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Brand protection: Rules of the Games

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Rafael Lacaz Amaral

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Protecting the rights of big-name sponsors of events such as the upcoming Olympic Games in Rio is a vital task for the organisers, and the legal framework is already in place. Rafael Lacaz Amaral of Kasznar Leonardos Intellectual Property reports.

Major sporting events in Brazil—the 2013 FIFA Confederations Cup and the 2014 FIFA World Cup—and the upcoming Summer Olympic and Paralympic Games, both to be held in Rio de Janeiro in 2016, have attracted the attention of big economic players for the great business opportunities involved.

These tournaments are some of the most effective international marketing platforms available in the world, reaching billions of people in more than 200 countries and territories. In fact, according to recent press reports, the previous FIFA World Cup generated around $6 billion in revenue and experts believe that the upcoming Summer Olympics and Paralympic Games will generate nearly $10 billion for their organisers.

Given that a significant part of the investments comes from commercial partnerships, which vary in scope—therefore entitling companies to different marketing rights, categories of exclusivity and use of designated symbols and trademarks—it becomes crystal clear that protecting these rights is a vital task for the organisers. Otherwise, the performance of these sporting events would be at serious risk.

In order to ensure their resounding success, organisers must therefore promote and deal with an extensive mesh of laws to guarantee effective means needed to protect their rights and interests as well as those of their economic partners.

Net of protection

So, in relation to industrial and intellectual property rights, in 2012 the Brazilian congress enacted the so-called World Cup Act (law no. 12,663/12). Among its provisions, FIFA's trademarks and symbols were recognised as highly-reputed signs and were protected in all fields of activity until December 31, 2014.

Moreover, trade-restricted zones were established around the official stadiums in the 12 host cities to ensure the exclusive use and advertisement of the organisers' and partners' brands. Finally, the act also established enforcement provisions against ambush marketing, both by intrusion and association, and trademark infringement during the event.

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The legal provisions in the law were very helpful before, during and after the 2014 FIFA World Cup, enabling organisers to adopt measures against companies and individuals that tried to take an illegal free ride on the sporting event, which included not only Brazilian companies, but many foreigners
as well.

Many Brazilian and foreign companies were asked to discontinue the use of FIFA's trademarks and symbols, and many others were ordered to refrain from wrongly associating their brands and corporate images with the event and giving the public the false impression that they were official sponsors of it.

This included special actions before and during the matches, when the local authorities cooperated with the organisers in order to, for instance, seize illegal merchandise, such as branded goods being distributed by unauthorised people.

Finally, the Brazilian customs and judicial authorities seized tonnes of counterfeit products that were being imported into the country and/or sold.

Coincidentally (or luckily), the valuable know-how acquired by the Brazilian authorities with regard to the protection of IP rights around the 2014 FIFA World Cup is being transferred to the organisers of the Summer Olympic and Paralympic Games, the opening ceremony of which is scheduled to take place on August 5, 2016.

Along with the World Cup Act, in 2009 the Brazilian congress also passed the so-called Olympic Act (law no. 12.095/2009), thereby creating, among other provisions, specific regulations to boost the protection and the effectiveness of the International Olympic Committee's IP rights.

Although the opening ceremony of the Summer Olympic Games is still more than one year away, organisers and their partners are already in a frenzy about how non-sponsors and intruders should behave. In fact, state courts all over the country granted preliminary injunctions seizing counterfeit merchandise at the time of the 2014 FIFA World Cup and it is expected that the same high level of fast and reliable enforcement measures will also happen before, during and after the Summer Olympic and Paralympic Games.

In short, the legal framework created by the Brazilian legislature, together with the valuable experience recently gained by local authorities, will probably make the 2016 Summer Olympic and Paralympic Games the greatest ever organised—from an IP protection perspective at least.

Rafael Lacaz Amaral is a partner at Kasznar Leonardos Intellectual Property. He focuses on litigation, and is a board member of the Brazilian Intellectual Property Association and a former chair of its enforcement committee. He also teaches IP at several academic institutions in Brazil. He can be contacted at: rafael.lacaz@kasznarleonardos.com

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