



**PUBLIC VERSION**

October 7, 2016

The Honorable Probir Mehta  
Assistant United States Trade Representative  
for Intellectual Property and Innovation  
600 17th St., NW  
Washington, DC 20508

**Re: 2016 Special 301 Out-of-Cycle Review of Notorious Markets (Docket Number USTR-2016-2013): Comments Submitted by Alibaba Group – PUBLIC VERSION**

Dear Mr. Mehta:

These comments are submitted on behalf of Alibaba Group (“Alibaba”) for consideration during USTR’s 2016 Out-of-Cycle Review of Notorious Markets. We describe below the efforts Alibaba has undertaken over the last year to help protect the intellectual property (“IP”) of rights holders on our e-commerce marketplaces. At the outset, however, it must be recognized that, under the law, the primary responsibility for protecting IP resides with the rights holders themselves. We have chosen to take steps above and beyond what the law requires, and that is because we believe that strong action to reduce the number of potentially IP-infringing listings on our marketplaces is fully aligned with our business objectives. The trust placed in our marketplaces by both buyers and sellers is crucial to our long term success.

We also note that the overwhelming majority of listings on our marketplaces are for legitimate goods and services. However, any marketplace with over a billion and a



**PUBLIC VERSION**

half listings and over seven million merchants operating at any given time will have some number of counterfeit listings.<sup>1</sup> The existence of such listings is not, in itself, an indication that a market is notorious or that there is a deficiency in the procedures that the marketplace has implemented.

By way of context, it is important to understand that the e-commerce industry has no established “best practices” for protecting IP and no established “reasonableness” standard or statistical yardstick for anti-infringement practices. Indeed, in the United States the legality of the practices of an entity like Alibaba in relation to potentially counterfeit listings is measured primarily by the entity’s good faith response to notices provided by rights holders concerning specifically identified listings claimed to be infringing. Alibaba takes this legal requirement seriously and maintains, and is continually enhancing and improving, legally compliant notice and takedown procedures. But Alibaba does not stop there. With a vast commitment of financial and technological resources, Alibaba proactively seeks to identify and root out counterfeit listings; to punish bad sellers; to collaborate with rights holders to maximize the effectiveness of these efforts; and to create a safe and reliable marketplace for our customers. Minimizing counterfeiting is fundamental to the success of Alibaba and rights holders alike.

Alibaba is the largest e-commerce marketplace in the world. For the twelve months ending March 31, 2016, Alibaba’s three Chinese retail marketplaces—Taobao, Tmall and Juhuasuan—had 423 million active buyers. Those marketplaces had [[ ]] and, in the twelve months ending March 31, 2016, generated a combined gross merchandise volume (“GMV”) of \$485 billion. In August 2016 alone, consumers

---

<sup>1</sup> [[ ]]



## PUBLIC VERSION

entrusted us with the responsibility of overseeing [ ] transactions on a daily basis just in China alone.

As this submission will make clear, Alibaba has devoted substantial time and resources to the problem of IP infringement. Yet, for all of Alibaba's independent efforts to be transparent, creative, and proactive, the success of these efforts has required, and will continue to require, close collaboration with rights holders, regulators, and law enforcement bodies around the world. Alibaba has worked hard to foster a variety of collaborative initiatives with these constituencies and will continue to do so in the future.

The steps Alibaba has taken in recent years have been dramatic and far-reaching. There is always room for improvement. However, there are few companies (indeed, none, to our knowledge) that have taken the combination of steps Alibaba has taken, and has concrete plans to take, and certainly none that have put in place measures on the scale of Alibaba's IP protection programs. To provide just a few examples:

- Alibaba cooperates extensively with law enforcement to facilitate offline investigations. For example, between September 2015 and August 2016 (the last period for which data is available), our assistance led to the closing of approximately 675 production, storage or sales operations of counterfeit products. In the last three years, we helped put hundreds of criminal counterfeiters in jail.
- On July 1, 2016, Alibaba launched a new IP Joint Force System, an online platform that streamlines communications and collaborative efforts around IP enforcement between Alibaba and participating rights holders.
- While Alibaba has a rigorous notice and takedown system that allows rights holders to request the removal of potentially infringing listings from Alibaba's marketplaces, Alibaba also has a massive proactive takedown program through which Alibaba independently identifies and removes potentially infringing listings. Commensurate with the size of the Alibaba marketplaces, Alibaba has made staggering investments in technology to implement its proactive takedown

## PUBLIC VERSION

program. Our anti-counterfeiting system has the capacity to process 100 million pieces of data per second, which enables us to conduct proactive scans on more than ten million product listings a day. [[ ]] In the 12 months ending August 2016, we proactively removed more than 380 million product listings and closed approximately 180,000 Taobao stores.

- We are providing funding to allow companies to participate in the International AntiCounterfeiting Coalition’s IACC MarketSafe® program for free for a period of time, in the expectation that they will become familiar enough with the takedown process to “graduate” to Alibaba’s Good Faith Program. Under the Good Faith Program, rights holders who have a proven positive track record of submitting legitimate takedown requests may avail themselves of a simplified takedown submission process. These Good Faith rights holders enjoy a presumption of good faith reporting that allows for simplified takedown notification obligations (*e.g.*, a reduction in the required supporting materials) and streamlines Alibaba’s due diligence obligations under Chinese law, resulting in faster takedowns. Furthermore, the listing remains down even while a counter notice is pending resolution. As of the end of September 2016, we have more than 900 brands in the Good Faith Program, which is more than 2.5 times the number of participants from the year before. Almost two-thirds of these brands are international (many with headquarters in the United States).
- In 2015 alone, Alibaba spent more than \$15 million to conduct a test-buy program to spot check whether the goods mailed by a merchant are genuine or meet quality standards.
- Unlike most other e-commerce companies, Alibaba has put in place measures to take down listings of goods that infringe patent rights, including design patents.

These are just a few examples of the innovative steps Alibaba has taken in recent years. We explain these and other Alibaba programs in further detail below. While the problem of counterfeiting and piracy will likely never be eliminated, Alibaba will continue to invest in refining and improving its IP protection programs. We welcome the opportunity to continue to work with USTR and other stakeholders in this effort.



## **PUBLIC VERSION**

### **Alibaba Overview**

Alibaba Group's mission is to make it easy to do business anywhere. It is the largest retail commerce company in the world in terms of GMV. Founded in 1999, the company provides the fundamental technology infrastructure and marketing reach to help merchants, brands and other businesses that provide products, services and digital content to leverage the power of the Internet to engage with their users and customers.

Alibaba Group's major businesses include:

#### **Core commerce:**

- Taobao Marketplace ([www.taobao.com](http://www.taobao.com)): China's largest mobile commerce destination
- Tmall.com ([www.tmall.com](http://www.tmall.com)): China's largest third-party marketplace for brands and retailers
- Juhuasuan ([www.juhuasuan.com](http://www.juhuasuan.com)): A sales and marketing marketplace for flash sales where merchants can acquire new customers and raise brand awareness through special discounts and promotional events
- Alibaba.com ([www.alibaba.com](http://www.alibaba.com)): A leading wholesale marketplace for global trade
- 1688.com ([www.1688.com](http://www.1688.com)): A leading online wholesale marketplace in China
- AliExpress ([www.aliexpress.com](http://www.aliexpress.com)): A global marketplace targeting consumers from around the world to buy directly from manufacturers and distributors in China
- Lazada ([www.lazada.com](http://www.lazada.com)): A company in which Alibaba owns a controlling stake and operates e-commerce marketplaces in Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam



## PUBLIC VERSION

### **Cloud computing**

- Alibaba Cloud ([www.aliyun.com](http://www.aliyun.com)): China's largest provider of public cloud services in 2015 by revenue, offering a complete suite of cloud services

### **Mobile media and entertainment**

- UCWeb ([www.ucweb.com](http://www.ucweb.com)): Operates UC Browser, the second largest mobile browser in the world after Chrome and provider of mobile value-added services including news feeds, mobile web navigation and mobile search
- Youku Tudou ([www.youku.com](http://www.youku.com)): A leading multi-screen entertainment and media company in China, enabling users to search, view and share high-quality videos

### **Investee companies:**

- Ant Financial ([www.antgroup.com](http://www.antgroup.com)): The financial services group that operates through Alipay, the leading third-party online payment platform in China
- Cainiao Network ([global.cainiao.com](http://global.cainiao.com)): Operates a logistics data platform that leverages the capacity and capabilities of logistics partners to fulfill transactions between merchants and consumers at a large scale
- Alibaba Pictures: A company that produces and invests in movies and television programs
- Koubei: One of the leading restaurant and local services guide businesses in China

### **Alibaba's Impact on China's Economy**

Alibaba is a powerful market driver of China's economic rebalancing and transformation toward consumption and services-led economic growth. Alibaba has more than 400 million active users in China. They are largely young and increasingly affluent, and represent China's future. They are spending on food, clothing, health and beauty, household goods, domestic and foreign travel, entertainment and many other



## PUBLIC VERSION

things to create better, happier and healthier lives for themselves and their families. E-commerce is how China's consumers increasingly buy, given China's limited brick and mortar retail infrastructure. A December, 2015 study by The Boston Consulting Group ("BCG") projects that by 2020, China's consumer economy is projected to expand by about half, to \$6.5 trillion (even if annual GDP growth cools to 5.5 percent, below the official target). Through 2020, 81 percent of consumption growth will come from households whose annual income is more than \$24,000. Furthermore, consumers age 35 or under will account for 65 percent of that growth. Of particular note, BCG projects that 42 percent of private consumption growth will come from e-commerce.<sup>2</sup>

Consumer purchases on Alibaba's marketplaces exceed \$485 billion in GMV and grew at an annual rate of 26.5 percent in FY 2016. According to a March 2013 study by McKinsey Global Institute, e-commerce consumption in China is not just a replacement channel for purchases that would otherwise take place offline. It actually spurs incremental consumption, especially in lower-tier cities where there is pent-up demand for choice in merchandise that physical retail stores have not yet managed to deliver. According to the McKinsey study, 39 percent of e-commerce activity in China is new consumption. The proportion is even higher, 57 percent, in Tier 3 (2-3 million population) and lower cities.<sup>3</sup>

---

<sup>2</sup> "The New China Playbook: Young, Affluent, E-Savvy Consumer will Fuel Growth", The Boston Consulting Group, December 21, 2015, available at <https://www.bcgperspectives.com/content/articles/globalization-growth-new-china-playbook-young-affluent-e-savvy-consumers/>.

<sup>3</sup> "China's e-tail revolution: Online shopping as a catalyst for growth", McKinsey Global Institute, Richard Dobbs, Yougang Chen, Gordon Orr, James Manyika, Michael Chui, Elsie Chang, March 2013 at p 6, available at <http://www.mckinsey.com/global-themes/asia-pacific/china-e-tailing>.



## PUBLIC VERSION

Chinese consumers have a more consumption-oriented, global outlook than ever before and also want to purchase trusted foreign brands. [[ ]]

Alibaba is also a significant driver of China's economic rebalancing away from heavy industry and toward services and SME-led growth. Alibaba partners with millions of individuals and small companies providing goods and services to consumers. A September 2016 Renmin University report<sup>4</sup> on job creation on Alibaba platforms estimates that Alibaba's retail ecosystem has created more than 30 million job opportunities. This includes more than 11 million sellers (>50 percent of whom are part time and 90 percent of whom are individuals), more than 2 million in logistics, more than 2 million in third party services (on-line store design, training and operation, software development, product models, etc.), and nearly 15 million in downstream e-commerce industries such as R&D, product design, light manufacturing and after-sales service. The ecosystem of e-commerce also includes electronic payments, online advertising, services for merchants, and mobile communications. In addition, Ant Financial's business lending subsidiary is a world leader in providing small loans to SMEs through its Internet-based program. MYbank, established by Ant Financial in June 2015, and Ant Micro Loan (the name of Ant Financial's micro loan program before the establishment of MYbank) provided micro loans (loans smaller than RMB 1 million) to more than 4.11 million small and micro businesses, as of June 2016. The total accumulated amount of these micro loans since the establishment of MYBank is more than \$110 billion, and the average loan size is about \$3,000.

---

<sup>4</sup> "Report on Job Creation of Alibaba Retail Platform, Renmin University, September 2016 (based on data as of December 2015).





## PUBLIC VERSION

In sum, Alibaba is helping to grow China's economy in a more balanced and sustainable way.

China's manufacturing landscape is also changing. As Alibaba's Executive Chairman Jack Ma commented at Alibaba's Investor Day conference last June, the dynamics between some brands and their manufacturing partners, and brands and their customers, are shifting due to economic and technological developments.<sup>5</sup>

First, Chinese manufacturers face declining exports because demand from Western markets is not what it used to be. Every day, small businesses in China suffer because orders from their longtime customers are significantly less than they once were. Yet, these businesses have made investments in factories, equipment and people. They must find new ways to adapt to this changing environment.

Second, rising domestic demand in China is the new opportunity. The Internet has given consumers ever-increasing access to products without the need for complex and costly distribution channels. Manufacturers in China are increasingly using the Internet to tap into the vast domestic market. Many of these firms have developed their own online-only brands with quality products for Chinese consumers.

At Alibaba, counterfeit goods are absolutely unacceptable. We believe brands and their intellectual property must be protected. Alibaba is only interested in supporting those manufacturers who innovate and invest in their own brands. We do not tolerate or condone those who steal other people's intellectual property. Infringing on intellectual

---

<sup>5</sup> For more commentary from Mr. Ma on this topic, please see his opinion piece available at <http://webreprints.djreprints.com/3894460384152.html>.



## PUBLIC VERSION

property is akin to thievery and is detrimental to innovation and the integrity of our marketplace.

We work hard every day to remove fake products from our marketplaces. We are committed to fighting the root causes of infringement and to protecting creators and innovators. We not only comply with laws and regulations, but also actively assist law enforcement in cracking down on counterfeiters.

The following sections discuss Alibaba's efforts on IP protection since our last submission on October 24, 2015.

### **Section 1: Addressing the Specific Issues Raised by USTR in the 2015 Notorious Markets Report and Feedback Received from Rights Holders**

Alibaba has worked diligently to integrate into our brand protection operations the three recommendations USTR provided in last year's Report. As USTR noted:

Despite these new procedures [that Alibaba had adopted], USTR is increasingly concerned by rights holders' reports that Alibaba Group's enforcement program is too slow, difficult to use, and lacks transparency. USTR does not re-list Taobao or Alibaba at this time but it encourages the company to enhance cooperation with all stakeholders to address ongoing complaints. Given the size and the scale of Alibaba's marketplaces, stronger and more efficient systems for addressing right holders' concerns should be undertaken without delay. Such steps should include (1) simplifying Taobao's processes for rights holders to register and request enforcement action, (2) making Taobao's good faith takedown procedures generally available, and (3) reducing Taobao's timelines for takedowns and issuing penalties for counterfeit sellers. USTR will continue to monitor the situation in the coming year for evidence of whether the new enforcement changes are demonstrably effective in addressing ongoing concerns.



## PUBLIC VERSION

Alibaba has undertaken a series of steps to address these concerns raised by USTR and rights holders.

In this section, we will describe these initiatives in four sub-sections:

- “Enhancing Alibaba’s Anti-Counterfeiting Capabilities”;
- “Simplifying Taobao’s Processes for Rights Holders to Register and Request Enforcement Action”;
- “Making Taobao’s Good Faith Takedown Procedures More Generally Available”;  
and,
- “Reducing Taobao’s Timelines for Takedowns and Issuing Penalties for Counterfeit Sellers.”

### **Section 1-A: Enhancing Alibaba’s Anti-Counterfeiting Capabilities**

In December 2015, Alibaba established a Platform Governance Department and appointed Ms. Junfang Zheng, one of Alibaba’s 34 partners, as Chief Platform Governance Officer to lead this new group. Platform Governance is responsible for marketplace rules and regulations, intellectual property protection and the anti-counterfeiting programs for all of Alibaba’s marketplaces. To ensure better coordination and more effective anti-counterfeiting efforts and results, the Platform Governance Division has consolidated into a single department the teams responsible for notice and takedown processing, proactive monitoring, offline investigations, and product quality control.

On January 15, 2016, Alibaba appointed Matthew J. Bassiur as Vice President to lead its newly formed Global Intellectual Property Enforcement Department (Global IP). Based in the United States, Mr. Bassiur reports directly to Michael Evans, President of



## PUBLIC VERSION

Alibaba Group. Mr. Bassiur leads a team that collaborates with international brands and retail partners, industry associations, government regulators, law enforcement and other organizations to advance Alibaba Group's anti-counterfeiting and intellectual property rights protection efforts. Mr. Bassiur's expertise in intellectual property rights protection, policy creation and enforcement, as well as his deep familiarity with China, complement our dedicated platform governance department in China and help us to continue to globalize as a company, working with our brand, industry and government partners worldwide.

Mr. Bassiur joined Alibaba Group from Pfizer Inc., where he served as Vice President and Deputy Chief Security Officer. He oversaw Pfizer's anti-counterfeiting operations, large-scale investigations into criminal activity, physical security and crisis management for North, Central and South America. Prior to Pfizer, he was Senior Director, Americas Region, and Counsel for IPR Enforcement at Apple, where his responsibilities included building and overseeing an investigative program into complex thefts, frauds, leaks, threats and cyber-related crimes, as well as developing and implementing Apple's civil, criminal, and administrative anti-counterfeiting program.

Prior to joining Apple, Mr. Bassiur was a federal prosecutor in the Computer Crime & Intellectual Property Section ("CCIPS") of the United States Department of Justice ("DOJ"), where he prosecuted large-scale, multi-jurisdictional IP crimes and coordinated domestic and international intellectual property enforcement training and outreach. During his tenure with the DOJ, Mr. Bassiur also served as the Intellectual Property Liaison to Industry for his section.



## PUBLIC VERSION

From 1998 to 2006, as an assistant district attorney in the Trial Division under the Manhattan District Attorney, Mr. Bassiur specialized in investigations and prosecution of New York's trademark counterfeiting industry and Asian organized crime.

Global IP, comprised of subject matter experts in intellectual property, works hand-in-hand with Alibaba's Platform Governance Department in forming intellectual property enforcement strategies, improving upon our robust programs as well as developing new policies, ideas and approaches to combat trademark, copyright and patent infringement. Global IP has been actively hiring a team of world-class professional staff, with recent hires including Daniel Dougherty, former General Counsel of Monster, Inc. Mr. Dougherty, in addition to being named one of the most influential people in Intellectual Property (*The American Lawyer*), served as the Global Head of eBay's intellectual property enforcement program from 2008-2012. Global IP anticipates announcing additional high-caliber talent appointments in the near future to further enhance Alibaba IP protection and enforcement efforts.

### **Section 1-B: Simplifying Taobao's Processes for Rights Holders to Register and Request Enforcement Action**

#### ***(i) Reducing the Four Strike Policy to Three Strikes***

As Alibaba explained in its comments for last year's Notorious Markets report, Alibaba applies a "strike" system, which requires the closing of a merchant account after the merchant has been the target of a specified number of successful takedown requests. Currently, Alibaba employs a "three strikes" rule, which provides that a merchant account will be permanently closed when it receives three strikes for listing potentially infringing products, but this requires that the identical counterfeited trademark or pirated good is at issue in each case. Alibaba also applies a "four strikes" rule for

## PUBLIC VERSION

terminating the accounts of merchants who repeatedly list potentially counterfeit or pirated products. The four strikes rule applies regardless of whether the trademarks or pirated goods are identical.

As of January 2017, there will be only a single policy. Alibaba will apply a three strike rule for terminating the accounts of merchants who list potentially counterfeit or pirated products, regardless of whether the trademarks or pirated goods are identical. This new policy will expedite the closure of the accounts of repeat infringers.

### ***(ii) Transparency and Consistency of Procedures Across Marketplaces— Consolidating Registration and Submission of Complaints***

Alibaba's existing TaoProtect system<sup>6</sup> is designed to enable rights holders to report potentially infringing listings on the Taobao and Tmall marketplaces and to facilitate the efficient removal of such listings. Through TaoProtect, companies can also file complaints for trademark infringement as well as copyright infringement (e.g., image theft), patent infringement and unfair/misleading use of trademarks. TaoProtect is similar to another IP complaint system operated by Alibaba called AliProtect,<sup>7</sup> which is in English and covers the global wholesale marketplace Alibaba.com, the global marketplace AliExpress and China wholesale marketplace 1688.com.

In October 2016, the registration and login processes for TaoProtect and AliProtect will be merged, allowing rights holders to register their IP and submit takedown requests for all Alibaba marketplaces through a single portal. This will achieve a more unified user account experience and more easily facilitate rights holder takedown

---

<sup>6</sup> [http://ipp.alibabagroup.com/index.htm?\\_localeChangeRedirectToken=1](http://ipp.alibabagroup.com/index.htm?_localeChangeRedirectToken=1)

<sup>7</sup> [https://legal.alibaba.com/index.htm?\\_localeChangeRedirectToken=1](https://legal.alibaba.com/index.htm?_localeChangeRedirectToken=1)



## PUBLIC VERSION

requests for Alibaba's Alibaba.com, AliExpress, Taobao, Tmall and 1688.com marketplaces. This action will reduce the administrative burden for rights holders and increase efficiency.

Later this year, Alibaba plans to enhance its Intellectual Property Protection (IPP) platform, available at ([www.ipp.alibabagroup.com](http://www.ipp.alibabagroup.com)), to create more of a "one-stop" informational center to assist rights holders in accessing information regarding Alibaba's IP protection policies, tools and resources. This updated content will be available in both English and Chinese. In addition to providing an enhanced and more user-friendly experience, this informational center will also link to marketplace-specific policies. With these changes, IPP will serve as an easy-to-find resource for intellectual property policy announcements and upcoming innovations.

### ***(iii) Reducing the Burden of Proof to Support Complaints Regarding Fake Licenses***

We continue to streamline other processes to make it easier for rights holders to enforce their intellectual property rights. Previously, when a rights holder disputed a sales or distribution license agreement submitted by a seller in a counter notice, the rights holder was required to provide: a) a signed and stamped statement disputing the validity of the seller's purported license agreement; b) a genuine license agreement; and, c) a summary explanation of how the genuine agreement differed from the agreement submitted by the seller. Apart from exceptional situations when additional information might be requested, rights holders in the Good Faith Program now only need to send an email stating that a license agreement offered by a seller is not authentic.



## PUBLIC VERSION

### ***(iv) Assisting Rights Holders to Identify Potentially Infringing Listings***

In July 2016, Alibaba launched, and made available to Good Faith Program participants, its IP Joint Force System. There are currently [ ] brands participating in this program.

The Joint Force System serves as a portal for Alibaba to proactively notify rights holders of suspicious listings, the authenticity of which Alibaba is unable to verify independently. Participating rights holders are thereby given an opportunity to review these listings in an organized and efficient manner, to identify those listings they determine to be infringing, and to submit takedown requests concerning them. The portal will provide a dashboard showing rights holders certain statistical data such as the number of takedowns resulting from the proactive notifications and the number of penalized merchants.

In 2017, Alibaba expects that the Joint Force System will give rights holders in the Good Faith Program the ability to provide us additional filtering criteria to proactively identify and screen out potentially infringing listings. In addition, these rights holders (and, eventually, all rights holders registered in Alibaba's IPP platform) will be provided with consolidated information on takedown requests for listings that they have identified on their own.

### ***(v) Enforcement Against Sellers Who Are Repeat Offenders***

Alibaba is deploying a new technology program to enhance our ability to determine whether different suspicious accounts are actually being opened and operated by the same individual or enterprise using different national IDs. Identifying links among such accounts allows for further investigation and possible referrals to law enforcement.





## PUBLIC VERSION

This technology is currently being deployed on Taobao, but, by the end of October 2016, it will be deployed across all Alibaba marketplaces.

### *(vi) Expanding the Scope of Intellectual Property and Brand Protection*

We have made two significant advancements in countering the increasingly sophisticated methods used by sellers of counterfeit goods:

**Misuse of brand keywords** – Since March 2016, Alibaba has deployed technology to protect rights holders against the misuse of brand keywords in the titles of listings. Some sellers deliberately use inaccurate product descriptions to mislead consumers. For example, the seller might use “Looks like Brand X” descriptions even though the listed product is unrelated to Brand X. Although these sellers might not be selling counterfeit products, Alibaba has adopted the view that its marketplace and customers is ill-served by such deceptive practices. As a result, Alibaba has launched a project called “Haze Cleaning” that uses technology to intercept listings of this type at an early stage, enabling additional proactive takedowns.

**Blurred Trademarks** – In May 2016, Alibaba implemented a policy prohibiting listings that include intentionally blurred trademarks in product photos. The penalties for using product images with intentionally blurred trademarks are now identical to those for selling a counterfeit product.

### *(vii) Training and Other Meetings with Rights Holders and Associations*

Alibaba teams regularly travel around the world to conduct training sessions and meet with rights holders and associations. Alibaba conducts a large number of such meetings each year. For example, in 2016, we met with, among others, the International

**PUBLIC VERSION**

AntiCounterfeiting Coalition, the Recording Industry Association of America, the Motion Picture Association of America, the Entertainment Software Association, the Software Alliance, Business Action to Stop Counterfeiting and Piracy, the China-Britain Business Council, the International Publishers Copyright Protection Coalition in China, the Quality Brands Protection Committee, the Istituto di Centromarca per la lotta alla contraffazione, the Union des Fabricants, Sistema Moda Italia, the British Recorded Music Industry, the Walpole Group, Anti Copying in Design, the Toy Industry Association, the Footwear Distributors and Retailers Association, CONFINDUSTRIA and many individual brands.

Since September 2015, Alibaba has also invited companies like Apple and Louis Vuitton to help train Alibaba employees to identify counterfeit products.

**Section 1-C: Making Taobao's Good Faith Takedown Procedures More Generally Available**

Alibaba is pleased to see an increase in rights holders who consistently demonstrate a record of genuine and conscientious notice and takedown reporting within TaoProtect. Alibaba launched its Good Faith Program to make it easier for rights holders to protect their IP. These Good Faith rights holders enjoy a presumption of good-faith reporting that allows for simplified takedown notification obligations (*e.g.*, a reduction in the required supporting materials) and streamlines Alibaba's due diligence obligations under Chinese law, resulting in faster takedowns. We provide training and engage in regular communication with rights holders to help them better understand our procedures, increase their successful takedown rates and assist them in achieving the standards necessary to participate in the Good Faith Program. As of the end of September 2016, we have more than 900 brands in the Good Faith Program, which is more than 2.5 times the number of participants from the year before. Almost two-thirds of these brands are international (many with headquarters in the United States). The expansion of



**PUBLIC VERSION**

the IACC MarketSafe® program detailed below will allow more brands, including SMEs to submit good faith takedown requests, at no cost to them.

**Section 1-D: Reducing Taobao’s Timelines for Takedowns and Issuing Penalties to Counterfeit Sellers**

We are constantly working to reduce the time between the submission of a proper notice and a takedown.

In 2016, on Taobao, the average complaint resolution time is [[ ]] days for all rights holders in the Good Faith Program (due to the streamlined reporting obligations and review of takedown requests described above). On Taobao, the takedown time in 2015 for listings that were not submitted through the Good Faith Program was [[ ]] This year, for rights holders not in the Good Faith Program, the notice and takedown process time has been reduced to [[ ]]

**Section 2: Significant Advancement Made in Proactive Monitoring**

While Alibaba diligently discharges its legal obligations under U.S. law through implementation of workable and increasingly efficient notice and takedown procedures, our IP enforcement practices go well what is legally required of us. Proactive monitoring is another cornerstone of our anti-counterfeiting efforts. We continue to invest significant human and financial resources to improve our proactive monitoring practices. [[ ]] As noted earlier, over the past year we proactively removed more than 380 million product listings and closed down approximately 180,000 Taobao stores.

## PUBLIC VERSION

Alibaba has significantly invested in a range of proactive measures, including:

- Detecting listings that may violate Alibaba’s policies by linking to third-party social media platforms that may be used to promote infringing products and services;
- Spending more than \$15 million in 2015 to conduct a test-buy purchase program to spot check whether the goods mailed by a merchant are genuine or meet quality standards;
- Using our extensive database of information to identify high-risk seller profiles, patterns of unusual trading, and connections between (otherwise unrelated) seller profiles; and
- Protecting buyers through Alibaba’s return policies. For example, all consumers on Taobao and Tmall today enjoy a seven-day “no questions asked” refund period. Consumers who have purchased a potentially counterfeit product have up to 90 days to submit a refund request.

Alibaba’s proactive monitoring team now employs hundreds of monitoring models and rules. Alibaba’s anti-counterfeiting system has the capacity to process 100 million pieces of data per second, which enables us to conduct proactive scans on more than 10 million product listings a day. The anti-counterfeiting technology also includes our proprietary Optical Character Recognition (“OCR”) technologies, which has obtained the highest ranking in the Robust Reading competition organized by the International Conference on Document Analysis and Recognition.<sup>8</sup>

Notwithstanding the anti-counterfeiting technologies we employ, combating counterfeiting is an enormous task that presents persistent challenges to legitimate

---

<sup>8</sup> Alibaba’s technology obtained the highest ranking in the Robust Reading competition based on the Precision and H-Mean Factor in the “End to End Results” category.



## PUBLIC VERSION

marketplaces and participants. Many counterfeiters are well financed and technologically savvy. Even as anti-counterfeiting measures become more rigorous and sophisticated, counterfeiters have demonstrated an ability to circumvent those measures, requiring still further efforts and investments by all affected market participants to staunch the problem. Alibaba will need the continued cooperation of rights holders to meet that challenge.

### **Section 3: Working with Law Enforcement**

Alibaba is one of the few marketplaces actively assisting law enforcement in offline anti-counterfeiting investigations. Drawing upon our data and information, we help governments and law enforcement authorities to identify manufacturers and dealers of counterfeit goods so they can be brought to justice. For example, between September 2015 and August 2016 (the last period for which law enforcement data is available), our assistance led to the closing of approximately 675 production, storage or sales operations of counterfeit products. In the last three years, we have helped put hundreds of criminal counterfeiters in jail.

Alibaba has collaborated closely with various law enforcement organizations such as provincial police departments and the Zhejiang Administration of Industry and Commerce to battle online counterfeits and piracy in offline channels. From September 2015 to August 2016, we provided [[ ]] leads to law enforcement leading to [[ ]] cases being filed. These efforts have led to the successful closure of [[ ]] cases and [[ ]] criminal arrests. Selected examples include the following:

[[ ]]

**PUBLIC VERSION**

**Section 4: Collaboration with Governments and Industry Associations**

***(i) Collaboration with the Hangzhou Branch of State Administration for Industry and Commerce***

To assist the Hangzhou branch of the State Administration for Industry and Commerce (“SAIC”) in investigating complaints about sellers, Alibaba has initiated a pilot program to support government enforcement actions. The pilot program, launched in September 2016, allows the Hangzhou branch of the SAIC to, as appropriate and permitted by law, access relevant seller information and transaction details so that intellectual property rights can be better protected.

***(ii) Alibaba’s Memorandum of Understanding with European Rights Holders to Fight Counterfeiting***

On June 21, 2016 Alibaba signed a Memorandum of Understanding (“MOU”) with European rights holders to fight the sale of counterfeit goods on the Internet. The signatories to the MOU are rights holders and e-commerce platforms who voluntarily agree to collaborate to combat the online offer of counterfeit goods by merchants operating in the EU. Endorsed by the European Commission, the MOU forms part of the EU’s intellectual property infrastructure designed to help avoid the sale of infringing online offerings and promote investment and innovation in the digital marketplace. The MOU, also signed by 18 other platforms and rights holders, aims to enhance collaboration in these important pursuits.

The MOU reflects the principle that the optimal approach to combating online sales of counterfeit products—in categories such as fashion, luxury goods and sportswear—is through voluntary collaborative engagement between and among rights holders and e-commerce marketplaces like Alibaba. In this spirit, and expressly designed

## **PUBLIC VERSION**

not to have the force of legal precedent, the MOU sets forth normative standards for notice and takedown procedures and other proactive and preventive measures, deterrents for repeat infringers, and commitments on cooperation and information sharing between platforms and rights holders. Alibaba's participation with rights holders in the MOU is further evidence of the company's intent to be an active and constructive partner in the fight against counterfeiting.

### ***(iii) Alibaba's MOU with Italy***

On August 24, 2016, Alibaba signed an MOU with the Italian Ministry of Agriculture, Department of Central Inspection for Fraud Repression. The focus of the MOU is to educate consumers and protect IPR (*i.e.*, designations of origin and geographical indications) in connection with some of Italy's most iconic and valuable exports such as Mozzarella di Bufala Campana, Aceto Balsamico di Modena, Tuscan Extra Virgin Olive Oil, and Prosecco and Chianti wines.

### ***(iv) Collaboration with Internationally-Recognized Certification Agencies***

Alibaba is exploring collaboration with a range of internationally-recognized product certification agencies to develop methods to identify potentially illegitimate product listings, including those that do not meet relevant national standards. For example, we now require merchants on Taobao selling certain categories of consumer electronics products to ensure that their products are certified as meeting the necessary safety and quality standards and are listed in the China Compulsory Certification ("3C") Database. Twenty product categories are currently part of this program and more categories will be added by the end of 2016. In the future, we will require that certain categories of cosmetic products also be certified and listed in the China Food and Drug



## PUBLIC VERSION

Administration Database (“CFDA”). We intend to roll this license verification practice out to apply to other jurisdictions and Alibaba marketplaces over time.

In September 2016, Alibaba and Global Standard 1 (“GS1”) announced a joint project to encourage brands to adopt GS1 standards for product information management and use a Global Trade Item Number (“GTIN”) on products in global e-commerce. Participating brands can exchange product information with Alibaba through the Global Data Synchronization Network™ (“GDSN®”). Alibaba will actively expand the application of GS1 standards and adopt GTIN as a product identifier on its e-commerce marketplaces to help provide the most comprehensive product information to consumers and raise consumers’ brand awareness.

### ***(v) Collaboration with Rights Holder Industry Advisory Boards***

As a part of its ongoing efforts to promote collaborative solutions to online counterfeiting, Alibaba has announced that we will be forming an IP Advisory Board comprised of representatives from international brands and SMEs headquartered in the United States and other countries. It is expected that Advisory Board members, serving designated terms on a rotating basis, will collaborate with Alibaba in developing further innovative IP protection initiatives. We aim to convene the first meeting of the IP Advisory Board by the end of Alibaba’s current fiscal year (March 2017).

### ***(vi) Collaboration with the International AntiCounterfeiting Coalition’s IACC MarketSafe® Program***

Given the success and positive feedback from participating brands in Alibaba’s Good Faith Program, Alibaba has sought to extend the benefits of the program to more companies. Alibaba began partnering with the International AntiCounterfeiting Coalition





## PUBLIC VERSION

("IACC") in 2013, and helped the IACC launch the IACC MarketSafe® program in 2014. The IACC works directly with rights holders to vet the legitimacy of their complaints. To this end, the IACC's good faith status extends to all rights holders whose complaints the IACC vets. In addition, these rights holders benefit from the IACC's resources and its significant investment in personnel, infrastructure and technological development. As of June 2016, 15 brands were submitting takedown requests through the MarketSafe® Program. As of September 2016, Alibaba had permanently banned 6,807 sellers and removed more than 197,000 potentially infringing product listings as a result of takedown requests submitted through the IACC MarketSafe® program. All of this was achieved with a near 100 percent takedown rate when companies stand behind their claims.

The success of this initiative has led Alibaba to make the program available to even more companies. The IACC will continue to dedicate resources to the IACC MarketSafe® program's expansion while Alibaba will contribute resources to increase the scale and capacity of the program. This expansion of the IACC MarketSafe® program was approved by the IACC executive board, and on May 20, 2016 the expansion was jointly announced by the IACC and Alibaba. This collaboration works to increase the processing capacity of the IACC MarketSafe® program and make it readily accessible to a larger, more diverse population of rights holders, including SMEs, free of charge.

As part of this new arrangement, the IACC MarketSafe® program will be made available to brands for free. These brands will spend a limited time in the IACC MarketSafe® program. The hope is that, at the end of that time, those brands will be able to participate independently in Alibaba's Good Faith Program. Alternatively, they may



## **PUBLIC VERSION**

continue to participate in the IACC MarketSafe® program, but they will no longer be able to participate for free.

### ***(vii) The Software Alliance (BSA)***

BSA represents many large, well-known U.S. software companies. Pursuant to an MOU signed in 2014, BSA submits notice and takedown requests to Alibaba directly on behalf of its members. [[ ]]

### ***(viii) Motion Picture Association of America***

Alibaba and the Motion Picture Association of America (“MPAA”) have worked together to fight counterfeiting and piracy under an MOU signed on September 6, 2012. This very productive and successful partnership has substantially reduced the amount of pirated movie content being sold on Alibaba’s marketplaces. It also shows how a dynamic working relationship between marketplaces and rights holders can respond to the rapidly changing challenges of pirates and counterfeiters. In collaboration with the MPAA, we have successfully worked not only on preventing the sale of illegal copies of movies but also on the sale of devices with pre-loaded illegal content. We are in discussions to devise a solution that can block the sale of devices that, while they may not contain preloaded pirated content, contain apps whose purpose, in whole or in part, is to download pirated material.



## PUBLIC VERSION

### *(ix) Recording Industry Association of America*

We are working with the Recording Industry Association of America (“RIAA”) to determine whether it is possible, through new technology and enhanced collaboration, to prevent the piracy of artists’ new works by blocking the sale of pre-released albums and content on Alibaba’s marketplaces.

### *(x) Alibaba’s Co-Sponsorship of the Annual International Law Enforcement Intellectual Property Crime Conference*

In September 2016, Alibaba co-sponsored the annual International Law Enforcement Intellectual Property Crime Conference hosted by INTERPOL, the City of London Police and the Underwriters Laboratory (“UL”). The conference had hundreds of attendees representing dozens of countries. Participants discussed various initiatives to protect intellectual property, including efforts to combat counterfeit pharmaceutical products and strengthen INTERPOL’s resources. Participants also discussed developments related to INTERPOL’s online learning tool IIPCIC (International IP Crime Investigators College), which now delivers online IP training to more than 12,000 enrolled law enforcement officers and stakeholders in 156 countries across the world.

### **Section 5: Intellectual Property Protection Innovation**

Alibaba continuously evaluates innovative technology solutions, both internal and external, to help brands, retailers and e-commerce marketplaces wage the fight against counterfeits. For example, as noted above, Alibaba has deployed its proprietary OCR technology to help identify listings of potentially counterfeit goods. In addition, in 2016, Alibaba Group made a minority investment in eApeiron, a company with technologies that help safeguard the integrity of the supply chain from manufacturing to distribution



## PUBLIC VERSION

and sales. With the help of an investment by Alibaba, the company developed certain assets from Eastman Kodak Company, primarily in imaging technologies and material science. The company is based in Miami, Florida, and will locate its research, engineering and manufacturing operations within Kodak's Eastman Business Park in Rochester, New York. eApeiron has also agreed to a long term partnership with Kodak's highly respected research labs.

eApeiron owns a comprehensive and globally-tested suite of technologies tailored for retail and e-commerce, including a sophisticated tagging system that offers a unique signature profile for identifying and tracking products throughout the supply chain. Alibaba is making investments, such as this, in technology development and deployment that will help to prevent the sale of counterfeits and create increasing levels of confidence in online and offline commerce for rights holders and consumers.

### **Section 6: Statistical Measurement of Progress in Fighting Counterfeits**

We have dedicated resources, made significant investments and collaborated closely with rights holders to battle counterfeiting and piracy. Those efforts have generated positive results over the past 36 months. A detailed table with key results can be found in Exhibit A. Our progress is manifested across many fronts:

- Alibaba has deployed new technologies and expanded the scope of its brand protection efforts by, for example, prohibiting use of blurred trademarks. As a result, between September 2015 to August 2016, Alibaba has proactively blocked [[ ]] million potentially infringing listings, which is [[ ]] the number from the year before;
- By deploying new technology to help prevent sellers of counterfeit products from opening new stores using different identities, and by expanding our efforts to educate merchants about our rules and penalties, we have made it harder for

## PUBLIC VERSION

banned sellers' efforts to circumvent our monitoring practices. As a result, between September 2015 to August 2016, we closed [[ ]] stores, which is down from [[ ]] a year ago;

- Alibaba continues to see strong increases in the number of rights holders joining our notice and takedown programs; as of August 2016, we had almost [[ ]] rights holder accounts, a [[ ]] increase from a year ago;
- There is continued strong interest in Alibaba's Good Faith Program; as of the end of September 2016, we have more than 900 brands in the Good Faith Program, which is more than 2.5 times the number of participants from the year before. Almost two-thirds of these brands are international (many with headquarters in the United States);
- Between September 2015 and August 2016, Alibaba provided [[ ]] leads to law enforcement agencies, an 86 percent increase compared to the same period a year ago. Additionally, we have increased the geographical scope of our collaboration, from one province in 2015 to 18 provinces and major cities in 2016, [[ ]] and
- The enhanced initiatives that Alibaba started are already showing signs of success. For example, [[ ]] sellers have already been penalized in 2016 for serial or repeated counterfeiting offenses. Approximately [[ ]] sellers have also been penalized for trademark infringement offenses and/or rules violations such as misusing brand-related keywords.

### **Section 7: Conclusion**

The foregoing summary outlines the key features of Alibaba's ongoing efforts to minimize sales of potentially infringing goods on its marketplaces. Alibaba has undertaken those efforts individually and in collaboration with private and governmental stakeholders. We are proud of our efforts and are pleased to be able to report on the additional measures put into place during the past year, including specifically in response to USTR's recommendations.



**PUBLIC VERSION**

We believe our efforts are having positive effects in reducing the availability of counterfeits, both online and offline, around the globe. We intend to continue and strengthen these efforts, which are fully aligned with our values and business. We are committed to doing even better and absolutely committed to making these efforts a top priority.

We thank the USTR and other key agencies for the engagement and insights that help to form our approach to the fight for continued integrity and trust in e-commerce.

Alibaba would be pleased to answer any questions USTR may have.

I certify that the information contained in brackets is business confidential and would not customarily be released to the public by Alibaba or its affiliates.

Sincerely,

Eric Pelletier  
Vice President,  
Head of International Government Affairs  
Alibaba Group

**EXHIBIT A**  
**PUBLIC VERSION**

---

**[[REDACTED]]**