



RPC

What role do IP rights play in relation to privacy, data and defamation claims?

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27 November 2018

Introduction



Copyright



Passing off



Database right



Confidential Information



Reputation Management



Privacy

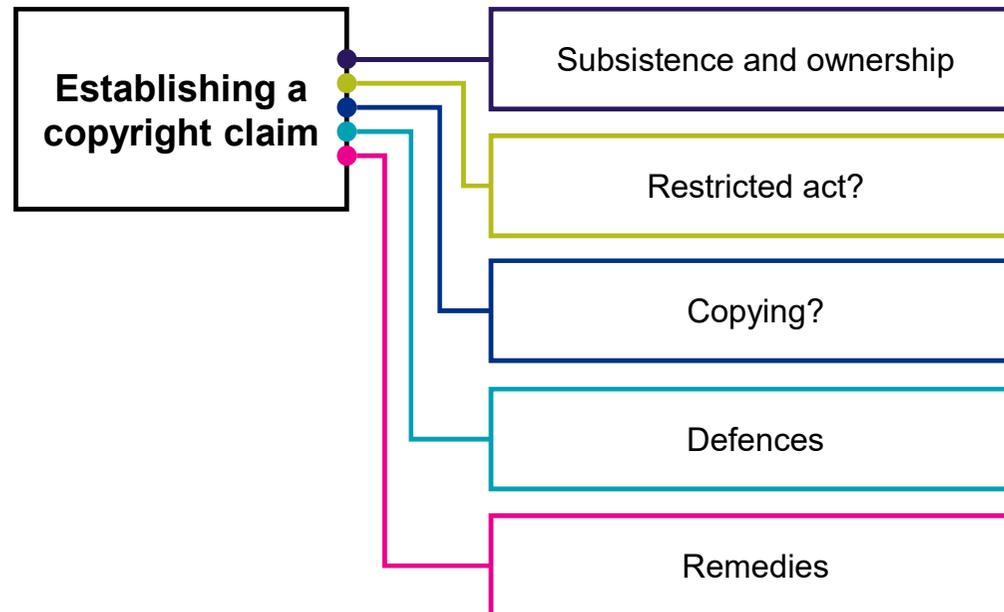


Defamation

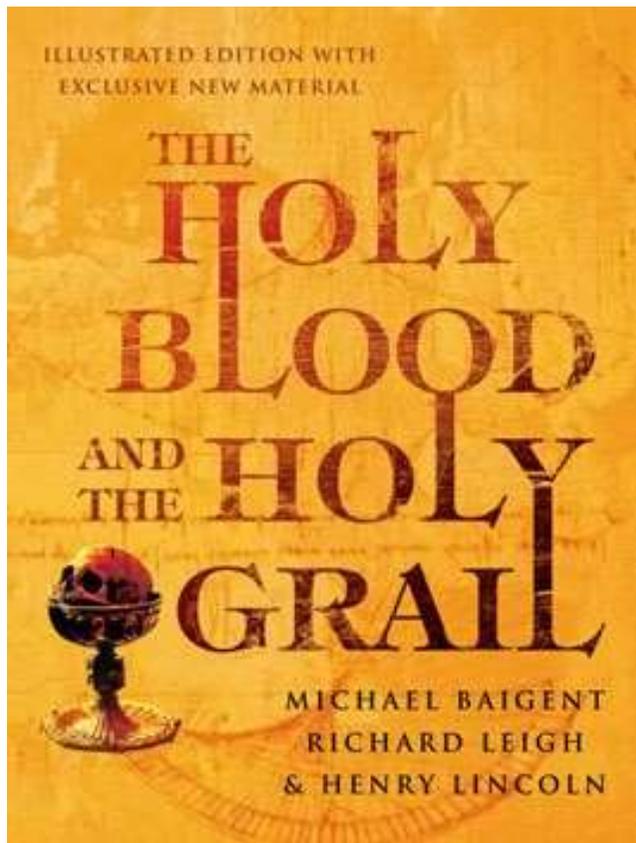
Why would you use IP rights?



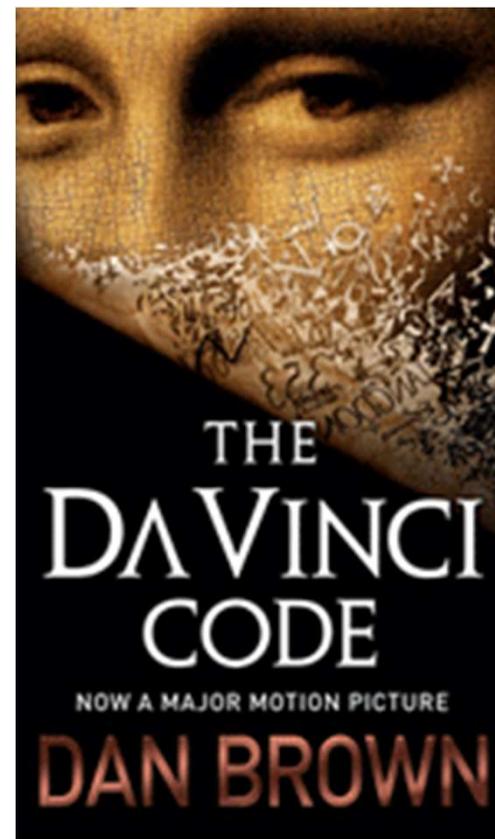
A copyright grenade in a defamation or confidential information claim



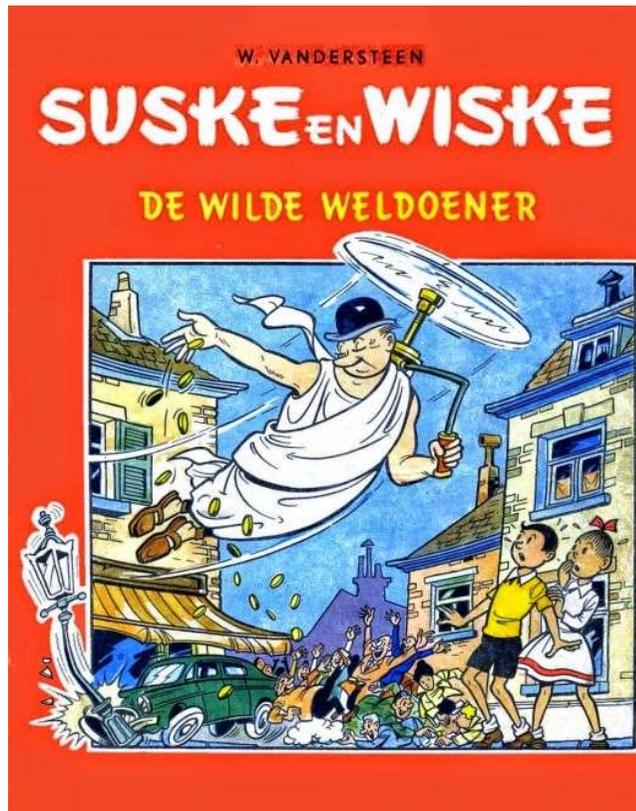
Baigent & Anor v The Random House Group Ltd (The Da Vinci Code) [CoA 2007]



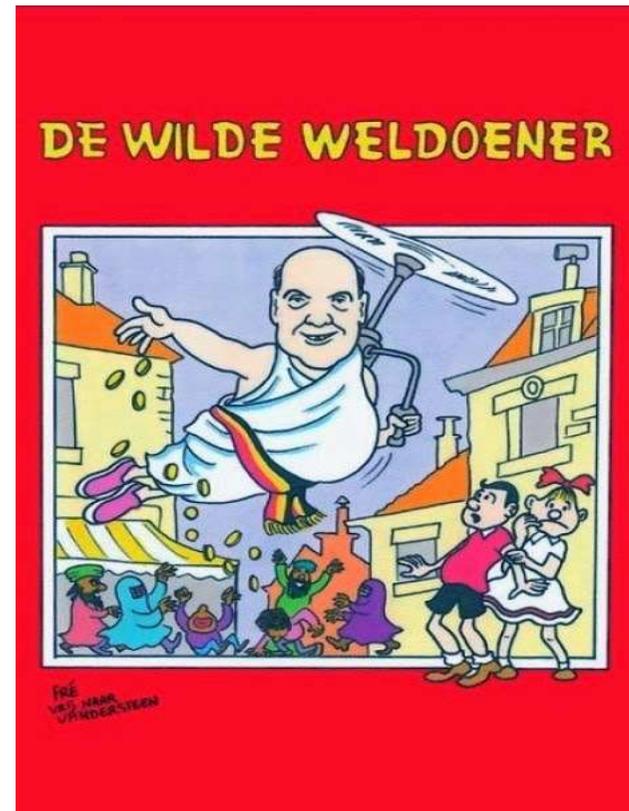
v



Deckmyn and another v Vandersteen and others [ECJ 2013]



V



Funke Medien NRW GmbH v Federal Republic of Germany [ECJ – AG - 2018]



The operations of the Afghan security forces in the northern region during the period under consideration were focused on the province of Faryab with emphasis on the region north of Maimanah. In addition, operations were carried out in the provinces of Baghlan, Badakhshan, Kunduz and Takhar. As regards the region of Kunduz, the concept of authenticated security of the ANDSF for the urban area of Kunduz continues to ensure security and stability since November 2016.

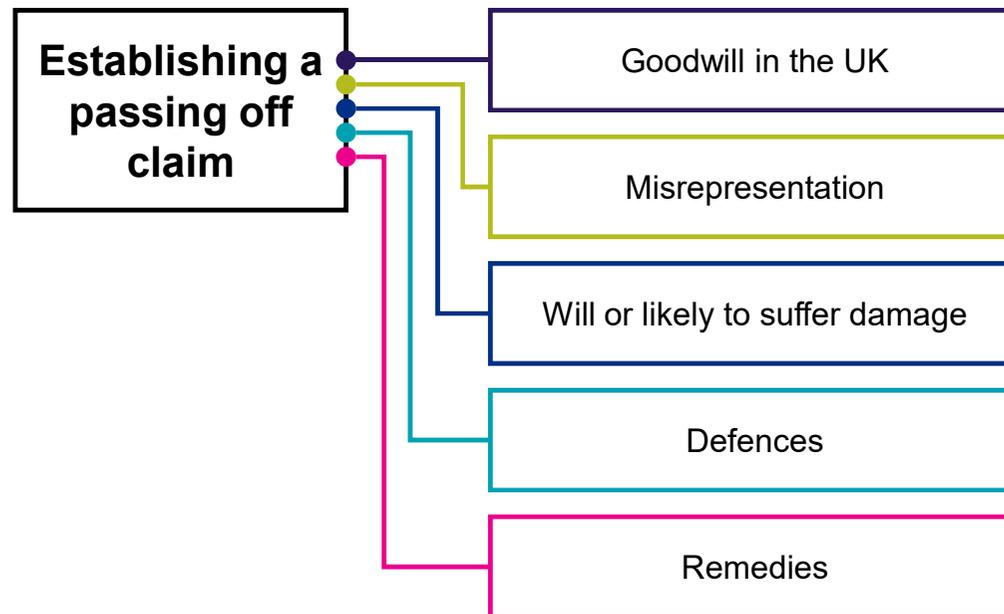
Infopaq (2009, ECJ)

- Copyright can subsist in a newspaper headlines. Protected as a literary work
- Printing 11-word extracts from newspaper articles amounted to reproduction of a copyright work
- TDC: 73%

“a forthcoming sale of the telecommunications group TDC which is expected to be bought”



A passing off grenade to protect reputation



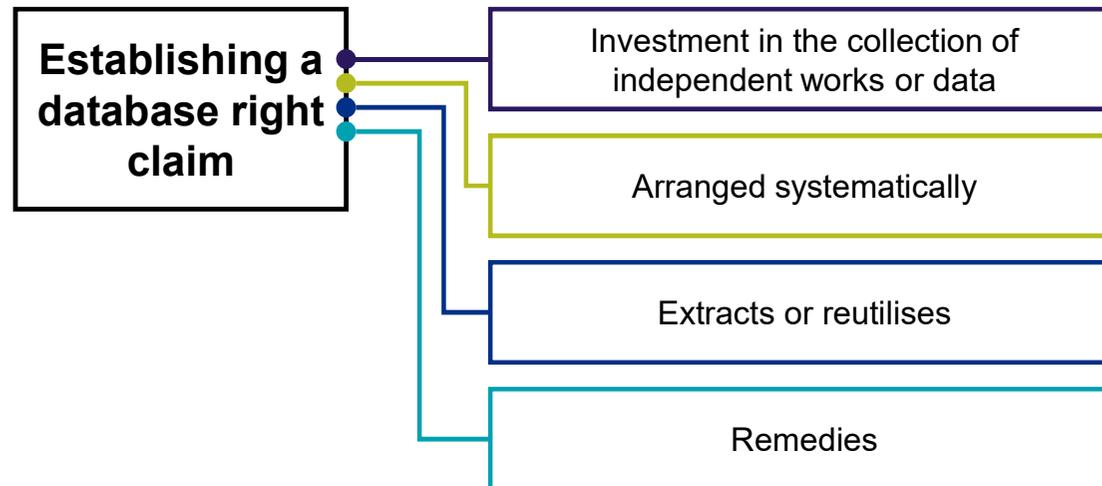
Rihanna v Topshop [HC, 2013]



Irvine v Talksport Ltd CoA 2003



A database right grenade to protect personal data/confidential information



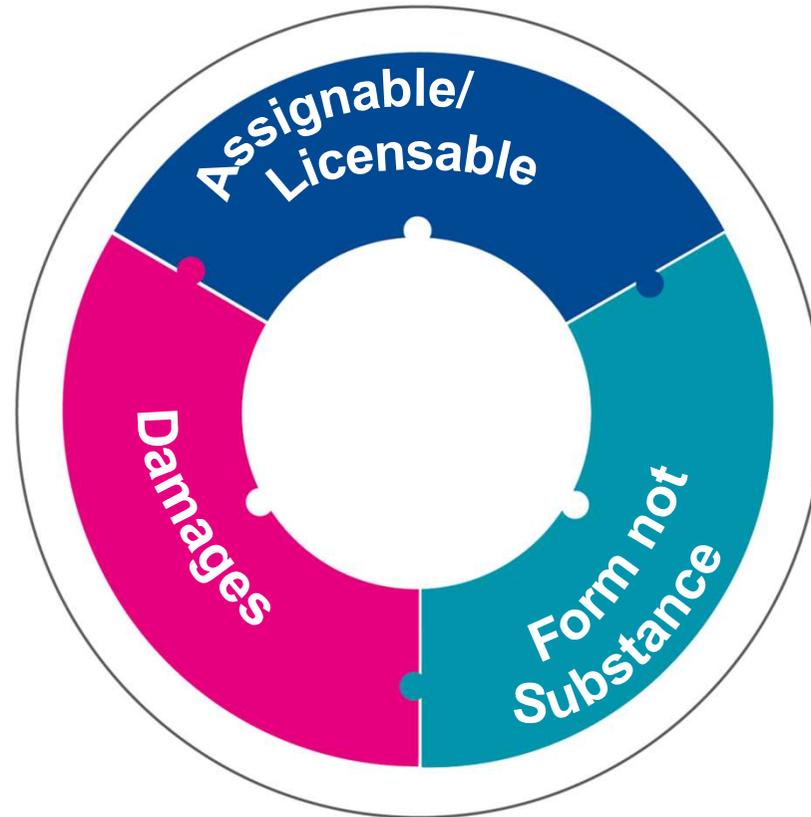
Flogas Britain Ltd v Calor Gas Ltd [2013]



Chris Froome and Fancy Bears



Why would you use IP rights?



Copyright infringement damages

S96.2 CDPA 1988

“In an action for infringement of copyright all such relief by way of damages, injunctions, accounts or otherwise is available to the plaintiff as is available in respect of the infringement of any other property right.”

General Tire v Firestone Tyre and Rubber Company Limited: HL 1975

Lost **profit**

Lost **licence/royalty**

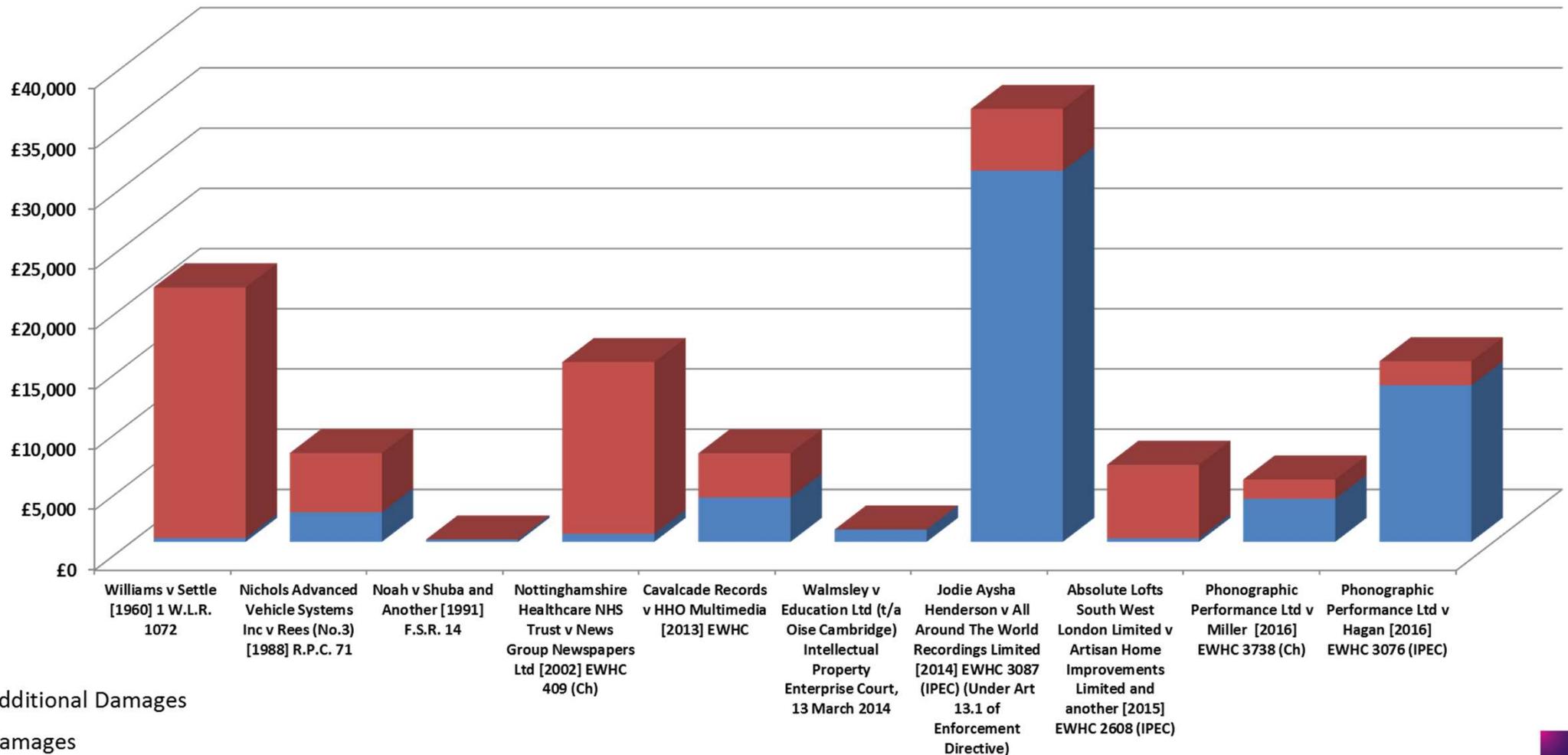
Lost **hypothetical licence/user principle**

“Top Up” Damages

S97.2 CDPA

Article 13 IP Enforcement
Directive

Aggravated damages awarded



Reformation Publishing Co Ltd v Cruiseco Ltd



Q&A



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