

The Ethics of Counterfeiting in the Fashion Industry: Quality, Credence and Profit Issues

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ABSTRACT. One of the greatest problems facing luxury goods firms in a globalizing market is that of counterfeiting. The purpose of this paper is to analyze the different types of counterfeiting that take place in the fashion industry and the ethical issues raised. We argue that the problem partly lies in the industry itself. Copying of designs is endemic and condoned, which raises several ethical dilemmas in passing judgment on the practice of counterfeiting. We analyze the ethical issues in

a number of different types of counterfeiting encountered in the fashion industry. We conclude with some observations on the general implications for ethics in intellectual property rights.

KEY WORDS: fashion, business ethics, marketing, counterfeiting

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Introduction

In this paper we examine the ethical issues involved in counterfeiting in the fashion industry. We argue that the problem partly lies in the industry itself. Copying of designs is endemic and condoned, which raises several ethical dilemmas in passing judgment on the practice of counterfeiting. As illustrated by several recent reports in the press, the problems are extensive, growing and global. For example, according to the European Commission, customs seized almost 85 million counterfeit or pirated articles at the EU's external border in 2002 and 50 million in the first half of 2003 (European Commission, 2003) while the U.S. customs made over 6,500 seizures in 2003 worth over \$94 billion (International Anti-Counterfeiting Coalition, 2004a). Worldwide the International Chamber of Commerce estimates that seven percent of world trade is in counterfeit goods and that the counterfeit market is worth \$350 billion (George W. Abbott and Lee S. Sporn, Trademark Counterfeiting 1.03 [A] [2] quoted in International AntiCounterfeiting Coalition report, 2004b).

In some countries, such as the United States, such problems are compounded because their legal system only protects functionality and not design or style. In other countries there is not even this level of protection (Belhumeur, 2000). There is either no formal



legal protection for design or functionality or what little protection there is is incapable of being enforced either through incompetence or corruption. This ensures that it is very difficult in practice, if not in theory, to enforce any rights that exist. It is always possible to find a country where one can manufacture blatant copies or counterfeits with no fear of falling foul of the law.

As industries have globalized their distribution and production operations, counterfeiting has become easier and easier to sustain and is a problem affecting a whole range of industries worldwide. No entirely reliable figures exist for such a clandestine trade but the best estimates available place it at some 3–6% of world trade, with sectoral estimates quoted as follows: watches (5%), medicine (6%), perfumes (5%), aircraft parts (10%), toys (12%), music (33%), video (50%), software (43%) (OECD, 1998). In its annual “Special 301” review, the office of the U.S. trade representative (USTR) identified more than 30 countries as centers for counterfeiting and piracy and estimated that American industries lose \$200 billion–250 billion a year to counterfeiting (The Economist, 2003).

The industry we will focus on in this paper is high-end clothing and accessories that derive a significant proportion of their market value from brands and reputations of designers such as Dior, Versace, Chanel, etc. This is one of the most highly publicized sectors where counterfeiting is rife. According to the International Anti-Counterfeiting Coalition about 18% of the \$98 million of counterfeit products seized by U.S. Customs in 2002 were made up of fashion-related items: apparel, sunglasses, watches, handbags and headwear.¹ It should also be noted that the figures are probably an understatement of the problem as many cases do not reach the public domain and action is not taken in many cases.

There have been a few cases of successful prosecution, such as Tommy Hilfiger’s suit against Goody’s Family Clothing Inc. for \$11 million² and the case of the U.K. counterfeiter ordered to pay back more than £354,000 after police discovered more than 100,000 labels and packaging for 52 different designer brands, including Nike, Adidas and Armani, in a raid.³ However, in most cases offenders are rarely prosecuted and in some cases they openly sell fake goods. For instance, boutiques that sell fake designer goods at a fraction of the normal retail price are now

available in many cities worldwide. In most cases the damages awarded against counterfeiters are relatively minor and in many cases authorities may decline to prosecute offenders, placing the onus on copyright owners to take action.⁴ Other cases are settled outside the legal system and do not enter the public domain. For example, where the counterfeiting involves a “legitimate” producer, fashion houses simply stop using them rather than take them to court.

As in other innovation businesses (Fassin, 2000) ethical issues can arise in fashion at different stages of the innovation process such as disputes over intellectual property rights, confidentiality of information, marketing and finance. One of the authors has been active in fraud investigation in the fashion industry and has informally interviewed a number of colleagues in the industry. What follows is an analysis of the ethical issues that surfaced in the course of this work. We start by explaining the concept of credence goods and discussing the role of credence in the fashion industry. We then analyze the ethical issues in a number of different types of counterfeiting encountered in the fashion industry. We conclude with some observations on the general ethical implications of intellectual property rights.

Concept of credence goods

A key concept in our paper is the idea of “credence goods” (Ekelund et al., 1995; Emons, 1997). These are goods whose quality is difficult to assess before or after purchase and use. Many luxury products fall in this category. Technically unsophisticated consumers cannot be certain of their quality even after purchase. Their value is dependent on the credence given to them by others, e.g. the designer’s or distributor’s reputation and their use by a particular set of consumers, the fashionable. Advertisers use such reputations or standing with a sub-class of consumers as a powerful part of their advertising strategy. The opulent, successful consumer, who is admired for her wealth, power, or celebrity status, endorses a product by using it and so doing implies it has utility to them and, by inference, others aspiring to their lifestyle.

Credence goods can be viewed as lying at one end of a spectrum determined by whether quality can be assessed before or after purchase or never. This spectrum starts with what we call “search goods”

passes through what we will call “experience goods” before ending with “credence goods”. “Search goods”, have an intrinsic worth objectively assessable prior to purchase. An example would be lettuce, where staleness and blemishes are difficult to hide from potential purchasers. “Experience goods” are those where experience of use after purchase reveals quality with a fair degree of certainty. A bed or toy would be good examples. The quality of “credence goods” is uncertain both before and after purchase. Common examples of credence goods would be some medical services, consulting advice or the luxury goods already mentioned. In all these examples there are cases when even after purchase one does not know whether a promised result has been effected or not, e.g. if the diet or treatment will in the end effect the prognosis; whether the consultancy advice received or another factor produced a performance improvement; whether the goods purchased have had the desired social impact.

For “search goods” perceived and actual quality are the same by definition so counterfeiting is difficult. For “experience goods”, in the short run, quality as known by the purchaser, and subsequent user, can diverge from quality as perceived by an external observer. In the longer run it will not. Eventually bad experience in use will have an impact on the reputation of the supplier or producer. However, for credence goods their value can only be inferred from the credence given them by others. In the case of professional services such as medicine where there is a real danger to the life of a consumer as a consequence of bad practice, the matter is handled by professional bodies that give credence to their registered practitioners who are able to convince their peers that they are competent. Such social protection is seen as unnecessary in the fashion industry. Credence goods offer counterfeiters considerable opportunities to exploit trusting consumers. Between these extremes there is a vast range of products. Buyers may attribute various degrees of credence to the quality of these products but they can never do so with absolute certainty.

The nature of the fashion industry

The whole fashion industry relies heavily on credence. Obviously for goods where the distinguishing

features involve a high degree of technical sophistication or intricacy, the quality is actual as well as perceived. However, in the fashion industry, designs are often simple and much of the value lies in the perception of the buyer. In the case of haute couture much of the value for the buyer lies in the belief that he or she is purchasing something novel and exclusive. Top designers limit the impact of copying and counterfeiting by changing designs from season to season and by limiting production and distribution. This has the added value in their field that it confirms their reputation as leading highly creative designers as demonstrated by their capacity to continually re-invent themselves in a manner that others are totally unable to emulate. The costs of this strategy are huge but it is sustained by a very small number of very rich buyers.

Who is buying and from whom is what gives a product its credibility. In the absence of a means to assess quality directly people use “surrogate” indicators of quality. In the fashion industry such an indicator would be the choices made by those regarded by the public as fashionable, such as movie stars or other celebrities. They demonstrate to their admirers what fashion is through their choices in design. However, they too are maybe unsure of what is good taste and so they turn to a few key designers who their “set” admires or trusts. It is the latter who ultimately determine the fashion. Another key factor is a designer’s reputation with his peers, the fashion writers and his endorsement, directly or indirectly, by the fashionable. For example, Chanel experienced an explosive increase in sales when Karl Lagerfeld became their house designer, reaching \$400 million a decade after he joined.⁵ By changing designers Chanel showed that an image allowed to grow old and become a little tired could be revitalized and successfully re-launched to attract a new generation of clientele. In other cases a firm such as Disney with a well-known brand name and characters such as Mickey Mouse may license the use of the brand or image in a fashion item. The public perception of what quality entails is, therefore, shaped very much by these image-makers.

Three distinct segments may be identified in the market for fashion items according to their intrinsic and perceived quality. At the top end of the quality spectrum, both actual quality and perceived quality are high. The quality of the design, quality of the

materials and quality of the tailoring are all immediately obvious. At the other end of the quality spectrum are cheap, shoddy badly presented, clothes, or what the clothing industry labels with the Yiddish word “schmutter”. Here both perceived and actual quality are low and such goods behave more like “search goods”. The items that cause most problems are those of medium quality that are not of obvious high intrinsic quality but have a high perceived value. Here the representational features associated with the product will then be crucial to potential buyers’ assessment of their worth, e.g. the position and status of the outlet where they are purchased, the label, the logo affixed to them, etc.

Ethical bases for intellectual property

There are many ethical bases according to which such intellectual property issues can be analyzed. However, Sama and Shoaf (2002) have shown how intellectual property rights dilemmas can be usefully analyzed from four theoretical perspectives:

- Utilitarianism or ends-based reasoning which aims to produce the greatest good for the greatest number of people;
- Distributive justice or an equity-based reasoning aims to provide beneficiaries an equitable (not necessarily equal) distribution of costs and benefits;
- The Moral Rights of Man perspective, which bases decisions on universal laws that assume basic human rights;
- Ethical Relativism that uses a “comparison-based” reasoning based what others are doing in similar circumstances.

The first two of these are derived from theories of the nature of justice while the latter two are more general ethical principles. Utilitarian reasoning (Bentham, 1948; Mill, 1998; Strasser, 1991) is a cost/benefits approach to ethical decision-making emphasizing outcomes or teleological arguments. According to this approach the most ethical decision is one that results in the greatest good for the greatest number of people and has been the dominant approach in economics and public policy for over 200 years.

The utilitarian argument has been the most commonly used argument for intellectual property protection. It is argued that intellectual property needs to be protected in order to provide sufficient incentive to develop new technology and creative products. Without adequate intellectual property protection, potential inventors and creators of new products might decide not to develop new technology for fear of not obtaining adequate returns from investments of time and resources. So it is argued one would have a less creatively productive world with lower levels of welfare. Hence the primary ethical basis for judgment is the economic good of society. For example, patents originated from the fourteenth century practice of issuing “letters patent” or official documents from the sovereign publicly conferring certain rights and privileges. These were believed to have originated in Italy and granted the holder protection from any competition they might encounter from other artisans or apprentices they might train up in the new technology brought into the country. The aim was to encourage foreign technology transfer and innovation and so benefit the local economy.

In contrast, distributive justice is a deontological approach that aims for solutions whereby beneficiaries of the decision receive an equitable (not necessarily equal) distribution of costs and benefits (Kelly, 2001; Rawls, 1971). For example, according to this approach if a consumer pays more for a service or good, he or she might expect better delivery of the service or good or if an individual makes a greater contribution to a project, he or she should expect a greater reward. Intellectual property rights could be defended in this approach on the basis that it is only fair that inventors and creators of original works should receive proper compensation for their creative efforts.

The moral rights approach to ethics harks back to the philosophy of Kant (Bowie, 1999; Kant, 1963, 1990, 1994) and is predicated on a belief that there are certain basic human rights that need to be respected at all costs. This idea of moral rights in intellectual property dates back to the Republican revolution in France in the late 18th century and the subsequent movement throughout Europe that asserted the “Rights of Man”. This rejected the assertion of royal prerogative and asserted instead the rights of citizens to enjoy the fruits of their creative labor, including intellectual and artistic works.

Thus, in these countries, protecting the moral rights of the author is regarded as paramount.

Like moral rights reasoning, ethical relativism is rules-based. However, this perspective rejects the notion of the universal laws and bases decisions on what others are doing under similar circumstances (Sims and Keon, 1999; Wyld and Jones, 1997) or “moral approval from oneself or others” (Jones and Ryan, 1997). According to this approach, intellectual property rights, like other rights, should be based on precedents or what others have done in similar cases. For example, copyright protection can be justified on the basis that historically this has been accepted practice and is the accepted practice in most countries.

As Resnick (2003) has noted intellectual property is particularly prone to ethical disputes because there are many different types of intellectual property to which rights can be attached and there is a variety of different values according to which claims can be assessed. It is, therefore, necessary to distinguish carefully between different types of counterfeiting and different bases for ethical claims. Accordingly we distinguish below between four different types of counterfeit products:

- vanity fakes or low intrinsic, low perceived value products,
- overruns or copies made from left over material,
- condoned copies made by other designers or fashion houses,
- copies made by the fashion houses themselves,

and analyze each according to the four ethical bases described by Sama and Shoaf (2002).

Vanity counterfeits

Vanity counterfeits of low intrinsic and low perceived quality are usually not an immediate problem to the suppliers of the original as they tend to be very evidently not the real thing. However, such a flood of poor quality imitations can be very damaging to a brand in the longer term as it becomes difficult to disassociate the genuine product from the mass of cheap copies produced to look like it.

While both moral rights and utilitarian arguments have generally been used to defend the rights of designers, as outlined above, it should be noted that arguments could also be made on both grounds to justify counterfeiting. While designers may assert their moral right to benefit from their work, an equal moral argument might be made in favor of counterfeiters. Given that many operate in countries where they face economic hardship, some might consider it a basic human right to make a living whatever way one can in order to survive. The question then becomes which moral right takes precedence – that of the designer or the counterfeiter. Similarly, although designers might argue that counterfeiting deprives them of their legitimate economic rights to benefit from their work and will harm society in the long term, it could be argued equally on utility grounds that counterfeiters are merely serving a market of consumers that would otherwise not be able to afford the legitimate product. In such circumstances, it could be argued that the welfare of society as a whole may be increased by relaxing copyright restrictions and that counterfeiters perform a social service. If it pleases a lowly paid worker in a poorly developed country to flaunt a fake of a designer product to which he or she aspires but cannot afford, where is the harm, given that in such cases there is complicity between the buyer and the seller? The buyer knows he or she is buying a fake, so it is also not clear who is harmed by this deception. The only ones who are being deceived are the less knowledgeable who see the buyer wearing the fake and assume that the buyer has purchased an original item. Do the rights of the less knowledgeable public not to be deceived outweigh the rights of the buyer to knowingly purchase a fake for whatever reason? Given that counterfeiting is accepted in many countries and for certain products, the practice could also be justified on relativistic grounds. The music and software industries are facing just such a problem worldwide.

Overruns

The least offensive counterfeit is one of a high quality product whose provenance may be suspect but which has all the other attributes of an original

designer labeled item. This product may have been made to the original design specification by a legitimate producer who, in order to gain additional profit, has run-off a few extra garments to the original pattern from the often very expensive material supplied by the original designer or fashion house. It has all the hallmarks of the original product and only lacks the proper authorization of its creator. Such goods can sell with ease in local markets especially when that local market has been swollen by both local and international tourism. Often such sales local to the source of production end up competing with the genuine article. That this practice is commonplace was confirmed in interviews conducted by one of the authors with counterfeit investigators and buyers in the industry.

In many cases the out-workers see such profit from overruns as a right. As Steidlmeier (1993) has described the perspectives of developing countries towards intellectual property claims are often quite different from those in well-developed countries, especially when it involves exploitation of local resources. Some of the differences can be attributed to different value systems. However, an examination of the profit figures points to other reasons.

There are numerous reports that the use of "sweatshops" is still common practice in the clothing industry (e.g. Bonacich et al., 2000; Smithsonian Institution, 1997; Ross, 1997; Varley, 1998), particularly in developing countries. (According to the pressure group sweatshopwatch, a sweatshop is defined as a workplace where workers are subject to extreme exploitation, including the absence of a living wage or benefits, poor working conditions, such as health and safety hazards, and arbitrary discipline.) Several studies have shown that the workers who produce these items make barely enough to survive. For example, according to a U.S. Commerce Department report, the base wage for garment workers in Honduras is \$0.43 per hour, or \$3.47 per day. After deducting costs for transportation to and from work, breakfast and lunch costs \$2.59, that leaves only \$0.80 a day for families' other basic needs.⁶ Similarly according to independent labor rights organizations in Hong Kong, the minimum wage rate in Shanghai is \$0.21/hour in Shanghai and \$0.26/hour in Guangzhou compared to an estimated living wage of about \$0.87/hour.⁷ Researchers have also found that it is not unusual for

garment workers to be paid below the legal minimum wage.

While clothing workers are earning barely enough to survive, retailers and fashion houses are reaping handsome profits. For example, it is estimated that the price breakdown of a pair of jeans produced in Eastern Europe and sold in Western Europe is as follows: value-added tax (17.5%), brand name company (25%), retailer (50%), transport, import duties (11%) and production costs (13%, of which worker wages constitute approximately 1%) while the approximate cost of producing a pair of trousers made in Madagascar for retail in France at approximately U.S. \$23.57 is as follows fabric (\$3.50), accessories (\$1), transport (\$0.17), production \$2 (of which the workers wages earn \$0.49).⁸ Comparing the large profit margins earned by designers and retailers in the clothing industry with the low wages earned by the clothing workers, the rights of workers to a small share of the profit from left over materials might seem strong on equity grounds. As in the previous case of vanity counterfeits, counterfeiting could also be defended on utility and relativistic grounds.

Condoned copies

As already indicated, creating new fashion is in itself a means of protecting reputation in design. By continuously creating new designs the truly creative can always upstage less capable individuals. Faced with a flow of high quality creativity the latter cannot aspire to be much more than copyists or clever counterfeiters. This is understood and condoned to some extent by the industry itself. The bulk of the revenues in the industry are earned in high street stores. Their buyers go to the fashion shows to capture ideas. They then commission others to produce simplified versions of the designs they see there and like in high volumes. Some producers simply make cheap copies from the pictures of "haute couture" that appear in fashion magazines. People such as Victor Costa and Jack Mulqueen have created businesses grossing over two hundred million dollars by producing products similar to the original creations of others.

In one sense it could be argued that the mass-produced fashion goods industry is about copying

or, less contentiously, simplifying current designs to make available products in high volume at low prices. Copying is thus endemic and could be said to be a core activity of the industry. This copying is accepted not only because the fashion houses benefit from the publicity, but also because the copying legitimates their designs as ones that are desirable and worth copying. In the absence of other indicators of desirability, copying is an indicator of worth. To coin an aphorism “imitation is the best form of flattery” and in accepting this one must also accept that within this boundary of “legitimacy” one will find an inevitable optimal amount of “true” fraud (Darby and Karni, 1973).

The ethical issue then arises in deciding when copying is considered unacceptable. As before, based on utility reasoning it could be argued that copying is justified since it serves a larger market that would not otherwise be able to afford such items. However, since copying is commonplace in the industry and condoned to some extent by designers themselves, the defense of counterfeiting on relativistic grounds becomes even stronger. On distributive equity grounds it could even be argued that copyists deserve some compensation as they are providing valuable publicity for the brand. Weighed against these various arguments the moral rights of the designer seem less significant.

Self copies

The issues become even less clear when the copying is perpetrated by the fashion houses themselves. Firms in the fashion industry, like other luxury goods, face a paradox of how to profit from exclusivity. Luxury goods have different economic characteristics from others such as a lower price elasticity of demand. Price increases reduce demand less than in other industries and in some cases higher prices can actually generate more demand since scarcity plays a key role in determining value and image. This usually means limiting production. However, this may then mean that the firm has insufficient volume of sales to recover their costs of production. This tempts many firms to increase production beyond the bounds set by perceived exclusivity. The problem is that increased production may then impact negatively on the exclusivity of the product.

Gucci is a classic case. During the 1980s Gucci expanded output rapidly. Its products became widely available in an uncontrolled way to too many stores and outlets. The overall image of the brand for exclusivity suffered. It was also tarnished by a huge increase in the volume of poor quality counterfeits that then reached the market. This led to decreased sales for the original product. It even led to some losses on some of the company's own products. Gucci's strategy in the 1990s has been to withdraw its products from thousands of points of sale. It has then systematically set out to recreate its air of exclusivity. Another way out of this marketing conundrum is for the designer or producer, e.g. Giorgio Armani, Gucci, Lacoste, etc., to use a designer label and or logo. The idea is to attach his name, or symbol, or logo, to the good quality, “prêt à porter”, high volume products that modern machinery makes it possible to produce profitably. Top fashion houses in effect use haute couture as a marketing tool to boost the profits that they mainly earn from ready to wear clothes. For example, Resener (1990) writes that “Lanvin was gambling that an attention grabbing haute-couture line would also boost sales of the women's ready to wear line – the real money maker in any French fashion firm”.

Some designers even go as far as franchising their name to others. Clearly the buyer of the designer labeled item understands this and accepts she is not buying haute couture. However, she might have some expectation of an exclusivity that may not be there if the designer produces in high street volumes. Similar ethical arguments (greater utility, equity and relativism) apply as in the previous case except now the counterfeiter is the fashion house itself and the potentially damaged party is the buyer of the good.

The problem of copying can be compounded further if the designer creates a market for “seconds”, “factory rejects” or “relabelling” to sell at even large volumes at a discounted price. The designer's leverage over his market then becomes even more tenuous. Such a marketing strategy gives credence to poorer quality counterfeits as they can claim to be “legitimate” factory rejects. Similar issues arise when there is a robust “second hand” market in out of fashion items sold on by their original purchasers through model agencies. Some fashion houses attempt to resolve this ethical dilemma by relabelling products to allow surreptitious

discounting of stock that has not moved fast enough. Then they hope they cannot be accused of cheating their high paying customers who buy the original brand. However, given the high markup for the original, the value of the brand name would need to be considerable in comparison to the intrinsic value of the item, otherwise the issue of whether the buyer is being cheated arises again.

The problem of high quality counterfeits

So far we have considered only the problems of counterfeits that are lower in quality than the original. However, with the advent of new technologies a different set of ethical issues arises with products that are of higher intrinsic quality than the original. Given the ease with which copies can be made with new technology, one now finds imitations reaching the market before the originals. The less scrupulous do not even wait until the fashion shows to release their product. This adds a new dimension to the debate about the ethics of counterfeiting. On utility grounds it could even be argued that the copyists are the ones who are the true innovators in all but name and it is the designers holding back progress. Drawing an ethical distinction between counterfeiters and entrepreneurs, who are simply exploiting a market opportunity, becomes more difficult. As Hannafey (2003) notes, many entrepreneurs approve of actions that maximize their personal financial reward even if that comes at the expense of others. When the other is a large multinational fashion house that is making substantial profits, some entrepreneurs may consider it perfectly legitimate to earn money through counterfeiting especially when they are providing a high quality product at a low price.

Discussion and conclusions

Here we have concentrated on the high-end fashion clothing and accessories industry. However, many similar issues also arise in other industries where fashion is a significant factor. For example, the practice of discounting "second-hand" goods is also well known in the automobile industry. Most manufacturers keep up sales volumes by leasing cars

at a huge discount to hire companies, who after using them for a while, return them to the manufacturer with exceedingly low mileages on the clock. The manufacturer then sells the now "second hand" vehicle at a discount to their dealer network for sale as used vehicles. Hire companies will even do this on their own account if the manufacturers will sell to them at a large enough discount. It is also a well-accepted practice that competitors attempt to match the features brought out in a new model, even to the extent of employing industrial espionage in the automobile and other industries.

The practice of condoning or encouraging others to copy designs is also commonplace in the computing industry where benefits of cloning include the reduction of competition and the creation of industry standards that can lead to increased profits (Conner and Rumelt, 1991). For example Digital deliberately gave its main competitors such as IBM direct access to its very fast Alpha chip.⁹ This ensured that IBM did not compete by developing a product with similar features. If such a product were developed and introduced into the market it is likely that neither party would be able to recover its sunk development costs before the next generation of chips came on the market.

Our examination of counterfeiting in the clothing industry illustrates the difficulties that can exist in making ethical judgments about cases of intellectual property rights. Cases that seem quite clear-cut on legal grounds often have underlying contextual factors that need to be considered before making ethical judgments, for example norms in the industry itself and disparities in cultural values and economic resources between countries. We believe many similar issues arise in other knowledge-intensive industries such as biotechnology and art. Recent highly publicized cases such as the patenting of the human genome (Flowers, 1998; Sagoff, 1998) have highlighted the difficulty in balancing the rights of the innovator with rights of the public or the world in general to enjoy the fruits of that technological innovation. One could argue that all citizens of the world are entitled to enjoy a great work of art or wear a fashionable item of clothing regardless of their income. There is also a wider issue about what we mean when we talk about the "good of society". Should this only apply to societies in well-developed countries? Those in less-well-developed countries

may have different claims when considering benefits from such knowledge.

On the other hand the industry for high-end fashion goods does have some characteristics that make it atypical compared with other industries. The first is that high-end fashion goods are luxury or aspirational goods (at least the authentic goods are) and most of the value arises from the look rather than the functionality of the item and raw materials used. The second is that production of the good and copying of designs are relatively easy. Thirdly, copying of designs is endemic and to some extent condoned in the industry. Lastly, demand for the goods is subject to credence and social network effects. These factors contribute to practices in the industry that are probably quite unusual.

Clearly we have not attempted to resolve all the above questions in our paper. However, we hope to have stimulated thinking and encouraged further research in this area of business ethics that will surely grow in importance.

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Notes

¹ Available at <http://publish.iacc.org>

² 'Hilfiger Settles Counterfeiting Suit against Retailer', *New York Times* (Late Edition, East Coast). New York, NY, June 28, 2003, p. C.4.

³ 'Anti-Counterfeiting Group: Convicted Counterfeiter Ordered to Pay Back Unlawful Earnings or Face Eight Years in Prison', M2 Presswire. Coventry: December 6, 2002, p. 1.

⁴ 'Minnesota Stores Openly Sell Designer Knock-offs; Prosecution Unlikely', Knight Ridder Tribune Business News. Washington: July 24, 2002, p. 1.

⁵ *Hello Magazine*, 15 March 2004.

⁶ 'Wal-Mart Sweatshops in Honduras', November 17, 1998, National Labor Committee.

⁷ 'Behind the Label: Made in China', March 1998, Charles Kernaghan/National Labor Committee.

⁸ SOMO Bulletin on Issues in Garments and Textiles, Number 1, May 2003 (available at <http://www.clean-clothes.org>).

⁹ Gorman, R. and Lynch, D. 'Digital and IBM Sign Network Systems Management Agreement', *Digital Press Release*, 7 September. 1993, p. 2.

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