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Similar mark may be registered if goods are different
Thailand - Tilleke & Gibbins International Ltd

Examination/opposition
National procedures

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The Board of Trademarks has clarified that, even if a trademark is visually and phonetically similar to an earlier registered trademark, the later mark can be registered if the respective goods are of a different nature (October 8 2009, released on December 21 2009).

In 2008 Coolon Industries Inc, a Korean company, filed an application for the registration of the trademark COOLON for "fabric imitating animal skins, non-woven textile fabrics, linings (textile), labels (cloth), napkins of cloth for removing make-up, bed clothes, furniture coverings made of textiles and washing mitts" in Class 24 of the [Nice Classification](#).

The registrar rejected the application, finding that the mark was confusingly similar, from a visual and phonetic point of view, to the trademark COLON (and design), which is registered for "shoes, sports shoes and slippers" in Class 25. Coolon appealed to the Board of Trademarks, claiming that the trademark applied for was not confusingly similar to the registered mark.

The board compared the marks from a visual and phonetic point of view, and found that both marks consisted of a two-syllable word beginning in 'co' and ending in 'lon'. The only difference was the addition of the letter 'O' in the middle of Coolon's mark. The board admitted that the registered mark included a device, but found that the pronunciation of the marks was similar (ie, the mark applied for is pronounced 'coo-lon', while the registered trademark is pronounced 'co-lon'). Coolon's mark was thus similar to the registered trademark.

However, the board pointed out that the marks fell within different classes and covered goods of a different nature. Therefore, it was unlikely that the public would be confused as to the ownership of the marks or the origin of the goods under Sections 6 and 13 of the [Trademark Act](#) (BE 2534). Consequently, the board reversed the registrar's decision and allowed COOLON to proceed to registration.

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