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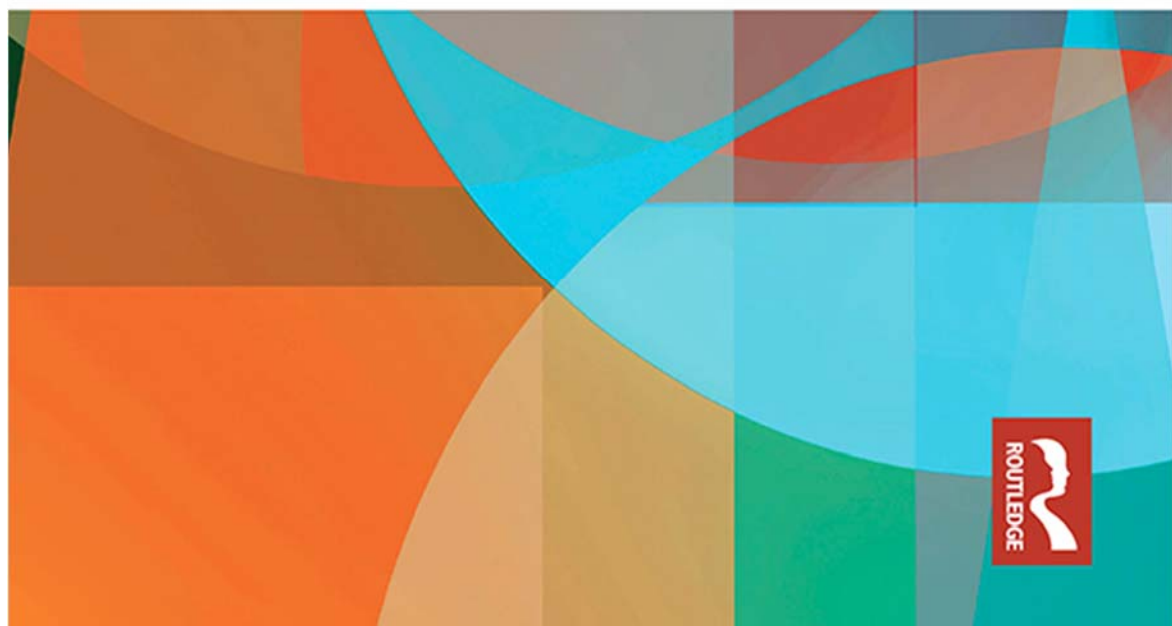
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THE BRAND AND ITS HISTORY

TRADEMARKS, BRANDING AND NATIONAL IDENTITY

Edited by
Patricio Sáiz and Rafael Castro



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Preface

Since the 1990s, the weight and importance of intangible assets in economies and businesses have increased substantially. Companies, governments, and people have become increasingly conscious of the key roles of knowledge and innovation to competition, employment, education, and, broadly, to twenty-first century society.

In this so-called ‘society of knowledge’, technology, creativity, and their legal counterparts—including patent and copyright issues—flood daily through administration councils, international institutions, and digital newspapers. Likewise, the revolution of information and globalisation has led to new forms of commercial innovation and the omnipresence of names and logos, in a few decades building a worldwide ‘branded society’. Correspondingly, brands (and trademarks, their counterparts) have gained relevance and turned into strategic economic assets. Now, branding is a significant consideration for companies, local or multinational, and also for governmental and non-governmental agencies and institutions, as well as for all kinds of professionals, from doctors and teachers to lawyers and real-estate agents to unconventional occupations such as YouTubers and TikTokers.

At a recent conference on the global impact of brands,¹ Teresa da Silva Lopes suggested in her keynote speech that branding impacts even global vaccination drives during this strange pandemic era. Generally, people associate vaccine effectiveness with the name of one or another pharmaceutical company—over medical technology or scientific knowledge—and thereby establish their preferences. Without a doubt, we are living in a ‘society of brands’.

However, contrary to what occurred with invention activity and patents, it took a long time to introduce trademarks and brands into social scientists’ and humanities research agendas. In fact, although there is a growing interest in brand research from economics, law, sociology, and business studies, there is still a general lack of knowledge about this key intangible asset’s origins and evolution throughout the centuries. Indeed, the purpose of the present book is twofold. First, to review and build upon previous research on trademarks and branding carried out in distinct academic fields; second, to offer contributions based on current investigation of the history of trademarks and brands—investigations that also aim to show the path for further studies.

Thus, this book compiles the work of prominent scholars worldwide, who are studying the origins and evolution of trademarks and branding practices from medieval times to the present, and from specific European countries to the United States, New Zealand, Canada, Latin America, and the Soviet Union.

Trademarks and brands are broadly used as synonyms in non-specialized media but, although complementary to each other, they have distinct characteristics. Trademarks are more concrete and measurable, as the legal part of the brand, while branding is a more complex issue aimed at connecting a firm’s values to the consumer’s emotions. That is why this book is organized in two main parts (with eight chapters each) focused first, on trademark legal issues and commercial practices and, second, on cross-cultural factors in international branding. These are, indeed, the titles of the first chapters of each part, which serve as introductions to the state of the art and to the work of the authors.

The first part of the book provides new insights into pre-modern craft marks, the emergence of trademark legal regimes in nineteenth-century United States, and the evolution of trademark and business strategies in specific regions of the world, and in distinct economic sectors and cultural contexts (from cognac brandy business in France to the cheese industry in Italy, to Disney's entrepreneurial expansion in Spain and to how trademarks were used to hide the origin of Basque gun-making workshops or to disguise British investors in Brazil). As industrialisation and globalisation spread during the twentieth century, these and other trademark and business practices led to modern branding and international marketing, a process driven by new economic and also cultural factors. Thus, the second part of the book more deeply involves the cultural side of brands and offers challenging studies on how luxury, fashion, culture associations, and the consolidation of national identities played key roles in the evolution of modern branding. The distinct chapters of this section investigate branding in Swiss watch companies, in Italian fashion businesses, and in cultural associations based on the British Empire (New Zealand and Canada), as well as the expansion of marketing practices in international olive oil trade, and the political significance of brands in Soviet Lithuania.

The reasons for the book having two parts with introductory/editorial chapters is that they were originally published as independent special issues in the journal *Business History* in 2018 and 2020.² However, all these chapters were part of the same project. This book compiles and makes available all the contributions in a single volume, recouping the project's original spirit and concept. The studies that the reader presently holds in their hands developed mainly between 2014 and 2018. A kick-off multidisciplinary research seminar and an international conference session titled 'The Brand and Its History: Economic, Business, and Social Value', both held in Madrid in 2014,³ led to a successful call for papers for the aforementioned special issues. Many of the contributions were also presented and discussed in distinct seminars and conferences, where trademark and brand research produced mounting results during those years.

Furthermore, since 2018 the interest in these topics from multiple disciplines is likewise growing. For instance, new historical studies on trademarks and brands led to the International Congress on Brands and Designations of Origins in Porto (2021)⁴ and to several sessions in the Second World Congress of Business History (2021),⁵ in recent Business History Conferences (2018–2021),⁶ and in the last face-to-face European Business History Association meeting (2019) before the pandemic.⁷

With respect to trademarks, there were also specialised sessions in innovation studies or economic geography international meetings, such as the Fifth Geography of Innovation Conference (2020),⁸ or in the European Policy for Intellectual Property conferences, such as the last one held in Madrid (2021).⁹ Indeed, top international journals in those fields recently published special issues focused on trademark empirical research, including also historical perspectives,¹⁰ and have other trademark issues in preparation. That is the case of the journal *Regional Studies* that, during 2020, collected contributions (finally published in 2021) for the special issue 'Regions and Trademarks',¹¹ or *Industry and Innovation* that in 2020 published a double special issue called 'Trademarks and their Role in Innovation, Entrepreneurship and Industrial Organization'.¹²

With respect to branding, marketing scholars made a clean sweep in the field. To stay current is not an easy task due to the huge quantity of papers, special issues, and conferences in the myriad subfields. However, we can grasp where the discipline is going

through the activity of top journals. For example, facing the process of deglobalization, in 2020 the *Journal of International Marketing* published a special issue, ‘Marketing in a Globalized World: Challenges and Opportunities’, which included new brand perspectives.¹³ Due to changes in technology, media, and the consumer, the *Journal of Consumer Research* delves into ‘The Future of Brands in a Changing Consumer Marketplace’, with a special issue under preparation.¹⁴ Since the 2008 financial crisis and, of course, with the COVID crisis, it seems that a lively field is on fashion: the Critical Marketing, a new approach that yields an enriched understanding of marketing theory and practice, its role in society, and its relationship with consumers themselves. Special issue projects such as ‘Brands & Activism’ in the *Journal of Brand Management*,¹⁵ or recently published books such as *The Routledge Companion to Critical Marketing*, synthesise the state of the art and offer historical perspectives.¹⁶ During the last few years, brand topics expanded also in business studies, with a significant increase in the number of manuscripts, especially in the field of family business. The *Journal of Business Research*, for instance, is preparing a special issue on ‘Marketing and Consumer Research in Family Business’.¹⁷ Finally, cross-disciplinary brand research arose in topics such as climate change (the journal *Sustainability* has a special issue on ‘Cultural Branding for Sustainability’),¹⁸ nation branding (with interdisciplinary research projects such as ‘Nordic Branding’ at the University of Oslo),¹⁹ or regional science (where the aforementioned *Regional Studies* has another special issue in preparation titled ‘Places as Brands: Emerging Strategies and the Challenges of Leveraging Place-Based Intangibles’).²⁰

Definitively, trademarks and brands are on the map, which, along with current investigations, will open new and promising research lines and produce increasing opportunities for historical and evolutionary approaches. This book proves it. The effort from the participating scholars provides interesting case studies and contributes to a better understanding of the origins of trademark and branding practices in the past and, therefore, improves our present and future comprehension of the complex world of brands.

To close the Preface, we thank all the authors who contributed to this book, for their availability, kindness, support, and patience.

Madrid, Autumn 2021

Patricio Sáiz and Rafael Castro

Notes

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2. *Business History*, 2018, 60(8) and 2020, 62(1).
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18. See the call for papers at www.mdpi.com/journal/sustainability/special_issues/cultural_branding.
19. See the project webpage at www.uio.no/english/research/strategic-research-areas/nordic/research/research-groups/nordic-branding/index.html.
20. See the call for papers at www.regionalstudies.org/publications/special-issues/?journal=418#

INTRODUCTION

Trademarks in branding: Legal issues and commercial practices

Patricio Sáiz and Rafael Castro

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.

‘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; signalling 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 trademark/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 signalling 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 Tyzoon 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 IPRs, 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 household 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 channelled through several meetings and workshops that focussed 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 highlighted 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 defence 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 promoted 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 throughout 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, signalling 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 *appçelations d'origine controlee* 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, sometimes, 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 centre: 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 nonusual 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 begun 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 Tadjewski, *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 Guimaraes, "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: Mangani, "Measuring Variety."
93. Baroncelli, Krivonos, 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

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