

'PROFIT OFF OF PLAY':

Evolution of NIL impacts all universities today, including UW

by Maddox Durst

Sports Editor

This fall, Badger Sports Properties, the multimedia rights holder of University of Wisconsin's athletics, signed a deal with wireless service UScellular to officially sponsor the company's "Timeouts" campaign, according to sports media company Learfield.

Three UW athletes — Izzy Ashburn (volleyball), Chayla Edwards (women's hockey) and Maema Njongmeta (football) — are representing both companies by filling their social media channels with posts and stories about how they stay connected from a digital perspective.

For UScellular, the Timeouts campaign emphasizes the importance of stepping back and taking in quality communicative connections without screens. It's supposed to be a reminder for all.

So let's take a step back, and delve deeper into how that partnership with UW's student-athletes came to be.

Simply put into one phrase, it's all about name, image and likeness, also known as NIL. It is an ever-evolving field that has provided college student-athletes with a way to make money with brand partnerships while competing on some of the biggest stages in the United States.

Ashburn and Edwards have each accumulated at least one national championship as Badgers in their time in Madison, and Njongmeta is a current captain of the football team. They have large followings on social media and beyond.

Though these three athletes represent some of UW's most prolific athletic teams, the importance of NIL has proven to be useful to athletes part of any sport. The future of college athletics was altered in 2019 when the state of California implemented the Fair Play to Pay Act, which prohibited the NCAA from punishing a student-athlete for making money off of their own name, image and likeness, according to Forbes.

California's ruling led to a nationwide movement July 1, 2021, when the NCAA allowed all college athletes to NIL be allowed for all college athletes, according to an announcement on June 30, 2021. The only limitations set on the ruling was determined by the laws of the state.

From there, NIL has grown at a rapid pace.

Athletes and universities have prioritized this concept in bettering the experience of college and eventually the future. The NIL

field has provided numerous opportunities, but is still shaping itself as a concrete industry.

Legally, NIL has not quite formed strong or consistent rules for its users. There's an opening in the market for anyone to represent these athletes, no matter age or experience.

That's where Joshua Frieser — a sports business lawyer and principal attorney at Frieser Legal — comes in. Frieser has worked in this new field ever since its inception. He was with the NCAA when the California news hit in 2019, and now runs his own legal firm to help student-athletes and their marketing agents who are pursuing a deal.

"I represent athletes on a variety of matters, related to college athletics, high school athletics, etcetera," Frieser said. "And it's across all sports, obviously, whatever comes through the door to some degree ... A lot of what I do is I provide the backend legal support for the athlete's marketing agents."

It is people like Frieser, and other members of the growing industry, who contribute to the experiences the public has with NIL advertising and brand partnerships.

THE LANDSCAPE TODAY

As viewers sit and enjoy a nationally televised football game in the fall, or basketball in the winter, collegiate athletes are posted throughout advertisements in between the game action. Caitlin Clark — a star women's basketball player out of the University of Iowa — has recently been featured in a State Farm commercial with the infamous "Jake from State Farm."

NIL's publicity expands to athletes such as 2022 Heisman Memorial Trophy winner Caleb Williams out of the University of Southern California, who showcased his acting skills on a series of Dr. Pepper commercials that coincide with the college football season.

Another member of USC's athletic program — LeBron James Jr., also known as "Bronny" — is projected to make nearly \$6 million just in NIL deals in his freshman year of college, according to On3's NIL rankings. Due to an early season injury, the son of LeBron James has not appeared on the court for the Trojans.

Despite his absence, the 19-year-old is predicted to make more money than nearly half of the NBA's current players, according to ESPN.

Other collegiate athletes who have found

their niche both on the playing field and throughout multimedia productions have been the likes of University of Colorado quarterback Shedeur Sanders and Louisiana State University gymnast Olivia Dunne — who each project to make seven figures by the end of the year, according to On3. It's just the tip of the iceberg in an ever-expanding industry.

This was not the case just a couple of years ago.

Travel back to 1995, senior year for University of California-Los Angeles men's basketball forward Ed O'Bannon. O'Bannon — after dealing with injuries early in his career — elevated to stardom in his final season at UCLA. The eventual All-American led the Bruins to an NCAA National Championship during the 1994-95 season, as O'Bannon earned the NCAA Tournament's Most Outstanding Player award.

From there, O'Bannon enjoyed a career that included playing time in the NBA and overseas in Europe. While he is known for his prowess on the court, O'Bannon's impact was heard nationwide in 2008 for something much larger.

O'Bannon discovered that Electronic Arts used him as the cover photo for their new video game without his consent. So, the company was profiting off of his image — leading O'Bannon to sue the NCAA and others in 2009, according to the American University Business Law Review.

Six years later, O'Bannon and his team of lawyers earned approximately \$46 million from the NCAA due to its violation of rules, according to Sports Illustrated.

The former star out of UCLA's situation demonstrates the evolution of the college landscape today. It's a wide open field in the NIL market, providing student athletes with unlimited access to businesses and profit.

The problem is that the field has shown to be quite flexible. Collegiate athletes, NIL agents and other personnel continue to learn the ropes of this system, as laws and regulations change. For example, in the state of Alabama, there have been three separate legislative changes in less than two years, Frieser said.

Constant adjustments make the law difficult to keep track of from the athletes' perspective within their individual NIL program. Understanding the rules of NIL is not necessarily the most important aspect in using it wisely, Frieser said.

"I think what's really important for student athletes is to surround yourself with smart folks, with a good team, with people

that know what they're doing," Frieser said. "And I think that's the biggest challenge that I've seen in this industry is there are folks who know what they're doing. They have experience working with the NCAA rulebook who have experience with NCAA compliance, and then the other folks that have no clue."

There's a low barrier to entry for agents looking to explore the NIL field, Frieser said. This makes trust in an individual important for when a collegiate athlete is trying to make a deal with a business.

It's where Frieser and his legal team enter the conversation, and guide these partnerships to their fullest potential.

"I think it's really important for student athletes... [to] make sure you're always going through those compliance checks, make sure you're having conversations with your on campus staff and surrounding yourself with a good team is really pretty paramount," Frieser said.

UW'S FORMULA, ATHLETES' SUCCESS

Campus staff — as Frieser mentioned — is now essential for a university to recruit athletes and promote their message to the highest level. It has created even more competition between schools to persuade athletes to attend their respective universities.

At UW, an NIL department was launched in 2022 over the past couple of years to help elevate the profit and experience for student athletes, according to UW Athletics. Led by Director of NIL Strategy Brian Mason, the university has created a website that houses the cardinal and white's athletes.

It's called the YouDub Marketplace, a site where UW's athletes can promote themselves to earn business inquiries.

Athletes have the choice to put in background information on themselves, similar to a resume. This gives them the choice and opportunity to create a platform through the university, which ultimately connects them with businesses who are on the hunt for promotions.

The YouDub Marketplace was a building block to bigger and better things, as many individual athletes learned throughout the process. The NIL department at the university also provides viewers with a website which breaks down the goals and values of the newly formed team in Madison.

"Elevate Your Brand" and "Maximize Your Value" are the two main slogans that

@badgerherald

facebook.com/badgerherald

reflect the NIL department's goals at UW.

"Student-athletes at Wisconsin benefit from the ability to elevate their personal brand simply through their association with the Badger brand, which boasts one of college athletics' most passionate fan bases, a pool of 465,000 living alumni, tremendous social media reach, massive television exposure and a dynamic, growing city in a sports-loving state," the website states when discussing the benefits of attending UW.

From the athletes' perspective, junior Maggie Munson has used NIL to her advantage in her time here at UW. She has received guidance, and ultimately has created a successful name for herself through the use of NIL.

Munson is a member of the cross country and track and field programs at the university — two sports that don't necessarily receive the same amount of attention as some of the major athletic teams.

For example, ESPN announced at the end of 2022 that it had accumulated 4.1 billion minutes of viewership from its consumers on just college football alone. On the other hand, the only nationally broadcasted meet of the cross country season takes place on ESPNU, typically on the morning of a college football Saturday, according to the NCAA.

Munson received help from the athletic department before taking off in the realm of NIL — emphasizing the importance of putting her values first before promoting a business on her individual social media accounts.

"It was like a business plan, basically," Munson said. "And she [NIL Marketing Manager Paige Sadoff] was so helpful and explained that, breaking it down, telling me what analytics to look for and how to go for deals that represent the brand that we're trying to portray. So I really appreciated the help from YouDub."

From there, Munson hit her stride through the use of Instagram and TikTok. She created partnerships with EatStreet, Klarbrunn sparkling water and A Better Wisconsin Together early on.

Munson also joined up with fellow teammates in juniors Mya Bunke, Kylie Finger and Leané Willemse to create @therunningrats Instagram page, an account focused on running. The platform documents their in-season work and gives their audience a behind-the-scenes look at the daily lives of these student-athletes.

As the team of four posted consistently, the page started to gain attraction on a national scale. Today, it attracts over 36,000 followers, as some of their videos have exceeded one million views over the fall semester.

Their activity on Instagram and rapid popularity garnered attention from some businesses. It allowed the four athletes

to create a partnership with a major convenience store staple in the state of Wisconsin — Kwik Trip. The business has been super helpful in encouraging and brainstorming social media posts to promote their brand, and their friendly attitude has played into the values of "The Running Rats," according to Munson.

All four members of the page grew up in Wisconsin, making the deal even sweeter.

"We've been very collaborative with the Kwik Trip social media team," Munson said about the experience so far. "They're honestly awesome. They really pride themselves in not only helping you create content, but also supporting you in life, which is so cool."

SOCIAL MEDIA'S POWER IN BUSINESS

For businesses with contracted NIL deals, there is a constant need to promote products, and do so effectively. That's a lesson that UW senior Cameron Hansen — a current member of AreaRED — has learned in his job as a brand ambassador at Bubbl'r.

Bubbl'r is a sparkling water brand that has rapidly elevated its presence throughout the United States, and has developed strongly in the Madison area over the past couple of years. Similar to the aforementioned Kwik Trip — Bubbl'r provides its audience a vibrant energy on social media channels — sparked by humor and positivity.

In his time there, social media and branding is a power that Hansen has noted.

"I think what we do really well as a company is on social media, we present ourselves in the manner that we want people to see us," Hansen said. "So all of our posts, announcements, or how we interact with our consumers, it really correlates with our goal and our standards and what we want. Like how we see ourselves as a brand, which is this exciting, positive, really bubbly personality, as a brand."

The sparkling water brand is a part of the Pepsi family, which has led to multiple student-athletes at UW to use their NIL to partner with Bubbl'r. One of the main partners with the university is the Pepsi brand, according to the NIL website.

Due to the high demand of collegiate athletes wanting to promote through their own page, it requires Bubbl'r take them through a screening process beforehand, Hansen said.

Representation is important when branding, and who a company chooses to be the face is key to its success.

"Our goal with that is our main focus is: 'Is this person going to follow our morals, our ethics,'" Hansen said. "Do they present themselves in a way that aligns with above or wants to be presented?"

Munson and Hansen both explained that goals and values of the company and collegiate athlete need to align in order for a

deal to have success.

Bubbl'r has figured out that NIL formula, and used it wisely to better expand their brand to new heights.

They've allowed athletes and even fans of the company to enjoy clothing products and merchandise — featuring another way brands continue to advance in an attempt to engage their audience.

"A lot of people are always really interested in it," Hansen said of Bubbl'r clothing line. "A lot of people at events through work do a bunch of this. My coworkers will wear that stuff to the events and people are asking ... they want it and then we obviously push them towards the website."

EXPANSION CONTINUES, BUT NOT JUST FOR ATHLETES

Due to the aforementioned flexibility of NIL, the field provides endless opportunities for individuals to create partnerships with businesses. William Hazelton — a member of the UW Marching Band — discovered he could take his passion for a brand to the next level.

Hazelton grew up in Edgerton, Wisconsin, approximately 30 minutes southeast of Madison. He is currently a senior at UW and plays the mellophone in the band.

In being a Wisconsinite, similar to "The Running Rats," Hazelton always had a love for Kwik Trip. It's a staple of his daily routine here in Madison, as a Kwik Trip conveniently lies across the street from Camp Randall Stadium.

As he discovered the realm of NIL and how athletes were using it, Hazelton had an idea. One email later, and the rest is history.

"They [Kwik Trip] were receptive of it, and it sounded like they had a previous notion of getting into a partnership with the whole NIL market," Hazelton said. "So when I reached out, they were like, 'Wow this is a great initiative from somebody, this is something that we want to do, so let's roll with Will and see where this goes.'"

Members of the UW band endure a stressful schedule during the school year. Hazelton — like many others in the band — performs at football, men's hockey, women's hockey, men's basketball, women's basketball and volleyball events.

There's not much wiggle room throughout the week when academics are added in, similar to a college athlete. Preparation is key as well, and that's where Hazelton views himself as something greater than just a member of the band.

During marching band season, practices last about two hours Tuesday through Friday, Hazelton said. Any home football game in the fall takes up the entirety of their Saturday, too.

"To me, that's what puts us in that

category in being a collegiate athlete, even though that's not the official title of someone in the marching band," Hazelton said. "There's so much practice, and that the marching band is such a public face for the university and the whole state of Wisconsin, that it's something that everybody in the band wants to spend a lot of time on to ensure that it's of good quality, that we perform well and sound good."

That led to the eventual NIL deal that Hazelton created with Kwik Trip a couple of months ago — representing a major milestone as the company's first NIL deal with a student partner. Hazelton set a precedent that NIL can be extended beyond collegiate athletes, showcasing its diverse platform.

The geological engineering major continues to partner with the gas station today, and plans to do so for the rest of his time in college.

ENTERING AN UNKNOWN FUTURE

NIL continues to expand, and was thrown into a larger spotlight when the conference realignment era of college athletics was developed.

Beginning in 2024, the Big Ten will add the University of Washington, University of Oregon, UCLA and USC with the disbanding of the PAC-12 Conference. The University of Oklahoma and the University of Texas will be joining the SEC, as one of the other monumental changes to the college landscape.

It puts athletes on a bigger stage from a national viewing perspective, which is how NIL can continue to grow. Attention will be increased both in-person and on television screens — leading to more popularity amongst college athletics.

The transfer portal continues to send shockwaves throughout the NCAA as well, where athletes have voiced interest in the schools that set them up for success with partnerships and deals, according to CBS News.

Questions remain up in the air about the state of international student-athletes and how they can use NIL. As of now, they are prohibited from doing so due to the contradiction of current F-1 visa laws. International students are not offered the same opportunities as some of their teammates, which could be a changing factor in the future — once the field fully develops.

The future landscape of NIL is unknown, similar to the many changes happening throughout the NCAA. Values and goals of the individual and the business will remain at the forefront of everyone's minds as evolution of the industry occurs.

Editor's Note: At the time of this article's publishing, members of UW's NIL Department had not responded for comment.

December 5, 2023 • badgerherald.com • 13