



Making your mark and protecting your brand online in Canada

Part one – Brand enforcement online

October 2020

In short:
Competitors may bid on your trademark in search engine advertising, provided the resulting ad is not confusing.

Title: Trademarks on the Internet

Key takeaways

- Bidding on keywords is generally lawful, unless combined with a confusing advertising message – the message to the consumer, as a matter of first impression, is what matters.
- The “first impression” is measured when the ad is first displayed.
- Using a trademark in a domain name to refer to an entity, when combined with a descriptive word, such as “bcaoonstrike.com” and “icbcadvice.com”, is usually lawful, as it permits consumers to distinguish those websites from the ‘official’ websites.
- However, when ordinarily descriptive words have become distinctive of a business over time, they be protected both as a domain name and as a trademark to stop confusingly similar uses.
- An online marketplace cannot use, or suggest as a search term or “related search”, a trademark to advertise a product category, class of goods, or competing products, especially if it does not also sell the ‘authentic’ product.
- An online marketplace may lawfully list competing products in addition to authentic products in response to search terms, as long as the overall message is not confusing.

Key contacts



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