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Ministry of Industry, Business  
and Financial Affairs

 <sup>Partner</sup> nordic patent institute

Our ref: MP1535835  
Your Reference:  
International Registration: 1535835  
Holder: RETARGETING BIZ SRL  
Mark: Retargeting  
**Time limit: 6 December 2020**

6 August 2020

Dear Madam/Sir

**Notification of Total Provisional Refusal of IR 1535835 according to Rule 17(2)**

The above-mentioned mark is provisionally refused protection in Denmark for all of the services covered by the designation.

The reasons for the refusal are given in the enclosed examination report. The holder may request a review of the refusal before 6 December 2020. Further information about procedures is found in the report.

Yours faithfully

Jennifer Tran  
Legal adviser, Master of Laws (LL.M.), Trademark and Design

## Examination Report

### Grounds for refusal

We have found that the mark is descriptive with respect to all of the services in the designation, namely:

Class 35: Advertising services; marketing services; on-line advertising and marketing services; Internet marketing services.

The mark consists of the word “retargeting”.

“Retargeting” in relation to marketing is a term for an online advertising method of reaching out to previous visitors of a company’s website or apps or if the consumer in some way previously has interacted online with a company’s brand. We have enclosed examples from an internet search that shows that “retargeting” is used in this matter. We have found examples where the term is used in English, but also in Danish to show you that the perception of “retargeting” is the same in Denmark. Please see appendix C.

The mark “retargeting” is therefore found descriptive in regards of all the services in the designation as these all consist of marketing services, and the mark “retargeting” indicates that the services consist of advertising and marketing services where these are based on the retargeting-method/strategy, namely where the advertising/marketing is based on a consumers previous interactions online with a company’s brand.

E.g. when a consumer visits a company’s website and looks at their products. Later when the consumer has left the company’s website without making a purchase, the banner advertisement or other advertisement shown to the consumer when browsing online will be based on the consumers previous visits and the company’s products will appear in the advertisement.

We refer to Section 13(1)(3) of the Danish Trademarks Act.

Please be informed that the Danish Trade Marks Act Section 13(2) allows for the registration of marks, which have acquired distinctiveness through use.

### Request for review of the provisional refusal

You may request a review of the provisional refusal **within 4 months** from the date of issue of the provisional refusal.

Please observe that documents or evidence submitted by you will be available to the public according to the regulations of The Danish Access to Public Administration Files Act.

A request for review should be sent by post or e-mail to:

Address

Patent- og Varemærkestyrelsen  
Helgeshøj Allé 81  
DK-2630 Taastrup  
Denmark

E-mail

pvs@dkpto.dk

**Final refusal and appeal**

If you do not reply within the time limit, we will issue a final refusal, which is subject to appeal to the Board of Appeal for Patents and Trademarks.

Appendix A: Guide concerning Confusingly Similar Marks

Appendix B: Abstract of the Danish Trade Marks Act

Appendix C: Examples of the use of the term “remarketing”

## Appendix A

### Guide concerning Confusingly Similar Trademarks

The Danish Patent and Trademark Office has searched for marks applied for or registered in the Danish territory, which are confusingly similar to your trademark. We have assessed whether there is a likelihood of confusion between the marks, i.e. whether the marks are similar visually as well as phonetically and whether the goods and services covered by your application are identical with or similar to those covered by the earlier right. **We refer to the Danish Trade Marks Act, section 15, containing rules concerning identical and confusingly similar trademarks.**

If we have found conflicting marks we have included a search report as well as extracts of our register of any confusingly similar marks.

If we have found earlier rights you may consider the following options:

- to register your mark irrespective of the earlier right - or
- to limit the list of goods and services in order to avoid that your application covers goods and services similar to those covered by the earlier right - or
- to obtain a letter of consent from the proprietors of the earlier right permitting you to make use of and register your trademark in Denmark.

If we do not hear from you before the expiration of the time limit mentioned in our letter, we will register your trademark irrespective of the earlier rights, if any, mentioned in the search report.

#### Registration

Please be informed that the proprietor of the earlier right can file an opposition against the registration of your trademark if you choose to have your trademark registered irrespective of the earlier right.

#### Limitation

If the earlier right does not cover all the goods and services, for which your trademark is applied, you can limit your application in order to avoid that your application covers goods and services similar to those covered by the earlier right. You must file a new list of goods and services, if you wish to limit your application. Please be informed that we can assist you in connection with the wording of such a list.

#### Written consent

A written consent must be unconditional, and it must permit you to register the applied trademark for the goods and services covered by the application. If the consent does not include all goods and services applied for, you must limit your application in accordance with the consent. The letter of consent must be dated and duly signed by the proprietor of the earlier right. We can only accept a copy, if it is attested.

## **Appendix B**

### **Abstract of the Danish Trade Marks Act**

#### *Signs of which a trade mark may consist*

#### **Section 2**

A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:

- i) distinguishing the goods or services of one undertaking from those of other undertakings; and
- ii) being represented on the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

#### *Application and registration of trade marks*

#### **Section 11**

- (1) An application for the registration of a trade mark shall be filed with the Patent and Trade mark Office. The application shall contain information in accordance with the provisions laid down pursuant to section 48. The application fee prescribed by section 60(a)(1) shall be paid.

#### **Section 12**

- (1) The goods and services in respect of which trade mark registration is applied for shall be classified in conformity with the Nice Classification. Where the applicant requests registration for more than one class, the applicant shall group the goods and services according to the classes of the Nice Classification, each group being preceded by the number of the class to which that group of goods or services belongs, and shall present them in the order of the classes.
- (2) The goods and services for which protection is sought shall be identified by the applicant with sufficient clarity and precision to enable the Office and economic operators, on that sole basis, to determine the extent of the protection sought.
- (3) The general indications included in the class headings of the Nice Classification or other general terms may be used, provided that they comply with the requisite standards of clarity and precision set out in this provision.

#### *Examination of applications*

#### **Section 16**

- (1) If the application does not comply with this Act or the provisions laid down pursuant to this Act, or if the Patent and Trade mark Office has other objections to the acceptance of the application, the Patent and Trade mark Office shall notify the applicant accordingly and invite him to file his observations within a specified time limit.

### **Section 13**

(1) The following shall not be registered:

- (i) Signs which cannot constitute a trade mark.
- (ii) Trade marks which are devoid of any distinctive character.
- (iii) Trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, or the time of production of the goods or of rendering of the service, or other characteristics of the goods or services.
- (iv) Trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.

(2) A trade mark shall not be excluded from registration in accordance with paragraph 1(2)-(4), if, before the date of application for registration, following the use which has been made of it, it has acquired a distinctive character.

### **Section 14**

Furthermore, the following shall not be registered:

- 1) signs which consist exclusively of:
  - a) the shape, or another characteristic, which results from the nature of the goods themselves,
  - b) the shape, or another characteristic, of goods which is necessary to obtain a technical result,
  - c) the shape, or another characteristic, which gives substantial value to the goods.
- 2) Trade marks which are contrary to law, public order or morality.
- 3) Trade marks which are liable to mislead the public, for instance as to the nature, quality or geographical origin of the goods or services.
- 4) Trade marks which have not been authorized by the competent authorities and are to be refused pursuant to Article 6ter of the Paris Convention for the Protection of industrial Property, and trade marks which include badges, emblems and escutcheons which are of public interest, unless the consent of the appropriate authority to their registration has been given.
- 5) Trade marks which are excluded from registration pursuant to Union legislation or the national law of the Member State concerned, or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications.
- 6) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional terms for wine.
- 7) Trade marks which are excluded from registration pursuant to Union legislation or international agreements to which the Union is party, providing for protection of traditional specialities guaranteed.
- 8) Trade marks which consist of, or reproduce in their essential elements, an earlier plant variety denomination protected by plant variety sort rights and which are in respect of plant varieties of the same or closely related species.

## Appendix C

### Examples of the use of the term “remarketing” (all websites visited on August 6, 2020)



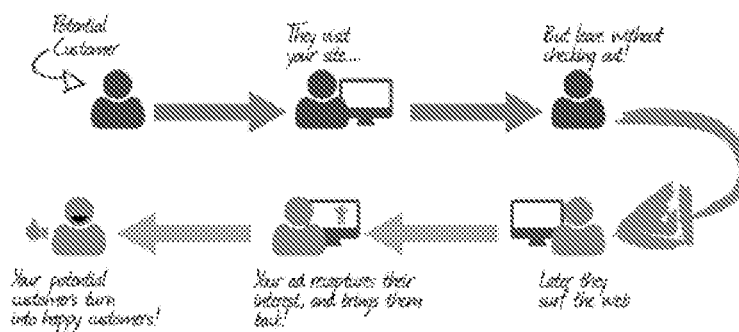
## What is ReTargeting and How Does it Work?

Retargeting, also known as remarketing, is a form of online advertising that can help you keep your brand in front of bounced traffic after they leave your website. For most websites, only 2% of web traffic converts on the first visit. Retargeting is a tool designed to help companies reach the 98% of users who don't convert right away.

### How Does ReTargeting Work?

Retargeting is a cookie-based technology that uses simple javascript code to anonymously 'follow' your audience all over the Web.

Here's how it works: you place a small, unobtrusive piece of code on your website (this code is sometimes referred to as a pixel). The code, or pixel, is unnoticeable to your site visitors and won't affect your site's performance. Every time a new visitor comes to your site, the code drops an anonymous browser cookie. Later, when your cookie'd visitors browse the Web, the cookie will let your retargeting provider know when to serve ads, ensuring that your ads are served to only to people who have previously visited your site.



<https://retargeter.com/what-is-retargeting-and-how-does-it-work/>

The image shows the header and main content area of the AdRoll website. The header includes the AdRoll logo, a 'Rollworks' link, and a 'TRY ADROLL FREE' button. The main content area has a dark background with the title 'What is Retargeting?' in large white text. Below the title is a paragraph explaining retargeting: 'Retargeting enables you to remind your customers of your products and services after they leave your website without buying. It allows you to show your custom relevant ads when they visit other sites. Retargeting works with apps and search as well as website banners. Our business marketers find by use retargeting as a vital tool to convert with their customers and increase their sales.' To the right of the text is an illustration of a laptop displaying a website with a shopping cart icon, and a smartphone displaying a similar website.

<https://www.adroll.com/learn-more/retargeting>

## What Is Digital Retargeting? (And How Does It Work?)



Isabella Andersen  
Blog Contributor

Did you know that 96 percent of your website visitors leave without taking an action, or that 49 percent of people will visit your site two to four times before ever making a purchase?

### What Is Digital Retargeting? (And How Does It Work?)

Updated 12/28/18

The path to purchase for your customers is complicated. They're going to research several businesses, and often they research across various platforms (website, social media, Google listing, etc).

So, how do you get those website visitors back to your website that first time so they take an action, such as calling or filling out a contact form?

This is where **digital retargeting** comes in.

Retargeting is a paid advertising strategy that involves putting your ads in front of people who have visited your website after they have clicked away and visited other websites.

Here's how retargeting looks from a consumer's perspective.

A couple weeks ago, I was looking at a pair of rain boots, online, and I loved them so much that I sent the link to my best friend. A few days later, she sent me a text saying that she kept seeing ads for rain boots everywhere she went online.

<https://www.revlocal.com/blog/paid-advertising/what-is-retargeting->

## StepUp Media



### Hvor kan man køre retargeting?

**Retargeting** fungerer således, at et bestemt antal dage, eller uger, efter kundens besøg på din hjemmeside, vil en reklame dukke op i deres Facebook feed, eller som reklamebannere på diverse hjemmesider. Det er valgfrit om det skal være på produktniveau, kategoriniveau eller helt generelt, men jo mere relevant det er – jo bedre fungerer det.

Det kan både være på f.eks. Facebook og Google at **retargeting** benyttes. Konceptet er som sagt det samme. På Facebook opsætter du en **retargeting** kampagne, og på Google er det med Google Adwords.

På Facebook fungerer det således: En mulig kunde, der besøger din hjemmeside eller webshop. Besøget på hjemmesiden bliver tracket ved hjælp af et stykke kode, kaldet en Pixel, som du har sat op på din hjemmeside, hvor du har oprettet en brugerdefineret målgruppe. Du installerer en Pixel, der måler de besøgende, og som "kommunikere" med den definerede målgruppe. Derefter, når den besøgende forlader din hjemmeside, bliver din annonce vist på den besøgendes Facebook feed. Annoncen vil dukke op efter et bestemt antal dage. Det kommer an på, hvordan du har opsat din **retargeting** kampagne. Det siges dog, at jo kortere tid der går mellem den mulige kundes besøg, og til din annonce dukker op, jo bedre bliver din konverteringsrate. Så trænge dine annoncer ikke kommer til at virke som spam.

<https://stepupmedia.dk/blog/derfor-boer-du-bruge-retargeting/>



# Retargeting

## Måltrettede annoncer med retargeting

Med retargeting og remarketing, som det også kaldes, kan du få måltrettede og dynamiske annoncer vist til de personer, der har besøgt din hjemmeside. Det er effektivt, fordi du på den måde rammer de personer, der har vist interesse for din virksomhed. Ved hjælp af annoncer kan du minde den besøgende om, at han eller hun har besøgt din hjemmeside eller endda kigget på et specifikt produkt, men ikke foretaget et køb endnu.

Mange forbrugere køber ikke et produkt første gang, de besøger din side. De lægger det måske i kurven, men går så væk fra siden igen. Du kan effektivt føre disse potentielle kunder tilbage til din webshop gennem måltrettede annoncer gennem retargeting. Din virksomhed og dit produkt bliver på den måde top of mind hos kunden, når personen er klar til at købe, og det øger dine muligheder betydeligt for, at kunden vælger dig frem for en anden.

<https://www.web2media.dk/vi-tilbyder/google-ads/retargeting/>

## Remarketing og retargeting – Tættere på et salg



*Remarketing og retargeting er to ord for det samme, nemlig en aktiv påvirkning af allerede interesserede kunder, så de bliver rykket endnu tættere på en beslutning via ekstra eksponeringer af dit salgshudskab.*

<https://gorm.agency/da/conversion/remarketing-og-retargeting/>

FACEBOOK for Business

Inspirer folk til at  
genopdage det som  
de elsker ved din  
virksomhed.

OVERSIGT

Hvordan kan **retargeting** på Facebook  
hjælpe din virksomhed?

<https://da-dk.facebook.com/business/goals/retargeting>