



RPC

# Wyscout Forum London 2013

**Image is everything**

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# What are image rights?

Recognised by the courts as:

*“Image Rights means the right for any commercial or promotional purpose to use the Player's name, nickname, slogan and signatures... image, likeness, voice, logos, get-ups, initials, team or squad number... reputation, video or film portrayal, biographical information, graphical representation, electronic, animated or computer-generated representation and/or any other representation... and/or any other right or quasi-right anywhere in the World of the Player in relation to his name, reputation, image, promotional services, and/or his performances together with the right to apply for registration...”*

*Proactive Sports Management Limited v Wayne Rooney* [2010] EWHC 1807 (QB)

# Because you're worth it...?

Who?	How much?
David Beckham LA GALAXY	<ul style="list-style-type: none"> <li>• 2009 LA Galaxy paid £125 million, 80% image rights</li> <li>• 2012 UK Image Rights Co paid Beckham £14.1 million</li> </ul>
Wayne Rooney MANCHESTER UNITED	<ul style="list-style-type: none"> <li>• 2010 Manchester United - £760,000</li> <li>• UK Image Rights Co</li> </ul>
Dennis Bergkamp ARSENAL	<ul style="list-style-type: none"> <li>• 2000 Arsenal- £1.5 million</li> <li>• Offshore Image Rights Co</li> <li>• Licensed to intermediary company owned by Bergkamp's agent.</li> <li>• Intermediary company sub-licensed to Club and to reebok</li> </ul>
David Platt ARSENAL	<ul style="list-style-type: none"> <li>• Offshore Image Rights Co - wound up in 1995.</li> <li>• UK Image Rights Co - Platt and wife as directors and shareholders</li> </ul>
Joey Barton NEWCASTLE	<ul style="list-style-type: none"> <li>• 2009 Newcastle - £675,000</li> </ul>
Gareth Barry MANCHESTER CITY	<ul style="list-style-type: none"> <li>• 2011 Manchester City - tax Savings of £135,000</li> </ul>
..... + 55 other footballers are known to have Image Rights Cos	

**ADAM CRAGGS**

**RPC**

**IMAGE RIGHTS**

**1** NO SPECIFIC IMAGE RIGHT UNDER ENGLISH LAW

**2** BUT PATCHWORK PROTECTION - REGISTERED TRADE MARKS, PASSING OFF, CONFIDENCE/PRIVACY ETC

**3** CONSIDER GUERNSEY IMAGE RIGHTS REGISTRY

**4** SHOW COMMERCIALY JUSTIFIABLE VALUATION FOR TAX PURPOSES

**RPC** ★ ★ ★ ★ ★

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# Protecting Adam: the law

Image is protected by patchwork of principles & concepts:

- Passing off
- Breach of confidence
- Registered trade marks
- Privacy
- Defamation
- Data protection
- Copyright
- Advertising codes of conduct

# Passing off

# Image talks

*Irvine v Talksport Ltd*  
[2003] EWCA Civ 423



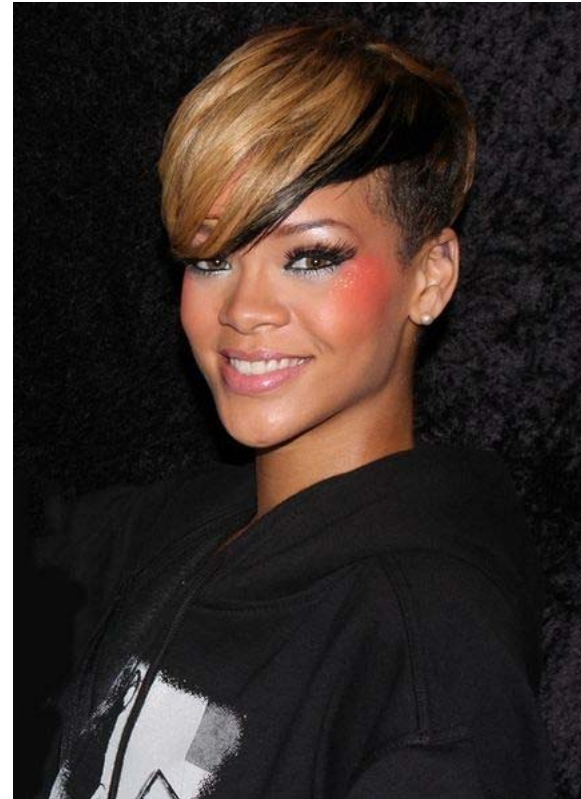
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# Not Rihanna's Top Shop - \$5 million (£3.3m)

*Robyn Rihanna Fenty & Ors v  
Arcadia Group Brands Ltd (t/a  
Topshop) & Anor*  
[2013] EWHC 2310 (Ch)



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# Trade Marks

# Varying fortunes

[ACCEPTED]



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[REJECTED]



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# Watch this space.....

## *Guernsey Image Rights Registry?*

<http://ipo.guernseyregistry.com/article/7042/Image-Rights>

Jordan Nobbs, Arsenal ladies British footballer

Manuel Pellegrini, Manchester City football manager

Heather Watson, British tennis player

Bradley Saunders, English professional boxer

# Managing Image rights: Structures for tax planning

# Tax planning



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Image rights  
assigned/licensed

Employment  
Contract



Licence to use

Payment



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# Taxing Issues

UK Salary	Image Rights payment
Income tax @ 45% National insurance	UK corporation tax @ 28% Offshore jurisdictions

- “*Commercially justifiable*” proportioning of salary to image rights *Sports Club Plc v Inspector of Taxes* [2000]
- UK Revenue & Customs see this as up to 20% of salary BBC News, 6 September 2013 [Online]

*“The taxation of image rights is a complex area where the tax treatment will very much depend on the facts of the particular case.”*

HMRC spokesman quoted in Telegraph, 17 January 2011 [Online]

# Practical advice



# Practical advice

1. Transfer image rights before signing PL contract or moving to UK (not day after) – point of UK source of revenue  
*.. Or even on turning 18 years old*
2. Get independent valuation of the player's image rights – justify proportioning of salary
3. Keep valuation of image rights under review – review and negotiate annually
4. Has the Club monitored promotional activity to evaluate value for money/inform future negotiations?
5. Record negotiations between Club and Player
6. Has the Clubs intentions to exploit the image rights been noted at board level - Club's business plan?

# Q&A

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