

Claimant's Brief 17

Amazon claimed in the Defendant's Brief (5) submitted on 29 February 2024 that, for the purpose of protecting brands, only brand names whose products the company has checked and verified can be used on its website.

If sellers use inaccurate or inappropriate brand names, ride on the back of other brands for free, or circumvent the necessary procedure for selling genuine brands, Amazon will indirectly strive to ensure brand protection by issuing policy warnings (p. 6).

If Amazon decides that there is no reason to reject registration of a brand after confirming that the brand name has been printed on a product or package, the application will be granted. A seller can then create a product page for the brand, which will be recognised as the brand allowed for use in registering the product (p. 8).

Therefore, if the products which Amazon has checked are counterfeits, then the Claimant wishes to point out that Amazon is an accomplice.

(5) Yu-ki Shop

Amazon gave permission for 'Yu-ki Shop' to sell 10 products referring to 'Harrods' (or the equivalent Japanese trademark register) or print the Harrods logo on their products to register under their own brand names: 'Brand: HGSLQDEE' for products registered after 20 June 2024 and 'Brand: QWHYQXI' for products registered after 9 July 2024, respectively. As of 24 July 2024, 'Yu-ki Shop' has had no problem selling Harrods items under these brand names (Claimant's Exhibit 235).

The investigation by the Claimant found that no trademark register exists for 'Yu-ki Shop' (Claimant's Exhibit 236), 'Brand: HGSLQDEE', and 'Brand: QWHYQXI'¹.

For instance, although an item which 'Yu-ki Shop' sells, ASIN: B0D7P6JR4D, has been registered as 1) Brand: HGSLQDEE, 'Harrods' has been written in the product title and 'This is a world-famous Harrods' department store's tote bag!' in the product description (Claimant's Exhibit 235, p. 3) [Reference Material 1].

Therefore, 'Yu-ki Shop' is selling Harrods products. Although the bag they are

¹ Japan Platform for Patent Information, J-PlatPat; searched by entering 'Yu-ki Shop', 'HGSLQDEE' and 'QWHYQXI' (<https://www.j-platpat.inpit.go.jp/s0100>. Last visited on 24 July 2024)

selling seems almost identical to the Harrods product, Harrods' bag has a teddy bear printed lining and a magnetic fastening whereas the bag in question has a plain white lining and a zip fastening. Thus, 'Yu-ki Shop' are not only selling 2) a bag of a specification completely different to that of a genuine Harrods bag but also 3) a shoulder bag which Harrods never created for its design range (i.e. Harrods Jacob Bear product range), which means 'Yu-ki Shop' produced this without any authorisation from Harrods.

[Reference Material 1]

The item which 'Yu-ki Shop' is selling as 'Brand: HGSLQDEE' as of 24 July 2024 (ASIN: B07DP6JR4D) is presented below.

バッグ・財布・バッグ・トートバッグ



ブランド: HGSLQDEE
[HGSLQDEE] 英国 2020年 Harrods オリジナル SS トートバッグ ジェイコブベア ショッピングバッグ ファッション [並行輸入品] **[parallel-imported]**
このページを検索

¥5,680 税込
ポイント: 568pt (10%) 詳細はこちら

無料配送 7月27日-31日にお届け (8 時間 3 分以内にご注文の場合)
詳細を見る

お届け先: 東京都 602-8051-お届け先の更新

通常4〜5日以内に発送します。
在庫状況について

カートに入れる
今すぐ買う

出荷元 Yu-kiショップ
販売元 Yu-kiショップ
★★★★★ (1件の評価)
支払い方法 お客様情報を保護しています
詳細はこちら

リストに追加

サイズ:
M ▼

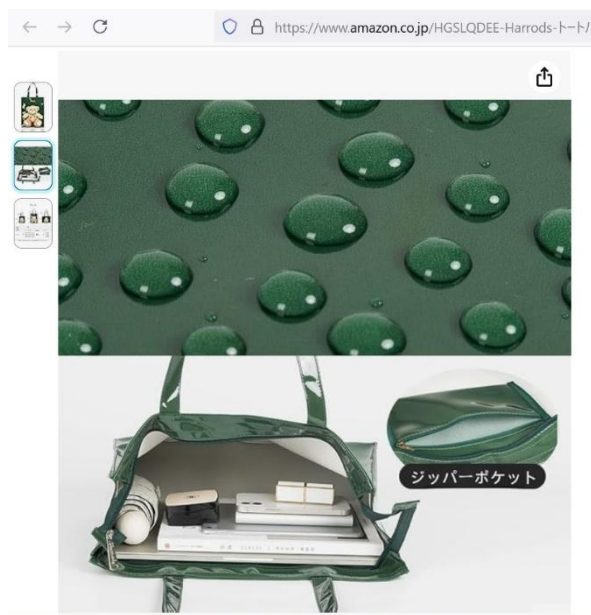
色: グリーン **This is a world-famous Harrods' department store's tote bag!**

この商品について **世界でも有名なハロッズ百貨店のトートバッグです!**


- S : 25*25*15cm
- M : 38*29*23cm
- L : 28*38*30cm

Yu-ki Shop's Product

Harrods' Product



商品詳細



ブランド: HGSLQDEE 英国 2020年
Harrods オリジナル SS トート
バッグ ジェイコブベア ショッピング
グバッグ ファッション [並行輸入
品]

¥6,680 税込

ポイント: 668pt (10%) 詳細はこちら

ダブルポイント 詳細

サイズ:
L ▼

色: グリーン

この商品について

素材:	PVC		
仕様:	トートバッグ	留め具:	ジッパー
サイズ:	S: 25cm*25cm*15cm M: 38cm*29cm*23cm L: 28cm*38cm*30cm	重量:	S: 0.37KG M: 0.50KG L: 0.50KG

平置きでの計測となります。多少の誤差は予めご了承ください。

¥6,680 税込

ポイント: 668pt (10%) 詳細はこちら

無料配送 7月26日-28日にお届け (10 時間 35 分以内にご注文の場合) 詳細を見る

お届け先: 東京都 602-8051-お届け先の更新

通常4~5日以内に発送します。在庫状況について

数量: 1

カートに入れる

今すぐ買う

出荷元: Yu-kiショップ
販売元: Yu-kiショップ
★★★★★ (1件の評価)
お客様情報を保護しています

支払い方法

18:24 2024/07/21

Jacob Bear product range sold in Harrods' Knightsbridge store.



Moreover, ASIN : B0D7PS6X37, the item which ‘Yu-ki Shop’ is selling (Claimant’s Exhibit 235, p. 8) was one of the bags reported by the Claimant to Harrods when she informed them that their ‘counterfeits’ were being sold on a marketplace (Yahoo Auction) on 11 July 2023 [Reference Material 2]. The product was the same counterfeit taken down from the marketplace shortly after the Claimant received an email from Harrods stating ‘thank you for reporting it and we will take appropriate measures’ on 14 July 2023.

[Reference Material 2]



Amazon informed the Claimant that it is necessary to set a brand name to be able to list products if no other sellers are selling the brand on Amazon and explained the procedure to apply for registering a product.² In other words,

² ‘If the brand name in question has already been recognised by Amazon (Claimant Note:

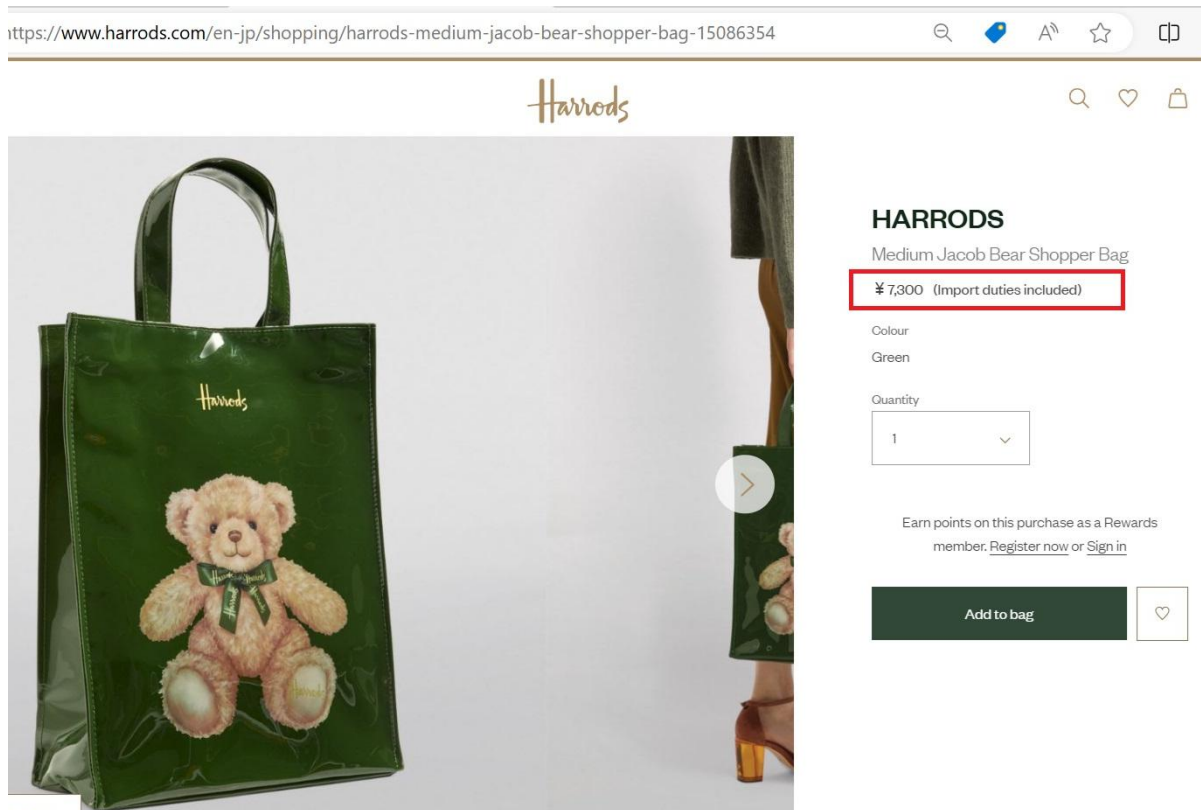
Amazon was permitted to register the brands 'HGSLQDEE' or 'QWHYQXI' despite having checked pictures of the products on which the Harrods logo is clearly visible. Therefore, it can be said that Amazon is an accomplice of 'Yu-ki Shop' in the Intellectual Property Infringement of Harrods.

As for the genuine bag of identical design which 'Yu-ki Shop' is selling at 5680 yen [Reference Material 1], Harrods has been selling this at 7300 yen on their website (which Harrods previously informed the Claimant was the only place on the internet on which they sell their products) [Reference Material 3].

The brand has been trademark registered or a trademark application has been submitted to a registry office by an accelerator which Amazon claims they accept), a seller can apply to register the product by uploading photos of the product or the package on which the brand name can be seen on the page appearing in the system. If Amazon judges that there is no problem in registering the brand because the brand name in question can be recognised on the product or the packaging of the item, the application can be granted and thus the seller can create a product page for the item accompanied by the name of said brand.'

(Defendant's Brief (5), p. 7)

[Reference Material 3]



Not only has the Claimant accumulated knowledge about Harrods products having bought them for a period of many years, she can also easily identify which items have only been sold in-store from the videos or photos sent from the personal shopping staff member [Claimant Note: via WhatsApp] introduced by Harrods. Therefore, whenever the Claimant found counterfeits for which the designs have never been produced or the specifications were different, she reported this to Harrods. Although the Claimant had previously reported sellers selling counterfeits on Amazon directly to Amazon, Amazon stopped handling

such reports as they replaced their policy stating ‘Reporting of IP infringement must be made by either the rights owner or an agent with permission from the rights owner’³ in the ‘Intellectual Property for Rights Owners’ (Claimant’s Exhibit 148) section of their listing policies. Since this change was made, the Claimant has reported directly to Harrods whenever she found counterfeits of their products. Thus, what Amazon had done to the Claimant’s items listed in Appendix 1-16 (The Claimant selling Harrods' items as ‘Parallel-imported’ from ‘Brand: Harrods’ led to Amazon claiming that ‘these items sold by the Claimant were considered to be counterfeits of the ‘Harrods’ brand and therefore suspended selling of these items’ (Defendant’s Brief (6), p. 3)) was done only to the Claimant, which contradicts their listing policy. Furthermore, Amazon revoked their statement in the selling policy that it cannot verify on which distribution channel the items which sellers are selling are being sold (Claimant’s Exhibit 148, p. 3, ‘Types of notices not accepted on Amazon’).

[Claimant’s Note: The Claimant found out on 30 March 2025 that Amazon replaced Exclusive Distribution and Minimum Advertised Price (MAP)

³ ‘To submit a notice of IP infringement, you must be the Rights Owner who owns the IP being reported or an agent with permission from the Rights Owner to submit notices on his or her behalf.’ (Claimant’s Exhibit 148, p. 4, ‘Reporting Infringement’)

Agreements secretly during this trial, altering the statement 'Amazon does not enforce distribution channel control reports or check for a seller's authorisation or ability to sell a brand's products through the infringement form. If you report a counterfeit on the basis that a seller is not authorised by you to sell or you have not allowed other sellers to sell your product, it may not constitute an infringement complaint' to 'Amazon respects a manufacturer's right to enter into exclusive distribution agreements for its products. However, violations of such agreements do not constitute an Intellectual Property Rights Infringement.

Because the enforcement of these agreements is a matter between the manufacturer and the resellers, Amazon does not assist in this type of enforcement activity'.] Thus, Amazon asked the Claimant to obtain permission to sell from Harrods, stating that 'Selling permission must be obtained for this brand' (Claimant's Exhibit 81, 2). Subsequently, Amazon prohibited only the Claimant from selling parallel-imported items of Harrods by returning the Claimant's items 'one-sidedly' 'without her agreement' and 'at the Claimant's expense'. As a result, Amazon inflicted an enormous operating loss on the Claimant, who was selling the Harrods items as her main product line on Amazon. This falls under Article 2, paragraph 9, item (vi) (paragraph 4 of the

General Designation) of the Antimonopoly Act which prohibits ‘unjustly (tendency to impede fair competition)’ treating other entrepreneurs in a discriminatory manner.

As a side note, whenever the Claimant found counterfeits on Amazon, she informed Harrods of the ASIN (Amazon Standard Item Number) – a 10-digit item number allocated to all items available on Amazon so that a brand can easily identify a counterfeit product. The brand can also put the ASIN directly into Google to view the product on Amazon from the search results. However, with respect to the items sold under ‘Brand: QWHYQXI’ which have been registered as from 9 July 2024, their description of a ‘product of Harrods’ in the product details remains as it is; however, the trademark ‘Harrods’ (or the equivalent Japanese trademark register) was removed from the product title. Having put these ASINs in Google, the Claimant found that no result was displayed, yet the items are displayed on the Amazon website when searched for (Claimant’s Exhibit 237). That is to say, an Amazon Account Health Support employee told the Claimant (Claimant Note: over the phone on 4 April 2023) that ‘(We will) be subject to a claim by the brand if they found the Claimant using the brand name without their permission’ (Claimant’s Brief 10, p. 15, (2)) and would be

conspiring to sell the counterfeits secretly by targeting customers in their own store.

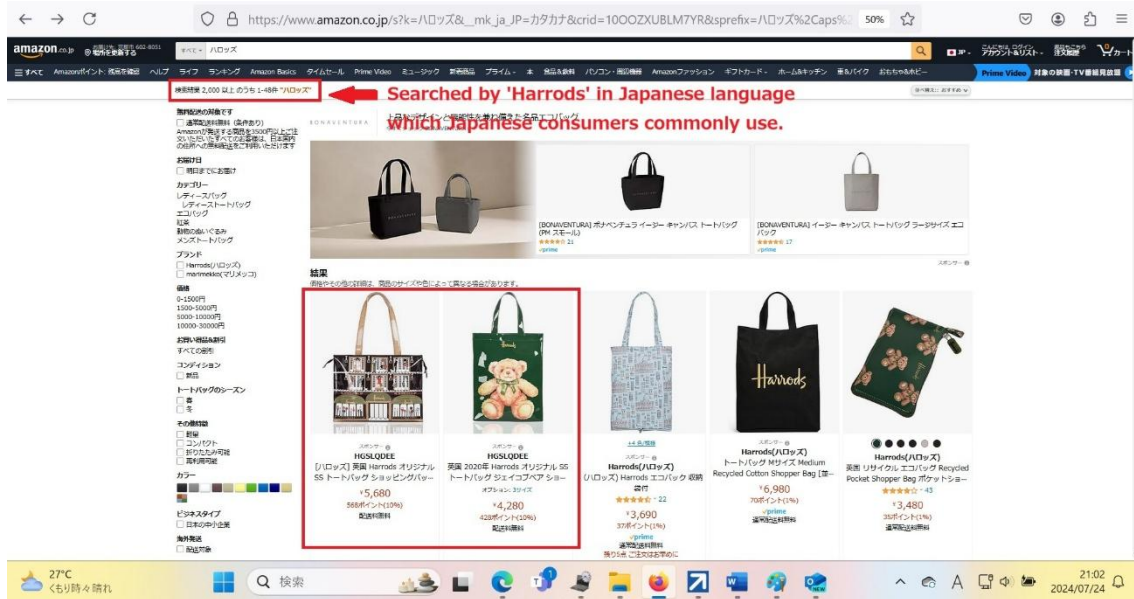
Amazon, which monitors sellers' pricing (Claimant Note: Amazon suspends listings by claiming the price of the item is higher or cheaper than that listed elsewhere), could easily have suspended the listing if a bag identical to a Harrods bag was being sold at a significantly cheaper price and the 'Brand: HGSLQDEE' registered to sell the bag has nothing to do with the 'Harrods bag' referred to in the product explanation. In fact, the Claimant's claim against Amazon for their acts of torts (Appendix 1-7) solely concerns Amazon claim of an Intellectual Property Infringement by the Claimant of the trademark registered Moomin Character of 'Little My' from 'Little My Children', purely because the Claimant made a mistake when writing the title 'My Little Children' in the descriptions of songs contained in the music box. However, such a measure will not apply to 'Yu-ki Shop'.

The reason why Amazon permits 'Yu-ki Shop' to sell products which are counterfeits and conspires with them is that the counterfeits are cheaply made: this means those products are high in margin and the seller can increase Amazon's profits. For instance, for Yu-ki Shop's counterfeit sold at 5680 yen,

Amazon receives at least 1250 yen per item, including the selling fee (682 yen), and 10% of the Amazon points (562 yen) which sellers purchase from Amazon and can only be redeemed by Amazon. Moreover, 'Yu-ki Shop' has been contributing to Amazon's profits via pay-per-click advertisements (Claimant Note: a lawsuit brought against Amazon by US Consumers on 8 February 2024 claims that 'Amazon charges sellers for advertising services. Most sellers pay all four fees (a selling fee - which can be a monthly fee or a fee for each item sold, a commission or "referral fee" based on the price of each item sold on Amazon, FBA for the use of Amazon's logistics services, and advertising services) to generate a significant volume of sales on Amazon. FBA and advertising are typically their largest costs]. If what Amazon claims as the measure to protect brands ('While putting the emphasis on protecting the customers who will try to buy brands and maintaining/securing the usability of product search and comparison, we aim to protect brands indirectly') is true, then 'Brand: HGSLQDEE' and 'Brand: QWHYQXI', which have nothing to do with 'Harrods', cannot be displayed under the search results for 'Harrods'. However, in actuality they are displayed as the first and second search results for 'Harrods'.

[Reference Material 4]

[Reference Material 4]



[Enlarged]

結果

価格やその他の詳細は、商品のサイズや色によって異なる場合があります。

スポンサー
HGSLQDEE

[ハロッズ] 英国 Harrods オリジナル SS トートバッグ ショッピン...

¥5,680

568ポイント(10%)

配送料無料

スポンサー
HGSLQDEE

英国 2020年 Harrods オリジナル SS トートバッグ ジェイコブベ...

オプション: 3サイズ

¥4,280

428ポイント(10%)

配送料無料

Thus, Amazon not only receives a massive 22% of selling fees from 'Yu-ki Shop', it also makes profits through their sponsored pay-per-click advertisements where, as has been pointed out by the FTC, Amazon intersperses irrelevant advertisements with more relevant results (Claimant's Brief 14, p. 39). As a result, Amazon does the following:

1) To be chosen as a 'Buy Box winner', Amazon asserts that the delivery option is faster and is offered free of charge to the customer. Therefore, Amazon recommends sellers use the FBA, which stores their products in Amazon's warehouse prior to their dispatch by Amazon. However, if Amazon can make more lucrative profits, offers by 'Yu-ki Shop' which provide a less advantageous delivery speed of 'Usually dispatched within 4-5 days' to the customer [Reference Material 1] do not prevent them from winning a 'Buy Box' nor their items being displayed at the top of search results.

2) Amazon asserts that registering under the right brand name not only makes it easier for customers to search for the brand's products but also prevents sellers from selling counterfeits. Nevertheless, although the products (Harrods bags) which 'Yu-ki Shop' would like to sell as 'Brand: HGSLQDEE' or 'Brand: QWHYQXI' and which Amazon approved having verified the photos provided

are, in fact, counterfeits, Amazon ensures these items, which have nothing to do with the 'Harrods' brand, are displayed at the top of the search results for 'Harrods'.

3) Amazon asserts that it protects brands regardless of registration on the Amazon Brand Registry (Defendant's Brief (2), p. 5). However, although selling items with 'Harrods (or the equivalent Japanese trademark register)' under 'Brand: HGSLQDEE' or 'Brand: QWHYQXI' should obviously not be permitted by the brand owner, Amazon's measure against the Claimant: 'Your items (Claimant's items) were removed because the product registrations were made under the brand name, which the brand owner will not permit' (Defendant's Brief (6), p. 10 and 11) is not applicable to Yu-ki Shop's product registrations as Harrods does not register on the Amazon Brand Registry and is thus not an Amazon business.

Amazon makes the decision to weigh brand protection against the profit made from selling the item. Amazon permits the counterfeit seller, who is their accomplice, and supports them by displaying them at the top of the search results for 'Harrods' on their website whilst taking measures to ensure the results

are not generated by an ASIN search on Google in order to hide from brands patrolling for counterfeits. That is to say, Amazon is deceiving their customers in order to reap huge benefits. This is not only impeding fair competition between sellers but also harming consumers by enabling them to purchase counterfeits sold by Amazon, purposefully disregarding its own listing policy for items being sold by sellers that will bring them profits.

The Claimant is not the seller whose brand has been registered on the Amazon Brand Registry (whose relationship with Amazon is based on incentives).

Get 10% back on your first 7.5 million yen in branded sales when you enroll in Brand Registry —then 5% back through your first year until you reach 150 million yen.



Amazon出品

<https://sell.amazon.co.jp/brand-registry> ;

[Amazon Brand Registry | Amazon Selling Services](#)

Further, the Claimant does not provide Amazon with any desirable profits by furnishing them with purchasing points and giving them advertisement spending. On the contrary, the Claimant was selling her items at a cheaper price on sites other than Amazon, which was done for the purpose of giving consumers the benefit of a cheaper selling fee. Amazon considered the Claimant's act to be a punishment for 'selling elsewhere at a price cheaper than on Amazon'

[Claimant Note: FTC and 15 States and Commonwealths of the US claims in their lawsuits brought against Amazon on 2 November 2023 that 'When Amazon detects elsewhere online a product that is cheaper than a seller's offer for the same product on Amazon, Amazon punishes that seller' (p. 8, Case 2:23-cv-01495-JHC Document 114)]].

Moreover, Amazon considered that the Claimant, who was the only seller selling a cheaper range of Harrods products to consumers on Amazon, was causing a 'malfunction of their AI against other sellers of Harrods products whose items would be deemed expensive if a cheaper range of products existed' [Claimant Note: The Claimant was purchasing a cheaper range of Harrods products, such as aprons, keyrings, fridge magnets, and pens, which were available only instore through their personal shopping employee, whereas other sellers of Harrods

products on Amazon were simply reselling a higher priced product range, such as bags and teddy bears, which can be purchased on Harrods website. The existence of cheaper priced products caused the average sales price of the brand's products to fall and AI would be likely to suspend the products of other sellers selling the higher priced product range as their prices were much higher than the average]. It was inconvenient for Amazon for items to be cheaper than those they are selling and they made their own judgement to remove only the Claimant's genuine Harrods products, asserting that the Claimant must obtain permission from Harrods if she wished to sell their products on Amazon, thereby discarding the Selling Policy stating that Amazon does not check for a seller's authorisation or ability to sell a brand's products. Amazon now claims that the reason for its decision was that counterfeits of Harrods products were circulating. However, after making this claim, Amazon has in fact given 'Yu-ki Shop' permission to sell counterfeits of Harrods products. The punishment for sellers selling items cheaper elsewhere (Claimant's Brief 14, pp. 67-68), which was done only to the Claimant in the form of Intellectual Property Infringements, is a violation of personal rights. Moreover, having manipulatively used 'Brand Protection' for their own acts of torts, Amazon inflated the number

of Intellectual Property Infringements they proudly claimed they had detected
(which are, in fact, not violating any intellectual properties).