

BY AMANDA CICCATELLI

# Alibaba Should “Look in the Mirror” Over False Counterfeiting Accusations

Alibaba has accused companies of lodging “false complaints” about fake goods and other IP violations on its online shopping platforms.

**C**HINESE E-COMMERCE GIANT ALIBABA recently accused several companies of filing what it claims are false complaints about fake goods and other intellectual property violations on its online shopping platforms. The company alleges that the reports were filed by reputation protection firms hired by global brands and contained false allegations, forged documents and bad-faith registration of trademarks.



But Geoffrey Potter, head of the Anti-Counterfeiting practice at Patterson Belknap, who counsels global brands on counterfeiting issues, told Inside Counsel that Alibaba likely has only itself to blame for any damage or inconvenience such complaints might cause.

“Alibaba is the largest counterfeiting bazaar the world has ever known,” Potter said in a recent interview. “Brand owners are in the business of making and selling their products. They are not in the business of, and don’t want to be in the business of policing Alibaba.

Still, they are forced to undertake this herculean task because Alibaba either won’t or can’t police itself. Faced with thousands of counterfeit offerings, there is no doubt that brand owners sometimes make good faith errors. But Alibaba’s response should be to clean up

its own act rather than blaming the victims.”

Alibaba’s policing of counterfeit goods and IP infringement on its sites has historically been notoriously lax, according to Potter. Instead, Alibaba delegates to brand owners the duty to police the integrity of Alibaba’s marketplaces.

“So when brands are forced to expend their own resources to protect their IP on an e-commerce site where counterfeiting is allowed to run so rampant, it must deal with the fact that when millions of legitimate brands are forced to do their own policing, mistakes will be made,” he explained. “Brand owners want neither the expense nor the responsibility of cleaning-up Alibaba. Alibaba-- just like brick-and-mortar businesses have always done -- should police itself.”

Alibaba is a Chinese e-commerce provider that operates a number of sites that are most easily compared to Amazon.com in the U.S. The company also

operates very large electronic markets that are B2B where large wholesale and manufacturing orders are fulfilled.

According to Potter, the majority of the world’s counterfeit goods are produced in China, and many of them often show up for sale on Alibaba’s sites, where the company won’t police them properly – whether because there is too much profit to me made by allowing the sale of these goods, or because Alibaba does not want to tighten restrictions on its sellers or spend the funds to effectively police its marketplaces.

“Every brand must protect its value, and part of this is ensuring that low quality copies of their products are removed from the marketplace so that they do not damage the company’s reputation, steal its sales or hurt its customers,” said Potter. “The same holds true with IP infringement of its registered marks.”

So, what should Alibaba learn from this?

Alibaba must implement better systems for identifying and removing counterfeit products from its sites and those merchants that sell counterfeits. Potter added, “If it won’t, it has only itself to blame for any unintended consequences that may result from brands having to do the job themselves.”

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