

All Publicity May Not Be Good Publicity: Risky Timing of IP Filings Based on Sports Success

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The NFL playoffs are underway and teams and their fans are riding high: eight teams still have a chance of making the Super Bowl. Now could be the perfect time to protect the team slogan or motto that fans will love for years to come. But seven out of the eight teams will not win the Super Bowl this year. If they file a trademark application, it could set them up for ridicule.

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During last year's playoffs in January of 2018, the Minnesota Vikings, riding a wave of fervor after a last-minute win over the New Orleans Saints, applied to register the phrase "Bring It Home" to describe their attempted push to the Super Bowl. But when an embarrassing loss to the Eagles ended the Vikings' playoff run a few weeks later, the Vikings faced ridicule for rushing to grab a now-tarnished slogan.

The New England Patriots found themselves in a similar situation in 2008, when they applied to register the trademark "19-0," a reference to the perfect season they would've had if they'd won the Super Bowl. The application was rejected. Even worse, the Patriots lost to the New York Giants a few weeks later. The loss prompted the New York Post to file snarky trademark application for "18-1," and merchandise mocking the Patriots' aspirational slogan sprung up across the web.

On the other hand, a good idea can be worth protecting, even if initially attempting to register it can be a little awkward. NBA Lakers coach Pat Riley registered the term "three-peat." Unfortunately, the Lakers never quite managed to rise to the term. But the Chicago Bulls did, and made good use of the term. Riley pocketed approximately \$300,000 in royalties for its use. "Three-peat" or no, Riley will be laughing all the way to the bank.

For companies beyond the gridiron, filing a trademark application at the right time is essential to protecting their company's valuable brand assets, but it is still wise to anticipate how the public may react.

In 2015, Zodiac Seats France filed a patent for an awkward new aircraft seat design that switched the middle seat to face away from the front of the plane in order to pack more seats onto the plane. Passengers would awkwardly face one-another in the cramped quarters of an aircraft's economy cabin. When the patent was roundly ridiculed, Zodiac found itself in a position only slightly less awkward than having to suffer a flight in one of its newly-designed middle-seats.

Ultimately, when it comes to publicly-available IP filings, teams and companies must be aware of the publicity—good or bad—that the filings may generate. And who knows... maybe someday the Vikings will Bring It Home after all.