

**Submission of the**  
**International AntiCounterfeiting Coalition**  
**to the**  
**United States Trade Representative**  
**2020 Special 301**  
**Out-of-Cycle Review of Notorious Markets**  
**Request for Public Comment**  
**85 Fed. Reg. 62006 - 08 (October 1, 2020)**

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**November 8, 2020**

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

RE: 2020 Out of Cycle Review of Notorious Markets

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 identifying “online and physical markets that reportedly engage in and facilitate substantial copyright piracy or trademark counterfeiting that infringe 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 approximately 200 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.

We welcome USTR’s focus on the online marketplace this year, particularly in light of the ongoing pandemic and its effects on consumer behaviors. A number of our constituent brands noted a significant increase in online sales for both legitimate and illicit goods during this year’s consultations. While the overall retail market has been moving in that direction for a number of years, that paradigm shift from brick-and-mortar to e-commerce has been further accelerated by the current climate, and serves to underscore the deficiencies in existing statutory regimes, and the practical approaches that have been the norm to date.

Since its inception, the IACC has worked with both government officials and the private sector to identify, and to seek remedies to such deficiencies, and to the practical impediments to IP enforcement. In recent years, we've led the development of voluntary collaborative programs on a global scale to address key priorities in the online space, including our RogueBlock and IACC MarketSafe Programs.

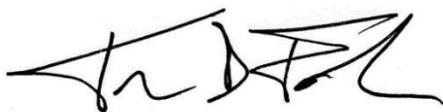
The IACC continues to engage with a number stakeholders in the e-commerce landscape to develop and encourage the adoption of best practices for the protection and enforcement of intellectual property rights that go beyond the mere letter of the law. We welcome the support of USTR, and the Administration more broadly, in encouraging such industry-led solutions.

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 – 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 comments, highlighting rights-holders' most recently provided feedback and current priorities. In many instances, rights-holders have noted only minor changes with regard to those previous submissions; as such, the views provided herein should not be read as an exhaustive list of our members' concerns. We expect that many of the marketplaces – and the concerns associated therewith – are already well-known to USTR.

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 and cursive, with a large initial "T" and "D".

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

## PHYSICAL MARKETPLACES

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. 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 alphabetically, by country.

We also wish to note at the outset that, not surprisingly, many of the marketplaces identified by USTR and by IACC members in prior years' Notorious Markets Reviews saw significant decreases in activity this year. That reduction in activity, however, was broadly seen as a result of the ongoing pandemic, and not due to improved policies or enforcement practices among the identified markets. Many of the markets identified herein remained closed for extended periods in 2020 due to government-imposed restrictions. When the markets were able to operate, many saw diminished customer traffic (whether due to consumers' reluctance to patronize crowded venues, or because of an overall decrease in tourist traffic).

### **Argentina**

#### **La Salada, Buenos Aires**

As noted above, rights-holders reported a general decrease in the volume of trafficking through physical marketplaces during the past year, largely attributed to the impact of Covid, including restrictions on operating, diminished interest among consumers in patronizing crowded businesses, and decreased tourism. Rights-holders noted such effects with regard to La Salada during the past year, but support its retention on the Notorious Markets List again this year. Brands reported no substantive progress with regard to the numerous issues detailed in past years' submissions. Rightsholders from a variety of sectors – perhaps most notably in the apparel and luxury goods sectors – continue to view the market as a priority in the region.

### **Brazil**

#### **Shopping 25 de Marco Group, Sao Paulo**

While there are a number of shopping malls belonging to the group, the most important ones identified by IACC members include: 1081, 25 de Marco Street – Downtown; 398, Barao de Ladario Street, Bras; and 181, Barao de Duprat Street – Downtown. The landlord is reported as Maxim Administracao e Participacoes Ltda (formerly Calinda), owned by Hwu Su Chiu Law and Wladimir Bonometti.

Shopping 25 de Marco has been cited as one of rights-holders' greatest sources of frustration in Brazil for a number of years. Despite numerous efforts to rein in the sales of counterfeits across

numerous product sectors, including admirable work by the Federal Revenue agency, Police Unit against IP Crimes, and the local government; counterfeit sales remain prevalent. In a single enforcement operation earlier this year, over half a million counterfeit items were seized from warehouses servicing vendors operating out of Shopping 25 de Marco. Despite such efforts though, counterfeits continue to be sold openly, and in large volumes. The Shopping 25 de Marco malls remain a top priority for rights-holders, and should be retained on the Notorious Markets List.

## **Canada**

**Pacific Mall**, *Markham, ON*

**Saint-Eustache Flea Market**, *Saint-Eustache, Quebec*

Last year, the IACC made no formal recommendation regarding the retention of Pacific Mall on the Notorious Markets List, in recognition of some encouraging reports concerning steps being taken to address a variety of long-standing deficiencies. While the mall remained closed for part of the year, we were disappointed to hear reports that the hoped-for improvements have yet to materialize. We continue to receive complaints from rights-holders regarding trafficking in the Toronto-area mall, despite the efforts of brands. Regrettably, we've also received some reports indicating a decreased interest among local law enforcement to investigate that activity or to conduct raids; in contrast to an initial uptick that was seen following the Pacific Mall's addition to the list. Accordingly, we support the mall's retention on this year's list.

We reported on the Saint-Eustache Flea Market for the first time last year, following reports from rights-holders about the high-volume of counterfeit trade occurring in that market, impacting more than 30 brands, across several product sectors. Regrettably, rights-holders reported no substantive change in their views over the past year. Management have reportedly shown little interest in addressing the open sales of counterfeit products. Saint-Eustache continues to be seen as a major supplier for retail-level counterfeit sellers in the Montreal area, and we would welcome its placement on the Notorious Markets List this year.

## **China**

**Huaqiangbei (HQB) Electronics Markets**, *(Yuanwang Digital Mall, Longsheng Communications Market, and Manha Digital Plaza), Shenzhen, China*

IACC members encourage the retention of the HQB technology malls highlighted in previous years, reiterating the significant role that these outlets continue to play in the counterfeit trade. Interestingly, rights-holders noted some diversification in the types of goods distributed there over the past year. Yuanwang and Manha have reportedly seen a significant increase in the

volume of cosmetics sold, with a concurrent decrease in the volume of electronics sales. These changes are viewed as being driven by COVID-19 related travel restrictions which have decreased the volume of cosmetics (counterfeit or otherwise) available in mainland China.

In contrast, Longsheng remains a hotspot for the sale of counterfeit electronics, and we've seen no indications that the situation is likely to improve in the near term. We support the retention of the HQB Electronics Markets on this year's Notorious Markets List.

## **Colombia**

### **San Andresitos, Bogota**

#### **North Coast Region**

Rights-holders continue to report significant concerns in connection with San Andresitos, which is described as among the largest and most popular shopping areas in all of Colombia. San Andresito San Jose (Calle 9 No. 20 – La Pepita – Bogota), San Andresito de la 38 (Calle 38 No. 11 – Los Ejidos – Bogota), and San Andresito del Norte (Calle 21 No. 195 – Canaima – Bogota), were singled out by IACC members as priorities. Counterfeit products of all varieties – apparel and footwear, food and household products, cosmetics, pharmaceuticals, and liquor are all reportedly seen in the marketplace.

Though rights-holders were unable to provide estimates of the overall volume of trafficking, reports from IACC members consistently described it as exceedingly high. Despite reported criminal and administrative proceedings against the owners of a number of retail outlets and storage facilities related to the counterfeit trafficking, such actions have seemingly done little to deter the illicit activity. Given the breadth of the concerns reported by IACC members during this year's process, we would support USTR's inclusion of San Andresitos on the Notorious Markets List this year.

We've also received troubling reports this year from rights-holders in the food and beverage / wine and spirits sectors, regarding significant distribution of counterfeit liquor across Colombia's North Coast. These concerns are most pronounced in the areas of Barranquilla and Cartagena, as well as Guajira. Market surveys indicate that approximately 11% of spirits sold in Colombia are counterfeit; in the North Coast region however, that number skyrockets. Over 90% of counterfeit liquor sales in Colombia are attributed to sellers in the region. Such trafficking poses obvious threats to consumers in the local market, and is deserving of significant attention from local authorities. We encourage USTR to highlight these concerns in this year's Notorious Markets Report.

## **Malaysia**

### **Petaling Street Market, Kuala Lumpur**

Rights-holders' concerns regarding the Petaling Street Market are well-known to USTR; the market was included on last year's Notorious Markets List. IACC members did not report any substantive improvement on those long-standing issues during the past year; large volumes of counterfeits in a variety of product sectors remain available, and the enforcement authorities have failed to take sufficient action to improve the situation. Some rights-holders have cited concerns related to protectionism, while also noting the need for greater political will and a more collaborative approach to resolving IP owners' concerns.

## **Mexico**

### **Tepito, Mexico City**

Our continued recommendation for the inclusion of Tepito on the Notorious Markets List will surely come as no surprise to USTR. Despite the concerns raised by rights-holders over a number of years, no significant improvement has materialized in this neighborhood in Mexico City. A number of landlords operate counterfeiting operations there, trafficking in very high volumes of illicit goods that flood the local market, and are also reported to be a significant source of counterfeits exported to other parts of Central America.

Despite the severity of the problems in Tepito, which have endured over many years, enforcement remains low. Police are exceedingly cautious about attempting enforcement actions in the neighborhood; in some past instances, attempted raids have been met with violent opposition. Tepito remains a high priority for rights-holders; it has become synonymous with the counterfeit trade in Mexico, and should be retained on the Notorious Markets List this year.

## **Paraguay**

### **Ciudad del Este, Paraguay**

Ciudad del Este has been repeatedly highlighted in USTR's Special 301 and Notorious Markets List over the past two decades, and has a well-earned reputation as a hub for the distribution of counterfeits and other illicit goods. Regrettably, we've received no input from IACC members to indicate that things have changed for the better during the past year. Trafficking remains a significant concern for rights-holders in a variety of product sectors; we've also

received troubling reports regarding increased manufacturing of counterfeits in the region, and minimal action by local authorities to address the long-standing problems. Ciudad del Este should be retained on the Notorious Markets List again this year.

## **Philippines**

**Greenhills Shopping Center**, *Ortigas Avenue,  
San Juan, 1502 Metro Manila*

IACC members continued to support the retention of Greenhills Shopping Center on the Notorious Markets List this year. While some respondents indicated other outlets as a greater concern overall (e.g., Baclaran Bagong Milenyo Plaza, in Pasay City), Greenhills remains emblematic of the challenges that have been faced by rights-holders in the Philippines for a number of years; it has become synonymous with counterfeit sales in the country, and remains a well-known attraction for tourists and locals alike. Periodic raids and the regular service of cease and desist orders on shop owners has done little to diminish the illicit trafficking that has been reported in prior years' submissions. We accordingly recommend that USTR retain Greenhills on the NML.

## **Russia**

**Gorbushkin Dvor Mall**, (Moscow, Barklaya str., 8)

**Sadovod** (Moscow, MKAD – Moscow Ring Road, 14<sup>th</sup> Km)

IACC members continued to cite Gorbushkin Dvor as a major source of consternation during this year's consultations, noting continued sales of high volumes of counterfeits – most notably among the electronics sector. Several members from other product sectors highlighted Sadovod, with its approximately 8,000 stores as an even greater concern, however.

As detailed in past years' Special 301 submissions, rights-holders have highlighted a number of underlying issues that hinder, or in some cases preclude entirely, their efforts to enforce their rights within these markets.

Equally troubling was the receipt this year of reports concerning a number of other markets that some rights-holders view as increasingly important. These include Yuzhnie Vorota Trade Center in Moscow, boasting 3,000 stores and over 70,000 daily visitors; and Apraksin Dvor in Saint Petersburg, comprised of more than 20 buildings (including both retail outlets and warehouse space) with over 30,000 visitors per day. We will continue to monitor these outlets for future consideration; but support USTR's retention of both Gorbushkin and Sadovod on this year's list.

## **Ukraine**

### **Seventh-Kilometer Market, Odessa Oblast, Ukraine**

The Seventh-Kilometer Market remains a high priority for rights-holders, due to the continued trafficking of large volumes of counterfeits in both the retail and wholesale trade. While brands once reported positive engagement with local law enforcement and market administration personnel, that cooperation has significantly diminished over the last three years. Rights-holders noted that proactive enforcement was a rarity, despite the well-known and open trade in counterfeit goods at the market; raids or other enforcement actions are not typically undertaken unless a formal complaint is filed by an intellectual property owner. We support the market's inclusion again on this year's Notorious Markets List.

## **United Arab Emirates**

### **Ajman China Mall, Ajman**

### **DragonMart, Dubai**

### **China Mall / Deira District, Dubai**

The Ajman China Mall – cited by USTR during last year's process – continues to be a major source of frustration for rights-holders in the region. Counterfeit sales remain open and unchecked, a fact attributed largely to authorities' lack of jurisdiction within the Free Trade Zone, and a lower priority overall for enforcement in that emirate. Rights-holders are pessimistic regarding the situation at the China Mall, and in Ajman generally, absent significantly greater efforts by the government. We recommend USTR's retention of the Ajman China Mall on this year's Notorious Markets List.

Some IACC members have expressed dismay over the removal of DragonMart from the Notorious Markets List last year. They note that although the visibility of counterfeit product has greatly decreased thanks to efforts by the Dubai Police and the Department of Economic Development, DragonMart continues to serve as a major conduit for counterfeit sales in the region.

In contrast, IACC members were pleased by the inclusion of the China Mall in Deira last year, and reiterate their concerns regarding that market and the surrounding areas. IP owners describe continued large-scale trafficking of counterfeit goods, components, and packaging, despite repeated raids. The district's proximity to the Dubai Airport is seen as contributing to the level of counterfeiting activity; the IACC has sought to highlight deficiencies in the Emirates' customs enforcement regime for a number of years in our annual Special 301 comments to USTR. We recommend the Deira China Mall's retention on the Notorious Markets List this year.

## **United Kingdom**

### **Cheetham Hill, Manchester**

IACC members from a variety of product sectors cited continuing concerns related to the trafficking, storage, and finishing of counterfeit apparel and accessories, footwear, electronics, cosmetics, and other products in the Cheetham Hill / Strangeways area of Manchester. While rights-holders have expressed appreciation for the support received from law enforcement in the area, progress has at times been hindered by the tight-knit community of traders. Cheetham Hill is widely regarded as the epicenter of counterfeit trade in the UK, particularly in terms of consumer electronics. Problems experienced by rights-holders are also said to be exacerbated by a symbiotic relationship with local retail outlets for the illicit wares, such as nearby Harris Street. Counterfeiting operations in the area are also seen as major suppliers for retail-level sellers elsewhere in the UK and Ireland. Though we are not able to provide comprehensive estimates of the volume of activity, one IACC member wished to highlight a single raid last year that resulted in the seizure of counterfeit goods valued at approximately 7.5 million British Pounds. In light of the continued reports received from IACC members this year, we would encourage USTR's inclusion of Cheetham Hill on the Notorious Markets List this year.

## ONLINE MARKETPLACES

As noted at the outset, the protection and enforcement of intellectual property in the online market has become vitally important to rights-holders large and small, across every product sector. 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, but they do not constitute an exhaustive list of venues identified by rights-holders. 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.

### **Avito**

Several IACC members highlighted growing concerns with Avito.ru during this year's consultations, citing the high volume of counterfeit goods listed for sale on Russia's largest "classified ads" site. While some rights-holders have had success in obtaining takedowns, others bemoaned the site's lack of transparency and inconsistent results. Brands also described dissatisfaction with the platform's communication and follow-up on IP-related complaints. As the seventh most popular website in Russia, rights-holders are increasingly concerned with the volume of illicit traffic facilitated by the site, and strongly encourage its adoption of a more proactive and collaborative approach to IP enforcement. In light of the feedback we've received this year, we would support Avito's inclusion on the Notorious Markets List.

### **Bukalapak**

The IACC supported USTR's placement of Bukalapak on the Notorious Markets in last year's report; we recommend that platform's retention this year as well. IACC members continue to report high volumes of counterfeits available on the site, and describe the takedown process as onerous. The removal of infringing listings is often a protracted affair due to the site's lack of reporting tools, which in turn necessitate rights-holders' manual submission of infringement reports. The processing time for those complaints, too, is excessive; one respondent described having often waited months for identified listings to be removed. Such issues are even more frustrating where the goods on offer are clearly counterfeit, and described openly as "replica" or "copy."

Rights-holders further note the need for greater efforts to address recidivism on the platform; repeat offenders are said to be rampant. A more proactive approach to enforcement, as well as a greater level of responsiveness and communication with impacted brands would be welcome.

On a more positive note, we were pleased to receive some outreach from Bukalapak in response to our comments filed in 2019. We were hopeful that we may have been able to meet in person to discuss the concerns raised by rights-holders with representatives from the platform in conjunction with our annual conference that was scheduled to be held in Singapore earlier this year. Unfortunately, any opportunity to do so was precluded as a result of the ongoing pandemic.

## **Carousell**

As was the case with Bukalapak, IACC members' concerns centered around three primary issues: insufficient communication, large numbers of repeat offenders, and the need for significantly greater emphasis on proactive measures to identify and remove bad actors from the platform. While brands report a lower overall volume of counterfeits than is often seen on other sites in the region, the problems identified by rights-holders in prior years' submissions have not been adequately addressed. We support the continued inclusion of Carousell.com on this year's Notorious Markets List.

## **Coupang**

Founded in 2010, Coupang has grown to become the largest online marketplace in South Korea, with annual revenues approaching \$6 billion last year. Rights-holders report significant volumes of counterfeits available on the site, with one sharing that its (purported) products advertised on the site as "genuine," were determined to be counterfeit in approximately 65% of its test purchases. IP owners contrasted Coupang's policies and practices with comparable platforms in South Korea, noting weaker enforcement policies overall, significant lag times in the removal of reported infringements (in some cases taking up to 3-4 weeks), a lack of clarity with regard to its treatment of repeat offenders, and an apparent unwillingness to work with rights-holders to reduce the amount of illicit trafficking on the site. For all of these reasons, we would support Coupang's inclusion on the Notorious Markets List this year.

## **DHgate**

The IACC chose not to file comments, or to make any recommendation, related to DHgate during last year's process. That decision was driven in part by outreach from the platform to the IACC following our 2018 recommendation, and our awareness of similar efforts to engage

with rights-holders. Following consultations with rights-holders during this year's process though, we believe that DHgate's retention on the Notorious Markets List is warranted.

IACC members in a variety of product sectors continue to report high volumes of counterfeit goods available on the platform, and DHgate continues to be viewed as a significant source of those illicit goods sold online in China. Rights-holders similarly underscored the prevalence of sales through the platform to wholesalers in the U.S. and abroad servicing local markets around the world.

While rights-holders have acknowledged the platform's responsiveness to takedown requests, the imposition of meaningful penalties remains a concern. Respondent brands described their experience reporting IP violations by the same sellers on numerous occasions, without sufficient, and permanent consequences.

IP owners further cited concerns about the need for a more responsive and transparent enforcement apparatus so that the platform may better adapt to changing tactics of counterfeiters. By way of example, some brands have reported a significant increase in the prevalence of listings that seek to evade detection by using "code words" in place of marks, blurring or digitally altering product photos to remove or obscure trademarks, and writing product descriptions in such a manner to avoid enforcement action by the platform (e.g., by omitting trademarks from listings), while otherwise communicating to consumers that the product available is a counterfeit, branded item.

Perhaps most frustrating for rights-holders is the continuance of a problem reported two years ago – DHgate's continued reluctance to provide seller and sales information in connection with verified counterfeit sales. Such information, which is regularly provided by numerous e-commerce platforms in China, is vital to the development of civil and criminal follow-on investigations.

While we're aware that DHgate has taken a number of steps during the past year in an effort to resolve IP owners' concerns, the feedback we've received from rights-holders during this year's process indicates that necessary progress has not fully materialized. Accordingly, we recommend DHgate's retention on the Notorious Markets List.

## **Mercado Libre**

Mercado Libre has long been the most significant player in Latin America's e-commerce landscape, with a customer base counted in the millions. Regrettably, with that popularity has come a significant volume of counterfeiters seeking to prey on unsuspecting consumers. As reported in past years, large volumes of counterfeits continue to be made available across the platform's individual national sites. Mercado Libre's sites in Mexico and Brazil were highlighted as the source of rights-holders' greatest difficulties, and enforcement is said to be hindered at times by the platform's restrictive policies and overly-formalistic approach to IP

protection. Historically, enforcement has also been hindered by a lack of sufficient coordination between the various national websites.

We are able to report some increased engagement with Mercado Libre during the past year, including the platform's participation in a recent webinar hosted by the IACC. The volume of illicit activity on the platform however remains troubling. Absent more concrete progress on reining in the sale of counterfeit goods, we continue to support Mercado Libre's inclusion on the Notorious Markets List.

## **OLX**

We received greatly increased reports this year regarding rights-holders' concerns related to illicit trafficking through OLX sites around the world, most notably among the platform's Latin American and European sites. One IP owner noted that OLX has now surpassed Mercado Libre in terms of the annual volume of takedown notices that it has filed. Quantities of counterfeits are said to be extremely high, a fact that is exacerbated by lax or "non-existent" onboarding requirements and "know your customer" policies on OLX sites. While some respondents have noted improvements in the platforms' takedown procedures during the past year, reported listings may take up to a week for removal. Others, however, characterize OLX as a "free for all;" holistic improvements changes are necessary to bring the sale of counterfeits under control. Accordingly, we encourage USTR's addition of OLX to the Notorious Markets List this year.

## **Pinduoduo**

Based on our consultations with rights-holders this year, the IACC supports USTR's retention of Pinduoduo on the Notorious Markets List this year. As acknowledged in USTR's report last year, Pinduoduo has taken admirable steps towards addressing the trafficking of counterfeit goods through its platform. USTR rightfully pointed out however that PDD's efforts at doing so remained in their nascent stages and had not demonstrated their effectiveness. Rights-holders that we've spoken with in preparing these comments reiterated that conclusion, and noted that while PDD has shown good intentions, counterfeit goods remain widely available. Reporting and removing products is said to be much more difficult and less efficient than comparable processes established by other e-commerce platforms. When seeking the removal of an offer from PDD, rights-holders typically must make an undercover purchase to support the request; that policy is in stark contrast to most other platforms' requirements. The costs associated with conducting a test purchase for each and every takedown request severely constrain the enforcement capacity of even the largest global brands; for small-and medium-sized companies, it's a practical impossibility.

Brands further highlighted the need for greater transparency and clarity with regard to PDD's repeat offender policy, and cited gaps in the platform's seller onboarding procedures. PDD's refusal to provide identifying information about confirmed counterfeit sellers was also a common complaint. That policy is contrary to the cooperation frequently received from other China-based and global platforms.

In light of the input received from rights-holders during this process, we support Pinduoduo's retention on the Notorious Markets List this year.

### **Prom.ua**

IACC members from a variety of product sectors reported serious concerns regarding the Ukraine-based Prom.ua (and other sites that comprise its international network, including TIU.ru (Russia); Deal.by (Belarus); Prom.md (Moldova); and Satu.kz (Kazakhstan)). Respondents consistently pointed to the widespread and open sale of counterfeit goods on the platform, an overly-burdensome and ineffective takedown process, a lack of reporting tools to improve the efficiency of reporting, or reasonable proactive steps to address the volume of goods on offer. Rights-holders' concerns were further exacerbated by the platform's policies that preclude the use of automated investigation and enforcement tools (e.g., the ability to "scrape" the site) which necessitate the investment of greater resources to manually search for illicit activity. Respondents were likewise critical of the platform's level of responsiveness to complaints and communication of the results of any investigation or enforcement action (e.g., removal of listings, penalties assessed to the seller, etc.) taken in response to the brands' infringement reports. One brand described Prom.ua as their most problematic e-commerce platform globally, when considering the volume of counterfeit goods on offer and the incredible difficulties that they face in obtaining any meaningful assistance in combatting the trafficking of those goods.

### **Shopee**

IACC members participating in this year's consultations broadly concurred with USTR's decision to include Shopee on the 2019 Notorious Markets List. Based on rights-holders' feedback, we would support the platform's retention on the list again this year.

While headquartered in Singapore, Shopee operates e-commerce platforms in a number of countries throughout Asia, including Taiwan, Malaysia, Indonesia, Philippines, Thailand, and Vietnam; in 2019, it reported approximately 1.2 billion purchases across its network of sites. IP owners across multiple product sectors continue to report unacceptably high volumes of counterfeit goods on offer. Regrettably, IACC members cited an overall lack of cooperation in combatting illicit trafficking; platform representatives were said to often be unresponsive to

complaints or requests for assistance – not only from rights-holders, but from law enforcement agencies as well. Where assistance was obtained, enforcement outcomes were described as “slow,” “inconsistent,” and “unpredictable.” IP owners cited the platforms’ decentralized enforcement process as contributing to these difficulties, and resulting in disparate levels of protection among the various country sites. A more streamlined, and centralized, approach to enforcement would be welcomed. Absent significant improvements, Shopee should be retained on the Notorious Markets List.

## **Snapdeal**

IACC members concurred with USTR’s decision to include Snapdeal on last year’s Notorious Markets List. As described by one respondent during this year’s consultations with rights-holders, Snapdeal remains their greatest concern in India’s online market, and the level of counterfeit trafficking on the platform is seen as increasing over the past year. As such, we support Snapdeal’s continued placement on this year’s List.

## **Tokopedia**

IACC members’ feedback regarding Tokopedia were strikingly similar to those comments received concerning Bukalapak. Rights-holders decried the platform’s “unclear takedown process, and poor communication,” both of which are viewed as driving inconsistent outcomes of enforcement efforts. As with Bukalapak, recidivism on the platform was viewed as commonplace, and Tokopedia’s approach to IP protection was described as reactive, with little emphasis placed on identifying illicit activity. As a result, the burden of enforcement falls disproportionately with the IP owner.

In light of the above, it is unsurprising that rights-holders continue to report high volumes of counterfeit product available on the site. We would support Tokopedia’s retention on the Notorious Markets List this year.

## **VK**

VK, a perennial concern for rights-holders in both the hard goods and copyright sectors, was identified by IACC members as one of their greatest concerns in Russia during this year’s consultations. IP owners pointed to a variety of difficulties in enforcing their rights including: the overall volume of counterfeit sales, growing use of the site’s social media capabilities to advertise and direct traffic to offers for fakes, a growing number of “private groups” dedicated to counterfeit sales, and persistent issues with the creation of fake profiles purporting to be

“official” brand accounts. These ongoing concerns, in addition to those detailed in prior years’ reports by USTR, justify VK’s retention on the Notorious Markets List this year.

## **WeChat**

The IACC has recommended WeChat’s inclusion on the Notorious Markets List in each of the past two years; we reiterate that recommendation in 2020. WeChat has become an increasingly popular outlet for counterfeiters to market and sell their wares to consumers in the Chinese market. While this view is widely acknowledged, WeChat’s response to rights-holders concerns seems to largely disavow the extent of the problems, or to disclaim any responsibility for the actions of its users.

IACC members continue to highlight the overall difficulty in enforcing their rights; the platform’s brand protection portal was described as “overly bureaucratic and ineffectual,” and rights-holders consistently commented on the lack of transparency and cooperation in their pursuit of enforcement. Privacy concerns are frequently cited as an obstacle to the platform’s provision of relevant information that could be used to facilitate the development of meaningful cases against illicit sellers; meanwhile, the penalties imposed against sellers by WeChat were typically viewed as insufficient to serve as any real deterrent. WeChat users caught selling counterfeits are said to often face little more than a restriction on their account for a few days or weeks, rather than a termination of their account. WeChat’s past assertions that it is simply a social media service as opposed to a true e-commerce platform is belied by the practical ability of sellers to use the service to engage in commercial-level sales. We would welcome a more cooperative and transparent approach to IP protection, but absent significant progress in this regard, will continue to support WeChat’s inclusion on the Notorious Markets List.

## **Yupoo**

Yupoo has been cited with growing concern by IACC members over the past year, as a result of counterfeiters’ increasing use of the photo-sharing platform as a sort of “shop window” to display their wares or drive traffic to their virtual storefronts on a variety of e-commerce platforms. Rights-holders assert that the platform makes reporting violations exceedingly difficult. We would encourage USTR to take a close look at Yupoo, and its role in facilitating counterfeiters’ sales.