



August 2004

Once more around the track...

The continued promotion of Player's cigarettes through CART racing.

RACING CARS THAT PROMOTE CIGARETTE BRANDS ARE ILLEGAL IN CANADA

On October 1, 2003, the federal *Tobacco Act* and the Quebec *Tobacco Act* came fully into force. After that date, tobacco sponsorship promotions were no longer exempted from the general prohibition on tobacco advertising in Canada and in Quebec.

Both federal and Quebec law bans tobacco advertising and sponsorship promotions.

Tobacco is an area of shared jurisdiction, and both federal and provincial governments have legislated restrictions on cigarette promotions. The federal *Tobacco Act* says:

19. No person shall promote a tobacco product or a tobacco product-related brand element except as authorized by this Act or the regulations.

24. No person may display a tobacco product-related brand element or the name of a tobacco manufacturer in a promotion that is used, directly or indirectly, in the sponsorship of a person, entity, event, activity or permanent facility.

A brand element includes a brand name, trade-mark, trade-name, distinguishing guise, logo, graphic arrangement, design or slogan that is reasonably associated with, or that evokes, a product, a service or a brand of product or service, but does not include a colour.

The Quebec *Tobacco Act* says:

22 Any direct or indirect sponsorship that is associated in any manner whatsoever with the promotion of tobacco, a tobacco product., a brand of tobacco product or a manufacturer of tobacco products, is prohibited.

[Until October 1, 2003, existing sponsorship contracts were exempted from this provision]

23 No name, logo, brand element, design or slogan, except a colour, that is associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, may be associated ...with a sports, cultural or social facility, a health and social services institution or a research centre attached to a health and social services institution.

Furthermore, no name, logo, brand element, design or slogan, except a colour, that is associated with tobacco, a tobacco product, a brand of tobacco product or a manufacturer of tobacco products, may be associated with a sports, cultural or social event, except in connection with a sponsorship referred to in section 22.

Player's cigarettes – pre 2003

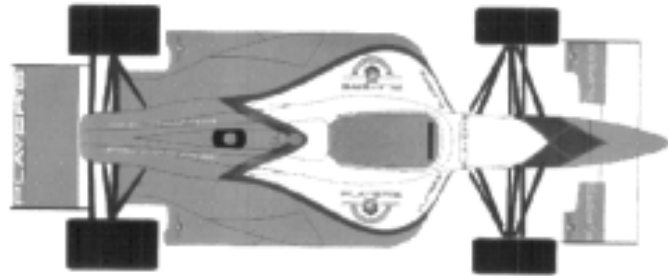


Player's cigarettes – post 2003



THE FORSYTHE RACING TEAM CONTINUES TO DISPLAY PLAYER'S RACING DESIGNS.

Forsythe cars stopped displaying the name and slogans associated with *Player's Racing/It's your world* after October 1, 2003, but continue to display the graphic arrangements, distinguishing guise and trademarked chevron¹ of Player's cigarettes. The continued use of the distinctive blue and white Player's chevron on the Forsythe racing team cars and drivers' suits during Molson Indy races in Canada evokes the Player's cigarette brand (even though such evocative designs and associations are explicitly banned under federal and Quebec laws).



The Forsythe Racing Car and Imperial Tobacco's trademarked car design²



THE FORSYTHE TEAM STILL HAS A CLOSE RELATIONSHIP WITH IMPERIAL TOBACCO

The Forsythe Player's Team was the flagship of Imperial Tobacco's promotional campaign for Player's cigarettes, and Imperial Tobacco purchased a 50% share in the company. Ten months after the supposed end of sponsorship, there are continued media reports that **Imperial Tobacco is still a co-owner of the Forsythe Racing Team**. In July 2004, the Toronto Star reported that "Imperial Tobacco, through Player's, still owns a 50 per cent share of Player's/Forsythe Racing."³



Before October 1,
2003

After October 1,
2003



Before October 1, 2003



After October 1, 2003

PLAYER'S STILL USES FORSYTHE RACING AND CART.COM TO PROMOTE CIGARETTES IN RETAIL STORES.

After retail promotions for cigarettes became illegal on October 1, 2000, Imperial Tobacco took down its "Player's Racing" displays and replaced them with "CART.COM" displays. The business connection between CART and Player's was also clear: CART was co-owned by and promoted Gerald Forsythe's Player's/Forsythe Racing team.



CART filed for bankruptcy in December, 2003 – but CART advertisements continue to be displayed in Canadian stores in August 2004.

Although these displays arguably promoted Championship Auto Racing Team, they also arguably continued to support Imperial Tobacco's imagery for Player's cigarettes because:

- they obviously resembled Player's Racing cars
- they were distributed by cigarette companies
- they continued to be displayed, months after the CART operation became bankrupt.
- they were placed in the same mounting as the newly-illegal Player's ads

WHAT'S WRONG WITH THIS PICTURE?

Imperial Tobacco has continued to use racing imagery to promote its cigarette brands, and the federal and provincial governments have been unwilling or unable to prevent this. Actions that governments could take (but have not yet done) include:

- requesting the Forsythe team to voluntarily change its car and uniform design
- requesting or requiring that race organizers ensure that cars no longer promote cigarette brands (most races are run on city streets or property, which gives government's the power to make this request)
- investigating the relationships among Imperial Tobacco, the Forsythe Racing Team and CART and making the results of this investigation public
- requesting or requiring retailers to remove CART promotions
- filing a charge under the federal or Quebec Tobacco Act, and allowing a judge to determine whether the racing cars directly or indirectly promote cigarettes

MORE PHOTOS

Before October 2003



After October 2003



¹ Registered trade mark # TMA220643. Trade Mark Data Base, Strategis Canada.

² Trademark # TMA475855 registered in 1997 to Imperial Tobacco. www.strategis.ic.gc.ca
Associated with trademarks: TMA471,010 TMA471,052 TMA472,509 TMA472,517 TMA475,563
TMA481,389 TMA482,463 TMA501,025 TMA512,686 TMA512,897, TMA512,926 TMA514,542
TMA516,025 TMA516,558 TMA516,563, TMA516,597 TMA516,693 TMA516,694 TMA520,128
TMA520,129, TMA562,134 TMA562,471 TMA565,482 TMA565,483 TMA565,484, TMA565,499
TMA565,601 TMA566,181 TMA566,182 TMA566,641. 1,122,408 1,181,915

³ Tobacco Police butt out after visit to Forsythe garage. Rick Matsumoto. Toronto Star. July 10, 2004