



# Hewitsons Sport

LEGAL UPDATE

Absolute Client Focus

Our Sports Group has a long-established record of advising sports-related organisations including lottery distributors, sports administrators, national governing bodies, sports clubs, charities and trusts.

We work with sports organisations across numerous disciplines including tennis, shooting, ice skating, taekwondo, golf and ice hockey and represent a number of disability and Paralympic organisations.

For information on the many services we provide, please visit our [website](#).

## In this issue:



Hannah Thorogood  
Senior Solicitor

### **How famous do you have to be to register your own name as a trade mark?**

Footballers can achieve global stardom. Thousands of fans greeted Cristiano Ronaldo on a recent visit to China, and it is reported that he produces nearly \$1 billion in value for his sponsors. However, such recognition arising just from your own name does not necessarily mean the path is easy to register that as a trade mark.

This summer Lionel Messi, one of the highest paid footballers in the world, won a seven year battle to trade mark his own name.

In order to be registered as a European trade mark, a name must pass several tests, including the 'likelihood of confusion' test. Registration will be refused if the name is similar to an earlier trade mark registered for identical or similar goods or services and there is a likelihood of confusion with the earlier trade mark.

Messi's original application to register his name as a graphic mark was challenged by cycling clothing manufacturer Massi, who argued that there was a likelihood of confusion between the two names. The EUIPO upheld the opposition and agreed that MASSI and MESSI were too similar, both phonetically and visually.

Messi continued the battle however and, this summer, the General Court agreed with him. Acknowledging Messi's global fame, the Court found that Messi was a well known public figure not just in the football world, but generally. A significant part of the relevant public would associate the name Messi with the famous footballer, and would perceive the term 'Massi' as being conceptually different. The extent of Lionel Messi's fame tipped the balance in his favour, despite the clear visual and phonetic similarities between the marks.

Messi's range of sports clothing is yet to be released, but the mark is already being put to good use on his website.

The battle does not end when the mark is registered; to maintain its value, stars must turn their minds to enforcement. When Cristiano Ronaldo looked to enter the US market with his brand CR7, battle lines had to be drawn with a Rhode Island businessman, who had already registered the CR7 combination in the US.

Nevertheless, what Messi has shown us is that, if you really are that famous, your name will be recognised despite its similarity to others, and traditional factors such as visual and phonetic similarity may lose their importance in the trade mark registration process. Quite where the line will be drawn, and how famous you have to be to negate the risk of confusion, remains to be seen.

For more information, please contact Hannah Thorogood on 01223 461155 or [click here](#) to email Hannah.



Ben Moorhead  
Partner



Kasia Reda  
Trainee Solicitor

## **A Code for Sports Governance**

UK Sport announced earlier this year that it would be investing approximately £24 million into several Olympic sports ahead of the Beijing 2022 Winter Games. The sports organisations being funded will be expected to be fully compliant with the Code for Sports Governance ("the Code") by October 2018. So what exactly is the Code and what are some of the hurdles that organisations need to be aware of?

The Code sets out new levels of accountability and transparency which sports organisations who request funding from UK Sport and Sport England must now adhere to. The requirements of the Code are split into three proportionate tiers; the higher the funding an organisation is requesting or is in receipt of, the higher the number of requirements they must comply with.

It is clear that the Code continues to improve practice through offering a base upon which organisations can develop good governance. However, many organisations have been surprised by the amount of time it takes to become compliant. Newly compliant organisations have recognised that, especially initially, a lot of time and resources need to be allocated to working towards becoming compliant and dealing with the 'red tape' this involves. In particular, it takes time and extensive consideration to create a solution which sufficiently incorporates the Code's

requirements, but still reflects the spirit and working operations of the organisation in question.

Hewitsons LLP has successfully advised and steered many organisations through the steps required to reach compliance. If you have any questions and are seeking advice for your organisation regarding the Code please then please get in touch with Ben Moorhead on 020 7400 6578, or [click here](#) to email Ben. Alternatively you can contact Kasia Reda by email [here](#).



Andrew Priest  
Partner

### **An increased focus on cyber security**

The cyber attacks on the NHS last year and the recent large-scale data breach at Dixons Carphone were widely reported in the media but new figures from the Department for Digital, Culture, Media and Sport highlight that digital crime is far more widespread than a few isolated high-profile incidents.

In the past twelve months over 43% of UK businesses and 19% of UK charities suffered a cyber breach or attack. The most common incidents involved fraudulent emails seeking to deceive staff into revealing passwords, financial information or opening dangerous attachments.

The new privacy legislation, the General Data Protection Regulation (the 'GDPR'), which came into force on the 25th May this year, places an even greater emphasis on data security. Under the GDPR, organisations must have in place appropriate technical and organisational measures (including in relation to data security). If those measures are not in place, organisations could be in danger of considerable fines or penalties from the relevant supervisory authority (which for the UK is the Information Commissioner's Office).

There are a number of online resources available to help organisations keep up with both cyber criminals and legislative changes. One of these resources is the government scheme 'Cyber Essentials' which provides a certification scheme through which an organisation can either self-assess its data security systems or have those systems independently assessed by an approved body. In November of last year, it was reported that such guidance and schemes were significantly under-utilised but organisations are increasingly taking advantage of these resources.

For more information about the GDPR and its implications for the data security of your organisation, please contact Andrew Priest on 01223 532 746, or email Andrew by clicking [here](#).



Christine Bowyer-Jones  
Partner

### **Conflict management within sports organisations**

On 10 October, Christine Bowyer-Jones will be delivering a seminar for Sport Resolutions, together with Amanda Bennett of FairPlay, a governance professional with extensive experience in sport. The seminar will focus on preventing conflicts within sports organisations through good governance and communication, and managing conflicts effectively when they do arise, using alternative forms of dispute resolution, including mediation. For

further details and to register for the seminar, please visit the Sport Resolutions [website](#).

For more information on the information shared in this update please contact a member of our [sports team](#).



This Sport E-Update is produced by Hewitsons for existing clients of the firm to provide them with a useful summary of recent developments, cases and matters of interest. It is not a definitive statement of the law in any area. Advice should be sought from a member of the Sports Group in respect of any information contained in this E-Update that affects any matter with which you may be concerned.

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