

## [Is it Madness to Say "March Madness" On the Air? - The Trademark Issue](#)

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Like "[Super Bowl](#)," "Olympics" and "NASCAR," "March Madness" is also a term that is protected by **trademark law**, and its unauthorized use in commercials could result in legal liability. But the development of March Madness is a bit more interesting, and you can probably thank [Brent Musburger](#) for that. The Illinois High School Association (IHSA) has been using the term "March Madness" to describe its state high school basketball [tournament](#) since the early 1940's. Broadcaster Brent Musburger went to [journalism school](#) in Chicago, then worked for both a Chicago newspaper and television station, where he almost certainly covered that basketball tournament and was well aware of the term "March Madness." When he later began covering the NCAA basketball tournament for [CBS](#) in 1982, he naturally began referring to *that* tournament as "March Madness" as well.

As you know, the term caught on. It ultimately led to a trademark infringement suit in 1996, and that led to a joint venture between IHSA and NCAA, called the March Madness Athletic Association (MMAA) which now holds all trademark rights to the term "March Madness." In fact, they own 15 federal registrations containing that term, covering everything from the actual tournaments to broadcasting and webcasting the tournaments to mugs, T-shirts, towels, and even carbonated soft drinks.

Although MMAA has not been as aggressive as the NFL in pursuing third parties who use the term "March Madness" without authorization and it is not protected by federal statute like "Olympics," the use of this term for commercial purposes without permission from the MMAA is trademark infringement and should be avoided. As intellectual property owners are becoming increasingly protective of their rights, use of any intellectual property without consent can be dangerous.

On the other hand, there is no law against using the term "March Madness" on the air to identify the NCAA basketball tournament that begins next week in discussions of the tournament in news, sports and talk programs, since that is the very thing the trademark describes. What you should NOT do, however, is use that term in a commercial context to promote some other service or product, whether it is car sales, electronic stores, or anything else, as "March Madness." While such use may or may not result in a legal action, the bottom line is that it could result in liability and that is a risk no station should take.

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