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978-1-009-59765-4 — Professional Tennis and Transnational Law: Contractual and Regulatory

Edited by Ilias Bantekas, Marko Begović

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PROFESSIONAL TENNIS AND TRANSNATIONAL LAW

This book examines the intersection of professional tennis and legal regulation, unveiling a fascinating world where tennis meets domestic, international and transnational law, and showing the many ways these legal frameworks impact tennis. Filled with firsthand accounts of the legal landscape and its implication on tennis, the work provides an accessible, engaging portrait of the tennis ecosystem that is equally suited for academics, athletes, sports lawyers and journalists. It is an essential read for those working within sports law generally, and the tennis industry specifically. This title is also available as Open Access on Cambridge Core.

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PROFESSIONAL
TENNIS AND
TRANSNATIONAL LAW

Contractual and Regulatory

Edited by

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ABBREVIATIONS

AAA	American Arbitration Association
AAF	Adverse Analytical Finding
AC	<i>Appeals Cases</i> [Law Reports]
Admin LR	<i>Administrative Law Reports</i>
ADR	alternative dispute resolution
ADRV	anti-doping rule violation
AELTC	All England Lawn Tennis and Croquet Club
AER	Age Eligibility Rule
AG	Attorney-General
AGM	Annual General Meeting
AHO	Anti-Corruption Hearing Officer
AI	artificial intelligence
AICPA	American Institute of Certified Public Accountants
ALJR	<i>Australian Law Journal Reports</i>
All ER	<i>All England Reports</i>
Am U Bus L Rev	<i>American University Business Law Review</i>
APG	Professional Golfers America, Inc.
Ariz J Int & Comp L	<i>Arizona Journal of International & Comparative Law</i>
Ariz St U Sports & Ent LJ	<i>Arizona State University Sports & Entertainment Law Journal</i>
Ark L Rev	<i>Arkansas Law Review</i>
ATF	Asian Tennis Federation
ATP	Association of Tennis Professionals
Aus & NZ Sports LJ	<i>Australia & New Zealand Sports Law Journal</i>
BAT	Basketball Arbitral Tribunal
BBSA	British Bobsleigh and Skeleton Association
BCL Rev	<i>Boston College Law Review</i>
BIT	bilateral investment treaty
Bost U Int LJ	<i>Boston University International Law Journal</i>
Brigham Young U Pre L Rev	<i>Brigham Young University Pre-Law Review</i>
Brit J Sport Med	<i>British Journal of Sport Medicine</i>
BWF	Badminton World Federation
CADC	Czech Anti-Doping Committee

LIST OF ABBREVIATIONS

XV

Camb J Int & Comp L	<i>Cambridge Journal of International & Comparative Law</i>
Canadian J App Sport Sci	<i>Canadian Journal of Applied Sport Science</i>
Cardozo Arts & Ent LJ	<i>Cardozo Arts & Entertainment Law Journal</i>
CAS	Court of Arbitration for Sport
CAT	Confederation of African Tennis
CBE	Commander, Order of the British Empire
CEO	Chief Executive Officer
Ch	Chancery [Reports]
Child Abuse Neg	<i>Child Abuse & Neglect</i>
CJEU	Court of Justice of the European Union
Colum JL & Arts	<i>Columbia Journal of Law & Arts</i>
Comm Law	<i>Communications Lawyer</i>
CONI	<i>Comitato Olimpico Nazionale Italiano</i>
COSAT	Confederación Sudamericana de Tenis
COTECC	Confederación de Tenis de Centroamérica y el Caribe
Cov LJ	<i>Coventry Law Journal</i>
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CtRC	Committee on the Rights of the Child
DePaul J Sport L & Cont Prob	<i>DePaul Journal of Sports Law & Contemporary Problems</i>
ECHR	European Convention on Human Rights
ECLI	European Case Law Identifier
ECR	<i>European Court Reports</i>
ECtHR	European Court of Human Rights
EEA	European Economic Area
EGM	Extraordinary General Meeting
EHRR	<i>European Human Rights Reports</i>
Ent & Sports Lawyer	<i>Entertainment & Sports Lawyer</i>
Ent & Sports LJ	<i>Entertainment & Sports Law Journal</i>
ESL	European Super League
Ethn Racial Stud	<i>Ethnic & Racial Studies</i>
EU	European Union
EUIPO	European Union Intellectual Property Office
Eur Comp L Rev	<i>European Competition Law Review</i>
Eur J Sport Sci	<i>European Journal of Sports Science</i>
Eur Sport Manag Q	<i>European Sport Management Quarterly</i>
EUTMR	European Union Trademark Regulation
EWCA Civ	England and Wales Court of Appeal, Civil Division
EWHC	England and Wales High Court

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F.2d	<i>Federal Reporter, Second Series</i>
F.3d	<i>Federal Reporter, Third Series</i>
FA	Football Association
FC	Football Club
FedCFamC2G	Federal Circuit and Family Court [Australia]
FFT	Fédération française de tennis
FIBA	International Basketball Federation
FICA	Federation of International Cricketers' Associations
FIFA	Fédération Internationale de Football Association
FIFPRO	Fédération Internationale des Associations de Footballeurs Professionnels
FIM	Fédération Internationale de Motocyclisme
FITP	Federazione Italiana Tennis e Padel
Fla St UL Rev	<i>Florida State University Law Review</i>
Fordham IP, Media & Ent LJ	<i>Fordham Intellectual Property, Media & Entertainment Law Journal</i>
Front Psychol	<i>Frontiers in Psychology</i>
F.Supp.	<i>Federal Supplement</i>
FU Phys Ed Sport	<i>Facta Universitatis, Series: Physical Education & Sport</i>
GB	Great Britain
Geo LJ	<i>Georgia Law Journal</i>
Geo Mas Int LJ	<i>George Mason International Law Journal</i>
German LJ	<i>German Law Journal</i>
Glob Sports Pol Rev	<i>Global Sports Policy Review</i>
GNOG	Georgian National Olympic Committee
GTF	Georgian Tennis Federation
HRIA	human rights impact assessment
IAP	Internal Adjudication Panel
IBA	International Bar Association
ICC	International Chamber of Commerce
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICLQ	<i>International & Comparative Law Quarterly</i>
IDTM	International Doping Tests & Management
IFI	international financial institution
IHP	Independent Hearing Panel
ILO	International Labour Organization
ILTF	International Lawn Tennis Federation
IMG	International Management Group
IMTA	International Men's Tennis Association
Int J Hist Sport	<i>International Journal of the History of Sport</i>

LIST OF ABBREVIATIONS

xvii

Int JL Manag Human	<i>International Journal of Law, Management & the Humanities</i>
Int J Sport Exerc Psychol	<i>International Journal of Sport & Exercise Psychology</i>
Int J Sport Manag Mark	<i>International Journal of Sport Management & Marketing</i>
Int J Sport Pol & Politics	<i>International Journal of Sport Policy & Politics</i>
Int Rev Sociol Sport	<i>International Review for the Sociology of Sport</i>
Int Sports LJ	<i>International Sports Law Journal</i>
Int Sports L Rev	<i>International Sports Law Review</i>
IOC	International Olympic Committee
IP	intellectual property
IPIN	International Player Identification Number
ISF	International Sports Federation
ISU	International Skating Union
ITF	International Tennis Federation
ITIA	International Tennis Integrity Agency
ITPA	International Tennis Players Association
J Advert Res	<i>Journal of Advertising Research</i>
J Appl Bus Ec	<i>Journal of Applied Business & Economics</i>
J Child Sex Abus	<i>Journal of Child Sexual Abuse</i>
J Contemp Athl	<i>Journal of Contemporary Athletics</i>
J Gend Stud	<i>Journal of Gender Studies</i>
J Glob Mark	<i>Journal of Global Marketing</i>
J Int Arb	<i>Journal of International Arbitration</i>
J Leg Aspect Sport	<i>Journal of Legal Aspects of Sport</i>
J Spons	<i>Journal of Sponsorship</i>
J Sport Anal	<i>Journal of Sports Analytics</i>
J Sport Hist	<i>Journal of Sport History</i>
J Strat Mark	<i>Journal of Strategic Marketing</i>
J Strength & Cond Res	<i>Journal of Strength & Conditioning Research</i>
JIDS	<i>Journal of International Dispute Settlement</i>
KEA-CDES-EOSE	European Affairs-Centre de Droit et Economie du Sport-European Observatoire of Sport & Employment
Lewis & Clark L Rev	<i>Lewis & Clark Law Review</i>
LJ	Lord Justice
Lloyd's Rep	<i>Lloyd's Reports</i>
Loy LA Int & Comp L Rev	<i>Loyola Los Angeles International & Comparative Law Review</i>
LQR	<i>Law Quarterly Review</i>
LTA	Lawn Tennis Association

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LIST OF ABBREVIATIONS

Manag Leis	<i>Managing Leisure</i>
Manag Mark-Craiova	<i>Management & Marketing-Craiova</i>
Manag Sci	<i>Management Science</i>
Manag Sport Leis	<i>Managing Sport & Leisure</i>
Mark Lett	<i>Marketing Letters</i>
Marq Sports L Rev	<i>Marquette Sports Law Review</i>
Md J Int L	<i>Maryland Journal of International Law</i>
Melb UL Rev	<i>Melbourne University Law Review</i>
MIPTC	Men's International Professional Tennis Council
MLB	Major League Baseball
MLBPA	Major League Baseball Players Association
MNC	multinational corporation
MTC	Men's Tennis Council
NBA	National Basketball Association
New Eng J Crim & Civ Confinement	<i>New England Journal on Criminal & Civil Confinement</i>
NFL	National Football League
NFLPA	NFL Players Association
NGO	non-governmental organization
NHL	National Hockey League
NOC	National Olympic Committee
NSF	National Sport Federation
NSPCC	National Society for the Prevention of Cruelty to Children
NTL	National Tennis League
NYU J Intell Prop & Ent L	<i>New York University Journal of Intellectual Property & Entertainment Law</i>
OHCHR	Office of High Commissioner for Human Rights
OHIM	Office for Harmonisation in the Internal Market
OJ	<i>Official Journal</i> [EU]
OTF	Oceania Tennis Federation
Oxford J Leg Stud	<i>Oxford Journal of Legal Studies</i>
PAC	Player Advisory Council
Pace IP Sports & Ent LF	<i>Pace Intellectual Property & Entertainment Law Forum</i>
PD	Practice Directive
PDP	Player Development Program
Pepp Disp Resol LJ	<i>Pepperdine Dispute Resolution Law Journal</i>
Pepp L Rev	<i>Pepperdine Law Review</i>
PFA	Professional Footballers' Association
PGA	Professional Golfers' Association
PILA	Private International Law Act (Swiss)

LIST OF ABBREVIATIONS

xix

Psychol Sport Exerc	<i>Psychology of Sport & Exercise</i>
PTPA	Professional Tennis Players Association
QB	Queen's Bench
Qual Res Sport Exerc Health	<i>Qualitative Research in Sport, Exercise & Health</i>
Race Soc Probl	<i>Race & Social Problems</i>
RF	Roger Federer
San Diego Int LJ	<i>San Diego International Law Journal</i>
Santa Clara L Rev	<i>Santa Clara Law Review</i>
Scand J Med Sci Sports	<i>Scandinavian Journal of Medicine & Science in Sports</i>
SDNY	Southern District of New York
Seton Hall J Sport & Ent L	<i>Seton Hall Journal of Sport & Entertainment Law</i>
SGB	sport governing body
SMU L Rev	<i>Southern Methodist University Law Review</i>
South Carol J Int Law & Bus	<i>South Carolina Journal of International Law & Business</i>
Sport Bus Manag:	<i>Int J Sport, Business & Management: An International Journal</i>
Sport Educ Soc	<i>Sport, Education & Society</i>
Sport Ethics Philos	<i>Sport, Ethics & Philosophy</i>
Sport Hist	<i>Sport in History</i>
Sport Manag Rev	<i>Sport Management Review</i>
Sport Mark Q	<i>Sport Marketing Quarterly</i>
Sport Trad	<i>Sporting Traditions</i>
Sports Coach Rev	<i>Sports Coaching Review</i>
Sports LJ	<i>Sports Law Journal</i>
Stanford J Int L	<i>Stanford Journal of International Law</i>
Stanford L Rev	<i>Stanford Law Review</i>
TACP	Tennis Anti-Corruption Program
TADP	Tennis Anti-Doping Program
TE	Tennis Europe
Technol Forecast Soc Change	<i>Technological Forecasting & Social Change</i>
Tex Rev Ent & Sports L	<i>Texas Review of Entertainment & Sports Law</i>
TFEU	Treaty on the Functioning of the European Union
TIPP	Tennis Integrity Protection Programme
TISB	Tennis Integrity Supervisory Board
TIU	Tennis Integrity Unit
Tour Econ	<i>Tourism Economics</i>
TRIPS	Trade-Related Intellectual Property Rights
TUE	therapeutic use exemption
U Det L Rev	<i>University of Detroit Law Review</i>

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LIST OF ABBREVIATIONS

U Miami Ent & Sports L Rev	<i>University of Miami Entertainment & Sports Law Review</i>
UAAA	Uniform Athlete Agents Act
UDPR	Universal Declaration of Player Rights
UDRP	Uniform Domain-Name Dispute-Resolution Policy
UK	United Kingdom
UKSC	United Kingdom Supreme Court [Reports]
ULEB	Union of European Leagues of Basketball
UN	United Nations
UNCITRAL	UN Commission of International Trade Law
UNDP	UN Development Programme
UNGPs	United Nations Guiding Principles
UNICEF	UN International Children's Emergency Fund
UNIDROIT	International Institute for the Unification of Private Law
US	United States
USC	<i>United States Supreme Court</i> [Reports]
USLTA	US Lawn Tennis Association
USTA	US Tennis Association
UTC	Ultimate Tennis Showdown
Va Sports & Ent LJ	<i>Virginia Sports & Entertainment Law Journal</i>
VSC	<i>Victoria Supreme Court</i> [Reports, Australia]
WADA	World Anti-Doping Agency
WADC	World Anti-Doping Code
Wake Forest J Bus & IP L	<i>Wake Forest Journal of Business & Intellectual Property Law</i>
WC	wild card
WCT	World Championship Tennis
WIPO	World Intellectual Property Organization
WIPTC	Women's International Professional Tennis Council
WITF	Women's International Tennis Federation
WLR	<i>Weekly Law Reports</i>
WLUK	<i>Westlaw United Kingdom</i>
WPA	World Players Association
WTA	Women's Tennis Association

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PREFACE

A book on tennis and the law faces many challenges from the very outset. Despite the fact that it is one of the most popular sports, attracting large crowds throughout the world, there is an absence of scholarship in the legal literature. One may perhaps think that there is not all that much to write about. However, the governance of global tennis constitutes one of the most complex in the world of sports since it is subject to no less than three governing bodies, all with autonomy, but also in relative synergy. This fact alone should have been enough for an expansive literature, but it has hardly attracted any attention in the intersection between law and tennis. While putting this book together, the editors were faced with several dilemmas. Was this a book about professional tennis or tennis in general? From a practical perspective, as opposed to the definition of the ATP and WTA, it is difficult to discern who is or who claims to be a professional tennis player. In equal measure, a junior player going into debt in order to cover his or her expenses with a view to climbing the rankings and ultimately making money from the sport may have as much claim to a professional status as any seasoned player earning guaranteed profits from participation in various circuits. As a result, our definition of professional tennis should be perceived in a broad sense, which necessarily involves thousands of persons around the world who view their efforts as professional or from a professional angle. Just like other individual sports, tennis is hardly about the two opponents on the court; rather, there is an entire mechanism off the court without which a high-level game could never be played. This includes a dedicated entourage (mostly parents) that travel around the circuits, book the courts (and sweep them almost every time!), pay coaches and act as psychologists and counselors to their children. One of the editors of this book was a tennis dad and is perfectly aware of all the highs and lows this full-time endeavor offers. In addition to parents, the off-court entourage includes coaches and other tennis professionals, tennis clubs and academies, national tennis associations, event organizers, sponsors, equipment producers, media, advertisers and others. When one

watches the finals of ATP or WTA tournaments, this is simply the pinnacle of the game of tennis, and it is easy to ignore the labor of millions of stakeholders throughout the world.

A major challenge in writing a book on law and tennis is the absence of material and as a result a lack of wholesome expertise. By way of distinction, it may be surmised that contract law in the United Kingdom is comprised of the common law and a handful of statutes. A specific law of tennis contracts, on the other hand, cannot rely on an identifiable body of law because relevant contracts are confidential, and the availability of tennis-specific cases is miniscule. Legal counsel in the three tennis governing bodies have access to a relatively small body of law and regulation, which in turn creates ultra-specialization. Lawyers representing tennis players and tennis stakeholders are the guardians of contracts and it is natural that they shape much of the game of tennis off the court. It was clear to the editors that all of these varied types of expertise were required if they were to produce a comprehensive book on the intersection between tennis and the law. It is for this purpose that contributors are derived from all walks of the tennis legal spectrum, including from academia, legal practice and in-house counsel in one or more of the three tennis governing entities. All of the contributors thus have a strong interest in tennis, besides their legal expertise. In addition, one of the editors was an ATP-ranked player and senior advisor to several national tennis associations, while the other editor was the founder and CEO of the first high-performance tennis academy in the Middle East.

It is also apt to declare our dilemma about what could have been an appropriate title for this book, besides the use of the word “professional.” Is tennis regulated by domestic law, international law or that part of transnational sports law (*lex sportiva*) as applied to the specific governance requirements of tennis? Readers will come to realize that all three components are relevant to this discussion. While it was felt that both transnational (and also global) and international law were appropriate, ultimately only one of the two had to remain. The choice was certainly not an easy one.

The editors would like to pay their gratitude to all the contributors to this book for their professionalism and their efforts to uncover material that was largely inaccessible. Without them, this book would not have been possible. In addition, the editors would like to extend their appreciation to Marianne Nield, senior commissioning editor at Cambridge University Press, for believing in this project despite the absence of a dedicated sports law concentration at the Press. The editors certainly hope that this is a first

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attempt to map the intersection of law and tennis and that the younger generation of sports lawyers expands and improves on this work. The editors are happy to receive comments and suggestions for possible improvement in a second edition. The production of the book was delayed on account of unforeseen circumstances. Despite several rounds of updating, by the time of the last round until the book had gone to production, all three tennis entities had amended pertinent institutional rules at least once. Readers may well need to consult the newest versions of rules. Alas, the law stated herein is accurate as of May 1, 2024.