



Anti-counterfeiting and Online Brand Enforcement: Global Guide

2024

**Canada: Burden falls on brand owners
and customs in the fight against
counterfeiters**

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Canada: Burden falls on brand owners and customs in the fight against counterfeiters

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LEGAL FRAMEWORK

There is no single piece of legislation that governs whether and to what extent a counterfeit good violates Canadian law and, if so, what recourse may be available to the rights holder. The legal framework for anti-counterfeit enforcement may comprise any one or more of the following four statutes:

- the Trademarks Act (RSC 1985, c T-13);
- the Copyright Act (RSC 1985, c C-42);
- the Canada Consumer Product Safety Act (S.C.2010, c.21); and/or
- the Criminal Code (RSC 1985, c C-46).

UPDATE ON IP BORDER ENFORCEMENT

In 2023, there were 303 active registrants in Canada's IP Border Enforcement programme, each having filed a Request for Assistance (RFA). This represents a 17% reduction (approximately) on the number of rights holders registered in the programme since November of 2021.^[1]

Although a single RFA may be directed to any number of IP rights, participation in the IP border enforcement programme is disproportionately low when compared to the number of registered trademark rights in Canada, let alone copyrights (registered or unregistered) and geographical indications, each of which may also be the subjects of RFAs.

Data from Canadian border services shows a rapid decline in RFA interceptions at the border from summer 2023.^[2] There were also fewer than 5,000 registered trademarks and fewer than 500 copyrights covered by the 303 active RFAs in 2023. When one considers that the programme has been operational since 2015, registration is free, and in the fiscal year 2022–2023 just under 50,000 trademarks were filed and registered with the Canadian Intellectual Property Office,^[3] each of which are technically eligible for protection under the RFA Programme, one is left to conclude that the programme either has systemic limitations that do not address the commercial realities of rights holders combatting counterfeit goods at the Canadian border; and/or that the vast majority of rights holders remain unaware of the programme and its benefits.

More than approximately 90% of RFA registrants who were notified by Customs of suspected counterfeit goods and/or pirated works pursued a civil remedy (out-of-court or via court proceedings). Typically, successful out-of-court resolutions include an agreement by the importer to abandon the shipment and pay the cost of storage, transport and destruction. In the limited instances where the rights holder was required to commence litigation, the cases typically settle early in the litigation process and on substantially similar terms.

Reports of low enforcement levels for counterfeit and pirated goods at Canada's border have been cited as one significant concern regarding the country's IP environment by its largest trading partner, the United States. Such concern was expressed in the 2023 edition of the Special 301 Report on IP Protection, published by the Office of the United States Trade Representative.^[4] Canada remains on the USTR Watch List, along with 22 other countries.^[5]

BORDER MEASURES: REQUESTS FOR ASSISTANCE

Canada's IP border enforcement programme has been in place since 2015. Canada Customs has ex officio power to detain shipments suspected of being counterfeit products or pirated works. Customs has no authority to seize or destroy counterfeit products or pirated works on its own.

Participation in the IP border enforcement programme begins with an IP rights holder filing an RFA with Canada Customs. This is valid for two years, following which it may be renewed (at no cost) in two-year increments. The RFA serves to record the rights holder's registered trademarks, registered and unregistered copyrights and registered geographical indications with Canadian Customs. A single RFA can list any number of these IP rights belonging to the rights holder filing the request, and there is no government fee associated with filing. While enrolment in the IP border enforcement programme is free, the rights holder is responsible for costs associated with the storage, handling, and destruction of detained goods.

An RFA filing empowers Canadian Customs to detain shipments of suspected counterfeit products or pirated works related to the rights listed therein. The RFA also empowers Customs to disclose certain information to the rights holder to allow them to pursue a civil remedy – whether by a demand letter sent to the importer of record or by the commencement of a court proceeding.

Detention of suspected counterfeit goods by Customs is time-limited, and goods cannot be detained beyond 10 working days unless an extension is requested by the rights holder. If an extension is requested, detention may continue for a further 10 working days (five days in the case of perishable goods).

In addition to detaining the suspected counterfeit goods, Customs may also provide the rights holder with a sample of the goods and/or information about the goods that could assist the rights holder in pursuing a remedy. Information that may be shared with the rights holder includes:

- a description of the copies or goods and their characteristics;
- the name and address of their owner;
- the name and address of their importer;
- the name and address of their exporter;
- the name and address of their consignee;
- the name and address of any other person involved in the movement of the goods;
- the name and address of the person who made the goods;
- the quantity of goods;
- the countries in which they were made and through which they passed in transit; and
- the day on which they were imported, if applicable.

The rights holder cannot use the information it receives from Customs for any purpose other than to determine whether the import or export of the goods at issue is an infringement of the recorded rights, to commence an action in court or to reach an out-of-court settlement.

If the goods are counterfeit and/or the works are pirated, and a settlement cannot be reached between the importer and the rights holder before the detention period expires, the goods will be released by Customs (subject to compliance with all other import requirements). The

only exception is if the rights holder commences court proceedings against the importer seeking, at least, an order from the court for the seizure and destruction of the goods and/or works.

If the rights holder does commence an action in court, the remedies which may be available are proscribed by the Trademarks Act and/or the Copyright Act. These typically include an order for the seizure and destruction of counterfeit goods or pirated works.

Memorandum D19-4-3, Copyright, Trademarks and Geographical Indications,^[6] provides a step-by-step outline of the RFA programme. It states that once a rights holder is notified by the CBSA of the suspected counterfeit goods and/or pirated works, they have three business days to advise Customs, via email, if they wish to pursue a remedy or not. Within that three-day pre-notice period, and at the discretion of Customs, no information is provided about the owner, importer, exporter and/or consignee – only pictures and quantities of the suspect shipment are disclosed. If the rights holder does not respond within these three days or advises Customs that it will not pursue a civil remedy, the goods and/or works are released, subject to the importer's compliance with all other import requirements.

If, on the other hand, the rights holder confirms they will be pursuing a civil remedy, they will be issued a 'Rights Holders/Owners Notice of Detention for Goods Suspected of Contravening IPR'^[7] via email and the suspected counterfeit goods and/or pirated works will continue to be detained, as prescribed by the detention period. The importer will be advised that Customs has detained their goods and the rights holder will use the detention period to start an action or reach an out-of-court settlement.

Customs also has a hotline known as the Border Watch Line (1-888-502-9060), whereby interested persons can contact Customs and provide information on shipments of dangerous counterfeit goods (ie, goods that represent a health, safety or security threat) destined for Canada.^[8]

CRIMINAL OFFENCES AND PROSECUTION

Both the Trademarks Act and the Copyright Act include criminal offence provisions.

The Trademarks Act prohibits the importation and exportation of goods or their labels or packaging bearing, without the consent of the owner of the registered trademark for such goods, a trademark that is identical to, or that cannot be distinguished in its essential aspects from, that registered trademark, on a commercial scale (Trademarks Act, s. 51.03). The Copyright Act also incorporates provisions relating to the use of works that infringe copyright in section 42(1), the circumvention of technological protection measures in section 42(3.1) and the infringement of rights management information in section 42(3.2).

The particulars of the broad offence provisions found in section 42(1) of the Copyright Act state that every person commits an offence who knowingly:

- makes for sale or rental an infringing copy of a work or other subject matter in which copyright subsists;
- sells or rents out, or by way of trade exposes or offers for sale or rental, an infringing copy of a work or other subject matter in which copyright subsists;
- distributes infringing copies of a work or other subject matter in which copyright subsists, either for trade or to such an extent as to affect prejudicially the owner of the copyright;

- by way of trade exhibits in public an infringing copy of a work or other subject matter in which copyright subsists;
- possesses for sale, rental or distribution for trade or exhibition in public by way of trade an infringing copy of a work or other subject matter in which copyright subsists;
- imports for sale or rental into Canada any infringing copy of a work or other subject matter in which copyright subsists; or
- exports or attempts to export, for sale or rental, an infringing copy of a work or other subject matter in which copyright subsists.

The Criminal Code contains various offences related to counterfeiting, including:

- the forgery of a trademark;
- fraud;
- the passing-off of goods as those of another;
- the use of a description that is false in a material respect regarding the properties of a good or goods, such as quality, mode of manufacture, and geographical origin; and
- the recording in a movie theatre of a performance or soundtrack of cinematographic work within the meaning of Section 2 of the Copyright Act.

Conviction of an offence under the Criminal Code requires proof beyond a reasonable doubt of the act itself and subjective knowledge of the prohibited act. Courts have found that subjective knowledge can be proved by circumstantial evidence, such as prior civil lawsuits or judgments of infringement or possession of previously delivered cease and desist letters from rights holders.

Both the Trademarks Act (at section 51.01(6)) and the Copyright Act (at section 42(3.3)) provide for the following criminal penalties arising from counterfeiting offences:

- upon conviction on indictment, of a fine of up to \$1 million or imprisonment for up to five years, or both; and
- upon summary conviction, of a fine of up to \$25,000 or imprisonment for a term of not more than six months, or both.

The Criminal Code provides for imprisonment for up to two years upon conviction for an indictable offence concerning fraud, passing off or forgery involving a trademark. Although imprisonment is available for copyright or trademark offences, courts and prosecutors rarely impose or recommend jail time. In addition, fines imposed tend to be low, and nowhere near the maximum thresholds.

When imposing penalties for copyright or trademark offences, courts will apply statutory principles of sentencing. A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender. In conducting their analysis, courts consider one or more of the following objectives:

- denouncing unlawful conduct;
- deterring the offender and others from committing further offences;
- separating the offender from society where necessary;

- assisting in the rehabilitation of the offender;
- providing reparations for harm done to victims or the community; and
- promoting a sense of responsibility in offenders and acknowledgement of the harm done to victims and the community.
 - importing shipments of counterfeit goods under multiple fake names, and then rerouting deliveries to alternative names and addresses after the goods have cleared Customs;

CIVIL ENFORCEMENT

Counterfeiting activity is usually addressed by way of civil remedies. These are primarily pursued through the statutory regimes of the Trademarks Act and the Copyright Act.

TRADEMARK

Civil enforcement requires trademark owners to establish, on a balance of probabilities, the constituent elements of an action for trademark infringement, passing-off or depreciation of goodwill.

Upon a successful finding of infringement, passing-off or depreciation of goodwill, the remedies available under the Trademarks Act are broad and permit the court to 'make any order that it considers appropriate in the circumstances'. This includes but is not limited to, an injunction, recovery of damages or profits, and an order for the surrender or destruction of the counterfeit trademarked goods. Additional remedies include punitive damages, preservation orders, mandatory orders, pre- and post-judgment interest, and recovery of a portion of legal costs.

Notwithstanding the breadth of discretion afforded to jurists in granting remedies, there is no provision to award statutory damages. To be clear, the successful plaintiff/rights holder may choose either an accounting of the defendant's profits or the payment of damages suffered from the infringing conduct – but not both.

COPYRIGHT

Similarly, civil enforcement of pirated copyrighted works requires the copyright holder to establish, on a balance of probabilities, the constituent elements of an action for copyright infringement. Upon a successful finding of copyright infringement, a copyright owner may be entitled to remedies such as an injunction, damages and accounting of profits and an order for surrender or destruction.

Unlike remedies under the Trademarks Act, the Copyright Act permits a successful plaintiff to recover both an accounting of the defendant's profits and the payment of damages suffered from the infringing conduct. It also provides for the option of electing statutory damages per copyrighted work infringed (instead of damages and an accounting of profits). For each work infringed, in the commercial context, the Copyright Act provides for statutory damages of between \$500 and \$20,000 per work infringed.

REMEDIES

COMPENSATORY DAMAGES

Quantifying damages in trademark counterfeiting cases poses substantial challenges due to the evidentiary obstacle of demonstrating sales by counterfeiters. Counterfeiters rarely, if ever, disclose the full extent of their wrongful activities. As a result, an accurate or close calculation of the damages suffered by the plaintiffs is almost impossible. However, the Federal Court does not limit damages to just directly provable lost sales. The Federal Court has consistently upheld the principle that damages can be inferred based on the plaintiff's loss of control over their own brand reputation and goodwill. Accordingly, in cases where the counterfeiter's documents and/or financial records are not provided to the court, the Federal Court will still award brand owners lump sum damages as compensation, even in the absence of detailed profit information from the defendant.

Since 1997, the Federal Court has adopted a standardised scale for the quantification of damages in cases involving the sale of counterfeit goods. The court has held that damages, per plaintiff, may be quantified on a per incidence of infringement basis and based on the nature of the infringer: \$3,000 (in 1997 dollars) where the defendant operates from temporary facilities (ie, flea markets), \$6,000 (in 1997 dollars) where the defendant operates from conventional retail premises (stores), and \$24,000 (in 1997 dollars) where the defendant is a manufacturer, importer or distributor of counterfeit goods. Each of these figures has been increased over the years in line with inflation. The jurisprudence contemplates an award of damages to each plaintiff (ie, trademark owner and exclusive licensees/distributor, if both are parties to the action), effectively doubling the award.

In 2023, by way of example, the scale of damages for a fixed retail seller, adjusted for inflation, is \$10,000. Based on recent jurisprudence this is expressly extended to include online sellers.^[9] These compensatory damage awards can and have resulted in significant damage awards to the value of multiple hundreds of thousands of dollars if not millions of dollars.

PUNITIVE DAMAGES

Punitive damages can also be awarded in counterfeiting cases when a party's conduct has been malicious, oppressive and high-handed; offends the court's sense of decency; and represents a marked departure from ordinary standards of decent behaviour. Punitive damages may be awarded in addition to compensatory or statutory damages, but only where compensatory (or statutory) damages alone would be insufficient to deter future misconduct.

EXTRAORDINARY REMEDIES

The challenge with civil counterfeiting cases is less gathering evidence of infringement and more often ascertaining the identity/location of the counterfeiter who is commercialising the counterfeit goods, obtaining and/or preserving evidence to establish the scope of the enterprise and obtaining a meaningful and enforceable remedy (eg, whether there is a presence or assets in a jurisdiction where a court order can be enforced). These challenges are exacerbated by counterfeiters' ever-increasing efforts to avoid detection. These include:

- importing using a proliferation of small drop shipments direct to consumers;
- using multiple names, aliases and online accounts to advertise, offer for sale and sell counterfeit goods; and
- regularly rebranding online presences, which can be done instantly, at very low cost, and with little to no interruption or out-of-pocket expense.

In light of these and other challenges faced by rights holders, extraordinary remedies – including interlocutory injunctions, Anton Piller Orders, Norwich Orders and Mareva orders – have all been effectively used in the context of anti-counterfeiting enforcement. Each will only be granted if the plaintiff can satisfy the high legal and evidentiary threshold necessary to secure each remedy.

These remedies are unique, and will be reviewed at a very high level. Interlocutory injunctions are temporary orders issued in the course of a lawsuit (after a lawsuit is commenced but before trial) to inhibit someone from taking certain actions for a period of time. For example, this remedy can be used to prevent the sale or disposition of allegedly counterfeit goods before a determination of infringement is made at trial. It should be noted that interlocutory injunctions are extremely difficult to secure, primarily due to the challenge of establishing that the plaintiff will suffer irreparable harm if the injunction is not granted (this is a necessary element of the test to secure this remedy). By contrast, permanent injunctions are regularly granted after a finding of infringement or passing off.

Anton Piller orders were once the most common of the extraordinary remedies used by rights holders in Canada. An Anton Piller Order instructs the party served to surrender goods alleged to be counterfeit for preservation pending determination of the action. While refusal potentially subjects a party to contempt of court proceedings, compliance is voluntary, and parties executing Anton Piller orders cannot breach the peace if the party served refuses to cooperate.

The execution of an Anton Piller order must be supervised by an independent supervising solicitor who does not represent the right holder. They must fully explain the terms of the order, supervise any permitted searches and ensure that any potentially privileged documents are preserved in a manner that allows the party served to assert privilege before they are disclosed. Law enforcement usually attends to keep the peace and assure the party served that the process is legitimate.

Canadian courts have also issued rolling Anton Piller orders in John Doe and Jane Doe actions in which the identities of the infringers are not yet known to the plaintiff(s). Once a rolling Anton Piller order is executed, courts have an established protocol for reviewing the service and for adding the party served as a named party defendant.

Norwich orders enable discovery from a third party. This remedy can be instrumental in, for example, identifying the true identity of a defendant counterfeiter. In appropriate cases, Norwich orders can be used to compel internet service providers (ISPs), payment processors, or even shippers (eg, DHL and FedEx) to disclose their customers' name and contact information – and to provide information not otherwise available to a plaintiff.

A Mareva order is an interlocutory remedy that can be used to freeze assets and prevent them from being hidden, destroyed or removed from a jurisdiction pending the outcome of the action.

COSTS

In Canada, the successful party to litigation is generally awarded a portion of its costs, including fees paid to its lawyer and disbursements incurred in the action (for, eg, filing fees, costs to retain experts etc). Full indemnity (wherein the successful party is awarded all its legal costs) is rare but has been awarded in exceptional circumstances usually related to dishonest or otherwise egregious behaviour.

CANADA CONSUMER PRODUCT SAFETY ACT

While not directly designed to address counterfeit goods and pirated works, the Canada Consumer Product Safety Act prohibits the production, importation, selling or promotion of consumer goods that may present an unjustifiable risk to the health or safety of Canadians. The Act also includes prohibitions relating to the packaging, labelling or promotion of a consumer product in a manner that is inaccurate, misleading or deceptive with respect to the product's safety.

This legislation also gives broad powers to Health Canada inspectors to enter, inspect, test, seize, detain, order recalls, forfeit or destroy goods, and/or issue administrative penalties or fines for those that do not comply with the legislation. A warrant is required if the premises being entered are a personal residence. [\[10\]](#)

ANTI-COUNTERFEITING ONLINE

The Copyright Act:

- prohibits circumvention of technological protection measures (section 41.1);
- prohibits the manufacture, import and sale of technology, devices and services designed primarily to break digital locks (section 41.1);
- defines 'infringement' to include services that primarily enable acts of copyright infringement through the Internet or other digital networks; and
- sets statutory damages of \$500 to \$20,000 for commercial infringements and \$100 to \$5,000 for non-commercial infringements. In exercising discretion within the spectrum of statutory damages, courts consider relevant factors including the infringer's good or bad faith and proportionality of the award to the infringement (section 38.1(5)).

The Act also sets out the obligations and limits the liability of internet service providers (ISPs) concerning third-party infringing activity detected on their networks and services.

Section 41.25 of the Act defines Canada's 'notice and notice' regime. Unlike the 'notice and takedown' regime in the United States, Canada's 'notice and notice' regime does not mandate ISPs to take down copyrighted works that are the subject of notices of claimed infringement received by the ISP.

In Canada, ISPs are only obliged to forward these notices to the alleged infringer and retain certain records in respect of those individuals. ISPs and search engines are immune from liability so long as they function solely as genuine intermediaries in communication, caching or hosting services. The Canada–United States–Mexico Agreement (CUSMA) exempts Canada from any obligation to comply with the notice and takedown regime and/or the safe harbour provisions of the CUSMA.

The Copyright Act lists certain exceptions to infringement for the following non-commercial activities:

- Format shifting for private purposes – transferring content from one device to another. This provision does extend to content safeguarded by a digital lock or other technological protection measures (Section 29.22).
-

Time shifting for later listening or viewing – recording television, radio and Internet broadcasts for later viewing or listening. This provision excludes on-demand or streamed content, as well as content protected by a digital lock or other technological protection measures (Section 29.23).

- Non-commercial user-generated content/mash-ups – integrating legally obtained copyrighted content into user-generated creations. This provision applies under specific conditions: the mash-up should not serve as a replacement for the original material, must not be crafted for commercial profit and should not significantly harm the markets for the copyrighted work or the creator's reputation. An example would be sharing a music blend of two artists on a social networking site, so long as the user-generated work doesn't fall within the exceptions mentioned earlier (Section 29.21).

Beyond the Copyright Act, Canada lacks dedicated legislation that targets the online trade of counterfeit goods. To remove counterfeit goods, rights holders submit takedown requests directly to the ISP, registrar, third-party marketplaces, or social media platforms.

THE CANADIAN ANTI-FRAUD CENTRE: PAYMENT PROCESSING

The Canadian Anti-Fraud Centre (CAFC), which is cooperatively overseen by the Royal Canadian Mounted Police, the Ontario Provincial Police and the Competition Bureau, includes among its mandates the prevention of the illicit online sale of counterfeit goods. In 2023, approximately 63,000 reports of fraud were processed by the CAFC from approximately 42,000 victims claiming approximately \$570 million lost in total. From 2021 to 2023, the CAFC helped recover approximately \$6.7 million. [\[11\]](#)

Canadians who buy counterfeit goods are advised to reach out to their credit card issuer and seek a refund through their counterfeit protection policy. The chargebacks that follow play a crucial role in identifying and shutting down counterfeit merchant accounts across banks and payment processors globally.

DOMAIN NAME DISPUTE RESOLUTION

A rights holder can file a complaint under the Canadian Internet Registration Authority's Domain Name Dispute Resolution Policy against the registrant of a domain name if the rights holder can prove their rights in a trademark to which the domain name is confusingly similar, the registrant has no legitimate interest in the domain name and the domain name was registered in bad faith.

The Canadian International Internet Dispute Resolution Centre (CIIDRC) is the first in Canada to provide resolution of domain name disputes under both the Uniform Domain Name Dispute Resolution Policy (the UDRP) and the CIRA Domain Name Dispute Resolution Policy (the CDRP). [\[12\]](#)

PREVENTIVE MEASURES/STRATEGIES

Canada does not have a national IP law enforcement coordination body. Instead, anti-counterfeit enforcement remains largely the responsibility of individual rights holders who must police the market, enforce their rights through civil enforcement and comprehensive licensing agreements, register their rights with Customs via the RFA programme, train and cooperate with law enforcement and customs, share best practices

with others and continually raise awareness about the perils of trafficking in counterfeit goods.

THE YEAR 2023 AND BEYOND

Counterfeiters are employing increasingly sophisticated tactics to evade detection, which exacerbates the challenges faced by brand owners. In this dynamic environment, 2023 saw substantial strengthening of the civil remedies available to rights holders combating the importation and sale of counterfeit products. In particular, the jurisprudence in 2023 included an express reaffirmation of compensatory damages as an appropriate remedy in the context of counterfeiting cases, as well as an affirmation that courts are willing to tailor traditional remedies to redress the new reality of the online marketplace and the evasive counterfeiter. Rights holders' desire for creative and effective solutions defined 2023 and should serve as a springboard to continued and impactful civil enforcement.

Brand owners, associations and others involved in anti-counterfeiting in Canada also remain committed to urging and assisting government representatives in taking steps to fund and mandate law enforcement, Customs and prosecutors to increase the effort to prevent counterfeiting and piracy from continuing to grow in Canada, and to urge government to support the development of a national program to protect both the economy and Canadians the public from piracy, fraud, and counterfeiting activities.

In addition, those rights holders who have filed RFAs with Customs remain committed to helping detain counterfeit or pirated shipments of products that bear unauthorised reproductions of their IP rights. This is evidenced by the fact that over 90% of RFA registrants who were notified by Customs of suspected counterfeit goods and/or pirated works pursued a civil remedy. However, concern over declining detentions at the Canadian border requires immediate and active rectification. Advocacy by brand owners and anti-counterfeiting organisations must strive to reinvigorate engagement by Customs in the RFA programme. The absence of effective IP rights protection at the border impedes the ability of the Canadians to rely on the integrity of the IP rights regime and disincentivises investment from trading partners.

Finally, in May 2023, the RCMP launched the Transparency and Trust Strategy on the Open Government Portal to increase public safety transparency and 'open government' practices.^[13] Among other things, the RCMP is committing to engaging in 'citizen participation' and creating a 'constructive two-way dialogue between the RCMP and the interested partners, stakeholders and citizens which results in better policies, programs and services for Canadians ... including ... activities to inform, consult, involve and collaborate in the development of RCMP services, policies, priorities, etc'. It is also committed to providing quarterly updates, including valuable information for the policing of IP rights in Canada.

We remain optimistic that brand owners and organisations who are committed to combating the trade in counterfeit goods and pirated works will participate in this 'constructive two-way dialogue' to inform policy, improve funding and increase enforcement around anti-counterfeiting measures, for the benefit of all Canadians.

ENDNOTES

[1] [Canada: Anti-counterfeiting Chapter 2022 - World Trademark Review](#), reported there were 366 registrants in the RFA programme.

[2] <https://www.brianmasse.ca/wp-content/uploads/2024/06/CBSA-RFA-Program-1-Pager.pdf>

[3] <https://ised-isde.canada.ca/site/canadian-intellectual-property-office/en/canadian-intellectual-property-statistics/trademark-statistics-2022-2023>.

[4] [2023 Special 301 Report.pdf \(ustr.gov\)](#), page 73.

[5] Canada is also included in the 2023 Review of Notorious Markets for Counterfeiting and Piracy. The report identifies the Pacific Mall as a notorious market for counterfeit luxury goods. It states that 'Toronto Right holders report that the level of counterfeit goods offered for sale at Pacific Mall has continued to increase, with Pacific Mall management not taking the necessary measures against sellers and law enforcement not prioritizing actions against counterfeit trade'.

[6] [Memorandum D19-4-3 - Copyright, Trademarks and Geographical Indications \(cbsa-asfc.gc.ca\)](#).

[7] [Memorandum D19-4-3 - Copyright, Trademarks and Geographical Indications \(cbsa-asfc.gc.ca\)](#), at Appendix C.

[8] [Customs Notice 17-27 - Reporting of Counterfeit or Pirated Goods that are Dangerous \(cbsa-asfc.gc.ca\)](#).

[9] Based on a recent 2023 decision of the Federal Courts, sellers of counterfeit goods have evolved to online commercial businesses operating through social media websites. In examining the realities of the online commercial businesses operating through social media websites the court determined that it fell within the parameters of a fixed retail seller.

[10] Canada Consumer Product Safety Act, ss. 21–22.

[11] <https://antifraudcentre-centreantifraude.ca/index-eng.htm>.

[12] [Home - Canadian International Internet Dispute Resolution Centre \(ciidrc.org\)](#).

[13] https://open.canada.ca/data/dataset/40b50513-1356-4211-ae08-53580dbd32fa/resource/5ccfbb4d-5b57-4f71-9cd9-71f7b44a4404/download/rcmp_23-075_open-government-strategy_e_acc.pdf.



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