



THE IMPORTANCE OF INTELLECTUAL PROPERTY FOR ASNs

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What commercial rights can be identified?

Commercial Rights can be divided into intellectual property rights related directly to the ASN as a legal entity on the one hand, and rights related to properties owned by the ASN on the other hand. Rights related to properties of the ASN may see on the different aspects thereof: competitors, event organisers/promoters rights, licensing/merchandise, media rights, sponsorship, PR, marketing, communications and hospitality.

Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, symbols, names, images, and designs. Common types of IP rights include copyright, trademarks, patents and industrial design rights; the assets of ASNs will generally primarily be protected by copy- and trademark rights.

- A copyright protects creative expressions that are substantial and concrete, meaning that such expressions have been tangibly expressed (e.g. an idea as such is not protected). National competition rules, regulations, training manuals, licence certificates, audiovisual material, marketing materials and logo artwork produced by or on behalf of ASNs may be protected by copyright.
- A trademark may consist of anything which may be recorded in graphical format; traditionally marks have tended to take the forms of names or logos. Titles and trademarks relating to the ASN itself or to properties owned by the ASN (championships, challenges, series and major events) may be protected by trademark rights.

Why is Intellectual Property important?

- The intent of copyright is to promote the creation of new works by giving authors control of and profit from them. By copyrighting their materials, ASNs ensure protection and potentially return on investments.
- Trademarks help ASNs distinguish their products and services from those of competing organisations and help identify them as the source of goods or services, thus preventing marketplace confusion. Consumer choices are constantly influenced by trademarks. Trademarks are a very economically efficient communication tool; they can wrap up in a single brand or logo intellectual and emotional attributes and messages about the ASN's organisation, reputation, products and services and their members' lifestyles, aspirations and desires. Moreover, trademarks can work effectively across borders, cultures, and languages.

National championships can be an important asset and a potential source of income for ASNs. It is prudent to enter into clear agreements with all stakeholders, including competitors, local organisers, sponsors and service providers in order to prevent rights clashes and to ensure that the ASN maintains control over all aspects of its championship. Particular attention can be paid to the creation and/or the exploitation of trademarks, results and audiovisual material.

Protection range in terms of geography and duration

- While many aspects of national copyright laws have been standardized through international copyright agreements, copyright laws of most countries have some unique features. Typically, the duration of copyright is the whole life of the creator plus fifty to a hundred years from the creator's death, or a finite period for anonymous or corporate creations.
- Trademarks can be registered on a national or on an international basis. If the ASN's country is a signatory to the Madrid system for international trademark registration this enables it to benefit from a centrally administered system with the possibility of obtaining a bundle of trademark registrations in separate jurisdictions. Registration through the Madrid system does not create an 'international' registration, as in the case of the European Community Trade Mark.

How can I protect my ASNs' IP?

- Some jurisdictions have required formalities to establishing copyright, but most recognize copyright in any completed work, without formal registration.
In the event of the creation of a new artwork (such as for example a logo) by a third party, it is important to ensure that all copyright in and to the logo artwork is transferred from the author (design agency) of the logo artwork to the ASN. This can be done by signing copyright assignment documentation that complies with local law requirements. Once the relevant copyright assignment has been made, the ASN, as the legal owner of the logo, can protect its logo on the basis of copyright.
- Common law jurisdictions such as Great Britain and the USA do not require registration of a trademark in order for the trademark owner to be entitled to protection in that jurisdiction provided that the trademark is actually used. To err on the side of caution registration is recommendable in any jurisdiction. Registration can occur in any of the classes of the International Classification for Goods and Services. Depending on the ASN's activities classes 16 (paper and stationery), 25 (merchandise), 28 (games and playthings), 35 (advertising, business management), 38 (radio and television broadcasting services), 41 (organization of sporting events) and 42 (mechanical research in the field of sport) may be of interest. Before filing a trademark for registration it is important to ensure that the trademark in question is:
 - sufficiently distinctive in order to be accepted by the relevant trademark authorities. For example, attempting to register the word "CARS" as a trademark for cars will be refused because such term is devoid of any distinctive character for the goods concerned. For jeans however, "CARS" is a perfectly acceptable distinctive trademark.
 - not identical or confusingly similar to an existing trademark.

Once a trademark filing has been made, a trademark watch notice can be implemented, which provides notices regarding similar third party trademark filings, enabling the ASN to consider whether any opposition needs to be filed against such third party trademark application within the time limit provided.

In view of the national character of intellectual property laws, advice should always be sought from a local IP expert.

