



REVOLUTION*

MAKEUP REVOLUTION LONDON

*OR COPYRIGHT INFRINGEMENT?

Too Faced Sweethearts Perfect Flush Blush:

Candy Glow

①



VS.

1. Both titles of the product use the word 'Candy'
- **Text infringement**

2. Both products have the same shape and size packaging, with a gold outer layer, and a heart outline on the cover
- **Graphics infringement**

3. Both make-up products are encased the same - within a white box inside the packaging
- **Function infringement**

4. Exactly the same colour make-up has been developed within the product, using the same colour sequence and positioned on a diagonal
- **Functions and features infringement**

Revolution Blushing Hearts Triple Baked Blusher:

Candy Queen of Hearts ①



Bobbi Brown **Shimmer Brick Compact: Bronze** ①



1. Both titles of the product use the words 'Shimmer Brick' and 'Bronze'
- **Text infringement**
2. Both products have the same shape and size packaging, with a black outer layer and square compact
- **Graphics infringement**
3. Exactly the same colour make-up has been developed within the product, using the same colour sequence and positioned horizontally
- **Features infringement**
4. The title is presented in the centre of the cover, with a hinged lid in the same place
- **Functions infringement**

Kat Von D **Shade and Light Eye Contour** ①



1. Both titles of the product use the words 'Shade', 'Light' and 'Eye Contour'
- **Text infringement**
2. The same colour make-up has been developed within the product, using the same colour sequence and positioned horizontally
- **Features infringement**
3. Both products have the same shape and size packaging, with a black outer layer and rectangular shaped designs
- **Functions infringement**

VS

Revolution **Shimmer Brick: Bronze Kiss** ①



VS.

Revolution Ultra **Eye Contour - Light and Shade** ①



IN SUMMARY,

it seems the problem that all the brands have with being infringed is that technically the words they use for the title of their products aren't trademarked, and that includes the packaging.

Too Faced have a trademark class 35 which is active (advertising/business functions), whilst class 3 (non-medical cosmetics) has been applied for but has been abandoned.

THIS IS A RED FLAG.

This could be due to Too Faced encountering an objection in the application for class 3 that they weren't able to resolve (this could be something minor like proving the ideas behind the branding ad/or individual products are their own). Personally, I think Too Faced need to review their intellectual property and/or resolve the dispute that caused them to abandon the application for the class 3 trademark.

Whilst a class 3 trademark does nothing to physically stop someone copying a branded product, it allows the copied brand to enforce against the copied material (if and when they do). This way, Too Faced would be able to file actions against Revolution for copyright infringement on their specific makeup products.

In contrast, both Bobbi Brown and Kat Von D have got class 3 as an active trademark. This is where I find it interesting, because both of these companies are within their right to sue Revolution for infringement as this stage. Yet, they haven't and Revolution are still selling the dupes.

SO WHY IS THIS HAPPENING?

- Revolution are purposely building their brand to be based on dupes of high-end, luxury cosmetic brands, therefore being affordable to all and appealing to a large consumer market (younger teens with less money for instance). Consumers are aware that the quality may be compromised but as it is affordable, are willing to take the risk
- Revolution have craftily made their products slightly different from the mimicked products to avoid being sued for copyright infringement
- The luxurious cosmetic brands will not have suffered a major loss to sales and therefore it's not worth the high cost of a lawsuit against Revolution

Ultimately, there are brands out there that will always infringe upon another luxurious brand because there is a consumer market out there for them. Unfortunately for large brands it means taking bringing the law into the equation or allowing cheaper brands to imitate them.

