



we wearSM intellectual property

January 9, 2012

The Honorable Patrick Leahy
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Bldg.
U.S. Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Judiciary Committee
152 Dirksen Senate Office Bldg.
U.S. Senate
Washington, DC 20510

Dear Chairman Smith and Ranking Member Conyers:

The existence, prevalence and rampant growth of rogue websites continues to be the most pressing challenge facing owners of copyrights, patents and trademarks. The issue has stirred up a heated debate in the media that has primarily been focused on copyrighted works, such as movies and music. As this discussion continues, we at American Apparel & Footwear Association (AAFA) felt that it might be beneficial to provide you with a more detailed perspective from the trademark community, particularly affecting fashion.

Unlike copyrighted material, rogue websites present a different problem to consumer goods industries, such as apparel and footwear, and their consumers. Consumers will never confuse a cart on Canal Street selling fake goods with a legitimate store on 5th Avenue. Rogue websites, however, can make themselves appear just like a legitimate online retailer by incorporating the brand name (or some variation) into the Internet domain name. These illicit online marketplaces are able to effectively "copy and paste" the legitimate company's web content onto their own site, fooling consumers into thinking that the items they are buying are real. Moreover, our industry has found that the fake goods being sold on these websites are marketed at comparable prices to the real item, further deceiving consumers while exposing them to unknown and potentially unsafe products illegal by U.S. and international standards.

We are very pleased that you and your Senate counterparts have taken the initiative to draft legislation to help trademark owners fight counterfeiters on the Internet. We also appreciate the inclusion of certain tools to enable rightsholders to pursue their own actions without burdening the government. This strategy represents an appropriate, coordinated public-private partnership in the interest of enforcing American intellectual property rights, preserving the integrity of the American economy and protecting American consumers from illegal and dangerous chemicals often found in illicit goods.

As discussions continue on these bills, we believe that any legislation enacted in Congress on this issue should follow these guiding principles:

- Enabling rightsholders to defend their trademarks without using government resources
- Giving rightsholders the ability to prevent access to a rogue website by working with the prominent actors in the Internet ecosystem such as financial institutions, online advertising networks, search engines and internet Service Providers (ISPs)
- Educating consumers and members of the Internet ecosystem on the differences between a real and rogue site

Since the creation and proliferation of the Internet, apparel and footwear companies continue to broaden their reach to new consumers, communicate with their current customer base and expand economic opportunities for growth. The absolute last thing this

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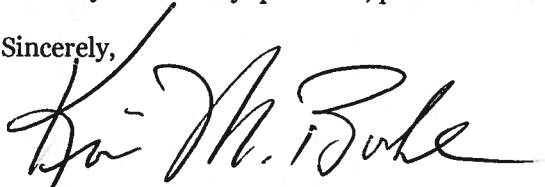
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industry wants to see is any action that would adversely affect or harm this tool so vital to our expanding businesses. Nevertheless, we also cannot continue to operate in an online environment, where thieves are left unencumbered to steal American intellectual property, sales and jobs, while simultaneously putting our fellow citizen's in harms way.

Our members know which sites have been authorized to sell their goods and can identify unauthorized sites selling counterfeits for their removal. We believe that a carefully coordinated process must be developed to allow rightsholders to identify rogue sites and eliminate them expeditiously.

We look forward to working with you further on these and other intellectual property rights issues. Should you have any questions, please do not hesitate to contact Kurt Courtney at (703) 797-9039.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin M. Burke". The signature is fluid and cursive, with a large initial "K" and "B".

Kevin M. Burke
President and CEO