

Companies need to be wary of Olympic-associated marketing campaigns or offers



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Introduction

With the London 2012 Olympics only a year away, companies may be turning their thoughts and marketing strategies to how best to attract new business, perhaps through using an Olympic theme.

However, due to various statutory measures in place in the UK¹, great care needs to be taken in considering the use of any Olympic-related terms or symbols by any company that is not an official sponsor or provider of goods or services at the London 2012 Olympics.

The 'Olympics Association Right'

This gives exclusive rights to official bodies and sponsors of the Olympics, and those authorised by them, to the use of the Olympic symbol, the Olympic motto and specific 'protected words.'

These words are "*Olympiad*", "*Olympiads*", "*Olympian*", "*Olympians*", "*Olympic*" and "*Olympics*". The Olympic symbol is the famous logo of the five coloured, interlocking rings². The Olympic motto is the Latin phrase of the International Olympic Committee, namely, '*Citius, altius, fortius.*' In English, this translates as 'faster, higher, stronger.' Use of this motto or the protected words translated into any language is also prohibited.

The Olympic words and terms are also all registered as trade marks, as are the specific logos for the London 2012 Olympics. All will also possess significant common law rights. The logos will also be protected through copyright so there is ample intellectual property protection in place to prevent use of such Olympic-related rights.

Infringement of the Olympics Association Right

The rights protected under the "Olympics Association Right" can be infringed³, if any person uses in the course of trade:

¹ Olympic Symbol etc. Protection Act 1995- which can be viewed [here](#) and specifically, Schedule 4 of The London Olympic Games and Paralympic Games Act 2006 seen [here](#)

² As represented [here](#)

³ Section 3(1) and 3(2) of the 1995 Act

- a representation of the Olympic symbol, the Olympic motto or a protected word, or
- a representation of something so similar to the Olympic symbol or the Olympic motto as to be likely to create in the public mind an association with it.

Such use in the course of trade can include applying such a representation to goods or their packaging, incorporating it into a flag or banner or offering or supplying goods or services for sale, as well as using the representation on business papers and in advertising.

Whilst there are exceptions that permit certain use of the protected words and logos, it is clear that if such terms are used to promote the sale of goods or services and imply an association with the Olympics, then it is very likely to be an infringement of the protected rights. For example, honest statements of fact regarding the Olympics that are not used for specific marketing purposes are permitted. However, even a seemingly innocuous phrase such as 'X Company Supports the London Olympics' may be taken to infringe the Olympics Association Rights.

It is also worth noting that there is a specific provision under UK law⁴ which prevents the registration of a trade mark containing one of the protected rights unless it can be shown that official consent has been granted. Therefore, an attempt to secure registration of such a trade mark is likely to fail.

If found to infringe a protected right, the guilty party may have to pay damages and pay to destroy the offending material. In serious cases, a fine and a summary criminal conviction may result.

'Listed Expressions' under the 2006 Act

While many will be aware on the prohibition on the use of the well known Olympic rights noted above, the 2006 Act provides additional robust protection against the use of certain terms relating to the London 2012 Olympics. The London Organising Committee of the Olympic Games (LOCOG) has been given the power to prevent the use of advertisements that create an 'association' with the London 2012 Olympics made by a business on goods or service in the course of trade.

The use of certain 'Listed Expressions' can be taken into account to decide if a company has attempted to create an 'association' with the London 2012 Olympics. The Listed Expressions are:

- any two of the expressions: **"Games", "Two Thousand and Twelve", "2012", "Twenty Twelve"** or
- any expressions in the list above with one or more of the words: **"London", "medals", "sponsors", "summer", "gold", "silver", "bronze"**

⁴ Section 4(5) of Trade Marks Act 1994

So, for example, use of the phrase *'summer games'* could be said to create such an association (though the context of such use will also be relevant).

It is important to note that a company may still infringe the rights of **LOCOG** even if the Listed Expressions are not used and each case will be decided on its own facts. A poster containing an image of a runner with a flaming torch running against a background showing London landmarks in outline is given in the **LOCOG** guidelines⁵ as an example that is considered to create an association and so fall foul of the regulations.

Conclusion

As a result of these various measures, it is important for a company to be diligent in ensuring they do not overstep the mark in advertising and marketing campaigns or in the supply and sale of goods or services. Any companies with overseas operations should also ensure their foreign counterparts are educated as to the importance of these provisions.

The safest measure to take would be to avoid direct reference to the Olympics in any planned marketing or advertising campaign or in respect of the sale or supply of goods or services unless an authorised sponsor.

We recommend that you seek the advice of HLBBshaw if you are uncertain as to your position and the legality of your proposed use.

⁵ <http://www.london2012.com/documents/brand-guidelines/guidelines-for-business-use.pdf>