

Strategies For Dealing with Infringements on Maker Marketplaces

Nancy Merritt, OpSec Security



MAKER AND POD MARKETPLACES















BACK-END ECOMMERCE SITES



















SELLER PROFILE



Traditional Marketplaces VS. Maker/POD Marketplaces

- More egregious infringers/wholesalers
- More general awareness
- Typically higher volume
- Usually stock on hand

- Artists, fans, craftsmen, creators
- Lack of awareness or understanding
- Typically smaller volume and production
- No stock on hand

ENFORCEMENT OPTIONS



Traditional Marketplaces VS. Maker/POD Marketplaces

- Reactive and harder approach/response
- Standard IP enforcement and penalties
- Report directly to the platform

- Proactive and softer approach/response
- Focus on educating sellers about IP rights
- Communicate with sellers directly

ALTERNATE OPTIONS



NETFLIX

August 23, 2017

Emporium Arcade Bar % Denny and Doug Marks 2363 N. Milwaukee Ave Chicago, IL 60647

Via ernall

Denry and Doug.

My welkie talkie is busted so I had to write this note instead. I heard you launched a Stranger Things poo-up but at your Logan Square location. Look, I don't wanty us think I'm a total wastod, and I love how much you guys love the abox. (Just wait unil you see Season 2!) But unless I'm living in the Lipside Down, I don't think we did a deal with you for this pop-up. You're obviously creative types, so I'm survey you can appreciate that it's important to us to have a say in how our fanse encounter the worlds we build.

We're not going to go full Dr. Brenner on you, but we ask that you please (1) not extend the pop-up beyond its 6 week run ending in September, and (2) reach out to us for permission it you plan to do something like this again. Let me know as soon as possible that you agroe to these requests.

We love our fans more than anything, but you should know that the demogorgen is not always as forgiving. So please don't make us call your more.

Thanks

Director/Senior Counsel - Content & Brand IP





VIA EMAIL ONLY

Mr. Patrick Wensink Louisville, KY patrickwensink@gmail.com

July 12, 2012

Re: Mark: Subject: JACK DANIEL'S

Dear Mr. Wensink:

Lam an attorney at Jack Daniel's Properties, Inc. ("JDPT") in California. JDPI is the owner of the JACK DANIEL'S trademarks (the "Marks") which have been used extensively and for many years in connection with our well-known Tennessee whiskey product and a wide variety of consumer merchandite.

It has recently come to our attention that the cover of your book *Broben Plano for President*, bears a design that closely minines the style and distinctive elements of the JACK DANIEL'S trademarks. An image of the cover is set forth below for ease of reference.

We are certainly flastered by your affection for the brand, but while we can appreciate the gop culture appeal of Jack Daniel's we also have to be diffigent to ensure that the Jack Daniel's trademarks are used correctly. Given the brand's popularity, it will probably ocore as no surprise that we come across designs like this on a regular basis. What may not be so apparent, however, is that if we allow uses like this one, we run the very real risk that our trademark will be weakened. As a fan of the brand, I'm sure that is not something you intended or would want to see happers.

As an author, you can certainly understand our position and the need to contact you. You may even have run into similar problems with your own intellectual property.

In order to resolve this matter, because you are both a Louisville "neighbor" and a fin of the brand, we simply require that you change the cover design when the book is reprinted. If you would be willing to change the design somer than that (including one the digital version), we would be willing to contribute a rescenable amount towards the costs of doing so. By taking this step, you will help us to ensure that the Jack Deniel's brand will mean a much to fining encerations as a does to see.

We wish you continued success with your writing and we look forward to hearing from you at your carliest convenience. A response by July 23, 3012 would be appreciated, if possible. In the meantime, if you have any questions or concerns, please do not hesistate to contact me.

Sincerely, CHELSTY SUSMAN Christy Susman Senior Attorney - Trademarks

JACK DANIEL'S PROPERTIES, INC.

4040 CIVIC CENTER DRIVE . SUITE 528 . SAN RAFAEL, CALIFORNIA 94903

ALTERNATE OPTIONS



Dear Messrs. Bushnell and Casciolo:

World Wrestling Entertainment, Inc. ("WWE") is the exclusive owner of numerous trademarks, service marks, trade dress and copyrights, including, but not limited to, WWE, the WWE logo, RAW, SMACKDOWN, ECW, NWO, WCW, as well as all of its talent images. likenesses, and rights of publicity. WWE, as the premier provider of wrestling entertainment services, has through extensive use and promotion of its intellectual property, established substantial and valuable good will in its intellectual property. In addition, WWE is the exclusive licensee and authorized agent to act on behalf of RIC FLAIR. As such, WWE vigilantly protects its intellectual property rights and does not tolerate any infringement of the same.

WWE has discovered that its intellectual property, including, but not limited to personal likeness of WWE talent RIC FLAIR is being used by you, without the authorization of WWE or Richard Fliehr, on the following product and packaging:

https://www.lockcitybrewing.com/lockcitybrewingbeers (Figure Four Lock, IPA)



I am sure the beer is delicious! But unfortunately, we cannot have you use the RIC FLAIR likeness on the beer packaging, or any characteristics associated with the RIC FLAIR character. So, to sum up, on your next packaging print run, please change the graphics on the beer and packaging and use something more generic to describe the beer (for example: avoid "stylin' and profilin" and "WOOO" or "WHOOO" descriptors). And in the meantime, if you could change the current graphic on your site, social media, etc., we'd be much appreciated.

I look forward to your timely reply, no more than (figure) four (4) calendar days from today.

Matthew C. Winterroth Vice President, Intellectual Property Business and Legal Affairs World Wrestling Entertainment, Inc. 1241 East Main Street Stamford, CT 06902 Tel: +1 (203) 353-5073 Fax: +1 (203) 353-0236

E-mail: matthew.winterroth@wwecorp.com



OPPORTUNITES TO COLLABORATE



MARKETPLACE BEST PRACTICES

- Work directly with platforms on specific business needs and challenges
- Leverage options for working with platforms to proactively filter infringements
- Leverage alternative communication and reporting options
- Consider opportunities to convert sellers to licensees/resellers/partners



World Wrestling Entertainment

Licensing International Webinar
Strategies For Dealing with Infringements in Maker
Marketplaces

What is WWE? Multi-faceted.

WWE's operations are organized around the following four principal activities: Media Division, Live Events Segment, Consumer Products Division and WWE Studios Segment.



Media

WWE's Media division is comprised of four pillars – WWE Network, Televised Entertainment, Home Entertainment, and Digital Media.



Consumer Products

Our Consumer Products division is made up of Licensing and Direct-to-Consumer Products.



Live Events

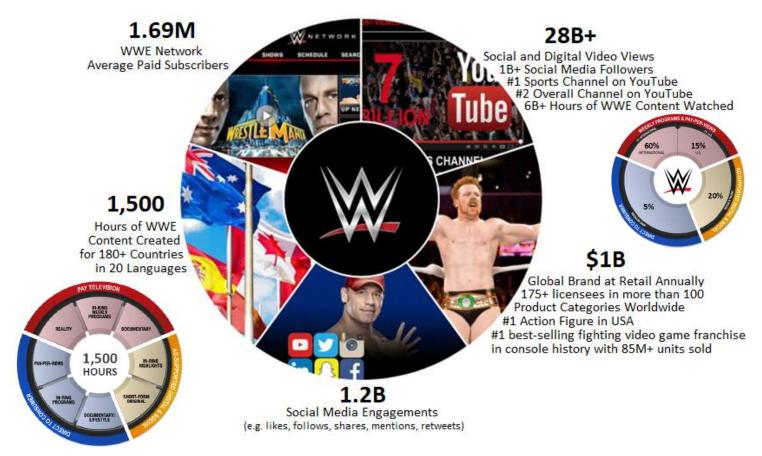
WWE's creative team develops compelling and complex characters and weaves them into dynamic storylines that combine physical and emotional elements. Our...



WWE Studios

WWE Studios develops and produces feature films, as well as television and digital content. Its diverse slate is released theatrically, direct to home...

WWE by the Numbers



Made-to-Order (M2O) Print-on-Demand (POD) Maker Marketplaces

These are e-commerce marketplace platforms where:

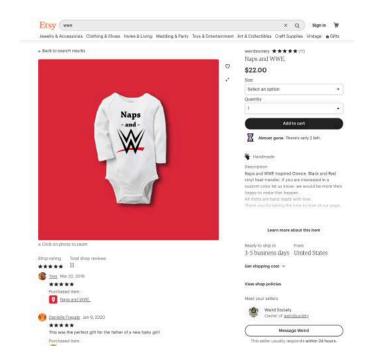
- Sellers *typically* are "makers" or craftspeople marketing to people looking for unique/one-off types of product;
- Sellers *typically* either hold no or limited stock in their advertised product; but
- However, there is a by-product: in many instances, unscrupulous sellers are able to capture the zeitgeist and market/sell various types of infringing merchandise very quickly (apparel, paper goods [posters/artwork/personalized items], drinkware, jewelry, etc.)

WWE is the perfect M2O/POD/Maker Brand

WWE is a popular brand that is constantly creating new content on a daily basis, globally, on multiple platforms

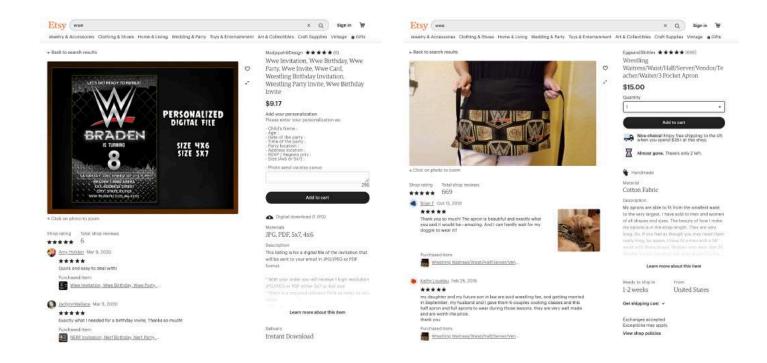
Which, unfortunately creates ripe situations for people to demand and create instant infringing product based on WWE IP

WWE is the perfect M2O/POD/Maker Brand Examples - Etsy

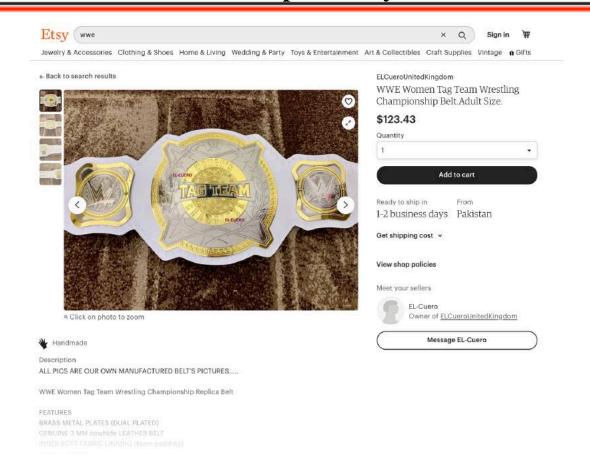




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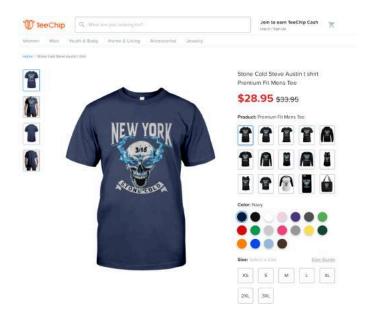


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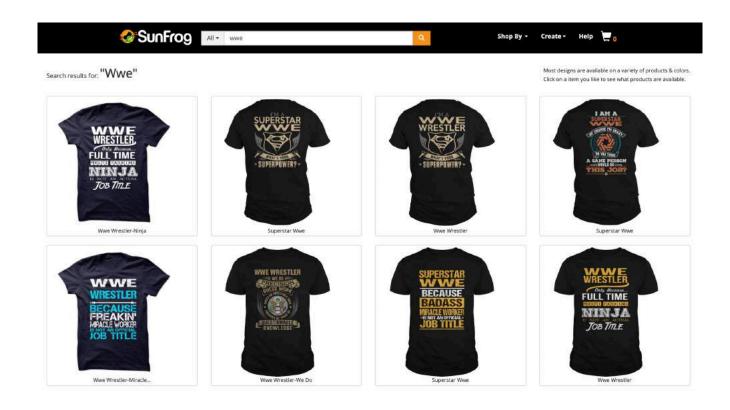


WWE is the perfect M2O/POD/Maker Brand Examples - Teechip

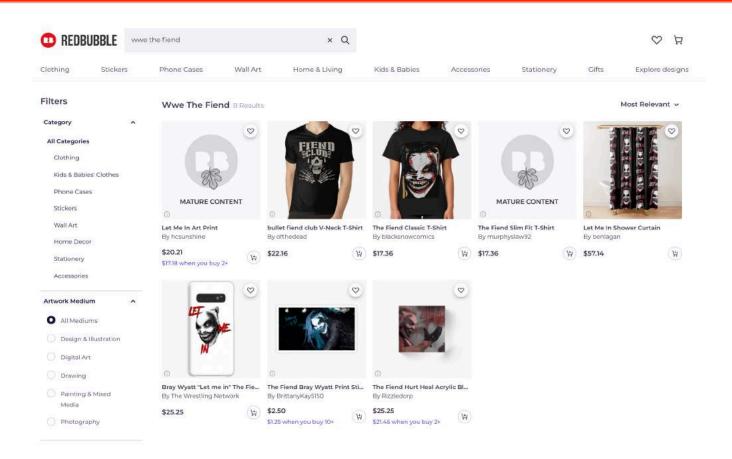




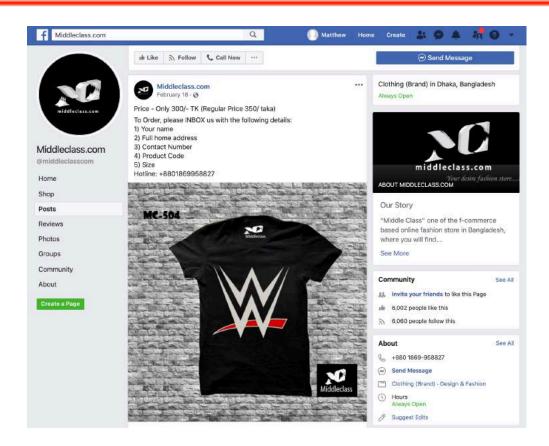
WWE is the perfect M2O/POD/Maker Brand Examples - Sunfrog



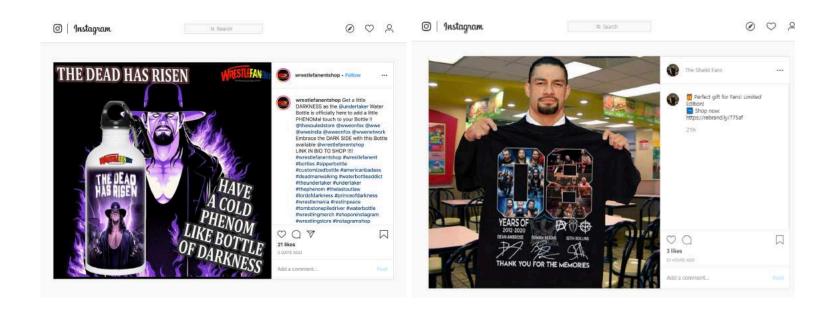
WWE is the perfect M2O/POD/Maker Brand Examples - Redbubble



WWE is the perfect M2O/POD/Maker Brand Examples – Facebook

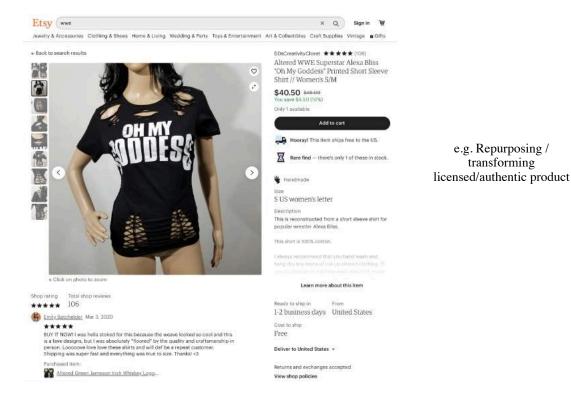


WWE is the perfect M2O/POD/Maker Brand Examples – Instagram

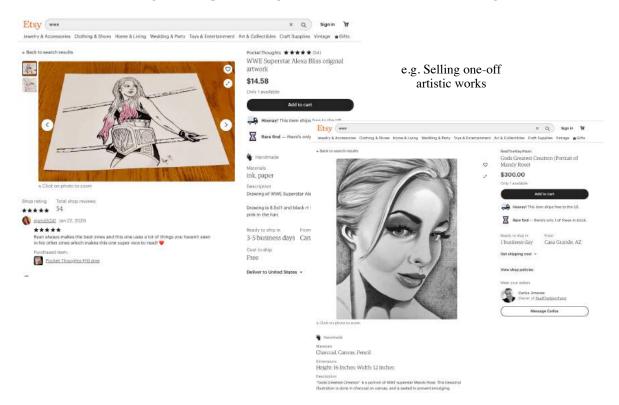


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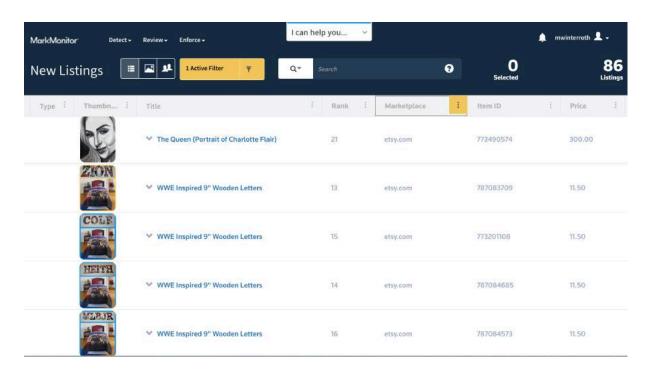


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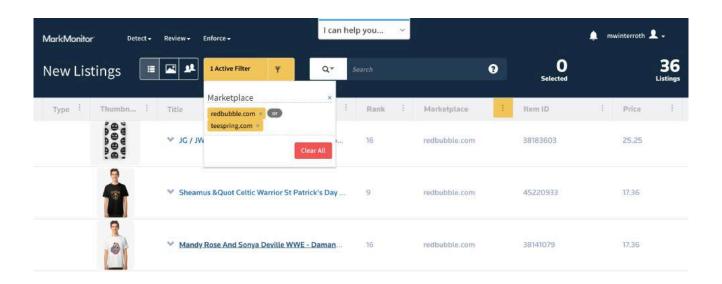


 Enforce where necessary and work with vendors to monitor/enforce on such marketplaces/platforms. This is a #'s game.

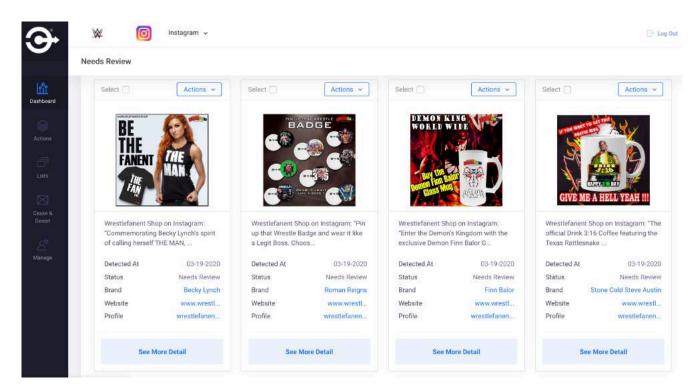
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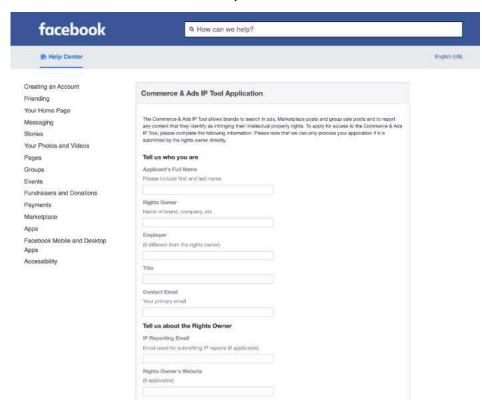
Jeff Grantham <grantham@scalablepress.com

> Fri 4/7/2017 9:54 AM
Winterroth, Matthew >

Matthew,
I apologize in not responding to your last email yesterday, but was traveling back from the west coast. I put in the take down request yesterday and just saw that the campaign has been removed. On setting up a call, I just wanted to walk you through a few things as it relates to this portion of our business, what we are trying to do to clean up infringing content from outside users, and more of a direct contact if you find anything on our platform.

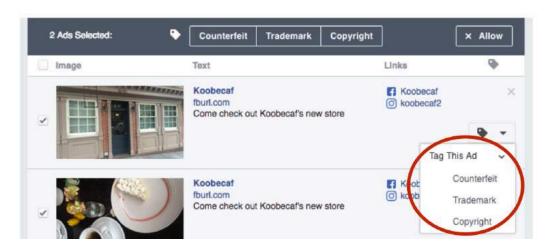
Jeff

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Facebook's Commerce & Ads Tool allow for harvesting of "unsearchable" Sponsored Ads, Marketplace Posts and Group Sale Posts (including closed Groups) using your IP

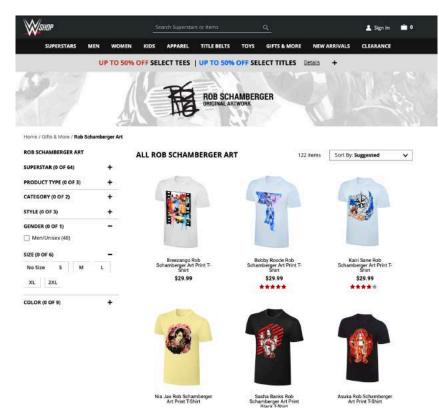
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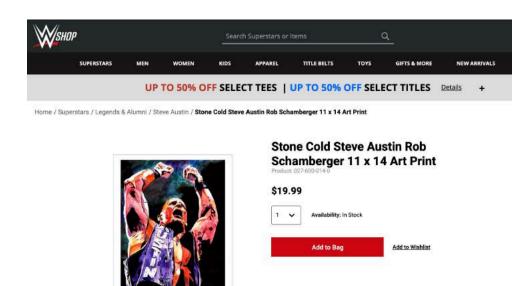
Rob Schamberger was an artist selling unique/one-off pieces of art on various Internet marketplaces.

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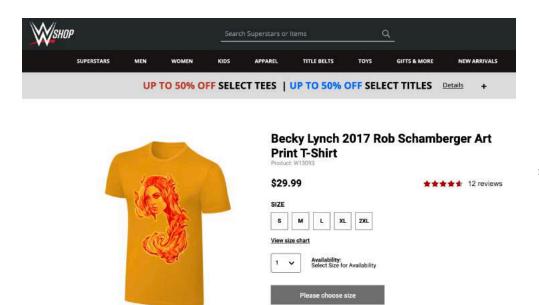
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Takeaways

- Protect your IP:
- Trademark/copyright filings
- Watching services
- Proper licensing protections
- Use vendors that can automate monitoring/enforcement across wide spectrum of Internet marketplaces, including M2O, POD and Maker sites
- **Program Tips**:
- Investigate your possible IP infringement issues
- Join industry groups to discuss strategies with other brands
- Interview vendors and run trials to determine scope of problems
- Work with ecommerce marketplaces and social media platforms to join their content management programs (e.g. Facebook's Commerce & Ads Tool)
- Get buy in from executive management to tackle problem
- Choose vendor(s) and constantly challenge them
- Don't sit back on autopilot continuously monitor, re-evaluate and evolve program



Contact Information

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Questions?

Q&A

Secure, enhance and protect your products

