

Knicks Suit Shows Need For Leagues To Protect Big Data

By **Kevin Paule** (November 1, 2023)

Two professional basketball teams recently took a dispute from the basketball court to the courthouse. In August, the New York Knicks filed a lawsuit in the U.S. District Court for the Southern District of New York against the Toronto Raptors, the Raptors head coach and a former Knicks employee.

On paper, the lawsuit — New York Knicks LLC v. Maple Leaf Sports & Entertainment Ltd. — mirrors trade secrets and restrictive covenant lawsuits that employers regularly file to prevent former employees from disclosing confidential information to unfairly poach business or employees.



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For example, if a former employee heads to a competitor with a customer list, his or her former employer may file suit to prevent the use and disclosure of that information.

What's unique about the Knicks and Raptors case is that it involves two professional sports teams. Indeed, the Raptors note this in their response to the complaint, which requests that the case be moved to arbitration and decided by the National Basketball Association commissioner under the NBA's constitution and bylaws.

Whether this case moves to arbitration will be decided by a federal judge, but sports leagues — professional and amateur — should prepare for future litigation in this realm, given the growth of analytics and statistics in front offices.

Twenty years ago, Michael Lewis's book "Moneyball: The Art of Winning an Unfair Game" highlighted the Oakland Athletics baseball team's adoption of sabermetrics and analytics in their front office.

Both the book and the movie showcased the team's reliance on unorthodox statistics such as on-base percentage rather than more traditional measurements such as batting average or runs batted in, as well as minimizing the importance of scouting. As is often the case, the trend was soon copied by other teams in baseball and in other leagues.

Over the past two decades, there has been an explosion in analytic departments in front offices of professional sports teams, as well as those at the college and amateur levels.

Where, in the past, these duties would be handled by former players or a limited number of scouts traveling across the country, front offices are now filled with Ivy League degrees and computer modeling experts. What started as a trend in professional baseball has made inroads in all sports.

And, just as any sophisticated business protects its proprietary data and information, the growth in front offices has led to nondisclosure agreements and attempts by teams to prohibit the public dissemination of information.

Teams are devoting significant resources to create internal algorithms, models and programs in an effort to gain a competitive advantage in drafting, scouting, managing and developing players, and they don't want that information to walk across the street to a

competitor.

The Knicks lawsuit is the first case where a team has filed suit against another — and against a former employee — relating to the purported breach of a nondisclosure agreement.

According to the suit, the Knicks former employee, Ikechukwu Azotam, violated a nondisclosure agreement by providing his new employer with access to the Knicks' internal information, including scouting reports and files stored on a third-party website.

The Raptors have responded by requesting that the case be moved to arbitration, citing the NBA's constitution and bylaws to argue that the Knicks and all other teams in the league agreed to resolve disputes between NBA teams via arbitration, rather than a public court of law.

Additionally, the Raptors argue that the alleged trade secrets and confidential information taken by the former employee amount to nothing more than publicly available information that is not unique to the Knicks, or any other team.

The Knicks will respond to the Raptors' request to move the case to arbitration and, barring settlement, the federal judge will decide the proper forum for the lawsuit.

In the professional sports world, the closest parallel to this case happened nearly a decade ago, when a front office employee of the St. Louis Cardinals wrongfully accessed the internal database of the Houston Astros.

That did not become a civil matter and the Astros did not pursue litigation against the Cardinals or their employees, but Major League Baseball intervened and penalized the Cardinals for its employee's actions. Additionally, law enforcement pursued criminal penalties against the employee.

Similarly in this case, even if the Knicks are successful in their claims, it will be difficult to prove damages. Unlike a normal commercial matter, they won't be able to point to lost business or customers — they may be able to point to lost games, which raises questions of its own on how, exactly, this can be quantified. These are things that a league commissioner may be more suited to expeditiously resolve than a court of law.

Moving forward, sports teams can and should take steps to protect their proprietary information. There have been tremendous advancements in what goes on in front offices, which now utilize internal programs and computer algorithms rather than simply watching video or reviewing scouting reports.

As a result of the growth of sports betting, professional and amateur teams have started requiring employees to sign nondisclosure agreements. In this case, while an employee may not possess commercially valuable information, even having knowledge of injuries or a starting lineup can provide a short-term advantage for sports gamblers.

Similarly, teams and leagues should proactively work on a framework for the next time this type of dispute arises. Just as players depart from team to team via free agency, front office employees switch teams.

It is only a matter of time before the next team accuses another of trade secret violations,

and leagues should be prepared for how to deal with such a situation to make sure it's efficiently resolved and, ideally, kept out of the public eye.

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