Counterfeiting, fashion and the civil society

Laura Meraviglia

Department of International Economics, Institutions and Development (DISEIS), Università Cattolica del Sacro Cuore, Milano, Italy

Abstract

Purpose – The paper deals with counterfeiting, its problems and its effects, analyzing the case of Italy in particular. The purpose of this paper is to underline the scale of the phenomenon and its economic and social impact on the fashion industry and civil society, concentrating on the involvement of organized crime. Lastly, it offers some possible counter-strategies for detecting continual violations and ensuring it spreads no further.

Design/methodology/approach – The author uses a multidisciplinary approach to the issue of counterfeiting in the fashion industry; beginning with an economic analysis of the phenomenon and examines its social implications, going deeper into the role of the consumer from a sociological point of view and, from a forensic one, the role of organized crime.

Findings – Three things emerge from the analysis of the main features of the connection between counterfeiting, the fashion industry and the consequences for civil society: the size of the phenomenon, the low level of awareness in government and civil society about the seriousness of the problem, and the link with organized crime (and resulting social implications).

Social implications – The main social implications of this work concern first the role of consumers, who may vary greatly in the degree of awareness they exercise when buying, and second the close connections between organized crime and the counterfeiting supply chain.

Originality/value – Counterfeiting has become a global business. In Italy it has reached huge dimensions and has developed some peculiar aspects, particularly in the fashion industry: this paper brings out these economic, social and criminal aspects. In order to effectively tackle this problem, therefore, it is essential to work out both supply side and demand-side strategies and to strengthen co-operation across national borders, taking steps to control the whole supply chain as well as working to educate consumers.

Keywords Consumer behaviour, Fashion, Supply chain, Counterfeiting, Organized crime, Made in Italy

Paper type Research paper

Introduction

The world’s biggest manufacture of fakes is in the field of fashion. According to estimates made by the International Anti-Counterfeiting Coalition the global market for counterfeit goods is worth 600bn USD (International AntiCounterfeiting Coalition, 2012). In terms of seizures between January 1 and December 31, 2011, the top four goods categories by retail price (in US dollars) are: fashion accessories ($686m, 38.5 percent), watches ($215.7m, 12.1 percent), footwear ($198.8m, 11.2 percent) and clothing ($190.9m, 10.7 percent). In terms of product value, Nike comes top of the list ($462m, 26.9 percent), followed by Louis Vuitton ($136m, 7.9 percent) and Tag Heuer ($84.5m, 4.9 percent) (World Customs Organization, 2012).

China is without any doubt the foremost producer of fakes (Union des fabricants (UNIFAB), 2010). In 2008, according to data from a sample of 121 countries (United Nations Office on Drugs and Crime, 2010), 65 percent of all counterfeits related to China. Within Europe the leading producer is Italy, and here it is fashion goods which lead the way. Some 35 percent comes from the Mediterranean area and is exported to the
European Union, USA, Africa and eastern Europe; the main culprits are Italy (as already mentioned above), Spain, Turkey and Morocco (Istituto di Centromarca per la lotta alla Contraffazione, 2012).

Globalization has made all kinds of interaction among these countries much easier, and the trade in fakes, too, has benefited from the expansion of international markets. For instance, more and more fake Chinese part-manufactures reach the EU through points of entry where customs control is weaker, such as North European ports and new member states; they are then assembled and given different fake trademarks according to the country of destination. In addition, considerable profit opportunities have arisen from the arrival of new markets on the international scene replacing the collapsed highly regulated economic regimes of former Soviet countries and from the partial introduction of market economics as in China (United Nations Interregional Crime and Justice Research Institute (UNICRI), 2011). However it can be hard to identify which country counterfeit goods come from, as they are often distributed through intermediaries or third countries to evade controls (Izzi, 2008). That is why all data must be interpreted with caution.

In this sector, more than in others, a key part is played by the end consumer though often unwittingly, blind to the dangers caused by counterfeiting; it is the consumer who sustains the demand for fakes because of their low price, and so helps the practice to spread (Ministero per lo Sviluppo Economico (MiSE), 2012b).

One might assume, therefore, that counterfeit goods have a special appeal only for consumers with lower incomes; but in fact many empirical studies have shown that a significant number of high-income consumers buy non-authentic goods (International Chamber of Commerce (ICC) and Business Action to Stop Counterfeiting and Piracy, 2011).

When we talk about counterfeiting, we have to consider a whole industry in its own right: a real competitor for legitimate firms, against which they have to defend their market shares. The counterfeiter, though, is an unfair competitor as it does not respect rules.

Turning to civil society, it is important to underline the connections between the world of counterfeiting and organized crime: the substantial resources that counterfeiting channels into criminal networks and other groups that disrupt and corrupt society, the exploitation and blackmailing of illegal workers, the generating of revenue in the “black” economy and, correspondingly, money-laundering (Anti-Counterfeiting Group (ACG), 2008; Izzi, 2008). These interconnections are the real challenge society has to face, not the erosion of profits: the vast majority of those who buy fakes would not have bought the genuine article anyway, because of its high cost.

In investigating this phenomenon we should analyze anti-counterfeiting measures on the supply or the demand side, and consider the tactics companies and civil society use to deter counterfeiters. We also need to highlight relevant features of the Italian economy, observe the part played by economic policies and analyze the various kinds of action that could be taken to tackle the problems we describe.

Counterfeiting in Italy
Firms usually make a substantial investment in their brands. In the case of fashion products these efforts are aimed at building up brands as exclusive and glamorous. To achieve such an ambitious purpose brands must be both popular and inaccessible to the masses: this is the key to the way counterfeiting works: the more money firms put into building top brands, the more likely those brands are to be counterfeited (Commuri, 2009). That applies to Italy as the home of luxury brands with the highest prestige and of “Made in Italy” more generally, all brands exposed to unfair competition from
counterfeit products. Italy is also one of the countries that risks a loss of national competitiveness from the development of the market in fakes because the great bulk of its economy consists of small and medium-sized family businesses which lack the resources to tackle the problem adequately (Meraviglia, 2011).

Italy is both producer and consumer of counterfeit goods: a producer, because the combination of a traditionally large “black” economy and the presence of outstanding brands has created favorable conditions for getting hold of industrial intellectual property belonging to others (Centro studi di investimenti sociali, 2009); and, on the demand-side, Italy is also Europe’s foremost consumer of fakes (Izzi, 2008), with many of what may be called “aspirational” customers – middle class for the most part, their consumption patterns modelled on those of their betters who buy luxury brands as a matter of course (Manzocchi and Quintieri, 2009).

Offshoring has made it easier for other manufacturers in the host countries to imitate production processes and/or products in illegal ways. This, too, applies to Italy, whose manufacturers have been relocating production, especially to eastern European countries and China (European Foundation for the Improvement of Living and Working Conditions, 2007). The conquest of new markets has become a priority, a necessary condition for consolidation or growth in today’s fashion industry; if a firm cannot produce cheaply enough at home to face the competition it has two alternatives: it can either leave the market or extend its production arrangements to countries where it can manufacture at lower cost, while keeping its other activities in Italy. That way it can stay in business; but the other side of the coin is that illegal imitation becomes more likely.

Table AI shows some estimates of counterfeiting in the Italian market alone, that is, excluding international trade (Centro studi di investimenti sociali (CENSIS) e Ministero per lo Sviluppo Economico (MiSE), 2012). As we can see, counterfeiting involves about €7bn of turnover; if legitimate, such sales would have generated almost €14bn in additional production and more than €5bn of added value. Furthermore, the government has lost almost 5bn in direct and indirect taxes, and this counterfeiting loses some 110,000 jobs to the Italian economy, for the genuine companies lose sales and consequently have to produce lower quantities, requiring fewer employees. So an economic problem becomes a social one. The foremost industrial classification involved is clothing and accessories, with an estimated value of €2.5bn (Table AII).

Within the country as a whole we should note some areas particularly affected by counterfeiting in terms of production: Campania for clothing, Tuscany, Lazio and Marche for leather goods, and the North-west and North-east for watches.

In the last four years the Italian tax police (Guardia di Finanza) and customs (Agenzia delle Dogane) have seized almost 229m articles, 23 percent of them fashion accessories (more than 52m items), 20 percent clothing (over 43.5m items), 6 percent footwear (almost 13m items), 2.8 percent eyewear (6.4 m items) and 1.3 percent watches and jewelry (3 m items) (Ministero per lo Sviluppo Economico (MiSE), 2012a).

The fact that Italy is one of the main centers for the production and distribution of fakes discourages inward investment by foreign companies while at the same time casting suspicion on legitimately exported Made in Italy products – with obvious damage to the reputation of Italian production. Indeed the fall in investment may also be connected with a decline in exports due to poor reputation tainting all Italian products (even genuine goods) with a spreading belief that they may be of low quality (CENSIS and MiSE, 2012).

The Counterfeit Goods Directorate-General was established in an effort to tackle the problem[1]. It works at national and international levels to strengthen and protect intellectual property and, as its name indicates, to help fight counterfeiting.
One major success of this institution has been the Intellectual Property Counterfeiting Investigation Report (in Italian, IPERICO). A multidisciplinary task-force of experts has been working on this for years, collecting, collating and interpreting information and data on the anti-counterfeiting activities of Italy’s various law enforcement agencies, namely the Customs, the Tax Police, the local police and the Carabinieri (MiSE, 2012a). Counterfeiting is by definition an illegal activity, so it is difficult to get accurate figures given the problems associated with collecting and comparing data. Measuring this phenomenon is consequently very difficult, if not impossible; we can rely only on estimates. Agency seizures, on the other hand, can be measured with near-certainty.

IPERICO contains data answering the following questions: what types of goods have been seized, how many items, when (month and year), where (city and region) and who carried out the seizure (which authority, corps or agency)?

The first IPERICO Report was released in July 2011 and covers the years 2008-2010; an update covering 2011 has since been issued. It contains more than 70 tables and figures (MiSE, 2012a).

As we can see from Table AIII, the total number of seizures in the four-year period was over 71,000 with a total of 228 m items and an estimated value of over €2.2bn. We should note a decline between 2008 and 2011. The categories most frequently seized are clothing and accessories, shoes, glasses, watches and jewelry. There are some differences among categories: for instance, the number of clothing and accessories seizures fell over the four years, even though they still represent 70 percent of the total. Seizures of watches and jewelry, by contrast, almost doubled.

In terms of number of articles seized, the categories most involved were fashion accessories, clothing and shoes, with estimated values of over €1bn, €459m and almost €298m respectively.

The effects: economic, social and political dangers of fakery
The situation depicted in the previous part confirms that counterfeiting is a longstanding problem which is growing in size and scope. Actually, though some people still think of it as a negligible, “petty crime” phenomenon, it ought not to be underestimated since it involves society as a whole and therefore needs to be addressed structurally at the highest level.

Consumers may perceive it as a “victimless” crime with no social opprobrium; but there are social costs to be seen, in the form of negative externalities[2] (OECD, 2008).

Counterfeiting matters to business because of its impact on sales and licensing, and consequently on market share; also on hard-won brand value acquired over decades of work and corporate reputation, research, creativity and communication, all crucial to a product’s success (Commuri, 2009); moreover it is necessary to consider the resources firms spend fighting the phenomenon, and the capital they invest in developing new products in order to distinguish themselves from the fakes. Many fashion companies (e.g. Louis Vuitton, Abercrombie & Fitch) use private investigators and spend millions of euros every year combating fakery (Kim and Karpova, 2010). In 2005 Cartier spent some €3m; LVMH, the parent company of Louis Vuitton, spent over €12m, employing 40 full-time lawyers and 250 independent investigators (Stevenson, 2005); even today this luxury house has some 60 people at various levels of responsibility working full-time on counterfeit prevention in tandem with an extensive network of outside investigators and a team of lawyers[3].

What is more, innovation and creativity are a competitive advantage only if companies know that no one can steal their idea and duplicate it using cheaper labor and
other inputs. Illegal companies bear no promotional costs for their product – they exploit the reputation of the legal goods they set out to copy – nor any of the administrative costs associated with financial reporting and accounting (Berman, 2008). All this results in loss of competitive advantage and market inefficiencies.

This is of concern to governments because of the direct economic damage entailed in total evasion of tax and social security contributions. To these direct economic losses are added other, indirect ones: higher unemployment and welfare costs, the substantial resources channeled into criminal networks; the potential negative impact on innovation and growth (United Nations Office on Drugs and Crime (UNODC), 2013). Moreover, why should firms invest so much money, time and talent in creating something new if it will easily be imitated by others who do not have to bear the same costs as a legitimate corporation?

Counterfeiting also matters to consumers because of the significant health and safety risks of substandard counterfeit products to anyone using them. In a word, the customer is being deceived (Izzi, 2008).

Why do people buy counterfeit products?
Why should a consumer buy a counterfeit item?

Many surveys have been carried out to investigate the reasons behind the purchase of counterfeit products (Eisend and Schuchert-Guler, 2006; de Matos et al., 2007; International Chamber of Commerce and Business Action to Stop Counterfeiting and Piracy, 2011; Kim and Karpova, 2010; Koklic, 2011): the main findings are that clothing is the product category most often purchased and that low price is the most common purchasing stimulus (Bloch et al., 1993; Ang et al., 2001; MiSE, 2012b).

In particular Eisend and Schuchert-Guler (2006) identify four broad groups of variable which drive counterfeit demand: price, demographic (such as age, gender, education and income) (Bloch et al., 1993), socio-cultural context and psychological characteristics, meaning attributes related to personality, values and attitude to counterfeiting (Koklic, 2011).

Chaudry and Zimmerman, 2008 underline the general lack of understanding of the many kinds of damage caused, and the resulting tolerance of this type of purchase; as a direct consequence, a majority of those surveyed said they had bought counterfeit goods more than once.

This lack of awareness and understanding about the phenomenon and its consequences is something consumers often share with law enforcers, many of whom still regard counterfeiting as an offense which scarcely deserves their precious time and resources (United Nations Interregional Crime and Justice Research Institute (UNICRI), 2010); consumers generally feel no guilt either over the tax evasion or about the boost to organized crime or the economic harm done; indeed, counterfeiting is usually perceived by society as a victimless crime. This view seems to gain legitimacy since under Italian law the consumer of a counterfeit product – someone who simply buys the end product without taking part in the chain of production – commits no crime but is merely liable to a fine of between €100 and €7,000[4].

As to the type of consumer involved, the literature identifies two main categories: those who knowingly purchase counterfeits even when they know the products are illegal (Bloch et al., 1993; Cordell et al., 1996) and those who are being cheated; in the latter case the consumer is a victim who unwittingly and unintentionally buys counterfeit goods closely resembling the genuine article (Grossman and Shapiro, 1988; Bloch et al., 1993; Tom et al., 1998).
A key concept in this case is the idea of “credence goods” (Nelson, 1970; Darby and Karni, 1973). Credence goods are goods whose characteristics cannot be observed by the consumer directly even after consumption (Roe and Sheldon, 2007; Dulleck et al., 2011). A high proportion of ready-to-wear fashion products falls within this category, and information asymmetries consequently make it easier for counterfeiters to exploit misinformed customers (Hilton et al., 2004).

Ready-to-wear is the segment of the fashion industry most affected by incomplete information. Three things need to be taken into consideration to explain this: product quality, average price and distribution channel (Wilcox et al., 2009).

Regarding the first, most customers do not have the technical expertise needed to check the quality of the materials and the tailoring; moreover, fakes have been getting better over recent years, making it very hard to detect counterfeits (Hilton et al., 2004).

What is more, the price difference between genuine and counterfeit goods may not be so huge in ready-to-wear; at particular times of year or in specific places consumers might be able to buy a pair of genuine Dolce & Gabbana jeans, for instance, at a relatively low price.

Last but not least on this point, the spread of outlet stores offers a new and radically different distribution channel where customers can buy branded products at lower prices than in monobrand stores. Outlet stores may be giving consumers the wrong idea of the normal price of branded ready-to-wear, sometimes offering older items at heavily discounted prices.

The case of real luxury goods is completely different. In that segment there is almost no risk of incomplete information.

When considering luxury goods we are talking of something original, unique, created in small production runs and correspondingly exclusive, made with the use of sophisticated materials (Cappellari, 2008). Luxury goods should be an expression of a tradition, and therefore have strong links with their locality and its creativity and knowhow (Colombo et al., 2008). They should make a statement of style and elegance. Their value to buyers come from the belief they are purchasing something which has all these features; that is why they are willing to buy extremely expensive products, mainly to satisfy what are referred to as “cultural” or “psychological” needs.

Earlier research tells us that consumers’ attitudes to luxury brands may serve two different kinds of function. The first are “social-adjustive” functions (Snyder and DeBono, 1985) which maintain relationships, procure approval or convey a particular image: luxury brands do indeed help consumers fit into social situations, as they are status symbols. Luxury goods are selected therefore according to the meaning consumers believe they possess, in order to send a message; basically, consumers are buying a meaningful cultural phenomenon. Such status-seeking consumers are more likely to buy counterfeits (Phau and Teah, 2009); but this can only work when few people wear the item; if it is common then – genuine or fake – this entails a loss of exclusiveness (Commuri, 2009). Counterfeit status goods, then, do not deceive the person who knowingly purchases the product, but rather the observer.

Wilcox et al. (2009) found that products with large logos are more likely to serve social-adjustive functions, and that advertising campaigns emphasizing these kinds of function are positively correlated with the consumer’s willingness to buy a counterfeit.

The second type of function is “value-expressive.” Such functions help people to communicate their system of values, attitudes and beliefs; in short, the brand reflects the kind of person the consumer believes himself or herself to be (Katz, 1960).
Shavitt et al. (1992) suggest that consumers focus most on quality when their attitudes serve an utilitarian function rather than a social one. Thus counterfeit brands should be associated with the first category of consumer since they are not interested in an item’s intrinsic quality but only in whether it looks like the genuine article (Shavitt, 1989; Han et al., 2010; Perez et al., 2010).

Clearly when we are dealing with true luxury products with all the features we have mentioned there is little room for asymmetric information, since the price and the distribution channel eliminate all doubt.

Consequently it is assumed that consumers know when they are buying a fake, but do not realize the consequences of their actions on a wide range of people, themselves included.

For instance, textiles are one of the most polluting industries since it makes extensive use of noxious substances: we need only think of treatments such as bleaching, dyeing, printing and finishing. Nor is it only man-made fibers: natural fibers like cotton or silk, too, may be produced using pesticides, herbicides and fertilizers that can then get onto human skin. From this point of view, counterfeiters use the cheapest materials, caring nothing for their toxicity. European and Italian law provides strict rules on what substances may be used in the fashion production chain; but many fake products continue to be made using the poor quality materials still permitted in other countries (Izzi, 2008).

Furthermore, counterfeiters of status goods impose a negative externality on consumers of genuine items, as fakes degrade the status associated with a given label (Grossman and Shapiro, 1988). To take one example: there are countries where even when a genuine article is worn people think it is a fake simply because it is so commonly seen: in Bangkok, for instance, there are many people wearing branded items but it is impossible to tell which are real and which are fakes. Street markets are full of counterfeit branded goods; any kind of item is available upon request.

Another kind of externality is shown in the following example. In a recent paper, Qian (2012) studied the response of Chinese makers of branded shoes to an influx of fakes after the government shifted its enforcement efforts to other kinds of counterfeit product such as food, drugs and alcohol. Many shoemakers reacted by improving the quality of their footwear, importing Italian pattern-pressing machines and using higher-quality materials such as crocodile skin; this was good for innovation. However, the other side of the coin was that manufacturers raised prices by more than their extra costs justified; so the buyers of fakes have imposed a cost on people who wanted to buy genuine products which are now both less exclusive and more expensive.

**Counterfeiting and criminal organizations**

Counterfeiting is a fast-growing criminal activity with undeniable links to organized crime (Alliance Against Counterfeiting and Piracy (AACP), 2004; ACG, 2008; UNICRI, 2011; MiSE and UNICRI, 2013).

In Italy, according to the last available report by SOS Impresa (2012), the “counterfeiting” section of Mafia Inc’s balance sheet is worth some €6.5bn of sales (out of a total turnover of €140bn and total profits of around €105bn); this means that almost the entire market in counterfeit goods is in the hands of criminal groups.

It is worthwhile seeking to understand the particular phase of development currently reached by the relationship between organized crime and counterfeiting. On this, Lupsha (1996) has developed a theory that helps to interpret that relationship by identifying three stages: predatory, parasitic and symbiotic.
The first is characterized by the use of violence to control certain areas or territories; usually the group is a criminal street gang. The transition to the second phase is characterized by the establishment of corrupt dealings and relationships with official and political authorities. Finally, the third stage arrives when there is a “merger” between the criminal group and the political system, to such an extent that the latter – and the economic system as well – become dependent on the services offered by the former.

In my opinion the current situation is somewhere between the first and second stages, since the criminal groups which produce illegal goods through counterfeiting are increasingly to be found inside legitimate firms, and are looking for social legitimacy. Moreover one feature of criminal gangs’ participation in the management of counterfeiting is their significant capacity to intimidate people and on occasion even the public authorities; corruption is the natural consequence (Green and Smith, 2002).

For organized crime counterfeiting is a lucrative investment area, like the production and distribution of drugs, the management of prostitution and gambling, the control of illegal immigration and undocumented labor (Izzi, 2008). The Secretary General of Interpol has said that for every euro invested there is a return of ten (Noble, 2003).

There are various ways in which counterfeiting may be connected with other crimes: first, the criminal methods used by the fakers to make and distribute their products and to engage and control people in their networks; replica goods are produced, in most cases, by workers employed under conditions of real exploitation without any form of guarantee due to the unlawful nature of their employment (ACG, 2008). Second, the destination of the proceeds: these are mainly controlled by criminal groups, and used to fund other crimes (UNODC, 2013).

What is more, as we have said, counterfeiting is regarded with particular indulgence by public opinion and, sometimes, by the courts themselves. Actually, the most important reason for organized crime’s interest in counterfeiting and piracy is surely the ratio of risk to reward: the profits are high, and the risk involved in counterfeiting or piracy is relatively low because law enforcement bodies usually tend not to regard this kind of offence as a top priority (United Nations Interregional Crime and Justice Research Institute (UNICRI), Business Action to Stop Counterfeiting and Piracy (BASCAP), 2013).

For instance, the penalty for trademark infringement under Italian law is a fine of between €2,500 and €25,000 and/or a term of imprisonment of between six months and three years, while for drug trafficking the fine ranges from €26,000 to €260,000 and the jail sentence from six to 20 years. This simple example makes it clear how differently these activities are treated, though their dangerousness is similar. This is due to the fact that the competent authorities – and people in general – have always had a distorted view of counterfeiting, whose adverse effects have only been considered in economic terms (Gulino, 2013).

What is more, in Italy we have to consider the relative inefficiency of the judicial system. The enforcement of civil and commercial claims in particular suffers from excessive delays in court proceedings, resulting in a huge number of pending cases: for instance it takes an average of 1,185 days to enforce a contract in Italy, more than twice the OECD country average (OECD, 2013). Italy also scores poorly on the time needed to resolve administrative, civil and commercial cases (Council of Europe’s European Commission for the Efficiency of Justice, 2012); against this legal background the Italian authorities need years to obtain a guilty verdict against counterfeiters, even in clear-cut, easy cases. Furthermore, producers and distributors of legitimate items have to wait years to obtain an execution order from a civil court in order to get compensation.
Moreover, the proliferation of courts and the low level of court fees together make it easy and cheap for the defendant (i.e. the counterfeiter) to appeal against a guilty verdict both in criminal and in civil cases.

Therefore, due to the low risk of punishment and the high profitability of this illicit activity, criminal organizations have set about controlling all stages of the value chain.

The actual scale and spread of fakes would simply not be possible without the involvement of organized crime, which often exploits channels already made secure for other illegal activities such as drug trafficking (UNICRI and BASCAP, 2013). Different criminal organizations located in different countries often co-operate (Europol, 2010): mafia-type organizations looking for economies of scale like the Italian Camorra (Naples area), Albanian gangs, the IRA, Asian gangs and Turkish clans (De Abreu, 2010).

They have established close ties, each controlling a single stage in the value chain. Indeed they take advantage of legislative differences among national jurisdictions and of the difficulties experienced by national police forces in monitoring international operations. They are among the main beneficiaries of the globalization that has facilitated the circulation of goods and money. Lack of uniformity among legal systems is therefore one of the core issues that need to be tackled: a global challenge needs a global response (Ministero per lo Sviluppo Economico (MiSE) and United Nations Interregional Crime and Justice Research Institute (UNICRI), 2013).

Organized crime has turned counterfeiting from a small family business to a mass production system, and the proceeds have been used to respond rapidly and appropriately to changing demand, which is become ever more diversified and sophisticated. Sometimes criminal organizations manage businesses directly, sometimes legitimate stores are forced to sell these fakes instead of paying the pizzo, or cash blackmail. According to a 2010 report by Confesercenti (the Italian General Confederation of Enterprises, Professions and Self-Employment) more than 160,000 Italian retailers are being forced to take a total of €5.5bn worth. If they refuse they are threatened and their shops damaged; in the end they are forced to put both kinds of product on sale.

With regard to the manner of entry into the market, final assembly is increasingly being done at the destination: different parts and brand hallmarks often travel separately, so that even if the goods are checked at customs they cannot be seized because they are unbranded. Furthermore, illegal organizations make it hard to identify countries of origin by sending goods via a third country or through the so-called “free trade zones” (Izzi, 2008).

For sourcing their materials they make use of international channels (especially from China) and national ones, with local production to cope with heavy demand. Moreover, many laboratories also buy or make genuine products as well, so that they are able to reproduce all the details and make almost perfect copies (MiSE and UNICRI, 2013).

It is also necessary to consider the exploitation of illegal labor; one of the consequences of the involvement of criminal organizations in the counterfeiting industry is the massive use of workers to produce this huge volume of goods or to sell them in the streets; there is widespread exploitation of workers (including minors), who are often forced to work in poor conditions of health and safety. The same organization will also manages illegal immigration (Izzi, 2008). Counterfeiting therefore generates no new job opportunities in poor countries; on the contrary, it provides new opportunities for criminals at the expense of less developed countries’ economic and social systems.

Last but not least, there is growing evidence of a link between counterfeiting and terrorism; several cases have been reported directly linking terrorist groups such as
Al Qaeda, FARC, the IRA, Hamas and Hezbollah with counterfeiting and piracy activities (Maria, 2004; Lowe, 2006; Ha and Lennon, 2006; UNIFAB, 2010; Caunic and Prelipcean, 2011).

There are many reasons why counterfeiting is becoming the preferred mode of funding for many terrorist groups (Noble, 2003; Pollinger, 2008).

As we have mentioned, law enforcement generally puts a low priority on counterfeiting. In addition, the main aim of investigations is usually the seizure of counterfeit goods and the identification of the production site in order to close it down, not the final destination of the money generated by this illegal activity. Furthermore, terrorist funding is hard to investigate due to the complex flows of money – often in the form of cash, and often laundered – and the large number of hands through which the money passes before becoming available to the terrorist group concerned.

This link can be direct, when the terrorist group is directly involved in the production or distribution of counterfeit products and the proceeds are used for its activities; or it may be indirect, when sympathizers of the group are involved and knowingly remit some of the proceeds to the terrorist group via a third party (Lowe, 2006).

**Strategies for detecting and reducing counterfeiting**

Many different strategies are proposed in the literature to counter product and brand counterfeiting. Measures to limit this phenomenon may stem from the supply or the demand side, meaning they may involve action by companies to prevent the distribution of counterfeit goods’ (Chaudry and Zimmerman, 2008) and/or the motivations behind customers’ choices (Ang et al., 2001).

From an economic point of view there are two issues to be resolved: first, how to increase marginal costs for counterfeiters, leading to higher prices for consumers; and second, how to decrease fake goods’ marginal utility to consumers (de Abreu, 2010).

The development of a good legal and regulatory framework is essential for fighting counterfeiting.

At this point it is essential to understand the meaning of “trademark,” and how legislation covers this issue. Trademark protection is offered at both national and international levels; a widely used definition is provided in the “Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs)”[5]; another is included in Art 2 of EC Council Regulation No. 1383/2003 of July 22 concerning customs action against counterfeit goods.

So far as Italian legislation is concerned, trademark law dates back to a Royal Decree of 1942, amended several times since – most recently by a Legislative Decree of 1992; there are also some provisions in the Civil Code[6]. The law on counterfeiting is in the Criminal Code Arts. 473-474 as amended by Law No. 99/2009 of July 23[7]. Lastly, Art. 517 of the Criminal Code deals with infringements of the Made in Italy brand.

The issue, therefore, is not the absence of a legislative framework, but its strength. First of all, there must be higher penalties under the criminal law for those who produce or traffic in counterfeit goods. So far national legislations usually provide softer penalties than for other crimes, as noted above.

Rights holders can also act to restrict the distribution of counterfeit products by vigorously supervising the movement of their own products from production centers to retail sites. To that end, sophisticated technologies such as holograms and codes are systematically being improved by companies as a deterrent to counterfeiting. RFID technology embeds labeling information in non-volatile memory devices, which is in turn embedded in a product. RFID tags now come in various sizes including very small;
they have greater storage capacities, allowing a large amount of information to be added at each step of the supply chain (Asanghanwa, 2007).

Subcontractor control must be strengthened; subcontractors should be chosen on the basis of the reputation they have won from other customers; and once the contract ends, the firm must make sure that the subcontractor returns all confidential documents about the product, production techniques, marketing information and sales data. In addition, distributors can refuse to make payment until they have checked that the products are genuine, or can refuse to buy goods from anyone involved in any form of “gray market” activity (Berman, 2008).

Other approaches might be to hire investigators familiar with the target markets to identify and uncover counterfeiters and to work closely with government organizations and other manufacturers within the industry (Frasca, 2009).

Regarding demand-side strategies to discourage counterfeiting, the most efficient way to combat this phenomenon is likely to be consumer education, explaining the dangers hidden behind a fake; as some studies have indicated, the buyers of counterfeit goods are not aware of the connections between them and criminal acts such as terrorism (Ha and Lennon, 2006; Norum and Cuno, 2011).

Some authorities consider it crucial that anti-counterfeit education make consumers understand the drawbacks of the fashion counterfeiting business: it might help discourage demand for this kind of goods (Ha and Lennon, 2006; Kim and Karpova, 2010; Norum and Cuno, 2011). It is also important not just to recognize fake goods but also to report them to the authorities (Berman, 2008).

Increasing awareness includes the development of information through surveys, media campaigns and exhibitions.

Several campaigns have been organized to make consumers aware of the seriousness of the problem; their success depends greatly on the performance and accuracy of preliminary studies examining the target group and helping to choose the place, media and resources to be used (UNICRI, 2010). Marketers need to develop advertising campaigns that focus on the personal and societal dangers counterfeiting causes, and the significant safety, performance and financial risks associated with the purchase of counterfeit merchandise (Berman, 2008).

For instance, two large-scale campaigns were conducted in Florence in 2005 and 2007 targeting the millions of tourists visiting the city; the first used the slogan “Shopping in Florence? Watch what you buy!,“ the second was entitled “No Fakes, Thanks.” The US magazine Harper’s Bazaar is involved in the fight against counterfeiting, publishing articles specifically on the luxury goods industry. In Rome the information campaign “Counterfeiting” was launched. The French Comité Nationale Anti-Contrefaçon promoted an initiative in 2006 with a series of posters carrying a range of powerful messages highlighting all the negative consequences of counterfeiting. There are many examples from these and several other countries which could be mentioned (UNICRI, 2010).

It is important to highlight efforts for sharing information and strategy, such as joint training initiatives, contingency planning and the provision of online information. Secure online systems, databases and electronic tools for storing and circulating information are also very important. Product identification is also fundamental, in order to distinguish genuine from illicit goods (AACP, 2004).

Furthermore co-operation, co-ordination and communication among customs authorities, other government agencies and institutions and the private sector at national, regional and international levels should be strengthened, since the phenomenon
knows no borders. The government has the means of passing legislation; the rights holders have the technical expertise for distinguishing fakes from genuine products, and may have more information about how distribution channels work. Industries are co-operating with customs and other enforcement authorities to identify imported counterfeits (OECD, 2008); sophisticated private organizations are working with police criminal investigation departments at national level and with Interpol and Europol (Europol, 2010). As we have already said, a global challenge needs a global response.

An important step forward was taken with the adoption of the United Nations Convention against Transnational Organized Crime[8]. Industry efforts to combat counterfeiting include the setting up of the “Business Alliance to Stop Counterfeiting and Piracy” in 2004 by the International Chamber of Commerce. Most countries participate in international forums such as the World Trade Organization, the World Intellectual Property Organization and the World Customs Organization, foster bilateral or regional initiatives to provide training and engage in joint enforcement activities.

What is more, Italy has a further tool that might prove a winning strategy in dealing with the counterfeiting problem and represents the real competitive advantage of the Italian fashion system: the value placed on craftsmanship. Made in Italy’s real strength is the quality of its brands and the whole image of creativity, refinement and culture behind the country’s manufacturing system, the sense of national entrepreneurship in the sistema paese (the “whole country” system), and Italian research and innovation (Meraviglia, 2011). None of that can be replicated.

Conclusions
Three things emerge from the analysis of the main features of the connection between counterfeiting, the fashion industry and the consequences for civil society: the size of the phenomenon, the low level of awareness in government and civil society about the seriousness of the problem, and the link with organized crime (and resulting social implications).

As to scale, estimates indicate that counterfeiting is worth some $600bn and the fashion industry appears to be the most affected. If both seizures and detentions are considered, the top four goods categories by value are fashion accessories, watches, footwear and clothing. Furthermore, thanks to the new technology and the internet it is becoming easier to copy and to make popular products of a quality near-identical to the original.

Italy, as home of luxury brands with the highest prestige (most liable to be counterfeited), is one of the main production and distribution countries of fakes. Moreover the great bulk of its economy consists of family businesses which lack the resources to tackle the problem adequately: the illegal market absorbs some €7bn of turnover and also damages the reputation of genuine Made in Italy products which may come to be thought of as poor quality.

Though consumers are generally aware that they are committing an offense in buying counterfeit products, they do not feel guilty. Several studies highlight low price as the main purchase stimulus, though various other variables (demographic, socio-cultural and psychological) have been identified. Consumers consider only economic losses, not that counterfeiting has become a global problem with implications for criminal activity and social problems: in general it is perceived as a victimless crime.

In point of fact counterfeiting is a profitable investment area for organized crime, like the production and distribution of drugs, the management of prostitution and gambling, the control of illegal immigration and black labor; this activity can be both
the source of profits to fund other illegal activities or the destination to launder illicit proceeds. Nowadays organized crime makes use of tools and channels which it has already tested for other activities and found to be secure.

Globalization has helped to create close ties among criminal organizations in different countries which co-operate in managing the practice.

Moreover, the authorities (and people in general) have always had a distorted perception of counterfeiting, whose negative effects have always been considered only from the economic point of view. Due to the low risk of punishment and the high profitability of this illicit activity, criminal organizations have set about controlling all stages of the value chain.

This lack of attention has allowed the phenomenon to evolve and become increasingly sophisticated and dangerous. It is therefore a very complex relationship run by the same criminal organizations that deal with everything from production to distribution and use of proceeds.

What should be done? Strategies need to focus on both demand-side and supply side initiatives. First and foremost, there must be consumer education to reduce demand and raise general awareness of the risks and the involvement of organized crime and all the other illegal activities; then supply side measures to control the whole supply chain from the raw material to the distribution stage; and finally a strengthening of the legal system.

The answer to the question must therefore involve all sectors and many disciplines; it will require co-operation and co-ordination among all the organizations involved, public and private, national and international.

Notes

1. This directorate was set up by the Italian Ministry for Economic Development on January 1, 2009. It fosters innovation by Italian companies; it promotes and spreads knowledge, and the use and value of industrial property and protects it with all available tools; it combats counterfeiting and protects the “Made in Italy” brand; it promotes all manner of communication and educational initiatives, and co-operates with other institutions.

2. Negative externalities occur when production and/or consumption imposes external costs on third parties outside the market, costs for which no appropriate compensation is paid.

3. www.lvmh.com/functionalities/faq/brand-protection


5. Unauthorized representation of a registered trademark carried on goods identical or similar to goods for which the trademark is registered, with a view to deceiving the purchaser into believing that he/she is buying the original goods; www.wto.org/english/thewto_e/glossary_e/glossary_e.htm

6. Royal Decree 21 No. 929 of June 1942; Legislative Decree No. 480/92; Arts. 2569 and following.

7. This law introduced a “Counterfeiting package”, with measures allowing stronger protection of intellectual property rights; it also set up the National Anti-Counterfeiting Council (CNAC) within the Ministry of Economic Development, charged with guiding, encouraging and co-ordinating central and local institutions involved in the struggle against counterfeiting, in order to improve joint action to combat it at national level.

8. This Convention was adopted by General Assembly Resolution 55/25 of November 15, 2000, opened for signing in Palermo, Italy, in December 2000; it came into force on September 29, 2003.
References


Further reading

Appendix

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Turnover (million of Euro)</td>
<td>7,107</td>
<td>6,924.4</td>
</tr>
<tr>
<td>Lost production (million of Euro)</td>
<td>17,817.1</td>
<td>13,682.7</td>
</tr>
<tr>
<td>Lost added value (million of Euro)</td>
<td>6,098.5</td>
<td>5,449.1</td>
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<td>Lost jobs</td>
<td>129,842</td>
<td>109,346</td>
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<tr>
<td>Lost taxes (million of Euro)</td>
<td>5,261.5</td>
<td>4,249.3</td>
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**Source:** CENSIS and MiSE (2012)

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2010</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food and beverages</td>
<td>1,153.7</td>
<td>1,084.9</td>
<td>15.7</td>
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<tr>
<td>Perfumes and cosmetics</td>
<td>114.2</td>
<td>108.2</td>
<td>1.6</td>
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<tr>
<td>Clothing and fashion accessories</td>
<td>2,608.2</td>
<td>2,488.9</td>
<td>35.9</td>
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<tr>
<td>Electrical equipment</td>
<td>688.7</td>
<td>608.3</td>
<td>8.8</td>
</tr>
<tr>
<td>Computer equipment</td>
<td>224.1</td>
<td>243</td>
<td>3.5</td>
</tr>
<tr>
<td>CDs, DVDs, cassettes</td>
<td>1,646.7</td>
<td>1,785.4</td>
<td>25.8</td>
</tr>
<tr>
<td>Watches and jewelry</td>
<td>508.5</td>
<td>449</td>
<td>6.5</td>
</tr>
<tr>
<td>Toys and games</td>
<td>31.2</td>
<td>29.4</td>
<td>0.4</td>
</tr>
<tr>
<td>Medicines</td>
<td>19.4</td>
<td>20.1</td>
<td>0.3</td>
</tr>
<tr>
<td>Vehicle spare parts</td>
<td>112.3</td>
<td>107.1</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>7,107.0</td>
<td>6,924.0</td>
<td>100</td>
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</table>
**Source:** CENSIS and MiSE (2012)

**Table AI.**

Estimate of the impact generated by counterfeiting on the Italian market, 2008-2010

**Table AII.**

Estimate of the counterfeit market in Italy by type of goods (€m, 2008-2010)
### Table AIII.
Number of seizures by type of goods, 2008-2011

<table>
<thead>
<tr>
<th>Type of Goods</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clothing</td>
<td>3,724</td>
<td>4,094</td>
<td>3,883</td>
<td>3,113</td>
<td>14,814</td>
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<tr>
<td>Fashion accessories</td>
<td>6,914</td>
<td>7,287</td>
<td>6,386</td>
<td>4,967</td>
<td>25,552</td>
</tr>
<tr>
<td>Other items</td>
<td>1,444</td>
<td>1,356</td>
<td>2,076</td>
<td>1,701</td>
<td>6,577</td>
</tr>
<tr>
<td>Electrical equipment</td>
<td>489</td>
<td>726</td>
<td>101.42</td>
<td>1,139</td>
<td>3,496</td>
</tr>
<tr>
<td>Electronic and computer equipment</td>
<td>61</td>
<td>76</td>
<td>135</td>
<td>125</td>
<td>397</td>
</tr>
<tr>
<td>Shoes</td>
<td>2,828</td>
<td>3,401</td>
<td>1,883</td>
<td>1,447</td>
<td>9,560</td>
</tr>
<tr>
<td>CDS, DVDS, cassettes</td>
<td>84</td>
<td>100</td>
<td>100</td>
<td>61</td>
<td>345</td>
</tr>
<tr>
<td>Toys and games</td>
<td>238</td>
<td>311</td>
<td>377</td>
<td>227</td>
<td>1,153</td>
</tr>
<tr>
<td>Glasses</td>
<td>1,338</td>
<td>1,126</td>
<td>1,002</td>
<td>870</td>
<td>4,337</td>
</tr>
<tr>
<td>Watches and jewelry</td>
<td>867</td>
<td>1,142</td>
<td>1,294</td>
<td>1,619</td>
<td>4,922</td>
</tr>
<tr>
<td>Perfumes and cosmetics</td>
<td>54</td>
<td>64</td>
<td>53</td>
<td>35</td>
<td>206</td>
</tr>
<tr>
<td>Total</td>
<td>18,041</td>
<td>19,683</td>
<td>18,331</td>
<td>15,304</td>
<td>71,359</td>
</tr>
</tbody>
</table>

**Source:** MiSE (2012a)

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**About the author**

Dr Laura Meraviglia PhD is a Researcher in Political Economy at the Università Cattolica del Sacro Cuore, a Professor of International Economics at the Università degli Studi and an Assistant Professor of Macroeconomics at the Università Bocconi, all in Milan. Her current research interests are in environmental economics, the fashion business and international economics. Dr Laura Meraviglia can be contacted at: laura.meraviglia@unicatt.it