



**International Trademark Association**  
*Representing the Trademark Community since 1878*

*Via Electronic Mail*

June 23, 2006

Lynne G. Beresford, Esq.  
Commissioner for Trademarks  
United States Patent and Trademark Office  
Madison East – 10<sup>th</sup> Floor, Room A-79  
600 Dulany Street  
Alexandria, Virginia 22314

Re: Use of Wikipedia.com in Trademark Examination

Dear Commissioner Beresford:

It has come to the attention of the International Trademark Association (INTA) that Trademark Examining Attorneys are citing information contained in the website Wikipedia.com as the basis for refusing registration of marks. This is of great concern to trademark owners, since anyone can alter the content of Wikipedia at any time, casting doubt on the validity of the information contained therein. We respectfully request that your office establish an unambiguous policy that would prohibit the use and citation of Wikipedia and similar sites by Examining Attorneys.

We invite you to review the prominent disclaimers on the Wikipedia site, which clearly bring into question the trustworthiness of its information. For example, the site warns that it “cannot guarantee the validity of the information” it provides<sup>1</sup> and “that nothing found ... has necessarily been reviewed by professionals with the expertise required to provide you [the visitor] with complete, accurate or reliable information.”<sup>2</sup> “All information read [on Wikipedia] is without any implied warranty of fitness for any purpose or use whatsoever,”<sup>3</sup> and “MAY BE INACCURATE, MISLEADING, DANGEROUS, MISSPELLED OR ILLEGAL.”<sup>4</sup> This content appears to be electronic-only with no original or corresponding hard copy print version that would aid in corroboration of source, and no formal peer review of the submitted information takes place.

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<sup>1</sup> [http://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer).

<sup>2</sup> *Id.*

<sup>3</sup> [http://en.wikipedia.org/wiki/Wikipedia:Risk\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:Risk_disclaimer).

<sup>4</sup> *Id.*

Because of the limitations and disclaimers on Wikipedia, the Court of Federal Claims, acting in a non-trademark case, recently sharply criticized the site as an evidentiary source, finding that it was not “remotely” reliable, as demonstrated by its “pervasive ... and disturbing series of disclaimers.”<sup>5</sup> Rulings by the Trademark Trial and Appeal Board also cast doubt upon the value of, and weight, if any, that should be afforded, Wikipedia.com content. For example, the Board has refused to take judicial notice of definitions from dictionaries that are only available on-line because “the dictionary’s source is unknown.”<sup>6</sup>

Uncorroborated information obtained from Wikipedia.com and similar collaborative sites that allow anyone freely to edit their content should not be permitted in the record or to form the basis, either in whole or in part, of a refusal to register. Accordingly, we believe that a new policy must be put in place, one that builds on the Office’s existing policy concerning use of Internet evidence by Examining Attorneys, TMEP § 710.01(b), but goes further by specifically addressing the use of downloaded evidence from sites that, by their own admission, contain unreliable information.

We sincerely appreciate your attention to this matter.

Sincerely,



Paul W. Reidl  
President

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<sup>5</sup> Campbell v. Secretary of Health & Human Services, 69 Fed.Cl. 775, 781 (Ct. Cl. 2006).

<sup>6</sup> In re Total Quality Group, Inc., 51 U.S.P.Q.2d 1474 (T.T.A.B. 1999).