



Department of Defense

DIRECTIVE

NUMBER 5535.09
December 19, 2007

ASD(PA)

SUBJECT: DoD Branding and Trademark Licensing Program

- References:**
- (a) DoD Directive 5122.5, "Assistant Secretary of Defense for Public Affairs (ASD(PA))," September 27, 2000
 - (b) Sections 138(c) and 2260 of title 10, United States Code
 - (c) Sections 1051 through 1127 of title 15, United States Code
 - (d) Acting Deputy Secretary of Defense Memorandum, "Trademark Licensing Implementation," June 27, 2005 (hereby cancelled)

1. PURPOSE

Consistent with the guidance in Reference (a), this Directive:

1.1. Establishes policy and assigns responsibilities under the authorities in section 2260 of Reference (b) and Reference (c).

1.2. Supersedes Reference (d).

1.3. Provides guidance for implementing and/or maintaining programs to license marks (as defined below) owned or controlled by the Department of Defense, including the Military Departments, as authorized and/or directed by section 2260 of Reference (b) and Reference (c).

2. APPLICABILITY AND SCOPE

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Working Capital Fund Activities, DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Departments" as used herein, refers to the Department of the Army, the Department of the Navy (including the Marine Corps and the Coast Guard when it is operating as a Service in the Department of the Navy), and the Department of the Air Force, including the Active and Reserve Components.

3. DEFINITIONS

3.1. Marks. This term includes any trademark, service mark, certification mark, or collective mark owned or controlled by a DoD Component. All such marks have meanings assigned to them in accordance with section 1127 of Reference (c).

3.2. Branding. A program or process of creating awareness, public goodwill, and a positive image for the Department of Defense and its Components through the marketing and promotion of its marks.

3.3. Licensee. As used in this Directive, this term shall include any person, company, or organization whose use of a mark is controlled by a DoD Component with respect to the nature and quality of goods or services on or in connection with which the mark is used.

3.4. Trademark Licensing Program. A program to license any mark under the authority granted in this Directive, section 2260 of Reference (b), and Reference (c). Marks need not be registered under the Trademark Act (Reference (c)) to be licensed pursuant to the terms of this Directive.

3.5. Licensing Agent. As used in this Directive, this term shall include any person, company, or organization that serves as an agent of a DoD Component for the purpose of assisting that DoD Component in securing licensees, collecting royalty fees, and/or other operational functions that deal with the DoD Component's trademark licensing program.

3.6. Office of the Secretary of Defense (OSD) Agencies. As used in this Directive, this term includes the DoD Working Capital Fund Activities, DoD Field Activities, and all other DoD Components, excluding the Military Departments.

4. POLICY

It is DoD policy:

4.1. Consistent with section 2260 of Reference (b) and Reference (c), to establish and maintain a program to license marks owned or controlled by all DoD Components and to register and protect marks owned by OSD Agencies.

4.2. To implement the program objectives set forth in this Directive.

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Public Affairs (ASD(PA)), in accordance with section 138(c) of Reference (b), is delegated the authority to perform the tasks and duties assigned in this Directive and shall:

5.1.1. Serve as the DoD proponent for the DoD Branding and Trademark Licensing Program.

5.1.2. Establish a branding and trademark licensing office to manage and coordinate a DoD-wide brand development and trademark licensing program, as authorized under section 2260 of Reference (b) and Reference (c). This office may be established as a non-appropriated fund entity.

5.1.3. Establish and implement program objectives, which shall include, but not be limited to:

5.1.3.1. Enhancing the name, reputation and public goodwill of the DoD Components through a broad brand promotion and licensing program that provides quality branded products and services at reasonable prices.

5.1.3.2. Supporting the recruiting and retention efforts of the Military Departments.

5.1.3.3. Supporting the civilian recruiting and retention efforts of all DoD Components.

5.1.3.4. Increasing the availability of all licensed products and services bearing DoD Component marks sold both through military outlets and through stores serving the public.

5.1.3.5. Easing the administrative burden on the DoD Components and prospective licensees by ensuring there is coordination between DoD Components operating a brand promotion and trademark licensing program. This shall include, where practical, the setting of uniform licensing requirements, royalty rates, and product quality control standards.

5.1.3.6. Generating licensing revenues, thus reducing or eliminating the program's cost to the government.

5.1.3.7. Providing financial support to morale, welfare, and recreation activities of the OSD Agencies and the Military Departments.

5.1.3.8. Strengthening the marks of the DoD Components through licensing and by expanding the number of registered trademarks they own both in the United States and abroad.

5.1.3.9. Preventing infringement of marks.

5.1.4. Issue such Instructions, policy guidance, and reporting requirements to the DoD Components regarding the licensing of marks and the operating of a branding and trademark licensing program as are necessary to implement the program and carry out the policies and objectives set forth in this Directive.

5.1.5. Establish and operate a program for the registration, licensing, and brand development of marks owned by the OSD Agencies as authorized under Reference (c). This shall include providing support and guidance in the areas of trademark registration and brand development to those OSD Agencies.

5.1.6. Provide training and assistance to all DoD Components on the operation of a branding and trademark licensing program and on meeting the requirements set forth in this Directive.

5.1.7. Define the terms “cost of securing trademark registrations” and “costs of operating the licensing program,” as the terms are used in section 2260 of Reference (b).

5.1.8. Set policy for determining when fees from trademark licensing programs exceed the total amount needed to cover the costs of operating the licensing program for a fiscal year, and to the extent required under section 2260(c)(2) of Reference (b), how excess fees shall be used to fund morale, welfare, and recreation activities.

5.1.9. Establish, in coordination with the Under Secretary of Defense (Comptroller), financial procedures and accounting guidance regarding the collection and disbursement of funds received from the licensing of marks. This shall include, but not be limited to:

5.1.9.1. Setting policy regulating how licensing agents and licensees shall receive, hold, and report trademark licensing fees.

5.1.9.2. Setting policy regulating to the manner in which the Military Departments shall receive, hold, and account for trademark licensing revenues.

5.2. The Secretaries of the Military Departments operating trademark licensing programs shall issue additional guidance, as needed, for the operation of such programs within the organization. The program documents shall be developed in coordination with the ASD(PA) to ensure they are in compliance with DoD policy.

5.2.1. If a Military Department is affected by an exercise of authority under section 5.1. with respect to fees or expenses and believes that such exercise of authority is either inconsistent with section 2260 of Reference (b) or contrary to the sound operation of the DoD Branding and Trademark Licensing Program, the Secretary of that Military Department may bring its concern to the attention of the ASD(PA).

5.2.2. If the Secretary believes that the concern is not adequately addressed by the ASD(PA), it can be brought to the Deputy Secretary of Defense for consideration and resolution.

6. RELEASABILITY. UNLIMITED. This Directive is approved for public release. Copies may be obtained through the Internet from the DoD Issuances Web Site at <http://www.dtic.mil/whs/directives>.

7. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in black ink that reads "Gordon England". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Gordon England