

NCAA's Anti-Sports Betting Stance Becomes An IP Issue

By **Theresa Schliep**

Law360 (March 27, 2026, 8:14 PM EDT) -- The National Collegiate Athletic Association has kicked off a legal battle with a trademark infringement lawsuit against DraftKings for using terms like "March Madness" to describe the basketball competition, bringing the issue of sports betting to court and signaling a more active role in intellectual property enforcement.

The NCAA's suit, filed March 20 in Indiana federal court, accused DraftKings of attempting to "capitalize on the goodwill of the NCAA" by using "March Madness" and related terms despite the NCAA's deliberate efforts to distance itself from sports betting. DraftKings argue, in a Thursday filing, that the NCAA "profits from the very betting activity it now claims is intolerable."

On Thursday, U.S. District Judge Tanya Walton Pratt rejected the NCAA's request for a temporary restraining order blocking the sports betting company from using these terms. While she found that the NCAA is likely to prevail on its trademark dilution and false association claims, it hasn't shown that it's being irreparably harmed by DraftKings' use of terms like "Final Four" and "Elite Eight."

That the NCAA filed the case and focused on the association's distaste for sports betting did not come as a shock to trademark attorneys, who told Law360 that the NCAA wants to communicate that it doesn't see betting as part of its identity. And trademarks are, after all, about a brand's identity.

"Of the famous triumvirate of categories of products that people restrict licensing to — gambling, smoking, drinking — this is probably the most sacrosanct for the NCAA," Nick Soltman, a partner with at Kinsella Holley Iser Kump Steinsapir LLP, told Law360. "I just don't think you can ignore the fact that it's gambling, rather than some commercial mentioning 'March Madness.'"

William Stroeve, the co-chair of Cole Schotz PC's intellectual property department, also said he wasn't surprised by the lawsuit, given the growing ubiquity of sports betting and prediction market platforms and some related scandals that have popped up in different sports leagues.

"It felt like season two — like we were already watching this show, and this is just the next inevitable fight or drama," he said.

In its complaint, the NCAA argues that it "has purposefully avoided any appearance of affiliation with gambling companies." It's seeking a permanent injunction, saying that DraftKings' "comprehensive" use of the trademarks suggests a false association between the NCAA and the betting platform.

"Such repetitive and widespread use is deliberately aimed at confusing consumers and cementing the false association with the NCAA," the NCAA said.

Meanwhile, DraftKings argues in its opposition that it's been using the terms at issue for five years, and that the NCAA never took any action to get the company to stop. It also criticized the NCAA for having a relationship with Betgenius, "a company whose core business is providing in-game data to sportsbooks," DraftKing's filing said.

"A party that has chosen to enter a long-term partnership with the sports-betting industry cannot plausibly claim reputational injury from being associated with it," the company added.

Thursday's ruling from Judge Pratt found that the NCAA couldn't meet the high burden for getting a temporary restraining order because of its inaction. DraftKings has used the trademarks every year for several years, the judge said.

Still, the judge said the "evidence before the court supports that DraftKings intended to use the NCAA basketball marks to profit off of the tournaments' fame" and found consumers were likely to be confused by the betting company's use of the marks and have the misimpression that the NCAA has a deal with DraftKings.

"Those same consumers might then see the NCAA state that it expressly prohibits association with sportsbooks and think that the NCAA is talking out of both sides of its mouth; that they are merely claiming to be free of association with sports betting all while profiting tremendously off the very sportsbooks they claim to oppose," the order added.

Beyond the potential public relations angle, the back-and-forth has focused on the NCAA's position on sports betting and its reputation because they are relevant to the NCAA's trademark claims. Its case argues that DraftKings' use of the terms "dilutes and tarnishes the distinctive quality and reputation of those famous marks by linking them to commercial gambling activity."

Dilution by tarnishment is typically a mixed question of fact and law, according to John L. Krieger, a member with Dickinson Wright PLLC. Potential reputational harms matter for such claims, he added.

"To a certain extent, tarnishment is looking at morality," Krieger said.

He noted that the NCAA seems particularly concerned about being associated with micro and proposition bets, which are gambles on whether discrete events will happen, such as whether a baseball pitcher will get a certain number of strikeouts or if a soccer player will draw a red card. The NCAA's suit argued that those bets undermine trust in game outcomes by "exposing student-athletes to improper influence, pressure, and inducements to manipulate on-court conduct."

"I think because that is an area that is not as highly regulated and people are pushing the envelope, there is a stronger argument to claim tarnishment," Krieger said.

Looking forward, trademark attorneys said this case is of note because the NCAA, potentially in response to this rise in sports betting, seems to be pulling from the IP playbook used by the National Football League and other sports organizations known to vigorously enforce their trademarks.

For instance, the NFL is famous among IP attorneys for aggressively limiting the use of "Super Bowl,"

which is why so many brands will merely call it "the Big Game" in advertising rather than risk receiving cease-and-desist letters or being brought to court by the league.

For its part, the NCAA is no stranger to IP enforcement. In the lead-up to past tournaments, it brought Trademark Trial and Appeal Board challenges to companies trying to capitalize on the "Madness" brand, sued a Southern California car dealership for infringing the "March Madness" trademark and secured a settlement, and won a default judgment in a similar case against a video game company.

"I think it's another example of the NCAA being aggressive over their prize marks but also being especially careful to distance themselves from certain industries through brand enforcement," Preetha Chakrabarti, a Crowell & Moring LLP partner, said in written comments about the DraftKings lawsuit.

Still, the NCAA didn't get the TRO because it waited to bring its suit after DraftKings had been using the trademarks for some time, with the judge saying it's evident "that DraftKings has continued to use the NCAA basketball marks every year in relation to its sportsbook and websites."

As of March 23, other betting companies had also been using the trademarks, which DraftKings had flagged in its filings. The NCAA told the court Thursday that it has since contacted those platforms and asked them to stop using the marks.

"I'm curious if this is the start of the NCAA treating its marquee trademarks like the NFL does," Stroeve said. "I wonder if they're going to be much more aggressive in policing that."

The timing of the suit makes sense, given the explosion in sports betting in recent years, Krieger noted. The American Gambling Association said in a press release this month that U.S. residents will place \$3.3 billion in bets on the NCAA basketball tournaments, a 54% surge since three years ago. Combine that with other commercial changes to college sports — such as name, image and likeness deals for the athletes — and the NCAA is likely more wary than ever about the use of its IP.

"Because sports betting has opened up, and name, image and likeness has been opened up at the college level, I think that's another reason why you now have the NCAA paying more attention to this and maybe doing more to police their trademarks than they had in the past," Krieger said.

--Editing by Dave Trumbore.