



For The Record

The Official Newsletter of the National Sports Law Institute

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IN MEMORIAM: PROFESSOR CHARLES W. MENTKOWSKI

Professor Charles W. Mentkowski was a long-time member of the National Sports Law Institute's Board of Advisors, its first and longest serving Chairperson, and a member of the Marquette University Law School faculty from 1967 to 2006. Professor Mentkowski died on September 22, 2006. The following memorial is reprinted in part from Volume 17, Number 1 of the *Marquette Sports Law Review*. It begins with information from the program for the September 26, 1996 tribute dinner held in honor of his retirement from the Marquette University Law School, and is followed by several tributes to Professor Mentkowski.

Growing Up: Charles Wallace Mentkowski was born to Bernard and Helen Stelmar Mentkowski – who later changed their name to Wallace for businessman Barney's early vaudeville career. Charles graduated from Forest Home Avenue Elementary, and South Division High School in 1940. He received the city-wide Barrett award for civic-mindedness and the "W" Award from the University of Wisconsin - Madison for scholarship and athletics. He enrolled at UW, but chose to attend Marquette.

Serving Uncle Sam: Volunteering in 1942, Charles served as Second Lieutenant in the United States Army Air Corps during World War II. He was wounded when his plane was shot down over the Gulf of Mexico by friendly fire. After the war, Charles returned to Marquette in business administration, graduating from the Law School in 1948.

Civic-Minded Lawyering: For nineteen years, Charles was a solo practitioner or partner in his own law firm, emphasizing trial, probate, business, and juvenile law, and serving as Court Commissioner. Married to Ann Collins, he was active in various church activities while their children were growing up. As scoutmaster and baseball coach, he received the St. George Award in 1966 for serving the Boy Scouts of America. When a son was born with a hearing impairment, he helped organize The Wisconsin Association for Children with Learning Disabilities – he received its

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Charles W.
Mentkowski

President's Award in 1976. After Ann's death, Charles married Marcia. He lived in Milwaukee in the house he built in 1953. His four children – all married – and seven grandchildren live in the Milwaukee area and California. He served on the St. Camillus Health Center Ethics Committee, as an assessor for Alverno College students, and the South Division Alumni Association. UNICO, a national service organization, recognized Charles in 1992 for his service and dedication to Milwaukee youth.

Connecting Politics and the Profession: Active in state and local politics, Charles campaigned for Children's Court Judge in 1961. He lost the close election, but was noted by political leaders. Mayor Henry Maier appointed Charles to the Milwaukee Library Board. Gov. Gaylord Nelson and Gov. John W. Reynolds both appointed Charles to the Wisconsin Judicial Council, where he

worked on research and law reform in civil and probate procedure, and judicial administration. Captivated by the 1966 Supreme Court Law ensuring children's rights, he lectured state-wide for Wisconsin's Department of Health and Social Services on the new responsibilities for lawyers and judges.

Joining Marquette Law School: Charles met Robert Boden on the Judicial Council. When Bob became Dean at Marquette, he enticed Charles from a flourishing practice to join the Law School faculty in 1967 as Associate Professor and Assistant Dean – with appointment to Associate Dean in 1968, tenure in 1969, and Professor in 1973. Dean Mentkowski took up the task of expanding the role of the school as one that served the local community and the state. He recruited and introduced students to the Law School, counseled them through their studies, developed support systems and clinical programs, and broadened the diversity of the student body to include women and minorities. He relied on his local and state connections to see to students' placement and to further their professional and *pro bono* contributions as alumni. Conscious of the role of the Law School in the community, he directed continuing legal education, co-initiated Project Outreach – a student-run organization that introduces high school students to law and the courts – moderated Phi Alpha Delta Law Fraternity, and co-initiated MU's Law Enforcement Associate Degree Program.

Law School Administration: Associate Dean for twenty years, Charles directed, chaired, or worked on nearly every aspect of the Law School at one time or another, including curriculum, admissions, faculty and staff recruitment, budgeting, and accreditation. Chair of the Building Committee in the early 1980s, he oversaw the physical expansion of the law school to its present size. He served on University-wide committees to ensure the welfare of the Law School faculty and students, and became a lifetime member of the President's Council. Dean Mentkowski supported the Law Alumni Association and was a charter member of the Woolsack Society. In 1996, Charles received the *Spirit of the Law School* award.

Teaching the Law and Serving the Bar: Since 1967, Professor Mentkowski taught family and juvenile law, and supervised internships. His first publication on juvenile law appeared in *Legal Counseling for the Indigent* (1968). In 1971 he wrote *Juvenile Justice*, widely requested and revised annually. During 1995, as Legislative Chair of Children and the Law, he commented on all pending legislation concerning the juvenile code as it was revised and passed by the Wisconsin Legislature. Charles served with lawyers on professional activities – chairing the Family Law Section for Wisconsin's State Bar, becoming first vice-chair of Children and the Law, and working on various committees on postgraduate education and admission to the Bar. A ten-year member of the State Bar's Board of Governors, he vice-

chaired a Supreme Court committee to review the bar itself. He served Wisconsin's State Senate on a group that revised Wisconsin's Child Abuse Law. Charles lectured extensively to lawyers, law enforcement officers, and lay groups and wrote articles on juvenile law. Nationally, he served on legal education committees for the American Association of Law Schools, the American Association of Continuing Legal Education Administrators, and the Children's Rights Committee for the American Bar Association. An ABA Fellow, he was elected to the prestigious American Law Institute in 1986.

Law and Law Enforcement – Milwaukee: In 1968, Mayor Maier appointed Charles as Chair of Milwaukee's Fire and Police Commission. Throughout a decade of service during a turbulent time in the City's history, Charles supported new recruitment and assessment strategies that opened the police and fire departments to more diverse individuals. He served on local police science and offender rehabilitation advisory boards, and was named *Man of the Year* by the Foremost Civic Association in 1970. In 1978, he was commended by Milwaukee's Common Council.

Law and Civil Rights – United States Department of Justice: In 1971, Charles was appointed by the US Attorney General to chair a national Center for Criminal Justice at Marquette University to encourage the hiring of minorities and women in law enforcement. Funded by the US Department of Justice until 1979, Charles headed a staff and team of twenty nationally known consultants from law enforcement, higher education, public personnel, and community groups – including Lee Brown, later police commissioner of New York City, and the late Ron Brown, Secretary of Commerce for President Bill Clinton. Charles worked with law enforcement agencies in over 300 cities from Minneapolis to New Orleans, New York to Los Angeles. In 1971, the Wisconsin Legislature cited his efforts to foster justice in law enforcement across the country.

Law and Judicial Education: Charles taught judicial seminars from New York to Hawaii for the National Judicial College and the National Juvenile Judges College at the University of Nevada, Reno during the 70s and 80s.

Sports, Ethics, and Scholarship – MU National Sports Law Institute: Charles was part of the team that developed the National Sports Law Institute at the Law School, reflecting a life-time interest in joining athletics and academics that was developed in high school and reinforced by service on MU's Athletic Board. Since the Institute's inception in 1989 and until 2000, Charles served as Chairman of the Board of Advisors of the Institute, contributing to goal-setting, fund-raising, and advising the *Marquette Sports Law Journal*.

TRIBUTES

Charles Mentkowski: An Example of Leadership

As a student interested in sports law in the early 1990s I met Professor Mentkowski early on in my law school career. At that time, the Institute offices were six blocks from the Law School so it was hard to understand the connection between the School and the Institute where I started to work. I soon learned that our connection to the Law School was Professor Mentkowski. When I became Editor-in-Chief of the *Marquette Sports Law Journal* I was able to interact with Professor Mentkowski even more as he served as our faculty advisor. As an advisor he was always willing to listen and consistently supported the decisions I made. In my role today supervising the *Sports Law Review* I hope to live up to Professor Mentkowski's example.

After Law School I moved to California for a little while. I returned one fall to receive an award and Professor Mentkowski was there to welcome me. When I returned to Milwaukee and began to work full time for the Institute Professor Mentkowski was there again to offer support and guidance and to welcome me back. It was a great honor that I returned in time to help put together the tribute dinner the Institute held for him upon his retirement. I still remember my awe in seeing the many people whom he had impacted in so many positive ways. Of course Chuck (and it took me some time to be able to call him Chuck) was humble, funny and profound as he accepted praise from so many.

Over the years, as we moved the Institute into the Law School and expanded our Sports Law Program, Chuck would stop in periodically to simply say hello and offer what came to be a sort of periodic affirmation. As we started to communicate primarily by email many of his comments were requests to stop emailing him and go back to regular paper like a normal person, but even these were tempered with a wit that always made me laugh.

I will miss Chuck's periodic visits and running into him in the hallway, always impeccably dressed and ready with a friendly hello. I will never forget his example of tireless dedication and constant support, or his ability to bring humor into any situation.

It is an honor that as Chair of the Sports Law Alumni Association I will have the pleasure next spring of introducing our newly renamed Sports Law Alumnus of the Year Award as the Charles W. Mentkowski Award. In this small way we can continue to honor Chuck's legacy for years to come.

Paul M. Anderson
Adjunct Associate Professor of Law and
Associate Director, National Sports Law Institute

A Tribute to Charles Mentkowski

Charles Mentkowski was an extraordinary man. His memory and contributions to society will never be forgotten. His impact on my life was great. The last time I saw Chuck was at a dinner on June 17, 2006. The next day I wrote him the following note: "I want to thank you over and over again for truly being a role model in my life. I am so grateful that Bronson LaFollette sent me to Milwaukee and I made your acquaintance 40 years ago."

In my junior year at the University of Wisconsin (1966), I was awarded a Carnegie grant to study political campaign financing under then Attorney General Bronson LaFollette. As part of my duties, I was assigned as an intern to his Milwaukee campaign manager, Attorney Charles Mentkowski, who had offices on 16th and Greenfield. This is where the story begins.

During the summer of my internship, Professor Mentkowski was appointed the Assistant Dean at Marquette University Law School under Dean Robert Boden. I limited my law school choices to Wisconsin or Marquette because my wife Beverly had a job teaching at Brookfield Central High School. It was Professor Mentkowski's leadership that guided me to Marquette, and Mentkowski gave Marty

Greenberg a chance; that is, he helped get me into law school.

During my law school years, Professor Mentkowski and I engaged in two significant projects. Professor Mentkowski was appointed Chairman of the Milwaukee Fire and Police Commission (1968). After his appointment, the Milwaukee Police, with Chief Brier at the helm, were under great scrutiny and criticism and civil disturbances rocked Milwaukee. I was appointed as a law intern to work with the Fire and Police Commission under Arlene Kennedy and Charles Mentkowski. My job was to create a police community relations bus where police could go out into the community and promote the good things they did. Chuck Mentkowski helped usher in a new era of better educated police officers and worked to insure that the Police Department was as diverse as the community it served. Charles Mentkowski was dedicated to improving the image of the police in our community and telling the story of their achievements to the public.

Professor Mentkowski was also committed and dedicated to opening the Law School to women, minorities, and people of less financial means. Project Outreach was a program that attempted to promote diversity at Marquette by extending an invitation to minority students in the community to attend Marquette on Saturdays to learn about the law and the court system with the hope that someday they would apply to and matriculate from Marquette. The program was extraordinarily successful under Professor Mentkowski's leadership.

I used the concepts of diversity that were instilled in me by Professor Mentkowski in my attempts to broaden the interest and base at State Fair Park. His public service at the Fire and Police Commission was an early example for me that lawyers need to give back to the community, volunteer their time for social causes and public purposes that benefit society, and look at the law as more than an economic venture, but instead as a social vehicle.

I graduated from Marquette in 1971 and took my first job with Shea, Hoyt, Greene, Randall & Meisner. In 1973 I was summoned to the law school by Dean Robert Boden and Mentkowski. I was offered the opportunity to become an assistant professor, teaching courses in real estate while still being able to maintain my law practice. At first I declined, indicating that I had minimal knowledge and experience in real estate and no experience in teaching. But to my utter amazement, both Deans thought I was a teacher. I accepted the position and was told to become a real estate expert over the weekend as my first class was on Monday morning. That appointment changed the direction and focus of my career. That appointment, for the last 33 years, has made me an academic practitioner. For 33 years, as a result of that appointment, I have taught real estate and sports law courses to thousands of students.

Chuck Mentkowski always had a great love of athletics, stemming from his football days at South Division High School, turning down a football scholarship offer from the University of Wisconsin-Madison. Both Chuck and I loved Marquette basketball and were great friends of Al McGuire, Hank Raymonds, and Rick Majerus. We were often used as head-on recruiters to convince bright athletes that Marquette University was not only a place to play basketball but to eventually attend Law School. His efforts in these areas helped to make Marquette basketball great, and many of the "stars" were there because of Marquette Law School and Chuck Mentkowski. I will never forget the infamous ride to Chicago to visit with Glen Rivers and his mother. I am certain that visit and Mentkowski's influence were major reasons why Glen Rivers chose Marquette University.

In the late '70s and early 1980s, my interests began shifting. Having taught exclusively real estate

courses and engaging in solely a real estate practice, my interests now began to partially focus on a new area called “Sports and the Law.” A conference that Professor Mentkowski permitted me to attend on behalf of Marquette allowed me to understand the regulation of sports agents and the interrelationship between law and sports. This conference convinced me that sports law would become a burgeoning legal area in the future and was worthwhile as an academic component of the Law School curriculum. After attending that conference in Fort Lauderdale in 1982, he worked hard to convince the Law School that it should have its first sports law course. Unfortunately, sports law at that time did not sound or appear to be academic so Marquette’s first sports law course was called “Personal Service Contracts.” Although the course sounded in the nature of a law of contracts course, it was Marquette’s first sports law course. The course enjoyed great popularity, and the idea of institutionalizing sports law, making it a center of activity and specialty at Marquette, became a cause célèbre of Professor Mentkowski. Through the diligent and dedicated work of Professor Chuck Mentkowski and Dean Frank DeGuire, and the generous contributions of the Milwaukee Brewers, Green Bay Packers, Milwaukee Admirals, Miller Brewing Company, Milwaukee Bucks, and the Pettit family, the best sports law program in the country was born at Marquette. With his tireless support, I founded the National Sports Law Institute at Marquette in 1989. I had the honor of serving as the Executive Director of the Institute from its inception in 1989 until 1997.

Today, all of Chuck’s visions and dreams have come true. A continuously published Sports Law Journal for which he served as advisor for the last 16 years; multiple courses, including Amateur Sports Law, Sports Industry Contracts and Negotiations, Professional Sports Law, Sports Law and Society, Sports Industry Legal and Business Practices, Sports Venues: From Election Day to Game Day, and Topics in Advanced Legal Research – Sports Law; multiple internships, including internships with Time Warner, GameBreakers, LLC, Marquette University Athletic Department, Miller Brewing Company, the Milwaukee Brewers, the Milwaukee Bucks, Pierski & Gray, ScheerGame Sports Development, LLC, the University of Wisconsin - Parkside, the Wisconsin Sports Development Corporation, and the Wisconsin State Fair Park, to name a few; and talented students who come from all over the United States to become a part of this elite program. Marquette, through the vision of Chuck Mentkowski, has become the leader in sports law in this country, and without his vision, diligence, and administrative skills, sports law would not have been a reality at Marquette.

Chuck was a true friend. He stood beside me in good times and in bad. He truly cared about friends and the well-being of others. He has left a legacy and, most important, a foundation of teachings in my life, including:

- Never forget where you came from.
- Be humble.
- Don’t let your ego lead the way.
- It is not what you have done, it is what you have done for others.
- Differences make all the difference.
- Continued learning is continued growth.
- One must be able to forgive mistakes previously made, as long as those mistakes don’t happen again.
- Ethical behavior is the key to life.

It is easy to remember the legal and academic achievements of my dear friend and mentor Charles

Mentkowski. Those achievements, however, are not what I will remember about him most. What I will remember is a man who was willing to take chances in expanding the minds and opportunities of future Marquette lawyers. I am forever grateful for the chance he took on me. An entire generation of Marquette lawyers is grateful for the chance he took on sports law. It is this sense of innovation in legal education that should be Charles Mentkowski's legacy. Without him, the National Sports Law Institute may not have risen to prominence around the world and I may not have even become a Marquette lawyer. How can you possibly say thank you to someone who made such a tremendous impact?

Martin J. Greenberg
Adjunct Professor, Marquette University Law School
Member, NSLI Board of Advisors
NSLI Director, 1989-1997

Helping Out A Colleague

Since his death Chuck Mentkowski has been widely praised as a man of compassion and good judgment. I second that judgment. The story that I want to tell here involves my appointment as Interim Director of the National Sports Law Institute in 1997.

In the summer of 1997, I was just ending my second year as an untenured member of the faculty of the Marquette Law School. Because of a disagreement as to the future direction of the National Sports Law Institute and the role of sports law in the Marquette curriculum, both the Director and Assistant Director of the Institute abruptly resigned leaving the field of sports law at Marquette in disarray. Because I was the only member of the full-time faculty who had ever expressed an interest in teaching sports law courses, I was appointed Interim Director of the NSLI by Dean Howard Eisenberg.

At the beginning of my tenure I was confronted with what seemed at the time to be a set of nearly insurmountable problems. Our application materials indicated that we had some sort of sports law program, but the existing sports law courses had all been taught by the individuals who had just resigned. I also discovered that the Institute's principle source of funding—an annual donation from Miller Brewing Company—had apparently been discontinued after the resignation of the NSLI's previous leadership. Finally, there appeared to be some fairly complicated intellectual property questions concerning the ownership of several of the Institute's publications which had been prepared by the previous director and assistant director.

When I shared these discoveries with Dean Eisenberg, I was told that these were problems for the Interim Director, not the dean of the law school, and that I should just do the best that I could. At this point I decided to talk to Chuck. I knew that Chuck and Frank DeGuire had been instrumental in the founding of the National Sports Law Institute several years earlier, but in my two years on the faculty I had not detected any on-going involvement with the program on his part.

Not surprisingly, Chuck was quite willing to help me work through my dilemmas. In regard to the

curriculum, I told him that my idea was to create a Sports Law survey course and a research seminar (both of which I would teach) along with three “workshop”-style courses taught by adjuncts. However, as confided to him, I was worried that our colleagues on the law faculty might not be particularly enthusiastic about such a program.

Chuck cut to the quick when he told me that because we were talking about sports law, some of our colleagues would be opposed to my proposal no matter what it contained. On the other hand, the vast majority, Chuck predicted, simply would not care. In other words, I should just stop worrying and submit my proposal to faculty. His prediction proved quite astute. When the new sports law curriculum was presented to the faculty, one colleague raised a general question about the academic merits of sports law but otherwise the proposal generated no discussion at all and was approved as though it were a perfectly routine matter.

In regard to the Miller donation, Chuck suggested that he, Dean Eisenberg, and I should simply go out to the Miller offices and discuss the matter with Bill Schmus, Miller’s Corporate Counsel and a graduate of the Marquette Law School. The meeting took place and after a meeting which mainly featured Chuck and Bill reminiscing about Marquette and Dean Eisenberg discussing how important sports law was to the law school, the annual donation was reinstated.

In regard to the intellectual property question, Chuck’s advice was quite savvy: “Don’t do anything. Just wait and this will all blow over.” My legal and academic training told me that this was not the way to handle a complicated legal question, but I decided to follow Chuck’s suggestion, and, of course, he was right. The issue did blow over, and both the former director and assistant director rejoined the sports law program and remain involved to this day.

Several years later, when I reminded Chuck of how he had bailed me out during the first few months of my directorship, he denied that he had done anything at all and that I deserved all the credit for “saving the program.” That was so perfectly Chuck.

The Sports Law Institute and the Marquette University Law School owe Chuck a debt of gratitude that could never be repaid. Of course, repayment was not something that Chuck would have expected or even wanted.

J. Gordon Hylton
Professor of Law
Member, NSLI Board of Advisors
NSLI Interim Director, 1997-1999

In Appreciation of Professor Mentkowski's Guidance

I met Professor Charles Mentkowski for the first time, in October 1998, while interviewing at the Law School for my current position. At that time, Chuck was Chairperson of the National Sports Law Institute’s Board of Advisors, and he was patiently waiting for me to begin my first interview of the day. As usual, he was impeccably attired. Chuck’s love for Marquette University, the Law School, and our Sports Law Program, as well as his strong desire to advance the best interests of these educational endeavors, were clearly evident. Chuck eyed me cautiously and asked some probing (yet friendly) questions, while carefully considering whether I was the right person to lead the NSLI. Apparently I met

with his approval because I was ultimately hired.

Chuck warmly welcomed me when I joined the Law School faculty in August, 1999. Periodically he would visit my office to offer suggestions regarding how to improve our Sports Law Program or the NSLI. Chuck always offered me encouragement and was readily available when I needed his advice and guidance. Always fulfilling his role as educator, Chuck taught me something new whenever we interacted. He was a man of integrity and principle, with strong convictions. In recognition of Chuck's many and significant contributions to the development of our Sports Law Program and the NSLI, we honored him with our Joseph E. O'Neill Award in April 2001.

Although Chuck has left us, his spirit still burns brightly within our nationally recognized Sports Law Program and the NSLI. I will miss him.

Matthew J. Mitten
Professor of Law and Director,
National Sports Law Institute

PROTECTING INTELLECTUAL PROPERTY IN CHINA*

by **Anne M. Wall**, Owner, Marketing Navigators Inc.**

China is currently considered to be the fastest-growing economy in the world and possibly the fastest growing market for sports properties. In the rapid growing, ever-changing Chinese marketplace, fueled by foreign capital and intellectual property, the protection of domestic and foreign intellectual assets has become a serious concern. Protecting registered trademarks of branded products and services is of paramount importance to multinational companies doing business in China. Sporting goods manufacturers, international sports events, corporate sponsors and licensed merchandise suppliers are among the many businesses concerned about brand protection.

Burdened by bureaucracy and often stymied by local political concerns, the Chinese intellectual property rights ("IPR") enforcement apparatus can, at times, appear ineffectual to those unfamiliar with the system. The enforcement apparatus can be extremely difficult to navigate particularly for people that do not know how to work within the system.

This article is a synopsis from *Protecting Intellectual Property in China: Enforcing Trademark Rights*, a comprehensive article written to help sports properties, their legal counsel and business advisors navigate the complex Chinese intellectual property rights bureaucracy, understand the changes that led to China's recent overhauling of intellectual property law, and identify brand protection measures designed to increase protection of trademarks and other types of intellectual property. The full text of the

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**The author is an expert in brand protection. Wall was responsible for managing the brand protection function at the 2002 Olympic and Paralympic Winter Games in Salt Lake City. She has also served as an advisor to the International Olympic Committee and the International Paralympic Committee. Wall has published articles in *The Trademark Reporter*, *Marquette Sports Law Review*, and several IOC publications. Wall received a Master's Degree in Integrated Marketing Communications from Northwestern University, where she served as an adjunct lecturer. She has been a member of the National Sports Law Institute Board of Advisors since 2002. Wall is the owner of Marketing Navigators Inc., an international sports and consumer marketing consulting practice headquartered in Wisconsin. She is the founder of the Fine Art Studio LLC, a new company formed to market artwork.

expanded version of this article will appear in the Fall 2006 issue of the *Marquette Sports Law Review*.

China's underdeveloped judicial system and somewhat ineffective IPR enforcement policies have made it difficult, but not impossible, for sports properties and corporate partners to protect their brands. The protection of the exclusive right to use a registered trademark in China is enforceable under the Chinese legal code through three different channels: (1) administrative enforcement, (2) civil enforcement, and (3) criminal enforcement. This complex IPR enforcement system includes a number of administrative authorities (government agencies), each operating within its own jurisdiction, as well as special intellectual property tribunals set up within the People's Courts, as authorized by the State Council of the People's National Congress. There are also diplomatic channels, non-litigious enforcement measures and other alternatives that can be useful.

Without strong prevention and enforcement measures in place, any business can become a victim of intellectual property rights infringement. Many IPR infringements are preventable in China, just as they are within Western societies. For those that do occur, a timely and appropriate response is called for, one that requires planning and forethought. The most cost-effective responses may well be those tailored to the severity of the infringement based upon the perceived threat level and damage assessment of the incident in question.

The range of options and channels through which resolutions may be pursued can be daunting at times, particularly for foreign rights holders. Less severe cases are often resolved amicably, out of the public eye, to avoid loss of *mianzi* (the loss of social face), a stigma which brings shame to the family of the accused. Alternatively, a public apology may be ordered by the courts as part of the remedy. It is believed that public remedies can bring shame that will hopefully deter other Chinese infringers.

Rights holders would be well advised to develop an arsenal of methods to combat ambush marketing and prevent trademark infringement from occurring. Planning and advanced preparation are needed to respond promptly and appropriately when an incident occurs. This means having a brand protection program in place along with the necessary *guanxi* (personal connections and social capital) needed to bring about a resolution designed to minimize potential losses and prevent further escalation and loss of face. The practice of *guanxi* is deeply imbedded in the Chinese culture and its importance should not be underestimated.

There are also internally generated brand protection methods that can be used to protect rights holders from trademark infringement and other forms of ambush marketing. Proactive prevention measures funded and implemented by right holders may be the best avenue for protection of intellectual property assets in China. Prevention measures are applicable not only to multinational companies with global brands but also to smaller organizations such as those involved in sports marketing—provided such companies are willing to allocate the necessary resources to protect their own interests.

In addition, rights holders would be wise to develop a brand protection program for the rapidly changing Chinese marketplace. Particular attention should be paid to “proactive” prevention measures, available but seldom publicized, that may be used in combination with non-litigious enforcement methods, voluntary compliance or negotiated settlements.

Six types of proactive brand protection measures are discussed in the expanded version of this article, including: (1) registration, (2) education, (3) communication, (4) strategic planning, (5) operational initiatives, and (6) sports-specific measures. Each of these measures is designed to discourage ambush marketing and eliminate or reduce trademark infringement. They are based on established business

principles and brand protection practices with a proven track record. Also included are methods for monitoring the marketplace for unauthorized and illegal use of registered trademarks, and ideas on how to respond quickly to stop ambush marketing and infringement activities.

Before entering the Chinese market, sports organizations and other businesses should learn how to preserve brand equity and goodwill by making brand protection part of the company's overall business strategy to protect brand image, reputation and profit opportunities. It is important to engage every aspect of the business in the brand protection process both inside and outside the organization. Why? Because brand protection will help preserve the reputation of the business, its co-workers and its partners.

Familiarity with the ever-changing laws, enforcement policies, and the most recent advancements in the Chinese judicial and administrative systems is necessary before developing a brand protection program in China. It is advantageous to develop a network of local contacts with reliable political connections. For the brand protection program to be successful, planners need to understand Chinese history and culture. They need to possess knowledge about the Chinese business environment as well as the fluctuating political climate and complex bureaucracy. With knowledge, good relationships, an adequate budget and management support will come the ability to develop a plan to navigate the legal and business system more successfully and make it possible to chart a course for effective brand protection.

Millions of people worldwide will be watching the 2008 Summer Olympic and Paralympic Games. Many of them will be eager to find out how the People's Republic of China protects these valuable sports properties and their sponsors. For more than two decades, global brands like the Olympic Rings and those of the Olympic partners have been targeted by ambush marketers. The article will provide insight as to how the Beijing Organizing Committee for the Games of the XXIX Olympiad (BOCOG) works with authorities of the Host City and Host Country to deal effectively with ambush marketing.

Consumer brand loyalty is vital to the long-term survival of multinational brands in the People's Republic of China. Regardless of whether a rights holder is a not-for-profit entity like BOCOG or a for-profit entity like the National Basketball Association (NBA), sports organizations rely on their image and reputation to attract and retain sponsors, licensees and broadcast rights holders. In order to honor commitments of exclusivity, trademark owners are obligated to protect their brands against unauthorized use and infringement. Trademark owners and their rights holders also have an obligation to their customers. They should endeavor to protect them from unscrupulous and unlawful practices employed by counterfeiters and pirates that mislead consumers and undermine the confidence and thus the integrity of the brand.

While it may not be possible to completely stop the theft of intellectual property in the People's Republic of China, or elsewhere for that matter, it is entirely possible to reduce the magnitude and severity of intellectual property rights violations. A reduction in the quantity, frequency and severity of incidents can significantly improve long-term sustainability of brands produced, marketed and sold in China.

Disclaimer: The information provided in this article by no means constitutes legal advice and should not be a substitute for advice from legal counsel. We recommend that companies doing business in China seeking intellectual property protection retain qualified legal counsel and brand protection expertise to pursue their rights and proactively protect their IP assets in accordance with the laws and regulations in the People's Republic of China.

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NSLI BOARD OF ADVISORS

The National Sports Law Institute thanks Ron Walter, the Vice President and Alternate Governor for the Milwaukee Bucks for his service as the Chairperson of the NSLI's Board of Advisors. The new Chairperson is Clark Griffith, attorney at law with CCG, PA in Minneapolis, Minnesota. The new Vice-Chairperson is Casey Shilts, Executive Vice President/General Counsel of Hicks Holdings in Arlington, Texas.

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