

Motor & Equipment Manufacturers Association

1030 15th Street, NW Suite 500 East Washington, DC 20005
Tel 202.393.6362 Fax 202.737.3742 E-mail info@mema.org



October 7, 2016

Mr. Probir Mehta
Assistant United States Trade Representative
for Innovation and Intellectual Property
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

**RE: 2016 Special 301 Out-of-Cycle Review of Notorious Markets: Request for
Comments [Docket No. USTR-2016-2013]**

Dear Mr. Mehta:

The Motor & Equipment Manufacturers Association (MEMA) represents more than 1,000 companies that manufacture and remanufacture motor vehicle parts, components and systems for use in the light- and heavy-duty vehicle original equipment and aftermarket industries. Our members provide more than 734,000 direct jobs, making the motor vehicle parts industry the largest creator of manufacturing jobs nationwide. On behalf of this industry, I welcome the opportunity to provide these written comments to the United States Trade Representative's (USTR) 2016 Special 301 Out-of-Cycle Review of Notorious Markets in accordance with the *Federal Register* notice of August 25, 2016.

Intellectual property rights (IPR) protection is critical to the sustained success of the motor vehicle parts manufacturing industry. The IPR and brands of a company are among its most valuable assets, while the value and strength of a brand is what makes it vulnerable to counterfeiters. Manufacturing and trafficking of counterfeit motor vehicle parts and components are serious and growing problems. MEMA takes the issue of counterfeit motor vehicle parts and trademark theft very seriously. The theft of IPR, including incidents through notorious markets, leads to significant costs to suppliers, including lost sales, damages to brand reputation and significant legal and investigation expenditures.

In addition to the economic impacts of counterfeit motor vehicle parts, the continued proliferation, importation and dissemination of counterfeit parts pose a significant risk to public health and safety. Genuine and legitimate parts are specifically designed for use on vehicles and meet federal vehicle safety standards, where applicable. Under the best circumstances, counterfeit parts do not perform as intended. At worst, they could fail, leading to brake failure, engine failure, vehicle fires or other catastrophic consequences.



MEMA applauds the USTR's commitment to protect IPR as demonstrated through the annual Notorious Markets Report and through IPR protections in trade agreements. A robust federal program to protect IPR is essential to support innovation of motor vehicle technologies as well as other sectors. The annual Notorious Markets Report is an important tool in this program. MEMA urges you to consider including the markets MEMA describes below in the 2016 Report.

Counterfeit goods are an ongoing challenge for motor vehicle parts manufacturers with physical marketplaces in many countries including China, Venezuela, Turkey, the United Arab Emirates and Russia. China is the manufacturing source for many of these counterfeit goods. An attachment listing physical international markets follows the text of this letter.

Online sales of counterfeit parts are a growing problem for suppliers. Historically, online sales have not been a significant means of counterfeit parts entering the domestic or global marketplace. This has changed in recent years as China and other countries are experiencing a phenomenal growth in e-commerce, resulting in an increase in counterfeit parts in the international online environment. Today, counterfeit goods, offered as genuine brands, are more readily available online in the U.S. market and globally because of the nature of the internet.

Among these e-commerce sites, Alibaba.com and its family of websites including AliExpress.com and TaoBao.com are the most commonly named by MEMA members as selling counterfeit parts. While these online sites have been listed in the Notorious Market Report before, TaoBao.com was removed from the list in 2012, with USTR urging TaoBao to "decrease the time required for taking down listings of counterfeit and pirated goods and to . . . achieve a satisfactory outcome with U.S. rights holders and industry associations." In 2016, after significant input from many stakeholders, USTR did not list Alibaba.com or its affiliated websites in the 2015 Report but did specifically direct Alibaba to undertake "stronger and more efficient systems for addressing right holders' concerns . . . without delay."

Unfortunately, these urgings by USTR have not been met. In the time period since the 2015 Report was issued in December 2015, the Alibaba Group has made a number of public statements acknowledging the problem of counterfeit goods on its platforms and made public commitments to improve the tools to remove counterfeit goods from them. However, MEMA member companies have seen no real improvement on the platforms and the sale of counterfeit goods continues.

In comparison to Alibaba.com, AliExpress.com and TaoBao.com, domestic competitors such as Amazon.com and EBay.com have superior brand protection tools and resources to address suspect goods on their websites. Amazon and EBay offer rights holders an easier

and more efficient takedown procedure. For example, a large motor vehicle component manufacturer has found two specific products for sale on AliExpress.com where 100 percent of the products offered are counterfeit. One product, a fuel pump, resulted in over 140 counterfeit listings. A second product, a diagnostic tool, resulted in over 1900 counterfeit listings. If similar counterfeit listings were found on other platforms, the rights holder would be able to easily remove all of the listings with one request. In contrast, AliExpress does not offer a simple takedown procedure, instead requiring a more onerous process.

In addition to these specific challenges, regular viewing of products available on the Alibaba family of websites include brand name motor vehicle parts that are not manufactured in China by the IPR owner. These parts are being sold at wholesale or lower than wholesale prices in large quantities. The price, volume of product and lack of manufacturing in China by the brand owner are all strong indications of counterfeit merchandise. A large motor vehicle manufacturer has estimated that at least 95 percent of the merchandise bearing its company's brand names and trademarks found on Alibaba.com and its family of platforms are suspected to be counterfeit.

MEMA appreciates the USTR's open engagement with the motor vehicle parts manufacturing industry and welcomes the opportunity to assist the government in helping to address the most important issues relating to IPR enforcement. Given the continued presence of counterfeit product on Alibaba.com's family of websites and the e-tailers seeming reluctance to engage with IPR owners, MEMA urges USTR to list Alibaba.com and its other platforms as Notorious Markets in the 2016 report.

Please contact Catherine Boland, vice president, legislative affairs, (202-312-9241 or cboland@mema.org) with questions or concerns regarding MEMA's comments.

Regards,



Steve Handschuh
President & Chief Executive Officer

Attachment

Attachment

MEMA Recommendations for 2016 Notorious Markets Report Physical Markets

Venezuela

Market Name	Location	Types of Products Sold
Hidromaticos Gilberto, S.R.L.	Cl. Los Cedros, Barrio Lourdes, Maracay, Aragua	Automotive power steering kits and other motor vehicle components
Sede Principal de Repuestos Hidromaticos Gilberto CA	Av. Los Cedros, entre Calles Junin y Sucre, Los Cedros, Maracay, Aragua	Automotive power steering kits and other motor vehicle components