



Universidad Autónoma
de Madrid

Biblos-e Archivo
Repositorio Institucional UAM

Repositorio Institucional de la Universidad Autónoma de Madrid

<https://repositorio.uam.es>

Esta es la **versión de autor** del artículo publicado en:
This is an **author produced version** of a paper published in:

Business History 60.8 (2018): 1105-1126

DOI: <https://doi.org/10.1080/00076791.2018.1497765>

Copyright: © 2018 Informa UK Limited, trading as Taylor & Francis Group

El acceso a la versión del editor puede requerir la suscripción del recurso

Access to the published version may require subscription

Trademarks in branding: Legal issues and commercial practices

Patricio Sáiz and rafael castro

Department of economic Analysis (economic theory and economic History), Autonomous university of Madrid, Madrid, spain

ABSTRACT

the call for a special symposium on ‘the Brand and Its History’ has led to two journal issues that focus on trademarks and brands, respectively. this issue is devoted to trademarks, the more concrete, well-documented, and measurable aspect of brands. this editorial introduces trademark studies; summarises previous contributions from economic, legal, business, and historical literature; provides a short overview of the topics and findings of the seven articles included in this issue; and reflects on further research.

KEYWORDS

trademarks; branding; intellectual property rights; business history

‘The history of modern brands is to a significant degree dependent on the history of trademarks.’¹

Introduction

After a multidisciplinary research seminar and an international conference session, titled ‘the Brand and Its History: Economic, Business, and Social Value’, held in Madrid in 2014,² our proposition for a *Business History* special issue was approved by the editorial board in June 2015, and the call for papers was published in September.³ over the next 10 months, nearly 30 proposals in various stages of completion poured into our in-boxes, exceeding our expectations and demonstrating the growing interest in brands and trademarks from business historians and other field-related scholars. Several proposals were not fully developed or were only laterally linked to the project, but 20 of these papers made the first-round adjudication before June 2016. thorough peer reviews took place over the course of a year, after which 14 papers made the final selection. our call had grown into a two-issue symposium. We thank all the scholars who submitted papers and showed such interest in this topic. From the variety of topics received, two distinct but clearly related research lines emerged, leading to these two special issues: this one, focused on brand’s legal and practical issues; that is, the trademark; and the other, on cross-cultural factors in international branding. Although trademarks and brands are usually studied jointly and may certainly have blurred borders, they also carry distinct phenomena. Indeed, trademarks are the more concrete, well-documented, and measurable aspect of brands. Historically, trademarks emerged before modern branding as a way of connecting goods to their producers; signaling origins, quality, or related properties; and differentiating similar products on the market. thus, trademarks were usually registered and authorised, first locally and then nationally or internationally, in case of legal actions and the need to defend rights.

Brands are more complex phenomena that may be built from registered trademarks or firms' names, but they can also emerge from unregistered symbols; firm practices; or distinct processes that emotionally connect producers' values and reputations to consumers' feelings, creating symbiotic, usually enduring, and—nowadays—transnational relationships. In such a process, advertising, marketing, fashion, and socio-cultural factors may play crucial roles.⁴

This first special issue is devoted to trademarks and comprises seven articles related to legal issues and commercial practices in distinct periods and countries. the following sections summarise trademark-related research topics, highlight contributors' findings, and suggest further research paths.

An overview of academic research on trademarks

Trademarks and brands can be studied together as related entrepreneurial processes and, therefore, there are key works and common literature in both fields. notwithstanding this, the purpose of this special issue is to highlight specific research on trademarks as the more tangible aspect of the brand. In fact, trademarks have been mainly studied in four fields: economics, legal research, business studies, and business history.

Economics, law, and business studies

As with many aspects related to intellectual property rights (IPRs), with very few exceptions, trademarks did not capture economists' attention until the late 1980s and early 1990s. the earliest attention was by Andreas Papandreou in 1956, who, in a simple manner, inquired into the economic effects of trademarks and their monopolistic character.⁵ two decades later, an interesting but largely unnoticed work by Surendra Patel appeared on the political economy of trademarks from the field of development economics. In 1979, Patel, an economist and director of the technology division of the united nations conference on trade and development, edited a remarkable special issue of *World Development* that focused on the trademark system in developing countries.⁶ Especially concerned with the hundreds of thousands of foreign-owned trademarks of all classes of consumer goods, including pharmaceutical products, contributors to that special issue provided analyses and discussions on the role of trademarks in international economics, their use by corporations, their distinct economic effects on First and third Worlds, and on related legal issues.⁷

Despite these interesting analyses, trademarks as a field was not established for eight more years, until 1987, by the Chicago school of economics, not least owing to the influential work of William Landes and Richard Posner.⁸ George Akerlof had previously written on trade- mark/brands' relevant roles in counteracting the effects of quality uncertainty in the markets,⁹ and Landes and Posner continued from that point. the theory was that trademarks are informational for consumers and markets, and, therefore, trademark laws would promote economic efficiency. However, in a certain sense, economic theory has traditionally considered trademarks as the ugly duckling of IPRs. From economics of information and signaling to property rights and transaction cost theories, trademarks have been always analysed as private goods or as idiosyncratic investments and quality indicators, hardly related to innovation or creation processes and far from public goods theory. therefore, trademarks have held little interest in comparison to patents and copyright.¹⁰

Few theoretical developments have occurred since 1987, and those that have generally are within the same framework.¹¹ Even revisionists who swim against the tide on the economics of IPrs, such as Michele Boldrin and David Levine, exclude trademarks because they are ‘different in nature than patents and copyrights’.¹²

Only recently have a few scholars who are specialists both in economics and law, such as David Barnes, claimed that trademarks can be analysed as impure public goods with simultaneous rivalrous and nonrivalrous uses by suppliers and consumers. Such ‘referential use’ of trademarks by consumers means that there could be market failures and nonoptimal production/use of trademarks that related laws usually do not address. This means that, as with patents and copyright issues, more government intervention may be required to provide an optimal amount of information about products and their sources.¹³ Although this newer approach has links with the economics of IPrs, the neoclassical view of trademarks has nevertheless prevailed.¹⁴ Trademarks are normally treated as private goods that reduce search costs and ensure quality, although the growth of branding has also led to new economic functions, such as the protection of intangible outputs (meanings, identity, or status),¹⁵ which may introduce other theoretical frameworks and perspectives, such as those from behavioural economics.¹⁶

Private property rights have also been a guideline for a key field in trademark studies: legal research. In fact, IPr practitioners and law scholars were among the first to be interested in trademarking, for two obvious reasons: (1) the analysis of legislation and its evolution can shed light on its effects on business and commercial practices; and (2) there are few better ways to understand the actual work of an institution than through case laws and court precedents. An understanding of these two can lead to new legal proposals that can improve, modify, or even abolish laws or parts of them under certain circumstances.¹⁷ These reasons are behind the first contributions of trademark practitioners, attorneys, and law scholars published in specialised periodicals (such as the *Journal of the Patent Office Society* and the *Trademark Reporter*) as well as in academic law journals between the 1960s and 1980s.¹⁸

The influence of economics, and especially of the Chicago school, on trademark research was rapidly extended in studies by legal scholars. Certainly, the search-costs, procompetitive use, and economic-efficiency theories of trademarks have impacted law doctrines and still have strong advocates.¹⁹ Nevertheless, starting in the mid-1990s, legal scholars began to question, qualify, and criticise such dominant accounts; to highlight trademarks’ monopolistic side,²⁰ and enforcement costs²¹; and to note other trademark uses and abuses that influenced trademark doctrines.²² Moreover, certain scholars claim that trademark laws were never specifically designed to protect consumers or encourage information availability in the markets, but were to protect producers from illegitimate copies of their products.²³ These scholars consider that the dominant economic approach to trademarks is overrated, and call for new theories.²⁴ This criticism has led to scholars exploring new aspects of trademarks, especially as related to their actual use in the twenty-first century; to the limits of their enforceability; and to challenges in the global era, which have been conducted from legal as well as interdisciplinary perspectives: anthropology, philosophy, linguistics, sociology, and business history. These challenges have produced remarkable discussions and contributions to the field, especially through edited volumes.²⁵

Starting in the 1980s, trademarks also captured the growing interest of business studies, especially in the fields of marketing, finance, and management. In fact, the first works appeared in the *Journal of Marketing* in an attempt to draw managers' attention to trademark-related legal issues, business implications, and importance of advanced trademark strategies. The first piece, published in 1981 by Meir Statman and Tyson Tyebjee, was an outstanding analysis on how pharmaceutical firms used trademarks to maintain monopolies after patent drug extinction and how trademark loyalty was a barrier to price competition. The authors proposed to weaken trademark rights by passing them into public domain at the same time that their related patents ended, especially in critical businesses such as the drug industry.²⁶ Unfortunately, and curiously, business scholars have seldom followed this business approach to trademarks, corporate IP rights, and public policy, obviously deciding to focus more on managerial and strategic issues.²⁷ It was not by chance that Professor of Business Dorothy Cohen titled her two influential articles 'trademark Strategy,' published in 1986 and 1991. Cohen first offered thorough information on trademark characteristics—registering, franchising, licensing, and counterfeiting possibilities—and then claimed that firm and marketing managers should be well aware of changes in trademark laws and of court cases in order to design appropriate corporate tactics 'for implementing this tool.'²⁸

Such corporate tactics should aim mainly at promoting a firm's trademark, which hints at what has been the main concern of business studies: branding. This was especially true after the guiding work of David Aaker, author of *Managing Brand Equity* (1991), who really opened the door on the complexity of brands and the necessity of analysing brand equity as a function of other issues, such as brand loyalty, awareness, perception, associations, extensions, and globalisation.²⁹ As a result, brands and branding rapidly replaced trademarks in the business scholars' research agenda, and related publications expanded exponentially. Starting in 1991, hundreds of works on different aspects of branding have crowded marketing and management journals, steering away from the original interest: the legal side of brands.

Nonetheless, several business scholars have addressed trademarks and produced academic studies and offered strategic advice for managers on legal issues such as trademark protection of product characteristics;³⁰ the consequences for businesses and marketing when laws change, for example, as with trademark dilution,³¹ or parallel importation of trademarked products and grey markets;³² and the effects of significant court cases regarding trademarks and brands.³³ One line of business research has scrutinised, and used increasingly available, trademark data and firms' trademark portfolios in order to assess the financial impact of branding;³⁴ firms' market value;³⁵ and specific trademark strategies, such as to build reputations through opposition to others' trademark applications.³⁶ Trademark data has recently been correlated with different businesses' statistics in an attempt to build new (and sometimes contrived) comprehensive models. These models can include, for example, the analyses of trademarks and firms' investments in information technologies in order to explore product variety;³⁷ the relationship between start-up firms' trademarks and venture capitalist valuations;³⁸ and the predicting capacity of firm-specific variables (e.g. company age and size, level of human capital, geographical proximity to competitors, etc.) on trademarking.³⁹

Business history

The academic fields of economics, law, and business have provided intriguing research on trademarks, although these fields are not generally characterised by their interest in history. nonetheless, legal experts were among the first to be concerned about the origins of trademarks, a tradition inaugurated in 1925 by Frank Schechter⁴⁰ that, to a certain extent, has continued over time.⁴¹ Many of the legal studies already mentioned, which were published during the second half of the twentieth century, have introductory sections with brief historical accounts on trademarks' birth and evolution. However, legal scholars such as Lionel Bently have recently provided significant contributions focused on the systematic use of history as an analytical tool to explore trademark doctrines and to provide empirical evidence of the evolution of trademark law and court practices.⁴² Similarly, although there is mention of trademark history in some business studies, marketing and management scholars such as Ross Petty have recently begun to show serious interest in the history of trademarks and brands.⁴³ Interest in marketing history led to the creation of the *Journal of Historical Research in Marketing* in 2009, in which it is possible to find works that explore trademark-related issues, such as how design patents and copyrights were used to protect labels before US trademark acts.⁴⁴ However, marketing scholars are more often interested in the origins of adverts and branding than in trademarks.⁴⁵

The most relevant effort into trademarks' historical role has come from the field of business history. Although it might be possible to quote several references from general historians of the 1970s and 1980s who dealt with marks in classical antiquity—think Greek vases or Roman bricks⁴⁶—or to produce exhaustive catalogues on trademark symbols in certain industries,⁴⁷ the pivotal launch was the celebrated 1992 article by Mira Wilkins on the 'neglected intangible asset', published in this same journal.⁴⁸ This seminal work drew the attention of business historians and scholars to the significant role of trademarks (and branding practices) in the rise of the modern corporation during the late nineteenth and early twentieth centuries. Wilkins used the terms trademark, brand name, trade name, and company name as equivalents, although her work dealt mainly with the legal and commercial sides of distinctive signs. A couple of years later, Geoffrey Jones and Nicholas Morgan edited *Adding Value*,⁴⁹ a book mainly focused on brands and marketing in food and beverages, in which Jones⁵⁰ introduced Wilkins's and Mark Casson's chapters⁵¹ as opposing, or with opposite findings, when in reality they were complementary works on two sides of the issue: trademarking as a legal tool and branding as a cultural and ideological phenomenon.

The trademark baton was quickly passed to David Higgins and Geoffrey Tweedale, who in 1995 extended historical research to Europe through a significant British case study: the Sheffield cutlery and tool industries.⁵² The work analysed marketing practices from seventeenth-century crafts guilds to the nineteenth-century modern trademark system,⁵³ and showed how trademarks emerged initially to combat counterfeiting and signal geographic origin, which influenced trademark legislation. While Wilkins highlighted the role of corporations and globalisation in the United States, Higgins and Tweedale gave prominence to British traditional industrial districts and small firms in which modern trademarks played a decreasing role in global markets over the long term. This early dichotomy between Chandlerian accounts and evolutionary explanations on how trademarks and brands emerged remained in subsequent works and is still ongoing.

During the twenty-first century, trademark (and branding) historical research gathered speed. Early on, business historians were more concerned with branding than trademarks, which was in line with Casson's findings and suggestions, and they were also more interested in corporations' marketing strategies in consumer goods than in other field of production, which was in line with Wilkins's thesis on the role of modern firms in consumer societies. thus, several key branding historical cases—related to processed food,⁵⁴ house- hold goods,⁵⁵ cosmetics,⁵⁶ and, predominantly, alcoholic beverages⁵⁷—were soon published in the main journals of the field. other studies, such as those by Teresa da Silva Lopes and Casson,⁵⁸ challenged theoretical developments on entrepreneurship, marketing innovation, and brands.

Trademark research remained active through debates on the origin of trademarking practices and analyses of legislation, business conflicts, and court cases. Paul Duguid, for instance, wrote that discrete and older uses of trademarks in the British alcoholic beverage sector reflected tensions among small producers, distributors, and consumers long before the rise of the modern corporation.⁵⁹ through the analysis of disaggregated alcohol supply chains, first adverts, and court cases, Duguid refuted, or at least convincingly qualified, Chandlerian accounts on trademarks origin, functions, and evolution. Business historians' efforts to disentangle trademark institutions have extended to collaborating with legal scholars. Along with Bently's work on the origin of British trademark laws,⁶⁰ Higgins and Duguid have also deepened understandings of legal issues. Higgins, for example, has reflected on the business consequences of the evolution of British law;⁶¹ and Duguid has demonstrated the pioneering role of France in establishing trademark legislation and a national registry,⁶² as well as the legal activity carried out by several US states before federal legislation.⁶³

Higgins offered for the first time a general approach to trademark statistics when he conducted a time-series and sectoral analysis of the evolution of trademark registrations in the united Kingdom between 1882 and 1914.⁶⁴ Meanwhile, Duguid called for expanding trademark research in order to understand modern branding: 'While business historians have given the history of brands a good deal of attention, they have generally given less to the history of trademarks and trademark law'.⁶⁵ In fact, 2008–2010 were critical years in establishing additional lines of trademark research. Parallel exhaustive efforts to quantify trademarks registries were carried out not only by Higgins but also by Duguid, Lopes, and John Mercer, who analysed more than a 100 years of trademark data in France, the United Kingdom, and the United States (1857–1870 to 1970). After summing up law evolution in the three countries, the authors studied annual trademark registrations and showed, among other things, France's numerical dominance—or consumer goods prevalence—throughout the period.⁶⁶ they thus established fertile ground for further research and encouraged scholars to pursue it.

These endeavours were channeled through several meetings and workshops that focused on trademarks and brands, such as those at the university of York in 2009: 'A new Kind of Property: An old Perspective on trademarks' and 'Branding at the Periphery: An International comparative Perspective'. this led to a key collective book, *Trademarks, Brands and Competitiveness* as well as a *Business History Review* special issue: 'Behind the Brand', both edited by Lopes and Duguid.⁶⁷ these publications gathered scholars from diverse fields, many of whom were working on the analyses of trademark registries. this included Christian Helmers and Mark rogers, who used recent trademark data for the United Kingdom

(1996–2000) to measure firms' performances;⁶⁸ Patricio Sáiz and Paloma Fernández-Pérez, who analysed trademarks registered in Spain between 1850 and 1946 by sector and high- lighted the role of Catalonia and the textile industry;⁶⁹ Lopes and Casson, who studied how British multinationals protected and managed their trademarks internationally between 1870 and 1929 to reveal firms' strategies to combat counterfeiting abroad;⁷⁰ and Higgins, who deepened knowledge about British trademark registration intensity by sector between 1876 and 1914 and provided new perspectives on the role of durable goods such as metals and textiles.⁷¹ trademark quantitative data were also used in related works published later, such as the analysis by Montserrat Llonch-Casanovas of the Catalan knitwear industry's performance over the long-term,⁷² and the study by Lopes and Paulo Guimaraes on the prominent role of light consumer goods industries and their product and marketing innovation during British industrial decline (1876–1914).⁷³

Trademark history: transversal topics

Other trademark topics of interest have emerged over the last 10–15 years, in many cases from the aforementioned workshops, discussions, publications, and scholars. these topics cover three main issues: (1) trademark practices in territories outside of Europe and the United States; (2) analyses of how trademarks evolved into brands; and (3) the origins of special trademark modalities such as geographical indications or certification marks. With respect to the first topic, several studies have provided initial insights into Latin America by investigating how global firms handle trademark extensions in different countries. Julio Moreno demonstrated in 2009 how Coca-Cola rejected direct investments when local institutions did not guarantee full trademark property rights, and he also provided comparative results of this strategy in Argentina, Uruguay, and Brazil.⁷⁴ Argentina was also the target of Andrea LLuch's work on how legislation emerged and evolved and how trademarks gradually extended through rural areas between 1900 and 1930, a process that established new consumption patterns.⁷⁵ Finally, Christine Farley has contributed from the field of legal history to better understand the still poorly known Pan-American trademark convention of 1929, which had already convened six times starting in 1889. the United States tried to strongly influence the agreement that came out of this 1929 convention, in a clear defense of corporate interests, by promoting that previous trademark rights in one country (obviously the united States) could block new applicants in other countries simply by demonstrating that the petitioner knew of the original trademark's existence and use. However, the rule of international reciprocity had an unintended consequence: it broke the previously unshakeable uS principle of territoriality. the 1929 agreement is still in force today.⁷⁶

Regarding the second topic—how trademarks evolved into powerful brands—it is possible to find case studies that analyse successful companies and their brands by providing accounts on how these firms legally protected, strategically managed, or commercially pro- moted their trademarks. nevertheless, there remains a lack of historical reflection on how trademark systems worked in the past, what of their elements influenced branding success or failure, and what factors actually determined trademarks' endurance and empowerment over time. Systematic analyses of trademark registries and related data could enlarge our understanding of those processes. this was the purpose of Mercer in his 2010 work on the origin and evolution of 'brand names'. By looking for nondescriptive word-based trademarks

in the British registry between 1876 and 1926 and then cross-checking data from other sources (contemporaneous journals, advertising agencies, and selected firms), Mercer showed a progressive shift in the registry ‘from marks as descriptions of origin to brands as items of artifice’.⁷⁷ thus, his work demonstrated a gradual change from classical trademark functions towards the introduction of brand properties such as emotional associations. Similarly, Stefan Schwarzkopf analysed how advertising agencies were key agents in the process of turning trademarks into brands from 1890 to 1930, and how their role evolved during the 1920s from simply using registered trademarks in advertising to conceptualising and developing modern branding.⁷⁸ Patricia Van den Eeckhout and Peter Scholliers turned the issue inside-out when they studied products’ price lists from two Belgium retailing firms from 1890 to 1940 in order to explore the actual quantity and evolution of branded and unbranded goods. the results demonstrated how trademarked products increased through- out the period, especially for certain food and beverage goods; how the range of trademarks for the same good widened; and how the two firms followed distinct sale strategies concerning, for instance, own marked products or private labels.⁷⁹

For the third topic, trademark research has dealt with the historical origins and development of special-mark modalities such as collective marks, certification marks, protected designations of origin (PDO), or protected geographical indications (PGIs). In fact, signaling the geographical origins of a product or its quality was implicit in trademarks because initial legislation in many countries only allowed manufacturers with working factories or retailers with open establishments to register their trademarks. As Alessandro Stanziani highlighted in order to explain the genesis of French *Appellations d’origine contrôlée* in the wine industry in the 1930s, such modalities had an old tradition in France because guild marks functioned as collective-certification marks and indicated origins in the *Ancien régime*. Even though such marks were eventually abolished with liberal revolutions, nineteenth-century trademark systems recovered similar regulations when markets and general trademarking did not generate enough or efficient information.⁸⁰ collective marks were protected in Germany starting in 1872, in France from 1873, and in Great Britain from 1883. Likewise, Duguid has shown that several US states developed collective, service, and certification marks during the nineteenth century, although it was not possible to find regulations in US federal law until 1946. collective and certification marks in the United States were primarily used by trade unions,⁸¹ which to a certain point highlights Stanziani’s ideas on trademark collective action as a sociological phenomenon.

PDOs mix geographical indications with characteristics of collective marks and, some- times, with production standards or certifications. they appeared in the wine industry in the first half of the twentieth century, and were generalised to other food and beverages and even to textiles and other products during the second half of the century.⁸² currently there are hundreds of PDOs and PGIs in Europe and other parts of the world because of an increasingly linked global market, in which geographical origin might be decreasingly significant, as Bronwyn Parry reported in recent works.⁸³ the demand for famous branded goods strongly exceeds supply capacity from original places of production. What once were essential quality indicators able to push producers’ reputations forward from certain delimited areas, as occurred with Porto⁸⁴ and champagne, ⁸⁵ today function as real global brands⁸⁶ with a market call difficult to cover. For some scholars, such as dev Gangjee and Higgins, original administrative boundaries were not only the fruit of regional conditions but also of political and power struggles amongst producers.⁸⁷ Some of these battles were over specific geographical

indications becoming diluted and carrying generic terms, especially desired by other regions or countries that produce similar items.⁸⁸ undoubtedly, PDOs and PGIs make interesting topics to discuss that surpass the possibilities of this summary, although a forthcoming book on 'Brands, Geographic origin and the Global Economy' by Higgins—which we are eager to read—promises to shed new light and data on geographical indications, country of origin, and 'made in' cases.⁸⁹

Contributions in this special issue

All the articles included in this special issue deepen several of the topics discussed above. Carlo Belfanti deals with European preindustrial economies and reflects on the nature and function of masters' marks and collective marks from the Middle Ages to the eighteenth century. His findings challenge the idea of the existence of a progressive path from guild marks to modern trademarks or brands. In a context in which counterfeiting, and imitation were generalised practices, masters' and collective marks were not always a way to guarantee quality or origin. Indeed, such marking practices could have had specific functions according to certain territories and centuries: from socio-economic conventions concerning a good's quality based on a guild's mark in the Middle Age to how conventions developed on product taxonomies based on place of origin indications. thus, Belfanti suggests that in the early modern period (the sixteenth to eighteenth centuries), masters' marks lost ground in favour of other ways of signalisation. Furthermore, Belfanti offers new explanations of the origin of modern trademarking by looking at eighteenth-century Venetian producers' (and especially traders') practices that led to registering logos in order to identify and protect original manufacturers in common but rival trades. Finally, Belfanti offers evidence on how these early forms of trademarks in several countries may have led to early forms of branding (including innovative packaging and adverts) during the late eighteenth century.

Duguid calls again into question Chandlerian accounts on the role of corporations in the development of modern trademarks and expands his previous findings of early legislation in the United States. Specifically, Duguid delves into the genesis of the 1863 California trademark law to disentangle its precedents and political and commercial ins and outs. At the heart of the California law was preventing adulteration of alcoholic beverages and the necessity of organising a registry for previously operating marks. Duguid's challenging thesis is that the ultimate origins of legal changes were agricultural and retail interests, not manufacturer or industrialist interests. commodification then was the driving force in Californian trademark dispositions. Moreover, evidence from the first trademark registrations suggests, first, a strong association with place and type of production and, second, a significant presence of associations and, especially, unions, in order to signal the labour characteristics involved in production. All of this highlights 'old' functions of marks in contrast to industrialist accounts. Finally, Duguid stresses how US federal laws reversed these initial paths during the late nineteenth and early twentieth centuries, which reinforced conventional narratives.

Lopes, Guimaraes, Alexandre Saes, and Luiz Saraiva offer fresh insights into the role of trademark systems and British expatriate entrepreneurs in developing economies, including Brazil from 1875 to 1914. their article extends trademark research to new regions and how marketing, managerial, and entrepreneurial knowledge can be transferred from pioneers to latecomers, as occurred with technological advances. After detailing the origins and evolution of Brazilian trademark laws from 1875 onwards, they discuss trademark registrations before World War I. they found a strong presence of foreign activity and a concentration of trademarks in the textile sector, especially where British interests and investments were higher.

In fact, their analysis of textile firms with more registered trademarks shows that those with British expatriates acting as local managers or even shareholders were more active in trademarking. the authors link this to superior strategic and managerial expertise and, thus, to undervaluing Britain's international role as these processes cannot be accounted for as part of foreign investments. the analysis of Brazil's first registered trademarks demonstrates a higher presence of importers, brokers, retailers, and distributors instead of manufacturers, which is in line with Duguid's findings on California.

Similarly, Igor Goñi provides exciting trademark research on new sectors and regions, in this case, gun making in the Basque country. Starting with a gunsmith tradition in early modern Spain, an entire industrial district that specialised in handguns emerged around the town of Eibar during the nineteenth and early twentieth centuries. It was formed by numerous small- and medium-sized firms that cooperated yet also competed in the same international markets, using registered and unregistered trademarks extensively in order to differentiate their products and achieve an extraordinary performance in marketing and branding. By 1905 the district's production was only surpassed by one European center: Liège, in Belgium. notwithstanding the district's success, Goñi shows how Eibar mainly manufactured poor-quality firearms copied from abroad. this lack of technological capacities was substituted with marketing and managerial knowledge—a powerful tool, as Lopes and colleagues also highlight—and was the reason behind the trademark activity of the district. For instance, it was common to use words in English or other foreign languages for a non- usual purpose: to conceal the origins of the product and its bad reputation, which may be also the reason for the existence of nonregistered trademarks. Eibar firms wanted to sell guns, not build brands and reputation. this is one of the more interesting examples of how trademarking can be developed for particular aims in specific contexts. Moreover, as Duguid showed with wines and other products in California, Goñi shows how unions registered trademarks defensively to certify the production of certain parts of the guns. the article ends with a case study to disentangle the marketing strategies driven by a significant firm in the district—Astra, Unceta & cia—which eventually developed an enduring brand of its own. A new long-term trademark dataset is also the basis for the work of Ilaria Suffia, Andrea Locatelli, and Claudio Besana, who analysed trademark registrations from three main Italian cheese manufacturers—Galbani, Invernizzi, and Locatelli—from 1890 to 2015. First, the authors draw out the general framework of the Italian dairy industry and the origins and evolution of those three cheese companies. they then discuss registration trends of the two main periods of trademarking activity that they found: 1930s to 1950s, and 1980s onwards. they suggest these two periods were responses to adverse economic shocks and the anticipation of market changes during recovery periods. this data allowed for a full study of the particular behaviours of each firm, decade by decade, as well as the types of trademarks they registered, related not only to product names and images but also to logos, packaging, and slogans. the authors linked these data to the marketing strategies followed by the firms in Italy and abroad. Finally, they analysed trademark first registrations and subsequent renewals to demonstrate, for instance, that from the 1980s onwards, these companies looked to the past and to tradition to sell in today's global markets.

Thomas Mollanger explores a classical sector in trademark studies: alcoholic beverages and the supply chain of cognac production and distribution in France and the United Kingdom. Mollanger shows how intermediaries and retailers controlled the final product during the first half of the nineteenth century. they prepared the final mixtures, stamped their own marks for local and regional markets, and developed reputations among consumers. Mollanger's thesis is that the development of trademark legislation in France in the late 1850s and the signature of bilateral agreements with the United Kingdom and other countries during the 1860s were key to reversing this situation. using the new legal tool, producers were able to progressively integrate distribution and marketing practices in order to transfer trust from final retailers to original manufacturers. Studying one of the main firms in the sector—Hennnessy—Mollanger shows how producers took a multipronged approach by increasing investments in legal defence and adverts and pressuring for control in bottling and labelling in order to offer a homogenised final product. this article builds on Duguid's classical research on alcohol supply chains and demonstrates how the process worked in French cognac.

the final article in this special issue is by Jose Bellido and Kathy Bowrey, who investigate how Disney spread to Europe, and particularly to Spain, during the 1930s. In so doing, they challenge the traditional vision of the key role of IPRs for multinational expansion. they show how Disney neither owned any significant trademark or design in Spain nor enforced any copyright protection during the period studied. Moreover, when Disney arrived, there were local entrepreneurs using the already famous Mickey Mouse name and likeness in drawings that they even registered at the Spanish Patent and trademark office. despite this, Disney succeeded in turning its brand into long-term, powerful, international assets. Bellido and Bowrey carefully disentangled the strategies followed by Disney, which surprisingly began a license policy even without possessing any legal rights in Spain by negotiating with those who were using its designs. Step-by-step, and linked to profuse adverts and merchandising activities, Disney's scheme accomplished expected results. contrary to what Coca-Cola did—conditioning their investments to the possibilities of trademark enforcement,⁹⁰—Disney adopted a flexible strategy that was both smart and effective. It took advantage of piracy activities to engage with local cultures, negotiate with domestic commercial agents, and build a network of relationships and licenses that eventually helped it first to thrive and then to gain traction on legal grounds. Bellido and Bowrey's article and case study provide new clues on multinationals' expansion and their IPR strategies, especially in the service sector.

Further research on trademarks history

Along with the interesting work on trademarks already being carried out in business history and other fields, there are additional opportunities to expand historical research on related issues. this ranges from the remote origins of trademarks to the development of modern laws and trademark systems around the world, and from the collection and analysis of new trademark datasets to the study of distinct trademark modalities, sectors, and users. Business historians can provide—as the contributors to this special issue demonstrate—compelling theoretical discussions and empirical evidence on the role of distinctive signs in the evolution of businesses' and firms' management strategies.

In this final section, we would like to highlight a specific key issue for further research: the collection, construction, and exploitation of trademark historical databases. As the more measurable aspect of branding, trademark data are available locally, regionally, nationally, and internationally, and business and economic historians have just began to scratch this enormous mine of information. research on patent history, for instance, has been widely expanded over the last few decades through the growing availability of historical databases. In the age of big-data, new methodologies, and perspectives, such as social network analysis, are increasingly used with historical data. Expanding historical trademark datasets will lead to new research possibilities and the opportunity to focus on still poorly addressed issues, such as what role trademarks had in national and international trade or how they were related to innovation processes.

Over the last 15 years, the increasing accessibility to contemporary trademark records generated by current IPR institutions—such as the World Intellectual Property organization (WIPO) and the European Union Intellectual Property office (EUIPO)—has led to economic and business analyses using trademark evidence, statistics, and surveys to investigate these two significant topics: trade and innovation. regarding trade, several works have explored the relationship between worldwide trademark registrations and international trading patterns during the 1990s. the research has shown how asymmetric ownership of trademarks between high-income and low-income countries is linked to export–import structures;⁹¹ how quality and brand differentiation positively affects exports among high-income economies;⁹² and how developing countries can use discrimination measures against foreign trademark applicants as ‘behind-the-border’ barriers to trade.⁹³ trade and trademarks have also been tackled through comparative legal studies on, for instance, the problem of parallel imports.⁹⁴ obviously, all these issues can be explored from an historical perspective to answer: How did such links between trademarking and commerce function in the past?

the relationship between trademarks and innovation has attracted even more interest. traditionally, innovation has been studied from patent and research and development (R&D) perspectives, and only recently have scholars discovered and discussed the potential of trademark data. First works have drawn attention on how pharmaceutical and biotechnological innovative firms use and manage trademarks,⁹⁵ and more generally, on how they are a good innovation proxy in the service sector, especially in knowledge-based services.⁹⁶ Moreover, based on an exhaustive analysis of ‘community trademark’ data from 15 countries between 1996 and 2002, and of Portuguese domestic data from 1980 to 2001, the seminal 2004 article by Sandro Mendonça, Tiago Pereira, and Manuel Godinho shows that trademarks can capture relevant aspects of innovation and industrial change phenomena, from product innovation to links between technological and marketing innovation.⁹⁷ Since that article, several scholars have explored trademarks and innovation in recent periods and generally agree on their usefulness. Scholars have investigated trademark’s links to innovative behaviour and firm performance;⁹⁸ their links with patent and commercial monopolies;⁹⁹ and their links to innovative start-up valuation by venture capitalists.¹⁰⁰ other studies have investigated trademarking at the firm level and have provided empirical evidence on why innovative companies register trademarks¹⁰¹ and what factors, such as size or R&D engagement, influence their propensity to use this intangible asset.¹⁰² Although in 2016 Philipp Schautschick and christine Greenhalgh claimed that not all innovative firms use trademarks,¹⁰³ there is only one paper, by Benedikt Herz and Malwina Mejer, that argues that the observed increase in trademarking over the last few decades that scholars link to product,

marketing, and service innovations may essentially be distorted, and that there is a much simpler explanation: the evolution of trademark fees.¹⁰⁴

Although business historians have begun to stress the relationship between branding and entrepreneurial innovation and have provided first views on longitudinal trademark datasets, as well as case studies on trademarks use in commerce, there is a clear opportunity to expand studies on trademark, international trade, and innovation processes from the past, especially using newly released data. the United States Patent and trademark office has even recently released an outstanding and complete relational dataset on trademark case files from 1870 to the present. From the collection of seven million trademarks, approximately 650,000 are from the 1870s to 1960s, which puts incredibly useful data into the hands of business and economic historians.¹⁰⁵ other important historical large trademark databases are being released for other countries, including Spain (1850–1920),¹⁰⁶ and there are outstanding efforts to collect and systematise historical records in other European and Latin American countries, generally driven by business history scholars or research groups. thus, all of these initiatives indicate that trademark history has a promising and challenging future and that business historians have a demanding task ahead.

Notes

1. duguid, “French connections,” 4.
2. the Brand and Its History: Economic, Business, and Social Value (multidisciplinary research seminar), universidad Autónoma de Madrid, 22–23 May 2014 (see http://ibcnetwork.org/gestion/uploads/news_events/document_9.pdf), and XI International congress of the Spanish Economic History Association, cunEF, Madrid, 4–5 September 2014 (see http://ibcnetwork.org/gestion/uploads/news_events/document_6.pdf).
3. See Business History, call for papers, http://ibcnetwork.org/gestion/uploads/news_events/document_23.pdf
4. on the differences between trademarks and brands, see Aaker, *Managing Brand Equity*, chap. 1; Bently, “the Making of Modern trade Mark Law,” 3–7; davis, “Between a Sign”; Lopes and duguid, “Introduction,” 2010, 1; Schwarzkopf, “turning trademarks into Brands”; Mercer, “A Mark of distinction,” 18; davis and Maniatis, “trademarks, Brands, and competition,” 120–121; Lopes and Guimaraes, “trademarks and British dominance,” 795; Barnes and Higgins, “Brand Image,” 6.
5. Papandreou, “the Economic Effect.”
6. Patel, “Editor’s Introduction.”
7. Patel, “trademarks”; chudnovsky, “Foreign trademarks”; correa, “Main Issues”; Greer, “the Economic Benefits”; Alvarez Soberanis, “the need to Establish”; Venkatasubramanian, “the Law of trademarks”; Eze, “trademarks in nigeria.” See also the previous work of another united nations conference on trade and development staff member: o’Brien, “trademarks in developing countries.”
8. Landes and Posner, “trademark Law.”
9. Akerlof, “the Market for ‘Lemons,’” 499–500.
10. Landes and Posner, “trademark Law”; Economides, “the Economics of trademarks”; Landes and Posner, *The Economic Structure*, chap. 7.
11. For instance, contract theory suggested that along with a quality-assurance function, trademarks also contribute to ‘specific performance’, that is, fulfilment of specific terms of contracts among firms and customers. See de Alessi and Staaf, “What does reputation really Assure?”
12. Boldrin and Levine, *Against Intellectual Monopoly*, 8.
13. Barnes, “A new Economics of trademarks,” 25–26, 50.
14. See, for instance, ramello, “What’s in a Sign?”

15. Griffiths, "A Law-and-Economics Perspective."
16. Aldred, "the Economic rationale," 273–277.
17. See, for instance, Burgunder, "An Economic-Approach," 416. For a recent proposal for an international registry of famous global trademarks (brands), see Lee, "the Global trade Mark."
18. dam, "trademarks, Price discrimination"; deller, "the role of trademarks"; Boguslavsky, "Legal Protection"; diamond, "the Public Interest"; Fletcher, "Joint registration of trademarks"; Burgunder, "trademark Protection"; coolley, "transfer of trademarks."
19. Lemley, "Ex Ante versus Ex Post"; dogan and Lemley, "A Search-cost theory."
20. McClure, "trademarks and competition"; davis and Maniatis, "trademarks, Brands, and competition."
21. Bone, "Enforcement costs."
22. Beebe, "the Semiotic Analysis"; Beebe, "Search and Persuasion."
23. McKenna, "the normative Foundations."
24. McKenna, "A consumer decision-Making."
25. Phillips, *Trade Marks at the Limit*; Bently, davis, and Ginsburg, *Trade Marks and Brands*; dinwoodie and Janis, *Trademark Law and Theory*; Fhima, *Trade Mark Law*; calboli and Lee, *Trademark Protection*.
26. Statman and tyebjee, "trademarks, Patents."
27. only from the history of science (medicine) has this topic recently been resumed; see Greene, "the Materiality of the Brand."
28. cohen, "trademark Strategy," 73; see also cohen, "trademark Strategy revisited"; on the same theme, see coolley, "transfer of trademarks", who offered information to managers concerning trademark transfers, etc.
29. Aaker, *Managing Brand Equity*.
30. Burgunder, "trademark Protection."
31. Peterson, Smith, and Zerrillo, "trademark dilution."
32. clarke and owens, "trademark rights."
33. Magid, cox, and cox, "Quantifying Brand Image."
34. Krasnikov, Mishra, and orozco, "Evaluating the Financial Impact."
35. Sandner, *The Valuation*, chap. 4; Sandner and Block, "the Market Value."
36. Von Graevenitz, "Which reputations does a Brand owner need?"
37. Gao and Hitt, "Information technology and trademarks."
38. Block et al., "trademarks and Venture capital."
39. Mamede, Fernandes, and Godinho, "Patterns and determinants."
40. Schechter, *Historical Foundations*.
41. diamond, "the Historical development."
42. dawson and Firth, *Trade Marks Retrospective*; dawson, "English trade Mark Law"; McKenna, "the normative Foundations"; Bently, "From communication to thing"; Bently, "the Making of Modern trade Mark Law"; Morris, "trademarks as Sources"; Bently, "day v day."
43. Petty, "the codevelopment of trademark Law."
44. Petty, "From Label to trademark."
45. See, for instance, the contributions compiled by Jones and tadajewski, *The Routledge Companion*.
46. Johnston, "trademarks on Greek Vases"; Helen, *Organization of Roman*; roller, *The Nonverbal Graffiti*; see also diamond, "the Historical development."
47. Woodhead, *Trademarks on Base-Metal Tableware*.
48. Wilkins, "the neglected Intangible Asset."
49. Jones and Morgan, *Adding Value*.
50. Jones, "Brands and Marketing."
51. Wilkins, "When and Why"; casson, "Economic Ideology."
52. Higgins and tweedale, "Asset or Liability?"
53. on preindustrial marking practices see richardson, "Brand names"; Maitte, "Labels, Brands"; de Munck, "the Agency of Branding."
54. Koehn, "Henry Heinz."

55. church and clark, "Product development."
56. Miskell, "cavity Protection or cosmetic Perfection?"
57. Lopes, "Brands and the Evolution"; Jones, "Brand Building"; Lopes, *Global Brands*; Fernandez, "unsuccessful response."
58. Lopes and casson, "Entrepreneurship."
59. duguid, "developing the Brand."
60. Bently, "From communication to thing"; Bently, "the Making of Modern trade Mark Law."
61. Higgins, "the Making of Modern trade Mark Law"; see also Higgins, "trademarks and Infringement."
62. duguid, "French connections."
63. duguid, "Establishing the Mark"; see also duguid, "An Anniversary to Mark."
64. Higgins, "the Making of Modern trade Mark Law," 49–55.
65. duguid, "French connections," 4.
66. duguid, Mercer, and Lopes, "transactions and Interactions"; duguid, Mercer, and Lopes, "reading registrations."
67. See Lopes and duguid, "Introduction," 2010; and Lopes and duguid, "Introduction," 2012.
68. Helmers and rogers, "trademarks and Performance."
69. Sáiz and Fernández-Pérez, "catalonian trademarks."
70. Lopes and casson, "Brand Protection."
71. Higgins, "Forgotten Heroes."
72. Llonch-casanovas, "trademarks, Product differentiation."
73. Lopes and Guimarães, "trademarks and British dominance."
74. Moreno, "trademarks, Institutions."
75. Lluch, "Marca registrada."
76. Farley, "the Forgotten Pan-American."
77. Mercer, "A Mark of distinction," 35.
78. Schwarzkopf, "turning trademarks into Brands."
79. Van den Eeckhout and Scholliers, "the Proliferation of Brands."
80. Stanziani, "Wine reputation and Quality controls"; Stanziani, "Les Signes de Qualité."
81. duguid, "Establishing the Mark"; duguid, "A case of Prejudice?"
82. See, for instance, câmara, "Madeira Embroidery."
83. See, for instance, Parry, "Geographical Indications."
84. duguid, "networks and Knowledge," 523–524; Simpson, "Selling to reluctant drinkers."
85. duguid, "developing the Brand"; Stanziani, "Wine reputation and Quality controls"; Simpson, "Selling to reluctant drinkers"; Parry, "Geographical Indications"; Gangjee, "(re)Locating Geographical Indications."
86. Hull, "cultural Branding," 3.
87. Gangjee, "(re)Locating Geographical Indications."
88. Higgins, "the Making of Modern trade Mark Law," 55–60.
89. Higgins, *Brands, Geographic Origin*.
90. See Moreno, "trademarks, Institutions."
91. Baroncelli, Fink, and Javorcik, "the Global distribution of trademarks."
92. Fink, Javorcik, and Spatareanu, "Income-related Biases"; see also similar conclusions using community trademark applications for the year 2003: Mangàni, "Measuring Variety."
93. Baroncelli, Krivosos, and olarreaga, "trademark Protection or Protectionism?"
94. Grigoriadis, *Trade Marks and Free Trade*.
95. Perry and McHugh, "trademarks."
96. Schmoch, "Service Marks"; Schmoch and Gauch, "Service Marks"; Gotsch and Hipp, "Measurement of Innovation"; see also Flikkema, de Man, and castaldi, "Are trademark counts...?"
97. Mendonça, Pereira, and Godinho, "trademarks as an Indicator."
98. Especially, again, in the service sector; see Helmers and rogers, "trademarks and Performance"; Greenhalgh and rogers, "trade Marks and Performance."

99. davis and Maniatis, “trademarks, Brands, and competition,” 127–130.

100. Block et al., “trademarks and Venture capital”; Zhou et al., “Patents, trademarks.”
101. Block et al., “Why do SMEs File trademarks?”
102. crass, “Which Firms use trademarks and Why?”
103. Schautschick and Greenhalgh, “Empirical Studies on trade Marks,” 364–366.
104. Herz and Mejer, “on the Fee Elasticity.”
105. Graham et al., “the uSpto trademark case Files dataset”; Graham, Marco, and Myers, “Monetizing Marks.”
106. See IBC network, ‘database on trademark Applications, Spain (1850–1914)’, http://ibcnetwork.org/e_research_resource.php?id=5

Acknowledgements

We want to sincerely acknowledge: (1) the *Business History* editorial board, and especially ray Stokes and Andrea Colli for their constant support in the preparation of this two-issue symposium; (2) attendees of ‘the Brand and Its History: Economic, Business, and Social Value’, at the UAM Multidisciplinary research Seminar (Madrid, 22–23 May 2014) and of our session at the International congress of the Spanish Economic History Association (Madrid, 4–5 September 2014); and (3) the selfless professional collaboration of dozens of scholars who acted as reviewers for this two-issue symposium: Glyn Atwal, John Balmer, María Inés Barbero, Patrizia Battilani, Lionel Bently, Stephen Brown, Andrea Caracausi, Catherine Carstairs, Montserrat Casanovas, Jordi Catalan, Samir Chargui, Howard Cox, Jennifer Davis, Bert de Munck, Stephanie decker, timothy dewhurst, María Fernández Moya, Gabriel Galvez-Behar, Xavier García, Francesca Golffetto, Andrew Griffiths, Tristan Jacques, Kai Lamertz, Manuel Llorca-Jaña, Laura Macchion, Maria Eugénia Mata, Peter Miskell, Philippe Moati, Mads Mordhorst, Jonathan Morris, Simon Mowatt, Margrit Müller, Juan Luis Pan Montojo, Eugenia Paulicelli, yovanna Pineda, Jordi Planas, John Potvin, Veronique Pouillard, david rolph, Jeremy David Rowan, Peter Scott, Marina Sheresheva, Fredrik Tell, Nebahat Tokatli, Jesús-María Valdaliso, Michelangelo Vasta, Terence Witkowski, and Sergei Zhuk.

Disclosure statement

no potential conflict of interest was reported by the author.

References:

- Aaker, david A. *Managing Brand Equity: Capitalizing on the Value of a Brand Name*. new york: the Free Press, 1991.
- Akerlof, George A. “the Market for ‘Lemons’: Quality uncertainty and the Market Mechanism.” *The Quarterly Journal of Economics* 84, no. 3 (1970): 488–500.
- Aldred, Jonathan. “The Economic rationale of trademarks: An Economist’s critique.” In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer davis, and Jane c. Ginsburg, 267–282. cambridge: cambridge university Press, 2008.
- Alvarez Soberanis, Jaime. “The need to Establish a Policy restricting the use of Foreign trademarks in developing countries: the case of Mexico.” *World Development* 7, no. 7 (1979): 713–726.
- Barnes, David W. “A new Economics of trademarks.” *Northwestern Journal of Technology and Intellectual Property* 5, no. 1 (2006): 23–27.
- Barnes, Felicity, and David M. Higgins. “Brand Image, cultural Association and Marketing: ‘New Zealand’ Butter and Lamb Exports to Britain, c. 1920–1938.” *Business History* (2017) (on-line advance: 10.1080/00076791.2017.1344223).
- Baroncelli, Eugenia, carsten Fink, and Beata Smarzynska Javorcik. “The Global distribution of trademarks: Some Stylised Facts.” *The World Economy* 28, no. 6 (2005): 765–782.
- Baroncelli, Eugenia, Ekaterina Krivonos, and Marcelo olarreaga. “Trademark Protection or Protectionism?” *Review of International Economics* 15, no. 1 (2007): 126–145.
- Beebe, Barton. “Search and Persuasion in trademark Law.” *Michigan Law Review* 103, no. 8 (2005): 2020–

- Beebe, Barton. "The Semiotic Analysis of trademark Law." *UCLA Law Review* 51, no. 3 (2004): 621–704.
- Bently, Lionel. "day v day, day and Martin (1816)." In *Landmark Cases in Intellectual Property Law*, edited by Jose Bellido. Portland, Oregon: Hart Publishing, 2017.
- Bently, Lionel. "From communication to thing: Historical Aspects of the conceptualisation of trademarks as Property." In *Trademark Law and Theory: A Handbook of Contemporary Research*, edited by Graeme B. Dinwoodie and Mark d. Janis, 3–41. Cheltenham, UK: Edward Elgar, 2008.
- Bently, Lionel. "The Making of Modern trademark Law: the construction of the Legal concept of trade Mark (1860–1880)." In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer Davis, and Jane C. Ginsburg, 3–41. Cambridge: Cambridge University Press, 2008.
- Bently, Lionel, Jennifer Davis, and Jane C. Ginsburg, eds. *Trademarks and Brands: An Interdisciplinary Critique*. Cambridge, UK: Cambridge University Press, 2008.
- Block, Joern H., Geertjan de Vries, Jan H. Schumann, and Philipp Sandner. "Trademarks and Venture capital Valuation." *Journal of Business Venturing* 29, no. 4 (2014): 525–542.
- Block, Joern H., Christian O. Fisch, Alexander Hahn, and Philipp G. Sandner. "Why do SMEs File trademarks? Insights from Firms in Innovative Industries." *Research Policy* 44, no. 10 (2015): 1915–1930.
- Boguslavsky, Mark. "Legal Protection of trademarks in USSR." *Journal of the Patent Office Society* 52, no. 1 (1970): 44–53.
- Boldrin, Michele, and David K. Levine. *Against Intellectual Monopoly*. Cambridge: Cambridge University Press, 2008.
- Bone, Robert G. "Enforcement costs and trademark Puzzles." *Virginia Law Review* 90, no. 8 (2004): 2099–2185.
- Burgunder, Lee B. "An Economic-Approach to trademark Genericism." *American Business Law Journal* 23, no. 3 (1985): 391–416.
- Burgunder, Lee B. "trademark Protection of Product characteristics: A Predictive Model." *Journal of Public Policy & Marketing* 16, no. 2 (1997): 277–288.
- Calboli, Irene, and Edward Lee, eds. *Trademark Protection and Territoriality Challenges in a Global Economy*. Cheltenham: Edward Elgar, 2014.
- Câmara, Maria Benedita Almada. "Madeira Embroidery: A Failed collective Brand (1935-59)." *Business History* 53, no. 4 (2011): 583–599.
- Casson, Mark. "Economic Ideology and consumer Society." In *Adding Value: Brands and Marketing in Food and Drink*, edited by Geoffrey Jones and Nicholas J. Morgan, 41–58. London: Routledge, 1994.
- Chudnovsky, Daniel. "Foreign trademarks in developing-countries." *World Development* 7, no. 7 (1979): 663–682.
- Church, Roy, and Christine Clark. "Product development of Branded, Packaged Household Goods in Britain, 1870–1914: Colman's, Reckitt's, and Lever Brothers." *Enterprise & Society* 2, no. 3 (2001): 503–542.
- Clarke, Irvine, and Margaret Owens. "Trademark rights in Gray Markets." *International Marketing Review* 17, no. 3 (2000): 272–286.
- Cohen, Dorothy. "Trademark Strategy." *Journal of Marketing* 50, no. 1 (1986): 61–74.
- Cohen, Dorothy. "Trademark Strategy revisited." *Journal of Marketing* 55, no. 3 (1991): 46–59.
- Cooley, Ronald B. "transfer of trademarks in Acquisitions, Mergers and Bankruptcies." *Journal of the Patent and Trademark Office Society* 68, no. 3 (1986): 115–126.
- Correa, Carlos. "Main Issues in the regulation of Licence Arrangements on Foreign trademarks: the Latin American Experience." *World Development* 7, no. 7 (1979): 705–711.
- Crass, Dirk. "Which Firms use trademarks and Why? representative Firm-Level Evidence from Germany." *Working Paper*. Centre for European Economic research, 2014. <http://ftp.zew.de/pub/zew-docs/dp/dp14118.pdf>.
- Dam, Kenneth W. "trademarks, Price discrimination and the Bureau of customs." *Journal of Law & Economics* 7, no. 1 (1964): 45–60.
- Davis, Jennifer. "Between a Sign and a Brand: Mapping the Boundaries of a registered trademark in European Union trademark Law." In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer Davis, and Jane C. Ginsburg, 65–91. Cambridge: Cambridge University Press, 2008.

- Davis, Jennifer, and Spyros Maniatis. "Trademarks, Brands, and competition." In *Trademarks, Brands, and Competitiveness*, edited by Teresa da Silva Lopes and Paul Duguid, 119–137. New York, NY: Routledge, 2010.
- Dawson, Norma. "English trademark Law in the Eighteenth century: Blanchard v Hill revisited. Another 'case of Monopolies?'" *The Journal of Legal History* 24, no. 2 (2003): 111–142.
- Dawson, Norma, and Alison Firth, eds. *Trademarks Retrospective*. London: Sweet & Maxwell, 2000.
- Alessi, Louis, and Robert J. Staaf. "What does reputation really Assure? the relationship of trademarks to Expectations and Legal remedies." *Economic Inquiry* 32, no. 3 (1994): 477–485.
- de Munck, Bert. "The Agency of Branding and the Location of Value. Hallmarks and Monograms in Early Modern tableware Industries." *Business History* 54, no. 7 (2012): 1055–1076.
- Deller, Anthony William. "The role of trademarks in our Modern Economy." *Journal of the Patent Office Society* 47, no. 3 (1965): 182–203.
- Diamond, Sidney A. "the Historical development of trademarks." *Trademark Reporter* 65 (1975): 265–290.
- Diamond, Sidney A. "the Public Interest and the trademark System." *Journal of the Patent Office Society* 62, no. 9 (1980): 528–545.
- Dinwoodie, Graeme B., and Mark d. Janis. *Trademark Law and Theory: A Handbook of Contemporary Research*. Cheltenham, UK: Edward Elgar, 2008.
- Dogan, Stacey L., and Mark A. Lemley. "A Search-costs theory of Limiting doctrines in trademark Law." In *Trademark Law and Theory: A Handbook of Contemporary Research*, edited by Graeme B. Dinwoodie and Mark d. Janis, 65–94. Cheltenham, UK: Edward Elgar, 2008.
- Duguid, Paul. "A case of Prejudice? the uncertain development of collective and certification Marks." *Business History Review* 86, no. 2 (2012): 311–333.
- Duguid, Paul. "An Anniversary to Mark: the Who, What, When, and Why of California's trademark registration Law of 1863." *Working Paper. Munich Personal RePEc Archive*. Munich, 2013. <http://mpira.ub.uni-muenchen.de/51854/>.
- Duguid, Paul. "Developing the Brand: the case of Alcohol, 1800–1880." *Enterprise & Society* 4, no. 3 (2003): 405–441.
- Duguid, Paul. "Establishing the Mark. A Partial History." *Presented at the Workshop: A New Kind of Property. An Old Perspective on Trademarks*, university of York (UK), November 2009.
- Duguid, Paul. "French connections: the International Propagation of trademarks in the nineteenth century." *Enterprise & Society* 10, no. 1 (2009): 3–37.
- Duguid, Paul. "Networks and Knowledge: The Beginning and End of the Port commodity chain, 1703–1860." *Business History Review* 79, no. 3 (2005): 493–526.
- Duguid, Paul, John Mercer, and Teresa da Silva Lopes. "Reading registrations. An overview of 100 years of trademark registrations in France, the United Kingdom, and the United States." In *Trademarks, Brands, and Competitiveness*, edited by Paul Duguid and Teresa da Silva Lopes, 9–30. New York, NY: Routledge, 2010.
- Duguid, Paul, John Mercer, and Teresa da Silva Lopes. "Transactions and Interactions. Preliminary reflections on a Hundred years of trademark registration data." In *EHBA 12th Annual Congress*. Bergen, Norway, 2008. http://www.ebha.org/ebha2008/papers/duguid-Mercer-Lopes_ebha_2008.pdf.
- Economides, Nicholas S. "the Economics of trademarks." *Trademark Reporter* 78 (1988): 523–539.
- Eze, Osita c. "Trademarks in Nigeria." *World Development* 7, no. 7 (1979): 727–736.
- Farley, Christine Haight. "The Forgotten Pan-American trademark convention of 1929: A Bold Vision of Extraterritorial Meets current realities." *Working Paper. American university Washington college Law*, 2013.
- Fernandez, Eva. "Unsuccessful responses to Quality uncertainty: Brands in Spain's Sherry Industry, 1920-1990." *Business History* 52, no. 1 (2010): 100–119.
- Fhima, Ilanah Simon, ed. *Trademark Law and Sharing Names: Exploring Use of the Same Mark by Multiple Undertakings*. Cheltenham, UK: Edward Elgar, 2009.
- Fink, Carsten, Beata Smarzynska Javorcik, and Mariana Spatareanu. "Income-related Biases in International trade: What do trademark registration data tell us?" *Review of World Economics* 141, no. 1 (2005): 79–103.

- Fletcher, Patricia Kimball. "Joint registration of trademarks and the Economic Value of a trademark System." *University of Miami Law Review* 36 (1982): 297–335.
- Flikkema, Meindert, Ard-Pieter de Man, and Carolina Castaldi. "Are trademark counts a Valid Indicator of Innovation? results of an in-depth Study of new Benelux trademarks Filed by SMEs." *Industry and Innovation* 21, no. 4 (2014): 310–331.
- Gangjee, dev. "(re)Locating Geographical Indications: A response to Bronwyn Parry." In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer Davis, and Jane c. Ginsburg, 381–397. Cambridge: Cambridge university Press, 2008.
- Gao, Guodong, and Lorin M. Hitt. "Information technology and trademarks: Implications for Product Variety." *Management Science* 58, no. 6 (2012): 1211–1226.
- Gotsch, Matthias, and Christiane Hipp. "Measurement of Innovation Activities in the Knowledge- Intensive Services Industry: A trademark Approach." *Service Industries Journal* 32, no. 13 (2012): 2167–2184.
- Graham, Stuart J. H., Galen Hancock, Alan c. Marco, and Amanda Fila Myers. "The USPTO trademark case Files dataset: descriptions, Lessons, and Insights." *Journal of Economics & Management Strategy* 22, no. 4 (2013): 669–705.
- Graham, Stuart J. H., Alan c. Marco, and Amanda Fila Myers. "Monetizing Marks: Insights from the USPTO trademark Assignment dataset." *Scholarly Paper*. Rochester, NY: Social Science research network, 2015. <https://papers.ssrn.com/abstract=2430962>.
- Greene, Jeremy A. "the Materiality of the Brand: Form, Function, and the Pharmaceutical trademark." *History and Technology* 29, no. 2 (2013): 210–226.
- Greenhalgh, Christine, and Mark rogers. "Trademarks and Performance in Services and Manufacturing Firms: Evidence of Schumpeterian competition through Innovation." *Australian Economic Review* 45, no. 1 (2012): 50–76.
- Greer, Douglas F. "the Economic Benefits and costs of trademarks: Lessons for the developing countries." *World Development* 7, no. 7 (1979): 683–704.
- Griffiths, Andrew. "A Law-and-Economics Perspective on trademarks." In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer Davis, and Jane c. Ginsburg, 241–266. Cambridge: Cambridge University Press, 2008.
- Grigoriadis, Lazaros G. *Trademarks and Free Trade: A Global Analysis*. Heidelberg: Springer International Publishing, 2014.
- Helen, Tapio. *Organization of Roman Brick Production in the First and Second Centuries A. D.: An Interpretation of Roman Brick Stamps*. Helsinki: Institutum romanum Finlandiae, 1975.
- Helmers, Christian, and Mark rogers. "Trademarks and Performance in UK Firms." In *Trademarks, Brands, and Competitiveness*, edited by Teresa da Silva Lopes and Paul Duguid, 55–76. New York, Ny: Routledge, 2010.
- Herz, Benedikt, and Malwina Mejer. "On the Fee Elasticity of the demand for trademarks in Europe." *Oxford Economic Papers* 68, no. 4 (2016): 1039–1061.
- Higgins, david M. *Brands, Geographic Origin, and the Global Economy: A History from the Nineteenth Century to the Present*. Cambridge: Cambridge University Press, 2018.
- Higgins, David M. "Forgotten Heroes and Forgotten Issues?: Business and trademark History during the nineteenth century." *Business History Review* 86, no. 2 (2012): 261–285.
- Higgins, David M. "The Making of Modern trademark Law: the UK, 1860–1914. A Business History Perspective." In *Trademarks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer Davis, and Jane c. Ginsburg, 42–62. Cambridge: Cambridge University Press, 2008.
- Higgins, David M. "Trademarks and Infringement in Britain, c.1875-c.1900." In *Trademarks, Brands, and Competitiveness*, edited by Teresa da Silva Lopes and Paul Duguid, 102–118. New York, Ny: Routledge, 2010.
- Higgins, David M., And Geoffrey Tweeddale. "Asset or Liability? Trademarks in the Sheffield cutlery and tool trades." *Business History* 37, no 3 (1995): 1–27.
- Hull, Gordon. "Cultural Branding, Geographic Source Indicators and commodification." *Theory, Culture & Society* 33, no. 2 (2016): 125–145.
- Johnston, A. W. "trademarks on Greek Vases." *Greece & Rome* 21, no. 2 (1974): 138–152.

- Jones, d. G. Brian, and Mark Tadajewski, eds. *The Routledge Companion to Marketing History*. London: Routledge, 2016.
- Jones, Geoffrey. "Brands and Marketing." In *Adding Value: Brands and Marketing in Food and Drink*, edited by Geoffrey Jones and Nicholas J. Morgan, 1–12. London: Routledge, 1994.
- Jones, Geoffrey, and Nicholas J. Morgan, eds. *Adding Value: Brands and Marketing in Food and Drink*. London: Routledge, 1994.
- Jones, Stephen r. H. "Brand Building and Structural change in the Scotch Whisky Industry since 1975." *Business History* 45, no. 3 (2003): 72–89.
- Koehn, Nancy F. "Henry Heinz and Brand creation in the Late nineteenth century: Making Markets for Processed Food." *Business History Review* 73, no. 3 (1999): 349–393.
- Krasnikov, Alexander, Saurabh Mishra, and David Orozco. "Evaluating the Financial Impact of Branding using trademarks: A Framework and Empirical Evidence." *Journal of Marketing* 73, no. 6 (2009): 154–166.
- Landes, William M., and Richard A. Posner. *The Economic Structure of Intellectual Property Law*. Cambridge, MA: Harvard university Press, 2003.
- Landes, William M., and Richard A. Posner. "Trademark Law: An Economic Perspective." *Journal of Law and Economics* 30, no. 2 (1987): 265–309.
- Lee, Edward. "The Global trade Mark." *University of Pennsylvania Journal of International Law* 35, no. 4 (2014): 917–967.
- Lemley, Mark A. "Ex Ante versus Ex Post Justifications for Intellectual Property." *The University of Chicago Law Review* 71, no. 1 (2004): 129–149.
- Llonch-Casanovas, Montserrat. "Trademarks, Product differentiation and competitiveness in the Catalan Knitwear districts during the twentieth century." *Business History* 54, no. 2 (2012): 179–200.
- Lluch, Andrea. "Marca registrada... reflexiones sobre el uso de las marcas comerciales, el consumo y la comercialización de bienes en el mundo rural argentino (1900-1930)." *Mundo Agrario* 13, no. 26 (2013): 1–25.
- Lopes, Teresa da Silva. "Brands and the Evolution of Multinationals in Alcoholic Beverages." *Business History* 44, no. 3 (2002): 1–30.
- Lopes, Teresa da Silva. *Global Brands: The Evolution of Multinationals in Alcoholic Beverages*. Cambridge: Cambridge University Press, 2007.
- Lopes, Teresa Da Silva, And Mark Casson. "Brand Protection and the Globalization of British Business." *Business History Review* 86, no. 2 (2012): 287–310.
- Lopes, Teresa Da Silva, And Mark Casson. "Entrepreneurship and the development of Global Brands." *Business History Review* 81, no. 4 (2007): 651–680.
- Lopes, Teresa Da Silva, And Mark Casson. "Introduction: Behind the Brand." *Business History Review* 86, no. 2 (2012): 235–238.
- Lopes, Teresa Da Silva, And Mark Casson. "Introduction: Brands and competitiveness." In *Trademarks, Brands, and Competitiveness*, edited by Teresa Da Silva, And Mark Casson, 1–8. New York, Ny: Routledge, 2010.
- Lopes, Teresa Da Silva, And Paulo Guimaraes. "Trademarks and British dominance in consumer Goods, 1876–1914." *Economic History Review* 67, no. 3 (2014): 793–817.
- Magid, Julie Manning, Anthony d. cox, and Dena S. cox. "Quantifying Brand Image: Empirical Evidence of trademark dilution." *American Business Law Journal* 43, no. 1 (2006): 1–42.
- Maitte, Corine. "Labels, Brands, and Market Integration in the Modern Era." *Business and Economic History On-Line* 7 (2009): 1–16.
- Mamede, Ricardo P., Teresa F. Fernandes, and Manuel M. Godinho. "Patterns and determinants of trademark use in Portugal." In *Knowledge-Intensive Entrepreneurship in Low-Tech Industries*, edited by Hartmut Hirsch-Kreinsen and Isabel Schwinge, 95–116. Cheltenham, UK: Edward Elgar, 2014.
- Mangani, Andrea. "Measuring Variety and Quality of Products with trademarks." *International Economic Journal* 21, no. 4 (2007): 613–631.
- McClure, Daniel M. "trademarks and competition: the recent History." *Law and Contemporary Problems* 59, no. 2 (1996): 13–43.
- McKenna, Mark P. "A consumer decision-Making theory of trademark Law." *Virginia Law Review* 98, no. 1

- McKenna, Mark P. “the normative Foundations of trademark Law.” *Notre Dame Law Review* 82, no. 5 (2007): 1839–1916.
- Mendonça, Sandro, tiago Santos Pereira, and Manuel Mira Godinho. “trademarks as an Indicator of Innovation and Industrial change.” *Research Policy* 33, no. 9 (2004): 1385–1404.
- Mercer, John. “A Mark of distinction: Branding and trade Mark Law in the uK from the 1860s.” *Business History* 52, no. 1 (2010): 17–42.
- Miskell, Peter. “cavity Protection or cosmetic Perfection? Innovation and Marketing of toothpaste Brands in the united States and Western Europe, 1955–1985.” *Business History Review* 78, no. 1 (2004): 29–60.
- Moreno, Julio E. “trademarks, Institutions, and coca-cola’s corporate Expansion to South America.” *Presented at the Workshop: Branding at the Periphery: An International Comparative Perspective*, university of york (uK), november 2009.
- Morris, P. Sean. “trademarks as Sources of Market Power: Legal and Historical Encounters.” *Liverpool Law Review* 38, no. 2 (2017): 159–185.
- o’Brien, Peter. “trademarks in developing countries.” *Journal of Modern African Studies* 14, no. 2 (1976): 297–309.
- Papandreou, Andreas G. “the Economic Effect of trademarks.” *California Law Review* 44, no. 3 (1956): 503–510.
- Parry, Bronwyn. “Geographical Indications: not All ‘champagne and roses.’” In *Trade Marks and Brands. An Interdisciplinary Critique*, edited by Lionel Bently, Jennifer davis, and Jane c. Ginsburg, 361–380. cambridge: cambridge university Press, 2008.
- Patel, Surendra J. “Editor’s Introduction.” *World Development* 7, no. 7 (1979): 649–651.
- Patel, Surendra J. “trademarks and the third World.” *World Development* 7, no. 7 (1979): 653–662.
- Perry, E. Lynn, and Margaret c. McHugh. “trademarks: the ‘Misunderstood’ Intellectual Property. there’s More to a company’s Intellectual Property than Its Patents and trade Secrets.” *Nature Biotechnology* 20, no. 6 (2002): 627–628.
- Peterson, robert A., Karen H. Smith, and Philip c. Zerrillo. “trademark dilution and the Practice of Marketing.” *Journal of the Academy of Marketing Science* 27, no. 2 (1999): 255–268.
- Petty, ross d. “From Label to trademark: the Legal origins of the concept of Brand Identity in nineteenth century America.” *Journal of Historical Research in Marketing* 4, no. 1 (2012): 129–153.
- Petty, ross d. “the codevelopment of trademark Law and the concept of Brand Marketing in the united States before 1946.” *Journal of Macromarketing* 31, no. 1 (2011): 85–99.
- Phillips, Jeremy, ed. *Trade Marks at the Limit*. cheltenham, uK: Edward Elgar Publishing, 2006.
- ramello, Giovanni B. “What’s in a Sign? trademark Law and Economic theory.” *Journal of Economic Surveys* 20, no. 4 (2006): 547–565.
- richardson, Gary. “Brand names before the Industrial revolution.” *Working Paper no. 13930*. national Bureau of Economic research, 2008. <http://www.nber.org/papers/w13930.pdf>
- roller, Lynn E. *Gordion Special Studies I: The Nonverbal Graffiti, Dipinti, and Stamps*. Philadelphia, PA: the university Museum - university of Pennsylvania, 1987.
- Sáiz, Patricio, and rafael castro. “Foreign direct Investments and Intellectual Property rights. International Intangible Assets in Spain circa 1820–1939.” *Enterprise & Society* 18, no. 4 (2017): 846–892.
- Sáiz, Patricio, and Paloma Fernández-Pérez. “catalonian trademarks and the development of Marketing Knowledge in Spain, 1850–1946.” *Business History Review* 86, no. 2 (2012): 239–260.
- Sandner, Philipp G. *The Valuation of Intangible Assets: An Exploration of Patent and Trademark Portfolios*. Wiesbaden: Springer Gabler, 2009.
- Sandner, Philipp G., and Joern Block. “the Market Value of r&d, Patents, and trademarks.” *Research Policy* 40, no. 7 (2011): 969–985.
- Schautschick, Philipp, and christine Greenhalgh. “Empirical Studies of trade Marks. the Existing Economic Literature.” *Economics of Innovation and New Technology* 25, no. 4 (2016): 358–390.
- Schechter, Frank I. *Historical Foundations of the Law Relating to Trade-Marks*. new york, ny: columbia university Press, 1925.
- Schmoch, ulrich. “Service Marks as novel Innovation Indicator.” *Research Evaluation* 12, no. 2 (2003): 149–

- Schmoch, Ulrich, and Stephan Gauch. "Service Marks as Indicators for Innovation in Knowledge-Based Services." *Research Evaluation* 18, no. 4 (2009): 323–335.
- Schwarzkopf, Stefan. "Turning trademarks into Brands: How Advertising Agencies Practiced and conceptualized Branding, 1890–1930." In *Trademarks, Brands, and Competitiveness*, edited by Teresa Da Silva Lopes and Paul Duguid, 165–193. New York, Ny: Routledge, 2010.
- Simpson, James. "Selling to reluctant drinkers: the British Wine Market, 1860–1914." *Economic History Review* 57, no. 1 (2004): 80–108.
- Stanziani, Alessandro. "Les Signes de Qualité. normes, réputation et confiance (XIXe-XXe Siècles)." *Revue de Synthèse* 127, no. 2 (2006): 329–358.
- Stanziani, Alessandro. "Wine reputation and Quality controls: the origin of the Aocs in 19th century France." *European Journal of Law and Economics* 18, no. 2 (2004): 149–167.
- Statman, Meir, and Tyzoon T. Tyebjee. "Trademarks, Patents, and Innovation in the Ethical drug Industry." *Journal of Marketing* 45, no. 3 (1981): 71–81.
- Van den Eeckhout, Patricia, and Peter Scholliers. "The Proliferation of Brands: the case of Food in Belgium, 1890–1940." *Enterprise & Society* 13, no. 1 (2012): 53–84.
- Venkatasubramanian, P. B. "the Law of trademarks in India." *World Development* 7, no. 7 (1979): 737–746.
- Von Graevenitz, Georg. "Which reputations does a Brand owner need? Evidence from trademark opposition." *Discussion Paper*. GESy. SBF/tr 15, 2007. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1443425.
- Wilkins, Mira. "The neglected Intangible Asset: the Influence of the trade Mark on the rise of the Modern corporation." *Business History* 34, no. 1 (1992): 66–95.
- Wilkins, Mira. "When and Why Brand names in Food and drink?" In *Adding Value: Brands and Marketing in Food and Drink*, edited by Geoffrey Jones and Nicholas J. Morgan, 15–40. London: routledge, 1994.
- Woodhead, Eileen. *Trademarks on Base-Metal Tableware: Late 18th Century to circa 1900 (Including Marks on Britannia Metal, Iron, Steel, Copper Alloys, and Silver-Plated Goods)*. *Studies in Archaeology, Architecture, and History*. ottawa: national Historic Sites, Parks Service, Environment canada, 1991.
- Zhou, Haibo, Philipp G. Sandner, Simon Luca Martinelli, and Joern H. Block. "Patents, trademarks, and their complementarity in Venture capital Funding." *Technovation* 47 (2016): 14–22.