

# Creating best practices for the future: solving e-commerce anonymity

## 打造面向未来的最佳实践： 解决电商匿名性问题

Jan de Visser

Philips Intellectual Property & Standards / 飞利浦知识产权与标准部门

Shanghai, 31 May 2024 / 2024年5月31日上海

# Content /内容

- Introduction Royal Philips /简介：皇家飞利浦
- Main impediments for anti-counterfeit enforcement in China /中国境内假冒维权的主要障碍
- Enforcement impediments outside China /境外维权障碍
- Current approach /当前手段
- Solution: enforce IP on a final distribution (“fulfilment”) level /解决方案：在终端分销（“履约”）环节开展知识产权维权



# Introduction Royal Philips

## 皇家飞利浦简介



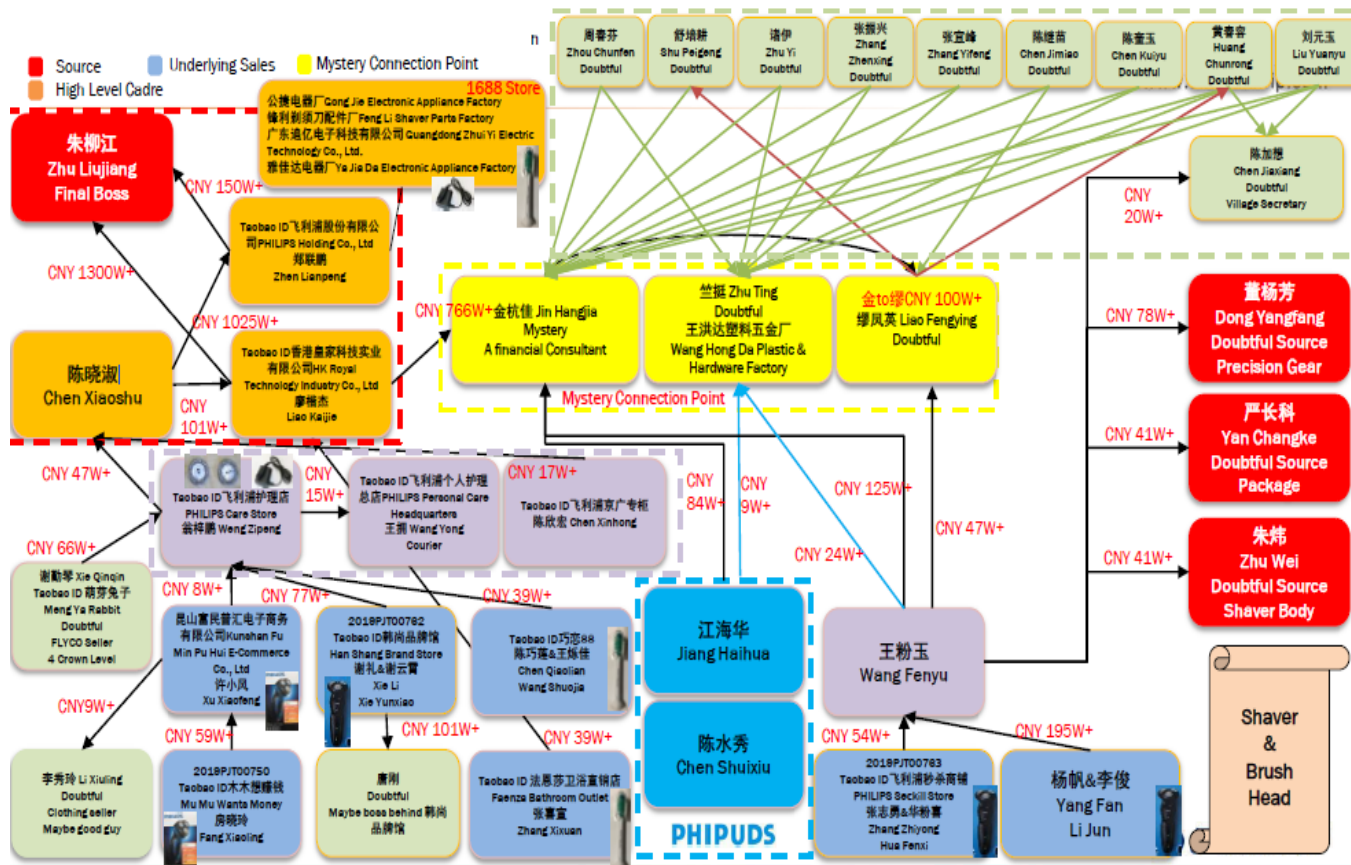
# Philips & intellectual property (IP) / 飞利浦与知识产权

- Philips is a vested company, with a strong brand and consumer recognition all over the world. / 飞利浦是一家实力雄厚，品牌享誉世界的企业。
- In China, the Philips brand has been recognised multiple times as “well-known”: our brand has a very strong protection base. / 在中国，飞利浦品牌多次获评“驰名商标”，具有坚实的保护基础。
- Philips has one of the largest IP libraries in the world. / 飞利浦拥有全球规模领先的知识产权库。
- Our protection activities have a strong international character. We enforce without boundaries, teaming up with local authorities. / 品保工作国际性强。飞利浦与各地主管部门合作，在境内外开展维权。

Main impediments for anti-counterfeit  
enforcement in China  
境内假冒维权的主要障碍

# O2O (online to offline) enforcement in China

## 中国O2O (线上到线下) 维权



# Reducing complexity 降低复杂性



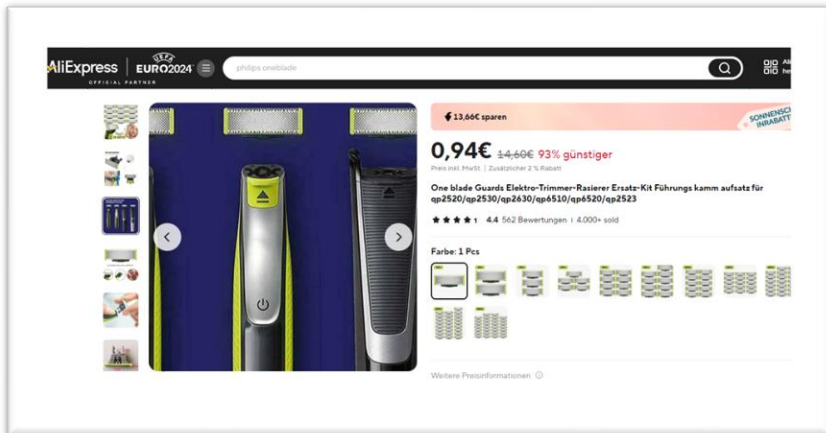


# Enforcement impediments outside China

## 境外维权障碍



# Anonymity on e-commerce advertisement level 电商广告匿名性



# Anonymity on an intermediary / logistics level

## 中介服务/物流匿名性



# Current approach

# 当前手段

# Why can't we enforce strongly enough? 为何维权力度不足?

- Use different IP to attack the OEM manufacturing source: TM, design, patent, copyright  
针对违法代工的各类知识产权维权：商标、外观设计、专利、版权
  - Issues: /问题：
    - In China, market enforcement on an administrative level lost its impact, as the SAMR lacks investigative powers for e-commerce. / 在中国，市场监管总局不具有电商调查权，行政执法影响力欠缺。
    - On a criminal enforcement level (公安局), only identical TM use classifies. It is not possible to attack OEM manufacturing through criminal law based on design or patent rights. /在刑事执法层面，刑事责任仅适用于非法使用与注册商标相同的商标，无法依据外观设计或专利侵权追究违法代工的刑事责任。
    - On a civil law level: /在民法层面：
      - It is not possible to force key intermediaries (export firms) in court to reveal their supply source. /在庭审阶段，无法强制要求关键中介服务机构（出口商）披露供货来源。
      - Injunctive relief against export companies does not exist. /没有针对出口商的禁制令救济手段。
- Enforce rights against downstream market players? /针对下游市场主体开展维权？
  - Is not possible, other than through extensive criminal investigations (see above restrictions). /除非开展深入刑事调查（局限性同上），否则不可能成功维权。



**Solution: enforce IP on a final distribution (“fulfilment”) level**  
**解决方法：在终端分销（“履约”）层面开展维权**

The ultimate solution for the consumer, the brand owner and Customs  
消费者、品牌方和海关的终极解决方法



Solution: enforce IP on a  
final distribution (“fulfilment”) level

解决方法：在终端分销（“履约”）  
层面开展维权

- Two approaches / 两种方法

1. Brand owners' product identity use a blockchain. /使用区块链核验正品。
2. ALL products inherit source data from e-commerce advertisements that “travel” with the product. / 所有产品继承电商广告原始数据（数据“跟随”产品流通）。

1. Blockchain / 区块链

- Too complex. / 过于复杂。
- Too expensive. / 成本过高。
- Implementation depends on private initiatives. / 需要私营部门自主制定实施计划。

2. Use e-commerce metadata to check (manufacturing) source integrity /使用电商元数据核验（产品生产来源）完备性

- All data is available from e-commerce metadata. / 所有数据均可从电商元数据库获取。
- E-commerce platforms are obliged to do self-declaration for importation purposes. / 电商平台有义务对进口商品进行自我声明。
- Self-declaration can be combined with pro-active filtering, instigated by brand owners. / 权利人主动筛查与电商平台自我声明结合。
- Implementation depends on public initiatives = the law. / 政府部门制定实施计划（立法）。

# How is this relevant for China–EU cooperation? 与中欧合作的关联性?

- China already has electronic fingerprinting for export (source: WCO’s “Compendium of Case Studies on E-Commerce”, 4th edition, June 2023, page 26.  
中国已经实施出口商品电子指纹识别（来源：世界海关组织，《电子商务案例研究汇编》第四版，2023年6月，第26页）。
- EU Customs is looking for an enhanced importation framework, to e.g. cope with postal traffic that e-commerce generates. Self-declaration by e-commerce platforms is a logical solutions that benefits Customs, consumers and brand owners.  
欧盟海关正在加强进口管理框架，应对电商产生的包裹量激增等问题。电商平台自我声明是能够惠及海关、消费者和品牌权利人的合理方案。

