

Trademark issues hit offerings for the dead

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HONG KONG >> On Java Road in Hong Kong, a new pair of brown leather Gucci loafers, lovingly wrapped in cellophane, hangs from a storefront — the deal of a lifetime at less than \$3.

Just not this lifetime.

The shoes are paper replicas, meant to be burned as offerings to relatives who have died — a modern twist on an old Chinese custom. At specialty shops across this city, the bereaved can choose from an impressive array of goods to send to their departed loved ones, including Italian sports cars, smartphones, six-packs of beer, cigarettes, dress shirts and sports jackets.

One store, next to Hong Kong's Ten Thousand Buddhas Monastery, even sells paper replicas of McDonald's value meals, complete with fries, soda and a package of something called "Chicken MuNeggtc."

But the Gucci handbags and shoes that grandmother may have cooed over when she was among the living now appear to be out of her ethereal reach. A shopkeeper quickly snatched the loafers away from one inquiring customer, explaining that they were no longer for sale.

Protecting trademark

It seems Gucci's zeal to protect its brand extends into the hereafter.

Last week, its parent company, Paris-based Kering, sent a letter to six local stores that sell the paper offerings, telling them to stop selling replicas of Gucci products because they were using its famous trademark that graces shoes, wal-

lets, hats, jewelry and women's purses.

"What we are trying to do is let them know that Gucci is a trademark and we are trying to protect it," Charlotte Judet, a Hong Kong-based spokeswoman for Kering, said by telephone. "We fully respect the funeral context."

Elaborate paper offerings for the dead are for sale the world over, available for purchase by the living across Asia, from Cambodia to mainland China. In China, the bereaved, with a few clicks of a mouse or taps on a smartphone, can buy replicas of everything from bonsai plants to flat-screen televisions for home delivery.

As incomes have soared and consumerism has taken hold across the continent, the cardboard replicas, once limited to fake currency, have become increasingly elaborate. One shop offers a paper wall-unit air conditioner, presumably for relatives who may be in the lower reaches of the hereafter.

The practice has even migrated across the ocean. In 2011 in New York, one Chinatown shopkeeper was arrested for selling cardboard replicas of designer handbags and loafers, and charged with copyright infringement.

Tough case

But Gucci chose to make a stand in Hong Kong, not Beijing, New York or Bangkok. The forces at play essentially define Hong Kong's place in the world. Here is a city that combines a no-holds-barred consumer culture, a strong bond to China's old traditions and a robust legal system, inherited from the British, that respects and enforces intellectual property rights. Hong Kong is, at its essence, a fusion of Eastern

culture, global capitalism and Western law.

"People in Hong Kong are law-abiding," said Alice Lee, an associate professor of law at the University of Hong Kong who focuses on intellectual property. "We have had the benefit of British rule for such a long time."

But Lee said Gucci would have a difficult time proving that makers of paper offerings infringed on its trademark. To successfully sue for trademark infringement, she said, a company has to demonstrate that people confuse the cardboard replicas with real Gucci products, which is highly unlikely.

Her colleague Haochen Sun, a professor who studies trademark protection of luxury brands, said Gucci might have a case under Hong Kong law if it argued that the paper offerings, sold in shops only blocks from the company's own retail outlets, "blurs the distinctiveness" of Gucci's brand or causes it harm.

The subtleties of trademark law have yet to trickle down to the street level.

Instead of laughter, Gucci's letter, which threatened no legal action and asked for no compensation, prompted compliance from some of the shops that sell the paper offerings. Along Java Road, Gucci-branded offerings for the dead disappeared from the shelves, as shopkeepers feared that their tiny businesses could collapse if subjected to a lawsuit.

Sitting on a stool in the back of one shop, past the incense and ersatz packs of cigarettes from brands like "Danhill," "Lucky Strlke," "Marlbero" and "Sailem," one proprietor, who asked to be identified only by her last name, Chan, said she and others had little choice be-



Cardboard replicas of luxury products, made to be burned as offerings to deceased relatives, have become increasingly elaborate. Luxury brands say the sale of such fake products infringes on their trademarks. A paper Mercedes-Benz replica is taken in to Fook Hill Ancestral Hall in Hong Kong, above. Paper replicas bearing the Chanel logo, left, are for sale near the hall.

The South China Morning Post, wrote Tuesday.

Lee, the law professor, had a different interpretation. "Purpose served," she said. "They want to show the world that they are taking their intellectual property rights seriously."

Different market

The shopkeepers lament what they see as the absurdity of it all. Their target market — the dead — does not appear to intersect with the well-heeled, or aspiring-to-be wealthy, living and breathing Gucci cus-

tomers who frequent the outlet's shops in Hong Kong, one of the company's top markets.

"Our customers are totally different," said one shopkeeper outside Ten Thousand Buddhas Monastery, who gave only his surname, Lan. "They burn these things to send to the spirits."

Neither Chan nor Lan had received a letter from Gucci. Chan read about it in a local newspaper, and quickly moved to exorcise her store of any paper replicas of Gucci projects.

Actually, the word "Gucci" rarely appears in the world of paper offerings. In almost all instances, the enterprising manufacturers — from some where in mainland China — alter the spelling. Those "Gucci loafers" at the shop next door were labeled "Guuci."

Lan, who as of Monday had not heard of the warning letter, had one paper "Gueei" purchase on offer.

Chan said the whole idea of Gucci threatening such activity was odd. "It has nothing to do with us," she said.

cause their businesses are so small.

For Gucci, it was an easy win, even though their letter did draw some ridicule in the local press.

"The symbolism of a global,

multibillion-dollar luxury company 'warning' perhaps some of the poorest retailers in the city over items that could not ever be taken for the real thing just seems a little bullying," Jing Zhang, fashion editor for

