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Understanding copycat packaging: A systematic review and research directions

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Understanding copycat packaging: A systematic review and research directions

Abstract

Purpose – The literature on copycat packaging has developed intermittently over a 30-year period, resulting in a divergent and fragmented body of knowledge. This paper synthesises the extant literature to highlight the main developments in the marketing, legal and design fields, and, in doing so, contributes to a holistic understanding of the research area and suggests directions for future research.

Design/methodology/approach – A systematic literature search retrieved 5,862 articles, and after filtering against explicit criteria, 49 studies were reviewed. These articles were subsequently evaluated and interpreted, producing a synthesis of current research.

Findings – The constructs of copycat packaging, including similarity-related concepts, consequences of copycat packaging, and mitigating approaches, have been reported across three disciplines of marketing, legal and design, each having its own distinct focus but nonetheless sharing overlapping themes.

Research limitations/implications – This review discusses future directions and proposes a framework of research themes relating to brand enhancement for online purchasing, measurement of brand confusion, reinforcing design features, and approaches to mitigating copycat practices.

Originality/value – This study is the first systematic review of the literature on copycat packaging. It brings together the latest thinking on copycat packaging and identifies distinct research issues to be addressed in future studies.

Keywords Copycat, Packaging, Package similarity, Systematic literature review

Paper type Literature review

1. Introduction

Copycat packaging is a practice in which a lower-cost brand emulates the overall appearance of a market leader's packaging (Warlop and Alba, 2004; Van Horen and Pieters, 2012a,

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3 2013). By closely following the design cues of leader brands, copycats benefit from the
4 positive associations of the leader brand. The aim of copycats is to employ highly similar
5 features of packaging design to signal their products are “the same” as leading brands but for
6 a lower price (Crettez *et al.*, 2018). Through the skilful manipulation of design, copycat
7 packaging manages to look similar to the leader brand but, crucially, not identical, making it
8 problematic for the leader brand to successfully pursue an infringement case via the legal
9 system (Wilke and Zaichkowsky, 1999).

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12 This type of imitation emerged in the 1980s, when retailers changed their packaging strategy
13 from a generic design, typically black-and-white in appearance with little or no graphics, to a
14 more branded presence (Fitzell, 1996; Balabanis and Craven, 1997). This change triggered
15 the tendency for private label “brands” to embrace the practice of imitating leader brands
16 (Kapferer, 1995) with one study reporting half of all private labels mimicking the appearance
17 of leading brands’ packaging (Scott-Morton and Zettelmeyer, 2004). Despite its prevalence
18 copycat packaging has only attracted intermittent scholarly interest over the past three
19 decades, primarily from the fields of marketing, design, and legal literatures. This has
20 resulted in a range of studies, each with differing foci, that has culminated in a fragmented
21 body of literature that provides little understanding on how leader brands might manage the
22 threat of copycat packaging.

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25 Given the perceived unfairness of copycat packaging, a large number of previous studies
26 have focused on issues connected to legal protection. Experimental studies have explored
27 copycats in relation to misleading consumers (Foxman *et al.*, 1990; Warlop and Alba, 2004;
28 Miceli and Pieters, 2010; Satomura *et al.*, 2014) and demonstrated that consumer confusion
29 was not solely down to packaging design, but a range of variables, such as the characteristics
30 of the product category and the consumer’s familiarity of the category (Van Horen and
31 Pieters, 2017; Herm and Möller, 2014). More recent studies have proposed scales of imitation
32 (Van Horen and Pieters, 2012a; Kelting *et al.*, 2017; Nguyen and Gunasti, 2018), providing
33 insight into how similarity can be perceived, yet there remains no internationally accepted
34 agreement on measuring the similarities of packaging design.

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37 Previous research has explored the similarity concept through its impact on consumers. Since
38 consumers take visual cues that are familiar to specific categories of products, studies have
39 sought to examine how they can distinguish between similarity, typicality and novelty (Le
40 Roux *et al.*, 2016a; Kim and Petitjean, 2021). Such studies have focused on distinct
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3 categories in isolation, leaving it difficult to draw parallels to different categories. Related
4 studies have also considered the importance of familiarity and typicality in relation to
5 categories of consumer products, highlighting the importance of categorical features that
6 become typical over time and consequently serve to aid consumer recognition and navigation
7 (Loken and Ward, 1990; Nedungadi and Hutchinson, 1985; Miceli and Pieters, 2010).
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9 Related to this line of enquiry, numerous studies have explored consumer confusion and
10 mistaken purchases, where consumers accidentally purchase a copycat item in the belief they
11 are purchasing the leading brand (Finch, 1996; Kapferer, 1995; Miaoulis and Damato, 1978;
12 Zaichkowsky, 2020). While these studies have distinguished between types of confusion,
13 such as behavioural and perceptual, these studies offer no solutions to leader brands
14 attempting to protect their brand assets.

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16 Several types of studies have examined the widely used strategies of leading brands, in
17 response to copycat packaging, such as negotiation, redesigning the package, releasing a
18 fighter brand, taking legal action, using advertisements and using specific design features to
19 restrict copycat practice (Schnaars, 2002; Collins-Dodd and Zaichkowsky, 1999; Wang *et al.*,
20 2024a). Although these strategies are relevant and partially successful, they only become
21 effective after the imitation has occurred. Such responsive actions are resource-intensive and
22 offer little reliability in securing a successful outcome. From the time copycat practice has
23 been identified and negotiations have been initiated, the copycat packaging can be on the
24 shelf having an impact against leading brands throughout the duration of the negotiations.

25
26 Facing such a fragmented body of literature, some of it dated or occurring sporadically, and
27 focusing on different aspects of copycat practice, there is a need to take stock of what is
28 known about copycat packaging. Therefore the aim of this research was to build a
29 comprehensive understanding of the field by asking: What do we currently know about
30 copycat packaging, and what research opportunities might be fruitful directions moving
31 forward? To this end, the paper offers the following contributions. First, this study
32 synthesises the different streams of literature in marketing, design and legal into three distinct
33 categories to highlight current thinking in copycat packaging. Second, this review proposes a
34 series of research gaps and their related research questions for future studies through
35 systematic engagement with the research in the related disciplines to extend the key issues in
36 copycat packaging. Third, by adopting a holistic view of current copycat knowledge,
37 managers and practitioners can gain a thorough oversight of the key considerations for
38 managing and mitigating copycat packaging. This paper begins by describing the process of
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3 conducting the systematic search of articles and their subsequent analysis. Next, the results of
4 the review process are conceptualised into three themes: (1) similarity-related concepts, (2)
5 consequences of copycat packaging, and (3) mitigating approaches. Finally, the implications
6 of this review are discussed and future research directions are proposed.
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10 11 12 13 **2. Methodology**

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15 A systematic literature review was adopted to identify, evaluate and synthesise the key
16 themes and developments of the copycat concept (Kitchenham, 2004; Kraus *et al.*, 2020).
17 Systematic reviews are considered a suitable process for searching and examining large
18 volumes of information from a wide range of sources (Tranfield *et al.*, 2003; McKibbin,
19 2006). This was particularly appropriate for this study, given the divergent literature and
20 fragmented body of knowledge. The advantage of the systematic approach is that it offers a
21 rigorous, transparent and replicable process for capturing the key developments in the field
22 and reduces some of the biases commonly associated with other types of literature reviews
23 (Tranfield *et al.*, 2003; Pittaway *et al.*, 2014; Palmatier *et al.*, 2018). By following this
24 approach the review process consisted of three distinct phases: the search phase, the
25 screening phase, and the interpretation and reporting phases (Moher *et al.*, 2009; Kraus *et al.*,
26 2020; Page *et al.*, 2021).
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37 The search strategy was organised around two principal keywords: “copycat” and
38 “packaging”. To ensure that a broad range of papers from different research areas were
39 captured, the search string encompassed terms related to copycat practice, including
40 “lookalike” (Balabanis and Craven, 1997), “similarity” (Miceli and Pieters, 2010; Person *et*
41 *al.*, 2008), “imitation” (Lai and Zaichkowsky, 1999) and “trade-dress” (Finch, 1996). The
42 terms “packaging,” “package,” “brand,” and “product” were included in the search because
43 copycat practice is most associated with the packaging of a product brand. Thus, the
44 keywords used for searching across the databases were “copycat OR lookalike OR similar
45 OR imitation OR ‘trade dress’ AND packaging OR package OR brand OR product”.
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53 Table I presents the inclusion and exclusion criteria used to ensure the relevancy of studies in
54 the search. To identify all copycat packaging studies across the entire corpus of literature, no
55 time constraints were placed on the inclusion criteria of the search, other than the material
56 had to have been published before the first quarter of 2024. The following criteria were used
57 to determine the study materials: First, peer-reviewed studies ensured high quality materials,
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3 so priority was placed on identifying journal articles, review articles, books, and book
4 chapters. Practitioner case studies, published in professional reports, were also included
5 because they discussed insights gained from direct experience of responding to copycat
6 phenomenon. This combination of materials facilitated capturing the broader scope between
7 theory and practice, ensuring a comprehensive understanding of copycat packaging.
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12 Second, as suggested by previous studies (Childs, 2017; Mingione, 2015), only studies
13 written in English could be included, because they had to be accessible in the researchers'
14 natural language. Third, studies which focused on the appearance of FMCG products, or had
15 insights that were considered transferable to the FMCG domain, were included since the
16 copycat phenomenon has greater prevalence among FMCG products. This review was limited
17 to product-centric studies and packaging-centric studies because packaging can be considered
18 as part of the product (Rundh, 2005), particularly in FMCG categories, where the product and
19 package are considered the same in consumers' minds (Schoormans and Robben, 1997).
20 However, studies examining the copycat phenomenon within technologies, advertisements,
21 services and product development processes were excluded, as this extended beyond the
22 scope of this review.
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32 < **Insert Table I** Inclusion and exclusion criteria >
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35 These protocols were used to scan the following online academic databases: Web of Science,
36 Scopus, Science Direct, and Emerald. As copycat packaging spans different disciplines, such
37 as marketing, legal and design, the most relevant databases were used to capture as diverse a
38 range of sources as possible. By using different databases, the biases and limitations of
39 singular databases were minimised (Dabić *et al.* 2023; Bramer *et al.*, 2017). The search
40 process is illustrated in Figure 1. Using the aforementioned criteria, Web of Science returned
41 2,532 items; Scopus returned 1,620 items; Science Direct returned 1210 items; and Emerald
42 returned 500 items for initial screening, based on the title, abstract and keywords. Such large
43 results were due to the wide range of disciplinary areas, including those from non-marketing,
44 non-legal and even non-design sources such as medicine, chemical science, and engineering.
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52 After removing the duplicates, the remaining articles were screened to determine whether
53 they met the search criteria, based on the title, abstract and keywords. From this initial
54 screening, 3,923 papers were excluded because they did not focus on FMCG products,
55 typically papers located in the disciplines of medicine, chemical science, and engineering
56 (Shih *et al.*, 2010; Pellegrino *et al.*, 1996). Following the initial screening process, 89 full-text
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3 articles were evaluated to ensure they met the inclusion criteria. Articles that were neither
4 packaging-centric nor product-centric were rejected since they explored the similarity
5 concept in broader settings, such as imitation in the product development process
6 (Narasimhan and Turut, 2013), in technologies (ter Braak and Deleersnyder, 2018), in
7 services (Cova and Cova, 2019) or in advertisements (Ehrenberg *et al.*, 1997). However,
8 product-centric studies (Schreiner *et al.*, 2017) as well as packaging studies, were included
9 because the approaches share similarities that are equally applicable. Additionally, the
10 “snowballing technique,” suggested by previous researchers (Mingione, 2015; McKibbin,
11 2006), revealed a further 12 relevant studies that were included as contributing articles to this
12 systematic review.
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16 From the remaining studies the authors independently extracted data by creating data
17 extraction forms on Microsoft Excel to help minimise individual researcher bias and avoid
18 omitting important data (Tranfield *et al.*, 2003; Rousseau *et al.*, 2008). The following
19 information was extracted from each study: information on the study (authors and year),
20 purpose, methodological approach, sampling, and key findings on copycat practice and
21 theory (See – Online Appendix Table A, available at: <https://doi.org/10.5518/1561>). The final
22 data set comprised 49 relevant research articles.
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26 In keeping with established approaches to thematic analysis (Tranfield *et al.*, 2003; Braun
27 and Clarke, 2006; Kraus *et al.*, 2022; McColl-Kennedy *et al.*, 2017; Riboldazzi *et al.*, 2021;
28 Liñán and Fayolle, 2015), the authors independently coded the articles according to the key
29 concepts that emerged from the text. These initial codes were grouped into sub-themes, then
30 refined into broader categories based on their relationship. To minimise potential bias, all
31 instances of disagreement were discussed in depth to resolve discrepancies. As a result, 16
32 sub-themes were subsequently synthesised into three major themes of copycat branding that
33 serve to inform future research enquiries (Figure 2).
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37 < **Insert Figure 1** Systematic literature review process >
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3. What is known about copycat packaging

From the analysis, three major themes emerged: similarity-related concepts, consequences of copycat packaging, and mitigating approaches. Firstly, similarity-related concepts of copycat packaging have explored issues connected to the characteristics that are either common or

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3 distinct within product categories, focusing on notions of similarity, typicality, and novelty.
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5 Secondly, discussions on the consequences of copycat packaging have focused on the
6
7 perspectives of consumers, such as the potential for misidentification of products and the
8
9 encroachment on a brand's visual identity. Thirdly, mitigation strategies of copycat
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11 packaging have been discussed in relation to the collective mechanisms that can help leading
12
13 brands defend against copycat packaging. These three themes are discussed in greater detail
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15 below.

16 **Similarity-related concepts**

17 **Similarity**

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22 Early attempts to understand copycat packaging in the marketing literature originated from
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24 studies on the concept of similarity. Perceived similarity judgement involves a comparison
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26 between copycat brands and leading brands that depends on the degree of similarity and
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28 evaluation mode of consumers (Van Horen and Pieters, 2012a; Qiao and Griffin, 2022).
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30 Consumers' perceptions of similarity are influenced more by packaging designs that are
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32 holistically similar to leading brands (Qiao and Griffin, 2022). Under comparative evaluation
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34 between copycat brands and leading brands, moderate copycats were evaluated more
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36 positively than both high-similarity and low-similarity copycats (Van Horen and Pieters,
37
38 2012a). However, under non-comparative evaluation, where there was an absence of a
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40 leading brand, high-similarity copycats were evaluated most positively because consumers
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42 assimilated to the leading brand for the established norms of the category (Van Horen and
43
44 Pieters, 2012a).

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46 A more recent study found that the placement of products can affect how consumers evaluate
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48 the similarity (Braxton *et al.*, 2019). Retailers generally place copycat products adjacent to
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50 the leading brand product; however, it was demonstrated that a copycat product is evaluated
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52 more favourably when the copycat product is presented separately, not adjacent to the leading
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54 brand product (Braxton *et al.*, 2019). When a consumer evaluates a copycat product in the
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56 presence of a leading brand product, the differences between them become more apparent,
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58 whereas when a consumer evaluates the copycat product in the absence of the leading brand,
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60 similarities seem more apparent because the consumer relies on the recall of familiar
associations (Braxton *et al.*, 2019).

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3 Familiarity, which arises from the consumers' previous experiences with a product and/or
4 brand, affects how consumers evaluate copycat packaging (Kelting *et al.*, 2017). When
5 consumers have no prior experience with a copycat product, the copycat is interpreted
6 positively because the similarity in package design to the brand leader is taken to infer a
7 similarity of quality, performance, and reliability (Collins-Dodd and Zaichkowsky, 1999).
8 However, when consumers have familiarity with a copycat, the similarity of design to the
9 leading brand has been shown to be perceived negatively because consumers can perceive it
10 as a deliberate ploy to mislead (Van Horen and Pieters, 2013). Familiarity with a leading
11 brand has a greater impact on the consumers' design similarity perception between copycat
12 and leading brands: when consumers are more familiar with a leading brand, they tend to
13 exhibit greater loyalty; thus, they perceive less similarity between copycat and leading brands
14 (Zhou, 2022).

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25 The concept of similarity changes over time and is influenced by the product life cycle. In the
26 early stages of a product's life cycle, firms typically attempt to evoke familiarity by designing
27 products that look similar to competitors, while seeking to differentiate their designs in the
28 later stages of a product life cycle, when consumers are already familiar with the product
29 category (Person *et al.*, 2008).

30 31 32 33 34 35 *Typicality*

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37 When similar visual codes for packaging occur frequently within a product category, they
38 begin to typify the features associated with the specific category of products (Celhay and
39 Trinquocoste, 2015). Over time, visual codes become expected by consumers and
40 representative of their specific product categories (Celhay *et al.*, 2017; Le Roux *et al.*,
41 2016b). The category effect, therefore, is an important consideration that influences both the
42 prevailing and distinctive design features across different product categories. For example, it
43 can be seen how the colour black could create a novel appearance for a washing machine, but
44 not for a single-lens reflex camera (Mugge and Schoormans, 2012).

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51 Retailers use this argument to claim that their own-label product packaging is designed to
52 reflect established category norms, and not directly copied from the leading brands (Rafiq
53 and Collins, 1996). This argument suggests that leading brands are the ones who determine
54 the norm for the design cues of a product category, and that their brand packaging merely
55 acts as a signpost to help consumers recognise product-types more easily. Retailers argue that
56 brands in the same category should continue to use similar features that are familiar to
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3 consumers in order to aid recognition and product navigation (Kapferer, 1995; Loken and
4 Ward, 1990; Nedungadi and Hutchinson, 1985). Typicality is also instrumental for consumers
5 considering high risk purchases, as research has shown consumers usually opt for packaging
6 that exhibits typical features of the category over atypical features; conversely, consumers
7 tend to choose atypical packaging in situations that are perceived as low risk (Celhay and
8 Trinquécoste, 2015; Campbell and Goodstein, 2001).
9

14 *Novelty*

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17 Scholars from the design field have worked on the concept of novelty, often used
18 interchangeably with design newness, atypicality, and uniqueness in relation to copycat
19 packaging. Extant literature has shown the positive effects of novelty, such as evoking
20 curiosity, increasing visibility, and attracting more attention (Schoormans and Robben, 1997).
21 Successive studies have shown that consumers associate a novel design with greater
22 performance and quality (Mugge and Schoormans, 2012; Kim and Petitjean, 2021). While
23 breaking with the visual codes for a product category has benefits, and distinctiveness is a
24 critical element for developing a sustainable brand (Herm and Möller, 2014), if a product and
25 its packaging design are too distinctive and have an extremely novel appearance in relation to
26 its product category, consumers may not recognise the cues familiar to the category, thereby
27 not considering it in the purchasing phase (Mugge and Schoormans, 2012; Person *et al.*,
28 2008). Therefore, the degree of novelty and typicality becomes important. Related to this is
29 the concept of 'Most Advanced Yet Acceptable,' which suggests that designs should be as
30 novel as possible while preserving the acceptance of consumers (Hekkert *et al.*, 2003; Loewy,
31 1951). For example, although Barossa wines employ dominant visual codes of the category,
32 regarding typography, layout and colours, they present distinctive themes and styles of
33 illustration (Celhay *et al.*, 2017).
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47 When packaging has a theme that is distinctive from the themes of the product category, and
48 the theme is depicted with distinctive features, it is categorised as a novel package (Mugge
49 and Schoormans, 2012; Person *et al.*, 2008; Table II). If the packaging has one or two
50 features which are homogenous to the category codes, this refers to a typical package (Celhay
51 and Trinquécoste, 2015). On the other hand, copycat packaging refers to the resemblance in
52 the overall appearance of a leading brand's packaging, rather than the similarity of one or two
53 individual design elements (Van Horen and Pieters, 2012a; Finch, 1996).
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3 In copycat packaging, imitation of a theme that is similar to the leading brand is referred to as
4 a theme-based copycat, such as the simulation of the freshness of Alpine milk in the Milka
5 chocolate packaging (Van Horen and Pieters, 2012b). As theme-based copycats are indirectly
6 linked with the leading brand through a shared semantic meaning and not directly comparable
7 visual attributes, they are likely to be perceived as less similar, more acceptable, and less
8 unfair by consumers (Van Horen and Pieters, 2012b). By contrast, an attribute-based copycat
9 occurs when there is an imitation of the specific design features of the leading brand, such as
10 the colours, shapes and graphical elements (e.g., copying the lilac colour of the Milka
11 chocolate packaging). Debates around the copycat concept have primarily focused on specific
12 feature imitation, as this is believed to lead to confusion and mistaken purchases among
13 consumers (Finch, 1996; Kapferer, 1995; Miaoulis and Damato, 1978; Zaichkowsky, 2020).
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23 As an example of the contrast between novelty, typicality and copycat, the packaging of
24 Lurpak (Table III) deviates strongly from the norms of the butter category, characterised by
25 palettes of yellow and themes of naturalness, by employing silver and navy-blue colour
26 combinations, alongside a heraldic crest and a Scandinavian prefix. Through these elements,
27 Lurpak aims to convey the themes of prestige, premium, longevity, and Scandinavian origin.
28 In contrast, the packaging of Anchor demonstrates typicality in its packaging since it employs
29 a palette of yellow and green, and graphics based on natural scenery to convey the theme of
30 naturalness. However, the packaging of Nordpak has a similar overall appearance to that of
31 Lurpak, in respect to the crest, the silver and navy colour combination, and the Nordic prefix,
32 referring to the country of origin, emulating the similar themes of prestige, premium, and
33 Nordic origin.
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43 < **Insert Table II** Differences between related concepts >
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45 < **Insert Table III** The packaging examples related to the concepts >
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49 **Consequences of copycat packaging**

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51 One of the themes to receive the most attention is the consequences of copycat packaging.
52 Studies have shown that copycat packaging can have negative consequences for consumers
53 and leading brands (Miceli and Pieters, 2010; Foxman *et al.*, 1990; Rafiq and Collins, 1996;
54 Kapferer, 1995).
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59 *Consumer perspective*
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3 Unsurprisingly the close resemblance between a copycat brand and a leading brand can
4 confuse consumers (Miceli and Pieters, 2010; Kapferer, 1995; Foxman *et al.*, 1990).

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6 Consumer confusion can benefit both the copycat manufacturer and the retailer by creating
7 consumer confusion through the use of copycat packaging rather than employing other
8 marketing efforts (Zha *et al.*, 2022; Guo *et al.*, 2023). Consumers with higher personal
9 involvement in a product category will have greater awareness and familiarity of product
10 offerings and, therefore, less likely to be confused by brand imitation strategies (Foxman *et*
11 *al.*, 1990); however, low-price products, which are subject to impulse purchases, were found
12 to be more likely to confuse shoppers (Balabanis and Craven, 1997).
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20 Consumers who are highly familiar with a product category are less likely to be confused by
21 a copycat than consumers with low familiarity, since mistaken purchases mostly occur on the
22 first purchase and less likely on subsequent purchases (Herm and Möller, 2014). Although it
23 is claimed that confusion is unlikely when similarly packaged products have clearly
24 distinguishable brand names (Warlop and Alba, 2004), Herm and Möller (2014) indicate that
25 consumers can be confused by the visual similarity between a copycat brand and a leading
26 brand, even if they are evaluated without seeing the brand name.
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32 One of the more subtle influences of copycat packaging is the potential to imply
33 substitutability (Rafiq and Collins, 1996; Warlop and Alba, 2004; Coelho do Vale and Verga
34 Matos, 2015), particularly if this is achieved through a theme-based simulation of the leading
35 brand (Van Horen and Pieters, 2012b). As this subtle type of imitation emphasises familiar
36 themes rather than mimicking design features, it is less likely to be legally challenged by a
37 leading brand, and research suggests that theme-based copycats are perceived as more
38 acceptable and less unfair by consumers (Van Horen and Pieters, 2012b).
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45 *Leading brand perspective*

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48 Owners of leading brands are concerned with the increasing presence of copycat packaging,
49 especially in the use of design cues to tap into the associated qualities and goodwill of leading
50 brands (Johnson *et al.*, 2013; Rafiq and Collins, 1996). From a leading brand perspective,
51 copycat packaging reduces the distinction of trademarks, dilutes brand equity, and thus
52 erodes the return on financial investments (Satomura *et al.*, 2014; Collins-Dodd and
53 Zaichkowsky, 1999). When a consumer unwittingly purchases a copycat brand, there are
54 **three** possible scenarios in which firms can be affected. First, the consumer could be
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3 dissatisfied with the copycat product and consequently attribute the same low quality to the
4 leader brand without realising it, particularly in the case of mistaken purchases. Second, the
5 consumer could be satisfied with the copycat product, realise it is not the leading brand, and
6 switch preferences to the copycat brand, resulting in a loss of market share for the leader
7 brand (Foxman *et al.*, 1990; Kapferer, 1995). Third, the consumer could be dissatisfied with
8 the copycat product, but realise it is different from the intended leading brand, which
9 enhances loyalty to the leading brand. Moreover, it is argued that, for some consumers,
10 copycat brands facilitate brand enhancement: the mere availability of a cheaper copycat
11 product actually enhances the allure of the leading brand (Crettez *et al.*, 2018).

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20 Legal scholars have primarily contributed to the area of copycat packaging by discussing the
21 infringement of brand assets on packaging. Packaging can be eligible for different types of IP
22 protection, such as design, copyright, and trademark protection. Packaging features, such as
23 lines, contours, colours, shapes, and textures, can all be protected under design rights if they
24 are deemed novel. Coca-Cola's contour bottle design, which was granted in 1923 in the
25 United States (Registered Designs Act 1949, 2022), is an example. Packaging's layout,
26 graphics and texts can be subject to copyright protection (Copyright, Designs and Patents Act
27 1988, 2021), whereas its functional or utilitarian features would be protected as patents.
28 Packaging elements, such as words, colours, and shapes can be registered as trademarks if
29 they have a distinctive character and are not functional (Trade Marks Act 1994, 2021). The
30 triangular shape of Toblerone chocolate bar, the curved bottle of Perrier, and the purple
31 colour for Cadbury are well-known examples of trademarks in relation to packaging elements
32 (Zaichkowsky, 2020).

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43 In addition to the individual features of packaging facilitating trademark protection, the total
44 image and overall appearance of packaging can be protected as trade-dress under trademark
45 law in cases where this is considered distinctive and wholly associated with one brand (Trade
46 Marks Act 1994, 2023). The argument is that such assets protect the public by ensuring
47 consumers can rely on a trademark as an indicator of origin, and protect businesses by
48 ensuring their investments are not misappropriated by third parties (Finch, 1996). Exemplary
49 cases of trade-dress protection can be found in the distinctive packaging of Coca-Cola, Haig
50 & Haig whiskey, and the Galliano liqueur, which are deemed non-functional but unique to
51 the brand within their respective product category (Miaoulis and D'Amato, 1978; Rutherford
52 *et al.*, 2000).

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3 A dominant theme within the legal literature has been the prevalence of similarity in
4 packaging design, referred to as 'trade-dress' infringement. When consumers are likely to be
5 confused, mistaken or deceived about the source of the goods being sold, or when a copycat
6 takes unfair advantage of the trademark of a leading brand, trade-dress infringement occurs
7 (Finch, 1996). Brand confusion is a key criterion for trade-dress infringement, and is widely
8 investigated in the literature through different measurement methods which can be in-store or
9 out-of-store, such as questionnaires (Balabanis and Craven, 1997; Miaoulis and D'Amato,
10 1978), showcards (Balabanis and Craven, 1997), blur-focus (Kapferer, 1995) and
11 tachistoscopic measures (Kapferer, 1995). While questionnaires can be used to measure
12 behavioural confusion of consumers by interviewing in-store immediately after they have
13 purchased a copycat product (Miaoulis and D'Amato, 1978), a tachistoscope can measure
14 perceptual confusion out-of-store by exposing consumers to images of similar packaging on a
15 screen and asking about their expressions (Kapferer, 1995). The literature makes a clear
16 distinction between perceptual confusion and behavioural confusion, the latter referring to the
17 act of buying a copycat product under the belief that it is the leading brand (Mitchell and
18 Kearney, 2002). Various instruments that measure only perceptual confusion, not behavioural
19 confusion, are used in numerous countries, such as France, but concerns over the validity and
20 low relevance have resulted in these not being accepted in other countries, including the UK
21 (Mitchell and Kearney, 2002). Therefore, there remains no standardised, agreed method to
22 support a claim of confusion.

23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 **Mitigating approaches**

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41 When leading brand owners confront copycat phenomena, they use five strategies to combat
42 the problem: negotiation, redesigning the package, releasing a fighter brand, taking legal
43 action and employing specific design features (Schnaars, 2002; Collins-Dodd and
44 Zaichkowsky, 1999).

45 46 47 48 49 *Negotiation*

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51 The most common strategy is for leading brands to enter negotiations with copycat brand
52 owners to request the withdrawal of the copycat packaging from the market, or request a
53 packaging redesign (Kapferer, 1995). In one prominent case in the UK, Sainsbury's Classic
54 Cola imitated the packaging of Coca-Cola through the typography, the layout of graphics, the
55 use of the word 'classic' in the product name, and the use of a red and white colour
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3 combination. In response, Coca-Cola successfully negotiated that Sainsbury's change its
4 packaging and product name (Balabanis and Craven, 1997).

5 6 7 *Redesigning package*

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10 An alternative response can involve the leading brand changing its own packaging to
11 differentiate from the copycat product (Rafiq and Collins, 1996). A prominent example of
12 this was when Head and Shoulders changed its oblong shape to a distinctive curved shape to
13 distance itself from its imitators (Johnson *et al.*, 2013). The literature outlines the obvious
14 advantage of this strategy in that the leading brand gains a distinctive point of difference, at
15 least in the short term. The advantage of this change is that if copycats subsequently redesign
16 their own packaging to imitate the leader brand's change, then the copycats would have a less
17 convincing case to argue that they are merely following category norms.
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24 25 *Releasing fighter brand*

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27 An alternative strategy for the owners of leader brands is to respond with aggressive pricing,
28 either by releasing a so-called 'fighter brand' that is a lower-cost version of its leading brand,
29 or responding with promotional strategies, such as Procter and Gamble's introduction of
30 Every Day Low Pricing (Rafiq and Collins, 1996). Such strategies have been considered
31 highly effective in deterring copycats in categories where there is high-similarity between the
32 copycat and leading brands (Hou *et al.*, 2020).
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38 39 *Taking legal action*

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41 A number of studies have examined taking legal action for trademark infringement or passing
42 off to deter copycat practice (Mitchell and Kearney, 2002; Johnson *et al.*, 2013; Burt and
43 Davis, 1999). In such instances it is generally more desirable for leader brands to establish
44 consumer confusion within the legal actions for trademark infringement despite variations
45 within the different legal jurisdictions (Mitchell and Kearney, 2002). In UK law, behavioural
46 confusion has been shown to be more effective than perceptual confusion for influencing a
47 judge's opinion; however, behavioural confusion includes only mistaken purchases and no
48 other outputs of confusion, such as purchase abandonment or purchase postponement, which
49 are also considered to be contributing factors that negatively impact leading brands (Mitchell
50 and Kearney, 2002).
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3 Passing off in the UK, commonly referred to as unfair competition in other countries, is
4 another way to protect brand owners from competitors' misrepresentation of their brand
5 (Johnson *et al.*, 2013). Passing off in the UK also requires proof of the occurrence of
6 confusion, whereas unfair competition in other countries does not need proof of confusion
7 and deception (Burt and Davis, 1999).
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12 Relatively few cases have advanced to the courts, leading to a situation whereby the law
13 exists to offer protection but does not actually seem to apply in practice (Ertekin *et al.*, 2018;
14 Kapferer, 1995). The principal reason for this is the fact that pursuing legal action is
15 resource-intensive, with no assurance of success in proving consumer confusion and mistaken
16 purchase when the case reaches court (Rafiq and Collins, 1996). Litigation in this context can
17 be considered an inadequate mitigation tool. Brand owners are more willing to take legal
18 action against independent manufacturers than retailers because of the importance of
19 maintaining a favourable working relationship with retailers and not losing access to shelf
20 space (Collins-Dodd and Zaichkowsky, 1999; Finch, 1996). For this reason, it is less likely
21 for leader brands to pursue legal action because the owners of copycat brands are often the
22 retailers who distribute the products of leading brands.
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32 *Employing specific design features*

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34 Finally, mitigating approaches to copycat packaging include specific packaging design
35 features. One of the earlier design studies to look at the issue of copycats recommended
36 specific design considerations for leading brands to protect themselves from the threat of
37 imitation (Erickson, 1996; da Silva Lopes and Casson, 2012). These recommendations
38 centred around the use of sophisticated print-finishing techniques, having a unique logo,
39 holograms attached to labels, and an unusual three-dimensional shape that would be difficult,
40 or too cost-prohibitive, for competing brands to duplicate. Such a strategy is limited to
41 categories where the margins can accommodate more costly packaging, and less appropriate
42 for lower-cost category items.
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52 **4. Discussion and theoretical contributions**

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54 The literature on copycat brands has occurred intermittently over the past 30 years and
55 emerged from a number of contributory fields. By drawing from this fragmented body of
56 literature, this review addressed the question of "What do we currently know about copycat
57 packaging?" and "What should copycat research focus on looking forward?" By integrating
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3 research on this domain from the marketing, legal and design fields, this review enhances the
4 understanding of copycat phenomena and better addresses practical issues. This study
5 contributes by synthesising the literature into the three most relevant themes of copycat
6 packaging: similarity-related concepts, consequences of copycat packaging, and mitigating
7 approaches, and by highlighting the gaps that emerged from these themes (Figure 2).
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12 < **Insert Figure 2** Thematic framework of copycat packaging studies >
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15 First, the review of current literature revealed that there are related concepts in different fields
16 that contribute to the understanding of copycat packaging phenomena. Studies in marketing
17 literature have discussed the concept of similarity because this strongly affects consumers'
18 perception of copycat packaging through the degree of similarity (high vs moderate), type of
19 similarity (attribute-based vs theme-based), and evaluation mode (comparative vs non-
20 comparative) (Van Horen and Pieters, 2012a; Van Horen and Pieters, 2012b). Similarity has
21 also featured prominently in the legal literature because it has been shown to confuse
22 consumers into making mistaken purchases (Finch, 1996; Kapferer, 1995; Miaoulis and
23 Damato, 1978; Zaichkowsky, 2020).
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31 Within the **design and marketing literature** the similarity concept has been explored as the
32 diametrically opposed notions of typicality and novelty. Typicality, which is the degree to
33 which an item follows the visual codes of a specific product category, was discussed in
34 relation to the perceived risk of purchase decision (Celhay and Trinquécoste, 2015; Campbell
35 and Goodstein, 2001). These studies do not offer guidance on which level of similarity or
36 typicality may help leading brands to be accepted in a product category in different stages of
37 the product life cycle without misleading and confusing consumers. Novelty, by contrast,
38 relates to the breaking of visual codes in a product category, thus becoming a mechanism for
39 attaining distinction, which has featured in the discussions between design scholars (Mugge
40 and Schoormans, 2012; Kim and Petitjean, 2021; Person *et al.*, 2008; Schoormans and
41 Robben, 1997). Nonetheless, these studies do not provide any strategic guidance for leading
42 brands in maintaining the balance between typicality and novelty in their packaging designs.
43 Understanding this tension between typicality and novelty is essential for enabling leading
44 brands to sustain superior consumer navigation in a product category and simultaneously
45 differentiate the product within the category.
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3 This review revealed an unclear distinction between similarity, typicality and novelty. As this
4 distinction has not been widely investigated, it is still debatable what constitutes consumer
5 confusion and what leads to unfair competition. The distinction between these concepts needs
6 to be clarified, especially for legal scholars and practitioners, because it will feed into the
7
8 **development of an internationally approved measurement scale for confusion.** Greater
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10 attention focused on how category codes emerge and how specific codes become generic
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12 over time, would facilitate the measurement of the confusion created by copycat brands. This
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14 review also revealed that the distinctions between attribute-based and theme-based
15
16 phenomena can be seen as intertwined. To address this point, there needs to be a more
17
18 nuanced distinction between the depiction of a theme and its specific expression of the theme,
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20 particularly as there are relatively few detailed resources that clearly explain the intricacies of
21
22 the design components.
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26 Second, the literature concerning the consequences of copycat packaging was explored
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28 through the perspectives of consumers and leading brands. The primary consequences of
29
30 copycat packaging on consumers are substitution (Warlop and Alba, 2004) and consumer
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32 confusion, which can lead consumers to mistakenly purchase products (Kapferer, 1995;
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34 Foxman *et al.*, 1990). However, there is still no standardised method for measuring confusion
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36 because of the differences in the legal jurisdictions of different countries. **Studies that focused**
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38 on the measurement approach of design similarity, which laid a foundation for confusion
39
40 measurement, were mostly centred on automobiles, electronic devices, and washing
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42 machines, but did not contribute to product packaging, especially in the FMCG sector
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44 (Schreiner *et al.*, 2017).

45
46 There is still very little known about how individual packaging features contribute to the
47
48 consequences of copycat packaging, these being consumer confusion, mistaken purchases
49
50 and substitution, despite the negative consequences of copycat packaging on consumers being
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52 widely investigated in literature. In relation to consumer confusion, there were no studies that
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54 focussed on packaging with the same generic names, such as Rich Tea and Digestives.
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56 Additionally, the role of mascots in consumer evaluation of visually similar packaging is an
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58 area that has not received any scholarly interest, yet this can be seen as a feature of copycat
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60 packaging.

The negative consequences on leading brands are the dilution of brand equity, reduced
distinction of trademarks, loss of sales, and erosion of return on investment (Satomura *et al.*,

2014; Van Horen and Pieters, 2017; Collins-Dodd and Zaichkowsky, 1999). With the growing interest in copycats by consumers and copycat brands, leading brands are increasingly faced with challenges (Davicik *et al.*, 2019). While copycat practice has frequently been framed as a negative threat for leader brands, it could be argued that the copycat product would occupy a different segment than the leader brand and is not necessarily a direct competitor. Recent studies have shown that the availability of copycat products can actually enhance the allure and popularity of leader brands within some categories (Crettez *et al.*, 2018; Wang *et al.*, 2024b). However, very little is known about the extent that leading brands maintain the acceptance of copycat brands and what triggers them to take action against copycat brands.

Finally, this review indicates that there is limited understanding of how leading brands mitigate against copycats in practice. Despite the prevalence of the copycat phenomenon, there is no strategic guidance on how a leading brand should manage copycat practice. Legal studies on copycats suggest that a successful case requires the burden of proving consumer confusion, which is exacerbated by the fact there remains no internationally agreed measurement for establishing confusion (Foxman *et al.*, 1990; Balabanis and Craven, 1997; Miaoulis and D'Amato, 1978). When considering the input of resources, the burden of proof, and no assurances of success, unsurprisingly, few cases reach court, leading many to question the value of legal protection (Ertekin *et al.*, 2018; Kapferer, 1995).

Regardless of the legal limitations, numerous authors advocate the pursuit of trade-dress to protect the distinctive overall appearance of packaging, especially when it is non-functional and unique to the leader brand within the respective product category (Miaoulis and D'Amato, 1978; Rutherford *et al.*, 2000). When copycat brands emulate the overall appearance of leading brands, they strategically avoid infringing protectable assets of leading brands (Qiao and Griffin, 2022). Thus, trade-dress protection becomes more vital for leading brands than the protection of individual packaging elements. As a responsive strategy, the role of price promotions, which would negate the general price advantage of copycats, was also highlighted (Hou *et al.*, 2020; Rafiq and Collins, 1996). Because price promotions are short-term, it is unclear how such a measure might be used in a larger coordinated strategy.

Prior studies (Kapferer, 1995; Schnaars, 2002) report that the most common method for responding to copycats is negotiation. These studies do not provide strategic guidance on how leader brands might negotiate with copycat brands, in terms of either requesting a redesign of

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3 copycat packaging or asking for the withdrawal of the packaging. Negotiation could, for
4 instance, draw upon findings from a recent study (Braxton *et al.*, 2019), which found that
5 copycats are considered more favourably when not placed directly adjacent to leading brands.
6 Nevertheless, there is no assurance that the placement of products would minimise the impact
7 of copycat packaging. When retailers who have the higher authority in their own retail stores
8 strategically decide to place copycat products adjacent to leading brands' products to benefit
9 more from the copycat strategy, it can be difficult for leading brands to negotiate on that
10 point (Zha *et al.*, 2022; Guo *et al.*, 2023).

11
12 While it was suggested that leading brands may choose to change their packaging after a
13 copycat has imitated, there was no empirical data to determine the frequency of packaging
14 redesigns (Erickson, 1996; Person *et al.*, 2008). However, increasing the design lifecycle of
15 packaging could have environmental implications for leading brands. There is limited
16 empirical data on the typical lifecycle of packaging redesigns and whether it actually helps to
17 mitigate copycat packaging.

18
19 Throughout the review of these mitigation strategies, there is a sense that the existing
20 mechanisms provide limited efficacy, and it seems there is a need for a thorough re-
21 examination of the responses, particularly in relation to the role of design in the mitigation
22 process. Previous studies have primarily focused on responsive actions and not proactive
23 approaches, such as design, to mitigate copycat packaging before the problem occurs. Design
24 literature recommends that leading brands employ specific design features, such as specific
25 printing techniques, holographic labels and unique structural shapes to minimise the
26 likelihood of being mimicked by copycat brands (Erickson, 1996; da Silva Lopes and Casson,
27 2012). The cost of copying such elements is considered to act as a deterrent to copycats
28 because of the substantial design development. However, there are no recommendations for
29 low-cost categories, which have a high occurrence of consumer confusion and mistaken
30 purchases. Additionally, very little is known about how design can help leading brands
31 pursue a more successful litigation process.

51 52 **5. Directions for future research**

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54 In relation to the three disciplines that have contributed to copycat packaging, there are
55 several points of departure for future studies that would address the second research question:
56 What research opportunities might be fruitful directions moving forward? An overview of
57 additional research questions is provided in Table IV.
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3 From a marketing perspective, there is a clear opportunity to bring recent investigations up-
4 to-date by considering the changing landscape of grocery shopping. As more consumers
5 make purchasing decisions online, there is a need to consider how physical packaging is
6 displayed online, and how existing copycat issues may be more or less affected than in the
7 context of a physical setting. Capturing this type of data through eye-tracking methods would
8 enable researchers to see how consumers scan packaging design features and, alongside other
9 considerations, could directly inform practice.

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16 There is recognition that packaging does not operate in isolation, but as part of a broader
17 communications mix. A more holistic perspective of packaging design that considers the
18 broader context of marketing communications would better inform the strategy of managing
19 copycat practice, and expand more thoroughly upon the study by Schnaars (2002). Previous
20 research demonstrated that using marketing communication such as advertising e.g.
21 Magnum's latest campaign, "Stick to the Original", can be an alternative strategy to combat
22 copycats by discouraging consumers from purchasing copycat products (Wang *et al.*, 2024a).
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28 In acknowledging that packaging is not the sole driver of consumer purchasing decisions,
29 many of which are made prior to reaching the shelf, this review suggests that such an
30 approach to understanding copycat defence strategies is a crucial step.

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Extending this point, it could be fruitful to explore the influence shelf placement has on
copycat brands in relation to consumer confusion and mistaken purchases, particularly for
low-involvement categories with a presence of high-similarity copycat brands. There is
evidence to suggest that studies on proximity placement and optimum shelf position could
inform the understanding of how leader brands might navigate and negotiate the issue of
copycat packaging, as previously argued by Braxton *et al.* (2019).

From a legal perspective, the literature on copycat brands draws heavily from the application
of intellectual property law to specific cases, usually involving infringement or claims of
misleading consumers. In relation to this, there is the particularly problematic issue of the
lack of agreement on the process of measuring consumer confusion. The priority should be to
develop a programme of research to establish an internationally applicable process for
measuring confusion. Achieving agreement on a reliable method would help to pursue a more
successful litigation process against infringement, and potentially reduce the prevalence of
misleading packaging design.

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3 Connected to the design field, there is a need for a more detailed understanding of the
4 influence of the various packaging features on consumer perceptions. There has been less
5 attention directed to individual design features despite previous research showing a
6 difference in consumer evaluations of attribute-based copycats and theme-based copycats
7 (Van Horen and Pieters, 2012b). This type of study would reveal which specific design
8 features are most influential to consumers, and better inform discussions on issues of
9 similarity-related concepts, consumer confusion and mistaken purchases.

16 There is also a recognisable need for a more extensive set of strategies that accommodate a
17 broader range of segments, not solely for higher margin products, but others more applicable
18 to lower-cost items, where there is less scope for distinctive packaging for leading brands.
19 While previous studies have proposed strategies to combat the problem of copycat packaging
20 (Schnaars, 2002), these strategies are not framed according to **the properties of lower-cost**
21 **categories.** As such, there is a need to ask how design can be used more intelligently and
22 proactively to minimise the impact of copycat packaging upon leader brands. Although
23 Erickson (1996) proposed specific design considerations for leading brands to minimise the
24 threat of imitation, the role and impact of design are likely to differ significantly between
25 high-cost and low-cost categories.

34 Prior research (Person *et al.*, 2008) showed a strong relationship between product life cycle
35 and organisational design strategies, in terms of being different or similar, yet there is very
36 little understanding of the impact of copycat packaging on the life cycle of leader brand
37 packaging designs. If copycat products influence leader brands to change their packaging
38 designs more frequently, shortening the lifecycle of packaging designs, this could have direct
39 implications on the environmental targets of leader brands.

46 Perhaps the most important point to consider is that, as this review has illustrated, the issue of
47 copycats involves a number of adjacent disciplines, namely design, law and marketing. One
48 of the limitations of prior work is that, although the research issue extends across these three
49 fields, the studies have largely been conducted by scholars from a single discipline. Given the
50 overlap of the research area, it would seem more beneficial for future studies to have a multi-
51 disciplinary approach, **as Cheng (2023) suggested that a deeper understanding of law,**
52 **marketing and consumer behaviour can be more helpful to tackle copycats and counterfeits.**

58 A more representative team of researchers would surely help to retain some of the fidelity
59 that can be lost in research studies conducted by scholars from single domains.
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3 < **Insert Table IV** Emergent gaps and research questions for future research >
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6. Managerial implications

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8 This study also contributed to the knowledge of practitioners in marketing, law and design.
9 Brand managers can benefit from this review by gaining a comprehensive oversight of the
10 key points relating to copycat practice. Throughout this review, there are numerous strategies
11 considered for understanding how to successfully manage copycat issues from a leading
12 brand perspective. It is clear from the findings that a successful mitigation against copycat
13 brands involves a holistic approach based on the integration of marketing, legal and design
14 fields. Managers of leading brands should not rely solely on legal protection for solving
15 copycat issues, as this is a resource-intensive and there are alternative approaches that can
16 also achieve a solution. Brand managers should be encouraged to collaborate with designers
17 and legal practitioners when they revise their strategy against imitation.
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27 While managers of leading brands will understand that success will attract imitation, it is
28 important for managers not to rely on packaging in isolation. This research highlights the
29 importance of the broader mix of communications that support packaging design, and in
30 recognising an adjustable timescale for introducing redesigns. Moreover, the review points to
31 more recent findings on consumer perceptions that could inform potential negotiations with
32 copycats, such as the importance of shelf placement that could benefit both the leader brand
33 and the copycat brand.
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40 For managers of copycat brands, it is advisable to design packaging that is based on a
41 simulation of a theme common to the leading brand rather than on the leading brand's
42 specific attributes. This approach is less likely to result in dispute, tension, or litigation
43 because it can be argued that such a theme is common to the category, and theme-based
44 imitations are demonstrated to be more favourable to consumers. The second point is that the
45 placement of the copycat brand in relation to the leading brand is important for consumer
46 perceptions. If the copycat is not directly adjacent to the leading brand, then the copycat is
47 likely to be rated more favourably. Similarly, consumers use recognisable cues to navigate to
48 particular products, so consideration must be given to the optimum placement.
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56 Designers of leading brands are encouraged to redesign their packaging periodically,
57 depending on the product category, instead of sustaining the same packaging design for
58 prolonged periods, even if it is not mimicked by any brands. When redesigning against
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3 imitation, designers should identify the elements that cause consumer confusion and redesign
4 relevant packaging elements to remove such confusion. Finally, it is vital for brand managers
5 and designers to consult with legal practitioners when discussing packaging strategies and the
6 broader marketing mix, to fully benefit from a multidisciplinary approach.
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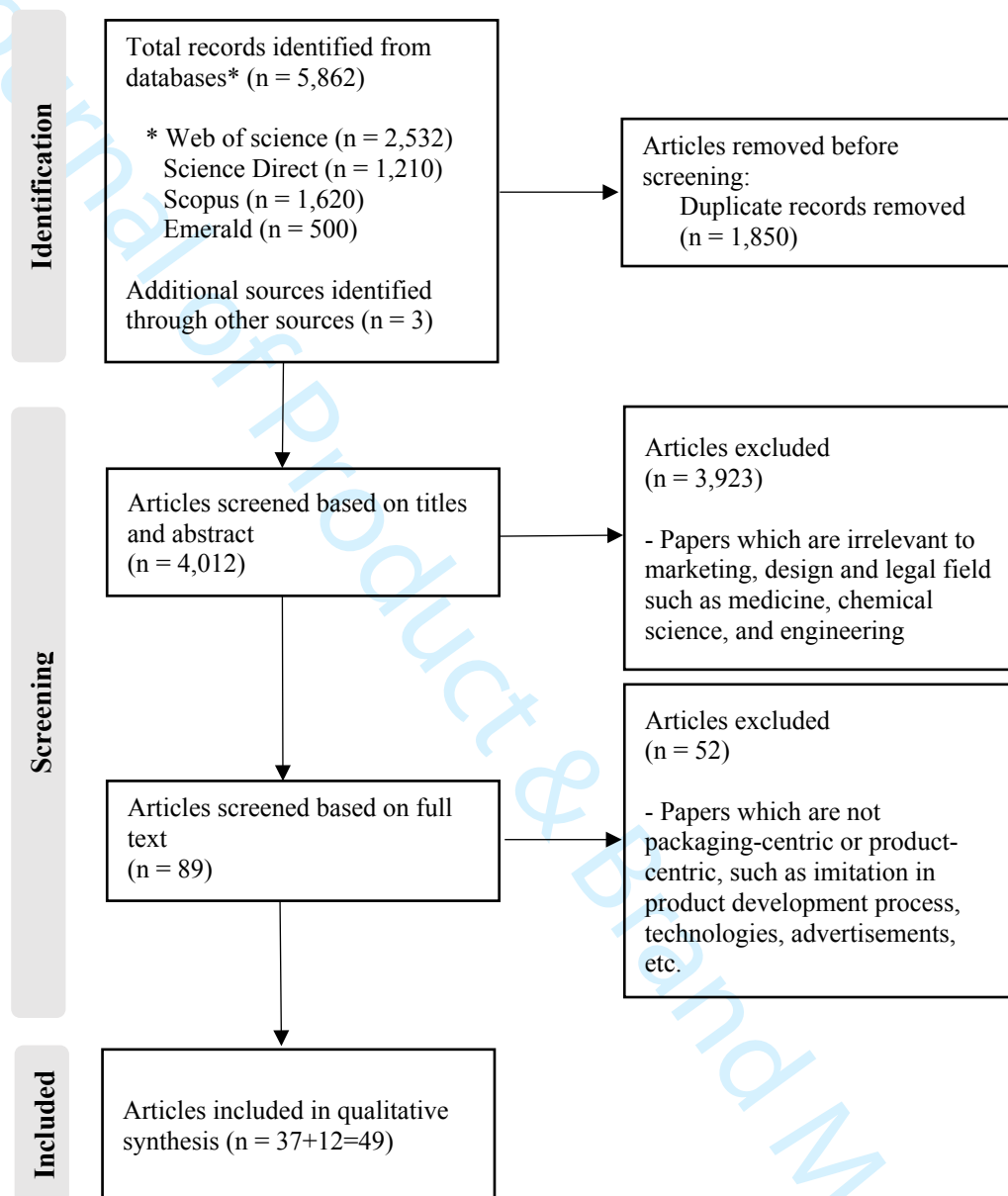
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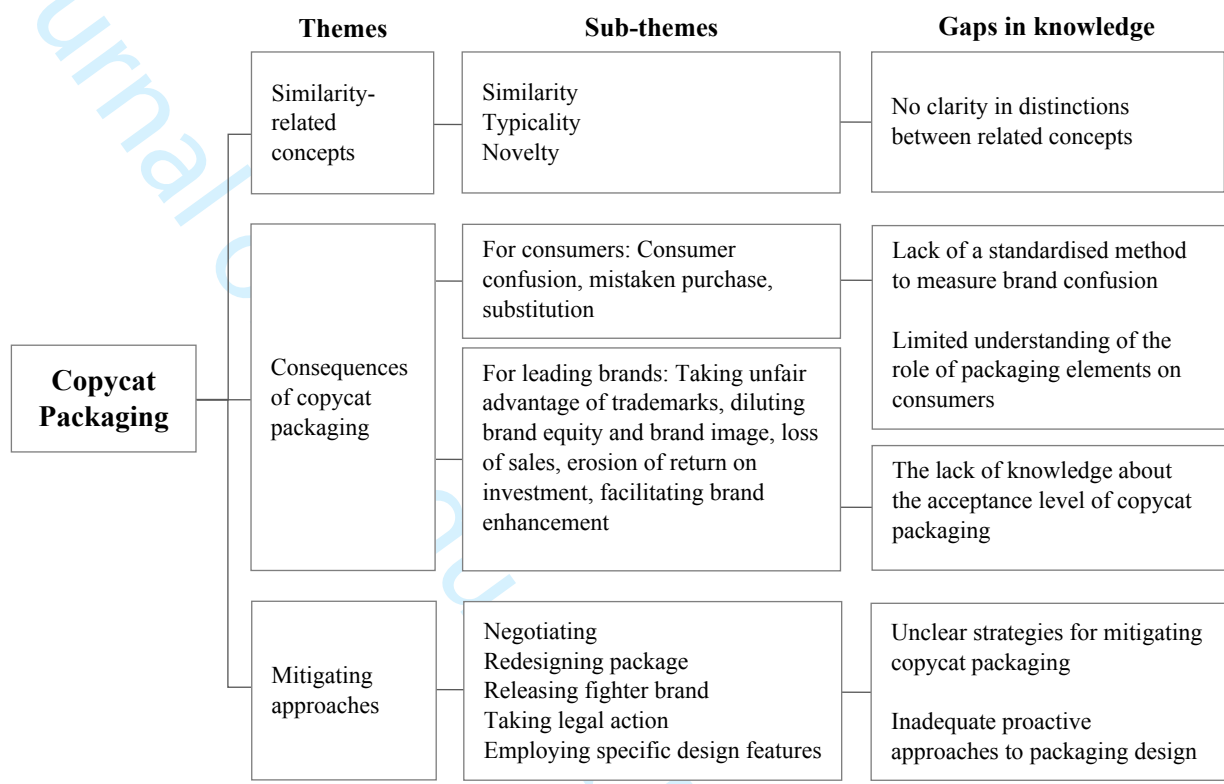
< **Insert Online Appendix Table A** Identified studies from the review >

Journal of Product & Brand Management

Figure 1 Systematic literature review process

Source: Authors' own work

Figure 2 Thematic framework of copycat packaging studies



Source: Authors' own work

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Table I Inclusion and exclusion criteria

Inclusion	Exclusion
- Journal articles, review articles, books, book chapters and reports	- Studies focusing on medicine, chemical science, and engineering
- English language	- Studies focusing on technologies, advertisements,
- Studies focusing on FMCG products	services and product development process
- Product-centric and packaging-centric studies	

Source: Authors' own work

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Table II Differences between related concepts

Concept	Feature (Specific level)	Theme (Abstract level)	Relevance
Novelty	Distinctive category features	Different from category codes	Category level
Typicality	Homogenous category features	Similar to category codes	Category level
Copycat	Resemblance of features to leading brand	Similar to leading brand	Brand level

Source: Authors' own work

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4 **Table III** The packaging examples related to the concepts
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Packaging Example	Concept	Feature	Theme
	Novel packaging	Heraldic crest, silver (metallic) and navy blue colour combinations, abstract curved graphic, 'Lur' prefix referring to the country of origin	Prestige, premium, longevity, Scandinavian origin
	Typical packaging	Graphics of natural scene and field, green and yellow colour combinations	Naturalness
	Copycat packaging	Crest at the top, silver and navy colour combinations, abstract curved line, 'Nord' prefix referring to the country of origin	Prestige, premium, Nordic origin

29 **Source: Authors' own work**
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Table IV Emergent gaps and research questions for future research

Gaps in knowledge	Research questions for further investigation
Unclear strategies for mitigating copycat packaging	Optimising for online purchasing - How can the packaging design for leader brands retain visual distinction via online purchasing platforms? - What would eye-tracking experiments tell us about consumers' scanning of online packaging designs?
The lack of knowledge about the acceptance level of copycat packaging Unclear strategies for mitigating copycat packaging	Brand enhancement - How do leader brands balance the need for high-quality packaging against environmental concerns?
Unclear strategies for mitigating copycat packaging	Orchestrating broader channels - How do shelf placement decisions affect consumer confusion and/or mistaken purchases? - How can promotional strategies be used alongside packaging design to minimise the impact of copycats?
Lack of a standardised method to measure brand confusion No clarity in distinctions between related concepts	Brand confusion measurement - What is the most valid and reliable method of measuring consumer confusion?
Limited understanding of the role of packaging elements on consumers	Strategic design features - How do packaging design features influence consumer evaluations of copycat packaging? And how do they differ across product categories (low-cost vs. high-cost)? - How could packaging design features reduce brand confusion and mistaken purchase among consumers, especially for vulnerable groups?
Unclear strategies for mitigating copycat packaging	Packaging life cycle - What is the impact of packaging life cycle on copycat packaging?
Unclear strategies for mitigating copycat packaging Inadequate proactive approaches to packaging design	Mitigating approaches - What packaging design strategies help to minimise imitation? - How does the role of design in combatting copycat packaging differ with high-cost and low-cost segments?

Source: Authors' own work

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Appendix Table A Identified studies from the review

Authors/ Year	Aim of the Study	Methods /Sample	Key Findings on Copycat Practice and Theory	Sub-themes
Balabanis and Craven, 1997	To examine the confusion claims and provide an understanding of the factors that facilitate consumer confusion	Questionnaire/ consumers	Low-price products (impulsively purchased) are more likely to confuse and mislead consumers.	Consumer confusion
Braxton <i>et al.</i> , 2019	To determine the extent to which national leader brand (NLB) scandals (i.e. negative news stories) have an impact on consumers' evaluations of copycat products	Experimental study/consumers	A copycat product is evaluated more favourably when presented separately from a leading product.	Similarity
Burt and Davis, 1999	To review the development of retailer brands in the UK grocery market, and to discuss a number of issues central to the 'lookalike' debate	Literature Review	The difference between the legal system in the UK and Europe is the requirement of proof of confusion for passing off (known as unfair competition in Europe) in the UK law.	Taking legal action
Campbell and Goodstein, 2001	To propose that perceived risk is a very important situational variable that serves as a boundary condition for the positive influence of moderate incongruity on product evaluations	Experimental study/consumers	When consumers perceive high risk associated with a purchase, the congruent (typical) is preferred to the moderately incongruent (novel/atypical) product.	Typicality
Celhay <i>et al.</i> , 2017	To fill a gap in the literature by extending this approach to packaged goods, specifically to the emergence of new visual codes in the wine industry	Content analysis	Category-based visual codes are the most frequently observed visual characteristics in a product category and they also reflect the themes that are most frequently chosen in a given category.	Typicality

Celhay and Trinquecoste, 2015	To examine the impact of typicality/atypicality judgments regarding the visual appearance of a product on consumers' aesthetic appreciation and purchase intent	Questionnaire	Consumers are more likely to prefer atypical packages over typical packages when the perceived risk is low.	Typicality
Coelho do Vale and Verga Matos, 2015	To analyse the impact of copycat packaging strategies on consumers' product choices, assessing to what extent the adoption of this type of packaging increases the likelihood of purchase of private labels	Observation and experimental study/consumers	Copycat strategy helps consumers to exclude other brands from their consideration set since they only evaluate the imitated and imitating brands.	Substitution
Collins-Dodd and Zaichkowsky, 1999	To investigate how and why manufacturers respond to competitors that copy the trade dress	Questionnaire/ brand managers	Brand owners are more likely to take legal action against manufacturers but less likely against retailers because of the fear of being delisted and losing shelf space.	Taking legal action
Crettez <i>et. al.</i> , 2018	To look at strategic interactions between a firm that sees its new product copied by another producer shortly after its introduction	Mathematical model	The availability of the imitation product actually promotes the original brand.	Consequences on leading brands
Da Silva Lopes and Casson, 2012	To analyse imitations and counterfeits in relation to trademarks and examine the interactions between trademark protection and other strategies	Case studies	Holograms, which are hard to copy, are employed in order to differentiate the products, such as Johnnie Walker whiskey bottles.	Employing specific design features
Erickson, 1996	To propose packaging strategies	-	Brands should use some element on their packaging which is difficult to copy without infringement such as sophisticated printing, a unique	Employing specific design features

			logo, and a unusual structural design.	
Ertekin <i>et al.</i> , 2018	To categorise all major types of trademark infringement and the consequences for the brand, and to explore how the stock market views efforts to protect the brand positively	Quantitative study-Statistical analysis	There are short-term financial negative consequences of protecting brands in court, which leads brands not to file a lawsuit against copycat.	Taking legal action
Finch, 1996	To explore the role of intention in determining trade-dress infringement	Conceptual	Intentional copying trade-dress of a brand which creates consumer confusion is a determining factor of trade-dress infringement.	Taking unfair advantage of trademarks
Foxman <i>et al.</i> , 1990	To identify some factors that may contribute to consumer confusion	Experimental study/consumers	Copycat strategies have harmful consequences for both firms and consumers (i.e. consumer confusion, and mistaken purchases).	Consumer confusion Mistaken purchases
Guo <i>et al.</i> , 2023	To examine the effectiveness and the implications of the manufacturer's supply strategy and retailer's lookalike packaging decision for the supply chain	Mathematical model	Consumer confusion may bring a win-win situation for the manufacturer and retailer.	Consumer confusion
Hekkert <i>et al.</i> , 2003	To test that aesthetic preference will be determined by the joint influence of typicality and novelty	Experimental study/consumers	Typicality and novelty are jointly and equally effective in explaining aesthetic preferences.	Typicality Novelty
Herm and Moller, 2014	To discuss methods for measuring consumers' abilities to identify brands by product designs	Experimental study/consumers	Customers with high familiarity are more likely to accurately identify an original product, but they are also more likely to confuse a copycat with the original product.	Consumer confusion
Hou <i>et al.</i> , 2020	To examine the effectiveness of using a fighter brand to combat	Mathematical model	Luxury brands launch a fighter brand to combat copycatting.	Releasing fighter brand

	copycatting in the luxury industry			
Johnson <i>et al.</i> , 2013	To investigate the impact of lookalikes	Interview, survey and statistical analysis	Manufacturer brand owners change their own packaging and file lawsuits against trademark infringement or passing off to combat lookalikes.	Redesigning package Taking legal action
Kapferer, 1995	To test for the presence of confusion by means of a tachistoscopic experiment	Experimental study/consumers	Imitation strategies which require less cost and involve limited risk create a risk of consumer confusion. Negotiation is the most preferred response against lookalikes.	Consumer confusion Negotiating
Kelting <i>et al.</i> , 2017	To understand how private labels impact the consumer's experience at the retail shelf	Experimental study/consumers	Consumers with prior experience and high familiarity, experience choice ease and subsequently evaluate their chosen product(s) more favorably in case of the availability of copycats.	Similarity
Kim and Petitjean, 2021	To investigate when and why an atypical package can be more successful than a typical package design by focusing on a prestige level of a product category	Experimental study/consumers	Depending on the prestige of the product category, firms can follow the prevailing visual codes – typical design; however, they can break the codes – atypical design.	Typicality
Le Roux <i>et al.</i> , 2016a	To define and explore different forms of counterfeiting and imitation and tests the reactions these forms trigger among consumers	Questionnaire/ consumers	This study tests consumer reactions to different types of imitation in the same product category.	Similarity
Le Roux <i>et al.</i> , 2016b	To explore the impact of an overlooked variable, brand typicality, on brand evaluation and the categorisation of counterfeits and imitations	Experimental study/consumers	Brand typicality has an impact on the evaluation of imitation and counterfeit: under high typicality conditions, the evaluation is less favourable	Typicality

			than in low typicality conditions.	
Loken and Ward, 1990	To explore the effects of multiple constructs as determinants of typicality in product and brand categories, the relationship between typicality and attitude, the effects of category level, namely, superordinate versus subordinate categories, on the predictive ability of constructs relating to typicality	Questionnaire	The typicality of the product is related to the likelihood of its classification in a target category.	Typicality
Loewy, 1951	-	-	This study proposes a balance between novelty and typicality, which is referred to as Most Advanced Yet Acceptable.	Typicality Novelty
Miaoulis and D'Amato, 1978	To focus on trademark infringement from the perspective of the consumer	Survey/consumers	Due to product similarity, consumers are confused and make the mistake.	Facilitating mistaken purchases
Miceli and Pieters, 2010	To test a conceptual model of the effects of copycat strategy (attribute-based vs. theme-based) and consumers' mindset (featural focus vs. relational focus) on the perceived similarity between a leading brand and a copycat brand	Experimental study/consumers	The perceived similarity between leading and copycat brands depends on the type of copycat strategy, attribute-based or theme-based.	Similarity
Mitchell and Kearney, 2002	To criticise the current measures of consumer confusion	Interviews/legal professionals	There are various techniques for measuring consumer confusion because the legal system in different countries requires different evidence.	Taking legal action
Mugge and Schoormans, 2012	To explore the level of novelty of a product appearance as a general design guideline to evoke positive associations	Experimental study/consumers	The level of novelty is associated with the perception of quality and performance: a high level of novelty suggests high performance and quality.	Novelty

	about the product's performance quality			
Nedungadi and Hutchinson, 1985	To presents results from an exploratory study that investigated various aspects of prototypicality for brands in several product classes	Experimental study and questionnaire	Prototypicality or typicality objects tend to have many attributes in common.	Typicality
Nguyen and Gunasti, 2018	To explore how consumers prefer copycat brands with superior product attributes and how original brands can shift this preference back by strategically leveraging brand identity cues	Experimental study/consumers	Although most of the studies focus on low-quality copycats, this study focuses on how customers choose between an original brand and a high-quality copycat.	Similarity
Person <i>et al.</i> , 2008	To explore the styling decisions that are made by professionals	Conjoint analysis/ professionals from various sectors	While in the early stage of the product lifecycle, companies tend to design similarly to the existing products because of a fear of lower market acceptance of novel designs, they need to differentiate their design in the later stages.	Novelty Typicality
Qiao and Griffin, 2022	To investigate the effectiveness of a brand imitation strategy for the package design of male-targeted, female-targeted and gender-neutral products	Experimental study/consumers	A more holistically similar design had a greater impact than a less holistic design on participants' attitudes and purchase intentions.	Similarity
Rafiq and Collins, 1996	To establish the real level of confusion experienced by grocery shoppers	Questionnaire/ consumers	Brand owners argue that similarity in packaging design takes advantage of the goodwill and brand equity, and confuses consumers; thus, they respond by increasing their spending on advertising, introducing a fighter brand and changing packaging design.	Diluting brand equity and goodwill Redesigning packaging Releasing fighter brand

Rutherford <i>et al.</i> , 2000	To determine the level of perceived similarity	Internet-based data collection method/ consumers	If a package has distinctive elements which are nonfunctional but unique to that product, it can be protected as a trade dress under the trademark law, thus leading to infringement in case of confusing consumers by copying the trade dress of a packaging.	Taking unfair advantage of trademarks
Satomura <i>et al.</i> , 2014	To propose a method and metric to quantify the consumer confusion between leading brands and copycat brands	Experimental study/consumers	Copycat brands reduce the effectiveness of leading brands, dilute their trademarks, hurt their brand equity, and erode the return on their financial investments.	Dilution of brand image and equity Loss of sales Erosion of return on investment
Schnaars, 2002	To explore how to manage imitation strategies	-	To defend against imitations, pioneers can sue imitator brands, introduce continuous innovations and introduce low-cost alternatives.	Redesigning packaging, Releasing fighter brand Taking legal action
Schoormans and Robben, 1997	To investigate the effect of the degree of deviation of coffee packages on consumers' attention and categorization	Experimental study/consumers	The more novel a design is, the higher level of attention it grabs; however, novelty may make design less acceptable in the specific category.	Novelty
Schreiner <i>et al.</i> , 2017	To introduce an objective measurement approach of design similarity to overcome the drawbacks	Empirical study and application of the proposed method/ consumers	This article introduces an objective measurement approach of design similarity to understand which characteristics of the holistic product design make their products look different from or similar to their own and to competitors' products.	Similarity

Van Horen and Pieters, 2012a	To explore how copycat can gain or lose from their resemblance	Experimental study/consumers	Moderate similarity copycats are evaluated more positively than high similarity copycats when evaluation takes place comparatively (i.e. The presence of leading and copycat brands together).	Similarity
Van Horen and Pieters, 2012b	To investigate how imitation type (features or theme) affects evaluation of copycat brands	Experimental study/consumers	Consumers consider feature imitation (imitating design features of a leading brand) to be unacceptable and unfair, but theme imitation (imitating underlying meaning or theme of a leader brand) is perceived to be more acceptable and less unfair.	Similarity
Van Horen and Pieters, 2013	To explore how uncertainty affects consumer evaluation of copycat	Experimental study/consumers	Consumers dislike copycat brands when uncertainty about product quality is low, but this preference reverses when uncertainty is high.	Similarity
Van Horen and Pieters, 2017	To explore how out-of-category imitation affects evaluation of copycats	Experimental study/consumers	Copycats are evaluated more positively in an out-of-category than in a core category.	Similarity
Warlop and Alba, 2004	To explore the parameters of visual similarity more systematically and with an eye toward understanding the implications for a new entrant	Experimental study/consumers	Consumers may infer visual similarity as substitutability or may be confused by visual similarity.	Consumer confusion Substitution
Wilke and Zaichkowsky, 1999	To understand the impact of brand imitation	Conceptual	Although courts may fail to recognise imitation as an illegal practice, counterfeiting and imitation create problematic practices and infringe on the leading brand image and brand equity.	Dilution of brand image and equity

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Zaichkowsky, 2020	-	-	Generic packaging elements are legally weak because these elements can cause consumer confusion.	Taking legal action Consumer confusion
Zha <i>et al.</i> , 2022	To examine the implications of consumer confusion about SBs driven by lookalike packaging for the supply chain	Mathematical model	Because confusion can lead to a win-win situation for the retailer and manufacturer, retailers and manufacturers can strategically create confusion for consumers and devote less marketing effort.	Consumer confusion
Zhou <i>et al.</i> , 2022	To identify the key antecedences contributing consumer similarity perception toward store branded lookalikes	Experimental study and questionnaire /consumers	There is a positive relationship between brand familiarity and brand loyalty, and this increased brand loyalty leads to lower perceived similarity.	Similarity

Source: Authors' own work

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Copyright note of tables and figures

The authors created Figure 1, Table 1, Table 2, Table 3 and Online Appendix Table A by synthesising current studies.

Figure 2 was created by adopting a systematic literature review search process that was proposed in the literature.

Table 4 was created by bringing the emerging research gaps from this systematic literature review with research questions that these gaps directed for future studies.

The authors took photographs of the packaging presented in Table 3.

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