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# PROTECTING PRESTIGE: TRADEMARK ENFORCEMENT AGAINST COPYCAT PRODUCTS AND PARALLEL IMPORTS IN THE LUXURY FASHION INDUSTRY

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## ABSTRACT

The luxury fashion industry is facing existential attacks by copy-cat products and parallel imports undermining brand prestige and market integrity. This research paper offers a detailed comparative analysis of trademark enforcement mechanisms in India, USA and EU, taking into consideration the national legal frameworks, the rulings of the courts, as well as the customs enforcement mechanisms. It discusses the tension between the rights of trademark proprietors to control the use of their brands' images and the principles of free trade in determining parallel imports' issues. The study deconstructs divergent doctrines of exhaustion of patent rights India's international exhaustion under the Trade Marks Act 1999 the USA's oversights in its nuanced first sale rule under the Lanham Act Pursuant to the EU's Regulation 2017/1001 and the EU's regional exhaustion. Landmark cases represent challenges in enforcement action including permanent injunctions of counterfeiters; liability for e-commerce platforms and strategic litigation against parallel importers. International frameworks such as the TRIPS Agreement, Paris Convention and the Madrid Protocol are used to frame the analysis and identify enforcement loopholes in the protection of luxury goods across borders. The paper discusses the new problems generated by online marketplaces, upcycling, as well as by sophisticated "super fakes." Strategic recommendations include the need for harmonised standards of exhaustion, improved customs cooperation, analysis of fake through artificial intelligence, and judicial capacity building for the protection of luxury brands intangible prestige coupled with respect for legal flows of trade.

**Keywords:** Counterfeits, Trademarks, Exhaustion, Luxury, Enforcement

## INTRODUCTION

The commercial fashion industry is experiencing a major crisis as an entire industry faces the counterfeit trade phenomenon, and the trade of fashion products in parallel imports in countries where the business is located threaten to undermine the integrity of the brands, the safety of the actors, and the economic foundation. In 2021, the international trade of counterfeit goods was worth USD 467 billion, equivalent to 2.3% of total global imports, with 117 billion USD worth of counterfeit imports (4.7% imports of the European Union) in 2021.<sup>1</sup> The luxury fashion industry that includes clothing, footwear, handbags and accessories represents 62% of all counterfeit items seized in the world.<sup>2</sup> This paper of research examines the intricate legal regimes dealing with the enforcement of trademarks against copycat products and parallel imports in three important jurisdictions: India, the United States and the European Union. Through analysis of legislative provisions, landmark judicial precedents and empirical data on how customs work, this study uncovers how luxury brands negotiate between their desire to protect exclusive manufactory rights versus their tolerance for legitimate grey market trade.

## THE PRESTIGE ECONOMY AND TRADEMARK PROTECTION

Luxury fashion brands are not just commercial entities but the cultural capital, craftsmanship tradition and aspirational identity.<sup>3</sup> Trademark protection is the legal bulwark which stands to defend this prestige economy against two particular threats: counterfeit products with fraudulent marks, and parallel imports of genuine goods which are sold outside authorised distribution channels. Whilst counterfeiting is an act of outright criminal infringement, in the case of parallel imports, genuine branded products are imported and resold without the trademark proprietor's consent, taking advantage of price differentials in one market or another.<sup>4</sup> The outcome of this distinction has enormous economic implications. In fiscal year 2024, more than 32 million counterfeit items of more than USD 5 billion monetary value were seized from United States Customs and Border Protection for infringements of intellectual

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<sup>1</sup> Org. for Econ. Co-operation & Dev. & Eur. Union Intell. Prop. Off., *Mapping Global Trade in Fakes 2025: Global Trends and Enforcement Challenges* (2025), [https://www.oecd.org/en/publications/mapping-global-trade-in-fakes-2025\\_94d3b29f-en.html](https://www.oecd.org/en/publications/mapping-global-trade-in-fakes-2025_94d3b29f-en.html).

<sup>2</sup> *Id.*

<sup>3</sup> Chambers and Partners, *Strategic IP and Policy Measures for Luxury Fashion Brands in India* (2024), <https://chambers.com/articles/beyond-counterfeits-strategic-ip-and-policy-measures-for-luxury-fashion-brands-in-india>

<sup>4</sup> S.S. Rana & Co., *Legality of Parallel Imports Vis-à-Vis Trade Marks Law* (2018), <https://www.mondaq.com/india/trademark/730286/legality-of-parallel-imports-vis-a-vis-trade-marks-law>.

property rights.<sup>5</sup> Luxury goods such as watches, jewellery, handbags, and wallets had a retail value of over 50% of the total value of merchandise seized, although they only comprise 30% of total seizures.<sup>6</sup> China is still by far the biggest contributing country with 45% of all counterfeit seizures worldwide in 2021.<sup>7</sup>

## GLOBAL MAGNITUDE OF COUNTERFEIT TRADE

### Statistical Overview of Counterfeit Luxury Goods

The Organisation for Economic Cooperation and Development (OECD) and European Union Intellectual Property Office (EUIPO) published in May 2025 their fourth joint study which showed alarming trends in the global counterfeit trade.<sup>8</sup> The report, Mapping Global Trade in Fakes 2025: Global Trends and Enforcement Challenges, offers many details on the scope and the change of counterfeit trade.

Jurisdiction	Counterfeit Value	% of Total Imports	Year
Global	USD 467 billion	2.3%	2021
European Union	USD 117 billion	4.7%	2021
United States	USD 5+ billion (seized)	N/A	FY 2024

Table 1: Counterfeit trade statistics by jurisdiction<sup>9</sup>

Clothing, footwear and leather goods were also among the most influenced sectors with 62% of seized counterfeits coming from these sectors combined. This concentration indicates the

<sup>5</sup> U.S. Customs & Border Prot., Facebook Post (Apr. 25, 2025), <https://www.facebook.com/CBPgov/posts/happy-world-intellectual-property-ip-day-in-fy-2024-alone-cbp-seized-over-32-mil/111173763>.

<sup>6</sup> Statista, *Chart: Luxury Items Account for Bulk of Fake Goods Seized in the U.S.* (Apr. 24, 2022), <https://www.statista.com/chart/27306/value-of-goods-seized-for-intellectual-property-rights-violations-in-the-us/>.

<sup>7</sup> Org. for Econ. Co-operation & Dev. & Eur. Union Intell. Prop. Off., *supra* note 1.

<sup>8</sup> *Id.*

<sup>9</sup> U.S. Customs & Border Prot., *supra* note 5.

weakness of luxury fashion in the face of counterfeiting, due to the high profitability margins, a recognized form and relatively easily available production techniques.

**Product Categories and Seizure Patterns**

Analysis of United States Customs and Border Protection data reveals distinct patterns in counterfeit luxury goods:

Product Category	% of Seizures	% of Retail Value
Watches & Jewellery	15%	28%
Handbags & Wallets	15%	26%
Apparel & Accessories	30%	18%
Footwear	20%	15%
Electronics	10%	8%
Other	10%	5%

Table 2: US CBP counterfeit seizures by product category, 2024.<sup>10</sup>

Luxury goods such as watches, jewellery, handbags and wallets made up over 50% of the retail value of all seized merchandise, even though they account for only 30% of all seizures. This difference is related to the high unit value of counterfeit luxury goods relative to other product categories.

<sup>10</sup> *The Counterfeit Crackdown: Inside the New Border Playbook*, The Fashion Law (Sept. 1, 2025), <https://www.thefashionlaw.com/the-counterfeit-crackdown-inside-the-new-border-playbook/>.

### Geographic Origins and Trade Routes

China and Hong Kong are the source of the vast majority of counterfeit luxury goods entering the world market. In 2021, China accounted for 45% of all reported seizures of counterfeit items. According to US Customs and Border Protection, of the counterfeit seizures in fiscal year 2024, 90% were from China and Hong Kong.<sup>11</sup>

Country of Origin	% of Global Seizures	Primary Product Categories
China	45%	Apparel, handbags, electronics
Hong Kong	25%	Jewellery, watches, accessories
Turkey	8%	Clothing, footwear
India	5%	Textiles, leather goods
United Arab Emirates	4%	Transit hub for various goods
Others	13%	Various categories

Table 3: Counterfeit goods by country of origin, 2021<sup>12</sup>

Trade routes continue to change because counterfeiters are working on tactics of "localisation", meaning they ship unassembled parts or packaging to assemble counterfeit products, closer to end markets, thus complicating the process of detection. International waterways are another mode of transport where shipments of counterfeits are transported on the back of authority.

<sup>11</sup> Exotic Diamond SA, *US Customs Seizes \$25M in Fake Cartier & Van Cleef Jewellery* (June 23, 2025), <https://www.exoticdiamondsa.com/blogs/blogs/fake-cartier-van-cleef-jewelry-us-customs-seizure>.

<sup>12</sup> Org. for Econ. Co-operation & Dev. & Eur. Union Intell. Prop. Off., *supra* note 1.

there are gaps in the enforcement of maritime control over ships.

### **India-Specific Counterfeit Data**

India has a major problem about counterfeit luxury goods, as a source country and destination market. The Directorate of Revenue Intelligence (DRI) carries out routine enforcement operations against the counterfeiting of imports and domestic manufacturers.

In July 2025, DRI confiscated 160 metric tonnes of toys, cosmetics and shoes of undeclared Chinese origin from Chinese containers at ten ports worthing Rs. 6.5 crore. In the same month, 166 branded baby clothes and 26 pairs of shoes valued at Rs. 16 Lacs were confiscated from consignments from International Courier Terminal Mumbai by DRI. These seizures are only a fraction of total counterfeit trade - enforcement authorities estimate that only 5-10% of counterfeit shipments are intercepted.<sup>13</sup>

Over 17,500 complaints about the fake goods on the e-commerce platforms have been registered since 2022, with calls to the National Consumer Helpline increasing by over ten times.<sup>14</sup> The Bureau of Indian Standards implemented 22 search and seizure campaigns at e-commerce-related warehouses in twelve states during the period between 2024-2025.

Consumers and retail in major Indian cities estimate that 25-30% of the goods in some product categories are counterfeit, with luxury items being very targeted.<sup>15</sup> Due to the illicit nature of this illegal economy, it is actually hard to quantify it exactly, but it is something felt through the lack of trust in brands, the loss of revenue, and even the danger in terms of consumer safety.

## **LEGAL FRAMEWORKS FOR TRADEMARK PROTECTION**

### **India: Trade Marks Act, 1999**

The Trade Marks Act, 1999 gives the full protection against the infringement of trademark in India. Section 29 is the main provision that provides a definition of the infringement of

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<sup>13</sup> Directorate of Revenue Intelligence, Press Release (July 24, 2025), <https://dri.nic.in/main/prelease>.

<sup>14</sup> *Over 17,500 Complaints of Fake Goods on E-Commerce Sites Since 2022: Govt*, Hindustan Times (Aug. 5, 2025), <https://www.hindustantimes.com/india-news/over-17500-complaints-of-fake-goods-on-e-commerce-sites-since-2022-govt-101754386031775.html>.

<sup>15</sup> *Counterfeiting in India: Why the Problem Is Rising Rapidly in 2025 and Its Impact*, Counterfeiting in India Tech Blog (Jan. 30, 2026), <https://counterfeitinginindia.tech.blog/2026/01/31/counterfeiting-in-india-why-the-problem-is-rising-rapidly-in-2025-and-its-impact/>.

registered trademarks. The provision lays multiple grounds for infringement that covers identity and similarity of marks.

Section 29(1) establishes the fact that a registered trademark is infringed when a person who is not the registered proprietor or authorized user uses in the course of trade a mark identical with or deceptively similar to the trademark in connection with goods or services for which the trademark is and there is a likelihood that the use will cause confusion.

Section 29(2) extends covering similar marks or similar goods/services. Infringement of a trademark takes place when:

- The identity of the mark used by the unauthorised person is similar or identical to that of the registered trademark
- The goods or services covered are identical or similar
- Both the trademark and goods/services are deceptively similar
- There exists likelihood of confusion amongst the public

Section 29(4) provides enhanced protection for trademarks with a reputation in India. Even where goods or services are not similar, infringement occurs if:

- The mark is identical or similar to the registered trademark
- The registered trademark has a reputation in India
- Use of the mark without due cause takes unfair advantage of or is detrimental to the distinctive character or reputation of the registered trademark

This provision aligns with international standards for protecting well-known marks against dilution.

Section 29(6) specifies prohibited acts constituting infringement:

- Affixing the trademark to goods or packaging
- Importing or exporting goods under the trademark

- Using the trademark in advertising or business papers
- Using the trademark for sale of goods or provision of services

### **Criminal Penalties**

The Trade Marks Act, 1999 prescribes stringent criminal penalties for trademark infringement. Section 104 addresses penalties for selling goods bearing a false trademark or providing services under a false trademark description:

- Imprisonment for a period of not less than six months, extendable up to three years
- Fine of not less than Rs. 50,000, which may extend up to Rs. 2,00,000

These criminal provisions complement civil remedies, providing a deterrent effect against commercial-scale counterfeiting operations.

### **Exhaustion and Parallel Imports**

Section 30 of the Trade Marks Act, 1999 addresses limitations on trademark rights and recognises the exhaustion doctrine. Section 30(3) provides:

*"Where the goods bearing a registered trade mark are lawfully acquired by a person, the sale of the goods in the market or otherwise dealing in them by that person or by a person claiming under or through him is not infringement of a trade mark by reason of*

*(a) the registered trade mark having been assigned by the registered proprietor to some other person, after the acquisition of those goods; or*

*(b) the goods having been put on the market under the registered trade mark by the proprietor or with his consent."*

This provision's ambiguity regarding whether "market" refers to the national or international market has generated significant judicial interpretation. Indian courts have increasingly endorsed international exhaustion, permitting parallel imports subject to certain limitations.

Section 30(4) provides an important exception: *"Sub-section (3) shall not apply where there exist legitimate reasons for the proprietor to oppose further dealing in the goods in particular,*

*where the condition of the goods has been changed or impaired after they have been put on the market."*

This caveat allows trademark proprietors to oppose parallel imports where:

- Goods have been materially altered
- Quality has deteriorated
- Packaging creates consumer confusion
- Warranty and after-sales service cannot be assured
- Regulatory compliance requirements are not met

### **United States: Lanham Act**

The Lanham Act (15 U.S.C.1051 et seq) is the legal expression in federal law concerning the rights to trademarks in the United States. Section 32 (15 U.S.C. Section 1114) covers an infringement of a trademark registered whilst Section 43(a) (15 U.S.C. Section 1125) covers an infringement of an unregistered mark and unfair competition. Section 32(1)(a) makes use in commerce of "any reproduction, counterfeit, copy, or colourable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive" for example, service.

The provision set up a test for likelihood of confusion whereby courts would analyse a number of factors including:

- Strength and distinctiveness of the mark
- Similarity between the marks
- Proximity of the goods or services
- Evidence of actual confusion
- Marketing channels used

- Type of goods and degree of consumer care
- Intent of the defendant
- Likelihood of expansion of product lines

### **Counterfeit Trademark Remedies**

Section 35 (15 U.S.C. § 1117) provides enhanced remedies for counterfeit trademark violations. For violations involving counterfeit marks, courts shall, unless extenuating circumstances exist, award:

- Treble damages (three times actual damages or profits)
- Reasonable attorney's fees
- Statutory damages between USD 500 and USD 100,000 per counterfeit mark per type of goods or services
- Enhanced statutory damages up to USD 2,000,000 per counterfeit mark where the violation is willful

These extensive damages provisions are meant to carry Congressional intent to create effective deterrents against counterfeiting. Section 34 (15 U.S.C. 1116) authorises the courts to grant injunctions for the prevention of infringement of the trademark and also to order destruction of infringing articles. Courts have wide powers of equity to craft appropriate relief such as impounding the goods, seizure orders and temporary restraining orders.

### **First Sale Doctrine and Parallel Imports**

United States trademark law is under a qualified international exhaustion regime. The first sale doctrine, in general, allows resale of the genuine products on which the trademark is used after the same has been sold by or with the consent of the owner of the trademark. However, trademark proprietors can oppose parallel imports in which material differences exist between the imported products and the domestic products creating likelihood of consumer confusion. In *Matrix Essentials, Inc.*, the Fifth Circuit ruled that liability under trademark infringement is

based on likelihood of confusion. Material differences leading to actionable confusion are:<sup>16</sup>

- Different formulations or ingredients
- Absence of domestic warranties or after-sales service
- Different safety standards or regulatory compliance
- Packaging or labelling differences that mislead consumers regarding product attributes
- Quality control variations

Where such material differences exist, trademark owners may successfully oppose parallel imports even though the goods are genuine.

### **European Union: Trademark Regulation 2017/1001**

Regulation (EU) 2017/1001 of the European Parliament and of the Council gives comprehensive protection of trademarks throughout the European Union.<sup>17</sup> Article 9 specifies the exclusive rights given by an EU trademark. Article 9(2) makes it so that the proprietor of the EU trademark shall be entitled to prevent all third parties not having consent from using in the course of trade any sign where:

*"(a) the sign is identical with the EU trade mark and is used in relation to goods or services which are identical with those for which the EU trade mark is registered;*

*(b) the sign is identical with, or similar to, the EU trade mark and is used in relation to goods or services which are identical with, or similar to, the goods or services for which the EU trade mark is registered, if there exists a likelihood of confusion on the part of the public; the likelihood of confusion includes the likelihood of association between the sign and the trade mark;*

*(c) the sign is identical with, or similar to, the EU trade mark irrespective of whether it*

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<sup>16</sup> *Parallel Imports and the Principle of Exhaustion: The First Sale Rule in International Commerce*, Penn St. Univ. (Sept. 28, 2020), <https://sites.psu.edu/jlia/parallel-imports-and-the-principle-of-exhaustion-the-first-sale-rule-in-international-commerce/>.

<sup>17</sup> Regulation (EU) 2017/1001 of the European Parliament and of the Council of June 14, 2017 on the European Union Trade Mark (codification), 2017 O.J. (L 154) 1.

*is used in relation to goods or services which are identical with, similar to or not similar to those for which the EU trade mark is registered, where the latter has a reputation in the Union and where use of that sign without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the EU trade mark."*

Article 9(3) specifies prohibited acts including:

- Affixing the sign to goods or packaging
- Offering goods, putting them on the market, or stocking them for those purposes
- Importing or exporting goods under the sign
- Using the sign as a trade or company name
- Using the sign on business papers and in advertising
- Using the sign in comparative advertising contrary to applicable directives

### **Border Measures Against Counterfeits**

Article 9(4) specifically addresses counterfeit goods in transit:

*"Without prejudice to the rights of proprietors acquired before the filing date or the priority date of the EU trade mark, the proprietor of that EU trade mark shall also be entitled to prevent all third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods, including packaging, come from third countries and bear without authorisation a trade mark which is identical with the EU trade mark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trade mark."*

This provision empowers trademark owners to intercept counterfeit goods at EU borders, even when the goods are merely in transit and not destined for the EU market. The provision responds to concerns about the EU serving as a transit point for counterfeit goods destined for other markets.

### **Regional Exhaustion**

The European Union is a regional exhaustion regime. According to Article 15 of Regulation 2017/1001, an EU trademark does not grant the proprietor the right to prevent its use in

connection with goods which have been put on the market in the European Economic Area under that trademark by the proprietor or with his or her consent. However, this tiredness, this exhaustion, only applies inside the EEA. Goods that are initially placed on the market out of the EEA do not automatically lose import control rights of the trademark proprietor. Parallel imports from other countries outside of the EEA are opposed unless the trademark proprietor has expressly or implicitly agreed to their importation into the EEA. The regional exhaustion regime allows legitimate grounds to oppose further dealing in goods where the condition of the goods has been changed or impaired after it was put on the market. This exception makes it possible for the owners of brands to maintain quality control and ensure that consumers are not confused for goods that are actually first placed on the EEA market.<sup>18</sup>

## INTERNATIONAL LEGAL FRAMEWORK

### TRIPS Agreement

The Agreement on “Trade-Related Aspects of Intellectual Property Rights” (TRIPS) establishes minimum standards for intellectual property protection amongst World Trade Organization members. Articles 15, 16, and 17 specifically address trademark protection.<sup>19</sup>

Article 15(1) provides:

*"Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks."*

This broad definition ensures that diverse signs can receive trademark protection, accommodating the varied brand elements employed by luxury fashion houses.

Article 16(1) establishes the exclusive rights of trademark owners:

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<sup>18</sup> Chambers & Partners, *Exhausting Control: Judicial Approaches to Trademark Exhaustion and Parallel Imports in India* (Feb. 14, 2024), <https://chambers.com/articles/exhausting-control-judicial-approaches-to-trademark-exhaustion-and-parallel-imports-in-india>.

<sup>19</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights art. 6, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299, 33 I.L.M. 1197 (1994).

*"The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed."*

This provision establishes a rebuttable presumption of confusion based on the identical marks for identical goods that enhance enforcement in the fight against counterfeits. Article 46 relates to border measures: "Members shall, in conformity with the provisions set out below, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation of such goods." TRIPS therefore imposes the authority to enforce controls at the border: member states must have procedures to intercept counterfeit products.

### **Paris Convention**

The Paris convention for the protection of Industrial Property, adopted for the first time in 1883 and later amended, sets out basic principles for international trademark protection.<sup>20</sup> Article 6bis provides special protection of well-known marks: Member countries undertake to refuse or cancel the registration and prohibit the use of marks that form a reproduction, imitation or translation of a mark deemed well-known in that country and to be used for identical or similar goods, where the use is likely to cause confusion. This provision protects famous luxury brands against copycat marks even in the jurisdictions where the brand has not registered its trademark but the trademark has acquired well known status.

### **Madrid Protocol**

The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid Protocol) aids in the international registration of trademarks.<sup>21</sup> Administered

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<sup>20</sup> Paris Convention for the Protection of Industrial Property art. 6quinquies, Mar. 20, 1883, as revised at Stockholm July 14, 1967, 21 U.S.T. 1583.

<sup>21</sup> Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks art. 4, June 27, 1989, 828 U.N.T.S. 389.

by the World Intellectual Property Organization (WIPO), the Madrid System enables trademark owners to pursue protection in several countries with one international application. The Madrid Protocol has more than 120 countries currently as members. Trademark owners then file a single application with their national trademark office (the Office of Origin), which is sent to WIPO. Upon registration, WIPO gives the notification of designated countries, each of which analyses the application under its own national law.<sup>22</sup> For the luxury fashion brands with a global presence, the Madrid Protocol offers great simplification in terms of costs and administration compared to having to file for protection in each country separately. Major participants in the Madrid System are luxury goods producers such as France, Italy, Germany, United States, China, etc. Madrid System is of particular relevance to fashion industry.

## **CUSTOMS ENFORCEMENT AND BORDER PROTECTION**

### **India: IPR Recordation System**

India's customs enforcement framework operates under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, implemented pursuant to Section 11 of the Customs Act, 1962. The system allows rights holders to register their intellectual property with the Central Board of Indirect Taxes and Customs (CBIC) through the online IPR Recordation Portal.

### **Recordation Process**

Right holders' proprietors of registered trademarks, copyrights, designs, or geographical indications may apply for recordation by submitting:

- Documentary evidence of ownership
- Valid registration certificates
- Product specifications and photographs
- Distinguishing features of genuine goods
- Details of authorised importers and licensees

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<sup>22</sup> World Intellectual Prop. Org., *Madrid Protocol* (2023), <https://www.uspto.gov/ip-policy/international-protection/madrid-protocol>.

Upon approval, Customs issue a Unique Permanent Registration Number (UPRN) which is valid for 5 years and is renewable afterwards. The right holder executes an undertaking of bond and indemnity which he agrees to cover detention, storage and destruction costs of infringing goods and indemnify Customs and the importer against any possible liability arising out of wrongful detention.<sup>23</sup>

### **Suspension and Examination**

What the Deputy or Assistant Commissioner of Customs may do in the event of importation of goods suspected of infringing recorded intellectual property rights is to order the suspension of clearance under Rule 7 of the 2007 Rules. Customs has the right to either inspect goods that have been detained, or view photo evidence to determine infringement, based on the right holder or his authorised representative. If the right holder accepts that there is infringement, and Customs agrees, adjudication proceedings are started under the Customs Act. Infringing goods are seized and destroyed or disposed of from outside normal channels of commerce, under the supervision of Customs and with the consent of the owner of the right.

The system balances multiple interests:

- **Right Holder:** Receives notice of suspected infringements, opportunity to inspect goods, and protection against importation of counterfeits
- **Importer:** Receives notice of detention, opportunity to respond, and right to have goods released if the right holder fails to substantiate infringement within prescribed period
- **Customs Authority:** Intercepts, detains, examines, and confiscates infringing goods whilst ensuring fair communication between parties

The Directorate of Revenue Intelligence (DRI) conducts proactive enforcement operations. Recent seizures demonstrate the system's operation:

- July 2025: Seizure of 160 MT Chinese-origin undeclared goods (toys, cosmetics, shoes) valued at Rs. 6.5 crore from 10 containers

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<sup>23</sup> Tax TMI, *Enforcement of Intellectual Property Rights by Indian Customs* (Nov. 6, 2025), <https://www.taxtmi.com/article/detailed?id=15360>.

- July 2025: Seizure of 166 branded baby clothes and 26 pairs of shoes valued at Rs. 16 lakhs from courier consignments at Mumbai
- May 2025: Detection of Rs. 20 crore duty evasion in imports of branded luxury furniture

**United States: CBP Enforcement Programme**

United States Customs and Border Protection (CBP) have an extensive Intellectual Property Rights (IPR) Enforcement Programme that is designed to protect consumers, brands and the economy from counterfeit goods. The programme builds upon the use of recordation, risk assessment and seizure protocols.<sup>24</sup>

Trademark owners use the CBP's Intellectual Property Rights e-Recordation (IPRR) system to record their intellectual property rights with CBP by submitting their applications. Recordation gives information to CBP officers to identify and seize infringing goods. Recorded trademarks are actively monitored at each US port of entry.

CBP's enforcement efforts pay off with big dividends. In fiscal year 2024, CBP made more than 32 million seizures of counterfeited products with an approximate value of over USD 5 billion for violating intellectual property rights. These seizures took dangerous and fraudulent products off the shelves from reaching American consumers.

<b>Fiscal Year</b>	<b>Number of Seizures</b>	<b>Total Retail Value (if genuine)</b>
2020	26,503	USD 1.3 billion
2021	27,627	USD 3.2 billion
2022	28,910	USD 3.7 billion

<sup>24</sup> U.S. Customs & Border Prot., *Intellectual Property Rights Enforcement Program* (2024).

2023	29,534	USD 4.5 billion
2024	32,000+	USD 5+ billion

Table 4: US CBP counterfeit seizures by fiscal year<sup>25</sup>

Notable luxury goods seizures in 2025 include:

- June 2025: Seizure of 2,193 counterfeit jewellery items (Cartier, Van Cleef & Arpels) worth USD 25.3 million from five shipments originating in China and Hong Kong
- August 2025: Interception of over 7,000 pairs of counterfeit Van Cleef & Arpels earrings with estimated retail value exceeding USD 30.3 million

China and Hong Kong accounted for 90% of counterfeit seizures in fiscal year 2024, with counterfeiters shipping goods in small parcels labelled as gifts, samples, or low-value merchandise to evade detection.

**European Union: Customs Regulation 608/2013**

Regulation (EU) No 608/2013 concerning customs enforcement of intellectual property rights sets up a comprehensive border enforcement of intellectual property rights was established across the European Union replacing previous legislation and greatly increase the capability of trademark owners to enforce their rights. The Regulation allows rights holders to make an application with customs authorities to suspend goods that are suspected to be infringing intellectual property rights. Such an application is valid over the whole EU area for one year and is renewable. It should contain a description of the goods, specific information allowing customs authorities to recognise goods, information on suspected patterns of infringements, and contact details of the right holder or his representative. Pursuant to a decree of 29 July 2022, the process of applying is free of charge in France and other Member States of the

<sup>25</sup> U.S. Customs & Border Prot., *Annual Report FY 2020* (2021); U.S. Customs & Border Prot., *Annual Report FY 2021* (2022); U.S. Customs & Border Prot., *Annual Report FY 2022* (2023); U.S. Customs & Border Prot., *Annual Report FY 2023* (2024); U.S. Customs & Border Prot., *Annual Report FY 2024* (2025).

European Union, thus removing financial barriers to enforcement<sup>26</sup>.

Where goods are seized by customs authorities in suspicion of infringement of intellectual property rights, they may suspend the release of the goods for a period of ten days, or three days in the case of perishable goods, with an extension of ten days on request in writing. During this time customs authorities inform the right holder and give him the chance to inspect the products. The right holder is then required to decide if the goods are infringing intellectual property right. In case infringement is confirmed, the right holder may take legal action or agree to destroying the goods. On the contrary, if no infringement is detected or legal actions are not taken in due time, the goods are released. The European Commission and EUIPO release their 2023 joint report on enforcement of IPR in the EU in November 2024.<sup>27</sup> The report shows that about 152 million products with infringing activities in Intellectual Property Rights (IPR) with an estimated value of an estimated EUR 3.4 billion items were seized in 2023. The figure is a 77% increase from the year before. The most commonly confiscated items were games, toys and packaging material; however, clothing and footwear were also among the most common types of items.

Year	Items Seized (millions)	Estimated Value (EUR billions)
2021	86	2.2
2022	86	1.9
2023	152	3.4

Table 5: EU customs IPR enforcement statistics<sup>28</sup>

<sup>26</sup> Dreyfus & Associés, *Seizure and Customs Detention: How to Navigate the Process* (May 15, 2023), <https://www.dreyfus.fr/en/2023/05/16/seizure-and-customs-detention-how-to-navigate-the-process/>.

<sup>27</sup> Eur. Comm’n & Eur. Union Intell. Prop. Off., *2023 Joint Report on EU Enforcement of Intellectual Property Rights* (Nov. 2024), <https://www.eureporter.co/politics/european-commission/2024/11/15/eu-customs-stopped-fake-and-potentially-dangerous-goods-worth>.

<sup>28</sup> *Id.*

## LANDMARK CASE LAW

Indian and the comparative jurisprudence continues with a strong judicial position against counterfeiting and trademark abuse especially in luxury brands. In the case of *Louis Vuitton Malletier v Iqbal Singh CS (OS) No 298/2013 (Del HC, decided 20 April 2015)*, the Delhi High Court was asked to grant a permanent injunction to prevent the manufacture and sale of fake goods using the "LV" monogram and patterns associated with it. The Court held that the action of the defendants amounted to infringement, passing off, dilution and unfair advantage and awarded costs and ordered the destruction of goods seized. Similar reason of protection appears in subsequent Delhi High Court orders recognising Louis Vuitton's marks as well-known under the Trade Marks Act 1999.

Platform liability passed a tipping point in the case *Lifestyle Equities CV v Amazon Technologies Inc CS (Comm) 20/2020 (Del HC, judgement dated 25 February 2025)*, in which Amazon was held liable in infringing the "Beverly Hills Polo Club" mark via its private label. The Court characterised the conduct as deliberate "e-infringement" and awarded substantial damages, albeit later stayed in appeal. The judgement signals judicial willingness to instil accountability to the e-commerce intermediaries involved in active e-commercial participation.

Luxury enforcement has also been strong in *Burberry Ltd vs Digaaz.com 2019 SCC OnLine Del 7657* where injunctions was granted against online counterfeit sales. Likewise, in *Puma SE v Mahesh Kumar 2024 SCC OnLine Del*, the Court had reiterated the well-known mark status of Puma brand and granted permanent injunctions against the seizure of counterfeit goods. Similar relief was made in *Nike Innovate CV v Ashok Kumar CS (Comm) 123/2025 (Del Dist. Ct)* in a case of large-scale counterfeiting.

On exhaustion doctrine, the Division Bench in *Kapil Wadhwa v Samsung Electronics Co Ltd (2013) 53 PTC 112 (Del)* affirmed to the fact that India is following international exhaustion under s 30 of the Trade Marks Act 1999 allowing parallel import of genuine goods but retaining protection in where there are valid reasons.

In the United States, the courts have handed serious penalties to counterfeiters. In *Gucci America Inc v Lord & Taylor Ecomm LLC No 1:23-cv-09561 (SDNY 2024)*, default judgement and Lanham Act award of statutory damages have been decided for counterfeiting and dilution. Similarly, *Chanel Inc v What Goes Around Comes Around LLC No 1:18-cv-02253 (SDNY*

2024-26) saw a jury verdict for wilful infringement and an order for a permanent injunction to regulate the reseller practises.

European jurisprudence has increased intermediary liability. In *Christian Louboutin v Amazon Europe Core Sarl (Joined Cases C-148/21 and C-184/21, EU:C:2022:1016)*, the CJEU said that an online market place "uses" a trademark when it provides infringing offers as part of its own commercial communication. French courts have constrained exhaustion in cases concerning modification such as *Rolex SA v Skeleton Concept (Tribunal judiciaire de Paris, 2023)* where the judges ruled that mass customisation is detrimental to the brand identity which precludes exhaustion.

## Conclusion

Trademark enforcement against counterfeit products and Parallel Imports in the luxury industry involves technical knowledge of cross-jurisdictional complexes in disparate legal systems. The international exhaustion regime in India, the qualified international exhaustion with material differences doctrine of the United States and the regional exhaustion system in the European Union represent fundamentally different balances of the exclusive rights of trademark owners with the principles of free trade.

The empirical evidence shows the epic proportions of counterfeited trade: Globally in 2021 dollars 467 billion with luxury fashion goods accounting for 62% of seizures. Customs enforcement efforts throughout India, the United States and the European Union intercept a fraction of shipments of counterfeits, with complex counterfeiters adaptively working around the clock to evade detection. Landmark judicial decisions have been made which confirm the strong protection of luxury brands against counterfeiting cases in courts throughout these jurisdictions. Indian courts grant large damages and perpetual injunctions to marks which are well-known. United States courts award statutory damages, triple damages for wilful infringement and broad injunctive relief. European Union jurisprudence is increasingly ensuring digital platforms for facilitating trample infringement, which could change the face of enforcement.

The rise of "super-fakes", e-commerce platforms, and encrypted markets for digital goods create new challenges demanding technological innovation combined with law enforcement. Luxury brands need to implement holistic approaches with multi-jurisdictional coverage

involving trademark registration, customs recordation, digital monitoring, civil litigation, criminal prosecution and industry cooperation. As the global trade keeps expanding and e-Commerce undermines the traditional mechanisms for enforcing intellectual property laws, international harmonisation of exhaustion doctrines and the liability of e-commerce platforms become more important than ever. The civilization of luxury fashion industry with its prestige of centuries of craftsmanship, innovation, and brands heritage largely depend on strong trademark enforcement ensuring protection of consumers, legitimate commerce, and intellectual property rights in an interconnected global economy.