



Out-of-Cycle Review of Notorious Markets

December 13, 2012

Trademark counterfeiting and copyright piracy on a commercial scale continue to thrive around the world in part because of the presence of marketplaces that deal in goods and services that infringe intellectual property rights (IPR). The Notorious Markets List identifies selected markets, including ones on the Internet, that are reportedly engaged in substantial piracy and counterfeiting, according to information submitted to the Office of the U.S. Trade Representative (USTR). These are marketplaces that have been the subject of enforcement actions or that may merit further investigation for possible IPR infringements. These markets have been selected for inclusion both because they exemplify wider concerns about global trademark counterfeiting and/or copyright piracy, and because their scale and popularity can cause economic harm to U.S. and other IPR rights holders. In addition, products sold at some of these markets could pose health and safety risks to consumers, and there is a risk that listed websites may not adequately respect consumers' privacy and security.

USTR has identified notorious markets in the Special 301 Report since 2006. In 2010, USTR announced that it would begin publishing the Notorious Market List as an "Out of Cycle Review" separately from the annual Special 301 Report. USTR published the first such list in February 2011, and the second in December 2011. The present list is the result of the third Out-of-Cycle review of notorious markets. USTR initiated the review on August 14, 2012 through publication in the *Federal Register* of a request for comments from the public.

The Notorious Markets List does not purport to reflect findings of legal violations, nor does it reflect the United States Government's analysis of the general climate of IPR protection and enforcement of in the countries concerned. A broader analysis of IPR protection and

enforcement is presented in the annual Special 301 Report, published at the end of April each year.

In an effort to further assist U.S. rights holders to enforce their intellectual property online, the U.S. Government has expanded the business tools on STOPfakes.gov, an interagency website, to include information on infringement reporting mechanisms at a number of popular online retailers and marketplaces, including Alibaba and Taobao. This page is available at: www.STOPfakes.gov/business-tools/retailer-reporting.

Positive Developments since the December 2011 Out-of-Cycle Review of Notorious Markets

Following their inclusion in the December 2011 Notorious Markets List, several markets took action to address the widespread availability of pirated or counterfeit goods through those markets' websites or storefronts. USTR commends these efforts, and encourages these and other markets to continue their efforts to curb illicit activity.

Examples of positive action at markets that USTR identified in the December 2011 list include those taken by a Chinese website, **Taobao**, which was included in previous Notorious Markets lists for the widespread availability of counterfeit and pirated goods in its electronic marketplace. Taobao has been removed from the 2012 List because it has undertaken notable efforts over the past year to work with rightholders directly or through their industry associations to clean up its site. In order to stay off the list in the future, we urge Taobao to further streamline procedures for submitting and responding to notifications to decrease the time required for taking down listings of counterfeit and pirated goods and to continue its efforts to work with and achieve a satisfactory outcome with U.S. rights holders and industry associations (for example in the apparel and footwear and software industries), as well as U.S. based small and medium sized enterprises (SMEs) and we ask these industries to report back expeditiously on the status of these efforts. Similarly, Chinese website **Sogou** has been removed from the 2012 List based on reports that it has also made notable efforts to work with rights holders to address the availability of infringing content on its site.

The following five markets were removed from this Notorious Markets list as a result of enforcement activities in 2012. This past January, shortly after the release of the December 2011 Notorious Markets List, the Department of Justice filed criminal copyright charges against defendants associated with the website **MegaUpload**, a cyberlocker site that actively promoted the unauthorized distribution of protected content through subscriptions and reward schemes to frequent uploaders. As a result of that action, several cyberlockers in the past year have changed their business models to ensure that no infringing content could be hosted, linked, or found on their websites; others, such as **btjunkie**, also included in the December 2011 List, have shut down their operations completely. In addition, the Mexican Government took action to shut

down the operations of the previously-listed bit torrent tracker **Demonoid**. Two Canadian websites, **Modchip.ca** and **Consolesource**, which were listed in 2011 for involvement in marketing of circumvention devices, have also reportedly been shut down before Canada implements its recently enacted Copyright Modernization Act, which includes new provisions against trafficking in circumvention devices.

Positive action has also occurred over the past year at physical markets. One example is the **Quiapo Shopping District** in the Philippines. The Philippine Government has taken significant enforcement actions that have reduced the number of counterfeit and pirated goods available for sale and, as a result, the market has been removed from the 2012 List.

As a result of all these efforts, these eight Internet and physical markets are no longer included in the Notorious Markets List. The positive efforts undertaken at these markets appear to benefit U.S. and other IPR rights holders. A market that is removed from the List may, however, be listed again in the future if corrective actions prove inadequate or short-lived. USTR will continue to monitor these markets.

The December 2012 Notorious Markets List

The list below identifies particular markets in which pirated or counterfeit goods are reportedly available, but is not intended to be an exhaustive listing of all notorious markets around the world. Rather, the list highlights some of the most prominent examples reported to USTR of notorious markets in each of the categories referenced below. The United States urges the responsible authorities to intensify efforts to investigate reports of piracy and counterfeiting in these and similar markets.

Multi-platform Sites

These sites combine several methods for allowing the distribution of infringing content, including hosting, deep-linking, cyberlocker services and P2P systems

Xunlei: This Chinese-based site facilitates the downloading and distribution of pirated music and movies, not only through deep-linking services, but also by offering cyberlocker facilities and through its own innovative high-speed P2P file sharing system. In addition, Xunlei's software can be configured to allow easy access to **Gougou's** deeplinking service.

Linking

These are online services engaged in “deeplinking” to allegedly infringing material that is often stored on third-party hosting sites.

Baixe de Tudo: This website, hosted in Sweden, but targeted at the Brazilian market, is aptly named “Download Everything” and provides links to infringing music as well as “cracked” software codes and programs.

Gougou: Industry reports that this China-based website continues to actively provide users with deeplinks to infringing music files and torrent links from unauthorized sources.

Warez-bb: This forum site, which is registered in Sweden but hosted by a Russian ISP is described as a hub for the sharing of copyrighted works, including pre-release music, software and video games. Industry efforts to remove infringing content have been hampered by the very quick replacement of removed content. The site has a global reach, and is among the top 200 sites visited in Belgium, Croatia, Serbia and Pakistan, according to Alexa.com.

Hosting/Cyberlockers

These distribution sites enable users to store files on servers that can be accessed at any time and from any location, which allows widespread sharing among users who obtain the link to these “lockers.” Cyberlockers and file hosting sites, while widely used for lawful purposes, can also enable the widespread distribution of unauthorized content by disseminating the link via websites, blogs, forums, etc.

Rapidgator.net: This cyberlocker has gained popularity and users in the wake of MegaUpload’s closure. It was originally hosted in the United Kingdom (U.K.) but moved to Russia after U.K. enforcement officials shut it down.

Putlocker: This U.K.-based file hosting site offers both streaming and downloading of significantly large video files, and includes a reward system for popular uploaders.

Ex.ua: This Ukraine-based one-click hosting site allows users to download or stream a full range of infringing content including music, video, TV programming, movies, books and software.

B2B and B2C

Industry has reported that these Business-to-Business (B2B) and Business-to-Consumer (B2C) websites offer a wide range of infringing products to consumers and businesses.

Paipai: This Chinese language sales platform has emerged as a new source of pirated and counterfeit goods in China. The site's anti-counterfeiting mechanisms are reportedly ineffective and appear mainly to serve as a superficial gesture.

BitTorrent Indexing

Although BitTorrent indexing sites can be used for lawful purposes, such sites can also be used to quickly locate and download infringing materials from other users. The sites identified below are examples of sites allegedly being used for unlawful purposes.

ThePirateBay: Despite the criminal conviction of its founders, Sweden-based PirateBay continues to facilitate the download of unauthorized content.

IsoHunt: Canada-based IsoHunt is one of the largest BitTorrent indexes in the world, ranking among the top 300 websites in global traffic, according to Alexa.com. At least one U.S. court has found liability in cases involving IsoHunt.

Kat.ph (formerly kickasstorrents): This site, which reportedly is based in Canada, is notable for its commercial look and feel. The site's popularity has increased since last year and it is now ranked by Alexa.com among the top 135 most visited sites in the world, and within the top 40 sites visited in the Philippines, Pakistan and Sri Lanka.

torrentz.eu (formerly torrentz.com): This site, which reportedly is based in Canada, Panama and Switzerland, is a major aggregator of torrents from other BitTorrent sites, and continues to be ranked among the top 150 most visited sites in the world.

BitTorrent Trackers

Although BitTorrent trackers can be used for lawful purposes, such sites can also be used to transfer allegedly infringing material, by directing users to peers who share the infringing content. The sites listed below are examples of sites allegedly being used for unlawful purposes.

Rutracker: Russia-based Rutracker continues to be ranked by Alexa.com as Russia's 15th most visited site, and among the 300 most visited sites in the world, and reportedly allows for the fast identification and download of pirated content.

Zamunda.net and Arenabg.com: These two Bulgarian-based sites are among the biggest pirate sites not only in Bulgaria, but in the region. They both offer the full range of pirated copyright works including movies, music, software and electronic games, and are hosted in the Netherlands. A recent criminal case against arenabg resulted in fines against four of the site operators, but the site remains operational nonetheless. There is currently an ongoing criminal case against zamunda.net.

Social Media Sites

Social media sites are widely used for lawful purposes. However, some, including those listed below, may facilitate the unauthorized access to allegedly infringing materials.

vKontakte: This Russian site previously listed on the 2011 Notorious Markets List has been found liable for infringement in a case involving a Russian record company but continues to operate as before, permitting users to provide unauthorized access to allegedly infringing materials. It is now the third most visited site in the former Soviet region and continues to be among the 40 most visited sites in the world, according to Alexa.com.

Zing.Vn: In addition to being a social media site, Vietnam-based Zing.vn also includes an infringing deeplinking music portal, which reportedly attracts large numbers of users to the site. Recently, several international companies including Coca-Cola and Samsung pulled advertising from this site after recognizing the infringing nature of its operations. We understand that VNG, Zing's parent company is currently in talks with rights holders to obtain the necessary licenses to transition Zing into an authorized digital music platform.

Pay-per-download

These websites exemplify the problem of online sales of pirated music on a pay-per-download basis.

Allofmp3 clones: These websites continue operating, despite the original site having been shut down in 2007. However, cooperation between rights holders and payment processors has greatly reduced their commercial significance.

Physical Markets (in alphabetical order)

Bahia Market (Guayaquil, Ecuador)

Rights holders have reported that this expansive market sells large quantities of counterfeit goods, including clothing and shoes bearing counterfeit trademarks, and a wide selection of pirated DVDs, CDs, and software.

Buynow PC Malls (China)

Rights holders report that the **Buynow PC Mall**, a very large personal computer mall chain in China, operating 22 stores across the country, is known for selling computers with illegal operating system software and other unlawfully pre-installed software.

Ciudad del Este (Paraguay)

In Ciudad del Este, Paraguay, the city's economy is reportedly based in part on the trafficking of counterfeit and infringing goods, with electronic goods, including circumvention devices and modified game systems noted especially prominent feature of the illicit trafficking. It has been reported that this activity reportedly spills over into the entire Tri-Border Region of Paraguay, Argentina and Brazil.

Fu'an Footwear and Accessory Market (Putian, China)

Located in the province where most shoe manufacturing is concentrated, this market not only sells counterfeit products directly to the local population, but also ships its products to consumers in foreign markets via express delivery services.

Harco Glodok (Jakarta, Indonesia)

This market is one of many, and the largest in Indonesia, known for counterfeit and pirated goods, and is particularly known for pirated optical discs.

La Salada (Buenos Aires, Argentina)

La Salada is the largest of many well-established markets in Buenos Aires that have been cited as being heavily involved in the sale of counterfeit goods.

Luohu Commercial Center (Shenzhen, China)

On the border between Shenzhen and Guangzhou provinces, and Hong Kong, this market is reportedly home to dozens of markets openly or clandestinely offering counterfeit or pirated goods. The display of signs prohibiting the sale of such goods has reportedly not served as an effective deterrent.

Nehru Place (New Delhi, India)

Nehru Place is reportedly one of the many markets in major cities throughout India that are known for dealing in large volumes of pirated software, pirated optical media containing movies and music, and counterfeit goods.

Petrivka Market (Kyiv, Ukraine)

This open air market reportedly houses as many as 300 stands that sell pirated and counterfeit goods, including music, films, games, software, clothing, and shoes.

Pulga Rio (Monterrey, Mexico)

Pulga Rio has been identified by rights holders as a major hub for counterfeit and pirated goods in the state of Nuevo Leon in Mexico. Despite recent law enforcement activities that have decreased the number of vendors selling counterfeit goods, pirated and counterfeit goods maintain a significant presence.

Red Zones (Thailand)

Thai authorities have designated the **Panthip Plaza, Klong Thom, Saphan Lek** and **Baan Mor** shopping areas, among others, as targets for enforcement against piracy and counterfeiting. Other well-known markets offering counterfeit goods include **Chatuchak, MBK Shopping Centre, Siam Square, Klong Thom, Sukhumvit Road** and **Patpong Market** in Bangkok, Karon Beach and Patong in Phuket, **ITCity** in Pattaya, and the **Rong Klua** and **Friendship Border Markets** at the Aranyaprathet border crossing with Cambodia.

San Andresitos (Colombia)

The San Andresitos marketplaces of varying sizes scattered throughout Colombia, in cities that include Bogota and Cali. These marketplaces are well-known for the unauthorized reproduction of music, video games and movies, and for the unauthorized distribution of pirated and counterfeit goods.

San Juan de Dios (Guadalajara, Mexico)

San Juan de Dios is a well-known indoor market located in Guadalajara that offers a significant amount of counterfeit and pirated goods for sale. The market closely resembles an indoor flea market with dozens of vendors (over 80) offering pirated and counterfeit first-run movies, music, video games, software, clothing, handbags and footwear.

Silk Market (Beijing, China)

Rights holders have identified Beijing's Silk Street Market as a particularly prominent example of the distribution of counterfeit consumer and industrial products that is endemic in many retail and wholesale markets throughout China.

Small Commodities Markets (Yiwu, China)

The small commodities markets in Yiwu reportedly sell mostly consumer goods. Rights holders have reported that these wholesale markets are a center for the export of infringing good to international markets. Furthermore, although enforcement efforts over the years have reduced the presence of counterfeit products on display, many of the unbranded products (such as unbranded consumer electronics equipment) sold in the markets are reportedly the source of globally distributed counterfeit products to which the infringing marks are later attached.

Tepito (Mexico City)

Tepito is reportedly the main warehousing and distribution center for pirated and counterfeit products sold at numerous informal markets throughout Mexico.

Urdu Bazaars (Pakistan)

The Urdu Bazaars in Karachi and Lahore reportedly remain the main sources of pirated books in the country, where book piracy is widespread and extends beyond such bazaars.