

**TITLE 10 - ARMED FORCES**

**Subtitle A - General Military Law**

**PART IV - SERVICE, SUPPLY, AND PROCUREMENT**

**CHAPTER 134 - MISCELLANEOUS ADMINISTRATIVE PROVISIONS**

**SUBCHAPTER II - MISCELLANEOUS ADMINISTRATIVE AUTHORITY**

**§ 2260. Licensing of intellectual property: retention of fees**

(a) **Authority.**— Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

(b) **Designated Marks.**— The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

(c) **Licenses for Qualifying Companies.**—

(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.

(2) For purposes of paragraph (1), a qualifying company is any United States company that—

(A) is a toy or hobby manufacturer; and

(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.

(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.

(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.

(5) A license under this subsection shall not be an exclusive license.

(d) **Use of Fees.**— The Secretary concerned shall use fees retained under this section for the following purposes:

(1) For payment of the following costs incurred by the Secretary:

(A) Costs of securing trademark registrations.

(B) Costs of operating the licensing program under this section.

(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

(e) **Availability.**— Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

(f) **Definitions.**— In this section:

(1) The terms “trademark”, “service mark”, “certification mark”, and “collective mark” have the meanings given such terms in section 45 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).

(2) The term “Secretary concerned” has the meaning provided in section 101 (a)(9) of this title and also includes—

(A) the Secretary of Defense, with respect to matters concerning the Defense Agencies and Department of Defense Field Activities; and

**(B)** the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

(Added Pub. L. 108–375, div. A, title X, § 1004(a), Oct. 28, 2004, 118 Stat. 2035; amended Pub. L. 110–181, div. A, title VIII, § 882(a), Jan. 28, 2008, 122 Stat. 263; Pub. L. 110–417, [div. A], title VIII, § 881, Oct. 14, 2008, 122 Stat. 4559.)

### **Amendments**

2008—Subsec. (a). Pub. L. 110–417, § 881(1), inserted “or the Secretary of Homeland Security” after “Secretary of Defense”.

Subsecs. (c) to (e). Pub. L. 110–181, § 882(a), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 110–417, § 881(2), substituted “this section:” for “this section,” and “(1) The” for “the” and added par. (2).

Pub. L. 110–181, § 882(a)(1), redesignated subsec. (e) as (f).

### **Effective Date of 2008 Amendment**

Pub. L. 110–181, div. A, title VIII, § 882(b), Jan. 28, 2008, 122 Stat. 264, provided that: “The Secretary of Defense shall prescribe regulations to implement the amendment made by this section [amending this section] not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008].”