Business Management SL IA

To what extent should Alibaba increasse their effort in fighting counterfeits

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**Table of Contents**

[Introduction 4](#_Toc731565)

[Question 4](#_Toc731566)

[Background 4](#_Toc731567)

[Motivation 4](#_Toc731568)

[Methods 5](#_Toc731569)

[Procedure 5](#_Toc731570)

[List of Sources 5](#_Toc731571)

[Findings 6](#_Toc731572)

[Article 1 6](#_Toc731573)

[Article 2 6](#_Toc731574)

[Article 3 6](#_Toc731575)

[Article 4 6](#_Toc731576)

[Article 5 6](#_Toc731577)

[Analysis of Findings 8](#_Toc731578)

[STEEPLE 8](#_Toc731579)

[Social 8](#_Toc731580)

[Technological 8](#_Toc731581)

[Economical 9](#_Toc731582)

[Environmental 9](#_Toc731583)

[Political 9](#_Toc731584)

[Legal 9](#_Toc731585)

[Ethical 10](#_Toc731586)

[Financial Analysis 11](#_Toc731587)

[Ratios 11](#_Toc731588)

[Analysis 11](#_Toc731589)

[Conclusion 12](#_Toc731590)

[Direction 12](#_Toc731591)

[Extent 12](#_Toc731592)

[Appendices 13](#_Toc731593)

[Financial calculations: 13](#_Toc731594)

[Chart 13](#_Toc731595)

[Formula: 14](#_Toc731596)

[Supporting Documents 15](#_Toc731597)

[2017 Out-of-Cycle Review of Notorious Markets 15](#_Toc731598)

[Alibaba 2017 IPR protection annual report 43](#_Toc731599)

[Fake goods on Alibaba hurt U.S. small businesses 65](#_Toc731600)

[Can Alibaba rescue its reputation from counterfeits 69](#_Toc731601)

[In fighting against fakes, Alibaba and Owner of Gucci Go from Adversaries to Partners 72](#_Toc731602)

[Bibliography and references 74](#_Toc731603)

[Supporting documents 74](#_Toc731604)

[Financial information 75](#_Toc731605)

[other references 75](#_Toc731606)

# Introduction

## Question

To what extent should Alibaba increase their efforts in fighting counterfeits

## Background

Alibaba is a multinational conglomerate located in China. It specializes mainly in e-commerce, but also provide digital media, whole sale, logistics, payment & financial and cloud services.

## Motivation

Alibaba is one of my favorite e-commerce due to its relatively cheap price compared to other stores. However, the large number of counterfeits on Alibaba have severely affected my user experience. After doing some research, I realized that Alibaba have already tried fixing the problem. Thus, I have decided to investigate this topic to find out where and what extent should Alibaba spend more effort to combat the issue

# Methods

## Procedure

In this paper, I will be using secondary sources to investigate the problem. They will be mainly from journals and official document. I will then conduct a STEEPLE analysis to find out which way should Alibaba continue their effort and a financial analysis to determine to what extent should they increase their efforts in fighting counterfeit.

## List of Sources

#### Notorious list of USA government in 2017

#### Alibaba 2017 IPR protection annual report

#### Journal – “Fake Goods on Alibaba Hurt U.S. small Businesses”

#### News Article – ‘Can Alibaba rescue its reputation from counterfeits’

#### Journal – ‘In fighting against fakes, Alibaba and Owner of Gucci Go from Adversaries to Partners”

# Findings

## Article 1

This is a report by the federal government of USA. It is biased against Alibaba due to trade ware between China and US, but information should be reliable.

It outlines issue of Alibaba’s lack of regulation to SMEs (small to medium enterprises) and proposes Alibaba to have better communication with the companies

## Article 2

This is the IPR protection report published by Alibaba. It is biased toward Alibaba, but should have reliable information.

It outlines various development and achievement that Alibaba have made to fight counterfeit, and indicates willingness of increasing effort.

## Article 3

This is a journal from WSJ by a professional journalist, and is unbiased with reliable information.

It outlines how Alibaba investigate reports and takes a long time to remove from listing, as well as the huge number of customers that Alibaba have to deal with compared to other e-commerce’s. At the end of this article, it uses quotes to encourages Alibaba to take further actions in fighting counterfeit.

## Article 4

This news article is from a professional reporter, thus should be mostly unbiased with reliable information.

This article points out many people in China are actually looking for counterfeit when shopping. Then connects this with the large population of China to justify the cause of the amount of counterfeit. It suggests at the end for Alibaba to spend smore effort to decrease the amount of counterfeit in its market.

## Article 5

This journal is from New York Times by a professional journalist, thus should be unbiased and reliable.

It discusses the relationship with large companies of how their cooperation have eliminated a large amount of counterfeit on Alibaba, but points out that Alibaba should spend more effort protecting small business at the end.

# Analysis of Findings

## STEEPLE

### Social

Many people in China are purposely looking for counterfeit. (Smiley, 2018) This is because of their limited income of 20% of an average US citizen (Ceic-data, 2017) and the quality of Chinese counterfeits: they are usually manufactured by the official manufacturing factories of the big companies. (Chu & Lin, 2017)

While Alibaba have taken actions such as hosting charity events, and cooperating with the government in making tougher laws, there are still many Chinese citizens that are buying counterfeit from Alibaba. (executive office of the president, 2017).

### Technological

Alibaba is adopting a new strategy of detecting counterfeit with “big data”. (Mozur, 2017) They are using machine learning combined with a data base of all of their products with advanced algorithms to detect counterfeit products. (Alibaba, 2018) The goal of all of this development is to stay ahead of the technological ability of counterfeit producer and sellers.

### Economical

Alibaba’s economical environment is not looking friendly. China have recently been in a trade war with USA, which caused a recession in its economy as well as a huge depreciation of its currency. (Smith, 2019) This is especially harsh for Alibaba, as 67% of its revenue comes from its e-commerce platform in China (Alibaba, 2017), which will experience a slowdown in sales (recession) and decreased income (depreciation).

### Environmental

Alibaba have minimal impacts on the environment, since it is a company that provides internet-based services. However, it has taken actions such as funding organizations to protect water sources in China. (Alibaba, 2017) While the environmental factors do have affect on the business, it does have a direct relationship on its trade and profit.

### Political

Alibaba does not have a good relationship with the federal government of USA, due to the trade war between USA and China but more importantly the large amount of counterfeit of USA products that it has in its market. (executive office of the president, 2017)

This makes it hard for Alibaba to enter other markets such as the USA, due to the lost in its reputation internationally, which discourages new customers. (Smiley, 2018)

### Legal

#### In China

Chinese laws lack regulation on the production and sales on counterfeit problem. However, Alibaba have been cooperating with the Chinese government in improving the regulation and enforcing the law. (Alibaba, 2017)

#### Outside of China

Alibaba have been sued by multiple companies due to the number of counterfeits on its e-commerce platform. This makes it really hard for Alibaba to expand to other countries since there are strict laws regarding selling counterfeit in most countries. (Mozur, 2017)

### Ethical

#### Consumers

Counterfeit have worse quality than the original products. Many customers on Alibaba have been tricked by the low price and the use of official product images due to lack of awareness of the product. To fix this, Alibaba have implemented refunding policies of counterfeit products and methods to report counterfeit. (executive office of the president, 2017)

#### Producers of original product

Counterfeit products are a form of stealing: stealing IP, which is an intangible asset. While Alibaba have done a good job removing counterfeit of big companies with their alliance program (smiley, 2018), many SMEs are still severely affected by the counterfeit sold on Alibaba. (executive office of the president, 2017)

## Financial Analysis

### Ratios

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2016 | 2017 | 2018 |
| Gross profit margin | 66.0% | 62.4% | 90.5% |
| Net profit margin | 70.5% | 26.0% | 24.5% |
| ROCE (return on Capital Employed) | 22.8% | 10.0% | 10.6% |
| Current ratio | 2.576 | 1.944 | 1.891 |
| Total revenue growth |  | 156.5% | 158.1% |
| Other income growth |  | 16.4% | 356.3% |
| Market development expense growth |  | 123.7% | 133.4% |

(See appendices)

### Analysis

The gross profit margin is experiencing an increase, which it has increased by 28.1% from 2017 to 2018. This is caused by the near 160% growth in the total revenue, as well as some slight increase from other incomes. However, the net profit margin has been decreasing significantly, as it had a 44.5 decrease from 2016 to 2017. This is likely caused by the significant decrease in other income from 2016 to 2017 (16.4%) as well as the increase in taxation from the government. The result of this shows in the Return on Capital employed, where there was a big drop in 2017 by 22.8%, but started increasing in 2018 by 0.6%.

The current ratio has become “healthier” as it is best between 1.5 ~ 2 (Stimpson & Smith, 2015). At 2016, it was 0.576 above the suggested ratio, but it decreased into the range in 2017 to 1.944. However, it still remains in the higher portion of the suggested range, which means that there are still room for Alibaba to spend more money in development expense. It has been growing by around 125% for and 2017, and 2018, but it still has significant room left for development as the revenue for Alibaba is increasing for a near 150% each year.

# Conclusion

## Direction

|  |  |
| --- | --- |
| Problem | Solution |
| Lack of social awareness | Cooperate with government to spread awareness against counterfeit |
| Slow takedown process | Technology development to create efficient autonomous takedown process |
| Lack of law regulation | Encourage Chinese government to develop tougher laws |
| Customer scammed by counterfeit | Improve rating system to make it more obvious |
| Large amount of counterfeit of SMEs in market | Increase regulation for SMEs |
| Lack of trust from producers | Improve communication with other companies to provide more information. |

## Extent

Because of the slowdown in Chinese economy and the decrease in profitability in the business, Alibaba need to actively try to increase profitability which can be achieved by increase their revenue without significant increase in cost. One of the ways to achieve this is to focus more in the international customer, as it is not as developed as the Chinese market (Alibaba, 2018), and is a huge market.

Since their counterfeit problem act as a great barrier between them and the international market, fighting counterfeits should be one of Alibaba’s priorities. Considering Alibaba’s current ratio, Alibaba should be spending significantly more effort in fighting counterfeit, as this problem should be solved as fast as possible.

# Appendices

## Financial calculations:

### Chart

#### Information

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2016 | 2017 | 2018 |
| revenue | 101143 | 158273 | 250266 |
| cost of revenue | 34355 | 59483 | 107044 |
| gross profit | 66788 | 98790 | 143222 |
| net profit | 71,289 | 41,226 | 61,412 |
| Other income | 52245 | 8559 | 30495 |
| current asset | 134035 | 181864 | 256855 |
| total asset | 364245 | 506812 | 717124 |
| current liability | 52039 | 93564 | 135810 |
| total liability | 114356 | 93564 | 135810 |
| capital employed | 312206 | 413248 | 581314 |
| product development | 13788 | 17060 | 22754 |

Alibaba. (2018). Income Statement, Retrieved from <https://www.alibabagroup.com/en/news/press_pdf/p180504.pdf>

Alibaba. (2018). Balance Sheet, Retrieved from <https://www.alibabagroup.com/en/news/press_pdf/p180504.pdf>

Alibaba. (2017). Income Statement, Retrieved from <https://www.alibabagroup.com/en/news/press_pdf/p170518.pdf>

Alibaba. (2018). Balance Sheet, Retrieved from <https://www.alibabagroup.com/en/news/press_pdf/p170518.pdf>

#### Calculation

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2016 | 2017 | 2018 |
| gross profit margin | 0.660332 | 0.624175 | 0.572279 |
| net profit margin | 0.704834 | 0.260474 | 0.245387 |
| ROCE | 0.22834 | 0.099761 | 0.105643 |
| current ratio | 2.575664 | 1.943739 | 1.891282 |
| Revenue growth |  | 1.564844 | 1.58123 |
| product development |  | 1.237308 | 1.333763 |

### Formula:

Gross profit Margin:

Net profit Margin:

Capital Employed:

ROCE:

Current ratio:

Percentage growth:

## Supporting Documents

### 2017 Out-of-Cycle Review of Notorious Markets

**Table of Contents**

[Overview of the Results of the 2017 Out-of-Cycle Review of Notorious Markets 15](#_Toc23030)

[Positive Developments since the 2016 Out-of-Cycle Review of Notorious Markets 16](#_Toc23031)

[Issue Focus: Illicit Streaming Devices 19](#_Toc23032)

[Results of the 2017 Out-of-Cycle Review of Notorious Markets 21](#_Toc23033)

[Online Markets 22](#_Toc23034)

[Physical Markets 35](#_Toc23035)

[Public Information 41](#_Toc23036)

#### Overview of the Results of the 2017 Out-of-Cycle Review of Notorious Markets

Commercial-scale copyright piracy and trademark counterfeiting[[1]](#footnote-1) cause significant financial losses for U.S. right holders and legitimate businesses, undermine critical U.S. comparative advantages in innovation and creativity to the detriment of American workers, and can pose significant risks to consumer health and safety. The Notorious Markets List (List) highlights prominent and illustrative examples of online and physical marketplaces that reportedly engage in, facilitate, turn a blind eye to, or benefit from substantial piracy and counterfeiting. A goal of the List is to motivate appropriate action by owners, operators, and service providers in the private sector of these and similar markets, as well as governments, to reduce piracy and counterfeiting.

USTR highlights the following marketplaces because they exemplify global counterfeiting and piracy concerns and because the scale of infringing activity in these marketplaces can cause significant harm to U.S. intellectual property (IP) owners, consumers, legitimate online platforms, and the economy. Some of the identified markets reportedly host a combination of legitimate and unauthorized activities. Others openly or reportedly exist solely to engage in or facilitate unauthorized activity.

The List includes several previously identified markets because owners, operators, and governments failed to address previously stated concerns. Other previously identified markets may not appear in the present List for a variety of reasons, including that: the market has closed or its popularity or significance has diminished; enforcement or voluntary action has reduced or eliminated the prevalence of IP-infringing goods or services; market owners or operators are cooperating with right holders or government authorities to address infringement; the market is no longer a noteworthy example of its kind; or no commenter nominated the market for continued inclusion on the List. In some cases, online markets in the 2016 List are not highlighted this year but improvements are still needed, and the United States may continue to raise concerns related to these markets on a bilateral basis with the countries concerned.

The List is not an exhaustive account of all physical and online markets worldwide in which IP infringement may take place. The List does not make findings of legal violations. Nor does it reflect the U.S. Government’s analysis of the general IP protection and enforcement climate in the countries connected with the listed markets. A broader analysis of IP protection and enforcement in particular countries or economies is presented in the annual Special 301 Report published on or around April 30 of each year (please refer to the Public Information section at the end of this document).

The Office of the United States Trade Representative (USTR) developed the List under the auspices of the annual Special 301 process.[[2]](#footnote-2) USTR solicited comments through a Request for Public Comments published in the Federal Register (WWW.REGULATIONS.GOV, Docket

Number USTR-2017-0015). The List is based predominantly on publicly available information. USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin publishing the List separately from the annual Special 301 Report, pursuant to an Out-of-Cycle Review (OCR). USTR first separately published the List in February 2011.

#### Positive Developments since the 2016 Out-of-Cycle Review of Notorious Markets

Since the release of the 2016 Notorious Markets List (2016 List) on December 22, 2016, some market owners and operators undertook notable efforts to address widespread availability of pirated or counterfeit goods in their markets. The United States commends these efforts, and encourages governments, right holders, service providers, and the owners and operators of these and other markets, including those newly identified in the 2017 List, to engage in sustained and meaningful efforts to combat piracy and counterfeiting.

In 2017, the operator of Sharebeast pled guilty in United States federal court to the illegal distribution of copyrighted music and albums on a massive scale following charges by federal prosecutors. Law enforcement in the United Kingdom (UK) and the Netherlands assisted in

2015 with seizures of the Sharebeast and related domain names. Several sites that used the

Sharebeast platform and that were previously nominated for inclusion on the List, including Emp3world, Viperial, AlbumKings, AudioCastle, and im1music, have also reportedly shut down.

During the past year, some previously listed online markets have been the subject of successful enforcement efforts. For example, an unauthorized stream ripping site highlighted in the 2016 List, **youtube-mp3.org**,[[3]](#footnote-3) recently shut down as a result of a civil action and other sites have reportedly stopped promoting or allowing unauthorized audio ripping from music videos and legitimate streaming services. Though circumstances exist where stream ripping could be lawful, such as if the content were licensed for that purpose and the conversion were permitted under the legitimate service’s terms of use, the operations of many unauthorized stream ripping sites reportedly continue to contribute overwhelmingly to copyright infringement. One such example, **Convert2mp3.net**, appears in the list below.

**Nanjing Imperiosus Technology Co., Ltd**, which reportedly provided domain name services to illegal online pharmacies, is no longer operating and no longer appears in the List.

The Internet Corporation of Assigned Names and Numbers (ICANN) terminated the Registrar Accreditation Agreement with Nanjing Imperiosus in January 2017 for continued breach of the terms of the Agreement, including failure to provide records to ICANN related to abuse reports.

The previously listed **Putlocker** operation, known for streaming of pirated movies and television shows and formerly operating as Putlocker.is and Putlockers.ch, is no longer functioning, although third party phishing scams may be using the Putlocker name to prey on users. After four years on the List, **Extratorrent** is removed this year as operators announced in May 2017 that they were shutting down Extratorrent and its mirror sites.

Some previously listed online markets reportedly took various measures to prevent and deter infringing activities. Such measures include accelerating responses to infringement complaints; entering into licensing arrangements with right holders; developing technology to identify or prevent infringing uses of platforms; and engaging with right holders to develop cooperative procedures.

Several country code top-level domain (ccTLD) registrars, including for the Spain and European Union (EU) ccTLDs, stepped up efforts this year to enforce their ccTLD policies. For example, Red.es (a public entity) cancelled seven websites with the Spanish ccTLD “.es” following the request of the Spanish Intellectual Property Commission as provided by Spanish law.[[4]](#footnote-4) The United States encourages other countries and ccTLDs registrars to take similar steps.

Again this year, the List highlights online piracy sites that are funded by advertising revenue. According to an independent review of the top 5000 IP Infringing URLs in the United States, EU, and Australia, about 25-30% of advertising on websites posing an IP risk are from major brands.[[5]](#footnote-5) One advertising network based in Canada, WWWPromoter, is reportedly the fastest growing ad network among infringing sites and provides services to notorious markets listed below, including **primewire.ag** and **123movies.to**. In recent years, several governments and private sector stakeholders have developed innovative approaches to disrupting ad-backed funding of infringing sites. In the United Kingdom, the London Police Intellectual Property Crime Unit (PIPCU), with funding from the UK Intellectual Property Office, seeks to cut off advertising revenue to copyright infringing sites. PIPCU maintains an Infringing Website List that advertisers, agencies, adtech platforms, and other intermediaries can consult and decide voluntarily to cease ad placement on those sites.[[6]](#footnote-6) Since 2015, the French Ministry of Culture has facilitated a voluntary Code of Good Advertising Practices for the Enforcement of Copyright and Neighboring Rights between right holders, advertisers, and advertising professionals to contribute to the fight against piracy, promote online creation, and develop confidence in the digital economy.[[7]](#footnote-7) One web browser with global popularity has announced it will launch an ad blocker in 2018 that will affect advertisements that do not fall within the Coalition for Better Ads’ “Better Ads Standards,” which could also disrupt ad revenue flows to pirate sites.

Regarding physical marketplaces, both Argentina and Thailand have significantly stepped up enforcement and used novel approaches to increase the sustainability of their efforts. In January 2017, with the support of Argentina’s national government, Buenos Aires city authorities evicted 2,000 illegal street vendors from the Once neighborhood. The government relocated these street vendors to nearby commercial facilities and provided them with a stipend and a two-month business-training course organized by the Argentine Confederation of Small and Medium-Sized Enterprises. Nearly one-half of the evicted street vendors are now operating legally from two new locations in Buenos Aires. High profile arrests of two alleged leaders and many associates of notorious market **La Salada** in June and October 2017, followed by largescale enforcement operations in December 2017, have sent a firm message that the Argentine government is cracking down on marketplaces known for counterfeit and pirated goods.

At the direction of the Prime Minister, Thailand has focused enforcement efforts on thirteen previously listed notorious markets as well as other markets throughout the country. From January to September 2017, Thai authorities carried out more than 700 raids and seized almost 150,000 infringing items. Thailand authorities established on-site IP Enforcement

Centers in five high-priority shopping areas to enhance timely responses to complaints, visibility of enforcement, coordination among Thai enforcement agencies, and cooperation with right holders. Also in 2017, the Thai IP office and other enforcement agencies have worked closely with public and private property owners including by sending formal letters requesting property owners to monitor and warn their tenants to refrain from selling counterfeit and pirated goods.

The International Chamber of Commerce, Business Action to Stop Counterfeiting and Piracy (BASCAP) released in September 2017 a new resource on best practices to combat counterfeiting and piracy challenges for landlords and property owners, governments, and enforcement agencies.[[8]](#footnote-8) For example, the resource includes model lease provisions prohibiting counterfeit and piracy activities that could assist property owners in the physical markets identified in this List.

The United States commends these efforts and encourages its trading partners to continue their individual and cooperative efforts to combat piracy and counterfeiting.

8

#### Issue Focus: Illicit Streaming Devices[[9]](#footnote-9)

Global sales and use of illicit streaming devices (ISDs) are growing and pose a direct threat to content creators, sports leagues, and live performances, as well as legitimate streaming, on-demand, and over-the-top media service providers.10 ISD piracy is the combination of media boxes, set-top boxes, or other devices with piracy applications (apps) that allow users to stream, download, or otherwise access unauthorized content from the Internet. ISDs may be “fully loaded” at the point of sale with an open-source media player, apps, and add-ons configured to access unlicensed content via cyberlockers and streaming websites. Alternatively, the devices may be combined with add-ons after purchase to achieve the same objective. Such add-ons are sold or provided through online markets for accessing infringing content with streaming devices.

ISD piracy denies right holders their ability to control their IP, bypasses the right holders’ terms of use, and undermines the licensing fees paid by distributors on which content creators depend. Internet Protocol TV is the fastest growing segment of total revenues in the pay TV landscape, with an increase of more than four percent in market share between 2015 and 2016. The growth of ISDs is a troubling threat to the pay TV and other content industries and undermines incentives for companies to improve services or offer a greater selection of content in more markets. As ISD piracy grows, it is critical for governments and stakeholders to work together to combat this threat to revenues for legitimate methods of distribution for television, movies, sports casting, and other live events. Law enforcement authorities in several foreign jurisdictions have apprehended sellers of pre-loaded devices that allow users to stream pirated content to their TVs[[10]](#footnote-10) and foreign courts have clarified that selling such devices specifically configured for film and TV piracy is illegal under their laws.[[11]](#footnote-11) Some online retailers have taken

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steps to prevent the sale of these devices on their platforms

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and one popular open-source media

player has been forced to defend its brand against becoming synonymous with ISD piracy.

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Some ISDs have the look and feel of legitimate services, but pirated content is unlawful

regardless of whether it is ultimately streamed to a computer, a television set, or a phone. The

ISD piracy ecosystem, including unlawful device sellers and unlicensed video providers and

video hosts, stands to bring in revenue of an estimated $840 million a year in North America

alone, at a cost to the entertainment industry of roughly $4-5 billion a year.

15

Less money to

invest in original programming threatens employment in a broad range of affected industries—

movies, premium television, local television, news, international content, sports, live

performances, pay-per-view events, and videogames. Unsuspecting users of unofficial add-ons

and “builds” are at risk of malware and hackers that exploit ISDs and related services to infect

consumers’ computers and other devices.

16

Additionally, some seized devices in the UK were

found to pose a risk of electrocution or fire.

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Finally, ISDs may constantly stream and use

tremendous amounts of “phantom bandwidth,” or transmit data that no one views, resulting in

overage charges for subscribers and inefficient network use and poor performance for Internet

service providers.

18

In recognition of these threats to the creative community, legitimate

streaming services, and consumers, illustrative examples of infringing apps and portals that

connect streaming devices to illicit content—

**TVPlus**

,

**TVBrowser**

and

**KuaiKan—**

are added to

the 2017 List.

No. CV 15-01869, 2015 WL 3649187 (C.D. Calif. June 11, 2015); Munhwa Broadcasting Corp. v. Create New

Technology (HK) Co. Ltd., No. CV 14-4213-RGK-RZK, 2015 WL 9694889 (C.D. Calif. Sept. 2, 2015).

13

Amazon, Facebook, and Alibaba have reportedly taken such steps.

*See*

http://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA-%20Closed%20Captions-Final.pdf

;

Alibaba submission to the 2017 Notorious Markets OCR.

14

*See*

https://kodi.tv/article/piracy-box-sellers-and-youtube-promoters-are-killing-kodi

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https://www.sandvine.com/downloads/general/global-internet-phenomena/2017/global-internet-phenomena-

spotlight-subscription-television-piracy.pdf

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16

One estimate notes approximately 200 million video players and streamers are currently running vulnerable

software.

*See*

http://www.digitalcitizensalliance.org/clientuploads/directory/Reports/DCA-

%20Closed%20Captions-Final.pdf

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*See*

http://www.independent.co.uk/life-style/gadgets-and-tech/news/kodi-boxes-dangers-catch-fire-electrocute-

users-streaming-big-vision-a7857226.html

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*See*

https://www.sandvine.com/downloads/general/global-internet-phenomena/2017/global-internet-phenomena-

spotlight-subscription-television-piracy.pdf

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#### Results of the 2017 Out-of-Cycle Review of Notorious Markets

The 2017 List identifies prominent online and physical markets in which pirated or counterfeit products and services reportedly are available. It does not constitute a legal finding of a violation or an analysis of the general IP protection and enforcement environment in any affiliated country or economy. The List is not an exhaustive inventory of all notorious markets around the world. The List is drawn from the many nominations received to highlight prominent examples of both online and physical marketplaces where pirated or counterfeit goods reportedly are trafficked to the detriment of legitimate trade in IP-intensive goods and services.

Owners and operators of the notorious markets that are willing to address piracy and counterfeiting have many options for doing so. Owners and operators of notorious markets can adopt business models that rely on the licensed distribution of legitimate content and can negotiate appropriate licenses with right holders. If an otherwise-legitimate business has become a platform for piracy or counterfeiting, the owner or operator can work with right holders and law enforcement officials to help discourage and curtail acts of infringement. Industry groups have developed a variety of best practices that can help combat counterfeiting and piracy.[[12]](#footnote-12) In the absence of such good faith efforts, responsible government authorities should investigate reports of piracy and counterfeiting in these and similar markets and pursue appropriate action against such markets and their owners and operators. Governments should also ensure that appropriate enforcement tools are at the disposal of right holders and government authorities, which may require closing loopholes that permit operators to evade the law.

USTR continues to monitor markets that no longer appear on the List. Markets may be re-listed if there is a change in circumstances, such as if a website or physical market that ceased to operate because of enforcement or other action resumes unauthorized activities or the corrective actions that merited removal from the List prove inadequate or short-lived. In some

cases, the situation in a particular market or geographic area presents unique challenges not effectively addressed in this OCR process.

#### Online Markets[[13]](#footnote-13)

The 2017 List of notorious online markets includes examples of various technologies, obfuscation methods, revenue models, and consumer harm. USTR based its selections not on specific types of technologies but on whether a nominated site or affiliated network of sites reportedly engages in or facilitates substantial piracy and counterfeiting to the detriment of U.S. creators and brand owners, as well as legitimate sellers and distributors.

In addition to facilitating IP infringement, these sites may lack safeguards for consumer privacy, security, and safety. Some sites reportedly actively and surreptitiously install malware on users’ computers, commit advertisement fraud, and enable phishing scams that steal personal information, all to increase their unlawful profits. A July 2016 study concluded that one in three content theft sites expose consumers to malware and other risks.[[14]](#footnote-14) Remote Access Trojans (RATs) reportedly use content theft sites as tools to spread malware.[[15]](#footnote-15) It is estimated that between 227,000[[16]](#footnote-16) and 1.3 million24 new malware files are released every day. **1FICHIER.COM**

This cyberlocker[[17]](#footnote-17) is hosted in and popular in France and allegedly makes available illegal video game copies and other copyrighted content. According to the video game industry, 1Fichier is responsive to just 2% of takedown notices, one of the lowest response rates of cyberlockers that allegedly host infringing game files. The site derives revenue through a subscription service although some major credit card processors do not service the site due to allegedly illegal activity. Additionally, the site reportedly contains harmful content, including pages that contain suspicious or unknown software.[[18]](#footnote-18)

#### 4SHARED.COM

This cyberlocker site is well-known globally and is particularly popular in Brazil.27 While 4Shared also provides legitimate file-storage services, the site facilitates the streaming and downloading of high volumes of allegedly pirated videos, music, books, and video games. 4Shared mobile apps reportedly enable users to stream infringing content to mobile devices, while certain search and music player features may encourage music infringement. Right holders use 4Shared’s notice-and-takedown mechanism frequently but with little apparent impact on the overall levels of infringing content stored on and accessed through the site. Looking for other ways to steer Internet traffic away from infringing files, right holders have requested more nearly 68 million removals of 4Shared URLs from results of a prominent search engine since June 2011, more than any other domain.[[19]](#footnote-19)[[20]](#footnote-20) While major U.S. payment providers no longer service 4Shared, site operators continue to collect revenue from premium accounts and advertising by using resellers and offshore payment processors.29 4Shared is registered to an entity in the British Virgin Islands and hosted by the subsidiary of a Cyprus-based parent company.

#### CONVERT2MP3.NET

Convert2MP3.net is one of the most popular stream-ripping sites worldwide and is highlighted this year as an example of the stream-ripping phenomena that continues to threaten legitimate streaming audio and video services, music performers, and composers. [[21]](#footnote-21) As the name of the site suggests, users can use the embedded software to convert authorized video streams into allegedly unauthorized downloads from user generate content sites such as YouTube and DailyMotion. The site includes a search function that allows users to search for video titles of copyright-protected music videos. Convert2MP3.net does not appear to have permission from YouTube or other sites and does not have permission from right holders for a wide variety of music represented by major U.S. labels.

#### DHGATE.COM

This Chinese business-to-business e-commerce platform enables small- and mediumsized businesses in China to sell more than 33 million product listings to customers overseas. Over most of the last eight years, right holders have consistently reported challenges with a wide variety of counterfeit or copyright-infringing consumer goods on DHGate and continued to do so this year. The site is also reportedly a leading online marketplace for the sale and distribution of counterfeit and pirated academic textbooks, with deliveries made in small parcels or via third party sellers. DHGate reports that it reached out to nominators to address concerns, including regarding difficulties in filing IP complaints. USTR urges DHGate to work closely with right holders to address their considerable concerns.

#### DOPEFILE.PK

After the U.S. Department of Justice shut down Sharebeast, uploaders of infringing music files have increasingly turned to Dopefile as a cyberlocker source for their allegedly infringing websites. The site’s revenue sources include advertising and pay-per-install of third party applications. The hosting provider is located in Bulgaria, the registrant or operator is located in Pakistan and uses the Pakistan country-code top-level domain. Dopefile has the highest country rankings in Angola, South Africa, and Nigeria.

#### FIRESTORM-SERVERS.COM

Also directing from **FSTORM.CC**

Firestorm-Servers is an example of an unauthorized third-party server, known as a “pirate” server or “grey shard,” that infringes on the copyrights and circumvents the technological protection measures of “free-to-play” video games. This particular site is popular in France and the hosting provider is located in Russia.

#### FMOVIES.IS

Also operating as **FMOVIES.SE** and **FMOVIES.TO**

Fmovies allegedly streams unauthorized movies and television series directly to computer desktops or through apps on streaming devices. The addition of Fmovies to the List is one example of the increasing challenges of streaming piracy.[[22]](#footnote-22) The site is hosted in Sweden and has been the subject of enforcement action by a Denmark District Court but is rising in popularity and is particularly popular in India. The site operates under several ccTLDs.

#### GOSTREAM.IS

Associated with **GOMOVIES.TO** and **123MOVIESHD.TO**

Gostream allegedly streams popular movie and television content from third-party cyberlockers. Formerly 123movies, the site was rebranded as Gomovies in March 2017 and then Gostream in July 2017. Despite enforcement action in Italy and the rebranding, the operation continues to be popular globally and its former names have spawned unaffiliated clone sites that capitalize on familiarity of the Gomovies and 123movies “brands” with slight variations. The site reportedly contains harmful content including pages that send visitors to harmful websites.[[23]](#footnote-23) Gostream is reportedly operated from Vietnam and hosted in Ukraine.

#### INDIAMART.COM

Domain name registration services provided by **HOSTING CONCEPTS B.V. dba OPEN PROVIDER**

IndiaMart is an online marketplace based in India with 1.5 million suppliers and more than 10 million buyers. Among its legitimate listings, IndiaMart allegedly facilitates global trade in counterfeit and illegal pharmaceuticals. The marketplace disclaims all liability, delays responses and does not facilitate right holder attempts to remove listings. In contrast, other online marketplaces have instituted good practices such as robust screening systems to limit listings for counterfeit or illegal pharmaceuticals and providing a straightforward process for removing infringing listings. The domain name registrar that services IndiaMart, Hosting Concepts B.V., has a general Top Level Domain market share of 304,131 domains of which 2,530 are allegedly rogue Internet pharmacies.

#### KINOGO.CLUB

Formerly **KINOGO.CO**

Kinogo hosts some of its own video content, suggesting that it could be a promising platform for legitimate content. However, the U.S. motion picture industry has reported sustained unacceptable levels of copyright infringing content for several years. Kinogo is hosted in the Netherlands and UK and targets the Ukraine and Russia markets. In June 2016, Kinogo was the subject of a Moscow City Court enforcement action and it is the 35th most popular site in Ukraine.

#### LIBGEN.IO and SCI-HUB.IO

Also **LIBGEN.PW**, **SCI-HUB.CC**, **SCI-HUB.AC**, **SCI-HUB.BZ**, **LIBGEN.INFO**, **LIB.RUS.EC**,

**BOOKFI.ORG**, **BOOKZZ.ORG**, **BOOKER.ORG**, **BOOKSC.ORG**, **BOOK4YOU.ORG**, **BOOKOS-**

**Z1.ORG**, **BOOKSEE.ORG**,and **B-OK.ORG**

Libgen, Sci-Hub and various mirror sites[[24]](#footnote-24) reportedly make available for download millions of books and other publications, a significant number of which are distributed without the consent of copyright holders. Libgen.io may contain harmful content, including pages that contain suspicious or unknown software.[[25]](#footnote-25) Sci-hub exists off infringing copyrighted material reportedly obtained with compromised user credentials obtained through phishing scams. Together these sites make it possible to download—all without permission and without remunerating authors, publishers or researchers—millions of copyrighted books by commercial publishers and university presses; scientific, technical and medical journal articles; and publications of technological standards. Following a 2015 injunction requiring U.S. domain registries to suspend the sites’ domain names, the U.S. district court in the Southern District of New York entered a default judgement of $15 million against the sites in June 2017 for willful infringement of its copyrights. The judgement has not been paid and Sci-Hub continues to grow internationally, undermining the market for U.S. publishers abroad. Another right holder filed suit against Sci-Hub for copyright infringement and trademark counterfeiting in September 2017.

Libgen and Sci-Hub are allegedly based in Russia.

#### MOVSHARE GROUP

Operating as **NOWVIDEO.SX**, **WHOLECLOUD.NET**, **AURORAVID.TO**, **BITVID.SX**,

**NOWDOWNLOAD.CH**, **CLOUDTIME.TO** and formerly **MEWATCHSERIES.TO** and

**WATCHSERIES.AC**

This coordinated network of extremely popular sites, with ties to Switzerland, Ukraine, Sweden, France, the Netherlands, Panama, and other countries, reportedly uses multiple technologies to make available countless unauthorized copies of movies, games, music, audiobooks, software, and sporting event broadcasts. Cyberlockers, linking sites, forums, and streaming sites all conspire to facilitate global distribution of allegedly infringing content. The sites are said to generate revenues through advertising and premium membership or subscription fees, and to compensate users for uploading popular infringing content. Several sites reportedly engage in domain hopping to evade law enforcement and work around search engine demotions to rise to the top of search engine results. Sites in the Movshare Group have been the subject of court-ordered enforcement action in Italy and India. Right holders report that Nowvideo and others in the Movshare group are entirely unresponsive to takedown notices.

#### MOVIE4K.TV

Movie4K.tv is hosted in Russia and reportedly specializes in copyright infringing movies. About half of web traffic to Movie4K.TV originates from Germany. Despite court-ordered enforcement action in Denmark, Italy, Norway, Austria and the UK, the site brazenly asserts that it is one of the biggest websites on the Internet for a wide range of free movies.

#### MP3VA.COM

MP3va.com is one of several music download sites based in Russia or Ukraine that allegedly engages in the unauthorized sale of U.S. sound recordings. The hosting provider is located in Russia and the registrant is reportedly based in Russia. The site attracts more than 2 million visits a month, more than three times as many visits as last year. Mp3va is popular in South Africa and has grown increasingly popular in Japan over the past year. The site has the look and feel of legal music download sites but sells tracks for pennies. MP3va continues to claim on its FAQ page that it has a license from Avtor, a rogue Ukrainian collecting society, and elsewhere purports to have a license from the “Russian Rightholders Federation for Collective Copyright Management of Works Used Interactively.” Despite the alleged participation in these CMO’s, the site’s music download sales are reportedly not authorized and authors are not paid.

Major U.S. credit card and payment processors do not service the site. The landing page for MP3va.us claims “Check It. It’s Legal!” and provides a single link to MP3va.com.

#### OPENLOAD.CO

Also **OLOAD.TV** directs to **OPENLOAD.CO**

This combination cyberlocker and streaming operation is reportedly well-known for housing infringing movie content and has increased in popularity over the past year to become one of the 150 most popular websites worldwide. The site is used frequently in combination with add-ons in illicit streaming devices. In November 2017, users visited Openload.co a staggering 270 million times. The site incentivizes users to upload large, popular files by paying a fixed reward per 10,000 downloads or streams. Openload has moved hosting providers from the Netherlands and is now reportedly hosted in Romania.

#### PRIVATE LAYER-HOSTED SITES

Including **1337X.TO**, **PRIMEWIRE.AG**, **TORRENTZ2.EU** and mirror sites (**TORRENTZ2.ME,**

**TORRENTZ2.IS**)

This group of websites is hosted by Switzerland- and Panama-based Private Layer, and is an example of the popularity among a wide variety of pirate sites of certain Swiss hosting services. 1337x.to and Torrentz2.eu are two of the most popular torrent sites that allegedly infringe U.S. content industry’s copyrights. While the exact configuration of websites changes from year to year, this is the fourth consecutive year that the List has stressed the significant international trade impact of Private Layer’s hosting services and the allegedly infringing sites it hosts. Other listed and nominated sites may also be hosted by Private Layer but are using reverse proxy services to obfuscate the true host from the public and from law enforcement. Switzerland has announced plans to close a loophole in its law that restricts enforcement against pirate sites. In November, the Swiss Federal Council approved the proposal for a revision of the Copyright Act and sent the proposed draft Amendment to Parliament. USTR urges Switzerland to ensure that this legislation closes the gap. Right holders continue to report that Switzerland is an increasingly popular host country for infringing sites.

#### RARBG.TO

This site, located in Bosnia and Herzegovina, was nominated by commenters from the movie, television, and music industries. Rarbg was started almost a decade ago to target the Bosnian market but now has a global user base and consistently ranks in the top 300 websites worldwide. It reportedly has changed hosting services to prevent shutdowns in recent years. Rarbg generates revenue through ads and pay-per-install of potential malware. Although Rarbg has been the subject of enforcement and voluntary actions in Denmark, Italy, Portugal and the United Kingdom, it continues to operate.

#### REBEL

Rebel is added to the List again this year after a brief hiatus as the reported domain name registrar with the most disproportionate representation of allegedly counterfeit or otherwise illegal online pharmacies. Counterfeit pharmaceuticals sold through illegal online pharmacies cause damage to the reputation of brands and to legitimate pharmacies, and may put consumers at risk. While not as egregious as Nanjing Imperiosus, which was listed last year, one social welfare organization continues to assert that Rebel is not responsive to abuse notifications. In contrast, other registrars have policies that prohibit domain names from being used in furtherance of criminal activity, and they act on complaints as appropriate to suspend or lock domain names of illegal online pharmacies.[[26]](#footnote-26)

#### REPELIS.TV

Repelis.tv has more than 150,000 links to more than 10,000 allegedly illegally reproduced movie and television series titles. This Spanish language website has connections and audiences across the Spanish-speaking diaspora including Mexico, Argentina, Spain, Peru and Venezuela. Repelis is monetized through a large number of national and international advertising and may contain harmful content, including links that send visitors to harmful websites.36

#### RUTRACKER.ORG and RAPIDGATOR.NET

Commenters from the book publishing, movie, and music industries all nominated Rapidgator for inclusion on this year’s List. Rapidgator is hosted in Russia but primarily provides allegedly infringing content to users outside of the country. Rapidgator collects revenue through its premium membership and subscription plans and employs rewards and affiliate schemes to compensate users based on downloads and sales of new accounts. Operators of the site allegedly net an estimated millions of dollars annually. RuTracker, a BitTorrent portal with almost 14 million active accounts, is also hosted in and reportedly operated from Russia. The site is currently one of the most popular in the world and a top site in Russia, with an Alexa ranking among the top 50 sites. RuTracker has been subject to a Moscow City Court ordered enforcement action.

#### TAOBAO.COM

A high volume of infringing products reportedly continue to be offered for sale and sold on Taobao.com and stakeholders continue to report challenges and burdens associated with IP enforcement on the platform. In particular, SMEs continue to have problems accessing and utilizing takedown procedures on Taobao.com. In 2017, more SMEs have requested assistance from U.S. government agencies and embassies regarding Taobao.com than any other e-

collaboration; and public and consumer awareness efforts.” *See* http://buysaferx.pharmacy/news-release-alliancefor-safe-online-pharmacies-announces-recipients-of-its-first-internet-patient-safety-e-commerce-award/. 36 *See* https://transparencyreport.google.com/safe-browsing/search?url=repelis.tv.

commerce platform. Created and owned by the Alibaba Group (Alibaba), Taobao.com is

China’s largest mobile commerce destination and the third-most popular website in China. Alibaba has undertaken efforts, some within the last six months, to curb the offer and sale of infringing products on Taobao.com, and some right holders report an improved outlook as a result. At the same time, the prevalence of infringing listings and sales continues to be a challenge and there are additional steps Alibaba must take to address ongoing concerns.

One U.S. automotive parts trade association reported that searches for branded products turn up few legitimate listings and some Taobao.com sellers reportedly use U.S. brand names on product listings that divert Chinese and global buyers away from legitimate offerings. Despite USTR’s call in the 2016 List for Taobao.com to expand its Good Faith takedown program, the enforcement program reportedly continues to be burdensome and insufficient to end the sale of counterfeit products on the platform. While two U.S. trade associations reported better dialogue with Alibaba and some improvements in online enforcement on Taobao.com and other Alibaba platforms, the relatively high numbers of counterfeits on these sites continue to be a challenge for many U.S. brands. According to one of those associations, some member companies also reported ongoing problems, including with respect to delays or burdensome aspects of takedown programs. That association emphasized the importance of addressing these problems, given the sheer size, global reach, and growth of Alibaba’s network.

In its submission, Alibaba reported it created a one-stop site for takedown requests across all Alibaba platforms with a simple user interface, step-by-step user instructions, and imposes no requirement to create an account before using the takedown mechanism. The company asserted that it closed more than 230,000 Taobao.com vendors for selling IP infringing goods over a recent one-year period, decreased takedown process times on the Taobao family of marketplaces (including Taobao.com, TMall and TMall Global), and that it increased proactive takedown efforts on Tabobao.com. In an additional proactive measure, Alibaba.com and AliExpress have barred listings for automotive air bags and air bag components. Alibaba has also reportedly provided numerous leads to Chinese law enforcement that resulted in arrests and facility closures. As evidence of the impact of its actions, Alibaba reported that Taobao.com, TMall and TMall Global received 25 percent fewer takedown requests in a recent annual period compared to the prior one despite an 11 percent increase in the number of registered IP accounts across all of its e-commerce platforms.

We commend Alibaba for its efforts to date. However, while Alibaba presented its considerable efforts to address many concerns identified in the 2016 List, important unresolved concerns remain. For example, Alibaba has not identified metrics to assess objectively the scale of infringing products sold on Taobao.com nor objectively demonstrated that the volume or prevalence of counterfeit goods has decreased over the last year. The data provided by Alibaba to date do not directly reflect the scope and status of the counterfeiting problem on the

Taobao.com platform, but instead is merely suggestive of progress made. For example, a decline in the number of takedown requests, while perhaps indicative of a positive trend across platforms, does not speak to the overall scope of the problem on Taobao.com. Additionally, Alibaba’s efforts to address right holders’ concerns appear to be aimed more towards global brands rather than SMEs, and the claimed results of those steps remain to be objectively verified.

Alibaba reports that the changes it discussed during this year’s review were implemented in the latter half of 2017. Alibaba should continue to implement reported reforms across its platforms, while also working with brand owners to fine tune these tools and react quickly to emerging counterfeit trends. Important unfinished work includes the development of metrics demonstrating the scale of counterfeited and pirated offerings in its marketplace, and close engagement with interested parties to improve its processes for all stakeholders, including SMEs and those not represented by trade associations.

Over the next year, among other actions, Alibaba should: 1) seriously consider expanding its reported ban on automotive air bags and air bag components listings on the Alibaba.com and AliExpress.com platforms to the Taobao.com platform, and to other widely-counterfeited products not ordinarily sold in C2C marketplaces, such as brake pads and other automotive parts;

2) take efforts to ensure that its referrals of criminal leads to Chinese authorities lead to meaningful enforcement outcomes, such as by targeting large manufacturers and distributors of counterfeit goods; 3) seek to improve the effectiveness of the repeat infringer policy; 4) make available to right holders the contact information of infringing sellers and details on the volume of infringing sales after infringing listings are removed so that right holders can follow-up with enforcement action; 5) seek SME input and provide advisory opportunities to develop more effective policies to address the challenges SMEs face on Taobao.com and other platforms; 6) improve tools to prevent the unauthorized use of product images for the sale of infringing products; and 7) ensure that infringing sellers and goods do not migrate from TMall or Taobao.com to other platforms owned and operated by Alibaba such as Xian Yu, located at

2.taobao.com.

It is incumbent upon Alibaba to develop more effective means to address the concerns of the full range of U.S. businesses that continue to find infringing versions of their products for sale on Taobao.com. Alibaba must not relax its efforts to combat counterfeiting and piracy on Taobao.com and other platforms. We ask affected industries and Alibaba to report back expeditiously on the status of Alibaba’s continued IP enforcement efforts on Taobao.com. The United States will continue to closely monitor recent and prospective reforms.

#### THEPIRATEBAY.ORG

formerly registered at the following domains: .SE, .VG, .GL, .IS, .SX, .AC, .PE, .GY, .GS, .AM, .LA, .GD, .MN, .VG, .FM, .SH, .MU, .TW, and .MS.

Despite enforcement actions around the world and drawn-out legal battles against its operators, The Pirate Bay is of symbolic importance as one of the longest-running and most vocal torrent sites of admittedly illegal downloads of movies, television, music, and other copyrighted content. The site is in the top 100 most popular sites worldwide, is available in 35 languages and celebrated its 10-year anniversary by releasing the PirateBrowser, a portable web browser with preset bookmarks to BitTorrent websites. Internet browsers reportedly regularly detect and warn of malicious content on the site, including malware that installs harmful programs and phishing attempts to reveal personal information. The Pirate Bay has allegedly had more than a dozen domains hosted in various countries around the world, applies a reverse proxy service, and uses a hosting provider in Vietnam to evade further enforcement action. In 2017, The Court of Justice of the European Union concluded that BitTorrent services provided by The Pirate Bay fall under the definition of “communication to the public,” standing for a primary infraction of copyright, due to the key role played by the Pirate Bay website to ease the exchange of files, by way of classifying, indexing, and arranging metadata included in the torrent files.[[27]](#footnote-27) Also over the past year, The Pirate Bay site reportedly was occasionally unavailable.

#### TVPLUS, TVBROSWER and KUAIKAN

These app and add-on developers are reportedly operated by related companies in China to provide users around the world with television, live sports, and content protected by copyright and related rights. This family of apps has been downloaded more than 64 million times and each download connects users to allegedly pirated content hosted by third parties. These apps allow viewers in China to stream infringing content on mobile devices or high definition televisions posing an additional threat to an already fragile market for legitimate over-the-top and online content platforms in China.

#### UPLOADED.NET

Also **UL.TO** and **UPLOADED.TO**

This cyberlocker reportedly operates through multiple redundant domains and provides access to a broad range of reportedly infringing content such as books, movies, television, and music, including pre-release music. Uploaded uses a combination of multi-tiered subscriptions, a referral program, and a rewards scheme to generate revenue,[[28]](#footnote-28) to incentivize unauthorized sharing of popular copyrighted content, and to expand its user base. For example, the site pays rewards to users based on large file sizes, such as those for movies and television, and based on the number of times a file is downloaded, paying more when the downloads come from “TopCountries.” Courts in Germany, Italy, and India have found the site liable for copyright infringement and issued orders against the site. Uploaded is owned by a Swiss company and hosted in the Netherlands.

#### VK.COM

Also known as **VKONTAKTE.COM**

Nominated again this year, VK is one of the most popular sites in the world and continues to operate as an extremely popular social networking site in Russia and neighboring countries. VK reportedly facilitates the distribution of copyright-infringing files. Social networking sites can serve as a uniquely valuable communication platform, enabling beneficial commercial, cultural, and social exchanges. Most successful social networking sites do so in ways that do not involve the active facilitation of copyright infringement. Reports that VK is taking steps to address piracy are encouraging. In 2016, VK reached licensing agreements with major record companies, took steps to limit third-party applications dedicated to downloading infringing content from the site, and experimented with content recognition technologies.

Despite these positive signals, VK reportedly continues to be a hub of infringing activity and the U.S. motion picture industry reports that they find thousands of infringing files on the site each month. VK continues to be listed pending the institutionalization of appropriate measures to promote respect on its platform for IPR of all right holders, not just those with whom it has contracts, which are comparable to those measures used by other social media sites.

#### Physical Markets

The Internet has brought about a global revolution in the authorized and unauthorized distribution of films, music, software, video games, and books. The Internet also makes available innumerable sites that facilitate the distribution of legitimate and counterfeit products to consumers worldwide. In some countries, infringing physical media (including CDs, DVDs, video game cartridges, pre-loaded set-top boxes, steaming devices, thumb-drives) continue to be prevalent. In most countries, online distribution of, or access to, unauthorized copyrightprotected content has largely replaced physical distribution of media. Physical markets, however, remain a primary distribution channel for counterfeits in much of the world.

As in past years, copyright-intensive industries nominated more online markets than physical markets. Several commenters focused exclusively on notorious online markets due to the rise of digital distribution and online infringement. In contrast, trademark-based industries continued to nominate both online and physical marketplaces.

In a global environment, basic enforcement against unscrupulous retailers will not be sufficient to reduce the flow of counterfeit products. To address 21st century challenges, governments need targeted, modernized enforcement tools including:

* effective border enforcement measures to prevent the exportation of counterfeit and pirated goods manufactured in their countries, the importation of such goods into their countries, and the transiting or transshipment of such goods through their countries on the way to destination countries;
* ability for customs and criminal authorities to detain and seize counterfeit and pirated goods entering into and exiting from Free Trade Zones.
* robust border enforcement authority to interdict small consignment shipments, such as those sent through postal or express courier services;
* asset forfeiture, a tool which can be used to reach the custodians of locations where infringing products are sold and stored;
* criminal procedures and penalties for trafficking in counterfeit labels and packaging; and
* enhanced criminal penalties for particularly serious cases, such as trafficking in counterfeit trademark products that threaten health and safety.

Another key to reducing piracy and counterfeiting lies in the ability to influence demand and redirect the consumers who knowingly participate in illicit trade to legitimate alternatives.

#### CHINA

As in past years, several commenters continue to identify China as the primary source of counterfeit products. Some Chinese markets, particularly in larger cities, have adopted policies and procedures intended to limit the availability of counterfeit merchandise, but these policies are not widely adopted, and enforcement remains inconsistent. At the same time, some online markets are cooperating with law enforcement on counterfeiting and piracy operations offline. It is reported that in many instances, Chinese authorities engage in routine enforcement actions in physical markets. The United States welcomes these efforts and recommends their expansion to combat more effectively the scale of the reported problem in China, with a special focus on the following key markets: **Silk Market, Beijing**

Many retail vendors at the Silk Market reportedly sell and distribute counterfeit products. Even though some right holders successfully sued the market’s operators in prior years, and despite administrative and criminal raids in prior years, the Silk Market reportedly remains one of the largest markets for the sale of counterfeit products in Beijing. Thus, it appears that past civil and administrative enforcement efforts, although imposing some costs, have not actually ended infringement.

#### Hongqiao Market, Beijing

Hongqiao Market, and the adjoining Tianya Jewelry Market, has more than 1,000 shops. According to local media reports, some of the shops selling counterfeits are clandestine – doors remain closed except to known customers, while other shops solicit shoppers by showing them photos of the counterfeit goods in the street and then escorting them into shops or warehouses. Some shops even provide mailing services to send counterfeit products abroad. Hongqiao market was recently the subject of a January 2017 ruling in Beijing’s Dongcheng District Court declaring that Hongqiao Market bore joint liability along with the counterfeit sellers and had to pay $75,000 in damages to one right holder. Additionally, in April and July 2017, Chinese enforcement officials raided Hongqiao Market and seized a significant number of counterfeit products. The Beijing Administration of Industry and Commerce (BAIC) has placed Hongqiao Market on its priority-watch list for trademark infringement.

In addition to the foregoing markets, the following markets also exemplify the problem of widespread counterfeiting of consumer products. Right holders have investigated and in some cases have taken enforcement actions against markets or sellers therein, but those efforts have reportedly not led to the cessation of the sale of counterfeit goods in these markets. In many of these markets, sellers reportedly openly characterize their products as “high quality” counterfeit products, reflecting an ability to engage in counterfeit sales with impunity:

* **Shenzhen Jindu Garment Wholesale Market, Shenzhen, Guangdong Province**
* **Jinxiang Foreign Trade Garment Market, Guangzhou (formerly known as the Jinbao Foreign Trade Garment Market)**
* **Jinshun Garment Market, Guangzhou**
* **Zhanxi Area Markets, Guangzhou**

**ARGENTINA**

#### La Salada, Buenos Aires

In contrast to recent years, in 2017, Argentina conducted raids and other significant enforcement actions related to counterfeiting or piracy in La Salada and in Barrio Once district of Buenos Aires. In 2017, Argentine authorities arrested two alleged leaders of the La Salada market, along with several associates. The criminal charges against the leaders, including illicit association, extortion and attempted murder, are indicative of the strong ties reported between counterfeiting and criminal organizations in Argentina and other markets. La Salada continues to be included in this List as it will take sustained enforcement action and stronger legal tools to reverse the long-standing reputation of La Salada as one of the largest black markets for IPinfringing goods. Considerable quantities of a wide variety of counterfeit goods are reportedly still sold at the market and re-sold throughout the city, country, and region. Most goods appear to be imported from China but some local assembly and finishing may also take place in and around La Salada.

**CANADA**

#### Pacific Mall, Markham, Ontario

With over 270,000 square feet of retail space and more than 500 small shops, the sale of counterfeit goods at Pacific Mall in Ontario is sprawling and pervasive. The mall is touted as the largest Chinese mall in the western world and a recognized tourist destination but it has also been a well-known market for the sale of counterfeit and pirate goods for over a decade. Sales of counterfeit goods in the Pacific Mall reportedly continue despite extensive efforts by brand owners to enforce their trademarks. Vendors in Pacific Mall appear to operate largely with impunity, and requests for assistance from local law enforcement have reportedly gone unanswered. Many of the counterfeit goods including cosmetics, sunglasses, and fragrances pose a risk to public health and safety.

**INDIA**

#### Tank Road, Delhi

Tank Road returns to the List in 2017. Stakeholders confirm that it remains a market selling counterfeit products, including apparel and footwear. Counterfeit products from Tank Road are also reportedly found in other Indian markets, including Gaffar Market and Ajmal Khan Road. The United States encourages India to take sustained and coordinated enforcement action at the Tank Road market, previously-listed markets, and numerous other non-listed markets in its territory.

**INDONESIA**

#### Mangga Dua, Jakarta

Mangga Dua is a popular market in Jakarta selling a variety of counterfeit goods, including handbags, clothing, and fashion accessories, with reportedly minimal enforcement by the government to combat the rampant sale of the counterfeit goods. USTR urges the Indonesian Government to launch a sustained, coordinated, and effective effort to tackle widespread counterfeiting and piracy at markets throughout Indonesia, including Mangga Dua and other markets mentioned in previous Lists.

**ITALY**

#### Mercato dei venerdi, Ventimiglia

The Ventimiglia Mercato dei venerdi, or “Friday Market,” was nominated this year in a coordinated and well-documented effort by international and European brands. The public openair market is reportedly one of the largest in Italy and IP protection and enforcement in the market has been declining in recent years according to right holders. Although the market is open only on Fridays, 60-90 unauthorized sellers sell an estimated 20,000 infringing articles annually. In some stalls, managed through the town hall of Ventimiglia, official vendors also reportedly sell counterfeit clothing. USTR encourages local and national authorities to work with affected brand owners to develop a sustainable solution.

**MEXICO**

#### El Tepito, Mexico City

Significant levels of piracy and counterfeiting reportedly continue in El Tepito, an openair 80 square block market in the middle of Mexico City. Stakeholders are concerned that El Tepito market has become increasingly dangerous making it nearly impossible for right holders to enforce their rights. Infringing items sold at El Tepito include video games, modified consoles and game circumvention devices, counterfeit apparel, and more, which are typically stored in small lockers. The United States encourages Mexico to continue coordinated law enforcement efforts, including against high-level targets in the distribution chain and storage locker owners, to reduce the availability of counterfeit and pirated product in markets across the country. We further encourage Mexico to empower customs officials to interdict infringing imports on their own authority and to enforce against counterfeit and pirated goods moving intransit.

#### Mercado San Juan de Dios, Guadalajara

Mercado San Juan de Dios, located in Guadalajara, remains on the List in 2017. With approximately 3,000 vendors, Mercado San Juan de Dios is the largest indoor market in Latin America, attracting a significant number of Mexican and foreign visitors. Amongst a plethora of pirated and counterfeit goods sold in the market, roughly one third of vendors allegedly sell video game circumvention devices. Stakeholders have raised concerns with the Mexican practice that requires each infringing game disc to be accompanied in the prosecution files by a copy of a legitimate original for comparison by experts in order for legitimate videogame right holders to enforce their rights. This requirement can be burdensome when there are multiple infringing copies of the same game disc under consideration. The United States encourages Mexico to address this issue, to ensure that legitimate right holders are able to adequately and effectively enforce their rights.

**PARAGUAY**

#### Ciudad del Este

Ciudad del Este has been named in the List and/or the Special 301 Report for over 15 years. The border crossing at Ciudad del Este and the city itself have long been known as a regional hub for the distribution of counterfeit and pirated products in the Brazil-ArgentinaParaguay triple frontier and beyond. Ciudad del Este thrives on a mainly Brazilian customer base attracted by low prices of counterfeit goods. Regional organized crime groups are reportedly responsible for the bulk of trade in counterfeit and pirated goods in Ciudad del Este. Despite the Government of Paraguay's stated goals to transform Ciudad del Este into a legitimate marketplace, including commitments to take specific steps to improve IPR protection and enforcement, effective seizures at Ciudad del Este are inadequate and in decline. The lag time to obtain warrants is long and the prosecution rates by the local office of the Attorney General are low. Better coordination and information sharing is needed between the National Directorate of Intellectual Property and the Attorney General.

**SPAIN**

#### Els Limits de La Jonquera, Girona

Els Limits de La Jonquera is a popular market in Girona, a city in the Catalan region of Spain that, like Ventimiglia, is close to the French border and popular with tourists. The market has been the subject of raids by the Spanish civil guard, but sellers are known to evade enforcement using various tactics including by stitching infringing labels at the point of sale. Right holders have obtained judicial orders to prevent the sale of infringing goods but those orders have been reversed. USTR urges the Spanish government to work with landowners, investigate warehouses and suppliers, and ensure that enforcement actions against counterfeit merchants are sustained.

**TURKEY**

#### Grand Bazaar, Istanbul

The Grand Bazaar in Istanbul, Turkey is among the largest and oldest markets in the world, and a top tourist attraction in Turkey. The market’s 61 covered streets include over 4,000 shops that reportedly sell counterfeit handbags, wallets, and other leather goods, jewelry, watches, and perfumes. Right holders report that periodic raids by Turkish police have been insufficient to overcome the scale of the problem.

**UNITED ARAB EMIRATES**

#### DragonMart and Ajman China Mall

DragonMart and the Ajman China Mall, located on the Hatta - Al Ain Highway and Al

Jerf Industrial Area, respectively, serve as important markets for China-sourced counterfeit goods. Together, these two markets host over 5,000 stores selling a broad range of goods, including appliances, stationery, communication and acoustic equipment, lamps, household items, building materials, furniture, toys, machinery, garments, textiles, footwear, bags, and watches. In addition to serving the UAE market, these two marketplaces also serve as gateways to distribute counterfeit goods to foreign markets, particularly in the Middle East, North Africa, and Europe. An estimated 80 percent of the companies operating in the Ajman China Mall are Chinese, and the Chinese Government supports the project as part of the China Council for the Promotion of International Trade’s 2010 “Going Out” strategy paper.

**VIETNAM**

#### Nin Heip Market, Hanoi, and Tan Binh Market, Ho Chi Minh City

Nihn Hiep in Hanoi and Tan Binh Market in Ho Chi Minh City are two of the most wellknown retail markets in Vietnam. Although some markets in Vietnam have been the target of raids and seizures of both counterfeit goods and labels, USTR urges the Government of Vietnam to enhance and sustain enforcement actions to deter sales of counterfeit goods and labels at these and other nominated markets in Vietnam.

#### Public Information

The 2017 Notorious Markets List is the result of the eighth OCR of Notorious Markets, which USTR initiated on Aug 16, 2017, through a Federal Register Request for Public Comments. The request and responses are available at WWW.REGULATIONS.GOV, Docket Number USTR-

2017-0015. USTR developed the 2017 List in coordination with the federal agencies represented on the Special 301 Subcommittee of the Trade Policy Staff Committee (TPSC). Information about Special 301, the TPSC, and other intellectual property rights-related processes and issues is available at HTTPS://USTR.GOV/ISSUE-AREAS/INTELLECTUAL-PROPERTY.

To assist U.S. right holders and consumers who confront IPR infringement online, the U.S.

Government continues to expand the tools available on WWW.STOPFAKES.GOV, including by providing links to infringement reporting mechanisms at a number of popular online retailers and markets. Victims and interested parties may report IPR theft to U.S. law enforcement agencies through a link at WWW.STOPFAKES.GOV or directly at WWW.IPRCENTER.GOV/REFERRAL.

### Alibaba 2017 IPR protection annual report

ALIBABA GROUP 2017

**INTELLECTUAL PROPERTY**

**RIGHTS PROTECTION**

**ANNUAL REPORT**

MAY 2018

Preface

Trust is essential for the health and sustainability of Alibaba’s business, and consumers and merchants place tremendous trust in our online marketplaces. Authentic, quality products are at the heart of this trust and no other e-commerce platform matches the sophisticated technological tools that Alibaba employs to identify and remove potentially problematic listings. While there is still much work to do, 2017 made clear that Alibaba’s collaboration with domestic and international rights holders, industry associations, government officials, and law enforcement personnel yielded tangible results and demonstrable progress in intellectual property rights (“IPR”) protection. As a leading company in China, and the world, Alibaba remains unwavering in its commitment to the protection of IPR.

Throughout 2017, Alibaba’s technology and ability to derive insights from platform activities continued to underpin the company’s efforts and helped to break new ground in IPR protection for both Alibaba and its partners. Alibaba’s real-time information scanning capabilities enabled the company to proactively remove 27 times more listings than those flagged by rights holders. Among those listings proactively removed by Alibaba, 97% were eliminated before a single sale took place. Due to these proactive and other efforts, rights holder takedown requests declined by 42% in 2017 even though the number of accounts registered through the Alibaba IP Protection (“IPP”) Platform increased by 17%. As for takedown requests that were submitted by rights holders, following the launch of the Express IPP initiative in mid-2017, 95% of takedown requests were processed within 24 hours which represented a 68% reduction in processing time. During 2017, participation in Alibaba’s Good-Faith Takedown Mechanism significantly expanded as did collaboration with industry associations and rights holders. The Alibaba Anti-Counterfeiting Alliance (“AACA”), an industry first, was established to foster transparency and communication among stakeholders and provide a forum for coordinating offline investigations and referrals to law enforcement. Throughout 2017, Alibaba continued to work with law enforcement and helped in cases that led to the arrest of 1,606 suspects and the closure of 1,328 facilities.

As a leading technology company, Alibaba understands that e-commerce marketplaces are critical drivers of economic growth and that the protection of IPR is indispensable for technological innovation and economic viability. Alibaba remains firmly committed to the protection of IPR and we will continue to work to make it even tougher for those who seek to profit from the violation of IPR.

Contents

[*1* Alibaba Group 2017 IPR Protection Statistical Overview 47](#_Toc35583)

[*2* Alibaba Group 2017 IPR Protection Key Initiatives 52](#_Toc35584)

[A. Enhanced Notice and Takedown 52](#_Toc35585)

[B. Cutting-Edge Technology for Proactive Monitoring 53](#_Toc35586)

[C. Unprecedented Success Supporting Law Enforcement 54](#_Toc35587)

[D. Calls for Tougher Laws Against Counterfeiters 58](#_Toc35588)

[E. Precedent-Setting Lawsuits Against Counterfeiters 59](#_Toc35589)

[F. Anti-Counterfeiting Education and Philanthropy 60](#_Toc35590)

[G. Enhanced Rights Holder Relations 60](#_Toc35591)

[H. Helping Small Businesses 61](#_Toc35592)

[I. Alibaba Anti-Counterfeiting Alliance 62](#_Toc35593)

*3* Conclusion

#### 1

#### Alibaba Group 2017

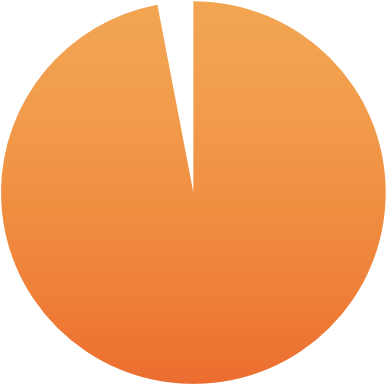
IPR Protection Statistical Overview

Throughout 2017, Alibaba continued its consumer and IPR protection efforts by using technology to gain insight into platform activities and by partnering with rights holders, industry associations and law enforcement. Below are statistics that illustrate the success of those efforts.

Express IPP



Dramatically Reduced Takedown Processing Time **95% 68%**



of all takedown requests decline in

were processed within 24 processing time

hours during business days

In June 2017, Alibaba introduced Express IPP, which was a significant technological undertaking to increase the speed with which rights holder takedown requests were processed. Enhanced algorithms and data modeling allow for greater automation in the analysis and processing of submissions. As a result, during the second half of 2017 95% of legitimate IPR takedown requests submitted through the IPP Platform were processed within 24 hours during business days. This represented a 68% reduction in average processing time compared to 2016.

04

Continued Improvement to Proactive Monitoring



Increased Effectiveness of Alibaba’s Proactive Monitoring Efforts

(Ratio of product listings proactively removed by Alibaba versus takedowns in response to rights holder requests)

Full Year

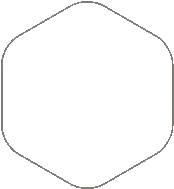
2017

Full Year

2015

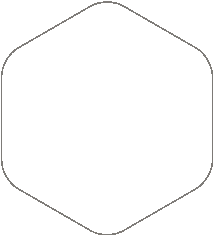
2016

Full Year



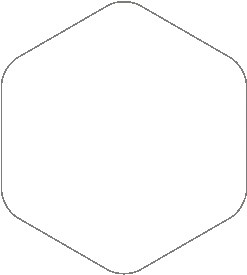
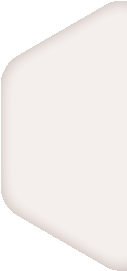
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x



26

x



27

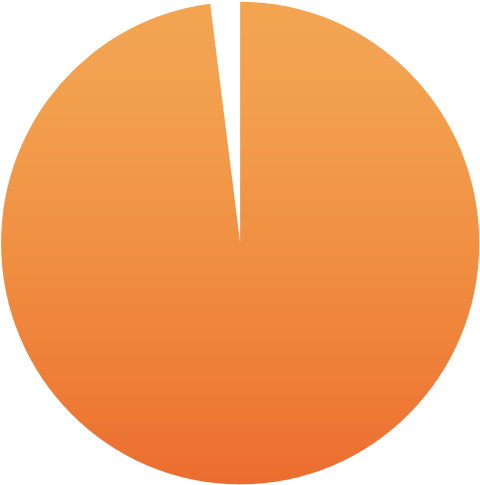
x



Alibaba’s ability to screen potentially problematic listings before they are posted online remains one of its most powerful enforcement mechanisms. In 2017, the number of listings proactively removed by Alibaba was 27 times greater than the number of listings removed as a result of requests by

rights holders.

of proactive takedowns **97%**



were removed before a single sale

Importantly, 97% of proactive removals occurred before a single sale took place. Moreover, Alibaba’s ability to proactively identify and remove potentially problematic listings will continue to improve as rights holders further collaborate and exchange information about their IPR and online infringement trends.

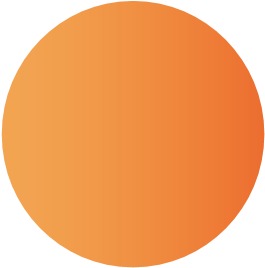
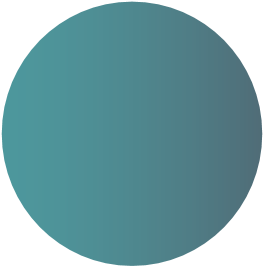
05



Remarkable Decline in Rights Holder Takedown Requests

Takedown Requests Decreased Even as Account Registrations Increased

increase in the number of **17%** YoY decline in **42%** registered accounts through takedown requests



Alibaba’s IPP Platform

Alibaba’s proactive efforts to identify and remove potentially problematic listings in 2017 contributed to a 42% decline, compared to 2016, in the number of notice and takedown requests submitted by rights holders. This decline is particularly striking given the 17% increase in accounts registered through Alibaba’s IPP Platform during 2017.

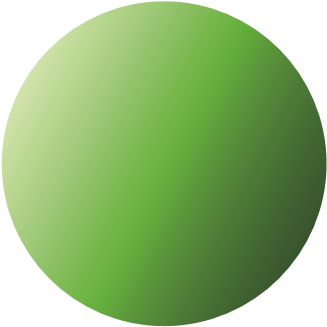
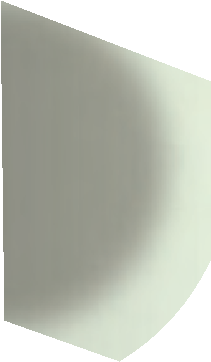
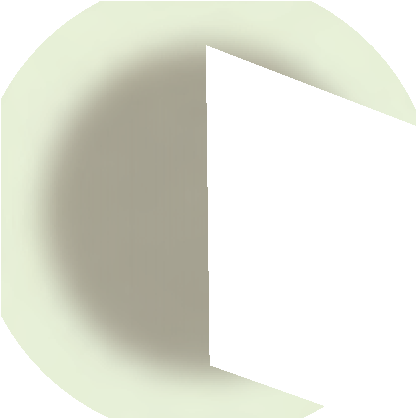
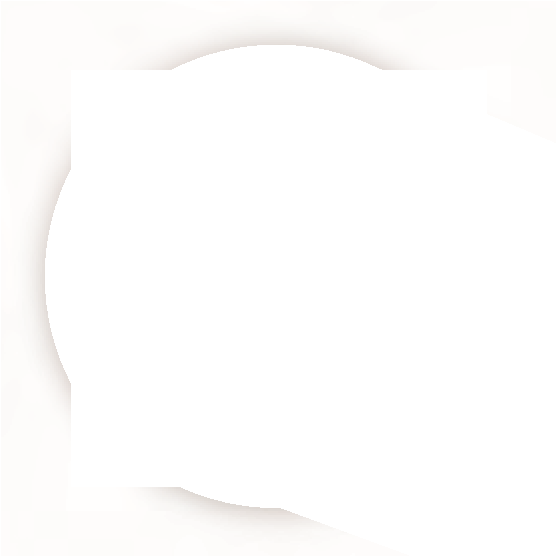
#### Alibaba’s Commitment to its Test-Buy Program



Robust Results from the Test-Buy Program

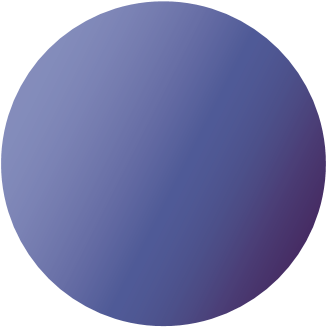
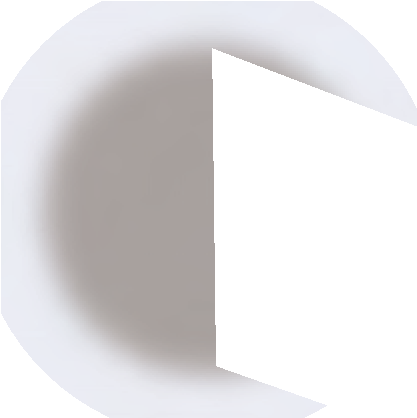
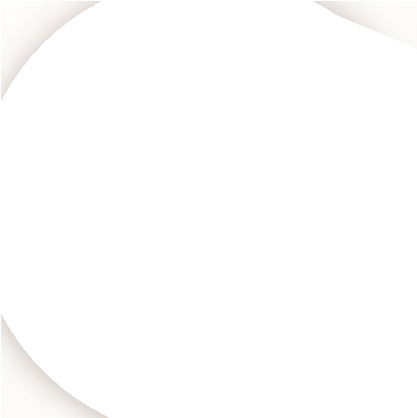
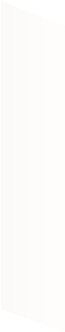
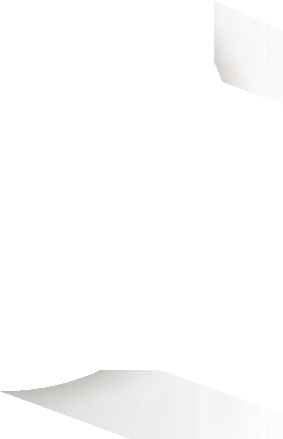
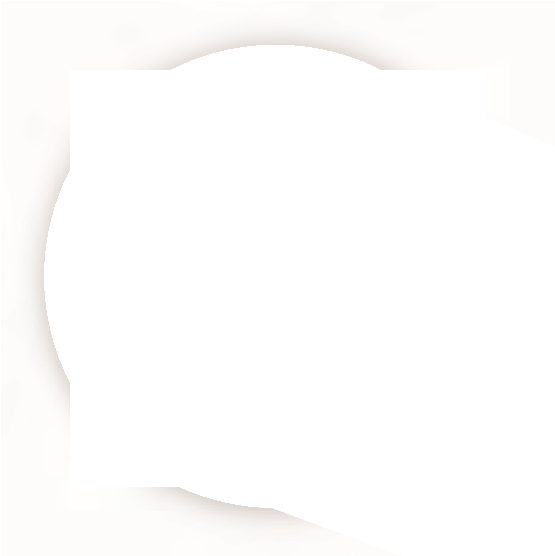


Expenditure on Test-Buy Program Number of Test-Buy Orders



100,000

Orders



RMB

100

Million

Alibaba leverages technology to gain greater insight into activities on our platforms, including targeting potentially problematic products and sellers for its test-buy program. On average, Alibaba spends nearly RMB 100 million conducting more than 100,000 test purchases each year. Cases involving products confirmed to be counterfeit, or of otherwise inferior quality, result in immediate penalties imposed by Alibaba against the responsible sellers. In 2017, Alibaba closed 240,000 stores suspected of selling illicit goods.

06

#### Consumer Satisfaction Levels Continued to Improve

The Number of Suspect Products Continued to Decline



Total Refunds Due to Suspect Products (Taobao)

Jan 1, 2016 – Dec 31, 2016



Jan 1, 2016 – Dec 31, 2017

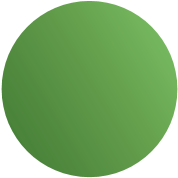


0.021

%

0.0149

%



29

%

During 2017, consumer satisfaction continued to show significant improvement year over year. On Taobao, for example, the total rate of refunds due to suspect products declined by 29%.

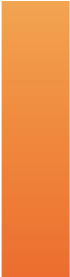
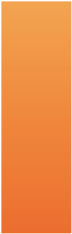
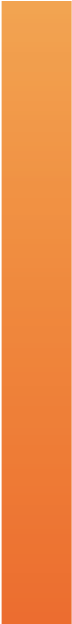
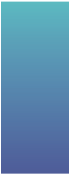
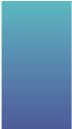
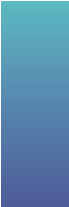
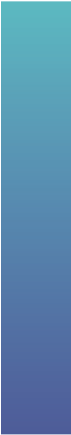
07

#### Unprecedented Levels of Success Supporting Law Enforcement



2017 Alibaba Offline Results

Number of Leads Value In volved in



Number of Arrests

**4.3**

**billion**

**1328**

**1606**

**1910**

1184

880

1419

3

billion



2016



2017

Closed Sites

th e Cases

In 2017, Alibaba supported local police in 23 provinces and cities throughout China in their efforts to crack down on the sale of counterfeit or otherwise inferior quality goods. During the year Alibaba referred 1,910 leads to law enforcement authorities that helped in the arrest of 1,606 suspects, the closure of 1,328 facilities and which involved a total of RMB 4.3 billion in estimated case values.

08

#### 2

#### Alibaba Group 2017

IPR Protection Key Initiatives

In 2017, Alibaba subjected those exhibiting online counterfeiting behaviors to strict sanctions that resulted in substantial deterrence. Alibaba’s ability to identify potentially infringing activity through the use of advanced technology continued to be a major driver of the success. The Statistical

Overview provided in Section 1 above makes clear how, in 2017, Alibaba not only enhanced its IPR protection capabilities online, but further elevated its support for offline enforcement actions. These accomplishments are the result of not only Alibaba’s technological innovation, but also its collaboration with rights holders and law enforcement. The statistics provided above make it clear that in 2017 rights holders enjoyed greater IPR protection on Alibaba’s platforms and consumers likewise benefited from the enhanced protections.

#### A. Enhanced Notice and Takedown

#### IPP Platform Enhancements

During Alibaba’s August 2017 Brand Rights Holders Day in Beijing, enhancements to the IPP Platform were unveiled. Highlights of the IPP Platform upgrades included:

* A single point of entry for enforcement on all Alibaba e-commerce platforms in order to provide a smoother and more streamlined registration and takedown process for rights holders;
* Greater technology and automation for processing takedown requests, which significantly reduced average processing time;
* A dedicated team of IPR-focused professionals who work to reduce the response time for inbound inquiries and who provide proactive outreach to rights holders new to the IPP Platform or that may have more complicated IPR cases; and
* More robust technological capabilities for IPR protection such as multilingual trademark recognition.

#### Express IPP

In June 2017, Alibaba launched its trial run of Express IPP. Express IPP utilizes the IPP Platform and data-driven technology to enhance IPR protection capabilities and provide an improved IPR protection experience on Alibaba platforms.

09

The pilot program was a success and Express IPP officially launched two months later. From June to December 2017, 95% of all legitimate IPR takedown requests were processed within 24 hours during business days, which represented a remarkable 68% reduction in average processing time compared to 2016. The overall IPP Platform improvements, and particularly the Express IPP enhancements, benefited rights holders and allowed for more efficient reporting and faster processing of IPR takedown requests.

“Alibaba’s IPP reform has made reporting faster and easier. Many of the complaints were processed within one day.” — Liu Zihan, Yellow Brand Protection, Asia Regional Operation Manager

Regarding the impact of Alibaba’s online reporting system, “You get fast, thorough results.

Issues are very rare.” — Jon Azrielant, Director of Marketing at Jewelry.com

#### B. Cutting-Edge Technology for Proactive Monitoring

Alibaba’s state-of-the-art technologies remain an indispensable part of its success in IPR protection, including the significant reduction in rights holder takedown requests and processing time. Highlighted below are nine major technological tools used by Alibaba in 2017 for IPR protection:

**Product Intelligence:** Automatically learns from available information on Alibaba’s platforms and identifies, evaluates and processes potential IPR infringements from among nearly two billion product listings.

**Screening Model:** Relies on deep learning capabilities and conducts daily scans of Alibaba platforms to detect and remove potentially counterfeit and problematic product listings (the scope of this effort is equivalent to the workload of 5,000 virtual servers).

**Image Recognition Algorithms:** Applied each day to 600 million product images, the optical character recognition (OCR) functionality of the algorithms can scan over 23 million characters in images per second with an accuracy of 97.6%.

**Semantic Recognition Algorithm:** Utilizes vocabulary and product information to analyze and assess the meaning and context behind the characters identified by OCR.

**Product Information Library:** An enormous database that standardizes, redefines and structures the vast amount of complex information found in product listings into a more usable format that allows for faster execution by Alibaba systems.

**Real-Time Interception System:** Operates in real-time to conduct risk assessment scans within microseconds of a product’s listing or editing to identify and intercept potentially problematic listings.

**Real Person Verification:** Biometric technology widely applied to newly registered Alibaba platform sellers, this technology utilizes seller reviews, password changes, risk assessment modeling, and other triggers to help ensure the reliable identification of sellers.

**Data Sampling Model:** This smart filtering technology identifies product listings to target for additional scrutiny though test purchases.

**Law Enforcement Support:** Alibaba has developed a process to more quickly support law enforcement requests for evidence connected with offline investigations in China.

Using these cutting-edge technologies, Alibaba is able to apply real-time risk assessments to intercept potentially problematic listings and detect problematic sellers and stores for rapid removal and punishment.

#### C. Unprecedented Success Supporting Law Enforcement

Recognizing that it is difficult, if not impossible, to succeed in eliminating online counterfeiting without also attacking offline sources, Alibaba has not limited its efforts to online enforcement and protection. Alibaba’s Anti-Counterfeiting Special Task Force uses technology-enabled capabilities to detect potentially infringing activity and support law enforcement agencies in identifying criminals and their manufacturing and distribution facilities. Currently, Alibaba’s Anti-Counterfeiting Special Task Force has joined law enforcement authorities in 23 provinces across the nation (see the following infographic) to help combat offline counterfeit production and sales, and has signed agreements to foster collaboration and provide strategic support to public security authorities in 12 provinces (Shanghai, Tianjin, Jiangsu, Shandong, Hebei, Liaoning, Hunan, Shaanxi, Chongqing, Yunnan, Heilongjiang, and Shanxi).



In addition, the Cloud Sword Alliance is an IPR task force set up by Alibaba and a number of provincial law enforcement authorities to provide concentrated collaboration on investigations to better assist in the arrest of online merchants who infringe IPR. The Cloud Sword Alliance utilizes algorithms and insights into Alibaba’s technological ecosystem to locate potentially unlawful transactions and, where possible, track leads upstream. The analysis by Alibaba is shared with law enforcement authorities to provide them with the necessary information to shut down illegal production facilities. Up from five provinces in the previous year, 13 government offices of the Office of the National Leading Group on the Fight Against IPR Infringement and Counterfeiting participated in the 2017 Cloud Sword Alliance. The government offices included the provinces of Anhui, Fujian, Guangdong, Guangxi, Guizhou, Hainan, Hunan, Jiangsu, Jiangxi, Sichuan, Yunnan, and Zhejiang as well as the municipality of Shanghai. In August 2017, the Cloud Sword Alliance met in Hangzhou to discuss plans and strategies to protect IPR.

Collaboration with law enforcement in 2017 involved support for online as well as offline cases. During the year, Alibaba’s efforts to combat online counterfeit sales saw unprecedented success and were augmented by major efforts from China’s Public Security Bureaus (PSB), Administrations for Industry and Commerce (AIC), the China Food and Drug Administration (CFDA), General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), among other law enforcement authorities. In 2017, Alibaba collectively provided the PSB, AIC, CFDA, AQSIQ and other agencies with 2,337 offline and online leads to aid enforcement efforts. “Red Shield Net

Blade” was a 2017 cooperation between Alibaba and administrative law enforcement

authorities in Zhejiang to investigate and prosecute online IPR violations. During the project, Zhejiang province authorities prosecuted 3,819 cases online and closed 2,638 of the cases. Among the cases were 1,320 major cases with a combined value approaching RMB 348.7 million, and which resulted in administrative penalties totaling RMB 46.8 million. Eighty (80) incidents were referred to provincial law enforcement bureaus, and 13,349 illegal online stores and independent websites were closed as a result of the Red Shield Net Blade initiative.

Alibaba’s 2017 support for law enforcement also included educational efforts. In cooperation with the People’s Public Security University of China, Alibaba created “Law Enforcement IP Workshops” to discuss online counterfeit investigation experiences. In addition, Alibaba launched courses with public security authorities from 31 provinces in Mainland China to share practices for combating counterfeiters. Furthermore, during 2017 Alibaba held 21 sessions of its “Training & Sharing School” to exchange information with nearly 700 public security officers.

Law Enforcement Case Study:

#### Counterfeit Factory Owner Captured After Initial Escape



In 2017, after six months of investigation, the Alibaba Anti-Counterfeiting Special Task Force assisted police in dismantling the largest known Louis Vuitton (LV) counterfeit ring in recent years. In late 2016 Alibaba’s Anti-Counterfeiting Special Task Force assisted police in the successful raid of a factory counterfeiting LV products; however, the owner escaped arrest. Based on further leads provided by LV, Alibaba’s Anti-Counterfeiting Special Task Force further investigated the case and helped the PSB track down another counterfeit production site in Foshan where the owner was captured. Three machine processors and 15 rolls of printed leather were seized. Concurrently, police were investigating counterfeiting activity involving LV products in Yongzhou, Hunan and Guangzhou, Guangdong, which were part of a common network. On June 6, 2017, the police simultaneously raided factories, warehouses, logistics sites, and wholesale portals in Yongzhou and Guangzhou, and more than 10 suspects were arrested. The cases involved RMB 216 million.



Louis Vuitton Case Study: Offline IPR Enforcement

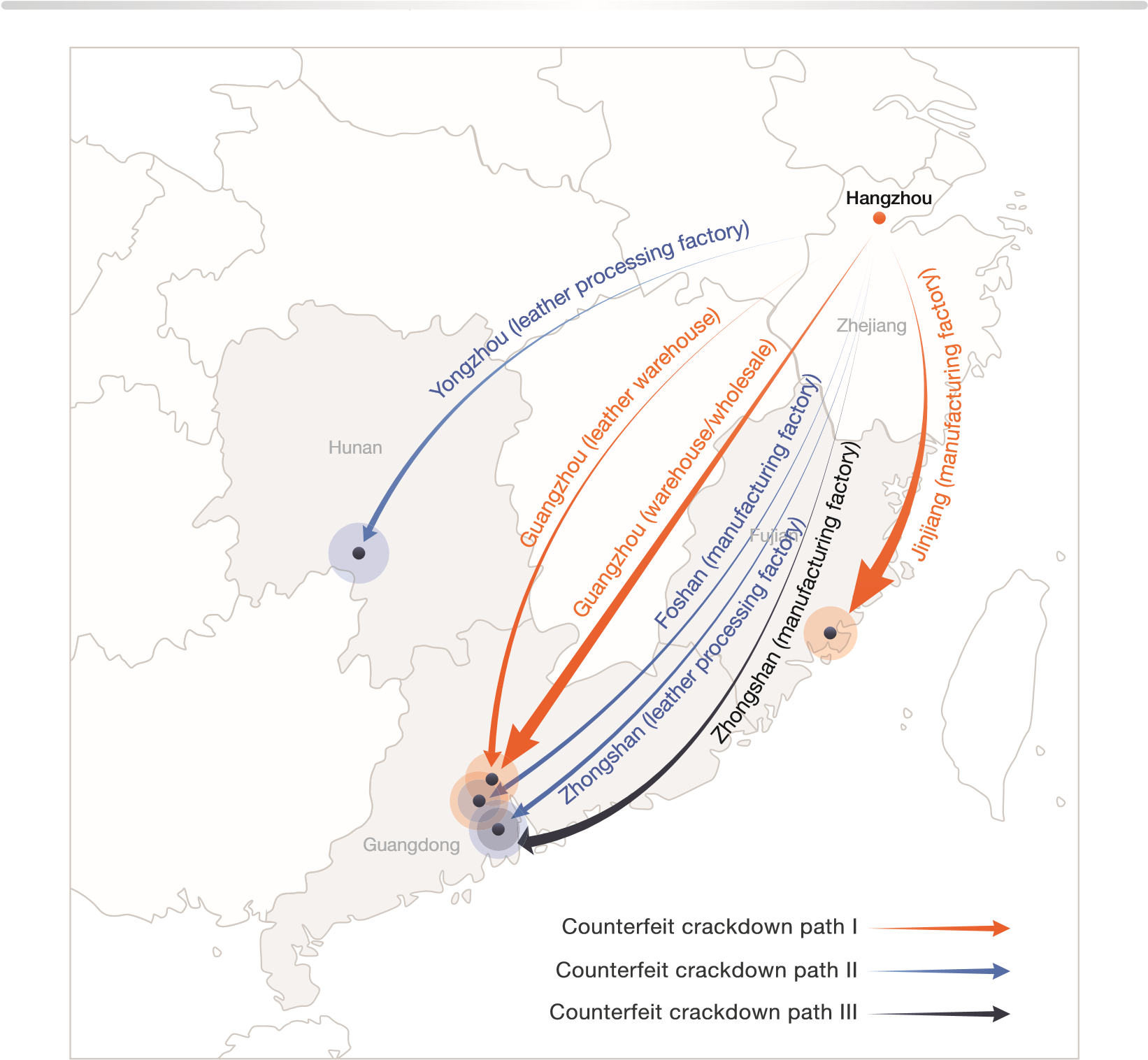


Illustration of offline crackdown on counterfeit LV series

Law Enforcement Case Study:

#### International Case Involving Counterfeit Luxury Goods



In November 2017, the Chinese Ministry of Public Security announced that Sino-U.S. police successfully cracked an extremely large number of cross-border criminal IPR infringement cases. The success culminated a two-year investigation in which luxury brand owners sought assistance from Alibaba. The Alibaba Anti-Counterfeiting Special Task Force determined that the criminal enterprise had initially tried to sell counterfeit goods through a Taobao store. However, the online store was terminated so the criminal enterprise established an independent website, www.pursevalley.cn, to sell counterfeit goods to the U.S. and Europe. With the help of Alibaba, police discovered the domain name registrar was a Guangdong company, but the website server was located in the U.S. Law enforcement organizations in the Guangdong Province coordinated raids at production, logistics, packaging and warehousing facilities and also communicated with customs officials at the Baiyun Airport International Logistics Center. The actions resulted in 36 arrests, the destruction of 7 counterfeiting locations, and the interception of parcels intended for international express delivery. The criminal enterprise utilized an overseas customer service team as well as a domestic operations team to translate customer orders, place production orders, and provide after-sales support and website marketing. Logistics companies were used to transport the illicit goods, clear customs and ship packages overseas. Western payment services were used to support payment in U.S. Dollars, Euros and other currencies. The enterprise had accumulated sales amounting to RMB 100 million. U.S. law enforcement agencies simultaneously conducted investigations on their domestic websites.

“I want to express my heartfelt gratitude to Alibaba Group, and the platform control department! In the future, I hope to make more contributions by reinforcing the partnership between the police and corporations to fight the online sale of counterfeit products and defend market order.” -- Guangzhou police in a letter of gratitude sent to Alibaba after the closure of the case.

Law Enforcement Case Study:

#### A Successful Herbalife Nutrition Case



In a concentrated effort from May to November 2017, the Guangdong Provincial Food and Drug Administration (FDA) and the Public Security Department of Guangdong Province solved 808 cases resulting in administrative penalties of more than RMB 38 million. In 68 cases, involving a total value of RMB 280 million, 236 criminal suspects were arrested, and 72 counterfeiting facilities were destroyed. Two cases involved more than RMB 100 million each, four cases involved more than RMB 10 million, and 22 cases exceeded RMB 1 million. At a press conference to report on the internet food and drug crimes and successes for the year, the Deputy Director of the Guangdong FDA, Lu Junqiang, introduced the counterfeit Herbalife case as illustrative of Alibaba’s support. After months of work, authorities were able to destroy a chain involving offline counterfeit production, online sales, and shipment of counterfeit products to consumers. Multiple warehouses and shipment sites were used to conceal the activity. With the help of Alibaba’s analysis, criminal suspects and upstream production facilities were identified.

“The successful investigation and processing of this case was due to teamwork and close collaboration. We took full advantage of the expertise of the Food and Drug Administration, the investigation of the public security, big data from Alibaba, and fixed electronic evidence from Shenzhen Market Inspection Bureau.” -- Guangdong FDA

Law Enforcement Case Study:

#### Cracking Automotive Parts Counterfeiting



In August of 2017 the Foshan PSB announced it had successfully destroyed a counterfeit auto parts manufacturing and sales operation involving more than RMB 10 million and resulting in the arrest of 14 suspects. Through their investigation efforts police uncovered a warehouse in Guangzhou which prompted them to look upstream for a production source. With the help of Alibaba, authorities identified a manufacturing base in Wenzhou where the director of an automotive filter factory, in addition to producing filters for his own brand, manufactured counterfeit filters involving the brands of well-known companies. On July 14, more than 60 police officers were dispatched to Guangzhou and Wenzhou for coordinated raids and seizures. With the cooperation of local PSBs, police successfully seized a large number of counterfeit automotive parts, such as oil and air filters, as well as production tools.

“The success of this case demonstrates the zero-tolerance of Foshan law enforcement for inferior counterfeit automobile products. We also saw Alibaba’s full commitment and tireless efforts to protect IPR.” -- Zhang Lin, Senior Manager of the China Representative Office, German Association of the Automotive Industry

#### D. Calls for Tougher Laws Against Counterfeiters

No single company or party can end counterfeiting and piracy on its own. All stakeholders - brand owners, manufacturers, merchants, e-commerce marketplaces, law enforcement authorities, legislators and other government officials, and even consumers - have critical roles to play.

While China has made significant progress in protecting IPR in recent years, current penalties remain insufficient to effectively deter criminal infringement. In February 2017, Alibaba issued a public appeal calling for tougher laws, stricter enforcement and stiffer penalties for sellers of counterfeit goods in China.

The following month, during the 2017 National People’s Congress (NPC) and the National

Committee of the Chinese People’s Political Consultative Conference (CPPCC), Alibaba Group Founder and Executive Chairman, Jack Ma, appealed to Chinese legislators to strengthen laws and toughen penalties for counterfeiting, and he urged the representatives of the NPC and CPPCC to treat counterfeiting with the same urgency they did in successfully cracking down on drunk driving years earlier.

Other business leaders also took up the call and both the China Entrepreneurs Club and Lenovo Group Ltd. founder Liu Chuanzhi issued statements echoing Mr. Ma’s call for better laws and stricter enforcement. (Mr. Ma is chairman of the China Entrepreneurs Club, founded in 2006 to nurture entrepreneurialism and business integrity, and Liu Chuanzhi is a former chairman of the private, non-profit group.)

Lenovo Chairperson Liu Chuanzhi said, “[Counterfeiting] not only destroys numerous industries, it destroys online shopping, credibility, and the foundations of China.”

Mr. Lei Jun, founder of Xiaomi, one of China’s leading smartphone makers, called fake goods, “a social cancer, a serious damage to the image of the country and consumer confidence” and said it was time to support efforts to get rid of them.

Mr. Ma’s appeal sparked public discussion among China’s legislators as well, including the Director of the State Administration for Industry and Commerce (SAIC), Mr. Zhang Mao, who at a press conference during the annual sessions of the NPC and CPPCC acknowledged calls by business leaders to fight harder against counterfeiters and pledged to strengthen anti-counterfeiting laws.

Current laws and associated penalties hamper the ability of police to successfully build cases against counterfeiters and limit the judiciary’s ability to impose meaningful penalties. The result is a low conviction rate that allows criminals to often escape legal consequences. Alibaba will continue advocating for change in this regard wherever it does business.

#### E. Precedent-Setting Lawsuits Against Counterfeiters



2017 Civil Lawsuits Filed Against Counterfeiters

In January 2017, Alibaba

sued two counterfeit

**Swarovski**

watch sellers.

In July 2017, Alibaba won a civil

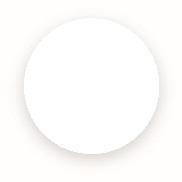
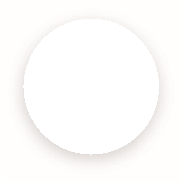
lawsuit, filed in March, against a

counterfeit pet food seller

infringing

**Mars Inc.**

’s IPR.



**2017**

Wuliangye case

Paul Frank case

+

Vans (VF Corporation) case

Roem & Mo&Co case

+

Kingston & Samsung

)

multiple cases

(

Bioderma case

+

Nike, Adidas, New

Balance, PUMA

multiple cases

(

)

Jan May Jul Aug Nov Dec

These are the first legal actions brought in China by an e-commerce company against infringing sellers on its platform.

In conjunction with the public appeal for stricter enforcement of IPR laws in China, Alibaba was the first platform operator in China to bring civil lawsuits against merchants who misuse its services for the sale of counterfeit goods. Filing civil lawsuits against counterfeiters of brands such as Swarovski, Mars, Bioderma and Adidas, Alibaba Group’s Taobao platform sued multiple counterfeit sellers on the grounds of breach of contract and harm to reputation.

In addition to being the first platform to file civil lawsuits against counterfeiters, Taobao was the first to successfully obtain a judgment in such a case. On March 8, 2017, Taobao filed a lawsuit against a merchant selling counterfeit Mars cat food based on a violation of Taobao’s terms of use, which prohibit counterfeit sales, as well as harm to Taobao’s reputation. Taobao requested RMB 2.67 million in compensation as well as a public apology. On July 20, the Shanghai Fengxian District People’s Court issued its verdict in the first instance holding that the defendant had infringed upon the legal rights of Taobao by selling counterfeit products on the Taobao platform, thus reducing consumer trust and damaging Taobao’s public image. The verdict established the precedent that counterfeit sellers can be liable to the platform whose services they misuse in connection with the sale of counterfeit goods. The presiding judge, the President of the People’s Court, ordered the defendant to pay RMB 120,000 in damages to Taobao.

In recognition of the precedent-setting nature of the claims, the case was nominated as a 2017 Top 10 Civil Proceedings in the People’s Court and included in the “2017 Top 10 Legal Advancement Cases” list compiled by the Supreme People’s Court and China Central Television (CCTV).

The Supreme People’s Court lauded the case stating, “The court has fulfilled a demand for this type of case and set a great model and valuable reference for them in the future. This is a demonstration of the law’s firm attitude towards new online business legal relations, and shall help the long-term healthy development of e-commerce platforms, and . . . affirms our legal force and determination in the fight against counterfeiting.”

During 2017, Alibaba filed 12 legal proceedings against counterfeiters, and two cases received successful verdicts.

#### F. Anti-Counterfeiting Education and Philanthropy

In addition to supporting criminal cases and administrative actions, and bringing civil actions,

Alibaba has hosted charity events to encourage awareness and participation by consumers in IPR protection. In July 2017, Alibaba auctioned authentic products that were purchased through its test-buy program. The proceeds of the auction were donated to Shanghai Adream Charitable Foundation Limited to build the “Adream Center” for children.

In September, Alibaba along with China Youth Daily, China University Media Union and Shanghai Adream Charitable Foundation Limited, began a nationwide competition involving 799 universities across 21 provinces to solicit creative and environment-friendly ideas for destroying counterfeit products. The competition fostered anti-counterfeiting awareness among young people and allowed them to participate in IPR protection.

#### G. Enhanced Rights Holder Relations

In 2017, Alibaba continued its efforts to engage and strengthen relationships with domestic and international rights holders. During 2017, Alibaba engaged with over 30 industry associations which represent the interests of thousands of companies from around the world. In November 2017, Alibaba held two international rights holder conferences, in Geneva and Milan, to engage directly with international rights holders and share Alibaba’s technology, direction and initiatives related to IPR protection. Throughout the year Alibaba held one-on-one meetings with brand owners and their representatives to support their IPR enforcement efforts, answer questions regarding IPR protection on Alibaba platforms and help address any challenges or difficulties. During 2017, Alibaba was increasingly recognized for its efforts, transparency and collaboration:

“As a long-standing partner of Alibaba’s, I’m impressed with the technology upgrades to the platform we saw, and appreciate Alibaba’s openness about its processes and willingness to seek our input on how to better work together. As a brand, I learned a lot, which instills our continued trust in Alibaba to protect our IP.” — Jessica Guo, Senior Legal Manager, Spalding

“Cooperating with the China-Britain Business Council (CBBC) and Alibaba has made it quicker and easier for us to protect Dyson’s distinctive designs. Thanks to the CBBC-Alibaba collaboration on IP, we have been able to remove more fakes from e-commerce sites than ever before. Their support makes a real difference to our ability to protect consumers from poor quality imitation products.” — Gill Smith, Group IP Director at Dyson

#### H. Helping Small Businesses



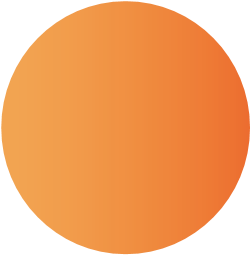
Specific Measures Tailored for

Small and Medium-sized Enterprises (SMEs )

Providing a simple online

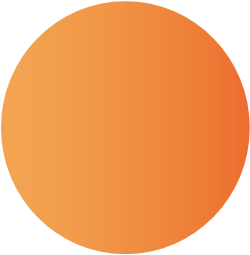
form for submitting

takedown requests



Expediting takedown

requests for all users



Making it easier to find the

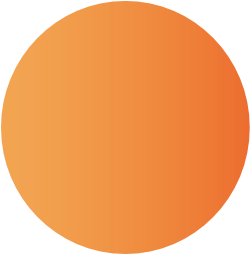
IPP Platform



Ensuring clear and consistent

communications regarding

takedown requests



Broadening the IACC

MarketSafe® Expansion

program to include more

SMEs at no charge

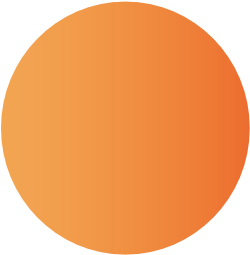


Participating in U.S. Patent and

Trademark Office Road Shows to

educate SMEs on our IPR

protection programs



In 2017, Alibaba implemented measures specifically intended to support the unique needs of SMEs. The following enhancements to Alibaba’s IPP Platform were implemented to help provide a positive overall experience with the IPP Platform and were tailored to help meet SME needs specifically:

* Search engine optimization to allow for easier discovery of Alibaba’s IPP Platform and IPR protection resources;
* Step-by-step English language instructions regarding use of the IPP Platform;
* A simple online form with pre-defined fields to assist in submitting takedown requests, which does not require registration on the IPP Platform;
* An improved email response system for IPR submissions which provides prompt, consistent and clearer messaging to rights holders;
* The MarketSafe® Expansion Program was launched, free of charge, with dedicated space for SMEs; and
* Alibaba’s IPR Protection Handbook which serves as an easy to understand ‘how-to’ guide. Link below: https://ipp.alibabagroup.com/infoContent.

htm?spm=a2o2l.8248579.0.0.64fe3c21EqfQMh&skyWindowUrl=notice/handbooken

In addition, with the help and participation of government authorities, Alibaba conducted extensive outreach efforts to inform and educate SMEs about IPR enforcement on Alibaba platforms. For example, Alibaba presented its IPR protection programs to SMEs in Michigan, Indiana, Illinois, Colorado, Utah and Washington through the ‘China Intellectual Property Road Shows’ organized by the U.S. Patent & Trademark Office. Additionally, Alibaba incorporated an SME IPR component into its Gateway ’17 event in Detroit, Michigan which was attended by over 3,000 small businesses.

#### I. Alibaba Anti-Counterfeiting Alliance



In January 2017, Alibaba and 30 other leading domestic and international brand owners founded AACA, a first of its kind anti-counterfeiting alliance. AACA combines brand and industry knowledge with Alibaba’s e-commerce technology and platform insights in order to protect IPR more effectively.

Brands such as Procter & Gamble, Louis Vuitton, Mars, Adidas, Ford and Xiaomi (for the complete list of founding AACA brand members please refer to the infographic above) and Alibaba worked within AACA to foster communication and create a forum for coordinated and proactive IPR protection efforts. During AACA’s first year, members focused on several areas including online protection, offline enforcement, litigation tactics and industry collaboration.

AACA is currently comprised of 12 industry working groups (IWGs) that share, among other things, best practices in IPR protection and needs specific to their respective industries. In September 2017, Alibaba and member companies established an AACA Advisory Board comprised of representatives from each of the 12 IWGs. The Advisory Board functions as a strategic think tank within AACA and provides members with an established channel to help influence Alibaba IPR policies and practices.

Today, brand owners and e-commerce platforms are faced with counterfeiters who are more sophisticated, better funded, and more international than ever before. However, Alibaba’s partnerships and collaboration with law enforcement, rights holders, consumers and other stakeholders in 2017 led to demonstrable progress in the protection of IPR. Alibaba firmly believes that sustained, long-term efforts such as multi-industry collaboration, technology-driven insights, coordinated offline investigations, increased criminal penalties, and innovative approaches to civil litigation can lead to even more success in 2018.

Last year, Alibaba broke new ground in the protection of IPR. In 2018, stakeholders will see Alibaba file more lawsuits, particularly joint civil lawsuits with rights holders, to impose greater financial consequences on those who would profit from IPR infringement. Alibaba will also work to impose consequences on counterfeiters by continuing to support offline investigations by law enforcement. In the upcoming year Alibaba will also continue to expand its partnerships with industry associations and rights holders, including SMEs. The expansion of AACA will not only enhance industry participation and deepen subject matter expertise, but also increase our collective ability to educate the public and effect positive change.

Conclusion

*3*

Alibaba’s mission is to “make it easy to do business anywhere,” and our success is predicated on trust. We are wholly committed to our consumers and the protection of IPR.

### Fake goods on Alibaba hurt U.S. small businesses

#### Despite Jack Ma’s pledge to champion U.S. small firms, many struggle to get counterfeits removed on Taobao, which landed back on U.S. ‘notorious’ list

By

**KATHY CHU** in Hong Kong and

**LIZA LIN** in Shanghai

March 6, 2017 10:44 a.m. ET

[**0 COMMENTS**](http://archive.today/o/5WiaQ/https:/www.wsj.com/articles/fake-goods-on-alibaba-hurt-u-s-small-businesses-1488815057%23livefyre-toggle-SB11455692400262464455204583000360568976792)

Chinese billionaire Jack Ma was praised by President Donald Trump in January after the internet tycoon pledged to create American jobs [by helping a million U.S. businesses sell goods](http://archive.today/o/5WiaQ/https:/www.wsj.com/articles/trumps-meeting-with-jack-ma-comes-as-u-s-keeps-eye-on-alibaba-1484051143) on [Alibaba Group Holding](http://archive.today/o/5WiaQ/quotes.wsj.com/BABA) Ltd.’s online shopping platforms in Asia.

Indiana artist Michel Keck says the platforms have been more hindrance than help. Ms. Keck, whose work has been featured in TV shows, movies and department stores, never sold her mixed-media collages of dogs and abstract paintings on Alibaba’s platforms. But she says counterfeit copies are available on the company’s Taobao marketplace for as little as 3% of the price of her authentic works.

Alibaba said it has removed hundreds of links reported by Ms. Keck. But more soon pop up, she said, sapping her time and creativity. “Why would a U.S. small- or medium-size business want to put their original creations, their entire livelihoods into the same arena where counterfeiters are ready to steal any original concept or idea?” she said.

[Alibaba’s Taobao was reinstated on a list of notorious marketplaces for fakes](http://archive.today/o/5WiaQ/https:/www.wsj.com/articles/alibaba-lands-on-u-s-governments-notorious-markets-list-for-fakes-1482356081) in December due in part to “the challenges right holders experience in removing and preventing illicit sales and offers of such goods,” said the U.S. Trade Representative’s office, which maintains the list.

The list, which includes file-sharing platform The Pirate Bay and physical marketplaces such as Beijing’s Silk Market, names and shames those that are seen as not doing enough to fight counterfeiting and piracy. While Taobao’s inclusion on the list doesn’t have a direct impact on its business, it could lead some investors to shy away from the stock, said Muzhi Li, an analyst at Arete Research.

Alibaba said in December it was disappointed in the USTR move because the company is “far more effective and advanced” in protecting intellectual property rights than a few years ago. Taobao was originally removed from the list in 2012.

[](file:///D:\Documents\2018-2019\business%20management\websites\wsj\ae216cf016751e1920ad8954dfdfabfb91235f80.jpg)

Left, counterfeit artwork that Michel Keck said she bought on Alibaba's platforms. Right, her authentic art work. *PHOTO: MICHEL KECK*

In the 12 months through August, Alibaba said it removed more than 380 million infringing product listings and closed 180,000 stores on Taobao. The company said more than 1,100 brands now qualify for an expedited takedown process, through which suspect listings are removed in an average of half a day.

The USTR, in its December report, said the expedited takedown program “reportedly remains out of reach,” especially for small- and medium-size businesses, because of stringent eligibility requirements. To be eligible, brands must submit 100 takedown requests over a three-month period from Taobao and have a 90% accuracy ratio, according to Alibaba.

Alibaba said it is funding a separate initiative with an anticounterfeiting group to help small businesses remove infringing listings more quickly. Some 10 million businesses sell on its platforms, a company spokesman said.

Unlike some e-commerce platforms such as [eBay](http://archive.today/o/5WiaQ/quotes.wsj.com/EBAY) Inc. and[Amazon.com](http://archive.today/o/5WiaQ/quotes.wsj.com/AMZN) Inc., Alibaba doesn’t necessarily automatically remove listings reported as problematic, instead conducting an investigation, a process that brands say can take days or weeks.

Alibaba says it needs to investigate complaints of infringement because nearly a quarter of such reports turn out to be false. Amazon.com and eBay say they typically take brands’ words and remove reported listings within a day, putting the onus on the seller to prove to the platforms that the goods are authentic. “The majority of infringing listings are taken down within hours,” an eBay representative said. Amazon said suspected counterfeit items are removed “as soon as we become aware of them.”

While fakes exist on any e-commerce platform, the problem is “minuscule” on other sites compared with Alibaba’s Taobao market, according to Dean Arnold, the Shanghai-based director of the Intellectual Property Group, which works with brands to fight counterfeits.

[](file:///D:\Documents\2018-2019\business%20management\websites\wsj\2ec528292844ead498c6892d76c7365ee8cfbefc.jpg)

Left, counterfeit artwork that Michel Keck said she bought on Alibaba's platforms. Right, her authentic art work. *PHOTO: MICHEL KECK*

The problem is exacerbated by the sheer volume of sales on Alibaba: Its Chinese marketplaces processed $485 billion in transactions in fiscal 2016, more than eBay and Amazon combined.

Wayne Hung, Asia-Pacific sales director for Urban Armor Gear, a Laguna Niguel, Calif., maker of phone and tablet cases, said Alibaba has been supportive of the company’s efforts to tackle fakes since it opened an online store on Tmall, Alibaba’s marketplace for mostly larger retailers and established brands.

“They will make sure when people search, our brand will come up” rather than fakes, Mr. Hung said.

Not all companies feel that way, said Stephen Lamar, executive vice president of the American Apparel & Footwear Association, a trade group representing more than 1,000 companies. The group was one of several U.S. business associations that last year campaigned to get Alibaba put back on the notorious-markets list.

Kinon Surface Design, a Boynton Beach, Fla., maker of resin surfaces, says its business supplying luxury hotels and restaurants in Asia dried up as counterfeits began circulating on Alibaba’s sites.

“I would never sell anything” on Alibaba’s sites, said Kinon President Richard Satz. Regular monitoring of Alibaba’s platforms has made a dent in the problem but has been time-consuming and expensive, he said.

“We’ve gone from horrendous to really, really bad” in terms of fakes on the sites, said Joel Rothman, the company’s attorney.

An Alibaba spokesman said that while the e-commerce company is responsible for taking down counterfeit listings when notified, “it’s a brand’s responsibility to protect its own brand.” Alibaba has removed 241 listings of 246 reported by Kinon since January 2016, he said.

Many entrepreneurs don’t have designated personnel to deal with counterfeit goods, nor an understanding of regulatory processes in China, said Mr. Arnold of the Intellectual Property Group.

Ms. Keck, the Indiana artist, says she feels she is playing Whac-A-Mole with online shops selling fakes. She has created art and posted videos on social media that document her fight with Alibaba.

“I don’t just tell a story for myself,” she said. “I tell a story of what is happening to many small and medium-size business owners.”

*—Kate O’Keeffe in Washington contributed to this article.*

### Can Alibaba rescue its reputation from counterfeits

By [Minda Smiley](https://www.thedrum.com/users/mindasmiley)-26 April 2018 12:30pm

Many wonder whether Alibaba can shake its reputation as a platform for counterfeits.

The counterfeit goods that plague [Alibaba’s](https://www.thedrum.com/profile/alibaba) platforms continue to be a major thorn in the company’s side.

In recent years, Alibaba has taken steps to curtail the sale of fakes on sites such as [Taobao](https://www.thedrum.com/topics/taobao) and [Tmall](https://www.thedrum.com/topics/tmall). Yet earlier this year, Taobao found itself back on the US Trade Representative’s ‘notorious markets’ list. In the report, Taobao was called out for the “high volume of infringing products” that reportedly continue to be offered on the site.

Alibaba was not pleased with the accusation. In a blog post, president Michael Evans stated that the list is the result of “a deeply flawed, biased and politicized process”, while claiming that “Alibaba is doing more to protect brands and rights holders than any e-commerce company in the world.”

To be fair, Alibaba has been publicly tackling this problem for some time. Through improving its IP protection program, Alibaba claims it’s now able to handle nearly all take-down requests within 24 hours.

It has also been using technology to take down infringing listings before they’re reported, a practice that resulted in a 25% decline in take-down, according to Alibaba. Additionally, the company has closed down 230,000 IP-infringing stores on Taobao. On the legal side, the company has taken matters into its own hands: last year, it sued two vendors for selling knockoff Swarovski watches.

Despite these efforts many argue that Alibaba is far from solving the problem. Sucharita Kodali, a vice-president and principal analyst at Forrester serving digital business strategy professionals, says many initiatives are simply lip service.

“They of course will say they care about it, but are they really working hard enough to stop it? No,” she says. “Ultimately, Amazon and Alibaba really don’t have an incentive to. Their incentive is to get as much on their platforms as they can.”

There’s also the reality that consumers often seek out fakes due to their lower price, particularly in markets such as China. A 2016 report by the Organisation for Economic Co-operation and Development found China to be the top producer of counterfeits, a market worth nearly half a trillion dollars.

“Many times we assume the consumer doesn’t want to buy counterfeits, but many of them are looking for exactly that because they want a big discount,” says Conrado Lamas, vice-president of communications at brand protection firm Red Points.

What’s perhaps a larger issue for Alibaba is the sheer volume of goods. On last year’s Singles Day, Alibaba claims to have raked in a whopping $25bn. Numbers like this beg the question of whether or not Alibaba can keep counterfeiters at bay, considering its scale.

“The number of items on its platforms is huge, there’s no way it can cover everything,” says Lamas.

Ma recently called on legislators to toughen the laws and penalties against counterfeiters, and Alibaba has also attempted to foster relationships with brands. Last year, the company launched the Big Data Anti-Counterfeiting Alliance in partnership with Louis Vuitton, Samsung and Mars, and struck an agreement in August with Kering to take action against infringers.

Even so, many wonder whether it will ever be able to shake its reputation as a purveyor of counterfeits.

“At the end of the day, I haven’t heard that the counterfeit numbers have gone down substantially,” says Kodali. “Either the problem is more pronounced, or they’re not working as hard as they claim.”

### In fighting against fakes, Alibaba and Owner of Gucci Go from Adversaries to Partners

Jack Ma, the founder of Alibaba, speaking to students and young entrepreneurs in Nairobi, Kenya. His company has tried to combat the perception that its platform is awash with fakes.CreditThomas Mukoya/Reuters



Jack Ma, the founder of Alibaba, speaking to students and young entrepreneurs in Nairobi, Kenya. His company has tried to combat the perception that its platform is awash with fakes.CreditCreditThomas Mukoya/Reuters

**By**[**Paul Mozur**](https://www.nytimes.com/by/paul-mozur)

* Aug. 3, 2017

SHANGHAI — Alibaba has been battling the perception that it is a marketplace for fakes for years. On Thursday, it made some headway, resolving a dispute with the luxury goods giant Kering.

The companies said they had resolved their differences, and Kering, which owns brands including Gucci and Saint Laurent, said it would withdraw a [2015 lawsuit](https://www.nytimes.com/2015/05/19/business/international/kering-sues-alibaba-again-over-counterfeit-luxury-goods.html?module=inline) charging that counterfeit goods had been sold from the Chinese e-commerce giant’s website.

They said in a statement that they would establish a task force to share information and work with law enforcement to protect Kering’s brands. The companies will also make use of Alibaba’s technology to seek out fakes.

The resolution is a victory for Alibaba, which has been on a charm offensive outside China. The company’s founder, Jack Ma, hosted a conference in Detroit this year as part of efforts to enlist more American vendors for its platforms. Mr. Ma has also [met with President Trump](https://www.nytimes.com/video/business/100000004861537/trump-and-alibabas-founder.html?module=inline).

Alibaba has long faced accusations that its sales platforms harbor vendors selling fakes, and it has worked hard to push against that depiction. The resolution of the suit with Kering is likely to be just one part of a broader effort by the company to remove itself from the [list of “notorious markets” for counterfeit goods](https://ustr.gov/about-us/policy-offices/press-office/press-releases/2016/december/2016-notorious-markets-list) compiled by the Office of the United States Trade Representative.

The company had itself removed from the list four years ago, but [was then](https://www.nytimes.com/2016/12/22/business/alibaba-ustr-taobao-counterfeit.html?module=inline) [added back](https://www.nytimes.com/2016/12/22/business/alibaba-ustr-taobao-counterfeit.html?module=inline) last year. Kering sued Alibaba and its financial arm, Ant Financial, in 2015 over the prevalence of counterfeit goods on its sites. It also filed a short-lived lawsuit against Alibaba in 2014.

Unlike Amazon, much of Alibaba’s e-commerce site is dominated by marketplaces run by third-party vendors. The company has argued that it can be tricky to perfectly police such a bewildering number of small online shops, selling all manner of goods. Its situation is also made difficult by the widespread prevalence of fake goods in China more generally.

Alibaba has said it is using increasingly sophisticated technology, including artificial intelligence, to track down fakes. In a report submitted to the United States trade representative last year, the Chinese company said that its systems could scan 10 million product listings a day. These checks had led it to take down 380 million suspect listings, it said, in a 12-month period.

Still, small- and medium-size businesses have said it can be [hard to report fakes](https://www.nytimes.com/2017/03/18/business/alibaba-fake-merchandise-e-commerce.html?module=inline) to Alibaba, and that its systems can be clunky and prone to errors.

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1. The terms “copyright piracy” and “trademark counterfeiting” appear below as “piracy” and “counterfeiting,” respectively. [↑](#footnote-ref-1)
2. Please refer to the Public Information section below for links to information and resources related to Special 301. [↑](#footnote-ref-2)
3. Only previously- and presently-listed markets appear in bold text. In contrast, markets that have not appeared on this or prior year’s Lists are not in bold text. When a paragraph includes multiple references to a market, only the first instance appears in bold text. Previously-nominated markets are not bolded unless they have also been listed. [↑](#footnote-ref-3)
4. Law 21/2014, 158*ter*(5); *See* Report on the Activities of Section Two of the Intellectual Property Commission (Data as of October 1, 2017), *available at*http://www.mecd.gob.es/cultura-mecd/dms/mecd/cultura-mecd/areascultura/propiedadintelectual/lucha-contra-la-pirateria/2017\_3Q\_Report-Secc2CPI/2017\_3Q\_Report%20Secc2%20CPI.pdf. [↑](#footnote-ref-4)
5. *See* https://www.white-bullet.com/quarterly-report/. [↑](#footnote-ref-5)
6. *See* https://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/Operationcreative.aspx. [↑](#footnote-ref-6)
7. *See* http://www.culturecommunication.gouv.fr/Documentation/Rapports/Rapport-2015-2016-de-la-Charte-debonnes-pratiques-dans-la-publicite-pour-le-respect-du-droit-d-auteur-et-des-droits-voisins. [↑](#footnote-ref-7)
8. *See* https://cdn.iccwbo.org/content/uploads/sites/3/2017/09/ICC-BASCAP-Landlords-Paper.pdf. [↑](#footnote-ref-8)
9. The Notorious Markets List refers to “illicit streaming devices” instead of “media boxes” because media boxes and set-top boxes have non-infringing uses, whereas ISDs refer to devices that are used to access pirated content. 10 In their IP Crime and Enforcement Report, the UK government found that use of ISDs is growing with 19 percent of consumers accessing unlicensed materials using ISDs between 2016 and 2017. In North America roughly 6.5 percent of households or 106 million users are accessing known subscription television piracy services. *See* https://www.sandvine.com/downloads/general/global-internet-phenomena/2017/global-internet-phenomenaspotlight-subscription-television-piracy.pdf. [↑](#footnote-ref-9)
10. *See* http://www.cornwalllive.com/kodi-boxese-this-is-what-official-piracy-experts-say-about-what-s-legal-andwhat-s-not/story-30132149-detail/story.html. [↑](#footnote-ref-10)
11. Judgement of 26 April 2017, Filmspeler, C-527/15, ECLI:EU:C:2017:300; Bell Canada et al v. 1326030 Ontario

    Inc. dba ITVBox.net et al, T-759-16 (2016 FC 612); China Cent. Television v. Create New Technology (HK) Ltd., [↑](#footnote-ref-11)
12. *See, e.g*., International Chamber of Commerce Business Action to Stop Counterfeiting and Piracy, “Roles and Responsibilities of Intermediaries: Fighting Counterfeiting and Piracy in the Supply Chain,” Mar. 2015, *available at* http://www.iccwbo.org/Data/Documents/Bascap/International-engagement-and-advocacy/2015-Roles-and-Responsibilities-of-Intermediaries/; International Trademark Association, Sept. 2009, “Addressing the Sale of Counterfeits on the Internet,” available at http://www.inta.org/Advocacy/Documents/INTA%20Best%20Practices%20for%20Addressing%20the%20Sale%20 of%20Counterfeits%20on%20the%20Internet.pdf. [↑](#footnote-ref-12)
13. In most cases, the List identifies online markets by the domain name provided in the public responses to the *Federal Register* request. However, it is common for operators of online Notorious Markets to change a site’s domain name (“domain name hopping”) or to use multiple domain names at once to direct users to the main site. The List reflects each market’s most commonly referred to or well-known domain name or names as of December 15, 2017. [↑](#footnote-ref-13)
14. Digital Citizens Alliance, “Enabling Malware,” July 2016, *available at*

    https://media.gractions.com/314A5A5A9ABBBBC5E3BD824CF47C46EF4B9D3A76/0057c1cf-28f6-406d-9cab03ad60fb50e4.pdf. For more information about consumer protection concerns of pirate sites see Free Trade Commission, “Free Movies, Costly Malware” Apr. 21, 2017 *available at* https://www.consumer.ftc.gov/blog/2017/04/free-movies-costly-malware and public service announcements of fifteen state attorneys general, Mar. 30, 2017 *available at* https://www.youtube.com/playlist?list=PLennsxwCA5VCS7UQG6oWpUIANpX97jcf\_. [↑](#footnote-ref-14)
15. RATs can be used to download, upload and delete your files (potentially even clearing a hard drive completely); steal passwords, credit card numbers, emails and files; watch you type and log your keystrokes; watch your webcam and save videos; listen in on your microphone and save audio files; take control of your computer; install additional tools including viruses and worms; and use your computer for a distributed denial of service (DDoS) attack. *See* http://www.digitalcitizensalliance.org/clientuploads/directory/Reports/2017\_7The\_Gateway\_Trojan.pdf. [↑](#footnote-ref-15)
16. *See* http://www.pandasecurity.com/mediacenter/src/uploads/2017/02/Pandalabs-2017-Predictions-en.pdf. 24 *See* https://www.symantec.com/security\_response/publications/monthlythreatreport.jsp. [↑](#footnote-ref-16)
17. The cyberlockers identified in the List reportedly operate primarily to provide users with access to unauthorized content. Such sites are distinguishable from legitimate cloud storage services that enable consumers to lawfully store, share, backup, and access data. [↑](#footnote-ref-17)
18. Google, Safe Browsing site status available at https://transparencyreport.google.com/safe-browsing/search. 27 Unless otherwise noted, the global and country-specific popularity of online markets referenced in this List is determined through Alexa rankings, SimilarWeb data, and public submissions. Alexa.com utilizes a proprietary methodology to analyze global and country-specific user traffic and develop a numerical rank that indicates a website’s popularity relative to other sites. Rankings can change dramatically and quickly. SimilarWeb.com uses big data technology to estimate websites’ unique visitors and the origin of those visits. For example, according to Alexa, 4Shared.com is the 69th most popular website in Brazil which has the highest percentage of global visitors (22 percent) and according to SimilarWeb, 4Shared.com had more than 57 unique monthly visitors and is the 82nd most popular site in Brazil which has the highest percentage of unique visitors (31 percent). Both the Alexa rankings and SimilarWeb data that appear in this document are current as of January 2, 2018. [↑](#footnote-ref-18)
19. See Google Transparency Report, *available at* https://transparencyreport.google.com/copyright/explore?copyright\_data\_exploration=ce:domain;size:10&lu=copyri ght\_data\_exploration. Other nominated and previously nominated sites appear in the top 50 including **rapidgator.net**, **uploaded.net**, chomikuj.pl, zippyshare.com, **torrentz.eu**, **ul.to**, **torrentdownloads.me**, limetorrents.com, **extratorrent.cc**, **catshare.net**, **thepiratebay.se**, and **bitsnoop.com**. [↑](#footnote-ref-19)
20. Shared has been identified as one of the largest and most profitable direct download cyberlockers that facilitate infringement. NetNames & Digital Citizens Alliance, “Behind The Cyberlocker Door: A Report on How Shadowy Cyberlocker Businesses Use Credit Card Companies to Make Millions,” Sept. 2014, *available at* http://www.digitalcitizensalliance.org/cac/alliance/content.aspx?page=cyberlockers. 4Shared.com disputes the allegations made in the report. [↑](#footnote-ref-20)
21. For a description of stream ripping, see the 2016 Notorious Markets List. [↑](#footnote-ref-21)
22. From January 2016 to December 2016, 77.7bn visits to piracy streaming websites were recorded, 34.0% of this piracy activity was via mobile devices. *See* https://www.muso.com/magazine/muso-releases-2017-global-film-tvinsight-report/. [↑](#footnote-ref-22)
23. *See* https://transparencyreport.google.com/safe-browsing/search?url=gostream.is. [↑](#footnote-ref-23)
24. A “mirror site” is a website that is a proxy or clone of an original pirate site and may offer the same, new, or cached infringing content as the original site. Some mirror sites are designed to spread malware, steal personal information through spyware, or extort payments with ransomware. Mirror sites can complicate or delay sustained enforcement against the original pirate site. In some jurisdictions court-ordered injunctions can be designed to capture existing mirror sites and adapt quickly to new mirror sites. [↑](#footnote-ref-24)
25. *See* https://transparencyreport.google.com/safe-browsing/search?url=libgen.io. [↑](#footnote-ref-25)
26. For example, Rightside and Realtime Register received ASOP Global’s First Internet Pharmacy Safety ECommerce Award in March 2017 in recognition of their “corporate policies and practices; responsiveness to illegal online drug sellers; prevention of illegal use of domain names for illegal online drug sales; cross-industry [↑](#footnote-ref-26)
27. Court of Justice of the European Union, *Stichting Brein* C-610/15, June 14 2017. [↑](#footnote-ref-27)
28. In 2014, one report estimated that Uploaded generated approximately $6.6 million in annual revenue through premium accounts and advertising. See https://www.netnames.com/assets/shared/whitepaper/pdf/dca-netnam-escyber-profibility-1.compressed.pdf. [↑](#footnote-ref-28)