

# That'll Leave a Mark

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Once again, my favorite time of the year has arrived. I love the leaves turning color, the cooler weather, and of course, football. It was a long winter. While the weather didn't help, the bitter taste of a demoralizing defeat for the Packers at the hands of the 49ers made the winter even longer. The image of Colin Kaepernick kissing his tattooed bicep in the end zone is forever burned into my memory.

It didn't help that Kaepernick was everywhere in the offseason. He gave countless interviews about his compelling backstory and his sneaker addiction. He also appeared in ESPN The Magazine's Body Issue, flaunting his well-inked physique.

Kaepernick, like many professional athletes, is covered in tattoos. His first one was Psalm 18:39, which scrolling down his right shoulder reads, "You armed me with strength for battle; you humbled my adversaries before me." His latest tattoos are of huge Polynesian tribal symbols across his chest that he says, "represent family, inner strength, humility and spiritual growth."

Tattoos also represent serious dollars – artists charge athletes a lot for their ink, and fans even more for replicas of their idols' tattoos. That's why they fight to protect their copyrighted art.

Last year, tattoo artist Stephen Allen sued Electronic Arts, the company behind the popular Madden NFL video games. At issue in the suit was the game 'NFL Street,' that had a picture of running back Ricky Williams on its cover. Allen claimed EA infringed on his copyrights because it used the picture featuring one of Allen's tattoos without his permission.

The case was ultimately dismissed, but it caught the attention of the NFL Players Association. During this preseason, NFLPA officials advised players to obtain copyright waivers or licenses from their tattoo artists. According to NFLPA assistant executive director of external affairs George Atallah, "All we are doing is proactively telling players, 'Yes, we know you love your tattoo artists, but regardless of whether or not you trust them, regardless of whether or not there are legal merits to the lawsuits that we've seen, just protect yourself.'"

Due to the rising popularity of tattoos, and their high price tags, several lawsuits have been filed over copyright infringement. However, most of them have been settled out of court, as infringers could face up to \$150,000 of damages per infringement. As a result, tattoo artists and their customers don't have a great legal roadmap to predict the outcomes of trials.

The most famous example of such a suit involved S. Victor Whitmill, the artist who did Mike Tyson's face tattoo. In 2011, Whitmill sued Warner Brothers for copying his design on actor Ed Helms in the movie 'The Hangover Part II.' Because the tattooed Helms was featured on countless movie posters, commercials and an impending DVD cover, the case settled.

To avoid lawsuits, Atallah encouraged NFL players to pay for waivers before getting tattoos with cash or by giving the artist "a signed football or something."

While EA's Madden games are awesome, they bring a curse. A large percentage of players featured on the cover of the game went on to have horrible seasons or suffer tragic injuries. The cover of Madden 2013 features Kaepernick and his tattoos. I love the choice.

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