



Client Alerts

Protect Your Amazon Business: Are Resellers Damaging Your Brand?

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You may be facing cross-country litigation if you complain about it

A growing concern has emerged regarding the practices of resellers on Amazon. Namely, resellers have been found falsely advertising used products as “new.” This deceptive marketing tactic is not only misleading to customers but also detrimental to brand integrity. When manufacturers report these false advertisements to Amazon, they are justified in doing so.

However, resellers are pushing back against these complaints by filing lawsuits against manufacturers in the reseller’s home state, usually claiming defamation. The justification for hailing the manufacturer into a far-away court hinges on the idea that by filing a complaint with Amazon, the manufacturer has committed a tort in the reseller’s state, even if the manufacturer has no significant connection to that forum.

This tactic was recently seen in a case involving a California-based manufacturer who reported to Amazon that a Florida-based reseller was falsely marketing used products as new. The reseller responded by suing the manufacturer in Florida, arguing that the complaint filed with Amazon defamed them in their home state. The reseller’s goal was to establish personal jurisdiction in Florida, despite the manufacturer’s lack of presence there.

In arguing against jurisdiction, the manufacturer noted that the complaint to Amazon was not specifically targeted at Florida but was aimed at addressing the inauthentic products being sold on the platform. The location of the reseller was irrelevant to the complaint; the manufacturer would have taken the same action regardless of where the reseller was based. The federal court ultimately agreed with the manufacturer, dismissing the reseller’s lawsuit due to insufficient grounds for personal jurisdiction under Florida law. The court determined that merely claiming injury in the state was not enough to establish jurisdiction.

This case highlights the challenges manufacturers face in protecting their brands against deceptive practices on platforms like Amazon. Resellers are improperly filing lawsuits in their hometown courts to counter justified complaints, meaning manufacturers should be on the lookout for questionable jurisdictional allegations from the very beginning of the case. Otherwise, they will be stuck litigating in unfamiliar territory. This will be an interesting area to monitor as the intersection of e-commerce and jurisdiction continues to find its way into the courts.

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