University seeks ban of unlicensed shirts

LAWRENCE (AP) — The University of Kansas' athletic department is taking a Lawrence clothing store to federal court this week, seeking an order banning the store from selling unlicensed Jayhawk-related merchandise. While Kansas has gained newfound popularity this year with its success in football and a national championship in men's basketball, department officials say their lawsuit isn't about timing but protecting their right to manage, license and benefit from the university's image and its teams.

"It's not more important now than it was a year ago or two years ago, but the success that we've enjoyed this year certainly highlighted the importance of this issue," said Jim Marchiony, associate athletics director. "From our perspective, what's at stake is the use of our marks and the goodwill and good reputation of the University of Kansas... That's what this is about."

Larry Sinks, who sells unlicensed shirts online and through his JoeCollege.com store, disagrees. He sees the university's lawsuit as an attack on his First Amendment rights, noting that he has purposely avoided using any marks that are protected by the university, such as the Jayhawk mascot or the words "The University of Kansas."

"We're just prepared to fight the fight," he said. "We feel it's our freedom of speech to say what we say on our shirts."

"I'm a taxpayer in this state, and I have been for many years, and I feel I have the right to use my state name on a shirt anytime I want."
The Kansas University Alumni Association flocked to the Liberal Country Club Friday for the third annual KU Alumni golf tournament. More than 75 golfers teed off for a day of fun, camaraderie and an attempt to beat the course record.

The golfers were divided into 19 teams, and a scramble format was used throughout play.

First flight champions were: Dennis Riney, Debbie King, Tracy King and Don Owens with a team total 58.

Second flight winners were Richard Kinkelaar, Chris Kinkelaar, Dennis McVey and Jesse Ramos with a team score of 65.

After a day of golfing, a banquet was served in the dining room.

Bill Hill was one of more than 75 local members of the Kansas University Alumni Association members who participated in the annual golf tournament. The event was hosted by the Liberal Country Club.

Daily Leader photo/David Thompson
TOPEKA (AP) — A law giving some illegal immigrants a tuition break at Kansas universities and colleges has withstood a legal challenge.

The U.S. Supreme Court has refused to reinstate a lawsuit against the 2004 law filed by six parents and 18 out-of-state students attending Kansas institutions.

The law allows illegal immigrants who qualify for the lower tuition rates reserved for legal Kansas residents.

It has the support of Gov. Kathleen Sebelius. According to national groups, nine other states have enacted similar laws: California, Illinois, Nebraska, New Mexico, New York, Oklahoma, Texas, Utah and Washington.

Governor Sebelius has always been confident in this law, which makes college accessible,” spokeswoman Nicole Corcoran said Wednesday. “Those eligible for in-state tuition must prove they’re pursuing citizenship and must pay their own way and are not eligible for state or federal financial aid.”

Opponents contend the law discriminates against legal residents of other states and endorses illegal behavior. Despite the Supreme Court’s action, they are promising to continue their attacks on the law.

Critics have tried repeatedly — but unsuccessfully — to persuade the Legislature to pass a bill repealing it.

“You’re going to see the illegal alien legislation on a regular basis until we get something done,” Rep. Brenda Landwehr, a Wichita Republican, told The Topeka Capital-Journal.

Kris Kobach, a University of Missouri-Kansas City law professor who represented the students and parents, said it might be easier to challenge the law in state courts.

“It’s a problem whenever a state has a statute on the books that is clearly in violation of federal law and violates the rights of U.S. citizens,” said Kobach, who also is chairman of the Kansas Republican Party. “Eventually, it will become clear.”

■ See TUITION/Page 3

The Kansas law allows illegal immigrants to qualify for lower in-state tuition at state universities, community colleges and technical schools if they attend a Kansas high school for at least three years and graduate or earn a general education development certificate in Kansas.

Also, they must actively be seeking legal immigration status or plan to do so when they are eligible.

The tuition break can be significant. For example, the tuition and fees paid by an undergraduate from Kansas taking 15 hours at the University of Kansas were $3,300 per semester for 2007-08. For out-of-state students, the figure was $8,053.

The Board of Regents said 243 students took advantage of the provision in fall 2007. But 193 of them, or 79 percent, attended community colleges.

Josh Bernstein, director of federal policy for the National Immigration Law Center, said such laws affect immigrants who come to the U.S. as young children, then stay and attend school.

“It’s not really in our interest to have educated these kids and then to have them leave,” Bernstein said. “The reality is, they’re not going to leave.”

A federal judge dismissed the Kansas lawsuit in July 2005, saying the students and parents who filed it couldn’t show they were harmed by the law. The judge noted that even if the law were struck down, those students would still pay the same out-of-state tuition rates.

The 10th U.S. Circuit Court of Appeals in Denver reached the same conclusion. Last week, the U.S. Supreme Court refused to consider the students’ appeal.

Bernstein said the Supreme Court’s action virtually precludes such lawsuits in federal courts.

While challenges in state courts are possible, Bernstein said, he’s confident they’ll eventually fail, dismissing Kobach’s argument that such laws conflict with federal statutes.
**Figures on students using immigrant tuition law**

TOPEKA (AP) — Here are figures for the number of students, by institution, who have taken advantage of a state law on tuition rates for illegal immigrants.

That law allows some illegal immigrants to qualify for lower rates normally reserved for legal Kansas residents.

The figures are compiled by the state Board of Regents each fall. The latest are from September 2007.

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<thead>
<tr>
<th>INSTITUTION</th>
<th>NUM</th>
<th>PCT</th>
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<tbody>
<tr>
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<tr>
<td>Emporia State University</td>
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<tr>
<td>Fort Hays State University</td>
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</tr>
<tr>
<td>TOTAL</td>
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</table>

Public universities include the six state universities and Washburn University in Topeka.
KU announces Honor Roll

More than 4,900 undergraduate students at the University of Kansas earned honor roll distinction for the spring 2008 semester.

The students are listed online by hometown in the following format: first name, last name, school or college, level (freshman, sophomore, junior, senior), gender, parents or guardians, and high school (when available). For students in the School of Allied Health, a level in school is not always listed.

See the names at www.news.ku.edu/2008/july/1/honorrollspring08.shtml.

Ulysses students represented are as follows.

Katelyn N Deckert, daughter of Jerry Deckert, Liberal Arts, Undergraduate Senior.

James M. Findley, son of Richard and Joyce Findley, Education Undergraduate Senior.

Melissa Galaviz, daughter of Agustin and Alicia Galaviz, Liberal Arts, Undergraduate Senior.
More than 4,900 undergraduate students at the University of Kansas earned honor roll distinction for the spring 2008 semester.

Students must complete a minimum number of credit hours to be considered for the honor roll. Students are listed by town, name, parent and class.

Burlingame: Casey Marie Montgomery, daughter of Don Montgomery, Liberal Arts Undergraduate.
Carbondale: Emily C. Robbins, daughter of Marian Massoth and Vic Robbins, Engineering Undergraduate; Julie Ann Welge, daughter of Marc and Patricia Cooper, Pharmacy Professional Prof 1.
Lyndon: Christian L. Altic, son of Michael and Debra Altic, Engineering Undergraduate.

Osage City: John Michael Jacoby, son of David and Sue Jacoby, Education Undergraduate; Kelly Rae Lohmeyer, daughter of Gail and Jim Lohmeyer, Engineering Undergraduate; Olivia Ann Williamson, daughter of Scott and Candy Williamson, Liberal Arts Undergraduate.

Overbrook: Marcus Leonard Day, son of Glyn and Diana Day, Liberal Arts Undergraduate; Ray Glenn Thompson III, son of Ray and Lisa Thompson, Pharmacy Professional Prof 1.

Scranton: John Robert Granger, son of William and Sarah Granger, Liberal Arts Undergraduate.

Vassar: Candace Lynn Howell, daughter of Robin and Shirley Howell, Fine Arts Undergraduate.
Certificates are issued based on responses from individual districts; some school districts do not participate in the recognition program.

The School of Education at the University of Kansas has honored 797 teachers from 173 school districts statewide with certificates recognizing 25 years or more of service to education in Kansas.

Educators in Osage County recognized for 25 years of service or more included: USD 434 Santa Fe Trail, Michael Flax, Topeka, principal, and Sheryl Gill, Baldwin City, assistant superintendent; USD 454 Burlingame, Mark Hecht, Burlingame, music instructor; USD 456 Marais des Cygnes Valley, Margie Beatty, Lebo, teacher, and Peggy Burkdoll, Melvern, teacher.

“Strengthening education is among the more important public policy issues facing our country,” said Rick Ginsberg, dean of the School of Education. “Good teaching is at the core of any success that students achieve. As leaders debate the best ways to attract and retain high quality teachers across Kansas and the country, it is important to recognize those who have dedicated their professional lives to our Kansas classrooms.”

KU’s School of Education annually invites Kansas school district officials to identify educators who are eligible for recognition.
Steven Schrock stood this past week at S.W. 21st and Urish Road wearing a hard hat and offering rare support for a project beset by complaints.

The assistant professor in civil engineering at The University of Kansas said the uncompleted roundabout causing so much heartache to nearby businesses is the best route, the closing down of much of the area was the safest option, and the delays are unfortunate but difficult to avoid due to unruly weather.

"I have a hard time finding fault," he said. As Schrock spoke, Jill Bronaugh hunkered over paperwork in a booth inside The Coffee Break Café on the northwest corner of the intersection. The shop's owner, Bronaugh has survived despite having only the north Urish entrance open.

"But I don't know where that breaking point is," she said of staying afloat.

She, like many in the area, has a lot of
Continued from Page 1A

questions. Did they have to close off S.W. 21st Street? Why has so little work been completed? When is it going to be done? A confluence of events — changes in plans, breaks in communication and even a tornado — have led the intersection to where it is today.

Development, then roads

Shawnee County commissioners approved a development for the northwest corner of the intersection in August 2003. Engineers argued that the businesses would induce the infrastructure improvement.

So Doug Bassett, and his brother, Brad, moved forward with plans for a shopping center. The city of Topeka annexed the area in the meantime, and the city council approved money for plans for the intersection in July 2005.

“We all knew the roads were coming, and we were fine with it,” Bassett said. “But they had plenty of time to get them in before we got there.”

One year later, the Urish Center opened its first business, Tailgators Sports Pub & Grub. Bronaugh opened shop in February 2008 with hope for the project.

“The understanding was that you’d be able to get through one way,” she said.

Plans changed

Initial city plans called for work on utilities one road at a time and prior to construction, said Linda Voss, city traffic engineer for Topeka.

The idea in early 2008 was to take two weeks for utility work on S.W. 21st Street, then switch to Urish Road, then reconstruct the roads.

At some point the project’s phasing changed in consultation with the utility companies and the general contractor, Schmidelein Excavating. When construction began May 5, the new plan was to jump right in.

“We just felt it was better to let everyone in there to get everything done instead of opening a road, closing a road, opening a road, closing a road,” Voss said.

Bronaugh said the city never consulted with her about easing the construction’s drain on her business.

“I think I would have preferred that,” she said about the rotation of closed streets.

Voss said she continually updated Bassett on any changes to the plans.

Bassett, for his part, said he doesn’t blame the city, though he thinks there was a way to build without choking off the intersection.

He said he knew S.W. 21st would be closed.

“If we were halfway done, nobody would be saying anything,” he said. “The problem is we’re two months in, and the only thing they’ve done is move some utility poles.”

Lost time

The delay is in part due to Mother Nature. The planned four-week utilities project has now taken 10 weeks after a tornado in Manhattan stole away utility workers.

For owners like Bronaugh, the frustration is that the roads were torn up, then left for weeks without any work while her sales plummeted.

Voss said Friday she was told the utilities were done last week, and then learned Cox Communications still hadn’t moved all of its cable wiring. Further exacerbating the problem, Voss said, is that when utility work was delayed, so was construction, and Schmidelein went to other jobs in the meantime. Schmidelein is just now coming back and won’t have a full load of workers on site for at least a week.

Voss said whichever plans they chose, there was always going to be at least two to three months where the intersection was in the current configuration. With good weather, however, she hopes workers can make up for some lost time.

Other avenues?

Schrock, with KU’s civil engineering department, said the roundabout is the best option. For one, it reduces the chance of the T-bone crashes common at right-angle intersections.

Schrock also said maintaining a traffic light costs $3,000 to $3,500 each year. And because of the need for updating the two roads coming into the intersection, there would have been no difference in the construction time.

“You could put a signal in here or a roundabout and you get the same outcome,” he said.

Bassett wishes the city would have explored keeping a portion of the road open while working, but Schrock and Voss agree that raises safety concerns.
"That's a big issue both for the worker and the traveling public," Voss said.
She said the work will be completed, fingers crossed, as initially stated by Thanksgiving, and Schrock says the rewards could be worth the wait.
"If businesses can weather this summer and fall, they should be in good shape," he said.

James Carlson can be reached at (785) 233-7470 or james.carlson@cjonline.com.
Opinions about the impact of The University of Kansas' trademark lawsuit against a Lawrence merchant are as varied as the 206 T-shirts in question.

One day after a U.S. District Court jury in Topeka slapped JoeCollege.com with a $127,000 penalty for its approximately 50 shirts infringing on the KU brand, some were happy to see some of the clothes off the market, while others worried about the ruling's potential dampening effect on new businesses.

There are still a few more steps for the local case — the judge will have to decide about any injunctions against future T-shirt sales and whether to adjust the award up, down or let it stand.

But the lawsuit was the talk of many in the college apparel industry both in Kansas and across the country.
T-shirt: Seller hopes creativity won’t be stifled

Continued from Page 1A

Chilling effect?

At issue is licensed versus unlicensed merchandise and how much of a school’s brand can be used in selling clothing not signed off on by the university.

Stacey Osburn, spokeswoman for the NCAA, said trademarks for the NCAA’s brand are important to “ensure that the use of these marks reflects on the NCAA in a favorable manner, produce revenue to support and enhance NCAA programs, and to fund scholarships.”

Lew Perkins, KU athletic director, said after Monday’s decision that revenues from trademarked items are used to provide about $1 million in scholarships for the university’s students.

Wayne Curtiss, of Smack Apparel, sells unlicensed shirts from his behemoth Web site and at many of the country’s biggest universities. He said he isn’t averse to licensed apparel, “I’m just averse to not being creative.”

Curtiss said he didn’t think the ruling was a win for either side but worried about the effect of the monetary judgment.

“The fact that they have a big bank and most (small businesses) don’t have the money to fight, I think it could squelch creativity in the marketplace,” he said.

Andrew Torrance, a professor of intellectual property law at KU, said the school was most likely trying to send a message.

“(KU) can use that against other merchants to chill any future trademark infringement,” he said.

The little guy

Throughout the trial, some on Massachusetts Street in Lawrence grumbled about a big university picking on the little guy. That isn’t the case, said Ryan Owens, general manager of Jock’s Nitch in Lawrence.

Owens said certain T-shirt sales dropped off with the entrance of the Joe-College.com store across from one of his two shops in downtown. He said Joe-College.com had an unfair advantage because stores such as his pay the proper fees to sell licensed KU gear.

“It was exciting to see KU standing up not only for itself but for us licensed dealers,” Owens said.

There is only a finite amount of money in the university shirt market, said Mike Sykes, a sales representative for Step Ahead Sportswear, which sells licensed apparel to stores in Kansas. He said such vendors as Joe-College.com “dilute” others’ share of the legitimate market.

At least one local licensed seller didn’t mind the offbeat shirts sold at the Lawrence store. Tim Liebert, co-owner of Kansas Sampler, said the target audiences for licensed and unlicensed apparel are different, and he doesn’t find his business has suffered.

“We’ve only seen our sales go up,” he said.

But Owens said he has students walk in his stores and ask for a Joe-College.com design. When they find out Jock’s Nitch doesn’t sell them, many simply walk out.

What now?

Jim Tilly, Joe-College.com’s attorney, called the case “one of a first of its kind.” He said it is early in the process, but the case could affect future court action.

He will get a chance to find out himself in September when he begins oral arguments before the 5th U.S. Circuit Court of Appeals on a separate case involving Smack...
Apparel.
Curtiss, with Smack Apparel, produced six shirts that numerous universities are suing him over.
He was optimistic after the Topeka ruling because U.S. District Judge Julie Robinson allowed a jury trial, whereas the judge in Curtiss' case granted a summary judgment against his company with no jury.
"It's an issue that's proper for a jury trial," Tilly said.
James Carlson can be reached at (785) 233-7470 or james.carlson@cjonline.com.
KU rewards Mangino

Coach will make $2.3 million per year

By Tully Corcoran
THE CAPITAL-JOURNAL

LAWRENCE — Kansas athletic director Lew Perkins’ payout paid off, and now Mark Mangino has another payday.

In 2006, with no monumental accomplishments to justify it, Perkins gave his football coach a five-year extension and doubled his salary to $1.5 million.

Two seasons later, Mangino won the Orange Bowl and Perkins rewarded him with a raise to $2.3 million per year with incentives that could pay him up to $675,000 in any one year.

"This is an appropriate reward for someone who has done a terrific job with the Kansas football program," Perkins said. "Chancellor Hemenway and I think it’s important that we not only reward Mark for the job he’s done, but also give him the support and stability he needs to keep this football program a successful and nationally respected program. We think the Orange Bowl championship is just the beginning."

Mangino’s base salary of $229,900 remains unchanged, but his compensation for professional services rendered — things like radio and TV shows, promotional appearances and PR — increased by $500,000 to $1,770,100. The

Please see KU, Page 5D

BIG 12 CONTRACTS

The contract Kansas announced Tuesday makes Mark Mangino the third-highest-paid coach in the Big 12.

<table>
<thead>
<tr>
<th>Coach, School</th>
<th>Yearly value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mack Brown, Texas</td>
<td>$2.9 million</td>
</tr>
<tr>
<td>Bob Stoops, Oklahoma</td>
<td>$2.6 million</td>
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<tr>
<td>Mark Mangino, Kansas</td>
<td>$2.3 million</td>
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<td>Gary Pinkel, Missouri</td>
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<td>Mike Sherman, Texas A&amp;M</td>
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<td>Dan Hawkins, Colorado</td>
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<tr>
<td>Ron Prince, Kansas State</td>
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contract also includes an incentives package that could pay up to $675,000 in any one year. If he remains at KU for the length of the deal, Mangino earns a retention payment of $1.5 million. Kansas officials stressed that Mangino’s salary is paid for privately, without tuition dollars or state funds.

A buyout clause stipulates that if KU terminates his contract without cause before 2012, Mangino receives $300,000 for every year he coached KU after 2008. It makes Mangino the third-highest paid coach in the Big 12, behind Texas’ Mack Brown and Oklahoma’s Bob Stoops.

“I want to thank Chancellor Hemenway and Lew for their strong and continued support,” Mangino said. “We all share the same vision for excellence in our football program. I appreciate their support of our mission to keep KU football a nationally ranked and respected program, both on the field and in the classroom.”

The biggest changes in Mangino’s deal are the professional services raise and the retention payment, which works out to $300,000 per year if he stays until 2012. The contract doesn’t include any new incentives, but all of them are worth $25,000 more than they were under the previous deal.

Mangino, who won the Associated Press coach of the year award last season, is 37-36 overall and has won 15 of his last 17 entering his seventh season at KU. After a 2-10 record in 2002, Mangino led the Jayhawks to the Tangerine Bowl in 2003, the Fort Worth Bowl in 2005 and the Orange Bowl in 2007.

He is the only coach in KU history to lead the program to three bowl games, and his 37 wins rank fourth in school history. Kansas has set season average attendance records in each of the last three seasons.

MANGINO’S MILLIONS

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<th>Incentives</th>
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<th>NEW CONTRACT</th>
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<td>40,000 season tickets by Sept. 1</td>
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Tully Corcoran can be reached at (785) 295-5652 or tully.corcoran@cjonline.com.