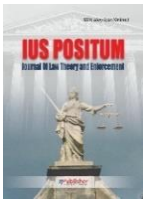

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The Existence of Identity Value and Image Protection on Legal Frameworks of United States of America (US) and United Kingdom (UK)

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ABSTRACT

This research aims to examine the existence of identity value and image protection along with their commercialization by comparing legal frameworks between the United States of America (the US) and the United Kingdom (the UK). The applied methodology is socio-legal approach: Primary sources will be utilized to compare the Right of Publicity's legal framework in each chosen country, as well as secondary sources, which will be used to develop this author's understanding of the primary sources, will be crucial to answer the research question. The result of this research stated that The Right of Publicity is a subset of the Right to Privacy specifically guarantee individual to control the commercialization of his identity while providing the remedy for unauthorized commercialization by a third party. English courts and law explicitly dismissed any personality right moreover a general free- standing Right of Publicity. The discussion of the Right of Publicity in the US behaves towards the natural aspect of the right, whether to label the right as property or as personal right. It can be concluded that, The United States approach overprotect the individual's right to control his identity by banning any commercial use of any characteristics which the public can associate with. On the contrary, the UK still refuse to provide a name to protect the appropriation of one's identity.

Keywords: *Commercialization, Identity Value, Legal Framework, Right of Publicity*

INTRODUCTION

In January 2019, Twitter made Kelly Steinbeich famous overnight by awarding her the title of the infamous "Fiji Girl." She went viral for constantly "photo-bombing" a list of celebrities at the Golden Globe, where she was hired as a promotional model for Fiji Water.[1] Since her photos were widely shared across social media, she gained more than 200,000 followers on Instagram, made television appearances, and secured her own endorsement deals.

Later, Steinbeich sued Fiji Water's parent company after an image of her holding a tray of Fiji Water at the 2019 Golden Globe was turned into a cardboard cutout and placed in various supermarkets across California. She claimed that Fiji Water had used her likeness in its advertising campaign without her consent, thus making unauthorized commercialization of her image the basis of her claim.

The issue of paparazzi selling private images of celebrities to various media is often considered trivial. Rothman argues that protecting one's image could serve as a tool for private individuals to combat cases of revenge porn, mug-shot sites, and catfishing (impersonating others to lure dates).[2] Mass media and social media play a crucial role in "creating" and "nurturing" the existence of celebrities or other well-known public figures. As media rapidly evolves, so does celebrity culture, paving the way for the recognition and legal protection of identity commercialization.

The ultimate purpose of privacy rights is to protect individuals from unwanted publicity, focusing on personal loss and emotional distress caused by the misappropriation of their private lives.[3] However, as the entertainment industry developed, the right to privacy was deemed insufficient to protect public figures from the misappropriation of their identities, as it primarily focused on their economic losses. Public figures are particularly concerned with the commercial misappropriation of their names, photographs, likenesses, or other aspects of their identities without consent or compensation.

This has led to the belief that the Right of Publicity emerged because public figures effectively lose their right to privacy upon entering the public sphere, as if they have waived their rights—especially when their actions are considered consequential or of public interest.[4] Nimmer introduced the doctrine of waiver, which dictates that public figures must endure the unauthorized use of their personalities since their fame makes such practices commercially attractive. Thus,

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[1] BBC News, "Fiji Water Girl: Legal Battle for Golden Globes Model," *BBC*.
[2] Jennifer E. Rothman, *The Right of Publicity: Privacy Reimagined for a Public World* (Harvard University Press, 2018).
[3] Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy," *Harvard Law Review* 4, no. 5 (1890): 193–220.
[4] Robert Dunne, "The Right of Publicity," in *Computers and the Law* (Cambridge University Press, 2009), 255–267, https://www.cambridge.org/core/product/identifier/CBO9780511804168A055/type/book_part; Rothman, *The Right of Publicity: Privacy Reimagined for a Public World*.

as public figures, they dedicate their lives to the public and, in doing so, forfeit their ability to claim the right to privacy.

However, U.S. courts have adopted this doctrine to varying degrees. Some courts apply it absolutely, arguing that public figures do not enjoy privacy since their fame implies a surrender of their private lives to the public. Others adopt a more limited approach, distinguishing between a public figure's professional life—where they have waived their right to privacy for commercial gain—and their private life, which remains protected.

Nimmer explains that the Right of Publicity emerged from the failure of privacy rights to protect the economic interests of public figures and other individuals. It became a separate legal category while sharing similarities with "neighboring areas of law" such as trademark, copyright, and privacy rights. The Right of Publicity allows individuals to separate their right to privacy from the commercial value of their identity, treating it as a property right.

This research aims to examine the existence of identity value and image protection, along with their commercialization, by comparing legal frameworks in the United States (U.S.) and the United Kingdom (U.K.). The notion of identity value suggests that it requires a certain degree of protection, allowing individuals to control, protect, and manage the commercial exploitation of their identity.

RESEARCH METHODOLOGY

This research used a socio-legal approach. Peter Mahmud Marzuki stated that a socio-legal study is not legal research since it places the law as a social phenomenon. A socio-legal study does not research the law itself but rather examines individual behavior and society in relation to the law.[5]

The primary sources were used to compare the legal framework of the Right of Publicity in each chosen country, while secondary sources helped develop the authors' understanding of the primary sources to answer the research question. This research focused on the extent of identity commercialization, the development of the Right of Publicity's legal framework in entertainment-leading countries, the justification for upholding the Right of Publicity in the modern age, and the possibility of legal reform.

This study was divided into four chapters. Chapter 1 introduces the background of the Right of Publicity and the commercialization of identity. Chapter 2 examines how the US and the UK perceive the Right of Publicity and the legal framework protecting this right. Chapter 3 discusses the legal justification for upholding the Right of Publicity. Chapter 4 presents the conclusion, answering the research questions and suggesting legal reforms to balance the interests of the relevant parties.

[5] Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi revi. (Jakarta: Kencana, 2019).

RESULT AND DISCUSSION

Right of Publicity's Legal Framework in US (United States)

As mentioned in the previous chapter, the term "Right of Publicity" was first introduced by Judge Jerome Frank in Haelan Laboratories v. Topps Chewing Gum. He emphasized that an individual has a legitimate reason to protect their publicity as a separate and distinct interest from their right to privacy.[6] This case marked a transformation from the right to privacy, which is a personal right, to the Right of Publicity as a property right. Nimmer suggested that this transformation was necessary to preserve the value of the right, arguing that "the publicity value of a prominent person's name and portrait is greatly restricted if this value cannot be assigned to others."[7]

The Right of Publicity is a distinct and independent doctrine, despite its resemblance to other intellectual property concepts such as trademark, copyright, false advertising, unfair competition, misappropriation, and its predecessor, the right to privacy.[8] In the US, it is an intellectual property right created by state law, and its infringement is considered a commercial tort of unfair competition.[9]

The aspects of individual identity protected by the Right of Publicity vary by state. However, it generally protects a person's name, picture, portrait, likeness, voice, signature, gesture, and persona. Public figures use the Right of Publicity to prevent others from profiting commercially from their image or likeness. This distinguishes it from conventional false endorsement claims that were used before the Right of Publicity emerged.

The US places a high value on individual rights, justifying limitations on the Right of Publicity with the principle that "any harm a person suffers is recompensed by the preservation of a greater general freedom."[10] The key feature of the Right of Publicity in the US is its recognition as a property right tied to an individual's personality. McCarthy suggested that granting the Right of Publicity property status was primarily to enable its transfer, as the term "property" facilitates that legal function.

Since the Right of Publicity is considered property, it is transferable through licensing, trade, or inheritance.[11] This is one of the key advantages of shifting from the previous framework of the right to privacy. The Right to Privacy is classified as a personal right, protecting individuals against invasions of human

[6] Robert T. Thompson, III, "Image as Personal Property: How Privacy Law Has Influenced the Right of Publicity," *UCLA Entertainment Law Review* 16, no. 1 (2009), https://escholarship.org/uc/item/5v91z41v.
[7] Dunne, "The Right of Publicity."
[8] Rick Kurnit, *Right of Publicity* (Law Business Research Ltd, 2018).
[9] J. Thomas McCarthy, *The Rights of Publicity and Privacy* (West Group, 2000).
[10] Peter Fletcher and Edward Rubin, "Privacy, Publicity, and the Portrayal of Real People by the Media," *Yale Law Journal* (1979).
[11] Kurnit, *Right of Publicity*.

dignity that may cause mental or physical suffering.[12] As a personal right, it ceases to exist upon an individual's death.

A notable case illustrating the Right of Publicity occurred in 1977, involving Hugo Zacchini, who performed a 15-second act as a "human cannonball" at a state fairground in Ohio. A local television station recorded and aired his entire performance in a news segment without his consent. Zacchini objected, arguing that his act had been broadcast without permission. The Supreme Court of Ohio ruled in favor of Zacchini based on the state's Right of Publicity statute. The news station appealed, citing the First Amendment as a defense. However, the US Supreme Court rejected this argument, issuing its first (and only) opinion recognizing the Right of Publicity.

The Recognition of the Right of Publicity in UK (United Kingdom)

As explained above, the US provides remedies against the infringement of the Right of Publicity. However, this right has not been clearly recognized in English law.[13] Even UK courts dismiss the recognition of any common law right to privacy, making the UK the only country in the European Community that adopts a minimalist approach to the protection of both privacy and publicity.[14]

Recently, English law has started shifting from its traditional casuistic approach to protecting personal dignity towards a more principled approach−particularly through the recognition of a general right to privacy. As a result, individuals seeking to control their publicity have been forced to rely on the closest legal provisions available under either statute or common law. This leaves claimants in the UK with three main causes of action: passing off, privacy, and trademark law, which will be explained below.

To this day, English law still relies on a combination of torts and intellectual property rights, such as copyright and trademark law, to protect against unauthorized identity appropriation. Protection is provided through a casuistic application, which may or may not fall directly under the 'privacy' sector.

Traditionally, the common law tort of passing off was designed to protect businesses from competitors who falsely presented their products as those of another, aiming to prevent commercial dishonesty.[15] Passing off requires three main elements: (1) goodwill or reputation, (2) misrepresentation leading to confusion or deception among consumers, and (3) damage to the claimant's goodwill as a result of the misrepresentation−commonly referred to as the "classical trinity" of passing off.

[12] McCarthy, *The Rights of Publicity and Privacy*.
[13] Dr W Kuan Hon et al., *Encyclopedia of Data Protection and Privacy* (Sweet & Maxwell, 2019).
[14] Marshall Leaffer, "The Right of Publicity: A Comparative Perspective," *Indiana University Maurer School of Law* (2007).
[15] David Tan, *The Commercial Appropriation of Fame A Cultural Analysis of the Right of Publicity and Passing Off* (Cambridge University Press, 2017).

The need for a right to privacy arises from the fact that defamation claims require the presence of false information. Under current laws, the truth of a publication prevails regardless of whether the information is humiliating, confidential, or lacking public interest. Privacy protection consists of two main legal principles: Defamation and Breach of Confidence. Defamation is closely linked to the right to privacy, as it aims to keep private information out of the public domain. It is also connected to the Right of Publicity, which seeks to control how an individual's information is exploited. The traditional concept of breach of confidence, on the other hand, requires a confidential relationship between parties, resulting in a duty to keep specific information or materials secret.[16]

A notable case regarding the Right of Publicity in the UK is Edmund Irvine v. Talksport Limited. Edmund Irvine, a Formula 1 racing driver, filed a claim against Talksport Limited, a radio station that had shifted its focus from news and general talk programs to sports.[17] As part of a campaign targeting potential advertisers, the station used a brochure featuring a doctored photograph of Irvine appearing to hold a radio bearing the defendant's name, TALK RADIO. Since the photograph was used without authorization, the claimant initiated proceedings for passing off. Laddie J ruled in favor of Irvine, marking a significant development in the law. This decision expanded the scope of passing off in endorsement cases, allowing individuals to protect their image and other aspects of their personality from unauthorized commercial exploitation by third parties.

The Right of Publicity Exist for the Benefit of the Public

Incentive Rationale

The incentive rationale is frequently proclaimed as the justification for the right of publicity, asserting that its purpose aligns with copyright−to provide an economic incentive for enterprise, creativity, and achievement.[18] This theory argues that the right of publicity "encourages individuals to invest the time, effort, and resources necessary to develop talents and produce works that ultimately benefit society as a whole."[19] The assumption is that without sufficient control over their assets−in this case, their identity−entrepreneurs would lack the incentive to accumulate and innovate their products.[20]

[16] Jürgen Kroher, "Intellectual Property Protection for Celebrities in Europe-A Spotlight on German and UK Law," *The IP Litigator : Devoted to Intellectual Property Litigation and Enforcement; New York* 16, no. 6 (2010): 8–13.
[17] Mr Justice Laddie, *Irvine and Another v Talksport Ltd* (England, 2002).
[18] Michael Madow, "Private Ownership of Public Image: Popular Culture and Publicity Rights," *California Law Review* (1993).
[19] Ibid.
[20] Michael A. Cooper, "Publicity Rights, False Endorsement, and the Effective Protection of Private Property," *Harvard Journal of Law & Public Policy* (2010).

However, critics argue that this rationale potentially justifies an overly broad right of publicity, extending protection to the mere evocation of a person's identity and even post-mortem rights.[21] Moreover, relying on a copyright analogy is fundamentally flawed. Black emphasizes that the incentive theory focuses on the value of a persona rather than the persona itself, which is the subject of the right of publicity.[22] Unlike copyright, where the value of a work is relevant for evaluating remedies, in the right of publicity, value is a separate concept that does not influence the existence or justification of the right.[23]

Consumer Protection

This justification is less common than other proposed justifications, arguing that the Right of Publicity protects consumers from being misled into believing that a Public Figure has endorsed a product or service when, in reality, the endorsement was made without permission.[24] Such confusion harms both the deceived public and the identity owner, whose reputation suffers, leading to both dignitary and economic harm.

The flaw in this rationale is that it invokes the Right of Publicity even when there are no signs of deception or confusion, meaning the cause of action applies regardless of whether consumers are actually misled.[25]

Madow presents another perspective, suggesting that the Right of Publicity protects consumers from the risks of inferior products or services that exploit a well-known Public Figure's image in advertising to attract attention or drive sales. However, while this argument appears more plausible than the first, Madow acknowledges that it is based on flawed assumptions.[26]

Ultimately, consumer protection is a weak justification for the Right of Publicity. Nonetheless, it may be considered an incidental benefit rather than a primary driver of the right.[27]

[21] Rothman, *The Right of Publicity: Privacy Reimagined for a Public World*.
[22] Gillian Black, "Exploiting Image: Making a Case for the Legal Regulation of Publicity Rights in the United Kingdom," *European Intellectual Property Review* (2011).
[23] Ibid.
[24] Rothman, *The Right of Publicity: Privacy Reimagined for a Public World*.
[25] Michael Madow, "Private Ownership of Public Image: Popular Culture and Publicity Rights," *California Law Review* 81, no. 1 (January 1993): 125, https://www.jstor.org/stable/3480785?origin=crossref.
[26] Ibid.
[27] Black, "Exploiting Image: Making a Case for the Legal Regulation of Publicity Rights in the United Kingdom."

The Right of Publicity Exist for the Benefit of the Individual

Labor Theory

The labor theory primarily justifies property rights, or in other words, a natural right justification.[28] According to John Locke's theory, every individual has property in their intellectual labor when they combine it with ideas, theories, or raw materials. The right to property serves as a reward for the author's individual labor.

Another perspective argues that property rights are granted to the author as a reward for their contribution to society.[29] Nimmer criticized traditional legal theories for inadequately addressing an individual's right to reap the benefits of their labor, depriving those who have long and laboriously nurtured publicity values.[30] Judicial recognition of the right of publicity is crucial to ensuring that individuals can control and profit from the publicity values they have created or acquired.

Unjust Enrichment

Unjust enrichment is the most prominent traditional argument for protecting the right of publicity, derived from the rationale for the right to privacy, which generally aims to prevent unjust enrichment through the 'theft of goodwill.'[3132] When a third party freely acquires aspects of an individual's identity that have commercial value−elements for which they would typically have to pay−the social purpose of the law cannot function.[33] Spence explains this justification as 'reaping without sowing,' as a third party exploits someone else's work without authorization. However, this justification cannot stand alone.[34]

The argument is not compelling because it fails to justify the essence of authorship over someone's work without relying on labor theory.[35] Beverly Smith considers unjust enrichment an abstract proposition of justice, serving both as an aspiration and a standard for judgment.[36] Rothman adds that while this rationale may justify an individual's entitlement to monetary rewards for identity

[28] Tanya Aplin and Jennifer Davis, *Intellectual Property Law* (Oxford University Press, 2021), https://www.oxfordlawtrove.com/view/10.1093/he/9780198842873.001.0001/he-9780198842873.
[29] Ibid.
[30] Melville B. Nimmer, "The Right of Publicity," *Communication Law and Policy* 25, no. 4 (October 1, 2020): 478–482, https://www.tandfonline.com/doi/full/10.1080/10811680.2020.1805957.
[31] "Right of Publicity and Indicia of Identity," in *The Commercial Appropriation of Fame* (Cambridge University Press, 2017), 64–105, https://www.cambridge.org/core/product/identifier/9781316488744%23CN-bp-4/type/book_part.
[32] Huw Beverley-Smith, *The Commercial Appropriation of Personality* (Cambridge University Press, 2002), https://www.cambridge.org/core/product/identifier/9780511495229/type/book.
[33] Ibid.
[34] Daniel McClean and Karsten Schubert, *Dear Images, Art, Copyright & Culture* (London: Ridinghouse, 2002).
[35] Aplin and Davis, *Intellectual Property Law*.
[36] Beverley-Smith, *The Commercial Appropriation of Personality*.

appropriation, it provides no guidance on defining the boundaries of the right of publicity or determining whether an appropriation is just or unjust.[37] The law encourages competition by justifying the 'free-riding' concept, where using someone's idea or work without permission or payment is sometimes permissible. Utilizing an individual's identity, especially that of public figures, is often deemed necessary and appropriate; therefore, clear limitations must be set regarding what constitutes unjust utilization to ensure protection against injury to personal dignity.

According to Kantian theory, an individual must be viewed as an autonomous and moral being.[38] Kant argues that freedom is an inherent right of every human by virtue of his humanity, which includes "the attribute of a human being's being his own master."[39] Autonomy means an individual has the right to control their identity, while dignity acknowledges identity as a fundamental part of each person.[40] Indicia of identity, such as names, likenesses, or images, are personal; thus, appropriating them without authorization is offensive to personal autonomy and human dignity.[41] This is particularly true when the representation injures an individual's personal beliefs or principles, or when their identity is commodified in ways that contradict their aspirations.[42]

The right of publicity is fundamentally about the freedom to control one's personal identity, which aligns with the principles of autonomy and dignity. Without recognition of this right, individuals cannot effectively control the appropriation of their actions. McCarthy insists that the legal right to control identity is crucial to any civilized society, as it aligns with the natural right of property justification.[43] The first principles of justice guarantee every human control over the commercial use of their identity. Introducing the innate notion that 'my identity is mine−it is my property, to control as I see fit' aligns with McCarthy's perspective.[44] Similarly, Black proclaims that protecting an individual's autonomy and dignity validates the existence of the right of publicity: 'a right for each individual to control the use of his image and identity.'

[37] Rothman, *The Right of Publicity: Privacy Reimagined for a Public World*.
[38] Mark P. McKenna, "The Right of Publicity and Autonomous Self-Definition," *University of Pittsburgh Law Review* 67, no. 1 (April 26, 2005), http://lawreview.law.pitt.edu/ojs/lawreview/article/view/73.
[39] Ibid.
[40] Leslie A Kurtz, "Fictional Characters and Real People," *University of Louisville Law Review* (2013): 435–647.
[41] Black, "Exploiting Image: Making a Case for the Legal Regulation of Publicity Rights in the United Kingdom."
[42] Ibid.
[43] Frederick Mostert and Sheyna Cruz, "How Image Rights Have Changed Over The Past 20 Years," *SSRN Electronic Journal* (2022), https://www.ssrn.com/abstract=4026458.
[44] Ibid.

CONCLUSION

In the UK, English courts and law explicitly refuse to recognize a general, free-standing Right of Publicity that grants individuals the right to commercially control the exploitation of their identity. Before the introduction of the ECHR, English courts did not even recognize the right to privacy. The convention, an EU-level agreement, required the UK to comply, leading to the introduction of the UK Human Rights Act, which guarantees the right to a private life.

Since there is no general Right of Publicity, individuals rely on a combination of intellectual property law and tort law, such as passing off, breach of confidence, or trademark law−though the latter has not been particularly successful for public figures. Case law on identity protection is limited. However, as demonstrated in the Irvine and Douglas cases, English courts acknowledge the commercial value of an individual's identity. The issue lies in the courts' reluctance to formally define and integrate this protection within the legal framework.

REFERENCES

Aplin, Tanya, and Jennifer Davis. *Intellectual Property Law*. Oxford University Press, 2021. https://www.oxfordlawtrove.com/view/10.1093/he/9780198842873.001.0001/he-9780198842873.

BBC News. "Fiji Water Girl: Legal Battle for Golden Globes Model." *BBC*.

Beverley-Smith, Huw. *The Commercial Appropriation of Personality*. Cambridge University Press, 2002. https://www.cambridge.org/core/product/identifier/9780511495229/type/book.

Black, Gillian. "Exploiting Image: Making a Case for the Legal Regulation of Publicity Rights in the United Kingdom." *European Intellectual Property Review* (2011).

Cooper, Michael A. "Publicity Rights, False Endorsement, and the Effective Protection of Private Property." *Harvard Journal of Law & Public Policy* (2010).

Dunne, Robert. "The Right of Publicity." In *Computers and the Law*, 255–267. Cambridge University Press, 2009. https://www.cambridge.org/core/product/identifier/CBO9780511804168A055/type/book_part.

Fletcher, Peter, and Edward Rubin. "Privacy, Publicity, and the Portrayal of Real People by the Media." *Yale Law Journal* (1979).

Hon, Dr W Kuan, Ellis Parry, Ksenia Bakina, Louise Townsend, and Nick Graham. *Encyclopedia of Data Protection and Privacy*. Sweet & Maxwell, 2019.

Kroher, Jürgen. "Intellectual Property Protection for Celebrities in Europe-A Spotlight on German and UK Law." *The IP Litigator : Devoted to Intellectual Property Litigation and Enforcement; New York* 16, no. 6 (2010): 8–13.

Kurnit, Rick. *Right of Publicity*. Law Business Research Ltd, 2018.

Kurtz, Leslie A. "Fictional Characters and Real People." *University of Louisville Law Review* (2013): 435–647.

Laddie, Mr Justice. *Irvine and Another v Talksport Ltd*. England, 2002.

Leaffer, Marshall. "The Right of Publicity: A Comparative Perspective." *Indiana University Maurer School of Law* (2007).

Madow, Michael. "Private Ownership of Public Image: Popular Culture and Publicity Rights." *California Law Review* (1993).

———. "Private Ownership of Public Image: Popular Culture and Publicity Rights." *California Law Review* 81, no. 1 (January 1993): 125. https://www.jstor.org/stable/3480785?origin=crossref.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Edisi revi. Jakarta: Kencana, 2019.

McCarthy, J. Thomas. *The Rights of Publicity and Privacy*. West Group, 2000.

McClean, Daniel, and Karsten Schubert. *Dear Images, Art, Copyright & Culture*. London: Ridinghouse, 2002.

McKenna, Mark P. "The Right of Publicity and Autonomous Self-Definition." *University of Pittsburgh Law Review* 67, no. 1 (April 26, 2005). http://lawreview.law.pitt.edu/ojs/lawreview/article/view/73.

Mostert, Frederick, and Sheyna Cruz. "How Image Rights Have Changed Over The Past 20 Years." *SSRN Electronic Journal* (2022). https://www.ssrn.com/abstract=4026458.

Nimmer, Melville B. "The Right of Publicity." *Communication Law and Policy* 25, no. 4 (October 1, 2020): 478–482. https://www.tandfonline.com/doi/full/10.1080/10811680.2020.1805957.

Rothman, Jennifer E. *The Right of Publicity: Privacy Reimagined for a Public World*. Harvard University Press, 2018.

Tan, David. *The Commercial Appropriation of Fame A Cultural Analysis of the Right of Publicity and Passing Off*. Cambridge University Press, 2017.

Thompson, III, Robert T. "Image as Personal Property: How Privacy Law Has Influenced the Right of Publicity." *UCLA Entertainment Law Review* 16, no. 1 (2009). https://escholarship.org/uc/item/5v91z41v.

Warren, Samuel D., and Louis D. Brandeis. "The Right to Privacy." *Harvard Law Review* 4, no. 5 (1890): 193–220.

"Right of Publicity and Indicia of Identity." In *The Commercial Appropriation of Fame*, 64–105. Cambridge University Press, 2017. https://www.cambridge.org/core/product/identifier/9781316488744%23CN-bp-4/type/book_part.