

Ambush Marketing Effort

Indu

Assistant professor, Khalsa college for Women, Ludhiana, Punjab, India

INTRODUCTION

The world 'Ambush' is defined as a surprise attack on someone. It has given rise to one of the most innovative strategies in the market right now that is Ambush Marketing. One of the most famous marketing strategist, Jerry Welsh developed this term in the 1980s with a vision that it will be the future of marketing. In simple terms, ambush marketing can be defined as a modern creative market strategy in which an advertiser or a marketer 'ambushes' a situation, a news, an event etc. to target the competitors in the quest of competing for exposure against them.

As the expenses of turning into an official sponsor of a real sporting occasion have mushroomed over late years, sponsors progressively need to manage what has ended up known as ambush marketing. Ambush marketing happens when a brand tries to adventure the media consideration of a significant sporting occasion by uniting itself with the occasion without being an official sponsor, as such, without paying a sponsorship change. Ambush marketing is evidently successful, and some marketing experts even laud it as the boldest and most imaginative type of advertising ever. Then again, Ambush marketing considerably undermines an event's integrity and also its capacity to pull in future sponsors. In this way, some contend, it debilitates to disintegrate the crucial income base of mega-sporting occasions, for example, the Soccer World Cup, Formula 1 Racing or the Olympic Games, Whichever viewpoint one may take, the predominance of Ambush marketing brings up the issue of what lawful alternatives are accessible to coordinators and official sponsors of such occasions to keep Ambushers from "hitching a free ride" without making any financial commitment.

Indeed along these lines, ambush marketing is not a lawful Idea. There is no hint of this English term in legitimate lexicons or different vocabularies. Actually, it is a declaration utilized by masters as a part of advertising systems. A certain Jerry Welsh who, in the 80s, was world marketing executive for American Express and as being what is indicated sponsored the national sports groups for the 1984 Olympic Games, cases to be the creator of the concept.

THE CONCEPT

The expression "ambush marketing" has existed following the 1984 recreations with the idea characterized and created in papers by American experts. Albeit numerous have tried to characterize it precisely they have all experienced the issue of its legitimacy. Some consider that it is an unlawful business acted by an organization attempting to make a relationship between its items and administrations and a media occasion, by and large a game, to draw a business advantage from the notoriety of this occasion, however without being the sponsor and without needing to acquire the smallest approval from the sponsor. The result is that, in the long haul, ambush marketing with lessen the estimation of the selective rights obtained at some expense by the official sponsors of the occasion. This definition has satisfied the lawmakers in specific nations who, on the solicitation of the coordinators of games occasions, have fused it into their assortment of measures. Case in point, Italy unequivocally denied ambush marketing for the term of the 2006 Winter Games by characterizing it as "all exercises parallel to those of the elements officially approved by the organizer to acquire monetary gain.

EVOLUTION OF AMBUSH MARKETING

As the popularity of sponsorship of global events increased along with its real and perceived benefits, the competition for getting these coveted rights resulted in higher bidding, more exclusivity and increased disappointment amongst the competitive bidders. Ambush marketing thus arose when companies that were formerly able to associate themselves with certain high-profile events such as the Olympics became excluded from official sponsorship deals, either by way of increased costs or category exclusivities.

Historically, the first incident of ambush marketing can be linked to the 1984 Olympic Games where Fuji of Japan won the official sponsorship rights for the event against its arch rival Kodak USA. Undeterred Kodak turned the tables against Fuji by getting the sponsorship of ABC network's broadcast of the Olympic Games and became the "official film" of the US track team. If Fuji played the role of a victim of ambush marketing in 1984 Olympic Games, it took its US track team. If Fuji played the role of a victim of ambush marketing in 1984 Olympic Games, it took its revenge by playing a spoilsport of Kodak in 1988 Olympic Games, where Kodak has won the rights for the event sponsorship. Irrespective of Kodak being the official sponsor of the event, Fuji aggressively pursued its own advertising campaign by promoting the sponsorship of U.S. swimming team. The other famous incident of ambush marketing involved the cola giants like Coca Cola and Pepsi at 1990 Football World Cup, where Coca Cola won the worldwide official sponsorship rights against Pepsi.

In the Indian landscape the first popular case of ambush marketing was witnessed in 1996 Cricket World Cup which highlighted this novel concept in India. During the 1996 World Cup, although Coca Cola was the official sponsor of the tournament, Pepsi ambushed the campaign by coming up with the tagline "nothing official about it". The other interesting incident in the Indian landscape of ambush marketing involved the top domestic airlines. Jet Airways came up with an ad campaign saying "We've changed"! To ambush the campaign, Kingfisher airlines came up with "We've made them change" which was further ambushed by Go Airways saying "We've not changed. We are still the smartest way to fly". However, the latest war was between Hindustan Unilever's shampoo brand "Dove" and Procter & Gamble's shampoo brand "Pantene". P&G launched its intriguing ad campaign for Pantene with the tagline "A mystery shampoo. Eighty percent women say it is better than anything else." A few days later and before P&G could launch the new Pantene, Hindustan Unilever ambushed the campaign by placing an adjacent hoarding with the tagline "There is no mystery. Dove is the No. 1 shampoo."

Types of ambush marketing

Ambush Marketing can be divided into three broad categories:

Direct Ambush Marketing:	Indirect Ambush Marketing:	Incidental ambush marketing
i. Predatory Ambushing	ii. Sponsor self Ambushing	i. Unintentional ambushing
iii. Coat-tail Ambushing	ii. Distraction Ambushing	ii. Saturation ambushing
iv. Property Infringement	iii. Values Ambushing	
	iv. Insurgent Ambushing	
	v. Pre-Emptive Ambushing	

	vi. Parallel Property Ambush	
--	------------------------------	--

A. **Direct Ambush Marketing:** It is an intentional use of symbols and trademarks associated with the mass event so as to give the consumers the wrong impression as to the actual sponsors of the event. Certain direct ambush marketing strategies are:

1. **Predatory ambushing:** The direct ambushing of a marketing competitor, intentionally attacking a rival's official sponsorship in an effort to gain market share, and to confuse consumers as to who is the official sponsor. For example, during the Heinekein, UEFA European championships, 2008, Heinekein in an effort to ambush Carlsberg's official sponsorship, created marching band-style "Trom-pets" (drum hats) for Dutch fans on their way to Bern which also acted as drum, branded with the heinekein logo and name; company released advertisements featuring Dutch fans travelling to Switzerland, visiting official Oranje fans camping complex, and Heinekein marketing executives plotting ways to ambush the European Championship."
2. **Coat tail ambushing:** The attempt by an organisation to directly associate itself with a property through legitimate link, without securing official event sponsor status. It refers to the unsolicited association of a company to an event. For example, in Beijing Summer Olympics, 2008, following Liu Xiang's injury in the men's 110m hurdles, Nike released a full page ad in the major Beijing newspaper featuring the image of the disconsolate Liu, a Nike-endorsed athlete, and the tagline: "Love competition. Love risking your pride. Love winning it back. Love giving it everything you've got. Love the glory. Love the pain. Love the sport even when it breaks your heart".
3. **Property infringement ambushing:** The intentional use of protected intellectual property, including trademarked and copyrighted property such as logos, names, words and symbols, in a brand's marketing as a means of attaching itself in the eyes of consumers to a property or event. For example, in UEFA European Championships, 2008, betting company Unibet released a series of magazine advertisement in Polish magazine, Pitkanoza for online betting on the European Championship, explicitly featuring the words 'Euro 2008' and football in their adverts.ling" brand

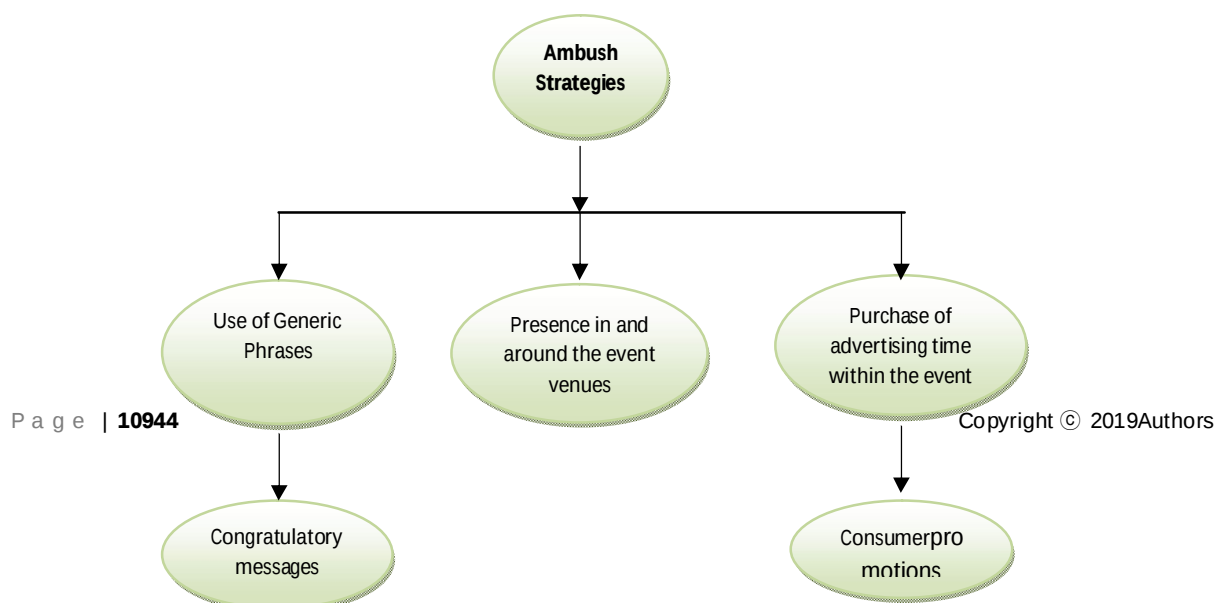
B. **Associative Ambush Marketing:** The term itself is clear as it means intentional use of such terms or imagery which portrays that the company has links to the sport event or property, without making any reference to the official sponsorship. Such different types of associative strategies are:

1. **Sponsor self- ambushing:** When the official sponsor creates the marketing communication beyond the scope of its sponsorship rights effectively ambushing the other official sponsors. During UEFA European Championship, 2008, the official sponsor Carlsberg extended its promotion beyond the sponsorship rights by giving away headbands to the fans during the tourney, sporting fake team-colourhair, it also gave T-Shirts to the fans visiting the brand's promotional Boothvi.
2. **Distraction Ambushing:** Creating the distraction in or around the place of event, not having any association with the event, in order to gain the attention from the event's audience and thus promote the brand's product. For example, in The Open Championship, 2008, Bentley set up a line-up of the Bentleyvii cars outside Hill side Golf club which is adjacent to the Royal Birkdale, the host course of the Open, which attracted great attraction from the event audience.

3. **Value Ambushing:** Making a direct reference to the event or property's theme or values to imply a link with the event in the mind of the consumers. For example, Puma, in the European Championship, 2008, in order to promote its football line used the tagline, June 2008: Together Everywhere, thus making a direct reference to the event being played that month.
 4. **Insurgent Ambushing:** use of surprise and aggressive promotion at an event with minimum investment in order to maximize the awareness and to distract the attention of the people from the official sponsors of the event and the event itself. For example, in 2008 French Open-Ronald Garros, K-Swiss ambushed the rivals Adidas and the clothing sponsor Lacoste by setting up a huge purple tennis ball on a crashed car on the major route to Ronald Garros.
 5. **Pre-emptive Ambushing:** When the official sponsor creates the marketing communication in order to usurp any possible ambush marketing campaigns of the rivals, thus prompting the ambush activities and distracting the focus from any of the footballers wearing the jersey of each country participating in the event with Adidas logo and stripes including those countries which were sponsored by Nike and Puma.
 6. **Parallel property ambushing:** The creation of a rival event or property to be run parallel to the main ambush target, associating the brand to the sport or the industry at the time of the event, thus capitalising on the main event's goodwill. For example, Nike organised a global contest "human race" in 24 countries around the world including Shanghai, where the Olympics, 2008 was taking place, which was continued for 7 days following the Olympics, and gathered a huge international marketing throughout Olympics centred around Nike and the marathon.
- C. **Incidental Ambush Marketing:** When the market communications of a company leads to such incidental ambushing of the official sponsors. It may be done in two ways:
1. **Unintentional ambushing:** when the consumers incorrectly identifies a non-sponsoring company as an official sponsor due to its previous association or due expectation of association with the event. For example, Speedo earned a considerable attention from media as result of success of swimmers wearing LZR racer swimsuits. This portrayed Speedo as official sponsor of the Beijing Games thus creating confusion in the market.
 2. **Saturation ambushing:** a strategic increase in the marketing communication of a product through aggressive marketing in order to maximize the advertisement during the event by maximising available advertising before, during and after the event. For example, Lucozade, during the Beijing Olympics indulged into aggressive marketing of its products much above its standard marketing featuring athletes and a variety of sports significantly.

Ambush Strategies

Five commonly employed ambush marketing strategies are



1. Sponsoring media coverage of an event getting sponsorship rights for an event itself does not include associated broadcasting rights. This leads to a scenario where the rivals of the official sponsors often obtain the broadcasting rights and take away the limelight from them in spite of their official status.
2. Sponsoring a sub category within an event this can be understood through the Kodak and Fuji strategies in 1988 Olympic Games. Kodak secured the worldwide category sponsorship for the games, while Fuji obtained sub-sponsorship of the U.S. swimming team, which it promoted aggressively.
3. Making a sponsorship-related contribution to a players' pool the rivals of the official sponsors can also sponsor teams or individuals competing within specific events.
4. Engaging in advertising that coincides with a sponsored event Other than entering into contracts within the event or with teams and individuals, the ambushers can also buy normal advertising time and space that are screened during the interval periods.
5. Development of other imaginative ambush strategies Eg: non-sponsors handing out coupons and caps to spectators, running good luck and congratulations ads, using world cup tickets in consumer sweepstakes etc.

ETHICAL PERSPECTIVES IN AMBUSH MARKETING

Ambush advertising raises both legitimate and moral issues. On the off chance that we view the practice as untrustworthy, against that benchmarks would we be able to make such a judgment? To begin with, we have to clear up specific issues such as:

Ambush advertising is not a discrete movement; it includes a wide scope of exercises, limited by lawful and unlawful and moral and deceptive parameters. View of snare promoting change after some time; numerous previous saw transgressions are currently seen as real sponsorship opportunities. Genuinely worldwide wearing occasions will undoubtedly uncover clashing points of view, even among western social orders, in the matter of what is lawful and moral. This is especially valid in territories, for example, selectiveness, imposing business model, regulation of business sectors, and limitation on exchange; the privileges of brand manufacturers; and cases by shareholders and partners.

As often as possible, a charged ambusher is a honest to goodness buyer of rights and does nothing unlawful, if it doesn't utilize trademarks and images wrongfully, Significant occasion proprietors try to control or minimize potential clash for their backers by reaching accords with TV accomplices and different games associations, in this way offering eliteness and first-choice contracts. The test that real occasion proprietors, for example, the IOC face, for case, is to secure such rights vertically and keep potential ambushers from misusing generally honest to goodness sponsorship opportunities.

In a few cases, it may not be conceivable to secure selective understandings. For instance, there are a few contending brew brands supporting individual groups in the English Premier Football League supported via Carling Lager. For sure, even where assertions exist, challenges can emerge. The late instance of the Dallas Cowboys and the NFL in the U.S. business sector is a sample. While the NFL, as occasion proprietor, has a sponsorship concurrence with Coca-Cola, the proprietor of the Dallas Cowboys has marked a pouring-rights manage Pepsi for the Taxes stadium, bringing about case between NFL Properties and the Dallas Cowboys.

At the point when an ambusher that has not purchased particular rights gives the feeling that it is included in an occasion, the morals question emerges. In such cases, the morals question emerges. In such cases, the ambusher purposely connects with and misuses an occasion's soul without breaking the letter of the law. Themed publicizing, with so much pictures as snow and downhill skiing, recommends inclusion with the Winter Olympics. In such examples, the ambusher might guarantee that it has an ethical obligation to utilize such chances to seek after corporate business targets, and, in doing as such, it depends on widespread standards with respect to reasonable business practices and its obligation to stockholders to legitimize its activities. It might guarantee that, without ambushing, it is generally denied the privilege to partake in an imperative limited time opportunity because of the powerlessness to meet the expense of authority sponsorship and further that their obligation to stockholders requests that ambushing action be attempted. Such contentions can be followed back to Kantian moral hypothesis, which depends on all inclusive models of goodness and the inspiration to satisfy one's obligations and commitments. He "kept up that ethical activity must be spurred by commitment alone" and "that all persons must act as per commitment, as well as for the purpose of commitment."

THE INDIAN PERSPECTIVE

Experiences from the past three decades have proven the fact that ambush marketing is unethical and how important to have stringent intellectual property protection beside what is provided in for current regime At present, India has not enacted specific anti-ambush marketing laws and accordingly redress must be had to the Trade Marks Act, 1999, the Copyright Act, 1957, the Emblems and Names Act, 1950 and the common law notion of passing off.

The Copyright Act, 1957

The Copyright Act is a capable tool which provides a remedy in the limited set of instances of "ambush marketing" i.e. where logos or other original works of authorship are used without license by third parties. The Copyright Act, 1957 provides the owner of copyright privilege to enjoy the exclusive rights to reproduce, perform, publish adapt or translate, the copyrighted work and any such act undertaken without the license of the copyright owner would, generally, constitute copyright infringement. Now as per the Act infringement consist of two essential elements:

- There must be sufficient objective similarity b/w the infringing work and the copyright work,
- The infringing work must have been derived from the copyright book.

'Lay observer test' holds a prominent position in Indian context, this test is applied by Indian courts in order to evaluate the cases concerning alleged copyright infringement. The test relies on the belief that "if to the 'lay observer' it would not appear to be reproduction, there is no infringement of copyright in the works" xxxiii. In regard to "ambush marketing" the Delhi High Court in case of ICC Development V. Evergreen Service Station, recognized a limited role of copyright law in granting an injunction preventing the defendants from using the logo of "ICC World Cup 2003" consisting of black & white strips and the mascot "dazzler" holding these to be "artistic work" protected under section 2(c) of the copyright Act, 1957.

The Trademark Act, 1999

The Trademark Act, 1999 provides that a trademark may be registered or unregistered, when the trademark is registered the registrant is granted certain privileges these are:

1. Title to mark established which enables the trademark owner to avoid proving his title against any infringement of the mark.
2. The exclusive right to use the registered trademark in relation to the goods or services in respect of which the trademark is registered.
3. The right to obtain relief in respect of infringement of trademark.

What is necessary is that the applicant must be able to show 'distinctiveness' of such trademark which he sought to get registered. A trademark which is not of distinctive character or a trademark which is "deceptively similar" to an existing trademark will not be registered. The key determinant in determining copyright infringement is "likelihood of confusion" in the mind of consumer. Wherever there is an instance of registered trademark infringement, the following element must be present:

1. Use of a registered trademark by a person other than its registered proprietor or registered user.
2. Use of either of the whole of the registered trademark or an adapted one by making a few additions or alterations.
3. The infringing trademark is identical or similar to the trademark already registered.
4. The likelihood of causing confusion on the part of public. Advertising of the registered trademark in such advertisement takes unfair advantage.
5. In the case of *ICC Development V. Arvee Enterprises and Anr*, it was said that for a plaintiff to find success in his claim, he must prove that there was "likelihood of confusion" in public mind that the defendants were sponsors or license of world cup. The defence of "nominative fair use" shall also be considered, the registrant of a trademark is not granted the right to limit the bonafide use by an unlicensed third party of his trademark to describe the character or quality of the trademarks registrant's good or services, so where a defendant uses a trademark to describe the plaintiff's product rather than its own, a fair use defense is available provided that the product or service in question is not identify the product or service and the defendant has not done anything that would suggest a sponsorship.
6. As per the trademark Act, 1999 nobody is entitled to institute any proceeding to prevent or to recover damages for the infringement of an unregistered trademark. But nevertheless the Act provides that nothing in the Act shall be deemed to affect the right of any person for passing off goods or services, as the goods of another person, as serves provided by another person or any available remedies. A passing-off action is thus maintainable under the law of law of tort or common law of right.

CONCLUSION

As the importance of major sporting, cultural, and artistic events has increased, so too has the role of sponsorship as a way to gain consumers' attention. Linked to the development of sponsorship has been the growth of ambush marketing. As major world events such as the Olympic Games, the European Soccer Championship, and the Soccer World Cup intrude on our consciousness, the gamekeeper-versus-poacher struggles of even owners and official sponsors on the one hand and ambushers on the other will continue unabated.

Commercial sponsorship of sports, arts and community projects has grown steadily through the years as advertisers realize the benefits of using sponsorship as part of their marketing communications programs. The growing popularity of sponsorship marketing, however, has led to the rise of a new marketing tactic known as ambush marketing. This typically involves the conduct of marketing campaigns that seek association with a given special event without providing compensation to the organizer of the event, particularly if the event has retained a corporate rival as a sponsor. Common methods of ambush marketing include sponsorship of the event's broadcast, aggressive sponsorship of subcategories within an event, and the conducting of high-profile non sponsorship campaigns timed to coincide with the event.

REFERENCES

1. "Colin Kaepernick says NFL fined him \$10,000 for wearing Beats by Dre headphones". The Washington Post. 9 October 2014. Archived from the original on 13 October 2014. Retrieved 13 October 2014.

2. ^ "Tempest brewing over huge advertising sign being erected on Target Center – facing Target Field". MinnPost. Archived from the original on 6 January 2015. Retrieved 6 January 2015.
3. "Protecting sport sponsors from ambush", Bill Wilson, BBC News Business Reporter, On line access <http://news.bbc.co.uk>
4. "Ambush Marketing: steals the show", Abram Sauer, on line access [www.brand channel.com](http://www.brandchannel.com).
5. Alexandrakis, V. (2009). The fight against ambush marketing and London 2012 : How has this phenomenon dealt with by the UK legislation and what's the role of the EU legislation? *International Sports Law Review* Pandektis, 8(1/2), 156-165.
6. Bettina Cornwell, T., Maignan, I., & Irwin, R. (1997). Long-term Recall of Sponsorship Sources: An Empirical Investigation of Stadium and Sport Cafe Audiences. *Asia-Australia Marketing Journal*, 5(1), 45-57. DOI: [http://dx.doi.org/10.1016/S1320-1646\(97\)70257-](http://dx.doi.org/10.1016/S1320-1646(97)70257-)