



Online Shopping & the Culture of Counterfeiting:
How brand protection can prevent against unhappy holidays.

DECEMBER 2017

introduction

Black Friday. Cyber Monday. Singles Day. Peak shopping days are becoming more popular year after year, as is shopping online in general. Americans are expected to spend approximately \$680 billion this holiday season, with 51% of their purchases made online, compared to 48% in 2015 and 47% in 2014. According to a study from the International Trademark Association (INTA) and the International Chamber of Commerce (ICC), by 2022 the counterfeit and pirated goods markets are forecasted to be worth \$2.81 trillion, displacement of legitimate economic activity will be \$1.2 trillion and 5.4 million jobs will be lost as a result. Additionally, fake goods manufactured with low-grade materials, such as machinery parts and pharmaceuticals, put the public at risk.

As consumers increasingly shop online over traditional brick-and-mortar retail stores, online sales of counterfeit goods have also increased. Transactions over the internet connect counterfeiters with consumers on a global scale while providing anonymity to the offenders posing as legitimate businesses. It's timely to assess how the industry and brand owners are suppressing these threats, and examine what tools and best practices are recommended for IP professionals.

strategize & educate

Stretched resources and limited budgets demand smart and priorities approaches. If you can't do everything, what are your businesses priorities? Educate internal groups so they can support your business's goals. Cross-functional teams can be very effective, leveraging expertise from legal, marketing, IT, supply chain management, etc. to help in the fight against counterfeiting.

Reinforce your retail strategy with your client base, help them to identify fakes and encourage them to report accordingly.

register

Protect your brands in strategic jurisdictions by registering them accordingly. These foundations can form the basis of any potential defensive moves in the future. Additionally, register your trademarks with applicable local customs and border agencies, as well as enroll in one of Principium's several Trademark Watching services.

Cybersquatting, phishing and spamming continue to be problematic for businesses and consumers. Defensively register domain names, such as confusingly similar variants to your main domain as well as country-code extensions in jurisdictions where you conduct business. Register your trademarks in the Trademark Clearinghouse, take advantage of Sunrise launches and block domains in the new gTLD space with the Domains Protected Mark List. Principium is accredited with ICANN and the Trademark Clearinghouse.

Consider defensively registering usernames on online marketplace, social media and mobile app platforms. The low barrier to entry to these websites and apps make these channels particularly vulnerable.

Audit your IP coverage among different channels to fill any gaps and better target counterfeiters.

Continued >

¹ Abha Bhattarai, *The era of holiday deals is dead, and so is Black Friday*, The Washington Post, https://www.washingtonpost.com/news/business/wp/2017/10/03/the-era-of-holiday-deals-is-dead-and-so-is-black-friday/?utm_term=.84bcfb574d62 (October 3, 2017)

² Madeline Farber, *Consumers Are Now Doing Most of Their Shopping Online*, Fortune, <http://fortune.com/2016/06/08/online-shopping-increases/> (June 6, 2016)

³ *The Economic Impacts of Counterfeiting and Piracy*, A Report prepared for BASCAP and INTA by Frontier Economics (<https://cdn.iccwbo.org/content/uploads/sites/3/2017/02/ICC-BASCAP-Frontier-report-2016.pdf>)

monitor

It is important to understand what digital channels counterfeiters are using to distribute your goods. A consumer may seek out your products on a search engine, but the top results may not originate from your company. Counterfeiters can leverage search engine optimization techniques, advertise on social media and/or directly on search engines, upload images of your products on different platforms posing as your business.

Enroll in watch services appropriate for your needs. Between online marketplace, web image, Adwords, social media, and mobile apps watching, Principium has a solution for your business.

enforce & recover

The growing number of transactions conducted online has corresponded to an increase in counterfeiting and other IP infringement activities through the same channels. As a result, online marketplaces and social media platforms have enhanced their policies to ensure brand and IP rights protection.

Amazon: Brand owners selling their products on Amazon can now register their logo and intellectual property with Amazon by enrolling in the “Amazon Brand Registry,” so Amazon will be able to take down the violating listing. Amazon also has a brand protection process called “Brand Gating,” that allows brands or manufacturers to set up a perimeter or wall around their Amazon Standard Identification Numbers (ASINs) or their entire brand, that blocks unauthorized sellers from listing branded goods.

eBay: IP owners can request removal of listings that infringe on their IP rights as part of eBay’s Verified Rights Owner (VeRO) Program.

Alibaba: The company is providing e-commerce guides through its e-Learning Center for sellers and buyers. Also they have, since last year, started using advanced algorithms to identify, block and remove unauthorized listings and root out repeat offenders who mislead consumers by using branded keywords they don’t have the rights to use in the titles of product listings. Alibaba sued two vendors for selling fake Swarovski watches on its online platform Taobao earlier this year, marking the first time Alibaba has taken legal action concerning counterfeit goods.

Social Media: Facebook, Twitter and Instagram provide a general online takedown form. The form requires details of the complainant, the IP right relied on, the ownership and links to the offending use and why it creates confusion or infringes.

partner with principium

Trademark owners should develop and implement a brand protection strategy suiting their business’s needs. Principium offers a number of registration, monitoring and recovery tools for organizations to detect infringing uses of their brands. Work with a trusted partner, like Principium, to help develop anti-counterfeiting policies for your organization’s specific needs.

Contact us today at advice@principiumstrategies.com for a complimentary consultation regarding your current enforcement profile and ways to improve your profile to meet emerging challenges.

PRINCIPIUM STRATEGIES

1040 AVENUE OF THE AMERICAS
NEW YORK, NY 10018-3738