



September 28, 2019

Daniel Lee  
Assistant Trade Representative for Innovation and Intellectual Property (Acting)  
Office of the U.S. Trade Representative  
600 17<sup>th</sup> ST, NW  
Washington, DC 20508

Submitted through the Federal Rulemaking Portal: <http://www.regulations.gov>

**Re: 2019 Special 301 Out-of-Cycle Review of Notorious Markets:  
Comment Request**

Dear Mr. Lee:

The Intellectual Property Owners Association (IPO) appreciates the opportunity to provide comments on the 2019 Notorious Markets List.

IPO is an international trade association representing companies and individuals in all industries and fields of technology who own, or are interested in, intellectual property rights. IPO's membership includes about 200 companies and close to 12,000 individuals who are involved in the association either through their companies or as inventor, author, law firm, or attorney members. IPO membership spans over 30 countries.

IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; and disseminating information to the public on the importance of IP rights.

The *Federal Register* notice of August 19, 2019 requested written comments identifying physical and online marketplaces that "engage in and facilitate substantial copyright piracy or trademark counterfeiting." Below please find IPO's comments on physical marketplaces and online marketplaces that, based upon reports from the IPO membership, IPO believes should be added to the Notorious Markets List.

IPO notes that it does not have information to justify removing any of the markets listed on the 2018 Notorious Markets List. The comments below, therefore, are intended as additions to the prior list.

President  
**Henry Hadad**  
Bristol-Myers Squibb Co.

Vice President  
**Daniel J. Staudt**  
Siemens

Treasurer  
**Karen Cochran**  
Shell Oil Company

Directors  
**Eric Aaronson**  
Pfizer Inc.  
**Brett Allen**  
Hewlett Packard Enterprise  
**Ronald A. Antush**  
Nokia USA Inc.  
**Estelle Bakun**  
Exxon Mobil Corp.  
**Scott Barker**  
Micron Technology, Inc.  
**Thomas Beall**  
Corning Inc.  
**Steven Caltrider**  
Eli Lilly and Co.  
**John Cheek**  
Tenneco Inc.  
**Cara Coburn**  
Roche, Inc.  
**Robert DeBerardine**  
Johnson & Johnson  
**Buckmaster de Wolf**  
General Electric Co.  
**Anthony DiBartolomeo**  
SAP AG  
**Daniel Enebo**  
Cargill, Incorporated  
**Louis Foreman**  
Enventys  
**Scott M. Frank**  
AT&T  
**Darryl P. Frickey**  
Dow Chemical Co.  
**Gary C. Ganzi**  
Evoqua Water  
Technologies LLC  
**Tanuja Garde**  
Raytheon Co.  
**Krish Gupta**  
Dell Technologies  
**Bill Harmon**  
Uber  
**John Harris**  
Ford Global Technologies LLC  
**Heath Haglund**  
Dolby Laboratories  
**Thomas R. Kingsbury**  
Bridgestone Americas  
Holding Co.  
**Laurie Kowalsky**  
Koninklijke Philips N.V.  
**William Krovatin**  
Merck & Co., Inc.  
**Michael C. Lee**  
Google Inc.  
**Kelsey Milman**  
Caterpillar Inc.  
**Micky Minhas**  
Microsoft Corp.  
**Jeffrey Myers**  
Apple Inc.  
**Ted Naccarella**  
InterDigital Corp.  
**Ross Oehler**  
Johnson Matthey  
**Ken Patel**  
Procter & Gamble Co.  
**KaRan Reed**  
BP America, Inc.  
**Kevin Rhodes**  
3M Innovative Properties Co.  
**Paik Saber**  
Medtronic, Inc.  
**Matthew Sarbararia**  
Oracle Corp.  
**Manny Schechter**  
IBM, Corp.  
**Jessica Sinnott**  
DuPont  
**Thomas Smith**  
GlaxoSmithKline  
**Todd N. Spalding**  
Alexion Pharmaceuticals  
**John Stewart**  
Intellectual Ventures  
Management, LLC  
**Brian R. Suffredini**  
United Technologies, Corp.  
**Gillian Thackray**  
Thermo Fisher Scientific  
**Joerg Thomaier**  
Bayer Intellectual Property GmbH  
**Mark Wadzyk**  
Qualcomm, Inc.  
**Stuart Watt**  
Amgen, Inc.  
**Ariana Woods**  
Capital One

General Counsel  
**Michael D. Nolan**  
Milbank Tweed

Executive Director  
**Jessica K. Landacre**

**PHYSICAL MARKETS**  
**Asia-Pacific Region**

China

***Shenyang, Liaoning Province, China - Xiaobei Market***

Shenyang, an important industrial center, serves as the transportation and commercial hub of China's northeast—particularly with Japan, Russia and Korea. We understand that Shenyang Xiaobei Market (小北市场) is the biggest marketplace for counterfeit electronic/digital products in Northeast China and that, in addition to shops that sell products, the market also is home to numerous third-party repair and refurbishing shops that rely on counterfeit parts. Past criminal enforcement efforts have not been effective. It has been reported to IPO that, even when local authorities can be persuaded to conduct enforcement actions, local protectionism prevents any kind of effective criminal prosecution and cases are dropped without any good reason.

Thailand

***Bangkok - MBK Center***

We understand that the MBK Center in Bangkok, a massive 8-story complex, houses over 2,000 shops selling a plethora of counterfeit products, including electronics, electronic parts, luxury goods, apparel, and footwear. There is a lack of meaningful criminal counterfeiting prosecution. Due to its notoriety, MBK Center has become a key target for Thai enforcement agencies, including the Economic Crimes Suppression Division of the Police and the Department of Intellectual Property (DIP). DIP regularly performs surveillance sweeps and has set up an “IP Enforcement Center” within MBK Center itself to facilitate such enforcement actions. But it has been reported to IPO that these efforts are largely cosmetic and have in no way reduced counterfeit sales.

Vietnam

***Lang Son - Tan Thanh Market***

Lang Son, a northern province that borders China's Guangxi province, is a major entry point for China-made counterfeits. Tan Thanh Market sits near the Lang Son border gate. We understand that this market houses numerous sellers offering a wide variety of counterfeit products, including electronics, toys, and clothing, and that, while the Vietnamese government has conducted training for enforcement agencies to be on the lookout for counterfeit goods coming into to Lang Son from

China, there is no effective enforcement.

### **Americas**

#### Canada

##### ***Ontario - Pacific Mall***

The 2018 Notorious Markets List cited recent enforcement activity at Pacific Mall, a large shopping center located about an hour outside of Toronto, but did not list Pacific Mall as a Notorious Market. IPO believes that it should be included on the list, notwithstanding the recent enforcement activity. Despite enforcement efforts by numerous rights owners, the mall remains open and it has been reported to IPO that counterfeit vendors continue to operate with impunity.

### **Europe, Middle East and Africa (EMEA)**

#### Russia

##### ***Moscow – Gorbushkin Dvor***

The Gorbushkin Dvor market in Moscow is one of the largest and most popular shopping malls in Russia for consumer electronics products. We understand that it is a hotbed of counterfeit activity, with traders even displaying unauthorized signage from major electronics manufacturers and falsely claiming to be authorized resellers, and numerous repair shops that use counterfeit products. Local protectionism, links to criminal organizations and corruption are believed to make the market functionally “untouchable” for enforcement activity.

#### Spain

##### ***Madrid – Fuenlabrada Area***

Fuenlabrada is a large industrial estate on the outskirts of Madrid that houses a large number of traders who have been reported to sell counterfeit products. Historically, there has been limited enforcement in this area, although the Spanish Police now seem to be starting to take the issue more seriously.

Turkey***Istanbul – Tahtakale District***

Turkey's geographic location makes it a major transit hub for counterfeit goods coming from China into the European and Middle Eastern markets. We understand that Istanbul's Tahtakale District contains the largest concentration of counterfeit consumer electronics traders in the city, despite police raids and pending prosecutions of several traders.

United Arab Emirates***Dubai – Deira District***

It has been reported to IPO that, outside of the numerous Free Zones in Dubai, where investigating and enforcing against counterfeiters is often impossible, the Deira District is the center of counterfeit trade in Dubai, particularly in the Naif and Al Murar areas. We understand that, despite regular raids, the counterfeit trade shows in Deira show no signs of abating. Enforcement is further complicated by the proximity of Dubai airport and the widespread use of private residences to store counterfeit products.

United Kingdom***Manchester – Cheetham Hill***

The Cheetham Hill area of Manchester is widely regarded as the epicenter of counterfeit trade in the UK, particularly for consumer electronics. Cheetham Hill has historically been a challenging enforcement environment because of the close communal relationship between the traders and the lack of law enforcement support. There have been improvements in enforcement, however, as well as a greater willingness on the part of local landlords to evict tenants storing and selling counterfeit products. Despite these improvements, we understand that counterfeiting activity is still widespread in Cheetham Hill, so IPO recommends its addition to the Notorious Markets List.

**ONLINE MARKETPLACES**

IPO notes that, generally, any online service providing a platform for unvetted

third-party sellers to sell products has the potential to be a source of copyright piracy and/or trademark counterfeiting. Some of the most significant sources of copyright piracy and trademark counterfeiting experienced by IPO members arise from marketplaces (including U.S.-based marketplaces) widely used and trusted by consumers as sources of genuine products. As IPO recently noted in comments submitted to the International Trade Administration of the U.S. Department of Commerce, “[c]ounterfeiters increasingly depend on the reputation of established online marketplaces as sources of legitimate products.” IPO’s comments also noted that online marketplaces could improve their screening processes when it comes to onboarding sellers. Recognizing that there are a number of online services that likely merit inclusion on the Notorious Markets List, IPO identifies below one online service to be potentially added to it.

### *WeChat*

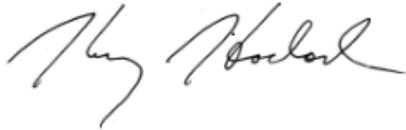
Although WeChat purports to be a social media app, we understand it has become a significant vector for a variety of cybercrimes, including sale of counterfeit products. Counterfeiting rings can perform every aspect of their illicit business on its platform, including direct marketing to consumers and sale of counterfeits via WeChat’s “shopping cart” function. Sellers can remain largely anonymous, denying deceived consumers redress and limiting the ability of brand owners to pursue enforcement actions.

Even when enough information is obtained for enforcement, it has been reported to IPO that WeChat only acts in a small number of cases, and provides only the very limited remedy of temporarily disabling the user’s account for a period of days or weeks. We also understand that, even in the rare instances where WeChat terminates a user, it also makes it easy to re-register, even using the same mobile number.

The structure of WeChat’s service frustrates IPR enforcement. Its brand-protection portal is overly bureaucratic and ineffectual. In addition, WeChat recently instituted a policy change setting a 90-day time limit for brand owners to complete investigation of consumer complaints before the complaint is removed, which we understand has resulted in investigations not being completed because WeChat refuses to provide the necessary information about the sellers.

We again thank you for the opportunity to submit comments and would welcome further dialogue and any opportunities to provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Henry Hadad". The signature is written in a cursive style with a large initial "H".

Henry Hadad  
President