

THE **ULTIMATE GUIDE** **TO** **TRADEMARK** **BIDDING**



brandverity.com

THE ULTIMATE GUIDE TO TRADEMARK BIDDING

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Introduction

Trademark bidding refers to the practice of targeting paid search advertisements to branded keywords (searches that include a brand name or some variation). Since branded keywords are the most valuable and highest converting search traffic, they are tempting targets for partners, competitors, and third parties to run ads on. And when they do, there are serious negative consequences for your paid search efforts.

Why should you care about trademark bidding? Well, if you have ever been the victim of trademark abuse—others targeted your branded keywords and earned revenue on clicks that were supposed to go directly to you—then you know how damaging trademark bidding can be.

As a paid search marketer with limited time and resources, adding trademark bidder hunting to your list of many responsibilities may seem daunting. But what's the point of spending time and energy on optimizing keywords, CPCs, ROAS, conversions, etc. if all those gains are

then looted by trademark bidders? Finding and stopping trademark bidders can be an overwhelming task if you don't know what to look for or how to go about it.

In this guide you'll learn everything you need to know about trademark bidders and brand bidding. We'll help you learn how to uncover trademark bidders and stop them in their tracks. You'll learn how to set up a [paid search monitoring program](#) and keep it running smoothly, without spending tons of time. By the end of this book, you'll know exactly what you need to protect your brand.

1.0

WHY TRADEMARK BIDDING IS A HUGE PROBLEM

Our research indicates that trademark bidding takes at least 180 million clicks away from brands every year (and probably a lot more than that).

1.0 WHY TRADEMARK BIDDING IS A HUGE PROBLEM

Since traffic from branded keywords has the highest conversion rate, trademark bidding frequently reduces brand's revenue, inflates cost-per-click, and damages brand equity.

How serious is the problem? [Our research](#) indicates that trademark bidding takes at least 180 million clicks away from brands every year (and probably a lot more than that). That means 180 million clicks that were supposed to go directly to brands were diverted elsewhere.

Once you become a target of trademark bidding you face:

- **Decreased CTR (click-through rate) for your ads**—When there's more competition out there, it's harder for your own ads to stand out. That means a reduction in the traffic that comes to your site—and a reduction in revenue. Even a seemingly small drop can mean a lot when your brand receives a high volume of monthly searches.
- **Increased CPC (cost-per-click) for your ads**—Increased competition also means that you'll have to pay more for each of the clicks you do receive. Because paid search prices are set through an automated auction, more advertisers mean more bidders to hike up the price.
- **Poor customer experience**—In many cases, the messaging in other ads can confuse your customers. For example, ads from marketing partners or affiliates may use different language to describe your products or services. What's worse, they may promise fake discounts, promote inaccurate offers, or even make misleading claims that cause regulatory risks. In some cases, advertisers such as search arbitragers can simply distract customers from their path to purchase, creating additional friction for your marketing efforts.

2.0

WHAT TRADEMARK BIDDING LOOKS LIKE

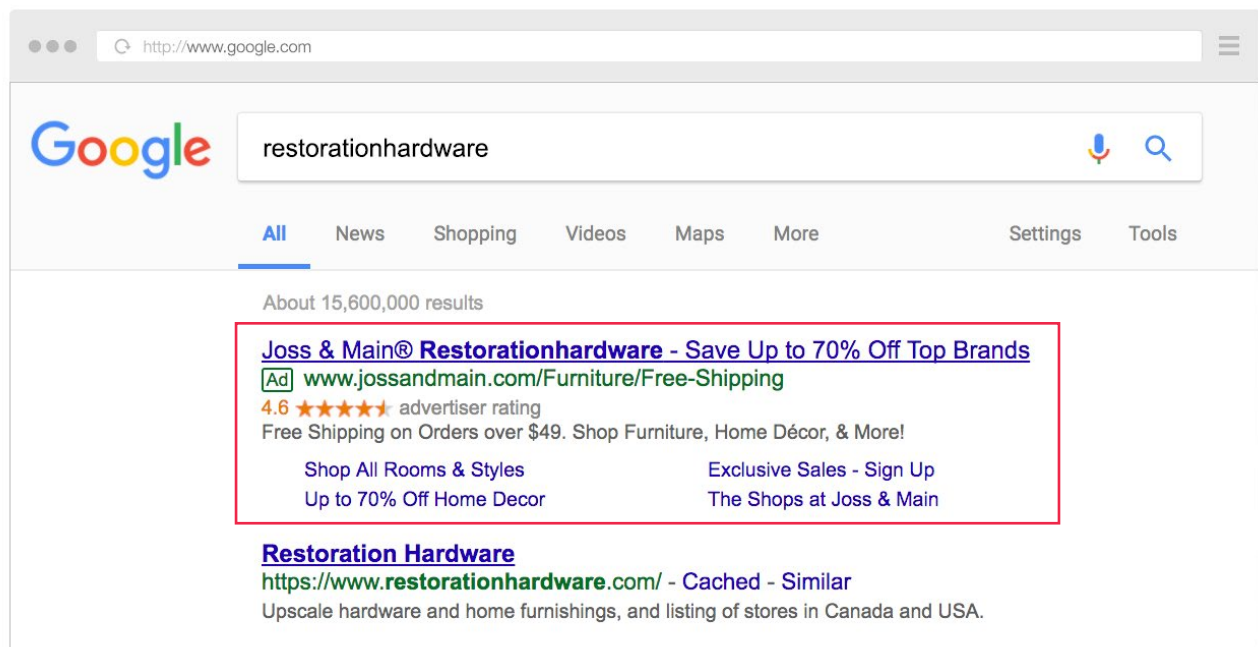
Imagine your customer searches for your brand—but instead of seeing your website they're hit with an onslaught of ads from someone else. This is how your customers experience trademark bidding.

2.0 WHAT TRADEMARK BIDDING LOOKS LIKE

Below are a few examples of trademark bidding that we found using BrandVerity's Paid Search Monitoring tool.

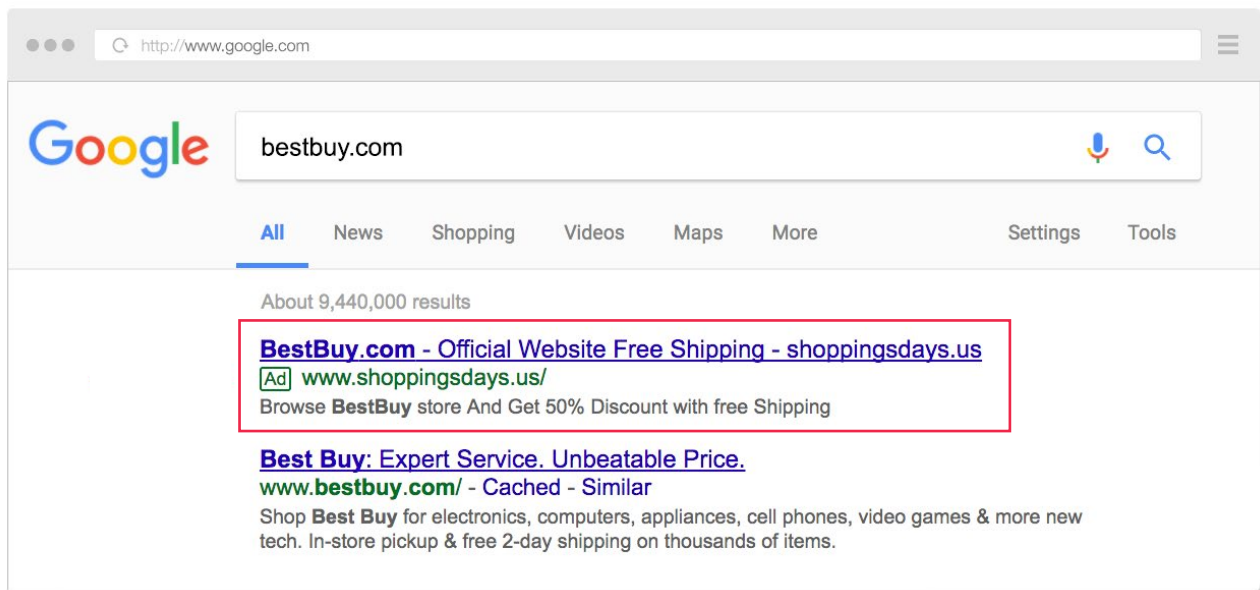
In this first example, Joss & Main, a competitor to furniture and homewares brand Restoration Hardware, bid on the term “restorationhardware”. Notice they used Restoration Hardware’s trademark in the ad copy. Customers—wanting

to go to Restoration Hardware’s homepage—may mistakenly click on the Joss & Main advertisement at the top of the Search Engine Results Page (SERP) and find themselves on a different website than they initially intended.



2.0 WHAT TRADEMARK BIDDING LOOKS LIKE

In this second example, the shopping site www.shoppingsdays.us used the bestbuy domain in the ad copy to siphon off Best Buy's traffic. They even offer a 50% discount and free shipping to entice customers to click on the ad.



Trademark bidders typically try to hide and avoid detection, so it can be very difficult to catch them by simply doing a Google search on your branded terms, which is why we used our paid search monitoring tool to find the examples above. But even if you don't see the actual ads on Google or Bing, there are some telltale signs in the metrics that you regularly monitor that may indicate trademark bidding.

SIGNS OF TRADEMARK BIDDING:

- Low click-through rates (CTR) on branded keywords
- Higher than expected cost-per-click (CPC) on branded keywords
- Unusual partner activity such as spikes in traffic and excessively high conversion rates

For more detail on metrics and examples to help you spot trademark bidders, see our blog post, [4 Signs That You Are Under Attack by Trademark Bidders.](#)

3.0

6 TYPES OF TRADEMARK BIDDERS

Trademark bidders come in many shapes and sizes and some can be hard to spot if you don't know what to look for.

3.0 SIX TYPES OF TRADEMARK BIDDERS

This is why we wrote a field guide called **The Monsters of Paid Search** to help paid search managers identify, find, and stop trademark bidders in the wild. A summary of each type of trademark bidder follows.



3.0 SIX TYPES OF TRADEMARK BIDDERS

TYPE 1

Tracking Link Affiliates

Tracking Link Affiliates are rewarded for the traffic they send to brands' websites. Typically, their rewards are tied to conversions. When the traffic they refer results in a transaction on the brand's website, the Affiliate receives a percentage of the revenue.

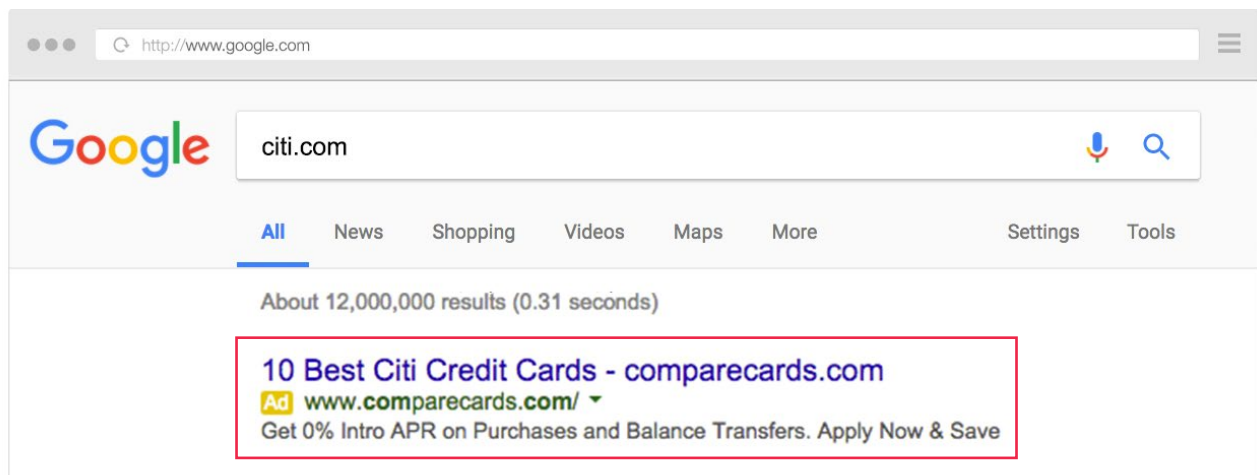
Many Affiliate-to-brand relationships are mediated by affiliate networks. These affiliate networks are third parties that provide tools for tracking, attribution, and payment. Alternatively, some brands choose to work with affiliates directly, using off-the-shelf tracking and

attribution solutions or developing their own in-house tracking systems.

Affiliate websites can vary tremendously in content, complexity, and tone. But several types of Affiliate sites are quite common:

- Coupon sites
- Review sites
- Cash-back sites
- Blogs

What do their ads look like?



3.0 SIX TYPES OF TRADEMARK BIDDERS

TYPE 2

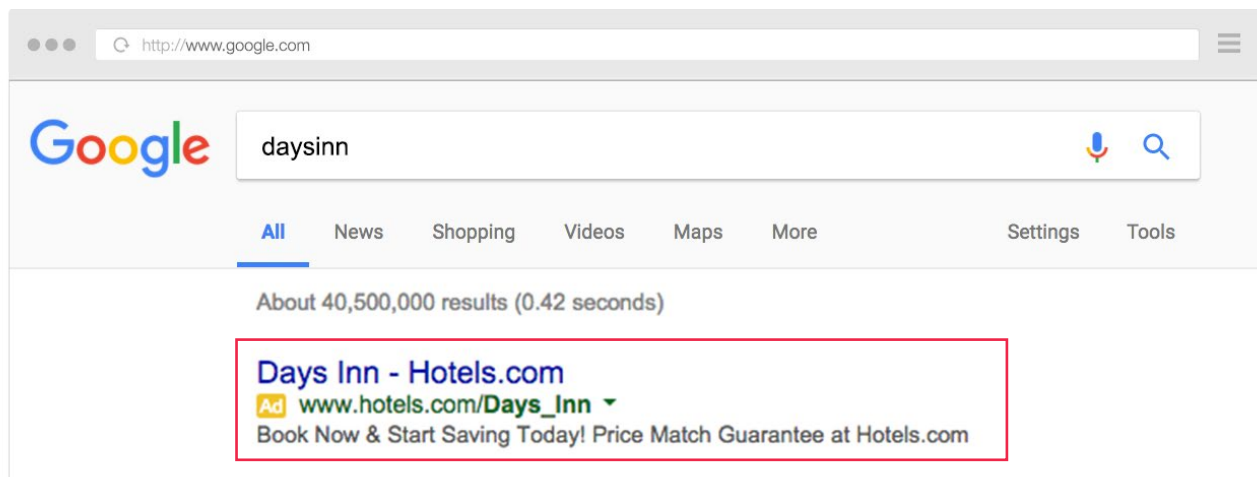
Channel & Other Marketing Partners

These are any sites who sell products and services on behalf of brands. Unlike Affiliates and Lead Generators who simply refer potential customers to brands, Channel & Marketing Partners (hereafter referred to as “Partners”) are actually responsible for conducting the transaction itself and own a significant part of the customer relationship.

While these Partners can vary widely, some examples include:

- Resellers, Retailers, Wholesalers, & Dropshippers
- Authorized Dealers
- Online Travel Agencies (OTAs)
- Franchisees

What do their ads look like?



3.0 SIX TYPES OF TRADEMARK BIDDERS

TYPE 3

Lead Generators

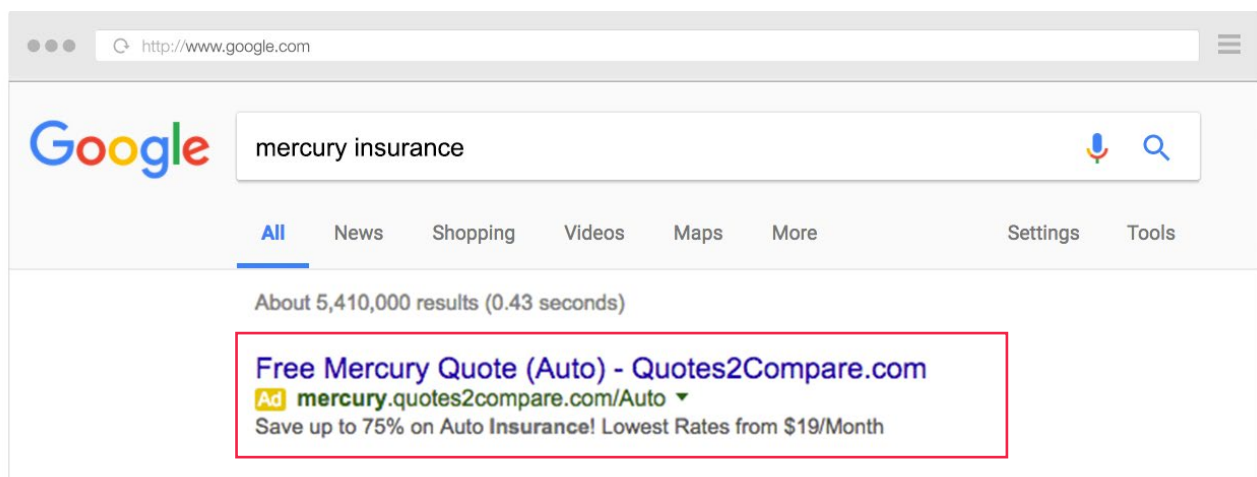
Lead Generators collect information from prospective customers and sell that information to brands. Typically, they incentivize visitors to fill out forms by offering free quotes, comparisons, or offers on anything from insurance policies to online education programs to pest inspections.

Many lead generators operate their own networks of websites, selling their leads directly to brands. Other, smaller-scale sites sell their leads through a third-party lead exchange or marketplace. These lead exchanges often use some sort of automated auction to sell and distribute leads. In both cases, though, Lead Generators are typically reluctant to share the

domains they use to generate leads. While it's understandable that they'd want to keep any competitive advantages secret, this also creates a transparency gap for brands.

When buying leads from Lead Generators, it's worth noting that the purchased lead is not always exclusive. Some Lead Generators and exchanges will reserve the right to sell the lead multiple times—even to a brand's direct competitors. In fact, this can be relatively common practice in fields such as insurance, where the Lead Generator offers competitive quotes from various providers.

What do their ads look like?



3.0 SIX TYPES OF TRADEMARK BIDDERS

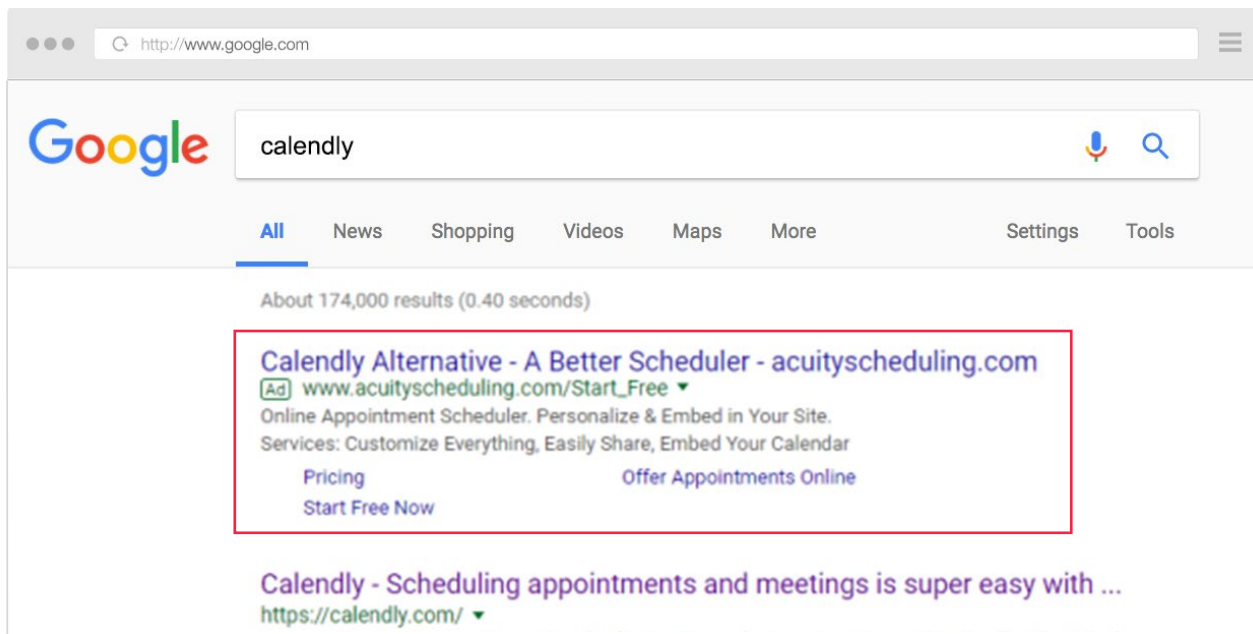
TYPE 4

Competitors

Your direct competitors may choose to advertise on your brand terms as well. For example, Adidas may choose to place an ad on a search for “Nike” and vice versa. Direct competitors often try to entice your customers with last-minute offers or even special comparison pages that skew the story in their favor. These ads can create significant friction for customers who were about to convert on your website.

In other cases, your competitors may even use your brand name in their ad copy. Sometimes this is purely for comparison purpose (for example, “Compare to [Brand]”), but other times they will intentionally masquerade as you.

What do their ads look like?



3.0 SIX TYPES OF TRADEMARK BIDDERS

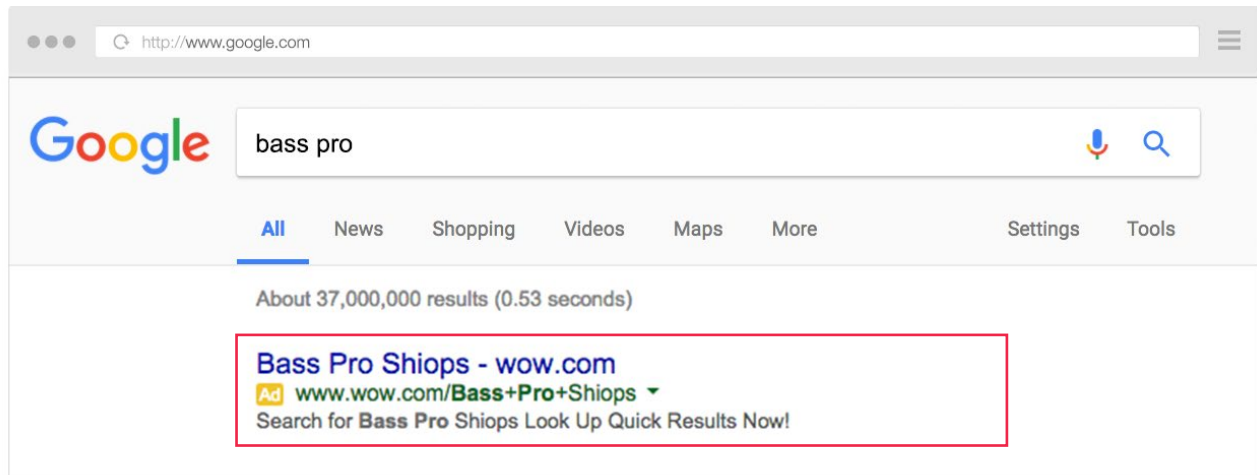
TYPE 5

Search Arbitragers

Search arbitrage is an ad that primarily leads to additional ads. Essentially, an advertiser will place a search ad that leads to a landing page featuring other ads. The assumption that Search Arbitragers make is that the ad clicks on their landing page will create enough revenue to outweigh the cost of placing the original ad.

Many Search Arbitragers are search engines themselves, such as Ask.com and Wow.com. Others are Comparison Shopping Engines (CSEs) who target brands that they don't actually work with (sometimes by accident, sometimes intentionally). Yet another group runs ads on parked domains and places ads on keywords related to common customer activities such as logins or account statements.

What do their ads look like?



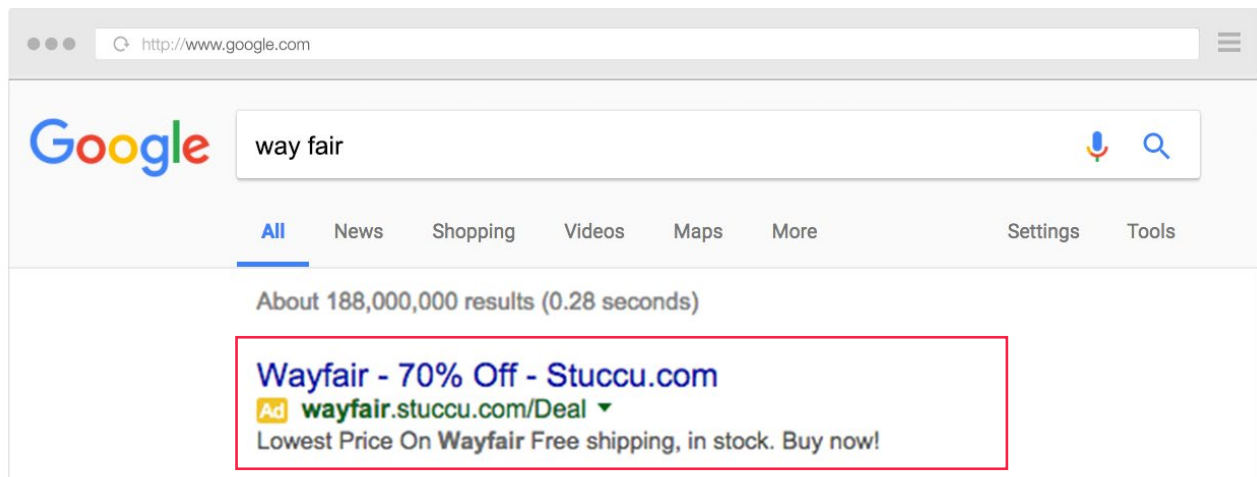
3.0 SIX TYPES OF TRADEMARK BIDDERS

TYPE 6

Comparison Shopping Engines (CSEs)

Comparison Shopping Engines typically offer pricing comparisons of various products. They carry information on a variety of products from electronics to clothing to household goods. Unlike Affiliates who are only paid for conversions, CSEs are usually paid per click.

What do their ads look like?



For more in-depth information and examples of how each of these trademark bidders advertise and which industries they target, see our whitepaper:

[Six Types of Trademark Bidders: Who They Are and How to Stop Them.](#)

4.0

SEARCH ENGINE RULES ON TRADEMARK BIDDING

If trademark bidding is so bad and is costing brands so much money in diverted traffic and lost clicks, why don't the search engines do anything to stop it?

4.0 SEARCH ENGINE RULES ON TRADEMARK BIDDING

Search engines want to facilitate the flow of information and e-commerce via their engines—not arbitrate and mediate partner agreements.

While search engines want the consumers searching on their engines to have a good experience, they also want advertisers to compete for attention. The engines do enforce certain rules, but the onus is on the trademark holder to protect their trademarked terms by actively enforcing partnership agreements and submitting takedown requests to the various engines.

Search engines will only take action if the **trademark is improperly used in the ad text**.

So, what warrants contacting the search engines?

The search engines have slightly different specifications in terms of which ads are eligible for takedown. Google's policies vary by region, whereas Bing and Yahoo's don't. Below are the trademark rules for Google, Bing and Yahoo.

4.0 SEARCH ENGINE RULES ON TRADEMARK BIDDING



GOOGLE TRADEMARK POLICY (GOOGLE, GOOGLE MOBILE)

In the United States, Canada, the EU, the EFTA, the United Kingdom, Ireland, Australia, and New Zealand ads that fit ALL of following criteria **are eligible for takedown**:

- “Ads that do not lead to a landing page that clearly facilitates the sale of either (i) the goods or services corresponding to the trademark or (ii) parts or components related to the goods or services corresponding to the trademark.”
- “Ads that do not lead to a landing page which provides substantive information about the goods or services corresponding to a trademark.”
- “Ads using the term in a competitive way, including ads with a landing page selling or facilitating the sale of goods or services of a competitor of the trademark owner.”
- “Ads that are unclear as to whether the advertiser is a reseller or informational site.”

Note that lead-generating sites that require collecting user information prior to providing commercial information do not comply with Google’s policies. Ads with landing pages that do not initially provide substantive information about the goods or services corresponding to the trademark are eligible for takedown.

In all other countries besides those outlined above, trademarks may only be used in ad text by the trademark owner and third-parties explicitly authorized by the trademark owner. Fair use exemptions do not exist; all ads placed by unauthorized parties are generally considered trademark violations and are eligible for takedown.

For more information refer to the [Google Adwords Trademark Policy](#).

4.0 SEARCH ENGINE RULES ON TRADEMARK BIDDING



BING TRADEMARK POLICY (BING, BING MOBILE, AOL, YAHOO*)

*Yahoo ads sourced by Bing's Ad Network rather than Yahoo Gemini

Unlike Google, Bing frames their stated policies in terms of what is compliant. Bing considers ANY of the following to be **fair use of trademarks in ad text**:

- "Use of a trademark by a reseller of authentic goods or services."
- "Informational websites about goods or services represented by the trademark, such as product reviews."
- "Ordinary dictionary use of a term."
- "Comparative advertising, when supported by independent research."

For more information visit Bing's official [Bing Trademark Policy](#).

4.0 SEARCH ENGINE RULES ON TRADEMARK BIDDING



YAHOO GEMINI AD POLICY

Yahoo allows fair use of trademarks in ad text in the following circumstances:

- “Using a trademark to identify a product, service or company, without suggesting that you are affiliated with or endorsed or sponsored by the owner of that trademark.”
- “Using the ordinary dictionary definition of a term, rather than using it as a brand name.”
- “Using a trademark in order to compare your own product or service to the product or service that is branded with that trademark (so long as the comparison is fair, accurate, and supported by independent research.)”
- “Using a trademark if you are a reseller or distributor of authentic (not counterfeit) goods or services, and if you do not falsely say or imply that you are affiliated with the trademark owner or authorized to resell or distribute those goods or services.”

For more information see [Yahoo’s Ad Policies page](#).

5.0

THE MANY WAYS TRADEMARK BIDDERS EVADE DETECTION

“ *We knew competitors were bidding on our branded keywords and using trademarked terms in their copy, but it was hard to get a full picture of the severity of the problem.* ”

YARA OHASHI PAID SEARCH MARKETING MANAGER, GETTY IMAGES

For information on how Getty tackled this problem, read the case study:

[Getty Images Protects Its Trademarked Terms through BrandVerity's Paid Search Monitoring](#)

5.0 THE MANY WAYS TRADEMARK BIDDERS EVADE DETECTION

Even when a company is aware of brand bidding, it can be very difficult to diagnose the scale of the problem. Trademark bidders use a number of evasive tactics to keep a low profile and avoid detection.

AD HIJACKING:

This happens when a rogue affiliate creates a paid search ad that is an exact copy of the ads created by the brand—except in one special way. When the visitor clicks on the ad, they are redirected through the affiliate’s tracking link, and then land on the brand’s website.

Customers typically have no idea they have clicked on an affiliate ad, and the affiliate is paid commissions for conversions that the brand would have captured directly. To someone surfing the internet and looking at a Search Engine Results Page, ad hijacking doesn’t look any different from regular advertising.

ARBITRAGE:

Search arbitragers buy search ads and send unsuspecting searchers to another page of ads. The arbitrager is paid when searchers click on the extra ads. The

arbitrager pockets the difference between what they paid for the traffic and what they get paid for the ad clicks.

REFERRAL CODE HIJACKING:

Rather than running a formal affiliate program, some brands provide account credits or other rewards to their own customers for referring new users and customers.

These referral programs are common among internet companies who are trying to grow quickly—but can easily be [gamed by users who are looking to take advantage of the generous payouts](#). In practice, this is very similar to ad hijacking, as the scammer will create ads that mimic the brand’s own—only to send traffic through their special referral link.

5.0 THE MANY WAYS TRADEMARK BIDDERS EVADE DETECTION

DAYPARTING:

When advertisers set their ads to run during times of day in which they believe the merchant won't monitor them, it is called dayparting.

GEOTARGETING:

Geotargeting refers to the practice of running ads in locations where the advertiser believed the merchant won't see them.

DYNAMIC KEYWORD INSERTION:

[Dynamic Keyword Insertion \(DKI\)](#) enables search marketers to automatically customize their ad copy so that it better matches the search query, making it more relevant.

But sometimes clever trademark bidders use DKI to slip past search engines' trademark rules. For example, if Adidas were bidding on the keyword "nike," their DKI settings might put "Nike" right in the headline! In other cases, the unwieldy nature of DKI can lead to accidental abuse of your trademark.



Often, **dayparting** and **geotargeting** are used together. For example, Gap's corporate headquarters are in San Francisco. A Gap affiliate can set ads to display in every city except San Francisco, or every state except California, or only between 2am and 4am Pacific Time. This means that if a Gap employee or affiliate manager searches for "Gap Coupons" from their office in California, no ads would appear. If, however, someone in Nevada typed in "Gap Coupons" at any time of day, a site would appear in the search results offering a discount through an affiliate link.

HOW DO YOU STOP TRADEMARK BIDDING?

The good news is that trademark bidding can be stopped! But to do so, you need to set up a monitoring program. A haphazard approach will not set you up for success.

6.0 HOW DO YOU STOP TRADEMARK BIDDING?

There are several key ingredients to a successful monitoring strategy. Here is how you get started:

STEP 1

Get an automated monitoring solution

When we talk to search professionals about the importance of monitoring, we often hear something along the lines of: “We don’t need an automated monitoring tool. We conduct manual searches and rarely find abuse.” But once those paid search managers see a demo and the rampant trademark abuse on their brand terms, their jaws drop. They wonder how we were able to find infringements that they couldn’t.

Manual monitoring is the first step to figuring out if you have a trademark bidding problem, but by its very nature, cannot be as comprehensive as an automated monitoring solution. Due to the many evasive techniques that trademark bidders use (such as

geo-targeting and day-parting), if you aren’t carefully monitoring, you are losing valuable traffic. Detecting and crawling thousands of ads is best left to technology and not humans.

An automated paid search monitoring solution is far more thorough, actively monitoring to see who is bidding on your brand and how often they are advertising. You see the complete picture including headlines, ad copy, and the URLs they use. As for remediation, your automated monitoring solution should have tools for removing the non-compliant ads by notifying the search engines and/or contacting the partner, affiliate, or third-party.

[Schedule a Demo](#)

6.0 HOW DO YOU STOP TRADEMARK BIDDING?

STEP 2

Nail down your monitoring process

When you add monitoring to your team's workflow you should make some decisions up front about who is responsible for what and when. Most importantly, dedicate one person or team to check the automated

monitoring results. That person then becomes very familiar with the tool and can more easily discern trends and know when to submit takedown requests or contact partners.



Here are some other questions to answer before formalizing a process:

- How frequently will you check and review the data?
- How many violations need to occur before you take action?
- How are the violation thresholds different for each group you are monitoring (e.g. affiliates, competitors, third-parties, partners, etc.)? For example, if you're Nike you might let Amazon bid on "nike" but not Foot Locker.
- How do you identify and handle accidental violations vs. a more systemic or premeditated strategy?

A paid search monitoring tool will surface a lot of details from different stages of the buyer journey, including the infringing ad, ad copy, destination url, landing page, etc. The whole process runs more smoothly and efficiently if one person or a small group of people know what the policies are and what to look for.

Our users tell us it's best when these processes and internal policies are clear from the beginning. You can change them over time and tweak as necessary, but a best practice is to finalize a set of processes at the start of your monitoring program.

6.0 HOW DO YOU STOP TRADEMARK BIDDING?

STEP 3

Write clear policies

While you can write agreements to set parameters for how your partners use your brand in paid search, there are other actors whose behavior you can't control. How much control you have depends on the advertiser type—partner, affiliate, lead generator, third party or competitor.

Clearly writing down policies that spell out what you won't allow and what actions you will take when you can't directly take down ads, will help you be consistent.

BLOG

Our blog post [Paid Search Monitoring 101 Part 2: How to Set Up a Comprehensive Monitoring Program](#) offers suggestions on what to consider as you write agreements or policies for each different entity.

[Read Post →](#)

6.0 HOW DO YOU STOP TRADEMARK BIDDING?

STEP 4

Actively enforce your policies and partner agreements

Once you have carefully crafted your policies, you need to enforce them. An automated paid search monitoring tool streamlines enforcement by flagging and organizing all the violations. But when the tool uncovers trademark abuse, you need to take the next step—whether that's contacting your partner/affiliate directly or submitting the violation to the search engine.

If you don't have an automated tool, you can use some manual techniques. For example, you can conduct searches on a list of your priority keywords across several search engines once a week. When you find infringements, you can then contact the trademark abusers directly or submit take down request manually. While these types of manual efforts may identify and stop some of the abuse, you'll only catch the low hanging fruit.

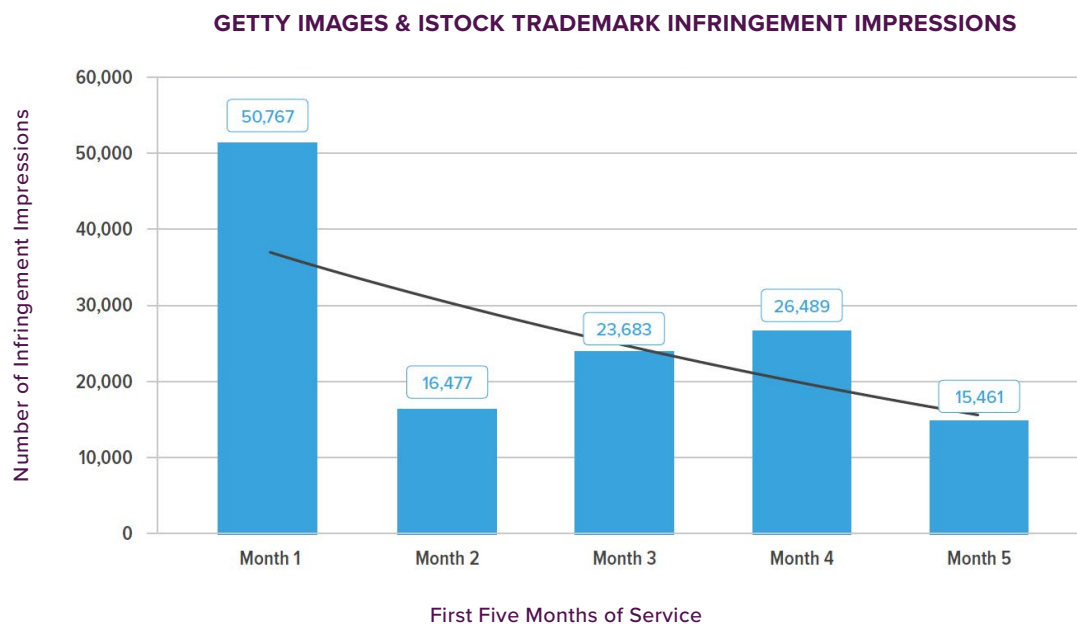
“An automated paid search monitoring tool streamlines enforcement by flagging and organizing all the violations.”

6.0 HOW DO YOU STOP TRADEMARK BIDDING?

STEP 4

Actively enforce your policies and partner agreements

If you consistently submit takedown requests to the search engines, trademark bidding will go down. For example, our customer, Getty Images, saw the number of trademark infringing ads decrease by more than 60% after only five months of using our automated tool.



For a monitoring program to be successful in the long run, consistency is key. A few months after launching a monitoring program, you'll notice a decrease in violations.

7.0

THE BENEFITS OF PAID SEARCH MONITORING

“Using Paid Search Monitoring we recaptured over \$100,000 in revenue that was being misattributed to affiliates.”

RAYMOND KHOODA ONLINE MARKETING ASSOCIATE, BEACHBODY

Paid search monitoring allows you to proactively protect your brand and recover lost search traffic. Some of the key benefits include:



Improved key metrics

If you aren't monitoring, you are allowing trademark bidders to steal your hard-earned clicks and control your customer experience. Regular monitoring helps reduce the competition on your branded keywords, which can help your metrics in a number of ways. When your ads are more visible, consumers are more likely to click on them, which increases your CTRs and revenue. Less competition for branded keywords also lowers the CPCs of your ads. Lastly, by taking down the ads of trademark bidders, you can more easily control the SERP.



Stop letting partners and competitors take advantage of you

Why should you pay commissions to a partner or an affiliate for a customer you could have acquired on your own? You shouldn't.

In your agreements with affiliates, you may explicitly allow some of them to bid on your branded terms. In the case of unethical affiliates, however, who bid on your trademark without permission, the case is different. Since they use tactics like geo-targeting and dayparting to evade detection, it is almost impossible to get a comprehensive picture of who is bidding on your brand without an automated monitoring tool.

7.0 THE 5 BENEFITS OF PAID SEARCH MONITORING



Get the full picture with all the details you need

[AdWords only gives you so much.](#) Do you currently know who is bidding on your branded keywords, what landing page they are using, what's on that landing page, and how competitors are using your trademarked terms in their ad copy? As a paid search manager, you need visibility into what is happening to your brand terms in PPC. That's the only way to maintain control of the SERP.



Control the customer journey

How your brand is presented and where customers find it on the SERP therefore impacts their overall customer experience. Customers who easily find your brand after searching for a branded keyword are more likely to buy your products and services than those who see a competitor or partner's website at the top of the page after searching for you.



Get peace of mind

One of our customers recently called paid search monitoring their "smoke alarm." It goes off when there is a problem, but otherwise runs quietly in the background, making sure that everything is as it should be. When you are monitoring, you know you are covering your bases and doing all that you can to protect your brand.

ADD BRAND PROTECTION TO YOUR PPC STRATEGY

Ultimately, if you are responsible for paid search for your brand, you're the last line of defense. You need to have information at your fingertips to make good decisions and proactively defend the brand you have worked hard to build.

Want to find how badly your brand is getting targeted by trademark bidders?

Sign up for a [free demo](#) today and see live data about how trademark bidders are attacking your campaigns.

[Schedule a Demo](#)