

outsmarting the smart guys

Greater legal protection is needed to protect event sponsors from ambush marketing

In less than two decades, a practice known as “ambush marketing” has resulted in a major threat to intellectual property rights. All events followed by a significant audience, whether in entertainment or sports, have to cope with those smart guys not willing to make a costly financial investment as sponsors, but keen on benefiting from the event’s resonance. Small companies and start-ups, as well as big players, have been trying the free footboard ride on the showcase vehicle of events for global brand exposure.

Those tricks have led to clashes with the events’ organizers and with the official sponsors, who have been determined to fiercely defend their investments. When traditional legal action, such as trademark and copyright protection or claims for unfair competition practices, did not grant sufficient results, a call for stricter measures arose. Today, all major sporting events are backed by specific provisions and strong sanctions aimed at closing the previous loopholes and assuring special rights to the official sponsors.

What the Laws Protect

The specific laws usually provide protection for the events’ logos and their derivatives, and ban wording implying undue association with the event. Sometimes they contain explicit references to ambush marketing as an illicit practice. The Organizing Committees of the upcoming Olympic Games in Beijing, Vancouver and London have already begun — years ahead of their events’ start — to prepare to fight

ambush marketing. After Beijing was selected as the host city for the 2008 Games, the Chinese government passed a special regulation (which came into effect in April 2002) for protecting the Olympics symbol; the municipality of Beijing issued additional provisions for the same purpose.

Canada protects the symbols of the Vancouver Games, as well as a comprehensive list of additional specific marks. Detailed information on banned ambush marketing practices and on sponsors’ brand protection are on the Organizing Committee’s official Web site. The federal government has been asked to create special legislation that would further increase protection.

The London Olympic Games Act 2006 received royal assent in March 2006 and protects, aside from the traditional symbols, definitions referring to or implying association with the Games. It sanctions infringement as a criminal offense and provides fines as well as personal restrictions (arrest).

Finding the Loopholes

Nevertheless, once a new rule is set, somebody always finds a way to go around it. During last year’s World Cup in Germany, for example, extensive controls were put in place in to protect official sponsors’ rights. Action was taken on more than 2,500 infringements, but German national air carrier Lufthansa — not an official sponsor — succeeded in associating the company’s brand with the Soccer World Cup by decorating 40 of its planes with a football nose.

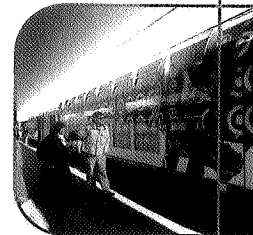
In another example, during the 2006 Winter Olympics the brand police taped almost every logo not referring to an official sponsor. Nonetheless, a big U.S. company successfully associated itself with the Games by closing a deal with Italian Railway — a month ahead of the event — which involved wrapping the trains bringing fans to the sports venues in its corporate logo.

The Organizing Committee, despite their fuming about the smart move, decided to not take action as the perspective for a success in court didn’t appear very high.

The Battle Continues

So the battle continues. Despite strong opposition from event organizers and sponsors, ambushers never fall short of new ideas. Official sponsors, working with the host government, need to find ways to outsmart the smart guys.

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Both Lufthansa and Target found ways to associate their brands with sporting events.