

# Publications

## How to Prevent Grey Market and Diverted Goods From Undercutting Your Prices on eBay

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Let's say your company sells products on eBay.com. To monitor your products for sale, you frequently check eBay and notice that there are regularly many products being listed on the website for substantially less than your price.

Given that eBay displays the cheapest prices, people are naturally going to be drawn to the lower-priced products – the cheaper products not being sold by your company and that are, most likely, diverted products, grey market goods, stolen goods or some other type of illegitimate sale.

Unfortunately, there is no magic solution to fix this problem. Instead, it is strongly recommended that companies implement integrated enforcement systems to thwart unauthorized online sales.

Regardless of the actual volume sold or being listed online, a company concerned with its products being impermissibly sold on the internet should utilize a monitoring software that can find sellers and list them based on price, volume and location.

By identifying the offending parties (even just by user name or email address, for instance), this is a good starting point for implementing a **graduated enforcement system**. Using such a system requires a commitment to stopping the unauthorized sales and is efficient and cost effective. A company does not want to waste unnecessary resources – especially if there is a large volume of sellers and/or products.

A good starting point is sending “electronic” cease and desist letters through the messaging platforms on the various websites, like eBay. These letters should lay out the legal claims the company has against the unauthorized sellers, as well as demand removal.

From there, the company and its enforcement team can track the removals and can further investigate the remaining sellers (for those products not removed) and determine their identities through

subpoenas and/or cyber investigations.

Once a seller's identity is known, the company's attorneys can send physical cease and desist letters explaining they have been identified, face liability for their unauthorized practices, and that the company is prepared to file a lawsuit. This usually results in most sellers removing their existing products.

When the process is unsuccessful, the company's attorneys can use additional legal tactics including sending the actual draft complaint that they are prepared to file, actually filing a lawsuit, getting a temporary restraining order to freeze the sellers PayPal account (such as if using eBay) or getting them to transfer their domains if selling from an independent website.

The key is having a system to do this efficiently and starting with the least costly enforcement tools and going up the ladder as necessary.

*For more information, contact Vorys' Illegal Online Seller Enforcement team at 877.545.6905. Read more about the practice at [services-648.html](#).*