

Artificial Intelligence in the Arena

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Artificial intelligence (AI) is rapidly transforming the world of sports, from optimizing player training to helping with evaluating and officiating penalties during gameplay. While these advancements hold immense potential, the legal landscape surrounding AI in sports remains largely uncharted. This article dives into the key legal implications of this burgeoning technology, focusing on intellectual property, data privacy, and ethical considerations.

Intellectual Property and AI-Generated Strategies

One of the first legal questions concerns ownership of strategies or insights generated by AI systems. Imagine a complex AI tool analyzing player movements to predict scoring opportunities in real-time. Who owns this output of information generated by the AI program? Who is legally permitted to reproduce, distribute, or manipulate that output? These are questions stakeholders throughout the sports and entertainment world are striving to answer.

U.S. Copyright law protects original works of authorship.¹ However, the U.S. Copyright Office has consistently taken the position that copyright protection does not extend to works created by non-humans, including machines.² Federal courts have affirmed this rule.³ Consequently, works generated *solely* by artificial intelligence cannot be subject to copyright protection. More importantly, when the output is a result of a joint collaboration between humans and

computers, the determination of copyright ownership can become more complex.

This ambiguity creates a need for clear contractual agreements concerning the output of artificial intelligence tools. Sports organizations employing AI systems should secure explicit rights to any insights or strategies generated, ensuring they own the “fruits” and output of the technology. Reliance on copyright law alone may not be enough to assert and establish ownership.

Data Privacy and the Wearable Revolution

In addition to intellectual property law concerns, the rise of athlete-worn wearables and biometric data collection raises significant data privacy concerns. This data, encompassing everything from the athlete’s heart rate to its location, offers a treasure trove of insights but also poses a risk of misuse and potential legal liability. Several foreign countries and U.S. states have adopted privacy laws protecting the unauthorized disclosure of personal identifiable information (PII). For example, data protection regulations like the General Data Protection Regulation (GDPR) in



Europe and the California Consumer Privacy Act (CCPA) offer comprehensive frameworks and requirements for data privacy and protection of PII. PII takes many forms, and may include an individual's name, financial information, and biometric information. Sports organizations gathering biometric information of players and athletes should consider the following recommendations when handling PII in the sport industry:

The ethical implications of AI in sports also warrants attention. There are growing concerns that AI algorithms used for player scouting or officiating decisions may perpetuate existing biases.

- **Consent and Transparency:** Organizations should have athletes provide informed consent for the collection, use, and storage of their biometric data. Teams and leagues need clear data privacy policies outlining how this data will be used and protected.
- **Data Security:** With sensitive athlete information at stake, robust data security measures are crucial. Robust encryption and secure storage practices

should be implemented to prevent breaches and unauthorized access. Organizations should also adopt reporting mechanisms to disclose breaches of any player personal identifiable information, including biometric information.

- **Data Ownership and Control:** Who owns the collected data? Athletes deserve a degree of control over who accesses and utilizes their information. Consider allowing athletes to opt-out of certain data collection practices or request data deletion.

Ethical Considerations and Algorithmic Bias

The ethical implications of AI in sports also warrants attention. There are growing concerns that AI algorithms used for player scouting or officiating decisions may perpetuate existing biases. For example, if data sets used to train these algorithms are skewed based on race, gender, or other factors, the resulting AI decisions could be considered discriminatory.

Teams and leagues should consider regularly auditing and evaluating their AI tools and their data input. Having a clear understanding how algorithms reach decisions allows for identifying and mitigating bias. Further, artificial intelligence should be seen as a tool to augment human expertise, not replace it. Important decisions, like officiating calls or assessing player injuries, should still involve human oversight to help prevent biased or unfair outcomes, while simultaneously preserving the competitive tradition of sports.

ENDNOTES:

1. 17 U.S.C. § 102(a).
2. U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 313.2 (3d ed. 2021).
3. See *Thaler v. Perlmutter*, No. 23-5233 (D.C. Cir. 2024).



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