

CONTENTS

	<i>Page</i>
<i>Dedication</i>	v
<i>Table of Contents</i>	vii
<i>Table of Cases</i>	xi
<i>Table of Statutes</i>	xxi
<i>Table of Statutory Instruments</i>	xxiii
<i>Table of European Materials</i>	xxv
 Chapter 1	 <i>para.</i>
 Introduction	
 Subject Matter	1-01
Theme	1-03
The Right of Publicity	1-05
Recent Developments In Support of Image Protection	1-08
Outlook	1-20
 Chapter 2	
 The Nature of the Image Right	
 Introduction	2-01
Academic Analysis	2-07
Reasons Why Individuals Sue	2-12
Practical Difficulties	2-20
Conclusion	2-26
 Chapter 3	
 Privacy	
 Introduction	3-01
Judicial Frustration At The Absence Of Adequate Protection	3-05
Circumstances In Which An Image Is Captured—The UK's Growing Confidence	3-08
Privacy Finally Recognised—The Human Rights Act	3-15
Can Individuals Lose Their Entitlement To Privacy?	3-17
The Public Interest	3-18

Douglas and Zeta-Jones/ <i>Hello!</i> Litigation—The Initial Emergency Injunction	3–19
The Court of Appeal’s Desire To Lay Down Guidelines For Privacy Injunctions	3–27
Express Confidentiality Agreements	3–37
Secret Tape Recordings Of Private Conversations	3–41
Images Captured In A Public Street—The Peck Ruling	3–42
Douglas and Zeta-Jones/ <i>Hello!</i> Litigation—The Trial (First Instance)	3–44
House of Lords Rule On Privacy (Misuse Of Private Information) For The First Time—The Naomi Campbell Decision	3–47
Strasbourg Extends Protection Further To Images Taken In Public Of Everyday Life—The Von Hannover Case	3–57
Douglas and Zeta-Jones/ <i>Hello!</i> Litigation—Court of Appeal	3–62
The Continuing Importance Of The UK Courts In Developing Privacy Law	3–64
The Power Of The Privacy Injunction	3–80
<i>OK!</i> And <i>Hello!</i> —The House Of Lords	3–89
The UK’s Version Of Von Hannover—JK Rowling’s Infant Son	3–102
The Mosley Trial	3–114

Chapter 4

Passing Off

Introduction—The Early Approach To The Exclusive Use Of One’s Name	4–01
Summary Of Protection In The Victorian Age	4–09
Noms De Plume, Pseudonyms And Nicknames	4–10
The Human Voice As Identity	4–13
Character Merchandising And The Importance Of The 1970s	4–15
Re-Defining Passing Off	4–25
Consolidation In The 1980s	4–26
“Get-Up”	4–33
Re-Assessing The Need For A Common Field Of Activity	4–35
Celebrity Endorsements In The 1990s	4–36
Common Field Of Activity No Longer Required	4–40
Domain Names	4–56
A New Tort Of Unfair Competition?	4–76

Chapter 5

Data Protection

Introduction—First Interpretation By The Court Of The New Act In The Context Of Privacy And Image	5–01
Increasing Reliance By Claimants Upon The DPA	5–19
Douglas/Zeta-Jones	5–21
JK Rowling’s Son	5–28

Chapter 6

Defamation

Introduction	6-01
Reputation In One’s Name	6-07
Reputation In One’s Image	6-09
False Endorsement And Defamatory Meaning It Conveys	6-14
Protection In A New Era	6-24
Malicious Falsehood	6-27

Chapter 7

Copyright

Introduction	7-01
The Protection Of Names	7-03
The Protection Of Image	7-07
The Defence Of Fair Dealing	7-12
The Defence Of Incidental Inclusion	7-23
Performers’ Rights	7-27
Authors’ Moral Rights	7-36

Chapter 8

Trade Mark

Introduction	8-01
The Policy Behind The Protection Of Names	8-03
Image, Name And Signature—The Approach Of The Registry And The Courts	8-04
Celebrity Endorsements And The Need For Distinctiveness	8-29

Chapter 9

Contract

Introduction	9-01
Negotiating The Deal For The Celebrity	9-04
Negotiating The Deal For The Corporate	9-08
The Standard Contract	9-12
Delivering What Was Agreed Or Intended	9-14
The Occasional Need To Imply Terms	9-17
The Event Organiser—Controlling The Right To Take Images	9-20
Obtaining The Necessary Rights	9-23

Chapter 10**Regulatory Codes of Practice**

Introduction—Complaining About Misuse Of Image In Advertisements	10-01
Dissatisfaction With The Decision Of The ASA Or The Ofcom Complaint	10-12
Domain Name Dispute Resolution Procedures	10-16
New Technology	10-21

Chapter 11**Conclusion**

Introduction	11-01
Jurisprudential Arguments In Support Of An Image Right	11-02
The Critics' Response	11-06
How Might A Publicity Right Be Recognised In The United Kingdom?	11-13
Possible Developments In The Law	11-17

Appendix**Twentieth Century Icons: Historical Evolution Of Publicity Rights In The USA**

Introduction	A-01
Early Development	A-02
As The Right Evolves, So Its Ambit Increases	A-10
Merely Evoking Identity—Increasing Potential Liability	A-30
It May Exist, But Was The Right Inheritable?	A-43
Is Authorised Exploitation During Lifetime Necessary?	A-56
The Lanham Act	A-57
Summary	A-60

*Page**Index*

225