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William Fisher



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Age

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5


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 Ads > Help

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- About Google Ads
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- About Ads Settings
- About seller ratings

 How to

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- **Keep Google free.** Ads help support many of Google's products like Google Search, Maps, and Gmail to name a few.
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On Google Search

You may see text ads on Google Search results pages and other Google products such as Google Maps. The ads you see may be based on what you searched for, your location, and the time of day. Depending on settings you've chosen, here are some factors that also determine the ads you see:

- Recent, previous searches related to your current search
- Google Web History
- [Websites you've visited](#)  that belong to businesses that advertise with Google
- Non-personally identifying information in your Google account, like your age and gender
- Previous interactions with Google's ads or advertising services



Example

You recently clicked a search result for a kayaking website. Later, when you search for “vacations,” you might see an ad for a vacation destination where you can kayak.



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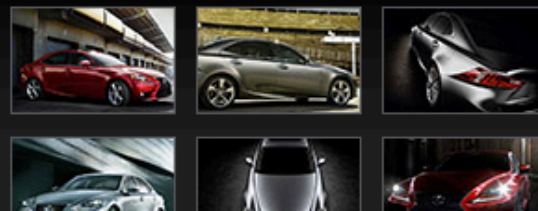
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How Common are Links of these Sorts?



Table 2: Coding Results

Type of Paid Link	% of Paid Links
Vendor of TM products and competing products	27%
Collateral information/sales opportunity vendor ¹⁵¹	24%
TM owner	13%
Vendor of TM products only	6%
Vendor of competing products only	6%
Generic use	6%
Other	6%
Vendor of collateral/complementary goods/services	5%
Collateral information provider	3%
Employment website	2%
Coupon website	2%

Coding Results for 2463 trademarks, totaling 18,733 paid links (3982 for Google; 5396 for Bing, and 9355 for Yahoo).



Source: Franklyn & Hyman, 26 Harv. JOLT 2013

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Counterfeiters

- In addition to these types of paid links (all of which are compatible with Google's policies),
- A significant number of Links are purchased by individuals or companies selling counterfeit goods
 - E.g., Rosetta Stone

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Consumers' Expectations and Attitudes



Survey Data from:

David Franklyn & David Hyman,
“Trademarks as Search Engine Keywords,”
26 Harvard Journal on Law and Technology No.2 (2013)



Table 1: Surveys Presented in Litigation

Case Name	Presented By	Rate of Confusion
<i>American Airlines</i> ¹³¹	Defendant	0–2%
<i>GEICO</i> ¹³²	Defendant	< 10%
<i>1-800 Contacts, Inc.</i> ¹³³	Plaintiff	12–38%
<i>Rosetta Stone</i> ¹³⁴	Plaintiff	17%
<i>American Airlines</i> ¹³⁵	Plaintiff	20–32%
<i>CNG Financial</i> ¹³⁶	Plaintiff	21–38%
<i>American Blind</i> ¹³⁷	Plaintiff	29%
<i>FPX</i> ¹³⁸	Plaintiff	42–71%
<i>Mary Kay</i> ¹³⁹	Plaintiff	45%
<i>Trafficschool.com</i> ¹⁴⁰	Plaintiff	approx. 50–96%
<i>Fair Isaac</i> ¹⁴¹	Plaintiff	> 65%
<i>GEICO</i> ¹⁴²	Plaintiff	68–70%
<i>Harry Binder</i> ¹⁴³	Plaintiff	88–94%



Table 3: Consumer knowledge of search page architecture

	Yes	No	Not sure
Aware that search companies are paid to feature certain sites more prominently? ¹⁵⁷	61%	27%	12%
Know the difference between sponsored and unsponsored search results? ¹⁵⁸	42%	31%	27%
	36%	42%	22%
Easy to distinguish between paid and unpaid search results? ¹⁵⁹	35%	38%	27%
Know where the paid results usually appear? ¹⁶⁰	43%	40%	17%



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Don't pay MSRP. Find Low Dealer

Prices on a New BMW!

2014 Car Of The Year

Table 4: Source of Links

Panel A	Section		
	A ¹⁶¹	B ¹⁶²	C ¹⁶³
Unpaid links	15%	24%	51%
Paid links	46%	38%	16%
Google's special marketing team	17%	15%	11%
Not sure/Do not know	21%	22%	20%
Other	1%	1%	2%

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? (Tushnet)

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Panel B: Cumulative Performance

All 3 correct	16%
2 of 3 correct	30%
2 of 3 correct (paid only)	21%
1 of 3 correct	27%
0 of 3 correct	27%



Table 6: Respondent Goals/Expectations

	What I'm looking for ¹⁷⁵	What I expect to find ¹⁷⁶
Products bearing that brand name only	65%	45%
Products bearing that brand name and similar competing brand names	34%	39%
Similar competing brand names only	N/A	10%
Products having nothing to do with the brand name	N/A	6%
Other	1%	1%



Policy Questions

- Which, if any, of Google's policies and practices should give rise to liability?
- Which, if any, of the ways in which purchasers of adwords use Google's system should give rise to liability?



Google's Changing Policies: USA

	2000-2004	2004-2009	2009-present
Purchasing others' TMs as Adwords	No if TM owner objects	OK	OK
Inserting others' TMs in paid Ads	No if TM owner objects	No if TM owner objects	OK if: <ul style="list-style-type: none"> (1) Buyer is reseller of TM products; (2) Buyer makes or sells parts for TM product (3) Buyer offers complementary parts (4) Buyer provides information about or reviews TM product



About 641,000,000 results (0.35 seconds)

Ads related to BMW

The BMW Boston Site - bmwmass.com

www.bmwmass.com/

Explore New Models, Compare Cars, Sign up For a Test Drive, & More.

Locate a Dealer

Finance a BMW

Lease a BMW

Request a Test Drive

Wagner BMW of Shrewsbury - View Our Shrewsbury BMW Inventory

www.wagnerbmwofshrewsbury.com/ 1 (888) 902 0331

Call Now & Save On All BMW Models

Preowned Inventory - Service - Contact Us - New Inventory

Consider a Mercedes-Benz@ - MBUSA.com

www.mbusa.com/Los-Angeles

Discover the Safety & Performance Innovations That Set the Benchmark.

Mercedes-Benz USA has 160,955 followers on Google+

BMW automobiles : BMW AG website

www.bmw.com/

The official BMW AG website: BMW automobiles, services, technologies - joy is BMW.

Accessory finder - BMW X5 - Configure - Legal disclaimer

BMW of North America, LLC

www.bmwusa.com/

The official BMW of North America Web site. Learn about all BMW Series and models and find out where to find the closest BMW center.

Build Your Own - My BMW Sign In - Certified Pre-Owned - BMW 3 Series Overview

News for BMW



CarTrade.com

BMW Makes Lone Shift to Carbon Fiber to Gain Auto Edge

Bloomberg - 18 hours ago

Bayerische Motoren Werke AG's bid to save its cars from potential extinction starts with hundreds of thousands of fine white strands snaking ...

BMW X5 M50d review

Telegraph.co.uk - 8 hours ago

All-new BMW X5 debuts in Saudi Arabia

Ads

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Than You Expect. Start at CarMax!

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New England BMW Directory

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Explore the Feature-Packed Acura ILX at the Acura Official Site.

Enter Zip Code Find Dealer Privacy

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bmw.carpricesecrets.com/

Don't pay MSRP. Find Low Dealer

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2014 Car Of The Year



November 18,
2013