

Motor & Equipment Manufacturers Association

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November 19, 2015

Ms. Christine Peterson
Director for Intellectual Property and Innovation
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

**RE: 2015 Special 301 Out-of-Cycle Review of Notorious Markets: Request for
Public Comments [Docket No. USTR-2015-0016]**

Dear Ms. Peterson:

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) 2015 Special 301 Out-of-Cycle Review of Notorious Markets in accordance with the *Federal Register* notice of September 10, 2015.

Intellectual property rights (IPR) protection is critical to the sustained success of the motor vehicle parts manufacturing industry. The intellectual property 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 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 described below, 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 safety standards, where applicable. Under the best circumstances, counterfeit parts frequently 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 2015 Report.

Counterfeit goods from China are an ongoing challenge for motor vehicle parts manufacturers. China is a manufacturing hub that acts as an important source of imports, with many MEMA member companies maintaining a presence in China and working with Chinese government agencies to coordinate efforts to fight counterfeit goods.

Additionally, 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 is changing as China and other countries experience 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 local market and globally because of the nature of the internet.

Among these e-commerce sites, Alibaba.com and its family of websites including TaoBao.com and AliExpress.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. At the time, USTR urged 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."

Unfortunately, these urgings by USTR have not been met. In comparison to Alibaba.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. MEMA member companies have experienced a history of misrepresentation by Alibaba and its platform websites in dealing with suspected counterfeit products. Additionally, MEMA member companies have attempted to engage and build relationships with Alibaba in order to address counterfeit motor vehicle parts bearing unauthorized trademarks. These attempts have not been productive and the counterfeiting continues.



Furthermore, regular viewing of products available on the Alibaba family of websites include brand name products 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 top 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 2015 report. Also, MEMA respectfully requests a meeting with the appropriate USTR officials to discuss the experience of MEMA member companies with Alibaba.com.

Please contact Ann Wilson, senior vice president, government affairs, (202-312-9246 or awilson@mema.org) or Catherine Boland, vice president, legislative affairs, (202-312-9241 or cboland@mema.org) to arrange a meeting or with questions or concerns regarding MEMA's comments.

Regards,

A handwritten signature in black ink, appearing to read "S. Handschuh", written in a cursive style.

Steve Handschuh
President & Chief Executive Office