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Fantasy Leagues May be Less Than They Seem

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Surprisingly, the sky hasn't fallen.

I may even be disappointed it hasn't.

It's been two weeks now since the kickoff of the college football season and the kickoff of the college football fantasy season that for the first time is using real names of student-athletes. In the past, producers provided the statistics for "Florida quarterback." No name. This season, they are posting the statistics of the Florida quarterback by name.

This change - use of the student-athlete's name rather than just the position - is the result of a court decision over the summer, involving Major League Baseball players, that ruled the use of names to be a first amendment right.

Interestingly, the appeals court, while agreeing with the claim of a licensee of those players named that there was a right of publicity issue at stake, determined that because such names are "all readily available in the public domain" first amendment access to and use of the names and statistics takes precedence over the players' rights.

Newspapers, television and radio have long been using the names and statistics of athletes, including college athletes, in their coverage of teams. Professional teams and universities provide media guides, program information and Websites that highlight the stars and their accomplishments.

If all that is already in the public domain, the fantasy league producers argued, why shouldn't they be able to provide the same information in the course of helping their customers create their own fantasy leagues.

And the courts agreed.

But I don't.

I don't like it. It doesn't pass the feel and smell tests for me. There is a difference between reading about college athletes, having available their performance statistics, but then using that information and those names as commodities in a game that is completely divorced from the purpose and values of intercollegiate athletics.

The acquisition and trading of student-athletes, the substitution of their university or college standing with fantasy team names and all for the sake only of virtual competition, runs counter to

some of the most important characteristics that distinguish college from professional sports. Those who participate in college sports are students, and the first purpose of intercollegiate athletics is to enhance the educational experience of those students.

Even though the vast majority of fantasy leagues are conducted for the purpose of testing a player's skills in assembling a team that then is dependent entirely on how the individual athletes perform with their real-world teams, college fantasy leagues pay no heed to the educational value of intercollegiate athletics as opposed to the entertainment value of professional sports.

College fantasy leagues conducted on a par with professional fantasy leagues supports in the minds of many that the differences between college sports and professional sports in the real world are disappearing.

That's the part I don't like the most.

Some have urged the NCAA to seek legal remedy to this poke in the eye of intercollegiate athletics. They want us to sue the producers on the grounds that the use of names of student-athletes violates the principle of amateurism.

Well, it does.

But that likely isn't good enough to bring suit. The stake in the ground is the right to control publicity by athletes of their names, likenesses and identification. Indeed, courts might very well find that student-athletes should be held apart from professional athletes in this application. The benefit that naturally comes with the publicity of names and statistics for professionals is critical enough that those athletes assign their rights to organizations to manage.

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But in the case of intercollegiate athletics, the right of publicity is held by the student-athletes, not the NCAA. We would find it difficult to bring suit over the abuse of a right we don't own.

So, is there a line so critical to the principle of amateurism that when crossed we say: "Stop! Enough! Go no further!"?

The answer is that the NCAA has defended the principle of amateurism - successfully - in numerous law suits. When we've lost at the trial level, we've appealed. When we've lost at the appellate level, we've gone higher. We've fought exploitation by commercial entities even when the student-athlete argued that no exploitation was involved. We will continue to press our point that student-athletes are amateurs.

And with regard to fantasy leagues, how do we protect the principle if we stand by and just let the brave new world of fantasy leagues roll over our values?

There is no such ready and obvious answer in this instance. Where we have no standing with regard to publicity rights - as in this case - to bring legal action, we must use other means to try and protect the concept of amateurism.

In the interest of full disclosure, it should be noted that CBS - arguably the fantasy league industry leader - is an NCAA media partner. The Association and its member institutions benefit considerably from a \$6 billion contract that runs through 2013. There is a pass-through process for these monies from the national office to member universities and colleges that receive 95 cents of every dollar.

If the court decision stands - and it could be challenged from various entities other than the NCAA national office, including the member institutions, the student-athletes themselves, or other third parties - our best option is to influence the industry leader and others to conduct the fantasy leagues with as much deference to the best interests of intercollegiate athletics as possible.

For that reason, CBS does not charge for its college football fantasy league, warns on its site against the use of the leagues for sports wagering purposes, offers no prizes to the winners, and does not use images of the student-athletes to support the statistical information or to promote the site. In the virtual world where edginess in content is coin of the realm, that is a lot.

Fantasy leagues are a curious thing. They operate in a kind of parallel existence, fueled by what happens in the real world and providing yet another opportunity for a competition- and sports-possessed public to engage - vicariously - in sports competition.

The college fantasy leagues have in the past operated almost exactly as they do this season except for the name thing. But that change has given a whole new meaning to the question: What's in a name?

I say again. I don't like the change. I don't like the way it has personalized and therefore commoditized the student-athlete into the fantasy league environment. I don't like the abridgement of a bed-rock principle.

And yet...the sky is not falling. College football goes on, student-athletes are still students, and there continues to be educational value in intercollegiate athletics.

Maybe these leagues are less than they seem exactly because they are fantasy.

In reality, they may be more irrelevant than irreverent.