



Before the
United States Department of Commerce
Washington, D.C.

In re:

Comment Request; Report on
the State of Counterfeit and
Pirated Goods Trafficking and Recommendation

84 FR 32861

Docket No. DOC-2019-0003

**COMMENTS OF
INTERNET ASSOCIATION**

Internet-based businesses take protecting consumers from counterfeit goods seriously and work to enable brands to protect their intellectual property. Internet Association (IA) member companies have taken the lead to implement clear policies, have proactively partnered with enforcement entities, and have created transparent and innovative counterfeit reporting and prevention tools that allow third parties to identify and remove counterfeit items listed for sale on their platforms in a timely manner.

IA represents over 40 of the world's leading internet companies.¹ IA is the only trade association that exclusively represents leading global internet companies on matters of public policy. IA's mission is to foster innovation, promote economic growth, and empower people through the free and open internet. The internet creates unprecedented benefits for society, and as the voice of the world's leading internet companies, we ensure stakeholders understand these benefits.

In the last two decades, U.S. internet platforms have become a significant driver of the U.S. economy. The internet industry represents an estimated 6 percent of U.S. GDP, totaling nearly \$967 billion, and accounts for nearly 3 million American jobs. Since the mid-90s consumers have increasingly been shopping online. In 2017, an estimated 1.66 billion people worldwide purchased goods online. During the same year, global e-retail sales amounted to \$2.3 trillion and projections show a growth of up to \$4.48 trillion by 2021.² It is estimated that about 80 percent of internet users in the U.S. are expected to make at least one purchase online during the calendar year in 2019.³

Internet platforms facilitate growth for the rest of the economy. Businesses of all sizes have embraced internet platforms to effectively and efficiently sell their goods and services. Buyers and sellers from around the globe are now connected instantaneously through internet platforms. Small businesses and entrepreneurs are harnessing the power of the internet to reach new markets, connect with new customers, and increase their productivity. The internet is also having a dramatic impact outside the internet industry. A recent study found that more than 75 percent of the economic value created by the internet is captured by companies in traditional industries, many of them small businesses.⁴

Unfortunately, a small percentage of bad actors misuse online services to offer counterfeit goods. While reports vary on the number of counterfeit goods sold, the platforms that facilitate online sales are working to ensure consumers can feel safe buying online. The following are a few examples of some of the transparent and innovative practices that internet companies are undertaking.

¹ <https://internetassociation.org/our-members/>

² <https://www.forbes.com/sites/ninaangelovska/2019/05/20/top-5-online-retailers-electronics-and-media-is-the-star-of-e-commerce-worldwide/>

³ <https://www.pewresearch.org/fact-tank/2019/07/25/americans-going-online-almost-constantly/>

⁴ <https://www.mckinsey.com/industries/high-tech/our-insights/internet-matters>



As threats against consumers and rights holders evolve, eBay continuously seeks to improve its efforts to fight against counterfeiters and bad actors. eBay invests millions of dollars annually to fight unlawful listings, deploying sophisticated proactive technologies and investing heavily in partnerships with rights holders and governments across the globe in order to help protect consumers and support rights holders against bad actors. eBay partners with more than 40,000 rights holders through its Verified Rights Owner (VeRO) program, which allows rights holders to quickly and easily report instances of alleged intellectual property infringement.⁵ eBay also works closely with governments and law enforcement around the globe to help ensure the safety of consumers and the protection of rights holders on its platform.

In addition to key partnerships, eBay has multiple teams and tools in place focused on enforcing its policies and proactively identifying and addressing any generally suspicious or potentially harmful seller behavior. These efforts help eBay to flag potentially problematic sellers, including sellers of counterfeit goods, and remove them or prevent them from obtaining an eBay account in the first place. eBay's policies, teams, partnerships, and tools help create a global commerce platform that enables sellers, including hundreds of thousands of American entrepreneurs and small businesses, to sell their inventory, and buyers to find and purchase it, virtually anytime and anywhere. eBay's core purpose, since its founding in 1995, is to connect buyers and sellers through its marketplace safely and empower American entrepreneurs, and micro- and small businesses, to reach markets around the world. eBay's commitment to consumer safety and rights owner protection is longstanding and a central value to the company.

Etsy has also made addressing intellectual property infringement a priority. Etsy's Legal Response and Enforcement team reviews and handles notices of infringement regarding seller content. In 2018, Etsy processed 27,023 properly submitted takedown notices, disabling access to 404,640 listings from 91,381 sellers, and closing 6,775 shops for repeat infringement. When a shop on Etsy is closed for infringement, this termination also applies to any other shop Etsy considers to be related to the seller, including attempts to open new shops. Of all of the sellers whose shop content was taken down by intellectual property takedowns, 70 percent were in North America, 20 percent in Europe, and 6 percent in Asia. Despite seeing a 71 percent increase in intellectual property takedowns from 2017, Etsy continues to take appropriate action expeditiously.⁶

Amazon strictly prohibits the sale of counterfeit products, invests heavily in prevention, and takes proactive steps to drive counterfeits in Amazon's stores to zero. In 2018, Amazon invested over \$400 million in personnel and tools built on machine learning and data science to protect Amazon's customers from fraud and abuse in Amazon's stores. In 2018, Amazon stopped over 1 million suspected bad actors from opening Amazon selling accounts and blocked more than 3 billion suspected bad listings before they were published to Amazon's stores. Amazon investigates every claim of potential counterfeit thoroughly and in the rare instance where a bad actor gets through, Amazon takes swift action, including removing the item, permanently banning bad actors, pursuing legal action, and working with law enforcement when appropriate. In 2017, Amazon launched Brand Registry, a free service that gives rights holders advanced tools to protect their brands. More than 130,000 brands around the world use Brand Registry, and they're finding and reporting 99 percent fewer suspected infringements than before the launch.⁷ In 2019, Amazon announced Project Zero, a new program that empowers brands to help Amazon drive counterfeits to zero by combining Amazon's advanced technology with the sophisticated knowledge that brands have of their own intellectual property and how best to detect counterfeits of their products.⁸ Amazon's policies and innovative tools ensure that buyers can feel confident in their purchases on Amazon stores.

⁵ <https://pages.ebay.com/seller-center/listing-and-marketing/verified-rights-owner-program.html>

⁶ https://extfiles.etsy.com/advocacy/Etsy_2018_Transparency_Report.pdf

⁷ <https://brandservices.amazon.com/>

⁸ <https://brandservices.amazon.com/projectzero>



Facebook and Instagram have built numerous measures to combat counterfeits on their platforms – in close collaboration with rights holders and consistent with their terms and policies prohibiting users from posting content that infringes IP rights. Among these measures are dedicated channels for rights holders to report infringing content, including a specific counterfeit channel. Submitted reports are handled by a global IP Operations team that provides around-the-clock multilingual coverage, regularly removing reported content in well less than a day and often within minutes. The Commerce & Ads IP Tool goes further – eliminating the need for rights holders to search Facebook and Instagram for ads, Marketplace posts, and group sale posts.⁹ The tool does so by offering rights holders a dashboard that displays ads and posts that match their trademark, infringing instances of which can then be reported for removal. On top of these measures, as well as expansive repeat infringer policies aimed at profiles, pages, and groups on Facebook, along with accounts on Instagram, many proactive measures targeting counterfeits have also been implemented. Illustratively, ads and Marketplace posts are reviewed before they go live, using technologies to identify suspicious indicators including keywords, discounts, and so on. Ads and Marketplace posts flagged by these signals are blocked from Facebook and Instagram altogether.

Internet platforms have created close relationships with law enforcement to combat counterfeit goods, including active engagement with U.S. Customs and Border Protection, the National Intellectual Property Rights Center, under the Department of Homeland Security, and other federal and state enforcement agencies. Platforms regularly report misconduct and help in supporting ongoing investigations. The platforms have proactively created training programs to ensure that law enforcement officials understand how the platforms work and to provide information about evolving investigative techniques on the web, and other emerging trends. IA member companies also encourage users to report illegal activities to appropriate authorities and have posted links to facilitate such reporting.

Innovative prevention and reporting tools created by internet companies and effective partnership with law enforcement and rights holders are vital to addressing the risks posed by counterfeit goods to consumers.

IA appreciates the opportunity to provide comments on behalf of our member companies and highlight some of the proactive policies these companies have implemented. Internet Association looks forward to continuing to engage with the Administration on these matters in the future.

⁹ <https://www.facebook.com/help/contact/423912757973851>