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## Google risks ad lawsuits

### **Google is walking a legal minefield by allowing companies to use rival names as triggers for "sponsored links" on internet searches.**

The practice is rife in New Zealand by companies trying to attract web traffic from rivals, a Sunday Star-Times investigation found last week, but many top lawyers believe it is only a matter of time before it comes before the courts.

Companies using Google's automated Adwords system bid in blind auctions on specific "keywords". Auction winners get a "sponsored link" appearing whenever someone uses the keyword.

Last week we reported property investment company Richmastery was paying for its web link to pop up when rivals' names were Googled. Those whose names were used in this way - including authors and investors like Martin Hawes, Ollie Newland, Kieran Trass, Andrew King, Peter Aranyi and Lisa Dudson - say it is unfair for Google to earn money by linking them with Richmastery, a company they neither have, nor want, an association with.

Kevin Glover from Bell Gully said: "It's just a matter of time before a case comes before the courts."

Matt Sumpter from Chapman Tripp said cases on the secret use of company trademarks by rivals to steal traffic have occurred overseas, and courts have taken a mixed view. "In continental Europe it would be trademark infringement," Sumpter said. "In Britain one judge has said the same, but another has disagreed. It hasn't been tested in New Zealand yet, but a judge here would react against the perceived unfairness."

Sheena Wheeldon from Kensington Swan said: "We've had issues of this kind of thing, where people use someone else's trademark to make their own website pop up when people search for it. If they do it in such a way that it's going to unfairly cause people to jump to their website, then you are approaching trademark infringement."

Google says its stated policy is to stop advertisers from using trademarked names in its Adwords system, but not people's real names unless they are trademarked. It also said the US Fair Trade Commission approved paid advertisements popping up on search engines and the use of the term "sponsored links" in 2001.

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