

**It's In The Game: Officially Licensed Collegiate Video Games, and Student-Athlete's Statutory and Common Law Right of Publicity**

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Building on a recent study by Williams and Rodenberg (2007), this presentation will analyze the presence of student-athlete images in officially licensed college basketball video games vis-à-vis a student-athlete's statutory and common law right of publicity. The right of publicity law was first recognized in *Haelan Labs v. Topps Chewing Gum*, a 1953 baseball card case.

The law states, "The right of publicity is the inherent right of every human being to control the commercial use of his or her identity". Current NCAA rules permit licensed third party video games manufactures to use images of current student-athletes in video games, but not names. In addition, licensed third party video game manufactures can use images of current student-athletes in advertisements as long as there is no specific endorsement of the game itself (and no image of the game).

Proposed NCAA rules would allow manufacturers to use images of specific student-athletes in advertisements featuring the game itself (presumably screen shots and/or game packaging). However, student-athletes would still be prohibited from verbally endorsing the game (Smith, 2007). Furthermore, officially licensed college video games contain features that allow consumers to manually input or download the names of student athletes, and permit video game announcers to verbally state the names of the student athletes.

This presentation will specifically treat the potential impact of the NCAA's proposed rule change on the use of player images in commercialized ventures, with a particular emphasis on college basketball-themed video games. After detailing the quantitative content analysis used to examine the scope of student-athlete likenesses being used in the 2008-2009 editions of the college basketball video games for Sony Playstation 3 and Microsoft Xbox 360, this presentation will provide an overview of both the current NCAA regulations pertaining to commercialized player images and the proposed rule revisions being contemplated. Further, the presentation will summarize the key terms of the athletic scholarship agreement, the primary document relied upon by the NCAA in its licensing of player images to video game producers without compensating the student-athletes featured in such video games. The presentation will conclude by setting forth the legal implications as it concerns statutory and common law rights of publicity.