

Sports Litigation Alert

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What Every Pro Athlete Can Learn from Lady Gaga: The Importance of Secondary Branding

By Amie Peele Carter

Branding. Say the word and some athletes embrace it, while others roll their eyes or shy away. Like it or not, however, fans perceive and interact with professional athletes through their experience of the athlete's brand. Therefore, there is perhaps no more important property for the athlete to pay attention to and nurture than his or her brand. But what about talent? Talent is, of course, core to an athlete's image. While there must be some level of talent or appeal to establish a fan base, talent alone is no longer enough. Whereas at one time reclusive and eclectic artists and athletes may have been able to maintain a following, in today's virtual and transparent marketplace, it is all about connection.

Fans and potential fans want to interact with their favorite celebrities in closer ways than ever. They truly want to know the details of a celebrity's life and feel that they have a connection to it.

One example of successful fan connection is the artist Lady Gaga. In June, Fast Company magazine named her the number one marketer of the year. Not only does she create a compelling fan experience through live performances and social media, she leverages every opportunity she has to link her brand with other products and services in a variety of media and formats (including MAC Cosmetics, Monster headphones, Polaroid cameras and HP laptops). I attended a Lady Gaga concert this summer

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and personally witnessed her telephone one of the members of the audience. In that phone call, every member of the audience felt as if Lady Gaga was speaking to them. She also reportedly had pizza delivered to her fans waiting out in inclement weather to buy tickets to her concert. And she tweets in real time.

Lady Gaga's lyrics and commentary are designed to eradicate the feeling of marginalization that even the most typical and privileged suburbanite teenager feels. She has a cult following among her "little monsters," and among actual marginalized populations in our culture. But her appeal is much broader in scope.

Her efforts to connect with her fans really do serve to connect Lady Gaga with those that make her fame possible. And it works. Her videos generate 25 percent of the music site Vero's traffic; "Bad Romance" is YouTube's #1 clip in its history (at 1 million + plays); MAC's Viva Glam lipstick sales raised \$2.2 million for AIDS awareness. And none of these examples has anything to do with her musical talent.

On the sports side, there are a number of athletes who have also stepped outside of the box to leverage their popularity. Although celebrity endorsements of products have been around for decades, in more recent years the celebrity connection with particular products has taken a slightly different twist. Rather than blatantly stating in an advertisement that "I support this product", the goal of certain advertising efforts is to keep the fan in on the joke, so to speak. One example is the series of advertisements Peyton Manning starred in for MasterCard Credit Card Services. In several examples, Manning participates in self-deprecating comedic scenes. The value is showing the fan that, while talented, he is an ordinary guy and does not take himself too seriously. This ad campaign was enormously successful for MasterCard. On a related note, MasterCard's marketing firm – McCann Erickson – won the prestigious 2010 King Midas Award (honoring excellence in the financial services industry) for "The Priceless Gift Finder", an online shopping tool hosted by Peyton Manning and comedic actress Alyson Hanni-

gan. This is just one example of the leverage athletes can bring to a brand.

Another example from the NFL is the athlete Dustin Keller. In addition to wearing the #81 jersey for the New York Jets, Keller has leveraged his love of food by creating a new brand called “I Eight One”. He even uses a special logo to promote the program:



In early 2010, Keller started writing a monthly food column for the New York Times. He leverages his culinary hobbies on his Facebook page, facebook.com/DustinKeller81. Keller also travels around the country and blogs about his dining experiences at <http://fifthdown.blogs.nytimes.com>. He leverages this content through Facebook and Twitter.

The key seems to be finding a way that the athlete can credibly interact with his or her existing fans via a new platform and also potentially gain a new fan base through an entirely different area of the market. Sports marketing expert Ken Ungar puts it this way:

Talent is only one element contributing to career success for the pro athlete. Many times, the projection of an authentic brand message is just as important in the quest to build a fan base and attract endorsement dollars. Strong athlete brands clearly convey the attributes and values that distinguish one athlete from another, and establish the justification for fan loyalty. Through secondary branding, an athlete can extend his or her brand attributes into related service and product categories. Leveraging the power and meaning of an athlete's primary brand, a secondary brand represents an important opportunity to multiply commercial opportunity using the highly visible platform of professional sports.¹

The next question for sports and entertainment lawyers is how to protect these secondary branding efforts by our clients. There are, of course, the traditional ways

¹ Ken Ungar is the principal and founder of U/S Sports Advisors, based in Carmel, Indiana. www.ussportsadvisors.com He is the author of *Ahead of the Game: What Every Athlete Needs to Know About Sports Business*.

that such efforts can be protected, including carving out appropriate publicity rights when celebrities participate in advertisements, screening and protecting trademarks created and used during these processes, and using copyright law to protect and leverage rights in any content created in the process. If there is a patentable invention, that would deserve attention as well, but it seems less likely in this circumstance.² Depending on the brand's success, opportunities for licensing deals may also exist.

However, beyond the traditional methods of protecting intellectual property, the most important aspect of this protection is likely the celebrity's own consistency in maintaining the brand image and continuing to keep the content fresh. Here are seven ways that athletes can use practical ways of connecting with fans to leverage their primary brand in their field of choice:

- Social Media
- Blogging
- Be Creative
- Be Authentic
- Use Your Own Voice – Even if outsourcing the actual entries of social media posts, the content must be in the celebrity's own voice and tone. Fans will know the difference.
- Be Consistent
- Keep it Going

In these contemporary times where we have virtual access to one another 24/7, celebrities must embrace the power and opportunities in the true fan connection. The internet has made our lives so transparent to one another that the most successful athletes will embrace and leverage virtual technologies rather than shying away from them.

² Perhaps less likely but not impossible. A patent exists for the ability to record a concert live and sell a CDROM to departing audience members. U.S. Patent Nos. 6,614,729, 6,917,566, and 7,688,683, among others.

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