



HOW TO FIND THE RIGHT TOOL(S) TO PROTECT YOUR BRAND ON AMAZON

Total US ecommerce sales amounted to \$602 billion in 2019, which was a record crushed by the end of just the third quarter of 2020. Amazon alone was responsible for an estimated 47% of US ecommerce spending in 2020 and is predicted to have 50% of the share in 2021. On the outside this looks like good news for brands with an ecommerce presence. However, this flurry of sales activity also attracts a range of illegitimate sellers who are aggressive, exploitative, and deviously creative when it comes to pushing products into the marketplace.

Companies often focus on their brand protection efforts on black market, which involves stolen and counterfeit goods. However, gray market goods are more insidious. Unlike knockoff products, consumers expect the same brand experience no matter where the product is sourced and from whom it is sold.

The velocity of Amazon's growth and evolution presents a profound challenge for companies to protect their brands and their consumers. There is no silver bullet. To be successful, brand protection must be as vigorous as the effort these sellers put into selling on the gray market.

Fortunately, we have compiled some strategies and approaches you can add to your arsenal when you are executing your brand protection efforts.

Here are the 6 brand protection tools that can be used both on their own and in parallel to thwart unauthorized sale of products on Amazon.

The "gray market" is defined as authentic and legitimate goods that are sold through illegitimate channels. Gray market sellers often source products through business liquidations, product overstock, stolen goods, display models, purchases made from discount stores, etc. Brands lose an estimated \$40 billion to gray market resellers each year.

MINIMUM ADVERTISED PRICE (MAP) ENFORCEMENT SOFTWARE

Minimum Advertised Price (MAP) agreements are a key instrument to maintain fair pricing and channel integrity across retail and ecommerce marketplaces. MAP software dynamically tracks product listings and compares the offered price against retail pricing requirements. When underpricing occurs, MAP software immediately identifies it to help you act swiftly. Overall, MAP enforcement software is an excellent strategy to keep distributors in line.



STRATEGY:

Establish a formal agreement with channel partners and use MAP enforcement software as part of a holistic price management system across channels versus using separate systems for ecommerce.



ADVANTAGES:

MAP monitoring software keeps authorized distributors in check and is an early warning signal for unauthorized selling on branded listings. MAP software is often scalable across multiple marketplaces. Multiple seller identities are known and most tools are entirely automated —making notification and enforcement an easier proposition. Many vendors feature intuitive user interfaces and robust reporting.



GUT CHECK:

Some MAP software vendors struggle with customization in dynamic pricing environments, new product introductions, and in adding previously unmonitored marketplaces.

To be effective, the legal entity behind an unauthorized storefront must be known, be under a MAP contract, and face the real consequence of losing some or all direct access to a brand's products. Additionally, marketplaces like Amazon, eBay and Walmart.com will not intercede to enforce brand distribution challenges.

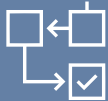
Vendor Examples:



COST: \$ TO \$\$\$

BRAND PROTECTION SOFTWARE COMPANIES (TRADEMARK)

These companies protect brands broadly across multiple ecommerce channels. Brand protection company software scours the internet looking almost exclusively for trademark and copyright abuses. Upon discovery, these companies can send cease and desist messages to the sellers on those ecommerce sites. Additional services, such as test buying and counterfeit documentation, are typically available for an additional price.



STRATEGY:

Deploy when your branded products are being sold expansively across multiple marketplaces and without authorization. Examples include unauthorized retailer sites, social selling platforms, and individuals' seller sites around the world.



ADVANTAGES:

Rapid discovery and fast action across a breadth of global sites. Many will offer the option for a brand to review trademark applications and submit complaint actions outside of automation, making it attorney and compliance friendly.



GUT CHECK:

Enforcement is chiefly limited to trademark and copyright violations and can be hampered due to seller anonymity afforded by the larger mainstream marketplaces. Legislation such as The First Sale Doctrine protects sellers' use of trademark under certain conditions.

Vendor Examples:



MarkMonitor™

Yellow
BRAND PROTECTION
a corsearch company

COST: \$\$

The First Sale Doctrine legally permits sellers to use brands' trademarks and copyrighted material to resell the product without infringing on intellectual property.



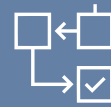
BRAND PROTECTION INVESTIGATION TEAMS

These companies focus almost exclusively on the black market. For example, investigation teams will identify gaps in the delivery chain and hunt for counterfeiters and other fraudsters. Investigation teams are commonly made up of former law enforcement, border control and cyber warfare professionals. Some of their activities include track and trace programs, conducting test buys, interacting with international law enforcement organizations and more.

Vendor Examples:



COST: \$\$\$\$



STRATEGY:

Brands in footwear, clothing, leather goods, electrical equipment, watches, medical equipment, perfume/cosmetics, and toys can benefit by deploying these investigation teams. Collaboration with other brands will accelerate the efficacy and efficiency of investigators.



ADVANTAGES:

These brand protection investigation companies are indispensable for disrupting major black market players. Their ties to law firms and law enforcement makes them effective at entirely shutting down these nefarious organizations.



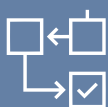
GUT CHECK:

Scalability and affordability are hurdles. Plus, these solutions are directed at the black market, not the gray market. Takedowns of black market operations require significant coordination across multiple jurisdictions and regulatory enforcement organizations.

LEGAL FIRMS

Brands engage legal firms for relief granted through judicial systems. They prosecute for theft and intellectual property issues such as counterfeit, trademark and copyright issues. They file subpoenas to identify the companies or individuals behind the seller names and send cease and desist letters. If sellers do not comply with cease and desist letters, attorneys can then pursue litigation.

For example, one tactic employed by law firms against sellers on Amazon involves The First Sale Doctrine. That law does not apply if the product being resold is “materially different” from the original product. Some precedent has been established that a product offered for resale that does not include a manufacturer’s warranty is materially different from the manufacturer’s original product— thus preventing a reseller from using the brand owner’s trademarks and copyrighted content.



STRATEGY:

Engage for large, systematic theft, counterfeit, trademark and copyright problems as well as international trade issues, regulatory infractions, large marketplaces.

Vendor Examples:

MAYER | BROWN

PirkeyBarber PLLC
Trademark Central®

COST: \$\$\$\$ TO \$\$\$\$



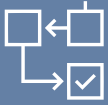
GUT CHECK:

This option is expensive, slow and difficult to scale, and success is not guaranteed. It can take 12 months or longer from sending a cease and desist letter to getting a court appearance. Furthermore, even judgement comes down in your favor, enforcement can prove difficult. This is especially true for companies with international jurisdictions. Somebody must monitor, build documentation, and elicit more stringent enforcement of court orders.



MARKETING AGENCIES

Marketing agencies can augment your brand protection by strengthening and reinforcing the consumer brand experience. Techniques include various online (and offline) advertising channels, targeting specific ecommerce marketplaces, strategically implementing SEO tactics, etc.



STRATEGY:

Drive a seamless customer experience across the omnichannel, which increases the likelihood of purchase from authorized sources. eCommerce focused experts are adept at outpacing gray market sellers.



ADVANTAGES:

These agencies are good at the “offensive” game play tactic of augmenting brand penetration. Omnichannel campaigns provide a seamless consumer experience, increasing solidifying the relationship with the authorized source.



GUT CHECK:

Gray market sellers are agile. They can move faster than agencies. They can also piggyback or hijack the pristine listings agencies create. Agencies are also not equipped for defense strategies such as policy enforcement or legal remedies.

COST: \$\$ TO \$\$\$



THE GRAY MARKET IS CHALLENGING

Legacy brand protection strategies often struggle to solve the nebulous challenge of the gray market. Again, unlike knockoff products, gray market goods are actually manufactured by brands. Because of that, consumers expect the same quality brand experience as the one companies provide through their authorized channels.

Because of this expectation, sellers of gray market products can present the greatest danger to brand integrity across the omnichannel. Whether it's inconsistency in product quality, pricing that violates MAP, poor customer experiences, or other challenges beyond your brand's control, these gray market elements can do some serious damage to your brand and revenue.

AI-BACKED BRAND PROTECTION SOLUTION

To win on Amazon and protect your consumers, it is mandatory to solve the rapidly evolving challenges of the gray market. In short, you must be faster and more agile than unauthorized sellers.

Gray market sellers hide behind anonymity and are not afraid of lawsuits. At Gray Falcon, our unique system is particularly powerful because it does not rely on knowing sellers' actual identities. Rather, it is based on an illegitimate seller's true fear: losing their listings and their online storefronts.

COST: \$ TO \$\$



HORUS
PROPRIETARY AI & AUTOMATION
TECHNOLOGY

Deploy Gray Falcon's distinctive system for continuous and comprehensive impact on the illegitimate seller problem to maintain channel integrity and increase sales. Pair with other tools for comprehensive protection.

Gray Falcon created HORUS, an AI-backed brand protection system specifically built to protect CPG companies from illegitimate gray market sellers on Amazon and other online marketplaces. Our AI-backed brand protection platform engages resellers and Amazon enforcement teams to enforce compliance using Amazon's own seller rules.



ADVANTAGES:

Technology and tactics provide unmatched speed, effectiveness, and economic efficiency. This method eliminates 50% of the problem almost immediately and improves sales as much as 35% within weeks.



GUT CHECK:

Additional solutions are required to solve black market challenges, ongoing leakages in the value chain, and other systemic issues in order to establish complete control on Amazon and other channels.



HORUS is the name of the guardian Egyptian falcon god who warded off evil. Our proprietary AI and automation technology protects your brand and guards your product against rogue sellers in the gray market.

Brands can deploy HORUS to eliminate up to 100% of illegitimate sellers by simultaneously pursuing two channels that are critical to eradicating products from the gray market: the marketplace and the seller.

SELECT THE RIGHT TOOLS AND RIGHT PARTNER(S)

Brands need the right brand protection tools at the right times to drive growth strategy. Gray market products are a permanent fixture on Amazon and, among other components of your brand protection solution, it is critical to deploy technology that is specifically created to combat the gray market on Amazon.

Using an AI-backed brand protection solution, such as Gray Falcon's HORUS, in combination with the other tools and approaches delivers a more unified, strategic approach for complete brand protection.

Looking for more insights on how HORUS from Gray Falcon can help you solidify your brand protection stronghold?



(650) 278-GRAY (4729)



info@grayfalcon.com



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