

CIS BRAND BRIEFING NO. 8

Why Is Our Ecommerce System So Broken?

Because manufacturers no longer choose who sells their products. Third-party sellers do, and the law that checks them does not ask where their goods come from.

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THE SHORT ANSWER

Because the manufacturer no longer decides who sells its products. For most of the last century, a manufacturer chose its distributors and retailers. On today's largest marketplace, most of what is sold comes from third-party sellers. Some are the brands themselves or dealers they picked. Many are not. A seller the brand never chose may still sell genuine goods, and reselling genuine goods is generally lawful.¹ The problem is that nothing in the system checks which is which.

The marketplace checks who those sellers are. For high-volume sellers, federal law requires it to verify identity, bank and tax details. That law does not ask where their goods came from. And the documents sellers use to get approved can be faked. Amazon has sued services it says sold fake ones.

This is not an attack on the marketplaces. They do real work against fraud, and Amazon's own account of that work is below. This paper describes a gap in how the system is built, and who is left to close it.

¹ *Bluetooth SIG Inc. v. FCA US LLC*, No. 21-35561 (9th Cir. April 6, 2022), slip op. at 5, quoting *Sebastian Int'l, Inc. v. Longs Drug Stores Corp.*, 53 F.3d 1073, 1074 (9th Cir. 1995): "with certain well-defined exceptions, the right of a producer to control the distribution of its trademarked product does not extend beyond the first sale of the product." Counterfeits are not genuine goods and get no such protection.
<https://cdn.ca9.uscourts.gov/datastore/opinions/2022/04/06/21-35561.pdf>

HOW IT USED TO WORK

A manufacturer used to pick the businesses that sold its products. It chose its distributors. The distributors sold to retailers the manufacturer approved. Most links in that chain were businesses the manufacturer chose.

The Supreme Court looked at that kind of control in 1977. *Sylvania*, a television maker, had begun selling “directly to a smaller and more select group of franchised retailers.” The Court held that limits like these are judged by their real effect on competition, not banned outright.²

² *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36 (1977), decided June 23, 1977. The Court overruled the per se rule of *United States v. Arnold, Schwinn & Co.* and returned non-price vertical restrictions to “the rule of reason.” It is an antitrust case about where dealers may sell, not a case about counterfeits. <https://www.law.cornell.edu/supremecourt/text/433/36>

WHAT CHANGED

Marketplaces let outside sellers stock the shelf. In his letter to shareholders for 2018, Amazon’s founder Jeff Bezos wrote: “Third-party sales have grown from 3% of the total to 58%.” He was measuring physical gross merchandise sales, from 1999 to 2018.³

Amazon now reports the share by units. Third-party sellers made up 60% of its unit sales in 2022.⁴ In 2024 they made up 61% of the items Amazon sold, which its CEO called “our highest annual mix of third-party seller units ever.”⁵ These are Amazon’s own figures.

Figure 1. Most of what Amazon sells comes from third-party sellers

Sources: notes 3, 4 and 5. The 1999 and 2018 figures measure physical gross merchandise sales. The 2022 and 2024 figures count units. They are not one continuous series, and years without an Amazon statement are not shown.

THIRD-PARTY SELLERS’ SHARE, IN AMAZON’S OWN WORDS

Two different measures, labeled on each bar



Whichever way Amazon counts, third-party sellers now make up most of what it sells.

Amazon is not alone. eBay calls itself a “global commerce leader and third-party marketplace.”⁶ Walmart’s marketplace passed 200,000 active sellers in 2025, according to Marketplace Pulse, an industry tracker.⁷

For a brand, this changes who decides. Amazon tells a seller who wants to sell a branded product to provide “a purchase invoice that you received from a manufacturer or distributor, or a brand authorization letter.”⁸ Under that process, an invoice from a distributor can be enough.

³ Amazon.com, Inc., Jeff Bezos, 2018 Letter to Shareholders, published April 11, 2019. The letter states that its percentages are “the share of physical gross merchandise sales sold on Amazon by independent third-party sellers.” Amazon’s own account. <https://www.aboutamazon.com/news/company-news/2018-letter-to-shareholders>

- 4 Amazon.com, Inc., Andy Jassy, 2022 Letter to Shareholders, published April 13, 2023: a third-party seller ecosystem “that accounts for 60% of our unit sales.” Amazon’s own account. <https://www.aboutamazon.com/news/company-news/amazon-ceo-andy-jassy-2022-letter-to-shareholders>
- 5 Amazon.com, Inc., fourth-quarter 2024 earnings call, February 6, 2025, remarks of Andy Jassy, President and CEO: selling partners “made up 61% of items that we sold in 2024.” Amazon’s own account, quoted from the transcript published by The Motley Fool. <https://www.fool.com/earnings/call-transcripts/2025/02/06/amazoncom-amzn-q4-2024-earnings-call-transcript/>
- 6 eBay Inc., Form 10-K for fiscal year 2024, Item 1, Business. <https://www.sec.gov/Archives/edgar/data/1065088/000106508825000037/ebay-20241231.htm>
- 7 Marketplace Pulse, “Walmart Marketplace Experiences Record Growth,” June 12, 2025. An industry tracker’s count, not a Walmart disclosure. <https://www.marketplacepulse.com/articles/walmart-marketplace-experiences-record-growth>
- 8 Amazon, “3 ways to sell branded products on Amazon,” Sell on Amazon blog, published April 8, 2025, accessed October 6, 2026. Amazon’s own description of its own process. <https://sell.amazon.com/blog/sell-branded-products-on-amazon>

WHO CHECKS THE SELLER, AND WHAT THE LAW DOES NOT CHECK

Since June 2023, the INFORM Consumers Act has required marketplaces to collect a high-volume seller’s bank account, tax ID and contact information. A seller becomes high-volume at 200 sales and \$5,000 in revenue within a 12-month period. The marketplace must verify that the information is “valid,” and “not misappropriated, and not falsified.”⁹

That is a real check, and it matters. But it checks who the seller is. Neither the statute’s list nor the Federal Trade Commission’s guidance asks where the seller’s goods came from.⁹ A seller with a real bank account and a real tax ID can still be selling fakes. Nothing in the check tells the buyer, or the brand, whether the goods are genuine.

Brands are not powerless. A brand with a registered or pending trademark can enroll in Amazon Brand Registry and use its Report a Violation tool, in Amazon’s own account.¹⁰ But enrollment is the brand’s job, and a report comes after the listing is live. By default, a seller does not need the brand’s consent to sell its product.⁸

⁹ Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act, 15 U.S.C. § 45f, in force June 27, 2023. Collection and verification at 45f(a)(1) and (a)(2). The high-volume test is at 45f(f)(3). 45f(f)(7) defines verify to include confirming that documents are “not misappropriated, and not falsified.” <https://www.law.cornell.edu/uscode/text/15/45f> Federal Trade Commission, “Informing Businesses about the INFORM Consumers Act,” June 2023, edited January 2025, staff business guidance. The absence of any sourcing check is an absence in both enumerated lists, not a statement either source makes. <https://www.ftc.gov/business-guidance/resources/INFORMAct>

¹⁰ Amazon, “Requirements and tips for enrolling a brand in Amazon Brand Registry,” Sell on Amazon blog, published August 8, 2025, accessed October 6, 2026. Eligibility is “an active registered trademark or a pending trademark registration.” Amazon’s own account. <https://sell.amazon.com/blog/brand-registry-requirements>

CREDENTIALS THAT CAN BE FAKED

Getting in is not the hard part. The Department of Homeland Security told the President in 2020 that “on at least some e-commerce platforms, little identifying information is necessary for a counterfeiter to begin selling.” It added that “listing goods on well-known platforms provides an air of legitimacy.”¹¹

On Amazon, according to its own lawsuits, fake proof has been for sale. In June 2024, Amazon’s Counterfeit Crimes Unit announced six lawsuits against services it says sold fake documents to sellers. Amazon said the schemes “generally involved providing fake product invoices to bad actors attempting to sell counterfeit goods.”

The unit's director said: "These illegal online services promised to submit fraudulent documents on behalf of bad actors to Amazon in an attempt to sell counterfeit or other infringing products in the Amazon store."¹² These are Amazon's own lawsuits, in Amazon's own account. They are allegations, not court findings.

Amazon deserves credit for bringing them. It says more than 15,000 of its employees are "dedicated to protecting brands, selling partners, and our store from counterfeit, fraud, and other forms of abuse."¹³ But the structure that makes forgery worth paying for is still in place. The seller supplies the proof.

Product testing has a narrower limit. For some products, such as dietary supplements, Amazon requires a safety test by an approved lab. It tells the seller to "Send your product samples or existing documents to be verified."¹⁴ That is a real safety check. It checks whether a product is safe and compliant, not whether it is genuine. But a test speaks only for the unit tested. A passing sample shows that one unit was sound, not that the units the seller ships later are the same. And the seller chooses what to send. Amazon says products may also be "randomly selected for surveillance testing," a check the seller does not control.¹⁴

¹¹ U.S. Department of Homeland Security, "Combating Trafficking in Counterfeit and Pirated Goods," Report to the President, January 24, 2020, p. 22 (identifying information) and p. 20 (air of legitimacy). https://www.dhs.gov/sites/default/files/publications/20_0124_pley_counterfeit-pirated-goods-report_01.pdf

¹² Amazon, "The latest updates from Amazon's Counterfeit Crimes Unit," entry dated June 11, 2024, accessed October 6, 2026. The quoted director is Kebharu Smith. *Amazon.com, Inc. v. Ali*, No. 2:23-cv-01062 (W.D. Wash.), was filed July 17, 2023 (CourtListener docket), and is one of the six cases Amazon announced on June 11, 2024. <https://www.courtlistener.com/docket/68826250/amazoncom-inc-v-ali/> Amazon's own civil suits, not government actions. <https://www.aboutamazon.com/news/policy-news-views/amazon-counterfeit-crimes-unit-latest-updates-2024>

¹³ Same page as note 12, entry dated May 2, 2024, citing Amazon's 2023 Brand Protection Report. Amazon's own account.

¹⁴ Amazon Seller Central help page, "Direct product validation: Third-party testing, inspection, and certification services," undated, accessed October 6, 2026. Amazon's own description of its own program, for selling in the United States. The dietary supplements policy page applies it to that category (<https://sellercentral.amazon.com/help/hub/reference/external/G201829010>). The program tests products for safety and compliance, not for authenticity. <https://sellercentral.amazon.com/help/hub/reference/external/GU7Z2R2DD6P2UMVB>

WHAT THIS MEANS FOR SAFETY, AND FOR A BRAND

When nobody knows where a product came from, nobody can vouch for what is inside it. That matters most for products that protect people. Our first paper sets out the public record of fake airbags and helmets sold on eBay, and a fake infant car seat sold on Amazon.

The old system told a manufacturer who sold its products. The new one does not. So the brand has to know who is selling under its name, because the system no longer tells it. Which of those sellers are genuine, and which are selling fakes? We supply intelligence on who is selling, how much and where, so the brand and its counsel can find out.

PUT YOUR BRAND ON OUR FREE WATCH LIST

If counterfeiters are selling under your brand, you should know it before your customers do. We always watch for free. When fakes put your customers at risk, we warn you and send you a CIS Consumer Safety Review: who is selling, where they ship from, and what it would take to stop them.

We package the intelligence to attract contingency attorneys to take your case. Our fee comes only from the recovery. Many counterfeiting problems can be resolved with no money out of your pocket: the attorney pays the upfront costs and takes them back from what is collected. Put your brand on our free Watch List at cyberinvestigationsservices.com/watch-list.

About the author. Chris Anderson, Ph.D., founded Cyber Investigation Services, a Florida limited liability company, in 2010 and leads it as CEO. CIS is an eCommerce consumer safety and national security intelligence firm. For 16 years Chris has built intelligence on the sellers behind counterfeit marketplace listings.