Manufacturer Again Fails to Prove NCAA Violated Antitrust Laws

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The 6th U.S. Circuit Court of Appeals has affirmed a lower court's ruling that dismissed a sports equipment company's antitrust and tortious interference claims against the NCAA.

Plaintiff Warrior Sports, Inc. had argued that the NCAA violated the Sherman Act and tortiously interfered with its business when it changed the rule governing the size of lacrosse stick heads for use in NCAA-sanctioned play.

The plaintiff initially sought injunctive relief at the district court level. But that court denied the request and granted judgment on the pleadings in favor of the NCAA.

For 30 years, the NCAA rule governing the allowable dimensions of lacrosse stick heads had remained unchanged. But in 2006, the NCAA initiated its rule-changing process. The NCAA Lacrosse Rules Committee met with equipment manufacturers (Warrior among them) to address potential rule changes aimed at promoting the free dislodgement of the ball, which allegedly would have rendered the vast majority of all men's stick heads, including 14 of the 15 models marketed by Warrior, illegal for NCAA play. When the NCAA moved forward with the change, Warrior responded by filing a lawsuit in the Eastern District of Michigan. It dismissed the action after the NCAA agreed to further evaluate the proposed change.

The NCAA then solicited additional input from all concerned manufacturers, including Warrior, about how to improve the new specifications. In February 2008, the NCAA adopted another rule change, which was scheduled to go into effect on January 1, 2010. This rule change allegedly rendered Warrior's entire existing line of stick heads illegal. Warrior responded by filing suit against the NCAA in the Western District of Michigan, accusing the NCAA of violating the Sherman Act and tortiously interfering with its business relationships. Warrior moved for a preliminary injunction and asked the district court to consider the motion on an expedited basis. Concerned that Warrior was forum shopping, the NCAA immediately opposed Warrior's request for expedited consideration of its injunction request and moved to transfer venue to the Eastern District. The court sided with the NCAA, refusing to expedite the injunction request and transferring the case to the Eastern District of Michigan. The NCAA promptly filed an answer and moved for judgment on the pleadings under Federal Rule 12(c). The district court denied Warrior's preliminary injunction motion and granted judgment on the pleadings in the NCAA's favor, sparking Warrior's appeal.

The panel agreed with the district court's ultimate conclusion, but employed "a slightly different analysis. The NCAA dropped the 2006 and 2007 Rule Changes before they ever went into effect, and thus they cannot be challenged because they necessarily did not cause (nor do they threaten to cause) any injury to Warrior or anyone else.

"So although the district court chose to compare the 2008 Rule Change to the 2007 Rule Change to determine whether the 2008 rule restrained trade or commerce, we find that comparison inapt, given that the 2007 rule never took effect. Rather, as the sole rule change ever to take effect, only the 2008 Rule Change matters for purposes of the antitrust analysis.

"Although the district court concluded that Warrior's allegation of collusion between the NCAA and Warrior's competitors transformed the otherwise noncommercial rule governing athletic competition into a commercial one subject to antitrust scrutiny, we avoid that question by assuming the rule to be commercial and cut to the heart of Warrior's antitrust claim, finding the challenged rule does not harm competition and, consequently, does not unreasonably restrain trade or commerce. Warrior's Sherman Act claim thus fails as a matter of law."

Turning to the claim of tortious interference with business relationship, the court wrote that such a claim "requires proof of (1) a valid business relationship or expectancy; (2) knowledge of that relationship or expectancy on the part of the defendant; (3) an intentional interference by the defendant inducing or causing a breach or termination of that relationship or expectancy; and (4) resulting damage to the plaintiff. Via The Web Designs, L.L.C. v. Beauticontrol Cosmetics, Inc., 148 F. App'x 483, 487 (6th Cir. 2005) (*citing* Badiee v. Brighton Area Schs., 265 Mich. App. 343, 695 N.W.2d 521, 538 (Mich. App. 2005))."

The district court rejected Warrior's tortious interference claim, finding that, "though Warrior alleged collusion regarding the 2008 Rule Change in a way that might suggest malice, it ultimately failed to demonstrate 'that the adoption of the 2008 Rule Change was done with a malicious and unlawful purpose, because the only effect of the 2008 Rule Change [when compared to the 2007 Rule Change] was to increase the number of sticks that would be allowed under the NCAA's rules.' Warrior II, 2009 U.S. Dist. LEXIS 25700, 2009 WL 646633."

While the panel disagreed with the lower court's analysis, it reached the same conclusion.

"The vague assertion that in deciding to change the rules, the NCAA acted for improper and anticompetitive reasons under the influence of one or more of the company's competitors, lacked the specificity required by Michigan law," wrote the panel. "Nothing about the rule change inherently suggested that the NCAA intended to cause the company harm." In that regard, the Sixth Circuit continued, "[n]or does Warrior's repeated insistence that the Rule Changes do not actually make it easier to dislodge the ball create such an inference. Warrior fails to cite any law suggesting that a sports rule-making body with a facially plausible concern about a competition issue must supply empirical proof that a proposed rule change actually remedies the concern before enacting the rule."

Warrior Sports, Inc. v. National Collegiate Athletic Association; 6th Cir.; No. 09-1395, 2010 U.S. App. LEXIS 17650; 2010 FED App. 0532N (6th Cir.); 8/20/10

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