

Duff on Hospitality Law

How Google's Newly Expanded Trademark Policy Will Impact Hotels

on 10.24.18 | Posted in Advertising, Hotels, Intellectual Property

Google recently updated its trademark policy, and although some believe the changes are cause for concern, citing increased costs per click, that may not be the case. The following aims to bring some clarity to the issue.

Google has consistently expanded its Google Ads policy in allowing trademark keyword bids and the use of trademarked terms in the text of advertisements. The tech giant has always expanded these policies by regions, and just last week, Japan was added to the mix.

While keyword bidding has always been frustrating for trademark owners as advertisers can use trademarked words in keyword searches even by competitors, the scope of using trademarked words in the text of advertisements has also increased. Under Google's revised policy, anyone can use trademarked terms in the copy of advertisements if the advertisers fit under one of two categories:

First, resellers may advertise using the trademarked term in the body text of the Google Ads if they sell the trademarked product or service on their landing page. Of course, the landing page must provide a way to purchase the product or service or include rates and prices about those particular products and services related to the trademark.

Second, a website providing information about the product or service can also use the trademarked term in the text of their Google Ads. If the primary purpose of the ad's landing page provides relevant details about the product or service, they can feature trademarked terms in their ads.

For U.S. trademark holders, this is nothing new. Google has allowed the use of trademarked terms as part of ad copy by non-trademark owners in the United States and the UK since 2010. Now, though, this policy has spread to include Japan, and soon enough to additional markets worldwide. So while hotels can still submit a complaint to Google if they find someone using their hotel's trademark, if the Google Ads lead to an OTA's landing page selling the hotel's rooms or services, or even provide relevant information about available rooms and services, there is a limited scope as to what Google or anyone else can do. However, keep in mind, these OTA landing pages must feature rooms and services that are actually open and available at the hotel to avoid misleading the consumer.

How Google's Newly Expanded Trademark Policy Will Impact Hotels

As our past articles on keyword use have repeated, it all comes down to a well-structured agreement between a hotel and OTA to define the uses of trademarked terms. The more specific a hotel can be in contracting for appropriate uses of trademark terms either as keyword search terms or in the body of an OTA ad, the better position the hotel will be in to protect against customer dilution.

Tags: agreements, Branded keywords, cost per click (CPC), Google, Keyword advertising, keywords, OTAs, trademark, trademark dilution