



October 11, 2021

Mr. Daniel Lee

Assistant U.S. Trade Representative for Innovation and Intellectual Property (Acting)

Office of the U.S. Trade Representative

600 17 Street, NW

Washington, DC 20508

RE: Amazon comments to 2021 Special 301 Out-of-Cycle Review of Notorious Markets (Docket Number: USTR-2021-0013)

Assistant USTR Lee,

We are excited to share an update on our global efforts to protect consumers, selling partners, and brands from counterfeit and pirated goods, in response to the USTR August 30, 2021 request for comments. Amazon strives to be Earth's most customer-centric company, offering vast selection, low prices, and fast delivery. We deliver on that vision by creating shopping experiences that customers, sellers, and brands trust. Today, we have more than 300 million active customer accounts and over 1.9 million selling partners worldwide. Many of these selling partners are small and medium-sized businesses, and they represent the majority of physical products sold in our stores. We are proud to help these small businesses thrive and create hundreds of thousands of new jobs in their local communities.

In the face of COVID-19, Amazon continued to serve our customers and selling partners. Customers were able to order and receive what they needed during a global pandemic and our selling partners, in many cases, grew their businesses even as their physical storefronts saw decreased sales. The pandemic attracted bad actors who tried to take advantage of honest sellers and brands—despite their attempts, we continued to make strong progress towards driving counterfeits to zero in our store. Just last year, Amazon invested over \$700 million and employed more than 10,000 people to protect our store from fraud and abuse. As a result, fewer than 0.01% of all products sold on Amazon received a counterfeit complaint from customers.

We approach our anti-counterfeiting efforts through three strategies:

- 1) **Robust proactive controls.** We leverage a combination of advanced machine learning capabilities, algorithms, and expert human investigators to proactively protect our store from bad actors and bad products. We are constantly innovating to stay ahead of bad actors and their attempts to circumvent our controls. In 2020, we innovated on new live video and physical address verification. Amazon connects one on one with prospective sellers through a video chat to verify sellers' identities and government-issued documentation. Amazon also verifies new and existing sellers' addresses by sending information including a unique code to the seller's address. Both of these innovations are straightforward for entrepreneurs, while making it more difficult for bad actors to hide. As a result of these proactive controls, we prevented over six million attempts to

create new selling accounts in 2020, stopping bad actors before they published a single product for sale.

- 2) **Powerful tools for brands.** Brands know their products best. They know their logos, patterns, and intellectual property inside and out. We empower brands to work with us through tools like Brand Registry, Transparency, and Project Zero. These tools are powered by Amazon's advanced technology and each brand's expert knowledge of their products. Together, we can more effectively detect and stop counterfeiters, which allows us to better protect customers and rights owners. In 2020, we continued to enhance these tools and grow the number of brands that use them. The number of brands using Transparency grew from 10,000 to more than 15,000, and the number of brands using Project Zero grew from 10,000 to more than 18,000.
- 3) **Holding counterfeiters accountable.** We continue to innovate on our robust proactive controls and our powerful tools for brands, and we will not rest until we have zero counterfeit products in our store and across the entire supply chain. This is an escalating battle and the only way to permanently stop counterfeiters is to hold them accountable through litigation in the court system and through criminal prosecution. We established the Counterfeit Crime Unit in 2020 to support law enforcement's efforts to bring these criminals to justice; since then, the team has referred over 250 counterfeiters for criminal investigation in the U.S., U.K., European Union, and China, filed civil litigation against 64 counterfeiters in U.S. courts, disrupted counterfeiters and their supply networks around the world, and partnered with a wide range of brands from family-owned businesses to global leaders and innovators. We have learned a lot about intricate counterfeit networks and where we can effect change. Amazon will continue to build strong partnerships with law enforcement around the world and invest heavily in our tools and teams dedicated to fighting fraud and abuse.

We are excited by what we have been able to achieve to date, but it has become clear that we need to partner more closely with private and public sectors to stop counterfeiters. Consumers deserve to get the authentic products they purchased. The retail industry and government bodies must step up, work together, and stop counterfeiters to protect consumers, rights owners, and store operators from these criminals.

Sincerely,



Brian Huseman
Vice President, Public Policy

Amazon comments to 2021 Special 301 Out-of-Cycle Review of Notorious Markets (Docket Number: USTR-2021-0013)

Introduction

Amazon works hard to protect consumers, brands, and our store from counterfeits. In 2020, we invested over \$700 million and dedicated more than 10,000 employees to stopping fraud and abuse. We have built robust proactive controls to protect customers in our store from bad actors and their products by using a combination of advanced machine learning capabilities and expert human investigators. We have developed powerful, industry-leading tools—including Brand Registry, Project Zero, and Transparency—for brands to partner with us to ensure only authentic products are sold in our store. We have pioneered new methods of seller vetting, including live-video sessions with prospective sellers to inspect their government-issued IDs. Because of the significant resources Amazon has invested into these efforts and the partnership we have received from brands, we have been able to provide consumers with a trustworthy shopping experience where less than 0.01% of the products sold on Amazon last year received a counterfeit complaint from a customer. While we are proud of the progress we have made, we will not rest until we have driven counterfeits to zero, and we will continue to invest and innovate to stay ahead of counterfeiters.

Unfortunately, counterfeiting remains a persistent industry problem around the world. The Organization for Economic Co-operation and Development (OECD) estimates that pirated and counterfeit products make up 2.5% of world trade, which is \$464 billion a year and equal to the gross domestic product of Belgium. This issue persists throughout the retail industry and across the globe. Counterfeiters deprive brand owners of the value of their intellectual property and compete unfairly with honest entrepreneurs. Moreover, counterfeiting is sometimes a predicate crime to far more nefarious activity including drug trafficking, child exploitation, and terrorism. While counterfeiting is a crime in most countries, for too long, counterfeiters have not been held accountable. As a result, they have continued to seek out any opportunity—including preying on consumers during a pandemic—to try to trick people into buying their fake goods.

Successfully repelling this type of attack requires significant investment, technological innovation, and collaboration from all interested parties. We understand that bad actors will always look for new opportunities to attack our stores; their tactics are always evolving, and Amazon's proactive monitoring and detection systems are as well. We have developed, and will continue to develop, new ways to identify and stay ahead of threats so we can continue to protect our customers and brands.

This year, Amazon was excited to release its first [Brand Protection Report](#), a comprehensive look at how we ensure customers shop from authentic products in our store, including how we protect brands and the millions of small and medium-sized businesses that offer authentic products for sale in our store. Throughout the pandemic we have seen increased attempts by bad actors to commit fraud and offer counterfeit products. Our teams have continued to innovate to protect our store, helped our selling partners keep their virtual doors open, and ensured that the vast majority of customers continue to shop with confidence from our broad selection of authentic products. Highlights from 2020 include:

- Amazon invested over \$700 million to protect its stores from fraud and abuse.
- Amazon employed more than 10,000 people to protect its store from fraud and abuse.

- Amazon's verification processes prevented over 6 million attempts to create selling accounts, stopping bad actors before they published a single product for sale.
- Only 6% of attempted account registrations passed Amazon's robust verifications processes and listed products for sale.
- Amazon Transparency enabled the protection of more than 500 million product units.
- Fewer than 0.01% of all products sold on Amazon received a counterfeit complaint from customers. Those complaints were investigated for accuracy and acted upon as appropriate.
- More than 7,000 small and medium-sized businesses were connected to trusted law firms in the U.S. and Europe through IP Accelerator. These businesses successfully submitted trademark applications and received early access to Brand Registry's brand protection tools.
- Amazon's Counterfeit Crimes Unit referred over 250 counterfeiters to law enforcement authorities around the world, undertook independent investigations or joint investigations with globally renowned brands as well as family-owned businesses, and pursued civil litigation against 64 counterfeiters in U.S. courts.

Amazon continues to expand our existing set of world-class tools and encourage greater brand adoption. Below, we outline our work in creating robust proactive controls, providing powerful tools for brands, and holding counterfeiters accountable.

Amazon's Anti-Counterfeiting Efforts

Robust Proactive Controls

Multi-layered account verification

Selling in Amazon's store opens a world of opportunity for entrepreneurs. We make it straightforward for entrepreneurs to set up a selling account, and difficult for bad actors. Amazon has built industry-leading tools to verify potential sellers' identities by using a combination of machine learning technology and expert human review. Prospective selling partners are required to provide a government-issued photo ID and information about their identity, location, taxpayer information, bank account, credit card, and more. Our proprietary systems analyze hundreds of unique data points to verify the information and detect potential risk. In 2020, we innovated on new live video and physical address verification. Amazon connects one-on-one with prospective sellers through a video chat or in person at an Amazon office to verify sellers' identities and government-issued documentation. Amazon also verifies new and existing sellers' addresses by sending information including a unique code to the seller's address.

Both of these innovations are straightforward for entrepreneurs, while making it more difficult for bad actors to hide. Our verification processes stopped over six million attempts to create a selling account before they were able to publish a single listing for sale. This is a significant increase from the 2.5 million attempts we stopped in 2019, and it was driven by increased bad actor attempts to get into our store that we successfully thwarted. We began displaying U.S. sellers' business names and addresses on their Amazon seller profile page. This was already required of sellers in our stores in Europe, Mexico, and Japan, and we will expand the display of seller contact information to all of our stores worldwide going forward. As far as we know, we are the only store that provides this seller information globally, and we took this step to provide

greater transparency to customers. Only 6% of attempted new seller account registrations passed our robust verifications processes and listed products.

Working with payment providers to thwart bad actors

Sellers on Amazon receive payments for their sales to either a traditional bank account directly issued by a bank or a virtual bank account issued by a payment service provider. Payment service providers create virtual bank accounts to make it easier for entrepreneurs to grow their business internationally through currency conversion and transfers across virtual accounts. However, bad actors can attempt to use these features to hide their identities and the final location of their funds. In February 2021, we launched our Payment Service Provider Program to enhance our ability to detect, prevent, and take action against bad actors. This allows us to better identify the bank account where payments are directed and the person ultimately receiving these payments. Sellers who choose to use a payment service provider to receive their funds must use a participating provider, and participating providers must meet our requirements for risk and compliance controls. Participating providers also exchange information with Amazon to reduce the potential for fraud and to make it even harder for bad actors to hide.

Continuous monitoring to stay ahead of bad actors

Once a seller is allowed to sell in our store, we continue monitoring their account and behaviors for new risks. If we identify a bad actor, we immediately close their account, withhold funds disbursement, and determine if this new information brings other related accounts into suspicion. In 2020:

- Amazon scanned more than five billion attempted changes to product detail pages daily for signs of potential abuse.
- Fewer than 0.01% of all products sold on Amazon received a counterfeit complaint from customers. Those complaints were quickly investigated for accuracy, and Amazon took appropriate action on listings and accounts.
- Valid complaints were also used to inform and continuously improve our proactive detection.

Powerful Tools for Brands

Brands know their products best. They know their logos, patterns, and intellectual property inside and out. We empower brands to work with us through tools like Brand Registry, Transparency, and Project Zero. These tools are powered by Amazon's advanced technology and each brand's expert knowledge of their products. Together, we can more effectively detect and stop counterfeiters, which allows us to better protect customers and rights owners. We have continued to enhance these tools and grow the number of brands that use them.

Amazon Brand Registry

In 2017, we launched Amazon Brand Registry, a free service that gives a brand owner—regardless of whether they sell in our store—access to a set of powerful tools that help them manage and protect their brand and intellectual property rights. Through Brand Registry, brands have more control over the text, photos, and content on detail pages for their products; Amazon can more effectively protect the brand through automated protections that leverage machine learning and the data brands provide in Brand Registry; and brands can more quickly find and report suspected infringement. More than 500,000 brands were enrolled in Brand Registry in

2020. We have teams around the world ready to investigate any report of infringement, 24 hours a day, 7 days a week. Brands are, on average, reporting 99% fewer suspected infringements than before the launch of Brand Registry.

Project Zero empowers brands to drive counterfeits to zero

Project Zero combines Amazon's advanced technology with the sophisticated knowledge brands have of their own intellectual property and how best to detect counterfeits of their brands. This happens through three powerful tools. First, Amazon's automated protections proactively block suspected bad product listings before they are published. These automated protections are powered by Amazon's machine learning and are continuously fed new information so that we continue to improve at automatically preventing and blocking potential counterfeit listings. Second, Project Zero provides brands with unprecedented power by giving them the ability to directly remove listings from our store. These removals by brands also feed into our automated protections so we can better catch potential counterfeit listings proactively in the future. Third, Project Zero also features product serialization, which is enabled by a unique code that brands apply on their product or its packaging. While product serialization is optional, enrolled brands see the best results when using our product serialization technology. In 2020:

- There were more than 18,000 brands enrolled in Project Zero.
- For every one listing removed by a brand through our self-service counterfeit removal tool, our automated protections removed more than 600 listings through scaled technology and machine learning that proactively addresses potential counterfeits and stops those listings from appearing in our store.
- More than 75% of brands enrolled in Project Zero have never used the self-service counterfeit removal tool.

Amazon Transparency fully protects every product unit

Transparency is a serialization service that protects each individual product unit. Brands apply a unique 2D code, similar to a QR code, to their products, and Amazon scans the code to verify authenticity before shipping it to a customer. If a product fails this authenticity check, it is immediately set aside for further investigation. Customers can also verify the authenticity of their product by scanning the Transparency code using the Amazon mobile app. Once scanned, customers can be confident their product is authentic, and learn more about the product, including its manufacturing date, manufacturing location, and expiration date. In 2020:

- Transparency expanded to Japan and Australia, and is now available in ten countries.
- More than 15,000 brands were using Transparency, from large Fortune 500 companies to small independent entrepreneurs.
- Transparency enabled the protection of more than 500 million product units.

Helping protect utility patent owners

Utility patents cover the inner workings of a product, its technology, and/or its design, so it can be complicated to determine if a product is infringing based on visual cues alone. The Amazon Utility Patent Neutral Evaluation Process brings in neutral third-party evaluators who have expertise in technology and patent law to determine if they believe a product is infringing. The process is an efficient means for patent owners and those accused of infringing on a patent to address the concerns; it is significantly faster than the court system and is free for the party that the evaluator determines is correct. In 2020 utility patent disputes handled through Amazon's

process were decided in an average of seven weeks, significantly faster than the median time-to-trial of 2.4 years for a U.S. patent lawsuit.

Helping entrepreneurs secure intellectual property rights

A key part of helping small or medium-sized businesses grow and succeed is ensuring they are able to protect their intellectual property. Securing intellectual property rights can be confusing and costly, but it is a necessary step for brands to protect their name, logo, product designs, and other aspects of their brand. For instance, in the European Union, only 9% of small and medium-sized businesses register their intellectual property, whereas larger businesses are four times more likely to do so. Amazon designed IP Accelerator specifically with small and medium-sized businesses in mind, making it easier and more cost effective for them to protect their unique products and intellectual property. IP Accelerator connects entrepreneurs with a curated network of law firms that specialize in intellectual property. Amazon vetted each of the participating law firms for experience, expertise, and customer service, and all have agreed to competitive, pre-negotiated rates. When entrepreneurs use these law firms to file a trademark application, Amazon also provides their brand with early access to Brand Registry and its powerful brand protection tools. Since its launch in the United States in 2019, the program has expanded to the EU, U.K., India, Japan, Canada, Mexico, Singapore, and Australia, with additional global expansion planned. In 2020, more than 7,000 small and medium-sized businesses were connected to trusted law firms in the U.S. and Europe, successfully submitted trademark applications, and received early access to Brand Registry's brand protection tools.

Cross-industry partnerships to stop counterfeits

Amazon works directly with brands and in partnership with leading industry associations to get feedback that allows us to continue to improve our programs, share our best practices to help others be more successful, identify trends, pilot new capabilities, and ultimately better protect customers and brands. In 2020, we have memoranda of understandings with: Confindustria Moda; European Commission; Federation of Indian Chambers of Commerce and Industry (FICCI); Imaging Supplies Coalition (ISC); Indian Beauty & Hygiene Association; International Anti-Counterfeiting Coalition (IACC-Amazon Program); The Italian Association for the Protection of Intellectual Property (INDICAM); and Michigan State University's Center for Anti-Counterfeiting and Product Protection (A-CAPP).

Holding Counterfeiters Accountable

Amazon has long invested significant resources in employees and advanced technology to protect our customers and our store from counterfeits. As we continue to improve the sophistication of our programs, we unfortunately find that counterfeiters are also working to improve the sophistication of their abuse, creating an escalating battle. To permanently stop counterfeiters, we must hold them accountable through the court system and criminal referrals.

Amazon Counterfeit Crimes Unit

We continuously innovate to stay a step ahead of counterfeiters which is why, in the summer of 2020, we launched a new Counterfeit Crimes Unit, dedicated to bringing counterfeiters attempting to list counterfeit products in our store to justice. The global team, made up of former federal prosecutors, experienced investigators, and data analysts work hard to disrupt and dismantle these criminal networks, and we applaud the law enforcement authorities who are already part of this fight. This team has taken the lead in identifying new, emerging, and

evasive schemes that counterfeiters are using to perpetrate their fraud against consumers and they have partnered with law enforcement to stay current, and even a step ahead of infringers who have moved from brick-and-mortar to e-commerce stores. Through close collaboration, many of the Counterfeit Crimes Unit's lawsuits were filed jointly with brands, including household names like YETI, HanesBrands/Champion, and GoPro; British cosmetics brand KF Beauty; Italian luxury brands Maison Valentino and Ferragamo; leading games publisher and distributor Asmodee; and small businesses like JL Childress, which sells travel products for parents, and Dutch Blitz, a family-owned card game manufacturer.

Law enforcement engagement

In 2020, Amazon began reporting all confirmed counterfeiters to law enforcement agencies in Canada, China, the European Union, U.K., and U.S. This voluntary reporting helps law enforcement more effectively identify and target repeat counterfeiters across retail channels and drive more successful prosecutions. In cases where counterfeit products are in our fulfillment centers, we separate the inventory and destroy those products so they are not resold elsewhere in the supply chain.

In November 2020, the Counterfeit Crimes Unit and the National Intellectual Property Rights Coordination Center (IPR Center) launched 'Operation Fulfilled Action,' a joint operation to prevent counterfeits from entering the U.S. The joint operation focuses on inspections at U.S. ports of entry to prevent counterfeit products from entering the supply chain. This operation was expanded in February 2021 to target counterfeit Super Bowl merchandise in real time as goods come through the nation's ports. By sharing information such as physical addresses, supply routes, shippers, consignees, and other potential fraud identifiers, Amazon and the IPR Center more quickly and effectively stop and prevent counterfeits from reaching consumers not only in our store, but across the retail industry.

Amazon also participated in the IPR Center's pilot to develop a private information exchange to enable industry participants—stores, payment service providers, banks, and shipping companies—to better identify and stop counterfeits before they can reach consumers. We fully support this effort, as an exchange can lead to more effective law enforcement referrals and better detection by industry participants

A Word from our Partners

We were pleased that Amazon's brand partners expressed support of our innovations, programs, and tools. Here are a few examples of the positive feedback we've received.

- "Water Pik's use of the patent evaluation program has been efficient and expeditious to getting resolution of patent infringement claims against third-party product listings on amazon.com." - *Mike Rasmussen, Assistant General Counsel, Water Pik Inc.*
- "Amazon is currently strongly arming itself to act against counterfeit goods and shows what is possible" - *Julia Hentsch, Head of Legal and Consumer Policy, Markenverband*
- "YETI works aggressively to protect our consumers, our intellectual property rights, and our brand from the actions of counterfeiters and those who facilitate the importation and sale

of counterfeit goods. We appreciate Amazon's commitment to this shared objective." *Bryan Barksdale, Senior Vice President, General Counsel and Secretary*

- "We successfully worked with Amazon to deploy the Brand Registry at the EU level. We have obtained very good results, in particular on parallel imports. Brand Registry is also very effective against counterfeit and design infringing versions of our famous Pilot Frixion erasable pen." - *Pierre GIRAUD, General Counsel, Compliance Officer, PILOT CORPORATION OF EUROPE*
- "The IPR Center plays a critical role in securing the global supply-chain to protect the health and safety of the American public. However, our efforts are increased with partners like Amazon to identify, interdict, and investigate individuals, companies, and criminal organizations engaging in the illegal importation of counterfeit products. This joint operation is our latest public-private initiative bringing us one step closer to border security." - *Steve Francis, IPR Center Director, [Brand Protection Report](#)*
- "Over the past three years, the IACC-Amazon Program has seen real, practical and substantive results; improving the IP enforcement experience for both our brand participants and the rights-holder community as a whole." - *Bob Barchiesi, President of the International AntiCounterfeiting Coalition (IACC), [Brand Protection Report](#)*
- "It started out several years ago as quite a complex relationship, where trust needed to be built to bring effective results for brand owners. The willingness to work closely together for a common goal has shaped this journey, and eventually helped deliver tangible improvements and better outcomes. That made INDICAM's relationship with Amazon keep growing stronger. We have an MoU in place that proves that collaboration and a proactive approach—and lots of listening and trying-to-figure-out-solutions—are key in this joint effort. This has truly helped to create and enhance a more reliable and transparent environment." – *INDICAM, [Brand Protection Report](#)*
- "The collaboration between Confindustria Moda and Amazon, started more than three years ago, has been mutual and fruitful and it has definitely helped our member companies to better understand and properly use Amazon's brand protection system. I'm pleased to acknowledge the development that Amazon is conducting both in terms of IP protection tools and human resources involved in it." - *Cirillo Coffen Marcolin, President Confindustria Moda, [Brand Protection Report](#)*
- "We are excited to see that Project Zero is expanding into new marketplaces. The program has already had a very positive impact on our enforcement and we are glad to see Amazon's continued commitment to protecting our brand across the world." - *Adrienne McNicholas, co-founder and CEO of Food Hugger, [Brand Protection Report](#)*
- "Project Zero has been a very easy and effective tool at protecting BMW on Amazon. We are very appreciative of the tools Amazon has built to enable us to protect our brand." – *BMW, [Brand Protection Report](#)*

- “LG sees Transparency as a great way to ensure that consumers use genuine LG filters while protecting them from counterfeit products.” - LG, [Brand Protection Report](#)
- “With Transparency, we’re now more confident than ever that our customers are receiving legitimate products—which is a win for us and for customers.” - *Cards Against Humanity*, [Brand Protection Report](#)
- “The joint action with Amazon underlines how the protection of intellectual property is a priority for Ferragamo and how the company is pursuing the fight against counterfeiting with full awareness and resolution.” - *Micaela le Divelec Lemmi, CEO of Salvatore Ferragamo*, [Brand Protection Report](#)
- “One of the biggest benefits of Amazon’s IP Accelerator is the additional security it provides businesses like ours in terms of stopping potential counterfeiters. As with any quickly growing business, there is always risk of people copying or stealing your hard work and capitalizing on your growth. As a result of filing our trademark, I am more confident that our brand is secure, leaving me and my team more time to concentrate on providing awesome products to our incredible customers.” - *Dewar Gaines, Owner and Operator of Gaines Family Farmstead*, [Brand Protection Report](#)

Conclusion

Amazon will continue to work vigorously to earn and keep customer trust. We will never relent in our efforts to deliver customers authentic products, and we will continue to innovate and take bold action to ensure that we protect customers and brands in our stores. We understand that this will require continued investments, technological innovation, and collaboration, and we remain laser focused on maintaining the customer trust at the core of our business. It is the relentless efforts of our teams and the partnership of rights owners, law enforcement, and other public and private organizations that have made these innovations possible.