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October 21, 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): Rebuttal Comments Submitted by Alibaba Group – PUBLIC VERSION

Dear Mr. Mehta:

These comments are submitted on behalf of Alibaba Group in response to the October 7, 2015 comments of certain associations, primarily from the apparel and automotive parts and accessories sectors.¹ As explained in our October 7 comments, Alibaba's marketplaces employ ever-more-rigorous, user-friendly, and state-of-the art systems—within the constraints of what is feasible—to deal with sales of potentially infringing items. We have a longstanding, strong, and collaborative relationship with hundreds of trade associations and companies, and many of the most prominent U.S. trade associations and companies that submitted comments did not mention any concerns with Alibaba. We will continue to deepen those existing relationships. We will also seek

¹ The following associations submitted comments referring to one or more of Alibaba's marketplaces: American Apparel and Footwear Association (AAFA), the Auto Care Association (ACA), Maus Frères International Services, the Motor & Equipment Manufacturers Association (MEMA), the Specialty Equipment Market Association (SEMA), the Trademark Working Group (TWG), and the Union des Fabricants (Unifab).

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to build closer relationships with the few commenters who have raised concerns, several of which either have never previously contacted Alibaba to discuss their issues or have not responded to Alibaba's overtures over the last year to open a discussion.

We appreciate that certain of the associations that raised concerns with respect to Alibaba also noted significant improvements in Alibaba's intellectual property ("IP") enforcement procedures. We understand that these groups seek additional protections (which uniformly exceed the scope of Alibaba's legal obligations) and we stand ready to meet with each of them to discuss additional means of collaboratively combating infringement, as well as to explain how to optimally take advantage of the array of tools we make available to rights holders. We welcome input and constantly seek innovative ways to improve.

The evidence of Alibaba's efforts to improve its IP enforcement system is clear from our October 7 comments. As explained in detail in those comments, all of the key indicators of our performance have improved dramatically over the past several years. Add to that the innovative brand protection programs and practices Alibaba continues to implement and refine, and it is clear that Alibaba has put in place a robust, world class system to protect IP. Alibaba heard USTR's recommendations from last year's Notorious Markets report and undertook a serious and sustained effort to address those concerns.

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I. Overarching Issues

We share a common goal with the associations that have commented on Alibaba: minimizing the availability of counterfeit and pirated goods sold on any marketplace. Our long-term success depends upon the trust that buyers and sellers place in Alibaba's marketplaces, and reducing the availability of IP-infringing goods aligns with Alibaba's business values. Although Alibaba recognizes the need for continued improvement and collaboration with rights holders and governments, we take pride in the additional measures that we have undertaken in the past year, many of which respond directly to USTR's recommendations. In this section, we address several preliminary issues before we turn to the specific criticisms that certain associations have included in their comments.

A. Recognized Improvements to Alibaba's IP Enforcement Program

Most of the associations and companies who submitted comments on October 7—including, among others, the Recording Industry of America, the Motion Picture Association of America, the Entertainment Software Association, the Association of American Publishers, the Global Intellectual Property Center (U.S. Chamber of Commerce), the Alliance for Safe Online Pharmacies, and Chanel—did not mention any concerns with Alibaba. Among those that did submit comments on Alibaba, some are duplicative and do not raise separate and independent concerns. For example, the members of Maus Frères International are also members of Unifab, and portions of the comments submitted by this company and association are identical.

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Certain associations that submitted comments critical of Alibaba also recognize improvements in Alibaba's brand protection program over the last year. For example, TWG recognizes Taobao's efforts during the past year to improve its takedown system and collaborate with rights holders and enforcement authorities. TWG also favorably cites the Good Faith Program, a system launched by Alibaba to give rights holders a presumption of good faith and provide streamlined takedown procedures. TWG observes that complaints submitted through the Good Faith Program already "are being handled faster, and the requirements to file a complaint have been simplified." In addition, AAFA notes that members "report improvements on some Alibaba's platforms," and cites Tmall in particular.

B. Alibaba's Role in Brand Protection

In our October 7 comments, we explained at length the efforts Alibaba has made to protect IP on its marketplaces. We noted Alibaba's inability to undertake these efforts alone and that the law instead places on the IP owner the primary responsibility to enforce its IP rights. It is accordingly incorrect to suggest, as the ACA does, that the burden "to prevent counterfeits from being offered in the first place" falls upon Alibaba. That said, the broad set of anti-counterfeiting and anti-piracy measures that have been adopted by Alibaba, and the massive resources that support them, serve as testimony to the sincerity of Alibaba's commitment to do more than the law requires. It bears repeating that the most effective way to address IP infringement is meaningful collaboration between Alibaba and affected rights holders and their representatives.

In a similar vein, we must reject the premise of the AAFA's and SEMA's contention that Alibaba's sheer size somehow creates heightened legal obligations to

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combat infringement. That is simply not the case. Nonetheless, consistent with the scale of its operations, Alibaba is devoting unparalleled resources to the problem and intends to continue to do so.

We also dispute the unfavorable comparison drawn by ACA and MEMA between the rigor of Alibaba's IP enforcement programs and those implemented by marketplaces like Amazon and eBay. All marketplaces face the challenge of dealing with sales of potentially infringing products. No marketplace is identical, but we believe that the IP protection systems and processes that Alibaba has put in place are second to none. To assure this outcome, as noted in our October 7 comments, Alibaba has hired deeply experienced experts in the field. The head of Alibaba's Global Intellectual Property Enforcement Department is Matthew J. Bassiur, who previously served as Deputy Chief Security Officer of Pfizer, Inc., Counsel for IP Enforcement at Apple, and a federal prosecutor with the U.S. Department of Justice's Computer Crime and Intellectual Property Section. Alibaba also recently hired Daniel Dougherty, former General Counsel of Monster, Inc. and, from 2008-2012, Global Head of eBay's intellectual property enforcement program. Drawing from their vast experience, these individuals have evaluated and helped put in place a brand protection system that is as rigorous as that of any other major e-commerce marketplace anywhere in the world.

We note that Alibaba faces certain challenges in relation to IP enforcement that other cited marketplaces do not. Prominent among these are the practical and legal challenges arising from the fact that Alibaba operates primarily in China. Merchants sometimes (in China and elsewhere) submit false takedown notices in order to damage competitors. Partially for this reason, China requires a rights holder submitting the

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takedown request to provide supporting evidence so that the marketplace operator can identify overreaching and groundless takedown requests. In this setting, merchants have filed lawsuits against the Alibaba marketplaces for taking down listings without sufficient evidence and against competing merchants who filed unsubstantiated takedown notices. Therefore, while we have taken concrete steps to reduce the burden on rights holders who seek to submit legitimate takedown notices, we must also be sure to substantiate takedown requests with evidence. This backdrop provides the primary reason why Alibaba has adopted a more evidence-based notice and takedown process than have marketplaces like Amazon and eBay. The Good Faith Program represents a meaningful effort to afford rights holders with a strong track record of legitimate takedown notices more expedited procedures for takedowns of claimed infringing listings.

Another complication arises out of the fact that enforcement of trademark and patent rights in China requires proof by the brand owner that it has registered its patents and trademarks in China. Many U.S. rights holders do not own Chinese IP but believe that their U.S. IP rights extend to China. As a result, Alibaba is often placed in the difficult position of being asked to enforce trademark and patent rights in circumstances where the trademark or patent does not legally exist in China. Alibaba has reached out to brand owners to explain this issue and to encourage them to register their trademarks and patents in China. Companies such as Amazon and eBay are primarily focused on the U.S. market and do not face similar problems.

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C. Comments Regarding the SAIC Reports

The comments of the AAFA and Unifab return to a January 2015 SAIC “White Paper” as evidence of the continued scale of counterfeit offerings on Taobao. We note that the White Paper was issued many months before USTR opened the comment period for the 2015 Notorious Markets Report, and several commenters referred to the report at that time. Alibaba fully addressed the issue in its 2015 comments for the Notorious Markets report.

As Alibaba explained in its October 12, 2015, rebuttal comments, the White Paper results were based upon an arbitrary methodology. The White Paper purported to survey the prevalence of “non-genuine” products, not counterfeit products *per se*. Non-genuine products include not only counterfeit products but also poor quality products, refurbished second-hand products, and products that are not sold through official sales channels (*e.g.*, gray market goods). Furthermore, the SAIC sampled just 51 out of more than one billion product listings on Taobao and, of the sample, only eleven (< 20 percent) were non-genuine. Given the problems with the report, the SAIC removed the White Paper from its website just days after it was posted. In light of the fact that the White Paper has been withdrawn, it is surprising that certain comments continue to refer to the report almost two years later.

TWG commented that an SAIC “survey of the Goods Quality Sold on the E-commerce Markets” from August 2016 showed that “Taobao was still the most notorious counterfeit online market in China with around 60 percent of the goods sold on Taobao being counterfeit or pirated.” The 2016 SAIC report was the result of an investigation into the quality of goods sold, not intellectual property infringement. Therefore, the

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above quote is inaccurate.² The SAIC investigated 503 batches of goods sold on multiple e-commerce platforms in China such as JD.com and YHD.com, as well as on Alibaba's Taobao and Tmall platforms. During the course of the investigation, the SAIC discovered that only two batches of goods (0.4 percent of the total) contained counterfeit goods.

II. Sector-Specific Comments

As noted, the comments that referenced the Alibaba marketplaces came primarily from the automotive parts and accessories and apparel industries. Companies in these industries have access to all of the IP enforcement tools that Alibaba makes available to all other industries. In light of the focus of the comments, however, we thought it would be helpful to USTR's assessment if we provided information on the actions Alibaba has taken with respect to those two specific sectors.

A. Automotive Parts and Accessories Sector

Automobile and automobile parts manufacturers have had great success in submitting takedown notices to the Alibaba marketplaces. The graphs provided as **Attachment 1** show the number of listings that have been targeted by takedown requests from a sampling of individual brands, and compares that figure to the number of listings removed as a result of those requests. The time frame covered by the data is the twelve

² TWG might be confusing the 2016 report with the 2015 SAIC survey, which, as already explained, has been withdrawn due to the serious methodological problems with the document. Some observers have incorrectly argued that 2015 survey found that 60 percent of the products sold on Taobao were counterfeit. For the reasons explained above, the assertion is incorrect.

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months ending August 31, 2016. In summary, many automobile and automotive parts manufacturers file takedown requests on TaoProtect and AliProtect. Those brands who participate have a very high rate of success. [[]]

[[]]

Alibaba would welcome the opportunity to collaborate with the membership of ACA, SEMA and MEMA to discuss ways to enhance Alibaba's IP enforcement procedures. While ACA also submitted comments during the Notorious Markets process last year, they have not responded to multiple requests by Alibaba to discuss their concerns and explore ways to collaborate. Before SEMA's Notorious Market comments this year, we were not aware of SEMA ever approaching Alibaba to raise concerns. Upon reviewing SEMA's October 7 comments, Alibaba has reached out to the association but as of the time of this writing has not received a response. Furthermore, Alibaba has also reached out to MEMA to meet with them in the coming days to better understand their concerns. Prior to seeing MEMA's October 7 comments, we had not heard from them regarding their specific concerns.

³ [[]]

⁴ [[]]

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B. Apparel Sector

Footwear and apparel makers—including many members of AAFA and Unifab—have also had great success in submitting takedown requests on Alibaba marketplaces.

[[]] The graphs provided at **Attachment 1** show the number of listings that have been targeted by takedown requests from a sampling of individual brands and compares that figure to the number of listings removed as a result of those requests.

The AAFA also claims that Alibaba has not adequately responded to a July 2015 letter sent to Alibaba founder Jack Ma. The AAFA registered the same complaint last year, which we responded to in our October 12, 2015, rebuttal comments. As we noted last year, we are ready to work with the AAFA on substantive issues as we have with other industry representatives, but we do not believe that it is productive to insist only upon CEO level meetings. We look forward to meeting with the AAFA in the coming weeks on these matters.

C. Security Tags

TWG alleges that counterfeit security tags are available on Alibaba marketplaces. Before TWG's October 7 comments, Alibaba was not aware of any such issue. In fact, Alibaba does not know what the product is. We would, however, welcome the opportunity to discuss this issue with TWG. In this regard, Alibaba notes that it has reached out to TWG to discuss any issues that it may have, but TWG has not yet responded.

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III. Notice and Takedown Procedures

Certain comments asserted that Alibaba's notice and takedown procedures were too burdensome, particularly for SMEs. Alibaba agrees that it is essential to streamline and simplify takedown procedures to the maximum extent feasible so that rights holders, including SMEs, may effectively enforce their IP rights. To that end, Alibaba has implemented numerous measures on its marketplaces to make IP enforcement simpler and more effective.

At the outset, we note that the relevant data refutes a broad contention that Alibaba's takedown procedures are too burdensome. The number of takedowns on Alibaba's marketplaces resulting from notices has more than doubled from where it was two years ago [[]]. The number of registered rights holders increased by nearly 70 percent during that period [[]]. In short, more rights holders are utilizing Alibaba's takedown procedures and are successfully submitting more takedown requests.

Alibaba has, moreover, put in place procedures to streamline its notice and takedown process. For example, as outlined in its October 7 comments, Alibaba has launched a Good Faith Program to make it easier for rights holders to protect their IP when they have an established track record of submitting legitimate takedown notices. Participants in the Good Faith Program enjoy a presumption of good faith reporting that allows for simplified takedown notification obligations. An ever-increasing number of brands—more than 900 by September 2016—participate in this program, which is two and a half times the number of participants from the same time last year. Once Taobao receives a good faith notice, listings are taken down, on average, in [[]] days.

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Furthermore, as described in our October 7 comments (at pages 26-28), Alibaba is working with the IACC to expand the availability of the IACC MarketSafe® program to allow more companies to participate, including SMEs. The IACC works directly with rights holders who participate in the IACC MarketSafe® program to vet the legitimacy of takedown notices and the IACC submits the notices on the rights holder's behalf. In this way, the IACC's good faith status extends to all rights holders whose complaints the IACC vets. Through the MarketSafe® expansion program, Alibaba will work with IACC to allow companies to participate in the program for free for a limited period of time to gain experience with the system. After that period, the companies may continue in the IACC MarketSafe® program or perhaps join the Good Faith Program in their own right.

[[]]

In addition, in October 2016, Alibaba will merge the registration and login processes for TaoProtect and AliProtect, creating a one stop shop for takedown notices on Alibaba.com, AliExpress, Taobao, Tmall and 1688.com. This will make it easier for all companies, including SMEs, to protect their brands on the Alibaba marketplaces.

Finally, as noted in Alibaba's October 7 comments (at page 26), Alibaba will form an IP Advisory Board comprised of representatives from international brands and SMEs headquartered in the United States and other countries. The IP Advisory Board will deepen collaboration with rights holders and will, among other things, include SME representation in order to provide an additional channel for input on the unique problems faced by SMEs seeking to protect their brands.

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In sum, Alibaba is committed to making it easy for rights holders to enforce their IP rights and, as part of that commitment, is taking steps to collaborate with SMEs to improve further its enforcement programs.

IV. Comments on Specific Alibaba Programs

A. Protection of Photos

SEMA's claims that counterfeiters often steal photos of authentic products and give buyers a false sense of legitimacy are true, and, unfortunately, the practice occurs with some frequency across all e-commerce platforms. Alibaba's platforms recognize this and already have an easy-to-use process for rights holders to address this issue. While IP registrations are generally required (*e.g.*, to demonstrate trademark rights and patent rights), copyright registration is not required in order to submit a copyright-based notice-and-takedown request to Alibaba marketplaces. Furthermore, Alibaba applies procedures in China similar to those required in the United States by the Digital Millennium Copyright Act (DMCA). An image or other copyright owner must submit an allegation of infringement and request removal. Upon receiving proper notification, Alibaba will remove the allegedly infringing listings. The copyright owner may report one infringement or multiple infringements by providing a hyperlink to where the infringement can be found and the source of the infringed work.⁵ In addition, Alibaba allows rights holders to identify representative samples of the infringed works.

⁵ For a live webpage, we will require the URL to the webpage and a screenshot of the webpage showing the URL. We require a screenshot because the review team in China may not be able to access the URL. For a webpage that is no longer live, the rights holder must provide a cached screenshot of the webpage.

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Following the withdrawal of a takedown request, receipt of a proper counter-notification, etc., Alibaba makes reasonable efforts to timely reinstate removed material.

B. Proactive Measures

The ACA, Maus Frères, and Unifab argue that Alibaba does not take sufficient proactive measures to combat the sale of counterfeit products. As explained in detail throughout our October 7 comments, Alibaba has in place an extensive system of proactive enforcement mechanisms that are becoming ever more robust. [[]] From January 2016 through August 2016, the proactive to reactive rate had more than tripled. During that period, for every one takedown notice we received from rights holders, we have done 25 proactive takedowns.

As noted in our October 7 comments, Alibaba has proactively removed more than 380 million product listings and shuttered approximately 180,000 Taobao stores during the year ending August 2016. We will not repeat here all of the details of Alibaba's proactive enforcement program, but refer to Alibaba's October 7 comments, in particular pages 3-5, 20-22, and Exhibit A of that submission.

C. Brand Certification Procedure

The ACA requests "brand certification" to allow brand owners to become certified and initiate takedowns. It does not appear that ACA is aware that Alibaba already has a site that is specifically designed to allow rights holders to register with the Alibaba marketplaces and submit takedown notices. The site is <https://ipp.alibabagroup.com/index.html>.

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D. Meeting the Standards Necessary to Participate in the Good Faith Program

TWG recognizes that Alibaba has established the Good Faith Program, but argues that it is too difficult to obtain and maintain Good Faith credentials. The facts do not support TWG's conclusion.

First, more and more rights holders are joining the Good Faith Program and obtaining increasingly successful results. In order to qualify to use the Good Faith takedown mechanism: 1) at least 90 percent of the takedown requests submitted by the rights holder must have conformed to our submission procedures over at least a two-month period; and 2) no more than 1.5 percent of the counter-notices submitted in response to the rights holder's takedown requests can have been successful over the same period. These are not difficult standards to meet. In fact, the average number of successful appeals of good faith notices is very low. Between September of 2014 and August of 2015 the successful appeal rate against good faith takedown notices was only [[]] Between September 2015 and August 2016 that same successful appeal rate dropped even further to [[]] So not only are good faith rights holders easily meeting the standards for successful counter notices, but their performance is improving over time.

Furthermore, as noted, as of September of this year, more than 900 rights holders participate in the Good Faith Program, which is more than two and a half times the number that participated last year at this time. The rapid uptake by rights holders shows that it is not difficult to meet and maintain the standards to participate in the program. In addition, the number of takedown notices submitted through the Good Faith Program

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rose from approximately [[]] last year to over [[]] this year. If you examine the rights holders that initiated takedown requests in TaoProtect in September 2016 as an example, [[]] of those accounts met the quality and success standards necessary to join the Good Faith Program. Most of these rights holders could easily qualify for the Good Faith Program, but they currently submit only a small number of monthly takedown requests. Several are just waiting to achieve the required volume of monthly takedown requests [[]] to officially have an active account in the program. Some of this delay may be due to the fact that there are few infringing listings on our platforms against which to submit takedown requests or due to a lack of available time and resources on the part of the rights holder. Either way, rights holders have great potential for strengthening their enforcement efforts through more collaboration with Alibaba via the Good Faith Program.

Second, once a rights holder has entered the Good Faith Program, it rarely is removed. [[]] Furthermore, active participants (*i.e.*, those that continue to submit a significant number of takedown requests) very rarely have been removed from the program. Up until now, no brand has actually taken the initiative to drop out of the program.

Third, Alibaba actively recruits rights holders who desire to enter the Good Faith Program. We proactively reach out to rights holders who have not met the requirements of the Good Faith Program and educate them on how they can meet our standards. Separately, as noted in Alibaba's October 7 comments (at pages 27-28), Alibaba is working with the IACC to make the IACC MarketSafe® program available to more brands for free. These brands will spend a defined period of time in the IACC

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MarketSafe® program, and the hope is that, at the end of that time, the brands will be prepared to directly participate in Alibaba's Good Faith Program.

E. Using Price Points as a Basis for Takedowns

AAFA and MEMA assert that low price points are an indicator that products are counterfeit. Alibaba agrees that an abnormally low price may be evidence of a counterfeit, but that is not always the case. For example, the price for a legitimate, but second-hand, good is likely to be substantially lower than the price of a new product. As another example, in some cases, merchants might advertise low prices on legitimate products to attract customers, but those prices might be available for only a limited time or for a limited quantity of merchandise. Consequently, Alibaba believes that price is only one factor, but not necessarily a dispositive factor on its own, in deciding whether a product is potentially infringing. Furthermore, we already regularly work with rights holders to factor low price points into our algorithms and identification mechanisms, along with other indicators such as quantity, color, manufacturing location, etc. to enable a higher success rate in assessing whether a listing is potentially infringing.

Overall, we have a sophisticated anti-counterfeiting program, and we are pleased to continue working with rights holders to make our proactive efforts even more effective. In fact, as noted in Alibaba's October 7 comments (at page 17), in 2017, we expect that the Joint Force System will facilitate such exchanges of information.

F. The ACA Wish List

ACA's submission includes a "wish list" of programs that it would like the Alibaba marketplaces to implement. Alibaba welcomes input and collaboration in

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refining its IP enforcement tools; however, Alibaba is already addressing several of the issues ACA has raised. Other ACA suggestions are simply unrealistic. We have already addressed certain of these issues in this submission. The remainder we address below.

ACA asks Alibaba to put in place an automatic, brand-controlled takedown procedure. Under the Good Faith Program, as explained above, brands may already benefit from a good faith presumption and a takedown process that results in the removal of listings within [[]] days. However, the ACA request for an automatic, brand controlled takedown procedure is a drastic overreach. Such a system would not only be unprecedented but inconsistent with both Chinese and U.S. law. For example, China's Regulation on the Protection of the Right to Network Dissemination of Information requires that takedown notices include specific information, including, among other things, documentation supporting the takedown request. An automatic, brand-controlled takedown procedure would circumvent those requirements, which are designed to help ensure that takedown notices are justified.⁶

In terms of U.S. law, both the DMCA and common law contemplate the exercise of good-faith discretion on the part of the hosting platform in responding to notices of potential infringement. Neither copyright nor trademark law cede to rights holders unfettered control over an e-commerce marketplace's listings of merchandise for sale.

⁶ That regulation specifically applies to information transmitted over the network (*e.g.*, creative works and video and sound recordings), but the legal requirements are commonly understood to apply more broadly to other types of IP infringements. For example, Provision No. 22 of the Beijing High Court's "Guidance for Judging Intellectual Property Rights Cases Involving Network by Beijing High Court," published in April 2016, indicated that takedown notices "to prevent a platform seller to infringe the rights holders' trademarks" should include certain information such as, among other things, information identifying the infringing content, the trademark certificate, the "facts of the infringement," and a statement that the information provided in the notice is true.

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Indeed, Alibaba is not aware of any major e-commerce marketplace in the world that surrenders control of its system by allowing rights holders to take down listings without any opportunity to review the takedown request by the marketplace itself. It would be patently unfair to hold Alibaba to a standard that no other marketplace in the world has to meet. Moreover, if Alibaba were to accept ACA's suggestion, it would need to open the program to all rights holders; otherwise, the system could significantly distort competition by giving some rights holders an unfair advantage over others. It would create a system that is unmanageable and that is vulnerable to bad faith takedowns, *i.e.*, takedowns that target legitimate listings of a competitor.

ACA also requests that rights holders be given the right to pre-approve sellers on Alibaba marketplaces. Here, again, Alibaba is not aware of any major e-commerce marketplace in the world that has put such a procedure in place.

ACA also requests that Alibaba engage an independent third party to verify Alibaba's anti-counterfeiting measures. Once again, to Alibaba's knowledge, there is no precedent for such a procedure, nor is there any need for such a procedure. Alibaba thoroughly and professionally assesses the measures that it puts in place, and is best positioned to assess their efficacy.

G. MEMA's Unsubstantiated Linkage between Counterfeiting and Chinese Production

MEMA claims that the prevalence of products listed in China that are not manufactured in China should serve as evidence of the extent of counterfeit sales. We believe that such sales listings do not suggest counterfeit sales. For example, there is

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nothing to prevent goods manufactured in the United States from being sold in China and listed on Chinese or globally facing marketplaces.

H. TWG's Unsubstantiated Criticism of the Joint Force System

TWG denigrates the efficacy of Alibaba's new Joint Force System on the basis of the undocumented assertion that certain of its members have seen a decreasing number of suspicious sales listings sent to brand owners. The Joint Force System was just launched in July 2016. The program simply has not been in existence long enough to declare that it is ineffective. We note, however, that even though the system is only just over two months old, [[]] brands are already participating in the program. We are in constant dialogue with these participants and other rights holders to help refine and improve the system.

TWG does not make a list of its members publicly available, so we do not know whether its members have taken advantage of this program. We urge TWG to encourage its members to seek to qualify to enroll in the Good Faith Program and the Joint Force System so they can benefit from the program and provide feedback.

V. Conclusion

As explained in our October 7 comments, Alibaba is deeply committed to removing potentially infringing listings from our marketplaces. The continued success of our company depends on maintaining the trust of our customers. We have worked hard to put in place programs that effectively enforce IP rights. We take pride in our efforts to address input from USTR and rights holders, and we will continue to work with both to



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refine our programs and develop innovative new approaches. We look forward to a cooperative environment in which Alibaba is able to work constructively with rights holders to combat the real enemy – counterfeiters.

Alibaba would be pleased to answer any questions from USTR or other U.S. government agencies that participate in the Notorious Markets process.

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,

A handwritten signature in black ink that reads 'Eric Pelletier' in a cursive script.

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



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ATTACHMENT 1

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