
Advanced Certificate in Sports Law

Intellectual Property in Sports

Intellectual Property (IP) in sports refers to the legal rights that protect intangible assets in the sports industry, such as logos, trademarks, inventions, and creative works. IP rights enable sports organizations, athletes, and related businesses to control the use of their assets and prevent others from unauthorized use or infringement. In this explanation, we will discuss key terms and vocabulary related to IP in sports in the context of the Advanced Certificate in Sports Law.

1. Copyright

Copyright is a legal right that protects original literary, dramatic, musical, and artistic works, such as books, plays, songs, and paintings. In sports, copyright may protect sports broadcasts, team mascots, and sports-related videos or photographs. Copyright arises automatically upon creation of the work and lasts for a certain period of time, typically the life of the author plus a certain number of years.

For example, a sports photographer who takes pictures at a football game owns the copyright in those photos. The photographer can license the photos to media outlets, merchandise manufacturers, or other entities for a fee. Any unauthorized use of the photos without the photographer's permission may constitute copyright infringement.

2. Trademarks

A trademark is a distinctive sign or indicator used to identify goods or services of a particular source from those of others. Trademarks may include words, phrases, symbols, or designs, and are used to protect brand names, logos, and slogans. In sports, teams, leagues, and athletic apparel companies use trademarks to distinguish their products and services from those of competitors.

For example, the National Football League (NFL) owns trademarks for the names and logos of all 32 NFL teams. The NFL can license these trademarks to merchandise manufacturers, broadcasters, and sponsors for a fee. Any unauthorized use of the NFL's trademarks without permission may constitute trademark infringement.

3. Patents

A patent is a legal right that protects inventions, such as new processes, machines, or chemicals. Patents give inventors the exclusive right to make, use, and sell their invention for a certain period of time, typically 20 years from the filing date. In sports, patents may protect new sports equipment, training methods, or game rules.

For example, a company may patent a new design for a football helmet that provides better protection for players. The company can then exclusively manufacture and sell the helmet for a certain period of time, preventing competitors from copying the design.

4. Trade Secrets

A trade secret is confidential information that gives a business a competitive advantage. Trade secrets may include formulas, patterns, compilations, programs, devices, methods, techniques, or processes. In sports, trade secrets may include player training methods, game strategies, or business operations.

For example, a professional sports team may have a trade secret for its player scouting and recruitment process. The team can prevent competitors from using its scouting methods by keeping them confidential and limiting access to authorized personnel.

5. Licensing

Licensing is the practice of granting permission to use intellectual property rights in exchange for a fee or royalty. In sports, licensing is a common way for teams, leagues, and athletes to generate revenue from their IP rights. Licensing agreements may include merchandise licenses, sponsorship licenses, or broadcast licenses.

For example, a sports apparel company may enter into a licensing agreement with a professional sports team to manufacture and sell team-branded merchandise. The company pays the team a royalty fee for each item sold, and the team benefits from increased exposure and revenue.

6. Infringement

Infringement is the unauthorized use of intellectual property rights without the owner's permission. Infringement may include copyright infringement, trademark infringement, patent infringement, or trade secret misappropriation. Infringement can result in legal action, including injunctions, damages, and attorney's fees.

For example, a company that manufactures and sells counterfeit sports merchandise without permission from the team or league may be liable for trademark infringement. The team or league can seek injunctive relief to stop the sale of the counterfeit merchandise and damages for any lost revenue.

7. Ambush Marketing

Ambush marketing is a marketing strategy that aims to associate a brand with a sports event or team without paying for official sponsorship or licensing rights. Ambush marketing can take many forms, such as guerrilla marketing, experiential marketing, or social media marketing.

For example, a company that sets up a promotional booth near a sports stadium during a major event may be engaging in ambush marketing. The company can benefit from the event's exposure and popularity without paying for official sponsorship or licensing rights.

8. Athlete Image Rights

Athlete image rights refer to the legal rights that protect an athlete's name, image, likeness, and reputation. Athlete image rights may be protected by copyright, trademark, or privacy laws. Athletes can license their

image rights to sponsors, advertisers, or merchandise manufacturers for a fee.

For example, a professional athlete may have image rights in his or her name, signature, or likeness. The athlete can license these image rights to a sports apparel company for use on merchandise, such as jerseys, hats, or shoes. Any unauthorized use of the athlete's image rights without permission may constitute infringement.

9. Right of Publicity

The right of publicity is the legal right of a person to control the commercial use of his or her name, image, likeness, or other identifying characteristics. The right of publicity is related to, but distinct from, athlete image rights. The right of publicity may be protected by state or federal laws.

For example, a celebrity athlete may have the right of publicity in his or her name and image. The athlete can prevent advertisers or merchandise manufacturers from using his or her name or image for commercial purposes without permission.

10. Moral Rights

Moral rights are the legal rights of an author or creator to control the integrity and reputation of his or her work. Moral rights may include the right of attribution, the right of integrity, and the right of withdrawal. Moral rights are protected by copyright laws in many countries.

For example, a sports photographer may have moral rights in his or her photographs. The photographer can prevent the alteration or destruction of the photographs without permission, and can claim authorship or attribution for the photographs.

In conclusion, intellectual property rights play a critical role in the sports industry, protecting the intangible assets of teams, leagues, athletes, and related businesses. Understanding the key terms and vocabulary related to IP in sports is essential for anyone involved in sports law, management, or marketing. By protecting and enforcing IP rights, sports organizations and athletes can generate revenue, build brand value, and maintain their competitive advantage.