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How to Identify Anonymous Unauthorized Online Sellers

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According to a Nov. 3 Business Insider article/report, U.S. consumers are **expected to spend an estimated \$385 billion online** this calendar year.

While this generally sounds great for companies engaging in e-commerce, many companies are being harmed by countless unauthorized sellers. These bad actors can cause a host of problems. This includes, but is not limited to, selling products at low prices (which causes companies to lose control of pricing and affects their brands) or simply selling non-genuine goods.

In cracking down on unauthorized sellers, including putting an end to their impermissible selling activity and obtaining the sources/suppliers of their products, it is beneficial—if not necessary—to identify the sellers.

A major component of an ideal enforcement system is sending cease and desist letters. The first wave can be taken care of online via private messaging on the relevant forums on which the sales are taking place.

But if the unauthorized sellers ignore the messages or explicitly refuse to comply, the next step would be to try to identify them and send them cease and desist letters to their actual addresses.

Unauthorized sellers are likely to comply with such letters when they realize a company (or its legal team) has taken the time and effort to identify them.

A primary identifying technique is for investigators to engage in product purchasing, which sounds exactly like you would expect. An investigator can purchase a product from an offending seller and potentially obtain his or her identity by way of a return address on a packaging label or payment processing information.

Sometimes, however, a seller might have provided fake information, used P.O. boxes or perhaps the third-party marketplace on which they were selling might have handled the shipping.

Thus, if it is not possible to identify a non-compliant seller through traditional investigation techniques, a company's counsel can send a subpoena records containing identifying information to the entity that owns the online marketplace on which the sales are taking place (or to the third-party entity that handles payment for the marketplace's transactions). It might also be possible to obtain information from private mail boxes, but this technique is typically not necessary.

Note that sending a subpoena does involve filing a complaint and opening an actual case (plus certain standards must be met before an entity will actually produce requested records and information).

Of course, identifying information might actually be traceable through search results just by searching the name of the storefront in question or based off other information obtained through the various investigative techniques.

When targeted unauthorized sellers still fail to comply with a company's demands to stop their unauthorized online selling activity, it might be necessary to engage in escalated legal enforcement against the non-compliant sellers. This can involve filing an actual lawsuit when there is an adequate legal basis (if not already done so as part of the identification process).

For more information, contact Vorys' Illegal Online Seller Enforcement team at 877.545.6905. Read more about the practice at [services-648.html](#) and follow Whitney on Twitter (@WhitneyCGibson).