

Submission of the
International AntiCounterfeiting Coalition
to the
United States Trade Representative

2018 Special 301
Out-of-Cycle Review of Notorious Markets

Request for Public Comment
83 Fed. Reg. 40821 - 23 (August 16, 2018)

October 1, 2018

INTRODUCTION

The International AntiCounterfeiting Coalition, Inc. (“IACC”) submits these comments to the Office of the United States Trade Representative (“USTR”), pursuant to a request for written submissions from the public identifying online and physical markets based outside the United States that should be included in the 2018 Notorious Markets List.

The IACC is the world’s oldest and largest organization dedicated exclusively to combating trademark counterfeiting and copyright piracy. Founded in 1979, and based in Washington, D.C., the IACC represents approximately 250 corporations, trade associations, and professional firms, spanning a broad cross-section of industries. IACC members include many of the world’s best-known brands in the apparel, automotive, electronics, entertainment, luxury goods, pharmaceutical, software, and other consumer product sectors.

Central to the IACC’s mission is the education of both the general public and policy makers regarding the severity and scope of the harms caused by intellectual property crimes – not only to legitimate manufacturers and retailers, but also to consumers and governments worldwide. The IACC seeks to address these threats by promoting the adoption of legislative and regulatory regimes to effectively protect intellectual property rights, and to encourage the application of resources sufficient to implement and enforce those regimes.

To that end, the IACC worked with both foreign government officials and the private sector to identify, and to seek remedies to, legislative deficiencies and practical impediments to IP enforcement. The IACC has also led the development of voluntary collaborative programs on a global scale to address key priorities in the online space, including its RogueBlock, IACC MarketSafe, and MarketSafe Expansion Programs. USTR and its counterparts in foreign governments can play a vital role in fostering such voluntary collaboration.

Whether measured in terms of lost sales to legitimate manufacturers, tax revenues and duties that go unpaid to governments, decreased employment, or diminished investment in capital improvements and research and development; counterfeiting is a significant drain on the U.S. and global economy. Further, the production and distribution of goods produced in an entirely unregulated supply chain, where the makers have every incentive to cut corners by using cheap, substandard components, and no incentive to abide by accepted standards of consumer health and safety, presents a clear threat to the health and well-being of consumers, and to the integrity of our national security infrastructure. We look forward to working with you to ensure the safety of consumers and the vitality of legitimate manufacturers and retailers impacted by the global trade in counterfeit and pirated goods.

The comments provided herein are drawn from a variety of sources including interviews with member companies’ global brand protection and enforcement teams, research of publicly-available sources, and data generated by the IACC through its own programs and direct engagement with foreign governments. It should be noted, however, that these comments are not an exhaustive list of rights-holders’ concerns – IACC members identified over 200 physical

and online marketplaces of concern during this year's consultations. We do, however, wish to draw special attention to those highlighted herein. We thank you for your work on these important issues, and for the opportunity to share our members' experiences.

VOLUNTARY COLLABORATION

Recent years have seen a dramatic shift in the sale and distribution of counterfeit goods to consumers in the United States, as sellers of illicit goods have increasingly turned to an e-commerce model, utilizing standalone websites and online marketplaces to reach potential customers. The relative anonymity, minimal cost of entry, and decreased overhead of the online retail market, compared to traditional brick-and-mortar, offers criminals a highly desirable environment for their illegal sales; while also creating practical impediments to civil and criminal enforcement of IP rights. U.S. Customs and Border Protection, for example, has cited the evolving distribution models as contributing to higher volumes of small-consignment imports, which in turn place a greater strain on enforcement resources. Online counterfeiters may also benefit from the fact that they're able to conduct their business beyond the jurisdictional reach of enforcement agencies.

In response to this changing environment, rights-holders have sought to develop new enforcement strategies, primarily focusing on the so-called "choke points" in the e-commerce system, and taking into account the new ways in which these goods are now being marketed, sold, and delivered to consumers. Each step in the distribution chain presents an opportunity for rights-holders, enforcement personnel, and other responsible parties to disrupt counterfeiters' illegal activities. The IACC has been a leader in the development of voluntary collaborative agreements with stakeholders from a variety of industry sectors to achieve that goal.

The first program to emerge from this new approach was the IACC's RogueBlock® program, launched in January 2012, in partnership with the world's largest credit card and payment companies. RogueBlock was developed to provide a streamlined, simplified procedure by which rights-holders could report online sellers of counterfeit or pirated goods. While counterfeiting and piracy are illegal businesses, we cannot forget that they are *businesses*, with the ultimate goal of making a profit. Overwhelmingly, operators of illicit commercial websites have sought to use the legitimate services offered by payment networks in order to receive payment from customers, in spite of existing rules prohibiting the use of those services to facilitate illegal activity. By coordinating the sharing of intelligence, rights-holders and the payments sector have been able to connect the dots between an anonymous web presence and a real-world merchant account. In doing so, we can identify and remove bad actors from the system, significantly diminishing their ability to profit from the sale of counterfeits. To date, our collaborative efforts in this "follow the money" approach have resulted in the termination of over 5,500 merchant accounts, impacting an estimated 200,000 websites. Moreover,

because the program is based in terms of service that are applicable worldwide, RogueBlock has a global reach that is not hampered by traditional jurisdictional limitations.

The impact of demonetizing networks of counterfeit sites also has a more persistent impact and broader reach than traditional approaches that focused primarily on the web domain itself. If a domain offering counterfeit goods is seized or blocked, the operator of that site can quickly and easily establish a new domain to resume their illicit business. However, establishing a new merchant account to service their online storefront (or, more likely, a network of online shops, as counterfeiters typically use a single account to accept payment through multiple sites) is much more difficult and time-consuming. In light of the fact that approximately 80 percent of e-commerce sales involve payment via either a credit or debit card, a merchant's inability to receive payment in that manner can be crippling. We've been fortunate to have willing partners across the payments sector to build out an effective program, and we continue to explore how we can further improve the existing system, and to leverage additional partnerships, to have a greater impact against illicit sales online.

To that end, perhaps the most logical next step for collaboration was in seeking partnership with e-commerce platforms. Online marketplaces, offering a single destination where consumers can buy goods from a variety of sellers have become increasingly attractive targets for counterfeiters as well. Consumers' familiarity with the platforms, and the goodwill and trust imbued by that familiarity, typically extends to the individual sellers on the platform. As a result, counterfeiters need not invest in marketing to attract consumers themselves; by infiltrating a well-known marketplace, the consumers will come to them. They can also forego the typical costs associated with building out their own infrastructure, website hosting, and the like. Recognizing this concern, the IACC has worked closely with partners in that sector to identify counterfeiters who might seek to take advantage of the consumer markets represented by platform sites.

Beginning in 2014, our IACC MarketSafe program, developed in cooperation with the Alibaba Group, has worked to foster increased collaboration between rights-holders and served as a testing ground for the adoption of policies and practices designed to address illegitimate sales on the Taobao and TMall platforms. During the initial phase of its operation, the IACC MarketSafe Program resulted in the removal of over 300,000 listings, and led to more than 7,000 sellers of counterfeits being permanently banned from the Alibaba Platforms. Equally important, the program has facilitated substantive dialogue between rights-holders and the platforms to resolve issues and explore the effectiveness of policies and practices to enhance IP protection. The MarketSafe Expansion Program, commencing in 2017, broadened that effort to include Alibaba's other platforms, while also enabling greater participation by rights-holders – including non-IACC members. Importantly, the expanded program has been offered to rights-holders at no cost, facilitating participation by SMEs that might otherwise lack the enforcement resources available to larger companies.

Earlier this year, the IACC announced a new pilot initiative with the aim of enhancing

cooperation on anti-counterfeiting efforts between rights-holders and Amazon. We continue seeking out opportunities for engagement with other platforms and service providers in the e-commerce system because, simply put, a safe and trusted online environment is in the best interests of not only intellectual property owners, but for marketplaces, payment and online service providers, shipping intermediaries, and all of those who are part of the distribution chain. Each of us must play a role in ensuring that integrity of the marketplace. If consumers are unable to trust that the products they're buying online are authentic, they will undoubtedly find other options. To that end, we believe that e-commerce providers should take all necessary steps to develop best practices for IP protection and enforcement and to abide by principles of *transparency* and *accountability*.

There has been a historical tension between the competing interests of privacy and transparency on the internet, but in the realm of e-commerce, and particularly where issues of consumer protection arise, the balance weighs heavily in favor of transparency. We strongly believe that platforms should implement "Know Your Customer" policies to enable the identification of sellers, including verified contact information. In that same vein, commercial sellers should be required to provide relevant business documentation including articles of incorporation, business licenses, a registered agent for service, and documents relevant to the business transacted (e.g., licensing and distribution agreements). Platforms' terms of service should explicitly authorize the disclosure of sellers' contact information in cases of consumer disputes or rights-holders' complaints related to alleged infringements. Further, platforms should publicly report figures showing the volume of IP complaints received (including the outcomes of such complaints), remedial actions taken (such as the removal of listings for infringing items, or the suspension, or removal of sellers from the platform). Buyers and rights-holders should be easily able to identify sellers who have a history of such complaints.

In practice, transparency is closely tied to the principle of accountability, particularly as major platforms expand both regionally and globally. A common complaint among IACC members during this year's consultations, in reference to a number of e-commerce platforms, involved their consternation at having to follow sellers across multiple (country-specific) platform domains, despite repeated violations on others. A seller of counterfeit goods on one site should not receive a clean slate by simply migrating his business to a different ccTLD, and an e-commerce platform does a disservice to their customers if that seller's profile does not reflect its past frauds on related entities. We've seen that model of enforcement in the "whack-a-mole" approach to online enforcement against standalone websites that was typical in the past; it's an inefficient use of enforcement resources that shouldn't be repeated in the context of online marketplaces. By adopting Know Your Customer policies as described above, marketplaces can ensure the accountability of their merchants, identify high-risk sellers, and reduce the risk to consumers and harm to rights-holders associated with sales of counterfeits.

We have seen significant progress when working in cooperation with willing partners who are committed to addressing the sale of counterfeit and pirated goods both on- and offline. Much work remains to be done however, as evidenced by our comments herein. We would welcome

further engagement with platforms and other providers that are truly interested in addressing illicit trafficking; too often however that commitment is lacking. Where that is the case, we appreciate the efforts of USTR in highlighting deficiencies in IP protection and enforcement, in identifying those markets and intermediaries who are falling short, and in encouraging meaningful progress on these issues.

IDENTIFICATION OF PHYSICAL MARKETPLACES FOR CONSIDERATION BY USTR

The physical marketplaces discussed below were highlighted by IACC members this year during consultations related to USTR's Special 301 Out-of-Cycle Review of Notorious Markets. As previously discussed, the comments herein are not an exhaustive list of venues identified by rights-holders. Unless noted otherwise, to the best of our knowledge, none of the markets identified herein are owned, operated, or otherwise affiliated with a government entity. The comments are organized geographically, by country.

Brazil

Shopping 25 de Marco Mall - 1081, 25 de Marco Street, Sao Paulo

25 de Marco Street and the surrounding areas including Galeria Pagé Mall and Galeria Florêncio de Abreu Shopping Mall, remain ground zero for the sale and distribution of counterfeit goods of all kinds in Brazil. The area is comprised of countless retail and wholesale shops selling counterfeits across a variety of product sectors including apparel, electronics, footwear, and toys. Rights-holders report continuing problems related to corruption and protectionism by local officials that largely precludes meaningful enforcement efforts.

The widespread sales are particularly disheartening in light of substantial investments made by rights-holders in recent years to address the problems there. During 2016, a Public Civil Action was filed against the São Paulo City Hall on behalf of the National Forum to Combat Piracy –FNCP and BPG (Brand Protection Group), seeking to revoke the license of Calinda Administração, Participação e Comércio Ltda., company responsible for the leasing of spaces for tenants in the Shopping 25 de Março.

On September 11, 2017 the São Paulo City hall, the Federal Revenue and the Public Prosecution (with the support of several associations and law firms), joined efforts to execute a raid of the main building of 25 de Março. "Operation September," as it's referred, involved over 150 officers, resulted in the seizure of more than 900 boxes of counterfeit products and the closure of the mall for several months. Rights-holders estimate that over 800 tons of illicit goods were seized, in total, between the initial raid and follow-up actions. In spite of these efforts, there has been no lasting effect, and widespread sales continue at the mall and in the surrounding areas.

Canada

Pacific Mall, 4300 Steeles Ave East, Markham, ON – L3R 0Y5

While the inclusion of the Pacific Mall on the Notorious Markets List seems to have come as a surprise to many in Canada last year, IACC members broadly approved of that action, noting

the pervasive and long-standing trafficking of counterfeit goods taking place there. Located about an hour's drive from Toronto, Pacific Mall offers more than 270,000 square feet of retail space and more than 500 small shops. Rights-holders from a number of product sectors have continued to report significant concerns since the mall's addition to the Notorious Markets List in 2017. Affected industries include cosmetics and fragrances, apparel, jewelry and watches, electronics, luxury goods, footwear, eyewear, and others; counterfeit sales are described as "widespread and open," despite enforcement efforts.

Brands underscore the need for greater cooperation by the mall's owners and management. Enforcement sweeps regularly uncover repeat offenses by vendors previously served with cease and desist notices, as well as new vendors offering counterfeit items; each pointing to a lack of necessary oversight by the mall's management.

We are aware of at least one criminal raid conducted by local police at the mall during 2018, but to date, the actions taken have not been consistent enough to significantly diminish the volume of illegal sales taking place. We encourage USTR to retain the Pacific Mall on the 2018 Notorious Markets List.

China

Huaqiangbei (HQB) Electronics Markets (Yuan Wang, Long Sheng and Man Har), Shenzhen, China

The Huaqiangbei (HQB) District in Shenzhen is home to dozens of tech malls — multi-story complexes filled with distributor shops — that serve as a central hub for purchasing all manner of counterfeit consumer electronics, parts and accessories. Wholesale buyers from both China and around the world travel to HQB to buy directly from these markets and have counterfeit products shipped to their home countries via ports in Shenzhen and neighboring Hong Kong, eventually finding their way to consumer markets throughout the globe.

Despite numerous enforcement raids conducted each year by Chinese authorities in cooperation with rights-holders, and seizures numbering in the hundreds of thousands, HQB tech malls remain havens for counterfeit distributors, and rights-holders report the persistence of a great deal of local protectionism. Operators of these malls have actively sought to impede enforcement actions, including by encouraging shop owners to interfere with police and administrative authorities conducting raids. Mall management has also been observed to offer legal support to vendors who are subject to an IPR-related criminal or administrative action.

Rights-holders highlighted three such HQB tech malls as being their greatest concerns: Yuan Wang, Long Sheng, and Man Har Digital Plaza. Yuan Wang (远望数码商城) is said to be the biggest marketplace for electronic/digital products globally, covering an area of ~30,000 square meters with approximately 10,000 shops selling all kinds of counterfeit consumer

electronics. Yuan Wang receives an estimated 100,000 visitors each day, contributing to a daily turnover of approximately RMB 1 billion. The prices of goods sold in Yuan Wang are reportedly often used as a benchmark for prices at other tech malls throughout China. Long Sheng Electronics Market (龙胜通讯市场) is the largest market for smart phone component parts in SE Asia and home to more than 7,000 shops, the vast majority of which sell counterfeit parts. Man Har Digital Plaza (曼哈数码广场) is noted as not only a supplier of counterfeit phones, parts, and accessories, but also provides fake uniforms and employee badges, as well as marketing materials and shopping bags – everything required for an individual to set up a fake “official” store.

Zhongquan, Zhongshan, and Hualing Electronics Markets, Urumqi, China

Urumqi in NorthWest China is a major distribution point for counterfeits going to Russia/Central Asia. As with the HQB tech malls discussed above, rights-holders describe enforcement in the region as challenging, in part due to local protectionism. Three marketplaces were highlighted by IACC members in the region: Zhongquan(中泉通讯广场), Zhongshan(中山国际通讯市场), and Hualing(华凌电脑数码广场). Each was singled out for supplying a wide variety of consumer electronics brands, including components and accessories. Altogether, these tech malls cover an area of ~20,000 square meters with ~800 shops. The lack of enforcement at these malls is seen to be tied to a lack of political will; the local government has been focused on the maintenance of Urumqi social stability, and does not prioritize IP protection.

Colombia

San Andresitos, Carrera 38, Bogota

The San Andresitos are among the most popular and biggest shopping areas in Colombia, spread over several city blocks. In the words of one respondent, “They sell everything that can be bought in Colombia – from food, detergents, and other household goods, to beauty products, and even medicines.” The marketplace is comprised of thousands of stalls selling a variety of authentic, counterfeit, stolen, and smuggled goods. Enforcement actions are hindered by the large crowds drawn to the area, and despite some efforts to address the illegal trafficking, the severity of the problems appears to be increasing.

Mexico

Tepito

The inclusion of Tepito in this filing is assuredly no surprise to USTR; it is one of the most well-known markets around the world for sales of counterfeits and other illegal goods. Located in Colonia Morelos at the Cuauhtémoc borough of Mexico City, bordered by Avenida del Trabajo and Paseo de la Reforma; Tepito is the oldest area of Mexico City and is also known as “Barrio Bravo”, the fierce neighborhood, widely viewed as one of the most dangerous areas in the city. Tepito is a huge marketplace, offering everything from souvenirs, to illegal weapons, and narcotics, in addition to counterfeit products. Enforcement in Tepito is widely seen as untenable absent the provision of significant resources by the local police or the military.

Paraguay

Ciudad del Este

As with the case of Tepito, the Tri-Border region, and Ciudad del Este in particular, have long been a hub for the trafficking of counterfeit products and other illicit goods between Paraguay, Brazil, and Argentina. The consistent lack of progress has been a major contributing factor to the IACC’s recommendation of Paraguay’s inclusion on the Special 301 Report in numerous years past. Rights-holders concerns remain largely unchanged from those reported in past years, and Ciudad del Este continues to be cited as a priority concern. Regrettably, local authorities are described as unsupportive, and enforcement of any kind remains exceedingly difficult. While there is some optimism for improvement following the replacement of the Attorney General in 2018, and the arrival of new specialized prosecutors in the city, we support Ciudad del Este’s inclusion on the Notorious Markets List until concrete and sustained improvements materialize.

Russia

Gorbushkin Dvor Mall

The Gorbushkin Dvor Mall in Moscow has long been associated with sales of counterfeit and pirated goods. In more recent years, it has become increasingly well-known for the trafficking of counterfeit consumer electronics and household appliances. Enforcement is described by rights-holders as “almost impossible,” due to corruption, local protectionism, and the involvement of organized crime groups. Local police are said to be unwilling to carry out raids, and brand owners have been actively discouraged from filing criminal complaints, and advised that such complaints would not be actioned.

Spain

Barcelona

As one of Spain's most populous cities and a major tourist destination, Barcelona represents a major consumer market. Unfortunately, rights-holders have seen the environment for IP protection and enforcement in the city deteriorate significantly over the past two years. Counterfeit goods across a broad range of product sectors – though most notably within the apparel, luxury goods, footwear, leather goods, watches, and electronics and accessories – are increasingly sold in the open by street vendors along major thoroughfares and popular tourist destinations around the city. These vendors are reportedly supplied by large-scale importation and warehousing operations, as rights-holders note that even where enforcement operations have been carried out, such actions have done nothing to diminish the number of vendors. Local authorities have been reported to show little interest in dedicating the level of resources necessary to stem the trafficking at the street level, or to conduct investigations that might lead to higher-level distribution or storage facilities, a factor likely attributable to the city's current political instability.

We would welcome action by USTR to underscore the severity of rights-holders' concerns in Barcelona.

Turkey

Grand Bazaar Istanbul, Beyazıt Mh., 34126 Fatih, Istanbul, Turkey

Often regarded as one of the first shopping malls in the world, the Grand Bazaar, is comprised of approximately 60 covered streets and over 4,000 shops, attracting upwards of 90 million visitors each year. Though historically, the Grand Bazaar has served as a market for local artisans, craftsmen, and traders of countless varieties of goods; in recent years, rights-holders have reported the consistent and widespread availability of counterfeit goods in the market, most notably in the apparel, leather goods, jewelry, watch, and cosmetics and fragrance sectors. Despite regular raids by local authorities, illegal sales have been largely undeterred, due to low penalties, insufficient oversight of vendors in the marketplace, and the lack of a proactive approach to policing infringements.

Ukraine

Seventh-Kilometer Market, Seventh-Kilometer Market Odesa, Odessa Oblast, Ukraine, 65000

The Seventh-Kilometer Market covers roughly 170 acres, hosting approximately 6,000 traders and an estimated 150,000 customers per day. Daily sales, according to the Ukrainian periodical Zerkalo Nedeli, were believed to be as high as US\$20 million. With a staff of 1,200 (mostly guards and janitors), the market is also the region's largest employer. It is owned by local land and agriculture tycoon Viktor A. Dobriansky and three partners of his.

Rights-holders report that the market sells both authentic goods along with large volumes of counterfeits sourced from China, across a variety of product sectors. Apparel and luxury goods, jewelry, and perfume are said to be among the most prevalent goods on offer. Counterfeits are sold openly, and local police are reported to show little interest in undertaking enforcement at the market.

United Arab Emirates

Dragon Mart, Al Awir Rd, Dubaï 7567, United Arab Emirates

The IACC concurs with USTR's assessment of Dragon Mart in 2017, and supports its retention on the Notorious Markets List again in 2018. Located on the Hatta/Al Ain highway, the 1.2 kilometre-long, 150,000 sq.m, complex currently houses over 3,950 outlets, serving an estimated 52,000 visitors per day. Dragon Mart is said to be the largest trading hub for Chinese products outside of China, attracting wholesale buyers from all over the Middle East and North Africa. Counterfeit products of all manner are reportedly on offer, including apparel, electronics, leather goods, toys, furniture, watches and others. As noted in prior comments by the IACC, enforcement within the UAE's free trade zones has proven difficult historically; the Department of Economic Development typically lacked jurisdiction to enforce, and the Dubai Police which had the necessary authority was often unwilling to assist in IPR matters. Despite the adoption of MOUs that were intended to address such concerns, sales of counterfeit products remain rife in Dragon Mart.

IDENTIFICATION OF ONLINE MARKETPLACES FOR CONSIDERATION BY USTR

The online marketplaces discussed below were highlighted by IACC members this year during consultations related to USTR's Special 301 Out-of-Cycle Review of Notorious Markets. As previously discussed, the comments herein are not an exhaustive list of venues identified by rights-holders. To the best of our knowledge, none of the markets identified herein are owned, operated, or otherwise affiliated with a government entity. The comments are organized to the extent possible, geographically, by the country in which the marketplace is hosted, or the principal market served.

Mercado Libre

Mercado Libre, founded by Marcos Galperin, is Latin America's most popular e-commerce site with approximately 175 million users. Though incorporated in the United States, the company has operations primarily in Latin America, including Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Mexico, Ecuador, Guatemala, Honduras, Peru, Panama, Uruguay and Venezuela. Mercado Libre's annual revenue is reported at nearly US\$ 850M.

The platform offers a wide range of consumer goods, and IACC members from across nearly every sector report significant concerns on the site ranging from high volumes of counterfeit goods on offer to the unauthorized and deceptive use of the brands' authentic marketing materials, to a lack of responsiveness to rights-holders' complaints.

Domains:

<https://www.mercadolibre.com> (and related sites at .ar, .bo, .br, .cl, .com.co, .co.cr, .do, .ec, .gt, .hn, .mx, .ni, .com.pa, .com.py, .com.pe, .com.sv, .com.uy, and .com.ve).

WHOIS Information:

Domain Name: MERCADOLIBRE.COM

Registry Domain ID: 6342178_DOMAIN_COM-VRSN

Registrar WHOIS Server: whois.markmonitor.com

Registrar URL: <http://www.markmonitor.com>

Updated Date: 2015-11-18T21:13:57Z

Creation Date: 1999-05-08T07:46:48Z

Registry Expiry Date: 2024-10-01T02:39:12Z

Registrar: MarkMonitor Inc.

Registrar IANA ID: 292

Registrar Abuse Contact Email: abusecomplaints@markmonitor.com

Registrar Abuse Contact Phone: +1.2083895740

Domain Status: clientDeleteProhibited <https://icann.org/epp#clientDeleteProhibited>

Domain Status: clientTransferProhibited <https://icann.org/epp#clientTransferProhibited>
Domain Status: clientUpdateProhibited <https://icann.org/epp#clientUpdateProhibited>
Name Server: DNS2.MERCADOLIBRE.COM
Name Server: FORO.MERCADOLIBRE.COM
DNSSEC: unsigned
URL of the ICANN Whois Inaccuracy Complaint Form: <https://www.icann.org/wicf/>
>>> Last update of whois database: 2018-09-17T03:08:48Z <<<

Alexa Ranking: 1,729 (global); 44 (Argentina)

DHGate

The IACC concurs with the USTR's assessments regarding DHGate in the 2017 Notorious Markets Report. Rights-holders from numerous product sectors continue to report rampant sales of counterfeit goods on the platform. IACC members have specifically highlighted concerns over what they view as lax seller registration procedures, the platform's growing international reach, and its insufficient IPR protection policies as contributing to DHGate's popularity among counterfeiters.

In addition to providing international payment and logistics services, DHGate also offers US-based product distribution and warehousing. IP enforcement on the platform is described as exceedingly challenging; DHGate is said to offer both limited IPR protection and limited means for rights-holders to police their rights. Unlike most other platforms, DHGate regularly refuses to provide information about confirmed counterfeit sellers, citing "privacy" concerns. This significantly increases the difficulty in pursuing other available legal remedies and brands' efforts to cooperate with local authorities on large-scale "offline" follow-up investigations. And when taken in combination with the fact that DHGate appears to perform little vetting or due diligence in on-boarding sellers, it's relatively easy for sellers to resume their operations even where they have been removed from the site.

Domain: Dhgate.com

WHOIS Information:

Domain Name: DHGATE.COM
Registry Domain ID: 130520425_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.networksolutions.com
Registrar URL: <http://networksolutions.com>
Updated Date: 2016-06-06T08:02:22Z
Creation Date: 2004-09-21T01:54:06Z
Registry Expiry Date: 2019-09-21T01:54:06Z
Registrar: Network Solutions, LLC.
Registrar IANA ID: 2

Registrar Abuse Contact Email: abuse@web.com
Registrar Abuse Contact Phone: +1.8003337680
Domain Status: clientTransferProhibited <https://icann.org/epp#clientTransferProhibited>
Name Server: A1-27.AKAM.NET
Name Server: A18-66.AKAM.NET
Name Server: A28-67.AKAM.NET
Name Server: A3-64.AKAM.NET
Name Server: A5-65.AKAM.NET
DNSSEC: unsigned
URL of the ICANN Whois Inaccuracy Complaint Form: <https://www.icann.org/wicf/>
>>> Last update of whois database: 2018-02-06T10:27:21Z <<<

Alexa Ranking: 1,033 (global), 816 (US)

WeChat

IACC members from a variety of product sectors noted urgent and growing concerns regarding WeChat during this year's consultations. While billed as a mere social media platform, WeChat is increasingly viewed as one of the largest illicit marketplaces for counterfeit goods in all of China. In the past year, one IACC member reported having received approximately 35,000 complaints from consumers who had unwittingly purchased counterfeit products from WeChat sellers. The same member noted that its own investigations had returned a 100% counterfeit rate for products advertised using their trademarks. Another IACC member highlighted concerns on Weidian, a shopping platform connected to WeChat, on which 98 of the first 100 search results returned for their brand were found to be clear cases of counterfeit products. But because WeChat sellers are able to remain completely anonymous, both consumers and brands have no recourse for the illicit sales.

Attempts to engage with WeChat have been unfruitful; the platform denies any responsibility for its users' fraudulent activity. Further, WeChat has failed to establish a clear and effective IPR infringement policy or takedown process; its current procedures are described as "laborious, overly-bureaucratic, ineffectual, and lacking transparency." Remediation policies are likewise viewed as ineffectual, typically involving only a brief account suspension. Where infringing accounts have been removed, sellers have been permitted to simply re-register a new account with WeChat using the same identity and phone number. Without the imposition of meaningful penalties, there is no hope of discouraging recidivism.

Domain: <https://web.wechat.com/>

WHOIS Information:

Domain Name: WECHAT.COM
Registry Domain ID: 107409616_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.markmonitor.com
Registrar URL: http://www.markmonitor.com
Updated Date: 2018-07-26T02:45:09Z
Creation Date: 2003-11-28T19:15:44Z
Registry Expiry Date: 2018-11-28T19:15:44Z
Registrar: MarkMonitor Inc.
Registrar IANA ID: 292
Registrar Abuse Contact Email: abusecomplaints@markmonitor.com
Registrar Abuse Contact Phone: +1.2083895740
Domain Status: clientDeleteProhibited <https://icann.org/epp#clientDeleteProhibited>
Domain Status: clientTransferProhibited <https://icann.org/epp#clientTransferProhibited>
Domain Status: clientUpdateProhibited <https://icann.org/epp#clientUpdateProhibited>
Domain Status: serverDeleteProhibited <https://icann.org/epp#serverDeleteProhibited>
Domain Status: serverTransferProhibited <https://icann.org/epp#serverTransferProhibited>
Domain Status: serverUpdateProhibited <https://icann.org/epp#serverUpdateProhibited>
Name Server: NS1.WECHAT.COM
Name Server: NS2.WECHAT.COM
Name Server: NS3.WECHAT.COM
Name Server: NS4.WECHAT.COM
DNSSEC: unsigned
URL of the ICANN Whois Inaccuracy Complaint Form: <https://www.icann.org/wicf/>
>>> Last update of whois database: 2018-10-01T18:52:30Z <<<

Alexa Ranking: 2,799 (global), 594 (China)

Carousell

Headquartered in Singapore, and also operating in Australia, Malaysia, Indonesia, Taiwan, and Hong Kong, Carousell is a mobile and online consumer to consumer marketplace for buying and selling new and second-hand goods.

As of 2016, over 23 million items had been sold on Carousell and users had created over 57 million listings of new and used items for sale. Carousell has expanded regionally to seven countries, including Australia, Hong Kong, Malaysia, Indonesia, and Taiwan. IACC members' have expressed concerns with both the volume of counterfeit sales – which reportedly range between 40% - 80% for given brands across each of the marketplace's platforms – and with its rapid growth as a regional player. Carousell has also begun operating in the United States.

Domain: Carousell.com (including country sites for .sg, .my, .ph, .hk, .id, .tw., .au,

WHOIS information:

Domain Name: CAROUSELL.COM
Registry Domain ID: 3135842_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Updated Date: 2017-08-05T10:17:00Z
Creation Date: 1998-02-24T05:00:00Z
Registry Expiry Date: 2023-02-23T05:00:00Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: 480-624-2505
Domain Status: clientDeleteProhibited <https://icann.org/epp#clientDeleteProhibited>
Domain Status: clientRenewProhibited <https://icann.org/epp#clientRenewProhibited>
Domain Status: clientTransferProhibited <https://icann.org/epp#clientTransferProhibited>
Domain Status: clientUpdateProhibited <https://icann.org/epp#clientUpdateProhibited>
Name Server: DEAN.NS.CLOUDFLARE.COM
Name Server: MAY.NS.CLOUDFLARE.COM
DNSSEC: unsigned
URL of the ICANN Whois Inaccuracy Complaint Form: <https://www.icann.org/wicf/>
>>> Last update of whois database: 2018-09-12T07:26:47Z <<<

Alexa ranking: 3,154 (global), 29 (Singapore)

SAHIBINDEN.COM

Sahibinden, owned by the Aksoy Group and hosted by Turk Telekom, is the leading e-commerce marketplace in Turkey. It is also the 5th most visited websites in Turkey and the 5th most visited classifieds in the world, with estimated traffic of more than 140 million visitors each month. Rights-holders across multiple product sectors including cosmetics and fragrances, apparel, luxury goods, and eyewear, among others, report exceedingly high levels of counterfeits on offer, with those determined to be clearly or likely counterfeit in some sectors exceeding 50%. The operators of the platform are said to be entirely unresponsive to rights-holders' complaints; notifications of infringing listings are not acted upon. Given Turkey's proximity to the European Union, and noted deficiencies in the country's customs enforcement regime, rights-holders are closely monitoring the concerns noted herein.

Domain: Sahibinden.com

WHOIS Information:

Domain Name: SAHIBINDEN.COM
Registry Domain ID: 16268985_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.networksolutions.com
Registrar URL: http://networksolutions.com
Updated Date: 2018-04-05T12:13:58Z

Creation Date: 1999-12-30T09:23:08Z
Registry Expiry Date: 2020-12-30T09:23:08Z
Registrar: Network Solutions, LLC.
Registrar IANA ID: 2
Registrar Abuse Contact Email: abuse@web.com
Registrar Abuse Contact Phone: +1.8003337680
Domain Status: clientTransferProhibited <https://icann.org/epp#clientTransferProhibited>
Name Server: DNS01.SAHIBINDEN.COM
Name Server: DNS02.SAHIBINDEN.COM
Name Server: DNS03.SAHIBINDEN.COM
Name Server: DNS04.SAHIBINDEN.COM
Name Server: DNS05.SAHIBINDEN.COM
DNSSEC: unsigned
URL of the ICANN Whois Inaccuracy Complaint Form: <https://www.icann.org/wicf/>
>>> Last update of whois database: 2018-07-07T16:43:23Z <<<

Alexa ranking: 448 (global), 6 (Turkey)

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Travis D. Johnson', with a stylized flourish at the end.

Travis D. Johnson
Vice President - Legislative Affairs, Senior Counsel