

# Embodied Trademarks: Mimesis and Alterity on American Commercial Frontiers

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Since 1930, the mascot of Robertson's® Marmalade, England's Gollywog® (who looks like Buckwheat, but a bit more nattily attired) has appeared on over 20 million pieces of merchandise—from teapots to toothbrushes to T-shirts. . . . When Golly was criticized in 1984 by some of England's "oversensitive" black population, a Robertson's spokesman righteously declared, "the Golly forms part of our national tradition and attacking it is an attack on a part of British culture."

—Colson Whitehead, review of *White on Black*

This anecdote condenses a series of relationships that are relatively unexplored in cultural anthropology. It bespeaks the central role of trademarks in what we might call the visual culture of the nation (Dominguez 1993; Hannerz and Lofgren 1993; Hegeman 1991; Lofgren 1993) and points to a politics—of ownership and protest, domination and resistance—that engages intellectual properties in increasingly commodified public spheres. Theoretically addressing the significance of this story, however, is no easy task. It resists easy accommodation within the dominant perspectives toward the commodified imagery of late capitalism. Neither Jameson's (1991) modernist nostalgia for "our" "real" history (now lost in the proliferation of media imagery) nor the increasingly qualified demarcation of consumption as a potential site for critical creativity in the literature of cultural studies (Fiske 1989a, 1989b, 1992a, 1992b; McRobbie 1994; P. Willis 1990; S. Willis 1992, 1993) does justice to the dilemma posed by the Golly®.

In its reference to the historical images that circulate as floating signifiers in the condition of postmodernity, this story suggests that we attend to the consumption of commodified culture and recognize the signifying politics that embrace mass-media forms—concerns central to any analysis of the cultural characteristics of postmodernism (Connor 1989; Coombe 1991a; Featherstone 1991; Jenkins 1992; Jules-Rosette 1990; Lash 1990; Kellner 1992; McRobbie 1994; Shweder 1989). Opposition to the Golly®, however, also reminds us of the necessity to acknowledge the historical trajectories of specific subject position-

ings and the political interests of those who struggle to reinscribe or alter particular commodified images and their meanings (Coombe 1993b). The movement to dislodge the Golly® might also, therefore, be seen as a “postcolonial” practice—as those historically “othered” in imperialist social imaginaries protest the continuing circulation of indicia iconic of their former subjugation.<sup>1</sup> The literature on postcolonialism, however, has not been particularly attentive to practical contentions over the commodification of colonial desire. Academic struggles to define the parameters of postcolonial terrain (Bhabha 1992; Coombes 1992; Frankenberg and Mani in press; Hutcheon 1989; McClintock 1991; Mukherjee 1990; Scott 1992; Seed 1991; Shohat 1991; Shohat and Stam 1994; Tiffen 1988) have yet to incorporate contemporary challenges to the circulation of those commodity-signs that still embody colonialism’s others in the mediascapes of mass commerce. Such challenges suggest that one dimension of the relationship between the postmodern and the postcolonial is enacted in the representational exchange of the market.

The Golly® is a trademark—a signifier that distinguishes the goods of one manufacturer from those of another. Trademarks may be logos, brand names, characteristic advertising images, or other (usually visual) forms that condense and convey meaning in commerce. The ubiquity of trademarks in national social arenas and their currency both as culture and as private property creates generative conditions for struggles over significance; they are simultaneously shared in a commons of signification and jealously guarded in exclusive estates. The visual cultures of national mass markets are often saturated by signs of social difference (Nederveen 1992; Stedman 1982). When these signs assume the form of marks used in trade, these indicia of cultural difference may be legally recognized as the private properties of those who claim them as marks of their own commercial distinction. I will draw upon both historical and contemporary U.S. examples to show that when—as in the Golly® anecdote—trademarks represent an embodied otherness with imperialist precedents, social struggles over their circulation and connotation add more nuanced dimensions to our understandings of contemporary relationships between mimesis and alterity (Taussig 1993).

### Mimicry, Alterity, and Embodiment

Cultural anthropologists have been shy to address the social, cultural, or political role of trademarks (but see Tobin 1992). Indeed, the brand name is often evoked only to mark a moment of purported “first contact”—the coming of the West to the other. On the first page of Gewertz and Errington’s article “First Contact with God” (1993), for example, we find Michael Leahy, leader of the first European expeditions into the hidden valleys of the Papua New Guinea highlands, described as “a concentrated embodiment of colonial individualism. . . . Mauser® slung over one shoulder and Leica® over the other,” he arrives as an “intrepid agent of colonial transformation” (1993:279; registered trademark symbols added). Trademarked brand names never again figure in the narrative.

When James Clifford talks about Lévi-Strauss's "refugee" period in New York City, he emphasizes the anthropologist's delight in the "incongruities" the city affords, and provides Lévi-Strauss's account of one incongruity he found particularly arresting:

I felt myself going back in time . . . when I went to work every morning in the American room of the New York Public Library. There, under its neo-classical arcades and between walls paneled with old oak, I sat near an Indian in a feather headdress and a beaded buckskin jacket—who was taking notes with a Parker pen. [Lévi-Strauss cited in Clifford 1988:237]

As Clifford argues, this other reader is sited with particular discomfort because, for Lévi-Strauss, "the Indian is primarily associated with the past, the 'extinct' societies recorded in the precious Bureau of American Ethnology *Annual Reports*" that he himself is reading. The anthropologist feels himself "going back in time"—"an Indian can appear only as a survival or a kind of incongruous parody" (1988:245). But what makes this particular Indian a parody for Lévi-Strauss? Not, it would seem, his jacket or his headdress, which might themselves be self-conscious parodies on this Native American's part, but the Parker® pen! The trademark functions here in two ways. It is invoked strategically to divide the Indian from his Indianness—to divide him from anything Lévi-Strauss could recognize as "culture." Paradoxically, it also becomes the vehicle through which "the Indian"—who could be a stuffed figure up to this point—is bestowed with agency. For the anthropologist, however, such agency is parodic, a mark of a culture's death, rather than a sign of cultural revitalization.

If the trademark figures at all in ethnographic discourse (it does have a place in anthropological corridor-talk), it marks the pending *loss* of cultural identity, but is rarely one of its sources. A mere sign of Western hegemony, like the Coke bottle in the Kalahari (Solway and Lee 1990), it figures more often as a harbinger of homogeneity or irrevocable social transformation than as one cultural resource among others. Intellectual properties are, however, significant cultural forms in contemporary public arenas. Endlessly reproduced and circulated by mass media, they are identified with by subaltern groups who use them to construct identities and communities, to challenge social exclusions, and to assert difference. Their ubiquity in commercial culture makes them particularly available for the signifying activities of others, and the fact that they are everywhere the same seems to invite others to use them to inscribe social difference (Coombe 1991b, 1992a, 1992b, 1993a, 1993b, 1996; Coombe and Stoller 1995).

One recent exception to the anthropological tendency to ignore trademarks as cultural forms is Michael Taussig's *Mimesis and Alterity* (1993). Taussig traces the Western preoccupation with the mimetic abilities of savages and the European fascination with being imitated by primitives. He sees in many turn-of-the-century trademarks a link between mimesis, primitivism, and technological development. It is the task of the animal, the child, the black, the primitive, and the woman "to register the rediscovery of the naturalness of the mimetic faculty in a technological age" of mechanical reproduction (1993:210). Such social

others do indeed figure predominantly in the pantheon of late-19th-century American trademarks (Lears 1994; McClintock 1995). Taussig's geographically and historically generalizing observations on mimesis and alterity do not make reference to the cultural indicia of national political agendas. Nor do they isolate the local cultural idioms of imperialism in which socially specific relations between mimesis and alterity are articulated. In this article, I will be concerned with a particular configuration of this nexus in a particular era of U.S. nation-building.

Taussig's definition of the mimetic faculty is indeed an idiosyncratic one (Jay 1993; Stoller 1994), but one fruitful for considering the power of trademarks. He describes the mimetic faculty as the ability to copy, imitate, to yield into, and become other in such a way that the copy draws power from and influences the original (xiii). The representation gains or shares in the power of the represented and the image affects what it is an image of. But if imitation or sympathy is one principle of mimesis, then sensuousness and contagion is the other. One gets "hold of something by way of its likeness—[mimesis involves] a copying or imitation, and a palpable, sensuous connection between the very body of the perceiver and the perceived . . . making contact" (Taussig 1993:21). The fingerprint and His Master's Voice Talking Dog (the RCA logo)<sup>2</sup> are the vehicles Taussig uses to show how sympathy and contagion are fused:

Through contact (contagion) the finger makes the print (a copy). But the print is not only a copy. It is testimony to the fact that contact was made—and it is the combination of both facts that is essential to the use of fingerprinting to the police in detection and by the State in certifying identities. The Talking Dog also interfuses contagion with sympathy, the sensuous with imitation, because it is on account of its sensorium, allegedly sensitive to an uncanny degree, that it can faithfully register—i.e. receive the print—and distinguish faithful from unfaithful copies. . . . [T]he dog becomes the civilized man's servant in the detection, and hence selling, of [the] good copy. [1993:220]

These principles of imitation and contact are useful for thinking about the role of trademarks in commercial spheres of exchange. A mark must attract the consumer to a particular source that, in mass markets, is often unknown and distant. A logo registers fidelity in at least two senses. It operates as a signature of authenticity, indicating that the good that bears it is true to its origins—that is, that the good is a true or accurate copy. It is exactly the same as another good bearing the same mark, and different from other goods carrying other marks (these are both fictions, of course, but ones that are legally recognized and maintained). The mark also configures fidelity in a second sense; it registers a real contact, a making, a moment of imprinting by one for whom it acts as a kind of fingerprint—branding. But if the mark figures a fidelity, it also inspires fidelity in the form of brand loyalty. The consumer seeks it out, domesticates it, and provides it with protective shelter; he makes a form of bodily contact with it. The mark distinguishes the copy by connecting it to an originator and connecting the originator with a moment of consumption.

The trademark organizes the "magic of the mimetic faculty" in mass-mediated consumer societies. As the mass-reproduced stamp of an author/ized site of origin that authenticates mass-produced goods bearing the trademark owner's singular distinction, the mark might be seen as channeling the cultural energy of mimesis into the form of the signature—an attempt to appropriate it under the proper name. A commercial surrogate identity, the trademark maintains and garners exchange value in the market, alluring consumers in its endless uniformity with paradoxical promises of standardization and distinction.

Laws of intellectual property generally—copyright, trademark, and publicity rights, in particular—constitute a political economy of mimesis in capitalist societies, constructing authors, regulating the activities of reproduction, licensing copying, and prohibiting imitation—all in the service of maintaining the exchange value of texts. The law of trademark, for example, provides both a generative condition and a prohibitive obstacle: it manages mimesis (authorizing true copies and distinguishing between legitimate and illegitimate reproductions) while it polices alterity (prohibiting the resignifications of others).

Such legal forms always invite encounters with alterity—the other that always haunts the proper name (Bhabha 1994; Brantlinger 1990), the difference that always already occupies the space of the signature that attempts to keep it at bay (Kamuf 1988; Stewart 1991). Laws that construct the fiction of the singular, unique, and self-contained work (copyright), that authorize the mark of singular meaning and origin for the commodity (trademark), or that enable celebrities to control publicly recognized indicia of their personalities as their own creations (publicity rights) prohibit intertextuality as they simultaneously deny it as a source of meaning and value. In its denial, legal discourse gives voice to the anxiety that authorship always embodies: the anxiety that authors (be they designers of toothpaste labels, advertising copywriters, toy manufacturers, or game show hostesses) might not be the exclusive and originary source of meaning for those signifiers that circulate in their names or embody their personas in the public sphere.

To the extent that the commercial signature itself represents social others in forms that recall their enforced alterity, it is particularly likely to attract the authorial energies of those members of social groups who have an interest in contesting claims that stereotypical images of themselves be considered mere extensions of another's proper name. Ironically, as I argue below, those persons who continue to bear identities marked by former colonizations, and who find those colonial identities currently commodified as marketing signs, must claim the author function (Foucault 1984) and trade in the marks of their own cultural distinction if they are to appropriate these as forms to which they can make legally legitimate claims.

### **The Cultures of Public Spheres**

Scholars developing the concept of the "public sphere" (Robbins 1993) advocate an attention to the quotidian cultural politics that engages commodity-signs (Garnham 1993; Polan 1993; Warner 1993). The trademark is both a com-

modity with an exchange value in its own right and a sign that condenses a relationship between a signifier, a signified, and a referent (linking, for example, a logo, a lifestyle, and a product). Michael Warner (1993), drawing heavily upon the work of Lauren Berlant (1991), asserts the importance of mass media and its characteristic commodity forms in the construction of contemporary publics and subjectivities: "Nearly all of our pleasures come to us coded in some degree by the publicity of mass media. We have brandnames all over us" (1993:242). Trademarks, Warner suggests, are constitutive parts of contemporary public spheres—constructing a common discourse to bind the subject to the nation and to its markets (1993:243). Some of "us" and "our" ancestors, however, *are*, in fact, brandnames: Cherokee®, Oneida®, Florida Seminoles®, Winnebago®, Crazy Horse™, Aunt Jemima®, and Uncle Ben®. Some of "us" may have national trademarks all over our bodies, others of "us" have bodies and nations that are all over the commercial landscape *as* trademarks.

Public sphere scholars suggest that to "think the nation" we must consider the characteristic media forms that have interrelated collectivities and imagined national communities, while forging corresponding forms of subjectivity (e.g., Lee 1993). Beginning in the 18th century, a bourgeois public sphere and a disembodied and universalized rational subject were created through the medium of print (Calhoun 1993; Fraser 1993). Subsequently, mass-mediated consumer capitalism has interpellated a subject (the "consumer") with a more visual orientation and with more corporeal desires—desires met both by material consumption and by visual consumption of embodied "others" made available through mass media (Lee 1993).

To understand the particularities of subjectivity in the mass-mediated public sphere, it is helpful to consider its differences from the 18th-century bourgeois public sphere celebrated by writers like Habermas (1992) and Warner (1994). To be a subject in the bourgeois public sphere required an identification with a disembodied public subject. Embedded in the possibility of this public was a promise, "a utopian universality that would allow people to transcend the given realities of their bodies and their status" (Warner 1993:239):

No matter what particularities of culture, race, gender, or class we bring to bear on public discourse, the moment of apprehending something as public is one in which we imagine—if imperfectly—indifference to those particularities, to ourselves. [1993:235]

The promise of transcendence has never been fulfilled:

For the ability to abstract oneself in public discussion has always been an unequally available resource. Individuals have specific rhetorics of disincorporation; they are not simply rendered bodiless by exercising reason. The subject who could master this rhetoric in the bourgeois public sphere was implicitly—even explicitly—white, male, literate and propertied. These traits could go unmarked, while other features of bodies could only be acknowledged as the humiliating positivity of the particular. [1993:239]

The bourgeois public sphere claimed no relation to the body, but the particular features of particular bodies did have significance. Access to the public sphere came in the whiteness and maleness that were denied as forms of positivity; "the white male qua public person was only abstract rather than white and male" (1993:239). Such asymmetries of embodiment and demarcation, were, as Nancy Fraser (1993) has argued, constitutive of the liberal public sphere itself:

Differences in the social world [always] come coded as the difference between the unmarked and the marked. . . . The bourgeois public sphere has been structured from the outset by a logic of abstraction that provides a privilege for unmarked identities. . . . [Warner 1993:240]

The term "marked" is of course a staple of linguistic theory:

It refers to the way language alters the base meaning of a word by adding a linguistic particle that has no meaning of its own. The unmarked form of a word carries the meaning that goes without saying—what you think of when you're not thinking anything special. The unmarked tense of verbs in English is the present . . . to indicate the past, you mark the verb. . . . The unmarked forms of most English words also convey "male." Being male is the unmarked case. Endings like *ess* and *ette* mark words as "female." Unfortunately, they also tend to mark them for frivolousness. . . . [Tannen 1993:18]

Even the use of "he" as the sex-indefinite pronoun is an innovation that we can trace to the emergence of a bourgeois public sphere in the 18th century (1993:54). Gender, however, is only one form of socially marked difference, and those of alternative genders only some of the many others who do not have the option of remaining unmarked. In the United States, the visual display of excessive corporeality marked the other in the national social imaginary—from the noble stoicism of the cigar-store Indian to the sexualized female of the exotic South Seas (Bongie 1991) to the hyperembodied black mammy of a fictionally "reconstructed" South (Berlant 1993; Turner 1994). Such imagery became particularly pervasive in the early era of mass-reproduced consumer goods (1870–1910), during which mass subjects and national consumers were constituted in a complex network of hegemonic practices (Strasser 1989; Tedlow 1990).

If the bourgeois public sphere offered only self-abstraction and disincorporation, the mass-mediated sphere of consumption provides opportunities to reclaim the body. An infinite realm of consumer choice purports to create conditions for a variety of identifications and a seemingly inexhaustible supply of bodily images offered for consumption, seizure, and occupation (Lee 1993). The mass subject is visually oriented toward embodied others in acts of consumption that bind him to a national market. The visual culture of embodied others who have historically figured as trademarks and instances of their consumption, appropriation, rejection, and reappropriation in negotiating the boundaries of the nation illustrate the politics of mimesis as it comes into contention with assertions of alterity.

Through the use of a trademark, the bourgeois subject was able to secure privilege for his otherwise unmarked identity, provided that he marked his prosthetic self (Berlant 1993) with a recognizable sign of distinction; his commercial privilege might be marked by the corporeal indicia of publicly identifiable social others. If the bodily images available for identification in the public sphere figure as private properties, protected by intellectual property laws, then the politics of identification in mass-mediated public spaces assumes new dimensions of complication. If trademarks are constitutive in the visual culture of mass markets and an orientation to corporeal representation is fundamental to contemporary subject formation, what political difference does the law make when the bodily images of cultural others circulate as marks of private commercial distinction? I will address this question by way of examples—moving through a century, but focusing upon two *fin de siècle* moments that exemplify the politics of social difference and commercial distinction in mass-mediated public spheres. In these examples we see how advertising produced a sense of belonging to an imagined community of “American consumers”—as well as contemporary challenges to the forms of inclusion and exclusion these earlier cultural practices effected. These examples are drawn from an ongoing study of the cultural politics of federal trademark law in U.S. society between 1870 and 1930.

In the late 19th century, U.S. trademark laws became federal in markets newly recognized as national ones. The emergence of trademark laws in the late 19th century needs to be understood within the context of mass manufacturing, mass communications and mass immigration—and the resulting standardization of “American” culture (Jowett 1982). The legal protection of imagery as private property provided a means for marrying mass production of goods, mass reproduction of cultural forms, and the mass interpellation necessary to transform immigrants into similar consumers. In this context, manufacturers needed to conjure a particularly “American” consumer upon which to focus marketing efforts. One way this was culturally accomplished was with marks of trade that all would recognize as binding them across the nation. In precisely the same period, we see preoccupations with the frontier, the definition of American civilization, and with the latter’s distinction from, and annexation and containment of, the savage, the tribal, and the primitive. These processes were linked; the “American” was constituted in relation to the embodied otherness from which he could be distinguished and whose cultural and corporeal distinctions he would both recognize and consume.

The nominal disembodiment of the American citizen (Berlant 1993) was created in part by a realm of national signification—mass-advertised trademarks—that denied or downplayed the cultural and ethnic differences of some “Americans” (Heinze 1990) while it emphasized the cultural differences of others. It did so literally, through the medium of the (consuming) body and through the embodiment, on a national scale, of others whose claims to an “American” subjectivity were complicated by contemporary relations of subjugation (Lott



1993). The "incorporation of America" (Trachtenberg 1982) was integrally related to the corporeality of others.

Recent scholarship asserts that "whiteness" as a social identity must be culturally constructed and that whiteness and "Americanness" have been integrally related (Allen 1994; Frankenberg 1993; Harris 1993; Roediger 1991). Nationalisms may be sexualized (Parker et al. 1992) but they may also be raced and en/gendered in processes in which a "white" subject position comes to be forged and occupied while unacknowledged as such. In the late 19th century, dominant U.S. culture was preoccupied with the nature of civilization and its alters, and with the prerequisites of nationhood and its connection to frontiers. The discourse of commerce, advertising, and the law of trademark projected images of barbarism, conquest, and servitude to construct the subject positions of mass consumer and American citizen. Images and descriptions of African Americans, Indian peoples, and Hispanic and mestizo subjects, as well as the perceived "tribal" groups colonized by U.S. imperial expansion (e.g., Filipinos, Hawaiians, and "Eskimos") and references to the corporeal indicators of recent American incorporation (e.g., hula dancers, pineapples, igloos, and fur parka bonnets), were mass-reproduced and projected on a national scale through the medium of trademarks (as well as design patents and label copyrights). Through magazine and streetcar advertising, trade cards, billboards, packaging, and premiums, concepts of savagery and civilization, primitivism and progress were legitimated. In their visual consumption of imagery and their bodily consumption of goods, Americans envisioned and incorporated the same signs of otherness that the national body politic was simultaneously surveilling and incorporating.

In early federal U.S. trademark law, a mark had to be distinctive; it could not be confusing, and it could not be the name of the product itself. It had to be a mark that differentiated your wares from the goods of someone else—it distinguished your product in the market. The legal basis for the claim that such a mark is a form of property is the old mercantile notion of goodwill. The mark that accompanies all of one's goods and makes them recognizable attracts the "loyalty" of consumers, and this loyalty and good feeling is a valuable asset—goodwill. The positive value of one's trade is congealed in the exchange value of the sign. The trademark marks the point of origin of the good—and serves as a surrogate identity for the manufacturer—in a national market in which the distances between points of mass production and points of consumption might be vast.

Not wanting to stifle commerce by allocating exclusive rights to terms that were merely descriptive of goods, their place of origin, or their material qualities, courts would recognize as marks only those indicators sufficiently distant from the goods that competitors would not be precluded from engaging in the same field of trade. A distributor could not claim "Idaho" as his mark for potatoes grown in that state, but "Arctic" might well be seen as sufficiently fantastic to mark one's particular brand of citrus fruits. Marks had to be connotative as well as denotative, but they could not be purely referential. As U.S. markets became national, marks needed to be recognizable to millions of people from di-

verse ethnic backgrounds and language groups, many of whom were illiterate. The use of images to mark products was an early development, and manufacturers were taught the semiotics of marketing quite explicitly in numerous manuals. One such manual, intriguingly titled *Trademark Power: An Expedition into an Unprobed and Inviting Wilderness* (Buck 1916), lists a series of equivalences that consumers could be expected to know. One of them is a figure of an Indian with an equal sign followed by a picture of a cigar.

Manufacturers were advised to choose marks that were as distant as possible from the nature of the goods they were actually selling. Indeed, an early article in one of the first widely distributed legal periodicals, the *Albany Law Journal*, suggested that foreign words, words in dead languages, and terms and images from areas of the world not empirically (but presumably mythically) known in the local market promised to be the best markers for a manufacturer's wares. Their exoticism was precisely that which rendered them "merely arbitrary designations for the sake of distinction" (Trade-Marks 1875:171). Those with perceived mimetic capacities—Indians, Eskimos, children (especially twins), talking birds, animals, and "savages" of every stripe—figure prominently as trademarks. Deemed by a dominant culture to have a "sixth sense" (Taussig 1993), these "creatures" served to judge similitude, while simultaneously marking difference.

Businesses were advised to establish a "strong mark" that was neither "descriptive" nor "suggestive," but "distinctive." In their quests for distinction, it is not at all surprising that producers turned to bodily signs of social difference—those indicia that Americans, via world's fairs, were coming to recognize as the signs of the primitive other that marked their own civilization. Robert Rydell (1984) demonstrates that the midway imposed an evolutionary framework upon the world's peoples in American international expositions between 1876 and 1916 (see also Badger 1979; Benedict 1983). The proliferation of Indian and "Polynesian" imagery and the ubiquity of black servants in the advertising and marking of consumer goods at the turn of the century is quite remarkable (the same goods are now collectibles that carry a hefty price; see Turner 1994). Thus, publicly recognized signs of social difference created a pool of cultural resources within which manufacturers fished for their own distinction—that is, the distinction they could claim as their own.

Given what Taussig claims to be the "alleged primitivism of mimeticism," it is not surprising that manufacturers should capture the perceived mimetic abilities of the other in the magic of the commodity's own mimetic circulation. Moreover, such advertising was often "internally referential, an image of the miming of miming" (Taussig 1993:213)—as for example in the ubiquitous imagery of black servants on boxes holding up boxes marked with their image holding up another box, marked with yet another black servant holding a box, and so on (e.g., Cream of Wheat® ads). In short, the bodies a mass-manufacturing subject might claim were unlikely to be his own, but legally they might be recognized as embodying his place in national commerce.

Manufacturers, wholesalers, and retailers were thus juridically enabled to make proprietary claims upon such signs against the appropriations of others by virtue of the "distinction" they could claim in the market. To assert such rights, however, one also had to make assertions about the consuming public and its knowledge—the "average consumer's" likelihood of confusion. One early case is suggestive. In an appeal from the Milwaukee County Court in 1879, one Mr. Leidersdorf brought action against a Mr. Flint to prevent him from using a trademark that imitated his own trademark. Both were tobacco dealers. For 13 years the plaintiff had manufactured and sold a type of smoking tobacco in paper wrappers stamped with the words and name "NIGGER-HAIR SMOKING TOBACCO"—and claimed exclusive rights in that mark. The mark, besides the name, included "a representation of the head of a negro surmounted with a copious crop of wool, and having a large ring pending from the nose and another from the ear" (Price and Steuart 1887:428). The complaint alleged that

the said tobacco is a low-priced tobacco, and is to a large extent bought and consumed by a class of people who cannot read, and whose necessities and manner of living do not require them to practice more than ordinary caution when purchasing the commodities most frequently procured; and to this class of people the said tobacco has become known and is easily recognized, largely by reason of the said peculiar and distinctive trade-mark aforesaid. [1887:429]

The plaintiff claimed that the defendant's mark imitated its proprietary mark and was designed to confuse and deceive customers, divert trade, and steal the goodwill the plaintiff had garnered. Purchasers who thought they were buying genuine "Nigger Hair" tobacco found themselves with an inferior imitation.

What makes the plaintiff's claim so remarkable today, beyond its obvious racist proprietary (if I may "coin a term"; coined terms are the "strongest marks" according to the lore of trademark management), is the fact that the so-called imitation mark was a representation *not* of an African American but of "the head of an Indian with a ring in his ear, but none in his nose" (1887:429), with the words "Big Indian" under the picture. The judges were asked to permit the on-going sale of Big Indian tobacco on the basis that there was no cause of action, but they refused to dismiss the claim. Recognizing several points of resemblance between the marks, the court decided it was possible that the public were actually deceived. They therefore decided to let the case go to trial. A public sphere in which the bodily features of a "Nigger" and an "Indian" might be seen as equivalents—one form of alterity mimetic with another, and one mark of distinctive alterity an imitation of the other—was affirmed as both plausible and probable.

Further work certainly needs to be done with respect to the way particular images were associated with particular products and connotations to provide an adequate ethnohistory of national commerce. No doubt the symbolic field of social alterity was further differentiated within national and local markets. The initial point is simply that an "American" identity was being simultaneously con-

stituted in racial, ethnic, and commercial terms, using similar strategies to distinguish "others."

### Contemporary Contestations

I want to move my focus forward through a century—to the contemporary fields in which embodied distinctions are established and contested on frontiers on which the boundaries of the nation are still very much at stake. Benjamin Lee suggests that the nation-state may no longer be the defining unit for what constitutes a public in contemporary circumstances; "hybrid spaces created by diasporic migrations" (1993:174)—or, I would add, hybrid spaces produced by historic contestations and contingent compromises—may be more significant sites for struggles over publicity. Occupied by "bilingual and bicultural nomads" (Lee 1993:174), these spaces, I would suggest, are precisely those in which we see the boundaries of nations narrated and negotiated (Bhabha 1990). Given the historical focus upon the "frontier" as defining the space and the possibility of American democracy (and the 1893 World's Fair as the venue at which Frederick Jackson Turner made this thesis famous), I will focus on frontiers as the spaces in which nations and citizens, and their differential embodiments, were expressed in commercial idioms.

I shall begin with a consideration of the fantasy colossus—the visual trademark of 19th-century fairs that took the body to immense proportions to mark the portals and boundaries of the American horizontal sublime (Marling 1984). Indians, black mummies, bison, moose, and suffragettes marked the gateway to those "open spaces"—the frontier that defined the national imaginary of democracy in the late 19th century. As Karal Ann Marling (1984) shows, even as the frontier "closed" it was recreated as theater and amusement, fun and fantasy for continuing American consumption. An aesthetic of "surfeit, gigantism, the colossal" (1984:6) is a peculiarly American one that distinguishes a nation and the capacities of its citizenry to deal with the challenges posed by the immensity of continental space and the ever-expanding frontiers of imperial ambition. Even as Turner introduces his famous "frontier thesis" at the American Historical Association meetings, held in conjunction with the 1893 Chicago World's Columbian Exposition, Buffalo Bill's enormously popular Wild West Show was attracting crowds to the Midway. The "last" frontier was recreated as theater, adventure, and myth (1984:20), even as new frontiers, north and south, across the Pacific and the Caribbean, were envisioned.

The spoils of imperial conquest, tepees, wigwams, tropical fruits, icebergs, igloos, and polar bears—magnified images of an alterity claimed in the spirit of national expansion—were first asserted as trademarks in national commerce and then erected in three-dimensional highway sculptures that mark the Midwest. All garnered goodwill but bore no referential relationship to the goods they advertised. Such creatures—from huge plaster buffalo to menacing Indians—still flank the nation's highways. One such roadside colossus, built in Bemidji, Minnesota, in the bitter cold winter of 1937, commemorated a local legend, the great logging hero Paul Bunyan, who had achieved national folk-hero

status as a working-man's champion, standing firm against both big business and the weather during the Depression. In Bimidji, he also served the needs of local commerce, attracting tourists to an annual winter carnival. This oversized hero and the 20th-century myths he inspired are characterized by Marling as "a distilled, collective response to the frontier" (1984:9). Legend has it that Paul Bunyan was born in Maine but found the East too small, and so headed west "with Babe, his big Blue Ox, whose hoofprints carved the Great Lakes" (1984:9). But he fit the Midwest quite well, and in Minnesota at least three towns claim to be his birthplace, setting up larger and larger Bunyans to mark their hegemony. In fact, Bunyan and his retinue have their origins not in some folk tradition "but [in] the shiny byproducts of modern jazz-age advertising—of popular, mass culture" (Marling 1984:15). Lumberjack stories were endowed with a single protagonist who became the registered trademark for promoting the products of the Red River Lumber Company of Minnesota. The corporation made the quintessential (resistant) working man its property and the sign of its distinction. The colossus made him the town's trademark for drawing commerce as well.

Paul Bunyan's trademarked and touristic presence has not gone unchallenged, however. The commercial and "national" values he so colossally embodies are not universally celebrated, not even in Minnesota. As the motorist traverses the northern state, a sign alerts her that she is entering the Red Lake Reservation and is subject to the laws of another nation. The respect due the Chippewa peoples and their customs cannot be legislated, but the painted billboard that confronts the driver makes it clear that one is encountering an/other form of national embodiment. Another huge image of Paul Bunyan appears on yet another highway, but this one is besieged; the Chippewa trickster figure of Nanabouzho (elsewhere known as Nanabush) assaults Paul Bunyan with a gigantic walleye, thrashing it over his head.<sup>3</sup> Chippewa peoples have longstanding conflicts with local logging concerns; the walleye is an emblem of their economic independence—arguably an indication of their own autonomy in commerce. Native peoples borrow the monumentality and mode of publicity of the billboard and the trademark—its power of assault, as Walter Benjamin (see Taussig 1993) saw it—to pit one mythic figure against another. Asserting a sovereignty that is invisible to most travelers, they use the commodity form to mark the borders of another nation. Borrowing something of the enchantment of the commodity, and its characteristic form of address, they counter it with an/other form of spiritual embodiment—altering its claim to a singularity of meaning. Paul Bunyan, however, is not insulted, assaulted, or attacked without local resistance. The Red Lake billboard is routinely chopped down in nocturnal forays by local residents outraged by the sacrilege done to their local mascot; people on the reservation determinedly resurrect the sign again and again. Mimesis and alterity are embodied on national frontiers. Nanabush laughs.

Let me move further west, to urban California and the nationalist politics of Chicano activists, to examine yet another instance of the embodied other meeting the commodity under its own signature. In José Antonio Burciaga's work

*Drink Cultura: Chicanismo*, the particularities of Chicano social life and identity are explored: “the ironies in the experience of living within, between, and sometimes outside of two cultures” (1993:5). The book’s front cover displays an obvious parody of the infamous round red Coca-Cola® signs that graced thousands of U.S. streetcorner shops during the mid-20th century. The “Drink Cultura” image—a clear satire upon the infamous trademarked script—was a work of art that ironically challenged the universalizing and homogenizing pretensions of the multinational corporation (“We’d like to teach the world to sing in perfect harmony”) by associating the drinking of the soft drink with the consumption of *cacacan*—Brazilian “white lightning”—simultaneously alluding back to an older “Enjoy Cocaine” parody and giving it a regional twist. The “Drink Cultura” image was widely appropriated, appearing on T-shirted torsos throughout Central and South America in the 1980s. Burciaga’s reappropriation of the work, however, is marked by yet another signature, the *c/s* sign that marks Chicano *placas*, or graffiti, in the southwestern United States. A Mexican American symbol that appears to have originated in South El Paso’s Segundo Barrio, it means *con safos*, which translates literally as “with safety”:

It was meant as a safety precaution, a barrio copyright, patent pending. No one else could use or dishonor the graffiti. It was an honourable code of conduct, a literary imprimatur. Like saying “amen” it ended discussion. Above all it meant “anything you say against me will bounce back to you.” Most kids respected a placa if signed with the *c/s*. Without that symbol, a placa would sooner or later get scribbled on or erased. Some kids would put a double *c/s* sign or put xxx after it, or a skull and cross bones, which physically threatened anyone who did not honor and respect the code. [Burciaga 1993:6–7]

The term originates in Calo’, the Chicano dialect that combines Hispanicized English, Anglicized Spanish, and the use of archaic 15th-century Spanish words that remain in use in isolated pockets of Northern Mexico and the Southwest. Although it is derisively called Tex-Mex or Spanglish in the United States, Burciaga values it as a “unique multicultural, political, societal and linguistic function and formation” (1993:7). The sign of the *c/s* shields from attack, it repels insults, and stands for itself. “Chicano artists and writers of the late sixties and early seventies often used the *c/s* symbol in signing their works, especially when the works were political or cultural in nature” (1993:8). The trademark form is altered to assert a cultural difference, to assert an/other body in the body politic and challenge the illusion of national homogeneity that might otherwise go unremarked in the public sphere. The term *Chicano* itself was originally considered an insulting imposition, blurring boundaries between distinct forms of essentialist embodiment. Both Hispanic and Indian, it recognizes an ancestry of both conquerors and conquered, a link to an indigenous past (for many Mexicans it meant a *pochos*, or “spoiled fruit”). Ironically, many of those who first identified themselves as Chicanos forged that identity in opposition to particular trademarks—in boycotts nominated by particular brand names—Coors®, Frito-Bandito®, and Gallo®, for example.

When Burciaga reappropriates the "Drink Cultura" image—itsself an appropriation of one of the most ubiquitous trademarks of U.S. global cultural hegemony—with the mark of *con safos*, he effects another signifying intervention into a historical chain of intertextuality marking a series of political realignments. The newly signed "Drink Cultura" image appropriated under the mark of Chicanismo marks only a cease-fire on a particular terrain in which the significations of capital, the nation, and ethnic identity continue to evolve. But the power of capital should not be underestimated; when I tried to get Burciaga's permission to reproduce the cover of his book in a description of my own research, I found him very reluctant. His publisher has received warnings from Coca Cola® that the "Drink Cultura" image is considered a violation and dilution of their trademark. They threaten to enjoin any future imitations of the work: controlling mimesis, they will police alterity.

The very form of the *con safos*, the graffiti that operate as a postmodern form of signature in late capitalism, is itself an embodied performative that is both imitative and contagious; it registers sympathy and contact to assert alternative bodies occupying alternative spaces. As a medium, it can be seen as a kind of counterpublicity because it mimics the logic of the trademark's communicative mode; marking distinction while maintaining anonymity, it adopts the utopian promise of the brand name (Stewart 1991):

by appearing everywhere, it aspires to the placeless publicity of mass print or televisualization. It thus abstracts away from the given body, which in the logic of graffiti is difficult to criminalize or minoritize because it is impossible to locate. Unlike the self-abstraction of normal publicity, however, graffiti retains its link to a body, in an almost parodic devotion to the sentimentality of the signature. As Stewart points out, it claims an imaginary uniqueness promised in commodities but concealed in the public sphere proper [Warner 1993:254]

Marking an individual's past presence at the scene, graffiti re-mark a past point of bodily contact. Their presence on subway cars, high up on walls, and under bridges ironically remark upon the actual difficulty of access to mass-communication modalities in a mass-mediated public sphere anachronistically attached to an Enlightenment egalitarian logic that purports a commitment to equality of communicative activity. In their emphasis on the individual name, graffiti comment upon the ubiquity of the distinctive marks that pass for public speech in a consumer society, the private labels of the powerful that constitute the "culture" of late capitalism. Moreover, in Los Angeles at least, gang graffiti mark territory, the "nations" designated in local youth subcultures. Often called "tags," graffiti operate interstitially in a mass-produced consumer sphere. The street becomes an endless billboard for the marks of those confined to it.

Owners of trademarks must always cope with the presence of the other in the cultural spaces they attempt to colonize. The activities I examine might be seen as forms of counterpublicity, articulations that deploy consumer imagery and the bodily impact of the trademark to make the claims of alternative publics and other(ed) national allegiances. But the *con safos* and Nanabouzho operate in

different realms of embodiment, commodification, and nationhood. The organized control of mimesis is met with an alter that re-signs it, but in fundamentally distinct ways. The difference of the Indian nation marked by the trickster is legitimated in a fashion that the nationalist sentiments of Chicano activists cannot be. The static and monumental bodily icons of the midwestern plains mark a fixed boundary, whereas the stealthily ascribed signatures of mobile bodies mark continually contested territory—both cultural and geographic. The mimeticism of commerce is met, in the first instance, with a counterpublicity of pride that proclaims its own alternative enchantments; in the second, counterpublicity is limited in communicative power by its deliberate indecipherability in a wider public sphere.

### Consuming Crazy Horse™ and Fighting Redskins®

In the late 20th century, we witness renewed struggles in the spaces where mimesis and alterity occupy the commercial terrain—the politicized responses of those “othered” by these late 19th-century processes as they assert the right to control their own representations in the public sphere. Indigenous peoples in Hawaii, for example, seek to rescue such indicia of their traditional culture as the hula and the luau from their commercial distortions in the tourist industry and from the consumption of their cultural distinction as the exotic spoils of an unconstitutional incorporation of their territory. One political problem for many peoples in this position is that “their own” representations are often legally *owned* by others, as properties protected by laws of intellectual property. Today, many Indian and First Nations peoples find that Americans are far more aware of their presence through the stereotyped images of them that circulate through sports team mascots, tomahawk chops, and old cartoons (broadcast ever more frequently now that they are in the public domain); the conditions of their lives, their poverty, and their political struggles are obscured by mythic representations of them that are owned by others.

Long after the Frito Bandito has been laid to rest and black mammies and Little Black Sambos have ceased to signify on American commercial terrain, Indians are still a privileged form of alterity in advertising (Churchill 1994). From Red Man® chewing tobacco, Indian Spirit® air freshener, Indian Style™ popcorn, teams of Braves®, dancing black Mardi Gras Indians™, diasporic musical Apache Indians™, and Red Indian® jeans, the body of the “Indian” marks the privileges of disembodied subjects, largely corporations, that claim these marks of corporeal alterity as their own. Ironically, it appears that the most successful way for indigenous peoples to challenge these stereotypical representations of themselves is to claim them—to claim the misrecognitions of others as their own property.

For example, descendants of Crazy Horse, upset to learn of the appropriation of the identity of their revered ancestor as a trademark by a manufacturer of malt liquor, find themselves compelled to claim that they hold his name and likeness as a form of property. Using legal arguments that include both the descending ownership of his publicity rights and their own use of his name in cir-



cumstances that amount to a use in trade or in provisions of services, they discover that such litigious strategies promise greater success than claims that the Sioux are spiritually defamed by the use of an ancestral image in the marketing of a substance that poisons the lives of many native communities. Similarly, trademark expungment proceedings—claiming that the nominations of Cherokee, Seminole, Oneida, and Winnebago, for example, are already the marks of nations and were held as properties by the governing bodies of national peoples prior to their appropriation in commerce—are auspicious adversarial strategies. Such proprietary counterclaims might well be more persuasive as a form of counterpublicity than assertions that racial stereotyping and derogatory portrayals damage the image of a people and the self-esteem of their children. Assertions of theft seem to have greater rhetorical value in American politics than assertions of harm. Indian peoples are now seeing the potential inherent in the proprietary forms of the bourgeois public sphere. They thus occupy the author function and seize the commodity form against the grain—to protest inappropriate commodifications and to assert a differential embodiment that is alter to or other than the fetishes of an earlier era of mass-cultural enchantment.

The generic Indian body of mass-media advertising will be much harder to remove, so ubiquitous has it become and so invisible and unheard its real referents. If the mimetic faculty is the power to copy, imitate, yield into, and become other—and certainly any football, baseball, or basketball game involving an “Indian” named team will provoke the activities of a number of cultural cross-dressers—then it is also the case that the copy draws power from and influences the original; the representation gains the power of the represented and the image affects what it is an image of. For Indian peoples, this may mean that their contemporary social needs and political claims are not recognized; they are identified with (or subsumed by) the warbonnetted caricatures first mass-produced in Buffalo Bill’s Wild West Show (Trotter 1990) and ever since reproduced in commerce. Victims of the frontier and symbols of its loss in the nation’s imaginary, they have figured for so long as an absence that their contemporary presence struggles to find visibility and voice in American public spheres. Commercial imitations of their embodied alterity—prosthetic selves that belong to others—mark their continuing colonization in mass-mediated culture, precluding full political engagement in the public sphere.

All of these examples attest to the contested boundaries of nations and to acts of inclusion and exclusion still effected upon historic and emergent frontiers through the media of commodity signs. They also testify to new dimensions of the politics of mass publicity in a consumer society. The modern public sphere presupposes a universality and singularity of the human body that denies the ways history has written different bodies differentially, inscriptions that have often taken place in mass culture itself. The postmodern celebration of pastiche and montage—mimetic juxtapositions of alterity in recordings and reworkings of regimes of signification—must remain cognizant of the imperialist histories in which many commodified forms of available cultural difference were originally forged. Increasingly, it is necessary to attend to the postcolonial

claims of those who refuse to put their alterity at the service of a mere mimetic multiplication of possibilities or to abandon their difference to those who would celebrate a merely syncretic hybridity at the expense of historical consciousness and critique.

The mass-mediated public spheres of consumer societies bear traces of the historical trajectories that contain cultural forms and shape the forms of subjectivity that may be politically recognized. The bodily incorporation of the advertising image is not a singular event; it is altered when the image one consumes is a mimetic version of one's self—when one's mass subjectivity, public subjectivity, and minority subject-position are conflictual. For those whose bodies are marked by a history of commodification (blacks in America) and those whose bodies are marked by alternative histories of fetishism (women and native peoples) the mimesis of mass advertising must be altered in ever new and more imaginative ways.

The forces of publicity and prohibition, censorship and censure dance dangerously for proprietors who evoke them, permitting the ongoing promiscuity of appropriation in the spaces of postmodernity. Ultimately others must interrogate the cultural mimicry of alterity upon which capital thrives. The forms of mass publicity characteristic of late capitalism offer and compel a transformation of the magic of mimesis and its relation to alterity, presenting possibilities for new politics in public spheres.

### Notes

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1. Several town councils in Britain have addressed the matter, and at least one—Islington—voted to ban the trademark as a racist stereotype. Artist David Bailey's visual work has incorporated images of the Golly in a critical consideration of the character's role in British culture.

2. The RCA Talking Dog is actually listening rather than talking, as both Sean Cubitt and Jim Laski pointed out to me.

3. I am very grateful to Brenda Child for bringing this sign to my attention.

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