

U.S. Policy Position Paper – Accountability for Counterfeiters

Amazon is committed to driving counterfeits to zero. We know that this is a global challenge that requires enhanced partnerships across industry and governments around the world. To better find and hold counterfeiters accountable, Amazon supports ongoing collaborations and expanded partnerships to:

- 1. Exchange information on counterfeiting activity to help stop counterfeit products at the border***
- 2. Share information about blocked counterfeiters to help the industry stop more counterfeiters earlier***
- 3. Increase resources for law enforcement to prosecute counterfeiters***

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

Unfortunately, counterfeiting remains a persistent threat around the world. The Organization for Economic Cooperation and Development (OECD)¹ estimates that pirated and counterfeit products make up 2.5% of world trade—that's \$464 billion a year—equal to the gross domestic product of the country of Belgium. So, while the prevalence of counterfeits in the Amazon store may be rare, this issue persists through the retail industry and across the globe. Counterfeiters deprive brand owners of the value of their intellectual property and compete unfairly with honest entrepreneurs. Moreover, counterfeiting can be a predicate crime to far more nefarious activity, including drug trafficking, child exploitation, and terrorism. Counterfeiting is a crime in most countries, but for too long, counterfeiters have not been held accountable. As a result, they have continued to seek out any opportunity—including preying on consumers during a pandemic—to try to trick people into buying their fake goods.

Here are a few of the ongoing collaborations and partnership opportunities we'd like to advance in the United States:

1. Exchange information on counterfeit activity to help stop counterfeits at the border

- Amazon supports expanding customs agencies' authority and capability to share information with relevant supply chain actors (like Amazon) when the agencies detain or seize shipments. Such efforts will create a force-multiplying effect that will allow all parties to take greater action against counterfeits and provide more support to law enforcement partners.
- Amazon also supports all marketplaces and logistics providers sharing information on counterfeit activity with customs agencies to aid in their detection and seizure efforts and to strengthen law enforcement's ability to dismantle the criminal networks behind these goods..

Amazon supports expanding government authority to share pre-seizure, enforcement-related information with the private sector. While retailers actively work to stop counterfeiters and block them from selling in their stores, and customs authorities detain and seize shipments of counterfeit products in the event that some bad actors manage to evade the retailer's efforts, antiquated laws have created a suboptimal environment where these entities are unable to coordinate effectively. For example, customs and data protection laws hamper CBP's ability to share information with new and emerging supply chain actors such as a marketplace, even when CBP intercepts a potentially

¹ OECD/EUIPO (2021), Global Trade in Fakes: A Worrying Threat, Illicit Trade, OECD Publishing, Paris, <https://doi.org/10.1787/74c81154-en>.

counterfeit shipment destined for the marketplace unless the marketplace is the Importer of Record (IOR)—which rarely happens. Therefore, Amazon supports legislation to increase information sharing about suspected counterfeited products between CBP and rights holders, marketplaces and other retailers, and other intermediaries, including fulfillment networks and logistics providers, to combat counterfeiting.

Additionally, we know that partnership with U.S. Customs and Border Protection (CBP) is essential to tackling counterfeiting. Supply chains are complex and generally no single entity in the chain has access to all the information generated before or after them in the importation process. These complexities and lack of transparency in the supply chain also create challenges for border authorities and law enforcement, reducing their counterfeit-targeting efficiency. Amazon supports sharing information on counterfeit activity that can improve CBP's ability to identify illicit products and criminal networks at the border and help Amazon further protect customers and rights owners. We believe that all marketplace and logistics service providers should be doing the same to better protect our borders. In 2020, Amazon launched the Counterfeit Crimes Unit (CCU), a global team dedicated to working through the court system and in partnership with law enforcement worldwide to pursue counterfeiters and hold them accountable to the fullest extent of the law. The CCU looks forward to continuing to work with CBP to determine the data on counterfeiters that is most helpful to their investigations and enforcement actions for counterfeits.

2. Share information about blocked counterfeiters to help the industry stop more counterfeiters earlier

- Amazon supports improved, voluntary information sharing among industry and between the public and private sectors on the techniques, procedures, paths, and networks used by criminals trafficking in counterfeits. We support this sharing to enable industry and law enforcement to better identify, stop, and take enforcement actions against international counterfeiting activity.

Governments and norm-setting organizations around the world have recognized the value that effective information sharing among law enforcement authorities and the private sector can have in the fight against counterfeiting. We agree. Amazon supports improved information sharing among companies and between the public and private sectors on the techniques, procedures, paths, and networks used by criminals trafficking in counterfeits to enable industry and law enforcement authorities to better identify, stop, and take enforcement actions against international counterfeiting activity.

Beyond this, however, we are committed to continuing and expanding upon nascent information-sharing activities that are already underway among online marketplaces and that we believe to be vital for successfully tackling the global counterfeiting challenge. Such exchanges will only expand everyone's visibility and allow us to alert one another and take action. For example, with the support and encouragement of the National Intellectual Property Rights Coordination Center (IPR Center), Amazon worked with a small group of other online marketplaces to create a data exchange through a third-party vendor where we are sharing information about counterfeiters that we had each blocked previously from our stores to understand the potential value of this data. The early results are encouraging. Among the sample of confirmed counterfeiters that other stores shared with us, we found 16% matched accounts that had also tried to sell in our store. These are counterfeiters that other industry participants could have identified and stopped sooner if we had all shared data on blocked counterfeiters at the time of enforcement—ensuring the counterfeiter was stopped across the industry. We welcome the continued leadership of the IPR Center and their support of the expansion of the private-to-private data exchange to include additional stakeholders in the retail chain, such as carriers, shippers, search engines, social media companies, and payment processors.

To realize the benefits that improved data exchanges can bring, Amazon will seek opportunities to expand upon the promising results of our information exchanges with other companies as well as with governments. We will seek to work with Congress and the Biden Administration to explore how best to utilize existing authorities and best practices for public-private information sharing—or forge new frameworks—to foster and encourage the flow of actionable data and information to combat the industry-wide and global challenge of counterfeiting.

3. Increase resources for law enforcement to prosecute counterfeiters

- Amazon supports enhanced resources from governments for law enforcement and customs authorities focused on organized crime trafficking in counterfeits—including funding for training and modernizing counterfeit crimes investigations and prosecution units.

In 2020, its first year, the CCU has reported all confirmed counterfeiters that we have blocked from our store to law enforcement authorities in the United States, the United Kingdom, the European Union, Canada, and China. For more than 250 counterfeiters, the CCU has taken the additional step of providing in-depth referrals and evidence to each counterfeiter's national authorities. The CCU also filed civil litigation against 64 counterfeiters, and disrupted counterfeiters and their supply networks around the world, including distributors, suppliers, logistics providers, and fake invoice providers. Since the beginning of 2020, the CCU has proactively shared a quarterly report of all confirmed counterfeiters with law enforcement authorities around the world. We've learned a lot about the intricate counterfeit networks and where we can affect change. Amazon will continue to build strong partnerships with law enforcement around the world and invest heavily in our tools and teams dedicated to fighting fraud and abuse.

Our work over the last year with the CCU has shown that not only is prosecution successful in deterring counterfeiters, it is also complex. Law enforcement has worked tirelessly to make progress and collaborated with us to have a very real impact for consumers. However, our partners in law enforcement are not adequately resourced to keep up with bad actors who conduct their criminal conduct without respect to borders and change tactics by the minute. As a result, prosecutions of counterfeiting crimes are under-prioritized in the United States. The latest data reported by the U.S. Department of Justice shows that only 32 counterfeiters were charged with a federal crime for trafficking in counterfeit goods in all of 2019.

We are committed to supporting law enforcement's continued efforts to enforce existing laws and put counterfeiters in jail. This work is not only critical to stopping counterfeiting, but it also has a multiplying effect for law enforcement as they address other criminal activities that can be tied to counterfeiting. When funding is increased—including for training and modernizing counterfeit crimes investigations and prosecution units to catch and prosecute counterfeiters—and customs organizations have sufficient resources to effectively fight the cross-border movement of counterfeit goods in partnership with other countries, we will have the impact we all desire for customers and constituents alike.

Amazon supports additional government spending that would enable more counterfeit seizures, investigations, and successful prosecutions. We support legislation that would require detailed reporting from both the U.S. Department of Justice and the Department of Homeland Security about the allocation of resources and the number of prosecutions focused on counterfeiting crimes. We also support increasing grant funding appropriations to assist state and local law enforcement with state-level and joint federal task force investigations. This should be supplemented by additional increases in grant funding for State Attorneys General, State District Attorneys, and state and local law enforcement for IP-related enforcement actions, prosecutions, and trainings.

Like all criminals, counterfeiters thrive where it is hard to detect them and where enforcements are mild. Consumers deserve to get the authentic products they purchased. The retail industry and government bodies must step up, work together, and stop counterfeiters to protect consumers, rights owners, and store operators from these criminals. We are making good progress in proactively protecting our store by continuing to 1) reduce the rate of counterfeit complaints from customers, 2) increase the number of brands in Brand Registry, 3) use industry-leading anti-counterfeit tools for brands, and 4) increase the number of criminal referrals and litigation. Also, after one year, Amazon's Counterfeit Crimes Unit is just getting started. We look forward to building even stronger relationships with law enforcement and other organizations around the world to responsibly share data and collaborate, so we can better prevent counterfeits from entering our borders and being sold, while ensuring that counterfeiters are held accountable.