

CONTENTS

<i>List of Abbreviations</i>	page xiv
<i>Table of Cases</i>	xxi
<i>Notes on Contributors</i>	xxvii
<i>Preface</i>	xxxiii

1	The Intersection between Law and Tennis	1
	ILIAS BANTEKAS AND MARKO BEGOVIĆ	
1	Introduction	1
2	The Regulation of Professional Tennis by Transnational Law	2
2.1	Professional Tennis as Part of the Transnational <i>Lex Sportiva</i>	4
2.2	The Transnational Character of Dispute Resolution of Professional Tennis	5
2.3	The Relationship between the ITF, the WTA and the ATP	7
3	Professional Tennis and Domestic Law	9
3.1	Tennis Governance	9
3.2	The Relationship between National Tennis Federations and the ITF	11
3.3	The Labor Status of Professional Tennis Players	12
4	The Relevance of International Law	14
4.1	Professional Tennis as Part of the Olympic Movement	15
5	The Human Rights Standard-Setting Role of Transnational Tennis Entities	16

PART 1: Contractual	21
2 Legal and Contractual Aspects of Agency and Player–Agent Relations in Professional Tennis	23
WILLIAM BULL	
1 Introduction	23
2 Agency in Tennis	24
2.1 Background to Sports Agents in General and Tennis Agents in Particular	24
2.2 Types and Roles of Agents in Professional Tennis	27
3 The Regulation of Agents in Professional Tennis	29
3.1 Domestic Rules	29
3.2 Transnational Rules	35
4 Contractual Agreements between Professional Tennis Players and Agents	36
4.1 The Law on Player–Agent Contracts	36
4.2 Legal Issues Arising from Player–Agent Relations in Professional Tennis	38
3 Protection, Commercialisation and Enforcement of Intellectual Property Rights in Professional Tennis	42
DÉSIRÉE FIELDS	
1 Introduction	42
2 Overview of IP Rights	44
2.1 Territoriality of IP Rights	44
2.1.1 Ownership of IP Rights	44
3 Trademarks	45
3.1 What Is a Trademark?	46
3.1.1 Types of Trademarks	47
3.1.1.1 Traditional Trademarks	47
3.1.1.2 Non-Traditional Trademarks	48
3.1.1.3 Colour Marks	48
3.1.1.4 Shape Marks	49
3.1.1.5 Sound Marks	51
3.1.1.6 Smell and Taste Marks	51
3.1.1.7 Motion, Gesture Marks and Holograms	51

4	Scope of Trademark Protection	52
4.1	Designs	53
4.2	Copyright	54
4.3	Image Rights/Rights of Publicity	55
4.4	Patents	55
4.5	Trade Secrets/Confidential Information	56
5	Commercialisation of IP Rights	56
5.1	Sponsorship Agreements	56
5.1.1	IP Provisions in Sponsorship Agreements	57
5.1.1.1	Details of IP Rights Exploited during the Sponsorship	57
5.1.1.2	Licensing Arrangements	58
5.1.1.3	Ambush Marketing	59
5.2	Endorsement Contracts	60
5.3	Merchandising Agreements	60
5.4	Broadcasting Rights Agreements	60
6	Enforcement of IP Rights	62
6.1	Monitoring Infringements	62
6.2	Enforcement Action	63
6.2.1	Cease and Desist Letters	63
6.2.2	Issuing Substantive Proceedings	63
6.2.2.1	Trademark Oppositions	64
6.2.2.2	Trade Validity and Revocation Actions	64
6.2.2.3	Revocation	64
6.2.2.4	Invalidity	65
6.2.2.5	Trademark Infringement Proceedings	66
6.2.2.6	Domain Name Complaints	66
6.2.2.7	Company Name Complaints	67
6.3	Remedies	67
6.3.1	Injunctions	68
6.3.2	Damages or Account of Profits	68
6.3.3	Other Remedies	68
4	Morality Clauses in Tennis Agreements: Tennis, Social Media and the Digital World	69
MIGUEL CRESPO		
1	Introduction	69
2	Players, Sponsors and Endorsement Agreements	72

3	Reasons for Agreement Termination and Morality Clauses in Tennis	75
4	The Application of Moral Clauses in Tennis: The Impact of Social Media and the Digital World	80
5	Examples of Morality Clauses in Tennis Endorsement Agreements	83
6	Conclusion	86
5	Restraint of Trade in Professional Tennis	88
	ILIAS BANTEKAS	
1	Introduction	88
2	Restraint of Trade in the English Common Law	89
3	Restraint of Trade in the Sports Context	92
3.1	Restraints Arising from National Federations and State Regulation	92
3.2	Restraints Arising from Players' Contracts with Agents	94
4	Trade Restraints in Professional Tennis	96
4.1	Restraints in Agency Agreements	96
4.2	Disciplinary Bans as Restraint of Trade?	99
4.3	Qualification for National Tennis Teams and Restraint of Trade	103
6	Professional Tennis Player Unions	105
	BRENDAN SCHWAB	
1	Introduction	105
2	The Dual and Shifting Roles of Tennis Player Unions	105
2.1	From Collective Action to Shared Governance	105
2.2	What Is a Professional Tennis Players' Union?	106
2.3	The Trade Union Rights of Professional Tennis Players	108
3	Initial Attempts at Tennis Player Unionization	110
3.1	The Pivotal Role of Player Unionization and the Development of Professional Tennis 1967–75	110

3.2 Pro Tennis's Labor Settlement – Business in Lieu of Bargaining	116
4 The “Seven Kingdoms”: Player Voice, Rights, Pay and Conditions in Professional Tennis Today	124
4.1 The Voice of the Players in the Governance of Professional Tennis	124
4.1.1 The ITF	125
4.1.2 The ATP	126
4.1.3 The WTA	130
4.2 Player Rights, Pay and Conditions in Professional Tennis	132
5 The PTPA	135
5.1 Establishment of the PTPA in 2020 and the Reaction of the “Seven Kingdoms”	135
5.2 The Developing Culture, Governance, Structure and Objectives of the PTPA	139
PART 2: Regulatory	145
7 Access to Justice in Tennis Disputes	147
ILIAS BANTEKAS	
1 Introduction	147
2 ADR in Tennis	148
3 Internal ITF Mechanisms	149
3.1 On-Site Quasi-Adjudicatory Mechanisms	149
4 The Internal Adjudication Panel	151
4.1 The Panel's Judicial Function, Jurisdiction and Powers	151
4.1.1 The Panel's First-Instance Jurisdiction	154
4.1.2 The Panel's Appellate Function	155
4.1.3 The Panel's Supervisory Function	156
5 The Independent Tribunal	157
5.1 Procedures of the Independent Tribunal	159
5.2 The Three Types of Jurisdiction Conferred on the Independent Tribunal	162
5.2.1 The First-Instance Jurisdiction of the Independent Tribunal	162
6 Appeals against the Independent Tribunal's Awards to CAS	164

7 ATP Dispute Resolution	165
8 WTA Dispute Resolution	166
9 Contractual Disputes and the Role of National Courts	167
8 The ITF, ATP and WTA and the Governance of Global Tennis	170
MARKO BEGOVIĆ	
1 Introduction	170
2 The Governance Structure of Tennis	174
3 Players' Councils	176
4 The Relationship between Players and the ATP/WTA	177
5 The Relationship between National Tennis Federations and the ITF	179
6 Contemporary Governance Setting and Challenges	180
6.1 Commercialization, Corruption and Financial Governance Challenges	184
7 Epilogue	189
9 Safeguarding in Tennis: An Enforceable Duty of Care	190
ILIAS BANTEKAS	
1 Introduction	190
2 Safeguarding as a Duty of Care	192
3 The Sporting Context of Abuse	194
4 Safeguarding in Child–Adult Relationships in Tennis	195
4.1 The WTA's Pioneering Safeguarding Role	195
4.2 The ITF Safeguarding Policy for Children	196
4.3 The ITF's Monitoring Process	198
5 Safeguarding for Future Harm	202
6 The Safeguarding of Adult Athletes	204

7	Health and Safety as a Safeguarding Duty	206
8	Consequences for Failure to Meet Safeguarding Obligations	207
9	The Boundaries of Safeguarding Duties	208
10	Integrity in Tennis: Doping, Match-Fixing and Other Corruption Offenses	210
	ROSS BROWN, JAMIE SINGER AND LILY ELLIOTT	
1	Introduction	210
2	Anti-Doping	211
2.1	Legal Framework	211
2.1.1	The Anti-Doping Offenses	212
2.1.1.1	Presence	213
2.1.1.2	Use	213
2.1.1.3	Other ADRVs	214
2.2	Proceedings	214
2.2.1	Notice	215
2.2.2	Charge Letter	215
2.2.3	Hearing	216
2.3	Sanctions	217
2.3.1	Intention	218
2.3.2	Identifying the Source	219
2.3.3	Other Good Reason	221
2.3.4	Fault	221
2.3.5	No Fault or Negligence	222
2.3.6	No Significant Fault or Negligence	225
2.4	Appeals	228
3	Anti-Corruption	229
3.1	Legal Framework	230
3.1.1	Jurisdiction	230
3.1.2	Governing Law	231
3.1.3	Burden/Standard of Proof	232
3.1.4	Hearings	232
3.1.5	Appeals	233
3.2	Corruption Offenses	233
3.2.1	Betting Offenses	235
3.2.2	Fixing a Match	235
3.2.2.1	Facilitating Others to Fix a Match	238
3.2.2.2	Umpires Fixing a Match	238
3.2.3	Failure to Report	239

3.2.4	Failure to Cooperate	239
3.2.5	Other Offenses	240
3.3	Sanction	240
11	Regulating On-Court Tennis Indiscipline	244
	BEN LIVINGS	
1	Introduction	244
2	The Code	246
2.1	Code Violations	248
2.1.1	Physical Violence	248
2.1.2	Audible Obscenity, Visible Obscenity and Verbal Abuse	251
3	Indiscipline and the Rising Popularity and Commercial Success of Tennis	252
3.1	The Influence of Sponsors	253
4	Adjudication and Enforcement	255
5	The Case of Grunting	256
6	Changes to the Rules	258
6.1	Coaching	258
6.2	Wimbledon	259
6.3	Changes in Adjudication and Enforcement Practices	260
6.3.1	Race	260
6.3.2	Mental Health	262
12	Compatibility of Selected ATP Rules with EU Economic Law	263
	KATARINA PIJETLOVIC	
1	Introduction	263
2	Good Governance Standards in Light of EU Law and Policy	264
3	Access to the Organisational Market for Rival Tennis Tours under Competition Law	266
3.1	Blocking Rivals from Accessing the Organisational Market	266
3.2	Applicable EU Legal Framework	268
3.3	Rules 1.07, 1.14 and 8.05A(2)(e) of the ATP Rulebook	272

3.4	Legality of the Rules 1.07, 1.14 and 8.05A(2)(e) and Reinforcing Practices under EU Competition Law	274
3.4.1	Restrictions	274
3.4.2	Legitimate Objectives and Proportionality	277
4	Wild Cards under the Lens of Article 56 of the TFEU on the Freedom to Provide Services	279
4.1	Wild Cards in Tennis	279
4.2	Legal Evaluation of Wild Cards under Article 56 of the TFEU	281
5	Recapitulation	283
13	The Regulation of Ethics in the ITF's Governance	285
	ILIAS BANTEKAS	
1	Introduction	285
2	What Are Ethics and Are They Different from Law?	286
3	The ITF's Substantive Ethical Rules	289
3.1	Covered Persons	289
3.2	Basic Obligations	290
3.3	Other Substantive Duties and Obligations	291
4	The ITF Ethics Commission	294
4.1	Investigations	296
4.2	Decision Following the Investigator's Report: Aggravated and Non-Aggravated Breaches	298
4.3	The Suspensive Effect of the Notice of Charge	299
5	Recourse to the Independent Tribunal and CAS	299
5.1	Sanctions	300
6	The Elections and Eligibility Panel	302
	<i>Index</i>	304