

A March to Madness: Can the NCAA Claim Ownership of the Third Month of the Year?

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by J. Michael Keyes



The NCAA has a well-deserved reputation for being quite zealous when it comes to protecting its registered trademark “March Madness.” We previously blogged [about this here](#) at TheTMCA.com. But a recent opposition filed by the NCAA at the TTAB takes “zealous advocacy” to new heights.

About a year ago, the Big Ten Conference filed an intent-to-use application for “MARCH IS ON!” for

a variety of television transmission and entertainment services related to athletic events and contests. The examiner found “no conflicting marks that would bar registration” under the Lanham Act and MARCH IS ON! was published for opposition. The NCAA received extensions of time to oppose the application, presumably for the purpose of exploring a possible resolution with the Big Ten or at least finding out more about how the Big Ten intends to use the MARCH IS ON! mark. On February 13, the clock ran out on any further extensions of time, so the NCAA decided it was “game on” and filed an opposition to MARCH IS ON!

The NCAA cites three registrations for “March Madness” as the basis for the [opposition](#) and concludes as follows:

Use by Applicant of MARCH IS ON! for the services set forth in the Application is likely to result in confusion, mistake, or deception with Opposer, or the goods and services marketed in connection with Opposer’s MARCH MADNESS Mark, or in the belief that Applicant or its MARCH IS ON! Services are in some way legitimately connected

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■ with, or licensed or approved by, Opposer.

The only basis for this alleged "confusion" between the two marks would be that they both contain the word "March," which is, of course, the month when college basketball hits its zenith.

So, what are we to conclude from the NCAA's opposition? A reasonable take-away is that the NCAA believes it can exclude others from using the word "March" in conjunction with any sort of sports-related entertainment services. That may be a stretch. Unless the case settles, the TTAB will get to decide whether the NCAA can claim such expansive rights to the name of a month of the year. But the TTAB officials may conclude that this latest filing at the USPTO can be summed up in one word: Madness.