

Protecting your image rights in Guernsey

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Jason Romer provides a case study of how image rights can be protected by using a Guernsey-based structure

Well-known figures, from Bollywood stars to national sporting heroes, have value attached to their image because they are so recognisable. But how can they best protect this value and gain from it?

As the following case study shows, Guernsey's Intellectual Property legislation and favourable corporate tax regime offer a solution and make Guernsey a very attractive place to base your IP and image rights.

Case Study

1. Famous cricketer X found that sales of photographs of him in action and replicas of his team shirt were becoming increasingly popular in the UK and India, where he has a fantastic reputation. He was also being asked to endorse Kingfisher beer in a series of advertisements on TV and in various magazines. He wanted to maximise the revenue these opportunities were generating...

To protect these image and IP rights in India or the UK could be complicated and any derived income could be taxable at up to 50% in the UK.

Famous cricketer X may better choose to protect and exploit his image rights using a Guernsey-based structure however. The image rights are then held by a Guernsey company, meaning that any income gained from licensing the right to use his image is paid to the Guernsey company.

The company can be structured in such a way as to ensure that limited tax is paid by the company on the income received. **Famous cricketer X** may then choose to collect the profits and gains at a time suitable to him, effectively protecting his image and maximising its value to him.

2. Several years into the arrangement the Indian Cricket team won the World Cup and **Famous cricketer X** found himself a truly international star. The Guernsey company holding his image rights was able to license the rights to the rest of the world through an associated

company within the EU, and **Famous cricketer X** continued to take advantage of the tax benefits, receiving income from worldwide licensing rights.

3. His teammates also start to become recognised following the win and want to take advantage of similar structures. The club sets up a Protected Cell Company, with each member holding their image rights in a separate Cell. This allows efficient management of the team's IP under one corporate structure, with each player owning shares in a separate cell (that is statutorily ring-fenced) holding their own image rights.

4. After many years of continued success, Famous cricketer X is now recognised worldwide as a sporting superstar but with a large family decides he wants nothing more than to step out of the limelight, retire and ensure that his family can benefit from his worldwide reputation. **Famous cricketer X** may have been well advised to establish the structure using a trust that would allow him to benefit his family long term. Guernsey has an excellent trust regime with well established trustees, experienced with dealing with such arrangements.

Guernsey is currently establishing itself as a market leader in the management of image rights and, as the case study above shows, protecting your image and other IP rights in Guernsey may be very advantageous. Guernsey has well recognised and flexible corporate and trust structures, and is looking at the potential for new legislation to establish a unique registrable image right.

The author of this case study is a partner at Collas Day and heavily involved in Guernsey's new IP regime.



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