

2014 Out-of-Cycle Review of Notorious Markets

Federal Register Docket Number USTR-2014-0017

SUBMISSION

Thank you for considering the Alliance for Safe Online Pharmacies' comments in response to USTR's request for comments on the 2014 Out-of-Cycle Review of Notorious Markets. [The Alliance for Safe Online Pharmacies \(ASOP\)](#) is a 501(c)(4) social welfare organization that seeks to protect patient safety globally and ensure patient access to safe and legitimate online pharmacies in accordance with applicable laws. ASOP is active in the United States, the European Union, and in Asia.

These comments are responsive to USTR's request for "examples of Internet . . . notorious markets, including foreign trade zones that allegedly facilitate substantial trademark counterfeiting." That said, ASOP believes the global plague of illegal online drug sellers is fundamentally a public health issue, not one of intellectual property rights. It is in this public health context that we submit these comments and urge USTR and other government partners to take actions that will help curb the global patient safety threat caused by illegal online drug sellers.

BACKGROUND

While the Internet has provided immeasurable societal benefits, it has also exposed global consumers to the hazards of illegal online drug sellers. Online criminals hawk "medicines" that are often counterfeit, adulterated, misbranded, and/or unapproved. The following statistics evidence the scope of the global problem:

- At any one time there are 30,000 – 50,000 active online pharmacies (LegitScript);
- 97% of online entities offering to sell drugs are illegitimate and operating in violation of applicable U.S. laws and standards (National Association of Boards of Pharmacy);
- 50% of the prescription medicines sold online by websites that hide their physical address are counterfeit (World Health Organization);
- 23% of adult Internet consumers surveyed have bought prescription medicine online (U.S. Food and Drug Administration);
- Illegal online drug sellers can generate \$1 – \$2.5 million in sales each month (MIT Technology Review).

In the virtual space of the Internet, there is no door for police to break down or warehouse for them to raid. Rather, law enforcement officials who wish to shut down rogue sites must engage in an often long

back-and-forth process with the courts and the domain name’s registrar. In the interim, criminals operate with ostensive impunity – selling more and more illegitimate and dangerous drugs to consumers – unless and until domain name registrars (registrars), the entities that license the domain names, step in. As explained below, registrars have both the ability and authority to help stop the problem of illegal online drug sellers.

Per the contract¹ between registrars and the Internet Corporation for Assigned Names and Numbers (ICANN), registrars have the ability to voluntarily lock and suspend illegitimate websites. ICANN explicitly stated so in a [2012 letter](#):

“Nothing in the Registrar Accreditation Agreement (RAA) prohibits a registrar from suspending a domain name if under the applicable laws or in accordance with terms of the registration agreement the registrar deems such suspension is appropriate. In such circumstances, the registrar does not need a court order or a UDRP decision directing it to suspend a domain name.”

This authority ought to be wielded to combat the public health threat of illegal online drug sellers. If the health and safety concerns of patients don’t demand this type of action, what could?

Some responsible registrars have recognized they must not allow criminals to use their platforms to endanger patients. For example, [Internet.bs](#) and the registrar members of the [Center for Safe Internet Pharmacies](#) and [ASOP-EU](#) have taken actions to combat illegal online drug sellers. These responsible registrars employ monitoring services to ferret out rogue sites and are bold enough to act on the information, proactively locking and suspending the domain names of illegal online drug sellers. They are to be commended for doing so.

But far too many registrars have chosen to ignore and even support these illegal online drug sellers. To those registrars, the promise of steady income from criminals and low risk of law enforcement action allows them to overlook the countless patients being harmed through their neglect. This willful blindness cannot be tolerated, especially where such inaction threatens public health.

RECOMMENDATION

Rogue Internet registrars—those that knowingly facilitate illegal online drug sellers—epitomize the types of notorious markets that USTR admirably seeks to combat, and they should be clearly branded as such. To that end, below are the top 10 rogue registrars of 2014:

Registrar	Country
CJSC Registrar R01	Russia
GuangDong NaiSiNiKe Information Technology Co Ltd.	China
IP Mirror Pte Ltd dba IP MIRROR	Singapore
Nanjing Imperiosus Technology Co. Ltd.	China

¹ See *2013 Registrar Accreditation Agreement*, ICANN (June 27, 2013), <https://www.icann.org/en/system/files/files/approved-with-specs-27jun13-en.pdf>; *2009 Registrar Accreditation Agreement*, ICANN (May 21, 2009), <https://www.icann.org/resources/pages/ra-agreement-2009-05-21-en>.

Bizcn.com, Inc.	China
Tucows Domains Inc.	Canada
Momentous (Rebel.com, NameScout, Domainsatcost)	Canada
Gransy s.r.o. d/b/a subreg.cz	Czech Republic
Registrar of Domain Names REG.RU LLC	Russia
EvoPlus Ltd.	Canada

By placing these rogue registrars on the 2014 Notorious Markets List, the U.S. Government will be sending a clear message—to consumers and bad actors, both—that these devious activities cannot and will not be allowed to continue.