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The Washington Redskins Abandon Their Historically Controversial Team Name Amidst a Push for Socially Conscious Branding

BY [SHELBY EPSTEIN](#) / ON NOVEMBER 16, 2020



Photo by KA Sports Photos (Keith Allison) on Flickr

On July 13, 2020, following a review of the team's name, the National Football League's ("NFL") Washington Redskins announced they would be retiring both their team name and logo. "The decision [came] amid the Black Lives Matter movement — which . . . sparked a cultural awakening — and after decades of debate over its name and logo, which many say are offensive towards Native Americans."¹ Dan Snyder, owner of the Washington Football Team², said the decision was made "in light of recent events around our country and feedback from our community."³

However, current events were not the only factor weighing into the decision. Since the team's inception, the Washington Redskins' name has been a topic of debate between both Native American groups and the country as a whole. The Redskins first got their name in 1933 from then-owner George Preston Marshall.⁴ Since 1972 Native American leaders have asked team executives to change the name, have protested the name, and have continuously submitted

petitions with the U.S. Patent and Trademark Office, in hopes to revoke the team's federal trademark registrations on the grounds that they are disparaging.⁵

"In 1992, seven Native Americans petitioned the Trademark Trial and Appeal Board ("TTAB") to cancel the registrations of six trademarks used by the Washington Redskins football team."⁶ After the TTAB granted the cancellation, relying on 15 U.S.C. § 1052(a), the team's owner, Pro-Football, Inc., brought suit seeking a reversal of the TTAB decision.⁷ After finding that "[u]nder 15 U.S.C. § 1052, the PTO [(Patent and Trademark Office)] must deny registration to certain types of marks, including those which . . . 'may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute,'" the Court remanded the case to the District Court to evaluate the equitable defense of laches with respect to one defendant.⁸ On remand, summary judgment was granted in favor of Pro-Football, Inc.⁹

The trademarks were challenged again, in 2014, when a group of Native Americans filed a petition seeking the cancellation of the same trademarks at issue in *Pro-Football v. Harjo*.¹⁰ TTAB once again ordered the cancellation of the registrations based on § 1052(a) and the District Court affirmed the order; however, on appeal, the case was vacated based on the Supreme Court decision in *Matal v. Tam*.¹¹ The Supreme Court held, in *Matal v. Tam*, that 15 U.S.C. § 1502(a) violated the Free Speech Clause of the First Amendment.¹² The Court found that the provision "offends a bedrock First Amendment principle: Speech may not be banned on the ground that it expresses ideas that offend."¹³

Based on this precedent, it is evident that Native American groups seeking to rid the Washington Redskins of their name cannot avail themselves in a court of law. Team executives did not seriously consider a review of the name until threats arose that they may lose large corporate sponsors. Eighty-seven "investment firms and shareholders asked [Nike, PepsiCo, and FedEx] to terminate their relationship with the organization unless it changed [its] name."¹⁴ Following, "FedEx — one of the franchise's top sponsors and the holder of its stadium's naming rights — released a statement asking the team to change its name. It also sent a letter to team lawyers saying it would terminate the naming rights deal and not pay the contract's remaining \$45 million if Snyder did not change the team name. Other sponsors, including PepsiCo, Nike and Bank of America, made similar demands."¹⁵ "'Let's not kid ourselves. Money talks at the end of the day,' David Glass, president of the National Coalition Against Racism in Sports and Media, said in [an] interview. His organization has lobbied for the Redskins to change their name over the years. 'Our efforts have had an effect on FedEx, Nike, PepsiCo and some of the minority shareholders. Having acknowledged that, we will take the congrats and revel in the change with more to come.'"¹⁶

Another major factor in the name change could be attributed to local politicians – District of Columbia Mayor, Muriel Bowser, and Eleanor Holmes Norton, the District's nonvoting delegate to the House of Representatives – individuals who are important to the team getting

a new stadium in the city.¹⁷ Both Bowser and Norton “expressed pleasure with the team’s decision” and “had [previously] expressed doubts the team could return without a name change.”¹⁸ “Norton said . . . that the team’s move ‘reflects the present climate of intolerance to names, statues, figments of our past that are racist in nature or otherwise imply racism.’”¹⁹

The Washington Football Team is now working closely with Native American and military organizations to ensure that the new name will honor them while “enhanc[ing] the standing of [the team’s] proud, tradition- rich franchise and inspire [its] sponsors, fans and community for the next 100 years.” It is unclear whether more controversial team names will be changed due to social pressure, but “Washington is not the only sports team that considered a name change following complaints about cultural appropriation. The Cleveland Indians baseball team is also conducting a review about whether to change its name — the team removed their former mascot, ‘Chief Wahoo,’ two years ago amid criticism.” However, “the Atlanta Braves and NHL’s Chicago Blackhawks announced they would not change their team names.”²⁰

After decades of legal challenges and pleading by numerous Native American groups, it has finally been realized that it is in the best interest, not only for the Native Americans harmed by the offensive name and logo but also for the team itself, to evolve with the changing social climate and to change the team’s brand.

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1. Rosa Sanchez, NFL’s Washington Redskin to change name following years of backlash, ABC News (July 13, 2020), <https://abcnews.go.com/US/washington-redskins-change-years-backlash/story?id=71744369> [<https://perma.cc/A9LG-6ACS>].
2. The team is currently using “Washington Football Team” as a temporary name until a new name is chosen.
3. Sanchez, *supra* note 1.
4. Scott Allen, A timeline of the Redskins name change debate, Wash. Post (July 13, 2020), https://www.washingtonpost.com/graphics/sports/dc-sports-bog/2020/07/13/amp-stories/timeline-redskins-name-change-debate/?itid=lb_washingtons-nfl-team-name-change-what-you-need-to-know_7 [<https://perma.cc/LY9J-92JP>].
5. *Id.* (In 1972, Native American leaders met with Redskins President Edward Bennett Williams and argued that the team name was a “derogatory racial epithet.” In 1992, Native American activists protested the Redskins’ name at the Super Bowl. In 1993, Senator “Ben Nighthorse Campbell introduced a bill to block the team from using land on the federally owned RFK site unless it agreed to change its name.”).
6. *Pro-Football, Inc. v. Harjo*, 415 F.3d 44 (D.C. Cir. 2005).

7. Id.
8. Id. (Laches recognizes that a party to an action can lose evidence, witnesses, and a fair chance to defend himself or herself after the passage of time from the date the wrong was committed). Laches, <https://law.jrank.org/pages/8043/Laches.html> (last visited Nov. 14, 2020) [<https://perma.cc/45B3-B6WN>].
9. Id.
10. Pro-Football, Inc. v. Blackhorse, 709 F. App'x. 182 (4th Cir. 2018).
11. Id.
12. Matal v. Tam, 137 S. Ct. 1744 (2017).
13. Id.
14. Sanchez, supra note 1.
15. Lee Carpenter, Washington's NFL team to retire Redskins name, following sponsor pressure and calls for change, Wash. Post (July 13, 2020), <https://www.washingtonpost.com/sports/2020/07/13/redskins-change-name-announcement/> [<https://perma.cc/9WJR-WW4E>].
16. Id.
17. Id.
18. Id.
19. Id.
20. Sanchez, supra note 1.