

How The Fashion 'Dupe' Economy Is Redefining IP Strategies

By **Tiffany Gehrke and Alexa Spitz** (February 19, 2026)

In 2006, the devil wore Prada. In 2026, the devil wears Prada dupes. The evolution of knockoff items from shameful to chic is a product of what has come to be known as the dupe economy. Sometimes referred to as dupe culture, the phenomenon reflects a growing consumer trend of seeking affordable alternatives to luxury items, often called dupes.

Whether dupes are celebrated or criticized, their impact on consumer behavior is undeniable. The dupe economy has created a new era of consumption where savings are chic and lower-cost alternatives to luxury items saturate the market.

Traditional luxury fashion brands must contend not only with lower-cost "dupe" versions of their goods but also with the speed at which these items reach consumers and the unprecedented levels of promotion they receive from social media influencers and celebrities.

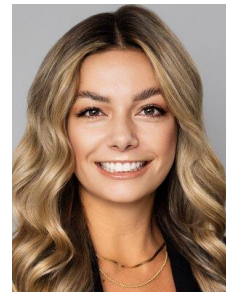
The rapid expansion of the dupe market is driving brands to experiment with unconventional trademark strategies. In October, Canadian apparel brand [Lululemon Athletica Inc.](#) secured a federal trademark registration in the U.S. for "Lululemon Dupe" in connection with retail store services and advertising.

While Lululemon agreed to disclaim "Dupe" as a descriptive term to obtain its registration, Aritzia Inc., a fellow Canadian apparel brand, has recently fought back against disclaiming "Dupe" in its U.S. trademark application. Aritzia argued, among other things, that [U.S. Patent and Trademark Office](#) and public policy concerns support registration without a disclaimer.

These moves reflect recognition that dupe culture is no longer a fringe issue, but a commercial and reputational force reshaping how brands protect their identities, particularly online and on social media platforms, where successful enforcement often turns on registered trademark rights strategically tailored to meet evolving enforcement needs.



Tiffany Gehrke



Alexa Spitz

The Dupe Continuum in Fashion

Historically, when consumers spoke of dupes, they meant counterfeit products designed and branded to look identical to authentic ones, tricking consumers into believing they are real.

Today, depending on the person and context, dupe can also mean a lower-cost, inspired-by alternative; not all dupes are counterfeits. In fact, many inspired-by dupe brands do not want to confuse consumers about the source of their products. Instead, they want consumers to try their lower-cost version of a product and recognize their brand as the source of affordable, yet highly fashionable, products.

Dupes are lucrative, but the law limits what elements of the original product follow-on brands can dupe and what original brands can successfully enforce. Typically, courts have held that counterfeit products infringe the brand owner's rights, while inspired-by products do not, provided the inspired-by products do not confuse consumers as to the source of the products.

But what about the spectrum of gray in between? And just how fast can fashion move?

Fashion's Fast-Moving Economy

The runway to dupe pipeline is fast, with dupe versions of high-fashion items sometimes beating the originals to the market.[1] An investigation by Rest of World revealed that fast-fashion giant SHEIN released 2,000 to 10,000 new styles each day from July to December 2021.[2]

Another fast-fashion giant, [Zara](#), releases new styles approximately two to three times each week, totaling up to 1,000 items per month.[3] Zara reportedly gathers inspiration from its customers' preferences through store analytics and by sending fashion scouts to probe emerging trends on the streets and in malls around the world, helping make the latest trends more accessible to the average consumer.[4]

Some fast-fashion companies create their own fashion lines and build brand equity around their designs, regardless of what other industry leaders are doing. Some are adept at creating inspired-by looks quickly and affordably to lure customers to purchase their products instead of higher-priced luxury items. Other brands do both.

Balancing Consumer Protection With Fair Competition

Brand owners use trademarks to protect their most valuable assets, their names and their reputations. A brand's trademark is a promise to consumers about the source, quality, or other characteristics of its goods or services. Trademarks help consumers know what to expect and build trust in the brand, fostering brand loyalty. While trademarks drive value for a brand owner, that is not their only function.

Trademarks are essential to protect consumers. While fair competition may permit someone to showcase their inspired-by fashion design or product, it does not go so far as to permit the follow-on product to confuse or mislead consumers into thinking it is affiliated with, sponsored by or endorsed by the brand owner.

What happens when inspiration turns into infringement? Many dupes are somewhere between clearly counterfeit and clearly inspired-by dupes. These dupes may push the boundaries by closely resembling the product's name, packaging, or overall look and feel without wholesale copying the product or its packaging.

While each instance is fact-dependent, a common brand-protection strategy for fashion and beauty companies is to layer trademark protection, including trade dress, with copyright and design patent protection.

For example, a brand owner may seek trade dress protection for the overall look and feel of a product or its packaging, copyright protection for fabric designs or prints, and design patent protection for new, nonobvious, and ornamental designs. Layering multiple types of IP protections makes it more difficult for follow-on companies to dupe a brand's products.

However, the protection is not infallible. Fashion companies are devising creative strategies to help maintain the balance between consumer protection and fair competition.

Fashion Brands Thinking Outside the Box

Some brands are adapting to the challenges posed by the dupe economy by implementing creative filing strategies to gain greater control over their online and social media image.

As mentioned earlier, Lululemon Athletica recently registered a U.S. trademark for "Lululemon Dupe," covering retail store services and advertising in International Class 35.

Ordinarily, to register a trademark in the U.S., the applicant must show use of the mark in U.S. commerce. However, the USPTO also permits foreign-based applicants to rely on a foreign registration in certain situations, as Lululemon did here.

Lululemon relied on its Benelux registration, which permits registration in the U.S. without use in commerce in the U.S., although Lululemon still would have been required to submit a verified statement that it has a bona fide intention to use the mark in U.S. commerce.

While Lululemon's registration would not confer exclusive rights in the term "dupe" standing alone or even as part of "Lululemon Dupe" — and Lululemon disclaimed the word to obtain the registration anyway — it nonetheless provides the brand with a potentially powerful tool for shaping consumer messaging, supporting platform takedowns and reframing dupe culture through initiatives like its 2023 dupe swap campaign, where consumers could swap their dupes for authentic apparel.[5]

The mark may also support a more aggressive enforcement strategy against online sellers marketing Lululemon dupes. However, Lululemon would have to show actual use of "Lululemon Dupe" in U.S. commerce to successfully bring an infringement suit in the U.S.. It will be interesting to see whether Lululemon uses the mark and, if so, under what circumstances. Without use, the registration will be vulnerable to cancellation.

Aritzia, like Lululemon, filed a U.S. trademark application for "Aritzia Dupe," relying on a foreign registration, once it issues, rather than on use in U.S. commerce.

Aritzia's application covers various bags in International Class 18, clothing in International Class 25, and online retail and retail store services in International Class 35.

Unlike Lululemon, however, Aritzia is challenging the USPTO's requirement to disclaim the term "dupe" as descriptive of the goods and services for which it is applied. Aritzia submitted a mix of arguments in its USPTO action response that appealed to both law and public policy.

For example, Aritzia argued that a disclaimer is inappropriate because "dupe" in the context of "Aritzia Dupe" creates an incongruity as to the mark as a whole, such that a disclaimer would be inappropriate. Aritzia made a consistency argument as well, noting that the USPTO has allowed multiple other marks on the register where "Dupe" is not disclaimed, and its mark should be treated similarly.

Aritzia's most interesting argument was its appeal to the public and USPTO policy. The brand argued that broader protection is necessary to combat the online trafficking of low-quality, counterfeit goods and to equip brand owners with more effective tools to police infringements on digital marketplaces.

Aritzia further urged the USPTO to be receptive to its request, given the current need for brand owners to be equipped with creative intellectual property rights. Aritzia cited one of the USPTO's primary policy goals: "[p]romote the protection of IP against new and persistent threats," in an apparent attempt to convince the examining attorney that the dupe economy may be viewed as such a threat.[6]

Aritzia's arguments have not convinced the examining attorney yet. In January, the USPTO issued a subsequent order maintaining the request to disclaim "Dupe"; however, the USPTO also suspended the application pending issuance of the foreign registration. Therefore, Aritzia has some time before the brand must decide whether to accept the disclaimer or continue fighting it.

If Aritzia prevails in its registration without a disclaimer, the brand may gain greater control over its image online, particularly with respect to takedown notices on social media platforms and online marketplaces, where rights in the allegedly infringed trademark are investigated in the takedown process. A registration can be an invaluable tool for the effective and expedient enforcement of one's brand.

Conclusion

The rise of the dupe economy reflects a broader shift in consumer behavior, but it also exposes growing pressure points in trademark and trade dress law and brand enforcement strategy.

Brand owners are adapting by layering traditional infringement claims with novel trademark strategies designed to operate effectively in digital marketplaces, where enforcement often turns on the existence and scope of registered rights.

These developments underscore that the legal response to dupe culture is no longer confined to litigation alone. Trademark strategy, platform enforcement and public-facing brand initiatives are converging as tools to manage reputational risk and consumer confusion in a fast-moving marketplace.

Whether agencies like the USPTO will endorse more expansive approaches to brand protection in this context remains to be seen. Still, the trajectory is clear: The dupe economy is compelling both the law and brand owners to evolve.

For luxury and mass-market brands alike, the lesson is not simply to react to dupes, but to anticipate them — by building enforceable rights, monitoring emerging enforcement channels and recognizing that today's inspired-by product may become tomorrow's infringement dispute.

Tiffany D. Gehrke is a partner and chair of the trademarks and copyrights practice at [Marshall Gerstein & Borun LLP](#).

Alexa P. Spitz is an associate at the firm.

The opinions expressed are those of the author(s) and do not necessarily reflect the views of their employer, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

[1] "Fashion chains such as [H&M](#) and Zara look to designers' collections and imitate them, but often so quickly that these designers were more likely to be in the stores of those chains before the designers stores themselves." <https://fashionunited.com/news/background/plagiarism-in-fashion-why-is-there-so-much-imitation-and-is-it-allowed/2024040859303>.

[2] <https://time.com/6247732/shein-climate-change-labor-fashion/> "According to an investigation by Rest of World, Shein added anywhere between 2,000 and 10,000 individual styles to its app each day between July and December of 2021" <https://restofworld.org/2021/how-shein-beat-amazon-and-reinvented-fast-fashion/>.

[3] When Does Zara Restock and How Often? How To Get Out of Stock Items Online - Wear Next. "Zara releases new styles extremely frequently, with estimates ranging from 2-3 times a week to up to 1,000 new items per month."

[4] Zara also focuses on efficiency <https://globalyouth.wharton.upenn.edu/articles/business/zaras-fast-fashion->

[business-model/](#) "The key to the process lies in Zara's skill at tuning into the personal tastes of its customers so that it can give them what they want even before they ask for it. To do that, more than 200 designers located at the company's central headquarters in Spain constantly collect information about the decisions made by consumers in each of the chain's stores. They also probe the latest trends, which their own scouts observe in the streets and malls around the world, for inspiration when they are designing their latest creations."

[5] <https://www.forbes.com/sites/retailwire/2023/05/25/lululemon-has-a-bold-strategy-for-dealing-with-dupes/>.

[6] <https://www.uspto.gov/about-us/news-updates/united-states-patent-and-trademark-office-releases-2022-2026-strategic-plan> "The new plan outlines the USPTO's mission-focused strategic goals: 1. Drive inclusive U.S. innovation and global competitiveness; 2. Promote the efficient delivery of reliable intellectual property (IP) rights; 3. Promote the protection of IP against new and persistent threats; 4. Bring innovation to impact for the public good; and 5. Generate impactful employee and customer experiences by maximizing agency operations."