

**EIP**

# Political Blunders: A Reminder to Clear Underlying Rights

The announcement from Toyota on 9 June that it was considering making a “formal legal complaint” against Vote Leave for use of the Toyota mark in its campaign materials and the raising of similar issues by Nissan, act as a reminder of the unfortunate history the marketing associated with political campaigns has of entanglement with IP rights (and resultant negative publicity).

The Trump presidential campaign was embroiled in a copyright dispute (which later settled out of court) regarding the campaign’s use of an iconic photograph of a bald eagle.

After the 2009 Obama presidential campaign the famous “Hope” poster was accused of infringing copyright in an Associated Press photograph of the President. Closer to home, the Conservative party was said to have had to edit a ‘scare’ video regarding Jeremy Corbyn over alleged copyright infringement in some of the footage they had used (which was said to have been owned by a staunch Corbyn supporter).

A particular bone of contention has been the use of music in election campaigns not least from supporters of one political persuasion objecting to other parties using their work and implying an endorsement. The 2009 McCain campaign settled a copyright claim bought by Jackson Browne for failing to obtain permission from the musician for the use of one of his songs in a campaign advert. The George W Bush campaign received a cease and desist letter from Tom Petty’s publisher’s over its use of “I Won’t Back Down”. And the use of the lyrics to MGMT’s song “Kids” in the 2009 Sarkozy French presidential campaign resulted in an out of court settlement between the French UMP party and MGMT. There are plenty of other examples.

It may be that those involved are not up to speed with the need to clear rights or that in the heat of the battle rights clearances simply get overlooked. However, while none of these reasons are excusable, those involved are not likely to forget their brush with IP rights again. The reason these cases come to light tends to be that the rights holder is objecting as they do not support the associated political cause. What must have initially appeared to the campaigners and marketing teams as a great way of promoting their candidate therefore turns into a publicity disaster. High profile infringements come with high profile consequences.

While some of these political stories may bring a wry smile to the faces of people reading their morning papers (or newsfeeds) they should also act as a tale of caution. It is all too easy to be inspired by a good idea but sail too close to the wind and end up in legal hot water. If in doubt – ask a lawyer!

As a post script I note that the rapid expansion of social media over the past few years has led to high profile questions of IP rights infringement being raised and considered globally well in advance of any of those involved taking formal steps to address the possible implications. This is well illustrated by the copyright cases currently surrounding Led Zeppelin and Ed Sheeran. However despite the numerous comparisons being made in the press and social media on the images of yesterday's Thames Flotilla, I very much doubt we will see Alan Partridge or the rights holders for Titanic seeking to claim copyright in the arrangement of a pose on a boat and the associated photographs being added to the list of political rights incursions.

By Robert Lundie Smith