

APRIL 2023

DEVOTED TO
LEADERS IN THE
INTELLECTUAL
PROPERTY AND
ENTERTAINMENT
COMMUNITY

VOLUME 43 NUMBER 4

THE *Licensing*
Journal®

Edited by Gregory J. Battersby and Charles W. Grimes



Sports Licensing

F. Scott Pippin

Broadcasts, Advertising, and Promotions Related to the 2023 NCAA Basketball Championships

The NCAA national men's and women's basketball tournaments begin every year in mid-March and end with the national championships in early April. And every year, these single-elimination collegiate tournaments garner tremendous publicity and excitement, as college basketball fans all over the world watch to see if their teams advance or go home. These championships have become one of the most popular sporting events in the country, and as a result, broadcast stations often conduct promotions tied to these tournaments. The promotions can be successful, especially if local teams advance, but they can also lead to expensive litigation and damage awards if a station does not respect the NCAA's intellectual property rights.

Use of NCAA Copyrights and Trademarks

The NCAA protects its copyright and trademark rights associated with the NCAA basketball championships, and licenses its trademarks, logos, designs, and protected terminology for substantial fees. Only licensed parties

are allowed to use this intellectual property. Activities that create the appearance of a relationship between the NCAA (and its tournaments) and a broadcast station or its advertisers are known as "ambush marketing," and are extremely risky.

Any unlicensed use of NCAA intellectual property for the sale or promotion of a product or service is unlawful and can expose a broadcast station to claims of trademark infringement, unfair competition, and false advertising. A station can be held liable for significant monetary damages. The use of a disclaimer, such as "not an official sponsor of the NCAA tournament," will not provide adequate protection against infringement claims. Broadcast stations should avoid any use of the NCAA's intellectual property in any station promotions unless explicitly authorized by the NCAA or its authorized agents.

For example, unless specifically licensed, stations may not say or use in print the following in connection with station advertising or promotional events:

- "NCAA" or any NCAA logo
- "Final Four," "Elite Eight," "Sweet Sixteen"
- "The Road to the Final Four," "The Road to Houston," "The Road to Dallas"
- "March Madness," "March Mayhem," "Midnight Madness"
- Any team name or nickname (such as "Cavaliers" or "Huskies")
- Any team logo

Stations may, however, say or use in print:

- "The college basketball championship"
- "The national semifinals of the college basketball championship"
- The dates of the games
- The names of the colleges that are competing, but not the team names

The NCAA holds dozens of copyrights and registered trademarks. A complete list is found at <https://www.ncaa.org/sports/2013/12/2/ncaa-trademarks.aspx>.

Contests Involving Distribution of Event Tickets

The NCAA and its authorized agents are the only legal sources for distribution of tournament tickets. Only NCAA corporate partners are authorized to use tickets in advertising, marketing, or promotional activities such as giveaways. Broadcast stations should not conduct any promotion where tickets to a tournament game are awarded, even if the tickets are validly purchased. The only exception is if a station conducts a promotion with an official sponsor that has written permission from the NCAA to allow tickets to be given away in contests or promotions. In such cases, stations should confirm with the sponsor that it has the required written authorization.

News Reporting on the Tournaments

The NCAA holds the rights to all live accounts and descriptions of the tournament games and events and licenses these rights to television and radio stations. Unless a station has obtained appropriate

press credentials, it cannot broadcast reports on an NCAA game from the venue while the game is ongoing. This includes not only live radio and/or television reporting but also live web posting and blogging. After a game has ended, stations can report the “news” of the game such as the winner and score.

A station must also obtain consent from the NCAA or the local rights holder to use recorded highlights of the games in station newscasts and on station websites.

F. Scott Pippin is Senior Counsel at Lerman Senter PLLC, where he focuses on

compliance issues that affect commercial and noncommercial radio and television stations. Before practicing law, he worked in broadcasting for 20 years, including as general manager of an NPR radio station.

Copyright © 2023 CCH Incorporated. All Rights Reserved.
Reprinted from *The Licensing Journal*, April 2023,
Volume 43, Number 4, pages 21–22, with permission from Wolters Kluwer,
New York, NY, 1-800-638-8437, www.WoltersKluwerLR.com

