

Luxury industry says EU ruling limits Google ads

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Head of Communications for Google Europe, William Echikson, left, speaks with the Associated Press at the Google headquarters in Brussels, Tuesday March 23, 2010. Google Inc. has won a key European Court ruling that says it did not violate luxury manufacturers' trademarks by allowing counterfeiters buy brand names as advertising key words that link to online stores offering fake goods. In a Tuesday ruling, the European Court of Justice says Louis Vuitton and other French luxury companies should turn to the French courts to seek compensation for possible damage from the misuse of their trademark. (AP Photo/Virginia Mayo)

(AP) -- Luxury goods manufacturers said a ruling Tuesday from the European Union's highest court will stop Google Inc. selling their brand

names as advertising keywords to unauthorized sellers or counterfeiters in Europe.

French companies, led by LVMH Moët Hennessy Louis Vuitton SA, want to limit the sale of their trademarks on Google's automated [Adwords](#) system which links search results to ads. They fear that counterfeiters could buy a keyword such as "Louis Vuitton" and use it to sell fake bags.

The European Court of Justice ruled Tuesday that [Google](#), the world's most used search engine, does not violate [trademark](#) law if counterfeiters buy brand names as ad keywords.

But it set a new test for Google's liability in such cases, saying national courts would have to decide whether the company knowingly accepts these ads.

Google would be in the clear if it can show that it moves swiftly to remove an ad once it is told that it is misusing a trademark.

It would also be free from liability if its automatic ad system is judged to be "merely technical, automatic and passive" and that the company is not aware of and cannot fully control the words that advertisers add into its system.

Google says its policies forbid advertising of counterfeit goods, describing them as "a bad user experience," and that it works with brand owners to identify and deal with counterfeiters.

In all [European countries](#) except Britain and Ireland, the company says it takes down and blocks ads and keywords that misuse a trademark if the brand owner complains. It does not block keywords in Britain and Ireland because it believes the law does not demand it.

Pierre Gode, LVMH's vice president, says the ruling could help stamp out the online sale of counterfeit branded goods. He wants Google to filter the sale of advertising keywords and prevent brand trademarks from being sold.

"There will be no more buyers of illicit trademarks without our authorization so there will be no sale," he said.

Google's senior legal counsel Harjinder S. Obhi said the case was not about the sales of fake items but brand owners' attempts to extend trademark law to cover keywords bought by online advertisers.

"This case is not about us arguing for a right to advertise counterfeit goods," he said. "Trademark rights are not absolute," he said.

"Ultimately they want to be able to exercise greater control over the information available to users."

Google added in a statement that it "did not allow ads for counterfeit goods before today and it will not allow them after today. We have a very strong counterfeit ads policy which makes it crystal clear that we will take down ads for counterfeit goods and we work closely with brand owners to identify such activity."

"This case was about the selection of keywords which trigger an ad. And as the ECJ has said 'Google has not infringed trade mark law by allowing advertisers to purchase keywords corresponding to their competitors' trade marks'," the company said.

Mark Lubbock, a partner at London law firm Ashurst, says the ruling won't stop infringement of trademarks in Europe "because in reality infringers are often based outside the EU and are, therefore beyond the reach of the European authorities."

China is the source of the vast majority of counterfeit branded goods seized by EU customs agencies.

Google makes most of its revenue by selling advertising triggered by keywords. When someone searches for "vintage cars" or visits a partner site that mentions those words, advertising for a vintage car dealer may appear to the side. In some cases, a keyword that is a company's brand name can trigger an ad for a competitor or even counterfeiters.

Google has been repeatedly sued for trademark violations in courts around the world, and it generally prevails or settles cases without changing its practices. In the United States and most other countries, Google typically accepts trademarks used as those keyword triggers, but it places limits on what can appear in ads themselves.

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