

MLBAM and MLBPA: Formal Appeals in Fantasy Stats Case

Written by Maury Brown
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MLB Advanced Media (MLBAM) and the MLB Players Association (MLBPA) have formally filed appeals in the CBC v. MLBAM case, or as it is often referred to as, the Fantasy Stats case.

According to Eric Fisher of the Sports Business Journal, the filings were made late Friday in the U.S. Court of Appeals for the Eighth Circuit.

In August--4 weeks before trial was set to begin on Sept. 5th--United States District Court Judge Mary Ann Medler upheld the argument by CBC Marketing, Inc. that MLB Advanced Media (MLBAM) and the MLB Players Association (MLBPA) could not force businesses to pay for statistics used in the online sports fantasy industry. Judge Melder ordered that CBC's Motion for Summary Judgment be granted and that the MLBPA and the MLBAM not interfere with CBC's fantasy games.

The summary judgment is seen as a decisive victory for the fantasy sports industry, which has an estimated 15 million people playing fantasy sports games, spending an estimated \$1.5 billion to do so.

CBC Marketing, Inc., which runs CDM Fantasy Sports, had sued MLB Advanced Media (MLBAM) and the MLB Players Association (MLBPA), claiming that statistics were part of the public domain, and therefore not a violation of player privacy rights, as claimed by the MLBAM and the MLBPA.

In January of 2005, MLBAM and the MLBPA reached an historic five-year agreement valued in excess of \$50 million. At the time of the agreement the press release from MLB announced that the deal "provides MLBAM the exclusive rights to use, and to sublicense to others, Major League Baseball player group rights for the development and creation of on-line games, all other online content, including fantasy baseball and interactive games, as well as all wireless applications including cell-phone enabled games." The agreement with the Players Association transferred the rights to players' names and images to MLBAM for use in for-profit Internet or technology-based commerce through licensing. At the press conference, the MLBPA cited 40 years of case law supporting the need to take a license when using the identity of a sports figure in a pay-to-play, commercial game.

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As reported by Fisher of the SBJ, "CDM will now be granted an opportunity to respond, and any further legal decision on the case is not expected until at least spring '07."