Zazzle & Café Press - Marine Corps Products Q & A

1. Question: Why did Zazzle remove all my Marine Corps-branded Products?

Answer: The United States Marine Corps Trademark Licensing Office contacted Zazzle and requested all unlicensed Marine Corps-branded products be removed from their site.

2. Why did the Marine Corps ask Zazzle to remove my Marine Corps-branded products?

Answer: According to law (see below), permission is required from the Marine Corps in order to sell Marine Corps-branded products commercially. All companies and individuals wishing to sell Marine Corps-branded products must first enter into a license agreement with the Marine Corps Trademark Licensing Office. As the Trademark Licensing Office has yet to enter into a license agreement with Zazzle and/or any of it’s shop keepers (you), all products are unauthorized.

3. Is there a Print-On-Demand website that is licensed with the USMC?

Answer: Yes, we recently entered into an agreement with Café Press. You are now authorized to create and sell USMC products via the Café Press USMC Fan Portal. Please be sure to follow the Café Press USMC design guidelines to ensure your creations are approved for sale via the Fan Portal.

4. I do sell my USMC products through Café Press and they were still removed, why?

Answer: Café Press is in the process of transitioning all USMC products to an approved Fan Portal. As a result all shopkeepers need to tag their USMC products with “usmcfp” If you did this and your products are still not approved for sale, please reference the USMC Fan Portal design guidelines on Café Press. Many designs previously for sale on Café Press will not be available via the Fan Portal because they do not adhere to USMC design guidelines. You may need to rework your designs so they preserve the proud heritage of the USMC correctly.

5. Question: What trademarks require permission to use from the Marine Corps?

Answer: The Eagle, Globe and Anchor, term Marine Corps, Marines, U.S. Marine Corps, initials USMC and the official Seal are deemed insignia owned by the United States Marine Corps. This list is not exhaustive, and if you have any questions about any Marine Corps-branded marks, please request permission before proceeding.

6. Question: I can see why the above insignia need a license agreement, but I am **NOT** selling any products which incorporate the seal, emblem, name, or initials USMC. Why did Zazzle take down my non-Marine Corps-branded products?

Answer: The Marine Corps requested Zazzle take down all Marine Corps-branded products which used the seal, emblem, name, or initials USMC. If your products do not contain any of these elements then please send us an electronic version so we may confirm. There should be no reason as far as we are concerned for Zazzle to pull any products which do not incorporate the above mentioned materials.

7. Question: Aren’t Marine Corps insignia in the public domain?

Answer: No they are not. Please see 10 USC 7881, as well as 15 U.S.C. 1225 and 10 U.S.C. 2260. In addition to being protected by specific statute, Marine Corps insignia are considered to be trademarks and, as such, are not to be used by third parties without permission. While it is true that works (such as written works) created by Federal employees are generally not protected by copyright, and are in the public domain, this does not apply to trademarks. Also, under 10 U.S.C. 2260, the U.S. Marine Corpsmay license trademarks and may retain and expend fees received from such licensing, to be used to cover the costs of securing trademark registrations, the costs of operating our trademark licensing program, and to be used for Marine Corps morale, welfare, and recreation activities.

8. Question: What about fair use? I was told military insignia were fair use.

Answer: "Fair use" is a principle of copyright law that allows for the limited unauthorized use of another's original copyrighted work for the purposes of criticism, commentary, news reporting, teaching, scholarship, and research. Commercial sales are not included in fair use. In the trademark law context, “fair use” contemplates the use of another party’s trademark that is not considered to be a “trademark use,” where the use does not function as a brand or identifier of source. While some instances of use of military insignia (such as in the background, or some other incidental use) might qualify as “fair use,” each such use must be reviewed in order to determine if it is a fair use, or a trademark use (requiring a license).

In the context of “fair use,” many Marines have used USMC insignia and slogans (such as the EGA, “The Few, The Proud,” etc.) on personal items such as tattoos, handmade items, the names of their boats, etc. As we do not consider these to be “trademark uses,” we don’t consider them as requiring a license, nor could or would we prohibit such uses if we wanted to.

9. Why are the Marines being so greedy? Is this about money?

Answer: Our priority is to protect the integrity of our name and historical USMC marks. However, money is also a factor. Did you know that proceeds from the revenues generated from licensed USMC products go back to Marine Corps morale welfare and recreation quality of life programs? Indeed, as is noted above, 10 U.S.C. 2260 allows for the use of licensing revenues to be used for Marine Corps morale, welfare, and recreation activities, which is a very honorable cause.

10. So what you’re telling me is that by selling USMC products without a license is actually taking away from Marine Corps quality of life programs?

Yes, that’s exactly right. When we have thousands of unlicensed vendors (like you) selling unauthorized products there is less money going into licensed product sales. Much of the money generated from the sales of USMC licensed products goes right back to the Marines, as referenced above.

11. Oh, we thought you were just being mean, so you’re actually not being evil and greedy?

Answer: No we’re not. Historic USMC insignia deserve protection. Many of the products previously being sold on Zazzle and Café Press were augmented or modified tremendously. With all due respect, in our view, many of the USMC-branded products were in bad taste and offensive to the integrity of the Marine Corps’ image, which damaged the true historic value of the Marine Corps brand.

1. Do vintage USMC recruiting posters need to be licensed?

Answer: No they do not, provided they are faithful reproductions of the original artwork, and assuming they are not subject to copyright. Please be sure to maintain their historic integrity by not adding or deleting any of the original elements. (for example, if the poster was created by a private artist)

13. I’m a Marine Corps veteran and taxpayer. I bled for the Marine Corps Eagle, Globe and Anchor and if I want to make a buck off of it I should have that right!

Answer: First, thank you for your faithful service. There are hundreds of thousands of USMC veterans out there who are proud of their military service. Being a veteran does not give one the authority to launch a product line of Marine Corps-branded products. The USMC is the best custodian of its insignia and names which is why Marine Corps-branded products need to first be approved.

1. I’m just a small time shop I can’t possibly qualify to become a licensee on my own.

Answer: We know that and are sensitive to your situation. For this reason we have entered into an agreement with the online manufacturer Café Press. As they hold the USMC license via their Fan Portal you may submit USMC deigns for sale through them without having to obtain a license from the Marine Corps…whew! Just be prepared to meet USMC design guidelines!

15. Can I still make stuff for my Marine Corps friends using the term Marine Corps and Eagle Globe and Anchor?

Answer: You do not have the authority to create, promote and sell USMC-branded products without a license agreement. Department of Defense employees and their immediate families have an implied license to use the Eagle, Globe and Anchor on personal products such as printed materials, literature, briefings, coins and web sites. These items must be intended for internal use and not for sale, advertising or potential endorsements. Use of the Eagle, Globe and Anchor must adhere to guidelines set by the Trademark Licensing Office.

16. I did not know I needed permission to use Marine Corps insignia on products I was selling. What laws or terms and conditions have I violated?

Answer: When you first signed up for a Zazzle account you signed a User Agreement or Terms of Service.

If you were selling USMC-branded products and have agreed to the terms of the agreement you are responsible for ensuring your products do not violate any laws. In our view, your sale of Marine Corps-branded products was an infringement of the Marine Corps trademark rights, and a violation of 10 U.S.C. 7881, and therefore was a violation of law, which we view as a breach of the Zazzle terms of agreement

Here’s a sample of what **ALL** Zazzle users have agreed to;

*“In using this Site, you agree to not:*

*upload, download, post, email or otherwise transmit any Content that may infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party. As a guideline, you may contribute only original work that you have created yourself from original elements. This means you can't use images of celebrities or corporate products, nor images, text, or design that you've copied from a website without written permission from the owner.”*

*“By uploading any Content, you represent and warrant that you have the lawful right to reproduce and distribute such Content and that the Content complies with all applicable federal, state and local laws, regulations and ordinances”*

Please understand if you are selling Marine Corps products via any other distribution channel you will need permission from the Marine Corps in the form of a trademark license agreement.

16. Now that I understand permission from the Marine Corps is needed to sell products bearing their owned trademarks, how can I get permission?

Answer: The Marine Corps is similar to any other major brand owner such as Nike or Disney. We have strict guidelines and standards in order to ensure USMC products are of the highest quality and come from approved sources. We are sure you understand the need to protect the integrity of historic Marine Corps insignia. Even though Zazzle vendors mean well and love the Marine Corps unfortunately, much of the content on Zazzle displays incorrect use of Marine Corps trademarks which in turn degrades the strength of our brand. (We’ve seen every liberty taken with the Eagle, Globe and Anchor, stretching, skewing, distorting, incorrect color, scandalous or overly “edgy” products, etc.)

Permission to sell Marine Corps products is given in the form of a trademark license agreement issued by the Marine Corps Trademark Licensing Office. We believe the licensing solution lies not licensing each and every vendor (you) but for Zazzle to enter into a license agreement with the Marine Corps. This would enable them provide an umbrella license to vendors who meet our design guidelines. These types of agreements are not uncommon among online manufacturing companies such as Zazzle and brand owners like the Marine Corps. This way a Zazzle vendor who may not otherwise qualify for a license agreement is able to produce and sell approved USMC products.

17. Is it difficult to obtain a license agreement?

Answer: Yes, it can be difficult which is why we urge individuals not familiar with the licensing industry to sell products through an approved Print-On-Demand manufacturer. This way you may create and sell USMC products without having to worry about shipping, manufacturing, licensing, insurance, etc. As a popular brand owner the Marine Corps must protect its insignia against incorrect and unauthorized use. Our licensing department is similar to that of other brand owners such as Disney, Nike, the NFL, the NCAA, etc. We have ethical, financial, legal, manufacturing and business standards each of our licensees must adhere to.