

# Doing Business in Canada: Protecting Luxury Brands From Counterfeiting

## Part 3

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This article is Part 3 of *Protecting Luxury Brands From Counterfeiting*, a four-part series on the legal and practical issues luxury brands most often face when operating in or selling to Canada. Part 1 addressed the upstream question of legal and operational readiness. Part 2 turned to the border itself: the statutory framework, the operational mechanics of the Canada Border Services Agency (“**CBSA**”) Intellectual Property Rights (“**IPR**”) Program and the response planning a luxury brand should have in place before a detention occurs. Part 3 addresses issues that international brands commonly face when counterfeit goods are promoted or sold through online marketplaces, social media accounts, websites and abusive domain names.

Online enforcement usually combines Canadian trademark and copyright rights, platform-specific reporting tools, domain name dispute procedures, payment and fraud reporting, preservation of evidence and, where necessary, court relief. Unlike some other jurisdictions, Canada does not have a statutory notice-and-takedown regime. As a result, the removal of infringing listings typically occurs through a platform's own reporting channels, compliance with demand letters and, if necessary (but less commonly), by a court order. The practical objective is to remove infringing content quickly and cost-effectively while preserving sufficient evidence to identify repeat offenders and support broader civil, customs or criminal action.

We are pleased to support your business activities in Canada. If you have questions with respect to any portion of the below or require further information on a topic not addressed here, please do not hesitate to contact us.

Category	Question	Answer
1. <b>Online Framework</b>	Does Canada have a specific law for online sales of counterfeit goods?	<b>No</b> — Canada does not have a stand-alone statute directed at the online sale of counterfeit goods. Brands usually rely on the <i>Trademarks Act</i> , the <i>Copyright Act</i> , platform rules, UDRP/CDRP domain name dispute mechanisms and court remedies. <sup>1</sup>
2. <b>Marketplace Listings</b>	Can a brand remove counterfeit listings from online marketplaces?	<b>Usually</b> — most removals occur through marketplace intellectual property (“ <b>IP</b> ”) reporting tools. Before filing a report, brands should preserve screenshots, URLs, seller names, product images, test-purchase records and payment details.

<sup>1</sup> *Copyright Act*

<p><b>3. Social Media Sales</b></p>	<p>Can counterfeit sales through social media be addressed?</p>	<p><b>Yes</b> — rights holders can use platform impersonation and IP complaint tools, cease-and-desist demands, steps to identify sellers and litigation where necessary. Social media enforcement should be coordinated with website, domain name and payment disruption efforts, as sellers often move channels quickly.</p>
<p><b>4. Anonymous Sellers</b></p>	<p>Can a brand identify anonymous online sellers?</p>	<p><b>It depends</b> — a brand may seek third-party discovery or Norwich-style relief against intermediaries such as ISPs, platforms, registrars or payment processors, where the legal test is met. Evidence should be preserved before public notice is given, as organized sellers may migrate or delete records.<sup>2</sup></p>
<p><b>5. Payment Disruption</b></p>	<p>Can payment processors or fraud reporting help?</p>	<p><b>Yes</b> — chargebacks, fraud complaints and reports to the Canadian Anti-Fraud Centre may help connect fraudulent sites, merchant accounts and payment processors. This is most useful where consumers have purchased counterfeit goods or the seller is using deceptive payment flows.<sup>3</sup></p>
<p><b>6. .CA Domain Names</b></p>	<p>Can an abusive .ca domain be transferred?</p>	<p><b>Yes</b> — a complainant may use the Canadian Internet Registration Authority (“<b>CIRA</b>”) Dispute Resolution Policy for clear cases of bad-faith .ca registrations. Generally, the complainant must show trademark rights, confusing similarity, the registrant’s lack of a legitimate interest and bad-faith registration, while also satisfying the applicable Canadian presence requirements or trademark-owner exception.<sup>4</sup></p>

<sup>2</sup> Copyright Act

<sup>3</sup> <https://antifraudcentre-centreantifraude.ca/index-eng.htm>

<sup>4</sup> <https://www.smartbiggar.ca/insights/publication/brand-protection-online--enforcement-options-for-domain-name-takedowns>

<p><b>7. Cease-and-Desist</b></p>	<p>Should a brand start with a cease-and-desist letter?</p>	<p><b>It depends</b> — a direct demand can resolve a low-risk dispute and may help create a record of bad faith if ignored. However, where organized counterfeiters are involved, early notice can prompt them to migrate operations or destroy evidence. In such cases, investigation and evidence preservation should come first.<sup>5</sup></p>
<p><b>8. Border Link</b></p>	<p>Does online counterfeiting connect to customs enforcement?</p>	<p><b>Yes</b> — online sellers often rely on imported inventory. Brands with eligible rights should consider filing a Request for Assistance with the CBSA so suspected counterfeit or pirated goods can be detained at the border while online enforcement efforts continue.<sup>6</sup></p>

Online counterfeiting requires a fast, layered response. Marketplace and social media reports can remove visible listings, but durable enforcement usually requires evidence preservation, seller identification, domain and payment disruption and a plan to escalate repeat or high-risk actors through Canadian litigation, customs enforcement or criminal referral.

We would be pleased to assist with monitoring, platform takedowns, domain recovery, payment and fraud reporting and investigations to identify repeat sellers.

Have more questions about doing business in Canada? Please [click here](#) or scan the QR code to access Aird & Berlis LLP's Market Expansion Dashboard, your one-stop-shop for market expansion resources.



*Disclaimer: This article offers general comments on legal developments of concern to business organizations and individuals and is not intended to provide legal advice. Readers should seek professional legal advice on the issues that concern them.*

<sup>5</sup> <https://www.smartbiggar.ca/insights/publication/brand-protection-online--enforcement-options-for-domain-name-takedowns>

<sup>6</sup> <https://www.dlapiper.com/en-ca/insights/publications/2024/09/counterfeit-goods-in-canada-request-for-assistance-program>; <https://www.blg.com/en/insights/2023/06/stopping-counterfeit-goods-at-the-canadian-border>

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Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada*, *The Canadian Legal Lexpert Directory* and *Benchmark Canada*.

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice that is tailored to meeting their specific needs. Her responsiveness, dedication to clear communication and hands-on approach show that she is personally invested in the success of her clients.

Fiona is pleased to offer a multitude of resources answering often-asked questions about expanding into Canada, including [this video](#) and [this one-page guide](#).



**Ryan T. Evans**

Partner

Ryan is a member of the firm's Intellectual Property and Litigation & Dispute Resolution Groups. He handles enforcement and infringement cases and has extensive experience in patent, trademark and design, copyright and trade secret matters. Ryan represents a diverse range of clients, including companies in the petrochemical, consumer goods, manufacturing and agricultural science industries.

Ryan is also involved in anti-counterfeiting efforts, brand enforcement initiatives and Trademarks Opposition Board proceedings. He assists clients in developing internal monitoring protocols and strategies for trademark protection.

Ryan appears regularly in courts across Canada, including the Ontario courts, the Federal Court and the Federal Court of Appeal. His expertise extends to mediation and arbitration, reflecting his commitment to resolving disputes efficiently and effectively.



**Alyssa Marchese**

Former Articling Student

Alyssa summered at the firm in 2023 and 2024. She recently graduated from the JD program at Osgoode Hall Law School. During law school, Alyssa held a variety of leadership roles, including Co-President of the Canadian Italian Association of Osgoode, Communications Director of the Environmental Law Society, Marketing Director of the Osgoode Society for Corporate Governance, Events Coordinator of the Osgoode Emerging Technology Association and Osgoode Ambassador to the Ontario Bar Association. She also participated in the Osgoode Business Clinic and worked as a caseworker at the Investor Protection Clinic.

Prior to law school, Alyssa earned a Bachelor of Environmental Studies from York University, graduating *summa cum laude*, and was recognized with many awards for community leadership and academic achievement. She was active in student leadership, leading the Italian Student's Association, acting as a Peer Mentor Coordinator, and serving as a member of the Equity Committee, the Faculty Council and the Inclusion Group.