

The State of South Carolina



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November 18, 1987

The Honorable Larry E. Gentry
Member, House of Representatives
111 North Main Street
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Saluda, South Carolina 29138

RE: Your Request of September 23, 1987

Dear Representative Gentry:

You have requested an opinion "as to whether the North-South Game Committee, Inc. (Committee), has any legal or property rights in their North-South Logo". Although this Office is glad to provide its opinion concerning this issue, that opinion cannot be definitive, because resolution of some of the questions involved requires determinations of fact which only a court in a proper case could render. Consequently, the following is primarily a discussion of the various legal issues and analyses involved in the question you asked. Even for this discussion, it is necessary to assume certain facts, which assumptions are generally proceeded by "apparently" or "it appears".

The North-South Game Committee (Committee) and South Carolina Coaches Association correspondence, and the News and Courier newspaper clipping you enclosed with this request indicate concern with the South Carolina Independent School Athletic Association's and the South Carolina Independent School Coaches Association's (Associations) use of the name "North-South All-State Football Game", which the South Carolina Coaches Association and Committee have been using for 40 years. Apparently the Associations are now using the name for their high school all-star game, but not the Committee's logo, which includes a stylized dark map of South Carolina with a contrasting star on the coastal bulge, superimposed on the middle of the juncture of "North" on top of "South", both in dark bold capital letters.

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Based on the intellectual property analyses applicable to those facts which are provided or can be assumed, the Association's use of the term "North-South All-Star Football Game" does not appear to constitute an actionable violation of any right of the Committee, which is the principle question implicit in the material you included in your request. Even if the Committee is entitled to protection from some uses of the phrase, the only use indicated, the News and Courier article reporting that "the Independent School Athletic Association will sponsor a North-South All-Star Football Game under the auspices of the newly formed S.C. Independent School Coaches Association", probably would not confuse the public as to the origin of the game and would probably constitute a "fair use" of the term, not unfair competition.

Property Rights in "North-South All-Star Football Game"

Registration

Apparently no "North-South All-Star Football Game", South Carolina trademark has been registered with either the national or state registry offices. The Committee's property rights in such a trademark, if any, would arise solely under the common law from its exclusive and continuous use in the advertising and sale of goods and services (tickets, memorabilia, etc.) in South Carolina. Generally, registration provides additional protection for, and procedures and presumptions for protecting, any such rights which derived from its use. 74 Am.Jur.2d, Trademarks and Tradenames, §75. "Effect of Registration", and see cases cited at Notes 76 and 77.

Logo

The analyses of the questions of whether the Committee has protectable property rights in the name "North-South All-Star Football Game" or in a logo containing those words would be the same, similar or parallel in many respects. The primary differences would be in the greater distinctiveness of the logo and the greater tendency of the consumer to be confused by the use of a similar logo by another organization, which would support any Committee claims. Such claims would turn largely on the degree of similarity to the Committee's logo of the new logo, if any, now used by the Associations.

The Committee's logo probably could not be registered with the South Carolina Secretary of State or the United States Patent and Trademark Office without a renunciation of any attempt to appropriate the map itself for its exclusive use, since the map of South Carolina is certainly in the public domain. Perris v. Hexamer, 99 U.S. 974, 25 L.E. 308 (1879); Christianson v. West Pub. Co., 149

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F.2d 202, 203 (9th Cir. 1945) (The outline map of the United States is in the public domain and is not copyrightable); Beckwith Estate, Inc. v. Comm. of Patents, 252 U.S. 538, 40 S.Ct. 414, 64 L.Ed. 705 (1920), and maps or outlines of states are subject to the same rules as literal geographically descriptive terms. Nationwide Advertising Service, Inc. v. Nation-Wide Employment Agencies, Inc., 471 F.2d 638, 176 U.S.P.Q. 311, 312 (C.C.P.A. 1973) (Court commented that maps of the United States in marks of parties were "descriptive rather than indicative of origin."); Dixie Rose Nursery v. Coe, 31 F.2d 446, 55 U.S.P.Q. 315, 317 (D.C. Cir. 1942) ("The inclusion or addition of the geographical name and map [of Texas] does not entitle the mark to registration."); In re Application of Canada Dry Ginger Ale, Inc., 86 F.2d 830, 32 U.S.P.Q. 495 (C.C.P.A. 1936) (In face of argument that map of Canada was arbitrarily colored, Court held, under Act of 1905, that map was still one of Canada which conveyed the same idea as the word "Canada"); McCarthy, Trademarks and Unfair Competition §14:2A (2d ed. 1984) and TMEP Section 1208.01 (Rev. 6, Dec. 1983). Since the map, like "South Carolina", cannot be registered or reserved for the Committee's exclusive use, and the phrase probably cannot be appropriated for exclusive use either, as discussed below, it is unlikely that the combination of two non-reservable marks alone could be registered or reserved. However, the addition of the Star and of "19 FORTY YEARS 87" above NORTH would probably make the logo distinctive enough of the Committee's product (game) to entitle it to protection. This Office does not have the Associations' logo, but it is improbable that it includes these last, and only distinctive, features. The Committee could probably obtain an injunction against the Associations' use of an identical logo, otherwise the outcome would depend on a number of factual determinations in conjunction with the following analysis of the Committee's rights to the phrase and the likelihood of the Associations' use of the phrase and its logo confusing the consuming public.

Trademark Policies and Producer, Origin or Source Denotation

Trademark policies are designed to protect consumers from being misled as to the enterprise from which the goods or services emanate, and to prevent an impairment of the value of the enterprise which owns the trademark. Anti-Monopoly v. General Mills, 611 F.2d 296 (9th Cir. 1979). It is the object of the common law and of the Trademark Act of 1946 (The Lanham Act, 15 USC §1051, et seq.) to protect the private rights of trade name and service mark owners and to prevent public confusion, deception, or mistake caused by use of names and marks which are confusingly similar. HMH Publishing Company, Inc. v. Brincat, 504 F.2d 713, 183 U.S.P.Q. 141 (9th Cir. 1974). Generally, a trademark is valid only if its primary significance in the minds of the public is not the product but the pro-

ducer; i.e. registration as a trademark is permitted, and property rights therein arise, only where a word or term has significance as denoting the goods of a particular producer. Such is not the case where the word or term in question does not indicate anything in the nature of origin, manufacture, or ownership of an article, and may, with equal truth and right, be employed by others for the same purpose. 55 A.L.R.Fed. 241, 52, 74 Am.Jur.2d, Trademarks and Tradenames, §46 citing Elgin Nat. Watch Co. v. Illinois Watch Case Co., 179 U.S. 665, 45 L.Ed. 365, 21 S.Ct. 270 (1901). This source denoting function is a basic principle of trademark law and must be present in order for a trademark to be found valid or due any protection. Clearly there is nothing in the words of the phrase "North-South All-Star Football Game" itself which satisfies this function by indicating anything in the nature of the source of the particular game.

Distinctiveness versus Descriptiveness

A correlary to the source denoting requirement and a primary test of whether property rights arise and are entitled to protection at law is the distinctiveness of the trademark. A mark which is "descriptive" or "primarily geographically descriptive" may fail to satisfy the distinctiveness requirement.

The case law has divided the descriptiveness continuum into four subcategories in ascending order of the strength of the owner's claim to protection or property rights in the trademark. Abercrombie and Fitch Company v. Hunting World, Inc., 537 F.2d 4, 9 (2nd Cir. 1976). (1) A "generic" mark, the common descriptive name of the goods or services or their primary ingredients, cannot be protected under any circumstances. Id.; Miller Brewing Co. v. G. Helleman Brewing Co., 561 F.2d 75 (7th Cir. 1977) ("lite" as misspelling of "light" is generic for a type of beer). (2) A "descriptive (or 'merely descriptive') mark" conveys an immediate idea of the qualities or characteristics of the goods or services". Six Products, Inc. v. United Merchants & Mfrs. Inc., 295 F.Supp. 479, 488 (S.D.N.Y. 1968). (3) A "suggestive" mark merely suggests or hints at the nature of the goods or services, such as "Coppertone", "Handiwipes", "Hulahoop", "Rapid Shave" or "7-11". (4) An "arbitrary or fanciful" mark has no relation to the product and can always be registered and protected.

The use of generic words, or commonly descriptive words, such as "lite" for beer and Superglue, cannot give rise to property rights, and cannot be entitled to protection. As a general rule, "[t]here is no moral or legal wrong in the adoption or imitation of what is claimed by another as a trademark, if it is just as true in its application to the goods of the second adopter as to those of

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the first", Delaware & H. Canal Co. v. Clark, 13 Wall (U.S.) 311, 20 L.Ed. 581 (1872), and no exclusive right can be acquired in a trademark composed of words which, according to their primary meaning, may with equal truth and right be employed by others for the same purpose. 74 Am.Jur.2d §46 supra and cases cited at N. 89.

Just as maps and map outlines are in the public domain and cannot be appropriated for one party's exclusive use in order to preserve everyone's right to use them; the ban against descriptive trademarks preserves the right of anyone to use descriptive language in the offer and sale of goods and services. Furthermore, words in common use are said to be the common property of the people and no one can acquire an exclusive right to them by adopting them as his trademark unless they are used outside of their ordinary meaning or have come to acquire a secondary source denoting meaning in the consuming public. 74 Am.Jur.2d supra §47, Words in Common Use.

Nor can a trademark which can be appropriated be formed by combining only words which could not be appropriated separately. The combination of common words, or of a geographical term with a descriptive term would not ordinarily be protectable since each of the constituent parts are unregistrable and unprotectable. 74 Am.Jur. supra §63; In re Meyer Brothers Coffee & Spice Co., 32 App.D.C. 277 (Court refused to authorize registration of "America's Strength").

Since every word in "North-South All-Star Football Game" is common and descriptive and/or geographical, and the primary meaning of the phrase is just as true as applied to the Associations' game as to the Committee's; the inquiry would end here except that such descriptive words, even if in common use, can invest a particular producer with a superior or prior right in the phrase's use under the rules relating to unfair competition if they have gained "secondary", special or trade meaning by becoming distinctive of the user's goods or services; that is the mark has become primarily associated with the goods of that particular producer in the minds of consumers and is no longer thought of primarily as descriptive of the product itself, but has come to denote a single thing coming from a single source. Id., and §64; Abercrombie, supra, at 8. "Secondary meaning" does not mean "a subordinate or rare significance", but rather "a subsequent significance added to the previous meaning of the designation and becoming in the market its usual and primary significance". 150 ALR 1073, "Unfair Competition-Secondary Meaning" citing Restatement Torts, Vol. 3 §716. The question of whether the phrase has acquired such a secondary, special or trade meaning is one of fact. 74 Am.Jur., supra, §169 and cases cited at note 65.

"Secondary Meaning"

A determination of whether the Committee has protectable property rights in the term "North-South All-Star Football Game", or is entitled to protection from its use by another as unfair competition, thus involves initial analysis of the degree to which the term is descriptive, and, on the other hand, the degree to which the public associates it with the particular game the Committee has been sponsoring. The greater the degree of descriptiveness of the term, the greater the degree of secondary meaning, or primary association with the Committee's particular game, which is necessary to make the term protectable as a trademark. See, Aloe Creme Laboratories, Inc. v. Milsan, Inc., 423 F.2d 845, 850 (5th Cir. 1970). Since generic marks are the actual names of the product, it is necessary for the producer to show that he actually succeeded in associating the name with the source in the public's mind. When it is merely descriptive, a properly supported inference of secondary meaning may be sufficient. 74 Am.Jur.2d supra §169 citing W. E. Bassett C. v. Revlon, Inc., 435 F.2d 656 (2nd Cir. 1970).

"All-Star Football Game" is probably so highly and completely descriptive and commonly understood as to constitute a generic term. Whether "North-South All-Star Football Game" is also generic (or commonly descriptive), or the degree to which it is descriptive as opposed to distinctive to the Committee are questions of fact which would turn on evidence of whether, and to what degree, the public understands it to be a trademark of the Committee, as opposed to a noun which denotes, or two adjectives which describe, this particular kind of high school football game.

Since "All-Star Football Game" alone is not protectable, the effect of the addition of "North-South" would be central and involves the question of whether this term's geographical nature, as well as the commonness of its use as an adjective, would defeat or detract from the Committee's claim to protectable property rights in the whole phrase. The frequency of "North-South"'s use in other trade names would be relevant to its descriptiveness, as well. Certainly the highly descriptive nature of the entire phrase would make the burden of proving the consuming public associates it with the Committee's game only, a heavy one.

Generally "secondary meaning" is acquired through exclusive use for a period of time. Thus, the usage of North-South All-Star Football Game for college and league national all-star games, and high school and league state all-star games would be relevant. It would not, however, be determinative, in that, theoretically, in each state, "North-South All-Star Football Game" could become distinctive of the producer of that state's high school or league north-south all-star football game.

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A court would also consider the length of the Committee's exclusive use of the phrase in South Carolina. For instance, has it been used to refer to any non-high school all-star games? Apparently, the Committee has used it exclusively to refer to high school all-star games in South Carolina for 40 years. However, it also appears that the Committee has produced the only intra-state high school all-star game until this year; therefore its exclusive use of the term in regard to intra-state high school all-star games may actually signify little regarding secondary meaning. Since it has been "the only game in town", those testifying that the phrase suggests to their minds, and is associated with, the Committee's game alone is of questionable value, because there was nothing to compare with it and no other producer to go to for intra-state high-school all-star football. 150 ALR 1067, 1084 "Doctrine of Secondary Meaning in the law of trademarks and of unfair competition", and cases cited at note 95.

An important but inconclusive factor (about which this Office has no information) is the cost, nature and extent of the Committee's popularizing and advertising of the alleged trademark as a mark, rather than simply using it as the name of its all-star game in advertising said game. Primal Feeding Center of New England, Inc. v. Janov, 201 U.S.P.Q. 44 (TMT & App. Bd. 1978). This factor is important because, to the degree thereof, the lack of such efforts would tend to disprove, while the extent of such efforts would tend to prove, the Committee's purpose and design to appropriate the name as its exclusive trademark. Such efforts are not conclusive, however, because the issue is the achievement of the result of secondary meaning, not the effort expended to do so. Id. at 1089-1091 and cases cited at notes 122-133. Here, again, the greater the degree of descriptiveness, commonness, and frequency of others' use, of the separate words, and, particularly, the entire phrase, the greater the degree of advertising effort necessary to give the phrase a primary association with the Committee or the Committee's game exclusively; and the greater the burden of proof that such efforts had achieved that goal, or even that they were directed at the goal of appropriating the phrase, as opposed to merely advertising its game, of which the phrase simply happened to be the descriptive name. Primal Feeding Center, supra.

An even more conceptually complex factor derives from the principle/requirement of appropriation as trademark of "source denotation". If the phrase must be associated with the source of the product, the Committee, as opposed to simply associated with the Committee's particular game, the public high school's all-star game, 74 Am.Jur.2d §169, supra and cases cited at note 66, then whether, and the degree to which, the consuming public cares who produced such games would be significant. 150 ALR supra at 1083 and cases

cited at notes 89, 90 and 91. However, modern courts have recognized, and the trend of the cases appears to be toward recognizing, secondary meaning associated with the specific product alone, such as Coca Cola, as opposed to requiring such secondary meaning to be associated with the producer. Id., at 1082 and cases cited at note 80.

Thus it is probable that the consumers concern with who produces such games would not be determinative. However, just what the consumers are concerned with in connection with all-star football games would certainly be relevant to the analysis of secondary meaning, the central issue of the likelihood of consumer confusion, and the ultimate question of trademark infringement or unfair competition. When evaluating proof of secondary meaning, a court is chiefly concerned with the attitudes of the purchaser toward the mark. Ideal Ind. v. Gardner Bender, 612 F.2d 1018 (7th Cir. 1979).

It appears that a great many potential consumers would care whether they supported or attended an Independent School's all-star game or a public school's all-star game due to some affiliation with either a public or independent school or some perceptions regarding the relative levels of play. It may be a separate question, however, whether they would be concerned with what organization produces a public school all-star game. The public may have acquired appreciation and trust for the Committee's selection of all-stars, cheerleaders, bank stadium, vendors, ushers, etc., and production of the big game itself. It is probable that many knowledgeable fans would be more concerned with the South Carolina Coaches Association's participation and auspices, which could raise a number of additional factual and legal questions about the relationship of that Association with the Committee in the production of the game. On the other hand, the fans may never have had occasion to become concerned with what organization(s) produced the intra-state all-star game or gave it its auspices, because they've never had any basis for comparison, the production was of varying or unremarkable quality, or such productions would be subject to little variation attributable to the producers. In that case, the trademark/unfair competition policy of protecting the value of the Committee's "good will" in the alleged trademark would not be so much at stake as the public's interest in avoiding confusion between public and independent high school's all-star games.

The probability of the public's being so confused by the Associations' use or uses of the phrase, so as to attribute the Associations' game to the Committee, is the ultimate and most important and essential question. Sterling Drug, Inc. v. Lincoln Laboratories, Inc., 322 F.2d 968, 972 (7th Cir. 1963). If a court's

resolution of the numerous factual issues resulted in a determination that the Committee had established "secondary meaning" of the phrase, as the game it produces, it could enjoin an infringing use by showing a "likelihood" that that use was likely to confuse members of the consuming public. Aloe Creme Laboratories, supra at 848. Indeed, all of the proceeding analysis of distinctiveness, source denotation, the descriptiveness continuum, commonness, public domain, geographical nature, "secondary meaning", length and exclusivity of use, monopoly in fact, advertising and the public's concerns are relevant to and could be embraced within this central, most important and ultimate question, analysis, doctrine and policy regarding the likelihood of the public's confusion.

Trademark Infringement/Unfair Competition or
"Fair Use": The "Likelihood of Confusion"

To constitute unfair competition the name must have acquired a secondary meaning that identifies the plaintiff and the defendant must have unfairly used the name to the prejudice of the plaintiff's interests. 40 ALR supra at 1076 citing McGraw-Hill Pub. Co. v. American Aviation Associates, 117 F.2d 293 (D.C. Cir. 1940).

It has often been observed that the law of trademark infringement is but a part of the broader fabric of unfair competition law, American Footwear Corp. v. General Footwear Co., 609 F.2d 655, 664, 204 U.S.P.Q. 609, 616-617 (2d Cir. 1979), cert. denied, 100 S.Ct. 1601, 205 U.S.P.Q. 680 (1980), and that the touchstone of both kinds of trademark infringement actions is the "likelihood of confusion". Helene Curtis Industries, Inc. v. Church & Dwight Co., Inc., 560 F.2d 1325 (7th Cir. 1977), cert. denied, 434 U.S. 1070 (1978). Application of this test emphasizes the public interest: the central question is whether the buying public may be deceived as to the source of the defendant's product. 560 F.2d at 1330. Accordingly, in the typical infringement action, the burden is upon the plaintiff to "establish that the infringer uses a mark likely to cause confusion or to deceive in...commerce". Telemed Corp. v. Tel-Med, Inc., 588 F.2d 213, 216 (7th Cir. 1978). It is sometimes said that "likelihood of confusion" is a mixed question of law and fact. Union Carbide Corp. v. Ever-ready, Inc., 531 F.2d 366, 383, 188 U.S.P.Q. 623, 638-639 (7th Cir. 1976). However, "confusion" is a question of law only to the extent that the determination is predicated on the similarity of the marks themselves; this is because the court is in as good a position as the jury to undertake such a comparison. Otherwise the likelihood of confusion should be determined in light of buyer's perceptions. National Blank Book Co. v. National Data Products, 213 U.S.P.Q. 70, 76 (N.D. Ind. 1981). In determining whether this likelihood of confusion exists, courts consider such factors as the type of trademark in issue, the simi-

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ilarity of design, similarity of products and purchasers, identity of advertising media utilized, defendant's intent, and actual confusion. Union Carbide, supra, at 381-82.

The factual matter of the actual use by the Associations of "North-South All-Star Football Game" is thus central to this next potential stage of analysis, which primarily involves the likelihood of consumer's confusion. If the term has obtained secondary meaning to South Carolina consumers as denoting the Committee's game, the Committee is entitled to protection from trademark infringement and/or unfair competition by unfair use of the phrase or term to "pawn off" the Association's game as the Committee's. Alternatively, because of its primarily descriptive meaning, there could be no confusion absent "secondary meaning", and the Associations have a defense of, and a right to, "fair use" of the phrase or term. Even if the term did constitute a trademark because of its secondary meaning, its descriptive nature would allow the Associations to use the name to inform buyers of the nature of the case under the fair use doctrine. Ideal Industries v. Gardner Bender, 612 F.2d 1018 (7th Cir., 1979). A correlary doctrine is that it is not the use of the term, but the names and method of its use, which can be enjoined under the doctrine of secondary meaning. An injunction will restrain the use by another of a term with secondary or trademark sense, that is, in a way indicating source or origin, but not the use in its primary or descriptive sense. 74 Am.Jur.2d supra, §147 and cases cited at notes 98 and 99. See, e.g., King-Size, Inc. v. Frank's King-Size Clothes, Inc., 547 F.Supp. 1138 (S.D. Tex. 1982) wherein the Court ruled that although KING-SIZE is descriptive of clothing for large men, it is not generic, and therefore, it refused to cancel the plaintiff's federal registrations. It further ruled, however, that defendant's use of KING-SIZE for clothing is descriptive and does not infringe plaintiff's rights in KING-SIZE for clothing.

The use provided this Office, the News and Courier reference to "a North-South All-Star Football Game", as opposed to "the North-South All-Star Football Game" (emphasis added), is relevant to the factual determination of whether the Association's use was "fair" or "unfair". The fairness determination basically turns on the related factors of whether the consumers are, or are likely to be, confused, and whether "pawning off" the Association's games as the Committee's by so confusing them was the Association's reason for using the term, as opposed to calling the game by its proper and accurate title or name. Since the use of the article "a", denotes the existence of more than one such game, it would militate against determining the use either does, or is intended to, confuse consumers.

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On the other hand, the use of capital letters could indicate a title or a proper noun rather than simply a descriptive phrase or generic noun. However, even if the parties have consistently capitalized a product name, this fact alone does not constitute a trademark usage if, in context, its use was descriptive rather than indicative of the source or origin of the product. Sconwell Laboratories, Inc. v. Dep. of Transp. Federal Aviator Admin., 484 F.2d 1385, 179 U.S.P.Q. 233, 238 (C.C.P.A. 1972).

Another factor in determining whether a use is likely, or is intended, to confuse consumers is the sophistication of the consumers in the context of the products. 74 Am.Jur.2d supra, §110 citing Federal Secur. Co. v. Federal Secur. Corp., 129 Or. 375, 276 P. 1100, 66 ALR 934. Where a business offers its services only to a small, highly specialized group, capable of close discrimination, a greater degree of similarity of names will be tolerated than where the business offers itself generally to all comers, most of whom will respond to similarity and not investigate identity, especially where the articles are commonplace and are purchased without a careful scrutiny of the identity of the vendor. Id.

The threshold factual question here is who is interested, concerned or involved in South Carolina all-star high school football games. Certainly high-school football players, coaches and fans, their friends and families, and the media would be potential consumers. How likely are these people to become confused and purchase tickets or donate funds to the independent high school students' all star game when they mean to purchase tickets or donate funds to the public high school students' all star game?

A correlary question is whether there is similarity of customers, or two or more or less distinct groups; i.e. public high school football fans and independent high school football fans. However, direct competition is not necessary to entitle plaintiff to relief. Sears Roebuck and Co. v. Allstates Trailer Rental, Inc., 188 F.Supp. 170, 176 (D. Md. 1960) and cases cites therein.

Evidence of ticket buyers' or donors' actual confusion would, of course, be highly probative of all of these subsidiary factors, as well as directly probative of the ultimate question of "likelihood of confusion". Resolving these questions of fact poses evidentiary problems of considerable magnitude, as does determining the Association's intent in using the term or phrase.

A Court would probably determine that the use provided this Office at least was a "fair" use, however, for the additional and compelling reason that the Associations' full names are used in immediate juxtaposition with the term in question, so that this use

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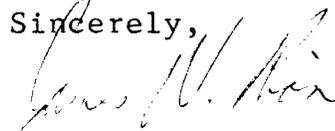
probably was not intended to cause the consumer (anyone interested in high school football) confusion to the Committee's detriment, nor would it be likely to do so. See Am.Jur.2d §147 supra and cases cited at notes 2 and 3.

Conclusion

Any other use of this phrase composed entirely of common descriptive words would be subject to similar analysis. If a court made the threshold factual determination that the phrase had secondary meaning, and then made the factual determination that such other uses were intended, or likely, to cause consumer confusion to the Committee's detriment; it could enjoin such infringing uses. However, a Court would probably not enjoin non-infringing uses, such as that provided the office, where one of the Associations' names clearly modifies the phrase, thus disclaiming the game's origin in the Committee, and any injunction it did issue should so provide. Id. and cases cited at notes 98, 99, 2 and 3.

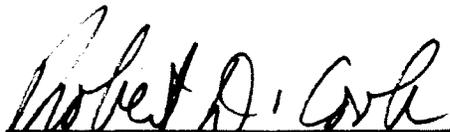
As illustrated above, however, these determinations involve numerous evidentiary and factual inquiries and determinations (those regarding consumer perceptions being of large scale) which this Office is not authorized to make in the course of issuing an Attorney General's Opinion. Only a court in a proper case could properly resolve the question of the North-South Game Committee's trademark and unfair competition rights, if any, in their "North-South All-Star Football Game" Logo, or the name "North-South All-Star Football Game".

Sincerely,


James W. Rion
Assistant Attorney General

JWR:ppw

REVIEWED AND APPROVED BY:



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Executive Assistant for Opinions