



14 April 2026

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

Inquiry into the Customs Legislation Amendment (False Trade Marks Infringement Notices) Bill 2026

This submission is made on behalf of Davies Collison Cave (**DCC**) and Davies Collison Cave Law (**DCCL**). Both DCC and DCCL represent clients who utilise the Notice of Objection scheme within the *Trade Marks Act 1995* (Cth) as part of the enforcement of their trade mark rights in Australia, and are frequently listed as the address for service on Notices lodged under the scheme. Having said that the views in this submission are those of our firms.

We thank the Senate Legal and Constitutional Affairs Committee (**Committee**) for the opportunity to comment on the Customs Legislation Amendment (False Trade Marks Infringement Notices) Bill 2026 (**the Bill**). Our firms are in support of the Bill and believe it will serve to further deter counterfeit importation in Australia.

The importation of counterfeit goods is a central concern for brand owners. Counterfeit goods present a significant enforcement challenge, particularly given the prevalence of recidivist behaviour. In our experience, consistent with the matters mentioned in the Explanatory Memorandum to the Bill, counterfeit importers typically adopt a business model which involves the use of multiple small shipments of counterfeit goods into Australia, in an attempt to evade detection and seizure, and to discourage brand owners from taking further enforcement action (such as issuing infringement proceedings).

Such a business model operates on the assumption that even if a proportion of the imported goods are seized and forfeited once a Notice of Objection is lodged, this loss is outweighed by the profits accrued through the distribution of the remaining counterfeit goods. In our view, introducing a penalty that can be imposed on importers over and above the loss of these forfeited goods (such as that proposed in the Bill) will represent an important step towards disrupting counterfeit importer business and strengthening the deterrence of commercial counterfeit activities in Australia.

We consider that an ongoing dialogue between brand owners, their legal representatives, and the Australian Border Force, will maximise the impact of the proposed reforms, if adopted. Brand owners, particularly those operating across multiple jurisdictions, typically gain valuable information in the course of their business regarding counterfeit importing patterns and so called "repeat offenders" in their relevant markets. Brand owners will also benefit from being kept abreast of infringement notices issued and penalties imposed.

Yours sincerely,

DAVIES COLLISON CAVE

Elizabeth Godfrey
Managing Principal

DAVIES COLLISON CAVE LAW

Chris Jordan
Managing Principal

Level 28, 500 Bourke Street
Melbourne VIC 3000
Australia

T +61 3 9254 2777
F +61 3 9254 2770
E mail@dcc.com

dcc.com