

What if someone made
a sex robot that looked
like you?

Neil Brown

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Clone-A-Willy Vibrator Create Your Own Penis Moulding Kit

OFFER

20% off when you buy any 2 vibrators



European Convention on Human Rights



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Misuse of private information

ARTICLE 8

Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.



“Diabetic chocolate torte cake”, Eldriva, <https://www.flickr.com/photos/eldriva/9284575323/>, CC BY-ND 2.0

“Tort”, not “torte”

Sorry

Tort

A wrongful act or infringement
of a right

Not based on a contract

Leading to legal liability

Misuse of private information

Reasonable expectation of privacy

More than trivial interference

No defence

Reasonable expectation of privacy

Photo/video at public events

Publicly-released photo/video

Unauthorised access



News > People

iCloud celebrity nude leak: Man pleads guilty to hacking emails of stars including Jennifer Lawrence and Kate Upton

The 29-year-old hacker admitted to downloading the sensitive images for his own enjoyment

Feliks Garcia New York | @feliksrose | Tuesday 27 September 2016 21:58 BST



Click to follow
The Independent Online

Lower barrier for non-
celebrities

Unwarranted interference

Distribution / publication

“Mere” access: voicemail cases

More than trivial

No obvious countervailing right

Copyright

Photographs

Artistic works

“Irrespective of artistic quality”

Copying?

“In relation to an artistic work copying includes the making of a copy in three dimensions of a two-dimensional work...”

Not if you own the
copyright in the photograph

Secondary infringement

Knowledge of infringement

Import for non-personal use

Possess in course of business

Other contexts

Copying someone's tattoo?

Trade mark

Registered, paid-for, right

Not someone's look/image

But could trade mark elements

Aspects of costume / logo

Names?

Book / film characters

EU000935593

| | |
|-------------------|-----------------------|
| Status: | Registered |
| Mark text: | HARRY POTTER |
| File date: | 09 September 1998 |
| Classes: | 9, 16, 20, 21, 25, 28 |

Class 20

Figurines, works of art, and models made of wood, wax, plaster or plastic.

Class 28

Games, toys and playthings;

Registration does not mean all uses infringe

Identical sign, identical product

Identical sign, similar product /

similar sign, identical product,

plus likelihood of confusion

However...

Identical or similar sign

Mark has reputation in UK

Use of sign ... without due cause

... is detrimental to repute of mark

But only “in the course of
trade”

“Personal use” non-infringing

Passing off

Unregistered trade marks

Protects goodwill / reputation

Three elements

Goodwill / reputation in sign

Misrepresentation

Misrep damages, or is likely to
damage, goodwill / reputation

Irvine

False endorsement case

Use of (doctored) photo

Rihanna

Rihanna's photo on t-shirt

Not promoted as authorised

But she had done promo work
with Top Shop previously

Rihanna

CoA: mere sale of a t-shirt with image of famous person is not, in itself, passing off

But was given the context here

So...

Use alone not passing off

Avoid misrep of authorisation

But I suspect people would try

In brief

Image rights: not in UK

Breach of contract: depends

Advertising complaint: perhaps

Libel: might be a stretch

Conclusion

Lots of possibilities

Will depend on the facts

Personal use less risky

All untested (AFAIK)

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