

**Question Q
210**

National Group: [please insert name of Group]

Title: **The Protection of Major Sports Events and associated commercial activities through Trademarks and other IPR**

Contributors: [please insert names of contributors]

Datum: [please insert date]

I) Analysis of the current legislation and case law

The Groups are invited to answer the following questions under their national laws:

- 1) *Does your national law provide specific protection for trademarks or other designations relating to Major Sports Events?*

- 2) *If so, please explain whether - and in the affirmative in what way - the following trademark law requirements differentiate from the corresponding requirements in general rules of trademark law:*
 - a) *Requirement of distinctiveness*
 - b) *Use requirement*

- 3) *Also, please explain whether – and in the affirmative in what way - the following differentiate from the general rules of trademark law:*
 - a) *Is the scope of protection of trademarks which relate to Major Sports Events narrowed or extended compared to the scope of protection of other trademarks?*
 - b) *Does use as a mark constitute a precondition for infringement of trademarks which relate to Major Sports Events or is the requirement of use as a mark not applied in relation to infringement of those trademarks?*
 - c) *Is the protection period for trademarks which relate to Major Sports Events the same as the protection period for other trademarks?*
 - d) *Is the determination of third party traders' legitimate interest in fair use different for trademarks which relate to a Major Sports Event than for other trademarks?*

- 4) *Does your national law provide for a specific registration procedure for trademarks relating to Major Sports Events?*
- 5) *What are the possible remedies in respect of infringements of trademarks relating to Major Sports Events? Do they differ from the remedies applicable to other trademark infringements?*
- 6) *What are the possibilities under your national law of reacting against non-official sponsors' use or registration of trademarks which take place before a Major Sports Event and which relate to the Major Sports Event?*
- 7) *Does your national law provide for protection against Ambush Marketing? In the affirmative, is such protection set out in the law protecting trademark rights, in the laws against unfair competition, or both?*
- 8) *Does your national law provide for specific trademark protection or protection against unfair competition relating to other major events, such as film, art or music festivals, World Expos and other similar events?*

II) Proposals for substantive harmonisation

The Groups are invited to put forward their proposals for adoption of uniform rules, and in particular consider the following questions:

- 1) *Are particular rules on trademark protection desirable for trademarks or signs which relate to Major Sports Events? In the affirmative, why is that the case?*
- 2) *What would be desirable for trademarks and signs which relate to Major Sports Events in respect of the registration of such trademarks?*
 - a. *Would it be reasonable to adopt a registration procedure which is shorter than the general registration procedure?*
 - b. *Would it be reasonable to change the classification system in respect of registration of trademarks which relate to Major Sports Events?*
 - c. *Would it be reasonable to adopt a narrowed requirement of distinctiveness for trademarks which relate to Major Sports Events or alternatively not to require distinctiveness at all?*

- 3) *What would be desirable for trademarks and signs which relate to Major Sports Events in respect of the use requirement?*
 - a. *Would it be reasonable to adopt a use period of e.g. 8 or 10 years for trademarks which relate to Major Sports Events?*
 - b. *Would it be reasonable to apply a use period of e.g. 8 or 10 years if the period from registration of the trademark to the actual event is shorter than 8 or 10 years?*

- 4) *What would be desirable for trademarks and signs which relate to Major Sports Events in respect of the scope of protection? Would it be reasonable to give trademarks which relate to Major Sports Events a broader scope of protection than the scope of protection given to other trademarks, and in particular in relation to other trademarks which have a low degree of distinctiveness?*

- 5) *What would be desirable for trademarks and signs which relate to Major Sports Events in respect of infringements of those trademarks?*
 - a. *Should the requirement of use as a mark as a precondition for trademark infringement apply to alleged infringements of trademarks which relate to Major Sports Events or should it be possible to infringe such trademarks even when the use in question can not be characterised as use as a mark? Why is that the case?*
 - b. *Should the remedies available against infringements of such trademarks be different from the remedies available against infringements of other trademarks? In the affirmative: Why is that the case?*

- 6) *Are specific measures protecting against Ambush Marketing relating to Major Sports Events necessary or justified? In the affirmative, why is that the case and what should the contents of such measures be?*

- 7) *Are other measures protecting against unfair competition relating to Major Sports Events necessary? In the affirmative, why is that the case?*

- 8) *Does your group have any other views or proposals for harmonisation in the area?*

Note:

It will be helpful and appreciated if the Groups follow the order of the questions in their Reports and use the questions and numbers for each answer.