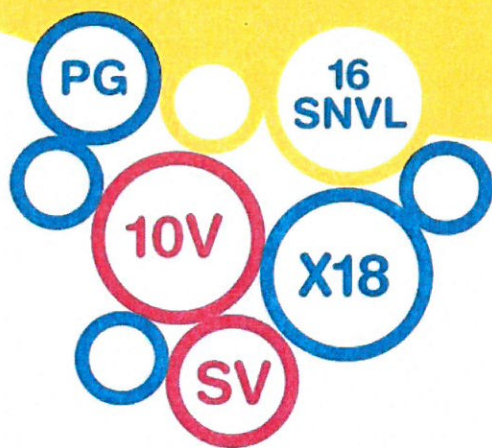


FILM AND PUBLICATION BOARD

TRADEMARKS POLICY

16 AUGUST 2017



We inform. You choose.

Head Office: ECO Glade 2, 420 Witch Hazel Street, ECO Park, Centurion, 0169 | Private Bag X31, Highveld Park, 0169
Tel: +27 12 661 0051 **Fax:** +27 12 661 0074 **E-mail:** information@fpb.org.za **Website:** www.fpb.org.za

Cape Town: Second Floor, 56 Barrack Street, Cape Town, 8000 | **Tel:** +27 21 461 8171 **Fax:** +27 21 461 8126
Durban: Number 12, Concorde Place Westridge, Mayville, 4091 | **Tel:** +27 31 261 7139 **Fax:** +27 31 261 7130

TABLE OF CONTENTS

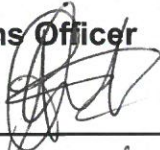
ACCEPTANCE AND APPROVAL.....	3
DEFINITIONS	4
1. INTRODUCTION	4
2. POLICY OBJECTIVE	4
3. THE FPB TRADEMARK:	5
4. CURRENT FPB TRADEMARKS IN USE:	5
5. RIGHT OF USE	6
6. ACCESS TO TRADEMARKS BY USERS:.....	8
7. VARIATION, ALTERATION AND ABBREVIATION OF THE TRADEMARKS.....	9
8. PROHIBITED USES OF THE TRADEMARKS	9
9. ENFORCEMENT OF TRADEMARKS.....	9
10. FURTHER INFORMATION	10

ACCEPTANCE AND APPROVAL

The signatories below are for approval of the Film and Publication Board's Trademarks Policy.

Submitted by:
Abongile Mashele
Acting Chief Operations Officer

Signature:




16/08/2017

Date:

Recommended by:
Lillian Phahla
Acting Chief Executive Officer

Signature:

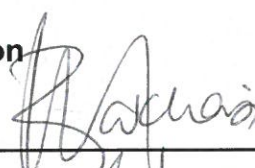


16/11/2017

Date:

Approved by:
Ms. Yoliswa Makhasi
OPITCOM Chairperson

Signature:




28/11/17

Date:

Approved by:
Mrs Thoko Mpumlwana
Council Chairperson

Signature:



03/12/2017

Date:

DEFINITIONS

“Distributor” means in relation to a film a person who conducts the business of distributing films, games or publications and includes a commercial online distributor.

“FPB” means the Film and Publication Board, established as a juristic person pursuant to section 4(1)(a) the Films and Publications Act 65 of 1996, as amended.

“Policy” means this policy regulating the terms of use by certain and specifically authorized third parties in respect of the Trademarks.

“Trademark(s)” as used in this Policy, means the FPB’s registered and unregistered trademarks, logos, slogans, taglines, trade names and trade dress including, without limitation, the “FPB” name and word mark, the FPB Classification Triangle and the “We inform. You choose” slogan, as may be depicted in clause 4 below.

“User” means and includes any juristic or natural person who is authorized by the FPB to use, display and/or apply any of the FPB’s Trademarks.

1. INTRODUCTION

FPB developed this Policy to protect and ensure proper use of its Trademarks, including the “FPB” name, the FPB Classification Triangle and the slogan: “We inform. You choose”. The Trademarks are valuable assets of the FPB. The strength of a trademark depends upon its consistent and appropriate use. Use not in accordance with this Policy may dilute the Trademarks and make them more difficult to protect, and may constitute trademark infringement and misrepresentation, fraud or corruption.

This Policy and the rights herein are subject to change and modification by the FPB, at the FPBs' sole discretion, at any time. Changes to this Policy shall be immediately effective and binding on Users, and a copy of the revised Policy shall be placed on the FPB website.

2. POLICY OBJECTIVE

The objective is to regulate the rights of use by selected Users under certain circumstances in respect of the use, applying and/or displaying of any of the FPB Trademarks in respect of labelling and product classification on materials/products

that were classified by the FPB or have been self-classified by Distributors in accordance with applicable laws or FPB policies and/or for any other reason determined by the FPB.

3. **THE FPB TRADEMARK**

The FPB is the sole owner of the Trademarks and any and all rights therein. No institute, organisation, entity or individual, unless authorised by the Board, is permitted to regulate, manage or administer the rights, title, usage and interest of any of the Trademarks owned by the FPB.

4. **CURRENT FPB TRADEMARKS**

The Trademarks include, but are not limited to, the following trademarks:



Film and Publication Board™

We inform. You choose.

5. RIGHT OF USE

- 5.1 The FPB retains absolute and sole discretion in respect of all its Trademarks, including the decision to authorize use, withdraw use, determine the terms and conditions for authorized use and anything else related to, in connection with and/or pertaining to the Trademarks.
- 5.2 Any authorized User of the Trademarks acknowledges the validity of the Trademarks and further acknowledges that at all times the FPB retains the exclusive right to own, hold, apply for registration for, and register the Trademarks. No User may apply for or register any of the Trademarks anywhere in the world. An authorized User must ensure that its use of the Trademarks complies with this Policy, and may not use the Trademarks if its use is not in compliance with this Policy.
- 5.3 The right of use in respect of the Trademarks are in general, as a minimum requirement, regulated by this Policy, subject to any additional, more specific and/or more stringent terms and conditions and rights of use that may be prescribed by the FPB in respect of any specific project, contract, use and/or activity.
- 5.4 This Policy must not be interpreted as granting the User the rights to use any and all Trademarks. A User may use only such Trademarks as may have been designated for the User's use by the FPB in strict compliance with the terms and conditions prescribed by the FPB as well as the provisions of all applicable laws, legislation and regulations.
- 5.5 Additional limitations unique to a project, contract and/or activity will be recorded in writing as and when is needed and attached as an annexure to the agreement regulating such specific project, contract and/or activity, with the strict requirement that the annexure will always incorporate this Policy, as may be amended by the FPB from time to time, as a core document.
- 5.6 Additional terms of use can be added to the agreement between the FPB and the User at anytime during the existence of the relationship between the parties, subject to the FPB's written agreement in its sole discretion.
- 5.7 If a juristic or natural person is not an authorized User, they are not allowed to use the Trademarks. For example, any logo or label printed, affixed, sold or displayed on any classified material and received from an unlicensed Distributor or unauthorized User, will constitute an offence in terms of the

South African legislation, and may render such person liable to civil and /or criminal prosecution.

- 5.8 Users are obligated to immediately inform the FPB of any abuse/misuse/misrepresentation, fraudulent, or corrupt usage of any Trademark by their own staff, independent third parties and/or Distributors, whether they are licensed, authorized and/or engaged by the FPB or not.
- 5.9 Users are at all times responsible for the safe keeping of the Trademarks in their possession. FPB officials will have unfettered right of access to inspect, monitor and survey a User's use and application of the Trademarks at the FPB's discretion, and Users will be obliged to provide the FPB with whatever records and/or documents, and/or access to premises and/or documents and/or electronic systems and/or electronic documents pertaining to the use of Trademarks.
- 5.10 Users must use the Trademarks strictly in accordance with the specifications, standards and instructions determined by the FPB from time to time. Trademarks must be used and reproduced accurately and may not be modified in any manner. FPB Trademarks must be used in colour only. The colour is an integral and immediately recognizable part of the Trademarks. Any alteration of the colours, colour sequence, design and/or electronic codes attached to Trademarks constitutes forgery. Any display and/or use and/or application of such an altered Trademark constitute the crime of uttering, amongst others.
- 5.11 A User's non-compliance with this Policy may lead, depending on the legal implications and seriousness of the non-compliance, to civil and/or criminal prosecution of the User.
- 5.12 All limitations that pertain to any all Trademarks, logos and/or copyrightable materials, belonging to the FPB, irrespective of whether it is original FPB works and/or third party works commissioned by, given to and/or paid for by the FPB will be subject to compliance with this Policy.
- 5.13 At no time, either during the period in which a User is authorized to use the Trademarks or thereafter, shall the User (i) assert any interest or property rights, or register, attempt to register or adopt any domain names, Trademarks, or any other similar designation with respect to any FPB Trademarks or anything confusingly similar to any Trademark; or (ii) permit or acquiesce in any of the foregoing activities by any third party.

- 5.14 The User shall not use a Trademark in a manner which, in the FPB's judgement, is likely to cause deception or confusion or is likely to be detrimental to the reputation or distinctive character of the Trademark. The User shall not do anything which, in the FPB's opinion, is likely to invalidate, dilute, or otherwise adversely affect any of the Trademarks or the goodwill or reputation therein.
- 5.15 If the FPB, at any time and in its sole discretion, amends a Trademark or adopts any new logo, the User shall forthwith, at the User's own cost, use the amended Trademark or new logo, and cease use of all former versions. The FPB shall not be liable to the User for any costs or expenses incurred by the User in this regard. If the FPB determines that the User must modify or discontinue the use of any Trademark, the User shall comply with such determination at the sole cost of the User.
- 5.16 To the extent permitted by law, the FPB makes no warranties or representations, whether express or implied, in respect of the Trademarks.
- 5.17 The benefit of any goodwill or reputation arising from use of the Trademarks shall belong to the FPB.
- 5.18 The FPB may prescribe the materials on which the Trademarks may be used and, if so, the User shall ensure that the Trademarks are used only on such materials.
- 5.19 The User must use such ownership notices in respect of the Trademarks as may be prescribed by the FPB from time to time, and the User agrees to use such notices in the manner and form prescribed by the FPB.

6. ACCESS TO TRADEMARKS BY USERS

- 6.1 FPB Trademarks authorized to a specific User will be controlled and issued through the use of a unique electronic code. No Trademark, logo, classification certificate or the like will be accessible without this unique code.
- 6.2 Users are responsible to ensure that their information technology systems and software are compatible with the FPB's systems to ensure proper integration in order to avoid duplication and/or corruption of material.

7. NO VARIATION, ALTERATION OR ABBREVIATION OF THE TRADEMARKS

- 7.1 No one may use a variation of any Trademark. Variations of a Trademark may confuse consumers, and such use may infringe on the FPB's rights in the Trademark and may be actionable under applicable laws. Variation includes, but is not limited to, the alteration and/or modification of the Trademarks.
- 7.2 Similarly, *re-logo-ing* (replacing a Trademark with the User's or any third-party, logo or mark) and *co-logo-ing* (adding the User's or any third-party, logo or mark to the FPB Trademark) are not permitted under any circumstances, neither is the use of a phonetic equivalent, foreign language equivalent, takeoff, or abbreviation of a Trademark for any purpose.
- 7.3 Users must not use any trade mark which is confusingly or deceptively similar to any of the Trademarks or part thereof.

8. PROHIBITED USES OF THE TRADEMARKS

- 8.1 In addition to the prohibited uses set forth above in this Policy, a User may not use any of the Trademarks in any of the following ways:
- 8.1.1 as part of the User's own trademark;
 - 8.1.2 in combination with any trademark that is not a trademark of the FPB;
 - 8.1.3 to identify products or services that are not sanctioned in writing by the FPB;
 - 8.1.4 in a manner that would imply FPB affiliation with or endorsement, sponsorship or support of a third party product or service;
 - 8.1.5 in a manner likely to cause confusion between FPB authorization, licensing and/or products and those of a third party;
 - 8.1.6 in any manner that, in the FPB's judgement, disparages or defames the FPB or any other person or entity whatsoever;
 - 8.1.7 in a manner that may, in FPB's judgment, diminish goodwill in or reputation of a Trademark; and
 - 8.1.8 in connection with any illegal or unlawful activities or to encourage illegal or unlawful activities.

9. ENFORCEMENT

9.1 Civil law

Civil law enforcement will take place by interdicting the infringing party to

immediately cease with the infringement. The interdict may be brought under the Trade Marks Act 194 of 1993 or other applicable law.

A claim for damages may be brought against the infringing party for the loss of trade or income, loss of control over a Trademark or harm to the FPB's reputation.

9.2 Criminal law

Criminal proceedings may be instituted, depending on the nature of the criminal act committed and the applicable legislation. The sanctions will depend on the punishments prescribed in the legislation applicable to the particular matter, and may include fines and imprisonment.

9.2 Non-Compliance with this Policy

If a User does not comply with a provision of this Policy, the FPB shall be entitled to terminate the User's rights relating to the Trademarks upon written notice to the User. In such event, the User shall immediately cease all use of the Trademarks and shall, as may be directed by the FPB, destroy all materials that display the Trademarks or hand such materials over to the FPB.

10. FURTHER INFORMATION

Any questions regarding this Policy and the proper use of the Trademarks should be directed to:

The Film and Publications Board
Legal & Regulatory Unit
Phone: 012-003 1400
Email: Legal@fpb.org.za