

WEBVTT

76

01:20:03.830 --> 01:20:07.469

ASU USPTO NIL: Dean Leeds is the Willard H. Patrick Dean and Andrew.

77

01:20:07.470 --> 01:20:08.170

Great Hall: Professor.

78

01:20:08.170 --> 01:20:09.990

ASU USPTO NIL: At this end of the day.

79

01:20:09.990 --> 01:20:10.850

Great Hall: Talk to you guys.

80

01:20:11.370 --> 01:20:13.529

Great Hall: University. She is a scholar.

81

01:20:13.530 --> 01:20:15.580

ASU USPTO NIL: Of indigenous law and an experience.

82

01:20:15.580 --> 01:20:16.490

Great Hall: Later, and.

83

01:20:18.010 --> 01:20:18.440

ASU USPTO NIL: In.

84

01:20:18.440 --> 01:20:18.880

Great Hall: Economic.

85

01:20:18.880 --> 01:20:20.540

ASU USPTO NIL: Development and concrete.

86

01:20:20.540 --> 01:20:21.750

Great Hall: Resolution.

87

01:20:21.960 --> 01:20:27.399

Great Hall: Leeds lease was the 1st indigenous woman to serve as a law school dean. In addition to serving Dean.

88

01:20:27.400 --> 01:20:32.330

ASU USPTO NIL: 2 law schools, Asu and University of Arkansas. Previously.

89

01:20:32.330 --> 01:20:34.459

Great Hall: Please serve as Arkansas Vice Chancellor.

90

01:20:34.460 --> 01:20:35.020

ASU USPTO NIL: I've got.

91

01:20:35.020 --> 01:20:37.329

Great Hall: Economic development where she goes.

92

01:20:38.470 --> 01:20:41.249

ASU USPTO NIL: And the intellectual property portfolio of.

93

01:20:41.250 --> 01:20:41.689

Great Hall: Verse 30.

94

01:20:41.690 --> 01:20:42.240

ASU USPTO NIL: City.

95

01:20:42.490 --> 01:20:44.719

Great Hall: Lee is an elected member of the American law.

96

01:20:44.720 --> 01:20:47.850

ASU USPTO NIL: Law Institute, and a recipient of the American Bar Association.

97

01:20:48.170 --> 01:20:49.860
ASU USPTO NIL: Spirit of excellence.

98
01:20:49.860 --> 01:20:51.390
Great Hall: Forward. Please join.

99
01:20:51.390 --> 01:20:51.670
ASU USPTO NIL: Join.

100
01:20:51.670 --> 01:20:52.840
Great Hall: And welcoming state.

101
01:20:52.840 --> 01:20:53.939
ASU USPTO NIL: Daily, leads.

102
01:21:15.330 --> 01:21:15.900
Great Hall: Well, good.

103
01:21:15.900 --> 01:21:17.530
ASU USPTO NIL: Morning and welcome to

104
01:21:18.750 --> 01:21:19.549
ASU USPTO NIL: College of law.

105
01:21:19.550 --> 01:21:21.029
Great Hall: Good to have all of you here with.

106
01:21:21.030 --> 01:21:22.129
ASU USPTO NIL: I want to start.

107
01:21:22.130 --> 01:21:24.400
Great Hall: Thank you, Tim, for that kind introduction.

108

01:21:24.400 --> 01:21:26.040
ASU USPTO NIL: And.

109
01:21:26.040 --> 01:21:26.689
Great Hall: Throughout the day.

110
01:21:26.690 --> 01:21:27.799
ASU USPTO NIL: They're going to have that.

111
01:21:27.800 --> 01:21:30.269
Great Hall: Opportunity to interact with many of our.

112
01:21:30.270 --> 01:21:33.060
ASU USPTO NIL: Our amazing student leaders like Timmy here.

113
01:21:33.060 --> 01:21:33.660
Great Hall: Responsible.

114
01:21:33.660 --> 01:21:34.140
ASU USPTO NIL: Cool.

115
01:21:34.140 --> 01:21:35.660
Great Hall: They're going to be.

116
01:21:35.660 --> 01:21:36.250
ASU USPTO NIL: Moderators.

117
01:21:36.250 --> 01:21:37.820
Great Hall: Panels and just staff.

118
01:21:37.820 --> 01:21:39.080
ASU USPTO NIL: Is this of today.

119

01:21:39.080 --> 01:21:41.659

Great Hall: And when you meet them I know you'll walk away.

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01:21:41.660 --> 01:21:46.470

ASU USPTO NIL: With greater energy, but also, like me, we'll see how our.

121

01:21:46.470 --> 01:21:47.549

Great Hall: For sure is.

122

01:21:47.550 --> 01:21:48.270

ASU USPTO NIL: Incredibly bright.

123

01:21:48.270 --> 01:21:49.599

Great Hall: Given the people who are coming.

124

01:21:49.600 --> 01:21:50.629

ASU USPTO NIL: Up in little league.

125

01:21:50.630 --> 01:21:54.560

Great Hall: Profession. I'd like to extend a warm welcome on behalf of.

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01:21:54.560 --> 01:21:55.190

ASU USPTO NIL: The entirety.

127

01:21:55.190 --> 01:21:56.379

Great Hall: Community, the law.

128

01:21:56.380 --> 01:21:56.820

ASU USPTO NIL: Law, school.

129

01:21:56.820 --> 01:21:58.290

Great Hall: Community, but also issues.

130

01:21:58.290 --> 01:21:59.990
ASU USPTO NIL: As a whole, and.

131
01:21:59.990 --> 01:22:01.129
Great Hall: Building where we are.

132
01:22:01.130 --> 01:22:03.769
ASU USPTO NIL: Seated this morning for those of you joining.

133
01:22:04.380 --> 01:22:05.200
ASU USPTO NIL: and it's called the.

134
01:22:05.200 --> 01:22:24.579
Great Hall: Center for law and society. And this building was designed around events like this. When it was designed, we thought about being conveners of important topics. And today's event is certainly one of the premier issues facing student athletes and others across the country.

135
01:22:26.450 --> 01:22:37.949
Great Hall: for the beginning of this program I would like to take a moment to ground each of us those in the hole, and we've got about 900 registrants joining us online. So welcome to everyone.

136
01:22:38.190 --> 01:22:43.419
Great Hall: This law school sets on the ancestral lands of the Akama Atham people.

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01:22:43.470 --> 01:22:54.310
Great Hall: and we acknowledge that special relationship. But we also take great pride in our ongoing responsibility to the 22 tribal nations within Arizona today.

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01:22:54.380 --> 01:23:03.100
Great Hall: And it's why our Indian legal program and indigenous futures is among this law school's top areas of expertise and focus.

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01:23:03.500 --> 01:23:17.659

Great Hall: Today's event brings together 2 of our other top programs, intellectual property, which is led by Dean Emeritus Doug, Sylvester and our sports law and business program led by Executive Director Erin Hernandez.

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01:23:17.970 --> 01:23:38.480

Great Hall: Today you will hear from a number of industry leaders and experts, including Uspto's deputy director, Derek Brent, and Asu Women's Beach volleyball team, member, and entrepreneur, Kate Fitzgerald. And you'll also hear from many other leading experts that come to us from both the public and the private sectors.

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01:23:38.580 --> 01:23:51.139

Great Hall: The topic for today name, image, and likeness is both exciting as well as an evolving issue. But it's 1 that is very difficult sometimes for student athletes to navigate

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01:23:51.240 --> 01:24:04.059

Great Hall: and particularly tough for people who don't have the right type of mentorship, or folks who don't have access to information, particularly the legal and financial information that we're going to talk about today.

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01:24:04.470 --> 01:24:19.679

Great Hall: The Uspto and Asu are very proud to stand together and present this conversation. That's at the forefront. What we're going to do today is attempt to unpack a lot of the complexities for this space

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01:24:19.820 --> 01:24:34.720

Great Hall: and also get us to a place where we empower those that are listening to have the ability to make more informed and also deeply personal decisions about their own futures.

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01:24:34.820 --> 01:24:40.650

Great Hall: 10 years ago this law school launched the Allen Bud Selig sports law and business program.

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01:24:40.660 --> 01:24:50.220

Great Hall: And this incredibly popular program, particularly among former student athletes, had filled an educational vacuum that many people were looking for.

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01:24:50.310 --> 01:25:16.320

Great Hall: Just in these 10 years the impact of this program has been remarkable where we have alumni working in athletic organizations all over the country from the Dallas cowboys, Orlando Magic, La Rams, and of course, all of the professional sports organizations. Here in Arizona the reach of that small but growing alumni body also touches everywhere across college sports.

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01:25:16.330 --> 01:25:21.549

Great Hall: and that includes people who work within the Ncaa. Final 4 and the Rose Bowl.

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01:25:21.790 --> 01:25:27.819

Great Hall: Asu is also home to an incredibly strong intellectual property law program.

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01:25:27.900 --> 01:25:40.680

Great Hall: and that program also includes the Lisa Foundation Patent Clinic, one of the 1st Law school clinics across the country to be officially recognized by the Uspto.

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01:25:40.850 --> 01:25:53.799

Great Hall: Through this law school clinic, Asu law provides patent trademark and other pro bono services to entrepreneurs, including student athletes that are looking to protect their name, image, and likeness

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01:25:53.860 --> 01:26:02.989

Great Hall: just over the last couple of years this clinic has helped clients register more than 200 trademarks and secure 17 patents.

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01:26:03.070 --> 01:26:24.069

Great Hall: Finally, I'd like to thank the Mccarthy Institute and Asu Sun Devil Athletics for being a part of this event and helping us as well as all the organizers and participants for your dedication and making this a successful event. I'd also like to thank 2 firms who have helped sponsor our breakfast and lunch.

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01:26:24.100 --> 01:26:28.890

Great Hall: Thank you very much to Mesner Reeves, Llp. And the Rose Law Group.

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01:26:29.040 --> 01:26:43.119

Great Hall: Before I make my final introduction. I'd also like to give special thanks to Professor John Kappus, who's been such an instrumental thought leader in this space and bringing this program to us. So thank you, John.

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01:26:43.340 --> 01:26:49.329

Great Hall: And now I'd like to welcome to the podium Uspto's general counsel, Dave Burdin

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01:26:57.050 --> 01:26:57.900

Great Hall: Stacey.

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01:26:59.760 --> 01:27:01.039

Great Hall: Thank you, Stacey.

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01:27:01.780 --> 01:27:02.860

Great Hall: us

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01:27:03.210 --> 01:27:09.499

Great Hall: so, Stacey said. I am the general counsel at the Us. Pto. And have been there 4 years, and I've got the pleasure

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01:27:09.800 --> 01:27:13.829

Great Hall: of introducing 1st Kate Fitzgerald.

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01:27:15.940 --> 01:27:21.470

Great Hall: Kate is the founder of Vb. America, a volleyball lifestyle apparel brand.

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01:27:21.500 --> 01:27:23.920

Great Hall: and a competitive sand volleyball player.

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01:27:24.140 --> 01:27:27.590

Great Hall: Kate was born in Denver and grew up in Arizona.

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01:27:27.970 --> 01:27:34.049

Great Hall: Throughout her life Kate played many sports, but focused primarily on soccer until high school

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01:27:34.650 --> 01:27:41.270

Great Hall: beginning of freshman year. She started indoor volleyball full time, and was soon introduced to Beach volleyball.

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01:27:41.580 --> 01:27:51.209

Great Hall: She competed for the Chaparral High School in Scottsdale, Arizona, before becoming an Asu sun devil in 2021.

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01:27:52.215 --> 01:27:57.869

Great Hall: Going into college, Kate played to become a nurse.

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01:27:58.260 --> 01:28:07.330

Great Hall: and earned her Cna out of high school. During college she decided to launch a company called Bb. America. That offers volleyball apparel.

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01:28:07.870 --> 01:28:13.629

Great Hall: Bb. America has given her the tool set to lead other young entrepreneurs

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01:28:13.710 --> 01:28:19.220

Great Hall: and the opportunities to weigh in on some of hot topics around college athletics.

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01:28:19.980 --> 01:28:23.789

Great Hall: Kate graduated with A. BS in biomedical sciences.

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01:28:23.830 --> 01:28:27.960

Great Hall: and is pursuing a master's at Arizona State University.

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01:28:28.160 --> 01:28:34.600

Great Hall: Her business apparel is now available throughout college bookstores online and in Rally House.

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01:28:34.820 --> 01:28:47.179

Great Hall: Kate's former position as a student athletic Advisory Council President enabled her to create and lead initiatives to better the student athletes and give them the resources for all of their life.

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01:28:47.200 --> 01:28:51.609

Great Hall: Whether that was with sport, mental health, or career.

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01:28:52.220 --> 01:28:56.590

Great Hall: so please melt join me in welcoming Kate Fitzgerald.

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01:29:05.830 --> 01:29:12.223

Great Hall: Now it also I have the pleasure of introducing our deputy director, Derek Brent

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01:29:12.870 --> 01:29:24.880

Great Hall: Derek Brent is the Deputy Undersecretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office. I think that is the longest title for any Government employee. If I'm not wrong

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01:29:25.748 --> 01:29:28.981

Great Hall: to us, he's deputy Director Brent.

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01:29:29.830 --> 01:29:38.090

Great Hall: He serves as a principal advisor to Kathy Vidal, who is our Under Secretary for Commerce for intellectual property and director of the Uspto.

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01:29:38.380 --> 01:29:40.530

Great Hall: So Director Vidal came on.

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01:29:40.740 --> 01:29:43.530

Great Hall: I think it was 2010 to 20,

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01:29:44.180 --> 01:29:52.770

Great Hall: or in 2021. And she has been doing a tremendous job together with Director Deputy Director Brent.

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01:29:52.980 --> 01:29:57.569

Great Hall: on really making a lot of change like the change that we have ha! Happening here

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01:29:57.590 --> 01:30:02.169

Great Hall: at Asu with the Law school clinic programs and other outreach efforts.

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01:30:06.770 --> 01:30:08.640

Great Hall: Let me catch up where I was.

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01:30:11.400 --> 01:30:17.439

Great Hall: Director Vidal is responsible for the largest intellectual property offices, one of them in the world.

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01:30:17.620 --> 01:30:19.859

Great Hall: with almost 14

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01:30:19.880 --> 01:30:24.020

Great Hall: 1,000 employees in an annual budget of more than 4 billion dollars.

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01:30:24.290 --> 01:30:30.110

Great Hall: Deputy Director Brent has served in all 3 branches of Federal government, and the private sector

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01:30:32.040 --> 01:30:40.190

Great Hall: Director Brent, deputy Director Brent, began his career, working for the Honorable Chief Judge Marbley, of the Us. District Court

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01:30:40.330 --> 01:30:42.690

Great Hall: for the Southern District of Ohio.

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01:30:42.850 --> 01:30:48.710

Great Hall: and served for 6 years as a senior trial attorney at the Us. Department of Justice.

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01:30:48.820 --> 01:30:53.930

Great Hall: the Civil Rights Division, where he received a special achievement award for his trial work.

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01:30:54.330 --> 01:30:58.669

Great Hall: Deputy Director Brent also served as a chief counsel in the Us. Senate.

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01:30:58.700 --> 01:31:05.989

Great Hall: where he handled IP. Issues along with other areas of law such as constitutional law, civil rights

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01:31:06.020 --> 01:31:08.160

Great Hall: and judicial nominations.

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01:31:08.540 --> 01:31:19.399

Great Hall: Deputy Director Brent. Experience in the private sector includes serving as vice President and associate general counsel for Massimo on the leadership team at Cut Golf.

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01:31:19.590 --> 01:31:21.960

Great Hall: and as an engineer at General Motors.

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01:31:22.310 --> 01:31:28.500

Great Hall: Deputy Director Brent received his Bachelor of Science Degree in Mechanical engineering from the Ohio State University.

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01:31:28.820 --> 01:31:36.300

Great Hall: and a juris doctorate degree from the Northwestern University School of Law, now known as the Northwestern University, Pittsburgh School of Law.

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01:31:36.770 --> 01:31:41.709

Great Hall: Please again join me in welcoming Deputy Director Brent

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01:31:54.080 --> 01:31:55.010

Great Hall: Alright.

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01:31:55.850 --> 01:32:16.420

Great Hall: Are we on. We are all right. Hello, yeah. How are we doing, Kate? Good! How are you doing? Good? We're gonna have a conversation, I can tell you. The 1st time Kate and I got on a got on a video meeting it was there was. We just immediately started chatting and chatting, and it was like funny to watch all the the rest of the folks are just like, Okay, we we don't even exist, Kate, Kate and I can

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01:32:16.600 --> 01:32:39.010

Great Hall: can talk forever. Not just about nil, but also athletics, and so forth. I'm going to start off the morning real quick by just saying Thank you very much to everyone. Dean leads John and everybody here at Asu. You've been very welcoming from the day we we thought about this in the spring. You know it is. It has come to. It has come to pass very quickly

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01:32:39.324 --> 01:32:49.850

Great Hall: and it is it? And it's it's like, Okay, we got a date. We gotta tell you. We're we're gonna do it as John war as John warned me. I'm glad we didn't do the September date that we initially thought of.

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01:32:49.900 --> 01:32:52.039

Great Hall: It's just a little bit warm out here.

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01:32:52.600 --> 01:33:13.790

Great Hall: but I want to thank you. Thank you for that. I want to apologize for not having a tie on. I know Luke will will appreciate this. I woke up this morning and realized that I had a blue suit, but I looked in, and the tie that I grabbed while racing. To pack was a yellow tie, and as an Ohio state, Buckeye, I cannot wear

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01:33:14.750 --> 01:33:16.490

Great Hall: blue and yellow

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01:33:17.160 --> 01:33:18.620

Great Hall: and and

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01:33:19.460 --> 01:33:26.669

Great Hall: and and I'm sure you understand that? Just like if you guys, if you all were being asked to wear something that was wildcat wildcat colors.

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01:33:27.260 --> 01:33:32.670

Great Hall: nil is is an amazing world right now, and

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01:33:32.690 --> 01:33:43.680

Great Hall: Kate is a shining example of what it can of not just what nil can be, but also athletes as entrepreneurs. Her story is impressive, and we're going to get to it very quickly here.

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01:33:44.320 --> 01:34:00.880

Great Hall: But the Uspto, the reason that we became involved in this is because, look, it's hard enough just being an athlete, being a division, one athlete being a division. 2. Division, 3. Any level of of athletics.

216

01:34:00.980 --> 01:34:14.340

Great Hall: It is a tough endeavor getting ready for your season, executing your season, and then getting ready for the next. And if you're in the Olympic sports every 4 years, you got to try and plan to get ready for the trials to get into that.

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01:34:14.500 --> 01:34:18.660

Great Hall: and along comes nil. And along comes this

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01:34:18.670 --> 01:34:24.860

Great Hall: this whole new regime, where now athletes are not just athletes. They're also entrepreneurs.

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01:34:24.950 --> 01:34:30.260

Great Hall: and much more heavily so and much earlier. You've got high school students now who are athletes

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01:34:30.330 --> 01:34:37.049

Great Hall: and parents like Kate's parents are now having to educate their educate their young athletes much sooner.

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01:34:37.510 --> 01:34:46.669

Great Hall: and intertwined in this world of of name, image, and likeness. Nil is intellectual property, your right to publicity, also your trademark rights.

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01:34:46.920 --> 01:34:48.729

Great Hall: I can't. I can't tell you.

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01:34:48.900 --> 01:35:03.650

Great Hall: I can't tell you how vital that is. It's important for athletes to know the value of their intellectual property what intellectual property is, and how to use it inside of inside of the deals. So they get maximum value also to make sure that in you in these deals

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01:35:03.650 --> 01:35:20.260

Great Hall: that you make sure that you have the rights are done in in a correct manner, so that when you're going transitioning from college into the into the working world. You still have rights that you can use as you want to develop and be an entrepreneur later on in your career.

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01:35:20.360 --> 01:35:48.279

Great Hall: So that's the level set. Why, the uspto as the principal advisor in the government on intellectual property issues, we felt a need to get involved in this. And again, we're very happy that Asu has helped us to launch what we hope to be a series of programs over the next year that will continue to work with that that will not just work with athletes, but provide resources to universities to help them as they go through these programs.

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01:35:48.820 --> 01:36:13.469

Great Hall: But with that. Let's get to the most interesting part, Kate, let's talk about you as an open question. Can you tell us a little bit about your athletic journey? Sure I love to. I 1st want to say thank you, everyone, for having me and for being here. I'm very excited. I think I have a unique, a little different athletic journey, as you heard in the opening. I didn't start playing volleyball until I was in high school, which lowers, and, according to everyone, your chances of playing in college right?

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01:36:13.470 --> 01:36:37.400

Great Hall: And then, as I was playing indoor, I learned through friends at my high school, a couple older girls, some seniors about beach volleyball, and I decided, I love this sport. You're diving in the sand. You're going for every ball. It is just. It's so much fun. And you're literally playing next to the ocean. That's amazing. So go forward. A few more years, and I decided my junior year. I'd like to do this in college and started the recruitment process.

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01:36:37.400 --> 01:36:54.749

Great Hall: and I actually committed originally to Missouri State University, and I committed there. I was excited. I had great opportunities. It was a growing program. And then I'm class of 2020 and Covid hit. And they defunded their program, as did many sports that were Olympic sports during that time.

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01:36:54.750 --> 01:37:08.859

Great Hall: so I had the unique opportunity. NIL was not a thing yet, but there was an LI. Your letter of intent, and I had to get a NIL release from the university and walked onto Asu. So, after walking on to Asu.

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01:37:08.890 --> 01:37:37.079

Great Hall: I, you know, is one of those commitments are like, yes, you can come this 1st year we'll see how you do. I ended up earning scholarship and playing all 4 years. It was an incredible experience, but not only on the athletic side within the university just getting involved was, I mean, it brought more opportunities that we can talk about later. But being a part of the team being a part of a. d. 1 at the time. Pac-twelve college program was absolutely incredible. We got a travel and a I say I had a fairytale ending last year, playing.

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01:37:37.080 --> 01:38:02.370

Great Hall: I didn't have a 5th year, but I we qualified for the Ncaa National Sweet 16 for the 1st time ever end of last year, and to go out on that was just. I was so fortunate. So it was. It's been incredible experience being a college athlete. What a journey! And I share your passion. And also you know, the life lessons that you get from being a college athlete are amazing, because it it sort of teaches you

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01:38:02.460 --> 01:38:24.520

Great Hall: how to get prepared for certain for things as you go along, whether it's projects, whether it's preparing for, you know, a job or different things. And I, you know I myself was a Wannabe athlete. As Kate and I were talking about beforehand, I grew up in Western Pennsylvania, the traditional Western Pennsylvania sports, football, basketball, baseball.

233

01:38:24.540 --> 01:38:47.209

Great Hall: and then somehow switched to wrestling, golf and tennis. And then, when I got to, when I got to college, I tried out for golf, and played probably 2 of the worst tryout rounds anybody has ever played at Ohio State, but before that I played well. I played well in the practice rounds, but I also tried out for the basketball team, and I did. I did well in the tryouts, but not well enough to make the team

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01:38:47.574 --> 01:38:58.959

Great Hall: and back. Then I was built a little bit more like a guard rather than Charles Barkley. But but but the thing that that I learned from the athletic pursuit

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01:38:59.450 --> 01:39:03.929

Great Hall: was getting ready for trials, and I said this all the time I was I was a mechanical engineer in undergrad

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01:39:03.960 --> 01:39:18.159

Great Hall: getting ready for tryouts. Every you know. My schedule was regimented. Get up 6 o'clock in the morning, go lift, shoot free throws, go to classes, do labs, and then afterwards go play 3 h basketball, and then go study at night, knowing you only had X amount of hours because you needed rest.

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01:39:18.220 --> 01:39:31.869

Great Hall: And just that process. I was happy about what I learned and learned about myself through that process. So I always say that that's my admiration for athletes is because they learn a lot about themselves. But they also learn a lot about problem solving.

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01:39:31.970 --> 01:39:32.950

Great Hall: And so

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01:39:33.120 --> 01:39:52.729

Great Hall: now now you became an entrepreneur along the way, and you know, not just with nil, but also as an entrepreneur building a business. Can you tell us a little bit about your entrepreneurship journey? Yeah, I 1st like to touch. I mean you. I talk about this all the time. There's direct correlations between being a student athlete, especially at a college level and entrepreneurship.

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01:39:53.054 --> 01:40:05.709

Great Hall: I mean, when you're in high school, and you're cold calling coaches. And you're going through the interviews and recruitment process and learning how to advocate for yourself, and branding yourself, can correlate very easily into nil entrepreneurship. So

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01:40:05.710 --> 01:40:25.850

Great Hall: I think more athletes than they realize are entrepreneurs at heart by just the way they went through recruitment and were able to become a d 1 college athlete. It's very aligned with each other. For myself, I actually went into school studying to be a nicu nurse. I wanted to work in pediatrics, and that was all I had ever thought about.

242

01:40:25.850 --> 01:40:41.929

Great Hall: When nil rules and rights and regulations changed. I was actually in the car driving to a family road trip. And everyone's becoming a barstool athlete. I was like, Okay, there's no way Adidas or I have 2,000 followers on Instagram like, I'm not getting a big opportunity out of this in that sense. So

243

01:40:41.930 --> 01:40:56.080

Great Hall: what could I do to create opportunities in nil for myself, but also other female athletes who are in the same position I am. When I was in high school I had the idea I was playing on like I said numerous volleyball teams, and I wanted a way to show my passion off the court.

244

01:40:56.080 --> 01:41:17.270

Great Hall: I wanted something for my parents to wear to my games, and I was like there should be a volleyball clothing line like this is a woman's sport. Women are fashionable. There needs to be a volleyball clothing line, and during that car ride I looked over to my dad. I was like, do you think I could do this with nil like maybe that idea I had in high school. I could just do it for fun instead of babysitting over the summers because it was hard to get a job while you're a college athlete.

245

01:41:17.330 --> 01:41:28.960

Great Hall: Next thing you know I am. He's in the restaurant business, and he helped me a little bit on the back end with trademarking, getting lawyers for that, and figuring out how to actually get a trademark for a company.

246

01:41:29.060 --> 01:41:49.009

Great Hall: It's called Vb, America, and we then went to the compliance at Asu, and I was like. Is this allowed? They said. I have no idea they were like, I have no idea. This started like

a month and a half ago. I absolutely have no idea but we can figure it out. And I got connected with amazing mentors, Jeff and other people through the Global Sport Institute.

247

01:41:49.010 --> 01:42:00.930

Great Hall: and one thing led to another. I learned how to pitch. I learned how to build executive summaries. I learned everything about business through bootstrapping and just trying it out, still studying biology. And that's

248

01:42:00.930 --> 01:42:23.419

Great Hall: one over time. It just continued to grow. And I mean, do you want me to get into the details of that. Please do. Okay. It started very simple as direct to consumer just a volleyball lifestyle clothing brand online stores. And then my junior year, I got into I went into the bookstore. I wanted to buy my grandmother an Asu beach volleyball shirt for Christmas.

249

01:42:23.420 --> 01:42:44.819

Great Hall: and I went to the Asu bookstores, and there was nothing. There's a lot of football. There's a lot of basketball. There's a lot of baseball items all over the stores right, and it's a lot for the men's sports. And so I decided, is there a way that my company can get trademarked with Arizona State University? And that's when I learned about a lot deeper level of trademarking and licensing, and the legal side of everything

250

01:42:44.820 --> 01:43:03.379

Great Hall: met with the licensing directors, and I was able to receive the Asu sparky for all of the trademarks, for Arizona State University for a company, and that my junior year. In that August we placed our 1st round in the bookstores of Asu items.

251

01:43:04.230 --> 01:43:25.860

Great Hall: That's fantastic, I mean. So you go from a fantastic athletic journey into this entrepreneurship journey. But I want to highlight. If you don't mind a few a few things along that journey where you know the the reason why the Uspto feels that it's important to provide it to provide education. 1st part as parents. I can't tell you, by the way, how you're doing.

252

01:43:26.090 --> 01:43:29.739

Great Hall: The Kate's parents are over here, and you know

253

01:43:29.910 --> 01:43:35.550

Great Hall: that your your you know your daughter is going into this this whole new world. Now you understand, you understand business.

254

01:43:35.580 --> 01:43:57.530

Great Hall: but you've got to have her understand it in the context of sports, and in the context of her, of her life as an athlete too, and so part of the reason that education, that education on intellectual property, and the whole entrepreneurship scheme. What we're trying to do is provide a comprehensive set of resources, and you will hear from

255

01:43:57.530 --> 01:44:14.299

Great Hall: one of our one of our guys, Jason Lott later on today, talking about trademarks, and we have some takeaways that are around here that deal with the rights to publicity, these resources and the way we can educate you on being an entrepreneur are very vital because it's vital for the parents.

256

01:44:14.660 --> 01:44:42.970

Great Hall: When the athlete is in high school, the athlete is working on getting their skills high enough to get to the right spot to the right school, the right team, the parents are the ones that share that load, and we're looking at ways to reach out to you as parents more to find a way to collectively get the resources in your hands and have them available for you. So that's important. But the other thing that you hear in Kate's journey

257

01:44:43.510 --> 01:45:10.880

Great Hall: is about figuring it out. And again, that's part of entrepreneurship. It's part of being an athlete. And again, from my own small story. When I picked up golf I taught myself golf. I never took a golf lesson until I was an adult and way down the line. Now I can't swing a club, thanks to those lessons, but that's a whole other story. But but the. But I taught myself, and it's sort of about it's sort of the same way any sport, whether it's basketball, whether it's volleyball. There are things that you figure out.

258

01:45:10.880 --> 01:45:39.689

Great Hall: By the way, I'm going to take a quick detour coming late to a sport, you know, coming late to a sport. Is not that unusual. There's a great book, and I quote it often range by David Epstein, and he talks about. For example, Roger Federer played a whole bunch of different sports before he settled in on tennis. He was, he did wrestling soccer, and he brought all those skills to bear. And that's what helped him to be such a unique figure, and one of the things that you could look at is Roger Federer's footwork is not like other tennis players.

259

01:45:39.690 --> 01:45:55.880

Great Hall: because he's bringing in skateboarding and all these other skills. And so that's what made him unique, and also why he was such a. He was an incredible figure was because he brought more to bear in his talents. Yeah, no, I completely agree. I think it's and I think it's so important for people to play more than one sport growing up.

260

01:45:55.880 --> 01:46:09.880

Great Hall: It teaches you so much, and it helps teach your like body just how to move in different ways, and how to be an athlete in different ways, and I also liked what you said is a big part of being an athlete aligning with entrepreneurship. Is it teaches you how to fail and keep going.

261

01:46:09.880 --> 01:46:38.999

Great Hall: That was probably the biggest like mental strength that it taught me as a student athlete is how like you feel like you're doing everything you can, and your coach is just like, no sorry like you're you're Nope, and you're like, Okay, I guess I have to change everything I'm doing right now, and I don't know how, but we'll figure it out, and learning how to get told, no, get failure and get back up and then keep going, and just to keep going, for it is a huge mental block that you need as entrepreneur in nil spaces and in sports

262

01:46:39.910 --> 01:47:05.520

Great Hall: absolutely. And you know I go back to Federer again one more time. You know, Federer had a great stat that he that he put out in the last year. I think people have unrealistic expectations. I mean, the man's 1 of the greatest of all time won 20, I think, 20 grand slams in tennis, but he put out a Stat, he said. I only won just over 50% of my points.

263

01:47:05.540 --> 01:47:23.789

Great Hall: he said. So understand that the ball bouncing one way or another, and I don't win 20 something, he says. So there's an incredible amount of luck, but you also have to know how to be able to fail and be able to rebound from that and it because, he said, if I once I lost a point I had to learn, I had to get the next point back.

264

01:47:23.790 --> 01:47:47.010

Great Hall: So that's something to think about. I saw a similar thing in the music industry, where all your favorite top music artists, they only like their top hits or makes up 20% of or less of what they released. And it's just like people think that these big people, everything

they do is perfect. But you have to keep going and releasing and keep going. And to get that small percentage that will get you where you want to go.

265

01:47:47.870 --> 01:48:08.890

Great Hall: It's a journey. So it is. And and again, I want to highlight that in the world of of athletes as entrepreneurs you're not just when when athletes, when you're entrepreneurs, you're not just at. You're not just entrepreneurs in high school. You're not just entrepreneurs in college. You're going to need entrepreneurship as you go on in your career, whether you are.

266

01:48:09.380 --> 01:48:27.349

Great Hall: you know whether you are going. You get. You get lucky enough to go on and play professional sports, especially if you go on and go and go into one of the Olympic sports, where that is how you derive part of your part of your income, part of your sustenance. You you have to learn these entrepreneurship skills, and I'll get a little bit more into some of the resources

267

01:48:27.350 --> 01:48:39.459

Great Hall: that that we that we have. But, Kate, let's tell you. Can you talk to us a little bit? You mentioned trademark, and I want to. I want to hit back. What role did intellectual property play in your in your entrepreneurship journey.

268

01:48:39.460 --> 01:49:02.729

Great Hall: It played a huge role in a number of ways to start off, as I mentioned earlier, just receiving the trademark for the company. We worked with Olila, and they were a great company to work with to help receive that trademark, but from there it played a much larger role when we went to get into college licensing and trademarks. Because you, I mean, there's so many details behind it, right? The right Pms color making sure that the

269

01:49:02.730 --> 01:49:11.739

Great Hall: the R with the circle, the register trademark logo, is in the right location, a 4th of an inch to the side. Here, like within that world.

270

01:49:11.750 --> 01:49:37.299

Great Hall: intellectual property and understanding, and having not only my brand covered with intellectual property, with our Logos, and just our name of Vb. America, but understanding the world in college athletics. It made a huge difference. If I hadn't had that set up or had the resources within Asu to learn how to set that up wouldn't have been able

to be in the bookstores. We wouldn't have been able to get into rally house or sell online or do these

271

01:49:37.300 --> 01:49:48.330

Great Hall: great opportunities, but it also helped with more of the nil side away from the branding in the actual name, image, and likeness. When I was younger.

272

01:49:48.360 --> 01:50:01.240

Great Hall: my family they all purchased our names online. So I have Kate fitzgerald.com. So when I got into nil it started as a company. But my senior year I leveraged that I've built a company to receive nil deals for myself.

273

01:50:01.290 --> 01:50:22.679

Great Hall: And so I ended up being the 1st student athlete to become a change maker for the desert financial campaign when they became the partner of Asu, so I was able to then take my name as Kate fitzgerald.com and combine it with what I created as a company to receive those nil deals, and having that all backed in intellectual property, and already having that

274

01:50:22.680 --> 01:50:51.670

Great Hall: allowed those opportunities. But I did learn throughout the process. A lot of student athletes aren't aware of these resources. Don't know how to get started. Don't know who to talk to. So I was able to come back and work with Asu, E and I, which you'll hear more about this later and create an opportunity called the student athlete venture studio, where they're taught lessons in intellectual property, and they're taught how to receive actually trademarks and get into more of the details of how to protect yourself and your name.

275

01:50:51.730 --> 01:51:10.810

Great Hall: whether that's a company you're starting, or yourself as a person, because these student athletes are. You see, the big student athletes who are getting 1 million dollar deals and working with Adidas. But there are a lot more student athletes who are doing day to day nil deals, and it's really changing their lives and helping them. Because as a student athlete, you do not have time to go

276

01:51:10.810 --> 01:51:22.719

Great Hall: get a job and have an income for yourself. So that's where there's a side of nil. People don't see that it's helping these smaller sports and these athletes, you know, just help cover rent and get these nil deals

277

01:51:22.720 --> 01:51:42.100

Great Hall: and having their name covered by intellectual property or having a website for themselves, just protects everyone because you don't want to lose your eligibility. You don't want to get the company in trouble, being on the other side of now, as Vb. America, we've done nil deals with athletes and making sure that they're covered and we're covered. It's extremely important.

278

01:51:43.110 --> 01:51:43.780

Great Hall: I mean

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01:51:44.370 --> 01:52:01.320

Great Hall: all I have going through my head, and some of you, if you follow. If you, if you follow hip, hop will will know this this line. But you know, Jay Z said, I'm not a businessman. I'm a business man, and that's that's meaning that that athletes have now become business entities unto themselves. Right?

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01:52:01.450 --> 01:52:07.309

Great Hall: And that's I mean just hearing all of that. But there's something very key in what Kate just said.

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01:52:07.430 --> 01:52:14.979

Great Hall: and it's working with the universities in a in a world where we're dealing with, not just the athlete having to protect their own rights.

282

01:52:15.000 --> 01:52:35.319

Great Hall: We're dealing with. Also, they have to interact and negotiate with the school at the same time that they're representing the school. And again, part of the part of the Uspto we're doing. You know our resources are there for the athletes for the families, but the resources there also, so that the schools can. So the schools can can work with us and learn.

283

01:52:35.320 --> 01:52:57.960

Great Hall: and also wonderful places like this that have, you know, clinics, you know, there's also work there so that you're developing the next generation of student of lawyers who actually have dealt with this issue on a clinical basis. So there's a world of opportunity out here in front of us to really get involved, and I'm sure there's a lot of people that are the next panel that you have. I believe

284

01:52:58.570 --> 01:53:23.930

Great Hall: we'll be dealing with sort of the the legal side, the legal issues, and dealing with some very smart professors. There's a there's a world there, but notice that you don't only have athletes having to deal with the companies on this. You have the athletes having to deal with the schools, and the schools have to having to figure out a hundred percent. And I think that the biggest thing I learned is just communication through everyone. Everyone wants to help. Students wants to help student athletes, too.

285

01:53:23.940 --> 01:53:41.760

Great Hall: and I have like a funny story. For an example, when we 1st got trademarked with Arizona State to sell product, I mean, I was so excited, but we were crunched on time. We had a pop up coming up and had 2 weeks exactly to get the products ready. The product comes out. I pick it up. I open the box the night before we're supposed to show.

286

01:53:41.780 --> 01:53:47.120

Great Hall: I put the Pms color in not right like it was 5 0, 4. I put 5 0 5. Everything was pink.

287

01:53:47.290 --> 01:54:06.630

Great Hall: and I was like, Oh, my gosh! We have this event in the next day. I don't know what to do. It wasn't fully pink, but it wasn't that like perfect maroon. But had I not truly made a connection and relationship with the licensing directors with the athletic licensing directors. I wouldn't have been able to solve that problem and still be able to sell something moving forward.

288

01:54:06.820 --> 01:54:26.720

Great Hall: So, leaning in, I always tell student athletes talk to people. Just go ask someone a question. There's someone in the athletic department in your university, your professors who does want to help you. And if you go and show true connection and true interest, they're going to want to help you. If they don't, they have someone who can, or they'll connect you with someone.

289

01:54:26.720 --> 01:54:40.520

Great Hall: And so some some something as simple as that as putting like the wrong color printing having those connections allowed me, and relationships allowed me to then actually fix it and go forward. And so that's why it's key to

290

01:54:40.580 --> 01:55:01.680

Great Hall: ask people for help around you, and just for advice to learn from them all along the way. And it's, you know, ask questions. There are a lot of resources, and there are growing. There are growing resources in this area. And that's a really, that's a really smart lesson in terms of dealing with dealing with communication. We have a little friend who joined us, but

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01:55:01.720 --> 01:55:06.029

Great Hall: but I want to talk a little bit about the the Uspto's resources, too.

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01:55:06.040 --> 01:55:09.019

Great Hall: And so the Uspto we like, I said. We developed

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01:55:09.050 --> 01:55:35.920

Great Hall: when we got into this into this space. We said, we needed to develop a set of resources that are digestible meaning something. And we we do programs like this. But obviously, we, you know, we can't do programs like this everywhere. And you know, on a pervasive basis. So how can we get digestible resources? So one of the things we did. We developed a couple of one pagers that are available on our website, uspto.gov.

294

01:55:35.930 --> 01:55:55.040

Great Hall: and they delve into trademarks and and nil, and they also deal with rights to publicity, meaning your rights to your likeness, your rights to your name and nil, and and you'll be hearing later from one of our folks, Jason Lott, one of the one of the great guys at our agency.

295

01:55:55.170 --> 01:56:18.909

Great Hall: Jason will. Jason, is going to take you through some of that this afternoon, but it's but having a 1 pager is something that's digestible. You can go and get it and look at it on your own. Also, we found actually that we have started sending the one pagers out to different schools, so that the athletic departments can actually, you know, can have it on hand, because the Athletics departments when we when we 1st started reaching out to athletic departments.

296

01:56:18.910 --> 01:56:39.439

Great Hall: And, Kate, you'll laugh because I know you could appreciate this. They said, yeah, it's it's great. And we we would love the idea of having you come and be able to do to do an event or to do a you know, some type of of education seminar, they said. We can barely get our athletes together, you know, during especially during the season.

297

01:56:39.570 --> 01:57:05.910

Great Hall: so it becomes about digestible resources. We have another page on our website that deals with entrepreneurship. It walks you through entrepreneurship and helps you helps to educate, educate you on the steps through that, and how intellectual property plays a role there. Rob Berry is here from our wonderful, who manages our Ptrc. System and Ptrc. Are patent and trademark resource centers, and we have roughly, is it 98? Am. I getting 98,

298

01:57:08.460 --> 01:57:37.428

Great Hall: 99, 99, and that has grown significantly over the last year, Director Vidal. And, by the way, I would be remiss. She's on her way to Japan right now. Director Kathy Vidal sends her best and and her best wishes to everyone here and thanks everyone for for allowing us to collaborate and to have this program but but we have grown the Ptrc program. We are now at 99. Our goal is 100. Of course, we're gonna and we're gonna go past that

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01:57:37.780 --> 01:57:47.969

Great Hall: But our patent and trademark resource. Centers are at libraries across the country, and there are places where you can walk in off the street and get educated on intellectual property

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01:57:48.040 --> 01:58:04.819

Great Hall: and what it is. I mean? That's the 1st question. Right? You have to start off. What is, you know? What is a trademark? What is a patent. What are my rights to rights to my likeness? So the Ptrcs are a wonderful resource across the country to use.

301

01:58:04.820 --> 01:58:24.359

Great Hall: We also have, you know, along with that. We have regional offices, that conduct programming on intellectual property basics, patent basic trademark basics all around the country and actually come to a lot of the college campuses. We have 6 regional offices across the country. We're opening a new one in Atlanta pretty soon.

302

01:58:24.761 --> 01:58:34.889

Great Hall: But we have, but our regional offices are are great at at conducting outreach. So we have a number of resource, and we can. And we conduct a lot of programming with Sba and other places.

303

01:58:35.140 --> 01:58:59.470

Great Hall: We have a lot of resources. We're trying to meet you where you are. If you have any questions, you know, please plug in. This is an exciting time to actually be able to plug in. We will find a way to get your question answered. And, by the way, we have one other thing called IP Identifier. That's on our website. And IP identifier, you actually go in and you answer a few questions, and it will tell you what type of intellectual property is best fit for what you're trying to work with.

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01:58:59.850 --> 01:59:16.170

Great Hall: Yeah. And for the student athletes directly. What he was mentioning is, student athletes are busy. They have a lot of time and no sorry a little time, and they have a lot going on, and what he's describing of being able to go online and do it in fit it in your own schedule

305

01:59:16.170 --> 01:59:32.969

Great Hall: is makes a huge difference for student athletes. That's exactly what they need like. I make a joke. Sometimes it needs to be so easy. A kindergartner could do it because, like that sometimes at the end of the night, after practice, and an exam, and then weightlifting, and then all the other extra little events you have to go to, just to stay involved.

306

01:59:32.970 --> 01:59:47.650

Great Hall: You're like, I don't have the brainpower right now to like. But if you want to understand, and you want to protect yourself. So the way that the Uspto is built out that allows student athletes to go online and fit it into their schedule and learn it really does make a difference.

307

01:59:48.230 --> 02:00:07.120

Great Hall: Well, I'm looking at the time, and we've got about a 6 more minutes. 6 min left, Kate. Maybe maybe we should. Should we see if anybody wants to ask any questions that'd be great. Is there any other other things that you would like to whiz earls of whiskey, I mean, I'm happy to answer questions. I think we do that. Why don't we open the floor to questions.

308

02:00:17.110 --> 02:00:18.120

Great Hall: Anyone

309

02:00:21.870 --> 02:00:24.190

Great Hall: I'll ask. I'll ask a question, sure.

310

02:00:24.270 --> 02:00:35.907

Great Hall: How do you think your performance on the sand affected your nil value? Do you need to be the best player on the team to have a chance, or, you know, was there a correlation?

311

02:00:36.290 --> 02:01:04.292

Great Hall: The answer is honestly yes to both. I mean, there are student athletes who aren't playing aren't traveling, but they're a part of the team, and they're able just to monetize social media. There's even some student athletes who like make a parody out of it. Fact, they're not playing they. Their social media is like, Oh, bench like sitting on the. And it's it's funny. But I think for myself, being on the sand and being actually like in games and winning and stuff did make a difference. But

312

02:01:04.600 --> 02:01:18.470

Great Hall: It's not necessarily everything that it's made out to be. It just depends what route of nil you want to go. If you want to go with your name on the back of Jerseys. You need to be playing in there, or you need to have a large reason of a social media following.

313

02:01:18.756 --> 02:01:39.359

Great Hall: So I think that the answer could really be how you market and brand yourself. And if you're strictly going off of your skill, then that's wonderful. If you're able to get creative with your branding and marketing online, then you can get opportunities for yourself there as well. So it's a balance of both. But I always say, strive to be the best player you can be. Every athlete in colleges.

314

02:01:40.320 --> 02:01:51.960

Great Hall: I'm gonna I'm gonna take a variation on that theme. You hear a lot about the deals at, you know, division one schools and big programs. You hear about the football players. You hear about the

315

02:01:52.060 --> 02:02:04.839

Great Hall: you know, the deals to keep. Yeah, to keep folks in school. But nil is bigger is bigger than that, and you're gonna hear you're gonna you're gonna hear from a couple of later panels. When you hear about stories.

316

02:02:04.880 --> 02:02:32.640

Great Hall: it's some of the smaller nil deals, and it's also not that they're smaller. It's the Olympic sports. It's also your d 2D. 3 naia schools where nil can make a big difference. It can make a big difference. It could take a little bit off of your tuition, or maybe it takes a bunch if you have a social media following. But it's a great business opportunity that can mean a lot for your education. And so that's why, you know. Yes, we all know about the big deals and the big, the big sports.

317

02:02:32.650 --> 02:02:53.910

Great Hall: But nil has a lot bigger ramifications and intellectual property and business ramifications for some of the other sports, the Olympic sports, and also at the smaller schools. Well, it could be as simple as even like a student athlete getting their dinner now because they got an nil deal with a restaurant. And now that's the one less meal they have to cook throughout the week on top of their schedule.

318

02:02:54.192 --> 02:03:14.560

Great Hall: But another side of nil is getting internships and opportunities. It used to be so complicated if a student athlete wanted to get an internship over the summer. There was all these processes and paperworks and everything you had to go through, whereas now you can get nil deal internships or different opportunities to then have a job when you're coming out of college, when a lot of student athletes graduate lost

319

02:03:14.560 --> 02:03:25.740

Great Hall: their identity, has been their sport. They didn't have the opportunities to get connected in a career, and nil is creating that opportunity to get them actual careers and set up for post graduation

320

02:03:26.030 --> 02:03:41.410

Great Hall: and an athlete that I talked to recently talked about the fact that through his nil work he's been able to gain internships that will help him when he goes into either financial management or the financial services industry afterwards

321

02:03:42.700 --> 02:03:49.119

Great Hall: effective. How early is too early to start worrying about these issues as an athlete.

322

02:03:51.800 --> 02:04:05.149

Great Hall: I mean, I think it depends. If you're in high school and you're a football player wanting to go to the draft, and you have that opportunity you need to start protecting yourself. No question but for an Olympic sport athlete. I also say.

323

02:04:05.230 --> 02:04:33.649

Great Hall: build it, protect yourself. Get set up, for example, getting like, I said, I got K. fitzgerald.com get your name and your website, or get those things handled on the back end for sure. But if you're in high school focus on being an athlete at the same time and enjoying high school. There'll be a lot of time and a lot of resources just even your 1st orientation freshman day to expand. So I think the sometimes the sophomores that I hear about, or someone like that who's worried about nil 1st focus on recruitment.

324

02:04:33.650 --> 02:04:48.230

Great Hall: Get to the college you want, get where you want to go, play the sport you love, and then protect yourself. But don't like worry about the sport first, st because you can't have nil if you're not playing in college in a student athlete sense, if

325

02:04:48.400 --> 02:05:07.179

Great Hall: does that answer? Well, thanks. I mean. That's that's great advice. Job one is to be is to develop the skills and be the athlete that you need to be in order to get to where you want to go, but also along, you know, and also along the way you can sort of you can worry about it, I think, for the parents. I think the parents can also think about it, though

326

02:05:07.180 --> 02:05:24.550

Great Hall: the parents are the one in the back of their in the back, not in the back of their minds. Actually, now, it has to be in the front of your mind to think about. If there, if there are some additional opportunities that can make that can make college more affordable. Yeah, the parents can get their name, their website, those trademarks on the back end and help out. There would be huge.

327

02:05:24.620 --> 02:05:35.509

Great Hall: you know, when I was in, when I was in high school, along with playing sports, I also was a musician. And actually, that's what I ended up. I ended up being recruited for was for my music.

328

02:05:35.590 --> 02:05:58.089

Great Hall: and there was a time. There was a time where I had to participate in in an event. But I was being asked to. I was being asked to compete, to be, to actually write a song for a symphony orchestra, and I couldn't go. So it was my mom that went all 5 foot, all 5 foot of her went down, and she didn't really know what I did. She goes. I don't know what he does, but he writes music, and it sounds really good.

329

02:05:58.090 --> 02:06:08.789

Great Hall: Here's the tape, and so the parents are the ones. And I ended up getting to perform with the Symphony Orchestra, and they did my song. But the parents are the ones that really have to guide along the way.

330

02:06:10.410 --> 02:06:12.070

Great Hall: I think, Luke, you had a question

331

02:06:13.610 --> 02:06:14.989

Great Hall: while he's running up there.

332

02:06:17.780 --> 02:06:28.079

Great Hall: Kate, one of the things that you talked about was just a lot of the the ways you learned along the way kind of sometimes the trial and error, the the figuring things out on your own? Because and I was so new.

333

02:06:28.100 --> 02:06:52.210

Great Hall: What can you share some more thoughts on what are some of the other ways that you learned? Because I think that's 1 of the challenges that student athletes have is, I hear this nil, but I don't know exactly. How do I navigate it? What am I supposed to do? So both? What are some of the ways that you navigated the education side. But also, if you now, looking back, have any tips for student athletes, what would you share? Yeah, that's a great question. I learned a lot I learned

334

02:06:52.210 --> 02:07:13.699

Great Hall: through mostly actions and talking to people, as I mentioned earlier. But the biggest thing I learned is now graduating. Everyone graduates. When you are in the college athletic world, it's like Greek life you're in there. You're talking with everyone. You're going to

graduate as a student athlete, and you're going to be no longer a student athlete like you will be

335

02:07:14.470 --> 02:07:31.400

Great Hall: looking for careers and the those that go pro congratulations. Most student athletes are not going pro. So the biggest advice I have now being like done, and looking back is that I'm grateful. I use the resources. And my advice to more student athletes is to go talk to people and learn

336

02:07:31.400 --> 02:07:51.140

Great Hall: whether that's an upperclassman, whether that's the athletic director. Their doors are open. You can walk up there you can ask them for help. You will graduate. You will no longer be an athlete, and you will have to learn those next steps to life, and you need to utilize the resources you have while playing. But I also just learned life skills as we talked about earlier, of just

337

02:07:51.140 --> 02:08:11.610

Great Hall: how to manage friendships. Now, my friends and I joke after being student athletes where we go to work, none of our managers will talk, or you get mad at us the way our coaches did. Right? So you learn how to deal with people. And I learned a lot of like, Okay, like, I can handle. You know, they're mad about something, and maybe that tone. I'm not going to get offended by it, and I'm going to take the feedback, and I'm going to

338

02:08:11.610 --> 02:08:27.915

Great Hall: fix what I need to fix for the company or for here. So you learn a lot of those life skills. Be that set you ahead and appreciate that and learn from it, and be grateful, even though it's sometimes like hard in the moment, right when it's 6 am. And you're like, I don't want to run right now, like not at all

339

02:08:28.180 --> 02:08:49.970

Great Hall: but I definitely learned. Yes, we'll graduate. You need to set up those resources, and I'm grateful that I did, but also just lean on your community and create those connections, because, having a community around you, you can't do it by yourself. You need some sort of community and some sort of support. So make those connections and be grateful for the life just experiences and teachings you're getting.

340

02:08:50.740 --> 02:08:54.489

Great Hall: I'm glad everyone has had a chance to see what I saw at pot.

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02:08:54.520 --> 02:08:56.359

Great Hall: Do we have time for one more question.

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02:08:56.850 --> 02:09:15.670

Great Hall: Well, that's what I was gonna I was. Gonna say, I apologize. Maybe we'll catch up during a break hopefully. But I want to thank everyone. Kate, you are a shining example of of what can be, and and I got to give kudos to the parents. Always do. My mom taught me to do that. Give kudos to the parents. It's a it's a family affair getting this.

343

02:09:15.670 --> 02:09:27.709

Great Hall: But thank you very much for sharing your story and everyone. Thank you for letting us spend some time with you. Yeah, thank you so much. I appreciate it being here and everyone just go for it. You have the opportunities around you. So thank you.

344

02:09:36.360 --> 02:09:44.489

Great Hall: We're going to take a short break, and we'll resume at the bottom of the hour. Restrooms are back around behind the chairs.

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350

02:20:29.140 --> 02:20:32.960

Great Hall: Hey, everyone, we're gonna get started once again. So if you want to take a seat.

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02:20:33.540 --> 02:20:37.220

Great Hall: maybe get a splash. More of coffee, tea, lemonade, whatever you want.

352

02:21:17.100 --> 02:21:30.170

Great Hall: Hi, everyone. Thank you for being here today, either remotely or in person. However, you are attending. We appreciate you joining us as we welcome the Uspto to Sandra Day, O'connor College of Law at Arizona State University.

353

02:21:30.580 --> 02:21:47.119

Great Hall: My name is Gus Campbell, and I'm a 3 l. Student here at Asu Law along with Timmy Basista, who you had heard from earlier. I am additionally the student co-executive

director of the Mccarthy Institute, dedicated towards the Research research, discourse, and development of intellectual property around the world.

354

02:21:47.570 --> 02:21:55.409

Great Hall: The following panel is aimed at increasing our understanding of name, image, and likeness amongst athletes, influencers, and otherwise

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02:21:55.480 --> 02:22:01.210

Great Hall: to help elucidate the current landscape. We are joined by 3 of Asu Law's very own professors.

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02:22:01.750 --> 02:22:19.160

Great Hall: Professor John Kappus is the owner of the law offices of John E. Kappus, Plc. A firm that represents clients in patent prosecution, licensing and enforcement matters in a variety of technical areas, including semiconductors, mass media wireless Communications, Electrical and Chemical Arts.

357

02:22:19.160 --> 02:22:35.519

Great Hall: Mr. Kappas teaches IP. Law at the Center day. O'connor College of Law at Arizona. State University advises Asu's Sports and Entertainment Law Journal advises the Intellectual Property Students Association, and was the director of the Lisa Foundation Patent Law Clinic in 2023 to 2024.

358

02:22:35.870 --> 02:22:40.129

Great Hall: He is also the proud father of an Ncaa. College soccer player.

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02:22:41.190 --> 02:22:45.090

Great Hall: Don Gibson is a professor of practice. Oh, yeah, yeah, please welcome.

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02:22:47.000 --> 02:22:54.020

Great Hall: Don Gibson is a professor of practice with the Arizona State University Center Day, O'connor College of Law teaching courses in sports, law, and business.

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02:22:54.040 --> 02:22:59.499

Great Hall: Professor Gibson has more than 40 years of experience as an attorney, business, executive, and entrepreneur.

362

02:22:59.600 --> 02:23:01.900

Great Hall: In the sports and entertainment industry

363

02:23:01.940 --> 02:23:11.519

Great Hall: he was. He has represented entertainers, athletes, and companies in business and in legal matters, and has served in senior leadership positions with major sports organizations.

364

02:23:11.670 --> 02:23:23.979

Great Hall: Professor Gibson worked 8 years with Major League baseball. He was an attorney in the Commissioner's office before being promoted to Vice President and general counsel, and then Senior Vp. Acting President of Major League baseball properties incorporated

365

02:23:24.110 --> 02:23:45.389

Great Hall: following his tenure with Mlb. Professor Gibson served as the chief executive of the Naismith Memorial Basketball Hall of Fame in Springfield, Massachusetts. Since 2,009 he has operated Kavi sports, consulting firm that provides strategic planning, licensing, branding and business product development services to clients in the sports industry. Please welcome Professor Don Gibson.

366

02:23:50.920 --> 02:23:59.100

Great Hall: Professor David Franklin is a professor of practice, and the Executive director of the Mccarthy Institute at Santer Day, O'connor College of Law at Arizona State University.

367

02:23:59.250 --> 02:24:08.360

Great Hall: considered one of the nation's preeminent experts on intellectual property and Technology law. Franklin, previously was on the faculty of the Golden Gate University, beginning in 2018.

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02:24:08.410 --> 02:24:14.740

Great Hall: Since 2,000, he served as the director of the Mccarthy Institute for IP. And Technology Law at the University of San Francisco.

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02:24:14.900 --> 02:24:17.789

Great Hall: Please join me in welcoming Professor David Franklin.

370

02:24:42.870 --> 02:24:53.029

Great Hall: Awesome. Let's begin our discussion. Looking at the evolution of student athletes, ability to exploit their own nil. Professor Gibson, what have been the recent changes in this area of the law?

371

02:24:53.990 --> 02:25:01.960

Great Hall: Well, let me start with a an introductory thought. As you all have seen and read and observed

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02:25:02.140 --> 02:25:11.629

Great Hall: the issue, or the topic of name, image, likeness, rights for college athletes. And now high school athletes is quite an important topic today.

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02:25:11.710 --> 02:25:16.619

Great Hall: But most people don't really understand and appreciate the history. How we got here.

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02:25:16.810 --> 02:25:19.020

Great Hall: and I want to start with

375

02:25:19.110 --> 02:25:30.800

Great Hall: showing the statute the the bylaw, that the Ncaa. Has had in place since 1997, which governs its view. That student athletes are amateurs.

376

02:25:30.960 --> 02:25:42.310

Great Hall: and should not be treated like professional athletes, whereby they receive compensation in any way related to their performance as athletes on the field for their colleges and universities.

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02:25:42.340 --> 02:26:09.850

Great Hall: And then we have some pioneers who really led the way to where we are today, and we shouldn't ignore that history in order to really gain a full appreciation of how we got here today. And what are some of the challenges that are going to be facing student athletes as they seek to exploit and protect these very valuable rights. So I don't want to

talk about. You know. What are some of the new things I want to talk about that history. And as we go through it, I think people will get a better appreciation.

378

02:26:10.010 --> 02:26:13.970

Great Hall: Fantastic, all right. Do we wanna put up it by law.

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02:26:14.670 --> 02:26:15.810

Great Hall: Yeah, there we go.

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02:26:16.120 --> 02:26:19.570

Great Hall: That's Bylaw 12.5 point 2,

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02:26:19.790 --> 02:26:24.609

Great Hall: and I can't read it off the back there. But I have it on my phone, and.

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02:26:24.840 --> 02:26:26.409

Great Hall: as you see.

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02:26:28.660 --> 02:26:30.220

Great Hall: if a student

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02:26:31.000 --> 02:26:32.960

Great Hall: athlete in any way

385

02:26:34.040 --> 02:26:35.240

Great Hall: used

386

02:26:35.420 --> 02:26:40.420

Great Hall: or consented to his name, image, or her name, image, or likeness in any manner

387

02:26:40.430 --> 02:26:44.769

Great Hall: the violation shall be considered an institutional violation.

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02:26:46.160 --> 02:26:47.160

Great Hall: and

389

02:26:47.880 --> 02:26:51.680

Great Hall: that was the landscape under which student athletes were operating.

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02:26:52.860 --> 02:26:59.620

Great Hall: Any kind of commercial use of their name or likeness resulted in their eligibility being at risk.

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02:27:00.680 --> 02:27:06.509

Great Hall: But then we had some pioneers who challenged some of these commercial uses of their name, image, or likeness.

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02:27:06.800 --> 02:27:13.220

Great Hall: and starting with Sam Keller, a former Us. Asu quarterback, who played also at University of Nebraska.

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02:27:13.430 --> 02:27:22.089

Great Hall: who sued electronic arts for the use of his name, image and likeness in a video game along with Ed O'banon. And there's a video I want to play, because I

394

02:27:22.130 --> 02:27:34.480

Great Hall: I think this really will help you better appreciate the student athletes perspective and the challenges they saw with how the Ncaa. Was conducting its business. And let's not make any bones about it. It is a business.

395

02:27:34.630 --> 02:27:36.179

Great Hall: So can you play the video?

396

02:27:37.120 --> 02:27:45.570

Great Hall: I was at a friend's house and saw my likeness on a video game that his kid was playing. I initially thought it was pretty cool and was flattered.

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02:27:45.580 --> 02:28:00.480

Great Hall: quite honest. But then it was brought to my attention that they had paid for that video game, and I didn't get any type of compensation, or even permission to use my likeness on that video game. It was his height, his race.

398

02:28:00.520 --> 02:28:04.599

Great Hall: his skill set, his Jersey number everything but his name.

399

02:28:09.840 --> 02:28:27.649

Great Hall: He raised this question of how is it possible, the years and years and years after I played, that the Ncaa. Can continue to earn revenue off of my name's images and likeness, and and not even consult me on that. He saw himself in this video game, and he realized.

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02:28:27.650 --> 02:28:52.720

Great Hall: This is very odd. Here's a video game that makes millions of dollars in part, because it does a good job of mimicking your favorite college sports stars. Nobody ever asked me. Nobody ever paid me for it, because when I became an Ncaa athlete, I signed away all my rights to my image and control. So Ed O'banon sued in order to regain the rights and compensation from that and that morphed into a more general suit

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02:29:06.920 --> 02:29:25.619

Great Hall: the Ncaa's original purpose at the time of its founding was to respond to violence in football and to make the game safer and to protect the health and safety of athletes. Primarily football players today on the Ncaa's website there are 3 priorities that they list

402

02:29:25.620 --> 02:29:38.309

Great Hall: academics, well-being and fairness. And yet when they get into court battles, they tend to argue that they actually don't have a duty to do that. The case began with 2 sets of issues. One was an antitrust claim

403

02:29:38.310 --> 02:29:43.399

Great Hall: that schools and the Ncaa. Join hands in an anti-competitive conspiracy

404

02:29:43.460 --> 02:29:47.340

Great Hall: to limit the value of college athletes.

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02:29:47.930 --> 02:29:51.550

Great Hall: name, image, and likeness to \$0. The other

406

02:29:51.590 --> 02:29:54.929

Great Hall: prong of the case was an intellectual property.

407

02:29:55.140 --> 02:29:57.279

Great Hall: and specifically the right of publicity.

408

02:29:57.330 --> 02:30:02.180

Great Hall: The idea that all of us have a certain right intrinsic right in our identity.

409

02:30:02.190 --> 02:30:14.199

Great Hall: whether it's our name, whether it's our likeness, whether it's our image, whether it's our voice, whether it's our uncommon expressions, things like that, that there's value in everything that makes us who we are.

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02:30:14.590 --> 02:30:18.130

Great Hall: And the argument was that the Ncaa. Has profited

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02:30:18.280 --> 02:30:29.880

Great Hall: from individuals values in ways that were unlawful. The main focus initially was to spark conversation, and really get people to talk about what we felt

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02:30:30.210 --> 02:30:41.640

Great Hall: college basketball, the conversation that we felt that fans and administration should be having. And that is not only do you control your likeness as a college athlete, but

413

02:30:41.670 --> 02:30:49.039

Great Hall: do you get paid while you're in school while bringing in millions and up to billions of dollars for these universities

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02:30:49.330 --> 02:30:51.819

Great Hall: and O'bannon. The argument was.

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02:30:51.940 --> 02:30:54.529

Great Hall: you're ultimately competing businesses.

416

02:30:54.630 --> 02:31:02.160

Great Hall: and a rule that sets at 0 the value of name, image, and likeness isn't compatible with any precedent.

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02:31:02.490 --> 02:31:05.850

Great Hall: Nowhere else in the Us. Do we say

418

02:31:06.090 --> 02:31:10.050

Great Hall: we can use your name, image, and likeness, and not pay you anything.

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02:31:18.080 --> 02:31:24.230

Great Hall: The intellectual property issues were resolved in a settlement. The antitrust issues remained and and went to trial.

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02:31:24.290 --> 02:31:29.289

Great Hall: and Ed O'bannon won the trial. This was the 1st major antitrust decision

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02:31:29.320 --> 02:31:43.229

Great Hall: against the Ncaa. Ed. O'banon has come to symbolize a more general set of legal questions about whether or not athletes should be paid both for their likeness and images, which is the core of his case. But also it is.

422

02:31:43.320 --> 02:31:53.150

Great Hall: Even if it's not the heart of his case, it's come to symbolize the bigger question of whether or not athletes should be compensated for playing colleges join hands through the Ncaa.

423

02:31:53.230 --> 02:32:06.240

Great Hall: And through the Ncaa. They create rules that are the colleges would argue, are designed to ensure that there's fairness are designed to ensure that college athletes are amateurs and not professionals.

424

02:32:06.290 --> 02:32:35.579

Great Hall: but in doing so they create rules that many would argue are anti-competitive. One of the reasons college athletes can't even have jobs during the school year is because there were so many empty jobs that were being offered by boosters, that we've had to put a stop on it. The fact that we can't control certain people from corrupting the system from the outside means that we have over inclusive laws just to stop the system from becoming a free market. The core of the antitrust rules is that, unlike Google versus Microsoft.

425

02:32:35.930 --> 02:32:52.359

Great Hall: If we want teams to be competitive, we have to allow them to collude and restrict their ability to just act as free market actors. So you get special protections, because the very nature of the enterprise is such that you would be destroying it

426

02:32:52.570 --> 02:33:08.679

Great Hall: if you allowed the free market to take over. This was the 1st major antitrust decision against the Ncaa. The Ncaa. For years has felt confident that it can win under antitrust law in this case showed the Ncaa. No.

427

02:33:08.750 --> 02:33:11.600

Great Hall: I was at a friend's house. That's good.

428

02:33:12.860 --> 02:33:15.880

Great Hall: So this was the 1st foray, the 1st

429

02:33:16.410 --> 02:33:25.059

Great Hall: torpedo, if you will. That was fired at the Ncaa because of its rules. Restricting student athletes from being able to be compensated.

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02:33:26.350 --> 02:33:33.010

Great Hall: In this case it was not a name image like likeness issue that was resolved by the 9th circuit, but rather the 9th Circuit found

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02:33:33.120 --> 02:33:36.089

Great Hall: that the Ncaa. And its member schools

432

02:33:36.100 --> 02:33:37.320

Great Hall: could not

433

02:33:37.380 --> 02:33:39.569

Great Hall: collaborate and limit

434

02:33:39.930 --> 02:33:42.159

Great Hall: the amounts of grant and aid

435

02:33:42.200 --> 02:33:44.629

Great Hall: that student athletes could receive

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02:33:45.460 --> 02:33:47.150

Great Hall: now fast forward.

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02:33:47.170 --> 02:33:48.739

Great Hall: 5 years later.

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02:33:48.970 --> 02:33:54.470

Great Hall: and the next bomb fell, which is in the State of California, where they passed legislation.

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02:33:54.890 --> 02:34:03.370

Great Hall: recognizing that student athletes have the right to exploit their name, image, likeness, and that no school other than community colleges

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02:34:03.650 --> 02:34:06.800

Great Hall: would be able to restrict their ability to do. So.

441

02:34:06.960 --> 02:34:15.049

Great Hall: This is a video that I'm gonna play next, which really brings this to the forefront. And this really starts the dominoes falling.

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02:34:15.730 --> 02:34:30.240

Great Hall: This is the number one reason why we've created this platform to be able to have moments like this where we got the Governor of California signing a bill to allow athletes in college. Let's do it, man, all right.

443

02:34:33.220 --> 02:34:38.889

Great Hall: This country we all live in was built on the principle of capitalism, I mean capitalism, meaning.

444

02:34:38.900 --> 02:34:46.899

Great Hall: if you're good, if you do work, you better be compensated, and the better you are, the more compensated you are. And Caitlin, obviously you were

445

02:34:46.910 --> 02:34:54.890

Great Hall: student athlete athlete student who produced an amazing piece of content. And you became a sensation, a viral sensation.

446

02:34:54.950 --> 02:35:10.710

Great Hall: and saw that video go and go and go. And now you've graduated. What was that feeling, seeing that happen? And you couldn't get? I mean, here's the fame. But then there's no conversation. It's so crazy like people are like. Oh, you must be so rich, and I'm like, you must not know the Ncaa. Right.

447

02:35:11.140 --> 02:35:24.079

Great Hall: but no one pays attention to that like no one understands it. So when my routine went viral, Mark Emmer called me to like, congratulate me. I'm like you should be thanking me.

448

02:35:24.230 --> 02:35:33.189

Great Hall: You also got a call from Mark Emrich. I don't think I don't think he was. I don't think he was congratulating what he what was your call. He's trying to make sure I don't use this pen tonight.

449

02:35:33.210 --> 02:35:50.139

Great Hall: That's what he's trying to do. I mean, look, they're they're they're a little panicked because they recognize they're vulnerable. People are hitting this, not just in California, but all across the country, because the gig's up billions and billions of dollars,

14 plus 1 billion dollars goes to these universities goes to these colleges 1 billion plus revenue to the Nc. 2, a.

450

02:35:50.140 --> 02:36:04.809

Great Hall: Themselves and the actual product. The folks that are putting their lives on the line, putting everything on the line are getting nothing. You can only imagine corresponding this notion of name, image, likeness, and the opportunity now to do what every other student

451

02:36:04.990 --> 02:36:07.770

Great Hall: in the university and legally.

452

02:36:07.780 --> 02:36:12.390

Great Hall: And it's the interesting fact, Lebron, the only people that sign away. They're right.

453

02:36:12.900 --> 02:36:32.489

Great Hall: The only group that signs with are athletes. You're challenging a system that's been entrenched in money and power in a certain way of thinking for a long time, which I think can resonate with a lot of people in this room. So the minute you challenge that you're going to get a lot of blowback. And you know I had this conversation with Coach Rama, he was like, well, if he didn't go to Uconn, no one

454

02:36:32.510 --> 02:36:37.329

Great Hall: would know who you are, and I'm just like I'm like this guy.

455

02:36:37.740 --> 02:36:45.179

Great Hall: But then, a couple of months ago, I had a good friend on campus. She goes to the Student Union, takes a picture. What are they having it up there. Number 3, Jersey.

456

02:36:45.240 --> 02:36:54.640

Great Hall: number 10, Jersey, 2 50. Lobo. I graduated in 2,004. I mean, we're talking about 10 years later, and they're still making money off of us, which

457

02:36:55.320 --> 02:37:02.889

Great Hall: I'm sure would upset you even more. Yeah, absolutely. And that was the big thing. I had moved on, and they were still making money

458

02:37:02.950 --> 02:37:24.349

Great Hall: off of my likeness. I enjoyed being on a video game, but they didn't ask me for it, and my friend, who I was visiting at the time. He was like, you know, we paid X amount of dollars for this, and you didn't get a penny sitting in my seat. I believe that it's a beginning of an educational process for the athlete if they're able to

459

02:37:24.350 --> 02:37:44.839

Great Hall: benefit from the image and likeness because they get to the highest level, and they're uneducated on the business of themselves as an individual. If they're able to attain some type of compensation, it helps them understand the business aspect of it there. So then, when they get to the

460

02:37:44.880 --> 02:37:47.590

Great Hall: the Mba level thing, it actually makes

461

02:37:47.960 --> 02:38:03.530

Great Hall: my job even easier. You know, I always tell you the reason. Part of the reason why I went to the Nba. Is, get my mom out of the situation that she was in. I couldn't have done that if I would have stepped on a college campus, you know it could have happened a year after that. I don't know. You never know what happens in that

462

02:38:03.530 --> 02:38:19.849

Great Hall: in that year, but I couldn't imagine, ma'am, just, you know, going to a campus and and doing the things that I know I would have been capable of doing there, I mean, and selling out that arena. I think you. I think if you got paid I think you would have went to play college basketball governor as you've been now

463

02:38:20.040 --> 02:38:35.839

Great Hall: getting ready to sign this bill? Who's been the biggest opposition? Have you had Ncaa. Have you had school presidents, boosters school President who's been calling you tell us who's been calling this isn't? They don't even tell us how they don't even outsource the phone calls. What are they saying, What the hell are you doing? Destroying college sports?

464

02:38:36.080 --> 02:38:41.799

Great Hall: Why are you going to destroy women? And they all think this is the end of Title IX. They're saying, you're destroying the purity

465

02:38:41.900 --> 02:38:51.569

Great Hall: of amateurism. Not once did they talk about the needs of these kids. Will they even listen to you? Will they listen to the others after I sign this.

466

02:38:52.050 --> 02:39:03.379

Great Hall: That's the whole damn point. That's the power arrangement minute. We sign this all of a sudden. Now they have to deal with California. So do you think the Ncaa. Will actually do this? Are you ready to? I don't want to say this is checkmate.

467

02:39:03.710 --> 02:39:19.960

Great Hall: but this is a major problem for the Nc. 2, 8. You obviously brought the bill here with you today when you put pen to paper right now, what's this going to change. And what's it going to do? It's going to initiate dozens of other States, introduce similar legislation.

468

02:39:19.960 --> 02:39:37.109

Great Hall: and it's going to change college sports for the better by having now the interests, finally of the athletes on par with the interests of the institutions. Now we're rebalancing that power arrangement. Let's do it. This is the number. One reason why we've

469

02:39:38.770 --> 02:39:42.139

Great Hall: so, as you just saw and heard very clearly.

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02:39:42.440 --> 02:39:48.429

Great Hall: the strategy was to start those dominoes falling, and if we can go to the next slide

471

02:39:48.760 --> 02:39:50.800

Great Hall: following California's

472

02:39:51.750 --> 02:39:52.810

Great Hall: move.

473

02:39:53.340 --> 02:39:55.710

Great Hall: Almost the entire country now

474

02:39:56.650 --> 02:40:00.169

Great Hall: has legislation in virtually every State

475

02:40:00.230 --> 02:40:04.620

Great Hall: allowing student athletes to exploit their name, image, or likeness.

476

02:40:06.120 --> 02:40:09.890

Great Hall: This is also expanded to high school. Go to the next slide.

477

02:40:10.810 --> 02:40:13.789

Great Hall: Almost every State now permits

478

02:40:13.800 --> 02:40:22.209

Great Hall: high school athletes to exploit their name, image, or likeness. These were the 1st efforts that really addressed name, image, likeness, rights. Directly

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02:40:22.290 --> 02:40:28.120

Great Hall: all of the court cases had focused on Grant and aid restrictions and limitations.

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02:40:28.560 --> 02:40:34.580

Great Hall: Now, in 2,021 another. Grant and a case came about the Alston case before the Supreme Court.

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02:40:34.860 --> 02:40:40.090

Great Hall: and very rarely in this day and age. Do you get a 9 to 0 opinion by the Supreme Court?

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02:40:40.400 --> 02:40:42.709

Great Hall: But in this case that's what you got.

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02:40:42.880 --> 02:40:48.469

Great Hall: The Ncaa. Found itself again liable under the antitrust laws

484

02:40:48.550 --> 02:40:54.220

Great Hall: for damages to student athletes, for their collective efforts to restrict

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02:40:54.560 --> 02:40:58.009

Great Hall: grants and aids. That student athletes were receiving.

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02:40:58.590 --> 02:41:01.149

Great Hall: The Alston case is pointed to as

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02:41:01.280 --> 02:41:10.929

Great Hall: almost the you know, the the earthquake that shifted the pendulum. But again, that case did not, as a matter of law, address the name image, likeness issues.

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02:41:11.070 --> 02:41:21.779

Great Hall: but the justices in the oral arguments, and in a concurring opinion by Justice Kavanaugh made it very clear that if a name, image, likeness, case came before

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02:41:21.790 --> 02:41:25.770

Great Hall: the Supreme Court, you would likely see the exact same ruling.

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02:41:26.080 --> 02:41:32.080

Great Hall: So the Ncaa's response was to suspend Bylaw 12 5.2

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02:41:32.390 --> 02:41:34.939

Great Hall: and tell every college student athlete.

492

02:41:35.080 --> 02:41:43.630

Great Hall: you can go out and exploit your name, image, and likeness rights as long as you follow the rules and regulations of your State law.

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02:41:44.060 --> 02:41:45.910

Great Hall: So now you can imagine

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02:41:45.920 --> 02:42:02.979

Great Hall: with every State having a different statute. They're not all identical that has created real chaos. You have states competing with each other to see who can offer the greatest benefits and incentives for student athletes to attend a college in their State as compared to going to another.

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02:42:03.120 --> 02:42:07.959

Great Hall: So the Ncaa. Now is hoping that the Federal Government will get involved.

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02:42:08.080 --> 02:42:15.120

Great Hall: bring Federal legislation that would supersede the State laws and bring some measure of uniformity to this space.

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02:42:15.200 --> 02:42:20.920

Great Hall: But this is not an issue that's a priority for Congress. So I don't anticipate that this is something the Federal Government.

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02:42:21.090 --> 02:42:27.719

Great Hall: In this case Congress would get involved in and pass anything that will be affirmative for quite some time.

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02:42:27.760 --> 02:42:33.149

Great Hall: so I don't know where this is going to go, but right now this whole system has been disrupted.

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02:42:33.680 --> 02:42:43.089

Great Hall: And right now, student athletes just need to know how they can best utilize their rights under their State laws, and how they can protect those rights.

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02:42:45.130 --> 02:42:58.400

Great Hall: that sort of answers. Our next question, right? And who makes the rules currently which you explained is sort of up to the States right now, at this moment. Yeah, the Ncaa's hands have really been tied.

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02:42:58.480 --> 02:43:02.510

Great Hall: The Ncaa. Has rules that would restrict

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02:43:03.080 --> 02:43:06.840

Great Hall: paying a student as part of the recruiting process.

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02:43:06.960 --> 02:43:14.830

Great Hall: and many schools are offering name, image, and likeness deals as part of the recruiting process in the Ncaa.

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02:43:15.120 --> 02:43:23.049

Great Hall: Has taken a position that that cannot be done, but schools have sued and successfully obtained injunctions

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02:43:23.210 --> 02:43:37.780

Great Hall: be preventing the Ncaa. From being able to enforce its own rights. When it comes to that recruiting process. The student athletes are saying, well, if I'm going to be recruited, I need to know what economic benefits a particular school is going to be able to provide me.

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02:43:38.050 --> 02:43:46.369

Great Hall: and that has always been contrary to Ncaa. Rules. But now, in lawsuits involving the University of Virginia, Tennessee, etc. The

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02:43:46.530 --> 02:43:57.060

Great Hall: Ncaa's hands are now tied. So it's really the rules again, come down to what your State law allows. So you can see student athletes moving from state to state.

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02:43:57.080 --> 02:44:24.210

Great Hall: because the reality is, most of them are really living. The dream of their parents. To be quite frank, the parents are living vicariously through these student athletes. They think Johnny or Jane is going to be the next hall of Fame athlete make 340 million dollars over 10 years. So they they go state shopping. We, as lawyers have heard the term forum shopping which judges don't like, but here they go state shopping to see where they can get the best deal, and that has resulted in some really

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02:44:24.280 --> 02:44:43.690

Great Hall: difficult situations for student athletes where they go to one state they were told they were going to be getting a certain deal, and when they get there they don't get it, and that has led to a lot of disappointment and lawsuits against the schools that purportedly made those promises. So that's the chaos we're in right now.

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02:44:44.890 --> 02:44:53.420

Great Hall: Yeah. So we're seeing sort of legislation arise under name, image likeness, intellectual property, and also antitrust legislation.

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02:44:53.570 --> 02:45:01.980

Great Hall: And there's recently been some Asu athletes that have found themselves in the midst of such

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02:45:01.990 --> 02:45:04.130

Great Hall: litigation. And

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02:45:04.150 --> 02:45:09.770

Great Hall: Professor Franklin, would you like to outline sort of 2 Asu student athletes who have found themselves in the midst.

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02:45:09.840 --> 02:45:14.470

Great Hall: Well, yes, I think based on my notes. Here one is Sam Keller.

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02:45:14.500 --> 02:45:17.040

Great Hall: Do we have slides up here for it

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02:45:17.080 --> 02:45:39.139

Great Hall: former Asu quarterback from 2,003 to 2,005, who successfully sued electronic arts for the use of his likeness, which we talk about in a minute. I think we should talk about what name, image and likeness are, you know, as a group. But for the use of his likeness in their Ncaa football video games. And so he is.

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02:45:39.703 --> 02:45:41.716

Great Hall: you know, a an

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02:45:42.350 --> 02:46:00.019

Great Hall: Asu athlete. Example of success in this category. That is a wonderful story. You want to go on to the next one. Yeah. And then Grant House, a former Asu swimmer brought an antitrust lawsuit against the Ncaa. To recover damages.

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02:46:00.482 --> 02:46:12.319

Great Hall: As a result of current and former athletes being unable to market their name, image, and likeness. So we have 2 at least 2 athletic athletes, successes here

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02:46:12.370 --> 02:46:24.760

Great Hall: and now I think we want to turn Gus to getting into which part of the basics, yeah, well, and actually, did you want to kind of recap how Asu law is

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02:46:24.800 --> 02:46:35.670

Great Hall: sort of informing the next generation of lawyers, and like what our IP program is looking like. Do you think this is a good juncture for that. This is a good time. Yeah. Okay? Well, for those of you who don't know

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02:46:35.750 --> 02:46:45.600

Great Hall: I'm the director of the Mccarthy Institute at Asu law in the law school, and it is an institute for intellectual property law, and

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02:46:45.630 --> 02:46:59.289

Great Hall: we bring together. We have, we put on conferences, we have many conferences, we have symposia. We have a student program for the law students called the Mccarthy Fellows.

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02:46:59.370 --> 02:47:25.240

Great Hall: Gus, here is the senior, one of the senior grand fellows. He has the title of student, Co executive director of the Institute. And how many fellows are there? Student fellows? Approximately 35, about 35. These are students who get involved in all aspects of the intellectual property program, and who, many of whom are exploring the possibility. They're not sure yet. Some of them.

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02:47:25.240 --> 02:47:43.399

Great Hall: some of them are very sure of going into intellectual property law to represent people. Either the good guys like the students who are trying to get their money, or the bad guys who are trying to keep it from them. We're going to have students on both sides of it. I'm sure it's just the nature of law. And

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02:47:43.460 --> 02:48:03.060

Great Hall: and we're going to have students involved in other aspects of intellectual property law, patent law, copyright law, trademark law. The right of publicity is really what we're talking about today, but it's 1 of 4 or 5 major parts of intellectual property law, and I think we'll dive into a little bit more

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02:48:03.060 --> 02:48:22.700

Great Hall: in a minute. But we've got a very robust program here. Professor Kappus teaches in it. Everybody up here on the stage is involved in it. Professor Winarski, who's out in the audience teaches a lot of patent classes in it we've got. We've got just one of the best IP programs in the United States of America at any law school.

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02:48:22.710 --> 02:48:47.999

Great Hall: And so if you're thinking about a life eventually, maybe after college of law school, this would be a place to come for any reason, but particularly if you want to go into intellectual property law, which is, it's just this coolest part of law it touches on AI. AI is going to touch on all this stuff. AI generated likenesses of athletes and non athletes of people.

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02:48:48.000 --> 02:49:12.449

Great Hall: because, as we'll see in a minute, you don't even have to be a famous person, at least in some States, to sue for an infringement of your of an unauthorized use of your name, image, or likeness, and so, you know, we're going to see more and more of technology being used to appropriate and create value around people and make money, that, according to the law

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02:49:12.570 --> 02:49:23.910

Great Hall: the person should be able to make. So, anyway, that's what I do here. I teach, too. And where do you want to go now? Well, I was going to say you kind of prefaced

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02:49:24.020 --> 02:49:33.849

Great Hall: our next question here, which was sort of talking about diving into your experience. A little bit as a intellectual property expert.

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02:49:33.870 --> 02:49:36.680

Great Hall: and what you've done in a recent

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02:49:36.690 --> 02:49:46.500

Great Hall: case, which involved somebody that necessarily wasn't a student athlete or an influencer in the way that we think about it, but was able to successfully

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02:49:46.540 --> 02:49:48.690

Great Hall: monetize their likeness.

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02:49:50.140 --> 02:50:08.269

Great Hall: Can I just say, Grant House, the Asu swimmer? His name is on what is expected to be a 2.8 billion dollars settlement, one of the largest legal settlements in the history of America. In any body of law, maybe only eclipsed by tobacco, litigation.

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02:50:08.270 --> 02:50:21.350

Great Hall: and visa, mastercard litigation, and so pretty special connection to name image and likeness through the involvement of one of our swim team members. And now, what may end up being one of the biggest settlements in American history on this issue.

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02:50:23.810 --> 02:50:26.989

Great Hall: All right, should I jump into the Hubert's case? Yeah.

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02:50:27.040 --> 02:50:54.870

Great Hall: Okay. As Gus mentioned. So one of the things I do besides teach here and and work with the Mccarthy and student work with the students is on the side. I am often an expert witness in intellectual property cases, and as an expert witness, I'm not acting as a lawyer, even though I was originally trained as a lawyer. But I have a little company, and we do market research. And one of the things we do market research on

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02:50:54.870 --> 02:51:12.609

Great Hall: is to figure out what the value is of the in in this case of the name, image, and likeness of the person who, whose name, image, and likeness was used without his permission, and of the share of money that was made, how much of it

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02:51:12.730 --> 02:51:33.369

Great Hall: belong should belong to that person, to the plaintiff in the lawsuit, and because under the law of most States, and and Professor Kappus will give a legal tutorial in just a minute. But this point, I think, is appropriate to make here, under the law of most States, the person whose name, image, or likeness has been used

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02:51:33.370 --> 02:51:45.869

Great Hall: without the permission. And, by the way, that's like all you have to show is that it was used without your permission. You might not even have to show that it was used for a commercial purpose in some States. In some States. You do have to show that.

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02:51:45.880 --> 02:51:49.100

Great Hall: But let's assume it was used for a commercial purpose.

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02:51:49.320 --> 02:51:50.390

Great Hall: And,

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02:51:51.880 --> 02:51:54.040

Great Hall: that you're recognizable

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02:51:54.090 --> 02:52:10.780

Great Hall: from your from the name, image or likeness that was used of you in an advertisement or in a video game, or in a television series, or in any kind of product you can imagine. But if if you then sue them, and you prove that infringement, how much money do you get?

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02:52:10.780 --> 02:52:30.409

Great Hall: Well, you could get a reasonable royalty fee of what it would should have cost to get a license. But in addition to a reasonable royalty fee, the plaintiff can get under the statute in California. Let's say, since we were looking California. The case I'm going to tell you about is being litigated in California. I was testified in the case

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02:52:30.410 --> 02:52:47.149

Great Hall: last week in San Diego State Court under California law, and the rule I explained it to the jury is the plaintiff is entitled to the profits made by the defendant that are attributable to the infringement.

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02:52:47.450 --> 02:53:07.489

Great Hall: the profits attributable to the infringement. So not necessarily all the profits a portion of the profits. And how do you calculate the portion of the profits that could be traced or attributed to the infringement? Well, that could take some market research is what which is what we did. We did surveys to figure out

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02:53:07.520 --> 02:53:16.469

Great Hall: how people saw the product. So I'll try to make this fast, because, you know, we don't have forever here today. Hubert's lemonade

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02:53:16.840 --> 02:53:46.409

Great Hall: was the product. Now this product was put out 1st by monster energy and monster energy was brought by Coca-cola. So the person Cross, examining me in in the trial, was a lawyer, represent from Kilpatrick Townsend, representing Coca-cola Company, which some of our students are at that firm. So he was, he was, you know, going at it, and the people putting me on the witness stand were 2 lawyers who took the case on contingency fee.

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02:53:46.670 --> 02:54:09.110

Great Hall: and who want to make 30 or 40% of all the money that they get. So the plaintiff, and if it's an athlete, they're going to have to share the money, too, with some lawyers, unless they're willing to pay the lawyers by the hour, which they're not going to have the money to do. They're going to have to share like a 3rd of it with, you know, people like John Kappus, and so

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02:54:10.670 --> 02:54:23.379

Great Hall: see I'm only half kidding, and that's what he does or used to do. And so that's another reason for you kids to think about growing up and becoming lawyers and and become contingency lawyers. And

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02:54:23.400 --> 02:54:31.010

Great Hall: it's not only personal injury lawyers who take a 3rd of the money. It's intellectual property lawyers working for the plaintiffs

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02:54:31.040 --> 02:54:45.770

Great Hall: who take a 3rd or 40% of the money. That's their incentive, but they front the costs I use the word earn. But take is, you know, similar. But yeah, we earn. Did you say, earn earn? Yes, yeah, maybe So

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02:54:46.540 --> 02:54:50.530

Great Hall: they're investors of a sort. And so here

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02:54:50.610 --> 02:54:54.349

Great Hall: 2 wonderful people who hired me on the plaintiff's side

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02:54:54.360 --> 02:55:15.610

Great Hall: to do this case. We tried this case once, not 7 years ago. We won 16 million dollars. It went up on appeal. It got overturned under technicality. It took 6 years to get retried. Finally, we're back in court last week. It'll wrap up in a couple weeks, and this jury that I was looking at 5 days ago is going to decide what to do.

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02:55:15.720 --> 02:55:17.450

Great Hall: But there's a pool of money.

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02:55:17.520 --> 02:55:34.137

Great Hall: and and they've got to decide how much of the revenue. So Coke made a ton of money off of this product. Now it's no longer for sale, maybe because the litigation I don't know, but it was for a long time. I don't have any of you ever seen this or heard of this product. Okay, good. That's cool. Because

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02:55:34.500 --> 02:55:44.950

Great Hall: I'll give you some of the arguments that were made real quickly. So Hubert's is the 1st name of a man named Hubert Hansen. Do you have the back of the bottle? A picture of it.

562

02:55:46.000 --> 02:55:53.989

Great Hall: I put it in, but I didn't get it. Get into the presentation in one of them. No, it's not on the next slide. No? Okay. Well, on the back of the

563

02:55:54.430 --> 02:56:22.560

Great Hall: you wouldn't know by looking at this who Hubert's is, and that's what Coke's big argument is. Nobody could tell who Hubert is. Therefore we shouldn't have to pay. Now Hubert Hansen is dead. He was born in 1898. He started a juice company, never lemonade, and then he started a soda Pop company called Hansen's Beverages, and he made millions of dollars, and then he sold his company decades ago

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02:56:22.670 --> 02:56:24.340

Great Hall: to Monster.

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02:56:24.400 --> 02:56:34.290

Great Hall: and when he sold it. He gave him the trademark that he had trademarked in his last name Hanson's, because he had never used his 1st name.

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02:56:34.380 --> 02:56:35.670

Great Hall: Huberts.

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02:56:35.850 --> 02:56:39.279

Great Hall: ever in connection with his commercial activities.

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02:56:39.450 --> 02:56:43.939

Great Hall: So Koch thought, well, we have the trademark to his last name.

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02:56:44.130 --> 02:56:45.500

Great Hall: and we're selling

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02:56:45.540 --> 02:57:00.689

Great Hall: related products, fruit beverages. We should have no legal problem just creating a new lemonade product and naming it after his 1st name, and they liked it because they thought it sounded homey and old fashioned, and Folksy

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02:57:00.730 --> 02:57:14.089

Great Hall: Huberts. They just thought it sounded good, and they didn't get a license from his heirs who have inherited his right of publicity, his name, image, and likeness, rights which

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02:57:14.180 --> 02:57:27.049

Great Hall: in most states survive the death of the person by up to 50, 70, 90, or in Indiana, I think, 110 years your grandkids can keep making money off of you.

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02:57:27.060 --> 02:57:28.270

Great Hall: And so

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02:57:28.400 --> 02:57:31.730

Great Hall: one of his grandkids was in law school.

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02:57:31.930 --> 02:57:34.960

Great Hall: an intellectual property survey class.

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02:57:35.450 --> 02:57:40.980

Great Hall: No, not in my class, and the teacher was going over this subject matter.

577

02:57:41.340 --> 02:57:50.509

Great Hall: and he, the light bulb, went off in his head. He said, I don't think they ever got a license from us to use Grandpa Herbert Hubert's name.

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02:57:50.670 --> 02:57:56.849

Great Hall: And so they went and found a lawyer, and the lawyer dug in and said, We think you've got a case, because

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02:57:57.080 --> 02:58:01.179

Great Hall: they had the rights to your last name. But that doesn't mean they have the right to your 1st name.

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02:58:01.310 --> 02:58:06.329

Great Hall: That's why the scope of rights here is so interesting, and on the back of the bottle

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02:58:06.550 --> 02:58:09.170

Great Hall: is, which is why I wish we had a picture of it.

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02:58:09.430 --> 02:58:26.679

Great Hall: It says there's a backstory their marketing department created, and they made it up. And they're also saying, that's why they shouldn't have to pay any money, because it's not true. And they made it up, and therefore they should get the money. But what it says is, Hubert Hansen was a great guy who used to drive around in his

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02:58:26.680 --> 02:58:45.670

Great Hall: truck full of lemons during the Great Depression, and pass out free lemonade to 4 people on the studio, lots of Los Angeles, and then right over the barcode on the back is a little cartoon with a like a cartoon like stick figure driving a truck full of lemons.

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02:58:45.810 --> 02:59:01.139

Great Hall: and that's supposed to be Hubert Hansen, but you have to do some thinking to put together that that's his likeness. So you have his name, his image, his likeness, his full name is used on the back, and then the very bottom of the bottle on the back is a quote.

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02:59:01.600 --> 02:59:13.419

Great Hall: and it says only the best will do quote unquote. And then underneath Hubert Anson, and we don't even know if that's true. If Coke's Marketing department made that up, hey? They sell it

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02:59:14.280 --> 02:59:18.439

Great Hall: hundreds of millions of dollars gross revenue

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02:59:18.520 --> 02:59:20.039

Great Hall: under the statute.

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02:59:20.650 --> 02:59:25.689

Great Hall: If his heirs can prove that they've used grandpa's 1st name

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02:59:25.780 --> 02:59:43.639

Great Hall: without his permission, they're entitled to the portion of the revenue attributable to the infringement. So what does Coke say? He was never famous? Nobody

knows who he is, Hubert Hansen. We shouldn't have to pay any money, because we're not making the money because of his fame. Wrong under the law

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02:59:43.840 --> 02:59:49.740

Great Hall: you don't have to be famous, but what we do have to prove is that they created a brand story around his name.

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02:59:50.210 --> 03:00:11.519

Great Hall: and it drove sales to a certain percentage. And I did research market research. I want to go into it. But I testified that 37% of all the revenue is attributable to the collection to the brand story. Well, they're just going crazy, and it still hasn't been decided. I shouldn't be talking about right. But it's it's, you know, it's I've already been cross examined. So

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03:00:11.550 --> 03:00:17.049

Great Hall: that's what's going on. But that's give you a feel for what name engines like like this means it can be 1st name.

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03:00:17.080 --> 03:00:31.419

Great Hall: In some states it can be nickname in California a common law, it can be any indicia of your identity. There's 2 stats. There's 2 things you'll talk about in California. There's a statute, and there's common law. The common law is broader.

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03:00:31.480 --> 03:00:45.530

Great Hall: but it has also some downsides with it. So we went in. You know, we tried to prove every single aspect, had some kind of economic value. They said, it has 0. They have an expert who's saying that none of the value is attributable

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03:00:45.530 --> 03:01:03.540

Great Hall: to anything about this man. It's attributable about the shape of the bottle, the flavor of the lemonade. Other things that people care about the marketing efforts of Coca-cola. Unrelated to this guy's name. They're trying to say we don't owe him anything. And so in these cases money isn't automatic.

596

03:01:03.540 --> 03:01:30.480

Great Hall: You still have to prove what share of the profits were made like we looked at a minute ago an athlete was used in one video game, but he was only one athlete. Well, if 40 athletes were used in that game. How much of the money does he get? You know of the of

of the revenue? So. But but one of the examples, and I'll stop with this that I give is Carmelo. Anthony. Have you heard of Carmelo, Anthony? I think his nickname is mellow.

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03:01:30.600 --> 03:01:48.059

Great Hall: Well, the people can't run around using mellow for commercial purposes, without violating or possibly violating his name, image, and likeness rights, and if they make money off of it, and people make an association mentally between the use of Mellow and him

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03:01:48.130 --> 03:01:50.710

Great Hall: game on. I'll stop with that.

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03:01:51.460 --> 03:02:12.079

Great Hall: Yeah. And I want to jump in. And today's event is focused on nil. But I want to put it in context of the law in general and different forms of property rights. So the law gives property in 3 broad categories. Category one is real property, land, real estate. And so, if you can invest in land, real estate, go for it. You can be the owner of that.

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03:02:12.080 --> 03:02:27.819

Great Hall: The second category is personal property, which is stuff and items like your phone, your laptop, your car, your lunch. These are items that you get to own, and the law recognizes your property right in those personal property items, and the 3rd category

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03:02:27.820 --> 03:02:49.409

Great Hall: which we find the most interesting is intellectual property. These kinds of property rights are not tangible. You can't hold it like an apple. You can't drive it like a car if someone has a song, and I listen to it. That song can exist in trillions of copies around the world. And so these intangible rights are the category in which nil fits.

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03:02:49.450 --> 03:03:10.440

Great Hall: and I like to refer to intellectual property as the IP. 5. Within intellectual property. There's 5 distinct categories, and to some extent these can overlap, and in many instances do overlap. But let me just walk you through them briefly, because as an entrepreneur, you can create value in your work and in your business, in all 5 categories.

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03:03:10.440 --> 03:03:39.379

Great Hall: Category one is patent rights patents cover new inventions, and if you create a safer football helmet or a better baseball bat, or even a new game, entirely new game that is potentially patent, eligible. And to get a patent you have to ask the U.S. Patent and Trademark Office, and in fact, you should just ask deputy Director Brent, since he's Number 2 in charge there. Can you get me a patent on my new safer helmet or my new, whatever it is that you invent

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03:03:39.510 --> 03:04:00.060

Great Hall: patent rights do not come up automatically. You have to file papers, you have to file applications, and if the government examines them and finds that what you did is sufficiently original, unique, non-obvious, and new and other requirements. Then they will grant you a document that gives you, on average overall about 13 to 18 years of protection

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03:04:00.060 --> 03:04:14.259

Great Hall: under patent right, and once the patent expires it's available to the public. The second category I want to. Highlight is copyright, and this is a body of law that protects any original and creative works. And so whenever you take a photograph, if you write a song, if you make a movie. If you post a blog posting

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03:04:14.340 --> 03:04:34.449

Great Hall: patent law will not help you. But copyright law will, and copyright rights come into being automatically for free. You don't have to ask for them. You don't have to file papers. If you are the author of a photo of a written work of anything creative, you own it, and if it's used without your permission, you may have legal recourse to stop that use from continuing.

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03:04:34.450 --> 03:04:45.369

Great Hall: And so, as you go, do your influencing and your photographing. You own copyright, assuming that you're the one that creates it and posts it.

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03:04:45.510 --> 03:05:03.820

Great Hall: etc. The 3rd category I want to mention is trademark rights. And later this afternoon we're going to have an expert from the Uspto give a more detailed explanation of trademark rights. But this body of law protects branding as applied to goods and services. And so if you can build a brand like the Jordan brand or the Tiger Woods, brand.

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03:05:03.820 --> 03:05:22.739

Great Hall: a trademark can be a logo. It can be a word or phrase, it can be any indicia that helps you identify one company as separate and unique from a different company. And once you have established, either through use or through a Federal filing, then you have trademark rights, and you can prevent people from stealing your brand

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03:05:22.830 --> 03:05:49.179

Great Hall: name, image and likeness falls under the umbrella of what we call the right of publicity, and as couple of our other speakers have already indicated, the right of publicity is the inherent right of human beings to control the unauthorized commercial use of their identity. And this is the newest area of law. The 1st patent statute was passed in 1790 in the Us. The 1st copyright Act was passed in 1790, but we haven't started recognizing this inherent right of publicity

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03:05:49.180 --> 03:06:13.630

Great Hall: until around 50 or 60 years ago, as case law started to develop. And most recently it's been accelerated by the changes that Professor Gibson mentioned in the last 4 to 5 years. So this is the hottest, newest area, and then 5th trade secret covers secret information, commercial information. The secret formula for Coke is a great idea. So as you build your business as you're an entrepreneur.

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03:06:13.630 --> 03:06:35.700

Great Hall: don't forget about the IP 5. The focus of today's event will be primarily how you can build a trademark portfolio and leverage your right of publicity, your name, image, and likeness rights. But again, for student athletes in particular, copyright rights will be important. Quick note. As I mentioned, copyright can come into existence for free. No papers needed.

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03:06:35.700 --> 03:06:45.319

Great Hall: There are advantages for filing a request with the Us. Copyright office for a certificate, and it's not that expensive to do that. And so if you have a creative work you want to protect.

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03:06:45.320 --> 03:07:11.229

Great Hall: it may be worth filing with the Us. Copyright office trademark rights also can come into existence automatically for free without filing any paperwork or doing any other steps other than using a brand in the world of commerce. However, there's many advantages with filing a Federal trademark application with the Uspto. Again. A speaker this afternoon will go through that step. And so I would highly encourage everyone who's building a brand to think about filing a Federal trademark application

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03:07:11.260 --> 03:07:24.779

Great Hall: again, name, image, and likeness rights. There is no paperwork required. You own them by being a living human being, and you get to exploit them for trade, secret rights. All you need to do is, keep a secret. So again, no Federal filings, no paperwork. Just be able to keep a secret.

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03:07:26.185 --> 03:07:43.460

Great Hall: These bodies of law differ in complexity, based on which branch of government covers them. I know we're just a minute over time. So I'm going to go quickly through this. Certain areas of law are primarily voted on by Congress and signed by the President, and they uniformly cover the entire country

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03:07:43.460 --> 03:08:05.670

Great Hall: because of the power of who passed the law, and in general there's some exceptions, but patent copyright and trademark are generally relatively uniform across the country. In contrast, the right of publicity and trade secret law are largely legal principles created under State law. And so, as Professor Franklin and Gibson mentioned, these can vary state to state.

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03:08:05.800 --> 03:08:35.679

Great Hall: I will say that no matter what state you're in today. There is nothing to stop you from selling or licensing your right of publicity, your name, image, and likeness. Right? You're not violating any law of any State to simply accept money for a license for use of your right of publicity. So no matter where you go to college, you'd have that right, the the nuance. The tricky part is, if you want to sue somebody for improperly using your name, image, and likeness, then you'd need to sue under the law of a State.

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03:08:35.680 --> 03:09:05.269

Great Hall: and some laws have more beneficial laws than others, and some States have no laws to give you the right to sue for unauthorized use, and then, beyond legal principles, private industry, it can have their own internal private policies. So if you want to post on Youtube, they've got their their business rules their policy guides. If you're Asu law student, we have a student policy guide. And if you violate those rules, there's repercussions for these private policies that get input in place by different entities. And so that's kind of that 3rd layer of private policy

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03:09:07.130 --> 03:09:23.830

Great Hall: fantastic. So our last question is not really one we're going to answer. Our last question is before we go to break. Come on back, because our next panel will talk about, how can you use these different IP regimes, and in particular your right of publicity and maximize your value.

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03:09:26.170 --> 03:09:27.880

Great Hall: Thank you. Any questions.

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03:09:29.110 --> 03:09:29.960

Great Hall: Yes.

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03:09:36.550 --> 03:09:37.860

Great Hall: your trademark

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03:09:38.343 --> 03:09:53.300

Great Hall: your place of residency for trademark only dictates that you have a domicile address in the United States. So if you're domiciled anywhere in the United States, then you are ready to consider the paperwork for filing a trademark application.

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03:09:53.790 --> 03:09:58.630

Great Hall: All right, let's give a big hand to this amazing panel, and we'll see you after the break. Thanks. So much.

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03:17:37.710 --> 03:17:45.000

Great Hall: All right. Hello, everyone, professors. Thank you for that great overview of the legal theory behind everything going on with nil.

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03:17:45.240 --> 03:17:55.230

Great Hall: My name is Jake Johnson. I'm a 3rd year law student here at Asu, along with my Jd. Also pursuing a master's of sports, law and business

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03:17:55.510 --> 03:18:00.650

Great Hall: outside of law school. I'm a team U.S.A. Athlete for the Beach Handball National team

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03:18:01.000 --> 03:18:09.279

Great Hall: wherever I find the time. And I'm also a Mccarthy fellow, and in the Law Science and Innovation Institute

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03:18:09.330 --> 03:18:14.870

Great Hall: so got a lot going on. I'll let my panelists introduce themselves starting down here with Jeff.

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03:18:15.650 --> 03:18:24.410

Great Hall: Everybody nice to be here with you all today. My name is Jeff Kanowski, and I'm the Associate Director of Innovation programs at Asu's Entrepreneurship Institute.

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Great Hall: My role really sits at the intersection of sports and entrepreneurship, and my career over the last 14 years or so have has primarily been in that space.

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03:18:34.920 --> 03:19:04.509

Great Hall: I'm wearing a few different hats in sports business being an entrepreneur myself working with some larger corporates in the sports tech space, working in the agency space in the venture space, and then most recently, coming back to Asu over the last several years and really trying to help build out a sports innovation hub kind of with 2 main areas focusing on venture development working with startups, helping them get into the space and then the other. The other side is working with athletes and helping them pursue entrepreneurial endeavors.

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03:19:06.220 --> 03:19:24.359

Great Hall: Hi, guys! I'm Rachel Backus. I'm the general manager for nil at Asu. Which means I am the traffic cop for all things. Nil at Asu education resources having conversations with businesses, teaching our student athletes how to have those conversations with businesses. Really, you know.

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03:19:24.550 --> 03:19:53.559

Great Hall: traffic Cop, that's the easiest way to say it, and that's what how we describe it. I'm also a member of Altius sports partners, which is a nationwide consulting firm in the college athletic spaces. So our role on on campuses. Is to really help our athletic partners see around the corner, see what's coming. As you've all heard, the landscape is changing

on a daily basis. And that's a big part of my job is making sure that we stay ahead of those changes. And really, you know, having our Sun Devil athletic program be in the best position to move forward in this new world.

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03:19:54.670 --> 03:20:16.929

Great Hall: I'm Sam. I basically say that I am just a nerd for all things nil. I travel from school to school, I partner with brands like Jbl and Marriott, and actually teach athletes how to shoot and create content for their brand partnerships and how to really monetize their brand. I am the nil coach for Meta's nil empowerment program, as well as Nike's Nil campaign.

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03:20:16.940 --> 03:20:24.999

Great Hall: and I also run my own nil convention called Athletecon, really celebrating athletes as content creators and facilitating nil deals in person.

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03:20:25.830 --> 03:20:27.830

Great Hall: How you doing, guys? I'm Freddie.

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03:20:28.080 --> 03:20:32.060

Great Hall: 2024 us. Olympian finished. 6th place in Paris.

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03:20:32.520 --> 03:20:33.386

Great Hall: Thank you.

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03:20:34.540 --> 03:20:40.929

Great Hall: Graduated from Syracuse University in 2017. I've been on the protein on the pro scene since 2017.

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03:20:40.960 --> 03:20:49.140

Great Hall: I've been on team, U.S.A. A bunch of times since 2014, and I got a lot of experience as an athlete, and hope I can share some things to help you guys.

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03:20:54.300 --> 03:20:55.509

Great Hall: No, it doesn't work

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03:20:56.360 --> 03:20:57.120

Great Hall: meant to be

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03:20:58.470 --> 03:20:59.910

Great Hall: worse if it's not working.

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03:21:07.420 --> 03:21:08.070

Great Hall: Okay.

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03:21:10.520 --> 03:21:17.590

Great Hall: alright. So our idea for the panel here is, we're kind of going to go through the phases of nil deals from start to finish.

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03:21:17.670 --> 03:21:38.619

Great Hall: Not that there really is a finish, because, as we'll discuss, then entrepreneurship gets involved and athletes move into the business world. So it's more than a start to finish kind of thing. So to start off with the deal inception early stages. Rachel, can you talk a bit about what systems Asus put in place to help athletes identify and evaluate nil opportunities?

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03:21:38.920 --> 03:22:07.250

Great Hall: So, as I said, a big part of my role is having conversations with corporate partners. The names you see at our stadiums, the names you see on our walls around the buildings, businesses in the area and really identifying what's out there for our athletes, right? In addition to teaching our athletes how to go find these deals on their own really having the conversation. And you know we're in the Green room talking, and it's interesting to see how we all go about it differently. But it's all about meeting both the athlete where they are and the businesses where they are

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03:22:07.260 --> 03:22:27.080

Great Hall: we were talking about. So I know, Sam said. She's with Marriott. We were 2 weeks ago, having conversations with the Omni Hotel in Tempe, and we've been in conversations with them for a while about why they should get involved in the space what the value is for them to get involved in the space. And they started to think about it more and more and more, and really realizing that, hey? You know what

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03:22:27.600 --> 03:22:32.939

Great Hall: Asu football is having a great season, we're off to a great start. If we win tomorrow we're going to be ranked right hopefully. So

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03:22:33.170 --> 03:22:37.939

Great Hall: why not capitalize on that? And we we talked through what that could look like? And they said, Okay.

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03:22:38.560 --> 03:23:03.179

Great Hall: we kind of want to dip our toe in the water, but we don't know what the space is. So we had a conversation. We said, Hey, you know what? What can you guys give our athletes that they need that can help promote the Omni Tempe. And it was rooms, right? Hotels have rooms. They're not always booked. So the hotel can say, Hey, we can offer you rooms, and our athletes can come out sign autographs. What they've done 2 weeks in a row now, and the hotel is really seeing value in it. So it's all about

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03:23:03.270 --> 03:23:12.200

Great Hall: having the the company understand? Hey? Here's what the value is for nil for you, and having our student athletes see what the value is coming from like

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03:23:12.430 --> 03:23:31.810

Great Hall: they're engaging with that brand, you know. We've partnered with an nil dashboard influencer. So that's a platform where we we have all of our student athletes. 670 of them have their own profile on an nil dashboard, and businesses can go and sign up and see, and not just businesses, fans individuals. If you want to meet and greet, if you want to.

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03:23:31.810 --> 03:23:46.599

Great Hall: and an autograph, buy a jersey. Those are things you can get through our dashboard, and you know. So from the the smallest of scales for nil engagement to the largest of scales with our our larger brands, we provided opportunities along the way and really identifying what those opportunities are is a big part of my role.

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03:23:47.220 --> 03:23:52.529

Great Hall: Sure. Thank you. And speaking on those opportunities. Freddie, I'm I'm curious to hear.

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03:23:52.590 --> 03:23:59.490

Great Hall: How does a global elite athlete such as yourself go from unsponsored to getting a sponsorship deal with Adidas, for example.

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Great Hall: Well, my my story is a little bit different, I will say, in the track, and field realm is pretty difficult to get an indigenous contract. They're very strict on. You have to make a team. You have to do this. You have to do that. But I will say in terms of of getting a sponsorship deals and and different

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03:24:22.040 --> 03:24:49.130

Great Hall: just opportunities of business. There's a there's a website called Open Sponsorship, that I've used in the past, where I literally just contact different companies and say, Hey, maybe you can send me some product. I take them, take some pictures. I use it all the time. Anyway, you're looking for more exposure. Kind of like like, Rachel was saying. Where can we both meet in the middle, you know, and I can offer you something of value to you, and you can offer something that's of value to me. And maybe we can work together. So really, just stretching those adidas kinda

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03:24:49.130 --> 03:25:11.329

Great Hall: saw that I made the team this year, and and they were excited about it, and they wanted me to represent them, and they contacted my agents and we we figured something out. And now I'm Team Adidas. That's awesome. Man congrats. Thank you. I think we see sometimes, you know a more active versus a more passive approach, I think, while athletes are still building their own brand, you know you have to be very active in what you're doing.

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03:25:11.360 --> 03:25:15.270

Great Hall: So, Sam, what are the 1st steps that you recommend for athletes building their brand?

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Great Hall: So my goal when working with an athlete specifically while they're still at the collegiate level is actually figuring out. I kind of do a reverse approach like, where do they want to go when they're out of here because they have such a good opportunity, with their name on the roster and a massive logo like Arizona State backing them and behind them that I try and really map that out and then work all the way backwards. So I'll use one of my athletes, for example, track and field athlete at Memphis, and

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03:25:42.590 --> 03:26:04.579

Great Hall: she wanted to be a motivational speaker, and she wanted to start landing in ll deals. But none of her social media, none of her content, none of her business plans were based around getting her to that end goal. So once you define that now we worked all the way backwards, step number one is the goal step number 2 is actually content. Creation 4 out of 5 brand deals are based around brands paying athletes to make content.

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03:26:04.580 --> 03:26:20.300

Great Hall: And it's just an unavoidable part of honestly everything. There are other opportunities like volunteering, and you know, signing autographs and stuff like that. But that will go away when your name is not on that roster anymore. So I really try and help the athletes get started by that. But

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03:26:20.310 --> 03:26:31.940

Great Hall: I'll have an athlete come to me and say, I want to land a deal, and I check their social media, and they have 0 content on there. And it's like, well, then, like good luck, you're gonna have to. It's gonna be a lot harder to negotiate. It's not impossible. But

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03:26:31.960 --> 03:26:48.549

Great Hall: so really, it's starting by having actual content examples in the kind of pillars of brands that you want to start landing. So a lot of my girls want, you know, skincare, or, you know, hair supplements. So, having content examples already to be able to present to brands and starting.

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03:26:48.550 --> 03:27:03.940

Great Hall: You know there is the 1st step. I mean. I've had an athlete come to me with 2,000 followers that wanted to land quest nutrition, which you know on Instagram. They have a million followers, and I told her, don't wait to even land the deal. Go show that you're a fan post the content. Send them a collaboration invite.

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03:27:03.940 --> 03:27:14.760

Great Hall: They accepted that invite, which means she tapped into their following and their audience, and then now she gets paid a cash deal because she put herself on the radar and on the map so honestly, step number one is always

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03:27:15.040 --> 03:27:19.660

Great Hall: goal. Step number 2 is content. Right? You have to drive that visibility right?

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03:27:23.225 --> 03:27:31.850

Great Hall: And as we're going, if anybody in the audience has questions, don't feel like you have to save them for the end. We want this to be interactive. So feel free to raise your hand if you have any questions.

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03:27:32.265 --> 03:27:42.000

Great Hall: But while we're on the the topic of brand development, Sam, if you could continue, can you talk a bit how social media in general has changed the landscape for athlete brand building.

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03:27:42.520 --> 03:27:47.190

Great Hall: It's really changed. A lot of athletes lives. I hear it all the time, I mean.

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03:27:47.260 --> 03:28:02.879

Great Hall: Instagram has. And Tiktok specifically. And LinkedIn have really allowed athletes to build a platform that wouldn't have had the chance. I work with a lot of division 3 athletes that don't have a massive name, but because the power of social media and the reach that you can have even globally

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03:28:03.170 --> 03:28:19.700

Great Hall: has really expanded the opportunities that they have to build their own brands. I worked with a smu volleyball player who said, and I literally did change her life in social media specifically. And now she's a full time content. Creator brands fly her out all because of the power of that. And before that, you know.

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03:28:20.040 --> 03:28:23.690

Great Hall: it was limited. The reach that the athletes had were actually limited.

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03:28:23.970 --> 03:28:49.299

Great Hall: I have a question for Sam. Sorry. So the number one question I get from athletes, probably on a daily basis, is, how do you increase your followers? How do you increase your engagement? How do you like become verified? Because, as you know, in the conversations with brands, a lot of them want to know how many followers they have, and for you know, the the average athlete. They're, you know, 5, 600 followers. What's the like? Top 3 things to increase your followers and increase engagement, that you would tell an athlete.

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03:28:49.560 --> 03:28:59.870

Great Hall: So the number one way to basically go viral or to grow your following right now for athletes. I've seen it done literally a million times. It's just like clockwork, because it's an algorithm at the end of the day

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03:28:59.920 --> 03:29:18.409

Great Hall: is using like trending audios that are going viral. And you tweak the text on the screen to be relatable to life as a student athlete. But I call that algorithm chasing. There's also brand building content, which you need to actually land the deals which would be like your day in the life content way more like

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03:29:18.440 --> 03:29:28.769

Great Hall: engaging your actual community. So growth is an algorithm. But what brands are also really, really looking for is that engagement? So I always tell my athletes.

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03:29:28.790 --> 03:29:35.760

Great Hall: There's followers, or there could be a community. So I use this example all the time. Normally, when I come to a school which I'm

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03:29:35.970 --> 03:29:50.599

Great Hall: aware that I'm wearing the wrong type of shoe right now. So my apologies, yes, normally, when I come to a school, I match like the color of my shoe to the school that I'm going to, and I throw it up on Instagram, and I throw up a questionnaire. And I say, what school do you think I'm going to next.

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03:29:50.830 --> 03:30:11.529

Great Hall: Silly. I know I'm getting to the point. But then my messages and my Dms flood of responses of these athletes like engaging and wanting to know where I'm going and posting, you know their guests, and I could have easily just snapped a picture here on campus and said, I'm here, which would have been just views. But now I converted my followers into a community, and they're coming along with me.

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03:30:11.530 --> 03:30:33.859

Great Hall: That's what brands are looking for. Brands don't want just viewers and virality. They want a community. So you need both pieces, the viral chasing, the algorithm chasing because the odds are the more followers and the more views you have, the easier it is to negotiate yourself, and the higher the rate it's going to be. But just because you have that cloud doesn't mean it always translates into actual like brand dollars.

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03:30:34.910 --> 03:30:36.079

Great Hall: It's helpful. Thank you.

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03:30:36.180 --> 03:30:37.210

Great Hall: Thank you.

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03:30:37.440 --> 03:30:39.140

Great Hall: In an ideal deal. Now.

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03:30:40.628 --> 03:30:46.809

Great Hall: So a lot of nil deals right? You have to build that brand on the athlete side. You have to create that visibility.

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03:30:46.870 --> 03:31:00.800

Great Hall: But another important aspect is managing the actual deal and the institutions that these athletes are a part of play a big role in that. So, Jeff, can you speak a bit to how Asu's innovation? Ecosystem supports athletes in their nil endeavors.

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03:31:01.370 --> 03:31:12.410

Great Hall: Yeah, no problem. Yeah. I think we we heard Kate and and Derek talking about this quite a bit. You know the parallels between an athlete and an entrepreneur, and and a lot of times, you know, they're one in the same.

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03:31:12.530 --> 03:31:18.739

Great Hall: you know. We all know that Asu has a thriving, entrepreneurial ecosystem, and I think you know they

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03:31:18.970 --> 03:31:27.130

Great Hall: are very proud of that fact, you know, probably within 50 feet of us here there's a number one and innovation poster or billboard, you know, somewhere around.

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03:31:27.280 --> 03:31:39.450

Great Hall: But the the thing is is, we do really practice what we preach in that way. Yeah, I think a lot of that is anchored by the student entrepreneur community. The venture devils program that we have in place

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03:31:39.480 --> 03:31:43.440

Great Hall: a lot of the faculty and community on entrepreneurship programs.

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03:31:43.460 --> 03:31:50.409

Great Hall: And when we when we set out to 1st launch more of a sports innovation focus about 6 years ago.

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03:31:50.470 --> 03:32:06.749

Great Hall: you know, the the idea was to connect startups, founders, students, faculty to resources that the Entrepreneurship Institute puts forth. So things like mentorship office space grant funding a whole slew of of resources.

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03:32:06.910 --> 03:32:12.019

Great Hall: And we're really successful in a lot of that. But we found pretty quickly

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03:32:12.110 --> 03:32:18.659

Great Hall: that, you know, if we're working in sports and innovation, we should probably be talking to our athletics program at Asu.

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03:32:18.760 --> 03:32:38.559

Great Hall: And so what that led to is really a sit down with some of the stakeholders and building a partnership between the Entrepreneurship Institute and the Athletics program. And looking at, how do we get these resources in front of what's typically a little bit more of a protected class athletes are very busy. They have a lot going on. They might not have that level of visibility.

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03:32:38.560 --> 03:32:57.890

Great Hall: So we we put forth some programming and started thinking about nil. This is back in 2018, before it was really a strong movement there, and figuring out how we can put these kinds of resources in front of athletes, get them to file waivers with compliance and thinking about how they can, you know, drive grant funding to help them pursue entrepreneurial endeavors.

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03:32:58.120 --> 03:33:13.649

Great Hall: and yeah, that that really really turned into a successful program. And that's actually how ended up intersecting with Kate Fitzgerald, who you heard earlier today. She was one of the one of the earlier student athletes that engaged with our programs.

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03:33:13.740 --> 03:33:19.749

Great Hall: And from there, you know one. It's just been a pleasure following her journey and being being part of that, and

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03:33:19.810 --> 03:33:49.229

Great Hall: seeing how she's now coming back to Asu to essentially give back to the student athletes that she's been a part of the peer to peer network. So you fast forward to today, we're we're reinventing the entire program. We're launching a more programmatic approach to how we engage with athletes, and Kate and I have been really mapping out how to effectively work with athletes. So this semester soft launching, as she called out earlier a student athlete venture studio where

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03:33:49.240 --> 03:34:04.160

Great Hall: very specific to athletes, you get access to mentorship, access to office space grant funding AI enabled resources workshops. And so we're sticking with them along the journey. And and I think, most importantly, meeting them where they're at in that journey.

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03:34:04.800 --> 03:34:15.819

Great Hall: Yeah, we really are number one in innovation for a reason. Right? Go, Asu. But really managing these deals, it's it's a balancing act. It requires input from the athletes and the institutions.

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03:34:16.155 --> 03:34:20.260

Great Hall: Freddie, can you speak a bit about that balancing act as an athlete.

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03:34:20.290 --> 03:34:45.830

Great Hall: How do you manage your personal brand while maintaining focus on athletic performance? It's it's definitely a fine line you have to tread for me. It's like doing as much as I can to like. Give people insight to what I do, whether that's like the the having engagement on my Instagram stories, or or showing where I'm flying to next, or even practice sessions. A lot of my engagement has been just throwing a camera up

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03:34:45.860 --> 03:35:05.499

Great Hall: while I'm working out and showing people what I do at practice. And that's kind of where I've established my brand and like what people come to see. It does get a little bit difficult when you have bigger races and bigger moments and stuff, you kind of want to retract and do your own thing. But people eat up. They just want to know. It doesn't have to be anything flashy, just like, what are you doing? What's the raw.

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03:35:06.540 --> 03:35:13.410

Great Hall: unfiltered thing that you're doing? That's interesting. And we want to see all the details from it, you know, and and just

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03:35:14.090 --> 03:35:17.580

Great Hall: I don't know focusing when you have to focus, but also like giving people

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03:35:17.840 --> 03:35:22.899

Great Hall: what they want to see when when you can kind of thing. So it's definitely a fine line to to kind of balance

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03:35:23.060 --> 03:35:35.580

Great Hall: right? They want that real look into into your real life right? And they want to feel like they're in the Olympic village. They want to feel like they're a part of it. So yeah, that's great. Actually did a little 20 min run in the village. And I put it on Youtube. People want to see that.

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03:35:36.510 --> 03:35:39.820

Great Hall: Yeah, I had like 50 of those chocolate muffins it.

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03:35:39.870 --> 03:35:42.415

Great Hall: It's not good. But yeah.

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03:35:43.930 --> 03:35:44.600

Great Hall: see?

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03:35:45.540 --> 03:36:04.229

Great Hall: So there's more to just nil than the deals as we spoke before. Right? The deal doesn't just start and finish at a certain point. There's more to it than that. The entrepreneurial development is a really important piece. So Jeff, could you speak a bit on how Asu prepares athletes for entrepreneurial opportunities beyond their sporting careers?

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03:36:04.460 --> 03:36:05.790

Great Hall: Absolutely.

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03:36:06.600 --> 03:36:15.740

Great Hall: Yeah, I think. Yeah, we touched on it a little bit, just thinking about, you know again, the parallels of entrepreneurship parallels of.

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03:36:15.790 --> 03:36:21.260

Great Hall: you know, an athlete, and the the different skill sets that they are are incorporating into their athletic career.

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03:36:21.400 --> 03:36:36.179

Great Hall: And so you know, when we think about how those skills transfer into an entrepreneurial journey. And beyond. You really think about, how do we harness those? And how do we also just kind of change the framework and and make an athlete more multi-dimensional. So it's

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03:36:36.578 --> 03:36:43.390

Great Hall: yeah. When you look at somebody who is used to being coached, somebody who has a team dynamic.

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03:36:43.410 --> 03:36:53.039

Great Hall: They're they're a go-getter. They're active, they're dedicated. I mean, all those things are are similar to what a successful entrepreneur needs to incorporate into their journey.

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03:36:53.350 --> 03:37:12.499

Great Hall: So yeah, I think at the the heart of what we're building. And in the way that we interact with athletes, you know, we think about how we can incorporate a little bit different perspective and a bit of a change of how you take those core skills. And how do you, you know, really build them out into into an entrepreneurial journey.

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03:37:12.640 --> 03:37:14.550

Great Hall: Yeah, I think the

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03:37:14.933 --> 03:37:30.860

Great Hall: you know the example of Kate. And as she's talked about, you know her, her transition. And you know, thinking about life after sport, you know there's a there's an entire world out there where you know you can be more multidimensional as an athlete.

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03:37:30.860 --> 03:37:48.229

Great Hall: and you can think about how you're how you're really coming, you know, coming out of your athletic career and using those same skills that we've been teaching, you know, entrepreneurial mindset, proactive approach, and that can take you down a path of nil deals. It could take you down a path of your career, you know, just life skills in general.

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03:37:48.960 --> 03:38:10.720

Great Hall: And, Rachel, could you build on that a little bit? What sort of long-term support systems exist for athletes pursuing business ventures? So Jeff just had the whole answer that I'm kidding. So Asu really focuses on you being a sun devil for life. And you know, yes, we're number one in innovation. But we also believe you're a sun devil for life and everything. And within Asu athletics.

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03:38:10.720 --> 03:38:26.700

Great Hall: tailors to that right? Not just for nil, but the a big part of why, I took this role as the GM. For nil was actually in my interview. They had me meet Kate, so that was great, and she gave me this great speech on how she was being set up for success here. And that was really inspiring to me. Because it's not just.

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03:38:26.710 --> 03:38:48.390

Great Hall: you know, programs like Jeff, our cross campus partnerships with the Law school, the business school. Those are things that number one innovation. Yes, we have innovated the space, but also within the athletic program, we've got champ life programming. So every single week our athletes have access to twice a week programming that teaches them life skills right how to balance a checkbook financial literacy. We partnered with some of our

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03:38:48.390 --> 03:39:12.050

Great Hall: our biggest partners, you know, there's our financial credit Union and Mountain America have really stepped up to help us in that space. So yes, we want you to build your brand. We want you to earn money. But how are we taking care of you long term to make sure that you're handling that money. Well, the basics of running a business, the basics of having a bank account. Those are things that we want to make sure that while we're encouraging them to go out and build a brand, how to protect themselves right, and also teaching them

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03:39:12.130 --> 03:39:38.699

Great Hall: what a contract review is, how, how how to look at, you know. Make sure you're not being taken advantage of by the brands you're working with protecting them in that space, really giving them all the educational tools outside of you know. Go, create content. Here's your opportunity. Have fun. We really make sure that they're supported. Because, like, I said, you're some level for life, and everything we're giving you now is not just to set you up for your 4 years hopefully as an athlete here, but in the future, so you can look back and say, Oh, you know what

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03:39:39.360 --> 03:39:51.149

Great Hall: this is great! This is what nil was supposed to be, and that that was my intent for nil and being in the space was that, yes, it's meant it's meant to compensate our athletes now. But how are they transitioning that into the same opportunities that

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03:39:51.460 --> 03:40:08.300

Great Hall: students across campus are getting right internship opportunities, using creative ways to engage nil setting them up with job opportunities, you know, learning from an investment banker, a financial planner. Those are things that we have done through nil for our student athletes, making sure they know it. It. Yes, it's not just

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03:40:08.320 --> 03:40:12.959

Great Hall: creating a Tiktok reel, creating a an Instagram post. But how are you using that

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03:40:12.990 --> 03:40:14.150

Great Hall: for the future.

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03:40:14.550 --> 03:40:20.489

Great Hall: Yeah, that the education and literacy is very, very important, especially in a space that's so highly unregulated.

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03:40:20.841 --> 03:40:42.149

Great Hall: You know, we don't want athletes getting taken advantage of. So that's great to have those systems in place. Tax season is always fun for us. So last year, so I started in this role in May of last year. So I just missed the tax deadline. So this year, I thought, Okay, we can do our tax education in January or February, right before the tax deadline in April. It's April 15th

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03:40:42.150 --> 03:40:51.280

Great Hall: for those of you who don't know, because we had some athletes who didn't know. So we did it in January, and I realized that was woefully too late, because I had a lot of athletes that had earned income from nil

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03:40:51.280 --> 03:41:13.119

Great Hall: and never saved any of it. They didn't know they would owe taxes, and they're like, Wait, what do you mean? So this year we backed up our tax education to August, and everybody knew. If you're earning money from nil of this calendar year, you're going to owe taxes on it. And what does that mean? And so that was one of those things that a lot of athletes, 1819. They've never had to file an income tax form before. They're still on their parents taxes. And so those are things that, like

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03:41:13.550 --> 03:41:19.760

Great Hall: trial by fire, we've learned that. But now our athletes are understanding. Okay, there are actual grown up implications to engage in that

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03:41:20.210 --> 03:41:30.320

Great Hall: that's really great to be aware of, and to speak on that long term vision. Freddie, what sort of life advice would you offer young athletes and influencers as they transition to the business world.

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03:41:31.630 --> 03:41:32.260

Great Hall: Oh.

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03:41:33.810 --> 03:41:57.289

Great Hall: I'm still learning a lot myself, I will say, just be an open book. You have resources, and you have people that are willing and able to to teach you and help you. Understand? I will say, don't be like me, and put your head down and say it'll figure itself out

because you're gonna have to figure it out at some point. Either you can start now and figure it out as you go, or you can wait

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03:41:57.490 --> 03:42:04.654

Great Hall: and then have to figure out everything you didn't figure out and then have to work from there. So I will say, just be diligent. Be

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03:42:05.290 --> 03:42:07.960

Great Hall: be on top of it, don't fall asleep, and

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03:42:09.010 --> 03:42:11.613

Great Hall: and I think that's the best advice I can give you.

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03:42:12.430 --> 03:42:15.080

Great Hall: That's that's great. How do you like being a new dad?

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03:42:15.240 --> 03:42:19.261

Great Hall: I do. I love it! I love it. I'm figuring that out, too.

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03:42:21.730 --> 03:42:28.588

Great Hall: Oh, my gosh, it's I've I have so many baby videos on my Instagram algorithm. It doesn't. It doesn't even make sense.

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03:42:29.300 --> 03:42:30.100

Great Hall: Oh, yeah.

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03:42:30.450 --> 03:42:36.719

Great Hall: Yeah. Now, I'd like to open the floor up to questions from the audience. If if anybody out there has anything they want to ask

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03:42:39.060 --> 03:42:39.710

Great Hall: like.

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03:42:45.090 --> 03:42:50.029

Great Hall: Hey, thanks, everyone. I I just have a question, I think for Rachel, and probably also Sam

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03:42:50.459 --> 03:42:57.289

Great Hall: The underlying keeper of an nil deal, is a contract, or maybe a bunch of contracts right? And

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03:42:57.370 --> 03:43:05.389

Great Hall: the the universities have motivation to work on behalf of Asu athletes.

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03:43:05.480 --> 03:43:09.869

Great Hall: and I wondered if you could talk about the interplay between how the University works

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03:43:09.940 --> 03:43:32.540

Great Hall: with respect to the university's brands versus the athletes that are developing their own personal brands. Did somebody plant you in this audience today? Did John plant you? Is that what happened, because this is a very timely conversation. It's actually happened this morning. I'm still working through this. So that's a very big part of my role is making sure I navigate the intersection between our corporate partnerships and our brands, and I work closely with our corporate partnerships team

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03:43:32.540 --> 03:43:42.510

Great Hall: to engage our brands through nil, but then also balancing the interests of our student athletes. And so, right now we're navigating a situation where an athlete feels that they've not been appropriately.

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03:43:42.750 --> 03:43:56.181

Great Hall: you know, represented by this contract that the corporate partner gave them. And so I'm sort of in the middle of balancing our relationship with a corporate partner and understanding where our athlete is coming from and and and that takes a lot of

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03:43:57.090 --> 03:44:14.649

Great Hall: understanding, I think both sides and understanding where each side is coming from with. Whatever the the case is, at the end of the day. Our my obligation is to the University and our student athletes, as you said, and a lot of student athletes in their nil space. So while I can't offer them legal advice in signing a contract, I can advise them. Hey.

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03:44:14.710 --> 03:44:24.999

Great Hall: this is what this means. This is what in perpetuity mean. This is what a fiduciary duty means. I can give them the definitions and have them understand what the contract terms are.

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03:44:25.010 --> 03:44:54.669

Great Hall: Another inner plan, you know, and this is something that we've talked about is nil. Agents are a thing, and agents in the space, added a layer to these conversations, where they also have their student athletes interest at heart. And so, you know, navigating. That is a fine line, and you really have to understand the end of the day. Our duty is to the student athlete and the athletic department, and intertwining that and trying to navigate. That is tough. And I found really just having being very transparent and having conversations when issues do arise, are great.

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03:44:54.710 --> 03:45:24.350

Great Hall: but being open in conversations and expectations ahead of time is key. So when we're having conversations with our corporate partnerships, you know, we or our corporate partners, I should say. Excuse me, we say things, you know, and and I educate them on. You are dealing with college athletes. You are not dealing with experienced negotiators in the space you're dealing with, content. Creators, influencers. You're not dealing with a peer or a counterpart in terms of a business standing. Right? So they understand what they're getting into is not maybe their normal

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03:45:24.350 --> 03:45:41.520

Great Hall: contract that they put forth, and our partners have all been great and understanding. Hey? Sometimes we've got an 18 or 19 year old who's learning to navigate the business world and may make some missteps, and they're also gracious. And you know, extending that courtesy of Hey, okay, 18 or 19 year olds sometimes don't know how to navigate these things. And so it just takes

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03:45:41.650 --> 03:45:57.210

Great Hall: open transparent conversations of what expectations are on both sides, and making sure that e both sides every step of the way understand what the expectation of each is, and then just kind of standing in the middle as the traffic cop, as I said, and making sure each side understands what the expectations are, and sometimes

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03:45:57.260 --> 03:45:59.150

Great Hall: having to re-explain them.

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03:45:59.180 --> 03:46:02.559

Great Hall: You know, the morning before a panel is sometimes necessary.

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03:46:02.760 --> 03:46:18.450

Great Hall: Yeah, I think it's 1 of the most difficult parts about this industry, because it is still relatively new. So everyone is trying to navigate it. And there's a lot of companies and brands that are popping up that are maybe even specific, directly to the nil.

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03:46:18.470 --> 03:46:29.430

Great Hall: And there's honestly been a lot of coaching in my experience from brands and companies to athletes. Who are athletes right to Rachel's Point. They're busy.

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03:46:29.600 --> 03:46:46.899

Great Hall: they're young, they're still kids. They're still in school. They don't have time for 12 page contracts, and it could be the difference of a couple words that someone's, you know. Gonna come and get them and take advantage of them, and it's sad. So I deal with that a lot. And again, I can't give legal advice, but

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03:46:46.920 --> 03:46:48.790

Great Hall: it's 1 of the

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03:46:49.030 --> 03:47:00.830

Great Hall: probably I spend lots of hours in my week just jumping on calls, helping athletes try and navigate that, because, you know, I was telling Rachel there's kind of a lot of extremes in this industry where

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03:47:01.030 --> 03:47:17.570

Great Hall: it's amazing how sometimes a brand can convince an athlete to really over deliver and oversell. And you know, overwork, for you know the value that they're actually providing, and they think that it's a great deal because they were sold on, you know, some promise. So

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03:47:17.750 --> 03:47:34.501

Great Hall: it's hard. I think that as this space continues to evolve, everyone will understand it a lot more. My biggest advice always to athletes is just like come to people like universities like yourself, like this athletic department is incredible, like Rachel's, an amazing resource for these athletes.

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03:47:34.930 --> 03:47:39.189

Great Hall: Michigan State's another good one like that like these universities that actually are

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03:47:39.290 --> 03:47:46.870

Great Hall: stepping up and resourcing their athletes. I can't tell athletes enough to go. Take advantage of what it is, or.

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03:47:47.220 --> 03:47:56.969

Great Hall: you know, seek out people, even like myself as a 3rd party, really, just to have people in your corner. It's really important that these athletes start to develop a team around them that they can trust.

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03:48:07.470 --> 03:48:08.370

Great Hall: How do?

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03:48:08.860 --> 03:48:10.950

Great Hall: Sorry my voice is a little off?

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03:48:11.336 --> 03:48:22.419

Great Hall: How do student influencers and athletes gain certain connections with like, let's say agents, or if they want to go into different spaces, like agents, managers, and stuff like that.

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03:48:23.192 --> 03:48:42.810

Great Hall: I'll take it to start. And then, Rachel, you could probably double down on it. So this is another thing I get asked probably 50 times a week from athletes of you know how to find nil agents or agents. Specifically, there are a lot of nil agents within this space, but a lot of there is no certification right now for agents within the nil space.

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03:48:42.810 --> 03:48:54.070

Great Hall: So a lot of these agencies are new, and it's sometimes their 1st experience as well. I'm not here to throw shade or shame on anything. There's a lot of fabulous agents there. But

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03:48:54.070 --> 03:49:10.140

Great Hall: if you're really looking for deal flow, and you're really looking for representation, I recommend you actually looking into agencies that have been established at different levels, working with even professional athletes, and happen to have a branch of nil within their agency.

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03:49:10.200 --> 03:49:21.779

Great Hall: I understand the want and the need for an agent right? It tends to take a lot off of your plate, but I actually recommend athletes getting it going on their own first, st a lot of athletes are just trying to get started, and

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03:49:21.830 --> 03:49:30.980

Great Hall: agents don't see the value right away, you know, if you're not a big social media following, or if you're not, you know, number one on the quarter of the field, like, it's kind of a tough world out there

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03:49:31.040 --> 03:49:45.569

Great Hall: in that sense. So I'd say, if you build out your personal brand or actually start diving into deals 1st and do that work on your own, you'd be surprised. The opportunities that open up the other way that I'm really recommending athletes to go is actually looking into

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03:49:45.730 --> 03:50:05.309

Great Hall: influencer marketing agencies. If you're very into like brand building because you're going to be unique to their roster because you're an athlete. They're used to dealing with full time content creators. But if you're an athlete and a content creator. There's a lot of value there. And because then a lot of sports agents that are sports specific are gonna worry about

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03:50:05.310 --> 03:50:26.109

Great Hall: the number one roster, and like how you're performing on the field or the court. So for everybody kind of in between that I really recommend like influencer marketing agencies. But then I'm sure you know, the university probably has a lot of resources for you.

There's lists out there like Nil Network is a great website. That kind of lists. A lot of resources like that. So just kind of it does take a little bit of work and digging.

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03:50:26.820 --> 03:50:34.090

Great Hall: and the Ncaa. Is launching their their their agent registration and their dashboard. So that's also a helpful tool, right? There are a lot of

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03:50:34.730 --> 03:50:50.850

Great Hall: as Sam said, nil agents in the space who are maybe not experienced, and you know I was coming out of law school, and maybe if I was graduating and I would want to dip my toe in the water. I would want to find an agent or an athlete to represent, so no knock on you guys who are trying to start and be nil agents, but what I will say is.

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03:50:50.870 --> 03:51:07.699

Great Hall: go and connect with schools. So I have agents that reach out to me directly, and will meet me and create a trust and a relationship with me as the head of the Nil department for Asu, and that goes a long way, because what we keep at Asu is, I have a list of agents that work with our athletes, that work well with me.

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03:51:07.700 --> 03:51:21.519

Great Hall: that are transparent with me, that are open with me, that will have conversations with me, and we keep them on a list. And when I have an athlete come to me like, how do I find an agent, I'm able to say, Okay, I can't recommend anybody one. Let's talk about why you want an agent, because if it's to find one deal, I think we can

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03:51:21.520 --> 03:51:38.839

Great Hall: come up with a better way for you to find what you know that deal. But if you got really, you know, like you're, you're, you're very passionate about wanting one. Here's a list of agents that work with us that have established trust with us, because that's the number. One thing I tell athletes don't just go sign with the 1st agent you meet, have a conversation, have multiple conversations.

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03:51:38.840 --> 03:51:53.009

Great Hall: establish a trust interview. 12 agents go talk to all of them in the field, and then pick one that you're comfortable with, because at the end of the day an agent is an extension of you, and an agent is representing your interests in the market, and you want to make sure that you trust who's doing that for you?

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03:51:53.020 --> 03:52:18.900

Great Hall: One more thing I know we're out of time. Also ask them upfront like for their roster of athletes, so you can see who they're already working with, and also ask them for, like proof of the deals that they've brought in, because I've had a lot of athletes fall in love with some nil agents because they're talking to them about what they're going to be able to do. They even say I already have a deal waiting for you, but I can't tell you until you sign with me, and it's an exclusive contract for a year.

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03:52:18.990 --> 03:52:30.179

Great Hall: And I advised an athlete to ask for proof of deal flow, and it was 0. So actually like testing them back, and knowing your worth will help you skip some steps.

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03:52:36.180 --> 03:52:41.430

Great Hall: Well, yep. So we're at time. Thanks, everybody for attending everybody on stream. Thanks for listening in.

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03:52:41.480 --> 03:52:45.490

Great Hall: Yeah, nil obviously has completely changed college sports and

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03:52:45.580 --> 03:52:58.019

Great Hall: moving forward with this house settlement. It's gonna get even more funky. So you know, while it's good that all these frameworks are in place everything's gonna completely change. So it's good to be in this space. And yeah, thank you all for coming.

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03:52:58.280 --> 03:52:59.240

Great Hall: Thank you.

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03:53:04.830 --> 03:53:08.050

Great Hall: Everyone is invited to lunch

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00:06:19.390 --> 00:06:33.400

Great Hall: awesome. Thank you so much for joining us today and joining us after lunch. I am so honored to be sitting on stage today with the legal protection of nil rights panel.

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00:06:33.430 --> 00:06:53.709

Great Hall: My name is Keyerra Harfield, and I am a 2 L. Here at the Sandra Day, O'connor College of Law, where I've had the wonderful opportunity not only to participate as a student clinician at the Lisa Foundation patent law clinic, but I've also able to participate as a senior fellow at the Mccarthy Institute here, where we put on several different

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00:06:54.171 --> 00:07:14.898

Great Hall: symposiums as well. So super excited for those opportunities. And now today I'm excited to be sitting on the panel here as a student moderator with these 3 esteemed industry professionals as we'll discuss nil deals and nil agreements and things that student athletes should be looking out for when going into agreements.

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00:07:15.440 --> 00:07:37.270

Great Hall: Jumping into our panelists, we have 3 wonderful panelists. So the 1st panelist is Luke Bedblum. Luke is a partner at Porter Wright Morris, an author where he has led the firm's sports law practice with extensive experience in helping athletes navigate nil rights. Luke bridges the legal business and educational gaps

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00:07:37.270 --> 00:07:53.449

Great Hall: to ensure that athletes maximize their opportunities while staying protected. He is also a thought leader on the complexities of nil agreements and contracts. Frequently speaking, on the topics to both educate and help athletes and institutions.

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00:07:53.970 --> 00:07:56.560

Great Hall: Our next panelist is George Fenn.

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00:07:56.860 --> 00:08:05.310

Great Hall: George is senior counsel at Rose Law Group, where he advises on sports law, including nil deals, intellectual property issues.

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00:08:05.380 --> 00:08:19.189

Great Hall: He practices his practice, spans across, representing athletes, teams, sports organizations, and helping them navigate the legal landscapes of sports business with a background in litigation and transactional work. George provides

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00:08:19.210 --> 00:08:25.990

Great Hall: practical and forward-thinking advice to clients facing nil related legal challenges.

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00:08:26.110 --> 00:08:33.539

Great Hall: And finally, we have John Van Dyke, who serves as a vice president of athletic marketing at the society

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00:08:33.720 --> 00:08:58.949

Great Hall: as an Asu alum. John has a strong background in branding and marketing, working with athletes to help them enhance and monetize their nil opportunities. His work focuses on creating mutual beneficial partnerships between athletes and brands, ensuring that athletes can capitalize on their personal brands in a fast evolving marketplace. So let's after welcoming our panelists. I'm excited because

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00:08:58.950 --> 00:09:14.280

Great Hall: we get to jump right in. So the 1st question we have here is, how can student athletes protect themselves from potential exploitation in nil deals, especially when negotiating with larger brands.

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00:09:16.490 --> 00:09:44.599

Great Hall: Well, let's just jump right in. So 1st of all, thank you so much. Thank you asu uspto everybody for having us and for having this really important conversation. So I think one of the things. And we're going to take this real, just open right. All of us deal with this stuff regularly, and if you do have questions about something that we say, feel free to ask those questions in the moment, so we can just address them. But I think when it comes to student athletes protect themselves. The 1st thing that they need to do

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00:09:44.650 --> 00:10:12.100

Great Hall: is make sure they understand the contract. I know that sounds crazy, but we all know all of us have talked to student athletes who have signed contracts that they haven't read right. In fact, many of us sign contracts that we don't read when we scroll through those terms and conditions of apps and things like that. But when it comes to name image and likeness, it's so critically important to actually understand what you are agreeing to. So when thinking about these kind of contracts. One of the ways to protect yourself

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00:10:12.430 --> 00:10:33.580

Great Hall: have just competent counsel, who actually knows what they're looking at and looking for. But then, understand some of the basics of these contracts that will help you to

navigate whatever it is that you're looking to achieve right? So understanding kind of the services that you're being asked to provide understanding how compensation is going to work understanding

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00:10:33.580 --> 00:10:54.010

Great Hall: kind of the term and how long that contract is. So there's a lot of different things and parts of the contract to understand. But having adequate counsel to help you navigate that, especially the higher the dollar amounts go is critically important, so that you know what your, what obligations you have to that 3rd party to that brand or company, but also what obligations they have to you as well.

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00:10:55.450 --> 00:11:19.450

Great Hall: And I'm going to chime in here. I think it's not only the big deals, it's also the smaller deals you want to be weary of, regardless the you know the leverage and the bargaining power is always going to be on the on the entity corporate, you know. Entity that you're dealing with, and you know they're dealing with student athletes. They know, you know, that these student athletes are just college kids.

22

00:11:19.886 --> 00:11:37.190

Great Hall: Having adequate representation. I can't stress it enough that that's probably the most. And the best advice that we could offer is that you do have competent representation. So similar to if it's, you know, bottom of the 9th 2 out spaces load. You don't want me pinch hitting.

23

00:11:37.190 --> 00:11:57.229

Great Hall: you know. You want a professional coming coming in and doing it. Professionals, you know. They dedicate their lives, their careers, on doing this. So you got to trust that process. And even with these smaller deals, you know, in business it's everybody for themselves and the athlete need. The athlete needs somebody who's going to have their back. So

24

00:11:57.230 --> 00:12:25.109

Great Hall: I've been on both sides of the fence where, you know I'm representing the athlete, or I'm representing the entity and the initial drafting of the contract. When I'm called to do that, you know, I have a duty and obligation to my client to act in their best interest, and do as much as I can for them to protect their rights. So I'm drafting a heavily skewed contract to ensure that I'm doing my, you know, doing my duty and fulfilling my obligations. So

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00:12:25.110 --> 00:12:42.470

Great Hall: the the real thing to be weary of is when that contract comes in and you see it, you know, don't just sign it. Make sure you understand every single you know sentence, that's you know, within the agreement, because each sentence has considerable legal significance. So

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00:12:43.020 --> 00:13:11.940

Great Hall: it's it's always when I see that contract come back and it's already signed. Then then I know that you know the the opposing party either doesn't have counts or they're not represented, or they do. And that council or representative just doesn't have the experience to negotiate it. So I'm always anticipating a draft to come back with changes. So when you're going through that contract, make sure you're you're understanding what it is you're signing, and you know there's always room for negotiation. So

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00:13:13.260 --> 00:13:19.054

Great Hall: 1st off, I'm definitely guilty of signing a contract without reading it. So if that's you don't feel bad.

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00:13:19.822 --> 00:13:25.079

Great Hall: Something they didn't mention is like due diligence, with maybe a smaller brand that you've never heard of.

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00:13:25.520 --> 00:13:31.580

Great Hall: They put a hundred \$1,000 on the table. How do we know they have a hundred \$1,000? What are you signing to

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00:13:31.720 --> 00:13:38.499

Great Hall: like? That has definitely happened. Where, like you're super stoked. You start posting on social media. I'm gonna get a hundred G's

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00:13:39.460 --> 00:13:42.410

Great Hall: and then crickets. Now you've done work

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00:13:42.500 --> 00:13:48.260

Great Hall: you have to figure out. Can I sue these people? Do they have anything that I can sue for? They might be worth nothing.

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00:13:48.560 --> 00:13:50.879

Great Hall: And there you are. You signed a contract.

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00:13:51.040 --> 00:13:52.500

Great Hall: and you've helped them out.

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00:13:52.670 --> 00:13:55.820

Great Hall: and there's no return. If not, you probably lost money on it.

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00:13:56.360 --> 00:14:16.560

Great Hall: And and to that point, too, I think it's important, because we can say the term due diligence in this room, and just about everybody knows what we're talking about. 99% of student athletes will have no idea what due diligence actually means, and understanding how you do the background, how you, how you even have a sense of analyzing the risk posed by this company, who they are, who the players are, who the

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00:14:16.560 --> 00:14:33.540

Great Hall: participants are, what's their track record, etc. So you know, there are tools that are out there. That student athletes can look at and use the athlete, national sports, business, Clearinghouse, and others to be able to say, like, Who is this company? And are they like? Are they really legit. Or am I going to hear the crickets?

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00:14:34.650 --> 00:14:42.125

Great Hall: That's all really insightful information, I think. Definitely helpful to understand the importance of

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00:14:44.760 --> 00:14:45.460

Great Hall: sorry

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00:14:46.570 --> 00:14:58.679

Great Hall: Importance of negotiating and getting counsel. So the next question is, what legal considerations do you advise student athletes to be most aware of when entering into nil agreements.

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00:15:00.720 --> 00:15:01.550

Great Hall: So

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00:15:02.910 --> 00:15:07.419

Great Hall: legal considerations. Wow, so so thinking back on you know.

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00:15:07.700 --> 00:15:10.929

Great Hall: contract provisions, there's I mean.

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00:15:11.170 --> 00:15:21.909

Great Hall: the scope of services that you're provided. Make sure you understand what you're responsible for, what your obligations are, what what sort of the frequency of that is

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00:15:22.390 --> 00:15:40.076

Great Hall: and you know, with any contract it's what are you giving and what are you getting back in return? So you really need to understand that. But then there's other components from a you know, from a legal perspective that you know whether there's an exclusivity provision. Are you prohibited from, you know?

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00:15:40.530 --> 00:16:02.909

Great Hall: working with other companies with your nil? So you know a big one is the exclusivity, and if you're in negotiations and there's no wiggle room on that exclusivity, then you know, you try and narrow that down to maybe similar to a non-compete clause where it's limited to that specific industry.

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00:16:03.254 --> 00:16:17.030

Great Hall: And there's a lot of other contract provisions that'll tie in like termination rights you have to ensure. There's termination rights in the agreement. In the event there's a change in the law, or if there's harm to your reputation.

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00:16:17.460 --> 00:16:21.139

Great Hall: and and those will essentially protect you. But you know.

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00:16:21.150 --> 00:16:28.323

Great Hall: a contract that comes in is going to be broad and vague, and and that's how they're gonna have that sort of

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00:16:29.395 --> 00:16:53.864

Great Hall: that leverage in the agreement, and and your job is to narrow the scope down to that, so that you're protecting your own rights. Especially with like an nil rights. There's there's so many agreements that I've seen where the athlete comes to me after the fact, and he says, Hey, how can you fix this? Because I think I'm stuck, and you know we're kind of stuck in a position right there, and I'm sure that's happened. So

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00:16:54.310 --> 00:17:03.350

Great Hall: you know, with with the IP rights, you you don't. Wanna you wanna make sure that you're only granting a license for it? You're not actually having them assign or transfer their

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00:17:03.380 --> 00:17:19.450

Great Hall: their ownership of their IP rights. So you want to make sure that you know everything is protected for the athlete to ensure that you know, hope for the best, prepare for the worst, but if you're prepared for the worst, then you know you have good grounds, and you know, dispute, resolution

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00:17:19.847 --> 00:17:22.629

Great Hall: or any other, you know further proceedings. So

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00:17:24.900 --> 00:17:26.510

Great Hall: are there any golfers in here?

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00:17:27.480 --> 00:17:29.420

Great Hall: Sweet? Okay.

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00:17:29.810 --> 00:17:36.780

Great Hall: on the golf side? I've seen it where, like a young kid, is super excited to sign a deal with the tailor made, or Pxxg.

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00:17:37.160 --> 00:17:43.769

Great Hall: and get out and play the new clubs and find out. They want to go back to their old callaways. They're not performing well.

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00:17:43.910 --> 00:17:45.380

Great Hall: what do I do?

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00:17:45.860 --> 00:17:52.690

Great Hall: And I think from an agent perspective, I'm like, Hey, before you enter this contract, and before you get \$30,000 in your pocket.

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00:17:53.050 --> 00:17:54.810

Great Hall: let's try these clubs out.

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00:17:55.100 --> 00:17:58.670

Great Hall: Throw in a you know, a 7 iron, test it out for the week.

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00:17:58.910 --> 00:18:01.639

Great Hall: and maybe under some like competitive

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00:18:02.080 --> 00:18:07.969

Great Hall: conditions, and then move from there so like making sure your athlete can use what they're saying

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00:18:08.317 --> 00:18:14.482

Great Hall: and that could go for like performance shoes and stuff don't sign a deal with Nike, just because it sounds cool, like, make sure they work.

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00:18:14.780 --> 00:18:19.979

Great Hall: Yeah. And and I would I would add a couple of things. One. So we heard earlier, right? That

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00:18:20.530 --> 00:18:46.610

Great Hall: when we think about all the different stakeholders in this ecosystem of nil we've got, you know, the brands and the companies, and guess what they have their lawyers, and you've got. Let's say the collectives which we'll talk about in a little bit, and they have their lawyers, and you've got the agents or the agency that may have their lawyers, and so oftentimes, like the student athlete, they're the ones that oftentimes don't have that

adequate counsel. And so it is critical that they understand what it is that they're looking for, and or get that adequate counsel.

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00:18:46.650 --> 00:18:54.850

Great Hall: because when we think about these contracts, everything, I agree with everything that's been said, and I'll just add a few other provisions and things to look out for right? One is compensation like.

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00:18:55.080 --> 00:19:10.700

Great Hall: when do you get paid? What do you get paid? How do you get paid. Do you need to do something in order to get paid? I've talked to athletes, student athletes where you know the contract will say you have to provide an invoice right of your services in order to get paid, because it goes through the company's, you know, payroll system, or whatever.

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00:19:10.920 --> 00:19:28.869

Great Hall: Make sure you do that. You've got to understand that right? What do you have to do in order to actually get compensated understanding things like the term? How long is this contract actually going to last. And when I'm talking with student athletes, one of the things that I'll really ask them is okay. Some of the law firm. We've got an education company, let's say.

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00:19:28.870 --> 00:19:42.789

Great Hall: if I offered, you know, \$100,000 to you to make one social media post a week, how many people are going to say yes to that. I'll ask this audience this here in person. Right? \$100,000 right? One post a week. Great!

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00:19:42.790 --> 00:20:09.057

Great Hall: What if I if we don't talk about the term in there, there could be some real issues right like, Are you gonna do that for the next 10 years, are you the next 20 years? 5 years? Right? If I said, Hey, you know, would would you be willing to do that for the next 4 months you'd be like, heck. Yeah, let's go right. But if we're talking about year upon year upon year, so you've got to understand the term, because that sets the value, the true value of the contract. And the other thing, I would say, too, is, understand

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00:20:09.380 --> 00:20:28.580

Great Hall: what moralities clauses are, and what the impact that they have in these contracts. You might just happen to be a student athlete at an sec school that happens to

get a lot of vehicle deals and end up having a lot of student athletes that end up having motor vehicle issues with local law enforcement.

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00:20:28.907 --> 00:20:43.640

Great Hall: You've got to understand the impact right of how someone can just terminate your contract because you are either bringing embarrassment, or, you know, putting the company in disrepute. So understanding how the contract works, and understanding all the various provisions like was said before

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00:20:43.640 --> 00:21:03.109

Great Hall: one sentence can change everything in these contracts. So, understanding the matters having adequate counsel matters, but at least you've got to understand. What services are you providing? How does the compensation work? How long is this going to last, and what are some of the other ways, that I may, that they, that the company may terminate the contract, or that if I need to get out of the contract, as they said, how do I get out of it?

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00:21:05.150 --> 00:21:10.199

Great Hall: So going to that morality clause, you know they they tend to keep that very vague.

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00:21:10.340 --> 00:21:28.750

Great Hall: I always advise my clients. When I'm representing the student athlete is, you know, what constitutes conduct that's detrimental to the entity. So have that clearly defined, because that's a very subjective interpretation when they keep it open

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00:21:28.780 --> 00:21:38.229

Great Hall: for that, and you know, for interpretation. So usually, I like to clearly define that what that conduct is, and spell out what those things are.

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00:21:38.950 --> 00:21:48.039

Great Hall: and and to the point to you know, kind of John made it earlier, right like, maybe there's a brand new company, and you haven't heard of them, and they want to put money on the table.

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00:21:48.230 --> 00:22:04.880

Great Hall: You could also negotiate. If you have counsel, you could negotiate for reverse morals clause right? If this company is like a new company, you don't know anything about them. But you want to do this deal. Well, what happens if it's a small startup, right? And they're trying to give you equity. They're trying to do some things to get you to do this deal.

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00:22:04.970 --> 00:22:30.619

Great Hall: But the CEO or the founder says something that's racist, homophobic, misogynistic, etc, right? That now all of a sudden has an impact on your on your reputation as a student athlete. Now, are you gonna be able to go negotiate with Adidas or Nike, or reverse morals? Clause? Absolutely not right. But when you're starting to talk about some of these smaller kind of startups and smaller companies that want to engage. If you're that athlete and you have that reputation, most certainly look out for ways to protect yourself as well.

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00:22:32.810 --> 00:22:46.209

Great Hall: Awesome a lot of insightful information for student athletes to take away. So this is exciting. So my 3rd question for you is, how has the nil contracting landscape changed in the last few years?

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00:22:47.170 --> 00:22:49.492

Great Hall: I know it's so much changing

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00:22:49.900 --> 00:23:03.209

Great Hall: in at the beginning there was a lot of handshake deals, and then you'd hear about those go bad, and then you'd hear about in perpetuity. Everyone was talking about these deals that would last a lifetime, and then those started to go away, and like.

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00:23:03.500 --> 00:23:09.540

Great Hall: I think, a couple of weeks ago, I saw one pop back in. I was like, Are you kidding me like I thought we stopped doing this. That's so. 2022.

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00:23:11.450 --> 00:23:19.549

Great Hall: So I think the contracts have gotten better. I think the deals have gotten better. But the biggest thing is the opportunities, the open doors of the world.

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00:23:19.570 --> 00:23:26.399

Great Hall: the apps that athletes can get on, and, you know, get 500 bucks here and there, and it's helped a smaller athlete.

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00:23:26.540 --> 00:23:33.650

Great Hall: We know the one percenters they were making money with or without nil. They're gonna make money in the Nfl and the Nba. So

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00:23:33.710 --> 00:23:35.470

Great Hall: I think that's the biggest change for me.

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00:23:37.620 --> 00:23:38.344

Great Hall: So

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00:23:39.510 --> 00:23:51.274

Great Hall: now that there's a lot more accessibility to technology. And in the past few years you you have. There's there's a lot more access to these nil deals through apps whatever it is.

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00:23:51.660 --> 00:24:18.420

Great Hall: And and the one thing that you truly have to use that technology for is understanding what your market value is, because you know, nobody wants to get underpaid for what they're doing. And there's companies out there that can do, you know, similar to a business valuation, they're actually analyzing your nil to determine what that value is. So, knowing what your market value is, puts you in with better leverage to negotiate sort of you know

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00:24:18.420 --> 00:24:37.930

Great Hall: what you know. That sort of see, not ceiling, but sort of that floor on on what your compensation would be. So so in that due diligence aspect, it's it's not just understanding what the terms of the contract are, but it's also understanding what your market value is, so that you can further leverage that and negotiate that.

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00:24:38.610 --> 00:24:49.009

Great Hall: Yeah. And I think you know just everything's evolved right over the last 3 and a half years since nl kind of came into place. But let's let's maybe take a step back and think about name, image and likeness

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00:24:49.110 --> 00:25:14.390

Great Hall: in a bit of a different way. Let's just say there's 2 types. I would argue that there's 2 types of name, image, and likeness right. There's pure nil, and then synthetic name, image, and likeness right pure nil, you know, Caitlin Clark doing a State farm ad right? You know, whenever a student athlete partners with a brand with a company, because they have the opportunity, based on their following, based on their celebrity, to be able to help that company, or that brand

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00:25:14.390 --> 00:25:30.110

Great Hall: drive revenue, or whatever their business objectives are right. That's pure. That is something that has happened long before July 1st of 2021. Right companies and brands have worked with celebrities, with professional athletes and others, you know, for for decades and decades and decades.

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00:25:30.140 --> 00:25:46.229

Great Hall: But then, now there's this synthetic nil, and that really comes back to the kind of pay for play place that nil collectives are in. And when we think about just to be clear for anyone that's listening online or in the audience that aren't that comfortable with what collectives are.

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00:25:46.300 --> 00:26:01.240

Great Hall: Just think of nil collectives as a group of boosters, donors, alumni fans of a particular institution that want to bring their assets together to be able to drive nil deals for student athletes. Because let's be clear. I kind of use these half air quotes, because

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00:26:01.250 --> 00:26:20.189

Great Hall: name to make a name, image, and likeness deal. All you really have to do is have the student athlete provide some service, some service. There's no fair market value that's established, etc. So some service has to be provided, and then they can receive the compensation. So these collectives, the whole phrase, Nio collectives didn't exist 4 years ago

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00:26:20.240 --> 00:26:41.020

Great Hall: didn't exist right? So collective started. You know, the 1st collective started like late fall, early winter of 2021 into 2022, and now they're most certainly a staple aspect of the of the nil ecosystem. And so those contracts have changed wildly, because let's just be clear.

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00:26:41.170 --> 00:27:00.590

Great Hall: Collectives are not all created equally right, and collectives are usually created by someone who is who was a donor right? Usually a big donor of a particular institution. Neither, they decided, because they wanted to start to play a quasi GM role right in college sports or the institution asked for them to get involved and start trying to help.

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00:27:00.590 --> 00:27:12.340

Great Hall: so that the institution could recruit and retain retain talent in their athletic department. And so those contracts over the last kind of 3 years have really changed significantly. They've become a bit more sophisticated because early on

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00:27:12.350 --> 00:27:34.409

Great Hall: there were a lot. There was a lot of garbage out there. Right. Garbage is a legal term. So law students use that. No, I'm just kidding, don't. But there was just a lot of really bad, unconscionable. We could say right contracts that existed where some collectors were being created like agencies right where they would have rights, exclusive rights to student athletes, name, image, and likeness. If a student athlete did a deal outside of the collective, they were then paying

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00:27:34.410 --> 00:27:51.899

Great Hall: a percentage back to that collective collectives that have had, that have done advances, and then, after they recoup the advance, they split 50 50 deals after that recruitment amount. So so those contracts have evolved quite a bit. And one of the things we've started to see lately over this last year really

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00:27:52.190 --> 00:27:55.100

Great Hall: is how collectives are trying to use

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00:27:55.300 --> 00:28:18.820

Great Hall: nil deals, or these collective deals to address the transfer portal issue right in this quasi free agency that we now have in college sports where student athletes can go and transfer. And so now, how do you get? How do you keep them at an institution when the Ncaa. Says you can transfer now as many times as you'd like. Well, they're trying to find ways within the contract to do that. And so if you move outside of a particular geographic area of so many miles right?

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00:28:18.820 --> 00:28:37.169

Great Hall: That terminates this contract. And you're going to be locked into this contract. So now you can't do a collective deal somewhere else. Right? Because you're locked into this one or a breakup fee, and we're seeing more and more breakup fees where collective will say, Hey, if you terminate this contract, you know we're going to do it for 3 years, or whatever the amount of time is. And if you break this contract, then you're going to owe.

107

00:28:37.170 --> 00:28:58.230

Great Hall: you know, X number of dollars, knowing that typically they'll get that paid by the collective of the new institution that the individual student athlete transfers to. So those contracts, those collective contracts, are evolving and changing on a regular basis. The contracts that we see on the pure nil side companies have been doing it like real nil. Companies have been doing those for a long time, and if

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00:28:58.230 --> 00:29:09.590

Great Hall: you know, if you're a company that's worked with celebrities before those contracts aren't changing. If you're a company that's just starting to get into it. Then those you know that's where we see some challenges as they try to figure out how they navigate the space

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00:29:10.300 --> 00:29:16.039

Great Hall: that's really interesting. And and now that we're on the subject of collectives, I think that leads to our next question.

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00:29:16.080 --> 00:29:23.210

Great Hall: are there differences between nil agreements with brands and companies and with nil collectives? And what have you seen?

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00:29:24.660 --> 00:29:46.920

Great Hall: I'll start and just say yes, continue on. I guess the conversation collectives are wild, right? I mean, if we think about it without getting too deep into kind of current events, you know even Judge Wilkin right in hearing this proposed settlement back in September on the house versus Ncaa. Settlement. Right? Even said like that was her primary issue. That's why she sent the parties back to the drawing board

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00:29:46.920 --> 00:29:58.859

Great Hall: just because of the way the initial proposed settlement dealt with collectives and boosters, etc. Right? So there's there is most certainly a difference. And and that's really, if we think about it, I mean.

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00:29:58.900 --> 00:30:11.750

Great Hall: if you really think right now, like for everybody in the room, everybody on on in cyberspace, on zoom or whatever platform we're using. Sorry zoom whatever. Anyway. Zoom okay, great. So if you think about it, how many national deals.

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00:30:11.780 --> 00:30:14.629

Great Hall: Can you identify for college student athletes?

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00:30:14.740 --> 00:30:21.159

Great Hall: Right? I mean, I'll ask it rhetorically. But if you really think about it right now, maybe maybe 5, 7, 9.

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00:30:21.310 --> 00:30:38.199

Great Hall: It's not going to be. It's not going to be more than 20 right? And so when we think about that. But most student athletes, especially in football and men's women's basketball are doing some collective deal, and collectives are also now being focused on individual sports. If you go to certain schools.

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00:30:38.200 --> 00:30:55.900

Great Hall: right? Women's volleyball. It's known, if you go to this particular institution to play women's volleyball, you're going to get X amount from the collective. You play softball at this school. You're going to get X amount from the collective because an alum maybe play that particular sport, and they're wealthy and want to be able to give back directly to student athletes. Right? So

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00:30:55.970 --> 00:31:17.709

Great Hall: these contracts are very different. And you want to make sure that you're understanding what what's being required of me as a student athlete in this collective agreement, what, what rights am I giving up right? What am I agreeing to participate in agreeing to do? But then, also what happens if I do transfer what happens if I do?

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00:31:18.043 --> 00:31:28.729

Great Hall: Get to the place that I don't want to work with them anymore? What happens? With. You know, if I decide that this collective isn't, you know, isn't paying me enough

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00:31:28.730 --> 00:31:49.040

Great Hall: right? I mean, I've and I've talked with a side note just as a quick story. I've dealt with parents who have called because their son or daughter's nil collective deal was terminated because they breached confidentiality, because in the locker room. They told a teammate how much money they were making from the collective right. So, understanding how these contracts work

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00:31:49.420 --> 00:32:01.919

Great Hall: truly, work is important for the student athletes so that they can make sure that they're making the right decisions as they navigate. Kind of being a student athlete, getting paid really for their performance and being at a particular institution.

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00:32:06.030 --> 00:32:10.119

Great Hall: So I do all the brand side. I don't have anything to add there

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00:32:11.152 --> 00:32:21.099

Great Hall: mine is severely limited. The one. The one thing that I will point out obviously the continuing. And and

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00:32:22.140 --> 00:32:40.297

Great Hall: essentially, what you need to understand is you need to understand the contract, and with with anything that's gonna govern everything. So another piece of advice. I don't trust Chat Gbt. I don't, as far as I can throw my phone so

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00:32:40.850 --> 00:32:46.320

Great Hall: always seek out someone who's, you know? If you have a question it never hurts to just ask. So

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00:32:54.300 --> 00:32:55.380

Great Hall: there's money.

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00:33:00.470 --> 00:33:02.039

Great Hall: So how do that.

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00:33:09.340 --> 00:33:38.809

Great Hall: So for anybody online, if you didn't hear, I don't know if it has to go through the mic. Okay? So the question is, how do student athletes actually get this. You know, this proposed settlement discusses revenue share going forward for student athletes. And the question is, how does that actually get to the student athlete, because those revenue sharing deals are technically with the media companies and the conferences. And then there's a split within the conference based on the contract where the split will go to all the individual schools. So how does it actually get to the student athletes? Well, what's been discussed is

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00:33:38.810 --> 00:33:54.109

Great Hall: that there's that the student athletes are going to be able to do deals directly with the institutions. So part of this proposed settlement is increased institutional involvement. So we're going to see see that which which doesn't necessarily directly answer your question to be clear right? Because

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00:33:54.110 --> 00:34:12.950

Great Hall: that also allows a school to be able to say, we're going to do a joint deal. We're going to license the use of the name, image, and likeness of a particular student athlete for other purposes. And you know that kind of thing, but because of that institutional involvement there will be able to. The school will be able to directly share in that revenue

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00:34:12.949 --> 00:34:26.249

Great Hall: with the with the student athletes. Now, if this were a house panel on the house proposed house settlement, we could spend hours talking just about what that actually means, and how that happens, and some of the challenges that can still come with that

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00:34:26.350 --> 00:34:27.699

Great Hall: as a quick

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00:34:28.440 --> 00:34:58.050

Great Hall: I don't know. I'll share with you. I'm not so sure that we're going to see this house. This proposed settlement actually go into effect next fall of the academic year. Like many are discussing, I think that there are going to be significant challenges and appeals to it because of title IX issues in particular and just in terms of I mean, because if we're clear, right, what the proposed settlement talks about is approximately 90% is going to go to men's basketball and football.

134

00:34:58.340 --> 00:35:28.039

Great Hall: 5% ish to women's basketball, 5% ish to just all other sports. And so so schools are going to be in this unique position where they're going to have to figure out if they're opting into this revenue share model because it is an opt in for the schools as well to be clear. And if they're going to have to decide then. Well, how are we going to meet the tests of, you know, title IX proportionality, etc, to make sure that we're then not creating a bigger issue for ourselves, and that's going to be a challenge. And I don't think it's I don't think that's easily solved by the institutions.

135

00:35:29.480 --> 00:35:37.009

Great Hall: I was a law student. We were like, is NIL going to be a thing? You start hearing whispers. I think it's a similar situation. We just don't know.

136

00:35:37.180 --> 00:35:42.640

Great Hall: and someone's got to do the the heavy work to figure out how it does work. Cause everyone wants that money.

137

00:35:42.740 --> 00:35:46.199

Great Hall: Everybody wants that money. And just to be clear, just to add one thing to that.

138

00:35:46.810 --> 00:35:52.739

Great Hall: Sometimes people are saying that with the house settlement like, Oh, well, student athletes are going to get revenue share. So there's not going to be really be NIL anymore.

139

00:35:52.780 --> 00:36:05.630

Great Hall: That's not the case. And with institutional involvement, they'll say, Well, if the school's doing it, collectives are going to go away. That's also not the case. Because if schools are paying X and within the conference, if they come up with saying, Hey, this is kind of where we want our schools within our conference to be.

140

00:36:05.750 --> 00:36:27.669

Great Hall: Well, okay. Well, if one school wants to compete with the other, the collective is still going to exist to be able to say, Hey, we raised X amount more dollars, so we can pay more to that student athlete. So the student athlete is going to be here, you know, where student athletes used to be here now they're going to be here because of NIL. Now we have revenue share. They're going to be here, and then you add NIL and revenue share, and they could potentially be here. So so NIL is not going anywhere for sure.

141

00:36:30.510 --> 00:36:45.709

Great Hall: You also have sort of the you know, the retroactive stuff. I'm not sure if you've heard in the news. But there's Reggie Bush. There's Terrell Pryor that you know. These universities are using their likeness to promote their school for past. You know, past performance, and

142

00:36:45.710 --> 00:37:04.330

Great Hall: it's really going to be interesting to see how that plays out, because you're talking. You know, hundreds of thousands of athletes. And you know, however far back they can go is, how are they going to be compensated for these institutions utilizing their nil? So keep your eye on the news.

143

00:37:04.400 --> 00:37:08.789

Great Hall: And and that's that's actually really good point, because on the on that piece

144

00:37:08.950 --> 00:37:23.310

Great Hall: some schools depending on what student athletes signed right. Some schools have those rights. They have the rights to a student athlete's name, image and likeness to use to promote, etc, the question becomes, Well, what happens if they use it for commercial purposes and say, Well, we're going to add this on a Xyz company

145

00:37:23.310 --> 00:37:47.989

Great Hall: ad right? Because they're a sponsor to our, to our institution. But I think that you know to go when you talk about 1983 men's basketball from Nc. State right? We every March madness. We see that same clip, Jim Valvano running on the court right like the the tipping and all that kind of stuff, and we see that every. So the current remaining members of that basketball team have sued. And we're going to. I think we're going to continue to see a lot of those, because the house settlement itself

146

00:37:47.990 --> 00:38:03.790

Great Hall: only goes back to past student athletes as of 2016, right, because that was the the period when the lawsuit was filed in 2020, and and so went back 4 years. So I think we're going to see a lot of very well known student athletes say, well, hold up just because I left school in 20,

147

00:38:03.790 --> 00:38:19.389

Great Hall: you know, 2014, or 2,000 or 1987, right? I think I brought value. And so we're seeing some of these lawsuits against the Ncaa. And the conferences, because that's where those multimedia rights are actually held

148

00:38:20.730 --> 00:38:42.390

Great Hall: awesome. This has been a really insightful panel, and before I open it up to the audience for questions, I know we're coming up on time. I have a burning question myself. So I wanted to know what legal protection should student athletes be aware of when signing contracts with agents? We've been talking about Nils with businesses and companies and collectives. What about agents?

149

00:38:43.200 --> 00:39:05.604

Great Hall: Yeah, certainly. So contracts with agents. I mean, always you gotta look out for number one yourself, and you know, agents are gonna push, you know, are gonna push terms upon you that you know they're gonna try. And do you know, work what's best for them. So so really, it's it's understanding the contract. You know. Seek out a qualified

150

00:39:06.310 --> 00:39:23.230

Great Hall: attorney, or or, you know, someone who maybe works on an hourly basis, just for a contract review to ensure that you know your rights are protected with the agent, and what rights you have to get out of your contract if you need to. If the agent isn't fulfilling their obligation, so.

151

00:39:23.230 --> 00:39:38.420

Great Hall: so ensuring that your rights are protected and you have options. You can try and put in performance metrics in there. But you know it's all negotiable. So when you're reviewing those things, just just make sure that you know

152

00:39:38.610 --> 00:40:04.689

Great Hall: you ask questions with the agent, you thoroughly vet the agent, and regardless of what they say. It's going to be law. Students will say the same thing. It's limited to the 4 corners of the agreement so they could tell everything they want to tell you. But what's really binding is the terms. The specific terms that are within that agreement. So it's always good to have a second pair of eyes. Take a look at that agreement, just to make sure that

153

00:40:04.690 --> 00:40:26.570

Great Hall: you know what you're signing, that your rights are protected. And you're able to navigate this this new relationship because it's essentially similar to the relationship that

you're going to have with whether it's a collective or whether it's a brand or entity. So it's just another contractual responsibility where you need to be aware of of what your rights and obligations are.

154

00:40:28.620 --> 00:40:34.430

Great Hall: I look at exclusivity. I don't make any of my nil clients sign an exclusive contract with me.

155

00:40:34.930 --> 00:40:36.579

Great Hall: Maybe I'm too nice.

156

00:40:36.800 --> 00:40:42.909

Great Hall: but I tell them, test the waters. I think I will get you more deals than this agency or this agent.

157

00:40:43.520 --> 00:40:44.979

Great Hall: See what they bring you

158

00:40:45.810 --> 00:40:55.767

Great Hall: and a lot use nil as a placeholder they're like, come, sign with us. You sign that contract. You're exclusive. Next thing you know. What deals do we have to bring you? We'll talk to you when you're in the Nfl.

159

00:40:56.890 --> 00:41:09.740

Great Hall: especially if you're not a 1 percenter, and you're getting inbound calls like it's a lot of work to make outbound calls on behalf of a client cold calling cold emails. Most of these guys want the money that comes in the one percenters. So

160

00:41:09.770 --> 00:41:18.220

Great Hall: if you can find a way to test waters, not sign an exclusive agreement. See what's out there. See who the best agent is, and make them fight for you.

161

00:41:19.090 --> 00:41:43.830

Great Hall: I think to, you know, John brought up earlier due diligence right when thinking about deals. Due diligence on the agents is critical right? Because if we think about it, you know the Wnba has 144 soon to be 156 players right? The Nba has 450. The Nfl. Has

around 1,700 or so. Right? There's a very small universe of professional athletes. The one percentage that John talks about. So agents who work with professional athletes have. Typically.

162

00:41:43.830 --> 00:42:11.050

Great Hall: they've done things to get access right and have built relationship, etc. But now, all of a sudden you introduce name, image, and likeness, and you now have 500,000 prospective clients to anybody that ever wanted to be an agent, or ever be in sports marketing. So you've got, you know, person A, B and C right that, like, you know, they're, I don't know running a car dealership. And all of a sudden. It's like, Oh, wait! I know other business owners around here. I can go be an agent, and they have no idea what they're doing so, the due diligence actually matters right

163

00:42:11.050 --> 00:42:21.610

Great Hall: number 2 within the contract. It's also making sure the number one kind of question that I get from athletes, and I've worked with professional athletes for a long time on this, as their lawyer right

164

00:42:21.890 --> 00:42:47.520

Great Hall: is, how do I get out of this contract right? My agent doesn't represent me the way I want them to anymore. They're not doing this. They're not finding opportunity, whatever it is right. I don't like them right? A 1 million different reasons. The question will be, how do I get out of this contract? Right? And it's like, Well, let me see the contract that you didn't come to me to actually negotiate for you on the front end. And let's actually see what those termination provisions are to be able to go through that. So. You know, this idea of non exclusive right is is rare.

165

00:42:47.590 --> 00:43:05.039

Great Hall: You are very nice, right? It is a rare thing most agents want to lock lock that student athlete up, and on top of that they want to make determination that much harder right where it's like, Hey, this is a year long contract that then, you know, automatically renews for a year after that, and there's no specific language. I was pushed to say

166

00:43:05.140 --> 00:43:10.620

Great Hall: that there should be a provision that says either party can terminate for any reason at any time with 15 days. Notice.

167

00:43:11.220 --> 00:43:34.700

Great Hall: Right? Make it that much easier, and let that person earn the opportunity, because at the end of the day the agent works for the athlete and athletes who are oftentimes (181) 920-2124 years old, are still figuring that out that they are actually the boss. But having never been the boss, it's hard to understand that kind of CEO mindset. So we have to make sure that the contract reflects that and gives them the power to make those decisions when they want to.

168

00:43:35.290 --> 00:43:46.720

Great Hall: Awesome. I know we're coming up on time. But I do have a few moments to answer any audience questions. This has been an awesome panelist. So

169

00:43:47.450 --> 00:43:48.300

Great Hall: yeah.

170

00:43:50.860 --> 00:43:53.410

Great Hall: there's 1 over to the left over here. Oh, okay.

171

00:43:57.680 --> 00:44:00.009

Great Hall: So wondering. Now.

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00:44:00.550 --> 00:44:01.520

Great Hall: flip it out.

173

00:44:04.530 --> 00:44:14.630

Great Hall: Okay. So wondering about how, in this evolution process, state laws might come into play with either collectives or individual agreements among athletes.

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00:44:16.320 --> 00:44:34.320

Great Hall: Yeah, certainly. So there is no federal law as of yet. State law, you know. Laws vary by state. You also have Ncaa policies. You have conference policies, and you have your institutions policy. So when you get these deals in

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00:44:35.050 --> 00:45:00.878

Great Hall: it does depend on who you have as your representative, but I would take it upon yourself to familiarize yourself with each of those different layers of rules and regulations, because ultimately the consequence is going to be on you. So you know, if if

there's a contract that comes in and and you have one of these agents, you know Joe Schmo, LLC. Who is, you know, lives 5 down 5 doors down from you.

176

00:45:01.750 --> 00:45:05.060

Great Hall: You know it's it's it's your.

177

00:45:05.750 --> 00:45:27.939

Great Hall: It's it's your you know, it's you that's on the line, and that could affect your eligibility. And if it's a serious compliance issue, so when it comes to that, and it impacts you directly for for your eligibility. Then that's you know, the the revenues, the the speculation for future revenues, you know. That's gonna impact you directly. So.

178

00:45:28.360 --> 00:45:36.429

Great Hall: you know, familiarize yourself with those laws, and and stay up to date on them to ensure that your contract complies with those laws.

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00:45:36.876 --> 00:45:44.159

Great Hall: There's there's also, you know great resources with institutions. Who can, you know, help guide you with that? Take advantage of those resources.

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00:45:44.526 --> 00:46:04.089

Great Hall: Just to make sure that you're not. You're not affecting your rights in terms of your eligibility, and you know you you don't want to lose a scholarship. If you have a scholarship for athletics. So you know, I would advise for each athlete to take it upon themselves to, you know, become an expert on those laws.

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00:46:05.630 --> 00:46:11.769

Great Hall: Yeah, speak with your compliance, officers. I don't work with high school athletes for that very reason, like

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00:46:12.630 --> 00:46:19.189

Great Hall: they could be in a state that doesn't allow for high school athletes to do nil or could affect where they go to college in the future.

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00:46:20.212 --> 00:46:21.930

Great Hall: And yeah, just

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00:46:22.170 --> 00:46:27.170

Great Hall: be cautious of that. It's it's a slippery slope. Once you sign something and taking money.

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00:46:27.420 --> 00:46:32.710

Great Hall: Yeah? And I'll take maybe a different approach quickly, just to say, from a State law perspective, we were talking about agents

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00:46:32.730 --> 00:46:57.690

Great Hall: like different States have different laws around agent registration requirements. Right? So if you are going to work with, or are considering an agent making sure that they're registered if the State requires it. And then every school just about every school, has its own policy around what agents need to do when working with their student athletes, and and a lot of these State laws have had to do with have were created in a time where they were thinking about player agents right like you're going to go and have somebody representing you.

187

00:46:57.690 --> 00:47:10.220

Great Hall: you know, on your player contract. But now some of them have been evolved to include name, image, and likeness agents, but also some were written vague enough back when they were written and went into effect, that they actually do include that as well.

188

00:47:11.530 --> 00:47:32.499

Great Hall: and Arizona specifically does have regulations for high school athletes, collegiate athletes. I've I've represented a few high school athletes, and you know you have to comply with the Arizona Interscholastic Association, so regardless of of you, know

189

00:47:32.700 --> 00:47:44.160

Great Hall: where you are. Ensure that you're covering all your bases so that you know, even if it's with high school that there's compliance with those different interscholastic associations.

190

00:47:48.060 --> 00:48:07.010

Great Hall: I have a quick question about the Nil marketplace. And you have to answer it quickly. So between those 2, you know, real nil and synthetic, those categories. Where

would you estimate, like the bottom quartile, the the median and the top. You know, 10%. What do these numbers look like when students get deals done?

191

00:48:08.920 --> 00:48:15.826

Great Hall: A lot of free deals out there? There's a lot of people taking product in exchange for a social media post.

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00:48:16.700 --> 00:48:22.689

Great Hall: I mean, I probably could go on open doors right now and find something for 50 bucks and find something for 10 grand.

193

00:48:23.050 --> 00:48:31.509

Great Hall: I mean, it fluctuates. And it's really based on your brand. If you're a student athlete, invest in your social invest, in learning how to talk to the camera

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00:48:32.140 --> 00:48:37.320

Great Hall: become a brand or, yeah, your deals \$5 if you're not someone on the field.

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00:48:39.150 --> 00:48:53.939

Great Hall: And be careful if you, you know, have a local deal from Ralph's pizzeria, and they're offering free pizza every week. Make sure there's no non compete in there, else you can't go eat your favorite pizza anywhere else, and they'll get you for a breach of contract.

196

00:48:54.200 --> 00:49:14.119

Great Hall: And the last thing I'll add this is, we're providing some tips on that just because you get a quote unquote free deal or merchandise deal or a product deal, you may still be responsible for taxes. So, keeping that in mind, because the the value as the value increases. You know, there's there's a potential that you may be responsible for taxes, even if you didn't receive cash money

197

00:49:15.930 --> 00:49:21.580

Great Hall: once leave a club deal, and they got a tax statement for those golf clubs. So that's very true.

198

00:49:24.520 --> 00:49:36.729

Great Hall: Yeah. Well, thank you all for joining us for the panel. I just want to thank everyone virtually in person, but also want to all welcome you all, to give a round of applause to all these wonderful panelists. Thank you so much.

199

00:49:36.990 --> 00:49:40.017

Great Hall: I'll be looking out for their podcasts.

200

00:49:46.150 --> 00:49:48.070

Great Hall: We'll resume after a short break.

=====

202

01:02:33.210 --> 01:02:34.390

Great Hall: Hello, everyone!

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01:02:34.590 --> 01:02:41.839

Great Hall: I'm Kylie Snow. I'm a 3rd year law student here at Asu. I'm also a senior fellow with the Mccarthy Institute

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01:02:41.870 --> 01:02:52.400

Great Hall: and a Lisa Foundation advanced patent scholar. It's my pleasure to introduce Jason Lott. He is the managing attorney for trademarks customer outreach at the Uspto.

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01:02:52.810 --> 01:02:59.549

Great Hall: where he specializes in helping small business owners understand trademarks and the Federal Trademark registration process.

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01:02:59.740 --> 01:03:06.379

Great Hall: Jason began his career at the Uspto in 2,000 as a trademark examining attorney. So please welcome Jason Lock.

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01:03:10.970 --> 01:03:12.249

Great Hall: Thanks, Scott. I appreciate it.

208

01:03:12.630 --> 01:03:13.350

Great Hall: Oops.

209

01:03:13.980 --> 01:03:19.460

Great Hall: Hello, everybody! Welcome thanks for sticking with us all day today

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01:03:19.820 --> 01:03:21.650

Great Hall: I'm going to try and advance this here.

211

01:03:21.860 --> 01:03:23.720

Great Hall: Is there a trick to it? John

212

01:03:31.190 --> 01:03:51.190

Great Hall: got it perfect. Thank you very much. Okay, welcome everybody here, and welcome to everybody. Home. Thanks for sticking with us. What we're going to talk about right now is a little bit different than what we've been talking about all day long, which is nil. What we're going to talk about now is sort of the interplay between trademarks and name, image and likeness.

213

01:03:51.190 --> 01:04:02.989

Great Hall: So I like to title this what every student athlete should know. So what we're going to do is we're going to talk about some trademark basics. And then we're going to talk about how those interact with nil. So this is what the next

214

01:04:02.990 --> 01:04:23.810

Great Hall: 45 min is going to look like, although I might try and speed through it a little bit. So I can answer any questions that you might guys might have. We're going to talk about some trademark fundamentals. What in the world a trademark actually is. We're also going to talk about some common trademark considerations for student athletes. What are the things

215

01:04:23.810 --> 01:04:48.090

Great Hall: that student athletes might want to think about if they're going to apply to Federally, register their trademark, and then I have some trademark takeaways for you which will hopefully help you along your journey. So let's start off by talking about what in the world a trademark actually is, and I'm going to rely on those of you who happen to be in the room today. There is a little bit of audience participation. Sorry for you folks at home.

216

01:04:48.090 --> 01:05:07.279

Great Hall: so we're going to talk about what a trademark actually is. Now, if you take a look at the screen. You are probably going to see some Logos that you recognize. All right. So when you take a look at what is should be in the yeah top left hand corner up there. You see that half bitten

217

01:05:07.870 --> 01:05:09.430

Great Hall: piece of fruit

218

01:05:10.110 --> 01:05:16.810

Great Hall: right? When you see that trademark, what product or service. Do you think of? Shout it out.

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01:05:17.740 --> 01:05:20.620

Great Hall: apple? What product or service, when you think apple

220

01:05:23.040 --> 01:05:32.750

Great Hall: iphones, laptops, watches, music, streaming services like all sorts of things, right. So as soon as you see that apple logo

221

01:05:32.870 --> 01:05:40.889

Great Hall: boom, it automatically calls to mind a very specific set of goods and services in your head. What about Coca-cola

222

01:05:41.960 --> 01:05:47.370

Great Hall: Soda. Right? What about Mcdonald's? You see those golden arches? What product or service do you think of?

223

01:05:48.190 --> 01:05:50.740

Great Hall: Yeah, exactly. Amazon.

224

01:05:52.150 --> 01:06:10.459

Great Hall: Buy whatever you want? Get it in 2 days, maybe 2 h. Depending. Right? Okay, cool. You see, Google, you think, search right? Samsung, personal electronics, Microsoft

hardware software, Nike shoes, Ford trucks. Right. So every single time you see or hear or experience the trademark.

225

01:06:10.460 --> 01:06:22.959

Great Hall: it automatically calls to mind in your head a very specific set of goods and services. In fact, the goods and services that these particular brands actually provide.

226

01:06:23.050 --> 01:06:26.579

Great Hall: and that relationship between the trademark

227

01:06:26.680 --> 01:06:32.889

Great Hall: and the underlying product or service is incredibly important. Without that relationship.

228

01:06:33.320 --> 01:06:35.150

Great Hall: It is not a trademark.

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01:06:35.230 --> 01:06:57.669

Great Hall: All right. It's just a cool looking graphic. Or maybe it's a funny word or a funny slogan. It has to have to indicate the source of specific products and services. Because if you want to talk about the legal definition of what it is, a trademark is any word, symbol, design, or combination thereof that indicates the source of goods and services, and distinguishes them from the goods and services

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01:06:57.670 --> 01:07:11.979

Great Hall: of another party. Right. The easy way to think about this is, think about the last time you went into a restaurant you sat down. The waiter came over, said, Can I bring you something to drink? And you said, Yes, I would love a Coca-cola, and he says.

231

01:07:12.320 --> 01:07:14.279

Great Hall: is a Pepsi. Okay?

232

01:07:14.590 --> 01:07:33.859

Great Hall: Right? That is a trademark in action. You are using the Coca-cola trademark to indicate the source of the product that you want. The waiter is using the Pepsi Cola

trademark to indicate the source of the product that they actually provide. And both of those companies are using those trademarks to distinguish themselves from each other.

233

01:07:34.690 --> 01:07:36.159

Great Hall: All right. We got it.

234

01:07:36.210 --> 01:08:00.730

Great Hall: Okay, cool. Right? Because as a student athlete, when you're thinking about what is the thing that you use to indicate the source of your specific product or service. You need to make sure that it is indicating those things, and it is distinguishing you from various competitors who might be using another trademark. Another way to think about it really is legal protection for your brand.

235

01:08:00.730 --> 01:08:23.879

Great Hall: Right? So we've been talking a lot today about brand right and marketing and things like that. And really the marketing folks in this room, how many marketing folks do we have in this room? I know I've seen several today, and I'm sure there's plenty of you at home. Okay, a lot of times when marketing people talk about things, they talk about a brand, right? A brand is like it's like how your public feels about you like when I see it like it automatically makes me

236

01:08:24.240 --> 01:08:31.280

Great Hall: relaxed, right or excited, right energetic, whatever it is like, whatever that feeling is. But how do you protect a feeling?

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01:08:32.700 --> 01:08:39.080

Great Hall: Right? You can't really. That's really very difficult. But what you can do is use your trademark

238

01:08:39.229 --> 01:09:00.359

Great Hall: as brand protection. Your trademark is something that John was talking about earlier today when he went through the 5 sort of like big types of IP right? Thinking about trademark as indicating the source that is intellectual property, and it is something that you can protect. So it's a way, even though you can't protect a feeling. You can protect an aspect of it which is your trademark.

239

01:09:01.460 --> 01:09:25.829

Great Hall: All right. So another thing we talked about today is valuation. Now, the Uspto, the Federal agency in charge of granting patents and registering trademarks does not do valuation. Okay, I cannot stand up here and tell you these brands are worth this much. We don't do this work. Okay. All you see on the slide in front of you is work that was done by a company called Interbrand, and they do valuations of brands, and you can see up there in the top left apple

240

01:09:26.640 --> 01:09:33.960

Great Hall: they have evaluated that trademark or the brand to be worth 502 billion dollars.

241

01:09:34.500 --> 01:09:42.849

Great Hall: Microsoft, 316 billion dollars, Amazon, 276, Google, 260. Right? These are from 2023.

242

01:09:44.100 --> 01:09:46.250

Great Hall: That's the value of the brand.

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01:09:46.340 --> 01:09:53.510

Great Hall: right? It's not the the value of the actual product itself. Right? It's the value of the brand.

244

01:09:53.660 --> 01:10:07.970

Great Hall: right? So if you think about yourself as a student athlete, and the value that you bring, the brand that you bring all right? Think about that in terms of valuation. It can actually be incredibly valuable. And a trademark is one of those things that not everybody thinks about.

245

01:10:08.350 --> 01:10:20.010

Great Hall: Right. You know, Kate was talking about earlier today thinking about. Maybe I'm going to put this thing together. Well, one of the things, thankfully Kate was thinking about early on was, what is her brand right then that was something that she was actually able to register.

246

01:10:20.350 --> 01:10:37.599

Great Hall: So I don't want you to think about trademarks as like something. It's something I'll kind of like get to later. Who really cares? Well, actually, it really could matter a lot

because it could really increase the value of your nil contract. If you have, for example, a federally registered trademark.

247

01:10:37.690 --> 01:10:52.359

Great Hall: Okay? So now that we know what a trademark is, I do want to talk about what a trademark is not. Okay, we we got to talk about what a trademark does not do. A trademark does not mean that you legally own a word or a phrase.

248

01:10:52.720 --> 01:10:56.900

Great Hall: I heard that a lot when the Ohio State University registered

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01:10:57.000 --> 01:11:04.709

Great Hall: the as a trademark, Jason, how in the world can the Uspto let the Ohio State University own the word the

250

01:11:05.030 --> 01:11:12.000

Great Hall: well, they don't. Actually, they have the exclusive right to use it in a very specific circumstances. Right? They don't actually own it right.

251

01:11:12.060 --> 01:11:23.920

Great Hall: A trademark. A Federal trademark registration does not mean that you can stop other people from saying that word or phrase, and it certainly does not mean that people owe you money if they said that word or that phrase. I have heard that before, Jason.

252

01:11:24.537 --> 01:11:29.940

Great Hall: If I federally register this, that means anytime, somebody says it. They owe me a nickel.

253

01:11:31.170 --> 01:11:45.080

Great Hall: No, that is not true. Right? So let's think about apple right? We've said Apple a lot today. Apple does have a Federal trademark registration. Well, actually, they have multiple Federal trademark registrations on the word apple.

254

01:11:45.390 --> 01:11:55.080

Great Hall: Does that mean they own the word apple? No right can they stop me from saying apple apple apple right? No, of course they can't stop me from doing that right. Do I owe them money? Because I've said Apple.

255

01:11:55.140 --> 01:11:59.550

Great Hall: Of course not, but they do have the exclusive right to use it

256

01:12:00.340 --> 01:12:10.960

Great Hall: to indicate the source of their very specific products and services. Right? So if we all decided, you know, what we're gonna do is we're gonna invent a new smartphone. And we're gonna call it an apple smartphone.

257

01:12:11.430 --> 01:12:37.169

Great Hall: Yeah, right? Apple might have something to say about that. Right? Okay? So the thing that I think it's important to understand, because sometimes people get really confused by the word trademark, and they they mix it up with with logo and and things like that, and and brand and things like that. So I think it's really important as someone as a student athlete who might be essentially a brand owner. To understand what I like to refer to as the Big 3.

258

01:12:37.900 --> 01:12:58.509

Great Hall: Okay. Unlike the Big 10, which is no longer big 10, anyway. So it's, you know, I think about these as the big 3. Okay, brand names, slogans and Logos. These are what people typically think about when they're thinking about protecting their brand name, indicating their their particular goods and services. Let me give you an example here. You could protect a word

259

01:12:59.220 --> 01:13:23.000

Great Hall: in this case. Zags. Okay for Gonzaga. Right? So this is their brand name, and you can see it up here, and it's written in times new Roman font, which is a little weird right? Because Gonzaga is pretty much not going to use zags in a times New Roman font. They're probably going to put in their own font. They're going to use it a bunch of different ways. But I will tell you this is how they registered that brand name with our office.

260

01:13:23.080 --> 01:13:34.820

Great Hall: and that is also something that you, too, can take advantage of. If you decide to register or apply to register your trademark with us. What this does is it means that what you're telling us is, you know, what guys

261

01:13:34.830 --> 01:13:37.840

Great Hall: I want protection for the wording itself.

262

01:13:39.020 --> 01:13:40.790

Great Hall: not what it looks like.

263

01:13:40.950 --> 01:13:56.500

Great Hall: but for the wording itself. And that means that over the life of that trademark registration you can go ahead and use it in whatever typeface, style, size color you want to. And when you submit your evidence to us of saying, Hey, I'm still using my trademark. We're gonna say, cool.

264

01:13:57.100 --> 01:14:09.250

Great Hall: great, right? We don't necessarily care what font it's in, or what's typeface or size or color, or anything like that. So it's incredibly broad protection that you're getting for a wording for wording itself.

265

01:14:09.460 --> 01:14:29.669

Great Hall: It could even be a slogan right? Maybe you, as an athlete, have a slogan that you use to amp yourself up before a game or a match, or something like that. And and you sort of become known for that. And you're using that to indicate the source of your specific products and services. That's also something you could register with us. You see here, rock, chalk, Jayhawk.

266

01:14:29.780 --> 01:14:30.385

Great Hall: right?

267

01:14:31.250 --> 01:14:38.880

Great Hall: but it could be just do it, or I'm loving it, or open happiness or good.

268

01:14:39.230 --> 01:14:54.670

Great Hall: Right? We see these slogans all the time, and, as you can see right here, this is also registered in that exact. Same way. It's called a standard character format, which means they're telling us, hey, we wanna the ability to put this in whatever typeface style, size, color we want to over the life of a registration

269

01:14:54.960 --> 01:15:22.249

Great Hall: now, it could also be a logo. Oh, my goodness, you folks here in Arizona might recognize that one. Okay, maybe not. You folks at home, right but oops, I went too far, didn't I? Okay, so here you go. So yeah, it could be a logo, right? It could be a logo that. Is something you could register. Now you can see here, and like that very 1st slide where everything was done, not in color. That is another option that you have as the brand owner. You could apply to register your logo with us

270

01:15:22.310 --> 01:15:23.920

Great Hall: without color.

271

01:15:24.020 --> 01:15:33.400

Great Hall: and what that means is over the life of your trademark registration. We're not going to care what color you're using it in when you submit your evidence to us.

272

01:15:33.430 --> 01:15:40.260

Great Hall: So maybe Arizona state is always going to use it in a particular maroon and

273

01:15:40.470 --> 01:15:42.040

Great Hall: gold, right?

274

01:15:42.090 --> 01:15:43.369

Great Hall: But maybe not.

275

01:15:43.870 --> 01:16:11.089

Great Hall: Maybe there's going to be a brand change, and instead of maroon and gold, they're gonna switch it up. No, of course not. Right. But of course not right. But they have the flexibility right now, if they wanted to. Right. Maybe it's gonna be Saint Patrick's day, and they wanted to do their logo in green and and want to make sure they're still protected. Okay? Sure. And I will tell you, because I looked at all the various registrations that Asu has. There are some that are in color as well. So you have that option. If the color in particular is important to you.

276

01:16:11.160 --> 01:16:14.579

Great Hall: Does all this make sense? We understand brand name slogans and Logos.

277

01:16:14.750 --> 01:16:28.509

Great Hall: Yes, okay. I can't see you at home nodding. But I'm assuming you are okay, cool. But I also want you to understand. There are other sorts of things that are called non-traditional marks like brand names. Unlike brand names, slogans, and Logos, the big ones we've talked about, it could be a sound.

278

01:16:29.110 --> 01:16:30.750

Great Hall: Anybody want to do this?

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01:16:31.350 --> 01:16:33.129

Great Hall: Anybody? Nobody.

280

01:16:34.390 --> 01:16:36.279

Great Hall: Yeah, let's hear it yelled out

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01:16:39.830 --> 01:16:49.252

Great Hall: Sweet. Okay, there we go. Alright. Okay. Cool. Thank you for giving a try. I appreciate that. Alright. I might have the. I don't know if I have the ability to play it. I do have.

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01:16:49.970 --> 01:16:53.910

Great Hall: let's let's see if it'll actually play. I don't know. We haven't tested it. We'll play John or no.

283

01:16:56.590 --> 01:17:02.070

Great Hall: Well, no, it's not. But you can see. You can see. Okay, 2 seconds. Oh, here we go. Here we go.

284

01:17:02.620 --> 01:17:04.660

Great Hall: John, our technical advisor.

285

01:17:36.260 --> 01:18:00.089

Great Hall: And so there you go. Okay, thank you very much. I appreciate that. Okay. So as you can see, right, it could be something like that. And Asu actually has one of these marks

registered as well. Okay. So I want you to start thinking creatively about you as an athlete. Maybe there's a chant that you do before a game or before a match. Maybe it's not just a slogan, but it's an actual sound, and when people hear it boom, they automatically think of you.

286

01:18:00.240 --> 01:18:01.770

Great Hall: It could be a color.

287

01:18:01.810 --> 01:18:07.170

Great Hall: as you can see. Oops. Sorry this is a I was supposed to have changed.

288

01:18:07.420 --> 01:18:29.490

Great Hall: Sorry about that folks. The image you see there on the left for Boise State. That is actually not the correct one. They have registered the color blue used on their football field. I actually included the drawing. Somehow, I sent you the wrong version. So apologies. Okay, so the blue on the color of the field for Boise State. That is a federally registered trademark. When you see that blue field

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01:18:29.520 --> 01:18:37.080

Great Hall: boom, you automatically. Think Boise state anybody want to shout out the the helmet that you see on the right hand side. Anybody know that one

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01:18:37.570 --> 01:18:43.709

Great Hall: Alabama? That is absolutely right. So here, too, color can be registered as a trademark.

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01:18:44.000 --> 01:18:49.540

Great Hall: But remember, it's not ownership of the color, right? It's exclusive, right to use that color to

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01:18:49.600 --> 01:18:53.169

Great Hall: indicate the source of very specific products and services.

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01:18:53.330 --> 01:19:19.650

Great Hall: It could also be something like a a hand signal. So of course, this one here is a hook'em horns from Texas. I understand. Arizona state also has theirs. Yeah, right? Fear the

fork. Let's see the forks. Let me see more forks in this room. Okay, thank you. Forks. Okay, cool. Right? So it could be something like that. Okay? Right? Or here, you see also the college of Charleston Mascot. So it could be a mascot as well. I didn't see one for Sparky. But maybe that's something

294

01:19:19.650 --> 01:19:43.600

Great Hall: I'm not. This is not legal advice. Okay, I'm not suggesting Asu goes out and registers that. All right. Okay. But the other thing I want you to keep in mind is, it could be even something like a scent or a smell, maybe motion, even a hologram, so pretty much anything that indicates the source of specific products and services is potentially something that is a trademark, and potentially something that could be registered with our office.

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01:19:43.800 --> 01:19:54.919

Great Hall: So for all of you athletes out there, and all of you parents that are also out there who are thinking about their kids right? And for all of you folks who are

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01:19:55.040 --> 01:19:58.760

Great Hall: want the best for your grandchildren and your nieces and nephews and whatnot.

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01:19:59.600 --> 01:20:03.120

Great Hall: Think creatively, okay, what is the thing

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01:20:03.200 --> 01:20:13.629

Great Hall: that perhaps the student athlete has or does or is using that really indicates them instead of somebody else. Right. You don't have to have any of these nontraditional trademarks.

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01:20:13.670 --> 01:20:18.599

Great Hall: but I want you to start thinking about it because it could be something that comes into play later on down the line.

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01:20:18.970 --> 01:20:19.970

Great Hall: So

301

01:20:20.530 --> 01:20:34.910

Great Hall: I want to do a real quick comparison here, because sometimes people do get confused between trademarks and name image likeness, and there is a little bit of overlap. But it's really talking about protecting 2 different things. Right? So for a trademark is going to protect a component of your brand.

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01:20:35.640 --> 01:20:40.439

Great Hall: and as we've heard today, your name, image, likeness, is going to protect your right of publicity.

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01:20:41.300 --> 01:20:49.190

Great Hall: Your trademark might include, your name, your image or likeness. If you take a look at the jump, man, logo down there in the bottom left.

304

01:20:49.550 --> 01:21:01.080

Great Hall: and name image and likeness actually is your name, your image or your likeness. You can see right there the Jordan poster that the jumpman logo is taken from.

305

01:21:01.770 --> 01:21:06.290

Great Hall: Okay. So there is overlap between these 2 things.

306

01:21:06.520 --> 01:21:18.200

Great Hall: but they're not necessarily the same thing. And so sometimes, when we think about trademarks and nil, the one thing to keep in mind is that trademarks is a small piece of that overall nil pie.

307

01:21:18.440 --> 01:21:25.840

Great Hall: right? A Federal trademark registration might be something that helps you out as you're building up your name, image and likeness rights.

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01:21:25.910 --> 01:21:29.489

Great Hall: And it might be something that does add value to that contract.

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01:21:30.120 --> 01:21:38.269

Great Hall: Okay, so what we're going to talk about right now is some common trademark considerations. I do have to keep an eye on the clock, because I will talk about this

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01:21:38.360 --> 01:21:47.130

Great Hall: all day long. All right. So here's some things that you might want to think about. If you're a student athlete and you're thinking about trademarks and potentially Federal trademark registration.

311

01:21:47.690 --> 01:21:59.480

Great Hall: So the 1st and most important thing is what in the world your trademark actually is all right. And there's some some pretty deep analysis that might come into this in terms of whether it's actually something that you can protect.

312

01:21:59.610 --> 01:22:02.229

Great Hall: You also need to figure out what are your

313

01:22:02.550 --> 01:22:08.360

Great Hall: goods and services. What is the thing that you are doing with your trademark

314

01:22:08.810 --> 01:22:17.500

Great Hall: that people are gonna say, Oh, yeah, when I see that boom, I automatically think of these particular products or these particular services, right? Just playing a sport

315

01:22:17.700 --> 01:22:20.470

Great Hall: isn't necessarily a service.

316

01:22:20.640 --> 01:22:26.560

Great Hall: Okay? So you have to be very specific about what product or service it is that you are actually providing

317

01:22:27.270 --> 01:22:41.669

Great Hall: you also need to think about is your trademark too similar to someone else's? Some of you might have heard about this. You might not. Lamar Jackson, Number 8, Troy Aikman. Also number 8. Both of those guys wanted to have protection for the number 8.

318

01:22:41.950 --> 01:22:48.169

Great Hall: And so they're in in a little bit of a thing trying to figure out like, where do those rights

319

01:22:48.180 --> 01:22:59.960

Great Hall: lie? Right? So you might want to think about that like, if you're an athlete like, what is the thing that you are using? Is it too similar to somebody else's? Is it something that you can actually enforce or actually protect?

320

01:23:01.543 --> 01:23:08.490

Great Hall: You also want to think about the distinctiveness of your trademark. How distinctive is it

321

01:23:08.540 --> 01:23:13.170

Great Hall: right because it needs to be distinctive in in order to be registered with our office?

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01:23:13.190 --> 01:23:19.430

Great Hall: And another thing to think about, too, is whether you're using your trademark ornamentally or decoratively.

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01:23:19.700 --> 01:23:44.290

Great Hall: because if you're just using it ornamentally well, that's not actually probably trademark, use, and if you apply to register your trademark with us with our agency, and you're only using it ornamentally, it will get a refusal. We are going to have to see that you're actually using it to indicate the source of your specific products and services. So let's talk about that. Okay, so let's talk about which version of your trademark you might want to register with our office.

324

01:23:44.530 --> 01:24:01.939

Great Hall: So, as I already said, it could be something that's called standard character right, which is protection for the wording itself. You can see an example right here of the word Nike. And yes, this is one way that Nike has registered their trademark with our office for a whole host of various goods and services.

325

01:24:02.260 --> 01:24:13.710

Great Hall: They've also protected the word Nike with a swoosh. They've protected the swoosh. They've protected the word Nike in in a stylized form all sorts of different things right, and that is called a special form format.

326

01:24:14.550 --> 01:24:24.849

Great Hall: So when you apply to register your trademark with us. If you decide to do so, you're going to have to choose in the form which version you want to register. Do you want protection for the wording alone?

327

01:24:24.990 --> 01:24:32.290

Great Hall: Or do you want to protect what the trademark looks like which could include wording or it might not? It really kind of depends.

328

01:24:32.470 --> 01:24:42.919

Great Hall: So that's 1 of the considerations that you're going to need to think about. What is that trademark? And which version or format of it? Do you want to protect with our office.

329

01:24:43.190 --> 01:24:52.029

Great Hall: So in terms of particular goods and services that are used with a trademark, here's a couple that are often used with athletes. It could be clothing.

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01:24:52.790 --> 01:24:56.310

Great Hall: alright shirts, pants, jackets, footwear hats and caps.

331

01:24:57.140 --> 01:25:07.379

Great Hall: Right? Think we're thinking merch, right? Okay? That's what we're talking about. Because that's what people are gonna wanna buy because it has your name or your logo on it, or something like that.

332

01:25:08.350 --> 01:25:15.100

Great Hall: Another sort of service that is often provided. Because, remember, like just being good at a sport

333

01:25:15.400 --> 01:25:17.859

Great Hall: isn't necessarily a service.

334

01:25:17.870 --> 01:25:45.929

Great Hall: There has to be something that you are providing for somebody else in exchange for money. Well, not necessarily for money, but it's a service that you're providing or an activity you're providing for somebody else. It could be endorsement services, right, which could very much be in in play here when we're talking about nil. Right? You're endorsing something. You're promoting a particular product like, you know, a brand of clothing. Or maybe it's a new set of golf clubs or something along those lines. As we've heard a couple examples earlier today.

335

01:25:46.140 --> 01:25:50.859

Great Hall: So an endorsement service might be something that you, as an athlete, are are performing.

336

01:25:51.150 --> 01:26:06.079

Great Hall: or it could be something that we often refer to as in one of the entertainment services which would be personal appearances by a sports celebrity. Now, you know, we can all have a conversation about how much of a celebrity you are all right. Maybe you're not one of those one percenters. But maybe you're a celebrity in your hometown

337

01:26:06.390 --> 01:26:21.990

Great Hall: right? That might actually have value in your hometown, whether it's Ralph's pizzeria, or Bob's muffler shop, or whatever it is like that still might be a service that you're providing. Yeah, sure, I'll show up and sign some autographs while people are getting their mufflers fixed.

338

01:26:22.950 --> 01:26:32.569

Great Hall: who knows? Right that that could have value? So so what you need to do is think about what is the product or service or multiples of those that you are providing under your trademark.

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01:26:34.330 --> 01:26:35.220

Great Hall: Now.

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01:26:35.560 --> 01:26:39.039

Great Hall: this is one of the trickier bits. Okay.

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01:26:39.150 --> 01:26:54.440

Great Hall: this is one of the things that you need to think about as you're trying to figure out what your trademark actually is. And one of the biggest reasons why trademarks are refused registration from our office is because they create a likelihood of confusion.

342

01:26:55.880 --> 01:27:11.369

Great Hall: And what that means is, when people consumers see 2 trademarks they're confused about. Oh, is it this one? Is it this one? I'm not really sure which which athlete it is that's actually providing this, or I'm not sure which company it is that's actually providing this.

343

01:27:11.450 --> 01:27:17.079

Great Hall: And there's a pretty complex test which is run in order to figure out whether something is likely to cause confusion.

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01:27:17.090 --> 01:27:22.070

Great Hall: But we can sort of break it down into kind of 2 prongs. All right.

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01:27:22.460 --> 01:27:30.600

Great Hall: We're asking the question about whether 2 trademarks themselves are confusingly similar, that is, do they look alike? Or do they sound alike?

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01:27:30.810 --> 01:27:34.030

Great Hall: Do they have a similar meaning or a similar commercial impression?

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01:27:34.070 --> 01:27:36.240

Great Hall: And in addition, we're asking.

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01:27:36.600 --> 01:27:41.130

Great Hall: are the goods and services that are provided under those trademarks

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01:27:41.180 --> 01:27:42.320

Great Hall: related.

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01:27:43.150 --> 01:27:59.300

Great Hall: So everybody in the room for you playing along at home. You can yell this out. Okay, it's totally fine. Yell as loud as you want to. I want you to. To say to tell me, does it say that the trademarks have to be identical in order to be refused.

351

01:28:00.070 --> 01:28:04.080

Great Hall: No, it does not. It says they have to be similar.

352

01:28:04.090 --> 01:28:21.749

Great Hall: And I was having a conversation with somebody at lunch earlier today. Kind of along these same lines about the idea of like, maybe if there's like a slight difference, it's probably okay. Maybe it's not all right, because the question that we're asking is, are these 2 trademarks? Do they look alike? Sound alike? Have similar meaning or similar commercial impression?

353

01:28:21.870 --> 01:28:31.309

Great Hall: All right and louder this time. I want you to yell this out. In the second question there are the goods and services related. Does it say that the goods and services are different?

354

01:28:32.270 --> 01:28:33.630

Great Hall: The answer is, no.

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01:28:35.240 --> 01:28:44.560

Great Hall: the answer is no. It asks whether they're related, and relatedness is a bit of a fuzzy concept. But we all, as consumers, are able to conduct this analysis.

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01:28:44.570 --> 01:28:55.149

Great Hall: We know as consumers from our own experiences, whether companies are likely to provide both of these types of goods or types of services.

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01:28:55.230 --> 01:29:05.450

Great Hall: Right? If we think about. For example, if we're thinking about sporting goods, right? We're thinking about golf clubs. Do people who make golf clubs also make golf balls.

358

01:29:06.230 --> 01:29:24.879

Great Hall: Yeah, probably right? There's probably going to be plenty of evidence out there of that. So we could say that golf clubs are related to golf balls right? So in this case, if you had 2 trademarks which were similar, right and one was doing golf clubs, and one was doing golf balls that would be related. So in next case the Uspto would likely refuse registration.

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01:29:25.820 --> 01:29:28.240

Great Hall: So what does this mean for you as an athlete?

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01:29:28.550 --> 01:29:41.190

Great Hall: It means you need to think about your trademark. What is that thing right? Is it too similar to somebody else's, and also being used to indicate the source of goods and services that are related.

361

01:29:41.220 --> 01:29:42.690

Great Hall: Does that make sense?

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01:29:42.850 --> 01:29:46.449

Great Hall: Yes, okay, good. Because we're gonna have a quiz. Okay.

363

01:29:46.640 --> 01:29:56.420

Great Hall: alright, here we go. So this example right here and again, you folks at home. You can get this right? You could get it wrong. No one's gonna know. Okay, but I'm gonna know who gets it wrong in this room.

364

01:29:57.420 --> 01:30:10.119

Great Hall: Okay? So let's say that. We as a student, we're a student. We're we're an nil, collective or something. Oh, I don't know. We're we're a student athlete, and we wanted to register team marquee, because that's our. That's that's our nickname, right?

365

01:30:10.130 --> 01:30:27.960

Great Hall: And we wanted to register it as a brand name for shirts, and we apply to register that trademark with the Uspto. The examining attorney assigned to the case looks in our database, and she discovers, -oh, somebody has already registered Team Markey, as a brand name for pants. Is this going to be a problem for us in our application?

366

01:30:28.290 --> 01:30:29.610

Great Hall: Yes.

367

01:30:29.830 --> 01:30:36.850

Great Hall: all day long, right, because the trademarks are similar, and we know that shirts are related to pants.

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01:30:36.860 --> 01:30:41.970

Great Hall: Right? There's gonna be plenty of evidence the examining attorney can find which is going to show. Yeah.

369

01:30:42.250 --> 01:30:49.190

Great Hall: yep. Companies make shirts. They also make pants. We, as consumers, are used to seeing one brand on both of those things. Okay, you ready for the next one

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01:30:49.530 --> 01:31:03.780

Great Hall: regardless. Here it comes. Okay. So again we apply. We're saying, you know what we're going to apply to register T. Markey as a brand name for shirts. The examining attorney looks in there, and she finds T. Markey has been registered for pants. Is this going to be a problem for us.

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01:31:04.250 --> 01:31:08.450

Great Hall: Yes, again, because T. Markey

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01:31:08.980 --> 01:31:19.339

Great Hall: spelled like it is on the left. T. Dot, MARK EY is similar to T marquee that we see on the other side TEE. Space, MARQ. EE.

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01:31:19.640 --> 01:31:21.030

Great Hall: Do they look alike?

374

01:31:21.830 --> 01:31:24.850

Great Hall: Not necessarily, but they sure sound alike.

375

01:31:25.960 --> 01:31:27.400

Great Hall: T. Marquis.

376

01:31:28.400 --> 01:31:29.819

Great Hall: Which one did I say?

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01:31:29.850 --> 01:31:31.630

Great Hall: Who knows? Right?

378

01:31:31.710 --> 01:31:38.420

Great Hall: Don't really know. And we already know that shirts are related to pants. So again, boom! That's gonna be a refusal, you ready for the next one.

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01:31:38.830 --> 01:31:40.510

Great Hall: Okay. Oh, thank you.

380

01:31:40.550 --> 01:31:51.459

Great Hall: Thank you for shouting out. Okay, so let's take a look at this one. Right? We apply to register. T-markie is a brand name for shirts, but the examining attorney finds T-markie has been registered for golf flags. Is this one going to be a problem.

381

01:31:52.760 --> 01:32:10.499

Great Hall: Oh, a little bit trickier, right? I'm getting some like some shaking nods. Right? Some people kind of split the difference right? And here's the here's the thing, guys, I don't really know. Okay, I don't actually know the answer to this. It would involve research. All right. We already know that team marquee is probably going to be similar to T. Marquee.

382

01:32:10.620 --> 01:32:22.439

Great Hall: But the question really is, is there evidence out there that companies doing shirts are also doing golf flags or do it. The other way is a golf Flag company, also known as a brand name for shirts.

383

01:32:23.540 --> 01:32:24.570

Great Hall: I don't know

384

01:32:24.580 --> 01:32:48.219

Great Hall: now. You might know. You know I saw you raise your hand about being a golfer. Same with you guys. All right. So so maybe you know this stuff you're like, Oh, man, all day long. People who do golf legs do shirts. Jason, what's wrong with you? Right? But I don't know right. If I'm the examining attorney I would have to do some research. And so again, this is something that you can do as a brand owner. You can also do this sort of work to try and figure out

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01:32:48.450 --> 01:32:53.620

Great Hall: whether your trademark is going to cause confusion with somebody else's when used with

386

01:32:54.300 --> 01:32:57.469

Great Hall: related goods and services. Does that make sense?

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01:32:57.620 --> 01:33:07.590

Great Hall: Yes, okay, good. And the reason we this stuff is so important is because the last thing that anyone wants is for you to submit an application to register your trademark with our office, and it gets refused

388

01:33:08.000 --> 01:33:22.680

Great Hall: because somebody else is already using the same or similar trademark for related goods and services, so doing that work in advance, and especially if you're a student athlete, and you're sort of starting out on your career. And you're thinking ahead to your next life after you. Perhaps

389

01:33:22.850 --> 01:33:30.899

Great Hall: maybe you go pro. Maybe you don't. But whatever is going to come next for you, you might want to be thinking about that. Is that going to be causing a problem with somebody else.

390

01:33:31.270 --> 01:33:32.300

Great Hall: Okay.

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01:33:32.540 --> 01:33:43.090

Great Hall: so really, this was also supposed to be updated. It's not supposed to say weak. It's supposed to say distinctive. So I apologize. I somehow sent the wrong version of this slide deck.

392

01:33:43.130 --> 01:33:46.140

Great Hall: All right, that's on me. Okay, so here's the deal.

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01:33:47.020 --> 01:33:56.789

Great Hall: One thing to think about. Well, there's lots of things to think about is you want to make sure that your trademark is not using what are called non-source, indicating words or language

394

01:33:58.330 --> 01:34:02.149

Great Hall: because it could also trigger a refusal from our office.

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01:34:02.790 --> 01:34:16.019

Great Hall: Right? So if a trademark merely describes whatever goods or services you're providing, that's going to be a problem. And again, I have outdated slide deck. So ignore this. And instead focus on the words.

396

01:34:16.520 --> 01:34:29.440

Great Hall: College football playoff. Okay, instead of bowl championship series. Okay, so if we think about college football playoff they actually have registered college football playoff in in addition with a

397

01:34:29.600 --> 01:34:32.560

Great Hall: with a little football symbol or graphic.

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01:34:33.710 --> 01:34:58.840

Great Hall: When you think about college football, playoff being used in the organizing and promoting of of college football games, it's actually descriptive. And so that wording is not indicating source. It is telling you what the actual product or service it is that they're providing this sort of wording, like college football playoff is not something that can be registered with our office because it describes what the thing is.

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01:34:59.270 --> 01:35:07.139

Great Hall: Okay. So if you are a golf club manufacturer, and you want to say, you know, what I want to do is I want to register the word golf Club

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01:35:07.870 --> 01:35:10.530

Great Hall: as a brand name for my golf clubs.

401

01:35:10.720 --> 01:35:12.029

Great Hall: Is that gonna work.

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01:35:12.040 --> 01:35:23.167

Great Hall: No right. In that case it's probably the generic term for the things, so it'll get another refusal. But again, as an athlete, be thinking about this, what is the wording that you are using? If it's like

403

01:35:24.410 --> 01:35:26.459

Great Hall: fast hurdler

404

01:35:26.780 --> 01:35:29.500

Great Hall: right? Would Freddie be able to potentially register

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01:35:29.570 --> 01:35:31.520

Great Hall: fast hurdler for

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01:35:32.290 --> 01:35:44.960

Great Hall: fast hurdling services? Right. You know what I mean? Probably not. Again. Sorry, not legal advice. Okay, don't. Don't hold me to that. Okay, but I want you to think about what it is that you, as an athlete, are doing, or what your kid happens to be doing, all right.

407

01:35:45.870 --> 01:35:52.229

Great Hall: So there are other examples which are distinctive. So think about hokey.

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01:35:52.270 --> 01:35:57.619

Great Hall: right? A hokey is a is a made up is a made up word right? This is Virginia Tech.

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01:35:57.650 --> 01:36:06.880

Great Hall: They're the hokey bird. So Hokies is considered potentially fanciful because it is a made up word. Right? These are have

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01:36:07.240 --> 01:36:09.920

Great Hall: a lot of protection because they're distinctive.

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01:36:10.050 --> 01:36:27.449

Great Hall: Buckeye, right. The deputy director is not here. This is, I'm not saying I put this in just for him, but he would appreciate it right. So Buckeye is actually a nut, a poisonous nut. And so, and it also happens to be used arbitrarily as the mascot for the

412

01:36:27.480 --> 01:36:38.289

Great Hall: Ohio State University. But really, when you think about any mascot in many ways it's going to be probably arbitrary, right? It's going to be a buffalo, all right, or it's going to be a

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01:36:38.300 --> 01:36:44.969

Great Hall: Trojan, or whatever whatever it happens to be. A sun devil, right, you know, is the sun devil actually a real thing?

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01:36:45.900 --> 01:36:46.820

Great Hall: Yes.

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01:36:47.050 --> 01:36:51.080

Great Hall: someone said, yes, it is Jason. Be careful tonight. Okay, all right.

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01:36:51.140 --> 01:37:06.800

Great Hall: Or it could be something like a wording like Sweet 16, which is suggestive of, you know, a sporting event in which there are 16 teams remaining at that point. Interesting thing about this was this is actually registered by the Kentucky High School Athletic Association.

417

01:37:06.820 --> 01:37:19.849

Great Hall: It's probably more. Most people know it because of the Ncaa. Ncaa. Has registered Ncaa. Sweet 16, but the only way they were able to do it. If you're thinking about likelihood of confusion. I saw you. You're like Jason.

418

01:37:19.980 --> 01:37:40.329

Great Hall: What about like lead of confusion? How could you let them register that? Well, they actually have an agreement between the 2 of them that the Ncaa. There's a consent agreement between the 2 that they could also register it. So these sorts of types of trademarks are considered distinctive. And they are things that could be registered with our office. All that makes sense.

419

01:37:41.160 --> 01:37:53.939

Great Hall: Even if it doesn't, we're moving on. Okay, all right. So I'm just about done. Folks don't worry. We're almost. We're almost out of here. Okay, so here's the thing. You also need to make sure that you are not using your trademark in an ornamental manner.

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01:37:53.940 --> 01:38:13.340

Great Hall: And so are you using it in a traditional way. That's what we're looking for. So here's what we kind of mean by ornamental use. So again, going back to the Buckeyes here. But let's say I'm Ohio State University, and I wanted to register the block O Ohio State, and I plastered on the front of my shirt right? I could walk into the into the

421

01:38:13.440 --> 01:38:33.229

Great Hall: the like store right around the corner here and take a look at all sorts of Asu stuff, and it probably is asu a plastered across the front of it, right? That is considered ornamental. Typically right? It's decorative, right? It's not necessarily indicating source. It's just telling you I support the Sun devils, or I support the Buckeyes. Hang on sloopy. Go, bucks.

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01:38:33.440 --> 01:38:48.539

Great Hall: Okay? So what what you're showing is like, I love this team. I want to support them. It doesn't necessarily indicate source. Same thing there on the right hand side you can see the little Pjs, right, get some little footy. Pjs, okay, with a little Unc. Logo on there.

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01:38:48.650 --> 01:39:16.140

Great Hall: And so again, here we see a repeated logo all over. It's it's it's decorative. In this case it's not indicating the source of the Pjs. It's saying probably that grandma and grandpa went to Unc. And they bought this for the little one. Okay, merry Christmas. Okay. So here's the thing. If you're only using it this way, then it's considered ornamental, and our office will say, sorry. This is not something you can register with us because you are not using it as a trademark.

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01:39:16.750 --> 01:39:21.559

Great Hall: You're using it decoratively or ornamentally. But don't worry, folks.

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01:39:22.030 --> 01:39:44.920

Great Hall: so long as you're using it in a source indicating manner, you can overcome it so you can see there on the left hand side, Ohio State University. You got the little block. O, right there! That's traditional trademark use in the. It's sort of neat and discreet in the left breast pocket area. That's considered the sort of, you know. Acceptable usage. Same thing with the Nc. Logo. You can see it there on again. Not footy pajamas.

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01:39:45.790 --> 01:40:11.530

Great Hall: but similar looking pajamas. Right? So if if you're using a trademark in that way, because sometimes people are like. But, Jason, I see. Just do it on T-shirts all the time. You tell me that's not a trademark. Well, no, it is a trademark, but Nike is also using, just do it in a whole lot of other ways, including very traditional trademark ways. They're just also happen to be using it ornamentally across the fronts of shirts. Same thing with the Ohio State University and their block. O, same thing with Nc. With their little logo.

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01:40:11.830 --> 01:40:40.829

Great Hall: There's also something you can do if you ever got one of these refusals, and you could say, Hey, Uspto, I'm actually am using it in a traditional way elsewhere. So let's say that you know, I wanted to register Uspto University for educational services, and I just plastered it across the front of a T-shirt right? I might get a refusal, but then I could say, don't worry, Uspto. I wouldn't say that exactly to the Uspto, but check this out. I have a Federal registration for this exact same trademark. I'm using it in a different way.

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01:40:41.260 --> 01:40:51.109

Great Hall: Okay? All right. So that's a lot I know. That's a lot to think about. So let me give you a couple of takeaways here. So remember, a trademark is going to provide legal protection for your brand.

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01:40:52.280 --> 01:40:56.879

Great Hall: You want to be thinking about a trademark that is federally registerable and legally protectable.

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01:40:57.360 --> 01:41:04.040

Great Hall: And if you want help, we always recommend you do work with an experienced trademark attorney licensed here in the United States

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01:41:04.290 --> 01:41:30.929

Great Hall: again. This is a situation. I know you've heard this a lot today with regard to agents and things like that. You want to make sure you're working with someone who knows what they're doing right. Not just some rando that you happen to run across, or that visits you and knocks on the front door, or that you happen to be behind in line at the Starbucks. Okay, you want to make sure that you're making good choices. If you're not sure about these things, and so we always recommend that you work with a U.S. Licensed attorney.

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01:41:30.930 --> 01:41:50.510

Great Hall: However, if you are domiciled here in the United States, I believe, sir, you had this question earlier today. If you're domiciled here in the United States, you do not have to have an attorney represent you. You can do it on your own. About 25% of our applicants do. But it's always a good idea to work with an attorney who can provide legal advice because nobody else can.

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01:41:51.260 --> 01:41:58.139

Great Hall: I cannot. Okay, all right. So here's another thing to keep in mind that not everyone needs a Federal trademark registration.

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01:41:58.690 --> 01:42:08.280

Great Hall: And sometimes people think. Oh, man, I've got to go out, and I've got a quote unquote trademark, my name and trademark, my number or trademark, the slogan I've come up with, well.

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01:42:09.090 --> 01:42:28.640

Great Hall: maybe okay, like, it really depends on what your use is going to be right. It might be that you're only going to be using the trademark for a short time like while you're in high school, right? Or maybe while you're in college, and you're not planning to go pro in whatever your trademark is, has something to do with you as an athlete. Okay.

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01:42:29.310 --> 01:42:41.550

Great Hall: so it might be a situation where you don't necessarily need one. Or maybe you are Bob's mufflers, and you're in a little town somewhere. Alright, and you know, and that's it. Like you're not planning on expanding. You don't really need nationwide protection.

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01:42:41.890 --> 01:42:46.460

Great Hall: So it might. You might be in a circumstance where you don't necessarily need Federal trademark registration

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01:42:46.770 --> 01:42:59.759

Great Hall: and keep in mind. It does take probably around a year at a minimum to register your trademark with us. So this isn't a fast process, and who knows if it's something like a real, quick, viral phrase that is gonna die out soon.

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01:43:00.490 --> 01:43:01.789

Great Hall: You know.

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01:43:02.670 --> 01:43:08.059

Great Hall: Maybe it's worth it to register. Apply to register. Maybe it's not okay. So all things to think about.

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01:43:08.730 --> 01:43:11.360

Great Hall: The other thing to think about is, you might not need one now.

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01:43:11.990 --> 01:43:24.740

Great Hall: but you might need one in the future right? So if we think about the athletes, and whether they're going to continue in their sport after they go to college or university, and maybe they go pro. Maybe they don't.

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01:43:25.080 --> 01:43:54.730

Great Hall: So it might be a situation where you don't need one now, but the knowledge that you have now that you were learning now as an athlete who are also, you're now also an entrepreneur. As we've talked about a lot today, it might be a situation where this knowledge that you're learning today is something that is going to serve you later on down the road once you graduate. Yeah, maybe I'm no longer playing volleyball right? But maybe I've started this business, and it's a good thing I understand Federal trademark registration, because I want to be able to protect my business as it grows, and I go off on this brand new venture.

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01:43:54.920 --> 01:44:21.049

Great Hall: So I'm just about done. And I can take questions. Just want to hit you real quick with some resources. The deputy director mentioned a lot of these earlier today. But I want you to know that we, as an agency, are doing our best to make sure that you have

information in your hands, so you can try and learn some of this stuff yourself. Okay, yes, we always recommend. You work with an attorney, but it's also good to know these things on your own. So when you walk into that meeting with the attorney.

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01:44:21.050 --> 01:44:49.829

Great Hall: then you can say, Okay, yeah, no, no, no. I already understand trademarks. Yeah. So I heard Jason talk for like 40 min. And so I'm an expert now. So no, of course not. It's good to know these things. And so if you want to, those of you who have a mobile device handy, you can scan the QR code that you see up there on the screen. It is going to download a Pdf to your mobile device. And it is our trademark registration toolkit. And it has a lot of basic information about trademarks and the Federal registration process.

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01:44:49.840 --> 01:44:53.030

Great Hall: And so you can learn a lot of these things on your own.

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01:44:53.130 --> 01:44:54.750

Great Hall: Everybody done scanning.

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01:44:55.800 --> 01:45:23.660

Great Hall: waiting, waiting. Okay? Good. Okay. We also have our trademark assistance center. These are our customer service folks. The deputy director mentioned these guys as well. They want to talk to you. They love to talk to you. They want to be able to direct you to resources. Right? And these are actual humans here in the United States. They're not robots. Okay? And so if you have questions, you can call the trademark Assistance center, you can shoot them an email. They're open 8 30 am. To 8 pm. Eastern time Monday through Friday.

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01:45:23.960 --> 01:45:46.229

Great Hall: Just keep in mind, however, that we do not provide legal advice. We do not help you enforce your legal rights, and we cannot recommend specific private attorneys. Sometimes we do get that. Actually, I had a message today earlier today on LinkedIn. Hey, Jason, essentially, can you recommend an attorney? And no, I cannot. And we do have, as you can see, the link down there at the bottom.

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01:45:46.230 --> 01:46:02.690

Great Hall: We do have information on our website about hiring a Us. Licensed attorney. We point to places like, I don't know the law school clinics. I think there is one here at Asu,

right? So we point to those things, so you might be able to get yourself some help if you're looking for it.

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01:46:03.100 --> 01:46:08.519

Great Hall: And the other thing I do want to briefly mention before we get out of here is scams.

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01:46:09.450 --> 01:46:28.989

Great Hall: Please, please, please be very aware that just like any industry scams are a problem, and there are folks out there who are trying to separate you from your cash. If you do a search on any search engine, you're probably going to see some of these non attorney filing firms. Some of them are straight up scams.

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01:46:28.990 --> 01:46:47.159

Great Hall: Sometimes it'll work where somebody has a website, and they say, Hey, do you want to design a logo. We'll design your logo, and as soon as you're done they're like, Oh, you know what you should do is fairly register that. But it's actually a scam right? And they're going to send you to a scam website that they operate with. And then you could get taken potentially for thousands of dollars.

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01:46:47.180 --> 01:46:52.082

Great Hall: Alright. So please, please, please be very, very careful. These guys are.

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01:46:54.110 --> 01:47:03.720

Great Hall: it's it's really sad when you hear a lot of the stories of small business owners, and as a as a student athlete. In many ways you are a small business owner, right? So protect yourself.

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01:47:03.870 --> 01:47:09.890

Great Hall: Here's a nice little graphic that we're beginning to push out more and more. So please.

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01:47:10.190 --> 01:47:19.160

Great Hall: A lot of these scammers do the same things that you like the sort of boiler room tactics where it's like you got to do this in 24 to 48 h. If you don't do it, you're gonna lose your trademark.

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01:47:19.280 --> 01:47:32.359

Great Hall: That's not actually true. Alright. And so what they're doing is they're trying to push you. And they're gonna try and ask you to give your credit card number over the phone. Your social security number over the phone. They want you to, you know. Send money via venmo

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01:47:32.610 --> 01:47:34.050

Great Hall: or paypal

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01:47:34.550 --> 01:47:36.140

Great Hall: gift cards.

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01:47:36.590 --> 01:47:44.879

Great Hall: euros to Lithuania. Okay, guys, not us. All right. Look, we are not going to slide into your dms. We are not going to text you. Okay?

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01:47:45.000 --> 01:47:57.590

Great Hall: Alright. So just be careful out there all right. So I'm sure we are probably close to time. Oh, probably dead on, right on. So I'm happy to take any questions, if there are any. If not, I will stop talking

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01:47:58.390 --> 01:47:59.250

Great Hall: anything.

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01:48:05.764 --> 01:48:06.619

Great Hall: Okay.

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01:48:08.360 --> 01:48:09.920

Great Hall: thank you very much.

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01:48:13.270 --> 01:48:14.420

Great Hall: Appreciate it.

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01:48:14.790 --> 01:48:26.650

Great Hall: And folks for those of you in the room. Sorry guys at home. There is a reception. So come on to the 5th floor and come join, and we can. And you can ask me your questions there. Okay, if you have any. If not, you can also

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01:48:26.880 --> 01:48:30.609

Great Hall: ignore me, and I'll just stand in the corner quietly by myself.