



人格的商业利用

〔澳〕胡·贝弗利-史密斯 著
李志刚 缪因知 译

The Commercial Appropriation of Personality



北京大学出版社
PEKING UNIVERSITY PRESS

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北京市版权局登记号 图字:01-2004-242

图书在版编目(CIP)数据

人格的商业利用/(澳)史密斯著;李志刚等译. —北京:北京大学出版社,2007.10

ISBN 978-7-301-12829-9

I. 人… II. ①史… ②李… III. 知识产权法-研究
IV. D913.04

中国版本图书馆 CIP 数据核字(2007)第 157016 号

书 名: 人格的商业利用

著作责任者: [澳]胡·贝弗利-史密斯 著 李志刚 缪因知 译

责任编辑: 王 宁 王 晶

标准书号: ISBN 978-7-301-12829-9/D·1879

出版发行: 北京大学出版社

地 址: 北京市海淀区成府路 205 号 100871

网 址: <http://www.pup.cn>

电 话: 邮购部 62752015 发行部 62750672 编辑部 62752027

出版部 62754962

电子邮箱: law@pup.pku.edu.cn

印 刷 者: 三河市新世纪印务有限公司

经 销 者: 新华书店

650mm×980mm 16 开本 29.25 印张 396 千字

2007 年 10 月第 1 版 2007 年 10 月第 1 次印刷

定 价: 43.00 元

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前 言

人格(Personality)的商业利用并非是一个新现象,但有关其立法规制的模式和地位的争论正日益成为一个热门话题。利用名人或者不具有明显公众知名度的普通人以大规模地促销商品或者服务的实践正方兴未艾,但这些通常是营利性的安排所依据的法律基础则相对较少获得关注。本书的研究以英国法为基础,英国法并不倾向于对个人身份特质提供实体性的法律保护。其他主要的普通法系国家,在不同程度上,更不愿如此。针对各个国家/地区的不同司法实践,需要我们对能够反映出不同特色的法制发展动态的主导型案例和核心概念进行详尽的分析。习惯于分析知识产权问题的读者可能会对将探讨转移到隐藏在个人尊严和人权保护背后的理论,存在疑问。然而,商业利用人格特质问题确实是一个需要从不同路径进行分析探寻的具有多重属性的问题。

当然,在探讨的广度和深度之间必须进行一定的平衡。比较的主要素材主要是普通法系司法当局的实践。澳大利亚法院在承继传统的英国诉因(cause of action)*方面已经相当积极开拓,而加拿大法院则走得更远,采取了完全不同的方式。对于美国法院实体审判关于人格商业利用案例的探讨,需要更加有选择性。对于美国法律学者而言,整个问题似乎有一种朦胧的19世纪的感觉,因为英国法院持续争论是否应该承认的利益正是美国法院用超过一个世纪的时间来以不同的形式所承认和保护的。美国法院关注对人格上的知识产权的范围和限制进行界定,这主要通过大量的

* cause of action,即原告起诉的根据,具体是指原告起诉寻求司法救济所依据的事实,有时也可指依据这些事实所提起的诉讼的一部分。——译者注

州案例法形成,后来得到了州立法和法典的补充;而英国法院还在争论是否应在人格特征上承认知识产权以及应该采取何种保护方式。

1988年的人权法案(The Human Rights Act 1988)对于发展英国的隐私法具有特殊的意义,本书并非是在这样不确定的背景下写作的唯一作品。《欧洲人权公约》(The European Convention on Human Rights)的价值理念对英国普通法所能产生影响的程度,在一段时间内并不太会变得明显。

虽然对于民法法系各国的法律处理方式介绍,文章会不时给出,但是读者可能无法获得综合性的把握。主要的民法法系国家的发展模式和文中所提到的复杂问题,完全各不相同,甚至可以通过与本书所提供的比较结构采取本质上不同的方式进行一种更为彻底的分析。丛书随后一卷《隐私,财产和人格》(Privacy, Property and Personality)(剑桥大学出版社),由德国和法国的两位专家学者(Ansgar Ohly, Agnes Lucas-Schloetter)完成,计划在2003年面世*。

本书以本人威尔士大学的博士论文为基础,并进行了实质性修改和更新。特别感谢我的博士生导师 Allison Coleman,感谢他不断的支持和鼓励;感谢审查本论文的 W. R. Cornish 教授和 R. A. W. Kinder 教授。我要感谢以前在 Aberystwyth 法学系的同事和学生,以及威尔士国立图书馆和高级法学研究所(Institute of Advanced Legal Studies)的职员。特别要感谢马普外国和国际专利、版权和竞争法研究所(慕尼黑)所提供的资金支持,使得我能够在2000年的多数时间里在那里从容研究,而本书的主体也是那时完成的。

我特别感谢拨冗阅读和点评本书各个章节的不同人士,并借此机会感谢 Robert Burrell, Bill Cornish, Ansgar Ohly, Richard Ireland 以及 John Linarelli。他们的批评和建议极有价值,当然,我要负全部文责。作为丛书的编辑, Bill Cornish 在本书完成的各个阶段持

* 该书于2006年由剑桥大学出版社出版。——编注

续周到的给予了帮助和支持,对此我尤为感激。最后,我要感谢 Finola O'Sullivan, Jennie Rubio 和剑桥大学出版社的全体员工在这本包括了截至 2001 年 8 月于我而言可获取的全部材料的著作的制作过程中的尽责和高效。后续的完善和补充将在下列网址中列出:
<http://www.commercialpersonality.com>.

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Mail Newspapers v. Insert Media (No. 2) [1988] 2 All ER 420	14, 29, 60, 112, 324
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