

Trademark Coexistence and Consent-to-Register Agreement

The Prudential Insurance Company of America (“Prudential”), a corporation organized under the laws of the State of New Jersey, with an address at 751 Broad Street, Newark, New Jersey 07102, and National Dragway Corporation (“Dragway;” with Prudential, “Parties”), a corporation of the State of Delaware, with an address at 2153 US Hwy 1 North, Rockingham, NC 28379, agree that the trademarks/service marks below may peacefully coexist on the registry of the U.S. Patent and Trademark Office (“USPTO”) and in the U.S. marketplace without likelihood of confusion, subject to the Parties’ Settlement and Coexistence Agreement, the relevant parts of which are reflected below.

The Parties’ respective marks are:



- *For Dragway: THE ROCK;* (the blue background is for contrast and is not part of the mark) (collectively “Dragway Marks”) for specialized facilities featuring an outdoor race track, which is not co-located with a large multipurpose indoor arena, and services associated with such specialized facilities, namely, “entertainment in the nature of automobile, motorcycle, truck and drag races; entertainment services in the nature of automobile racing and exhibitions; organization of automobile, truck and drag races; providing specialized facilities for outdoor sports events, concerts, musical performance, festivals for entertainment and recreation purposes, and entertainment, recreation, and sport exhibits in which the specialized facilities feature an outdoor race track where automobile, motorcycle, truck and drag races are held, and which are not co-located with a large multipurpose indoor arena; entertainment in the nature of live outdoor stage performances in the nature of music concerts in which such live stage performances take place at a facility that features an outdoor race track where automobile, motorcycle, truck and drag races are held, and which is not co-located with a large multipurpose indoor arena,” in Class 41 (collectively, “Dragway’s Services”);



- *For Prudential: THE ROCK;* (“Rock of Gibraltar Design”) (collectively “Prudential Marks;” with Dragway’s Marks, collectively the “Parties’ Marks”) for general purpose facilities and services associated with general purpose facilities, namely, “arena services, namely, providing general purpose facilities for sports, concerts, conventions and exhibitions,” in Class 43, and services related thereto, namely, “education and entertainment services, namely, operating a sports, entertainment, concert, convention and exhibition arena and the production or co-production of sports and entertainment events, concerts, conventions and exhibitions for public exhibition, viewing and for radio, television, cable television and Internet broadcast,” in Class 41 (collectively, “Prudential’s Services”).

Prudential consents to registration of the Dragway Marks in the name of Dragway in connection with Dragway’s Services, and Dragway consents to registration of the Prudential Marks in the name of Prudential in connection with Prudential’s Services. The Parties agree there is no likelihood of confusion for the reasons listed below (among other reasons):

- the Parties' Marks have coexisted in the U.S. marketplace for many years without any instances of actual confusion;
- Dragway has now amended its Appl. No. 88/976,710 for THE ROCK to amend Class 41 and delete Class 43 as follows (changes shown in **bold**): "entertainment in the nature of automobile, motorcycle, truck and drag races; entertainment services in the nature of automobile racing and exhibitions; organization of automobile, truck and drag races; providing specialized facilities for **outdoor** sports events, concerts, musical performance, festivals for entertainment and recreation purposes, and entertainment, recreation, and sport exhibits **in which the specialized facilities feature an outdoor race track where automobile, motorcycle, truck and drag races are held, and which are not co-located with a large multipurpose indoor arena**; entertainment in the nature of live **outdoor** stage performances in the nature of music concerts **in which such live stage performances take place at a facility that features an outdoor race track where automobile, motorcycle, truck and drag races are held, and which is not co-located with a large multipurpose indoor arena.**" in Class 41; ~~and "providing general purpose facilities for sports, concerts, and exhibitions," in Class 43;~~
- Prudential is a financial services company that is associated with the Rock of Gibraltar Design, but not the terms ROCKINGHAM or DRAGWAY;
- Dragway is not a financial services company and is associated with the terms ROCKINGHAM and DRAGWAY, but not the Rock of Gibraltar Design;
- Dragway will always use THE ROCK in close proximity to the word ROCKINGHAM, DRAGWAY, or a word with the same meaning, in an attention-getting manner, the first and most prominent time THE ROCK appears on Dragway's website;
- Dragway will not use or seek to register THE ROCK in combination with the Rock of Gibraltar Design, a confusingly similar rock design, a rock-in-circle design, or a rock design featuring the color blue;
- Prudential will not use or seek to register THE ROCK in combination with the terms ROCKINGHAM, DRAGWAY, or a word with the same meaning; and
- the Parties agree to cooperate with each other in good faith and as may be appropriate and reasonably necessary so as to minimize or eliminate any confusion that may develop in the future as a result of the use of the Parties' Marks.

**THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA**

**NATIONAL DRAGWAY
CORPORATION**

Signature: Alison Lazzaro
 Name: Alison Lazzaro
 Title: VP, Head of Brand Reputation
 Date: 11/17/2020

Signature: [Signature]
 Name: Alex Garrawe
 Title: President
 Date: 11-19-2020