

Before The
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Review of Nonpostal Services

Docket No. MC2008-1

STATEMENT
OF
GARY A. THURO

AUTOBIOGRAPHICAL SKETCH

My name is Gary A. Thuro. I began my career as a clerk in 1985 in the Newark N.J. main post office. I have served in numerous managerial positions in Operations, Logistics, Public Affairs and Communication, and Marketing. In 2000 I was promoted to the executive ranks as Manager of Communication Services in the Public Affairs organization.

Since 2005 I have been the Manager of Licensing which is now part of the Mailing and Shipping Services organization. I am responsible for managing the activities, direction, and processes of the USPS Commercial Licensing Program. I am a member of the Society of Product Licensors Committed to Excellence (SPLiCE) and the International Licensing Industry Merchandisers' Association (LIMA).

I have a Master of Public Administration degree from The American University in Washington D.C.

I. PURPOSE AND SCOPE OF TESTIMONY

The purpose of my testimony is to describe the United States Postal Service Commercial Licensing Program, why it exists, and how the Postal Service follows commercial best practices in its licensing program. I also discuss other Federal agencies that license their intellectual property.

II. USPS COMMERCIAL LICENSING PROGRAM

The organizational mission of the program is to acquire, develop, and manage licensee partners that produce commercial products using a wide range of Postal Service intellectual property including stamp art, icons, the USPS corporate signature, and derivations of the USPS brand essence. The licensing program identifies suitable licensee partners, develops guidelines for the use of the marks and negotiates and oversees the license agreement. The commercial products are sold almost exclusively in non-postal retail channels.

The USPS Licensing Program has three purposes. First, it is an essential tool for protecting our intellectual property. From an intellectual property standpoint, property use on consumer products of all kinds and in all international territories strengthens our property rights against challenges. We must use our trademarks in the commercial marketplace or we will lose them. I have been informed that under US Trademark Law, after three years of non-use, a trademark owner is presumed to have abandoned its trademark rights. Second, it produces revenue by licensing to third parties the right to place Postal Service intellectual property on commercial products and/or packaging in exchange for a royalty-based fee. In 2006 and 2007 combined we generated \$3,254,549 in

royalty revenue from Commercial Licenses. Third, this program serves a marketing function producing millions of brand impressions a year maintaining our brand relevance in the marketplace and connecting with potential new customers. Brand relevance and market presence is critical to build and protect the Postal Service brand.

I am also aware that the USPS Licensing Program helps to protect the well-known trademarks of the Postal Service from dilution. Dilution occurs when a well-known trademark is used by another entity in connection with goods and/or services that are unrelated to the goods and/or services of the original owner. Dilution can work to weaken well-known trademarks over time. The more entities that acquire rights in the same well-known trademark -- even though in different fields of use -- the weaker the trademark can become. Because the USPS Licensing Program has established rights, through licensing, in the Postal Service's well-known trademarks outside the mail and delivery fields, the Postal Service is in a better position to stop other entities from acquiring rights in its trademarks in those unrelated fields. Thus, by helping to prevent dilution, the USPS Licensing Program works to strengthen Postal Service trademarks.

Currently we have 42 licenses with third parties for use of our trademarks and images subject to copyright on consumer goods. Along with my sworn statement, the Postal Service is filing a list of the types or categories of consumer goods that have used our brand (e.g. toys, apparel, art, fabric, pet products, etc.) Each license has the same roles and responsibilities for each party. As the

licensor, the Postal Service reviews the quality of the product design and manufacturing, oversees and approves the use of the Postal Service's brand on the product, packaging and advertising materials and, as applicable, ensures that the products are independently tested. The Postal Service also performs day to day program management such as product approvals and business performance reviews.

The licensee is solely responsible for ensuring that the design, manufacturing, sale, labeling, packaging, distribution, and advertising of the products complies with all applicable laws and is free from defect and meets any specifications or quality requirements set forth by the applicable industry or the Postal Services. The licensee is responsible for submitting samples of the licensed products to an independent laboratory or other test facility selected and approved by the Postal Service. For example, the Postal Service requires toys to be tested for any lead content. The licensee is also responsible for customer service. It bears all costs related to any product recall, whether voluntary or required by a government agency.

The payment is a royalty based on net sales. Net sales are the licensee's invoiced cost of licensed goods sold to the retailer. There is typically a guaranteed minimum payment that must be met regardless of the amount of sales. All of the revenue generated by the program results from the royalty payments calculated on net sales.

Under these agreements, the Postal Service does not purchase, manufacture, distribute, sell, or market the consumer products. The licensee

assumes all risk for these functions and for any product liability. The licensee does not sell goods on behalf of the Postal Service.

III. THE POSTAL SERVICE FOLLOWS BEST PRACTICES FOR LICENSING PROGRAMS

The Postal Service belongs to the Society of Product Licensors Committed to Excellence (SPLiCE) as well as the International Licensing Industry Merchandiser's Association (LIMA). The mission statement as listed on SPLiCEonline.com is "a community of licensors who share best practices for protecting, promoting, and enhancing brand integrity". SPLiCE membership is limited to licensors only and includes such well known brands as Coca-Cola, Fisher-Price, The Walt Disney Company, Nike, and McDonalds Corporation, to name a few. LIMA membership is a broader mix of licensees, licensors, retailers, and licensing agencies. The licensing strategies, processes, policies, and business practices in the USPS program have been developed from best practices used by many of these best-in-class product licensors.

IV. OTHER FEDERAL AGENCIES LICENSING PROGRAMS

Other examples of federal agencies with licensing programs include the US Army, USDA-Forestry (Smokey the Bear, Woodsy Owl), the Smithsonian, the US Mint, Amtrak, the Library of Congress, and US Fish and Wildlife. In 2007, a representative from the US Army Legal Services Agency, Regulatory Law and Intellectual Property Division requested a meeting with me to get an overview of our program and to discuss best practices and lessons learned. Congress had passed legislation to facilitate the ability of the Army to license its trademarks and

generate revenue from those efforts. As a result, the Army was starting a licensing program and came to us for advice.

Below is a list of websites for reference purposes:

US Army

<http://www.americasarmy.com/army/licensing.php>

Smithsonian

<http://www.si.edu/pdl/>

USDA-Forestry

<http://www.fs.fed.us/research/patents/>

<http://www.fsvisimages.com/about.html>

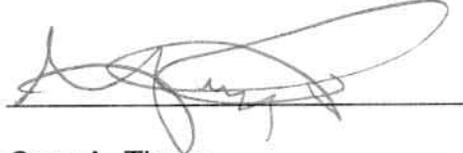
US Mint

<http://articles.latimes.com/2001/apr/21/business/fi-53688>

http://findarticles.com/p/articles/mi_hb5244/is_/ai_n19702633

Declaration

I, Gary A. Thuro, declare under penalty of perjury that that the foregoing is true and accurate to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'Gary A. Thuro', is written over a solid horizontal line.

Gary A. Thuro