Panel 3: Evolution of IP as a Value Driver in Sports

Presented by: Covington & Burling LLP

Introduction: Hi everyone. On behalf of the Sports Law Association here at NYU we'd like to thank you for joining us this afternoon. We have our third panel coming up, and that is the Evolution of Intellectual Property as a Key Value Driver in Sports. That's sponsored by Covington. We have Professor Martin Edel who will introduce the rest of the panelists.

Martin Edel: Thanks so much. I'm Martin Edel. As you heard, we have a panel today talking about the Evolution of Intellectual Property as a Value Driver in Sports. I am so pleased to be with this panel, because I hope they're going to explain to me what that title means.

Let me introduce the panel to you. I'll do it in alphabetic sequence. I start with Wendy Bass over on the right. Wendy is a senior vice president of business and legal affairs at NBC Sports Group. Wendy oversees the negotiation and administration of major national and regional rights agreements including the NFL, NASCAR, Premier League, and FIFA agreements. She supervises contracts for premier on-air talent and manages NBC Sports Group's relationship with the NBC Universal content distribution team. Wendy also provides support for the NBC Sports Group programming, business development, and marketing teams, in addition to the NBC Sports Group's cable and digital businesses.

She started at NBC in May 2005. Prior to that Wendy was an associate at the law firm of Cahill, Gordon & Reindell in New York where she focused, not on sports, but on securities transactions and general corporate law. Before beginning her legal career, Wendy worked at the NBA from 1997 to 1999 as an account executive in the marketing partnerships division working with the NBA and WNBA sponsors.

Wendy graduated from the University of Pennsylvania in 1997 with a Bachelor of Arts degree in International Relations and French, so you can excuse her if she lapses a little bit into French today. She also played on the Penn Varsity Women's soccer team. She received her JD from Florida University School of Law where she was managing editor of the Fordham Sports Law Association and vice president of the Student Bar Association.

Sitting all the way down on the other end, I guess we're working towards the middle here, is Christopher Chase. Christopher is a partner with Frankfurt Kurnit, one of the preeminent IP firms in the city, where he practices intellectual property and marketing law with a particular focus on sports and event marketing. Chris's practice includes negotiating sponsorship and endorsement agreements for American Express, Heineken, Infor Technologies, Jaguar, Land Rover, and the Dunkin Brands including naming rights deals for Dunkin Donuts Park in Hartford. I'm sure a number of you have been there already, so I need not describe the park to you.

His experience includes negotiating Mumm Champagne's endorsement agreement with Usain Bolt, negotiating production and distribution agreements for Gatorade, branded documentaries, advising the NHL on entertainment and trademark matters, and recently assisting an English Premier League player with his transfer to Major League Soccer, something which will be important when we get to the next part of this program when Professor Miller interviews the Commissioner of Major League Soccer.

Sitting to my immediate right is Jeremy Hutcher. Jeremy is an associate at Covington, one of the sponsors of this program. Jeremy advises clients on a broad range of commercial issues with a specialty in media, technology, and intellectual property transactions. In the sports field, Jeremy has represented the NBA, NFL, NHL, and others on a variety of cutting-edge licensing, product development, and media rights issues, some of which he will be discussing over the course of the next hour or so. In addition to his sports practice, Jeremy has significant experience negotiating outsourcing and other technology-focused agreements.

Sitting two over to my left is Cameron Myler. A number of you may know Cameron as a clinical assistant professor at NYU's Tisch Institute for Sports Management, Media, and Business where she is my boss, so make sure you applaud her significantly. Cameron teaches sports and her research focuses on legal issues in Olympic and international sport as well as on intellectual property, athletes' rights, and using sports to promote diversity and inclusion.

Prior to teaching, Professor Myler litigated intellectual property matters for a decade, which makes me feel

really good because, other than that, I'm the only litigator on this panel. She worked first at Millbank Tweed and then at Frankfurt Kurnit, the same firm where Chris Chase is a partner. She has represented clients such as Nike, Tribune Media Services, and the Tribeca Film Festival in IP litigation, and worked on J.D. Salinger's last copyright infringement case. That did not involve sports.

She has also represented Olympic athletes and sports organizations in regulatory, eligibility, ethics, and anti-doping matters. Professor Myler is a member of the Court of Arbitration for Sport, where she adjudicates sports related disputes. She has served on the Olympic Committee's Olympic Agenda 2020 Working Group on Cultural Strategy, and has lectured in Greece at the International Olympic Academy's post-graduate seminar in Olympic Studies.

She was a member of the U.S. Olympic Committee's Board of Directors, and the Athletes' Advisory Council for eight years. She was appointed to the USOC's Ethics and Governance Task Force that developed and led to the implementation of significant changes to the USOC's governance charter. She's also served as vice-president of USA Luge and was recently appointed as the chairperson of the organization's Audit and Ethics Committee. I'm not done with her.

Cameron competed in four Olympic games in the sport of luge. She was elected by her teammates to carry the American flag at the opening ceremonies of the 1994 Olympics. In addition to that, she has an education. She graduated from Dartmouth cum laude after retiring, and after retiring from competitive sports she proceeded to get her JD from Boston College Law School. She's also completed an executive master's in sports organization management coordinated by the International Olympics Committee. Did I miss anything, Cameron?

CAMERON MYLER: No, I think that's good.

MARTIN EDEL: Great! Now sitting to my immediate left, a number of you, like me, will recall that Ed O'Bannon was a power forward for UCLA in the early 1990s. He played on the Bruins 1995 NCAA championship team. In addition to the many awards that Ed won, Ed's number, 31, was retired by UCLA. Ed was the ninth pick in the 1995 NBA Draft, selected by what was then known as the New Jersey Nets. Ed played for two years in the NBA, playing

for the Nets and the Dallas Mavericks. After, he spent another eight years playing primarily in Europe.

Despite his credentials, those of you who have studied or are studying sports law, may recognize Ed as the plaintiff in what is known as the O'Bannon Case. In that case, and I will let Ed describe that later in the program, Ed and former college basketball and football players sued the NCAA on anti-trust grounds for using their name, likeness, and image without their consent. That case resulted in the NCAA being held subject to the anti-trust laws. Ed continues to be involved in basketball. You are the head coach of the boy's basketball team at the Henderson International School?

ED O'BANNON: I was there a couple years ago. Then I coached my kid in high school. Now I'm at Henderson International, which is also Findlay Prep, so yes.

MARTIN EDEL: We are very pleased that Ed has traveled all the way from Nevada to be a member of this panel.

Those are our panelists and it's a very distinguished panel that we have here.

Let me give you a quick overview of intellectual property in sports, why it has evolved, and then we'll have the panelists start talking about the drivers in intellectual property. So, as many of you know, intellectual property has many facets to it. Copyright, trademark, patents, privacy, publicity, and more recently anti-trust, to name a few. Each of these legal constructs plays an important part in helping to protect the rights of the different participants in sports. Players, owners, teams, leagues and their partners, broadcasters, sponsors, and others. Intellectual property in sports has many aspects. I always look for people who are wearing caps. I see two. Some of you may have jerseys. Some of you may be aficionados of fantasy sports leagues. If you are, you wouldn't be alone because over 50% of Americans participate in fantasy sports leagues. Some of you go to sporting events and we have a plethora of venues in New York. The Barclays Center, Madison Square Garden, Citi Field, Yankee Stadium, or soon the newly renovated Nassau Coliseum. There's more. There are the broadcasts, once only on television for those who are my age, and now on cable and the internet. There are sponsorships and lucrative licensing deals, and of course look how much Steve Ballmer paid a couple of years ago to buy the San Diego Clippers.

$2 billion. A billion here, a billion there, eventually it adds up. So why are sports so lucrative? What rights exist? Have sports kept pace with the modern technologies, or vice versa? These are some of the questions we'll be dealing with over the course of the next hour or so. From a business perspective, intellectual property has evolved. Let's start with players. Players have become more aware of, and want to take advantage of, the opportunities to make money from the use of their name, likeness, and image. That goes for former players as well. Owners, teams, leagues, and the NCAA have become more aware of the value of commercial licensing rights. Returns on investment and helping to make teams competitive and then generating fan interest and loyalty are realized through valuable licensing contracts, broadcast deals, and marketing merchandise. Sponsors and broadcast companies have poured billions of dollars into licensing players, teams, and sports.

Of course fans, or consumers, are willing to pay billions of dollars to see their favorite players and teams on TV, cable, the internet, or in person. To own their share of the players and teams through jerseys, caps—I don't know if any of you have bobble head dolls, but that's another way—and other paraphernalia, and to compete through fantasy leagues or, as you probably sometimes refer to it, online gambling. New technologies have changed the way all these participating interests negotiate and reap the benefits of sports. Today we will explore that.

So before I turn this over to the panel, let me just identify for you some of the statistics that I did a Google search on this morning to come up with. So in 2015, over 57 million Americans and Canadians played fantasy sports. That was up 36% from 2014. From a league perspective, fantasy league participants become much more involved with players, teams, and leagues. They spend more money with the players, teams, and leagues. In other words, fantasy leagues enhance interest in the underlying sports. In July 2015, the NBA announced that it had struck a nine-year deal to license games to ESPN and Turner Sports for the mind-blowing amount of $24 billion, or $2.66 billion annually. Maybe Steve Ballmer's bid of $2 billion wasn't that off the wall. That's before any tickets are sold, beer is sold or concessions, or before a jersey is sold. It also doesn't count, of course, the NBA's deal to broadcast its events in China.

On October 1, 2014, the NFL announced a new eight-year licensing deal with DirecTV for exclusive rights to its Sunday night ticket package, worth an average of $1.5 billion annually. That did not count streaming rights, NFL, direct, or radio. That was on top of the broadcast deals with Fox, NBC, and CBS, which were worth over $27 billion over the course of nine years, or about $3 billion per year. Let's not forget ESPN. ESPN has a licensing deal with the NFL for $1.9 billion per year. According to Nielsen's data, for the 2014 season, 80% of all television homes and 68% of all potential viewers in the US saw an NFL game. Again, that's before a single ticket, can of beer, or jersey was sold.

I want to conclude this romp through history by talking a little bit about the NCAA. Just over 30 years ago, television rights to the NCAA's men's basketball tournament, this is well before Ed played, earned about $190 thousand. As late as 1981, the television rights were sold for $9 million per year. In 2003, CBS paid the NCAA $360 million. You're getting the trend here? In 2010, Time Warner and CBS signed a $10.8 billion deal with the NCAA for 14 years. That does not count local rights, radio, streaming, or merchandising, alumni donations, or ticket sales. Quite an extraordinary jump. As we'll talk about a little bit later, schools, coaches, and the NCAA take in billions per year. The University of Alabama's football coach, Nick Saban, earned $7 million last year. Bill O'Brien, who's now a coach in the NFL, formerly with Penn State, received over $3 million in 2013.

This of course leads me to a joke, or horror story, depending on how you want to look at it. What do you call an organization that makes more than $1 billion in a single month, using unpaid labor? Some call it exploitation. Others opportunity. But most of the nation calls it March Madness. As you are aware, until this groundbreaking suit that Ed filed, the players responsible did not share the wealth. Even now they still don't. So, that's our background as to why sports are there, and what it creates for the different participants. I'd like to ask first, Chris and Jeremy, if you would, since you deal regularly with owners, leagues, and teams, can you explain to the audience why those participants put such a high value on the protection of their intellectual property, and what it entails?

CHRISTOPHER CHASE: Sure, absolutely. So, I have to go to sports law conferences and sports business conferences. Every time the executive is up there from a team or a league, one thing they always mention is how valuable their IP is, and how they go way out of their way to protect their IP. They're not only talking about their trademarks, and their logos, and things like that, but really the content that they're providing. It makes sense. We titled this panel The Evolution of IP as a Key Value Driver. As you heard from those different numbers, it's all gone up over the years. It has a lot to do with the intellectual property. It's not only just selling tickets. I mean, to some extent, teams aren't as interested in filling the stadium as they are at getting a good deal with the broadcaster, or the regional sports network, or the streaming rights. They can make so much more money that way than simply selling tickets.

So it's gone from a system of simply bringing people into the stadium to broadcasting it to the world. Every once in a while, a sports business journal will show a little pie chart, showing the value of money the teams are making. It used to be that tickets had the biggest slice of the pie. Wow it's a much smaller slice. Everything else is content, media and broadcast rights. Wendy, certainly, you know all the details on that. So they protect these rights. The content itself may be controlled by the league as opposed to the team. The team may want to slice out and carve out some rights though for themselves, so they can offer sponsors, so they can offer their consumers, so they can put things on their own regional sports network that maybe they control as opposed to one of the national broadcasters.

The other thing I often see is changing logos or updating logos. They're coming out with new merchandise and a lot of times it's part of a refresh or rebranding. It also has a lot to do with the merchandising. Teams will now have a third jersey that they'll bring out every once in a while and that's done often for selling more merchandise. Or they have an updated, refreshed logo. Of course, with expansion teams' relocation, that's a big thing as well. I remember doing some research on this a while back. In the early nineties, the San Jose Sharks, which were an expansion team, had the highest amount of sales from merchandise from any team across any league at that time other than Michael Jordan's Chicago Bulls. They were in last place for three straight

years. The people liked the logo, the shark biting the hockey stick, and it was really cool and the colors were different. You could see how IP, this logo, made a lot of money for a team that was not really playing that well.

Later on, twenty years later, the Washington Capitals refreshed and had a third logo and sold tens of more millions worth of merchandise because of that. So it's interesting to see how teams will develop IP and will do so not only to please the fans and have something new to show them, but also to make money to some extent.

I guess Jeremy, please jump in and I can jump to some other points later as well.

JEREMY HUTCHER: I would just sort of add, I represent the league in a lot of media negotiations, and one of the things that's really interesting is when you consider what is really at stake. You have a court and a stadium filled with people. If you think about sixty years ago, as Marty was talking about, the main revenue driver was just filling the seats with people and selling beer and selling tickets. Now, if you think about it, you can carve up the rights in so many different ways. You can do it by the mode of distribution.

So, for example, take TV rights. That used to be the main way games would get out to the public. Then you can split up TV rights into in market and out of market. That leads to additional rights fees for everybody and everybody can share in that bigger pie. What we're seeing now is, to split this up even more, you can have television versus online distribution, where now there's all sorts of new technologies as well. So, if you think about it, a game is really just one part of this puzzle and it's really just a small piece of this puzzle.

What's really interesting, what I'd really like to see, is how innovative a lot of the leagues have been and how willing they are to sort of try new things. I was talking to Wendy about this before. There's been a big push by the NBA in particular to put games in virtual reality and really push the envelope as to what fans can consume. It's a new revenue stream, it's a new sort of technology, it's a new framework for IP. Generally, we could talk about that but it's a new format. So I guess that's just sort of where my head is at these things.

With trademarks and things like that, obviously the leagues are interested in protecting their brand and

sponsorship. The value is driven by the exclusivities you can grant to sponsors in certain categories.

WENDY BASS: Actually, if you don't mind, I'll jump in too. The NFL's a great case to look at with what they've done just with their content distribution rights, so their media rights. Not only do they have their traditional broadcast partners, the NBCs and CBSs and FOXs, you have your cable partner with ESPN, you have NFL Network, and then what the NFL also did is when they sold each of us these rights, they said "you know what though, we're going to keep the mobile rights, so you guys can't actually distribute your games on mobile. We're going to sell that to Verizon. We're also going to take the interactive rights for digital and we're going to sell that to Microsoft. Then also, when we sell our Thursday night package, guess what? We're going to split it up and we're going to give it to NBC and CBS and we're also going to give it to the NFL Network. We're also going to give it to a digital distributor," which last year happened to be Twitter and I'm sure all of you saw next year it will be Amazon.

So when you have a set of rights, there are many ways to slice and dice them up to make the maximum revenue possible, and also to experiment. I do think some of what the NFL does is they're experimenting to see where trends will go and where fans will go. Also, it's additional revenue which is helpful for the league, obviously. So there are lots of ways to do it. When you think about it, that's just for exhibition rights, let alone sponsorship rights that you can slice and dice, and merchandising rights that you can slice and dice, and tickets and concessions. There are so many ways to make money in this, and it's so important for the teams and leagues to protect their rights in order to exploit them to get maximum value.

MARTIN EDEL: Let me now turn to the two people on our panel who haven't weighed in yet and ask Cameron and Ed, with these added billions of dollars, what is it that the players are looking for?

CAMERON MYLER: I'm actually going to jump in from the IOC perspective first, because I think we've been talking about teams and leagues. The International Olympic Committee, it is a non-profit organization, but it's a six billion dollars every four years non-profit organization. It is I think more aggressive than any entity out there in enforcing its intellectual property rights. So the rights

are two-fold, essentially. In the Olympic Games, one, and then in the Olympic Properties, as the IOC likes to define pretty much all of the trademark rights.

The IOC has what's called the Olympic charter, so it writes its own rules. All sport is generally self-regulatory. The IOC certainly sets the groundwork for "these are the rules that you're going to abide by if you want to participate in Olympic sport." So they are not bashful at all about claiming all rights in everything relating to the games and the lawyers definitely wrote the charter. It's very expansive. The pie for an Olympic sport, 92 percent of the IOC's revenue, comes from broadcast rights and sponsorships. We'll definitely talk about NBC because NBC is one of 220 broadcast partners for the IOC, and . . . does anyone know how much NBC paid for their last contract with the IOC? Anybody? Somebody's probably been in my class here, but nearly seven and three quarters billion dollars for the right to broadcast the Olympics. I think there's been a shift in how NBC is approaching the broadcast rights for the Pyeong Chang next year at the Winter Olympics in 2018. NBC has now, it is the second largest . . . a very large contract. I think they've paid now the IOC more than 13 billion dollars for the right to broadcast the games.

So the IOC is certainly protecting its commercial partners and I think we'll in a little bit talk about some event specific legislation that organizations like the IOC and like FIFA are requiring opposed countries to pass to protect those commercial rights. But it's both on the broadcast side and on the sponsorship side as well. To be a top sponsor of the Olympics, so that's the Panasonic and Visa and Coca-Cola and McDonalds, who get the world-wide rights to use the Olympic Rings in connection with their goods and services. For now, the price tag is about 200 million dollars for every four years. That's doubled in the last couple of years. So the IP of the Olympic movement is also incredibly valuable and, even though no one wants to host the Olympic Games right now, the IOC has really good long term financial stability because of the rights that they've exploited.

MARTIN EDEL: So Ed, from a former player's perspective, why don't you tell us what you think would be a reasonable way in which the owners or the NCAA should be dividing the pot to include players?

ED O'BANNON: First and foremost I think the players want some form of acknowledgement that they are helping to produce the funds, or the money that everyone seems to be making while they're playing. I think the biggest thing is, athletes aren't, the players . . . they acknowledge, they understand that their scholarship, that their room and board is paid. They are well aware of it, but they also want some acknowledgement that they're helping bring in the amount of money that is being made.

A few people, a few athletes have come up to me recently, in the last year and a half, close to two years, saying that the game has evolved and has changed. When the rules that are in place now, when they were first initially established, the money wasn't as significant as it is now. Now that money is coming in from television contracts, apparel contracts, whether it's a Gatorade for example, or Power whatever, there's all kind of money being brought in and the rules are still exactly the same as they were pretty much in the sixties. Everyone seems to be profiting off of it, or getting some piece of the pie, monetarily.

I think the players want to be acknowledged in that way as well. When that was said to me, I said, well how much do you want? They said, "We don't want a million . . . it's not like we're trying to get rich and that sort of thing. Just some acknowledgement. Something that maybe I can take my girlfriend to a movie without having to call my mom for money, you know what I'm saying?" I said that and they laughed about it, but being in those shoes back in the early 1990s and the mid 1990s, I felt the same thing. So it's just one of those things. They see the game evolving that they're actually playing in. They see the game outside of their playing field evolving. They would like the rules that are in place to evolve with them as well.

MARTIN EDEL: All this discussion about how IP rights benefit each of the participants and do not benefit some of the players, leads to the invariable question, which I'm going to ask the panel. What are the tensions in creating these IP rights in this flow between, start with you Wendy, broadcasters and the various partners or other entities in this circle, teams, leagues, owners, sponsors, players, however you want to slice and dice it.

WENDY BASS: Well, the ecosystem has certainly changed. I'll answer this by talking a little about the history since I started NBC in 2005. That might as well have been the

stone ages compared to now. I was at NBC. We only had sports on NBC Broadcast Network on the weekend afternoons. 2008 was the first time in Beijing where we actually streamed events. In 2010 in Vancouver, this is very hard to believe for a lot of people in the room, the iPad had not even been launched. So think about that, life without an iPad. Then we get to now, where you can watch anything on any device you have.

As you can imagine, the sophistication level of the parties involved has increased radically. So when we started doing deals, and I do a deal in 2005 and 2006, all I was looking for from a rights perspective, I was looking for a grant of rights for broadcast free over-the-air television stations. We didn't even have a cable channel. What we'd do is we'd split the rights. Someone would get the cable rights and someone would get the over-the-air broadcast rights.

Then eventually . . . Comcast bought NBC. We have a cable channel with NBC Sports Network and we have all these original sports networks. What you're looking for now, it evolved from that simple pattern. Before the rights owners wanted nothing to do with the exhibition of this content. Now where you do a deal with a partner, and the way that we think we can best exploit and monetize and take care of the property and sort of the fan, is to have all media rights on all devices, and all business models, and anything future, here. You have to create it.

I always use this example: if we watch eventually on holograms off our watches, we need to future-proof our agreements in order to have those rights. The amount of times in a week I get asked, "Can we do that? Do we have the rights to do that? Can we do this? Do we have the rights to do this?" Pretty much two or three times a day. So you have to go back to the contract and look at whether we future-proofed this contract to have the rights to do this kind of stuff.

The tension that Marty asked about is that now, with the rise of the sophistication levels amongst all the parties, the rights owners in particular are much more sophisticated. The internet did that. It's the great equalizer. Now everyone has a P and L that they need to hit. So the leagues have their own digital businesses. Sponsors have their own digital businesses. We have our own digital businesses. Everyone has a digital business. There are a lot of masters to serve and a lot of mouths to feed.

Now it's, "Okay we're going to grant you all these rights. We're going to reserve these rights, as a rights owner." There's a lot of reservation of rights. Then the question is, okay, do they reserve the right to do that? Or is it our right? Is that our window, or are they infringing on our exclusive window. We bought the rights to this window, these are our times. So there's a lot of tension among the parties these days, I think. Listen, it all gets worked out at the end of the day. We really are all there to serve the fan, but there is tension with who has rights to do what. The "what" is what's the interesting part. Every day we don't know what the "what" is going to be because it keeps changing, which makes it exciting.

JEREMY HUTCHER: The way exclusivities are drafted now, these contracts are incredible. The NFL, for example, they'll split up the domestic rights and the international rights. Then within each they'll have a subscription product, which might be the most baseline thing that they offer now. So internationally, maybe you can watch all the games streaming because the rights aren't that valuable internationally, or at least in some markets. If you're in, say, the Philippines, it's harder to watch a game online and the rights are going to be much less valuable.

Now you have the leagues . . . when I review contracts that were two cycles ago, they are kind of funny when you read about them now because they're so much longer. The game plan, the roadmap to what everyone's thinking about is so far advanced, so far down the line, from where it was a few years ago that the general sophistication level . . . sort of leads to natural tensions because people are planning around technologies that don't exist yet.

For example, I worked on the Turner extension for March Madness, which they extended through 2024 last year, even though the deal wasn't up for another five years. We're trying to guess around what modes of distribution might exist at that point. We're trying to figure out whether or not . . . if you use the hologram watch example. That's actually something we're trying to think about in 2017 because it might be something that exists in 2025. So there's a long runway of ideas out there and it's interesting, because these rights are so valuable, that this is sort of like a really new and interesting area for this to start arising when you're negotiating.

WENDY BASS: Yes, and one other thing I'll add too that I forgot to mention is the direct consumer offerings. The advent of

all these over-the-top providers are adding a whole another level of complexity and adding competition to the marketplace. Everyone is now wondering, "Can I launch my own, what we call direct consumer offering?" You can subscribe. For example NBC . . . we have a product called NBC Sports Gold where you can subscribe and pay a certain fee and watch content that is exclusively on our product.

You can put it on your connect-to-TV and watch it on your big screen. You can watch it on your tablet or your phone. Do you have the right to do that? Does the league have the right to do that? What content are they going to take and what's going to go into their direct consumer offering? Now we're got the Foobos, and the Hulas and the YouTube TVs, and everyone else in the marketplace also looking for rights. So it's just gotten much more complicated, I would say within the last year or two. Trying to sort out who has the right to do what, it's fun, it makes every day different, that is for sure.

MARTIN EDEL: So let me change the question a little bit for you, Cameron. Take the same question about conflicts, but also expand it for the IOC, to the conflicts that may be developing with some of the member nations in trying to generate the legislation you were talking about in your prior answer.

CAMERON MYLER: I think first I'm going to address the sort of the conflicts that arise. Not conflicts, but tensions that arise at the games around who owns what rights. As I mentioned before, the IOC is very much interested in protecting its commercial partnerships . Of course, I'm an athlete so I see both sides of the argument. There is a rule in the Olympic Charter called 'Rule 40'. You may have heard of it over the course of the past couple of Olympic Games. What's happening, I think with increasingly more frequency, is that athletes have personal sponsors. When they go to the Games, their sponsor wants air time. They want to be on NBC and on all of the various outlets that broadcasting is happening. However, Rule 40 says that "except as permitted by the IOC Executive Board, no competitor who participates in the Olympic Games may allow his or her person, name, picture, or sports performances to be used for advertising purposes during the Olympic Games." It's actually not just during the Olympic Games, which is 17 days. There's a blackout period for about a month. Chris can talk about this because he had some clients apply and get a waiver for

advertising, but, prior to Rio, no athlete could participate in any kind of advertising during the Olympics.

I'll say that . . . the Summer Games are ten and a half thousand athletes. Of those ten and a half thousand, there are probably fewer than a hundred who have really big sponsorships. Those athletes and those sponsors, they know about these rules. It's the other athletes, the smaller athletes participating in smaller sports like badminton, or archery, or luge, where you don't have big sponsors so your sponsor wants to take advantage of that time in the media spotlight but you can't. That certainly comes up as a conflict at the Games. There has been a slight relaxation of the rules. That happened in Rio, which allowed advertisers to have certain generic advertising. Chris can maybe talk a little bit about that waiver process that you went through.

CHRISTOPHER CHASE: Yes. It's actually the perfect description of it. It really is tension between two types of I.P. rights: the I.P. rights of the IOC and the USOC and the other national governing bodies, versus the athletes themselves. As Cameron just mentioned, that rule is pretty restrictive. Who gets those waivers from the IOC? It's the official sponsors. So unless you're an athlete that has an endorsement deal with one of the official sponsors, you can't promote your own personal sponsor. That's a problem, particularly for the smaller athletes who are in the smaller sports because they don't get that right recognition. There was a big outcry . . . between London and Rio, really, where the athletes, and particularly the track athletes, were very angry and up in arms over the fact that they couldn't promote their brands who have supported them throughout their entire career from college through their turning professional. They weren't allowed to use those logos because whatever brand it was may not have had an official sponsorship.

The IOC, then ultimately the different governing organized committees of each country, put in place a waiver system where you could petition, in the U.S. the USOC, for a waiver to Rule 40. In order to do so you have to hit a number of different things. It's actually difficult to do. You have to get your media schedule in for four months in advance. You have to have your campaign ideas in for six months in advance. You actually have to have the materials running on air three to four months before the Olympic Games. So for a small brand, that's not going to happen. They have no idea

what their marketing campaign's going to be in the next couple months. Not only that, but an athlete may not make an official Olympic team until that period has passed. So while it is a nice relaxation and it does benefit some athletes, the waiver process really only helps the big brands who can do it anyway and the big athletes who already have these types of endorsement deals.

So last cycle with the Rio Olympics, Under Armour did a great job. Michael Phelps was all over the place, but Michael Phelps isn't really the guy that needs this waiver. Under Armour isn't either. They were able to do a nice job. You have to use generic advertising, which they did. He was swimming in a pool here and there, but there's no Olympic rings nearby. They ran commercials throughout the Games period. So what Cameron mentioned is the issue, is during this blackout period. You can't use your name, image, and likeness during the blackout period. That's obviously the most valuable time.

I actually was able to help a few clients with the waiver system, but it was kind of difficult and they were big-name brands so they could plan their marketing out six months in advance.

CAMERON MYLER: I was just going to add to that. Not only can you, of course, not use the rings or any words that sound like 'Olympic', but this is the list of words that advertisers cannot use leading up to Pyeongchang. These are all of the businesses in and around Pyeongchang, too, who might hope to benefit from having an Olympic Games in their city. So you can't use these words: "2018", "Pyeongchang", "gold", "silver", "bronze", "medal". Okay, now it gets really bad. "Effort", "performance", "challenge", "Summer"—they must mean "Winter"—"Winter", "games", you can't use the word "games", "sponsors", definitely not "victory" because the IOC owns that, and "Olympian". So even though I am one, I could not be described as such in any kind of advertising. It's really quite, quite restrictive.

JEREMY HUTCHER: Do they go after the athletes? If the athletes do anything outside . . . do they go after the athletes personally, or is it generally the sponsors?

CAMERON MYLER: Yes, it's an excellent question. I litigated I.P., so I wrote those cease and desist letters. One of the cease and desist letters written, I think a couple of Olympics ago, by the U.S. Olympic Committee was so outrageous I thought, "Really?" If anyone knits in the room? Probably

not, but I do. There's an online knitting community called 'Ravelry', and they were having a 'Ravelympics'. Seriously, it was people like, "All right, we're going to knit scarves while this event's going on and we'll donate them to charity." So the U.S. Olympic Committee writes this letter and says, "This is disparaging." I'm like, "What?" They're like, "All of the hard work American athletes put in, this is just an abomination and you need to stop immediately." I was like, "Okay, I understand protecting the I.P. rights, but it's going a little bit far."

So yes, they totally can crack down on the companies. As for the athletes the consequences are really high. They can take your accreditation. You can be disqualified from the Olympics, and kicked out and sent home. Whether they do or not, though, is another thing. Michael Phelps is a good example of that because in London there was a Visa ad with him running, which of course was allowed because Visa's a sponsor. He'd shot a layout for Louis Vuitton prior to the Games. Someone leaked the photos during the Olympics. So it's like Michael Phelps with all of the Louis Vuitton gear in a bathtub, but he wasn't punished for it. That may be because it was Michael Phelps, but the consequences could be dire.

CHRISTOPHER CHASE: You're right. That's exactly right. The rule is that it goes against the Olympic participants, but where the sponsors get dragged in is when the lawyers for the participants put in, "You ran, we'll comply with all rules, regulations, including IOC, USOC, et cetera." Then they can go after you contractually.

CAMERON MYLER: That contract gets longer every year because athletes are really clever and find ways to, sort of, get their sponsors in there or cover up the logos of the official sponsors. It was basketball in 1992 when the U.S. team won. Reebok was the official sponsor, but none of the athletes . . . they were all sponsored by Nike or someone else. So what they did on the medals podium was drape the American flag over their shoulders and cover up the logos of the official sponsors. That's now in the code of conduct. You're not allowed to do that. Athletes get clever and then the rules get changed as a result.

MARTIN EDEL: Where I thought I would take us next is, while a number of you have already addressed some aspects of this question, are there recent trends or technologies that need to be addressed? I know Wendy just talked about some of them, and Jeremy you did too. I was won-

dering for practitioners in the field. What should they be on the alert for at this point? I'm going to ask the same question to everyone.

JEREMY HUTCHER: One of the interesting things that's been coming up a lot is streaming deals over the top. Wendy and I were talking about in-market streaming, the sort of new areas where rights are coming up where they weren't before. If you're practicing in this field or you're negotiating these contracts, it's really about having a general industry knowledge and sort of knowing the business more than anything because I feel like these contracts, more than anything, they're commercially driven. As lawyers, we're there to sort of guide our business team and assist with the drafting and things like that. One of the things that I find most interesting now is how the scope of these deals have changed from telecast arrangements. The buzzword was "telecast" and now it's "distribute" because the landscape of how these rights get out there has totally changed. The way people consume media has changed. It's really just reflecting our greater society as a whole rather than us leading the way as lawyers and sort of being aware of how these trends are affecting media.

CAMERON MYLER: Yes, we like the word "exhibit" not "distribute". I don't know why but we a very optic for "exhibit". We did use "distribute" and then we went to "exhibit". So when we do our deals, if you're practicing, I think one of the most important things to consider in a rights deal is to make sure that your exclusivity is locked down tight. You really need to think about is . . . from our side, at least from a broadcast perspective, what's your window, your exclusive window and who else can be in your window?

So, for example, if you're showing a NASCAR race, you don't know when it's going to end. When does that event start? Can the drivers and the team owners and NASCAR, half an hour before the pre-flag, be posting things on Snapchat, on Twitter, on Facebook? Can someone be Facebook live-ing from the pit? At what point does your window start and do you care? Do you think this is all promotional and good for you? Is it going to drive people to your broadcast even though they're not including tune-in information to you? At what point does it start and then at what point does it end? In that window, your live window, are you exclusive and what can you do with your rights within that window? From a sports perspective, that is by far the most valuable piece of time you have.

There's no real number. We joke that it drops 90% as soon as the event ends. Rarely does anyone watch a replay. Then highlights. Is there a window after your event concludes where you are the exclusive place to go for highlights and where can you distribute those highlights? Can you put them on your Twitter feed? Can you put them on your Facebook page? Can you Facebook Live during your event? So that's the key period of time, I think, that you need to make sure that you have locked down. You really have to work closely with your business people to make sure that you understand what the plans are for exploiting the content and where you want to put it and what you want to do with it.

So, as we talked before, you need to future-proof that because certainly the deals that we're doing are all, for the most part, pretty long-term. So you need to make sure that you have the right to do what you want and the things that will change for that time. Then, again, make sure that if the league retains right, what can they do and where can they put it. You might say, "Okay. They can put on NASCAR.com." What if they have this thing called Racebuddy? What if they want to put it on their social media platforms? You need to make sure that you have that locked down. I think that's the most important thing that we look for when we do deals. Of course when we do deals we think that, as I mentioned, the best thing is for us to have exclusive rights on all media. That's the most favorable way to get your content to your fans and market it the best.

MARTIN EDEL: So Ed, I wanted to turn to you as probably the most neglected member of the panel being a former star player. How have the new technologies influenced or created new avenues or opportunities for you as a former player?

ED O'BANNON: I think as a former player my situation, and our situation, people that are my age who have been done playing basketball or done with professional sports, when I was done with it back on '04, technology was kind of on a transfer. Basically if I were to retire now it would be different than when I did back then. Now if I were to retire I would have been playing in my sport, basketball, with the technology that we have now. Back then, the technology was a lot different than it is now. I say that to say this, the game is different. The way we went about promoting ourselves and our brand back then is a lot different than the way it is now. It's hard for me. I'm not

as technical savvy as someone who is younger and is just finishing now. The way that they can . . . the younger guys are the more tech savvy people. Athletes can promote themselves a lot easier than I was or than I could. I just haven't had a . . . I'm a bit old school and so my brand isn't as out there as someone who is on Twitter all the time, is on Facebook, and all the other . . . I don't have a Snapchat account. So my brand isn't as popular as someone nowadays is because they played their games.

Okay, for example, the kid, Antonio Brown, for the Steelers. He was on Facebook Live right after the game. I couldn't imagine doing something like that. It's no knock on him. That's the game now. It's a part of the way that the kids are living now. I told my parents all the time, "If they'd had sex 20 years ago, I'd be 20 years younger." Things would be a whole lot different. I was just born a little too early. Ultimately, what I'm saying is, having been retired for over a decade, it's a lot harder to get my brand out there than it would be now because the technology now is so different. It's a part of their lives where it wasn't back then.

MARTIN EDEL: Cameron, you have a different perspective.

CAMERON MYLER: Yes. I think I would take a slightly different twist on that question, if that's okay. So with Olympic athletes, I think everyone who's competing now, as you said, it's a much different world than when I was on a sled competing. Athletes are very aware of what they can do to promote themselves via social media, on their websites, however it is. My advice is, if you're advising an athlete, if you are an agent or in some other capacity around them and in the entourage as the IOC likes to call it, you need to be aware that there are many sets of rules that apply. It's really important, especially as you get closer to an Olympic Games, that you understand what those restrictions are on the athlete because if a company gets the cease and desist letter and is sued then you know that's the brand. Whatever. That's money at the end of the day. If it's an athlete at the Olympic Games who violates Rule 40 then you may be disqualified from your event and sent home. Many athletes compete at the Olympic Games one time. That's the majority.

I would say it is really important to understand what the landscape is. It changes a little bit for every Olympic Games. For example . . . if you're on the American team, you're going to sign a contract that's a code of conduct

on what you can and can't do. Then the IOC has, what I find incredibly restrictive, social and digital media guidelines. They say things like—and this is to protect NBC and other broadcast partners, which I get—"Any audio or video content must not be made available on social and digital media i.e. or by posting or streaming or on any other type of media without the IOC's prior approval." So you are really restricted during the games while you might otherwise be normally very active on Twitter or whatever you go on, Facebook, Instagram. You can't do that during the Olympics. You can't mention your sponsors. You can't say the word "Olympic" other than they say. You can say it in a factual manner. I'm not quite sure what that means.

In any event, I think if you're advising an athlete, it's important to be aware of the rules. If you're a brand that wants to associate with an athlete and sponsor them or have them endorse your products, you also need to be aware of the rules.

When it comes to that blackout period, you're not going to get your brand on T.V. So good to know in advance.

JEREMY HUTCHER: Is there any appetite for the players and for the athletes to sort of push back . . . I know that Ed obviously did. I know there's the union push as well for the players in the NCAA. When you were playing at least, or when you were participating in the Olympics, was there any sort of way to organize? Or is this . . . everyone is so . . . their interests are so spread out, that it's sort of hard to sort of push back against this?

WENDY BASS: I'll let you talk about it first, go ahead.

ED O'BANNON: It's hard to push back. It's hard to push back because the rules are in place. There's a certain system. You understand it. First and foremost, you're there for a reason and that reason is to win. Whether it's in the Olympics or if it's a National Championship. Those are your goals, and that's why you're there.

Now, being on a team there's a million different personalities. There might be one person on your team, for example, on the basketball team. There might be two guys that feel a certain way. Everyone for the majority, all of us. I'm just going to use my team as an example. Speaking of a pushback, we always use to sit around at study hall or the training table and talk about what the rules and regulations were.

For example, us getting paid. Whether we should get paid or we shouldn't. There were different discussions. Some guys felt a certain way, some guys felt a different way. When you're fighting for that common goal and you get to the Final Four and you're competing for a championship, it's hard to one way or the other step in and, say, give a pushback. So many people have put their time and effort and blood and sweat and tears into getting you into the position that you're in.

It would be hard to give a certain . . . it'd be hard to push back and say, "Hey we should protest. We're not happy with the way that the rules are now." That would take a whole lot of courage. I hate to bring it up at that particular time. At, let's say, the Final Four. I think you'd have to even go back earl in the season and almost kind of plant the seed. Say, "Hey, if we're in this position maybe we can give some form of pushback once we get there."

JEREMY HUTCHER: So that's more outside than inside.

ED O'BANNON: Yes.

JEREMY HUTCHER: I saw Shabazz Napier. He wasn't eating.

ED O'BANNON: Right.

JEREMY HUTCHER: He said, "I can't eat. You know people from . . . I can't afford dinner or whatever." That's how that sort of push to allow the players to have free meals came about. It's more of a public pressure than from the inside.

ED O'BANNON: Absolutely. It was a very . . . he was kind of . . . I believe if I remember correctly, he was asked the question. He was kind of answering their question and gave his experience. I think all athletes have been faced with that particular night in some form or fashion.

He mentioned it. I don't think that he thought that it was going to get the play that it did and that the rule would change because of it. To his credit he just stepped up and answered the question from his heart and his experience and things changed.

MARTIN EDEL: Before we leave this topic, I wanted Chris to weigh in. One because you were fingered by Cameron and her answer that you would have something to add to this. Also, because you on this panel have been in the position of representing sponsors in a number of deals. So my question is, how has the new technology created new opportunities for sponsors and endorsement deals?

CHRISTOPHER CHASE: That's actually a great question. To touch on something that both Jeremy and Wendy said, the future-proofing is also important from a sponsor prospective.

Not just from the media platforms. A product we'd be selling now may be different a year from now. Or our competitors may be doing something that slowly creeps into our category.

Working with American Express, it's easy enough to say you want exclusive rights for credit cards, but they're not a credit card company. There's such a broad spectrum of what they do and what their competitors do. So now we're worried about digital wallets. How Samsung and Apple Pay come into it, as well as PayPal and all these different things that may happen over the next few years. So we have to worry about those types of issues

Even Dunkin Donuts. Are they just a breakfast restaurant? Well now Taco Bell sales breakfast. Are they a competitor of Taco Bell? You know, it's all these things you have to think about of what's going to happen in the future. Certainly, exclusivity is one area.

Then the other area is content. Sponsors will get the IP rights in terms of the trademarks and logos and then the official XYZ of whatever team it is. That's great and that's kind of standard, but what they really want is content. That's what they want nowadays. That 30-minute window before the NASCAR race, that's exactly what Hendrick Motorsports could sell to a sponsor. That's so valuable because that's a behind the scenes look that no one else is getting.

You know, NBC really wants that 30 minutes too. They want to show the broadcast viewers that same behind the scenes look. So that's what we really push for in terms of sponsorship deals. It's not only getting the signage and the Team Logos and rights like that, but also getting the content and the access. What can you provide to us? The shorter programing, the behind the scenes. Can you create something using your team or your league and turn it into our own? What can we do? What's ownerable for us?

A few years ago, I worked with Gatorade on a program called, "Everything to Prove." It was this fantastic behind the scenes look at college seniors who were preparing for the NFL Draft. It happened to be a good year because J.J. Watt and Von Miller were included in this program. It was great. It was behind the scenes with them. At their house with their families. Their training. Their eating. Doing all these different things. It was a documentary essentially. We had the rights through the NFL Players Association. Gatorade has an overall spon-

sorship with the NFL so we could use Team Logos and things like that as well as individual endorsement deals with the athletes who participated. We were able to use the IP from all different areas, but that was something that was ownable by Gatorade. The term ended, but I think you can still find it on YouTube. Little things happen to the exclusivity of the windows that you can creep on.

Certainly, future-proofing sponsorship deals is much like a media deal. It's very important. The rights you're getting, what kind of content you're getting, and then looking at the exclusivity. Then the other thing, which doesn't really answer the question that much but is something that a lot of clients don't think about, is territory. What is territory?

We're doing a team deal. A team sponsorship. Teams only have limited territorial rights. In the NHL and MLS it's 75 miles from the arena. The NBA used to be 75 miles. Now it's 150 miles plus your home state as long as there's no other team in that state. The NFL does it by region. So the Patriots, for example, have Massachusetts, Rhode Island, Connecticut, New Hampshire and Maine. Then the MLB is also the same way. They do it by state.

A lot of clients are like, "Great, we've got these rights to the Patriots, or the Knicks, or whoever. We're going to run this national contest to win Knicks tickets and it's going to be fantastic. People in California can come to New York." Then we have to remind them, actually you don't have those rights. You can't do anything nationally because you have a team deal, which has limited territory. A lot of times people don't realize that when they're negotiating the deal until after the fact.

When you're doing something online, that's the biggest issue. "Well, we're ging to put it on our website. We're going to put it on our branded Facebook page." Teams will all require you in the league, depending on the type of deal, to Geo lock and make sure that doesn't go beyond the territory that you receive. That's hard to do. I'm sure that's something you've experienced as well in terms of GEO locking and territories.

It can be done, it's just expensive and marketers don't really think about it that way.

WENDY BASS: Yes and it's funny. I deal with our sales group all the time, and marketing team. The new technology is great for us too though because it's opened up a lot of oppor-

tunities for us to make money and add value to the sponsors. Listen, the sponsors are the life blood too of what we do in our advertiser. We will bend over backwards to do cool unique programs with them. The new technology's been terrific for that. It's also a way when you have . . . say we don't have the rights. A lot of the Soccer properties come with embedded sponsorships. They'll come with their official sponsors. The NFL does too. They all do.

Soccer's particularly difficult to monetize, because of their international breaks during game of play. So, you only have pre-game, halftime and post-game. You have score clips. There are very limited ways to monetize it.

So there are very limited ways to monetize it and when property comes with official sponsors, guess what? You can't sell to their competitors. So we get a lot of questions about, "Okay, well X already offered. We gave the writer first refusal to the official sponsors and now we want to go with competitors. What can we do with them? Can we use the marks? Can we do this?" We're like, "No, you can't do that." So . . . we keep talking about tension. There's tension in that sense too. Overall I think new technology's really cool for brands to do some innovative things with properties. I think it's been great for the broadcasters too to just reach different audiences and really a greater value for everyone's dollar from this sponsorship side to the broadcast side.

MARTIN EDEL: One of the things, and our time is running out, but one of the things I've wanted to remind everyone here is with all this advent of new technologies also comes the application of old legal principals born anew. In the IP area, we've had the application of copyright, trademark, patent law. We've had the application in tort theories of right to privacy and publicity. In the new millennium came the application of anti-trust law to protect certain IP rights.

Talking about push back before, which Ed was talking about, the most vivid example of this is the case that Ed filed against the NCAA, which is generally known as the O'Bannon case. This was a class action. For those of you that are not aware, this is a class action anti-trust suit initially filed by a group of former NCAA 1E football and D1 basketball players in June of 2009. It concerned the appropriation by the NCAA and some of its sponsors of the name, image, and likeness of former players. So

Ed, my questions for you are how did you learn that your image was being used without your permission? Let's start there.

ED O'BANNON: Okay. I'll give you the nutshell version. I was at a friend's house and his kid was playing a video game the night before and so we were out in front throwing a football and my friend was like, "Hey man. My kid was playing the video game last night and you're in it." I was like, "Man, heck yeah." How often are you in a video game? So I wanted to see it. We went in, the kid plugged it in, and there I was.

MARTIN EDEL: How good were you in the game?

ED O'BANNON: I was really good. All my shots went down and I was a pretty good defender which is really not the case at all in reality. So I was better at the video game. But that's how I saw it initially was when I was at my friend's house.

MARTIN EDEL: What motivated you not only to bring the lawsuit against the NCAA but also to keep your name affiliated with it after there were some settlement and negative decisions about your status?

ED O'BANNON: Initially when the possibility was presented to me, they told me that this was a marathon, it's not a sprint. "So if you decide to do this and be a part of this lawsuit, this is going to be a decade or more. Don't call us. We'll call you when we're ready." That sort of thing. I thought it was great. I said, "Hey I've got a life working and coaching and my kids are growing up and we've got our own lives so yes, absolutely. Let me know when you need me." I think initially when it was presented to me, I was excited, I knew the possibilities, and I knew that it was going to be some pitfalls and some good times as well. So I felt the need to be a part of it and was honored that my mentor, Sunny Pecarrol, wanted me to be a part of this. This was his baby initially and when he called me and asked me to do it along with other former athletes, I was willing to show the most interest in being a part of it.

MARTIN EDEL: Just to sort of set the stage for the next question that we had. As many people have recalled, there was a bench trial in the federal district court for the northern district of California that'd been three weeks starting late June 2014. The district court ruled in favor of the players. This was the first time, I believe, that a federal court held that any part of the NCAA's amateurism rules violated the anti-trust laws. It certainly was the first time that a federal court had mandated that the NCAA change its rules.

The case went to the Ninth Circuit in the end of September 2015 in a decision, which proved to be no slam dunk for either the players or the NCAA. The Ninth Circuit found there was a relevant market, the College-Education market, in which all of these schools competed to recruit the best high school talent by offering a bundle of goods and services. This included not only scholarships but also coaching, athletic facilities, and the opportunity to face high-quality athletic competition. The Court affirmed the decision that the NCAA is subject to the anti-trust laws, that the NCAA rules—that little body that you are required to read before you sign your life away and that of your children and your grandchildren—those must be tested under what the Court called, "The crucible of the rule of reason." The Court upheld amateurism as a pro-competitive goal of the NCAA but then held that there was a less restrictive approach. In other words, the way in which the NCAA went about dealing with its laudable goal of amateurism was more restricted than necessary to maintain its tradition in the college sports market. The Ninth Circuit also got rid of a trust provision, which the District Court Judge Wilkins had imposed, that gave college athletes the magnificent sum of up to $5,000 per year per player for the use of their name, image, and likeness. The Ninth Circuit held, among other things, that there was a conflict with the goals of amateurism. How could you pay a player and still have the player maintain its amateur goals? So what are the lessons you learned Ed?

ED O'BANNON: For you to get rules changed you have to have a passion for it, a lot of patience and, I think it's a beautiful thing when a group of people set their sights on changing rules that has nothing to do with yourself. For example, for me, I don't play anymore but the rules that we attack are there to benefit the ones that are still in the game and the ones that are still in college. There's more of us that are still considered amateurs. What we wanted to do was if they aren't going to change that title as far as being amateurs and just make it all-out pros, at least on a minor-league level, then the next best thing is to at least change some of the rules to help benefit these athletes that are bringing in the money.

What did I learn? It's hard to win a fight like this and we didn't think that we would . . . we just wanted to kind of spark conversation. Maybe later the other lawsuits that do come about can have some legs to stand on.

At least for me, that's what I wanted and the fact that some of the rules have changed and the athletes are at least getting the $5,000 a year, that's a step in the right direction. You have to start somewhere.

MARTIN EDEL: Ed is being incredibly modest about this. His lawsuit has sparked a whole series of lawsuits that have followed, some which are known as The Pay-for-Play or, based on the plaintiff's counselor, The Kesler lawsuit of Austin and Jenkins, which are now wandering their ways through the courts and create quite different results than currently exist under the current regime. Our time is rapidly running out. I want to give some time for questions. Cameron, I wanted to come back to a question for you which talks about some of the recent trends, that of the IOC, and trying to create event specific legislation by host countries.

CAMERON MYLER: So this is . . . you're right. It is a trend and the end will see whether they're able to sustain it given the apparent lack of interest of cities hosting the Olympic Games now. Since at least London, for each of the Olympics the IOC required of the host country that an additional law be enacted to essentially protect the commercial rights of the IOC's partners. So there's the Lanham Act which addresses all trademark issues in this country. Some countries have an additional statute, which protects Olympic related trademarks. In this country, there is such a statute. It's the Ted Steven Olympic and Amateurs Sports Act. For those IP lawyers out there, you know that the U.S. Olympic Committee has super trademark rights. They have greater rights than any other trademark owner in the country because they do not have to show that there's a likelihood of confusion in the marketplace. It's just enough that anyone is using the word "Olympic". They can shut them down.

That has not been enough for the IOC. The IOC has required yet another statue and the one in London, a similar statute in Brazil, for the games in Rio. The statute in the UK basically has a Column A and a Column B and a lot of those words that I read before with things like "gold", "silver", and "bronze", you can't use any word from Column A in connection with Column B or no two words from Column A. It's very restrictive on one's speech. So I think a lot of people are wondering, given that Los Angeles is one of the two cities vying for the 2024 Olympics, what kind of an impact that will have

here and whether such a statute can exist given the First Amendment protections that we all have.

MARTIN EDEL: I've wanted to thank our panel for educating me about how IP has driven the value in sports. I hope they've educated you, as well. I thank you for your patience and I thank all our panelists for their incredibly constructive and instructive comments. Thank you all. Now you have a real treat coming on after us. You have Professor Miller talking with Don Garber one-on-one. Thank you.