Beyond Domains: Digital Platform Liability for Trademark Infringement in the US

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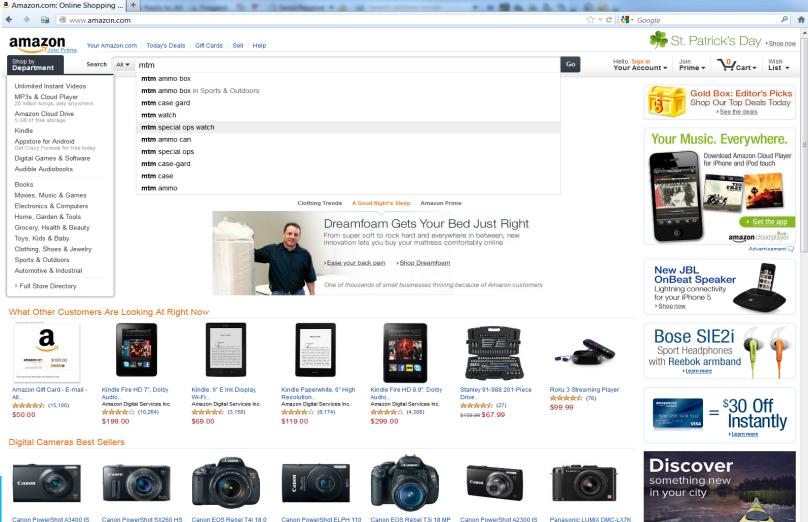
Direct Liability

- Search Engine Liability for Keyword Advertising
 - Rescuecom v. Google, 562 F.3d 123 (2nd Cir. 2009)
 - Statutory definition of "use in commerce" for purposes of infringement/dilution needs work
 - Rosetta Stone v. Google, 676 F.3d 144 (4th Cir. 2012)
 - Adwords Suggestion Tool = "use in commerce" https://adwords.google.com/KeywordPlanner



Direct Liability

Multi Time Machine, Inc. v. Amazon. Com, Inc., 804 F.3d 930 (9th Cir. 2015)





MP CMOS.

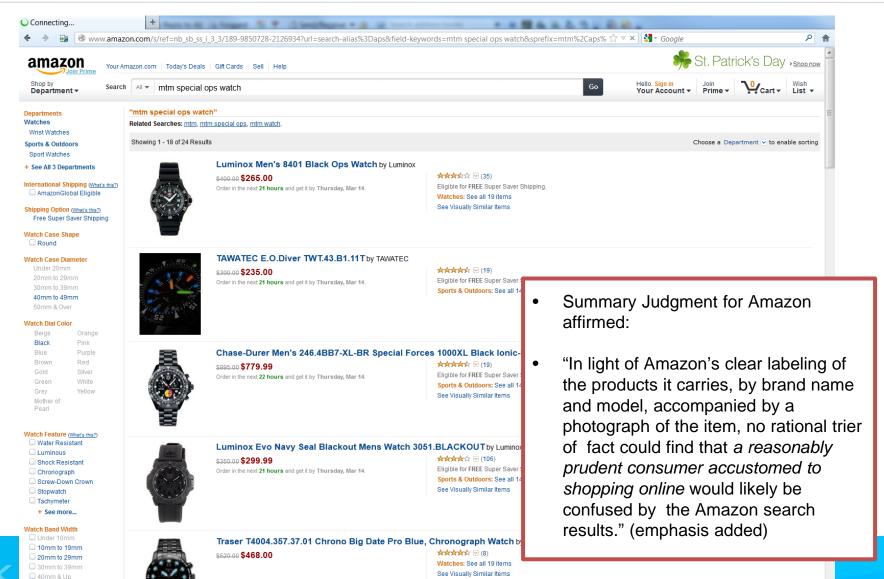
HS 16.1 MP.



16.0 MP...



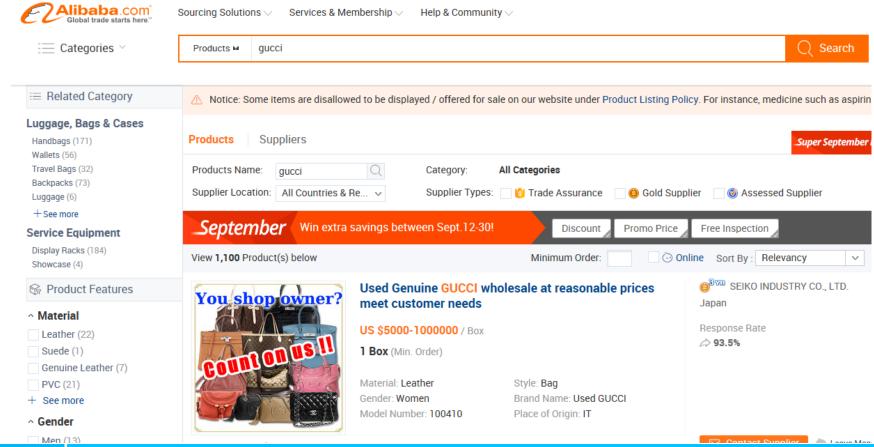
Multi Time Machine, Inc. v. Amazon.Com, Inc., 804 F.3d 930 (9th Cir. 2015) (cont'd)



Waiting for s.amazon-adsystem.com..

Direct Liability

 Gucci America Inc et al v. Alibaba Group Holdings Ltd, U.S. District Court, Southern District of New York, No. 15-03784 (currently pending)





Indirect Liability

- Rosetta Stone v. Google,
 562 F.3d 123 (2nd Cir. 2009)
- Tiffany, Inc. v. eBay, Inc., 600 F.3d 93 (2d Cir. 2010)
- Academy of Motion Pictures Arts and Sciences v. GoDaddy.com, Inc., Case No. CV 10-03738 (C.D. Cal. 2015)

Platform Takedown Experience and Takeaways....

- App Store
 https://www.apple.com/legal/internet-services/itunes/appstorenotices/#?lang=en
- Twitter
 https://support.twitter.com/forms/trademark
- Facebook
 https://www.facebook.com/help/440684869305015/
- Amazon
 https://www.amazon.com/gp/help/reports/infringement
- Advising client platforms
 Digital Millennium Trademark Act (DMTA)?