

# Insights

## Rebranding Your School: Benefits, Burdens and Pathways

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Headlines blare the reminder that educational institutions must regularly don their business robes as well as their academic robes. They should not ignore the typical business tactics for preserving the goodwill and valuable assets of the institution. A school's brand will likely be one of its highest valued assets and should be protected or, in some cases, rebranded, to help the school compete for students and fulfill its educational purposes.

Rebranding plays out most publicly at the college and university levels. For example, the "IUPUI" name will be retired soon as part of a rebranding of this institution as Indiana University Indianapolis. The newest members of the Big Ten will also face rebranding challenges as the former Pac-12 schools prepare for full participation in the Big Ten two years from now.

Even at the secondary and primary levels, rebranding programs may need to be addressed. In Indiana, a secondary/primary school corporation debated a name change a few years ago to delink its mascot from connotations of the Confederacy but ultimately retained its "Rebel" nickname. A few years earlier, Goshen High School and Middle School moved from the "Redskins" to the "RedHawks."

In these examples, the arguments – both pro and con – most likely reflected typical decision points in any rebranding discussion. In some cases, proponents of change have encouraged corrections of cultural missteps or called for a "new and improved" brand to better reflect current goals and educational objectives.

On the counterbalance, changes in branding pose risks to the overall goodwill of the organization, through loss of name recognition or loss of loyalty from alumni and other constituencies.

### Branding Background

Acknowledgement of the importance and value of branding comes easily in today's world, from ubiquitous logos like the Nike 'swoosh' to personal brand management associated with NIL opportunities and reality show superstars. Missteps can also be identified, such as the loss of brand distinction for names like Xerox® and Velcro® that continually fight to avoid becoming 'genericized.'

Brands help distinguish one business or product, or even concept, from the competition. If business luck, acumen and timing coalesce, a brand will establish value for the enterprise that can be monetized on disposition or as part of ongoing financing opportunities. At least one company based its public offering on the value of its branding contracts.

The experience of several Indiana schools confirms that branding plays a key role: the University of Notre Dame has a total of 73 registered marks. Indiana University has a total of 211 registered marks. Purdue University has 59 registered marks.

These relate mostly to logos and names. But trademark protection can also extend to educational offerings, tag lines and the like. Copyright protection can apply to a school's website and other written work used to brand a school.

Commercialization of a school's brand can generate significant dollars to a school. Recently announced apparel deals report millions of dollars being paid to university level schools.

### **Protective Steps**

Rebranding raises questions about protecting the new as well as the old brand. The old brand should be maintained to preserve legacy value and managed to avoid the old brand being abandoned and taken up by a third party.

The school should determine if the new brand will only include word marks or a logo as well. Protection as trade dress could be available to protect the look, feel and colors associated with the new brand.

The school should conduct a trademark and domain name availability search early in the process to assure availability of the new mark/brand.

Logos, stylized font and other designs associated with the new brand may also be protectable by copyright registrations. If a design company contributes to the new brand process, appropriate agreements must be put in place, so that all intellectual property law rights in the names and designs are owned by the school.

### **Rebranding Steps**

The rebranding objective should be shared and well-known throughout the school. The plan should be vetted by multiple participants and not be held only by the marketing department or the legal staff. Support across all relevant segments will help assure a successful transition to the new brand. C-level support assures strategic and vision alignment; financial level support assures understanding of the direct and indirect costs; general counsel support assures legal steps are addressed; and operational level support addresses issues that will be faced on the ground.

Seemingly mundane but reality inspired events should be brought into the planning process. Coordinated lead times will allow the newly branded products to be on the shelves for new student orientation or the kickoff of the new sports season and for marketing materials to be updated for the upcoming performing arts season. Involving all appropriate constituencies, like alumni groups and Booster Clubs, will better assure smooth sailing through the transition.

Responsibilities of the legal support team will include analysis of existing brand use agreements, such as licensing agreements, analysis of contracts where a brand change could trigger a default (such as financing agreements that limit changes in names), and review of trademark and copyright registration strategies. If the rebranding involves a formal change to the school's legal name, amendments to the governing documents and filings in the government offices will be needed to implement those changes. A school's style book will need updating to guide and control proper uses of the new brand.

### **Review**

Schools from all levels have branding opportunities. Careful management of the interplay of existing brands with the educational purposes and fundamental realities of the school will help assure its ongoing vitality. The tools for a successful rebranding can be readily found and put to work. With careful planning and implementation, the school will benefit greatly and lay the groundwork for a successful market presence and awareness for years to come.

If you have any questions regarding information found in this article, please contact **Robert A. Greising**, **Daniel Tychonievich**, or any member of our **Education and School Law** or **Intellectual Property** Practice.

*Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.*

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