

INFORMATION PAPER

JALS-IP
14 September 2017

SUBJECT: Intellectual Property Issues

1. Purpose. To provide SJAs and key leaders information on the Intellectual Property Mission in Regulatory Law and Intellectual Property Division (RL/IP)

2. Background. RL/IP's primary Intellectual Property (IP) mission is responsibility for control and coordination of the patent, trademark, copyright, and related intellectual property (IP) activities of the Army. It includes: filing documents with the U.S. Patent and Trademark Office; supporting the Army Trademark Licensing Program; enforcing trademark rights; representing the Army (with DOJ) in IP related cases; settling IP claims; making rights determinations on inventions created by Army employees; providing IP advice to activities not assigned IP counsel.

3. Authority. IAW AR 27-40 paragraphs 1-4 (d) and 3-1 (c), RL/IP should be notified of any claim of IP infringement against the Army, whether or not it is in the form of a formal claim of infringement. AR 27-60 is the Intellectual Property Regulation. AR 601-208 prohibits creation of marks without approval of ASA(M&RA), or modifying the official U.S. Army Star logo.

4. RL/IP Issues:

a. Litigation (contract) between Crye Precision (owner of the brand name MultiCam®) and 3rd parties who print the Army's Operational Camouflage Pattern (OCP) fabric for Army uniforms. Various IP rights (patent, copyright, and trademark) involving OCP and MultiCam® are implicated and may directly affect the Army's interest.

b. RL/IP is the only activity (other than USMA for West Point-exclusive marks) with authority to register, sign licenses, and enforce Army trademarks. With restriction, Unit Commanders may authorize use only of Shoulder Sleeve Insignia or Distinctive Unit Insignia.

c. Copyright issues frequently arise at installations involving: preparation of training materials; use of music, photographs, and video in presentations; contracting for preparation of works including artwork; and posting of material on social media. Material (literature, photos, video, music) that is "out there" accessible on the Internet is not necessarily in the public domain, and not every Army use is "fair use." Just because we pay for a work (book, photo, video, music) to be produced does not mean we own the underlying IP. Ownership/license rights need to be spelled out in the contract to ensure the Army is adequately protected.

5. Impact. Our IP attorneys will identify which type of IP (copyright, trademark, patent) is involved in your matter, and provide subject matter expertise to protect the Army's interests and avoid infringing 3rd parties' rights. Contact them as soon as you recognize the issue.

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