

Boris Becker Wins Euro 1.2m Image Rights Payout

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German tennis legend Boris Becker has succeeded in his action for unauthorized use of his image against the newspaper Frankfurter Allgemeine Sonntagszeitung. The substantial damages award by the German court of EUR 1.2 million (plus interest at 5%) underlines the risks that advertisers face when using images of celebrities without their permission.

The paper had run a promotional campaign in 2001 which used a mock front page featuring an image of Becker, together with the words, "the faltering favourite". The picture was apparently used across Germany on buses and advertising hoardings as well as on television and in newspapers.

Under German law it is possible to use certain celebrities' images without their permission for information or for editorial purposes such as the illustration of a news story. However, Judge Thomas Keiss ruled that the paper was using the ex-Wimbledon champion's picture for promotional reasons and that Becker's permission was therefore required.

The paper may have hoped that the court would have followed an earlier case involving another German sporting legend, Franz Beckenbauer. That case was decided in favour of the manufacturer of a calendar featuring photographs of the player. The Federal Court ruled that the use of photographs constituted information about the athletic style of the game and about Beckenbauer himself and that consent was not therefore required.

The means available to celebrities to prevent and seek recompense for the unauthorised use of their images in the UK is undoubtedly weaker than in Germany. However, those involved in commercially exploiting celebrities' images need to be wary of the extent to which their advertising may be viewable outside the UK.

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