

Private governance and intellectual property rights: a seller-centred analysis of e-commerce IP policies

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Abstract

This article examines how intellectual property (IP) rights are managed and enforced on Amazon from sellers' perspectives, drawing on a qualitative analysis of Facebook group discussions conducted in three languages. The study examines how Amazon's internal IP enforcement mechanisms operate in practice and how sellers perceive and respond to these mechanisms within the platform's governance architecture. The findings suggest that Amazon's IP policies function primarily as instruments of platform-driven compliance.

Analysis of Facebook discussions indicates that sellers' interest in IP issues is most often triggered by enforcement events, such as infringement complaints, listing restrictions or account suspensions. As a result, IP management practices tend to be reactive rather than proactive. Trademark-centred mechanisms dominate both enforcement practices and seller discussions, as access to key platform tools requires trademark registration.

The article argues that while Amazon's IP framework raises awareness of intellectual property among sellers, the platform-centric approach may fragment IP literacy and limit the development of more sustainable and transferable IP strategies beyond Amazon's ecosystem. The findings contribute to broader discussions on digital self-regulation, private legal orders, and the limits of IP protection in transnational digital markets.

Keywords

intellectual property; Amazon; brand registry; trademarks; platform governance; e-commerce

Gobernanza privada y derechos de propiedad intelectual: un análisis centrado en el vendedor de las políticas de PI de comercio electrónico

Resumen

Este artículo examina cómo se gestionan y aplican los derechos de propiedad intelectual (PI) en Amazon desde la perspectiva de los vendedores, a partir de un análisis cualitativo de debates grupales en Facebook realizados en tres idiomas. El estudio examina en la práctica cómo funcionan los mecanismos internos de aplicación de la PI de Amazon y cómo los vendedores los perciben y responden dentro de la arquitectura de gobernanza de la plataforma. Los hallazgos sugieren que las políticas de PI de Amazon funcionan principalmente como instrumentos de cumplimiento impulsados por la plataforma.

El análisis de las discusiones en Facebook indica que el interés de los vendedores en los problemas de PI se desencadena con mayor frecuencia por eventos de aplicación, como quejas por infracción, restricciones de listado o suspensiones de cuentas. Como resultado, las prácticas de gestión de PI tienden a ser reactivas en lugar de proactivas. Los mecanismos centrados en las marcas comerciales dominan tanto las prácticas de cumplimiento como las conversaciones con los vendedores, ya que el acceso a herramientas clave de la plataforma requiere el registro de marcas comerciales.

El artículo argumenta que, aunque el marco de PI de Amazon aumenta la concienciación sobre la propiedad intelectual entre los vendedores, el enfoque centrado en la plataforma puede fragmentar la alfabetización en PI y limitar el desarrollo de estrategias de PI más sostenibles y transferibles más allá del ecosistema de Amazon. Los hallazgos contribuyen a debates más amplios sobre autorregulación digital, órdenes legales privadas y los límites de protección de la PI en los mercados digitales transnacionales.

Palabras clave

propiedad intelectual; Amazon; registro de marca; marcas comerciales; gobernanza de la plataforma; comercio electrónico

Introduction

The intensive development of information technologies today affects all spheres of social relations. E-commerce is a symbol of the transformation. Online platforms play a central role in the development of the digital economy and society (OECD, 2021). The progress of e-commerce is driving the growth of small and medium-sized enterprises (SMEs) (Hånell et al., 2019; Ojala, Evers & Rialp, 2018). The field shows upward trends in sales by revenue and other important variables.

New digital technologies can significantly reduce many types of costs and can also increase the risks of distorting competition (Goldfarb & Tucker, 2019). They broaden consumer choices and their sense of comfort and safety, but at the same time attract unconscientious actors (European Commission, 2020). The Organisation for Economic Co-operation and Development reports that “expanding

supply chains and the rise of e-commerce have facilitated illicit trade, particularly in the trade of counterfeit goods” (OECD, 2025). This dual nature of online platforms – offering efficiency and access while simultaneously creating enforcement challenges – makes Amazon a particularly relevant case for examining how digital marketplaces manage IP and regulate seller behaviour.

1. Amazon’s Internal IP enforcement architecture

1.1. Amazon and transnational IP enforcement challenges

Amazon is one of the most successful companies in the world, with millions of SMEs actively selling on the platform. However, it is also viewed negatively in some re-

spects – for example, a significant number of counterfeit products are recorded on websites such as amazon.co.uk, amazon.de, amazon.es, amazon.fr, amazon.it, amazon.ca and amazon.in (USTR, 2019, 2020). While Amazon operates transnationally, its enforcement mechanisms interact unevenly with national IP regimes, where rights such as exhaustion and the first-sale doctrine are protected under distinct legal frameworks. The divergence in national enforcement standards creates further uncertainty for sellers operating under Amazon's unified yet extra-legal, platform-based IP system.

Criticism of the company for insufficient efforts against counterfeiting is a long-standing trend. The growth of counterfeit products on the platform, among other factors, was attributed to the struggle for leadership in the field of e-commerce (Forgione, 2016).

The giant company, in turn, characterized the inclusion of its websites in the USTR's list of notorious markets for counterfeiting and piracy as “wrongful”.¹ In addition to the general disagreement, Amazon cited a number of policies, partnerships and programmes (Project Zero, Transparency and Brand Registry) aimed at fighting counterfeiting. In 2019, the company promoted these programs at a conference at the World Intellectual Property Organization (Oldknow, 2019).

1.2. Platform-based IP enforcement tools

In its Statement² before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce, presented on March 4, 2020, Mr Dharmesh M. Mehta (Vice President, Worldwide Customer Trust and Partner Support Amazon.com Services LLC), together with the programs mentioned, indicated the Utility Patent Neutral Evaluation Process and IP Accelerator.

Project Zero enables rights holders to directly remove counterfeit listings by combining automated detection tools with brand-driven takedown authority. Transparency is a product serialization system that allows brands to apply unique codes to goods in order to prevent the sale of counterfeit items within Amazon's supply chain. Brand Registry provides trademark owners with enhanced control over product listings and access to platform-based enforcement tools to address trademark infringement.

The Utility Patent Neutral Evaluation Process (a platform-based mechanism for resolving utility patent disputes) has several disadvantages, but it represents a step in the right direction by creating a mechanism to assert the rights of SMEs whose utility patents have been violated on the Amazon marketplace (Emerson, 2019). For example, Amazon reported that “utility patent disputes handled through Amazon process were decided in an average of seven weeks, significantly faster than the median time-to-trial of 2.4 years for a U.S. patent lawsuit”.³

IP Accelerator may be considered as a pool of Amazon-recommended IP companies. Amazon announced that IP Accelerator is making it easier and cheaper for SMEs to protect their products and IP.⁴

Regarding the creation of works protected by copyright, an option such as A+ Content (which allows brand owners to create enhanced product descriptions and visual materials)⁵ should also be considered in the context of Amazon's IP management policy.

Other widely used mechanisms are also available on the platform, including notice-and-takedown procedures derived from the DMCA (the Digital Millennium Copyright Act of the United States, adopted in 1998), etc.

E-commerce platforms generate recurring IP-related problems. These include the circulation of counterfeit

1. “Amazon's response to our wrongful inclusion on the Notorious Markets list”. Available at: <https://www.aboutamazon.com/news/policy-news-views/amazons-response-to-our-wrongful-inclusion-on-the-notorious-markets-list>. [Accessed: 21 October 2024].
2. Statement of Dharmesh M. Mehta Vice President, Worldwide Customer Trust and Partner Support Amazon.com Services LLC before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce. Available at: <https://docs.house.gov/meetings/IF/IF17/20200304/110634/HHRG-116-IF17-Wstate-MehtaD-20200304.pdf>. [Accessed: 21 October 2024].
3. Brand Protection Report. Available at: https://www.amazon-brand-registry.com/l/326621/2021-05-06/4s99x/326621/1620357443RZzlevCC/AMZ_BrandReport_EN.pdf?initialSessionID=138-9865382-9523016&Id=NSGoogle. [Accessed: 13 May 2024].
4. *ibid.*
5. About A+ Content. Available at: <https://sellercentral.amazon.com/gp/help/external/202102950>. [Accessed: 12 March 2025].

goods, trademark hijacking and listing takeovers, false infringement complaints, disputes over utility and design patents, and evidentiary burdens associated with proving authorization or first sale. On Amazon, these issues are addressed primarily through internal platform mechanisms.

In its general policy, Amazon holds sellers and suppliers responsible for the supply, sale and fulfilment of authentic products.⁶ In case of non-compliance with the rules, the company threatens suspension or termination and account deletion, disposal of non-authentic products, withholding of payments, support of legal actions, and other legal consequences.⁷

In 2020, Amazon established a counterfeit crimes unit “to build and refer cases to law enforcement, undertake independent investigations or joint investigations with brands, and pursue civil litigation against counterfeiters”.⁸

Amazon's IP Policy for Sellers provides detailed guidance regarding IP enforcement on the platform.⁹ Several features of internal dispute resolution are worth emphasizing. In case the seller receives multiple warnings of IP infringement and he believes he is selling non-infringing products, the seller may submit an appeal with a list of the allegedly infringing ASINs (Amazon Standard Identification Number) and certain documents, such as licenses, invoices, etc. If a seller's account has been suspended due to notices alleging IP infringement in relation to the seller's products or content, the seller may provide Amazon with a viable Plan of Action that identifies the root cause of the issue, the actions taken to resolve it, and the steps the seller will take to prevent future issues.

This approach emphasizes the company's experience in resolving disputes and demonstrating its intention to combat counterfeiting. For the buyer, it is important to get a quality product at a good price. How effective are the

practices mentioned in Amazon's policy? How do sellers feel about applying these practices?

At the same time, focusing exclusively on counterfeiting would be analytically insufficient, as IP on the platform also shapes market positioning, listing control, and seller behaviour beyond defensive enforcement. The study should examine broader IP management strategies as sellers perceive and apply them within Amazon's enforcement framework.

2. Scope and research framework

In this study, “IP” refers to trademarks, copyright, patents, and licensing/authorization to use protected assets. The article focuses on Amazon's internal governance of these rights from the sellers' perspective. The analysis distinguishes between the IP right itself (a statutory entitlement) and a license/authorization (a contractual permission to use that right).

The management of IP on Amazon is of interest to researchers. These dynamics unfold against a broader regulatory backdrop, including recent EU platform legislation.¹⁰ Such regulation concerns IP only partially and is therefore addressed here solely as part of the broader regulatory context. Although most studies and analytical reports consider the issues raised from the perspective of buyers (their security, protection against counterfeiting, etc.), the economic security and prosperity of countries, the specifics of interaction with the IP of the other party, namely sellers and other stakeholders involved in trading on Amazon, remain in the shadows. Therefore, the purpose of this study is to examine, in general, interactions with IP and, in particular, attitudes towards relevant Amazon policies among sellers and other stakeholders involved in commercial activities on Amazon.

6. Amazon Anti-Counterfeiting Policy. Available at: <https://sellercentral.amazon.com/gp/help/external/201165970>. [Accessed: 13 May 2024].
7. *ibid.*
8. Brand Protection Report. Available at: https://www.amazon-brand-registry.com/l/326621/2021-05-06/4s99x/326621/1620357443RZzle vCC/AMZ_BrandReport_EN.pdf?initialSessionID=138-9865382-9523016&Id=NSGoogle. [Accessed: 13 May 2024].
9. Intellectual Property Policy for Sellers. Available at: <https://sellercentral.amazon.com/gp/help/external/201361070>. [Accessed: 07 January 2025].
10. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act) and Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector (Digital Markets Act).

The analysis is structured around the relationship between public IP law and Amazon's platform-based private enforcement mechanisms. This study adopts a seller-centred perspective.

3. Methodology

This study is based on a qualitative-interpretivist data analysis (Herzog, Handke & Hitters, 2019). The Internet is an effective tool for conducting such research, since textual materials form part of a broad, accessible, and illustrative body of data (Ditchfield & Meredith, 2018). Today, Facebook is one of the most valuable sources of information.

The data for this study were collected from posts on Facebook groups discussing various professional issues among sellers and other stakeholders involved in commercial activities on Amazon. While informed consent is desirable for human research, Facebook feed observations are comparable to observational research in public spaces, and thus rejecting informed consent in this online environment may be warranted (Willis, 2019).

Although individual Facebook posts may qualify as copyright-protected subject matter, this study does not reproduce, quote, or commercially exploit user-generated content. As a result, the use of such material does not require authorization from content creators. The analysed posts reflect subjective opinions, experiences, and interpretations of sellers and other stakeholders; the study does not assess the factual accuracy of individual claims.

The study employed descriptive statistical methods.

As many scientists agree that there are no standardized procedures for collecting quality data online (Hewson, 2008), the presented study was structured to achieve the purpose stated in the "Introduction" section and contains the following steps:

- 1) For identification of posts in various groups, determination of the average number of comments in the sample;
- 2) manual selection of posts that contain IP issues and determination of the frequency of such posts in the group;
- 3) initial qualitative analysis of the selected posts;

- 4) detailed qualitative analysis of the selected posts, which includes the following steps:
 - a) originality of the sample (no repetition of posts);
 - b) posts which contain proceedings description (someone's complaint against the author / the author's complaint against someone);
 - c) posts where authors ask for paid assistance from contractors;
 - d) posts reflecting IP issues mediated exclusively by the technical specifics of Amazon's platform;
 - e) posts explicitly expressing dissatisfaction with Amazon's IP policies;
 - f) IP issues reflected in posts depending on the subject matter (patents/trademarks/copyright/licenses);
 - g) IP management strategies expressed in the posts;
 - h) references to Amazon's IP management programs.

The study of the sample's originality under point "a" affects the reliability and representativeness of the research results. Points "b", "c", "d", and "e" appeared as a result of the initial qualitative analysis of the selected posts and are conditioned by the ability to objectively interpret the reviewed posts according to the specified variables. The study of points "f", "g" and "h" clearly follows from the purpose of this study. Point "f" reflects Amazon's policies.

The basis for the classification of IP management strategies expressed in the posts under item "g" was drawn from well-known studies that identify management hierarchies with levels such as defensive, cost control, profit centre, integrated and visionary (Davis & Harrison, 2001; Eppinger & Vladova, 2013).

As a result of the initial qualitative analysis of the selected posts, it was decided to transform the levels in this classification as follows: defensive (trademarks and patents searching, registration of IP rights (IPRs), using them for protective purposes, for example, in Brand Registry, complaint handling), cost control (mainly related to registration costs and to financial losses from infringement of IPRs), reputational (using IP as a marketing product), profit centre (for example, useful features from A+ Content and Brand Registry, except for protection, or added value from a registered trademark when selling an account), go-to-market planning, and long-term planning levels. The last two levels generally form the previously mentioned visionary level.

The reputational level was added to a well-known classification because obtaining IPRs is not only interesting

to the user from the perspective of Amazon's programs. Some just want to show their registered brand on the listing, others want to indicate that the product is patented, and this fact probably adds value to the product being sold, etc.

The advisability of including point "h" was justified in the introductory section. Moreover, we assessed the dynamics of such interest over the years.

For greater reliability and variability of the results of this study, it was decided to analyse posts in three languages - English (en) (used in most Amazon websites), Spanish (es) (the main language on amazon.es and amazon.mx websites) and Russian (ru) (not the main language on any of the websites).

The personal data of the authors of the posts was not collected or analysed.

4. Results

Data collection was carried out manually in 2022 and 2025 using Facebook groups (two groups per language: English, Spanish, and Russian). Among other criteria, it was decided to assess sellers' interest in Amazon's policies mentioned by Mr Dharmesh M. Mehta after his speech and after more time had passed. The dataset includes posts published in 2021 and 2024, providing a longitudinal perspective.

The general initial data are presented in Table 1. Herein-after, the total averages for IP variables are calculated as weighted averages, with weights determined by the number of relevant posts in each language sample. The error due to rounding is ≤ 0.03 .

Table 1. Initial data

Variables	Year	Language			Total
		en	ru	es	
Number of subscribers	2021	126726	27860	19328	173914
	2024	107945	41871	20475	170291
Number of posts analysed	2021	2605	2474	1780	6859
	2024	1975	2676	1978	6629

Variables	Year	Language			Total
		en	ru	es	
Number of posts about IP	2021	166	96	143	405
	2024	205	118	92	415
Frequency of posts about IP	2021	0.06	0.04	0.08	0.06
	2024	0.10	0.04	0.05	0.06

Source: own creation

Data on posts containing requests for paid assistance and IP issues discussed are presented in Table 2. In some cases, it was not possible to clearly identify the IP object, so these cases were labelled "All IP".

Table 2. Data on posts containing requests for paid assistance and IP issues discussed

Variables	Year	Language			Average
		en	ru	es	
Asking for paid assistance	2021	0.10	0.48	0.08	0.18
	2024	0.09	0.22	0.14	0.14
Trademarks	2021	0.75	0.55	0.88	0.75
	2024	0.68	0.65	0.74	0.68
Copyrights	2021	0.09	0.05	0.03	0.06
	2024	0.09	0.12	0.11	0.07
Patents	2021	0.05	0.04	0.01	0.03
	2024	0.04	0.05	0.01	0.04
Licenses	2021	0.03	0.05	0.04	0.04
	2024	0.13	0.12	0.11	0.12
All IP	2021	0.08	0.31	0.04	0.12
	2024	0.06	0.07	0.03	0.06

Source: own creation

IP management strategies to which the content of the posts was most suitable are presented in Table 3.

Table 3. Data on IP management strategies

Variables	Year	Language			Average
		en	ru	es	
Long-term planning	2021	0.03	0.00	0.01	0.02
	2024	0.02	0.00	0.01	0.01
Go-to-market planning	2021	0.09	0.01	0.13	0.09
	2024	0.14	0.05	0.09	0.10
Profit center	2021	0.21	0.11	0.35	0.24
	2024	0.26	0.42	0.30	0.31
Reputational level	2021	0.03	0.01	0.03	0.03
	2024	0.01	0.04	0.05	0.03
Cost control	2021	0.02	0.02	0.03	0.02
	2024	0.04	0.04	0.04	0.04
Defensive level	2021	0.63	0.85	0.46	0.62
	2024	0.53	0.45	0.50	0.50

Source: own creation

The mention of Amazon's IP management programs and protection of IPRs on the platform was identified in 3 quarters of cases in 2021 and 2024 - in Table 4, the proportions are distributed relative to these numbers.

Table 4. Data on the mentions of Amazon IP management programs

Variables	Year	Language			Average
		en	ru	es	
A+ Content	2021	0.02	0.00	0.04	0.02
	2024	0.07	0.11	0.12	0.09
Brand Registry	2021	0.26	0.22	0.22	0.24
	2024	0.26	0.39	0.19	0.27
Amazon Transparency	2021	0.01	0.00	0.00	0.00
	2024	0.06	0.03	0.00	0.04
Project Zero	2021	0.00	0.00	0.00	0.00
	2024	0.01	0.00	0.00	0.01
Utility Patent Neutral Evaluation	2021	0.00	0.00	0.00	0.00
	2024	0.00	0.00	0.00	0.00

Variables	Year	Language			Average
		en	ru	es	
IP Accelerator	2021	0.01	0.00	0.01	0.01
	2024	0.01	0.00	0.00	0.01
Amazon's IP policy in general	2021	0.70	0.78	0.74	0.73
	2024	0.61	0.47	0.69	0.60
Expressing dissatisfaction with Amazon IP policies/support	2021	0.17	0.09	0.06	0.11
	2024	0.15	0.03	0.04	0.12
Complaints about the authors of posts	2021	0.30	0.39	0.08	0.24
	2024	0.27	0.08	0.19	0.20
Complaints from the authors of posts	2021	0.15	0.17	0.05	0.09
	2024	0.13	0.11	0.01	0.10

Source: own creation

Comparison of the samples by language showed high correlation coefficients: ± 0.75 on average. This indicator assumes group homogeneity regardless of the primary language used in the group.

5. Discussion

The presented results reveal several interesting facts. In this section, these facts are discussed according to the order of the tables presented in the Results section with some cross-referencing.

5.1. General Statistics

In general, identified posts were almost never repeated in the sample, and overall originality was about 99%. The scatter in the number of subscribers did not affect the frequency of IP posts in the groups.

The analysis found that members of Facebook groups dedicated to doing business on Amazon mentioned IP issues in approximately 1 in 17 posts (Table 1). Such interest in the issue can hardly be called great. Given the fact that

general non-Amazon-related topics were raised only in about one out of four cases, this interest can be called “compulsory”. Further, there are several more arguments in support of this thesis.

The mention of IP among Spanish-speaking and English-speaking audiences exceeds that among Russian-speaking audiences. Perhaps this result correlates with the multi-year inclusion of Ukraine and Russia in the Priority Watchlist within the Special 301 Report (USTR, 2019, 2020). In 2022, the neglect of IPRs on the highest level in Russia was clearly confirmed during the Ukrainian-Russian war (White, 2022). Perhaps this result also correlates with the lack of native-language websites for this audience.

In general, the frequency of posts remains the same during the period under review, but changes in their quality are visible.

5.2. Discussion of infringement complaints and IP issues

Discussion of trademark issues is by far the most prominent among other IP objects. The Spanish-speaking audience was the most engaged in trademark discussions. The Russian-speaking audience was unable (or unwilling) to clearly articulate the IP object under discussion. However, in 2024, we see that all users more clearly identify the type of IP, and the policies are likely to expand their knowledge.

The prevalence of trademarks was found to be the same across all groups, regardless of language. Many Amazon policies prescribe the registration of trademarks (Brand Registry, Amazon Transparency and Project Zero), so this interest in trademarks is not unexpected, and the logic described above is more like obtaining short-term benefits (for example, to be the “manager” of an Amazon listing - “A+”) and conforming to the rules, “compulsory management”.

While IP management strategies often emphasize the importance of objects such as patents, trade secrets, copyright and design rights (Wadsworth, Brant & Brown, 2021), with the policy-related approach and little interest in IP in general, actors do what is required of them. Objects that are more expensive to register (such as patents), from the point of view of their owners among SMEs, should contain

explicit markers of profitability, so these companies, if they do rely, rely more on profitable IP at the moment (de Rassenfosse, 2012).

Copyright received an unexpectedly low number of mentions. Amazon implements programs such as A+ Content and Merch by Amazon, which allow users to create copyrightable works.

Copyright can be a valuable asset at different levels of IP management (Shmatkov, 2020). In general, this issue requires additional research, but it can be assumed that trademarks have absorbed some proportion of copyright references, since, for example, access to A+ Content requires access as a registered brand owner at Amazon Brand Registry. In addition, sellers note that hijackers steal trademarks before stealing product images and protected original content, making trademark misuse a prime concern for the affected party.

We are seeing growing interest in copyright among the Russian- and Spanish-speaking communities, but the figures are still significantly lower than for trademarks.

An interesting fact is that most of the posts related to IP were caused by receiving a complaint. This is further confirmation of “compulsory management” of IP on Amazon... But this is only if we look at 2021. In 2024, we see trends towards aligning the variables, that is, diversifying sellers’ approaches.

In the event of a complaint, almost all users in the sample asked for help or advice to quickly unblock their accounts or block their competitors’. Russian-speaking users who offered their services in this matter most often offered unlocking, and almost never offered drafting a complaint. This once again confirms the Russian-speaking community’s lack of responsibility or knowledge regarding IP.

On average, in 14%-18% of cases, platform participants asked for or offered paid assistance, indicating a desire for sufficient clarity and comprehensibility in algorithms to achieve authors’ goals and build self-confidence. At the same time, the Russian-speaking audience asked for or offered paid assistance with resolving an IP-related issue more than other groups. Unlike the other two languages, Russian is not the primary language on any Amazon website. Therefore, the website’s language interface appears to be the most likely explanation for this finding. This

means that the lack of a native language for users on a website increases their costs and, accordingly, reduces profits.

5.3. IP management strategies

Regarding strategy choice, it is important to understand that these levels have a horizontal structure. Quite often, sellers start at the visionary level (go-to-market and long-term planning levels), then move on to defensive or profit centre levels. There were also cases in which sellers asked the question “What is IP and how to protect it?”, received complaints and assessed financial losses from possible or real violations (cost control level). The fact that the use of different strategies is more evenly distributed in 2024 than in 2021 is noteworthy.

The most popular cases of interest in IP have reached a defensive level that exceeds all other cases. This aligns with macro-level findings indicating that the actual impact of IPR policies on digital commerce depends not merely on their formal availability, but also on the quality of institutional enforcement and regulatory frameworks (Paun *et al.*, 2024). Considering, for example, pages such as “Become an Amazon seller” or “How to start selling on Amazon”,¹¹ we can see many mentions of Brand Registry and A+ Content and almost no mentions of various IP and their significance for SMEs. Perhaps it would be better for users to see the relevant information directly on Amazon’s website rather than on a third-party resource.

The approach of not requiring professional management of IP if SMEs do not cause significant disturbance to their competitors (Eppinger & Vladova, 2013) is somewhat limited. It does not account for the growth of these companies by receiving payments from their IP use or for more flexible IP commercialization models, nor does it account for buyer expectations. IP management strategies could be characterized by their versatility (Shmatkov *et al.*, 2021). Therefore, those English-, Russian-, and Spanish-speaking sellers who, in 2024, began using more sophisticated IP management strategies beyond the defensive level are on the right track. We also see an increased focus on licenses. At the same time, Amazon could contribute to advancing this direction. Amazon could further promote the

broader application of IP management strategies through dedicated programs, which would bring bilateral benefits.

5.4. Amazon’s programs and policies for IP management

Amazon presents its IP protection tools as globally available, while dispute resolution is implicitly anchored in the jurisdiction(s) in which the platform operates.

5.4.1. Transparency, Project Zero, and Utility Patent Neutral Evaluation

The first conclusion from the analysis of businesspersons’ interest in Amazon IP management programs is that Amazon-promoted programs such as Transparency, Project Zero and Utility Patent Neutral Evaluation are barely mentioned on Facebook (table 4).

The explanation for the lack of interest in Utility Patent Neutral Evaluation may reflect the general low interest in patents. The programme is quite reasonably criticized due to the biased nature of the proposed specifics of attracting dispute resolution experts (Emerson, 2019). In addition, disclosure requirements (Wong & Mackenna, 2020) can become an obstacle to sellers seeking to obtain a patent who had long doubted the product’s profitability.

In 2024, we see a small increase in attention to Transparency in English- and Russian-speaking groups, but interest is still low, and there is no interest at all in Project Zero.

The lack of interest in Transparency (assigning a unique, secure alphanumeric code to each branded product unit) and Project Zero (a programme that allows brand owners to participate in the fight against counterfeit) can be explained either by the clarity and impeccability of the programmes, or insufficient adequacy of the programs for users, or heavy expenses, the lack of awareness, objective need, and understanding of the benefits of the programs by the majority of sellers. The first option is unlikely to be applicable, since both programs require more steps than adding a trademark to Brand Registry, as widely discussed by users, and also require verification of sellers as the brand owner for the products through enrollment in

11. Become an Amazon seller. Available at: https://sell.amazon.com/?ref=scus_soa_wp_learnmore&initialSessionID=time%3D20827872011&id=NSGoogle_LM_WP_H_NOIMG-T1. [Accessed: 21 October 2024].

How to start selling on Amazon. Available at: https://sell.amazon.com/sell?ref=sdus_soa_hp_sell. [Accessed: 21 October 2024].

Amazon Brand Registry with a registered trademark. The second option is also questionable, as the company claims thousands of brands have enrolled in the Transparency and the Project Zero.¹²

The most adequate explanation for the lack of interest among the considered market participants is the third option – heavy expenses, the absence of awareness, and a need for, and understanding of, the benefits of the programs by the majority of sellers. These programs, unlike Brand Registry, do not offer the same obvious benefits (most likely due to limited promotion) and are not positioned as mandatory. In addition, the responsibility for combating counterfeits under these programs is shifted to the (*bona fide*) sellers, and the Transparency programme even requires the sellers' investments.

5.4.2. Brand Registry

The most talked-about programme (except for earlier general programmes) across all languages is the Brand Registry programme, launched in 2017. Amazon had made this trademark-requiring programme attractive to sellers by unlocking a suite of useful tools.¹³ In addition, through Brand Registry, right holders concerned about possible infringement of their IPRs can use the "Report a Violation" function (Oldknow, 2019). Brand Registry provides automated brand protection powered by machine learning that detects potential infringements and helps safeguard a brand's intellectual property proactively.¹⁴ Beyond counterfeiting, trademark protection on Amazon enables sellers to secure listing control, reduce opportunistic takeovers, and stabilize market presence under platform enforcement rules. These effects are civil-law in nature and extend beyond mere removal of infringing goods. Therefore, we began this inquiry by discussing strategies that go beyond combating counterfeiting.

The programme is even cited in the context of proposals such as adding a limited duty to police for e-commerce platforms in the new safe harbour provisions to alleviate ongoing inspection of various e-commerce platforms by IP owners (Dong, 2022).

Without diminishing the programme's merits, it should be noted that sellers do not always receive what they were promised. For example, a court ruled that Maglula, Ltd. against Amazon was a "straightforward counterfeit case" – among other things, it was found that Amazon did not stop offering, selling and delivering counterfeits even after Maglula enrolled at Brand Registry.¹⁵ Amazon even sold Maglula items shipped in an "Amazon warehouse" package that had an "X" and the word "COUNTERFEIT" (Berkowitz & Mroz, 2021). Such echoes concerns raised by Cruz (2024), who argues that Amazon's IP enforcement system can be exploited by brands to exclude legitimate third-party sellers, undermining the goals of trademark law and harming consumers through reduced competition and inflated prices.

The lack of standardized legal procedures or appeal mechanisms within Amazon's IP enforcement regime contributes to significant legal uncertainty for sellers, especially those operating outside dominant jurisdictions. Amazon's recurring claims of the absence of counterfeit goods on its platform raise questions about whether these statements can be reconciled with persistent infringement disputes and complaints reported by sellers.

If platforms remain the ultimate arbiter of disputes in the Digital Age, they warrant mandated procedures including the administration of justice through public accountability (Van Loo, 2021). In light of Amazon's quasi-judicial functions, there is a growing scholarly consensus that platforms that operate enforcement regimes over commercial rights should be subject to public accountability and procedural review.

12. Statement of Dharmesh M. Mehta Vice President, Worldwide Customer Trust and Partner Support Amazon.com Services LLC before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce. Available at: <https://docs.house.gov/meetings/IF/IF17/20200304/110634/HHRG-116-IF17-Wstate-MehtaD-20200304.pdf>. [Accessed: 21 October 2024].

13. Amazon Brand Registry. Build and protect your brand. Available at: <https://brandservices.amazon.com/>. [Accessed: 30 June 2025].

14. Statement of Dharmesh M. Mehta Vice President, Worldwide Customer Trust and Partner Support Amazon.com Services LLC before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce. Available at: <https://docs.house.gov/meetings/IF/IF17/20200304/110634/HHRG-116-IF17-Wstate-MehtaD-20200304.pdf>. [Accessed: 21 October 2024].

15. *Maglula, Ltd. v. Amazon.Com, Inc. et al* [2019] (Virginia Eastern).

Although it is necessary to agree with the opinion that the law is more effective than self-regulation (Floridi, 2021), legal effectiveness is treated as procedurally grounded and stakeholder-oriented, whereas platform self-regulation is primarily efficiency- and risk-driven.

Unfortunately, Amazon employees who focus on the “efforts to prevent fraud”¹⁶ could not quickly resolve hot issues, and sellers were losing money for weeks. Perhaps a more responsible, timely, personalized, and quality-oriented approach would help to resolve such problems faster. The “block and then deal” system is not a balanced, sophisticated approach. This reveals a problematic substitution of procedural safeguards under public law with opaque, discretionary internal enforcement by private platforms.

Sellers complain about lengthy procedures for reviewing cases. Therefore, it is necessary to agree with the opinion that the procedures for dealing with unconscientious sellers sometimes are too complicated, confusing and lengthy (Chow, 2019). Despite the popularity and usefulness of Brand Registry, the statement that “Amazon has established itself as the gold standard of the modern consumer experience” (Salyards, 2021) is debatable.

On the one hand, when marketplaces like Amazon implement extensive counterfeiting measures driven by their own incentives and secondary liability, this leads to positive results (Padilla, 2021). But, on the other hand, Brand Registry created a “powerful motivation” for registering trademarks, including “nonsense marks” – a phenomenon that poses new challenges to the trademark system (McLaughlin, 2021).

So, is Brand Registry a breakthrough tool for alleviating the continuous inspection of various ecommerce platforms by IP owners? Definitely yes. Brand Registry centralizes trademark enforcement through a single platform interface, reducing transaction costs and the need for continuous cross-platform monitoring for rights holders. Is the programme popular among sellers? Definitely yes – our results provide evidence of this. Is Brand Registry a

powerful tool to combat counterfeiting? Rather yes than no. Several problems have been mentioned. Does the programme raise awareness of the benefits of IP ownership among sellers, and does such ownership bring benefits beyond the platform? Referenced and presented research shows that the question is controversial. The success of Amazon’s IP management policies can be assessed by the number of “yes” answers to the questions posed.

5.4.3. Hybrid IP governance: brief perspectives on copyright management, ASIN control, trademark exhaustion and IP accelerator

Copyright policies had not been much discussed on Facebook. These discussions mainly concerned general DMCA notice-and-takedown issues, access to A+ Content through trademark registration and enrollment in the Brand Registry, excessive processing time for complaints, and receiving false complaints for copying descriptions and images on listings with access to A+ Content. Although a large amount of original copyrightable (as well as patentable by design patent) subject matter exists on Amazon, the company does not promote programs of the same scale and effort as the programs mentioned in the field of trademarks. The DMCA procedures may have partially removed such need, but they have created new problems, for example, unscrupulous complaints (Lizalek, 2021). This is a current challenge for online platforms.

The ASIN creation is an Amazon policy that the company does not advertise actively in the light of the fight against counterfeit products, but this policy generates interest and discussion among people doing business on the platform. The main topics of such discussions are obtaining invoices, licenses or distribution agreements from manufacturers and confirming the ASIN, UPC or EAN connection with a trademark. And in 2024, we see significant growth in this area. Are sellers becoming smarter about IP or is Amazon becoming more mindful of the issue? As always, the truth is somewhere in the middle.

Laws prohibit unauthorized persons or organizations from using a registered trademark. At the same time, the fact of

16. Statement of Dharmesh M. Mehta Vice President, Worldwide Customer Trust and Partner Support Amazon.com Services LLC before the United States House of Representatives Committee on Energy and Commerce Subcommittee on Consumer Protection and Commerce. Available at: <https://docs.house.gov/meetings/IF/IF17/20200304/110634/HHRG-116-IF17-Wstate-MehtaD-20200304.pdf>. [Accessed: 11 June 2025].

the first sale significantly complicates the filing of a claim for trademark infringement, except in cases where this may mislead or deceive consumers.¹⁷ Several exceptions may come to help the manufacturer in this case, such as products sold by unauthorized sellers that are “materially different” from the company’s authorised products and differences in applicable product quality controls (Vorys Sater Seymour, 2019).

In the EU, for example, exhaustion of the rights conferred by a trademark is described in Article 15 of Directive (EU) 2015/2436. The directive established that “a trade mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Union under that trade mark by the proprietor or with the proprietor’s consent”.¹⁸ This statement “shall not apply where there exist legitimate reasons for the proprietor to oppose further commercialization of the goods, especially where the condition of the goods is changed or impaired after they have been put on the market”.¹⁹

Although the principle of exhaustion of the rights conferred by a trademark is generally accepted at the national level, it is provoking fierce debate at the international level due to the strong interest of multinational corporations in preventing the arbitration of consumer goods from low and high-cost countries and maximizing profits in individual jurisdictions (Calboli, 2011).

In general, the ASIN creation policy is a useful tool for combating counterfeiting. However, this policy is somewhat confusing because once a brand owner agrees to sell their products on Amazon’s e-commerce platform, Amazon receives products not only from the brand owner but also from other third-party vendors who sell branded products (Chow, 2019). This coexistence of authorized brands and third-party sellers reflects a key competitive dynamic of platform commerce. As Osenga (2025) argues, Amazon’s private-label strategy – often accused of anti-competitive behaviour – actually exemplifies how IP law enables competition through market entry and pricing differentiation, similarly to practices in traditional retail.

Continuing the leitmotif of the previous paragraphs, it is important to note that the complexity and length, as well as the non-individualized, automated approach of the support service, were the second most common reasons for dissatisfaction expressed in the posts analysed. Dissatisfaction with Amazon’s policy to prevent sellers’ IPR infringement ranked first. In total, across all reasons, dissatisfaction with Amazon’s IP policy was clearly preponderant among the English-speaking audience.

The services of Amazon-promoted intermediary organizations through the IP Accelerator were rarely discussed on Facebook. Amazon, in promoting these services, focuses, on the one hand, on the cost-efficiency, experience, expertise, and customer service of law firms, and, on the other hand, on early access to Brand Registry.²⁰ It is important to emphasize that in practice, early access to Brand Registry can be obtained without using those services.

The study presented does not provide data on the cost-efficiency, experience, expertise, and customer service of those law firms, but it can be assumed that it is difficult for a seller applying to such a firm to assess its expertise without being an expert in the field. Sellers say that the main barriers to the popularity of such services are high prices and sellers’ lack of knowledge of English, but these data, of course, require statistical verification.

Returns due to customer doubts about authenticity are relatively common. Amazon does not actively promote this policy, likely because the responsibility for verifying product authenticity is shifted to consumers (Mussanova, 2021). In addition, this tool can obviously be useful in the hands of unconscientious competitors. But, in general, such a policy can be considered the ultimate means of confirming the authenticity of products.

Conclusion

In the context of the study, we can generally say that governments aim to ensure a transparent economy, pro-

17. *Prestonettes, Inc. v. Coty* [1924] (U.S. Supreme Court).

18. Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks OJ L 336.

19. *ibid.*

20. Brand Protection Report. Available at: https://www.amazon-brand-registry.com/l/326621/2021-05-06/4s99x/326621/1620357443RZzle_vCC/AMZ_BrandReport_EN.pdf?initialSessionID=138-9865382-9523016&ld=NSGoogle. [Accessed: 13 May 2024].

protect consumers' interests, and secure tax revenue from *bona fide* actors, among other objectives. Buyers want to receive high-quality, genuine, and safe goods, as well as the opportunity to choose. Sellers aim to maximise revenue and ensure transparency in the rules governing transactions on e-commerce platforms. A platform seeking market acceptance needs to focus more on building legitimacy among stakeholders (Kwak, 2019).

Amazon's policy generally meets buyers' needs. However, IP procedures can result in losses to sellers' revenues, especially in cases of unfair allegations and lengthy disputes. These cases negatively affect governments' tax revenue in proportion to their size.

In general, Amazon's IP system operates with a significant bias towards the platform's own rules and interests, and towards its goal of showing governments a commitment to IPRs. This illustrates how platform-centric logic may override public IP norms and broader competition goals. As Hovenkamp (2024) argues, while IPRs can foster competition and differentiation in e-commerce, platform structures like Amazon may appropriate these rights primarily to serve their own ecosystem, reducing their broader market-enabling effects.

In light of the ongoing criticism, Amazon is demonstrating its commitment to IP laws to communities and governments. Despite all the shortcomings, the results of the study show that Amazon's IP policy undoubtedly raises awareness among sellers and other stakeholders involved in commercial activities on the platform, owing to its compulsory nature and the advantages the company provides in connection with its compliance. This is a significant advantage of Amazon's programmes and an important contribution to building respect for IP among SMEs.

Amazon's IP system functions as a form of para-law: a private regulatory order whose procedures and sanctions resemble legal enforcement but are governed by corporate interest rather than legal obligation. The IP policies of e-commerce platforms shape the behaviour patterns of users of these platforms (Li, Xu & Huang, 2022). And we see this in our results - sellers are thinking more about expanding strategies beyond protection, and approaches are becoming more sophisticated in 2024 compared to 2021. The flip side of the coin is that sellers only learn how to manage IP within the platform and in order to achieve the goals of being successful on Amazon - today such an

approach can form a thoughtful attitude to the IP only fragmentarily and may not be transferable beyond the platform environment. This is consistent with the dual-case analysis by Wasaf and Zhang (2022), which argues that the current IP governance systems of major e-commerce platforms are fragmented and lack harmonization, thereby limiting their global effectiveness and weakening sellers' trust in the broader legal and institutional environment.

Platform-centric IP literacy reflects broader regulatory fragmentation in international digital trade. As noted by Prasad (2023), the absence of unified legal standards and jurisdictional clarity in e-commerce undermines effective enforcement and limits the growth of cross-border digital trade. The platform-centric compliance logic may be amplified in institutional environments where enforcement is weak or trust in regulatory procedures is low. As demonstrated in macro-level research, sustainable e-commerce adoption depends on trust in rules, institutional enforcement, and financial infrastructure (Paun *et al.*, 2024).

It is important to refine several aspects that today reduce the value of the efforts:

- Amazon's IP policy is reflected in sellers' communications, but it still does not occupy a significant place there. The company should continue moving in the direction of protecting IPRs. To this end, the programmes (or new programmes) should provide a faster and more explicit transition from carrot-and-stick IP strategies to cost control, long-term planning, and reputational levels - protection of customers and the IP of rights owners should be considered in a broader context than protection on the platform (as suggested by Amazon employees), but be implemented using platform tools.
- Amazon's programmes are more (and not always balanced beyond the platform) focused on trademarks - protection and commercialization of copyright and designs that are presented and/or created in large volumes on the platform could be enhanced by similar technical methods of "honey and vinegar";
- more sophisticated programs should be available to the general public and contain transparent eligibility criteria and values - all new programmes, that have been considered, are still not met with enthusiasm by sellers;
- promising but still not popular enough programs requiring significant investments such as Amazon Transparency should be considered in the projection of optimizing those investments (the cost of active

rights protection of rights holders should be reduced to increase their willingness to actively protect their IPRs (Li & Huang, 2022)) and adequacy of the other parameters that Amazon claims;

- instead of a declarative amount (blocking billions of suspected bad listings), it is more valuable to obtain quantitative indicators based on deliberated decisions (fast blocking proven bad listings, fast blocking proven hijackers, etc.);
- in order to maintain the confidence of users in the programs and their motivation to behave responsibly with IP, compromising successful programs (such as Amazon Brand Registry) should not be tolerated, even on rare occasions;
- the lack of regional websites in the appropriate languages increases the costs of sellers for IP management.

Overall, among similar online platforms, Amazon genuinely strives to set the standard for the legitimate use of IPRs (European Commission, 2020) and many of its implementations are on the right track. Definitely, “governments must increase prosecution of counterfeiters, increase resources for law enforcement fighting counterfeiters, and incarcerate these criminals globally”.²¹ And without legislative support, especially regarding the fair and expeditious handling of cases of infringement of IPRs on e-commerce platforms, from governments and an internal approach based on high-quality IP management within the platform, this path will be longer and thornier.

21. Brand Protection Report. Available at: https://www.amazon-brand-registry.com/l/326621/2021-05-06/4s99x/326621/1620357443RZzlevCC/AMZ_BrandReport_EN.pdf?initialSessionID=138-9865382-9523016&Id=NSGoogle. [Accessed: 13 May 2024].

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