

NCAA battles former players' lawsuit over revenues

PAUL ELIAS - Associated Press - Associated Press

Former UCLA standout Ed O'Bannon is watching the NCAA men's basketball tournament with mixed emotions.

There's the love for the game and the tournament itself — he led his UCLA Bruins to the 1995 championship with 30 points and 17 rebounds and earned the most outstanding player award. But then there's the commercial side of things.

"Everybody's getting paid except for the players," O'Bannon said in a phone interview from Las Vegas recently. "It's not fair, and it needs to change."

Four years ago, O'Bannon filed a lawsuit against the NCAA and the video game maker EA Sports seeking compensation after recognizing an avatar in the company's March Madness game that he says was created in his image. Since then, the lawsuit has blossomed into one of the biggest legal threats the NCAA has ever faced over the issue of paying student athletes who attract billions of dollars in revenue annually, and the latest court filing from the NCAA weeks ago highlights how much is at stake.

O'Bannon and every other athlete who plays collegiate sports at a high level sign documents agreeing to play without compensation and giving the NCAA and its member schools exclusive commercial control of their images and likeness.

He and other former student athletes who filed the lawsuit are seeking to require the NCAA to share in the skyrocketing revenues earned from television deals, video games, marketing schemes and other money-generating ventures using their images and likenesses.

If they succeed, it would force the NCAA to essentially pay student athletes for the first time in its 107-year history. The lawsuit proposes that former players receive direct payments while current athletes could tap a trust fund once their playing days are done.

Specifically, the lawsuit alleges the NCAA and its member schools have unfairly and illegally fixed the value of every player's commercial rights at zero. The lawsuit claims the NCAA and colleges do this by requiring every student athlete to sign forms agreeing to pay without compensation and giving all commercial rights to the NCAA.

"I filed the lawsuit because the system isn't working," said O'Bannon, who is a manager of a Toyota car dealership in Las Vegas.

NCAA battles former players' lawsuit over revenues

Published on Electronic Component News (<http://www.ecnmag.com>)

So far, the judge has turned down every NCAA attempt to toss out the case, including earlier this year.

For its part, the NCAA is steadfast in its position that student-athletes are prohibited from receiving payment for participating in sports. The NCAA argues that whatever revenues it earns are used for the benefit of its member schools and students, including those who have filed the lawsuit. It argues that paying players would sound the death knell of amateur athletics.

"The NCAA is not exploiting current or former student-athletes but instead provides enormous benefit to them and to the public," said Donald Remy, the NCAA's top lawyer. "This case has always been wrong — wrong on the facts and wrong on the law."

In its latest court filing in March, the NCAA submitted more than 2,000 pages of legal arguments and statements from university administrators urging a judge to block the players' attempts to turn the lawsuit into a class action. If that happens and the lawsuit prevails, the NCAA's financial exposure could reach into the billions of dollars to compensate former players since 2005 while having to share revenues going forward with current and future athletes.

Wake Forest University President Nathan Hatch said the school's football and men's basketball programs help fund the entire athletic department. Hatch said Wake may drop out of the NCAA's top football division if forced to share revenues with players.

"Instituting a pay-for-play model, even if the payments are deferred until after graduation, would change the nature of the relationship Wake Forest has with its football and men's basketball student-athletes," Hatch said in a statement submitted to the judge. "It would, essentially, turn those teams into professional squads. That would not be acceptable to Wake Forest."

U.S. District Judge Claudia Wilken has scheduled a hearing in June to consider the class action request.

The former players have also included the NCAA's marketing arm, called the Collegiate Licensing Company, and video game maker EA Sports in the lawsuit. The Redwood City-based EA pays the NCAA an undisclosed amount for the rights to make and sell a college football video game. EA in the past also sold a college basketball game, which it discontinued a few years ago.

The lawsuit alleges the avatars in the games are based on real players. Though the players' names aren't used, many of their unique attributes and skills match up with individual avatars in the game. They argue that the similarities are so striking that the avatars have to be based on them.

The NCAA and EA deny the avatars are anything but generic figures.

The debate over compensating college players is almost as old as the NCAA, founded in 1906. Amateurs have long-been expected to compete for free and the

NCAA battles former players' lawsuit over revenues

Published on Electronic Component News (<http://www.ecnmag.com>)

love of sport — or at least the cost of a scholarship. But with NCAA athletic revenues soaring from \$100 annually 20 years ago to an estimated \$4 billion a year, players are starting to clamor for compensation.

The NCAA's amateur athletics rules have been challenged in court a few times over the years with little success. But legal experts say players are making steady progress with the pending lawsuit, racking up preliminary victories.

"This has the potential to fundamentally alter the NCAA's business model in a dramatic way," said University of New Hampshire law professor Michael McCann, a sports law expert. "This is the most significant legal threat the NCAA is facing."

The judge has schedule trial for June 2014.

—

EA Sports is a division of Electronic Arts Inc.

Source URL (retrieved on 07/25/2014 - 10:17pm):

<http://www.ecnmag.com/news/2013/04/ncaa-battles-former-players-lawsuit-over-revenues>