

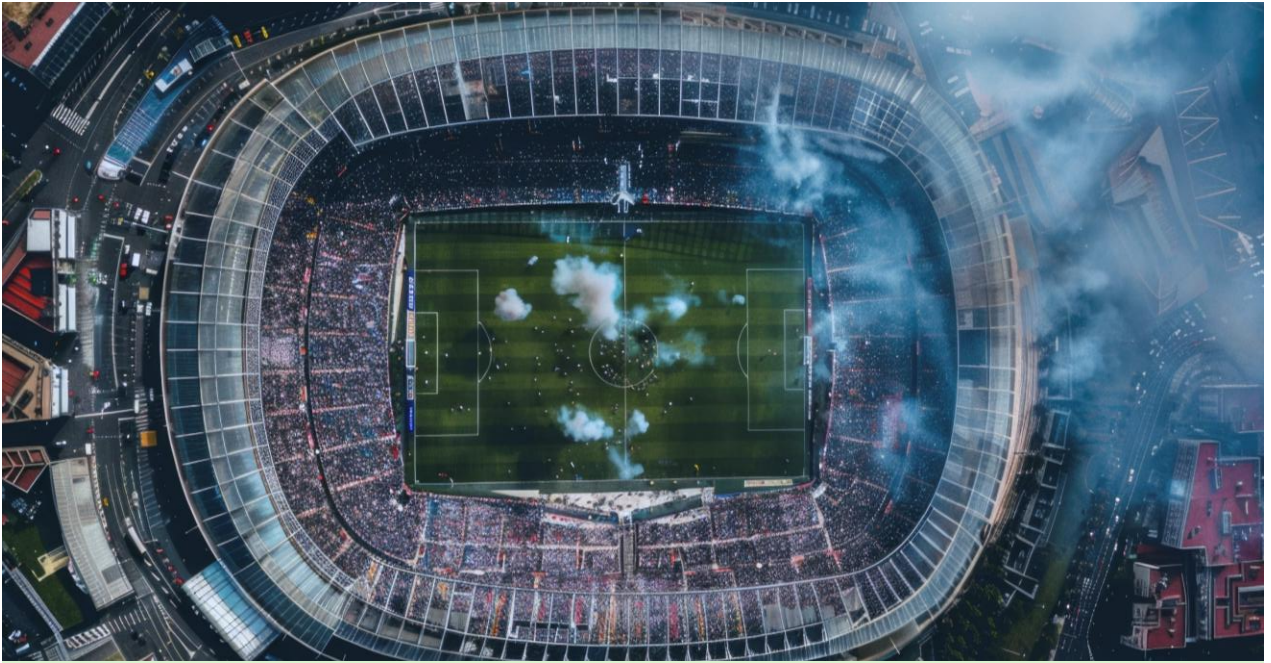


Playing Fair: Addressing IP Infringements During Sporting Events

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Introduction

Major sporting events like the FIFA World Cup, the Olympics, and the Super Bowl attract billions of viewers and bring people together across cultures. These events shape national pride and cultural identity, providing massive sponsorship and brand visibility platforms. For example, the FIFA World Cup 2022 recorded over 5 billion media engagements.¹ This immense audience underscores both the cultural significance and substantial commercial value inherent in these events, making robust Intellectual Property (IP) protection crucial due to their vulnerability to IP violations.

A common IP infringement associated with sporting events is Ambush Marketing, a tactic whereby companies attempt to benefit from the visibility and publicity of a major event by associating with it, despite not having secured official sponsorship or authorization from the organizers. This tactic violates the exclusivity granted to official sponsors and undermines the value of sponsorship. During the 2010 FIFA World Cup, Dutch brewer, Bavaria sent 36 women in orange dresses (their brand color) to a match, making them resemble lions (the Bavaria brand symbol) at a match where

Budweiser was the official beer sponsor. Midway through the match, FIFA officials identified the coordinated appearance of the women in the branded dresses as a deliberate ambush marketing stunt. They deemed it a violation of the strict marketing regulations designed to protect the rights of official sponsors like Budweiser, which also prompted legal action by FIFA.² This article examines ambush marketing as a key form of IP infringement during major sporting events and evaluates the legal frameworks and enforcement mechanisms available to address and prevent such practices.

¹ FIFA World Cup Viewership <https://inside.fifa.com/tournament-organisation/audience-reports/qatar-2022> Accessed 19th April 2025

² FIFA hits back at Bavaria after ambush marketing stunt <https://www.marketingweek.com/fifa-hits-back-at-bavaria-after-ambush-marketing-stunt/> Accessed 19th April 2025

Key IP Rights in Global Sports Events

a. Trademark

Trademarks are foundational to the identity and commercial success of global sporting events. They protect distinctive names, logos, mascots, and slogans such as 'FIFA World Cup' and 'The Olympic rings', ensuring authenticity and exclusivity. These trademarks are safeguarded under national laws³ and international frameworks like the Madrid Protocol and Paris Convention.⁴

b. Broadcasting & Media Rights

Arguably, the most commercially valuable IP assets in sports are broadcasting and media rights, as it serves as a primary revenue source for organisers. These rights,

conferred through exclusive licensing agreements, allow broadcasters to air live games, highlights, and replays. Their protection is supported by instruments like the Berne Convention, which grants broadcasting organisations control over their transmissions⁵ and other national laws.⁶

c. Merchandising & Licensing

Merchandising involves the authorised production and sale of goods such as jerseys, caps, and memorabilia bearing the event's or team's trademark. These goods are often manufactured under strict licensing agreements, granting selected manufacturers and retailers the right to use protected IP.

d. Patent

Patents grant exclusive rights to the right holder to exploit, manufacture, or license new inventions. Also, technological innovations from goal-line technology to wearable fitness trackers and material science in gear are increasingly being patented to protect the inventiveness behind modern sports. Patent protection is underpinned by agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (The TRIPS Agreement),⁷ the Paris Convention for the Protection of Industrial Property,⁸ the Patent Cooperation Treaty (PCT),⁹ and national laws.¹⁰



³ The primary law protecting trademarks in Nigeria is the Trademarks Act, Cap T13, Laws of the Federation of Nigeria, 2004.

⁴ The Madrid Protocol provides an efficient mechanism for international trademark registration, allowing event organisers, sponsors, and sports bodies to register their marks in multiple countries through a single application administered by the World Intellectual Property Organization (WIPO). This is particularly critical in sporting events with global merchandising and broadcasting implications, ensuring that logos, mascots, and slogans.

⁵ The Berne Convention ensures automatic copyright protection for works like event broadcasts and promotional content across member states without formal registration. The TRIPS Agreement complements this by setting global enforcement standards, including legal remedies and border controls, to combat IP infringement.

⁶ In Nigeria, the Copyright Act 2022 strengthens digital protection through a takedown notice system under Section 56, requiring service providers to remove infringing content if not justified within 10 days, thus offering rights holders effective online enforcement.

⁷ The TRIPS Agreement is a World Trade Organization (WTO) agreement that sets minimum standards for regulating intellectual property (IP) rights among WTO member nations. It covers various forms of IP like copyrights, trademarks, patents, and more.

⁸ This convention is a foundational international agreement that allows inventors to file patent applications in multiple member countries while retaining the priority date of their initial filing in their home country.

⁹ The PCT provides a centralized system for filing international patent applications.

¹⁰ In Nigeria, the Patents and Designs Act, Cap. P2, Laws of the Federation of Nigeria 2004, is the primary law governing patents and designs.

Common IP Infringements in Global Sports Events

a. Ambush Marketing

The most prevalent yet underrated IP infringement in global sports events is ambush marketing. It is a tactic some brands unlawfully employ to benefit from a sporting event's exposure without paying sponsorship fees, through tactics such as misleading associations, unofficial branding, and placing ads near venues like stadiums or fan zones, thereby undermining official partners. To prevent this, event organizers must take proactive steps. For example, during the 2012 Olympics, businesses faced fines for using terms like "gold" or "silver" in promotional materials related to the Games.¹¹ In Nigeria, Brands and betting companies often launch campaigns like "Predict and Win," "Support and Win," "Be the Official Fan," or use taglines like "Official Soft Drink of the World Cup" without any formal affiliation to the event. These tactics mislead consumers while exploiting the commercial pull of the event without legal sponsorship.¹²

b. Counterfeiting

Product counterfeiting involves the illegal production and sale of fake goods, such as jerseys, merchandise, and

memorabilia that bear trademarks, logos, or branding of official sponsors or teams, closely resembling the original to deceive consumers. Counterfeiting greatly undermines the revenue of legitimate rights holders. It was reported that ahead of Euro 2024, England supporters spent over £2 million on counterfeit kits.¹³

c. Unauthorized Broadcasting and Online Piracy

Broadcasting rights for major sporting events are a major source of investment for stakeholders. For example, the International Olympic Committee (IOC), which owns global rights to the Paris Olympic Games, spends about \$4.2 million daily to support athletes and sports organizations through Olympic Solidarity funding.¹⁴ In Nigeria, satellite broadcasters such as MultiChoice (owners of DSTV) have faced persistent challenges from individuals bypassing subscription fees using illegal decoders, unauthorized Internet Protocol Television (IPTV) services, or card-sharing technologies to access premium sports content. While official legal cases are limited in the public domain, MultiChoice has continually issued

warnings and invested in anti-piracy technology to curb such infringements, highlighting the broader implications of online piracy on sports funding and media rights protection.¹⁵

d. Unauthorized Use of Event Trademarks

During sporting events, brands and businesses sometimes use event names or symbols without permission, misleading consumers and violating IP rights. For example, the U.S. Olympic Committee sued Prime Hydration for unauthorized use of Olympic symbols.¹⁶ Laws like the Ted Stevens Olympic and Amateur Sports Act help organizers protect trademarks and preserve the exclusivity of official sponsors.¹⁷

e. Unauthorized use of Patented Sports Technology

This refers to the unapproved use or copying of patented innovations in sports equipment. For instance, Ballinno B.V. filed a patent infringement lawsuit against UEFA and its technology partner, Kinexon, alleging unauthorized use of its patented offside detection technology in Video Assistant Referee (VAR) decisions.¹⁸

¹¹ Pinsent Masons Olympics advertising rules for England in force, Olympics advertising rules for England in force, Accessed on 20th April, 2025.

¹² Zion Rufus, Nigerian Brands engage in ambush marketing, prompting calls for genuine support of cause "Nigerian Brands engage in ambush marketing", prompting calls for genuine support of causes | Marketing Edge Magazine Accessed 5th May 2025.

¹³ England supporters have already spent over £2million on counterfeit kits ahead of Euro 2024. <https://www.dailymail.co.uk/sport/football/article-13502627/England-fans-spent-2m-counterfeit-kits-Euro-2024-Nike-estimated-lost-6-5m-sales.html> accessed on 20th April 2025.

¹⁴ Tackling Illegal Sports Stream, < Tackling Illegal Sports Streaming>, Accessed on 20th April, 2025.

¹⁵ MultiChoice champions Anti-Piracy Hotline in the battle against illegal streaming- MyBroadband Accessed 5th May 2025.

¹⁶ Blake Brittain, US Olympic Committee sues Logan Paul's beverage company over trademarks <<https://www.reuters.com/legal/litigation/us-olympic-committee-sues-logan-pauls-beverage-company-over-trademarks-2024-07-22/>>, Accessed on 20th April, 2025.

¹⁷ Jonathan Hyman and Jeff Van Hooser Fair play, trademarks and sponsorships: how to navigate the Olympics season Reuters < <https://www.reuters.com/legal/legalindustry/fair-play-trademarks-sponsorships-how-navigate-olympics-season-2024-07-11/> >

¹⁸ Ballinno mounts VAR challenge against UEFA just weeks before Euros, <https://www.juve-patent.com/cases/ballinno-var-challenge-uefa-euros-2024-germany-referee-offside/>, Accessed on 20th April, 2025.

Legal Frameworks for Curbing Ambush Marketing in Nigeria

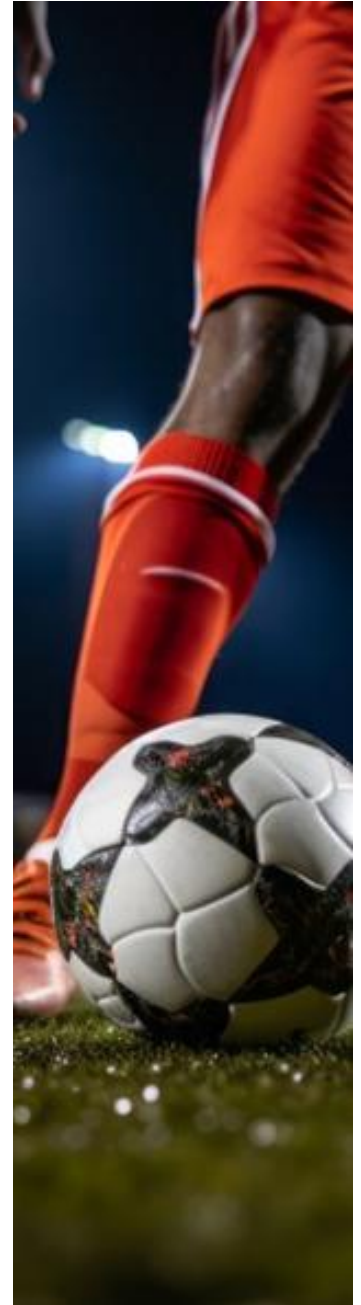
While no Nigerian law explicitly criminalises ambush marketing in Nigeria, the Trade Marks Act,¹⁹ the Federal Competition and Consumer Protection Act (FCCPA)²⁰ and the Advertising Regulatory Council of Nigeria (ARCON) Code²¹ all contain provisions that work in curbing the menace of ambush marketing.

In the realm of traditional intellectual property regimes, ambush marketing presents a significant legal and commercial challenge, particularly in the context of high-profile international sporting events such as the Olympic Games and the FIFA World Cup. These events derive substantial financial support from the commercial exploitation of intellectual property rights, particularly through exclusive sponsorship, broadcasting, and merchandising arrangements. As such, the protection of intellectual property especially trademarks, copyrights, and related licensing rights form the legal and economic foundation of these global spectacles.

Under trademark law, the exclusive right to a mark is

conferred upon registration. In Nigeria, the Trademarks Act provides that this right is infringed when a person who is not the proprietor or registered owner uses a mark that is identical with, or so nearly resembles, a registered mark as to be likely to deceive or cause confusion in the course of trade. Remedies under the Act are traditionally available only where there is a likelihood of consumer confusion such as where the public is misled into believing that a non-sponsoring brand is affiliated with or endorsed by the event.

However, many ambush marketing strategies fall outside this narrow framework. These tactics often involve the creation of implied associations with an event, without the use of any protected marks or symbols. This reality limits the scope of redress under conventional intellectual property laws; as such, practices may not meet the threshold of direct trademark infringement. Nevertheless, where appropriate, claims for passing off, trademark infringement, and interference with contractual relations may be pursued to obtain relief.



¹⁹ The Trade Marks Act Cap T13, Laws of the Federation of Nigeria 2004.

²⁰ The Federal Competition and Consumer Protection Act 2018.

²¹ Nigerian Code of Advertising (ARCON Code), effective from 1st March, 2023.

A notable example within the Nigerian context involves betting companies operating aggressive marketing campaigns during the English Premier League (EPL) season, one of the most widely viewed football leagues in the country. While official sponsors may hold regional or global rights to associate with the EPL, some Nigerian betting platforms advertise using team colours, similar typography, football-related imagery, or taglines such as “Proud Supporters of the Beautiful Game” or “Join the EPL Action,” despite lacking any formal affiliation. These advertisements, particularly when aired during live EPL match broadcasts, may not directly violate trademark rights or use official EPL identifiers. However, they are capable of creating a misleading impression of association, thereby trading on the goodwill and brand equity of the League without authorisation.

While rights holders such as the EPL and its media partners may seek contractual or intellectual property-based remedies, the Federal Competition and Consumer Protection Act (FCCPA) also prohibits any person, in the course of marketing goods or services, from making a false or misleading representation regarding a material fact to a consumer or prospective consumer. It further imposes liability where a person fails to correct a false impression once it arises. This provision extends to individuals acting on behalf of a supplier, including influencers and advertising agents. Collectively, these provisions reflect the importance of accuracy, transparency, and consumer protection in advertising elements often lacking in ambush marketing.

For instance, where a brand uses promotional slogans such as “Official Drink of the Big Game” during a major sports event without being an authorised sponsor, such a claim may mislead consumers and contravene the FCCPA. Although the conduct may

not constitute a direct trademark infringement, it may nonetheless amount to ambush marketing by falsely implying endorsement or sponsorship, and thereby attracting regulatory scrutiny and liability.²²

Similarly, the ARCON Code stipulates that all advertisements must respect intellectual property rights and shall not include any content that infringes Nigerian or international laws relating to trademarks, copyright, or other forms of intellectual property.²³ This provision highlights the obligation of advertisers to ensure that all creative materials such as brand names, slogans, logos, music, images, and designs are either original, licensed, or used with proper authorization. Any unauthorized use of protected intellectual property in advertising not only violates the ARCON Code but may also expose the advertiser to legal claims under both domestic and international IP regimes. Similarly, in line with the Trade Marks Act, any act that constitutes ambush marketing is prohibited.

²² Section 125 of the FCCPA.
²³ Section 11 of the ARCON Code

How to Address IP Infringements during Sporting Events

a. Registration of IP Rights: Organisers and sponsors should register relevant IP (trademarks, patents, broadcasting rights) early across key jurisdictions.

b. Effective Monitoring Strategies: The protection of intellectual property rights is inherently linked to effective monitoring, as early detection is crucial to preventing further infringement. Digital tools such as watermarking, blockchain technology, and AI-powered scanning systems can play a vital role in identifying counterfeit goods and unauthorized online broadcasts in real time.

c. Enforcement Planning: Enforcement strategies should proactively be put in place to combat and mitigate violations, including customs alerts and cease-and-

desist notices. Rapid legal action, such as takedown notices, injunctions, and lawsuits, helps deter further infringement.

d. Public Awareness and Stakeholder Training: Awareness programs aimed at the education of vendors, consumers, sponsors and other relevant stakeholders about what constitutes infringement helps reduce unintentional violations. Training local enforcement agencies is also essential for active enforcement of infringements.

e. Venue and Advertising Regulations: Event organisers should coordinate with relevant authorities to enforce advertising restrictions near venues and penalise ambush marketing tactics.

Conclusion

The protection of IP during sporting events is vital to uphold commercial value, maintain brand integrity, and ensure fair competition. By combining legal enforcement, proactive planning, public awareness, and technology-driven solutions, stakeholders can effectively address infringements and preserve the legitimacy of global and local sports platforms and ultimately combat ambush marketing.



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