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Unauthorized Online Sales Problematic for Businesses

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Many businesses today are finding their products being sold online without their permission, often on third-party websites. While the First Sale Doctrine generally permits buyers to resell others' trademarked goods without incurring any liability, it does not apply when a reseller sells goods that are *materially different* from the genuine goods sold by a trademark owner.

Fortunately, there are various strategies and techniques that can be implemented and applied towards stopping unauthorized sellers – including setting up businesses such that unauthorized sales infringe on a business's trademarks. It is highly recommended that businesses consider these strategies, as unauthorized sales should not be ignored.

After all, there are a number of issues that this undesired and impermissible practice can cause businesses, including: inhibiting a business's earning potential through the sale of its products; interfering with a business's ability to attract and keep legitimate distributors happy; and tarnishing its products' trademarks and goodwill built up over time.

Reducing profits

Certainly, one major issue caused by unauthorized internet sales naturally involves money. In short, the sale of a company's products outside its intended distribution channels makes it difficult for it to maximize its revenues.

By selling below retail value, as most unauthorized sellers do, websites become populated by products below a business's intended retail price. Consumers, thus, are likely to buy the lower-priced products.

For many businesses, this means they will likely need to lower their retail prices or otherwise sell fewer retail price products.

Upsetting legitimate distributors

When products are being sold at lower prices online, this often results in consumers opting against buying from legitimate distributors who are likely selling at the suggested retail price. Fewer sales can lead to upsetting the authorized distributors, while prospective authorized distributors – seeing the prices of the products being sold online – may be reluctant to sign on with the business in the first place.

In other words, unauthorized sales can damage not only a business's ability to keep authorized distributors happy and to maintain positive relationships with them, but also to attract other legitimate distributors to sell its products. Both existing and prospective authorized sellers will be turned off by the ease with which consumers can simply go online and buy the products at lower prices.

Moreover, those who make purchases from authorized distributors very well may be frustrated to find out that the same products they purchased are being sold for less online; they may even seek to return the product.

Damaging trademark and brand value

Finally, a third major concern for businesses is that unauthorized online sales can damage their trademarks and brands. Unauthorized sellers often do not adhere to businesses' quality control standards, meaning a consumer purchasing a product might end up with a damaged or lower quality product.

Many products – such as those in the medical or beauty industries – are intended by the company to be distributed by trained professionals such as physicians or other professionals; thus, consumers purchasing products from unauthorized sellers might obtain products that are not entirely effective or are potentially unsafe.

Most companies go to great lengths to register their trademarks, establish certain quality controls, and to control distributions. Given the significant time and money being expended to protect their products, businesses can ill-afford to have the quality of their goods and brands be compromised by unauthorized sellers.

In short, unauthorized sales are disrupting countless businesses today, inhibiting their overall growth – both directly and indirectly. Given the problems facing businesses whose products are or may be sold on the internet without authorization, these businesses should strongly consider implementing solutions to stop the unauthorized sale of their products online.