



# Ambush marketing in Brazil

*World Cup legacy*  
*Olympic games expectations*





## Ambush Marketing: Steals the Show

By Abram Sauer

Imagine you throw a party and invite heaps of brilliant, interesting people. Imagine your roommate fails to help with the planning or the cost. Imagine the night of the party, your deadbeat roomie shows up and claims co-sponsorship. Imagine watching in awe as the freeloader takes credit for your expense and effort. Now imagine that party just cost you \$20M.





## Why Ambush Marketing?

- **Cost - Becoming official sponsor is extremely expensive. Ambush marketing is a cheap alternative. (Exact figures are confidential, but according to Fox Sports FIFA's main sponsors pay an estimated at US\$100 million for 4 year deal)**
- **Necessity - There is generally only one sponsor from each business area for each sporting event. So if you are not the official sponsor, say ADIDAS or VISA for World Cup 2014, it is your best option.**



# Kinds of ambush marketing

- **Association**



- **Intrusion**





## **The FIFA World Cup Experience**

**Law no. 12.663/2012 foresees that ambush marketing by association and intrusion are a civil tort and a crime (up to 1 year of prison)**

**Very broad interpretation on what is to be considered as ambush marketing: direct or indirect association, advertising or commercial purposes**



## The FIFA World Cup Experience

**Article 11 of the World Cup Law created a 2km exclusion zone around each World Cup Venue, by land, air and sea, where only the products of the Official World Cup Sponsors could be sold, distributed or advertised.**

**The Brazilian PTO had to declare all FIFA's World Cup trademarks to be of High Renown, without the need to submit evidence of fame, and within an accelerated time frame. The list is currently of 72 marks according to the BPTO's website.**



# The FIFA World Cup Experience

**Brazil's "Sport Law" - Pele Law of 1998 already granted protection to the signs belonging to the Brazilian Association of Football (CBF) regardless of the existence of registrations of any kind**







## **The Fifa World Cup Experience**

**Based on rules which granted very broad protection, FIFA and CBF were quite active and sent several cease and desist letters to alleged infringers**

- CBF sent 92 cease and desist letters (until July 25, 2014) and filed 5 court action**
- FIFA - 100 cease and desist letters connected with the Confederations Cup 2013. No info so far on WC 2014**

# Examples - FIFA World Cup 2014

The advertisement is presented in a hexagonal shape, reflecting the World Cup trophy. At the top, it features the Hyundai logo and the 2014 World Cup logo. The main headline in Greek is "HEXAGARANTIA HYUNDAI". Below this, a banner in Portuguese states: "SE O BRASIL FOR HEXA, A HYUNDAI VAI AUMENTAR SUA GARANTIA DE 5 PARA 6 ANOS. VÁLIDO PARA AUTOMÓVEIS FATURADOS PELAS CONCESSIONARIAS NO PERÍODO DE 1º DE JANEIRO A 31 DE JULHO DE 2014." The central image shows three Hyundai cars parked in front of a large Brazilian flag. To the right, a graphic illustrates the warranty extension: a box labeled "GARANTIA HYUNDAI 5 ANOS" plus a trophy icon equals a box labeled "GARANTIA HYUNDAI 6 ANOS". Below this, the text reads "É ISSO MESMO QUE VOCÊ LEU." and "SAIBA TUDO SOBRE A HEXAGARANTIA." with a right-pointing arrow.

**Hyundai - sponsor of the WC but not of the Brazilian "Seleção"**

# Examples - FIFA World Cup 2014

## After a cease and desist letter....

g1 - Hyundai muda prom...  
g1.globo.com/economia/midia-e-marketing/noticia/2014/03/hyundai-muda-promocao-para-copa-apos-questionamento-da-cbf.html

**G1 ECONOMIA**  
**MÍDIA E MARKETING**

g1 Mercados Negócios Globo Rural PME Seu Dinheiro Mídia e Marketing Imposto de Renda Principais editoriais

25/03/2014 16h40 - Atualizado em 25/03/2014 16h50

### Hyundai muda promoção para Copa após questionamento da CBF

Garantia de 5 anos estava vinculada ao desempenho da seleção no torneio. CBF diz que campanha atingia seus interesses e suas propriedades.

De G1, em São Paulo 341 comentários Twitter 81 Recomendar 423



Hyundai lançou edição especial de HB20 para a Copa (Foto: Rodrigo Mora/G1)

A Hyundai decidiu mudar a promoção que garantia 1 ano a mais aos 5 anos de garantia da montadora para os veículos novos adquiridos até o final da Copa do Mundo no caso de o Brasil conquistar o hexa. Agora, a garantia promocional de 6 anos valerá independentemente de qual for o desempenho do Brasil na competição.

Segundo a empresa, a mudança foi decidida após a CBF (Confederação Brasileira de Futebol) questionar a vinculação da promoção ao desempenho da seleção brasileira.

"Nossa real intenção com a promoção era motivar e engajar os fãs brasileiros com a Copa do Mundo de 2014, condição que permanece inalterada. Entretanto, a CBF questionou a vinculação com o desempenho da Seleção Brasileira. Após analisar o pedido da entidade, a Hyundai optou por desvincular a promoção do resultado do torneio", explicou a Hyundai, em resposta a questionamento feito pelo G1.

A Hyundai é uma das patrocinadoras oficiais da Copa e da Fifa. A montadora que patrocinava

PUBLICIDADE

**BUSINESS CLASS Estados Unidos**

do e volta a partir de

**US\$ 1.449** ou R\$ 3.212\*

SEM OBRIGACÕES PARA TAM LÍMITE

\*Custo de R\$22.186-90 de 16/03/2014.

Um mundo por você.

**TAM**

GRUPO ESTAVO AIRLINES

**Mídia e Marketing**

veja tudo sobre:

- Rai supera Neymar e Felipe em ranking de aparições em... 16/3/2014
- Avião que transportará seleção na Copa ganha grafite de Oz... 16/3/2014
- Unilever supera Casas Bahia e lidera ranking de maiores... 23/03/2014
- Vetada nos estádios, caixilho tenta emplacar como souvenir... 23/03/2014

# Examples - Fifa World Cup 2014



**Reincident?**



**Another cease and desist letter from FIFA - not to Neymar!**

## Examples - Court actions filed by CBF



## Some more controversy....

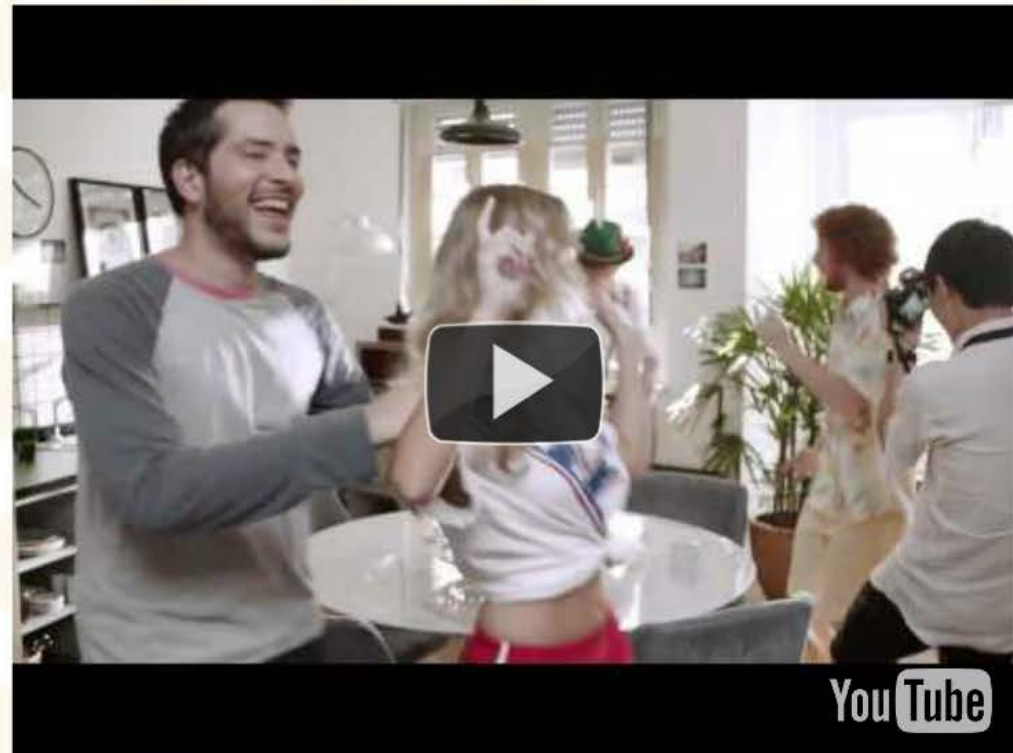


**TAM was forced by the Brazilian  
Advertisement Board to change the  
video following a complaint by GOL**

# But not everything is ambush marketing...



# Not everything is ambush marketing...



**"Copa" is also a portuguese word for "scullery"**



# What about the Olympic Games?

**Nairobi Treaty protects the Olympic Symbol**



**Lei Pele of 1998 protected a few expressions such as "Olympic Games" - but... exception for educational use**

**Finally, the Olympic Act of 2009 introduced ambush marketing infringements and protected all Olympic signs**



# What about the Olympic Games?

**But... lower degree of protection when compared to the WC Law**

**Infringements not deemed as crimes, no protection as highly renowned marks, no specifications on intrusion and association ambush marketing**

**IOC would like to amend the Law to increase level of protection.**

# What about the Olympic games?

## Rule 40 of the Olympic Charter:

**Except as permitted by the IOC Executive Board, no competitor, coach, trainer or official who participates in the Olympic Games may allow his person, name, pictures or sport performances to be used for advertising purposes during the Olympic Games**

**(no advertising at all during the games!)**

**Is it enforceable in Brazil?**

# A few cases already...

**PROMOÇÃO**  
**★ BATATA EM DÓBRO ★**

Promoção válida somente nos dias imediatamente subsequentes à conquista de medalha pelo Brasil

(Ex.: Caso o Brasil conquiste medalha em uma terça-feira, a promoção será válida durante o horário de funcionamento dos restaurantes na quarta-feira imediatamente subsequente). Válida para ouro, prata e bronze em qualquer modalidade esportiva regular. Promoção válida somente para a batata vendida como acompanhamento dos combos pequenos, médios ou grandes, sendo a batata promocional do mesmo tamanho da batata comprada no combo. Não válida para os itens: BK™ Batata Suprema, BK™ Batata Furiosa, BK™ Trio Supremo e BK™ Trio Furioso. Promoção válida de 27 de julho até 13 de agosto de 2012.



**Zippo**  
29,357 likes · 12,701 talking about this

Like

Arts & Entertainment · Historical Place · Manufacturing  
Dependable and reliable.  
http://www.zippo.com/  
814-368-2700

510k

Photos · Customized It · Zippo Shocktore Sweeptakes · Likes



# Summary

**Brazil has adopted very strict ambush marketing rules but in connection with specific events**

**Most cases so far were resolved through notifications since FIFA and CBF adopted a very aggressive approach**

**Protection for the Olympic Games does not reach the same level to the one granted to FIFA**

**There are ways to connect with the events without infringing**

