

Publications

How to Deal With, Stop Online Grey Market Sales

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Grey market goods generally refer to items manufactured in one country and imported into another (e.g. products created abroad that are imported into the United States) without consent from the trademark owners.

Grey market goods, often referred to as parallel imports, can be problematic for businesses that take steps to prohibit importation into the United States (or otherwise attempt to establish certain quality controls, including certain warranties).

The process of dealing with unlawful grey market sales is similar to the recommended course of action against traditional online product diversion.

For starters, businesses will want to monitor the sale of their products for potential prohibited sales. This can involve setting up a monitoring program through the use of a unique monitoring system designed to find unauthorized sellers and sales, rank them based on volume and assist in the tracking of potential removals.

Another tactic is sending cease and desist letters to grey market sellers, explaining the potential legal consequences of them failing to cease their unlawful activity. It might first be necessary to investigate the sellers and/or serve subpoenas to identify them.

When sending a cease and desist letter, it is often beneficial to include a copy of a drafted complaint which effectively serves as a threat to pursue litigation if the unauthorized sellers are unwilling to cooperate.

Another legal option includes filing an ex-parte temporary restraining order with the goal of obtaining an order to freeze PayPal accounts or website domains and also obtaining an injunction transferring the rights of a website to the company.

A company that is being harmed by grey market goods can also file a lawsuit in the United States and have foreign counsel (from the appropriate jurisdiction) assist with conducting discovery and

enforcement.

In short, the key in pursuing grey market sellers or importers is putting enough pressure on them to coerce them to stop and cut off the source of the “leak” if necessary.

For more information, contact Vorys’ Illegal Online Seller Enforcement team at 877.545.6905. Read more about the practice at [services-648.html](#).