

**IN THE UNITED STATES PATENT AND TRADEMARK
OFFICE**

In re: Application No.: **97074174**

Mark: **NATIONAL TRAFFIC SYSTEM**

Applicant: **The American Radio Relay League, Inc.**

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

DECLARATION of ROBERT B. FAMIGLIO

I, Robert B. Famiglio, Esquire, in support of The American Radio Relay League, Inc.'s response to the Trademark Office Action of August 01, 2022 in the above registration, in support of the amendments made therein state as follows:

1. I am the Director of the Atlantic Division of The American Radio Relay League, Inc. (hereinafter "the ARRL"), a volunteer position with this nationally respected non-profit corporation. I am also currently responsible as a volunteer for assisting in and overseeing the rehabilitation and maintenance of the ARRL's trademark portfolio including the present application above referenced.
2. As Director of the Atlantic Division, I hold such elected office representing FCC-licensed radio amateurs who are members of the ARRL in the following sections, Northern New York, Western New York, Western Pennsylvania, Eastern Pennsylvania, Southern New Jersey, Maryland, District of Columbia, and Delaware. I am also familiar with the national proceedings and undertakings by the ARRL in the entire United States.

3. I am also a registered attorney practicing before the United States Patent and Trademark Office (USPTO Reg. No. 29,305) and also admitted to the bars of, and maintain licenses to practice law in, the states of PA, NJ, FL and the District of Columbia as well as numerous Federal courts. I currently and regularly practice before the U.S. Trademark Office including the Trademark Trial and Appeal Board, all beginning in 1979.
4. As an elected representative of the ARRL, a member presently of its board of directors, a 56 year member of the ARRL and licensed by the FCC as a radio amateur continuously for such time, I can state with certainty the following assertions and facts in this Declaration.
5. The ARRL was founded on or about the year 1914 as a non-profit organization, has operated continuously since that time and is by far and without question the largest membership association of FCC-licensed amateur radio operators and enthusiasts in the United States and in the world, having approximately 160,000 members.
6. The ARRL is the primary representative organization of amateur radio operators to the Federal government and its agencies such as FEMA, state and local governments and agencies and disaster response non-government organizations (“NGO”), such as the Red Cross and others. The ARRL is well known and respected among such agencies, particularly with respect to providing volunteer emergency communications as is amateur radio’s mandate under 47 C.F.R. § 97.1 and participation in government proceedings for rule making affecting all amateur radio operators in the US.
7. The ARRL has applied for registration of its long-time mark NATIONAL TRAFFIC SYSTEM and the above referenced application is currently pending.
8. I have reviewed the pending Trademark Office action in which the examiner has refused registration of the mark under Section 2(e)1 as being merely descriptive. I have also reviewed the references made by the examiner in response to the ARRL application.
9. In my opinion and in view of my 56 years of significant experience as a licensed radio amateur, NATIONAL TRAFFIC SYSTEM (“the Mark”) is a distinctive mark which, over the many years of use and because of the stature of the ARRL, is a mark which uniquely identifies the Applicant as the source when used in reference to the various classes and

descriptions of use presented with the response to which this declaration has been and is not purely a descriptor of the function of the NATIONAL TRAFFIC SYSTEM.

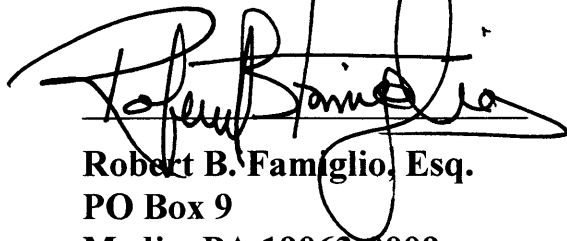
- 10.** In my opinion, having 56 years of direct experience in the amateur radio community and activities as an FCC licensed radio amateur, being an ARRL member for such time and having been active in the NATIONAL TRAFFIC SYSTEM as well and being a formally elected representative of members of the ARRL since at least as early as 2012, (being then the elected ARRL Eastern PA section manager of the Applicant and before then previously appointed to positions of Section management for many previous years), the only entity recognized as the source of the NATIONAL TRAFFIC SYSTEM for the classes and descriptions of use as amended in the present application is the ARRL, the Applicant.
- 11.** NATIONAL TRAFFIC SYSTEM is an ARRL created, managed, and sponsored program and has been in place and well recognized since its creation by the ARRL in 1949. NATIONAL TRAFFIC SYSTEM is designed to move formal messages in radiogram format through a precisely sequenced and layered system of nets using Amateur Radio operators and a methodology created and developed by the ARRL. The Mark is used to reference the system, training for the system, publications of books and magazines and newsletters for training and operating in the system, and to describe the operators which provide the public services under the Mark without pecuniary interest or compensation.
- 12.** Over the years beginning in 1967, I have personally been both familiar with or active with the NATIONAL TRAFFIC SYSTEM by participating in message handling myself using that service, reading and studying printed materials by the ARRL on the NATIONAL TRAFFIC SYSTEM, how it functions, how it is an integrated part of the ARRL and how to handle radio messages through the NATIONAL TRAFFIC SYSTEM.
- 13.** Many of the numerous publications of the ARRL under the Mark, for at least the last seventy years or so have referenced the ARRL message handling system for Radiograms, message handling publications, training aids, classes and numerous related in a non-generic manner. I have also personally observed this firsthand over the many years by my own direct

participation with the NATIONAL TRAFFIC SYSTEM in local and national emergencies when called upon by government or NGO serving in disasters.

- 14.** There has been no individual, legal entity or other organization known to me that has used the reference to or is referred to as the National Traffic System as other than the ARRL program in the United States, or to my knowledge, anywhere in the world.
- 15.** In my substantial experience, when someone references or discusses the “National Traffic System,” it is clear from the context they invariably mean the ARRL, including its program of message handling, training, management, and publications on the subject as well as participation in the message handling activity known as the National Traffic System. All references to National Traffic System are not using the term as a description or generic reference by the Amateur Radio public, but rather specifically refers to the ARRL and its program, services and publications on the subject and topics involved.
- 16.** I have undertaken research and consultation with the publication records and historical archives of the ARRL in concert with ARRL employees tasked with storing, researching, and archiving such books and records of the ARRL to obtain and document specific examples of the use of NATIONAL TRAFFIC SYSTEM in the manner and fashion presented in this Declaration.
- 17.** I have collected illustrative documents, images, and records as Exhibits from the archives of the ARRL to present in support of this Declaration and present it separately for clarity with a separate Declaration appended to that listing of such Exhibits to be included for the examiner’s consideration in the response to which this Declaration is appended.
- 18.** When any licensed amateur radio operator, government entity or NGO involved in emergency communications for the public is questioned about the NATIONAL TRAFFIC SYSTEM as to who operates, manages, plans for, or teaches it to radio amateurs, invariably the answer is the ARRL, not some other group or entity. The secondary meaning of the Mark is strong and only points to the Applicant above.

I provide this Declaration in good faith, from my own direct observations of the facts and knowledge of the history and details set forth above and after investigating the matter with a sincere belief that I am in command of the facts asserted herein and they are true and correct. I hereby acknowledge that any willful false statements made in this Declaration is punishable under 18 U.S.C. §1001 by fine or imprisonment, or both.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert B. Famiglio". The signature is stylized with large, sweeping loops and a long horizontal stroke at the end.

Robert B. Famiglio, Esq.
PO Box 9
Media, PA 19063-0009

*As Director of the Atlantic Division of
The American Radio Relay League, Inc.*

Dated: January 30, 2023