

KuoBrothers Corp.

1594th Commissioners' Meeting (2022)

Case: KuoBrothers Corp. used product information of another to boost its website visit rate by specifically designed its web page program

Keyword(s): Program design, search result, website visit rate

Reference: Fair Trade Commissioner Decision of April 12, 2022 (the 1594th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 111020

Industry: Retail Sale via Mail Order Houses or via Internet (4871)

Relevant Law(s): Article 25 of the Fair Trade Law

Summary:

1. "Joy Dream" was the registered trademark of the informant. The Joy Dream mattresses of Dreambed Co, Ltd. were not marketed on any eCommerce platform. However, the informant discovered that when entering "Joy Dream" as the keyword on Google, 123buy.com., a website managed by KuoBrothers Corp. (hereinafter referred to as "the accused"), appeared as a search result. Moreover, the heading of the web page displayed the text of "Best-selling Joy Dream mattresses recommended through word of mouth – 123buy.com." The conduct was suspected to be in violation of the Fair Trade Law.
2. Findings of the FTC after investigation:
The accused has used the product information of another by specifically designed the web page program to display the wording of "Result of search for best-selling XXX – 123buy.com." "No need to compare prices! It has been taken care of for you – XXX, rated the best product by Internet users, is right here at 123buy.com," "Front page XXX,- 123buy.com," and "XXX that everybody is buying is available right here at 123buy.com," in order to increase visits to its website but neglected it could be inconsistent with the fact.
3. Grounds for disposition:
 - (1) Taking advantage of its knowledge of search engine operation, the accused specifically adopted the heading and featured snippets to adjust the content of its website to assure its website could rank among the top search results. The accused admitted to designing its webpage program specifically to achieve the outcome, determining and editing the aforesaid wording, and using the key word replacement function on some of the words on the web page
 - (2) The Joy Dream mattresses were not sold on the website of the accused, yet the aforementioned program design ended up displaying the wording of

“Result of search for best-selling XXX – 123buy.com.” “No need to compare prices! It has been taken care of for you – XXX, rated the best product by Internet users, is right here at 123buy.com., “Front page so & so – 123buy.com.”, and “XXX that everybody is buying is available right here at 123buy.com.” The false information could mislead consumers to think they could purchase Joy Dream mattresses at 123buy.com just because the accused wanted to attract consumers and potential customers to click on the link to enter 123buy.com in order to increase its website visit rate.

- (3) The webpage program design of the accused could cause search engines to present webpages that carried wrong information. However, the accused had no intention to assure the authenticity and completeness of the webpage heading and content. It allowed errors to happen at any time because potential transaction opportunities brought by increased website visits were the only thing that mattered to it. The practice resulted in consumers’ waste of time whereas it also led to unfair competition to businesses really selling the products and other shopping websites. It was obviously unfair.
- (4) Data provided by the accused showed a large percentage of the traffic on 123buy.com had come from the Google search engine and a considerable percentage of the traffic had actually converted to business income. It was obvious that, under the high-level correlation between website traffic and transaction volume, the accused only pursued increase of website traffic and allowed the inappropriate effect of the erroneous webpage content to externalize. Apparently, the trading order in the eCommerce market was already affected.
- (5) The accused adopted specific program design in order to use the product information of another business inappropriately and increase the visit rate of its own website on which the information displayed was inconsistent with the fact. The practice of KuoBrothers Corp. was obviously unfair conduct that able to affect trading order. It was in violation of Article 25 of the Fair Trade Law and the FTC imposed an administrative fine of NT\$2 million on the company.

Appendix:

Kuobrothers Corp.’s Uniform Invoice Number: 43455509

Summarized by: Chen, Haw-Kae; Supervised by: Liao, Hsien-Chou