



May 14, 2024

The Honorable Darrell Issa, Chair
The Honorable Henry Johnson, Ranking Minority Member
House Judiciary Committee Subcommittee on Courts, Intellectual Property and the Internet
Washington, DC

Re: Submitting this statement for the Record for the May 7, 2024, hearing: Intellectual Property: Enforcement Activities by the Executive Branch

The Transnational Alliance to Combat Illicit Trade (TRACIT) thanks you and your colleagues on the Subcommittee for your continued leadership in emphasizing the importance of protecting intellectual property and exploring and filling gaps in the law and its enforcement.

TRACIT is a US-headquartered, independent, private sector organization with a mandate to mitigate the economic and social damages of illicit trade by strengthening government enforcement mechanisms and mobilizing businesses across industry sectors most impacted by illicit trade.

Protecting intellectual property is a critical part of mitigating all forms of illicit activity especially when it involves risks to national and economic security. Criminal organizations stealing intellectual property and producing fake goods often are engaged in associated crimes, including money laundering and human rights abuses.

Our efforts include regular engagements with governments, businesses and multilateral organizations worldwide, where we advocate for strengthened legal, regulatory and governance regimes to stomp out the trade and facilitation of counterfeits and illicit goods. In the area of online risks, I draw your attention to several of our evidence-based reports:

- [Fraudulent Advertising Online: Emerging Risk and Consumer Fraud](#)
- [Tackling the sale of illicit pesticides on e-commerce platforms: Risks, challenges and solutions](#)

TRACIT commends the work of the agencies that testified before your hearing, including the Departments of Justice and Homeland Security, the Intellectual Property Center, and the National Intellectual Property Rights Coordination Center. Their diligence has produced significant successes. Nonetheless, their testimony acknowledged that more can and must be done to enforce our IP protection laws, especially in the online environment.

This is particularly the case with the listing and sale of counterfeits and illicit goods on ecommerce platforms. The multitude of platforms, the magnitude of the sales via

ecommerce and the lack of uniform standards and enforcement allows for harmful products to enter any American household with the ability to shop online.

TRACIT is a strong supporter of the bipartisan Stopping Harmful Offers on Platforms by Screening Against Fakes in E-Commerce of 2023 (SHOP SAFE) Act, which is pending in the Senate and is modeled off the House SHOP SAFE bill Chairman Issa and Rep. Nadler co-sponsored in the last Congress.

We were pleased to hear Rep. Nadler state at the hearing that SHOP SAFE will be introduced in the House in the near future. We applaud that leadership and pledge to work with you to help achieve passage of this very important consumer protection legislation.

- The pandemic-driven escalation of ecommerce continues to be fueled by the convenience of online shopping for practically anything anywhere, along with the nearly instant gratification of quick deliveries and the ease of returns. Ecommerce sales exceeded \$1 trillion last year.
- Shady sellers have set up shop in online marketplaces and sell unsafe counterfeit products to consumers. These are substandard products that are either in violation of US trademark laws or they are manufactured to look like legitimate products without adhering to safety standards, environmental controls or fair labor laws. Consequently, American consumers are unknowingly buying unsafe products and funding criminal activity.
- Illicit products coming from China and Hong Kong accounted for 75% of the value of counterfeited and pirated goods seized by US Customs and Border Patrol in 2021.
- Ecommerce and social platforms like Amazon, Facebook and Instagram are prime hotspots for counterfeiters because they have not taken sufficient steps to secure their infrastructure from sellers who are eager to exploit platform system weaknesses to list unsafe counterfeits and other illicit products.

The Bill will for the first time hold ecommerce platforms liable for facilitating and profiting from the sale of counterfeit and illicit products that harm consumers, if they do not adhere to a set of prescribed best practices.

It is past time to stop relying on voluntary policies that vary by platform and are inadequately enforced. It is time for Congress to pass SHOP SAFE. The liability provisions should provide platforms with strong incentives to operate their businesses more responsibly and proactively to do a better job scrutinizing third-party sellers, removing unsafe counterfeit listings and banning repeat offenders from selling harmful counterfeits again and again.

TRACIT strongly supported passage of the INFORM Consumers Act in the last Congress because it requires online marketplaces to perform a more rigorous third-party seller vetting process. The uniform transparency and disclosure provisions significantly enhance ecommerce platforms knowledge about who is selling in their stores and communicating key information to consumers about these sellers to inform better choices. We also fully

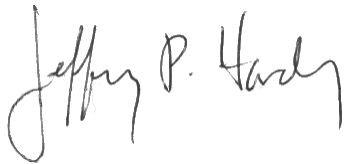
supported requiring a portal on each product listing for consumers to report suspicious products.

Nonetheless, online marketplaces and social media platforms must continue to do more as prescribed by SHOP SAFE to protect consumers. This means they must better vet their third-party sellers; proactively remove bad listings expeditiously; bounce and prevent repetitive offenders from getting back on their platforms, including through different names; and provide more information to brand owners and consumers. Brand owners are and will continue investing significantly in human and technology resources to monitor their brands online, work with the platforms when counterfeit products are found and work with law enforcement to pursue bad actors.

Unfortunately, counterfeiters have exploited many industries to create and sell unsafe products that end up in Americans' homes and businesses. Attached to this letter is a lengthy list of such products along with the specific potential dangers associated with their production outside of our legal and regulatory system.

TRACIT urges speedy introduction and passage of SHOP SAFE in this Congress.

Warm regards,



Jeffrey P. Hardy
Director-General
Transnational Alliance to Combat Illicit Trade

For more information, please visit www.TRACIT.org

cc: House Subcommittee on the Courts, Intellectual Property, and the Internet