

# APRIL 2010 Thailand: The danger of online dictionaries

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Section 6 of the Thai Trade Mark Act stipulates that a mark must be distinctive in order to be registrable. Section 7 (2) specifies that the word or clause employed in a mark must not directly refer to the character or quality of the goods. When examining a mark's potential descriptiveness, registrars usually use standard print dictionaries as their main reference. With recent technological advances, however, registrars have also begun to use internet sources to determine the meaning of some trade marks. Of course, the reliability of these online dictionaries may be called into question.

In a 2008 decision, the Board of Trade Marks overturned a citation by the registrar involving an online dictionary. In this case, the applicant filed three separate applications for the trade mark Da Kine covering various goods in international classes 18, 22, and 25. The registrar rejected these applications on the basis that the mark was descriptive of the quality of the goods. The Registrar's reasoning was based on the definition of da kine as a phrase meaning good or best in a Hawaiian dialect, as stated on the website [www.wiktionary.org](http://www.wiktionary.org).

On appeal, the Board viewed that Da Kine does not have any definitions in general dictionaries. Although [www.wiktionary.org](http://www.wiktionary.org) defines this wording as good or best in a Hawaiian dialect, web searches only reveal this meaning on this particular website. In addition, the use of the dialect is prevalent only in a particular area. Therefore, it is unlikely that the general public would know the definition of this word. The applicant's mark was thus allowed to proceed to registration, as it was deemed sufficiently distinctive.

With the proliferation of online sources of information and the growth of web 2.0, it is becoming common for people, including registrars, to rely on internet sources. It can be argued that by including online dictionaries among the references consulted, registrars face the danger of making use of sources which are less reliable than standard print dictionaries, as sites such as [www.wiktionary.org](http://www.wiktionary.org) are written collaboratively by volunteers in a software format that allows articles to be changed by almost anyone with access to the website. Therefore, some definitions provided by the website may be incorrect or may deviate from standard dictionaries. Trade mark owners applying for a word mark that does not have a widely understood meaning should refer to well-recognised dictionaries (which can also be found on the internet) in order to establish the registrability of their trade mark.



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