

# **GOVERNANCE COMMITTEE**

**(Following the Personnel Affairs Committee)**

Friday, June 18, 2010

Board of Supervisors' Meeting Room

J.S. Clark Administration Building – Second Floor

Southern University and A&M College


Baton Rouge, Louisiana

## **AGENDA**

1. Call to Order
2. Roll Call
3. Adoption of the Agenda
4. Public Comments
5. Action Item(s):
  - A. Trademark Licensing Policy, System
6. Other Business
7. Adjournment

## **MEMBERS**

Atty. Walter Dumas – Chair; Mr. Darren G. Mire - Vice Chair; Mr. Patrick W. Bell, Mr. Walter Guidry,  
Atty. Patrick O. Jefferson, Mr. Myron K. Lawson, Atty. Patrick D. Magee, Atty. Tony M. Clayton, Ex Officio

<p><b>Name of Policy: Trademark Licensing Policy</b></p> <p><b>Policy Number:</b></p> <p><b>Issuing Authority: SUS Board of Supervisors</b></p> <p><b>Initial Effective Date:</b></p> <p><b>Revision Date:</b></p>	 <p><b>SOUTHERN UNIVERSITY SYSTEM POLICIES AND PROCEDURES</b></p>
<p><input checked="" type="checkbox"/> <b>New Policy Proposal</b></p> <p><input type="checkbox"/> <b>Major revision of existing policy</b></p>	<p><input type="checkbox"/> <b>Minor revision to existing policy</b></p> <p><input type="checkbox"/> <b>Reaffirmation of existing policy</b></p>

**I. Policy Statement**

The Southern University System’s Trademark Licensing Policy is designed to establish policies and procedures that will govern the use of the Southern University System’s (hereinafter referred to as the “SUS”) registered and unregistered names, logos, trademarks, licensing requirements and utilization of any revenues received therefrom. This policy applies to all SUS faculty, staff, students, academic departments, colleges, schools, units, student groups and the public.

**II. Preamble**

Throughout the years, traditions and spirit shared by the SUS community have increased the demand for products that feature University Marks. To meet the demand, the SUS has created this policy that will, among other things, designate a specific System and/or campus office/officer to manage the promotion and protection of the use of its Marks, along with a contracted Licensing Agent.

Through this collegiate licensing and trademark program, the University will maintain control over its logos and Marks, thus insuring the quality and consistency of all merchandise. It also enables the University to generate revenue from the sale of merchandise bearing its logos and Marks. Outside of the University, the collegiate licensing and trademark program will help to create a cooperative and positive working relationship with manufacturers and retailers who work with the University.

Any promotion referencing the University requires express written permission. The University legally protects its Marks and the institution's image through the licensing program. Unlicensed use of the Marks is subject to state and federal laws and use of the University's Marks without license or permission is strictly prohibited. Prior authorization for the use of the University's Marks will not be construed as an authorization of use in the future, nor will any prior course of conduct, use or infringement prohibit the University from enforcing any of its rights with respect to the Marks. Marks that are obsolete or replaced by updated Marks continue to be protected and owned by the University.

### **III. Objectives**

The SUS's Trademark Licensing Policy, standing on its own, and as it is developed for implementation at the respective five (5) campuses, should fulfill the following objectives which are designed:

- To protect all Marks that relate to the University (or have come to be associated with the University).
- To insure that the Marks are used in a manner that is consistent with the mission of the University and reflects favorably on the University.
- To protect all University trademarks from unauthorized uses, and facilitate the process of granting authorization for legitimate internal and third-party use of University trademarks.
- To promote the University in a consistent and uniform manner that will protect the University's reputation, name and image.
- To insure that the University generates revenue for its programs by securing a legitimate and reasonable royalty for the use of its trademarks.
- To protect the consumer from deception or from faulty or inferior products and services bearing the University's Marks.

#### IV. Definitions

The following definitions shall apply throughout the SUS's Trademark Licensing Policy:

- A. **Indicia**—various words, images, colors, and combinations of words, images and colors that have come to be associated with the University in the minds of the public which may or may not have been made a registered mark but in which the University has a propriety interest through prior use or identification. As used herein, the term “indicia” encompasses names, registered marks, logos and other indicia.
- B. **Infringement**—means any unauthorized use of a trademark or service mark that belongs to another, or use of a trademark or service mark so similar to that of another as to cause the likelihood of confusion in the minds of the public as to the source (affiliation or sponsorship) of the product or service.
- C. **Licensee**—is an individual or company who enters into a Licensing Agreement to use a licensor's property (trademark) in exchange for payment.
- D. **Licensing Agent**—is an individual or company who is the exclusive representative licensing the use of one or more of the University's indicia in connection with the marketing of various types of merchandise and as the non-exclusive representative conducting certain promotions involving the use of said indicia in the global marketplace, especially within the United States, its territories and Canada.
- E. **License Agreement**—is a royalty bearing contract between a licensor and a manufacturer or manufacturer's representative who is licensed to produce specific products bearing one or more of the licensor's trademarks.
- F. **Licensor**—one who contracts to allow another (licensee) to use the licensor's property (trademark) in exchange for payment.
- G. **Logos**—officially adopted words, images or combinations of words and images representing the University.
- H. **Registered Mark**—words and images representing the University which have been registered with the United States Patent and Trademark Office and/or the Louisiana Secretary of State.

- I. **Trademark**—is any logo, symbol, nickname, letter(s), word, slogan, or derivative used by an organization, company, or institution to identify its goods/services and distinguish them from other entities or competitors.
  - J. **University**—refers to the SUS which includes the following five (5) campuses: Southern University and A & M College at Baton Rouge (SUBR); Southern University at New Orleans (SUNO); Southern University at Shreveport, Louisiana (SUSLA); Southern University Law Center (SULC); and the Southern University Agricultural Research and Extension Center (SUAREC).
  - K. **University Marks and Marks**—are any and all names, logos, trademarks, service marks, word marks, insignias, designs, seals, or other images, whether or not registered, and used by the SUS.
- V. **Trademarks**
- A. **University Trademarks**

The University's trademarks may be any artwork or logographic work relating to the presentation of the following: Southern University, Southern University Jaguars, Jaguars, SUBR, The Jaguar Nation, Southern University JagVision, Southern University Jag-A-Thon, the Human Jukebox, the official University seal, and other symbols, art, seal, words, or groups of words that have come to be associated with the University.

B. **Registered Trademarks**

The SUS will register all names, logos, trademarks, service marks, word marks, insignias, designs, seals and other images currently and futuristically used by the University with the United States Patent and Trademark Office ([www.uspto.gov](http://www.uspto.gov)) and the Louisiana Secretary of State. These registrations will be made in the name of the Southern University System Board of Supervisors who shall have the exclusive right to use the Mark both nationwide and internationally, in connection with the goods or services for which it is registered.

## **VI. Licensing**

Any company interested in manufacturing a product that will be sold to consumers through retail distribution channels (including the Internet) must obtain a license through the University's Licensing Agent (ULA). All companies must complete the application and meet the requirements for licensing as outlined by this policy and the related Licensing Agreement. The ULA will communicate all information to the designated specific System and/or campus office/officer for final approval. Based on the information provided, the University will assist the ULA in determining whether to grant a license to an applicant. Taking into consideration the current base of licensees, licenses may not be granted to new companies in certain categories.

### **A. Process**

The basic requirements for licensing include completing the licensing application, providing proof of liability insurance (minimum \$1,000,000), signing a license agreement, paying the applicable advance fees, obtaining product and design approval from the University through its Licensing Agent, and reporting royalties on the sale of University merchandise.

### **B. Costs**

1. Application Fee (\$50 - \$250)
2. Annual Administrative Fees (\$0 - \$250)
3. Advance Royalty Fees (\$0 - \$500)
4. Cost of Obtaining \$1,000,000 in Product Liability Insurance (\$100 - \$1,000s depending on the product)
5. Marketing Costs (trade shows, catalogs, web sites, etc.)
6. Product Development Costs (design, development, obtaining digital artwork [\$50 - \$500], etc.)
7. Sample Production and Approval Costs (the cost of producing samples and obtaining approvals, which occur online, requiring an Internet connection). It will take much longer if approvals are obtained via fax and mail.

### C. Application

- Log on to the Licensing Agent's website.
- Fill out the online form and submit.
- Download and complete the licensee application.
- Each licensee pays an annual advance on royalties from \$100 to \$500, depending on the type of license.
- Licensees must indemnify and hold harmless the SUS, its Board of Supervisors, officers, employees, and agents for any liability attributable to any of the licensee's products bearing the trademarks of the University; and
- An eight (8%) percent royalty fee is required. Other rates may be negotiated for different types of licenses or the fee may be waived by either the System President or the respective campus Chancellor, if it is deemed to be in the best interest of the University.

The normal approval process requires a minimum of fifteen (15) days lead time. All manufacturing is to be done by licensed manufactures. If a manufacturer is not a licensee, the company may apply to become a licensee. However, the designated specific System and/or campus office/officer will make the final decision on which companies will become licensed.

### VII. Non-licensable Activities/Products

- A. Licensing approvals are not required for the following activities:(1) the printing and preparation of stationery, business cards, and other materials used by departments, colleges, schools or other units in the ordinary course of University business; (2) the printing or preparation of official University publications (e.g., catalogs, student publications, The Southern Digest [SUBR campus newspaper], yearbooks, publications promulgated by respective campus Electronic Media Departments and related materials associated with "home pages" on the World Wide Web), similar electronic publications issued by departments, colleges, schools and other units in the ordinary course of University business; (3) the printing and preparation of journals created in printed or digital form published by the University or any of its departments, colleges, schools or other units where the University retains sole editorial control; and (4) the printing and preparation of materials created specifically for use in connection with courses conducted by the University.

- B.** The University will not approve the use of its Marks on or to promote the following products: tobacco, alcoholic beverages (distilled alcohol liquors, wines, and malt liquors), illegal substances, inherently dangerous products (such as firearms, explosives and fuels), obscene or disparaging products (including, but not limited to, nude photographs, caricature posters, art or designs that would tend to lower the reputation or degrade the goodwill of the University as represented by its trademarks), sexually suggestive designs/products (including, but not limited to, inappropriate slogans imprinted on clothing and the configuration of certain novelty items), religiously affiliated products, political campaigns, promotions of political causes, gambling and health related products (all types).

In addition, the University will not approve the use of its Marks with other accompanying text or graphics that are judged to denigrate any group, including another college or university, or infringe on the rights of other known trademark owners. The University will not license products that do not meet minimum standards of quality and/or good taste or are judged to carry high product liability risks. The University will not approve the use of its Marks on any product or design that may violate National Collegiate Athletic Association (NCAA) rules. Designs incorporating jersey numbers, except on authentic or replica merchandise, photos or any likeness of a current student-athlete, names of student-athletes, or nicknames of student-athletes, will be evaluated on a case-by-case basis and are subject to all NCAA rules.

University Marks cannot be used in promoting services or on a product in a way that could state or imply an endorsement by the University, except that the SUS reserves the rights for promotional use through its media rights holder. The University reserves the right to prohibit other uses that it deems inappropriate or inconsistent with the image and mission of an institution of higher education.

#### **VIII. University Standards for Use of Trademarks/Marks**

- A. General Considerations:** Reproduction of all Marks that identify the University may not be used without the prior expressed written approval of the University in conformity with the following:

1. Registration will be maintained primarily in the United States, but it may also extend internationally if significant markets arise.

2. Licenses will not be granted for the use of distinct marks on products that are not compatible with the image of the University as a major institution for education, research and public service.
3. The University and the Licensing Agent will enforce restrictions on the use of all Marks by unlicensed vendors and manufacturers. Unlicensed vendors and manufacturers who sell goods bearing University Marks will be required to obtain a license and pay royalties or withdraw the goods from sale.
4. Student organizations may use the University's Marks when used in connection with a group activity, provided items are acquired from a licensed vendor or manufacturer. A sample or drawing needs to be provided showing how the University's Marks are to be used before production of the merchandise can proceed. This sample will be submitted by the licensed vendor or manufacturer selected by the University student organization.
5. Departments, colleges, schools or other University units may use the University Marks on merchandise, provided items are acquired from a licensed vendor or manufacturer. A sample or drawing needs to be provided showing how the University's Marks are to be used before production of the merchandise can proceed.
6. Athletic conferences in which the University holds membership will be allowed to use all University Marks associated with the athletic teams. There will be no payment of royalties when University Marks are used in the media or on non-commercial promotional items that include Marks of the conference and/or other member institutions.

## **B. Campus Use**

### **1. Student Organizations**

Use of a University Mark with an organization's name implies association with the University. Therefore, only those student organizations that are officially recognized by the Chancellor and/or respective Student Programs Offices are allowed to use University Marks in conjunction with their organization's name.

Any product bearing University Marks or a specific departmental logo should be purchased from licensed vendors or manufacturers. Using an officially licensed company to manufacture a product insures that the company has provided the correct product liability insurance and signed the University's labor code of conduct agreement.

To insure consistency in the use of the University's name and logos, all product designs must be approved by the designated specific System and/or campus office/officer before production. In most cases, the vendor or manufacturer can submit the design for approval on behalf of the organization/department. However, if there are questions concerning the design, the organization's representative may contact the designated specific System and/or campus office/officer directly.

Recognized student organizations and campus departments may include sponsor names/logos on event promotional items in conjunction with the University Marks under the following conditions:

- The student organization/department's name must be included to communicate that the relationship is a partnership with a particular group and not an endorsement by the University as a whole.
- The use of the University Marks is in conjunction with sponsor names/logos and is considered a promotional item whether sold or given away.
- Based on the scope of the program, a rights fee may be assessed.

In determining exemptions from royalty payment, consideration is given to the mission of the licensing program and the many constituents it serves. Given these criteria, the University is not required to pay royalties to itself for purchases of services or products that are a necessity for faculty and staff to perform their job (i.e. equipment, services, uniforms, educational tools). However, the University attempts to avoid unfair competition with other retailers and service providers and therefore, does not exempt itself

from paying royalties on the purchase of goods that are to be resold to members or to the general public, regardless of the purpose of the sale.

## 2. Affiliated Organizations

Affiliated University student organizations may use University Marks for identification and fund raising within the guidelines of this official University usage policy.

Printed materials for use on campus, such as signs, brochures, handbills, advertisements, banners, and handouts, do not need prior approval as long as uses are in accordance with this official University usage policy. Advance approval through a designated specific System and/or campus office/officer is required for any materials intended for off campus distribution bearing University Marks.

Affiliated student groups may place University Marks on web sites housed on University owned servers, in accordance with this official University usage policy.

Affiliated student organizations may purchase merchandise bearing University Marks, but all such purchases must be from licensed vendors and manufacturers. A list of current University officially licensed vendors and manufacturers is available from the designated specific System and/or campus office/officer. Affiliated organizations may also bring designs to the designated specific System and/or campus office/officer and seek approval.

If the merchandise is for the student members of the organization, the vendor or manufacturer will not have to pay royalties on the items. This should be reflected in the price to the organization. If the merchandise is for resale to anyone else, even as fundraiser for charity, royalties will need to be paid.

## 3. Special Events

Arrangements for special event T-shirts, merchandise or departmental items should be coordinated through the designated specific System and/or campus office/officer to insure that the vendors and manufacturers are officially licensed to use University Marks.

A rights fee may be charged to a business sponsoring a promotion at any University athletic event. This rights fee is to be paid to the University for the right to promote at its athletic facilities. A separate rights fee may be paid by the sponsoring business for the use of any Marks used in any manner during the promotion. Any fee shall be agreed upon and submitted prior to the beginning of the promotion period. A signed license agreement will be required that outlines the specifics of the promotion, promotion length, and detailed description of the proposed use of the Marks. No agreements shall be signed that conflict with the ULA, existing Athletic contracts or sponsorships. Novelties, merchandise or other goods used in an athletic promotion, which bear the University Marks, must be purchased from official licensees of the University.

**C. Non-Campus Use** (includes donor, individual, and commercial use)

1. Private and/or corporate businesses may not use University registered trademarks on company vehicles. Placing University registered trademarks near company information on company vehicles is prohibited, as there will be a likelihood of confusion that the company is a representative of, or sponsored by the SUS (e.g. paint, decals).
2. Private and/or corporate businesses may not use University registered trademarks in their company name.
3. Private and/or corporate businesses may not use University registered trademarks in the sale of commercial products or advertising. University indicia cannot be incorporated into off-campus business telephone numbers, Internet addresses, or Internet domain names.
4. The University does not permit the use of its identifying graphics by any other institution or business.
5. Private and/or corporate businesses may not establish a permanent statue, mural, or icon that includes the University's trademarks or likeness without written permission from the University.
6. Private and/or corporate businesses or organizations may not use the trademarks of the University in any type of advertisements, on Web sites, or on banners, etc. without written permission from the University.

**SUS**  
**Trademark Licensing**  
**Page—12**

7. Private and/or corporate businesses may not produce merchandise for resale or giveaway that utilizes the University's trademarks and its name and/or logo without written permission from the University.

8. Private and/or corporate businesses may not use University trademarks to promote their products or services in print advertising, radio, or television without a promotional contract in place or written permission from the University.

9. Individuals or private and/or corporate businesses may not use University trademarks in conjunction with a candidate for political office, policy or legislative issue without written permission from the University.

10. University registered trademarks cannot be used in any design that infringes on another entity (e.g. Harley Davidson, Jim Beam, IBM, McDonald's, etc.)

11. The University recognizes that many groups support the institution in academics and athletics. However, any group wanting to use University trademarks on a product, regardless of use, must purchase the product from a current University licensee. By supporting these licensing initiatives, organizations can assist this institution by insuring that products bearing a University Mark are of the highest quality and meet all insurance and contractual requirements. The licensee is responsible for getting the design approved and remitting royalties on the product to the University.

12. If a donor wishes to utilize one of the University's trademarks in some manner, written permission must be obtained from the University. All materials using University Marks must be submitted for approval before production and must be purchased from a current University licensee.

13. Booster clubs may use sponsor names on merchandise only with written approval from the University. The organization's name must be included in the design to communicate that the relationship is a partnership with the organization and not with the University. Based on the scope of the program, a rights fee, in addition to royalties, may be assessed.

14. A rights fee and royalties may be assessed for the use of the University trademarks in all instances.

**IX. Labor Practices/Code of Conduct**

The SUS is committed to the concept that all merchandise bearing reference to the University (including names of various departments, schools, colleges and/or University units and any recognized club and organization affiliated with the University) will be manufactured by companies whose labor policies insure that their employees are safe from abusive labor conditions.

In order to insure the broadest interpretation of this policy, the University requires that any product produced for the University which carries a University trademark, or uses the name of, or refers to a University department, school, college, University unit and/or any recognized club or organization, be manufactured by those companies that are appropriately licensed to use University trademarks.

**X. Unauthorized Use of University Trademarks/Marks**

Any use of University Marks that does not comply with this official University usage policy will be considered unauthorized and may violate applicable federal and/or state laws.

The University reserves the right to take appropriate action when confronted with unauthorized uses of its Marks. Depending on the facts, such action may include confiscation of goods and issuance of a cease and desist letter. It can also result in jail time and numerous other related fines, if convicted.

**XI. Use of Licensing Revenue**

The SUS and/or its respective five (5) campuses shall use the revenue generated from the collegiate licensing and trademark program for programs or activities that will directly benefit students. Examples of such programs may include, but are not limited to, athletics and student scholarships.

**XII. Implementation**

All products bearing University trademarks must be approved and licensed as specified by this policy. Resale products will generally be subject to the current standard royalty rates established by the University. Royalties will be determined based upon the scope of the promotion and other factors considered appropriate by the University.