

TRADE MARK AND BRAND ASSETS POLICY

Authorised By: Council Secretary

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Related Documents: F. 2000/1587

Implementation & Review: Council Secretary

Superseded Documents: Nil

Any person who requires assistance in understanding any aspect of this document should contact Council Secretary on 8303 4015.

1 Overview

The University of Adelaide Trade Mark Policy has been developed to protect and control the use of the University's trade marks and other brand assets of the University. It specifies the process for the registration of new trade marks and prohibits the use of any University trade marks except where there is:

- a A licence agreement between the University and a third party; or
- b A contract for manufacture and/or sale of branded merchandise on behalf of the University; or
- c Approval from an authorised officer of the University.

A trade mark is a guarantee to consumers that the goods and services bearing the trade marks have particular qualities. Trade marks therefore have the potential to be valuable. With proper and consistent use, the university's trade mark portfolio can be an extremely valuable asset.

This Trade Mark Policy document is intended to apply only to those trade marks and brand assets of which the University is the sole owner. The use of Registered Trade Marks owned jointly by the University with other organisations is dictated by agreement between those organisations.

University trade marks attract protection under two pieces of legislation, The University of Adelaide Act 1971 (SA), the Trade Marks Act 1995 (Cth) (Trade marks which consist of logos also attract operation of the Copyright Act 1968 (Cth)).

The University of Adelaide Trade Mark Policy applies to the use of University trade marks which attract protection under any of the above Acts, within Australia. It is to apply to use by staff, students or organisational units of the University or by external third parties.

This Policy is maintained and monitored by the Council Secretary.

2 The University of Adelaide Act 1971

For the purposes of the University of Adelaide Act 1971 the following definitions apply:

"official insignia" means a logo, an official symbol or an official title;

"logo" means a design (the copyright of which is vested in the University) declared under this Act to be a logo;

"official symbol" means a combination of a logo and an official title;

"official title" means a name or title declared under this Act to be an official title.

The University of Adelaide Act 1971 (Section 5A) provides that the following as "official titles" under the Act:

- The University of Adelaide
- Adelaide University

The Act allows for other trade marks of University of Adelaide to be declared by the Minister as an "official title" or logo. To date, no trade marks have been declared as such.

Section 5B of the University of Adelaide Act 1971 provides:

1. The University has a proprietary interest in all official insignia.
2. A person must not, without the consent of the University, in the course of a trade or business –
 - a. use a name in which the university has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits; or
 - b. sell goods marked with official insignia; or
 - c. use official insignia for the purpose of promoting the sale of goods or services.Maximum penalty: \$20,000.
3. A person must not, without the consent of the University, assume a name or description that consists of, or includes, official insignia.
Maximum penalty: \$20,000.
4. A consent under this section –
 - a. may be given with or without conditions (including conditions requiring payment to the University); and
 - b. must be given in writing addressed to the applicant for the consent; and
 - c. may be revoked by the University for a breach of a condition by notice in writing given personally or by post to a person who has the benefit of the consent.
5. The Supreme Court may, on the application of the University, grant an injunction to restrain a breach of this section.

6. The court by which a person is convicted of an offence against this section may, on the application of the University, order the convicted person to pay compensation of an amount fixed by the court to the University.
7. Subsections (5) and (6) do not derogate from any civil remedy that may be available to the University apart from those subsections.

3 Trade Marks Act 1995

A full list of all University trade marks on the Australian Trade Marks Register, (registered and pending) is maintained by the Council Secretary.

Attachment 1 of this Policy is the current list of such Trade Marks.

The Australian Trade Marks Act 1995 provides for the registration of trade marks. The owner of a registered trade mark can prevent others from using the same or a similar trade mark with respect to the same or similar goods whether or not the trade mark has acquired a reputation as being associated with that trader.

Registered trade marks must be used in the exact form in which they are registered, and they must continue to be used as a trade mark, that is as a badge of origin for the goods and services with respect to which they are registered. Proper and consistent use involves:

- a. always using the same dimensions;
- b. always using the same colour combinations;
- c. always using the same colour shades;
- d. ensuring that the trade mark stands out against backgrounds;
- e. ensuring that elements are not added to or taken away from the trade mark;
- f. ensuring, wherever possible, that the trade mark is not used in combination with other trade marks, unless this is the result of a considered strategy;
- g. ensuring that the trade mark uses the same type font;
- h. ensuring that the trade mark is never varied in its proportions;
- i. ensuring that the trade mark always points in the same direction;
- j. not altering the trade mark to fit a potential design or situation;
- k. ensuring that the trade mark is not superimposed on other visual symbols so that it appears as part of a composite design.

The symbol TM when placed in close proximity to a trade mark, signifies that the trade mark is intended to be used as a trade mark (it may or may not be a registered trade mark). The symbol [®] in close proximity to a trade mark signifies that the trade mark is registered and that it is being used as a trade mark.

4 New Applications to Register Trade Marks

No faculty, division, school, discipline, staff member, students or other person may apply to register a trade mark on behalf of the University relating to any goods or services offered by the University unless prior written approval is sought from, and granted by, the Council Secretary who will consider such a request in consultation with the Director, Marketing and Strategic Communications .

Generally, the Council Secretary will be responsible for lodging and maintaining all trade mark applications and registrations on behalf of the University but this may vary depending on the nature of the trade mark.

Notwithstanding anything in this section 4, Australian Research and Innovation Pty Ltd ("ARI") retains the right to lodge and maintain registrations of and applications to register trade marks in relation to goods and services provided by it.

5. Acceptable combinations of University Trade Marks

It is acceptable to have combinations of University Trade Marks. For example the following logo is the combination of two trade marks:



6. Compendium of University Brand Assets

University Brand Assets are visual and audio works which individually or in combination enhance the image and brand of the University including but not limited to

- Newspaper articles
- Television clips
- Radio interviews
- Historical photographs
- Contemporary photographs
- Other such works

The Director, Marketing and Strategic Communications maintains a collection of University Brand Assets.

Contributions to the collection are encouraged.

Licence to use material from the compendium of University Brand Assets may be requested from the Director, Marketing & Strategic Communications.

7. Licenses to use University Trade Marks, Official Titles and Logos on Saleable Merchandise

Any manufacturer, retailer or vendor producing or selling merchandise bearing any of the University's registered trade marks, official titles or logos declared under the University of Adelaide Act 1971, (together referred to as "**University Trade Marks**") must either be licensed or contracted by an authorised officer of the University to produce such branded merchandise.

Any agreement with the University for the license to apply University trade marks on merchandise ("branded merchandise") must include, the following, except when an exemption has been granted (see below):

1. An annual administration fee;
2. A royalty payment on the net sales price of the branded merchandise payable quarterly;
3. An annual advance royalty guarantee;
4. An undertaking by the Licensee to maintain a comprehensive general liability insurance policy;
5. An agreement by the Licensee to indemnify the University against any claims arising from the branded merchandise;
6. A warranty that the branded merchandise produced complies with any Australian or International Standard applicable to the merchandise produced;
7. A warranty that the branded merchandise complies with the terms and conditions set out in relevant State or Federal Acts including but not limited to the Trade Practices Act and Fair Trading Act.
8. An undertaking that the Licensee will apply the symbol ® immediately adjacent to the University Registered Trade Marks whenever used.

The University has the right to reject an application for licence to use a University Trade Mark. The University has the right to exempt, from a licence agreement, a term above but such exemption must be in writing

8. Approval for Use of Registered University Trade Marks, Official Insignia and Logos or Other Material

Registered University Trade Marks

The Vice-Chancellor has the authority, with the power to sub-delegate, to enter into any trade mark licence agreement or approval to use University trade marks intended to be applied in relation to goods or services in the following classes 33, 41, 42 as specified in Attachment 1.

The Vice-Chancellor has authority, with the power to sub-delegate, to enter into any trade mark licence agreement or approvals to use University trade marks in relation to goods or services in classes 14, 16, 18, 20, 21, 25, 28, 33 as specified in Attachment 1.

5UV Radio Adelaide

Notwithstanding the above, the Vice-Chancellor has authority, with the power to sub-delegate, to enter into any trade mark licence agreements which relates to or concerns 5UV Radio Adelaide.

Official Insignia or Logos or Other Material

Approval for the use of Official Titles or logos declared under The University of Adelaide Act 1971, which are not registered trade marks is obtainable from the Director, Marketing and Strategic Communications.

Commercial Trade Marks

Commercial Trade Marks are produced by Adelaide Research and Innovation Pty Ltd.

8.1 Staff Use of University Trade Marks on Items not Intended for Sale

Staff need not seek formal approval to use University Trade Marks on the following items not intended for sale, provided they have the approval of the Executive Dean of the relevant Faculty:

- reports and other publications directly related to their teaching, or research conducted within the University
- material used to support and/or promote presentations they make as a member of the academic staff of the University, and which deal with their work and/or area of recognised expertise
- teaching notes and other course-related material provided to their students
- course promotional publications

Written approval must be sought in accordance with section 8 for permission to use University Trade Marks in all other cases. This includes use of University Trade Marks in combination with the logos of other organisations on material relating to joint projects. Approval may be requested or granted for general rather than once-only use.

8.2 Student Use of University Trade Marks on Items not Intended for Sale

Use of University trade marks by undergraduate students is discouraged and usually is only approved where a staff member wishes to highlight the University's involvement with a student project carried out for, or in conjunction with, an external organisation. In such cases, the staff member must seek approval in accordance with section 8.

There is broader scope for the use of University Trade Marks by postgraduate students, particularly where it would enhance the credibility, and thus value, of material sent to external organisations or individuals as a legitimate part of a student's course or research. In such cases, a relevant academic staff member must seek approval in accordance with section 8. This includes use of University Trade Marks on reports commissioned by external organisations as part of a student's work.

8.3 Obtaining Official Versions of University Trade Marks

Persons authorised to use University Trade Marks may obtain official versions of the trade mark from the Director, Marketing and Strategic Communications.

Staff should not provide versions of University Trade Marks to external organisations, including graphic designers or printers. It is also important that staff do not accept an external organisation's claim to already have a copy of a University trade mark. To ensure the quality and integrity of what is used, it is important that the Director, Marketing and Strategic Communications provides an approved version in each case or has ensured that an approved version already has been provided.

Approved versions of University Trade Marks may be shared within faculties or divisions, for use in line with the above guidelines.

8.4 Powerpoint and World Wide Web



Staff and students with approval to use University Trade Marks may obtain copies of the trade marks from the Visual Identity web site at: <http://www.adelaide.edu.au/vi/logo/download/>.




This site includes standard templates for Word documents and Powerpoint presentations.


9 Further Queries


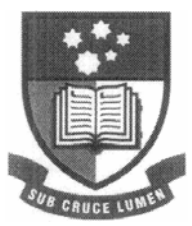
Any person who requires assistance in understanding any aspect of this document should contact the Council Secretary on 8303 4015.

12 ATTACHMENT 1 – CURRENT TRADE MARKS (as at 20 October 2004)


Mark	Number	Owner/s	Class/es	Good/Services	Status
<p>WWWWW</p> 	732823	University of Adelaide Mitchell Building North Terrace Adelaide SA 5005	33 41	Wines, spirits and liqueurs The provision of educational information and education services related to the wine industry; organising and conducting exhibitions and conferences in connection with wine; providing museum facilities and public displays relating to wine production	Registered/ Protected Priority Date: 22/04/97 Renewal Due: 22/04/07
<p>CRCLEME</p> 	748531	Commonwealth Scientific and Industrial Research Organisations Australian National University Curtin University of Technology University of Adelaide The Commonwealth of Australia Minister for Minerals and Energy State of New South Wales Minerals Council of Australia	9 16 41 42	Software; software for mining and exploration applications; software relating to landscape evolution; geographic information systems Publications, advertising and promotional material relating to research, mining exploration and landscape evolution; educational, instructional and teaching material relating to science; educational, instructional material relating to mining, exploration and landscape evolution; maps, geological surveys and geological profiles; scientific reports; atlases, manuals Education and training services relating to mining, exploration and landscape evolution Scientific and industrial research; collaborative research activities involving the mining and exploration industries; scientific and industrial research relating to mining, exploration and landscape evolution; scientific consulting and advisory services to the mining and exploration industries; scientific consulting and advisory services relating to landscape evolution; scientific consulting and advisory services for identifying mineral deposits; generation of computer programs and software	Registered/ Protected Priority Date: 13/11/97 Renewal Due: 13/11/07

Mark	Number	Owner/s	Class/es	Good/Services	Status
<p>CRCLEME</p> 	748534	<p>Commonwealth Scientific and Industrial Research Organisations</p> <p>Australian National University</p> <p>Curtin University of Technology</p> <p>University of Adelaide</p> <p>The Commonwealth of Australia</p> <p>Minister for Minerals and Energy</p> <p>State of New South Wales</p> <p>Minerals Council of Australia</p>	<p>9</p> <p>16</p> <p>41</p> <p>42</p>	<p>Software; software for mining and exploration applications; software relating to landscape evolution; geographic information systems</p> <p>Publications, advertising and promotional material relating to research, mining exploration and landscape evolution; educational, instructional and teaching material relating to science; educational, instructional material relating to mining, exploration and landscape evolution; maps, geological surveys and geological profiles; scientific reports; atlases, manuals</p> <p>Education and training services relating to mining, exploration and landscape evolution</p> <p>Scientific and industrial research; collaborative research activities involving the mining and exploration industries; scientific and industrial research relating to mining, exploration and landscape evolution; scientific consulting and advisory services to the mining and exploration industries; scientific consulting and advisory services relating to landscape evolution; scientific consulting and advisory services for identifying mineral deposits; generation of computer programs and software</p>	<p>Registered/ Protected</p> <p>Priority Date: 13/11/97</p> <p>Renewal Due: 13/11/07</p>
<p>ROSEWORTHY SUB CRUCE LUMEN</p>  <p>ROSEWORTHY</p>	772249	<p>University of Adelaide</p> <p>North Terrace Adelaide SA 5005</p>	<p>33</p> <p>41</p>	<p>Wine</p> <p>Education, providing training</p>	<p>Registered/ Protected</p> <p>Priority Date: 03/09/98</p> <p>Renewal Due: 03/08/08</p>
<p>WAITE SUB CRUCE LUMEN</p>  <p>WAITE</p>	772250	<p>University of Adelaide</p> <p>North Terrace Adelaide SA 5005</p>	<p>33</p> <p>41</p>	<p>Wine</p> <p>Education, providing training</p>	<p>Registered/ Protected</p> <p>Priority Date: 03/09/98</p> <p>Renewal Due: 03/08/08</p>

Mark	Number	Owner/s	Class/es	Good/Services	Status
NATIONAL WINE CENTRE WWWW  NATIONAL WINE CENTRE	774538	University of Adelaide North Terrace Adelaide SA 5005	33 41	Wines, spirits and liqueurs The provision of educational information and education services related to the wine industry; organising and conducting exhibitions and conferences in connection with wine; providing museum facilities and public displays relating to wine production	Registered/ Protected Priority Date: 01/10/98 Renewal Date: 01/10/08
WWWWW AUSTRALIAN NATIONAL WINE CENTRE  AUSTRALIAN NATIONAL WINE CENTRE	779906	University Of Adelaide North Terrace Adelaide SA 5005	33 41	Wines, spirits and liqueurs The provision of educational information and education services related to the wine industry; organising and conducting exhibitions and conferences in connection with wine; providing museum facilities and public displays relating to wine production	Registered/ Protected Priority Date: 01/12/98 Renewal Date: 01/12/08
SATAC	788201	The University of Adelaide Flinders University of South Australia University of South Australia The Crown in Right of the State of South Australia	41	Education services in the nature of course selection and placement; provision of information related to tertiary education courses and admission requirements	Registered/ Protected Priority Date: 15/03/99 Renewal Due: 15/03/09
GLENTHORNE	799475	The University of Adelaide	31 33 41	Agricultural products Wine and alcoholic beverages (other than beer) Provision of educational services	Registered/ Protected Priority Date: 07/07/99 Renewal Due: 07/07/09
5UV RADIO ADELAIDE	834838	Adelaide University North Terrace Adelaide SA 5000	38	Radio broadcasting services	Registered/ Protected Priority Date: 12/05/00 Renewal Due: 12/05/10

Mark	Number	Owner/s	Class/es	Good/Services	Status
<p>CRC FOR PLANT-BASED MANAGEMENT OF DRYLAND SALINITY</p> 	916440	<p>Charles Sturt University</p> <p>The Secretary of the Department of Primary Industries and Department of Sustainability and Environment</p> <p>The Minister for Primary Industries and Resources South Australia</p> <p>The University of Adelaide</p> <p>The Chief Executive Officer of the Department of Agriculture (Western Australia)</p> <p>The University of Western Australia</p> <p>Commonwealth Scientific and Industrial Research Organisation</p>	<p>35</p> <p>41</p> <p>42</p>	<p>Business management, business administration and office functions to support cooperative research activities relating to plant-based management of dryland salinity</p> <p>Education and training in relating to plant-based management of dryland salinity</p> <p>Cooperative scientific and industrial research, including cooperation amongst researchers and interaction between research and industry sectors relating to plant-based management of dryland salinity</p>	<p>Registered/Protected</p> <p>Priority Date: 14/06/02</p> <p>Renewal Due: 14/06/12</p>
<p>SUB CRUCE LUMEN</p> 	931336	<p>The University of Adelaide</p> <p>North Terrace Adelaide SA 5005</p>	<p>14</p> <p>16</p> <p>18</p> <p>20</p> <p>21</p> <p>25</p> <p>28</p> <p>41</p> <p>42</p>	<p>Jewellery</p> <p>Printed matter, photographs, stationery, office requisites</p> <p>Leather, imitations of leather, goods made of these; travelling bags; umbrellas</p> <p>Picture frames, goods of wood, cork, or of plastics</p> <p>Kitchen utensils and containers, brushes, glassware, porcelain and earthenware</p> <p>Clothing, footwear, headgear</p> <p>Games and playthings, decorations for Christmas trees, playing cards</p> <p>Education, providing training, entertainment, sporting and cultural activities</p> <p>Scientific and technological services and research and design relating thereto</p>	<p>Registered/Protected</p> <p>Priority Date 21/10/02</p> <p>Renewal Due: 21/10/12</p>

Mark	Number	Owner/s	Class/es	Good/Services	Status
THE UNIVERSITY OF ADELAIDE	931337	The University of Adelaide North Terrace Adelaide SA 5005	14 16 18 20 21 25 28 41 42	Jewellery Printed matter, photographs, stationery, office requisites Leather, imitations of leather, goods made of these; travelling bags; umbrellas Picture frames, goods of wood, cork, or of plastics Kitchen utensils and containers, brushes, glassware, porcelain and earthenware Clothing, footwear, headgear Games and playthings, decorations for Christmas trees, playing cards Education, providing training, entertainment, sporting and cultural activities Scientific and technological services and research and design relating thereto	Accepted – Opposition period expired Priority Date: 21/10/02
ADELAIDE UNIVERSITY	931338	The University of Adelaide North Terrace Adelaide SA 5005	14 16 18 20 21 25 28 41 42	Jewellery Printed matter, photographs, stationery, office requisites Leather, imitations of leather, goods made of these; travelling bags; umbrellas Picture frames, goods of wood, cork, or of plastics Kitchen utensils and containers, brushes, glassware, porcelain and earthenware Clothing, footwear, headgear Games and playthings, decorations for Christmas trees, playing cards Education, providing training, entertainment, sporting and cultural activities Scientific and technological services and research and design relating thereto	Accepted – Opposition period expired Priority Date: 21/10/02

Mark	Number	Owner/s	Class/es	Good/Services	Status
CRCLEME COOPERATIVE RESEARCH CENTRE FOR LANDSCAPE ENVIRONMENTS AND MINERAL EXPLORATION 	985406	Commonwealth Scientific and Industrial Research Organisations Australian National University Curtin University of Technology University of Adelaide The Commonwealth of Australia Minister for Minerals and Energy State of New South Wales Minerals Council of Australia	9 16 41 42	Software; software for mining and exploration applications; software relating to landscape evolution; geographic information systems Publications, advertising and promotional material relating to research, mining exploration and landscape evolution; educational, instructional and teaching material relating to science; educational, instructional material relating to mining, exploration and landscape evolution; maps, geological surveys and geological profiles; scientific reports; atlases, manuals Education and training services relating to mining, exploration and landscape evolution Scientific and industrial research; collaborative research activities involving the mining and exploration industries; scientific and industrial research relating to mining, exploration and landscape evolution; scientific consulting and advisory services to the mining and exploration industries; scientific consulting and advisory services relating to landscape evolution; scientific consulting and advisory services for identifying mineral deposits; generation of computer programs and software	Accepted – Opposition period expired Priority Date: 19/01/04