

# **TRADEMARK AND LICENSING GUIDELINES FOR THE UNIVERSITY OF MASSACHUSETTS SYSTEM**

## **Description/Purpose**

The University's marks and the reputation they represent are important assets. On behalf of the University and the Trustees of the University of Massachusetts, the Licensing and Trademark Office's primary role is to protect and promote the use of these marks. Besides its substantial licensing activities, the Five-Campus Licensing and Trademark Office also monitors and regulates commercial, non-commercial and internal use of the marks and is responsible for the administration of Trademark and Service mark registrations in the United States and countries worldwide.

These guidelines establish the principals and procedures followed by the Five-Campus Licensing and Trademark Office to perform the following functions: 1) Promote the University of Massachusetts in a consistent and uniform manner; 2) Protect all of the institutions' trademarks, service marks, logos, names and symbols from unauthorized internal or external use, whether commercial or non-commercial. The Licensing and Trademark Office actively polices the market and the Internet to protect against unauthorized or unlicensed use of the marks and to protect licenses from unfair competition; 3) Protect consumers from inferior products or services bearing the institutions' marks; 4) Provide revenue to the University when licensing royalties and fees exceed program expenses.

Regulation of all uses of the University of Massachusetts marks is essential to protect the University's trademark rights and image from liability and to protect against dilution of the marks. University approval through the Five-Campus Licensing and Trademark Office is required for all commercial use and some non-commercial use of the University marks, whether fundraising, sale for profit, advertising, or promotion. Unauthorized use (noncommercial or commercial) could effectively prevent the University from retaining and enforcing its rights in legal and commercial context.

## **Definitions**

A Trademark is a word, symbol, or design-or a combination of these-, which identifies and distinguishes the goods and/or services of one party from those of another. A service mark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product. The UMASS and University of Massachusetts trademarks are the exclusive property of the Trustees of the University of Massachusetts. The marks include any trademark, service mark, name, certain phrases, logo, insignia, seal design, or other symbol or device associated with or referring to the University. The marks are protected by common law rights, Commonwealth of Massachusetts law, and federal and international intellectual property law.

## **Applicability**

University community members who produce, requisition or procure items or services bearing University of Massachusetts marks and logos and/or individuals or entities outside the University community that wish to produce, distribute or sell products or services bearing the University of Massachusetts marks regardless of use or method of distribution.

## **Authority for Program Administration**

The Director of the Five-Campus Licensing and Trademark Office is responsible for negotiating, and implementing all Licensing agreements and contracts. No other office, department or agency is authorized to perform trademark licensing administration. Controversial products, issues or enforcement activities will be reviewed with the appropriate Campus or President's Office administrator and/or General Counsel's Office.

## **Internal University Community**

### **Internal / Non-Commercial**

Use of the University names by registered affiliate organizations and by recognized support groups such as professional associations, employee organizations, athletic, cultural, and other interest groups is permitted within the guidelines of each campus's Visual Identity Guide. Use of the University names by registered affiliated organizations is permitted as outlined in each campus's Visual Identity Guidelines. For identification purposes for campus groups or departments own use such as stationary, posters, signs, banners and uniforms-limited to use by their members. Official publications for distribution will be considered non-commercial. Use of the University's names and marks by other independent organizations, individuals or groups is prohibited without prior approval of the Licensing and Trademark Office.

### **Internal Use / Commercial**

All University of Massachusetts organizations using the names, marks, logos, seals and/or symbols of the University in any **commercial** venture, whether fundraising, or promotion, are required to seek prior approval for the use of those marks from the Licensing and Trademark Office at the address listed below. Products given away to an internal audience which display any University registered mark and name or mark of the department or student organization can qualify for an exemption from licensing royalties charged to commercial licensees. A waiver form must be requested, completed and signed prior to project initiation. Waiver forms can be requested at the address list below. All products must be purchased from a licensed manufacturer unless a written exception is granted. In the case of a written exception to the use of a licensed manufacturer or vendor, the non-licensed manufacturer will have to provide to the

Licensing and Trademark Office a sample of the product and a comprehensive general or commercial certificate of **Liability Insurance** in the amount of at least \$1,000,000.00, naming the University, its employees and the Board of Trustees as additional-insured. No organization, faculty member, staff member, or student may authorize any third party to produce merchandise bearing the University's name or marks, or authorize or produce items that combine the University name or marks with any third party name or logo unless prior approval is granted from the Licensing and Trademark Office. University names or marks may not be used with anyone else's trademarks unless written approval of the owners of all marks has been secured and placed on file in the Licensing and Trademark Offices.

Address: **University of Massachusetts Five-Campus Licensing Office**  
**Director of Licensing and Trademarks**  
**Room 225A Campus Center**  
**Amherst, MA 01001**  
**413-577-0125**

### **External Use / Commercial**

All external use of the University marks must be licensed or approved by the Five-Campus Licensing Office prior to use. Use includes the manufacture and distribution of all commercial and consumer products, advertising, promotion, domain names, Internet commercial use and all University marks used in conjunction with commercial ventures or Intellectual property licenses. This includes all commercial consumer products and services for resale or giveaway.

Licensing applications or information can be obtained at the address above.

### **Internet and Website Use**

No Commercial website use of the University's name or marks is permitted without prior Licensing and Trademark Office approval. Commercial use on websites includes all products and services for sale or give-away, as well as, the use of site advertising, banners and commercial links. No University name or mark can be used in the domain name of a commercial website without a license and prior Licensing and Trademark Office approval. Websites employing Meta-tags utilizing the University's names and marks to bring Internet users to a commercial site through search engines are required to be licensed. Websites utilizing the University's names and are totally free of any commercial activity do not require a license.

### **Agreements and Contracts**

All University Agreements and Contracts that allow an external organization, company or individual to use the University's name or marks as part of and/or in conjunction with that Agreement or Contract require a secondary Licensing Agreement issued by the Licensing and Trademark office to control the use of the marks and to protect the

University from liability. This includes sponsorships, grants, promotions and Internet applications as well as all other agreements that allow for external use of the University marks or names. No party to a University agreement or contract may assign or sub-license the rights to use the University name or marks to a third party. All such third parties must seek their own independent License Agreement with the Licensing and Trademark office. Depending upon the consideration to be received by the University, additional royalties or fees may be waived.

### **Proper Use of the Trademarks in Advertising**

It is the general policy of the University of Massachusetts to avoid the endorsement of any product or service. University trademarks will not be used in an explicit endorsement of any product or service. However, they may be used implicitly in conjunction with another corporate mark, with the approval of the Licensing and Trademark Office, in the following situations:

1. They can be used temporarily, by a commercial establishment, in support of the University, as in a banner saying Go UMASS or Go Minutemen. An executed promotional Licensing Agreement would be required if the company name is to appear in conjunction with the business or sponsors own corporate name. The Licensing and Trademark Office has the right to prohibit such use when it is deemed to be in bad taste or in violation of trademark and licensing policy.
2. When used on a product and no explicit relationship between the University and the manufacturer is stated.
3. When used by a University sponsor and the use of the marks for endorsements is agreed upon by the Licensing and Trademark Office and the Office of the University General Counsel or other authorized University Administrators as part of the sponsorship agreement.
4. When used in adverting promotion which the University marks are not included on the product and no explicit relationship between the University and advertiser or manufacturer is stated.

Direct or indirect, implied or inferred institutional endorsement by the University of Massachusetts is prohibited except when used by a University sponsor and the use of the marks for endorsements is agreed upon by the Licensing and Trademark Office and the Office of the University General Counsel or other authorized University Administrators as part of the sponsorship agreement. This prohibition extends to advertising or promotion using any name, picture, landmark building or other indicia.

A personal endorsement with an identification of the person s relationship to the University of Massachusetts is acceptable as long as there is no confusion as to institutional endorsement.

Only officially licensed products may be advertised and sold with the University of Massachusetts Trademarks on them. The registered trademark symbol should appear after the first or most prominent use of University of Massachusetts, UMASS, and the SEAL. The TM mark should appear after the first or most prominent use of all other names, marks, logos or indicia.

Photos with readily identifiable University of Massachusetts buildings such as the Chapel or Library are not acceptable in advertising or promotions without prior permission.

In most advertising cases when the UMASS or University of Massachusetts is used as a descriptive location, it can and should be replaced with Amherst, Boston, Lowell, Dartmouth or Worcester. The location UMASS or University of Massachusetts is easily confused with the institution UMASS or University of Massachusetts. An example would be a business that says Serving UMASS. Proper usage would dictate Serving Amherst or Serving the UMASS area. It is necessary to make clear that the service is to the location, and not the official UMASS institution.

Written Approval is required from the University of Massachusetts Five-Campus Licensing and Trademark Office for any exception to the guidelines for use in advertising of the names, marks or logos of the University of Massachusetts.

### **Obtaining a License**

Product and service licenses will be granted to those companies, organizations and individuals who meet all the requirements and standards and whose products, services or promotions are judged to be appropriate to the University. Domestic licensees are effective the first day of the month following completion of the licensing process.

### **Prohibited Products**

The University of Massachusetts will not license products or services that defame the University, or are medical, dangerous, harmful, shoddy, obscene, or otherwise deemed inappropriate for reasons of the items characteristics or manufacture.

### **License Terms**

The following outlines the general terms which appear in the Standard License Agreement approved by the University's General Counsel's Office.

The License will specify the Trademarks and the specific products or services that can be used.

The License is usually non-exclusive and defines the geographical area in which the licensee is given the right to manufacture and distribute products or services.

The term or length of the contract is specified along with the standard **Royalty Rate** of **7 %** on the wholesale cost of all products sold. Orders from campus departments or officially recognized organizations may qualify for royalty exemption when intended for internal use and not resale, but must be accompanied by a pre-approved waiver form.

A non-refundable **Advance** payment is required which is applied to future royalty obligations. **Royalty Reporting and Payment** is required quarterly no later than 30 days after the end of each period.

Comprehensive general or commercial **Liability Insurance** in the amount of at least **One million dollars** is required, naming the employees and Trustees of the University of Massachusetts as additional insured.

**Approvals** must be obtained on any product or service that is developed with the University of Massachusetts marks prior to any sale or distribution, including commercial Internet sites. The Licensee is required to submit all advertising, marketing and products for approval at various stages of development. In addition, all products must bear the appropriate trademark designation and the Licensee's identification. This is to insure quality and image for which the trademarks are known.

The University of Massachusetts is committed to conducting its business affairs in a manner consistent with its employee personnel policies and expects its licensees and their subcontractors to conduct their business in a manner consistent with, and follow work place standards that adhere to the **University of Massachusetts Code of Conduct for Licensees**. All potential apparel licensees must agree to adhere to the University of Massachusetts Code of Conduct for Licensees prior to securing a License. A copy of the Code of Conduct for Licensees is part of the licensing package and can be made available by contacting the Licensing and Trademark Office. The University has the right to terminate any license immediately for failure to comply with the Code of Conduct.

### **Enforcement**

The University is legally obligated to enforce its trademark ownership rights. The University of Massachusetts aggressively enforces the ownership and proper use of its marks, names symbols, and the University's Licensing and Trademark Office actively polices the market-on campus and off campus-to ensure that there is no unauthorized or unlicensed use. Merchandise or services produced or offered may be considered counterfeit and subject to all legal remedies, including seizure of the merchandise. The Licensing and Trademark Office and the University's General Counsel's Office work together to stop counterfeit or illegal use when it is discovered.

### **Royalty Income**

Royalty income that exceeds the cost of administering the Licensing Program is proportionally returned to the Chancellor for each campus or the Chancellor's designee.

The proportion of royalties is determined by each campus' actual use as reported by licensed manufacturers. Any royalties that exceed expenses and cannot be identified by campus are returned annually as a percentage based on that campus' number of students and alumni. Royalty income is used for the support of the mission of the University and is determined by each campus' Chancellor or designee.