

### Google sued by BharatMatrimony over use of marks as keywords India - Nishith Desai Associates - Legal & Tax Counselling Worldwide

Online ads

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The Madras High Court has granted an interim injunction restraining Google from infringing [Consim Info Private Limited](#)'s registered trademarks by using them as keywords in its [AdWords](#) system.

The use of trademarks as keywords to trigger sponsored links is not prohibited in India as long as such use does not disparage the trademark owner. Moreover, the owner has the right to dictate the terms of use of its mark, especially if it is registered. Nevertheless, the use of trademarks as keywords is difficult to control, unless there is an explicit agreement between the search engine and the trademark owner.

Chennai-based Consim provides online matrimonial and related services through its portal at '[bharatmatrimony.com](#)'. [Google India Private Limited](#) runs Google's search engine in India. Consim alleged that Google was selling its registered trademarks, including [BHARATMATRIMONY.COM](#), [TAMILMATRIMONY.COM](#), [TELEGUMATRIMONY.COM](#), [BENGALIMATRIMONY.COM](#) and [MUSLIMMATRIMONY.COM](#), as keywords in its AdWords system. In particular, Consim submitted that when a user typed, for example, 'Bharat Matrimony' in Google's search engine, this triggered sponsored links directing users to rival matrimonial websites such as '[shaadi.com](#)', '[jeevansathi.com](#)' and '[simplymarry.com](#)'.

Consim sought a permanent injunction restraining Google from infringing and/or enabling others to infringe its registered trademarks. Consim also sought damages amounting to Rs1.05 million from Google and other respondents - [People Interactive Pvt Ltd](#) (the owner of '[shaadi.com](#)'), [Jeevansathi Internet Services Pvt Ltd](#) (the owner of '[jeevansathi.com](#)') and [Times Business Solutions Ltd](#) (the owner of '[simplymarry.com](#)'). Consim also requested that the respondents surrender all compact discs, advertising materials and brochures, among other things, bearing Consim's trademarks and/or any variants of the marks. The action was based on Sections 27, 28, 29, 134 and 135 of the [Trademarks Act 1999](#).

On September 18 2009 the Madras High Court granted an interim injunction against Google and the other respondents. The founder and chief executive officer of BharatMatrimony described the interim injunction as a "landmark judgment".

However, when an internet user types the words '[shaadi](#)' (a common Hindi word that connotes marriage) or '[jeevan sathi](#)' (an expression which connotes a life partner) in Google's search engine, the results include a link to '[bharatmatrimony.com](#)'. Therefore, it seems that Consim itself uses the trademarks of competitors as keywords.

The recognition by the Indian courts that domain names may be protected as trademarks has created numerous issues for internet service providers and search engines. The outcome of the present case will be significant for the future of Google's AdWords system in India.

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