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# Sports & Trademarks.

## A Canadian Perspective

**Presenters:** William Audet, Jamie-Lynn Kraft and François Larose

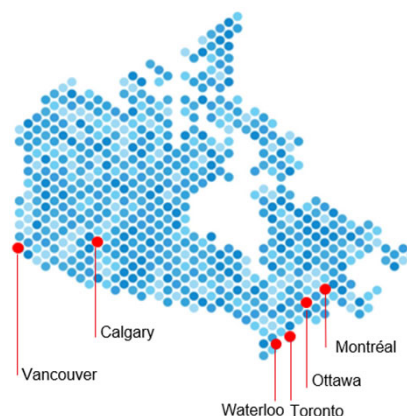
Date: Wednesday, June 3, 2026 | 12:00 PM – 1:00 PM ET

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## Who we are

Canada's **leading IP firm**  
with expertise at the interface of  
**technology** and **business law**

- Expertise in all areas of IP
- 130+ years serving clients
- 180+ lawyers, agents and technical consultants
- 10,000+ patents & trademarks filed annually
- Litigation bench strength and record of success

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## Our speakers



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## World Intellectual Property (IP) Day

April 26, 2026

Theme: “IP and Sports: Ready, Set, Innovate”

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## The Puck Drop: Launching a new sports brand

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## The Puck Drop: Launching a new sports brand



1. Necessity of clearance
  - Clearance = ability to use and protect
  - Name core to **team identity**
  - Mistakes costly and public
  - Possibility for long-term brand growth through licensing / merchandising

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## The Puck Drop: Launching a new sports brand

2. Know the playing field
- Team's home country
  - League footprint
  - Broadcast / streaming regions
  - Merchandise markets (including via ecommerce)
  - Consider future league expansion



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## The Puck Drop: Launching a new sports brand

3. Goods and Services
- Organizing sporting events and competitions [Class 41]
  - Ticket sales and distribution [Class 41]
  - Broadcast and streaming of events [Class 38]
  - Core merchandise: apparel [Class 25], sports equipment [Class 28]
    - But licensing can get much broader!



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## The Puck Drop: Launching a new sports brand

### 4. Challenge with common names

- Familiar themes: animals, strength, nature
- Results in **crowded** trademark landscape
- Co-existence *might* be possible if:
  - Different sports
  - Different levels of play (e.g., amateur vs. pros)
  - Distinctive modifiers (e.g., “Smart & Biggar Badgers” might be able to co-exist with other “\_\_\_\_\_ Badgers”)



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## The Puck Drop: Launching a new sports brand

### 5. Additional considerations

- Domain name and social media handle availability
- Availability of other brand assets: **logos, mascots, nicknames, chants**
- Cultural and reputational issues  
>> yes, it's available, but *should* you use it?



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## The Puck Drop: Launching a new sports brand

### 6. Key clearance takeaways:

- ✓ Clearance critical for sports brands
- ✓ Consider relevant regions (beyond the home market), and relevant goods and services. Don't forget merchandising!
- ✓ Expect a crowded naming landscape and develop backup names early
- ✓ Think beyond the team's name to include other brand assets

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## The Game Plan: Designing a winning filing strategy

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## The Game Plan: Designing a winning filing strategy



### 1. Timing

- Can mean the difference between **ownership** and **dispute**
- Ideal: *before* public announcement >> secure priority rights over opportunistic filers (aka “trolls”)
- Consider filing multiple candidate names during selection process

## The Game Plan: Designing a winning filing strategy

### 2. Jurisdiction

- File where brand will be **visible**, **valuable**, or **vulnerable**
- Same considerations as for searching:
  - Home country
  - League territory
  - Broadcast and streaming regions
  - Merchandise markets
- Consider IR if filing in many jurisdictions



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## The Game Plan: Designing a winning filing strategy

### 3. Goods & services

- Core goods and services in classes 25, 28, 38, 41
- Sports brands often leveraged through **licensing programs, sponsorships and brand collaborations**
  - These partnerships extend the use of the brand into a wide range of goods and services
- Don't just file for what the team does today – file for how the brand will be commercialized tomorrow



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## The Game Plan: Designing a winning filing strategy



### 4. Centralized brand management

- Opportunity for **efficiency and cost savings**
- Leagues can develop:
  - Standardized list of goods and services
  - Harmonized filing strategies AK1
- Ensures:
  - Consistency in protection
  - Simplifies portfolio management
  - Reduces duplication of effort

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## Slide 16

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**AK1** suggest revising this bullet - sounds confusing

Alison Kim, 2026-06-02T16:30:26.194

**JK1 0** I changed from "development" (which was a typo" to "develop".

let me know if this is ok

Jamie-Lynn Kraft, 2026-06-02T17:14:34.730

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## The Game Plan: Designing a winning filing strategy

### 5. Non-traditional trademarks

- Sports brands are experiential; not all brand elements captured by words and logos
- Consider filing for:
  - **Position marks** (e.g., distinctive striping or design placement on jerseys)
  - **Three-dimensional marks** (e.g., mascots, unique costume designs)
  - **Sound marks** (e.g., signature chants, stadium sounds)
- Protecting other elements of the brand experience can enhance enforcement efforts



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## The Game Plan: Designing a winning filing strategy

### 6. Key filing takeaways

- ✓ File early
- ✓ File broadly – but strategically
- ✓ Anticipate merchandising and licensing
- ✓ Leverage league-level efficiencies
- ✓ Think creatively about what elements of the brand can be protected

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## Overtime: Protecting legacy brands

## Overtime: Protecting legacy brands

1. The risk: Non-use cancellation
  - Registration vulnerable if mark not used in Canada within preceding **three years**
  - That means that:
    - Even if a mark is **recognizable** and **valuable**
    - If it has not been “used”, registration may be subject to cancellation proceedings.
  - Real risk for:
    - Defunct or relocated team brands
    - Retired logos or mascots
    - Tournament brands that only appear periodically

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## Overtime: Protecting legacy brands

### 2. Legacy brands: Why they still matter

- Deeply tied to fan identity and history
- Valuable for nostalgia-driven merchandise
- If rights are lost due to non-use, league or team may lose control over the brand
- Third parties could attempt to adopt or register similar marks



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## Overtime: Protecting legacy brands

### 3. Maintaining use through nostalgia and heritage

- Put the marks into periodic use
  - Host “throwback” or “nostalgia” nights
    - Players wear retro jerseys
    - Use historical logos on promotions for event
  - Sell “retro” apparel and other merchandise
- Results in genuine use that is easy to document and directly tied to trademark rights.



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## Overtime: Protecting legacy brands



### 4. Intermittent event brands

- Brands tied to periodic events – such as major tournaments or competitions that may only occur every few years
- Possible gap in direct event-related use
- Bridging the gap between events:
  - Continue selling branded merchandise year-round
  - Use brand while engaging fans through countdowns, retrospectives, or highlights

## Overtime: Protecting legacy brands

### 5. Key maintenance takeaways

- ✓ Identify which legacy and event-based marks are worth preserving
- ✓ Monitor and document sales and advertising to support proof of use
- ✓ Centralize maintenance at a league level to:
  - ✓ Ensure consistent use across teams
  - ✓ Align heritage initiatives with trademark maintenance



## Hit it out of the park: IP enforcement

## Bring your A-game: Business of professional sport

### Broadcasting and media rights

- Contracts with major television networks and streaming services

### Gate revenue & ticket sales

- Fans attending live games

### Sponsorships and advertising

- Official partners; On-field Assets; Stadium naming rights;

### Merchandise and licensing

- Royalties & team stores

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## Slam dunk: Sponsorships and advertising

- Buying a monopoly over a fan base's attention.



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## Sponsorships and advertising-related infringements

- Ambush marketing
  - Direct ambush
  - Indirect ambush



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## Strike 1: Direct ambush



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## Strike 1: Direct ambush - contests, raffles and prizes

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- Trademark & copyright infringement
- Breach of terms and conditions
- Contests reserved for official partners
- Infringer trying to use goodwill of team's branding and fan excitement to increase their advertising reach
- Take downs



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## Strike 2: Indirect ambush

- E.g. – an image of a famous player wearing team gear, but with no logo or direct reference to the team's name & brand.



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## Strike 2: Indirect ambush

- E.g. – References to the team's location with other indicia.
- Use of short video footage of games.



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## Strike 3: Merchandise-related infringements

- Counterfeit
  - Often purchased on Alibaba – inexpensive
- Usually easy to tell product is counterfeit
- Imported from China
- Lacking or poor-quality hologram tags



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## Strike 3: Merchandise-related infringements

- Counterfeit
- Bad stitching



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## Strike 3: Merchandise-related infringements

- Clothing with mascots on it – but no team name



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## Pinch Hitter: Counterfeits - request for assistance (RFA)

1. Identifying importers (not so easy when dealing with someone from Facebook Marketplace)
  - We receive picture of shipping label; with importer's name; address and phone number
2. Goods are detained
  - We receive pictures of the detained goods – psychological impact of receiving pictures showing CBSA agents
3. Even if no cooperation from infringer – we delay arrival of goods into the market

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## Questions?

Smart & Biggar services are provided by the patent and trademark agency Smart & Biggar LP, and the law firms Smart & Biggar LLP and Smart & Biggar Alberta LLP. For more information about our structure, see our website "[Who we are](#)".

Smart & Biggar operates as part of the IPH Limited group. Information on all legal entities forming part of the IPH Limited group is available [here](#).



## Closing Remarks



## Upcoming Webinar

Tuesday, June 16, 2026 | 12 PM - 1 PM ET

### Proactive and reactive strategies to protect your brand at the border and on the web

Presenters: Graham Hood and Tamara Céline Winegust

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## Thank you!

This webinar may be eligible for CPD or CLE credit, subject to the requirements of your governing body.

- *LSO: This program contains 1 hour of Substantive content.*
- *LSBC: This program contains 1 hour of accredited content.*
- *Barreau du Québec: This program is eligible up to 1 hour in Québec.*

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