



# Vorys eControl **Diversion Diagnostics**<sup>TM</sup>

Alternative Enforcement Methods  
to Stop Unauthorized Sellers



**VORYS**eCONTROL

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VORYS eCONTROL | 1



**Often, when a brand** identifies an unauthorized seller, the first instinct is to proceed with enforcement immediately. However, the reality is that enforcement will not solve every diversion or unauthorized seller issue.

Solving the problem of unauthorized sellers requires a strategic combination of enforcement and cutting off supply, guided by data and investigative insights into how and where sellers are sourcing products. In this white paper, we'll dive into Vorys eControl's Diversion Diagnostics™ reviews, focusing on:

- + What a Diversion Diagnostics review is
- + The role it plays in brand protection
- + Different types of research and matching
- + Next steps after identification
- + Regional dynamics within Diversion Diagnostics reviews

# What Is Diversion Diagnostics?

Diversion Diagnostics is an additional step Vorys eControl offers to stop unauthorized sellers. Our team analyzes sales data provided by the brand (both direct and two-step distributor, as necessary) to identify marketplace sellers who source directly from the brand or through its distributors.

## Why Diversion Diagnostics Matters

Legal enforcement can be an effective measure, but the reality is that it can't solve every unauthorized seller problem a brand may face.

Sometimes, product diversion is caused by a brand's own sales practices. Whether that's through promotions and discounts, liquidation processes, or unvetted customers or sales.

This is where Diversion Diagnostics comes in. Through this comprehensive review, Vorys eControl can help identify product source leaks and prevent products from disseminating into unauthorized sales channels.

## How A Diversion Diagnostics Review Works

Vorys eControl takes in a brand's direct customer sales data and the data of any distributors. This includes:

- + Names
- + Addresses (billing and shipping)
- + Email addresses
- + Product order history

Our team cross-references this data against our seller intelligence database of over 300,000 global sellers to identify sales to individuals, businesses, or addresses linked to identified unauthorized sellers or their product sources.

For sellers that we cannot directly find in the data, we use other advanced investigation techniques and legal tools. This can uncover the hidden relationships between a brand's customers and marketplace sellers (i.e., family, work, or societal connections), which lead to diversion.



Through a comprehensive diversion diagnostics review, **Vorys eControl** can help identify product source leaks and prevent products from disseminating into unauthorized sales channels.

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# Types of Data Matching with Vorys eControl

The type and quality of data we receive determines the depth of analysis. There are three classifications of data matching: fuzzy match, query, and manual.

## Fuzzy Match

Vorys eControl uses the fuzzy match method when limited data is available, i.e., distributor names. We take that data and run a match against the names or addresses in our Seller Intelligence Database to determine whether there is a match between customer lists and known marketplace sellers.

## Query

The query method is used when order history data is included in addition to names and addresses. Having specific dates, products, and quantities helps us identify sellers that may be purchasing from a customer versus the brand.

Unauthorized sellers often conceal their identities to avoid detection. To help find them, Vorys eControl examines the variety of product listings and inventory numbers to identify accounts with similar purchasing patterns.

## Manual

Even when data is not provided in a machine-readable format, Vorys eControl can manually search, find, and analyze accounts with suspicious ordering patterns or other abnormalities, and identify potential diversion points.

## Effective Next Steps To Address Diversion

When Vorys eControl identifies a known or suspected diverter within the data, we immediately share this information with our client. Findings are also added to our Seller Intelligence Database, providing clients with the most value and insight into the seller landscape.

## How Brands Can Proceed After a Review

### Education

There are some instances in which accounts aren't aware that selling on marketplaces violates a brand's policy. Having a simple conversation with the account can help them understand if or where they can and cannot sell.

## Warning or Termination

The brand may also decide that it no longer wishes to do business with the account due to the policy violation and proceed with terminating the account. Generally, in the US, brands have leeway to ensure optimal product distribution and can decide with whom they want to do business. However, it is important to ensure that all actions and communications are compliant with applicable law and minimize legal risk.

## Diversion Involving Global Markets

Vorys eControl also has the capabilities to identify sophisticated sellers sourcing products internationally. If a seller is suspected of sourcing products through international product diversion, we will analyze import/export records and authorized international distributor lists to find the source of the diversion.

Another strategy we use to help combat these diverters is evaluating international trade data to identify the parties importing the highest volume of brand products. For this approach, Vorys eControl needs a list of all the brand's international distribution partners, their contact information, and any marketing or sub-distributor information. We then conduct a supplemental investigation to similarly identify associations with US-based diverters among the distributor's trade partners.

## Conclusion

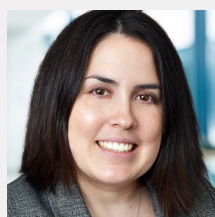
While enforcement offers a direct response to unauthorized sellers, a more strategic and effective long-term solution lies in understanding the origins of product diversion. A Vorys eControl Diversion Diagnostics review provides this crucial insight by analyzing sales data to pinpoint the sources of unauthorized products. By using this intelligence, brands can implement targeted strategies, such as education or account termination, to proactively prevent diversion and maintain control over their marketplace presence.

To discuss how your brand can benefit from a Diversion Diagnostics review, contact your eControl attorney or reach out directly to Leslie Allen (laallen@vorys.com) or Robert Grise (rtgrise@vorys.com).

## About Vorys eControl

Vorys eControl is a practice group of Vorys, Sater, Seymour and Pease LLP. Our interdisciplinary team of lawyers, executive-level business practitioners, investigators, technologists, and data analysts designs, implements, and executes digital channel control solutions to protect and support long-term brand value and growth. Since creating the eControl category, Vorys eControl has served over 1,000 brands, including some of the world's largest, developing innovative solutions to address the challenges of controlling sales across online and brick-and-mortar channels.

## About the Authors



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**Leslie Allen** is a partner in the eControl practice group and leads Vorys' in-house investigation and volume enforcement teams. She focuses on enforcement against unauthorized and illegal online sellers for both direct sales and retail clients, identifying sellers and unraveling complex diversion schemes in the US and internationally. Prior to joining Vorys, Leslie worked as a staff attorney for the U.S. Court of Appeals for the Sixth Circuit and as a judicial clerk to the Honorable Alice M. Craft in the U.S. Department of Labor - Office of Administrative Law Judges.



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**Robert Grise** is an associate in the Vorys eControl practice group. Robert's practice focuses on reputation and brand protection issues, including product diversion, trademark infringement, and online reputation attacks. Prior to joining Vorys, Robert was an attorney advisor to the U.S. Department of Labor's Office of Administrative Law Judges.



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