

Addressing the Sale of Counterfeits on the Internet



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Executive Summary

In the global environment, the sale of counterfeit goods remains a significant issue plaguing oblivious consumers and brand owners in all industries. In February 2017, INTA along with Business Action to Stop Counterfeiting and Piracy released a new report from Frontier Economics entitled “The Economic Impacts of Counterfeiting and Piracy”, which seeks to quantify the global value of counterfeiting and piracy and related economic and social costs. The study found that in 2013, the estimated value of international and domestic trade in counterfeit and pirated goods was a staggering \$1.13 trillion. In 2022, the total estimated value of counterfeit and pirated goods including digital piracy is projected to reach an astounding \$1.90–\$2.81 trillion.

The impact of counterfeiting is growing exponentially—mostly due the proliferation of counterfeiting on the Internet. Criminals prefer to sell counterfeits on the Internet for many reasons. They can hide behind the anonymity of the Internet—with the Dark Web even their IP addresses can be hidden. The Internet gives them the reach to sell to consumers globally—outside of the national limits of law enforcement. This international reach forces brand owners to prosecute cases outside of their local jurisdictions. Counterfeiters can display genuine goods on their site and ship counterfeit goods to the consumer. This makes it difficult for brand owners to even determine if a site is selling counterfeits without making costly purchases from the site. Criminal networks are involved with counterfeiting—which leads to hundreds of sites selling the same products on various servers. Making it an arduous task for the brand owner to stop them without working with authorities to take down the counterfeit rings.

While the link between the increased sales of counterfeits on the Internet and the harms caused to businesses and the public is clear, the solution to the issue is complex and challenging. As a result, how to address the sale of counterfeits on the Internet has become a hotly debated topic within industry and among policymakers alike. Who is responsible for curbing the problem and what legal, policy, and/or voluntary measures are needed have been widely discussed in industry and government forums.

Counterfeit sales over the Internet have been a priority for INTA. INTA Anti-Counterfeiting and Enforcement Committee presented its analysis and initial recommendations to the Association’s Board of Directors in 2008. Completed in 2009, the end result was the development of voluntary best practices for trademark owners and Internet-related companies, aimed at facilitating the protection of trademarks on the Internet.

In 2014, a new project team under the INTA Anticounterfeiting Committee was given the assignment of updating the best practices for addressing the sale of counterfeits over the Internet. Consideration was given to the current practices of search websites, online marketplaces, payment service providers, and trademark owners, as well as of social media, logistics, registrars and registry companies. The discussion centered on practical ways for trademark owners and companies involved in online marketing, sales, and distribution of goods to cooperate in addressing the problem of counterfeit goods’ being sold over the Internet. Based on feedback from leading companies in each of the areas addressed, the best practices were updated and expanded. In order to ensure input from a wide scope of stakeholders, the Anticounterfeiting Committee had sent the final draft to the Data Protection, Emerging Issues, Enforcement, and Internet Committees for their comments.

Key Recommendations

1. **Search advertising services** should have a clear and effective complaint process publicly available to report counterfeit ads.
2. To the extent that there are legal frameworks applicable to removal of content on **search engines** and the legal grounds implicate behavior used by counterfeiters, search engines should provide an efficient process for parties to submit removal requests.
3. **Online trading platforms** should strengthen and streamline procedures for identifying and taking more effective action against repeat offenders, as well as tighten repeat offender policies.
4. **Payment service providers** should have in place policies prohibiting the use of their services for the purchase and sale of goods that are determined to be counterfeit under applicable law.
5. **Trademark owners** should take steps on an ongoing basis to educate online platforms, other intermediaries, and the public as to their trademarks, as well as to actively monitor offers on online marketplace, shopping, and social media platforms, with the aim of identifying counterfeits, and notify the platforms and payment service providers if applicable.
6. **Social media sites** should have a clear and effective process publicly available to deal with the sale and offering of counterfeit products.
7. **Registrars and registries** should adopt, publish, and enforce IPR policies and effect appropriate due diligence to address and minimize misuse of their services, which they will clearly communicate and indicate on their sites and include in the contracts and terms of service that they conclude with their customers.
8. **Logistics companies** should have simple procedures in conformity with the applicable laws of the respective jurisdiction for the sharing of information with enforcement agencies and trademark owners investigating counterfeiting activities, as well as mechanisms in place for blacklisting consignors/consignees found to be involved in counterfeiting activities.

To be sure, these voluntary measures will need to evolve in order to adapt to the changing virtual and technological environment. INTA will be looking for opportunities to promote adoption of the best practices and gain member feedback on their usefulness. The Association sees the best practices as a valuable first step toward bringing together the stakeholders—online marketplaces, shopping services, search sites, PSPs, registries, social media sites, logistics companies, and trademark owners—so that they can continue to cooperate effectively in the effort to combat the sale of counterfeits on the Internet.

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Addressing the Sale of Counterfeits on the Internet

The Issue

In the global environment, the sale of counterfeit goods remains a significant issue facing consumers, industry, and governments alike. The continuous change that is inherent in the Internet raises the problem to heightened levels as counterfeiters find simplified means and additional channels online to promote and sell counterfeit goods to consumers.

A number of key factors continue to spur the growth of counterfeit sales online:

- The worldwide reach of the Internet means that sellers of counterfeits can reach consumers all over the world and are not limited to “brick and mortar” establishments. Likewise, consumers who have access to the Internet are more exposed to, and have more opportunities to purchase, knowingly or unknowingly, counterfeits from sellers within or outside their respective countries.
- Payments can be made entirely online. Therefore, it is not only consumers who can purchase counterfeits using the Internet; retailers, wholesalers, resellers, or anyone else with a credit card can shop for counterfeits online.
- The anonymity gained from operating via the Internet allows counterfeiters more easily to dupe consumers into thinking they are buying genuine goods.
- Counterfeiters can reach individual consumers and make small international sales that are less likely to result in significant loss if the goods are seized by customs or other authorities and that are harder for authorities to track and seize.

The Impact

Increased sales of and access to counterfeits pose serious threats to the economy and to public health and safety. As the Organisation for Economic Co-operation and Development (OECD) noted in a 2007 study, the Internet was a significant factor in the distribution of counterfeits and was becoming an increasingly important vehicle for sales of all kinds of merchandise. The report also noted that public health and safety were put at grave risk by counterfeit goods, such as pharmaceuticals, airplane and automotive parts, and electronic goods that were made with substandard and/or toxic materials.¹

Criminal organizations abuse the Internet facilitating counterfeiting activities. The OECD report shows that criminal networks and organized crime thrive via counterfeiting and piracy activities. U.S. authorities have reported that sales of counterfeit goods, including fake medicine, have been used to support the Middle Eastern terrorist group Hezbollah. Counterfeiting proceeds have been linked by other investigators to Al-Qaeda, ETA, the Mafia, Chinese Triad gangs, the Japanese Yakuza crime syndicates, Russian organized criminals, and international illegal drug cartels.²

1 OECD, *The Economic Impact of Counterfeiting and Piracy* (2007), Executive Summary, available at <https://www.oecd.org/sti/38707619.pdf>; *id.* at 82-84, available at http://www.keepeek.com/Digital-Asset-Management/oecd/trade/the-economic-impact-of-counterfeiting-and-piracy_9789264045521-en#page84.

2 Carratu International, Plc, “Rise in Counterfeit Market Linked to Terrorist Funding” (June 26, 2002), available at <http://www.fraudaid.com/Scamspeak/conprods.htm>; United Nations Office on Drugs and Crime, “Focus on the Illicit Trafficking of Counterfeit Goods and Transnational Organized Crime,” modified Jan. 13, 2014, available at http://www.unodc.org/documents/counterfeit/FocusSheet/Counterfeit_focussheet_EN_HIRES.pdf (last visited Jan. 16, 2015).

The Discussions

While the link between the increased sales of counterfeits on the Internet and the harms caused to businesses and the public is clear, the solution to the issue is complex and challenging. As a result, how to address the sale of counterfeits on the Internet has become a hotly debated topic within industry and among policymakers alike. Who is responsible for curbing the problem and what legal, policy, and/or voluntary measures are needed have been widely discussed in industry and government forums. Measures to address the issue have been under consideration at the international level for many years, and some, such as the Anti-Counterfeiting Trade Agreement (ACTA)—a plurilateral trade agreement with the objective of raising standards in combating counterfeiting and piracy—have been extensively debated.

Counterfeit sales over the Internet have been a priority for INTA. After in-depth study and debate over several years, INTA's Anti-Counterfeiting and Enforcement Committee (ACEC) presented its analysis and initial recommendations to the Association's Board of Directors in 2008. As a result, two task forces were formed to examine and develop recommendations on practical ways for trademark owners, online marketplaces, search websites, and payment service providers (PSPs) to address the sale of counterfeits over the Internet. One task force was composed of online marketplace and search websites; the other, of PSPs. Trademark owners who were victims of online counterfeiting participated in both task forces.

The task forces explored ways for trademark owners and online service providers to work cooperatively to address the sale of counterfeits over the Internet. The end result was the development of voluntary best practices for trademark owners and Internet-related companies, aimed at facilitating the protection of trademarks on the Internet. These best practices were presented to the INTA Board in May 2009.

Since the INTA best practices document was completed, other understandings as to best practices have been published by others—for example, “Memorandum of Understanding on the Sale of Counterfeit Goods via the Internet” (May 4, 2011/June 21, 2016), resulting from the Stakeholders' Dialogues facilitated by the European Commission³; “Best Practices Guidelines for Ad Networks to Address Piracy and Counterfeiting” (July 15, 2013), agreed to by several leading U.S. online advertising networks⁴; and “Principles of Participation for Members” (March 2014) of the Center for Safe Internet Pharmacies⁵. However, as is recognized in a recent report from ICC-BASCAP (International Chamber of Commerce, Business Action to Stop Counterfeiting and Piracy), Roles and Responsibilities of Intermediaries: Fighting Counterfeiting and Piracy in the Supply Chain (March 2015)⁶, there is a continued need for adoption of consistent principles and practices to address the issue of online sales of counterfeits and to expand the players adhering to them.

The Update

In 2014, a new task force was given the assignment of updating the best practices for addressing the sale of counterfeits over the Internet. Consideration was given to the current practices of search websites, online marketplaces, PSPs, and trademark owners, as well

³ <http://ec.europa.eu/growth/industry/intellectual-property/enforcement/>

⁴ <http://www.2013ippractices.com/bestpracticesguidelinesforadnetworkstoaddresspiracyandcounterfeiting.html>

⁵ <http://www.safemedsonline.org/wp-content/uploads/2014/03/CSIP-Principles-of-Participation.pdf>

⁶ <http://www.iccwbo.org/Advocacy-Codes-and-Rules/BASCAP/International-engagement-and-Advocacy/Roles-and-Responsibilities-of-Intermediaries/>.

as of social media, logistics, and registry companies. The discussion centered on practical ways for trademark owners and companies involved in online marketing, sales, and distribution of goods to cooperate in addressing the problem of counterfeit goods' being sold over the Internet. Based on feedback from leading companies in each of the areas addressed, the best practices were updated and expanded.

The second part of this article consists of brief comments regarding some of the issues considered for each of the different players, followed by the updated practices agreed to.

Search Engines

Search engines crawl and index trillions of webpages on the Internet. They use algorithms to serve the webpages relevant to the query that a user enters into a search engine. Search engines do not host these webpages and have no relationship with their owners.

There are best practices that search engines can implement to assist trademark owners. For instance, if a party obtains a court order finding that a defendant's webpages are engaged in illegal activity, including counterfeiting, a search engine should work with the trademark owner and provide a process to report the court order for action.

Another example is search engine advertisements appearing in search engine results pages. These ads provide a way for advertisers to communicate information to users relevant to their queries. Some bad actors exploit such advertising services to promote the sale of counterfeit goods. Search engine advertising platforms generally have policies against counterfeits. Some have even developed complex engineering methods to detect and root out advertisers that use tactics indicating fraud, including by counterfeiters. To the extent that a counterfeiter evades such proactive measures, search engine advertising platforms should provide trademark owners an easy-to-use reporting process and swift action on valid reports.

Online Marketplaces

Sales of counterfeit goods online via selling pages on online trading platforms are a large and growing problem. It is very easy to make counterfeit goods appear real online simply by using a trademark owner's own marketing product photographs and descriptions. Many platforms provide verification seals and badges and high search placement for their highest-volume customers, making a seller seem more trustworthy than it is. Counterfeiters are able to remain anonymous, as virtually every aspect of the sales process can be performed using false or incomplete names. This anonymity makes identification and capture by law enforcement or the trademark owner extremely difficult. Some online marketplaces often are lax in verifying that sellers are using accurate seller information, and they are hesitant to share the information with brand owners.

Counterfeit rings often operate multiple, seemingly unrelated stores simultaneously to disguise the size of the operation, so that if one store is removed the counterfeiting business can continue. Online trading platforms frequently are in the best position to stop counterfeiters, since they have a direct business relationship and might know the true identities of counterfeit sellers. At the same time, online trading platforms may have their own incentives to stop counterfeit sales, including potential liability for contributory infringement and reputational concerns.

PSPs

Significant successes have been achieved through cooperative efforts between rights holders and Payment Service Providers (PSPs). Curtailing the ability for counterfeiters to receive payment for online sales through mainstream payment processors not only makes it more difficult for them to carry on business but also deters and warns potential customers. Since the best practices were initially released, payment processor services have been removed from many sites selling counterfeits and several different programs have been set up to assist in reporting sellers of counterfeits to PSPs. However, improvement is needed, including with respect to clear, easily located postings and programs by PSPs regarding where and how to report businesses selling counterfeits using the PSP's services, and adoption and application of best practices by more PSPs.

Trademark Owners

Reference has been made to the harms that counterfeits cause to public health and safety and to the economy. Especially at stake are the trademark owners' businesses and reputation. Trademark owners and their associations have promoted the discussion on how to address the sale of counterfeits on the Internet. In that regard, best practices documents generally are welcome as a "good first pragmatic step" by most trademark owners. Some rights holders, however, are concerned that best practices might in fact lower standards that have already been accepted in some jurisdictions. Trademark owners acknowledge that it is necessary to balance the interests of different players. At the same time, they request that the enforcement of intellectual property rights on the Internet should not be unreasonably burdensome for rights holders.

Social Media

The sale of counterfeit goods offered on or linked to social media sites has risen alarmingly in the last few years. A recent study has shown that counterfeit products are being sold through targeted advertising on social media sites. Targeted advertising is, surprisingly, already a common practice on the top-ranking sites. When clicking on an ad, users are tricked by websites selling counterfeit goods that appear to be authentic and legitimate, but when examined more closely the product sold on these webpages turn out to be fake. In addition, social media sites currently are branching out to offer their users the option of selling goods directly to other users. This trend will only make it harder to battle online counterfeit goods' being readily available through the Internet. Most social media sites have in place policies in which the user is requested to respect the copyrights of others. On some sites, the procedure to be followed is very explicit; however, few of the top-ranking sites have a readily accessible policy for combating the sale of counterfeit goods.

Registrars and Registries

Registrars and registries provide various levels of customer contact information through the Internet's database of domain name owners, called WHOIS. All registrars are subject to a certain level of information sharing on WHOIS through their established contracts with ICANN (Internet Corporation for Assigned Names and Numbers). The information submitted to this database is, however, often false. Checks to ensure the legitimacy of the data have traditionally been sporadic and inadequate, allowing rampant database fraud. In practice, it has been found that a number of rogue websites have been set up that imitate

original brand websites and/or offer counterfeit goods for sale. In considering the nature of these rogue sites, it is apparent that certain registrars and registries have become more popular for some infringers as they lack effective protective mechanisms, which, working within the confines and parameters of the applicable legislation, do not provide effective provision for registrars and registries to provide personal information that has been obtained from parties where counterfeiting has been shown to have taken place.

Logistics Companies

Development of an effective policy and framework for logistics providers to comply with anticounterfeiting best practices may be the missing link in the global fight against counterfeiting. The current trend toward having shipments of counterfeits ordered over the Internet and sent by international courier or mail is creating significant problems for stakeholders in effective enforcement. Logistics companies and postal services should engage in the fight against counterfeiting. Legal proceedings seeking recognition of secondary liability of logistics providers or legislation imposing liability on them may be avoided if effective practices are implemented. The updated best practices are intended to be adopted by logistics providers as minimum standard practices for addressing the proliferation of counterfeit goods.

Future Considerations

Addressing the sale of counterfeits online will continue to be a challenging and complex task. Unquestionably, use of the Internet is continuously changing the way commerce and business are being conducted around the world. Continued technological advances and innovations mean that the Internet will evolve and allow sellers and buyers to interact in multiple ways in the virtual world. Furthermore, differences in business models and operations of Internet service providers, search engines, other online players, and logistics companies, as well as of trademark owners, make developing one solution to tackle the entire problem a challenge.

To be sure, these voluntary measures will need to evolve in order to adapt to the changing virtual and technological environment. INTA will be looking for opportunities to promote adoption of the best practices and gain member feedback on their usefulness. The Association sees the best practices as a valuable first step toward bringing together the stakeholders—online marketplaces, shopping services, search sites, PSPs, registries, social media sites, logistics companies, and trademark owners—so that they can continue to cooperate effectively in the effort to combat the sale of counterfeits on the Internet.

Best Practices for Voluntary Measures in Addressing the Sale of Counterfeits on the Internet

Best Practices for Search Engines

Search Engine Advertising

1. Applicable terms of service or other policies should expressly and clearly prohibit advertisements promoting counterfeit goods by advertisers using search engine advertising services; search advertising services should enforce these terms and policies.
2. Search advertising services should have a clear and effective complaint process publicly available to report counterfeit ads. Such process shall specify, at a minimum, the information required to be reported by the trademark owner, which shall not be unduly burdensome. Search advertising services should furnish timely and effective responses to such reports that conform to their stated process requirements.
3. Trademark owners and search advertising services should work collaboratively in an open, consultative exchange to target counterfeit ads.
 - Examples of such collaboration may include trademark owners' sharing with search advertising services new tactics or trends by counterfeiters targeting the trademark owners' brands.
4. Determining the most appropriate technique(s) for targeting counterfeit ads may vary depending on the facts, bearing in mind that:
 - The trademark owner has greater insights into
 - Its own trademarks (particularly those that are not famous or well known);
 - Common abuses of its marks and products/services;
 - Identifying counterfeit versions of its products; and
 - Identifying recidivist counterfeiters of its brand.
 - The search advertising services has greater insights into
 - The technological issues inherent in any attempt to accurately target and combat problematic categories of abuse, such as counterfeiting, including:
 - o Filtering and blocking can sweep too broadly and encompass legitimate results; and
 - o Massive resources are needed to develop and stay current with such technology;
 - The technological issues involved in correctly identifying a user of any online service, even when a search advertising service has a contractual relationship with that user;
 - The enormous volume of users of any given search advertising services;
 - Business resistance to resource-intensive “fixes” when such “fixes” have not been shown to have the effect of reducing or deterring abuse; and

- Identifying recidivist counterfeiters reported by multiple brands.
5. Search advertising services should take steps on an ongoing basis (through forums such as INTA) to educate trademark owners as to their policies and procedures for dealing with counterfeiting abuse.

Search Engine Services

1. Search engines should provide a timely and effective process for trademark owners to notify them of the illegal sale of counterfeit goods and of any court order that a trademark owner has obtained against a defendant in which the court has adjudicated that the defendant is engaged in the illegal sale of counterfeit goods. Search engines should remove the search results leading to the illegal counterfeiting content from their index and provide a process to respond to such reports of illegal counterfeiting.
2. To the extent that there are legal frameworks applicable to removal of content on search engines and the legal grounds implicate behavior used by counterfeiters (e.g., DMCA and copyright), search engines should provide an efficient process for parties to submit removal requests.
3. Some bad actors, including counterfeiters, use deceptive or “black hat” search optimization tactics in violation of webmaster guidelines to improve their ranking. Search engines should provide a process for parties to notify them about these sites appearing in search results and using Web spam tactics. Search engines should take action in relation to such sites consistent with their Web spam guidelines.
4. Search engines should make available their webmaster guidelines, as well as information about “white hat” search engine optimization, prioritizing search results for the promotion of authentic goods and anticounterfeiting over counterfeit goods. These methods can help trademark owners improve the quality of their websites and make them more relevant to users. Specifically, they can be used to provide users information about the harms of counterfeit versions of a trademark owner’s product and promote the benefits of authentic goods.

Best Practices for Trading Platforms

1. Online trading platforms should strengthen and streamline procedures for identifying and taking more effective action against repeat offenders, as well as tighten repeat offender policies.
2. Online trading platforms should employ preventive measures to reduce the sale of counterfeits by anonymous counterfeiters, such as filters and identity verifications and improved customer screening.
3. Subject to applicable privacy laws, online trading platforms should improve disclosure policies to facilitate access by trademark owners and law enforcement authorities to information about counterfeiters, including seller identities and sales information.
4. Online trading platforms should add search and enforcement application program interfaces (APIs) that allow trademark owners to conduct automatic scanning and retrieval of listings and seller information, thereby greatly improving the efficiency of monitoring and review efforts.

5. Online trading platforms should implement commercially reasonable, automated “know your customer” measures to verify the identities and addresses of sellers and make sure they are not operating under multiple false accounts.
6. Online trading platforms should operate an effective notice and takedown program with internal mechanisms to make sure the listings for counterfeits do not come right back up or the counterfeiters find some other way to game the system.
7. Online trading platforms should accept removals based on a wider range of IP rights, including copyrights and design rights, which have become necessary as counterfeiters shift away from using discernible trademarks in their listings in order to avoid takedown.
8. Online trading platforms should interface on a regular basis with trademark owners upon request to learn about infringements to a particular trademark and how counterfeiters are getting around current restrictions.

Best Practices for Payment Service Providers

1. Payment service providers (PSPs) should have in place policies prohibiting the use of their services for the purchase and sale of goods that are determined to be counterfeit under applicable law. Such policies should include a “chargeback reason code” permitting the payee to receive a refund without returning the goods to the merchant where the goods have been determined to be counterfeit by the trademark owner, a customs agency, a law enforcement agency, or another neutral expert.
2. PSPs and related financial institutions should adopt appropriate due diligence processes and educational initiatives to minimize the offering of online payment processing services to purveyors of counterfeit goods.
3. PSPs should have procedures for trademark owners to report websites (in accordance with best practices for trademark owners 5(a) through 5(d), set forth below) that use a PSP’s network to process payments for the sale of allegedly counterfeit goods and should make those procedures readily identifiable by rights holders and others online. An example of an efficient reporting procedure includes, but is not limited to, a single email address or online reporting form through which trademark owners can submit allegations of counterfeit sales activity.
4. PSPs should join initiatives adapted to facilitate cooperation with trademark owners and law enforcement authorities and proper handling of complaints from trademark owners to PSPs regarding online sale of counterfeit goods.
5. Upon receipt from the trademark owners of at least best practices for trademark owners 5(a) through 5(d) (set forth below), and after a reasonable period of time for review, PSPs should provide (or may request that others provide, as appropriate) reasonable feedback to the trademark owners with respect to their findings. PSP report procedures should not require trademark owners to conduct test transactions, as PSPs are in the best position to identify merchant payment channels using their own test transaction protocols.
6. PSPs may reserve the right to allow the website owner/operator to respond to the allegations and/or cure the alleged violation prior to responding to the trademark owner or making a determination on appropriate remedies.

7. If a PSP observes blatant violations of the PSP's policies and applicable trademark laws through the use of its payment service, the PSP should impose appropriate remedies in accordance with its own internal procedures, including termination of service in appropriate cases.
8. PSPs should have in place policies for deterring counterfeiters for whom services are terminated from using another merchant account, including providing for appropriate action against the merchant permitting use of the other merchant account.

Best Practices for Trademark Owners

1. Trademark owners should take steps on an ongoing basis to educate online platforms, other intermediaries, and the public as to their trademarks.
2. Trademark owners should take steps to actively monitor offers on online marketplace, shopping, and social media platforms, with the aim of identifying counterfeits, and notify the platforms and PSPs if applicable.
3. Trademark owners should provide to online platforms and other intermediaries at their request a list of keywords commonly used by sellers for the purpose of offering for sale counterfeits, to assist such platforms and other intermediaries with their voluntary measures for addressing the sale of counterfeits on the Internet.
4. Before submitting a notice, trademark owners should take measures that are reasonable under the circumstances to verify that the material is not authorized by the trademark owner and preserve dated website documentation of such unauthorized material.
5. In working with platforms and other intermediaries on combating online sales of counterfeits, trademark owners should provide information such as the following:
 - a. Identification of the material alleged to be illegal;
 - b. Information identifying where the alleged illegal material is located;
 - c. Proof of ownership of a relevant trademark or other IP right, as applicable, in one or more applicable jurisdictions; and
 - d. A statement made under penalty of perjury that the notifier is the trademark owner or is authorized to act on the trademark owner's behalf and a good faith belief that the use of the material in the manner complained of is not authorized by the trademark owner.

Best Practices for Social Media Sites

1. Applicable terms of service, content, and other guidelines should expressly and clearly prohibit counterfeiting activities by users of social media sites. Social media sites should actively enforce these terms and guidelines by warning that, if reported, an infringing account can be closed and that repeated reports of infringement can lead to the user's being banned from the site indefinitely.
2. Social media sites should have a clear and effective process publicly available to deal with the sale and offering of counterfeit products. Such process shall specify, at a minimum, the information required to be reported by the trademark owner or user, which shall not be unduly burdensome; when, to whom, and how such information is

to be reported; and the process by which and time frame within which the social media site or its agent shall act upon such reports. Social media sites should conform to their stated process requirements.

3. Social media sites should be more active in educating and raising the user's consciousness to the risks of buying and supporting the sale of counterfeit goods on their sites.
4. Social media companies should collaborate with anticounterfeiting organizations and consider placing anticounterfeiting campaigns on their sites to raise the user's consciousness to the risks and consequences of buying counterfeit goods.

Best Practices for Registrars and Registries

1. Registrars and registries should adopt, publish, and enforce IPR policies and effect appropriate due diligence to address and minimize misuse of their services, which they will clearly communicate and indicate on their sites and include in the contracts and terms of service that they conclude with their customers.
2. Registrars and registries should, furthermore, consistently enforce the terms of service with their customers.
3. Registrars and registries should facilitate and support legal actions and investigations into the sale of counterfeit goods and commit themselves, upon request, to disclose and provide details of the owner and/or operator of a website showing or displaying counterfeit goods, which information should include the identity and contact details of alleged infringer and their user names, in accordance with applicable laws.
4. Registrars and registries should have in place reasonable policies and procedures for strengthening and/or tightening procedures for identifying and taking more effective action against repeat offenders, such as the consistent application of termination services, and should improve disclosure policies to facilitate access by brand owners and law enforcement authorities to information about counterfeiters, including repeat offender identities and sales information.
5. Registries should consider the addition and implementation of search and enforcement application program interfaces (APIs), which allow brand owners to conduct automatic scanning and retrieval of listings, thereby greatly improving the efficiency of monitoring and review efforts.

Best Practices for Logistics Companies

1. Logistics companies should procure comprehensive and detailed identity and contact information for consignors and consignees before providing logistics support.
2. Logistics companies should have simple procedures in conformity with the applicable laws of the respective jurisdiction for the sharing of information with enforcement agencies and trademark owners investigating counterfeiting activities.
3. Logistics companies should have in place mechanisms for blacklisting consignors/consignees found to be involved in counterfeiting activities.
4. Logistics companies should implement effective routines of conducting random inspections to

- a. Check the authenticity of the goods sought to be transported;
 - b. Verify the authenticity of the contact and location details provided by consignors and consignees; and
 - c. Confirm whether the nature of goods actually being transported matches the description of goods (as declared) by the consignor.
4. Logistics companies should have easily accessible contact points for trademark owners and enforcement agencies to contact.
 5. Logistics companies should cooperate with trademark owners on matters such as:
 - a. Training logistics employees in the identification of counterfeit goods and trade channels; and
 - b. Establishing reward schemes in cases of suo moto alerts and information by the logistics companies.
 6. Logistics companies should require consignors to mention the brand or trademark on the packaging and invoices in the case of branded goods.

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