

## Is Super Bowl Protected by Trademark or Copyright Law? Try Both.

January 19, 2012 by [David Silverman](#)

One of the questions we commonly get from broadcasters and others around this time of year is whether and/or how they can use the term SUPER BOWL. Some refer to it as a trademark while others call it a copyright. Who is right...and how can it be used? The term SUPER BOWL is a registered trademark owned by the National Football League. We previously discussed this issue in [2009](#), [2010](#) and [2011](#).

Actually, the NFL owns at least eight **trademark registrations** containing the words SUPER BOWL, as well trademark registrations for the terms PRO BOWL and even SUPER SUNDAY. Aside from these trademark registrations, the NFL also owns the **copyright** to the telecast of the game itself. You may have heard that in past years, the NFL tried to stop Super Bowl parties shown on large TV screens. This was an enforcement of the NFL's copyright in the game. Now, the NFL apparently no longer tries to stop Super Bowl parties unless the proprietor charges admission to see the game. Again, this is a copyright issue. But what do these rights mean for a broadcaster who wants to run a Super Bowl promotion or an advertiser who wants to run a campaign involving the Big Game?

When it comes to use of the trademarked term SUPER BOWL, the NFL will take action against third party attempts to use that term in a **commercial** sense, in other words, to sell goods and services using the term SUPER BOWL in advertising. This is because commercial sponsors pay the NFL to be the official car or soft drink or whatever of the SUPER BOWL. Any unauthorized use of that term in **advertising could imply a false sponsorship or affiliation** with the NFL.

So, what is permitted? It is fine to use the term SUPER BOWL in news stories about the game and in conversations about the game. There is a trademark concept called "**nominative fair use**" that allows others to use a trademarked term when there is simply no better way to refer to it. But that concept does not extend to commercial use of the term.

In summary, **you can discuss the Super Bowl and do news stories about the Super Bowl**, all while referring to it as the Super Bowl. But any commercials or promotional announcements should avoid use of that trademarked term. It is OK for commercials to refer to it as the "Big Game" or any other term that does **not** include the words "Super Bowl" or "Super Sunday."

And go ahead and have that TV Super Bowl party you were planning. You will not be violating any copyright enforced by the NFL so long as you do not charge admission to see the game. By contrast, selling food and drink at the venue is permitted. In fact, that is pretty much what every bar in the US will be doing on Super Sunday.

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