A. Introduction

Ambush marketing is fast and transient. It also takes many forms: sometimes legal, sometimes illegal. The more decisive the action taken against ambush marketers and counterfeiters the greater the value of sponsorship rights. After all, sponsors are not going to invest money in an event if they can take advantage of an association for nothing.

Any type of event (or indeed anything else) can be the subject of an ambush marketing campaign. Indeed, where an event is developing and there are no sponsors available, someone associating with the event can have a positive benefit in terms of publicity. Yet once that event starts seeking sponsors it has to be able to ensure that those free-riders are no longer going to be able to make the association. Drawing favourable associations between goods or services and events is what marketing is all about. This is why ambush marketing is often, rightly or wrongly, simply thought to be a good marketing strategy.

The wide ambit of ambush marketing, a concept discussed below, is most commonly thought of in relation to sports events. The development of the laws in this field has been on the back of major sporting events and, in particular, the Olympics. This is because the cost of hosting the Games could originally be met by relatively modest sponsorship and individual or governmental benefactors. The early Olympic events cost under US$500,000 to host, but as the cost escalated so did the need to protect what is otherwise a free spectacle.

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2 CF Zarnowski, ‘A Look at Olympic Costs’ (1992) 1 Citius, Altius, Fortius 16; according to Zarnowski in 1992 dollars the cost for the 1896 Olympics was US$448,000; for the 1908 Olympics, US$394,000; for the 1924 Olympics, US$518,000. After the Second World War the costs started to rocket out of control.
Chapter 1: Ambush Marketing

B. A Free Spectacle

There is no legal protection for events as such. People who see an event cannot be prevented from reporting what happened and event organizers cannot stop anyone from observing an event from afar and making whatever use of it they choose. This is not to suggest that there have not been attempts over the years to try and claim property rights over an event or spectacle. A multitude of rights have been unsuccessfully relied upon to try and achieve this, including copyright, trespass, and breach of confidence. But the traditional common law view is that it is difficult to attach any precise meaning to the phrase 'property in a spectacle'. A 'spectacle' cannot, therefore, be 'owned' in any ordinary sense of that word.

Nevertheless, the law of confidence has developed significantly over recent years and it appears that with strict controls photographs taken at a 'private' event can fall under a duty of confidence. It has even been suggested that it is now possible to prevent the publication of exclusive stories under the laws of confidence. If this is right then an event organizer can impose strict conditions of confidentiality on anyone attending the event to ensure that no photographs are taken. This might protect broadcasting rights and the protection of certain images, but such protection is unlikely to extend to preventing attendees imparting information to the world about the event or, more importantly, making associations with the event. Using the law of confidence to prevent ambush marketing is unlikely to be successful and, in many cases, would be of little value to the organizer or sponsors of the event. A sponsor wants as much coverage of an event as possible, saturation coverage being the ideal. This means that using the law of confidence to limit access to an event is not in the sponsors' interest and, to some extent, not in the interests of the event organizer. Sponsorship is not only important to the organizers of events, but it is also a very effective marketing tool for sponsors and so there is now a significant sponsorship market.
C. The Sponsorship Market

The sponsorship market is huge. It is predicted that the value of worldwide global sponsorship in 2010 was US$46.3 billion (a 5.2 per cent increase over 2009), the North American share of this being US$17.2 billion and that of Europe being US$12.9 billion. This growth is attributable to the increased awareness of both sponsors and sponsored.

Unsurprisingly, the primary reason that companies sponsor events is to fulfil their communication and strategic objectives and to fit their broader marketing strategy, although it is also sometimes used as a defensive strategy to prevent competitors sponsoring the event. The other reasons for sponsoring an event are often self-evident. In a study of Guinness’s reasons for sponsoring the 1999 Rugby World Cup the company indicated they wanted to increase consumption in priority markets in the lead-up to, and during, the event; to be perceived as the dominant sponsor of the event; and to develop the brand, in particular, in relation to a young demographic. It turned out that 94 per cent of the public perceived Guinness as the dominant sponsor and sales over the period increased by up to 37 per cent in some countries.

Another example of the potential benefits from sponsorship is Cornhill Insurance who invested £2 million per year to sponsor English test cricket. The public recognition of the brand over the five-year sponsorship period increased from 2 per cent to 21 per cent and sales increased by between £15 million and £20 million. The cost of doing this by conventional advertising was estimated to be £50 million. Of course it can go the other way as well. Roy Keane, the former Manchester United and Ireland captain, was paid (reportedly £500,000) to front the 7-UP campaign in Ireland during the lead-up to the 2002 World Cup. However, when Roy Keane fell out with the Ireland manager and was sent home, 7-UP felt the wrath as its campaign posters were defaced and its specially produced cans boycotted. As the significant benefits associated with sponsorship (albeit with an attendant risk) became evident to marketing departments its antithesis—ambush marketing—was certain to develop.

The rise of ambush marketing was a result of the increasing sophistication of sports sponsorship. The sponsoring of events and athletes probably began when competitions started. The Olympics present a prime example. The Games have had some form of sponsorship from their very beginnings and there were some early disputes about people claiming links with the Games. The 1950s and 1960s saw a substantial increase in the number of sponsors, the Olympics present a prime example. The Games have had some form of sponsorship from their very beginnings and there were some early disputes about people claiming links with the Games.

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14 IEG Sponsorship Report (22 December 2010).
21 There is evidence of cities or Greek regions sponsoring chariots at the ancient Olympics: see J Swaddling, The Ancient Olympic Games, 3rd edn (British Museum Press 2004), 97–8.
but during this period anyone who wanted to become a sponsor could arrange some sort of deal.\textsuperscript{23} As everyone was welcome and varying levels of sponsorship existed there was no need to ambush an event. But this approach to sponsorship did not provide sufficient funds for either hosting the Olympics or the running of the International Olympic Committee (IOC).

\textbf{1.10} The Olympics were therefore facing near collapse in the late 1970s when the new President—Juan Antonio Samaranch—made a decision which transformed the management of the Olympics and in turn of sports events. The IOC started selling global sponsorship and broadcasting rights. This revolution was consolidated by Peter Ueberroth, President of the Organising Committee for the 1984 Los Angeles Olympics, who instituted three categories of sponsor: official sponsor, official supplier, and official licensee.\textsuperscript{24} The new defining characteristic of his approach was exclusivity: keeping marketers out for the first time. This new tactic raised the money necessary to host the Games (it even created a surplus),\textsuperscript{25} but it also gave rise to ambush marketing.

\textbf{The type of sponsorship arrangements}

\textbf{1.11} The range and complexity of sponsorship agreements has increased dramatically. They now set out such things as any rights to have logos placed in and around venues or on sports stars, access to athletes, hospitality advantages, and the use of the event’s brand. This multiplicity of benefits has led to a variety of different levels of sponsor. This complexity is demonstrated by the London 2012 Games, which have the following sponsors:

<table>
<thead>
<tr>
<th>Name of Programme</th>
<th>Administered by</th>
<th>Summary of rights granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Olympic Partners Programme</td>
<td>IOC</td>
<td>This grants exclusive global marketing rights within a product category and at all levels (IOC, NOC,\textsuperscript{26} and Organising Committees). They get the right to use Olympic insignia, hospitality at the Games, preferential access to Olympic broadcasts. They also are entitled to on-site sales or showcasing as well as membership of the recognition programme.</td>
</tr>
<tr>
<td>The Olympic Suppliers Programme</td>
<td>IOC</td>
<td>This programme gives much more limited rights. It does not normally include any direct support for staging the Games, but instead for assisting the IOC with running the movement.</td>
</tr>
<tr>
<td>The London 2012 Partnership Programme</td>
<td>London Organising Committee</td>
<td>There are three tiers of sponsorship (Tier 1, 2, and 3). Tier 1 is intended to raise about 80 per cent of revenues for LOCOG by cash sponsorship. Tier 2 is a mixture of sponsorship in cash and in kind. Tier 3 is for sponsorship in kind.</td>
</tr>
</tbody>
</table>

false claims of sponsorship made in relation to the 1932 Games. Similarly, in the 1960s the words ‘Olympic butter’, ‘Olympic sugar’, and ‘Olympic petrol’ were widely used: See Circular No AB/M/487, 26 April 1969, Brundage Papers, Box 71 (cited in R Espy, \textit{The Politics of the Olympic Games} (University of California Press, 1979), 135).

\textsuperscript{23} ‘Sponsorship is an Olympic Tradition’, \textit{Time Magazine Australia}, 9 January 1997.


\textsuperscript{26} Each NOC gets a share of the money raised under the TOP program.
D. Guerilla Marketing

The revenues generated by the Olympic sponsorship regime have become vast and so, unsurprisingly, other federations have started to follow suit. The Fédération Internationale de Football Association (FIFA) now has three broad categories in its sponsorship programme:

<table>
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<th>Name of Programme</th>
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</tr>
</thead>
<tbody>
<tr>
<td>FIFA Partner</td>
<td>FIFA</td>
<td>This is the highest level of support. It includes global rights and is not limited to a particular competition. The rights include the use of the official marks, exposure in and around the stadium, in all FIFA publications, and on its website. It also includes membership of the FIFA World Cup sponsor recognition programme and hospitality opportunities. Finally, it gives preferential access to broadcast advertising alongside the World Cup.</td>
</tr>
<tr>
<td>FIFA World Cup Sponsor</td>
<td>FIFA</td>
<td>The rights are limited to the FIFA World Cup, but they remain global. They include category exclusivity, brand association, select marketing assets, and secondary media exposure.</td>
</tr>
<tr>
<td>National Supporter</td>
<td>FIFA</td>
<td>This allows 'local' companies to promote an association with the FIFA World Cup, but only within the host country. This includes category exclusivity, association, local marketing programmes, and domestic media exposure.</td>
</tr>
</tbody>
</table>

Similar arrangements have been created by the Football Association (although these are far more complicated—they include: lead partners, event partners, learning partners, community partners, and so forth). These levels, however, have also made it easier to ambush events as the complexity and fluidity of the arrangements make it more difficult for consumers to understand who is, and who is not, an official sponsor.27

D. Guerilla Marketing

The development of ambush marketing can be seen as a result of the shift brought about by so-called 'guerilla marketing', which originated with Jay Conrad Levinson’s book on the subject in 1983.28 The basic premise of guerilla marketing is that you can exchange substantial financial investment in marketing for investments in the form of time, energy, imagination, and information.29 What guerilla marketing demonstrated was that small businesses can undertake effective marketing; all that was required was innovation and sometimes extreme methods of marketing. Guerilla marketing techniques include things which now appear everyday such as attractive women approaching men on the street to talk about products, handing out free gifts, putting up ‘fly’ posters in prominent places, or making an entertaining film hoping it will become popular on social networking sites. One of the most successful

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brands built almost exclusively using guerrilla marketing was Red Bull. It started marketing by focusing on local and influential DJs, clubbers, and other social trendsetters and used them to create the brand through word of mouth. This was an approach it later called its seeding program. This sort of marketing technique had began to evolve in the early 1980s, but now nearly thirty years later it is difficult to distinguish guerrilla marketing from mainstream marketing. Yet if one retains the core ideal of guerrilla marketing—clever ideas over big spending—then it is clear where ambush marketing fits in as one form of guerrilla marketing.

E. What is Ambush Marketing?

The term ‘ambush marketing’ was coined by Jerry C Welsh, while he was at American Express. He has described ambush marketing as a marketing strategy that uses the same themes as sponsors to vie with them for marketing pre-eminence. As with so many other neologisms the meaning of the word has changed considerably since it was coined. Outside marketing circles, however, it has largely become a pejorative term to suggest benefits being ‘stolen’ from sponsors.

Inside those circles, it has been given a variety of meanings. It has been indicated that ambush marketing should be defined as a planned campaign by an organization to associate itself indirectly with an event in order to gain at least some of the recognition and benefits that are associated with being an official sponsor. Or as a type of marketing by a company that is not an official sponsor of an event, but which places advertising using the event to induce customers to pay attention to the advertisement. More broadly still it is where a non-sponsoring company attempts to deflect the attention to itself and away from the sponsoring company, which undermines the effectiveness of the sponsorship communication and so the value of the sponsorship. The IOC describes it as any attempt by an individual or entity to create an unauthorized or false association (whether or not commercial) with an event thereby interfering with the legitimate contractual rights of official marketing partners of the event. At its broadest this sort of definition creates a proprietary right in a contractual agreement. Contracts cannot bind anyone who is not a party and they cannot in themselves

31 Although sometimes ambush marketing is used as a synonym for guerrilla marketing (and vice versa): see for example, A Scaria, Ambush Marketing: Game within a Game (Oxford, 2007), 31.
35 JT McCarthy, Trademarks and Unfair Competition (4th edn, 1998–2011), §22.66; the definition by Owen Dean is also worth considering: Ambush marketing takes place when a trader seeks to utilise the publicity value of an event, for instance a major sports tournament or concert, to gain a benefit from it despite not having an involvement or connection with that event and more particularly having made no financial contribution to entitle him to derive benefit from it.” See O Dean, ‘Ambush Marketing’ (2000) (June) De Rebus 24.
37 See IOC Requirements on Brand Protection and Ticket Touting (released by FOI request to DCMS; Request No 26585: <http://www.culture.gov.uk/images/freedom_of_information/Case26585.pdf>, point 1; the source refers only to the Olympics; the explanation above has been broadened to make it of general application).
38 This is more or less what the London Olympics association right and the Glasgow Commonwealth Games association rights do: see Chapter 6.
E. What is Ambush Marketing?

create a property right. Therefore, the prevention of ambush marketing requires recourse to a wide range of legal sanctions and remedies many of which do not immediately spring to mind.

The rise of ambush marketing is directly related to the media attention given to major events. It has been noted that during some major events up to a fifth of total broadcasting output is dedicated to the event. Such attention, national or international, will inevitably attract sponsors. The market for sports sponsorship with its exclusivity deals, like all exclusive rights, pushes up the market price. Even the largest businesses cannot sponsor every major sports event. A sponsor may think its core customers are rugby fans and so they sponsor the Rugby World Cup or the Six Nations; however, when the Olympics or the FIFA World Cup is in the news that company may still want to be associated with the event, but cannot afford to do so or, possibly, does not think the association is worth the money demanded: it may then ambush. It is not just the cost of marketing which attracts ambush marketers; there are also issues associated with inappropriate sponsorship packages being offered to potential sponsors. Some marketing departments may believe they can increase market awareness more effectively by associating or intruding upon the event’s space with their own methods than using official channels.

Ambush marketers now fall into two broad groupings. The first is the counterfeiter or spiv who is either operating outside the law or very close to its borders. The second is the (usually) legitimate organization, which may even be a household name, conducting a marketing campaign to take advantage of an event. To maintain the highest sponsorship revenues event organizers believe that both types of ambush marketing have to be addressed.

**Ambush marketing: association and intrusion**

The lack of any clear meaning of ambush marketing means that a wide range of activities are considered to fall within its ambit; but as marketing evolves and marketers get smarter (and legal restrictions get tighter) the range of activities will change. There are, however, two classes of ambush marketing. First is ambush marketing by association: this is where an association or link is created by a trader usually by way of a representation suggesting some form of association between that trader and the event, but it does not require consumers to be misled as to sponsorship. The second type is called ambush marketing by intrusion: this is where a trader takes advantage of the event by using the space in, around, or near the venue to seek publicity. It requires no association with the event to be made by the trader at all; indeed it may be a result of what might otherwise be a perfectly normal promotional activity. Ambush marketing by intrusion involves the ambusher trying to make contact with those attending the event, and in particular the media in all its forms, so as to attract additional publicity to the ambusher’s brand than that which its promotional activity would otherwise achieve. It is best understood by reference to the common strategy of taking steps so that the product, logo, or other aspect of the corporate brand is photographed or broadcast

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41 Although a tighter definition was proposed by O Dean, ‘Ambush Marketing and Protected Events’ (2003) (November) De Rebus 20 (‘In this form of ambush marketing, the ambush marketer misleads the public into thinking that he is an authorised sponsor or contributor associated with the event.’)
42 See also O Dean, ‘Ambush Marketing and Protected Events’ (2003) (November) De Rebus 20, 21 (‘The ambush marketer does not seek to suggest a connection with the event but rather to give his own brand, trade mark, or other insignia exposure through the medium of the publicity attracted by the event and without the authorisation of the event organiser.’)
Chapter 1: Ambush Marketing

at or near the event. The usual publicity would be from the logo being seen by passers by, but the additional publicity, the ambush as it were, is when viewers at home see it as well.

Effectiveness of ambush marketing

1.20 In the lead up to the 2010 World Cup, Nike made a three-minute short film ‘Write The Future’ featuring Wayne Rooney, Cristiano Ronaldo, and Fabio Cannavaro and released it on YouTube. Nike relied on the viral effect for internet users to watch the film, and within five days of the advertisement’s release, it had over 2.5 million viewers.43 This enabled Nike to generate 30.2 per cent of the online buzz at the beginning of the tournament44 compared to Adidas, the official sponsors, who generated only 14.4 per cent. However, during the tournament Adidas’s buzz eventually overtook Nike’s (although much of this was related to the controversial Adidas Jabulani ball).45 The concept of measuring buzz is relatively new, the ambusher being more closely associated with the event than the sponsor is not. Nearly twenty years earlier Wendy’s took steps to saturate the commercial breaks in the television coverage of the 1992 Olympics with its adverts. They were so successful that most viewers believed that they, rather than McDonalds, were the official sponsors.46

F. Types of Ambush Marketing

1.21 The nature of ambush marketing is such that no definitive list or categorization can be produced of what amounts to ambush marketing, but the following attempts to set out some pointers of what sorts of things might be relevant.

<table>
<thead>
<tr>
<th>Type of marketing</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sponsoring media coverage of the event</td>
<td>Fuji was worldwide sponsor of the 1984 Olympics, but Kodak sponsored the ABC television broadcasts of the Games.47</td>
</tr>
<tr>
<td>Buying significant advertising during the commercial breaks in event</td>
<td>Wendy’s ran an advertising campaign (both broadcasting and otherwise) around the 1992 Olympics despite McDonald’s being the official sponsor.49</td>
</tr>
</tbody>
</table>

44 Buzz is essentially a measure of the number of times a particular brand is mentioned in online media (such as blogs, videos or films uploaded, and so forth) and how many hits there are for particular websites (eg viewers of a YouTube video) over a particular period of time. There are a number of different ways of assessing so-called buzz and most media tracking firms have their own approach.  
47 This is widely credited as the first case of ambush marketing and is widely cited as an example: eg A Bayless “Ambush” Marketing is Becoming Popular Event at Olympic Games’ The Wall Street Journal, 8 February 1988. There were earlier instances of unauthorized claims of sponsorship (see para 1.09, n 22), but not usually to the detriment of a direct rival.  
48 Also see S McKelvey, ‘Atlanta ‘96: Olympic Countdown to Ambush Armegaddon’ (1994) 4 Seton Hall J Sport 397, 403–4  
### F. Types of Ambush Marketing

<table>
<thead>
<tr>
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</tr>
</thead>
</table>
| Sponsoring a sub-category of an event                  | Kodak was the official worldwide sponsor of the 1988 Olympics, but Fiji sponsored the US Olympic swimming team.  
50 | Carlton & Newcastle complained when Toothey's suggested that it was the beer of choice at the Stadium Australia (which it usually sponsored) even though it was not an Olympic sponsor.  
51 | Ian Thorpe was sponsored by Adidas when Nike was the official sponsor of the clothing supplier for the Australian team. Thorpe draped a towel over the Nike logo when he was being filmed.  
52 | This follows Michael Jordan covering up his Reebok logo (Nike being his sponsor) when he accepted the gold medal in the 1992 Olympics.  
53 | Nike bought out all the billboards in and around the Olympic venues during the Atlanta 1996 Games.  
54 | Nike flying a balloon over the stadium for the 1994 Goodwill Games in St Petersburg despite Reebok being sponsor. Nike continued by selling training shoes near the cycle racing.  
55 | The notorious Holden blimp was flown to events so that there was a giant advertisement in the background, the most famous occasion being at the AFL Final, which was sponsored by Toyota.  
56 | The Hugo Boss boat followed Tiger Woods around at the British Open 2009 to ensure it was included in the television coverage.  
57 | Southern Electric displayed a banner saying ‘Southern Electric. Go England’ on the gas towers outside the Oval Cricket Ground when NPower was the official sponsor.  
58 |

(continues)

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56 See T Hagon, ‘“Holden-burg” to hit the air’, Sydney Morning Herald, 2 August 2006.
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<table>
<thead>
<tr>
<th>Type of marketing</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Displaying logo at press-conference or during the event</td>
<td>Linford Christie wore Puma contact lenses, which clearly showed up in all photographs, during a press conference at the 1996 Olympics.60</td>
</tr>
<tr>
<td></td>
<td>Bernard Hopkins tattooed the name Goldenpalace.com on his back so that it would be visible during a boxing match in September 2001.61</td>
</tr>
<tr>
<td>Distributing related marketing</td>
<td>During the 1990 World Cup a competitor of the official sponsor, Mars, gave away free footballs using its own Italia ‘90 logo.62</td>
</tr>
<tr>
<td>Distributing free samples of non-sponsor’s branded products or giving out free unofficial programmes near the venue</td>
<td>Hats with the words ‘ACE’ were handed out to spectators at Wimbledon in 2001, on the off-chance that they would be worn during the tournament.63 Similarly, at Wimbledon in 2004 Colgate handed out Palmolive deodorant branded water despite the official water sponsor being Buxton.64</td>
</tr>
<tr>
<td>Giving away tickets for the event as a prize</td>
<td>Philips ran a competition ‘Buy a Philips Audio System, win a ticket to the World Cup’ for the Cricket World Cup 2003.65</td>
</tr>
<tr>
<td></td>
<td>The British Olympic Association has complained about giving away Olympic tickets on a number of occasions.66</td>
</tr>
<tr>
<td>Organizing tangentially related programmes</td>
<td>Seagram’s ‘Send the Families’ campaign (where they paid to send 500 families of competitors to the 1988 Olympics).67</td>
</tr>
<tr>
<td></td>
<td>Encouraging people to send texts to show support for the South African football team at World Cup 2010.68</td>
</tr>
<tr>
<td></td>
<td>During the 1992 Olympics, General Motors ran a promotion in which it gave away golden-coloured Holden cars to Australian gold medal winners. Toyota was the motor vehicles sponsor of the Australian team.69</td>
</tr>
</tbody>
</table>

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61 S McKelvey, ‘Commercial Branding: The Final Frontier or False Start for Athletes’ Use of Temporary Tattoos as Body Billboards’ 13 *Journal of Legal Aspects Sport* 1, 4 (2002–2003) (he was reportedly paid US$100,000, which the ambusher easily recouped through additional traffic on the site).
65 See *ICC Development (International) Ltd v Aree Enterprises* 2003 (26) PTC 245 (Del); also see *ICC Development (International) v Ever Green Service Station* 2003 (26) PTC 228 (Del).
67 T Meenagan, ‘Point of View: Ambush Marketing Immoral or Imaginative Practice’ (September 1994) *Journal of Advertising Research* 77, 82.
68 As occurred in Vodacom/MTN/16028, ASA South Africa, 15 October 2010.
### F. Types of Ambush Marketing

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</thead>
<tbody>
<tr>
<td>Using allied links to make associations with an event</td>
<td>Steinlager was the sponsor of the 1991 Rugby World Cup. Foster’s ran a campaign ‘Swing Low, Sweet Carry-Out’ to take advantage of the England theme ‘Swing Low, Sweet Chariot’. Qantas Airlines, not the sponsor of the 2000 Olympics, used the slogan ‘Spirit of Australia’ which coincidentally sounds like the Sydney 2000 Games slogan ‘Share the spirit’.</td>
</tr>
<tr>
<td>Drawing allusions to an event without mentioning it</td>
<td>American Express ran ads claiming Americans do not need ‘Visas’ to travel to Norway (for the Winter Olympics). This followed a similar campaign in relation to the Barcelona Games earlier that year.</td>
</tr>
<tr>
<td>Planting people at an event with signs for them to hold up to be caught on camera (commonly called ‘messages on hold’); now includes more subtle ideas</td>
<td>The underwear manufacturer Dim Dim paid for a group of women to attend games at the Rugby World Cup 2007. They proceeded to take their clothes off (whilst wearing the underwear). This attracted the attention of the camera men. Bavaria beer ran a series of campaigns where people have attended sporting events wearing the colour orange. This most recently occurred at the World Cup 2010.</td>
</tr>
<tr>
<td>Producing ‘unofficial’ merchandising incorporating protected symbols.</td>
<td>This is widespread and may amount to straightforward counterfeiting.</td>
</tr>
<tr>
<td>Using a protected symbol to advertise your own product or to draw allusions</td>
<td>The branding of a gym as an ‘Olympic gym’. Qantas’s ad ‘Australia Wide Olympic Sale’ (with a * followed by a disclaimer at the bottom).</td>
</tr>
<tr>
<td>Registering domain names which relate to the event</td>
<td>This is a widespread practice, for examples, see section on domain names.</td>
</tr>
</tbody>
</table>

(cont.)

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73 Named after the Kym Illman’s company which pioneered this form of advertising.
77 LOCOG, ‘London 2012’s UK statutory marketing rights’ (April 2010), [2.7].
78 See Qantas ad, *The Age*, 29 September 2000 (there was no protection for expressions as such at the time in Australia).
79 See para 4.116 et seq.
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<table>
<thead>
<tr>
<th>Type of marketing</th>
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</tr>
</thead>
</table>
| Running an advertising campaign using the same themes. | In 1998 Nike ran an advertising campaign using Ronaldo (the most famous footballer in the world at that time) fooling about with a ball on a beach. The campaign was run during the 1998 World Cup.  
Similarly, in 2010 Nike ran the ‘Write the Future’ campaign where a video, available on YouTube and similar sites, involved leading footballers taking part in a fictional football tournament. The campaign was so successful that Nike was initially the brand most linked with the tournament despite not being an official sponsor. |
| Engaging in widespread unrelated advertising campaign to increase ‘share of voice’. | Not ambush marketing. |

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[82] This is suggested to be a form of ambush marketing by T Meenagan, ‘Point of View: Ambush Marketing Immoral or Imaginative Practice’ (September 1994) *Journal of Advertising Research* 77, 81.