

UEFA EURO 2012™ DO'S AND DON'TS IN POLAND

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EXCLUSIVE IP RIGHTS

In relation to co-organization by Poland and Ukraine of the final tournament of European Football Championship UEFA EURO 2012™ Poland has made a number of commitments to the Union of European Football Associations (UEFA) and commitments to protect intellectual property rights.

In addition to international and community registrations, UEFA registered also certain trade marks on the territory of Poland. These trade marks along with other trade marks binding on the Polish territory are subject to special treatment and additional measures are taken to protect them. They all fall within the scope of provisions of the Act of June 30, 2000 The Industrial Property Law and besides the Polish Patent Office acting as the governmental body responsible for granting exclusive rights there was also special company erected to coordinate and control all the matters connected with preparations to UEFA EURO 2012™ and the event itself. The special purpose vehicle of the State Treasury named PL.2012 Ltd. closely cooperates with UEFA, the Polish Patent Office and the Minister of Sport and Tourism of Poland.

It should be noted that any unauthorized reference, in whole or in part, to trade marks which are the subject of protection would be treated as against the applicable law and may result in the consequences of violation of exclusive rights granted to UEFA.

The most frequent example of infringement is the slavish imitation of original event souvenirs (balls, mascots) and counterfeits. Even if there are no counterfeits *sensu stricto*, there are so called neutral goods incorporating UEFA EURO 2012™ registered trade marks. Recently, Polish custom authorities seized more than 3 500 pieces of goods incorporating trade marks registered on behalf of UEFA, the products were worth approximately 154 000 EURO. The less easy to estimate but much more funny are for instance cakes with icing presenting UEFA EURO 2012™ figurative trade marks, not easy to seize and easy to be destroyed immediately but also easy to be destroyed right away evidence-wise. But, as a matter of fact – since the penalties are high and everyone would like to benefit from the third biggest sport event in the world, there are many entities that have decided to enter into the license agreement with UEFA and be allowed to use the UEFA trade marks.

The difference between a sponsor and a license is that UEFA EURO 2012™'s official sponsor enjoys the right to connect itself and its products/services to the UEFA EURO 2012™ and receives a comprehensive package of rights, including the association with the brand name of the event including the right to present its own name/product together with the brand name of the event, the "hospitality" services, possibilities of marketing of its own brand during event and benefits from media coverage. Conversely, a company that acquires rights to use certain characters of the UEFA EURO 2012™ on specific products, without any right to combine its business with the UEFA EURO 2012™ is called a licensee. UEFA gives the licensee the right to use certain UEFA characters in accordance with the agreement that defines the terms and conditions, such as the type of licensed product, its geographic scope, limited duration and financial aspects.

Besides the above mentioned reference to existing provisions of Industrial Property Law (mainly trade mark protection), no special law regarding IP matters other than trade marks infringement or imitation

has been introduced, what was introduced were mainly rules and regulations referring to safety issues, transportation and infrastructure, sale of alcoholic beverages etc. The IP and sponsorship matters are out of the coverage and are mainly regulated by the UEFA itself. It is on spite of certain declarations and guarantees, both Poland and Ukraine gave to the UEFA in the stage before applying for hosting the championships.

PUBLIC VIEWING

In terms of intellectual property protection Poland has made also a guarantee for change in legislation relating to such issues such as increasing the protection of names and symbols, the so-called settlement issues, "public viewing" and the implementation of the provisions allowing for an effective fight against ambush marketing. It did not happened entirely and in contrary to Ukraine and some other football championship hosting countries (for instance Portugal in 2004) Poland has not introduced the special law regulations regarding IP law in the realm of UEFA EURO 2012™ and stayed with binding law just strengthening the control over any violation of law and registered rights infringements.

Poland declared that would take all actions consistent with the laws of the current members of the European Community in order to ensure that the public viewing of matches in the UEFA EURO 2012™ in the national territory was subject to the following conditions: watching of any match held outside the private circle of family or guests would be prohibited unless UEFA gives license and any organized public viewing without obtaining such a license first may be subject to criminal liability. There are also special rules introduced relating to the UEFA EURO 2012™ Public Transmission of the games. Any place airing the games – a pub, a restaurant, an open air places etc. must pay the license fee to the UEFA and it will be enforced even if only announcement of live games is exposed at the entrance and no audience actually shows up. Except official fan zones almost every pub in any big Polish city wishes to egg its customers on to be over there spend money during the games thus - every one of them must pay.

AMBUSH MARKETING

When it comes to the ambush marketing, Poland declared to take all necessary measures to ensure the compliance with applicable laws relating to customs and intellectual property rights, and any special laws for the protection of intellectual property rights of the UEFA and would act against unfair marketing practices (pirate marketing) and the forbidden practices in ticket sales to protect the economic interests of the UEFA and the UEFA EURO 2012™. No special regulations were added to the law in force but ambush marketing issues are still within the scope of the law on combating the unfair competition supplemented by the Industrial Property Act and the copyright law. Polish legal tools in that respect are highly similar to the legal solutions provided by most of European legislations thus in other words they are insufficient for the UEFA.

Unfortunately, there are many examples of sort of "ambush marketing" before the UEFA EURO 2012™. The expression "sort of" is quite crucial, since the ambush marketing is versatile, varied and incoherent way of marketing.

Many entities outside the circle of the official sponsors are interested in taking significant part in the event like UEFA EURO 2012™. Some of them do it legally, with respect to fair rules and fair competition; they just produce something special like ball-shaped cookies, eagle-shaped pendrives (white eagle is Polish national emblem) or T-shirts in the colors of all 16 qualified teams. But there are also some examples of highlighted campaign of the products that fall within the scope of products covered by the official sponsors – beer, beverages and sport clothing.

One significant example of a huge campaign that is maybe not illegal but may be regarded as sort of ambush marketing, is the advertisement campaign related to beer "TYSKIE" that lasts for good couple of months and is being broadcasted intensively. Despite the fact that CARLSBERG is the official sponsor and WARKA is the sponsor of Polish national team, TYSKIE beer is much more visible, the ads are everywhere and the past star players, like Marco van Basten, Luis Figo and Zbigniew Boniek, are very active in all ads of this brand.

The result of market research has revealed that Polish citizens cannot give any example of the official UEFA EURO 2012™ sponsor spontaneously and they mix up the official sponsors with other entities. The case of the above mentioned beer is the most spectacular.

What may be also highlighted is that in no event the UEFA trade marks or any other signs relating to the UEFA and/or the UEFA EURO 2012™ can be used in meta tags or other website identifiers.

What else... Come to Poland! We are all hosts during the UEFA EURO 2012™.

For more information, please contact:

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