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*Practice Group(s):
Intellectual Property*

Google AdWords Trade Mark Policy – Important Changes

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Google has revised its AdWords trade mark policy which is currently in place in Australia, Hong Kong, China, Macau, Taiwan, New Zealand, South Korea and Brazil and these changes will come into effect on 23 April 2013. From this date, Google will no longer remove third party advertisements which are triggered by keywords purchased for a competitor's trade mark, unless the trade mark appears in the text of the resulting advertisement.

Google AdWords are key words which are available for purchase through Google. When a person conducts a Google search using a keyword which has been purchased by a trader, then the trader's website and a small advertisement will appear in the sponsored link section on the search results page.

Under the current Google AdWords complaint procedure, if a competitor is using your trade mark without your approval as a keyword as part of its Google AdWords program then you can file a complaint with Google to have the advertisement removed. For instance, to take a hypothetical example if Hugo Boss was to purchase "Gucci" as a key word so that a sponsored link for Hugo Boss appeared when a consumer conducted a Google search using the search term "Gucci", Gucci could have the sponsored link removed through the Google AdWords complaint procedure. This is the case whether or not the word "Gucci" appears in the advertisement within the sponsored link section of the search results or not.

From 23 April 2013, Google will no longer accept complaints on this basis. The effect of this change is that a company can purchase a competitor's trade mark as a keyword to have its advertisements displayed as a sponsored link where a consumer searches using this keyword as long as the competitor's trade mark does not appear in the advertisement itself. Any investigations acted on by Google prior to 23 April 2013 will no longer apply to the relevant keywords after this date.

It is important to note that Google will still continue to monitor companies using a competitor's trade mark as part of the advertisement displayed as a sponsored link. Therefore, if you find that a competitor is using your trade mark as part of an advertisement displayed as a sponsored link, then you can continue to use the Google AdWords complaint procedure to have these advertisements removed.

If you want more information about the changes to the Google AdWords policy, or if you have any queries about how these changes will affect you, then please contact us for more information.

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