
Law and Art: Protecting the Intellectual Property Rights of Olympic Symbols. Case Study: Athens 2004

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ABSTRACT

“Bringing together Athleticism and Culture” had been one of the main pursuits of Baron Pierre de Coubertin, founder of the Modern Olympic Games. It was a ground-breaking position, which has been implemented through time and has had enthusiastic supporters in all nations. The fundamental values of Olympism and their ancient origins, making up the Olympic Spirit, have been showcased since the first Modern Olympic Games in Athens in 1896. These concepts and ideas have been expressed in the Olympic symbols, which are a reminder of the intellectual character of Olympic Games and represent the most widely recognisable cultural heritage. The Olympic Charter protects the Olympic symbols in every way possible, since they are also used for commercial purposes to finance Olympic infrastructure. This was the attitude necessarily adopted also by Athens in 2004 through a series of legal instruments and political initiatives. These actions had been dictated by the International Olympic Committee, guardian of Olympic symbols.

Keywords: Olympic symbols, International Olympic Committee, Olympic Charter, Cultural Olympiad, Athens 2004

INTRODUCTION

Being awarded the organisation of the Olympic Games entails for the host city taking up a series of legislative initiatives whose object is not only to set out the details of the organisation of the Games but also to protect the Olympic symbols. Such symbols have been established through the years (from 1896 to this day) and they represent by definition the intellectual content of the Olympic Games. The legal framework defining and protecting the Olympic symbols is determined by the Olympic Charter, has been drawn up on the initiative of the International Olympic Committee (IOC), is a legal text and represents the Charter of the Olympic Movement.

Each city hosting the Olympic Games is required to take up initiatives for the smooth organisation of the Olympic Games, both at the athletic and the cultural level, to ensure proper operation of Olympic institutions, given that such initiatives affect both the natural and the legal persons participating in the adventure of the Olympic Games.

It is widely known that Olympic Games are the major mass event throughout the world, almost all countries in the planet participating in them (for example, 202 countries participated in the London Olympic Games in 2012). As a rule, they are watched by more than 4 billion people, as was the case, for example, with the Athens Olympic Games in 2004.

The Candidature File of each city wishing to host the Olympic Games includes, *inter alia*, provisions for adopting special legislation to protect the Olympic symbols. In a sense, the International Olympic Committee (IOC), which is an international non-governmental organisation, directly intervenes in the legislative work of foreign governments. As a result, it becomes involved in the political life of an independent democratic country, by suggesting solutions to problems and by submitting proposals in issues that, in its view, pertain to the smooth development of the Olympic Games.

In practice, the International Olympic Committee suggests the legislative initiatives to be taken, in the matters referred to above, and this forces the governments to comply without hesitating. In a way, this indicates to a certain degree some loss of national sovereignty by a free and sovereign state.

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OLYMPIC SYMBOLS AND PROTECTION THEREOF

With regard to the above, two questions arise:

- Which are the Olympic symbols, what do they represent and how are the intellectual property rights arising therefrom protected? and
- What was the Greek Government’s response on the occasion of the Athens Olympic Games in 2004?

First of all, it should be noted that the Greek Government ratified by Law 1347/1983 the Olympic symbols, emblems and marks, as defined in the *Annex* of the Nairobi Treaty. In particular, in the more recent Law 2239/1994, the Greek State described with precision and in detail the concept of *marks*, to ensure their enhanced protection, since they relate to a great extent to company trademarks. In Article 1 of said Law, it is stipulated that “*marks*” may “*include words, names of natural or legal persons, aliases, representations, designs, letters, numbers, sounds, including musical phrases, the shape or the packaging of products*”. It should be noted that all subsequent legal interventions relating to the protection of Olympic symbols refer to this particular law.

According to the International Olympic Committee Olympic Charter, the Olympic symbols, emblems and marks are the following:

- The designations *Olympic, Olympiad* with regard to games, festivities, etc.
- The *Olympic Anthem* (composed by Spyros Samaras based on lyrics by Kostis Palamas and dating from 1896, officially recognised as an Olympic symbol in 1958). The same category (of Olympic texts) also includes the athletes’ oaths (since 1906), the judges’ oaths (since 1972) and the coaches’ oaths (since 2012).
- The Olympic emblem consisting of *the five interlaced rings*, adopted in 1920.
- The *Olympic Flag*, designed in 1914 and also adopted in 1920.
- The *Olympic Flame*, including the *Olympic Flame Kindling Ceremony* held in Ancient Olympia and the *Olympic Torch Relay*. The *Olympic Flame Kindling Ceremony* has been performed since 1928 and the *Olympic Torch Relay* since 1936.
- The motto *Citius, Altius, Fortius* (Latin for *Faster, Higher, Stronger*) adopted in 1924.

Olympic symbols also include *mascots, posters, the olive wreath known as kotinos, special flags* and other emblems which the National Olympic Committees select following approval by the International Olympic Committee.

The Greek Government described the above Olympic symbols in a special law adopted in 2000 (Government Gazette A/113).

According to the Olympic Charter, the Olympic symbols express the intellectual content of the Olympic Games, they represent the ideology of the Olympic Movement which consists, in general terms, in pure sporting spirit, fair play and the motto “*ever to excel*”, friendship and world peace, equality before the law, honourable struggle, and the supreme effort of body, mind and soul. In other words, they embody the *Olympic ideal*, which all countries participating in the Olympic Movement have to respect and adhere to.

Said symbols are exclusively used by the International Olympic Committee to promote the Olympic Games, but also to exploit all kinds of advantages it derives therefrom. This is a very important issue for the IOC due to the huge appeal of the Olympic symbols to the international public. Indeed, according to a survey, the *Olympic flag with the five interlaced rings* is the most recognisable symbol in the entire world (for 90% of the world population) coming ahead of famous brand names, such as Shell and Mac Donald’s.

As indicated above, to ensure protection of the Olympic symbols, all Member States of the Olympic Movement are required to take up legal initiatives and to adopt very strict measures to safeguard and control the intellectual property rights they embody. Such measures are of a legal nature and countries are required to adopt them, irrespective of whether they organise Olympic Games or not.

In any event, the Greek Government, to cite a national example, adopted all necessary measures to safeguard the intellectual property rights of the Olympic symbols, not only those that had already

been recognised as Olympic symbols, but also those which, with the approval of the IOC, were launched during the preparation and the organisation of the Olympic Games in 2004.

More specifically, Law 2598/1998, which appears to be the “fundamental” law adopted by Greece one year after the official announcement that the Olympic Games were to be hosted by Greece, includes a special article on *Protection of Olympic symbols and marks*. The seven paragraphs of Article 3 of said Law initially provide a general reference to Olympic symbols and marks and to the provisions of the law protecting them. The same Article also mentions other Olympic designations, such as *Cultural Olympiad*, *Cultural Olympic Games*, *Athens 2004*, *Olympic Games – Athens 2004*, which benefit from legal protection.

The emblems, symbols and marks referred to in this law benefit from protection both as to the classes of goods and products and the classes of services ... Protection of the emblems and symbols referred to in this article is continuous, as underlined in said Article.

Indeed, violation of the Olympic symbols is considered to be a criminal offense under Law 1725/1999.

The “Olympic Games Organising Committee – Athens 2004 S.A.”, which signed a “Memorandum of Common Understanding and Cooperation” with the Ministry of Economy and Finance in August 2003 (exactly one year before the opening of the Olympic Games), was responsible for the use, exploitation and protection of the intellectual property rights of Olympic symbols and marks. This “Memorandum” underlined Greece’s obligation to respect the Olympic Charter, the current provisions and the country’s contractual commitments towards the IOC to protect the intellectual property rights of the symbols and marks, to check for any violations, and to comply with its obligations towards the sponsors.

CONCLUSION

The Olympic symbols and marks of the Olympic Games are of particular importance to the International Olympic Committee, since they capture the “Spirit of the Olympic Games”, they represent their great history and their relationship to Antiquity, and they express the universal values that contribute to Man’s bodily and spiritual achievement, in line with the ancient motto “A healthy mind in a healthy body”. The Olympic symbols and marks represent the humanitarian nature of the Olympic Games; they embody their idealised aspect and their intellectual heritage. At the same time, they represent one of the main sources of economic profit and this is why they enjoy full legal protection.

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