

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

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also 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 [November 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
1.2	Added Title 15, U.S. Code Section 1051-1072 “The Principal Register” to the authoritative guidance source list.	Addition
2.0	Added full definitions from authoritative guidance for terms with summarized definitions. Clarified language for several terms and updated guidance references.	Addition
3.1	Updated authoritative guidance reference and added clarifying language.	Revision
4.1	Added clarifying language for the Treasury Account Symbol.	Addition

Table of Contents

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

1.0 GENERAL..... 3

 1.1 Purpose..... 3

 *1.2 Authoritative Guidance..... 3

*2.0 DEFINITIONS 3

 2.1 Branding..... 3

 2.2 Certification Mark..... 4

 2.3 Collective Mark..... 4

 2.4 Licensee..... 4

 2.5 Licensing Agent 4

 2.6 Service Mark 5

 2.7 Trademark 5

3.0 RESPONSIBILITIES 5

 *3.1 Assistant Secretary of Defense for Public Affairs 5

 3.2 DoD Components..... 5

4.0 ACCOUNTING AND REPORTING..... 6

 *4.1 Accounting..... 6

 4.2 Reporting..... 7

CHAPTER 31

DOD BRANDING AND TRADEMARK LICENSING PROGRAM

1.0 GENERAL

1.1 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).

*1.2 Authoritative Guidance

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

1.2.1. Title 10, United States Code, section 2260 ([10 U.S.C. § 2260](#)), “Licensing of intellectual property: retention of fees”;

1.2.2. [15 U.S.C. § 1127](#), “Construction and definitions; intent of chapter”;

1.2.3. [15 U.S.C. § 1051-1072](#), “The Principal Register”;

1.2.4. DoD Directive ([DoDD](#)) [5122.05](#), “Assistant to the Secretary of Defense for Public Affairs (ATSD(PA))”;

1.2.5. [DoDD 5535.09](#), “DoD Branding and Trademark Licensing Program”; and

1.2.6. DoD Instruction ([DoDI](#)) [5535.12](#), “DoD Branding and Trademark Licensing Program Implementation.”

*2.0 DEFINITIONS

2.1 Branding

The term “branding” includes 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.

2.2 Certification Mark

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

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

2.2.2. Which its owner has a bona fide intention to permit a person other than the owner to use in commerce ([use of a mark in the ordinary course of trade](#)) and files an application to register on the principal register established in [15 U.S.C. § 1051-1072](#), to [certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization](#).

2.3 Collective Mark

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

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

2.3.2. 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. § 1051-1072](#), and [includes marks indicating membership in a union, an association, or other organization](#).

2.4 Licensee

As used in DoDD 5535.09, [the term “licensee”](#) 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.

2.5 Licensing Agent

As used in DoD 5535.09, [the term “licensing agent”](#) 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.

2.6 Service Mark

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

2.6.1. Used by a person, or

2.6.2. 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. § 1051-1072](#), to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

2.7 Trademark

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

2.7.1. Used by a person, or

2.7.2. 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. § 1051-1072](#), to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.

3.0 RESPONSIBILITIES

*3.1 Assistant Secretary of Defense for Public Affairs

The ASD(PA), in accordance with DoDD [5535.09](#), is the proponent agency for the DoD Branding and Trademark Licensing Program (BTLTP) and has overall responsibility for the operation of the program, [providing training](#), defining program costs, and establishing procedures to ensure the proper use of program funds.

3.2 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:

3.2.1. 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 BTLF. A record of all requests for the use of funds and the action taken must be retained in accordance with Volume 1, Chapter 9.

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

3.2.3. 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.

3.2.4. 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.

4.0 ACCOUNTING AND REPORTING

*4.1 Accounting

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

4.1.2. 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.

4.1.3. 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 [Treasury Account Symbol](#) R3210, "General Fund Proprietary Receipts, Defense Military, Not Otherwise Classified."

4.1.4. Additional [Treasury Account Symbols](#) may be used to separately track unobligated funds carried forward from the fiscal year of collection through the following two fiscal years.

4.1.5. 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.

4.2 Reporting

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

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

4.2.1.1. 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.

4.2.1.2. Other Quarterly Reports. The Manager, DoD BTLT may require other quarterly reports as the Manager deems necessary to assure compliance with DoDD 5535.09.

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

4.2.2.1. 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.

4.2.2.2. 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.

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