

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



_____)
In the Matter of)
)
1-800 Contacts, Inc.,)
a corporation)
_____)

DOCKET NO. 1672

**JOINT STIPULATION REGARDING
SEARCH ENGINE MECHANICS AND GLOSSARY OF TERMS**

At the Court’s request, the parties are submitting a Joint Stipulation Regarding Search Engine Mechanics and Glossary of Terms.

This joint stipulation is merely intended to provide convenient descriptions of terms and search engine mechanics found in trial testimony and exhibits, and is not intended to supersede the more detailed descriptions of these and other relevant terms found in the parties’ respective proposed findings of fact and in the trial testimony and documentary evidence.

GLOSSARY OF TERMS

Ad Group – A collection of advertisements that contains one or more ads which target a set of keywords.

Ad Rank – A value used to determine whether an advertiser’s ad will appear on the search engine results page, the ad position (where the ad is shown on a page), and (combined with other information) the CPC for the ad.

Affiliate – A Person other than the company that attempts to generate sales for the Company in exchange for a commission on such online sales.

Algorithm – A process or set of rules to be followed in solving a problem or accomplishing some end, especially by a computer. Search engines use algorithms to rank the search results and advertisements.

Campaign – A set of ad groups (ads, keywords, and bids) that share a budget, location targeting, and/or other settings.

Click through rate (CTR) – The number of clicks an ad receives divided by the number of times the ad is shown.

Impression – One instance of an ad being shown by the search engine on a search engine results page.

Keyword – Words or phrases an advertiser chooses to help determine whether the advertiser’s ad can appear in response to an internet search by an end user.

Negative Keyword – A type of keyword that prevents an advertiser’s ad from being triggered by certain words or phrases.

Keyword Match Type – Applied to keywords by the advertiser to control which searches can trigger an ad. Broad Match, Broad Match Modifier, Phrase Match, and Exact Match are keyword match types.

Bid – An amount the advertiser sets for each keyword that is the highest amount the advertiser is willing to for a click on its ad.

Search Engine – A computer program, available to the public, to search for, and identify, items in a database that correspond to terms or characters specified by the user, used especially for finding sites on the World Wide Web.

Search Engine Optimization (SEO) – The process of maximizing the number of visitors to a particular website by trying to achieve a higher ranking for the website in a search engine’s organic results.

Search Engine Results Page (SERP) – The page displayed by a search engine in response to a query by a user. The search engine results page contains organic search results and may also contain advertisements and other information.

Query – Text entered into a Search Engine by the end user to conduct a search.

Conversion – Usually a sale, although advertisers can indicate to Google and Bing what user action they want to identify as a conversion.

Conversion rate – The number of times a conversion occurs divided by the total number of ad clicks. Can be calculated at the level of the ad, keyword, ad group, campaign, or advertiser.

Broad Match – Broad match allows an ad to be matched to relevant variations of the ad’s keywords, including synonyms, singular or plural forms, possible misspellings, stemmings (such as *floor* and *flooring*), related searches, and other relevant variations.

Modified Broad Match – Modified broad match allows the advertiser to specify that certain broad match keyword terms, or their close variants, must appear to trigger the ad. For instance, the modified keyword “+women’s +hats” would match to a search for “hats for women.”

Phrase Match – Phrase match allows an ad to be matched to searches that include the ad’s exact keyword and close variants of the exact keyword, with additional words before or after.

Exact match – Exact match allows an ad to be matched to searches that include the ad’s exact keyword, or close variants of the exact keyword, exclusively.

Search Advertisements (Paid Search) – Text advertisements that appear on the search engine results page.

Organic Search Results (Natural Search Results, Algorithmic Search Results) – Links to websites that the search engine has identified as relevant to the user’s query. Organic search results include a link to the website and a short snippet of information from the website.

Landing Page – The first web page to which a user is taken when the user clicks on an ad.

Click Through Rate – The number of times an ad is clicked divided by the number of impressions.

Predicted Click Through Rate – One of the three quality signals that Google uses to identify relevant ads. Predicted click through rate is a measure of how likely it is that the advertiser’s ad will be clicked when shown for the particular keyword.

Landing Page Experience – One of three “quality signals” that Google uses to determine Ad Rank. Landing page experience is Google’s measure of how relevant and/or useful the initial page that a user sees after clicking on an ad will be to the user.

Ad Relevance (Creative Quality) – One of three “quality signals” that Google uses to determine Ad Rank. Ad relevance is Google’s measure of how closely related the text of the ad is to the search query.

Cost-per-click (CPC) – The price that an advertiser pays each time its advertisement is clicked. Advertisers bid a maximum cost-per-click they are willing to pay, and Google and Bing charge an actual cost-per-click based on the outcome of a generalized second price auction process that considers the Ad Ranks of the participants in the auction.

Pay-per-click – A method of charging for advertising where the advertiser pays for each click its ad receives, and not for each time its ad is shown.

Customer Relationship Management (CRM) – Systems used by companies to maintain customer relationships, which may include scheduled email communications and other contact efforts.

Website – A collection of web pages. A particular destination on the World Wide Web, such as the 1-800 Contacts website, “www.1800contacts.com”.

Web page – One part of a website, such as the 1-800 Contacts web page describing its selection

of Air Optix Colors lenses.

URL – The address of a web page. Users type a URL into the URL bar of their internet browser to access a particular website. “www.1800contacts.com” is an example of a URL.

Domain name – The part of a URL that identifies the broader website a certain webpage is a part of. In the URL “www.1800contacts.com/lens/air-optix-colors,” the domain name is “1800contacts.com.”

Eye Care Professional (ECP) – Optometrists and ophthalmologists licensed to prescribe contact lenses.

Second-Price Auction – Google and Bing use a second-price auction to determine the price each advertiser will pay if its ad is clicked. In the second-price auctions that search engines use, each advertiser’s price is the minimum amount required to maintain an Ad Rank greater than next highest Ad Rank of the ad in the auction or, if there is none, the minimum bid set by the search engine.

Toric Lenses – A special type of contact lens for wearers with astigmatism. Toric lenses require additional parameters to define the prescription, and thus require a greater number of stock keeping units (SKUs).

Geotargeting – Advertisers use geotargeting in search engine advertising to target their advertisements to searchers who appear to be located in a particular geographic area. There are options for geotargeting in the Google AdWords and Bing Ads advertiser interfaces.

Ad Position – The position on the search engine results page that an ad achieves relative to other ads.

Internet browser – The computer program that allows users to access the World Wide Web.

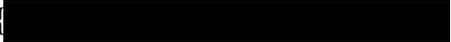
Bookmark – Internet browsers allow users to save bookmarks to websites for easy return access. Bookmarks help users access websites without having to use a search engine or remember the URL.

Site Traffic – The number of users that visit a particular website in a certain time period.

Interface – The way that advertisers interact with the Google AdWords or Bing Ads systems. A website that allows advertisers to give instructions to the search engine about their advertising.

STIPULATION REGARDING SEARCH ENGINE MECHANICS

A. Search Engines

1. Search engines allow their users to usefully access the vast amount of information on the internet. Search engines employ complex algorithms to match the end user's request with parts of the web that may contain relevant responses.
2. Users can access search engines through desktop computers, tablets, and mobile phones.
3. Estimates of the market shares of these search engines vary across sources, but it is generally recognized that Google accounts for 82 percent of spending on search advertising.
4. In response to a user search query, search engines present a search engine results page ("SERP") showing the user a list of "organic" results, and sometimes advertisements related to the query.
5. In general, organic results are ranked in order of relevance, with the most relevant result at the top of the list.
6. The relevance of organic results is determined by algorithms that are proprietary to each search engine.
7. Search engines are free for users. Search engine revenue comes from the sale of advertising.
8. Advertisements are displayed above, below, and (on some search engines) to the side of the organic results.
9. Google and Bing, for instance, will display {  } at the top of the page, above the organic results.
10. Search engine advertisements are text and do not include images.

11. Search engine advertisements consist of a blue headline, followed by the word “Ad” (for Google, in a green box; for Bing, in gray bold text) and the actual URL of the site being advertised, followed by the ad copy, which is text that the advertiser provides to Google.

12. Search engines operate on a “cost-per-click” basis, which means that advertisers do not pay the search engine for an “impression” on the SERP; they only pay when an ad is clicked.

13. By design, Google and Bing reward relevant, high quality ads by affording them prominent placement on the SERP at a lower cost-per-click.

14. Google and Bing aim to select the most relevant advertisements to appear on the SERP.

15. Google and Bing seek to identify and block any ads that are poor quality or completely irrelevant. These ads are not eligible to be shown even if the advertiser offers a very high bid.

B. Keyword Advertising – The Google AdWords Auction

16. Google’s paid search platform is called AdWords.

17. For each user query on which ads are shown, Google runs a real-time auction based on advertiser bids, as well as its multi-signal Ads Quality algorithm.

18. Advertisers indicate which auctions they would like to enter using “keywords.”

19. Keywords are words or phrases the advertiser believes potential customers are likely to use when searching for products or services provided by the advertiser. The advertiser matches the keywords with an ad or ads in an “Ad Group.”

20. An advertiser’s ad may be shown when the ad’s keywords “match” a user’s search query.

21. Advertisers frequently bid on hundreds or thousands of keywords. Keywords may consist of a single word (e.g., “contacts”), a set of words (e.g., “contacts,” “Accuvie,” and “coupon”), a phrase (e.g., “contact lens”), or a combination of words and phrases.

22. There are several “match types” or “matching options” in AdWords.

i. Broad Match

23. Broad match allows an ad to be matched to relevant variations of the ad’s keywords, including synonyms, singular or plural forms, possible misspellings, stemmings (such as *floor* and *flooring*), related searches, and other relevant variations.

24. Broad match is a “semantic” match type; it seeks to match with the meaning of the user’s search, rather than focusing on the text of any particular keyword that the advertiser selects. For example, if an advertiser purchases the keyword “low-carb diet plan” and selects broad match, Google may select that advertiser’s ad in response to searches “carb-free foods” or “Mediterranean diets,” even though the advertiser did not bid on those particular keywords.

ii. Modified Broad Match

25. Modified broad match allows the advertiser to specify that certain broad match keyword terms, or their close variants, must appear to trigger the ad.

26. Modified broad match keywords are indicated by a “+” symbol. For instance, the modified keyword “+women’s +hats” would match to a search for “hats for women.”

iii. Phrase Match

27. Phrase match allows an ad to be matched to searches that include the ad’s exact keyword and close variants of the exact keyword, with additional words before or after.

28. Phrase match keywords are indicated by quotation marks. For example, for the phrase match keyword “tennis shoes,” ads may be shown on searches for “red leather tennis

shoes” or “buy tennis shoes on sale.” But such ads will not be shown on searches for “shoes for tennis” or “tennis sneakers laces.”

iv. Exact Match

29. Exact match allows an ad to be matched to searches that include the ad’s exact keyword, or close variants of the exact keyword, exclusively.

30. Exact match keywords are indicated by square brackets. For instance, the exact match keyword “[tennis shoes]” may be matched to searches for “tennis shoes” but not for “red tennis shoes.”

v. Negative Keywords

31. Advertisers can indicate which auctions they do not want to enter by using negative keywords.

32. Negative keywords also have match types associated with them.

33. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

34. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

35. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. Ad Rank and Its Components

36. In AdWords, which ads and the order in which an ad appears on a page (the Ad Position) is determined by a formula called Ad Rank.

37. Google’s three quality signals, Predicted Click Through Rate (CTR), Ad Relevance, and Landing Page Experience help determine the Ad Rank.

38. Ad Rank is a score that is based on the advertiser’s bid, auction-time measurements of expected CTR (click-through rate), ad relevance, landing page experience, and the expected impact of extensions and other ad formats.

i. Predicted Click Through Rate (CTR)

39. The first quality signal is called the “predicted click through rate” (CTR).

40. Predicted CTR is a measurement of how likely it is that the advertiser’s ads will get clicked when shown for the particular keyword.

41. [REDACTED]

42. Google’s algorithms calculate predicted CTR based on [REDACTED]

[REDACTED]

[REDACTED] In addition, [REDACTED]

[REDACTED]
[REDACTED] }

43. Predicted CTR is not { [REDACTED]
[REDACTED] } (CX9019 (Juda, Dep. 31).) The
assessment is based on { [REDACTED]
[REDACTED] }

44. To predict CTR for new ads the system uses { [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] }

45. Google uses the Predicted CTR signal because click-through rate is a good proxy
for whether an ad will be relevant to the user.

46. { [REDACTED]
[REDACTED] }

ii. Ad Relevance

47. The second quality signal is called “ad relevance.” The ad relevance signal
measures how relevant the ad copy, or ad text, is to the user’s search query.

48. In the AdWords algorithms, ad relevance is based on { [REDACTED]
[REDACTED]
[REDACTED] }

iii. Landing Page Experience

49. The third quality signal is called “landing page experience.” Landing page experience is a measure that AdWords uses to estimate how relevant and useful the initial page that a user sees after clicking on an advertiser’s ad will be to people who click on the ad.

50. In the AdWords algorithms, landing page experience is based on { [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] }

51. { [REDACTED]

[REDACTED]
[REDACTED] }

52. For landing page experience, the AdWords algorithms also { [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] }

53. Google considers the landing page experience in its ad selection because { [REDACTED]

[REDACTED]
[REDACTED] }

D. Ranking Ads on The Search Engine Results Page (SERP)

54. In AdWords, each advertiser specifies a bid for each keyword, which is the maximum the advertiser will pay for a click on its ad. This amount is the “maximum cost-per click” or “max. CPC.”

55. To rank in a high position on the SERP, advertisers must have strong assessments from Google on the three quality signals compared to other auction participants, *and* must have high bids relative to other participants on a keyword related to the user's search.

56. Ads must have an Ad Rank greater than zero to be eligible to be shown. If there are no ads with an Ad Rank greater than zero, the AdWords system will not show any ads in response to the particular user query.

57. Google requires { [REDACTED] }

58. In general, the lower the quality of the ad, the higher the minimum bid necessary to qualify to be shown, but no ads below a certain quality will be shown regardless of the amount bid.

59. Ads are positioned on the search results page based on Ad Rank; the ad with the highest Ad Rank is placed at the top of the page.

60. The actual amount an advertiser pays for a click, or "actual CPC," depends on the outcome of the auction process.

Dated: June 21, 2017

Respectfully submitted,

/s/ Daniel J. Matheson

Daniel J. Matheson
Geoffrey M. Green
Barbara Blank
Charles A. Loughlin
Kathleen M. Clair
Thomas H. Brock
Gustav P. Chiarello
Joshua B. Gray
Nathaniel M. Hopkin
Mika Ikeda
Charlotte S. Slaiman
Aaron Ross

Federal Trade Commission
Bureau of Competition
600 Pennsylvania Ave., NW
Washington, DC 20580
Telephone: (202) 326-2075
Facsimile: (202) 326-3496
Email: dmatheson@ftc.gov

Counsel Supporting the Complaint

/s/ Steven M. Perry

Gregory P. Stone
Steven M. Perry
Garth T. Vincent
Stuart N. Senator
Gregory M. Sergi
Zachary M. Briers
Julian M. Beach
Munger, Tolles & Olson LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
gregory.stone@mto.com
steven.perry@mto.com
garth.vincent@mto.com
stuart.senator@mto.com
gregory.sergi@mto.com
zachary.briers@mto.com
julian.beach@mto.com

Justin P. Raphael
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
justin.raaphael@mto.com

Sean Gates
Charis Lex P.C.
16 N. Marengo Avenue, Suite 300
Pasadena, CA 91101
sgates@charislex.com

Counsel for Respondent 1-800 Contacts, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2017, I filed the foregoing documents electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I also certify that I delivered via electronic mail a copy of the foregoing documents to:

Gregory P. Stone
Steven M. Perry
Garth T. Vincent
Stuart N. Senator
Gregory M. Sergi
Munger, Tolles & Olson LLP
350 South Grand Avenue
50th Floor
Los Angeles, CA 90071
gregory.stone@mto.com
steven.perry@mto.com
garth.vincent@mto.com
stuart.senator@mto.com
gregory.sergi@mto.com

Justin P. Raphael
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
justin.rafael@mto.com

Sean Gates
Charis Lex P.C.
16 N. Marengo Ave.
Suite 300
Pasadena, CA 91101
sgates@charislex.com

Counsel for Respondent 1-800 Contacts, Inc.

Dated: June 21, 2017

By: /s/ Daniel J. Matheson
Attorney

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

June 21, 2017

By: /s/ Daniel J. Matheson
Attorney