that the defendants had been illegally selling pressure cooker components packaged in boxes bearing the Hawkins trademark. The court found that Rakesh Kumar had been selling the goods under the Hawkins label (Warrier, 2017). The court found this to be an instance of piracy and described the offence as "extreme" under the Trademark Act. Rakesh Kumar was fined and sentenced to time in prison by the court.

#### **6.1.3 Hero Honda**

In this case, the defendants are Hero Honda Motors Ltd and the plaintiffs are Shree Assuramji Scooters. Manufacturer Shree Assuramji Scooters produced and repaired bike components including bearings, clutches, and brakes under the guise of the HERO HONDA brand and trademark. The counterfeiting of its components and peripherals resulted in significant financial losses and damaged public perception of the company's products (Warrier, 2017). Upon learning of the trademark infringement, HERO HONDA officials bought the knockoff product from stores to assess its quality before taking legal action. The judge heard the case and issued a warning to Shree Assuramji Scooters, telling them not to make or sell fake goods in the future.

#### **6.1.4 Adobe Systems Inc**

Accusing Mr. Mahindra Saxena and others of manufacturing and selling counterfeit goods, Adobe Systems, Inc. filed suit in the Delhi High Court. They were making a killing off of selling counterfeit software under the legitimate software company's name (Warrier, 2017). A judge noted that Adobe Systems is losing money due to people using pirated software, which is a violation of the brand's legal rights. The court went on to say that illegal software distribution is bad for users and results in a significant

loss of revenue for governments worldwide. They don't have an accounting book or a balance sheet, so it's hard to know how much money they're losing due to their unlawful manufacture and how much damage the counterfeit brand is doing.

### **6.1.5 Microsoft Corporation**

Microsoft Corporation has taken Ms. Kiran and others to the Delhi High Court in a lawsuit (Warrier, 2017). Microsoft has accused the manufacturer of counterfeit goods of attempting to copy their items and sell them on the black market. Defendants have no legal basis for making use of this trademark or business name. This is an obvious example of counterfeiting and piracy, as well as a violation of Microsoft's trademarks or insignia. Because of this, legitimate Microsoft has lost sales and customers, and the company's reputation has been tarnished since consumers have been given a poor-quality product. After hearing the case, the judge ordered the defendant to pay monetary damages to the victim.

### **6.1.6 Lacoste**

Defendant R.H. Garments and Others is a firm that La Chemise Lacoste has sued. The court ruled that unlicensed users were making unauthorized use of the LACOSTE and CHEMISE LACOSTE trademarks, as well as the CROCODILE sign, based on the evidence presented. According to the court, the legitimate business has lost money and had its reputation damaged by the illicit production and distribution of La Chemise Lacoste items (Warrier, 2017). The court ruled that R H Garments must pay La Chemise Lacoste monetary damages, but added that such payments would be insufficient to make up for the damage done to the company's reputation.

### **6.1.7 Chupchapplelo.com**

According to the government's IT surveillance, the online retailer chupchapplelo.com was peddling knockoffs of popular lifestyle brands' clothing, shoes,

and fragrances. Unbeknownst to its customers, the internet shop had been peddling counterfeit goods from renowned global manufacturers. The trademark agencies found that the product supplied on this website did infringe on the rights of the aforementioned multinational trademarks (Khandelwal, 2017). A class action lawsuit was finally filed against the online retailer chupchapplelo.com. The court ruled that the sale of counterfeit goods online harmed the good name of the genuine product in both the Domestic and international markets. The court issued an injunction to stop the infringement, which was based on India's intellectual property rights laws. The court assigned a local commissioner to oversee the search and seizure of the infringing items.

## **6.2 Market of Counterfeit Products captured by different Sectors**

There is a growing demand in India for knockoff goods. Counterfeit and pirated brands damage a wide range of Indian industries. Losses in profit, brand reputation, equity, and tax revenue are all substantial when dealing with counterfeiting. The below research details India's counterfeit market by industry:

### **6.2.1 Drugs**

Around a quarter of India's pharmaceutical output is estimated to be substandard or fraudulent, according to government officials (Khan and Khar, 2020). There is an estimated \$ 200 billion in annual revenue for fake pharmaceuticals, placing them first in the global ranking of counterfeit goods. In both the generic and patent medication markets, India is a global leader in production and export. According to the TAXUD data published by the European Commission, 75% of the world's supply of counterfeit pharmaceuticals originates in India. In India, 12–25% of all medications are thought to be fraudulent or mislabeled (PSM 2013). Although being the largest



market for the trade of fake medications, India also has a huge number of factories producing them.

### 6.2.2 Movies & Music

Bollywood, India's film industry, produces more movies than any other country. Cinema “cam-cording” is the root cause of content theft or piracy in the film business. It's common knowledge that bootlegged copies of Bollywood movies and music are leased and sold all throughout the country. Piracy of original CDs costs the film industry roughly Rs 18000 crore (\$2.7 billion) annually and eliminates 60,000 jobs. The Indian film industry is projected to earn Rs 226.3 billion by 2020, an increase of 10.5% annually, according to research by consulting firm KPMG and the Federation of Indian Chambers of Commerce and Industry (FICCI). In an effort to curb piracy, studios are making new releases available online just days after they hit theatres, with the expectation that customers would be drawn in by the inexpensive prices of high-quality digital printouts.

### 6.2.3 Software

The software black market has become as widespread as the narcotics black market. There is a \$58.8 billion industry for illegally distributed software throughout the world. Nearly every store in New Delhi's Nehru Square deals in the creation and sale of pirated software. Nehru Place is home to over a thousand stores selling anything from computer parts to counterfeit software (Raj Y, 2013). “The world's largest market of pirated software” was declared by USTR to be “India's Nehru Place,” a notoriously pirated market in India. Before to 2015, India's pirate software business was worth \$2.90 billion, but in 2015, that number had dropped to \$2.68 billion.

### 6.2.4 Books

Pirated books have an estimated \$600 million market value, making them the 23rd most valuable counterfeit goods worldwide. In India, the grey

market uses a variety of techniques to create counterfeit documents. Some of the ways that this is done include students illegally scanning books, uploading those scans online, and pirating commercially published books by photocopying and scanning. According to the Confederation of Indian Industry's (2011-2012) research on the topic of “Socio-Economic Impact of Piracy in Indian Market,” over 20% of books sold in the market are pirated. According to a separate investigation in Horoscope, book publishers in India lost \$387,000 in 2011 owing to illegal copying and distribution (Holistic, 2017).

### 6.2.5 Automobiles

In the fiscal year 2014–2015, the Indian vehicle market expanded by 11%, bringing in an extra Rs 2340 billion. The use of fake auto components in automobiles poses a serious threat to the safety of the drivers and passengers. Counterfeit and fraudulent vehicle components are a major cause of traffic accidents (20 percent). The efficiency and longevity of a car are both negatively impacted by counterfeit parts. Due to the substantial price difference (20-30%) between genuine and counterfeit car parts, there is a large market in India for counterfeit or imitation auto components (Salomi V, 2013). In 2014, the counterfeiting of goods in India cost the government Rs 3,113 Cr and the industry Rs 10,501 Cr.

## 6.3 Government Initiatives to Control Counterfeiting in India

Efforts to educate Indian citizens and a new legal framework put in place by the government and NGOs have been effective in reducing counterfeiting. An overview of consumer awareness initiatives and the legal framework in India to combat fakes is provided:

### 6.3.1 Campaigns to control Counterfeiting

It's no exaggeration to say that counterfeiting is one of the most pervasive and damaging problems of our era.

Anti-counterfeiting measures are frequently accompanied by consumer education programmes.

- Consumers in India were warned against scams involving fake businesses through a programme called “Jaago Grahak Jaago,” which was organized by the Ministry of Consumer Affairs of the Indian government. Throughout the month of February of 2012, this ad appeared in over 160 publications. Several television stations broadcast the campaign (Dhruv and Shamim, 2016).
- The goal of the “Bhagidari” initiative is to warn customers about the dangers of buying pirated or knockoff goods. The Delhi government started the campaign (Chandra, 2012).
- The Delhi Government held the “Hum Kishor Festival 2012,” a cultural youth festival, with the subject “Fight Smuggling and Counterfeiting” to educate the people of Delhi about the dangers of buying fake goods.
- HUL and TATA celebrated World IP Day and World Anti-Counterfeiting Day to encourage consumers to buy only authentic products. Consumers were also warned about the dangers of purchasing counterfeit products (Bhatt, 2016).
- Several schools in New Delhi's public school system participated in an awareness campaign launched by the Indian government, which featured discussions, contests, and prizes for students' innovative efforts. The target audience for this campaign was college students, with the goal being to dissuade them from purchasing fake goods. According to research (Bhushan, 2015),
- Consumers and businesses in Mumbai talked

about how to combat counterfeiting by exchanging tips and insights.

### 6.3.2 Legal Framework to control Counterfeiting

Anti-counterfeiting measures are accounted for under the Indian IP regulations that will be described below.

- Procedures for combating the export of contaminated, counterfeit, or misbranded medications from India are outlined in the Drugs and Cosmetics Act of 1940.
- To this day, works of literature, theatre, music, and art, as well as computer programmes, are protected by the Copyright Act of 1957, which provides criminal penalties for copyright infringement.
- Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights addresses the scope of protection afforded patents, and this provision has been harmonized with the Patents Act of 1970.
- Legal action for passing off can be brought by the owner of a registered trademark against the owner of an unregistered brand, as established by the Trademarks Act, 1999.
- A company that has registered under the Designs Act, 2000 is allowed to utilize a design. Any applicable design, structure, material, or color scheme is included.
- Deceptive or unlawful breaching activities that take use of sophisticated computer systems are subject to the IT Act, 2000, which was enacted to regulate such activities.
- In order to prevent the sale of fraudulent or substandard goods, the Food Safety and Standards Act of 2006 was enacted, authorizing law enforcement to seize and destroy such items.

## 7. Conclusion



The widespread availability of pirated and knockoff goods poses a serious threat to the global economy and endangers the health and safety of consumers who are unable to tell the difference between a genuine product and one that has been falsified. Fake and counterfeit goods continued to be sold even after legal authorities from both the government and the legitimate manufacturers of the brands involved joined forces to combat the problem. Several legitimate brands in India are threatened by those who produce or sell fake versions of their products. Insights about the widespread impact of counterfeiting in India's industrial sectors have been gleaned from existing literature. The current study detailed the legal actions taken in Indian courts by Sketchers, Hawkins Cooker, Hero Honda, Adobe Systems Inc., Microsoft Companies, Lacoste, and Chupchapple.com in response to the sale of counterfeit goods. Some examples of industries that are taking a hit include pharmaceuticals (12–25% of all drugs sold in India are fake), entertainment (annual losses of Rs 18,000 Cr and 60,000 lost jobs), IT (annual losses of \$2.68 billion in 2015), publishing (annual losses of Rs 20 million in 2011), and transportation (lost the business of Rs 10,501 Cr in 2014) Loss of tax revenue is a problem for the government as well.

Many measures have been launched by the government and non-governmental organizations in India to combat counterfeiting. Awareness campaigns, Engagement with Industry, and Government are all part of the activities. The government also takes action on a regular basis by creating a stringent legislative framework to combat counterfeiting in India. For example, the legal framework comprises the Trademark Act, the Copyright Act, the Patents Act, the Design Act, the Information Technology Act, the Pharmaceuticals and Cosmetics Act, the Food Safety and Standard Act,

etc. Lastly, the report added to consumer understanding of counterfeit brands, which might aid efforts by the government and non-governmental organization to combat the issue.

Important steps forward will be taken because of this study's findings. Findings from the study can inform policy and strategy formulation by government and non-government organizations. These methods will aid in resolving issues confronted by struggling businesses and provide guidelines for putting an end to counterfeiting across the country.

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