

Use of Trademarks in Google Ads Programme: Safir Anand's Expert Speak for ET

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With the Delhi High Court stressing in the interim that use of trademarked words for bidding in the Google ad programme could amount to trademark infringement, The Economic Times approached Safir Anand for his opinion on what the judgement means.

"Indian courts have taken a different stand for the protection of 'trademark owners'. Over the last three cases (for MakeMyTrip, UdChalo and DRS Logistics), the courts have prohibited the unauthorised users from bidding for the trademarks of other entities as that would amount to violation of the rights of the trademark owner. This puts a lot of onus on search engines to ascertain that the keyword chosen by the advertiser is not trademarked and, even if it is, the same has been licensed or assigned or subjected to consented use," Safir tells ET.

"Certainly, the view adopted by Indian courts puts a greater burden on the search engines and therefore has more impact on their ad business as compared to Europe. However, the stand will become clearer as the judicial approach on the topic matures and becomes clearer," he adds.

The evolving judicial stance on Google Ads trademark infringement in India marks a significant shift in how digital advertising practices are viewed through the lens of trademark law. Unlike jurisdictions where keyword bidding on competitors' trademarks is often permitted subject to disclosure and use-based tests, Indian courts appear to be adopting a more rights-holder-centric approach. This signals a move towards stricter accountability, not only for advertisers who seek to capitalise on the goodwill of established brands, but also for intermediary platforms that facilitate such advertising.

For brand owners, these rulings provide a stronger enforcement mechanism against unauthorised keyword bidding that diverts consumer traffic and creates initial interest confusion. For advertisers, however, the decisions necessitate enhanced due diligence before selecting keywords, particularly in competitive markets. Search engines, on their part, may be compelled to revisit internal compliance frameworks, licensing checks and consent mechanisms. As jurisprudence develops further, clarity on the balance between fair competition and trademark protection will be crucial for sustaining digital advertising ecosystems in India.

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