



Parasitic packaging

2025 examples, current legal regime, the Thatchers v Aldi case and evidence

21 February 2025

Introduction

The products presented here were purchased on the UK market in 2025. They are packaged using designs similar to those of familiar brands, risking mistaken purchases and/or mistaken assumptions about the product in the packaging.

It is extremely hard for brand owners to challenge such packaging under the UK's patchwork of IP rights, despite such packaging prompting mistakes, misleading shoppers and/or taking unfair advantage of the original. Meanwhile, consumer protection rules go unenforced. The UK regime favours copiers, in contrast to other regimes in the world.

A court judgment in January 2025 found that Aldi had infringed trade mark rights by taking unfair advantage of Thatchers' Cloudy Lemon Cider. While promising, this case does not provide a silver bullet to stop unlawful mimicry of product packaging.

In this document, you will find....

Examples of similar packaging, with the original branded product

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An example of targeting the brand, not the product type / category cue

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Why legal causes of actions are ineffective in the UK

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04 2026 4201H 10:18

SINCE 1887
Sharwood's
GREEN LABEL

**MANGO
CHUTNEY**

Energy 100kJ
per 100g

of an adult's
reference intake*
per 100g
200kJ / 48kcal

100% natural
ingredients

100% natural
ingredients

100% natural
ingredients

**MANGO
CHUTNEY**

SWEET & SPICED

100% natural
ingredients

100% natural
ingredients











STAINS GONE
AT 20°C IN 30 MINS*

Vanish
Oxi Action

VIBRANT COLOURS
CHLORINE BLEACH FREE LAUNDRY BOOSTER

TUB
455g

MULTI-PURPOSE
STAIN REMOVER

TESCO

Oxy Power
Stain Remover
COLOURS

Tough on stubborn stains
with ACTIVE OXYGEN technology



aah!
BISTO
ROAST
Britanni-aah!
GRAVY GRANULES

BRAMWELLS
QUIXO
FOR
MEAT
GRAVY GRANULES
-The Nation's-
EVERYDAY
FAVOURITE











head & shoulders

ANTI-DANDRUFF SHAMPOO & CONDITIONER

CLASSIC CLEAN
2 in 1



UP TO 100%
DANDRUFF FREE + MOISTURISED
HAIR

USE
EVERY
WASH



HAIR
TECHNIQUES

2 in 1

ANTI-DANDRUFF

SHAMPOO & CONDITIONER

For all hair types



FRESH CLEAN
500ml





UNIQUE
AROMA
& TASTE

NESCAFE.
ORIGINAL

100%
RESPONSIBLY
SOURCED
COFFEE

FULL & BOLD FLAVOUR

200g

Bellaron

INSTANT COFFEE

RICH ROAST

STRENGTH 00000



100





STELLA ARTOIS

4x
CANS
330 ML
ALC. 4.6% VOL



Premium Lager Beer

GALEREUX

4x440ml

ALC. 4.6% VOL



ALC. 4.6% VOL

4x440ml



STELLA ARTOIS
BELGIUM

4x
CANS
333 ML e
ALC 4.6% VOL



CRISSELEBELLS



Premium Lager Beer

SAINTE ETIENNE
PREMIUM LAGER BEER

Brewed for a Premium Flavour



Brewed for a Premium Flavour

4 440ml e CANS
alc. 4.6% vol.





La Vieille Ferme



Un de bouteille pour la Vieille Ferme

Le Petit Poulet



Château de la Vieille Ferme
Produit de France







Parasitic copies mimic the brand, in contrast to others that compete distinctively, on their own merits



Other anti-dandruff shampoos on the UK market

Why parasitic copies thrive on the UK market

The UK's patchwork of IP rights and consumer protection law is inadequate and/or difficult to enforce, favouring copiers.

- Demonstrating confusion to a court, essential to successful **passing off** actions and most **trade mark** infringement cases, is extremely difficult and hard to evidence.
- **Trade mark** law is an ineffective remedy in most instances. Having the right registration in relation to a specific copy is essential and that is nigh impossible to predict. A recent legal case is encouraging though not a full solution (overleaf).

It is not unlawful under UK trade mark law for a copier to create an association in the shoppers' mind with the original, yet it is this association that misleads and boosts the appeal, amounting to unfair competition.

Shoppers use colour and shape most to identify products, yet colour combinations and shapes are hard to register.

- **Copyright** only applies where a substantial part of the work has been copied/reproduced. A copier need not go so far in order to form an association in shoppers' minds sufficient to boost sales.
- **Design protection** is only available where designs are novel and possess individual character. Brand owners however wish to sustain familiarity and recognition amongst shoppers, so evolve their designs, not introduce new ones.
- **Consumer protection** rules are simply not enforced (there has only been one (successful) action sixteen years ago).
- The UK does not have a law of **unfair competition** and Passing Off is not equivalent (Thatchers' passing off action failed).

A critique of the UK legal regime can be found at [this link](#).

Thatchers v Aldi



This case, dismissed at first instance, succeeded in the [Court of Appeal](#) on trade mark infringement based on ‘unfair advantage’ in January 2025. Does this resolve the problem? We believe not.

- Aldi is expected to appeal this judgment and it is unknown what the Supreme Court will conclude.
- It is necessary to have the right trade mark registration and for that trade mark to have a reputation in order to plead ‘unfair advantage’.

The UK is bound by treaty* to provide effective protection against unfair competition. Providing such protection only to those with the right trade marks and that those have a reputation does not go far enough.

- This is not new law. The Trade Marks Act was introduced over 30 years ago. Thatchers had on its side the right trade mark registrations, the right evidence, the right judge and the resources to appeal after its initial failure. It also did not have a commercial relationship with Aldi. This is a very rare alignment of stars.

* [Paris Convention](#), Article 10^{bis}

Evidence on the impact of similar packaging

- The UK Intellectual Property Office (IPO), a Government agency, commissioned a [study](#) into similar packaging in 2013 which reviewed historical studies and undertook its own original research.

Following publication, the IPO summarised in a [note](#) the key findings of all the research reviewed:

There is a lookalike effect. In essence:

- Consumers are more likely to make mistaken purchases if the packaging of products is similar and there is strong evidence that consumers in substantial numbers have made mistakes;
- Consumers' perceptions of the similarity of the packaging of goods are correlated with an increased perception of common origin and to a material degree. There is also an increased perception of quality;
- The lookalike effect increases consumers' propensity to buy a product in similar packaging.

...../continued

- A research [study](#) by Acuity Intelligence, published in 2017, confirmed
 - colour as the primary search feature
 - the presence of a copy disrupts shopper decision-making. Mistakes in identifying the brand occurred 20% of the time when both the original and the brand were present and 64% of the time when only the copy was present
 - The colour and clarity of the pack play a role in accurate search, indicating that ageing populations are at particular risk
 - The study concludes that errors were unavoidable, being driven by unconscious decision-making, and that packaging similarity drives the effect.
- A research [study](#) commissioned by the British Brands Group in 2009 found that 33% of respondents admitted to buying a shopping item by mistake because the packaging was similar. Perceptions of similarity were driven primarily by colour but also by shape, overall design and size.

- An [interim judgment](#) decision before the Scottish Court of Session in 2021 involved Hendrick's gin and Hampstead gin, the latter moving from a distinctive pack design to a design closer to that of Hendrick's. From data in the judgment, it can be calculated that the price per cl was 14% higher when in similar as opposed to distinctive packaging (though there was a 1.4% increase in alcohol content). The similar packaging included a larger bottle so the per cl price could have been expected to be lower. The Judge noted the apparent intention of the defendants to “pay about 60% more than the price of the previous 50cl bottle (the new bottle being 40% greater in volume)” (para 61).
- In March 2023, law firm Stobbs IP commissioned and published [The Psychology of Lookalikes](#), a report that examines the consumer and behavioural science research on similarly packaged products. It concludes that shoppers are influenced by a host of subconscious biases, that colour, shape and brand image are more influential than words in the identification of products and that similar packaging impacts shoppers' views of the product inside the pack, allowing higher prices to be charged.

There has been significant research undertaken over the decades using differing methodologies and reaching sufficiently consistent findings to present clear evidence on how parasitic copies work and the harm they cause. The Group's [website](#) provides some further examples to those mentioned above. For further information on existing research, please contact John Noble at the British Brands Group (jn@britishbrandsgroup.org.uk).

ANNEX

The products presented here were purchased by the British Brands Group on the basis that they appear to be designed intentionally to evoke the original products, thereby gaining an advantage from those products.

The examples have not been researched to confirm to what extent, if at all, shoppers have been misled or prompted into making wrong assumptions or purchases.

The effects of similar packaging

There is extensive evidence that similar packaging prompts shoppers to make mistaken purchases and increases their assumptions that the copy comes from the same company or has the same quality and/or reputation as the original. In short, products in such packaging steal sales and/or dupe the shopper into thinking they are buying something other than what they actually are.

Packaging designs that mimic those of familiar branded products also take unfair advantage of the original, bleeding them of their distinctiveness and sales, hence being parasites. In addition to free-riding on the marketing effort of familiar brands without incurring the associated costs, boosting their profits in the process, the copy is also able to charge higher prices, without delivering any higher value to the shopper.

Why such copies are able to thrive on the UK market, a summary of UK research and evidence on the impact of similar packaging are provided on the following pages.

Copies made by the same manufacturer?

It has not been confirmed whether any of the examples presented were made by the same manufacturer as the original. Were a manufacturer to make both products and their ingredients, production processes and qualities to be identical, then the similarity would not be misleading. Indeed, the packaging could be potentially helpful to shoppers, identifying where there is true similarity.

The presentation of products

Examples are presented side-by-side for comparison purposes. This however tends not to be how the products are presented to shoppers in store. The original product may be alongside, on a different position on the same shelf, on a different shelf or not present at all. Products either above or below eye level may only be partially visible and packs may not all be face on. The retailer determines shelf position, number of facings and shelf communications, as it does the retail price at which both products are sold.

Preying on the shopper's subconscious

The side-by-side presentation here helps comparisons. That however is not how most people shop. For familiar products regularly purchased, shoppers rely on subconscious and System 1 (fast) decision-making, making their choices in a matter of seconds or less. Few use shopping lists and few read labels, relying on colour and shape primarily to identify products. It is this way of shopping that is exploited by those who package their products to evoke familiar brands and their qualities.



British Brands Group

100 Victoria Embankment, London EC4Y 0DH

Tel: 01730 821212

Email: jn@britishbrandsgroup.org.uk

www.britishbrandsgroup.org.uk

[Twitter – @JN_BrandGroup](https://twitter.com/JN_BrandGroup)

[LinkedIn](#)

