EU advisor: Google ads don't infringe trademarks

(AP) -- A European Union court advisor said Tuesday that Google Inc. does not violate luxury goods makers' trademarks when it sells brand names as advertising keywords triggered by Internet searches.

The advisor's legal opinion will now be studied by judges at the European Court of Justice, which has been asked to tell a French appeals court how to apply EU trademark law in a dispute between Google and several French luxury goods companies over the Internet search engine's ad system.

Advocate General Miguel Poiares Maduro did not give Google a complete all-clear, warning that it could be held liable if brand owners could show that Google's ads had damaged their trademarks. He did not accept Google's argument that the Internet advertising system is a neutral platform that would exempt it from similar legal action in the future.

While Maduro's recommendation is not binding on the court, legal advisor opinions are followed by the court in about 80 percent of cases.

The French companies - including LVMH Moet Hennessy Louis Vuitton - complain that Google broke the law by accepting ads using a brand name without permission.

They fear this would allow counterfeiters buy a keyword such as "Louis Vuitton" on Google's Adwords system and use it to sell fake bags when a user taps the phrase into Google's search engine, the world's most popular.

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The court advisor said neither Google nor advertisers are at fault for initially placing or accepting an ad using a brand keyword. Google isn't to blame either for displaying the keyword ads because Maduro said simply seeing the keyword isn't likely to lead customers into mistaking a brand name item for a counterfeit.

But users are likely to make decisions when they see the content of the ad or visit the advertised sites - and the advisor warns that Google may be held liable for the ad content.

This could potentially lead to Google facing legal action in national courts if brand owners could prove that such an ad damaged sales of genuine goods.

Google has "a direct pecuniary interest in Internet users clicking on the ads' links," said a statement from the court's press service, which means it can't claim the same immunity as a search engine which EU law sees as a neutral information vehicle.

Google says it now screens the automated Adwords system for obvious abuse of trademarks but that it can't be held accountable for every instance where an advertiser tries to buy a brand name.

Google's senior litigation counsel for Europe, Harjinder Obhi, said the company also believes that "consumers are smart and are not confused when they see a variety of ads displayed in response to their search queries."

The EU's Luxembourg-based high court expected to rule on the case in the coming months.

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