

## Google Trademark Changes – May 5<sup>th</sup>

### What's going to change?

Google have announced an AdWords Trademark Policy Revision to be introduced within the next month.

As of 4<sup>th</sup> April 2008, trademarking disputes are no longer being investigated by Google. As of May 5<sup>th</sup>:

- Trademarked terms will still be restricted within ad text
- Trademarked keywords will become active in campaigns where Google's editorial policy had previously disabled them
- It will be possible to create new AdWords campaigns including trademarked keywords

A full explanation of this change can be found [here](#).

### What effect will this have?

There has been a large amount of industry debate surrounding the change. Without the new policy being in place it is difficult to predict the effect on the market. The majority of industry opinion is that competitor trademark bidding will become much more prevalent, Cost Per Clicks (CPC) on branded keywords will raise significantly and leakage to competitors has the potential to become much more of an issue.

**If you had not trademarked your brand with Google, these changes will not affect you as you may already have these parties bidding on your brand. However, your overall search campaign may be affected by the removal of restrictions on other trademarked terms.**

### Should affiliates be used for brand protection?

Affiliate Window would strongly advise that there is no single solution to suit everyone and we would urge you to consider all options before committing to a strategy. If you operate with third parties in this space such as search agencies we would ask that you include them in discussions as the aim is to offer a protective solution that suits your requirements.

**To aid this, we have outlined a number of potential scenarios and possible solutions that will ensure you are both forewarned and hopefully have the basis to make an educated decision on how to manage any impact this change may have.**

Those with trademark restrictions are used to appearing as the only sponsored link on a search for their brand or instead relying solely on organic listings to capture brand traffic. The example below shows a search for the term *comet*.

Web Images Maps News Shopping Mail more ▾ [Sign in](#)

**Google** comet   [Advanced Search](#)  
[Preferences](#)

Search:  the web  pages from the UK

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**Web** Results 1 - 10 of about 21,200,000 for comet [definition] (0.06 seconds)

**Comet | We Live Electricals**  
Shop online for kitchen appliances, fridges, laptops, home cinema systems, DVD players, iPods, MP3 players and digital cameras.  
[www.comet.co.uk/](http://www.comet.co.uk/) - [Similar pages](#)

[Kitchen & Home](#) [plasma & LCD TVs](#)  
[Entertainment](#) [Laptops](#)  
[Computing](#) [Digital Cameras](#)  
[Televisions](#)

[More results from comet.co.uk >](#)

**Comet's Clearance Auctions**  
Offering previously sold or cosmetically damaged electrical goods.  
[www.clearance-comet.co.uk/](http://www.clearance-comet.co.uk/) - 58k - [Cached](#) - [Similar pages](#)

**Comets**  
Unlike the other small bodies in the solar system, **comets** have been known since antiquity. There are Chinese records of **Comet Halley** going back to at least ...  
[www.nineplanets.org/comets.html](http://www.nineplanets.org/comets.html) - 10k - [Cached](#) - [Similar pages](#)

**Continuing Intermittent Incoherency » Comet Low Latency Data for ...**  
Lacking a better term, I've taken to calling this style of event-driven, server-push data streaming "**Comet**". It doesn't stand for anything, and I'm not sure ...  
[alex.dojotoolkit.org/?p=545](http://alex.dojotoolkit.org/?p=545) - 205k - [Cached](#) - [Similar pages](#)

**North Herts & Mid Beds News from The Comet**  
The Hitchin **Comet**, Stevenage **Comet**, Letchworth **Comet**, Biggleswade **Comet** - News and sport from North Herts and Mid Beds with property, jobs, ...  
[www.thecomet.net/](http://www.thecomet.net/) - 38k - [Cached](#) - [Similar pages](#)

**Centre for the Observation and Modelling of Earthquakes and Tectonics**  
The Centre for the Observation and Modelling of Earthquakes and Tectonics (**COMET**) uses satellite observations to model the deformation of the Earth's crust. ...  
[comet.nert.ac.uk/](http://comet.nert.ac.uk/) - 10k - [Cached](#) - [Similar pages](#)

**Comet Home 2007**

Once these changes take effect on May 5<sup>th</sup>, there is a strong possibility this space could be filled with other ads like we see here on a search for the brand *Oddbins*.

Web Images Maps News Shopping Mail more ▾ [Sign in](#)

**Google** oddbins   [Advanced Search](#)  
[Preferences](#)

Search:  the web  pages from the UK

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**Web** Results 1 - 10 of about 239,000 for oddbins. (0.08 seconds)

**Official Oddbins Website** Sponsored Link  
[www.oddbins.com](http://www.oddbins.com) A drink for every occasion time to celebrate shop at **Oddbins** Online

**Oddbins Wine Merchant** Sponsored Links  
Wines and spirits. On-line ordering, wine recommendations and wine guide.  
[www.oddbins.co.uk/](http://www.oddbins.co.uk/) - 32k - [Cached](#) - [Similar pages](#)

**Oddbins - Oddbins Selection**  
Code: 12650. A taster pack of one bottle each of the **Oddbins** Selection range. ... A fabulous drop of Bordeaux, straight from the **Oddbins** stable. ...  
[www.oddbins.com/products/productpromotion.asp?promo=PO3WINE02&promotext=Oddbins%20Selection](http://www.oddbins.com/products/productpromotion.asp?promo=PO3WINE02&promotext=Oddbins%20Selection) - 47k - [Cached](#) - [Similar pages](#)

**Oddbins online or in the high street.**  
**Oddbins** online or in real life. You don't have to leave the house to get great wine and spirits delivered.  
[www.foodfreebies.co.uk/oddbins-around-uk.htm](http://www.foodfreebies.co.uk/oddbins-around-uk.htm) - 29k - [Cached](#) - [Similar pages](#)

**Oddbins Calais**  
Name/Keyword. Any Type, White, Red, Champagne, Sparkling, Rose, Fortified. Any Country, Argentina, Australia, Bulgaria, Chile, France, Germany, Greece ...  
[www.oddbins-calais.com/](http://www.oddbins-calais.com/) - 13k - [Cached](#) - [Similar pages](#)

**Good Web Guide review of Oddbins online**  
Good Web Guide review of **Oddbins** UK wine merchant's website.  
[www.thegoodwebguide.co.uk/index.php?nd=001507](http://www.thegoodwebguide.co.uk/index.php?nd=001507) - 31k - [Cached](#) - [Similar pages](#)

**Oddbins: further dramatic fall into the red - decanter.com - the ...**  
9 Nov 2007 ... UK wine merchant **Oddbins** registered losses of over £8m last year.  
[www.decanter.com/news/154858.html](http://www.decanter.com/news/154858.html) - 65k - [Cached](#) - [Similar pages](#)

**Tim Atkin: Silver linings in the cloud over Oddbins | Food and ...**  
6 May 2007 ... What on earth is going on at **Oddbins**? The company's French owners, Castel, may be in tight-lipped denial - it would be easier to secure an ...  
[lifeandhealth.guardian.co.uk/drink/story/D,,2071670,00.html](http://lifeandhealth.guardian.co.uk/drink/story/D,,2071670,00.html) - 60k - [Cached](#) - [Similar pages](#)

**Tesco Wine Festival**  
Tesco Wine Festival - Now On!  
50% Off selected Wine & Champagne.  
[www.tesco.com/wine](http://www.tesco.com/wine)

**Majestic Wine**  
Hundreds Of Wine Deals, Plus Free Delivery Anywhere On Mainland UK!  
[www.Majestic.co.uk/Wine](http://www.Majestic.co.uk/Wine)

To date, Affiliate Window has sought to lessen the emphasis of bidding on trademarked terms within the affiliate channel and to drive new customers to merchants through methods that drive solely incremental business. This has been demonstrated in recent developments such as ShopWindow, Content Widgets and our partnerships with new content publishers such as News International.

However, this new move from Google has the potential to throw affiliate support on brand exact match, brand+generic hybrids (e.g. *comet electricals*) and misspells into a different light. To date, affiliates have primarily been given brand bidding rights by merchants in order to reinvest the associated returns into the generic search space. Now, affiliates may become critical to certain merchants to protect their brand space from competitor bids.

### What are the options?

As with anything in online marketing, there is no 'one size fits all' solution and we would advise you to discuss your specific circumstances with your Affiliate Window account manager and search partner. However, here are some suggestions you may wish to consider:

#### **Solution One: Direct linking on your brand terms**

Ensure a sponsored listing is in place linking directly to your site across the brand space – this includes brand, misspells and brand+generic hybrid terms. These ads can be operated either through an in-house campaign, a third party search agency or a trusted affiliate.

##### *Pros*

- CPCs on these terms will not be driven up by other ads supporting your brand
- Easier control of marketing messages in the brand space

##### *Cons*

- After May 5<sup>th</sup>, competitors will be able to bid in the space and potentially divert traffic away from customers specifically looking for your brand
- Even if leakage is low, competitor exposure on your brand terms can lead to increased brand awareness of their offering to the detriment of your own.

#### **Solution Two: Adding support from landing pages**

As well as operating an ad that links directly to your site, you can also look to develop support from affiliates through the use of landing pages. Affiliates build landing pages because Google does not allow

two ads to link to the same URL for a given term. This is called 'double serving' and is against Google's T&Cs. A landing page acts as an intermediary site and can add value through offering additional content or highlighting different marketing messages to your own site. Most importantly, the site will have a different URL which means an additional ad can appear on the same term in your brand space.

You can work with trusted affiliates to operate landing pages in your brand space. This will increase the number of sponsored slots promoting your brand and therefore decrease the number of slots available to competitors. There are some crucial factors that should be taken into consideration:

### *1). When to introduce the group*

Some advertisers are choosing to implement a group of affiliate landing pages on brand with immediate effect. This way, they have until May 5<sup>th</sup> to build up a click-through rate on the campaign which will boost their Google quality score and decrease their bid price. When competitors enter the space after this time, your affiliates will be in a stronger position as competitors will have to pay more to rank higher.

Other advertisers are choosing to wait until they can fairly judge whether competitors will encroach upon their brand space and decide if action is necessary. It is important to factor in that the cost of the affiliate commissions and increased prices to your own paid search campaign need to be offset against potential leakage of traffic.

### *2). How to select affiliates*

In conjunction with your account manager, Affiliate Window would recommend using a request for proposal (RFP) structure to ensure you reach interested affiliates and the most suitable are chosen for your programme. Advice on this process and past examples are available.

### *3). How to make sure you get an adequate return from these affiliates*

It is important to remember that you are giving the selected affiliates a big advantage by allowing them to bid on your brand. This particularly applies if you allow affiliates to build up a campaign history in the run-up to the change. Affiliate Window would strongly recommend that these affiliates are tasked with supplying generic search traffic as well as that from brand. How this can be tracked/reported and what level to expect can be discussed with our account management team.

### *4). Google trademark clearance*

If you want these affiliates to appear on your trademarked terms prior to May 5<sup>th</sup>, you will need to submit their AdWords account numbers to Google to obtain clearance. This is also worth doing even if

you don't plan on introducing the brand protection group until after May 5<sup>th</sup> affiliates will then be able to use trademarked terms in their ad copy, which for all other parties still remains restricted. This will increase their Click Through Rate (CTR) in comparison to your competitors.

### *5). Landing page leakage*

If the aim of an affiliate appearing in your brand space is to avoid leakage to competitors, it is also important to take into account the amount of leakage on their own landing page. Google's editorial team will often disallow landing pages that offer no choice to consumers, meaning affiliates have to feature more programmes than just your own. However, this can be handled in a controlled fashion to minimise impact.

### *6). On-going review*

The parties operating on your brand should be under a continued process of review. You will need to monitor:

- The effect on your own search campaign's CPC
- The return you are getting from the selected affiliates in the generic space
- Whether the affiliate commission is at the correct level in comparison to the level of competitor bidding
- Whether the cost of having affiliates in the space outweighs the cost of leakage to competitors and the value of this business to you – it may transpire that you would be better placed to only have a single direct link to your brand

### **How will the introduction of a brand protection group affect my affiliate programme?**

Affiliate marketing uses 'last referrer' logic to attribute sales to an affiliate. However, this is potentially problematic as most customers who do not purchase immediately will revisit a site by searching for the brand name on a search engine and clicking on a sponsored link just before making a purchase.

This presents a major problem for other types of affiliates such as content and review sites, blogs and email marketers, including paid search affiliates operating on generic terms. The likelihood of the customer using other sites and links to research a purchase then returning through a brand PPC link just before they actually purchase can be high.

If the brand link belongs to an affiliate with whom you have a prior arrangement, it has a strong chance of being attributed the sale therefore ignoring the value of true referring affiliates at the start of the customer journey.

We know, as do affiliates, that this is not a fair way of apportioning reward. Naturally, the content site that puts considerable effort into researching and reviewing products then presenting them in an attractive and usable format is extremely aggrieved at the prospect of losing sales to an affiliate appearing on the merchant's brand name. Whilst one affiliate has taken great care and spent considerable time on securing their traffic, the other has merely set up an AdWords campaign and has been awarded the privilege of being the most likely 'last referrer' simply by nature of their marketing discipline.

### How can you avoid this problem?

Using Affiliate Window's unique brand protection system, we can offer both advertiser and affiliate peace of mind and a practical solution to the changes Google have chosen to introduce.

We recommend running affiliate brand paid search activity through our technical solution that will mean it will not be de-duplicated against your main programme.

Our system ensures brand paid search affiliate cookies do not overwrite prior content affiliate cookies and will provide you with entirely separate reporting and analytics. In doing so, we ensure key content affiliates are not discouraged from working with you because of the presence of PPC affiliates on your brand with the added value of transparency on the true referring affiliate.

### Isn't this going to cost me more?

This change could seriously impact on the cost of securing traffic through Google search. Not only will there be more competition on your brand name, thus driving up the current CPC but there may also be the additional cost of putting in place a brand protection scheme with appointed affiliates.

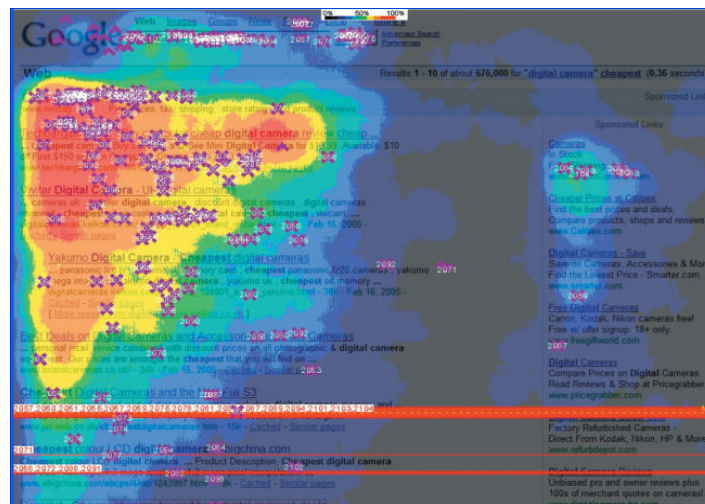
As the brand traffic is not de-duplicated against your main programme using our solution, this could result in you paying twice for some sales where there is a genuine prior referring affiliate. The key thing to consider is the cost of this set against the impact of losing some traffic to competitors or resellers in the ad space.

### How can this cost be managed?

Affiliates cannot expect to receive your standard commission for this kind of activity. You can either pay them a lower CPA or task them with running an extensive generic keyword campaign in exchange for the privilege of bidding on your brand. The different options available are entirely dependent on the sector in which you operate and the nature of your brand. Ultimately affiliates have to balance their own ROI so please discuss this directly with your Affiliate Window account manager and third party search agency.

**Other important points to consider:**

- 1). Do not panic. Google have made major changes to their system before and if carefully managed, the impact can be controlled.
- 2). It is important to note that Google are not explicitly authorising bidding on trademarked terms, but are rather removing their place in adjudicating in trademark disputes. Instead they are positioning this as a legal matter between advertisers. This is likely to be due to a recent test case in which Yahoo! were brought to trial by an advertiser for failing to protect their trademark, in which the advertiser subsequently lost. The details of this are available from [eConsultancy](#). If your brand is trademarked, you can still send 'cease and desist' letters to competitors who infringe on your trademarked terms.
- 3). Affiliate Window would also recommend getting in touch with other advertisers in your field to see if a 'gentleman's agreement' can be put in place to avoid bidding on each other's brands. This will ultimately make the search space much more workable. Don't forget to inform your affiliates so they can act accordingly.
- 4). Filling all seven sponsored slots with affiliate landing pages in the brand space is impractical and unnecessary. Most traffic goes to the top three to four positions so your primary concern should be securing these. See the Google heat-map below.



- 5). As this is currently a hot topic amongst affiliates, implementing a scheme which has brand PPC sales overwriting your affiliate programme will have a serious impact on the perception of your brand in the affiliate industry and could result in you losing some key content affiliate partners.

6). Changes made to your search strategy should be reflected in your affiliate programme terms and conditions. Affiliate Window would also strongly recommend that you inform affiliates if you have given specific individuals permission to appear on your brand as this allows for a much greater level of transparency surrounding your campaign. Any changes to your terms and conditions should be discussed with the account management team.

As mentioned before, no one solution fits all and we strongly recommend you consult your account manager to discuss your individual needs as we are here to both help and protect your brand.