

## **Best Practice Guide for Online Marketplaces to Protect Design Rights**

**September 15, 2025**

**Sponsoring Committee:** Designs Committee

### **RESOLUTION**

**WHEREAS**, the International Trademark Association (INTA) has established a permanent standing Designs Committee since 2016, and the Designs Policy Subcommittee of the 2024-2025 Committee term has conducted a survey on members' experiences with current notice-and-takedown procedures in various jurisdictions;

**WHEREAS**, it is the position of INTA that IP rights, including design rights, are capable of existing, being exercised, and being infringed, in online and digital ecosystems;

**WHEREAS**, "design rights" can be generally defined as rights (including design patents and industrial design registrations) that protect a new and ornamental, non-functional, appearance of a product or a portion of a product, surface ornamentation applied to a product or to a portion of a product, or a combination of these;

**WHEREAS**, a major technological and commercial development over the past twenty years has been the growth and proliferation of Online Marketplaces for the sale of goods, which may be desirable to buyers in both physical and digital environments;

**WHEREAS**, the Designs Policy Subcommittee's survey highlighted a need to support legitimate owners of design rights to protect their design rights in online and digital environments, while striking a balance between the obligations of Online Marketplaces and those of design right owners in their joint fight against the sale of infringing products.

**WHEREAS**, the hereby proposed Best Practice Guide for Online Marketplaces to Protect Design Rights builds upon and is consistent with INTA's prior positions adopted in relation to online marketplaces, as contained in previous INTA's documents including Board Resolutions, Committee Reports, comments filed in public consultations and other INTA documents, among which is INTA's Report [Addressing the Sale of Counterfeits on the Internet](#) (June 2021) and the INTA Board Resolution [Establishing a Framework for Protecting Consumers from Third-Party Sales of Counterfeit Goods via Online Marketplaces](#) (Nov. 2023).

**BE IT RESOLVED**, that the International Trademark Association adopts the [Best Practice Guide for Online Marketplaces to Protect Design Rights](#) and supports the adoption by Online Marketplaces of the best practices included thereof.

## **Background**

The growth of e-commerce over the past twenty years has provided a tempting arena for bad faith sellers to offer infringements and outright “knockoffs” of the designs of successful products, sometimes (but not always) bearing infringements of other IP rights such as trademarks and copyrights.

The Designs Policy Subcommittee conducted a survey of members of the entire INTA Designs Committee ([See the executive summary](#)) on their experiences with current notice-and-takedown procedures in various jurisdictions. The results are summarized in the “Survey Summary” attached as Appendix 1 to this Resolution. The Survey Summary highlights the complexities of online design rights enforcement and the need for greater clarity and consistency in Online Marketplaces’ practices.

In addition, many design rights owners face enforcement challenges when trying to use Online Marketplaces existing notice-and-takedown procedures, since these procedures tend to cover copyrights alone or copyrights and trademarks. Research by the Designs Policy Subcommittee, including specific requests to Online Marketplaces to comment on their policies, shows that many Online Marketplaces takedown policies do not expressly cover design rights.

Improved communication and collaboration between rights holders and Online Marketplaces are crucial for developing more effective and equitable mechanisms for addressing online design infringement, which now leads to this Resolution and the related Best Practice Guide for Online Marketplaces to Protect Design Rights.