Business Horizons (2022) 65, 719—727

Available online at www.sciencedirect.com

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Dupe influencers exploiting social media to peddle luxury fakes

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KEYWORDS
Counterfeit goods;
Dupe influencer;
Influencer marketing;
Social media marketing;
Trademark infringement

Abstract Dupe—slang for duplicate—influencers are individuals who persuade buyers to purchase counterfeits using social media platforms to drive a brand message intended to confer legitimacy on the purchase decision. Dupe influencers sell fake luxury goods online to their cadres of followers, who relate to the influencers' fashion savviness and who trust their judgment of products' quality. In this article, I provide a synopsis of a case Amazon settled against two dupe influencers who used social media to promote the sale of counterfeit luxury products. I highlight the persistent challenge of luxury counterfeits sold online, the consumer complicity of obtaining luxury fakes, and the problem of discerning a knockoff from a counterfeit product. Dupe influencers leverage trust with their followers and use social media tactics, such as unboxing videos and designer haul promotions, to peddle luxury fakes. Recommendations to combat dupe influencers center on monitoring and working with e-commerce platforms to shut down social media posts that infringe a company's intellectual property, raising consumer awareness of the illicit activities of counterfeiters through education campaigns, leveraging legitimate social influencers to debunk the dupe influencers, and pursuing legal remedies.

1. The rise of dupe influencers

In today's marketplace, managers are engaging consumers with their products and services by way of influencer marketing (Campbell & Farrell, 2020; Yang & Ha, 2021). The Association of National Advertisers (2022) defines influencer marketing as "leveraging individuals who have influence over potential buyers and orienting marketing activities around these individuals to drive a brand message to the larger market." According to an eMarketer survey (Statista, 2021), the most popular social media platforms are Instagram (used by 93% of respondents), Instagram Stories (83%), TikTok (68%), Facebook (68%), YouTube (48%), Instagram Reels (36%), Pinterest (35%), Twitter (32%), Snapchat (26%), blogs (25%), and Twitch (13%).

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https://doi.org/10.1016/j.bushor.2022.07.005
0007-6813/

But there is a dark side to this engagement with consumers: the dupe influencer, who peddles luxury counterfeit goods (American Apparel & Footwear Association, 2021). Dupe—slang for duplicate—influencers create a market for fake goods and urge their followers to purchase products via e-commerce platforms. They share links on Instagram to illegitimate products sold on Amazon, DHgate and other online marketplaces. These influencers create product testimonials of the fakes on TikTok, YouTube, Pinterest, and the like, employing selling techniques based on personal ("We look for Gucci-inspired items for women over 40"), social ("One of my favorite viral TikToks was me unboxing a dupe designer bag"), and financial appeals to online followers ("It would break my soul to pay the designer price of $470 for this Burberry scarf when you can spend just under $17"; American Apparel & Footwear Association, 2021; Mommies, Makeup, & Moscato, 2019, 2021).

Savvy dupe influencers use discount codes, giveaways, and apps both to reward and to reach out to their followers. Some of these influencers claim to get their merchandise from online marketplaces, such as DHgate.com, a large business-to-business and business-to-consumer cross-border e-commerce platform located in Beijing, China. Searching for "designer inspired" at the DHgate website yields an array of product choices such as fake Cartier bangles. For the cult followers of dupe influencers, this online shopping platform represents the means to obtain their counterfeit luxury goods. Social media postings are replete with "DH Gate reviews" and statements thanking this e-commerce platform for sending products to review. Some posters claim to give these fake products to their followers—becoming active parties to the illegal promotion of counterfeit products.

To counter this trend, other influencers are attempting to educate their followers about the illegality of selling counterfeits and about the bad actors associated with this illicit trade. Sophie Shohet (with 364,000 subscribers) leverages her knowledge of fashion in her YouTube video "Buying Fakes: The Dark Truth" (314,675 views; 5,500 likes).[1] The key themes in her video are (1) the Chinese use of prison and child labor to make fake designer bags, (2) descriptions of the criminals supporting these operations, and (3) the prospect of losing one's money on PayPal owing to the inability to return fake items. Sophia Shohet advises her followers to save for what they want—even if it takes years—and stresses how confident they will feel owning the real thing.

In view of these challenges, I highlight the evolving legal measures used to prosecute dupe influencers, provide a synopsis of the counterfeit luxury market, describe the motivations of complicit consumers to obtain fakes, illustrate ways dupe influencers promote the sale of counterfeits, and conclude with recommendations for combating the growth of luxury counterfeits sold online via dupe influencers.

2. The legality of selling counterfeits through dupe influencers

The studies on the demand side of counterfeit consumption intensified 3 decades ago and established that consumers are willing to purchase counterfeits regardless of their perceptions of the illegality of act (Bloch et al., 1993; Tom et al., 1998). The selling of counterfeits in the United States is illegal, but the law does not punish consumers for buying counterfeits. A counterfeit luxury product that is identical to the legitimate good infringes on the trademark of that product and is illegal to sell. A knockoff will resemble the genuine product but does not duplicate it and is therefore legal (Zaczkiewicz, 2016). Dupe influencers may not understand the legal penalties involved in promoting the sale of counterfeits. Trademark infringement includes contributory infringement for sellers who encourage or facilitate illegal and tortious activity (Aini, 2022). In 2003, Louis Vuitton used the "contributory liability principle" to target intermediaries, such as courier companies, property owners, and payment facilities in well-known counterfeit locations, such as Canal Street in New York City (Louis Vuitton, 2022).

2.1. The Amazon case

The promotion of counterfeits through social media is a crime. Amazon rigorously vets the legitimacy of third-party sellers and spent US $500 million launching its Counterfeit Crimes Unit to pursue the sellers of counterfeit goods (Osborne, 2020). Amazon reached an undisclosed financial settlement with two influencers who peddled luxury fakes through various social media accounts and used third-party sellers at Amazon to sell the counterfeit goods (Palmer, 2021). Amazon claimed in its complaint for damages and equitable relief that dupe influencers and third-party sellers were diminishing the value of its brand and knowingly

[1] https://www.youtube.com/watch?v=9fr5_PDp-TM

deceiving customers about the authenticity and origin of dupe products and about their affiliations with luxury brands (*Amazon.com, Inc. v. Kelly Fitzpatrick et al., 2020*).

In November 2020, Amazon pursued legal action against 13 defendants: two social media influencers, Kelly Fitzpatrick and Sabrina Kelly-Krejci, and 11 third-party sellers (see *Amazon.com, Inc. v. Kelly Fitzpatrick et al., 2020*). Ironically, before the litigation, Kelly Fitzpatrick was a member of the Amazon Influencer Program. Both Fitzpatrick and Kelly-Krecj used Instagram, Facebook, TikTok, and personal websites to sell dupe products to consumers. The strategy was simple: Promote the dupe luxury products through these social media accounts and then sell through third-party Amazon vendors using photos of noninfringing products (see Figure 1). As Amazon described its legal case (*Amazon.com, Inc. v. Kelly Fitzpatrick et al., 2020*, p. 2):

> [T]his case revolves around a pair of individuals, Defendants Kelly Fitzpatrick and Sabrina Kelly-Krejci, who engage in social influence activities on various websites and apps for the admitted purpose of promoting, advertising, and facilitating the sale of counterfeit luxury fashion goods by the Seller Defendants. Together, they engage in a sophisticated campaign of false advertising for the purpose of evading Amazon's counterfeit detection tools.

Figure 1. Dupe influencer advertisement

Source: Amazon.com, Inc. v. Kelly Fitzpatrick et al. (2020, p. 16).

In the court filing, Amazon provided a multitude of examples of Instagram and other social media posts that promote these illicit purchases. The court filing illustrated how easily the influencers created new Instagram accounts, personal websites, and other social media accounts to avoid takedowns by the e-commerce platforms, resulting in an ongoing game of cat and mouse. The case shined a light on the "order this, get this" selling tactic, whereby consumers can order a seemingly legitimate item with the expectation of receiving a counterfeit. One example showed a generic black wallet for sale, but purchasers received a counterfeit Gucci wallet. Such tactics aim to bypass anticounterfeiting efforts, such as artificial intelligence screening for designer trademarks, at Amazon's online marketplace (see Figure 1).

The two dupe influencers and Amazon reached an undisclosed financial settlement in November 2021. As part of the agreement, Fitzpatrick and Kelly-Krecjci can no longer link to Amazon and are barred from marketing, advertising, promoting, or selling any products on the company's platform. Amazon pledged part of the financial settlement to charities and toward funding a consumer-awareness campaign through the International Trademark Association (ITA). Amazon did not pursue further litigation against the other 11 defendants since these sellers were allegedly located in China (Palmer, 2021).

3. The challenge of luxury counterfeits persists

Interbrand's list of the 100 leading global brands in 2021 includes four luxury brands in the top 35: Louis Vuitton (at over US $36.7 billion in brand value), Chanel (over $22.1 billion), Hermès (over $21.6 billion), and Gucci (over $16.5 billion; Interbrand, 2022). The luxury brand marketplace is booming and is valued at €39 billion in 2020, up from €33 billion in 2019, and global online luxury

sales are predicted to be 30% of total sales by 2025 (Luxe Digital, 2021). But as online sales increase, the problem of luxury counterfeit products continues to plague brand managers. In 2019, the total trade in fakes was US $4.5 trillion, with 60%—70% of that amount in counterfeit luxury merchandise (Fontana et al., 2019). Louis Vuitton retains 60 lawyers and spends US $17 million annually on anticounterfeiting legal actions. The company's anticounterfeiting efforts date back to 1896, when Georges Vuitton created the distinctive Monogram canvas to thwart counterfeits of the company's products; the innovative design was simply harder to replicate in this period (Louis Vuitton, 2022).

The U.S. Department of Homeland Security provides an annual report of seizures of counterfeits based on the value of manufacturers' suggested retail prices. For 2020, China and Hong Kong were the two primary suppliers of counterfeit goods, responsible for 50.5% and 32.8% of seizures, respectively. The main product categories apprehended by U.S. Customs and Border Protection (2021) authorities involved watches/jewelry (33% of total seizures), handbags/wallets (22%), and wearing apparel/accessories (12%). The Global Brand Counterfeiting Report estimated online counterfeit sales at US $323 billion, with luxury brands suffering a loss of $30.3 billion by way of internet sales (Business Wire, 2018).

The rise of the dupe influencer has only exacerbated the growth of online luxury counterfeits; social media posts are easy to find. In 2021, one study found 39,000 posts on Instagram using the hashtags #designerdupes or #designerdupe, and over 6,517,000 views on TikTok of posts with the hashtags #designerdupefinds or #dupedesigner (United Laboratories, 2022).

4. Consumer complicity in luxury counterfeits

A consumer's willingness to knowingly obtain luxury counterfeits is shaped by:

1. *Attitudes and beliefs* about the quality of the luxury fake goods (Phau & Teah, 2009; Sharma & Chan, 2017; Song et al., 2021);

2. *Ethical concerns* about the illegality of the act (Bian & Moutinho, 2009; Bian et al., 2016; Eisend, 2019);

3. *Social aspirations* of owning the counterfeit luxury good (Pueschel et al., 2017; Shan et al., 2021; Wilcox et al., 2009);

4. *Positive hedonic gains* in the shopping experience (Chaudhry & Stumpf, 2011; Randhawa et al., 2015);

5. *The psychosocial risk* of losing face through the public embarrassment of owning a luxury counterfeit (Shan et al., 2021); and

6. *Interpersonal influence* that pressures consumers to conform to and impress others through luxury counterfeit consumption (Iyer et al., 2022).

Consumers who experience counterfeit product purchases as uplifting or mood-enhancing are more often complicit purchasers (Nia & Zaichkowsky, 2000). The shopping environment plays a principal role in stimulating the counterfeit purchase decision (Chaudhry, 2017; Chaudhry & Zimmerman, 2013). The role of family, friends, and peers in stimulating purchases of luxury counterfeits has also been recognized in previous work (Cesareo et al., 2017), but the impact of social media influencers on consumer complicity is a novel concept.

4.1. Authenticating luxury products

The spectrum of fake luxury goods can range from cheap knockoffs to high-quality counterfeits, and it may be difficult for the consumer to discern whether a given product is legitimate. Initial research in this area centered on whether the consumer knowingly obtained counterfeits in the marketplace—that is, on whether the purchase situation was deceptive or nondeceptive (Cesareo et al., 2017; Grossman & Shapiro, 1988).

Jay Greene of the *Washington Post*, in his YouTube video "Can you spot the fake?", consults an expert from The RealReal, a luxury consignment e-tailer, to authenticate his purchases on Amazon.[2] The expert effortlessly identified all three luxury products (a Gucci Marmont belt, a Louis Vuitton bag, and a Hermès bangle bracelet) as counterfeit. But even the authentication experts can be deceived. Chanel sued The RealReal for selling counterfeit bags since the serial numbers in the purses sold at the company's online consignment site did not match the company's records (Westra, 2020). Overall, the gray area involved with distinguishing between a counterfeit and a knockoff may be impossible to eliminate fully. Does the consumer recognize features of a product as a trademark? Even the distinctive red soles of

[2] https://www.youtube.com/watch?v=ihvfaoJKNPo

Louboutin shoes have been contested in the courts (Boggs & Grasser, 2017). Louis Vuitton has sued individuals and entities for using its designs, alleging trademark infringement, trademark counterfeiting, and trademark dilution (Law, 2019).

Dupe influencers use other terms, such as "replica" and "design-inspired," in their social media posts, and it is unclear whether these terms represent counterfeits or knockoffs. Even the influencers have reached out to educate their followers. One fashion advocate states:

> I've heard the term "dupe" and "counterfeit" thrown around a lot in the fashion world but never really put much thought into the difference between the two terms. . . and I started to realize that not many people understand the difference. And that's a BIG Problem. (Jeans and a Teacup, 2019)

Another fashion blogger simply stated: "The amount of people linking to these 'dupes' is crazy—especially since they are not calling them what they actually are. . . FAKE" (It's Casual, 2022).

4.2. Building trust

Dupe influencers reach their target audiences with specific jargon, such as #designerdupes, to cultivate and retain followers for luxury products. The dupe influencers link their social media accounts to various e-commerce platforms (e.g., DHGate.com, Amazon.com), stress the value and quality of the designer dupes, and emphasize the enormous price differences between real and dupe products. Dupe influencers have thousands of "friends" and have made the act of obtaining luxury counterfeits socially acceptable by way of e-socialization (Kennedy et al., 2021).

Deanndra Nunnery (49,900 subscribers) targets a viral audience in her YouTube post "The Best Handbag Dupe Styles for 2021 + How to Dress Them Up!" (24,292 views; 615 likes).[3] This influencer shows her followers how to be "bougie on a budget" and engages them for over 12 minutes of fashion tips, such as how to accessorize dupe bags with chains available on Amazon. This influencer uses her prior work experience with Dior cosmetics to further embellish her expert knowledge of luxury brands. The video shows all of the dupe merchandise and examines the quality of each designer bag, with a closing pitch to "like and subscribe" to Nunnery's content.

A recent study by the U.K. Intellectual Property Office (2021) examined the impact of social media influencers on consumer complicity with counterfeits. The key drivers of consumer complicity were trusted others, risk blindness, rationalizations, and risk appetite. In the study's survey of U.K. consumers, family and friends were still important in motivating dupe purchases, but almost half of respondents aged 16—24 mentioned the role of social media influencers. Overall, the age of the respondents matters: Young people are simply more willing to obtain counterfeits through influencers, and they have limited perceptions of the risk and harm incurred through the illicit act (Graham, 2020; U.K. Intellectual Property Office, 2021).

4.3. Unboxing and designer hauls

The principal ways that dupe influencers promote fakes include unboxing videos, designer dupe hauls, sponsorships, and giveaways (American Apparel & Footwear Association, 2021). These hawkers of falsified luxury products readily use various hashtags to attract potential buyers, such as #designer dupes, #haul, #unboxing, #giveaway, #haultok, or #dupesforcheap. Hashtags such as these are novel but not innocuous: Active followers knowingly obtain fakes through a multitude of social media accounts using targeted searches like #haul (1,220,000 hits on April 29, 2022) or #luxurydupes (9,620 hits on April 29, 2022).

Dupe influencers create hedonic experiences in unboxing posts, viral videos that emphasize the excitement of opening a new product and that facilitate interaction between influencers and followers. These videos generally contain quite convincing product reviews. The dupe influencer can give the source for obtaining the product, the price, delivery terms, payment mechanism, and the like. Googling "duped unboxing" yields 1.1 million results (February 6, 2021).

Mommies, Makeup, and Moscato is an influencer account that features two dupe influencers, Christina and Kelly, who offer fashion advice for women over 40. In their pitches to their followers (92,800 YouTube subscribers among them), these influencers compare the real with the dupe merchandise, often mentioning "designer-inspired items" (e.g., Gucci-inspired) and providing links to purchase the fake items. Both influencers speak with authority on the quality of the authentic

[3] https://www.youtube.com/watch?v=MCFMBnyj5kU

merchandise. In one video, a Burberry scarf that retails for $470 is sold by the influencers for under $17.[4] No mention is made that the Burberry tartan pattern—of tan, black, white, and red horizontal and vertical lines, used by the firm since 1856—is a trademark. In 2021, Burberry won an injunction against a Chinese brand, Baneberry, for trademark infringement (Hall, 2021).

Social influencers are using the psychology of selling to effectively incorporate personal, social, and financial appeals to their online audiences (Kulikov, 2018). These influencers can shift consumers' levels of product involvement and can spur impulse purchases with their array of offerings. A consumer may wait years to justify the price of a real Gucci purse (high involvement), but within minutes an influencer can persuade the consumer to purchase a counterfeit Gucci purse (low involvement) for a fraction of the genuine price.

5. Recommendations to combat dupe influencers

The concept of dupe influencers is so novel that the reports of the American Apparel & Footwear Association (2021) and of the U.K. Intellectual Property Office (2021) served as my primary basis for understanding this new way to promote fakes online. Finding ways to curb these influencers is a novel task, and I advise the following remedies.

5.1. Monitoring the dupe influencer

Dupe influencers know how to employ multiple channels to sell dupe items through various e-commerce platforms. For this reason, issuing takedown notices will be an endless task. Brand-protection experts, such as Globaleyez, are already asserting their role in monitoring social media posts of dupe influencers who infringe a company's intellectual property. The firm uses keyword searches, reverse-image searches, and software that monitors social media pages and advertisements to assist brand owners in thwarting counterfeits (Globaleyez, 2021).

The problem lies with the platforms to monitor and shut down popular hashtags such as #desingerdupes and #desingerdupefinds. TikTok shut down one hashtag, #designerdupe, but others like #dupedesigner still remain searchable on its platform (American Apparel & Footwear Association, 2021). Advertisements with links to well-known sellers of fake goods, such as DHgate, should be eliminated. Global luxury houses, such as Kering—owner of Gucci, Yves Saint Laurent, and other luxury brands—have started working with e-commerce giants, such as Alibaba, to develop intellectual property platforms and to take down listings (Bloomberg Businessweek, 2019).

5.2. Raising consumer awareness

A decade ago, the luxury goods industry used anti-counterfeiting slogans, like "What do your fake fashions say about you? I'm a phony" and "Real ladies don't like fake," to get consumers to disassociate with counterfeit luxury brands (Chaudhry et al., 2014). Other anticounterfeiting campaigns employed role models (e.g., Jackie Chan's "Mission to Stop Piracy"), peer pressure (e.g., "Piracy Doesn't Work in New York City"), education (e.g., Pfizer's "Counterfeits are smart. You can be smarter"), and fear ("Terrorists sell pirate DVDs to raise funds") to minimize consumer complicity in counterfeit purchases (Chaudhry & Zimmerman, 2013). Amazon's recent settlement with two dupe influencers will partially fund the consumer-education campaigns of the ITA (ITA; Palmer, 2021).

In its outreach efforts,[5] the ITA targets young consumers (ages 14—23) and attempts to desocialize complicity through emphasizing the negative consequences of counterfeits: the child labor used to make counterfeit goods and the organized crime rings that reap the profits of this illicit trade (Kennedy et al., 2021). Principal ITA sponsors include Amazon, Alibaba, and eBay.

Other measures can employ legitimate influencers to degrade dupe influencers. One influencer urged followers to educate themselves and to avoid purchasing knockoffs, even if they are legal, since the people making these items work in harsh conditions (Jeans and a Teacup, 2019). Another fashion influencer posted about the embarrassment she felt from owning a fake designer bag and the pride she felt in buying an authentic luxury purse after months of saving (It's Casual, 2022).

But finding the education campaign that is a game-changer—one that substantially diminishes the lure of counterfeits trafficked by dupe influencers—is a formidable task. A quick perusal of the number of views, likes, and favorable reviews posted in social media by followers of dupe influencers is sufficient omen of the battle ahead.

[4] https://www.youtube.com/watch?v=vtSo7kE5Pio

[5] unrealcampaign.com

5.3. Pursuing legal remedies

The recent pursuit of legal remedies to thwart dupe influencers and third-party sellers on Amazon is just the start of future case litigation (*Amazon.com, Inc. v. Kelly Fitzpatrick et al., 2020*). The U.S. Federal Trade Commission (FTC) has started to rule on other deceptive practices online, such as "illegal payola" that compensates influencers who write bogus reviews (Fair, 2019). Commissioner Rohit Chopra openly lamented the limited repercussions of previous FTC sanctions and called for tougher penalties against firms that employ influencers without disclosure (Federal Trade Commission, 2020). However, recent FTC cases have not addressed the problem of dupe influencers.

The Amazon case provides the basis for future legal remedies that seek civil penalties by way of financial damages. A brand owner usually responds by sending a cease-and-desist letter to the infringer of its trademark. These cases are often settled out of court to avoid delays and attorney fees. But seeking criminal penalties is also an option, especially when the infringer is selling counterfeit items (UpCounsel, 2022).

Whether the Amazon case sends a message to dupe influencers about the illegality of their online activities remains to be seen. Even Amazon dropped its litigation against the other defendants because these third-party sellers were allegedly located in China. Whether e-commerce platforms should seek criminal damages against dupe influencers is a question for the future. In general, they can afford the attorney fees in order to pursue legal precedents that safeguard the trademarks of brand owners' products. But individual legal remedies can only achieve so much as long as both sellers and their followers continue to view fakes, especially counterfeit luxury products, as a victimless crime.

6. Final thoughts

Dupe influencers will be a growing problem for e-commerce platforms, brand owners, and legal professionals for years to come. While marketing managers are embracing the use of various social media influencers—ranging from newcomers (0–10,000 followers) to the rich and famous (1+ million followers) to sell a myriad of legitimate products—there is another type of influencer, the dupe influencer, who will continue to promote counterfeit products. The many YouTube videos posted under the guise of selling designer-inspired products (using hashtags like #designer hauls or #dupedesigner) illustrate the extent of the problem. Influencers are effectively using personal selling techniques—personal, social, and financial pitches—to get their followers to purchase everything from luxury bangles to handbags. Managers and legal counsel must prepare for the task of eradicating dupe influencers' social media presence to safeguard their trademarks. Thwarting the dupe influencers will involve cooperation between the large e-commerce platforms, the brand owners, the agencies designed to protect trademarks, and the U.S. court system, and it will require the development of new laws and regulations that shut down these illegitimate influencers. Until various stakeholders develop specific anticounterfeiting and enforcement measures for this type of deceptive online marketing, the dupe influencers will continue to thrive and to offer designer hauls to followers who knowingly obtain luxury counterfeits.

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