Guernsey Image Rights Legislation

Publication - 13/12/2012

The Image Rights (Bailiwick of Guernsey) Ordinance 2012 (the Ordinance) and The Image Rights (Bailiwick of Guernsey) Regulations, 2012

Guernsey has introduced legislation, the first of its kind in the world, designed to protect personalities and images. Currently, copyright, trademark and patent legislation exists in many countries around the world (including in Guernsey), but there was no such legislation specifically providing for registration and protection of image rights - until now.

Whilst almost any personality or image can be registered, it is envisaged that the protection afforded by the Ordinance will be of particular interest to those in the public eye such as media and sports personalities.

What can be registered

- Personality - the public perception of a person which includes a natural person, a body corporate, two or more persons intrinsically linked in the eyes of the public, a group or a fictional character.
- Images - which can include the name, voice, signature, appearances, expressions, mannerisms, photo, or any illustration or representation of a person.

Type of protection provided

A registered personality and their image rights are the personal property of the proprietor. Image rights may be licensed to others and may also be assigned. Other rights and remedies are provided by the Ordinance.

Registration provides evidence that a right exists and protection commences on the date the application is made.

How to register

Registration is made by way of application which must be accompanied by the information, documentation and fees, as prescribed by the Registrar of Personalities and Image Rights. There are certain circumstances in which an application will be refused, including where the images are of an indecent nature, deceive the public or are made in bad faith.

Personalities are registered for an initial period of 10 years and may be renewed for a further 10 years (without limit on how many renewals can be made). Images are registered for an initial period of 3 years and may be renewed for a further 3 years (without limit on how many renewals can be made).

An initial registration fee is charged as well as an annual fee. These are set out on the Registry
of Personalities and Image Rights website. For example, the initial registration of a personality and one image, of a natural person, currently costs £1,000.

Advantages

Registration provides a clear identification of the personality and image in respect of which protection is sought. It also clearly identifies the date on which the right was first claimed. In either case, this may assist in enforcement of such rights in other jurisdictions.

A number of locally based fiduciary companies offer management services in respect of registered rights. Considerable skill and experience already exists in respect of other rights and assets.

There is also no income tax on royalties, save in respect of persons who live in Guernsey. There is in any event no inheritance or capital gains tax on the transfer of such rights.

Conclusion

Tax advice will be needed in all jurisdictions where the proprietor of the right is liable to tax. However, the Ordinance is a welcome development in intellectual property legislation and is likely to lead the development of this area of law worldwide.

About Ogier

Ogier provides practical advice on BVI, Cayman Islands, Guernsey, Jersey and Luxembourg law through its global network of offices. Ours is the only firm to advise on these five laws. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.
Regulatory information can be found at www.ogier.com
ogier.com
Key Contacts

Simon Davies
Partner
Guernsey
simon.davies@ogier.com
T+44 1481 737175
M+44 7839 257234

Marcus Leese
Partner
Guernsey
marcus.leese@ogier.com
T+44 1481 737152
M+44 7797 819856

Mathew Newman
Partner
Guernsey
mathew.newman@ogier.com
T+44 1481 752253
M+44 7797 819901

Related services

Corporate
Private Wealth
Trusts Advisory Group
Digital Blockchain and Fintech