



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 5870.7
ONR BDCC
1 September 2011

SECNAV INSTRUCTION 5870.7

From: Secretary of the Navy

Subj: DEPARTMENT OF THE NAVY TRADEMARK AND LICENSING PROGRAM

Ref: (a) 15 U.S.C. § 1051, et. seq.
(b) 10 U.S.C. § 5022
(c) SECNAVINST 5430.7Q
(d) 10 U.S.C. § 7881
(e) 32 CFR 765.14
(f) SECNAVINST 5030.7
(g) MCO 5030.3B
(h) 10 U.S.C. § 2260
(i) DoD Directive 5535.09 of 19 Dec 2007
(j) DoD 7000.14-R-12, Financial Management Regulation, October 2010
(k) OASD(PA) memo of 24 Jul 2008 (NOTAL)

1. Purpose. To establish a Department of the Navy (DON) trademark and licensing program and policy, through program offices in the Office of Naval Research (ONR) and the Office of the Commandant of the Marine Corps (CMC), for the establishment, registration, use, enforcement, and licensing of Navy and United States Marine Corps (USMC) indicators and trademarks.

2. Scope and Applicability. The provisions of this instruction are applicable throughout DON.

3. Background. The indicators and trademarks of DON represent time-honored qualities of service to the nation and are invested with goodwill deserving of protection. The protection and licensing of the Navy and USMC indicators and trademarks can foster goodwill, further promote the positive image and reputation of the Navy and the USMC, and assist with recruiting and retention efforts.

4. Authorities. Reference (a) governs the registration and use of trademarks, service marks, certification marks, collective marks, and collective membership marks. References (b) and (c) assign to the Chief of Naval Research (CNR) the responsibility

for supervising, administering and controlling activities within or for DON related to patents, inventions, trademarks, copyrights and royalty payments, and matters connected therewith. By references (d) through (g), the CMC has authority to license parties to use the USMC name, initials, and Eagle, Globe and Anchor emblem. Reference (h) authorizes the Secretary of the Navy (SECNAV) to license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary, and to retain and expend fees received from such licensing for management of a trademark registration and licensing program, and for morale, welfare, and recreation (MWR) activities. References (i) through (k) define the current structure within the Department of Defense (DoD) and DON for the collection, deposit, and handling of funds received from trademark licenses.

5. Definitions. For purposes of this instruction, the following definitions apply:

a. Indicator. Any and all words, symbols, logos, patches, colors, sounds, seals, emblems, domain names, names of battles, names of ships, aircraft, and other platforms, systems, and technologies, and other officially adopted visual and or oral displays in use or intended to be used, by DON. The term "indicator" includes, but is not limited to, any DON registered or common law trademark.

b. Trademark. Trademarks, service marks, certification marks, collective marks, or collective membership marks, as those terms are defined by reference (a), and includes both registered and common law trademarks.

c. DON Indicators. All DON indicators and trademarks.

d. Navy Indicators. All DON indicators and trademarks, excluding "USMC indicators."

e. USMC Indicators. All indicators and trademarks referring to, relating to, or controlled by the USMC or any USMC activities.

f. Roster. A set of business records maintained by DON listing all authorized indicators and trademarks.

g. License. "License," "licensing," and terms to similar effect, mean and include, without limitation, all licenses, permissions, authorizations, grants, approvals, and the like, to use DON indicators, regardless of whether or not a royalty payment is associated with the license and or regardless of whether the license pertains to a one-time use of a DON indicator or an ongoing use.

6. Policy

a. Identification of Indicators and Trademarks. All DON indicators in use are to be identified and recorded in a roster.

b. Federal Registration. All DON indicators in use or intended to be used should be federally registered to the fullest extent practicable, in keeping with the image and reputation of DON and the strategic objectives of the trademark and licensing program.

c. Designation of Trademarks. Reference (h) authorizes the Secretaries of the Military Departments to designate the trademarks, service marks, certification marks and collective marks which the Secretary concerned will retain and expend licensing fees. All trademarks, service marks, certification marks and collective marks used now and in the future by DON, its licensees, or its related companies are hereby designated as marks for which fees from licensing may be retained and expended under reference (h).

d. Licensing. DON indicators are licensed to control their use by non-DON entities, to strengthen, protect, and extend DON's rights in these indicators and trademarks, to enhance the image and reputation of DON, and to generate revenue for the trademark program and MWR activities consistent with reference (h).

e. Enforcement. Rights in DON indicators are to be vigorously enforced, in coordination with the Department of Justice as appropriate, to preserve and protect the image and intellectual property interests of DON.

7. Authority and Responsibilities

a. CNR

(1) Pursuant to references (b) and (c), which assign to the CNR responsibility for supervising, administering and controlling activities within or for DON related to patents, inventions, trademarks, copyrights and royalty payments, and matters connected therewith, the CNR shall lead a DON trademark and licensing program, with separate program offices located in the ONR and the Office of the CMC.

(2) The CNR is responsible for and shall establish within ONR a Navy trademark and licensing program office (NTLPO) for the supervision, administration, and control of trademark activities within or for the United States Navy and all other activities within DON that are not within the USMC, relating to the identification, registration, licensing, and enforcement of rights in Navy indicators, and matters associated or connected therewith.

(3) The CNR has the following authorities:

(a) Authority to supervise, administer, and control activities within or for DON related to DON indicators, and matters associated or connected therewith.

(b) Authority to establish policies for establishing, registering, monitoring, enforcing, and licensing DON indicators, policies to avoid the use and or copying of existing or confusingly similar trademarks of others, and policies to respond to objections from others regarding Navy indicators, and matters associated or connected therewith.

(c) Authority to establish Navy indicators. ONR shall establish and maintain an overall roster of DON indicators.

(d) Authority to file and prosecute trademark applications for registration of DON indicators in the name of the DON.

(e) Authority to file post-registration documents in connection with trademark registrations owned by the DON, including declarations of continued use under section 1058 of reference (a), affidavits of incontestability under section 1065 of reference (a), applications for renewal under section 1059 of reference (a), post-registration amendments under section 1057 of reference (a), and any documents assigning or surrendering a trademark registration.

(f) Authority to review, negotiate, and execute licenses to use DON indicators in which the DON has an interest either by way of title or license. All licenses and grants of permission shall be for a defined term and include a start and end-date. The use of non-exclusive licenses is the preferred business method and exclusive licenses shall be granted only under special circumstances. ONR shall be responsible for administering all licensing agreements and grants of permission executed under its cognizance.

(g) Authority to retain licensing revenue and expend such revenues pursuant to reference (h) and following the fiscal requirements set by DoD and DON. All licensing royalty payments will be processed per the procedures in references (i) through (k), or following any superseding regulation, directive, instruction, or other guidance.

(h) Authority to require reports from the Marine Corps Trademark Licensing Program Office (MCTLPO) necessary to enable the CNR to discharge the duties and responsibilities set forth in references (b) and (c); to submit to the Office of the Assistant Secretary of Defense for Public Affairs (OASD(PA)), Community Relations Directorate which manages the DoD Branding and Trademark Licensing Program (BTLP), the quarterly and annual reports required by reference (j) and or any superseding regulation, directive, instruction, or other guidance; and to enable the CNR to provide reports to SECNAV regarding DON licensing activities, royalties, revenues, and expenditures.

(4) Authorities and responsibilities that are delineated to the CNR in this instruction are not exhaustive and shall not impinge or otherwise alter or affect other authorities or responsibilities of the CNR per references (b) and (c) and other applicable law, regulation, directive, or instruction.

b. CMC

(1) The CMC has established and is responsible for the MCTLPO for the supervision, administration, and control of activities within or for the USMC relating to the identification, registration, licensing, and enforcement of rights in USMC indicators. The CMC shall have authority to supervise, administer, and control the activities within or for the USMC and, therefore, the MCTLPO related to USMC indicators and trademarks, and matters associated or connected therewith, consistent with policy established by CNR under references (b) and (c).

(2) The CMC has the following authorities consistent with policy established by CNR under references (b) and (c):

(a) Authority to supervise, administer, and control the activities within or for DON related to USMC indicators, and matters associated or connected therewith.

(b) Authority to establish policies for establishing, registering, monitoring, enforcing, and licensing USMC indicators, policies to avoid the use and or copying of existing or confusingly similar trademarks of others, and policies to respond to objections from others regarding USMC indicators, and matters associated or connected therewith.

(c) Authority to establish USMC indicators. The CMC shall establish and maintain an overall roster of USMC indicators, which shall be part of the overall roster of DON indicators.

(d) Authority to file and prosecute trademark applications for registration of USMC indicators in the name of the USMC, a component of the DON.

(e) Authority to file post-registration documents in connection with trademark registrations for USMC indicators in connection with trademark registrations owned by the USMC, a component of the DON, including declarations of continued use under section 1058 of reference (a), affidavits of incontestability under section 1065 of reference (a),

applications for renewal under section 1059 of reference (a), post-registration amendments under section 1057 of reference (a), and any documents assigning or surrendering a trademark registration.

(f) Authority to review, negotiate, and execute licenses to use USMC indicators in which the USMC, a component of the DON, has an interest either by way of title or license; all licenses and grants of permission shall be for a defined term and include a start and end-date. The use of non-exclusive licenses is the preferred business method and exclusive licenses shall be granted only under special circumstances. The CMC shall be responsible for administering all licensing agreements and grants of permission executed under its cognizance.

(g) Authority to retain licensing revenue and expend such revenues pursuant to reference (h) and following fiscal requirements. All licensing royalty payments will be processed per the procedures in references (i) through (k), or following any superseding regulation, directive, instruction, or other guidance.

(3) Authorities and responsibilities that are delineated to the CMC in this instruction are not exhaustive and shall not impinge or otherwise alter or affect other authorities or responsibilities of the CMC per references (e) and (f) and other applicable law, regulation, directive, or instruction.

c. All DON Activities. Advise NTLPO or MCTLPO, as appropriate, of all DON indicators that they are using or have a bona fide intent to use, and or they desire to license for use by others. NTLPO or the MCTLPO, as appropriate, will be responsible for the registration and licensing matters pertaining to Navy indicators and USMC indicators, respectively.

d. NTLPO

(1) Establish and maintain rosters of all Navy indicators, whether registered or not. These rosters will include complete records of all licenses and permissions granted for the use of these indicators and marks.

(2) Subject to the availability of resources, register and maintain Navy indicators to the extent practicable, in keeping with the image and reputation of DON and the strategic objectives of the trademark and licensing program.

(3) Identify the Navy indicators that are to be made available for licensing on a royalty-bearing basis.

(4) Assume responsibility for receiving and reviewing applications for trademark licenses, enforcement of Navy indicators (including the institution and conduct of all adversarial proceedings), negotiating terms of licensing agreements, making determinations that particular licensing agreements are in the best interests of the Navy, signing licensing agreements on behalf of the Navy, issuing permission letters where complete license agreements are unwarranted, administering executed licenses and permissions, and renewing or terminating the same as appropriate.

(5) License Navy indicators in a manner that enhances the image and reputation of the Navy, expands, strengthens, and protects the Navy's trademark rights, extends and enhances the Navy brand, stimulates recruiting and retention, and generates a reasonable royalty that will cover the operating costs of the Navy trademark licensing program, and secondarily to these goals, license Navy indicators in a manner that will provide financial support to MWR activities.

(6) Maintain database records of license and permission requests, and dispositions thereof, for all Navy indicators.

(7) Maintain database records of the historical and cumulative cost of the Navy program up to and including the current reporting period.

(8) Collect and expend trademark license royalties for DON—excluding royalties arising from licensing of USMC indicators by MCTLPO per reference (h). The total cost to ONR to administer the NTLPO, including, but not limited to, costs for civilian personnel, contractor support, registering and maintaining trademarks, licensing, monitoring, enforcement, acquiring and or registering domain names, and professional training and development, may be charged to the licensing

revenues collected. Revenues in excess of program operating costs may be retained for MWR activities. To facilitate accounting of NTLPO expenses, the NTLPO shall retain records of expenses and other program costs sufficient for review and audit.

(9) Submit to OASD(PA) Community Relations Directorate, manager of the BTLP, on behalf of DON, the quarterly and annual reports required by reference (j) and or any superseding regulation, directive, instruction, or other guidance.

e. MCTLPO

(1) Establish and maintain rosters of all USMC indicators, whether registered or not. These rosters will include complete records of all licenses and permissions granted for the use of these indicators and marks.

(2) Subject to the availability of resources, register and maintain USMC indicators to the extent practicable, in keeping with the image and reputation of DON and the strategic objectives of the trademark and licensing program.

(3) Identify the USMC indicators that are to be made available for licensing on a royalty-bearing basis.

(4) Assume responsibility for receiving and reviewing applications for trademark licenses, enforcement of USMC indicators (including the institution and conduct of all adversarial proceedings), negotiating terms of licensing agreements, making determinations that particular licensing agreements are in the best interests of the USMC, signing licensing agreements on behalf of the USMC, issuing permission letters where complete license agreements are unwarranted, administering executed licenses and permissions, and renewing or terminating the same as appropriate.

(5) License USMC indicators in a manner that enhances the image and reputation of the USMC, expands, strengthens, and protects the USMC trademark rights, extends and enhances the USMC brand, stimulates recruiting and retention, and generates a reasonable royalty that will cover the operating costs of the

USMC trademark licensing program, and secondarily to these goals, license USMC indicators in a manner that will provide financial support to MWR activities.

(6) Maintain database records of license and permission requests, and dispositions thereof.

(7) Maintain database records of the historical and cumulative cost of the program up to and including the current reporting period.

(8) Collect and expend trademark license royalties for the USMC, per reference (h). The total cost to the CMC to administer the MCTLPO, including, but not limited to, costs for civilian personnel, contractor support, registering and maintaining trademarks, licensing, monitoring, enforcement, acquiring and or registering domain names, and professional training and development, may be charged to the licensing revenues collected. Revenues in excess of program operating costs may be retained for MWR activities. To facilitate accounting of MCTLPO expenses, the MCTLPO shall retain records of expenses and other program costs sufficient for review and audit.

(9) Provide periodic reports to the CNR regarding the information and data collected and maintained by the MCTLPO pursuant to paragraphs 7e(1) and 7e(6) through 7e(8), supra, to assist the CNR in discharging the duties and responsibilities set forth in references (b) and (c) and this instruction.

f. Delegation

(1) Any authority and or responsibility assigned to the CNR or the CMC in this instruction may be delegated to the program managers of the NTLPO and or MCTLPO. Any redelegation by the CMC shall be consistent with references (e) and (f).

(2) In order to maintain the benefits of existing business relationships between DON activities with established trademark licensing portfolios for Navy indicators and the licensees and or vendors of such DON activities, the CNR may delegate to such DON activities the authority and responsibility to: use, market, publicize, and otherwise promote Navy indicators that specifically identify such DON activities;

continue to liaise with their existing trademark licensees regarding existing trademark licenses, execute, modify, or renew trademark license agreements pertaining to Navy indicators that specifically identify such DON activities; monitor the public arenas and markets in which such DON activities operate for unauthorized use of Navy indicators that specifically identify such DON activities; engage in initial discussions with unauthorized users of Navy indicators that specifically identify such DON activities; and send letters that do not rise to the level of "cease and desist" letters to unauthorized users of Navy indicators that specifically identify such DON activities. Any such delegation shall be subject to the control and supervision of the NTLPO, and the delegation shall describe the nature, extent, and parameters of such DON activities' authority and responsibilities. There will be separate, written delegation(s) from the CNR to such DON activities.

8. Action

a. The CNR shall:

(1) Lead the DON Trademark and Licensing Program. In this capacity, the CNR shall coordinate with the Office of the Assistant Secretary of the Navy (Research, Development and Acquisition).

(2) Annually forward to the SECNAV the amount and disposition of trademark royalties received from the licensing of DON trademarks, including the amount provided to MWR activities; and also provide the quarterly and annual reports required by reference (k) and or any superseding regulation, directive, instruction, or other guidance.

b. The ONR shall:

(1) Establish and operate an NTLPO, and will establish procedures for operating the same.

(2) Establish procedures for the processing of trademark license royalties throughout DON.

(3) Establish a trademark docketing system for use throughout DON.

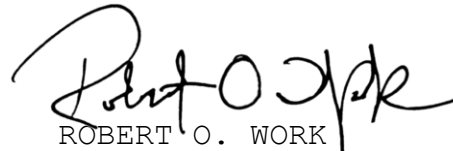
c. The CMC shall:

(1) Maintain and operate an MCTLPO, and will establish procedures for operating the same. Pursuant to references (b) and (c), which assign to the CNR the responsibility for supervising, administering and controlling activities within or for DON related to patents, inventions, trademarks, copyrights and royalty payments, and matters connected therewith, the CMC shall provide to the CNR a quarterly report, which shall include: amount and disposition of trademark royalties received from the licensing of USMC indicators, including the amount provided to MWR activities; current roster of USMC indicators maintained by MCTLPO pursuant to paragraph 7(e)(1); the current list of license and permission requests, and disposition thereof, maintained by MCTLPO pursuant to paragraph 7(e)(6); and, the historic and cumulative cost of the USMC trademark and licensing program, as tracked by MCTLPO pursuant to paragraphs 7(e)(7) and 7(e)(8).

(2) Provide to the CNR reports regarding the amount and disposition of trademark royalties received from the licensing of USMC indicators to be included in the CNR's report to the SECNAV; and provide any additional information to be included in the CNR quarterly and annual DON reports required by reference (k) and or any superseding regulation, directive, instruction, or other guidance.

9. Records Management. All records created by this instruction, regardless of media and format, shall be managed per SECNAV Manual 5210.1 of November 2007.

10. Reports Control. The reporting requirements contained within this instruction are exempt from reports control per SECNAV Manual 5214.1 of December 2005.



ROBERT O. WORK
Under Secretary of the Navy

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