



Official Document AA.44

Title Trademark Regulations

Version

3.1

Date

September 2009

GSM Association Classifications

Permanent Reference Document - Binding

Document Owner: GSMA Board

Security Classification Category:	
Unrestricted - Public	X

Information Category	Trademark
----------------------	-----------

Unrestricted

This document is subject to copyright protection. The GSM MoU Association ("Association") makes no representation, warranty or undertaking (express or implied) with respect to and does not accept any responsibility for, and hereby disclaims liability for the accuracy or completeness or timeliness of the information contained in this document. The information contained in this document may be subject to change without prior notice. Access to and distribution of this document by the Association is made pursuant to the Regulations of the Association.

© Copyright of the GSM MoU Association 2003

Document History

Version	Date	Brief Description
3.0.0	December 2003	Renumber LR.01 to AA.44 and change document owner to GSMA Board
3.1	September 2009	Non-material streamlining of licensing process and regulation of the GSMA trademarks

Table of Contents

1. INTRODUCTION	3
REGULATIONS OF THE GSM MoU ASSOCIATION ON TRADE MARKS	3
Article 1: Trade Marks	3
Article 2: Trade Mark Licence	3
Article 3: Protection of Trade Marks and Licence	4
Article 4: Permitted use of the Trade Marks by Members	4
Article 5: Breach of the Trade Mark Regulations	5
Article 6: Permitted use of the Trade Mark by non-members	5
Article 7: No Guarantee. No Liability	5
Article 8: Governing Law, Dispute Resolution	6

1. INTRODUCTION

REGULATIONS OF THE GSM MoU ASSOCIATION ON TRADE MARKS

The following Regulations on Trade Marks (the “Trade Mark Regulations”) have been adopted as regulations of the GSM MoU Association (The “Association”) on the basis of Article 18 of the Articles of Association. The definitions in the Articles of Association shall have the same meaning hereinafter.

Article 1: Trade Marks

- 1 The Association is the owner of certain Trade Marks (all of them hereinafter referred to as the “Trade Marks”) which are further described in Appendix A:
- 2 The Association has registered, or will take all the necessary measures related to the registration of one or all of the Trade Marks in certain countries in Appendix A. A Member is not to register the Trade Marks in its own name.
3. The countries in which Trade Marks have been registered shall be provided upon request. All registrations have been or will be made for Classes 9 and 38 where possible.
4. In countries where Members of the Association are domiciled but where, for reasons of local law, trade mark protection does not rely on registration but on another basis (e.g. on common law), the Association and the Member (s) concerned shall take appropriate measures for the accomplishment of adequate protection of the Trade Marks in such countries.

Article 2: Trade Mark Licence

1. Upon the effectiveness of its membership, , a Member is granted a non-exclusive, royalty-free permission (the “Licence”) to use the Trade Marks in accordance and in compliance with these Trade Mark Regulations and the standards of quality and schedule of conditions as prescribed in AA.37 (Corporate Identity Guide) which are incorporated herein. .
2. Provided the Association’s rights as regards the Trade Marks remain effective a Member may use the Trade Marks for so long as its membership continues or it is not subject to suspension, discontinuation or expulsion proceedings pursuant to the Articles of Association. A Member’s right to use the Trade Marks may be terminated if it breaches the terms of these Trade Marks Regulations.
3. The Licence granted to each Member cannot be assigned or sub-licensed, directly or indirectly, wholly or partially, by any Member without the prior consent of Headquarters except that each Member shall be entitled, without further authorisation to grant the right to use the Trade Marks to persons within its distribution channel (i.e. service providers, dealers and agents).
4. In the event a Member licenses a person(s) within its distribution channel, it shall bear all responsibility and liability with respect to ensuring compliance with these Trade Mark Regulations by those whom it has licensed. Each Member shall be

GSM Association Official Document: AA.44	Unrestricted
---	--------------

required to ensure that persons within its distribution channels sign the licence agreement which shall be provided by GSMA upon request. Headquarters may, if it deems necessary, require persons within a Member's distribution channel which the Member wishes to sublicense the Trade Marks to provide an example of how they intend to use the Trade Marks to verify that the intended use is in compliance with the Trade Mark Regulations.

5. Subject to national law, any licence issued by the Association is not to be considered as being part of the assets of any Member and may not be used by a judiciary administrator or liquidator. Subject to national law, it may not be sold or put up for sale by auction in the event of bankruptcy or winding-up of any Member, the licence granted to such Member shall automatically be terminated and cease to be effective.
6. By way of exception to clause 3 above, a Member will be allowed to assign his contractual rights to his successor in the exploitation of his business, especially in the case of merger with a company already incorporated or to be incorporated. It is of course understood that a Member's successor shall be bound by the terms of the Trade Mark Regulations and that such an assignment should be submitted to the Association's Headquarters for approval.

Article 3: Protection of Trade Marks and Licence

1. Each Member wishing to use the Trade Marks shall, to the extent permitted by, and subject to mandatory provisions of any national laws applicable, undertake all reasonably necessary steps towards and for the protection of the Trade Marks, including, the registration of the Licence in the country of origin of the Member in this respect.
2. If any Member becomes aware of any infringement of the Trade Marks, it shall immediately advise the Headquarters thereof. The Member shall in particular inform the Headquarters of all word marks or device marks of which it becomes aware of that are used as trade marks, signs, names, company names and commercial names etc. and show some similarity or likeness with the Trade Marks.
3. Any actions regarding the protection of the Trade Marks shall be decided by the General Counsel. The costs for legal proceedings shall be divided by the Members in accordance with their votes.

Article 4: Permitted use of the Trade Marks by Members

1. Each Member agrees to use the Trade Marks for the general promotion of the GSM Platform and the GSM Association and shall not use the Trade Marks in any manner which may be considered as being detrimental to the GSM Platform or the GSM Association.
2. Members shall have the right to include the wordmark or devicemark in their corporate names, names of their products or service offerings subject to signing a separate licence agreement with the Association..

Article 5: Breach of the Trade Mark Regulations

1. In the event of a breach of the Trade Mark Regulations or a licence issued which is rectifiable, the Association shall send a formal letter of complaint to the Member whereby the Member shall be asked within one month of receipt of the letter of complaint to rectify the breach and if necessary remove the offending material from circulation.
2. In the event that a rectifiable breach is not rectified within one month or in the case that it is a non-rectifiable breach, the matter shall be immediately submitted to the General Counsel who may decide to suspend the Member's Licence to use the Trade Marks. If the matter is not resolved, a motion to terminate a licence issued to a Member shall come before the Finance Committee.
3. The Association reserves the right to impose a penalty on a Member who breaches the Trade Mark Regulations. The amount of the penalty shall not exceed Euro 70.000 for each breach by a Member, each breach being defined as a failure or a series of failures related to the same original failure to comply with the Trade Mark Regulations. The exact amount of the penalty shall depend on the gravity of the breach and shall be decided by the Finance Committee. The imposition of a penalty shall be without prejudice to the right of the Association to seek damages from a Member or a third party.
4. The Association shall have the right to take proceedings of any nature with respect to any breach of the Trade Marks Regulations by a Member or a non-member including but not limited to the right to initiate injunction proceedings. A Member may take proceedings against those whom it has licensed but may not take proceedings against another Member.

Article 6: Permitted use of the Trade Mark by non-members

1. The Headquarters may grant a licence to use the Trade Marks to non-members who are engaged in activities related to the mobile communications industry. Non-members may be asked by the Headquarters to provide an example of how they intend to use the Trade Marks.

Article 7: No Guarantee. No Liability

1. The Association does not guarantee the registration of the Trade Marks in all countries of the world. It is the responsibility of each Member to verify with the Headquarters whether a particular Trade Mark is registered in any particular country.
2. The Association does not guarantee the validity of the Trade Marks or the absence of prior trade marks in any particular country.
3. The Association cannot be held liable and will not indemnify a Member for any damages that it may be required to pay to third parties as a consequence of legal action arising out of the use of the Trade Marks by a Member or as a consequence of a decision by a court or other authority to void the licence for reason of non-use of the Trade Marks.

4. The Association shall require any Member, any party licensed by the Member, and any party licensed by a licensee of the Member to indemnify the Association in full for any loss or damage which the Association suffers as a result of a claim by a third party arising out of unauthorised use of the Trade Marks.

Article 8: Governing Law, Dispute Resolution

1. The licence granted to any Member pursuant to Article 5 paragraph 6 of the Articles of Association as well as these Trademark Regulations shall be governed by the laws of Switzerland. The language of the proceedings shall be English.
2. Article 26 of the Articles of Association regarding dispute resolution shall apply for any and all disputes arising out of or in connection with these Trademark Regulations and any licence granted hereunder.

**Appendix A to
Regulations Of The GSM MoU Association On Trade Marks**

APPENDIX A

GSM MoU ASSOCIATION TRADE MARKS

	GSM		GLOBAL SYSTEM FOR MOBILE COMMUNICATIONS
---	-----	---	---

