34510 - Taking a sample of clothing from a store and making something similar with the intention of selling it

the question

With regard to the ready-made clothing market, what is the ruling on taking a sample of clothing from another store, whether it belongs to a Muslim or to a kaafir, and making similar garments with slight differences in style, for a lower price? What is the ruling on this sample and selling it – is that permissible?.

Detailed answer

Praise be to Allah.

If that involves deceit and cheating the purchaser, who may think that the new product is the same as the old product, or it involves using a registered trademark or trade name, then doing that is haraam, because it involves deceit and transgression against the rights of others. The Islamic Fiqh Council has issued a statement forbidding transgression against the intangible rights of others (such as copyright and patents etc). The text of this statement is as follows:

Trade names, business names, trademarks, written works, inventions and patents are all rights that belong to their owners or authors. According to modern customs and usage they have acquired considerable monetary value. These rights are respected in sharee'ah and it is not permissible to transgress against them.

From Majallat al-Majma', issue no. 4, volume 3, p. 1167.

This applies equally to both Muslims and kaafirs who are not at war against Muslims.

With regard to kaafirs who are at war against Muslims, although their wealth is not protected by sharee'ah, copying their trademarks and distributing fake goods with these trademarks is a deception of the buyer, because these trademarks may be something that the buyer is looking for

in the product.

But if the goods are similar in appearance and design, but the trade name is different, then there is nothing wrong with that, subject to the condition that the clothes are not of types that are forbidden (such as clothing that is unique to the kuffaar and distinguishes them from others, or clothing that does not cover the ‘awrah, or clothing that is tight and shows the shape of the woman’s body).

And Allaah knows best.