



Written testimony

**U.S. Senate Committee on the Judiciary
Subcommittee on Intellectual Property**

Hearing on

“Back to School with the SHOP SAFE Act: Protecting Our Families from Unsafe Online Counterfeits”

**Written Testimony of
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Chair Coons, Ranking Member Tillis and members of the Committee:

Thank you for the opportunity to appear before you today. My name is Daniel Shapiro and I am the Senior Vice President for Brand Relationships and Strategic Partnerships at Red Points.

Daniel Shapiro’s background

Before introducing Red Points, I would like to introduce myself and explain why my expertise can provide value in today’s hearing.

I initially started my career on the retailers’ side. I worked at Macy’s for 5 years, first as a Merchandise Manager and later as a Senior Buyer of Athletic Shoes. This experience provided great value, including learning about consumer behavior, consumer trends, and retailer-provider relationships. These learnings were enhanced by my second professional experience as CEO and President of Shapiro Luggage Corporation, a family-owned business. This experience lasted almost 28 years, and I am proud to say it increased the sale of high-end stores expanded into multiple states by 30%. I then got into the world of brand protection by joining eBay as the Global Asset Protection Manager. Helping eBay create its first proactive Brand Protection Team. My role at the platform pivoted throughout the almost 8 years that I was there, providing me with a 360

picture of the issue of counterfeiting and what it meant for brands, legit sellers, marketplaces, and ultimately how it impacted end-consumers.

For the past six years, I have been part of the Red Points team leading the company operations in North America. During this tenure, I have been instrumental in expanding our brand relationships and have made significant strides in both enhancing and fortifying our ties with marketplaces. For Red Points, maintaining a harmonious relationship with these marketplaces and adhering strictly to their guidelines is paramount. This, together with our AI-driven platform ensures our success in the automatic detection and enforcement of online fraud.

Red Points' background

Red Points is the most widely used solution to recover digital revenues. More than 300 software engineers and industry experts have built it together with some of the world's largest companies for the past decade, and today it offers the most advanced and customizable suite of products in the market.

As of today, over 1,200 companies rely on our platform to combat counterfeiting, piracy, and brand impersonation allowing them to maintain control, improve their brand value, and increase revenue. This number shows no signs of slowing down. Every month, we onboard approximately 20-25 new customers, which would not be feasible if we weren't using technology. Just last year, at Red Points we processed 35 millions new links per day, enforced 4.6 million infringements during 2022, and potentially safeguarded \$2.2 billion in revenue for our customers¹. Currently, we send approximately between 300k to 400k cease and desist notices a month, this number truly highlights the scale of the issue.

With a workforce of 300 employees spread across offices in Europe, North America, and Asia, Red Points is dedicated to delivering exceptional brand protection solutions. Our software consistently removes over 4.6 million instances of illegal products and unauthorized content from the web on a yearly basis, covering a wide range of global marketplaces and social networks.

Red Points' key to success is our investment in technology and product to make our solution incredibly intuitive, effective, and easy to use. Additionally, our client base includes some of the world's largest brands spanning all five continents, with several Fortune 100 companies among them, and represent various industries like toys, sports, cosmetics, fashion, electronics, and CPG (consumer packaged goods) among others.

¹ Based on enforced listings' stock & selling price.

The company was founded in 2011 by an Intellectual Property lawyer. In 2014, Laura Urquizu, Red Points' CEO and President, joined the initial founding team and has led the company to an incredible growth. The company's vision has always been focused on intellectual property and copyright protection. Over the years, Red Points services have evolved to protect our customers from new intellectual property threats. Online criminals have become incredibly sophisticated with the use of technology, and so have we.

At Red Points, there are four pillars that set us apart from other service providers: scalable technology, Intellectual Property expertise, Innovation, and a holistic service. By leveraging these, we support brands all over the world so they can effectively identify infringements on marketplaces, websites, social media, apps and NFT platforms, and act upon them in an effortless, cost-efficient manner.

E-commerce growth and its impact on consumers' safety

It's undeniable that the rapid growth of e-commerce has brought convenience and accessibility to consumers worldwide. But there's a flip side to all this progress, primarily related to the proliferation of counterfeit goods. In fact, a report released by the OECD in 2021 titled *Misuse of E-Commerce for Trade in Counterfeits*² shows that the trend towards online shopping is expected to continue, especially in light of the COVID-19 pandemic, with an ever-increasing number of people buying products using mobile devices.

With this in mind, without the implementation of new, innovative and effective measures to create a secure and trustworthy online environment, the unchecked growth of e-commerce can lead to serious consequences.

As we have witnessed at Red Points when monitoring hundreds of marketplaces daily, counterfeit products infiltrating the e-commerce landscape pose a significant danger to consumers. What's more, due to the nature of online counterfeiting, virtually no market is safe and almost no brand is safe. Many people think luxury goods are counterfeiters' main targets, when in fact, these products are estimated to account for no more than five to ten percent of all counterfeit goods. According to the OECD, fakes are found in every category, from handbags and perfume to machine parts and chemicals. People are often surprised when they find out that at Red Points we protect a very diverse set

²OECD/EUIPO (2021), *Misuse of E-Commerce for Trade in Counterfeits, Illicit Trade*, OECD Publishing, Paris, <https://doi.org/10.1787/1c04a64e-en>

of brands from baby products and cosmetics, to software and wind turbine manufacturers.

In the context of back-to-school shopping, students and parents are particularly vulnerable to counterfeit electronics, backpacks, clothing, and footwear, as these items are essential for a successful academic year. When consumers cannot trust the authenticity of the products they purchase online, they are exposed to various risks, including substandard quality, potential health hazards, and financial losses.

Moreover, the unbridled expansion of e-commerce without equally evolving and robust anti-counterfeiting measures threatens the integrity of online marketplaces. Legitimate businesses suffer when counterfeiters flood these platforms with fake products, eroding consumer trust in e-commerce as a whole. This erosion of trust affects not only businesses operating online but also the broader e-commerce ecosystem.

The dangerous rise of online counterfeiting

The landscape of Intellectual Property protection has experienced seismic shifts in recent years, largely driven by the surging popularity of e-commerce platforms. Concurrently, the sophistication of counterfeiting techniques has reached unprecedented heights, blurring the line between genuine products and their counterfeit counterparts. It's no exaggeration to say that some counterfeits now exhibit a level of replication that makes them indistinguishable from the authentic items they imitate. As an anecdote, at Red Points we have even seen bad actors online create false authentication letters certifying the product they are selling online is genuine, when in fact it is not.

The proliferation of online sales channels has exacerbated the challenge of detecting and combating counterfeits. Unlike traditional brick-and-mortar retail, where physical inspection can be a safeguard against counterfeit products, the digital realm offers counterfeiters an ideal playground to operate with impunity. The sheer volume of products and transactions in the online space makes it increasingly difficult to discern genuine items from their fraudulent duplicates.

This surge in counterfeit goods on e-commerce platforms presents a host of complex challenges, touching on critical facets of our modern economy and society:

1. **Consumer Safety:** At the forefront of these challenges is the safety of consumers. Counterfeit products, which have proliferated in categories like fashion, toys, and electronics, pose substantial risks. Substandard quality,

potential health hazards, and unverified safety standards characterize these counterfeits, endangering the well-being of unsuspecting buyers, particularly in high-demand seasons like back-to-school shopping.

2. **Brand Integrity:** Legitimate businesses face dire consequences as counterfeiters infiltrate e-commerce platforms with deceptive listings. This infiltration not only leads to financial losses but also tarnishes the integrity of established brands. Counterfeits erode consumer trust, as unsuspecting buyers may associate subpar counterfeit products with genuine brands, ultimately damaging the reputation businesses have worked tirelessly to build.

3. **Fair Competition:** The counterfeit market thrives on unfair competition. Counterfeiters frequently price their fake products lower than genuine ones, leveraging deceptive tactics to gain an edge. This undermines fair competition and places legitimate businesses at a disadvantage, struggling to compete with counterfeit offerings.

4. **Trust in the Online Marketplace:** There are growing concerns with consumer trust in online marketplaces. As counterfeit products become increasingly available, and as new marketplaces continue to open, consumers are becoming more and more skeptical about the authenticity and safety of items purchased online. This erosion of trust affects both individual businesses and also the broader integrity of e-commerce platforms overall.

To underscore the severity of this issue, a recent examination of our client data at Red Points revealed a staggering increase in detections of counterfeit products in industries such as fashion, toys, and electronics. Comparing the year 2022 to 2021, we witnessed a remarkable surge of over 100% in detected counterfeit instances. This surge starkly underscores the scale and gravity of the problem we face.

Protecting consumers against new sophisticated online scams

At Red Points, we've been acutely aware of the evolving landscape of online fraud. Over the years, we've observed a concerning trend where fraudsters continually enhance their tactics, leveraging cutting-edge technologies and strategies. With the proliferation of AI and automation, these malevolent actors can now orchestrate more convincing and large-scale scams, manipulating data and exploiting vulnerabilities in unprecedented ways.

Furthermore, fraudsters have refined their social engineering techniques, adept at deceiving individuals into revealing sensitive information or engaging in actions detrimental to their interests. Phishing attacks, where fraudsters masquerade as trusted entities on social media, and the creation of counterfeit websites have become increasingly sophisticated, making them exceptionally challenging to detect.

This evolving landscape has transformed the battle against fraudsters into a dynamic challenge akin to a game of "whack-a-mole." Effective solutions demand the integration of advanced brand protection technology, collaborative efforts across sectors, innovative strategies, and access to expertise. It is our collective responsibility to stay ahead of these evolving threats and ensure the continued safety and trust of consumers in the digital world.

Are online platforms and marketplaces' existing responses to infringers' growing threat adequate?

As we delve into the complexities of counterfeiting in the digital age, it is crucial to consider the existing responses of online platforms and marketplaces to the escalating threat posed by infringers. E-commerce platforms play a central role in shaping the landscape of counterfeit goods distribution, and their actions can significantly impact the prevalence of counterfeit products in the marketplace.

Recently, the counterfeit problem has gained even more global momentum with the launch of new initiatives among key stakeholders. In 2020, in the US, The Department of Homeland Security (DHS) released its first report on Combating Trafficking in Counterfeit and Pirated Goods³. This first-ever report outlines a series of recommendations and actions that can be taken by both the federal government and industry partners to combat this illicit trade epidemic.

Meanwhile, one of the pillars of the SHOP SAFE Act is to combat the sale of unsafe counterfeit goods by incentivizing platforms to engage in best practices for screening and vetting sellers and goods, addressing repeat counterfeiter sellers, and ensuring that consumers have relevant information available to them when they make their online purchases.

It goes without saying that over the years many online platforms have implemented measures to address counterfeit listings and sellers, the effectiveness of these responses varies. Some platforms have made commendable strides in enhancing their anti-counterfeiting efforts by employing advanced algorithms and technology to detect

³ US Homeland Security (2020), Combating Trafficking in Counterfeit and Pirated Goods

and remove infringing listings promptly. Others have established partnerships with brand protection solutions like Red Points to strengthen their defenses against counterfeiters.

In fact, as a leading industry infringement reporter, with over 4.6M enforcements per year in top platforms, we are proud to be official partners and have certifications with:

- Amazon Engagement Program
- Cloudflare Trusted Reporter
- Facebook Rights Management
- Google Trusted Copyright Removal Program
- LinkedIn Safe Brand
- Youtube Certified Multi Channel-Network

These programs are essential to ensure synergies between platforms and industry stakeholders. Additionally, it is worth noting that many e-commerce platforms including Amazon, Alibaba and eBay have been ramping up their anti-counterfeit initiatives in recent years in an effort to rid their sites of knock-offs. However, with scammers continually on the lookout for bigger audiences to sell to, the rapid year-on-year growth of ecommerce users has also offered a unique opportunity for them to further expand their operations and the challenge of combating counterfeits persists due to the adaptability and persistence of infringers. Counterfeiters continually evolve their tactics to circumvent detection and enforcement measures, making it a constant game of cat and mouse.

On one hand, online marketplaces often face a daunting challenge in nurturing relationships with the vast multitude of brands that utilize their platforms. One potential solution to enhance this protection involves introducing an additional layer of security, where new users provide additional personal information. This information can prove invaluable for future authentication and swiftly identifying potential infringers.

On the other hand, it's crucial to acknowledge that even the largest and most established brands may find it challenging to address all instances of infringement targeting their intellectual property. To effectively combat this issue, brands must prioritize and invest in implementing clear mechanisms to streamline their online brand protection strategy, particularly in the detection and enforcement processes. This proactive approach is essential for ensuring the safeguarding of their intellectual property rights and preventing bad actors from targeting them in the future.

This leads me to the importance of working towards a collaborative and comprehensive solution that combines the strengths of both industry-led initiatives, marketplaces, third-party providers like Red Points and legislative actions, to create a secure and trustworthy e-commerce environment for consumers and businesses alike.

Cracking down on fakes through collaboration and shared accountability

One fundamental element in the fight against counterfeits and online scams is the imperative need for collaboration and shared accountability across various sectors. The rising sophistication of infringers and fraudsters necessitates a collective response that transcends individual efforts.

Collaboration serves as a force multiplier in this ongoing battle. By pooling resources, expertise, and intelligence, businesses, online platforms, law enforcement agencies, and technology providers like Red Points can more effectively identify, mitigate, and ultimately deter counterfeiting and fraudulent activities. Sharing insights and best practices enhances our collective ability to stay ahead of evolving threats and finally get rid of the whack-a-mole effect

Shared accountability reinforces the commitment to combat counterfeits and online scams. Businesses and online platforms must adopt rigorous measures to prevent counterfeit listings and fraudulent activities on their platforms. This includes proactive monitoring, swift takedowns of infringing content, and the implementation of robust verification processes for sellers and listings.

Legislation like the SHOP SAFE Act plays a pivotal role in promoting shared accountability. It sets clear expectations for online platforms and incentivizes them to take proactive measures against counterfeits. The act encourages collaboration between all stakeholders, emphasizing that we each have a part to play in creating a secure and trustworthy digital marketplace.

As we continue to explore strategies and solutions to address these challenges, the emphasis on collaboration and shared accountability remains paramount. Together, we can build a safer, more reliable online environment for consumers and businesses while actively working to eradicate counterfeits and online scams.

Technology as the only approach to scale things up

In confronting the pervasive issue of online counterfeiting, it has become increasingly evident that technology stands as the pivotal approach to scale our efforts and effectively combat this modern menace. The challenges posed by counterfeiters have evolved in lockstep with technological advancements, making it imperative that we harness technology to stay ahead in this ever-evolving battle.

Counterfeiters have demonstrated a remarkable ability to adapt to changing circumstances and exploit technology to their advantage. Their utilization of advanced techniques has allowed them to create counterfeit goods that are virtually indistinguishable from genuine products.

In response to these challenges, we find that technology offers us a multifaceted path forward:

1. **Advanced Detection Tools:** Technology-driven solutions, including AI and machine learning algorithms, have proven instrumental in detecting counterfeit products. These tools can rapidly analyze vast datasets, identifying subtle patterns and anomalies that would be impossible to discern through manual inspection. By harnessing the power of technology, we can enhance our ability to identify counterfeit listings swiftly and accurately.
2. **Real-time Monitoring:** Technology enables real-time monitoring of online marketplaces, allowing for the immediate identification and removal of counterfeit listings as they appear. This proactive approach prevents counterfeit products from gaining traction and reduces their potential impact on consumers.
3. **Data Analytics:** Technology-driven data analytics provide valuable insights into counterfeiting trends, enabling businesses and enforcement agencies to anticipate emerging threats. By leveraging data, we can develop proactive strategies to combat counterfeiting effectively.
4. **Automation and Efficiency:** The sheer scale of e-commerce and the volume of online transactions necessitate automation and efficiency. Technology can streamline the enforcement process, ensuring that counterfeit listings are promptly removed and enforcement actions are taken consistently.
5. **Continuous Innovation:** As counterfeiters continually evolve their tactics, it is essential that we keep pace through continuous innovation. Leveraging emerging technologies such as blockchain and digital watermarking can provide new layers of protection and traceability.

In light of the daunting challenges posed by online counterfeiting and the dynamic nature of the digital marketplace, technology emerges as the linchpin of our strategy to scale up our efforts. It empowers us to proactively combat counterfeit products, protect consumers, preserve brand integrity, and promote fair competition.

Moreover, technology transcends traditional boundaries, enabling collaboration across sectors and geographies. It facilitates the sharing of intelligence, best practices, and insights, fostering a collective approach to combating counterfeiting.

As we navigate the complex terrain of counterfeiting in the digital age, we recognize that technology is not merely an option but a necessity. It is the primary means by which we can scale our efforts, stay ahead of counterfeiters, and create a safer and more trustworthy digital marketplace for consumers and businesses alike.