

ABSTRACTS

Konami has been warned by the Fair Trade Commission in Japan for possible monopolistic practices in 2003. In the warning, the Fair Trade Commission stated that Konami has been engaging in a possible act of monopoly involving baseball games using real teams and real players in Japan since 2000. To analyze the legal basis of this warning, I investigated on whether the players name could be protected under the right of publicity and whether the right of publicity could be limited by the essential facilities doctrine under the competition law.

In conclusion, we should recognize the right of publicity as the new type of intellectual property but we should discuss the legal basis and applicable statutes of the right of publicity more. Also, as the use of the right of publicity is so essential, the refusal to license can be the violation of competition law on the basis of the essential facilities doctrine.

Keywords : the right of publicity, copyright, essential facilities doctrine, Konami, identity, the right of portrait