

January 30, 2024

The Honorable Daniel Lee  
Assistant U.S. Trade Representative for Innovation and Intellectual Property  
Office of the United States Trade Representative  
600 17th Street Northwest  
Washington, D.C. 20508

***Re: 2024 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974 (Docket Number USTR-2023-0014)***

Dear Mr. Lee:

On behalf of the Footwear Distributors & Retailers of America (FDRA), thank you for the opportunity to participate in the 2024 Special 301 Review. I request to testify at the public hearing on February 21, 2024.

FDRA is the footwear industry's trade and business association, representing more than 500 footwear companies and brands across the U.S. This includes the majority of U.S. footwear manufacturers and over 95 percent of the industry. FDRA has served the footwear industry for 80 years, and our members include a broad and diverse cross section of the companies that make and sell shoes, from small family-owned businesses to global brands that reach consumers around the world.

Our member companies work hard to design, produce, and deliver shoes to U.S. consumers. Each year, approximately 2.74 billion pairs of shoes cross U.S. borders (or 8.2 pairs of shoes for every man, woman, and child in America). Many of our footwear companies also sell brands that reach consumers in markets all over the world. These companies manage supply chains that span the globe, so they understand the importance of protecting IP and innovation. The U.S. must work to address the failure of other nations to protect patents, trademarks, and copyright in both law and practice, because this supports U.S. footwear jobs and communities.

As the U.S. works to strengthen IP protection and enforcement for American workers, businesses, and consumers, FDRA encourages the Administration to enter into new bilateral or multilateral trade agreements that will benefit U.S. footwear companies and consumers and include strong IP protections for a 21st century economy. The Administration should also leverage existing trade agreements to address IP shortfalls in specific countries. For the 2024 Special 301 Report, we have divided country-specific issues into two sections: major footwear sourcing hubs and additional markets. Fighting counterfeiting is particularly important in key sourcing locations, given the large volume of manufacturing, machinery, and footwear production knowledge in each of these countries.

## **Major Footwear Sourcing Countries**

### **China**

China should remain on the Priority Watch List since there has not been significant change or effective progress on IP in the past year. Challenges with bad faith trademarks and other types of IP protection continue, as well as difficulty fostering collaboration with different platforms that are not required by law to work with brands to reduce counterfeits and knock off goods. FDRA is hopeful that the Chinese government, both at the national and sub-national levels, will over time become increasingly aware of the value – both to Chinese consumers and to the Chinese economy – of vigorously protecting IP rights.

#### *Addressing IP challenges with online markets*

In a part of the world that includes one fifth of the world's population, China's online markets are unprecedented in the breadth of consumers they reach. There are several key issues regarding these markets:

- ***Online to Offline (O2O) enforcement gaps***: FDRA raised concerns about O2O enforcement gaps in last year's Special 301 comments. Those concerns remain, as O2O transactions continue to increase. O2O enforcement brings numerous new challenges, and there is a need for greater collaboration from platforms. The relationship with platforms is not always evident and can be time consuming for brands. In some cases, it may take months to obtain data in collaboration with platforms. The quality of data provided is often limited, as some platforms have no obligation to provide full disclosure and transparency of transactions involving counterfeits. In addition, there is no consistent standard for adopting digital evidence in different procuratorates and courts. In practice, courts in Eastern China are more accepting of online transaction records, whereas courts in other provinces are much more conservative. In criminal proceedings, there is an increasing trend for courts to impose monetary fines rather than imprisonment; for civil litigation, courts have awarded lower compensation amounts than in the past.
- ***Positive developments with platforms***: Despite the challenges presented above, some platforms remain supportive of rights holders and undertake efforts on investigations and cross regional enforcement to try to eradicate counterfeit supply chains – tracing all the way from online or offline retail targets to counterfeit manufacturing sources. FDRA members appreciate such efforts and hope to maintain this momentum.
- ***Livestreaming counterfeits***: Counterfeit products sold via livestream channels are very popular in China. It is extremely difficult to monitor knockoffs sold through these channels. The timing of the broadcast is unpredictable, and the transactions are often diverted to private domains where transactions can be completed.
- ***Cross-Border Trade and Social Media***: New Challenges have emerged with cross-border trade, as Chinese buying agents (such as PandaBuy, Wegobuy, and Sugargoo)

grew rapidly in 2023. Many agents facilitate local online counterfeit sellers distributing counterfeit footwear to buyers worldwide with lower costs under a new and efficient transaction model. Although those buying agents seem legitimate, many counterfeit sellers promote themselves and their agents' ability to order and ship counterfeits on social media platforms like TikTok, YouTube, and Reddit. This model includes social influencers that get involved in promoting buying agents and fake items on their own social media accounts. PandaBuy has become the largest buying agent in cross-border counterfeiting business.

- **Potential new enforcement tool:** China's Anti-unfair Competition Law (AUCL) amendment is still under legislative review and there has been no further update after the public comment period ended in 2022. The amendments proposed a lot of exciting breakthroughs, like the prohibition of transactions with bad faith, such as traffic hijacking, undue interference or malicious incompatibility; the inclusion of the online business operator in scope of the law; and the added provision that prohibits business operators from using data and algorithms or any technical means to sabotage the fair competition of markets by affecting users' options or other methods. If these new amendments pass and take effect, it will certainly benefit rights holders with more methods to conduct digital enforcement against the rampant online infringements.

### *Fighting counterfeits in China*

China is still the number one source of counterfeit goods imported into the U.S. Within China, local officials often turn a blind eye to counterfeiting activity. FDRA members have raised several concerns on counterfeit goods in China:

- **Continued rise in knockoff products:** FDRA members have witnessed a rise in knockoff products made in China that copy iconic product design and replace or remove famous trademarks. Such infringement steals the IP of U.S. footwear brands, misleads and confuses consumers (including Chinese consumers), and undermines the significant investments and goodwill U.S. brands have made in protecting their product designs. Chinese IP laws provide cause of actions against knockoff infringement, such as the protection of iconic product design under China's AUCL. FDRA remains hopeful that companies will see more guiding cases from Chinese courts on AUCL enforcement against knockoffs and that the administrative authorities will apply the AUCL more broadly to target knockoff infringements.
- **Problematic regions:** The Provinces of Guangdong, Zhejiang, and Fujian pose challenges for footwear brands, because all three are major footwear hubs, producing both legitimate footwear as well as counterfeit products. Putian still remains the largest counterfeit manufacturing area and the major source of high-quality counterfeit shoes. Anxin, Hebei province, has become a major manufacturing area of low-quality footwear which flow into other local markets or are sent to overseas markets mainly in Mid-Asia countries. Attempts to enforce in that area failed in 2023.

- ***Small parcels:*** Customs seizures in China increased significantly in 2023. However, the volume of small parcels crossing the border due to e-commerce transactions remains overwhelming for customs enforcement. Increased collaboration, including information sharing and exchange of intelligence between law enforcement and rights holders is encouraged to promote more robust investigations that are critical to tackle the small parcels issue as it allows to trace back to the counterfeit suppliers behind. Greater collaboration and information sharing between law enforcement authorities and rights holders is needed to promote more robust investigations that are critical to tackle the surge of counterfeits sent via small parcels.

### *Navigating the difficult legal landscape*

China's complex legal landscape poses many challenges for U.S. brands. FDRA member companies have raised the following issues:

- ***Trade dress shortfalls:*** China technically recognizes trade dress registration as an available protection in its trademark legislation. In practice, however, standards of review for trade dress applications are unclear and burdens of proof are unrealistically high, making it very difficult and often impossible for brands to obtain registration for a nontraditional mark. FDRA member companies would like to see more realistic and consistent standards of review so that trade dress is, in practice, a granted right.
- ***Bad faith trademark filings:*** Because China is a first-to-file jurisdiction, a well-established U.S. brand may discover that an unrelated Chinese party has already registered the brand's trademark. Bad actors do this to exploit the reputation of the U.S. brand or to force the American company to pay a fee to "buy back" the rights to its own trademark. FDRA members continue to see a high volume of bad faith infringing trademark applications allowed to publish for register. This forces legitimate brand owners to file opposition and invalidation actions. Doing so wastes limited resources, increases pressure on China's National Intellectual Property Administration (CNIPA), and drives up costs for American companies. While CNIPA has been an active partner for U.S. brands in working to combat bad faith filers, it must continue to prioritize this challenging issue.
- ***Partial design rights implementation shortfalls:*** Partial design rights were approved in the Patent Law Review with an effective date of June 2021. China has finally issued the long-awaited Patent Implementation Regulations that went into force on January 20, 2024. The implementation guidelines on partial designs filings did not meet expectations as they provide little clarification to the overall process and requirements. Examination results are inconsistent across the Office, a further indicator that more clarity is needed for examiners as well.

## Mexico

FDRA strongly recommends USTR elevate Mexico to the Priority Watch List in the 2024 Special 301 Report. Significant and serious IP shortfalls exist in Mexico, as highlighted below.

- **Low priority for IP protection:** The current administration in Mexico has not prioritized IP enforcement and protection. When outlining government priorities, it left out relevant IP institutions, like the Trademark Office (IMPI) and the IP Special Crimes Unit from the Attorney General's Office (FGR). The enforcement of IP rights has been seriously compromised with the FGR's decision not to execute any raid actions. This leaves IMPI without effective support from law enforcement agencies (LEAs), and it frequently leads to authorities being unable to execute their determinations and sanction possible IP rights infringers. The lack of enforcement actions and support from most of the relevant LEAs Mexico is alarming. This creates numerous opportunities for counterfeiters in the country.
- **Limited customs authority:** Existing provisions in Mexico's Customs Law provide authorities with *ex-officio* power to initiate border measures but limit this authority to detention of suspicious products. The law does not effectively allow customs officials to make a determination to seize and destroy IP infringing goods. When goods are suspected of IPR infringement, an order must be obtained either from the IMPI (administrative) or FGR (criminal) – after a lengthy process – to allow for inspection and detainment. The administrative action is usually helpful when the infringer is a well-established business and there is a way of finding a domicile for notifications. However, the proceeding is executed as a trial, which makes the costs extremely high for rights holders. The criminal option had become the preferred go-to action for rights holders to enforce, especially through the FGR's Specialized Unit dedicated to investigating crimes against copyrights and industrial property. With austerity programs in Mexico, however, the work of the FGR has been reduced. With the growing impact of e-commerce platforms in Mexico, we strongly recommend the Mexican government advance its enforcement framework by granting Customs authority to seize and destroy counterfeit goods independently. It should also review its current perspective on the enforcement of IP rights, especially from a criminal perspective.
- **E-commerce enforcement gaps:** From a legislative perspective, Mexico also lacks a clear approach to tackle e-commerce and the impact of small parcels at the border. With the sharp increase in e-commerce and small parcel shipments, there is a strong need for the Mexican government to work with online platforms and rights holders on information sharing and implementing preventive and proactive measures to tackle the increase in counterfeits offerings online. This should include a framework for encompass platform liability. To adopt minimum recommended best practices in this space, policies should require platforms to: 1) implement registration requirements for third-party sellers that allow the authentication of both seller and product; 2) disclose seller information on the product page; 3) block offers for suspicious counterfeit

products; and 4) permanently ban repeat offenders.

- ***Some positive developments:*** Mexico continues to develop an environment for equal recognition of trade dress rights. In addition, the IMPI has been highly supportive of enforcement via oppositions and invalidations in cases of recognized well-known marks. We want to highlight the efforts of IMPI to endure on IP protection in the country.

## Vietnam

Vietnam's IP legal system and enforcement practices continue to change for the better despite a few issues on the interpretation of enforcement regulations. Authorities in Vietnam remain open and willing to make changes to harmonize IP laws with international standards.

- ***Rise in counterfeiting:*** As more and more brands have shifted production from China to Vietnam, counterfeiters have moved manufacturing to the country as well, where they manufacture not only pure counterfeits but also look-alike knockoffs. Since Vietnam is the second largest sourcing country of footwear for the U.S. market, the market is ripe for counterfeiters to exploit. It is critical that the Vietnamese government proactively work to fight the surge of counterfeiting.
- ***Well-known marks shortfalls:*** FDRA members believe there is an imminent need for Vietnam to harmonize its approach to well-known mark status to make it consistent with international norms. To date, there is still no clear progress or guidance from the National Office of Intellectual Property of Vietnam (NOIP) regarding the recognition of well-known trademarks. This lack of clarity has direct impact on Vietnam Customs especially in cases when officials can promote ex-officio actions based on well-known trademark recognition. The lack of clarity gets amplified by the increasing impact of transshipment in the local ports. The current process in Vietnam does not seem to confer any of the enforcement benefits typically seen in other jurisdictions to brand owners.
- ***Conflicts in enforcement guidance:*** On July 06, 2023, NOIP issued the Official letter No. 2712/SHTT-TTKN with new guidance on enforcement. This guidance brought new challenges for product destruction, by requiring law enforcement to prove harm from goods seized: "*law enforcement only can order the infringer to destroy trademark counterfeit products if they cause harm to human's health, cattle, plants and environment*". The new guideline from NOIP conflicts with current legislation for administrative violations and is a step back on the enforcement system in Vietnam, as the Decree 126/2021/ND-CP does not require law enforcement to prove harm from counterfeits. In practice the new rule not only adds unnecessary confusion and challenges to enforcing trademark infringements, which impacts all law enforcement agencies and brand owners; it also suggests there could be such thing as "good and bad" counterfeits, a concept that has no legal ground in the IP legislation.
- ***Need for greater clarity in nontraditional marks:*** Vietnam should focus on

providing greater clarity in the current laws for the recognition of nontraditional marks or trade dress. NOIP allows rights holders to file the application of nontraditional marks. However, brands would like to have clear guidance on both the examination process and enforcement. As there is no clarity in the current law for the recognition of nontraditional marks, structural support and consistency would help applications to be effective.

- **Online enforcement:** O2O enforcement has significantly improved in Vietnam. Law enforcement agencies are willing to cooperate and actively support further investigation, raid targets, and proceed with criminal prosecution against online sellers who have large quantities of counterfeits seized in their connected physical warehouses. The E-Commerce Bureau is also planning to revise Decree 52 with impacts to e-commerce platforms. The Decree favors customs enforcement processes, especially in the context of increasing e-commerce transactions and small parcels. We recommend the review focus on increased protection to rights holders and create a framework to make the e-commerce platforms more effective on actions focused on IP infringements. This should include reducing the offer of counterfeit products and clearly defining the terms for platform liability in case of IPR infringements.
- **Other enforcement challenges:** Vietnam Customs has been making significant efforts to maintain the enforcement of IPR, especially by intercepting transshipments from China via Vietnam to Laos and Cambodia, which are the main routes for counterfeit from China to export to Southeast Asia and the Middle East. The requirements for brand owners to prove the damage value caused by transshipped goods is very difficult to calculate. Brands owners have additional constraints in proving the relationship of the damages value in connection with the transshipment. We suggest removing the requests to prove damage value and continue to follow Decree 126/2021/ND-CP, which is the latest regulation from the Vietnamese government that does not have this requirement. In addition, the Directorate of Market Surveillance Agency (DMS) has been requesting brand owners provide immediate authentication of counterfeits during raid actions in order to issue Administration Violations Minutes but without the Seizure Minutes with the objective to obtain the samples for verification. This unofficial guidance for handling administrative violations not only puts strong pressure on brand owners, but it is causing issues in terms of the legal validity of the evidence that can be opposed at any time by the infringer. The infringer can also change the goods at any time given suspected trademark counterfeits remain still in their possession after the raid action. This application changed a previous effective process and should be reverted or reviewed.

## Indonesia

Over the past few years, IP authorities in Indonesia have shown an interest in promoting change in the local IP environment. FDRA believes Indonesia should reinforce the need to maintain consistency, recognize trademark rights, and provide realistic enforcement processes and implementation.

- ***Increase in domestic counterfeiting:*** With Indonesia's increase in local production of legitimate footwear, FDRA member companies have also seen an increase in the local manufacturing of counterfeit shoes. Small and medium-sized local sellers have been observed sourcing footwear from local manufacturers, usually in bulk for low price. Though low quality, these infringing products are attractive for local buyers because of their low prices. FDRA members have also witnessed a drastic increase in the number of counterfeit retailers in Bandung, particularly high-quality imported footwear. There is a huge demand for this type of footwear as Bandung is a city populated with university students and tourists. FDRA believes Indonesia should take proactive steps to address the counterfeiting problem. This could include training for law enforcement agents and customs officers on product inspections and more proactive measures to investigate and enforce counterfeit manufacturing, trafficking, and selling activities.
- ***Difficult trademark opposition process:*** Indonesia's trademark invalidation/opposition proceedings had made no improvement since last year. The TMO continues to have a very narrow interpretation of trademark rights in opposition procedures, in general only deciding cases in instances where the parties' mark and goods are nearly identical. Improving these procedures is critical to prevent infringers/counterfeiters from obtaining "similar" but not quite identical trademark registrations. The TMO should also promote a thorough review of the invalidation/cancellation/opposition appeals process. Today, once a decision is made in an opposition, the only additional recourse by the brand owner is to file costly and time-consuming civil litigation.
- ***Inadequate customs system for seizures:*** The customs system still lacks thorough processes for detaining suspicious products and seizing counterfeits. The criteria for rights holders often prove impracticable, resulting in only a small number of cases. In the few cases where brands can stop shipments of suspicious counterfeits, there is often a lack of transparency by law enforcement and an informal system that reinforces the reluctance to enforce against the suspicious infringement.
- ***Challenges with recordation system:*** The recordation system in place – which is intended to simplify the process for enforcement – needs attention to be effective. Rights holders not only have complex procedures to register but must place high guarantees to register. Indonesian Customs also requires immediate responses (2 days) from rights holders should there be a complaint of trademark infringement. Right holders are at constant risk of being removed from the recordation system if they fail to respond to customs notification for the third time.



- **Online Enforcement:** Indonesia is a market with huge potential for e-commerce. The lack of legal framework, however, to tackle the increasing offerings of counterfeit products online must be a top priority. Indonesia still has no laws in place to protect rights owners. The Ministry of Trade issued a new regulation (No. 31 of 2023 on Provisions on Business Licensing, Advertisement, Development and Supervision of Business Actors in Electronic Systems Trading) that became effective on Sept 26, 2023. The regulation expanded the definition of e-commerce operators, to include social media platforms that promote commerce and have products offerings and tighten restrictions on foreign merchant operators. Similarly, there was a ban of Tiktok's commerce arm Tiktok Shop locally. Nonetheless, Tiktok subsequently moved to buy Indonesia's leading e-commerce platform Tokopedia. The new regulation addresses only cross border and overseas commerce activities. There is a need for broader regulation clarifying liability for the platforms operating locally in Indonesia.

## India

FDRA recommends India undertake efforts to implement exist IP laws, reduce bureaucracy, and simplify processes.

- **Need for additional resources:** Over the last couple of years, India has increased the number of IP officials hired and trained, a positive development. To optimize the impact of these resources, we would like to see hirings with long term contracts and trainings as well as simplified work processes. This could increase effectiveness and lessen lengthy administrative requirements.
- **Long trademark backlog:** Currently the 10-year trademark backlog at the courts and the Trademark Office prevents brands from filing utility patents and trademarks in the country. The value of having the protection in this scenario is lost to the unduly long enforcement process at both the courts and the TMO.
- **Bureaucratic trademark process:** India's trademark office (TMO) has an opportunity to modernize highly manual and dated procedures for IP protections. As one example, the document authentication and signature requirement for pleadings and evidence submission still relies heavily on paper methods. Submissions often reach 40-50 pages long, and a manual signature is required on each page, which means that one document can easily be signed 50 times.
- **Counterfeits hubs:** FDRA Members have noticed an increasing number of counterfeiting distribution hubs in India. Enforcement remains very challenging for brands and local law enforcement authorities due to various social, cultural, and community aspects.
- **Online enforcement:** FDRA Members are closely monitoring the implementation of India's new e-commerce law. We expect the law to clarify the legal system, increase protection for rights holders, and define the terms for platform liability in case of IPR

infringement. There is also a likely amendment to the Information Technology (IT) Rules of 2021 to regulate artificial intelligence (AI) companies and generative AI models on digital platforms. It is unknown at this time how the amendment might cover generative AI as it relates to infringing IP content. FDRA members have voiced concerns that generative AI can be used to create highly identical IP content, such as logos, in a large scale and low-cost manner. This could post a significant challenge for online enforcement and court procedures in India.

- **Procedural hurdles:** At customs, while the IPR (Imported Goods) Enforcement Rules 2007 have played a big role in curbing counterfeit goods entering India, there are several procedural issues that harm rights holders, triggered by a delay in adjudication. While the IPR Rules prescribe specific timelines, the adjudication process is very slow in practice at almost all customs ports across India with very few exceptions. The delay in adjudication creates uncertainty with the destruction of seized goods. At various ports, it may take over 3 to 5 years for the destruction to be completed. In addition, substantial funds from rights holder are blocked in the form of bank guarantees. Even when the destruction is completed, there are several ports where the return of guarantees is bureaucratic. The delay in adjudication and low penalties do not deter counterfeiters. There are several cases of repeat offenders who have imported huge quantities of illicit goods into India.

### **Additional Markets of Concerns**

- **Algeria:** As there were no positive developments since last year's Report, we recommend elevating Algeria to the Priority Watch List. Algerian Customs was previously one of the most active anticounterfeiting authorities in Africa, but the situation has changed since 2018, as the authorities have implemented an extremely soft approach to the importation of counterfeits. Annaba port, the largest port in the country, remains the main destination of inbound and outbound counterfeit shipments. The port offers no follow-up system for rights holders other than in-person. For this reason, rights holders must travel from Algiers to the far port of Annaba to follow up or file documents, resulting in a lengthy and costly process. In addition, rights holders must file complaints against each subject before the courts. Not only does this make the process burdensome; it could lead to information leakage. We recommend considering the introduction of an information sharing system between rights holders and authorities, as well as the use of online systems that can speed up the current procedures at the port level.
- **European Union (EU):** The EU is working on the review of the Design Directive. A major concern for the IP community is the proposed fee increases. While less than originally planned, these fees are still very high. This may limit the ability of design owners to protect their designs. The adoption of the Digital Services Act (DSA) represented a great improvement in the legal framework, particularly for combatting online counterfeiting. Platforms are also offering information to help mitigate the impact of intellectual property infringement, brand misrepresentation, and scams.

- **Egypt:** We recommend Egypt be elevated to the Priority Watch List. Egypt is a significant market for Chinese counterfeit goods. Recently the Egyptian government took measures to prevent the importation of substandard goods, but the level of IPR protection and enforcement has not changed. The current legal system should be reviewed to ensure that it aligns with international standards. Rights holders still do not have visibility on actions taken by law enforcement agencies, especially customs. The commercial courts in Egypt deal with IP cases among many others. FDRA members have observed some positive developments in the court system, with some decisions being rendered within nine months. While decisions in the courts can provide some level of deterrents for counterfeiters, enforcement is a difficult process; enforcement might take years and result in significant costs for rights holders.
- **France:** We encourage France to be more progressive in recognizing non-traditional trademark rights, particularly given its position in Europe and around the globe as a leader in fashion, design, and the arts. In addition, the Paris 2024 Olympics will provide new opportunities for bad actors to sell counterfeit sportswear products surrounding the Olympic Games. Additional law enforcement efforts should be focused on this issue.
- **Morocco:** USTR should elevate Morocco to the Priority Watch List. The Moroccan government has recently reintroduced the free trade zones to help boost the economy. As IP regulation and enforcement are non-existing in such areas, these zones have become attractive to illegitimate businesses, including interest from Chinese counterfeiters. One important zone, the Tanger Free Zone, is used for exportation into Mauritania and Europe. In addition to these enforcement gaps in Morocco, the criminal courts take time to render decisions and lack sufficient damages to deter counterfeiting. On the other hand, when the cases are brought before the commercial courts (specialized IP courts), cases are judged in a reasonable time and damages reflect guidelines provided by the law in force. However, rights holders do not have visibility on what happens to seizures. There is no formal destruction procedure, and rightsholders only occasionally receive notice of seizures and destructions.
- **Saudi Arabia:** Saudi Arabia has laws in place that continue to allow for effective implementation processes for IP protection. However, it has been more than five years with no tangible development on the Intellectual Property Authority (SAIP). Compared to Customs work, SAIP needs a lot of development. Overall, court process continues to be slow since there are no IP specialized commercial courts established. Customs seizures have dramatically dropped and rights holders do not have access to the details of counterfeit seizures. For these reasons, we recommend USTR consider Saudi Arabia's elevation to the Priority Watch List.
- **Spain:** La Junquera El Perthus City, at the old border between Spain and France, continues to be a location where strong counterfeiting activity occurs. Despite intense law enforcement activity and frequent police raids, the Courts in the region have been acquitting infringers and allowing the commerce of counterfeits to continue. The stores have built hidden sell areas behind their stores where access is only given to trusted clients. Platforms such as TikTok provide information on how consumers can have

access to the El Perthus hidden areas.

- **Turkey:** Turkey has not effectively prioritized counterfeits, as crimes related to IP are still generally perceived as minor crimes. The Government of Turkey in general fails to follow with the application of provisions in the IP law, like protection of trademark rights for goods in transit or rules for the destruction of counterfeit goods. In the current system, search and seizure warrant requests are evaluated by general criminal court judges who may lack expertise in IP matters. This result in general in inconsistent interpretations. Objections to such court decisions dismissing a complaint may be procedurally filed before the same first-instance criminal court, and not before a specialized criminal IP court, which lumps the possibility of a reversal in verdict. Some Public Prosecutor Offices also still decline to request a seizure warrant from the Court for goods intercepted by customs officials. Since 2024 is a local election year, FDRA members expect stalls in enforcement proceedings until the end of election cycle in March.
- **United Arab Emirates (UAE):** The level of IP protection and enforcement has remained stable in the UAE. We appreciate the government's outreach to stakeholders to discuss solutions to IP issues, especially in preparation for EXPO Dubai. Despite efforts by law enforcement to work with brands to combat counterfeits, rights holders do not have visibility on what occurs to goods seized by the Dubai Economic Department and other government agencies. Products for seizures are still re-exported based on the UAE Federal Law 37/1992 that allows the re-exportation of the substandard goods. Dubai Customs showed an increasing interest in combatting counterfeits over the past few years. To be effective and tackle the big volume of counterfeits in local markets, Customs needs to increase enforcement and develop an effective strategy.

## **Conclusion**

FDRA appreciates the opportunity to submit comments on the challenges faced by our member-companies around the world in the protection of their IP rights. As leading global innovators, our members are driving advancements in product design never before seen. Our industry stands on the cusp of innovations that will alter the way global footwear manufacturers produce footwear and consumers purchase footwear. Now more than ever it is vitally important that the U.S. government work to protect these innovations, designs, brands, and images worldwide. We stand ready to work with USTR to bolster respect for, and enforcement of, IP by our trading partners. Doing so protects American jobs and benefits U.S. consumers.

Sincerely,



Matt Priest  
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