Imitation and Global Business

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Introduction

Imitation of goods is a growing and widespread phenomenon which has historically had great significance in the making of global business and also on the economic development of countries (Berg 2002; Béaur et al. 2007; Mihm 2007; Barry and Thrift 2007; among others). The concept of “imitation” never had a universal meaning. It changed over time and across cultures, but has always been associated with issues of appropriation of reputation and legitimacy that belong to an innovator. In the present day, a common way for innovators to prevent imitation in most markets is through protection of intellectual property, such as the registration of trademarks, patents, or copyrights (North 1981; Landes and Posner 2003; Maskus 2000; Horii and Iwaisako 2007). However, that has not always been the case, in particular before intellectual property laws were in place and enforced in different countries (Lopes and Casson 2012).

Imitation has affected virtually all industries, ranging from agricultural and manufactured goods to services. Imitation can be an unproductive activity when it has a few or more of the attributes of a truly innovative activity (Baumol 1990, 2010). But it can also be considered a productive activity. Entrepreneurs who imitate through, for example, reverse engineering or by creating substitute products, can be critical for technological progress. History is replete with examples of substantial improvements created by imitators, who adapted technologies to local conditions in new markets (e.g. of different size, with different consumer preferences, climatic conditions, or with different available complementary inputs). These are often called “new” innovations, when in fact they are “innovative imitations” (Levitt 1966). Imitation tends to proliferate in growing industries with low barriers to entry. It affects, in particular, successful products and services, relying on the exploitation of intangible assets such as successful brands and trademarks, or superior technologies and patents (Green and Smith 2002). Although it is difficult to provide precise estimates about imitation, studies indicate that in 2013 imitated goods corresponded to about 2.5 percent of total world trade, having increased from an estimated 1.9 percent in 2008 (US Chamber of Commerce 2016; OECD/EUIPO 2016).

This chapter provides an overview of the multiple dimensions and impacts of imitation on the making of global business. It will focus on the wine industry, which historically developed as one of the first global industries, and which was particularly affected by imitation and adulteration during late nineteenth and early twentieth centuries (Unwin 1991; Pan-Montojo 1994;
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Pereira 2009; Stanziani 2003, 2009; Lopes et al. 2017a). This is also the period of the first global economy (1875–1914), discussed in Chapter 2 by Geoffrey Jones. During this period, the Western world was characterized by a revolution in transportation and communications (essentially in more developed economies), an expansion of urban consumption, and the development of mass distribution and marketing, in particular mass advertising, and mass packaging of branded goods (Chandler 1994; Jones 2005). These changes increased the choice of consumers in terms of selection of goods, their quality, and price (Wilkins 1989). This chapter compares and contrasts producer countries and consumers from two continents: the Old World, focusing on major producers such as Portugal, Spain, and France, and also major traders and consumers such as Great Britain; and the New World, including major producers of wines such as Argentina, and also major traders and consumers such as Brazil. The chapter adopts a supply side perspective, investigating the relations and the multiple dimensions of imitation strategies in the wines industry.

The second and third sections of the chapter provide a multidisciplinary review of the existing literature, particularly in business history, on how imitation affected the making of global business and economic development. The fourth section analyses the regulatory environment around the creation of geographical denominations of origin. Sections five and six provide evidence of imitation in wines in the Old and New World, and also of the strategies followed by innovators and imitators to compete internationally, in particular in weak institutional and regulatory environments. In the late nineteenth century and early twentieth centuries, world trade in alcoholic beverages comprised essentially wines (Lopes et al. 2017b). Finally, the seventh section provides some conclusions highlighting the significance of imitation and imitators in the making of the global business.

Different perspectives on imitation in business

The real impact of imitation on the making of global business and economic development remains an open debate. The prevailing view in legal studies is that imitation, and in particular counterfeiting, may harm society at large (Wilke and Zaichkowsky 1999; Naylor 2014). The legal literature discusses differences in intellectual property regimes between countries and how, over time, these dissimilarities have complicated the making of global business (Bently et al. 2008; Bently 2009). In the Western world, issues of imitation led to the development of strong intellectual property rights regimes, but a broad spectrum of legal traditions has developed against intellectual property rights infringement (Callman 1969; Ladas 1975; Takenaka 2013).

Intellectual property regimes developed quite differently elsewhere. Several Latin American countries such as Argentina developed legal systems based on the so-called attributive system.1 This principle provided privileged rights to the first registrant, who might not be the innovator. This created barriers to foreign exporters and manufacturers who often complained about the different trademark regimes in Latin America, claiming that valuable trademarks were being registered for purpose of piracy or to be given up to the rightful owner for a consideration.2

Several economic studies analyze the recent impact of imitations on the growth of global trade, on the profitability of businesses, and on consumers’ wellbeing. Some economists consider innovation necessary for societal welfare, and believe that imitation may inhibit that process and make consumers worse off (Schumpeter 1949). Imitation and counterfeiting deprive brand owners from obtaining a return on the large investment, which are required to develop innovations (Grossman and Shapiro 1988). Therefore, and according to this strand of thinking, innovators, in order to avoid imitation, should improve overall market efficiency, match consumers’ preferences with their own innovations, and register the trademarks of their products (Landes
and Posner 1987: 269). The government has a role in protecting innovators against imitators, by facilitating organized intellectual property systems (North 1981). Retaliation measures such as protectionism are considered to be costly (Globerman 1988). Other economists have an opposite view and consider imitation and counterfeiting to be natural market reactions to situations in which easily reproduced goods are selling at exorbitant prices (Bagwell and Bernheim 1986).

Without denying the ethics dimension of imitation and counterfeiting, they question the extent to which these practices actually damage brands or reduce their sales (Staake et al. 2009).

From the consumer’s point of view, imitation can also be a form of competition, which helps to develop healthy and efficient markets (Schnaars 1994). Imitation can act as a strategic tool by increasing the distribution of products, technologies, and also ways of doing business when entering new markets. New product features and lower prices may benefit consumers by making goods and services more practical, useful, affordable, or accessible. Imitation also impacts on the welfare of consumers, by using the language of brands, as brand names represent information about a variety of attributes linked to a product, making it easy for consumers to talk or take decisions about products (McDonald and Roberts 1994). When imitators make use of existing brands that is called counterfeiting. Counterfeit is defined here as any good bearing, without authorization, a trademark which cannot be distinguished in its essential aspects from the trademark registered by the innovator for such goods (OECD/EUIPO 2016). Counterfeit is therefore a “direct” copy. But imitations are also considered to misguide consumers and leave them worse off (Wilke and Zaichkowsky 1999). The argument is that it all depends on the ease of imitation, the type of imitation, and the information that consumers have about the quality of the imitators’ goods (Teece 1988).

There are also psychological and cultural-ethical discussions about imitation and its impact (Zaichkowski 2006). The ethical debate is not so obvious in nations which are importers of intellectual property (Chaudhry and Walsh 1996; McDonald and Roberts 1994). Many of the countries where imitation and counterfeiting flourishes are also highly collectivist in nature (Green and Smith 2002). Intellectual property rights seem to be better protected in individualistic countries (Ronkainen and Guerrero-Cusumano 2001).

Historical research agrees with other disciplines, confirming that imitation is a complex phenomenon and it is not possible to provide generalizations. It also shows that no single country has ever been free from imitation, piracy, and counterfeiting. It is possible to find evidence of such practices going back 2000 years, to civilizations such as Babylonian and Egyptian (Hopkins 2002). In Fraud, Counterfeiting, and Contraband from Antiquity to Today (Béaur et al. 2007), which compiles an impressive collection of historical essays, imitations and fraudulent and illegal practices are shown to have always been an important part of the market economy, and a persistent force behind the globalization of markets. State repression was always unable to stop those practices completely. Imitation, counterfeiting, piracy, forgery, and smuggling “underline” the inability of the market alone to regulate the mechanism of confrontation among producers, between producers and consumers, and between producers and public authorities.

Industries that developed in the nineteenth century, as diverse as publishing and banking in the United States, flourished as a result of imitation-driven practices by entrepreneurs who took advantage of loopholes in the law and also the slowness of regulatory institutions to protect consumers and investors (Khan 2005; Mihm 2007; Balleisen 2017, among others). In some cases, imitation of the same product had negative impacts, leading firms to withdraw their investments; while in others it led them to invest further in foreign markets by using modes of entry involving higher risk and control. An example is Pears soap, a very successful translucent British soap, which, at the time it was acquired by Lever Brothers in 1915, was a highly internationalized brand. Soon after the acquisition Lever’s management had to deal with the huge number...
of imitators across different countries, which resulted from the success of the brand due to its innovative character and also marketing strategy. While in markets not considered strategic and where legal protection for intellectual property was weak the firm decided to withdraw; in other markets, considered to be more strategic, Lever Brothers increased their presence through the creation of wholly owned distribution channels, in substitution of agents working on commission (Lopes and Casson 2012).

Imitation in wines

Wines are one of the goods most affected by imitation and adulteration historically. The period starting in the last decades of the nineteenth century is, however, a particularly interesting one to study these phenomena (Gautier 1995; Stanziani 2003; Castro Coello 2004; Simpson 2011; Lopes and Casson 2012). A significant number of changes took place in the geography of production and international trade in wines, which was the main type of beverage traded globally. A series of diseases – oidium, phylloxera and mildew – affected all the vineyards in Europe from the 1850s, and that led to an abrupt drop in production across Europe. The countries affected by the diseases, the main wine producers, started to import wines to substitute the lack of local production, while simultaneously trying to replant the regions affected. All these joint initiatives led to a crisis of overproduction and a sharp drop in prices at the turn of the century (Simpson 2005). This transitional and unstable period created opportunities for the expansion of production and commercialization of imitations and adulterated wines worldwide (Lopes et al. 2017b). Some imitations resulted from wines which were produced artificially in Europe, in both traditionally producing and also in consuming countries. Wines were mixed with other chemical additives, dry grapes, water, industrial alcohol, and sugar, among other substances, which were added to fortify, provide color, or change the characteristics of the wines. These practices became frequent by different types of imitators in the global value chain, in particular by “wine manufacturers” (as imitators of wines were known), and wholesalers (Loubère 1978; Lachiver 1988; Pan-Montojo 1994). Imitation wines tended to be sold at cheaper prices; and often used fake denominations of origin with high and established reputation (Ramos 2010; Cardoso 2002).

A second type of imitation wines resulted from the production of imitations in new wine regions in the New World, in particular, Argentina, Algeria, Australia, and California in the United States (Lachiver 1988; Simpson 2011; Pinilla and Ayuda 2007). Indeed, they imitated production technologies and denominations of origin such as Jerez, Porto, and Marsala, names of regions which very quickly became known as generic beverages: they were written in lower case, in the same way as generic names of beverages like wine, water, or beer (Lachiver 1988; Morilla-Critz 1997; Lacoste 2003; Simpson 2011).

The attractiveness of foreign “styles” of wines in the New World is also associated with a large number of immigrants who arrived during the nineteenth and early twentieth centuries, in particular from Spain and Italy. They preferred to drink wines with certain characteristics associated with reputed regions in the Old World, in particular their own countries of origin. These countries were considered to have “identity poisoning” as foreign and local entrepreneurs, associated with the lack of action by the state, took advantage of these opportunities associated with nostalgia and acquired habits of consumption, by creating local wines which used reputed regions of origin (Lacoste et al. 2014). These contributed to explain the growing accusations of copycats and imitations in these regions of the world. Other alcoholic beverages sectors also affected by imitations were spirits and beer, but these sectors were mainly controlled by foreign companies or importers, most of whom were European immigrants.

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Countries producers of imitation wines resisted international laws aimed at recognizing denominations of origin, as they considered theirs to be legitimate business given that they had adopted technologies used in the production of wines from reputed regions to the production of some “styles” of wines. They argued that they were not misleading the final consumer, given that they associated the product and the technology used to its real traditions but also informed them about the origin of the product (for example, Hamburg Port, Spanish Madeira, British Sherry, and Portuguese Champagne). They often mentioned that it was a wine produced using the “style” of wines from a particular region, and not that it was from that region. In many of these cases, these imitations of wines from reputed geographical regions also worked as substitutes to imports, stimulated both by technological and scientific innovations, by the expansion of the consumption of special wines, and also by the volatility in the international wine trade.

There are no clear historical estimates of the volumes of imitation and adulteration in wines. But it is possible to have an idea about its significance by looking at a series of proxies. For example, these include the number of protests by wine growers from highly reputed wine regions; the articles and advertisements published in newspapers about this phenomena; the treaties and regulations created by governments to protect geographical denominations of origin; and the number of conferences and conventions to protect intellectual property rights associated with both collective and commercial trademarks initiated by wine producers and traders (Simões 1932; Lopes and Duguid 2010: ch. 1).

There are, however, some partial estimates of the volume of imitation in wines, at country, regional, and product type level. For instance, in 1872, Great Britain was considered to be the country where most adulterated wines were sold, with imitations corresponding to approximately 20 percent of wine imports into the country (Simpson 2011: 95). In 1907 discussions in the Portuguese parliament mentioned that, out of 60,000 barrels of port wine exported, only one-third related to wines produced with grapes from the Douro region (from where port wine comes from) (Sousa 1907: 38). In that same year, more than 50,000 barrels of counterfeiting “port” were produced in California (Morilla-Critz 1997). Lopes et al. (2017b) compare the evolution of global wine trade with the total evolution of world trade, and argue that the dissemination of imitations in alcoholic beverages impacted on the sharp decline of the global wine trade. That contrasted with the fast growth of world trade in goods and foreign direct investment during this period, which as previously mentioned, is known as the first globalization wave of the world economy (Wilkins 1989; Jones 2005).

The regulatory environment: geographical denominations of origin

In the late nineteenth century, even after trademark laws for commercial marks were passed in many countries, there was no international legal system of protection of regions and geographical denominations of origin. That meant that imitators could easily appropriate the long-established reputation of certain categories of beverages, with reputations strongly linked to specific climates, soils in which the grapes used to produce certain wines developed, and casts of grapes (Lopes 1999).

Several wine-producing regions tried, as early as the eighteenth century, to deal with this risk of appropriation of collective reputation, by creating geographical demarcated regions for growing grapes used in the production of wines. The widespread use of fake regional brands or fictitious geographical designations of origin at the end of the nineteenth century turned this into one of the most complex questions in international trademark law. It proved very hard to create harmonization among the countries, as they had different interests, and agricultural
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heritages. For instance, from the mid-1860s, the lack of regulation of the Douro region, which had been regulated from 1756 until 1865, facilitated the appropriation of a very reputed regional designation even by wine producers from other regions of Portugal. The same problem occurred in other reputed wine producing regions. As a result of this widespread practice of imitation of geographical denominations of origin, international law started to develop mechanisms for the protection of collective intellectual property and in favor of harmonization of laws, with the organization of international conventions, from the early 1880s. Although this principle was considered in the Convention of Paris in 1883, it did not have any practical applicability (Almeida 1999: 144). This led countries, producers of more reputed wines such as France, Spain, and Portugal, to fight for clarification with regards to denominations of origin. After the Convention of Rome 1886, the Madrid Convention in 1891 which aimed to repress the false denominations of origin was an important step in that direction (Holtmann 1992). Nonetheless, only eight countries signed the agreement – Brazil, Spain, France, Guatemala, Portugal, Great Britain, Switzerland, and Tunisia. Among these signatory countries there were some of the world’s largest producers and exporters of wines (France, Spain, and Portugal), and also two of the most important importers (Great Britain and Brazil). The restricted number of countries limited the immediate legal effectiveness of the convention. The first stipulation concerning unfair competition was only adopted at the Brussels Conference of Revision in 1900, but no obligation was imposed on any country to afford remedies against acts such as imitation or counterfeiting (Ladas 1975: 1778). It was only at the Conference of The Hague in 1925 that the problem of international unfair competition was fully recognized.

The process through which some geographical denominations of origin, such as Bordeaux, the Douro (port wine region), and the Champagne region, were protected before international legislation came into place involved differentiated strategies. In some countries, such as in Spain in 1892, producers established enologic laboratories as a way to assure the quality and consistency of the characteristics of their wines. In other regions, such as in Champagne, firms invested collectively in the publicity of regional brands, through the creation and organization of associations. In the Champagne region, in 1882 the Syndicat du Commerce des Vins de Champagne was established, gathering more than 50 of the most well-known champagne brand owners, leading to the creation of the principles of denomination of origin. This was the result of the concerted actions of several producers, who advertised “pure champagne”, produced in the region of Champagne using traditional techniques, against the use of the designation “champagne” as a generic name to sparkling wines produced in other regions of France and abroad (Guy 2003: 24–26).

In the beginning of the twentieth century, some of the wine producing countries created legally protected geographic denominations of origin. From 1905, the French government launched a series of laws, which culminated between 1908 and 1912, in the demarcation and regulation of production of various regions, which became controlled denominations of origin: Champagne, Cognac, Armagnac, Banyuls, and Bordeaux (Unwin 1991: 314). Also in Portugal, the law from 10 May 1907 re-established the demarcation of the Douro region and regulated the production and trade of port wine, creating also other denominations of origin in Portugal (fortified wines of Madeira, Carcavelos, and Moscatel from Setúbal; and also table wines from Colares, Bucelas, Dão, Bairrada, Borba, Torres, Cartaxo, Alcobaça, Douro, Vinhos Verdes – Minho, Amarante, Basto, Fuzeta, and Monção).

The principles used in the creation of geographical denominations of origin were accepted and disseminated throughout the twentieth century in Europe. But there continued to exist a great difficulty in harmonization with new producing countries, in particular in the New World, where wine was considered to be a manufactured good, with no connection or acknowledgment of the
concept of denomination of origin. In Argentina it is from 1923 that the concern behind the excessive use of European denominations of origin for consumer products – including wines – lead to the passing of the Merchandise Identification Law (Breuer-Moreno 1946: 591–593). In fact, the official purpose of this law was to make obligatory that all articles manufactured in Argentina bore the label Industria Argentina (Argentine industry) a step taken by other countries as well. In Chile, Pisco brandies gained legal protection for denomination of origin in 1931 (Lacoste et al. 2014).

At the level of commercial or individual trademarks it was easier to reach some international harmonization since the last quarter of the nineteenth century. In fact, modern trademarks began with the creation of national registration systems during the second half of the nineteenth century (Wilkins 1992; Lopes and Duguid 2010). Most European countries (France 1857, Great Britain 1876, Portugal 1883), the United States, and many Latin American countries, set up national registration systems. Except for some Central American countries, most Latin American countries enacted their trademark laws before 1900, with Chile (1874) and Brazil (1875) pioneering this process. Argentina passed its first law on trademarks in 1876 (Act #787).

Strategies for imitation in wines

In the wine industry, it is possible to identify different types of strategies of imitation of commercial (or individual trademarks) and collective trademarks (with geographical origin). The meaning and the ethics associated with each type of strategy vary over time. They result from multiple factors, such as the level of regulation and the scope of activities, being the most significant ones. A trademark is a name, symbol, or other device that acts as a distinguishing feature of a product or of an entire range of products. It is part of the branding process. And it is a crucial means for the conveyance and building of reputation, especially when extended distribution networks undermine the traditional familiarity between buyer and seller (Wilkins 1992: 68; Ramello 2006; Higgins 2010). The reputation effects conveyed by trademarks can assist new entries into markets where high search costs would otherwise represent a significant barrier to entry (Griffiths 2011). Collective trademarks are distinctive from commercial trademarks, in the sense that they are used by a group of entities (not just one) to identify themselves with a certain geographical region, and a certain level of quality.

Imitator entrepreneurs may follow different alternative imitation strategies in wines. Some imitate the product only but not the trademark. Others imitate the commercial (or individual) trademark; a third group may imitate the collective trademark (e.g. region); and a fourth group may imitate both – the commercial and collective trademark. When a product is imitated but not the trademark, the imitation is associated with the production of look-alikes (also known as copycats) (Horen 2010), but there is no trademark infringement. This is considered to be legitimate business, associated with processes of competition, or even with the first steps toward incremental innovation. In nineteenth century Spain, the modernization of “Rioja” wines is an example of imitation of a product – “Bordeaux” type of wines – with no imitation of the trademark. The expansion and modernization of the Rioja region, in the second half of the nineteenth century was the result, to a large extent, of techniques used for the production of wines in the Bordeaux region, where expressions such as “médoc alavês” or “médoc riojano” were being used. Sometimes, the actual technicians hired for the production of the Rioja wines were former employees in the Bordeaux wine region. The name of some firms and estates created during this period, such as “Bodegas Franco-Españolas” (1890) or “Chateau Ygay” (1893), also illustrate the French influence in the establishment of the Rioja region. The commercial flow of wines between Rioja and the Bordeaux region developed in the 1880s, as a result of phylloxera
which had affected the Bordeaux wine production, and the fact that Rioja wines were attractive to former consumers of Bordeaux wines because of the taste and techniques used in its production.

In the beginning of the following decade, in the 1890s, with the reconstruction of many vineyards in France, the increase in imports of wines from Algeria, and the protectionist measures imposed by the French government, the imports of wines from Rioja and other foreign regions to France almost stopped (Gómez Urdáñez 2000: 62–66). As a result, the wine producers from Rioja, which had made large investments in the previous decade, had to change their strategies, trying to sell their wines in the domestic market and in other foreign markets, marketing those wines with French designations. For example, Bodegas Bilbainas traded, in the beginning of the twentieth century, among other beverages, “Cognac Faro”, “Rioja Clarete”, “Cepa Borgoña”, and “Cepa Sauternes” (Gómez Urdáñez 2000: 78). Another illustration of a strategy of imitation without trademark infringement is the case of the Spanish sparkling wine “Cava”, which developed around the same time, mainly in the region Catalunha. This type of sparkling wine developed as an imitation to “champagne”, but with a different name (Pan-Montojo 1994: 352).

Another type of imitation strategy refers to cases where there is no imitation of the product type but there is imitation of the commercial or individual trademark. An illustration is Hiram Walker & Son the trademark known for Scottish whisky and owned in the late nineteenth century by the company with the same name. However, in Argentina, while Hiram Walker & Son registered the code of arms of the family a trademark for whisky in 1889 (trademarks 1686 and 1687), in 1893, Fernando Rossi, an Argentinian company, registered the same trademark for selling locally made “cognac” (trademark number 3639).

Imitation can also refer to cases where the product is not imitated but the collective trademark is. The imitator applies the collective trademark to one of his own products, rather than to a copy of the innovative good or service. It basically refers to cases of trademark infringement, or unauthorized brand extension. Here trademark infringement relates to the misuse of the geographical denomination of origin. Apart from the “cava” example provided above, in Brazil, in the last quarter of the nineteenth century firms registered trademarks which combined multiple reputed denominations of origin such as “cognac muscatel”, “cognac fine champagne”. These were artificial wines mostly manufactured in Rio de Janeiro and São Paulo.6 Foreign imitators of reputed wines followed a similar practice. There is evidence of port wines originally from Hamburg, Tarragona, California, and other origins, and registered in different countries as genuine trademarks. There are also multiple examples of trademarks registered by foreign merchants such as “Cognac Gayarre” and “Cognac Tamarez” from Spain, and “Ginebra Llave” from Argentina.7 In Portugal, at the end of the nineteenth century, there was a fashion among the urban middle classes, of drinking foreign beverages, in particular cognacs and champagnes. The adverts and trademark registrations from that period, apart from the original wines and spirits imported, also include a large number of imitation trademarks of such “styles” of foreign beverages produced in Portugal.

The most damaging scenario for the innovator relates, however, to those cases which involve the imitation of the product or service and also the trademark. Counterfeit goods are very likely to confuse the consumer and thereby take trade away from the innovator (Lopes and Casson 2012). In such cases the imitation of the trademark can relate to the commercial or individual trademark, or the collective trademark. For genuine nineteenth and early twentieth century wine producers, the fact that in most cases they were exported in barrels, that made imitation and adulteration easier at various points in the value chain. The press in different countries mentioned many cases of barrels which had the label of famous wines and spirits traders, and also
bottles with famous brands which, once emptied, were refilled by producers of fraudulent wines, spirits, and beers, trying to take advantage of the reputation of established alcoholic beverages brands (Breuer-Moreno 1946: 400). For example, a leading British wine merchant Gilbey’s sued a grocer and wine and spirits merchant Wilkinson and Co. for using returned Gilbey’s bottles and filling them with other spirits, without removing the original labels.

Imitation through the misuse of the collective denomination of origin was the most common form of imitation of wines in the late nineteenth and early twentieth centuries. In many cases there was double counterfeit: imitation of the product and of both the commercial and collective trademarks. There are multiple cases of trademark registrations of imitations of “champagne”, “madeira”, “port”, “sauternes”, “Malaga”, and French chateaux. Registrations of imitations and adulterated beverages sometimes included more sophisticated names such as “Champagne Portugais Extra Dry”, “Porto style”, and “Champagne style”. For example, many wines were circulated in the market with the label “port”, and were produced in Lisbon, Tarragona, Sète, Hamburg, Cape Town, California, among other places (Simões 1932). The producers of such mixtures advertised themselves as “manufacturers of port wine” (Loubère 1978; Lachiver 1988; Pan Montojo 1994). Department stores, such as Armazéns Grandella, a market leader in Lisbon at the turn of the century, also registered trademarks such as “Château-Bordeaux”, a wine produced in Benfica, a district of Lisbon. They were blamed by farmers and wine producers for creating a commercial crisis, and also for generating a lack of trust among consumers (Burnett 1999; Loubère 1978).

Innovators’ strategies for dealing with imitation

In many countries such as Brazil and Portugal, the first years after trademark laws were passed, the process of registration was not effective as imitations were also registered as trademarks, and enforcement was very ineffective or nonexistent. Firms both with national and international activity had to find alternative ways to deal with such business risks associated with imitation (Lopes and Casson 2012; Lopes et al., 2017a). Apart from conventional advertising strategies, firms sometimes used letters of apology sent by imitators which resulted from the brand owners’ threats of ligation, as a way to show to the public how committed they were to sell genuine beverages. These pieces of news also alerted consumers that their products were genuine and of trusted quality, and informed indirectly potential imitators of the risks they faced of prosecution. For example, in Argentina Fratelli Branca, a producer of Italian liqueur published a note in eight newspapers to inform the public that they had no relation with an Argentinian producer of imitations who was trying to associate himself with the firm, through the widower of Luigi Branca. This campaign appeared in national, regional, and local newspapers.

As a result, some firms developed marketing and technological innovations. An illustration is Gilbey’s, which by the 1930s had its labels so widely copied that the company had to set up a special service to identify them. Often, only the printer could tell by the watermark if they were genuine. One ingenious racketeer bottled imitation Gilbey’s gin in elaborately decorated cans, stating that no others were genuine (Waugh 1957: 91–92). To protect the consumer from spurious products, a square gin bottle was also produced. It was sand-blasted on three sides, with the label printed on both sides and visible through the one clear side. This was very difficult and costly to imitate.

Another way firms had of dealing with imitation was through the formation of horizontal alliances between competitors, or by creating vertical alliances with agents in the value chain (forward into retailing, or backward into production). An illustration is the alliance created by four companies Otard Dupoy y Cia. (France), Fratelli Branca (Italy), Cinzano (Italy), José Deu y Cia. (Spain...
and Argentina) between 1913 and 1917, to jointly take legal action against all imitators in the value chain (producers, wholesalers, and retailers of imitations of their own beverages). These allied companies not only sought litigation against imitators, manufacturers of fake liqueurs and vermouth, but also against the small traders in rural villages in Argentina who they accused of being accomplices by selling the imitated and counterfeited goods.12

Forward and backward integration was another strategy used by firms to prevent and mitigate imitation of their beverages. From the mid-1870s, the crisis in the global wine industry made it very difficult for large wine retailers such as the British firm Gilbey’s to control the quality of the wines they were selling. Gilbey’s depended traditionally on leading shippers in Jerez and Porto to select the wines they sold using the “Gilbey’s” brand. This uncertainty led the company to integrate backward and purchase Château Loudenne in the Médoc in 1875. This investment reduced information costs associated with the firm’s searches to buy suitable wines from local growers, and also cut operating costs (Faith 1983; Simpson 2011: 100). Other wine merchants followed this trend, and that eventually led to a change in the relations between the different agents in the global value chain.

In some cases, vertical integration meant investing forward in distribution in foreign markets through the establishment of commercial branches and/or the appointment of exclusive agents, or even the setting up of industrial facilities. In Argentina, firms such as Cinzano, Martini & Rossi, and Florio followed their consumers who had immigrated to foreign markets around the turn of the century.13 Vertical integration allowed firms to overcome transaction costs. Exports through third parties were threatening their reputation, as imitators often acted opportunistically by trying to sell their beverages as if they were genuine.

**Conclusion**

This chapter provides a brief overview of the literature on imitation and the contribution of imitators as makers of global business. By focusing on the case of wines, historically one of the most internationally trade goods and also one of the most imitated, it offers an overview of the multiple dimensions and impacts of imitation on the making of global business, and on the strategies followed by both imitations and innovators in different institutional environments.

The wine industry was one of the earliest and most globalized in the world. It suffered a major backlash during the first wave of globalization, countering the growth trend in other industries during this period. Vineyards in the main European wine producing regions were devastated by various diseases since the 1850s. As a result, imitation and adulteration of wines spread, involving different agents within the global value chain. In the short-term this led to a lack of trust by consumers, and a decrease in international wine trade and wine consumption, in particular in traditional wine drinking markets.

In the medium and long run, imitation led to the development of global business. A new wine industry developed in most New World countries out of the production of wines, which were imitations of European wines, and used reputed denominations of origin. In these countries, consumption of wines increased very fast, in part because of the increase of supply of wines at cheaper prices, but mainly because of the large number of European immigrants and expatriates from Southern European countries. Governments in New World countries also created tariffs and other protective barriers for imports, and provided subsidies to help local entrepreneurs to develop new wine industries.

Imitation and adulteration had other consequences which impacted on the long-term making of the global wine business. It led to the creation of national and international trademark law;
the development of marketing and technological innovations; to processes of concentration in
the industry; and to shifts in the power relations by agents involved in global value chains. Some
firms formed alliances with competitors; others integrated forward into distribution, backward
into production, or both. Imitation also had also a social and cultural impact. It disseminated
habits of alcohol consumption around the world, in particular of certain categories of wines
drunk by consumers with distinct social and economic income levels, and which would not
have had purchasing power to drink the original wines. Because imitation and adulteration
wines were cheaper, they could be consumed by people who would not have been able to drink
the genuine beverages.

As with imitations of consumer goods in other industries, during the late nineteenth century
and early twentieth century, imitations of wines were not originating from countries such as
China, but rather from more developed countries, many of which throughout the twentieth
century became leading economies such as the United States. While imitators, in the short term,
might have impacted negatively on globalization by leading to sharp decrease in wine trade, the
long-term implications in the making of global business were positive, as they helped dissemi-
nating production and consumption around the world.

Notes
1 Bolivia, Chile, Costa Rica, Ecuador, Nicaragua, Peru, Uruguay, and Venezuela. First usage was
decisive in El Salvador, Honduras, Colombia, Mexico, and Panama. Brazil, opted for a mixed
system.
2 The Americas, National City Bank of New York, 1915, May, 1(8), 15. However, Argentina and the
South American countries were not the worst cases of trademark piracy according to information pro-
vided by the American Manufacturers’ Export Association in 1922.
3 Illicit trading includes a wide variety of illegal or non-contractual activities, such as traffic in controlled
substances, stolen and smuggled goods, trade of all kinds with products infringing intellectual property
rights, and even parallel imports (Staake et al. 2009).
4 The first geographic boundaries were created for Chianti and Carmignano wines from Italy as early
1716, and for Tokay wines from the region of Tokaj–Hegyalja, Hungary, in 1737. Portugal follows in
1756 for the Alto Douro, the port wine production region (Unwin 1991).
5 A brand may be defined as an identity that differentiates a product from substitutes by associating it with
specific characteristics. These characteristics may be objective, such as performance and reliability, or
subjective, such as an association with particular celebrities or lifestyles. Brands are often used to signal
quality and to enhance the perceived status of the consumer. They are particularly useful in signaling
the value of nondurable goods in order to encourage repeat buys, as a memorable brand makes it easy
for the consumer to recognize the product subsequently (Lopes 2002).
6 As illustrations for the case of Brazil, A. Cardoso Gouvêa & Comp. America do Sul registered trade-
mark number 4697 “A. C. G. & Co. – Fino Champagne – Cognac” in 1906. He was a producer of
beer liqueurs, syrups alcohol, and brandy in Rio de Janeiro. Alfredo F. Gomes Savedra, a producer and
merchant of vinagre, syrup, and other beverages based in Rio de Janeiro, registered the trademark
number 3957 “Ginebra Superior Savedra” in 1904.
7 See for example in Brazil trademark number 1467.
8 Argentina, Federal Court, Emilio Gabay & Comp. America do Sul registered trade-
mark number 4697 “A. C. G. & Co. – Fino Champagne – Cognac” in 1906. He was a producer of
beer liqueurs, syrups alcohol, and brandy in Rio de Janeiro. Alfredo F. Gomes Savedra, a producer and
merchant of vinagre, syrup, and other beverages based in Rio de Janeiro, registered the trademark
number 3957 “Ginebra Superior Savedra” in 1904.
9 “Wine Merchants’ Trade Mark Case”, 23.
10 For example in Portugal there were registrations of “champagnes” from Bombarral (a town located in
the middle west of Portugal), “Champagne de água-pé” (champagne from the alcoholic beverage made
by pouring water on the husks of the grapes), “champagne de piquette”, “champagne de mistura”
(mixed champagne), as well as “champagnes” from Bairrada (a region south of Porto). Similar cases in
Brazil include “cognac the Adrião”, “cognac the carvão” (cognac made of coal), “superior ginebra”,
“champagne fino – produzido no Brazil” (fine champagne produced in Brazil), “Malaga from Brazil”,
“Porto Brazileiro”, “Vinho de collares produzido in Rio”, “Château Rauzan” from Rio de Janeiro,
“Alto Minho – Vinho Verde” produced in Rio de Janeiro, among others.
11 “Al Comercio y al Público”, Las Novedades (1 October 1892).
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13 In 1923, Cinzano opened its first industrial facility abroad, interested in maintaining its market share and the quality of its Vermouth (Dinámica Social, 74, November to December (1956): 69).

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