

Alibaba: the battle against counterfeits

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Introduction

“We know there are three things that will make our site die, three things that will be the cancer of our business – counterfeit, IP, and cheating” – Jack Ma, Founder and chairman, Alibaba Group

Global pandemic due to coronavirus heavily impacted the consumption patterns in 2020. According to a report published in 2020 by the Organisation for Economic Co-operation and Development, e-commerce industry expanded to new heights to include new firms, customers and product categories, and provided customers with a convenient access to variety of products from the safety of their home. China was the global leader in e-commerce with a market size three times bigger than that of the USA. Its biggest e-commerce firm, Alibaba Group, made over 65% of the total online sales in China (Georgiev, 2021). Its global popularity can be assumed with the fact that it held the largest Initial Public Offer (IPO) in the history of New York stock exchange (see [Table 1](#)). The IPO was listed on 20 September 2014, and the company was accepted overwhelmingly. With 38% increase in stock price on the first day, Alibaba fetched around \$25bn ([The Guardian, 2014](#)). Jack Ma, the Founder and Chairman of the giant tech group, was seen all smiles at the exchange. But just after four months of the listing of Alibaba's IPO, news reported the release of a white paper by China's State Administration of Industry and Commerce (SAIC) blaming Alibaba of permitting sale of counterfeit products over its platforms and hurting its consumers. The media highlighted the fact that SAIC presented its report to Alibaba two months prior to IPO, but it was withheld to smoothen Alibaba's IPO in the USA ([The Guardian, 2015](#)). This news cost 4.36% decrease in the share price to the tech giant. Jack Ma and his team knew the intensity of the situation since it was not the first time the company was accused of promoting the sale of counterfeits. They were in a dire need to bring about a breakthrough idea to check the sale propositions by third party sellers over Alibaba's platforms for fakes and conduct the business ethically to save the reputation of their multinational technology company.

The rise of Alibaba

Alibaba was started in 1999 by Ma Yun, a.k.a Jack Ma, in his one-bedroom apartment in Hangzhou, China. After facing numerous academic and entrepreneurial failures, former English teacher Jack Ma was familiarised to the power of technology which changed his life. During his visit to the USA in 1995 as an interpreter, Ma was introduced to computers and internet for the first time. Majority of the Chinese population were not acquainted with computers by then due to high costs involved. Also, internet and emails were a far reach. This was then Jack Ma realised the powerful amalgamation resulting from the potential of China in producing goods and the power of technology in selling those goods. To bring about the robustness in the domestic e-commerce market and help export of Chinese goods internationally, Ma with his 17 friends launched [Alibaba.com](#). The biggest challenge was to secure the trust of consumers in the online payments system and package transfers,

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Table 1 Largest US IPOs

Company	Largest US IPOs			Deal size (in billion US dollars)
	Offer date	Exchange	Industry	
1 Alibaba	17/09/2014	NYSE	Technology	21.77
2 Visa	17/03/2008	NYSE	Technology	17.86
3 ENEL SpA	31/10/1999	NYSE	Utilities	16.45
4 Facebook	16/05/2012	Nasdaq	Technology	16.01
5 General Motors	16/11/2010	NYSE	Consumer Discretionary	15.77
6 Deutsche Telekom	16/11/1996	NYSE	Communication Services	13.03
7 AT&T Wireless Group	25/04/2000	NYSE	Communication Services	10.62
8 Roblox	08/03/2021	NYSE	Technology	8.95
9 Kraft Foods	11/06/2001	NYSE	Consumer Staples	8.68
10 Uber	08/05/2019	NYSE	Technology	8.1

Source: Adapted from "All Time Largest US IPOs", by [Renaissance Capital, 2021](#) (Retrieved from <https://www.renaissancecapital.com/IPO-Center/Stats/Largest-US-IPOs>)

but Jack Ma certainly succeeded in it ([Zitelmann, 2019](#)). The company turned profitable within just three years of its inception, and since then, there has been no turning back.

With the power of internet technology and an aim to expand e-commerce system internationally, Alibaba group launched diverse portfolio of services such as sales, electronic payments and cloud computing. Ma changed the facet of e-commerce in China and around the globe via various websites serving segments such as B2B (business to business), B2C (business to consumer) and C2C (consumer to consumer). Its rich assortment of websites includes famous [Alibaba.com](#), [AliExpress.com](#), [Taobao.com](#) and [Tmall.com](#), among many others (see [Table 2](#)). The success of Alibaba Group could be vouched for through its record-breaking numbers. When the world economy was hit with coronavirus pandemic, the Alibaba Group defied the odds with \$74.1bn worth of sales on Singles Day, which is equivalent of black Friday in China. Alibaba reported 758 million active users as of June 2020 ([Blystone, 2021](#)).

The huge volume of listings by thousands of sellers across multiple platforms brought in numerous options for the buyers, and Alibaba turned into a one-stop for solution online shopping in China. But, with such volume of third party selling, it became difficult to inspect or control each listing. This caused a worry that trailed Jack Ma for long. Counterfeiting has been a global problem since ages and internet has certainly aggravated the situation. Internet created a temporal and physical space between sellers and buyers which provided ample opportunities to sellers to channelise fake products through the medium. Also, consumers easily purchased fake products, i.e. non-deceptive counterfeits, without having to visit the flea markets famous for fakes. Alibaba was not immune to the situation and the problem became uncontrollable questioning the very ethicality and integrity of the platform. With Alibaba, Jack Ma emerged as China's global leader and his ethical leadership style

Table 2 Major websites under Alibaba group

Website name	URL	Major websites under Alibaba group	
		Launch date	Type of business
Alibaba	Alibaba.com	1999	B2B
Taobao	Taobao.com	2003	C2C
Tmall	Tmall.com	2008	B2C, for selling premium products
AliExpress	Aliexpress.com	2010	B2C
Lazada	www.lazada.com/en/	2012	E-commerce platform targeting South-East Asia

Source: Data for the table extracted from the Alibaba Group's website (Retrieved from www.alibabagroup.com/en/about/businesses)

was highly appreciated. Therefore, he knew well that he needs to come up with plans and rigid methods that can be allied with his much-embraced leadership. He had to ensure integrity of the business by maintaining exclusivity of brands, thereby reducing instances of counterfeit selling over the platform.

Alibaba and counterfeiting

There was a common saying in China, “Everything is fake but your mother.” The loose knit law and humongous capacity to produce fakes made China the topmost country in the world in terms of counterfeiting. China was pronounced as the capital of counterfeits and held a key share in the total counterfeit production across the globe. World Customs Organisation estimates that 65% of the total counterfeit shipments across the globe originate from China (Fleming, 2015). Protection of intellectual property was never given the required attention through Chinese history. Although there were cluster of laws such as the Trademark Law 2001, the Anti-unfair Competition Law 1993, the Copyright Law 2001 and the provisions of Criminal Law 2009; there was an exponential rise in the instances of counterfeiting. Under the law, only major brands could be safeguarded. It was very difficult for the smaller and unfamiliar brands to reap benefits under the law. With the advent of e-commerce, capacity to distribute counterfeit products scaled to great heights with enormous margins of profit. Counterfeiters looked out for famous websites and posed as legit third-party sellers.

According to the website rankings by Alexa.com, Alibaba’s platform taobao.com was among the top 16 websites in the world ranked for their internet engagement for the year 2011, marking its huge popularity as an e-commerce site. In the same year, United States’ Trade Representative (USTR) released their “Notorious Markets List,” which featured Alibaba Group’s “Taobao.” The list identified the marketplaces, online and offline, reportedly engaged in piracy and counterfeiting. Alibaba was removed from the list in 2012 but again appeared in 2014 (see [Exhibit 1](#)) A report published in [The New York Times \(2016\)](#) stated that Alibaba reached out to James Mendenhall, a former official from the trade representative’s office to get itself removed from the USTR’s Notorious Markets List published in 2012. Also, as per the data compiled by a website named opensecrets.org, run by the Centre for Responsive Politics, the company spent \$3.1m to lobby American Government at various instances between 2011 and 2020 (see [Exhibit 2](#)).

The huge success at the IPO in the US gained massive global outlook for the company, and Jack Ma was seen as “hero of capitalism offering the sellers a path to the middle class.” In February 2015, Alibaba attracted global attention again but for negative reasons. The class action lawsuit filed against the company unearthed several dreadful reports accusing Alibaba of hiding information related to the ongoing investigation in China by SAIC. The law firm alleged that misleading statements were issued by the company regarding its business operations, and Alibaba failed to reveal the acquaintance about ongoing investigation carried on by the SAIC. As per the lawsuit filed, SAIC told Alibaba two months prior to the IPO that it was investigating “a variety of highly dubious – even illegal – business practices” which were blindly supported by the company (Forbes, 2015). In the same year, Jack Ma’s gargantuan tech company was slapped with another lawsuit by a French-based multinational corporation, Kering, accusing Alibaba of knowingly permitting the sale of counterfeits through its platforms. Kering was a conglomerate which owned luxury brands such as Gucci, Bottega Veneta, Balenciaga, Alexander McQueen and Yves Saint Laurent. Alibaba Group was alleged of collaborating in manufacturing, selling and trafficking counterfeit goods, which violated the trademark rights of the brands (Reuters, 2015). Meanwhile, a spokesperson for Alibaba stated that:

“We continue to work in partnership with numerous brands to help them protect their intellectual property, and we have a strong track record of doing so. Unfortunately, Kering Group has chosen the path of wasteful litigation instead of the path of constructive cooperation. We believe this complaint has no basis and we will fight it vigorously.”

That was not the first time the company was sued by Kering. In July 2014, a case was filed against the Jack Ma founded Alibaba Group for being indulged in scheming the sale of fake watches, handbags and other products which was termed by Kering as “racketeering.” The case was settled in mere two weeks outside the court, but the ever-increasing instances of counterfeiting over the platforms owned by Alibaba forced Kering to sue the company again in less than a year after settlement. The second case was also settled by the parties outside the court, but Jack Ma knew that some rigorous action was required on Alibaba’s part to safeguard the company’ reputation in global sight. Adding to the fury, in May 2016, International Anti-counterfeiting Coalition (IACC) suspended Alibaba due to issues related to knock-offs ([Financial Times, 2016](#)).

With the high demand for products manufactured in China and a vision to uplift small and medium scale, Chinese sellers who relied on the platform for selling their products, Jack Ma faced a strong dilemma about laying down the future norms for Alibaba, which would safeguard the rights of brands.

On the one hand, there were small sellers who formed the basis of listings on Alibaba and relied heavily on the platform. On the other hand, there was international pressure to remove bad listings and support brands in protecting their trademark exclusivity. Stringent scrutiny would mean delisting numerous products resembling or in some manner hurting the trademark of original brand even though the demand was high. Counterfeiting affected almost all the industries from apparels to pharmaceuticals and electronic gadgets to spare parts. Production of fakes hampered the exclusivity of the genuine brands and therefore discouraged innovation. The vast amount of research and development failed to compensate the genuine brand owners fairly. Even if Jack Ma resorted to free the platforms from shackles of counterfeiting, the technicalities of each product was required to be understood deeply before taking any such action due to the high level of similarity between authentic products and their fakes. Also, keeping in view the volume of the listings on Alibaba’s various platforms, it was a challenging task to identify such products on such scale. During a speech at Alibaba’s headquarters in Hangzhou, Jack Ma stated that:

“The problem is the fake products today are of better quality and better price than the real names. They are exactly the [same] factories, exactly the same raw materials but they do not use the names.”

Weapons of Alibaba to combat fakes

After two lawsuits by the Kering Group, and intensifying global pressure, Jack Ma took charge of the situation and contemplated the various options Alibaba could use to conduct business ethically. The objective was to save the exclusivity of the brands by protecting their intellectual property rights (IPR). Alibaba took series of steps in the year 2017 to save the reputation and prevent it from becoming a notorious name for counterfeits and fakes.

At first, the company joined hands with premium brands to form an alliance and serve best products to its consumers. Alibaba launched the project named Big Data Anti-Counterfeiting Alliance in January 2017 with 30 member brands. The alliance was later officially named as the “Alibaba Anti-Counterfeiting Alliance” or AACA. It brought together the industrial and technical expertise to free the e-commerce platforms from piracy and fakes. The ethical marketing strategy was promoted throughout the Alibaba Group and the company planned to move towards a goal of “zero fakes.” The Chairman of the group, Jack Ma, was trying hard to fix the reputation of Alibaba in relation to the fakes.

The AACA was formed to ensure transparency and cooperation among the stakeholders. It also provided a more formal network for sharing information which is vital to ensure the protection of the IPR of brands ([Alizila, 2017](#)). The alliance was designed to create an environment where brands would share the information and expertise of their own, and

Alibaba would feed its information regarding counterfeiting to brands and law enforcement agencies to ensure timely investigations and prosecutions.

The Alliance used data analytics and technology to foster industry collaboration in their fight against counterfeiting. The system used algorithms, artificial intelligence and machine learning coupled with advanced technological tools to screen, block and remove listing infringing the trademarks of various brands (Howland, 2017). With more than a billion listings on Alibaba's platform, the system scanned around 10 million listings each day to ensure the fakes and pirated goods were recognised and filtered out. The alliance received strong support from intellectual property experts, brands, regulators and trade associations.

In a statement regarding the alliance, chief platform officer of Alibaba, Jessie Zheng, stated:

"The most powerful weapon against counterfeiting today is data and analytics, and the only way we can win this war is to unite. With our robust data capabilities, we are confident the alliance will accelerate the digital transformation in our global fight against counterfeits."

Later in August, Alibaba unveiled a platform where brands could register and complain of the infringement of intellectual rights over any of its websites (Qian *et al.*, 2017). The platform named Intellectual Property Protection Platform provided a fast track to address IP complaints. It helped the infringed brand to file a complaint against listings deteriorating its trademark rights.

In addition to it, Jack Ma called for stricter actions from the government's side to curb the problem of counterfeits. He said that the detention of fakes was made relatively easy through the use of technology, but the penalties were still not enough to instill a fear among those infringing the law. Ma also pointed out the ill effects of counterfeits in deterring the innovation capabilities of China. According to Ma, the historical reputation of China in terms of copying the world and creating fakes needed to be fixed to boost innovation, hard work and integrity of those who will shape the future of China (McEleny, 2017). Also, the company continued the idea of helping the local manufacturers but checked that they did not violate the IPR. After years of dealing with troubled reputation for tolerating fakes, Alibaba directed itself to conduct business ethically and without violating the law.

The outcome

The strong attack on counterfeiting in the year 2017 reaped promising results just after two years. The combination of technology and strong alliance with brands proved to be effective against the battle. The annual report by Alibaba Group, "Global Intellectual Property Rights Protection" released in 2020, presented the performance of its anti-counterfeiting tactics for the year 2019. The results were really positive demonstrating the effectiveness of its IPP platform and AACA. By the end of 2019, the registered members grew from 30 founding members to more than 150 right holders from 17 different countries representing over 500 brands, including Apple, Estee Lauder, Johnson & Johnson, Proctor & Gamble, Chanel, Bose and Canon, among others (Alibaba Group, 2020).

There was a significant 20% year over year increase in the number of registered accounts on the IPP platform. The figure was definitely a measure for Jack Ma showcasing the trust of brands over Alibaba's efforts to tackle fake and pirated goods over its platform. The technological system helped to proactively remove 96% listings featuring fake goods, even before a single sale took place. Consecutively for the second year, 96% of the removal requests were processed within 24h of submitting it. Also, there was a year over year decrease of 57% in removal of listings based on consumer reports of suspected counterfeits. The figure stood at 70% for the year 2018 (see Exhibit 3). The company also provided more than a thousand leads to the law enforcement agencies in 2019, resulting in

4,125 criminal arrests and shut down of 2,029 manufacturing and distribution facilities of illicit goods.

The efforts gained global attention and Alibaba was no longer referred to as “tolerant towards counterfeits.” Bob Barchiesi, President, IACC, stated that:

“Alibaba has so substantially enhanced their IPR protection program to the point that we, and many other stakeholders, are comfortable in referring to their IPR protection program as the gold standard within the e-commerce industry.”

Redefining accountability

Jack Ma and his team knew that to maintain and enhance the popularity of Alibaba, and they have to ensure trust regarding the products both to consumers and brands. Although the role of e-commerce marketplaces in incidents related to counterfeiting was a long-standing debate, since they were not the direct sellers of the products, but mere mediators, the responsibility of the platform towards its customers and the right holders could not be overlooked. Jack Ma once stated in an interview to CBS News that the problem of counterfeiting was just like cancer to Alibaba, and if not fixed soon, the company might die of it (Logan, 2014). The spearheaded initiatives taken by his team have certainly reduced the instances of fakes, if not completely freed Alibaba of them. The fact could not be neglected that third party selling on the e-commerce platform would bring all types of products from all kinds of sellers. Therefore, it was needed that the platform should have a stringent system which ensured identification and removal of such products, thereby saving the consumers from getting a substandard product and the brands from losing their rights.

Jack Ma was always a believer that small and medium enterprises are the engine for growth of any nation. In his numerous interviews and speeches, he has focussed on this idea. Along with that, he also knew that the fakes were not just deceptive, consumers knowingly bought them to display wealth and possessions which otherwise they could not afford. Due to this high demand of fakes and pirated goods, small manufacturers resorted to duplicating the originals. Alibaba’s early tolerance towards counterfeiting could be explained by it, but the vision of a global firm and creating a strong brand equity pushed Alibaba to strictly address the problem of fakes. The products by small manufacturers were promoted but at the same time ensured that they did not hurt the intellectual property of the right holders.

The efforts of the firm paid off, and Jack Ma and his team won global acknowledgement for Alibaba’s initiatives in safeguarding IPR of brands. World Trademark Review awarded Alibaba Group with “Asia Pacific Team of the Year” in 2019 for continuous efforts to protect IPR. It was the only Chinese company to have won the award (Alizila, 2020). Matthew Bassiur, Vice President and Head of global intellectual property enforcement at Alibaba Group, was also awarded the “Luxury Law Innovator in IP Rights and Technology” award at the Luxury Law Summit held in London in 2019 (Alizila, 2020).

Alibaba Group was globally recognised as benchmark for curbing counterfeits. The model, which integrated technology, business norms and the law, was adopted by various other e-commerce players around the world to tackle counterfeiting (Sun, 2018) and has certainly emerged as a global example for ethical marketing.

Way ahead

The prospects for Alibaba’s future were promising with multi-nation reach and ever-increasing role of e-commerce for consumers and brands to connect. Alibaba needed to expand its counterfeiting initiatives in terms of stricter actions and better data technology so as to amplify the trust of IPR stakeholders.

The technology and strategic alliance with brands were spearheaded initiatives launched by Alibaba to curb the problem, but will they be enough in terms of technological advancements used by counterfeiters to make replicas which are harder to distinguish from authentic counterparts? Is the rising number of listings on Alibaba's platform a compromise on IPR of stakeholders? Can the escalating popularity be termed as ethical growth for Alibaba? Moreover, would Alibaba be able to meet the expectations of brands and global agencies in tackling the battle against counterfeits?

Keywords:
E-commerce,
Online shopping/
electronic commerce,
Brand management/equity

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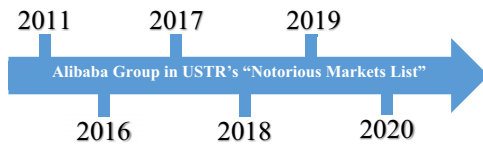
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Exhibit 1. Alibaba featured in Notorious Markets List

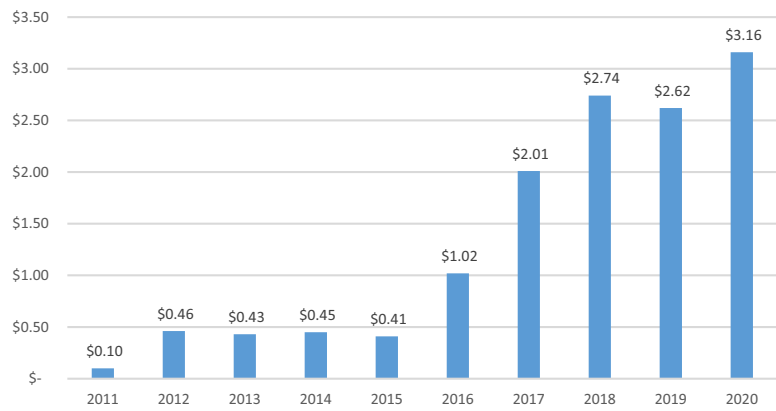
Figure E1



Source: Data collected from documents listed on the United States Trade Representative's website (Retrieved from <https://ustr.gov/about-us/policy-offices/press-office/ustr-archives/2007-2020-reports-and-publications>)

Exhibit 2. Lobbying profile for Alibaba Group

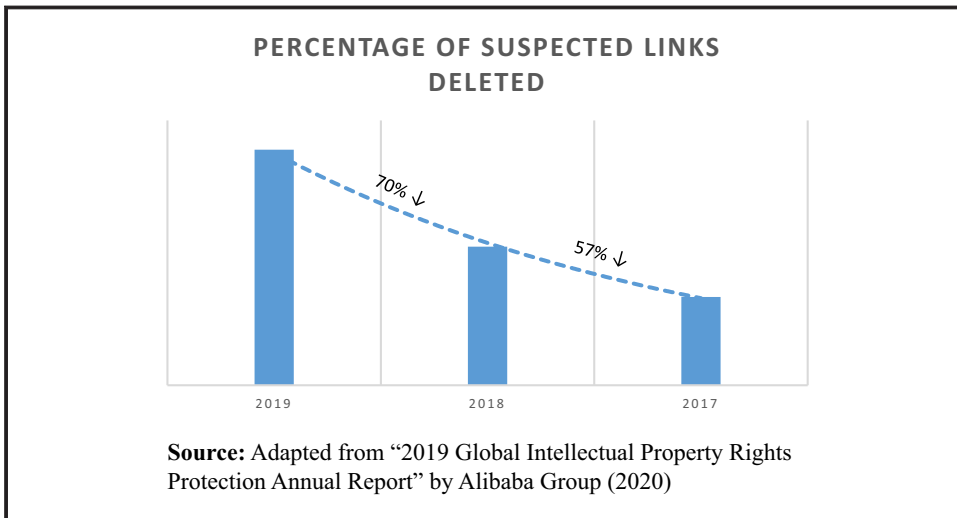
Figure E2



Source: Adapted from “Alibaba Group: Annual Lobbying Totals 1998–2020” by Center for Responsive Politics, 2021 (Retrieved from www.opensecrets.org/orgs/alibaba-group/lobbying?id=D000064488)

Exhibit 3. Percentage drop in the number of suspected links deleted due to consumer complaints

Figure E3



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