

The London 2012 Olympic Games are almost upon us and following the recent success of the Queen's Jubilee celebrations, brand owners are now even keener to show their support for London 2012. Would-be marketers who have not been granted official sponsorship rights by the London 2012 Organising Committee ("LOCOG") need to tread carefully however - any marketing activity which could be seen to create an association with or take advantage of the high profile of this summer's Games could infringe legal rights which protect the Games from unauthorised exploitation.

Why the big deal?

Staging the Games is an expensive business and the Games could simply not take place without the financial support of official sponsors. In return for their investment, official sponsors require exclusive rights to promote their association with the Games. To protect this important relationship, each host city is required to provide adequate legal protection for the Games, with the aim of preventing anyone who is not an official sponsor from nonetheless taking advantage of the goodwill and prestige of the Games.

A host of legal rights

A number of legal rights protect the exclusivity of the London 2012 Games. There are two key Games-specific rights to be aware of:

1. **The Olympic Association Right ("OAR")** – generally prohibits the unauthorised use in the course of trade, of Olympic and Paralympic symbols, mottos and certain associated words.
2. **The London Olympic Association Right ("LOAR")** – generally prohibits the use in the course of trade, of any representation which creates or is likely to create an unauthorised association with the London 2012 Games. In particular, there are A and B lists of expressions (list A includes "Games" and "2012", list B includes "Gold/Silver/Bronze", "London", "Medals", "Sponsor" and "Summer") which, when used in combination with one another, may in particular suggest an association with the Games.

The civil penalties for infringing these rights may include damages or an account of profits, an injunction, removal of the offending signs and an order for delivery up of infringing goods. Further, infringing the OAR in relation to goods, packaging or advertising is a criminal offence resulting in a fine of up to £20,000 on summary conviction (and unlimited on indictment).

In addition to the above, general intellectual property rights may also protect certain aspects of the Games:

1. **Trade marks** – a number of logos, words and designs relating to the Games (for example, the London 2012 logo) are registered as trade marks and owned by or licensed to LOCOG. Such trade marks may be infringed where an identical or confusingly similar mark is used in marketing activity.
2. **Passing off** – if a supplier of goods or services creates a false impression that such goods or services are associated with a third party, such as, LOCOG, this may amount to passing off.
3. **Copyright** – works and designs created in relation to the Games may be protected by copyright, for example, the Games' mascots, medal designs and the London 2012 font. The reproduction of any of these protected materials, or a substantial part of them, without permission may infringe copyright.

The penalties for infringing these rights may include damages or an account of profits, an injunction preventing further use of the infringing material, removal of offending signs and an order for delivery up of infringing goods.

Thinking of using athletes in a marketing campaign?

Athletes have recently featured in advertising for a wide range of products. The OAR and LOAR above do not prevent Olympians and Paralympians from appearing in advertising, however, the manner in which such individuals appear may create an association with the Games, such as, where protected expressions or images are used in connection with the athletes (for example, referring to the athletes as Olympians and/or the athletes appearing in team kit).

During the period of the Games themselves, competing athletes may not permit their image to be used in any form of advertising. Although this is primarily an issue for the athlete, if an athlete were to be disqualified for breaching these rules, the resulting publicity is likely to reflect badly on the business whose advertising featured the athlete.

Avoiding false starts

Before heading for the starting blocks with a new marketing campaign this summer, check that it does not include any of the following:

- symbols and words protected by the OAR;
- two or more of the listed expressions referred to in relation to the LOAR;
- official logos or symbols of the Games;
- images commonly associated with the Games, such as, for example, an Olympic-style torch or flame, the five Olympic colours or five interlocking rings;
- images of Olympic venues or iconic landmarks in close proximity to venues;
- athletes in their capacity as Olympians;
- Olympics tickets as part of a prize promotion (which may amount to a criminal ticketing offence).

Finally, if your marketing campaign may be close to the line, seek independent legal advice.

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