Applying Stakeholder Theory to American-Indian Trademarks: The Case of the Fighting Sioux

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Over the last 30 years, the use of American-Indian mascots and imagery by athletic teams has been a widely debated topic. In 1970, the University of Oklahoma was the first Division I school to eliminate its' American-Indian nickname, with Stanford and Dartmouth following in 1972 (Behrendt, 2000). Since 1972, more than 600 colleges, universities and high schools have eliminated or altered their use of American-Indian mascots or images (Moushegian, 2006). Although numerous colleges and universities eliminated their association with American-Indian imagery and mascots, a number of schools still retained their associations. However, in 2005, the National Collegiate Athletic Association (NCAA) enacted rules to prohibit the use of American-Indian nicknames and mascots in college sports on the basis that such nicknames are "hostile or abusive" (NCAA, 2005). Specifically, the NCAA decided that any school that did not adhere to their new policy would be prevented from hosting postseason events, a move with serious legal and financial ramifications. Such imagery would be prohibited at postseason games on team, cheerleader, and band uniforms starting in 2008. Schools with mascots that had already been selected as tournament sites would be asked to cover any offensive imagery.

The NCAA identified 18 schools which had mascots that potentially would be in violation of their rules, including The Florida State University's Seminoles, the University of Illinois' Illini, and the University of North Dakota's (UND) Fighting Sioux. Since the NCAA enacted their 2005 policy, 12 schools changed their name and/or mascots to adhere to the NCAA mandate, five were permitted to retain their name and/or mascot under the rule's "namesake exemption" by producing support from American Indian tribes, and the University of North Dakota has retained its Fighting Sioux mascot while disputing the NCAA's ability to restrict and punish those schools that do not adhere to the NCAA's American-Indian policy. The University of North Dakota initially sought support for the continued use of the Fighting Sioux name from tribal groups within the state. It received support for the name from one tribe, but three others rebuffed the request (Staurowsky, 2007). In 2007, the NCAA granted UND an extension to pursue approval from two additional tribes to retain their current "Fighting Sioux" name. Despite not obtaining additional tribal approval, the University of North Dakota's difficulty with the NCAA appeared to be resolved in 2009 when the state Board of Higher Education agreed to drop the Fighting Sioux logo and nickname and UND agreed to phase out the use of both the logo and nickname in all marketing materials by August, 2011 (Gunderson, 2009). However, despite this apparent agreement, numerous university and state officials, as well as prominent alumni and members of the UND booster club, lobbied key constituents to develop a strategy to retain the Fighting Sioux name. With the issue still not resolved to the NCAA's satisfaction, in 2011, various high profile UND alumni led an e-mail campaign that pressured state lawmakers to pass a law (North Dakota House Bill 1263) that requires UND to retain the moniker and logo. North Dakota Governor Jack Dalrymple signed the final bill that includes a provision that the state attorney general consider filing an antitrust claim against the NCAA if the association takes any action to penalize UND for retaining its name and logo. The law also states that neither UND nor the state Board of Higher Education may take action to discontinue the use of the nickname or logo.

The action of North Dakota lawmakers placed UND in an awkward position. If it wished to adhere to state law, it would face sanctions from the NCAA, but if it changed its name it would be in violation of state law (and in conflict with a key funding constituency). Further complicating the issue is UND's desire to join the Big Sky Conference, which has numerous members that have stated their unwillingness to schedule any athletic contents with UND, let alone permit them to become a member of the conference (Heitcamp, 2011). In addition to galvanizing support from various campus and state officials on both sides of this issue, the situation has also continued a debate among sport management academics and practitioners about the proper role of the NCAA in the management of individual campus activities.
The purpose of this case study is to detail the events and actions pertinent to the ongoing UND mascot debate. In addition, the presentation will discuss pertinent sport management, economic and legal literatures that apply in this unique situation. Utilizing historical records, archival research, and interviews with selected individuals central to the UND-NCAA debate, the researchers were able to analyze the issues that shaped policy decisions. Specifically, stakeholder theory was utilized to explain the actions of various constituents involved in the UND case.

The development and application of stakeholder theory has been prominent in the sport management literature recently, in part because of stakeholder theory's emphasis on explaining or predicting how an organization functions with respect to the relationships and influences existing in its environments (Freidman, Parent, & Mason, 2004; Parent, 2008). A core component of stakeholder theory is that organizations are required to address a set of stakeholder expectations by understanding the types of stakeholder influences and how the organization responds to those influences (Brenner & Cochran, 1991; Rowley 1997). Organizations are unlikely to fulfill all the responsibilities they have toward each primary stakeholder group. Instead, they are likely to fulfill economic and all noneconomic responsibilities of some primary stakeholders but not others. Stakeholders most likely to have access to resources needed for organizational survival will elicit more attention from organizational decision makers than stakeholders who have less access to such critical resources (Rowley, 1997). The current study will identify the critical stakeholders, analyze how an organization’s relationship with each of the primary stakeholder groups played various roles in the fight for the Fighting Sioux nickname, and describe possible strategies that an organization could implement to deal with each of the stakeholders.