

## COPIES, REPLICAS, AND COUNTERFEITS OF ARTWORKS AND ARTEFACTS

### 1. Introduction

The aim of the paper is to analyze the notions of *counterfeits*, *copies*, and *replicas* of *artworks* and *artefacts*. We begin by taking into account three definitions of *counterfeits* and then suggest our own solution with (D4):

(D4)  $x$  is a counterfeit if and only if  $x$  has been intentionally produced to convince someone else that  $x$  has a *historical property* that it actually does not possess.

This definition is based on a special relation between *counterfeits* and *copies*. However, (D4) is not without problems. In particular, our proposal seems to be inadequate to capture a notion of *counterfeit* used to characterize artefacts and artworks like film, music CDs, commercially branded objects, etc. To overcome this difficulty, we introduce a notion of *replica* and we distinguish a different way of speaking of *counterfeits*.

### 2. A first Characterization of the Relation Between Copies and Counterfeits

In dictionaries, the words “counterfeit” and “copy” are usually related lexical entries. Take, for example, *Webster’s Third New International Dictionary*: “counterfeit” is “something that is made or produced as a copy: an artificial likeness.” From the data taken from several different languages, we learn that a *counterfeit* is a specific kind of *copy*, a copy “presented as the original,” and that *counterfeits* and *copies* share the property of being reproductions of an original object. A first tentative characterization may be the following:

(D1)  $x$  is a counterfeit of  $y$  if and only if  $x$  is a supposed copy of  $y$  and  $y$  is an original object.

To support (D1), consider the following argument (A), taken from M. Wreen (2002, 145):

(A)  
Some paintings are sometimes forged.  
Therefore, it could be the case that all paintings are forged.

One could easily argue against the validity of (A) in the following way: a forged painting is a copy of an original one. It could not be the case that all paintings were counterfeit, for if there is no original painting, then there is nothing of which the counterfeit paintings are copies or forgeries (cf. Ryle 1954). So, there must be at least one painting of which counterfeits would be *copies*: the original one. If we accept this commonsensical way of relating copies and counterfeits, we could also preliminarily conclude that there is an ontological dependence of counterfeits on original objects<sup>1</sup>:

(OD)  $x$  is ontologically dependent upon  $y$  if and only if  $x$  cannot exist unless  $y$  does.

Following the arguments above against the validity of (A), it has been argued that the problem with (D1) is that a counterfeit painting is not always a copy of a certain original object. Take, for example, the notorious case of the forged Vermeer made by Van Meegeren: Van Meegeren's forged Vermeers were not copies of some original painting made by Vermeer.<sup>2</sup> The example does not demonstrate that it is possible that all paintings are counterfeits. It simply states that there are no good reasons to deny this possibility on the basis of the existing notions of *copy* and *counterfeit*. However, one could argue even in the strongest thesis that

(T) It is possible that *all* paintings are counterfeits or forgeries.

Consider the following mental experiment. Here, we present an example of Wreen (2002, 148). Let us imagine a world without paintings. There are just sculptors. An artistic genius, Ginus, one day announced to the world that the next day he would reveal a new form of art: painting.

After a brief description of the nature of this new form of art, he isolates himself in his studio to produce the first painting. During his solitude in the studio, he is kidnapped and a second artist, Linus, produces the first painting, but making sure to attribute it to Ginus. The new painting exists and it is a counterfeit. Hence, (T)—i.e. the thesis that it is possible that *all* paintings are counterfeits—turns out to be true. If the argument is sound, then “not only does a forged painting not have to be a copy of a painting that exists (or did exist), it does not have to be a copy of, or in the style of, any painting at all. *Copy of* is not one of the analytical elements of *forgery*” (Wreen 2002, 148).

Even if one does not accept the strong conclusion above—thus refusing (T)—he could deny (D1) observing that it is possible to argue that a *conceptual dependence* of the notion of *counterfeit* on that of the *original object* does not imply an *ontological dependence* of the first object on the second. Those arguing for the first case of *dependence* acknowledge that, even if it is true that in order to understand what a *counterfeit* is, we must refer to the notion of *original object*, that does not imply that to have a counterfeit (or a forgery), there must be an original object, i.e. that there is an *ontological dependency* of counterfeits on originals. Hence, even if the conceptual dependence holds—and it is true that there are counterfeits which are copies and it is also true that for every copy there must be an original object—it is still possible that there could be counterfeits without an original object. Then, it is false that every counterfeit depends on an original object, and (D1) is false.

### 3. Two Definitions of Counterfeits Not Explicitly Involving Copies

Consider the following definition of *counterfeit* of an artwork due to Goodman:

An object falsely purporting to have the history of production requisite for the (or an) original work of art, (Goodman 1968, 122)

where, with “history of production,” the author refers to any production item giving authenticity, i.e. how or by whom the object is produced. According to the quotation above, a first, alternative definition of counterfeit is:

(D2)  $x$  is a counterfeit of  $y$  if and only if  $x$  is an object falsely purporting to have the history of production required for the original  $y$ ,

where  $y$  is a case of *autographic art*. Goodman states that “a work of art is autographic if and only if the distinction between original and forgery of it is significant; or better, if and only if even the most exact duplication of it does not thereby count as genuine” (Goodman 1968, 113). A painting such as a Rembrandt *Self-Portrait* is a specific item connected historically to the artist who produced it. It is a case of *autographic art*. In contrast, music, dance, theater, literature, and architecture are instances of *allographic art* because they are independent of the history of production. Take, for example, a piece of music composed by Haydn. Of course, there are some compositions that falsely purport to be Haydn’s compositions just as there are some paintings that falsely purport to be a Rembrandt *Self-Portrait*. Nonetheless, according to Goodman, a copy of a music score by Haydn similar to the original score cannot be considered a counterfeit. On the contrary it seems undeniable that even the most exact copy of a Rembrandt painting is a counterfeit. Music and paintings are examples of *allographic* and *autographic* art, respectively.

In *allographic art*—different from *autographic art*—one exploits some notational system of symbols, while the autographic arts—painting, sculpture, and probably photography—do not. On the basis of the following characterization, it has been argued that an artwork is *autographic if and only if* the work is not notationally identifiable. On the other hand, in *allographic* art, such as a piece of music, the expression of an artwork through a notational system gives necessary and sufficient condition for its identity: a copy of a music score possessing all the aesthetically constitutive properties of the original one is nothing less than the original itself. In order to grasp the relevant criterion to determine the identity of a musical artwork, it is sufficient to take into account the identity of types, and it is not necessary to know the history of production. You can listen to a performance of Beethoven’s Third Symphony even if it is performed from a contemporary print of the score. Granting this distinction, we can talk of counterfeits only in the autographic art case.

A third, more general, definition of *counterfeit*—due to Michael Wreen (2002)—adds to the requirement of the history of production in (D2) a further condition concerning the type of object in question and the intent to mislead. He gives the following definitions of counterfeits:

A forged work is a (supposed) work which is not genuine, but which is represented as genuine, with the intention to deceive; and genuineness or au-

thenticity concerns provenance of issue, specifically, from whom (or, in some cases, what, when, or where) the work actually issued. (1983, 340)

A forgery has to be understood as a forged *XY* [. . .]. As I understand it, a forged *XY* is not a genuine *XY* but it is represented as a genuine *XY* and is so represented with the intention to deceive. (2002, 152)

Formally, we can summarize Wreen's proposal in the following way:

- (D3) An object *x* is a forged *XY* if and only if it is not a genuine *XY*, but is represented as a genuine *XY* with the intention to deceive.

Where in "*XY*", '*X*' designates a *source of issue*, while '*Y*' designates the type of the forged object. Typically, a source of issue *X* is the artist who created the object, for example Pablo Picasso or Andy Warhol; but it is also possible to forge objects as created by groups or in a particular artistic age. Generally speaking, everything concerning the origin of an object relevant to its authenticity can be a *source of issue*. On the other hand, the name of a painting such as "The Guernica," or a name of a particular artistic period as "The Blue Period," or the name of a particular artistic movement such as "Cubism," can substitute '*Y*.'

People adopting (D3) have in mind a very broad notion of *counterfeit* according to which the *status* of a counterfeit is determined more by the *use* made of the forged object than by its properties: counterfeits are objects presented with the aim of deceiving someone. Forgers are those who present an object as having originated in certain circumstances (author, period, etc.) with the aim of convincing someone, even if the object does not have the supposed origin.

Unfortunately, (D3) suffers from multiple flaws. first of all, it is not at all clear what *source of issue X* is exactly supposed to be in (D3). Let us consider the following claims:

Since, by definition, every artefact has a source of issue—a human source of issue—and everything with a source of issue is, in the relevant sense, an artefact, it follows that every artefact is logically capable of forgery, and everything logically capable of forgery is an artefact. (Wreen 2002, 153)

If we accept the most common notion of *artefact*, according to which an artefact is a material object intentionally produced by human beings—which makes 'artefactuality' dependent on the condition of origin—it is clear that "source of issue" refers to conditions concerning the physical

origin of the object. A *counterfeit* is an object that is misleadingly represented as an object originating in conditions different from the real ones. According to (D3), the authenticity of an object must be assessed only with respect to the conditions concerning the origin of the object. Nonetheless, there seem to be cases in which it is perfectly correct to distinguish between an original object and a forgery without taking into account some historical property of the object that has nothing to do with its origin. Consider, for example, Alexander the Great's armor. It is clear that the authenticity of this object does not concern its origin: it will be *the* true Alexander's armor if it belonged to him or it was used by him. Indeed, knowing the original conditions may be of some help for assessing authenticity: if we know that some putative armor used by Alexander dates to a period later than Alexander's death, we can surely say that it is not original. However, its origin does not guarantee its authenticity.

So, we can distinguish between the property of *being original*—something always related to the conditions of the origin of an object—and the property of *being authentic*, a property that can also be related to different historical conditions. Hence, in order to devise a theory of counterfeits of artworks or, more generally, of counterfeits of artefacts, we need to distinguish between *originality* and *authenticity* of an object, and to take this second property as the one that is truly complementary to that of counterfeit. In the case of artworks, we speak of a forged copy only with respect to some conditions concerning its origin; while for other objects the originality could be irrelevant to their authenticity.

The second problem of (D3) concerns *Y*. We said that '*Y*' stands for any term that designates a kind of artefact, or for the name of an object that is an artefact. It cannot be restricted only to artworks: even artefacts such as, for example, bags and money could be forged ("the '*Y*' in question could [ . . . ] be anything from 'painting' to 'sofa' to 'hall pass' to 'stamp' to 'shirt' to 'certificate of merit.' Whatever it may be, though, it denotes an artefact kind" (Wreen 2002, 153)).

The problem is that it seems possible to consider the issue of authenticity even for objects of this kind and to speak of counterfeits even for natural objects, and not just for artefacts. Consider, for example, the stone(s) used by David to kill Goliath or some fossils discovered on the surface of Mars. Even in these cases, it does not seem senseless to wonder about their authenticity. Take the case of fossils: the relevant conditions

are about their origins; but fossils are not artefacts, hence the relevant conditions must be of a different type with respect to the origin of artefacts. In one passage, Wreen seems to believe that forgeries and counterfeits, being artefacts, by definition cannot be forgeries or counterfeits of natural objects. He believes that it is not possible for natural things to be artificially produced, and that is why he imposes this restriction on the types of things that *Y* stands for. Nonetheless, the thesis is highly controversial, as it is possible to synthesize natural substances and living beings. To argue that the objects artificially produced are not of the same kinds as those objects born naturally, even if they share all their essential properties, is problematic, and it is a point of view we are not willing to share.

finally, a third flaw in (D3) is due to the idea that an object is a counterfeit only if it is represented as an authentic *Y*. But, the representation must be a conscious misleading representation with the aim of deceiving. According to supporters of (D3), counterfeits are distinct from a mere error of attribution because their representation is consciously misleading. So, for example, a critic who *bona fide* attributes a Giotto fresco painting to Cimabue is not generating a counterfeit: he is simply making a mistake. But, it seems very hard to speak of counterfeits in this way without referring to those that are to be deceived. Considerations concerning the competence of the agents to be deceived seem to be crucial to the forger's epistemic possibility of representing a certain object as a fake *Y*.

To summarize, the main difficulties with (D2) are (i) that it cannot be used to tell apart counterfeits and simple errors of attribution; take, again, the example of a critic who *bona fide* mistakenly attributes a Giotto fresco painting to Cimabue; (ii) that it is formulated by making reference to the obscure notion of *purporting*; (iii) that it does not specify which are the properties of the origin relevant to the *status* of being a counterfeit; (iv) that it defines the notion of *counterfeit* only for artworks; but artefacts in general can be forged. Difficulties that afflict (D3) are (v) that it is formulated by making reference to the obscure notion of *representing*; (vi) that it does not specify the relevant properties of the origin of an object; and (vii) that it cannot be successfully applied to objects that are not artworks. With respect to both (D2) and (D3), it is not clear how we can accept a historical definition of *counterfeit* involving a reference to the origin of the counterfeit, while denying that being a copy is a necessary condition for being a counterfeit. If an original object is necessary for defining coun-

terfeits, how is it possible that there should be no relation between counterfeits and copies? *Prima facie*, there seem to be properties that *counterfeits* and *copies* share, e.g. *the similarity to an original object*.

#### 4. Copies and Replicas: A Characterization

In general, a copy is an artefact produced with the intention to reproduce some relevant features of an object taken as a model called the *original object*, or, in other terms:

(C1) If  $x$  is a copy of  $y$ ,  $x$  is a product of human contrivance.

and

(C2) If  $x$  is a copy of  $y$ , then  $y$  is an *original object*, i.e.  $y$  is an object taken as a model.

From (C1) and (C2) it follows that the relation of copy can hold only between distinct objects: we cannot say that a painting is a copy of itself in the same sense in which we can say that a good forgery is a copy of the original painting. At the same time, we would never say that a painting is a copy of one of its forgeries as the forgery is a copy of the painting itself. Thus the relation in question is irreflexive and asymmetric.

Transitivity is problematic. Take a copy  $x$  as an artefact produced with the intention of reproducing some of the features of an object *taken as a model*—the original object  $y$ ; *to be a copy of* cannot be transitive. Here, with “the object taken as model,” we refer to the object  $y$  *observed* by the author during the process of copying  $y$ . If  $x$  is modelled on  $y$  and  $y$  is modelled on  $z$ , it is not true that  $x$  is modelled on  $z$  itself:

(C3)  $\forall x \forall y \forall z ((x \text{ Copy } y) \ \& \ (y \text{ Copy } z) \rightarrow \neg (x \text{ Copy } z))$

Nevertheless, there seems to be some problematic cases, not involving the agent’s direct observation during the copying process. Take, for example, those cases in which an object  $x$  is modelled on a memory image of another object  $y$ . Even if the object is similar enough to the original one, on the basis of our defining clauses, we cannot consider it as a copy. Nonetheless, usually we would consider  $x$ —the object modelled on a memory

image—a copy of  $y$ . This observation could lead us to think that the expression “the object taken as model” has to be intended to refer not to an object observed during the copying process, but simply to the object that the author wants to imitate, and this scenario raises a new problem.

Consider the case of a statue  $x$  that has been modelled on a copy of some ancient one that is now lost; the intention of the author is to imitate the lost statue  $y$ , knowing that a certain copy  $z$  of the original one is a good copy. In this case, we can say that  $x$  is a copy of the lost original  $y$ , but would we not say also that it is a copy of  $z$ , the statue observed during the copying process? We think that the answer to the above question is yes!

So,  $x$  would have two different original objects, and transitivity would hold. If we also want to take into account cases such as these, it would be better to speak of *non-transitivity*, instead of *intransitivity*, of the copy relation:

$$(C4) \neg \forall x \forall y \forall z ((x \text{ Copy } y) \ \& \ (y \text{ Copy } z) \rightarrow (x \text{ Copy } z))$$

According to a certain restricted interpretation of the notion of *copy*, we commonly take to be the model of the copy just the object observed during the copying process. We are perfectly aware that the notion of *observed object* is highly problematic—that is why cases like that of the memory images mentioned above are controversial ones. It is possible to avoid transitivity, but this involves a restriction with respect to the commonsensical notion of *copy*. For example, if we build a new statue  $x$  just observing some photos of a statue  $y$ ,  $x$ —according to our notion of *copy*—cannot be considered a copy of  $y$ , never mind how much  $x$  resembles  $y$ . This choice is conditioned by the fact that we are considering just copies of material objects.

However, think of the very common cases of copies such as computer programs or, in general, files, video games, mp3’s, music CDs, and DVD movies: an *intransitive*, or even a *nontransitive*, notion of *copy* seems to be unsatisfactory. Instead, transitivity seems to be straightforward. These objects have something in common with certain artworks such as printings, photos, films, works of music, etc.

Should we consider the possibility that a copy relation is taken to be symmetrical, reflexive and transitive, i.e., an equivalence relation?

Tzouvaras (1993, 1995) introduces a notion of *copy* or *replica* (in the following, we will use this last term referring to Tzouvaras's conception of copies), and he characterizes it in terms of an equivalence relation. In Tzouvaras's terms,

- (TR1) Two objects  $x$  and  $y$  are *copies* of one another, or *replicas*, or *spare parts* if each one of them fits precisely wherever the other does; *i.e.* if one can replace the other in any assemblage of parts.

Tzouvaras's notion of *replica* has been inspired by the industrial mass production of artefacts. He observes that mass products are perfectly alike, with the same causal-physical properties. He states the following:

Industrialized artefacts are produced in equivalence classes such that, if some member of the class I fits with some member  $y$  of the class II, then every member of I fits with every member of II. We call the members of each of those classes spare or replicas or copies." (1995, 464)

The *fit* relation used in the characterization above of *copy* can be explained in this way: two objects *fit* together if, when assembled one with the other, they produce a new object. Therefore, for example, a clock, a pencil, or a machine-gun is formed out of parts by fitting constituent smaller parts with the others in a unique manner. In Tzouvaras's systems the *fit* relation "expresses a possibility rather than a state of affairs." The parts of a clock fit together whether they are actually composing a clock or they are dispersed here and there.

In Tzouvaras's original definition, the copy relation can hold only between objects that are, or can be, spatial parts of a third object. So, to say that two artefacts as wholes are copies of one another, we have to be capable of thinking of them as spatial parts of another object. This is clearly an intolerable restriction with respect to a commonsensical notion of *copy*.

Tzouvaras's notion of *replica* is based on the notion of *functional interchangeability*: every function that an object  $O$  performs in a system or in another object, as a part, can be performed by any replica of  $O$  that is substituted in  $O$  itself. Hence, *being a copy of* is a highly contextual relation: if the role played by the object in a certain system is strongly dependent on its physical structure, then in that system *being a copy of* implies *being similar enough to*. Of course, these two conditions do not always imply the same

thing. Instead, for many roles played by an object there is the possibility of multi-realization; that is, objects differently structured may perform the same role. The notion of *copy* we arrive at through such a definition is unusual: any reference to physical similarity between copies is dropped. A possible way for adjusting this definition is to require at least that

(TR2) if  $x$  is a *copy/replica/ spare part* of  $y$ , then  $x$  and  $y$  are intersubstitutable in every *possible system* in which they might perform a role.

This seems to be the solution Tzouvaras himself adopted, and it is a way of reintroducing a hidden reference to the structural similarity between  $x$  and  $y$ , for there is no possibility of independently selecting the *possible system* in (TR2). With the above modification, we get a notion of copy that is completely free of any intentional feature, which we shall call a “replica”, integrating (TR2) with (TR3):

(TR3) if  $x$  is a *replica* of  $y$ , then  $x$  and  $y$  are structurally similar to one another.

Even if it is not easy to establish which specific relation holds between the function and the physical structure of an object, it is clear that the first depends in some crucial way on the second. That is the reason for which the characterization of the *replica* notion is clearly required in reference to a certain similarity between objects that are replicated, and that is why Tzouvaras talks of “isomorphism” in his characterization of copies.

But, his notion of *replica* does not succeed in capturing the usual notion of copy. Again, it seems intuitively clear that similarity and interchangeability of role, despite being important factors for *being a copy*, cannot be the only ones for the considered notion. Furthermore, a clarification of the most important aspects of the so-called *commonsensical* notion of copy will help us to understand better Tzouvaras’s notion of *replica*. If we adopt Tzouvaras’s notion of *copy* (i.e., *replicas*), the starting hypothesis, i.e., that every counterfeit is a copy, will turn out to be immediately false because it is evident that De Chirico’s *Le Muse inquietanti* and one of its forged copies are not intersubstitutable in every possible system in which they might perform a role.

However, there is something in common between such a notion of *replica* and the commonsensical notion of *copy*: similarity. An object  $x$  can

be a copy of another object  $y$  only if it is similar enough to it. So, it seems to be quite intuitive that

(C4) If  $x$  is a copy of  $y$ ,  $x$  resembles  $y$ .

Indeed, the vagueness of *resemble* gives rise to some obvious difficulties. There are degrees of resemblance, and most of the time the resemblance is evaluated in relation only to some properties of the objects. Commonly, we accept an object as a copy even if it is not indistinguishable from its original: we can talk of better and worse copies, and even in the case of good copies, it does not seem to be necessary that they are absolutely indistinguishable—i.e. indistinguishable with regard to all the relevant properties from their original objects.

A *commonsensical* notion of *copy* seems to waver between two aspects: one dealing with the *physical properties* of the object, the other with the *intentional ones*. Examples of physical properties are *colors*, *shape* and *weight*, while *being intentionally produced* is an example of what we call an *intentional property*. The first aspect is clearly dependent on the second one since it seems possible to state which object is the designated original only with reference to the intentions of the author.

According to an ideal notion of *copy*, we have a perfect copy when a copy and its original are absolutely indistinguishable except for their spatial location. Such copies are very difficult to realize, and depending on how we interpret “indistinguishable,” may be even impossible. There are systems for dating materials that render a perfect copy impossible. Usually, the objects we call *copies* are those that are similar enough to their original and that we know have been produced with the intention of producing something that bears some similarity to the original. This aspect of the notion of *copy* is revealed also by the use of expressions like “to be a good copy” or “this is a better copy than that.” For this reason, it seems to us that the *status* of copy concerns two different aspects of the object: the physical and the intentional. Both of these conditions have to be satisfied for the object to be a copy, and we regard them as jointly sufficient.

Hence, our proposal is that what is relevant to something being a *counterfeit* is a composite notion of *copy* including both *intentional* and *physical* properties related to similarity:

- (C5)  $x$  is a copy of  $y$  if and only if  $x$  has been produced with the intention of making something similar to  $y$  and  $x$  actually resembles  $y$ .

5. *A New Definition of Counterfeit (D4)*

We maintain that to be a *counterfeit* depends on the intentional conditions connected to the *origin* of a certain object. Following this line of thought we propose the following definition of counterfeit:

- (D4)  $x$  is a counterfeit if and only if  $x$  has been intentionally produced to convince someone else that  $x$  has a *historical property* that it actually does not possess.

We think that (D4) avoids the main problems of (D2) and (D3), listed at the end of section 3 above.

The first advantage of (D4) over (D2) is related to (i): the problem of the distinction between *counterfeit* and *misattribution* seems to disappear with (D4) because we state the dependence of *counterfeits* on the intention of the producer, and not on the representation of the user.

The second advantage of (D4) over (D2) and (D3) is related to (ii) and (v), because (D4) avoids the obscure use of the notions of *purporting* and *representing*. There is no mention of them in (D4). However, one could reply that some other problematic notions, like that of *intentional production* are taken into our formulation (D4). Yet the most problematic aspect of the notion of *intentional production* concern intentionality that is implicitly involved even in the notions of *purporting* and *representing*. Moreover, even (D2) and (D3) deal implicitly with the notion of *intentional production*. Hence, on this point, our solution gets better with respect to (D2) and (D3), because it at least avoids the use of the problematic notions of *purporting* and *representing*.

The third and main advantage of (D4) is that it can cover those problematic cases related to the specification of the origin conditions—(iii) for (D2) and (vi) for (D3). In (D4), we specify the relevant conditions of origin as a certain kind of historical properties of the original object faked by the producer of the counterfeit. It is not easy to find a definition of historical property, so we propose the following one:

(HP) A historical property is a property that something possesses merely in virtue of having been involved in some past event.

An example of historical property is *having been born in 1974*. A further advantage of (D4) is that the intention of the producer may be that of trying to fake not only historical properties related to the origin of the authentic object, but even historical properties related to its history. Hence, (D4) allows for an account of the fact that it seems plausible to speak of counterfeits of an object belonging to a historical or famous personage—for example, Alexander—or coming from a certain place, such as Mars, or simply used in specific circumstances, like David's stone.

With respect to (D1), we agree with the criticisms mentioned above, and reject the idea that counterfeits need to be copies of an original object. However, we recognize that there is a certain relation between *counterfeits* and *copies*. There are at least two commonalities between them, as defined in (D4) and (C5): (a) for *counterfeits* and *copies* the intention related to their production has a key role, and (b) it is necessary that the copy and the counterfeit be *sufficiently* similar to the object taken as a model. Even for counterfeits, some level of similarity must be granted. Nonetheless, (a) and (b) can at most be exploited to show that *being a copy* and *being a counterfeit* are similar, but being a copy is neither necessary nor sufficient for being a counterfeit. There are kinds of counterfeits that Goodman first recognized and named "creative counterfeits," in which it is not the case that they are copies of some original object (see Goodman (1986) and Levison (1980)). A counterfeit of this kind is, for example, Van Meegeren's forged Vermeers. On the other hand, as concerns counterfeits of single objects to be copies is not sufficient for being labeled as a counterfeit, at least if we adopt the (C5) notion of *copy*. I can make a perfect copy of the Guernica just by practicing, yet this fact does not make me a forger.

We agree with (D3) that in speaking of counterfeits we commonly presuppose a certain attempted act of cheating with respect to the origin of the object has taken place. Nonetheless, it is extremely important to distinguish between the level of actions and that of objects. It is plausible, for example, that an object that was not meant to be a forgery is used as a forgery, but to be a forgery and to be used as a forgery, we claim, are two different properties.<sup>3</sup>

However, there is a sense of *counterfeit* not captured by the notion just described. Let us think of a certain watch having every standard of production of a certain kind of *Rolex*, but that it is not produced, advertised and distributed by the *Rolex* company. Let us call it “Romex.” Is it a *fake Rolex*? No, if we take (D4) as our definition of *counterfeit*. In fact, the *Romex* has not been intentionally produced to convince someone else that *it is a Rolex*, and it is not presented as an object instantiating a *historical property* that it actually does not possess. What is at work in such a characterization of a *fake artefact* is just the commercial aspect concerning production, advertisement, distribution, and exchange of artefacts.

Another problematic case concerns pirated film copies, pirated mp3’s, music scores, etc. Are they *counterfeits*? What does “counterfeit” mean in these cases? An easy answer is that they are *counterfeits* just from a commercial point of view. The reason we consider a film copy as a pirated copy, i.e., a *counterfeit*, is not necessarily related to the condition in which the copy has been produced: a copy could have been produced according to the standard of the authorized copying process. Hence, that is why we require a different notion of *counterfeit*. *Romex* and pirated film copies can both be considered *replicas*.

#### 6. Replicas and Counterfeits of Artworks and Artefacts

Tzouvaras’s notion of replica does not include any reference to requirements concerning the origin of the *replicas* nor to possible intentions of the producer. For him, replicas are objects that are sufficiently similar that they can replace each other inside a certain system to perform the same role (TR2). A modified characterization of *replicas* could help an account of the notion of *copy* and *counterfeit* involved in the *Romex* and pirated film copies examples. Let us specify *replicas* in the following way:

- (R4)  $x$  is a *replica* of  $y$  if and only if there is a procedure accounted by the producer allowing the production of objects bearing a certain similarity to one another and a certain similarity with an original object, if there is one.<sup>4</sup>

That is to say that there is a certain procedure allowing for the reproduction of objects similar both to one another and, eventually, to an

original one. The producer knows the procedure and accepts this as a way of legitimately replicating objects. Being the result of the same procedure of production, *replicas* that are copied from an original object taken as a model resemble the original in the same way, *i.e.* with respect to the same properties; consequently, with respect to those properties, replicas bear some similarity to one another. Music scores, music mp3's, copies of a novel, printing, etc. are all *replicas*.<sup>5</sup>

We propose to distinguish between *copies* and *replicas*. Consider the following case: if someone starts copying Caravaggio's *Judith and Holofernes* in order to refine his skills in painting—even if he is not concerned with forging Caravaggio's work—intuitively he is doing something different from copying a novel, or printing a photo, etc. Some artworks have multiple copies. This feature is shared by these types of artworks and artefacts. Instead, for those artworks that are unique, there is no *replica*, but only *copies*.

It seems possible to speak of counterfeits in a different way when we deal with replicas of the same type of object. It actually does not seem relevant, in order to have a counterfeit, to convince someone that a certain object possesses historical properties that it does not have. In fact, authentic replicas themselves may have different historical and nonhistorical properties. Different film copies could be produced with different techniques, in different times, and nonetheless still be authentic replicas of the same film. For example, there are replicas of Bergman's *The Seventh Seal* on DVD, VHS, and picture shows.

Copies involve an intentional aspect that replicas do not necessarily possess; replicas may be intentionally produced while copies are necessarily produced with intention. Both replicas and copies must be similar enough to an original object, and in the case of certain replicas to one another as well; the difference *lies* in the existence of a procedure of replication that is eventually *accounted* for by the producer and that can be applied even without any explicit intention of producing a copy of something.

Now, consider our definition of counterfeits:

- (D4)  $x$  is a counterfeit if and only if  $x$  has been intentionally produced to convince someone else that  $x$  has a *historical property* that it actually does not possess.

The pirated copy of Bergman's *The Seventh Seal* is not produced to convince someone else that *it* has a *historical property* that it actually does not possess. Conversely, *Romex*, sold as a *Rolex*, is surely a counterfeit under (D4): it is presented as an object that has been produced by *Rolex*; a *Romex* is presented as an imitation of a *Rolex* that it is not a *Rolex*.

The notion of counterfeit that is in place in the above examples is merely a *commercial* one, and it grounds the distinction between replicas that are authorized and replicas that are not. This alternative notion of *counterfeit* can be characterized by merely looking at the distinction between the allowed procedure of replication and networks of commercialization or exchange and disallowed ones. In general, there might be replicas of photos, movies, printing, music, and watches that are *allowed* and others that are *not*; but this fact has nothing to do with the aesthetic relationship between the original object and its copies. Copying or replicating one of these objects does not threaten their aesthetic properties. In these cases, we are just using the commercial sense of *counterfeits*.

As far as artworks are concerned, the distinction we propose between types of objects that are obvious replicas and those that are not reminds us of one useful feature of Goodman's distinction between *allographic* and *autographic arts*. The art of painting is for Goodman a typical case of *autographic art*: no copy of a Caravaggio work is allowed by the artist. In our view, the reason why there are no *replicas* of Caravaggio's *Judith and Holofernes* is not because it is a painting, but because Caravaggio did not include such a possibility in his artistic project. Nothing prevents an artist from starting a new style of painting (or sculpting, etc.), for which copying by other artists is allowed and is considered part of the artwork itself.

### 7. Conclusions

The main results of our analysis of the relations among *counterfeits*, *copies*, and *replicas* for artworks and artefacts are (i) that *being a copy* is neither necessary nor sufficient for *being a counterfeit*; (ii) that it is necessary that *copies*, *replicas*, and *counterfeits* be *sufficiently* similar to the object taken as a model or to one another; (iii) that *copy* and *counterfeit* are intentional notions; *replica* is not; and (iv) that *artworks* and *artefacts* admit *replicas*. The notion of *counterfeits* involved in *fake replicas* could be either the one specified in (D4) or the *commercial* notion of *counterfeits*.

*Copies* of those artworks that do not allow for *replicas*—like Picasso’s *Guernica*—do not have the same artistic value as the original one. These *copies* are *counterfeits* according to (D4). *Copies* of artefacts admitting *replicas* can be both *counterfeits* according to (D4)—as in the example of a fake Rolex—and *counterfeits* according to the commercial sense of *counterfeit*, as in the first *Romex* example. *Copies* of artworks admitting *replicas*—film, music, etc.—are normally considered *counterfeits* merely in the commercial sense: the copying process does not usually imply any loss of the aesthetic properties and aesthetic value of the artwork.

*Massimiliano Carrara and Marzia Soavi*

*University of Padova*

#### NOTES

1. “Ontological dependence” refers to a wide family of properties and relations; roughly, we say that a dependent object is an object whose existence or nature is somehow derivative upon facts of certain sorts. It is a philosophically common view to distinguish in the first instance between existence and essence dependencies. Here, we are referring to one form of existential dependence.

2. Han van Meegeren (1889–1947) was one of the most ingenious art forgers of the twentieth century. After many negative comments—his works were judged to be tired and derivative—he decided to prove his talent by forging paintings of some of the most famous artists, including Jan Vermeer. He replicated so well the style and colors of the artist that the best critics and experts of the time regarded his paintings as genuine Vermeers.

3. Some problem cases for (D4). first case: Pino makes a copy of a Picasso for a study. Pina steals Pino’s painting, and unbeknownst to Pino she sells it as an original Picasso. In this story, Pino does not produce a painting to convince someone that it is an original Picasso, thus the painting is not a counterfeit according to (D4). This is, for sure, a flaw in our definition. Obviously, we can say that Pino’s painting has been used *as a counterfeit*. In other words, “counterfeit” may be considered an ambiguous term: some of its uses refer to objects, others to actions. Second story: Pino makes a copy *a* of a Picasso for a study. He recognizes himself as a very talented painter. He decides to start a production of fake paintings, counterfeits, and to sell them. He produces a second copy *b* of another Picasso paintings, and then he sells both *a* and *b* as authentic Picassos. From (D4), we cannot say that *a* is a counterfeit while we can say that *b* is a counterfeit, and, of course, this is a very counterintuitive consequence. Even in this second scenario, it appears that “counterfeit” refers to a certain use of an object, *i.e.* the same fact that an object is passed off as an original means it can be considered a counterfeit.

4. Here we distinguish our position from that of A. Stroll (1998, 121–24) who characterizes replicas in connection with copies arguing that (i) if *x* is a replica . . . of *y* then there must be an “original” that *x* replicates; (ii) if *x* is a replica . . . of *y* then *y* exists or has existed; (iii) and if *x* is a replica . . . of *y* then *x* may be indistinguishable from *y*.

5. (R4) could be extended also to natural replicas. In the cases of natural replicas, there is no intentional producer involved. Biological organisms as replicas are important both for both the morphologically based and the cladistic classification. Even for biological entities, we can say that they are similar to one another for they have been produced by the same procedure. The copying process of DNA establishes the procedure of replication of an organism, and the criteria for its classification in biological *taxa*. Some authors, like R.G. Millikan and C. Elder, have proposed to treat biological and artefactual kinds as two species of the same type of kinds, that is functional kinds, and to consider all the instances of these kinds as copies. We think that calling “biological organisms and artefacts” *copies* is misleading because it overlooks the fact that there is an intentional notion of *copy*—the notion we propose to define in (C5)—that is not relevant to giving an account of the relationship that exists between instances of the same biological and artefactual kinds. It is better, then, to consider the different instances as *replicas*.

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