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October 2, 2024

Mr. Daniel Lee
Assistant U.S. Trade Representative for Innovation and Intellectual Property
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

RE: USTR 2024 Review of Notorious Markets for Counterfeiting and Piracy
Docket Number: USTR-2024-0013
Submitted electronically at: www.regulations.gov

Dear Mr. Lee:

On behalf of the member companies of the American Apparel & Footwear Association (AAFA) we submit comments to the United States Trade Representative (USTR) as part of its 2024 Review of Notorious Markets for Counterfeiting and Piracy (NML) comment request.¹

AAFA recommends the below platforms for listing in this year's NML report:

- **AliExpress**
- **DHgate**
- **Meta and all Meta platforms**
 - **Facebook**
 - **Instagram**
 - **WhatsApp**
 - **Threads**
- **Shopee**

We will provide further details supporting our nomination of each of these platforms below.

AAFA is the national trade association representing apparel, footwear and other sewn products companies and their suppliers, which compete in the global market. Representing more than 1,000 world famous brands, AAFA is the trusted public policy and political voice of the apparel and footwear industry, its management, and shareholders, its more than 3.2 million U.S. workers, and its contribution of more than \$490 billion²

Never has the counterfeit problem been at the scale it is today. Enabled by the power of e-commerce-aided by a public policy establishment that has so far refused to act-there are few barriers to the knowing and

¹ Federal Register: 2023 Review of Notorious Markets for Counterfeiting and Piracy <https://www.federalregister.gov/documents/2023/08/24/2023-18201/2023-review-of-notorious-markets-for-counterfeiting-and-piracy-comment-request>.

² American Apparel and Footwear Association <https://www.aafaglobal.org/>.

unknowing purchase of counterfeits. It is no longer a question of IF Americans are buying counterfeits; but is increasingly a question of when they bought their last counterfeit.³

The counterfeit problem continues to manifest itself through the sale of fake clothes, shoes, and accessories every hour of every day. Regrettably, AAFA member products again top the 10 commodities by MSRP in the U.S. government's latest FY 2023 IP Seizure report.⁴ This trend has remained consistent over time.

As we have noted in multiple forums, and which USTR also noted in its 2023 Notorious Markets List, AAFA recently found⁵ that 17 out of 47 counterfeit products tested by AAFA – just over 36 percent – contained dangerously high levels of poisonous materials, such as lead, arsenic, and phthalates.⁶ The inclusion of AAFA's findings in USTR's most recent report underscores the serious dangers to consumers posed by counterfeits and their threat to public health and safety. Because these fake goods create real dangers – harming our industry, damaging the American economy, destroying American jobs, and injuring American families – the time for action is long overdue.⁷

It is for this reason that AAFA continues to increase awareness, and reiterates its calls for action, to stop the growing scourge of counterfeits, made possible by what we refer to as the 'Digital Devalue Chain of Counterfeits'.⁸

The current reactive *status-quo*, which stresses after the fact online enforcement, fails to significantly catch counterfeits. This imbalance places the burden on brands to identify, flag for the platform, and follow-up recurringly, to curtail the promotion and sale of counterfeits that are already being marketed online. AAFA members invest millions to build, train, and inspect supply chains to ensure that the clothes, shoes, and accessories bought and worn by American families are not only fashionable and affordable but are also ethically and sustainably sourced and made safe for consumers. Counterfeiters bypass each of these checkpoints. Further, other actions by the U.S. government to restrict demand or to restrict supply chains benefit nefarious actors by further enabling to deceive consumers with lower prices, fraud, and false availability.⁹

To effectively address the promotion and sale of counterfeits, online platforms must take steps to make sure counterfeits do not get offered online in the first place. These platforms must be subject to the same requirements, and face equivalent liabilities, as brick-and-mortar businesses when it comes to the promotion and sale of counterfeit products that harm American consumers.

³ To further show the size and scale of counterfeit enforcement, AAFA gathered case details of three members to detail the global enforcement for each AAFA member with some enforcing on a range of platforms from one or two to 500. This section for discussion is at the end of this submission.

⁴ CBP: Intellectual Property Rights Seizure Statistic Fiscal Year 2023
<https://www.cbp.gov/sites/default/files/2024-06/ipr-seizure-stats-fy23-508.pdf>

⁵ USTR: 2023 Review of Notorious Markets for Counterfeiting and Piracy
https://ustr.gov/sites/default/files/2023_Review_of_Notorious_Markets_for_Counterfeiting_and_Piracy_Notorious_Markets_List_final.pdf

⁶ AAFA Fashion Industry Study Reveals Dangerous Chemicals, Heavy Metals in Counterfeit Products
https://www.aafaglobal.org/AAFA/AAFA_News/2022_Press_Releases/Fashion_Industry_Study_Reveals_Dangerous_Chemicals_Heavy_Metals_Counterfeits.aspx

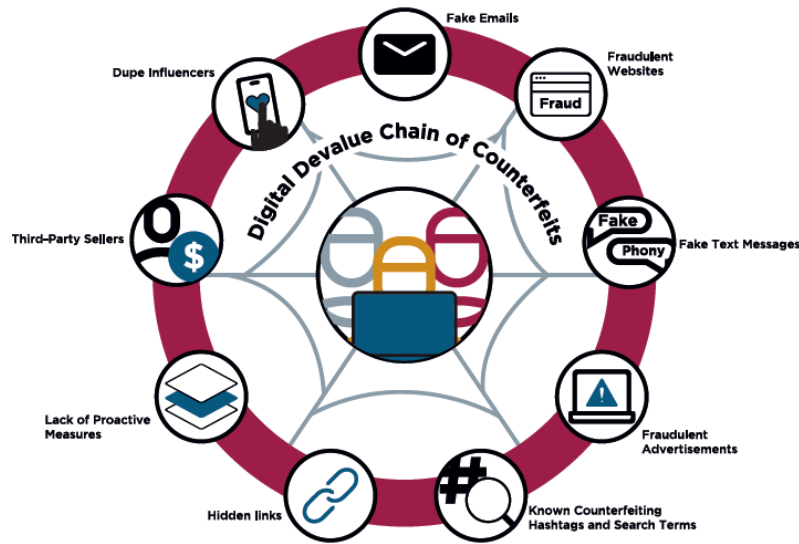
⁷ WTOP: Are the online goods you're buying really all that good? Or are they phony?
<https://wtop.com/consumer-news/2024/09/are-the-online-goods-youre-buying-really-all-that-good-or-are-they-phony/>

⁸ AAFA Explainer: Digital Devalue Chain of Counterfeits <https://www.aafaglobal.org/counterfeitdevaluechain>

⁹ U.S. Department of Justice: Global Disruption of Three Terror Finance Cyber-Enabled Campaigns
<https://www.justice.gov/opa/pr/global-disruption-three-terror-finance-cyber-enabled-campaigns>

As inaction on blocking counterfeits persists, we are seeing an explosion of problems across the digital devalue chain of counterfeits with acute concerns related to deception and fraud of consumers, with dupe influencers¹⁰, fraudulent advertisements¹¹, hidden links, fraudulent websites, fake emails, and more.

Nefarious counterfeiters – masked behind the anonymity provided by online platforms due to little, or no, front-end verification – easily exploit consumers.



The U.S. Government (USG) is left to use what limited recourses it has available to protect consumers– taking years and valuable time intensive resources. For example, the Consumer Products Safety Commission (CPSC), charged with saving lives and protecting families, recently found that Amazon should be responsible as a distributor for 400,000 dangerous products the platform sold to consumers.¹² CPSC has been asking for more accountability from platforms, including CPSC’s bipartisan call before Congress in June¹³ and comments CPSC Chair Alex Hoehn-Saric made at AAFA’s Product Safety and Compliance Seminar in February¹⁴ calling out ways that platforms can do more to protect consumers. The CPSC notes there is often a correlation between products that fail to meet federal consumer product safety standards and those that are also counterfeit or have IP violations.

¹⁰Brand Protection Tips: Dupe Influencers on Social Media <https://www.aafaglobal.org/DupeInfluencers>

¹¹ TRACIT/AAFA Fraudulent Advertising Online Emerging Risks and Consumer Fraud https://www.tracit.org/uploads/1/0/2/2/102238034/tracit_fraudulentadvertisingonline_july21_2020_final.pdf

¹² CPSC Finds Amazon Responsible Under Federal Safety Law for Hazardous Products Sold by Third-Party Sellers on Amazon.com <https://www.cpsc.gov/Newsroom/News-Releases/2024/CPSC-Finds-Amazon-Responsible-Under-Federal-Safety-Law-for-Hazardous-Products-Sold-by-Third-Party-Sellers-on-Amazon-com>

¹³ CPSC Makes Bipartisan Call for Platform Accountability in Congressional Hearing https://www.aafaglobal.org/AAFA/AAFA_News/2024_Letters_and_Comments/CPSC_Makes_Bipartisan_Call_for_Platform_Accountability_in_Congressional_Hearing.aspx

¹⁴ Remarks of CPSC Chair Alexander D. Hoehn-Saric at American Apparel and Footwear Association (AAFA) 2024 Product Safety and Compliance Seminar <https://www.cpsc.gov/About-CPSC/Chairman/Alexander-Hoehn-Saric/Speech/American-Apparel-and-Footwear-Association-AAFA-2024-Product-Safety-and-Compliance-Seminar>

A long-term solution like the SHOP SAFE Act (H.R.8684¹⁵/ S. 2934¹⁶), – that holds platforms accountable, requiring platforms to institute proactive measures to curtail the sale of counterfeits, and requiring platforms to stop repeat infringers – would help to get to the root of counterfeiting *before* an item is posted online for a consumer to purchase.

The U.S. government, led by the Office of the U.S. Trade Representative, plays a key role in fighting the digital devalue chain of counterfeits. The Notorious Markets List process sheds light on the lack of action by platforms to stop the promotion and sale of counterfeits and offers tangible, and actionable, recommendations to make a real difference in the fight against counterfeits.

However, the exercise can only be effective if it fully recognizes that the promotion and sale of counterfeits online knows no borders. AAFA and its members are fed up with the lack of accountability for platforms, regardless of where they are headquartered. The net result is an explosion in the promotion and sale of counterfeits across platforms. The risks are real. Given the lack of proactivity by platforms on the back end, consumers are presented with dangerous products and fraud on the front end. These are global issues. We are looking to USTR, via this process, to address the counterfeiting issue holistically and not in a siloed, country by country, approach.

As AAFA has shared in previous NML comments, the U.S./China Phase One agreement positions the United States to act as it relates to U.S.-based platforms.:

- “The Parties shall combat the prevalence of counterfeit or pirated goods on e-commerce platforms by taking effective action with respect to major e-commerce platforms that fail to take necessary measures against the infringement of intellectual property rights.”¹⁷ The agreement addresses counterfeits on all platforms, regardless of where a platform is headquartered. Even providing more detail in Section E, “Piracy and Counterfeiting on E-Commerce Platforms In order to promote the development of e-commerce, China and the United States shall strengthen cooperation and jointly and individually combat infringement and counterfeiting in the e-commerce market. The Parties shall reduce piracy and counterfeiting, including by reducing barriers, if any, to making legitimate content available in a timely manner to consumers and eligible for copyright protection, and providing effective enforcement against e-commerce platforms.”

Given that the NML process was born as an out-of-cycle review from Special 301¹⁸; we ask the USG to apply the China Phase One agreement standard by listing domestic platforms on the 2024 NML, just as Amazon was listed in 2020.¹⁹

This is why AAFA is again naming U.S. based platforms for the proliferation in the promotion and sale of counterfeits on their platforms, and the lack of proactive steps to address it. U.S. platforms, as well as their

¹⁵ SHOP SAFE Act Coalition Endorsement Letter for House Introduction https://www.aafaglobal.org/AAFA/AAFA_News/2024_Letters_and_Comments/SHOP_SAFE_Act_Coalition_Endorsement_Letter_for_House_Introduction.aspx

¹⁶ AAFA Leads Cross-Industry Letter to Advocate for SHOP SAFE https://www.aafaglobal.org/AAFA/AAFA_News/2023_Letters_and_Comments/AAFA_Leads_Cross_Industry_Letter_to_Advocate_for_SHOP_SAFE.aspx

¹⁷ USTR Phase One: Economic and Trade Agreement Between the Government of the United States of America and the Government of the People’s Republic of China https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Economic_And_Trade_Agreement_Between_The_United_States_And_China_Text.pdf

¹⁸ 2024 Review of Notorious Markets for Counterfeiting and Piracy: Comment Request <https://www.federalregister.gov/documents/2024/08/16/2024-18337/2024-review-of-notorious-markets-for-counterfeiting-and-piracy-comment-request>

¹⁹ USTR: 2020 Review of Notorious Markets for Counterfeiting and Piracy [https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20\(final\).pdf](https://ustr.gov/sites/default/files/files/Press/Releases/2020%20Review%20of%20Notorious%20Markets%20for%20Counterfeiting%20and%20Piracy%20(final).pdf)

foreign subsidiaries, must be held to the same degree of accountability and set the standard expected of others with foreign headquarters.

In the pages that follow, please find evidence, drawn from our members, supporting our notorious markets list nominations. The evidence presented below details the lack of proactive controls, little to no measures to address repeat infringers, and the growing problems across the digital devalue chain of counterfeits - including fraudulent websites and fraudulent advertisements.

Thank you for the opportunity to provide feedback and your consideration. Please feel free to contact Jennifer Hanks, AAFA's Senior Director of Brand Protection, at jhanks@aafaglobal.org with questions or for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Lamar". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stephen Lamar
President and CEO
American Apparel & Footwear Association

The following pages include member feedback for why AAFA is nominating these platforms in 2024:

- **AliExpress**
- **DHgate**
- **Meta and all Meta platforms**
 - **Facebook**
 - **Instagram**
 - **WhatsApp**
 - **Threads**
- **Shopee**

In each section, we provide overall member feedback, discuss specific problems, and recommend specific solutions the platform can take. Notwithstanding our identification of these solutions, including some that have been recently announced for several of these platforms, AAFA recommends that each platform be included in the Notorious Markets List.

ALIEXPRESS

AAFA nominates AliExpress, owned by Alibaba Group Holding Limited [NYSE: BABA] and headquartered in Hangzhou, China²⁰, to be added to the Notorious Markets List. AliExpress has a history of selling counterfeit products and is regarded by many brands as a high-risk platform. American consumers have been warned of the platform's unethical allowance of counterfeit sales. For example:

USA Today wrote a review and conducted test buys across several product categories saying:

- "Buying products on AliExpress from major brands is typically a bad idea unless they're being sold from an official or licensed store....It's best to fork out the extra money on other trusted sites to ensure you'll receive the right product, and your card information won't be compromised."²¹

Red Points shares concerns about one major part of the digital devalue chain of counterfeits (devalue chain), hidden links, saying²²:

- "One of the main concerns faced by brands is Aliexpress' hidden links. These elusive links, which are used by sellers to discreetly offer branded items, can be a maze for the average shopper. They not only pose a threat to brand integrity but also to consumer trust..."

AliExpress: Overall AAFA Member Feedback

- An AAFA member shared that it has not been able to successfully take down knockoffs and counterfeit listings on AliExpress. The member only sells via its own website so anything sold on AliExpress would be counterfeit.
- A second member shared that AliExpress recently has required more documentation and proof from brands, which is delaying takedowns. With the removal of copyrighted material, the burden of proof is too strict as AliExpress will only enforce copyright images if they are active on a brand's website at that time. Without being able to cite the use of copyright images, brands are not able to stay in AliExpress'

²⁰ Alibaba Group - Fiscal Year 2023 Annual Report (pgs. 20-21, 84-85)

<https://static.alibabagroup.com/reports/fy2023/ar/ebook/en/20/index.html>

²¹ *USA Today*: How to shop at AliExpress without getting scammed: Not all sales are too good to be true

<https://reviewed.usatoday.com/money/features/is-aliexpress-legit>

²² Red Points: 11 ways to detect Aliexpress' hidden links.

<https://www.redpoints.com/blog/aliexpress-hidden-links/>

Good Faith program, which further slows down enforcement. This member shares that it must provide “proof up front (one for one) on copyright images.” Such a requirement is nearly impossible to meet from a resource perspective, which means the brand cannot remove the infringement.

- This overburden of required information was confirmed by another member, who said, “Aliexpress’ requirements for the deactivation of counterfeit listings are cumbersome and overly complex.” This member shares the below:
 - The IP Protection Platform (IPP) platform that is used for AliExpress is unnecessarily complex and cumbersome for brands and should be streamlined.
 - Teams that oversee enforcement for AliExpress to address (or respond to) IP infringement issues are inconsistent and change on a whim.
 - This member ends by saying that the system put in place by AliExpress is so complex and unhelpful that this brand tends to avoid it as much as possible. Instead, the member files temporary restraining orders (TRO)²³ in the U.S. directly against counterfeit sellers in China to freeze their payment accounts and to stop the seller from profiting from the sale of counterfeits on AliExpress. That means a court decision is needed when a member tries to take down a counterfeit listing on AliExpress.
- A third member shared that often first reports are rejected in an “automatic” manner, and this requires additional follow ups for removal to get around the baseless rejection.

AliExpress: Abundance of Counterfeits and Repeat Infringers

- One AAFA member shared that when searching for counterfeits in a particular count, it discovered that 100% of the items for their brand found on AliExpress were counterfeit.
- AAFA asked members how many counterfeits were reported to AliExpress from January to June 2024. Members returned the following metrics. (Please note numbers were rounded; please see methodology for explanation. Not all used these calculations; some returned measurements in other ways and shared reports with different timelines.) Please note for all numbers shared below, the brand is responsible for reporting the infringements to AliExpress. AliExpress takes no action to prevent these counterfeit products from being listed on their platform in the first place.
 - One member shared that it got AliExpress to remove 50 counterfeit products.
 - A second AAFA member shared that this brand removed around 290 infringing products, including counterfeits and Copyright logo infringements.
 - A third member shared that it got AliExpress to remove around 430 products.
- A fourth member shared that AliExpress does not have an effective stay-down policy, so the removed infringements and illicit sellers just turn around and populate the AliExpress platform again. This member shares that “counterfeits on AliExpress usually have the same content” so if AliExpress implemented proactive blocking and stay down measures, they would be helpful and effective.
- To demonstrate the extent of the problem, one only has to do a simple search on AliExpress. Regrettably, finding counterfeit items on AliExpress is extremely simple. An organic search on <https://www.aliexpress.us> using a few protected TM brand names of AAFA members returns a significant number of counterfeit items for a consumer to search, add to cart, and directly purchase.



²³ How to file a Temporary Restraining Order to protect your intellectual property <https://www.redpoints.com/blog/how-to-file-a-temporary-restraining-order/>

AliExpress: Potential Solutions to Position

- AAFA urges AliExpress to implement a simplified reporting process, improve the portal, increase communications with brands, and improve consistency with enforcement.
- Finally, AliExpress must implement proactive blocking and stay down measures to prevent repeat counterfeit listings and sellers.

DHGATE

AAFA again nominates DHGATE GROUP (DHgate)²⁴, headquartered in China, with branch offices in North America, Latin America, Europe, and other places, as a Notorious Market in 2024. AAFA nominated the platform in 2023.²⁵

AAFA appreciates the willingness of DHgate to share DHgate’s Influencer Management Report and to hold conversations with AAFA around areas the platform identified for improvement in 2024, including a new landing page to receive complaints from brands with a button for emails

<https://brand.dhgate.com/intellectualproperty/home>. A member shared “the pilot program is a welcome addition.”

We look forward to seeing the next steps around enhancements on product screening, process improvements around streamlining brand complaints, and ways to address repeat offenders. Given these improvements were launched on June 28, 2024, AAFA looks forward to hearing from members how these tools address counterfeit issues.

Furthermore, AAFA hopes these measures and learnings will lead to much-needed proactive measures, including enhancing IP protections for the DHgate Influencer Program and additional measures to prohibit the promotion and sale of counterfeit products. One member shared that the programs had done little so far to address counterfeits. The member has recently seen a slight reduction in counterfeit goods. However, this member (and others) need more time to determine if this is a sustainable trend.

DHgate: Overall AAFA Member Feedback

- One member shared that “DHgate should unquestionably be listed again in 2024” as the platform allows sellers to use deliberately manipulated images, including images that have digitally blurred logos. This practice creates a significant resource-intensive enforcement barrier and complicates removals of infringing listings. This member continues, “This ongoing issue, combined with the platform's inadequate enforcement measures, makes it essential for DHGate to remain listed as a priority concern in 2024.”
- If one creates a relationship with the platform, members have shared that, in some cases many of the issues are able to be controlled and proactive measures put in place to block the sales of counterfeits per brand.
 - One AAFA member shared, “We provide keywords to DHgate, and this has successfully reduced the number of infringing content on the platform. DHgate also collaborates with us when it comes to repeat infringers.”
 - Due to this relationship, this member shared they have not had any repeat infringers on the platform in the first six months of 2024.

²⁴ DHgate: About DHGATE Group

https://www.dhgate.com/about/about_us.html?msocid=3dbd94414ef967e814e587cd4f3e66a6

²⁵ AAFA Files 2023 Notorious Markets Comments to USTR

https://www.aafaglobal.org/AAFA/AAFA_News/2023_Letters_and_Comments/AAFA_Files_2023_Notorious_Markets_Comments_USTR.aspx

- A second member shares keywords with DHgate and this has been helpful; however, this member also reported almost three times the counterfeit listings in the first six months of 2024 when compared to the same reporting period in 2023.
- Another member reported that keywords are changing far too much and sharing these does little to bring reprieve of counterfeits for this brand; the member has asked DHgate to ban users from searching for the brand.
- An AAFA member, reporting for five brands, sees DHgate as a notorious platform due to the prevalence of counterfeit sellers based in China with direct ties to counterfeit manufacturing.
 - This member also raises concerns with the extent of information shared with counterfeit sellers by the platform. This member has seen instances where counterfeiters adjusted and reposted listings in response to the information the member provided to DHGate. This raises concerns about the potential sharing of tactics or insights that may aid these counterfeiters based on the submissions from brands.
 - This same member supports AAFA’s nomination of DHgate, saying, “...it is evident that DHGate has become a primary hub for high-quality counterfeit goods, actively facilitated by influencer marketing and the platform's established ties to Chinese manufacturers specializing in counterfeit products. This situation presents significant challenges in combating the inflow of counterfeit goods, which are being marketed directly to consumers ...”

DHgate: Abundance of Counterfeits

- One member conducted a keyword search of DHgate.com on three separate occasions in September 2024 and found a median average of 34% of the items found were counterfeit.
- Another AAFA member shared that, for two brands in its portfolio, this member found the number of counterfeits for 2024 is “almost three times higher when compared to 2023.”
- A third member, reporting for two of the brands in the company’s portfolio, shared that from January to June 2024 this brand reported just above 2,730 counterfeit listings.
- A fourth member removed approximately 3,520 counterfeit products in the first six months of 2024: almost three times the number of counterfeits in the same six-month period in 2023.
- A fifth member removed around 8,060 listings for one brand between January-June 2024.
- Another member reports that counterfeit issues decreased after a summer meeting with DHgate representatives, reporting that the first six months of 2024 was like 2023. However, after the meeting, the situation improved as this member continued direct communications with the platform.
- Another member flagged an issue with an illicit seller, this seller was spotlighted as one of the top marketplace counterfeit sellers enforced against for August. Each one of these indicators should be a red flag to the platform with any due diligence and verifications in place.
 - The seller used this brand’s TM in the seller’s name.
 - The brand enforced on almost 20 listings for this one seller.

DHgate: Gateway to Dupe Influencers to Promote the Sale of Counterfeits

- Members continue to raise concerns about DHgate programs and influencer partnerships.
- DHgate’s affiliate program²⁶ states, “Agency, individual advertiser, marketing company, blogger, social influencer, if you have a way to spread, you have the chance to earn unlimited commissions and bonus earning commissions for driving sales via unique referral links.” Thus, influencers promote DHgate’s products through content that encourages followers to purchase items, including counterfeit products, to make money.

²⁶ DHgate: What is DHgate Affiliate Program
<https://aff.dhgate.com/>

- A member shares that the platform continues to promote itself as the destination for high-quality replicas. And despite DHgate's claims of cracking down on abuses by influencers in the regular Influencer Management Report, many questions remain and search results on platforms like TikTok and Instagram suggest otherwise.
- This is supported by *Wired's* story "The Influencers Getting Paid to Promote Designer Knockoffs from China" from March 18, 2024²⁷:
 - "Shoppers who find using a shipping agent daunting can turn instead to DHgate, a 20-year-old ecommerce marketplace *that is one of the most established purveyors of counterfeits from China.*"
 - "In 2020, DHgate launched an in-house affiliate marketing program, and more influencers on TikTok and Facebook soon began recommending products from the site, including counterfeit Golden Goose sneakers and knockoff jewelry from Van Cleef & Arpels. To prevent their videos and posts from being taken down, they often refer to it simply as "the little yellow app," a reference to the color of the company's logo. DHgate did not return requests for comment."
- A member shares that an internal investigation into DHgate reveals that the platform utilizes sophisticated algorithms to swiftly learn shopper preferences. Then, based on these learnings, the platform serves the consumer heavily populated search results and suggested purchases that often include counterfeit goods associated with brands the user is researching, even when such brand names are absent from product descriptions. This member shares the investigation resulted in numerous counterfeits of the member's brand, none of which explicitly identified the brand (evading enforcement) but instead used generic terms. Furthermore, this member noted that these counterfeit goods were featured in paid advertisements across various websites, indicating a focused marketing strategy aimed at driving sales of counterfeit products.
- In addition to influencer endorsements, DHgate also promotes hidden links – a practice that further complicates efforts to regulate counterfeit sales on the platform. Red Points reports:
 - "Sellers on DHGate list a simple, often cheap, and seemingly unrelated item to sell on the platform. The pictures and descriptions are purposefully vague or misleading, which will put the average buyer off buying the product. Then, when someone who knows about these hidden links buys the item, they communicate directly with the seller, typically outside of DHGate, to specify the actual item they want. Usually, this is a counterfeit version of a more expensive brand."²⁸ This practice allows consumers to access an illegal counterfeit market directly from the platform.

DHgate: Potential Solutions to Position

- As mentioned above, AAFA looks forward to learning from members in 2025 how the steps put in place in June 2024 help to prevent counterfeits more proactively across DHgate.
- AAFA encourages DHgate to further review all influencer-related programs and ensures cross-collaboration where brands file reports. AAFA also urges proactive education ahead of selling products or launching campaigns to reduce illicit sales of counterfeits and infringing items.
- Further, it could be helpful for DHgate to explore protecting the platform's IP across other platforms as some others in the industry have done and/or creating working groups across other platforms to curtail counterfeits holistically and to ensure that infringements and illicit sellers are not just moving from platform to platform.

²⁷ Wired: The Influencers Getting Paid to Promote Designer Knockoffs From China <https://www.wired.com/story/influencers-paid-promote-designer-knockoffs-from-china/>

²⁸ Red Points: How to takedown DHGate hidden links <https://www.redpoints.com/blog/dhgate-hidden-links>

- One AAFA member has noticed an increased presence of content shared in closed groups, and forums (Reddit) that relates/directs to DHgate.
- Another member shared that influencers promote “dupes” across social media platforms, directing users to DHgate links to buy counterfeits.
- A third AAFA member shared that many counterfeit listings, after being removed from Alibaba platforms, move to DHgate several days later. This creates more work for brands as they need to start the removal cycle again.
- AAFA suggests the platform institute a reverse image look-up tool as many counterfeit listings tend to use the same image.
 - However, the issue of blurred images must be addressed. AAFA urges DHgate to follow the lead of many other platforms, prohibiting blurred images as counterfeit sellers strategically modify, distort, or obscure key elements of brand logos and trademarks to evade detection.
- AAFA urges DHgate to move away from its current siloed approach to enforcement, only looking at specific actions to terminate specific listings. Instead, DHgate should look across the seller’s other listings, stores, or removing the seller. Otherwise, DHgate’s current narrow approach only allows the seller to continue operations.
- A few members reporting for the NML cycle stated they have not yet used the programs launched over the summer. AAFA will work with DHgate to schedule a member briefing and discussion with Q/A as AAFA did in September 2023.

META

AAFA again nominates each Meta (NYSE: META; headquartered in Menlo Park, CA, with a global footprint²⁹) platform in the association’s 2024 comments. AAFA has nominated Meta / Facebook five times since 2020, and the association does so again in 2024 due to the proliferation of counterfeit products promoted and sold across all Meta platforms, despite all that brands do to share information with the platform.

AAFA Calls for the U.S. Government to do More to Hold Meta Platforms Accountable

We begin our discussion about Meta with another appeal to the Biden Administration to make sure the extensive counterfeit problem our members have encountered on Meta platforms is accurately reflected in this year’s Notorious Markets report. U.S.-based platforms promote and sell products primarily to American consumers, much more so than any foreign-based platforms. That means counterfeits promoted and sold by U.S.-based platforms are much more likely to harm American families.

The U.S. government’s apparent decision to exclude, in the last few NML reports, U.S.-headquartered platforms that enable the promotion and sale of counterfeits opens consumers to wide-ranging dangers and sets an unattainable standard for global platforms. The U.S. must lead, not turn a blind eye. The U.S. government should set the standard and then ask other nations to meet us where we are, versus demanding more of others than here at home.

- U.S. businesses, workers and economies are being impacted by Meta’s lack of addressing the problems across platforms. One brand, headquartered in the United States, shares, “Meta should no longer be shielded from scrutiny simply because it is a U.S.-based company.”
- The brands and members reporting in this process are also U.S. headquartered companies and/or provide communities coast to coast with jobs and economic input.

²⁹ Meta <https://www.metacareers.com/locations>

Additionally, the growth of social commerce creates many issues across the digital devalue chain of counterfeits as it promotes and facilitates the sale of counterfeit products. For example, “Meta lets Amazon users buy on Facebook, Instagram without leaving apps”, as reported by CNBC, states:³⁰

- “For the first time, customers will be able to shop Amazon’s Facebook and Instagram ads and check out with Amazon without leaving the social media apps,” Amazon said.
- AAFA has asked Amazon staff for more information about this program. AAFA has not yet been able to learn more.

Furthermore, research from the Michigan State University Center for Anti-Counterfeiting and Product Protection (A-CAPP) showed that Facebook is a major counterfeit supplier for consumers:

- “74% of the global consumers surveyed purchased counterfeits relying mainly on social media and e-retail platforms.”
- “Among those purchasing counterfeits through social media, 68% did so via Facebook” with clothes and shoes as top-purchased counterfeit items.³¹

The burden from platforms should not shift to consumers who may – or may not – be aware they purchased a counterfeit from a “trusted” platform.

Meta: Overall AAFA Member Feedback

- One member reported over 10,000 enforcement actions on Facebook from January-August 2024; the same member reported over 9,300 enforcement actions on Instagram from January-August 2024. These are by far the most time and resource intensive social platforms in global brand protection enforcement for this AAFA member when compared to any other social platform.
 - During this time the two most popular locations with removals were Ukraine and the Republic of the Philippines: The top five countries are listed below with rounded numbers.
 - Ukraine: 1,250
 - Republic of the Philippines: 850
 - United Arab Emirates: 230
 - Russia: 110
 - India: 90
- Just for August 2024, one member shared it enforced on approximately 80 posts, with a 30% compliance, on Instagram. For Facebook, this member had a 7% compliance on 14 posts reported for the month of August. These were two of the top three platforms of global concern for this brand; the other platform included had 100% compliance with approximately 60 reported posts; Meta is a clear outlier in compliance and attention to protect IP.
- A third member, reporting for five brands, shares that IP abuse on Meta’s platforms has been a persistent issue, requiring the company to independently detect and remove over 4,000 instances of IP abuse monthly. These reported incidences by the brand are growing annually by 20-30%.
 - This member calls for “the official designation of Meta’s platforms – including Facebook, Instagram, and WhatsApp – on the USTR’s Notorious Markets List.” Approximately **80% of this member’s efforts to detect and report counterfeit goods across Facebook and Instagram involve sellers operating from outside the US.** Thus, given Meta’s global reach, these widespread counterfeit abuses target both consumers in the U.S. and around the globe.

³⁰ Meta lets Amazon shoppers buy products on Facebook and Instagram without leaving the apps

<https://www.cnbc.com/2023/11/09/meta-lets-amazon-users-buy-on-facebook-instagram-without-leaving-apps.html>

³¹ Alhabash, S., Kononova, A., Huddleston, P. Moldagaliyeva, M., & Lee, H. (2023). Global Anti-Counterfeiting Consumer Survey 2023: A 17 Country Study. East Lansing, MI: Center for Anti-Counterfeiting and Product Protection, Michigan State University. <https://a-capp.msu.edu/article/global-anti-counterfeiting-consumer-survey-2023/>

- Another AAFA member reporting for five global brands states, “Meta's platforms – Facebook, Instagram, and WhatsApp – pose the most significant threat to [this member’s] intellectual property (IP) and brand integrity among all global platforms. This is largely due to Meta’s unchecked and complacent stance on widespread abuses across its services.”
- Some members were not able to support quantification because the Meta tool does not allow retention of historical information for brands to chronicle or export data. Please see the transparency section for concerns about information sharing from AAFA members.
 - For example, when a member was asked how many repeat infringers this brand reported to Meta, the member stated, “We only use the brand protection tool to detect and report content. We do not have access to this piece of information.”
- Delays in response and removals were top issues across all members. One shared the following, “we receive a response within 2 to 5 business days”
 - Another member echoes this saying it has seen a great deal of transition with enforcement staff and this brand has “experienced longer response times and at times we have seen no resolution, especially on retractions.”
- One member shares that “the absence of more robust actions or systemic changes has left persistent issues largely unaddressed, reducing the effectiveness of the information-sharing efforts between Brand Owners and Meta.” Brands see little to no return on investment (ROI) to engaging with Meta, after sharing keywords or other requested information. Brands see this as a waste of time until the platform starts to move from talk to action.
 - Two members shared that they have experienced reprieve when working with the platform, showing that Meta can address issues when a relationship has been cultivated.
 - Another member shares that this brand routinely converses with Meta and reports counterfeit goods almost daily. This member shares that Meta’s actions are all reactionary and solely depended upon brand’s reporting. Any requests for proactive measures are ignored. The member continues to share “we are not sure what is Meta doing to prevent and correct the issues [raised].”
- Almost all members reporting have large issues with the level of IP infringement and available counterfeits across Meta.
 - One member, reporting for several global brands, shares that for all social media takedowns - 45% are on Facebook, 52% on Instagram, and the remaining 3% removed from other social platforms.
 - A second AAFA member shares that Facebook and Instagram are among the top seven social platforms tracked and Facebook is responsible for 36% of the enforcements with Instagram at 59%, and the other five platforms tracked sharing 5% of the enforcements for August.
 - A third AAFA member shares that, for August, this member has Facebook and Instagram in the top three social platforms tracked globally with Instagram at a 31% compliance rate, Facebook at a 7% compliance rate, and the third platform at 100% compliance rate.
 - A separate AAFA member shared that 100% of items searched for on Meta were all counterfeit products.
- Another AAFA member voiced concerns with Meta offering illicit actors the ability to micro target consumers of legitimate brands, “counterfeit sellers are extensively using Meta (IG, FB, WhatsApp) to promote and sell their products. Leveraging Meta’s technology, the sellers can target consumers of our brands with great accuracy and gain visibility that they should never benefit from.”
 - A second member raised concern with Meta’s relationship with global illicit actors, sharing that this global brand has detected fraudulent Meta advertisements in about 25 different languages, spanning at least 30-40 countries.

- Most of the fraudulent advertisements are globally targeted and can only be seen in the specific countries targeted under the transparency section when required by EU regulations. Enforcement is hindered when a brand is not able to view for enforcement.
 - Investigations show that most fraudulent advertisements for this member focus on Eastern European countries and approximately 90% of the paid ads across Meta platforms target consumers (for this member) outside the U.S. and originate from accounts operating outside the U.S.
 - Based on the languages used in the fraudulent advertisements, this member shares that the top 10 countries include:
 - Thailand
 - Vietnam
 - India
 - Mexico
 - Russia
 - Poland
 - France
 - Germany
 - The Philippines
 - South Korea
- One member flags a variety of top concerning trends across Meta, with support from other members, including:
 - Meta advertisements, sponsored content, and promoted posts infringing on IP and/or promoting counterfeit products, including taking consumers out of Meta platforms to fraudulent websites (both discreet and not discreet) selling counterfeit goods.
 - This is supported by numerous members with one sharing, “for the past two years, we have detected and reported numerous promoted posts for counterfeit websites. These posts are specifically targeting our customers and are highly damaging to our brand.”
 - Issues with the lack of enforcement around livestreams were shared across members as they are key tools to promoting the sale of counterfeit items and evading detection.
 - One member shared that the lack of Meta’s policing of Facebook Live sellers online leaves a void for criminals organizing large counterfeit rings to support, encourage, and benefit from visible counterfeit sales.
 - The misuse of legitimate brand imagery or trademarks by impersonating accounts or private/closed accounts engaging in the promotion, sale, or distribution of counterfeit goods.
 - Another member has shared that some of these accounts are often hacked and then run counterfeit operations.
 - Some of these use the TM in the account name.
 - Encrypted WhatsApp communications facilitate counterfeit sales that are difficult to detect or monitor – and Meta’s reporting of WhatsApp is not included within the platform monitoring tool but is an email.
 - Insufficient detection and removal processes for repeat infringers with no stay down mechanisms once an illicit actor is removed.
 - A separate member shares that “the same sellers keep listing the same product and listings”.
 - Inadequate tools for monitoring and enforcement of intellectual property rights, particularly on platforms where content is transient (e.g., Stories, Threads).
- Other members flag these as top issues across Meta platforms:

- One member shares that fraudulent advertisements and Instagram posts that link to fraudulent websites are the top concern for this brand as it relates to Meta given the flawed policy to address, as Meta does not remove “fan or opinion” based accounts even if the accounts are obviously fraudulent/fake.
- A second member flags the offering of counterfeits and parodies of this brand’s TM for sale as a top issue across Meta.
- A third member flags the abundance of counterfeit products for sale across Facebook marketplace with a fourth member sharing that Meta’s algorithms are set to specifically target users most likely to engage with the counterfeit market.

Meta: Unwillingness to Engage and Address Problems Flagged by Brands

- In 2023, after AAFA filed NML comments, members flagged large issues around fraudulent advertisements across both Facebook and Instagram. AAFA immediately reached out to Meta staff, ahead of the 2023 holidays, to try to collaborate and bring reprieve to members during the critical holiday shopping season. It took approximately three weeks to get a conversation with Meta to raise the issues. Even after the conversation, Meta did little to no follow-up to try to resolve the concerns raised by brands, either by brands working directly with Meta, nor from the regular reporting done by brands or service providers directly in the portals.
 - Members share that fraudulent advertisements and counterfeit sales spike during the holidays, especially around Christmas and Black Friday/Cyber Monday. A member, reporting for two brands, reported that for the last few years, there have been delays with Meta’s response and compliance lagged during this critical shopping season.
 - Another member echoes this saying, “We see this activity at least double during the Holidays. They are responsive only through the brand portal. Traditional takedown process becomes very delayed.”
- Meta declined repeated AAFA invitations in 2024 for a transparent and open conversation with AAFA members, even with AAFA members providing questions ahead of the conversation. Instead, Meta participated in a sponsored AAFA webinar, which was heavily scripted and provided no opportunity for dialogue with AAFA members to engage and resolve issues.
- One member has shared keywords as it relates to blocking fraudulent advertisements across Instagram and Facebook. This member went as far as to share images, keywords, and items this brand would not ever use in advertisements. Meta not only ignored the calls for help, especially around each key shopping holiday when issues increased, but continued to make a profit off every fraudulent advertisement claiming to be from this brand – despite having an abundance of knowledge of the illicit activity happening across the platform.
- A member has flagged that even if a counterfeit seller is removed from either Facebook and/or Instagram the fraudulent advertisements the seller has paid to run continue, promoting illicit items.
 - A second member has supported this discovery, saying, “we observed it in several cases.” This should immediately change; when Meta removes a seller all items tied to this seller should promptly be removed – across all Meta platforms.

Meta: Facebook / Overabundance of Counterfeits Available

- One member reporting for two brands flagged counterfeits across marketplaces in Colombia - <https://www.facebook.com/marketplace/medellin>
 - This member found that on average across three different days of counting counterfeits that 19% of the items found were counterfeits.

- This same member shared for January-June 2024 for two brands, this member removed over 8,630 products and for the same period in 2023, they removed around 5,420 counterfeit products – over a 60% increase in counterfeits reported from 2023 to 2024.
- A second member states that when this member did a search across shoes and jackets for two of the brands in this member’s portfolio, 95% were counterfeits.
 - This member shared they removed over 18,500 counterfeit listings from January to June 2024, compared to 2,700 during the same period in 2023, a seven-fold increase from 2023 to 2024.
- A third member shared that a search for hats, hip packs, and shirts for this member’s brand returned a finding that 100% of the items were counterfeit, reporting a total of over 200 counterfeit products from January-June of 2024 on Facebook. Links are included below.
- A fourth member shares that this member’s brand has removed about 500 counterfeit listings from January to June 2024, for both U.S. and the Middle East and Africa Region (MEA) across both Instagram and Facebook.
- Another global brand reported that about 90% of the clothing items listed for this member’s brand in two searches in September 2024 across Pakistan, Brazil, and Mozambique were counterfeit. Links are provided below.
 - Globally this member removed over 5,480 counterfeit products from January to June 2024.

A member, reporting for two brands, has shared that most counterfeits for this member were found in local buy and sell groups and pages across Facebook, including. Direct links are not available to the product as these are scrubbed for brands from the Meta tool:

facebook.com/addx025	Indonesia
facebook.com/alefboutique	Costa Rica
facebook.com/ebieon9shop	Malaysia
facebook.com/groups/1073094176041504	Costa Rica
facebook.com/groups/126548571336383	Costa Rica
facebook.com/groups/129874817672180	Sierra Leone
facebook.com/groups/1361921280526355	Colombia
facebook.com/groups/1377553959236240	Colombia
facebook.com/groups/1401410696763715	Costa Rica
facebook.com/groups/1428158334806263	Colombia
facebook.com/groups/148033133963924	Colombia
facebook.com/groups/154046581379271	Colombia
facebook.com/groups/156926391520799	Colombia
facebook.com/groups/161182671184797	Costa Rica
facebook.com/groups/1721998584733865	Colombia
facebook.com/groups/1722037444632906	Colombia
facebook.com/groups/2134122173486397	Colombia
facebook.com/groups/2234371443244782	Costa Rica
facebook.com/groups/267548508285764	Colombia
facebook.com/groups/268739087090157	Costa Rica
facebook.com/groups/272466951277550	Colombia
facebook.com/groups/274109080985485	Colombia
facebook.com/groups/310928964226822	Colombia
facebook.com/groups/316028802107252	Costa Rica

facebook.com/groups/335982842057568	Colombia
facebook.com/groups/389889677840720	Costa Rica
facebook.com/groups/401448782460992	Madagascar
facebook.com/groups/431602337616090	Colombia
facebook.com/groups/434715514894513	Colombia
facebook.com/groups/488962244506715	Costa Rica
facebook.com/groups/552289702451849	Costa Rica
facebook.com/groups/571346924991241	Sierra Leone
facebook.com/groups/589907152495950	Colombia
facebook.com/groups/619806934728619	Colombia
facebook.com/groups/774621984469554	Colombia
facebook.com/groups/800525423387625	Colombia
facebook.com/groups/896754424135307	Colombia
facebook.com/groups/925965174227765	Costa Rica
facebook.com/groups/957921034882761	Sierra Leone
facebook.com/groups/choriciandonaranjo	Costa Rica
facebook.com/groups/mickypijamas	Colombia
facebook.com/groups/sanisidroheredia	Costa Rica
facebook.com/groups/ventasbaratus	N/A
facebook.com/heatedgrailsph	Philippines
facebook.com/justinevander	South Africa
facebook.com/kadmieboutique	Costa Rica
facebook.com/mayitarobletobacon	N/A
facebook.com/orion.palesa	South Africa
facebook.com/profile.php?id=100006418412703	Nigeria
facebook.com/randa.sale.142	N/A
facebook.com/tuttienergias	N/A
facebook.com/ugochi.j.viola	Nigeria
m.facebook.com/profile.php?id=100053744931291	Kenya
m.facebook.com/profile.php?id=100057430826488	Malaysia
m.facebook.com/profile.php?id=100063580689192	Costa Rica
m.facebook.com/profile.php?id=100064378140424	Madagascar
m.facebook.com/profile.php?id=100091531796310	Lebanon
m.facebook.com/profile.php?id=61550039500587	Nigeria
m.facebook.com/profile.php?id=61554379648894	Colombia
m.facebook.com/profile.php?id=61556992645845	N/A
m.facebook.com/profile.php?id=61557703030736	Colombia
m.facebook.com/profile.php?id=61559937780887	Colombia
m.facebook.com/profile.php?id=61559979702408	Zambia
m.facebook.com/profile.php?id=61561108471707	South Africa
m.facebook.com/profile.php?id=61563022754091	Colombia

Two additional members shared the below Marketplaces links to where most reported counterfeits were removed for these two separate members. Direct links were not available to products as these are scrubbed for brands from the Meta tool; however, one member found fresh counterfeit listings as of September 27, 2024, that have not yet been reported:

facebook.com/marketplace/medellin	Colombia
facebook.com/marketplace/108104849224069	Pakistan
facebook.com/marketplace/saopaulo	Brazil
facebook.com/marketplace/110614772300029	Mozambique
facebook.com/marketplace/item/527719623235234/	Viña del Mar, VS
facebook.com/marketplace/item/522043160422823/	Jumeirah area of Dubai, United Arab Emirates
facebook.com/marketplace/item/3759690244286209/	Hong Kong
facebook.com/marketplace/item/550191370770608/	Hong Kong
facebook.com/marketplace/106647439372422	Viña del Mar, VS
facebook.com/marketplace/111070818917271	United Arab Emirates
facebook.com/marketplace/hongkong	Hong Kong

Meta: Instagram / Overabundance of Counterfeits Available

- One AAFA member shares that “Instagram should remain listed by AAFA in 2024 due to its persistent failure to implement effective, proactive measures against counterfeit activity. Many counterfeiter profiles exhibit similar bio details, identical images, and consistently promote counterfeit goods. Some accounts use legitimate-looking images with misleading bios stating, “not for sale,” “collection only,” “fan content” or “no commercial” to mask counterfeit operations, which are instead conducted through other Meta platforms, such as WhatsApp or Instagram DM. Additionally, these accounts are paying for ads to promote counterfeit activity, which are amplified by Instagram’s algorithm, further increasing their reach to unsuspecting consumers.”
- One member removed 534 counterfeit products during the first 6 months of 2024.
- A second member, reporting for two of its dozen brands, enforced on more than 11,640 counterfeit listings from January to June 2024 across Instagram.

Meta: Fraudulent Advertisements Across Platforms (Instagram + Facebook)

- Fraudulent advertisements that link to fraudulent websites (replica sites), fraudulent advertisements for jobs (career scams) and fraudulent advertisements that promote counterfeit products are rising to be top concerns for brands.
- During busy shopping periods around key holidays, one AAFA member reported up to 20 fraudulent advertisements per day that linked to fraudulent websites. The member shares that the Meta team is prompt to take them down; however, the damage is done as the listings were already live and active for consumers to click on when reported. This member shares that it is that it is on the brand to make multiple reports for a specific domain name to be banned from being advertised. (And as noted above from another member, it is on the brand to also find the domain name, and a third member comments that the websites redirected from the Meta fraudulent advertisements are usually scams with no information on the operator.)
 - A second member shares that Meta is known for “fraudulent listings to deceive users into providing personal information or making payments for non-existent items.”
- A member, reporting for five brands, has shared that the volume of fraudulent advertisements has doubled from 2023 to 2024 for one of its brands. If Meta terminates the reported fraudulent

advertisements, it rarely looks holistically across the user, including addressing the Facebook or Instagram pages associated with these ads, the stores the seller may have, or other items associated with the account. Each must be reported individually.

- The member continues to share that over 90% of fraudulent advertisements it reported **are linked to transnational criminal organizations, located outside the U.S.**
- The fraudulent advertisements often direct users to fraudulent websites for the theft of personal information with claims of selling counterfeit goods. This member tracked a Facebook advertisement targeting Mexican customers that linked to several fraudulent websites. Despite reporting and alerting Meta, these fraudulent advertisements continued to run daily for over six months, highlighting Meta’s inadequate response as it likely profited from the fraudulent advertisement revenue.
- A second member enforced on over 3,200 fraudulent ads from November 2023 to September 2024.
 - This member shares that they have identified that most of the accounts running the fraudulent advertisements had been hacked globally. Furthermore, this member frustratingly has shared time and again with Meta that this member *never has any sale products*. Thus, anything offering a discount is a fraudulent advertisement and all fraudulent advertisements offer some type of discount.
 - Despite Meta having all this information with red flags, shared by the rights holder and reported in the brand portals, in 2024 from January to September, the member has enforced on over 1,700 fraudulent advertisements for one brand.
- A third member shares that Meta continually modifies the tool brands must use to report fraudulent advertisements, particularly in ways that reduce its effectiveness in detecting fraudulent advertisements. The member believes “these changes appear financially motivated, as paid ads are a significant revenue stream for Meta, creating a conflict of interest.”
- In a call for Meta to be listed as a Notorious Market from this member, this member notes that problems with fraudulent advertisements is the top brand protection concern on Meta: “Meta platforms are overwhelmed with counterfeit products. The most damaging category is ads, followed by posts and marketplace.”
- A fifth AAFA member states that Meta has a high tolerance for fraudulent advertisers after being reported – Meta should block scammers after just one fraudulent advertisement.
- A sixth member shares that fraudulent advertisements & promoted posts across Meta both on Instagram and Facebook often mislead consumers to falsely think that the legitimate brand is offering a discount. Counterfeiters do not explicitly state their products are fake, only revealing this through private communication channels like WhatsApp or direct messages.
- A seventh AAFA member shares that the enforcements and issues are beyond time consuming and resource intensive – especially during peak shopping of the holidays and Valentine’s Day, reporting the following items reported for fraudulent advertisements across Instagram and Facebook:
 - November 2023 – over 420
 - December 2023 – over 420
 - January 2024 – close to 100
 - February 2024 – close to 440. The member shares that these fraudulent advertisements were connected to 45 fraudulent websites across 35 different Meta advertisers.
 - March 2024 – less than 5

Meta: Facebook - Fraudulent Advertisements/Fake Accounts

- One member shares that Facebook groups – both public and private – are used to traffic counterfeit goods, ranging from global wholesaling to small-scale manufacturing, with minimal intervention from

Meta. Requests from brands to terminate the groups illicit selling are permitted; however, most requests are rejected without clear reasoning.

- Investigation data from this member shows that around 75% of these illicit Facebook groups are operated from outside the US, involving global suppliers of counterfeit goods.
- Even when substantial evidence is provided by a brand, Meta frequently rejects termination requests, particularly for larger groups with significant followings.
- A second member (participating in the brand portal, constantly sharing an abundance of data and information with Meta) shares that there are fake Facebook accounts using a brand TM, claiming a false like-affiliation with the brand, where criminals claim to recruit models for the brand, often targeting younger users.
 - Meta's response time for such impersonation reports has ranged from 48 hours to 5 days. One account reported took a week to be terminated.
 - The member notes that 80% of reported impersonation profiles on Facebook are linked to accounts or individuals outside the United States.
- A fourth member has removed over 640 fraudulent advertisements from January to June 2024 on Facebook.
- A fifth member has removed over 2,400 fraudulent advertisements from January to June 2024 on Facebook.

Meta: A Cumbersome IP Tool with Safety Issues

- Safety is an issue AAFA has raised several times directly with Meta and noted in previous NML comments submitted by the association in 2022 and 2023. A personal Facebook account, not a work or business specific email or Facebook account, is needed for a brand representative to initiate setting up the brand portal for a company.
 - AAFA again calls on Meta to immediately resolve this and to allow brands, using a work email, to set up the brand portal without a working personal Facebook page. Use of any personal pages presents safety and privacy concerns for employees as Meta has shared personal details with counterfeiters and illicit actors about reports. This puts employees and families in danger and members have stated they know of threats made to employees because of this action from Meta.
 - Members have reported that a personal account is still needed with at least one saying they are not able to switch to a brand account.
- Members have stated that there have been no improvements to the tool for reporting in 2023-2024.
 - However, members have shared that any updates make it harder to detect associated websites for fraudulent advertisements. One member shares that ads that appear in the Meta Brand Protection Tool (BRP) previously showed associated websites to help brands easily detect fraudulent websites and enforce against the websites. A member shares that the updated tool no longer shows the associated website, and Meta is not willing to share the associated website. Brands must take extra steps to manually check for the associated website from the profile if they can link the chains of illicit activity.
 - A second member shares, Meta has brands completely dependent on the BRP tool for detection and enforcement; however, this is cumbersome and is not responsive.
 - This brand suggested that Meta should offer API access to all brand protection providers.
- Several members share that the image recognition tool provides no valuable results.
 - One member said this function is highly unreliable and often fails to detect counterfeit products, with goods frequently bypassing the tool's detection, allowing fake listings to remain live.

- Another member shared that the image recognition tool is “Quite effective, the tool works well, and we can really work on the result.” This calls into question whether Meta is changing how the tool functions for different brands based on the widely different viewpoints.
- One AAFA member shares that Meta’s BP tool provides inconsistent enforcement and minimal transparency for brands. Despite all the information and data brands feed in, Meta fails to develop proactive solutions and does not create improvements despite the claims and promises to address issues at scale. (Something as simple as blocking users from using a TM in a profile name, page name or other area, for participating brands, could help with proactive enforcement. Checking advertisements with the brand they claim to sell for would also layer on additional checks to combat fraudulent advertising.) Furthermore, many features within the tool remain broken or simply don’t work, creating more work for brands and little IP protection.
 - These two points – inconsistent enforcement and minimal transparency are echoed by a second AAFA member.
 - Transparency: Meta deletes enforcement metrics every 90 days within the tool, making it impossible for brands to track long-term trends or measure enforcement success. In fact, many members were not able to provide answers to specific questions if they do not retain enforcement records. Meta does not allow brands to pull out an enforcement report. Brands don’t have clear visibility and aren’t able to assess the efficacy of Meta’s actions over time.
 - Furthermore, this member shares that Meta deletes report details, sometimes after days, leaving only a report number with no corresponding information or context. Thus, brands are left without essential details about the specific items, sellers, or listings they reported, which complicates follow-up actions and future investigations or reinstatements if a dispute is resolved. This practice obstructs brand protection enforcement efforts by removing critical case history, making it difficult to build cases against repeat offenders or track recurring issues.
 - Inconsistent enforcement: This member reports that the time it takes Meta to remove reported counterfeit listings is highly inconsistent, ranging from 24 hours to 7 days. This lends to a lack of predictability in takedown times bringing uncertainty for brand protection teams, making it harder to manage ongoing enforcement strategies effectively.
 - This member also shares the following issues with the tool:
 - Defective keyword search function: This member shares that it returns 90% false positives wasting valuable time and resources as brands must manually sift through products unrelated to their TMs.
- Another member shares that there are no established protocols for escalating severe cases of abuse, leading to widespread abuse across Meta.

Meta: WhatsApp and the Lack of Enforcement

- One member reports that criminal networks use WhatsApp to coordinate illicit activities, including counterfeit distribution. Meta does not offer an official mechanism within the tools for reporting for brands but WhatsApp accounts are frequently involved in counterfeit goods sales. WhatsApp accounts linked to reported and terminated Facebook and Instagram accounts should also be terminated by the platform and we call on Meta to establish a clear reporting protocol for WhatsApp accounts to address IP abuses and counterfeiting – and for a user to not just block an illicit counterfeit seller, but for Meta to have a way to understand what illicit activity is happening across WhatsApp.

- Furthermore, it should not be the responsibility of brands to find these messages and report to Meta; users should not be targeted to receive spam and unwanted messages, especially when these senders are not a contact or in a common group with the recipient.

Meta: Potential Solutions to Position

- As many of these issues are ones that have been raised time and again, based on continuous feedback from members, AAFA is concerned there is little the platform is willing to do to resolve any of the issues raised by legitimate brands. Consumers continue to be impacted by the ability to purchase counterfeits or susceptible to fraud. Even knowing that nefarious operators are operating on the platform, the illicit activity is allowed by Meta to continue. AAFA is looking to other ways to hold Meta accountable as nothing to date has worked and issues only grow.
- A member reports that when this brand reported multiple posts linked to the same counterfeit seller, Meta will often take down the seller entirely. AAFA hopes Meta will apply this as a best practice across all sellers and activities.
- AAFA urges Meta to utilize AI to help detect misuse. One brand shares that it suspects that AI is likely being used to duplicate counterfeit descriptions, images, and fraudulent advertisements across Meta platforms, as it can efficiently replicate and scale such content.
 - Another member flags that the body of the promotional messages appear to be written using AI as most profiles reported have the same body of text, images/videos.
- AAFA encourages Meta to take immediate action ahead of the holidays to deploy more robust controls and proactive measures to prohibit the sale of counterfeits and to eradicate fraudulent advertisements across all of its platforms.
 - As AAFA detailed in 2022³² and in 2023³³, AAFA believes there is a profit incentive for Meta not to address illicit activity relating to fraudulent advertisements where other checks and balances are allocated to verify other advertisements on Meta.

SHOPEE

AAFA again nominates Shopee Pte. Ltd. (Shopee or NYSE: SE; headquartered in Singapore) in 2024, for the seventh time since 2018. This nomination is attributed to the growing volume of counterfeit products available to consumers through the Shopee platform, the lack of proactive measures in place to prohibit counterfeits, and the lack of Shopee’s ability to address repeat infringers.

AAFA, in particular, wants to highlight the following Shopee platforms – Brazil: <https://shopee.com.br/> Chile: <https://shopee.cl/> Columbia: <https://shopee.com.co/> Indonesia: <https://shopee.co.id/> Mexico: <https://shopee.com.mx/> Thailand: <https://shopee.co.th/> Vietnam: <https://shopee.vn/> Malaysia: <https://shopee.com.my/> The Philippines: <https://shopee.ph/> Singapore: <https://shopee.sg/>.

AAFA has greatly valued its continued working relationship with the Shopee team in 2024 and looks forward to staying informed about any upcoming organizational changes, including staffing updates, in the coming year.

AAFA is optimistic about continuing its partnership with Shopee to further address and resolve ongoing brand concerns and implement proactive measures, such as enhanced seller verification procedures with sellers not able to use a brand’s TM, and platform-wide refinements and measures to address repeat infringers.

³² AAFA Files 2022 Notorious Markets Comments to USTR
https://www.aafaglobal.org/AAFA/AAFA_News/2022_Letters_and_Comments/AAFA_Files_2022_Notorious_Markets_Comments_USTR.aspx

³³ AAFA Files 2023 Notorious Markets Comments to USTR
https://www.aafaglobal.org/AAFA/AAFA_News/2023_Letters_and_Comments/AAFA_Files_2023_Notorious_Markets_Comments_USTR.aspx

Shopee: Overall AAFA Member Feedback

- In 2024, the counterfeiting issue on Shopee has ceased to decline, with some members saying that it is getting far worse than it was in 2023.
- Repeat infringers are an ever-growing problem. One AAFA member explains that “as of 2024, [almost 10,330] new and repeat infringers have been reported at least twice, many remain active as of today. These statistics reveal that the overall counterfeit activity has increased from 2023-2024 due to repeat infringers remaining on the platform.”
- Shopee appears as a top platform of concern across global platforms for several members during the 2024 reporting period.
- Shopee’s actions, although well intended, have been insufficient to combat the counterfeiting issues rampant on their sites.

Shopee: Abundance of Counterfeits Across All Shopee Platforms

- AAFA members shared global data to illustrate that the counterfeiting issue is widespread across multiple Shopee platforms and not siloed to a single market. Shopee was included as one of several top infringing global platforms for several members, with repeat offenders contributing to the ongoing problem.
 - One AAFA member shared that, out of 498 platforms identified for counterfeit activity, Shopee (Indonesia) and Shopee (Philippines) ranked among the top five online marketplaces for counterfeit reporting and removal.
 - A second AAFA member shared that out of 50 global platforms, the following Shopee platforms were in this member’s top 10 list: Shopee (Malaysia), Shopee (Singapore), and Shopee (Colombia).
- One member, reporting for a singular brand, removed over 42,630 counterfeits across five Shopee markets in the first six months of 2024, from January to June.
 - Shopee Brazil: More than 11,270 counterfeits removed.
 - Shopee Philippines: Over 6,180 counterfeits removed.
 - Shopee Mexico: Over 5,700 counterfeits removed.
 - Shopee Chile: Close to 3,420 counterfeits removed.
 - Shopee Malaysia: Close to 3,270 counterfeits removed.
- A second AAFA member, reporting for two brands, also provided a detailed breakdown across several Shopee platforms over the same six-month period with a total of around 5,140 counterfeit removals. The top five include:
 - Shopee Thailand (TH): Over 830 counterfeits removed.
 - Shopee Malaysia (MY): Over 740 counterfeits removed.
 - Shopee Vietnam (VN): Close to 650 counterfeits removed.
 - Shopee Colombia (CO): Over 640 counterfeits removed.
 - Shopee Philippines (PH): Close to 600 counterfeits removed.
- A third AAFA member revealed that from August 2023 to August 2024, Shopee accounted for 62% of all online marketplace takedowns.
- A fourth member shared that, according to their findings, “Nearly 90% of counterfeit listings on Shopee offer goods at prices so low they are clearly counterfeit. Implementing price controls to block listings with outrageously low prices could drastically reduce counterfeit activity.” Despite the member’s proposals to Shopee, no action had been taken on this front throughout 2023 and 2024.
- Members have echoed concerns about the lack of measures to address repeat infringing sellers. One member stated that “without effective measures against repeat offenders, Shopee’s progress in protecting brands remains limited.”

Shopee: Feedback on Shopee’s Brand Protection Partnership Program and Inability to Terminate Repeat Infringers

- At the start of the Shopee Brand Protection Partnership (BPP) program, members were hopeful and saw the good-faith efforts by leadership to help address the overabundance of counterfeits. However, since the 2023 launch to date, AAFA members participating in the program have seen little reprieve from counterfeits or efforts to address repeat infringers. Members are still waiting for the proactive learnings that were set to come from this portal launch and hope those will translate across the industry to bring results.
- One AAFA member shares that at first, the program was helpful in reducing counterfeits; however, from the last NML reporting period to September 2024, counterfeits have surged, with sellers able to repost counterfeit items after removal, exposing a critical flaw in Shopee’s inability to terminate repeat offenders.
 - Shopee reported blocking between 60,000 and 80,000 listings for this member quarterly; however, the member’s data didn’t match. The member continued to find between 6,000 and 8,000 counterfeit listings monthly. Many of these listings were tied to high-volume sales and yet Shopee was not addressing the root of the problem – seller termination.
 - The member found this cycle resulted in a flood of takedowns that created impressive quarterly metrics but failed to meaningfully reduce counterfeit activity. The lack of strategic enforcement against sellers wasted resources and undermined the program, demonstrating that Shopee's current methods were, and remain, insufficient to address the core counterfeiting issue. Accordingly, brands are not able to internally justify the time and resources for the ROI of participation in the program.
 - This member’s concerns and disappointment were echoed by other members, with the majority complaining about the common issue of Shopee’s failure to terminate repeat infringing sellers.

Shopee: Potential Solutions to Position

- AAFA encourages Shopee to institute clear three-strike policies against counterfeit and IP-infringing sellers, with strict penalties and removals from selling, including stay-down mechanisms to keep illicit sellers off all Shopee platforms.
 - For example, one brand shared that in 2023, around 5,550 sellers were reported to Shopee for this brand for infringement at least three times; 80% of these sellers remain active in 2024, despite multiple reports.
- AAFA urges platform improvements and proactive measures to reduce the overabundance of counterfeits and the resource-intensive work for brands.
 - One AAFA member noted that “... The reporting process in place is burdensome and lack of communication is frustrating. The processing time [and requirements] can vary from one platform to the next and overall, we do not feel that proactive measures are in place.”
 - AAFA urges Shopee to create the ability to report and takedown across all of Shopee’s platforms at once. One of the most common themes that emerged during the comment process was the need for greater efficiency in reporting counterfeit goods across Shopee. One brand suggested the allowance of “selecting multiple IP rights/different Trademark/Classes in a single report.” Another member proclaimed that they “can create a more automated process in their IP Enforcement portal...” However, confusion arose among some members due to “different procedures and approaches between countries” These time-consuming procedural barriers could be eliminated and allow brands to be more willing to engage with Shopee in its efforts to prevent counterfeiting.
- AAFA urges Shoppe to allow service providers, assisting brands with enforcement, to properly monitor Shopee platforms. One AAFA member shared that “access to the platform for service providers [has]

been made increasingly more complicated in the last 12 months. This is very concerning and does not indicate a will to tackle IPR infringements.” AAFA has been on several emails trying to work with a member and Shopee on this issue.

- AAFA urges Shopee to require all sellers participate in an onboarding and education program ahead of selling on the platform. Further, sellers should agree, before the start of a single sale, to not list a counterfeit product. The seller should agree to penalties and removal from Shopee platforms if the seller is found in violation.
- AAFA urges Shopee to immediately takedown infringers once reports. Shopee gives infringers 7 – 10 days to remove a counterfeit or infringing product. One member noted that “consumers can still purchase fake products within that window, and Shopee imposes no serious penalty against the infringers ...”
- AAFA urges Shopee to remove the limit of reports or increase the maximum number per day given the overwhelming volume of counterfeits and the increase members have seen in 2024.
- A member summed up the current situation well, saying “The platform's lack of meaningful progress, coupled with growing counterfeit volumes, demonstrates either an inability or unwillingness to implement common-sense solutions. Key problems include the failure to terminate repeat sellers, inadequate seller vetting, the continued promotion of counterfeit goods through paid ads, and a refusal to implement price controls. Shopee’s misguided focus on listing removals instead of tackling the root cause—repeat infringers—further exacerbates the problem. Without these essential reforms, counterfeit sales will continue to harm legitimate businesses.”

THE INCREDIBLE SCOPE OF THE ONLINE COUNTERFEIT PROBLEM – BIG AND GETTING BIGGER...FAST

As mentioned in the first few pages of this submission, never has the counterfeit problem been at the scale it is today. And it is not limited to the five platforms nominated by AAFA. To show the size and scale of counterfeit enforcement, we worked with three members to detail the global enforcement for each AAFA member with some enforcing on a range of platforms from one or two to 500. Given the quantification method AAFA distributes to form these comments, many platforms were not named; however, this does not mean that other platforms do not cause harm or have an overabundance of counterfeits.

- In August 2024, one AAFA member removed about 24,300 infringing listings from around 50 global online marketplaces, the top infringing platforms regionally for this one AAFA member include AliExpress, other Alibaba listings, Shopee (Brazil and Colombia) and RedBubble. The top platforms of concern for this member include, AliExpress, Lazada (Philippines), Meta, RedBubble, Shopee (Brazil, Colombia, Malaysia, Singapore), Shojaeddin Shafa (Ukraine), and TikTok.
 - The listings were placed by approximately 5,900 sellers with over 20 sellers able to use this brand's TM in the username of a seller. Across social for this same member in August 2024, the brand removed close to 3,125 infringing posts on Instagram, close to 1,120 on Facebook, and over 160 on TikTok for selling counterfeits. Most of the social posts were removed from Ukraine, followed by the Philippines.
 - Thus far in 2024, from January to August, the brand shares that they have removed close to 300,000 total listings with close to 50,000 total sellers reported.
- A second member shares that from January 2024 to August 2024, this member enforced on close to 1,500 marketplace listings across 10 platforms (Taobao, Amazon, Poshmark, Lazada, DHgate, eBay, Mercari, PChomeUSA, Walmart, and Etsy), around 130 social media posts across three platforms (Instagram Pinterest Facebook), and about 15 domains.
- A third AAFA member shares their online enforcement activities for August 2024. This one member enforced on around 1,630 marketplace listings with South Korea as the top country for take downs.

- The top 10 online marketplaces out of approximately 500 being monitored include Shopping Naver, Tokopedia (Indonesia), Facebook (United States), Shopee (Indonesia), Shopee (Philippines), Lazada (Indonesia), AliExpress (China), AliExpress (United States), Lazada (Thailand), eBay (United States) and eBay (Canada).
- The top 10 social media platforms include Facebook (United States), Instagram (United States), Pinterest (United States), YouTube (United States), Reddit (United States), VK (Russia), Twitter (United States), TikTok (United States), M. weibo (China) and Spotify (United States).
- Some of the top 10 counterfeit sellers reported globally for this brand used the brand's TM in the designated seller field.

Additionally, we asked members to provide yes/no responses on whether they believe the platforms listed by USTR in 2023 should remain on USTR's 2024 NML list. Based on member feedback, we identified the top three platforms to remain listed as:

- IndiaMART
- Pinduoduo
- Taobao

These platforms were flagged by multiple brands for their ongoing issues with counterfeit products, lack of repeat infringer policies and enforcement, and lack of proactive measures.

ISSUE AREA SPOTLIGHT WITH TRENDS OR ADDITIONAL CONCERNS TO POSITION

Spotlight: Resources Allocated Across Brand Protection

We asked members to share overall resource allocations with us to help detail the hours and time devoted to combatting the digital devalue chain of counterfeits. These resources could be reallocated to other areas of the business or to help with innovation and job creation. The U.S. Global Value Chain Coalition found that about 75% of the retail value of an apparel article imported from abroad and sold in the U.S. comes directly from U.S. valued added content, including American ingenuity.³⁴

- Two separate members share that they each spend between \$200,000-300,000 each year across brand protection initiatives.
- A third member shared that:
 - Externally, this member spends above \$300,000 per year on outside vendors to combat online counterfeiting.
 - Internally, nearly \$750,000 is allocated to internal resources and work to address more complex cases involving online counterfeiters.
- A fourth member brought attention to the fact that the differentiation between "online" and "offline" is no longer relevant, as most of their cases have an online link, explaining "We have a budget of around \$650,000 to cover all our anticounterfeiting activities. It does not seem relevant to distinguish between online and offline activities as most of our cases seem to have a ramification to the internet.
- Many members have recognized the need for a dedicated person (or teams) to handle the counterfeiting issue year-round. One member explained "We have one of our employees focus on Brand Protection year-round." This decision displays the seriousness of the counterfeiting issue for brands, as the creation of an entirely new role in the workplace is required which had not existed historically.

³⁴ Moongate Associates Analyzing the Value Chain for Apparel Designed in the United States and Manufactured Overseas https://img1.wsimg.com/blobby/go/f23cae5a-2434-44f6-91d1-3695bf2115a3/downloads/1btmo725c_680153.pdf

Spotlight: Growing Scam and Fraud Dangers for Consumers

- As inaction grows, so do additional problems across the digital devalue chain of counterfeits. Members share concerns about the use of Gmail addresses in email scams and the lack of ways to report the misuse, and inaction to remove the email from operation. Members have also shared wide-ranging scams as it relates to influencers by criminal networks and scams involving human resources – fake jobs listed, fake impersonation of brand staff to hire, and much more.
- AAFA is looking to learn more from members to map solutions and is working with the International AntiCounterfeiting Coalition (IACC) to bring member issues directly to the attention of law enforcement with the hope of awareness raising public service announcements at a minimum.

Spotlight: Online/Offline Anti-Counterfeiting Case Studies

Members continue to invest and focus on eradicating counterfeits both online and offline; however, members share that there is now little difference between online and offline as the two are so closely linked. More must be done to address the creation, movement, promotion, or sale of dangerous counterfeits. We need solutions across the digital devalue chain of counterfeits, from manufacturing to fraudulent promotion to the illicit sale.

- Looking for ways to address the counterfeiting issue holistically is essential. Brands conduct enforcements globally, including in China. However, if action/enforcement happens on in only one country, the promotion and sale of counterfeits will be diverted to other regions or platforms.
- During this NML comment period, several AAFA members, reported that since Chinese authorities raided the headquarters of Pandabuy in April 2024³⁵, online counterfeit supplies have dwindled beyond TikTok. The efforts were credited to Corsearch in the media report as they began tracking Pandabuy in 2022.
 - Since the Pandabuy raids, Corsearch tells AAFA that the company has closely watched both the behavior of sellers and third-party distributors of counterfeit products. Corsearch flags an alarming trend with the “use of social media platforms to boost their global outreach and attract customers searching for trusted sellers of counterfeit products. The affiliate programs offered by these distributors remain a significant contributor to their social outreach and therefore their revenue streams. Targeting these intermediaries is a key focus for our brand protection efforts to ensure we continue to disrupt these supply chains.”
 - Brands in the NML process reported that “before the Pandabuy raid many influencers were pushing PB and DHgate on social media.” This brand shared that the company has seen less of this direct engagement over the last several months, since the June raid.
- An AAFA member provided these details of recent anti-counterfeiting efforts in China.
 - One of the in-country investigators for this brand spotted counterfeit baseball caps with this brand’s TM in an International Trade Mall. The investigator was able to trace the illicit goods to a specific warehouse. The brand authorized a criminal raid, and the local law enforcement agency conducted a two-day raid at four sites and one factory. As a result, over 3,140 counterfeit baseball caps and 3,040 labels bearing the brand’s TM were seized at these locations.
 - Conditions in the factory do not meet the high standards the customers of this brand expect in the manufacturing of products for this brand. For example, hats for this brand are made in Fair Trade Certified™ Factories and the conditions found in the counterfeiting factories did not satisfy these standards.

³⁵ Yahoo! Finance: Chinese authorities seize millions in counterfeit goods from Pandabuy
https://finance.yahoo.com/news/chinese-authorities-seize-millions-counterfeit-092551987.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuYmluZy5ib20v&guce_referrer_sig=AQAAAGtDXbK0D6900BzmkGyb5Skn4JFHx7pm7FRq6a8E4xX1HiNF3u1e6Hhk_ci69Le8yVcsgTvC6SGjtldXP6aRLQY3_AwZI4PGUZ8ptNFcb-UoXBWFQkVOLinFPUvMILZENmMbrG65uLioFJJ8svCm-gapOhrh20_gymt87QetU2G

- The estimated retail value of the seized products is estimated approximately to be around \$144,500.
 - All suspects were detained and are currently being held in custody at detention centers with the release of one suspect on bail pending trial.
 - The brand intends to support local authorities by providing counterfeit verification reports and this brand will continue to criminal prosecution.
 - The brand reports that enforcement efforts will range from \$8,000 - \$20,000 pending criminal or civil prosecution.
 - Brands, and their local counsel and service providers, are committed to using all the tools available to stop offline to online counterfeiters, to protect IP and support law enforcement in addressing attacking counterfeiting at its source. The cost associated with these raids illuminates the financial burden counterfeits impose on a brand.

Spotlight: Fraudulent Websites

- AAFA is working on a fraudulent website white paper to help explain the challenges with the status-quo of reporting and to bring forward the growing issues as it impacts consumer fraud.
- A member, reporting for two out of the dozen brands in the company’s portfolio, would like to see more pressure from government leaders on “non/low compliant internet service providers (ISPs) & registrars that host phishing and/or fraudulent websites sites.”
 - This brand calls out the following:
 - Cloudflare
 - Fiber Grid
 - Alibaba Cloud
 - Interconnects
- AAFA formally raised this issue in the association’s NML comments in 2023 and will continue to discuss the present and growing challenges in the upcoming white paper.

CONCLUSION

AAFA and members are increasingly frustrated with the lack of accountability for domestic and international platforms promoting and selling counterfeits. There is a huge discrepancy between what many platforms claim they are doing and what members see in day-to-day enforcement. AAFA calls for immediate action to address the concerning volume and accessibility of dangerous counterfeits, and promotion of those counterfeits, across major online platforms, including social media and social commerce platforms:

- Members have shared that from Oct 2023 to September 2024, problems across the digital devalue chain of counterfeits are worse, with greater implications of fraud for consumers. Issues are becoming more difficult to find, investigate, report, track, and continue to report, especially as allocated brand resources dwindle and platforms further reduce transparency efforts. Platforms have more information on the backend regarding sellers and learnings from the data brands already share with daily enforcement efforts.
 - For example, brands share that sellers often can use hidden keywords on the backend when listing products. Platforms say sellers can’t do this; however, when searches return items indicating differently, without words in a description, this is concerning and further erodes trust.
 - Platforms also allow users to pull in official brand photos to promote and sell counterfeits, sellers should be required to use authentic, and unobstructed, photos of the products they claim able to sell, and no photos with any sections blurred out. This would help consumers and brands distinguish between genuine and counterfeit items.

- Furthermore, CBP has said that efforts within the 321 Data Pilot are helping to curb counterfeits at points of entry; one of the items listed now is a “product picture”. Amazon, eBay, and Zulily are already participating in this project.³⁶ CBP states, "Since the establishment of the program in 2019, CBP has experienced significant operational benefits."³⁷
- AAFA continues to share industry trends and keywords in one-on-one engagement with various platforms, in reports, and in AAFA’s annual NML comments. AAFA hopes platforms will make the internal case that more should be done with this information to protect their users.
- Addressing counterfeits should be a key priority given all the Biden Administration and others before have done previously in this area in a bipartisan manner:
 - U.S. Department of Homeland Security: "Combating Trafficking in Counterfeit and Pirated Goods" report³⁸
 - Economic and Trade Agreement Between the United States of America and the People’s Republic of China Fact Sheet: Intellectual Property³⁹
 - INFORM Consumers Act (Law 15 U.S.C. § 45f)⁴⁰
 - Congressional Hearing: Innovation, Data, and Commerce Subcommittee “The Fiscal Year 2025 Consumer Product Safety Commission Budget”⁴¹
 - U.S. Customs and Border Protection: CBP Expands 321 Data Pilot Participation⁴²
 - CBP: FY 2021 Intellectual Property Rights Seizure Statistics Book⁴³
 - Congressional Hearing: Back to School with the SHOP SAFE Act⁴⁴
 - CPSC Finds Amazon Responsible Under Federal Safety Law for Hazardous Products Sold by Third-Party Sellers on Amazon.com⁴⁵
 - White House FACT SHEET: President Biden’s Safer America Plan⁴⁶
 - White House FACT SHEET: Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on De Minimis Shipments with Unsafe, Unfairly Traded Products⁴⁷

³⁶ CBP Expands 321 Data Pilot Participation

<https://www.cbp.gov/newsroom/national-media-release/cbp-expands-321-data-pilot-participation>

³⁷ CBY FY 2021 IP Seizure Report <https://www.cbp.gov/sites/default/files/assets/documents/2022-Sep/202994%20-%20FY%202021%20IPR%20Seizure%20Statistics%20BOOK.5%20-%20FINAL%20%28508%29.pdf>

³⁸ U.S. Department of Homeland Security: "Combating Trafficking in Counterfeit and Pirated Goods" report <https://www.dhs.gov/publication/combating-trafficking-counterfeit-and-pirated-goods>

³⁹ Economic and Trade Agreement Between the United States of America and the People’s Republic of China Fact Sheet: Intellectual Property https://ustr.gov/sites/default/files/files/agreements/phase%20one%20agreement/Phase_One_Agreement-IP_Fact_Sheet.pdf

⁴⁰ INFORM Consumers Act (Law: 15 U.S.C. § 45f) <https://www.ftc.gov/legal-library/browse/statutes/inform-consumers-act>

⁴¹ Congressional Hearing: Innovation, Data, and Commerce Subcommittee “The Fiscal Year 2025 Consumer Product Safety Commission Budget” <https://energycommerce.house.gov/events/innovation-data-and-commerce-subcommittee-hearing-the-fiscal-year-2025-consumer-product-safety-commission-budget>

⁴² U.S. Customs and Border Protection: CBP Expands 321 Data Pilot Participation <https://www.cbp.gov/newsroom/national-media-release/cbp-expands-321-data-pilot-participation>

⁴³ CBP: FY 2021 Intellectual Property Rights Seizure Statistics Book <https://www.cbp.gov/sites/default/files/assets/documents/2022-Sep/202994%20-%20FY%202021%20IPR%20Seizure%20Statistics%20BOOK.5%20-%20FINAL%20%28508%29.pdf>

⁴⁴ Congressional Hearing: Back to School with the SHOP SAFE Act: Protecting Our Families from Unsafe Online Counterfeits <https://www.judiciary.senate.gov/committee-activity/hearings/back-to-school-with-the-shop-safe-act-protecting-our-families-from-unsafe-online-counterfeits>

⁴⁵ CPSC Finds Amazon Responsible Under Federal Safety Law for Hazardous Products Sold by Third-Party Sellers on Amazon.com <https://www.cpsc.gov/Newsroom/News-Releases/2024/CPSC-Finds-Amazon-Responsible-Under-Federal-Safety-Law-for-Hazardous-Products-Sold-by-Third-Party-Sellers-on-Amazon-com>

⁴⁶ White House FACT SHEET: President Biden’s Safer America Plan <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/21/fact-sheet-president-bidens-safer-america-plan/>

⁴⁷ White House FACT SHEET: Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on De Minimis Shipments with Unsafe, Unfairly Traded Products <https://www.whitehouse.gov/briefing-room/statements-releases/2024/09/13/fact-sheet-biden-harris-administration-announces-new-actions-to-protect-american-consumers-workers-and-businesses-by-cracking-down-on-de-minimis-shipments-with-unsafe-unfairly-traded-products/>

- United States Trade Representative: USTR Releases 2023 Review of Notorious Markets for Counterfeiting and Piracy⁴⁸
 - Open industry comment period: Regulations.gov⁴⁹
- The Government Accountability Office: "INTELLECTUAL PROPERTY: Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeit Market"⁵⁰
- United States Department of Justice: eBay to Pay \$59 Million to Settle Controlled Substances Act Allegations Related to Pill Presses Sold Through its Website⁵¹
- Further, AAFA calls on the Administration to help to move the SHOP SAFE Act forward this Congress. The other half of what President Biden asked for with the Biden Safer Plan – the liability on online marketplaces⁵² – resides in the pending SHOP SAFE Act legislation.⁵³
 - Without SHOP SAFE, online platforms are readily taking advantage of consumers due to little, or no, front-end verification and built-in anonymity, with questionable attention to repeat infringers.
 - The SHOP SAFE Act has been endorsed by cross-industry groups.⁵⁴ SHOP SAFE must include a holistic approach, including all regions, all platforms, and all social media⁵⁵, given the expected growth of social commerce⁵⁶ and the concerns outlined in this report.
 - 2024 Coalition Endorsement Letter [H.R.8684]⁵⁷
 - 2023 Coalition Endorsement Letter [S. 2934]⁵⁸
 - AAFA calls on the U.S. government to open an inclusive, fair, and transparent intake process to receive wide-industry feedback before providing direction to the Organization for Economic Co-operation and Development (OECD) regarding the “Guidelines for Countering Illicit Trade in Counterfeit Goods on Online Marketplaces,” making the guidelines public.⁵⁹
 - Any guidelines should allocate clear platform accountability, include clear guidelines for platforms to address repeat infringers, and advocate for long-term proactive measures to combat counterfeits before they are listed for purchase online, protecting consumers, helping businesses, and American workers avoid the harmful effects of counterfeit products sold online.

⁴⁸ United States Trade Representative: USTR Releases 2023 Review of Notorious Markets for Counterfeiting and Piracy <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/january/ustr-releases-2023-review-notorious-markets-counterfeiting-and-piracy>

⁴⁹ 2023 Review of Notorious Markets for Counterfeiting and Piracy [Docket (USTR-2023-0009)] <https://www.regulations.gov/document/USTR-2023-0009-0001/comment>

⁵⁰ The Government Accountability Office: "INTELLECTUAL PROPERTY: Agencies Can Improve Efforts to Address Risks Posed by Changing Counterfeit Market" <https://www.gao.gov/assets/gao-18-216.pdf>

⁵¹ United States Department of Justice: eBay to Pay \$59 Million to Settle Controlled Substances Act Allegations Related to Pill Presses Sold Through its Website <https://www.justice.gov/opa/pr/ebay-pay-59-million-settle-controlled-substances-act-allegations-related-pill-presses-sold>

⁵² FACT SHEET: President Biden’s Safer America Plan | The White House <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/21/fact-sheet-president-bidens-safer-america-plan/>.

⁵³ Senators Coons, Tillis introduce SHOP SAFE Act to crack down on harmful counterfeit e-commerce goods (senate.gov) <https://www.coons.senate.gov/news/press-releases/senators-coons-tillis-introduce-shop-safe-act-to-crack-down-on-harmful-counterfeit-e-commerce-goods>.

⁵⁴ Are the online goods you’re buying really all that good? Or are they phony? <https://wtop.com/consumer-news/2024/09/are-the-online-goods-youre-buying-really-all-that-good-or-are-they-phony>

⁵⁵ Does the Arrest of Telegram Founder-CEO Pavel Durov have any Implications for IP Owners? <https://authentix.com/knowledge-center/does-the-arrest-of-telegram-founder-ceo-pavel-durov-have-any-implications-for-ip-owners>

⁵⁶ Forbes: 35 E-Commerce Statistics of 2024 https://www.forbes.com/advisor/business/ecommerce-statistics/#sources_section

⁵⁷ SHOP SAFE Act Coalition Endorsement Letter for House Introduction https://www.aafaglobal.org/AAFA/AAFA_News/2024_Letters_and_Comments/SHOP_SAFE_Act_Coalition_Endorsement_Letter_for_House_Introduction.aspx

⁵⁸ AAFA Leads Cross-Industry Letter to Advocate for SHOP SAFE https://www.aafaglobal.org/AAFA/AAFA_News/2023_Letters_and_Comments/AAFA_Leads_Cross_Industry_Letter_to_Advocate_for_SHOP_SAFE.aspx

⁵⁹ Industry Sends Letter to USG Requesting OECD Comment Process https://www.aafaglobal.org/AAFA/AAFA_News/2024_Letters_and_Comments/Industry_Sends_Letter_to_USG_Requesting_OECD_Comment_Process.aspx

- Any guidelines or government agreements should go above the floor of where we are today with combating counterfeits and protecting intellectual property across all platforms.
- Calling on U.S. and foreign platforms to:
 - Globally apply the best practices offered in the U.S. Department of Homeland Security's "Combating Trafficking in Counterfeit and Pirated Goods" report,⁶⁰
 - Deploy voluntary measures outlined in the voluntary 321 Data Pilot⁶¹
 - Adhere to compliance with the INFORM Consumers Act across all sellers globally and encourage strong enforcement by the Federal Trade Commission; and,
 - Start to apply the merits of SHOP SAFE; details included in this submission show why this policy is needed and why consumers need parity with offline and online-commerce.

METHODOLOGY

PHASE I: Quantifying the Number of Counterfeits Across Platforms

AAFA first surveyed members to collect all platforms to list in the 2024 process. Second, AAFA formed a ranking poll to understand the top platforms of most concern across AAFA member participants.

AAFA offered ways to quantify in August and/or September, using a model outlined in a May 2011 EU MOU to address counterfeits crossing online markets⁶², where possible for the top platforms selected from AAFA's poll. This is a similar methodology deployed in 2022 and in 2023. However, members also offered other quantification methods based on business priorities.

- AAFA members focused on the region where the specific platform is of most concern for their brand globally.
- Members selected one highly counterfeited product to monitor in this market per platform.
- Members selected a keyword to search for the first 50 results or first two pages of results to show what percent of these items are authentic or counterfeit.

AAFA totaled all reported counterfeit percentages per market mentioned and took the average for these comments.

Some brands also reported other areas of counterfeiting of most concern based on the brand protection efforts for the company, including some reporting fraudulent advertisements and flagship store metrics.

AAFA also asked for reported figures per the number of takedowns and collected other information as provided by members either year-to-date or over a six-month period.

PHASE 2: Qualitative Questionnaire to Gather Feedback Per Platform

To understand more about the devalue chain of the online counterfeit problem from AAFA members, AAFA created an intake form per nominated platform to understand the nuances of the process from brands, service providers, and others across a range of issues.

⁶⁰ U.S. Department of Homeland Security "Combating Trafficking in Counterfeit and Pirated Goods"
https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf

⁶¹ Federal Register: Agency Information Collection Activities: 321 E-Commerce Data Pilot
<https://www.govinfo.gov/content/pkg/FR-2019-11-15/pdf/2019-24800.pdf>

⁶² EU MOU "The Memorandum of understanding (MoU) on the sale of counterfeit goods on the internet"
https://ec.europa.eu/growth/industry/strategy/intellectual-property/enforcement-intellectual-property-rights/memorandum-understanding-sale-counterfeit-goods-internet_en

With this approach and the information uncovered in this process, AAFA compiled this document. Note that since a platform is not formally named, it does not mean that the platform is not an issue for members. AAFA has selected to focus attention on the top platforms for most participants.

PHASE 3: Comment Development

In 2024, AAFA's NML comment standard has changed to round any numbers provided. In a conversation with one platform in early 2024, staff shared that this platform tried to reverse look-up the information in AAFA's comments to unmask the brand providing comments to AAFA. Often brands have conversations with platforms and where platforms are not able to resolve the issue or because of a business relationship, brands then come to associations to help resolve on behalf of the industry. It is unfortunate that issues aren't solved holistically and that platforms do more work to uncover members vs. addressing issues at the root for all.

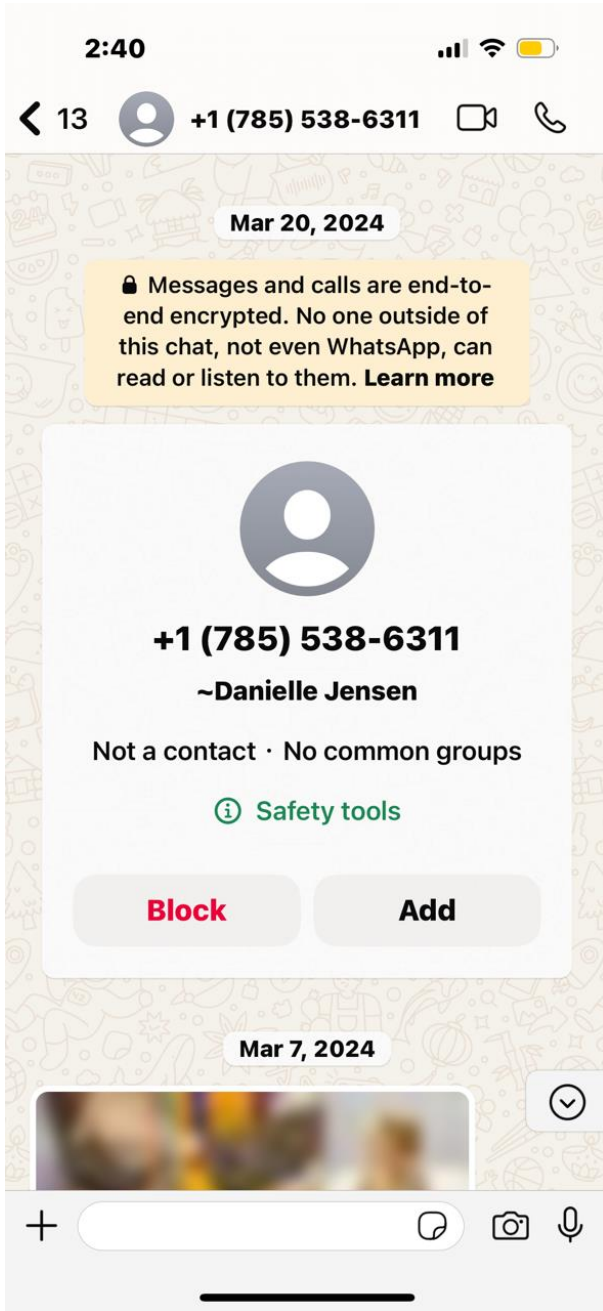
In February 2024, AAFA extended invitations for open engagement to platforms to join AAFA's monthly Brand Protection meetings (one per month). AAFA members appreciated information sharing and opportunities for an open discussion with Shopee, TikTok & TikTok SHOP, Alibaba Cloud, Tencent, Amazon, and Temu. Additionally, AAFA staff have met one-on-one with representatives from Mercado Libre, DHgate, and eBay.

Others reduced engagement to the point where it was not of value for AAFA members to only have two questions answered and others opted to decline the invitation for a transparent dialogue at all.

AAFA will map additional engagement based on member feedback in this process and our future strategic plan. We look forward to engaging with platforms willing to have a transparent relationship – and appreciate the cultivation of a good-faith working relationship.

APPENDIX SECTION

Example WhatsApp facilitating and allowing the sale of counterfeits made by an unknown sender to an AAFA employee in a cold contact in March 2024



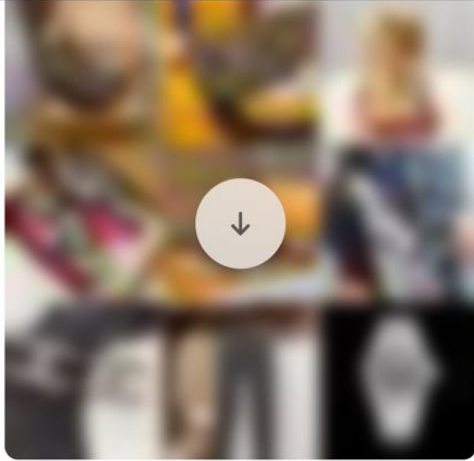
2:40



< 13



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This is the link of our products, please check it out. If you are interested, please reply "Y" and click the vip business whatsapp specified at the back to contact us:
<https://wa.me/12657824822>



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wholesale LV, YSL, Chanel,
Dior, Gucci, Hermes
handbags, shoes, watches,
jewelry and so on.

<https://luxury-bags-shoes.x.yupoo.com/>
This is the link of our
products, please check it out.
If you are interested, please
reply "Y" and click the vip
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at the back to contact us:
<https://wa.me/13657824823>
Then send me the product
picture, I will give you the
wholesale price. This ad will
not be replied, please be sure
to contact the designated VIP
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10:15 PM

The sender won't see if you read their
messages until you reply or add them as a
contact.

Block

Add



Additionally, as AAFA's comments were being crafted on September 25, 2024, another cold outreach was made to AAFA staff. A second example is below. As you can see, this business account is not a contact of the receiver.

