

Google wins landmark Adwords case

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14 Jul 2010

LUXEMBOURG: In a decision that with potentially wide-reaching implications for online advertising, Judges have confirmed that the use of other company names as advertising keywords is not an infringement of European trademark law. The ruling is of particular benefit to Google's revenue-generating Adwords service.

The case was brought by Portakabin after one of its competitors - Primakabin - picked 'portakabin', 'portacabin', 'portokabin' and 'portocabin' for its Google Adwords search terms.

The judgment by the Luxembourg-based court accepted that when a user searches Google on the basis of one or more words, the search engine will display the sites which appear to best correspond to those words.

It further ruled that customers of Google's paid-for Adwords service may choose whichever words they want, within reason, without infringing trademark law.

Upholding a precedent

The EU ruling upholds a precedent set by a case brought against Google by Louis Vuitton, which went after Google claiming that searches for the Louis Vuitton brand brought up ads for businesses that offered counterfeit merchandise. In that case, internet content services were found to be not infringing on trademarks provided they were neutral with regards to content.

"Whilst it might be annoying to have to enter an auction for your own brand, it's worth bearing in mind just how Google works," says Martin McNulty, general manager of search marketing agency Forward3D. "Google's winning formula is based around rewarding adverts that appeal to consumers and penalising those that don't. If you search for 'Odeon Leicester Square', are you really saying you wouldn't under any circumstances be prepared to attend the UGC cinema instead? The same applies for lots of products. The fact is - a brand search simply doesn't guarantee a purchase. Every consumer is susceptible to alternative brands in both the research and the purchase phase. Therefore it's only right that Google should facilitate this process."