

# OOHRAH! A Few Good Trademarks: The U.S. Military's Trademark Campaign

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Recently, there was an interesting [article in the \*The New York Times\*](#) discussing the current state of military trademarks. Many people might think that federal and state government entities and agencies cannot, do not, or should not own exclusive rights in trademarks used in connection with commercialized products and services. However, unless there is a statutory prohibition against ownership of trademark rights in government insignia ([as there are for certain government seals](#)), government entities have just as much right to own trademarks as does any private citizen.

In past decades, the U.S. military did not enjoy the popularity and feelings of patriotism that surfaced following 9/11. Thus, it is not surprising that during that era very few military related trademarks were registered at the U.S. Trademark Office. Now that the longest war in U.S. history is winding down, and veterans are welcomed home with honor, there has been no hesitation by up-and-coming entrepreneurs to promote military support, affiliation, and pride through the use of trademarks consisting of or incorporating words, phrases, and symbols associated with the military. In conjunction with this rise in use and registration of military-affiliated trademarks, the various branches of the U.S. military have also stepped up their own commercial use and registration of military trademarks and have begun to address the use of such marks by others.

The U.S. Marines have been very prolific recently in filing applications for a long list of trademarks including OOHRAH!, A FEW GOOD MEN, CHESTY, WHICH WAY WOULD YOU RUN?, DEVIL DOGS, and many more for a multitude of items such as decals, coffee mugs, shirts, posters, flags, and mouse pads. The U.S. Navy, not to be outdone, has also been very active in protecting its trademarks and has applied for or obtained registrations for marks such as SEAL, BLUE ANGELS, NAVCLEAN, ALL HANDS, and the [fabric design on its camouflage uniforms](#) used for a wide variety of similar merchandise items as well as for software, preparations to destroy mildew, and membership association services. The Army claims exclusive rights in many marks such as NEVER STOP ADVANCING, STARTING STRONG, BE A FORCE, TACTICAL BREATHER, and A HEAD FOR THE FUTURE used for magazines, software, and public awareness campaigns on topics such as sexual abuse and traumatic brain injury. The diversity of marks and the goods and services for which each is used is dramatic. All combined, these three branches of the military own hundreds of trademark applications and registrations filed or issued in the last few years. Although other branches of the military have not been quite as active, they, too, have ramped up their trademark efforts.

This relatively new commercial activity by the U.S. military, and its efforts to prevent unauthorized use of words, logos, and phrases with an arguably military connotation, has not been without controversy. As in any business, there is often a fine line to be drawn when otherwise legal actions have the potential to cause a public relations backlash. As reported in the *Times* article, many veterans do not like being told they cannot use a brand under and for which they fought, and at least one consumer advocacy group is quoted in the same article as stating that it does not believe that the military should be able to monetize expressions of support for military entities.

A quick review of the records at the United States Trademark Trial and Appeal Board, an administrative tribunal which, among other things, resolves disputes between parties over the registrability of trademarks, shows that there are not only cases that have been filed by the U.S. Marine Corps, the U.S. Navy, and the U.S. Army against third-party trademark applications, but also cases in which private citizens are challenging trademark applications filed by the military. Most of these cases appear to have been resolved privately, avoiding the need for a full public battle. These resolutions might involve a trademark license from the military trademark owner to the users for a licensing royalty fee, modifications to the trademark at issue to avoid perceived infringement, or discontinued use of the mark at issue.

The takeaway here is that the phrase "pick your battles" has new meaning when it comes to military-inspired trademarks. Everyone is looking for "a few good trademarks." Just be sure yours do not start a war with the U.S. military.

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