INTRODUCTION

A group of former and current student-athletes filed a lawsuit against the NCAA in California federal district court claiming the NCAA unreasonably restrained them from trading on their names, likenesses and images. The student-athletes won in the California federal district court. This case is well known as O’Bannon v. NCAA (2014). The court held the NCAA violated federal anti-trust law and should compensate the student-athletes for using their names, likenesses and images no less than $5,000 per NCAA Division I student-athlete per year. The consequence of this landmark court ruling may change the NCAA’s current amateur model, financial model and force the NCAA member schools and conferences to share revenue with student-athletes. The NCAA has appealed the federal district court decision.

Names, likenesses and images refer to a person’s identity, which also includes any characteristic that could identify a person, such as voice, hairstyle or dress. The law of right of publicity says a human being has the right to control the commercial use of his or her identity. If others use this person’s identity for commercial purposes without this person’s consent, this person could ask for damages in court. The California District Court found the NCAA misappropriated student-athletes’ publicity rights and thus the court ruled student-athletes will be compensated for damages. However, the case remains on appeal. The NCAA could use the defense that the NCAA received the student-athletes’ authorization to use their publicity rights via an eligibility form signed by every NCAA student-athlete each year.

RESEARCH MODEL

The research model of this study is qualitative research method and law review method. Athletic directors, scholars and commentators, and attorneys will be interviewed. Right of publicity state statutes and case law will be reviewed. Each interview group will have approximately 10 interviewees. Potential interviewees of the athletic directors group will be selected from Big Ten, Pac 12, SEC, ACC and Big 12 conferences. These five conference have the richest and most powerful schools in NCAA college sports. State statues, case law and interview transcripts will be coded and administrative recommendations will be generated.

SIGNIFICANCE OF STUDY

Significant Impact to the NCAA Student-athletes, Member Schools and Different Amateur Sports. The NCAA, is the most powerful national collegiate sports association, with a total of 1,090 member schools, including 348 Division I member schools (NCAA.org, 2014). There are 175,738 student-athletes playing Division I sports (NCAA.org, 2014). Each year student-athletes right of publicity issues directly influence 33,132 student-athletes who play men’s basketball and football (NCAA.org, 2014), and indirectly influence 142,606 student-athletes in many ways, such as full attendance cost, insurance, and travel. The potential impact of the decision may cost member schools more money to support football and men’s basketball, thus resulting in NCAA schools making drastic expense cuts by dropping other non-revenue sports like gymnastics, track and field, and tennis.

New Development Trend of Future College Sports. The student-athletes’ right of publicity issue may lead to the collegiate sport model being redefined. The current amateur model prohibits student-athletes being compensated for their athletic participation. If the court ultimately finds NCAA Division I student-athletes should be compensated by the NCAA for using their publicity rights, it would change the NCAA’s amateur model and financial model. If the NCAA is required by law to pay student-athletes for using their publicity rights, it forces college sports to change to a professional model.

METHODOLOGY

The research method of this study is qualitative research method and law review method. Athletic directors, scholars and commentators, and attorneys will be interviewed. Right of publicity state statutes and case law will be reviewed. Each interview group will have approximately 10 interviewees. Potential interviewees of the athletic directors group will be selected from Big Ten, Pac 12, SEC, ACC and Big 12 conferences. These five conference have the richest and most powerful schools in NCAA college sports. State statues, case law and interview transcripts will be coded and administrative recommendations will be generated.

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