

Issues Involved Legal System of Economic Interest of Personality Rights

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Abstract

It becomes more and more often that the enterprise pays for celebrity endorsement. The enterprise can use a celebrity's name, photos or sounds for advertising of his products or services. This way of advertising attracts lots of attention of the masses and maybe also results in consume of the products or services. But this new way of advertising also causes that someone uses the celebrity's name, photos or sounds in the advertisement without permission. To this problem, there are two important judgements in Taiwan to mention: Supreme Court 104 taishang No. 1407 and Taipei District Court 108 sui No. 527. Both of them agreed that the rightsholder has economic interest of the Personality Rights and can sue for the damages. But the first judgement indicated that the economic interest can be inherited in order to avoid that the celebrity's name, photos or sounds could be used by everyone after his/her death. This opinion challenged the traditional view about Personality Rights. The traditional view considers that Personality Rights belong exclusively to the person and shall not be transferred and inherited. Another judgement pointed out that the license agreement has only the obligation effect. It means the licensee is not allowed to license other people

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and sue the infringers. Only the rightsholder can license and sue the infringers. But this opinion would not meet demand of the licensees.

On one hand Personality Rights are related to Personal freedom and human dignity; on the other there are more and more contracts of celebrity endorsement. This article makes a comparative study on Germany and tries to find a way to balance the protection of Personality Rights and the interest of licensees. The following two points will be focused: (1) legal nature of economic interest of Personality Rights; (2) protection of economic interest of Personality Rights after death of the rightsholder.

Keywords: Personality Rights, Economic Interest, Personality Interest, License agreement, Death of Rightsholder