

Black Lives Matter Movement Sparks Branding Changes

7th Edition: Trends in Marketing Communications Law

The tragic killings of George Floyd, Breonna Taylor and Ahmaud Arbery this year, among others, have reinvigorated the Black Lives Matter movement, resulting in powerful nationwide conversations about racial injustice in the United States, with far-reaching ripple effects. Businesses across industries — such as sports, entertainment, consumer products and higher education — have reevaluated certain aspects of their legacy brands and have announced that they will discontinue the use of names, trademarks and logos with racist origins.

One of the most high-profile examples is the National Football League's Washington football team which, after vigorously defending its right to use the "Redskins" name, decided to retire the "Redskins" name and logo because the term "redskin" is widely regarded as derogatory towards Native American groups.

The team owns federal trademark registrations for its "Redskins" name and logo, which have been the subject of multiple legal challenges dating back to the 1990s. Specifically, several Native American groups filed lawsuits seeking to cancel the trademark registrations based on a provision of the Lanham Act, which prohibited the registration of disparaging marks. These cases were unsuccessful for various reasons, including an unrelated 2017 decision by the Supreme Court of the United States holding that the Lanham Act's prohibition against disparaging marks violated the Free Speech Clause of the First Amendment.

In the entertainment industry, country music groups have altered their names in order to move away from the racist connotations associated with references to the Confederate South. For example, the Dixie Chicks have dropped "Dixie" from their group's name and are now known simply as "The Chicks".

Further, multiple consumer products have been rebranded because of racial stereotypes connected with their names and logos. For instance, the Quaker Oats Company decided to remove the image of Aunt Jemima from its syrup and pancake mix packaging and change the name of the brand, after publicly acknowledging that Aunt Jemima was based on a racial stereotype. In addition, Mars Inc., the parent company that makes Uncle Ben's boxed rice, announced that it will "evolve" the brand, including its visual identity, and stated: "As a global brand, we know we have a responsibility to take a stand in helping to put an end to racial bias and injustices." Similarly, Dreyer's Grand Ice Cream will replace the "Eskimo Pie" brand name for its ice cream bar and remove imagery featuring the Eskimo Pie character, stating that Dreyer's is "committed to being a part of the solution on racial equality, and recognize[s] the term [Eskimo] is inappropriate."

Relatedly, Conagra Brands, Inc. has decided to review its Mrs. Buttersworth's brand and packaging for pancake syrup, and B&G Foods, Inc. has similarly initiated a review of its Cream of Wheat branding.

Educational institutions are also reevaluating how race is reflected by their schools. Princeton University has decided to excise Woodrow Wilson's name from its School of Public and International Affairs and residential college because it does not want to be connected with his racist thinking and policies. Other colleges and universities have started discussions about changing the names of their schools and buildings in order to break with racist histories associated with their namesakes.

Key Takeaways

- Businesses across industries have begun to evaluate their brands to ensure they are not using names, trademarks or logos with any racist origins.
 - Changes to longstanding trademarks across industries act as a reminder that trademarks not only help consumers identify and distinguish the products and services of the particular businesses associated with them, but that marks and logos can also have important social and cultural impacts.
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