

## Art and the Olympics Workshop Series ■ October 21, 2008

Presented by the Artists' Legal Outreach Program, Alliance for Arts and Culture

### Running Rings Around Trade-marks

#### *The Olympic and Paralympic Marks Act: Implications for Artists*

## 10 Things To Know About the *Olympic and Paralympic Marks Act*

1. The Act gives VANOC the exclusive right in certain circumstances to use a set of images, words and expressions that are related to the Olympic Games.
2. Some of the words and images that require VANOC's authorization include:
  - the logos for the Vancouver 2010 Olympic and Paralympic Games;
  - the Olympic Rings and Olympic Torch;
  - the phrases "Faster, Higher, Stronger" and "Spirit in Motion";
  - variations on the word Olympic and Paralympic; and
  - combinations of the words Games, City, Vancouver, 2010, winter, gold, silver, and bronze.
3. The Act stops unauthorized businesses and individuals from using any of the defined marks, translations or promotions **in connection with a business**. Business and individuals can only use the marks if they have VANOC's permission.
4. The Act also stops businesses from doing things which may mislead the public into believing that the business is an official sponsor of the Games or otherwise approved, authorized or endorsed by the Games.
5. The intention of the Act is to prevent "ambush marketing", a tactic employed by businesses using the goodwill of the Olympic and Paralympic brand to their own advantage without paying for the privilege afforded by sponsorship.
5. "**Artistic works**" are an exception to the prohibition, in some circumstances. The Act defines an artistic work according to the *Copyright Act*, which says:

'artistic work' includes paintings, drawings, maps, charts, plans, photographs, engravings, sculptures, works of artistic craftsmanship, architectural works, and compilations of artistic works.
7. Copyright is not the same as a trade-mark right. Copyright protects original artistic works. This includes designs and logos. Copyright does not have to be registered. The *Copyright Act* automatically grants copyright to the creator of a work for the life of the author plus 50 years.
8. Artistic works may contain Olympic and Paralympic marks as long as the work is not "reproduced on a **commercial scale**". There is no definition of "reproduced on a commercial scale" in the Act.
9. Reproductions on a non-profit basis may or may not be prevented by the Act.
10. The Act does not give VANOC the right to determine where artwork is displayed.

In summary, artists continue to enjoy their right to freedom of speech and freedom of expression. An artist may challenge the interpretation of VANOC respecting its use of the marks.

**Please note that the information provided above should be viewed as general information, not legal advice. Copyright and trademark are complex subjects and the foregoing information is only a brief introduction. If you have a legal or business issue, we recommend that you consult a lawyer who is knowledgeable about the area in question to obtain tailored legal advice.**

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