

**VOLUME 12, CHAPTER 31: “DOD BRANDING AND TRADEMARK LICENSING PROGRAM”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **July 2011** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
310102	Added an “Authoritative Guidance” paragraph to allow for easier source identification, and to better align the chapter with standard operating procedures.	Addition
3102	Added a “Definitions” section to add clarity to frequently used terms seen throughout the chapter.	Addition
310302.C	Revised the paragraph to include directions to Department of Defense Components regarding the depositing of trademark licensing fees received into the appropriate U.S. Department of the Treasury account.	Revision
Policy Memo	Incorporated applicable guidance from the Deputy Chief Financial Officer policy memorandum, “Treasury Account Symbols for Licensing of Intellectual Property and Recycling Activities (FPM19-11),” dated August 30, 2019 into this chapter.	Notification

Table of Contents

VOLUME 12, CHAPTER 31: “DOD BRANDING AND TRADEMARK LICENSING PROGRAM” ..... 1

3101 GENERAL ..... 3

    310101. Purpose ..... 3

    \*310102. Authoritative Guidance ..... 3

\*3102 DEFINITIONS ..... 3

    310201. Branding ..... 3

    310202. Certification Mark ..... 3

    310203. Collective Mark ..... 4

    310204. Licensee ..... 4

    310205. Licensing Agent ..... 4

    310206. Service Mark ..... 4

    310207. Trademark ..... 4

3103 RESPONSIBILITIES ..... 5

    310301. Assistant Secretary of Defense for Public Affairs ..... 5

    310302. DoD Components ..... 5

3104 ACCOUNTING AND REPORTING ..... 6

    310401. Accounting ..... 6

    310402. Reporting ..... 6

## CHAPTER 31

**DOD BRANDING AND TRADEMARK LICENSING PROGRAM**

## 3101 GENERAL

## 310101. Purpose

This chapter **promulgates** policy used to account for fees received by the Department of Defense (DoD) from the licensing of trademarks, service marks, certification marks and collective marks. **It establishes** guidance that is applicable to the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the **Geographic** Combatant Commands, the Office of the Inspector General of DoD, the Defense Agencies, the DoD Working Capital Fund Activities, the DoD Field Activities, and all other organizational entities in DoD (hereinafter referred to as DoD Components).

## \*310102. Authoritative Guidance

The financial management policy and related requirements prescribed by this chapter are in accordance with the applicable provisions of:

- A. Title 10, United States Code, section 2260 (**10 U.S.C. § 2260**), “Licensing of intellectual property: retention of fees”;
- B. **15 U.S.C. § 1127**, “Construction and definitions; intent of chapter”;
- C. DoD Directive (**DoDD) 5122.05**, “Assistant Secretary of Defense for Public Affairs (ASD(PA))”;
- D. **DoDD 5535.09**, “DoD Branding and Trademark Licensing Program”;
- E. **DoD Instruction 5535.12**, “DoD Branding and Trademark Licensing Program Implementation.”

## \*3102 DEFINITIONS

## 310201. Branding

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

## 310202. Certification Mark

The term “certification mark” means any word, name, symbol, or device, or any combination thereof –

A. Used by a person other than its owner, or

B. Which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register established in 15 U.S.C. § 1127.

310203. Collective Mark

The term “collective mark” means a trademark or service mark –

A. Used by the members of a cooperative, an association, or other collective group or organization, or

B. Which such cooperative, association, or other collective group or organization has a bona fide need to use in commerce and applies to register on the principal register established in 15 U.S.C. § 1127.

310204. Licensee

As used in DoDD 5535.09, this term must 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.

310205. Licensing Agent

As used in DoD 5535.09, this term must 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.

310206. Service Mark

The term “service mark” means any word, name, symbol, or device, or any combination thereof –

A. Used by a person, or

B. Which a person has a bona fide intention to use in commerce and applies to register on the principal register established in 15 U.S.C. § 1127.

310207. Trademark

The term “trademark” includes any word, name, symbol, or device, or any combination thereof –

A. Used by a person, or

B. Which a person has a bona fide intention to use in commerce and applies to register on the principal register established in 15 U.S.C. § 1127.

### 3103 RESPONSIBILITIES

#### 310301. Assistant Secretary of Defense for Public Affairs

The ASD(PA), in accordance with DoDD 5122.05, is the proponent agency for the DoD Branding and Trademark Licensing Program (BTLTP) and has overall responsibility for the operation of the program, defining program costs and establishing procedures to ensure the proper use of program funds.

#### 310302. DoD Components

The DoD Components operating a trademark licensing program under the provisions of 10°U.S.C. § 2260 and DoDD 5535.09 are responsible for ensuring that:

A. A single individual or office is designated within the DoD Component to review and approve all requests for the use of funds deposited into the Component's **designated U.S. Department of the Treasury (Treasury) Account**. The designated individual or office **must** be responsible for ensuring that all funds are used only for authorized purposes. To ensure an independent review of the request, no individual or office may both request and approve the use of such funds. The appointment of this person or office **must** be done in writing in the form of an appointment order or similar document. A copy of the appointment **must** be provided to the DoD Component's supporting representative at the Defense Finance and Accounting Service and to the Manager, DoD BTLTP. A record of all requests for the **use** of funds and the action taken **must** be retained in accordance with Volume 1, Chapter 9.

B. There is a complete and accurate accounting for all trademark licensing fees received.

\* C. All **trademark licensing** fees received by DoD Components are promptly deposited and recorded in the **United States Standard General Ledger account 426600, which provides direct budget authority on line 1800 of the Standard Form (SF) 132, Apportionment and Reapportionment Schedule, and SF 133, Report on Budget Execution and Budgetary Resources. DoD Components must obligate and disburse from the designated Treasury Account Symbol only for the purposes specifically authorized in 10 U.S.C § 2260. The use of suspense accounts is prohibited and any remaining balances must be transferred to the designated Treasury account. Guidance on processing collections can be found in Volume 5, Chapter 8.**

D. Fees collected are only used for payment of costs incurred in securing trademark registrations and operating the licensing program; and for support of **Morale, Welfare, and Recreation (MWR)** activities when fees available for a fiscal year exceed the amount needed for payment of such costs.

## 3104 ACCOUNTING AND REPORTING

## 310401. Accounting

A. Fees received in a fiscal year **must** remain available for obligation in such fiscal year and the following two fiscal years.

B. The excess of licensing fees collected over annual costs may be expended to support **MWR** activities. The law does not require that the excess be obligated in the fiscal year collected. The excess may be used in the two following fiscal years to offset those fiscal year costs of the licensing program or may be expended in support of the DoD Component's MWR activities.

C. Funds not obligated or made available to **MWR** activities before September 30 of the second fiscal year following the year collected **must** be reallocated (transferred) to R3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified."

D. Additional accounting codes may be used to separately track unobligated funds carried forward from the fiscal year of collection through the following two fiscal years.

E. Each DoD Component **must** ensure that all royalty reports received from licensees and/or licensing agents are promptly reviewed and any questions resolved. Copies of royalty reports **must** be retained in accordance with Volume 1, Chapter 9.

## 310402. Reporting

Each DoD Component operating a trademark licensing program **must** provide the Manager, DoD **BTLP**, with the following financial reports. The Manager, **BTLP**, may issue guidance prescribing the required format of the reports and the specific information to be provided.

A. Quarterly Reports. The following quarterly reports **must** be forwarded to the Manager, DoD **BTLP**, within 30 days following the end of each calendar quarter.

1. Income and Expense Report. The Income and Expense Report **must** show the total fees received from trademark licensing during the preceding calendar quarter. It should also show the total costs paid for securing trademark registrations and the total costs paid for operating the trademark licensing program.

2. Other Reports. The Manager, DoD **BTLP** may require other quarterly reports as the Manager deems necessary to assure compliance with **DoDD** 5535.09.

B. Annual Reports. The following annual reports **must** be forward to the Manager, DoD **BTLP**, within 45 days following the end of the fiscal year.

1. Trademark Account Fund Aging Report. The Trademark Account Fund Aging Report **must** show, in detail, the age of all funds currently in the DoD Component's Treasury Account for Trademark Licensing and the date on which those funds will expire.

2. MWR Funding Report. The MWR Funding Report **must** show all funds transferred during the preceding fiscal year to an MWR activity under the control of the Secretary concerned. If more than one MWR activity received funding, the report **must** identify each activity and the amount it received. If more than one trademark licensing program is operated by a DoD Component, separate reports must be issued for each program.

3. Other Reports. The Manager, DoD BTLP may require other annual reports as the Manager deems necessary to ensure compliance with DoDD 5535.09.