

Beijing and Beyond: Protecting Olympics Marks

One of the most immediately recognizable and internationally known trademarks is the five-interlocking-ring Olympics logo, owned by the International Olympic Committee (IOC). In the United States, the IOC logo and other Olympics marks, including UNITED STATES OLYMPIC COMMITTEE, OLYMPIC and OLYMPIAD, are protected by special statute (the Ted Stevens Olympic and Amateur Sports Act). These rights are enforced in the United States by the U.S. Olympic Committee. So significant are the rights afforded these special marks that under the U.S. statute, for example, no traditional showing of likelihood of confusion is necessary to establish a claim; rather, a claim is established against any use of an Olympic mark tending to show confusion (apart from a few narrowly specified exceptions in the statute).

On an international scale, the IOC's five-ring Olympic logo is protected by the Nairobi Treaty on the Protection of the Olympic Symbol, adopted in 1981 and, as of January 15, 2006, signed by 44 nations. Neither the United States nor other major Western countries, such as Great Britain, France and Germany, are signatories, but that is likely because the national regimes of such countries already have implemented special protections for the Olympic marks. China, however, is not yet a member. The Treaty requires member states "to refuse or invalidate the registration as a mark and to prohibit by appropriate measures the use, as a mark or other sign, for commercial purposes, of any sign consisting of or containing the Olympic symbol, as defined in the Charter of the [IOC]...."

The value of the Olympic marks is readily apparent in the revenues generated through the IOC's Olympic licensing program, which includes Games-related products, merchandise and souvenirs, including commemorative coins and stamps. Commemorative merchandising, in fact, dates back to the very early days of the modern Olympics itself. In 1896, in Athens, a Greek philatelist proposed an issue of Olympic stamps, and this resulted in the issuance of 12 stamps on the inaugural day of the first modern Olympics. Revenues from those stamp sales helped pay for construction of new Olympic venues in Greece. Jumping to 2000 with the Sydney Games, Olympic merchandise was made available for the first time through online retail channels, and the first Olympic Super Store was opened in the Sydney Olympic Park.

According to the IOC's December 2005 *Fact Sheet*, between the 1998 Seoul Games and the 2004 Athens Games, based on average license rates of 10 to 15 percent of product sales revenues, over USD 303 million was generated in royalties from merchandising. Portions of this revenue are shared with the international federations representing the major sports of the summer and winter Olympics.

The IOC describes Olympic licensing as "a comprehensive programme of trademark legislation, education, monitoring and enforcement" through efforts that "protect consumers from unauthorized or counterfeit goods, protect official licensees from rights infringements, and protect the Olympic brand/image from the potential negative impact of low-quality unauthorized merchandise." Management of the program is through each Organizing Committee for the Olympic Games (OC) under the direction of the IOC,

with licensing programs that are "brand driven, designed to promote the Olympic image and convey the culture of the host region within a controlled commercial environment." The IOC rejects any program that sponsors tobacco products, alcoholic beverages (other than beer and wine) and other products "that may conflict with or be considered inappropriate to the mission of the IOC or to the spirit of Olympism."

In November 2005, the 2008 Beijing OC announced the launch of five official mascots in the form of cute character logos, affectionately called the "Five Friendlies," to mark the thousand-day countdown to the official opening of the Games. In keeping with the IOC principles, each mascot represents a different blessing and through songs and symbols will spread the Olympic message and—honoring an ancient Chinese tradition—blessings.

With Beijing being the host for the 2008 Games, concerns were expressed during the IOC venue selection process about potential counterfeiting of Olympic merchandise in China. In 2003, however, the Beijing OC registered the Olympic ring logo as a trademark in China, Hong Kong and Macao. According to the *People's Daily* (English edition) dated August 14, 2003, the Beijing OC announced that it would "determine the liability of those who violate the logo's intellectual property rights ... jointly with the IOC" and that it would "continue to assist the industry and commerce authorities and the customs authorities to seize unauthorized goods that are using the Olympic emblems illegally."

In July 2004, the Beijing Administration for Industry and Commerce (AIC) announced that on the third anniversary of Beijing's being awarded the 2008 Games (July 13), the AIC had more than 2,000 boxes of unauthorized copies of books about the Olympics, valued at approximately USD 600,000. At the time, the Beijing OC stated that this raid was China's biggest seizure of counterfeit Olympic goods. The AIC also announced that in the first half of 2004 it had seized counterfeit Olympic goods in connection with 24 infringement cases. According to the AIC, a quick responder network and complaint lodging system were established to police counterfeit Olympic goods.

In April 2004, the *People's Daily* also publicized that the head of Beijing's Intellectual Property Meeting and the director of the Beijing Municipal Intellectual Bureau had announced a program to protect the intellectual property of the 2008 Games, including implementation of special Regulations for the Protection of Olympic Logos. Part of the purpose of this program is to educate the public about the Regulations and to provide information on how to identify genuine and counterfeit Olympic souvenirs.

These efforts will likely give the Chinese authorities ample time to set precedent and send a strong message to potential counterfeiters well in advance of the start of the Games. An effective public education campaign can have a meaningful impact in reducing the chief revenue source that drives counterfeiting.

Looking forward to Vancouver 2010 and London 2012, one can expect the value of the Olympic marks to increase as a result of the prevalence of new media promotions and online marketing. Protection of the Olympic marks will require continued global vigilance.

In a February 2005 administrative update report on the 2010

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Games, the City of Vancouver stated that, “to protect against unapproved or illegal use of the Olympic Marks by third parties, the IOC requires the Vancouver Olympic Committee [VANOC] to register the Marks nationally and internationally. The IOC also requires VANOC to enforce its intellectual property rights against infringement.” VANOC has “formulated policies on uses of the Olympic Marks (such as the grandfathering of certain uses of the words ‘Olympic’ and ‘Olympia’ arising before 1998) [and] initiated public education programs about the importance of protecting the Olympic Marks.” VANOC has commenced enforcement proceedings against parties who have “refused to respect the right of VANOC to manage the Olympic Marks.” Similar to Beijing, Vancouver intends to use education as its “primary enforcement

technique, and will only take enforcement measures against those who refuse to voluntarily cease unapproved or illegal activities.”

The London OC already has issued a statement (at www.london2012.com) that over 40 percent of London 2012’s budget will come from sponsorship agreements, and that the London OC “expects that everyone will refrain from unauthorised use of the Games Marks.” The London OC emphasized, however, that it “is prepared to take legal action in order to protect the Games Marks,” including through “the seizure of unauthorised merchandise and the payment of damages.”

By: Barry Werbin, Herrick, Feinstein LLP, New York City