



**Testimony of UL**  
**Hearing on Protecting E-commerce Consumers from Counterfeits**

**Senate Finance Committee**  
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**Statement of**  
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Good morning. Chairman Hatch, Ranking Member Wyden, distinguished Members of the Committee, my name is Terrence Brady. I am President of Underwriters Laboratories and formerly served as Chief Commercial and Legal Officer. I'm honored to appear before you today to share UL's experience combating the rise of counterfeit goods in e-commerce and to offer our perspective on the challenges facing intellectual property rights' holders in the evolving global market.

UL is a global, independent safety-science company that has championed safety for nearly 125 years. UL's 14,000 professionals are guided by our mission to promote safe working and living environments for people everywhere. We use research, standards, and conformity assessment to meet ever-evolving safety challenges. We partner with manufacturers, retailers, trade associations, and international regulatory authorities to provide solutions to address the risks of increasingly complex global supply chains.

UL takes counterfeiting very seriously and devotes significant resources to fight it. UL doesn't make or sell goods. Our product is our brand which is built on a foundation of trust. When consumers see the UL mark, they know that an independent third-party has determined that the manufacturer has demonstrated compliance with safety, performance, or other standards. Unfortunately, counterfeiters also recognize the value UL brings and they misappropriate our name and marks to try to "legitimize" the goods they sell.

Too often, consumers are unwitting victims of counterfeiting. They may suspect the inexpensive handbags or watches they're buying are knockoffs, but many are unaware that other product categories are frequently counterfeited. UL has investigated instances of counterfeit smoke alarms, fire extinguishers, sprinklers, circuit breakers, extension cords, life preservers, and – as the Government Accountability Office (GAO) report demonstrates – phone chargers.

In 2016 UL partnered with Apple to evaluate the dangers of counterfeit iPhone chargers. In a controlled test program, our engineers tested 400 counterfeit adapters bearing UL marks and the results were literally shocking: the overall failure rate exceeded 99 percent. All but three adapters presented fire and shock hazards. Twelve were so poorly made that they posed a risk of electrocution.

In 2017, our Global Security and Brand Protection team conducted over 1,200 investigations of suspected counterfeit UL marked products resulting in the seizure of 1.5 million units. The top four cases by product type included power supplies, batteries, surface-mounted lights and cord sets. Let me offer a few highlights.

- Approaching the holiday season, we began a global two-month investigation of counterfeit operations in Southern California involving UL marks. We surveyed 290 locations across the United States and Mexico, observing products from approximately 14,000 separate entities including brick and mortar stores and flea markets. We made over 230 test purchases, uncovering 150 vendors distributing products with illicit UL marks. In addition, we collected intelligence on more than 5,000 online listings across multiple platforms. We were able to identify more than 130 unique sellers with over 500 listings of counterfeit products. UL worked with the online platforms to remove the infringing listings and take appropriate actions against the sellers. We determined that 27 sellers needed further investigation and we made a series of test purchases. These purchases led to the successful raid of two warehouses in California where officials seized an estimated \$660,000 of potentially dangerous products bearing counterfeit UL marks. The products seized included counterfeit iPhones and iPhone

batteries, Microsoft360 hard drives, Cree flash lights and headlamps, clapper devices, and hoverboards.

- In February, UL helped the Department of Homeland Security execute a search warrant in a case arising from a two-year investigation of an online distributor of power adapters. Based on the information UL provided, DHS seized approximately 3,227 counterfeit UL labels and adapters valued in excess of \$200,000.
- Last September, UL partnered with the Los Angeles County Sheriff's Department Counterfeit and Piracy Enforcement team to execute a search warrant at a warehouse in Santa Fe Springs, California. During the search warrant, a total of 2,510 hoverboards bearing counterfeit holographic UL labels were seized. These hoverboards were shipped into the United States as "wheelbarrows" according to the shipping label. While assisting the Sheriff's team with the search and inspection of the location, UL also recovered 2,325 counterfeit holographic UL labels. The total seizure amount for the hoverboards and labels is estimated at \$1.5 million dollars.
- Finally, UL cooperated with law enforcement and customs authorities on other investigations, resulting in the seizure of:
  - 77,972 lithium ion batteries bearing a counterfeit UL mark – 10,000 of which also bore a counterfeit Apple trademark;
  - 5,143 counterfeit sprinklers in India;
  - 42,000 counterfeit household fans in Panama; and
  - 200 counterfeit life jackets in Peru – particularly troubling given that suspect company made and sold children's life jackets.

These few examples illustrate the pervasiveness of the problem and underscore that counterfeiting is not limited to any one category of products or a problem in the United States alone. Counterfeit goods directly threaten human lives.

In our 22 years of experience combating counterfeiting, UL has deployed a comprehensive, multi-dimensional strategy based on three essential tenets: education, enforcement, and partnerships. We work with our clients, law enforcement officers, customs officials, and others to stem the proliferation of counterfeits. I have already illustrated some of our investigations and collaboration with government. Additionally, under our strategy we have:

- partnered with INTERPOL to establish the International Intellectual Property Crime Investigators College to educate law enforcement officials and customs agents to recognize and identify legitimate safety certification marks;
- processed approximately 25,000 product authentication requests to identify counterfeit UL Marked products as part of our Border Protection Program; and
- worked extensively with the International Anti-Counterfeiting Coalition and Michigan State University's A-CAPP Center to support research on counterfeiting and to develop programs to reduce its impact.

The counterfeiting issues we see in traditional marketplaces are amplified in the borderless world of e-commerce. The growth in recent years of counterfeit products has been facilitated in part by shifting consumer preferences for shopping online and the proliferation of online merchants. And in recent years, this scourge has become much harder for brands, law enforcement and customs to fight as the

counterfeiters realized the criminal penalties for \$1 million worth of counterfeit consumer goods are far less severe than an equivalent amount of drugs, and as they increasingly shift to air-shipping orders directly to consumers rather than smuggling an entire cargo container.

Selling counterfeits online with individual shipments makes it easier to fly under the radar of law enforcement and IP rights' holders. Most major online retailers have clear anti-counterfeiting policies and actively respond to reports of counterfeit products marketed through their retail platforms; that said, the sheer volume of goods offered for direct-to-consumer purchase make it extremely difficult to discover counterfeiters who regularly change identities to avoid detection. Some lesser-known sellers and platforms openly market fake products. This is a challenge that legitimate e-commerce platforms and IP rights' holders must navigate together, working with all law enforcement including customs authorities, regulators, lawmakers, and other parties.

UL's commitment to fight counterfeiting is unwavering and we welcome opportunities to work with like-minded stakeholders to address known and emerging problems. UL commends this committee for your leadership on this issue and for recognizing that more must be done to combat the proliferation of counterfeit goods. UL recommends:

- **Continued Collaboration between the Public and Private Sectors:** As UL's experience illustrates, this complex problem requires IP rights' holders, e-commerce platforms, brick and mortar retailers, government, and others to work together to fight counterfeits and educate consumers about the dangers they pose. Robust information-sharing amongst all parties is critical to bring counterfeiters to justice and fully maximize the potential of public-private partnerships to address IP violations.
- **Strong IP Protections and Enforcement Mechanisms in Trade Agreements:** Strong and effective protection and enforcement of intellectual property rights is critical to US economic growth and American jobs. Trade agreements – whether bilateral or multilateral – should build on the foundations established in existing international IP agreements and establish strong protections for patents, trademarks, copyrights, and trade secrets. In any trade agreement, it is important to secure strong and fair enforcement rules to protect against trademark counterfeiting and copyright piracy, including rules allowing increased penalties in cases where counterfeit or pirated goods threaten consumer safety or health. Congress should encourage the Administration to include such provisions in any trade agreements it negotiates.
- **Tougher Penalties and Dedicated Resources for Enforcement and Education:** The US has enacted some of the strongest intellectual property protections in the world, a critical need for rights' holders. To ensure their enforcement, Congress and the Administration should prioritize funding for agencies such as US Customs and Border Protection to combat counterfeiting and close loopholes that allow counterfeits to flow across borders. In addition, Congress should ensure that the US Consumer Product Safety Commission continues to have the resources it needs to conduct its work and to educate manufacturers, importers, consumers, and others about product safety issues, including the dangers posed by counterfeit goods.

Chairman Hatch, Ranking Member Wyden, members of the Committee, thank you for the opportunity to testify today. UL welcomes the opportunity to work with you in the fight against counterfeits. I welcome any questions you may have.