

Pei Dah Hsin

1632nd Commissioners' Meeting (2023)

Case: Pei Dah Hsin violated the Fair Trade Law by using brand names of Champion Building Materials in keyword advertising

Keyword(s): Marcobelli, Rotary, tile, keyword advertising

Reference: Fair Trade Commission Decision of January 4, 2023 (the 1632nd Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 112001

Industry: Manufacture of Clay Building Materials (2322)

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

Summary:

1. Champion Building Materials Co., Ltd. (hereinafter referred to as Champion Building Materials) sold tiles under two brand names, Champion and Marcobelli. On November 15, 2021, Champion Building Materials entered the word of Marcobelli on Google. The result was a web page displaying keyword advertisement links of Pei Dah Hsin Corp. (hereinafter referred to as Pei Dah Hsin). Furthermore, clicks on the advertisements were all directed to the "Rotary" website of Pei Dah Hsin. Pei Dah Hsin used the reputation of the brands of Champion Building Materials to mislead consumers and attract more visits to its own website so that the promotion of its Rotary tiles would be facilitated. The practice was in violation of the Fair Trade Law.
2. Findings of the FTC after investigation:
Pei Dah Hsin commissioned an advertising agent to purchase keyword advertisements. The advertising agent activated the auto-apply recommendations function of Google Ads. Once the "new keyword" option was selected, the Google Ads system would automatically add keywords recommended by the system to become keywords in the ad account of Pei Dah Hsin. As a consequence, Marcobelli became the "new keyword" of the auto-apply recommendations function. Furthermore, because Pei Dah Hsin enabled the keyword advertising to have the "keyword insertion" effect, the word Marcobelli would be automatically inserted in the advertisement title.
3. Grounds for disposition:
 - (1) Pei Dah Hsin hired an advertising agent who posted the keyword advertisements to link to the Rotary tile website of Pei Dah Hsin. In consequence, the company increased its website visits and transaction opportunities. Therefore, Pei Dah Hsin was the advertiser.

- (2) Champion Building Materials was a major producer in the domestic ceramics industry and had been in this business for about 50 years. Its two main tile products were the Champion and Marcobelli brands. The Marcobelli brand had been marketed for 27 years and its annual sales has achieved NT\$1 billion (same currency applies hereinafter). It could be certain that Champion Building Materials had invested considerable resources to promote its products and the company has obtained certain economic benefits from the market. At the same time, Pei Dah Hsin mainly imported and sold the Rotary brand tiles and managed the Rotary website to promote the products. The two companies were competitors on the market.
- (3) Pei Dah Hsin used the brand name Marcobelli of Champion Building Materials to make keyword advertising and the advertisements were designed to have the “keyword insertion” effect. As a result, when Internet users searched for the word “Marcobelli” on Google, the word “Marcobelli” would be automatically inserted because of the syntax of the Google Ads system, and they would be directed to a web page displaying the keyword advertisements of Pei Dah Hsin. In subsequence, “European style Marcobelli – Rotary grain pattern tiles” would be displayed as the ad title. If Internet users clicked the keyword advertisement, they would be directed to the Rotary tile website of Pei Dah Hsin. Pei Dah Hsin’s illegitimate use of a competitor’s brand name “Marcobelli” in the keyword advertising was likely to mislead people to think there was a certain relation between the two tile brands: Marcobelli and Rotary. As a result, Pei Dah Hsin increased the number of its webpage visits and transaction opportunities. Such exploitation of the fruits of work of another was obviously unfair competition. It was able to affect trading order and in violation of Article 25 of the Fair Trade Law.
- (4) After taking into consideration the motive and purpose behind the unlawful act of Pei Dah Hsin, the improper profit expected, the level of harm to trading order, the duration of the unlawful act, the profit obtained, the business scale, management condition and market status of the company, past violations, corrective measures taken and the cooperativeness during the investigation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$500,000 on Pei Dah Hsin.

Appendix:

Pei Dah Hsin Corp.’s Uniform Invoice Number: 22397429

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