

E ENFORCE
Presents:

NAVIGATING UNCHARTED WATERS:



How third party retailer programs on Walmart.com & Jet.com will impact the unauthorized seller problem

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INTRODUCTION

As technology continues to advance, E-Commerce remains an undeniably important segment of the retail marketplace. Nearly 80% of Americans have made purchases via the internet, and over half have done so using their cell phones. These are considerable numbers given that less than 20 years ago, fewer than one quarter of Americans had made an online purchase.ⁱ

Amazon’s Market Dominance

For years, Amazon has been, by far, the most dominant player in the E-Commerce segment. Indeed, according to some reports, over half of all product searches made on the internet originate on Amazon.com – not Google, or Yahoo!, or any other popular search engine.ⁱⁱ The National Retail Federation reports that Amazon is the largest online retailer in the world.ⁱⁱⁱ



This market dominance did not happen by accident. From the company’s early days, CEO Jeff Bezos set out to be the nation’s “everything store.”^{iv} One of the ways Amazon accomplished that goal was to set up a vast network of third-party retailers (“TPRs”) who operate virtual stores within Amazon’s massive online marketplace. This is a great opportunity for smaller retailers, as Amazon.com generates over 97 million page views each day.^v

Consumers typically believe that a product purchased *on* Amazon.com is purchased *from* Amazon. Often, that’s not the case. As a matter of fact, in some product categories, over 70% of sales are made through TPRs.^{vi}

One of the problems with TPRs, however, is they are frequently competing with each other (and Amazon) for product sales. On any given day with respect to any given product, only one seller can “win the Buy Box” (*i.e.*, be the seller picked to consummate a sale once the consumer clicks the “Add to Cart” button). Roughly 80% of all sales on the site go to the Buy Box winner.^{vii} On Amazon, a complicated algorithm determines who wins the Buy Box. One of those factors considered is offering the lowest price. This means there is a consistent pressure among these retailers to lower prices.

Unfortunately, many of Amazon’s TPRs are *unauthorized* resellers. Among other things, this means they have no contractual incentive to honor a product manufacturer’s Minimum Advertised Price

(“MAP”). As a result, an untold number of products are sold on Amazon.com far below MAP. This causes pricing pressure for *authorized* retailers, creates rapid price erosion, and can do great damage to a brand’s reputation in the marketplace.^{viii}

And perhaps the worst news of all: other major online retailers are now following Amazon’s lead with respect to the TPR program.

The “Kind-of” New Kids on the Block

According to some pundits, Amazon’s status as the world’s preeminent online retailer is about to be challenged. The brick-and-mortar retail giant, Walmart, appears to be getting serious about its online presence. While Walmart has long held the title of the world’s largest retailer, it has always had a disappointing website.^{ix}

By way of example, compared to the 97 million page visits to Amazon.com each day, Walmart.com currently earns a paltry 5.7 million.^x Given its \$485 billion market value, however, it is easy to see why the company has rested on its laurels with respect to online sales. That is, until now.

Compared to the 97 million page visits to Amazon.com each day, Walmart.com earns a paltry 5.7 million.

To many industry watchers, the first signal of Walmart’s growing seriousness with respect to E-Commerce was its 2016 purchase of the up-and-coming E-tailer, Jet.com. Jet was an interesting purchase for Walmart. A relative newcomer to the market, Jet doesn’t boast impressive page visits (just over 100,000 a day) and has yet to turn a profit. Nonetheless, Walmart finds Jet’s founder & CEO, Marc Lore, to be a visionary. In fact, Walmart recently announced that Lore will head-up Walmart’s entire online operation. Although Jet.com and Walmart.com will continue to exist as separate sites, Lore will spearhead both.^{xi}

What is particularly interesting about Lore’s appointment to the top spot for E-Commerce is his history. Lore spent two years with Amazon.com after that company bought his first online marketplace venture, Quidsi, for \$540 million. Lore left Amazon after his two-year contractual obligation was up and Amazon quickly jettisoned Quidsi. A year later, Lore founded Jet.com. Walmart contacted him not long after that and snatched up the marketplace newcomer for \$3.3 billion.^{xii}

The path to the Walmart/Jet partnership is significant because it may signal a shift toward increasing reliance on TPRs for both sites. Walmart has only used TPRs since 2015 and, to date, has done so sparingly. Before that, the brick-and-mortar retailer had been extremely hesitant to allow outsiders to participate in its online sales.^{xiii} It looks like that’s changing.

Jet.com has always used third-party sellers, although, at least on paper, it has greater controls over unauthorized sellers than Amazon ever has. Nonetheless, illicit sellers are known to pop up everywhere. It is an issue that Lore, along with manufacturers, will undoubtedly face in the near future.

In Part I, this paper will explore the current and future operations of Walmart.com and Jet.com. Particular focus will be given to how each company deals with TPRs. Each program will be contrasted with Amazon's TPR program, which has historically wreaked havoc for manufacturers and brands.

Part II will focus on the impact that increased competition from Walmart.com and Jet.com may have on Amazon and E-Commerce in general. Though theoretical, this part identifies true risks that exist within the E-Commerce market should Walmart.com and Jet.com start to rely heavily on TPRs for sales.

Finally, Part III will focus on E-Enforcement protocols that are deployed when unauthorized sellers are found in these burgeoning markets. Although the process is similar to eradicating unauthorized sellers on Amazon, the potential for concomitant enforcement efforts, combined with additional resources provided by these new marketplaces, may be a game changer.

PART I – THE STATE OF THE UNION FOR WALMART.COM & JET.COM

As noted in the introduction, the marriage between Walmart.com and Jet.com is relatively new. At this writing, the companies had only been partnered for 18 months. Nonetheless, Marc Lore, sometimes referred to with hope as the "Amazon killer," is already in hot water. Holiday sales for 2017 were disappointing and logistics problems angered consumers. Consequently, stock prices plummeted as earnings reports came out in February 2018.^{xiv}

Perhaps not coincidentally, the two companies almost immediately began announcing new online strategies. It remains to be seen whether they will be enough to right the ship.

This Part examines each entity separately – where they've been, where they're going, and how TPRs are shaping each retailer's landscape.

Walmart.com – the little website that could

In light of Walmart's physical store prominence, many people are surprised to learn of its underperforming web presence. In some respects, the internet simply seems not to have been a priority. In fact, back in 2000, Walmart actually spun its website off to another company entirely. That experiment failed and less than two years later the company reacquired the internet operation.^{xv}

When compared with Amazon, Walmart's internet numbers aren't all that impressive. While Amazon is believed to offer a staggering 350 million different products in its marketplace, Walmart offers just over 40 million – and that's after a recent four-fold increase in product offerings since Lore took the helm.^{xvi} Despite this, it should be remembered that Walmart.com is still the second largest online retail destination in America.^{xvii}



Mark Lore, the "Amazon killer."

What does the future hold for Walmart.com?

With Lore running the show, Walmart.com has certainly become more innovative. One of the key differentiators between Walmart.com and Amazon, for example, is Amazon's focus on cheap, fast shipping. Shipping is undeniably expensive, and Walmart has done a poor job with it. The company tried a "ShippingPass" membership (somewhat akin to Amazon's Prime membership program) but that failed and was discontinued in June 2017.

Rather than go head-to-head with Amazon on shipping policies, Lore's team plans to leverage Walmart's vast national infrastructure to bring some efficiencies to the process. The company currently boasts 4,700 brick-and-mortar stores, 6,200 branded trucks, hundreds of distribution centers, and over 600 grocery pick-up locations.^{xviii}

In fact, Walmart.com is heavily pushing the idea of having consumers grocery shop online and then pick up products at one of those centers. Another idea (considered a bit off the wall for some), is a smartphone app that allows Walmart store employees to deliver products to consumers on their way home from work. Another more tenable concept is to simply offer consumers a price break for picking up items from physical store locations. All of these strategies offer Walmart the dual benefit of increasing online sales numbers while nearly eliminating shipping costs.^{xix}

Additionally, in what appears to be a direct attack on Amazon, Walmart.com announced in January 2018 that it plans to begin selling audiobooks and e-books.^{xx} Amazon, which began as an online book seller in 1994, practically owns that product category.



Finally, in order to compete with Amazon, Walmart.com simply has to increase its inventory. The company appears to have a couple of strategies to achieve this goal. In late February 2018, it announced that it was adding four private-label clothing lines to its inventory.^{xxi} Secondly, given that Amazon currently sells over 300 million more products than Walmart.com, the latter company has no choice but to increase its TPR program. This will allow for a drastic increase in products (and product categories) without requiring the capital outlay necessary to match Amazon's numbers in-house.

Third party retailers on Walmart.com

As noted above, Walmart.com has only used TPRs for a short time. By late 2016, it had amassed just 1,000 sellers (compared to the 2 million TPRs operating on Amazon), but publicly claimed to be adding "hundreds of new sellers monthly."^{xxii} The whole time, however, Walmart may have been watching and learning from mistakes made in Amazon's TPR program.

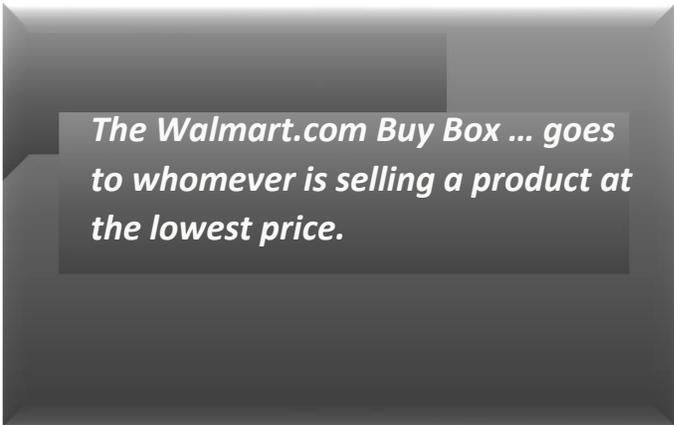
The primary evidence of this is Walmart's TPR selection criteria. Unlike Amazon, who is described as "open to about everyone," Walmart.com purportedly puts a great deal of time and effort into deciding who can and cannot serve as a TPR.^{xxiii} In fact, the company touts its program as an "exclusive, invitation-only marketplace."^{xxiv} This may prove to be a significant difference, given Amazon's storied problems with its TPRs.^{xxv}

TPR consultants report that after applying to become a marketplace seller with Walmart.com, the company can take up to four weeks to extend an invitation. Smartly, Walmart's selection parameters include a review of how the applicant has fared in other online venues. If an applicant doesn't have outstanding reviews on Amazon or eBay, for example, they won't be accepted into the Walmart.com marketplace.^{xxvi}

At first blush, this appears to be great news for manufacturers and consumers. Carefully screened TPRs are less likely to be unauthorized sellers, right? Consequently, no one should be violating MAP on Walmart.com and consumers should be satisfied with nearly every purchase. Lamentably, that hasn't proven to be the case.

The problem is two-fold. First, with respect to consumers, Walmart.com fails to maintain one of *Walmart's* key branding philosophies. Specifically, Walmart has long been known for its liberal return policies. Anything you buy in-store or online (direct from Walmart) can generally be returned to any store location for a cash refund. If you purchase from a TPR, however, you cannot return the item in a Walmart store.^{xxvii} This has caused riffs with loyal store consumers who didn't notice they were buying from a TPR online.

For manufacturers, Walmart.com may have equally dire consequences stemming from the



The Walmart.com Buy Box ... goes to whomever is selling a product at the lowest price.

company's version of the Buy Box. With Amazon's Buy Box, the winner is determined using a complex algorithm that factors in things like shipping methods, product availability, customer reviews, and (importantly) price. The Walmart Buy Box, on the other hand, goes to whomever is selling a product at the lowest price.^{xxviii}

This means that even *authorized* retailers selling in the Walmart.com marketplace will

have intense pressure to violate MAP. In fact, part of the process of setting up an item for sale as a TPR on Walmart.com is a preview of the current Buy Box price.^{xxix} If a seller is about to post an item for sale but notices the current Buy Box price is lower than his, he can adjust downward before posting.

In other words, there is an instant incentive to continually lower prices in order to foster sales. This has even become a problem for Walmart's physical locations, who have long promised "everyday low prices" in-store. Executives are concerned that when internet prices are lower than brick-and-mortar prices, the website will be "siphoning away customers from their stores."^{xxx}

Jet.com – the future of E-Commerce?

Obviously, Jet.com hasn't been around nearly as long as Walmart and, frankly, many industry watchers were a little surprised by their marriage. When you examine Jet's early goals and intentions,

however, it is easy to see why the retail giant picked this particular start-up to enhance its own on-line presence.

Launched in July 2015, Jet.com always intended to battle Amazon head-on. In fact, the company's opening promise was to deliver prices to consumers that were even lower than Amazon's. From the beginning, Marc Lore envisioned meeting this goal through the use of TPRs.^{xxxii} This strategy was highly attractive to Walmart, which was faced with building its own TPR program at the time.

At the outset, Jet.com operated on a membership model. Consumers would pay a yearly fee to become Jet.com members. To keep prices low, Jet.com did not charge a commission on each TPR sale made via the site. This strategy differentiated Jet from competitors like Amazon.^{xxxiii} Unfortunately, the strategy failed. A study of 8,000 early Jet.com adopters found that fewer than 5% of those consumers were still using the site after six months.^{xxxiii} Today, Jet.com charges a varying commission based on product category and does not require an annual fee from shoppers.

Importantly, the fledgling company caters to a demographic Walmart has always struggled with: the technology-savvy, city-dwelling millennial.^{xxxiv} While those individuals are keen on price value, they have never quite connected with the rural, Midwest-minded brand image of Walmart. Walmart.com needs to attract those dollars.

Currently, Jet.com is growing at a rate of 400,000 users per month.^{xxxv} Users, however, are different from purchasers. Lore is under immense pressure to increase revenue.^{xxxvi} To attract those dollars, the CEO has returned to the drawing board.



For example, Jet.com is expected to launch its own high-end clothing line, "Uniquely J," and has partnered with another high-end clothier, Lord & Taylor.^{xxxvii} In a continuation of his obsession with efficient shipping, Lore created a Jet.com incentive to have consumers order as many products as possible for packing and shipping in one box. That strategy appears to be working. Jet.com currently averages 1.5 product units per order, compared with Amazon's 1.1.^{xxxviii}

Jet.com also employs several customer incentives that allow for product discounts. For example, customers get a discount if they forfeit their right to return a product. Bulk purchases are likewise discounted. And, in a move that will surely impact E-Enforcement measures (discussed in Part III), customers also get a discount if they opt-in to receive email marketing directly from the TPR.^{xxxix}

Finally, Jet.com is spending impressive amounts on advertising. In another direct assault on Amazon, the company has paid handsomely to be the top search result on Google.com for almost any product search.^{xl}

Third party retailers at Jet.com

As stated, the Jet.com business model has always relied heavily on TPRs. As with Walmart.com, there is good news and bad news about the way the young company handles its TPR program.

First, the good news. TPRs wanting to join the Jet.com program must agree to the terms of the “Jet Retail Partner Agreement.” This Agreement is shockingly specific in its condemnation of unauthorized sellers and equally clear that Jet TPRs must adhere to manufacturer MAP policies.^{xli}

Among other things, the Agreement requires TPRs to “agree that they will only list or sell to Jet products that [the seller] owns or controls,” and to “comply with the [manufacturer’s] pricing controls indicated in the [manufacturer’s] product feed, such as its Minimum Advertised Price policy.” Jet.com also “reserves the right to defer to the manufacturer’s Authorization Policy by recognizing only the manufacturer’s authorized dealers as Jet Retail Partners.”

This is unheard of when it comes to other online marketplaces. Of course, it remains to be seen whether Jet.com will actually *enforce* these strict policies. Only time will tell.

The bad news is that, like Walmart.com, Jet.com awards its Buy Box to the lowest seller. Period. No complicated algorithms from the company and no guesswork on the part of the seller. The lowest price gets the sale.^{xlii}

In the next Part, we will examine how the pure “lowest price” Buy Box offered by Walmart.com and Jet.com could impact the market.

PART II – THE POTENTIAL IMPACT OF MULTIPLE ONLINE TPR MARKETPLACES

For all intents and purposes, Walmart.com and Jet.com have yet to make any appreciable dent in Amazon’s online dominance. With new strategies and a new CEO in place, however, that may change drastically, and it may change soon. Manufacturers and brands are watching intently to see how this impacts the marketplace.

Of particular concern, of course, are the twin policies of Walmart.com and Jet.com to award the Buy Box to the TPR offering the lowest price. This creates a built-in incentive for TPRs to continually lower prices (even if only by a few cents) in order to win the Buy Box. To complicate matters, Amazon has in-house technology that constantly scours the internet to find the lowest prices on items it sells. Its algorithms will monitor and match any lower-priced item.^{xliii} With these dual forces in place, it’s hard to see how price erosion won’t become an even greater problem than it is now.

That outcome almost certainly hinges on how stringently Walmart.com and Jet enforce their professed TPR policies. If unauthorized sellers are allowed to proliferate in those sites, massive price erosion on popular brands is a forgone conclusion.

This is because of the illicit manner in which many unauthorized sellers obtain products, allowing them to sell far below MAP while still realizing a profit. While it goes without saying that some



unauthorized sellers obtain products legitimately, many do not. For example, in 2015 over \$20 billion worth of products were lost to cargo theft worldwide.^{xiiiv} Those stolen products have to be sold somewhere, and online TPR marketplaces are the perfect venue. When your cost of goods is zero, you can generally lower prices at will in order to win the coveted Buy Box and drive sales volume.

The hope for manufacturers and brands, of course, is that the two companies put their money where their mouth is when it comes to selecting and monitoring TPRs. Even with strict enforcement, however, the potential for abuse of the sites by unauthorized sellers is vast.

To illustrate, Walmart's TPR selection criteria sounds good on paper – “exclusive” and

Consumer complaints are already appearing in online forums concerning third party retailers on Walmart.com.

“invitation-only.” The company claims to base its TPR selections on a seller's positive ratings on other sites. When you think about that for a minute, though, that selection criterion may actually be meaningless.

There's nothing to prevent an unauthorized seller, selling products below MAP, from receiving positive consumer reviews on Amazon or eBay. So long as that seller ships

when promised, effectively manages returns, and meets the consumer's expectations, they are likely to be highly rated. This is perhaps especially true if, in addition to their diligent order processing, they sell products at prices far below anyone else on the internet.

Perhaps not surprisingly, consumer complaints are already appearing in online forums concerning TPRs on Walmart.com. Specifically, complaints of phony products, misleading products, and TPRs refusing to process returns are easily found with a quick Google search.^{xiv} Those complaints signal some of the hallmarks of unauthorized sellers.

For its part, Jet.com looks even better on paper when it comes to policies concerning unauthorized sellers and sub-MAP pricing. As noted above, it has strict contractual provisions prohibiting either on its site. It's one thing to state such policies, however, and quite another to enforce them.

Indeed, with rising pressure on Marc Lore to increase sales, and with the lofty goal of beating Amazon's prices, it's hard to see how Jet.com has much incentive to police unauthorized sellers on its site. The only caveat to that is that Jet.com seems to have a preference for signing up brands as TPRs (as opposed to independent resellers). If that is the case, then the company would have a hefty incentive to take action against unauthorized TPRs, as such action would surely foster confidence among brand partners.

At this point, Jet.com is simply too small and too new for there to be much public commentary about these policies. Brands wishing to avoid the unauthorized seller dilemma on Jet.com might be wise

to approach the company about selling direct through the site, or at least notifying the marketplace of its authorized seller network.

PART III – E-ENFORCEMENT PROTOCOLS FOR A MULTI-CHANNEL ENVIRONMENT

As Walmart.com and Jet.com begin to siphon market share away from Amazon, it becomes critically important for manufacturers and brands to develop E-Enforcement strategies to thwart unauthorized TPRs^{xlvi} across all channels. In this Part, we revisit the most critical aspects of E-Enforcement, with updates and tips particular to Walmart.com and Jet.com.

Monitoring & Seller Intelligence

E-Enforcement begins with monitoring for and flagging unauthorized sellers through specialized market intelligence. Investigators create automated processes that scour the internet and *all* relevant marketplaces for evidence of unauthorized sales. E-Enforcement professionals, in particular, use proprietary software and pricing algorithms to root out these sellers wherever they may operate. Among other things, these programs locate products sold far below MAP, flag bogus reviews, and search for other proprietary indicators of illicit sales.

E-Enforcement teams also look for defined SKUs/ASINs, as well as any identifying information about the sellers. This information provides E-Enforcement teams with a real-time snapshot of how each product is being sold online. Unfortunately, initial reports can reveal dozens of unauthorized TPRs that the underlying brand wasn't even aware of yet.



Importantly, monitoring is not a one-time operation. Many unauthorized TPRs are sophisticated criminals who utilize a variety of methods to hide their identity. By continually monitoring the internet for indicia of illicit sales, making selective product purchases, and otherwise watching for common warning signs, investigators are alerted on a 24-7 basis every time one of those red flags are waved.

Immediate Response

Once suspected unauthorized sellers are flagged, the process of stopping them begins immediately. When Amazon was the primary venue for these characters, the first shot across the bow was typically an electronic cease and desist notice (“EC&D Notice”) sent directly to the seller via the online seller communication portal offered by the marketplace.

Interestingly, both Walmart.com and Jet.com offer methods for communicating directly with TPRs through their personal email accounts. Jet.com does this by allowing customers to opt-in to receive

email marketing from the TPR in exchange for a discount. Thus, a simple covert product purchase can yield a direct email address. Walmart.com, on the other hand, puts consumers into direct email contact with TPRs in the event the consumer has a complaint.^{xlvii} Again, a covert purchase is required to get that address, but it is well worth the effort. In either case, the process leads to a direct email account the E-Enforcement team can use to send the EC&D Notice.

Often, if the seller is a small-time operator, or genuinely was unaware his sales were not authorized, the EC&D Notice may be enough to scare him out of any online marketplace. If not, however, investigators will quickly contact the specific online marketplace to notify the company of the suspected unauthorized sales.

Historically, Amazon has not been great about responding to these issues. Given the stricter TPR policies of Walmart.com and Jet.com, one would expect a more vigilant response to manufacturer suspicions. At this time, not enough brands have tested those policies to make a hard and fast determination whether the companies are going to honor their purported preferences for quality, legitimate TPRs.

Detailed Investigation

Many times, a TPR who is doing a significant volume of unauthorized sales is not the ultimate source of the illicit products. They may, however, know who is. Lamentably, these cagey actors will play all sorts of games to avoid enforcement efforts. On Amazon, for example, those TPRs who halted sales in response to the initial EC&D Notice often re-emerge using a new seller name within days.



One benefit to the more selective TPR application processes used by Walmart.com and Jet.com is that sellers cannot simply pop up with a new seller account in a matter of days. Presumably, they would have to reapply under that new name – a process that can take as long as six weeks.^{xlviii} They may, however, move from Walmart/Jet to Amazon in a matter of hours.

Regardless, sellers' hide-and-seek tactics tend to be highly ineffective. After all, monitoring software doesn't have an "off" button. Investigators are alerted the moment sellers reappear and take same-day steps to renew cease and desist demands. In some cases, however, sellers still are not intimidated. They grow comfortable behind the relative anonymity the internet provides.

Their confidence is misplaced. If initial efforts are ignored, enforcement efforts are elevated. The next step in the process is to use Open Source Intelligence ("OSINT"), combined with proprietary database intelligence to identify the actual people sitting behind the computer. Within a relatively short period of time, E-Enforcers can find a seller's name, physical address, telephone number, social security number, and relevant background information. This process is even easier when a direct email address is obtained in the initial investigation processes.

Once this information is in hand, notices are sent directly to the individuals running the illicit storefront. Certified cease and desist demands are delivered right to their home and/or business

addresses. Within these demands, sellers are notified that they have between five and seven days to cease all unauthorized sales before more extreme measures are taken.

Escalated Enforcement

The next step in the E-Enforcement process is a measure of last resort. Working in conjunction with in-house legal teams or outside law firms, enforcement professionals will prepare a draft trademark infringement complaint against the sellers and any formal entities they operate.^{xlix}

The draft complaint is sent to the seller's home address with a final notice. That notice requires immediate compliance with cease and desist demands and alerts the seller that failure to comply will leave no choice but to file suit.

Not many unauthorized sellers have the resources or desire to battle a popular brand in court. Not only will they typically back down at this point, they may also be willing to reveal the identities of their product sources. This, of course, leads to further E-Enforcement investigations that may reveal dirty manufacturing plants, distributors, or employees. Ultimately, the goal is to shut down the stream of illicit products so that unauthorized sales (and all the dire consequences stemming from them) can cease.

Much remains to be seen about the actual impact Walmart.com and Jet.com will have on E-Commerce. The potential for price erosion and brand dilution is high. That said, if the two companies abide by their proffered policies against fraudulent sellers, they may ultimately clean up the marketplace.

Unfortunately, we are getting more and more client reports about illicit sales in these venues each and every week. If the Walmart/Jet market share continues to expand, we will surely update this paper to reveal our on-the-ground findings.

ABOUT E-ENFORCE™



E-Enforce is a division of an internationally recognized investigation firm, Cyber Investigation Services. We have been providing litigation support and investigations for high profile cases and top law firms since 2010.

In 2012, we began combatting unauthorized sellers at the request of our client, Zo Skin Health. When we began that process, the company was overwhelmed with unauthorized retailers in online marketplaces. Today, they have virtually zero. They have also enjoyed exponential growth in that time.

In February 2017, we made our proprietary E-Enforcement system available commercially. We currently work with over 50 brands, including global companies, mid-sized operations, and small-but-growing manufacturers. Our clients represent the following industries:

- Cosmetics
- Direct sales
- Paper products
- Home repair
- Clothing
- Women's accessories
- Food supplements
- Pet products
- Sunglasses & accessories
- Consumer electronics
- Vacuum cleaners
- Purses and bags
- Radar detectors
- Cutlery
- Skin care
- Health products
- Vitamins
- Hair products

ENDNOTES

ⁱ <http://www.pewinternet.org/2016/12/19/online-shopping-and-e-commerce/>

ⁱⁱ <https://www.prnewswire.com/news-releases/amazon-grabs-55-percent-of-consumers-first-product-search-set-to-dominate-2016-holiday-shopping-300334545.html>

ⁱⁱⁱ <https://nrf.com/2017-top-50-e-retailers-chart>

^{iv} <https://thealeph.com/articles/2018/02/amazon-walmart-innovation-strategy/>

^v <http://www.siteworthtraffic.com/report/amazon.com>

^{vi} <http://www.webretailer.com/lean-commerce/multichannel-selling-online-marketplaces/>

^{vii} <https://feinternational.com/blog/walmart-vs-amazon/>

^{viii} For a full treatment of the problems caused by Amazon's TPR program, please ask for our White Paper entitled "E-Enforcement 101."

^{ix} <https://www.forbes.com/sites/laurengensler/2017/05/24/the-worlds-largest-retailers-2017-walmart-cvs-amazon/#308ecf7220b5>

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- ^{xxx} <https://www.bloomberg.com/news/features/2017-05-04/can-wal-mart-s-expensive-new-e-commerce-operation-compete-with-amazon>
- ^{xxxi} <https://www.dealnews.com/features/lts-hard-to-tell-who-youre-buying-from-when-shopping-at-jet.com/1603106.html>
- ^{xxxii} *Id.*

xxxiii <https://www.bloomberg.com/news/features/2017-05-04/can-wal-mart-s-expensive-new-e-commerce-operation-compete-with-amazon>

xxxiv <https://empireflippers.com/jet-com-sellers-guide/>

xxxv *Id.*

xxxvi www.bloomberg.com/news/articles/2018-02-23/walmart-s-amazon-killer-goes-from-superstar-to-man-on-hot-seat

xxxvii <https://www.cbinsights.com/research/walmart-acquisition-targets/>

xxxviii <http://www.webretailer.com/lean-commerce/selling-on-jet-com/>

xxxix <https://empireflippers.com/jet-com-sellers-guide/>

xl *Id.*

xli <https://partner.jet.com/terms>

xlii <https://www.godatafeed.com/blog/what-walmarts-acquisition-of-jet-com-means-for-merchants/>

xliii <https://www.bloomberg.com/news/features/2017-05-04/can-wal-mart-s-expensive-new-e-commerce-operation-compete-with-amazon>

xliv <https://www.prnewswire.com/news-releases/bsi-global-supply-chain-intelligence-report-reveals-global-business-impact-of-security-human-rights-and-environmental-violations-300068965.html>

xlv *See, e.g.,*

https://www.reddit.com/r/walmart/comments/5rg1a7/has_anyone_ever_been_scammed_by_walmarts/;
https://www.reddit.com/r/FulfillmentByAmazon/comments/5uwi44/my_experience_as_a_buyer_from_a_walmartcom_3rd/; <https://www.consumeraffairs.com/retail/walmart.htm?page=2>

xlvi It should be noted that counterfeits and gray market goods are another pervasive problem stemming from unchecked unauthorized TPRs in online marketplaces. For specific E-Enforcement measures relating to those issues, please see our White Papers entitled “Tackling the Counterfeit Problem on Amazon.com” and “The Gray Market Maze.”

xlvii http://help.walmart.com/app/answers/detail/a_id/453/~/contact-a-walmart-marketplace-seller

xlviii <https://www.solidcommerce.com/selling-jetcom-%E2%80%93-what-you-need-know-becoming-retail-partner>

xliv For a full treatment of the trademark infringement theories behind such legal actions, please see our White Paper entitled “E-Enforcement 101.”