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## Revised Trademark Examination Manual: key points highlighted

Thailand - [Tilleke & Gibbins](#)

- **The DIP has unveiled the first draft of the updated Trademark Examination Manual in a webinar attended by trademark owners and practitioners**
- **The new draft manual seeks to increase consistency in the examination of trademark applications**
- **The draft sets five levels of distinctiveness from highest to lowest**

### Background

The Trademark Office of Thailand's Department of Intellectual Property (DIP) is making significant, concrete progress in revising the trademark registrar's Trademark Examination Manual, with the aim of bringing Thailand's trademark examination standards into alignment with international standards for trademark examination.

This comes on the heels of the DIP's recent efforts to improve examination standards for patent applications by revising the form for patent office actions to include sufficient reasoning and clarifying details on each instruction (the DIP is also currently working to resolve the lengthy backlog in patent examination and registration by increasing the number of examiners and proposing amendments to patent and design law).

### New draft manual

On 28 January 2021 the DIP unveiled the first draft of the updated Trademark Examination Manual in a webinar attended by trademark lawyers, practitioners and trademark owners. The new draft manual seeks to create increased consistency through the establishment of clear and fair criteria to be used in examining trademark applications.

The proposed revisions are based on the study of trademark laws and subordinate legislation, decisions of the Board of Trademarks, judgments from Thailand's Central Intellectual Property and International Trade Court, and previous problems that have arisen in the course of examination.

### Key proposals

Some of the most interesting draft revisions are summarised below.

- When determining the distinctiveness of a mark, there are five levels of distinctiveness (from highest to lowest): fanciful, arbitrary, suggestive, descriptive and generic.
- A mark consisting of geometric shapes or general designs (eg, infinite or repeated textile patterns) will not be registrable.
- There are clearer criteria for registering marks consisting of the names of individuals, the full names of juristic persons and trade names.
- In determining whether a mark is a geographical name, the mark will be considered based on the knowledge and perception of Thai society.
- The distinctiveness of a mark consisting wholly or partially of words without meaning will be determined based on the following criteria:
  - Marks that are descriptive of goods or services or geographical names, even if presented in a fanciful manner, will not be considered as invented marks.
  - Word marks that are intentionally misspelt, but retain the same pronunciation as the original word, will not be considered as invented marks if the original word is descriptive of the goods or services to which the mark is connected.
  - Word marks that combine two or more words with meaning, and whose meaning is considered descriptive of the relevant goods or services, will not be considered as invented marks.
  - Word marks that combine a group of letters and non-distinctive words will not be considered as invented marks (eg, BWHITE).
  - Chinese word marks in which each syllable read separately has a meaning, but the syllables read together do not have a meaning, are considered as invented marks.

### Next steps

It is anticipated that the DIP will disclose the full contents of the examination manual in the coming weeks in order to allow the public to comment on the proposed changes. The full draft is likely to contain further details concerning the examination criteria, including other notable rules that were not mentioned above.

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TAGS

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