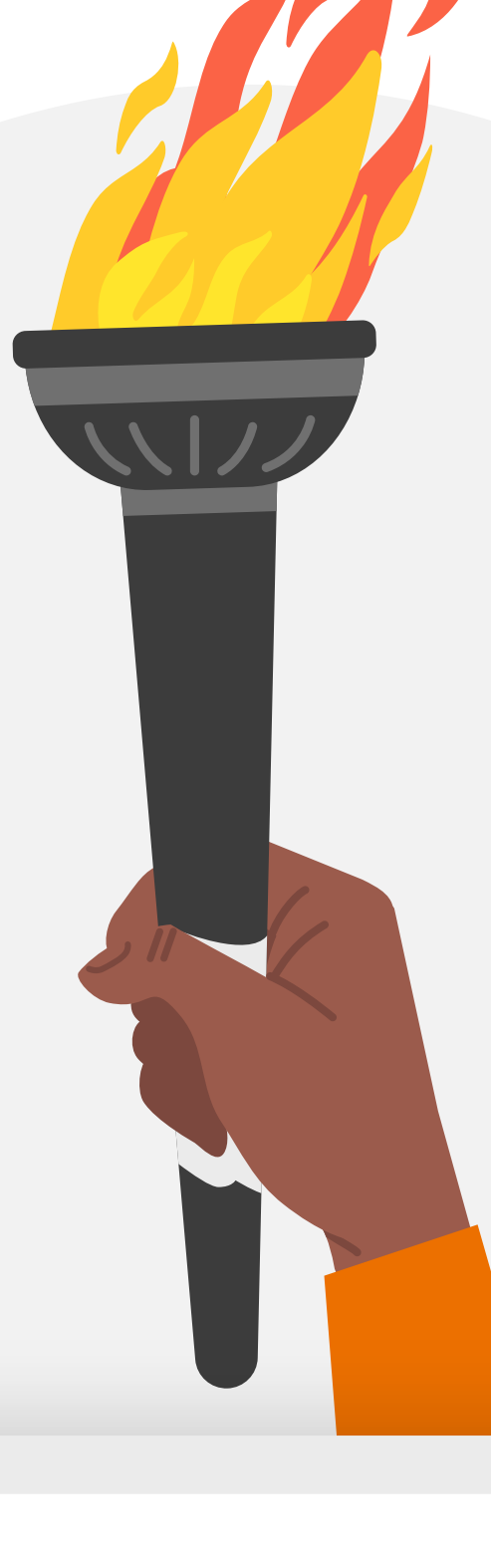


With their international reach and widespread media coverage, major sporting events such as the Paris 2024 Olympic and Paralympic Games provide companies with significant opportunities to promote themselves. However, companies seeking to do this in Brazil must ensure they take steps to avoid ambush marketing practices and violations of new rules concerning advertising and Olympic athletes.

Considering the creative environment of the advertising sector, where the boundaries of the rules are constantly tested and result in changes to regulations for future editions, it is always useful to remember the applicable rules and to be aware of the new applicable updates for each event.



What is ambush marketing?

Ambush marketing is a strategy that involves the use of marketing elements typical of large events in order to promote brands and trademarks that are not involved in officially sponsoring such events.

Ambush marketing by **ASSOCIATION**:

Unauthorized promotion of brands, trademarks, products or services with the goal of obtaining an economic and/or marketing advantage by association with the signs and symbols of a sporting event or organization. It seeks to mislead the public into believing that the sporting event or organization has officially endorsed and authorized this association.

Ambush marketing by **INTRUSION**:

When an unauthorized company displays its trademarks, products, or services (including via promotional activities) in or around the immediate location of an event, taking advantage of the consumers' interest in the event to attract their attention.

Applicable legislation in Brazil

As ambush marketing is a multidisciplinary subject, it can be addressed by a range of **legislation and regulations** in Brazil:

- a. Industrial Property Law (Law No. 9,279/1996);
- b. Copyright Law (Law No. 9,610/1998);
- c. Brazilian Civil Code (Law No. 10,406/2002);
- d. Brazilian Consumer Defense Code (Law No. 8,078/1990);
- e. Brazilian Advertising Self-Regulation Code (CONAR);
- f. Pelé's Law (Law No. 9,615/1998);
- g. Brazilian General Sports Law (Law No. 14,597/2023);
- h. Applicable sports regulations (e.g., the Olympic Charter and the Paralympic Charter, International Olympic Committee guidelines, and specific regulations for different sports codes).



Olympic and Paralympic Games

The Olympic Charter grants the International Olympic Committee (IOC) rights related to '*Olympic Properties*', which include the Olympic symbol, flag, motto, anthem, emblems, flame and torches, musical and audiovisual works, as well as other creative works or artifacts connected to the Olympic Games. Similarly, the International Paralympic Committee holds rights related to the Paralympic Games as per the Paralympic Charter.

Therefore, advertising campaigns that run during the games must comply with applicable regulations to avoid violating rights related to Olympic Properties.

The IOC's new guidelines for the Paris 2024 Olympic Games

Rule 40 of the Olympic Charter establishes limits and conditions for the use of rights linked to the images, names, and performances of athletes participating in the Olympic Games. **While the games** are taking place (July 18 to August 13, 2024), IOC sponsors, official Olympic Games sponsors, National Olympic Committees, and official broadcasting partners ('*Olympic Partners*'), as well as the sponsors of Olympic athletes ('*Non-Olympic Partners*'), may run advertising that uses athletes' rights within the limits set by the IOC.

Olympic Partners

Authorized to mention Olympic athletes (including names, images and references to sports performance) in advertising, provided that they:

- Obtain the athlete's permission;
- Respect the terms of the existing sponsorship or licensing agreements (as applicable); and
- Comply with the IOC's supplementary guidelines for Olympic Partners.



Non-Olympic Partners

Authorized to mention Olympic athletes in advertising during the Games Period only if they:

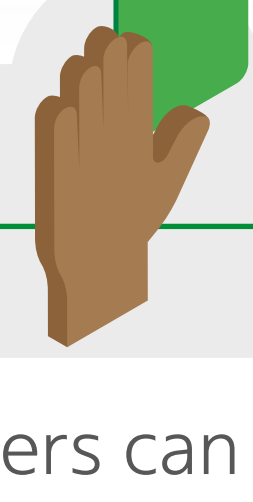
- Obtain the athlete's permission;
- Comply with the IOC's and relevant National Olympic Committee's policies regarding the values of the Olympic Movement (for example, it is prohibited to advertise tobacco and illicit drugs);
- Do not use any Olympic Properties; and
- Ensure the advertising meets the necessary criteria to be characterized as '*Generic Advertising*', which are:
 1. The only connection between the relevant advertising activity and the Olympic Movement must be the use of the image of the Olympic athlete;
 2. The advertising must have been in the market at least 90 days prior to the Games Period (i.e., before April 18, 2024);
 3. The advertising must be planned to run consistently and not be materially escalated during the Games Period.*

* The IOC may apply Criteria 2 and 3 flexibly when the athletes depicted in the advertising compete in other competitions, and in order to enable 'business-as-usual' campaigns to keep running.

PLEASE NOTE!

Non-Olympic Partners must notify the IOC or the relevant National Olympic Committee (as applicable) of their generic advertising plans, which will be reviewed on a case-by-case basis. Companies will have ten days to comply with any requests for adjustments. For the Paris Olympic Games, advertising should have been justified by **June 18, 2024**. After this date, the IOC must be notified of generic advertising plans at least 15 days prior to the campaign going to air.

Practical Examples



Congratulatory Advertising (publications congratulating athletes)

Olympic Partners can run such campaigns at any time, including during the Games Period. Non-Olympic Partners can also post messages before and after the Games Period, as long as these do not use any Olympic Properties or establish any connection with the Olympic Games.

Non-Olympic Partners cannot run congratulatory advertising campaigns during the Games Period. This also includes other messages of support and consideration for the athletes.

Simple 'thank you' messages sent by Olympic athletes

Olympic athletes can send/publish an unlimited number of simple 'thank you' messages to Olympic Partners and/or their Non-Olympic Partners via their personal websites and/or social media accounts, including during the Games Period.

Olympic athletes can only publish **one thank you message per Non-Olympic Partner** via their social media accounts.

Olympic athletes' 'thank you' messages to Olympic Partners must not include: **(i)** a statement or suggestion that a product or service improved the athlete's performance; **(ii)** personal endorsement of the relevant product or service; or **(iii)** videos of the event venues or medal presentation ceremonies.

Additionally, thank you messages to Non-Olympic Partners must not include: **(iv)** any Olympic Properties; **(v)** photos of the event venues or medal presentation ceremonies; **(vi)** links to any activities incompatible with the values of the Olympic Movement; and **(vii)** associations with the Olympic Games, the IOC, the Olympic Movement, the event's organizing committee, or the National Olympic Committee/Team.

Product sales or advertising in general

Advertising that contains generic sports terms, flags, or country names is permitted.

Products that reproduce or imitate Olympic Properties or related entities without prior authorization are prohibited.

Decorating commercial establishments in general

Decorating establishments with generic sports-related elements or the sports event venue is allowed.

The use of Olympic Properties as part of an establishment's commercial name or decoration is not allowed.

Sportswear and brands during the games

The manufacturer's brand may be included on sportswear, accessories, or clothing/equipment used by Olympic athletes, their sports teams, or other participants in order to identify themselves as the manufacturer, provided the identification is not visibly marked for advertising purposes.

No forms of advertising may appear on competitors, sports clothing, accessories, or any clothing or equipment used by competitors, their teams, and all other participants.

Ambush marketing: precautions and solutions

What can **Olympic Partners** do if they identify ambush marketing practices?

- a. **Judicial measures:** propose measures to stop or prevent rights violations, including via preliminary injunctions;
- b. **Out-of-court and administrative measures:** Send cease-and-desist letters; file a complaint with a preliminary injunction request with CONAR; propose measures with the Brazilian Patent and Trademark Office (INPI) and/or Consumer Protection and Defense bodies (PROCON); and notify the event organizer, following established procedures (if applicable);
- c. **Sporting measures:** the International Olympic Committee or Brazilian Olympic Committee may demand the advertising in question be revised or withdrawn.

What can **Non-Olympic Partners** do to ensure they avoid illegal practices?

- a. Check local legislation and intellectual property manuals provided by event organizers and related sporting bodies;
- b. Check the intellectual property rights held by sports organizations, event broadcasters and other related agents;
- c. Request authorization to use third-party intellectual property assets.