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# Who Owns the Back of a Baseball Card?

A legal ruling hits it out of the park.

By Jack Williams, JACK WILLIAMS is a law professor at Georgia State University. August 21, 2006

AS A SPORTS LAW professor, I have the luxury of watching ESPN and calling it research. As a sports fan, I was bit by the fantasy bug in 1985, when I entered the Patriots League with my very own Mudville Nine. My vocation and avocation collided one day when my 11-year-old son asked me what appeared to be an innocuous question: "Dad, who owns the back of a baseball card?"

With that, I began a quest to determine whether a player, the league or all of us fans owned a player's performance statistics. In 2001, when I wrote a law review article titled "Who Owns the Back of a Baseball Card: A Player's Rights in His Performance Statistics," I quickly realized that, other than my son and me, no one really cared. Because there was little money at stake in the dispute, why should they? But soon after, that view changed.

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That's because those 1980s sports fantasy leagues have grown exponentially. Along with baseball, sports fantasy leagues operate in football, basketball, hockey, golf and auto racing. With the ubiquitous nature of the computer and easy Internet access, gone are the days when managing an ersatz sports team required laborious calculations that consumed a full workday.

The essence of fantasy's appeal is that the games exploit the real names and performance statistics of players, in real time. Typically, each participant becomes an "owner" of a sports franchise in a given league.

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In 1985, we tracked statistics through box scores, but today's fantasy league owner can rely on proprietary service providers to do the heavy lifting. Online companies have created sophisticated software programs and easy Web interfaces to track such things as statistics, player drafts and trades. In exchange, participants often pay a fee to join a league and, depending on the service provider, may also pay a fee per transaction. Overnight, or so it seemed, fantasy league sports became big business.

Amid this boom, Major League Baseball stomped, denying licensing of players' names and statistics to all but a handful of chosen fantasy league providers. The MLB power grab was designed to force out the hundreds of other baseball fantasy league providers — the very same folks who helped grow the industry from its infancy.

In response, a provider named C.B.C. sued the league in federal court, arguing essentially that MLB did not own the back of a baseball card; the public did. On Aug. 8, a judge agreed, ruling that MLB did not have exclusive rights to players' names and statistics.

The case was fascinating on several counts. The court held that baseball's right to publicity was not greater than fantasy providers' 1st Amendment right to republish newsworthy information, even if they use that information for commercial purposes.

Most important, the court found that player statistics are not copyrightable. In all, the opinion is a grand slam for fans.

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The MLB power play was doomed from the start. Aside from questionable legal merits, baseball's actions were bad for business. Professional sports leagues should recognize that the value they add is not the game itself; it is the fan's experience with the game. Online providers such as C.B.C. help grow the fan base, strengthen customer loyalty, introduce fans to teams and players, and increase attendance.

MLB's tactical blunder could yet be converted into a strategic victory. A business plan that co-opts fantasy league providers would go a long way toward righting an unprecedented opportunity to grow revenues. If you happen to own a baseball card, flip it over. What you see is yours!

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