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Wimbledon: It's more than dress whites; AI legal questions bubble

Wimbledon introduced a chatbot called Fred in 2017 to answer questions and help fans navigate the tennis tournament's grounds. Attendees were encouraged to "Ask Fred" for help with directions, dining options and other information to enhance their in-venue experience.

Fred is powered by Watson, IBM's artificial intelligence platform. The chatbot, which returned in 2018, was Wimbledon's most visible use of AI to fans. But behind the scenes the tournament deployed Watson's power and technology in a number of ways, including to speed up the identification of key video moments that could be included in highlights.

With those implementations of artificial intelligence, the world's oldest tennis tournament moved to the fore of sports events and organizations experimenting with the use of AI to improve the fan experience.

But the use of AI in sports prompts legal questions about the privacy rights of sports stars, the monetization of athletes' personal information and the ownership of data, among others. Questions that have no clear answers — yet.

IBM's AI platform has the ability to improve the quality of Wimbledon's media output by learning to recognize and analyze the human component of sports — such as competitors' emotions and body language, spectator reactions and player interviews and social media posts.

Using that knowledge, Watson can pick out the most exciting moments, compelling visuals and player statistics to create highlight packages and analytical content.

In 2017, IBM used Watson to collect and analyze 4.5 million data points during Wimbledon. The platform used the data to create highlight videos from both the tournament's qualifying and main draw matches and those videos were then shared via broadcast, on websites and through apps and social media.

According to the tech giant, that was the first time an automated AI system had produced a highlights package that combined match data with footage of players and

SPORTS
MARKETING PLAYBOOK

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crowd reactions. The innovation seemed to pay off, based on the number of video views — 14.4 million for the Watson AI-powered highlights.

Last year, matches on all 18 courts were televised for the first time. With up to 18 matches going on at once and up to 11 hours of play filmed per day over the two-week tournament, the amount of potential footage is daunting.

Keeping up with the ever-increasing demands of viewers and media around the world for information, images and insights only adds to that challenge. But IBM's AI automation can save the Wimbledon media team considerable time and effort, compiling highlights packages in minutes.

Using IBM's Personality Insights service, Watson also creates athlete personality profiles based on a range of inputs, including an

athlete's body language, previous interviews and social media posts.

According to IBM, the AI platform works with a huge amount of athletes' career and personal data and extrapolates information about their personalities from their statements, appearance and behavior, uncovering "player traits and behaviors" and surfacing "undiscovered insights designed to inspire online engagement among experts, sports commentators and fans" before and during Wimbledon.

At a time when athletes are increasingly asserting their rights to commercially exploit their own names, images and likenesses and individuals are seeking to protect the use of their own unique biometric data, technology as powerful and useful as Watson raises important legal issues.

In the U.S., nearly half of all states have right of publicity statutes that provide all individuals — not just famous people — with the right to control the use of aspects of their identity and prohibit the unauthorized commercial use by others.

Most states also recognize a common-law right of publicity. Indiana has one of the broadest right of publicity laws, protecting not only an individual's name, image and likeness, but also voice, signature and mannerisms.

Athletes and others have already sued sports-related video game makers and daily fantasy sports companies to stop the commercialization of their names, images — and even signature dance moves — from being used without their permission. How would Indiana's law apply to a Watson-generated profile — if at all?

The global nature of sports and media also raises questions about which country's laws might apply in such a right of publicity dispute. The country where the sports competition took place? The country where Watson's servers are located? The countries where the video highlights are posted or broadcast?

Professional tennis also has not been immune from the issue of player privacy.

At this year's Australian Open in January, cameras were installed around the grounds at the Melbourne Park to capture behind-the-scenes footage — including in areas where the public does not otherwise have access.

Some players were caught by surprise, as they were reportedly not told that about the cameras or asked to sign waivers. The cameras created a single-source official feed for the tournament, as well as for its various broadcast partners.

When Petra Marti lost back-to-back tiebreakers against Sloane Stephens, cameras in the tunnel to the women's locker room captured her sitting on the floor in a corner, sobbing into a towel.

In the sports world, as in many other businesses, the deployment of emerging technology is taking place far faster than laws governing that innovation can be developed.

That is creating legal questions that have no clear answers so far. In the U.S., the inconsistent regulation of the use of an individual's biometric information shows how legislation is struggling to keep up with the emerging ways personal information is collected, used and exploited.

Enacted in 2008, Illinois' Biometric Information Privacy Act regulates the collection, use and storage of an individual's fingerprints, retinas and face scans, among other unique personal attributes.

Illinois is one of just three states with a biometric data law and currently the only one that gives individuals a private right of action. A handful of other states are considering similar laws, but there is no federal counterpart.

Numerous class-action lawsuits have been filed in Illinois against employers, businesses and social media websites that collect biometric data. At least one case is considering whether BIPA can be applied outside the state.

Players unions might be able to offer athletes better protection and greater bargaining power over the right to commercialize their own personal data. The National Football League Players Association, for example, entered into a groundbreaking partnership with fitness wearables company Whoop in 2017.

That deal gives players access to, and ownership and control of, the personal health and performance data collected by the company's product as well as the option to commercialize that data.

But how individual athletes like tennis players would fare in efforts to protect their data and extrapolated personality characteristics has yet to be tested.