

# Sports, Media, and Entertainment

## Overview

Schiff Hardin attorneys regularly represent clients in high stakes, high profile litigation and transactions in the sports, media, and entertainment industries. Though distinct, these industries share the need for lawyers who are nimble, creative, discreet, and act as unflagging champions for their clients. Whether representing celebrities and athletes, defending the NCAA, or helping Warner Brothers protect its rights to classic films, our lawyers bring these attributes to every case.

Schiff Hardin provides counseling and litigation services to sports, media, and entertainment clients in a broad range of areas, including:

- Misappropriation of name, likeness, and image
- Right of publicity
- Defamation (libel and slander)
- Commercial disparagement
- Invasion of privacy
- Copyright and trademark matters
- Licensing and commercialization
- Contract disputes, including interference with contract or prospective economic advantage
- Advertising matters
- First Amendment issues

## Experience

### Sports

- Successful prosecution of claims against Samsung for the unauthorized use of Pele's identity in a look-alike ad published in *The New York Times* and other national publications.
- Successful prosecution of claims against Fox Broadcasting Company for the unauthorized use of Muhammad Ali's identity in a promotional video broadcast during the pregame show before the Super Bowl.
- **Right of Publicity Claim for Michael Jordan.** When Mr. Jordan was inducted into the Naismith Memorial Basketball Hall of Fame, *Sports Illustrated* published a special commemorative edition of *Sports Illustrated Presents* covering Mr. Jordan's storied career. Two grocery store chains took advantage of that opportunity to publish ads in the commemorative edition that used Mr. Jordan's identity to promote and advertise their goods and services. Mr. Jordan called on us to protect his right of publicity and other intellectual property and thereby protect and preserve the value of his endorsement. We established, in an appeal to the Seventh Circuit, that use of Mr. Jordan's identity in an advertisement touted by the retailer as a "tribute" is commercial speech under First Amendment jurisprudence and is subject to claims for its misuse.
- **Chicago Bears.** Schiff Hardin has represented the Chicago Bears and its primary owners for more than 25 years, in contract and tax matters, financing, and general corporate counseling. We served as counsel for the seven-year project to build a \$600 million stadium and related improvements on the Chicago lakefront at Soldier Field. This included the design, financing, construction, leasing, and operation of the facility, as well as related legislation and governmental approvals and defense of litigation to the project. We also advise the Bears and the McCaskey family on business succession matters and working with the NFL on League guidelines for ownership.
- **NCAA Antitrust Actions.** When facing high-profile challenges to its rules precluding payment to student-athletes, the NCAA has called on us numerous times over the last two decades. Representative cases follow.
  - In the *O'Bannon Case*, the challenge alleged that the NCAA rules restraining student-athletes from being compensated for so-called "group licenses" they would otherwise be able to sell to appear in television broadcasts of football and men's basketball games. Schiff Hardin defeated the plaintiffs' attempt to have a damages class certified. The court did certify an injunctive-relief class of current student-athletes, however, our team then assisted at trial, developing the expert testimony and procompetitive justifications.
  - In *Keller vs. NCAA*, the plaintiffs sought to represent a class of former student-athletes claiming that college sports-themed video games manufactured by co-defendant EA Sports violated student-athletes' rights of publicity. All defendants have entered into settlement agreements with the proposed class, and the court has granted preliminary approval. We shepherded the settlement through the approval process on behalf of the NCAA.
  - In *Rock vs. NCAA*, we served as the lead counsel in defending a challenge to one-year scholarships and limits on the number of athletic scholarships by sport. This case is a continuation of the *Agnew vs. NCAA* matter, which we won in the District Court and in the Seventh Circuit. We defeated class certification and settled the individual plaintiff's claims.

- Representing the NCAA in various challenges to its rules preserving the amateur status of college athletics.
- Represented managers, coaches, and players in various contract negotiations, including clients in the National Football League and the National Basketball Association.
- Represented sports franchise owners in the transfer of franchise interests for estate planning and business succession purposes.
- Represented professional athletes in estate planning, marital agreements, taxation, real estate, charitable foundations, businesses, endorsement agreements and the protection of intellectual property rights and rights of publicity.
- Represented Precourt Sports Ventures LLC in its acquisition of the operating rights to the Columbus Crew Major League Soccer franchise. Under the agreement, the Columbus Crew became part of the privately held investment and management firm's sports and entertainment business enterprise.

## Media

- Successful appeal in the Illinois Supreme Court of claims for defamation against a magazine publisher establishing that the fair report privilege cannot be defeated by actual malice and that there is no judicial action limitation on the privilege.
- Successful defense of claims for defamation and false light invasion of privacy against Fox Television Stations and its investigative reporter.
- Successful defense of claims for defamation against CBS Broadcasting and its reporter.
- Successfully prosecuted claims for misappropriation of name, likeness and image on behalf of Michael Jordan.
- We helped a major trade organization client deal with fraudulent online voting in a YouTube® video contest.
- We have experience tailoring contests for all major online platforms including Facebook®, Twitter® and Pinterest®.

## Entertainment

- Successfully represented YuppTV USA, Inc., one of the world's largest internet-based TV and On-demand service providers for South Asian content, in obtaining emergency relief as a third party intervenor in a dispute between *Dish Network LLC, et al. and Asia TV USA Ltd.* in the United States District Court for the Southern District of New York. The temporary restraining order barred Asia TV USA Ltd. from terminating its Distribution Agreement or otherwise ceasing transmission of its television channels to our client.
- **The Hangover II Case.** We also successfully represented Warner Bros. in 2011 when it was sued by the tattoo artist claiming to be the owner of the copyrighted design on Mike Tyson's face, which was allegedly used without authorization on the actor Ed Helms' face in the movie *The Hangover Part II*. Warner Bros. successfully defeated the plaintiff's motion for a preliminary injunction, which, if granted, would have required Warner Bros. to cease its nationwide release of *The Hangover Part II* immediately before its scheduled blockbuster release on the Memorial Day weekend.
- Schiff Hardin has represented Warner Bros. in several important and cutting-edge copyright cases. We represented Warner Bros. Entertainment, Inc. in its suit against a distributor of novelty items and related goods for unauthorized use of trademarks and copyrighted images owned by Warner Bros. The images and trademarks at issue include reproductions of images taken from the movies *The Wizard of Oz* and *Gone With The Wind* and the "Tom & Jerry" cartoons.
- Successful defense of claims seeking \$40 million for breach of contract, unjust enrichment, fraudulent inducement, tortious interference with business relationships, and violation of the Illinois Trade Secrets Act against Elton Brand.

## AWARDS & HONORS

- **BTI "Innovation Builder"**  
We were singled out by corporate counsel as one of only 28 percent of law firms clients view as a BTI "Innovation Builder," which recognizes firms that bring change to the legal market through new technology, services, strategies, or structures.
- **Schiff Named 2018 "Illinois Powerhouse" Firm**  
We were selected as a *Law360* "Illinois Powerhouse" for our significant and precedent-setting work over the last year.