

**Item #5**

# **Trademark Homepage and Trademark Policy**



# Trademarks

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## Background

The component institutions of The University of Texas System (UT System) have achieved reputations as outstanding institutions of higher education. Reputation is specific to the name of the UT System and each component institution. Reputation also is represented by the seal, trademarks, logos, and service marks used by the UT System and its component institutions (UT Trademarks).

## Trademark Protection

The use of a UT Trademark in conjunction with the product or service of an individual, group or corporation may damage that hard-earned reputation. For this reason, UT System has taken the action necessary to protect UT Trademarks under applicable federal and state law and has developed policies and procedures to license their use under limited circumstances (Trademark Policy).

## General Information

A trademark or service mark may be a word, name, symbol, device or any combination thereof that is used by its owner to identify or distinguish goods or services from those of others. Unlike patents and copyrights, rights in trademarks and service marks arise as a result of use of the mark in commerce to identify the source or origin of goods and service. In addition, trademark rights do not end after a specific period of time as do patent rights and copyrights; instead, a trademark remains the property of the owner so long as the owner continues to use it properly as a trademark.

These sites provide general information about trademark searches, law and registration:

- [Legal Information Institute - Cornell Law School](#)

- [Franklin Pierce Law Center](#)
- [Nolo Press - Trademark Law: Frequently Asked Questions](#)

## **Trademark Policy**

### **The Licensing Program**

In 1981 **The Board of Regents** established a licensing program to protect the institutional names and identifying marks. The System trademarks are registered with the U.S. Office of Patent and Trademarks, the State of Texas, and in many foreign countries. These marks are the exclusive property of The Board of Regents. Policies and procedures have been developed to license the use of the marks under the Trademark Policy.

The Office of Trademark Licensing along with the **Collegiate Licensing Company (CLC)** administers the licensing program. The success of the licensing program is evidenced by the fact that annual royalty income from more than 500 licensees now exceeds \$1.5 million. Licensees and the purchase of licensed products make a valuable contribution to the UT System institutions.

Licensees and the purchase of licensed products make a valuable contribution to the UT System institutions. Consequently, the purchase of products licensed by the Office of Trademark Licensing provides funds that support the activities and mission of the universities. Conversely, the sale of a product with an unlicensed mark is an infringement of UT System's valuable trademark rights and diminishes the universities' ability to accomplish their goals.

### **Registration**

The UT Trademarks are registered in the United States Patent and Trademark Office and with the State of Texas. Many are registered in foreign countries.

### **Inquiries**

Inquiries regarding licenses for UT Trademarks may be directed to:

*Trademark Licensing Director  
Office of Trademark Licensing  
The University of Texas at Austin  
2100 Speedway CBA 6.476 (B6900)  
Austin, Texas 78712  
(512) 475-7923  
Fax: (512) 232-7080*

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University of Texas System Office of General Counsel

*Comments to [craig@irla.utexas.edu](mailto:craig@irla.utexas.edu)  
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# Guidelines for Trademark Licensing

Sec. 1 Elements of Trademark Licensing Program. The program to protect and license trademarks of the U. T. System and its component institutions includes the following elements:

1.1 Authorization for Filing Applications. Authorization to file applications for state and federal registration of University trademarks, such as the names, seals, logos and mascots of all component institutions, in the name of the U. T. System Board of Regents.

1.2 Standard Agreement. Approval of a standard trademark license agreement permitting commercial use of University trademarks on products with a royalty on the sale of such products.

1.3 Delegation of Authority. Delegation of authority to execute trademark license agreements on behalf of the Board of Regents.

1.4 Use of Royalties. Authorization for component institutions to use royalties that exceed the expenses of registration and administration of licensing to establish appropriate scholarship programs.

Sec. 2 Responsibility for Program. Responsibility for administering the trademark licensing program is in the Office of Trademark Licensing at The University of Texas at Austin.

Sec. 3 Trademark Licensing Guidelines. The standard trademark license agreement contains the following provisions:

3.1 License Grant. A non-exclusive right to use the licensed marks in the United States on and in connection with licensed products of quality acceptable to The U. T. System Board of Regents.

3.2 Term of Agreement. Three (3) years unless licensee wants a shorter term.

3.3 Payments by Licensee. A license issue fee at the time the agreement is executed; a continuing royalty on all licensed products sold; and a minimum annual royalty.

3.4 Exemptions from Royalty Payments. There shall be no exemptions from royalty payments on licensed products, including those products sold to a University-owned entity by the licensee and products purchased solely for the purpose of resale, except as provided in these Guidelines.

3.5 Quarterly Reports. Licensees must submit quarterly reports stating the total sales of all licensed products for that period and remit at that time the amount of royalties due from those sales.

3.6 Delinquent Payments. A late charge will be assessed at the maximum rate of interest permitted by law.

3.7 Right to Audit Licensees. To examine the licensee's books of account and records related to the licensed products to determine the accuracy of the statements submitted by licensees. If an examination reveals underpayment by more than five percent (5%) of the total due, the licensee shall bear the costs of the audit.

3.8 Default and Termination. If a default is not cured within thirty (30) days of notice, a notice of termination shall be served on licensee.

3.9 Sublicensing or Transferring Rights. No right to sublicense and any change or proposed change in the ownership or control of licensee's business must be provided to The U. T. System Board of Regents.

3.10 Quality Control of Licensed Products. All licensed products shall be products of quality as determined by The U. T. System Board of Regents or its representative. Licensees are required to furnish to The U. T. System Board of Regents or its representative, for approval and free of cost, a sample of each licensed product before sale or distribution.

3.11 Packaging and Advertising of Licensed Product. All packaging and advertising bearing any licensed mark shall be subject to prior approval by the Board of Regents or its representative.

3.12 Indemnification by Licensee. Licensees are wholly responsible for all products manufactured or sold by them and must indemnify and hold harmless The University of Texas System, its Regents, officers, employees and agents for any liability, loss, damage, cost or expense attributable to any of licensee's products bearing the trademarks of any component institution of the System.

Sec. 4 Trademark Use Restrictions. To fully protect The U. T. System trademarks so that they remain valuable assets for years to come, The U. T. System registers the marks and manages them through licensing. These two steps would not be sufficient, however, if System licensed the marks for any and every proposed use. For example, some uses would harm the very reputation that the marks represent. In other cases, the nature of goods and services may pose such significant legal risks that they should not be licensed, and some uses may potentially harm the marks unless they are carefully controlled. To protect its trademarks, The U. T. System has developed the following use restrictions:

4.1 Prohibited from Licensing. The following uses will not be licensed:

- a. Stationery. Business-size, letterhead paper using the name or seal of a component institution of The U. T. System.

- b. Alcoholic Beverages. Including, but not limited to, distilled alcohol liquors, wines and malt liquors.
- c. Inherently Dangerous Products. Including, but not limited to, firearms, explosives, fuels and paints.
- d. Obscene or Disparaging Products. Including, but not limited to, nude photographs, caricature poster art or designs that would tend to lower the reputation or degrade the goodwill of a component institution of The U. T. System as represented by the trademarks.
- e. Sexually Suggestive Products. Including, but not limited to, inappropriate slogans imprinted on clothing and the configuration of certain novelty items.
- f. Health Related Products. All types.
- g. Staple Foods, Meats and Natural Agricultural Products. All types.
- h. Business Names and or Logos. All types.

4.2 Licensing with Limitations. U. T. System trademarks licensed for the following uses are limited as described:

- a. Services. Only in accordance with the special requirements of The U. T. System Administration's Office of General Counsel applicable to services.
- b. Academic Related Products. Only for the following types of publications:
  - 1. Sports publications approved by the institutional chief administrative officer or designee, providing the licensee agrees to include the following disclaimer in the publication: "Not an Official Publication of The University of Texas (component)."
  - 2. Literary works that generally provide historical information about and promote the goodwill of The U. T. System or a component institution of The U. T. System. U. T. System trademarks may be licensed for such use by permission letter after review by the appropriate institutional officers.
- c. Advertising. U. T. System trademarks may be used in the following kinds of advertising, so long as the uses also conform to the special requirements of System Administration's Office of General Counsel contained in guidelines, checklists and interactive electronic forms applicable in each case. These are designed to help component institutions conform their agreements to standard expectations regarding both the form and substance of the agreements and the

approval of ad copy and layout design.

1. Licensed product advertisements, pursuant to the terms of a trademark license agreement.
2. Informational, congratulatory or "team spirit" advertisements, pursuant to a permission letter for one-time only use.
3. Corporate advertisements that focus on the academic and athletic achievements of students and alumni of a component institution, pursuant to a permission letter for one-time only use with prior approval from the president or designee.
4. Corporate advertisements that utilize appropriate U. T. System trademarks in official programs sold or distributed at intercollegiate athletic events, pursuant to the terms of an advertising agreement.
5. Promotional activities utilizing appropriate U. T. System trademarks, pursuant to the terms of a promotional license agreement. Promotional activities are activities such as advertising or offering promotional products to further the growth, development, acceptance and/or sale of goods or services.

Adopted by the Board of Regents of The University of Texas System at its regular meeting on August 14, 1997.

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