

Duff on Hospitality Law

## **OTA & Travel Distribution Update: Effects of Google's trademark and keyword practices changes; Japanese regulators conclude Airbnb investigation; Will Google become a fully-operational OTA in the future?**

By Greg Duff on 11.9.18 | Posted in OTA Update

This week's Update features a variety of stories covering search, short-term rentals, wholesalers and traditional OTAs. This week's highlights include:

### **Much Ado About Nothing**

*("How Google's Newly Expanded Trademark Policy Will Impact Hotels," Duff on Hospitality Law Blog, October 24, 2018)*

Over the past several weeks there have been a number of prominent stories in the traditional travel technology, distribution and sales and marketing outlets lamenting the profound effects of recent changes to Google's trademark and keyword practices. These stories prompted my trademark colleagues to re-examine Google's policies and to update our clients on what, if anything, really changed. As you can read from their recent blog post below, not a lot has changed.

### **Japanese Regulators Conclude Airbnb Investigation**

*("Airbnb antitrust case shows Japanese regulators are grasping the nettle of Internet platform issues, MLex, November 1, 2018) (subscription required)*

Approximately one year ago we featured a story detailing Japanese regulators' surprise raid on Airbnb's offices in Japan. At the time, Japanese regulators (Japan Fair Trade Commission (JFTC)) alleged that Airbnb contractually prohibited hosts from listing their properties on sites competitive to Airbnb's. Airbnb denied the allegations. Fast forward to this past month, when JFTC announced that it was closing its investigation into Airbnb's contracting practices in exchange for Airbnb's offer to waive its restrictive contract clauses (yes, they actually existed). Specifically, the contractual clauses at issue conditioned access to Airbnb's APIs to a select few short-term rental management companies' agreement to work exclusively with Airbnb. For many, the JFTC's enforcement efforts with Airbnb (and other online retail platforms) is viewed as a sign of increased interest in (and possible enforcement efforts against) the alleged over-

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bearing and anti-competitive practices of established online platforms. From my perspective, it may only be a matter of time before regulators' interest and efforts are directed to large OTAs operating in Japan.

### **Will It or Won't It: Google Continues to Walk a Fine Line**

*("Book on Google Stands Out More Forcefully in Hotels Redesign," Skift Travel News, October 31, 2018)*

For years now, industry analysts and pundits have debated whether Google might ultimately become a fully-operational OTA. Doubters pointed to the growing ad revenue enjoyed by Google through the display ads of large OTAs as evidence that Google would never go so far as to compete directly with its OTA advertisers. Short of actually processing bookings on its own platform (as opposed to those of its OTA and hotelier partners), Google is getting darn close to becoming what many said it never would. This past week, Google announced the rollout of its redesigned Google hotels for desktop (the redesign had been introduced for mobile months earlier). With this latest redesign, Google has made more prominent than ever the opportunity to "book" accommodations on Google. Although Google's OTA and (increasingly less prominent) hotelier partners still process the booking (serving as the merchant of record), Google's roll in the booking continues to grow (e.g., travelers may now contact Google if problems arise during the booking, travelers may use Google Pay to pay for the booking, etc.).

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Other news:

### **Hotelbeds Rebrands to Focus on Accommodations**

*Skift Travel News, October 31, 2018*

Accommodations wholesaler Hotelbeds Group is phasing out its Tourico Holidays and GTA brands as it goes forward under a new identity. Since coming under the ownership of private equity firm Cinven and the Canadian Pension Plan Investment Board, the company has gone through something of an acquisition spree picking up two of its biggest rivals in as many years. But as part of a wider brand refresh, Hotelbeds will drop the "Group" from its name and kill off both GTA and Tourico Holidays over the coming months. When the rebrand is complete, the company will use Hotelbeds for most of its business, with Bedsonline used exclusively for traditional retail travel agents.

### **Booking Unveils Host Tools as Short-Term Rental Rivals Address Their Weaknesses**

*Skift Travel News, October 30, 2018*

Booking.com wants to service professional managers while going after individual vacation rental owners, too. Airbnb wants to tap into the professional-manager set while branching out into resort areas, and HomeAway wants to get more urban. These companies' offerings will converge, and it's likely their business models will, too. Booking.com on Tuesday unveiled new

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tools to enable professional vacation rental managers to vet instant-booking guests and to set policies across all of their listings. It's the latest signal that the Amsterdam-based lodging site, as well as competitors Airbnb and Expedia's HomeAway, all are take steps to address their market weaknesses.

**Booking Holdings Invests \$200 Million in Grab as Ridehailing Becomes More Strategic**

*Skift Travel News, October 29, 2018*

Booking Holdings joined Uber as a minority investor in Southeast Asia's Grab, taking a \$200 million stake. Uber is by far a larger investor in Grab in an investment valued at \$1.6 billion when Uber took a 27.5 percent stake in the ridehailing and food delivery service in March. Grab also does package delivery and payments in 235 cities in Singapore, Malaysia, Indonesia Thailand, Vietnam, Myanmar and Cambodia. With Booking Holdings' investment in Grab follows the \$500 million it ploughed into China's Didi in July. Uber likewise is a major investor in the Chinese ridehailing service. With the Booking Holdings-Grab strategic partnership, its brands, including Booking.com and Agoda, will be able to offer hotel and other services to Grab customers for the first time.

**China's Didi Chuxing is poised to expand into hotel bookings**

*TechCrunch on Oct 29, 2018*

China's largest ride-hailing app Didi Chuxing is entering the hotel-booking business as it strives to recover from two highly publicized murders of female passengers by drivers on its platform. That's according to Chinese business magazine Caijing and tech news site 36kr (links in Chinese). R-Lab, the unit in charge of Didi's new venture, is aptly named to signify the company's effort to "rebuild" its boundaries beyond on-demand car services. The lab has also been responsible for hatching Didi's food delivery business, according to Caijing. A Didi representative told TechCrunch that the company has "no plans to launch new businesses in the near future" and that it's currently focusing its resources on "safety and operational upgrades." Nonetheless, the \$56 billion startup has already shown interest in the hospitality industry – mainly through fostering partnerships.