Chapter 7

CONCLUSIONS AND SUGGESTIONS
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An invasion of armies can be resisted.
But not an idea whose time has come

- Victor Hugo

INTRODUCTION

To ignore brand imitation is to condone it. Condoning it is likely to breed future brand imitation. The study is done to develop efficient strategy/remedial measures against the imitation. The ideal strategy is to prevent brand imitation in the first place. The possibility of brand imitation should be contemplated when designing new products or brand packaging. To try to stop brand imitation once it appears in the marketplace would be difficult and costly task.

Brand imitation deals with similarities, not differences. What is similar is sometimes more a matter of individual perception than of reality. What may be perceived and defined as an illegal offering in the marketplace by some may not be perceived and defined as such by others. Thus preventing and stopping competitors and others from imitating is a difficult task. Moreover, the legal issues associated with the imitation are complex. The laws vary from country to country and are changed over time. Each case (as seen in chapter 3- Cases relating to imitation) is dealt with separately and the interpretation of the laws as they apply to each case is made by different people with different experiences, beliefs and values.

This study will be useful to brand managers, intellectual property attorneys, market researchers, consumers, retailer’s and academicians. The brand imitation is a global marketing
problem and companies all over the world have to deal with protecting their brand identity and image.

To develop an efficient strategy against imitation all the parties viz. manufacturer, marketer, seller and consumers are interviewed in a phased manner (phases explained in chapter IV-Research Methodology). The consumers purchase pattern, confusion and the manufacturer/marketer, retailer’s perception is studied. Following are the conclusion from the analysis.

RETAILERS SURVEY CONCLUSIONS

(i) Majority of the retailer’s stocking goods are aware of the concept of branded/unbranded and imitated/original products. However some owners of lower size retail stores are not aware of both the concepts.

(ii) The retailer’s can differentiate imitated with original but there are some who are illiterate or who rely on salesman and as such can’t differentiate.

   The retailer’s are differentiating by seeing the name, packaging, price, quality and the logo of the company.

(iii) The imitated brands are not sold alone but they are sold along with original brands. Actually with his selling experience the retailer knows the psychology of the consumer. If consumers ask the price and don’t want to pay more, the retailer than promote the lesser price imitated product.

(iv) Lower price and higher margin are the factors that persuade retailers to stock imitated products. No promotional schemes are needed to promote imitated products as retailers rely on the reputation of the innovative products.

(v) The retailer’s are stocking innovative products due to better image and quality of the product. The innovative products are easy to sale and there is support from dealers/manufacturer. Also innovative products are fixed priced item and as such there is less scope for bargaining.

(vi) Consumers are purchasing imitated and sometimes demanding himself/herself because they have less money and imitated products are available in various quantities. Some
consumers are purchasing imitated due to ignorance or because they have less faith in branded product.

(vii) The consumers having less money are generally ignorant they haven’t got much of the information about the products and thus the brand. On the other hand, the consumers having enough money are well verse with information. It is the consumers of first type that are easily convinced by retailers and thus the chances that they will purchase imitated are higher.

(viii) Consumers are not purchasing imitated only once, but they are asking for the imitated again i.e. repeat purchase exists in imitated products. For e.g., the imitated brands like Paile-G, Clemic Plus and Poopins etc. are purchased again and again by the consumers.

(ix) Most of the consumers are doing purchasing well thoughts of, but still there are many who are deciding on the point of purchase or convince by shopkeepers. Thus, some consumers rely on shopkeepers for purchasing.

(x) Retailers/Shopkeepers are getting the imitated products from dealer, manufacturer and salesman. Sadar Bazar in Delhi, Dundi Bazar and Chowk Bazar in Bihar Katra Purohit Ji, Khanda Hawa Mahal, Bari Choppar and Subhash Chowk in Jaipur, Patti kalan and Kabaadi Bazar in Ajmer, Chowk Baith Ganj in Jalaun (U.P.), Katla Bazar in Jodhpur, Gandhi Road in Ahmedabad, Musaffir Khana in Mumbai and Hanuman Chowk in Dehradun are places where one can easily find the imitated products.

(xi) Imitated products are low priced low quality products. There is some information on the package like company name but address is not given (Imitated packages given in appendix III). The margin on the product is high and they are sold loose or in various convenient packsize. They are generally harmful for health and are moderately (neither easy nor difficult to find) available in shops.

(xii) Majorities of the retailer’s are not aware of the penal action that can be taken against them.

(xiii) The manufacturers are getting job work from original manufacturer due to heavy demand. Some manufacturers are misusing this opportunity and are producing similar products
with similar sounding name and package. These imitated products are sold at lower price and higher margin is given to seller.

Sometimes, the dealers or distributors appointed by the companies are also producing imitated products and promoting it to retailers to which they are supplying the original products.

(xiv) The problem of imitation is more severe in products like cosmetics, spices, confectionery items, stationary items, soap and detergents etc. to name a few.

Among other category goods it includes electrical goods, readymade garments, furniture and entertainment goods. A separate study can be done with reference to these products.

EXECUTIVES SURVEY CONCLUSIONS

(i) Most of the companies with high sales turnover have opened a separate cell under the charge of Manager- legal and Vice President- legal to curb the practice of imitation.

(ii) The big companies producing similar line of products are collaborating with each other to curb imitation. For e.g., Marico and P&G have collaborated to curb imitation.

(iii) All the companies whether engaged in manufacturing or marketing business or with high or low sales turnover are facing the problem of imitation. The problem of imitation is not only limited to FMCG's but to other categories also. The industrial products are also facing the problems of imitation.

Marico Industries Ltd. loses business between Rs. 10 crore and Rs. 11 crore to fakes and pass-offs annually. Loss of revenue to P & G is about Rs. 20 crore.

P & G had lost around 3% of Head & Shoulders volumes due to imitated Head & Showers which work out to loss of Rs. 2 crore.

(iv) The products irrespective of to which class it is manufactured are facing the problem of imitation. In other words product targeted to all the classes i.e. upper-upper, upper-middle, middle-middle, lower-middle and lower-lower class are facing the problem of imitation.

The average indian consumer, both rural and urban, is a victim of counterfeits and pass-off products. About 8 out 10 consumers who purchased pass-off products felt cheated after they learnt what they had purchased was not genuine.
(v) The psychology of the Indian consumer's i.e. desirability of branded products to maintain status with lower price is exploited by the producer of imitated brands.

(vi) The high quality product with average price and available easily in fixed pack size with low margin for sellers are being imitated in the market. In 1999-2000, 35% of all Vicks Action-500 sold in the market were fakes.

The national loss to P & G in the overall Vicks Category (it contributes around Rs 159 crore, or 33.46% of turnover) is estimated to be around Rs.20 crore.

(vii) The imitation is more in brand name and packages. However product design, price and promotional strategy are also being imitated.

In nutshell it is the product, process and strategy that is being imitated.

(viii) Due to imitation, there is decline in image of original manufacturer/marketer because if consumer is not satisfied with the imitated brand that he/she has purchased, thinking it as original the blame is put on the original manufacturer/marketer.

If the consumer is satisfied and comes to know that it is imitated that he/she has purchased the brand loyalty is shifted to imitated, thus there is loss of customer and market share also.

(ix) The producers of imitated products are not only causing harm to original manufacturer/marketer but they are also cheating the government. The government is loosing the revenue, as imitated producer does not pay excise or sales tax.

The government loses Rs 600 crore in revenues every year and total loss from these illegal activities in India are Rs 1700 crore.

(x) The form of imitation varies from product to product. Some companies are having nearly 50 or above 100 of their brands being imitated. In general most companies are having at least five of their brands being imitated.

Counterfeit products account for up to 30% of the products that make their way into Indian homes.

(xi) The companies are promoting the original brand to curb imitation. Most of the companies are educating the consumers, giving special offers to dealers and advertising to promote their brands.
(xii) To caution consumers, companies are giving warning notices in newspapers to fake produces and is mentioning the details like name, package, style, colour etc. of the brand by distinguishing it from those of the imitator.

(xiii) The warning in newspapers and the use of pressure tactics are giving better results as most of the imitators are stopping this practice.

(xiv) The companies are also launching other campaigns like- raiding the premises of the fake producer and seizing the product. As on July 03, 2000 there have been 32 cases reported and consequently 28 police raid; 15 people arrested and goods worth Rs. 5 crore seized. P&G has kicked off a series of raids across the country, (in last six months, year 2000) some 25 in all and reduced the impact of Pass-offs by almost 75%.

(xv) Some companies are giving special training to their sales and marketing team to stop the practice of imitation. Some are doing door to door campaign and distributing free samples.

(xvi) The publicising of raids and notices by the company or with the help of industry organisations are educating the consumers of the harmful effects and the illegal activities.

(xvii) If the notices and other campaigns are not fetching any results the companies are also filing civil and criminal action for infringement, which includes filing trademark oppositions, filing suits for injunction and filing criminal complaints to passing-off.

(xviii) Still there are some companies, which haven’t taken the problem seriously, and also some are ignoring the problem. Companies feels that notices in the newspaper will scare the consumer and he/she will start suspecting the originality of the product and will shift his/her loyalty to other brands, not facing the problem of imitation.

Companies don’t want to take legal action, as they feel that not much can be done and the legal procedure is complicated with several loopholes. Many of the companies are settling the issues out of the court by doing bargaining with the imitator i.e. by give-and-take method. Although in all these cases original manufacturers are winning but this is acting as a sort of encouragement to the imitator.
(xix) The companies are and will protect their interest against imitation by introducing secret marks/holograms. The companies are also changing their packaging and are introducing complicated and different design.

(xx) The common representations by industry, industrial association and actively supporting group can be an important weapon against imitation.

The Brand Protection Committee (BPC) formed under the aegis of the Federation of Indian Chambers of Commerce and Industry (FICCI) is one step in this direction. Although, in a country like India, this is still in infancy stage.

CONSUMERS SURVEY CONCLUSIONS

(i) Consumers are purchasing grocery items either from shop near to home or from the main market. The concept of departmental store is still to popularise.

The purchase of imitated products depends on the shop from where it is purchased. The number of shops selling imitated products are more in nearby localities in comparison to those in the main market. Thus, the no. of consumer’s purchasing imitated are more from shops near to home.

The shops in main market are selling mostly branded products or branded and unbranded both, similar is the case in shops near to home but there are also some shops which are selling unbranded only. The consumers are mostly purchasing both branded as well as unbranded products.

(ii) Consumers are mostly loyal to one grocer’s. The no. of consumers who are shifting their loyalty are purchasing imitated more in comparison to those who are purchasing from definite shop each time i.e. loyal.

However, the relationship between purchase shop and brought imitated or not is statistically independent. Since, most of the retailer’s are stocking both original and imitated products, it is likely that if purchased from shop near to home irrespective of whether it is from definite shop or different shop everytime, the product is imitated. Although, the purchase of imitated product is independent of the purchase shop but the purchase of branded/unbranded is dependent on the purchase shop. The consumer’s purchasing from definite shop are purchasing branded products.
(iii) The consumer’s purchasing branded products give preference to quality and the brand name. They are less influenced by promotional offer like cash discount etc. On the other hand the consumer purchasing unbranded products are price sensitive they give importance to price and the promotional offer.

The consumer purchasing both branded and unbranded are price sensitive but easy availability is also an important criterion for them. If the branded products are higher priced or are not available than they are purchasing unbranded also.

(iv) The purchase of general items is mostly done by housewife’s (mother/wife) and it is done very frequently i.e. everyday, every-alternate day or weekly. In cases where male members (father/husband) are doing purchasing it is mostly either weekly or monthly. In general, for grocery items the purchasing is done weekly or monthly.

(v) The consumer’s prefer goods in fixed packaged but some prefer to purchase in loose also. Actually the mode of purchase depends on the income. The consumer’s having lower income are preferring to purchase in loose whereas the higher income group prefers to purchase in fixed packed size.

(vi) The modes of purchase i.e. loose or fixed packed size is also dependent on whether the information given on the package is read or not. The consumers purchasing in fixed pack size are reading the information on the package.

(vii) The consumer’s reading the information on the package are reading mainly the date of manufacture and expiry, price, brand name, companies name and companies address. The information is useful for taking purchase decision.

(viii) The reading of information on the package depends on the education, income and sex of the consumer. The consumer’s with higher education are reading the information more in comparison to those with lesser or no education.

Similarly, the consumer’s from higher income group are reading the information more, than those from lower income group. Females are reading the information more in comparison to male and thus are more conscious.

(ix) The reading of information on the package is independent of age. The consumer’s of all age group are either reading the information or not reading the information.
(x) Most of the consumer’s are verifying the authenticity of the brand while purchasing, while some are not. The consumer’s purchasing in fixed package are verifying the authenticity of the brand.

(xi) The authenticity of the brand verified or not depends on the age, education and income of the consumers.

The elder persons are verifying the authenticity of the brand more in comparison to younger generation.

(xii) The verification of the authenticity of the brand is independent of sex i.e. both male and female are either verifying or not verifying the authenticity of the brand.

(xiii) The consumer’s purchasing in fixed pack size feels that imitated products are inferior in quality while those purchasing in loose feels that imitated are not inferior in quality.

(xiv) Consumers while purchasing are giving importance to price, quality and brand name. In some cases the purchasing is due to friendship/acquaintance with the shopkeeper. The consumer’s purchasing imitated products are purchasing due to lesser price, easy availability and flexible quantity i.e. available in loose. Actually, the consumer’s are purchasing from shop near to home where imitated products are easily available and they mind travelling long distances frequently.

(xv) Tea/coffee, salt, soap & detergent, shampoo and cosmetics are the products where the insistence for a particular brand is high. Biscuits and soft drinks are the product where the insistence for a particular brand is somewhat less and in toffee/chocolate, cigarette, pan-masala, ice-cream, sauce/pickles and writing instrument the brand insistence is least.

(xvi) Most of the consumer’s have brought imitated at least once. The buying of imitated products by the consumer depends on whether information given on the package is read or not. The consumer’s who are conscious and are reading the information given on the package are buying less imitated products or are not buying at all.

(xvii) The purchase of imitated also depends on the mode of purchase. The consumer purchasing in loose package are buying imitated whereas those preferring in fixed pack size are buying original and branded products.
Most of the consumer’s feel that imitation is a crime and the producer of imitated products be punished. However, some consumer don’t know whether imitator be punished or not. The consumers are hesitant as far as giving of punishment is concerned and nobody wants to take legal action. This is one of the reason that is promoting the act of imitation.

The consumer’s who haven’t brought imitated feels that imitation is a crime and the imitated products are inferior in quality. Also the consumer who have brought imitated feels that imitation is a crime but there are many having brought imitated who feels that imitation is not a crime and the quality of the imitated product is not inferior.

The females and children are buying imitated products more in comparison to males. The buying or not buying of imitated products is independent of the persons i.e. all persons are engaged in buying of imitated products.

The buying of imitated products is dependent on consumer’s income. The consumer’s having lower income are buying more imitated products than consumer’s having higher income.

The declaration by the respondents when they are exposed to original and imitated brands for different time duration is independent of age, sex, education and income of the consumer’s. However among different age groups the assessment of younger generation i.e. 20-24 years and 25-29 years is more correct and they are less confused. In sex, females have made more correct assessment than males, however both types of consumers are confused.

Although the declaration is independent of education also but the responses of graduate and post-graduate consumers are more correct.

In different income group, the lower income consumers are more confused. The perception of higher income consumer i.e.Rs.9001-12000 and Rs.12001-15000 are more correct.

In imitated products the highest rate of confusion does not takes place at the highest speed of exposure but after some exposure. At high speed the consumer’s are declaring that they can’t say/don’t know.
In case of original product the highest rate of confusion takes place at the highest speed of exposure.

Results of Hypothesis

All the hypothesis for the study are accepted. Thus the consumer is confused among different original and imitated brands. The purchase of imitator is dependent on the consumer’s income.

The purchase of imitator is affected by whether the information given on the package is read or not. The imitation is more in brand name. The retailer’s are stocking innovative product due to better image and imitative product due to lower price and higher margin.

Box 7.1

SUGGESTIONS

The brand imitation where product or service though not identical, but with similar name, shape, form, meaning or intent represent a major threat for brand management. It is used to shift sales away from the original brand and can harm the whole product category. The imitation as studied here, initially flourished by imitating a competitor’s product category, technology or way of doing business to enter a new market opened or created by the innovator. The imitation at that time was used as a strategic tool to do better business by distributing a product of identical or superior quality at lower price. Thus imitation was adding value to the original product. The threat of imitation at that time was ignored. In present scenario many firms mostly small doesn’t like to expend resources for developing a new product because they feel that with no investment they can produce by imitating. This has inhibited the innovation. Moreover, the imitated brands presently coming to the market or those already present are of poor quality with price equal to original. Therefore, it is essential to stop the penetration of these inferior low quality goods. Following are the suggestions to various parties involved, to curb the practice of brand imitation.
To Retailers

(i) The retailer's shouldn't fall in pray of the inferior imitated product manufacturer as the police can raid their shop. In case of harm to the consumer they can be behind the bars also. The negative word-of-mouth communication can ruin their entire business also.

(ii) The retailer's should attend training programme and trade shows, which will give them information about imitated and original products and the way to identify them.

To Companies/ Executives

(i) The executives should take the problem of imitation seriously and shouldn't ignore the problem.
If a matter is reported to them than instead of bargaining with the spurious manufacturer they should sue them for criminal and civil action.

(ii) The executives must take the help of police/court also to raid the premises and seize the product. The imitation is an illegal activity as imitator doesn’t pay any taxes and run an enterprise without a licence.

(iii) The companies should register their brand under Trade Marks Act, which will give the brand a legal status also.

(iv) The companies with high sales turnover should open a separate legal cell under the charge of manager-legal while companies with low sales turnover should take the help of a lawyer to stop imitation.

Also a separate Consumer Complaint Cell must be open to handle the complaints. The legal cell incharge can handle that cell. The details of such division should be given in advertisements, pamphlets accompanying the products or by writing on the package.

(v) The notices/warning can help to stop the imitation so such campaign must be launched against imitator. The use of cable network can be another tool, which is economic in nature in products that are imitated on regional basis.

(vi) The common campaign with similar companies, voluntary organisations and industrial organisation must be initiated. The companies should become members of organisations like Brand Protection Committee (BPC) to fight against imitation.

(vii) The companies must focus their attention towards the lower income group also. They should take this task as their social responsibility because to maintain their status or to
fulfill their desire this income group gets easily attracted towards the lower price imitated brands.

(viii) The companies should make the product available in small pack size also i.e. they should incorporate flexibility in their packaging. The big companies like HLL has already taken this step e.g. shampoo in Rs.2 pouch but still this is in infancy stage.

(ix) The big companies should take lead and advertise to educate consumers. The trade fair and road shows can be weapon to inform consumer about imitation, their harmful effects and to recognise them.

(x) The important aspects of imitation like inferior packaging with dull colours and incomplete address i.e. with company name and name of city only without exact location etc. must be made known to consumers.

(xi) The companies should keep strict vigilance on the companies to which job work is given because sometime they themselves are imitating their brands. Similar, vigilance should be kept on dealers. The retailer’s should be kept in confidence to know about the dealers activities. The retailer’s activities also should be checked.

(xii) Special training must be given to the sales and marketing team. They must be made aware of the legal aspects.

(xiii) The big companies who can afford can change their packaging also after some period. However in general one can introduce secret marks/holograms, disappearing-reappearing inks and digitized prints on labels.

(xiv) The companies shouldn’t think that notices/advertisements in newspapers will scares the consumer. This is totally a negative approach. They should think that they are number one because they have more competitors wanting to be like them.

To Government

The imitated products are causing harms to the country’s reputation among foreign investors. This may result into having a negative impact on the foreign investment and hence to our economy too.

The government suffers a loss of revenue and thus is compelled to increase taxes to make good the budgetary deficit. India has one of the highest indirect tax rates in the world. With
prices going up more imitators are tempted to indulge in this malpractice. Following are the
suggestion to the government.

(i) The government should help the small manufacturer and encourage R & D activities. The small manufacturers even though have a lot of innovative ideas but often lack the resources to support marketing activities like advertisement, distribution and branding etc.

(ii) The government should appoint a regulatory authority who should communicate between various other regulatory authorities, industrial and voluntary organisations.

(iii) The government should constantly review the laws in light of the illegal activities. The recent amendments in Trade Mark and Copyright Act is one such step in this direction. In the present IPR regime issues are constantly changing.

(iv) The government should provide holographic images, disappearing-reappearing inks and digitized prints to small manufacturers at the subsidized rates.

To Consumers

(i) The consumers should take sufficient time to purchase. They should never purchase in hurry.

(ii) The consumer must buy from a reputed and known shop. They should always read the information given on the package and check the quality, quantity and the trade value of the product.

(iii) The consumers should always insist on receiving a bill/cash memo/receipt of purchase and especially for those whose quality is suspected. A product is a product even if it is price Rs. 1 or Rs. 1000. If consumer feel cheated than he must complaint to retailer and if complaint is ignored than complaint directly to the company or to consumer or industrial or voluntary organisations. Do not suffer in silence.

(iv) There are several websites available to eradicate imitation practices. The computer literate consumer must avail their services. However through cyber-café anybody can access the websites.
ACTION PLAN FOR THE COMPANIES

AWARENESS
- Publicize legitimacy of original product.
- Publish and distribute list of legitimate distributors/retailer's.
- Industrial organisations can head an advertising campaign that publicizes the victims of imitation, raids on imitators and harm of imitation.
  - small & large companies can participate through the contribution of funds.
  - list of sponsors at the bottom of printed ad.
  - send ad to distributors, retailer's and known imitators.

ACTION
- establish media contacts.
- develop a team of people that search for imitated products.
  - large companies can hire specially trained personnel.
  - small companies can broaden duties of existing personnel e.g. sales force as they are aware of all wholesale and retail outlets.

ASSERTION
- once imitative practice is discovered then trace backwards the path of the goods through the channel of distribution.
- inform government agencies of parties involved in imitation.
- use media contacts to publicly identify the imitators and the companies intention to sue for criminal action.
- lobby with government and law enforcement officials for more stringent litigation and more effective enforcement.

Figure 7.1

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