

# ONLINE TAKEDOWN AND ISSUES IN THAILAND

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## *Types of Online IP Infringement*

With the rapid appeal of convenience and simplicity in the continued rise in online shopping, more consumers are opting to purchase goods online more than ever before rather than to visit the physical stores. However, this shift comes with both benefits and drawbacks. Easier access to online markets has also made it simpler for malicious actors to exploit the system. This not only affects consumers but also significantly impacts brand owners. Infringers are adopting various tactics to deceive consumers, from selling counterfeit products to engaging in phishing activities focusing on the theft of personal information. Such actions not only breach the Penal Codes but also infringe on the Intellectual Property (IP) rights of brand owners.

The most common types of online IP infringements include:

- **Unauthorized Copyrights / Trademark Violations:** Online sellers or service providers upload images that include the Trademark of the brand owner without prior authorization.
- **Counterfeit Products:** Online sellers offer fake branded products for sale.
- **Impersonation:** Accounts that mimic brand owners with the intent to deceive consumers or engage in malicious activities. These accounts often use the brand name and/or logo as their profile picture.

## *The Process of Takedowns regarding Online Platforms*

In response to the rise of illegal activities of online IP infringements, the major online platforms have continued to try to improve the framework and takedown tools used to better handle reporting and the removal of the infringing content.

Platforms like Meta, Shopee, and TikTok have recently transitioned from basic request forms to sophisticated tools dedicated to managing IP infringement requests, and thereby demonstrating a stronger commitment to addressing these violations.

Each platform has introduced specific tools to streamline the takedown process and protect IP rights. For example:

- **The TikTok Shop:** Established the Intellectual Property Protection Center (IPPC), providing a one-stop-shop of enforcement services for IP rights holders to then submit requests to protect their IP rights, search for potential infringements, submit takedown complaints, and track the progress of these complaints.

- **Meta:** Developed the Brand Rights Protection tools, enabling IP rights holders to detect and report infringing actions on Facebook and Instagram, to remove such advertisements, or to escalate the issue to the Intellectual Property Reporting Center (IPRC) for further action.

- **Shopee:** Has initiated and adopted the Brand IP Portal which allows IP rights holders to register and report instances of IP infringement for Shopee to investigate, as well as to monitor

and manage all current and previous cases. Shopee also enforces penalties on sellers who violate IP rights by deducting points from the seller system, which can result in potentially leading to exclusion from marketing campaigns, removal of shipping rebates, or account suspension.

Most platforms follow a similar protection process. IP rights owners must submit their registration certificates to the Intellectual Property Center to verify their ownership. Once verified, they can access tools for monitoring and enforcing their IP rights, including filing complaints to remove infringing content or penalizing violators.

#### **IPR Tools dedicated to specific Online Platforms:**

- **Shopee IPR tool**
- **Alibaba / Lazada IPR tool**
- **TikTok Shop**
- **META BRP**

#### ***Challenges in the Takedown Process***

As platforms continue to work in “Good-Faith” in efforts to improve the anti-counterfeiting efforts and applying takedown tools to resolve infringement issues which have also improved, there still remains several important and seemingly persistent issues that continue to hinder the effectiveness of these processes. A significant challenge is the inconsistency in the timing of takedown actions.

While some platforms can proactively remove infringing content as quickly as within a 48 hour period, while others in the marketplace may take over a week to address much of the same or similar issues. This variability creates uncertainty for brand owners and delays the enforcement of their rights.

Additionally, the submission process and the specific evidence required for takedown requests are often unclear. As an example, the lack of detailed guidelines presented to resolve issues and enforce the rights of Brand Owners. The lack of transparency in terms of procedures can lead to confusion and inefficiency. This further complicates the submission of legitimate takedown requests and prolongs the presence of counterfeit and infringing products online, increasing the risk of ongoing consumer deception as well as the damage to the brand itself.

Another of the challenges is related to the criteria needed for assessing and verifying claims of infringement. Without a transparent framework that is uniformly applied across platforms, the current system has led to inconsistent enforcement outcomes. This inconsistency undermines the overall effectiveness of IP protection efforts and can erode the trust of brand owners in the enforcement mechanisms available to them.

#### ***Enhancing Platform Cooperation***

To address these challenges and improve the efficacy of online IP protection, various cooperative initiatives between platforms, authorities, and brand owners have been implemented. One

significant step is the signing of Memorandums of Understanding (MOUs) between platforms and IP rights holders. These agreements provide the commitment of both parties to work collaboratively in identifying and removing infringing content.

Additionally, platforms like TikTok Shop have introduced proactive measures where they engage directly with authorities and brand owners to address emerging IP infringement issues.

These sessions facilitate real-time discussions, allowing stakeholders to share insights and strategies for more effective enforcement actions to take place. At Meta, after recognizing the importance of continuous education and awareness, they organize seminars for brand owners and enforcement authorities. These seminars provide a platform for discussing the latest trends in IP infringement and the most effective tools and strategies for combating such activities.

Similarly, Shopee and Lazada have enhanced their cooperation with brand owners by establishing direct communication channels to swiftly address IP issues. These platforms have also implemented systems that not only respond to takedown requests but also impose penalties on sellers who repeatedly infringe on the IP rights of others. By doing so, they aim to create a more accountable and transparent environment for future online commerce.

Overall, these cooperative efforts are crucial in strengthening the enforcement of IP rights online. By fostering a collaborative approach, platforms, authorities, and brand owners can more effectively tackle the challenges of online IP infringement, ensuring better protection for consumers and maintaining the integrity of brand reputations.