



Search Marketing Strategy:

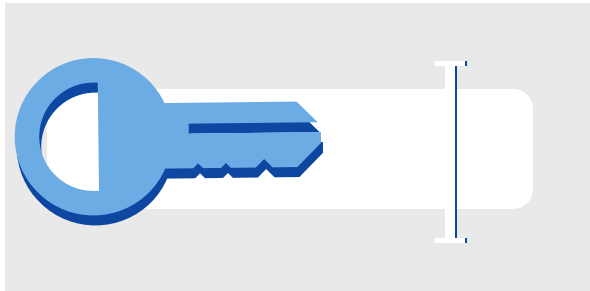
How to Approach Bidding On Your Own Brand



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Part 1: Competitor Keyword Bidding on Trial

How much is your brand worth? When it comes to Google Ads, it's not necessarily your question to answer. In fact, your main competitor could be setting the price. Here's how.

Google Ads allows advertisers to bid on specific keywords. When a Google user conducts a search using that keyword, Google rewards the advertisers with the highest bids by prominently placing their ads in the top 3-5 positions on the search results page. This creates an extremely competitive environment, where competitors often go head to head to earn attention, clicks, and sales from their common audience.

In that environment, it's not a foregone conclusion that your company's ads will appear on searches using your specific brand. That means you must bid on your brand terms, including business name, product names, and any others that drive potential customers to your site or products.

Competing companies commonly bid on

the same keywords related to general products and services – an accepted part of online advertising. But companies also bid on their competitors' brand terms, even if these terms are legally trademarked. In this post we'll refer to this practice as competitor keyword bidding, a practice that's come under scrutiny since Google started allowing it in 2004.

In Part 1, we'll look at a few legal cases that have shaped the discussion around the need to often bid on your own brand, how competitor keyword bidding is affecting the digital media landscape, and what challenges you could encounter when developing your own strategy in 2020.

LVMH vs. Google

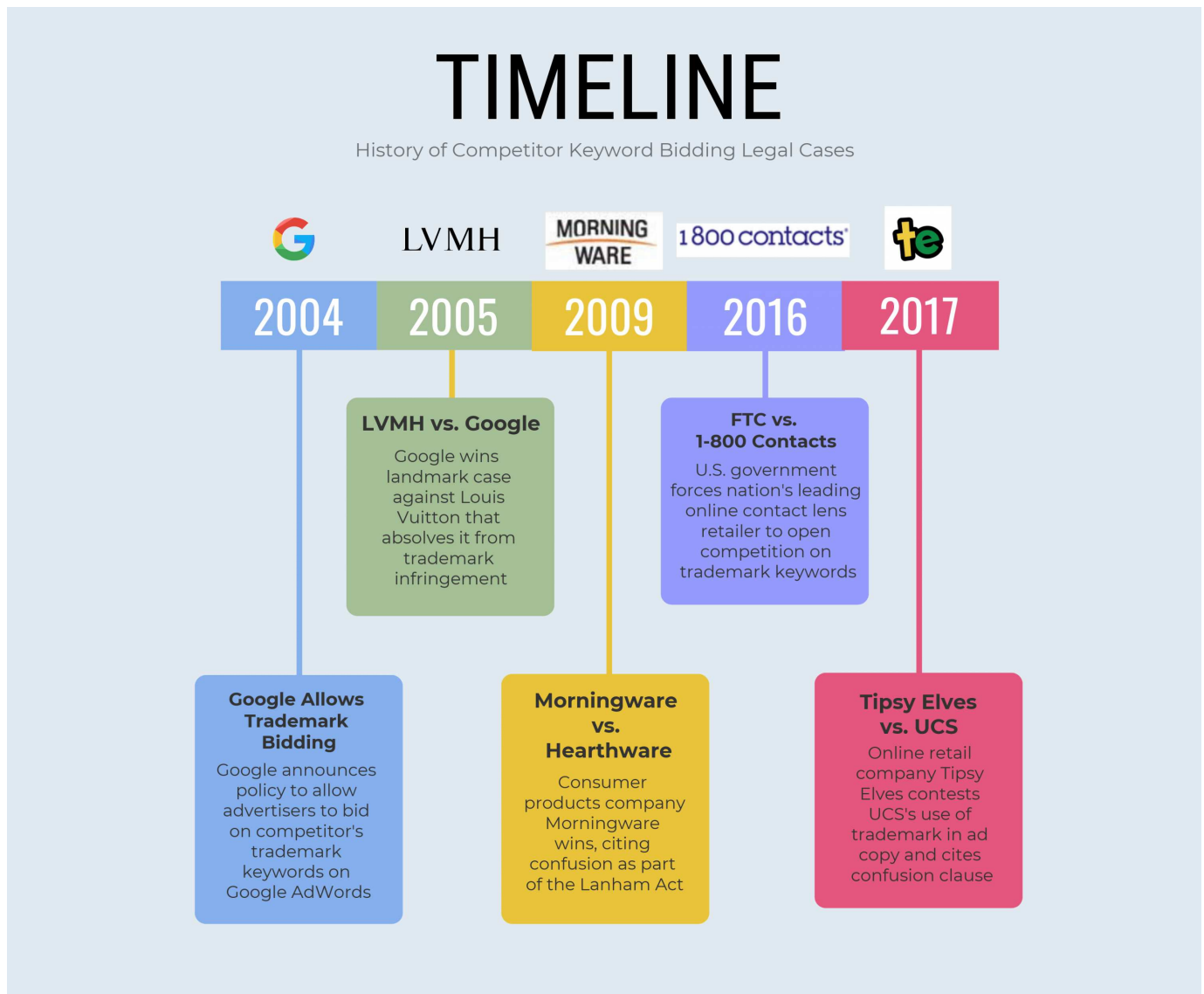


In 2003 LVMH, commonly known as Louis Vuitton, discovered that Google searches using LVMH's trademark terms returned ads for sites selling imitations of LVMH products. This sparked a long legal battle between LVMH and Google that started in 2005 with a French court determining that Google was guilty of trademark infringement.

The decision by the Regional Court of Paris was a potential blow to Google, which was expanding its decision in 2004 to allow competitor keyword bidding in the U.S. Google appealed the Regional Court of Paris decision to the Court of Justice of the European Union (CJEU). In 2010, the CJEU ruled in favor of Google, releasing them of any liability because Google was not considered to have an active role in the matter.

This decision also reversed an earlier opinion that prevented advertisers from suing each other for bidding on trademarked terms.

A History of Legal Battles

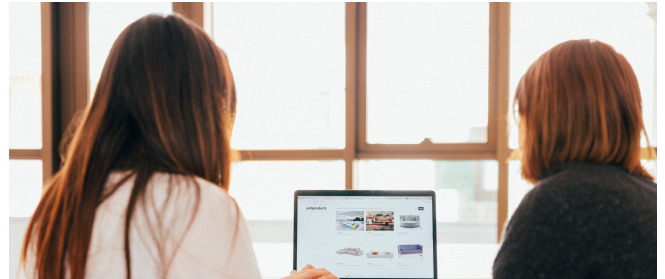


Legal trends tend to favor the companies bidding on their competitor's keywords, as opposed to the trademark holders.

Analysis: This was among the first high-profile cases against Google, and the initial decision looked to be a major obstacle to the profitability of Google Ads (formerly known as Google AdWords). Had the decision carried into the U.S., we'd be experiencing a much different paid search environment than what we have today.

But instead, the CJEU decision not only established protection for Google from future trademark infringement cases, but also established that these matters should be handled between competing advertisers.

Morningware, Inc. vs. Hearthware Home Products



In 2009, consumer products corporation Morningware filed a complaint against its top competitor, Hearthware. The complaint centered around a Hearthware Google ad that returned on searches for the keyword “Morningware”, a trademark of Morningware, Inc. The ad read, **“The Real NuWave Oven Pro Why Buy an Imitation? 90 Day Gty.”**

The complaint alleged that Hearthware’s use of the trademark was illegal because the prominent placement of the ad on Google, in combination with the “Why Buy an Imitation?” ad copy, demonstrated a false claim of product superiority. This false claim misled or confused consumers into believing Morningware products were “fakes of Hearthware’s products”, according to Morningware’s complaint.

The complaint goes on to say that Hearthware’s ad was intended to mislead or confuse consumers “into falsely believing

that Morningware sponsors Hearthware's own website and potential customers have visited Hearthware's website after entering the search term "Morningware believing that Morningware...ovens are available from Hearthware."

In November 2009, the court ruled in favor of Morningware, denying Hearthware's motion to dismiss. The court cited "initial interest confusion" and "product disparagement" as reasons for the decision. These factors satisfy requirements for protection under the [Lanham Act](#), the primary trademark law used by the federal government.

Analysis: The LVMH/Google legal proceedings were in their fourth year at this point, and businesses were getting a preview of what might happen if they contested Google in court instead of contesting their competition.

That case, combined with Google's policy to allow competitor keyword bidding, led to an increase of litigation between business rivals, including Morningware vs. Hearthware. Google's policy also perhaps emboldened businesses to more aggressively target trademarks in their Google Ads strategy.

The Morningware/Hearthware case

reinforced a few trends being established around these keyword battles. First, that it was possible for plaintiffs to win such cases in the face of Google's policy. If companies couldn't beat Google, they could provide a sound case against their competition, thus, limiting or eliminating their competition's ability to bid on trademark terms.

Second, that businesses that are bidding on competitor trademarks must stay within legal boundaries, most notably the Lanham Act. Google's policy also specifies that an advertiser can't use the trademark in ad copy or the site URL.

So while many cases were being ruled in favor of companies using competitor brand bidding strategies, the Google Ads environment hadn't become a free-for-all, where trademark law was no longer considered.

Federal Trade Commission (FTC) vs. 1-800 Contacts

In 2004, contact lens retailer 1-800 Contacts began threatening to sue competitors for trademark infringement on search engines. These threats, made over 9 years to 15 competitors, resulted in agreements from 14 of the competitors to no longer bid on 1-800 Contacts' trademarked keywords.

In 2016, the FTC filed an administrative complaint against 1-800 Contacts, alleging that the agreements:

- Prevented online contact lens retailers from bidding for search engine result ads that would inform consumers that identical products are available at lower prices
- Artificially reduced the prices that 1-800 Contacts pays for Google Ads
- In 2016, the FTC filed an administrative complaint against 1-800 Contacts, alleging that the agreements:
- Reduced quality of search engine results delivered to consumers [1]

This complaint was upheld in October 2017 with Chief Administrative Law Judge D. Michael Chappell ruling that the FTC had proved that 1-800 Contacts "unlawfully orchestrated a web of



anticompetitive agreements with rival online contact lens sellers." [2]

Analysis: The results of this case further supported Google's 2004 policy that encouraged competition on bidding for trademark keywords. 1-800 Contacts, the largest online contact lens retailer in the U.S., understood that many of their competitors would rather settle than incur the costs of a legal battle. 1-800 Contacts then used that leverage to limit competition, a no-no in the eyes of the U.S. government.

[1] <https://www.ftc.gov/news-events/press-releases/2018/11/ftc-commissioners-find-1-800-contacts-unlawfully-harmed>

[2] <https://www.ftc.gov/news-events/press-releases/2017/10/administrative-law-judge-upholds-ftcs-complaint-1-800-contacts>

Tipsy Elves, LLC vs. Ugly Christmas Sweater, Inc.

In May 2017, Tipsy Elves, LLC filed a complaint in the Southern District of California against Ugly Christmas Sweater, Inc (UCS), alleging trademark infringement, among other violations.

The complaint stemmed from an ad purchased through Google Ads by UCS in 2016. The UCS ad used the Tipsy Elves trademark in its ad copy, a clear violation of Google policy. Tipsy Elves argued that the use of the trademark term over the UCS link was likely to confuse, mislead, or deceive consumers — a violation of the Lanham Act. Just more than a month later, the two sides settled.

Analysis: This appears to be a clear case of trademark infringement, which is most likely why it was settled in short order. Not only did UCS violate Google policy, but more egregiously, it violated the consumer confusion section of the Lanham Act.

This case was important because it solidified a legal trend in similar trademark infringement cases. If plaintiffs could prove consumer confusion, they could win in court or come to a favorable settlement with their competitors. As more decisions come down

to this specific statute of the Lanham Act, the rules and risks become clearer for advertisers.

This also was one of the few suits that left Google out of the equation entirely. With more than 50 wins under its belt in similar cases, Google has precedent, and nearly unlimited resources, to protect itself from trademark infringement lawsuits.

With clearer rules and Google's protection, we're likely to see more cases like Tipsy Elves and UCS, where competitors contest one another directly and settle quickly.



Conclusion

Not only is it Google policy to allow competitors to bid on trademark keywords, but legal trends tend to favor the companies bidding on their competitor's trademark keywords. With this in mind, there are few key things to note when analyzing how your competition is advertising their own products and services on Google:

Monitor your trademark keywords. Your competition is likely bidding on your trademark keywords, but Google policy restricts them from using your trademarks in ad copy or site URLs. And the Lanham Act restricts them from using your trademarks in a manner likely to cause consumer confusion. As these guidelines solidify, you can more accurately assess when your competitor's strategy becomes illegal.

Don't expect a lot from Google: Google has won major legal battles on this issue, and it would prefer to stay out of them going forward, stating on a support page: "We take allegations of trademark infringement very seriously and, as a courtesy, we investigate valid trademark complaints submitted by trademark owners or their authorized agents. However, Google is not

in a position to mediate third party disputes, and we encourage trademark owners to resolve their disputes directly with advertisers."

Know and follow the rules: Competitor keyword bidding is a well-established strategy for businesses across the world, but it remains a sensitive issue. If your business decides to step into the arena, be sure that you're adhering to the official policy of the search engine, Google or otherwise, as well as all trademark law.

As you can see, competitor keyword bidding is a complicated issue with serious legal and financial ramifications. From protecting your own trademark terms to bidding on your rival's, it requires a professional attention to detail and constant monitoring.

In part 2, we'll examine how these legal precedents affect your brand search strategy, including an in-depth look at whether not bidding on brand terms is a viable option in 2020.

Part 2: Why Should I Buy My Brand Terms?

Every few years, SEM experts and brand marketing teams circle back to an ongoing argument, or perhaps more accurately, an experiment. The experiment goes like this:

If my company stopped bidding on branded keywords as part of our PPC campaigns, could we maintain traffic and conversions while saving money?

It's not a bad idea; the logic is sound. Why bid on a branded keyword when:

- A branded search is likely to return your company's site and/or products?
- Users searching for a specific brand are likely to purchase from that brand?

Those questions are fair, but are we getting the entire story? Can businesses simply rely on organic search to carry the day? Let's take a look at the relationship between bidding, or not bidding, on branded terms and overall search performance.



Source: <https://twitter.com/randfish>

Google Tests No-Bid Strategy

The idea behind not bidding on branded keywords is that searchers will click on the organic listing because it's likely to be toward the top of the search results, and the searcher is set on buying a product from a specific brand.

Google has been fielding questions about a no-bid strategy dating back to at least 2011. That's when it released its "Search Ads Pause Studies," a combination of more than 400 studies on accounts that paused bidding on branded terms.

Google researchers took their findings and built a statistical model to estimate the "percentage of paid clicks that are not made up for by organic clicks when search ads are paused."

The results? On average, **89% of the traffic driven by search ads was not replaced by organic clicks when ads were paused.**

Google followed up the 2011 study with another study the following year. The follow-up study used similar methods to the 2011 study, including pausing search ad spend. The study returned similar results. On average, 85% of traffic was lost and not recovered by organic clicks.

The 2012 study did expand on the 2011 study in a few ways. First, it tested decreasing ad spend, but not eliminating spend altogether. In this case, **80% of traffic was lost and not recovered by organic clicks.**

Second, it tested increasing search ad spend from zero. **This strategy increased clicks by an average of 79% compared to clicks from just organic search.**

Lastly, Google tested increasing search ad spend from a non-zero base. **This resulted in a 78% increase in average gained clicks.**

Google's final conclusion:

"Our findings are consistent across the board: ads drive a very high proportion of incremental traffic – traffic that's not replaced by navigation from organic listings when ads are turned off or down."

That conclusion, however, hasn't stopped paid search marketers from tinkering with the idea of eliminating paid ad spend. After all, the search environment has changed drastically since 2012, and the best marketers are always testing to find the most innovative strategies.



89% of the traffic driven by search ads was not replaced by organic clicks when ads were paused.

Still, one test after another has come back with the same conclusion: not bidding on your branded keywords dramatically decreases overall traffic, conversions, and lead volume while failing to significantly replace that performance with an increase in organic performance.



Other Reasons to Protect Your Brand Terms

Every search query has multiple variables at play. These variables combine to return a search environment that has a substantial effect on the user's behavior. When a brand forfeits its ability to control those variables on its own brand terms, it forfeits its ability to influence a customer that's likely near the point of conversion.

When a company protects its brand terms, on the other hand, it creates a search environment that's heavily weighted toward its success. So what variables can you control when you decide to protect your brand terms?

SERP Real Estate

Every branded search is an opportunity for your company to put its best foot forward. That starts with taking control of the search engine results page (SERP) for searches that include your brand. Every SERP offers a finite amount of space, what is sometimes referred to as real estate. Brands that own as much SERP real estate as possible give themselves the best chance to capture traffic and business.

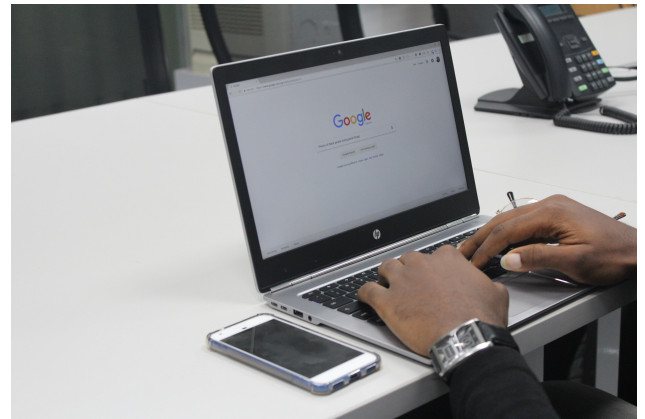
Google's SERPs are no longer just organic results and paid ads. They have evolved to include a variety of features, including knowledge panels, rich snippets, the local pack, site links, answer boxes, and more. These features populate depending on the context of the search and the information made available to Google.

To truly own your brand SERP, you must do your best to take advantage of all of these features. That means optimizing your site structure and other technical elements, populating your Google My Business profile with basic business information, and creating content that Google deems valuable. It also means bidding on your brand keywords to secure SERP real estate in the form of paid ads. These are especially valuable because they appear at the top of the SERP.

If you're unable to secure the majority of your brand's SERP, Google will be happy to fill in the gaps. That could lead to Google returning unfavorable reviews, news, or even ads for your competition on searches for your brand. Don't leave it up to Google or your competition.

Customized Ad Copy

If you're relying solely on organic search to capture traffic, it's likely you're sacrificing



conversion-focused ad copy in favor of the generic brand copy that secures a high organic ranking on your branded SERP. That's completely understandable if your strategy doesn't include paid ads. But if the goal is strictly creating a SERP environment most favorable to your brand, the messaging capabilities of Google Ads offers you the most direct route to accomplishing that goal.

Every paid text ad includes a headline, description, and display URL text. Advertisers can customize the copy included in each text category. Three sub-headlines of 30 characters each make up the headline text, two descriptions of 90 characters make up the descriptions text, and two path fields in addition to the final URL make up the display URL text. These options give brands the opportunity to control messaging and direct potential customers to a conversion-optimized landing page.

Thwart Competition Invasion

If you choose not to bid on your brand keywords, it's likely someone else will. That someone is often your direct competition. As discussed in Part 1 of our series, it is an acceptable practice, under Google's guidelines and most legal standards, to bid on competitor's branded terms.

If your competitor outbids you on your branded keywords, they are rewarded with their ads appearing on searches for your brand. This practice gives competitors a slick way to downgrade your brand and products, increase awareness of their own brand and products, and even steal potential customers.

If you're not bidding on your branded keywords at all, you're giving your competition an extremely easy win. Not only are they claiming valuable real estate on your brand SERP, they're doing it at minimal cost. The best way to discourage your competition and prevent these easy wins is bidding on your branded keywords. While it might cost you a few extra dollars to secure your brand SERP, it's certainly not as costly as losing leads to your direct competition.

Is it Ever a Good Idea to Pause?

The argument for bidding on brand keywords is strong, but it's not automatic. There are instances when a brand could benefit from pausing or eliminating paid search campaigns on branded terms altogether.

If your brand sees no competition for paid ads and consistently dominates your brand SERP through organic performance, pausing or eliminating paid campaigns could be an effective way to manage budget. Unfortunately, these instances are few and far between — a luxury usually reserved for the world's most recognizable brands.

As always, we recommend testing, evaluating, and testing your strategies again. If you think pausing your branded campaigns has the potential to benefit your brand, by all means, test away! We'd love to hear how it goes and are always open to new tactics.

But if we're addressing the initial question: If my company stopped bidding on branded keywords as part of our PPC campaigns, could we maintain traffic and conversions while saving money?

The answer is no.



Part 3: Increasing Branded Traffic to Your Website

You've spent years building your brand, creating a meaningful connection with your customers, and earning trust based on the quality of your products and service. That's a big deal and an accomplishment that many businesses never come close to achieving.

That hard-earned reputation comes with more than just a pat on the back. When it comes to a branded search strategy, it provides an opportunity to drive incremental revenue for your business. That's because when a potential customer searches specifically for your brand, they're not window shopping. They know your business, and they're asking for you by name. It's imperative that you're there to answer their call and in the increasingly competitive search marketing landscape, that often requires being in the coveted Position 1 (especially for mobile searches).

Owning your branded keywords with an effective approach to paid search bid management is one sure way of always

being open. This strategy is a proven tactic for increasing revenue and outperforming the alternative of forfeiting your brand terms to the highest bidder. Additionally, it reinforces your brand reputation while eliminating opportunities for competitors to increase their brand awareness on the back of your brand name. So how can you dominate your branded search strategy in 2020?

Let Paid Search and Organic Search Work Together

Paid search and organic search are separate strategies that require separate tactics, but that doesn't mean they operate independently. As we discussed in Part 2, the relationship between search ads and organic search is cooperative. Protecting brand keywords as well as optimizing for organic search can positively affect both strategies.

A branded search strategy that starts with protecting your branded typically requires you to be the highest bidder for your brand terms. Unless your competition is desperate to sink a substantial amount of their budget into owning your brand keywords, this should be relatively affordable and well worth the investment. Studies have consistently shown that

owning your brand terms through paid ads is the single biggest factor in driving traffic to your site on branded queries.

When running campaigns in different geographies, data points can be collected on how competition may vary from region to region. It is important to assess national competitors as well as local players to observe difference in costs and auction dynamics to inform your overall strategy.

To keep costs for your brand search in check, always reference system generated metrics for top of page bids as a guideline, but experiment (important) reducing your keyword bids until you start seeing impression share slip outside an acceptable level. This is a good way to understand specific auction dynamics- considering competition, but not overpaying on inflated cost per clicks.

The next step in an effective brand search strategy is optimizing for organic search. This starts with keyword research, which reveals every potential search query variation of your brand that needs to be monitored and protected. This includes more than just your brand name. Products, product lines, services, taglines, and other indirect brand keywords also should be part of your research.

Once you've gathered a final list of branded keyword targets, you can optimize existing site content through meta descriptions, title tags, and image optimizations. If your existing site content doesn't support a branded keyword target, consider creating a landing page that more directly addresses the query in play.

When branded paid search and organic strategies are tackled in tandem, it allows you to dominate your brand SERP from top to bottom — ensuring that you get the first and final word with a potential customer.

Promote Your Brand Image & Bolster Your Reputation

It's usually good news when a user searches for your brand. At the least, it means they're curious about your business. But it doesn't always mean they're all that familiar with your brand and what you offer. It's at this point that your branded search strategy is responsible for promoting your brand image.

The first thing you can do to promote your brand image is dominate your brand SERP. As previously discussed, a focused paid and organic search strategy will give you a leg up on the competition when it comes to showing up for branded searches. This

strategy projects relevance and competence to a user that needs to know your business is legitimate. It also prevents competitors from ranking for your brand terms using comparison pages.

Second, you can provide rich content to users, including videos, images, product listings, local business listings, maps, featured snippets, and more. Search results pages have changed significantly since Google returned only text links. The current SERP landscape encourages businesses to optimize content to be included in these Google features. This environment offers businesses the opportunity to engage users on multiple levels, increasing the likelihood of creating a meaningful connection on the user's terms.



The Right Message at the Right Time

A branded search is, above all else, an opportunity for your business to connect with a highly motivated consumer. It's important that this opportunity isn't wasted with poor messaging. That all-important messaging starts before the user ever clicks through to your site. It starts at the top of the SERP with your paid ad copy and ad extensions.

Google Ads offers a host of features that gives advertisers a better chance to directly address a consumer's intent. A paid text ad includes a headline, description, and display URL that can be customized to promote your desired brand message. But that's just the beginning. From there, you can customize your ads engage users based on keyword, device, location, date, time of day, or day of the week. This allows you to serve hundreds of variations of a single text ad based on available user data and past campaign performance.

Another important aspect to brand ad messaging in paid campaigns is the ability to remain nimble on advertising promotions with short flight dates, sales or discounts, which are not easily managed in organic results.

Ad extensions are another Google Ads feature that tips the scales in your favor. Ad extensions display more business information to users under paid ads. The most common ad extensions are automatically activated by Google. All of these extensions are designed to increase click-through rates and only populate if Google believes it will help the performance of your ad. These include:

Sitelinks: Additional links listed below a text ad that provide users more direct paths to information or products while increasing SERP real estate for the advertiser

Dynamic Callouts: Additional information that often supports the advertiser's selling points, such as experience, reliability, or product quality

Call Extensions: Adds a business phone number to a text ad. Users can tap or click the button to call your business directly

Structured Snippets: Additional information about your business based on your website, including product and service offerings

Location: Encourages users to visit your business by displaying your business address, map location, or the distance to your business

Seller Ratings: Displays a star rating based on aggregate data from reputable review sources

Manual ad extensions offer more opportunities to tailor messaging:

Price: A set of 8 cards that appear below a text ad and display the price of specific services or products

Promotion: Highlights sales and promotions for users who are searching for your brand's best deals

Branded searches are golden opportunities for your business to generate revenue, but only if you're presenting a relevant and powerful message to the user. Through customized ad copy and ad extensions, you can deliver the most accurate information and emotional appeal at the most opportune moment.

In Summary

Branded searches are often performed by motivated consumers and those with at least some understanding of what your brand represents, but that doesn't mean a lead or a sale is a foregone conclusion. Brands must plan and execute a branded search strategy that turns an interested searcher into a loyal customer. This isn't the time to take your foot off the gas. Instead, it's time to push forward using a combination of technical optimizations, paid ads, and ad extensions that leave the user with no doubts regarding the quality and legitimacy of your brand, services, products, or culture.

Post-Script: Five Key Takeaways

Here are the 5 key takeaways we think are worth noting when it comes to assessing how you're currently executing branded search marketing programs in 2020 and beyond:

1. If you plan to incorporate competitor keyword bidding into your own campaign strategy, make it a point to triple-check sure that you're adhering to the official policy of the search engine, Google or otherwise, as well as all trademark law.
2. Choosing not to bid on your own branded terms is likely to result in an overall decrease in web traffic to your site. It's up to you to determine if this probable decline is worth the savings.
3. What do search engine results pages (SERPs) look like for your branded terms? If you choose not to maximize visibility for branded terms, engines like Google will fill in the gaps which could lead to results that include competitor ads, unfavorable reviews or other less-than-desirable information being front and center to potential customers.
4. If you do bid on your brand terms, make sure you're maximizing every opportunity to promote your brand and business within the ad itself by leveraging creative ad copy, sitelinks, location extensions, dynamic callouts and more. It not only increases your chances of engaging the searcher, but it takes up valuable real estate within the SERP.
5. Test. Test. And then test some more. Are average CPCs getting too high on your branded terms? Pause for 30 days and evaluate the impact on your business and your revenue. Then take those insights and test again.



About the Author



Alex Porter is the CEO of Location3 and a Certified Franchise Executive with the International Franchise Association. With more than 15 years' experience in digital strategy and search marketing, he helps executive leadership teams identify the key touch points along their respective consumers' paths-to-purchase, helping them drive revenue maximization and grow profitability. He has been featured as a speaker at a variety of digital conferences including MediaPost's Search Insider Summit, Local Search Association Annual Conference, IFA Annual Convention, Colorado Marketing Summit, U.S. Olympic Committee NGB Annual Meeting, DMA Annual Convention, PhocusWright and more.



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