



LAW ADVOCATE GROUP, LLP

9701 Wilshire Blvd. Suite 1000 Beverly Hills, CA 90212

Phone: 310-651-3065 Fax: 310-601-7110

www.LawAdvocateGroup.com

Doron F. Eghbali Entertainment Law Blog on Lawyers.com

[Rights of Privacy VS. Rights of Publicity](#)

Friday, May 13, 2011 by [Doron F. Eghbali](#)

Right of privacy is, often, an innate inherent right. Right of publicity, on the other hand, has to be acquired throughout one's lifetime by creating economic value in one's name, image or likeness.

A. RIGHT OF PRIVACY

Right of privacy could be described as a right protecting one's individual privacy. Right of privacy starts at birth and no actions or formalities are required to create it. Nonetheless, this right may be limited by actions which make the individual a public figure.

Right of privacy encompasses four different interests:

- 1. APPROPRIATION:** Appropriation is using the plaintiff's name or likeness for defendant's benefit without permission.
- 2. INTRUSION:** Intrusion is encroaching into plaintiff's physical solitude or seclusion.
- 3. PUBLIC DISCLOSURE OF PRIVATE FACTS:** This public disclosure usually refers to disclosure of private information, even though the information is true, in a way a reasonable person would find objectionable. For instance, disclosing the past of a former prostitute could constitute such tort.
- 4. FALSE LIGHT:** This involves publicity of information that places plaintiff in a false light. For example, using a person's picture in connection with an article in which no reasonable connection exists; nonetheless, with an implication that such a connection exists.



B. RIGHT OF PUBLICITY

Right of publicity bestows on an individual the privileges of monetizing individual's personality. The stark distinction between the right of privacy and the right of publicity is how they are created. Despite the innate characteristic of right of privacy, right of publicity must be earned, to some extent, by the plaintiff.

As opposed to Right of Privacy, Right of Publicity is divided into five categories.

1. PERFORMANCE

This right refers to one's prerogative to exclusively perform services through which the individual earns a living. Unsurprisingly, it has been held a person has the exclusive right to exploit one's act or performance and to preclude others from using the act in its entirety without one's permission.

2. ADAPTATION

The right of adaptation refers to one's prerogative to exclusively authorize others to create derivative works personifying the person's performance either as done by the person or others.

3. PERSONALITY PRODUCTS

The right of personality products refers to exploitation of products based on a person's name, likeness or image. Such right would also encompass posters, motion pictures, stills from motion pictures and even bubblegum cards.

4. ENDORSEMENT

The right of endorsement refers to the use of person's name, likeness, image and reputation in connection with the advertising of goods or services. Not surprisingly, sports figures and a number of performers have started to trademark their names.

5. REPUTATION

This right refers to protection of one's reputation against misuse even though the use was otherwise authorized. This right embodies the appreciation that an artist's past performance has a continuing effect on the artist's future works.

***DORON EGHBALI** is a Partner at the Beverly Hills Offices of Law Advocate Group, LLP. Doron Primarily Practices Business, Real Estate and Entertainment Law. Doron Can Be Reached at: 310-651-3065. For More information, Please, Visit: [HERE](#).*



Law Advocate Group, LLP