

# Americana International Ltd.

Americana International Ltd of Tanzaro House, Ardwick Green North, Manchester M12 6FZ are the registered trademark holders of the brand names BENCH and HOOCH in respect of clothing, footwear and headgear. Americana International Ltd strictly regulates the design, manufacture, advertising, distribution and sale of its Bench and Hooch products. Our products are supplied through a tightly controlled distribution chain to authorised resellers only. These authorised resellers are carefully chosen retailers and we do not supply new products to wholesalers, market traders, clearance houses or dress agencies. There is no 'grey channel' in respect of our products and no source of seconds in the UK or Europe. Any authorised reseller found to be selling or supplying our products to another retailer or supplier without our prior knowledge or agreement will lose its authorised status.

**It is illegal to import, manufacture, offer for sale, sell, advertise or distribute counterfeit or infringing products bearing the registered trade mark BENCH, HOOCH or MILLIONDOLLAR.\*\*** These activities are in violation of the law and can carry both criminal and civil penalties.\*\* **Additionally, this activity is expressly prohibited by eBay (see section 6.2 of eBay's user agreement <http://pages.ebay.com/help/policies/user-agreement.html>) and will result in your auctions and user account being cancelled.**

Americana International Ltd employs brand enforcement investigators to ensure that their trademarks are not violated.

Americana adopts a pro-active approach to counterfeiting of our products and is actively targeting individuals, markets and any business premises where counterfeit copies of our products are manufactured, distributed, possessed or sold.

Americana works closely with the Police, Trading Standards and HM Customs and a number of criminal prosecutions are pending against individuals and businesses for supplying, offering for sale and selling counterfeit copies of our products.

Americana International Limited will not hesitate to commence civil proceedings against any individual or business contravening the Trademarks Act 1994.

## FREQUENTLY ASKED QUESTIONS

### **Q: Why has my auction been removed?**

**A:** Americana is committed to the strict enforcement of its trademarks and other intellectual property rights. We have requested the removal of your auction because Americana and its agents has a good faith belief that the merchandise you were offering for sale is counterfeit or otherwise infringes our trademarks and thus is in violation of the law. Please note that the offer of genuine goods for sale in certain countries where they are not authorised to be sold by the trademark owner still constitutes trademark infringement.

**Q: How did Americana determine that my auction offered for sale goods that were counterfeit or otherwise infringing?**

**A:** Due to the nature of eBay and the Internet, this determination was based upon the photograph(s), title of the auction and the description of the goods that you have provided. If your auction was terminated upon our request, we are satisfied with our determination that this item is not authentic.

**Q: Why was I allowed to post my auction if it violates the law?**

**A:** Unfortunately, eBay maintains that it cannot conduct a comprehensive pre-screening process to account for such violations. Therefore, the ability to post such auctions of infringing merchandise DOES NOT mean that the sale of such merchandise is legal, authorised or that it does not infringe our trademarks.

**Q: Why was my auction removed while many other auctions offering “BENCH” or “HOOCH items for sale remain up?**

**A:** Due to the nature of eBay, it is impossible to address every auction related to our brand. This, however, does not mean that because some auctions are not removed they are not also breaking the law. If you wish to send us auctions that you believe infringe our trademarks, we invite you to do so.

**Q: Why was I not informed directly by Americana\*\* before I was reported to eBay?\***

**A:** In many cases where an individual is offering multiple infringing products for sale then we try to send a warning e-mail at the same time as requesting withdrawal of your auction. Given the volume of auctions dealing with Americana related products; it would be both impractical and inefficient for us to contact each seller individually in every case. For these reasons, eBay has established the VeRO program (<http://pages.ebay.com/help/confidence/programs-vero-ov.html>) to assist us in our brand protection efforts and take additional actions in accordance with its user policies.

**Q: Can I use the word “BENCH” or “HOOCH” in an auction heading even if I am not selling a BENCH or HOOCH item?**

**A:** NO. Americana maintains a registered trademark in its name, including its use for retail services, and this prohibits the use of our name in relation to goods that do not originate from Americana. Therefore, it is both misleading and infringing to use the trademark “BENCH” or “HOOCH” in an auction title or description because such use may attract buyers who are searching for authentic Americana goods. Additionally courts have held that this confusing practice of enticing buyers, referred to as “initial interest confusion”, is a form of trademark infringement, even though consumers may ultimately realize the goods offered for sale in an auction do not originate from Americana. This practice is an attempt to exploit the goodwill associated with our trade names and will not be tolerated.

**Q: I believe that the item I am offering for sale is authentic BENCH or HOOCH merchandise, how can I tell?**

**A:** Americana is not willing to disclose the specifications of genuine merchandise so as to prevent this information from reaching manufacturers of counterfeit merchandise. We can assure you, however, that all authentic Americana products are made using superior materials, quality and workmanship. The ONLY way to ensure that you have purchased an authentic Americana product is to purchase it directly from an authorised store or one of our authorised retailers.

**Q: Why is Americana concerned with my sale of a single piece of unauthorised BENCH or HOOCH product?**

**A:** Americana takes all matters of infringement seriously regardless of the quantity of items listed for sale. We cannot grant exceptions to anyone simply because the infringement concerns only one or two items.

**Q: Can I post an auction that expressly states that the Item is “NOT GENUINE BENCH” or “HOOCH? Or refer to it as “BENCH-STYLE”, “HOOCH INSPIRED” or any similar phrase?**

**A:** NO. A disclaimer regarding the lack of authenticity of the goods, such as “fake”, “faux”, “BENCH-Style”, “HOOCH-like”, etc., is illegal under laws which prohibit the sale of counterfeit/infringing merchandise. These products are still in violation of our trademark rights and Americana will enforce these rights with the same force as those which claim to be authentic.

**Q: I would like to have an item I purchased from eBay verified for authenticity by Americana, can I bring this item to a authorised store for verification? May I list my item as authenticated by Americana?**

**A:** NO. Because Americana performs its authenticity determinations with great care and attention, it is not feasible to offer this service to the general public. In addition, though our sales people are professionals who are very knowledgeable about our product line, they are not able to make authenticity determinations. The only way to be assured that you have purchased an authentic Bench or Hooch product is to purchase it directly from one of our authorised stores or an authorised retailer ; otherwise authenticity cannot be guaranteed or verified by Americana.

**Q: What if I was unaware that the merchandise I was selling was not authentic Americana merchandise?**

**A:** Ignorance of the law or innocent intent is not a defence to trademark violations. The law maintains that it is YOUR responsibility to ensure that your activities do not in any way violate the intellectual property rights of others; otherwise you will subject yourself to liability which cannot be avoided by claiming ignorance.

**Q:\*\*I believe that the item Americana reported is authentic "BENCH" or "HOOCH" merchandise.\*\* How can I get my auction reinstated?**

**A:**If you believe that your auction was erroneously reported to eBay, please send an email to the contact person that eBay has provided you. In your email, you must include the following: (1) the auction number, (2) the exact title used in the auction, (3) the exact description used in the auction, (4) your eBay seller ID, and (5) attach the pictures of the item that were posted in the removed auction. We may also require you to submit further high quality pictures of parts of the garment that we specify. If Americana agrees that it erroneously reported your auction, we will send an email to eBay, with a request to reinstate the auction. However, please note that reinstatement is entirely at eBay's discretion.

### **ADVICE TO EBAY USERS**

Ebay is being flooded by counterfeit products featuring our registered trademarks.

In many cases individual traders are submitting numerous auctions featuring the same counterfeit product. The only difference maybe the colour or size. They are dealing in counterfeit product and the majority of them are fully aware of that fact.

If you buy counterfeit products then you are buying a poorly designed and manufactured garment that will almost certainly fall apart or lose its colour after its first wash.

In order to ensure that your products are genuine you should purchase Bench or Hooch products from an authorised High Street retailer. A list of authorised retailers is available at [www.bench.co.uk](http://www.bench.co.uk) or [www.hooch.co.uk](http://www.hooch.co.uk)

Occasionally garments featuring the name 'Bench' appear on Ebay that are manufactured in the Philippines by the Suyen Corporation. These garments cannot be imported, sold or distributed in the UK or Europe as Suyen does not hold the registered trademark name for those areas. Your auction will be removed by us if you advertise Suyen 'Bench' garments.

Do not buy any 'Bench' described garments that are described as without 'tags'. We do not sell garments without tags and they will be counterfeit.

If you buy a garment that you subsequently believe to be counterfeit, then please e-mail us in confidence with the seller's Ebay name and a full description of the garment.

Americana International Limited are members of the Anti-Counterfeiting Group and we welcome any information concerning the manufacture, supply or sale of counterfeit products to [brand.protection@ailgroup.co.uk](mailto:brand.protection@ailgroup.co.uk) or telephone 44-(0)161-276-3900.

Bench Web site - <http://www.bench.co.uk/>

Hooch Web site - <http://www.hooch.co.uk/>