

Exemplo de uma Carta “Cessar e Desistir” contra Infratores

Ao registrar a sua Marca na Amazon, na maioria das vezes ficará protegido contra vendedores que tentem vender produtos contrafeitos na sua listagem (conhecidos por Hijackers). No entanto, nem sempre essa proteção é eficaz ou tem efeitos imediatos, e por vezes torna-se necessário tomar outro tipo de ações. O envio de uma Carta “Cessar e Desistir” ao infrator é o primeiro passo para que este deixe de vender produtos contrafeitos na sua listagem. Este documento é um mero exemplo de uma Carta “Cessar e Desistir”, que deverá ser redigida e ajustada à sua própria realidade, sendo da sua total responsabilidade.

[Logótipo, nome e morada da sua empresa] [data atual]

[Nome e morada do Infrator]

Dear [Nome do Infrator],

Our Company is the owner of U.S. Federal Trademark Registration No. [Número do registo da sua Marca], as well as the owner and licensee of other pending trademark applications, relating to the trademark [Nome da sua Marca]. Our Company uses this mark in the United States and around the world in conjunction with [Descrever os Produtos e/ou Serviços]. Our trademarks have been in continuous use since [Data de início]. A copy of the federal trademark registration data is attached for your reference.

We have discovered that your company, [Nome do Infrator], is intentionally trading on our goodwill by using our trademark, namely, [Nome da Marca infratora], that is confusingly similar to our trademark. Your website at [Link do website do infrator] prominently features a variety of goods and services similar to our own goods and services.

It is clear that your use of [Nome da Marca infratora] is intended to (and actually does) confuse and misdirect customers seeking our goods and services. This activity is actionable under federal law and causes you to be liable to us in every state in which you have made sales. Your activities are unlawful and constitute unfair competition, intentional trademark infringement, trademark dilution, and false designation of origin.

Federal trademark law provides numerous remedies for trademark infringement and dilution, including, but not limited to, preliminary and permanent injunctive relief, money damages, a defendant's profits, provisions for the destruction or confiscation of infringing products and promotional materials, and where intentional infringement is shown, attorney's fees and treble money damages.

Our Company can file a lawsuit against you seeking: (i) preliminary and permanent injunctions, (ii) money damages, (iii) compensation equal to your profits, (iv) reimbursement for our attorney's fees, and (v) a court order that you compensate us for damage to our Company's goodwill.

We prefer to resolve this matter without taking legal action, but we are prepared to file a lawsuit if necessary to protect our rights and business. You may avoid legal action by having an authorized representative of your company respond to this letter no later than **[Data limite]**, together with an accounting of profits derived from the use of **[Nome da Marca infratora]** received to date.

This letter is sent without prejudice to our Company's rights and claims, all of which are expressly reserved. Please direct any communications regarding this matter to my attention.

Sincerely,

[Assinatura do responsável]