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9 PLANET GREEN CARTRIDGES, INC.

10
11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 PLANET GREEN CARTRIDGES, INC., a)
14 California corporation,) CASE No.:
15)
16 Plaintiff,) **COMPLAINT FOR DAMAGES:**
17 v.) **1. Violation of the Lanham Act, 15**
18) **U.S.C. § 1125;**
19 AMAZON.COM, INC., a Delaware) **2. Common Law Unfair Competition;**
20 corporation; AMAZON.COM SERVICES) **3. Unfair Competition in Violation of**
21 LLC, a Delaware limited liability) **California Unfair Competition Law –**
22 company; AMAZON ADVERTISING) **Unlawful and Unfair Prongs (Cal. Bus.**
23 LLC, a Delaware limited liability) **& Prof. Code § 17200, et seq.);**
24 company; and DOES 1-25, inclusive,) **4. Violation of California False**
25) **Advertising Law (Cal. Bus. & Prof.**
26) **Code § 17500, et seq.)**
27 Defendants.) **DEMAND FOR JURY TRIAL**

28
COMES NOW Plaintiff, PLANET GREEN CARTRIDGES, INC. (“Plaintiff” or
“Planet Green”), with knowledge of its own actions and events, and upon information
and belief as to other matters, and alleges as follows against Defendants

1 AMAZON.COM, INC., AMAZON.COM SERVICES LLC, AMAZON ADVERTISING
2 LLC and DOES 1-25, inclusive (collectively, “Defendants”):

3 **I.**

4 **INTRODUCTION**

5 1. This action arises out of Defendants’ persistent violation of their own
6 policies, federal and state laws, and stated environmental objectives, by the false claims
7 of new built clone cartridges as being remanufactured and sold as recycled product on a
8 mass scale. The products, almost all of which are made in China, are not original
9 equipment manufacturer (“OEM”), but are new built clone printer ink cartridges, falsely
10 listed and labeled as remanufactured and sold as recycled product, deceiving millions of
11 Amazon’s customers in California and throughout the United States.

12 2. Plaintiff presented Defendants with uncontroverted evidence outlining
13 numerous brands of printer ink cartridges Plaintiff purchased on Amazon as test
14 purchases, which demonstrated that Defendants were falsely advertising, making
15 unsubstantiated environmental claims, and selling clone cartridges falsely represented as
16 remanufactured, in violation of Amazon’s policies, federal and state laws, and engaging
17 in conduct antithetical to Amazon’s environmental mission and efforts. Defendants’
18 response to Plaintiff’s evidence was essentially that they are immune from liability for
19 publishing third-party content on their platform under the Communications Decency Act,
20 47 U.S.C. section 230. But, as set forth further below, this contention is just wrong.

21 3. Plaintiff requested Defendants, per their own policies, remove or suspend
22 sellers of misrepresented clone cartridges outlined in Plaintiff’s presentations of evidence
23 until they authenticated that their cartridges were actually remanufactured. Instead,
24 Defendants continue to allow unlawful sellers to maintain their accounts, permit them to
25 advertise, promote their products with Defendants’ endorsement, and Defendants provide
26 fulfillment services, “sold by Seller and fulfilled by Amazon.” In a Zoom meeting on
27 May 26, 2023, Defendants told Plaintiff that they had asked brands that could not
28 substantiate claims of being remanufactured or recyclable to change their product

1 descriptions to continue to sell on the platform. But the deceptive practices have not
2 changed, and Defendants continue to allow sellers that have deceived millions of
3 consumers with its false advertising and recyclability claims to sell clone ink cartridges
4 over Amazon.

5 4. Moreover, Defendants themselves promote, distribute, fulfill, advertise, and
6 sell the illicit clone cartridges identified in Plaintiff's presentations of evidence, including
7 through their Amazon Warehouse Program. Defendants use the same false descriptions
8 used by other sellers in describing the clone ink cartridges they sell. Defendants' deep
9 involvement in the sale, distribution and promotion of these clone cartridges renders them
10 liable for the unlawful manner in which they are promoted and sold.

11 **II.**

12 **THE PARTIES**

13 5. Plaintiff, PLANET GREEN CARTRIDGES, INC., is a corporation
14 organized under the laws of the State of California, with its principal place of business in
15 Chatsworth, California. For the last 23 years, Planet Green has been an industry leader of
16 wholesale, high-quality, United States remanufactured ink cartridge products. Planet
17 Green remanufactures ink cartridges using only OEM cores that are collected from
18 schools, businesses, and consumers throughout the United States. The remanufactured
19 ink cartridges sold by Planet Green are authentic recycled products.

20 6. Defendant AMAZON.COM, INC. is a corporation organized and existing
21 under the laws of the State of Delaware, with its principal place of business at 410 Terry
22 Avenue North, Seattle, Washington 98109-5210. AMAZON.COM, INC. markets and
23 sells products to retail consumers all over the world through internet websites such as
24 www.amazon.com, using various trademarks and brand names, including "Amazon."

25 7. Defendant AMAZON.COM SERVICES LLC is a limited liability company
26 organized and existing under the laws of the State of Delaware, with its principal place of
27 business at 410 Terry Avenue North, Seattle, Washington 98109-5210. AMAZON.COM
28 SERVICES LLC sells products to consumers through Amazon Warehouse that are

1 fulfilled by Amazon.com. Plaintiff is informed and believes that AMAZON.COM
2 SERVICES LLC is a subsidiary of Defendant AMAZON.COM, INC. Defendants
3 AMAZON.COM, INC. and AMAZON.COM SERVICES LLC are sometimes
4 collectively referred to herein as “Amazon.”

5 8. Defendant AMAZON ADVERTISING LLC is a limited liability company
6 organized and existing under the laws of the State of Delaware, with its principal place of
7 business at 410 Terry Avenue North, Seattle, Washington 98109-5210. AMAZON
8 ADVERTISING LLC provides advertising services to third party sellers. Plaintiff is
9 informed and believes that AMAZON ADVERTISING LLC is a subsidiary of Defendant
10 AMAZON.COM, INC. Defendants AMAZON.COM, INC., AMAZON.COM
11 SERVICES LLC and AMAZON ADVERTISING LLC are sometimes collectively
12 referred to herein as “Amazon.”

13 9. The true names and capacities of Defendants sued herein as DOES 1-25,
14 inclusive, are unknown to Plaintiff. Plaintiff therefore sues these Defendants by such
15 fictitious names. Plaintiff will amend this complaint to allege the true names and
16 capacities of said DOE Defendants when ascertained. Each of these fictitiously named
17 Defendants are responsible in some manner for the acts and conduct alleged herein and
18 such Defendants proximately caused Plaintiff harm as alleged herein.

19 III.

20 JURISDICTION AND VENUE

21 10. This court has original jurisdiction over the subject matter of this matter
22 under 15 U.S.C. section 1121 and 28 U.S.C. sections 1331 and 1338, because it is a civil
23 action involving claims arising under the laws of the United States, including the Lanham
24 Act, 15 U.S.C. section 1051 *et seq.*, and the court has supplemental jurisdiction over
25 Plaintiff’s state law claims under 28 U.S.C. sections 1338(b) and 1367(a), in that they
26 form part of the same case or controversy that gives rise to Plaintiff’s claims under the
27 laws of the United States.

28 11. This court also has original jurisdiction over the subject matter of this

1 action pursuant to 28 U.S.C. section 1332 because the amount in controversy exceeds
2 \$75,000.00 and the parties are diverse in citizenship.

3 12. Venue is proper in this court pursuant to 28 U.S.C. section 1391(b) because
4 a substantial part of the events or omissions giving rise to the claims at issue occurred in
5 this judicial district and division, and because Defendants are subject to the court's
6 personal jurisdiction with respect to this action.

7 13. The court has personal jurisdiction over each of Defendants because the
8 causes of action asserted herein arise from Defendants transacting business in the State of
9 California, contracting to supply and actually supplying services or things in the State of
10 California and causing tortious injury in the State of California by virtue of their acts and
11 omissions.

12 14. This court has personal jurisdiction over Defendants because they (a) have
13 sold numerous products in the State of California and this district; (b) have caused
14 tortious injury within the State of California and this district; (c) have practiced the
15 unlawful conduct complained of herein, in part within the State of California and this
16 district; (d) have regularly conducted and solicited business within the State of California
17 and this district; (e) have regularly and systematically directed electronic activity into the
18 State of California and this district with the intent to engage in business within the State
19 of California and this district, including the sale and/or offer for sale to internet users
20 within the State of California and this district; and (f) have entered into contracts with
21 residents of the State of California and this district for the sale of goods.

22 **IV.**

23 **FACTUAL ALLEGATIONS**

24 15. Since 1999, Planet Green has remanufactured ink cartridges in a state-of-
25 the-art facility utilizing a painstaking process consisting of obtaining used OEM cartridge
26 cores, thoroughly inspecting, cleaning, refilling the cartridges with new ink, testing for
27 quality control, and packaging for resale. Planet Green is one of the last remaining printer
28 cartridge remanufacturers in the United States. The United States once was the epicenter
of thousands of printer cartridge remanufacturers, suppliers, and resellers. Due to the

1 conduct of Defendants as the primary advertiser and distributor of the sale of inauthentic
2 products from overseas as alleged herein, the United States printer cartridge
3 remanufacturing industry has been eviscerated.

4 16. Prior to the filing of this action, Plaintiff put Amazon on notice of the
5 wrongful conduct alleged in this Complaint. On June 23, 2022, Plaintiff provided a
6 presentation of evidence to Amazon detailing how 18 brands and their numerous listings
7 of aftermarket ink cartridges label new built single-use clone ink cartridges as
8 “remanufactured,” which are sold as a recycled product on their platform (sometimes
9 referred to herein as “the illicit ink cartridges”). Plaintiff demonstrated that the same
10 sellers are falsely advertising their listings, products, and packaging. Plaintiff also pointed
11 out that the same sellers are misusing Amazon’s own defined terms “remanufactured”
12 and “compatible” for different types of printer cartridges by using them interchangeably,
13 which is deceptive. Plaintiff offered Amazon an opportunity to do the right thing and stop
14 the sale of falsely labelled clone printer cartridges that are deceiving consumers, harming
15 the environment, and that have destroyed the once thriving printer cartridge
16 remanufacturing industry. The original notice and presentation are attached hereto as
17 **Exhibit 1.**

18 17. Over the course of five (5) months, Amazon failed to act on any of the 18
19 brands of illicit clone ink cartridges as they continued to be available for purchase on
20 Amazon’s website. During this time, Plaintiff continued to purchase more ink cartridges
21 that were falsely sold as remanufactured ink cartridges from Amazon. On December 9,
22 2022, Plaintiff sent a second presentation of evidence to Amazon, identifying a total of 82
23 brands of remanufactured ink cartridges that were purchased by Plaintiff. This
24 presentation illustrates that Amazon has a category-wide issue with falsely labeled
25 cartridges, promoted with unsubstantiated environmental claims, in violation of
26 Amazon’s listing policies, which deceive consumers. In addition, Plaintiff separately
27 hand delivered its presentation of evidence on November 24, 2022, to Amazon’s Chief
28 Executive Officer Andy Jassy, through a mutual contact, informing him of the unlawful

1 actions that were taking place on Amazon’s platform. The second presentation of
2 evidence is attached hereto as **Exhibit 2**.

3 18. Amazon acknowledged receiving the second presentation of evidence
4 asking for Plaintiff’s test buy results to confirm the factual allegations, a baffling
5 response considering that Plaintiff’s presentations contained the test buy results. Amazon
6 took the positions that the Amazon Seller Code of Conduct prohibits sellers from making
7 false statements about products and that Amazon is not responsible for seller statements
8 and is immune from liability for publishing third-party content on its platform under
9 Section 230 of the Communications Decency Act, 47 U.S.C. § 230. These positions
10 completely ignore the fact that Plaintiff notified Amazon of illicit clone ink cartridges
11 and that the entire category of remanufactured printer cartridges is overrun by sellers who
12 unlawfully misrepresent their products. In response, Amazon has provided nothing more
13 than lip service, claiming, without action, that Amazon will enforce its rules and
14 investigate.

15 19. The reason for the tremendous loss of an entire United States printer
16 cartridge remanufacturing industry and Plaintiff’s damages, is due to Amazon’s direct
17 participation in the unlawful practices detailed in this Complaint, which effectively
18 prevent legitimate businesses from competing against the overwhelming proliferation of
19 clone printer cartridges flooding the market through their website, fulfillment centers and
20 warehouse program. Sellers are allowed to list multiple products claiming to be
21 remanufactured OEM cartridges, frequently bearing the “recyclable” symbol, when in
22 fact they are newly manufactured clone cartridges, not OEM product, and not in fact a
23 recycled or recyclable product.

24 20. The following are some examples that were shared with Amazon, which
25 illustrate how illicit brands and their sellers are defrauding consumers:

- 26 1) Examples of new built clone ink cartridges falsely labeled as
27 remanufactured and sold as a recycled product and ships from Amazon:
28

a. Amazon listing for V-Surink.

V-Surink listing is describing their product to be remanufactured and ships from Amazon.

b. Ink cartridges, Plaintiff purchased on Amazon and fulfilled by Amazon.

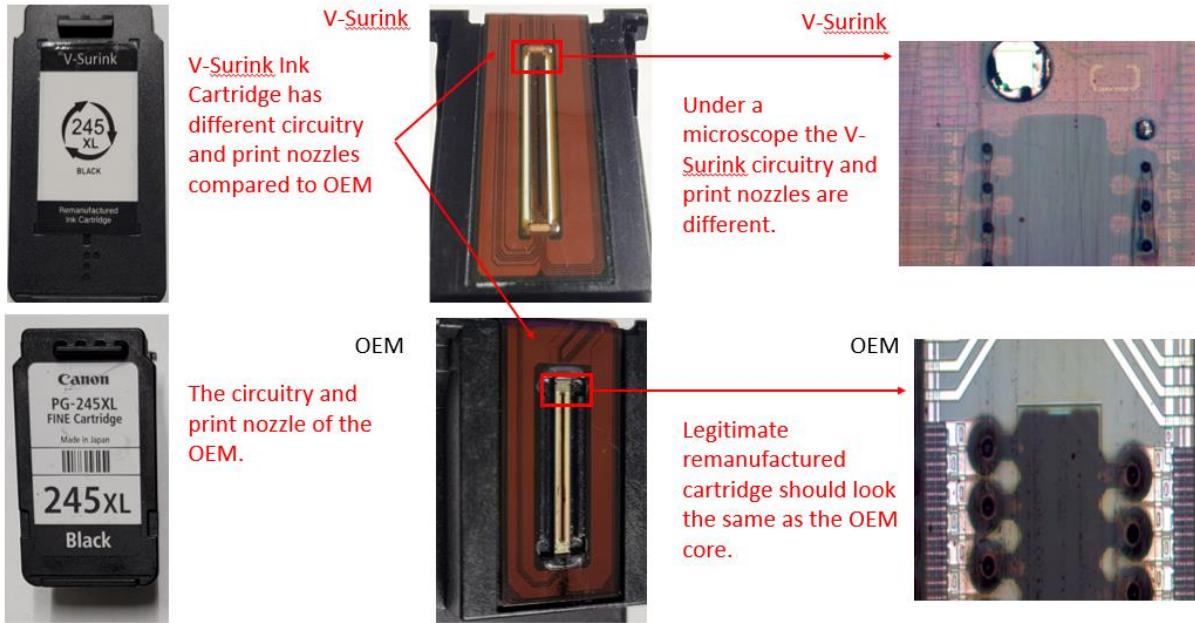


V-Surink is claiming on their product and packaging to be a remanufactured product.

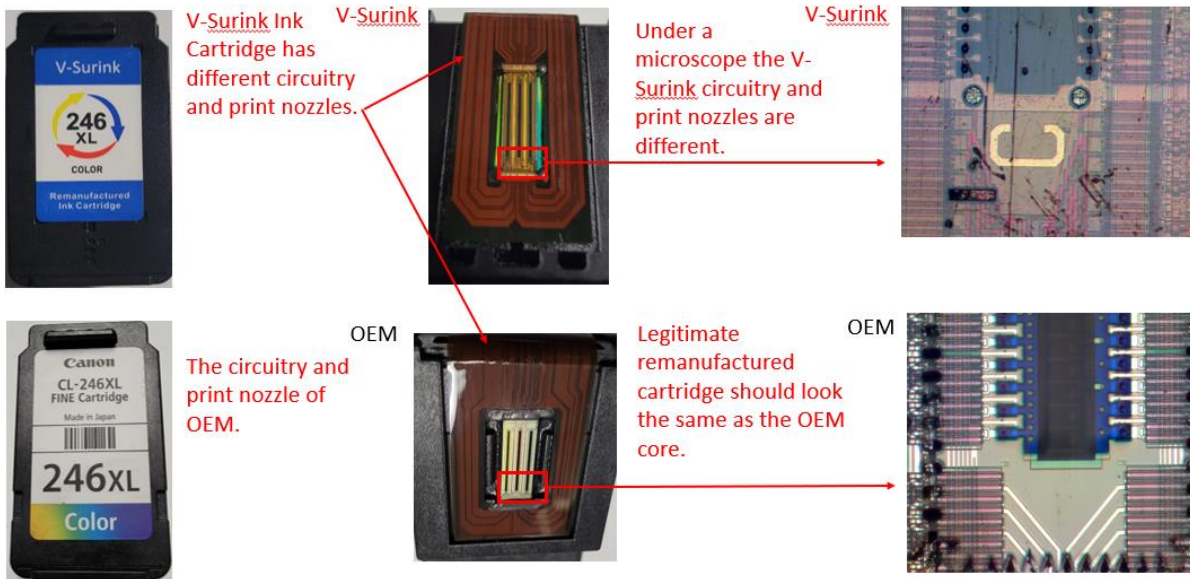
c. Below is a side-by-side comparison of Canon cartridges and V-Surink

ink cartridges. The example shows the differences between OEM cores and counterfeit remanufactured ink cartridges.

Under Microscope V-Surink Cartridge Side-By-Side Comparison with OEM Cartridge Core



Under Microscope V-Surink New Built Clone Cartridge Side-By-Side Comparison with OEM Cartridge Core

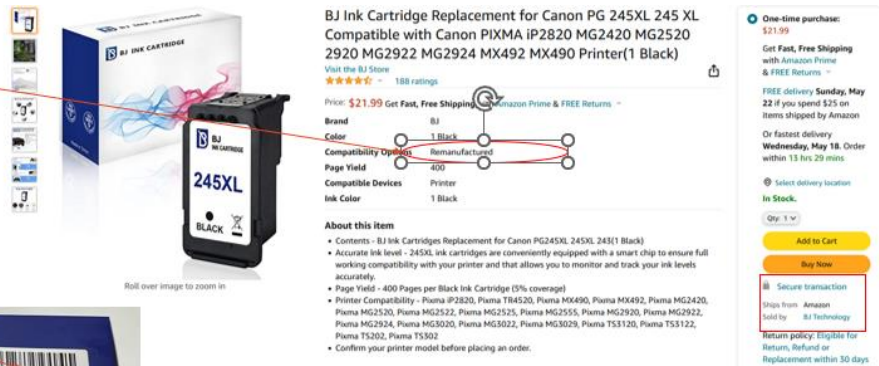


d. Another example of a counterfeit remanufactured ink cartridge

purchased from Amazon with side-by-side comparison with an OEM cartridge;

BJ Ink Cartridge listing describing their product as remanufactured and ships from Amazon

BJ Ink Cartridge product and packaging purchased on Amazon claiming the cartridge is remanufactured.



Side-by-side comparison between an original Canon cartridge and a new built non-OEM clone cartridge falsely labeled as a remanufactured and sold as a recycled product.

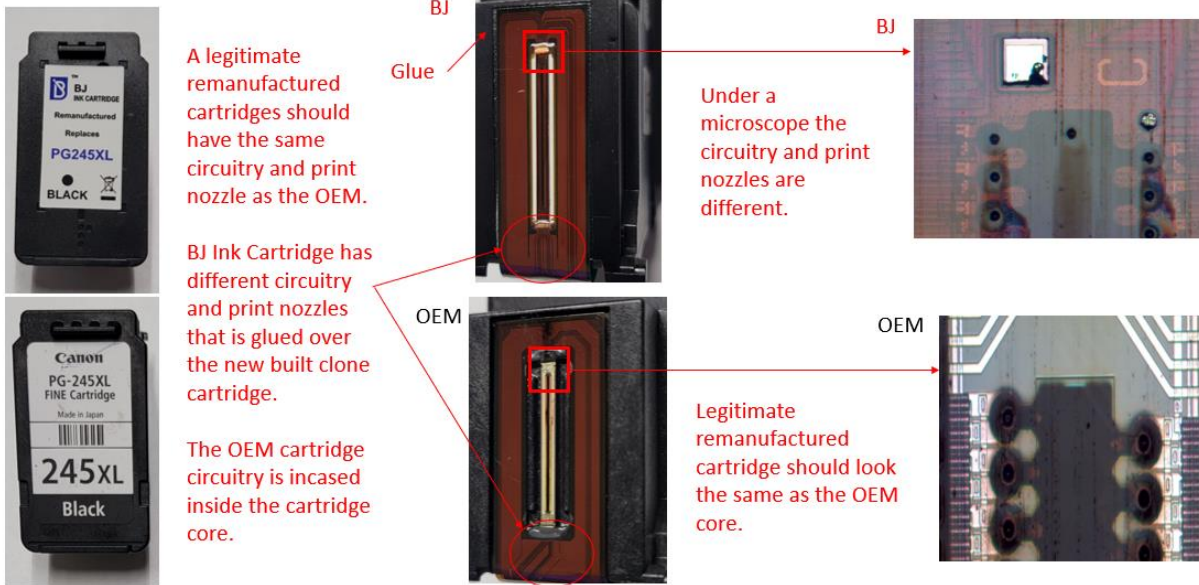


The OEM cartridge has Canon engraved in the core of the cartridge while the clone cartridge has no OEM markings and is made from clearly different plastic material.



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Under Microscope BJ Cartridge New Built Clone Side-By-Side Comparison with OEM Cartridge Core



2) Example of an inaccurate and deceptive Amazon listing. Sheengo depicts its box to look like a Canon box and claims to be remanufactured.



Sheengo's listing on Amazon depicting itself as a Canon OEM Cartridge and ships by Amazon.

- a. Below is the actual package and product that was received after a test purchase from Amazon. The package and product are significantly different than what is depicted in Sheengo's Amazon listing.

The inaccurate depiction of listing and what was received is in direct violation of Amazon's Ink and Toner listing policy where your listing and images must accurately describe your product.



- b. Side-by-side comparison of Canon cartridges and Sheengo's ink cartridges show a significant difference between the OEM core and a new built non-OEM clone cartridges falsely labelled as a remanufactured product.



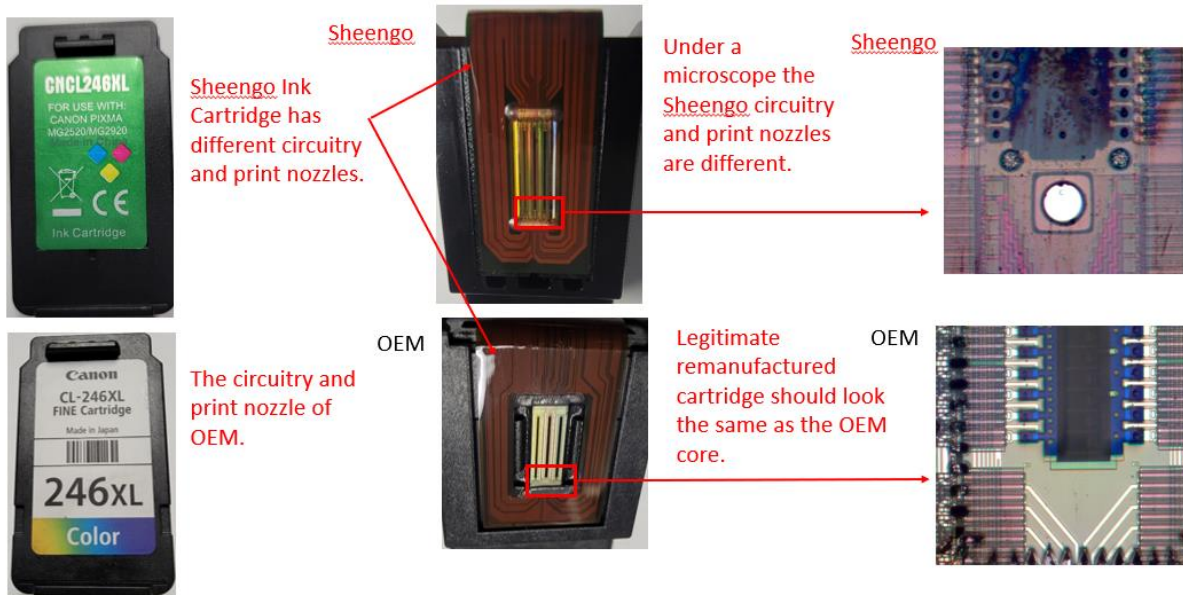
Side-by-side comparison between an original Canon cartridges and Sheengo's new built non-OEM clone cartridges sold as a remanufactured product.

The OEM cartridge has Canon engraved on the core of the cartridge. Sheengo's cartridges do not have any OEM markings and are clearly made from different plastic material.

Under Microscope Sheengo's New Built Clone Cartridge Side-By-Side Comparison with OEM Cartridge Core



Under Microscope Sheengo New Built Clone Cartridge Side-By-Side Comparison with OEM Cartridge



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c. The customer’s reviews below are examples of how Amazon strikes-out customers complaints and takes full responsibility for Sheengo’s falsely advertised listings because products ship from Amazon.

Sheengo Reviews



"I ordered the Canon BRAND AND THAT IS WHAT I WANT."

By J Ingram on February 13, 2023.

Message from Amazon: This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.



"These cartridges were completely unusable. Based on the picture on Amazon, I thought I was buying actual Canon cartridges. This was a deceptive picture because the product I received was in a completely different-looking box. Check picture of the cartridges for "Canon" on the picture of the product."

Read less

By Thomas Johnson on February 1, 2023.

Message from Amazon: This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

3) Below are examples of ink cartridge sellers making unsubstantiated environmental marketing claims that violate Amazon’s policies and FTC Environmental Marketing Green Guides.



V-Surink Ink Cartridges Replacement for Canon PG245XL CL246XL Compatible with PIXMA MX492 TR4520 TS3120 TS3320 MG2420 MG2522 MX490 MG2920 MG2922 MG2520 IP2820 Printer (1 Black 1 Color) (1B1C)

Brand: V-Surink
★★★★★ 1,562 ratings | 53 answered questions

Price: \$39.99 & FREE Returns

Clip Save \$5 with coupon. Terms

Color: 1B1C



Brand: V-Surink
Color: 1B1C
Compatibility Options: Remanufactured
Page Yield: 300
Special Feature: Tri Color
Compatible Devices: Printer

About this item

- Compatible With: Canon PIXMA MG2420 MG2450 MG2520 MG2522 MG2525 MG2550 MG2550S MG2555 MG2555S MG2920 MG2922 MG2924 MG2950 MG3020 MG3022 MG3050 MG3051 MG3052 MG3053, PIXMA MX490 MX492 MX495, PIXMA TS202 TS205 TS302 TS305 TS3120 TS3122 TS3150 TS3151 TS3320 TS3322 TS3420, PIXMA TR4500 TR4520 TR4522 TR4550 TR4551, PIXMA IP2800 IP2820 IP2840 IP2850 IP2855.
- Page Yield: Up to 480 Pages Per Black Cartridge, Up to 350 Pages Per Color Cartridge (5% coverage). Providing Many More Pages Than Other Cartridge.
- High Performance: Compatible Canon PG245XL CL246XL Ink Cartridges Show Reliable Performance. Remaining Canon PG245XL CL246XL Ink Levels Accurately Reported for Compatible Printers and Keep Low Carbon Environmental Protection. Easy to Install, Print Out Clear Images and Text Quickly and Easily, With Vivid Colors and Perfect Original Color. Can Display Ink Level.
- Contents: 1 User Guide and 2 Pack V-Surink PG245XL CL246XL Ink Cartridges (1 Black, 1 Tri-Color).
- Note: Confirm Your Printer Model Before Placing An Order.

V-Surink making an environmental claim that their product are environmentally friendly product when they were found to be new built clone printer cartridges.



V-Surink makes an unsubstantiated claim of "keeping low carbon environmental protection"



1 4) The illicit brands of ink cartridges offered for sale on Amazon misuse
2 recycling logos. The brands use the chasing arrows recycling logo and do not insert the
3 trash icon on their products and packaging without indicating whether the product or
4 packaging came from recycled material or is a recyclable product.

5 a. Below are examples of how these symbols are used without support
6 of their recyclability claims in violation of Amazon's policies and FTC
7 Environmental Marketing Green Guides.



V-Surink misusing the recycling logo on its packaging and product deceiving customers it is a recycled product.

17 Greencycle Amazon listing uses recycling logos without any way to verify its recyclability claims. This product ships from Amazon.



25 Greencycle side-by-side comparison with Canon cartridge clearly shows the cartridge is not remanufactured from an OEM core. Greencycle has no Canon markings and its clearly made from different plastic material. It is a new built clone cartridge fraudulently labeled as remanufactured.

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2
3 BJ Ink Cartridge deceives consumers that it is a
4 recyclable product by using no trash icons and
5 recycling logo on the product and packaging.
6 There are no instructions on the packaging or
7 product to indicate how and where to recycle
8 this product.

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11 BJ Ink Cartridge misuses the recycling logo on
12 its packaging by not providing any clear
13 understanding if packaging and product are
14 made from recycled material or that they can
15 be recycled.



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18 5) Sellers misuse Amazon’s defined terms to describe different types of
19 printer cartridges, “remanufactured” and “compatible.” Defendants in their
20 listing policies define “compatible” to be a new built cartridge and
21 “remanufactured,” a used cartridge that has been taken apart, cleaned, and
22 rebuilt. The example below is how sellers use the terms interchangeably
23 deceiving consumers.



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Inktopia **Compatible** Ink Cartridge Replacement for Canon 246XL CL 246 XL CL-246XL CL-244 (1 Color) for Canon PIXMA MG2520 MG2920 MG2922 MG2420 MG2522 MG2525 MG3020 MG2555 MX490 MX492 Printer

Visit the Inktopia Store

★★★★☆ 489 ratings

Price: \$23.99 Get Fast, Free Shipping with Amazon Prime & FREE Returns

| | |
|-----------------------|-----------------------|
| Brand | Inktopia |
| Color | Tricolor |
| Compatibility Options | Remanufactured |
| Page Yield | 300 |
| Special Feature | Tri Color |
| Compatible Devices | Printer |
| Ink Color | 1 Tri color |

About this item

- Package Contents: Inktopia Replacement for Canon CL-246XL 246XL 246 XL CL-244 Ink Cartridges

21. Defendants’ refusal to take meaningful steps to stop the sale of misrepresented clone cartridges has forced Plaintiff to resort to this litigation. Despite

1 being the largest catalog marketer online, with vast resources, Amazon's efforts and
2 willingness to stop clone cartridge sales have been so incredibly ineffective, rendering it
3 effectively nonexistent.

4 22. In addition to the presentations to Amazon, Plaintiff offered Defendants an
5 open invitation to see first-hand the counterfeit cartridges, at Plaintiff's remanufacturing
6 facility, and how they are being identified as counterfeit. The following photographs
7 were provided to Defendants of ink cartridges test purchased by Plaintiff:
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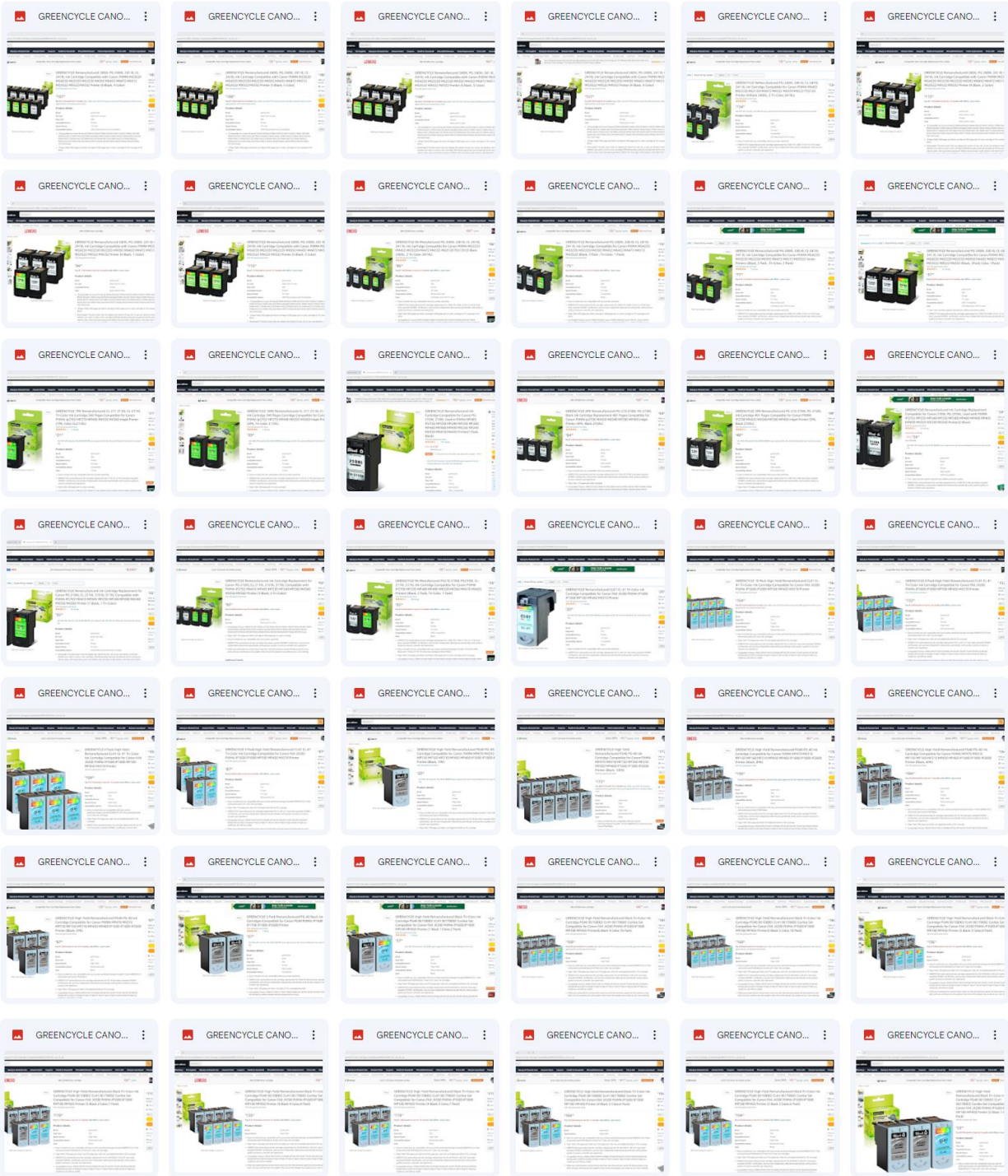
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23. The following brands were found to be new built clone cartridges, falsely sold as “remanufactured” and recycled products:

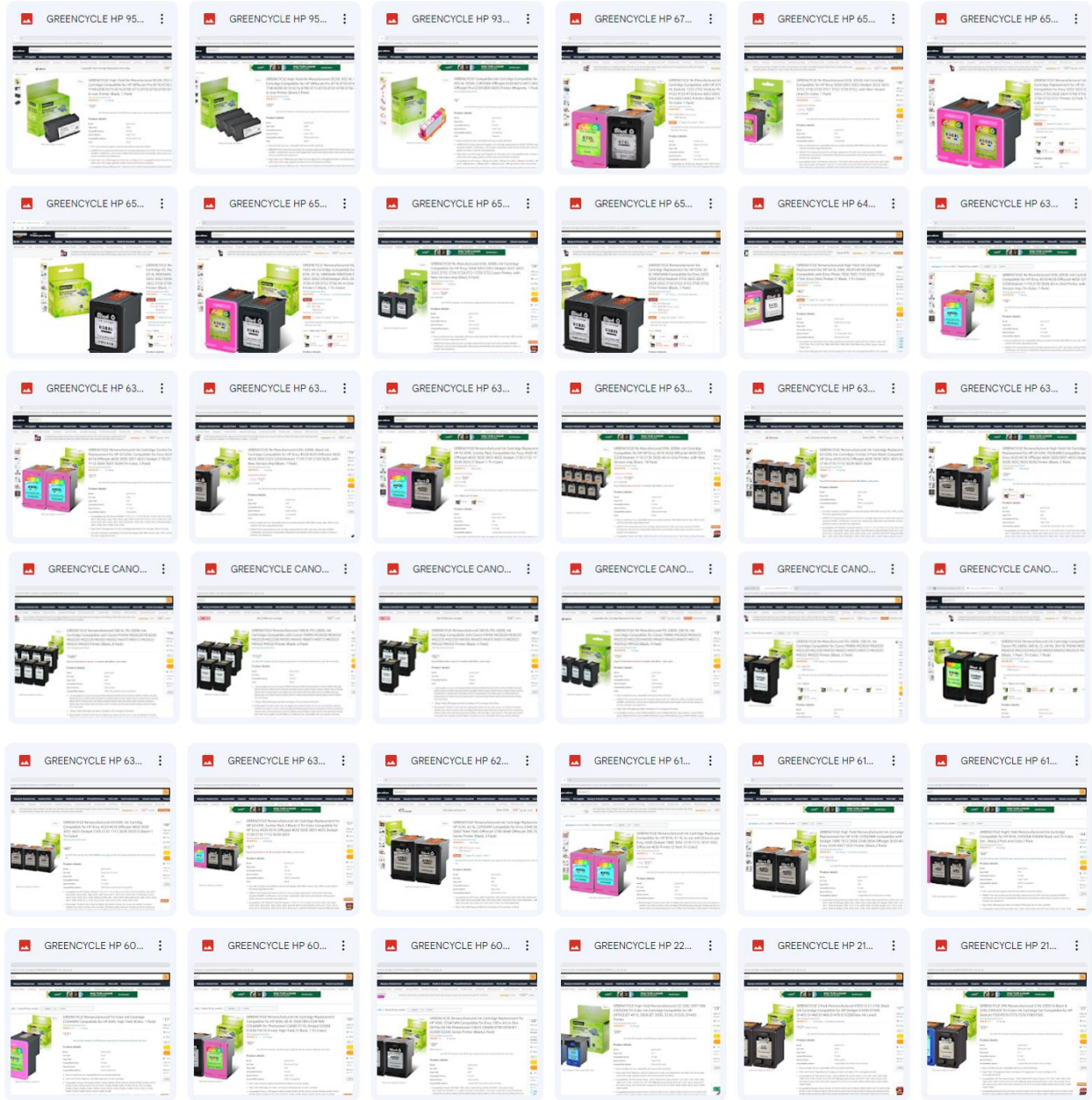
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|------------------------|----------------|--------------------|---------------------|----------------|
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| 2. Ankink | 11. Fastink | 20. Inkni | 29. Lucascolo | 38. Sheengo |
| 3. Batuto | 12. Foiset | 21. InkSpirit | 30. Mooho | 39. Upsek |
| 4. BJ Ink Cartridge | 13. Forzik | 22. Inktopia | 31. Novajet | 40. Valker |
| 5. BStink | 14. Geshine | 23. Insmax | 32. OnlyU | 41. ValueToner |
| 6. CG Chinger | 15. GPC Image | 24. Jarbo | 33. Palmtree | 42. V-Surlink |
| 7. ColorKing | 16. Greenbox | 25. Janmore | 34. Reprinpic | 43. Witop |
| 8. CSStar | 17. Greencycle | 26. Jonity | 35. Retch | 44. Yatunik |
| 9. Doreink | 18. Incwolf | 27. LxTek | 36. Teino | 45. Ejet |

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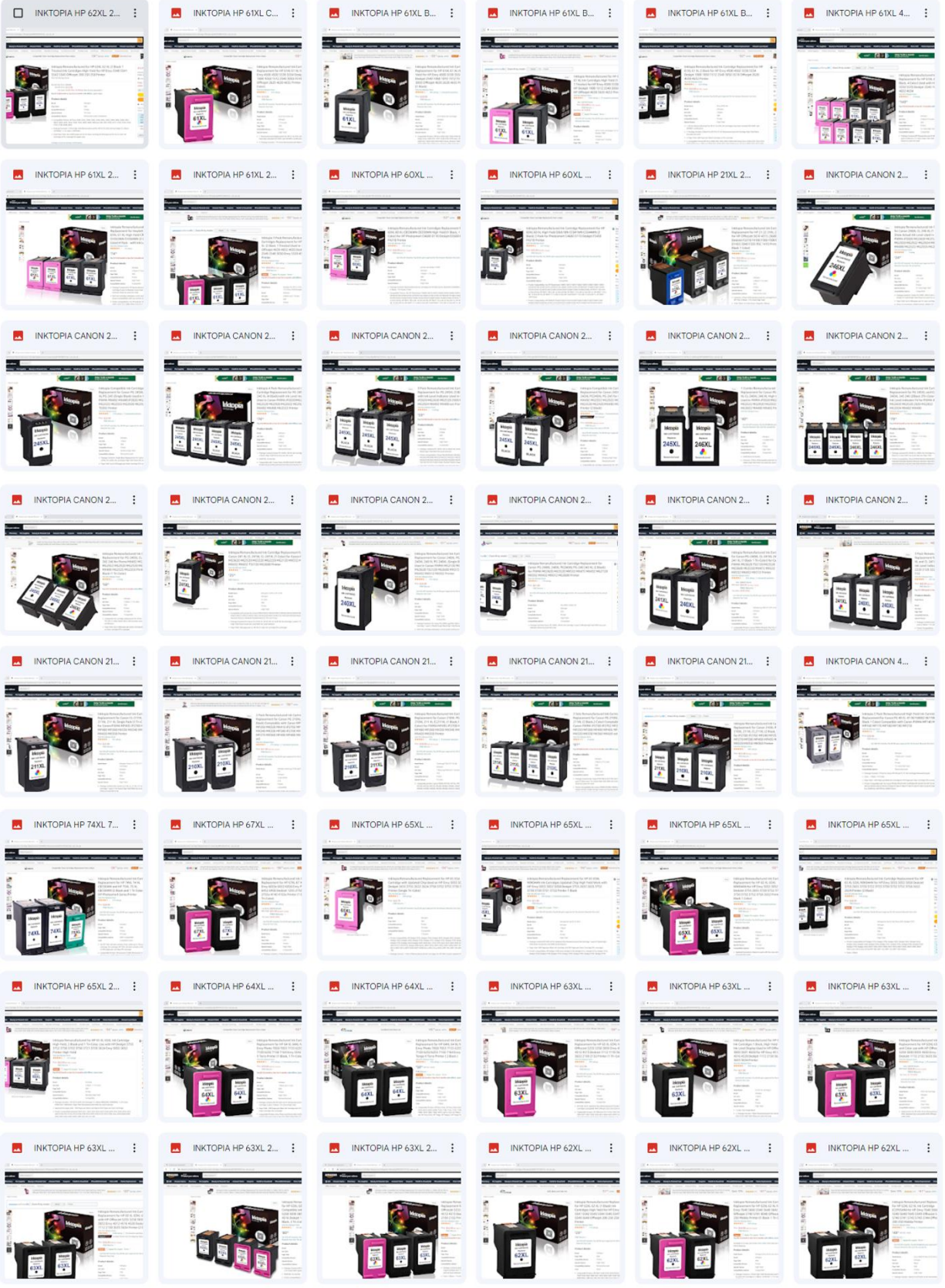
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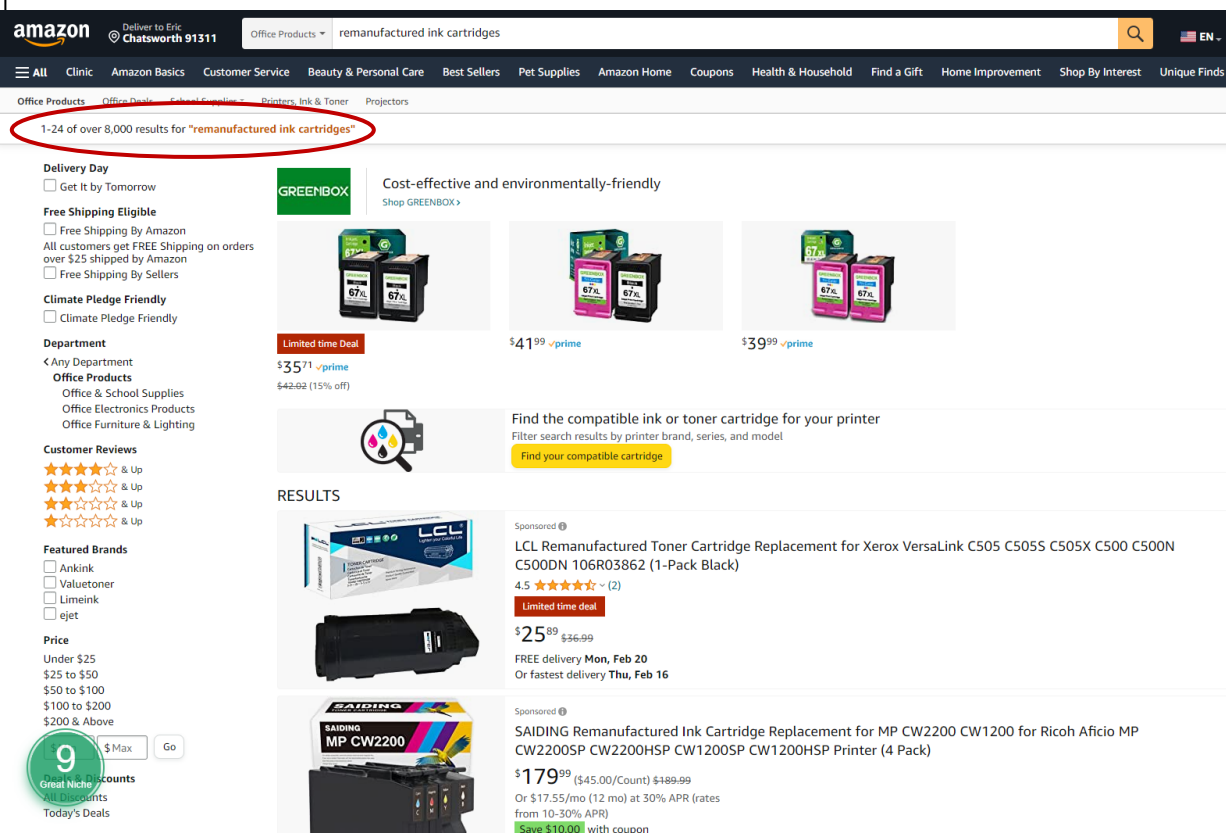
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| 1 | A. Zhuhai National Resources & Jingjie Printing Technology | B. Shenzhen Nolar Trade Development Company | C. Shenzhen Michsan Technology Company |
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| 3 | D. Uniplus Technology Corporation | E. PK Printing Technology Company | F. Ebest Digital Technology |
| 4 | | | |
| 5 | G. Zixingshi Heshun Technology Printing Materials Company | H. Tatrix International China Co, Ltd | I. Prospect Image Products Limited of Zhuhai |
| 6 | | | |
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28. Amazon sells millions of purported remanufactured ink cartridges that originate from China. When conducting a search for “remanufactured ink cartridges” on Amazon, 8,000 total results were returned. The total number of remanufactured ink cartridge listings is actually much greater, based on how Defendants filter their search results. It is reasonable to say that most remanufactured ink cartridges listed on Amazon make unsubstantiated claims of being remanufactured or recyclable product.



1 29. Data captured from Jungle Scout, a third-party application that provides
2 research and market intelligence on products offered for sale on Amazon, estimates that
3 remanufactured ink cartridges alone generate \$3,233,555,328 in sales annually.

4 30. Defendants make it impossible for any legitimate printer cartridge
5 remanufacturing company to compete when Amazon has a vested interest in keeping
6 third-party sellers on its platform while facilitating the sale of illegitimate remanufactured
7 ink cartridges on a mass scale regardless of whether they are misrepresented or violate
8 federal and state law.

9 31. In the 1980s, the remanufacturing industry for printer cartridges was
10 established in the United States. By mid-2000s, United States printer cartridge
11 remanufacturing grew into an estimated \$7 billion industry boasting thousands of U.S.
12 companies comprised of remanufacturers, used cartridge collectors, suppliers, resellers,
13 trade publications and expos. The printer cartridge remanufacturing industry evolved as a
14 solution to divert millions of used printer cartridges away from U.S. landfills generated
15 by the original equipment manufacturers of printers and turned the waste into a low-cost,
16 reusable product for the consumer.

17 32. Now the U.S. remanufacturing industry is on the verge of extinction. The
18 anti-competitive behavior of Defendants is the driving force behind the proliferation of
19 counterfeit remanufactured ink cartridges saturating the U.S. market, deceiving
20 consumers, undercutting legitimate remanufacturers, and leaving the recycle stream with
21 an overwhelming amount of plastic waste. This has caused great harm to the Plaintiff's
22 growth opportunities because Plaintiff is dependent on the industry for the supply chain
23 of materials needed for its remanufacturing process, as well as its wholesale network of
24 resellers for their finished products. The blame for the destruction of an entire industry
25 and direct harm to Plaintiff lies at the feet of Amazon, as a result of the sale of
26 inauthentic printer cartridges, advertised, sold, and distributed by Defendants through
27 their website.

28 33. Further, the unsubstantiated claims that these cartridges being sold by and

1 on Amazon's platform are recyclable are particularly reprehensible, as these generic
2 single-use clone brand printer cartridges do not offer any service to reclaim their used
3 cartridges, leaving them to be thrown in the trash. It has been estimated that over 375
4 million printer cartridges end up in United States landfills each year, creating a massive
5 amount of plastic waste.¹ Generic branded single-use clone printer cartridges use up
6 natural resources and release greenhouse gases during the production process. To
7 manufacture one new printer cartridge, the process emits around 4.8Kg CO2 and uses up
8 to a gallon of oil.²

9 34. Defendants' ecommerce platform has empowered illicit overseas printer
10 cartridge manufacturers, eliminating thousands of legitimate printer cartridge resellers, by
11 selling direct to consumers. Since its inception, Plaintiff built a successful wholesale
12 business as a vast printer cartridge reseller base nationwide. As set forth further below,
13 Amazon plays an essential role in the sale and distribution of illicit ink cartridges.

14 35. In a traditional supply chain, a distributor, wholesaler, or retailer would
15 serve as middlemen for overseas manufacturers to bring their products to market. Parties
16 directly or indirectly involved in the sale of a product and disseminating advertising
17 claims have a responsibility to ensure the product's claims can be proven. Amazon places
18 itself between consumers and the third-party seller in the chain of distribution of
19 products. Amazon approves seller listings, accepts possession of products, and stores it in
20 its warehouses, attracts the customer to the Amazon website using third-party seller
21 listings, provides customers with product listings for their searches, processes customer
22 payments for the product, and ships products in Amazon packaging to customers.

23 36. Moreover, Amazon operates as a co-seller for third-party individuals,
24 entities, or manufacturers who sell on its website. Amazon sets the terms of its
25 relationship with the sellers; controls the conditions of the manufacturer's products
26 offered for sale on Amazon; limits the seller's access to customer information forcing the
27

28 ¹ Bob Gorman, Ink Waste: The Environmental Impact of Printer Cartridges, Bob Gorman (March 30,
2017), <https://energycentral.com/c/ec/ink-waste-environmental-impact-printer-cartridges/>.

² *Ibid.*

1 seller to communicate with customers through Amazon; and demands indemnification as
2 well as substantial fees on each purchase. Regardless of how Amazon labels itself in the
3 selling process, one cannot help but conclude that they are indeed a seller of illicit clone
4 ink cartridges to consumers.

5 37. Below are screen shots of Amazon's specific ink and toner selling policies
6 that Defendants are not enforcing, allowing for deceptive product descriptions to
7 rampantly take place across the category:
8

9 Selling ink or toner cartridges

10 This page outlines requirements for listing ink or toner cartridges, and explains how to categorize them into appropriate sub categories on Amazon. Please see [Ink or toner listing guidelines](#) for additional information on how to appropriately list these products on Amazon.

11 Category requirements

12 Amazon limits the types of ink or toner cartridges that sellers can list to ensure that customers are able to buy with confidence from sellers on Amazon.com. Please note the following requirements:

- 13 • Amazon prohibits sellers from listing ink or toner cartridges in "Refurbished" or "Used" condition. All listings, including remanufactured, refilled and compatible ink or toner, must be in "New" condition.
- 14 • Remanufactured, refilled and compatible ink or toner products must be listed as separate ASINs. You cannot use the same ASINs as the original/OEM ink or toner products. See [Ink or toner listing guidelines](#) for additional details.
- 15 • All ink or toner cartridges must be packaged in unopened retail packaging, and product images must accurately depict the retail packaging the customer will receive. Sellers are prohibited from listing ink or toner cartridges in open box condition or in inner factory foil packaging.
- 16 • All ink or toner products must be fully functional and free from defects that could render them unusable or harmful to printers (for example damaged, dried or leaking cartridges).
- 17 • Sellers may offer custom bundles of ink or toner cartridges (that are not manufacturer-created multipacks), provided each individual cartridge in the bundle is in its original retail packaging. A custom bundle must be listed as its own ASIN, with image, bullet points and product description clearly indicating that it comprises individual packs bundled together.
- 18 • Please refer to the [Product Bundling Policy](#) for additional listing requirements.
- 19 • All major brands require UPCs. See [Product UPCs and GTINs](#) for further details, which includes requirements for products sold as bundles and requirements for products sold as packs.
- 20 • Best Before, Use Before, Use By, and Warranty Ends are all considered expiration dates. Expiration dates are the dates suggested by the manufacturer, and are printed on the product packaging, the product, or both.
- 21 • The expiration date printed by the manufacturer should be clearly visible when the product is shipped. Ink or toner, if they have an expiration date suggested by the manufacturer, should only be shipped to customers when the ink or toner is at least 180 days prior to the date of expiration. FBA sellers should ship their products to FBA reasonably prior to 180 days before the date of expiration.

22 Categorizing ink or toner cartridges

Categorize ink or toner cartridges according to the definitions below.

23 1. Same-Brand Ink or Toner Cartridge in Retail Packaging

- A same-brand ink or toner cartridge is manufactured under the same brand name as printer in which the cartridge is used (such as, HP, Canon, Epson, Lexmark, Brother, etc.).

24 2. Compatible Ink or Toner Cartridge

- An ink or toner cartridge designed to work with a particular printer, but was not manufactured under the same brand name as the printer in which the cartridge is intended to be used. These cartridges are produced using mostly new or all new parts and components.

25 3. Remanufactured Ink or Toner Cartridge

- A cartridge that has been used, remanufactured, and refilled with ink or toner. To varying degrees, the cartridge may have been taken apart, cleaned, and had parts replaced.

26 4. Refilled Ink or Toner Cartridge

- A cartridge that has been used and refilled with ink or toner. All of the cartridge's current components were manufactured by the same company that manufactured the printer in which the cartridge is intended to be used. The refilling process did not involve any disassembly, cleaning, or replacement of parts.

[Seller Central Help](#) > [Increase sales](#) > [Additional resources for increasing sales](#) > [Browse & Search](#) > [Consumer Electronics](#) > [The Consumer Electronics Store Style Guide](#) > [Subcategory Specifications](#) > [Ink or Toner](#)

Ink or Toner

On this page

[Title](#)

[Brand Name](#)

[Images](#)

[Feature bullets](#)

[Product description](#)

To provide a great customer experience, sellers have to ensure the ASIN title, brand name, images, feature bullets and product description accurately describe the ink or toner product being listed. Failure to follow Amazon's listing guidelines could result in the removal of your listings or the loss of your selling privileges on Amazon. Please follow the below listing specifications as closely as possible, and please see [Selling Ink or Toner Cartridges](#) for details about category requirements, and to learn how to categorize your ink or toner products on Amazon.

Title

A good title should be descriptive enough for a customer to make the purchase based on the information in the title alone. Avoid marketing content (free, exclusive, bonus, stylish, lightweight, heavy duty, etc.) or use of the title field to list hardware compatibility. Pay attention to title formats listed below for Remanufactured, Refilled and Compatible products to ensure appropriate usage of brand names.

Refilled Ink or Toner Cartridge

`[Third Party Brand] + "Refilled" + [Product: Ink or Toner Cartridge] + "Replacement for" + [OEM Brand] + [Series Name] + [Model Name] + ([Color(s)], [#-Pack], if app)`

Examples

- LD Products + Refilled + Ink Cartridge + Replacement for + HP + 02 + (Black, 5-Pack) = LD Products Refilled Inkjet Cartridge Replacement for HP 02 (Black, 5-Pack)
- Office 66 + Refilled + Toner Cartridge + Replacement for + Brother + TN-350 + (Black) = Office 66 Refilled Toner Cartridge Replacement for Brother TN-350 (Black)

Remanufactured and Refilled Ink or Toner Cartridge

`[Third Party Brand] + "Remanufactured" + [Product: Ink or Toner Cartridge] + "Replacement for" + [OEM Brand] + [Series Name] + [Model Name] + ([Color(s)], [#-Pack], if app)`

Examples

- LD Products + Remanufactured + Ink Cartridge + Replacement for + HP + 02 + (Black, 5-Pack) = LD Products Remanufactured Ink Cartridge Replacement for HP 02 (Black, 5-Pack)
- Office 66 + Remanufactured + Toner Cartridge + Replacement for + Brother + TN-350 + (Black) = Office 66 Remanufactured Toner Cartridge Replacement for Brother TN-350 (Black)

1 38. Most of the illicit ink cartridges sold on Amazon are sold through
2 Amazon’s “FBA” services also known as Fulfillment by Amazon. Through FBA
3 services, Defendants’ store, pick, pack, ship, and deliver the products to customers in
4 Amazon shipping envelopes and boxes. Amazon controls all customer service and returns
5 and responds directly to consumers who leave negative reviews for products fulfilled by
6 FBA.

7 39. Defendants control all aspects of selling and distribution of products
8 through their FBA services. Amazon’s Anti-Counterfeiting Policy, screenshot below,
9 states “it is each seller’s and supplier’s responsibility to source, sell, and fulfill only
10 authentic products.” However, when FBA services are utilized, Amazon directly sells and
11 fulfills inauthentic products.

12 [Seller Central Help](#) > [Policies, agreements, and guidelines](#) > [Program Policies](#) > [Amazon Anti-Counterfeiting Policy](#)

13 Amazon Anti-Counterfeiting Policy

14 **Products offered for sale on Amazon must be authentic. The sale of counterfeit products is strictly prohibited. Failure to abide by this policy may result in loss of selling privileges, funds being withheld, and disposal of inventory in our possession.**

15 It is each seller’s and supplier’s responsibility to source, sell, and fulfill only authentic products. Prohibited products
16 include bootlegs, fakes, or pirated copies of products or content; products that have been illegally replicated,
17 reproduced, or manufactured; and products that infringe another party’s intellectual property rights. If you sell or
18 supply inauthentic products, we may immediately suspend or terminate your Amazon selling account (and any related
19 accounts) and dispose of any inauthentic products in our fulfillment centers at your expense. In addition, we do not pay
20 sellers until we are confident our customers have received the authentic products they ordered. We may withhold
21 payments if we determine that an Amazon account has been used to sell inauthentic goods, commit fraud, or engage in
22 other illegal activity.

23 We work with manufacturers, rights holders, content owners, vendors, and sellers to improve the ways we detect and
24 prevent inauthentic products from reaching our customers. As a result, we remove suspect listings based on our own
25 review of products. We also work with rights holders and law enforcement worldwide to take and support legal action
26 against sellers and suppliers that knowingly violate this policy and harm our customers. In addition to criminal fines and
27 imprisonment, sellers and suppliers of inauthentic products may face civil penalties including the loss of any amounts
28 received from the sale of inauthentic products, the damage or harm sustained by the rights holders, statutory and other
damages, and attorney’s fees.

Amazon strives to ensure a trustworthy shopping experience for our customers. By selling on Amazon, you agree that:

- The sale of counterfeit products is strictly prohibited.
- You may not sell any products that are not legal for sale, such as products that have been illegally replicated, reproduced, or manufactured
- You must provide records about the authenticity of your products if Amazon requests that documentation

Failure to abide by this policy may result in loss of selling privileges, funds being withheld, destruction of inventory in our fulfillment centers, and other legal consequences.

26 More information

- Sell Only Authentic and Legal Products. It is your responsibility to source, sell, and fulfill only authentic products that are legal for sale. Examples of prohibited products include:
 - Bootlegs, fakes, or pirated copies of products or content
 - Products that have been illegally replicated, reproduced, or manufactured
 - Products that infringe another party’s intellectual property rights

- 1 • Maintain and Provide Inventory Records. Amazon may request that you provide documentation (such as invoices) showing
2 the authenticity of your products or your authorization to list them for sale. You may remove pricing information from
3 these documents, but providing documents that have been edited in any other way or that are misleading is a violation of
4 this policy and will lead to enforcement against your account.
- 5 • Consequences of Selling Inauthentic Products. If you sell inauthentic products, we may immediately suspend or terminate
6 your Amazon selling account (and any related accounts), dispose of any inauthentic products in our fulfillment centers at
7 your expense, and/or withhold payments to you.
- 8 • Amazon Takes Action to Protect Customers and Rights Owners. Amazon also works with manufacturers, rights holders,
9 content owners, vendors, and sellers to improve the ways we detect and prevent inauthentic products from reaching our
10 customers. As a result of our detection and enforcement activities, Amazon may:
 - 6 ○ Remove suspect listings.
 - 7 ○ Take legal action against parties who knowingly violate this policy and harm our customers. In addition to criminal
8 fines and imprisonment, sellers and suppliers of inauthentic products may face civil penalties including the loss of
9 any amounts received from the sale of inauthentic products, the damage or harm sustained by the rights holders,
10 statutory and other damages, and attorney's fees.
- 11 • Reporting Inauthentic Products. We stand behind the products sold on our site with our [A-to-z Guarantee](#), and we
12 encourage rights owners who have product authenticity concerns to [notify us](#). We will promptly investigate and take all
13 appropriate actions to protect customers, sellers, and rights holders. You may view counterfeit complaints on the Account
14 Health page in Seller Central.

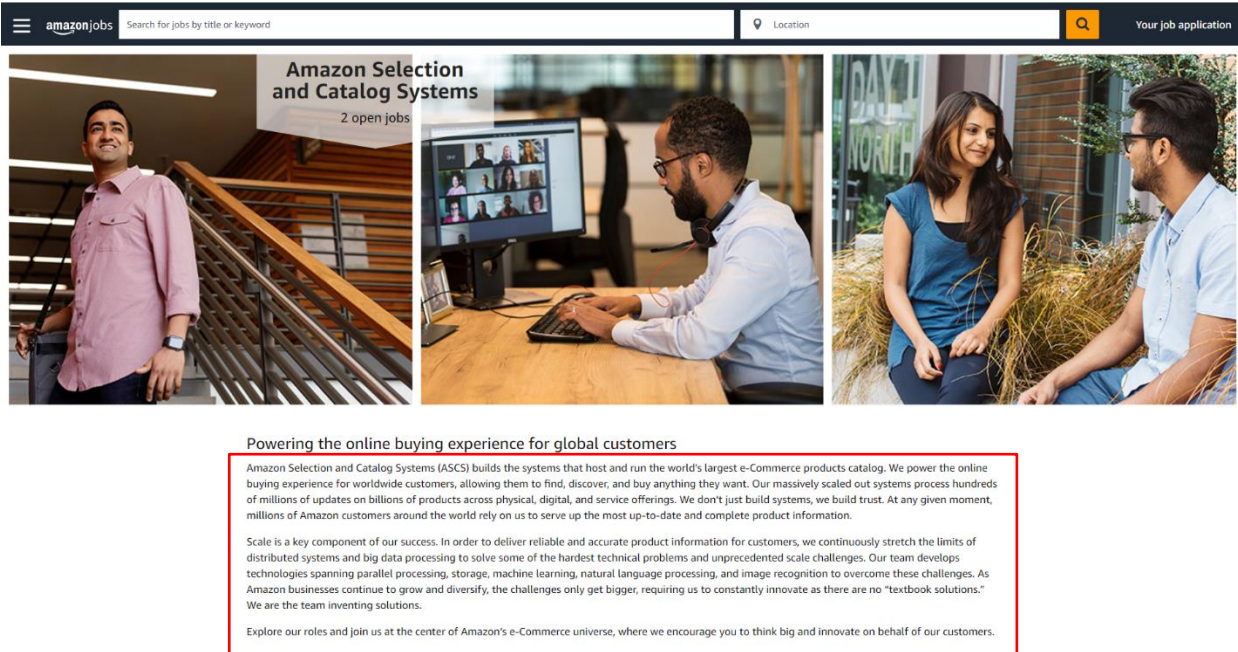
12 40. When Amazon was informed by Plaintiff regarding its category-wide issue
13 of illicit brand ink cartridges sold on its platform, Defendants did not take any action as
14 outlined in their own Anti-counterfeiting policy. Almost all of the illicit cartridges are
15 sold through Amazon's FBA services, which presents a conflict of interest for
16 Defendants to enforce or abide by their own policy as they profit from each item they
17 fulfill.

18 41. Amazon is not a passive or neutral ecommerce marketplace; they are an
19 online catalog marketer, driving traffic, promoting, selling, and distributing products.
20 Defendants claim to strive to be Earth's most customer-centric company with customer
21 reviews, one-click shipping, personalized recommendations and Fulfillment by Amazon.
22 In becoming one of the most successful ecommerce platforms, Defendants have blurred
23 the lines for the customers as to who is selling them products and, in fact, themselves
24 become sellers. Below is an example of how Amazon describes itself when it places a job
25 advertisement. Amazon claims to be the "World's largest e-Commerce products catalog."

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42. Defendants define performance targets and policies required to sell on their platform. Seller accounts can be deactivated when they do not comply with the required performance rates that include negative feedback. However, a seller can request the removal of negative feedback if it is related to delivery service provided by Amazon. Outlined in red, Defendants state in their FBA policies, “after reviewing the feedback, we might strike through the negative rating, and it will not reflect on your performance metrics.” Whereas, their policy also states, “A merchant-fulfilled order on Amazon, even if submitted as a Multi-Channel Fulfillment order, is not eligible for buyer feedback strike-through.”

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[Seller Central Help](#) > [Get started with Fulfillment by Amazon \(FBA\)](#) > [FBA policies and requirements](#) >

Buyers can leave feedback for sellers on orders that are fulfilled by Amazon just as they do for merchant-fulfilled orders. The [Feedback Manager](#) on the **Performance** tab lets you track buyer satisfaction with your service. You can view short-term and long-term metrics as well as detailed feedback entries with buyer comments and email addresses.

What happens when I receive a negative feedback on an AFN order?

When a buyer leaves negative feedback that is related to delivery service provided by Amazon, you can request for [removal of the feedback](#). After reviewing the feedback, we might strike through the negative rating, and it will not reflect on your performance metrics. The buyer's comment will remain with a note from Amazon that states, "This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience."

However, if we find that any portion of the comment applies to the condition of your product as indicated on your listing (New, Used, etc.), or any service that you, instead of Amazon, provided or arranged to be provided to the buyer, the feedback and negative rating will remain without edits.

Please note that our policies prohibit any activity that would interfere with our capacity to help other sellers, including submission of high volumes of incorrect or speculative requests to Seller Support.

Note: The buyer feedback strike-through only applies to items sold on Amazon and fulfilled through the Amazon fulfillment network (AFN). A merchant-fulfilled order on Amazon, even if submitted as a Multi-Channel Fulfillment order, is not eligible for buyer feedback strike-through.

43. Defendants violate their own policies, creating content on sellers' listings by editing negative reviews, and taking responsibility beyond delivery related issues. Amazon takes responsibility when there is a negative review that relates to product defects or misrepresentation of product listings. For sellers who use Amazon's FBA services, the result is a beneficial manipulation of seller's performance metrics. This is deceptive to consumers as Amazon is acting as a seller of the product by taking responsibility for the product beyond mere fulfillment.

44. Below are examples of Amazon responding on behalf of the sellers selling the identified illicit brands of ink cartridges that did not have a delivery problem but did have false advertising and product defect issues:

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1 InkTopia Ink Cartridge



3 "The 21 cartridge does not work on the office jet 5610. Not as advertised, now I'm stuck with useless product."

4 By Warby on October 8, 2022.

5 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

6 ColorKing Ink Cartridges



8 "Not original HP 64XL. They were remanufactured 64 black. This was misleading advertising."

9 By Jean M. on December 9, 2022.

10 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

11 EJet Ink Cartridges:



13 "the description said it would work on my HP 6958. It does not. I would like a refund. can you issue this? thanks, cb"

14 By cb on August 12, 2022.

15 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

16 Ankink Ink Cartridges



18 "Black did not work, tried multiple head cleanings....did not try color cartridge but this is poor QC and now i have to drive 60 minutes round trip to return incurring \$15 of my gas n wear n tear to return a defective item this isn't right"

19 Read less

20 By Thomas Maerz on January 24, 2023.

21 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

22 BJ Ink Cartridges



24 "Does not print in the correct color. I was printing highlighted red text and it printed out black text with greenish highlight. Not satisfied with product which I used once. I would like to send the product back for a full refund."

25 Read less

26 By HRT on September 30, 2022.

27 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

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1 45. Furthermore, Defendants specifically provide Environmental Marketing
 2 Guidelines, clearly stating sellers “must comply with all the applicable federal laws when
 3 listing and selling products on Amazon.com. You must also comply with state and local
 4 laws applicable to the jurisdiction into which your products are sold.” The following is a
 5 screenshot of Defendants’ Environmental Marketing Guidelines. Outlined in red are key
 6 policies. In its presentations to Amazon, Plaintiff demonstrated that the sellers of the
 7 illicit ink cartridges were blatantly violating Amazon’s guidelines:

8
 9 [Seller Central Help](#) > [Policies, agreements, and guidelines](#) > [Program Policies](#) > [Product guidelines](#) >
 Environmental Marketing Guidelines

10 Environmental Marketing Guidelines

11 On this page

12 [Highlights from the FTC Green Guides](#)

13 [California Law](#)

14 [Additional Resources](#)

15 **Remember:** You must comply with all applicable federal laws when listing and selling products on Amazon.com. You must
 16 also comply with state and local laws applicable to the jurisdiction into which your products are sold. **Sellers using
 Fulfillment by Amazon,** please also see [FBA Prohibited Products](#) for additional product restrictions.

17 We want to make it easy for buyers to find, discover, and buy products that are marketed as environmentally friendly or
 18 "green." However, it is also important to provide buyers with information about those products that is accurate and
 19 trustworthy, and that is not misleading about the qualities or characteristics of a product that make it environmentally
 20 friendly or "green." To sell products that are marketed with environmental claims on Amazon.com, you must ensure that the
 marketing claims you make on your product packaging and on your product detail page meet not only all federal laws such
 as the FTC's *Guides for the Use of Environmental Marketing Claims* (known as the "Green Guides"), but also all applicable
 state and local laws that regulate environmental claims. These laws include California's law restricting the use of
 compostable- and biodegradable-related claims on plastic products.

21 We're providing the following highlights from the FTC Green Guides and California's law on environmental claims to assist
 22 you in reviewing the environmental claims that you may make about your products. These highlights are not designed to be
 comprehensive. You should review the [FTC Green Guides](#) and other applicable laws, regulations, and guidelines, as you
 remain responsible for ensuring that the claims made about your products are fully compliant.

23 Highlights from the FTC Green Guides

- 24 • Avoid broad, general claims regarding a product's environmental benefits or qualities (ex., avoid "eco-friendly" or
 25 "environmentally friendly" or "green").
- 26 • All claims about a product's environmental benefits or qualities should be specific, and all qualifications (or limitations) to
 environmental claims must be specific, clear and prominently displayed (ex., "product is made from 20% recycled materials").
- 27 • Narrowly tailor environmental claims so as not to overstate the environmental benefits or qualities.
- Avoid making environmental claims if the environmental benefits or qualities are negligible.
- When making comparative environmental claims, the basis for the comparison must be clearly conveyed.
- 28 • Distinguish between products, packaging and services when making environmental claims (ex., packaging is 100%
 biodegradable).
- Avoid making compostable claims without qualification if the product cannot be composted at home safely or in a timely way.

- A general degradable or biodegradable claim should only be made if the entire product will completely break down and return to nature within a reasonably short period of time after customary disposal (or one year for solid waste products). If the product customarily ends up in landfills, incinerators, or recycling facilities, then a general biodegradable claim should not be made.
- An environmental claim that a product or packaging is made from recycled materials should accurately reflect the portion that is made from recycled materials (ex., "made from 20% recycled materials").
- Carefully consider certifications and seals and include the specific basis or environmental benefit for the certification whenever it is used. For questions regarding certifications, see <http://ftc.gov/os/2009/10/091005revisedendorsementguides.pdf>.

The FTC Green Guides also address other environmental claims, including: (1) Free-Of claims, (2) Non-Toxic claims, (3) Recyclable claims, (4) Renewable Energy claims, and (5) Renewable Materials claims. If you are making these or other environmental claims, please review the FTC Green Guides.

California Law

- Plastic and bioplastic products sold into California can only be labeled as compostable, home compostable, or marine degradable if they meet the applicable ASTM standard or have the Vincotte OK Compost HOME certification. If your product meets the applicable ASTM or Vincotte standard, it should meet the additional labeling requirements as set forth by California law, and such information should be included on the product detail page.
- Plastic and bioplastic products sold into California may not be labeled as biodegradable, degradable, or decomposable, or imply that the plastic product will break down or decompose.
- Amazon will restrict the sale of plastic and bioplastic products labeled with these prohibited terms into California.
- If you are a seller of a plastic and bioplastic product that meets the applicable ASTM or Vincotte standard, Amazon may require that you provide proof demonstrating that your and bioplastic plastic product meets such standards.

Additional Resources

- [FTC Green Guide Guidance](#)
- [California Public Resources Code Chapter 5.7 Plastic Products](#)
- [CalRecycle – Degradable Plastic Labeling Requirements](#)

46. The majority of the remanufactured ink cartridges listed and sold on Amazon make unsubstantiated environmental marketing claims violating federal law. Plaintiff has demonstrated to Defendants that new built clone printer cartridges are being misrepresented with false claims that they are remanufactured products, and false use of recycling symbols, icons, and environmental verbiage to deceive consumers into believing they are buying a recycled or a recyclable product. Plaintiff demanded that Amazon act and remove these illegal and deceitful listings, to no avail.

47. The following are examples of common practices used to deceptively describe a product without any way to substantiate the environmental claim.

A) The seller MeetRGB's product slides in its Amazon listing makes an

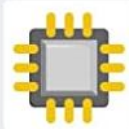
1 overstatement of its environmental attributes with a claim of using high-quality
2 green materials and there is no way to substantiate this claim.

3
4 < Back to results



VIDEO

Advantages



Latest chip

Provides accurate ink level tracking, while ensuring the optimal compatibility with different printers



Premium ink

Special ink formulation not only produces high quality content, but also ensures long lasting printouts



Green life

By carefully recycling and sorting empty original ink cartridge, then use high quality "green" materials in the remanufacturing process



Roll over image to zoom in

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1 B) Greencycle’s listing claims it reduces its carbon footprint by using
 2 remanufactured product. Plaintiff has verified Greencycle falsely labels new
 3 manufactured clone cartridges as remanufactured and sells them as
 4 environmentally friendly product.

Recycle for a better world
 Reducing carbon footprint by using remanufactured product

greencycle Re-Manufactured PG-245XL 245 XL CL-246XL CL-246 Ink Cartridge Compatible for Canon Pixma MX490 MG2525 MG2920 MG2922 MG2924 MG3020 MG3022 TS302 Printers (Black, 6 Pack; Tri-Color, 4 Pack)
 Visit the greencycle Store
 ★★★★★ 2 ratings

\$139⁹⁵
 Pay \$23.33/month for 6 months (plus S&H, tax) with 0% interest equal monthly payments when you're approved for an Amazon Store Card.

Enhance your purchase

Payment plans
 \$13.65/mo (12 mo) at example APR of 30% (rates from 10-30% APR)

| | |
|-----------------------|----------------|
| Brand | Greencycle |
| Page Yield | 400 |
| Compatible Devices | Printer |
| Special Feature | Tri Color |
| Compatibility Options | Remanufactured |
| Color | Black |

About this item

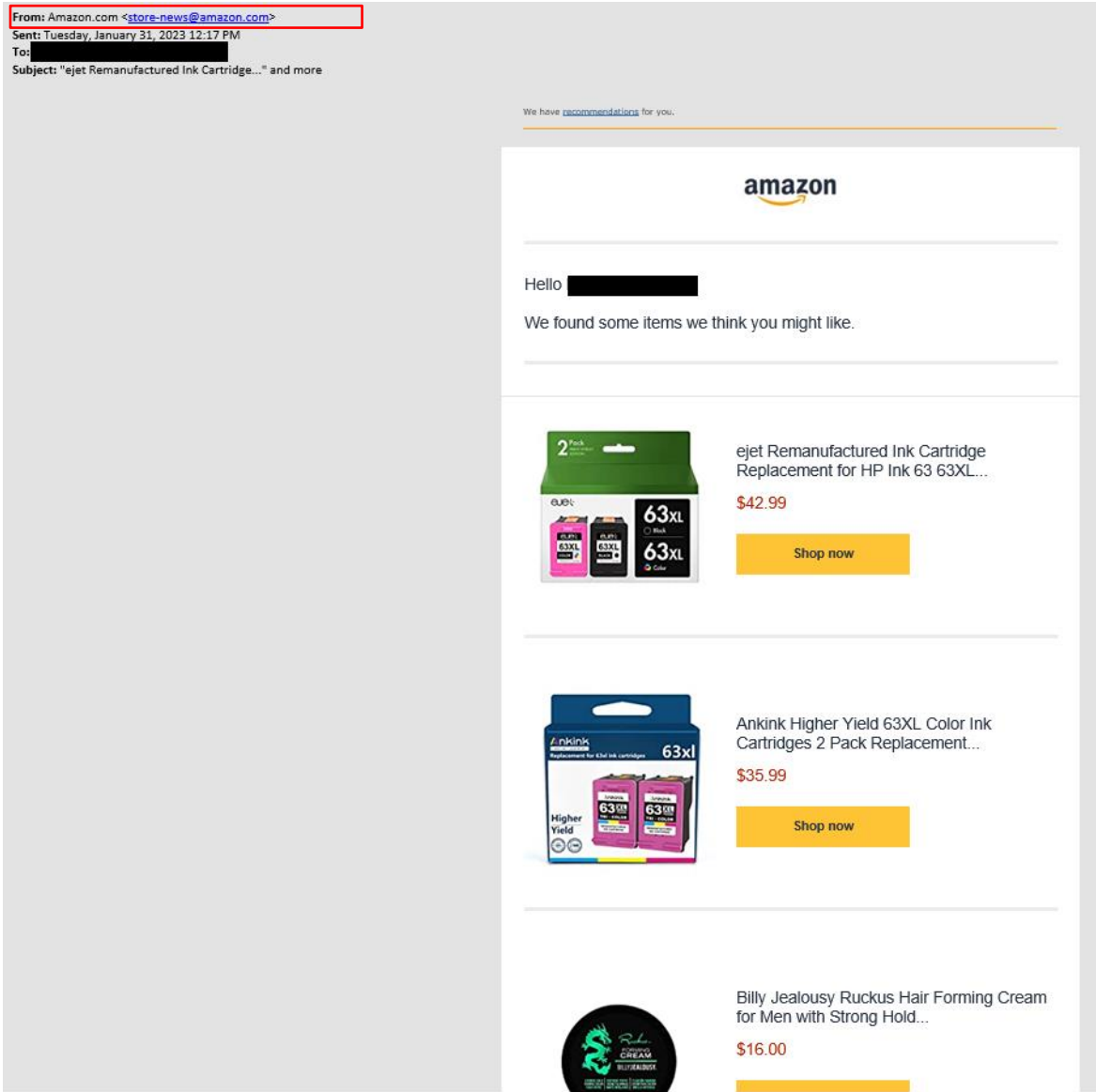
- Easy to install and use, compatible with your printer perfectly.
- GREFCYCL1 F remanufactured ink cartridge replacement for 245XL

Empty Ink Cartridges → Refurbished Refilling Testing → New Ink Cartridges
 Roll over image to zoom in

17 48. Amazon deploys a variety of advertising tools to reach and entice
 18 customers using sponsored ads, retargeting emails, and displaying ads which appear on
 19 search engines outside its platform. Amazon gathers customer data and search history to
 20 create promotional emails and search engine marketing content to drive traffic back to its
 21 website to induce customers to make purchases. In addition, Amazon has a special badge
 22 called Amazon’s Choice, which endorses products. Amazon’s advertising tools leave the
 23 impression products are being sold by Amazon making Defendants active sellers of the
 24 product.

25 49. Below are examples of content generated by Amazon’s advertising services
 26 that promote the sale of illicit products on its platform, through email, and search engines
 27 using customers’ digital information that only they hold.
 28

1 A. The following is an Amazon-generated email customized for a customer based
2 on data collected from their search. This email contains two of the illicit brands
3 identified by Plaintiff:
4



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25 B. Amazon is one of Google's biggest advertising clients, using search engine
26 marketing to target customers off its own platform with advertisements to draw
27 traffic to Amazon's website. Unlike other online ecommerce platforms that sell
28 third-party products, Amazon's advertisements do not differentiate themselves

1 from the sellers on their platform. To the average consumer it appears Amazon
2 is the seller of the product. Ejet is one of the brands that has been identified as
3 one of the illicit brands of ink cartridges.
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ejet Remanufactured Ink Cartridge Replacement for HP 63XL 63 XL to use with OfficeJet 3830 Envy 4520 4512 OfficeJet 4650 5255 Deskjet 1112 3634 3632

| | | |
|--|--|---------|
| | Amazon.com - Seller ejet Remanufactured Ink Cartridge Replacement for HP Ink 63 63XL Ink Cartridges for HP Printers OfficeJet 3830 5255 5258... Free delivery | \$42.99 |
| | eBay - nelagarmments Ejet Remanufactured Ink Cartridge Replacement For Hp 63 Ink 63xl Free delivery | \$60.48 |

Details

| | |
|-----------------------------------|-----------------------|
| Color | Multicolor |
| Brand | E-Z Ink |
| Maximum Page Yield (Color) | 63 page yield (color) |

Amazon.com is identified as a Seller for ejet Remanufactured ink cartridges. Whereas on eBay, the seller for the same cartridge is nelagarmments

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Google
Remanufacturer canon 245xl 246xl

Q All Images Maps Shopping More

Home Orders About Google Shopping

Clear all filters
Chatsworth, Los Angeles, CA

Show only
 Available nearby
 On sale

Price
 Up to \$25
 \$25 - \$50
 Over \$50
\$ Min - \$ Max

Type
 Inkjet Cartridges
 Laser

Color
 Multicolor
 Black

| Product | Price | Seller |
|---|---------|-----------------------|
| Folset Remanufactured Canon Ink PG-245XL CL-246XL 245 246 XL Inkjet PIXMA Mx492 ... | \$31.99 | Amazon.com - Seller |
| Canon PG-245XL/CL-246XL Original Ink Cartridge/Paper Kit - Combo Pack - Black ... | \$56.00 | Walmart - OfficeCrave |
| Canon PG-245XL/CL-246XL Original Inkjet Ink Cartridge/Paper Kit - Combo ... | \$59.95 | eBay - ty_wholesale |

Amazon.com portrays itself as a seller. Whereas the other online ecommerce platforms disclose the name of the actual seller on their platform.

| Product | Price | Seller |
|--|---------|--------------------------------------|
| Gayiga 245 246xl Plus Remanufactured Printer Ink Cartridge Replacement for Multicolor - Refilled | \$49.99 | Walmart - Nanjingxiongguandaokejy... |
| Inkworld Canon PG-245XL CL-246XL Remanufactured High Yield Ink Cartridge Compatible | \$29.58 | Amazon.com - Seller |
| Valuetoner Remanufactured Ink Cartridge Replacement for Canon PG-245XL CL-246XL ... | \$96.81 | eBay - e_webster |

1 C. Defendants endorse products with their Amazon’s Choice Badge which is
2 content created by Amazon and placed on sponsored ads and on product
3 listings, endorsing products based on customer feedback, highlighting ratings,
4 price, popularity, availability, and delivery. Amazon controls most of these
5 metrics when a seller uses Amazon’s Fulfillment services. In one of the
6 examples below, Amazon endorses seller FACms with its “Amazon’s Choice”
7 badge, which was identified by Plaintiff as misrepresented clone ink cartridges.

8 **More from frequently bought brands**

9 Sponsored ⓘ

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MUST-HAVE INK CARTRIDGES

Smart Chips

Intelligently recognize printers and record printed pages

Well-Designed Package
Keep ink cartridge in safe

Environmentally-Friendly
All Cartridges are recycle and reused



Roll over image to zoom in

FACMS **Remanufactured** Canon 245XL Black Ink Replacement for Canon PG-245 PG-245XL PG 245XL 245 243 Ink Cartridge to use with Pixma MX492 MX490 MG2522 MG2520 MG2420 MG2920 MG2922 MG3022 Printer(2 Black)

Brand: FACMS
★★★★★ 375 ratings 18 answered questions
Amazon's Choice for "facms canon 245xl black ink"

Was: \$54.99 Details
Deal Price: **\$29.74** (\$14.87 / Count)
FREE Returns
You Save: \$5.25 (15%)

Get a \$50 Gift Card: Pay \$0.00 \$29.74 upon approval for the Amazon Rewards Visa Card. No annual fee.

Brand: FACMS
Page Yield: 400
Compatible: Printer
Devices:
Special Feature: Tri-Color
Compatibility Options: **Remanufactured, Compatible**
Color: BLACK and BLACK

About this item

- Package Contents: 2 Packs of remanufactured black ink cartridges for Canon 245XL ink cartridges (2 Black)

Add your 30-day FREE trial of Prime and get fast, free delivery

One-time purchase: \$29.74 (\$14.87 / Count)
FREE Returns
FREE delivery **Monday, March 20**

Or fastest delivery **Thursday, March 16**. Order within 3 hrs 54 mins

Deliver to Eric - Chatsworth 91311

In Stock

Qty: 1

Add to Cart

Buy Now

Secure transaction

Ships from Amazon
Sold by JonInk US
Returns Eligible for Return, Refund or Replacement within 30 days of receipt

Add a gift receipt for easy returns

Subscribe & Save

1. Unsubstantiated environmental claims
2. False Advertising
3. Endorsed by Amazon and ships from Amazon

Amazon's Choice

Side by side comparison between an original Canon cartridges and an Amazon's Choice remanufactured ink cartridges.

Amazon is promoting a counterfeit remanufactured ink cartridge deceiving customers with their recommendation



The OEM cartridge has Canon imprinted on the core of the cartridge.

FACMS cartridges do not have any OEM markings. The body is clearly different than the OEM. FACMS cartridges are new built clone cartridge. FACMS even uses different molds for its cartridges but list them as remanufactured deceiving customers.

D. Amazon’s Choice Brand endorsement is awarded to a deceptive product listing that violates Defendants’ own listing policies. Palmtree is one of the brands of illicit ink cartridges that Plaintiff identified.

Inspired by your browsing history

Four product listings are shown in a grid. From left to right: 1. Ankink 246XL Ink Cartridge for Canon 246 CL-246 CL246 XL 246XL CL-244 244XL Color to Canon MX490 MX492... (4.5 stars, \$42.99). 2. Palmtree Compatible 245XL Ink Cartridge 2 Black Combo Pack Replacement for Cano... (4.5 stars, \$45.99, Amazon's Choice). 3. The Original Donut Shop Regular, Single-Serve Keurig K-Cup Pods, Medium Roast Coffee Pods, 24 Count (Pack o... (4.5 stars, \$37.91). 4. ColoWorld Remanufactured Ink Cartridge Replacement for Canon CL-246XL CL-244 246 XL (1 Color)... (4.5 stars, \$22.89).

The screenshot shows the product page for 'Palmtree Compatible 245XL Ink Cartridge 2 Black Combo Pack Replacement for Canon PG 245 243 XL Higher Yield for PIXMA MX490 MX492 MG2922 MG2522 MG2520 MG2920 TS3100 TS3122 TS3300 TR4500 TR4520 Printer'. The product is marked as 'Amazon's Choice'. The price is \$39.99 (\$20.00/Count). The listing includes a 'Special Feature' of 'Compatible' and a 'Product Name' that says '245XL compatible ink replacement for Canon 245XL ink cartridges'. The 'About this item' section lists compatible models and notes that the product is a 'remanufactured ink cartridge'. The 'prime' logo is visible in the top right corner.

Amazon’s Choice Badge is awarded to a deceptive product listing that violates Amazon’s own listing policies.

Palmtree brand claims it is a “compatible,” what Amazon defines in its listing policy as a new built cartridge. The image of the cartridge clearly makes the claim it is “remanufactured.” This is deceptive to the consumer and a misrepresentation of the character of a remanufactured ink cartridge.

1 Amazon edits Palmtree's customer reviews that do not relate to its fulfillment
2 services, striking-out negative feedback for product quality issues, manipulating
3 performance metrics and ratings. This helps Palmtree's metrics to receive Amazon's
4 endorsement.

5 Palmtree Reviews



"The black ink does not work. I did check it with another ink cartridge and it's not due to my printer not working."

By Drew Martin on February 19, 2023.

7 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.



"The color ink cartage malfunction and caused my printer to shut down"

By gary swor on February 17, 2023.

9 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.



"Receive an "incompatible cartridge" error message. Cannot use in my HP Officejet 5258"

By T. Germusa on January 25, 2023.

11 **Message from Amazon:** This item was fulfilled by Amazon, and we take responsibility for this fulfillment experience.

12 Amazon Awards its Amazon's Choice endorsement based on customer feedback which
13 includes ratings, product availability, and fast delivery, criteria Amazon can unfairly
14 manipulate when product is handled through its FBA services.

15 50. When a seller uses Amazon's FBA services, Amazon processes the return
16 and can determine if the product can be placed back into inventory for resale. Outlined in
17 Amazon's Reimbursements policy below, if Defendants reimburse a seller for any
18 damaged, lost or returned product, Defendants can dispose of any item or sell it on the
19 Amazon Warehouse, listed as "Sold by Amazon Warehouse and Fulfilled by Amazon."

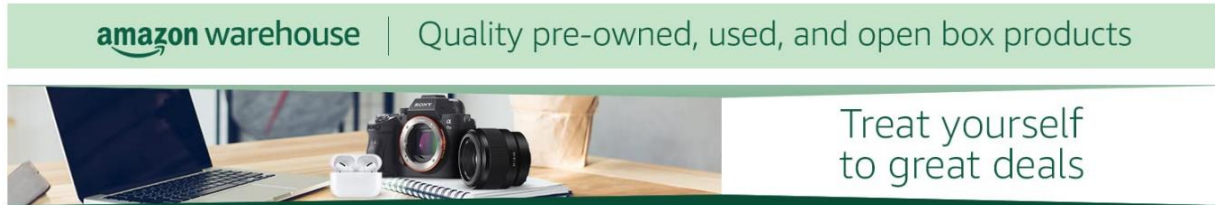
20 Reimbursements

21 If we determine that your reimbursement claim is valid, we will replace the lost or damaged item with a new item of the
22 same FNSKU or we will reimburse you for it.

23 If a reimbursement was made in error, or if a reimbursed item is later found and returned to your inventory, Amazon
24 reserves the right to reverse the reimbursement credit that was applied to your account.

25 We may dispose of any item for which we reimburse you under this policy, including by selling it. As a result, such items
26 — including lost items that are found after reimbursement — may be listed for sale on Amazon Warehouse or other
27 channels.

1 51. Amazon Warehouse offers deals on quality used, pre-owned, or open box
2 products. Defendants claim, "For each used product we sell, we thoroughly test the
3 condition of the item and provide detailed descriptions to make it easier for you to make a
4 decision."
5



10 Frequently Asked Questions

11 **What is Amazon Warehouse?**

12 Amazon Warehouse offers great deals on quality used, pre-owned, or open box products. With all the benefits of Amazon fulfillment, customer service, and returns rights, we provide discounts on used items for customer favorites: such as smartphones, laptops, tablets, home & kitchen appliances, and thousands more. For each used product we sell, we thoroughly test the condition of the item and provide detailed descriptions to make it easier for you to make a decision.

13 Looking for great discounts on some of your favorite items? Or prefer buying used because it is better for the environment? Discover Amazon Warehouse used offers via our storefront, search bar, or on product detail pages.

14 **How do you evaluate a product's condition?**

15 All of our products go through a quality check by us prior to being sold. We thoroughly test the functional and physical condition of each item and give the product a specific grade before selling it. We also inspect our products for missing accessories and packaging damage. Based on our quality check, each item will be assigned one of the four evaluations to describe its overall condition: "Like New", "Very Good", "Good", and "Acceptable".

16 **How can I understand a product's condition?**

17 Since each item is unique, we use detailed descriptions to help you better understand the item condition, by describing its appearance, functional qualities, accessories and packaging condition. We provide all the detailed information on the product condition right on the product detail page, to help you make your decision. Depending on the item condition, you will find that some items have even deeper discounts.

18 **Used - Like New:** An item in perfect working condition, the packaging may bear some damage. The item fully functions, and all its essential accessories are complete.

19 **Used - Very Good:** An item in very good condition that may have seen limited use and fully functions. The item may have minor cosmetic imperfections. It may arrive with damaged packaging or be repackaged and could be missing some non-essential accessories. Missing accessories are shown under individual item description.

20 **Used - Good:** An item in good condition that may show wear from moderate use and fully functions. The item may arrive with damaged packaging or be repackaged. It may have minor cosmetic damage, such as a small scratch. The item may be missing some valuable accessories and it may not be used until those accessories are purchased separately. Missing accessories are shown under individual item description.

21 **Used - Acceptable:** An item may have clear signs of usage but still serves its main function. Item may arrive with damaged packaging or be repackaged. The item may have cosmetic damages on it or show other signs of previous use. Signs of usage can include scratches, dents, and worn corners or edges. The item may be missing some valuable accessories, components or spare parts, and it may not be used until those parts are purchased separately. Missing parts are shown under individual item description.

22 **How can I return my product if I am not satisfied?**

23 Your Amazon Warehouse purchases are covered under Amazon's Returns Policy. Just like with any Amazon purchase you make, if you are unsatisfied with the product for any reason, you can return the item in accordance with Amazon's Returns Policy. Since each item at Amazon Warehouse is unique due to its nature, we unfortunately will be unable to replace any item with its exact same condition, but we might have a similar item in stock, so don't forget to check!

24 **Your inventory keeps changing, is this normal?**

25 Yes. Since we specialize in used, pre-owned, or open box products, we can't predict future availability for any specific item, so check back often and order quickly.

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52. Below are examples of identified illicit brands of ink cartridges that were purchased by Plaintiff, sold by Amazon Warehouse and fulfilled by Amazon.

Sellyaha Remanufactured Ink Cartridge Replacement for Canon PG 245XL, Compatible with PIXMA MG2520 MG2924 MG2922 MG2522 MG2525 MG3020 MG2555 MX490 MX492 Printer

FREE Returns - Available at a lower price from other sellers that may not offer free Prime shipping.

Only 1 left in stock - order soon

Size: 2 x Black

Brand: Sellyaha

Ink Color: 2 Black

Page Yield: 300

Compatible Devices: Wireless

Special Feature: Remanufactured

Compatibility Options: Color

Color: 2 Black

Buy with: \$31.85

FREE delivery Monday, March 27

Or fastest delivery Thursday, March 23. Order within 2 hrs 11 mins

Use Like New (Details)

Sold by Amazon Warehouse

Fulfilled by Amazon

ADD TO CART

ADD TO LIST

New & Used (1) from \$15.19 & FREE Shipping

How one to sell? Sell on Amazon

FREE Returns - Available at a lower price from other sellers that may not offer free Prime shipping.

Only 1 left in stock - order soon

Color: For HP-64-1B1C

Brand: JANMORE

Page Yield: 600

Compatible Devices: Printer

Special Feature: Tri-Color

Compatibility Options: Compatible

Color: For HP-64-1B1C

Buy with: \$43.13

FREE delivery Monday, March 27

Or fastest delivery Thursday, March 23. Order within 1 hr 27 mins

Use Like New (Details)

Sold by Amazon Warehouse

Fulfilled by Amazon

ADD TO CART

ADD TO LIST

New & Used (1) from \$25.14 & FREE Shipping

How one to sell? Sell on Amazon

Consider a similar item

HP 64XL Tri-color High Yield Ink Cartridge | Works with HP ENVY Inspire 7800c, ENVY Photo 8200, 7100, 7800, Tango.

Shop here

Ship here

Consider a similar item

EQ-Pack Large Capacity | 9000, 9510, 96 Ink Cartridges Combo Pack, Replacement for HP 800 95 1XL Ink Cartridges, High Page Yield, Works with Canon Jet Print 2020-05 to 06/20 9625 Printer (3967/C/M/191)

Buy with: \$10.02

Buy with: \$30.59 (3x, 12 Cartridges)

HP Compatible High-Capacity Inkjet

amazonbusiness

Your Account | Amazon.com

Order Confirmation

Order #114-9543806-5197854

PO# sean

Hello Sean Levi,

Thank you for shopping with us. We'll send a confirmation once your item has shipped. Your order details are indicated below. The payment details of your transaction can be found on the order invoice. If you would like to view the status of your order or make any changes to it, please visit Your Orders on Amazon.com.

This order is placed on behalf of DoorStepInk.

Your guaranteed delivery date is: **Monday, March 27**

Your order will be sent to: **CHATSWORTH, CA United States**

Your shipping speed: **FREE Shipping**

Order Details

Order #114-9543806-5197854

Placed on today, March 21

Sellyaha Remanufactured Ink Cartridge Replacement for Canon PG 245XL, Compatible with PIXMA MG2520 MG2920 MG2922 MG2924 MG2525 MG2522 MG2525 MG3020 MG2555 MX490 MX492 Printer

Electronics

Sold by Amazon.com Services LLC

Condition: Used - Like New

Moderate packaging damage... See more

Order Total: \$34.85

To learn more about ordering, go to Ordering from Amazon.com. If you want more information or need more assistance, go to Help.

Thank you for shopping with us. Amazon.com

64XL Ink Cartridge Combo Pack Compatible for HP 64 XL Ink Cartridge Replacement for HP Envy Photo 7855 7858 6255 7155 7120 6252 7164; Envy 5542 Printers (1 Black, 1 Tri-Color)

FREE Returns - Available at a lower price from other sellers that may not offer free Prime shipping.

Only 1 left in stock - order soon

Color: For HP-64-1B1C

Brand: JANMORE

Page Yield: 600

Compatible Devices: Printer

Special Feature: Tri-Color

Compatibility Options: Compatible

Color: For HP-64-1B1C

Buy with: \$43.13

FREE delivery Monday, March 27

Or fastest delivery Thursday, March 23. Order within 1 hr 27 mins

Use Like New (Details)

Sold by Amazon Warehouse

Fulfilled by Amazon

ADD TO CART

ADD TO LIST

New & Used (1) from \$25.14 & FREE Shipping

How one to sell? Sell on Amazon

Consider a similar item

HP 64XL Tri-color High Yield Ink Cartridge | Works with HP ENVY Inspire 7800c, ENVY Photo 8200, 7100, 7800, Tango.

Shop here

Ship here

Consider a similar item

EQ-Pack Large Capacity | 9000, 9510, 96 Ink Cartridges Combo Pack, Replacement for HP 800 95 1XL Ink Cartridges, High Page Yield, Works with Canon Jet Print 2020-05 to 06/20 9625 Printer (3967/C/M/191)

Buy with: \$10.02

Buy with: \$30.59 (3x, 12 Cartridges)

HP Compatible High-Capacity Inkjet

Your Amazon.com order of "64XL Ink Cartridge Combo..."

Amazon.com <auto-confirm@amazon.com>

To Sales DoorstepInk

If there are problems with how this message is displayed, click here to view it in a web browser.

amazonbusiness

Your Account | Amazon.com

Order Confirmation

Order #114-8110157-0591462

PO# sean

Hello Sean Levi,

Thank you for shopping with us. We'll send a confirmation once your item has shipped. Your order details are indicated below. The payment details of your transaction can be found on the order invoice. If you would like to view the status of your order or make any changes to it, please visit Your Orders on Amazon.com.

This order is placed on behalf of DoorStepInk.

Your guaranteed delivery date is: **Monday, March 27**

Your order will be sent to: **CHATSWORTH, CA United States**

Your shipping speed: **FREE Shipping**

Order Details

Order #114-8110157-0591462

Placed on today, March 21

64XL Ink Cartridge Combo Pack Compatible for HP 64 XL Ink Cartridge Replacement for HP Envy Photo 7855 7858 6255 7155 7120 6252 7164; Envy 5542 Printers (1 Black, 1 Tri-Color)

Electronics

Sold by Amazon.com Services LLC

Condition: Used - Like New

Moderate packaging damage... See more

Order Total: \$47.23

To learn more about ordering, go to Ordering from Amazon.com. If you want more information or need more assistance, go to Help.

Thank you for shopping with us. Amazon.com

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GREENBOX Remanufactured Ink Cartridge 61XL Replacement for HP 61XL 61 XL for HP Envoy 4500 5530 5534 5535 Deskjet 1000 1056 1010 1510 1512 2540 3050 Officejet 2620 Printer (1 Black 1 Tri-Color)

Brand: GREENBOX
 7,609 ratings | 83 answered questions

\$12.52 (16.24 / Count)

FREE Returns - Available at a lower price from other sellers that may not offer Free Prime shipping.

Only 1 left in stock - order soon

Brand: GREENBOX
 Ink Color: 1 Black, 1 Tri-Color
 Page Yield: 715
 Compatible Devices: HP Deskjet 1000 1010 1012 1018 1510 1512 1056 1056A 1051 1055 1056 1511 1513 1514 2050 2510 2512 2514 2540 2541 2542 2543 2544 2546 2548 2549 2549A 3050 3050A 3054 3054A 3056 3510 3512 3512A 3512B 3512C 3512D 3512E 3512F 3512G 3512H 3512I 3512J 3512K 3512L 3512M 3512N 3512O 3512P 3512Q 3512R 3512S 3512T 3512U 3512V 3512W 3512X 3512Y 3512Z 3513 3513A 3513B 3513C 3513D 3513E 3513F 3513G 3513H 3513I 3513J 3513K 3513L 3513M 3513N 3513O 3513P 3513Q 3513R 3513S 3513T 3513U 3513V 3513W 3513X 3513Y 3513Z 3514 3514A 3514B 3514C 3514D 3514E 3514F 3514G 3514H 3514I 3514J 3514K 3514L 3514M 3514N 3514O 3514P 3514Q 3514R 3514S 3514T 3514U 3514V 3514W 3514X 3514Y 3514Z 3515 3515A 3515B 3515C 3515D 3515E 3515F 3515G 3515H 3515I 3515J 3515K 3515L 3515M 3515N 3515O 3515P 3515Q 3515R 3515S 3515T 3515U 3515V 3515W 3515X 3515Y 3515Z 3516 3516A 3516B 3516C 3516D 3516E 3516F 3516G 3516H 3516I 3516J 3516K 3516L 3516M 3516N 3516O 3516P 3516Q 3516R 3516S 3516T 3516U 3516V 3516W 3516X 3516Y 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53. As demonstrated above, sellers on Amazon use deceptive advertising and make unsubstantiated environmental claims regarding their products, and Defendants participate in the selling process, promotion, distribution, and dissemination of deceptively described and falsely labeled remanufactured printer ink cartridges.

54. Defendants are catalog marketers. Catalog marketing is a form of direct marketing in which consumers or business customers select and order products directly from a printed or online catalog, rather than a retail outlet. Defendants offer millions of products broken down in different categories in their online store to sell its many product offerings to consumers at any given time. As an online catalog store, Defendants bear responsibility for verifying the advertising claims and product authenticity of its third-party sellers.

55. Defendants are an advertising agency. Described in their own Amazon Advertising agreement they “govern Customer’s access to and use of the Ad Services,

1 including the Advertising Console, and is made among Amazon, Customer, and each
2 Advertiser. Defendants per its advertising agreement “may also reject or remove any
3 Customer Materials or suspend any Campaign if: (a) the Customer Materials or
4 Campaign violates the Ad Policies or this Agreement; (b) your account has been, or our
5 controls identify that it may be used for deceptive or fraudulent or illegal activity; (c)
6 Amazon believes the Customer Materials or Campaign would expose Amazon to
7 liability; or (d) for other risk management reasons.” Plaintiff identified ink cartridges
8 falsely advertising themselves and Defendants continued to disseminate the false
9 information through its Advertising services both on and off its platform.

10 56. While Defendants claim immunity under 47 U.S.C. § 230, this contention
11 fails, among other reasons, because it ignores their exposure for violating Section 5 of the
12 Federal Trade Commission Act (FTC Act) (15 U.S.C. 45), which prohibits “unfair or
13 deceptive acts or practices in or affecting commerce.” The prohibition applies to all
14 persons engaged in commerce, including banks. Under Section 5 of the FTC Act, “third
15 parties - such as advertising agencies or website designers and catalog marketers - also
16 may be liable for making or disseminating deceptive representations if they participate in
17 the preparation or distribution of the advertising or know about the deceptive claims.”³
18 Defendants, in creating listing policies for selling ink and toner as described herein,
19 clearly distinguish between a “remanufactured” and a “compatible” ink cartridge. In
20 making this distinction, Defendants must know that any seller listing a product as a
21 “remanufactured printer cartridge” would need to verify their cartridges are
22 remanufactured from an empty OEM cartridges core to make such a claim, or otherwise
23 risk liability for the promotion, sale, and distribution of a deceptively advertised product.

24 57. With direct participation in the sales and promotion processes, Amazon
25 bears responsibility for the advertising, sale and distribution of illicit clone ink cartridges
26 that have been destructive to the environment and continue to harm the remanufacturing

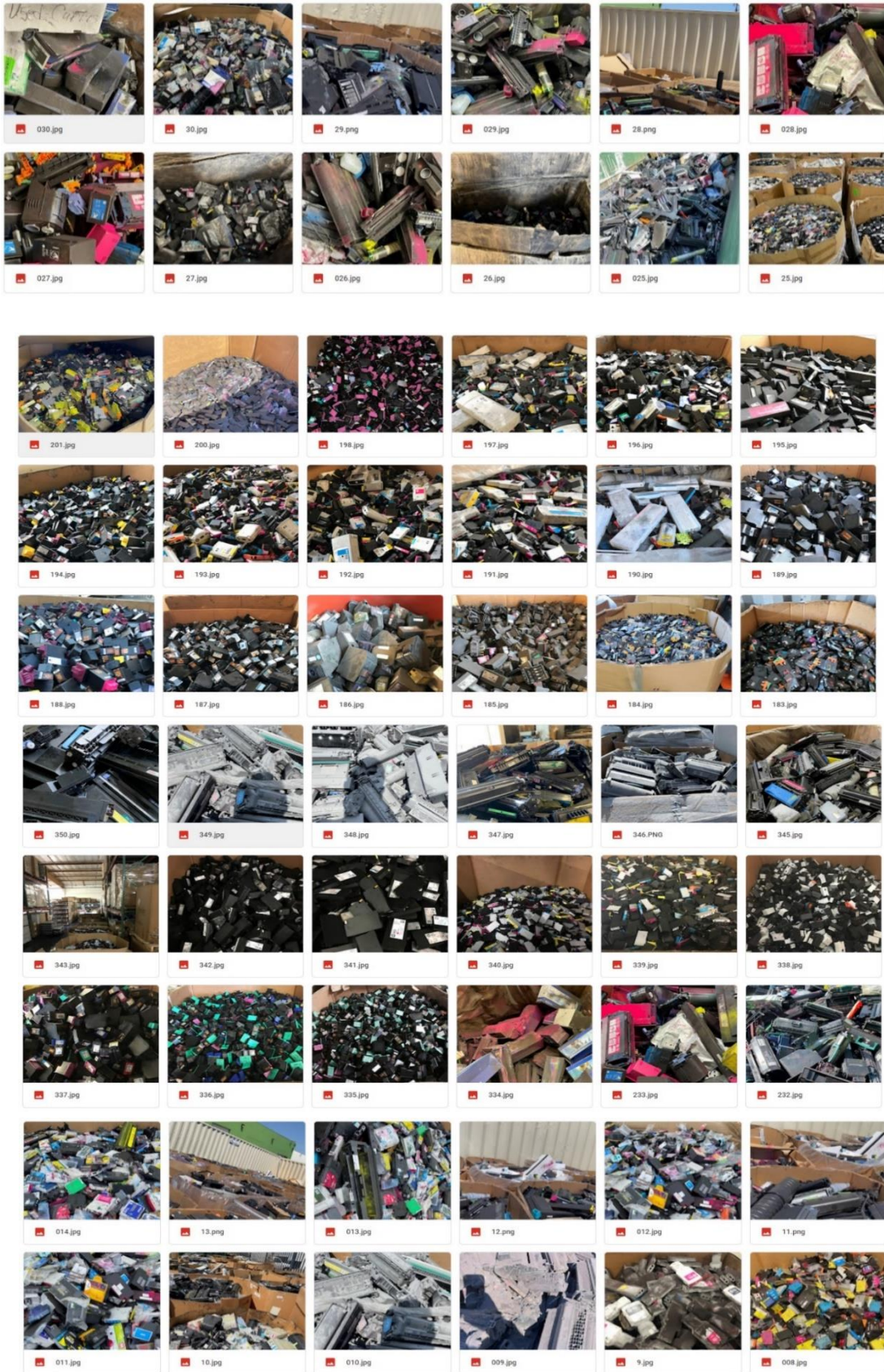
27 ³ Federal Trade Commission Bureau of Consumer Protection, Advertising and Marketing on the Internet,
28 Rules of the Road, p.2 (Sept. 2000); https://www.ftc.gov/system/files/ftc_gov/pdf/bus28-rulesroad-2023_508.pdf

1 printer cartridge market, including Plaintiff. Amazon is undercutting legitimate
2 remanufactured cartridge sales while simultaneously devaluing used OEM cartridge cores
3 to the point that it is no longer cost effective to collect, recycle and remanufacture them.
4 This deceitful business practice directly harms Plaintiff while creating enormous amount
5 of printer cartridge waste in the United States. If allowed to continue, the inevitable
6 results will be Plaintiff's loss of its entire business, the annihilation of the printer
7 cartridge remanufacturing industry, an increase in plastic pollution, and consumers will
8 no longer have a low-cost, environmentally friendly option for print-consumable
9 products.

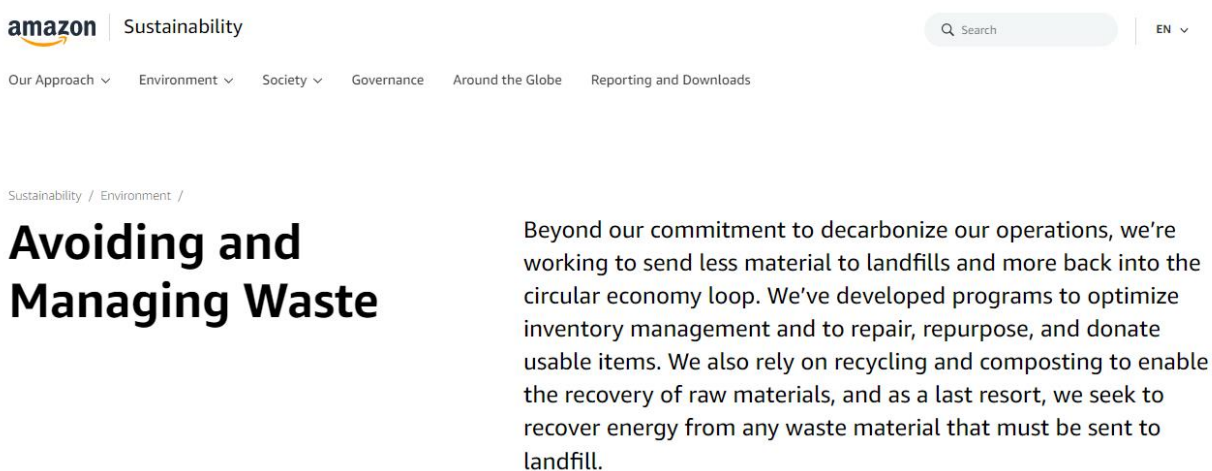
10 58. Without a legitimate printer cartridge remanufacturing industry, consumers,
11 recyclers, taxpayers, and the environment will continue to bear the cost of handling the
12 plastic waste.

13 59. Before the sale of illicit printer cartridges, there was a vast market for
14 remanufacturers to obtain empty OEM cartridge cores to remanufacture. In the United
15 States there were thousands of cartridge brokers and electronic waste recyclers collecting
16 and selling used printer cartridges to remanufacturers for upwards of \$32 per empty OEM
17 cartridge core. Today, most if not all printer cartridge brokers are no longer in business
18 and electronic waste recycling companies are avoiding collecting used printer cartridges
19 as they have no monetary value and are considered waste. By contrast, Plaintiff receives
20 more aftermarket single-use clone printer cartridge waste through its recycling collection
21 services than viable used OEM cartridge cores to remanufacture, creating a substantial
22 expense to handle material. Plaintiff made it clear to Defendants that they bear
23 responsibility for selling and facilitating the sale of single-use clone printer cartridges,
24 contributing to millions of plastic cartridges ending up in United States landfills each
25 year. Plaintiff provided the following images to Defendants to illustrate the massive
26 amount of printer cartridge waste it continually accumulates.

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2 60. Amazon states “it is committed to and invested in sustainability because it’s
3 a win for the planet, for business, for its customers, and for communities.” Yet,
4 Defendants do not take any responsibility for millions of imported clone printer
5 cartridges sold on their platform that are neither recycled nor recyclable. By contrast,
6 OEM printer manufacturers offer a free “take back” recycling program to reclaim their
7 used cartridges. Below is a screenshot of Amazon’s stated commitment of “working to
8 send less material to landfills and more back into the circular economy loop.”
9 Defendants’ conduct is diametrically opposed to its purported commitment and
10 constitutes “greenwashing” plastic printer cartridge waste they are responsible for selling,
11 as well as destroying the remanufacturing industry, which plays a vital role for recycling
12 cartridge waste in a circular economy.

13
14  The screenshot shows the Amazon Sustainability page. At the top left is the Amazon logo followed by the word "Sustainability". To the right is a search bar with a magnifying glass icon and the word "Search", and a language dropdown menu set to "EN". Below the header is a navigation menu with links: "Our Approach", "Environment", "Society", "Governance", "Around the Globe", and "Reporting and Downloads". The main content area has a breadcrumb trail "Sustainability / Environment /" followed by a large heading "Avoiding and Managing Waste". To the right of the heading is a paragraph of text: "Beyond our commitment to decarbonize our operations, we're working to send less material to landfills and more back into the circular economy loop. We've developed programs to optimize inventory management and to repair, repurpose, and donate usable items. We also rely on recycling and composting to enable the recovery of raw materials, and as a last resort, we seek to recover energy from any waste material that must be sent to landfill."



1 61. This action seeks to stop Amazon’s direct and complicit behavior, which
2 has caused significant damage to Plaintiff. Plaintiff brings this action under federal, state
3 and/or common law and seeks damages and injunctive relief arising out of the Lanham
4 Act for false advertising, California Business and Professions Code section 17200, *et*
5 *seq.*, for unfair competition, false advertising, misleading environmental claims and
6 deceptive practices, and for violation of California Business and Professions Code section
7 17500 for false advertising.

8 62. It is well documented that Amazon is plagued with counterfeit products.
9 They have an anti-counterfeiting policy. Defendants created a Brand Registry to protect
10 intellectual, copyright and trademark property rights. Defendants created their own
11 Amazon Crime Unit (ACU) whose mission is to pursue counterfeiters worldwide.
12 Conversely, when Plaintiff notified Defendants in great detail that their ecommerce
13 platform is overrun with illicit printer cartridges, Defendants’ efforts to halt the flow of
14 millions of illegal products distributed from their warehouses across the United States can
15 be described as meager at best. When illegal products are sold on Amazon, millions of
16 consumers and businesses worldwide suffer while Defendants profit handsomely, adding
17 to their multi-billion-dollar annual revenue and reported trillion-dollar valuation. Rather
18 than enforcing their own policies and stopping the sale of these deceptively promoted
19 products, Defendants facilitate their sales for profit. Defendants’ failure to enforce their
20 own policies, allowing sellers, and Defendants as sellers themselves, to easily circumvent
21 their own rules, in violation of federal and state law.

22 63. The proliferation of illicit clone ink cartridges defrauds millions of
23 customers by deceiving them into believing they are purchasing recycled products. The
24 unlawful sale of new built clone printer cartridges labeled as remanufactured causes
25 irreparable harm to legitimate remanufacturers who are committed to selling actual
26 recycled ink cartridges to resellers worldwide. The sale of illicit clone ink cartridges is
27 an enormous problem with a wide-spread negative impact. Amazon is not only aware of
28 the problem of fraudulent or unlawful activities of sellers and warns its investors that

1 Amazon itself may be held liable for them in its 2018 10-K filing (pg. 14), but they
2 condone it and conspire with sellers in order to make huge profits. Below is a screenshot
3 from the 10-K report warning of liability concerns:
4

5 *We Could Be Liable for Fraudulent or Unlawful Activities of Sellers*

6 The law relating to the liability of online service providers is currently unsettled. In addition, governmental agencies could require changes in the way this business is
7 conducted. Under our seller programs, we may be unable to prevent sellers from collecting payments, fraudulently or otherwise, when buyers never receive the products they ordered
8 or when the products received are materially different from the sellers' descriptions. We also may be unable to prevent sellers in our stores or through other stores from selling
9 unlawful, counterfeit, pirated, or stolen goods, selling goods in an unlawful or unethical manner, violating the proprietary rights of others, or otherwise violating our policies. Under
10 our A2Z Guarantee, we reimburse buyers for payments up to certain limits in these situations, and as our third-party seller sales grow, the cost of this program will increase and
11 could negatively affect our operating results. In addition, to the extent any of this occurs, it could harm our business or damage our reputation and we could face civil or criminal
12 liability for unlawful activities by our sellers.

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64. On January 24, 2023, Defendants' in-house counsel indicated that Defendants are committed to protecting Amazon customers and ensuring the integrity of its platform. Counsel wrote that Defendants were requesting that sellers of clone cartridges substantiate their claims about their products being remanufactured and would take action as appropriate based on that information. On May 25, 2023, Plaintiff and Defendants met via Zoom. Defendants stated during the meeting that they had asked sellers to substantiate their claims about selling remanufactured and environmentally responsible ink cartridges. Third-party sellers who couldn't substantiate their product claims were instructed to change their product listings. However, sellers were allowed to continue to sell regardless of their history of defrauding consumers, and they were not suspended for falsely using the recycling logo on newly manufactured products, in violation of federal and state law. Below are before and after examples of listings by Sellers who were instructed by Defendants to change their product listings.

Office Products › Office Electronics › Printers & Accessories › Printer Parts & Accessories › Printer Ink & Toner › Inkjet Printer Ink



Sellyaha Remanufactured Ink Cartridge Replacement for Canon PG-245XL CL-246XL Compatible with Canon PIXMA IP2820 MG2420 MG2520 MG2522 MG2525 MG2555 MG2920 MG2922 MG2924 MG3020 MX490 MX492 Printer

Visit the Sellyaha Store
★★★★★ 1,020 ratings | 9 answered questions

Price: **\$35.99** (\$18.00 / Count) & FREE Returns

Available at a lower price from other sellers that may not offer free Prime shipping.

Size: **1 Black 1 Tricolor**

| | | | |
|-------------------------------|--------------------|---|---|
| 1 Black \$26.99 | 1 Color \$22.99 | 1 Black 1 Tricolor \$35.99 (\$18.00 / Count) | 2 x Black \$33.99 (\$17.00 / Count) |
| 2 Black 1 Tricolor \$55.99 | | | |

Brand Sellyaha
Page Yield 400
Compatible Devices Printer
Special Feature Wireless
Compatibility Options **Remanufactured**
Color Black

About this item

- Contents --- 2 Packs of **Remanufactured ink cartridges** for Canon PG-245XL 246XL(1 Black, 1 Tri-Color).
- Compatible Printer Model --- Compatible with Canon Pixma IP2820, Pixma MG2420, Pixma MG2520,

One-time purchase:
\$35.99 (\$18.00 / Count) & FREE Returns

FREE delivery **Tuesday, August 30**

Or fastest delivery **Tomorrow, August 25.** Order within 2 hrs 34 mins

Select delivery location

In Stock.

Qty: 1

Add to Cart

Buy Now

Secure transaction

Ships from **Amazon**

Sold by SELLYAHA-INFOT...

Details

Return policy: Eligible for Return, Refund or Replacement within 30 days of receipt

prime

Enjoy fast, FREE delivery, exclusive deals and more

Listing was captured on 8.24.22. Sellyaha was claiming to be a "Remanufactured" product and fulfilled by Amazon.



Sellyaha Ink Cartridge Replacement for Canon PG-245XL CL-246XL Compatible with Canon PIXMA IP2820 MG2420 MG2520 MG2522 MG2525 MG2555 MG2920 MG2922 MG2924 MG3020 MX490 MX492 Printer

Visit the Sellyaha Store
4.3 ★★★★★ 1,044 ratings | 9 answered questions

Amazon's Choice for "sellyaha"

Price: **\$34.99** (\$17.50 / Count) & FREE Returns

Thank you for being an Amazon customer. Get \$50 off: Pay \$0.00 \$34.99 upon approval for Amazon Visa.

Size: **1 Black 1 Tricolor**

| | | |
|---|---|--|
| 1 Black 1 Tricolor \$34.99 (\$17.50 / Count) | 2 x Black \$33.99 (\$17.00 / Count) | 2 Black 1 Tricolor \$48.99 (\$16.33 / Count) |
|---|---|--|

Brand Sellyaha
Ink Color Tricolor, Black
Page Yield 300
Compatible Devices Pixma TR4520, Pixma TR4522, MX490, MX492, IP2820, MG2420, MG2520, MG2522, MG2525, MG2920, MG2922, MG2924, MG3020, MG3022, ...
See more

Special Feature Wireless
Compatibility Options **Remanufactured**, Compatible
Color Black

About this item

- Contents --- 2 Packs ink cartridges for Canon PG-245XL 246XL(1 Black, 1 Tri-Color).
- Compatible Printer Model --- Compatible with Canon Pixma IP2820, Pixma MG2420, Pixma MG2520, Pixma MG2522, Pixma MG2920, Pixma MG2922, Pixma MG2924, Pixma MX490, Pixma

Add your 30-day FREE trial of Prime and get fast, free delivery

Delivery Pickup

One-time purchase:
\$34.99 (\$17.50 / Count) & FREE Returns

FREE delivery **Monday, July 17**

Or fastest delivery **Tomorrow, July 11.** Order within 10 hrs 41 mins

Deliver to Eric - Chatsworth 91311

In Stock

Qty: 1

Add to Cart

Buy Now

Payment Secure transaction
Ships from Amazon
Sold by SELLYAHA-INFOTECH
Returns Eligible for Return, Refund or Replacement within 30 days of receipt

Add a gift receipt for easy returns

Subscribe & Save: \$34.99 (\$17.50 / Count) First delivery on Jul 17 Ships from Amazon Sold by SELLYAHA-INFOTECH

Add to List

Listing was captured on 7.10.23. Sellyaha changed its title and some of the description removing most claims about being "remanufactured," but still mentions remanufactured in the listing. In addition to being aware this brand makes false claims about its product, Amazon endorse it with its Amazon's Choice badge. An endorsement that is only available for FBA customers.

65. Contrary to Defendants' statements about protecting its customers and taking the allegations seriously, Defendants protected the offending selling partners instead of suspending them for the fraud that was being perpetrated on its customer and the harm it was causing the Plaintiff. Amazon was obviously more concerned with protecting its

1 profits from the distribution, sale, advertisement, fulfillment, and logistics services
2 associated with these illicit clone ink cartridges. The fact the Defendants instructed illicit
3 sellers to change their description further illustrates how actively Amazon is involved in
4 creating listings and promotional content as a partner of the sellers. It also reveals
5 Amazon's willingness to allow sellers who have defrauded consumers for years to
6 continue to escape responsibility and to continue selling clone cartridges and
7 misrepresenting them.

8 66. Plaintiff seeks to enjoin Amazon's sale of the illicit ink cartridges, recover
9 actual and statutory damages, a disgorgement of Defendants' profits, and other relief,
10 including attorneys' fees and costs. Plaintiff also seeks a recall of all the illicit ink
11 cartridges sold by Amazon along with distribution of a notice to all affected customers
12 that they received counterfeit, non-recyclable, new manufactured ink cartridges. Plaintiff
13 seeks this relief because Amazon should be held accountable for facilitating the product
14 dumping of inauthentic remanufactured ink cartridges, undercutting legitimate
15 remanufactured cartridges, tarnishing remanufactured products' reputation by allowing
16 the false labeling and deceptive advertising to take place, and defrauding unsuspecting
17 customers that they were purchasing a recycled product.

18 67. Inasmuch as Defendants receive, store, pick, pack, ship, and deliver the
19 illicit ink cartridges to customers, as well as handle transactions, returns, and respond to
20 customer feedback, they have become part of the chain of distribution.

21 68. The list of items available on Defendants' website – also known as the
22 Amazon catalog – is vast. Sellers offer their products for sale in a wide range of
23 categories so that customers are able either to search for specific items or to browse
24 through departments. Defendants have put in place restrictions, guidelines and policies
25 for sellers to follow. Defendants control who can sell on its platform and Defendants can
26 suspend and remove a seller who engages in unlawful acts. "To protect its customers and
27 safeguard its reputation for trustworthiness, Amazon has invested heavily, both in terms
28 of time and resources, to prevent fraud and abuse in, and to ensure the quality and

1 authenticity of the products available in, the Amazon Store.” (*See* Complaint,
2 Amazon.com, etc., et al., v. Dhuog (W.D. Wash March 30, 2023), Case 2:23-cv-00484).

3 69. In light of their own fraud prevention policies, Defendants have the
4 responsibility to verify all listings that claim to be “Remanufactured,” and to substantiate
5 any environmental claims being made. After Plaintiff put Defendants on notice about the
6 deceptive and false labeling and advertising claims arising from the sale of illicit ink
7 cartridges on the Amazon platform, including those products being promoted, endorsed,
8 fulfilled and sold by Defendants through their Amazon Warehouse, there has been no
9 perceptible change in Defendants’ wrongful practices.

10 70. Defendants’ lack of enforcement of their own rules and failure to carry out
11 any punishment for violating their own policies only invites more bad actors to sell illicit
12 products using unlawful business practices. Defendants’ complicit behavior is causing
13 great harm to Plaintiff by facilitating on a mass scale the flooding of falsely labeled
14 single-use new built clone ink cartridge as “remanufactured” and selling them as recycled
15 product, undercutting their market, tarnishing the reputation of remanufactured ink
16 cartridge products, and clogging up the recycle stream with single-use printer cartridge
17 cores that have no value.

18 71. The sale of the illicit ink cartridges constitutes false advertising, deceptive
19 practices and unfair competition and violates Amazon’s rules and stated environmental
20 goals, as well as federal and state laws.

21 ///

22 **CAUSES OF ACTION**

23 **COUNT 1**

24 **(Violation of the Lanham Act, 15 U.S.C. § 1125)**

25 **AGAINST ALL DEFENDANTS**

26 72. Plaintiff hereby incorporates by reference all of the allegations set forth in
27 paragraphs 1 through 71 as though fully set forth herein.

28 73. Defendants’ conduct as described above constitutes the use of false

1 statements, false descriptions and representations of fact in violation of section 43(a) of
2 the Lanham Act, 15 U.S.C. section 1125(a), that are likely to deceive and do in fact
3 deceive the public into falsely believing that the illicit ink cartridges sold on Amazon are
4 remanufactured, recyclable products.

5 74. Defendants' conduct as described above constitutes the using of false
6 statements, false description and representations of fact in violation of section 43(a) of
7 the Lanham Act, 15 U.S.C. section 1125(a), that are likely to deceive and do in fact
8 deceive the public into falsely believing that the ink cartridges sold on Amazon are made
9 from OEM cores.

10 75. Defendants' acts as described above constitute the using by each
11 Defendant, in violation of section 43(a) of the Lanham Act, 15 U.S.C. section 1125(a), of
12 words, terms, names, symbols and false and misleading descriptions of fact, and false and
13 misleading representations of fact, which, in commercial advertising or promotion
14 misrepresents the nature, characteristics or qualities of Defendants' goods, services or
15 commercial activities.

16 76. As a result of Defendants' false and misleading advertising, Planet Green
17 has suffered a direct diversion of customers and has been and will be deprived of
18 substantial revenue in an amount to be determined at trial.

19 77. Defendants have caused and will continue to cause immediate and
20 irreparable injury to Plaintiff, including injury to its business, for which there is no
21 adequate remedy at law. As such, Plaintiff is entitled to an injunction under 15 U.S.C.
22 section 1116, restraining Defendants, their agents, employees, representatives and all
23 persons acting in concert with them from engaging in further acts in violation of section
24 43(a) of the Lanham Act, 15 U.S.C. section 1125(a), and ordering removal of the false
25 advertising.

26 78. Plaintiff is entitled under 15 U.S.C. section 1117, to actual damages to be
27 determined at trial, to have such damages trebled, to disgorgement of Defendants' profits,
28 and costs of this action.

1 according to proof at the time of trial.

2 **COUNT 3**

3 **(Unfair Competition in Violation of California Unfair Competition Law – Unlawful**
4 **and Unfair Prongs (Cal. Bus. & Prof. Code § 17200, *et seq.*))**

5 **AGAINST ALL DEFENDANTS**

6 86. Plaintiff hereby incorporates by reference all of the allegations set forth in
7 paragraphs 1 through 85 as though fully set forth herein.

8 87. Defendants have engaged and continue to engage in the acts or practices
9 described above, including, but not limited to using false statements, false descriptions
10 and representations of fact that are likely to deceive and do in fact deceive the public into
11 falsely believing that the illicit ink cartridges sold on Amazon as described above are
12 remanufactured products. This conduct is unlawful, fraudulent, and unfair, and
13 constitutes unfair competition within the meaning of section 17200 of the California
14 Business and Professions Code.

15 88. Additionally, the illicit ink cartridges sold by Defendants as alleged herein
16 falsely claim they are environmentally sound or recycled products, which also violates
17 section 17200 of the California Business and Professions Code. In light of the significant
18 amount of plastic that is labeled as recyclable and instead ends up in landfills,
19 incinerators, communities, and the natural environment, the Legislature of the State of
20 California has declared that “it is the public policy of the state that environmental
21 marketing claims, whether explicit or implied, should be substantiated by competent and
22 reliable evidence to prevent deceiving or misleading consumers about the environmental
23 impact of plastic products.” Cal. Pub. Res. Code § 42355.5. The policy is based on the
24 Legislature’s finding that “littered plastic products have caused and continue to cause
25 significant environmental harm and have burdened local governments with significant
26 environmental cleanup costs.” *Id.* § 42355.

27 89. California Business and Professions Code section 17580.5 makes it
28 “unlawful for any person to make any untruthful, deceptive, or misleading environmental

1 marketing claim, whether explicit or implied.” Pursuant to that section, the term
2 “environmental marketing claim” includes any claim contained in the Guides for use of
3 Environmental Marketing Claims published by the FTC (the “Green Guides”). *Id.*; *see*
4 *also* 16 C.F.R. § 260.1, *et seq.*

5 90. Under the Green Guides, “[i]t is deceptive to misrepresent, directly or by
6 implication, that a product or package is recyclable. A product or package shall not be
7 marketed as recyclable unless it can be collected, separated, or otherwise recovered from
8 the waste stream through an established recycling program for reuse or use in
9 manufacturing or assembling another item.” 16 C.F.R. § 260.12(a). This definition
10 encompasses the three prongs of recyclability that are commonly used in the solid waste
11 industry: (1) accessibility of recycling programs (“through an established recycling
12 program”); (2) sortability for recovery (“collected, separated, or otherwise recovered
13 from the waste stream”); and (3) end markets (“for reuse or use in manufacturing or
14 assembling another item”). The California Public Resources Code similarly defines
15 recycling as “the process of collecting, sorting, cleansing, treating, and reconstituting
16 materials that would otherwise become solid waste, and returning them to the economic
17 mainstream in the form of raw material for new, reused, or reconstituted products which
18 meet the quality standards necessary to be used in the marketplace.” *Id.* § 40180.

19 91. These definitions are consistent with reasonable consumer expectations.
20 For instance, the dictionary defines the term “recycle” as: (1) convert (waste) into
21 reusable material, (2) return (material) to a previous stage in a cyclic process, or (3) use
22 again. Oxford Dictionary, Oxford University Press 2020. Accordingly, reasonable
23 consumers expect that products advertised, marketed, sold, labeled, or represented as
24 recyclable will be collected, separated, or otherwise recovered from the waste stream
25 through an established recycling program for reuse or use in manufacturing or assembling
26 another item.

27 92. Defendants’ conduct violates California Business and Professions Code
28 section 17580.5, which makes it unlawful for any person to make any untruthful,

1 deceptive, or misleading environmental marketing claim. Pursuant to section 17580.5, the
2 term “environmental marketing claim” includes any claim contained in the Green Guides.
3 16 C.F.R. § 260.1, *et seq.* Under the Green Guides, “[i]t is deceptive to misrepresent
4 directly or by implication, that a product or package is recyclable. A product or package
5 shall not be marketed as recyclable unless it can be collected, separated, or otherwise
6 recovered from the waste stream through an established recycling program for reuse or
7 use in manufacturing or assembling another item.” 16 C.F.R. § 260.12(a). By
8 misrepresenting that the Products are recyclable as described above, Defendants are
9 violating Business and Professions Code section 17580.5.

10 93. By violating the FTC Act, Business and Professions Code sections 17500
11 and 17580.5, and the California Public Resources Code, Defendants have engaged in
12 unlawful business acts and practices which constitute unfair competition within the
13 meaning of Business and Professions Code section 17200.

14 94. Defendants have engaged and continue to engage in the acts or practices
15 described herein, which are unlawful, and which constitute unfair competition within the
16 meaning of section 17200 of the California Business and Professions Code.

17 95. Defendants have engaged and continue to engage in the acts or practices
18 described above, all of which are unfair, irrespective of the violation of any other law,
19 and which constitute unfair competition within the meaning of section 17200 of the
20 Business and Professions Code.

21 96. Under California Business and Professions Code section 17200, *et seq.*,
22 Plaintiff seeks injunctive and other equitable relief to require Defendants to cease their
23 anticompetitive conduct, to restore fair competition, to deny Defendants the fruits of their
24 illegal conduct, specifically, through restitution to prevent the resumption of that conduct
25 or conduct with the same effect, to impose a civil penalty of \$2,500.00 against
26 Defendants for each violation of Business and Professions Code section 17200, and to
27 impose such other relief as may be just and proper for Defendants’ violation of the
28 California Unfair Competition law.

COUNT 4

(Violation of California False Advertising Law (Cal. Bus. & Prof. Code § 17500, et seq.))

AGAINST ALL DEFENDANTS

97. Plaintiff hereby incorporates by reference all of the allegations set forth in paragraphs 1 through 96 as though fully set forth herein.

98. California Business and Professions Code section 17500 states:

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price

1 stated therein, or as so advertised. Any violation of the
2 provisions of this section is a misdemeanor punishable by
3 imprisonment in the county jail not exceeding six months, or
4 by a fine not exceeding two thousand five hundred dollars
5 (\$2,500), or by both that imprisonment and fine.

6 Cal. Bus. & Prof. Code § 17500.

7 99. Defendants violated Business and Professions Code section 17500 by
8 making or disseminating or causing to be disseminated before the public in this state,
9 deceptive, untrue or misleading statements in connection with the sale of goods as alleged
10 above and Defendants knew or in the exercise of reasonable care should have known
11 such untrue or misleading statements were deceptive, untrue or misleading concerning
12 the sale of nonrecyclable, non-OEM ink cartridges, all in a manner that was likely to
13 mislead or deceive a reasonable consumer.

14 100. By reason of Defendants' deceptive, untrue, and misleading advertising,
15 Plaintiff has suffered and will continue to suffer irreparable injury unless and until this
16 Court enters an order enjoining Defendants from any further acts of deceptive, untrue and
17 misleading advertising. Defendants' continuing acts of deceptive, untrue and misleading
18 advertising, unless enjoined, will cause irreparable damage to Plaintiff in that it will have
19 no adequate remedy at law to compel Defendants to cease such acts, and no way to
20 determine its losses caused by such Defendants. Plaintiff is therefore entitled to a
21 preliminary injunction and a permanent injunction against further deceptive, untrue and
22 misleading advertising by Defendants. Brands found to have falsely labeled their
23 products should be permanently removed and banned from further sale on Defendants'
24 platform.

25 101. As a direct and proximate result of Defendants' deceptive, untrue and
26 misleading advertising, Defendants have wrongfully taken Plaintiff's profits and its
27 substantial investment of time, energy and money. Defendants therefore should disgorge
28 all profits from the conduct alleged herein and, further, should be ordered to perform full

1 restitution to Plaintiff as a consequence of their deceptive, untrue and misleading
2 advertising. Defendants' acts as described above constitute false and misleading
3 descriptions and misrepresentations of fact in California, which, in commercial
4 advertising and promotion, misrepresent the nature, characteristics and qualities of their
5 products in violation of the False Advertising law in Business and Professions Code
6 section 17500, *et seq.*

7 **PRAYER**

8 WHEREFORE, Plaintiff prays for judgment and relief against Defendants, and
9 each of them, as follows:

10 1. That the Court preliminarily and permanently enjoin Defendants from
11 conducting their business through unlawful, unfair or fraudulent business acts or
12 practices, untrue and misleading advertising, and other violations of law described in this
13 complaint;

14 2. That the Court order Defendants to conduct corrective advertising and an
15 information campaign advising consumers that the counterfeit ink cartridges do not have
16 the characteristics, uses, benefits or qualities Defendants have claimed;

17 3. That the Court order Defendants to cease and desist from marketing and
18 promotion of the illicit clone ink cartridges that state or imply the cartridges are
19 recyclable;

20 4. That the Court order Defendants to implement all measures necessary to
21 remedy the unlawful, unfair or fraudulent business acts or practices, untrue and
22 misleading advertising, and other violations of law described in this complaint;

23 5. That the Court award damages to Plaintiff in a sum not less than
24 \$500,000,000.00;

25 6. That the Court order Defendants to disgorge all profits from their unlawful,
26 unfair or fraudulent business acts or practices, untrue and misleading advertising, and
27 other violations of law described in this complaint, and an award of enhanced or treble
28 damages, in an amount to be determined at trial;

