

# Tokenools Pty Ltd

Tokenools Pty Ltd has a legal responsibility to enforce its trademarks and copyrights. Tokenools Pty Ltd regularly reviews items for sale on eBay. We started enforcing our trademarks on eBay because we received complaints from eBay users who purchased non- Tokenools welders under the mistaken impression they were Tokenools brand welders. By stopping the advertising and sale of unlicensed, infringing, and counterfeit merchandise, and by requesting that our trademarks and copyrighted material be properly used and identified, Tokenools Pty Ltd strives to protect consumers from being deceived or confused into believing they are purchasing authentic Tokenools products when they are not.

Selling or distributing products that were not made by Tokenools but that depict or include trademarks and/or copyrighted material of Tokenools constitutes trademark infringement, trademark dilution, unfair competition and/or copyright infringement. Tokenools and its licensees have the exclusive right to use its trademarks and copyrighted works.

## **FREQUENTLY ASKED QUESTIONS**

### **Q: Why was my auction terminated?**

Based upon your auction's title, description, and/or photograph(s), your auction was removed from eBay for one or more of the following reasons:

1. the item for sale is considered to be an infringing or unlicensed product that uses trademarks or copyrighted material of Tokenools Pty Ltd;
2. the auction listing included one or more unauthorized reproductions of copyrighted images owned by Tokenools Pty Ltd;
3. the auction listing included reference to Tokenools Pty Ltd or to a welding accessory being sold as a Tokenools product; and/or
4. the auction listing showed a non- Tokenools red/black welder, etc.

Tokenools Pty Ltd notifies eBay of auction listings containing unauthorized uses of its trademarks and/or copyrights, or of auction listings which feature Tokenools Pty Ltd trademarks when the item for sale is not a genuine Tokenools Pty Ltd product. eBay then takes the necessary action to ensure compliance with its user policies, which includes removing the auction from eBay, and sometimes, when there are repeated violations, prohibiting the seller from listing other auctions.

### **Q: Why was my auction terminated when there are other auctions on eBay that seem to infringe the intellectual property rights of Tokenools Pty Ltd?**

**Tokenools Pty Ltd** works diligently to ensure that all unauthorized uses of its intellectual property are removed from eBay. When an auction listing that improperly uses Tokenools Pty Ltd trademarks and/or copyrights comes to its attention, Tokenools Pty Ltd reviews the matter and takes appropriate action. However, because of the high volume of merchandise for sale on eBay, it is difficult to identify and remove every unauthorized item. The fact that others may be selling products that infringe intellectual property rights of Tokenools Pty Ltd does not give you the right to do so. If you become aware of a listing that you believe may be violating intellectual property rights of Tokenools Pty Ltd, please send information about the auction, the seller name and the eBay item number to: [legal@tokenools.com.au](mailto:legal@tokenools.com.au).

**Q: Why did eBay allow me to post my auction?**

It is the responsibility of the intellectual property owner to monitor improper uses of its trademarks and copyrights and to enforce its intellectual property rights. eBay does not conduct a comprehensive pre-screening of their auctions. The fact that eBay permitted your item(s) to be listed for sale does not mean that the sale is legal or that the item(s) do not infringe trademarks and/or copyrights of Tokentools Pty Ltd.

**Q: If I purchased a genuine Tokentools Pty Ltd product, can I re-sell the item on eBay? Can I use the Tokentools Pty Ltd trademarks to do so?**

Only if the following guidelines are obeyed. First, what is being offered has to be a genuine Tokentools Pty Ltd product that is in its original, unaltered form. If you have changed the plug or adapted the product in any way this does not constitute a genuine Tokentools Pty Ltd product.

Secondly, the genuine Tokentools Pty Ltd product can only be offered to persons in the country in which you purchased this item. Selling a product on eBay aimed at consumers in different countries amounts to parallel importation of those goods, and may in certain circumstances infringe Tokentools Pty Ltd trade mark and other intellectual property rights. By way of example, a genuine Tokentools Pty Ltd purchased in Australia cannot be sold, or offered for sale to consumers in the UK . Not only does this constitute parallel importation, there are also product differences which make certain products illegal in the UK . This applies equally to other countries that make up the European Economic Area (the 25 EU Member States, together with Iceland , Liechtenstein and Norway ).

**Q: I'm just a seller. Why doesn't Tokentools Pty Ltd go after the manufacturer/distributor?**

Tokentools Pty Ltd does pursue the manufacturers and distributors of products which infringe its trademarks. However, under the law, the seller, as well the manufacturer and the distributor of such products, is responsible for trademark infringement. It is trademark infringement to sell a product containing markings which are likely to lead prospective customers to believe they were receiving a genuine Tokentools Pty Ltd product. Tokentools Pty Ltd would appreciate receiving information about where you bought the product you listed so that we can further investigate them.

**Q: Why does Tokentools Pty Ltd care if I sell a single, knock-off Tokentools Pty Ltd product?**

Tokentools Pty Ltd has made great efforts to develop and maintain its reputation for quality. Sellers of counterfeit or knock-off merchandise attempt to trade off the well-earned reputation of Tokentools Pty Ltd. Sales of such goods damage the reputation of Tokentools Pty Ltd and deceive unsuspecting purchasers. Many purchasers of inferior non-Tokentools Pty Ltd products incorrectly attribute the poor quality of the merchandise to Tokentools Pty Ltd.

**Q: Why can't I use the word Tokentools or mention the red and black color combination for welders in my heading even though I am not selling a Tokentools product?**

The use of the trademarks and copyrighted works of Tokentools for non-Tokentools Pty Ltd products will likely mislead others into believing that your listing is authorized, sponsored, or

associated with Tokentools Pty Ltd. Further, it may dilute the value of the intellectual property rights of Tokentools Pty Ltd, in violation of both state and federal laws.

Many eBay sellers use the term Tokentools or refer to the red and black color combination for welders in their auction title or description to attract consumers looking for authentic Tokentools Pty Ltd products. Even if some consumers may ultimately realize that an auction has no connection to Tokentools Pty Ltd, such conduct takes unfair advantage of the name and reputation of Tokentools Pty Ltd, and is thus trademark infringement, which is illegal. It is also against eBay rules.

**Q: Why can't I describe my item as " Tokentools-STYLE,"Tokentools\*\*-LIKE," or similar phrases?\***

Tokentools is the name and mark of Tokentools Pty Ltd; it indicates source and quality. The Tokentools mark is not a style or grade. Misusing the Tokentools name and trademark in that manner is trademark infringement in violation of federal and state laws

**Q: Can I list an item if I expressly say that it is NOT Tokentools, NOT GENUINE, FAKE,or a KNOCK-OFF**

No, it is contrary to trademark law. The manufacture, distribution, and/or sale of unlicensed, counterfeit goods is illegal. A disclaimer regarding the authenticity of goods does not serve to relieve a seller from liability.

**Q: Can I scan an image of a Tokentools Pty Ltd product from theTokentools website and paste the image into my eBay auction?**

No. Any unauthorized reproduction, display or distribution of the copyrighted images of Tokentools Pty Ltd is against the law. However, you can take a photograph of the item you are selling and use it in your auction.

**Q: What if I did not realize that I was infringing the intellectual property rights of Tokentools Pty Ltd?**

Ignorance that it is a violation does not absolve one from liability under Australian and international trademark or copyright laws. As a seller, you have a responsibility to ensure that your actions do not violate the intellectual property rights of another.

If you have other questions, please send to: [legal@tokentools.com.au](mailto:legal@tokentools.com.au) and provide us with the eBay item number, which appears in the message sent to you from eBay.

**NOTE: If your e-mail requests information that is already contained in this page, you will not receive a response.**