

Epilogue

The Aesthetic University

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In the course of co-editing this volume on “Academic Brands,” the world suffered a once-in-a-century pandemic, the Black Lives Matter movement forced a national reckoning with racial injustice, and my oldest child applied to college. Our family dallied with US schools from coast to coast, public and private, rural and urban, research universities and liberal arts colleges. Each tour (or Zoom information session)¹ coyly revealed elements of a school’s brand – its assemblages of identity and values on display for purchase, for the mere price of a Tesla every year for four years. Some schools give thanks to the Native Americans on whose land the campus sits. Brochures and social media showcase multiethnic student bodies. One school boasts scholar athletes; another flaunts quirky geniuses unicycling through campus. Elite universities that admit 5 percent of applicants tout their generous financial aid. University Instagram filters reveal much more than who is socially distancing responsibly. University brands riff off other brands. Every school proclaims itself Hogwarts.

Brands are the lingua franca² through which individuals, celebrities, politicians, cities, and more distinguish themselves in a brand new world.³ Universities are no exception. Indeed, university brands are among *the world’s most recognizable and valuable brands*, as Haochen Sun argues in his contribution to this volume.⁴

¹ Rachel Wolfe & Kenny Wassus, *Can’t Make Your College Tour? The Campus Will Come to You*, WALL STREET JOURNAL, March 12, 2021 at A1, describing how campuses are using TikTok videos, Lego sets of campus buildings, and virtual reality tours using Oculus to engage prospective students during the Covid-19 pandemic.

² Rochelle Cooper Dreyfuss, *Expressive Genericity: Trademarks as Language in the Pepsi Generation*, 65 NOTRE DAME L. REV. 397 (1990).

³ Mario Biagioli, Anupam Chander, & Madhavi Sunder, *Brand New World: Distinguishing Oneself in the Global Flow*, 46 U.C. DAVIS L. REV. 455 (2013) (Introduction to Symposium).

⁴ Haochen Sun, Chapter 6 above, 00, n.113 (2021), describing elite university brands as hyper luxury goods because they are “rare, exclusive, extremely high quality, often handmade and unapologetically expensive” (citing Amorim).

Harvard rivals Hermès in prestige and exclusivity – and is certainly more elusive than the purchase of a tie or scarf.⁵ This volume is the first to interrogate university brands as a distinct and influential form of branding. The chapters herein explore the brand as media and mediator, the filter through which the modern university perceives, represents, and ultimately remakes itself.⁶ How does the brand as a vehicle of self-fashioning transform the university? Furthermore, how do *university* brands reveal the peculiar nature of the brand itself?

But first – what is a brand? As a professor of trademark law, I have argued that brands transcend that narrow legal category. Where trademarks provide information – signaling the source of a product or service – brands commodify *meaning*. “[T]he brand is a social currency, a way in which people bring meaning to various exchanges,” Celia Lury wrote in her foundational book, *Brands: The Logos of the Global Economy* (2004).⁷ Another influential early investigation of brands, Adam Arvidsson’s *Brands: Meaning and Value in Media Culture* (2006), describes them as the “fusion” of “aesthetics and economics.”⁸ Brands commodify the communicative sphere of human life – the lifeworlds in which we play, experience, love, learn, and feel. Brands “become valuable through their ability to manage and program human communication and appropriate the ethical surplus – the commons – that it produces as a source of value.”⁹ Brand value derives from the sacred rituals, mythologies, stories, and emotions of life itself.¹⁰ Brands translate aesthetic feelings – joy, belonging, pride – into tradeable market commodities, bringing meaning into markets, yet also distorting the sacred acts of life itself.

The university as a site of enormous brand value should not be surprising. The more transformative the life experience, the more valuable the commodity.¹¹ The university “experience” far surpasses the four years typically required for a degree. University brands mediate identity from cradle to grave: from onesies for newborns that feature a parent’s alma mater to university-branded caskets.¹² Indeed, university

⁵ Harvard admitted 4 percent of applicants for the Class of 2025. See <https://college.harvard.edu/admissions/admissions-statistics>.

⁶ See Mario Biagioli, Chapter 1 above, 00: “For better or for worse, brands have become the university’s idiom of self-representation and marketing, but probably also the medium through which the so-called university of excellence – private, public, elitist, or inclusive – has come to think about itself.”

⁷ CELIA LURY, *BRANDS: THE LOGOS OF THE GLOBAL ECONOMY* 10 (2004) (citing Zelizer).

⁸ ADAM ARVIDSSON, *BRANDS: MEANING AND VALUE IN MEDIA CULTURE* 7 (2006). See also *id.* at 126: Brands move “on the abstract levels of ‘emotion’, ‘experience’.”

⁹ *Id.* at 13.

¹⁰ *Id.* at 8: Brands “mediate[] social life.”

¹¹ Madhavi Sunder, *Intellectual Property in Experience*, 117 *MICH. L. REV.* 197 (2018); Peter Lee & Madhavi Sunder, *The Law of Look and Feel*, 90 *S. CAL. L. REV.* 529 (2017).

¹² Collegiate Memorials sells officially licensed caskets bearing college insignia, writing that the company recognizes the meaningfulness of “college themed memorial products to status conscious college alumni, university friends, fans, that are designed to celebrate and tell the story of individual lives.” Proceeds from MLC’s officially licensed memorial products go to scholarships and special programs at the deceased’s alma mater. See <https://>

brands represent the complete colonization of life. Today the brand goes far beyond a school name, coat of arms, logo, colors, or a mascot. The university brand seeks to capture and commodify as completely as possible the aesthetic value in belonging and participating in an academic community and its storied past. For all life's pleasures, big and small – from intellectual transformation to social and emotional awakening, from sports games to all variety of university-branded kitsch – trademark laws are increasingly stretched and deployed to profit off the endorphins associated with memory and membership. The crux of trademark doctrines, from initial interest and post-sale confusion to sponsorship and endorsement confusion, is to keep all of the surplus value of a brand – its aesthetic meaning – for the profit of the brand holder alone. The aesthetic move in property seeks to capitalize on all thought and pleasure associated with one's alma mater.

In the experience economy mediated by brands, the commodification of human experience becomes, in turn, the new medium in which life itself is created and enacted. Life is mediatized, to use the word of cultural studies. Brands are a vehicle through which individuals create and perform the lifeworld. As Arvidsson puts it, "With a particular brand I can act, feel and be in a particular way."¹³ The aesthetic university is a stage on which transformative life experiences are enacted, recast, and traded. One becomes a Harvard woman or man not by merely studying at Harvard, but by performing the brand and reshaping it from the inside. This is the sense in which the social theorist Bruno Latour describes human beings as "hybrids" of the techno-cultural worlds in which we live; as individuals we are formed by our media while simultaneously developing our agency through them. Students and faculty over generations re-enact the meaning of the university brand, from debates about tuition, debt, and access, to the institution's historic entanglements with slavery and white supremacy. Praise or critique takes place through celebrating or shaming not the university, but its brand meaning. This endeavor is prominently on display in the current moment of racial reckoning as universities rename buildings, tear down statues, and revisit curricula for their role in perpetuating systemic racism.

To be sure, the commodification of the aesthetic university raises a number of concerns. The university experience is considered a central part of a good life, but whose life? In the United States today, most people cannot afford the experience of a four-year college. Students coming from high-income families are six times more likely to complete a college degree than those from low-income families.¹⁴ Access to elite colleges is even more skewed. Two-thirds of students at Harvard come from the top one-fifth of income earners. Furthermore, long-standing requirements for

collegiatememorials.com. See also Sam Karlin, *Funeral Home Provides Purple and Gold LSU Casket*, REVELLE, Dec. 1, 2015: "Die-hard LSU football fans can now swear their eternal allegiance to the team, taking their Tiger loyalty to the grave in an LSU-branded casket."

¹³ ARVIDSSON, *supra* note 8, at 8.

¹⁴ Alain Poutré et. al., Institute for Higher Education Policy (IHEP), *Limited Means, Limited Options: College Remains Unaffordable for Many Americans* (March 2017).

admission to elite schools, including high standardized test scores, themselves correspond with income.¹⁵ In his book *The Tyranny of Merit: What's Become of the Common Good*, the philosopher Michael Sandel argues that while we have been touting “education, education, education” as the mantra of opportunity, in truth, a lack of access to higher education has led to stalled economic mobility and generations of Americans who have bought into the myth of merit at the expense of their own self-esteem and dignity.¹⁶ To make matters worse, universities are becoming luxury goods, with institutional rankings corresponding with the most exclusive admissions policies.¹⁷ Deven Desai in this volume proffers that branding may be a tool to help institutions distinguish themselves in the global flow – with public institutions emphasizing their role as engines of social and economic mobility, for example.¹⁸ My co-editor Mario Biagioli disagrees, arguing that branding measured by metrics – which emphasize student test scores first and foremost – forces schools into a cookie-cutter mold.¹⁹ There is some movement on this front. In May 2020, the influential public university system of California announced it would phase out standardized test scores, with the aim of ushering in a more diverse student body.²⁰ And calls to forgive college debt are gaining steam.²¹ At present, though, academic brands in the United States, at least, function more like exclusive luxury goods and services, fueling at best, ambition, at worst, greed, corruption,²² and widening social disparities.²³

In the meantime, the global lockdown due to COVID-19 left many paying full price for “the college experience” only to get a mere nugget of it – that is, academics – online. How does this pandemic-mediated experience compare to the ongoing expansion of universities into online and global campuses, which Paul Berman explores in this volume?²⁴ In the latter, the co-ed experience is left behind altogether in favor of the “auratic” experience of the university’s brand alone. Universities exploit association with the “aura” of the university in numerous ways – from

¹⁵ Zachary A. Goldfarb, *These Four Charts Show How the SAT Favors Rich, Educated Families*, WASHINGTON POST, March 5, 2014.

¹⁶ MICHAEL SANDEL, *THE TYRANNY OF MERIT: WHAT'S BECOME OF THE COMMON GOOD* (2020).

¹⁷ Sun, Chapter 6 above. See generally *THE LUXURY ECONOMY AND INTELLECTUAL PROPERTY: CRITICAL REFLECTIONS* (Haochen Sun, Barton Beebe & Madhavi Sunder, eds. 2015).

¹⁸ Deven R. Desai, Chapter 3 above.

¹⁹ Biagioli, Chapter 1 above. See also *GAMING THE METRICS: MISCONDUCT AND MANIPULATION IN ACADEMIC RESEARCH* (Mario Biagioli & Alexandra Lippman, eds. 2020).

²⁰ Douglas Belkin, *University of California Will Stop Using SAT, ACT*, WALL STREET JOURNAL, May 21, 2020.

²¹ Danielle Douglas-Gabriel, *Calls for Biden to Cancel Student Debt Grow, Alongside Tensions Surrounding the Policy*, WASH. POST, Nov. 18, 2020.

²² *OPERATION VARSITY BLUES: THE COLLEGE ADMISSIONS SCANDAL* (Netflix 2021).

²³ Theocharis Kromydas, *Rethinking Higher Education and Its Relationship with Social Inequalities: Past Knowledge, Present State and Future Potential*, 3 PALGRAVE COMM. 1 (2017).

²⁴ Paul Schiff Berman, Chapter 4 above.

seemingly endless tuition and fee hikes²⁵ to the low salaries paid to adjunct faculty, who receive value through affiliation with the university.²⁶

Others perceive university brands as an oxymoron. For Mark Bartholomew, the university is synonymous with truth, rationality, and the production of knowledge.²⁷ Brands, in contrast, are about emotion and feelings. Worse still, like the “black art” of advertising,²⁸ university brands obscure truth with the Veritas shield. The brand as filter creates an alternate reality, or alternate facts. A study of university catalogs, for example, found that students of color were overrepresented in images.²⁹ As the legal scholar Nancy Leong describes:

Asians made up 3.3% of enrolled students but 5.1% of portrayed students, and blacks made up 7.9% of enrolled students but 12.4% of portrayed students. Put another way, the percentage of blacks and Asians portrayed in viewbooks is more than 50% higher than the percentage of blacks and Asians enrolled in schools. Moreover, the researchers found that such overrepresentation is widespread: 75% of schools in the sample appeared to overrepresent black students in their materials. These disparities suggest that schools are motivated to capture the likenesses of black and Asian students in their viewbooks, which in turn suggests an institutional attempt to capitalize nonwhiteness by converting it into a recruitment tool.³⁰

A black student at the University of Wisconsin, Diallo Shabazz, successfully sued his school in 2000 for photoshopping him into a picture of students at a football game. The University admitted to including Shabazz in the photograph because of his race.³¹ While universities may argue these images are aspirational, reflecting values and commitments, a more cynical view is that the university cares more about image than truth.

Joshua Hunt’s contribution to the volume bemoans that in some cases the university has become all marketing. He writes that by 2018 at the University of Oregon, Nike’s sponsorship of the university eventually meant that communications, public relations, and marketing staff “numbered more than the combined faculty of the school’s departments of history, economics, and philosophy.”³² Sponsorship raises the question of whose identity university brands are promoting.

²⁵ Erik Sherman, *College Tuition Is Rising at Twice the Inflation Rate – While Students Learn at Home*, FORBES, Aug. 31, 2020.

²⁶ See Steven Shulman, *The Costs and Benefits of Adjunct Justice: A Critique of Brennan and Magness*, 155 J. BUS. ETHICS 163, 163 (2017).

²⁷ Mark Bartholomew, Chapter 7 above.

²⁸ Ralph S. Brown, Jr., *Advertising and the Public Interest: Legal Protection of Trade Symbols*, 57 YALE L.J. 1165 (1948), characterizing trademark law as protecting “the demands of modern advertising, a black art whose practitioners are part of the larger army which employs threats, cajolery, emotions, personality, persistence and facts in what is termed aggressive selling.”

²⁹ Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. 2151, 2192 (2013).

³⁰ *Id.*

³¹ *Id.* at 2193.

³² Joshua Hunt, Chapter 8 above, 00.

How is the university's mission of promoting access to knowledge and the pursuit of truth compromised by its dalliance with corporate sponsors and the commodification of athletics? Hunt's contribution suggests the interests of women students may be compromised to protect the reputation of lucrative male sports teams.³³ How do universities recruit women students when their successful sports teams inadvertently create a macho, exclusive brand? Obsession with brand control may unduly override the plural commitments of a university – in particular, to the flourishing of a diverse student body. Hunt argues that the University of Oregon's ability to respond to sexual assault and other grievous charges against student athletes was compromised by Nike's sponsorship of student athletes. The critique of branding as myth-creation and fiction-over-fact has a parallel in critiques of identity politics. As the premier philosopher Kwame Anthony Appiah writes, identities are "lies that bind."³⁴ University brands fuse identity and branding, a potentially corrosive concoction that hoodwinks.

At the core, the essays in this volume interrogate *how the medium is altering the message of what the university is and aspires to be*. Jeremy Sheff argues that university brands are akin to geographical indications, with fans seeking to benefit the home team – what Sheff likens to "boosterism." He, too, like Hunt, is concerned that this gives donors outsized control over the university's mission.³⁵ Indeed, what is the university's mission in the age of brand marketing? The essays herein explore how tensions arising from privatization and escalating tuition costs, enormous endowments and low spending rates, #MeToo, athletics scandals, controversial Title IX and sexual assault policies and compliance, and the myth of meritocracy and social mobility create cognitive dissonance and ethical tensions for Brand U. "We can't compartmentalize academic branding and assume it will have little effect on the university's public mission," Mark Bartholomew argues.³⁶ And Haochen Sun suggests that universities should affirmatively counteract the effects of branding, for example by investing luxury-price-tag tuition dollars into scholarships to promote access for diverse students and to support public-facing research.³⁷ We must also contend with the "taint" on the university when ignominious donors, from Isaac Royall, Jr. in the eighteenth century³⁸ to Jeffrey Epstein in the twenty-first, seek to rebrand themselves by basking in a university's aura.³⁹

Finally, this volume explores what branding collegiate experience reveals about the nature of the brand itself. How distinctive or generic are university brands? Do

³³ *Id.*, at ∞.

³⁴ KWAME ANTHONY APPIAH, *THE LIES THAT BIND: RETHINKING IDENTITY* (2018).

³⁵ Jeremy N. Sheff, Chapter 5 above.

³⁶ Mark Bartholomew, Chapter 7 above, ∞∞.

³⁷ Sun, Chapter 6 above, ∞∞.

³⁸ Janet Halley, Chapter 9 above.

³⁹ Susan Svrluga, *Epstein's Donations to Universities Reveal a Painful Truth about Philanthropy*, WASH. POST, Sept. 5, 2019.

academic brands display traits and functions that differ significantly from other corporate brands? Are universities like other corporate “brand bullies,”⁴⁰ or even worse? Are students, scholars, and alumni co-creators of the university brand, and if so, how might this be different from the relationship between consumers and producers outside the university? This collection of essays is intended as an important start in addressing these questions, but is by no means the final say. These contributions do, however, reveal three qualities that university brands most exemplify, though to some extent they are shared by other brands as well: *kinship*, *exclusivity*, and *sites of reckoning*. I briefly consider these here, while also suggesting them as potential areas of future research for trademark and brand scholars on the commingling of markets and meaning in the artifact of the brand. Scholars have yet to fully grapple with the commodification of aesthetic experience, including that of life’s most transformative experience: education. Are university brands a contagion or a recursive tool for promoting engagement with all of one’s senses with the university? How do we reconcile the cognitive dissonance of brands themselves? Is a world without brands dull and less human? Can brands be democratic? Is brand recursion an inevitable feedback loop in the social construction of the world? These are some of the questions future scholars may wish to explore, with a focus on better understanding the following three features of university brands that emerge in this volume.

Kinship. University brands more than brands for other goods and services derive value from social relations, memory, and belonging over the life cycle. Arvidsson writes that:

it is this relational network that makes up the core of [the brand’s] productive utility as an everyday tool. When I use a brand, the network of meaningful social and aesthetic relations that has been established around it enables me to perform a certain personality or relate to a certain group of people. What brand owners own is the privilege of guarding and deriving value from this relational network.⁴¹

Brands are all in the family. To be sure, the underbelly of belonging is exclusion, social hierarchy, homogenization, and erasure of individuality.⁴² At the same time, brands are a site of dynamic “aesthetic production”⁴³ creating a feedback loop between producers and consumers who are continually updating brand meaning with new information and values. Arvidsson explains that “What consumers pay for is access to the communicative potential of the brand, the possibility of inserting the brand in their own assemblage of compatible qualities.”⁴⁴ In Chapter 2 of this

⁴⁰ James Boyle & Jennifer Jenkins, *Mark of the Devil: The University as Brand Bully*, 31 *FORDHAM INTELL. PROP. MEDIA & ENT. L.J.* 391 (2021).

⁴¹ ARVIDSSON, *supra* note 8, at 125.

⁴² Madhavi Sunder, *Cultural Dissent*, 54 *STAN L. REV.* 495 (2001).

⁴³ ARVIDSSON, *supra* note 8, at 125.

⁴⁴ *Id.*

volume, Celia Lury highlights the next turn in university brands, that is, the emergence of what might be seen as a contradiction in terms – a personalized generic brand: MyUniversity. As Lury demonstrates, university brands offer a complex vehicle for self and group definition. Now the ultimate goal is a university that helps you brand yourself.

Exclusivity. Despite increased attention to the high costs of higher education – public and private⁴⁵ – and crippling student debt,⁴⁶ university brands paradoxically grow in value by virtue of their exclusivity. In his contribution to this volume, Haochen Sun notes that the world’s most selective universities, which accept just 4–5 percent of applicants, have many of the qualities of luxury goods.⁴⁷ Like Louis Vuitton bags and Rolex watches, the price tag of admission is, in the broadest terms, elusive. But Veblen goods in scarves and handbags are one thing; higher education is another matter. What does it mean for universities, the engines of social and economic mobility, to have become largely the sanctum of the rich and well-educated? While interdisciplinary study of luxury goods has begun,⁴⁸ we need more work specifically focused on the university as a luxury and “hyper luxury”⁴⁹ good.

Sites of reckoning. More recently, university brands have revealed themselves as sites of historical reckoning. Yale’s Calhoun College, originally named after John Calhoun, a prominent nineteenth-century alumnus and outspoken white supremacist and proponent of slavery, has been renamed after Grace Murray Hopper, a woman alumna, mathematician, computer scientist, and Navy rear admiral.⁵⁰ Following the death of George Floyd at the hands of Minneapolis police in May 2020, Princeton renamed its public policy school and one of its residence halls, both of which long adorned Woodrow Wilson’s name.⁵¹ Wilson, who served as Princeton’s president beginning in 1902,⁵² was known to have been a proponent of segregationist policies. He was believed to have supported the ideology of the Ku Klux Klan,⁵³ and discouraged enrollment of African American students during his

⁴⁵ Abigail Johnson Hess, *The Cost of College Increased by More than 25% in the Last 10 Years – Here’s Why*, CNBC, Dec. 13, 2019.

⁴⁶ Douglas-Gabriel, *supra* note 21.

⁴⁷ Sun, Chapter 6 above, 00.

⁴⁸ See generally THE LUXURY ECONOMY AND INTELLECTUAL PROPERTY: CRITICAL REFLECTIONS (Haochen Sun, Barton Beebe & Madhavi Sunder, eds. 2015).

⁴⁹ Sun, Chapter 6 above, 00.

⁵⁰ *Grace Murray Hopper (1906–1992): A Legacy of Innovation and Service*, YALE NEWS, Feb. 10, 2017.

⁵¹ Jason Slotkin, *Princeton to Remove Woodrow Wilson’s Name from Public Policy School*, NPR, June 27, 2020, www.npr.org/sections/live-updates-protests-for-racial-justice/2020/06/27/884310403/princeton-to-remove-woodrow-wilsons-name-from-public-policy-school.

⁵² *Id.*

⁵³ *Princeton to remove Woodrow Wilson’s name from policy school*, BBC News, June 28, 2020, <https://www.bbc.com/news/world-us-canada-53207649>.

tenure as president.⁵⁴ At the University of Oregon, two statues known as the pioneers were toppled by a group of demonstrators amidst ongoing protests for racial justice.⁵⁵ The statues, which symbolized white supremacy against Native Americans, were an ongoing source of controversy.⁵⁶ The Rhodes Scholarship – one of the world’s most competitive academic scholarships, enabling postgraduates to study at the University of Oxford – has also been under fire to rebrand.⁵⁷ It is named after Cecil Rhodes, a British imperialist who annexed large areas of land in southern Africa and started the De Beers diamond company.⁵⁸ In a movement called “Rhodes Must Fall,”⁵⁹ those calling for the university to rename the scholarship and take down a statue of Rhodes cite his imperialist beliefs and oppression of southern Africans, which they argue paved the way for Apartheid.⁶⁰ To date, the University of Oxford has indicated that the statue would be better served in a museum but has not made an indication that the name of the scholarship would be changed.⁶¹ In 2018, there was a call for the scholarship to be renamed the Mandela Scholarship.⁶²

Martha S. Jones led a research team that discovered that the namesake of Johns Hopkins was not, as lore had it, an abolitionist, but rather, had enslaved four individuals who tended to his comforts in his home and were used as collateral for loans. Jones shared that her discovery elicited shame, which directly affected her willingness to wear the university’s logo with pride:

The historian in me took in these revelations as raw facts – until the last time I pulled on my university sweatshirt. It fits just right, with a high collar stitched from soft, thick cotton. It has kept me warm on chilly mornings. It has helped keep me grounded over long months of Zoom teaching. When I glanced down and saw JOHNS HOPKINS stitched in white across my chest, I remembered my connection to the students who appear on my screen for class. One arm sticking out of the

⁵⁴ Giuliana Viglione & Nighi Subbaraman, *Universities Scrub Names of Racist Leaders – Students Say It’s a First Step*, NATURE, Aug. 13, 2020, www.nature.com/articles/d41586-020-02393-3. In 2015, members of Princeton’s Black Justice League organized a sit-in at the president’s office urging the administration to remove Wilson’s name, but the Board of Trustees refused to do so.

⁵⁵ K. Rambo, *University of Oregon Ignored Calls for Removal of Racist Statue*, Student Group Says, OREGONIAN, June 24, 2020, www.oregonlive.com/news/2020/06/university-of-oregon-ignored-calls-for-removal-of-racist-statue-student-group-says.html.

⁵⁶ *Id.*

⁵⁷ Michael Race, *Cecil Rhodes: Oxford Scholarship ‘Needs Reform,’* BBC NEWS, June 11, 2020, www.bbc.com/news/uk-england-oxfordshire-53006735.

⁵⁸ Justin Parkinson, *Why is Cecil Rhodes Such a Controversial Figure?*, BBC NEWS, Apr. 1, 2015, www.bbc.com/news/magazine-32131829.

⁵⁹ Race, *supra* note 58.

⁶⁰ Parkinson, *supra* note 59.

⁶¹ Anna McKie, *Rhodes Must Fall*, INSIDE HIGHER ED., June 19, 2020, www.insidehighered.com/news/2020/06/19/britain-campaign-renewed-take-down-statues-cecil-rhodes.

⁶² Peter Doyle, *Drop Rhodes’ Name Completely and Call it the ‘Mandela Scholarship,’* FINANCIAL TIMES, Feb. 16, 2018, www.ft.com/content/36465b8a-188c-11e8-9376-4a6390adb44.

right sleeve, I stopped and slid the thing back off. It was a small gesture of reckoning but a sincere one.⁶³

My own university, Georgetown, has grappled with the fact that early Jesuit leaders financed the University's operations from enslaved labor and later the sale of 272 enslaved people, including men, women, and children.⁶⁴ This Roman Catholic order, formally, the Society of Jesus, has pledged \$100 million to descendants of the enslaved people and to finance racial justice initiatives, the most significant reparations to date by an American university, and indeed, by any major institution.⁶⁵ And, of course, in this volume Janet Halley recounts the historic gift from an enslaver, Isaac Royall, Jr., to Harvard College, to endow the first Chair of law at what would eventually grow into the Harvard Law School.⁶⁶

The brand as an object of meaning is not static. It is, in Lury's words, "an object in movement."⁶⁷ This "complex artefact"⁶⁸ is propelled in time by the convergence of multiple actors and systems, from producer and consumer to community members, the institutions of advertising, the law, and the court of public opinion, to name just a few of the multiple forces at play in shaping and reshaping brand meaning. Halley vividly demonstrates the vicissitudes of the Royall name and its heraldic shield through 300 years of history: from the British loyalist Isaac Royall, Jr. falling out of favor during the American Revolutionary War; to charges made against him as an enslaver of human beings by a woman named Belinda, an enslaved person whom he freed in his will; to the benefactor's rehabilitation through his bequest to Harvard in 1815; to the student campaign "Royall Must Fall" to abolish the Royall shield as the de facto Law School logo 200 years later.⁶⁹ The brand – presented in three acts, from the man, to the heraldic shield, to the modern trademarked logo – is the stage on which each new generation of political actors "performs." The dramatis personae in Halley's gripping story include a formerly enslaved woman, Belinda, centuries of Harvard Law School deans (including an aspiring Supreme Court nominee), generations of law faculty, and more recently, international graduate students from South Africa and Black Lives Matter activist students. As Halley tells it, "Fights over meaning abounded" and the stories take on lives of their own, becoming real, however un-fact-checked.⁷⁰ There is room yet for prequels and sequels.

⁶³ Martha S. Jones, *Opinion: The Founder of Johns Hopkins Owned Enslaved People. Our University Must Face a Reckoning*, WASHINGTON POST, Dec. 9, 2020, arguing that "Displacing myth with historical fact is difficult but necessary."

⁶⁴ Rachel L. Swarns, *272 Slaves Were Sold to Save Georgetown. What Does It Owe Their Descendants?*, NY TIMES, April 16, 2016.

⁶⁵ Rachel L. Swarns, *Catholic Order Pledges \$100 Million to Atone for Slave Labor and Sales*, NY TIMES, March 15, 2021.

⁶⁶ Halley, Chapter 9 above.

⁶⁷ Lury, *supra* note 7, at 15.

⁶⁸ *Id.* at 13.

⁶⁹ Halley, Chapter 9 above, noting that in 2015 the "brand took a nosedive" (oo).

⁷⁰ *Id.*, oo.

Concerns about the ability of stakeholder engagement in brand meaning to produce genuine reform are on display in Halley's compelling history. The ultimate decision of the Harvard Corporation to abandon the Royall shield/logo/trademark was the "easy way out," she believes.⁷¹ To date, none of the thoughtful, challenging demands of student activists to decolonize the curriculum have been addressed. Is rebranding merely symbolic lip service, or will refashioning the university's imagery affect more deeply who is included, supported, respected, and recognized in the university? The symbols that wallpaper our halls matter. The fall of racist brands during summer 2020 – from Washington's National Football League team to Aunt Jemima⁷² – may seem like corporate whitewashing, but in truth, these logos have long been the target of equality activists who recognize how culture industries' production and circulation of images shape, perpetuate, and maintain racial hierarchy and white supremacy.⁷³ Brands are zeitgeist – the look and feel of the times. I see the abandonment of the shield as a required step to make the halls of Harvard Law more welcoming to diverse members. Indeed, the School should go further to interrogate the messages it sends to all who experience (or are subjected to) its aesthetic decor, from students to faculty to staff, from the unending portraits of white men that adorn the halls to the names of buildings and endowed Chairs. At the same time, the Harvard Law School "brand" goes well beyond these artifacts, to include the iL experience,⁷⁴ and more. Moving to this experiential terrain, perhaps Harvard Law (and peer schools that often seek to copy this luxury brand) will start to reconsider how structural inequality is embedded in legal education, from rethinking Socratic pedagogy to studying how doctrine and scholarship perpetuate white supremacy. The school should do this in conversation with its students and other community members asserting their desire to "reclaim" the Harvard brand.⁷⁵

In this volume, we have considered many of the cognitive difficulties of university branding. What are the implications of contesting meaning in this most meaningful domain, the university, through the artifact of the brand? The critiques notwithstanding, there is, perhaps, an important way in which the university brand connects with the university's broader mission. From the humanities to social and behavioral

⁷¹ *Id.*, oo.

⁷² Jemima McEvoy, *Here Are All the Brands that Are Changing Racist Names And Packaging*, FORBES, updated Oct. 6, 2020, www.forbes.com/sites/jemimamcevoy/2020/10/06/eskimo-pie-becomes-edys-pie-here-are-all-the-brands-that-are-changing-racist-names-and-packaging/?sh=6e1def3856a7.

⁷³ See e.g., MADHAVI SUNDER, *FROM GOODS TO A GOOD LIFE: INTELLECTUAL PROPERTY AND GLOBAL JUSTICE* (2012), arguing that trademark law, like other forms of intellectual property, must recognize its role in promoting dignity and respect through images and recognition of diverse creators.

⁷⁴ See SCOTT TUROW, *ONE-L* (2010); *THE PAPER CHASE* (20th Century Fox, 1973); *LEGALLY BLONDE* (Type A Films, Marc Platt Productions, MGM, 2001).

⁷⁵ For a powerful account of universities as sites for generating the ideas underlying white supremacy, see CRAIG STEVEN WILDER, *EBONY AND IVY: RACE, SLAVERY, AND THE TROUBLED HISTORY OF AMERICA'S UNIVERSITIES* (2013).

sciences, the university is the site for understanding who we are as human beings. This endeavor includes understanding human rationality *and* our yearning for aesthetic experience, art, narrative, belonging, and meaning itself. The brand may be the university's best hope yet of affirming the humanities. Brands reject the notion that reason is "the only authority for the university."⁷⁶ In contrast, the "primary task" of aesthetic theory, as John Dewey urged, is "to restore continuity between the refined and intensified forms of experience that are works of art and the everyday events, doings, and sufferings that are universally recognized to constitute experience."⁷⁷ Failure to engage aesthetic experience in everyday life, Dewey warns, deprives us of something essential because aesthetic perceptions "are necessary ingredients of happiness."⁷⁸ The aesthetic university makes life more meaningful. It is a stage for telling and retelling stories of who we are, collectively and individually *in a space that matters to us*. Starbucks learned this some time ago. Its brand "is not about the coffee."⁷⁹ It's about the stories in the cup. The university brand is a site for claiming and reclaiming the meaning of the university and of education itself. Social movements from #blackatharvard to the introspection over the luxurification of higher education exposed in the Varsity Blues scandal demonstrate the nimble tool of the brand to convey membership, exclusion, hope, and heartache. Brands re-enact life itself, once more with feeling.

⁷⁶ Bartholomew, Chapter 7 above, oo, arguing that "This view of the university still holds sway."

⁷⁷ JOHN DEWEY, *ART AS EXPERIENCE* 3 (1934).

⁷⁸ *Id.*

⁷⁹ HOWARD BEHAR, *IT'S NOT ABOUT THE COFFEE: LEADERSHIP PRINCIPLES FROM A LIFE AT STARBUCKS* (2007).

