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# **POLICY IN RESPECT OF THE USE AND LICENSING OF STELLENBOSCH UNIVERSITY TRADEMARKS**



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<b>Reference number of this document</b>	
<b>HEMIS classification</b>	
<b>Purpose</b>	To formulate a policy for regulating the use and licensing of Stellenbosch University trademarks
<b>Type of document</b>	Policy
<b>Accessibility</b>	General (internal)
<b>Date of implementation</b>	01/10/2016
<b>Revision frequency</b>	Every five years from the date of implementation, or sooner if circumstances require
<b>Previous revisions</b>	New
<b>Owner of these rules</b>	Chief Operating Officer
<b>Institutional functionary (curator) responsible for these rules</b>	Senior Director: Innovation & Business Development
<b>Date of approval</b>	26/09/2016
<b>Approved by</b>	Stellenbosch University Council
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## **The essence of the policy**

The Policy in Respect of the Use and Licensing of Stellenbosch University Trademarks aims to promote and enhance the use of SU's trademarks. This will be achieved through creating awareness of the University's trademarks, the correct use and value thereof, and by providing mechanisms and standard processes to encourage the commercialisation of SU trademarks.

In order to retain SU's trademarks as unique identifiers of the University, SU needs to protect, control and monitor how these marks are used. Therefore, the primary purpose of this policy is to provide a unified strategy for the protection and usage of SU's trademarks. The policy provides guidelines for the use of these marks, which will in turn inform the monitoring of their usage.

Furthermore, protecting SU's trademarks will:

1. Protect the University's name, image and reputation and ensure that the use of the name by all parties is compatible with the University's standards of excellence and quality.
2. Promote and protect the University's name, image and reputation in a consistent and uniform manner that is compatible with the University's brand.
3. Ensure proper control over the use of trademarks that have come to be associated with the University and regulate the restrictions on the use of these marks.
4. Prevent misleading or inaccurate portrayals of the University's relationship to others or activities and prevent others from taking advantage of the University's goodwill.



## 1. Introduction

Stellenbosch University (hereinafter referred to as 'SU') is internationally well-known for excellence in the field of research and development and high teaching standards. SU has established a reputation of being a leading centre of tertiary education, which attracts local as well as international students and researchers. This reputation, which attaches to the visual aspects of SU's name and branding, is one of SU's most valuable assets and must be carefully developed, managed and protected.

SU's identifying marks are intended to distinguish its name, goods and services from those of other tertiary education providers and serve as instant identifiers of the excellence and quality of the institution. As identifiers of SU's goods and services, they become important assets, which, if properly used and managed, give SU a unifying look that is critical to public recognition. This look becomes identified with SU and the quality and excellence of its goods and services.

SU owns and controls its name and other marks that have become associated with the institution. The widely recognised Stellenbosch University name and its associated seals, marks and symbols represent the high calibre of SU's faculty and students and convey the quality and breadth of SU's accomplishments. The faculty, students and staff all share in the benefits that are associated with SU's name and marks, and therefore share in the responsibilities concerning their use.

This trademark use and licensing policy has been developed to protect the integrity of SU's trademarks and to ensure that such marks are used only in an appropriate manner. The licensing provisions of this policy will enhance the image of the University by authorising the use of its marks only on high quality and tasteful merchandise and apparel and that each licensed use reflects positively on and generates revenue for SU.



The University's trademark is also associated with excellent academic products, including SU short courses, academic programmes, and qualifications.

For all these reasons, it is important to SU that its staff, students, stakeholders, role-players and the wider community as a whole recognise the importance of monitoring and protecting these trademarks and become knowledgeable and skilful in their protection. As such, this policy is intended to provide information and guidance to these groups in respect of the use and licensing of SU's trademarks.

## **2. Implementation of the policy**

In relation to trademarks, paragraph 2.5 of the Policy in respect of the Exploitation of Intellectual Property provides, inter alia, that "SU reserves the right to licence its name or registered trademark to commercial partners". This trademark use and licensing policy has been created to give effect to the above provision.

SU has delegated the responsibility of regulating the use of SU's trademarks, granting approval for the use of SU's trademarks, and processing and approving of licence applications to Innovus, the Division responsible for the protection and management of SU's portfolio of intellectual property. A Trademark Office (TMO) will be housed within Innovus to deal with the day-to-day operations of implementing the policy.

The role of Corporate Communications in implementing the policy is particularly important, and they will work closely with Innovus and other role-players and stakeholders in this regard.

The rules and guidelines of this policy must be read in conjunction with the SU Corporate Identity Guide (maintained and managed by Corporate Communications), which is available on SU's website.



### 3. Definitions

<b>Artistic works</b>	Means paintings, sculptures, drawings, engravings, photographs, works of architecture – being either buildings or models of buildings – or works of craftsmanship, irrespective of their artistic quality.
<b>Goods</b>	Includes merchandise, wares, stock, commodities, produce, products, articles, imports and exports.
<b>Innovus</b>	Is the University's industry interaction and innovation division. Innovus has been designated as the Office of Technology Transfer for SU in compliance with article 6 of the Intellectual Property Rights from Publicly Financed Research and Development Act, No 51 of 2008.
<b>Intellectual property (IP)</b>	Encompasses registerable and non-registerable inventions, expertise, trademarks, trade secrets, copyrights, designs and plant breeders' rights that have come about through the mental efforts, insight, imagination, knowledge and creativity of humans.
<b>Intellectual property Rights (IPRs)</b>	Refers to IP as defined above, of which the exclusive right of ownership, with the attendant rights and obligations, belongs by law to a natural or a legal person (company, trust or institution).
<b>Literary works</b>	Means novels, stories and poetical works, dramatic works, stage directions, cinematograph film scenarios and broadcasting scripts, textbooks, treatises, histories, biographies, essays and articles; encyclopaedias and dictionaries; letters, reports and memoranda; lectures, speeches and sermons; and tables and compilations, including tables and compilations of data stored or embodied in a computer or a medium used in conjunction with a computer, irrespective of literary quality, and in whatever mode or form expressed.



<b>Mark</b>	Means any sign capable of being represented graphically, including a device, name, signature, word, letter, numeral, shape, configuration, pattern, ornamentation, colour or container for goods, or any combination of the aforementioned.
<b>SU</b>	The acronym SU includes all professional services departments, divisions, faculties, institutes, bureaus, units, centres, spin-out companies, affiliated organisations and organisations formally registered with Stellenbosch University.
<b>Trademark</b>	<p>A trademark is a form of protectable intellectual property. It is a mark used or proposed to be used by a person in relation to goods or services for the purpose of distinguishing the goods or services in relation to which the marks is used or proposed to be used from the same kind of goods or services connected in the course of trade with any other person. A trademark is designated by the following symbols:</p> <p>TM – used for unregistered trademarks to indicate an assertion to potential infringers that a name, slogan, logo or other indicator is a trademark</p> <p>® – for registered trademarks</p>
<b>Unregistered trademark</b>	Means a common law trademark that has not been formerly registered in terms of South African legislation.
<b>Brand vs Trademark</b>	Although the two terms are often used in very similar ways, it is important to note that a trademark is granted by a trademark and patent office, and is a legal device that protects the owner in case of the unlawful use thereof. A brand, however, is less tangible and is developed over a course of time with consistent quality that is appreciated by stakeholders. It also encompasses the image and reputation of an institution among its stakeholders and their sense of affiliation with the institution.



#### **4. Aims of the policy**

The policy has the following specific aims:

- a) To ensure correct use of SU's trademarks.
- b) To mitigate illegal or inappropriate uses of SU's trademarks.
- c) To protect the University from liability risk with regard to the use of its trademarks.
- d) To regulate the process(es) of granting authorisation for legitimate internal and external use of SU's trademarks.
- e) To designate the individuals authorised to approve the use of SU's trademarks and to describe the procedure for obtaining such approval.
- f) To ensure that any goods or services that bear SU's trademarks do not harm the integrity and reputation of the University.
- g) To ensure that any goods or services that bear SU's trademarks maintain and enhance the goodwill of the University, promoting and supporting an increased awareness of the University.
- h) To ensure that any goods or services that bear SU's trademarks are of a high quality and are used only for goods and services with which the University has chosen to associate itself and has assumed some level of responsibility.
- i) To ensure that the University secures a legitimate and appropriate commercial value for the use of the trademarks in order to generate revenue for the University
- j) To provide fair and equitable treatment of all licence holders.
- k) To ensure SU's trademarks are not diluted, diminished, or tarnished in any way.

#### **5. Policy principles**

This policy recognises the value and integrity of the SU brand. In line with the values of SU, namely Excellence, Shared Accountability, Empathy, Innovation and Leadership in Service of Others, the value of SU's name and trademarks may not be eroded.

#### **6. Policy provisions**



### **6.1 Ownership of Stellenbosch University trademarks**

SU is the owner of all rights, titles and interests in respect of a number of registered and unregistered trademarks in South Africa that are representative of the University and are associated with SU. These trademarks are the sole property of SU, and the University has the exclusive right to assign, license, or transfer any of its marks to any other person or entity.

SU reserves all its rights in respect of all such trademarks to the fullest extent of the law.

### **6.2 Trademarks covered by this policy**

The trademarks covered by this policy include all trademarks applied for and/or registered in the name of SU in terms of South African national legislation, as well as the unregistered trademarks of the University. These trademarks include, but are not limited to, the SU name, crest and corporate logo and the Maties logo.

This policy also extends to all other signs and indicators used by the University that suggest an association or a connection with the goods or services provided by SU, including, but not limited to, the words 'Matie', 'Matieland' and 'Coetzenburg', as well as the corporate and faculty colours, emblems, names and logos that have been or will be developed by the various SU entities.

### **6.3 Applicability**

This policy applies to all SU staff, students, post-doctoral researchers, visiting lecturers, academic departments, ad hoc groups, professional support services divisions or departments, alumni organisations, student organisations and sports teams.

This policy applies to the use of SU's trademarks in any media or form, including, but not limited to, their use in literary works (whether in print or electronic use), incorporation into artistic works (in print or electronic use), use on or in close relation to goods, use in relation to services, incorporation into the name of groups or organisations, incorporation into websites and in domain names.



## **6.4 Use of trademarks**

All uses of SU trademarks must comply with the standards outlined in the provisions below.

### *6.4.1 No alterations*

All uses of SU trademarks must comply with the University's design standards as comprehensively set forth in the SU Corporate Identity Guide. University marks may not be modified in any way without prior written approval from the COO or his delegated authority.

### *6.4.2 Approval*

All uses of SU trademarks for commercial purposes require prior written approval from Innovus, as delegated by the COO. In addition, certain instances of non-commercial use also require prior written approval from Innovus in accordance with the provisions below. Approval for use on a once-off basis and in relation to specific goods or services does not constitute approval for the repeated use of a trademark, or in connection with the provision of any other goods or services.

### *6.4.3 Co-branding*

SU trademarks may not be used in conjunction with the name or trademarks of any other entity without the prior written permission of Innovus and such other entity. If permission is granted to use an SU trademark in conjunction with another entity's trademark, the marks must be clearly distinct and separate from each other, and the SU trademark must not be overshadowed or diminished in any way in comparison to the other entity's trademark. SU reserves the right to impose such further conditions and/or restrictions as may be deemed appropriate in each case.

### *6.4.4 Endorsements*

SU trademarks may not be used in any manner that suggests or implies the University's endorsement of any organisation, movement, company, product, service, political party or



view, religious organisation or belief without prior written approval from Innovus. Any request for such permission must set forth reasons for the use of SU trademarks, together with such implication or association.

#### *6.4.5 Non-discrimination*

SU trademarks may not be used in any way that discriminates or implies discrimination against any person or group based on race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth, or in any other way that would be a violation of the University's non-discrimination policies and practices.

#### *6.4.6 Designation symbols*

All uses of SU's registered trademarks will, wherever practicable, incorporate the word registered or the ® symbol. All other marks and slogans will, wherever practicable, incorporate the use of the ™ symbol.

#### *6.4.7 Use of trademarks on goods or in relation to the provision of services*

SU trademarks are intended to present a positive image of the University. The final determination as to whether the intended use of any SU trademark presents a positive image of the University will be at the discretion of the COO of SU.

The use of SU trademarks will not be approved, subject to certain limited exceptions<sup>1</sup> upon or in relation to certain types of goods, or in relation to the provision of certain types of services.

These include, but are not limited to, the following:

- alcoholic beverages including beer, wine and liquor, or services relating to these goods;
- inherently dangerous products including firearms, explosives and fuels, or services relating to these goods;

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<sup>1</sup> In this regard, please refer to the provisions relating to alcoholic products, under section 6.5.



- tobacco-related products or services;
- illegal drug-related products or services;
- obscene or disparaging products or services, including, but not limited to, nude photographs, caricatures, poster art or designs that would tend to damage the reputation or degrade the goodwill of SU, as represented by its trademarks;
- sexually suggestive products or services;
- products or services that present an unacceptable risk of liability; and
- products or services that are harmful to the mission or image of the institution or will taint or undermine its goodwill.

#### 6.4.8 *Artwork and design restrictions*

Certain artworks or designs will not be approved for use in conjunction with SU trademarks, subject to certain limited exceptions<sup>2</sup>, including, but not limited to:

- art depicting the use or endorsement of alcohol;
- art depicting the use or endorsement of illegal drugs;
- art depicting the use or endorsement of tobacco products;
- art depicting the use or endorsement of firearms or any other weapons;
- art depicting the use or endorsement of racist, sexist, hateful, demeaning or degrading language or statements;
- art depicting profanity;
- art depicting gambling;
- art depicting sexual acts;
- art depicting statements impugning SU or any other university in any manner; or
- art or designs incorporating IP not owned by SU, unless written permission for such use is received from the IPR owner.

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<sup>2</sup> In this regard, please refer to the provisions relating to alcoholic products under section 6.5.



#### *6.4.9 Appropriate use of trademarks*

SU reserves the right to disapprove any use of its trademarks, even if such use is not explicitly prohibited by this policy.

### **6.5 Use of trademarks in relation to wine and wine-related products**

The Stellenbosch Winelands region has a long-standing cultural and economic heritage and is the leading centre for viticulture and vinicultural research in South Africa.

SU has a recognised history of engagement with the sciences of the vine and the wine, and is in close association with the South African grape and wine industries. For this reason, special provision has been made for the use of SU trademarks in relation to wine products.

The use of SU's trademarks in relation to wine and wine-related articles will be approved only if the marks are used in a wholesome and tasteful manner that does not taint or undermine the reputation and goodwill of the University.

## **6.6 Licensing**

### *6.6.1 Introduction*

The COO of SU has the responsibility of regulating the use of SU's trademarks, both internally and externally, and is responsible for the administration and management of all trademark-licence agreements. The COO has delegated the responsibility of negotiating and processing licence applications and granting approval for the use of SU trademarks to Innovus.

Any entity wanting to use SU's trademarks on or in connection with products, or for the provision of services, must be licensed to do so by Innovus in terms of the provisions of this policy. All licence applications are subject to the approval of Innovus.

The following guidelines provide specific information on the procedures for licensing SU trademarks.



### *6.6.2 Licence required for all commercial uses of SU trademarks*

All entities intending to use SU marks, either internally or externally, in connection with the commercial sale or resale of goods, or the commercial provision of services must be licensed to do so. A written licence agreement from Innovus is required whether the commercial use will be ongoing or associated with a one-time event.

### *6.6.3 Non-commercial uses that require prior approval*

Most non-commercial uses of SU marks by University entities do not require a licence or prior approval. The provisions for internal use below apply in this regard.

All external uses of SU marks by non-university entities require prior approval, even if the proposed use is for a non-commercial purpose. External entities must submit the appropriate request form to Innovus for approval for non-commercial uses of University marks.

### *6.6.4 Licence procedure*

The procedure for obtaining a licence through SU is included as **Annexure A**, while the appropriate licence application form constitutes **Annexure B** to this policy.

### *6.6.5 Licensing agreement*

Successful licence applicants will be required to enter into a written trademark licensing agreement with SU. Such agreement will regulate, inter alia, the appointment and granting of the licence, the trademarks licensed and the goods or services in relation to which the licence is granted, the term of the licensing arrangement, title to intellectual property, the conditions upon which a licence will be granted, provisions regulating fees and payment, quality control and standards, appointment of and dealing with sub-licences, termination of the licence, liability of parties, accounting records and taxes, confidentiality, infringement, risk, breach of contract, and provisions relating to notices and domicilia.



### ***6.6.6 Social and environmental responsibility***

Stellenbosch University is committed to conducting its business affairs in a socially and environmentally responsible and ethical manner. As such, SU prohibits products bearing its trademarks from being manufactured under abusive or unfair labour conditions, or in a manner that is detrimental to the environment. SU requires that all its licensees, in their application for licensing approval, disclose the names and locations of all manufacturers of merchandise bearing SU's trademarks.

## **7. Internal use**

### ***7.1 What constitutes internal use***

Internal use is use by SU entities including faculties, departments, units, student, alumni and sport organisations that are officially recognised by the University in their ordinary course of conducting University business. Examples of internal uses include, but are not limited to, use of trademarks on stationery, business cards, reports, official publications, posters, banners, promotional materials or academic programmes, as well as electronic media.

### ***7.2 Use of SU trademarks for internal purposes***

University entities may use SU's trademarks for internal purposes as described above without prior written approval from Innovus. Such use is permitted, provided that no alterations are made to SU marks and that such marks are used and applied in strict accordance with the Corporate Identity Guide.

University entities are permitted to use SU trademarks on all internal consumption items without prior written approval from Innovus. Internal consumption items are those that bear SU trademarks but are otherwise a workplace necessity used by any entity of the University in the ordinary course of conducting business. Other than the items referred to in paragraph 7.1 of this document, examples of internal consumption include advertising material for departmental services, equipment and supplies, and any apparel required to be worn by employees.



### **7.3 Internal use by student and sport-related organisations**

Registered student organisations or sports clubs may use SU trademarks in their names, titles, publications, and letterheads in a manner that is fair and consistent with the rules applicable to such organisations or clubs. Use of SU's trademark by student and sport-related groups or organisations may not be portrayed in a manner that is detrimental to or that will tarnish the reputation of the University.

### **7.4 Use of SU trademarks in e-mail signatures**

All uses by University staff and students of SU trademarks in e-mail signatures must conform to the design standards set forth in the Corporate Identity Guide or the applicable faculty guidelines. E-mail signatures that incorporate SU trademarks may not be altered in any way without prior written approval from Innovus.

## **8. Policy control**

Innovus protects SU trademarks and is authorised to prosecute misuse of its trademarks to the fullest extent of the law.

### **8.1 Roles**

- 8.1.1 The policy custodian is responsible for the formulation, approval, reviewing, communication and monitoring of the policy.
- 8.1.2 Innovus has a delegated responsibility for the implementation and general management of the policy.
- 8.1.3 Corporate Communications is responsible for compiling, maintaining and implementing the SU's Corporate Identity Guide and for SU brand management.

### **8.2 Actions for non-compliance**

- 8.2.1 Any breaches of or non-compliance with the policy must be reported to the policy owner and the SU's Risk Management Committee.



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8.2.2 All instances of non-compliance with the policy, and when duly advised by the policy owner, will be dealt with within the normal lines of management in terms of SU's disciplinary policy and procedures.

## **9. Revision**

This policy will be revised every five years or sooner if circumstances require.



## 10. Supporting documents

The policy in respect of the Use and Licensing of Stellenbosch University trademarks is supported by the following annexures:

<b>Annexure A</b>	Procedure for obtaining a licence
<b>Annexure B</b>	Standard licence application form

## 11. Related documents

Relevant and related documents include the following:

<b>Item</b>	<b>Name</b>	<b>Status</b>	<b>Policy owner</b>
	The Policy in respect of the Exploitation of Intellectual Property		
	Stellenbosch University Corporate Identity Guide		



## **ANNEXURE A: LICENSING PROCEDURE**

- 1) SU, through the office of Innovus, offers licences to all suitable entities interested in obtaining a licence for the use of SU trademarks. SU reserves the right as the final decision maker concerning all licence applications to approve or reject an application for the use of SU trademarks.
- 2) The official application forms for licensing approval are available as annexures to this policy, as well as on the official Innovus website.
- 3) Prospective licensees (referred to as applicants) must submit the appropriate application form, together with all required information prescribed therein, to Innovus to assist in the decision-making process. Applications must be accompanied by samples of merchandise for production quality approval. Innovus reserves the right to contact all applicants to clarify any responses contained in the application forms.
- 4) Innovus will review all applications in order to assess the applicant's ability to comply with the licence; the appropriateness of the goods or services; and the liability risks associated with the product or service.
- 5) Thereafter, Innovus will notify the applicant of the approval or rejection of the application.
- 6) Applicants approved for licensing will be notified and provided with the appropriate licensing agreement.
- 7) If, during the term of the licence, the licensee intends using the SU's trademarks in a way that is different to the licensed use, the licensee must first request and obtain approval for this. Examples of changes in use include changes to the approved design, the incorporation of additional marks, or use on additional products.



## ANNEXURE B: LICENCE APPLICATION FORM

Thank you for your interest in licensing SU's trademarks. The purpose of this application form is to obtain detailed information about yourself / your company and the product(s) you seek to produce under licence, so that SU may determine if providing a licence to your company is in the best interest of the University. It is important that you provide thorough and accurate information. Note that this document is an application form only and does not authorise the applicant to manufacture, promote or distribute any merchandise that bears the identifying marks of SU.

### APPLICANT INFORMATION

Type of organisation:

- Corporation     Partnership     Sole proprietorship     Close  
 corporation     Natural person    Other: \_\_\_\_\_

Name:	
Address:	
Country:	
Postal code:	
Telephone:	
Fax:	
Website:	

Name of parent company (if this business is a subsidiary):

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Contacts	Name	E-mail address
Primary contact:		
Financial:		
Product development:		
Sales:		



Company function:

Manufacture    Distributor    Advertising    Artist/Crafter

Tax number: \_\_\_\_\_

**LEGAL AND INSURANCE CLAIMS**

Have any claims been filed against this company or related entities for trademark, copyright, patent or other intellectual property infringement?    Yes    No

*If yes, please attach a separate sheet providing all details.*

Have any product liability claims been filed against this company or related entities?

Yes    No

*If yes, please attach a separate sheet providing all details.*

**LICENSING INFORMATION**

Please indicate which of Stellenbosch University's trademarks you are interested in licensing:

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Please indicate the duration of the licence you are seeking:

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Please indicate the goods or services on which you intend using Stellenbosch University's trademark(s):

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**DECLARATION**

I have read and understand this application form and hereby state that to the best of my knowledge all information provided is accurate and complete. I also grant Stellenbosch University permission to verify information about the company filing this application, including requesting reports from credit bureaus. I am aware that this information may be used to evaluate this application.

Signature: \_

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Name: \_\_\_\_\_

Title: \_

---

Date: \_\_\_\_\_

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**RETURN THE COMPLETED LICENCE APPLICATION FORM TO:**

Innovus  
15 De Beer Street  
Stellenbosch  
7600