Intellectual Property and The NCAA

Follow this and additional works at: https://ecommons.udayton.edu/stander_posters

Part of the Arts and Humanities Commons, Business Commons, Education Commons, Engineering Commons, Life Sciences Commons, Medicine and Health Sciences Commons, Physical Sciences and Mathematics Commons, and the Social and Behavioral Sciences Commons

Recommended Citation
https://ecommons.udayton.edu/stander_posters/736

This Book is brought to you for free and open access by the Stander Symposium at eCommons. It has been accepted for inclusion in Stander Symposium Posters by an authorized administrator of eCommons. For more information, please contact frice1@udayton.edu, mschlangen1@udayton.edu.
**INTRODUCTION: What is Intellectual Property?**

- Intellectual Property is broken down into two general types: (1) IP that protects the functional, or utilitarian, aspects of an invention, and (2) IP that protects the non-functional, or ornamental, aspect of an invention.
- Law does not protect ideas, rather law protects ideas that become a part of tangible mediums. Content-based ideas, copyrights, trademarks, patents, trade secrets, company names, etc. are all protected by Intellectual Property Law.
- To protect intellectual property, companies must identify what its IP is and cover themselves from the competition. This allows for a competitive advantage.
- Intellectual property, in essence, is an intangible object that is protected by the law and can only be enforced through the legal process.

**Importance of Intellectual Property**

- Intellectual Property allows the creator to have an asset that can be turned back to them for revenue. It bars any other competitor to obtain the product and use it commercially.
- The WIPO, World Intellectual Property Organization, states that “IP protection is only worthwhile if the owners are capable of effectively enforcing their rights, particularly in a world where the infringement of protected rights has accelerated to an [hitherto] unprecedented extent”.
- Three reasons to protect IP:
  - Reinforce the meaning of the law
  - Damage Caused by counterfeiting
  - Are their deficiencies in the current law relating to counterfeiting
- Another reason is because of the violation of Sherman Anti-Trust laws.

**Cornerstone Cases**

**1**

- Ed O’Bannon is the plaintiff and the NCAA is the Defendant
- Reasons for the complaint:
  - The NCAA is an organization that creates an anti-competitive conduct in regards to commercial business
  - Claims that the NCAA has no right to use the name, image, or likeness of an athlete
  - “You authorize the NCAA, or a third party acting on behalf of the NCAA, to use your name or picture to generally promote NCAA championships or other NCAA events, activities, or programs”
  - Exclusion from the college licensing market
- The NCAA claims that Ed O’Bannon does not have Sherman Anti-Trust standing because in order to have standing you must:
  - Alleging Anti-Trust Injury
  - Unlawful Conduct
  - Causing an injury to the plaintiff
  - Injury that flows for the unlawful conduct
  - Of the type that antitrust laws were intended to prevent

**Ed O’Bannon Case**

O’Bannon v NCAA

**2**

- Jeremy Bloom was recruited to play football at the Colorado University
- Bloom wanted to be endorsed to help with his skiing career, in which he was an Olympic and World Cup athlete.
- Colorado University filed a waiver to the NCAA on behalf of Bloom, but the request was denied.
- Bloom said there were 3 violations to the NCAA hindering him from being endorsed
  - 3rd party beneficiary, entitled to enforce NCAA bylaws permitting him to receive compensation from a sport different than his amateur sport
  - Restrictions from the NCAA were arbitrary and capricious
  - Constituted improper and unreasonable restraint of trade.

**Jeremy Bloom Case**

Bloom v NCAA

**REFERENCES**


**ACKNOWLEDGEMENTS**

Thank You to Dr. Daprano for her guidance during this ongoing research thesis.