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Enforcing IP Rights in the Chinese E-Commerce Marketplace

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In the last few years, China has become the world's largest e-commerce marketplace. On November 11, 2017 alone — a shopping holiday known as “single day” created by Chinese e-commerce giant Alibaba — Alibaba subsidiary taobao.com sold more than \$25 billion worth of products. Given the enormity of the Chinese online market, foreign companies often find products selling on Chinese websites like Alibaba and JD.com that are (1) genuine products sold without authorization (e.g., grey market imports) and/or (2) counterfeits or copycat products. While the extent of harm caused by the former is debatable, all can agree that the latter is undesirable and prohibitively expensive to litigate. As such, this article describes mechanisms, while imperfect, that can provide alternatives to Chinese litigation for enforcing trademark and design patent IP rights against counterfeit and copycat sellers.

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