

Representative Sports Experience

RECENT NOTABLE MATTERS

- For nearly eight years, we have represented the **Washington Nationals** in on-going arbitration and litigation proceedings against the Baltimore Orioles and the Mid-Atlantic Sports Network (“MASN”) concerning broadcast fees paid to the Nationals for television broadcasts of their games. In October 2020, we secured a major victory for the Nationals when New York Supreme Court’s Appellate Division, First Department, reached a 4-0 decision affirming confirmation of a \$100 million arbitration trial award we won in 2019 for the Nationals before Major League Baseball’s Revenue Sharing Definitions Committee (the “RSDC”) (composed at the time of the principal owner of the Milwaukee Brewers and the presidents of the Seattle Mariners and the Toronto Blue Jays). The Appellate Division also affirmed the judgment entered by New York Supreme Court, which added approximately \$5 million more in interest. The affirmed arbitration trial award covers broadcast rights fees for the years 2012-2016.
- We successfully represented the **U.S. Soccer Foundation** (the “Foundation”) in a trademark action against the U.S. Soccer Federation (the “USSF”), seeking a declaration that the Foundation is the owner of the trademark “U.S. Soccer Foundation” that it has used for over 25 years. The Foundation serves as the major charitable arm of soccer in the United States, with the mission of enhancing, assisting and growing the sport of soccer in the United States, with a special emphasis on children in underserved communities. The Foundation filed suit after the USSF demanded that the Foundation cease using the name “U.S. Soccer Foundation” and logos and threatened to hijack the Foundation’s trademarks for its own use—likely in an effort to capitalize on lucrative business opportunities when the United States hosts the World Cup in 2026. The suit settled on favorable terms. The USSF, which had been listed as the owner for certain U.S. Soccer Foundation federal trademark registrations, has assigned those registrations to the Foundation.
- We are defending **Robert Kraft**, the owner of the New England Patriots, in connection with solicitation of prostitution charges brought against him by the State of Florida. The charges stem from an investigation launched by the Town of Jupiter Police Department (“JPD”) in October 2018 concerning alleged prostitution taking place at a day spa in Jupiter, Florida. As part of that investigation, the JPD obtained a sneak-and-peek search warrant that authorized the JPD to conduct covert video recording inside the private massage rooms within the spa between January 18–22, 2019. According to the JPD, those covert recordings captured footage of Mr. Kraft engaging in paid sex acts while at the spa. We challenged the constitutionality of the sneak-and-peek search warrant on various grounds, including that it failed to adequately minimize the extent to which lawful conduct was surveilled, which is a constitutional requirement for this type of surveillance. After extensive briefing and a three day suppression hearing, our motion to suppress was granted. According to the Court, the sneak-and-peek warrant “fail[ed] to consider and include instructions on minimizing the impact on women...in a setting with a high legitimate expectation of privacy” and contained “no minimization techniques or directives” to be implemented by the JPD when “viewing male spa clients receiving lawful services.” Importantly, the judge also suppressed all other evidence derived from the illegal video recordings, including a subsequent traffic stop that allowed the JPD to identify Mr. Kraft. The State appealed the ruling. In August 2020, Florida’s Fourth District Court of Appeal issued a unanimous opinion in favor of Mr. Kraft that affirms an order suppressing video evidence

against him. The Court held that law enforcement is constitutionally required to but did not minimize its intrusions before undertaking surreptitious video surveillance and that law enforcement could not have acted in good faith while ignoring minimization requirements, with one judge separately writing to agree with Mr. Kraft's argument that law enforcement altogether lacks statutory authorization to undertake surreptitious video surveillance as it did. This appellate victory is our most decisive one to date on behalf of Robert Kraft and lays down a Fourth Amendment landmark that will may benefit all criminal defendants.

- We represent **CONMEBOL** in connection with U.S. criminal investigations and prosecutions into allegations of bribery and corruption in the international soccer world. Specifically, Quinn Emanuel is advising CONMEBOL on the investigations and conducting an internal investigation on behalf of the organization. The United States charged 30 defendants, including a number of past and current CONMEBOL officials with racketeering, wire fraud and money laundering conspiracies, among other offenses, in connection with the defendants' abuse of their positions to solicit bribes from sports marketing companies. Two of these defendants, including Juan Angel Napout, a past President of CONMEBOL were convicted after a three month trial in December 2017. Quinn Emanuel has worked throughout the engagement to ensure that CONMEBOL was viewed as a victim of the scheme set forth in the indictment, and this work has positioned CONMEBOL to receive a large restitution award from the defendants convicted at trial as well as those who pled guilty prior to trial.
- We represented Super Bowl LIII MVP **Julian Edelman** in his appeal of a four game suspension for violating the National Football League's ("NFL") policy on performance-enhancing substances. Edelman's suspension came at a time when the NFL made it a point to crack down on its substance abuse policy, suspending franchise stars like Bengal's linebacker Vontaze Burfict, Chargers' offensive lineman Corey Liuget and Saints' running back Mark Ingram. Quinn Emanuel attorneys interfaced with the National Football League in the appeal proceedings and raised two key issues in a contentious hearing that corrected the record and that should have led to Edelman's exoneration: (1) the substance Edelman tested positive for was an unrecognizable substance; and (2) the NFL made mistakes in the manner in which the test results were handled.
- We represent Major League Baseball players **Ryan Zimmerman** and **Ryan Howard** in their ongoing defamation lawsuit against Al Jazeera America and other defendants relating to false statements the network broadcasted in a 2015 documentary called The Dark Side, which accused Zimmerman and Howard (and several other high profile athletes, including Peyton Manning) of using a banned steroid known as Delta-2. After withstanding a hotly contested motion to dismiss, our suit has entered the discovery phase. We have filed several pivotal motions over pre-publication communications at Al Jazeera America which have generated significant national news stories. We also represented Messrs. Howard and Zimmerman in connection with an internal investigation launched by Major League Baseball ("MLB") in response to the allegations contained in the Al Jazeera America documentary. After concluding its investigation, MLB announced that it "did not find any violations" of the league's drug policy, vindicating Messrs. Howard and Zimmerman of the defamatory accusations made by Al Jazeera America.

GENERAL LITIGATION SPORTS MATTERS

- Quinn Emanuel represented world tennis champion **Naomi Osaka** in a lawsuit filed by her former tennis coach in Broward County Circuit Court, which sought 20% of her tennis earnings after she was crowned reigning champion at the U.S. Open and Australian Open in 2018, and was ranked #1 by the Women's Tennis Association. Ms. Osaka and her family achieved a rare victory in Florida state court: obtaining a complete dismissal of the plaintiff's claims on an initial motion to dismiss. The decision is a landmark in the protection of young athletes.
- We represented Swiss-based **Highlight Group** in a shareholder dispute about a joint venture in the area of international sports. The dispute arose after one shareholder caused a deadlock by refusing to provide promised financing and by challenging decisions of the board of directors. We defended against all actions and secured our client a controlling stake in the company.
- We successfully enforced our client's tournament agreement with a world champion boxer, who had publicly withdrawn from a high profile international boxing tournament. We achieved this through an ex parte injunction obtained from a Swiss court, which compelled the boxer to announce on his social media platforms his return to the tournament, and which led the international boxing federation to threaten the boxer that his world championship title would be withdrawn if he failed to comply with his obligations under the agreement with our client.
- We successfully defended a **major sports-governing body** in a criminal investigation in Germany that centered on corruption and other criminal allegations in connection with a sports event. In this context, the prosecutors considered imposing a penalty payment on our client for the alleged misconduct of a former executive but we convinced the authority to close the case at the pre-trial stage.
- We represent the **University of Southern California** ("USC") in connection with the arrest of former assistant men's basketball coach, Anthony Bland, as part of the nationwide sting targeting corruption in men's college basketball. We are advising USC in connection with a grand jury subpoena received from the U.S. Attorney's Office for the Southern District of New York and the school's interactions with the NCAA. The case represents the first significant effort by federal law enforcement authorities to prosecute corruption, which, to this point, has been within the sole purview of the NCAA.
- We represent Hong Kong-based **Asia League**, a company that organizes and markets pro basketball events in Asia, in its quest to become Asia's first and premier regional basketball event. We provide both strategic advice as well as specific sports law advice and representation against other market players and international and national basketball organizations.
- We were retained **by a client in the motorsport industry** to provide strategic legal advice and evaluate potential legal claims on specific issues related to the motorsport team's expansion (including potential expansion into Formula 1).
- We were retained by **Comosa**, a Swiss-based boxing promoter, to provide litigation advice in connection with the World Boxing Super Series.

- We represent former professional tennis players **Ion Tiriac** and his company **Super Slam Limited** in connection with Tiriac and Ilie Nastase’s defamation lawsuits against the WTA pending in New York, Romania, and Cyprus, and in connection with Tiriac’s alleged interests in an anti-competition lawsuit brought against the WTA by MTP, the operator of the Madrid Open, a tournament which is owned by Tiriac and SSL. All four actions are pending currently in an anti-suit injunction matter in Southern District of New York before Judge Jed Rakoff.
- We represent **professional sports teams** in broad range of employment law issues, including defending clubs against lawsuits alleging discrimination, harassment, retaliation. We have also advised clubs on complex contract negotiations involving executive compensation, employee contracts, separation and severance agreements, vendor agreements, and sponsorship and licensing agreements.

REPRESENTATIVE SPORTS WHITE COLLAR MATTERS AND INVESTIGATIONS

- We were retained by the **Carolina Panthers** immediately prior to *Sports Illustrated’s* publication of a December 2017 article that raised various allegations of race and sex discrimination within the Panthers’ workplace. The Firm’s representation included developing and implementing a crisis management strategy that was later characterized by Sports Illustrated as “brilliant,” as well as representing the team’s interests in connection with a related investigation conducted by the NFL that was led by the former Chair of the U.S. Securities & Exchange Commission Mary Jo White.
- We represent the **Fédération Internationale de Football Association** (“FIFA”) in connection with on-going U.S. criminal investigations and prosecutions into allegations of bribery and corruption in the international soccer world. We are advising FIFA on the investigations and conducting an internal investigation on behalf of the organization.
- We obtained a complete dismissal of a lawsuit brought by an individual against **FIFA** in the Superior Court of the State of California for Orange County raising various allegations of fraud.
- We were retained by **FIFA** in advance of the 2018 World Cup to develop and implement a plan to combat counterfeit ticketing production and sales.
- We are handling criminal representation for National Basketball Association player **Ben Gordon**.
- We represented **Nigel Eccles**, CEO and Co-founder of FanDuel Ltd., in connection with the New York Attorney General Office’s lawsuits against FanDuel alleging false and deceptive advertising practices.
- We were hired by Swiss-based company **Highlight Communications** in January 2017 to investigate insider trading allegations in connection with its subsidiary TEAM Marketing – owner of the rights to market the European soccer Champions League, a billion-dollar business.
- We were retained by the **General Sports Authority of the Kingdom of Saudi Arabia** to provide strategic legal advice on the implementation of the government initiative “Saudi Vision 2030” and on specific issues related to national sports associations including the National Olympic Committee.

- We advise **teams** and **clubs** with respect to internal investigations, communications with the leagues regarding personal conduct policies (where applicable), workplace conduct violations, and potential unlawful conduct by team employees. We have also conducted numerous internal investigations related to sexual harassment, discrimination and retaliation in the workplace.

SPORTS-RELATED INTELLECTUAL PROPERTY MATTERS

- We represented **Fanatics**, the premier sports merchandise provider, in a licensing dispute with one of the major sports leagues.
- In a long-running case brought by Native American petitioners seeking to cancel **Pro-Football Inc.’s** federal trademark registrations for various “Washington Redskins” trademarks on grounds of disparagement, we filed an appeal to the Fourth Circuit, as well as a petition with the U.S. Supreme Court for certiorari before judgment and an amicus brief in the U.S. Supreme Court in *Matal v. Tam*, all arguing that the disparagement statute at issue violated the First Amendment. The Supreme Court granted certiorari in *Matal*, and ruled 8-0 that the disparagement statute is unconstitutional, favorably citing our amicus brief. After the decision issued, the petitioners withdrew their petition to cancel the registrations. In prior proceedings, we employed the infrequently used “de novo” appeal to the D.C. District Court to overturn an adverse decision by the Trademark Trial and Appeal Board. That decision was appealed by the petitioners to the D.C. Circuit, which found no abuse of discretion and affirmed the grant of summary judgment on grounds of laches.
- We represent **Professional Golfers’ Association** (“PGA”) of America to evaluate potential legal claims involving confidential licensing matters.

REPRESENTATIVE SPORTS ARBITRATIONS

- We represented **USC** against its former head football coach, Steve Sarkisian, in a suit filed by Sarkisian after he was terminated in October 2015. Sarkisian’s firing came after a series of public incidents involving Sarkisian’s apparent use of alcohol and resulting media speculation. After being terminated and completing inpatient rehabilitation treating, Sarkisian—claiming he was improperly terminated due to his alcoholism—brought claims against USC for wrongful termination, disability discrimination, failure to engage in the interactive process, failure to accommodate, breach of contract, breach of the implied covenant of good faith and fair dealing, invasion of privacy, and negligence. Sarkisian sought over \$30 million from USC. After a seven-day arbitration, the arbitrator denied each of Sarkisian’s claims, resulting in a complete victory for USC.
- We represented the **NFL Players Association** (“NFLPA”) in an arbitration proceeding brought by former San Francisco 49er quarterback, Colin Kaepernick, against the NFL and its teams. Mr. Kaepernick, represented by Mark Geragos and his firm, alleged that the NFL entered into and enforced an agreement to prohibit Mr. Kaepernick from being signed by any NFL team in retaliation for his protests expressed during the national anthem at games. The arbitration settled on favorable terms for Mr. Kaepernick.

SPORTS RELATED ANTITRUST MATTERS

- We recently obtained a complete dismissal of an antitrust class action suit brought against **FIFA** in the United States District Court for the District of Nevada before The Hon. James C. Mahan.
- We represented **DIRECTV** in two class action antitrust cases alleging theories of monopolization, horizontal and vertical price fixing, illegal exclusive distribution, and restricted output, relating to the sale and distribution of DIRECTV's NBA League Pass and NHL's Center Ice programming packages. We obtained a dismissal on the pleadings and a published decision in *Kingray v. DIRECTV*.
- We obtained summary judgment for **Haymon Boxing** in antitrust claims brought by Oscar De La Hoya's company Golden Boy Promotions.

REPRESENTATIVE SPORTS EXPERIENCE PRIOR TO 2016

- Retained by the **NFLPA** to conduct an independent internal investigation of the NFL and Baltimore Ravens' disciplinary proceedings in the Ray Rice matter.
- Represented the **NFLPA** in the New Orleans Saints' "Bountygate" scandal and arbitration.
- Represented the **NFLPA** in the Miami Dolphins' bullying investigation.
- We successfully represented the **Baltimore Ravens** professional football franchise in a series of copyright actions stemming from the adoption by the Ravens of an inaugural logo for its 1996-1998 seasons that plaintiff Frederick Bouchat alleged was substantially similar to a copyrighted drawing he had submitted for consideration. After the NFL and Ravens – represented by a different firm – lost on liability, we tried the damages case. We later prevailed on behalf of hundreds of licensees in separate actions on the basis of claim preclusion principles, again through the 4th Circuit and the U.S. Supreme Court. We also succeeded in winning a decision in the 4th Circuit on copyright fair use protecting the Raven's ability to display historical memorabilia that incidentally include the inaugural logo, which also set a significant precedent for documentarians seeking to employ copyrighted matter in their works. In addition, Bouchat alleged that the appearance of the Ravens' inaugural logo in certain video games sold by Electronic Arts was infringing – a case we successfully had entirely dismissed on summary judgment.
- We represented **The Upper Deck Company** ("Upper Deck") in a suit brought against it by CMG Worldwide and The Topps Company, Upper Deck's largest competitor in the baseball trading card business, for allegedly using various images and signatures of deceased baseball players that had previously been licensed to Upper Deck but were then exclusively licensed to Topps. Topps applied for and received an ex parte temporary restraining order that, if converted to a permanent injunction, would have prevented Upper Deck from selling any baseball cards in 2008. Days later, we successfully overturned the TRO, subsequently defeated Topps' motion for a preliminary injunction, and eventually obtained a transfer of the case to the Southern District of New York. The case settled promptly after the transfer.
- We defended **Upper Deck** in a suit alleging the use of various images and signatures of deceased baseball players that had previously been licensed to Upper Deck but were then exclusively licensed

to Topps. We were hired after a TRO issued enjoining our client's usage of certain player images in its entire line of 2008 trading cards. We succeeded in overturning the TRO several days later, persuaded the court to transfer the case from Indiana to New York, and moved to dismiss the plaintiff's claims, which motion is pending.

- We represented **Upper Deck** in a case brought by Major League Baseball regarding the use of team uniforms and logos on trading cards, defeating a request for a temporary restraining order.
- We represented the **Dallas Cowboys Football Club** ("Cowboys") and **NFL Properties LLC** ("NFLP") in a dispute concerning ownership of the trademark, "America's Team" in federal district court in Dallas, Texas. The defendant in the case, a Minnesota-based company, claimed that it owned the rights to the famous trademark because it had obtained a federal registration in 1990. We were tasked with proving that the Cowboys rights in "America's Team" were superior to those of defendant, notwithstanding that the Cowboys did not itself own a federal trademark registration for the mark. In a forty-page decision the court granted the Cowboys' and NFLP's summary judgment on all claims, finding that they had proven federal and common law trademark infringement, unfair competition, dilution and that the defendant had committed fraud on the on the United States Patent and Trademark Office.
- We represented **Major League Soccer** ("MLS") in a reverse confusion case wherein a soccer club named the Carolina Dynamos sought to undo the new nickname of an MLS team, the Houston Dynamos.
- We represented mixed martial arts brand **Clinch Gear** in trademark action brought by the owners of the western clothing brand "Cinch."
- We represented the **Mexican National Football Team** in an unfair competition case against a calling card company who employed indicia on product and promotional materials corresponding to the official jersey of the team.
- We represented the **owner of the rights to the Heisman Trophy** when an athletic club claimed breach of contract. In addition to restoring the marketing and television rights, the client obtained specific performance of the contract and was also awarded damages for the breach.
- We represented the **Cleveland Browns** in a dispute over the trademark "DAWG POUND" that hounded the team for over a decade. The court granted the Browns' and NFL's motion for summary judgment, finding that the Browns have priority of use over an apparel company over the trademark. The decision recounted the history of the "Dawg Pound," which today primarily refers to the rowdy area of the bleachers and the seasoned fans who sit there (often in dog masks), but which was originally used to describe the Browns' defensive linemen, who would bark and growl at their adversaries.
- We represented **ESPN** and **Orley Adelson Productions**, in a trademark infringement action brought by Playmakers LLC, concerning the use of "Playmakers" in the title of a critically acclaimed television series concerning the off-field lives of professional football players. The plaintiff alleged that ESPN's "Playmakers" series amounted to reverse confusion and overwhelmed its sports agency brand, causing consumers to believe that its agency was owned by or affiliated with ESPN. A

preliminary injunction was denied in a federal district court and later affirmed by the Ninth Circuit. The district court later granted ESPN's motion for summary judgment which was upheld by the Ninth Circuit.

- We represented **Nike** when Adidas prevailed on claims in Europe that Nike's use of two stripes on apparel infringed Adidas's three-stripe trademark. We filed a complaint on Nike's behalf in the District Court of Oregon seeking a declaration that Nike was entitled to use two stripes and other decorative striping on apparel and footwear in the United States. After we positioned the case to put the scope of Adidas's three-stripe mark at issue, Adidas conceded the case and filed a broad covenant not to sue Nike in the United States over apparel and footwear products incorporating a wide variety of multi-stripe designs, including all Nike two-stripe products.
- We represented the **NFL** and **Green Bay Packers** in a trademark infringement and trade secret case against a company that had obtained publicity rights from various Packers players to use their names and numbers on football jerseys. Notwithstanding that the defendant had obtained those rights from the players, because it had not received approval from our clients, the jury in Milwaukee rendered a verdict in our favor, which was upheld by the Seventh Circuit.
- We represented **ESPN**, the owner and creator of the nation's premier action sports competition known as the X Games, in an action for trademark infringement in federal court in New York against The X Channel, Inc., which intended to launch a national television channel featuring action sports. After obtaining a temporary restraining order, the court quickly set a preliminary injunction hearing and the case settled promptly.
- One of our partners obtained summary judgment for the **Los Angeles Rams** against a Wisconsin corporation's claims of trademark infringement.
- One of our partners represented **The National Sports Daily** in an action to subpoena the notes of a reporter who covered the *Buster Douglas v. Mike Tyson*, Heavyweight championship bout in Tokyo, Japan.
- One of our partners successfully represented a trading card company in an action to prevent sale of a derivative work of the client's officially licensed major league baseball cards.
- One of our partners successfully represented the **NFL** and **Indianapolis Colts** professional football franchise in litigation against the Canadian Football League's attempt to operate a franchise in Baltimore using the famous COLTS trademark. Our victory included precluding a change of venue from Indianapolis. The decision was upheld by the Seventh Circuit.
- On behalf of the **Pro-Football Inc.**, we successfully opposed an attempt to obtain a trademark registration for the mark WASHINGTON PIGSKINS.
- One of our partners successfully represented the **NFL** and **Seattle Seahawks** professional football franchise in litigation over the unauthorized manufacture of NFL football jersey replicas, namely football-style shirts bearing large numerals, colors corresponding to an NFL team, sleeve design, and either the full team name (*i.e.*, "Seattle Seahawks"), the team nickname (*i.e.*, "Seahawks"), the "home"

city name or regional designation of the respective NFL team (*i.e.*, “Seattle”) or the name of a team player (*i.e.*, “Jim Zorn”).

- One of our partners represented an **investor and manufacturer of Golf equipment** in a dispute with The Royal and Ancient Golf Club of St Andrews and the United States Golf Association regarding the admissibility of certain equipment under the respective rules of the game.

Know your audience

Each of the investigative categories above calls for a different approach, design, and delivery. Our lawyers are experienced in conducting investigations and delivering succinct reports, and at interacting with media, owners, and, when necessary, regulating agencies and criminal enforcement authorities. We are especially adept at smoothly navigating, or entirely averting, a crisis.

Climate and Diversity Inclusion Surveys

Quinn Emanuel is uniquely situated to help you proactively address current industry-wide diversity and climate challenges, by first evaluating the nature and scope of the issues your organization is facing, and then helping you develop and implement a targeted and effective plan to make real progress on diversity and inclusion. Through a multi-faceted “climate review” performed by an experienced team, we can internally evaluate your workforce strengths, challenges, and legal vulnerabilities; identify obstacles to achieving greater recruitment, retention, and promotion of diverse employees and senior management; and leverage best practices to create a roadmap for improving the workplace climate and achieving tangible results, all while instituting safeguards against legal risk.

We have recommended, developed and implemented organizational changes focused on improving workplace culture and environment for employees of NFL team, including but not limited to employment audit, review of policies, procedures and practices with respect to diversity and inclusion and hiring, retention and promotion.