Expiration Dates: Performative Illusions of Law and Regulation

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Abstract: Expiration dates on perishable food items provide some indication as to when the item was produced and how long it’s been sitting on the shelf. However, in the United States, expiration dates are voluntary and subjectively characterize the quality of food as such dates, implemented by the food’s manufacturer, are not legally mandated. Culturally speaking then, why do we pay so much attention to them? This paper will examine the relationship between expiration dates on food and the visual-based perceptions about law that inform these socio-legal semiotics of regulation while exploring the complexity of law concerning the symbolism, construction, and reception of such labels as either legal truth or legal fiction.

Keywords: legal materiality, legal truth, legal fiction, expiration dates, regulation

1 Introduction

Food is perishable. It does not last forever. As some point, food, especially perishable food, such as meat and dairy products, will expire and go bad. However, this timeframe of expirability does not necessarily correlate with the expiration date labeled on the food. On food that undergoes the manufacturing process, labels with a date appear to inform the consumer when the food should be used by, or when the food will expire, according to the government. Commonly referred to as the “expiration date,” such dates are also known as “best before dates” or “sell by dates.” These dates signify a suggested framework of intended consumption and are, at best, recommendations for consumption, with many foods continuing to be edible and purchasable after the date. Culturally, expiration dates represent presumed governmental measures taken to ensure public safety, as dates are socially expected sources of regulation between food safety government agencies and food manufacturers. Yet, despite the appearance of these dates as government-influenced formal regulation,
expiration dates (and the other labels, heretofore referred to under the titling of “expiration dates”) are not legal mandates. Under the Fair Packaging and Labeling Act (FPLA) of 1967, the Federal Food, Drug, and Cosmetic Act (FD&C), Nutrition Labeling and Education Act of 1990 (NLEA), Dietary Supplement Health and Education Act of 1994 (DSHEA), Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA), and Patient Protection and Affordable Act of 2010 (California Department 2013), food label information with the responsible manufacturer’s name and address and ingredient list is required by law, yet expiration dates are voluntary.

According to the United States Food and Drug Administration (FDA), which “does not require food firms to place “expired by,” “use by,” or best before” dates on food products” and allows for this information to be “entirely at the discretion of the manufacturer,” food labels such as the expiration date are not legally mandated. While the FDA also states “a product that is dangerous to consumers would be subject to potential action by FDA to remove it from commerce regardless of any date printed on a label,” no specific dating framework is outlined or required. The fact that expiration dates are themselves voluntarily posted by food manufacturers presents a compelling example of considering how law visually works in society. As a symbol of law, the expiration date operates as a nonverbal sign system in which law is presumed to be present, as the regulation of how long a food might be “good” for, and invites further examination into law’s perceived presence and cultural role as regulation influenced by everyday subjectivity of individual sensory and commonsense judgment.

2 Visual complexity of law as regulation

Law is a concept and practice framed in myriad ways. Architecturally, law is seen through court buildings of Roman and Greek distinction with columns and granite walls and judges cloaked in black robes (Brigham 1987). Socially, law is manifested through cultural relationships and/or expectations about legality that frame how we live and respond to one another. Formally, law is conceived of as legislation. However, law is more than just legislation. Law is more than just rules. Culturally, law is the association of normative expectation associated with the imagery of regulations and order resulting in the eclectic and even

whimsical understanding and practice of legality as law. For instance, we may either slow down or accelerate in response to a yellow light as many state driving laws do not specify and instead call for individual driver discretion (Marusek 2014). We also may park in handicapped parking spaces even when we don’t “look handicapped,” as the legal insignia of the wheelchair in ADA-protected parking stalls suggests (Marusek 2005). As we know from personal and cultural experience, law is imperfect as rules are practically regulated and socially performed through individualized common sense in ways that challenges and often contradict original legislative meaning. Legislation is therefore limited as a source of social and often legal regulation. In other words, legislation can only do so much to promote normative goals intended to shape society insofar as the enlivenment of legislation often occurs at the quotidian level where everyday people interpret laws according to their individual and subjective understandings of intent, scope, and practical application.

Materially, law often appears aesthetically as tangible objects imbued with cultural meaning. The social perceptions of many forms of legal materiality are quite distant from the objects’ legislative roots. Paradoxically, legal materiality objectifies law, rules, and the cultural understandings of order and is the social understanding of law found in tangible manifestations of banal, cultural environments and things. In the case of expiration dates, social and cultural knowledge about law as a source of regulation seems to be acknowledged and affirmed on a cultural level as many foods have, but aren’t required to have, expiration dates. Culturally, these aspects of legal materiality and legal semiotics are conveyed through outrage and humor and are the subject of social discussion and cultural forms of satire (The Simpsons, Episode 94). This paper will examine food-based expiration dates that appear on perishable food items as exemplar of legality that is culturally normative and materially interpreted through individualized common sense interpretations of regulation and consequently contradict the perceived role of regulation as originating from legislative dictation and enforcement. In other words, expiration dates seems like law, but aren’t and through this negation, reveal a performative module of law.

2.1 Why then do we pay attention?

Expiration dates are a legal semiotic of visual complexity in which the symbolism, construction, and reception of social normativity conveys an impression of law’s performance as either truth or fiction through each consumer’s individual regulation. If legal materiality is seen in the objects and symbols of law (as legal semiotics), but exists without the formal façade of legislative directive, then
those objects and symbols associated with a regulatory purpose serve to perpetuate the visual nature of legality as law found in everyday settings. It is the interpretation of this meaning on social and cultural levels that reveals hidden meanings in law as nonverbal sign systems of law in which order and perceived challenge are performed. However, the question of “how does law in the everyday without legislative directive really work?” remains and can be explored and examined further by considering the expiration date in terms of the social perception of regulation and illusory distinction between legal truth or legal fiction.

The social framework of how law works is examined by Tom Tyler (1990), Michael Lipsky (1980), John Brigham (2009), Mariana Valverde (2003), and others through discussions of compliance, discretion, visual jurisprudence, and everyday legality. However, in this rich body of law and society scholarship, there is a discursive gap in the legal imagination when considering law’s normative influence through policy, legislation, and court mandate. Closer examination of this gap reveals an illusion in which legal meaning appears without legislative involvement. This illusion of law’s positivism occurs through the mimicry of what law is expected to look like. In this analysis of expiration dates, law is perceived to be the legislative-based regulation responsible for the date itself. However, this date is, in fact, an illusion of law, as the date is not directed through legislation, but instead persists through the social and cultural perceptions involving law’s regulatory presence. Consumers who read the date often ignore it and retailers may either inadvertently or deliberately sell food products past the expiration dates, depending upon the retail venue. Therefore, by examining food-based expiration dates as objects of material legality that evoke law through the social and cultural frameworks of common-sense discretion, legal faith, and calculations of risk, we can consider further relationship between legal truth, legal fiction, and legal illusion existing in this visually complex realm of performed legality.

2.2 Methodology

Using an interpretivist methodology that fuses semiotics with legal materiality, this paper will discursively explore the food-based expiration date as a symbol of non-verbal legal communication. As noted by the FDA, expiration dates are not law; instead expiration dates represent the cultural perception of law through

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2 Many stores purposely sell food with outdated expiration dates for lower costs knowing that this food is still edible and that many frugal consumers also know this and are looking for a bargain.
symbolic frameworks of regulation, normative constructions of regulations, and the performative challenge to both through the exercise of individual common sense. By examining the cultural perceptions of law through the symbolism, construction, and reception of expiration dates, law is interestingly absent and without clear demarcation even as it appears in places outside its positivist realm. We can consider the discursive analysis of legal regulation through its understanding, implementation, and resistance and construct a way to see legality despite the illusion of law. The illusion of legality through regulation is a discursive nod to related discussions of legal obedience (Tyler 1990), legal faith (Levinson 1988), bureaucratic administration (Lipsky 1980) and others and looks beyond the organizational framework of legal interpreters and actors who have no name or technical expertise (Valverde 2003) other than simply "consumer." This paper will conclude with an examination of law as an illusion through the tension of legal truth and legal fiction insofar as expiration dates are complexities of law that are ultimately dependent upon smell, sight, taste, and possibly cheaper cost of the food itself. In this way, consumer-based common sense seems to trump law’s perceived regulatory reaches as the expected determinant of food safety.

3 Legal truth or legal fiction?

In Mariana Valverde’s (2006) three-prong template for semiotic analysis, content, format, and context provide the foundation for inquiry. In thinking further about this methodological approach, the content of the expiration date is the date itself as appearing on food that has a limited shelf life or is simply perishable, such as dairy products. The format for the expiration date is a marker of regulation as the font appears machine-stamped and impartial and signifies a warning to the consumer. The context of the date symbolizes the meaning implied by the date and the surrounding construction of what that date means in terms of legal involvement, and as legal truth or legal fiction. Importantly, the context of the date must also address the non-legal aspect of its presence, through the consumer-based sensory examination of the product involving sight, smell, touch, and possibly even taste. Semiotically, the epistemology of the expiration date can be related to the legal normativity of Tyler and Lipsky in what follows.

3.1 Faith in law

The expiration date is a marker of the type of faith in the legal system that Sanford Levinson (1988) examines throughout his pivotal text *Constitutional Faith*. Levinson
(1988: 70) states “Law, even as bounded by the Constitution, is a series of outcomes of a bargaining process among atomistic beings.” The bargaining process in Levinson’s context results in the original writing of the Constitution and its legacy of adherence since despite its morally reprehensible inclusion of chattel slavery. The morality engendered by this notion of “constitutional faith” speaks to the foundations of historical as well as contemporary society in which law is at the forefront of social consciousness as the arbiter of wrong and as fundamental source of regulation. While we critically engage with law, as Levinson suggest, we nonetheless hold law to a positivist standard in which regulation is expected to preside over social judgment. In applying this logic, the presence of an expiration date is expected to appear as an aesthetic of regulation in which manufacturer-based product liability is balanced with consumer-driven food safety in a bargaining process that involves manufacturer knowledge of food quality and consumer presumptions of government intervention.

3.2 Compliance

Constitutively, law is itself a function of social compliance. Achieving such compliance is either morally responsive or a product of socially determined legitimacy, as Tom Tyler (1990) suggests. In Why People Obey the Law, Tyler (1990) compares the instrumentalist approach to law to the normative view of law in terms of personal compliance and the reasoning therefore in which self-interest is contrasted with fairness. Tyler maintains that people obey the law because the law is viewed as just, as fair, and able to promote personal dignity for those who comply with the law. Drawing upon Tyler’s framework, expiration dates reveal the complexity of such a contrast in which food labeling may be viewed as normative insofar as the date seemingly signifies the fairness of procedure that mitigates potential harm by unsavory manufacturers in favor of trusting consumers. However, at the same time, drawing upon Tyler’s reasoning, expiration dates present the date in an instrumentalist light as the individualized testing of food despite what the expiration date may state is motivated by the consumer’s self-interest in gauging whether or not a food is actually good or not.

3.3 Living law

The expiration date is then a norm. It is a social norm. It is a legal norm without legislative foundation. It is a norm of regulation of what seems to be active regulation in the public’s interest. In each of these cases, the expiration
date is a semiotic. Druzin might call it a normative semiotic in which social rules are communicated through the normative internalization of a “certain ‘rightness’” (Druzin 2013: 257). Druzin tells us “Law seeks to shape the language of norms by maintaining the collective standards of society; as such, understanding how and why this normative language emerges is critical to understanding a core function of law” (2013: 257). Drawing upon Druzin’s framework of normativity, the expiration date, in its quasi-legality, represents law through the normative expectation that this date will appear on perishable food items. This social expectation can be construed as a normative understanding of law as regulation despite the absence of the date through formulaic legal construction. In this way, a regulatory presence on perishable food items emerges as a social standard of American society.

The social relations of food parallel the legal relations with food, as food is a form of legal materiality. Given the fact that food can legally be sold after the expiration date has passed (as the expiration date seems only to be a suggestion, albeit a suggestion that may release a manufacturer from liability), the notion of regulation is dependent upon the balance between social faith in government and individual subjective determination of quality. Faith in law is present, but constantly tested and held to a subjective reality as expiration dates reveal the social conflict with regulation. Dates are expected, yet simultaneously ignored, and even ridiculed (Simpson’s Episode Season 5, Episode 13, 1994; Seinfeld). The cultural perception of law’s reach as present, yet limited, restricted by the individual sensory input and exercise of common sense, could be viewed as the enlivening of law.

Claudius Messner speaks of “living law,” or as performing a function based in more in social communication than in truth. Messner (2012) describes the imaginative realm of law despite its limitations as less discursively concrete and more actively engaged with as a living entity that changes according to contextual specificities and circumstances. Specifically, Messner notes that law is “an operating system” in terms of law’s responsiveness and rather than simply positivist, law can be viewed according to its “role of fiction, reflective judgment, and performance” (2012: 538). Messner’s idea of “living law” is a way in which law is characterized as active, evolving, and open to critique and scrutiny. “Thus, ‘living law’ appears as a promise: being flexible, particular and concrete, it seems to allow for modernization, ... reality and life, brotherhood and justice. But by virtue of the same characteristics, it also appears as a threat to procedure and democratic control, to rationality and universal validity, to equality and liberty” (Messner 2012: 538). In this way, the expiration date is “living law” as it enlivens the tension between law via legislation and law via social practice.
Law is alive and normatively viewed in such a positivist light as to expect dissection and challenge. The legal regulatory object of the expiration date, albeit also the consumer, enlivens law insofar as law, or the date, is not socially construed as absolute, or as the truth of when a food will be bad by. Instead, the date is a suggestion, a legal cue for the individual consumer to step in and question, to smell, to taste, to feel the food at hand, and to render a commonsensical challenge to what the regulation is perpetuating. Individual subjectivity accompanying sensory determination is seemingly encouraged by government through the formal absence of an expiration date. As a form of legal communication, the date is a guide, an illusion of regulation in which the perception that law is present masks possible culpability directed towards the manufacturer, the food handler, or the retail store selling the food.

3.4 Voluntary labeling and representations of law

So, why, then have an expiration date? If voluntarily posted by manufacturers, should all consumers abide by this date when purchasing food? It would seem that the expiration date is in fact a quasi-legal reassurance that big brother is watching out for us and responsive to the potential unsavory business practices of producing food that may not be fit to consume. However, despite this guise of protection, many of us also use our own common sense in determining whether or not a food is good, or safe, to eat. This common sense knowledge, to be developed later in the paper, is informed by the subject’s taste, smell, sight, and touch of the product in question. Additionally, this common sense determination of food quality presents a challenge to the very nature of regulation.

If the date is then a representation of law despite the legislative basis for its non-existence, we can further examine the relevance of the expiration date. Food labeling represents “the consumer’s right to know” (Milne 2013: 87) and signifies the evolution of food quality to food safety and the greater awareness and protection of consumer health (Milne 2013). In his study of food labeling in the United Kingdom, Richard Milne asserts that such expiration dates represent a biological approach to food that is tested by scientific authorities and represents a form of enhanced expertise that is superior to individual taste whims of the consumer. Milne also notes the element of risk inherent to expiration dates, as the distinction between “use-by” and best-before” signify consumers about the many points of transit that food undergoes from manufacturing site to the dinner plates. Following the food scares of the late twentieth and early twenty-first centuries, Milne asserts the “regulatory object” that describes the expiration date is a regulatory invention that is more concerned with food waste than food.
safety. In this way, “labels coalesce and preserve the social and material relations of food” (Milne 2013: 99). A tension then arises about what the regulatory object is – is it the food or is it the consumer? If regulation via the expiration date falls short of definitive regulation and the consumer’s own sense of if the food has expired or not prevails, then the idea of a regulatory object seems to suggest that the consumer may be that which is regulated rather than the manufacturer and much less, the food itself.

### 3.5 Discretion and risk

Materially, food is edible or it is not. As noted earlier, the consumer makes this determination by smelling, feeling, and looking at the food. This immediate assessment of risk is always subjective, as some of us have different standards for acceptably edible foods. If the expiration date is itself voluntary, as the FDA maintains, then the legal determination of risk per the expiration date is also limited by the very same article of legislation. This may also be valid for other foods which do not have expiration dates, such as unpacked produce, in which edible risk is determined by those same sensory factors of smell, sight, and touch. In this way, individual and subjective common sense judgments of the consumer actually serve to trump the expiration date as a label of food safety. Given this, Milne’s assertion pointing to the expiration date, and other types of food labeling, as a way to respond to and regulate food waste, seems relevant to the culturally legal nature of the expiration date amidst perceptions of regulating risk and manufacturer responsibility.

Again, the question of regulation as regulability arises as the perception of law via the expiration date as evidence of regulation is challenged by the consumer itself in making his/her own judgment about the food to be eaten. While there may be a sort of faith in manufactured food as having undergone seemingly and presumed rigor in standards, quality control, and proper handling procedures, there also seems to be a faith in the legal system as an arbiter of food safety standards in the form of regulation, which appears as the expiration date. Therefore, the expiration date is a sign of society’s normative faith in law as regulation, but also society’s rejection of law for self-determined reasons. Considering the evolution of societal legal consciousness (Ewick and Silbey 1998), the idea of even having an expiration date placed voluntarily by manufacturers and expected by consumers reveals a notion of rights consciousness that becomes apparent through this expectation of presumed regulation. However, that same rights consciousness ironically buttresses an increased corporate rights consciousness in which legislation may be crafted to help,
rather than hinder, the interests of food manufacturers in not having a set date when food will go bad.

Culturally, rights consciousness engages the individual within the framework of American society in ways that suggest presumptions in which each consumer is entitled to purchase foods that are subject to standards of quality. As a form of supra-legal regulation, such standards are embodied in the expiration date. In this way, the rights consciousness surrounding food can also be culturally determined, as a recent study of consumer attitudes towards expiration dates found on yogurt shows. Talha Harcar and Fahri Karakaya (2005) interview consumers in Turkey, Canada, and the United States for their impression on purchasing and consuming three products: yogurt, camera film, and over-the-counter medicine. Their findings indicate a cultural response that differed according to expectations about perceived risk. For example, the authors assert “when compared to the Western cultures, Turkish culture is quite different and Turks are more willing to take risks” (Harcar and Karakaya 2005: 366). However, when considering the relationship of culture to law, cultural presumptions concerning legal regulation may also be a function of how law is culturally perceived. The cultural perception of risk links the expiration date to perceptions of the legislative role in formal regulation concerning food safety. As in other realms of law, perceived risk is within the territory of law via the notion of risk and what law is expected to protect.

3.6 Emblematic materiality

In their study of consumer attitudes towards expiration dates, Tsiros and Heilman (2005: 121) find that 70% of consumers “always” or “usually” check expiration dates on yogurt, with 74% on chicken breast, and 93% on milk. However, only 74%, 82%, and 84% (respectively regarding the aforementioned foods) of those who check the date on yogurt believe the “quality deteriorates as the product approaches its expiration date” (Tsiros and Heilman 2005: 121). Despite the perception of risk that expiration dates are intended to guard against, cultural perceptions about law are not the same as legislative mandate. As stated earlier, the expiration date is not law, according to the FDA. Yet, it seems to be law for consumers in the grocery store. In this way, the expiration date is a perception-based illusion of regulation that conveys a cultural consciousness concerning law and its performance in our everyday lives. In considering its cultural import in the social arena of food retailers, the expiration date is a visible site of material law in which the object conveys an understanding about law and its function as a source of
governance. It is precisely this everyday setting that culturally informs rights, perceptions of law’s reaches, and the ultimate determinant of food quality, the five senses of the consumer.

John Brigham writes “We can see governance in all manner of things, from bathrooms and diet to international agreements and domestic economies” (Brigham 2009: 174). Drawing further upon Brigham’s premise concerning the materiality of law, we can see governance in the expiration date, its presence, and its reception. Brigham notes “the positivism of science also plays a role by positing a world made up of facts on the one hand and values on the other. This positivism makes it hard to see the interconnectedness of law and things” (2009: 3). The relationship between seeing and culturally expecting to see an expiration date on perishable food, as well as the social resistance to its absolute declaration of food quality, is the relationship of interconnectedness of which Brigham speaks. Expiration dates as regulation positivistically mask what law really is, namely, the constitutive relationship between law and culture. Such dates are social forms of governance that reassure us that law is present, when ironically, it formally is not with its presence superficial at best. Paradoxically, the presence of law is alive through its own absence as it is culturally reaffirmed through social expectations about regulation, consumer rights, and manufacturer prowess.

Much like a preferential, but non-legal parking reserve such as Employee of the Month, Customers with Infants, or those created for electric vehicles (Marusek 2012), the expiration date is a legal emblem that culturally characterizes a way of seeing law through the visual jurisprudence found in everyday objects. Similar to expiration dates, such parking spaces are not legal, yet are generally respected and acknowledged. Goodrich (2014: 19) states “the emblem is a mode of performance ... an enactment, a moment in the visible theatre of legal rule.” Heritier (2014: 25) further notes, “Contemporary legal theory, in a semiotic perspective, cannot be referred solely to the concepts of text and norm, but must take into account the connection between image and law.” Seeing images of legal meaning reminds us of the norms of regulation, the resistance to such norms, and the ideas about law that such images represent in the social and cultural realms in which law is experienced, lived, and performed. In this way, visual jurisprudence contributes to the expanding field of interpretative methodology as one such type of research that “endorses interpretive ontological and epistemological presuppositions” (Yanow and Schwartz-Shea. 2006: 381). By examining the relevance of the expiration date to law, we can envision the way law works in everyday life, especially in ways that are outside the purview of legislative dictation.
4 Rule of thumb

In Law’s Dream of a Common Knowledge, Mariana Valverde (2003) examines the relationship between truth and expertise amidst everyday understandings and applications of law. If we consider the expiration date to represent a legal truth as a date that manufacturers display and consumers acknowledge, then the expiration dates act as a type of legal truth when in fact, the date is actually a legal fiction due to its non-legal status. It is, as Valverde notes, a type of common knowledge that appears as a suggestion or “rule of thumb” United States Food and Drug Administration. This type of administrative knowledge that is absent formal legislative mandate is completely dependent upon the common knowledge of the consumer for operation. Valverde’s attention to “ordinary citizens” in negotiating legal truths is applicable to the context of the expiration date and is of particular interest given the FDA’s hands-off approach to expiration date labels. In this way, the expiration date is a source of legality only through its fictive command. It can then be considered a form of legal truth, for its normative appearance on food as a source of regulation.

4.1 Illusory regulation

However, if this is the case, then law is a presumption to which a public good is attached. Presumably, expiration dates warn consumers against buying food past its prime. However, this belief in law serving the public good is tempered by the motivation of manufacturers to absolve themselves of blame if food is purchased past the expiration date. However, as many stores intentionally sell food past the marked expiration date, there is a symbiotic relationship between the market place and the labeling of food where manufacturers and retailers stand to gain from the expiration date as a legal truth as it appears either within the timeframe or past the timeframe. The expiration date is a rule, but more specifically, as a rule of thumb that is subject to individual interpretation as the ultimate judgment of food’s quality is determined by the consumer regardless of the expiration date on the package. In this way, the expiration date is an illusory form of regulation; it is legal fiction. Fuller notes, “the notion of the basic norm is admittedly a symbol, not a fact. It is a symbol that embodies the positivist quest for some clear and unambiguous test of flaw, for some clean, sharp line that will divide the rules which owe their validity to acceptance and intrinsic

appeal” (1995: 77). The expiration date is a symbol of law as it carries weight as legal truth; yet symbolically, as well as positivistically, the expiration date is an illusion of law and is therefore, an emblem of legal fiction.

4.2 Sensory judgment

The practice of discretion is at the heart of Michael Lipsky’s (1980) argument in which bureaucracy functions at level of the street, namely, in agencies that control bureaucratic goods and services. The human relationships that develop between administrator and client are described by Lipsky as “street level bureaucracy.” He suggests that law is less in the crafting and/or writing of legislation, but instead can be found in the hands of those who directly administer it. In this way, the practice of discretion is at the heart of the resistance to law as the potential challenge to law’s directives or presumptions, as in the case of expiration dates, becomes the catalyst for simply ignoring the positivist stance towards law and order. Authority is reclaimed by either the street level bureaucrat, as in Lipsky’s approach, or by the individual consumer who decides to challenge the suggestion of the expiration date by smelling, feeling, or tasting the food either prior to or following purchase. This action of challenging the regulatory framework of the expiration date operates in similar to Lipsky’s focus on the everyday enactment of legality. In the case of expiration dates on manufactured perishable food items, we can even expand Lipsky’s notion of the street level bureaucrat further to emphasize the recipient of law rather than the administrator (i.e., bureaucrat), or manufacturer and/or government agency (FDA). That client, or that consumer, then becomes the source of resistance to law through the challenge or simple dismissal of the legal truth. As a legal fiction, the expiration date is an illusion of law external to formal avenues of legislative directive. It is a legal illusion that illuminates the legal truths associated with the materiality of regulation, normativity, and governance. This legal illusion carries further as the notion of resistance in ignoring expiration dates may in fact ultimately best serve the interests of manufacturers rather than consumers as expiration dates may simply be a way to increase the rewards of the marketplace.

5 Concluding remarks

Throughout this paper, the expiration date symbolizes law materially through its normativity and semiotically through its construction of regulation. The
perception of the expiration date is a performance of law by consumers conceptually framing regulatory desires as well as challenges and as such, provides an example of visual jurisprudence in everyday life. Law is not always neatly packaged as legislation or court-based figures. Because expiration dates are not legislatively legal yet culturally regarded as law, we need to closely examine the meaning of law as communicated through the frameworks of legal truth and legal fiction. As this paper shows, regulation as law is not always based in law, but instead reveals a complex arrangement of cultural symbols rich with legal representation that show us normative ways of seeing our world while acknowledging and celebrating the illusion that arises from common sense-based approaches to the expected.

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References


