

10 August 2023

Ameen Imam  
Office of Policy and International Affairs  
United States Patent and Trademark Office (USPTO)

Ref: **“Future Strategies in Anticounterfeiting and Antipiracy,” Docket Number PTO-C-2023-0006**

Dear Ameen Imam,

The TIC Council Americas is pleased to provide comment on **“Future Strategies in Anticounterfeiting and Antipiracy,”** Docket Number PTO-C-2023-0006. Testing, Inspection, and Certification (“TIC”) industry marks (e.g., Certification Marks) serve an important role in the United States by confirming that:

- A representative product sample was tested and met the requirements of a published standard.
- The product is in a Certification Program which includes additional requirements such as an initial factory audit and periodic inspection or testing activities which may include lot inspections.

In a recent study entitled "The Value of TIC," developed by Europe Economics and International Law firm Steptoe and published on the TIC Council website in June 2021, researchers found that when third party TIC was used, it resulted in "higher levels of regulatory compliance." Additionally, the study shows that "Businesses may achieve medium- and long-term cost savings through reliance on independent third-party conformity assessment services" and that third Party TIC services are trusted sources for confirming compliance, which enables industry to enter new markets and gain access to new customers.

The counterfeiting of TIC industry Marks threatens to weaken this important source of trust and reliability for consumers<sup>1</sup>.

In a U.S Department of Homeland Security (DHS) study, it is estimated that seizures of counterfeit or infringing products had increased 10-fold between the years of 2000 and 2018 and has only continued to grow.<sup>2</sup> These products include not only counterfeit branding from manufacturers and retailers, but counterfeit TIC marks and in some instances, counterfeit test reports.

The following product categories have been identified by TIC Council members as being leading areas where counterfeit TIC Marks have been found.

- Power Supplies
- Batteries (Household and commercial)
- LED Luminaries

---

<sup>1</sup> “Falsified: Test Reports & Certifications, Identification and Impact of Counterfeit Test reports and Certifications in the Global Marketplace,” TIC Council, June 2020, [https://www.tic-council.org/application/files/1216/0078/9309/TIC\\_Council\\_White\\_Paper\\_of\\_Identification\\_of\\_Falsified\\_Test\\_Reports\\_and\\_Certificates\\_finalv2.pdf](https://www.tic-council.org/application/files/1216/0078/9309/TIC_Council_White_Paper_of_Identification_of_Falsified_Test_Reports_and_Certificates_finalv2.pdf)

<sup>2</sup> Combating Trafficking in Counterfeit and Pirated Goods; Report to the President of the United States, January 24, 2020, Office of Strategy, Policy, & Plans, Homeland Security, [https://www.dhs.gov/sites/default/files/publications/20\\_0124\\_plcy\\_counterfeit-pirated-goods-report\\_01.pdf](https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf)

- Appliance wiring materials (Wire and Cable)
- IT equipment

Counterfeit products have also been found to be unsafe, in some cases introducing new hazards such as carcinogens in addition to not meeting U.S. safety regulations.<sup>3</sup> American Apparel & Footwear Association president and CEO Steve Lamar summarized when referring to the AAFA's 2022 study, that "The products that failed our study contained dangerous levels of arsenic, cadmium, phthalates, lead, and more that have been shown to cause adverse health outcomes. Even small amounts can pose significant health risks."

To combat the growth in counterfeits, the TIC Council has launched a Repository of TIC Council Databases<sup>4</sup>, a TIC Council Member Mark Reference Guide<sup>5</sup>, a TIC Council Anti-Counterfeiting Action Center<sup>6</sup>, TIC Council "Check the Fake" Campaign<sup>7</sup> focused on educating consumers, and published a TIC Council Pamphlet - An Essential Guide to Help You Outwit Counterfeits.<sup>8</sup>

Our TIC members conduct training and education with customs officials around the world and provide resources to assist them in authenticating TIC Marks and test reports. They also conduct webinars and other outreach to manufacturers, retailers, consumers and other industries to bring visibility to this growing issue.

However, more work is needed. As outlined in "Recommendations for Combating the Growth of Counterfeit Goods Sold in the United States," published in October 2021<sup>9</sup>, the TIC Council recommends the

- Continued Collaboration between the Public and Private Sector and Greater Information Sharing with Rights Holders.
- Inclusion of Strong IP Protections and Enforcement Mechanisms in Trade Agreements.
- Strengthened Penalties for Counterfeiters.
- Dedication of Resources for IP Enforcement and Education.
- Regulatory and Legislative Action to Ensure That Products Sold on E-Commerce Sites are not Counterfeit.

The TIC Council supports all efforts to enforce IP protection requirements, address the growing counterfeiting epidemic, and looks forward to our ongoing engagement and discussion on this topic.

TIC Council is a global association representing over 90 international independent third-party testing, inspection, certification and verification organizations. Testing, Inspection and Certification (TIC) companies cater to a diverse range of industry sectors and a variety of standards and legislation. The

---

<sup>3</sup> "Filter it Out," A Campaign by the Association of Home Appliance Manufacturers, <https://filteritout.org/>

<sup>4</sup> "Repository of TIC Council Databases - Search TIC Council Members' Certificate Databases with this helpful resource.," <http://bit.ly/3VwLlga>

<sup>5</sup> "TIC Council Member Mark Reference Guide," <http://bit.ly/3B3gyzB>

<sup>6</sup> "TIC Council Anti-Counterfeiting Action Center," <http://bit.ly/3VSvwQH>

<sup>7</sup> "TIC Council "Check the Fake" Campaign," <http://bit.ly/3XP5n7r>

<sup>8</sup> "TIC Council Pamphlet - An Essential Guide To Help You Outwit Counterfeits," <http://bit.ly/3OXxoFQ>

<sup>9</sup> Recommendations for Combating the Growth of Counterfeit Goods Sold in the United States,' TIC Council, October 2021, [https://www.tic-council.org/application/files/8315/8316/0439/TIC\\_Council\\_Americas\\_-\\_Sale\\_of\\_Counterfeit\\_Products\\_on\\_ECommerce\\_Platforms.pdf](https://www.tic-council.org/application/files/8315/8316/0439/TIC_Council_Americas_-_Sale_of_Counterfeit_Products_on_ECommerce_Platforms.pdf)

industry represents an estimated one million employees across the world with annual sales of approximately USD 200 billion.

We appreciate the opportunity to give feedback on **“Future Strategies in Anticounterfeiting and Antipiracy,”** Docket Number PTO-C-2023-0006. Should you have any questions, please don’t hesitate to contact Benjamin Johnson at +1 240 385-6263/ [bjohnson@tic-council.org](mailto:bjohnson@tic-council.org).

Sincerely,



Hanane Taidi  
Director General  
TIC Council



Karin Athanas  
Executive Director  
TIC Council Americas  
[kathanas@tic-council.org](mailto:kathanas@tic-council.org)