

**An Analysis of the Supply Side of Non-
deceptive Counterfeiting Business in the
Luxury Fashion and Apparel Industry in China**

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ABSTRACT

This study was undertaken to explore the counterfeit phenomenon in China from the perspective of those who are non-deceptive in their engagements in the counterfeiting industry. The counterfeit problem has always been a challenging issue for governments, brand owners and customers. As a worldwide problem, counterfeit issues are frequently discussed, but little is understood of the complexity of counterfeiters. Thereby, utilizing a qualitative method, with semi-structured interviews and secondary resource reviews, the perception of non-deceptive counterfeiters was gathered and analysed thematically to explore the story behind those counterfeiters.

This study extends the theoretical framework of counterfeiting strategies developed by Lopes and Casson (2012) with fruitful empirical data. As an extension of their work, it distinguishes between non-deceptive and deceptive selling. It also segments customers according to the quality and price of counterfeiting goods, and explains how the 'past' has applied in the 'present' in the counterfeiting business in China. Secondly, this study contributes to the theory of entrepreneur (Casson, 1982) by addressing a particular type of 'entrepreneur' who takes advantage of loopholes in the institutional environment by appropriating others' ideas.

Potential learning aspects from counterfeiting through the reverse engineering and imitation, this study provides empirical data to highlight counterfeiting business can be an alternative form of the innovation process, which has been proposed by Trott and Hoecht (2007). In addition, the attitude of government about innovation and increasing legal enforcement will influence the direction of counterfeiters' activities. Hence, by understanding the complexity of counterfeiting from supply side perspective, the study contributes to the marketing knowledge of counterfeiting and to the theory of entrepreneurship.

Key words: Counterfeit, Counterfeiting Strategies, Entrepreneurs, Luxury Industry, Institutions

LSIT OF ABBREVIATION

AIC	Administration for Industry and Commerce
CBP	U.S. Custom and Border Protection
CICP	China Industry &Commerce Press
CJO	China Judgements Online
EU	Europe Union
FBI	Federal Bureau of Investigation
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
HSI	U.S. Homeland Security Investigations
IACC	International Anti-Counterfeiting Coalition
ICC	International Chamber of Commerce
ICE	Immigration and Customs Enforcement
IPR	Intellectual Property Rights
MNCs	Multi-National Company
OECD	The Organisation for Economic Co-operation and Development
OEM	Original Equipment Manufacturer
R&D	Research and Development
RE	Reverse Engineering
RFID	Radio Frequency Identification
SAIC	State Administration for Industry and Commerce
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UAE	The United Arab Emirates

UK	The United Kingdom
USA	The United States of America
USD	United State Dollar
WTO	World Trade Organization

Currency conversion

One Yuan ~0.16 USD (based on 2016 power parity)

DEDICATION

Dedicated to my husband Jun

and

My son Harry

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AUTHOR'S DECLARATION

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for an award at this, or any other, University. All sources are acknowledged as References.

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Chapter One: Introduction to The Study

1.1. Setting the scene- The magnitude of counterfeiting in China

Counterfeiting is a significant problem in a wide range of industries. Although counterfeiting has been popular since the 1970s, it has existed for a long time (Harvey and Ronkainen, 1985). Between 2002 and 2012, counterfeiting had a growth rate of 1700 per cent (Yoo and Lee, 2012). According to the report of Organisation for Economic Co-operation and Development (OECD), the international trade in counterfeit goods is worth 461 billion USD and counterfeit goods make up 2.5 per cent of world trade, this is equivalent of GDP of Austria (OECD, 2016). The loss of revenue due to counterfeiting could be billions or even tens of billions of dollars per year (Chow, 2005).

Counterfeiting has covered almost all the goods used in our daily life. From expensive luxury brands products to a range of more 'ordinary' products, such as shampoo and toys, and more 'unusual' products, such as food, medicine, electrical products, auto parts and aircraft parts (OECD, 2016). The top categories hit by counterfeiting are watches, Jewellery, handbags, consumer electronics, wearing apparel, footwear etc. (CBP, 2016). The Organization for Economic Co-operation and Development (OECD) has recently reported that those branded goods targeted by counterfeiters are primarily in the United States, Italy, France, Switzerland, Japan, Germany, the United Kingdom and Luxembourg. Emerging economies are showing increasing interest from counterfeiting as well. Based on the latest data available on the origins of counterfeiting goods in the U.S, more than 80 per cent of the total counterfeit goods seized at US Customs are originally from China—mainland China takes up 52 per cent and Hongkong 36 per cent, followed by Singapore (2 per cent), Germany (1 per cent), Turkey (1 per cent) and all other countries (8 per cent) (CBP, 2016). In a similar way, the Trade Commission said that

“U.S. companies which conduct business in China reported losses of approximately \$48.2 billion in sales, royalties, or licensing fees in 2009 as a result of intellectual property infringements in China” (Campbell and Pecht, 2012, p.71). Whilst China is the primary source of production of counterfeiting goods, data shows that Chinese companies themselves have also been frequently infringed (OECD, 2016).

The production and distribution of counterfeiting has been scattered everywhere in China including in major cities, such as Beijing, Shanghai, or in Special Economic Zones, such as Shenzhen, or Hong Kong and Macau (Hung, 2003). For example, China consumes more high-quantity Bordeaux wine than what the region can produce annually. A less likely explanation for this phenomenon can be that the vineyard itself bottles ‘fake’ Laffite Rothschild bottles. A more credible explanation can be that genuine bottles are refilled with ‘recyclers’ (Zimmerman, 2013). According to a Quality Brands Protection Committee report, in the Chinese market there are twice as many counterfeit goods being sold openly as there are genuine products (Minagawa, Trott and Hoecht, 2007).

However, despite a surge of interest from practitioners and the popular press as well as the wider business and management literature (BBC, 2015; Bekir, El Harbi and Grolleau, 2013; Bian et al., 2016; Chow, 2006; OECD, 2016), apart from the statistics providing proxies on the production and sale of counterfeits around world, most studies on counterfeiting have focused on the demand-side in terms of determinants of customer behaviours, attitudes and perception (Cesareo, 2015). Therefore, there is a considerable lack in our understanding of the supply-side as there has been scarce research addressing the supply of the counterfeiting business (Staake, Thiesse and Fleisch, 2009; Stevenson and Busby, 2015). Some exceptions include, the study of counterfeiting strategies and brand protection by Lopes and Casson (2012) and counterfeiting strategies within supply chains (Eser et al., 2015; Quach and Thaichon, 2018; Stevenson and Busby, 2015).

Moreover, those studies into counterfeiting strategies mentioned above have primarily used secondary data (Lopes and Casson, 2012; Stevenson and Busby, 2015), small size of interviewees (Eser et al., 2015) or only mentioned one type of actors, such as retailers in supply side (Quach and Thaichon, 2018). The fear of sharing information by counterfeiters and the difficulties in accessing counterfeiters are very important barriers to researching the supply-side of counterfeiting. On this basis, my study seeks to explore the counterfeiting strategies on the supply-side by collecting and analysing original data guided by a qualitative, exploratory approach.

This study focuses on the **non-deceptive** counterfeiting business. Across the whole of the counterfeiting business, counterfeiters try to maximize their profits by targeting all customers, including customers from the primary market, i.e. deceptive counterfeit - when customers have been deceived to purchase counterfeit goods. The secondary market is aptly named non-deceptive counterfeit, which is when customers purchase counterfeit products intentionally, knowing that they are not the original brands (Grossman and Shapiro, 1988; OECD, 2016). Accordingly, in my study, I am distinguishing between these two types of counterfeit markets. Unlike deceptive counterfeiters, who engage in criminal activities intentionally, non-deceptive counterfeiters are telling the truth to the customers. Hence, although both groups of counterfeiters are very difficult to access in order to collect data, non-deceptive counterfeiters are somewhat more accessible and willing to participate in empirical studies than deceptive counterfeiters.

Drawing on previous counterfeiting studies and the work on the theory of entrepreneurs (Casson, 1982; Lopes and Casson, 2007), I employed the theoretical framework of counterfeiting strategies developed by Lopes and Casson (2012) as a starting point to provide an exploratory investigation on the counterfeiting strategies of counterfeiters in China. The aim is to provide a better understanding of the counterfeiting phenomenon in order to ascertain if,

within the counterfeit business the actors are always follow similar strategies, and also if they always have the same or impact in the economy and society. In order to do that I conducted 33 in-depth interviews from a sample of counterfeiters, including producers, wholesalers, retailers and trademark officers in charge of counterfeiting cases, the owners of the original brands, and customers who purchase counterfeiting goods. In this study, I triangulated in-depth interview information with focus group, observation and documentary reviews.

My research explores the counterfeiting strategies are employed by non-deceptive counterfeiter; the agents are involved in the Chinese counterfeiting business and the roles they play; and the learning through counterfeiting reflects on their business plans. This study offers a deep understanding of counterfeiters, and identifies implications, and analyses the impact of different counterfeiting strategies to brand protection. It then proposes counter-measures for increasing brand protection. It also offers a theoretical understanding of counterfeiters' behaviours drawing on theories and concepts from a number of key disciplines, such as marketing, institutional economics and psychology.

1.2 Motivation and background to the research

Counterfeiting is not unique to China—historically, all economies have faced this problem at a certain stage of their development. This has been the case in the US, Germany and Japan (Lopes and Casson, 2012). For example, the leading intellectual property rights (IPR) advocate, the United States, was a leading IPR violator in the nineteenth century (Peng et al., 2017b).

The popularity of counterfeiting has been studied from different perspectives. Many scholars, such as Campbell and Pecht (2012), Chow (2005), and Hung (2003), claim that when there is a political system in transition and there is unprecedented economic growth, there also tends to be counterfeiting problems. With economic growth there is also an increased demand for

branded goods, stimulating the proliferation of counterfeiting. There is a significant body of literature which has specifically looked at consumer demand. The literature explored the psychological aspects of counterfeiting consumer demand and motivations, such as Atsmon and Dixit (2009), Bian and Forsythe (2012), Bian and Veloutsou (2007), Cheung and Prendergast (2006), Lai and Zaichowsky (1999), and Zaichowsky (2006).

As can be expected, price appears to be the main motivator for consumers to purchase counterfeit products, since the price is only a fraction of that charged for the genuine products (Cordell, Wongtada and Kieschnick Jr, 1996; Prendergast, Hing Chuen and Phau, 2002). However, Wee, Ta and Cheok (1995) have identified three non-price determinants: psychographic (attitude towards counterfeiting, brand status and novelty-seeking, demographic (age, educational attainment, and household income), and product-attributable (appearance, durability, image, perceived fashion content, purpose, and quality). In addition to the above mentioned determinants and motivators, the appearance of the product also impacts buying intentions and behaviors – the closer the match between the counterfeited and the genuine product, the more likely it is that some consumers would purchase the counterfeit product (Loken, Ross and Hinkle, 1986; Miaoulis and d'Amato, 1978; Ward et al., 1986).

The similarity between the products and the pricing strategies of counterfeiters pose a threat to the brands themselves and such issues have been extensively researched (Chaudhry, Cordellb and Zimmermanc, 2005; Chow, 2006; Lopes and Casson, 2012). Multi-national companies defend themselves, on an individual level, by taking legal action against the IP stealer (Stevenson-Yang and DeWoskin, 2005). and, on a collective level by lobbying with key governments (Lopes and Casson, 2012). The effectiveness of such interventions and actions have already been researched and authors such as Chow (2006) question the rather short-term approach taken by most organisations, including taking legal action meant to seize the products, destroy machinery and equipment and the products themselves. Trott and Hoecht (2007)

suggest counterfeiting can be an alternative form of innovation process through the reverse engineering and imitation. Minagawa et al. (2007) have also explored the role of counterfeiting, imitation and learning from the perspective of Chinese manufactures in non-consensual acquisition of technology. They offer a longer-term approach—instead of taking only legal action against IP infringers, an alternative way forward would be to collaborate with local firms to develop new products on their own (Minagawa et al., 2007). Therefore, the that counterfeiting, and imitation could be “used as a strategy by Chinese manufacturing firms to become a legitimate enterprise in its industry.” (Minagawa et al., 2007, p.11). Whilst an important study, Minagawa et al’s (2007) research presents some limitations. In this research, they did not distinguish between the deceptive counterfeiting and non-deceptive counterfeiting. In reality, these two types of counterfeiters co-exist in the counterfeiting business.

China is becoming the biggest centre of counterfeiting activity according to the U.S Custom and Brand Protection as mentioned above (CBP, 2016). The available literature addresses counterfeiting in China from diverse aspects. Firstly, the significant rise in the demand for such products in the Chinese market has contributed to an increase in counterfeits (Chen et al., 2014). Secondly, China’s IPR enforcement regime remains largely ineffective, and its complicated IP enforcement system is very much part of the problem (Chaudhrya et al., 2005; Chow et al., 2005; Enkel and Gassmann, 2010; Mertha, 2005; Xiao and Nicholson, 2010). The benefits accrued to local economies, including the creation of jobs, has motivated the authorities to turn a ‘blind eye’ to counterfeiting (Chow, 2006; Hung, 2003; Li, 2015). Thirdly, entrenched cultural influences and a positive attitude towards the purchase of counterfeit products, as well as the perception of minimal risk from such purchasing behaviour, has also had a significant impact on the counterfeiting business in China and other countries (Zaichkowsky, 2006; Zhan and He, 2012; Zimmerman, 2013).

Although counterfeit issues are important to numerous brand owners, existing knowledge seems to only partially reflect the complexity of this illicit market, as mentioned above, as most of the counterfeit research focuses on the demand-side or ineffective IPR protection (Bian and Veloutsou, 2017; Kaufmann et al., 2016; Pueschel, Chamaret and Parguel, 2017). Because of the prevalent lack of access to information and participants, the supply-side of this ‘market’ remains largely uncharted.

1.3 The purpose of this study

Hence, counterfeiting remains largely a mysterious, uncharted territory due to a lack of understanding how this ‘market’, and the actors therein, organises itself. Such ‘organizations of criminal activity’, naturally, are entities hard to ‘uncover’ and explore, given the illicit nature of their activities. However, my study’s main contribution is unveiling some of the mystery around suppliers of such products, having secured access to key actors in this market who are based in China.

This thesis aims to provide an answer to the following three main questions:

- 1. What are the most prevalent strategies adopted by suppliers in the counterfeiting market in China, including their structure and sales tactics.**
- 2. Which agents are involved in the Chinese counterfeiting business and what roles do they play?** In an increasingly strict legal environment, what are counterfeiters’ strategies to circumvent the application of regulations? Formal institutions, such as laws, and informal institutions, such as culture, have a profound impact on counterfeiters’ strategic choices in a demand-driven global market. Therefore, it is important to explore how those counterfeiters respond to the environment in which they operate (large dynamic global markets, increased competition, rapid growth, etc.) and how they create

and re-create their role in this environment. My study will also explore whether the Chinese government and the 'inefficient' legal enforcement system are the driving forces of the counterfeiting economy as has been suggested by other scholars. In addition, customers' purchasing behaviour and their cultural 'traits' will be included in the analysis to understand the role of these actors and their impact on other actors in this rather mysterious and complex market.

3. **Is there any learning associated with imitation through counterfeiting?** Have they ever considered building their own genuine brands, or are they happier to keep making a profit by 'free-riding' on the reputation of existing brand owners? Does Chinese government have an intention to support the creation of local, Chinese well-known brands having been assisted by the counterfeiters' transformation from copying to innovation? The intention is to fill these research gaps on the supply-side of the counterfeiting business by exploring the participants in the supply chain, including the producer, the wholesalers and retailers by building on the existing research identified. This study aims to achieve an in-depth understanding of the counterfeiting strategies employed by non-deceptive counterfeiters and how institutions impact their behaviours and future, therefore, to explore their impacts alongside trademark protection in China.

1.4 Objectives of the study

This study focuses solely on non-deceptive counterfeiters, giving the difficulty of accessing deceptive counterfeiters. Deceptive is analysed mainly using secondary sources. In doing so, this study highlights the key differences in terms of the implications that non-deceptive counterfeit can have on the economy and in society in general. Considering the lack of research

on the supply-side of the counterfeiting phenomenon as outlined in the previous sub-sections, this study is guided by the following main objectives:

1. To explore the counterfeiting strategies of counterfeiters in China, specifically how the strategies play out in reality.
2. To analyse institutional impact on the behaviour of non-deceptive counterfeiters in China, from cultural, economic and legal perspectives.
3. To explore how institutions, influence the development of non-deceptive counterfeiters in China.
4. To explore the types of learning that may result from counterfeiting behaviour, which can result in innovative thinking and novel products.

1.5 The scope of research context

This research focuses on **luxury branded** products, such as handbags, watches and accessories and the apparel industry including clothing and footwear. According to the Intellectual Property Rights Seizure Statistics Fiscal Report, these categories have been ranking top in terms of manufacturer's suggested retail price and the number of goods seized for contravention (CBP, 2016). For luxury brands, counterfeit products might damage the reputation significantly, reduce the demand of genuine products, and can also increase the cost of IPR protection (Bian and Veloutsou, 2017; Francis, Burgess and Lu, 2015; Teah, Phau and Huang, 2015).

This research defines counterfeiting in relation to one particular form of intellectual property rights, that is **trademarks** rather than copyright and patents. Copyright is "a set of exclusive rights, subject to limitations, related to the creative works of authors" and Patents are "generally available for any inventions, whether products or processes, in all fields of technology" (OECD, 2016, p.27). Trademarks are important in supporting leading brands in marketing-based

industries. Trademarks help “customers and businesses to identify products that meet their expectations in terms of quality and price, thereby fostering trust between economic agents.” (OECD, 2016, p.27). The trademark denotes “image and certification of origin and personality of brands and this is often more important than the technology behind the products or service to which the products relate” (Lopes and Casson, 2012, p.3).

Most researches either discuss counterfeiting and imitation together (Chacharkar; Minagawa et al., 2007; Zaichkowsky, 1995), or interchanges with piracy (Fink, Maskus and Qian, 2015; McDonald and Roberts, 1994). The latter researchers do not distinguish between counterfeit and piracy, because “the breaches of trademark and copyright laws frequently overlap as companies often protect their products under either of intellectual property rights” (Staake and Fleisch, 2009, p.17). Sometimes even discuss counterfeit issue with ‘Shanzhai’ (Chinese word means imitation) in the Chinese context (Li, 2015). Considering the objectives of my thesis, in this study, counterfeit is discussed **only** within the context of trademark protection.

As already discussed, considering that China is the epicentre of the contemporary counterfeiting industry due to its recent manufacturing and economic boom (CBP, 2016; OECD, 2016), this study is conducted in **China**. China then is a fruitful and ripe context in which such a phenomenon can be closely observed. Moreover, understanding the fundamentals of the Chinese counterfeit market will generate potent recommendations, not only for practitioners but also for researchers interested in this phenomenon.

1.6 Methodology and data

Eser et al. (2015) used semi-structured interviews with actors and lay-witnesses to explore the counterfeiter’s supply chain in Turkey. Quach and Thaichon (2018) used in-depth interviews with retailers online to investigate different rationalization strategies on social network sites in

Vietnam. There is very little prior research done on counterfeiting supply-side in China, and my study aims to address this gap in the literature. Ghauri and Cateora (2010) suggest that in order to gain an inside view into this phenomenon, a qualitative research through interviewing is highly recommended. For my study, in order to achieve this aim, I conducted in-depth interviews with participants in the supply-side, including manufacturers, wholesalers, and retailers. I also included 'indirect' participants on the supply-side, including government officers in the Administration for Industry and Commerce (AIC-an agency in Chinese government) and customers.

The research sample is formulated in three steps. Firstly, through the review of the counterfeiting literature and reports from the EU and U.S. Customs, and reports from the OECD, I identified that the luxury goods industry has 'outstanding' counterfeiting problems. In order to answer the research questions and to meet the objectives of this study, purposive sampling can be deemed to be useful in such situations when a targeted sample is needed. Purposive sampling is fairly quick and particularly informative for such research purposes (Neuman, 2005). Therefore, through personal contacts I located a number of participants who were willing to help. Secondly, whilst the sampling method for this study is akin to a purposive sampling strategy, during the data collection phase the sample snowballed, and I was introduced to more individuals operating in this field. Snowball sampling is often used for this kind of research as the informants are either 'hidden', or there is a low number of potential participants because of the sensitivity of the topic (Browne, 2005; Frank and Snijders, 1994). In this research, as there is sensitivity and risk of disclosing participants' information, it is rather problematic to investigate counterfeiters directly without the development or existence of strong trust. The trust pattern has to exist between the first participants, their peers and myself. The research draws from non-deceptive counterfeiters on the supply-side as well as other relevant participants such as trademark officers in AIC and customers who are loyal to

the luxury brands, as well as customers who purchase the counterfeit. The secondary data was collected and reviewed from different institutions, including the local AICs, State Administration for Industry and Commerce (SAIC), Chinese legal cases archive online, Chinese Press on line, BBC News, etc. Such reviews were chosen because they take into consideration the economic, political and legal environment and would provide appropriate background and information for the research. Further detail on the methodology used in this study is extensively provided in Chapter four.

1.7 Significance of this research

As previously argued, counterfeiting is a major challenge in the global economy. As the world centre of counterfeit products, China can be regarded as the most appropriate place to explore counterfeiting. This study's emphasis on manufacturers, wholesalers and retailers, and their interaction with the various institutions involved in this 'mysterious' market and their customers make this research significant. This research is designed to contribute to the market knowledge from both an empirical and a theoretical perspective.

Firstly, this research contributes to our understanding of the supply-side of counterfeiting by offering an analysis and interpretation of first-hand primary data, exploring the motivations and actions of a number of participants in the Chinese counterfeiting supply chain. Although consumers' demand for counterfeit products is regarded as the 'driver' for this industry, without the operation of the supply-side, the products would have no chance of being delivered to consumers. The strategies employed by counterfeiters have, to date, remained unclear and the existing research mainly analyses the counterfeiting strategies from secondary sources. Additionally, counterfeiters have been analysed as being the same irrespective of types of goods they produce and the types of expectations of customers they serve. Consequently, the

primary data acquired from the participants is meaningful in understanding the hidden side of counterfeiting. However, the study focuses on the non-deceptive counterfeiters only as mentioned above.

Secondly, this research provides empirical support and extends the theoretical framework of counterfeiting strategies developed by Lopes and Casson (2012). They noted that counterfeiting and trademark infringement have received little attention in the existing literature on the subject and that both quality and price are very important variables to understanding counterfeiting strategies. The examination of those two counterfeiting elements can lead to a better understanding of the strategies available to the brand owner in her pursuit to protecting genuine products from counterfeiting, as well as protecting brand recognition (Lopes and Casson, 2012). In my study, I extend their framework and distinguish between non-deceptive and deceptive suppliers as well as between different types of customers according to the quality and price of the products they purchase. My research aims to contribute to this body of knowledge by collecting, analysing and interpreting primary data. Therefore, this study contributes to existing research and provides a lead for future research projects to expand and add to the data and the findings generated here – an issue already identified and widely discussed in the academic circles interested in this topic.

Thirdly, this study contributes to the theory of ‘entrepreneurship’ (Casson, 1982) by addressing a particular type of ‘entrepreneur’ who takes advantage of loopholes in the institutional environment by appropriating others’ ideas. The participants in my study exploited and took advantage of the existing brands and the established logistics available in China, as well as the loose regulatory framework in its enforcement and the demand on the customer side. Drawing on the theory of business ethics (Frankena, 1963) at a macro level, those non-deceptive counterfeiters condemn other counterfeiting brands in other industries, such as food and pharmacy, but most of them do not consider non-deceptive luxury brands counterfeiting as an

unethical business. For the non-deceptive counterfeiters who have already left the counterfeiting business, they insisted that there is nothing related to a moral issue, as they realized the importance of building their own brands. For those continuing to stay in this business, they understand that they are part of a counterfeiting supply chain, but they claimed that they do not harm any of the shareholders in this circle. The luxury conspicuous consumption theory (Veblen, 2017) can help to explain how non-deceptive counterfeiters differentiate customer segments by creating and employing different counterfeiting strategies. Moreover, drawing on the theory of neutralization (Sykes and Matza, 1957) at the individual level, those participants deployed four ‘techniques’ to address the cognitive dissonance associated with the ‘immoral’ aspects of counterfeiting: being honest, free-advertising, do not become involved with health and safety issues and comparative quality with a reasonable price. The non-deceptive counterfeiters believe that the ‘goodness’ of non-deceptive counterfeiting of luxury brands outweighs the ‘badness’ and that, overall, it has benefited the welfare of the whole society.

In addition, by considering potential learning aspects from counterfeiting through the reverse engineering and imitation, this study provides empirical data to highlight counterfeiting can be an alternative form of innovation process. Imitation and counterfeit activities can actually facilitate the development of new products as Trott and Hoecht (2007) proposed. Increasing legal enforcement and the attitude of government about innovation and, will influence the direction of counterfeiters activities. Baumol (1990) suggests that the society do not have to wait slow cultural change in order to find measures to redirect the flow of entrepreneurial activities toward more productive goals. This study will broaden our understanding of fundamental theories and their practical contribution to the counterfeiting business in the luxury industry.

1.8 Operational definitions

In this subsection I provide definitions for key terms and concepts which are frequently used throughout this thesis:

Counterfeit: any goods, including packaging, displaying without authorization a trademark which is identical to the trademark validly registered by the innovator, or which cannot be distinguished in its essential aspects from such a trademark, and thereby infringes the rights of the owner of the trademark in question under the law of the country of importation (TRIPS, 2014)

Deceptive counterfeiting: products carrying the copied trademark, which customers cannot easily distinguish counterfeits from the authentic products, thinking that they are purchasing the products of the genuine producer (Grossman and Shapiro, 1988)

Non-deceptive counterfeiting: products carrying the copied trademark and customers are fully aware of that, or sometimes intentionally purchasing counterfeits (Grossman and Shapiro, 1988)

First mover: genuine producer and entrepreneur who produces, distributes and manages novel and innovative products and processes to achieve competitive advantage in existing or new markets (Chandler, Hikino and Chandler, 2009)

Marketing knowledge: specific knowledge about the preferred types of distribution channels to serve a particular market or an intangible and legally protected asset; the ability of creating and managing successful brands (Lopes, 2007)

Brand: a legally defensible proprietary name recognized by customers as distinguishing other products designed to satisfy the same need. Brands may add value to consumers not only through the tangible characteristics of a product, but also through intangible characteristics which can convey ‘fantasies’ and ‘security’ – means by which customers develop brand loyalty (Lopes, 2007)

Imitation: imitation implies copying, where the imitator consciously mimics genuine products, services, procedures, processes or strategies (Schnaars, 2002)

Institutions: the humanly devised constraints that structure political, economic and social interactions, including formal constraints such as law and property rights and informal constraints such as cultural rules and norms (North, 1991)

Luxury brands: goods and services carrying with them social status symbols through price and quality but with relatively low utility (Veblen, 2017)

Collectivism: the degree to which people in a society are integrated into groups (Hofstede, 2011)

Informal economy: the set of illegal activities through which actors recognize and exploit opportunities, accruing economic benefits by circumventing legal and administrative rules, such as commercial licensing, labour contract etc. (Feige, 1990; Webb et al., 2009)

Formal economy: economic entities whose actions and operations are deemed to be adhering to an established legal economic system and whose conduct must follow strict and systemic legal principles and rules (Feige, 1990)

Innovation: in this study, innovation is defined based on the definition of the concept in marketing studies as defined by Lopes – innovative branding and marketing knowledge rather than technological innovation (Lopes and Casson, 2007)

Strategy: the determination of the basic long-term goals and objectives of an enterprise, and the adoption of courses of action and the allocation of resources necessary for carrying out these goals (Chandler, 1990)

Trademark: a legal way for producers to distinguish their products from competing products. They generally create expectations with respect to the quality and characteristics of the products concerned and, therefore, serve as an important informational tool that consumers use to evaluate different products (OCED, 2007, p.3)

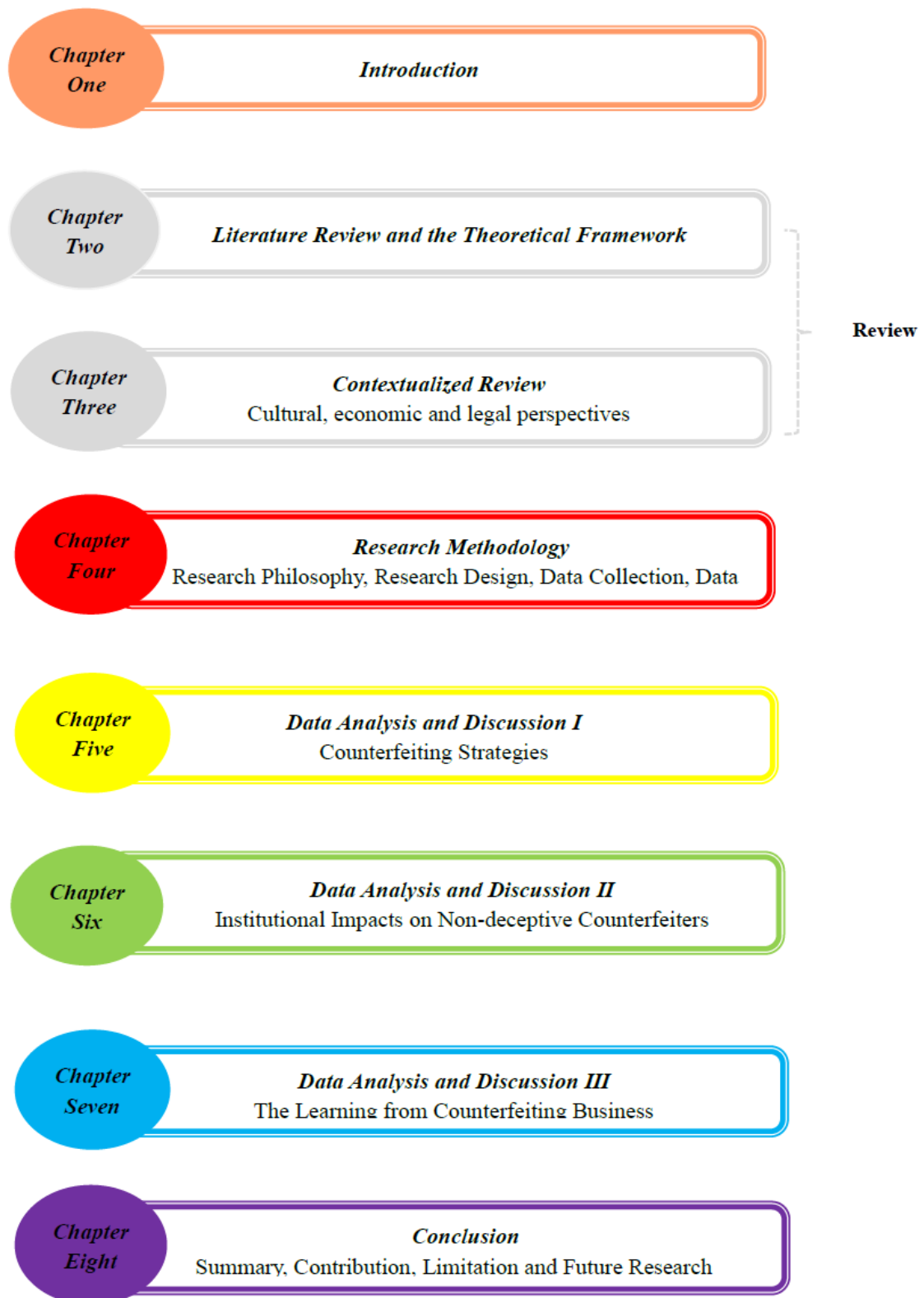
Patent: an instrument that enables the holder to exclude unauthorized parties from making, using, offering for sale, selling or importing a protected product as well as a product obtained using a patented process (OCED, 2007, p.3)

Copyright: rights given to authors of creative works, such as movies, music, software and written work (OCED, 2007, p.3)

1.9 Research structure and overview of the chapters

This study is going to explore how the supply-side of counterfeiting business implement their strategies and engage with different institutions. Figure 1.1 below describes the design of research structure for this study, organized in eight chapters.

Figure 1- 1 Structure of the thesis



Source: developed by author

Chapter One: Introduction. This chapter presents the introduction, motivation and research background of the topic, as well as the purpose and objectives of this research. A qualitative research method has been employed to explore the strategies, motivations, institutional impact and effects, and also the significance of learning in counterfeiting activities in China. The contribution to the knowledge and the definitions have been used often, the research structure has been described in the setting of this study.

Chapter Two: Literature Review and Theoretical Framework. This chapter offers a full picture of the magnitude of the counterfeiting problem. Based on the research objectives and accessibility of data, at the beginning of Chapter Two, the scope of the research and the definition of counterfeiting are provided. Also, the differentiation in empirical studies between deceptive and non-deceptive counterfeiting is highlighted and the chapter offers a justification for this study's focus on non-deceptive counterfeiting of luxury brands. Before concluding, the review of the literature discusses the gaps identified, especially regarding studies on the supply-side of the counterfeiting phenomenon.

Chapter Three: Contextualized Review in China. As China is considered to be the leading source of counterfeit products, this chapter critically reviews previous studies on counterfeit goods and services 'Made in China', and it does so from different institutional aspects. Culturally, copying products is a way of showing respect and this has been widely accepted showing that there is a lack of the concept of intellectual property rights in China and the weak legal enforcement has promoted the speedy development in counterfeit businesses. The desire for quick economic development makes the Chinese government relatively less respectful to the intellectual property rights protection. Hence, this chapter offers a fruitful background for exploring the counterfeit 'universe' in China.

Chapter Four: Methodology. This chapter discusses the research methodology employed to meet the espoused objectives of this study and it also offers a clarification about the research

philosophical, ontological, epistemological and methodological approaches. As previously mentioned, this study is based on in-depth interviews, observations, and secondary data, and this chapter offers further information about these aspects of the study. Moreover, the analytical framework used – Thematic Analysis – is also discussed at length in this chapter. Before concluding, the chapter reiterates the ethical issues involved in a research project such as this one, considering the sensitive nature of approaching participants, collecting data, and disseminating the findings.

Chapter Five: Data Analysis -- Discussion of Counterfeiting Strategies. Starting with exploring who the actors are in the supply chain of the counterfeit business, this chapter discusses the establishment of the counterfeit business in China and analyses how the counterfeit strategies have progressed to the present, based on theoretical framework developed by Lopes and Casson (2012). The findings show the different impacts on brand owners based on the strategies that they adopt. Fundamentally, quality and price are two key elements for the counterfeit business. Through the data analysis, this study extended the counterfeiting strategies framework developed by Lopes and Casson (2012) through distinguishing non-deceptive and deceptive counterfeiting.

Chapter Six: Data Analysis -- Discussion of Institutional Impact on Non-deceptive Counterfeiters. Based on the analysis of the interviews conducted, this chapter describes how institutions affect the behaviour of the counterfeiters from a cultural, economic and legal enforcement perspectives. Further explanation is provided on how counterfeiters grab opportunities to develop themselves into an informal economy. Meanwhile, this chapter also reveals how non-deceptive counterfeiters view their business and the ethical marketing decisions they make. The four ‘techniques’ have been employed to eliminate any cognitive dissonance in the counterfeiting business.

Chapter Seven: Data Analysis -- Discussion of Learning Through Counterfeiting. By engaging in the production of counterfeit products – a form of entrepreneurial behaviour - the learning involved in such activities may have an influence in counterfeiters eventually transitioning from the informal to the formal economy by engaging in more licit activities, or even developing products of their own – innovative and creative behaviour. Hence, this chapter develops a theoretical model of learning through counterfeiting. An explanation of the relationship between how internal factors and external factors affect their future decision-making is further explored.

Chapter Eight: Conclusion. This chapter summarizes the main findings and answers the research questions. This study explores the evolution of the counterfeit business, whilst at the same time, provides an intensive explanation of the behaviour of counterfeiters in the evolution of this market. With the change in institutions, the counterfeiter's strategies and business models change as well. Through an understanding of this process of change, this research contributes theoretically to the theory of the entrepreneur and marketing, by drawing on the knowledge of different fields in marketing, institutions, business ethics and psychology. This thesis ends by providing practical implications of the findings and making recommendations for future studies in this area.

Chapter Two Literature Review

2.1 Introduction

Counterfeiting is a world-wide problem and the proliferation of counterfeiting in the marketplace has skyrocketed in the past decades. This chapter draws a full picture of the counterfeiting phenomenon in relation to its definition, development, scope, and impact. This chapter has been divided into following sessions: Section 2.2 displays the magnitude of the counterfeiting phenomenon in the world; Section 2.3 defines the scope of the research - in this section, counterfeiting is shown how it differentiate from other intellectual property rights infringement and justifies why this study focuses only on one type of intellectual property rights, the trademark; Section 2.4 introduces the differentiation of counterfeiting, imitation and other trademark infringements; Section 2.5 introduces the different categories of counterfeiting, including deceptive counterfeiting and non-deceptive counterfeiting. Based on the objectives of this research and the accessibility of data, this study will focus on non-deceptive counterfeiters only; Section 2.6 provides a comprehensive review of the counterfeiting phenomenon from different angles, including a thorough review of the prevalent research on the demand-side and anti-counterfeiting methods and actions, and the handful of studies that looked at the supply-side; Section 2.7 explains how counterfeiting exists as an informal economy and details the entrepreneurial role that counterfeiters have in this type of economy; Section 2.8 defines the scope of this research in the luxury industry and provides a review of the theoretical background with a focus on luxury brands counterfeiting research; Section 2.9 identifies the research gap in this area of research; and Section 2.10 concludes that there is a lack of empirical studies in the supply-side and points out that China offers a rich context to explore such issues. China has been regarded as the world's number one centre for the production of counterfeit products (CBP, 2016; OECD, 2016). Hence, exploring the

counterfeiting strategies and brand protection methods in China is rather important in understanding this illicit business.

2.2 The Counterfeiting phenomenon

Counterfeiting is a global, interdisciplinary phenomenon. It has been discussed from the viewpoint of: business, economics, legal enforcement, management, psychology and sociology (Bian et al., 2016; Chow, 2000; Phillips, 2007; Thaichon and Quach, 2016; Yoo and Lee, 2012).

Counterfeiting is a significant problem in a wide range of industries. No industry is immune to counterfeiting. Counterfeiting has emerged in every industry and is not exclusive to highly visible branded products. Previously it has been more focused on lucrative markets, such as luxury brand watches, jewellery, bags, apparel and shoes, electronics and pharmaceuticals (Bian, 2006; Cesareo, 2015; Stevenson and Busby, 2015). Over time, the scope for counterfeiting has become wide spread even food, beverages, toys and spares equipment are not exempt (Cesareo, 2015; Stevenson and Busby, 2015; OECD, 2016), a situation which sometimes can have unwanted and debilitating consequences to consumers. For example, Liang (2006) reported that counterfeit drugs have caused respiratory paralysis and near death for patients. Counterfeiting has also been prevalent in the transportation industry, such as air craft and trucks, presenting a considerable threat to human life, since, invariably, the counterfeits are not of sufficient quality for the job they should perform (Luedeman, 1996).

Counterfeiting has become a concern and challenge for the world economy and various governments. The exact size of the counterfeiting problem is difficult to measure because significant counterfeiting activity goes undetected and unreported (Stevenson and Busby, 2015). However, using statistical analysis based on data of seizures in global Customs in 2008, counterfeiting is estimated to have cost around USD 200 billion and it affected 1.9 per cent of

the world trade (OECD, 2009). Over only five years, there was a sharp increase in the counterfeiting trade. In 2013, counterfeit goods were estimated to account for as much as USD 461 billion and have represented 2.5 per cent of the world trade. This trade is equal to the GDP of Austria or the combined GDP of Ireland and the Czech Republic (OECD, 2016). The luxury and fashion goods are top target for counterfeiters, more than 50 per cent seized goods are jewellery and handbags, apparel and shoes according to the US Customs (CBP, 2016).

Unfortunately, the reality is that where there is money to be made, businessmen will go straight for profit and the quickest strategy, regardless of the moral, ethical or legal implications of their 'entrepreneurial behaviour' (Fadahunsi and Rosa, 2002). One potential consequence identified from this increase in counterfeiting activity is that genuine innovators and entrepreneurs would eventually become demotivated in investing in developing new products counterfeiting can, then, have discouraging effects to established or new producers and developers (Nwosu, 2014).

2.3 Scope: the research concept

2.3.1 Differentiating counterfeiting with other intellectual property rights infringement

Although the counterfeiting problem has been a challenge for the world economy for decades, there is no common definition of this phenomenon (Bian, 2006). As a result, researchers and other stakeholders, such as governments have amalgamated counterfeiting, piracy and imitation altogether. Some researchers also merge counterfeiting with trademark and copyright. Counterfeiting is the unauthorized production of goods that are legally protected by trademarks, copyrights or patents through lost sales (Bloch, Bush and Campbell, 1993; Shultz and Saporito, 1996). Sometimes these terms are used interchangeably with similar terms such as imitation, fake, forgery, and piracy (Bian and Veloutsou, 2007; Li, 2015). Hence, before clarifying the definition of counterfeiting in this research, it is worth differentiating counterfeiting, imitation

and other intellectual property rights (IPR) and infringements. Generally, there are three types of intellectual property rights: trademarks, patents and copyrights.

Trademarks are often treated as synonymous with brands (Lopes and Casson, 2012). A brand is defined as a legally “defensible proprietary name, recognized by some categories of consumers as signifying a products with dimensions that differentiate it in some way from other products designed to satisfy the same need” (Lopes, 2007, p.5). Brand ‘communicate’ certain socially constructed aspirations, expectations, characteristics and a specific social status in the marketing environment (Keller, 2009). It has added value to companies. Strong brands have larger profit margins, can create customer loyalty, convey a sense of security and consistency to the customers (Hoeffler and Keller, 2003). Brands encapsulate the value for an organization and add value to the consumers. They offer functional and emotional value through not only tangible characteristics of a products, but also intangible characteristics, mostly associated with psychological and social values (De Chernatony, 2010).

A trademark is a “legally protected ‘sign’ that is used to distinguish a product or service of the brand and is protected by law. The ‘sign’ can be any word, graphics, figures, images, or similar that acts as a distinguishing feature. Trademarks, from a legal perspective, are intended to help prevent unfair competition” (Lopes and Duguid, 2010, p.56). Therefore, a trademark is associated with products or brands and are designed to protect from imitators in competition (Lopes and Casson, 2012). Based on the asymmetric information between a salesperson and their customers, the trademark is a very important guarantee to customers as it identifies the producer. This reduces the inefficiency caused by the lack of information relating to products (Brander, Cui and Vertinsky, 2017). Consequently, a trademark serves as an indication of product quality and is an important indicator of reputation in the market (Maskus, 2000). Furthermore, the value of the trademark is diluted if the trademark is free-copied and so the product loses its integrity. Trademark protection requires vigilance and encourages companies

to continually invest in research and development in order to improve quality and after-sales service (Brander et al., 2017).

According to the OECD, copyright is “a set of exclusive rights, subject to limitations, related to the creative works of authors” (OECD, 2016, p.18). Compared with trademarks, a copyright is applied from the moment the work is created, and unlike copyright, patents and trademarks need to be registered in order to be protected (OECD, 2016). Patents are generally “available for any invention, whether products or processes, in all fields of technology” (OECD, 2016, p.18), which enable patent holders to exclude unauthorized parties from making, using, offering for sale, selling or importing the protected inventive subject matter. At the same time, both patents and trademarks are geographically bound.

Thereby, although both pirated goods and counterfeits are infringements of intellectual property rights, pirated goods (such as pirated CDs and video games), because of their usually ‘unrealistically’ low price, purchasers are aware that such goods are not genuine. Such purchasers actively look for such products and are usually price sensitive. As the customer is aware that the products are fake, such products can be regarded as non-deceptive fakes (McDonald and Roberts, 1994). On the contrary, counterfeiting is deceptive and involves infringement of trademark (Chaudhry and Walsh, 1996; Lai and Zaichkowsky, 1999; Papadopoulos, 2004). Hence, distinguishing counterfeiting from other IP violations as mentioned above, is very important to this research.

2.4. The differentiation of counterfeiting, imitation and other trademark infringements

2.4.1. The definition of imitation and categories

Many scholars discuss counterfeiting issues alongside imitation, imitation implies copying and imitators consciously mimicking established products. However, **not** every type of imitation

will involve IPR infringement. According to Schnarr's' research, there are four different types of imitation, they are: knockoffs, design copies, creative adaptations and counterfeiting, which are all inspired by a pioneering brand (Schnaars, 2002). 'Knockoffs' are legal copies of a competitor's product, such as personal computers and toys. They normally are close copies of the products but carry their own brand names, not the name of the original (Schnaars, 2002). 'Design copies' combine aspects of innovation and imitation, which trade on a competitor's style, design or fashion (Schnaars, 2002). 'Creative adaption' is the taking of an existing product and improving it. Therefore, creative adaption is the most innovative kind of copy (Schnaars, 2002). Another kind of imitation has not been listed but worth mentioning, which is 'trademark squatting'. This is described as "an act of registering other people's marks as their own marks by squatters in other countries in order to confuse the customers as to the identity of the pirate's product or service or the sale of trademark registration in order to make a profit from original marks or real trademark owners" (Sangsuvan, 2013, p.263). For example, if a trademark squatter first registers the mark in China, unless the brand owner could prove they are already well known by their trademark name in China, the imitators will become the legal brand owners.

With the exception of counterfeiting, which is a 'direct 'copy, other forms of imitation do not copy directly, they only borrow or copy some aspects or attributes of the original product (Wilke and Zaichkowsky, 1999). Imitation is not only more fruitful than innovation but is also a widespread way of learning and growing the business. An imitator will generally spend less time and investment than innovators because the products from innovators offer imitators a great amount of meaningful information. Hence, on average, the imitation only costs 65 per cent of the initial investment in innovation (Schnaars, 2002).

Not all products involve infringement. Lopes and Casson (2012) describe the two dimensions of imitation, the imitator will either imitate products, which produce a look-like product or they

will also imitate a trademark at the same time. The imitation of products only, without imitating trademark, do not involve a trademark infringement. Some forms of imitation will create confusion for consumers by exploiting the trademarks of those brands, which might affect the success of the brand base and infringe on the original's image and profit in the long-term (Wilke and Zaichkowsky, 1999).

Researchers studying imitations are fully aware of the difference between counterfeiting and imitation (Bamossy and Scammon, 1985; Lai and Zaichkowsky, 1999; Lopes and Casson, 2012; Wilke and Zaichkowsky, 1999). Imitation creates an overall similarity, the main purpose of imitation is 'to be like' but not to 'be identical' - there is often a partial difference (Bamossy and Scammon, 1985; Kapferer and Michaut, 2014; Lai and Zaichkowsky, 1999). Therefore, the imitators prefer an inexact copy with small variations in design, since imitation does not necessarily break the law unless it is proven that it has caused confusion to consumers (Bamossy and Scammon, 1985; Lopes and Casson, 2012).

2.4.2. Imitation and learning

Successful new products always attract imitators who want to enter the market with lower cost by increasing competition and reducing the price. Customers might benefit from imitation, but in the long term might also lose motivation of innovation. If the innovation cannot cover the cost of research and development, it could affect innovators' motivation and considering that innovative development of products is an important aspect of economic growth, protecting and awarding the exclusive legal right to innovators is essential to the development of society (Lopes, 2007).

However, imitation is not always as bad for the society as it first appears, because it introduces an economic model in which imitations facilitate an increase in the dynamic development of different parts of the world by giving access to ordinary people to products and services, such

as technology and equipment, which otherwise they would not afford. Hence, it has been suggested that a stringent intellectual property right protection might be inappropriate, and a balance is needed to limit the ‘knock off’ effect of imitations and to allow developers to mimic products and services to a certain extent (Bessen and Maskin, 2009).

Kale and Little (2007) discuss how imitation is a way of learning and developing. Their research used a case study to show how the Indian pharmaceutical industry has followed a pattern from imitation to innovation. With a change in patent law, the industry has learned how to develop their ability of research and development. The process of imitation has given those firms a strong foundation for building up advanced innovative capabilities. also found that between 1870 and 1929 most powerful imitators of British brands were mainly from the United States, Germany, and Japan, and other European and Asia countries and some Latin American countries. Clearly, this indicates an apparent connection between learning from imitation and economic growth because those major imitators subsequently became leading economic powers (Lopes and Casson, 2012).

Reverse engineering (RE) is a concept has to be mentioned in imitation. RE is “generally understood to mean the process of taking something (a device, an electrical component, a software programme, etc.) apart and analysing it in detail, usually with the intention to construct a new similar but different or improved device or program that does the same thing without actually infringing any intellectual property from the original.” (Trott and Hoecht, 2007, p.134). The study of Nelson and Winter (1977) explains how the United States evolved to conduct substantial original scientific research through RE from Britain. Trott and Hoecht (2007) propose a conceptual paper to discuss that, as an innovation process, instead of learning from formal R&D, RE and imitation could be informal learning albeit might involves intellectual property infringement issues. Hence, under certain condition, counterfeit activities might can contribute to the development of new products.

As mentioned earlier, in this research I analyse imitation and counterfeit in relation to trademark following Lopes and Casson's (2012) two dimensions of imitation strategy:

Table 2- 1 Two dimension of imitation strategy

Imitate trademark	Imitate product	
	No	Yes
No	No Imitation	Imitation without trademark infringement
Yes	Trademark infringement	Counterfeiting

Source: Lopes and Casson, 2012

Table 2-1 illustrates the direction of imitation in the market. The imitator will decide whether they will only imitate either a trademark, or products only, or both. The top cell in the right column is the one normally discussed in the economic literature. The imitation is not only based in emerging market, such as Brazil and Mexico (Karaganis, 2011), but also in more developed countries such as United States, Germany and Japan (Lopes and Casson, 2012). A considerable number of imitators have surpassed pioneers in the market, such as IBM VS Atanasoffs ABC computer in mainframe computers, or Miller's Sharp's VS G.Heileman's Kingsbuy in Non-alcoholic beer (Schnaars, 2002). The bottom cell in the left column depicts the imitation of trademarks resulting in own products rather than copies of the genuine products. Counterfeiting is not just about creating 'identical' products, but also imitating 'to be identical' in trademark (Lopes and Casson, 2012). In this thesis I only focus on the arguably worst dimension of the those identified by Lopes and Casson (2012) – counterfeiting, which is an illegal trademark infringement equalling to theft.

2.4.3. The definition of counterfeiting in the study

As discussed above, counterfeiting is described slightly differently by various organizations and authors. Table 2-2 below illustrates the definitions proposed by the OECD, TRIPS and WTO.

Table 2- 2 The definition of counterfeiting from OECD, TRIPS and WTO

OECD	<p>“Technically, the English term ‘counterfeiting’ only refers to specific cases of trademark infringement. However, in practice, the term is allowed to encompass any making of a product, which so closely imitates the appearance of the product of another so as to mislead a consumer that it is the product of another. Hence, it may also include the unauthorized production and distribution of a product that is protected by other intellectual property rights, such as copyright and neighbouring rights.” (OECD, 1998, p.3)</p>	<p>Counterfeiting encompasses trademark with copyright and patent</p>
TRIPS	<p>“counterfeited trademark goods” shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation; “pirated copyright goods” shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in</p>	<p>Defines counterfeit of trademark and copyright</p>

	the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation (TRIPS, 2014)(online).	
WTO	“Unauthorized representation of a registered trademark carried on goods identical to 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” (WTO, 2014)(online).	Defines trademark only and ignores non-deceptive element

Source: developed by author

From the definitions above, we can find that the OECD does not distinguish the trademark infringement from other IP violations. Compared to the OECD’s definition, the definition in TRIPS combines the ‘counterfeit trademark goods’ and ‘pirated copyright goods’. In terms of variations in defining counterfeiting, the WTO’s take on this concept also stands out. Furthermore, the WTO emphasizes ‘deceiving the purchaser’ but sometimes counterfeit goods are knowingly and willingly purchased as the genuine products are too expensive and those individuals cannot afford them (Nwosu, 2014).

The definition of intellectual property rights can be regionally operationalised as in the case of the European Union (Maskus, 2012). However, although the basic concept of counterfeiting is widely and internationally understood, the national context must also be considered. In China, there is no specific definition of ‘counterfeit’ in the Chinese law, but there are a number of different legal provisions that refer to trademark infringement that broadly encompass counterfeiting (Chow et al., 2005). The latest amendment of Trademark Law has brought the Chinese Trademark law into closer alignment with the provisions on counterfeiting in the

TRIPS agreement (Li, 2015). Therefore, in this study, the definition of counterfeiting will be referred to in relation to the definition provided by the TRIPS agreement, which is accepted by many researchers (Bamossoy and Scammon, 1985; Bian, 2006; Chaudhry and Walsh, 1996; Kapferer, 2012).

“Counterfeited trademark goods” shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation.” (TRIPS,2014) (online)

2.5. Categorising counterfeiting

As Fink et al. (2015, p.5) point out in their research “the primary welfare effects of counterfeiting depend crucially on whether consumers are deceived into believing that fake good is produced by the owner of trademark”. Grossman and Shapiro (1988) has distinguished two different categories in the counterfeiting economy, which is deceptive-counterfeiting and non-deceptive counterfeiting. The classification of deceptive-counterfeiting and non-counterfeiting has been widely accepted by many researchers (Bian and Moutinho, 2009; Prendergast et al., 2002; Teah et al., 2015; Veloutsou and Bian, 2008; Wall and Large, 2010). This category might involve the possibility of customers’ willingness to purchase counterfeit goods; therefore, to promote the development of counterfeiting economy.

2.5.1. Deceptive counterfeiting

Asymmetric information is the main cause for market failure in terms of trademark protection. The importance of trademark is to reduce uncertainty and provide information to customers, as

well as to guarantee the quality of the product and service. Therefore, trademarks are regarded as an indication of quality. The trademark is a crucial sign to brand owners to distinguish themselves in the market (Lopes and Casson, 2012; Qian, 2014). Unfortunately, the deceptive counterfeiter copies trademarks to take a ‘free-ride’ on the brand’s reputation and maximize their profit without paying any cost.

In ‘deceptive counterfeiting’ the products carry the copied trademark. Customers cannot easily distinguish counterfeits from the authentic products, as they do not have sufficient information. Customers believe that they have purchased the products of the genuine producer. With the relative low quality of counterfeit goods, those who do not realise that they bought a counterfeit may start to doubt the reputation of the original brand owner. In addition to damaging the image of the brand, deceptive counterfeiting also reduces the economic welfare of the producer of the genuine article (Grossman and Shapiro, 1988). Furthermore, Maskus (2012) suggests that counterfeiting would deter the growth of small and medium-sized enterprises. Therefore, deceptive counterfeiting is a risk in the development of global economy.

2.5.2. Non-deceptive counterfeiting

In some circumstances, when customers pay close attention to the product they buy, they can be fully aware of counterfeiting. This can also be deduced from the distribution channels used or the price that they pay. Bian (2006) suggested a third type of counterfeiting – ‘blur counterfeiting’, meaning that consumers are not quite sure whether what they are purchasing is counterfeit or not. However, the term ‘non-deceptive’ clearly implies that customers are fully aware that they are intentionally purchasing counterfeits. The OECD reported that the willingness of consumers to purchase known counterfeits is dependent on the price difference as well as the type of product (OECD, 2009). Previous research has revealed that about one-third of consumers who buy a counterfeit product were fully aware of this when they made the

purchase (Prendergast et al., 2002). To be specific, for certain products, the prestige carried by trademarks is already beyond its functional characteristics. This is most clear in the luxury goods sphere. Customers are not always deceived when they purchase such counterfeit products. Hence, Green and Smith (2002) claim that non-deceptive counterfeiting are considered to be a lesser risk to the public and less harmful to the brand owners. Based on the objectives of the research and accessibility of the data, this study focuses on the non-deceptive, luxury counterfeit industry. Due to the complexity of the counterfeiting business, the impact of deceptive counterfeits will not be ignored.

2.6. Academic and organizational research on counterfeiting

Counterfeiting is not a new problem, but it is a rather young research field. The first publication dates back to the late 1970s (Staake and Fleisch, 2009). Beyond this point, Bian (2006) points out that the terminology of 'counterfeiting' was mainly used to refer to fraudulent money. After 1970s, counterfeiting mushroomed into commercial counterfeiting: a counterfeit bearing the brand name. In order to analyse the complexity of counterfeiting, Staake et al. (2009) have proposed an intensive structure to categorize the research on counterfeiting. Based on his research framework and category, Cesareo (2015) examines the literature reviews on counterfeiting and piracy from 1980. Both authors combined counterfeiting and piracy together rather than differentiating them. For instance, Cesareo (2015) distinguished all articles by industries - the top four being: software, music, video games and luxury brands. Therefore, in their review, counterfeit contains all kinds of intellectual property rights rather than trademark only. They identified in the studies they reviewed six streams of research on counterfeiting:

1. Studies mostly focused on describing the phenomenon, defining the concept and providing the scope of such research from evolutionary and chronological perspectives (Grossman and Shapiro, 1988; Chaudhry et al., 2009).
2. Impact studies analysing the effect of counterfeiting to brand owners. These studies developed an economic model to discuss the impact of counterfeiting on the economy, the overall social welfare and the brand owners (Qian, 2010; Qian, 2014; Nia and Lynne Zaichkowsky, 2000).
3. Supply-side investigations which looked at the setting and strategies in the supply chain. Difficulties of accessing the data make the research on supply-side quite rare. A few researchers have addressed the issue from the perspective of legitimate supply and distribution chain of genuine brands with counterfeit in the market (Bockstedt, Kauffman and Riggins, 2005; Walls and Harvey, 2006). Very few studies have looked at the illegal supply-side except, and mostly these studies used secondary data to discuss counterfeiting strategies (Lopes and Casson, 2012; Stevenson and Busby, 2015).
4. Demand-side investigations focused on the attitude and intentions of customers. Customer-side research is the richest category in the counterfeiting literature (Cesareo, 2015). The studies have addressed the counterfeiting issues from different aspects from the earlier stage of analysing customers' awareness and experience of unknowingly having purchased counterfeit goods (Bamossy and Scammon, 1985), to those customers who knowingly purchased illicit goods (Higgins and Rubin, 1986). Many studies have addressed the willingness of purchasing counterfeit goods intentionally and explored the price, non-price and cultural differences (Bian and Moutinho, 2009; Dubois and Duquesne, 1993; Pueschel et al., 2017; Tang, Tian and Zaichkowsky, 2014; Veloutsou and Bian, 2008).
5. Studies on managerial guidelines to avert counterfeits, focusing on defining and articulating anti-counterfeiting strategies. These studies' primary aim was to identify the best methods

in fighting counterfeiting, such as utilising technologies to track the authenticity of products (Chaudhrya et al., 2005; Sell, 2010).

6. Studies looking specifically at legal issues and legislative concerns in relations to the protection of intellectual property rights. Those researchers describe the appropriate and available legal frameworks related to counterfeiting, and the difficulties and ineffectiveness of legal enforcement in reality both at national and international level (Peng et al., 2017b; Sybert, 2008; Maskus, Dougherty and Mertha, 1998; Maskus, 2000; Zhang, 1997).

The description of the strands of literature on counterfeiting above provides a good map of the existing knowledge in this area. The literature to date can be grouped as follows: research on the demand-side of counterfeiting, research on anti-counterfeiting strategies, and research on the supply-side of counterfeiting. In this chapter all three strands will be reviewed and before concluding, it justified the positioning of this study in the last category of literature, that of the supply-side of counterfeiting.

2.6.1. The demand-side

Counterfeiting can never be stopped as long as there is a consumer demand, therefore, studying the customer has been a leading category in counterfeiting research (Kaufmann et al., 2016; Thaichon and Quach, 2016; Zaichkowsky, 2006). Research is mainly focused on customers' behaviour and the psychology behind the purchasing of counterfeit goods. Initially, counterfeit research on the demand-side did not distinguish between deceptive and non-deceptive purchasing behaviour. For example, Bamossy and Scammon (1985) interviewed 38 participants in the early 1980s, and analysed their awareness, expectations and experiences of unknowingly having purchased counterfeit goods.

Later on, most studies on the demand-side clearly state that customers understand their behaviours, or that they intentionally purchase counterfeit goods (Ahuvia et al., 2013; Bian and

Moutinho, 2009; Jiang and Cova, 2012; Kaufmann et al., 2016; Phau and Teah, 2009). The studies on the customers' intention of purchasing counterfeit luxury goods approach the discussion from different aspects. Firstly, price is usually considered the main motivator for consumers to purchase counterfeit products, since the price of such goods is only a fraction of that charged for the genuine product (Cordell et al., 1996; Prendergast et al., 2002). Especially in the luxury industry, the price difference is a huge temptation for customers. Instead of paying \$2,000 for a Louis Vuitton bag, why not pay \$200 for a counterfeit of good quality?

However, an empirical study of 949 Asian students, Wee points out three non-price determinants: psychographic (attitude towards counterfeiting, brand status, and novelty-seeking), demographic (age, educational attainment, and household income), and product-attributes (appearance, durability, image, perceived fashion content, purpose, and quality) which have also contributed the consumption of counterfeits (Wee et al., 1995). As 'substitution' for luxury brand products, counterfeiting in luxury brands has resulted in 'conspicuous consumption'. The concept of 'conspicuous consumption' was first coined by (Veblen, 2017) in 1965 who argues that wealthy individual are willing to pay a higher price for functionally equivalent goods in order to advertise their wealth, particularly in the collective society has been widely used (Wilcox, Kim and Sen, 2009).

Recently, research has started to observe how customers adjust their own ethics in the process (Bian et al., 2016). Bian conducted 16 in-depth interviews with customers to disclose how customers cope with and adjust their cognitive dissonance associated with counterfeit goods. The findings show that the psychological and emotional insights driving their consumption of non-deceptive counterfeit branded products. Because customers regard counterfeit as economic and alternative choice to enhance 'self-image'. At the same time, 'denial of responsibility' and 'appealing to higher loyalties' could be used as neutralization motivation for counterfeit consumption. Such research is useful in understanding how consumers – the demand-side of

counterfeiting – impacts and drives the production and distribution of such products – the supply-side of counterfeiting.

2.6.2. Anti-counterfeiting: Tools and Actions

Inadequate penalties and weak enforcement have been blamed to have acted as an accelerator for the trade of counterfeiting (Cao, 2014; Choi et al., 2015; Fink et al., 2015). The earliest punishment of commercial counterfeiting of trademarks can be tracked back to the thirteenth century in France (Rogers, 1972). Before the international IPR was formally established in 1880s, countries including European countries and the US have also been involved in imitation and counterfeiting in order to develop their own innovative capacity and their own economies (Lopes and Casson, 2012). Although the international IPR regime is trying to standardize the rules and improve effective enforcement of IPR protection, the difference between the high standards of developed countries and the standards of developing countries should be taken into account. Maskus (2000) also argues that even the minimum standards of IPR will be ‘de facto high’ to many developing countries.

A significant empirical body of knowledge suggests a range of varying strategies to counter the counterfeit phenomenon, from increasing awareness and warning of counterfeit goods, to increasing stakeholder education, coalition, legislation and labelling to defend the counterfeit (Andres et al., 2014; Choi et al., 2015; Chubb, 2015). The proposed strategies include ‘track-and trace’ technologies, which can identify and track genuine products such as authenticity cards and RFID (radio frequency identification) labels (Choi et al., 2015). Also ‘covert technologies’, such as watermarking and invisible ink which only can be detected by authorized personnel (Xie et al., 2015; Chen, 2016), and overt technologies such as bar codes and microchip labels (Cesareo, 2015; Meraviglia, 2018). Meraviglia (2018) specifically addresses anti-counterfeiting in fashion industry and showed how innovative new technologies combats

counterfeiting through effective control of the production and distribution chains, using tagging and DNA analysis, as well as web-based monitoring systems. All anti-counterfeiting strategies are meant to protect both brand owners and customers – those who are unaware of the illicit counterfeit. However, when it comes to luxury brands, most customers purchase counterfeit goods intentionally. Hence, those anti-counterfeiting tools and strategies are deemed to be less effective in the non-deceptive luxury brand counterfeit goods.

2.6.3. The supply-side of counterfeiting

As already mentioned, main stream researchers have focused on the demand (customers) side of counterfeiting and only a few scholars have studied counterfeiting from the supply-side (Choi et al., 2015; Eser et al., 2015; Hilton, Choi and Chen, 2004; Lopes and Casson, 2012; Stevenson and Busby, 2015). There is little literature covering the supply-side of counterfeiting, due the difficulties of accessing the data (Stevenson and Busby, 2015). Lopes and Casson (2012) have revealed the patterns of counterfeiting strategies and proposed a theoretical framework to explain clearly that quality and price are two key points in the counterfeiting strategy as illustrated in Table 2-3:

Table 2- 3 Dimensions of counterfeiting strategies

Two Dimensions of counterfeiting Strategy		
Quality of imitation	Price of imitation	
	Same	Lower
Same	High-quality imitation selling for regular price	High- quality imitation selling for lower price
Lower	Low-quality imitation selling for regular price	Low-quality imitation selling for low price

Source: (Lopes and Casson, 2012)

According to their framework, both quality and price can reduce the risk of detection. On the other hand, low quality with a low price will be easy to detect even though it maximizes profits per unit sold. Selling good quality counterfeit products at low prices will keep the loyalty of regular consumers who like a good quality substitute for the original brand. Therefore, this tactic will take a long-term market share from brand owners. The last type of counterfeiting, has both lower quality and lower price, and it has been found to impair a brand's reputation (Lopes and Casson, 2012).

Stevenson and Busby (2015) used secondary data, including cases published by the International Chamber of Commerce (ICC); counterfeiting cases press releases from the US Federal Bureau of Investigation (FBI); counterfeiting news in newspapers, studies and reports indexed on Nexis (NEX), to identify four kinds of strategies which have been adopted by counterfeiters. Those strategies include extraction strategies, production strategies, distribution strategies and infiltration strategies as illustrated in Table 2-4.

Table 2- 4 Counterfeiting strategies

Extraction strategy	Recovery and overhaul of disposed genuine products Theft and repackaging of components Acquisition of products from an unsuspecting legitimate source
Production strategy	Production over-run by subcontractor Parallel production of near-copies by subcontractor Illicit subcontracting of a product to a cheaper producer Produce for early market entry Postpone assembly of product and trademark
Infiltration strategy	Infiltration of parallel markets Retail via informal markets Using impersonal media (via the internet)
Distribution strategy	Ship via multiple ports and address obscure trademark until close to customer Over -produce and accept high attrition rates from seizures Bundle counterfeit and genuine products together Using a legitimate service provider or credible location

Source: Stevenson and Busby (2015)

Stevenson and Busby (2015) state that the signalling theory alone cannot explain counterfeiting since counterfeiters control their own advantageous resources, although Connelly et al. (2011) presented a review of signalling theory which is particularly relevant to counterfeiting - by using a respected third-party certification may send strong signals to potential customers. Therefore, Stevenson and Busby suggest that the resource-based theory may be more important for examining the persistence of counterfeiting organizations. However, they only used secondary data to analyse counterfeiting business strategies due to the difficulty of data collection in practice. Moreover, they did not differentiate between deceptive and non-deceptive counterfeits, and this is importance since the motivation and engagement with customers and government is rather different in the two cases.

When counterfeits are deceptive, they intentionally take intellectual property rights of brand owners in 'bad faith'. Deceptive counterfeits maximize their profit by deceiving customers to pay the same amount as the original price, potentially making legitimate producers lose their sales – making such business an unacceptable and harmful activity for the whole society. When counterfeiting is non-deceptive, especially for luxury and fashion products rather than food or pharmacy, customers present great interest and desire to purchase products at affordable prices and, thus, the non-deceptive counterfeits market become a significant market. In luxury and fashion industry, of course the products involve a high degree of technical sophistication as the quality of products generally must be as good as perceived. However, for those products, the value heavily relies on the brand and the perception of buyers (Staake and Fleisch, 2009).

2.7. The informal economy of counterfeit goods

Societies are composed of different groups, regulated by different laws and regulations often having different opinions about what is socially acceptable (Bickford, 1999; Weber, 1978).

Therefore, what is to be considered as legal, in terms of law and regulation, and what is to be legitimate, in terms of norms, values and beliefs may differ between societies (Scott, 2013). This difference may cause the emergence of the informal economy (Webb et al., 2009). The data reported in Schneider's research stated that there is approximately 17 per cent informal economy within developed economies and 40 per cent in developing economies (Schneider, 2002). Counterfeiting, with increasing costs of curbing IP infringement, revenue lost from uncollected tax and jobs lost, is a good example of the activity in an informal economy (Lee and Hung, 2014; Pinheiro-Machado, 2012; Webb et al., 2009).

In this research, the definition of informal economy will be taken from Webb et al. (2009, p.492), "as the set of illegal yet legitimate (to some large groups) activities through which actors recognize and exploit opportunities". This definition has been widely used in previous research (Fadahunsi and Rosa, 2002; Pinheiro-Machado, 2012). Informal economy is illegal because it happens outside of formal institutions, but they can be legitimate to the extent by their products, methods and its acceptance by certain social groups. Non-deceptive counterfeit in luxury brands belongs to this type of economy. It may not be accepted by governments, but it has grown quickly due to customers' high demand.

Measuring counterfeiting in the informal economy is very challenging because it is not recorded in official statistics. According to the US department of Justice in 2006, the annual cost of counterfeit goods was estimated at \$250 billion and it resulted in 750,000 lost jobs (Justice, 2006). Although there is a lack of research showing how counterfeiters are specifically involved in the informal economy, some researchers have presented a general review of counterfeiting related to economic development, especially in developing countries (Chow, 2006; Hung, 2003; Pinheiro-Machado, 2012). Pinheiro-Machado (2012) points out that counterfeiting is not considered to be illegal historically in those countries, for instance, China. On the contrary, counterfeiting plays a very positive role in promoting the domestic economy.

2.7.1. The informal economy's entrepreneurs

Informal economies are often complementary to formal economies, and they offer rich opportunities to new ventures. Entrepreneurs might recognize and exploit this potential opportunity to create their profits in an informal economy. An entrepreneur is generally defined as “someone who specializes in taking judgmental decisions about the coordination of scarce resources with an economic aim and under conditions of uncertainty” (Casson, 1982, p.23). Such a person grabs opportunities and ‘gets things done’ for the sake of economic gain (Schumpeter, 1947). In this study an expanded definition of entrepreneurs is used as developed by Lopes and Casson (2012) – a traditional entrepreneur is an explorer, but in reality, she engages in exploitation as well. Therefore, entrepreneurs are viewed not only from a technological innovation perspective but also someone who creates marketing innovations in pursuit for profit (Lopes and Casson, 2007).

Sometimes, the entrepreneurs do not follow the ‘constructive and innovative script’, may even actually damage the economy. The ‘productivity’ and ‘unproductivity’ of entrepreneurs at a given time and place depends heavily on the rules of the game (Baumol, 1990). Therefore, he suggests, the society do not have to wait slow cultural change in order to find measures to redirect the flow of entrepreneurial activities toward more productive goals.

The chances for ‘informal’ economic entrepreneurship are much higher in developing countries than it is in developed ones. Based on the above definition of the informal economy, legitimacy is critical to informal economic activities. Suchman defined it as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs and definitions” (Suchman, 1995 , p.574). According to his research, informal entrepreneurs usually seek three forms of legitimacy. The first one is pragmatic legitimacy, which reflects on judgements whether their certain informal activities will benefit a certain group. The second is moral legitimacy, which is positive

evaluation of their behaviours. The third one, cognitive legitimacy, which increases the public comprehension to contribute towards their transition to the formal economy (Suchman, 1995). Fewer studies have discussed informal entrepreneurship in China - “a nation where a strong and bureaucratized state, coupled with a large and rapidly growing formal economy, has encouraged legions of informal entrepreneurs to seek opportunities outside of state-sanctioned markets” (Lee and Hung, 2014, p.16). Therefore, non-deceptive counterfeiters, as one of the types of informal entrepreneurs who exploit the benefit of brand owners, are worth exploring in-depth and seeking to understand their strategies to survive in the market. How do they overcome institutional barriers actively raised in the Chinese as well as the global market.

2.7.2. Counterfeiting: the negatives and the positives

As an interdisciplinary phenomenon, counterfeiting has been studied in business, economics, ethics, law, management, marketing and psychology (Bian and Veloutsou, 2017; Cesareo, 2015; Hennigs, Klarmann and Labenz, 2016; Pueschel et al., 2017; Tang et al., 2014). The negative effects of counterfeiting have been discussed and researched at length. In general, it will affect innovation ability, foreign direct investment and trade. Brand owners might be deterred from investing because their intellectual property is at risk (Lopes and Casson, 2012; OCED, 2007; Zimmerman, 2013). It also damages the rights holder on brand value and reputation (OCED, 2007; Zimmerman, 2013). Furthermore, counterfeiting has an impact on the Government from tax revenues and corruption (Hung Lau and Zhang, 2006; OCED, 2007). Government tax revenue will be reduced owing to the reduction in tax paid by brand owners because of fewer sales of genuine products and, in addition, the production of counterfeits are largely traded by unregistered companies or even family workshops who avoid paying tax (Staake and Fleisch, 2009). The worst scenarios of counterfeiting are its effect on customers' health and safety (Chakravarti and Janiszewski, 2003; Mackey and Liang, 2011; OECD, 2016). Counterfeiting

causes an increase in incidents of claims due to inferior quality of counterfeit goods (Staake and Fleisch, 2009). It is reported that counterfeiting even involves medicines and airplane parts and the results can be fatal (Lister, 2006; Mackey and Liang, 2011). Furthermore, these activities can fund organized crime and terrorism (Stevenson and Busby, 2015).

On the other hand, some scholars believe that counterfeiting does not have only a negative impact on the brand owners. Grossman and Shapiro (1988) suggest brand owners would be forced to raise the quality of products in order to compete with counterfeiters. Therefore, counterfeiting will raise both national and global welfare. Qian (2014) also suggests that counterfeiting presents a form of vertical differentiation in the market. She used the unique panel data collected from Chinese shoe companies between 1993 and 2004. Her study shows the unique pressure for a brand owner to improve the quality. At the same time, she also points out that counterfeiting encourages loyalty, generates awareness and strengthens the brand's value. It is a form of free advertisement for high-end product brands.

Other authors, for example, Nia and Lynne Zaichkowsky (2000) used a total of 69 questionnaires of customers who have purchased original and counterfeit luxury brands over three years, then compared the original and counterfeits in terms of whether the counterfeit devalued the ownership of original luxury brands. Overall, the results show that 70 per cent of the interviewees in her research stated that the presence of counterfeiting does not devalue the ownership of brand owners.

Some researchers focus on the positive effect of counterfeiting on income inequality in developing countries. For example, Scandizzo (2001) suggests that this issue should be considered by developing countries to reform IPR regimes. At the same time, since the uniform international level of IPR protection might not be the best solution, those firms in developed countries should consider different forms of IPR regimes. In addition, in emerging markets, the counterfeiting business could be considered as a significant source of income and employment.

Most importantly, counterfeiting is a key element for industrial learning and knowledge - a transfer for those emerging in the market. As a result, not all governments are performing effectively to combat counterfeiting (Staake and Fleisch, 2009).

2.7.3. Business ethics and counterfeiting

Ethics refers to an “inquiry into the nature and grounds of morality where the term morality is taken to mean moral judgments, standards, and rules of conduct” (Ha and Lennon, 2006, p.299). Individual ethics are attached to the philosophies underlying the business ethics (Kum-Lung and Teck-Chai, 2010). Business ethics reflect “the subjective assessment by a given individual with respect to sets of premises which make up various business philosophies” (Preble and Reichel, 1988, p.942). Hunt, as cited by Murphy and Laczniak (1981), noted that almost all normative ethical theories in moral philosophy can be defined into either deontological or teleological. Deontologists believe that “certain features of the act itself other than the value it brings into existence” make an action or rule right, for them, “the principle of maximizing the balance of good over evil, no matter for whom, is either not a moral criterion or standard at all, or, at least, it is not the basic or ultimate one.”(Frankena, 1963, p.14). On the contrary, Theologians, believe that “there is one and only one basic or ultimate right-making characteristic, namely, the comparative value (nonmoral) of what is, probably will be, or is intended to be brought into being” (Frankena, 1963, p.14). Therefore, Frankena (1963) proposes a more nuanced definition:

“This theory instructs us to determine what is right or wrong in a situation, normally at least, by consulting rules such as we usually associate with morality; but it goes on to say that the way to tell what rules we should live by is to see which rules best fulfil the joint requirements of utility and justice. This view is still faced with the problem of measuring

and balancing amounts of good and evil and, since it recognizes two basic principles, it must also face the problem of possible conflict between them.” (p.35)

Based on that, Hunt and Vitell suggest that people should “determine the consequence of various behaviours in a situation and evaluate the goodness or badness of all the consequences. A behaviour is ethical if it produces a greater balance of good over evil than any available alternative.” (Hunt and Vitell, 1986, p.6).

Many studies have discussed the ethic issue with counterfeit issue from a consumer behaviour perspective, especially how ethics affect the customers’ consumption of luxury brands or fashion-related counterfeit (Bian et al., 2016; Ha and Lennon, 2006; Kum-Lung and Teck-Chai, 2010). Ha and Lennon (2006) suggests in their research that although counterfeiting is a criminal activity, but their sample of college students may not consider purchasing counterfeit fashion products as an unethical activity. Bian et al. (2016) also explain how customers use different neutralization techniques to cope with this ‘unethical’ consumption in luxury brands counterfeits mostly by customers considering their purchase to be ‘wise’ for not having had to pay the full price for the item. However, fewer studies considered business ethics on the supply-side, since counterfeiting has always been considered criminal activity (Chow, 2003) . Is counterfeiting always a bad thing? Does it always harm countries’ economies? Does it always mislead consumers? Does it lead to ‘predator entrepreneurship’? Is there no learning from imitation through counterfeit? This research will explore those questions and fill in the gap by offering empirical data from the perspective of non-deceptive counterfeiters themselves.

2.8. The scope of the research

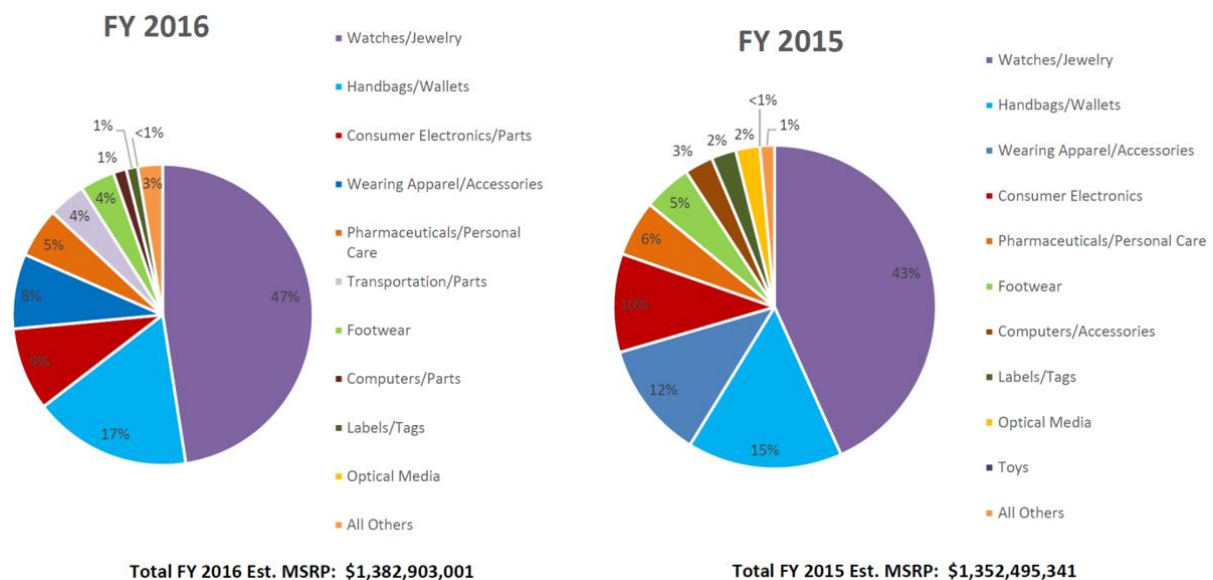
2.8.1. Counterfeiting in luxury industry

The definition of counterfeiting given above explained what is meant by non-deceptive counterfeiting. As I mentioned in the introduction chapter, few industries are immune to

counterfeits; however, luxury brands have always been top targets in the counterfeiting world and this is because of customer demand (Cesareo, 2015; Kapferer and Michaut, 2014). Customers would not purchase counterfeiting products in pharmaceuticals if they knew it is counterfeit, but they might accept counterfeits if it's a luxury bag, a watch, etc. The trade in counterfeiting luxury branded products is becoming a significant threat to many luxury companies worldwide.

According to the latest report from the U.S. Department of Homeland Security published in 2016 (Intellectual Property Rights Seizures Fiscal 2016) and illustrated in Figure 2-1, the greatest number of products seized, in terms of manufacturer's suggested retail price are watches/jewellery at 47 per cent, followed by handbags/wallets at 17 per cent, and wearing apparel/accessories at eight per cent and footwear at four per cent. The data showed little difference in 2015; those products are vulnerably targeted by counterfeiting. Therefore, the counterfeiting in the luxury industry will offer an interesting setting for counterfeiting research.

Figure 2- 1 Counterfeit categories 2015-2016 based on manufacturer's suggested retail price



Source: U.S. Department of Homeland Security (CBP, 2016)

Figure 2-1 above shows that in the Fiscal Year 2016, the totally estimated manufacturer's suggested retail price of the seized goods, had they been genuine, increased from

\$1,352,495,341 in 2015 to \$1,382,903,001 in 2016. The highest two seized categories are watches/jewellery and handbags/wallets in both years, amounting to 58 per cent in 2015 and 64 per cent in 2016 respectively; the rest of high categories are eight per cent for apparel and four per cent for footwear in 2016. As can be observed from this data, the highest counterfeit categories' (watches, jewellery, handbags and wallets) per centage have been fairly stable over the two years.

2.8.2. Luxury brand and counterfeit luxury brands

Products in the luxury and fashion industry generally are mainly purchased by consumers who aim to obtain a certain image, usually associated with status. The 'status goods' are highly conspicuous goods which can express social prestige (Bagwell and Bernheim, 1996). Those high-end luxury brands have derived a meaningful quantity of their market value from brands and reputation of designers. For instance, watches, bags, clothing, footwear and other accessories from high-end brands, such as Louis Vuitton, Versace, Rolex, Chanel, Burberry etc, could bring prestige to the owner, apart from the functional utility of the item (Wilcox et al., 2009). Veblen's theory of 'conspicuous consumption' explains luxury products primarily as consumption expressing their social status which required expensive price, good quality but relatively low-utility (Veblen, 2017). He recognized that people would like to distinguish themselves from others by conspicuous consumption. Thus, conspicuous consumption represents the social-directed characteristic of luxury consumption.

Grubb and Grathwohl (1967) analysed the customers who consume luxury brands in terms of their significance of social reasons, which are irrespective of their good quality. Luxury consumption represents the desire of perceived social value and perceived unique value (Vigneron and Johnson, 1999), generally, those goods are expensive and exclusive (Corneo and Jeanne, 1997; Grossman and Shapiro, 1988; Hilton et al., 2004; Pueschel et al., 2017). The

objection of counterfeiting in luxury products is that counterfeiting trades on the desire of exclusivity by deceiving customers. However, what if customers purchase luxury brand counterfeits knowingly? Most studies have emphasized the non-deceptive demand-side (Bian et al., 2016; Bian and Veloutsou, 2017; Khan, 2015; Tang et al., 2014). The consumers' desire for luxury brands which convey desirable status has become a motivation for counterfeiters. Consumers' specific needs in luxury brands counterfeits stimulate the upsurge of counterfeiting worldwide (Nia and Zaichkowsky, 2000; Phau and Teah, 2009; Pueschel et al., 2017; Wall and Large, 2010; Wilcox et al., 2009).

2.8.3. Theoretical background in the luxury brands counterfeiting research

Many scholars have showed interest in the counterfeiting of luxury goods. As Cesareo (2015) summarized in her book about counterfeiting and piracy, the luxury and fashion goods industry is the most popular industry in counterfeiting. Counterfeiting in the luxury and fashion industry has been discussed in various fields and a melange of different theories and conceptual models have been proposed.

For example, Penz and Stottinger (2005) use the theory of planned behaviour to explore non-deceptive counterfeit purchases and proposed a model to explain that research cost and accessibility are key factors to drive customers to purchase the counterfeits. Yoo and Lee (2012) show how past experiences with counterfeit luxury brands is related to the intention to purchase genuine luxury brands. The research shows that past behaviour and price will affect the behaviour of purchasing counterfeits. If consumers have more experience in purchasing counterfeit luxury brands, and if price is important to them, they will be more likely to continue purchasing counterfeit products (Yoo and Lee, 2012).

Bian et al. (2016) propose two neutralization techniques, including 'denial of responsibility' and 'appealing to higher loyalties', such techniques are employed by consumers to cope with

their unethical luxury counterfeit consumption. This is new psychological insight, to apply cognitive dissonance theory in luxury counterfeits research. Tang et al. (2014) found that consumers consider the perceived risk of consumption of certain products, for example, clothing, to be lower than some products, such as pharmaceutical products. This is because the quality of clothing counterfeits will be considered quite similar to the genuine article.

The dilemma of the issue of intellectual property remains controversial. Protection of intellectual property is essential for new technology. Lack of protection will discourage inventors since they do not obtain investment value (Hilton et al., 2004). On the one hand, when the moral right of brand owners is defended to make sure they benefit from their own work, and on the other hand one may be able to present a case for the counterfeiters. As Hilton noted:

“Given that many operate in countries where they face economic hardship, some might consider it a basic human right to make a living whatever way one can in order to survive. The question then becomes which moral right takes precedence—the designer or counterfeiters.” (2004, p.349).

This ethical and moral decision theory might be grounded for those counterfeiters who stay in high-end luxury and fashion industry, where it is difficult to make ethical judgement about intellectual property rights. Especially when cases involve contextual factors that need to be taken into account before making ethical judgment. Hunt and Vitell (1986) also mention that cultural norms could be one of the constructs that affect one’s perceptions in ethical decision making. This point is consistent with Ferrell and Gresham (1985), who consider that culture has an impact on individual behaviour for understanding ethical decision within a business context.

Nevertheless, those issue and arguments lack empirical data. It is, therefore, of great importance and interest to explore how counterfeiters in the luxury and fashion industry make

business decisions. Do they consider it perfectly acceptable to earn money through counterfeiting and to maximize their personal financial gain at the expense of others as Hannafey (2003) mentioned? Do they differentiate between non-deceptive and deceptive counterfeit perceptions regarding ethical marketing decision-making? Do they factor in social welfare as a ‘justification’ of their actions?

Fink et al. (2015) point out that the social welfare of counterfeiting is theoretically ambiguous in non-deceptive contexts. On the one hand, the existence of counterfeits reduces the status value of brand owners and customers who purchase the genuine products, and on the other hand, the counterfeiter and the customers who are willing to purchase the counterfeits will benefit from this business. Hence, the overall effect remains an empirical question.

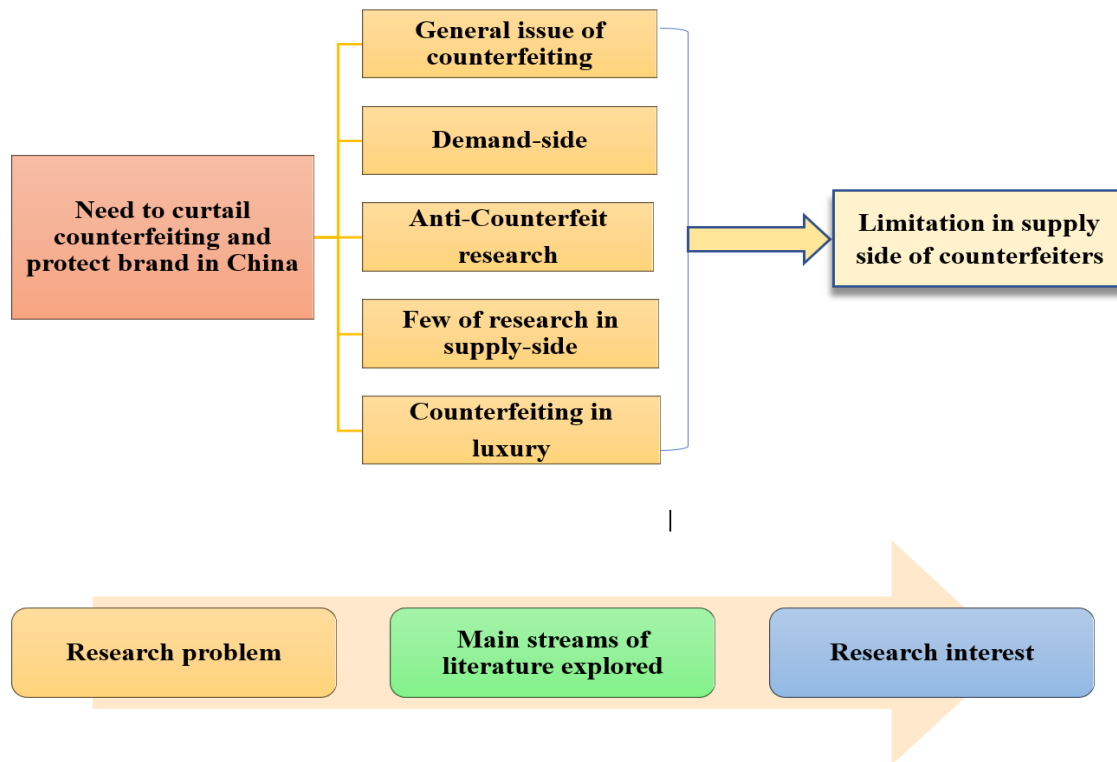
Furthermore, instead of naming counterfeiter as ‘parasites’, who steal intellect and brand reputation from original company, who do not invest in research and development as a competitive advantage, some scholars take more positive perspectives to see how counterfeiters **learn** from competitors (Minagawa et al., 2007; Trott and Hoecht, 2007). For instance, Minagawa et al. explain how Chinese firms use ‘copy and develop’ strategies to become legitimate companies within the industry. They suggest that Chinese firms will improve intellectual property protection when they become a victim of other Chinese imitators. However, their firms focus on technology-based industries rather than marketing-based industries such as luxury and fashion industry. It would be interesting to explore the position of Chinese firms who suffer from having their own intellectual property rights infringed (Minagawa et al., 2007).

2.9. Identification of the research gap

From all the reviews above, the existing body of knowledge seems to only reflect part of the complexity of counterfeiting although the topic has been discussed from various perspectives.

The following illustrations provide a summary to this review and illustrate the gap in the literature which this study aims to fill.

Figure 2- 2 The path of identifying the research gap



Source: developed by author

Figure 2-2 shows the initial stage of how this study is positioned within the wider literature. The luxury and fashion industry have always been a target for counterfeiting as demonstrated in the thesis so far. China, without any doubt, is the biggest producer and distributor of counterfeit goods. Understanding this problem is the first step in exploring this topic. Therefore, my research interest is on the luxury brands counterfeiting phenomenon in China. Contrary to most research conducted to date on this topic, my study aims to add to the supply-side of counterfeiting research as briefly illustrated in Table 2-5.

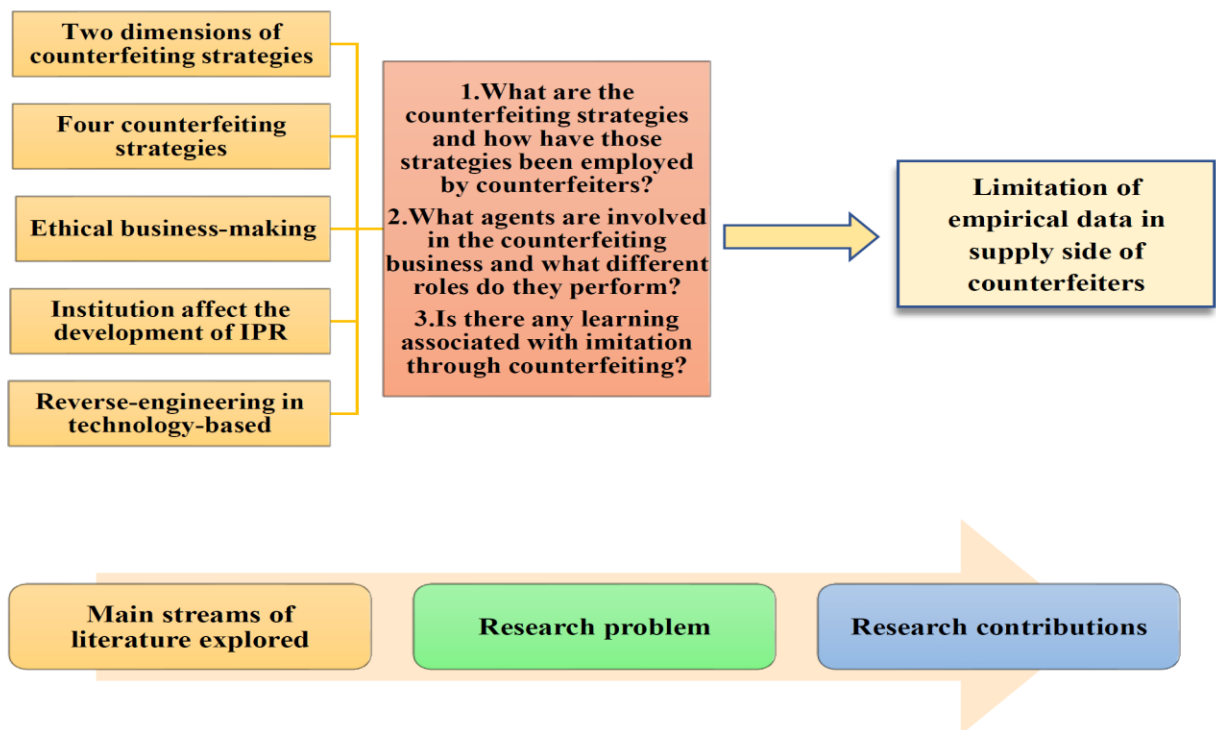
Table 2- 5 Summary of the literature review

Serial	Research field	Summary of Literature review	Authors	Theory being applied	Limitation of research
1	Marketing	Describe the counterfeiting strategies, pointed out the price and quality are two key elements	(Lopes and Casson, 2012)	The theoretical framework of counterfeiting strategy	Lack of empirical data
2	Marketing	Describe the four strategies have been employed by counterfeiters	(Stevenson and Busby, 2015)	Combine The signalling theory with resource-based view	Lack of empirical data do not distinguish counterfeits and non-deceptive counterfeits
3	business Ethical	Raise a debate about IP in luxury and fashion industry	(Hilton et al., 2004; Husted and Allen, 2008)	The theory of ethical decision making	Lack of empirical data
4	marketing	Explain the possibility of reverse engineering of counterfeits	(Minagawa et al., 2007)	The theory of acquisition	Focus on 'technology - based' industry rather than 'market-based' industry
5	Marketing	Explore how entrepreneurs have been influenced by institutional context in the informal economy	(Webb, Ireland and Ketchen, 2014)	The theory of entrepreneur The theory of institutional economics	Lack of empirical data

Source: developed by the author

Table 2-5 shows that only a few scholars have explored counterfeits from the supply-side. The mechanism of the supply-side of the counterfeit market is somewhat clear - Lopes and Casson (2012) have suggested two key elements which are present in all known counterfeiting strategies: price and quality. However, their framework does not distinguish between deceptive and non-deceptive counterfeits. Therefore, whilst this study used their framework to guide data collection, analysis and interpretation of findings, it also aimed to add to their framework empirical evidence by collecting primary data on non-deceptive counterfeit strategies in China. During the process of exploiting the brand owners' intellectual property rights, this thesis also asks whether counterfeiters learn from their 'free-ride' on brand reputation. The research questions and potential contributions of this study were identified based on the available scarce literature on the supply-side of counterfeiting.

Figure 2- 3 Identifying research questions and potential contributions



Source: developed by author

Based on the above discussion, Figure 2-3 shows how the research gap emerged on the supply-side of counterfeit luxury goods. The scarce research done to date on the supply-side has

involved collecting and analysing mostly secondary data to identify and interpret the different strategies used by counterfeiters, how these ‘entrepreneurs’ pursue their business in terms of ethics, how the development of IPR has affected imitators, and how these have learned reverse-engineering in the technology-based industry. My study aimed to explore in detail the strategies employed by non-deceptive counterfeiters, and how various institutions may affect non-deceptive counterfeiters and their learning process during imitation and counterfeiting in the marketing-based industry. Hence, my study contributes significantly to our understanding of the supply-side of the counterfeiting business in China by collecting, analysing, and interpreting in-depth primary data.

2.10. Conclusion

This chapter has shown that there is a lack of empirical data in the supply-side of counterfeiting research due to the nature of the business activity. Counterfeiting is an illicit business activity and, therefore, difficult to track in official statistical data. Most of research in counterfeiting using primary sources either focuses on the demand-side or explains the factors which might impact on customers’ motivation to purchase such goods. Studies looking at the supply side tend to rely on secondary and limited data from the press and court cases to deduce theoretical frameworks, or to define theoretical strategies employed by counterfeiters in their exploitation of branded goods for personal profit.

There are also some studies which rely on original brand owners’ perspectives. In addition, the evidence gathered about counterfeiting mainly focuses on the economic impact in developed countries. Therefore, the research question proposed by this study on how counterfeiters in the global supply chain employ counterfeiting strategies in practice and growth and survive is under-analysed. The empirical data in this study will provide the much-needed information to fill the gap from different perspectives. Therefore, it is necessary to explore and understand

how counterfeiting strategies are created, deployed, and adjusted by those actors involved in the strategic direction of counterfeiting activities. Moreover, understanding how institutions may affect these activities is of clear importance.

Another unique contribution of my study is the exploration of any learning which may occur as a result of the interplay between counterfeiters and the need to copy and innovate and the institutions which ‘informally’ affect their activities. Therefore, it is also asked in this dissertation – to what extent do these dynamics and institutions enable and facilitate learning, which subsequently contributes towards the adjustment or the creation of completely new strategies meant to either incorporate counterfeiters into the mainstream formal economy, or towards counterfeiters’ efforts in finding ways to by-pass the impact of institutions. One important point worth mentioning is that different legal and institutional frameworks may impact differently. Therefore, the context in which the activities take place, as well as in which the study is conducted should not be ignored. As demonstrated, China has become the world’s counterfeit centre. This begs for the question – why China? The next chapter endeavours to answer this question by providing a thorough review of the Chinese cultural, legal, environmental, and economical perspectives.

Chapter Three: A Contextualized Review - Counterfeiting in China

3.1. Introduction

This Chapter reviews the background of counterfeiting phenomenon in China. Counterfeiters make profit by taking advantage by free-riding on brand owners. They enjoy significant competitive advantages as they do not normally incur research and development costs and they ignore the compliance with environmental and safety regulations. However, the counterfeiters might risk prosecution since they infringe brand owners' intellectual property rights. Therefore, the strength and frequency of legal enforcement have huge impact on their activities (Chow et al., 2005; Wall and Large, 2010). Institutional environment such as legal frameworks and strong deterrent penalties affect counterfeiting business. Eser et al. (2015) found that different forms of counterfeiting supply chain and counterfeiters are discouraged if they experience litigation. Therefore, there is an apparent consensus, that the 'institutional environment' matters in the counterfeiting world (Dobson and Safarian, 2008; Kshetri, 2007; Peng et al., 2017a; Webb et al., 2014). This chapter will provide an intensive contextualized review from formal institutions (law/policy perspective) and informal institutions (the economic perspective and the cultural perspective) to see what institutions and how they impact the counterfeiters' activities and behaviours in China. Section 3.2 defines which institutional perspective has been considered in this research. Then, Section 3.3 provides data about the magnitude of counterfeit business in China. Afterwards, Sections 3.4 to 3.6 describe how Chinese cultural, economic and legal enforcement impact counterfeiting respectively, before concluding this chapter.

3.2. Institutional perspectives

Institutions are commonly known as the setters of ‘the rules of games’ (Lee and Hung, 2014; Peng et al., 2017a). The definition of institution as “the humanly devised constraints that structure political, economic, and social interaction” (North, 1991, p.97) provided by the economist Douglass North has been widely accepted and operationalised (Gold, Guthrie and Wank, 2002; Lee and Hung, 2014; Williamson, 2000). North classified the institutions as formal (including laws, regulations, rules) and informal (norms, cultures, ethics) (North, 1991). The basic role of institutions is to reduce uncertainty and provide meaning (Scott, 2013). How both informal and formal institutions influence counterfeit business have been discussed by many scholars from both customers’ and counterfeiters’ perspectives (Dobson and Safarian, 2008; Lee and Hung, 2014; Peng, 2013; Peng et al., 2017b).

Some scholars point out that informal institutions such as the Chinese collective culture may lead to conspicuous luxury counterfeits consumption - Chinese customers purchase counterfeit goods to avoid ‘losing face’ by peer pressure (Jiang and Cova, 2012; Li, Li and Kambele, 2012). Jiang and Cova (2012) found that Chinese customers feel luxury brands are something they ‘must to have’ to reinforce their social status. However, the expensive price for luxury genuine products makes customers to purchase ‘alternative’ counterfeit products by lowering cost but still satisfy their status needs.

Moreover, Wang (2012) noted that as a collectivistic society, Chinese social environment not only shapes the behaviours of customers, but also that of the ‘entrepreneurs’. They suggest that part of the reason for the popularity of counterfeits in China is the lack of ethical considerations for Chinese people. As a result, a large number of people are seeking various short-cuts to getting rich quickly without ethical considerations. Since innovation takes more times and investment, imitation could be an appropriate strategy to save costs. Moreover, another Chinese

belief which may impact attitudes and behaviours of counterfeiting could be that inventions are not new, but are based on past knowledge and, therefore, they belong to all citizens (Alford, 1995). In addition, the traditional Chinese lessened feeling of respect for private intellectual property rights may have also driven the surge in this 'industry' (Alford, 1995; Zaichkowsky, 2006; Zimmerman, 2013)

The Trademark Law and the legal enforcement system can impact counterfeiters only if these are being adequately enforced. If those legal enforcement are inefficient or even involved with the illicit business itself, the power of intellectual property protection is relatively permissive (Brander et al., 2017; Chow et al., 2005; OECD, 2009). China has also been considered to have a weak legal enforcement tradition, which is one of the main reasons for the overflowing counterfeits. Some scholars claim that local governments tend to satisfy the local customers' demand for cheaper products without intellectual property infringement, such as counterfeiting (Chow, 2006; Mertha, 2005). Obviously, China is not the only country with weak legal enforcement directives. However, as the 'world manufacturing centre', the problem seems more significant and it has obviously attracted more attention than other countries (Brander et al., 2017; Campbell and Pecht, 2012; Cao, 2014; Chow et al., 2005; Peng et al., 2017a).

In addition, the Chinese policy of 'indigenous innovation', encouraging Chinese companies to employ imitation strategies to gain a strategic edge, so-called re-innovations, based on imitation or reversed engineering, may also be associated with the counterfeiting business in the market (Cao, 2014). Therefore, some scholars have claimed that China should have improved its compliance with its obligations under the Trade Related Aspects of Intellectual Property Rights (TRIPs) Agreement (Brander et al., 2017; Chow, 2006). Brander et al. (2017) suggest lack of intellectual property protection in China could damage the innovation of the world, as well as of China. They suggest that counterfeit could discourage investments in products quality and reputation of brand owners. Failing to enforce intellectual property rights

will not only be beneficial to foreign companies, but also to Chinese companies - IPR violations would reduce the creations and innovation in China.

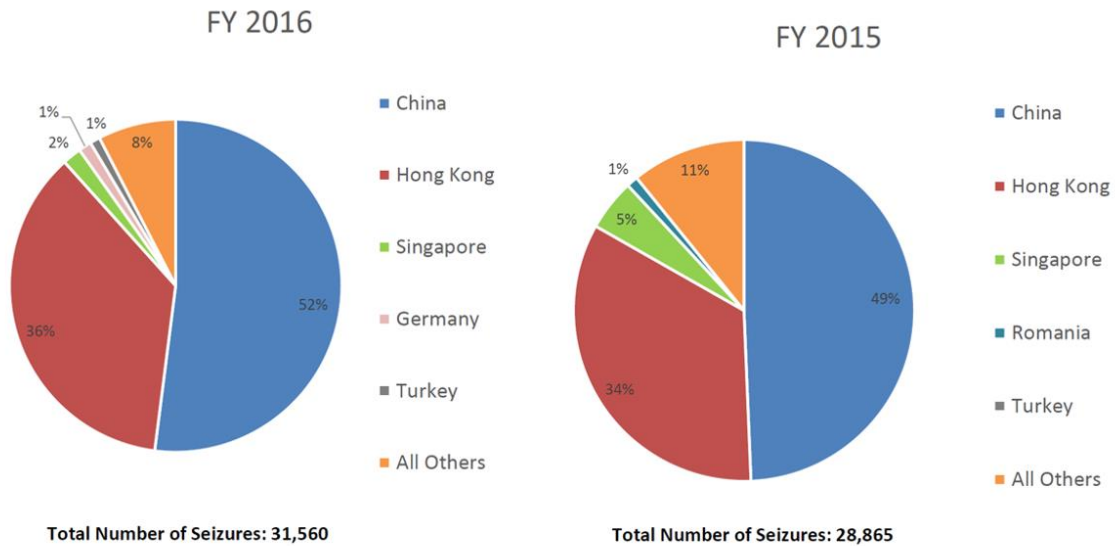
On the other hand, Peng et al. (2017b) explain that China is undergoing the path of US intellectual property protection - US was a leading IPR violator in the nineteenth century, rather than leading the IPR advocate it is today. They mention not only US, drawing on IPR history more than ten countries, three theoretical mechanisms (path dependence, long-term processes and institutional transitions) have been employed to explain the evolution of intellectual property protection historically from institution-based view. The 'path dependence' explains people's choice will be affected by related decisions made in the past even if this past circumstance may no longer exist (Arthur, 1994; Levi, 1997). These past practices of disrespect for IPR may have had an impact on China (Peng et al., 2017b). In an environment of low levels of literacy and an underdeveloped economy, the protection of IPR would simply benefit foreign IP holders at the expense of domestic consumers, who would have to face higher prices for products. However, institutions are not static (Lawrence, Suddaby and Leca, 2009) – a 'long-term processes' perspective explains United States' switch from violating to respecting foreign IPR. By the end of the nineteenth centuries, 'institutional transitions' for IPR have taken place because of external pressures but also internal champions having pushed for institutional change. Therefore, those arguments clearly illustrate the global generalized framework which may also be applicable to China moving forward (Peng et al., 2017b).

3.3. The magnitude of counterfeiting problem in China

According to the 'Intellectual property rights seizure statistics fiscal year 2016' reported by the U.S. department of Homeland Security, the U.S. Customs and Border Protection's (CBP) and the U.S. Immigration and Customs Enforcement (ICE)-Homeland Security Investigations'(HSI), enforcement of intellectual property rights mitigates the financial and

welfare risks posed by import of such illicit products through different shipments, such as seaports, by truck and by air. In total, China has been the biggest counterfeiting source economy, including Mainland China with 52 per centage, and Hong Kong with 36 per cent, as illustrated in Figure 3-1 below.

Figure 3- 1 Seizures of goods in the US by Source Economy, 2015-2016



Source: (CBP, 2016)

As the report shows, the magnitude of counterfeits in China is unbeatable. China is the leading exporter of counterfeiting in the world. Counterfeits have been exported to the countries such as Malaysia, Thailand, Singapore, Indonesia in Asia, or reach to the Russia, Tukey, Eastern Europe, Dubai in the Middle East, then often trans-shipped to Africa. Of course, the countries in Western Europe and the United States cannot avoid counterfeits either (Chow, 2006; OECD, 2009). As the world’s largest market for luxury goods, China is also the biggest producer and distributor of the world luxury counterfeiting goods. Therefore, China is currently the most appropriate context in which to investigate this phenomenon.

3.3.1. The location of manufacturers and distributors

Chow (2006) mapped the major distributors and producers of counterfeit goods in China, as shown in Figure 3-2 below.

Figure 3- 2 Major distributors and manufacturers of counterfeit goods in China



Source: Chow (2006)

According to his research, the two provinces - Guangdong, as the ancestral home of many people who live in Hong Kong, and Fujian, as the ancestral home of people who live in Taiwan, are two major manufacturing hubs of counterfeit goods (Chow, 2006). Chow further points out some criminal organization which used to involved smuggling, narcotics and prostitution, are now trying to finance to start-up cost for the manufacturing of counterfeiting because of highly lucrative trade (Chow, 2006). Afterwards, the distributions of counterfeit goods happen through a series of wholesale markets located in every city in China. Retailers from all over the world travel to the wholesale markets to place their orders, then ship the counterfeit goods to the densely populated urban and rural areas in China, as well as overseas. For instance, some

of counterfeiting will be distributed to Easter European countries through Wulumuqi, the capital of Xinjiang province as the arrow showed on the map (Chow, 2006).

The latest data available from SAIC, based on the Statistics of General Trademark Offenses throughout the country in 2016, there was a total of 28,189 cases of infringement cases in China. Guangdong has the highest number of cases of infringement and counterfeiting with a total of 4,004 cases, followed by Zhejiang with 3,643 cases. Fujian province, which mentioned as one of counterfeiting manufacturing centre in Chow's research, compare with Guangdong, Fujian has 1,152 cases (see Appendix 8, the details of cases number).

3.4. Copying culture in China

Although China has been an innovative country historically, such as inventing the gunpower and printing (Raustiala and Sprigman, 2014), scholars claim that copying culture has a profound influence on counterfeiting (Blass, 1992; Zaichkowsky, 2006; Zhan and He, 2012; Zimmerman, 2013). Zaichkowsky argues that the legal system has been affected by Chinese copying culture which could be traced back in their history and the traditional way of teaching (Zaichkowsky, 2006). It has always been accepted in China that individual inventions draw on past knowledge which belongs to all citizens. The Chinese, traditionally, hold a different concept of intellectual property from the Western concept (Swinyard, Rinne and Kau, 1990; Zimmerman, 2013). The mainstream of Western philosophy value the importance of creativity, the students are taught to create their own works and avoid copying and plagiarising. On the country, Chinese students have been taught the best work is indistinguishable from their teachers' (Zaichkowsky, 2006). Hence, the best way of showing respect to the teacher is copying the teacher's work (Blass, 1992).

The traditional Chinese culture has a different philosophy, as the Chinese proverb goes “He that shares is to be rewarded; he that does not, condemned” (Swinyard et al., 1990, p.656). Referring this point, Alford points out that Confucianism requires the control of information - that any individual inventions belong to all citizens (Alford, 1995). Zimmerman and Chaudhry (2009) claim that the Chinese do not easily understand the Western concept of IP. The Chinese collective culture’s emphasis is on sharing over individual ownership rights – this may help to explain the high rate of counterfeiting in China.

Back to the late nineteenth century, in 1889, the Emperor Guangxu enacted one of the first pieces of legislation regarding inventions, which was named ‘The Regulation for Award and Promotion of Technology Development’ for the protection of exclusive rights for specific inventions in the shipping industry (Devonshire-Ellis, Scott and Woollard, 2011). However, “this legislation also included a grant for the protection of copies of Western technology. This praising and incitement for making good copies is a typical trait of Chinese culture, which affects the current perception on the infringement of intellectual property.” (Devonshire-Ellis et al., 2011, p.2). Thus, most Chinese people have grown up in the culture of copying and imitating as being accepted and encouraged (Zaichkowsky, 2006). Moreover, most Chinese individuals believe that intellectual property law protects foreign interests and doubt that intellectual property law will benefit the local society (Sun, 2001).

In addition, although illiteracy rates of Chinese people was just five per cent in 2014, given the large population of China, it means that an estimated 54 million people aged 15 and older cannot read and write a simple sentence, with the situation being more acute in rural areas (Globalist, 2014). Most of original brands do not reach to most parts of China. With the development of the economy, the increasing foreign brands started to open their branch offices in China, but the lack of information make counterfeiters having a chance to access those less developed cities pretending that they are authorized distributors. Therefore, counterfeits are

frequently misjudged as being the original ones, especially in rural areas (Zaichkowsky, 2006). People do not have enough information and capability to distinguish counterfeit products, especially when these products are being sold with an 'official receipt'. For instance, sophisticated counterfeiters often create a 'receipt' from a Hong Kong shop to deceive the unsuspecting customers purchasing counterfeits (Post, 2015).

However, since this study's focus is on non-deceptive counterfeiting luxury products, it means that customers are fully aware of their purchase. To some extent, customers are accomplices to non-deceptive counterfeiting. Specifically, many scholars suggest that the Chinese collectivistic culture has been claimed as one of the main contributors to the massive luxury brands counterfeiting market in China, collectivism positively influences the attitude of counterfeiting (Husted, 2000; Husted and Allen, 2008; Wang, Stoner and John, 2014).

Teah et al. (2015) compared the luxury counterfeit consumption between Mainland Chinese customers and Taiwan Chinese customers. Although Taiwan Chinese customers are considered as Chinese they suggest that collectivism did not show a significant relationship for these consumers, having been more influenced by western countries than Mainland Chinese customers. In fact, group affiliation may play a key role. Hoon Ang et al. (2001) state that the problems of counterfeiting in Singapore stem from the Chinese culture despite being well-educated and having a tight legal enforcement.

Moreover, very importantly, Han and Schmitt point out that consumers in southeast Asian will focus on the product's affiliation to a group such as brand, manufacturer and the country of origin, while westerners will judge each product as individual (Han and Schmitt, 1997). Thus, for the people who live in a Southeast Asian society, one's position or status will be judged largely by economic advancement, then displaying one's wealth is an important social marker. When the super achievers begin their conspicuous consumption, they need to show these

achievements through purchasing those visible luxury products including cars, fashionable branded handbags, ostentatious jewellery, clothes and rare antiques.

As Chinese consumers generally hold an opinion that imported goods are of better quality than locally made goods, and will buy imported goods even though the price typically is double or triple compared to similar local products (Teah et al., 2015). This social influence is a strong cultural motivator for purchasing luxury brands. China has become the largest market for luxury consumption, Chinese customers account for 31 per cent of the worldwide luxury sales, followed by US at 24 per cent (Guardian, 2015).

Brand identity is very important to the Chinese customers, while the luxury market is promising in China, the well-known branded counterfeit products is equally as strong (Swamidass and Swamidass, 2014). The luxury brands like Cartier, LV, Gucci, etc., can convey prestigious and exclusive brand image to the customers (Sugimoto and Nagasawa, 2015). Therefore, luxury counterfeit products of those brands, especially the ones with high-quality reputation, will provide a 'feel good factor' and 'status' to those consumers who either cannot afford or are not willing to spend huge amounts of their household income to purchase original authentic products. Counterfeiting is the way of making low-income people feel better about themselves and have an association with prestige (Jiang and Cova, 2012).

In some of Chinese non-deceptive luxury counterfeiting cases, customers are helping to introduce the products to their friends (Francis et al., 2015). Francis et al. (2015) examined the counterfeit goods consumption with a survey of 251 Generation Y young adults born in the year range of 1983-2000, who reportedly seeks a sense of rebellion (Pountain and Robins, 2000). They found that this group are likely to consume counterfeit goods and introduce counterfeit goods to their friends based more on their attitudes, norms and beliefs about the counterfeit goods themselves, rather than on price or that the goods are replicated brands (Francis et al., 2015).

3.5. Review on policy/law perspective

3.5.1. The evolution of Chinese trademark Law

The concept of a trademark can be tracked as far back as 2600 B.C. in China, the trademark regime is actually quite new. Although the current trademark system can be traced back to the 1950s. Since the 1950s, the Chinese government attempted to develop trademark regulations as shown in Table 3-1 below.

Table 3- 1 The evolution of trademark law in China

Time	Main development	Significant component
1950	Provisional Regulations on Trademark Registration	China's 'first-to -file' trademark registration system, which continue use today
1963	Regulations Governing the control of Trademarks	Control of Trademarks with declared purpose of guaranteeing products quality, unfortunately, this system did not survive the Cultural Revolution of the 1960's and 70's
1980	Joined World Intellectual Property Organization	Make effort to open China's economy to the world
1982	Trademark Law	The motivation for this law was desiring to kick start rapid economic growth and attract foreign investment, but still not aligned with Western nations' trademark laws
1985	The Paris Convention for the International Protection of Trademarks	Make effort to open China's economy to the world
1988	The Madrid Agreement	Make effort to open China's economy to the world
1993	Becoming a party to Trade-Related Aspects of Intellectual Property Rights Agreement	China set in motion, legislative march lead to China become a party for TRIPS
1993	The first amendment to Trademark Law	Improvement to the law, many necessary additions to satisfy international standards
1994	Nice Agreement	Use Nice system as trademark registration categories and continue use today

2001	Membership in WTO	With an agreement to significantly reform all its intellectual property laws to bring them in accordance with TRIPS Agreement
2001	The second amendment to Trademark Law	Widening the scope of protectable subject matter, protection of well-known marks
2013	The third amendment to Trademark Law	Reduce bad-faith registrations and trademark squatting

Source: (Swamidass and Swamidass, 2014)

Swamidass and Swamidass (2014) suggest that there are three distinct stages for the trademark law development in China. The first stage was from 1950 to 1992 when the Chinese government tried to establish a modern trademark regime. Even the enactment of Trademark law in 1982, they explained, China did not master the theory of intellectual property and its protection with trademark over years. The original intent of Trademark law was for economic growth. The motivation of this law was to develop economy and attract foreign investment (Swamidass and Swamidass, 2014). However, the law was weak, the definition was vague, and created room for corruption and inconsistent rulings in the judgement of trademark cases.

The second phase identified was from 1993 to 2010, the pre- and post-WTO period. The second raft of legislation stem out of China’s desire to join the World Trade Organisation (WTO) in which “China would enact two revisions to its trademark law that would largely bring it into compliance with international standards.” (Swamidass and Swamidass, 2014, p.62). During this stage, the sale of counterfeiting goods was added to the list of infringement actions and the punishment of counterfeit has been adopted (Swamidass and Swamidass, 2014). In order to create a secure IP system and comply with international IP standards, the Chinese government made efforts to improve the Chinese intellectual property system through legislation and enforcement in order to cultivate a healthier business environment both for foreign and domestic companies (Hung, 2003).

International pressures have made China take action to conform their trademark regime to international standards in recent years (Swamidass and Swamidass, 2014). These constant external pressures have driven the Chinese government to change the trademark law and strengthen its enforcement. Except the external forces, over time, the Chinese government realized that those who control the IP, whether technology or brand value, have been successful in keeping their profit margins high. From 2010, when China overtook Japan as the second-largest economy, the Chinese government had to speed up the pace of transition, encouraging indigenous growth and new domestic business that can compete in the global economy. The Chinese government understood that protecting intellectual property was very important in order to develop the economy. Hence, the Chinese government started to strengthen the IP regime, making efforts to develop global Chinese brands (Stevenson-Yang and DeWoskin, 2005).

According to the latest survey on the ‘Chinese business climate’, a majority of respondents’ view on trademark laws and regulations, although the enforcement of Intellectual Property Rights is rated somewhat lower in terms of its effectiveness, nine in ten respondents believed China’s enforcement of IPR has improved during the last five years (AmChamChina, 2016). According to the case survey by Snyder, foreign companies are more likely to win cases and receive compensation more so than domestic companies (Snyder, 2012). He noted that “foreign companies are 4% more likely to win cases that are adjudicated and 22% more likely to receive compensation from winning adjudicated cases or entering mediated agreements.” (Snyder, 2012, p.361). Only when brand owners have the financial resources and an inclination to litigate, they do so, usually with a fair chance of success.

3.5.2. Inefficient law and enforcement

The inefficiency of the law has been pointed out by many researchers (Chow et al., 2005; Devonshire-Ellis et al., 2011; Greene, 2008; Kerns, 2016; Kumar and Ellingson, 2007; Maskus, 2004; Zimmerman and Chaudhry, 2009). The U.S. still places China on their Priority Watch List due to a failure to meet WTO obligations (Campbell and Pecht, 2012). In China, they argue that it is not the absence of a legal system the problem, but the difficulties associated with its strengths and legal enforcement. The rule of law generally considers everyone should be subject to the law, including the governments, and therefore China should obey the TRIPS agreements (Brander et al., 2017). Zimmerman and Chaudhry restate the need of the Chinese government to be aware of the importance of IPR, since IPR could affect trade relation and investment. Although the central government has an intention to enhance IP protection and track down fraudulent business, the further you get from Beijing the more difficult it is to police and implement control (Zimmerman and Chaudhry, 2009).

Some scholars claim that unless effective structural reform can be made, the complicated and confusing structure of IP enforcement system will continue to facilitate imitation and counterfeiting (Chow, 2003; Chow et al., 2005; Mertha, 2005; Xiao and Nicholson, 2010). Mertha points out that “the bureaucratic apparatus charged with managing and enforcing intellectual property in China, particularly at the local level is convoluted and opaque” (Mertha, 2005, p.3)

The Administration for Industry and Commerce(AIC), a branch of the Trademark Office of State Administration for Industry and Commerce(SAIC) since 1994 has a complicated and contradictory role (Mertha, 2005). One hand, the local AIC is charging of making the registrations of trademark and dealing with issues around controlling and protecting trademarks. On the other hand, at the same time, as a branch of local government, AIC also invests money in the construction of buildings, such as retail outlets, booths, stalls, and warehouse space, it is

empowered by government and can issue licenses to all vendors who want to do business in wholesale market. Hence, AIC has the responsibility of promoting, regulating and policing commercial activity including responsibility for enforcement against counterfeiting based on the jurisdiction over trademarks (Chow et al., 2005).

Another competing agency, the Quality Technical Supervision Bureau (QTSB) also plays important role in tackling trademark infringement. The QTSB is formally responsible for quality of products and protection of consumers. At the same time, AIC also collects rent from each individual wholesaler and distributor and vendor (Chow et al., 2005; Mertha, 2005; Xiao and Nicholson, 2010). Therefore, the AIC has a very complicated compromising position in which they collect fees from those who sell counterfeit products in wholesale market (Chow et al., 2005). According to Chow's research, "there is no wholesale market in China which does not carry counterfeit goods for sale. Many wholesale dealers have counterfeit goods on open display while others will display genuine products but have counterfeits in a back room or under the counter and available for the asking" (Chow, 2003, p.476). However, even if it is well-known that counterfeit goods have been sold in the wholesale market, it is still very difficult for the brand owner to win in court. As Lopes and Casson (2012) suggest that "Legislation was normally a last resort. Private agreements with offenders were cheaper and quicker, both because they could be kept confidential and because they avoided unduly alarming consumers about quality or altering them to the possibility of purchasing a substitute at a cheaper price" (Lopes and Casson, 2012, p.303).

Sometimes, when a formal complaint is logged, the paradoxical relationship makes court cases complicated. A court case in 2015 pertaining to Louis Vuitton (LV) illustrates this point. Louis Vuitton sued 'Golden Sun' wholesale market in September 2013 (court case number 23 in 2015, Hei Long Jiang Supreme Court). Louis Vuitton claimed they bought counterfeit LV bags from eight different dealers located in Golden Sun wholesale market in 2011 and in 2012, and LV

had already sent a warning letter through their lawyer to Golden Sun wholesale market. This letter asked Golden Sun to stop their dealers selling counterfeiting LV bags. However, after 6 months, consumers could still buy counterfeit LV bags in Golden Sun wholesale market.

The Golden Sun wholesale market claimed that they did ask the dealers not to sell counterfeits when they signed lease contract. At the same time, they also put up a poster urging dealers to respect intellectual property. Golden Sun alleged that they had acted responsibly and could not be made legally liable for trademark infringement since their function was that of landlord collecting rent from the retailers. After two years the Supreme Court made its final determination. The court held that Golden Sun wholesale market did provide the premises to dealers who sell counterfeiting LV bags, but they did not profit directly from the counterfeit sales as Golden Sun only collects rent. The Court held that Golden Sun should pay Louis Vuitton 50000 yuan (equals to 8,000 U.S. dollars) as a fine for trademark infringement (CJO, 2015). In this case, Louis Vuitton was going to request 42,0000 yuan (equals to 67,200 U.S. dollars) for a compensation of trademark infringement, after two trials, they were awarded only 11 per cent of what they requested and took more than two years fighting in the court (CJO, 2015).

Prada had a similar case in which Prada sued a wholesale market located in Hangzhou, Zhejiang Province. After 3 years The Zhejiang Supreme court ruled in Prada's favour and required the market to pay 20000 yuan (equal to 3,200 U.S dollars) as a fine of trademark infringement (CJO, 2014) (court case file, number 1084, in 2014). From the cases above, one may see that inadequate punishment is another main barrier for the enforcement of trademark infringement (Chow, 2006; Hung, 2003; Kerns, 2016). Undoubtedly, as a lucrative business, profitability of counterfeiting is motivational. The comparison of the high profit of counterfeiting and the prospective punishment (if caught by trademark property enforcing agents) and one may see that the risk of the supply-side trademark infringement is minimal. In some cases, even

plaintiffs win the infringement lawsuits, as the award is too low to cover the cost of court (Brander et al., 2017).

In some cases, foreign companies attempt to deal with counterfeiting activities in their own way. Hung (2003) explains that companies were trying to use private investigators to collect counterfeiting evidence. Those companies will register themselves as research companies in order to investigate. However, “they can be accused of commercial espionage and intrusion.” (Hung, 2003, p.69). In addition, the bill of international and Chinese attorney, the international and local investigators are very expensive, as a result, cumbersome procedures, high costs and uncertainty of outcomes also make brand owners avoid defending their rights (Zaichkowsky, 2006). Wilson and Kinghorn (2016) point out that brand owners most times can ill afford to enhance their brand protection and, in most cases, would give up pursuing fighting the counterfeiters as they are unable to dedicate resources in this respect.

3.5.3. E-commerce – the booster of the counterfeiting economy

Apart from the traditional wholesale market, with the development of technology, online shopping has also become a way of distributing counterfeit goods. In 2015, the regulator of China’s State Administration for industry and Commerce accused Alibaba, China’s biggest internet retailer, that they were ‘failing’ to tackle illegal business, which included the sale of trademark-infringing goods. The BBC reported in 2015 that "Illegal business activities on Alibaba Group's platforms have for a long time failed to elicit sufficient attention, and the company for a long time has not adopted effective measures to address the situation" (BBC, 2015)(online). At the same time, the report also pointed out that the employees of Alibaba had taken bribes.

Alibaba hit back at the regulator by posting a letter on Weibo (the Chinese leading social media platform) challenging the report – ‘Don’t make unfair calls, Director Liu Hong Liang. You’ve

crossed the line'. In the same news report by the BBC, Alibaba claimed that SAIC was guilty of 'professional misconduct' and had caused "serious damage to Alibaba and Chinese online business"(BBC, 2015)(online). However, if one searches for a 'Gucci bag' on the Alibaba website, it will show bags of very substantially different prices and this indicates that the cheaper ones might be fake, in spite of the fact that Alibaba insists it was enforcing a 'zero tolerance policy' towards counterfeits (BBC, 2015). Apart from this kind of online shopping website, 'WeChat', one of largest standalone App by monthly active users in China, has found another new way of selling counterfeit goods (Xinhua, 2014). According to the Xinhua report, WeChat is more difficult to pin down since most sellers will only sell to friends, or to buyers who have been introduced by friends (Xinhua, 2014).

3.5.4. Counterfeiting cripples both Chinese and international companies

Furthermore, one point needs to be mentioned: the enforcement of IPR protection in China is selective. The infringers will get many months of notice before government takes action or some owner will be told to keep small quantities and let the law enforcer confiscate that small quantity in order to make the public know that they have done their job (Hung, 2003). Even worse, Hung (2003) claims that since the local governments might depend on the income and employment from counterfeiter business, as a result, local officials often ignore or try to delay the crackdown activities from central government. For example, they give notice to help counterfeiters have ample time to transfer counterfeit goods to a safe place (Hung, 2003). Therefore, it is very difficult to enforce any anti-counterfeiting laws since the local authorities stand to benefit from counterfeiting, although central authorities express intentions to prevent such illicit activities (Chow et al., 2005).

The lack of intellectual property protection affects the confidence of both foreign brand and local brand owners investing in China. Hence, as Hung noted - "China becomes on balance a

victim instead of a benefactor of product counterfeiting there will be many aggrieved Chinese companies complaining of IPRS violations” (Hung, 2003, p.76). With the development of technology, more and more Chinese companies become new brand and products innovators. With the quality improvement of local products, Chinese brand names and Chinese products have been copied by both south-east countries and Chinese companies alike (Hung, 2003). This ‘foreign-on-Chinese’ and ‘Chinese-on-Chinese’ counterfeiting will become a problem for Chinese companies. Chinese companies also want to sustain their own brands in domestic competition and then expand in the global market, how they protect their own brands would be a problem as well. Snyder (2011) analysed the most extensively published survey on trademark infringement court cases from 2004-2009 in Zhejiang province, China. He suggests seventy-six per cent of disputes being filed by Chinese plaintiffs. From the latest Trademark Annual Report, there were 6,214 foreign related cases from a total of 28,189 counterfeiting and infringements cases in 2016, meaning that only twenty-two per cent involved foreign companies - most of counterfeiting cases (78 per cent) are Chinese cases (CICP, 2016). Therefore, Chinese companies will join the western world to take counterfeiting problems seriously even though it will take time. The willingness to tackle counterfeiting may be driven by internal rather than external pressure, after China realizes the importance of product innovation (Yip and McKern, 2014).

3.6. Review from an economic perspective

Local protectionism and inadequate punishment are two barriers to effective enforcement in China (Chow et al., 2005). Many scholars point out that the local economy depends on counterfeiting to provide employment and generate revenue from illicit operations to some extent, and to keep the local economy prosperous, especially in small cities (Chow et al., 2005; Hung, 2003). Wall noted that “[...] nearly ten per cent of the workforce in China derives a

portion of their income from unauthorized and illegal use of trademarks and copyrights.” (Wall, 2006, p.343). Swamidass and Swamidass (2014), who cited the data from MIT Centre for International Studies, noted that counterfeit goods “constitute between 15 and 20 per cent of all products made in China, and accounts for about 8 per cent of China’s total GDP” (Swamidass and Swamidass, 2014, p.6).

Unemployment has been a big excuse for not cracking down the counterfeiting problem. According to Chow’s research, unemployment is a big motivation for tolerating imitation and counterfeiting as it is estimated that between three and five million jobs depended on counterfeiting labour in the late 1980s (Chow, 2000; Xiao and Nicholson, 2010). Cracking down the counterfeiting wholesale market would not only result in the loss of AIC but also would affect restaurants, hotels and nightclubs as well. As Chow stated in his research “some local areas in China are entirely supported by the trade in counterfeit goods and local residents are ready to use any means necessary to protect their illegal trade” (Chow et al., 2005, p.3). Chow (2003) gave a detailed example about this statement. Yiwu city (located in Zhe jiang province), one of the most famous counterfeit distribution centres, has supported largely the entire logistics industry through the counterfeit business. Apart from that, the hotels and retail industries also benefit from this lucrative industry, albeit indirectly. That means, the entire local economy is connected to the trade of counterfeit and imitation.

Trademark infringement provides cheap access to goods and expensive technology, promotes domestic employment in the piracy industry and enhances export revenues via pirated goods, both benefiting national interests and Chinese consumers (Brander et al., 2017; Cao, 2014). Therefore, although many scholars complain about the lax legal enforcement being a major barrier in tackling counterfeiting, other scholars clearly state that as a one-party political entity, China has been able to efficiently tackle these problems (Chow, 2006; Peng et al., 2017b; Phillips, 2007). For instance, the Chinese government commissioned the clear-out of many

counterfeits wholesale markets within a short-term period during the Olympic Games in 2008 (Peng et al., 2017b). However, in such a big country with thousands of people involved in the counterfeiting business, it would be difficult for the Chinese government to stop counterfeiting overnight (Peng et al., 2017b; Phillips, 2007).

Scholars have already noted the discrepancy between the central and the local authorities, despite the central governments' intentions to stay committed to protect intellectual property against counterfeiting and imitation. The attitude of local governments is largely different (Chow, 2005). Prendergast claimed that the Chinese local government won't take additional measures to solve the counterfeiting problems (Prendergast et al., 2002). Raustiala and Sprigman (2014) argue that China's tolerance for counterfeits is a rational policy. The increasing gap between the wealthy and the poor creates social instability which, naturally, concerns the Chinese local governments perhaps more so than the central government. Regardless of the large number of billionaires, the average Chinese disposable income per capita is only 3,000 U.S. dollars, and 13 per cent of the population live on 1.25 US dollars per day. Hence, they argue that the Chinese government was trying to balance two sets of interests, one in understanding the importance of intellectual property rights, and another in considering the interests within the economy and social stability. The advantages of tolerating counterfeiting, sometimes, weighs more than the disadvantages. Thus, counterfeiting serves social and political goals simultaneously - "shutting down the trade in counterfeiting goods would result in the loss of jobs, the closing down of business, loss of revenue to the local government, and the serious disruption of local economy with all of its attendant social costs at the local, provincial and national level" (Chow, 2003, p.481).

3.7. Conclusion

This chapter provides the conceptual justification on the importance of China as a research setting. Chinese institutional environment has dramatically changed within relatively short space of time. Prior to 1977, in China, private firms were considered to be illegal and negligible, nowadays, the political legitimacy of the private sector has been strengthened in the Chinese reformation (Tsai, 2006). After 1978, the reform started, and so did the acceptance and development of the private sector to account for 75 per cent of the GDP in China by 2005 as reported by Tsai (2006). Young (2015) suggested that the ‘hands-on’ approach of the reform gave local authorities wide discretionary powers and, hence, “the incentives introduced by fiscal contracting and other measures equating good performance with industrial and commercial development meant that on the whole they tended to support it, but they also manipulated it in ways that did not always suit the central government” (2015, p.10).

Culturally, the educational approach and the lack of acknowledgement of what the concept of intellectual property means, and its significance, has fundamentally led to the development of illicit entrepreneurship. Meanwhile, the Chinese collective society has dramatically contributed to the proliferation of counterfeit products, especially in luxury brands. Non-deceptive luxury counterfeit products have offered people a chance to ‘feel good’ within their peer group. Legally, the weak legal environment in China and inadequate punishment has provided room for the counterfeiting business to proliferate and prosper. Economically, the Chinese government desires to develop the local economy irrespective of any intellectual property protection, which can be seen as a way of stifling local economic growth. A spirit of local protectionism has also been encouraged, which subsequently has become a barrier to efficient legal enforcement and thus the proliferation of the counterfeiting industry and consumption in

China. This chapter offers an extensive contextual background and explores how key institutions have historically affected the behaviours of counterfeiters in China.

Chapter Four: Methodology

4.1. Introduction

This chapter discusses the research methodology employed in order to achieve the objectives of this study. It will clarify the research philosophy, discuss ontological and epistemological and methodological beliefs. As a reminder, Chapter Two and Three reviewed the relevant literature of previous research conducted on innovation, imitation and counterfeiting, among other topics such as the theory of the entrepreneur. Those chapters set a theoretical and empirical basis for the research in the context of China, identifying the research gap which allowed me to propose the questions I am going to explore. Hence, this study justifies the choice of methods to contribute to the literature and methodology of imitation and counterfeiting business studies. This study aims to explore the experiences and perceptions of non-deceptive counterfeiters, and to explain alternative strategies pursued by these ‘entrepreneurs’, and to contrast these with those found in other conventionally recognised settings of innovation. Based on the findings generated by this study, the study also aims to articulate clear and meaningful counter-strategies for practitioners, policy makers and established brand owners, as well as for future research directions in this area of study. As I mentioned the introduction chapter, this study aims to answer three main research questions:

1. What are the most prevalent strategies adopted by suppliers in the counterfeiting market in China, including their structure and sales tactics?
2. What agents are involved in the counterfeiting businesses in China and what different roles do they perform?
3. Is there any learning associated with imitation through counterfeiting?

Considering these three main research questions, the most appropriate approach in answering these would be a qualitative, inductive research approach based on the nascent theory as proposed by Edmondson and McManus (2007). The aim of this research is to look inside the firm with the level of institutional analysis being the ‘entrepreneur’. Both macro and micro data are still not yet available, and it would be very difficult to obtain, due to the sensitivity of the topic. As many scholars suggest that although counterfeiting has attracted considerable attention, due to the difficulties of “studying a clandestine, criminal activity at first hand” (Stevenson and Busby, 2015, p.115), most of supply-side researches in counterfeiting have been discussed based on secondary data (Cesareo, 2015; Lopes and Casson, 2012; Staake and Fleisch, 2009;), and, thus, research in this area remains scarce (Lopes and Casson, 2012; Stevenson and Busby, 2015).

This study’s main aim is to build a theoretical framework from ‘bottom-up’, i.e. driven by the data collected, rather than to confirm established theories on how counterfeiting strategies are employed, and how key institutions might influence decisions when counterfeit luxury branded goods are sold. In order to achieve the research goal, I conducted 33 in-depth interviews as detailed later in this chapter.

Because little is known about counterfeiters, detailed data is needed to combine with other sources. Therefore, data was collected through interviews but also observation and focus group. Documentary analysis including court cases, regulations on trademark infringement, and national and international press releases. This chapter is organized as follows: Section 4.2 explains the philosophical position of this research; Section 4.3 discusses the research design and explains why a qualitative method is appropriate in this study; Section 4.4 covers the process of data collection, explains how the purposive samplings was chosen, the interviewing techniques and the position of the research. Considering the sensitive nature of this study, Section 4.5 emphasizes the importance of ethical issues of this research. Before concluding,

Section 4.6 describes the process of data analysis, coding techniques, and the analytical framework used – thematic analysis.

4.2. Research philosophy

Understanding philosophy is very essential and useful to any research project. Easterby-Smith, Thorpe and Jackson (2012) explain that there are at least three advantages to understanding philosophy when conducting primary research. Firstly, it will help the researcher to clarify the research design and consider the evidence. Then it states where we can gather the information and how to justify conclusions. Secondly, it also assists to evaluate which methods are more appropriate to be used in the data collection and analysis. Thirdly, it facilitates the identification and the creation of methods based on the expertise and the experience of the researcher.

Any research project should align its ontological position with its epistemological perspective (Bryman, 2015; Neuman, 2005; Saunders, 2011). This section clarifies the research philosophy deemed to be the most appropriate for this study in order to deliver the whole picture of this research framework. Firstly, ontology is concerned with the nature of reality. Secondly, epistemology is concerned with what constitutes acceptable knowledge in a field (Saunders, 2011). Thirdly, methodology seeks possible ways to understand knowledge derived from this research. Hence, clarification of the process of research philosophy is important in assisting the investigation carried out in this study.

4.2.1. Ontology assumptions

Ontology is about the nature of social reality and its existence, or otherwise, and it raises the question of assumptions about the way in which the world operates and the commitment to particular view. At the beginning, it is very important to articulate the research ontology. Do

you see the world as objective or subjective? Objectivity is about “looking at reality as made up of solid objects that can be measured or tested, and which exist even when are not directly perceiving or experiencing them” (O’Gorman and MacIntosh, 2015, p.28). In contrast, a subjective perspective enables the researcher to “see facts as culturally and historically located, and therefore subject to the variable behaviours, attitudes, experiences and interpretations” (O’Gorman and MacIntosh, 2015, p.30)

The ontological perspective in this research was influenced by the literature review conducted on counterfeiting strategies and the contextualized review in China. It discusses counterfeiting in the luxury industry, using the counterfeiters’ perspectives where there has been hardly any research conducted to date. The existing literature shows different strategies, however, by engaging with secondary data, and they merely describe how those ‘criminal activities’ may dilute the brand value and affect the profitability of the luxury industry. Obviously, such an approach to research required a specific type of ontological perspective. Since China is the biggest producer of counterfeit goods, it is interesting to reflect on how the Chinese very weak legal enforcement affects intellectual property rights, and how this is experienced by the counterfeiters themselves. Therefore, in this study it is also important to consider how other factors associated with the institutional environment, such as Chinese culture, affect the counterfeit business, and how these are experienced by the actors themselves. And this requires a specific ontological stance, namely an interpretivist approach in which participants’ ‘realities’ are closely observed, interpreted and made sense of – in the same way as the participants themselves experience and make sense of their reality.

Distinguishing non-deceptive counterfeiting and deceptive counterfeiting is essential in this study. Knowing the counterfeiting nature are fundamentally important, because in both cases, the customers’ behaviours and sales strategies of illicit counterfeiters are different, therefore,

the implications for brand owners and policy makes are different as well (Staake and Fleisch, 2009).

4.2.2. Epistemological assumptions

Epistemology is defined as being “concerned with providing a philosophical grounding for deciding what kinds of knowledge are possible and how we can ensure that they are both adequate and legitimate” (Crotty, 1998, p.8). That means that epistemology is concerned with what constitutes acceptable knowledge in a field of study and how it is acquired (Saunders, 2011). At every stage of researcher’s assumptions, whether it is about human knowledge, or a nature of reality, it will shape how research understand research questions. On this note, it is necessary to state that this study is not founded on the assumption that reality is obvious and can be explained by quantifiable measures (Yin, 2013). There are no pre-defined variables. It focuses on the complexity of activities of humans.

The position of epistemology lies between ‘positivism’ and ‘interpretivism’. Positivism is “only observable phenomena can provide credible data, facts. Focus on causality and law-like generalizations, reducing phenomena to simplest elements”. Interpretivism is “subjective meanings and social phenomenon. Focus upon the details of situation, a reality behind these details, subjective meanings motivating actions.” (Saunders, 2011, p.140). The emphasizes stance here is interpretivism and this requires the researcher to understand humans as a social actors (Bryman, 2015; O’Gorman and MacIntosh, 2015). Generally speaking, interpretivism focuses on ‘**understanding**’ what is happening in a given context, it takes into account the perspectives of different individuals, the context of phenomenon rather than measuring the objectives (Blaikie, 1991; Klein and Myers, 1999). As mentioned previously, this research aims to explore the trajectories and strategies of the non-deceptive counterfeiters in China. And at the same time, it aims to provide an understanding of the impact on their activities.

4.3. Research design

Generally speaking, numeric data (numbers) and non-numeric data (words, images, video chips and other similar material) have been used to distinguish between ‘quantitative’ and ‘qualitative’ research. Quantitative research methods were initially developed for scientists to learn about natural objects, which are associated with positivism, especially when highly structured data is collected. Most research on counterfeiting have used quantitative research designs to test theories, primarily on the demand-side (Batra et al., 2014; Bian and Moutinho, 2009; Cheung and Prendergast, 2006; Qiu, 2005). Studies done on the supply-side of counterfeiting usually uses big data, such as the counterfeit seizures at U.S. Customs or EU Customs, including categories of counterfeit products and seizures source economy (CBP, 2016; OECD, 2009; OECD, 2016).

On the other hand, qualitative research methods were primarily developed to enable the researcher to express the subjective and socially constructed meaning which is associated with an interpretive philosophy (Denzin and Lincoln, 2005). Based on the objectives of this research, for little known of counterfeiters, the counterfeiting strategies they employed, the institutions that have impacted on them, the qualitative research has been chosen in order to develop a richer theoretical perspective by looking inside the firm and the character and activities of the entrepreneur. Research on the supply side of counterfeiting commence with a qualitative research, in which variables are not controlled (Chow, 2000; Eser et al., 2015; Stevenson and Busby, 2015). As O’Gorman and MacIntosh (2015, p.39) summarize: “Fundamentally, qualitative methods are useful for unravelling and understanding what lies behind any phenomenon about which little is known”.

4.3.1. Research methods

Denzin (2017) argues that no single research method is always superior. Each has its own special strengths and weakness. Therefore, sociologists have to recognize this fact and to move on to a position that permits them to approach their problems with relevant and appropriate methods. As I mentioned in the beginning, the most appropriate way of achieving the research goal is through in-depth interviews. The in-depth interview is an excellent and efficient tool in exploring research. In-depth interviews are useful “when you want detailed information about a person’s thoughts and behaviours or want to explore new issues in depth” (Boyce and Neale, 2006, p.3). Thus, in-depth interviews are directed towards understanding informants’ perspectives on their lives, which results in rich background information that can shape further questions relevant to the topic.

Although non-deceptive counterfeiting in luxury branded products is fairly widely acceptable by customers, with increasing legal enforcement in China, non-deceptive counterfeiters are extremely cautious when considering interviews. They are approachable when trying to sell their products but interviewing them is rather different. Therefore, in this research, other secondary data, including court cases related to luxury brands counterfeit, national press and international press, which especially focus on luxury brands counterfeit in China, will be considered. Also, legal documents related to trademark protection will be included as well.

4.4. Data collection

4.4.1. Sample

The beginning of the data collection process is to decide the sample and the sites that can best provide the required information to answer the stated research questions and meet the research objectives. This research was carried out in China, considering how prolific this industry is in both producing and consuming counterfeit products (CBP, 2016). Counterfeiting is scattered

in every industry and every corner in China. From copies of Swiss made watches, to bags, baseball caps, to food, beverages and even chewing gum has been subject to counterfeit (Chow, 2006; Phillips, 2007). In Chow (2006)'s research, he clearly drew a map of distribution and manufacturing of counterfeit products in China as detailed in Chapter Three. According to the statistics of infringement and counterfeiting court cases in the Trademark Annual Report of China in 2016, the highest three provinces are Guangdong, Zhejiang, Anhui, which takes 14 per cent, 13 per cent, and 10 per cent respectively (CICP, 2016). Combined with my personal professional experience in China, a few places such as Guangzhou and Zhejiang could be the appropriate sites to conduct such research.

However, based on the sensitive nature of this research, random sampling apparently is not the suitable approach, although non-deceptive luxury brand counterfeiting has been accepted widely in China (Zaichkowsky, 2006). As a kind of 'criminal activity', it is unlikely to be successful and it could be high risk. Therefore, in this research, I started to select interviewees from my business contacts in the regions considered to have a higher number of court cases associated with imitation as mentioned above. This is known as 'purposive sampling', or 'judgmental sampling' (Neuman, 2005). Tongco (2007) suggests that purposive sampling technique is used when the researcher specifically chooses interviewees for the information they could generate, which is based on their judgement, expertise, and experience.

The interviewees required were people who have experienced either selling or manufacturing counterfeit goods. In order to understand the counterfeiting phenomenon deeply, other stakeholders involved, such as trademark officers in charge of counterfeiting cases, the brand managers whose brands have been counterfeited and the customers who purchase non-deceptive luxury counterfeit, were also considered. These interviewees may be willing to accept interviews either face-to-face or telephone interviews. Based on the above criteria, as

long as potential interviewees were willing to accept interviews, I travelled to their location without considering cost.

China is a very large country. The purposive sampling was scattered and therefore, it became necessary to travel to many different cities in China in order to collect the required data. Therefore, during the whole data collection period, I travelled throughout China from South to North as depicted in Figure 4-1 below.

Figure 4- 1 Provinces where the data for this study were collected



Source: edited based on the map from the gallery of baidu¹

Figure 4-1 highlights the provinces I travelled to collect the data. It was important to cover as much ground as possible given the diverse regional background of counterfeiters. Considering the sensitivity of this topic and the difficulties of accessing the interviewees, as I mentioned

¹ Available at www.mianfeiwendang.com/doc/8a7e37897959997226de1ed6, accessed on 26th April, 2018

earlier, once potential interviewees were willing to accept the interview, I travelled to their locations. I was keen to have access to a diverse and wide pool of participants to avoid any bias or data saturation in one area which might have not been representative of other areas. Amongst those provinces, Guangdong province have most interviewees, more than 70 per cent of interviewees were located in the Guangdong province, especially manufacturers, a province associated with the highest infringement and counterfeiting court cases reported in the Trademark annual report in China (see Appendix 8). Other interviewees such as wholesalers, retailers, trademark officers and customers were scattered in different cities in China.

4.4.2. Target sampling and interviews preparation

Following the logic of sampling method chosen and the sensitive nature of this research, interviewees were targeted at the end of the first year of my research project. After several informal conversations, a few contacts with great potential came to light. Therefore, some of the interviews were planned well ahead, while others were co-ordinated at short notice. For example, the earliest contact established was in December of 2014, half year through my Ph.D. research progress, I started contacting some of the interviewees through personal contacts. Naturally, at the beginning, they were concerned about being interviewed on counterfeiting. I explained the process and explained the anonymity and confidentiality policies by which this project was governed to assure them that their participation would not pose any threats to them or their companies. They agreed to consider being interviewed when the data collection phase started. During the second year of my Ph.D, before the end of July in 2016, I kept in touch with them regularly and made sure that they were still considering participating in my study. Some interviews had to be arranged at short notice. For example, one of the interviewees was recently released from prison after having been caught manufacturing counterfeiting luxury bags. He lost everything. All counterfeit products were confiscated. This interviewee agreed to

be recorded and I immediately booked a flight for the following morning. This interview went extremely well. The interviewee mentioned that he could help me find more interviewees. Within a two-day period, he supplied contacts for another six people who were willing to be interviewed. All of them were still in the counterfeiting business.

4.4.3. Interview techniques

In most qualitative research, in-depth face-to-face interviews are considered to be the most appropriate way of collecting data. Telephone interviews are not advisable unless there are no other possibilities for scholars to access their participants in person. Phone interviews are claimed to be less reliable since there is limited opportunity to explore the participants' responses and body language, as well as important environmental cues (Creswell and Poth, 2017; Saunders, 2011).

However, some authors have asserted that telephone interviews can be advantageous. Novick (2008) argues that telephone interviews might give interviewees' a feeling of relaxation and willingness to disclose sensitive information, since there is no sense of physical risk. Considering all these, both face-to-face and telephone interviews were used in this research. Therefore, when I first contacted potential interviewees, both possibilities were offered. If they were happy to meet face-to-face, the interview was conducted at their location. However, if they felt more comfortable with a telephone interview, the appropriate environment was created to allow for the best quality of conversation.

Some interviewees agreed to be recorded, whilst others declined and, therefore, only written notes were taken during the interview. Generally, in most social science research, audio recordings are the best way of proceeding since they provide a full record of what participants say. However, this is not the case in the research of confidential and sensitive material (Walsham, 1995). Interviewees may feel cautious and will not talk freely. Therefore, the

suggestion of the soundest alternative to audio-recording is to make rough, but extensive notes during interviews and immediately write them up in full as soon as possible after the interview has been conducted.

For example, an interviewee who had been an acquaintance of the mine for 5 years was interviewed. She is a successful business woman who sells luxury branded counterfeits. Although she has only been in the luxury brands counterfeiting business for 3 years, her father had been running a shop which sold counterfeits for more than 20 years. The research was explained to her emphasising the anonymity clause. As the interviewee had no problems with trusting me, she agreed to accept to be interviewed, but she only permitted note taking and refused the audio recording.

In those cases where recording was not permitted, in order to make interviewees feel comfortable and ensure their trust, especially that there was no one else present in the room and that the clothing I wore were not equipped with any concealed recording equipment. My phone was handed over to the interviewee to show respect for her participation and anonymity and confidentiality.

Informal conversation was held before the interview was conducted, which allowed for the interviewee to feel relaxed enough to discuss the counterfeiting issues. These interviewing techniques were employed throughout the entire process of data collection. The respect for their honesty over such a sensitive topic and passing no-judgments on their behaviour was fundamental in ensuring that interviewees were willing to share their story. As Opdenakker (2006) suggested, it will create the nature of communication.

4.4.4. The role of researcher—insider or outsider?

The role of researcher as an insider or an outsider has been discussed by many scholars (Dwyer and Buckle, 2009; Morehouse and Maykut, 2002; Walsham, 1995). Morehouse and Maykut

(2002) describe a paradoxical role of the qualitative researchers. They need to be acutely ‘tuned-in to the experiences and meaning systems of others’ , at the same time, they need to be aware their own biases and preconceptions may be influencing their understanding. Hence ,the researcher plays an essential role since they are in the position of such direct intimacy with participants when they are collecting and analysing the data. Whether they share their own experience and characteristics with their interviewees or they are outsiders receiving information from interviewee. It is extremely vital in qualitative research to maintain a balance between the two.

The conflict between being an insider but remaining ‘objective’ as an outsider has extensively been addressed by some scholars (Brown et al., 2004; Cattani, Ferriani and Allison, 2014; Coghlan and Brannick, 2014; Dwyer and Buckle, 2009). They point out that researchers might find themselves experiencing a form of role conflict. On the one hand, being an insider makes a researcher more easily accepted by the participants and this might enable the researcher to have a greater chance to obtain more in-depth data. This insider role provides the openness and trust between the researcher and the participants (Cattani et al., 2014). On the other hand, the outsider researcher might consider this to “create a subjectivity that might be detrimental to data analysis and even collection” (Dwyer and Buckle, 2009, p.58). In this research, being an insider leads to an acceptance of their behaviour or even involvement in their activities, which might be useful for data collection but also might lose the chance to sufficiently conceptualize participants’ experience from the perspective of an outsider. Being completely an outsider or having judgmental thoughts, or pre-conceived attitudes would potentially create tension between the interviewee and the researcher.

Therefore, it was essential to the success of the process that the interviewer presented themselves neither as an insider, or an outsider but provided participants a level of authentic and honest appreciation. With over 10 years’ experience as a professional therapist, I was

mindful and aware of biases and (mis)perceptions in social interactions and I endeavoured to maintain an open-minded approach throughout the interview as well as afterwards. Conducting the interviews in this way was extremely beneficial as most interviewees were keen to move the research forward by helping to provide contacts for more participants to be interviewed.

4.4.5. The categories of interviewees

In this research, the priority was not about choosing large samples, which would lead to broad rather than detailed conclusions. The choice of sample size was guided by the demand to provide in-depth information from each participant to illustrate the theoretical framework proposed in this study (Bryman, 2015). Based on the difficulties and sensitivity of this research, ‘snowball sampling’ was also used in order to maximize the variation and sampling criteria (Noy, 2008). A total of 33 interviews were conducted, involving different stakeholders as illustrated in Table 4-1.

Table 4- 1 List of interviews classified by stakeholders

Stakeholder Code	Role	Number of participants
A	Counterfeiters	23
B	Trademark officers	4
C	Customers	3
D	Original brand owners	3

Source: developed by author

Table 4-1 above lists all the interviewees based on the type of stakeholder. Stakeholder A includes 23 counterfeiters who were interviewed, and it consists of manufacturers and distributors (wholesalers and retailers) in the luxury brand industry in China. The basic information of those 23 counterfeiters have been listed and coded in Table 4-2.

Table 4- 2 List of manufacturers and distributors of counterfeit products

Code	Level	Products	Date	Location	Time spent in the industry
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A1	Manufacturer (owner)	bags	20/07/2016	Guangzhou	15 years
A2	Manufacturer (owner)	watches	21/07/2016	Guangzhou	12 years
A3	Manufacturer (owner)	bags	21/07/2016	Guangzhou	10 years
A4	Manufacturer (owner)	watches	21/07/2016	Guangzhou	14 years
A5	Manufacturer (owner)	clothing	25/07/2016	Guangzhou	20 years
A6	Manufacturer (owner)	clothing	28/07/2016	Guangzhou	20 years
A7	Manufacturer (owner)	bags	03/08/2016	Guangzhou	15 years
A8	Manufacturer (owner)	jewellery	04/08/2016	Guangzhou	20 years
A9	Manufacturer (owner)	jewellery	04/08/2016	Shenzhen	18 years
A10	Manufacturer (owner)	bags	06/08/2016	Guangzhou	15 years
A11	Wholesaler (owner)	accessories (jewellery, scarves, sunglasses)	12/07/2016	Fuyang	22 years
A12	Wholesaler (owner)	bags	23/08/2016	Dalian	11 years
A13	Wholesaler (owner)	Clothing and shoes	06/08/2016	Guangzhou	20 years
A14	Retailer—the first level (the daughter of owner)	clothing, shoes, accessories	16/07/2016	Kunming	9 years
A15	Retailer—the first level (owner)	clothing	09/08/2016	Guangzhou	10 years
A16	Retailer—the first level (owner)	shoes	11/08/2016	Guangzhou	10 years
A17	Retailer—the first level (owner)	clothing and bags	17/07/2016	Kunming	22 years
A18	Retailer—the first level (owner)	clothing	13/08/2016	Guangzhou	15 years
A19	Retailer—the first level (owner)	bags	23/08/2016	Dalian	8 years
A20	Retailer—the second level	clothing	28/08/2016	Hangzhou	3 years
A21	Retailer—the second level	bags and jewellery	17/07/2016	Kunming	1 year
A22	Retailer—the second level	clothing and bags	18/07/2016	Kunming	8 months
A23	Retailer—the second level	shoes	21/08/2016	Dalian	6 months

Source: developed by the author

Of all the interviewees listed in Table 4-2, ten of them are manufacturers, they take orders from distributors (wholesalers and retailers) to manufacture the counterfeited products, they also introduce themselves to different channels to get more orders. Three of them are wholesalers, they do not have a factory, they do not invest in any equipment, but they get orders from different clients and deliver the orders to other parts of China and abroad. Six of them are first level retailers, they either get products from wholesalers, or directly obtain products from manufacturers without involving wholesalers. The remaining four are second level retailers, which means they get orders from the first level retailers rather than wholesalers. To clarify, all the classifications have been confirmed by interviewees themselves. For instance, if a manufacturer also has retail shop, I made sure to ask the interviewee about their primary income resource and how they define this.

In addition to this, considering the research questions in this study, I also selected Stakeholder B includes four trademark officers who are in charge of trademark infringements and counterfeiting cases. Stakeholder C includes three customers who are prolific luxury brands fans, one who only purchases genuine products, one who purchases both genuine and counterfeiting products, and a third participant who only purchases counterfeit products. Stakeholder D is the managers from different original luxury brands. Basic information of these 10 participants is listed and coded in Table 4-3, including their job role.

Table 4- 3 List of interviewees other than those involved in manufacturing and distributing counterfeit products

Code	Role of interviews	Position in jobs	Date	Location
<i>B1</i>	Trademark officer	manager	20/08/2016	Dalian
<i>B2</i>	Trademark officer	manager	22/08/2016	Shenyang
<i>B3</i>	Trademark officer	manager	14/08/2016	Guangzhou
<i>B4</i>	Trademark officer	manager	19/07/2016	Kunming
<i>C1</i>	Customer	CEO	28/08/2016	Shaoxing
<i>C2</i>	Customer	manager	16/08/2016	Guangzhou
<i>C3</i>	Customer	A shop owner	29/08/2016	Hangzhou
<i>D1</i>	Original brand	manager	01/09/2016	Beijing
<i>D2</i>	Original brand	manager	30/08/2016	Suzhou
<i>D3</i>	Original brand	manager	20/08/2016	Dalian

Source: developed by the author

All the tables illustrating information about the participants have been purposely drafted to not indicate the potential identity of these.

As discussed, consideration was taken in the sensitivity of this research and although in-depth face-to-face interviews was an ideal approach, two ways of interview were offered to the potential interviewees. Some of them were willing to accept interviews but only recorded through note-taking, whilst others, especially for those just released from prison or considering moving away from the counterfeiting business, did not mind an audio recording being taken. Based on the trust, some interviewees agreed to record them so that all notes taken would be an accurate reflection of the conversation. However, an agreement was made that the sound recording would be used for transcription purposes only and that the recording would be deleted once transcribed. Out of the total number of interviews conducted, four participants were not willing to accept face-to-face interviews, amounted to 12 per cent of the total number of interviews, but they were happy to offer a telephone interview.

4.4.6. Observation and focus group

In order to enrich the data and explore a more in depth experience of the counterfeiters' daily life, one retailer gave permission to allow observing an accompaniment during a typical day's trading within his counterfeiting business. Mulhall (2003) point out that a greater understanding can be achieved if there is an opportunity to observe and participate in the daily life of participants and attempt to understand their symbolic world. For this reason, the observation was a complementary approach to see this illicit business in action and how those non-deceptive counterfeiters deal with their customers and government officers. One week was spent with this particular participant. Participant observation can be used when the topic is relatively unexplored, it will bring closeness with the group of interviewees, building a rapport with them (Bryman and Bell, 2015). Therefore, it was valuable to get detailed information by

using this approach, and it provided many new insights which were not obtained purely by using interviews.

Since some of the interviewees felt more comfortable when they had a ‘middle man’, who made the introductions, these middle agents were also involved in luxury brands counterfeits, the interviews turned into focus groups where I could explore their counterfeiting business deeply, and the interaction between the participants. As Krueger and Casey (2014) have suggested, focus group scenarios encourage discussion among participants.

Generally, participants are more confident and relaxed and feel more encouraged to express their opinions when interviewed individually compare with focus group, because those with weak personality might be influenced by other group members in the focus group. However, in some cases, when “the issue discussed is incommode and participants are not confident in expressing their real opinions” (Milena, Dainora and Alin, 2008, p.1280). Due to the sensitive nature of this study, the participants may feel more relaxed when hearing some people also discuss this issue in front of other people. Those two focus groups went very well, each of them lasted around 3 hours. During the two focus group discussions, the counterfeiting issues were explored in detail, especially their own products as well as how to deal with the conflicts with the government. The relatively open and trusting environment encouraged participants to share their perspectives and experiences.

4.4.7. The process of interviews

There are three different types of interview approaches in conducting research including structured, semi-structured and unstructured interview types (Bryman, 2015; Saunders, 2011). Structured interviews use questionnaires based on a predetermined and standardized set of questions, then “record the response on a standardized schedule, usually with pre-coded answers” (Saunders, 2011, p.374). In semi-structured interviews interviewees are asked some

key general questions first. However, the questions are drafted as open-ended questions to give interviewees a chance to comment further or to take the interview in a novel direction (Saunders, 2011). For unstructured interviews, there is no predetermined list of questions to work through and the researcher use it to explore a general area (Saunders, 2011). Based on the objectives and the research aims of this study, I employed a semi-structured approach to gain rich and in-depth knowledge of the phenomenon being studied through developing interview questions and supplying information to the interviewees before the interview, while simultaneously providing some initial structure to guarantee that the essential research questions associated with this study were covered. The structured part of the interview covered questions where the interviewees were asked to describe their experience about counterfeiting generally. This included the quality and price range of their products, the ways of 'upstream' contact, the profit margin, distribution channel, brand awareness of customers, dealing with problems, and future planning. During the research, open-ended questions were used so that participants could express their opinions. The time taken for interviews depended on the interviewees' responses and generally the interview time lasted between an hour and a half and two hours, the longest was three hours and the shortest was an hour.

Sample saturation was reached when during the interview no additional data was obtained. However, it is still often useful to pursue similar questions in case fresh data is obtained (Francis et al., 2010; Guest, Bunce and Johnson, 2006). For instance, one participant would refer to the issue of how anti-corruption activity affects their business, when an earlier participant had not mentioned it at all. It was useful to notice how and why this happened, with explanations being provided in the analysis chapter. Using the technique interview and open-ended questions, 33 were conducted until an apparent level of data saturation was reached.

4.4.8. The triangulation method.

Triangulation is considered to be a strategy for enhancing the validity of research, as Miles and Huberman (1994) described that triangulation use different independent measures to agree , or at least do not contradict with a finding. Therefore, in this research, except semi-structured in-depth interviews, documentary analysis was considered to be the most appropriate and sensible approach in such sensitive topics within the qualitative research (Lopes and Casson, 2012; Stevenson and Busby, 2015). Even documentary analysis has its own disadvantages, if there is not enough data, or data which is difficult to retrieve (Bryman, 2015). However, documentary analysis is extremely useful for counterfeit research due to the difficulties of accessing data (Stevenson and Busby, 2015). Court cases, regulations, national and international press, the Chinese government website have all been used to collect data in this research.

Apart from academic journals and/or databases, an extensive set of newspapers might be accessed through the British Library's catalogue(<http://catalogue.bl.uk>). In China, in order to find information, several reputable social media sources were selected, such as 中国新闻网 (www.chinanews.com), 新华社(www.xinhuanet.com/english), 人民日报(en.people.cn) for the latter two websites, they have English versions as well. Important regulations about trademark laws were retrieved from the Chinese government official website (<http://www.saic.gov.cn>), which is 中国国家工商总局 (State Administration for Industry & Commerce of People's Republic of China). Some documents and data came from internal data, which the trademark officer forwarded as reference. China Judgement Online (中国裁判文书网, wenshu.court.gov.cn), was used for the court cases, which provides access to more than 118 million court cases in China, but the search was refined to court cases that focused on luxury branded counterfeits only. The database in WIPO (World Intellectual Property

Organization), OECD (Organization for Economic Co-operation and Development) and WTO (World Trade Organization) have also provided support for this research.

All of those secondary resource mentioned above provide the fruitful evidence for supporting the interview data and clarify the arguments raised in the research. For instance, based on my professional experience in China, I understand Guangdong is the biggest province in terms of producing and selling counterfeiting. The court cases and documents reviews such as trademark annual report provided the justification and evidence Guangdong has highest number for infringement and counterfeiting court cases. Therefore, those secondary sources offered a complementary source to explore the counterfeiting phenomenon as a whole.

4.5. The importance of ethical issues in this research

Ethics should be considered in any research study, especially when human participants are involved to quote Woliver (2002, p.677), “ You must leave them in the same position in which you found them. You must do no harm to them”. Ethical issues often arise from a conflict between personal and professional interests. For instance, a researcher could overstep the bounds of privacy and confidentiality when seeking data (Easterby-Smith et al., 2012). There are four main ethical concerns identified in the literature including: harm to participants, lack of informed consent, invasion of privacy, and deception (Bryman and Bell, 2015). The University of York has its own ethical code and regulations which have informed the present study. For this study I prepared an informed consent form which participants read before they consented, or otherwise, to take part. The form indicated clearly the nature of their participation and their right to withdraw at any time during the data collection phase, the purpose of the study, how the data was going to be used and safeguarded, highlighting the anonymity and confidentiality principles governing the study and the use of the accounts generated during and after the study was finished.

Considering the illegality of counterfeiting, ethical concerns have guided all phases of my research. The methods were selected with this particular consideration in mind. All interviewees were fully informed about the ethics and they understood that the research is completed confidential and anonymous. All interview questions were submitted to the university ethics committee and a list of those questions can be found in Appendix 10. Hewitt (2007) clearly states that “particularly when there is risk that participants' disclosures might reveal potentially significant harm to self or others, which would require that confidentiality be overridden, or when political control over the dissemination of findings might not be within the researcher's control. Interview transcripts should not provide information that could lead to the identification of participants” (Hewitt, 2007, p.1155). This was a very real concern for anyone who co-operated with this work owing to the political environment in China. Information regarding the identity of the participants is not disclosed. This was fundamental to any degree of co-operation. For the same reason, there is avoidance of anything that identifies the name of particular products or particular work places or manufacturing plants.

The interview notes were disclosed to the interviewee. If the interviewee wished to withdraw any information, that information would have been deleted. If the interviewee wished to withdraw from participating in this research that, too, was respected. This is unusual practice in the West but if any degree of co-operation was to be obtained in China this approach was essential. Of course, even if any information was not to be used for my final work it would still help to broaden my ability to better understand and interpret the overall data.

4.6. Data analysis

Data analysis is a process of inspecting, categorizing, analysing, and interpreting the collected data (Guest, MacQueen and Namey, 2011). All the recording and the rough notes taken in the field were meticulously transcribed, a process which took around two months. Although it was a time-consuming process, the transcription did help with the recall of the interview process and to focus on some important details before taking the next step in data analysis. At the same time, combining the transcribed interviews and other sources such as the notes were taken and the documents that were provided by the interviewees, this helped to highlight the underlying issues and to identify codes and themes.

4.6.1. Coding

Coding is the very essential part of data analysis. It is the process which allows the researcher to communicate and connect with the data and make sense of data. Coding facilitates the understanding of the phenomenon under investigation and to generate theory grounded in the data (Basit, 2003; Saldaña, 2015). Whether the data will be coded manually or use computer aided qualitative data analysis software (CAQDAS) will depend on “the size of the project, the funds and time available and inclination and expertise of researcher” (Basit, 2003, p.143).

In this research, all the data has been coded manually, despite this being a time-consuming method. All the interviews have been conducted in Chinese. The notes can be translated but there is much to be gained from manual qualitative analysis. As Kelle (1995) points out that the central analytical task in qualitative research, which is understanding the meaning of text, and this cannot be computerized. There could be an additional linguistic hurdle. Translating language necessarily involves small differences in meaning and this, in turn, could impact any automated coding. Therefore, coding manually could keep the original context and meaning.

Meanwhile, manipulating qualitative data on paper and highlighting and writing codes give the researcher more control over and ownership of the work (Saldaña, 2015).

4.6.2. Coding process

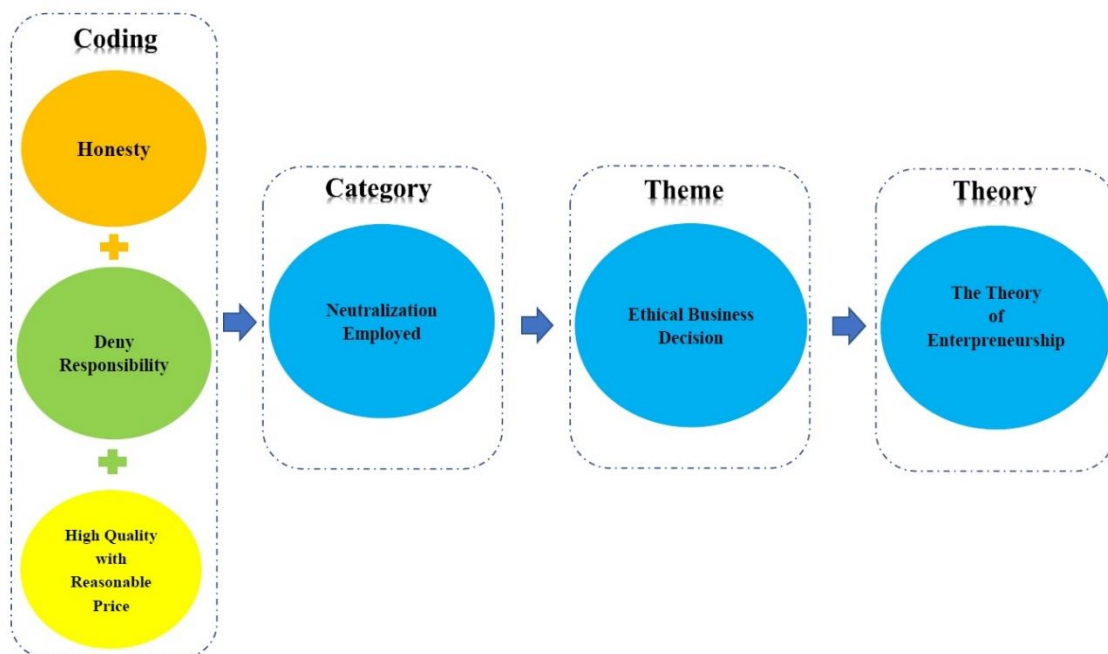
Coding is a cyclical act, it will be very rare for coding data perfectly for the first round, the second round even third, fourth round or even more (Saldaña, 2015). It is a process of recording “further manages, filters, highlights, and focuses the salient features of the qualitative data record for generating categories, themes, and concepts, grasping meaning, and building theory” (Saldaña, 2015, p.8). Table 4-4 provides an example of the process of coding used in this thesis.

Table 4- 4 Example of transcription and coding

Transcription	Coding
<p>“They came to us (Limited) and they are the ones who made the effort to pass their own country’s customs inspection. Foreign distributors have become quite skilled in this. It is their job, they take responsibility for that part (2), we only do what they require us.” (Limited)</p> <p>“This is a business which fulfils customer demand (4), although selling counterfeit goods is not a business we can be proud of, but at least we do not lie to the customers (5). Our products are good quality but at a low price. (Limited) We offer refunds if they don’t like the product, we repair watches if they are broken - we are just doing a business as a means of livelihood (7).</p>	<p>(1) Honesty (2) Deny responsibility (3) Honesty (4) Deny responsibility (5) Honesty (6) Good quality with reasonable price (7) Deny responsibility</p>

Table 4-4 above illustrates the coding process of data, as the study continued, more data were coded, then the initial categories emerged, starting to transcend category of the data toward the thematic, and the theoretical dimensions as Figure 4-2 shows.

Figure 4- 2 Coding process



Source: developed by author

This coding process demonstrates an example how theme and theory emerge through the coding process. I coded the main points on how non-deceptive-counterfeiters discussed their behaviours. Such as ‘being honest’, ‘deny responsibility’, because customers want to purchase luxury brand counterfeit products and ‘good quality with reasonable price’. All the coding was categorized into ‘neutralization employed’ to explain how non-deceptive counterfeiters eliminate their cognitive disorder when they are doing counterfeiting business. This category contributes the one theme, which is ‘their ethical business decision’, and illustrates part of the reason why they do not consider their business to be unethical. All the analysis contributes to the theory of entrepreneurship - how those non-deceptive counterfeiters grab the chance to

build up their business in the specific context and how it plays out in the real business environment.

4.6.3. Data analysis

After conducting and transcribing the interviews, thematic analysis has been chosen in this study as the most appropriate approach. Thematic analysis is “a method for identifying, analysing and reporting patterns (themes) within data” (Braun and Clarke, 2006, p.79). Thematic analysis helps researchers from reading a board of data towards discovering patterns and developing themes, which has been used by many scholars as a way of communicating their data deeply and interpreting complex content (Boyatzis, 1998; Braun and Clarke, 2006; Tuckett, 2005; Vaismoradi, Turunen and Bondas, 2013). In this research, it assists in the use of a wide variety of data (including first-hand interviews and court cases) and in a systematic manner that increases accuracy in understanding and interpreting the counterfeiting business. After coding the data, themes, patterns, and trends became obvious, which were thematically analysed at a latent level to explore and probe deeper into the lived experiences of the participants (Braun and Clarke, 2006).

4.7. Conclusion

This chapter illustrates and justifies why the qualitative research paradigm has been adopted. It allows a critical understanding of the supply chain of the counterfeiting business in China. Drawing on a sample of in-depth and highly sensitive interviews, conducted under a certain level of risk in some circumstances, it is an exploratory investigation on the counterfeiting strategies which have been employed by non-deceptive counterfeiters and how those non-deceptive counterfeiters' behaviour has been affected by formal institutions such as laws and informal institutions such as culture and economy. The philosophical approach utilized in this

study was the interpretivist approach, as data was collected through in-depth interviews which were triangulated with secondary data such as governmental documents, legal cases, etc. Additionally, the triangulation was also complemented with observation, focus groups and documentary analysis. This combination of primary and secondary sources enabled an ideal and through understanding of the topic under investigation.

The study was conducted in different cities in China, including Kunming, Guangzhou, Fuyang, Dalian Shenzhen Suzhou, and Beijing. As long as the purposive sampling could be accessed. It involved counterfeiters, trademark officers and customers, totalling 33 participants, which included 10 manufacturers of counterfeits, three wholesalers who trade between manufacturers and retailers, and the 10 retailers, first level retailers who can access the factories directly, and the second level who can only access the products from the wholesalers or from the first level retailers.

Due to the difficulties of accessing the data, secondary resources such as documentary reviews, court cases published on Chinese official court cases online system, national and international press was used as complementary resources. All the data collected was coded and themes were identified. The responses from participants were analysed thematically with other documentary reviews.

Having explained the research methodology, the next three chapters will discuss the research findings. The findings and the discussion of these are categorized according to the themes and sub-themes that emerged from the data. The first theme is the counterfeiting strategies employed by non-deceptive counterfeiters. The second theme is the factors influence the behaviours of counterfeiters. The third theme is the learning of counterfeiters from counterfeiting business and their plan for the future.

Chapter Five: Data Analysis

The Counterfeit Strategy in China

5.1. Introduction

This chapter and the following two chapters will analyse the data collected for this study, aiming to address the three research questions that underpin the present study:

1. What are the most prevalent strategies adopted by suppliers in the counterfeiting market in China, including their structure and sales tactics?
2. What agents are involved in the counterfeiting business in China and what different roles do they perform?
3. Is there any learning associated with imitation through counterfeiting?

This chapter will focus on the first question, based on the theoretical framework discussed in Chapter Two, the two dimensions of counterfeiting strategies proposed by Lopes and Casson (2012), and illustrates the adequacy of the proposed extension previously presented. As outlined in the methodology chapter, the sample consisted of 33 participants, of which 23 were actors on the supply-side of counterfeiters in four cities in China. The supply side sample includes 10 manufacturers, three wholesalers, six level one retailers and four level two retailers, all of them focus on luxury brands. The other participants are four trademark officers who were in charge of trademark infringement and counterfeiting cases, three managers from original luxury brands companies and three customers who related to counterfeiting luxury products. Based on the data, it was found that, generally, the manufacturers of counterfeits interviewees are often specialized in one kind of product, such as bags, watches or clothing, but the distributors' businesses vary from carrying single counterfeit brands and products to a mixed portfolio of counterfeit brands and products, such as shoes, jewellery and scarves.

The name of interviewees and the brand they counterfeited are kept anonymous, to protect the interviewees' identity. This chapter will be structured as follows: Section 5.2 introduces the positioning of the different actors in the supply chain and explains how they work with different distribution channels. Section 5.3 provides general patterns about the evolution and expansion of the counterfeiting business, including how the counterfeiters established their businesses in the first place. Section 5.4 provides the empirical evidence to support the proposed theoretical framework. Section 5.5 to 5.8 combines the empirical data and theoretical framework to explain how the framework of counterfeiting strategies developed by Lopes and Casson (2012) can be extended. Analysis of the data will also draw on appropriate marketing theories before concluding this chapter in Section 5.9.

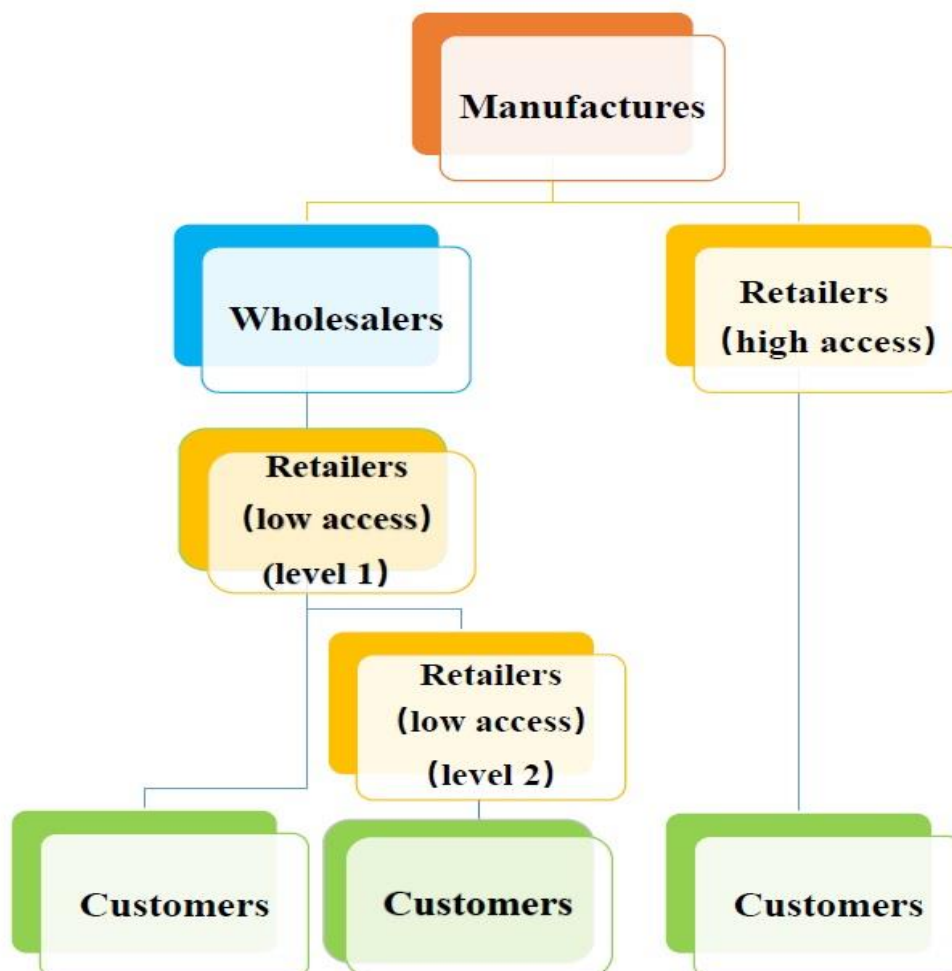
5.2. The actors involved in the counterfeit supply chain

Understanding actors and their position in the supply chain is useful to explore their roles and strategies respectively. Each kind of actor has his preferred strategies and different targets in the counterfeiting business. The interviews confirmed that there are three main kinds of actors in the counterfeit supply chain for luxury goods. These are the same actors as those in licit supply chains. They include: manufacturers, distributors and customers. Distributors include both wholesalers and retailers. The methodology chapter clarified that some counterfeiters have mixed roles, that is, they could be producers as well as retailers, or that some retailers also have wholesale outlets, offering lower prices if the size of the order is high enough. Participants clarified and defined their roles during the interview when they detailed the scope of their activities.

The first kind of retailer is the one who has direct contact with manufacturers, and also who supplies to the final customers. This is defined as 'high access' retailers in this study. Another category of retailers obtains products from wholesalers and sells directly to consumers. This

kind of retailer has been defined as ‘low access’ retailers. In the counterfeit luxury brands supply chain, because the ‘criminal nature’ of the business, not all retailers have a chance to get access to either manufacturers and/or wholesalers, some retailers having to order counterfeit from another retailer. Therefore, in this research, this kind of retailers will be defined as second level retailers. As comparison, for other both ‘high access’ (can access manufacturers) and ‘low access’ retailers (can access wholesalers), these are defined by the first level of retailers. Based on the definition above, the following Figure 5-1 illustrates the position and distribution channel in the luxury brands counterfeit supply chain.

Figure 5- 1 The distribution channel



Source: developed by author

Figure 5-1 above shows the two distribution channels in luxury brands counterfeit supply chain. As discussed above, the first distribution channel is from manufacturer through ‘high access’ retailers, then the order arrives to the final customer. Generally, based on the data, those ‘high access’ retailers have been running counterfeit businesses for many years - the detail of their accounts will be analysed in the following section. The second distribution channel is from manufacturers to wholesalers and then to retailers (level one and level two) to the final customers. Because of the nature of the counterfeiting business, manufacturers are very concerned about the increasing legal enforcement. Therefore, with the exception of wholesalers and high access retailers who had to deal with them for many years, in most circumstances, the low access retailers (both level one and two) illustrated in the left column, rarely have a chance to access manufacturers directly. In the luxury brands counterfeit supply chain, this is the most common way for the counterfeiting business to operate.

5.2.1. The methods of distribution

The traditional way of selling counterfeit products is in a big wholesale market, or ‘flea market’ in China. Hence, many scholars have gained their experiences in famous counterfeiting markets such as the ‘silk street’ in Beijing, and ‘Xiangyang market’ in Shanghai (Phillips, 2007). Nowadays, many of them are no longer in existence but have transferred to hidden areas which are often more rural. Most importantly, the invention of the Internet has completely changed the distribution system of counterfeiting products (Thaichon and Quach, 2016). The distribution channel of counterfeiting businesses now includes online selling and traditional retailing in shops. Social media APPs, copycat websites, auction websites, among others, make the counterfeiting products available for selling online 24 hours per day, seven days a week, just simply with a mouse-click (OECD, 2016).

The sample data shows that in 80 per cent of the cases, the distributors of interviewees use both approaches to attract more customers. Some customers still prefer to see products before they purchase, so wholesalers and retailers need to keep shops (off-line), so clients can visit to confirm the quality of products. Sometimes, those wholesalers and retailers in the shopping market will keep small amounts of merchandise on display, in case they are caught by trademark officers, they will let them confiscate those small amount counterfeit. But most wholesalers and retailers will transfer them shop to residential house or rural area to avoid any raids by trademark officers.

Three of the lower level retailers who participated in my study use online selling only. In terms of business entering time, they are later entrants and very new to this business. They started to sell counterfeit products to their friends by advertising pictures of goods in WeChat (Chinese social media) for about half a year before the date of the interview. Their focus is mainly on the Chinese market. The reason for choosing online only rather than having a shop is mainly due to low maintenance cost of the business, unlike keeping a shop, as one retailer (A21) explained:

“Selling online is the best way to minimize operational costs since the rental of opening a shop is very high. Meanwhile, taking stock is unnecessary if we do not have a big portfolio of customers. We are selling pictures copied from upstream (higher retailers) or from the real brand websites. We will place the orders to wholesalers and pay for our orders once we have orders, our upstream will do the rest of job by packing and posting the products to the customers, or they will post to us, we give the products to our clients. The profit margin is not high, but it is easy money to make without any cost. Well, time is the only cost.” (A21)

A23 (retailer) added another point about selling online:

“I feel more safe selling online, especially as I only sell to my friends’ circle. Sometimes friends will introduce my business to clients and I get new business.” (A23)

Possible explanations for this are: on the one hand, the development of the Internet has changed the way business operates. E-commerce saves on costs of investment and expands the scope for customers. On the other hand, increasing legal enforcement has forced these ‘entrepreneurs’ to look for a new channel of distribution rather than the traditional way. According to those three interviewees, based on their experience, the online account will be banned or cancelled, but the chances of them being caught by the authorities are quite slim. They believe that the reason they are safe is because they are selling non-deceptive counterfeit on Chinese social media. Therefore, the chances of being reported by deceptive customers are pretty low. This finding is in line with the research of Quach and Thaichon (2018), although their study conducted in Vietnam. The interviewees confirmed they are running the counterfeiting business online because of “low-cost investment, free riding on genuine brand’s marketing efforts , and invisibility from regulators” (Quach and Thaichon, 2018, p.252).

5.3. Manufacturers’ perspective-The establishment of the counterfeiting business in China

5.3.1. Starting from original equipment manufacturer (OEM)

Based on the interviews conducted, it was found that there are three main reasons for counterfeiters to start illicit activities. The first one is establishing an illicit business from OEM. A manufacturer interviewee (A3) described why he started his counterfeiting business as follows:

“I have been making this brand for 8 years. The company used to be the original equipment manufacturer for this brand. We made the products for them almost two years. However, during this period, there were so many problems, especially lack of raw materials and not

paying enough for outsourcing fees. Sometimes we had to wait a month to get raw materials from the home country. The operation costs, including rental, equipment and labour are very high. Hence, I was wondering, since I already mastered the information of this brand, why should I not manufacture this brand for myself? ”. (A3)

Afterwards, he stopped working with this original brand but since he has grasped all the core techniques and started to manufacture the same brand. A6 interviewee also mentioned a similar reason as to why he started to make counterfeiting products. High cost, but low profit in OEM is the main reason for them to desire this unauthorized business. According to both interviewees, it is possible to learn from brand owner through outsourcing contract, get essential information from the brand owner, such as the source of raw materials and trademark information. They claimed that at the earlier stage of OEM, especially between the late 1980s to the beginning of 2000s, the lack of censorship and ‘self-reporting’ systems made producers have a chance to produce a quantity of products in excess of the quantity ordered.

This finding is in agreement with previous findings of studies that looked at how OEMs often take advantage of their entrusting parties’ design, know-how and technology as a base to develop counterfeits for themselves (Chwu and Lee, 2015; Hung, 2003; Phillips, 2007). According to these previous studies, some counterfeiters manufacture the products during night shifts and sell them secretly (Hung, 2003; Phillips, 2007). The self-reporting system mentioned above means that the “OEM factory declares how many items they have made and pay a licensing fee to the company based on that figure” (Phillips, 2007, p.26). Thus, according to A3 and A6 (both are manufacturers) , instead of two eight-hour shifts, some manufacturers of OEM operate 24 hour shifts to reduce the unit cost. They claimed that:

“This is not unusual for OEM, especially in the luxury clothing industry. For instance, if contract requested to make 10,000 pieces, the manufacturers can choose to make an extra 50,000 pieces secretly. For those extra 50,000 unauthorized pieces, the manufacturers can

sell it secretly for extra profit. In this way, greater profit is made, and all extra profit will go to the manufacturers directly.” (A3, A6)

Therefore, the findings reveal that the ineffectiveness of OEM management from the brand owners leads to increasing trademark infringement. Chwu and Lee (2015) suggest in their research that although lots of counterfeits are attributed to the third party counterfeiters rather than OEMs, they point out that “it is probably a reasonable assumption that a good portion of counterfeit goods, particularly of the more sophisticated or even identical counterfeits, are produced by OEMs or upon proprietary information provided by them” (Chwu and Lee, 2015, p.20). Hence, they claim that in many cases “the only difference between counterfeit and genuine goods is the time of day that were produced within the same factory” (Chwu and Lee, 2015, p.21).

From 1978, when Deng took power, the Chinese economy grew rapidly, and the political success of the Chinese leading party was assessed by economic achievement. To quote Deng’s famous words, “It’s a good cat as long as it can catch mice. It doesn’t matter if it’s a black one or white one” (Naughton, 1993, p.496). Open door policies gave western investors the desire to explore and expand in the Chinese market. Many western companies outsourced their manufacturing, research and development processes to developing countries, especially China, in order to reduce costs. Therefore, the local companies where the original equipment was installed had the chance to access first-hand knowledge (Stevenson and Busby, 2015).

Those companies used to legally acquire foreign technology for the production of well-known brands. However, some technology and know-how were used for illegal purposes. As Phillips (2007) noted, some licensed ‘white cats’ made their products but offered the opportunity for the ‘black cat’ to retail their products. For those heavily reliant on product design or image, such as the luxury brands industry, which is a ‘marketing-based’ industry rather than a ‘technology-based industry, counterfeiters tend to proliferate and have low barriers of entry

(Lopes and Casson, 2012). Interviewees (both A3 and A6) claimed that in luxury branded clothing and bags, those raw materials are not too difficult to find, and owing to the loose management of the Quality Control (QC), this makes counterfeiting goods very achievable.

5.3.2. Investment by foreign companies

According to the interviewees, the second way in which a counterfeiting manufacturer can be established is when a foreign company itself invests in making counterfeiting products. According to interviewee A7 (manufacturer), the one who was just out of prison, narrated the story as to how he started. He was holding his own brand, but the business was not as good as he expected. He was struggling to survive in the market. Then a foreign company found him and requested him to make one specific brand for them and the company gave him a model and asked him to replicate it. During this period, he followed the instructions of the company and he even modified the product to achieve a better quality in order to attract more orders. He recalled the story:

“I would never have had the chance to know this brand if they didn’t come to find me years ago. But afterwards, I made a lot of efforts to improve the quality of the products of this brand to be better, even if it’s fake, but it is very good fake. For instance, I started to use real leather rather than PU, and I did this earlier than the real brand owner.” (A7)

This finding was unexpected. According to the interviewee, he started to make this specific brand exclusively for this company based abroad. At that time, he manufactured the products based on the request of the company and shipped all products. At the same time, he developed his own way to produce the products with different material and retailed them in the Chinese market as well as abroad. During this process, A7 said he exerted considerable effort on improving products’ quality, like what he said above, he uses the real leather design unlike the real brand owners. He gained a very good reputation for making this specific product and for

having improved it, because of the high quality materials used in the manufacturing of the products.

To the best of my knowledge, this finding has never been discussed by any authors in the literature reviewed. Some researchers, such as Minagawa et al. (2007) noted the capability of reverse engineering through learning from counterfeit and imitation. In their study, they do discuss how Chinese companies use others' IP to develop their own capability. They suggest that there even may exist the possibility for collaboration between the two entities, instead of taking legal action straightaway without consideration to the learning involved in the creation of the new product development and innovation. However, the difference in this finding is that the counterfeiter developed their capability and learning through the counterfeit orders commissioned by a foreign company, trying to sell counterfeit rather than learning through the technology of the real brand owner. Hence, this finding shows that the capability of reverse-engineering could happen among counterfeiters themselves or among counterfeiters and original brand owners.

5.3.3. Establishing the counterfeiting business for the sake of profit

Most counterfeiters join this business simply because of lower-barriers of entry, with high profit and high demand in both the Chinese and the International market, but also because of the very high risk involved. A5 explained that they started to make the counterfeit product 20 years ago, when some businessmen from the older generation brought desirable products back to China from western countries. For instance, A5 (manufacturer) said:

“Everyone likes the product, but there was not enough to meet the demand. Therefore, we (himself and his dad) started to make a copy of those products. We actually started in our backyard.” (A5)

Later on, A1 and A10 (both are manufacturers) confirmed how they started making counterfeit products in the basement of their house;

“We started a family workshop; all equipment was put in the basement of the house. With increasing orders and development, we had more money to invest in a bigger place to put more equipment.” (A1,A10).

This indicates that factories range from home-based industries to full scale manufacturing. The facilities depend on how much they can make at the initial investment. Interviewees claimed it is not difficult to make counterfeit products. Sometimes they can even copy from a brochure or magazine. They purchase equipment and make products at home. This type of family workshop can occupy a whole village. The establishment of this type of business is even easier if one participant has already worked on the same legitimate and original brand.

This finding matched the earlier research by Chow (2006). He suggests that legitimate manufacturers are surrounded by illegal underground factories who has access to information. My interviewees confirmed that this is the case. One very common method is copying from an original product which has been dismantled in order to facilitate copying. Due to lack of technology most of emerging economies are learning technology through imitation then innovation, and this plays an important role in emerging economies (Minagawa et al., 2007; Zhang and Zhou, 2016). For those counterfeiters, instead of learning technology to innovate new products and brands, they are willing to invest in better equipment and in researching original products, often making better quality (counterfeit) goods in order to attract more ‘high level’ customers.

5.3.4. Retailers: The timing of market entrance

Based on the interviews on the distribution channel, it was found that the timing of the entrance to the market is a key element for direct access by retailers to the manufacturers. The high

access retailers have been listed in figure 5-1 above. This group can access the manufacturers directly and then they have direct access to their customers. This distribution looks simple and straightforward. However, if the retailers have the opportunity to access the manufacturer, then they are the group which has the potential for a very strong connection with the manufacturers in this illicit business. according to the interviewees - those high access retailers have accessed to the counterfeit business for many years and have been selling multiple brands at the same time.

Of all the retailing interviewees, three of them were new entrants in the counterfeiting business world, having entered the market only six months prior to the interview. The rest of them had been working in this area for more than five years (both high and low access retailers). The longest has been in operation for twenty-two years as the business was past from the father to his daughter. The general view was that newcomers had less chance to know who the manufacturer was and seldom had the chance to visit the factory in person. One retailer interviewee (A17) who had been in this business for 22 years confirmed that,

“We are good friends with them, I can go to the manufacturer directly. They will call me as long as they have something new and very good.” (A17)

Gaining access early is clearly a considerable advantage in this business. Most of those high access retailers have been involved in the counterfeiting business for at least 10 years. Their chance to get access to manufacturers without intermediaries (wholesalers) is much bigger than those who entered the market later. Due to the increasing legal enforcement, the manufacturers are more cautious compared to before, unless those retailers have had the businesses for many years. Therefore, lower level retailers have less chance to access the manufacturers directly. Generally, manufacturers prefer to deal with wholesalers who have a big order with them. Each style must start from at least a thousand pieces in order to make a viable business order. At the same time, manufacturers prefer that the wholesalers deal with retailers to reduce risk, in case

some retailers are disguised by investigators from real brand companies or trademark officers and the police.

Since retailers are the ones who deal with the customers directly and also have more chance to be checked by the trademark officers, retailers could be regarded as an ‘alarm bells’ from the perspective of manufacturers. That means once retailers have been reported to local AIC (Administration of Industry and Commerce) for trademark infringement and get caught, the wholesalers and manufacturers will immediately learn about this and transfer or hide all the products. As the retailers do not have direct access to the manufacturers this gives a level of protection. Thus, in most cases, the manufacturers feel well protected.

5.4. Types of counterfeiting products

The research on the counterfeiting business, has frequently discussed how good the quality of counterfeit products are (Francis et al., 2015; Lopes and Casson, 2012), but none of them clearly described the different categories of counterfeit. An appreciation of the ‘quality counterfeit’ is very essential. It reflects counterfeiting strategies in the business. Based on data from my interviewees, my observation and summaries from the Chinese press, it would seem that there are four types of quality of counterfeiting products in the market.

The first type, called ‘Super A Type’ (also called ‘one to one personalized order’), The second of these is named ‘A Type’ counterfeiting product. This kind of product is of a very good and it’s sold at a reasonable price, and the differences from the authentic products only exists in minor detail. Another two types of counterfeiting products are named B types and C types; the quality of B types is slightly better than C types, but both types have lower quality and lower price and can be distinguished from genuine products (Xinhua, 2014).

5.4.1. Top quality is ‘Super A type’ and ‘A Type’

The findings show that the super A type counterfeiting uses similar materials and they are also very carefully crafted regarding the details. Hence, this type of counterfeiting needs bigger investment in equipment and skilled labour to make it successful. Super A counterfeit goods are difficult to distinguish from the genuine products. They combine quality goods with exactly the same packaging, as well as a copy of the ‘authenticity’ certificate. New technology can even produce a ‘bar code’ which can pass the ‘online checking’ or customs for imported good. Therefore, it is very hard to distinguish the copy from the genuine article and, according to the interviewees in this thesis, they claim that this ‘Super A’ type has been used a lot in deceptive counterfeit retailed online or in shop.

‘A type’ counterfeit is slightly lower than ‘Super A type’ in terms of quality. For instance, in the quality of leather or the metal chain used for making the same bag. Those two categories are interchangeable sometimes in the counterfeiting business. However, what is interesting is that the higher the level the actual brand’s quality, the bigger the difference between ‘Super A type’ and ‘A type’. For example, for some top brand watches and jewellery the ‘Super A’ will use top quality real diamonds, and ‘A type’ counterfeits might have diamonds mixed with crystals, and this is apparent in a certain light.

Obviously, the efforts made on ‘Super A’ increase the cost of counterfeiting, so the price will be higher accordingly. ‘Super A’ will be ordered by affluent customers, who can afford genuine products but want to afford greater variety. This finding is consistent with Phillip’s (2007) study, who stated that “Many of best knockoffs (of Hermes) were not being bought by office workers and fashion victims, but by Hermes customers” (Phillips, 2007, p.47). In his research, he gave an example how Hermes customers would purchase a good counterfeit bag because they want to have different colours of the same bag.

Meanwhile, the findings also show that the ‘Super A’ products quite often have been used for gift-giving in China. The quality of these products must be the very top. The material used must be the same material as the original so that the counterfeit cannot be detected by the naked eye. Therefore, in the production of jewellery and watches, counterfeiters use real gold and diamonds to make an exact copy. For branded bags, counterfeiters imported good quality leather. At the same time, they also provide correct packaging, a certificate of production identical to the originator and a copy receipt. This kind of ‘Super A’ will normally charge around 1/5 of the original price. The following pictures given by interviewees illustrate the two types.

Figure 5- 2 Pictures of 'super A' and A types counterfeiting goods



Source: interviewees

As mentioned above, ‘Super A’ type counterfeiting products have very high cost and need high technological skills and more investment than A types counterfeits. However, generally, they are interchangeable in the market. Both have very good quality and cannot be distinguished

from the genuine products. Therefore, in my research, these two types of counterfeiting products are defined as one group. They are good quality with low price compared to that of the original branded product. The strategy of this type will be discussed in the next session.

5.4.2. Low quality - B and C types

Compared with good quality counterfeiting products, Type B and C products do not need complex technology and huge investment in equipment. Most of these products can be produced by a family work shop. Therefore, the price of those types is relatively low. For instance, a Louis -Vuitton bag could be purchased as cheaply as 100 yuan (equal to 16 US dollars). In this research, these two types of counterfeit products can be defined as low quality with low price as listed in Table 2-3 in Chapter two. Because this type has low quality and low price, according to these interviewees, they believe customers understand it is counterfeit. Figure 5-3 provides an example of such goods.

Figure 5- 3 Examples of counterfeit types B and C



Source: (NewYorkCity, 2018)

Type of B and C counterfeit are normally sold in wholesale markets, internet and flea markets, according to these interviewees. Given their low price and location of sale, customers know all too well that the products they purchase cannot be the original, genuine products.

5.5. Profit margin of different types of quality- Top quality vs lower quality

In illicit business, a formidable profit margin is the major temptation to offset the risk. Profit margins differ dramatically whether there is deceptive or non-deceptive selling. The quality of the manufactured counterfeit is key in determining the profit margin. Based on the interview data, the profit margin in non-deceptive counterfeiting varies from 20 per cent to 150 per cent, which depends on the quality of products, the skills of the sellers, the distribution channel and the location of retailers. On the contrary, the profit margin of deceptive selling could reach more than 1000 per cent. For instance, according to the interview, the cost of a 'super A' Louis-Vuitton purse around 600 yuan (equals to 96 US dollars), if this purse sells in a non-deceptive way, the price will be around 1,100 yuan (equals to 176 US dollars), then the profit margin will around 80 per cent. However, if this purse sells to customers deceptively, the price could sell at the same price with the original brand, which could be 800 US dollars, in which case the profit margin could be 1000 per cent.

The findings show that the manufacturers and wholesalers have average profit from 40 per cent to 60 per cent, which is not as big a profit as I previously thought in a good quality counterfeit. The manufacturers interviewee informed me that the cost of making counterfeits is 'transparent', which means the costs can be calculated. The cost includes the rent of the factory, the cost of raw materials and the labour costs. From the perspective of manufacturers, when the wholesalers and high access retailers come to order counterfeit products, they intentionally purchase counterfeit.

In the distribution channel (Figure 5-1), the manufacturers employ non-deceptive selling. Interviewees confirmed that competition is extremely fierce in this business. Any disagreement related to price will lead the wholesalers or high access retailers to switch to another supplier.

Manufacturer and wholesaler interviewees noted that the profit margin gradually decreased with increasing number of people entering this business and the increasing of enforcements in the Chinese market.

Quality and quantity are the bargaining power in the same counterfeit brand. The better the quality, the higher the price. It was clear both from the interviewees and the observations that top-quality counterfeit goods attract more customers and are easy to sell. I observed the conversations between retailers and customer during the data collection phase and many customers are 'returning customers' who are specifically looking for good quality counterfeit goods. Sometimes they have been introduced by friends.

Compared with manufacturers and wholesalers, high access retailers and the level one retailers generally have similar profit margin according to the interviewees. Retailers will emphasize how good the quality their products are to those kinds of customers. Sometimes will compare their product with the authentic one to make customers feel that it is really worth purchasing good quality counterfeits at a reasonable price rather than spend a fortune to buy authentic products. The top quality non-deceptive counterfeit goods can generally reach as high as 60 per cent profit margin, sometimes the retailers' unit profit is even higher and some of them can reach 200 per cent with good quality and communication skills. On the contrary, for the manufacturers and retailers who make and sell the lower quality counterfeit, claimed that they only make around 20-30 per cent profit margin, just enough to survive. Lower quality will be sold in the flea market, through vendors, in subways and rural areas.

In addition, the findings show the counterfeiting retailers cannot return orders to manufacturers, even they had strong connection with manufacturers according to the interviewees. This finding is different from the research of Eser et al. (2015), which in their study, the retailers of counterfeit can return products to the manufacturers. During the interviews, the interviewees

specifically mentioned all the products they ordered from manufacturers cannot be returned to manufacturers unless the product was faulty.

5.6. The destination of high quality and low-quality goods

The finding shows both high quality and low-quality counterfeit could be sold nationally in the Chinese market and also in the international market. Ten interviewees from manufacturers confirmed they have orders from all over the world - US, EU, UK, East Europe, Asia, Arabia, Africa. Two wholesalers also have orders from abroad but the other wholesaler and most of the retailers focus on local market. Interviewees confirmed that most of abroad markets are taking both good quality and low-quality counterfeit depending on their types of clients. Except, an interesting finding about Russian customers is that buyers of counterfeits insist of high quality goods. Those interviewees who have low quality of counterfeit bags find it very difficult to sell in the Russian market.

“it is very cold in winter time, our leather is too hard to use, so most of my products will be sent to Africa, they take everything we have”. (A10, manufacturer).

A2 (manufacturer) specifically mentioned that orders from Africa will be less concerned about quality compared with other continents. Two of the manufacturers interviewed did mention that Chinese consumers expect top quality. Nevertheless, overall, good quality counterfeits are important when it comes to certain products such as bags and jewellery.

5.7. How counterfeiters define and target the different customers

Given the quality of counterfeit products, two types of customers have been classified by counterfeiting manufacturers and distributors in my interviewees. According to their own sale records and experience, one group of customers purchase counterfeit goods, because they simply cannot afford the genuine products, or perhaps they do not have strong brand awareness. Therefore, those customers do not look for counterfeited brand products intentionally. According to their experience, those customers purchase counterfeit goods as functional goods, they would accept any offer from counterfeiters as long as the products are being sold at a reasonable price. Therefore, those customers will do not intentionally look for counterfeited brand bags or clothing. They randomly purchase from the internet, wholesale market, or flea market. The second type of customers are those who have brand awareness and like the design of brands but cannot afford the genuine article. And other customers who can afford genuine products but buy copies intentionally because of the high quality and the low price of the goods. The second group has been discussed by many scholars who studied non-deceptive counterfeit goods (Barnett, 2005; Bekir et al., 2013; Wall and Large, 2010). They named this group as aspirational consumers. Compare with ‘Elite consumers’, who have capabilities stand out from the crowd and distinguish themselves from the mainstream, aspirational consumers are those “with budget constrains but pursue items that imitate elite consumers” (Bekir et al., 2013, p.171). A study by American Express Business Insights shows that although aspirational consumers only takes 12 per cent of luxury sales, but this group take 70 per cent of luxury consumers (Frank, 2011). Especially the people who face social discrimination prefer to consume socially visible consumption products to increase their social status (Van Kempen, 2007).

By combining the information of products and categories of customers who purchase counterfeit products, I developed the following table to demonstrate how different quality and price of counterfeit link with different customers.

Table 5- 1 Quality and price counterfeit with classification of types in non-deceptive counterfeiting strategies

Quality of counterfeiting products	Price	The classification of purchasing customers from the perspective of counterfeiters.
High (including Type A and Super A)	Lower than real brand (around 1/5-1/10)	aspirational consumers
Lower (including Type B and C)	Lower (around 1/50-1/100)	Customers who cannot afford luxury products

Source: developed by the author

Table 5-1 above illustrates the link between quality and price of counterfeit and the category of customers who purchase those two types of counterfeit. In the first type of counterfeit, good quality with lower price than real brand, generally is 1/5-1/10 of original brand price. This type of counterfeit is ‘alternative substitute’ of luxury brands products. Retailers interviewees estimate that around 20 per centage belong to the aspirational category. The findings show that for those consumers, on the one hand, they normally started with counterfeiting products with good quality to imitate the lifestyle of elites. This is a way of these customers’ to ‘mask’ their social low status by spending ‘more’ on luxury goods.

On the other hand, the aspirational consumers also purchase genuine luxury brands whilst purchasing counterfeit products and use them based on certain circumstances. Therefore, aspirational consumers normally ask for top quality because they do not want to be ‘discovered’ as imitators by their peers. The findings show this could happen in any society, not only in the

Chinese collective society - 'saving face' is important in social interaction like China - but also in individualistic societies such as in the U.S and the UK. Based on the destination of counterfeit, the manufacturers and wholesalers' interviewees confirmed that they have many orders from U.S, European countries and of course, China as well.

The literature has discussed how luxury brands can benefit from those aspirational consumers since it will help to increase the sale of luxury brands products, because those aspirational customers wants to copy the lifestyle of elite customers (Barnett, 2005; Bekir et al., 2013). This finding shows those counterfeiters also deeply understand the psychological drives of aspirational customers. Before these aspirational consumers had enough budget to consider purchasing genuine products, the counterfeiters persuade them to purchase their products, emphasizing their good quality and how difficult it is to distinguish from genuine products. Therefore, in this case, 'Super A' or 'A' counterfeiting will be easy to sell to those aspirational customers. I observed how the counterfeiter use different techniques to allure consumers. For instance, if it's a bag, the counterfeiter will offer the genuine one to compare how good quality it is or paying some compliments to make consumers indulge. Such as "*people would never suspect such charming lady/man will use counterfeiting products*" (A14, retailer).

Some of the retailers offering higher quality goods (Super A and A) will offer a guarantee to their customers, and state that they could have a refund or exchange if they are not satisfied with the products. This 'guarantee' approach enhances the connection between customers and retailers. If a retailer is willing to refund or exchange, it means that the counterfeiters are confident about their products and that they wish to establish a relationship, offering loyalty to their customers. Hence, the finding shows for those higher quality goods with cheaper price they not only offer good quality, but they also offer after-sales service as the original brands do. Since the manufacturers do not take returns as mentioned, the cost of returning goes to the retailers. Through this after-sale service, the retailers build up their reputation and thus

customer loyalty. However, this service does not happen in low quality counterfeit (Type B and C), A22 (retailer) who sells low quality counterfeit explained:

“it is only 100 yuan (around 16 US dollars), no one would bother to change it back. At the same time, we cannot afford this service either.” (A22)

5.8. Theoretical development

5.8.1. Counterfeiting strategies -The extension of theoretical framework

As Lopes and Casson concluded in their research: “choice of strategy will reflect both the imitator’s assessment of consumers’ discernment and the price elasticity of demand.” (Lopes and Casson, 2012, p.293). In practice, how those strategies can be employed depends on the nature of counterfeiters (deceptive vs non-deceptive) and the quality of products. Therefore, the theoretical framework could be extended by adding customer segmentations as follows:

Table 5- 2 Counterfeiting strategies and segmentation-extension framework

Two Dimensions of counterfeiting strategy with segmentation			
Quality of counterfeiting	Price		
	Same	lower	
Same	A. High-quality counterfeits selling for regular price (deceptive)	B. High-quality counterfeiting for lower price (deceptive)	C. High quality counterfeits for lower price (non-deceptive)

lower	D. Lower quality counterfeits selling for regular price (deceptive)	E. Lower quality counterfeits selling for lower price (deceptive)	F. Lower quality counterfeits selling for lower price (non-deceptive)
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Source: adapted from Lopes and Casson (2012)

Table 5-2 combines the data and the framework of the counterfeiting strategies developed by Lopes and Casson (2012), mentioned in Table 2-3 in Chapter Two. In their framework, Lopes and Casson (2012) illustrate two dimensions of counterfeiting strategies. My study’s primary data can be used to extend the framework by distinguishing the non-deceptive and deceptive counterfeits. The interviewees in this study are located in the cell C and F. They have experience with other cells but cell D. Since type D is low quality but sells in a regular price, the interviewees consider cell D as the highest risk. In this case, because of low quality, customers have higher chance to discover the truth, they can easily report them to the police. Consumers are not happy to spend a considerable amount on such low-quality products. From interviewees’ perspective, in counterfeit business, both deceptive and non-deceptive counterfeiters prefer to avoid any risk.

High-quality with high price (Cell A and B)

High-quality (deceptive) counterfeiting, selling for a regular price, reduces the risk of detection and they might affect the market share of brand owners in the long term. There is minimal price difference between the false and the genuine article and, so attention is not focused on this activity. This deceptive counterfeit selling could steal long term market share from brand owners as Lopes and Casson (2012) mentioned above. During interview discussions, the manufacturers relate that some orders request the ‘authentic’ certificate and ‘fake receipt’, so that good quality goods could be sold deceptively with a ‘discount VIP’ price. Therefore, good

quality counterfeit with a regular price (Cell A), or relative lower price (Cell B) sold to customers who can afford the genuine products would erode the market share of brand owners. Interviewees, especially manufacturers who took part in this study confirmed that many of their global retailers ask for a fake receipt with the original price on, which could be issued in a different currency. This practice is different from non-deceptive selling with relative lower price listed in cell C.

High quality - low price (cell C)

Lopes and Casson (2012) suggested that by selling high-quality products at a low price would capture a larger share of the market because counterfeiters have not incurred the same costs as the innovators. They suggested it can increase the risk of detection because of the difference in price. The findings from my study can be used to extend the framework by factoring in non-deceptive counterfeiting, since in cell C, non-deceptive counterfeiters are offering good quality with lower price. As mentioned in Table 5-1, the price is 1/10-1/5 of original price. This extended framework specifically points out the differentiation between non-deceptive counterfeits and deceptive. This differentiation is necessary in order to understand the strategies and impact of counterfeiting. In this cell, the interviewees suggest that non-deceptive luxury brands counterfeit products attract certain customer group, especially aspirational customers who intentionally looking for good quality luxury brands counterfeit products, as illustrated in Table 5-1 above. Hence, counterfeiter interviewees claim that non-deceptive counterfeiting with good quality and low price will not devalue the real brand but enhance the brand and offer free-advertisements for brand owners. The reputation and the sales of the brand owner are not affected by counterfeiting products.

Low quality goods have a low price (cell E and F)

Although cell E and cell F contain both non-deceptive and deceptive selling, in this research, the counterfeiter interviewees claimed that the segmentation of E and F are the same group from their perspectives - the low quality and low-price luxury brands counterfeit, which is type B and type C in the Table 5-1. Because of the low price, it is assumed that customers understand it is counterfeiting. As Table 5-1 describes, the price for this kind of product only takes 1/50-1/100 of the original price. Because of the cheaper price, as Lopes and Casson suggest, these counterfeiters seek to make large sales with modest profits per unit. This practice could destroy the brand's reputation of exclusivity (Lopes and Casson, 2012).

Of all the interviewees, five of them produce and sell low quality counterfeit. They claimed their customers would never afford luxury products or even high-quality counterfeit products. Some of them intentionally purchase such products, because these customers love the brands and the big logos; customers just grab any product which they consider price-worthy. The rest of them are not intentionally purchasing luxury brands products, they purchase any product in the market. Therefore, purchasing big quantities of low-quality counterfeit is the main consideration for their business.

5.8.2. The impact of non-deceptive counterfeiting - Market substitution versus Market creation
Andersen and Frenz (2008, p.719) noted that "Traditional economic theory suggests that substitution occurs where the good is a direct substitute." They used instrumental variables techniques to investigate the relations of P2P downloads and CD sales based on the model of comparing the effects of market substitution and market creation. Drawing on their framework, it may be the case that the different types of counterfeiting could lead to either market substitution and/or market creation effects in the luxury brands industry as found in the music industry. Although in this study I did not investigate directly this aspect from final-customers who buy non-deceptive counterfeiting, counterfeiters who participated in this study claimed

that their customers who buy non-deceptive counterfeiting are a different market segment than those customers who buy original luxury brands. Based on the market segmentation of non-deceptive selling listed in Table 5-1, the effect of market substitution and the effect of market creation could be estimated to some extent from the data generated in the interviews conducted for this study. However, a degree of caution needs to be exerted when making such estimations based on small sample sizes.

Table 5- 3 Quality of counterfeiting and market effects of non-deceptive selling

Quality of counterfeiting products	Market effects
High (A and super A)	Market substitution: ‘luxury brands too expensive ‘or ‘unwilling to pay’
	Market creation ‘not available to buy in that region’ or ‘move to buy the branded goods’
Low (B and C)	Market substitution: ‘cannot afford it at all’
	Market creation: ‘move to by the branded goods’

Source: developed by the author

Table 5-3 above shows the market effects of non-deceptive selling based on the quality of counterfeiting products. Based on the interviewees’ data, the findings show from non-deceptive counterfeiters’ perspective, both non-deceptive high quality and low-quality counterfeiting have effects of market substitution and market creation as detailed below.

The effect of high quality (A and Super A): Market substitution versus Market creation

Market substitution: ‘cannot afford luxury brands’ or ‘unwilling to pay’

Combined with Table 5-1, it can be observed that the segmentation of customers by counterfeiters can be explained through this substitution-creation framework - the direct

substitution of high quality counterfeiting goods is due to those aspirational consumers who cannot afford the genuine luxury brands. From the perspective of counterfeiters, based on their experience of dealing with customers for more than 10 years, some customers have strong brand awareness and love luxury brands but cannot afford it. Therefore, those customers pay more attention to the quality of counterfeiting products because they do not want to be discovered by their peers. Another direct substitution is when customers can afford the luxury brands but are not willing to pay the high price of genuine products. As one wholesaler (A13) noted:

“some of my customers are quite wealthy, they generally can afford luxury products. However, they still come to purchase counterfeiting products. Sometimes, since they have genuine one, those customers even pay more attention to the details of counterfeiting products.” (A13)

A similar statement was offered by a customer interviewee, C3, who combined both genuine products and high-quality counterfeiting products. She explained that:

“For certain luxury brands, for instance, watches, I think it is worth spending money on it. Some luxury brands, like shoes, clothing, I am not willing to pay a lot, I get bored easily for those products. However, based on the ‘social pressure’ from peers, I understand I need those luxury brands to ‘polish’ my lifestyle. In terms of this purpose, high quality of counterfeiting will be alternative”. (C3)

In addition to market substitution, the market creation of counterfeiting relates to situations in which the original brands are not available to purchase. Customers must put themselves on the waiting list for a long time before the genuine products become available. For example, as mentioned in Section 5.4, the case of Hermes products. The customers are specifically looking for high-quality Hermes counterfeiting bags to avoid queuing or waiting on the waiting list for the genuine products. Another market creation effect refers to the situations in which customers

revert to genuine branded goods after using counterfeiting, which has been mentioned by most interviewees in this study. As one first-level retailer, A16, stated:

“Some of potential customers will gradually go for real brand owner once they have ability to purchase it”. (A16)

The effect of low- quality (Type B and C): Market substitution versus Market creation

Similar effects are witnessed in the low-quality categories (B and C). However, compared with high quality counterfeiting products, the effects of market substitutions tend to be stronger. According to interviewees, most of their customers cannot afford luxury brands, even high-quality counterfeiting is beyond their means. Therefore, the effects of market creation are weaker in low quality than the high quality of counterfeiting products since customers in this market segment have less brand awareness and limited purchasing power. Hence, from the research data, both high quality (type A and Super A) and low quality (type B and C) do not devalue the ownership of original brands. This finding is consistent with the result in Nia and Zaichkowsky's (2000) study, although their conclusion was drawn by researching customers, not manufacturers or retailers. They indicated that value, satisfaction, and status of original luxury brand names were not decreased by the availability of counterfeit products.

Moreover, such findings are supported by authors, such as Qian (2014) suggested that counterfeit products could be free-advertisements for high-end products; and other researchers, such as Bekir et al. (2013), who found that the overall effect generated by counterfeiting can increase the profit of brand owners under certain conditions, e.g. where there is a large number of aspirational consumers. Consequently, such counterfeiting instances also speed up the fashion cycle by stimulating brand owners to generate more new items and products not explored before (Raustiala and Sprigman, 2006). The presence of luxury brands counterfeit can increase the willingness of customers to purchase original brands (Romani, Gistri and Pace,

2012). Especially for luxury products, which are supposed to convey a superior status, counterfeiting can create a flattery effect, and thus increasing the value of the original brand (Barnett, 2005). As A16 (retailer) explained that

“Some of potential customers will gradually go for real brand owner once they have ability to purchase it”. (A16).

The retailers who took part in this study confirmed that some aspirational customers may well convert to purchase genuine luxury brands products after they became acquainted with the products and the brands. Hence, under some circumstances, counterfeiting can benefit the genuine brands, meaning that the effect of market creation is stronger than the effect of market substitution in non-deceptive selling. This finding corroborates the idea of Wall and Large (2010), who argued in their research that people who purchase counterfeit products are likely to purchase more genuine products once they can afford it. Consumers who never purchase counterfeit products are less likely to purchase the real brand. Therefore, this finding shows that the availability of non-deceptive counterfeiting products does not negatively devalue the ownership of brand owners but positively increases the popularity of luxury brands.

With the development of the economy, increasing numbers of Chinese customers have started to recognise more western luxury brands. Brand awareness has gradually increased, especially in big cities. According to the experience of these interviewees, worrying about being discovered by peers and the desire to acquire genuine items lead to an increase in purchasing genuine products once their income can permit it. The consumption of counterfeit products for some aspirational consumers, therefore, decreases as noted by one wholesaler, A11, who described the shifting trend of her customers as following:

“I have been in this business for 15 years and I can see the changing trends of my customers. Because of good quality and honesty to customers, I keep lots of returning customers. However, some of my customers stop buying counterfeit products once they

get used to genuine one. Of course, some of them still return, to mix some less important accessories such as scarf.” (A11)

The rest of aspirational customers either cannot afford such products or do not value the brand, and therefore, do not pose a threat to the original brand owners. Therefore, non-deceptive counterfeiters considered that non-deceptive customers' consumption does not form part of the 'target market' in the luxury industry. Those customers aspire to have luxury products but cannot afford them, and so are not able to buy them. Therefore, the finding shows that non-deceptive selling is less harmful to original brand owners compared to deceptive selling which eats away brand owners' market share, because deceptive selling means that the customer is deceived that the product is genuine and therefore would be charged the original price as if the product were genuine. Non-deceptive counterfeiters reckon themselves as free-advertisers for brand owners.

However, due the tremendous profit generated by deceptive selling (which often provides 'original certificate' and 'original packaging'), the practices associated with it are likely to impact on the market of the main brands, resulting in sales losses and a diminution of the exclusiveness of the brand's image. Given the findings above, I also interviewed different stakeholders in this study as illustrated in Table 4-1. Except for one customer (C1) who admitted that she gave up on purchasing her favourite original luxury brand because of the popularity of counterfeit goods, the rest of customers interviewed (C2 and C3) agreed that the non-deceptive consumption groups are completely different between genuine products and counterfeit products. One trademark officer interviewed, B3, summarized the cases he dealt with and concluded as follows:

“in the realm of non-deceptive selling, the customers do not have high expectations of the products. On the other hand, in deceptive selling, after customers realize they had been deceived, they blame counterfeiters and even report them rather than devaluing the brand itself.” (B3).

This customer interviewee considered that counterfeit devalue ownership, because counterfeit products diminish the brand cachet and erode brand and social prestige. As a loyalty luxury brand customer, she believes that many customers purchase luxury goods primarily to satisfy a desire of exclusivity, therefore, the label and image itself is more valuable than the product itself. Thus, as Dubois and Duquesne (1993) proposed, mass cheap and low-quality products might affect the exclusivity of luxury brands and damage the brand reputation. Some scholars point out that especially among customers who are status conscious, the proliferation of counterfeiting undermines the brand distinctiveness (Berman, 2008; Giacalone, 2006). Commuri (2009) found that some consumers who favour genuine luxury brands abandon the brand in response to extensive counterfeiting, and this seems to be the case especially among young and the 'new rich' customers. The customer I interviewed confirmed that she gave up one favorite brand because of too many counterfeiting products in that brand; however, all the other customers interviewed did not give the same account.

In conclusion, the effect of market creation is stronger than the effect of market substitutions in non-deceptive counterfeiting selling according to the accounts given by the participants in this study. In theory, the non-deceptive counterfeiting selling does not take away market share from original brand owners, but it acts as free-advertisement for them. Therefore, the finding shows that non-deceptive counterfeiting selling is not to be blamed for the devaluing original brands. Luxury brands are not undermined by non-deceptive selling, because such manufacturing and purchasing phenomenon leads to market creation, not market substitution. However, in practice, because it is difficult to differentiate between deceiving and non-deceiving counterfeits, both are considered to be a case of trademark infringement. For example, as stated by some interviewees, most times their purchasers may be retailers who sell the products deceptively. In non-deceptive cases, customers purchase counterfeit products knowingly, because they either 'cannot afford' and are 'unwilling to pay' (market substitutions),

or because the specific products are ‘not available to purchase’ and/or have ‘moved to branded goods’ (market creation). Because the effect of market substitutions and market creation does not exist because deceived customers cannot afford the genuine products or do not have brand awareness, deceptive selling is taking market share from original brands.

5.8.3. First mover advantage theory in counterfeiting business world

As the counterfeiter interviewees indicated above, they are not the competitors of original brands. The fierce competition among counterfeiters themselves seems to be the primary cause for their competitive struggles. Irrespective of the reasons for these individuals to engage in counterfeiting (see Section 5.3), the earlier they enter this business, the more ‘benefits’ they have. Except manufacturers, both wholesalers and retailers also suggest that there are many competitive advantages for the early entrants. To be specific, an ‘earlier bird’ is more likely to have access to core information of products, higher margin profit, and higher market share.

5.8.4. The earlier manufacturers in the counterfeit business

Although manufacturing counterfeiters engage in counterfeiter business for different reasons, they confirmed that in the business world, the early entrants have the most lucrative businesses. A6, a manufacturer counterfeiter, recalled his experience as following:

“Lots of people become millionaires because of this business, I still remember the most wonderful time in my life, sitting in the sunshine, thousands of orders flying from all of the world, you know you could have enough business to enable you to buy another house every day when you wake up.” (A6)

A3 and A6 (both are manufacturers) made similar comments on this issue. At the beginning of producing the counterfeit products, they are the earlier people who know this brand and also how to make this brand. Those interviewees mentioned their profits were as high as 150 or 200 per cent. However, as more and more people joined the game, since they all copy the same

brand, standards products. The potential advantage of later entrants such as lower imitation cost, the free-rider effect, and learning from the pioneer's mistakes do not seem to apply in this business.

Therefore, the only two competitive advantages in the counterfeit business are better quality and lower price. For those first-mover counterfeiters, if they continue stay in this business, for the purpose of attracting more orders, those counterfeiters will invest more on the equipment and higher skilled labour to improve the quality. The common way to proceed is to purchase the genuine product, then dismantle the product to analyse the individual parts. With the increasing cost spending on improving quality and increasing people joining this business, interviewees confirmed that the margin profit decreases. For those high quality counterfeits, the profit margin has reduced from 40-60 per cent to 30-50 per cent. For those producing poor quality, the profit margin dropped down even worse. For instance, A10 (manufacturer) explained his profit margin drop to 20 per cent. A6 (manufacturer) explained the reason how it happened:

“everyone thought making counterfeits is profitable. Yes, may be in the beginning, but now you will definitely lose money if you do not have enough returning customers, the competition is seriously fierce. The loser in the competition will be out of market very soon, in fact, we already ‘kill’ each other before brand owners beat us down.” (A6).

5.8.5. Wholesaler and retailers

As Table 5-1 illustrated, the distribution channel of counterfeit business, those wholesalers and high access retailers are generally ‘earlier bird’ who have been in the counterfeit business for many years. A 11 (wholesaler) ‘proudly’ explained his strong connection with different manufacturers and the reason his products are so popular noting:

“I always know which manufacturer the best for certain product is. I will order XX brand from this manufacturer. They only make bags and specialize in top brands. Then I will

order watches from another one, which has been making watches for many years. For clothes, we also have our own 'upstream' connections. We only choose the best products for our customers; therefore, we have lots of 'returning customers' (A11).

In non-deceptive selling, the earlier you enter, the more profit and more information you have. As the A11 explained above, the earlier entrants of distributors are easier to get in touch with manufacturers. The more years they involve in counterfeit business, the more expertise they are. According to the interviewees data, it found out good quality manufacturers are normally only copy one or two brands in order to keep 'professional' reputation. Hence, with increasing legal enforcement, the manufacturers are more cautious about the distributors who want to contact them. Hence, those earlier wholesalers and high access retailers have advantage of accessibility.

In addition, as A6 described above, they face fierce competition among themselves, and it takes a long time to build trust and relationships with customers. Compare with late entrants, the earlier wholesalers and retailers have more stable customers and higher profit margins. For those level one or level two retailers, who join counterfeit business less than 5 years, they get orders from wholesalers and level one retailers, and based on the interviews' data, their profits are slightly lower, especially for low quality counterfeit products.

Worth mentioning is that, I discussed the first mover advantage in the non-deceptive counterfeit business only. In the non-deceptive circumstance, manufacturers charge for **making** counterfeiting products but do **not** add extra value to the products because wholesalers and high access retailers come to make orders intentionally. At the wholesalers' level, counterfeit products are sold non-deceptively, the level one retailers also come to make order intentionally. The information among manufacturers, wholesaler, high access and level one retailers tends to be symmetrical. However, it is possible to mislead the information between retailers and customers. For instance, some retailers 'pretend' that the products are genuine by offering fake 'authenticate certificate' of luxury brands counterfeit products. When non-deceptive and

deceptive strategies are mixed, then the profit margins are also changed. Based on the interview data, I only concluded first mover advantage in the non-deceptive counterfeiting business.

5.8.6. The luxury conspicuous consumption theory in the counterfeiting business.

The well-known luxury conspicuous consumption theory (Veblen, 2017) has been explored and analysed by many scholars (Khan, 2015; Nia and Zaichkowsky, 2000; Penz and Stöttinger, 2012). As reviewed in Chapter Three, customers consume conspicuous goods to confer status, provide evidence of their wealth and distinguish themselves from others as well as dissociate themselves from the lower social classes. Conspicuous consumption originally derives from genuine luxury products. The theory has been applied mainly on the demand-side (customers) data, since it is empirically significant in the luxury industry (Bagwell and Bernheim, 1996). However, in this research, it was found that this theory has been strategically used by counterfeiters to target and distinguish the desire of their customers very delicately, based on counterfeiters many years' experience. The participants in this study considered themselves to have become experts at classifying customers based on the different levels of quality and purchasing power. A good example was given by a first-level retailer, A14, who stated:

“I know what kind of counterfeits I can recommend to her as soon as I start to talk with this person. I know if s she needs a quality with a big logo or if she still considers the quality might make her ‘lose face’. Meanwhile, I can tell how much this customer is interested to use luxury brands to express her status. Based on my judgement, I will offer her the relevant products and focus on the aspect she pays attention to.” (A14)

The finding shows that for those good quality non-deceptive counterfeits it would increase the signalling of luxury brand in practical circumstances and so, not devaluing the ownership of brand owner, as discussed in Section 5.7. Therefore, the luxury brands can benefit from aspirational customers. For instance, A4, who manufactures high quality luxury brands counterfeit watches and A8, who produces high-quality luxury brands counterfeit jewellery,

confirmed that their customers request the use of real diamonds and gold in order to make the products look as prestigious as the original brands do. Both manufacturers and customers want to keep the exclusiveness of luxury brands with high quality. A1, who manufactures luxury brands counterfeit bags also mentioned that he has a stable loyal customers' base and a very good reputation to make luxury brand bags, because his products cannot be distinguished from the original brand. As Han, Nunes and Drèze (2010) describe, those who cannot afford authentic products but want to associate themselves with wealthy people are especially prone to purchasing high quality counterfeiting - they prefer to use good quality luxury counterfeit goods, so that they are not discovered by others. Therefore, non-deceptive and good quality counterfeiting products may not erode the market share of original brand owners.

Under this condition, the conspicuous consumption theory then can explain some counterfeiters' strategies in persuading customers to purchase top quality counterfeit goods. The observations made in this study suggest that they deliberately persuade those customers to believe that the products in question are good enough quality to signal their status without the risk of being discovered. Counterfeiters of low quality counterfeits do not apply this strategy.

5.9. Conclusion

This chapter started with an analysis and explanation of the supply side of counterfeiting business, including who is involved and how they are involved in the counterfeit business. Through their experience, this chapter describes the development of the counterfeiting business of luxury brands in China. The advent of the rapid development of the Chinese economy since the 1980s brought the opportunity for MNCs to reduce their costs by outsourcing and subcontracting the manufacturing of all of parts of their goods in a market with much lower labour cost. This process of offshoring of production created opportunities for local

manufacturers to imitate by exploiting the legal loopholes in a market characterized by almost inexistent intellectual property protection. With the developments in technologies and distribution systems, the counterfeiting business became in some cases, high quality business and spread easily within China and globally.

As key elements of the counterfeiting business, quality and price drive the different direction of counterfeiting strategies in this business by counterfeiters, and also produce the different profit margins. The findings extended the theoretical framework on counterfeiting strategies developed by Lopes and Casson (2012) by distinguishing non-deceptive and deceptive counterfeiting. Distinguishing the non-deceptive and deceptive counterfeiting is very essential in the counterfeiting research, since the nature of non-deceptive and deceptive are fundamentally different. In the case of non-deceptive counterfeiting, customers purchase counterfeiting goods knowingly or intentionally, therefore, the behaviours and sales strategies of illicit counterfeiters are different. Moreover, it is useful for brand owners to acknowledge this difference, therefore, to take different anti-counterfeiting strategies into consideration. In addition, the implication for policy makers are different as well. The extended framework explains how counterfeiters use different counterfeiting strategies based on different quality and price strategies. Those empirical data help to explain how the 'past' informs the 'present'. Through understanding the market substitutions and market creation of counterfeiting products, the framework inspired from Andersen and Frenz (2010), who analysed the IPR in the music industry, illustrates how non-deceptive counterfeiting may impact positively the brand owners. The availability of non-deceptive counterfeiting products does not negatively devalue the ownership of brand owners but positively increases the popularity of luxury brands. The findings are consistent with previous quantitative studies (Nia and Lynne Zaichkowsky, 2000; Qian, 2014).

Furthermore, the findings also showed how conspicuous consumption is more focused on good quality counterfeit products rather than lower quality ones. Customers use good quality luxury counterfeit products to associate themselves with a certain social class that has a high level of income, and naturally, do not wish to be discovered by others. Therefore, the good quality luxury counterfeit products have become a preference for aspirational customers. However, the mass cheap low-quality luxury counterfeit products may destroy the exclusiveness of luxury brands, the prevalence of counterfeiting might negatively affect those customers who use luxury brands to express their status.

The findings also showed that there are advantages in counterfeiting business for first-movers (manufacturers, wholesalers, and retailers) in terms of accessing higher core information, resources and establishing key networks with different stakeholders. However, based on the interview data, I only discussed the implication of first-mover advantage in non-deceptive counterfeiting businesses. Among all roles in the supply side, manufacturers are more internationally oriented compared to wholesalers and retailers. For years many distributors have come to China in order to trade counterfeit products. Those distributors purchase counterfeit products to take back to their countries with the intention to sell them. The destinations of counterfeit goods are spread all over the world from USA, UK, European countries to African countries. Generally, the best quality will be preferred for those relatively developed countries and lower quality counterfeits flow into the African countries. On the contrary, the wholesalers and retailers are more focus on local Chinese market, however, with the rapid development of E-commerce, the wholesalers and retailers have started to aim more globally.

The next Chapter aims to identify the agency of these actors and to investigate the roles they play in the counterfeiting business in China. The following Chapter is going to analyse how

the government, economy and culture in China shape the growth and the mitigation of the counterfeiting business.

Chapter Six: Data Analysis

Institutions' Impacts on Counterfeiters

6.1. Introduction

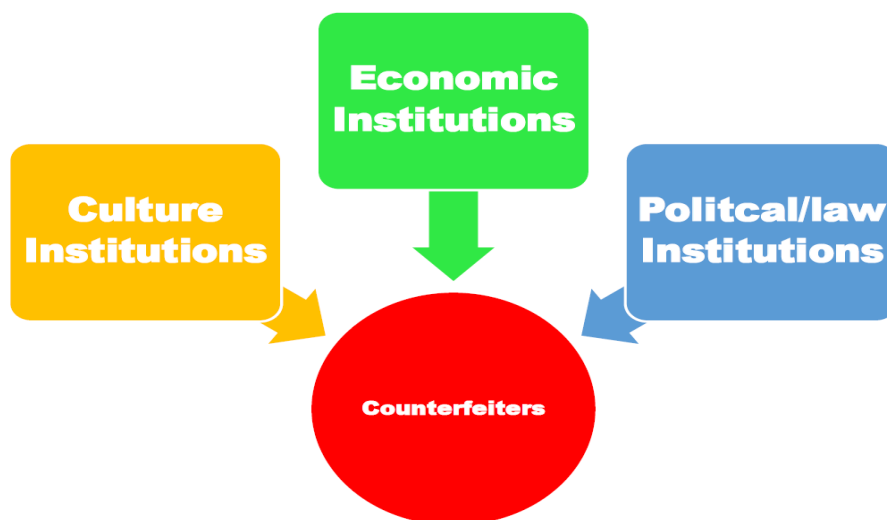
The last chapter focused on the strategies used by counterfeiters in China and provided an analysis of how participants experienced and perceived the different elements that shaped their specific strategy. During the development of a counterfeiting business, as a part of an informal economy, the counterfeiting business has been shaped by different institutions, as mentioned in Chapter Three. A key question this chapter aims to answer is - What agents are involved in the counterfeiting businesses in China and what different roles do they perform? The chapter is structured as follows: Section 6.2 will introduce the institutional factors, which might have impacted on counterfeiters from cultural, economic and political aspects. Section 6.3 explains how copying culture in China has shaped the thoughts of counterfeiters. In this section, four 'techniques' employed by counterfeiters are analysed to explain their business ethic decision-making. Then Section 6.4 describes the psychology behind counterfeiting. In Section 6.5, I analyse how formal institutions impacted on counterfeiters, including how those counterfeiters engage with local government officers and how governmental anti-corruption policy impacts on their business. Section 6.6 illustrates from an economic aspect how counterfeiters are 'play gamers' given the awareness of the government's two-strategy approach to prosecuting counterfeiters. Section 6.7 describes the different legal awareness among manufacturers, wholesalers and retailers and how they respond to the increasing legal enforcement. From a governmental perspective on complementarity, Section 6.8 discusses the authorities' difficulties in anti-counterfeiting initiatives, and before concluding, Section 6.9 explains the

corporation from brands owners and customers and other countries is essential before making conclusion in Section 6.10.

6.2. Institutions' impact on counterfeiters

Informal constrains formed through the social evolution are not written in daily life, such as customs, traditions, ethics, social norms and formal constrains are forced by polity (Cao, 2014). As actors in an informal economy, the data showed that the counterfeiters have been influenced by both formal and informal intuitions, which interact to different extents, just like legitimate businesses do. However, the way in which the institutional environment impacts on counterfeiting is distinct from the way they impact on legitimate businesses. In the following sections, I explored how those institutions affect the behaviours of the establishment's expansion from cultural, economic and political aspects respectively.

Figure 6- 1 Institutions impact on counterfeiting business



Source: developed by author

6.3. Informal institutions - Copying culture in China

The literature review (Section 3.4) referred to the ‘copying culture’ in China, which has been discussed by many scholars, and considered to have a great impact on the mindset of entrepreneurs, counterfeiters or otherwise. It is historically and culturally embedded and is visible in various ways, in particular the education system, where copying is considered to be a sign respect for the -person or the institution being copied (Berrell and Wrathall, 2006; Zaichkowsky, 2006; Zimmerman, 2013). The interview data confirmed that culture has a profound influence on the proliferation of the counterfeiting in China, and that the perception and attitudes of praising and incitement for making good copies affected the current perception of the infringement of intellectual property. The interviewees explained that after the policy of ‘open-door’ was introduced, Western brands started to be known by Chinese customers, it created new opportunities to establish new businesses by either copying foreign brands exactly or by purchasing dormant brands or brands that were not well-known from western countries, such as Italy and France. As interviewee A10 (manufacturer) explained,

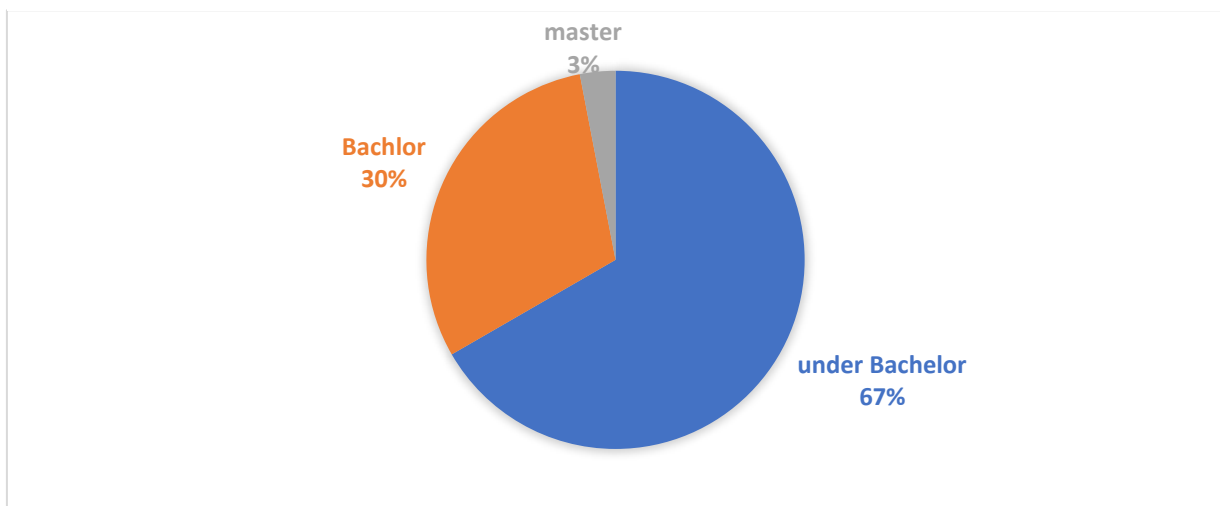
“Generally, foreign products are preferred options because Chinese consumers hold the perception that foreign products are modern, novelty and faddish. If a Western brand is popular, just copy it. We found a good brand with nice bags, then we started to make it, we sell thousands of bags every year with the help of customers-driven. Everyone does the same in this industry, nobody is concerned if it’s a problem to copy”
(A10).

After many years of efforts, some of the counterfeit producers found success with this approach. Copying good brands can be a new business opportunity and be accepted in the business world without the concern of infringing intellectual property.

The finding shows that the level of education of the counterfeiters seems to correlate with their level of understanding of the ownership of intellectual property. The less educated

manufacturers, wholesalers and retailers are, the less they understand the risks associated with imitating other people’s intellectual property. In some cases, counterfeiters understood the concept of intellectual property right, but were not prepared to honour or respect it, as they did not believe that the risk of punishment was significant. The Figure 6-2 provides an overview of the level of education of all the interviewees. It includes all participants, such as customers and trademark officers and not only the suppliers of the counterfeiting business.

Figure 6- 2 The education level of all interviewees



Source: developed by author

Linking back to the interviewees’ data, most of counterfeiter manufacturers and wholesalers and high access retailers are less well-educated businessman, surviving in the market and making profit is of a priority to them rather than considering if counterfeiting is a trademark infringement. A14 (retailer) stated:

“seldom people will care if I should purchase it because it’s immoral, they think, ‘We should protect the intellectual property of brand owners, who cares?’ It’s nothing about what kind of level or position you are, it’s matters of who benefits from this business. Some of our clients are well-educated and rich.” (A14).

A21(retailer), was confused about the trademark infringement. She said:

“I know it’s not something right, but honestly, I don’t know exactly whose rights have been infringed?” (A21).

A22(retailer), who just started their business half a year prior to the interview, had no idea what trademark infringement means. When I explained to her selling counterfeiting goods has been clarified as trademark infringement and is punished by law, she was frightened by the idea that she could be in trouble. She explained that her friends had sent her pictures and persuaded her that she could sell copies of those branded shoes and make money.

Those who have degrees interviewees, most of them are government officers or brands owners, a handful of them are manufacturers and retailers. Based on the discussion, some of the participants either left the counterfeiting business and created their own brands or were considering leaving the counterfeiting business and trying to do other legitimate business, as discussed in the next Chapter. The only participant who had a master’s degree was a customer who habitually purchased genuine luxury brands only. Although the sample size is not too big, the data show that highly educated people are less likely to become involved in counterfeiting luxury brands and potentially see it as a more serious issue or an immoral activity.

6.3.1. Copy culture in China VS the customers’ need in the global market

When compared with Western philosophical values, where copying is considered to be stealing intellectual property, Chinese people do not hold as strong a perception of intellectual property as the Western world does. The Chinese have grown in a culture of copying and imitation and in fact this was widely accepted and encouraged (Li, 2001; Miller, 2003; Zaichkowsky, 2006). However, the findings also brought to light another interesting point: that copying is most certainly not only a phenomenon specific to China. All manufacturing interviewees confirmed that their clients are from all over the world and that they take advantage of Chinese production of counterfeits. A7 (manufacturer) explained and laughed:

“I have orders from all over the world, that’s how I am learning 13 languages. The first word I learnt is ‘leather’, then I gradually learnt how to write an email and so on. For those clients, they are very keen on the counterfeiting business. They (the clients) teach me how to avoid customs Inspection and they are the one who in charge of their Custom,” (A7).

Session 5.7 in Chapter Five mentioned how both developed countries and developing countries have orders from China. For some retailers, the reason for them to sell counterfeiting locally (in China) is because they do not have enough foreign clients. A18 (retailer) said:

“Sometimes when they (foreign customers) travel, they have the chance to purchase our products, some of them will keep in touch with us, and ask us to send them further goods at a later stage. (A18).

Between 27/07/2016-02/08/2016 in Guangdong, I spent three hours per day observing the business trade in a retailer shop. The owner of the shop, one retailing interviewee, who has been selling multiple luxury brands counterfeit bags for many years. During the week-long observation, there were always a few foreign customers or personal traders coming to the shop to purchase products. From the conversations they had with retailers, some of them are regular retailers in other countries. Some of them are final customers who were interested in luxury brands counterfeit. Based on my observations, I discussed further information related to international counterfeit business with manufacturing counterfeiters and a few retailers who have international orders.

This finding supports the research of Chow (2006), who investigated counterfeiting wholesaler market in Yiwu, Zhejiang province, a market visited by 8,000 foreign customers each day (Chow, 2006). This finding incited another argument about the booming of the counterfeiting business across the whole world. The copying culture in China is proving to have most certainly been one of the main perpetrators in popularizing and expanding the demand for counterfeiting goods, but the counterfeiting in other countries has also come some way in boosting the further

expansion of this business. Countries such as the UK and the US, considered to have stronger legal enforcement, there are also large orders, or from United Arab Emirates, a country considered to be wealthy, has been mentioned frequently by counterfeiters, because of the large orders customers from this country. To be precise, the wholesalers and retailers from UAE prefer good quality luxury brands counterfeit products. This finding has also been reported by previous studies, such as Pueschel, et al. (2017), whose study raised the question why wealthy consumers from the UAE would purchase counterfeiting products. The research points out that customers prefer to purchase top quality luxury brands counterfeit products and sometimes to mixed genuine products and counterfeits in the UAE. Therefore, combating counterfeiting is a worldwide responsibility.

6.3.2. Ethical and unethical -neutralizations employed

Morality of counterfeiters is one of issues which has been under investigation by various researchers (Yoo and Lee, 2012), since copying covers legal and illegal activities in the business world. Illegally dabbling in the sale of goods that are counterfeit whether the buyer is aware of the copy or not, poses a question of the ability to make a more judgement about the central and intrinsic legal implications. As this research only considers non-deceptive counterfeiters in luxury brands, that means that the different actors in the value chain (from distributors to final customers) are fully aware they are purchasing counterfeit items. Thus, out of all the 23 interviews conducted with manufacturers, wholesalers and retailers, only **ONE** interviewee thought that selling counterfeiting is not only trademark infringement but also unethical. The rest of the interviewees considered that while selling counterfeiting is not good, but it has **nothing** to do with morality or ethics as they consider that it is one of the ways of doing business and surviving in the current market. During discussion, four 'techniques' have been employed by non-deceptive counterfeiters- 'being honest', 'providing free-advertising',

‘no safety issues involved’ and ‘providing comparative good quality’ when they engaged with illicit business.

‘Being-honest to the customers’

The first point related to the fact that, by being in the ‘non-deceptive’ category of counterfeiters they are ‘being honest’ to their customers. ‘**Non-deceptive**’ means they are telling their customers the truth. ‘Being honest’ has become a mask for selling counterfeits without feeling guilty, because customers understand they are purchasing fake merchandise. Therefore, they consider that customers play their part in helping develop the counterfeiting business. All interviewees claimed that they never lie to customers about that quality of their products, and the price is fair for that quality. That means they didn’t put extra brand value on their counterfeiting product. In this research, actors in the supply-side, both manufacturers and distributors confirmed the same point- they do not lie about the authenticity of their products. To be specific, for example, non-deceptive counterfeiters only charge 100 USD for a top-quality luxury brand handbag rather than 1000 USD charged by those who are selling the product with the price of the original brand through deceptive means. Manufacturers suggested that there is no way to hide information for a counterfeit order and every distributor comes to them intentionally. A3 said,

“Everything is transparent on our side, the rent of the factory, the labour cost, the cost of equipment etc. That is part of the reason why the competition in this counterfeiting world is getting fierce, if you do not offer them a good price, they will change their orders to another factory anyway.” (A3 manufacturer)

Moreover, some manufacturers claimed they offer clients an option to either choose counterfeit products or their own brands. The finding shows some of manufacturers are producing counterfeit but also register and produce their own brands. A6 stated that after he realized how

important a brand is, he registered a similar trademark to try to build his own brand. Unfortunately, he commented:

“No one wanted my brand, even though it’s quite similar, the same material, same techniques, same quality, but clients requested the exact same one with the authentic logo.” (A6 manufacturer)

He is not the only one to use this approach to try to sell his own brands, A7 added the same comments. Both of them keep their similar trademark but also continue to sell counterfeiting products.

As mentioned above, the destinations of orders for counterfeit goods are located all over the world. Therefore, interviewees confirmed that they believe the customers who order from the US, UK, UAE and Turkey etc., are also fully aware they are buying counterfeits. The enormous demand from retailers in these countries has expanded their business scope. They confirmed that initially they focused on the Chinese market until they gained reputation for the quality of their counterfeits and started receiving orders from abroad, as A3 (manufacturer) explained:

“They came to us and they are the ones who made the effort to pass their own country’s customs inspection. Foreign distributors have become quite skilled in this. It is their job, they take responsibility to sort that out, we only produce the counterfeit goods.”
(A3)

Hence, the manufacturers claim their business is not unethical since they do everything they can to make their customers aware of the products they manufacture, their quality and the associated costs. A3 (manufacturer) mentioned:

“I know it’s not something to be proud of, but I am also not ashamed of it, it’s just a matter of business. I do what clients want me to do. We only charge the cost of manufacturing and put extra margin on it, rather than pretend it is the real brand.”
(A3)

Hence, the findings show that non-deceptive selling is not viewed as unethical from the perspective of non-deceptive counterfeiters.

Offering ‘free-advertising’ for brand owners

The second point the interviewees insisted on is that for the period that they are selling counterfeit products, they have provided free-advertising for the luxury brand owners, especially for those brands that do not have flagship stores in second-tier cities in China:

“Lots of big brands initially only set up in first-class cities such as Beijing and Shanghai. I often introduce Western luxury brands to new customers in other regions of China. I will market the brand as if it was mine-introducing the history of the brand, creating an image and personality for the brands. With the development of the Chinese economy, the average income of the population is increasing, and some brands are expanding their shops into the second-tier cities. As a result, around 20 per cent of potential customers will switch to genuine products once they started being sold in their cities” (A7, manufacturer).

The same interviewed also said:

“all manufacturers who live in my hometown is developing this brand for original brand and introducing this brand to local customers. The speed is ten times quicker than the brand owner who might open a flag ship store in a big shopping mall”. (A7, manufacturer).

A9 (manufacturer) claims that he played a crucial role in saving a luxury jewellery brand in China.

“This brand started to be sold in China in 2008 but it was not very successful initially, I am not sure why but not many customers seemed to fancy it. I found it easy to make a counterfeit, it’s all about the copy design and logo with silver and golden material, not complicated at all. Thanks to the help of the e-commerce, I used 10,000 e-retailers

directly working for me to sell this brand from the Internet and they introduced it at the same time. Then gradually, more and more people recognized this brand” (A9).

The findings illustrate that counterfeiters believe their businesses act as ‘free-advertisement’ for the brands. This is consistent with the findings of researchers who consider that counterfeit products do not actually devalue the ownership of original brands but also offer free-advertising (Nia and Zaichkowsky, 2000; Qian, 2010). This helps the counterfeit industry to dissipate the negative image about their inappropriate behaviour. They suggested that since they only sell counterfeit bags and clothing in luxury products and at a reasonable price, most of their customers cannot afford the genuine product anyway. As discussed in Chapter Five, the interviewees claimed that they target different market segments from the original brand owners. They claimed that around 20 per cent of their customers associated with the customers of original brands. Those 20 per cent customers are those mixed genuine brands and top-quality counterfeit and have a potential possibility to switch to genuine shops. The interviewees claimed that they boosted the market for owners of popular brands. Hence, the findings show that the counterfeiters take this as a way to rationalize their questionable acts.

No safety issues involved in the counterfeiting of luxury brands

The findings unexpectedly revealed that interviewees hold dual-criterion in terms of the morality of the counterfeiting business. On one hand, they believe that the counterfeiting business in other industries, such as the electronic industry and the food industry can be criminal act. They consider that those products could hurt people’s health and even threaten life security, that therefore these counterfeiting businesses in these industries is totally unacceptable. And that those counterfeiters are evil, unforgivable and deserving punishment. On the other hand, counterfeiters claimed counterfeiting bags and clothing do not have the same safety issues. To recap the scope of the research again: all counterfeiters only produce,

distribute and sell luxury brands, such as bags, clothes, watches and jewellery and the customers are aware that the products that they are purchasing are not the genuine brands. The interviewees insisted that counterfeiting in luxury brand is different:

*“Those who make other counterfeits including drugs, foods, electronic and so on, are very bad people, supposed to be put in jail and sentenced to death. They hurt people’s health or even make them lose life and it is an unforgiveable and terrible crime. But we only use logos with a cheaper price for those who dream of luxury but cannot afford this dream. customers aware they purchase counterfeit brands; those customers are not the target of original brands. In those **non-deceptive** luxury brands counterfeiting business, nobody gets hurt.” (A8 manufacturer)*

The findings unexpectedly illustrate the ‘dual-criteria ethic’ concept that exists among non-deceptive counterfeiters, and this unexpected finding, to the best of my knowledge, has not been reported in previous studies on the topic. Interviewees insisted that the non-deceptive businesses selling luxury products did not take away the market share from the brand owners but in fact offered free-advertising for brand owners. They insisted that they have not affected people’s health and they offer good quality merchandise with a cheaper price tag, and therefore their activities are not unethical.

Offer fair quality with price paid

The fourth point counterfeiters highlighted was that, compared with the large profit margin earned by original luxury brand owners, some counterfeiters consider it is acceptable to sell counterfeiting especially as they provide the right quality products for the prices consumers pay (sometimes high quality, other times low quality). A3 complained about the quality of the original brand they counterfeited, it was not as good as counterfeit they produced, but ten times the price when compared with same products of the counterfeiters:

“It’s only a matter of logo, the brand owners should not charge that much, we can use the same material to make indistinguishable products for those who cannot afford the genuine product. Sometimes we compare the genuine one with our products, and honestly, they are not as good as ours.” (A3 manufacturer).

The findings show that some counterfeiters do not appreciate the design of luxury brands is a very important part of costs associated the research and development. They consider the price itself does not match the quality of luxury products to some extent, the luxury brands are always overpriced.

Out of all those interviewed, only one retailer admitted that she did consider that selling counterfeit goods was an unethical activity. Her father, who has been selling counterfeit for 20 years convinced her and she agreed to continue with the family business. What her father said to her was:

“This is a business which fulfils customer demand, although selling counterfeit goods is not a business we can be proud of, but at least we do not lie to the customers Our products are good quality but and fair price. We offer refunds if they don’t like the product, we repair watches if they are broken - we are just doing a business as a means of livelihood. (A17 retailer)

Of course, manufacturers mentioned they know many distributors who sold their goods in a deceptive way, but they felt this is out of their control:

“From our side, I offer clients a service without lying, but I cannot control their behaviour. Yes, some customers will ask us to put the original price on the products or will ask for a fake receipt. We do what they request and, cater to their needs, I am not stupid enough to tell my clients that deceptive selling is unethical, and you should tell customers truth. It’s only a matter of business for us.” (A3 manufacturer).

6.3.3. Other manufacturers make these similar comments on this issue.

Hence, those four points, including ‘being honest’, ‘providing free-advertising, ‘no safety issues involved’ and ‘having comparative good relation quality/price’ have been employed by counterfeiters to justify their behaviour and alleviate their cognitive dissonance. Notwithstanding, moral issues in the counterfeiting business have been discussed by many scholars as an illicit activity from the customer’s perspective, and this issue has been reviewed in Section 2.6.3 of Chapter TWO. The above finding contributes a new viewpoint of the counterfeiting business. The techniques used by non-deceptive counterfeiters deal with their cognitive dissonance offer a potential explanation for their behaviour in the counterfeit business. This finding is comparable with Bian et al.’s (2016) findings, who applied the neutralization techniques theory (Sykes and Matza, 1957) to explain the counterfeiting consumption from customers’ perspectives. In their research, they included ‘denial of responsibility’ and ‘appealing to higher loyalty’ as two techniques, which are employed by those customers who purchase counterfeit to alleviate their cognitive dissonance. This research offers empirical data to discuss this issue from the suppliers’ perspectives. Those four points provide the evidence as to how those counterfeiters alleviate the negative effects on themselves with regards to selling counterfeit goods and thus eliminating any potential cognitive dissonance.

The findings in this study also provide empirical data which can be explained by drawing on the business ethic theory (Frankena, 1963). It is interesting to see that those non-deceptive counterfeiters in the luxury industry referred to other industries as evil but considered themselves to do ethical business, since they believed their ‘goodness’ (the non-deceptive characters of their activities) outweighed their ‘badness’ (infringement of intellectual property of companies they considered sold overpriced goods). From the counterfeiters’ perspective, non-deceptive selling is a way of survival, that the discrepancy in the income makes them

believe selling good quality counterfeiting products at a reasonable price is acceptable. Under these particular circumstances being both non-deceptive and selling goods at a reasonable price, allows those involved to consider counterfeiting as beneficial to the welfare of society as a whole.

From the perspective of manufacturers, wholesalers and retailers of non-deceptive counterfeit goods consider that when introducing a counterfeit brand to a market, they are not devaluing the ownership of the brand, but instead are offering free-advertisement for brand owners, alongside not being a threat to people's lives or welfare. Therefore, when considering all good consequence that come from this, non-deceptive counterfeiters in luxury products do not regard themselves as engaging in criminal activity. Even in the same industry, they condemn those who are selling deceptively in the luxury industry as unethical, not to mention the other counterfeits products in the industry, such as food and pharmaceutical industry.

In the luxury industry, with the huge price difference but similar quality products, interviewees were asked – 'Who benefits the most? Brand owners? People who cannot afford the products but aspire to acquire such products? Workers who have lower wages compared with high margin profit taken by brand owners?' That is, to a certain extent, the counterfeiters in the luxury industry do engage in both deontological and teleological evaluation in determining their ethical judgements and ultimately, their behaviour.

Therefore, the model of ethical decision-making in marketing might change depending on who benefits from these intellectual property rights. A16 (retailer), a mother who has an autistic child, used to sell counterfeit products, and the situation led her to reshape her perception of whether this activity was ethical, or otherwise. Her new way of ensuring that her autistic boy has a chance of survival is by selling his drawings instead. Based on her experience, she said:

“I realized the importance of intellectual property after I tried to help my boy and other autistic children who have artistic talents by selling their drawings. So, I stopped the counterfeit business as stealing other people’s ideas is not the right thing to do.” (A16).

The findings provide interesting evidence as to how ethical issues affect the decision-making process for those dealing with counterfeit goods, as well as who benefits during the whole process of a counterfeiting business and how these elements might change with time. Phillips (2007) discussed a case of Disney, describing the changing of ethical business decision in his book. When Disney found out massive counterfeit products, they offered counterfeiters to be licensees and bring up their goods to Disney standards. The most important change is, the ex-counterfeiters policed the counterfeiters better than police policed the counterfeiters. In this case, because ex-counterfeiters do not benefit from counterfeiting business, hence, their attitude towards counterfeit change as well, those ex-counterfeiters became a fighter of protecting intellectual property right.

6.4. The psychology behind counterfeiters

An unexpected finding shows a complicated self-identity issue by counterfeiters during the process of doing business. Chapter 5 described first-mover counterfeiters, who made and marketed counterfeits before the original brands officially entered the Chinese market. After many years of effort selling and promoting luxury counterfeit brands, once the original brand enters the Chinese market, some potential customers may switch over to the original brand, as the counterfeit brand created an awareness and built a reputation for the original brand. The interviewees claimed that by introducing new brands into the market through counterfeits, they help to advertise the original brands. Therefore, interviewees describe this metaphorically as:

“I feel I raise a child for them (brand owners)”

For instance, A3 explained his feeling,

“I might have been the earliest business to make this brand before they entered the Chinese market officially. I really made an effort to improve the quality and introduce it to the distributors. It is like having developed a marketing plan for this brand. After some years, this brand became known to Chinese customers and some of customers switched to buy the authentic version once it entered the Chinese market.” (A3 manufacturer)

A3 is not the only interviewee making this claim. The attachment of counterfeiters to the products they first introduced on the Chinese market before the genuine companies introduced these, is as strong as ‘raising a child’. These counterfeiters, when legal action is taken against them by the brand owner, feel ‘manipulated’ for having aided the company in popularising the product on the Chinese market. Clearly, these ‘entrepreneurs’ forget that they did not ‘raise’ a child, but they stole one.

This unexpected finding explored a new insight for counterfeiting research: how counterfeiters define their role in this business. In theory, they are the ones to infringe the intellectual property rights of brand owners. In practice, they are often also the ones who make the effort to build reputation for the original brands in local markets. During this whole process, when those counterfeiters made an effort to introduce brands, especially in China, as a country with a huge population, if those 20 per cent of mixed potential customers eventually switch to genuine products after they have enough purchasing power as they assumed, this can potentially have huge impact on the activities of the original brand owners in those markets. This finding is in line with Xiao and Nicholson (2010), who suggested that in some cases, when counterfeiting can help build an original brand, some genuine manufacturers and authorized distributors may use and encourage, counterfeits of their merchandise as an alternative marketing strategy.

Hence, the finding shows a new angle for marketing strategies, being ‘counterfeited’ could actually be a marketing strategy in certain conditions. As Bekir et al. (2013, p.172) explained

that:“ a luxury monopolist can increase its profits by taking advantage from the aspirational effects caused by the presence of counterfeit items. Concretely, the consumption of counterfeit products in the first period gives rise to the desire to acquire genuine items later: today consumers of counterfeits can become tomorrow’s consumers of original products.”

6.5. Formal impacts from political/legal institutions-legal enforcement

It is not only those engaged in the counterfeit business that benefit solely from the profits, but, the fact that the Chinese government also benefits from the counterfeiting business is a topic that has been discussed by many scholars (Cao, 2014; Chow, 2006; Hung, 2003). Inadequate law enforcement, business corruption, local protectionism makes local government involved in the counterfeiting business by protecting the illicit activity through the imposition of light fines and penalties, which do not deter the counterfeiters from continuing their activities of trademark infringement (Cao, 2014; Chow, 2003; Hung, 2003; Maskus, 2004). The attitude of the Chinese government and ineffective legal enforcement are also considered to be the main reasons for the rampant counterfeiting business as detailed in the literature review Chapters (Chow, 2003; Chow et al., 2005; Devonshire-Ellis et al., 2011). (see Section 3.5.2 in Chapter Three)

Based on the literature review, the reason for trademark officers and local AIC involvement in the counterfeiting business is because they have a conflict of interest with those retailers. The local AIC, as a branch of local government to build a wholesale market in order to develop the Chinese economy, also taking rental money from retailers who might sell counterfeits has incited local AIC to ‘close one eye’ to counterfeit, thus, corruption and local protectionism are not new concepts in the counterfeit research in China (Chow, 2000; Chow, 2003; Hung, 2003). Therefore, except informal cultural restrictions affect how those counterfeiters deal with their

business and the formal legal enforcement also has a huge impact on counterfeiter's behaviour. The Methodology chapter explained that both the supply-side and trademark officers have been interviewed in order to gain a full picture of this issue.

6.5.1. Counterfeiters are trying to engage with the government

The findings show that some counterfeiters are trying to become more build good connection with local trademark officers to take advantage of getting information, especially those who are first movers. According to counterfeiters, to an extent, being connected with trademark officers gives them a feeling of security. From the data summary and discussion, manufacturers, wholesalers and retailers who have shops prefer to build a relationship with local trademark officers. One first level retailer who has been in this business for more than 20 years explained his relationship with the local trademark officers:

"I have very good relations with them. Sometimes, they came to check, they just asked me to take stuff away. But I have just been lucky, and I know some of my other mates (other people who also sell counterfeits), they thought "Guanxi" might be useful but found out they are the ones who are always being raided. Then they stopped building relationships with them." (A17).

A17 (retailer), A3 and A6 (manufacturers) stated they believe good 'Guan xi' (relationship) could help them survive in the counterfeiting business.

"At least I feel safe, and I am still ok," A 17 continued and said, "but I heard lots of stories where it is not working either." (A17).

On the contrary, some interviewees confirmed that they were never connected with trademark officers, especially for those retailers who have no shops and sell counterfeits on line:

"I never think about this issue and I actually don't know who I am supposed to contact either." (A23 retailer).

This finding connects Chinese culture and its impact on legal enforcement against counterfeit in China. In the Chinese culture, Guanxi, is connected to every aspect of Chinese daily life including business practice (Gold et al., 2002; Leung and Wong, 2001; Tsang, 1998). Especially, in transitional economies in which market institutions are not developed and information is not transparent, such as China, as Gold et al (2002) and Tsang (1998) noted Guanxi is very crucial for doing business and traditionally has always been considered under any situation. Therefore, illicit businesses and the counterfeiting world are not exceptions. Sometimes, Guanxi can even interfere with legal enforcement

With increasing legal enforcement and anti-corruption policies in China which are starting to become more effective since 2011, some counterfeiters started to realize the approach of ‘building good relations’ with government officers is increasingly becoming less acceptable. Two manufacturers (A2, A6) illustrated their perceived general experience at the moment for all counterfeiters:

“If the Chinese government wants to increase enforcement and stop counterfeiting business, we have no chance of survival no matter how good your relationship with local trademark officers might be”. (A2).

This finding is consistent with previous studies such as Phillips’ study in which he mentions “if Chinese government wanted to stop everyone counterfeiting tomorrow, they would succeed. The government has done things as radical as that in the past.” (Phillips, 2007, p.64). He explains the magnitude of counterfeiting in China – without such illicit businesses, the local economies where most counterfeiting factory are located, would be ruined, with the potential to even destabilize the local government.

6.5.2. Anti-corruption VS quality of counterfeit products

During the interviews, another very interesting finding emerged, that ‘anti-corruption’ policy in China affects the level of survival of the counterfeiting business. It would be useful if this

power of anti-corruption policy would have the same impact on manufacturers, wholesalers, and retailers alike. However, this only has an impact on those who produce and sell a high quality of counterfeit, that means those A and super A category (see Section 5.5.1 in Chapter Five). A14 told me she lost 25 per cent of profit in 2015 because some Chinese companies stopped ordering products from her. She said:

“I used to have some companies order very good quality counterfeit products such as scarves or bags to give to their staff as a reward or as a promotion gift to the clients. After anti-corruption policy since 2012, they stopped ordering from us, but the rest of the business is still fine.” (A14 retailer).

A16 (retailer) also confirmed a similar case. According to the discussion, most of his other customers are quite stable, but the orders from Chinese companies are dramatically decreasing. Gift-giving, rewarding, or use as promotion is quite usual in Chinese businesses. As Holcz mentions - “The expensive gifts and lavish banquets for government officials has a long history in China” (Holcz, 2016)(online). Good quality counterfeit products with a low price would be an appropriate choice for those companies and individuals. However, anti-corruption has affected their business, as A16 explained, the Chinese companies stop purchase those top-quality luxury brands counterfeits as a gift to reward their staffs or send it to their clients as a gift.

On the contrary, those who sell a lower quality of counterfeit goods, A21(retailer) and A23 (retailer) do not think anti-corruption has any effect on their business, they assumed their products are not good enough as a gift to be given and will be discovered later. Therefore, the finding suggested that the higher the quality of counterfeit the higher the chance that it is sold through deceptive channels than the lower quality, as the extended counterfeiting strategies model revealed (Table 5-2 in Chapter 5).

6.6. Counterfeiters are playing a tricky game—Economic concerns

When making ‘good relations’ with government officers are not working in counterfeit businesses, counterfeiters can find another way to continue this illicit business. It seems that counterfeiters have a good understanding of the government strategies. The findings show that counterfeiters are playing a ‘balance game’ with the local government. Counterfeiters believe their business have offered jobs to the local people in the earlier stages of economic development and as well as in present times. The economic activity of some villages in China relies on the counterfeiting business. According to the interviews data associated with the counterfeit business, other related industries also gain increased business, such as packaging of counterfeit products, logistics companies to help post those counterfeit products to different destinations in China and other countries. As well as these services benefitting, from the trade, hotels, restaurants and nightclubs are equally supported by the sale of counterfeit goods. A3 explained for those companies, they are registered as licit business, for instance, packing industries, they have orders from any companies who need packing boxes, including counterfeit companies. Those logistic companies will post any orders also including counterfeit products. Therefore, stop counterfeit business will affect those companies at the same time.

Hence, manufacturers clarified that they understand the government must strike a balance between legal enforcement and economy (employment), as the counterfeiting business has existed for so many years. They believe the government clearly understands this issue. So many people are already intrinsically involved, and the government has to consider whether to shut down these businesses. If they do so, it will impede and have an impact on many retail businesses. Counterfeiters have an awareness that it would be impossible for the government to shut their manufacturing business down overnight as many people would lose their jobs and

their daily lives would be severely affected. A5 explained how they use the government's concerns to do business:

“Playing games with government and understanding the signs of the government is an essential way to survive in this world. This is kind of like a mum and her children – as a child you would continue to play on your iPad until you feel your mum is really cross.”
(A5 manufacturer).

Furthermore, counterfeiters also described the dilemmas they are in when they want to shut down manufacturing. They commented as follows:

“I feel like I have responsibility for staff, I cannot shut down and ask those 700 workers to find another job. So far, I cannot afford to start a new business and hire so many people.” (A5 manufacturer).

This finding supports previous research that brings to the economic concern, the employment concern and local protection (Cao, 2014; Chow, 2006; Hung, 2003). Lieberthal and Lieberthal (2003) suggested that local SME's counterfeiting business in China is quick, successful and has instant economic benefits for the local government. As a result of these economic concerns, some scholars claim that the government acts with only 'one eye open'. This finding described another aspect from the view of the counterfeiting agents that it is not only about the Chinese government's lack of legal enforcement, but also how counterfeiters interact with the government's weaknesses. Within the counterfeiting business, counterfeiters deeply understand the government's concern for economy and social stability and this problem has existed for many years. It most certainly cannot be sorted out overnight, so they will continue to 'play the game' carefully.

Compare with manufacturers, wholesaler and retailers have more chance to be discovered, especially those with shops. Based on the discussion, the retailers said sometimes the trademark officers disguise themselves as customers who want to purchase luxury brands counterfeit.

Hence, they started to be more careful with increasing legal enforcement in counterfeiting since 2011. A5 recalled that:

“When I started to copy this brand ten years ago, nobody knew this brand. I displayed it in the shop. The trademark officers came for checking the wholesale market as part of their job, and they did not know it either, therefore, there was no penalty or confiscation of those products. We did not take trademark infringement seriously at that time. However, with increasing brand awareness by customers and government authorities and increasing legal enforcement on counterfeiting, we do not display these products in the shop anymore.” (A5 manufacturer).

Thus, according to retailers, those counterfeiting goods are not displayed in the window but goods with a similar logo (imitation products, which are not illegal because the products do not replicate the trademark). However, when customers specifically ask for counterfeit products, the retailers show them the counterfeit or guide them to a hidden place which stores counterfeit products, normally it is a residential house rather than a shop. Generally, those residential house install CCTV before they let customers in. I asked the interviewees how they were able to distinguish between a policeman or a normal customer and they smiled and said:

“It is all about the years of experience. Clients are totally different from policemen even when the policemen are well disguised. After some experience, you sense who is policemen by the way they talk, the feeling when they look at products, they are different with customers. I guess it is a matter of survival.” (A19 retailer).

6.7. Legal awareness in distribution channels.

6.7.1. Retailers sell counterfeit on line

Copying culture has impacted on the behaviours of counterfeiters heavily. The findings show that legal awareness of both manufacturers and their retailers are increasing with firmer and improved legal enforcement in China. However, the findings show that legal awareness is

different among distribution channels. Compared with the retailers who have shops where they sell counterfeits, those retailers who sell counterfeits on-line show less concern about legal enforcement and being caught. Most of the participants in this study sell counterfeit items both on and offline. Three out of 23, 13 per cent of all participants, sell counterfeiting goods online only. The findings show that counterfeiters consider selling their counterfeit goods on line to be a safer way, especially using personal networking platforms, such as WeChat (Chinese social media). One participant noted:

“No one will come to arrest me for putting counterfeiting pictures on a personal website, lots of people are doing the same thing, how could they find us?” (A21 retailer).

Two further participants stated that:

“Sometimes if you sell counterfeiting goods on a website, for instance, WeChat, the government will block your social media account for several days or block your account for ever depends on the different cases. If only block a few days, you can use it to sell again. If they block you forever, just apply for another account without losing the list of your clients’ details.” (A20, A23 retailers)

Here, it would be useful to understand why some social media apps have been used significantly in the business of selling counterfeit goods in China. For instance, WeChat, as mentioned in quotation, is an App innovated by Tencent in 2011. It is an ‘all-in-one’ App, Economist describes it as the promise of a cashless economy (Economist, 2016). On the WeChat ‘Moments’ page, synonymous with Facebook, people can post pictures to selected users. WeChat is working hard to make its product an enjoyable and convenient to use application, because it can link to the bank account and it is now gradually becoming an E-commerce platform for business (Economist, 2016). Counterfeiters have noticed the advantage of WeChat, as a cashless App and for certain customers, it offers a good platform for them to expand their business. Based on the data, for those retailers who have both off an online selling, or online selling only, they admitted they use WeChat as a platform:

“Because you can choose the users who want to join your group, most of them started from the people you know. They were later introduced to others. That’s why we do not feel we lie to them as they already know it is counterfeit before they purchase it. So, no one would report you for selling counterfeit merchandise. It is a safe and stable platform. If customers do not like to purchase counterfeit products, they could choose to block our pictures. So those that keep us in their contacts are potential customers for purchasing the counterfeit goods we sell.” (A21retailer)

From the above explanation, one issue that has been emphasized by the retailers is that, in this study, I only interviewed the non-deceptive counterfeiters, meaning they do not lie to customers about their products. Hence, they distinguished themselves from deceptive counterfeiters as, clearly, they consider they are doing business in a completely different manner compared to the deceptive counterfeiters.

6.7.2. Wholesalers and retailers who sell counterfeit off-line (shops)

The wholesalers and retailers admitted that government propagandizes the concept of IPR in the wholesale market. For example, the trademark officers will post an announcement which they described at the earlier stage:

“Nobody cares, the whole market is selling counterfeit products, famous counterfeiting markets such as ‘Xiushui’ in Beijing and ‘Xiangyang’ in Shanghai and ‘Baiyun’ in Guangzhou attract clients from all over the world.” (A13 wholesaler)

Wholesalers and retailers explained that at that time, they did not have strong legal awareness about selling counterfeit. Then since 2006, the government removed those wholesale market completely, especially Beijing and Shanghai. The counterfeiters confirmed that they feel the legal enforcement is increasing gradually.

With increased enforcement at all levels in the supply chain, retailers admitted that despite high margins from their illegal activities, consistent seizures and raids limit their further movement even though they are well hidden.

“Now we have to transfer and hide counterfeiting products cautiously. Sometimes we even have to stop business for months. In order to reduce that risk, recently we tend to display a few products in the shop.” (A17 retailer).

Wholesalers explained their trading process for the sales of large number of counterfeits is extremely cautious. For example, they prefer to sell their products at late hours in the evening, even for non-deceptive counterfeit products, and they keep their products inside the car which is ready to move at any minute if needed. The findings also show that different techniques are employed by retailers to reduce the risk of investigation by trademark officers investigate the market. Apart from displaying small amounts of products, they also install CCTV in the entrance to their shops, paying extra staff to guide clients into the shop, which may have been hidden in a normal residential building. All those techniques help counterfeiters reduce the risk posed by the authorities, but also increase the cost of the operation of the business. Therefore, this result proves that the continuing product seizures are increasing the vulnerability of counterfeit retailers (Staake, Thiesse and Fleisch, 2012).

6.7.3. The higher awareness among manufacturers

Compared with wholesalers and retailers, manufacturers are more cautious as mentioned in Section 5.2 in Chapter Five. Manufacturers are rather cautious about the people they get into contact, unless these are familiar to the wholesalers and retailers, making it difficult for new entrants to access them. In addition, some manufacturers mentioned that they do not make certain brands, they explained:

“In the initial stages, high demanding makes those brands are quite profitable, therefore, attract too many people to make those brands. The more people involved,

the more popular those brands are. At the same time, more counterfeit products will attract the attention of the original brand owners – some brands are taking serious legal action, we prefer not to make those brands.” (A1 manufacturer)

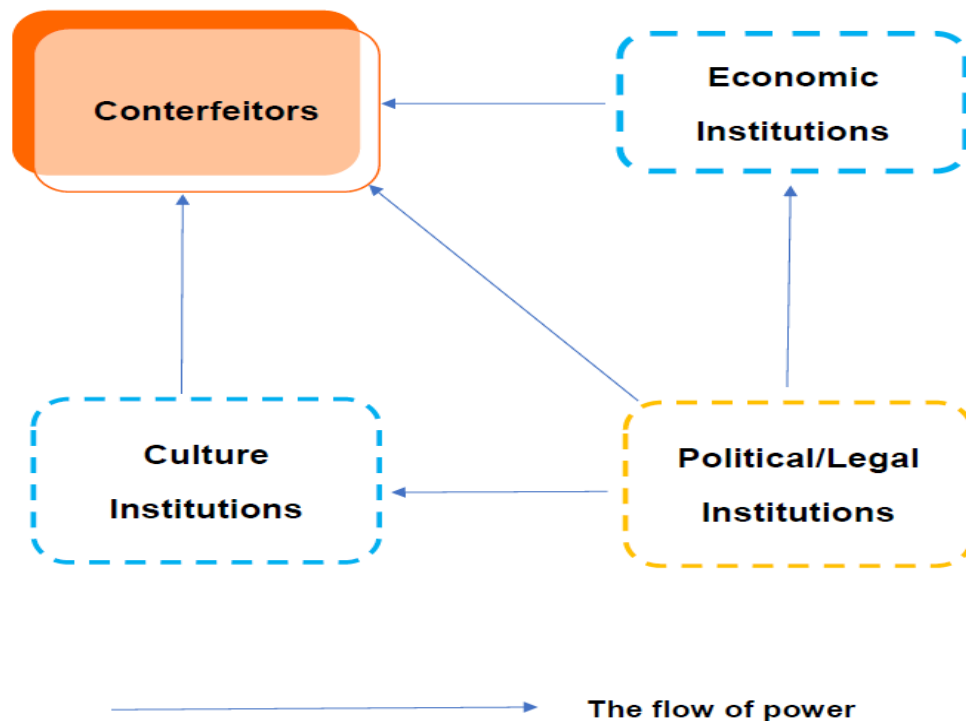
B2 (trademark officer) also mentioned this point:

“Once those original brands discover the wholesale market start to sell counterfeit products, instead sue the retailers to the court, those brands owners sue the wholesale market for lacking management, which allows retailers to sell counterfeits. Therefore, when retailers sign the lease contract with the wholesale market, the manager of wholesale market will specially mention to retailers do not sell certain brands in the wholesale market, because they do not want to take court case any longer.” (B2).

According to trademark officers, brand owners stand more changes by suing the wholesale market than the individual retailers who sell counterfeits. The findings show that the stricter legislation against counterfeit does affect the counterfeiting business, both non-deceptive and deceptive. The more aggressive the legal action, the higher chance to mitigate the speed of counterfeit product development. Counterfeiters are discouraged if they experience actual or threatened litigation. In recent years, with the legal enforcement getting stronger, lots of counterfeiters at all levels in the supply chain, and across different regions of China, have been caught and sent to prison and all goods have been confiscated. However, this is just the beginning of a change to put China in line with TRIPS agreements. Counterfeiters are, however, finding alternative channels to sell their brands. As mentioned above, the advantage of the Internet is that the distributors have started to sell counterfeits online and once an account is detected and blocked, the online counterfeit business can create another account effortlessly to continue their illicit business. This makes tracking more difficult for policeman. Hence, the legal action must be taken both online and offline.

From the findings above, it shows how counterfeiters have been affected by different institutions and how they engaged with them. However, political/legal institutions have taken priority in these relationships.

Figure 6-3 The relationships among those institutions



Source : developed by author

By extending Figure 6-1, Figure 6-3 describes how political/legal institutions are affecting the counterfeiters by engaging with other institutions. The arrows represent the direction of the flow of power. Comparing with Figure 6-1, although cultural perspectives and economic concerns have affected the behaviours of the counterfeiters, those two institutions also have been affected by the directions of political institutions. As Section 6.6 illustrated, the counterfeiters are playing ‘tricky games’ with the government and they adjusted their ‘strategies’ based on the directions of government policies. They understand how local governments desperately developed local economies without considering intellectual property

rights. At the same time, they carefully watch out the attitude of government and direction of economic development because counterfeiters understand that if the law enforcement is strict, they will lose the chance of taking advantage of loopholes in the Chinese trademark law. As one manufacturer, A1, said:

“we all understand doing this (counterfeiting business) quite dangerous, however, the profit is a big temptation, we would rather take this risk when law enforcement is not strong enough. If selling counterfeiting has same punishment of selling drugs, I believe the number of engaging this business will dramatically reduce” (A1 manufacturer)

At the same time, the direction of government policy affects the traditional understanding of intellectual property rights in China. Therefore, there may be a switch from imitation to innovation as a result of rigid and stringent trademark law enforcement as discussed in Chapter Seven.

6.8. Governments’ practical difficulties in anti-counterfeiting

Four trademark officers in different regions, who in charge of counterfeiting cases were interviewed to get their opinions about the challenges and opportunities associated with their profession. The trademark officers agreed it takes time to increase a culture which accepts intellectual property protection and mentioned that lots of problems existed historically,

“It is difficult to shut down the counterfeiting business overnight, we have too many people involved, such as small vendors/ retailers in rural areas who depend on the sale of counterfeit products. Many of them do not have stable work and they are not well educated. For them, it is a matter of survival. It is kind of like the game of cats and rats, they sell products in the middle of the night, they sell products in their car boot, they sell in their own house, without report from customers and it’s not easy to track them down.” (B3 trademark officer).

They also highlighted that they develop relationships with counterfeiters during the processes of investigation of counterfeit products:

“Relations make things easier when you have problems to deal with, not only exists in China, but also exists in every other culture as well. As a socially interactive environment, you could have different relations that you contact when you are doing business and the counterfeiting business is no exception.” (B3 trademark officer)

The trademark officers suggested that the counterfeiting issues are very difficult to tackle in practical circumstances. B4 explained that:

“Trademark infringement cases are accepted when somebody reports the situation with evidence. If customers report that products are of an inferior quality, they help us to carry the investigation. It is useful for us to locate the place for selling counterfeiting. However, in practice, non-deceptive counterfeit products are rarely being reported.” (B4 trademark officer).

This finding shows that the main issues that trademark officers face are concerned with the actual brand owners, as they are the ones who are entitled by law to verify the authenticity of their products. The trademark officers are not entitled to confirm the authenticity of products by law. Trademark officers in recent years have been gradually learning a great deal about luxury brands, and they find it a challenge to familiarize themselves with every single luxury brand. Counterfeiters always find many excuses to explain the source of products during the process of investigation, particularly when they are paying tax according to the law.

This finding corroborates the ideas of Devonshire-Ellis (2011), who suggest that in order to secure legal enforcement of illegal activities, brand owners should make a big effort to investigate and provide evidence of counterfeiting in the initial stages. Apart from brand owners who have the power to provide evidence about counterfeits, customers also have the possibility of instigating an investigation if they report they have been deceived by those selling counterfeit products. For non-deceptive counterfeiting, customers will not help to report the

copied goods and even with customers' reports in deceptive counterfeit products, a myriad of illegal manufacturing would be very difficult to track down. At the same time, B4 (trademark officer) mentioned that many of the counterfeit products are target by foreign countries, and Customs are also play a part in the combating of counterfeiting. Those trademark officers explained that there are lots of practical difficulties in the anti-counterfeiting battle. Therefore, it is necessary to highlight the effective trademark enforcement needed and the cooperation from all enforcement authorities as well as brand owners.

6.9. The rules of the game in the counterfeiting business

After the discussion on how counterfeiters, and their behaviour, have been affected by the different institutions, it can be noted that the lack of formal regulations, or the desire to develop local economies by bypassing the national legal framework, led to the development of the informal economy in which the counterfeiting industry is placed. Counterfeiting products are not only illegal (unauthorized trademarks) but are also deliberately carried out underground. In most cases, counterfeiters operate in total isolation from formal firms, however, as interviewees mentioned, extra subcontracted production can be used as non-deceptive counterfeiting selling to reduce cost and maximize the profit. Hence, the allocation of authority and risk between subcontractor and brand owner exists in counterfeiting businesses. At the same time, most counterfeiters, both manufacturers and distributors, register another similar brand to disguise their activities. According to the interviewees, they pay tax to the government and many informal workers have been employed by them. Therefore, the counterfeiting business, as one form of informal economy, has been disguised and well-hidden underground. As interviewees noted, quick and additional wealth generated from their counterfeiting business encouraged

them to exploit opportunities in the informal economy by taking advantage of the weak legal enforcement and imperfections of regulations.

The street trade of counterfeiting can be found on every corner of cities and rural areas. Costly legal enforcement and demand for bribes by police, government officers and other vested interests make government turn a blind eye to this illegal activity. From the findings above, it is not difficult to see that formal Chinese institutions are not the only part of a counterfeiter's illicit institutional foundation. Counterfeiting cannot merely be ascribed to a weak IP legal system in China. The legal mechanisms, as the main element of a sound institutional environment, has to be facilitated by the support of corresponding business institutions such as brand owners, customers and governments in other countries. The Chinese government needs to make an effort to improve intellectual property protection, but other countries' governments also need to take serious action to collaborate in combating the counterfeit.

The interviewees revealed that many other countries are involved in the counterfeiting business because the distributors from different countries should take responsibility to make sure counterfeiting products are not accessible to the local market, including customs clearance. That is, Chinese manufacturers and distributors will make counterfeit products based on the orders they receive and send to the address they have been supplied with, but they do not take any responsibility for the rest of the process, in particular in other parts of the world. They confirmed that the distributors in other countries will find a way to clear customs and transfer the counterfeit products safely. Therefore, insufficient IP legal enforcement in China is not the only reason enabling the continued success of this illicit business circle, the supportive environments from other countries are clearly an additional factor.

6.10. Conclusion

This chapter has analysed the second research question: **what agents are involved in the counterfeiting businesses and what different roles do they perform?** While the concept of ‘institution’ is used in a broad sense, in this study, we focus on cultural, economic and legal institutions. The findings showed that the culture does have a profound impact as to how the counterfeiters established their business in China, where there is a lack awareness of intellectual property rights, and where increasing living standards have led to fast increase of demand for Western and luxurious goods, and also the proliferation of counterfeiting goods. The counterfeiters understand their economic contribution to the local economy and employment, as the interviewees described and literature mentioned, sometimes the entire village are making counterfeiting products (Chow, 2006). Those counterfeiters understand the demanding of quick economy development from local economy, irrespective of less respect of intellectual property protection. Therefore, non-deceptive the counterfeiters were observing the ambiguous attitude of the government and were able to circumvent the formal regulations put in place by the government. Counterfeit businesses add an increased difficulty for practical legal enforcement because being honest and providing goods of a relatively good quality with lower prices increases demand, for those types of counterfeiting goods, such as apparel, bags, watches and jewellery, does not harm consumers’ health in, and keeps jobs in China. Customers exist as ‘co-conspirators’ in the non-deceptive counterfeiting business (Ahuvia et al., 2013). Without their report being deceived, the local trademark officers will be even more difficult to track retailers sell counterfeiters. Hence, the wholesalers and manufacturers will survive safely in their business circle.

Moreover, when analysing the information collected, four distinct techniques used by counterfeiters to justify their operations were identified: the fact that they are honest – non-

deceitful; the fact that they provide free advertising for original brand owners; the fact that they cause no harm to consumers - there are no-safety issues involved; and the fact that goods have a comparatively good quality and are sold at a reasonable price, allowing consumers that aspire to buy the original brands, to fulfil their aspirations by having a similar but not original good. These four techniques provided by counterfeiters offer interesting insights to understand how counterfeiters are affected by ethics and the circumvent the law and make business decisions in the course of their 'illicit' activities which they consider not to be 'unethical'.

As the findings discussed in this chapter also show, institutions are not static: important changes have taken place in Chinese culture associated with globalization. The government annual report of "strengthen public awareness for trademarks, well instruct local trademark administration, and improve enterprises' abilities in trademark utilization and brand innovation" (CICP, 2016, p.6) has showed the direction of encouraging enterprises from imitation to innovation. Also, important changes are taking place in economic terms with the development of the economy and an emerging class of people with high incomes, fashion conscious and with westernized preferences; and thirdly, the legal environment is changing as a result of the TRIPS agreement since 1993 and since joining WTO in 2001.

In the initial stages of economic development from 1978, China did not respect IPR, in the same way as most Western countries, such as Switzerland, Denmark, US (Peng et al., 2017b). When counterfeiters moved from being subcontractors to being involved in the production and distribution of counterfeit luxury brands, the Chinese government disregarded the international legal issues that emerged associated with intellectual property rights, the government was more concerned with the development of the economy and incentivizing production and creating jobs.

The lack of awareness of intellectual property rights by counterfeiters contributed to the proliferation of the counterfeiting business. However, an increasing demand for luxury

counterfeit goods from all over the world, which have been driving the growth of counterfeit businesses in China. Furthermore, non-deceptive counterfeiting businesses have been able to develop even faster due to the lack of case of reporting to the authorities by customers. This lack of complaints has increased the practical difficulties for the legal enforcement by authorities and has facilitated the growth and survival of non-deceptive counterfeiters in an informal economy.

Compared to the deceptive counterfeiting business, where counterfeiters take advantage both of brand owners and consumers lack information, with the aim of making an enormous profit and taking away marketing share from brand owners, the non-deceptive counterfeiters regard themselves as a different group of ‘entrepreneurs. Evidence collected also shows that, for those non-deceptive counterfeiters, in recent years they have begun to gain an insight and understanding of the concept of intellectual property rights protection. They have started to understand that intellectual property rights are not something that everyone can use freely or without permission. Several counterfeiters learned the importance of brand value and thus began to build their own brands during the process.

The tightening of legal enforcement in recent years in China and internationally is obviously increasing counterfeiters’ awareness of high risks of staying in this business, not only manufacturers but also wholesalers and retailers. Most importantly, they are acquiring the skills in technology that are needed to develop good products, and they are learning about brand design and marketing strategy, in particular advertising and distribution of original luxury brands. Hence, some of them have started to explore the new business models in the market. The following chapter will analyse the knowledge acquired by those who have delved into the counterfeiting business and how they plan their future, as well as what factors are encouraging or discouraging their decisions.

Chapter Seven: Data Analysis

Learning from Counterfeiting Business

7.1. Introduction

This chapter analyses the third theme: the learning through counterfeit by different actors in the counterfeiting world, including manufacturers, wholesalers and retailers and how that possible learning may affect the counterfeiters' growth and survival strategies in the future. Chapter Five and Six described the counterfeiting strategies employed by non-deceptive counterfeiters and often also deceptive, and how institutions have impacted on their growth and survival. In the counterfeiting business, authentic retailers just like any businessperson, have been shaped by the market in which they operate. This would include their customers, institutions and the brand owners.

From the establishment of the counterfeiting business to its expansion, from only copying to trying to build their own brands, with the increasing legal enforcement environment and an increasing awareness of intellectual property protection, what is the future for counterfeiters? Do they learn throughout the whole counterfeiting process? As a result of their growing awareness, is there a chance for them to change their dealings from that of an illicit business to that which is a legitimate enterprise in which they create their own brands? What are the positive and negative elements that present themselves during this transition period? Section 7.2 explains the learning process that emerges from the counterfeiting business. Section 7.3 introduces the strategies of counterfeiters for their future development. Section 7.4 addresses what factors affect the decision of counterfeiters about their future based on the evidence provided. Section 7.5 discusses the possibility for those counterfeiters' transitioning from an

informal economy to a formal economy. Before concluding, Section 7.6 describes the evolution of counterfeiting business in China based on the data.

7.2. Learning in the counterfeiting business

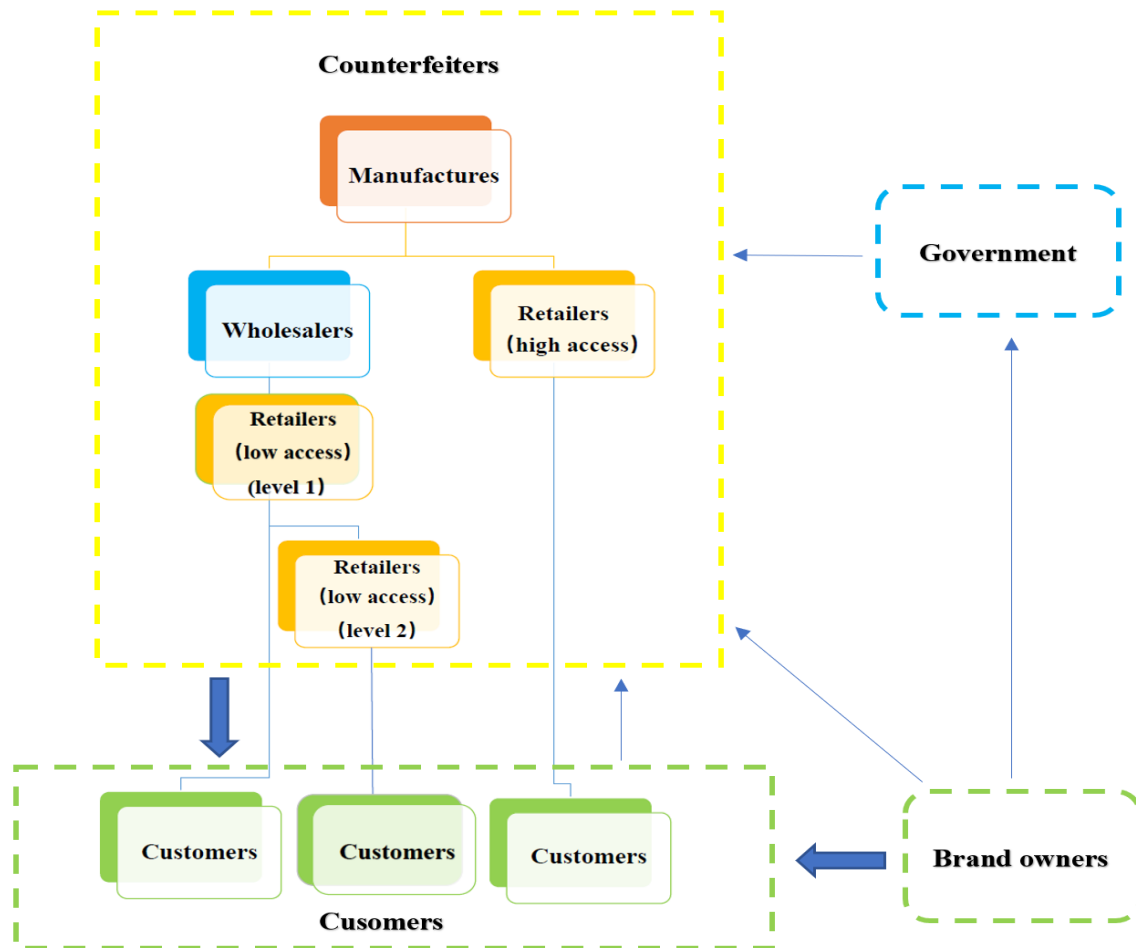
7.2.1 The definition of learning and mechanisms, counterparts and challenges

Siemens (2014, p.2), citing Driscoll's definition, considered learning to be "a persisting change in human performance or performance potential which must come about as a result of the learner's experience and interaction with the world". Many scholars have studied learning as a continual long-term process which occurs inside a person but also shaped by reasoning and technology (Driscoll, 2005; Vaill, 1996). However, Siemens (2014) criticised main stream learning theories on the account that these fail to address that learning also occurs outside of the individual, as learning is stored and manipulated by technology and can happen between individuals and organizations, as well as among organizations.

During the learning process, learning may happen from experience, or by observing others. The learners notice or search for information about an organization's environment and performance (Huber, 1991). In this research, the learning process is considered to happen between counterfeiters as well as from their direct or indirect interactions with other stakeholders such as with brand owners, customers, governments and other affiliated institutions. To summarise the discussion from the previous two chapters, the learning interaction has been illustrated in the Figure 7-1 below.

To summarise the discussion from the previous two chapters, Chinese counterfeiters interact with: the government, brand owners and final customers (Chinese distributors and Non-Chinese distributors) in the ways illustrated in Figure 7-1 below.

Figure 7-1 Interactions among counterfeiting business



The flow of information



The flow of goods

Source: developed by author

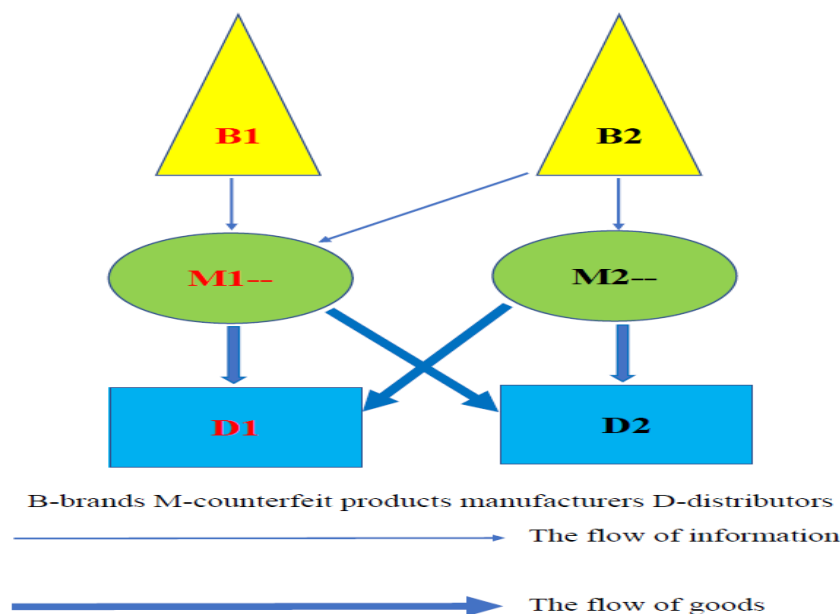
The Figure 7-1 displays how those actors interact with each other and how those actors affect the learning of the counterfeiter. The thick arrows represent the direction of the flow of goods, the thin arrows represent the direction of the flow of information. The manufacturers and whoesalers through retailers to provide the counterfeiting goods to the finnal customers, meanwhile, the final customers provide the information to the retailers. All the demand information from customers will through retailers return back wholesalers and maunufacturers. During the process, counterfeiters interact with not only customers but also brand owners, and

the government has significant impact on the counterfeiters through the flow of information about the anti-counterfeiting policies and activities. In addition, the original brands owners either fight counterfeiting by themselves or cooperate with the government; therefore, counterfeiters learn from the government, customers and brand owners, through the flow of information and goods.

7.2.1 Learning the importance of brand value and the higher standard of those luxury brands

The first interaction exists among counterfeiters and customers (in this section, customers include retailers and the final consumers). Figure 7-2 illustrates this in detail:

Figure 7- 2 The flow of information and good between original brand owners, producers of counterfeits and distributions (wholesalers and retailers)



Source: developed by author

Based on the data and the analysis in Section 5.3 in the Chapter Five about how manufacturers start the counterfeit business, there are two approaches to getting information about original brands. The first one is through a direct approach. Either counterfeiters are originally OEM and grasp the core information, or they purchase the latest genuine products and invest in

equipment in order to make a better quality of counterfeit goods. Sometimes skilled workers are hired from licenced manufacturing businesses, who are involved in the production of the authentic brand. As a result, the counterfeiters can acquire core information about the technology behind the brand and improve their quality of counterfeit products which in turn attracts more customers.

However, for the top quality counterfeit products, high-technology equipment is needed as the original brand would have to have and they need very skilled experts in this area, the only difference compared to genuine brands is that they do not pay the designer and the marketing companies. Hence, those counterfeit products need huge investment and cannot be achieved by a family workshop or a small-sized manufacturing business. Another indirect way is to copy a sample from bookleaf from the brand owners, or just purchase genuine products in order to carry out research on them. This method is normally used by a small family manufacturing business, who do not have the required finances to purchase better equipment and most jobs are finished by the family member who has some skills set in that area. Therefore, those counterfeit products are not as delicate as the top quality items.

Which ever way they choose to produce the counterfeit goods, based on Chapter Five, good quality popular brands with better distribution help counterfeiters to make more profit. Once manufactured, counterfeit products, need to be distributed to the customers from for Manufacturer 1 (M1) who make Brand 1(B1) to Distributors1 (D1), the same model from M2 to D2. Some brands might have a high demanding in the market, some brands might not. During this trial period, Distributor 1 (D1) might find another brand (B2) more popular in the market. Then they will either order B 2 from M2, or have given feedback to M1 to see if it is at all possible to make B2 as well. Hence, M1 will get information from B2 then make the counterfeit products.

The outcome of this trail stage, the counterfeit manufacturers learn from customers through distributors with regards to the attractiveness of the counterfeit brand they are producing in the market. The increasing demand for counterfeit brands from customers all over the world stimulates the continuation of the non-deceptive business. As discussed, some brands that are counterfeited are customized and they will adjust their products accordingly to the requests of customers. This learning process occurs from customers through distributors directly by the flows of information about the brands and the goods themselves.

However, the findings show that although manufacturing interviewees claimed that they can make any brands requested by their distributors, based on the observation and the interviewees held with distributors, each manufacturer does have their own preference brand and the different level of quality to offer customers. The back and forth process assists manufacturers in understanding which brands more popular and which ones are have more chance of securing a stable customer base and in turn, they will focus on investing in those brands. Therefore, for the top quality counterfeit products, manufacturers prefer to make one or two brands. The more they produce, the better quality they achieve. As a result, more distributors will purchase from them because of their reputation. Therefore, during the production process, manufacturers learn about technology used by the original brand owners and also use the similar materials to make good quality products from copying and understanding the high standards needed to create a good brand.

The most important aspect arising from this is that the counterfeit goods manufacturers, wholesalers and retailers are becoming more aware of as well as learning the importance of branding during the copying process. Those counterfeiters who make top quality products claim that they believe the only difference between the genuine brand and the counterfeit product is one product come from an authorised manufacturer and another one does not. Therefore, the difference in the profit margin between the genuine brand and the counterfeit

product further increases the brand awareness amongst them, especially for those manufacturing clothing or leather products. A1 said that:

“We realised the importance of the brand. Most of the profit margin comes from the brand itself rather than the product. For instance, we can make products equal in quality for some brands, but the original brand owners charge ten times more than us because of the famous brand label. That’s why we started to register our own trademark and started to build own brand.” (A1 manufacturer)

It has not deemed possible for the moment to get precise data as to how many businesses are moving from the counterfeiting business into a legitimate business. However, the following Figure 7-3 provides an idea of the pattern in the leather and clothing industries in China in the present day. Trademark registrations are a good indication for marketing innovation and brand building, it is not only links between technological and marketing activities, but also show the evolution of economic organization and structure (Mendonça, Pereira and Godinho, 2004; Millot, 2009).

Figure 7- 3 The total trademark registration for No.18 and No.25 in China



Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 7

Figure 7-3 provides an overview of the evolution of category No.25 and No.18 out of the total number of trademark registration in China from 2008 to 2016. (The data comes from the secondary data, the Trademark Annual Report, this report only starts from 2008, and the latest is 2016). In this figure, the registration number in blue is the total registration number in all categories, the registration number in grey is the total registration number in No.25 (mainly clothing), the registration number in orange is the total registration number in No.18 (shoes and leather products). (trademark category based on (WIPO, 2017). The yellow line represents the per centage of registration of No.18 and No.25 in all registration. Both sectors have been listed as the top sectors for luxury brand counterfeits (CBP, 2016). In this context, the two categories have been put together to describe the tendency in terms of trademark registration. From the figure, the two categories have a steady tendency in the total registration number, always taking up around 13 per cent. There is a high increase in the total number of registrations in recent years. The increase also indicates an increasing brand awareness and a need to protect intellectual property in those two sectors by manufacturers. B2 from the Trademark Office provided the following information:

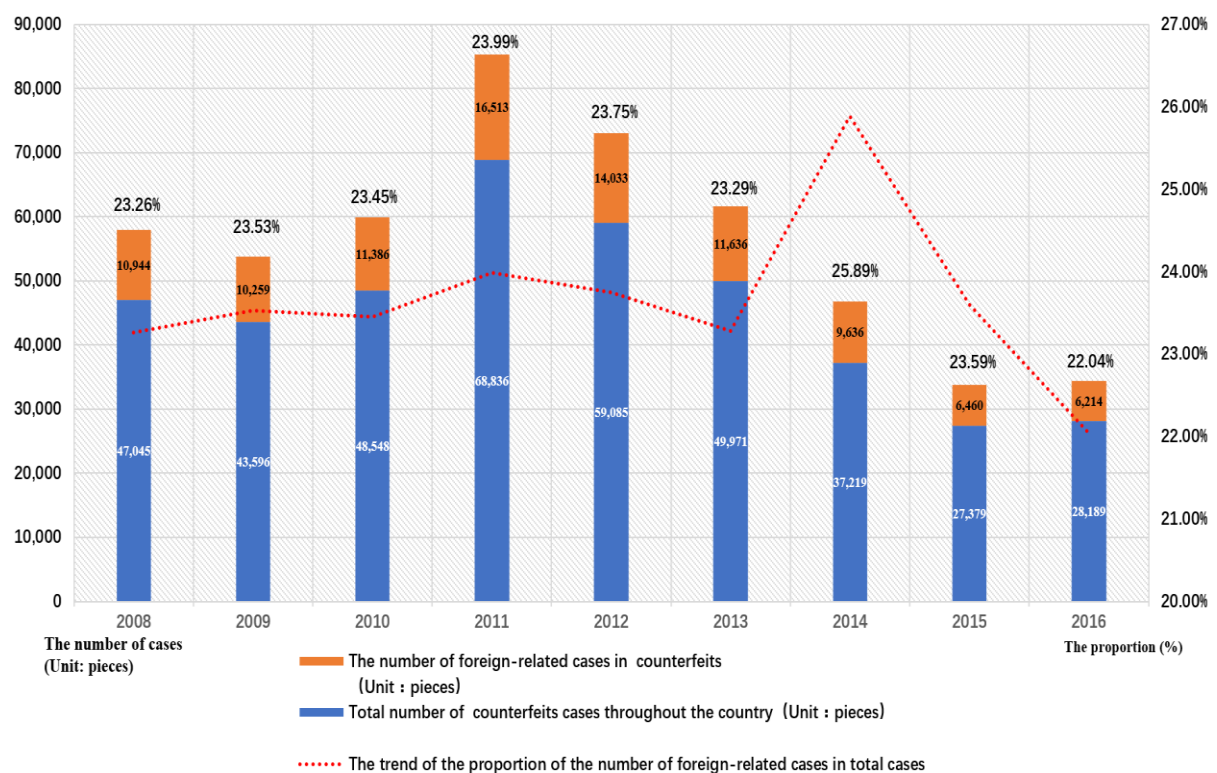
“Those entrepreneurs (registers in No.18 and No.25) are the earliest groups who realized that the trademark is very important after they became OEM or trade with foreign companies, it is necessary and useful when they are doing business, especially for clothing and bags. Therefore, the registration number has always maintained one of the highest sectors.” (B2)

Thus, it appears that the learning outcome from those involved in the counterfeiting business could incidentally help increase the awareness that brands build a personality for products.

7.2.2. Learning about intellectual property protection and sound market regulation

As described below in Figure 7-4, the flow of information between the brand owners and the government will affect the attitude of the government accordingly and the changing of government enforcement will influence the behaviour of counterfeiters, as outlined in Chapter Six. With increasing legal enforcement, counterfeiters have an increased awareness of intellectual property rights. The following Figure 7-4 displayed the legal enforcement related to foreign-related cases.

Figure 7- 4 The proportion of number of foreign-related cases in total cases in China



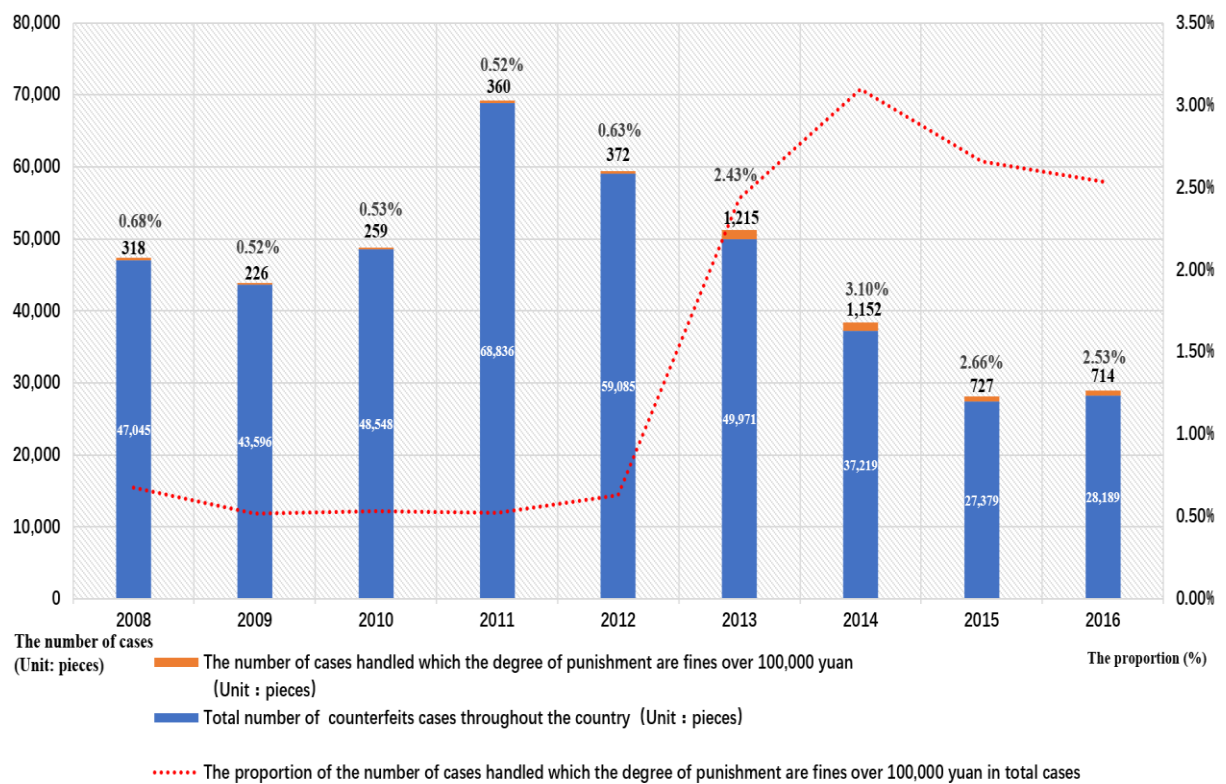
Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 1

Figure 7-4 illustrates the proportion of the number of foreign-related² cases out of the total of counterfeited cases throughout the country between 2008 and 2016. The bar in blue represents

² Foreign-related means the owner of those companies are foreigners other than Chinese

the total number of counterfeit cases in China in each year, the bar in orange represents the number of foreign-related counterfeit cases, the dotted line in red represents the trend of the proportion of the number of foreign-related cases in total cases. Although the total proportion only slightly decreased from 23 per cent to 22 per cent, the total number of counterfeited cases has decreased hugely from 47,045 total pieces in 2008 to 28,189 in 2016. Moreover, the total number of counterfeits of foreign related cases has dropped from 10,944 in 2008 to 6,214 in 2016. This is associated with increasing legal enforcement in China in order to reduce the total of counterfeited cases. Furthermore, the fines in the counterfeited cases have increased dramatically as Figure 7.5 illustrates.

Figure 7- 5 The proportion of number of cases handled-fines over 100,000 yuan (around \$16000 U.S. dollars, stated in 2016 power parity) associated with total counterfeiting court cases in China



Source: Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 3

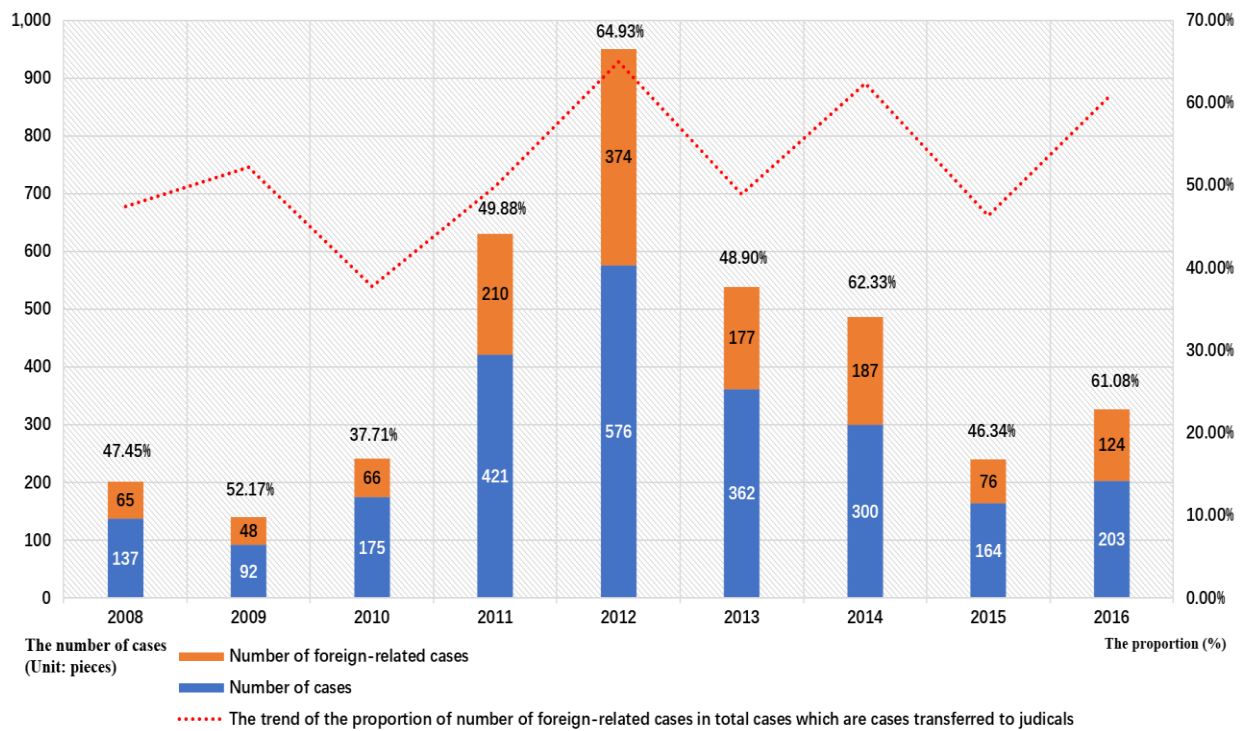
Figure 7-5 describes the proportion of the number of cases handled when the fines are over 100,000 yuan (around \$ 16,000 US dollars). The bar in blue represents the total number of counterfeit cases in China in each year from 2008, the bar in red represents the number of cases handled which the degree of punishment are fines over 100,000 yuan (around \$16,000 U.S. dollars). The dotted line represents a trend of the proportion of the number of cases handled which the degree of punishment are fines over 100,000 yuan (around \$16,000 U.S. dollars). Although the total number of counterfeited cases has dropped from 47045 in 2008 to 28189 in 2016, but the fined cases have increased from 318 in 2008 to 714 in 2016. Obviously, the increased fine has had an impact on the behaviour of counterfeiters. During the interviews, some of interviewees mentioned the increasing fine made them more cautious and worried, thinking that once being caught, they could lose everything and possibly face imprisonment. Hence, the increased fine has stopped those counterfeiters from going further and they have started to consider to do another business. A5 (manufacturer) said :

“It’s better to stop before I lose everything. I have already heard so many stories about manufacturers who have lost factory and the products have been confiscated. Some of them have been put into jail. The government has become so strict in recent years.”

(A5)

Indeed, from the following Figure 7-6 the proportion of the number of cases initiated by foreign parties (individuals or organizations), which have been transferred to judicials has increased from 65 pieces in 2008 to 124 pieces in 2016. This means that the total per cent has increased from 47.45 per cent increased to 61.08 per cent in 2016. In this Figure 7-6, the bar in blue represents the total number of foreign-related cases, the bar in orange represents the number of foreign-related cases transferred to judicials.

Figure 7- 6 The proportion of number of foreign-related cases transferred to judicial



Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 5

Although the three tables above are not specifically classified by the industry, they showed a tendency of increasing legal enforcement in terms of foreign-related counterfeiting cases in China, of which all are luxury products. 2011 and 2012, the two highest years for court cases, were mentioned by a few interviewees. One manufacturer, A1, recalled this time and said that:

“ I have been in this business for more than 10 years, although the other years I heard stories about friends (counterfeiters in same field) being caught or being fined, I still felt fine when in carrying out my business. However, from 2011, I can tell that the Chinese government has made efforts on combating counterfeiting seriously.”(A1)

Other interviewees also mentioned 2011 suggesting that they can feel the legal enforcement is getting stronger. Based on their discussion, I asked B2, a trademark officer, why the interviewees singled out 2011 especially:

“ The State issued a proposal to combat the IPR infringements and counterfeiting cases in 2011. Nine supervision groups had been divided into 18 provinces to supervise and promote the local government to combat practicing of counterfeiting. The local government was very cooperative and all the strategic carried out has achieved a phased success on fighting counterfeits goods.”(B2).

B2 also emphasised the determination of the government in trying to combat the counterfeit business in 2011. This is why those counterfeiters felt the increasing legal enforcement. Thereby, after many years experience of making counterfeit products and with increasing legal enforcement becoming consistently present in the industry, counterfeiters also expressed their concern for their future.

7.3. Future and strategies of counterfeiters

Throughout all the interviews, although the non-deceptive counterfeiters do not consider themselves as immoral in their businesses, with the increasing brand awareness through the making of counterfeit products and the stronger legal enforcement, the counterfeiters understand that as an illegal business, it cannot last longer. The increasing legal enforcement and increasing brand awareness are having an impact and they are beginning to change their minds. Based on their discussion, I classified four types of situations based mainly on the counterfeiters' consideration and attitude for their future. The first group counterfeiters who have completely given up the counterfeits business. They have taken aggressive and positive action for their future and start to invest on building their own brands, also in the fashion industry or stop selling counterfeiting. The second group is diversified into other businesses. For example, either selling the same products but non-counterfeiting products, or totally change the products, such as tea, but still keeping the counterfeit business as cash flow. The third group

understands the business is illegal but have not taken any further action. The last group are those who are continuing comfortably with the counterfeit business.

7.3.1. The first group-giving up completely-take positive action

For the first type, there are four out of 23, who have given up the counterfeit business completely and started to build their own brands. Among those four interviewees who gave up the counterfeiting business, two of them started from OEM originally in the earlier time, then they moved to making the same brand counterfeit products. During the process of producing counterfeits, those two manufacturers realized the importance of brand and the importance of intellectual property protection. They gave up the counterfeiting business ultimately, before being caught. They said:

“After many years of OEM and counterfeits experience, I realized that for some products (shoes and bags) the most valuable part is the brand itself rather than the product. Of course, the good quality is essential for attracting customers even if it’s fake. With the development of technology, improving quality of products, instead of taking shelter from the brand owners, I decided to build my own brand. That is, if I can have my own ‘child’, why would I have yours? If I had been unlucky and had been caught, I would have lost everything, it’s not worth continuing.” (A6 manufacturer)

For those two manufacturers who gave up counterfeit business completely, during many years of experience, they learnt the technology, the high standard of luxury brands and how to market the products. The most important thing is through making counterfeiting, the profit they made could be their investment for building own brands.

Another two interviewees gradually realized that selling counterfeit products is not sustainable in the long run even considering that they have been honest to the customers. With the increasing awareness of intellectual property protection, they started understanding that this is a trademark infringement, that they are helping the spread of an illicit business, which could

cause trouble with increasing legal enforcement and ultimately the downfall of their business. This group is very positive about their future. They have learned the importance of brand, they have learned that there is a need for a high level of technology in order to make good quality products. They know the high standard of quality in luxury brands, they have chance to access the supplier of materials and they have information about the distribution channel. With enough initial finance gained from the counterfeit business, they believe it is the time to move onto a legitimate business. For the first group, who gave up the counterfeiting business completely before being investigated, they are the quickest learner in this illicit business. For example, as discussed above, A5 gave up his counterfeit business to make luxury bags and shoes and moved into his own brand. He said:

“I don’t want to be involved in the counterfeit industry any longer. It is pointless if can make own brand. After so many years’ experience, I have learned about the criteria needed to create high quality luxury brands, I have some contacts who can provide a material supplier and now I cooperate with a famous designer. I have the confidence that I can build up this brand.” (A5 manufacturer)

This group deeply understands the importance of brand value, they are trying to build their own brands despite the challenges that this presents. Throughout the process, they have gradually learnt the value of intellectual property rights. They emerge as the most aggressive group in fighting for their future.

7.3.2. The second group -starting to try another business-take modest strategy

The second group of counterfeiters, which included three interviewees, understand that the counterfeit business is against the law and won’t last for much longer. They regard this business as a ‘sunset’ business, which means they understand this business is not sustainable although they are still making a profit. Therefore, they gradually establish another licit business but keep the counterfeit business at the same time, as a ‘security’ strategy. That means they are still

engaged in the counterfeit business because they have stable customers to keep up the profit, but they are looking for other business chances as well. A11, a wholesaler, said:

“It is very hard to start a new business. After many years of experiencing of selling in the counterfeit industry, ironically, you actually lose your reputation to sell genuine products for other brands. I was trying to sell jewellery but was difficult, so I changed to sell organic foods.” (A11)

Maintaining a profit with existing clients and looking for another business at the same time is a common way for counterfeiters to look elsewhere to make money. They are taking a less aggressive strategy towards their business. On one hand, they understand that manufacturing and selling counterfeits is not a legitimate business, even though non-deceptive selling is marginally safer when compared to deceptive selling. On the other hand, they are afraid of losing everything after seeing and hearing enough stories about those who made the first move, had money and tried to build their own brands, but lost everything. Some interviewees emphasized how difficult it is to build a well-known brand in this industry:

“They are really struggling to build their own brand and keep investing, but how many of them are successful? How many famous brands do we have in this industry? There are a lot of them!” (A11, A3)

The findings showed that the realistic difficulties, as well as the lack of confidence in the luxury and fashion market, have impacted on counterfeiters negatively. For this group, they have learned the importance of brand, they have understood they need to look for another business, but the reality is that the difficulty in building their own brands has stopped them taking the next step. The second group have also learnt the importance of intellectual property rights and have an increased legal awareness to some extent and for that reason they have started to explore other business opportunities. For instance, A11 opened a shop nearby and started to sell organic foods. However, they have kept their counterfeiting business as financial security. Compared with the first group, the second group are slightly more conservative in their

preparations for their future. Even though they understand the risk they are taking, they prefer slower steps to move towards a transition in their new future.

7.3.3. The third group-understand but do not make any change -stay in comfort zone

The third group, which is comprised of four out of 23 of the interviewees, two manufacturers, a wholesaler and a retailer understand the nature of the counterfeit business, but do not want to take any further action to change their lives at present. They have stable customers, stable profit, avoid being caught by the police and strategically: *"I don't feel this business is going down."* A4 who has made luxury brand watches for many years told me his business is still going very well because the quality is good enough to ensure that customers continue to buy from us. A13 and A17 commented the same point, they have stable customers. What they think, as wholesaler and retailers, they are trying to expand their business with E-commerce. But generally, those people are quite satisfied with their business status and they are content to stay in their comfort zone. Consequently, this group has no intention to make any changes at this current stage.

7.3.4. The fourth group-making profit is priority-enjoy cash flow in the counterfeit business.

The findings further illustrated that around half of interviewees are willing to continue to enjoy a 'free-ride' on the back of famous brands and do not consider infringement a serious issue. For this group, manufacturers, wholesaler, and retailers are engaged in the counterfeit business as a money-making mechanism, and their priority is to hide from the investigation of trademark officers and policemen. That is, compare with the third group, the fourth group do not hold any self-awareness of the protection of intellectual property rights in the counterfeit business. For the fourth group, they regard making and selling counterfeiting as a business chance rather than trademark infringement. Therefore, the fourth group take advantage of the original brands

owners without any moral awareness. Their aim is easy profitability and they lack respect of the brand value meaning they are unscrupulous in taking advantage of brand owners even if in a non-deceptive way. One extreme example in this group was, A9 who was very proud of his products. He compared his products with genuine products and laughed:

“You see, what is a so-called brand? Is it giving customers an illusion of being part of an elite group? Does it make them feel good about themselves? For such kinds of products, it’s not a big deal to make counterfeits. I have equal ability to make good quality products. If I am safe from the government, my final goal will be for a brand owner to find me and make me become one of their manufacturers.” (A9 manufacturer)

The story of some counterfeiting manufacturers companies becoming legitimate licensed companies might inspire those kinds of people. Like the Disney story mentioned in Section 6.3. Disney understood that the counterfeiting problem could not be easily sorted out through counterfeit raids and that retailers would simply transfer the goods to another place to continue. They offered a ‘tough love approach’ strategy and an incentive for the existing counterfeiter to earn a living by making them licensees (Phillips, 2007).

B3 from trademark office also mentioned similar cases in their experience. He said:

“One of the shoes manufacturers has been making counterfeit shoes for many years and the quality of counterfeits is pretty good. Instead of shutting them down, the brand owner decided to acquire them and then they have the authority to produce this brand.” (B3)

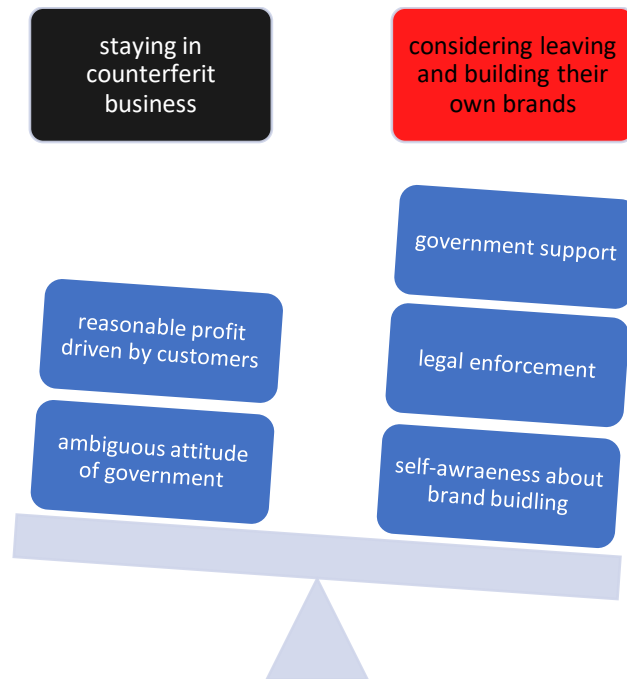
The third and fourth groups, are mainly focused on improving the quality of counterfeit products in order to attract more customers. Alongside this they will endeavour to continue to avoid confrontation and conflict with local trademark officers and the police. Those two groups are slower in learning that the counterfeiting business is an illegal business, yet there is evidence to suggest that their legal awareness is growing. However, instead of reacting positively, they are opposing and prefer to continue counterfeit business. This particularly

group of counterfeiters have taken longer to come to an understanding of the value and importance of intellectual property rights and producing these products is just a short business opportunity.

7.4. The factors that could affect the decision of counterfeiters

The four groups' decisions to continue with the counterfeit industry or leave were influenced by five factors as identified in the interview data. These include: the reasonable profit driven by customers, the ambiguous attitude of government, government support, legal enforcement and self-awareness about brand building, listed in Figure 7-7.below, providing an overview of how the counterfeiters reach conclusions about their future within the counterfeit business.

Figure 7- 7 The future of counterfeiters



Source : developed by author

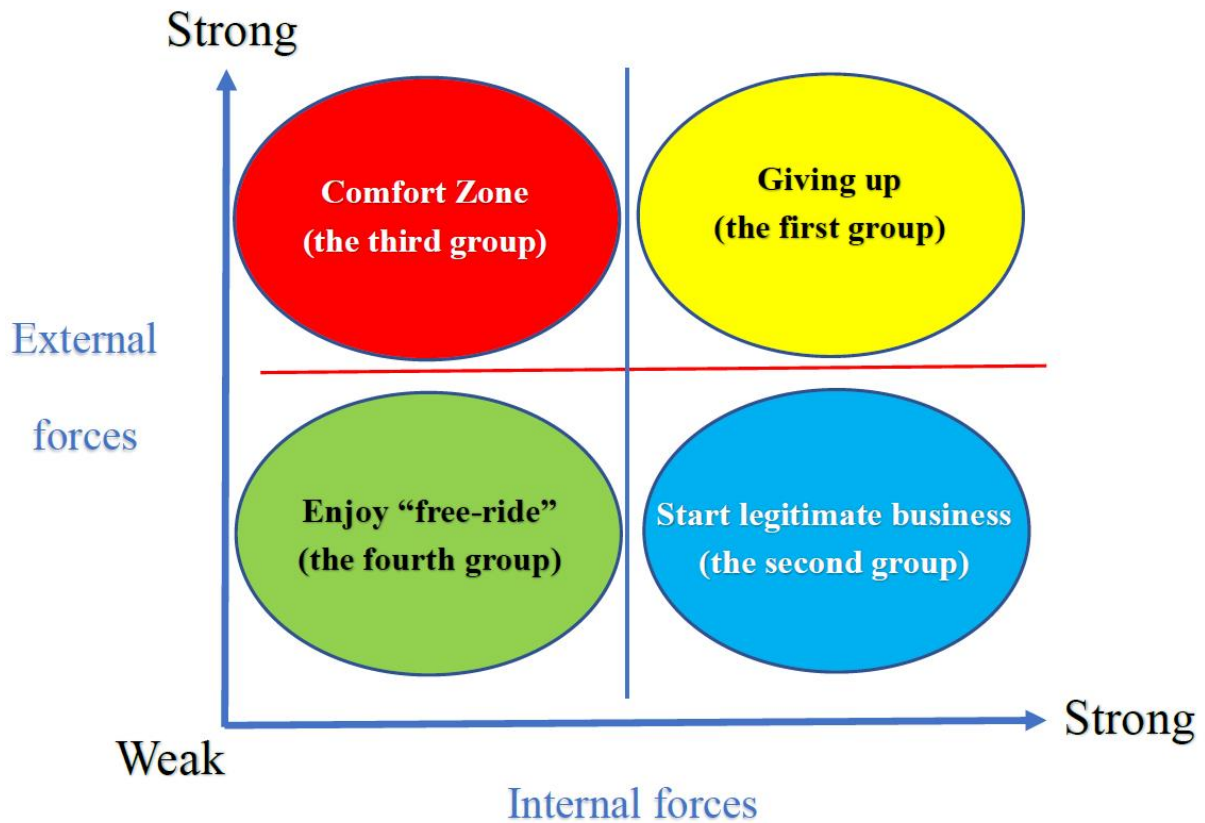
Obviously, the lucrative profit driven by customers' demanding counterfeit products alongside the ambiguous attitude of the government has allowed the counterfeiters the luxury of indulging

in this business for so many years. The findings showed that compared with the deceptive counterfeiters selling, non-deceptive counterfeiters have been driven by high demanding customers. Customers do not report quality-deception to the government, unless brand owners have enough evidence to force local governments to cooperate and take serious action. As trademark officers explained above, there are realistic and practical difficulties which exist during the investigation process when brand owners' are not involved in assisting them.

Furthermore, consideration needs to be given to the problems that will arise in the local economy if there is a cracking down on counterfeit businesses. Local government will need to take this issue step by step. Therefore, counterfeiters rely on their own judgement to measure the 'risk of being caught' and the 'profit of making counterfeit goods' to decide whether to continue or terminate their businesses. Those counterfeiters do not feel at risk in the earlier stages of developing their business, as discussed in Chapter Six, incongruence of intuitions boosts the counterfeit economy. It is no surprise, therefore that those counterfeiters would stay in the business to reap the rewards of a high and easy profit.

However, with the development of the Chinese economy and the increasing awareness of intellectual property rights protection in China, 'self-awareness of brands', 'legal enforcement of counterfeit goods' and 'government support for innovation' present themselves as the three overriding elements for counterfeiters who consider leaving and building their own brands. The stronger the legal efforts, government support and self-awareness, the more chance there would be of giving up counterfeiting business. This finding is explored in Figure 7-7. In this context, legal enforcement and government support will be defined as an external force and self-awareness can be therefore be defined as an internal force. The four groups will be slotted into the following model to explain their possibility of changing in accordance with the elements of the counterfeit business.

Figure 7- 8 The changing model of counterfeit business



External force—legal enforcement and government support

Internal force—self-awareness of building brands and the presence of internal capabilities to do so

Source: developed by author

The model above is developed based on the data of the summary of interviews conducted in order to predict the possibility of the future plan of interviewees. Based on the discussion in Section 7.3, it is apparent that most counterfeiters will remain in the counterfeiting business. Both the external forces (legal enforcement and government support) and the internal forces (self-awareness of building a brand and the presence of internal capabilities to do so) could be the prevailing points that would stop the counterfeiting business even if this is a customer-driven business.

7.4.1. Internal forces as a condition of building brands

Self-awareness is an internal force which has a strong impact on counterfeiters. Some of counterfeiters, both manufacturers and distributors are fully aware of the importance of brand value as they are aware that they could be arrested or punished because it is an illicit business. They said that they themselves had never been caught, but the stories around them have alerted them to the dangers and they do not want to lose everything whilst they are still operating soundly. For those who have a strong self-awareness whilst coping with the external forces that are getting increasingly stronger, they are considering whether they will have more opportunities by switching to another legitimate business. Most of the participants in both the first and second groups, based on the conversation, are willing to build their own brands.

The first group is the most aggressive and successful group when compared with other groups, generally, and they have been in the counterfeiting business for many years. For instance, as mentioned above, two of them originally came from the OEM, they had been involved in the manufacture of luxury leather products for some years before they decided to make counterfeit ones. As a result of their extensive experience as OEMs, they have accessible key information about this brand, including: trademark information, supplier information, technological knowledge etc. Secondly, after many years as OEMs and within the counterfeiting business, they have gained capital funding to establish their own brands and have their own designs. Thirdly, during the process as OEMs and after producing higher quality of counterfeits, they have also acquired an understanding of how to distribute their products.

Within the second group, two of the manufacturers started their businesses by producing counterfeit products and, during this period and through the process, they have established their own brands and they are trying to promote their own distribution channel for their brands. They have adopted a 'copy-to develop' strategy to make their brands look cool. Another one wholesaler started to sell other products such as organic food. However, during this brand

building process, they have still continued with their counterfeit businesses whilst building their brands into a successful label. Those interviewees show a response to the strong internal force, a self-awareness of building brands and enough capital to support their brand establishment. They are the group that have the highest opportunities and possibilities in branching off and away from the counterfeiting business.

For those counterfeiters with weak self-awareness, the third and fourth groups, which including six manufacturers, two wholesalers, eight retailers, they will continue to remain in the business of producing counterfeits, even taking advantage of a loophole in the trademark law as a way of increasing profit. They have no intention of transferring to a legitimate business. Once they gained capital from the counterfeiting business, normally they will continue to invest in the counterfeiting business, including: purchasing better equipment, purchasing the genuine products to do research in order to improve the quality of counterfeits which will in turn attract more customers. Therefore, the increasing legal enforcement became a pressure on these two groups. What they focus on is a strategy to avoid being arrested. They regard the counterfeit business as a money making machine and they are using someone else's brand to make their money. Although they do not appreciate the value of that brand, according to the interview data, there is no evidence to indicate they will move to deceptive counterfeiting business. Whilst the internal force factors are not everpresent in encouraging these businesspeople into transferring to a legitimate business, the external forces are the key factors to motivate this transition process.

7.4.2. The external forces - legal enforcement and government support

Legal enforcement

Figures 7-4 to 7-6 from secondary sources have been used to give a complementary picture for the extension of illicit businesses in China and to complement the information provided by

the interviews. The court cases related to foreign companies illustrates the tendency to increase legal enforcement in the counterfeiting business. From the figures above and interviewees' discussion, we can see the fight against counterfeiting in China has been increasing since 2011, which effectively has reduced the number of the those trading and investing in the counterfeiting market. The increased legal enforcement is building a good environment for the intellectual property rights protection and many famous counterfeit markets have been since been demolished by the Chinese government. For instance, 'Xiushui' street and 'Xiangyang' market as mentioned in Chapter Three, used to be a very famous counterfeiting market for luxury brands and it disappeared in 2006 (Xinwen, 2006). The Chinese government have actively investigated a number of local markets which meant counterfeiters had to at least stop selling counterfeit products openly. At the same time, having to transfer and hide counterfeit goods increased the cost involved in the counterfeiting business. As explained by one manufacturer:

"It is getting difficult now to produce counterfeits, the government has taken serious action and you never know who is the next one to be caught. It's better to stop as quickly as you can." (A1 manufacturer).

Furthermore, there has been a new direction in regional cooperation among trademark offices which is related to the legal enforcement and this has strengthened the law enforcement and avoided the corruption issue to some extent (CICP, 2016). A13 said that:

"I don't know which (trademark officer) I can contact as they are doing cross-regional supervision. So I am just more careful and keep hoping I am lucky." (A13 wholesaler)

A8 (manufacturer) added :

"I used to have good relations with them, but it seems more difficult now, everyone is very cautious." (A8)

B2 a trademark officer explained:

“Nobody feels safe when they are making friends with “theft”(counterfeiter), you would never know when they are going to betray you. It might be that some people abuse their power to get further benefits from the counterfeiters, that’s happened in many countries especially in an emerging market such as China. However, with an increasingly strengthened law enforcement and vigorous anti-corruption champions in China, from my point of view, it is better not to have relations with them.” (B2)

Government support to build own brand

Furthermore, Chinese government has paid great attention to brand development in recent years from 2009, when the Opinions on Implementing National IP Strategy Outline and Accelerating Trademark Strategy Implementation was launched, the main point was promoting the building of Chinese brands (CICP, 2016). In this document, it shows the new strategic direction from the Chinese government, which encourages Chinese entrepreneurs to build their own brands internationally and competitively in other sectors not only in high-technology sectors, has pointed out the future direction for the Chinese economy. In 2016, SAIC (State Administration of Industry and Commerce) made overall plans, which coordinated the regional economy and promoted the trademark and brand strategy in local areas (CICP, 2016).

The Chinese Government jointly and social media has been trying to encourage confidence in Chinese entrepreneurs to build their own brands. For example, Liyuan Peng, on her first day, the wife of president of Xi Jinping, wore a domestic brand cloth designed by a local designer, she carried a bag designed by a local designer on her diplomatic trip with President of Xi Jinping. The picture was taken and analysed by the main social Chinese media (Xinhua, 2013). Counterfeiters as well as other local entrepreneurs considered this as a sign of government showing immense support towards the local domestic brands.

In 2012, the State released a document about the government’s support of the innovation and reform in small-sized enterprises for the first time. Chinese government is trying hard to

building an innovation-oriented country and transform the country's image from 'China manufactured' to 'China innovated'. In this document, the government emphasized the importance of those small-sized enterprises in the development of the Chinese economy. The government showed their support of these small-enterprises in a number of ways: reduced tax rate, speeding up financial support from the government, establish a special fund for innovation enterprises, and the government purchased products by domestic brands (China, 2012). All of these efforts are giving the counterfeiters the impression of the direction that the Chinese government wish for the economy to grow in accordance with the TRIPS agreements, in a sustained way and respecting intellectual property rights. For instance, A6 (manufacturer) gave up the counterfeiting brand and started to build his own brand three years ago. He was excited to describe how the attitude of the government gave him confidence to continue. He said:

"I can see the support and encouragement from the government. Some original innovated Chinese clothing brands have been exhibited in the Forbidden City recently. The President and his wife are wearing local brands, which is a very positive sign for us." (A6)

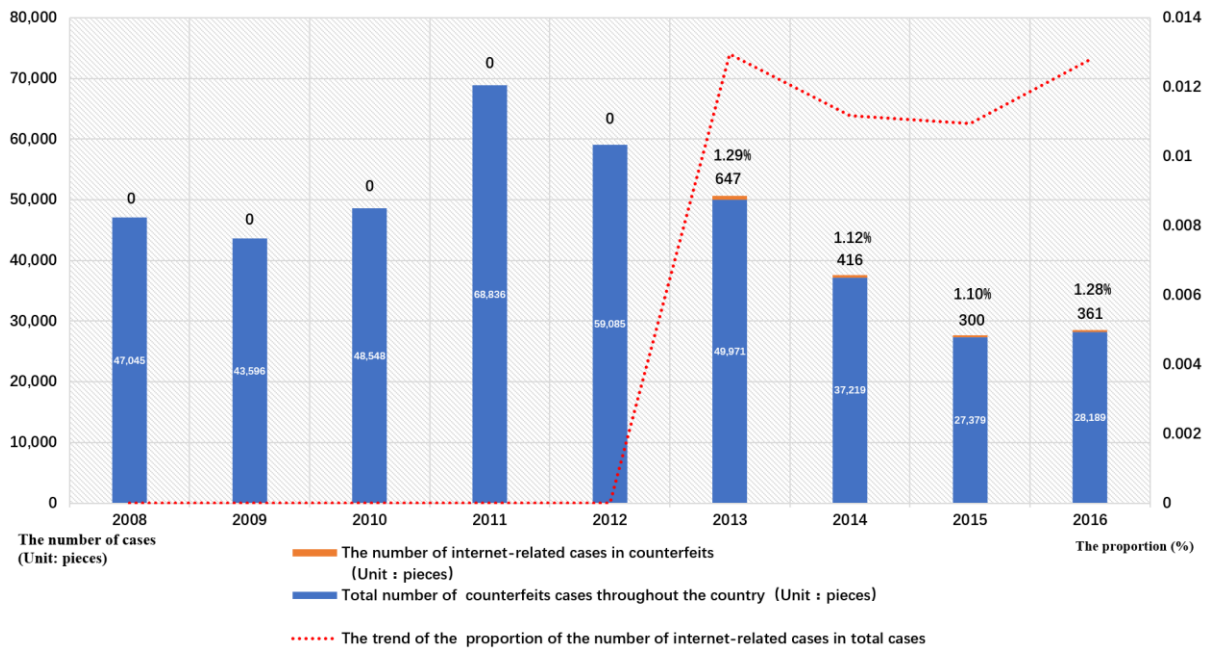
According to the discussion, the data indicates the manufacturers, as entrepreneurs in informal economy, are paying more attentions on the regulations and strategies of how Chinese government develop the economy than wholesalers and retailers. Wholesalers and retailers care more about customers' demand of non-deceptive counterfeit products to maintain their profitability.

7.4.3. The difficulties in reality

It can be said, therefore that practical difficulties and the weak legal enforcement has contributed to the growth of the counterfeiting business. The Internet provided a global market with a massive number of vendors. However, according to the Figure 7-9, following on from

the secondary data might explain the increasing difficulty of combating the counterfeiting business.

Figure 7- 9 The proportion of the number of internet-related cases in total cases



Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 4

The trademark office started collection data on such matters since 2012. The bar in blue represents the total number of counterfeiting cases from 2008 to 2016. The bar in orange represents the total number of internet-related counterfeiting cases, the dotted line represents the trend of proportion of the number of internet-related cases in total cases. From figure 7-9, there were 647 Internet related cases of the total cases of 49,971 in 2013, which then dropped to 361 Internet related cases, but the total counterfeiting cases dropped as well. The total tendency of the Internet-related cases is less than 1.3 per cent, based on the interviewees discussion, most of them are involved in online selling. The finding from interviewees showed E-commerce has now become a major approach for the distribution and sale of counterfeits as it is easier to access. The findings are in line with the report of OECD that E-commerce allows

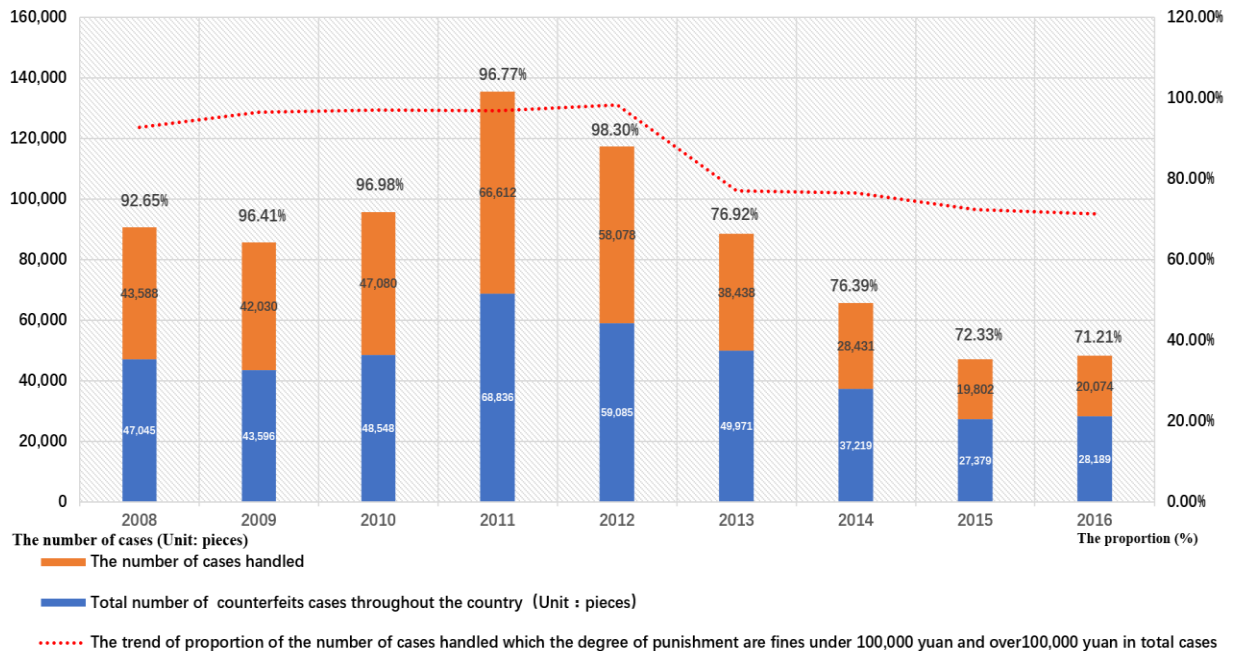
counterfeiters to be able to “function across multiple jurisdictions, evading capture and also able to take down and set up new websites overnight without losing their customer base” (OECD, 2016, p.35). The advent of internet makes counterfeiters easily expanded their customers without geographical limitation (Nwosu, 2014). Therefore, as can be seen in Figure 7-9, only 1.3 per cent of internet-related cases have been caught in 2016 – obviously, not an accurate description of the seriousness of the issue because E- commerce has contributed to the difficulties of combatting the counterfeiting business. Counterfeiters are consciously enjoying the anonymity and impunity of internet - the distribution channel of counterfeiting has changed from well-defined places, such as wholesale markets and flea markets to hidden residential areas and online sales. The development of technology helps the detection of counterfeiting goods. For instance, RFID (radio-frequency identification), radio tags, Signature T DNA - a system of identification based on morphological and physiological characteristics of the nature of the fibre, VeChain - a system that enables to verify most products’ information from immutable databases by connecting with chips applied to fashion items (Meraviglia, 2018). However, the counterfeiters also make efforts to overcome those problems with advanced technology. One manufacturer, A3, showed me their products which contain a barcode, and explained:

This is top quality (Super A), it contains barcode and other authentic verification certificate which can go through the Hongkong Customs as genuine products. Lots of customers come to order because it cannot be discovered easily with new technology.
(A3 manufacturer)

At the same time, as Meraviglia (2018) suggests, those anti-counterfeiting systems might bring high maintenance costs and the result of those systems are yet to be evaluated. Furthermore, customers should also be involved in this battle against counterfeiting, primarily through education and by raising awareness of the benefits of purchasing genuine goods.

In addition, the inadequate fine forms part of the reason that counterfeiters are still willing to take risks. Figure 7-10 described the cases under 100,000 yuan, which can be compared with Figure 7-4 above.

Figure 7- 10 The proportion of number of cases handled in which the degree of punishment are fines under 100,000 yuan (around \$16000 U.S. dollars, stated in 2016 power parity) in the total number of cases



Source: Source: Developed by the author based on the data of Annual Development Report on China’s Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People’s Republic of China. See Appendix 2

Figure 7-10 describes the proportion of the number of cases handled which the fines under 100,000 yuan (around 16,000 U.S. dollars). From the figure we can see the fine in the majority of cases is just under 100,000 and there is similar trend up until 2012, when the fine increased, which discussed in Section 7.2.2. After the new Trademark law in 2013, except increase the fine of counterfeiting and trademark infringement, the amount of compensation of the original brand owners increase from 500,000 yuan (around 80,000 U.S. dollars) to 3,000,000 yuan (around 480,000 U.S dollars) (The Trademark Law,2013). This figure can be associated with the ineffective legal enforcement because of the ‘light’ fine. If counterfeiters consider a fine is

acceptable, they will still be willing to stay in this business since the potential profit can cover this fine.

The desire of local economic development and the lack of IP awareness have accelerated the spread out of the counterfeit business, and the inefficient punishment could affect those counterfeiters to measure their potential profits. If the cost of being caught, such as the fine of producing or selling counterfeiting, the compensation to the original brands or they might end up with in prison. The higher cost of doing counterfeiting business, the higher chance of those counterfeiters might give up this illegal business. The findings showed that in most cases, even though counterfeiters fully understand this cost, they will still continue with the counterfeit business. A7 had just been released from prison, before I interviewed him. Unfortunately, instead of establishing a legitimate business or finding a legal job, he went back to selling counterfeit products again. He explained:

“I know it is a risky thing to do, but I do not know what other job I could do except this one, I have spent all my life here. It is so difficult to start afresh in life and I don't have enough money to invest in a new business.” (A7 manufacturer).

Based on the discussion with other interviewees, he is not the only one to have done this. They argued that even for those earlier entrants who made a huge profit and then later on tried to build and expand their brand, most of them have failed. Unfortunately, even after failure in building brands, most of them will choose to go back to the counterfeit business.

7.5. From informal to formal

In conclusion, both internal forces and external forces can explain the key elements for those counterfeiters who have the potential to switch from an illicit business to a legitimate business. The findings of some of the non-deceptive counterfeiters is that they are trying to build their

own brands. This is very important empirical data which enhances the understanding of the theory of entrepreneurship in the informal economy.

The findings showed that non-deceptive counterfeiters involved in the selling of luxury products are a different group compared with counterfeit goods in other groups and to some extent, those non-deceptive counterfeiters have been accepted into society and the increasing demand from customers from all over the world stimulate their business. Those non-deceptive counterfeiters' activities take place in the informal economy and fall within informal institutional boundaries but outside formal institutional law and regulation. Therefore, those non-deceptive counterfeiters outside formal institutional boundaries are illegal, because they do not comply with the trademark law and take advantage of the brand owners' reputation. However, non-deceptive luxury products whilst being associated with illicit entrepreneurship, are largely accepted both by their customers, the demand-side and other suppliers such as the distributors outlined in Chapters Five and Six.

Throughout the development of their business, a group of counterfeiter's entrepreneurs are seeking a chance to build their own brands and become legal businesses-in manufacturing, wholesaling and retailing. The non-deceptive counterfeiters, as entrepreneurs in the informal economy have experienced the entrepreneurial process, which includes entrepreneurial alertness, opportunity recognition, opportunity exploitation and decisions concerning growth (Bygrave and Hofer, 1992). According to the interviewees, a considerable amount of the first movers in in the luxury brands counterfeiting business, once earning enough money, would try to build their own brand.

Unfortunately, building a well-known brand in luxury industry is never an easy job. Unsuccessful stories damaged the confidence of later entrants to the market. The enormous demand from countless customers, the urgent demand of rapid economic development, imperfect legal enforcement and systems, allowed them the opportunity to produce counterfeit

products after having evaluated this specific market situation. Especially with non-deceptive counterfeiters, telling customers the truth gave them a ‘protective umbrella’ to avoid reporting. Therefore, as Figures 7-7 and 7-8 illustrated, unless enough self-awareness and stronger legal enforcement is carried out, then most of the non-deceptive counterfeiters will still opt to stay in their comfort zone.

Several authors such as Douglas North (1991) discussed in the literature review, the institutions play an essential role in the establishment and expansion of the counterfeiting business. However, both informal and formal institutions are not static, the change of either institution would have an impact on the non-deceptive counterfeiters. Firstly, the legislative efforts to strengthen the combating of counterfeit products in China and worldwide, the investigation in various regions are trying to cooperate. Secondly, according to the annual trademark report, the Chinese government is trying to provide the financial support for those SMEs to get small loans and practically help them to solve the financing difficulties associated with innovation and setting up business with their own brands (CICP, 2016). The findings in this study show that some of the non-deceptive counterfeiters are sensitive to legitimate opportunities. When the non-deceptive counterfeiters have been widely accepted as entrepreneurs in the society, they were more sensitive to opportunities in the informal economy. Despite being illegal (as defined by formal institutions), wide acceptance of counterfeit goods and the ambiguous attitude of the government for economic development increased the chance of making money, alerting eager non-deceptive counterfeiters to the business opportunities. These people are effective in taking advantage of the imperfection of formal institutions, but also maintaining a good quality or a lower price to stabilize their market position.

However, institutions are not static, formal institutions have started to change, the legal enforcement is getting stricter. As Webb et al. (2014) noted, the risk of detection motivates an entrepreneur to transfer from an informal economy to a formal economy, increasing

enforcement will exert greater pressure, which leads to informal entrepreneurs considering other growth options. This finding supports the theory of entrepreneurs transitioning from the informal economy to a formal economy, which means they either need to give up the counterfeiting business and fully transition to a formal economy, or partially transition. The latter means more ‘security’ through maintaining the good size of a counterfeiting business but pursuing formal economic opportunities. For instance, A21, a second level retailer said:

“I have two social media accounts, one is for posting the pictures of counterfeits, another is for introducing a new technology: a home-based robot.” (A21)

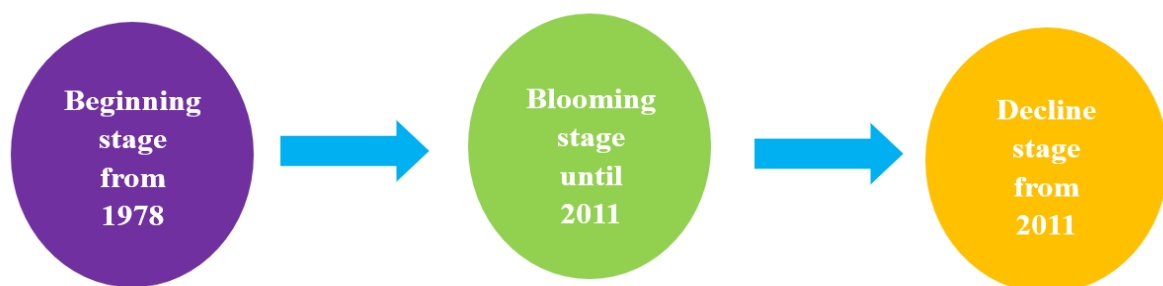
Of course, another option for those entrepreneurs within the formal economy is that they might be resisting the transition to the formal economy. Approximately half of the interviewees alluded to the fact that they are still comfortable trading in a non-deceptive way as they have regular customers, quite reasonable profit and they continue to find more techniques to avoid government investigation.

Furthermore, non-deceptive counterfeiters have a common interest with their customers in that most of the non-deceptive counterfeiters offer an after-sales service just like their legitimate brand owners’ counterparts: exchange of products, refunds, repairs etc. A good reputation attracts more customers, the more stable their business is, the more profit they gain resulting in it being even more difficult to leave. Especially as non-deceptive luxury brand counterfeits have been accepted widely, a transition would require them to relocate their resources and customers over to a legal company. Therefore, unless they are exposed to stricter legal enforcement, greater self-confidence in building their own brands and enough financial support, the counterfeiting business in the formal economy will not disappear.

7.6. The evolution of the counterfeiting business as a whole

Thirty-three participants took part in this study. The sample was composed of counterfeit manufacturers, wholesalers, retailers, customers, brand managers of original brands owners and trademark officers as detailed in Chapter Four. In addition, secondary sources were used to provide a preliminary interpretation of the evolution of the counterfeit business in China. From all 33 interviewees, the most experienced in the counterfeit industry has already been in this business for more than 20 years, and the newest entrant has only just joined the business half year ago. The interviewees from the trademark office have worked in the business for around 30 years. Based on their discussion, the counterfeiting business has mainly experienced three stages during this period.

Figure 7- 11 The developing stages of non-deceptive counterfeiting business



Source: developed by author

The first stage began from 1978, when enormous FDI started in the Chinese market. On one hand, a labour-intensive market offers those MNCs a cheap cost to outsource their production, but on the other hand, the advanced technology and information might be recognized and exploited by counterfeiters. Based on the interviews data, during this stage, the quality of counterfeit products is not as good as today the customers are still focused in the Chinese local market. The imperfection of the legal environment and the lack of intellectual property

protection provides nutrition to the counterfeit business. Afterwards, the counterfeit business develops into the blooming stage due to a range of different factors. Firstly, on an individual level, with the help of the development of technology, the quality of the counterfeiting is radically improving.

Secondly, at a government level, the Chinese economy has grown rapidly, and their political success would be assessed by the achievement of the economy. The eagerness to develop the economy might persuade the local government to ignore the importance of intellectual property right protection. In this stage, the popularity of the Internet creates the 'legend story' for this business with endless orders from all over the world. The popularity of counterfeit products flourished into the global market. During this stage, China goes through several important events such as joining WTO in 2002, and holding the Olympic Games in 2008, has forced the government to improve the level of intellectual property right protection.

For instance, the famous counterfeiting market, named 'Silk street' in Beijing was completely demolished in 2006 (Xinwen, 2006). Although lots of counterfeiters still transfer themselves into different markets to continue the counterfeiting business, at least the wholesale for the counterfeiting market has vanished. But the problem of the counterfeit business spread and starts to attract some serious attention, not only in West countries, but also in the East, including by the Chinese government. In fact, the per centage of counterfeiting of domestic brands is more than twice the per cent of foreign related brands, according to the data from trademark office (See Appendix 1).

The government has made huge efforts to crack down on counterfeiting in 2011 as Section 7.2.2 discussed. Since then, the total number of counterfeiting started to move into the decline stage. From 2011, The State issued a proposal to combat the IPR infringements and counterfeiting cases specifically, the whole legal enforcement became even stricter, with continued revised trademark regulations and trademark laws represent the firm determination

of the Chinese government to combat counterfeiting. At the same time, the Chinese government has strengthened the brand strategy, encouraging local enterprises to build their own brands and offer financial support as Section 7.5 discussed.

Link back to the evolution of The Trademark Law in China, Section 3.5, the findings show the evolution of the counterfeiting business is tightly associated with the evolution of the Trademark Law in China. The first Trademark Law in 1982, is a start rapid economic growth and attract foreign investment, the vague definition created a room for inconsistent rulings of trademark cases. The revision of the Trademark Law in 1993, joined the TRIPS in 1993 and entering WTO in 2001 do not significantly changed the counterfeiting or other violation of intellectual property.

Peng et al. (2017b) suggest that given a country's low level of literary and economic development, the protection of foreign IPR just simply benefit foreign firms at the expense of domestic consumers would face higher prices. Rapid economic development turned China from a net consumer to a net producer of intellectual products. According to the Trademark Annual Report in 2016, the amount of trademark application kept a consecutively high growth rate. "The amount of trademark application was 3,691,000, 28.35per cent higher than that of last year, ranking the first in the world for consecutive 15 years." (CICP, 2016, p.1). As an indicator of innovation and industrial change, the high trademark applications are associated with the trend of development of Chinese IPR.

The data analysis interestingly shows that the first mover's advantage endogenously emerges in the different areas of the counterfeit business. Once again, in context, the definition of a first mover is related to the time of entering the counterfeit business and is also related to the brands they counterfeited. That is, you might not be the first mover of counterfeit production brand A, but you are the first mover of counterfeit production of brand B. The counterfeiters are learning how to establish and produce the brand through the flow of information and goods which is

dependent on the brand owners as well as customers. Therefore, all counterfeiters – manufacturers, wholesalers, and retailers, regardless of the reasons behind their intention to establish a counterfeit business (e.g., OEM, invested by foreign companies and recognizing and exploiting the opportunity), the earlier they enter the business, the more chances they have to master the core information in making counterfeit products.

In this process, some earlier entrepreneurs might transfer into the formal economy, with the profit they have gained from counterfeiting could be the foundation of a new business. Some will continue investing in the same counterfeit business to improve quality and enlarge the company size. The better quality they have, the more customers they can attract. Therefore, for late movers, since they are producing the same brand, the higher quality and lower price would be only two elements that they are in competition with the first movers. Improving quality needs huge investment in the equipment and skilled labour, which might be difficult for the late movers.

The ‘price war’ exacerbates the vicious competition in the counterfeit business. The margin profit declined sharply. Therefore, according to the interviews data, the earlier the counterfeiters join, the more chance of gaining margin profit. Just like licit business, being the first mover in the counterfeiting business have higher market shares than early followers, especially in the same counterfeited brand. Unlike enterprises in the formal economy, to the detriment of first-movers, the later-movers might have taken a ‘free ride’ on the ‘first movers’ investment in the different sources, including R&D, yet all the counterfeiters are taking a ‘free-ride’ from brand owners (Chandler et al., 2009; Kerin, Varadarajan and Peterson, 1992; Lieberman and Montgomery, 1998). The followers could learn from the first movers’ mistakes and choose another brand to copy. Because the legal action in different brands is different based on the experience of interviewees, some brands are stronger than other brands in terms of their

legal protection. Then some of the later movers will learn from the experience to discover other brands and become first movers in another brand and avoid aggressive legal protection.

Secondly, in the early time of economic development stage since 1978, those counterfeiters recognised and exploited this chance with their proficiency and luck. The imperfection of the legal system, the urgent need for the government to develop the local economy, and the lack of supervision of the knowledge gained by the unregulated market, means the earlier the counterfeiters enter the market, the higher chance to take advantage of incongruence within institutions. For instance, the earlier entrants have more chance to build relations with the government officers in order to gain more information. With the increasing supervision approach by the government officers and implementation of an anti-corruption policy, for those counterfeiters, the accessibility to the government officers will be difficult.

During the evolution of the counterfeiting business, it is very interesting to discover the dynamic change within the counterfeit business. Firstly, the changing of the brand quality and the brand level. During the whole counterfeiting process, some famous luxury brands have kept the dominant position as targets for counterfeit for many years, maintaining the same popularity as those brands in the genuine product market. Generally, the top-quality counterfeiters will try to keep the same pace with the fashion shows, as long as the genuine one is launched in the flagship store, even before that, counterfeiters already have their orders. However, famous brands also have strong legal teams to combat the counterfeit products, protecting their brands firmly. Some of them will rely on the third party to work for them. As mentioned above, after years of experience in legal cases, some counterfeiters will recognise the 'space' of different brands gradually, then transfer to other famous brands to make counterfeit products and gain profit margin.

Secondly, there have been significant changes in the distribution channels. So many counterfeiters are changing to online businesses. For those businesses offline, only a handful

of counterfeit items are on display and can be regarded as a sample to attract target customers. Compared to traditional offline businesses, the E market will reduce the cost and it is easy to switch to another new account overnight without losing customers. The changing of distribution channels increased the difficulties of combating counterfeiting.

Thirdly, the attitude of combating counterfeiting and legal enforcement has changed significantly according to the interviewees. China is in a stage of transition, lacking experience and knowledge of intellectual property right and rapid economic development means that the government has had a relatively slow reaction towards the counterfeiting. The improved legal environment is key in keeping a positive, sustainable economy. The changing of the legal system leads to the constant revision of the trademark law and has presented the positive attitude of the Chinese government. From the interviewees' responses, we can assume the increasing legal enforcement is showing that the Chinese government has responded to the pressure from Western countries and the pressure from domestic economic development. The counterfeiting issue is still on-going, but from the data reviewed in both empirical and government reports, it is obviously in decline and less obvious. This result confirms the association with the time of the development of trademark law in China. As listed in the literature review, Chapter Two, the evolution of the counterfeit business in China is consistent with the evolution of the trademark law reform which evolved at the same time. The behaviour of counterfeiters has dynamically interacted with institutions and the creation of different strategies has seen a change in such interaction.

Fourthly, the changing of the customer's brand value and brand awareness. The enormous customer demand is the original motivation to produce counterfeit products by non-deceptive sellers and acts as a shield for non-deceptive counterfeiters because customers would have less reason to report them to the trademark officers. However, as Chapter Five discussed, the increasing brand value and the embarrassment of being discovered by their peers, has stopped

some customers purchasing counterfeit products even with top quality at a lower price. These changes act as an external force and will shape the behaviour of counterfeiters. Moreover, the improved awareness of brands and the intellectual property rights of the brand owners will guide the direction of the counterfeiters in this changing process as well.

7.7. Conclusion

This chapter analyses the third research question proposed in Chapter Two: the learning process of the counterfeiting business and the future of counterfeiters. Non-deceptive counterfeiters are learning brand value and a higher standard of quality in the goods they produce, as well as the importance of intellectual property rights protection from the point of counterfeiting. Consequently, this chapter continued to illustrate how those counterfeiters consider their future when they are engaging in illicit practices. It explained how those elements affected their decision of either carrying out a potentially lucrative business but full of risks, or alternatively, to give up in time to transform their dealings into a legitimate business. For counterfeiters, they will need to balance the severity of expected punishment if they are convicted versus the enormous profit they could gain. The failure of building a brand also discourages counterfeiters from giving up counterfeiting business. The weak IP awareness makes them broadly accepting of the illicit business and it will continue until the risk and the punishment outweighs the profit. In this chapter, I have also integrated institutional economics by North (1991) from macro level to explore the behaviours of counterfeiters. The analysis resulted in the development of a theoretical framework to illustrate the counterfeiter's plan for their future, including what those factors are and how they would affect future strategies, and what direction they might move towards. Both internal force (self-awareness of building brands and the presence of internal capabilities to do so) and external force (legal enforcement and government support) have

provided a model of possibility of the four directions of counterfeiters (manufacturers, wholesalers and retailers). Four kinds of different situation could happen. The first group will give up counterfeiting business, either build their own brands in the similar products or transfer to other legitimate business. the second group still keep counterfeiting business while start to engage in legitimate business. The third group and the fourth group are keeping counterfeiting business. the slightly difference is comparing the fourth group who enjoy taking advantage of 'free-ride', the third group understand that doing business is illegal but have not start to move to formal economy

This model explains to the existing literature on entrepreneurship, and intellectual property rights. As Hobsbawm said : "It is often assumed that an economy of private enterprise has automatic bias towards profit." (Hobsbawm and Wrigley, 1999, p.18). Hence, for counterfeiter entrepreneurs, making profit is priority even if it involves infringing intellectual property rights. Therefore, this framework has potential to contribute to the theory of the entrepreneur, which explained how entrepreneurs choose their development direction either in an informal economy or in a formal economy.

Chapter Eight: Conclusion

8.1. Introduction

This chapter concludes the present study, which was undertaken to explore the counterfeit phenomenon in China from the perspective of those who are non-deceptive in their engagements in the counterfeiting industry. The scope of this research study, as mentioned in the introduction chapter, was to focus on non-deceptive counterfeiters (manufacturers, wholesalers and retailers). This study has specifically distinguished between the deceptive counterfeiters and the non-deceptive counterfeiters for three reasons. Firstly, the fundamental differentiation between non-deceptive counterfeiting and deceptive counterfeiting is different when determining the impact on original brand owners. Secondly, the nature of counterfeiting (deceptive or otherwise) might generate different impacts on society and economic contributions. Therefore, the anti-counterfeiting strategies contingent on the different situation. Thirdly, based on the accessibility of information, the chance of conducting the interviews among non-deceptive counterfeiters is much higher than deceptive counterfeiters.

To recap the categories of participants' main line of activity – whether manufacturing, wholesaling or retailing, all interviewees were categorised by their main stream of income as reported by themselves during the interview. The significant difference in price 1/5-1/10 between counterfeiting products and original brands signals that, customers are aware that they are purchasing counterfeit products even in circumstances when the quality of the products is high.

After reiterating the main points presented in each chapter, the answers to the research questions will also be summarised. This is then followed in Section 8.3 by illustrating the contributions of the knowledge that this study has generated. Then, after highlighting the

contributions, Section 8.4 reports the implications of the findings in this study. The research limitations and recommendations for future research are listed in Section 8.5 before concluding the thesis.

8.2. Summary of this study

The counterfeit problem has always been a challenging issue for many governments, including the Chinese government, as well as brand owners and customers. As Chapter One described, the international trade in counterfeit goods is worth 461 billion USD and counterfeit goods make-up 2.5 per cent of world trade. This is equivalent of GDP of Austria (OECD, 2016). As a worldwide problem, counterfeit issues are frequently discussed as having huge impact on countries' economies, businesses, and consumers (Chow, 2006; Gentry, Putrevu and Shultz, 2006; Qian, 2008). Most research to date has engaged in understanding the demand-side, focusing on the determinants of customers' behaviours and their willingness and attitudes regarding purchasing counterfeiting products (Bian and Veloutsou, 2007; Bian et al., 2016; Kaufmann et al., 2016; Thaichon and Quach, 2016; Zaichkowsky, 2006).

Other than Lopes and Casson's (2012) study on counterfeiting strategies on brand protection and Eser et al's, Quach and Thaichon's and Steven and Busby's (Eser et al., 2015; Quach and Thaichon, 2018; Stevenson and Busby, 2015), there are no studies on counterfeiting strategies in the supply chain, Therefore, little is understood of the complexity of the counterfeiters themselves and their strategies.

My study focused specifically on the non-deceptive counterfeit of luxury brands in China. The luxury industry has always been the most popular industry in counterfeiting (Bian and Veloutsou, 2007; Cesareo, 2015). There has been increased interest in luxury counterfeiting, because of its potential to damage brand reputation in the long-term (Bian and Veloutsou, 2017;

Wilcox et al., 2009). Utilizing a qualitative method with semi-structured interviews, observation and focus groups, and also secondary sources, the experiences and perceptions of non-deceptive counterfeiters was gathered and analysed thematically in this study, to explore the development and strategies of their counterfeiting activities.

With high demand from customers for luxury counterfeit brands, the non-deceptive counterfeiting industry has already been explored from customer side (Bian et al., 2016; Francis et al., 2015; Kapferer and Michaut, 2014; Pueschel et al., 2017). This research has endeavoured to explore the luxury counterfeiting from the supply side, to unravel counterfeiters' strategies within this rather mysterious business. Most studies treat and address the counterfeit as being essentially an activity where customers are deceived about the real nature of brands. This study is innovative because it obtains in-depth information about the development of non-deceitful counterfeit businesses in the luxury brand industry (mainly in jewellery, watches, bags, shoes and clothing). It also considers the full value chain in the counterfeit business, rather than just manufacturing.

The empirical data collection and analysis was expected to fulfil the objectives of this research and the research gap as identified in Chapter Two. This is considered to be an interesting topic to study for several reasons:

- This study is applied to luxury brands which is considered to be the most targeted industry to be counterfeited (Bian and Veloutsou, 2007; Cesareo, 2015) (see Section 2.8).
- It is applied to China, which is considered to be the counterfeiting centre of the world (CBP, 2016; OECD, 2016) (see Chapter Three)
- It is applied to the Chinese government and other political institutions, which have impacted significantly the behaviours of counterfeiters over time. (see Chapter Six and Seven)

- This study aims to help understand the counterfeiting strategies of counterfeiters - the strategies that have been used to facilitate and reduce the risk which the supply side counterfeiters take in China and to fill the knowledge gap in the counterfeiting strategies of counterfeiters in China as well as to offer recommendations for policy makers regarding ongoing reforms in brand protection in China and beyond.
- It highlights the need for studies on counterfeit to take into account the supply side, and distinguish between deceptive and non-deceptive counterfeit. The impact on the different actors in the value chain, and the implications in the economies and society can be quite distinct.

Chapter Two offered a comprehensive literature review on the counterfeiting phenomenon. Starting with identifying the definition and scope of this research, the chapter also offered a categorisation of counterfeiting activities and a justification for its focus on luxury brands and non-deceptive counterfeiting. In addition, in the emphasis of studies to date on the demand-side and customer's' behaviour on counterfeit, as well as discussing general issues on legal enforcement and counterfeiting. The counterfeiting strategies developed by Lopes and Casson (2012) is also introduced in this chapter. This framework has provided a key theoretical insight to this research of counterfeiting strategies, and it is extended as a result of this research. Moreover, in this chapter I provided an evaluation of the definition of 'extended entrepreneurs' proposed by Lopes and Casson (2007), and which I adopted in my study. This chapter also offered a review of the positive and negative perspectives of counterfeiting as an integral activity of the informal economy. Before concluding, it was showed how luxury brands occupy a high place within this illicit activity—luxury brands being targeted the most by counterfeiters—hence the scope of the present study.

Chapter Three begins by providing the scope of different institutional perspectives on counterfeiting and presents a critical review of these institutions' impact on the activities and

behaviours of counterfeiters from cultural, economic and legal/political perspectives respectively. This chapter also introduces the evolution and magnitude of the counterfeit business in China, offering an insightful background for this research.

The methodology which guided this study is detailed in Chapter Four. A qualitative research approach was deemed to be the most appropriate approach to explore the behaviours, experiences, motivations, and challenges of counterfeiters. In this Chapter, the primary aim of understanding the ‘counterfeiter’ was reiterated to justify the choice of methodology. The Chapter showed that, to date, most studies did not have the opportunity to access both macro and micro data from the supply side, and at various levels of the counterfeit supply chain, due to the sensitivity of such research. One of the main contributions of my study is the rich in-depth information collected through interviews, observation and focus groups, setting it apart from most studies conducted to date. Obtaining access was, obviously, not an easy task. However, through personal contacts, I was introduced to key participants as detailed in Chapter Three. In addition to the rich and unique primary data collected, I also triangulated the analysis by including secondary data, such as court cases published in CJO system, documentation on the regulations about trademark infringement and national and international press releases.

In the following paragraphs, I provide brief and concise answers to the research questions which have driven this study. The following conclusion section is drawn from the findings and observations in the previous three chapters (from Chapter Five to Chapter Seven). Worth noting is that although the findings and their discussions are clustered within three chapters, the answers to each question are informed by the themes presented in these three chapters.

1. What are the counterfeiting strategies and how have those strategies been employed by counterfeiters?

This study employed the theoretical framework of counterfeiting strategies developed by Lopes and Casson (2012), and extended it by considering the need to distinguish between different

types of counterfeiters. Compared with the deceptive counterfeiting business, which takes advantage of brand owners and lying to customers generating substantial profits and taking away market share from brand owners, non-deceptive counterfeiters regard themselves as a different type of 'entrepreneurs'. They consider non-deceptive counterfeiting in luxury brands products not to be an unethical activity, despite not having ideas of their own and relying on loopholes in the institutional environment like deceptive counterfeiters. I collected primary empirical data from non-deceptive counterfeiters on the supply side, including manufacturers, wholesalers and retailers. The empirical data explained and extended their framework on how counterfeiters draw on different counterfeiting strategies based on products' quality and price. To be specific, the extended framework distinguished the differentiation between non-deceptive counterfeiting and deceptive counterfeiting. That is, if good quality counterfeit products are retailed by non-deceptive counterfeiters, the impact of the counterfeit is very different from the same quality but retailed by deceptive means.

The extended framework also explained their different counterfeiting strategies based on the different customer segments. As discussed in Chapter Five, top quality and low price counterfeit products are used to attract aspirational consumers who want to imitate the 'elite lifestyle' of wealthy people. According to the interviewees, those aspirational customers are generally sensitive to brands and sometimes would mix counterfeit products with genuine ones. On the contrary, low quality and low price counterfeit products are marketed for those customers who could never afford luxury brands. All in all, from the perception of non-deceptive counterfeiters, they have relatively different clients compared to brand owners. Despite its exploratory nature, this study illustrated that non-deceptive counterfeiters who offer quality goods with a relatively lower price in the luxury industry are less harmful to the brand owners when compared with deceptive counterfeiting. In fact, they help increase the popularity of brands, expand brand awareness, and in some cases, customers convert to purchasing

genuine products when they can afford them from counterfeiter's perspectives. At the same time, the non-deceptive 'entrepreneurs' who produce goods of a lower quality at a lower price, targeting different lower income customer segments - those who could never afford to purchase luxury brands. By doing so, they do not devalue the ownership of the brand owner either from counterfeiter's perspectives. At the same time, through understanding the market substitutions and market creation of counterfeiting products, the framework inspired from Andersen and Frenz (2010), who analysed the IPR in the music industry, the model of market effects illustrates how non-deceptive counterfeiting may impact positively the brand owners. The availability of non-deceptive counterfeiting products does not negatively devalue the ownership of brand owners but positively increases the popularity of luxury brands. This finding was reported by previous studies, such as studies who explored customer perspectives, for example (Nia and Lynne Zaichkowsky, 2000). Bekir et al. (2012) also conclude the presence of counterfeit could be considered as promotional device for increasing the value of counterfeited luxury brands with non-momentary way. Therefore, the existence of non-deceptive counterfeiters does not seem to threaten the market share of brand owners.

The extended framework also highlights that one particular strategy revolving around quality-price is that the higher the quality, the lesser the chance of being discovered by customers, and the greater the chance of taking market share away from the brand owners. The development of technology and emerging E-commerce makes the situation more complicated. Therefore, according to the complexity of this business, the extended framework explains counterfeiting strategies by distinguishing non-deceptive and deceptive means, it pointed out the possibility of top quality might involve with deceptive counterfeiting. Although interviewees in this study are selected by non-deceptive means, being 'non-deceptive' was the essential reason for which participants agreed to be interviewed. During the trading process, the non-deceptive manufacturers and wholesalers admitted that they know many of their retailers to be involved

in deceptive selling. Some retailers tend to ask for an 'authentic certificate' and 'authentic receipt' when they take the order, indicating that their retail operations may involve deceptive trade. Therefore, he extended framework noted this situation and distinguishing the non-deceptive counterfeiters from deceptive counterfeiters.

2. What agents are involved in the counterfeiting business and what different roles do they perform?

The findings of this study show that the behaviour and strategies of counterfeiters have been significantly influenced by informal and formal institutions. The incongruence among culture and legal policy and enforcement, as well as the pressure from local governments to grow their economies have played an essential role in determining the counterfeiters' behaviours and strategies.

Firstly, a copying culture has affected the way of business establishments and their development. From a microlevel (individual counterfeiters) to massive foreign direct investment and outsourcing in China, they have been provided with the chance to access the information from an early stage and alongside this they have been lacking in awareness of intellectual property rights. This in conjunction with the massive demand from customers has resulted in a boost in the proliferation of counterfeit businesses. On a macro-level, the urgent mission for a quick developing economy has convinced the Chinese government to pursue a high performance economic strategy irrespective of any intellectual property protection.

As 'predator entrepreneurs', the counterfeiters have recognised their opportunities and exploited them. Comparing with imitation, the opportunities counterfeiters recognize are mainly associated with the fact that they detect loopholes in the market (demand that is not met by supply) and take advantage of the weak institutional environment. As part of an economic circle, they have contributed to the initial development of the local economy and labour market to some extent. Hence, the counterfeiters have been observing the ambiguous attitude of the

government and have been able to circumvent the formal regulations put in place by the government. With the advent of the internet, convenient transportation, and the demand for counterfeits from all over the world have increased the scope of counterfeiting production in China. Four techniques are employed by non-deceptive counterfeiters to neutralise their illicit activities: being honest; can also act as free advertising for brand owners; there are no-safety issues involved in luxury brands counterfeit products; and goods may have a comparatively good quality and are sold at a reasonable price. Those counterfeiter manufacturers have taken advantage of customers' aspirations and provided desired, relatively high quality goods at a lower price, which as expected has only increased the consumption of such goods. Therefore, customers can be labelled as accomplices in this illicit industry (Ahuvia et al., 2013) This coupled with the difficulties encountered by authorities in enforcing legal action has led to an increase in such activities as discussed in detail in Section 6.8.

The recent increase in legal enforcement in China since 2011, to meet the standard of TRIPS agreements, has made all counterfeiters including manufacturers, wholesalers and retailers more cautious. Wholesalers and retailers hide themselves in residential houses to avoid being raided by trademark officers. Manufacturers generally are more difficult to be tracked. Because once retailers or wholesalers are raided, the manufacturers immediately halt the business. Therefore, the constant cracking down of counterfeiting sometimes forces them to stop their business for a while, affecting the profitability of their business. This clearly has impact on their business activities and profitability. Moreover, cultural habits in China are adjusting to such changes in the institutional environment. For example, since gift-giving has been regulated in China as an element of the anti-corruption agenda, this segment of the market has seen a decrease in demand. However, the high demand from customers still makes non-deceptive selling relatively promising in that market and abroad.

3. Is there any learning associated with imitation through counterfeiting?

During the process of producing and selling counterfeits, some of non-deceptive counterfeiters often start to understand and appreciate the value intellectual property rights and learn about production of quality products. Additionally, they observe how leading multinationals luxury develop they own brands. After learning the importance of brand and learning the core technology used high standard of luxury brands. Sometimes having worked in the past as subcontracted manufacturers of their goods, or parts of their goods, or purely copy those brands, a few counterfeit manufacturers have started to try to build their own brands in the same industry. Through learning similar technologies but with new idea designers, they started to make shoes and bags or apparel but with their own name. For those retailers who gave up selling counterfeit products, they are now engaging with other kinds of legal business rather than counterfeiting, such as sell organic food or open a restaurant.

The creation of their own brands means that some counterfeiters have started to explore the new licit business model in the market moving from an ‘informal economy’ to the ‘formal economy’. Unfortunately, the practical difficulties in building new brands, the preference of Western luxury brands from customers, and the profitability of such business still motivates those counterfeiters to ‘free-ride’ on existing luxury brands. Half of the interviewees in this study do not consider leaving the counterfeiting industry. The model of the counterfeiters future prescribes ways to transition from an illicit to a licit business by acting on internal forces - self-awareness of building a brand and the presence of internal capabilities to do so - and on external forces - the increasingly more aggressive legal enforcement and the increasingly governmental support to facilitate such transitions. The role of the government is extremely important in the transitions. The policy of the Chinese government is trying to provide the financial support for those SMEs to get small loans and practically help them to solve the financing difficulties

associated with innovation and setting up business with their own brands are encouraging the motivation of transition for those SMEs entrepreneurs.

8.3. The contribution of the thesis

This study aimed to contribute empirically and theoretically to the body of knowledge of the supply side of the counterfeiting industry in China and beyond. Counterfeiters are a particular type of ‘entrepreneurs’ in informal economy, which has reviewed in Section 2.7.1. The nature of the counterfeiting business and the potential risk for counterfeiters has limited the accessibility of information from counterfeiters, in particular deceptive counterfeiters. However, the nature of non-deceptive counterfeiting has made this impossibility become a possibility. Thereby, this study attempts to contribute to the theories in the related fields, including marketing and counterfeit entrepreneurship.

Firstly, this study extends the theoretical framework of counterfeiting strategies developed by Lopes and Casson (2012) with primary empirical data. The empirical data explains and extends how those counterfeiters entail different counterfeiting strategies. Extending on their work by distinguishing between non-deceptive and deceptive selling and the segmentation of customers according to quality and price, this thesis explains how the past has entailed in the present in the counterfeiting business in China. The extended framework focuses on the luxury brands products, because the luxury brands products represent an interpersonal function as customers use high-end brands to convey a certain social status and as a means of ‘self-fulfilment’ and because as statistics show they are a major category of counterfeit around the world (Bian and Veloutsou, 2007; Cesareo, 2015)

Luxury brands are very expensive to purchase. The steady improvement of the quality of counterfeit products provides an alternative to satisfy demand for customers who cannot afford the original luxury brands. Top quality products with a reasonable price tag are attracting

millions of potential customers from the whole world. The non-deceptive actors (manufacturers, wholesalers and retailers) in supply side differentiate customer segments by applying the luxury conspicuous consumption theory (Veblen, 2017). They create and employ different counterfeiting strategies. In their counterfeiting strategies, the top quality of non-deceptive counterfeiting goods can be used to target those aspirational customers to imitate the 'elite style' and the quality is good enough not to be discovered.

Secondly, this study has also contributed to extend the theory of 'entrepreneurship' (Casson, 1982) by addressing a particular type of entrepreneur who takes advantage of loopholes in the institutional environment by appropriating others' ideas. This study used the expanded definition of an entrepreneur as developed by Lopes and Casson (2007). In this study, an entrepreneur is explorer as well as exploiter who specializes in taking judgmental decisions about the coordination of scarce resources with an economic aim and under conditions of uncertainty (Casson, 1982; Lopes and Casson, 2007). The participants in my study exploited and took advantage of the existing brands and the established logistics available in China, as well as the loose regulatory framework (in its enforcement) and the demand on the customer side. They took high risks by trading their counterfeit goods internationally.

Drawing on the theory of business ethics (Frankena, 1963) at a macro level, those non-deceptive counterfeiters condemn deceptive counterfeiters, and also other counterfeiting brands in other industries, such as food and pharmacy. However, they do not consider non-deceptive luxury brands counterfeiting as an unethical business. For the non-deceptive counterfeiters who have already left the counterfeiting business, they insisted that there is nothing related to a moral issue, as they realized the importance of building their own brands. For those continuing to stay in this business, they understand that they are part of a counterfeiting supply chain, but they claimed that they do not harm any of the shareholders in this circle. Moreover, drawing on the theory of neutralization (Sykes and Matza, 1957) at the

individual level, which argue the techniques have been used to defend the delinquent. Non-deceptive counterfeiters feel their behaviours do not really cause any great harm despite the fact it counters to the law. Those participants deployed four techniques to address the cognitive dissonance associated with the 'immoral' aspects of counterfeiting: being honest, free-advertising, do not become involved with health and safety issues and comparative quality with a reasonable price. The non-deceptive counterfeiters believe that the 'goodness' of non-deceptive counterfeiting of luxury brands outweigh the 'badness' and that, overall, it has benefited the welfare of the whole society.

The imperfections of the Chinese legal system, the loose enforcement of intellectual property rights of the original brands in China, and the high demand from customers from both emerging markets and developed economies, all those factors have made those counterfeiters grab all possible opportunities available to them to coordinate those resources to exploit the brand owners in the informal economy. Therefore, this study has provided a deep understanding of how non-deceptive counterfeiters as a special type of 'entrepreneurs', to make their 'judgemental decisions' of exploiting the luxury brands in the informal economy in China.

Thirdly, by analysing the establishment and development of the counterfeiting businesses in manufacturing, wholesaling and retailing, the distribution channels and the approaches the counterfeiters developed when dealing with the government, this study also contributes to discussions around the concept of 'first mover advantage' developed by the doyen of the business historians Alfred Chandler (2009) and greatly used in management. Following the expanded definition of entrepreneurs as proposed by Lopes and Casson (2007), these counterfeiters are pioneers who engage themselves in the management of production, distribution or retailing in order to achieve competitive advantage in the counterfeiting industry. Like conventional businesses, the earlier these counterfeiting 'entrepreneurs' enter the counterfeit industry, the better resources they have, including the ability of achieve scale and

scope economies earlier than competitors, and the ability to improve the quality of the counterfeit goods. Many of the first movers in counterfeit manufacturing were formerly subcontracted by multinational enterprises producers to produce the original brands. First movers in manufacturing and also in wholesaling and retailing also have better chances of creating and building relations with government trademark officers and create a stable and reliable customer portfolio, compared with newcomers in the counterfeiting business.

Although those actors (manufacturers, wholesaler and retailers) are quite similar in terms of the first mover advantages they obtain when comparing with later entrants, the differentiation among themselves exists. As discussed in Section 5.6, comparing with wholesalers and retailers, the first movers in manufacturing are the earliest agents to access the brand core information and they have more chance to access the wholesalers and retailers from all over the world. Therefore, while they are being first movers in counterfeiting business, they are also having more chances to gain profit and move to formal business as argued by the manufacturers interviewees. Although failed story might discourage the present counterfeiters to transfer to formal business and build their own brands as Section 7.4 discussed, those manufacturers have confirmed once they have enough capability to build their own brands or move to other formal businesses, they will move from informal economy to formal economy. Comparing with manufacturers, wholesalers and retailers are more sensitive to the Chinese market and will provide the useful feedback to the manufacturers to adjust the brands manufacturers counterfeited as discussed in the Section 7.2.

Fourthly, by also considering potential learning aspects from counterfeiting through the reverse engineering and imitation, this study with empirical data highlights counterfeiting business can be an alternative form of innovation process, which has been proposed by Trott and Hoecht (2007). They suggest imitation and counterfeit products activities can actually facilitate the develop of new products.

During the process of producing and distributing counterfeiting, counterfeiters constantly learn from core information of producing high standard quality brands products. For example, the operational differences and the environmental factors existent in the luxury industry are also applicable to the informal counterfeiting industry. Regardless of the arguably illicit nature of the industry, counterfeiters are challenged by the same forces and drivers as brand owners. For instance, they need to adopt, maintain and keep up with core technology and high standards of luxury brands, they need to differentiate the customers based on the different customer segmentation, and they offer after-sales as brand owners do in order to keep good reputation. Moreover, with increasing legal enforcement in China since 2011 non-deceptive counterfeiters started to consider attitude of government on the intellectual property rights protection (China, 2012). All those factors have had a variety of effects on counterfeiters. Those understanding brands and willing to transition to the formal economy, they use their knowledge, skills, and abilities accumulated during their activity within the informal economy to build their own brands or engage other legal businesses. The Chinese government has been offering some support for such initiatives, mostly in part-fulfilment to their pledge towards transition (China, 2012).

For some counterfeiters who do not want to learn from counterfeiting business, due to the essence of profit-driven within private entrepreneurs, the stricter legal enforcement and increasing fine are the straightforward solution of stopping counterfeiting business once the cost of engaging counterfeiting business is higher the profit. As Baumol (1990) suggests , in terms of productivity and unproductivity of entrepreneurs, the society do not have to wait slow cultural change in order to find measures to redirect the flow of entrepreneurial activities toward more productive goals. In this study, the discussion from interviewees confirmed that the attitude of government about innovation and increasing legal enforcement, will influence the direction of counterfeiters activities.

8.4. Practical implications

This study has provided a deep understanding of how non-deceptive counterfeiters as a special type of ‘entrepreneurs’, who make their ‘judgemental decisions’ of exploiting the luxury brands in the informal economy in China under high uncertainty. It has also shown that deceptive and non-deceptive counterfeiters may have different impacts on society. By exploring the undisclosed strategies behind the counterfeiting business, this study has several practical implications detailed below for counterfeiters, for original brand owners, for policy makers, and for consumers. All of these are discussed below.

For original brand owners

The analysis of the counterfeiters’ strategies provides a very important and practical step in helping brand owners to discover the structured and methodical approaches of the counterfeiting business, and to use different strategies to target different types of counterfeiters. Existing research considers that lack of strict intellectual property management in OEM has offered opportunities of exploitation for counterfeiters (Chwu and Lee, 2015). Apart from brand design and innovative marketing strategies it is important for brand owners to establish very strict strategies for intellectual property rights in foreign markets. As this study has shown that are external factors that determine the spread of counterfeit businesses, cultural characteristics, weak institutional environments and increasing living standards being key in this process.

Higher quality and brand reputation are key elements in maintaining the loyalty of customers. Therefore, even those customers who buy counterfeits, irrespective of their motivations (including financial constraints) may eventually switch from counterfeit products to genuine

products or other less luxurious brands by increasing their awareness of intellectual property rights protection, in addition to their first-hand experience with luxury goods, albeit counterfeits. Moreover, tightening the cooperation between brand owners, their customers, and host country governmental authorities may minimise the impact of counterfeiting. One way of achieving this could be by providing authentic legal documents. As we know counterfeiters are very good at producing replicas of legal guarantees, therefore, set up a verify centre for genuine product to help customers to clarify the genuineness of products. In addition, based on the distinct implication of non-deceptive and deceptive counterfeiting, as Trott and Hoecht (2007) suggests that there is 'fight or cooperate' strategy . that means if companies neither capable nor willing to become potential business partner, counterfeiting should be stopped by legal enforcement. However, if counterfeiters would like to redirect their activities towards formal business, there is a possibility of brand owners make the counterfeiters become licensee by improving the standard of products. Just like Disney case mentioned by Phillips (2007).

For policy makers

The strengthening of effective legal enforcement since 2011 to regulate the counterfeiting market as strict legal raid action obviously reduces the scope of the counterfeiting business. Based on the discussion of the empirical information, the trans-regional and trans-departmental coordination in the trademark law enforcement in China is improving the supervision force and curtailing the corruption happening in the implementation process.

As mentioned previously, the main essence of all the counterfeit businesses is the maximization of profit in the short-term. However, if counterfeiters are caught and arrested, or other unfavourable events takes place, counterfeiters usually do not terminate their counterfeiting business when they come out of jail. The expected return still compensates for the risks taken, and the fines are not strong enough to demobilize them from doing so. Therefore, increasing

fining is quite a straightforward approach for dealing with counterfeiters, since increasing the fines and punishment might mitigate the further development of the counterfeiting business.

In addition, the government policy and economic development has guided the direction of counterfeiters. The attitude of the government is one of encouragement for the development of independent brands and this has greatly enhanced the confidence of small and medium-sized enterprises since 2012. Chinese government is trying hard to building an innovation-oriented country and transform the country's image from 'China manufactured' to 'China innovated' (China, 2012). Therefore, increasing government support for counterfeiters to produce original brands is starting to produce important changes, enhancing the opportunity for China counterfeiters to transition from an informal economy to a formal economy. These government incentives can act as very important mechanisms to stimulate trademark innovations and brand development in China. Some counterfeiters realised the importance of brand in the long-term development and government support has led to the confidence of building own brand financially and politically.

The remaining counterfeiters could be guided in building up their awareness of trademark and brand value, and also intellectual property rights concepts in order to promote the development of brand economy in China. The encouragement for counterfeiters to build their own brands by the government has led to the change in direction for some counterfeiters. Furthermore, in developing better policies and regulations for the sound legal environment, the government should pay attention to the education of intellectual property right protection, increasing legal awareness and promoting the importance of innovation is key. To be specific, social media agencies should actively publicise the well-known Chinese brands, actively report successful cases and advanced experience, enhance the influence of the Chinese brand, and create a good atmosphere for domestic brands. Therefore, increasing the government's own brands promotion, providing brand promotion channels and most importantly, enhancing the financial support to

those small and medium enterprises might speed the process of transition from the informal economy to the formal economy.

For consumers -Those who specifically purchase counterfeit goods

As discussed , high demand of luxury counterfeit products is one of main motivations in proliferation of non-deceptive counterfeiting business, customers as regarded as co-conspirator (Ahuvia et al., 2013) . This study suggests except both brand owners and policy makers should pay more attention on the education of customers' awareness of intellectual property protection, customers also need make effort to reduce the desire to seek counterfeit products or transfer to other genuine but light luxury brands.

8.5. Limitations and future research

Like any research project, this study has some limitations. Due to the time limit and the difficulty of accessing the counterfeiters – manufacturers, wholesalers and retailers of luxury brands, it was not possible to expand the study into deceitful counterfeit. One limitation of this study, based on the interview data, this contribution is confined to the non-deceptive counterfeiting businesses only. I was also not possible to expand the study to other industries outside of the luxury goods, such as luxury brand cosmetics, since counterfeiting luxury cosmetic if fake can be harmful for health and skin. Therefore, it would not to generalize the findings in other industries.

There are also limitations to the methodology used. As qualitative/exploratory in nature, thus, a sample of case studies was collected to illustrate counterfeiters' strategies and patterns of evolution, and not to produce a universally accepted/applicable generalizable finding.

There are also limitations from semi-structured interviews (Saunders, 2011) and the construction of knowledge as a result of the interactions between me, as a researcher, and the

participants might have led the conversations in specific directions. The sensitiveness of this research has not only limited the size of the sample, but also the selection of the sample. This study only conducted several regions in China because of the difficulties of accessing to the purposeful samples. Therefore, it might have associated with potential bias. therefore, it would also be useful to expand the number of interviews to include different countries of production and destination of counterfeiters, other than China.

There is also limitation from observation and focus group. The sensitive nature of this research and time for collecting data does not allow me to develop the big size of observation. Therefore, this might lead to 'observer bias' as Saunders (2011) mentioned. At the same time, the limitation of focus group in the research, as Gibbs (1997) noted, the member of focus group are speaking in a specific context, within a specific culture. During the focus group, the researcher has to allow participants to talk to each other and express opinion. Due to the sensitiveness of this research, although the focus group increase the possibility of open-minded talking about counterfeiting, However, the interaction of participants also increases the difficulties for me to precisely identify each individual message.

And it would be useful to compare patterns of behaviour with counterfeiters operating in other industries in China, such as other non-luxurious consumer goods such as toys, for example, Lego, which customers are happy to purchase as counterfeit (Qin et al., 2017). These comparisons are important for policy making such as the creation of incentives for the development of own brands in recent years, and the development of intellectual property rights laws in China.

Based on the findings in this study, further research is most definitely worth exploring. The evidence illustrates that four of the interviewees in this study completely gave up and moved to legally operating companies and in turn built up their own brands. There were also those counterfeiters who made a move into the legal business market, but still kept the counterfeit

business for 'financial security'. After two years since these interviews were conducted, it would be interesting to discover the sustainability of those counterfeiters who built their own brands and the transition process of those counterfeiters who kept the counterfeit business whilst looking for new opportunities.

Moreover, since some of the first mover counterfeiters who tried to build their own brands but unfortunately failed, it is most certainly worth discovering and investigating for the future research of the difficulties of building domestic brands within the luxury industry in China. Hence, it would also have been useful to investigate in more depth the process of learning by imitation through the production of counterfeits. In what cases is there learning and in what cases is there no learning.

Last but not least, the interviewees' data collected for this study and the sample size accessed would make it difficult to estimate the market effect of deceptive versus non-deceptive counterfeiting based on the different types. However, future work in this area may consider carrying out a consumer survey to be able to measure and estimate such effects.

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Appendices

Appendix 1 The court cases of foreign-related companies

The proportion of the number of foreign-related cases in total cases			
Year	Total number of counterfeits cases throughout the country (Unit: pieces)	The number of foreign-related cases in counterfeits (Unit: pieces)	The proportion of the number of foreign-related cases in total cases
2008	47045	10944	23.26%
2009	43596	10259	23.53%
2010	48548	11386	23.45%
2011	68836	16513	23.99%
2012	59085	14033	23.75%
2013	49971	11636	23.29%
2014	37219	9636	25.89%
2015	27379	6460	23.59%
2016	28189	6214	22.04%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.
 Check the details of the form (Annual Development Report on China's Trademark Strategy in 2008-2016) |

The proportion of the number of cases handled which the degree of punishment are fines under 100,000 yuan in total cases

Year	Total number of counterfeit cases throughout the country (Unit: pieces)	The number of cases handled which the degree of punishment are fines under 100,000 yuan (Unit : pieces)	The trend of the proportion of the number of cases handled which the degree of punishment are fines under 100,000 yuan in total cases
2008	47045	43270	91.98%
2009	43596	41804	95.89%
2010	48548	46821	96.44%
2011	68836	66252	96.25%
2012	59085	57706	97.67%
2013	49971	37223	74.49%
2014	37219	27279	73.29%
2015	27379	19075	69.67%
2016	28189	19360	68.68%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.

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Appendix 2 Court-agreed fines for less than 100,000 Yuan

Appendix 3 Court-agreed fines for more than 100,000 Yuan

The proportion of the number of cases handled which the degree of punishment are fines over 100,000 yuan in total cases

Year	Total number of counterfeits cases throughout the country (Unit : pieces)	The number of cases handled which the degree of punishment are fines between 100,000 and 1 million yuan (Unit : pieces)	The number of cases handled which the degree of punishment are fines over 1 million yuan (Unit : pieces)	The number of cases handled which the degree of punishment are fines over 100,000 yuan (Unit : pieces)	The proportion of the number of cases handled which the degree of punishment are fines over 100,000 yuan in total cases
2008	47045	318		318	0.68%
2009	43596	226		226	0.52%
2010	48548	259		259	0.53%
2011	68836	360		360	0.52%
2012	59085	372		372	0.63%
2013	49971	1195	20	1215	2.43%
2014	37219	1148	4	1152	3.10%
2015	27379	721	6	727	2.66%
2016	28189	707	7	714	2.53%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.
 Check the details of the form (Annual Development Report on China's Trademark Strategy in 2008-2016)

The proportion of the number of internet-related cases in total cases

Year	Total number of counterfeit cases throughout the country (Unit: pieces)	The number of internet-related cases in counterfeit (Unit: pieces)	The proportion of the number of internet-related cases in total cases
2008	47045	-	-
2009	43596	-	-
2010	48548	-	-
2011	68836	-	-
2012	59085	-	-
2013	49971	647	1.29%
2014	37219	416	1.12%
2015	27379	300	1.10%
2016	28189	361	1.28%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.

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Appendix 4 Internet-related court cases

The proportion of number of foreign-related cases in total cases which are cases transferred to judicial

Cases transferred to judicial in counterfeits (Unit: pieces)			
	Number of cases	Number of foreign-related cases	The proportion of number of foreign-related cases in total cases which are cases transferred to judicial
2008	137	65	47.45%
2009	92	48	52.17%
2010	175	66	37.71%
2011	421	210	49.88%
2012	576	374	64.93%
2013	362	177	48.90%
2014	300	187	62.33%
2015	164	76	46.34%
2016	203	124	61.08%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.

Check the details of the form (Annual Development Report on China's Trademark Strategy in 2008-2016)

Appendix 5 Foreign-related cases transferred to judicial

Appendix 6 Total number of court-cases overall: 2008-2016

Year	Total number of counterfeit cases throughout the country (Unit: pieces)	The number of foreign-related cases in counterfeit (Unit: pieces)	The proportion of the number of foreign-related cases in total cases	The number of cases handled	The proportion of the number of cases handled which the degree of punishment are fines under 100,000 yuan and over 100,000 yuan in total cases	The number of cases handled which the degree of punishment are fines under 100,000 yuan (Unit: pieces)	The trend of the proportion of the number of cases handled which the degree of punishment are fines under 100,000 yuan in total cases	The number of cases handled which the degree of punishment are fines between 100,000 and 1 million yuan (Unit: pieces)	The number of cases handled which the degree of punishment are fines over 1 million yuan (Unit: pieces)	The number of cases handled which the degree of punishment are fines over 100,000 yuan (Unit: pieces)	The proportion of the number of cases handled which the degree of punishment are fines over 100,000 yuan in total cases
2008	47045	10944	23.26%	43588	92.65%	43270	91.98%	318	318	318	0.68%
2009	43596	10259	23.53%	42030	96.41%	41804	95.89%	226	226	226	0.52%
2010	48548	11386	23.45%	47080	96.98%	46821	96.44%	259	259	259	0.53%
2011	68836	16513	23.99%	66612	96.77%	66252	96.23%	360	360	360	0.52%
2012	59085	14033	23.75%	58078	98.30%	57706	97.67%	372	372	372	0.63%
2013	49971	11636	23.29%	38438	76.92%	37223	74.49%	1195	20	1215	2.43%
2014	37219	9636	25.89%	28431	76.39%	27279	73.29%	1148	4	1152	3.10%
2015	27379	6460	23.59%	19802	72.33%	19075	69.67%	721	6	727	2.66%
2016	28189	6214	22.04%	20074	71.21%	19360	68.68%	707	7	714	2.53%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.

Check the details of the form (Annual Development Report on China's Trademark Strategy in 2008-2016)

Appendix 7 No. 18 and 25 registrations

	Registrations	Registrations of No.18 (Leather Products)	Registrations of No.25 (Clothing and shoes)	The percent of registrations of No.18 and No.25 in all registrations (%)
2008	403,469	8,664	45,977	13.54%
2009	837,643	18,551	95,796	13.65%
2010	1,349,237	30,464	135,649	12.31%
2011	1,022,698	23,086	102,181	12.25%
2012	1,004,897	27,059	116,538	14.29%
2013	996,724	26,978	107,359	13.48%
2014	1,375,104	35,984	148,807	13.44%
2015	2,226,441	50,160	226,894	12.44%
2016	2,254,945	40,266	161,502	8.95%

Source: Developed by the author based on the data of Annual Development Report on China's Trademark Strategy in 2008-2016. Publisher: State administration for industry & commerce of the People's Republic of China.

Check the details of the form (Annual Development Report on China's Trademark Strategy in 2008-2016)

Appendix 8 Trademark offenses in China in 2016

Statistics of General Trademark Offenses Throughout the Country in 2016

Unit: Piece, Ten thousand Yuan

Region	General illegal			Infringement and counterfeiting		
	Cases	Values	Fines	Cases	Values	Fines
Beijing	7	8.7	2.82	1250	1140.28	1839.1
Tianjin	35	128.15	55.97	332	419.70	441.82
Hebei	225	95.00	198.09	688	505.34	863.15
Shanxi	26	8.13	11.03	253	94.44	148.83
Inner Mongolia	48	16.46	37.60	128	154.94	807.26
Liaoning	21	23.67	17.74	309	274.35	351.27
Jilin	20	303.26	19.67	227	510.34	272.04
Heilongjiang	0	0	0	184	340.77	99.03
Shanghai	26	112.63	108.63	1227	575.30	719.63
Jiangsu	62	240.46	196.64	2038	3234.39	3813.85
Zhejiang	284	5575.37	355.86	3643	11615.24	7702.41
Anhui	115	57.80	33.04	2910	1277.39	1425.56
Fujian	150	110.29	104.01	1152	1387.11	2115.49
Jiangxi	28	17.83	38.72	251	404.10	402.69
Shandong	105	94.43	82.47	1153	775.09	1220.01
Henan	412	356.96	295.45	1627	1524.03	1413.28
Hubei	732	988.54	776.64	1843	1999.81	2231.6
Hunan	196	403.10	298.80	486	778.21	782.57
Guangdong	157	424.34	178.66	4004	4228.82	4842.29
Guangxi	62	84.60	209.71	696	536.48	379.19
Hainan	35	37.02	26.53	162	379.54	164.37
Chongqing	37	12.62	68.70	237	292.17	414.32
Sichuan	76	50.12	71.09	827	813.25	774.79
Guizhou	219	110.73	136.19	540	501.67	309.32
Yunnan	56	30.28	43.92	418	413.53	321.70
Tibet	21	7.62	4.69	70	91.16	58.96
Shaanxi	182	71.14	1632.80	420	69.02	243.71
Gansu	59	55.86	38.90	255	481.28	191.97
Qinghai	19	1.41	8.20	90	41.35	38.17
Ningxia	3	0.73	1.00	126	36.41	50.32
Xinjiang	147	104.86	92.47	643	549.49	421.16
Total	3565	9532.11	5146.04	28189	35445	34859.86

Appendix 9 Ethics approval



Tony Royle <tony.royle@york.ac.uk>

01/06/2016 12:28



To: Jing Han Cc: Debbie Haverstock

Dear Jing

After consulting with members of the committee it has been agreed that you have now met the requirements of the committee, your application is therefore now approved

Best wishes

Professor Tony Royle
Chair ELMPS

Appendix 10 Interview questions

No.	Questions	Remarks
1	<p>Introduction:</p> <ul style="list-style-type: none"> • Thank the interviewee for willing to take part in the research • Build trust by introducing myself and the background of this research • Emphasis and assure the anonymities of this research and confidentiality. 	Building trust and respect to gain rapport with the interviewees because of the sensitivities of this topic
2	Background of interviewees, and how do you define your position from manufacturers, wholesalers and retailers and why?	To get interviewees' position in the supply side
3	Do you sell counterfeiting as non-deceptive means and are you sure all customers are knowing the truth? how do you do this?	To confirm their nature of doing business to continue interviews
4	When do you started doing counterfeiting business, what is the motivation of doing this business?	To get the interviewees' motivation of entering the counterfeiting business
5	What kind of products do you produce/sell, which brand do you counterfeited, do you produce/sell single brands or multiple brands? How do you define the quality of the products?	To get the information of counterfeited brands
6	How much profit margin do you have generally as producers/wholesalers/retailers	To get the information of profit margin
7	What is way of they sell it, online or offline? Where do your customers come from and how those customers contact with you?	To get the information of distribution and customers
8	Do you think producing/selling counterfeiting is unethical? how do you distinguish the difference between you and deceptive counterfeiting?	To get their opinions of business ethic decision
9	do you think counterfeiting will damage the original brands? What is difference/similarity between you and original brands	To get their opinions of how non-deceptive counterfeiting affect original brands
10	Do you have "guanxi" (relationship) with government officer? Especially trademark officers who in charge of counterfeiting cases	To get the information of how they deal with their business as illicit business
11	How is the Chinese legal enforcement according to their experience, do you have experience being caught?	To get the information of the implementation of Trade mark law
12	Do you have any learning during those years of being producing and selling counterfeiting? Have you ever consider	To get the information of their learning and plan

	leaving? if you do, what is your plan? What kind of industry or business you are going to engage	
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