

**Submission of the**

**International AntiCounterfeiting Coalition**

**to the United States Trade Representative**

**2024 Review of Notorious Markets for**

**Counterfeiting and Piracy**

**89 FR 66754 (August 16, 2024)**

**Docket No. USTR-2024-0013**

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**October 2, 2024**

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Daniel Lee  
Assistant U.S. Trade Representative for Innovation and Intellectual Property  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

RE: 2024 Review of Notorious Markets for Counterfeiting and Piracy

Dear Mr. Lee:

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 concerning “examples of online and physical markets that reportedly engage in and facilitate substantial copyright piracy or trademark counterfeiting that infringes on U.S. intellectual property.”

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 more than 200 corporations, trade associations, and professional firms. Those member companies, in turn, own thousands of the world’s best-known brands in the apparel, automotive, electronics, entertainment, luxury goods, pharmaceutical, software, and other consumer product sectors. Whether an SME or a large multinational, each one is adversely impacted by the illicit trafficking of counterfeit goods.

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 necessary to effectively protect intellectual property rights, the development of best practices where statutes and regulations lag behind the practical realities of the marketplace, and the application of resources sufficient to implement those legal and voluntary regimes.

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; the economic impacts of counterfeiting are staggering, and represent a significant drain on both the U.S. and global economy. Further, the manufacture and distribution of those illicit goods in an entirely unregulated supply chain – one in which producers 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 the legitimate marketplace.

As a final consideration, we wish to note that the comments provided herein – particularly in the case of those markets that we’ve identified in prior submissions, or those that have already been cited as Notorious Markets by USTR – are intended as an update to past filings, highlighting rights-holders’ most recently provided feedback and current priorities. As such, the views provided herein should not be read as an exhaustive list of our members’ concerns.

We thank you for your work on these important issues, and for the opportunity to share our members’ experiences.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Travis D. Johnson". The signature is stylized with a large, sweeping initial "T" and "J".

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

## PHYSICAL MARKETPLACES

The physical marketplaces discussed below were highlighted by IACC members this year during our consultations in connection with USTR's Special 301 Out-of-Cycle Review of Notorious Markets. As noted in our submission last year, the illicit trafficking of counterfeit and pirated goods has, in many jurisdictions around the world, shifted greatly towards an online distribution model. Perhaps unsurprisingly then, many rights-holders offered only abbreviated comments concerning physical marketplaces during this year's consultations, as their own enforcement activities have likewise shifted to address the increasing online threats.

Many of the markets highlighted herein are well-known to USTR, having made perennial appearances in prior years' submissions (and in past reports published by USTR). Rights-holders' concerns with respect to those markets are, in most cases, long-standing, and well-documented in filings by the IACC and others. Unless otherwise noted, those previously registered concerns remain unchanged.

To the best of our knowledge, none of the markets identified herein are owned, operated, or otherwise affiliated with a government entity.

### **BRAZIL**

#### *25 de Marco Street Market, Sao Paulo*

IACC members across a broad range of product sectors – consumer electronics, apparel and footwear, crop protection chemicals, printing supplies, and others – registered their support for USTR's retention of Rua 25 de Marco on the Notorious Markets List this year. Consistent with USTR's description of the market in the agency's most recent report, the area and its surrounding neighborhoods continue to be viewed by rights-holders as the most problematic physical marketplace in Brazil, and indeed, one of the most problematic in the entire region.

Despite repeated efforts over the course of many years, the trafficking at 25 de Marco is said to remain as ingrained, and as prolific, as ever. Protectionism, along with corruption within the ranks of local officials, is widely seen as contributing to the long-standing problems faced by IP owners; rights-holders' concerns are further exacerbated by deficiencies in the legal and enforcement regime. The lack of priority placed on cleaning up the market, along with the consistent failure of the local and federal authorities to impose truly deterrent penalties in connection with the illicit trade, has created an environment in which counterfeiters operate openly, with apparent impunity, and little, if any, concern that they will be held to account for their crimes.

As noted in our submission last year, criminal prosecutions are rarely pursued against sellers or the owners / operators of the market; civil litigation is likewise viewed as ineffective, given the protracted nature of such actions, and the relatively low damages typically awarded by the courts.

In light of the lack of progress reported during the last year, we recommend USTR's retention of the 25 de Marco Street Market on the Notorious Markets List this year.

## **CANADA**

### *Pacific Mall, Ontario*

The IACC has recommended USTR's placement of the Pacific Mall on the Notorious Markets List for several years; based on feedback received from member companies during this year's cycle, we continue to support the market's retention on the list.

As in past years, the concerns voiced with respect to Pacific Mall remained most pronounced among rights-holders in the apparel and footwear, consumer electronics (including accessories), and luxury goods sectors. Despite rights-holders' efforts to engage with the market's operators and with local law enforcement, most reported little in the way of substantive or lasting improvements in the situation there. Cease and desist letters served on vendors at Pacific Mall are generally ignored; assistance from law enforcement to pursue known bad actors was described as "inconsistent, at best," and the mall's management is said to be "largely disinterested in taking the steps necessary to monitor compliance among their tenants."

As a result, retailers of counterfeit goods at the mall appear to have few concerns that they will face repercussions for their illegal sales – whether from the mall's operators or from law enforcement. Most respondents expressed little optimism that the situation will improve in the near term.

## **CHINA**

### *Huaqiangbei (HQB), Shenzhen*

Manufacturers of consumer electronics and IT hardware and components have cited the Huaqiangbei (HQB) Electronics Malls as a growing concern in recent years. This year's consultations highlighted widespread, high-volume retail and wholesale counterfeiting operations impacting those sectors. Respondents reiterated comments heard during last year's cycle related to the apparent expansion of illicit operations into nearby cities including Maoming and Dongguan, among others.

Reports concerning Maoming were particularly troubling, as that locale is viewed by respondents as one of the most significant sources for the production of counterfeit batteries for use in the production of mobile phones and other consumer electronics. Rights-holders' own investigations have uncovered extensive links between the manufacturing operations in Maoming and retailers / distributors operating within the HQB electronics malls named to

USTR's Notorious Markets List last year. The illicit production of batteries raises obvious concerns related to consumers' health and safety, yet local authorities are said to be extremely reticent about taking action against local producers. Some respondents also cite corruption as a hindrance to taking meaningful enforcement action.

Given the continued, and growing challenges faced by rights-holders in the HQB tech malls and the expansion of counterfeiters' operations into nearby satellite towns, we support their retention on the Notorious Markets List this year.

### *Chaoyang District, Shantou City*

IACC members likewise support the inclusion of the Chaoyang District of Shantou City on this year's Notorious Markets List. Rights-holders' feedback regarding Chaoyang has remained largely unchanged in recent years. The area continues to be seen as a major manufacturing center for counterfeit electronics – including both “finished” goods and components. The concealment of makeshift factories within residential buildings has exacerbated an already difficult enforcement landscape; and while some respondents described modest improvements with respect to law enforcement's engagement and willingness to assist with investigations, the situation remains dire.

## **INDIA**

*Tank Road and Gaffar Market, Karol Bagh neighborhood, Delhi*  
*Sadar Patrappa (SP) Road Market, Bengaluru*  
*Musafir Khana and Nathani Markets, Mumbai*

Last year's Notorious Markets List highlighted concerns raised by rights-holders across a variety of product sectors, related to widespread trafficking of counterfeit and pirated goods at markets in the Karol Bagh neighborhood of Delhi, including Tank Road, Gaffar Market, Ajmal Khan Road Market, and the Karol Bagh Market. Participants in the IACC's consultations this year reiterated complaints related to the manufacturing, wholesaling, and retail sales that were discussed in prior years' submissions. One respondent in the apparel and footwear sector cited Karol Bagh Market as its highest priority (in terms of “offline” activity) in all of India.

Well-known to both locals and tourists, counterfeit sales in the neighborhood markets are both widespread and conducted openly. And while local authorities have offered assistance on occasion, enforcement in the residential district is said to be extremely challenging. The relatively few enforcement actions that do occur are nowhere near the scale that would be required to make a significant impact on the availability (and visibility) of counterfeits on offer.

Respondents reported that the owners / managers of the markets have shown little interest in addressing rights-holders' concerns.

## **INDONESIA**

*Mangga Dua Market, Jakarta*  
*ITC Roxy Mas, Jakarta*

Respondents spanning a variety of product sectors expressed support for USTR's decision to include the Manga Dua Market on last year's Notorious Markets List. As in a number of years past, IACC members also highlighted their desire for similar recognition of ITC Roxy Mas – a large electronics mall, consisting of approximately 900 outlets spread across five floors.

Consumer electronics – mobile phones, computer hardware and peripherals, and related products – comprise the bulk of the counterfeit goods on offer. Both law enforcement and the market's operators are well-aware of the illicit trafficking, but demonstrate little appetite for addressing the pervasive sales.

Despite years of complaints, meaningful progress continues to be hindered by many of the same factors highlighted in our annual Special 301 comments, including local protectionism, a lack of criminal prosecutions, and a general lack of priority for IP protection and enforcement.

## **KYRGYZ REPUBLIC**

*Dordoi Bazaar, Bishkek*

The IACC concurred with USTR's placement of the Dordoi Market on the Notorious Markets List last year, and we support its retention on the list again this year. Dordoi has developed a reputation in recent years as a significant hub for the trafficking of Chinese-produced counterfeit goods of all types into Europe and Russia. Respondents continue to see that reputation as entirely justified, and report minimal changes to the situation there over the past year.

The porousness of the border, the proximity to China, and the relatively ineffective customs controls implemented in the Eurasian Customs Union all contribute to the challenges faced by IP owners. The inefficient, and insufficient, legal regime, is also seen as a significant obstacle to cleaning up "Container City;" rights-holders were broadly pessimistic about the odds for improvement, absent concerted efforts by the government.

## MEXICO

### *Tepito, Mexico City*

Tepito remains the most notorious brick-and-mortar marketplace in Mexico, and one of the most notorious in all of Latin America. With its perennial appearances on the Notorious Markets List, USTR is well-acquainted with the volume and variety of counterfeits on offer at Tepito, and the difficulties faced there by IP owners. Tepito is the very definition of a notorious market.

Representatives from numerous product sectors – agricultural chemicals, apparel and footwear, pharmaceuticals, electronics, and consumer goods, among others – reported that counterfeit sales continued unabated over the past year. Additionally, as has been reported frequently in the past, attempts at enforcement remain a practical impossibility; some commenters cited concerns related to cartel involvement in the trafficking. The lack of raids and criminal prosecutions are seen as further diminishing respect for the rule of law, allowing the illicit trade to become ever more ingrained.

### *Mercado San Juan de Dios, Guadalajara* *El Santuario Neighborhood, Guadalajara*

IACC members highlighted significant concerns related to two markets in Guadalajara during this year's consultations. Mercado San Juan de Dios, which was listed by USTR as a Notorious Market in last year's report, remained a hot spot for the sales of counterfeit apparel and footwear, luxury goods, and consumer electronics, as well as pirated business and entertainment software and other copyrighted works. Stalls engaged in the sale of counterfeit and pirated goods continue to make up a large portion of the sellers active in the market. Sellers are also increasingly reported to be expanding their operations beyond the brick-and-mortar outlet with a growing online presence.

Rights-holders' frustrations have been compounded by the brazenness of the activity – illicit goods are sold openly, in full view of the local authorities. The government has shown little interest in reining in the activity though. The overall consensus among brands was that the sales of pirated and counterfeit goods at San Juan de Dios has increased significantly over the past year.

While it was not named in last year's report, rights-holders also cited growing concerns with respect to Guadalajara's El Santuario neighborhood, reporting "hundreds in the neighborhood who offer illicit pharmaceuticals for sale." The activities described include both retail-level sales, and larger wholesaling, warehousing, and distribution operations. And, as was the case described at San Juan de Dios, the criminal activity is conducted largely out in the open, and with no apparent effort on the government's part to combat the trafficking. Accordingly, we recommend the inclusion of both San Juan de Dios and El Santuario on the Notorious Markets List this year.



## **PARAGUAY**

### *Ciudad del Este*

IACC members active in Latin America were unanimous in their support for Ciudad del Este's retention on the Notorious Markets List this year. Located at the Tri-Border of Paraguay, Brazil, and Argentina, Ciudad del Este's status as a distribution hub for counterfeit goods throughout the region has been highlighted by rights-holders (and USTR) for over two decades. It remains a key supplier of counterfeits sold in countless brick and mortar markets in neighboring countries, and across the region. As one respondent opined, "whether you're talking apparel, footwear, electronics, pharmaceuticals, tobacco, or any other type of consumer product, if there's a counterfeit item being offered for sale [in South America], there's a good chance it passed through Ciudad del Este."

In recent years, member brands have also increasingly reported concerns related to manufacturing and finishing operations in Ciudad del Este. Yet, despite its notoriety as a hotbed of criminal activity, efforts to address the illicit production and cross-border trafficking, and coordination between the Paraguayan, Brazilian, and Argentinian governments, remain severely lacking. Stakeholders from nearly every sector of the IACC's membership cited Ciudad del Este as one of their greatest concerns in the region. Accordingly, we continue to support Ciudad del Este's inclusion on the Notorious Markets List.

## **PERU**

*Gamarra Emporium, Lima*

*Polvos Azules, Lima*

*Las Malvinas, Lima*

IACC members supported the inclusion of Lima's Gamarra Emporium and Polvos Azules on the Notorious Markets List last year; and participants in this year's consultations offered similar support for both markets' retention on the list this year. Respondents, likewise, believed that the Las Malvinas neighborhood warrants consideration as a notorious market.

Gamarra remained a source of great frustration for member brands – most notably those in the apparel and footwear sectors. Illicit sales are conducted openly from the mall's hundreds of stalls, and the availability of counterfeits is regularly mentioned on travel sites. Despite reports of more frequent enforcement actions undertaken by local law enforcement and rights-holders – one respondent noted that shops in the Gamarra Emporium had been raided nearly 70 times over the past year, leading to the seizure of nearly 40,000 counterfeit items – the trafficking of counterfeit and pirated goods continues unabated.

Polvos Azules, meanwhile, remains a hot spot not only for counterfeit apparel, but also for illicit products across a range of other sectors, including toys, electronics, household appliances,

jewelry, cosmetics and personal care products. As with Gamarra, the occasional enforcement actions undertaken at Polvos Azules have had little apparent impact on the availability of counterfeits in the market, and have failed to deter counterfeiting operations from continuing their illegal activity.

While Las Malvinas was not named as a Notorious Market by USTR last year, IACC members, particularly those in the electronics sector and automotive sectors, registered concerns about the growing trade of counterfeits in the area. Enforcement there is said to be extremely difficult, and some respondents indicated that local authorities have shown more interest in “legitimizing” sellers (i.e., ensuring that they have obtained appropriate business licensing and are paying required taxes), than in deterring their illegal activities.

As previously reported with respect to Gamarra and Polvos Azules, Las Malvinas has also established an online presence (<https://malvinas.com.pe/>) to facilitate sales by Las Malvinas vendors. Unfortunately, each of the markets’ respective sites fails to provide even basic procedures and tools to facilitate the removal of listings for counterfeit items.

In light of the feedback received during this year’s process, we support USTR’s placement of Gamarra, Polvos Azules and Las Malvinas on this year’s Notorious Markets List.

## **RUSSIA**

*Dubrovka Market, Moscow*  
*Gorbushkin Dvor, Moscow*  
*Sadovod, Moscow*

The Russian invasion of Ukraine – and the resulting political climate, which led many Western companies to suspend operations in Russia – has significantly impacted many brands’ abilities to assert and protect their IP rights while also decreasing transparency and awareness surrounding enforcement activity undertaken by Russian authorities. Perhaps unsurprisingly then, we received limited intelligence this year concerning the Dubrovka, Gorbushkin Dvor, and Sadovod markets that have previously earned spots on the Notorious Markets List. What feedback was received, however, points to a worsening environment for IP protection, beyond what was already viewed quite dismally. In the absence of any rights-holder input that might indicate progress on long-standing concerns, we support the retention of all three markets on this year’s list.

## **TURKEY**

### *Tahtakale District, Istanbul*

The IACC has voiced support for USTR's placement of Istanbul's Tahtakale District on the Notorious Markets List for several years, due to significant and long-standing concerns related to counterfeit sales impacting rights-holders from multiple product sectors. Though trademark owners and local law enforcement have stepped up raids in recent years, the trafficking remains well-entrenched.

While some respondents noted that counterfeits were "somewhat less visible than in the past," that was largely attributed to increasing rents in the touristic areas of the city, rather than the deterrent effect of police activity.

Rights-holders' consensus view was that, despite some nominal improvements, counterfeit products remain widely available in the area, and that the Tahtakale District should be retained on the Notorious Markets List again this year.

## **UNITED ARAB EMIRATES**

### *Deira District, Dubai*

The Deira District remained IACC members' top priority this year in the United Arab Emirates, and was cited by some as one of the markets of greatest concern in the broader region.

The area continues to serve as a major hub for the trafficking of counterfeit goods; as noted in prior years' filings, its proximity to the Dubai airport, and the historically lacking Customs enforcement in the UAE (a factor that has been bemoaned by IACC members in countless past Special 301 submissions), are seen as contributing factors to the challenges faced by rights-holders.

Frequent raids, and large-scale seizures have done little to discourage the illicit trade – perhaps due to the authorities' consistent failure to impose meaningful penalties in connection with such trafficking.

Rights-holders participating in this year's consultations expressed overwhelming support for USTR's retention of the Deira District on this year's Notorious Markets List.

## **UNITED KINGDOM**

*Cheetham Hill, Manchester*

*Charles House / Bridge Road Trading Estate, Southall, London*

Cheetham Hill has long been considered one of the epicenters of the trade in counterfeit apparel, footwear, consumer electronics, and other goods in the United Kingdom. That has remained the case in 2024.

In recent years, law enforcement has significantly increased enforcement activity against illicit operations in the area, and IACC members offered high praise for both the Manchester Police and the City of London Police's Police IP Crime Unit (PIPCU), in targeting the pervasive counterfeit sales in Cheetham Hill. To date, however, even the combined efforts of law enforcement and their partners in the private sector have been insufficient to resolve the longstanding concerns there.

Respondents also expressed dismay over increasing links between criminal operations in Cheetham Hill, and those in the Charles House / Bridge Road area of West London. Border officials in the UK are said to have seized significant volumes of counterfeits at the latter, while other respondents cited an uptick in seizures of counterfeits en route to Charles House / Bridge Road by customs agencies in the EU. Rights-holders would welcome a more coordinated approach to addressing these challenges, but at present, recommend each for inclusion on this year's Notorious Markets List.

## ONLINE MARKETPLACES

As noted in our introductory comments, the legal frameworks governing the protection of intellectual property have often lagged well behind the ever-evolving business models and distribution chains that typify e-commerce; the resulting legislative and regulatory gaps require urgent attention by national governments, both here and abroad. A continued failure to act threatens to undermine the very confidence in the market that trademarks are intended to provide, while also exposing consumers to the sort of heightened risks inherent in the trade of counterfeit goods.

As the online market has grown over the past two decades, the IACC has consistently underscored two ideas – first, that a safe and trusted e-commerce system is beneficial to all of the legitimate stakeholders who comprise it; and further, that protecting consumers and ensuring their continued confidence in the marketplace requires that rights-holders, legitimate retailers and platforms, payment and logistics service providers, and indeed, consumers themselves, work together toward that common goal. Stakeholders' responsibilities cannot be defined in terms of mere compliance with often antiquated legal frameworks.

To that end, we have sought to engage directly with partners throughout the e-commerce landscape in the development of voluntary collaborative programs on a global scale to address key priorities in the online space. We, likewise, continue to engage with a variety of other stakeholders to develop and encourage the adoption of best practices for the protection and enforcement of intellectual property rights that go beyond the mere letter of the law. Accordingly, we wish to highlight some of the past and ongoing engagement the IACC has had with stakeholders in the e-commerce sector over the past year. These included:

- The IACC MarketSafe Program – Now in operation for more than a decade, the IACC's long running collaboration with the Alibaba Group has assisted over 250 rights-holders in their efforts to identify and remediate sales of counterfeit goods across all of Alibaba's e-commerce sites. This collaboration has led to the removal of hundreds of thousands of listings and more than 16,000 sellers from the platforms due to IP violations, while also facilitating the sharing of intelligence to support the implementation of new enforcement strategies, platform policies, online-to-offline investigations, and more.
- The IACC RogueBlock Program – For over a decade, the IACC has worked in close collaboration with the payments sector using a "follow the money" approach to target the misuse and abuse of legitimate payment services by bad actors, as a means to cutting off the ability of rogue sites to receive payments for their illicit goods.
- The IACC-Amazon Program – Beginning as a pilot program in 2018, and formalized the following year, the IACC continues to work with Amazon to escalate rights-holders' concerns, to identify issues impacting rights-holders and which may be ripe for the adoption of new policies and strategies to enhance the platform's brand protection efforts, and to facilitate greater engagement between stakeholders.
- As in numerous past years, the IACC extended invitations to a number of e-commerce platforms to host roundtable sessions with stakeholders at our annual conference in May. Among those who participated in these small-group discussions to solicit feedback

and share updates on their platforms' brand protection efforts were: Alibaba, Amazon, Bukalapak, eBay, Mercado Libre, Shopee, Temu, and Tencent/WeChat.

The online marketplaces discussed below were highlighted by IACC members this year during our consultations related to USTR's Special 301 Out-of-Cycle Review of Notorious Markets, but they do not constitute an exhaustive list of every platform identified by rights-holders. Our comments and recommendations herein encompass a variety of factors including: the volume and variety of counterfeits on offer through the platforms, the relative threats posed by that trafficking to rights-holders and consumers, and the platforms' efforts to engage with rightsholders, governments, and others to address that illicit trade, including their investments in technological tools and human capital.

We continue to work with a variety of stakeholders in the e-commerce space, and to facilitate direct engagement between such entities and our members where feasible. We welcome USTR's efforts at highlighting those areas where work remains to be done, or where further engagement is desirable.

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 alphabetically, by platform name.

### **Bukalapak**

IACC members' feedback concerning Bukalapak this year remained largely consistent with that which has been heard in recent years past. Stakeholders from a variety of product sectors – most notably, manufacturers of apparel and footwear, pharmaceuticals, and information technology goods – continue to face significant challenges on the platform in connection with the overall volume of counterfeit items on offer, the need for more proactive enforcement measures, and the need for consistently applied penalties that are sufficient to deter recidivism.

In last year's submission to USTR, we noted a contrast in rights-holders' views of Bukalapak with feedback received concerning Tokopedia. While both platforms have ranked among rights-holders' highest priorities in the region, Tokopedia was generally seen as having made greater progress in reining in illicit sales on their platform. That improvement was attributed to Tokopedia's investment in, and its application of, additional resources for its brand protection program, including the hiring of additional personnel to manage and respond to brands' complaints, the implementation of new technological tools to increase the efficiency of enforcement, and significantly stepped-up engagement with rights-holders to develop more effective policies to identify and remediate bad actors. We welcomed reports from some brands this year indicating that Bukalapak is, likewise, making greater investments to protect IP on their platform. At present though, many rights-holders continue to report a variety of significant challenges on the site, and additional work remains to be done.

The IACC was also pleased to receive outreach from Bukalapak earlier this year, expressing the platform’s interest in attending the IACC’s annual conference in Orlando – the first such event that Bukalapak has participated in in the United States. Representatives from the company hosted roundtable sessions at the conference, during which they had an opportunity to meet directly with stakeholders and to hear first-hand about the challenges that they face. While we believe that Bukalapak’s retention on the Notorious Markets List this cycle remains justified, we are hopeful for further, and more consistent, engagement throughout the coming year. In the meantime, we will continue to seek feedback from IACC members regarding additional, concrete steps that Bukalapak can take to improve the efficiency and effectiveness of its enforcement regime, particularly as regards the platform’s treatment of recidivist bad actors.

## **DHgate**

DHgate has made numerous appearances in the IACC’s Notorious Markets submissions over the years. Historically, rights-holders’ concerns regarding the platform have been tied not only to the overall volume and variety of counterfeit goods on offer, but also to IACC members’ perception that the platform was reluctant to work collaboratively to address that trafficking, or to impose meaningful, deterrent penalties against sellers even in cases involving repeated violations of IP owners’ rights (and of the platform’s own stated policies).

Recidivism among sellers of counterfeits on the platform remained a common concern voiced by respondents during this year’s consultations, and some IACC members expressed a desire for greater collaboration in undertaking “online to offline” actions – whether in terms of the platform’s provision of more detailed seller information to support the brands’ own civil enforcement efforts, or in the context of referrals and support for criminal investigations. Some brands highlighted the prevalence of B2B, wholesale-quantity offers by sellers on the platform, and noted that sellers’ abilities to offer such quantities implies close, if not direct, ties to the manufacturing operations that are producing the illicit goods. Not surprisingly then, those brands believed that increased collaboration with DHgate in pursuing those higher-level targets could pay significant dividends in terms of overall deterrence. Additional concerns that have been highlighted in past years, e.g., the use of “code words” in product descriptions and the manipulation of product images to evade detection, as well as the desire for more stringent “know your customer” / seller vetting and verification procedures, were also raised again during this year’s consultations.

An emerging issue flagged by multiple respondents this year involves the apparent increase in affiliate marketing and “influencer” involvement in advertising counterfeits online. Though certainly not an issue unique to DHgate, rights-holders have reported a significant uptick in counterfeiters’ use of short-form video apps, social media, and targeted advertisements across multiple platforms to drive consumer traffic. Prior to 2024, much of that activity was focused on Pandabuy; but following large scale raids by Chinese authorities targeting that platform, and subsequent litigation undertaken by a number of brands, that traffic is now seen to be directed to other outlets. Rights-holders’ feedback regarding these concerns underscores the need for broader, and more consistent, cooperation among stakeholders in the e-commerce sector to

identify and remediate bad actors' operations which often span multiple online service providers.

In June of this year, DHgate launched a pilot program which will undoubtedly be of great interest to rights-holders. The program includes enhanced product screening procedures; a new portal for submission of complaints and requests for assistance, including an expedited review pathway for "trusted" partners; the implementation of new procedures aimed at screening prospective sellers; and penalty enhancements for repeat and high-volume infringers. While the program was launched only recently, the stated aims of the program appear well-aligned with rights-holders' historical concerns on the platform, and we're hopeful that this effort will bear fruit moving forward.

We have been greatly pleased by both the consistency and the overall level of DHgate's engagement over the course of the past year. In addition to regular outreach and discussions with outside consultants engaged by the platform; DHgate's founder and CEO traveled to the United States earlier this year for a face-to-face meeting with the IACC's President to hear about our members' concerns firsthand, and to stress the platform's high-level commitment to working with rights-holders. We look forward to working with DHgate in the coming year to ensure meaningful progress in addressing long-standing priorities.

## **IndiaMart**

Feedback received from stakeholders during this year's consultations largely mirrored that which has been shared with USTR in numerous past submissions. Rights-holders reiterated long-standing concerns related to the volume of counterfeit goods on offer, the variety of product sectors impacted, an urgent need to develop and implement effective seller vetting and "Know Your Customer" policies, and for a holistic re-thinking of IndiaMart's approach to IP protection.

In response to prior years' filings by the IACC, IndiaMart has largely disclaimed any responsibility for the illegal actions of its users, arguing that it serves merely a passive "matchmaker," through which buyers and sellers are able to connect. That characterization is broadly dismissed by rights-holders impacted by the illicit sales, who have repeatedly highlighted the numerous ways in which IndiaMart actively participates in or facilitates the trafficking of counterfeits. As detailed in the IACC's submission last year, the platform offers a variety of paid "add-on" services including its "TrustSeal" certification which is marketed to sellers as a way of cultivating buyers' trust and the "Maximiser" service which aimed at increasing sellers' visibility on the platform. IndiaMart also facilitates payments between buyers and sellers, and offers a range of other logistical support. Each of these offerings undercut IndiaMart's assertions that it is simply a passive service provider.

IndiaMart's insistence that it bears no responsibility for policing its sellers has, not surprisingly, contributed greatly to the platform's inundation with fake goods. One respondent in the apparel and footwear sector estimated that more than half of the goods bearing their registered



marks that are on offer on the platform are counterfeit. Citing their most recent full-year enforcement statistics, rights-holders in the pharmaceutical and IT sectors also reported drastic increases in the volume of counterfeit products advertised under their brands, and an accompanying increase in the volume of infringement notices submitted to the platform for removal. And while respondents noted that IndiaMart is largely compliant with respect to takedown requests – indeed, such responsive action appears to be the only IP enforcement obligation that the platform appears to acknowledge – the time to action those requests is described by some as inconsistent, and the time and effort involved in submitting those takedown notices is a significant drain on rights-holders’ resources. Rights-holders offered little optimism for improvement, absent a greater willingness on the part of IndiaMart to implement much-needed seller vetting policies, proactive screening of listings, and the imposition of truly deterrent penalties when violations are uncovered.

In light of the feedback received from member brands during this year’s NML consultations, we support USTR’s retention of IndiaMart on this year’s Notorious Markets List.

### **Meta (including Facebook, Facebook Marketplace, Instagram, Threads, WhatsApp)**

IACC members again reported a variety of concerns related to the trafficking of counterfeit goods on, or aided by, the various Meta platforms during this year’s consultations. The range of issues detailed by respondents, and the level of concern expressed by stakeholders is, to some extent, a factor of the Meta ecosystem’s global reach and the variety of services available to users. With offerings including “traditional” social media functions such as public and private user groups (Facebook), short-form video and livestreaming (Instagram, Reels), e-commerce (Marketplace), and messaging services (WhatsApp), Meta has built one of the most popular online communities in the world. Perhaps unsurprisingly, this has provided an attractive target to bad actors seeking to exploit the platform and its massive userbase to sell or advertise illicit goods, to drive traffic to other outlets for sales of counterfeits, and to engage directly with potential customers.

While some brands offered positive feedback with respect to Meta’s investment in technologies intended to aid in the identification and removal of counterfeit offerings, and ongoing efforts by the platform to continue refining those brand protection tools; the overall effectiveness of those measures was questioned by some respondents as well. Image recognition tools are said to have demonstrated inconsistent results, while those enabling keyword searches to identify listings for illicit goods are reported to return high levels of “false positives,” requiring rights-holders to devote significant energy to sorting through the results. Several brands raised concerns about the level of transparency surrounding enforcement activities, citing both a lack of responsiveness and frustrations regarding Meta’s practice of deleting historical data; that latter issue limits rights-holders’ ability to assess the long-term impact of enforcement activity

or to build cases against repeat offenders. Stakeholders also reiterated complaints detailed in past submissions regarding the speed and consistency with which IP complaints are handled, and their frequent need to escalate complaints to obtain satisfactory resolutions.

The Meta ecosystem is largely “open,” and characterized by the ease with which users can join the platforms and interact in a number of ways. And while there are certainly benefits to such a framework, some have suggested that the barriers to entry for users – particularly where those users are engaged in commercial activity – should be higher. Put another way, many rights-holders would support the implementation of policies to more thoroughly vet individuals who are using the platform to advertise and sell goods, as is common practice among “traditional” e-commerce platforms. Respondents also noted growing frustration with apparent inconsistencies in Meta’s remediation of bad actors across its various platforms, offering as an example, the lack of effective tools to report and terminate WhatsApp accounts, even where those accounts are confirmed to be linked to sales of counterfeits.

Despite the challenges faced by IACC brands in protecting their rights across its various platforms, we’ve been pleased with the level of engagement by Meta since our submission last year. Like numerous other platforms, representatives from the company attended our annual conference in May of this year, where they hosted multiple roundtable sessions to share updates with, and to receive input from, rights-holders small and large. Meta’s legal and brand protection team has consistently, and proactively, reached out over the past 12 months to seek feedback regarding both the substance and implementation of its enforcement regime. More recently, the IACC has engaged with Meta’s team to explore opportunities for collaborative initiatives among private sector stakeholders. We are hopeful that these and further discussions aimed at addressing shared concerns related to IP will be mutually beneficial.

## **Pinduoduo**

Pinduoduo (“PDD”) has made appearances in the IACC’s annual Notorious Markets comments in each of the past several years, a fact attributable to rights-holders’ widespread dissatisfaction with the volume of counterfeit goods on offer, and its implementation of policies and procedures that has been described as, “seemingly designed with the aim of discouraging enforcement.” IACC members strongly supported PDD’s retention on the Notorious Markets List last year, and continued to do so during this year’s consultations.

Rights-holders spanning diverse industry sectors, including manufacturers of apparel and footwear, consumer electronics and IT hardware, and luxury goods, among others, reiterated concerns that have been reported to USTR for years, while bemoaning the platform’s general lack of assistance and “apparent disinterest in addressing, or even acknowledging the extent of, illicit sales.”

Brands’ frustrations are said to be further compounded by the fact that much of the counterfeit traffic is seen as “low hanging fruit,” often involving goods offered at prices far below even

wholesale pricing of their authentic counterparts, and with other clear indicators that the goods are fake. One sporting goods brand estimated that approximately 90% of the items bearing their trademarks and on offer through PDD are counterfeit. Removing listings for those products remains both difficult and time-consuming though, ranging from several days to over two weeks. More impactful actions aimed at terminating counterfeiters' virtual storefronts are far more infrequent, and far more difficult, particularly given the platform's overly-burdensome prerequisites to taking such action, e.g., PDD's insistence that a test purchase be conducted (even in clear-cut cases), and the perceived opacity of the enforcement process.

Respondents also described stark differences in their experience dealing with PDD and numerous other platforms in China; the disparities have been most pronounced perhaps in the context of "online to offline" enforcement. While IACC members have worked with many of the largest platforms in the region and law enforcement partners to jointly investigate links between illicit sellers online and the manufacturing, warehousing, and distribution partners in "the real world" who supply their inventory, support from PDD for such initiatives has been sorely lacking.

Some brands also highlighted a contrast between their dealings with PDD and its "sister company," Temu (both platforms are owned by PDD Holdings), as a source of frustration. While the feedback received concerning Pinduoduo this year was overwhelmingly negative, several respondents spoke positively about Temu's proactive approach to outreach and engagement with rights-holders, improvements in responsiveness to complaints, and its implementation of new tools to reduce the volume of listings for counterfeits on Temu. The IACC has also been pleased with Temu's direct engagement in recent months, including its participation at our recent annual conference in Orlando. More recently, we've had an opportunity to meet with the company's most senior executives, who reiterated Temu's commitment to working with rights-holders to address IP concerns. These more positive interactions with Temu, however, have also served to underscore the breadth and depth of rights-holders' concerns with Pinduoduo.

In light of the feedback received from members during this year's consultations, we continue to support Pinduoduo's retention on the Notorious Markets List.

## **Shopee**

The IACC's direct engagement with Shopee dates back to late-2021 / early-2022, following our October 2021 submission to USTR recommending the platform's placement on the Notorious Markets List. That recommendation was made in consideration of feedback received from IACC member brands across a variety of product sectors reporting high volumes of counterfeit items on offer through Shopee's platforms in both Southeast Asia and Latin America. The concerns detailed by rights-holders at that time were further compounded by unclear and insufficient policies governing IP protection and enforcement, a largely reactive approach to enforcement, and an apparent reluctance on the part of the Shopee to impose meaningful and

deterrent penalties for violations – all of which were seen as contributing to high levels of recidivism among sellers of counterfeit goods on the platform.

The past two and a half years have been a study in contrasts, with many rights-holders complimenting Shopee’s consistent engagement with stakeholders, and offering praise for positive steps the platform has taken. Others, however, continue to express their frustration over progress that has failed to materialize, despite the platform’s commitments to addressing long-standing and foundational enforcement concerns. While Shopee has actively sought out rights-holders’ feedback regarding the sufficiency of its policies and practices, and has taken steps to incorporate that input – e.g., by streamlining its reporting processes and alleviating some of the more onerous requirements that were previously imposed on brands as part of the complaint process – representatives of brands in some sectors continue to report troublingly high volumes of counterfeit goods on offer. Respondents during this year’s consultations expressed a consensus viewpoint that the greatest hindrance to cleaning up counterfeits on Shopee is the lack of decisive and persistent penalties against repeat offenders.

Stakeholders stressed their desire for enforcement actions aimed at terminating the accounts of sellers, rather than simply removing those sellers’ individual listings for counterfeit items. Historically, the default response of many platforms to sales of counterfeit goods has been to focus on remediation and seller education. And while both should certainly be components of a platform’s overall strategy, repeat offenders should quickly lose the benefit of the doubt. Taking decisive action in response to repeated violations not only sends a strong message to other sellers (and to consumers) that the platform will not tolerate illicit activity; it also frees up resources of both the platform and rights-holders that were previously wasted pursuing the same offenders over and over again. In our discussions with member brands during this year’s NML cycle, some shared troubling enforcement data detailing thousands of sellers who, despite repeated, confirmed violations, remain active on Shopee’s platform. Effectively addressing issues of recidivism must be made a priority.

A corollary concern involves the need for more comprehensive vetting and verification of sellers during onboarding, to ensure that bad actors who have been removed from the platform are kept from re-emerging to resume their illicit sales. Rights-holders would also support the adoption of policies to re-evaluate sellers who have been confirmed as offering counterfeit goods for sale, and “one-strike” policies where a seller has been found to engage in deceptive conduct (e.g., the use of keywords or altered images in listings to avoid pro-active detection measures, or the provision of falsified documentation purporting to demonstrate the “authenticity” of counterfeit goods advertised for sale or falsely claiming that the seller is a licensed / authorized distributor of the brand).

Despite these significant challenges, most respondents during this year’s NML consultations expressed a desire for more regular engagement and coordination with Shopee. The IACC has facilitated – and expect to continue facilitating – direct discussions between Shopee and a number of our member brands, consisting of periodic check-ins to provide feedback concerning what is, and is not, working well with the platform’s existing framework; offering insights and “real world” examples to support the adoption of more efficient and effective policies and practices; and supplying intelligence regarding emerging concerns. Participants in these

discussions have commented positively regarding Shopee's candor about ongoing challenges, and the platform's expressed desire to find common ground on sometimes difficult or contentious issues. We expect that this engagement will continue during the coming year, and welcome Shopee's commitment to building upon the progress that has been made to date.

## **TikTok Shop**

TikTok Shop makes its first appearance in an IACC Notorious Markets submission this year, a result of significant and increasing concerns among rights-holders since its launch in the United States last year. As described by one commenter, that launch may have come prematurely given the platform's apparent lack of preparedness to address the proliferation of counterfeit offers. And while TikTok Shop has reportedly taken steps to rein in illicit sales by expanding its brand protection team and introducing its Intellectual Property Protection Center (IPPC), those actions have failed to alleviate the challenges faced by rights-holders.

The IPPC, and TikTok Shop's overall framework for submitting complaints, were described by respondents as "unwieldy," "not user friendly," "time-consuming," "confusing," and "lacking transparency." Member brands voiced frustration over the effectiveness of the IPPC citing high rates of false positives, the poor performance of its image-based search functionality, and failure to provide relevant information in a coherent and consistent format. But while the IPPC is at least nominally intended to facilitate the more efficient submission of complaints by rights-holders, brands' practical experience has not been characterized by efficiency.

Complaints by rights-holders are frequently rejected with no explanation offered for the refusals, and complainants are often forced to repeatedly escalate their submissions and request manual reviews of their reports. We've likewise heard brands' displeasure over technological impediments to enforcement (including the platform's practice of geo-blocking); insufficient seller vetting and onboarding procedures; and the platform's lack of an effective policy to deal with repeat offenders. And while some member brands were encouraged by TikTok Shop's expansion of its brand protection team over the past year, others described the hiring as largely "window dressing," arguing that the brand protection team has not been sufficiently empowered nor provided with the tools necessary to meaningfully reduce the volume of trafficking on the platform. Respondents expressed a consensus view that the current approach by TikTok Shop is both unscalable and unsustainable.

Rights-holders offered a number of suggestions for improving the platform's enforcement regime, including refinements to the IPPC to make the complaint process more efficient and user-friendly, and the provision of more detailed seller and store information. Given the variety and extent of the challenges faced by brands in connection with the enforcement of their IP rights on the platform, we support TikTok Shop's placement on the Notorious Markets List this year.

## **Weixin (China) and WeChat (International) (collectively, “WeChat”)**

IACC members’ feedback concerning WeChat during this year’s consultations remained largely consistent with that heard during last year’s NML cycle, with rights-holders continuing to register concerns related to the overall volume of counterfeit sales, and a need for the imposition of more deterrent penalties to discourage recidivism.

While WeChat is not structured in the same manner as “traditional” e-commerce platforms, the services it offers – ranging from social media, messaging, and payment services, to photo- and video-sharing, as well as live-streaming – can be, and are, exploited by bad actors to engage in and facilitate sales of counterfeit goods and other illicit activities. As noted in past submissions, much of this activity takes place out of the public view, making use of the app’s private features; but the trafficking is most certainly not limited to those more discreet channels. Respondents shared concerns similar to those heard regarding other short-form video and livestreaming apps, including the use of such features to drive consumers to other outlets “off-platform” where sales are consummated, or to host “flash sales.” And while it may be reasonable to expect enforcement in this sort of ecosystem to present greater challenges than are the norm on traditional e-commerce platforms, contributors to this year’s comments suggested that more, and more effective, actions could be taken to address IP owners’ concerns.

In past submissions, IACC members have offered criticism of the level of assistance offered by WeChat in pursuing “online to offline” investigations, citing the platform’s reluctance to share detailed user information with both rights-holders and law enforcement. Similar criticisms were heard again this year. Brands also reiterated past complaints regarding the sufficiency of disciplinary actions taken in response to confirmed violations; penalties are often limited to the imposition of account restrictions or temporary suspensions, and the termination of user accounts remains relatively infrequent. Such an approach necessarily limits the long-term impact and deterrence of enforcement actions.

Despite these concerns, respondents also continue to express their appreciation for WeChat’s consistent willingness to discuss rights-holders’ concerns and to receive feedback regarding their brand protection efforts. We’ve likewise appreciated having opportunities to speak with, and meet with, Tencent / WeChat’s team on a fairly regular cadence throughout the past year, and their willingness to again host roundtable sessions with stakeholders during our most recent annual conference. We believe that such direct engagement with brands is vital, and we look forward to continuing discussions in the coming year; but in light of the ongoing concerns highlighted herein, at present we support WeChat’s retention on the Notorious Markets List.