



After the Buzzer

Transcript: Bob Wallace's interview with Bobby Hacker of Law + Sports Media Consulting and Thad Blenke of Thompson Coburn

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- Bob:** Welcome to After the Buzzer. This is our 10th episode, and we have tried to bring you these podcasts as interesting and provocative content, and that hopefully will make you think or teach you something you may not have known about. In today's episode, I think that is what we will do. At least I have learned something. Today's topic is eSports, and I think this emerging industry is one I really don't understand but might truly be the next big thing. My two guests understand this phenomenon. They work and play in this space. First let me introduce Thad Blenke, an intellectual property lawyer at my firm, Thompson Coburn, who specializes in patent protection, trademark and copyright issues. Thad is a graduate of Vanderbilt University and Valparaiso University School of Law. At Vanderbilt he studied electrical engineering and was part of a group of students that designed a missile guidance system of U.S. Army Aviation and Missile Command. As an electrical engineer, Thad built his own gaming computers and is an avid gamer. Thad combines this passion with his law practice. He is from Chicago and is a lifelong White Sox fan, a fact I won't hold against him.
- Our other guest is Robert "Bobby" Hacker. Bobby is a well-established sports media and business lawyer who for 18 years was Vice President of Business and Legal appearance at Fox Sports. In that role he negotiated, drafted and reviewed agreements for sports business and media rights. In 2017, Bobby started his own firm, focusing on traditional sports media, where he represents above-the-line production talent and sells on program development. Additionally, Bobby has begun focusing on eSports, representing both the event and production energies as well as teams. Bobby is a graduate of the University of California, in other words a bear, at San Fernando Valley College of Law. He is a long-time member of the Sports Lawyers Association and just began his two-year term as President. A rugby player, a dodgeball fan, also two facts I won't hold against him. So it is my pleasure to welcome Thad Blenke and Bobby Hacker to After the Buzzer. Welcome guys.
- Thad:** I am really excited to talk about eSports. It's a pleasure to meet you, Bobby.
- Bobby:** I won't hold it against you that you're a White Sox fan but I felt like I should've walk in and put my Cubs hat on, but we'll keep that for another time.
- Bob:** Okay. Let me regather. Enough baseball. **Thad:** In your bio, you say you are a PC gamer and have a Nvidia GeForce GTX 1080 card.

Thad: That is correct. That is part of my build.

Bob: As I said in the introduction, that and much of this industry is a complete foreign concept to me. Give me a short current primer on the gaming industry.

Thad: Yeah. The gaming industry is, we're talking about eSports today but obviously the gaming industry has been around for a while. Now a lot of us gamers, we kind of separate ourselves either as PC gamers or console gamers. And for the most part I am considered a PC gamer. So I build my own rigs. What I gave you is my Nvidia graphics card, that's not the top of the line card but it's decent for the games I play, and definitely for you know VR technology moving forward. Now, from the eSports point of view, I love being a PC gamer. Now that doesn't mean eSports doesn't move into console, because there's tons of console games that are involved with eSports, but PC is kind of where I think a lot of this started. I think it even started earlier, I would say in the 80s with the fighting games.

Now, in the 80s you had the arcades, and then you had the launch of you know, the big first consoles as in the Nintendo Entertainment System. And from there you know small tournaments came about. And you know there were competitions here and there, you know, very small prize money here and there, so on and so forth. But recently in the last 10 years, it's really exploded. It's gotten to the point now that we're talking a lot of money is going into this field, a lot of you know sports teams like NBA owners; they're investing in these type of industries and it's kind of gotten to the point that people are paying attention here because people don't really know what it is and they're not really sure you know where it's going. So, what is eSports to me? eSports, I would say, is a professional gaming atmosphere of a release game. So I guess I would call that anything that involves skill and a competitive level and which prize money is awarded. And as Bobby can maybe add in here, there's a lot of stuff out there that has kind of, fits this bill.

Bobby: Yeah, well I think it's a little, you know, as with most things there's some nuance that needs to be discussed. And for the non-active participant or person that works in this space, you need to sort of first start and separate two universes. One is the gaming universe and one is the eSports universe. As Thad said, you know, the gaming universe has been around for a long time, and that's the publisher-based options whether it's a PC game or a console game that you know people play and they engage with. And as our broadband pipe has gotten bigger and as the ability to engage with other gamers has grown, you've had a growth of people playing against one another.

Ultimately that gaming industry, which I think is I think a four and a half billion dollar industry, started throwing off you know instead of just people sitting in the classic kid in his basement playing with some other kids in his basement, people started having tournaments where people would come out and they'd play for prize money. And what's happened now is these tournaments have started growing and growing where you have not just

local tournaments or national tournaments, but you have international tournaments. And then about, well we're about to enter season three of the Overwatch League, Activation Blizzard, which has this game they created called The Overwatch and before it was really a game that had been embraced by a broad spectrum of the gaming world, they formed a franchise based league and they're about to enter into year three, which will now have 20 franchises based all over the world, including home and away series, and that business, separate from the sort of general gaming business, is looking at being by the end of 2020, a billion and a half dollar a year enterprise. So, the eSports part separated from the general gaming is basically competitive gaming. So you've taken a casual game like, for example, when I was a kid I played Monopoly. And I played Monopoly when people came over much the same way a kid might play Call Of Duty at home when he's playing the game. Now if you're really good you can, because that's new league that Activision Blizzard is launching, you can attempt to get assigned to a Call Of Duty team and to get into the sport professionally in a competitive environment.

Bob: So you just mentioned a bunch of things again, all very foreign to me. So you guys can maybe clarify: is Overwatch a game? And the thing that I know about computer games and all those things is Madden Football. Is that different than Overwatch and League of Legends, tell me about these games.

Bobby: Well, let me just really quickly. Yes, there are two things. There are first-person shooter games, and then there are sports games. So while you have things like Overwatch and League of Legends, and Call Of Duty and CS Go, etc. On the other side, you have FIFA, you have Madden, you have NBA 2K. So, you have both traditional sports made into video games. Bob, it's a little farther ahead than that board of electric football that we had when we were kids, where you plugged it in and the machine buzzed about and little plastic figures bounced around.

Bob: I loved that game.

Bobby: And so now what's happened is they've taken this you know the digital technology we have, and created avatars for players in the sports world. And that's a whole separate place you can see a lot of NBA teams or developing NBA 2K franchise, you know Madden has always been very popular among the football crowd. But now you have all of these other games that are not traditional sports-related games, but they're these first-person shooter games or other like-kind of games that you know people can play and they can essentially have an engaged social relationship with other gamers who they play from all over the world.

Bob: So Thad, what are some of the games you showed me yesterday?

Thad: As a gamer, we kind of separate a lot of these games into different categories and Bobby went through a lot of them, you know. We have our FPS, which is the first-person shooter. Those are your Call Of Duties. Overwatch would kind of fall in there as well. We have MOBAs, which are,

you know, multiplayer online battle arenas, that's your DOTA and League of Legends. Then you know we have the fighter games which are like Smash Brothers. And then the sports games and you know, Bobby listed all of the normal you know, the FIFAS, the Maddens, but another very popular one out there is Rocket League, and that's literally cars playing soccer, is probably the best way to explain that.

Bob: Wait, wait, wait. Did you say cars playing soccer?

Thad: Yup. Cars you have a little car that you drive around and you score goals against the other team. And there's local tournaments all the time on this and there's actually a professional league.

Bobby: Now, Bob, because we're helping you, and I assume some of the audience understand, keep in mind that you have a lot more freedom in a digital universe to make things do things that might not be possible in the human world; therefore, cars playing soccer is perfectly reasonable.

Thad: And it's a lot of fun, too, I will say that.

Thad: And what Bob was alluding to earlier is that I had invited Bob to log into Twitch and watch Twitch streams to actually see some of these games live. And for those who are unfamiliar, Twitch is a streaming platform where gamers can log in and subscribers can watch them play. And this, you know, is definitely a huge market in this eSports arena because a lot of these professional players, when they're not competing in tournaments, will stream on there for additional revenue and for their viewers to interact with them.

Bob: Are these people really athletes? This is the same argument back with Bobby Fisher playing chess. Was he really an athlete?

Bobby: Well, let me raise you the standard question that I ask people. And it's sort of a two-part series of questions. So, when you were a kid, Bob, you grew up playing sports, right?

Bob: Yes.

Bobby: Did you watch professional athletes playing football on TV, for example?

Bob: Yes.

Bobby: Or college athletes. Did you watch the NFL at college while you were playing football?

Bob: Yes.

Bobby: And you did it because you wanted to see how the best performed and maybe you might learn something; right?

Bob: I think so.

Bobby: Well, if I'm somebody playing whatever, pick the game, Overwatch for example, and I'm at home and I'm playing it, and I can go to Twitch and I can see somebody on Twitch, a team or an individual player, and I can see them playing the game and by watching them and talking about it, I can learn some in-game things that I could do. I could learn about, I won't go into the nomenclature, but different things that exist in a game and how to get them. So very much, in that sense, I'm doing the same thing as you or I did as kids – watching the professional sports to help us get better at what we were doing, what we were playing, in the hopes that maybe one day we might become a professional. If not, we might be better at playing the game. By the same token, and your question about is it a sport or isn't it a sport, if you have a team environment as exists in both the franchise and non-franchise models of these games, and that team has a massage therapist, a sports psychologist, a dietician, a team manager, etc., it sounds to me like it's very much like a traditional sports team and has all the same kind of support systems that a football, a baseball or basketball team might have. So, is it a sport? I say yes.

Bob: Okay, so now, you guys have both mentioned Overwatch. Is Overwatch a team, game or a league?

Bobby: d) – All of the above.

Thad: Yeah. That's the correct answer. Overwatch is a game that was launched by Activision Blizzard, I believe in 2016. Correct me if I'm wrong.

Bobby: Yeah. Yeah, that's right.

Thad: Overwatch is kind of unique in the gaming field in that this was Blizzard's first entry into this first-person shooter base control. It is a team-based game so you are on teams of, I believe, five, and, you know, Blizzard had some experience with some of the World of WarCraft, arena leagues and arena skirmishes, to see how best to run this type of business. And Overwatch, I believe, was released with the intention of getting into these boards. Now what you do here in Overwatch while you play, you're kind of I would say point control. You have teams of five trying to control certain base objectives, maybe move a vehicle from point A to point B, and then you know there's a final score, not as much based on kill, total kills, but of many different aspects of the game.

Bobby: Right. And what's unique about Overwatch, Bob, is that it was launched as a traditional single ownership model franchise base league system, kind of like how they launched MLS, Major League Soccer. And so that they said, okay we're doing this league, and it was a remarkable story about Overwatch is they said, we're going to start this league, the game has barely been deployed for the consuming public and Activision Blizzard, through its major league gaming division, said we're going to launch it with a whole city-base franchise league system and it's run for two years and now as we hit year three coming up, it will be a true city base series where everybody has to have a home arena and there will be home and away competition and in some instances the away competition, because there

are teams in China, Korea and Europe, so it's not strictly U.S. based or Canadian based, North American based league. It's a worldwide based league.

Bob: I'm not sure if I'm more or less confused than I was when we started. So, now, tell me about, is Overwatch and League of Legends and Activision Blizzard and EA Sports, are they related? Are they the same? What are they?

Bobby: I'm just saying, Bob, there are two sort of, you have to separate the divisions in the world. You have publishers, that that's Activision Blizzard, EA, riot games, so on and so forth. There's lots of them. On the other side you have organizations. So there may be an organization like Immortals, which is the name of an organization, and under a Mortals banner there's the LA Valiant which is an Overwatch team, there's MIBR which is a CS Go team, and then they have five or six other teams competing in various other sports. They will also have a new Call Of Duty franchise team. But within the gaming, the team element, you have a league-based model and you also have a tournament-based model. So for the majority of the games, the competition is based upon tournaments. And the tournaments can be, you know, local, national and international.

Bob: Okay, so as I said earlier, I said I had a question about whether, when you kept saying, "first shooter." With what we have going on in the world, that makes me nervous when we're talking about shooting things. We have young people playing this game. Are they professional athletes? Are they college students? Tell me what the landscape is of the people playing these games are, and what is the sort of the future of this game?

Thad: I think definitely those who play these games are on the younger side. A lot of them are obviously younger males. What I find very unique about eSports is that a lot of these players go professional at a very young age, sometimes right out of high school, play for about four to five years, retire at 22 or 23, become coaches, and then go to college. I mean it's a very different type of, I guess it's not so different than you know like some other sports like the NFL with the short careers. But, it is, they are very young compared to a lot of other athletes. Now who is playing these? I mean this is an international thing. The U.S. is big, as in there's a lot of money being put into it here. But the following in Korea and China is just insane. I mean, Korea, if you don't have a ping of 10, you're at a disadvantage. And a ping is a latency between your gaming system and the home server that you're playing. And that's a big thing. There are you know cafes dedicated to this type of stuff.

Bob: And a ping of 10, what does that mean?

Thad: Ten milliseconds. I don't want to get into lag and explain some of the nuances, but it's an excuse we use as gamers and why we died. Let's put it that way.

Bob: So Bobby, who are you representing? I don't need the names, tell me about the demographic of the athlete that you represent.

Bobby: My work has been with event organizers and teams. So I am not an eSports player agent or player representative. There are those that have sort of taken on that business. But as with anything, when you're negotiating with an athlete as you certainly know about, you go to them and you say, we want you on our team. It's a very open market and I'll explain some changes with the teams. But you know, if I'm putting together a team and I've seen some kid come up through tournaments let's say, and I say "oh, I really want this guy on my team." I reach out to him say "hey, we'd like you on our team," and he says, "you've got to talk to my mom." More and more frequently it's like, "I have a lawyer, can you talk to him?" Now three years ago, I would say if you made that call and explain that you're forming a team, and want them to play, and that they would get 80% of one-fifth of 80% of the prize money and we'll support everything else, yeah, I'm in. What happened was when, a lot of the shift I think really came with Overwatch and creating a formal league, and they have standard player contracts much like exist in any of the sports, you know, that the general public is familiar with, NFL, MLB, NHL, NBA, etc., etc., so like the traditional sports, they said okay let's have a standard, a minimum guarantee with all these other benefits in it. So there is no players association. There is no bargaining unit. But to my mind's eye, Activision Blizzard developed a union avoidance strategy that provided benefits for the players that it would have, and like any other marketplace, as you may have a minimum contract as in most of the leagues, if you note so many years of service you've got to get paid at least this. What's happening in Overwatch is as we now get into year three, when you're trying to find players you know, you found players who may be better than somebody else and have qualified and they may have you know certain income that they have to give up because of the amount of time they have to spend on the team. So you're going to start having paying more, so if the minimum salary is X and you want some guy, you might have to pay 2X to get this person on your team. But that's, that's where you have a control like exists in the former leagues that are being built out.

If I'm building a tournament team in a non-league universe and I want to put together the best guys you know, I'm going to have to pull people and figure out all kinds of deals, not just what I'm paying them, but do they have sponsorship deals? So that does prohibit me from doing a sponsorship deal that might interfere with the player's sponsorship deal. So it gets, there's a lot of nuances. Just to give you a little shading on what Thad said, in South Korea they have, I don't know if it's still six, but up until a couple years ago they had six 24-hour linear channels dedicated to eSports.

Bob: So, I started to ask you before you finished that answered about was like we had our last sports lawyers meeting, the guy from Riot was there, and he talked. Weren't they trying to start a union? Do you remember that conversation?

Bobby: Yeah, well, Chris Greeley who's the North American Commissioner for Riot. What's happened is that they don't have a formal bargaining unit but another lawyer, another longtime SLA member, Hal Biagas, has put together, or has been asked to create a sort of players association, but not a formal bargaining unit yet. But to my mind's eye, once you form a players association it bodes well for somebody deciding that they're going to create a bargaining unit.

Bob: But now these athletes, they are getting paid. Now I've read that the NCAA and some college teams are giving scholarships - how's that going to work? Are they amateurs? Can they do both?

Thad: I know, at least from the League of Legends, which is Riot. League of Legends supports a collegiate league itself where they are allowing universities to create teams that play competitively and a lot of these scholarships have been very successful for the universities that are recruiting players this way. From my understanding, the NCAA is not getting involved to regulate this as a sport *per se*, and it's regulated at the club level instead. I think they might go back in a couple years and revisit this as more and more revenue flows in, because it is very successful not only to get students to attend these universities, but some of these universities are for those players that are skilled and want to go into eSports. It is a ground where they can hone their skills before going professional.

Bobby: Yes. Further to that, League of Legends, their publisher is Riot Games. They have collegiate tournaments and there are several power five conferences that are signing on to participate in these League of Legends collegiate tournaments comprising of fall season and a spring season. And the players aren't winning money, but what's happening is the money is then contributing to scholarship funds. And also what Thad said, it's basically like, "I'm playing college football and I hope that I can make it to the NFL." I'm playing collegiate League of Legends. I'm hoping I can get picked up for a League of Legends team.

Bob: So, as we all know, money drives the boat. And so there seems to be some money to be made and be had for both the player and others involved. As you said, the NCAA is looking at it because obviously there's a big dish of money, and so many of the professional sports leagues and teams haven't invested in this. What do you see is behind their interest in this?

Bobby: Well, there's sort of two parts of it and I'm going to talk about the money in terms of sponsorship and marketing for these teams. And maybe, Thad, you could talk about in-game income streams for the casual player, which is a whole other side of this business. But on the team side, I can tell you that initially most of the sponsorship was endemic sponsorships – keyboards, mouses, power sources – those sort of equipment that goes around, you know what you need to play a game. What's been changing is the introduction of the non-endemic sponsors. So for example, when I started working in this space a couple of years ago I was surprised that I was doing

a deal for a shoe company to be the official shoe of a teen. I wasn't surprised when I did a deal for a soft drink company with a very high caffeine content that wanted to be a sponsor of the team and the sponsorship is in addition to be the official sponsor and be given that designation of: we will pay you X dollars for this amount, but you have to do this many social media posts, you have to have this banner on your site, and some other details like that. And you started seeing more of the non-endemic sponsors trying to get into the game. The business, I mean, of the game. I can tell you anecdotally that two years ago I did one of these soft drink deals which had a, maybe a nine-month term, and it was a low six-figure deal. But it had, you know, all kinds of different social media obligations and website presence and continuing obligations over the whole term. That contract was a one-year deal. That deal expired. The soft drink company wanted to renew, and this time they upped the ante a little bit on what they were willing to pay, but they were really focused on one two-day event. Now there was still site presence and some obligations over the course of a similar term, but the real focus was on one weekend. So they were willing to spend as much on one weekend in year two of a relationship as they were willing to spend over a nine-month period. I think that the non-endemic sponsors are seeing that the big showcase events are worth investing in, in very much the same way as a company that's going to spend four or five hundred thousand dollars for a 30-second commercial in a regular-season NFL game will now be paying five and a half million for that same commercial in a Superbowl.

Bob: Thad, how about in-game opportunities.

Thad: In-game opportunities for the players themselves. This is rather unique, and it is something that I had to experience first-hand when we logged on to Twitch TV. So besides the obligations that you know these players have to their teams where they'll you know either live in gaming houses, they'll practice together, they'll play in the tournaments. A lot of them have found outside opportunities to make money on their own and sometimes have obligations to stream their play at certain times during the day. So working with websites like Twitch, and if you're not familiar with Twitch, it is a live streaming platform that is owned by Amazon and it probably, it is the biggest streaming platform online, second to YouTube. It is valued at about \$3.8 billion these days and is the 13th most popular site in the U.S. Everyone that logs in there has the opportunity to stream but the most popular streamers are those who are the professional players.

Bob: Let me interrupt for one second. You said YouTube. Do they stream these kind of games too?

Thad: Yes, YouTube will stream them. I mean a lot of these game developers have professional channels, YouTube channels, that you can watch the content on. Usually, it's available on both platforms. Twitch, for whatever reason, has just become the more popular platform for that. And so making money off Twitch, that's a little bit of a different situation because when you log in you have an option to subscribe to these channels and these professional players. And some of them do cost money to subscribe. The

players will get some of that benefit. Now also when you log in you're going to see some ads. Just like if you started like a Hulu session or something online streaming, and those companies that are advertising on Twitch. You know, once a streamer gets a certain amount of the use, he is getting some type of royalty for those ads that are being shown. And the most popular streamers on Twitch, they can make over a hundred thousand a month. I mean this is not pocket change. I believe the most popular streamer is probably still Ninja playing Fortnite.

Bobby: It is.

Thad: It is, yeah. So it's Ninja and he was so popular that he was on the most recent season of The Masked Singer on Fox. And most people had no idea who that was, but I was just, I had the TV on and I was like, oh that's Ninja. And it is, eSports is now invading almost all different parts of culture that if you don't know about it, you are going to experience it soon.

Bobby: Ninja, otherwise known as Tyler Blevins, is the first truly crossover star, but he's the first. He's not the, he may be the only one now, I mean, within each of the games the gamers know the stars. If you're a League of Legends player you're going to know a bunch of the top League of Legends players.

Bob: When you say crossover, not only is he a player on the games but he's also on television, I mean people know who he is. Is that's what you mean by crossover?

Bobby: He has his own Red Bull can. He signed a deal with Red Bull and they created a can with him, with Ninja on the can. He has, I mean he was making at one point just from his YouTube channel two-three years ago he was making fifty grand a month, and it's only gone up since then. So he makes several million dollars a year now because he's not only has a deal with Red Bull, he's got lots of other sponsors and he has millions of followers. So he is both a professional gamer and a social media influencer. Which is to say because he has so many subscribers and so many followers, an advertiser knows that they can reach a very targeted audience. And it's very similar to the Nascar phenomenon, which is if you're a Nascar fan and your driver drives the Bud Lite car, you will only drink Bud Lite. You're not drinking Budweiser, you're not drinking Michelob, you're not drinking Ultra, you're drinking Bud Lite. Tyler Blevins, Ninja, drinks Red Bull, you're going to drink Red Bull and no other energy beverage. And that loyalty allows the companies like Red Bull to pay him a lot of money because they know that his followers are going to support him and buy those products.

Thad: And the reason advertisers love this so much, I mean we're talking a demographic here that is usually the 15 to I'd say the 28-year-old male. And they are a very finicky demographic to nail down what they like. And if you're advertising on Ninja's channel, you're getting much more exposure to a large part of the population that they want to ensnare and sell their product to.

Bob: Right. As you said, that is a demographic that everybody's searching for. It's the 18 to 34, and you put them right in the middle. Although I'd argue that I'm part of a better demographic. I spend money. And I'm very loyal. Young people are not as loyal as old folks who are set in their ways.

Thad: You do have the money, but don't underestimate the power of the parent's credit card for a lot of these kids. Because they will charge a lot of things on them.

Bob: So we talked about, how old was, what was it, Tyler Blevins is his name? How old is he?

Thad: I'd say early 20's. I'm not sure off the top of my head.

Bobby: Yeah, I think he's in his mid-20s.

Bob: So when do kids, young men, young women, start playing these games? At what age? When can they start, you know, making money, and what legal issues do we have with a 17-year-old, with boys the age of majority, you know, being a professional athlete? If they're athletes.

Bobby: Well, let's see. Tyler Blevins just turned 28 years old. And he's a millionaire several times over. And he has you know, he is the model that people are trying to figure out how to latch onto and how to become part of the industry.

Bob: So he's the Michael Jordan of this?

Bobby: Well, of the game Fortnite, yes. He has, this is not to say that he can't be beaten, but he's managed to engage a lot of, you found, what's really interesting about him is there are a lot of professional athletes that have played Fortnite. Fortnite is a very popular game. And again, nobody has a crystal ball to say how long a game will remain popular, but this one's very popular. And he's done sessions where he played against the musician Drake. He's played sessions against famous athletes across various professional sports. So it's, he's kind of a unique character, but as more and more people admit to being involved in playing games, they're excited about, you know, professional athletes, if I'm a professional football player you know I might you know it's not surprising guys, I want to go see Michael Jordan play, I want to see Magic play, I want to see Kobe play. You are interested in seeing other great athletes in other sports. These guys grew up as gamers, especially the younger NFL guys, who are in that same 18 to 24 wheelhouse of the actual gamers themselves, and so they're reaching out and so now advertisers are saying, wait a second, I've got this NFL superstar that wants to take part with this guy and play a game against him, so it opens up a whole world of opportunities and I think the marketers and the sponsorship people are just trying to figure out how to cage this beast because it's like a wild fire right now.

Bob: So, as I said earlier in the beginning, this could be the next big thing. It might already be the next big thing. But also, the next big thing sometimes

flames out. What is the, is there a strategy or something to keep this game growing? What's the next iteration of eSports? Thad?

Thad:

Well I think eSports, the whole genre of this part of this subsection of gaming is here to stay. What's going to be the popular game, kind of what Bobby alluded to, that's the challenge of the publishers. They've got to make sure that their games are still captivating the interest of the audiences that they want to get their money from. Now, the Overwatch model like Bobby said was kind of unique, like it was a one-time purchase license then you can play unlimited. A lot of these games are popular because they're free. And they are free and they're not pay to win. There was a thing in the early 2000's where you could have free access to a game but you would have to pay money for additional content that would only make it competitive. A lot of these very popular eSports games are just free and you have the whole access to the most, to the necessary essentials to be successful at the game, and any money you give to the company is for aesthetics. We call them skins in game, usually different ways that your character looks like. Now, you know, your question like a young person getting in here and the legal issues. Like Bobby said, three years ago these young 17-year-olds, they would jump at the chance, they would sign these contracts. Now in the years that eSports has developed, you know, we're seeing more and more legal lawsuits about this because you know certain organizations were not paying their players. They were breaking their contracts. And people were realizing not getting lawyers involved to read these things over and have some type of protection leads to bad issues. And with the youngness of the crowd obviously you got to get the parents involved. A lot of these players in a lot of leagues are foreign born so they have to come over on visas, and if the proper visas are not done in time then there have been instances in the past that players have had to be, are being deported, and don't get to play in tournaments. So there's a lot of stuff that goes into, four years ago people didn't think about it, but now that you know these happen every day, this is where the organizations are becoming stronger. The leagues are kind of being stronger to structure themselves to make sure that eSports moves forward.

Bobby:

I think the best way to describe it really, in a not so over-used expression, but the industry itself, the eSports industry, has begun to experience a paradigm shift. And that shift is, a lot of these teams began as gamer/owners. For example, Bobby Hacker is a straight gamer and he wants to put together a team because I can put a great team together, and we'll go to a tournament and I'll run this team and I'll play too, or maybe I'll just manage the team now. What's happened is as this industry has matured, now they're getting in investment bankers and real investment capital and real series funding in the industry, so we're shifting from the gamer/owner to the investment backed securities enterprise. And as we're maturing and this new shift is happening, it's saying that we're a real business, this is real money, we need lawyers looking at everything. Because in the early days one of the things I think Thad was alluding to was I'm a young kid, I got hired to a team, wow this is really great they're going to take me to these tournaments and pay for my expenses and you know I'll get paid something and nobody's looking you know is this within

wage and hour laws, the amount they're paying, you know. What is covered. More importantly, there's provisions about you know sharing tournament winnings, but if you're not represented by counsel and you have no audit provision inside the agreement, how do you check, how can you check. Do you even have the money (very unlikely) to hire the lawyers to check. Those kinds of things are where it's all changing because it's gone from sort of this hey I look to game, do you like to game, join my team model, to you know, billionaires putting their money into the sport and wanting to make sure that it's treated like all their other businesses.

Bob: Now there's Overwatch, there's Riot, and these are leagues, so if I play for an Overwatch team can I play on a Riot league or am I stuck. Am I in one league?

Thad: Well the players themselves usually specialize in one game. Now, some of the organizations that Bobby was talking about like Immortals, Cloud 9, Team Solomid TSM. These big organizations, they have teams in multiple different leagues and play on multiple different gaming platforms. And these are the bigger players that are kind of establishing themselves as the leading organizations in the eSports world. Now there are also you know certain ones in Europe I think, I think even Paris St. Germaine, the soccer organization, has an eSports division over there.

Bobby: PSG has one now.

Thad: Yup. And then you know, SKT 1 in Korea is huge, InVictus, I'm just kind of naming them off of my head. But what they're doing is, these organizations they started just you know one team and one league, but they found that the overarching structure of the organization having multiple teams to play on a multiple league is a better business model. And the more security and more revenue obviously, you can get bigger sponsors if you have more exposure.

Bobby: Yeah, you look at an organization like Kroenke Sports & Entertainment, which owns a lot of professional, traditional teams. They're going in in a big way on eSports. They have an Overwatch franchise. They have the LA Gladiators in Overwatch, for example. They have other teams and other sports and it's part of the new Rams facility they're building out here. There's a dedicated site because every team has to have a home site, so Overwatch has an eSports arena being built as part of the complex there.

Bob: So all of St. Louis just hung up on you because you started talking about Kroenke Sports & Entertainment.

[Laughter]

Bob: So, the leagues, are they structured by one group owning them? Then you can track what that league that play in those events? Is that the way kind of it is?

Thad: I think it depends on the publisher itself. I mean I think you know, Bobby knows more about the Activision Blizzard and Overwatch models so I'll let him reach that, but I know at least for Riot's model, they run the LCS (League Championship Series) and from there they have a North America division, a European division, a Korean division and an Asia/Chinese division. And from there, they kind of run those leagues, the teams that is run more I would say kind of like a soccer league, where's there's relegations you know. You have to be in the top 18 teams or you're in the bottom 4 or 5 or 6, you're going to play to keep your spot in the league the next series time around. And there's a sub-league below that, and then they play their way up. And teams are all over the map there. There's some good prize money, like right now League of Legends has Worlds going on so there's a lot of viewers tuning in because the knockout stage is going on right now. Unfortunately, no North American team has made it, but that wasn't too surprising for us who follow that. But it's a big deal, I mean, you're going to have probably 45 million viewers when the championship world starts.

Bob: So if I win that League of Legends tournament, how much money could I win?

Thad: I think last year, let me see, last year League of Legends gave out, there's a six million dollar prize placing for Worlds.

Bob: Mm hm.

Thad: Now that's a small, that's a small, I mean, I think DOTA and Fortnite have the biggest. I think DOTA you won like... Go ahead, Bobby.

Bobby: I was going to say they just had a Fortnight tournament and the championship was won by a 16-year-old kid who took home a prize of two or three million dollars for first place.

Thad: Pretty good. When I was 16 I was making like a dollar ten an hour.

Bob: Yeah, and you were walking 15 miles to school in the snow, right, okay. Well you're from California, so.

Thad: There wasn't much snow in the San Fernando Valley, but yeah, something like that.

Bob: Probably not. So, the buckets that I see is 1) these tournaments - and I understand that tournaments can really sell out, you know, you can sell out the arena here in St. Louis in 10 minutes with 20,000 people from one of these. Streaming with Twitch and I guess there's some rights fees there. And what about television, Bobby, will there become rights fees in this in the next?

Bobby: In the United States, the first linear play is a deal that sort of a JV between Endeavor, which used to be called William Morris Endeavor. Endeavor and Turner have a series that they started running on I think Friday night.

ESPN recently showed finals of the Overwatch tournament finals and ESPN has shown some other Overwatch plays. Now, my feeling is that the gamers have grown up in a native digital environment. That is to say, they have played these games online, they have related to other people online. The concept for them to have to go to a linear channel to watch it, is fairly irrelevant, and while the linear play I think is directed at bringing in some more casual viewers, the hardcore fans really don't see any relevance in having a linear play, and I don't think there's really a lot of money available in linear play because the audience is going to see it on their phones, on their tablets, on their PCs if they're watching a Twitch stream or whatever. And I don't think there's, I don't really see the place or the need for a linear play. And it's been fairly small activity in the space to date. Could it grow? Perhaps.

Bob: It's going to be reverse of television and there's additional sports which are now going from the linear to streaming because they think there's additional money in streaming. Where eSports are already into streaming, there's really no need to search out the millennial group that's already watching it online.

Bobby: Right. If you're looking at age 18 to 24, there's a good shot that those folks are "cord never's." Not cord-cutters. They just never had it because they have always been able to get content because they've grown up in a universe where the broadband pipeline was big enough that they could get a high quality feed. If you go back, you know, 10 years ago or 15 years ago when I was at Fox Sports working on negotiating deals with football and baseball and Nascar and stuff, the discussions about any of this digital distribution or internet plays on it were very academic because the best systems couldn't handle more than a couple million streams, and even then the integrity of the stream was always in question. Now we're living in a world with a broadband pipeline that's big enough that you can by and large get as good a quality and as consistent a quality image as you could over your cable server.

Thad: I think, I don't think the linear channels are going to stand away from trying to expand on eSports. I think it's still going to be out there. I do agree with Bobby that it's kind of difficult with this generation and the key demographic because they are so used to watching it online. Now, what the linear games can offer though are for, like you said, the casual fan that really doesn't know what my son is doing in the basement all day, or what he's watching.

So to explain and explain and kind of relate to those players to know what they're into and what's going on there. Now what the online feature you know offers that you can't get from a linear standpoint is, Bobby didn't bring this up but, you know, there's a chat function in a lot of these streaming services. And people do like to chat, whether it's their memes going back and forth or whatever else, and they enjoy that aspect, you know if something terrible happens they love to rib on the player, just like anything else, you know. You're not going to get that you know in front of your television set but online you can do that. And then just the general setup of

you know a lot of gamers. A lot of gamers have multiple screens, so they might have this on a few streams on different screens or they'll have one on and will be playing a different game and look back and forth. It's just kind of a culture that grew up this way so that big shift might not have happened but you can definitely get the casual viewer to understand more about the importance of it by going.

Bobby: I was just going to say, what's fascinating for me is I'm not a gamer, but I remember the first time when I was getting involved in this when I was still at Fox and I had heard from somebody that I was at a conference with about Twitch. They told me to just log in to Twitch. And I went on and I got the app and I went in and I clicked on some guy's feed and I didn't know the game, obviously. I didn't really understand what was going on, but the next thing I knew it was like 45 minutes later. By the same token, I went to Rivalry Weekend here in Los Angeles in August to see a bunch of Overwatch teams play. And I don't know the game, but seeing the fan engagement was mind-blowing. The excitement, the cheering, the everybody wearing team gear and you just watch these, you're in a venue and you see the guys because it's largely male dominated, you have 10 guys, five on each team, sitting on the stage, and they're sitting behind these big keyboards. But around up above them are giant you know screens that show the game action where you're just seeing you know different maps, different environments and different explosions and protections and all kinds of stuff going on, and somehow you just get drawn into it. Even not knowing really what's happening. It's visually hypnotic.

Bob: You said people were in the stands with merchandise on. Is there merchandise being sold at these events?

Bobby: Oh, yes.

Thad: Oh, yeah. I mean every, I would say that of the several thousand people at the facility more than 80 percent, probably 90 percent were wearing some kind of merch. Whether it was team jerseys or you know any other kind of clothing item, caps, what-not. I would say well north of 80 percent of attendees had something on.

Thad: I would say, as an Intellectual Property attorney, I'm seeing a lot of merchandising and a lot of opportunities here. These teams, everyone's got a sweatshirt. They've got their insignias, their logos. I mean when these big tournaments go on you have the opportunity to even pay money via in-game purchases that support your team to show your allegiance to a certain team. It is becoming no different than your standard NFL, NBA loyalty issues. And you follow your players. You follow the free agency. You follow the ownership changes and all of this. It's a lot of that traditional sport model is flowing over there, we're just seeing now the involvement of more of the business and the legal world trying to catch up to get it to an area that's sustainable to grow.

Bobby: Much like at the end of a Superbowl or at the end of the World Series, the first commercial after the last out is always, go to NFLshop.com and get

your championship jerseys for the fill in the “blank and repeat.” The difference is that in this native digital environment you can create the opportunity for people to buy things supporting your team throughout the entire stream, throughout the entire “broadcast.” So the potential opportunity for selling merchandise is far more expansive and far more in your face than through traditional linear means of distributing content.

Bob: Listening to you guys, I think this is a business opportunity. I want to buy an eSports team now. How much would it cost me to do that?

Thad: Ha.

Bobby: Do you want a good team? Let me put it to you this way, Bob. When Overwatch launched two years ago, it was only, they launched a 12-team league, okay? And the reported franchise fee was 20 million dollars.

Bob: Ha.

Bobby: They had people waiting in line that were pissed off that they couldn't get in the first 12 teams. Now they've expanded to 20 teams and theres reports of franchise fees north of 30 million dollars. But like any professional team, you know, you pay your franchise fee, then you have to hire talent, sales people, marketing people, your HR department, etc., etc., etc. You have to build out an entire organizational infrastructure, which costs a lot of money. So that's why I'm saying we have moved from the player/owner/founder model to the traditional investment-backed business model.

Bob: So the investor, the NFL team that's doing this - they view this as a money maker and not as a branding exercise?

Thad: Correct. And also it provides an opportunity to utilize your facility. So if I'm owning an NFL team and I know that maybe I got a preseason game or two and I'll get eight home games and if I'm lucky enough in the playoff I could get one or two playoff games at home. What do I do with my facility the rest of the year? Now, I don't need a 50-60 thousand seat arena but if in my building or adjacent to my building on my property I have a several thousand seat eSports arena, now I can bring additional people in to sell more food and beverage and sell more tickets and utilize my facility better. It's another business inside the umbrella business of the arena itself.

Bob: So, so far you guys have described a pretty good success story. My question is, what controversies have arisen out of eSports? And I know that there was a player who did something controversial and they suspended him. Tell me a little bit about that.

Thad: Yeah, so, I mean it is like you know eSports is like no other sport, you know. They have their controversies, they have their player issues. Usually it's not a big deal unless the player breaks his contract or someone is fixing games, that kind of stuff. I recently, and there was a Hearthstone tournament and a player by the name of Blitzchung, who was playing a card game online. In this game you have a hit point system and you try to

defeat the opponent depending on the cards you draw. Well, he had won some prize money in a tournament and during the post-game interview he had given an interview talking about the protest going on in Hong Kong. Now Blizzard Activision, at that time, was against that and actually banned him for a year and took away his prize money. That caused a huge outrage online. I mean, Twitch was going crazy, all the Reddit threads were just jumping off the board, Blizzard wasn't responding and they went quiet. You know at the same time you know, this was kind of a throwing the ban hammer down really quickly on this player. Other sports like League of Legends Riot had a tournament going on where one of the teams was from Hong Kong and those players didn't know if they could say "Hong Kong." They thought the same thing was going to happen to them. So eSports took about two or three days to think about how to deal with the situation. Later Blizzard did back off, Blitzchung got his prize money back and the ban was instead six months with some provision. But you know, what was interesting here was just the huge outrage and I think it even got to the point that Congress drafted a letter to Activision because the Hong Kong situation has really brought up a lot of tensions between private U.S. businesses and the Chinese government.

Bob: Well, so, it seems to me that a league that has controversy, Congress getting involved, is becoming a mature league. So, Bobby, I'll ask you first and Thad, I'll ask you, what do you see where will this sport be in five years or ten years?

Bobby: Well I think we're, the calculus are on an upward trajectory with a lot of room to grow. I think that the appetite in the industry is strong and you know League of Legends has been around a long time, it's a fairly mature game and doesn't seem to be declining in terms of total streams. It's a top destination for gamers to go. But there will be other games. And other games may create new leagues. But you know it's much the same way, you know, here we traditionally had in America we had Major League Baseball, we had the NFL, we had the NBA, we have the NHL. Now it's MLS' mainstream. You got a couple of lacross leagues that are booming. There's a professional rugby league that is entering its third year and growing. And on and on and on. And as long as there's a community, which I believe there is in eSports, and there may be some loyalty to a particular game, but if you're a gamer much likes I'm a sports fan, I mean, I love watching baseball and I love watching football. I like watching all of these sports and I'm a fan of all of them. I think by the same token in the gaming universe you know you'll have people continue to be involve with League of Legends, and even though the League of Legends players they're aware of what's going on at Overwatch and they'll watch Overwatch tournaments. And they are probably going to be interested in seeing what this new Call Of Duty league is going to be like, and they watch other tournaments. Baseball may be my number one sport but I still love watching these other teams. And I think the same will be true in eSports and whether it's still Overwatch and League of Legends in 10 years, there will be other places for gamers to pant their flag and watch and engage and embrace and spend money.

Bob: Is there going to be a central body that controls this eventually? Is there going to be a commissioner of eSports or something like that?

Bobby: No, to my mind that would be like saying, is there a commissioner of American professional sports? Do you think you could get Commissioners Goodell and Manford all to agree to one organization that would govern all of them? It's not going to happen.

Bob: Do you agree with that, Thad?

Thad: No, I agree. The visual of all three of those commissioners agreeing to something just made me chuckle, let's put it that way.

[Laughter]

Bob: So tell me what are you thinking, five or ten years, eSports?

Thad: eSports is not going away. I mean it has shot up to prominence and it's showing some staying power. And the fact that it's evolving into a legitimate big business, I think that means a lot. Now I agree with Bobby, you know the games right now, the challenge is on the developers. These are the big games right now. These are what people are putting the money in. They have to make sure the content doesn't get stale because their demographic is a finicky bunch. You know, as gamers we do want new things, but they have a challenge in a lot of these that they have to make the learning curve, the curve has to be easy to pick up but difficult to master. And that's what a lot of these games are. They're easy to play originally but very difficult to master. So when we see the mastery, we appreciate what's being done there. Where I see this going in a few years, I think this is going to be one of the areas allowed is it's going to be truly international. I mean there is so much you know the internet is international. This whole arena is all international. There are these tournaments. These players are from all over. The best are everywhere and they're flipping leagues all the time. And they also think you're going to, as common as it is for us to go to baseball games these days, I think in about 30 years if you have an event for an eSports league that's huge. Just coming to your town or playing like the Overwatch model at the home stadium. That's something you do on your Sunday afternoon, just as if you would want to go to a football game.

Bob: Last question, Bobby. You're a lawyer in this space. What are you concerned about?

Bobby: I'm concerned how I get a bigger piece of the business, because it's a growth industry in the legal profession and you know, look, we're trained by lawyers to argue by analogy in many instances, and I see the eSports business is analogous to other professional sports leagues and the, many of the issues that exist in sort of traditional sports leagues as it interfaces with media for example, is just an eSport, but very much like what Thad said, because of the international nature of this, because of the fact that you're dealing in a digital universe, things are going to be different and

they're going to be changes. I can tell you that I was doing a deal with a major beverage company and I said to the lawyers, I said, do you really think that we can put a fence around territory here? And they said what do you mean. And I said well, you know, it's one thing to say that you know I have the right to broadcast this over the air in the United States and as all standard agreements would say but I'm not liable if there's any spillage, that is somebody can pick up my signal in Canada or Mexico. Even with the you know, the possibility of effective GO blocking so that the stream cannot exist outside of a certain limited area. The real problem becomes because the nature of the digital distribution that it can essentially be seen anywhere you know subject to certain kind of governmental blocks and prohibition, and because of that you have to look at this sport very differently because you're transmitting across all kinds of international borders, and then you get into just the issues of tournament play, you know, bringing people from all different countries back and forth across and now you know, European lawyers I look at are going like now, what do we do with you know with Brexit and how is that going to change players being able to travel if we're going to the U.K. or not. There's a lot of different issues that exist in it, and these are all the things that lawyers need to start building out so that the investors can protect their interests and that on the players' side the players can be protected and benefit from the growth of the industry.

Bob: Thad, do you see anything that Bobby hasn't touched on there?

Thad: No, I think he's got it down and I'm with him. I think we need to get a bigger piece of the pie here. This is one of these areas that is growing quickly and it's something. The lawyers involvement here is important because it'll bring ease to the minds of the investors and ease to the minds of the players that they're not, not one side has an advantage in any type of these situations with the contracts. I think this is a fruitful area and I think this is something that's going to be here for a while.

Bob: Well, thank you guys. I mean I think this was an overload of information for me. I'm sure that people that listen to this webcast, I mean this podcast, some will say boy, I learned a lot. Some will say I'm more confused than I was, but I think everyone will come away saying this is an industry that I've got to keep an eye on. So Bobby Hacker, thank you very much. Appreciate you taking the time to do After The Buzzer. Thad, thank you for taking the time to do that I'm hoping that we can find a space for us in this industry for Thompson Coburn and really continue to let you combine your passion in the law into gaming. So, thank you, Bobby.

Bobby: You're welcome. Thank you guys. It was a pleasure.

Bob: All right. Talk to you soon. Bye. This is the closing. If you enjoyed listening to Bobby and Thad, or any of our podcast guests, please let us know. You can provide feedback by going to apple podcast, and go to the Ratings and Review section for our podcast. If you listening on Stitcher, go to [stitcher.com](https://www.stitcher.com) and search for After The Buzzer, and you may review or

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