

May 15, 2024

U.S. House of Representatives
Judiciary Subcommittee on Courts, Intellectual Property, and the Internet
Intellectual Property: Enforcement Activities by the Executive Branch
Hearing Comments for the Record

The Automotive Anti-Counterfeiting Council, Inc. (A2C2), was very pleased to hear of the intended re-introduction of the SHOP SAFE Act of 2023 by Subcommittee Chair Darrell Issa and Representative Jerrold Nadler in their hearing opening remarks. This bill represents an important step toward increasing the accountability and responsibility of e-commerce platforms in preventing sales of counterfeit goods.

A2C2 is a collaborative industry group comprised of Ford, General Motors, Honda, Hyundai, Kia, Mercedes-Benz, Nissan Group of North America, Stellantis, Subaru, Toyota, Volkswagen Group of America, and their subsidiary brands. The group's mission is collaboration among automakers and their partners that strives to eliminate counterfeit automotive components that could harm U.S. consumers. As Mr. Ball, the acting IPR Center director, mentioned in his testimony, A2C2 has long been working together with law enforcement, U.S. Customs and other stakeholders to combat the many problems and risks associated with counterfeit parts.

The circulation of counterfeit automotive parts in the U.S. continues to give rise to serious public health and safety concerns. Counterfeit products are not made to the specifications of the original manufacturer, are not subject to quality control tests, and often fail to perform as intended, resulting in catastrophic failures with potentially fatal consequences. U.S. Customs seizure statistics reveal that counterfeit safety components like brake pads, air bags, wheels and suspension parts are commonplace. Additional counterfeit parts seized by law enforcement include seat belts, oil and air filters, windshields, microchips and spark plugs. Put simply, almost every type of auto part can be and has been counterfeited. Given the serious nature of this problem, A2C2 appreciates the acknowledgement and concern of the subcommittee that no Intellectual Property Enforcement Coordinator (IPEC) has been confirmed and the position remains vacant. A2C2 shares the same concerns and agrees that this position should be filled as soon as possible.

Using data from the Organisation for Economic Co-operation and Development (OECD), the estimated annual financial impact of counterfeit auto parts entering the U.S. exceeds \$1 billion for A2C2 members.

The collective members of A2C2 report tens of thousands of infringing and counterfeit listings to online marketplaces every year. Despite our best efforts, we know that we are also missing innumerable other counterfeit listings that could result in harm to unaware consumers.



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TOYOTA

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GROUP OF AMERICA

Still, the responsibility for policing counterfeit auto parts online rests almost entirely with us. We spend countless hours and significant resources to police extremely lucrative online marketplaces to protect *their* customers from counterfeit goods that they themselves should be addressing.

Passage of the SHOP SAFE Act would introduce a new era of responsibility for large online platforms by requiring them to implement straight forward best practices to better vet sellers and products, and if they do not, assume liability for third-party sellers who sell counterfeit products that pose a consumer health or safety risk. The “self-regulation” and “industry led” solutions promoted by the platforms have failed and the problem is only getting worse. American consumers deserve better, and the SHOP SAFE Act will require that large online platforms take the problem of fake and counterfeit goods that threaten the safety of American drivers as seriously as we do.

While A2C2 supported the passage of the INFORM Consumers Act, which became effective last summer, the impact of that legislation remains to be seen. To date, we have little evidence that the FTC has utilized its enforcement authority as was set forth by INFORM, nor do we have visibility to compliance by online marketplaces. We are confident that SHOP SAFE will be a more effective measure.

We appreciate the subcommittee’s attention to intellectual property and the enforcement of applicable law as it specifically relates to protecting consumers from counterfeit or dangerous products in commerce, and we would welcome the opportunity to provide any assistance or technical support necessary to help those efforts.

Sincerely,



Robert Stewart
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