

William & Mary Law School

William & Mary Law School Scholarship Repository

Popular Media

Faculty and Deans

9-17-2020

The Meaning of McDonald's [(R)]

Laura A. Heymann

William & Mary Law School, laheym@wm.edu

Follow this and additional works at: https://scholarship.law.wm.edu/popular_media



Part of the [African American Studies Commons](#), [Intellectual Property Law Commons](#), [Law and Race Commons](#), and the [United States History Commons](#)

Repository Citation

Heymann, Laura A., "The Meaning of McDonald's [(R)]" (2020). *Popular Media*. 532.
https://scholarship.law.wm.edu/popular_media/532

Copyright c 2020 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

https://scholarship.law.wm.edu/popular_media

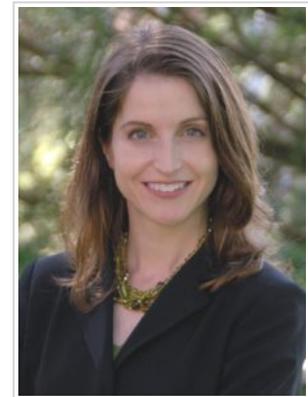


THE MEANING OF MCDONALD'S [®]

🕒 Sep 17, 2020 | 👤 Laura A. Heymann | 💬 Add a Comment

Marcia Chatelain, [Franchise: The Golden Arches in Black America](#) (2020).

In 1984, the McDonald's Corporation obtained a federal trademark registration for the mark MICKEY D'S for restaurant services, stating in its application that it had been using the mark since 1981. [Research suggests](#), however, that the MICKEY D'S mark wasn't the result of ad agency brainstorming but instead originated in the Black community in the United States as early as 1976. The McDonald's Corporation's subsequent adoption and use of the mark seems to have been part of a strategy to promote the restaurant chain back to the community from which the name emerged. (Specimens submitted in connection with maintenance activities include a national full-color ad that appeared in [Jet](#) and [Ebony](#) magazines in 1982.) David Green, senior vice president for marketing at the McDonald's Corporation, implied this, glibly, in a 1996 [article](#) in *AdAge*, writing that the company's work with the Black-run advertising firm Burrell Communications gave McDonald's "the highest share of the African-American market. Talk to anyone in the 'hood, and they talk about Mickey D's. We've become part of the vernacular." Black consumers may have created "Mickey D's," but the federal trademark rights in the term now belong to McDonald's.



[Laura A. Heymann](#)

The larger complicated relationship between McDonald's and the Black community is the subject of *Franchise: The Golden Arches in Black America*, the excellent book by Marcia Chatelain, a professor of history and African American studies at Georgetown University. It's a relationship that, in Chatelain's telling, rests at the intersection of social change, economic development, and corporate profit, with seemingly contradictory valences. The company's corporate practices were the subject of boycotts and protests at individual restaurants, but local franchises were also welcome sources of financial support for the communities in which they were located. The company took advantage of existing inequalities in various regions, including cheap land and a depressed labor force, and yet it also positioned itself as a source of employment and advancement for the Black community, particularly through its efforts to diversify its franchisee ranks in the wake of white franchisee flight in the 1960s. (Those franchise opportunities were not, however, often in economically prosperous neighborhoods.)

For trademark scholars, particularly those engaging in interdisciplinary work, *Franchise's* exploration of these complications gives historical and sociological depth to the consideration of what trademarks mean. Modern trademark law's embrace of the franchise structure assumes a certain level of consistency from location to location to give the mark meaning.

Indeed, established procedures, supply chains, and marketing campaigns are ostensibly part of what makes franchising attractive to those new to business ownership. But reflecting and appealing to the communities in which a franchise is located require acknowledgment that the brand can have different meanings to different consumers. As Chatelain describes, McDonald's and other chains attempted to shape their offerings and advertising in this way, often through naming choices, celebrity endorsements, advertising, or adapting the trade dress of stores to serve the communities in which they were located, all with varying success.

Chapter Five ("Black America, Brought to You by . . .") in particular makes for rewarding reading for trademark scholars. Chatelain describes how the McDonald's brand served as a reliable constant for consumers in underserved areas, as locations provided meals, financial donations, safe spaces, and other forms of support during local crises. As Chatelain writes, "When McDonald's managers could be relied on more than school administrators or police officers, then the lines between where leadership and power rested in a city could become so blurred that a fast food restaurant could begin to look like a solution instead of a symptom." (P. 168.)

The concept that "McDonald's" connoted structural reliability was deliberately shaped by Burrell Communications, which promoted "the corrective possibility of advertising," using images and language to convey Burrell's normative vision of Black life in public spaces. (P. 173.) The artist Hank Willis Thomas's work *So Glad We Made It* (featured in *Franchise*) highlights this dynamic by removing the branding language from a 1977 McDonald's advertisement to, as the Museum of Modern Art [puts it](#), "encourage[] viewers to look critically at how mass-produced and widely disseminated images in the media construct and reinforce stereotypes about African American life, and how the public participates in these narratives."

But Burrell Communications also understood the ways in which advertising could reflect lived experience. Chatelain notes that Burrell "personally studied consumer reaction" to McDonald's well-known national slogan of the 1970s and 1980s "You deserve a break today" and concluded that "black customers were not getting it. Black customers were confused. There were no breaks in their America." (P. 169.) And while today's viewers might see as outdated the advertisements that Hank Willis Thomas critiques, Chatelain suggests another interpretation: the advertisements tapped into concerns about equal access to restaurants by suggesting that McDonald's could be a place of ease and relaxation. "Burrell and his creative team," she writes, "knew about the fears that followed blacks when they took a seat in a booth or made a left turn into their favorite drive-thru." (P. 176.) These observations remind us once again that brands — and the law that protects them — are in a constant process of both prescription and description.

"For most Americans," Chatelain writes in her concluding chapter, "it may be hard to imagine a world without McDonald's or Kentucky Fried Chicken or Taco Bell." (P. 263.) The trademark applications for these famous brands, whether based on marks originating from the company or marks originating from the community, may refer simply to restaurant services, merchandise, and related goods. But "[w]hen resources that create steady infrastructure for well-paying jobs, a multitude of food options, and safe spaces for children and senior citizens to build community are absent, then fast food is able to present itself as capable of providing sustenance rather than simply feeding." (P. 264.) In a year when companies are eager to communicate their commitment to social justice, Chatelain's important and relevant work helps us to think more deeply about what a brand means and about the (in)ability of a company, relying on the strength of that brand among consumers, to address fundamental inequities.



Cite as: Laura A. Heymann, *The Meaning of McDonald's [®]*, JOTWELL (September 17, 2020) (reviewing Marcia Chatelain, **Franchise: The Golden Arches in Black America** (2020)), <https://ip.jotwell.com/the-meaning-of-mcdonalds/>.

This site uses Akismet to reduce spam. [Learn how your comment data is processed.](#)

INSIDE JOTWELL

[Home](#)

[Archives](#)

[Mission Statement](#)

[Subscribe to Jotwell](#)

[Help Support Jotwell](#)

[Write for Jotwell](#)

[FAQ](#)

[Author Guidelines](#)

[Acceptable Use Policy](#)

[Copyright Policy](#)

[Privacy Policy](#)

[Contact Us](#)

[JOTWELL 2014 Conference](#)

[Jotwear](#)

[Editors' Section](#)

[Meet the Editors](#)

SPONSORED BY

UNIVERSITY
OF MIAMI
SCHOOL of LAW



SECTIONS

■ ADMINISTRATIVE LAW
