

Due process? Try much ado about nothing, in Humble



Hal Phillips, editor

Remember the infamous Tour 18, the course comprising replicas of famous golf holes laid out amid the power lines and prairie scrub of Humble, Texas? You know, the faux 13th at Pebble Beach next to the near 11th at Merion, just beyond the mock 17th at Sawgrass?

Well, the case goes to trial this month in Houston, where the controlling interests behind three resorts — Pebble Beach, Pinehurst and Harbour Town — will test the limits of federal trademark protection.

The brass tacks of most trademark disputes center on consumer confusion, and whether that confusion (once proved) prevents or discourages the public from buying the real thing. For example, will a golfer who plays the Tour 18 version of Harbour Town's famous finishing hole confuse the makeshift swamp to his left for Calibogue Sound? When he plays the replicated Amen Corner, will the Tour 18 patron become confused? Is he standing on an abandoned oil field next to Houston International Airport, or is he standing on the manicured grounds of Augusta National sipping a mint julep?

I can't see a judge buying the supposition, frankly. Besides, a Tour 18 patron pays just \$55 to \$75 to play, whereas a Pebble Beach patron, for example, shells out \$200 for the privilege. That's the best differentiator there is!

Pardon me, but this whole business is fairly ridiculous; and with regard to the plaintiffs, a bit tacky. The idea that Tour 18 is somehow taking money from Pinehurst's pocket, or that golfers drive to Humble, Texas and believe they're actually standing on the Monterey Peninsula is ludicrous.

Furthermore, a place like Pebble Beach derives a large measure of its glory from the natural surroundings. Just read the brochures.

Are the Pebble Beach attorneys prepared to claim patent protection for Carmel Bay, the rocky coastline, the seals, the bordering Del Monte forest, not to mention a course design that follows the land's natural contour?

At this stage, I wouldn't put it past them.

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It's a big country — big enough to feature several diametrically opposed yet similarly devastating weather patterns during the same three-month period (see story page 1).

In Florida, it rained so hard and often that fungicide sales, for example, were among the lowest on record. The heavy rain

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Members, general managers: Summer of their discontent?

Sleepless in Seattle... and Columbus... and Philly. Superintendents have been sleepless from Delaware to Dubsdread this summer, worrying about the weather — and their jobs.

Heat and humidity were unrelenting and life-defying. No amount of syringing, no deluge of chemicals could save some courses. Hurricane Jerry dumped 15 to 18 inches of rain on South Florida, headed north, then turned around and dumped another 5 or more inches on the same area. Canals and lakes filled and the state of Florida could not drain.

Yet, general managers and green committee chairmen from the East Coast to the Rockies are firing their superintendents — professionals who have no control over the circumstances.

"I know of more than a half dozen guys who will lose their jobs out here," said one Ohio superintendent after a drenching and hot summer that steam-cooked the turfgrass. "It's been a summer from hell."

That's tantamount to shooting the cook because of bad taxi service to the restaurant. Who other than the superintendent is going to save that golf course? The person running the food and beverage? The lawyer sitting in this year as green chairman? The club owner who built his fortune making widgets?

In effect, club members blaming superintendents for dead turf when the weather is the culprit is like Chicago White Sox infielder Ozzie Guillen putting eye drops on his bat when he's in a slump.

Come-on! But the word is, country club members often leave their good judgment back at work when they come to the course.

"People lose their common-sense reasoning in country club environments," said Bob Brame, director of the U.S. Golf Association Green Section North Central Region. "They don't want to hear agronomic reasons why the greens are dying. Instead, they will base their decisions on emotions."

That attitude is not lost on superintendents anywhere the weather gets too weird for too long.

One person confided: "Like any superintendent, I worry about having two bad years in a row, whether it's my fault or not. We are just like baseball coaches. We seem to be very expendable. It's odd to try to convince 350 members that you're not the town idiot."

"In our part of the country, people aren't used to weather like



Mark Leslie, managing editor

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Letters

GATOR DIED WRONGFUL DEATH

To the editor:

The article in the September issue of *Golf Course News* regarding the alligator attack at the Cocoa Beach Country Club [page 5] was not accurate as to the individuals involved.

There were actually two young men who were trespassing on the golf course at 11:30 at night collecting golf balls from the lakes. They were wearing wet suits and carrying plastic grocery bags to transport the golf balls they collected.

As a result, one of the young men was seriously injured by an alligator who was basically just defending his home. The gator was subsequently destroyed by the Florida Fish and Game Commission for doing what he does naturally, and the trespassers — one of whom may have permanent injurie — are now facing criminal charges.

Quite rightly, the patrons of the golf course have shown a great deal more concern for the unfortunate demise of their friend Stubby the gator than they

have for the intruder who caused Stubby's unjust and severe punishment.

Dave Manning
general manager
Cocoa Beach (Fla.) CC

USGA: DON'T BARBECUE SUPERS

The letter below, issued by the U.S. Golf Association Green Section North Central Region, was sent to courses in the upper Midwest during the brutal weather pattern this summer.

To the editor:

The prolonged period of high daytime and equally high nighttime temperatures has resulted in widespread turf loss on golf courses throughout the North Central Region of the USGA Green Section (Indiana, Ohio, Kentucky, Wisconsin, Minnesota, Michigan, North Dakota, South Dakota and Montana). *Poa annua* was hit the hardest. The purpose of this letter is to convey the widespread nature of this summer's problems and the fact that, in many cases, the turf loss was beyond the control of turf managers.

It is an established agronomic

fact that *Poa annua* is the one golf course turfgrass which is least tolerant of summer heat, winter cold and ice stress. These inherent weaknesses of *Poa annua* were seen during the winter of 1993-94 along the East Coast and now, during the summer of 1995 here.

The reasons *Poa annua*, and to a lesser extent bentgrass and perennial ryegrass, declined this summer are many. The catalyst was a hot summer which set records in many areas. In some areas the heat was joined by too much rainfall and yet, in other areas too little rainfall. In some cases, close mowing and/or the use of grooved front rollers added to the package.

Once grass becomes stressed and weakened, disease problems begin. Anthracnose, pythium (foliar and soil borne), take-all patch, summer patch, brown patch and dollar spot were all seen this summer. The heat and weakened turf made fungicidal control of diseases more difficult than usual. In a few cases, pesticide applications, made with well-calibrated equipment and at

correct rates, added to the decline of overly weakened turf. When the snow ball starts rolling down the hill, it gains momentum and is almost impossible to stop.

Courses with good drainage and well-built greens come through better. Poorly-drained greens, tees and/or fairways, especially with high percentages of *Poa annua*, were hardest hit. What to do?

First of all, recognize that maintenance of dense, healthy turf during prolonged periods of heat and humidity cannot always be successful. Especially, *Poa annua* turf. Don't barbecue the course superintendent! Rather, understand their plight and when the weather cools, give them the support to begin a comprehensive seeding program. Where drainage is a limiting factor, develop a plan to improve it. These conditions may come again.

It will be a busy fall at most courses. Good luck! If we can assist in any way, give our office a call.

Robert C. Vavrek, agronomist
R. A. (Bob) Brame, director
USGA North Central Region
Covington, Ky.

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Banc One

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Voters in North Mankato, Minn., and Fountain, Colo., felt operating the courses were too much of a financial burden on their municipalities and, as was their option under the financial agreement, chose to return the properties to Banc One, Ayres said. The citizens of Carter Lake, Iowa, and Lemoore, Calif., are negotiating with the bank and could follow the same course, he added.

Banc One is no longer negotiating golf course municipal lease arrangements, Ayres said.

"We're still doing municipal leasing for other projects [police cars, fire engines, etc.]," Ayres said. "We're just not doing golf courses. Cities just don't seem interested."

First Golf Corp. of Tempe, Ariz., was the builder on all but the Colorado project, according to First Golf President Bob Neptune.

"We were hired to build the courses," said Neptune. "In each case, we came in on time and on budget for the work we were contracted to do."

• North Links Golf Course in North Mankato, Minn. opened its first nine holes in July 1993, a year later than anticipated because of rainy weather during construction, according to Town Finance Director Wendell Sande. The second nine opened a year later. The entire facility, including a large clubhouse the city chose to add, cost \$6 million. That was roughly \$2 million more than expected, he said.

"We're not unlike any other construction company in that we can't control acts of God," said Neptune in reference to the wet weather during construction. "But the price difference had nothing to do with us in North Mankato."

The city operated North Links for a year and a half. The course hosted 24,000 rounds in 1994, well below the 30,000 projected, according to Town Administrator Bob Ringhofer. Cart rentals were also below estimates, Sande added. Ringhofer said the projections may have been unrealistic to begin with since national rather than Minnesota figures were used in making the projections.

"The caliber of the feasibility work is critical for any golf project," said consultant James McLoughlin of the Pleasantville, N.Y.-based McLoughlin Group. "Too many feasibility study outfits simply say 'yes' to everything. I'd estimate 95 percent of the feasibility work done today simply doesn't pass muster."

As a result of the rain-delayed opening, cost overruns and unfulfilled projections, the city lost \$2 million on the North Links project, Sande said. When told at the end of 1994 that the municipality would have to subsidize the project for another five years before it was self-sustaining, taxpayers voted to return North Links to Banc One.

"If you look 10 to 20 years down the road, the city may regret giving up the course," Ringhofer said this spring. "It needed five years to begin operating properly. Giving it a year just wasn't fair. But the public prevailed."

Banc One, which provided \$4.6 million in financing, hired a management company to operate North Links and opened it late this spring. "Since we took over and put the management company in place, we've been meeting our projections," said Ayres, adding that Banc One will operate the course through the remainder of the year and seek a buyer next season.

• Banc One is negotiating with the suburban Omaha, Neb., city of Carter Lake, Iowa, regarding the troubled Shoreline Golf Course.

Carter Lake borrowed \$3.1 million five years ago to build the 18-hole facility, according to Golf Board Chairman Jay Gundersen. First Golf built the Pat Wyss-designed facility. It has been losing \$200,000 annually since it opened and the city has been unable to make its payments to

North Mankato and Carter Lake could have been refinanced properly to make both work for their municipalities. I think both will be successful in the long run.'

— Bob Neptune,
President First Golf Corp.

Banc One the past two years, Gundersen said.

Floods and heavy rains damaged the course and curtailed play in 1992 and 1993, Gundersen said. But even half-inch rains have forced the course to close for the day, he said.

"I blame First Golf for many of the problems," Gundersen said. "The course is built on sandy soil, so it should drain well. We've had a couple architects tell us it's the poorest building job they've ever seen. We [city] made a lot of mistakes. But accepting the course as built in the first place was probably the biggest one... The city is still operating the course. But I don't know how much longer we can."

Neptune strongly disagreed with Gundersen regarding the quality of his company's construction work. Any problems, he said, may be a result of the city engineer's changing of the architect's plans. First Golf was ordered to go along with those alterations, he added.

"We absolutely did not do a poor job on that golf course," he said. "It was built to the specifications we were told to use. We did what we were hired to do and no one can document otherwise."

Gundersen added that Banc One hasn't been very supportive. "They wanted us to issue some junk bonds to fix up the course, but they wanted First Golf to do the work. They [First Golf] were the problem in the first place" he said.

Ayres said he couldn't comment on the Carter Lake situation since Banc One was still negotiating with the city.

"North Mankato and Carter Lake could have been refinanced properly to make both work for their municipalities," Neptune said. "I think both will be successful in the long run."

• In the early 1990s, Banc One financed an additional nine holes and a sprucing up of the abandoned Appletree Golf Course in Fountain, Colo., to the tune of \$2 million, Ayres said.

The city and local investors operated Appletree for four years before taxpayers voted to turn it back over to the bank in January 1994, said City Finance Director Bill Clark.

"It just wasn't meeting its debt obligation," Clark said. "The city ran it alone for a year, but it became clear it just wasn't going to happen for us."

Appletree never came close to reaching the 50,000 to 60,000 rounds projected in "overly optimistic" feasibility studies, Clark said. He blamed the course's relatively isolated location, far from the main road and a dozen miles outside Colorado Springs, for the lack of play.

Ayres said Banc One is actively seeking a buyer for the course. "We've had a professional management company in there for the past two years and it's doing quite well," he said. "There are so many municipalities that are having to make tough decisions about how to spend their money. Taxpayers often view golf as a luxury item and are likely to cut that before schools, police departments and other things."

• The city of Lemoore, Calif., will likely refinance its municipal course with Banc One, according to City Manager Allen Goodman. Banc One provided financing to upgrade and expand the facility from nine to 18 holes.

The new nine opened 30 months ago. Total revenues have been less than projected largely because greens fees have been held artificially low, Goodman said.

Phillips comment

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simply made applications impossible. Meanwhile, in the upper Midwest, the combination of oppressive heat and skyrocketing dew points made for fungus heaven. Indeed, manufacturers could barely ship the fungicide fast enough.

Of course, it matters not what the adverse weather conditions might be — the superintendent faces the music without exception. That's why Mark Leslie's column (turn back to page 8) is so insightful this month. Go ahead: Give it a read... I can wait.

Apologies are due the Jacobsen Division of Textron, which was inadvertently left out of September's report on the first International Hong Kong & China Golf Exhibition and Conference (page 39). Jacobsen will exhibit during the November show. Indeed, Jake

has been involved in the venture from the outset.

Speaking of Asia-Pacific, expect a homecoming of sorts over the next few years, as American architects who've made their marks in the Pacific Rim look to secure more domestic contracts.

Many U.S. designers find it easier to cut their teeth abroad, where the pool of qualified native architects is, frankly, rather limited. Yet the call of America's lucrative design market, not to mention the "luxury" of doing business closer to home and family, is beginning to pull them back. Examples? Ron Fream, Nelson Wright Haworth, Perry Dye and J. Michael Poellot.

Domestic golf course developers would be remiss if they failed to consider these four, and others like them, for U.S. design jobs. They're experienced, innovative and, perhaps most important, they're hungry.

USTs & banks

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security interest.

The lender would not be liable for cleanup costs from a contaminated property provided it does not engage in petroleum production; refining and marketing; participate in the management or operation of the UST; or store petroleum in the UST after foreclosure.

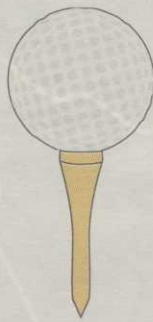
"It's the right thing to do," Rhodes said. "The old rule was excessive environmental protection. It hurt everyone from golf courses to gas station owners. This gives lenders the safe harbor they need to make loans."

The rule specifies a range of activities, including foreclosure, which lenders can under-

take to manage and protect their collateral without being held responsible for compliance.

The rule also describes circumstances under which a financial institution would be considered to be participating in the management of any UST property and therefore responsible for UST cleanup costs.

Lenders will be allowed to regularly monitor or investigate borrowers' collateral, business condition and financial health. The lender may also require that the property be maintained in an environmentally sound manner as well as provide financial, administrative or other specific or general advice to clean up the property if contaminated.



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