"PLAY GLORIA" (AND TRADEMARK AND COPYRIGHT IT, TOO?)

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It would be difficult now to find someone in St. Louis unaware of the "Play Gloria" anthem for the St. Louis Blues.

The origins of that victory chant were in January of this year when several Blues players went to watch the NFC wild-card game at a bar in Philadelphia. Reportedly, someone kept yelling for the DJ to "Play Gloria," Laura Branigan's Grammy-nominated song—a 1982 hit that is actually older than every player on the St. Louis Blues roster.

Whenever the DJ obliged, the bar would go crazy. Apparently, the Blues' players loved it—and so has St. Louis ever since.

Arch Apparel - Play Gloria



In an effort to capitalize on the momentum, everything from stickers to t-shirts have popped up, emblazoned with the "Play Gloria" words (i.e., Capes Sokol client Arch Apparel). But to truly "capitalize" on it would be to "own" the rights to it, thus preventing anyone else from being able to capitalize on it, too. Which is exactly what that bar in Philadelphia attempted to do.

The choice of a lawyer is an important decision and should not be based solely upon advertisements.

Trademarking "Play Gloria"

On May 8th of this year, Jacks NYB, LLC filed a trademark application for "Play Gloria" and then began sending cease-and-desist letters to a variety of businesses that were also using the phrase.



The Jacks NYB - Facebook

The issue, however, is that the bar's name is not "Play Gloria." All it has done is released a t-shirt with the "Play Gloria" phrase on it. It is unlikely that trademark rights can exist in that t-shirt alone. Why not? Because trademarks are, by definition, meant to be a source identifier. Think of a red bullseye and what comes to mind? Target. A black swoosh? Nike. Golden arches? McDonald's. Those logos identify a brand (or source) so that anytime you walk into a store bearing that logo out front or buy a product with that logo on it, you know the source. Simply putting "Play Gloria" on a t-shirt does nothing to identify the source of the goods, and, thus, does not function as a trademark in any ordinary sense of that term.

Copyrighting "Play Gloria"

The intellectual property right that could exist in an original "Play Gloria" design is a copyright. This is limited, though, to one's expression of "Play Gloria." If I decide to make an original and creative t-shirt design of "Play Gloria," then that is copyrightable and no one can "copy" that exact design or a derivative of it. However, people can create their own designs using "Play Gloria," so long as those designs do not "copy" another person's "Play Gloria" design.

While I don't necessarily enjoy hockey, I always enjoy a good legal issue and the monetization of "Play Gloria" has presented our firm with several intellectual property issues which—like the Blues—Capes Sokol has been "winning."

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