TONTO, CHIEF NOC-A-HOMA, AND OBLIVIOUS BIAS: IS THERE A VACCINE FOR THAT?

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> *"Surrounded by dozens of hostile Indians on horseback waving guns and tomahawks, the Lone Ranger turns to his loyal companion and asks, "What are we going to do, Tonto?"*
>
> *"What do you mean 'we,' Kemo Sabe."*
>
> ***The Lone Ranger***

Earlier this year I gave a Strafford webinar presentation entitled **"Rebranding Trademarks: Challenges of Walking Away and Choosing a New Mark."** The catalyst was how the Black Lives Matter movement had impacted companies by making them realize that some of their most

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valuable trademarks were offensive to certain groups of their consumers. And thus treasured trademarks—such as Aunt Jemima and Eskimo Pie—were suddenly toxic. Indeed, the Washington Redskins, which had spent millions of dollars in legal fees over the past two decades defending its lucrative brand, played the 2020 season as simply the Washington Football Team, forfeiting a fortune in license fees for everything from t-shirts to key rings.



But as I dug into the issue for the presentation, I realized that recognition of the harm caused by culturally offensive trademarks had preceded the Black Lives Matter movement by decades. My personal experience was good evidence.

There's Nothing More American Than Native Mascots

I played on my high school football team. Back then, we were the University City Indians—and none of us perceived anything offensive about that name. And keep in mind that we generally shortened my high school name to U. City, and when we got off the bus for our game at a rival high school, they met us with derisive chants of, "Jew City, Jew City." If anyone should have been aware of a culturally offensive term, it should have been my teammates. More precisely, it should have been me. Well, within a few decades the team name did change from Indians to Lions.



And in the 1970s, when I attended Amherst College, our sports teams were the Lord Jeffs, named for Lord Jeffrey Amherst, who gained distinction during the French-Indian Wars of the 1700s by giving smallpox-infected blankets to the Native Americans. The chinaware in the school dining hall best captures the oblivious bias of that era, with dishes depicting our esteemed Lord Jeff on horseback chasing Native Americans around the outside of the plate. (You can't make this stuff up.)



Were any of us outraged by that chinaware or name of our teams? Nope. We were suffering from oblivious bias.

Early in the 21st Century the Amherst sports teams became the Mammoths—perhaps an overly aspirational mascot for a Division 3 school of 2,000 students, but certainly an improvement over the Indian infector of yore.

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And then there is the story of Chief Noc-A-Homa, the mascot of the Atlanta Braves who "resided" in a teepee in the stands behind centerfield until one of the Braves players hit a home-run, at which point he emerged from his tent to do a war dance for the crowd. Check out this video. Again, you can't make this stuff up. And while the Atlanta team name remains the same and the fans continue their obnoxious Tomahawk chant while rhythmically making a chopping motion with their right arms, at least Chief Noc-A-Homa and his teepee have been moved onto the MLB's reservation.

Historical Ignorance and Oblivious Bias

So what's the big deal, you may ask? Two recent incidents reminded me that we still have a long way to go with eliminating our oblivious bias—a pathway that may impact some more valuable trademarks.

Press 1 for English and 2 for Spanish

Last Month, I witnessed a man angrily complaining about those phone bank recordings that open by asking you to, "press 1 for English and 2 for Spanish." His complaint: "This is America! The Pilgrims spoke English!"

That complaint hovers in the dark realm between Oblivious Bias and Historical Ignorance—and its eventual reckoning will no doubt affect several trademarks out there. Without going into detail here, our Spanish heritage is deeper and older than those Pilgrims on the Mayflower.

1. Take Florida, for example: named by Spanish explorer Juan Ponce de Leon in 1513 in tribute to Spain's Easter celebration known as "Pascua Florida," or Feast of Flowers.
2. Don't forget Texas, where one can take a boat ride on the Rio Grande (in English, Big River) right through the town of El Paso (in English, The Passage).
3. And then there are the Spanish origins of most of the Western half of our country, as reflected in the names of several states—including Colorado, Arizona, New Mexico, and California—and all those cites in California, including San Diego, Los Angeles, Santa Barbara, and San Francisco.

But as for the Native Americans, even though our relevant elementary school lessons ended with that largely fictitious first Thanksgiving feast in 1621, I had naively assumed that by the close of 2020—and the final demise of the Redskins brand—we had largely ended the culturally offensive use of Native American trademarks.

Cherokee Nation vs. Jeep

But, guess what? Last month, I learned that the Chief of the Cherokee Nation has asked Jeep to stop using the name of his tribe as the brand of one of its vehicles.

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> *As reported in the New York Times, the Chief explained that the name belonged to the Cherokee people and that Jeep's appropriation without permission was troubling: "The use of Cherokee names and imagery for peddling products doesn't deepen the country's understanding of what it means to be Cherokee, and I think it diminishes it somewhat."*

The point here is NOT to criticize Jeep. And certainly not to criticize you. No, the point here is to ask you (as I previously asked myself) the following:

1. Before you read this (or saw that news report) had you ever consciously connected that famous Jeep trademark with the Native American tribe?
2. When you saw a TV commercial for the Jeep Cherokee or found yourself next to one idling at a stoplight, did you make that connection?

I never did. Ever.

And regardless of whether you find that Jeep brand offensive, what does our failure to make that connection say about us? Why are we so oblivious?

If you'd like to discuss this further, perhaps you could join me during my ski vacation at the Squaw Valley Resort. I'll be driving out there in my Pontiac, and on the way can turn the radio to the Blackhawks hockey game.

Additional Trademark Tales from Mike Kahn

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