AN OLYMPIAN DILEMMA: PROTECTION OF OLYMPIC SYMBOLS

By Robert K. Barney

By almost any standard of measurement, Karl Lennartz's "The Story of the Rings" published in Volume 10 of the *Journal of Olympic History* is a well expressed, excellently illustrated, and carefully documented account of just what the title implies: the origin and evolution of what may well be the world's most readily recognizable symbol inside and outside of sport, the now thoroughly commercialized five-ring logo of the Modern Olympic Movement. Near the end of his article Dr. Lennartz points out the complex problems associated with protecting, indeed copyrighting, the logo in both national and international context, and argues that: "Today this problem appears to be solved and the rings are under copyright throughout the whole world, respectively nobody can use them without permission of the IOC" (p. 58). That argument prompts me to register my sole bone of contention with my much admired German colleague's remarks. In effect, despite IOC rhetoric announced in the *Olympic Charter,* the Olympic rings are not totally protected worldwide - not by the International Olympic Committee (IOC), not by all National Olympic Committees (NOCs), and not by international treaties. Although much progress has admittedly been made on world-wide protection of Olympic symbols, much remains to be accomplished. The analysis of "what has been done," and "the state of affairs resulting," provides grist for an essay in itself. Therefore, I offer the following.

Before proceeding to the situation as it presently stands, I begin with some history. It is true, as Lennartz himself stated, that the IOC was concerned with encroachments on its institutional persona as early as the period directly before World War I. Of course, before 1913 there were no Olympic logo symbols, only the word Olympic to protect; and who, really, could rightfully claim exclusive ownership to a word used since ancient times in Greece and certainly in a more modern world since the time of Christ? The IOC claimed exclusive ownership to the word with respect to athletic festivals and, in the face of challenges (supported by little more than bluff), most confronted organizations (Worker's Olympic Games, Women's Olympic Games, Far Eastern Olympic Games, etc.) removed the word Olympic from the titles of their endeavors. But, some refused, like the American Olympic Bridge Tournament of 1938, for instance.

As early as the 1922 IOC General Session, discussion arose on the subject "Abuse of the word Olympic." Despite a demand by IOC member General Charles Sherrill (USA) that the IOC forbid use of the word by any other organization, Pierre de Coubertin stated that regretfully "this was impossible, the IOC could only decourager the use." Nevertheless, a resolution was passed on the subject of taking action against parties using the word to advertise an organizational existence in international sport context. A circular letter was sent to all NOCs and International Sports Federations (ISFs) on the resolution.[1] But, it was largely bluster. Indeed, only bluster! There was no legal authority to support such resolution. The following year, at the 22nd IOC Session in Rome in April 1923, it was resolved that the resolution made the previous year on the word Olympic, be extended to include "misuse of the emblem" (five-ring logo).[2] Despite the fact that France and Hungary reported back to the IOC that they had protection of the emblem, that claim has never been authenticated. In effect, no successful attempts at legally protecting use of the Olympic symbols by either the IOC or a National Olympic Committee have ever been

1 See "Minutes of the 21st IOC Session, Paris, 1922," in *The IOC Sessions, 1894-1955* (Wolf Lyberg, editor/translator), Volume 1 (Lausanne: IOC, no date), pp. 107-108.

2 Ibid., Lyberg, "Minutes of the 22nd IOC Session, Rome, 1923", p. 113.

documented prior to the evolution of what might properly be called a copyright registration case of "Olympian precedent". Its outcome set the tone and provided a model in the future for protection of Olympic symbols. Though a protection model was produced, few NOCs, much less the IOC itself, did much to capitalize on the lessons provided as a result of the Helms Bakeries vs. the United States Olympic Association jurisdiction case of 1932-1950. In order to understand the dilemma that continues to persist in the world with regard to Olympic symbol protection it is necessary to understand the full implications of the Helms case, a case that might be labeled: "Avery Brundage and the Great Bread War." Return, if you will, to the 1932 Olympic Summer Games in Los Angeles.

Los Angeles - 1932

In reality, manufacturers and purveyors of goods and services have long been interested in linking their endeavors with the Olympic Games. After all, to capitalize on the glamour and interest in the Games was simply good business. There were obvious ways in which this business might be pursued. One initiative sought linkage between the products marketed by business firms and the marks, signs, logos, and words that identified the Olympic Movement; in effect, to become known as an official Olympic associate. In a modern vein, the quest to acquire the right to transmit the value of the Olympic Games as entertainment to listening and viewing audiences the world over and link global business giants with Olympic symbols in advertising their products and services, provides the foundation of a phenomenon called Olympic commercialism. In any case, such identifying links, in time, have produced financial treasure for the Modern Olympic Movement beyond the wildest imaginations of Pierre de Coubertin and his founding father colleagues. From the creativity and authority of the IOC and the OCOGs, and to a lesser extent, certain NOCs, have emanated identifying marks sought by commercial firms. Subsequently, into the coffers of the IOC, OCOGs, NOCs, and even ISFs, flowed the payment fees charged for such association.[3]

The value of the Olympic marks has escalated in the commercial marketplace. So, too, has the importance of protecting them from exploitation without authority. The most important precedent-setting episode in the history of protecting the Modern Olympic Movement's most valuable assets-image and exposure, each represented by the five ring logo-lies in the confrontation between the Helms Bakeries of Los Angeles, California and the IOC's representative in America, the United States Olympic Association (USOA). The long struggle between the two adversaries and the case's eventual outcome in the early 1950s underscored, in fact, set in place, the parameters by which the financial future of the Modern Olympic Movement was ensured.

In 1932 some 2,000 athletes representing thirty-nine nations gathered to participate in the Games of the 10th Olympiad in Los Angeles, California. On the afternoon of July 30th, approximately 105,000 spectators crowded into the Memorial Coliseum to view the Opening Ceremonies, the greatest number ever to witness the inaugural of any Olympic celebration in the first 100 years of their history.[4] Economic depression gripping the world did not prevent a last minute rush of ticket buyers from literally engulfing sales outlets in downtown Los Angeles. President Herbert Hoover was absent, but Vice-

3 For a detailed analysis of the evolution of the link between commercial enterprise and the Modern Olympic Movement, see Robert K. Barney, Stephen R. Wenn, and Scott G. Martyn, *Selling the Five Rings: The International Olympic Committee and the Rise of Olympic Commercialism* (Salt Lake City: University of Utah Press, 2002).

4 Frederick W. Rubien, ed., *Report of the American Olympic Committee: Games of the Xth Olympiad (New* York: American Olympic Committee), pp. 63-64. See also, Robert K. Barney, "Resistance, Persistence, Providence: The 1932 Los Angeles Olympic Games in Perspective," *Research Quarterly for Exercise and Sport,* Vol. 67, No. 2, June 1996, p. 148.

President Charles Curtis journeyed from Washington to substitute in declaring the Games officially open.[5]

Male athletes of all competing countries stayed in an Olympic Village located in Baldwin Heights, a mere fifteen minute bus ride from the Olympic stadium.[6] To Los Angeles residents, the village was awe inspiring, a wondrous facility.[7] It contained a reception area, recreation room, some 500 living cottages, intermittently dispersed bathroom facilities (called "comfort stations"), all arranged on more than 250 acres of beautiful rolling tract. Also present in the vast village were forty team-designated dining buildings, complete with kitchens, cooks, and menus compatible with various ethnic tastes. Among items delivered to the Olympic Village kitchens each morning were 2,750 pounds of string beans, 1,800 pounds of fresh peas, 50 sacks of potatoes, 450 gallons of ice cream,[8] and hundreds of loaves of different kinds of bread. And, not just any bread, rather Helms Olympic Bread![9]

Helms Bakeries, a Los Angeles firm, was founded as a corporation of the State of California in 1931. Its owner, Paul Helms, a Kansan by birth, had formerly been president of two bakery businesses in New York City during the 1920s. In Los Angeles, at 8800 Venice Blvd., Helms Bakeries competed with a number of the city's other bakery

establishments for shares of the greater Los Angeles consumer market. Helms established himself as a leading citizen in his new community. Over time he served as Director of the Los Angeles Community Chest, and the Los Angeles Civic Light Opera Association. He was a Shriner, Rotarian, and 32nd Degree Mason. His network of club memberships, which left him well-connected with the city's business and industry elite, included The California Club, The Los Angeles Country Club, and The Bel-Air Bay Club.[10]

In the months leading up to the Los Angeles Games, newspaper hype surrounding the Olympic celebration increased greatly. The attention of Paul Helms was drawn to a newspaper sketch of the proposed Olympic Village. A vision evolved in his mind,

5 See Barney, "Resistance, Persistence, Providence," p. 156. Knowing that California's "athletic carnival" would cost in excess of $2 million, Hoover was sensitive about being associated with the project. He reportedly told friends: "It's a crazy thing. And it takes some gall to expect me to be part of it."

6 Ibid., p. 155.

7 Built for $400,000, the village was designed is such a way that when all was dismantled and sold for salvage following the Games, the Baldwin Hills site would be restored to its original state, that being an undeveloped future real estate site. A chainlink fence enclosed the village precinct. An elaborate landscaping plan was developed–25,000 geraniums, 5,000 shrubs, and 800 six-foot palms were planted. Forty thousand linear feet of welded steel pipe conveyed water to the village; ten miles of drainage pipes carried waste away. Refrigeration was provided by ice; cooking fuel arrived in the form of bottled propane gas. See "The Olympic Village Idea," *Official Report: The Games of the Tenth Olympiad - Los Angeles 1932*.

8 See John Kieran and Arthur Daley, *The Story of the Olympic Games: 776 B.C. to 1972* (Philadelphia: J.B. Lippincott Company, 1973), pp. 129-151.

9 *Los Angeles Sunday Times* advertisement for Helms Olympic Bread, 14 August 1932, Avery Brundage Collection, 1908-1975, [hereafter cited as ABC] Box 225, Reel 131, International Centre for Olympic Studies Archives [hereafter cited as ICOSA].

10 For biographical information on Paul Helms, see ABC, Box 225, Reel 131, ICOSA. See also, *Who Was Who in America* Vol. 3, 1951-1960 (Chicago: The Marquis Company, 1963).

Paul H. Helms (ca. 1950)

prompted by his fascination with the Village concept. The obvious fact that athletes required meals, and that bread was a staple commodity in most daily diets, irrespective of nationality, moved Helms to seek the bakery goods supply contract for the Olympic Village. In that endeavor, his business connections and salesmanship convinced the Los Angeles Organizing Committee to grant him the contract.

Providing bakery products to the Olympic Village was one thing; to capitalize on an affiliation with the Olympic Games in marketing products to the public at large was quite another. Realizing that competitors to his initiative lurked in every corner of Los Angeles, Helms moved swiftly and with circumspection to present an application for registering the identifying marks of the IOC and the USOA in every state of the union, those being, the five-ring insignia, the Olympic motto (Citius, Altius, Fortius), the word Olympic and its derivations, and the well-known American Olympic Shield, symbol of Olympic endeavors in the United States.[11] Only in the Pacific Northwest, Washington precisely, were objections raised, mainly because the word Olympia bore several connotations in the state, namely in the form of geographical place names and some manufactured products, Olympia Beer being the best known. Beyond the United States, Helms was also successful in having his application pertain to the registration of the insignias and associated words in two U. S. territories, Hawaii and the Philippines. No prior registration of Olympic marks had ever been attempted. No precedent existed for preventing such action. No laws or statutes were in place to deter Helms.[12] He saw to it that the registration information was announced in the form of public notices published in Los Angeles newspapers. He also informed the Los Angeles Organizing Committee. No objections resulted.[13] Though his application was not given final approval until 1939, Helms was given provisional license to proceed. Helms made up loaves of

[11] Although Helms applied for registration of the marks and words in 1932, his official application (#360,431) was not approved by the United States Trade-Mark Registration Office until 20 September 1938. See "Draft of Proposed Agreement Between Paul H. Helms and Counsellors for the United States Olympic Committee," appended to letter from Arthur M. Smith (Counsellor) to Avery Brundage, 30 December 1949, ABC, Box 225, Reel 131, ICOSA.

[12] It is a curious fact that the idea of duly registering the Olympic marks in the United States had in fact occurred to the USOA in advance of the Olympic Games of 1932. In an exchange of correspondence between Frederick W. Rubien, Secretary of the USOA, and Colonel A.G. Berdez, Secretary of the IOC, the question rose as to exactly how the different colored rings in the Olympic symbol should be arranged. Rubien and his USOA colleagues, including Brundage, had been uncertain. Berdez finally resolved the matter to Rubien's satisfaction. In Rubien's final letter to Berdez on the matter, he wrote: "We have taken up the matter of having the IOC emblem registered with a patent firm here in New York City but I doubt very much if it is possible to arrange this. I will forward to you the official opinion as soon as it is announced." Indeed, such registration never occurred. See Frederick Rubien to A. G. Berdez, 16 May 1932, International Olympic Committee Archives, Lausanne, Switzerland [hereafter cited as IOCA].

bread for 19 different nations, each enclosed in distinctive wrappers adorned with a country's appropriate national colours and identifying Olympic marks and words. He received permission from the Organizing Committee to exhibit the loaves in a display case located at the entrance to the village.

Helms was not the only licensed supplier of products to the Village. Toilet articles, laundry supplies, beverages, and food products of every description were needed. In each supplier agreement with the Los Angeles Organizing Committee, except Helms', there appeared an injunction clause against publicly advertising contracted products with the Olympic emblems included. Helms had the injunction clause removed from his contract. Organizing Committee authorities duly signed the agreement.[14] Full-page advertisements of Helms' "official Olympic products" appeared in local Los Angeles newspapers.

Before, during, and after the Los Angeles Games, Helms advertised Olympic Bread and other products (Angel Food Cake, rolls, doughnuts) in local newspapers. He was not alone in capitalizing on Olympic marks and logos in advertising business products. Scores of firms used newspapers to advertise their wares, many of them embellished with Olympic marks and words. For instance, the Broadway-Hollywood Store maintained an "Olympic Booth" on its Street Floor where consumers purchased neckties, handkerchiefs, and stationery embossed with the Olympic rings. Bullocks on Wilshire Blvd. regularly displayed the five rings in its newspaper advertising for women's apparel. And, Nisley Shoes extolled the quality of its "Olympic Winners" product line.[15] None of these firms had taken the initiative that Helms had to secure authority for Olympic officials. They simply "did it." No reservations were raised. No rebukes were presented.

Helms' business thrived; the bakery's fundamental staple product, Olympic Bread, cut a swath through its competitors. Rival bakers protested. Among them, Weber's Bakery. Acting arbitrarily, Weber's attempted to obtain a contract to furnish bread to one of the competing nations resident in the village.[16] Helms was prepared for just such an eventuality. He had directed his lawyers to secure bond and warrants of attachment in advance of possible circumstance demanding such action. Knowledge of the rival baker's initiative sent him into action. He informed the Los Angeles Organizing Committee that if they interfered with his exclusive contract, or with his use of the legally-registered Olympic emblems, he would sue for $1 million damages, citing breach of a contract duly signed by the Committee.[17] Facing this dilemma, the Committee acquiesced; the competitor's request was rejected, and Helms was allowed to complete his contract under its original terms.[18]

On 14 August 1932, after witnessing two weeks of Olympic sports thrills featured by 16

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13 The information pertinent to Helms' arrival in Los Angeles, the subsequent establishment of his bakery business there, and his machinations in becoming the official bakery product supplier for the Olympic Village are described in a letter to Avery Brundage written by USOA counsel John Terry McGovern in October 1949. In effect, McGovern's letter outlined a chronological review of the entire Olympic Bread scenario as painstakingly recounted to him by Helms himself. See John Terry McGovern to Avery Brundage, 18 October 1949, ABC, Box 225, Reel 131, ICOSA.

14 Ibid.

15 See *Los Angeles Times,* 30 July through 30 August 1932, inclusively.

16 Weber's Bakery published its advertisements under the slogan: "Have you changed yet?" This, of course, was an obvious reference to Helms Olympic Bread. Weber's, a larger bakery operation than Helms, presented an early form of an "ambush marketing" link to the Olympic Games by displaying the "Olympic shield," the IOC's five-ring logo, and the Latinized version of the Olympic motto in its advertising. Its advertising did not allude to being "official Olympic baker," which is how Helms consistently portrayed his firm.

17 Ibid.

18 Ibid.

world and 33 Olympic record-breaking performances, including the swimming successes of the Japanese and the startling track and field victories of Mildrid "Babe" Didrikson, the most notable hero of the Games, some 100,000 spectators gathered in Memorial Coliseum for the closing ceremonies of the most successful Olympic Games held to that date. On the same day, continuing to capitalize on its association with the Olympic Games, Helms Bakeries ran a full-page advertisement in the *Los Angeles Sunday Times* extolling the qualities of Helms Olympic Bread.[19] Helms, understanding the fundamental principles behind effective advertising, had successfully established a sustained link between his company and the popularity of Olympic Games. In doing so, he presented the following message of self-aggrandizing rationalization of his firm's selection and authority as the "official supplier of Olympic Bread":

> Trained on the food of their homeland, athletes of the Xth Olympiad brought their own chefs along with their trainers and coaches. Forty separate kitchens and forty dining rooms made up the huge "training table" at Olympic Village. But to bake their bread... scores of different kinds... was another problem. Who was familiar with *Coburg...* or *Swarzrogge...* or "Bashed Bread"? Who could make *pain frais* to satisfy a French chef? Weeks before the Games, the master bakers at Helms baked these breads and many others for the Olympic authorities. They were tasted and tested by experts for the Committee. And because the bakers at Helms could best fulfil the exacting requirements of the Olympic Committee in every way, they were chosen to bake the bread of Olympic Village... to bake whatever was required.[20]

In the years following its "official" association with the 1932 Los Angeles Olympics, Helms Bakeries continued to flourish, partly on the popularity of its premier product, Helms Olympic Bread, marketed in packages bearing distinctive Olympic insignia. One Olympic figure who had experienced the quality of Helms Olympic Bread in the Los Angeles Village was Carl Diem, manager of the German Olympic team sent to the 1932 Games. Impressed, he requested that Helms supply the bread for the Olympic Village at the forthcoming Berlin Games in 1936. In time, Helms sent two of his most experienced bakers to Berlin, along with bread recipes, to oversee the bakery needs of Berlin's Olympic Village.

A Gathering Storm: Helms vs. the USOA

In 1938 the sustained "Olympic advertising" activities of Helms came to the attention of Avery Brundage, president of the United States Olympic Association and recently elected (1936) IOC member. Brundage, perturbed that such an activity had been allowed to continue, reacted by forwarding a note of protest to William R. Schroeder, Managing Director of Helms' downtown office in Los Angeles.[21] Cease and desist, demanded Brundage.

By this time Brundage was one of the most important men in American sport. A self-made Chicago businessman in the heavy construction industry, he graduated from the University of Illinois in 1909 after a successful career in athletics, scholarship and extracurricular activities. A competitor in both the pentathlon and decathlon at the 1912 Stockholm Olympics, he failed to distinguish himself, a personal failure that haunted him for many years.[22] In time, he left an active

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19 Ibid.

20 *Los Angeles Sunday Times* advertisement for Helms Olympic Bread, 14 August 1932, ABC, Box 225, Reel 131, ICOSA.

21 Brundage's letter to Schroeder has not survived, but Brundage sent a copy of it to IOC Member and Los Angeles resident, William May Garland. Garland acknowledged having received it. See William May Garland to Avery Brundage, 14 October 1938, ABC, Box 225, Reel 131, ICOSA.

Avery Brundage (ca. 1952)

amateur athletic career behind to become a sport administrator, highlighted by his election to the presidency of the powerful Amateur Athletic Union of the United States (AAU) and his appointment as chairman of its subcommittee for Olympic affairs, the United States Olympic Committee (USOC). Brundage exhibited many character traits, among them a few of admirable quality, such as personal industry and complete commitment to the Modern Olympic Movement. However, he is better known for exemplifying less flattering qaulities. He was ultraconservative, righteous, confrontational, obstinate, dictatorial, and uncompromising, a man who had many acquaintances, but few friends. There is little doubt that the acerbic Brundage grated on the more genteel qualities of Paul Helms.[23]

Los Angeles resident William May Garland, an IOC member, President of the Los Angeles Organizing Committee for the 1932 Games, and a personal friend of Helms, received a copy of Brundage's letter to Schroeder.[24] In mid-October 1938, Garland wrote to Brundage, defending Helms as an "immeasurably fine American citizen." Garland asked Brundage to soften his demand: "It is always a joy to pass his business place for he has illuminated the shield of the I.O.C. on his building. In fact, in a nice dignified way, he keeps the thought of Olympism and the Olympic Games alive and before the people in a manner that surely is not objectionable."[25]

In closing his letter, Garland lamented that Brundage had not taken the initiative to meet with Helms: "I wish you could have come to Los Angeles, that I might have introduced you to Paul H. Helms, so that you could have become intimately acquainted with his friendliness to everything that the Olympic Games stand for. He is an immeasurably fine American citizen highly respected in his own community."[26] Brundage was unmoved. Five days later he responded to Garland, firm in his conviction that Helms had sullied the Olympic Movement through his continued exploitation of a prior affiliation with the Games. "If manufacturers and dealers... use the name Olympic in their advertising," wrote Brundage, "they [the Olympic words and marks] will soon loose [sic] their meaning."[27] He went further:

22 Brundage finished a distant 6th in the pentathlon (controversy persists whether Brundage actually finished the 1500 meters run, the last sub-event of the pentathlon). He also competed in the discus, where he did not advance beyond the qualifying round. Finally, Brundage competed in the decathlon, dropping out after the pole vault sub-event. See, for instance, Bill Mallon and Ture Widlund, *The 1912 Olympic Games: Results for All Competitors in All Events, With Commentary* (Jefferson, N.C.: McFarland Publishers, 2001), p. 423.

23 For the most comprehensive treatment of Brundage, see Allen Guttmann, *The Games Must Go On: Avery Brundage and the Olympic Movement* (New York: Columbia University Press, 1984).

24 Ibid.

25 Ibid. Garland was incorrect in referring to the shield on Helms' advertisement as an IOC mark. In effect, the red and white striped shield had been an unregistered American NOC mark since the Intercalated Greek Games of 1906 in Athens.

26 Ibid.

27 Avery Brundage to William May Garland, 19 October 1938, ABC, Box 225, Reel 131, ICOSA.

"You cannot imagine how many attempts there are to capitalize on the Olympic Games and the difficulty we have in preventing promoters to use the Olympic Movement for their own personal gain... We have strict rules for athletes, and so far have had excellent cooperation from the public. [Another] serious violation at present is that of Mr. Culbertson who persists in operating a so-called Olympic Bridge Tournament despite the fact that the matter has been called to his attention several times," groused Brundage.[28]

Helms, like Culbertson, ignored Brundage. And, for the moment, the issue died. It appeared that the USOA had little more than bluster in its arsenal of tactics for dealing with so-called "infringers" on the Olympic Movement. Besides, more pressing problems for all Americans were looming on the horizon. In August the following year (1939) the first battles of World War II were fought. America itself stood on the threshold of entering the war.

In the years following the 1932 Games, Helms Bakeries expanded into billboard and radio advertising, continuing to capitalize on the five Olympic rings, Olympic motto, American Olympic Shield, and words "Official Olympic Supplier." As well, Helms himself became a well-known benefactor of amateur sport in Los Angeles and greater Southern California, even establishing a foundation for nurturing amateur sport, the Helms Olympic Athletic Foundation. Knowing how Brundage would respond to Helms' use of the word Olympic relative to his foundation, Garland approached the baking impresario and asked him to remove the word Olympic from the title. Obligingly, Helms complied.[29]

Following the conclusion of World War II, the USOA embarked on an energetic fund raising campaign to send an Olympic team to the 1948 Games in London. Helms contributed $10,000. But Brundage's anger was not diminished by this act of philanthropy. He remained convinced that Helms' persistent exploitation of Olympic symbols linked to his commercial endeavors were desecrations of all Olympic traditions.

In late 1947 Paul Helms tendered a competitive bid to supply the American Olympic Team with bread during the team's residence in England at the London Games. Almost at the same time, he raised $50,000 among Los Angeles businessmen to aid in the expenses of the American team. Helms received the bread supply contract with no restrictions as to advertising even though his method of capitalizing on Olympic insignia was public knowledge.[30] After the contract had been signed, the agreement came to Brundage's attention. The czar of American Olympic fortunes fumed. He was faced with a dilemma. On one hand he castigated Helms for his continued misuse of Olympic symbols. On the other, he grudgingly recognized that Helms had been responsible for raising a great deal of money for the American Olympic Movement. True to form, Brundage downplayed the money and pressed his efforts to stop Helms' advertising. Several of Brundage's American Olympic colleagues, including Los Angeles Olympic bigwig William May Garland, who considered Helms "a fine booster of the Olympic Movement," were not particularly supportive of the American Olympic czar's tirades.

Raising the Helms issue for discussion at a USOA meeting in New York City following the 1948 Summer Olympic Games, Brundage renewed his attack on Helms. In mid-

28 Ibid. Brackets mine.

29 This scenario was related to Brundage in McGovern's letter to him in mid-October 1948. See John T. McGovern to Avery Brundage, 18 October 1948, IOCA.

30 In a letter written by McGovern on 18 October 1949, in which McGovern outlined to Brundage his conversations with Helms at the New York meetings, he presented information on Helms' 1948 Olympic Games Bread contract, a contract which McGovern described as one "let to the highest bidder with no suggestion even that advertising be forbidden, although it was known at that time that Helms had been using advertising matter and a package covered with the emblem; and the bread was accepted in packages containing all the advertising matter." See John T. McGovern to Avery Brundage, 18 October 1949, ABC, Box 225, Reel 131, ICOSA.

December Brundage wrote John Jewett Garland, son of William May Garland and recent appointee to the IOC following his father's death. Brundage demanded that something be done to stop Helms. "Helms' advertising in the newspapers, on billboards and over the radio this year has featured statements that are not true, has violated all Olympic traditions, and I think has been in very bad taste," lamented Brundage. He continued: "I have received many protests from the general public as well as from the Olympic family. As a matter of fact, some of Helms' competitors have suggested they might go further than a protest... Cannot something be done to stop this violation of Olympic principles, which has reached the proportions of an international scandal?"[31] Young Garland did nothing. Similar to his father, he admired Helms. Despite Brundage's assertion to Garland that he had received many letters of protest to Helms' "Olympic advertising practices," there are no communications of such a nature left to posterity in the Avery Brundage Collection.

Terry McGovern

Finally, Brundage brought the issue to the attention of John Terry McGovern, a semi-retired septuagenarian New York lawyer of note who was a member-at-large on the Executive Council of the USOA.[32] Following a meeting with Brundage on the Helms matter, McGovern reflected on the approach to take with Helms. He then wrote to Brundage with his resolutions:

> Since our last meeting I drafted and redrafted until I thought I had a proper conciliatory form of approach to the attorneys for Helms... [USOA colleagues] think the lapse of time from 1931 to 1949 would ruin our chances. I realize their point but I am never convinced I am going to be licked when I know I have justice on my side. I am trying conciliation... Failing that course, I may decide it would be better to fight and take a beating, if necessary, than to have the people of the U.S. believe we consent to the outrage. At least a fight would show we did what we could.[33]

Adopting a velvet fist approach, McGovern wrote to Helms' lawyers in Los Angeles. At the same time, an aroused Brundage contacted various American amateur sport and Olympic officials voicing his displeasure with Helms' abuse of the Olympic words and symbols. His vocal and written indignation of Helms Bakeries soon came to the attention of Paul Helms himself.

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31 Avery Brundage to John Jewett Garland, 18 December 1948, ABC, Box 225, Reel 131, ICOSA. John Jewett Garland replaced his father, William May Garland, as an IOC member from the United States of America on 28 June 1948. See Lyberg, "Minutes of the 43rd IOC Session, London - 1948," in *The IOC Sessions, 1894-1955* p. 250.

32 Ibid. In his letter to John J. Garland, Avery Brundage indicated that the USOA had always "relied on the cooperation of the public and of the advertising fraternity instead of resorting to law" when conflicts had developed, such as the one with Paul Helms. By mid-1949, unwilling to delay any further, an impatient Brundage persuaded USOA Executive Board member and noted New York lawyer John T. McGovern to spearhead the Association's case against Helms.

33 John T. McGovern to Avery Brundage, 13 June 1949, ABC, Box 225, Reel 131, ICOSA. Brackets mine.

The Helms Case Boils

Into the cauldron of controversy suddenly appeared a quest by Los Angeles to be considered for hosting a future Olympic Games festival, perhaps in 1952; if not, then maybe in 1956. The chairman of the committee charged with furthering this possibility was none other than the well-known, well-connected, philanthropic Paul H. Helms, impresario of Helms Olympic Bread. In June 1949 a delegation of AAU and American Olympic officials journeyed to California to hear first hand of the Los Angeles plan. The delegation was composed of J. Lyman Bingham, Assistant to the AAU President, and Kenneth "Tug" Wilson, Vice-President of the USOA. The meeting took place at the California Club on Sunday afternoon, June 19th. Bill Hunter and Wilbur Johns, athletic directors of the University of Southern California (USC) and University of California at Los Angeles (UCLA), respectively, joined John J. Garland and Paul Helms at the meeting. Most of the discussion focussed on the Los Angeles plan to host forthcoming Olympic Games. Inevitably, though, the subject of the baking magnate's perceived abuse of Olympic symbols in advertising his business products was raised. Upon his return from California, Bingham wrote to Brundage recalling certain dimensions of the meeting's dialogue. Bingham related to Brundage that he had informed the bakery owner that there was considerable bad feeling over the use he had made of Olympic insignia. Further, Bingham outlined Helms' response:

> ...Mr. Helms... very graciously explained that it [the Olympic marks] has been in use since the 1932 Olympic Games. He felt that had there been any objections they should have been presented directly to him years ago. He stated that he was familiar with Terry McGovern's correspondence with his attorneys and that he was well pleased with McGovern's attitude. He felt that the attorneys would work out something satisfactory... Incidentally, Mr. Helms voiced considerable displeasure at your having written on the subject to various individuals other than himself rather than taking the matter directly to him... Throughout the meeting the impression kept getting stronger with me that we should work with Mr. Helms on a friendly basis and take advantage of his willingness and the many opportunities he has to be of value to the Olympic Committee... I believe that at the earliest opportunity you should have a talk with Mr. Helms... I am sure you will like him and that he will like you. You both have a genuine interest in amateur sport and you cannot be too far apart in your thinking.[34]

Bingham's letter to Brundage contained another important message:

> Mr. Helms stated that he had been prevailed upon and was in a position to make use of the Olympic insignia on a national basis; that he was mad enough at one time to actually put some such plan into operation, but now he had definitely decided to continue his activities to Southern California and that he would definitely promise not to take advantage of his copyright in the other states. The weakness in the position of the Olympic Committee at the present time is that they accepted his $10,000 in 1948 with practically no strings attached being fully aware at the time of the manner in which he has capitalized upon the Olympic insignia ever since 1932.[35]

A copy of Bingham's letter reached Terry McGovern's desk in early July. McGovern sought an amenable agreement between Helms and Brundage, rather than have the matter degenerate into court proceedings. He felt that Helms was ready to compromise. Would Brundage? McGovern wrote to the USOA President with a gentle prompt: "Lyman

[34] See J. Lyman Bingham to Avery Brundage, 6 July 1949, ABC, Box 225, Reel 131, ICOSA.

[35] Ibid.

[Bingham] believes he [Helms] will ultimately cease to use the circles, and other phrases that imply our official responsibility for his product, if he is continued to be approached in a friendly spirit. I agree with Lyman that it would be well for you to call on him and talk about the welfare of the Olympic movement."[36]

With pressure mounting against Helms, Brundage's tenacious character drove him toward a resolution of the prolonged stalemate. Clearly, Brundage thought that Helms' conciliatory manner fooled Bingham and his colleagues: "I think Helms hypnotized you fellows," wrote Brundage. "He steals our insignia and builds up a fortune, then gives a few dollars to amateur sport and everyone thinks that he is an angel."[37] Brundage directed a brusque note to Helms' business manager, W. R. Schroeder. The usual courtesies of salutation were abandoned. "Dear Schroeder," wrote Brundage, "The United States Olympic Association, of which I am president, has a long standing grievance against Mr. Helms because of his misappropriation and commercialization of Olympic insignia. The grievance has been growing more bitter throughout the years, and it is shared by the International Olympic Committee."[38]

Indeed, Avery Brundage was not alone in his campaign against attempts to profit commercially on the Olympics; the IOC itself was taking modest but largely ineffective steps to encourage protection of the Olympic words and symbols. In the July 1949 issue of the IOC Bulletin, a recommendation was enunciated for all NOCs to pay close attention to the dilemma. Further, the NOCs were asked to apply for juridical protection of the Olympic words and symbols in their respective countries.[39] In cases where Olympic words and symbols were being utilized for athletic events that in no way concerned the Olympic Movement, or for *"commercial purposes,"* NOCs were asked to react energetically to stop the abuse.[40] The dilemma existing for NOCs throughout the world was characterized by the USOA situation. On several occasions over a 20 year period prior to 1947, the Legislation Committee of the USOA had tried to gain a federal judgment in favor of allowing the USOA to issue federal income tax deduction receipts for contributions made to its program. And always the same retort was returned to the committee: "the USOA is a sports organization, not an educational organization; therefore it does not qualify."[41] During the same 20 year period, the Legislation Committee of the USOA, had, from time to time, considered and discussed taking the necessary steps to protect both its own interest and that of the IOC regarding the Olympic name, motto and emblems. However, no action beyond the discussion stage was ever taken, something that quite probably similarly occurred in other NOCs across the world - some talk, no action. Similar to the tax deduction matter, the USOA never made the commitment of time and expense necessary to do a professional job in seeking protection of its Olympic marks.[42]

Finally, a Detroit group, spurred by the fact that it, like Los Angeles, envisioned bidding for the 1952 or 1956 Games, volunteered the

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36 John McGovern to Avery Brundage, 7 July 1949, ABC, Box 225, Reel 131, ICOSA. Brackets mine. Underscore McGovern's.

37 Avery Brundage to Daniel J. Ferris (USOA Executive Board Member-at-Large), 27 September 1949, ABC, Box 225, Reel 131, ICOSA.

38 Avery Brundage to W. R. Schroeder, 20 July 1949, ABC, Box 225, Reel 131, ICOSA.

39 International Olympic Committee, "Protection of the Olympic Words and Rings: Notice for the National Olympic Committees," *IOC Bulletin,* No. 16, July 1949, p. 20.

40 Ibid. Italics mine.

41 This bit of information is contained in the document "Outline of circumstances leading to present activities of United States Olympic Association's Legislation Sub-Committee in negotiation with Paul Helms," ABC, Box 225, Reel 131, ICOSA.

42 Ibid.

services of a professional law firm (Cook, Beake, Miller, Wrock & Cross) to pursue the tax deduction issue. In December 1947, after months of work, Counselor Richard Cross reported that the USOA's quest had finally met with success. USOA letterhead soon began to announce the message that contributions made to the organization were tax deductible. The important precedent set by virtue of the USOA gaining tax exempt status had important overtones for resolving the Helms case.

Within the IOC the Helms case had come to the attention of President Sigfrid Edstrøm. The November 1949 *IOC Bulletin* published a list of reported cases on misuse of Olympic symbols by commercial firms. Among them, not surprisingly, a commercialization saga in America was identified. The Helms Bakery Company vs. the USOA gained formal international attention within the Olympic family:

> In the United States of America there is a firm, manufacturing cakes, special breads and so on, and whose name we will not mention as we do not wish to make for it any additional propaganda! This firm has supplied the bread for the American athletes during the London Games. Since that time the firm considered itself entitled to put on all its packing and all its advertisements (which are far from being modest) the Olympic emblems. Our vice-president, Mr. Avery Brundage, has taken the matter up seriously.[43]

IOC President Edstrøm wrote to IOC member John J. Garland in Los Angeles asking him to lodge an official protest against Helms' use of the Olympic marks: "The Olympic circles and the Olympic motto may not be used for commercial purposes. It is against our Olympic Rules, and Los Angeles will never get the Olympic Games as long as this outrage continues."[44] A month later Garland responded to Edstrøm, defended Helms, and requested an explanation regarding the use of the five-ring symbol in other nations for advertising purposes.[45] In fact, though, on the matter of jurisdiction over use of the Olympic marks for advertising, the IOC had absolutely no authority in the United States, nor any other country in the world with the exception of Switzerland where its headquarters resided. In fact, the question should be asked - had the IOC registered the Olympic marks in Switzerland by 1949? The answer is an unequivocal no! In effect, the IOC had not accomplished in its own country of residence what it had persistently asked of its constituent NOCs.[46] And, of course, neither did the USOA have authority in the United States over its Olympic marks. It had failed to register them in the manner that the careful and foresightful Paul Helms had done in 1932.

Helms aside, the USOA finally arrived at the point where it realized it must pursue legal registry of the Olympic marks in order to head off future occurrences similar to the Helms case. To the rescue, once again, came the Detroit law firm, specifically Richard Cross and his company's patent and trademark specialist, Arthur M. Smith, president of the Michigan Patent Law Association. Together, Cross and Smith pursued trademark registration initiatives. Cross wrote Terry McGovern in mid-September 1949, outlining in no uncertain terms what he felt to be a solid position for arguing the USOA's case in the face of Helms' prior use of the marks. "We definitely feel that the United States Olympic Association has the legal and moral right to protect all the intangible elements and

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43 See International Olympic Committee, "About the Protection of Olympic words, emblems and rings," *IOC Bulletin,* No. 18, November 1949, p. 20.

44 Sigfrid Edstrøm to John J. Garland, 9 September 1949, ABC, Box 225, Reel 131, ICOSA.

45 John J. Garland to J. Sigfrid Edstrøm, 14 October 1949, ABC, Box 225, Reel 131, ICOSA.

46 In effect, the Swiss government consistently rebuffed IOC attempts to register the mark in Switzerland. It was not until 1978 that the IOC was finally successful in assuring that the five-ring trademark logo was protected from exploitation within the national borders of the country known throughout the world as the epicenter of international Olympic matters.

properties that are attributes of its name and symbol and it would be remiss for the good of the movement if it were not vigilant and aggressive in enforcing those rights," asserted Cross. "We feel that the Association cannot and should not conciliate with the California bakery that is so flagrantly commercializing the Olympic movement," he continued, "short of demanding an immediate, unequivocal and final cessation of the use of the name, Olympic, when in conjunction with ring and/or motto and/or reference to official status as sponsored by the United States Olympic Association, or in any other manner calculated to mislead or misrepresent identity with the Olympic movement."[47]

Brundage vs. Helms

The principal parties in the confrontation, Paul Helms and Avery Brundage, had never directly approached one another. Brundage, his temper always seeming to rise when Helms' name came up for discussion, resisted getting involved personally, but satisfied himself by firing broadsides at Helms from a distance and letting McGovern, Bingham, USOA-appointed lawyers, and other amateur sports officials carry on the confrontation. Helms, on the other hand, listened to envoys sent by Brundage, weighed the views of his lawyer, Charles McDowell, and, in general, maintained a low profile. The only meeting between the two protagonists occurred in January 1948 when Brundage attended the *Los Angeles Times* Sports Awards Dinner. There, Brundage, seated next to Paul Helms at the head table, accepted the *Times* Sportsman of the Year Award. Nothing passed between the two regarding Brundage's position on Helms' use of the Olympic symbols in his product advertising.[48]

Finally, it was the 60 year old Paul Helms who broke the stalemate; writing personally to the 62 year old Brundage in late September 1949. After reminding Brundage of "a most satisfactory conference at the California Club" (the Bingham meeting), and stating that he would meet with McGovern in New York the following month, Helms recounted some of his long history pertinent to Olympic matters in the State of California.[49] At the end of his letter, Helms could not resist a remark on the commercialization issue. Referring to Brundage's letter of complaint sent a decade earlier to W. R. Schroeder, Managing Director of Helms Bakeries, Helms stated: "Our progress is no different today than in 1939 - seven years after the 1932 Olympic Games in Los Angeles."[50]

It remained for Terry McGovern, a man of patience and proven legal wisdom, to seek a meeting with Helms, an individual he had never met and whom he knew only by reputation. McGovern was well aware of the bristly character of Avery Brundage. What might the personal qualities of Paul Helms be? It might be important to find out. McGovern arranged a meeting with Helms for early October, during a time when Helms' business interests took him to New York. McGovern liked Helms from the start. The California baker was quiet, friendly, an unassuming individual, quite the opposite of Avery Brundage. Two meetings took place, each conducted in the cordial atmosphere of McGovern's office. Helms patiently related the history of his bakery's involvement in Olympic matters. Helms, knowing of Brundage's inference that he had "stolen" the symbol, informed McGovern that such statements were inflammatory and his attorneys had advised him that he could proceed legally against Brundage.[51] He wanted an apology

47 Richard E. Cross to John T. McGovern, 13 September 1949, ABC, Box 225, Reel 131, ICOSA.

48 See Paul Helms to Avery Brundage, 30 September 1949, ABC, Box 225, Reel 131, ICOSA.

49 Paul H. Helms to Avery Brundage, 30 September 1949, ABC, Box 225, Reel 131, ICOSA.

50 Ibid. Several handwritten comments by Brundage were made on Helms' letter of 30 September, most of them notes challenging the bakery owner's statements and listing action possibilities in the future - for instance, a boycott of Los Angeles track and field meets by American athletes. Brundage's impression of Helms is perhaps captured in his afterthought notation jotted on Helms' letter: "has money, wants respect and esteem."

51 Ibid.

from Brundage, something the crusty USOA leader, typically, was not likely to extend. McGovern sent a report of the meeting to Brundage.[52] Most important were its concluding statements, those being that Helms agreed, "in principle," to limit his advertising to the local community of Los Angeles, and, more importantly, to redesign the Helms advertising emblem in such a way as to remove identification with the Olympic five-ring symbol and the Olympic motto.[53] Clearly, events now dictated that a meeting between the two antagonists take place in order that a degree of finality be exacted.

On 21 December 1949, four days before Christmas, Brundage, accompanied by Counselors Cross and Smith, met with Paul Helms and Paul Helms Jr. and their attorneys, G.E. McDowell and Albert J. Faries, at a luncheon meeting arranged by the senior Helms at the posh California Club in downtown Los Angeles.[54] Against his doctor's advice, the senior Helms had risen from a sickbed to attend the meeting. Following discussions focusing mainly on trademark issues, an agreement was concluded.[55] Upon their return to Detroit, Cross and Smith prepared and sent Helms a typed draft of the proposed agreement approved "in principle" by all parties at the Los Angeles meeting.[56] The agreement between the United States Olympic Association and Helms Bakeries established that Helms would henceforth: (1) recognize that pertinent to the United States and its territories the Olympic marks were property of the USOA, (2) provide no objection to the USOA seeking registration of the Olympic marks, and (3) discontinue use of Olympic marks in his firm's advertising. A concession by the USOA allowed Helms to retain the right to use the word Olympic in connection with his bakery products, except that the phase "Official Olympic Bakers" had to be exorcised. Thus, "Official" went, "Olympic" remained. The first tone of conciliation on the entire matter from Avery Brundage was reflected in his short note to Helms following the meeting. "It was a pleasure to see you again last week," he wrote, "and I want to thank you for the enjoyable luncheon that you arranged at the California Club."[57] Continued Brundage, "I am also gratified at the results of our conference. It will be a pleasure to report to the United States Olympic Association at its Quadrennial meeting next month that it can expect full cooperation from you. This will be most helpful in our campaign to protect the Olympic insignia."[58]

Although they had reached an agreement in principle, subsequent questions rose which delayed the "final" conclusion of the lengthy case.[59] A series of communications between USOA leaders and its lawyers and Helms and his legal counsel occupied the early months of 1950. Helms produced new advertising labels. The five-ring symbol, Olympic motto, and the word "official" in juxtaposition with "Olympic," had disappeared. Still, the USOA quibbled on Helms' advertising use of a red, white and blue shield, commonly referred to as the "Olympic Shield," in association with the word "Olympic." The shield was a distinctive USOA mark, having appeared on

52 McGovern's report forms the essence of his letter to Avery Brundage, 18 October 1949, ABC, Box 225, Reel 131, ICOSA.

53 Ibid.

54 Before travelling to Los Angeles for the confrontational meeting with Helms, Brundage entertained Cross and Smith as house guests at his palatial home overlooking the Pacific Ocean in Santa Barbara. There, they discussed the strategies to be employed in the meeting with Helms. See Arthur M. Smith to Avery Brundage, 30 December 1949, ABC, Box 225, Reel 132, ICOSA.

55 The agreement in principle was appended to the personal letter written to Brundage by Arthur M. Smith. See Arthur M. Smith to Avery Brundage, 30 December 1949, ABC, Box 225, Reel 132, ICOSA.

56 Ibid.

57 Avery Brundage to Paul Helms, 28 December 1949, ABC, Box 225, Reel 131, ICOSA.

58 Ibid.

59 Avery Brundage to Otto Mayer, 22 February 1950, ABC, Box 225, Reel 132, ICOSA.

the jerseys of American Olympic athletes since the so-called interim Olympic Games in Athens in 1906. As well, the shield adorned the letterhead of USOA stationery. However, the shield logo had never been registered by the USOA as a trademark, whereas it had been included among the Olympic marks copyrighted by Helms in 1932.[60] A second contentious issue remained-the removal of the Olympic emblems from the facade of the main office building owned by Helms in downtown Los Angeles, a costly renovation.[61] Through it all, Helms' legal counsel advised him to take a hard stand; he had already given up far more than they had advised. Brundage and his lawyers pushed for complete surrender.

January, February, and a good part of March came and went. Nitpicking continued between the two parties. McGovern, the conciliator, was convinced that Helms would concede if only the testy Brundage would meet with the bakery owner in a manner other than his usual confrontational self. Adopting a philosophical stance, McGovern attempted to prompt Brundage:

> I think it advisable for you to see Helms even if only as an evidence of friendly cooperation for the good of the games. No humans are perfect. Neither I, nor you, nor Helms, nor McDowell... Helms has been pretty sick. It would be nice if for that reason alone you greeted his return to health... I have repeatedly stated that neither side is entitled to a 100 per cent victory. We have not a clear and unblemished case; neither has Helms. What concerns me most is that lawyers may insist on proving how good lawyers they are, and forgetting that while we do not want to lose face and principle; neither do we want to lose good financial support when we need it... I'm always afraid of lawyers. I succeed because I deceive people into thinking I am a sincere friend of anyone who wants to settle things in a way that human frailties can be forgiven and forgotten, at the same time having them understand that when I get in a court battle I expect to win it. So you see Helms can be a diplomat. Helms is not trying to dodge, but there are items which he wants to save.[62]

Despite McGovern's plea, Brundage's intransigent disposition, combined with his busy schedule, prevented a meeting with Helms.

The Helms Case Resolved

Commencing early in 1950, USOA action focused on two initiatives. McGovern was in charge of each. The first, aimed at incorporating the United States Olympic Association by virtue of a Federal act, McGovern delegated to Cross and Smith. Success in that venture would secure trademark and copyright protection for both IOC and USOA marks inside the USA and its territories. The second initiative focused on consummating an agreement with Helms. McGovern himself assumed that responsibility.

The resolution of the Helms case occurred first. Brundage was not particularly disposed towards meeting with Helms; neither were Helms' lawyers keen to have the bakery magnate meet with Brundage. Past experience of that nature had been fraught with uneasiness. Finally, McGovern's resolve hardened. In mid-June he wrote Brundage: "I plan to leave for Los Angeles next week to settle the Helms case."[63] Shortly after his arrival in Los Angeles, and following meetings

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60 The so-called American shield logo (in the USOA's case, the "Olympic shield"), a shield with vertical red and white stripes set off at the top by a blue horizontal band, referred to by trademark officials as an escutcheon, had been used for decades by more than one American organization or business company, the most recognizable entity of which was the Union Pacific Railroad Company.

61 Arthur M. Smith to Mr. C. E. McDowell (Attorney for Helms Bakeries), 24 February 1950, ABC, Box 225, Reel 132, ICOSA.

62 John T. McGovern to Avery Brundage, 21 March 1950, ABC, Box 225, Reel 131, ICOSA.

63 John T. McGovern to Avery Brundage, 15 June 1950, ABC, Box 225, Reel 131, ICOSA.

with Helms and his counsel, McGovern telegraphed Brundage at 1:42 AM on June 27th announcing: "Case settled".[64] A second McGovern telegram was sent to Brundage some 9 hours later: "He [Helms] asks no publicity of settlement."[65] A week later, upon his return to New York, McGovern wrote to Brundage, reporting that Helms' lawyers had been smug, reinforced by exhibits in the form of Helms' contract with the 1948 Olympic authorities, exhibits that bolstered Helms' legal position immensely.[66] Three months later, in early October 1950, McGovern wrote to Brundage revealing the grist that, in effect, had made the final outcome of the case one dependent on the good will of Helms himself:

> I have never revealed (and do not intend to) the evidence Helms' lawyers had to mouse trap Cross and Smith. But they had it. Not way back; but in 1948. Notice in connection with the $10,000 contribution that Helms would use the insignia exactly as he had been; and he conditioned his contribution upon the privilege so to advertise without any limitation whatsoever. After the settlement his lawyers turned over to me copies of the documents. No wonder they were angry when Helms ordered them to surrender. During my 50 years of practice, in my safe are placed many writings which would embarrass clients and of which they have never been informed. So let it be with the Helms situation.[67]

McGovern also sent an illuminating report of his Los Angeles sojourn to officers and executive board members of the USOA

> Gentlemen: There will no future devotion of two-thirds of our meeting discussion time to the Helms case. The Helms case is settled. I went to Los Angeles and Mr. Helms agreed with me there to place the integrity, ideals, and hope of the Olympic faith above commercial, legal and other individual considerations. Mr. Helms conducted himself, at our meeting with his counsel, in a spirit of generosity, cooperation, and quiet dignity. And this in the face of disapproval by his excellent and courteous counsel who were naturally chagrined to give up so much when they, with considerable justification from a legal standpoint, were confident of their position. Mr. Helms has agreed to eliminate the circles, the Latin, the words "official Olympic bakers", and the word "Olympic" from the emblem and insignia. All that remains on the shield is "Helms Bread". The above elimination will be carried out on wrappers and trucks and more than 50 other varieties of advertising devices. This work will take much of Mr. Helms' time and a most substantial sum of his money. He also agreed that in any use of the word Olympic external to the shield, he would avoid the use of the word "official" or any other expression which might imply official or interested relation between him and the U.S.O.A. or U.S.O.C. He finally volunteered and signed an agreement to aid, if requested, the U.S.O.A. and U.S.O.C., through his able counsel and at his expense, to protect the integrity of my Washington registration of our Olympic shield, as it stands with the circles and other insignia. Even before I left California, Mr. Helms had begun black outs on signs and the first of the changed wrappers went out to customers. If you are bored you can put this down now. If your curiosity survives, you may read the annexed list of observations.[68]

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64 John T. McGovern to Avery Brundage, 27 June 1950, ABC, BOX 225, Reel 131, ICOSA.

65 John T. McGovern to Avery Brundage, 27 June 1950, ABC, Box 225, Reel 131, ICOSA. Brackets ours.

66 John T. McGovern to Avery Brundage, 3 July 1950, ABC, Box 225, Reel 131, ICOSA.

67 See John T. McGovern to Avery Brundage, 2 October 1950, ABC, Box 225, Reel 131, ICOSA. Parentheses and underscore McGovern's.

68 John T. McGovern to Avery Brundage, Gustavus Kirby, USOA Officers, Members of the Executive Board, Associate Counsel Judge Mahoney, Richard Cross, Arthur Smith, and Esquire Pincus Sober and Fred Steers, 5 July 1950, ABC, Box 225, Reel 131, ICOSA. The "U.S.O.C." mentioned in McGovern's letter was a

McGovern had done it; tip-toed through a minefield impregnated with strong egos, confrontational tactics, indeed, diverse philosophies, and prickly interpersonal relations. Plaudits were quick to come his way. Brundage's were the first: "My compliments to you again! You have accomplished even more than we expected. In view of the consistent success of the McGovern approach perhaps we ought to send you to see Stalin."[69] In reply, McGovern wired Brundage some final counsel: "Decidedly advise you arrange see Helms. He admires your courage and honesty. He would like now to be your friend and work with you."[70]

Meanwhile, attorneys Cross and Smith made headway in Washington on the USOA incorporation matter. By late February 1950, they produced a preliminary draft. Arthur Smith wrote to McGovern on the next steps to be taken. "I have considered the tentative draft of the proposed Federal Charter and feel that this matter should be carried forward to a conclusion... I have noted a recent report of favorable action given on a bill to incorporate the Girl Scouts. Maybe the Girl Scouts have left Congress in the mood to pass necessary legislation for our proposed incorporation so it may well be that the present time is propitious for completing this work and presenting the proposed bill to Congress," offered Smith.[71]

Indeed, Congress was "in the mood." On 21 September 1950 Congress ratified "An Act to Incorporate the United States Olympic Association."[72] Among a litany of rights, duties and responsibilities, the act gave the USOA sweeping jurisdiction on Olympic matters within the United States and its territories, including copyright/trademark ownership of its corporate seal (the Olympic shield), interlocking five-ring symbol, the Olympic motto, and the words "Olympic" and "Olympiad." The act also presented another important dictum with regard to the commercialization of things Olympic:

> ... it shall be unlawful for any person within the jurisdiction of the United States to falsely or fraudulently hold himself out as or represent or pretend himself to be a member or an agent for the United States Olympic Association or its subordinate organizations for the purpose of soliciting, collecting, or receiving money or material; or for any person to wear or display the insignia thereof for the fraudulent purpose of inducing the belief that he is at such time a member of or an agent for the United States Olympic Association or its subordinate organizations. It shall be unlawful for any person, corporation, or association, other than the United States Olympic Association or its subordinate organizations and its duly authorized employees and agents for the purpose of trade, theatrical exhibition, athletic performance, and competition or as an advertisement to induce sale of any article whatsoever or attendance any theatrical exhibition, athletic performance, and competition or for business or charitable purpose to use within the territory of the United States of America and its exterior possessions, the emblems of the United States Olympic Association.[73]

To Brundage's dismay, and despite the strong language of the act, Helms himself was protected from lawsuit even if he persisted to use the Olympic symbols on his commercial products. The act concluded with the statement:

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subcommittee of the USOA, its chief responsibility of which was to organize and administer the ways and means for getting American athletes to the Olympic Games.

69 Avery Brundage to John T. McGovern, 6 July 1950, ABC, Box 225, Reel 131, ICOSA.

70 John T. McGovern to Avery Brundage, 7 July 1950, ABC, Box 225, Reel 131, ICOSA.

71 Arthur Smith to John T. McGovern, 24 February 1950, ABC, Box 225, Reel 131, ICOSA.

72 See *United States Statutes At Large,* 1950-1951, Volume 64, Part I-Public Laws and Reorganization Plans (Washington: United States Government Printing Office, 1952), pp. 900-902.

73 Ibid., p. 901.

> That any person corporation, or association that actually used, or whose assignor actually used, the said emblems, sign, insignia, or words for any lawful purpose prior to the effective date of this Act, shall not be deemed forbidden by this Act to continue the use thereof for the same purposes and for the same class or classes of goods to which said emblems, sign, insignia, or words have been use lawfully prior therefore.[74]

Although partially satisfied, Brundage remained discomfited by the fact that the Act provided license for Helms, if he so desired, to continue the "scandalous" advertising of his bakery goods. Although Brundage and the USOA prevailed in the struggle to sever Helms Bakeries from its exploitation of Olympic marks, it was solely due to the fact that Helms, finally and voluntarily agreed to relinquish everything, not because of a court order requiring him to do so.[75] Helms' legal position had, in effect, been secure. Even so, Brundage could not help but describe his victory in pyrrhic terms. "Helms has finally capitulated", wrote Brundage to Fred Matthei of the Detroit Olympic Committee.[76]

It is obvious that Helms' right to capitalize commercially on the use of Olympic words and marks had been granted to him by the authority of an Olympic Games Organizing Committee (Los Angeles). The USOA had not been party to the agreement with Helms. But, it is difficult to believe that USOA officials hovering over the 1932 Olympic Games could have remained entirely ignorant of the commercialization of Olympic symbols taking place in Los Angeles. In effect, Helms' registration of Olympic marks, applied for in 1932, and officially granted in 1938, scooped the USOA. Too late the USOA realized that what Helms had executed, it should itself have implemented long before. Consequently, the time, energy, and patience of Avery Brundage, leader of the Olympic Movement in the United States, were sorely tried in trying to resolve the issue. In the end, it can be argued that it was largely because Helms was a staunch American patriot when it came to the nation's Olympic fortunes, and wanted to help rather than hinder the process by which American athletes competed at the Games, that he sacrificed his financial interests. This ulterior motive led him to finally concede to USOA demands, even though the legality of the issue was decidedly in his favor. The USOA had learned a lesson, albeit a painful one. Where the subject of commercial exploitation of Olympic marks was concerned, it must remain on guard.

The Helms case, although establishing a landmark precedent, did not obliterate the tide of Olympic exploitation present in the United States by the turn of the half-century. The financial benefit derived from developing a symbolic connection between a commercial product and the Olympic Games had become all too evident. In 1950, for instance, one hundred forty-eight industrial and mercantile establishments in Los Angeles alone assured the public through newspaper advertisements, telephone directory advertising pages, even signs and facades on buildings, that they provided "Olympic" goods, wares, and merchandise.[77]

Despite all this, it was Brundage who sagely pointed out what the new Act would mean for the future of the Modern Olympic Movement. In conveying his appreciation to Matthei and the Detroit Olympic Committee for their help in the entire saga, he proclaimed: "The International Olympic Committee as well as the United States Olympic Association can never thank you enough for your help in this great victory, which will serve as a precedence [sic] for Olympic Committees in all parts of the world in their effort to prevent commercialization of Olympic words and insignia".[78] On this point, the future president

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74 Ibid., p. 902.

75 John T. McGovern to United States Olympic Association, 5 July 1950, ABC, Box 225, Reel 131, ICOSA.

76 Avery Brundage to Fred C. Matthei, 4 October 1950, ABC, Box 225, Reel 131, ICOSA.

77 Cited in McGovern to United States Olympic Association, 5 July 1950, ABC, Box 225, Reel 131, ICOSA.

of the IOC was correct. The precedent was indeed Olympian.

What Since the Helms Case?

The result of the USOA action against Helms Bakeries in the United States was received in Lausanne in two ways: (1) it was greeted with celebration and great satisfaction, and (2) it served to arouse an even greater awareness of just how vulnerable the IOC symbols were with respect to them being used by unauthorized persons or groups. Encouraged by the United States Congress ruling to register Olympic marks in America, the IOC itself attempted to initiate action that would bring about roughly the same result in international context. At its General Session held commensurate with the celebration of the Olympic Winter Games in Oslo in February 1952, IOC members listened to a plan set forth by the Geneva lawyer Antoine Hefner whereby an international convention might be organized with the express purpose of bringing together nations to sign an agreement to protect the Olympic symbols internationally by copyright.[79] Such a convention, similar to the International Red Cross conventions, had to be organized/ sponsored by a national state, and would be designed to extend to all signatory parties certain rights and responsibilities dealing with various issues, of which international copyright of the Olympic symbol was paramount. Hefner's plan called for the Swiss government to be the convention's sponsor. Despite prevailing optimism among IOC members at the time, few nations were willing to join a convention disposed towards protecting the symbol. The envisioned convention never materialized,[80] a victim to more pressing post-war problems of concern.

Despite airing the problem in *Olympic Review,* little progress on NOC protection of symbols was noted. In fact, at the Melbourne Games in 1956 the IOC Session learned from President Brundage that response to the IOC's symbol protection plea had been "disappointing," and, in effect, among responses received, those from many British Empire countries had been outright negative.[81] And, of course, when little money was at stake in those prehistoric days of Olympic television and corporate sponsorship, protection issues were far less urgent than they would become commencing with the 1970s.

Although Hefner's plan to organize an international convention for protection of IOC symbols never materialized, the Executive Committee reported in 1969 that 24 countries had protected the symbols by law. Exactly which "Olympic countries" had protected the symbol under statutory law by 1966 remains a mystery, except, of course, for the United States, the events of which are documented previously in this essay. A report on symbol protection matters in 1969 by Lord Luke advanced an interesting and controversial point: "it would be better to concentrate on the protection of the **Rings** rather than the word **Olympic** which was impractical to do."[82] Five years later, Lord Killanin, successor to Brundage as IOC president, was even more pronounced on the difficulty of trying to

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78 Ibid.

79 See Lyberg, Volume I, "Minutes of the 47th IOC Session, Oslo, 1952," pp. 282-283. Hefner's proposal had initially been made to the Executive Committee at its meeting in Vienna in May 1951. See Lyberg, "Minutes of the IOC Executive Committee, Vienna, 1951," in The Executive Committee (Part I), Meetings 1-84, 1921-1969 (Lausanne, IOC, no date), p. 105.

80 See Lyberg, *The IOC Sessions, 1956-1988,* Volume II, "Minutes of the 52nd IOC Session, Cortina D' Ampezzo, 1956," p. 5. Occasionally one can find in the IOC Executive Board minutes of the 1950s and 1960s references to the hope that "Symbol Protection-oriented Conventions" could be organized—Switzerland (1957), Greece or Switzerland (1966), and Poland (1969). Nothing ever materialized. In fact, symbol protection was never a hot topic of discussion, engulfed as it was by the turbulent events of the two decades following World War II.

81 Ibid., Lyberg, "Minutes of the 53rd IOC Session, Melbourne, 1956."

82 Lyberg, *The IOC Executive Committee, 1969-1981,* Volume II, "Minutes of the 85th Meeting, Dubrovnik, October 1969. Bold mine.

protect the word **Olympic** or **Olympiad.** Speaking in reference to an NOC's right to market its emblem domestically, "with or without the 5 rings... was their business according to the law in their country. The words 'Olympic' and 'Olympiad' cannot be protected."[83] Generally, if the word **Olympic** is **not** used in conjunction with a protected Olympic symbol, in the context of an athletic competition, or to convey the impression of an association with the Modern Olympic Movement, the legal ground against the word's use is problematic. Attesting to this fact is the formidable number of business firms named **Olympic** this, **Olympian** that, etc. listed in the Yellow Pages of telephone directories all across America and Canada, some of them even displaying the five-ring Olympic symbol in advertising panels.

Rapidly accelerating costs in putting on the Games, especially from the 1970s onward, dictated that each concerned party energetically explore every revenue channel possible in order to try and balance budgets. Many NOCs feared possible IOC commercial exploitation of Olympic marks already protected in national domains, or, beyond that, an IOC demand for a percentage of the revenue derived from an NOC marketing its national symbol.[84] The same apprehension was true with regard to the OCOGs; in other words, an anxiety that too many hands in the same revenue pot meant less for any one of the competing parties - the market can only bear so much strain. And yet, the fundamental "ownership" of the five-ring symbol, the consistent core of all NOC marks, is held by the IOC.

Though the IOC's original quest to organize an international convention for the protection of its symbol was disappointing, the idea was not abandoned. In that regard, attention in Lausanne in the late 1970s focused on the World Intellectual Property Organization (WIPO), a member entity in the web of United Nations affiliates, whose specific mandate was to administer intellectual property matters.[85] In 1978 the IOC convinced the Swiss government to advance a petition to register the five-ring symbol internationally under the terms of the Madrid Agreement, a treaty originally enacted in 1891. WIPO accepted the petition and the logo became protected in the 20 member states signatory to the Madrid Agreement by 1978. This, of course, left the symbol unprotected, by treaty at least, in the greater number of Olympic nations. Since then (1978) 50 more nations have signed the treaty, bringing the total to 70 as of April 2002.[86] Among them are all the host countries of modern Olympic Games (Winter and Summer) with the notable exception of the USA, South Korea, and Mexico. It must be understood that the Madrid Treaty grants no authority of protection rights to the IOC, but rather to the signatory state in which an NOC resides.

Not too long after Juan Antonio Samaranch became the IOC's 7th president an attempt was made through the auspices of WIPO to promote still another international convention, this time aimed at introducing a Treaty on the Protection of the Olympic Symbol which would give the IOC itself sweeping international rights over use of the symbol in signatory countries. In the late summer of 1981, acting under the statute that a national government must initiate the petition for such a convention, the Kenyan government, prompted by its NOC, in turn prompted by the IOC, agreed to be the petitioner. In late

83 Ibid., "Minutes of the 100th Meeting, Lausanne, February 1974.

84 An outstanding example of the friction the can evolve between the IOC and one of its constituent members when the subject of capitalizing on the five-ring symbol arises, concerns the now almost two decade joust between the IOC and the USOC over both American television rights fees and TOP corporate sponsor revenue. The result of hard bargaining left the USOC with 10% of total American television rights fees (12.75% commencing with the Athens Games) before any of the pie beyond that was split between the IOC, OCOGs, NOCs and ISFs. With respect to TOP, the bargaining joust produced a 20% figure for the USOC.

85 See Barney, etal., *Selling the Five Rings,* Chapter 11.

86 For more on WIPO, see "General Information," in WIPO Website (Geneva, Switzerland) <http://.wipo.int/>.

September the so-called Nairobi Convention concluded its business, its outcome a disappointment to the IOC. In the first five years of the treaty's history only 31 "Olympic nations" signed the accord. Presently (April 2002), a total of 40 "Olympic states" have signed the Nairobi Treaty, none of which are usually accorded the distinction of being among the world's major industrial countries. Fourteen states of the 40 are also signatories to the Madrid Agreement, which means that of the current number of 199 "Olympic countries," the Olympic symbol is protected by international treaty in 96 of them—or less than half.[87]

Aside from international treaties (Madrid and Nairobi), another method of protecting the Olympic symbol is the process by which individual NOCs themselves pursue symbol protection through governmental legislation in their respective countries, such as we have seen in the USA with regard to the Helms case. This has been the course the IOC has promoted more vigorously than any other. Further, one can also factor in the impact of a new addition (still in effect) to the 1996 Olympic Charter which outlined that henceforth , countries petitioning the IOC for membership in the Olympic family must carry out legal domestic registration of their IOC-approved NOC emblems (which include, in every case, the five-ring symbol) within six months of such approval and provide proof of registration to the IOC Executive Board.[88] If this was indeed done, then the four new nations that joined the IOC since 1996 (Comores, Democratic Republic of Congo, Eritrea, and Federated States of Micronesia), none of which appear on either the Nairobi or Madrid Treaty lists, would increase the list of countries in which the Olympic symbol is known to be protected to 100. The new provision does not apply to those countries having IOC approval of their marks prior to 1996.[89]

Thus, the question must be posed: if not protected by treaty, in how many of the remaining 99 "Olympic nations" is the Olympic symbol protected by governmental law? Some, assuredly! Even many, perhaps. But, my sense is, not all by any means. Some "protected countries" are obvious, for instance, the Olympic host nations of South Korea, the United States and Canada, each a comparative industrial giant. But, what about such emerging countries as the Nigers, Burundis, Solomon Islands, Yemens, and Guyanas of the world? The governmental legislation process can be time consuming, complex, and expensive, and, all too often, can fall prey to the sidetracking elements of more urgent priorities in a struggling nation's contemporary affairs, particularly in those states that the IOC refers to as the "developing countries of the world."

Arranged in three appendices to this essay are: (1) those nations signatory to the Madrid Treaty (to April 15, 2002), (2) those nations signatory to the Nairobi Treaty (to April 15, 2002), and (3) those Olympic nations listed by continent whose Olympic symbols are currently protected by treaty and those whose symbols are not. The appendix data show that in Africa roughly twice as many of the 53 States are unprotected by treaty than protected. In the Americas, the percentage of unprotected is even higher, about 60% of the 42 States. In Asia, the unprotected are about 40% of the 42 States. In Oceania, the percentage of unprotected shows the most glaring difference, about 90%. Only in Europe, the traditional seat of power in the Modern Olympic Movement, is there an overwhelming percentage of protected nations, 45 out of 48.

There is only one source that can tell us precisely which Olympic nations on the list of those unprotected-by-treaty, have, in effect, completed bonafide governmental legislation protecting Olympic symbols from commercial exploitation within the boundaries of their

87 Here, I have depended on <www.wipo.int/treaties/documents/english/word/g-mdrd-m.doc~>

88 Of the 31 nations, some might rank Italy, Greece, Poland, the Russian Federation, and Mexico as industrialized countries. Others, however, might not make that distinction. For the list of signatory parties to both the Madrid and Nairobi Treaties, as well as an outline of the "laws" of each, see <http:www.wipo.int/>.

89 See *Olympic Charter – 2000,* p. 21.

national states. That source is the IOC headquarters in Lausanne. Perhaps officials there would like to respond (with the appropriate documented governmental legislation in each case). In the event that such information cannot be presented, a worthy research pursuit by ISOH members located in various countries around the world might be an investigation in each of the Olympic countries where Olympic symbols are unprotected-by-treaty to determine the current state of affairs. We might all be surprised by the final picture.

Appendix I

Madrid Treaty "Olympic Country" Signatories (70 States as of 15 April 2002)

Albania	Egypt	Lesotho	Singapore
Algeria	Estonia	Liberia	Slovakia
Antigua-Barbuda	Finland	Liechtenstein	Slovenia
Armenia	Former Yugoslav	Lithuania	Spain
Australia	Macedonia Republic	Luxembourg	Sudan
Austria	France	Moldova	Swaziland
Azerbaijan	Georgia	Monaco	Sweden
Belarus	Germany	Mongolia	Switzerland
Belgium	Greece	Morocco	Tajikistan
Bhutan	Hungary	Mozambique	Turkey
Bosnia-Herzegovina	Iceland	Netherlands	Turkmenistan
Bulgaria	Ireland	Norway	Ukraine
China	Italy	Poland	United Kingdom
Croatia	Japan	Portugal	Uzbekistan
Cuba	Kazakhstan	Romania	Viet Nam
Czech Republic	Kenya	Russian Federation	Yugoslavia
North Korea	Kyrgyzstan	San Marino	Zambia
Denmark	Latvia	Sierra Leone	

Appendix II

Nairobi Treaty "Olympic Country" Signatories (40 States as of 15 April 2002)

Algeria*	Cyprus	Kenya*	Slovenia
Argentina	Egypt*	Mexico	Sri Lanka
Barbados	El Salvador	Moldova*	Syrian Arab Republic
Belarus	Equatorial Guinea	Morocco*	Tajikistan*
Bolivia	Ethiopia	Oman	Togo
Brazil	Greece'	Poland*	Tunisia
Bulgaria*	Guatemala	Qatar	Uganda
Chile	India	Russian Federation*	Ukraine*
Colgo	Italy*	San Marino*	Uruguay
Cuba*	Jamaica	Senegal	Yugoslavia

* Denotes "Olympic Country" also signatory to the Madrid Treaty.

Appendix III

"Olympic Countries" Protected and Unprotected by Treaty Listed by Continent:

Africa (53)

Protected (18)		*Unprotected (35)*		
Algeria		Angola	Djibouti	Mauritius
Congo Egypt	Togo	Benin	Eritrea*	Mauritania
Equatorial Guinea	Tunisia	Botswana	Gabon	Namibia
Ethiopia	Uganda	Burkina Faso	Gambia	Niger
Kenya	Zambia	Burundi	Ghana	Nigeria
Lesotho		Cameroon	Guinea	Rwanda
Liberia		Cape Verde	Guinea-Bissau	Sao Tome-Principe
Morocco		Chad	Ivory Coast	Seychelles
Mozambique		Central African Republic	Libya	Somalia
Senegal		Comoros*	Madagascar	South Africa
Sierra Leone		Democratic Republic of	Malawi	Tanzania
Sudan		Congo	Mali	Zimbabwe

The Americas (42)				
Protected (12)		*Unprotected (30)*		
Antigua-Barbuda	Cuba	Aruba	Dominica	Peru
Argentina	El Salvador	Bahamas	Grenada	Puerto Rico
Barbados	Guatemala	Belize	Guyana	St. Kitts-Nevis
Bolivia	Jamaica	Bermuda	Ecuador	St. Lucia
Brazil	Mexico	British Virgin Islands	Haiti	St. Vincent-Grenadines
Chile	Uruguay	Cayman Islands	Honduras	Surinam
		Canada	Netherlands Antilles	Trinidad-Tobago
		Columbia	Nicaragua	United States of America
		Costa Rica	Panama	Venezuela
		Dominican Republic	Paraguay	Virgin Islands

Asia (42)				
Protected (16)		*Unprotected (26)*		
Bhutan	Oman	Bahrain	Jordan	Palestine
People's Republic of China	Qatar	Bangladesh	Kuwait	Philippines
	Singpore	Brunei Darussalam	Laos	Saudi Arabia
India	Sri Lanka	Cambodia	Lebanon	South Korea
Japan	Syria	Chinese Taipei	Malaysia	Thailand
Kazakhstan	Tajikistan	Hong Kong	Maldives	Turkmenistan
Kyrgyzstan	Uzbekistan	Indonesia	Myanmar	United Arab Emirates
Mongolia	Viet Nam	Iran	Nepal	Yemen
North Korea		Iraq	Pakistan	

Europe (48)				
Protected (45)				*Unprotected (3)*
Albania	Estonia	Italy	Russian Federation	Andorra
Armenia	Former Yugoslav Republic of Macedonia	Latvia	San Marino	Israel
Austria		Liechtenstein	Slovakia	Malta
Azerbaijan	Finland	Lithuania	Slovenia	
Belarus	France	Luxembourg	Spain	
Belgium	Georgia	Moldova	Sweden	
Bosnia-Herzogovina	Great Britain	Monaco	Switzerland	
Bulgaria	Greece	Netherlands	Turkey	
Cyprus	Germany	Norway	Ukraine	
Croatia	Hungary	Poland	Yugoslavia	
Czech Republic	Ireland	Portugal		
Denmark	Iceland	Romania		

Oceania (14)				
Protected (1)		*Unprotected (73)*		
Australia	American Samoa	Micronesia*	Papua New Guinea	Vanuatu
	Cook Islands	Nauru	Samoa	
	Fiji	New Zealand	Solomon Islands	
	Guam	Palau	Tonga	

* Denotes new "Olympic Country" post-1996 supposedly providing proof of symbol protection by dint of IOC *Olympic Charter* (bye-law 7.7)