



体育法律资讯

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【热点体育动态】

2014中国体育营销论坛年会召开



1月8日，主题为“新梦想、新未来”的2014(第九届)CSMF中国体育营销论坛年会在北京召开。论坛主席、中国奥委会副主席王钧致题为《深刻的变革和巨大的机遇》的开幕词，阐述了新形势下中国改革的内涵，以及中国体育产业在历史性机遇前的对策。与会嘉宾纷纷表示，要实现我国体育产业发展的大蜕变，需在规模扩展、结构优化、合理布局和品牌打造等方面下足功夫。

本届论坛年会发布了2013年度“十大”榜单。其中，阿迪达斯获“年度企业十大体育营销案例”榜首；黄山获“年度城市十大体育营销案例”榜首；环青海湖自行车赛获“年度中国十大优质赛事资源”榜首；青海获“中国十大体育旅游目的地”榜首。可口可乐、中兴，银川、太原，潍坊、秦皇岛以及安庆、泰宁分列各榜第二、三位。

历经9年沉淀，中国体育营销论坛厚积薄发，通过优质、高效的平台服务和传播体系确立了中国体育产业营销推广第一品牌的行业地位。面对体育产业即将迎来的变革和发展，论坛精心策划并推出了“伙伴计划”，为相关各方架起沟通与合作的重要桥梁。

今年“上马”，人气“爆棚”，规模空前。起点，标志醒目的移动厕所；终点，一条贴心的保暖毯。5公里、10公里、“半马”、“全马”设项多样而合理，沿途还有科学安排的饮水、能量补给站和市民此起彼伏的加油声。冲过终点时，一张张不同肤色的脸上，满是对运动的享受、对城市的热爱、对健康生活的向往。



中国足球未来10年向何处去？争取2023年跻身亚洲前列



关于国家队建设，规划纲要提出：到2023年，男足国家队力争跻身亚洲前列，并具有冲击世界杯的竞技能力；女足国家队重返亚洲一流，并具备与世界强队抗衡的能力。

今天上午，为期两天的第十届中国足球协会会员大会大幕落下。期盼已久的本届足代会，带给我们什么新的变化？未来10年，中国足球又将向何处去？

足协工作程序走上正轨

本届足代会，选举产生了新一届足协领导机构，审议通过了《中国足协工作报告》、《中国足球协会章程》，分组讨论了《中国足球中长期发展规划纲要(2014-2023)》(讨论稿)。



领导不再“无证驾驶”

所谓的“程序正常化”，还包含另一层意思——一些在实际工作中行使足协领导权力但是身份却“非法”的官员终于转为“合法”身份。

本届足代会之前，自2003年后，中国足协已10年未曾召开过由足协执委会成员、47个省区市及行业足协负责人、足球职业联赛理事会执委会成员、职业俱乐部代表、中国足球学校、中国大学生体育联合会和中学生足协等单位的代表及特邀人士全员参与的足代会，因而领导机构换届也就无从谈起。换句话说，因工作调动等原因，一些在实际工作中行使足协领导权力的官员，比如一年前调任国家体育总局足球运动管理中心主任的张剑，尚不是中国足协副主席，因此在足协开展工作属于“无证驾驶”。

此外，新当选的7位副主席中，首次出现了足球圈外人的面孔。教育部体育卫生与艺术教育司司长王登峰的加入，被解读为足球与教育“联姻”，校园足球将得到进一步重视和加强。

新当选的中国足协主席蔡振华在今天的大会总结发言中指出，“本次会议最重要的成果是让协会工作程序正常化，凝聚人心、统一思想、明确责任、系统思考、长远谋划。这是中国足协新的开始，走上轨道的第一步。”

本届足代会，一直推迟了7年才召开。而按照《中国足球协会章程》规定，今后中国足协会员大会每四年召开一次改为每年一次；执委会议由原来每年一次改为三次，以便其真正承担起执行机构的职能。

出席足代会的国家体育总局局长刘鹏在讲话中表示，希望以这次会议为起点，所有足球人一起努力，解决中国足球存在的问题，走出低谷。

新十年规划有点“虚”

足代会另一个重要议题就是讨论《中国足球中长期发展规划纲要(2014-2023)》，即中国足球新的十年规划。这份讨论稿被业内人士评价为“面面俱到但缺少数据指标”，纲要中没有提出任何明确的改革和实施方案，未提出男足国家队世界杯出线。

此前，中国足球曾先后制定过两个十年规划，但最终大多没有实现。

新规划纲要提出，全面建设亚洲足球强国是中国足球在未来20年的总体目标。关于国家队建设，规划纲要提出到2023年，男足国家队力争跻身亚洲前列，并具有冲击世界杯的竞技能力；女足国家队重返亚洲一流，并具备与世界强队抗衡的能力。女足赛事方面，到2023年初步形成女超、女甲、女乙三级联赛体系。

与会的大连阿尔滨总经理迟尚斌透露，各位中超代表讨论后认为，新规划中“亚洲一流”的说法比较含糊，用数字表述可能更明确一些。

而北京国安副董事长张路认为，新规划虽然没有很多具体指标，但这恰恰是一个进步。中国足球现在的状态，提什么比赛要打出什么样的成绩是不现实的。

足协副主席于洪臣说：“以往规划指标太多，但大多难以实现，所以此次本着实事求是的原则，未提实际目标，只是纲领性文件。”



恒大将签意大利国脚 合同价值1.6亿



北京时间1月22日消息，广州恒大引进意大利国脚前腰亚历山德罗-迪亚曼蒂一事取得突破性进展。《天空体育》转会专家、意大利著名足球记者迪马济奥在个人网站上发布消息称，意甲博洛尼亚为中场核心迪亚曼蒂的标价已经降至800万欧。同时，博洛尼亚已经准备为迪亚曼蒂寻找替身。在广州恒大已经与迪亚曼蒂初步达成协议的情况下，这笔转会已经很接近达成，只差签字。

随后几小时，据意大利媒体披露，广州恒大已就迪亚曼蒂的转会与博洛尼亚俱乐部全面达成一致，据悉，这位意大利国脚的转会费将高达900万欧元，而合同为期4年总价值2000万欧元(编者注：折合人民币约1亿6000万)，而据媒体推测，意大利时间本周四，博洛尼亚俱乐部就会官方宣布该消息。

本月初，《晚邮报》、《全市场》等多家意大利媒体报道称，里皮对意大利现役国脚前腰亚历山德罗-迪亚曼蒂感兴趣，可能会为这位现效力于意甲博洛尼亚的中场核心提供报价。意大利当地时间1月20日，迪马济奥在个人网站上发布消息称，广州恒大对拿下迪

亚曼蒂势在必得，并准备开出一份价值700万欧元的正式报价。次日，迪马济奥称广州恒大与博洛尼亚进行了第一次直接接触。博洛尼亚要求广州恒大支付1000万欧元转会费，并且转会费要一次性付清。而恒大准备为迪亚曼蒂提供一份为期四年的合同。

据意大利媒体《博洛尼亚信使报》报道，迪亚曼蒂的经纪人(特别是卢卡-普茨内里)与里皮进行了长时间的会谈。参与这次会谈的除了马塞洛-里皮之外，还有他的儿子大卫-里皮。大卫-里皮一直负责运作此事，恒大已经与迪亚曼蒂达成了一项初步协议。迪马济奥在其个人网站上也证实了这个消息，并且指出恒大需要说服博洛尼亚改变标价，大卫-里皮正在博洛尼亚，并且试图打破谈判僵局，而迪亚曼蒂的未来应该会远离意大利。



16岁“韩国梅西”率巴萨胜曼城 荣膺MVP



巴萨在西甲联赛和国王杯的比赛都高奏凯歌，各项赛季已经取得11场不败的佳绩。而他们的青年队也不甘示弱，据西班牙《每日体育报》报道，在卡塔尔多哈举行的邀请赛上，巴萨青年A队力克英超豪门曼城的青年队，而全场比赛的最佳球员也最终归属了素有“韩国梅西”的16岁小将李胜宇。

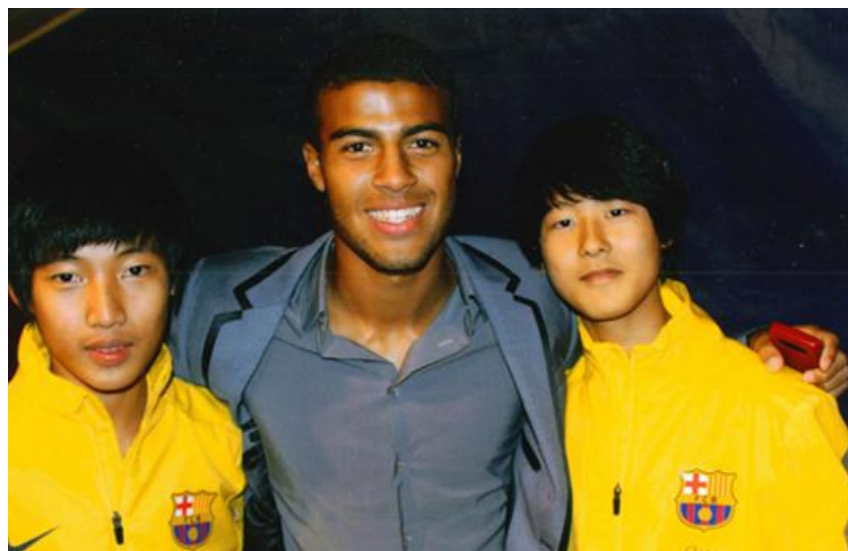
过去半个月在卡塔尔多哈举办的青年队比赛邀请到了巴萨、皇马、曼城、AC米兰等豪门球队青年队在内的12支球队参加，而“韩国梅西”李胜宇效力的巴萨青年A队在小组赛上顺利出线，甚至击败了2012年这项赛事的冠军巴黎圣日耳曼的青年队。

据西班牙《每日体育报》透露，顺利挺进此项比赛淘汰赛的巴萨青年A队在晋级之路上遭遇严峻的考验，在1/4决赛中，他们在对阵巴西弗卢米嫩塞青年队的比赛中遭遇裁判不公正的判罚，最终他们遗憾地无缘四强。不过在第五名的争夺中，他们还是以6-4的比分

战胜曼城队的青年队，获得第5名。

本场比赛放下包袱的巴萨青年A队打得相当开放，全场比赛他们一共贡献6个进球，半场比赛就已经4-1领先了。下半场比赛李胜宇的进球帮助球队握有4个球的领先优势，尽管最后阶段曼城青年队连进两球，但是已经无力回天，最终巴萨青年A队战胜曼城青年队获得本次比赛第5名的成绩。

赛后，本场比赛贡献1粒进球和2次助攻的李胜宇当选为本场比赛的最佳球员，西班牙权威媒体《每日体育报》也在第一时间在首页报道了这则消息，配图也使用了李胜宇进球后庆祝的画面，而这也是巴萨青年A队参加此项赛事以来首次登上该媒体的首页。



【体育法律实务】

体育俱乐部签约需注意：三样内容不能少



中国足协与卡马乔的解约纠纷持续发酵。任期内战绩 7 胜 2 平 9 负，对阵泰国队都 1 比 5 惨败，世界排名更是连年下滑。如今，要炒掉这样一个业绩差劲的主帅，居然还可能要全额支付今后的工资，以及巨额税费。媒体的报道中将这匪夷所思的结果归咎于足协签订的“荒唐”合同，成绩目标含糊其辞，没有与其挂钩的解约条款，甚至连支付工资是税前税后都搞不清，如同是“人傻、钱多、速来”的现实写照。

虽然中国足球、中国足协从不缺教训，但似乎总没有长进。在这样一个契约社会，一个法治社会，体育运动也不乏交易活动，是时候回到契约与法治的正轨上来了。

纠结与卡马乔的合同已然没有意义，白纸黑字容不得抵赖。今后，中国足球还得存在，还得发展，还得请主教练，鉴于中国足协表现出的法律素养和知识水平，我们认为，该请个律师，教教它怎么签合同了。

先天不足

强势卡马乔与弱势中国足协：合同谈判地位严重失衡

从媒体报道来看，足协此次选定卡马乔并与之签订合同带着“先天不足”的致病基因。选帅谈判只有唯一候选人，这也许是技术性问题，但却导致本应地位平等的合同双方从一开始就出现失衡，为日后签订“不平等条约”埋下隐患。

虽然签订合同才是纯粹的法律问题，但签约前的谈判过程是合同的基础。在签约阶段，应该在全球范围内最大程度的选择教练。在确定初步名单后，经过多轮筛选，确定候选名单，按照国际惯例是三选一。如果候选人太多，谈判成本也太高。确定三名候选人后，才能进入谈判阶段。

中方的谈判团队应当包括四类人：第一是足协官员；第二是熟知法律，特别是国际体育法律的专业律师，全程参与谈判、合同拟定，对法律事项进行把关；第三是财税顾问，毕竟薪酬待遇问题会涉及财务支出及纳税问题，一旦要写进合同，应该经过税务人员专业的计算才能确定。由于涉及到涉外问题，翻译也非常重要，这四类人员是必不可少的。

与卡马乔签订合同据说都没有带律师，更别提财税顾问了，搞不



好连合同都是对方拟定的。在谈判签约过程中，谁提供的合同谁便掌握主动权，会在合同中设计对自己有利的条款，甚至是给对方“埋雷”，增加其义务。没有专业人士把关，合同自然会漏洞百出。

与三个候选人的谈判应该是同时分别进行的，引入竞争，让三个候选人互相牵制，才能得到一个既保证目标又价格合理的合同。谈判的核心是薪酬待遇和工作目标，将目标和薪酬挂钩，完成什么目标合同继续，超过有奖励，成绩不好降低薪酬或解除合同。如今欧债危机，全球经济低迷，一份待遇可观的合同对于全球的洋帅来讲也是很有吸引力的，初步谈判后可以签订意向书，把前期谈判结果固定下来，掌握主动权进入缔约阶段。

重要内容

合同里必须有的：工作目标、薪酬标准、解约条件

那么，一份合情合理，保障双方权利的合同究竟应该怎么签？工作目标、薪酬待遇和解约条件，这三个是国际职业足球教练员合同中最重要内容。确定双方的权利义务就是合同的根本作用，必须明确而具体，才会对双方产生约束。足球运动有它的特殊性，聘请教练员的目的就是要提高球队成绩，所以在合同中，工作目标应该是第一位的，此外就是薪酬待遇和解约条件。

在合同中，这三项关键内容应该相互关联才能产生作用。比如说，订立一个亚洲杯取得前四名的成绩要求，如果达到双方继续履行合同，教练员的薪酬是多少，达不到目标则自动解除合同，不用支付分文违约金。

如果你只是提出成绩要求，而没有与解约相挂钩，那么成绩目标就是空谈。从法律上来说，不与解约相关，即便没有达到成绩，也不构成解除合同的条件。



在构成解约条件的情况下，一方提出解除合同叫单方解约；而没有达到解约条件，一方提出终止合同，那就叫违约，依法还要支付违约金。如果双方在合同中没有约定解约条件，先要靠协商解决，协商不成就只能到争议解决机构去裁决了。

赵建军律师说，如果在约定了工作目标、薪酬待遇后又没有约定解约条件，对于一方提出的解约，合同相对方完全可以要求继续履行合同，也就是说卡马乔也可以要求中国足协继续履行合同。

其实，在签订合同方面，中国足协聘请外教也曾有过“聪明”的时候。查阅之前的相关报道，在聘请阿里·汉作为国足主帅时，足协和对方签订的就是“阶段考核”的合同。双方的工作合同期限是2006年世界杯预选赛结束之后，如果中国队从亚洲出线，合同将继续有效，否则自动解除。与此同时，中国足协还在合同当中对阿里·汉有三方面的要求：第一是在2004年亚洲杯上进入前四名；第二是，中国国家队必须在世界杯亚洲区预选赛中出线；第三是，在其执教期间必须使中国国家队的水平提高。中国足协的技术监督小组对阿里·汉执教工作进行追踪评估。

在足球界，与教练签订带有成绩指标的“阶段考核”的合同很正常，拿到国际足联和体育仲裁法院也是经得起考验的。从法律上来讲，达不到成绩自动解除合同，就不必支付违约金。这是对合同最终目的的体现，也是自我保护的方法。

九项注意

目标越具体明确越好：合同权利义务须不惜笔墨

足协与洋帅签订合同要注意9方面的问题。首先中外双方都要是合法存续的主体，具有缔约能力；其次，当事人的意思表示真实、合意，不要在签订合同后还有模棱两可或理解不同的条款；第三，签约后，教练员从人格上就属于中方，要约定服从中方的管理指挥和工作安排；第四，职业教练员的劳动合同必须是书面的，双方共同签字确认。

合同中最为重要的是明确载明工作期限；工资、奖金和包括住房、配车等各种生活需求在内的福利待遇；然后是工作目标。这三项焦点问题越具体明确、具有可操作性越好。东亚四强赛成绩；亚洲杯、亚运会名次；世界杯预选赛能否打进，这些都是可行的目标。

合同的权利义务必须不惜笔墨，我们曾经做过的一个俱乐部与外援签订的工作合同中，连如何保障队员的宗教信仰都专门列章予以细化。如果确如外界传言，足协与卡马乔的合同中对工作目标只有笼统一句“带队取得明显变化”，那无疑是个国际笑谈，这种模糊不清的词语是合同的大忌，可以说根本起不到约束的目的。对于工作目标的描述，如果措辞模糊，打到仲裁去，就不会掌握主动权了。

接下来还要写明赔偿性条款和违约责任，比如不能履行合同时怎么赔，违反合同时怎么赔，单方解除合同时怎么赔，都要根据不同情况分别确定。

最后需要特别提醒的是，国际足球教练员合同都是中英文双语，签约时要特别注意英文版本的审查。国际足联和体育仲裁院的工作语言都是英语，如果中英文措辞有出入，对合同的判读肯定是以英文为准。

如何裁决

洋教练解约纠纷：不由国内法院仲裁机构管辖

一份清楚明确的合同不只是对双方的约束和保护，更重要的是，一旦出现争议，这将是最重要的依据。老外可不会管中国体育体制那一套，一切按合同办事。而且，洋帅的解约纠纷作为国际争议，往往约定由国际足联争议解决委员会(DRC)或国际体育仲裁院(CAS)仲裁，而不由国内法院管辖，也不由中国的法律解决。

一般情况下，国际足联争议解决委员会在收到有效请求后 30 至 60 天内作出裁决。如果一方或双方不服，可以 21 日内上诉到位于瑞士洛桑的国际体育仲裁院。根据《瑞士联邦国际私法》的规定，对于国际体育仲裁院的裁决仍然不服，还可以继续上诉到瑞士最高法院。体育法律实务中，一个国际



体育纠纷审理时间相当漫长，2-3 年并不鲜见。

在合同中一般会约定争议解决方式，由谁来仲裁，出现纠纷以哪国法律为依据。但是，通常情况下，外教是不会同意依据中国法律在中国解决的。在国际体育仲裁院，没有选择依据哪国法律的情况下，适用瑞士法。在我国的合同法中，还有在显失公平或重大误解的情况下，可以撤销合同的规定。但打到国际足联或体育仲裁院，人家才不会管我们的法律。因此，足协需要学习的不只是怎样签订合同，中国的法律怎样规定，甚至还要研究国际体育法律。

解约也有很多方式方法，签了合同就要尊重，不要在理由不充分或不十分必要时解约。如果当初不审慎积极对待合同，没有做法律风险和评估就签约是草率，出现问题没有预见到后果又匆匆解约，同样显得草率。



责任追问

签订“丧权辱国”条约：层层审批集体决策谁负责？

虽然足协与卡马乔的合同至今没有人见到，但媒体通过各种渠道打探散布的消息，再加上足协一贯的“恶名”，让人们打心眼儿里相信“缺心眼儿”的事可能是真的。这次签约所暴露出的问题已经不限于足球领域和球迷的关注了，而是被放大为“丧权辱国”。人们不停地追问，谈判签约的人是谁？幕后的决策者是谁？对于今日的结果，该不该承担责任？

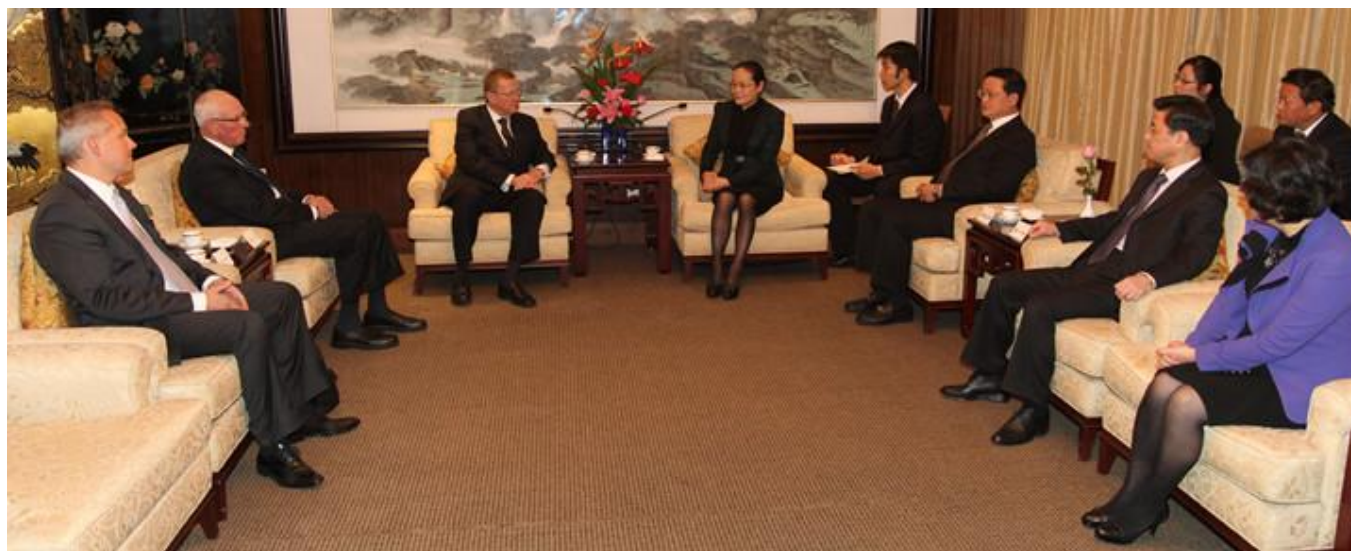
目前除合同当事人以外，没人看到这份合同，现在说它是一份漏洞百出或错误的合同是不谨慎的，而在合同上签字的也只是作为足协的代表，并不一定是决策者。体育法律实务中，整个合同谈判签约过程都是需要经过层层审批，甚至开会集体决策的，毕竟合同上会加盖中国足协的公章，现在谈追究签约人、决策者的法律责任为时尚早，事实终究会有水落石出的一天。

律师心语

忽视法律不仅可悲，也注定了失败的结果

可以说，在我们国家，国际职业足球运动中缔结教练员合同的法律问题研究还存在很大空白。巧妇难为无米之炊，以往出现争议大多是在球员与俱乐部之间，足协与主教练出现纠纷的很少，相关聘用合同受到保密的限制又从未公开过，使得研究素材少之又少。

卡马乔事件看似是签约人的问题，其实是中国足球现状的浓缩，甚至是体育人忽视法律的例证。从卡马乔谈判、签约至解约，人家有强大的、在国际上都有影响的律师团队帮衬，而我们，甚至连赞助商万达集团都是签约后才看到合同复印件。忽视法律不仅可悲的，也注定了失败的结果。“如果这是个失败的合同，那么就让它成为新的起点。”



体育营销成就恒大：许家印2亿赚眼球 挣出200亿



恒大进军体育界，除了履行社会责任的重大因素外，作为一家企业，必须考虑到品牌效应和社会效应，撬动体育营销这个全球瞩目的大杠杆。

在涉足职业体育的初期，恒大集团相继协办了2004年广州国际龙舟赛、广州横渡珠江活动，赞助男子乒乓球世界巡回赛。2005年，恒大独家冠名“2005年女子乒乓球世界杯”赛。2008年1月，恒大出资2000万元独家赞助第49届世界乒乓球锦标赛，开创了世乒赛首次由中国企业独家赞助的历史先河。

2009年5月22日，恒大集团2000万元注册成立了国内首家职业排球俱乐部，同时在国内其他俱乐部挖来了冯坤、杨昊、周苏红等多名前国手加盟。2009年8月，恒大女排俱乐部以年薪500万元聘请郎平担任主教练，使恒大完成了一次经典的体育营销。2009年8月12日，来自100多家媒体的200多位记者齐聚广州，谁有这么大的魅力呢？答案是郎平，当日在恒大酒店举行了恒大女排起航暨“郎平归来”欢迎仪式，不光引得各地媒体记者纷至沓来，广东电视台还现场直播了郎平与恒大牵手仪式，毫无疑问，从国外回归的“铁榔头”即将带领一支由公司刚注资成立的女排俱乐部，是一个爆炸性的重大新闻，而在这种关注的带动下从这一天开始很多人“顺便”知道了恒大。是的，这种认知是潜移默化的，因为女排在国人心中的位置之高，因为郎平的金字招牌当之无愧，这几个要点恒大当然明白，也可以说让恒大董事局主席许家印牢牢抓住了，所以这给他以及恒大都带来了巨大的社会效应和商业效应，换句话说，这是一次成功的体育营销。

恒大女排2000万元的投资在女排甲A联赛中虽数较高，但仅是签约郎平的发布会就吸引了全国数百家媒体到场，而要是单以广告版面计算，恒大要达到同样的宣传效果，其花费也许要上亿。以500万元年薪的代价，获得了上亿元的宣传效果。2010年2月2日晚，“中美女排对抗赛”在广州体育馆开战，恒大女排以3:0的漂亮比分，干净利落地战胜了来访的美国国家女排。此次比赛由CCTV-5、香港NOWTV等众多电视台向全球现场直播，全球有超过千万人在电视机前观看了本场比赛。2010年3月25日，恒大第23届亚州杯乒乓球比赛新闻发布会暨抽签在广州举行，在广州2010年亚运会将开幕的重要时刻，恒大集团再次出资200万独家冠名此次比赛。

2010年3月1日，恒大集团入主广州足球俱乐部签约仪式在广州举行，恒大先是将球队以往所欠款项一次性偿还，然后将俱乐部注册资本由过去的2000万元变为1亿元。在买下广州足球队后，郜林、孙祥、郑智相继加盟，然后他们又以年薪500万元和3年合同的大手笔挖来了韩国名帅李章洙，以高达350万美元的转会费引进了有“巴西猎豹”之称的外援穆里奇，再次展示了恒大集团的雄厚实力与强烈的社会责任感。2010年4月3日的恒大足球首场比赛，邀请了全国80家媒体的120名记者现场采访，全国有13家电视台进行现场直播，开创了中国足球之最；2010年4月10日，恒大客场挑战上海浦东中邦，恒大俱乐部特别包下两架专机，接送600名球迷，又包下15辆大巴，从陆路接来1000名球迷，



把上海源深球场变成了客队的主场。2010 年 10 月 30 日，广州恒大主场 3 比 1 胜湖南湘涛队，以 21 轮不败、积 57 分的辉煌战绩夺得中甲冠军，而此前恒大已提前三轮冲超成功，仅用了 1 年就轻松杀进中超。

2010 年底恒大投资 600 万元，入股广州粤羽俱乐部。不仅花重金请来了世界男单排名前两位的李宗伟及陶菲克，还请来了世界男双排名第一的男双组合马来西亚的古健杰/陈文宏。2011 赛季之前，张琳芃、冯潇霆、杨君、姜宁、杨昊等五名拥有国家队经历的球员先后加盟球队。巴西前锋克莱奥以创俱乐部新转会纪录的 320 万欧元从贝尔格莱德游击队加盟，之后广州恒大又先后引进前韩国国脚赵源熙、巴西后卫保隆以及巴西中场雷纳托，内外援转会费用总计达 1.2 亿元。

2011 年 4 月 2 日 20 时，2011 赛季中超联赛开幕式在广州天河体育中心举行。财大气粗的恒大俱乐部共投入 5000 万元巨资打造这一盛会。孙楠、韩红、古巨基等八大巨星联袂献唱，全国 30 多个地方台进行转播，中外记者人数达到 600 多人，以及出现入场观看比赛的观众高达 6 万人。许家印还给球队开出了 500 万元的赢球奖金，100 万元的平球奖金，以及 300 万元的输球罚款，这是中超史上俱乐部允诺的最高额度。



体育营销是注定要提到的原因之一。也正是因为打好了体育这张牌，才让国人对恒大记忆犹新，也让恒大这家企业及许家印都变得不差钱了。企业的广告效应有多种形式，纯粹的广告费仅仅是一方面，而在能用吸引人眼球的体育事业来投入另类广告，体育营销则会发挥事半功倍的作用。恒大拿出一部分广告费搞足球，广告效果比传统广告要好 10 倍，恒大集团在借用体育作为企业广告效应这一点，可以说已经成为中国企业的排头兵。2009 年，郎平率部亮相女排甲 B 联赛，一路连胜，一票难求。恒大女排比赛打到哪里，就把“恒大”品牌带到哪里，恒大房市一路飙升，全年累计实现合约销售额 303 亿元，销售额及销售面积同比上年分别激增了 402.3% 及 396.5%，创下中国楼市的新传奇。恒大借郎平的名气迅速转化为恒大的品牌，这种惊人的宣传效果很快覆盖全

国。2010 年恒大介入足球后，数据显示，恒大接手广州足球 8 个月里品牌价值已达到 80.16 亿元，排名全国第一，比 2009 年几乎整整增加了 1 倍，增加的这 40 亿元与恒大在足球上巨额投资所带来的品牌回报不无关系。

当中国足球历经“假赌黑”后，恒大的介入也得到了众多球迷声援，而巨额投资砸出来的品牌效应更是无穷无尽，从这些方面来说，恒大包赚不赔。2010 在广告效益和营销策略下，借助国内房地产发展的有利时机，当年恒大集团的销售额已经达到 504 亿元，比 2009 年增长 66%，比 2008 年增长 7 倍，比 2007 年增长 17 倍；毛利润和净利润分别同比 2009 年增长约 7 倍。2011 年，恒大的销售额将直指 700 亿元。几年前还默默无闻的恒大，奇迹般地超越了比自己大得多的对手，跻身房地产行业第一阵营，与万科、中海等四家底蕴深厚的公司为伍。许家印的精明，在于他能用不到 2 亿的小钱，生出 200 亿的大钱，而生钱的渠道，就是他的体育营销。



选择合适的体育营销切入点从竞技角度讲，中国女排无疑是中国三大球类项目中最成功的一项，曾经取得过女排五连冠的辉煌战绩，问鼎了世锦赛、奥运会等一系列国际大赛。

成功的体育明星营销

恒大女排成立不久，就聘请到郎平作为球队主教练。郎平的引进是恒大体育营销的点睛之笔，此举不仅成功的吸引了公众的眼球，更为恒大重金打造的“银河战舰”找到了掌舵人。此前，虽然恒大大多次涉足体育赛事，但其曝光度均不如本次聘请郎平。

在恒大所采取的一系列体育赞助活动中，不难发现，当体育赛事市场开发不利时，都是恒大慷慨解囊，倾力相助的，这不仅让人领略到了恒大雄厚的经济实力，更向世人展示了恒大强烈的社会责任感，尤其是恒大在入主广州女排取得了巨大成功之后，更是让球

迷对恒大赞助的体育项目充满了信心。恒大在承担振兴地方体育项目希望的同时，成功地将体育运动中所体现的体育文化与企业品牌融合到了一起，提高了恒大的知名度和美誉度。

从恒大的市场定位可以看出，恒大的目标市场主要集中在国内的二、三线城市，在将二、三线城市的市场做大之后，才逐渐向一线城市扩展的，目前恒大的销售市场也主要集中在一线城市中房价比较低的广州。这与恒大的体育营销策略如出一辙，恒大在进行体育赞助时，并没有冒然的选择一支高水平职业联赛队伍，而是从低级别联赛队伍起，将冲 A、超做为球队目标，作为一个进攻者向高水平联赛发起冲击。这种发展模式对恒大来讲可谓驾轻就熟，结合在地产界的营销策略，从低水平联赛打起，恒大对体育项目的资金投入可能在高水平联赛中难以溅起水花，但在低级别联赛中却一石激起千层浪，并且取得成功，进而产生了巨大的轰动效应。



【体育法律业务组介绍】

○ 体育法服务范围

- 1、为各类体育俱乐部的组成和结构提供法律咨询服务；
- 2、起草赞助协议、商品化协议和许可协议；
- 3、就传统和新兴的传播、数字和数据的商业化利用提供法律咨询服务；
- 4、就赛事和体育活动的组织和管理提供法律咨询服务；
- 5、就体育品牌特别是有关体育用品和服饰的品牌的知识产权保护提供法律服务；
- 6、就运动员的签约、入会和转会提供法律意见；
- 7、就体育场馆的建设、融资、开发和相关事项提供法律咨询服务；
- 8、代表职业运动员、教练员、体育俱乐部、体育经纪人、体育行业主管部门、体育用品和服装制造商参加相关的争议纠纷的解决；



- 9、代表体育用品和服装制作商处理产品责任纠纷和知识产权纠纷；
- 10、为体育运动队和体育活动的主办方、承办方和赞助商协商和起草各类相关合同。

○ 服务方式

- 1、担任专项法律顾问：就各项业务提供全过程、全面、深入的专项服务，办理相关具体事务。
- 2、担任常年法律顾问：就各项业务提供日常法律咨询，处理日常法律事务。

○ 微信平台

2013年5月，上海大成体育法业务组正式创建了“体育法”微信公众账号。

微信号：sportslaw

历经三个月的发展，“体育法”微信公众账号已经成长为一个具有广泛影响力的体育法资讯平台，我们致力于体育法律理论研究、体育热点新闻共享、体育合作信息交流三大领域，力图通过微信公共平台的影响力，为大家提供专业、高效的服务。欢迎大家支持并关注“体育法”！





非常感谢您的阅读,

本资讯由上海大成体育法业务组编辑, 仅供参考。

如有任何问题, 请通过电邮 zhang.bing@dachenglaw.com 联系我们。

内部文件, 仅供交流



Sports Law Periodical

1th, 2014 Editor: Zhang Bing Jenny Wang

Previe

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- **Introduction**

- **Using trademarks to build brands**

- **Athlete names**

- **Catch phrases**

- **Mascots**

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Hotspot in Sports News

**Lance Armstrong comes face to face with whistleblower Emma
O Reilly**



Lance Armstrong has come face to face with the whistleblower who first spoke out against the disgraced cyclist's long-standing drug taking and told her that his attempts to ruin her reputation were *"inexcusable and embarrassing"*. Armstrong, who admitted in January that he took performance-enhancing drugs during all seven of his Tour de France wins – of which he has been stripped – was brought together in Florida with Emma O'Reilly by the Daily Mail. O'Reilly was a soigneur on the US Postal Team which Armstrong represented when winning his first six Tour titles and it was she who in 2004 spoke out against the American and the systematic doping that he was a fundamental part of.



Armstrong reacted by taking legal action against O'Reilly, who is from Dublin but now runs a physiotherapy clinic in Hale, Cheshire, accused her of being an alcoholic and made other disparaging comments about her which he now admits were lies. Meeting the 43-year-old for the first time since 2000, in the presence of the Daily Mail's chief sports reporter, Matt Lawton, the American said: *"I never expected to see Emma. I wanted to talk to her. I felt it was necessary to have a conversation because there were definitely people that got caught up in this story who deserved an apology from me. When I reached out in January it was to talk. Emma, I appreciate, wasn't ready for that. But it's good that we are [now] doing this in person."*

"At the time, when I said what I said about her, I was fighting to protect a lot of positions. But it was inexcusable. It's embarrassing. I was in a conference room, giving a legal deposition, and I had no idea it was going to get out. But that doesn't excuse it. I guess you should always assume that, in that setting, the whole world will watch it the next day. It was totally humiliating for Emma. And if I saw my son do that, there would be a fucking war in our house."

Following a separate, private meeting between the pair, O'Reilly told the Mail: *"It was a bit stilted because I guess*



we were two people who hadn't talked for a long time, who had more than a bit of history. But we had a chat about people we knew, about our families.

"I was thinking, he never actually used the word sorry. But I wasn't looking for an insincere apology. There are different ways of saying sorry and I felt what he did say was genuine. Now people might think I'm under Lance's spell but I'm not. I wasn't when I said what I did about him in 2004 and I'm not now.

He was a jerk. He was a bully.

"But there are wider issues here and I wanted to address those, too. That said, I wanted closure with him and today I feel I have it. This part, for me, is over."

Armstrong was banned for life from cycling after the United States Anti-Doping Agency accused him in August 2012 of conducting the *"most sophisticated, professionalised and successful doping programme sport has ever seen"*. Last month he vowed to testify with "100% transparency and honesty" at any future inquiry into doping.

Vettel secures record eight straight F1 win at US Grand Prix

There was something of the processional about Sebastian Vettel's eighth straight win of the season here on Sunday, an almost weary wave-past borrowed from the archives of royal roisterings. It was his 38th triumph, his 12th of the season, and it shattered the record of seven consecutive victories in one season previously held by Michael Schumacher and Alberto Ascari. But any suggestion that ennui might be setting in Milton Keynes was quickly



dismissed by the Red Bull team principal Christian Horner. *"It never gets boring because you have to remember the days when we weren't winning,"* he said.

"We don't feel bad about doing a lot of winning. We're very proud of it. It's not down to us to help the others to succeed. The focus is very much on ourselves. There are teams with more resources

and nicer factories and more machinery and manpower. But it's how you use it."

Horner also gave an insight into Vettel's motivation when he added: *"He enjoys winning and competing. He's fixated on the DHL Fastest Lap trophy [awarded to the driver with the most fastest laps in the season]. He will be enormously pissed off if he doesn't achieve that trophy. He was pretty emotional at the end of the race because he'd beaten the record of one of his idols [Schumacher]. It seemed unlikely that kind of record would be beaten. To win eight consecutive races, to have won every race since July, is mind blowing, especially when you consider the quality of opposition we're up against it."*

Certainly Vettel did not appear tired of the chequered flag. As he finished the race there was an explosion of pure joy. *"I'm speechless,"* he said. *"We have to remember these days. There's no guarantee they will last. I love this team. Incredible, I love you guys."*

Vettel quickly expanded on the advantage given him by his 44th pole position and not even the introduction of the safety car following Adrian Sutil's early crash could disturb the serenity of his afternoon in the warm Texas sunshine.

There was also a commanding drive from Romain Grosjean in his Lotus. He finished second, following his third,

third, third and fourth finishes in the previous four races, but his new team-mate Heikki Kovalainen suffered Kers problems and finished out of the points in 15th.

Mark Webber once again made a faltering start, though he finished third, his 40th podium. Webber, who started behind Vettel on the front row, was passed by Grosjean and Lewis Hamilton before he arrived at the first turn. It was the ninth time this season – and the fourth occasion in as many races – that he had lost positions at the start of a race. There was also a strong drive from Valtteri Bottas, who had been in muscular form all weekend. His eighth

place was Williams' best result since Abu Dhabi in 2012, more than a year ago.

Hamilton said afterwards that his fourth place felt like a win after his recent mysteries. But there were some testy moments on the track. When told to look after his tyres he said, almost Raikkonen-like: *"That's what I'm doing man, let me focus."* And when told to hold off a charge from Nico Hulkenberg (who was impressive once more) he said: *"I'm trying to."* Yet,



later in the race, he appeared to contradict himself when he said: *"You need to give me some feedback, man, tyres, temperatures."*

When this curiosity was pointed out to the Mercedes team principal, Ross Brawn, he replied: *"We're getting used to that now."*

Meanwhile Sergio Pérez, dropped by McLaren for next season, finished seventh, the third time in as many races and the sixth time this season that he had finished ahead of Jenson Button, who tenth. Afterwards, Button said it was not just the car that was uncompetitive. *"This weekend I just didn't put it all together,"* he said. *"I've got to sort myself out."* That's something four-times world champion Vettel appears to have done rather well.

Super Stenson sets new standards with historic double

Henrik Stenson is targeting the World No.1 spot and his first major after completing the 2013 season with a historic double on the PGA and European Tours. Stenson capped an "incredible summer" Sunday by completing a front running victory in the World Tour Championship with a stunning last round eight-under 64. The success wrapped up the Race to Dubai as leading money winner in Europe.



It was a mirror image of his win at the Tour Championship on the PGA Tour, which saw him land the FedEx Cup and a \$10 million bonus pool. Many believe that No.3 ranked Stenson is already the tops, not least Ian Poulter, who finished second to Stenson, six shots back and second in the Race to Dubai. *"Henrik has not made a mistake all week and I just had to make sure of second place and some valuable Ryder Cup points,"* he told the official European Tour

website. *"I have thrown a lot at him and given him so much stick, but he is the best player on the planet right now."*

The 37-year-old Stenson said he would be taking a break after his grueling end to the season before focusing on this major goal. *"It's going to take a lot more good golf but I am certainly going to keep on trying"*. A major also eluded the Swede despite his superb year, finishing second at the British Open and third at the U.S. PGA Championship to kick start his amazing run of high finishes in big money events. *"It has been a dream season,"* he admitted. *"I played so well this week. I knew the guys would try to catch me, especially Ian who never gives up. I wanted to stay ahead of him and I managed to do that. I don't know how I am going to be able to top this next year but I am going to give my best in the majors and that (becoming the first male Swedish player to win one) would be the icing on the cake."*



Stenson capped his round and his season with a stunning eagle on the 18th for 25-under on the Earth Course at Jumeirah Estates. Poulter bravely gave chase with a fine 66, while French hope Victor Dubuisson finished third, a further two shots back. A trio of former World No.1's in Rory McIlroy, Luke Donald and Lee Westwood shared

fifth to give promise of an improvement in 2014 after disappointing seasons by their own standards. All secured valuable points towards the 2014 European Ryder Cup standings while Stenson has all but secured a return to the team after his heroics. He suffered a slump from 2010, not helped by illness and slipped to 230th in the rankings before his remarkable return to form.

International Sportslaw Practice

Trademarks in sports – an overview

Introduction

The intersection between trademark law and the sports industry creates a number of interesting and cutting edge issues. Social media turns overnight celebrities into #hashtags. Catch phrases such as 'Manny Being Manny,' 'Linsanity,' and 'Tebowing' go viral. Lukas Podolski of the Arsenal Gunners has recently become known for his catch phrase "Aha!" with a YouTube video featuring the catch phrase garnering over half a million views to date.

Professional sports is a multi-billion dollar empire and athletes are beginning to find ways to leverage and add value to their own personal brands. While the commercialization of sporting teams and athletes is ubiquitous, little

attention is given to the intellectual property issues that constantly lurk in the background.

Intellectual property can be a company's most valuable asset. The brand value of multi-national corporations like Walmart, McDonalds or Starbucks is well-recognized; however, professional sports teams and leagues are some of the most valuable brands. Real Madrid (\$3.3 billion USD) topped Forbes' list of most valuable sports franchises released July 15, 2013, followed by Manchester United (\$3.17 billion USD), Barcelona (\$2.6 billion USD) and the New York Yankees (\$2.3 billion USD). To protect their core brands, these franchises file trademark applications for team names, logos, and even mascots. Individual athletes, such as Tiger Woods and Serena Williams, have developed their own brands thereby creating business and endorsement opportunities for themselves. To protect their brands and their future business ventures, professional athletes trademark their own names, nicknames and catch phrases.



Using trademarks to build brands

Trademark protection and registration in the United States is governed by *The Lanham Act*. This federal statute provides protection from trademark

infringement, dilution and false advertising. *The Trade Marks Act 1994* and the *Trade-marks Act* provides similar protection for the owner of registered trademarks against infringements in the United Kingdom and Canada. The United States Patent and Trademark Office ("USPTO"), the UK Intellectual Property Office ("UKIPO"), the European Union Office for Harmonization in the Internal Market (Trade Marks and Designs) ("OHIM"), and the Canadian Intellectual Property Office ("CIPO") are all responsible for trademark registration in their respective territories and maintain an online, public database of trademark applications and registrations.



In the United States, *The Lanham Act* prohibits the registration of any trademark that falsely implies a connection with a living individual unless the individual has consented to the registration of that mark. Celebrities and athletes have a statutory and/or common law right of publicity over their own name, likeness and identity for commercial purposes. Legislation offers protection to ensure that other individuals and corporations are unable to profit

from another individual's personal brand.

Athlete names

Lebron James, the star forward for the Miami Heat, is widely considered to be one of the best basketball players in the world. With this status comes an extensive amount of brand recognition. To protect and leverage this brand, James has applied for and/or registered a number of trademarks. There have been several filings with the USPTO for the word mark 'Lebron,' originally all filed by Nike, Inc. in association with a number of categories of goods and services. Three applications matured to registration in International Classes 15, 25, and 28, and were subsequently assigned to LBJ Trademarks, LLC on April 2, 2013. In addition to building his brand with Nike, James has also established a non-profit corporation, that gives back to his hometown community by helping the Boys & Girls Clubs across Northeast Ohio. As part of this initiative, The Lebron James Family Foundation has applied for and registered a number of trademarks, including, 'The Lebron James Family Foundation,' 'I Promise,' and 'Wheels for Education.'



In order to protect their intellectual property, athletes have used different vehicles to hold their trademark portfolios. LeBron James has established a limited liability corporation for his profit-oriented endeavours and a non-profit



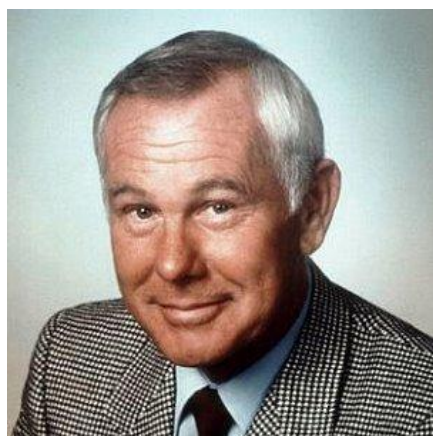
corporation for his charitable work which is common among American sports stars. Tiger Woods uses a Swiss corporation, Tiger Woods Enterprises S.A. to hold his portfolio of marks. Others, like 2013 British open winner Phil Mickelson and soccer superstar David Beckham have registered their trademark portfolios in their own names instead of through a corporate entity. The choice of entity is largely driven by the jurisdiction in which the athlete resides and the athlete's tax planning objectives.

Catch phrases

More and more athletes are registering their catch phrases as trademarks. While this practice is increasing, it is certainly not a new phenomenon. In 1989, then Los Angeles Lakers head coach, Pat Riley, trademarked the phrase 'THREE-PEAT' in reference to his team's third consecutive NBA title. A number of recent examples of catch phrases which athletes have applied for or registered as trademarks include:

- 'Linsanity' filed with the USPTO in 2012 by current Houston Rocket and former New York Knick Jeremy Lin, one week after his first career start in the NBA;
- 'Stomp You Out' & 'Stomp Them Out' filed with the USPTO in 2012 by former New York Giants defensive end Michael Strahan;
- 'Can't Wait' registered with the USPTO in 2012 by former New York Jets linebacker Bart Scott;
- 'LE0 MESS1' registered with OHIM in 2011 by FC Barcelona forward Lionel Messi;
- 'Revis Island' filed with the USPTO in 2010 by current Tampa Bay Buccaneer and former New York Jets cornerback Darelle Revis;
- 'Lovee' filed with the USPTO in 2009 by Venus and Serena Williams;
- 'CR7' registered with OHIM in 2009 by Real Madrid forward Cristiano Ronaldo;
- 'I Love Me Some Me' & 'Getcha Popcorn Ready' registered in 2009 and 2011, respectively, with the USPTO by former NFL wide receiver Terrell Owens;
- 'You Cannot Be Serious' registered with the USPTO in 2008 by former World No. 1 professional tennis player, John McEnroe;

- 'LIVESTRONG' registered with the UKIPO, the USPTO, OHIM, and CIPO by the Lance Armstrong Foundation, although registrations for the trademark are in the process of being assigned to the LIVESTRONG Foundation;
- 'Turn 2' registered with the USPTO in 1999 by New York Yankee shortstop Derek Jeter.



A couple of cases dealing with entertainment industry celebrities shed some light on the law around catch phrases. In *John W. Carson and Johnny Carson Apparel, Inc. v Here's Johnny Portable Toilets*, a US District Court recognized that the right of publicity should extend to include catch phrases as part of one's identity. In that case, Johnny Carson, the popular host of *The Tonight Show*, sued a portable toilet manufacturer for using the phrase 'Here's Johnny' in their marketing efforts. The phrase was used each night on the show to introduce Carson and he argued that the defendant's use of Here's Johnny Portable Toilets misappropriated Carson's personality. The case was dismissed, stating that there was no use of Carson's name or likeness and that the likelihood of confusion test had not been satisfied. The 6th Circuit agreed with respect to the likelihood of confusion but disagreed in part, entrenching the principle that the right of publicity extends to a celebrity's entire identity, including a catch phrase.

Interestingly, the same catch phrase was subject to further judicial scrutiny in Canada in *Carson v Reynolds*. Carson opposed Reynolds' application to register the catch phrase as a trademark. As in the US, the court of first instance rejected Carson's claim, yet he succeeded on appeal, largely due to new evidence indicating that more than 50% of people identified Carson with the catch phrase 'Here's Johnny'.

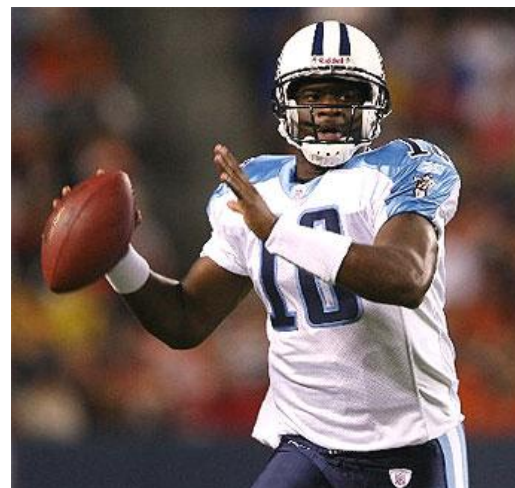
More recently, in *Paris Hilton v Hallmark Cards*, Paris Hilton sued Hallmark Cards for using her name, likeness and catch phrase 'That's Hot' in one of the company's birthday cards. While the case was ultimately settled, the 9th Circuit reaffirmed the principle that one's right of publicity over a catch phrase can be misappropriated.



Nicknames

Registering trademarks does not mean athletes will avoid becoming involved in lengthy legal battles in order to protect their intellectual property rights against infringers.

known more commonly as Shaq, has licensed his companies like Reebok, Radio Shack and 24 Hour Arizona company was selling "Shaqtus" t-shirts without O'Neal was forced to commence legal proceedings. In a ruling by the US District Court in Nevada, an injunction the company from using the Shaqtus mark or any other confusingly similar to any of the "Shaq" trademarks



Shaquille O'Neal, personal brand to Fitness. When an O'Neal's consent, summary judgement was issued prohibiting mark or domain name owned by

O'Neal. Similarly, Vince Young sued three individuals for trademark infringement who filed applications for his initials (VY) and nickname (Invincible) only a day after he won the US College National Championship as quarterback for the University of Texas. The case was settled in 2010 and Young subsequently applied for and registered the trademarks 'VY' and 'Invincible' with the USPTO.



Rising NFL star Robert Griffin III, commonly known as 'RG3' filed an application to register the RG3 mark in Class 25 in January of 2012. Research Group Three, Inc., who filed an application for RG3 in Class 25 in January of 2013 but claimed first use in 1999, opposed Griffin's application in June of 2013. Research Group Three develops motorcycle suspension products and have sold a variety of products, including clothing, bearing the RG3 mark. The company argues that Griffin's "*unrestricted use and registration of the RG3 mark is likely to cause reverse*

confusion...or to deceive the trade and purchasing public."

Mascots

While athletes quickly develop personal brands, sports franchises spend significant resources creating brand loyalty

amongst their fans. Mascots are an important part of the in-game experience and for many teams are as identifiable as the star athletes on the playing surface. There have even been three team mascots – the San Diego Chicken (San Diego Padres), the Phillie Phanatic (Philadelphia Phillies) and Youppi (the Montreal Expos) – who have been inducted into the Baseball Hall of Fame. In 1999, the Sporting News named the San Diego Chicken one of the Top 100 Most Powerful People in Sport for the 20th Century. With the San Diego Chicken's stardom also came legal battles – proving that even mascots are not immune from trademark infringement suits. The owners of the 'Barney' character sued the creator of the San Diego Chicken for using a Barney look-alike to entertain audiences at games. The case was dismissed by the US District Court. The on-field fighting was a parody and there was no intention by the San Diego Chicken to confuse customers. The decision was affirmed on appeal by the 5th Circuit, confirming the right to use a copyrighted work for satiric or parodic purposes.



Team names

Team names have been a source of



controversy at the collegiate and professional level. In 2005, the National Collegiate Athletic Association (the "NCAA") released a policy guideline prohibiting teams from using native American imagery. The majority of schools responded accordingly: the Southeastern Oklahoma State Savages became the Savage Storm, the St. John's Redmen became the Red Storm, the Marquette Warriors became the Golden Eagles and the Stonehill College Chieftains became the Skyhawks. Further, the University of Iowa prohibited its teams from scheduling competitions hosted by schools using native American imagery. In keeping with this policy, Iowa refused to invite the University of North Dakota to a track meet in 2012 because of the school's Fighting Sioux mascot. Prior, the University of North Dakota had challenged the NCAA policy guidelines in court. After agreeing to a settlement in 2007, North Dakota failed to obtain the necessary consent from each Sioux tribe in the state. In the aftermath of the failed settlement, the state legislature voted to retain the Sioux name, before voters ultimately overruled the decision in a state referendum.

The NFL's Washington Redskins have one of the most controversial team names in professional sports. In 1992, a group of native Americans filed a petition to have the trademark cancelled on the basis the name was disparaging in contravention of the Lanham Act. The TTAB concurred and order the cancellation of the Redskins' trademark registration in 1999. The team appealed the decision and won on a technicality – the Doctrine of Laches. In effect,

the court decided not to deal with the issue, finding rather that the group waited too long to file the lawsuit. The case lasted nearly 17 years, including appeals all the way to the Supreme Court. As a result of the decision on the basis of a technicality, another group of native Americans, aged 18-24, decided in 2006 to file a nearly identical claim. The hope for this group is that the court will decide the case on its merits and cancel the Redskins' registered trademark.

The case has widespread implications – not only for the Redskins, but for other sports franchises as well. If the Redskins, the 8th most valuable sports team as valued by Forbes in 2013 at \$1.6 billion, are found to have a disparaging mark as a team name, the organization will have to decide if they want to continue using the cancelled mark or transition to another team name like the NCAA schools noted above. In addition, petitions will certainly be filed with the TTAB to cancel other similar team name registrations.

Opinions on this issue are aplenty. Two representatives of the US Congress recently contacted the Washington franchise and NFL commissioner Roger Goodell regarding the Redskins' team name. Goodell has chosen to publicly defend the Redskins name and claim that the name "*from its origin represented a positive meaning distinct from any disparagement that could be viewed in some other context.*" Whether you agree or disagree with Goodell,

it will be very interesting to see how this case plays out.

In summary, there are no shortage of sports related trademark issues. As sports industry brands grow in prominence, so do the underlying day to day branding and trademark issues that deal with individual and team names, catch phrases and nicknames, and disparaging marks.

What should boxing fans and the media do to stop young men dying and being incapacitated again and again?

Introduction

Heavyweight boxer Magomed Abdusalamov is in an induced coma from which he may never wake up. He was taken to hospital in New York on Saturday night after a bruising heavyweight fight with Mike Perez on HBO, where he underwent surgery to remove a blood clot from his brain. The New York Post's George Willis reported Abdusalamov's prognosis had worsened after he suffered a stroke on Tuesday.



Abdusalamov's condition has forced boxing fans and

writers to take an uncomfortable look at our sport for the second time in as many weeks. On October 22 junior featherweight Frankie Leal died from a brain injury after being knocked out by Raul Hirates in Mexico. Iron Mike Gallego wrote beautifully but painfully on the subject. But here's the thing about what happened to Leal: it was preventable. As Gallego points out, Leal had been knocked out four times, had already left the ring on a stretcher once before, and the fight in which he was killed was essentially a protracted beating.

You can't really say any of those things about Abdusalamov or the fight that put him in a coma. The Russian had never been knocked out. He finished the bout with Perez with a disfigured face, but apart from the first round, he was never really "hurt" in the boxing sense; being close to losing consciousness. The fight was one-sided, but there was not an overwhelming outcry about it until after Abdusalamov was taken to hospital. No moment stood out in which the referee, Benjy Esteves Jr, or Abdusalamov's corner should have stopped the fight (at least not by the usual criterion of a boxer being unable to defend himself).

“Quitter”

The uncomfortable truth is that if Abdusalamov had told his corner he didn't want to continue on Saturday night, many (but by no means all) would have called him a "quitter". Going into the bout with 18 knockouts from his 18 fights, he was in many ways a victim of one of boxing's oldest tropes: "the puncher's chance".

Abdusalamov's life-threatening injuries should be even more confronting to boxing fans than Leal's death. Abdusalamov is not on death's door because of boxing's regulatory failings, he's on death's door because he boxed. We're all hypocrites for watching and then wringing our hands after the fact. Despite what we may say about skill, personality and the triumph of will, we watch boxing because of its brutality, not in spite of it. HBO's own



compulsively watchable "Greatest Hits" segments are all the evidence you need of that.

Abdusalamov fought on a high-rating telecast on boxing's biggest network in one of the best regulated jurisdictions in America. As arguments for banning the sport go, you don't get much more convincing.

So if we don't want to see the sport banned (and if we want to watch with a clean conscience), is there anything boxing fans and media can do to

stop young men dying and being incapacitated again and again? I honestly believe there is.

We have to wean ourselves off the worst of boxing's violence, even if it's what we find attractive. Talk of "early stoppages" needs to become a thing of the past, at least in situations where they're not obviously corrupt. We in the media need to do our bit to dismantle some of the more macho elements of boxing culture. Springs Toledo has said much the same thing. Our own Tim Starks also had an intelligent, short take. Fighters need to know they don't betray us by begging out of fights when they get hurt. Perhaps more importantly, cornermen need to know the same. Abdusalamov repeatedly complained about the damage to his face, which, in hindsight, was almost certainly a sign his corner should have picked up on. Rick Reeno reported that some of his corner wanted to stop the fight. If even one person in the corner wants to stop the fight, then it's time to throw in the towel.



Little direct responsibility from regulators

As much as the regulators hold little direct responsibility for what happened to Abdusalamov, extra training and accountability for cornermen would be welcome. If the resources are available, and I suspect they are in New York

and Nevada, cornermen should watch tapes and justify their actions to the commission. Cornermen who repeatedly allow their fighters to suffer beatings should be sanctioned.

This is not self-righteous preaching. I see all the worst elements I've been talking about in myself. At the time, I didn't think the referee or doctor should have stopped the fight. To put it bluntly, I enjoyed the beating that put a man in hospital and may kill him. Last week, more out of a sense of guilt than anything, many of us donated to support Frankie Leal's family. Let's all hope there will no appeal necessary for Abdusalamov's. On that note, and briefly, I don't think I've read a more spine-chilling sentence than "promoters Leon Margules and Lou DiBella... are establishing a fund to donate and raise funds to help alleviate the financial burden the unfortunate brain injury Abdusalamov suffered Saturday night has placed on him and his family." Abdusalamov went to work on Saturday night and he may never return home to his wife and three young children. Even if he does, he may not (and probably should not) ever box again. Forcing him and his family to pay even part of the medical bill would be a gross injustice.

Conclusion

While America's broken healthcare system may be at fault rather than event's organisers, HBO and the promoters

enjoy a far, far bigger share of boxing's wealth than most fighters – for them to ask for donations borders on offensive. They should step up and pay this man's medical bill in full.

Introduction of Sports Law Group

Sports Law Service Scope

- 1, Provide legal consulting service about the composition and structure of various sporting clubs;
- 2, Draft sponsorship agreements, commercial agreements and the license agreements;
- 3, Provide legal consulting service about traditional and emerging commercial cases;
- 4, Provide legal consulting service about events, sports organizations and management;
- 5, Provide legal advice of intellectual property protection in sports brands, especially for those that are related to sporting goods and clothing brands;
- 6, Provide legal opinions in signing contracts with athletes, their initiation and transfers;
- 7, Provide legal consulting service in the construction of sports venues, financing, development, and other related matters;

- 8, Solve disputes in the name of professional athletes, coaches and sports clubs, sports brokers, departments in charge of sporting industries and sports goods, and apparel manufacturers;
- 9, Deal with product liability disputes and intellectual property disputes on behalf of sporting goods and apparel makers;
- 10, Draft various and inter-connected contracts for sports teams, sports organizers and sponsors.



Service mode

1, Served as special counsel: each business will provide the whole process, comprehensive, in-depth special services, and related specific issues.

2, Served as perennial legal counsel: each business will provide daily legal consultation dealing with daily legal affairs.

Thank you very much for your reading,

Edited by Shanghai dacheng sports business group, the information is for reference only.

If you have any question, please contact us via email at zhang.bing@dachenglaw.com.

Internal documents, only for communication.

