

Revisions to Google Ads' Trademark Policy to Take Effect on July 24

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July 12, 2023

Trademark owners may have a heavier burden of policing the unauthorized use of their trademarks in Google Ads following Google's revised trademark policy, which will remove industry-wide complaints. The revised policy is coming into force on July 24, 2023 (Revised Policy).

Under the Expiring Rules, the Google Ads' Trademark Complaint Form allows brand owners to apply their complaint to:

1. "specific advertisers," or
2. "all advertisers" in an entire industry (industry-wide complaint).

The industry-wide complaint was an efficient procedure for trademark owners because they could rely on Google to monitor and enforce their trademarks broadly. However, according to a Spokesperson for Google Ads, this had led to unwanted side effects such as "overflagging," meaning that advertisements permitted under the expiring policy were unjustly blocked.

Under the Revised Policy, the industry-wide complaint will no longer exist. From July 24 onwards, brand owners can only file complaints against:

1. "specific advertisements," or
2. "specific advertisers."

Following the elimination of the industry-wide complaint, brand owners must be prepared to monitor the use of their trademarks on Google Ads more closely and launch complaints against specific advertisements or specific advertisers (see also Google's summary on the policy update).

Current industry-wide complaints filed before the Revised Policy will remain active for the next 12 to 18 months, which leaves trademark owners some time to adjust their enforcement strategy.

The circumstances under which Google will take enforcement action remain largely unchanged under the Revised Policy. Specifically, Google will restrict a Google Ad when:

- the trademark appears in the Google Ad; and

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- the Google Ad is by a direct competitor; or
- the trademark is used “in a confusing, deceptive, or misleading way.”

Google will *not* take any action when:

- the trademark is used as a keyword,
- the trademark is used in second-level domains and post-domain paths, although Google may restrict the use of trademarks in subdomains, or
- the trademark appears on the landing page and the landing page is either:
 - by a “reseller” i.e., intended to sell “products or services, components, replacement parts, or compatible products or services corresponding to the trademark”; or
 - an “information page” i.e., “to provide informative details about products or services corresponding to the trademark.”

Additionally, Google will not enforce against any Google Ad which uses a trademark descriptively “in its ordinary meaning.”

Google has publicly stated that the Revised Policy will reduce challenges for advertisers. However, insofar as brand owners are concerned, it would appear that more administrative effort will be required to monitor and report misuse of their trademarks, even though it still remains possible to submit complaints on the advertiser level. A positive effect is that brand owners no longer need to individually authorize advertisers to use their trademarks, e.g., their marketing agency. This administrative step was necessary under the Expiring Policy because industry-wide complaints affected all unauthorized advertisers.

In addition to the trademark policy, brand owners are protected by further Google Ads policies, in particular the misrepresentation, copyright, and counterfeit goods policies.

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