

Sports Group Of The Year: Covington & Burling

By **Kevin Penton**

Law360, New York (February 7, 2017, 1:41 PM EST) -- Covington & Burling LLP's sports group in 2016 successfully represented the U.S. Olympic Committee in an antitrust challenge over its advertising restrictions and helped long-standing client the NFL fight off allegations of Americans with Disabilities Act violations, earning a spot among Law360's Sports Groups of the Year.

Attorneys with Covington successfully defended the Olympic Committee against allegations from chewing gum maker Run Gum that the governing body's limits on logos appearing on competition apparel at the 2016 trials violated federal antitrust laws and effectively created a cartel of permitted sponsors. The company had argued that the restrictions eliminated advertising opportunities at the events, which occur only in Olympic years and draw large audiences, both in person and on television broadcasts.

But Oregon's U.S. District Judge Michael J. McShane ruled in May that because the Amateur Sports Act requires that the Olympic Committee generate revenue for the U.S. Olympic team, the organization is immune from antitrust liability because its revenue would be hurt and the value of corporate sponsorships would fall if the body allowed advertisers to go around the official sponsorship program and to place logos directly on high-profile athletes.

The Amateur Sports Act allows the Olympic Committee to license trademarks related to the U.S. Olympic team, such as Team USA and the Olympic rings, said Derek Ludwin, who was named a Law360 Sports MVP in 2016.

"Regulations that support that responsibility and that licensing and that effort by USOC to generate the funds that it needs from the Olympic brand for the sport of Team USA is part of what Congress had in mind and what the USOC is authorized to do," Ludwin said. "The court recognized that."

The practice group also convinced a Hawaii federal jury that the NFL did not violate the ADA, because there were valid safety reasons for why a woman with a cervical disorder could not access front-row seats at the 2013 Pro Bowl.

In the ADA case, Deb Ritchie had claimed the NFL and the state of Hawaii violated the act by denying her



access to the front-row seats in the state-owned Aloha Stadium in Honolulu for the January 2013 game. Ritchie said that she used both a wheelchair and crutches to move around, and that she was unlawfully made to sit in a special section that was further away from the field and separate from her game companions, as she could have accessed the seats without incident.

Hawaii, which owned the facility and was not represented by Covington, argued that allowing Ritchie to descend to her seat on crutches or to be carried there was too dangerous, and that allowing her access from the field would interfere with emergency evacuation plans since she would be unable to exit that way in an emergency.

The NFL argued it had no part in the decision, as Ritchie never claimed any NFL employees communicated with her on the steps nor offered any evidence that NFL employees communicated with stadium employees at the time.

The jury ultimately sided against Ritchie, who has appealed the matter to the Ninth Circuit.

Covington attorneys also worked on various deals over the past year, such as assisting the Race Team Alliance, a coalition of racing team owners, in inking a nine-year ownership structure and finance deal with NASCAR that includes increased financial interests in digital operations, guaranteed spots for 36 teams and the establishment of a team owner council that will have a formal voice in decision-making.

“That is a very narrow-margin business, so for them to have some ability to create some equity-type component to their business was very important,” said Peter Zern, a Covington partner who worked on the deal.

Another deal saw the firm represent Turner Sports Inc. as it sought to extend its rights to distribute the NCAA men’s basketball tournament through a partnership with CBS.

Covington expects no shortage of work for the practice in 2017, with attorneys currently working on an antitrust lawsuit involving broadcast arrangement and a class action involving medical practices.

“Our practice is very robust and we expect that growth to continue in the coming years,” said Gregg H. Levy, a Covington partner and the NFL’s principal outside counsel. “As the sports leagues and the sports entities move into new fields, new technologies and new financial arrangements, we’re optimistic that we will be right there along with them.”

--Additional reporting by Rich Archer and Kat Greene. Editing by Edrienne Su.