

Let the Games Begin – Let Marketers Beware!

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You've heard it before and you'll hear it again - Stay away from any advertising or promotional ideas that suggest authorization, sponsorship or an official connection to the Olympics. This means not using the Olympic Rings in advertising or even #Olympics on your brand's social media account, especially in the next two weeks. And don't even think about holding any type of "Olympiad" promotions either. Have you ever wondered why the warnings not to use the trademarks owned by the United States Olympic Committee are so strong?

The Ted Stevens Olympic and Amateur Sports Act of 1998, 36 U.S.C. §22050 is the answer. Under its predecessor, the Amateur Sports Act of 1978, Congress granted the USOC the exclusive right to use and license certain Olympic-related trademarks and symbols. The current statute also provides for the USOC's right to file trademark infringement suits under the Lanham Act. You might now be asking - so what the big deal here? Any trademark owner can file an infringement suit under the Lanham Act. Well, as confirmed by federal courts on a few different occasions, the USOC doesn't need to prove a likelihood of confusion to win an infringement suit. They simply need to demonstrate unauthorized commercial use by a third party and the USOC is on the

medal stand waiting for their court-awarded injunction. The intent behind this super-trademark monopoly is pretty simple – The US Olympic team does not get federal funding, so the USOC has to raise the money and it does so through licensing its trademarks for commercial purposes. It is important to note that federal law does not prohibit *individuals* from using Olympic trademarks on social media for non-commercial purposes. The IOC's social guidelines, in fact encourage athletes and coaches to post on personal social media accounts for non-commercial purposes.

As a brand, however, you should also be aware the USOC has more than 200 US trademark registrations and pending applications on file with the United States Trademark Office. As we get excited to cheer on the home team, advertisers should think twice about using the following trademarks on social media or in more traditional advertising: TEAM USA, ROAD TO PYEONGCHANG, DESTINATION PYEONGCHANG, LET THE GAMES BEGIN, PYEONGCHANG 2018 and GO FOR THE GOLD.