

2012 Olympic brand will be carefully monitored

With the UK due to host the 2012 Olympics, Jim Richards and Lucy Cummin, from Exeter-based law firm Michelmore, warn businesses to be careful when referring to the Olympic brand

With the London Olympics rapidly approaching and millions of pounds of sponsorship needed to secure their success, organisers are policing the use of the Olympic brand more stringently than ever before.

The Olympics are providing the South West with an invaluable business opportunity, most notably as a result of the sailing events being hosted in Weymouth and Portland.

Additionally, 21 venues in Devon have been approved as official sites for pre-Games training. South West businesses are bound to want to maximise the opportunities hosting the world's largest sporting event brings. However, those wishing to try to profit from the Games by unauthorised use of its intellectual property rights face a potential minefield of claims.

For the Olympics to raise the vast sums necessary to stage the event it is essential that sponsors purchase total exclusivity. Uncontrolled use of the brand would result in

dramatically decreased revenue. Responsibility for the organisation and staging of the London Olympics falls to London 2012 Organising Committee of the Games (LOCOG). Infringement of many of the rights constitutes a criminal offence and, in addition, infringers may face civil claims with injunctions, account of profits and delivery up of infringing goods all being potential threats.

Nearly all Olympic logos and phrases are registered as trademarks. In addition to this, most of the designs relating to the Games will be protected by registered design right. LOCOG also boasts the weapons of actions for passing off, copyright infringement and trade description legislation.

The Olympic Symbol (Protection) Act 1995 provides robust protection for the unauthorised use of the word "Olympic". A further Act in 2006 created a list of Games expressions which are not permitted to be used without authorisation.

The words are contained in two groups; the first group contains words such as "games", "two thousand and twelve", and "twenty twelve". Use of these words, when combined with words in the second group may result in an



The London 2012 Olympic Games will include sailing events from Weymouth which will see the South West fall under the international spotlight

infringement of Olympic Intellectual Property. The second group contains many words in common use such as "gold", "silver", "bronze", "London", "sponsor" and "summer".

There are defences available in relation to the use of Olympic Intellectual Property, although these are limited and reflect the intended strict approach.

The defences are often highly specific and include:

1. Use in a context which is not likely to suggest an association between a person, product or service and the Games. For example, an advert for an original Olympian marble statue in the classified section of a newspaper.
2. An honest statement will generally benefit from a defence provided it is true and

accurate, cannot be considered to be misleading or cause confusion and is relevant in the context it is used. For example, an advertisement for a hotel with an Olympic-sized swimming pool is likely to be permitted.

3. Newspapers, magazines, radio and television programmes can all publish or broadcast a report or information about the Games without infringing any Olympic rights. However, it is important to note that this exception does not apply to businesses which produce newsletters, client bulletins and other marketing material.
4. Use of names, design rights and other rights which have been made continuously before 1995. A business called "Olympic Plumbing Services"

would not be infringing any intellectual property rights if it had traded under this name prior to 1995.

Work on the sailing facilities at Weymouth and Portland National Sailing Academy is now completed at a cost of £16 million. It is natural that South West businesses will want to start maximising the economic, environmental and sporting potential which is being brought to the South West by the Games. However, it is essential that these businesses are well advised as to the huge implications of making unauthorised references to the Games.

With 47 medals in total won by Team GB in Beijing, the South West produced almost one third of Great Britain's Olympic medalists. Many South West businesses are

likely to now look at endorsement of their products by Olympians. Olympians are not prevented from endorsing products and the appearance of an Olympian is not considered to automatically create an association with the Games for infringement purposes.

However, where an Olympian is used in an advert which also uses controlled expressions or Games related imagery, an infringement is likely to be committed.

With huge revenue still needing to be generated and an ever increasing budget, there can be no doubt that LOCOG will not hesitate to take action against infringers. If you are in any doubt as to Olympic Intellectual Property Rights, it is important that you seek specialist advice.