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Looking at Monarchy Askance: Royal Brand Names and Trademark Law in the German Empire

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Abstract

This article uses the example of Manoli Cigarettes and its product line, The Kaiser Cigarettes, to examine the concept of co-branding as applied to royal brand names in the German Empire. It reviews the broader networks of circulation that determined the production of royal brand names: commercial laws, business ties, advances in technology, advertising structures, tourism, and other sectors of the consumer economy. The article delves into how trademark law, the Imperial Patent Office's role in approving brand names, and case law contributed to the choice of royal brand names. The article also illuminates how manufacturers used royal brands to implement business strategies along a horizontal plane of market competition. The production of the monarchy as a cultural object was thus activated through a process of triangulation: not only through the bilateral relationship between monarch and subjects, but also lateral relations between producers who were concerned about their professional networks.

Keywords: German Empire; monarchy; consumerism; royal brand names; legal history; trademark law; co-branding; Manoli; Wilhelm II

In July 1914, the *New York Times* predicted disaster for Berlin, or Kaiserville, as the newspaper liked to call the German capital. The cause of the impending apocalypse? Not fears of war, but concerns that Empress Augusta Viktoria would place an 11:00 p.m. curfew on Berlin's fabled nightlife.¹ That same year, the tourist season in Berlin had started four weeks earlier than usual, capping a decade of record-breaking American tourism to the imperial city based on Berlin's growing reputation as "the Continent's Gayest City."² The automobile had made Berlin an accessible destination, and the city's luxury hotels now routinely catered to tourist whims, installing bathtubs in their suites and serving American-style steaks, fried tomatoes, and (the much dreaded) ice water.³

There was only one problem: there was no kaiser in Kaiserville. Wilhelm II rarely stayed in Berlin during the summer months, and while tourists could still hope to see the emperor at various ports of call on his yacht tours or leading military parades in other German cities, those who wanted to see him in his capital had to linger until the autumn military review on

¹ "Threat to Abolish Berlin Night Life," *New York Times*, July 18, 1914.

² "Americans Flock to German Capital," *New York Times*, May 29, 1910; "Berlin in Favor as Tourist Centre," *New York Times*, August 7, 1910.

³ For American tourism to Berlin: Eva Giloi, "Cultural Tourism and Royal Tours: Possession and Place-Making," in *Staging Authority: Presentation and Power in Nineteenth-Century Europe, A Handbook*, ed. Eva Giloi et al. (Berlin: De Gruyter, 2022), 417–54.

the Tempelhofer Feld. It was enough to prompt the *New York Times* to “hint to the Kaiser” that “he ought to stay in Berlin to attract American tourists.” At present, “hundreds of tourists go away disconsolate because they were not favored with a glimpse of the War Lord riding down Unter-den-Linden on horseback or scorching along in one of his cream-colored 130-horse-power motor cars.”⁴

Into the gap stepped Manoli, one of Germany’s largest tobacco companies. In 1910, Manoli advertised its English-named product line, The Kaiser Cigarettes, with a larger-than-life stained-glass portrait—illuminated at night—showing Wilhelm II in an English uniform. The advertisement was located at the Kranzler-Eck, Berlin’s chicest intersection at Friedrichstrasse and Unter den Linden, where British and American tourists were known to congregate.⁵ The Kaiser Cigarettes were no unicum: they joined a crowded marketplace of consumer goods using royal brand names, from Hohenzollern-Panzer corsets to Kronprinzessin Cecilie Zigaretten to a perfume called Veilchen Kaiser Wilhelm II.⁶ With their faces emblazoned on these objects, royals stood intermingled with a host of other celebrity-branded goods in Berlin’s shop windows: Alice Roosevelt hats to celebrate her tour of Berlin in 1904; Graf Waldersee goods in honor of the German repression of the Boxer Rebellion.⁷

Back home, armchair tourists had other opportunities to jump on the royal bandwagon. When the English-language press revealed in 1905 that Wilhelm II was an avid postcard and stamp collector, readers from across the globe sent him postcards with their local stamps and a glimpse into their world. Americans sent the largest number of postcards, written by men and women from a range of social backgrounds and across many states.⁸ Some postcards expressed local civic pride, as when Mary Graham from Charleston, South Carolina, explained: “Saw where you were collecting postals, so send one with best wishes for the best place on earth.” Others avowed republican sentiments: “Dear Sir ... With true American democracy, I take the liberty to send you two postcards.” Many asked the emperor to send them a postcard in return.⁹

In Germany, too, the royal dynasty was drawn into the entertainment press through home stories chronicling the glamour of courtly living.¹⁰ The promise of a behind-the-scenes look into the dynasty’s home life highlights the role that the media played in the personalization of politics. As media scholars argue, the late-nineteenth-century press followed a media logic that sought to compel celebrity politicians—monarchs included—to perform to their audiences’ expectations.¹¹ The *New York Times*’s hint was thus one example among many of how the emperor had become part of the leisure industry of tourism, spectacle, and entertainment, whether he was in favor of that role or not (see figure 1).¹²

In all of these examples, Wilhelm II’s persona was embedded in a multitude of advanced networks of circulation that had an impact on the monarchy’s ability to control its public image. Like any other object of circulation, the royal image was shaped, constrained, and sometimes compelled by the preexisting networks in which its circulation took place. As an analogy, the automobile provides an (often used) example to illustrate that movement

⁴ “A Hint to the Kaiser,” *New York Times*, July 31, 1910. For Wilhelm II as tourist attraction: Giloi, “Cultural Tourism and Royal Tours.”

⁵ Landesarchiv Berlin (LAB), A Pr Br Rep 030 Nr 18627, Paul Michaelis to Oberhofmarschallamt, April 6, 1910.

⁶ In translation: Hohenzollern-Armor corsets, Crown Princess Cecilie Cigarettes, and Violets Kaiser Wilhelm II.

⁷ Alice Roosevelt: *Das Schaufenster* 9 (1905): 65–6, insert in *Der Deutsche Kaufmann* 16, no.9 (1905); Waldersee: Bundesarchiv (BArch) R/131/228, fol. 1, Präsident des Kaiserlichen Patentamtes to Herrn Minister des Königlichen Hauses, June 12, 1906.

⁸ For more on the postcards: Giloi, “Cultural Tourism and Royal Tours,” 439–40.

⁹ Geheimes Staatsarchiv Preussischer Kulturbesitz (GStA-PK), I HA, Rep 89, Nr. 851, Dem Kaiser übersandte Ansichtspostkarten 1905–1908.

¹⁰ For instance: “Kaiserin Auguste Viktoria,” *Die Frau und ihre Zeit* 10 (1908): 25–40.

¹¹ Betto van Waarden, “Mass Media: Intimacy at a Distance,” in Giloi, *Staging Authority*, 155–87.

¹² On the intersection of monarchy and entertainment: Eva Giloi, *Monarchy, Myth, and Material Culture in Germany, 1750–1950* (Cambridge: Cambridge University Press, 2011).



Figure 1. 'Berlin — life in the world city. "Cathedral." Kaiser Wilhelm.' Photomontage postcard showing Wilhelm II (central figure, saluting) in front of the Berlin Cathedral, circa 1910. Author's collection

is not simply a reflection of personal will or technological opportunity. While the automobile's "hybrid person-machine nature" combines personal intent with technological possibility, its range of motion is also conditioned by traffic lights, road barriers, and general traffic rules, in which the desires of the individual driver are incidental.¹³ The traffic light is further embedded in interdependent logistical networks regulating municipal road building and maintenance, retailing and leisure complexes, hotels and rest stops. Behind the construction of these circulatory systems lie broader political and economic goals, considerations that are further embedded in a web of law codes and ordinances directing individual behavior.¹⁴ The same density of constraints applied to the royal image, which was also produced as a combination of personal inclination, technological advances, and a range of other overlapping fields, including an expanding consumer society, the business interests of entrepreneurs, and the empire's legal framework.¹⁵ The monarchy was placed into these structures incidentally, and not at their center.

My intentions for this article are therefore threefold. My first goal is to decenter the monarchy and place it into the wider fields in which its image was circulated. Specifically, I propose to look at Manoli's *The Kaiser Cigarettes* as a consumer object and not as an avatar of the emperor, with the aim of avoiding the confirmation bias that can arise when studying monarchy straight on: if we narrow our focus to ways in which monarchs retained social relevance, we will find instances of social relevance without knowing the baseline against which they were acting. Or to put it another way: it was significant to the royal image that, between 1894 and 1906, 343 royal brand names were trademarked and registered

¹³ Ash Amin and Nigel Thrift, *Cities: Reimagining the Urban* (Cambridge: Polity Press, 2002), 101.

¹⁴ John Urry, *Sociology Beyond Societies: Mobilities for the Twenty-first Century* (New York: Routledge, 2000), 58.

¹⁵ For an overview of consumer society and marketing in Germany: Hannes Siegrist, Hartmut Kaelble, and Jürgen Kocka, ed., *Europäische Konsumgeschichte. Zur Gesellschafts- und Kulturgeschichte des Konsums* (Frankfurt/Main: Campus, 1997); Uwe Spiekermann, *Basis der Konsumgesellschaft. Entstehung und Entwicklung des modernen Kleinhandels in Deutschland 1850-1914* (Munich: Beck, 1999); Wolfgang König, *Geschichte der Konsumgesellschaft* (Stuttgart: Franz Steiner, 2000); Heinz-Gerhard Haupt, *Konsum und Handel. Europa im 19. und 20. Jahrhundert* (Göttingen: Vandenhoeck & Ruprecht, 2003); Heinz-Gerhard Haupt and Claudius Torp, ed., *Die Konsumgesellschaft in Deutschland 1890-1990* (Frankfurt/Main: Campus, 2009); Hartmut Berghoff, Philip Scranton, and Uwe Spiekermann, ed., *The Rise of Marketing and Market Research* (New York: Palgrave Macmillan, 2012).

with the Imperial Patent Office, but it is equally significant these 343 royal brands counted among a vast 80,000 trademarks successfully registered during those same years.¹⁶ Looking at monarchy askance—as embedded within a welter of overlapping interests and networks—gives us a more nuanced sense of the strength of, and reasons for, monarchy’s continuing relevance as a cultural phenomenon.

Decentering monarchy in this way also foregrounds the fin-de-siècle’s consumer society, which brought everyday life into the orbit of consumption and circulation. The production of the monarchy as a cultural object was activated through a process of triangulation: not just by the direct relation between monarch and subject—that is, performance by royals and reception by subjects—but also by the lateral relations between individuals who were concerned with their peer and professional networks and used monarchy as a cipher of meaning and exchange. This is not to say that monarchy was not important to nineteenth-century subjects, but rather that loyalism was one among many facets of their commercial and social pursuits. Often, loyalism played a supporting rather than a definitive role, as the Manoli example demonstrates.

As a second goal, I aim to provide a review of the law codes that set the parameters within which the circulation of consumer goods took place, affecting what was possible and what seemed desirable. As Celia Applegate and Pamela Potter advised in a recent issue of *Central European History*: “The royal road to the invisible history of culture may lie in the fusty and old-fashioned, the balance sheet and the banks, the businessmen and the influence brokers.”¹⁷ For consumer goods, and royal brand names, in particular, it lies in law codes as well. As will become clear, one of the reasons royal brand names were attractive to producers is because of the way that trademark law functioned. Given the extensive restrictions on choosing brand names, the Hohenzollerns were a safe choice: they were low-hanging fruit in the world of trademarks. My third goal is to open a discussion on the term *co-branding* and its utility when applied to royal public relations work in the late nineteenth century. With these goals in mind, the first section considers co-branding as a conceptual term and as the backdrop to Manoli’s use of The Kaiser Cigarettes as a brand name. The second and third sections examine the multiple networks within which Manoli was working, including its cosmopolitan marketing strategies and the structure of trademark law. The final section provides a fine-grained view of case law and the evolving nature of the empire’s commercial codes, which had an internal dynamic of their own but also a collateral effect on the circulation of royally branded goods.

Co-branding and the Mozartkugel Conundrum

Co-branding is a well-established term in promotional culture studies, where it counters the outdated “direct-effects model” of media influence by negating the assumption that audiences absorb media messages and advertisements passively and uncritically. Instead, the term *co-branding* posits that acts of consumption are also acts of self-branding and self-promotion. When purchasing “identity products,” in particular, consumers make a statement about themselves, often modifying the meaning of the advertised object as they put it to use and confer status upon themselves. Individuals thus co-create brand products: they “actively ‘reappropriate,’ ‘decommodify’ and ‘recontextualize’ commodities and promotional texts as they establish their own identities and social relations.”¹⁸ The term

¹⁶ Dirk Reinhardt, *Von der Reklame zum Marketing. Geschichte der Wirtschaftswerbung in Deutschland* (Berlin: Akademie Verlag, 1993), 436. By 1913, that number had risen to 186,340. Christiane Lamberty, *Reklame in Deutschland 1890–1914: Wahrnehmung, Professionalisierung und Kritik der Wirtschaftswerbung* (Berlin: Duncker und Humblot, 2000), 109–10.

¹⁷ Celia Applegate and Pamela Potter, “Cultural History: Where It Has Been and Where It Is Going,” *Central European History* 51, no.1 (2018): 75–82, here 80.

¹⁸ Aeron Davis, *Promotional Cultures: The Rise and Spread of Advertising, Public Relations, Marketing and Branding* (Cambridge: Polity Press, 2013), 8–9. See also P. David Marshall and Joanne Morreale, *Advertising and Promotional Culture: Case Histories* (London: Palgrave Macmillan Education, 2018); Matthew P. McAllister and Emily West, ed.,

co-branding is also applied to producers who rely on an existing iconography or reputation—for instance a nation's image in the world—to build their commercial brand.¹⁹ German auto-makers, for instance, benefit in the international market from Germany's image as a land of efficient, high-quality craftsmanship; the two images work symbiotically as German cars become linked with national identity.

In monarchy studies, both types of co-branding are sometimes combined to suggest a seamless, three-way co-branding process between monarchy, producers, and public, with manufacturers facilitating a union of affect between royals and their audiences. This view assumes that since producers capitalize on rational market opportunities, their products necessarily reflect the public's agreement with the royal images they are being sold. If consumers had not validated the monarchy's preferred image, they would not have purchased the products and producers would have stopped producing them out of economic self-interest. The existence of royal products is thus taken as proof positive of the public's widespread identification with the monarchy. The benefit of this co-branding concept is that it avoids the unilateralism of the direct-effects model: by giving consumers agency, it rejects the assumption that subjects were duped into passively accepting royal images through various forms of propaganda.²⁰ The drawback is that it can reintroduce the direct-effects model by the backdoor if it posits a smooth symbiosis between co-branders because this implies that subjects were actively embracing the image projected to them from the monarchy through the straightforward conduit of consumer goods produced by sympathetic producers.²¹

The other drawback of a smoothly functioning, undifferentiated co-branding model is that it presents an unrealistic picture. Reality is messier and more nuanced than this seeming seamlessness suggests: not all acts of consumption were acts of self-branding; producers had a multitude of business concerns and strategies that governed their decisions on how to market their goods; and monarchs were more concerned about "brand dilution" than selling themselves through new advertising techniques, which they often regarded as beneath the dignity of their hereditary right. These caveats hold true for consumer culture, in general, and for the Manoli case, in particular. On a first blush, Manoli's The Kaiser Cigarettes may seem like a prime example of a loyalist entrepreneur co-creating the "royal brand" as part of a rise in patriotically inflected consumer goods.²² There are multiple problems with this assumption, though, not least that Wilhelm II did not support the production of The Kaiser Cigarettes. To the contrary, although he couldn't prevent the trademark on legal grounds, he did work to ban the illuminated advertisement at the Kranzler-Eck, prompting Berlin's Police President Traugott von Jagow to have the sign removed on the basis of traffic ordinances (more on this following).

Wilhelm's displeasure with Manoli is not surprising: the emperor generally did not want to be drawn into the consumer goods market. To be sure, Wilhelm II used the traditional tools of public relations to promote his authority, often employing modern media to do so. He handpicked court photographers and cinematographers to capture his public events in visual media and thus choreographed his public image.²³ He set himself at the head of

The Routledge Companion to Advertising and Promotional Culture (New York: Routledge, 2013); Liz Moor, *The Rise of Brands* (Oxford: Berg, 2007), 134; Grant McCracken, *Culture and Consumption: New Approaches to the Symbolic Character of Consumer Goods and Activities* (Bloomington: Indiana University Press, 1988); Per H. Hansen, "Co-branding Product and Nation: Danish Modern Furniture and Denmark in the United States, 1940–1970," in *Trademarks, Brands, and Competitiveness*, ed. Teresa da Silva Lopes and Paul Duguid (Routledge: New York, 2010), 77–101.

¹⁹ Hansen, "Cobranding Product and Nation."

²⁰ On passivity versus activity: Davis, *Promotional Cultures*, 34–50.

²¹ For superficial and seamless symbiosis: Miriam Magdalena Schneider, *The "Sailor Prince" in the Age of Empire: Creating a Monarchical Brand in Nineteenth-Century Europe* (Cham: Palgrave Macmillan, 2017).

²² On Manoli and patriotic consumer goods: Reinhardt, *Von der Reklame zum Marketing*, 416. On co-created royal brands: Schneider, *The "Sailor Prince" in the Age of Empire*, 222, 249.

²³ Martin Kohlrusch, "The Workings of Royal Celebrity: Wilhelm II as Media Emperor," in *Constructing Charisma: Celebrity, Fame, and Power in Nineteenth-Century Europe*, ed. Edward Berenson and Eva Giloi (New York: Berghahn Books,

philanthropic, artistic, and other cultural institutions in the long-standing tradition of royal patronage. He liked to give speeches and even interviews at times, which seemed to capture him in more unguarded poses.²⁴ He also supported certain publications financially, for instance the art journal *Hohenzollern-Jahrbücher*: when the journal did not sell well, the emperor forced schools and libraries to purchase the surplus volumes to cover production costs.²⁵ When it came to patriotic consumer goods including photographs, postcards, and loyalist knick-knacks from stationary to paperweights, however, Wilhelm II actively avoided giving material support to producers.²⁶

As for consumers, as already noted, not every act of consumption is an act of self-branding. I call this the Mozartkugel conundrum: it is possible to imagine someone not liking Mozart's music but still eating a Mozartkugel bonbon simply because it is delicious. (It is harder, on the other hand, to imagine Bernie Sanders checking into the Trump Towers hotel while visiting New York). In other words, while strong push and pull factors may guide some consumer choices, many acts of consumption are based on mild, loose, and haphazard pull factors. Push factors of political dislike may have moved some consumers to avoid Kaiser Wilhelm hams or perfume; pull factors may have motivated others to buy into monarchy by buying those products. But we ultimately do not know how many people bought Kaiser Wilhelm hams—or Hohenzollern sewing machines or Hohenstaufen bicycles—simply because they were decent quality at an appropriate price, regardless of the label. Consumption patterns are an ambivalent gauge of overt political enthusiasm, especially when the loyalist imagery is incidental to the product (i.e., as a wrapper or a product name).

Even when the consumption of royal brand-name products was intentional rather than incidental, the intensity of the consumer's investment and affect could vary greatly. Business historians note that spontaneous consumer groups exhibit a different level of investment than formal social groups or associations where "admission is regulated and membership involves a commitment that makes it difficult to leave." Joining a spontaneous group of consumers means that "there is no commitment or obligation entailed other than the financial sacrifice involved in the purchase itself."²⁷ In his theorization of celebrity-branded consumer goods, the sociologist Nigel Thrift likewise emphasizes that consumption is often spontaneous and noncommittal, as consumers try out their "extra-you" in the act of consumption. For Thrift, "extra-you" exist alongside a person's primary or core "you" and are adopted temporarily to try out a variety of alternate emotional identities.²⁸ This type of consumption is marked by vicarious involvement, playful affect, and self-aware commentary, as well as the ability to reject the consumer good as an accessory once it no longer pleases.²⁹

2010), 52–66; Dominik Petzold, "Monarchischer Kult in der Moderne: Zur Herrschaftsinszenierung Wilhelms II im Kino," in *Das Erbe der Monarchie: Nachwirkungen einer deutschen Institution seit 1918*, ed. Thomas Biskup and Martin Kohlrausch (Frankfurt/Main: Campus Verlag GmbH, 2008), 117–37.

²⁴ John C. G. Röhl, *Wilhelm II: The Kaiser's Personal Monarchy, 1888–1900*, trans. Sheila de Bellaigue (Cambridge: Cambridge University Press, 2004); John C. G. Röhl, *Wilhelm II: Into the Abyss of War and Exile, 1900–1941*, trans. Sheila de Bellaigue and Roy Bridge (Cambridge: Cambridge University Press, 2014); Christopher Clark, *Kaiser Wilhelm II* (Harlow: Longman, 2000); Martin Kohlrausch, *Der Monarch im Skandal. Die Logik der Massenmedien und die Transformation der wilhelminischen Monarchie* (Berlin: Akademie Verlag, 2005); Wolfgang König, *Wilhelm II und die Moderne. Der Kaiser und die technisch-industrielle Welt* (Paderborn: F. Schöningh, 2007); Martin Stather, *Die Kunstpolitik Wilhelms II* (Konstanz: Hartung-Gorre, 1994).

²⁵ Thomas Kemper, *Schloss Monbijou. Von der königlichen Residenz zum Hohenzollern Museum* (Berlin: Nicolai, 2005), 104–06.

²⁶ Eva Giloi, "Copyrighting the Kaiser: Publicity, Piracy, and the Right to Wilhelm II's Image," *Central European History* 45, no.3 (2012): 407–51, esp. 412–22.

²⁷ Mark Casson and Nigel Wadeson, "Export Performance and Reputation," in *Trademarks, Brands, and Competitiveness*, 31–54, here 42.

²⁸ Nigel Thrift, "The Material Practices of Glamour," *Journal of Cultural Economy* 1, no.1 (2008): 9–23.

²⁹ Thrift, "Material Practices of Glamour," 15, 19. For an elaboration and application of the concept: Eva Giloi, "How Public Figures Became Glamorous Accessories: Affect Worlds, Consumer Culture, and Visual Technologies in the Long Nineteenth Century," *Media History* 28, no. 1 (2022): 85–110.

In the Manoli case, consumer motivation was further complicated by the fact that The Kaiser Cigarettes were not intended for German nationalists or monarchists as a patriotic identity product. Instead, Manoli created the product line primarily for the English market since it had a factory in London (hence the anglicized name “The Kaiser,” not “Der Kaiser”). In Berlin, the line was sold with two particular niche markets in mind: German cosmopolitans who identified with an international dandy style—which Manoli also branded in its far more successful product lines Dandy and Gibson Girl—as well as British and American tourists visiting the city.³⁰ Did Manoli expect these British and American tourists to buy the cigarettes out of loyalty to Wilhelm II? Or as a souvenir of their travels? Or as a novelty item to be consumed as a joke? All three motives were possible. In the event, Manoli appealed against the royal court’s displeasure with its advertisements by claiming to advance better relations between Germany and Britain through its product line. Image control and branding were paramount to both sides in the conflict over the Kranzler-Eck. Their self-promotional strategies were guided by a larger field of technological possibilities, commercial networks, and a series of complex and conflicting legal structures, as the following two sections will show.

Co-branding and The Kaiser Cigarettes

What factors went into Manoli’s co-branding of the kaiser? Why did the company feel that placing a giant, lighted portrait of Wilhelm II in an English admiral’s uniform at the Kranzler-Eck was a good sales strategy?

We can start with the fact that Wilhelm was not, in fact, in an English admiral’s uniform, but rather in an English dragoon uniform (*Dragoneruniform*), as Rainer Immensack notes.³¹ Yet in his letter to the *Oberhofmarschallamt*, Paul Michaelis, the prominent entertainment lawyer representing Manoli, made that very mistake, describing the logo as showing the emperor “in the English Admiral uniform.”³² It is not clear why Michaelis confused the uniforms, but one possibility lies in Wilhelm II’s widespread recognizability as naval emperor (*Flottenkaiser*), an image that he actively constructed in early cinema. When the Imperial Navy began to use cinema to gain public support for the naval program in 1898, Wilhelm lent the filmstrips his enthusiastic presence in order to attach himself to the symbols of *Weltpolitik*. From 1904 onward, he engaged his court photographer Theodor Jürgensen as primary cinematographer and, by denying press passes to other cameramen at naval events, kept tight control over his image through Jürgensen.³³

This was similar to Wilhelm II’s policy of cordoning off royal events, distributing press passes, and requiring photographers to sign releases before allowing them access to ceremonial events. These restrictions were prompted by the growth of snapshot photography after 1900, which enabled amateur photographers, tourists, and hostile journalists alike to take spontaneous and potentially unflattering photographs of the emperor.³⁴ In a similar way, technological developments accelerated the emperor’s metamorphosis into a film star, as his personal optics fulfilled the technical needs of early cinema. Wilhelm II’s distinctive mustache, ornate uniforms, and dramatic eagle helmet made him easily recognizable despite the graininess of early film stock, while the choreographed nature of royal events made it easy for cameramen to predict where to place their cameras for maximum visibility.³⁵ To counter

³⁰ LAB A Pr Br Rep 030 Nr 18627, Paul Michaelis to Oberhofmarschallamt, April 6, 1910. See also Manoli Zigarettenfabrik, *Festschrift zur Feier des 25jährigen Bestehens der Manoli Zigarettenfabrik* (Berlin: n.p., 1919).

³¹ Rainer Immensack, Jacob “Manoli” Mandelbaum. *Zigarettenfabrikant, Designpionier, Kaisertreu* (Berlin: Hentrich & Hentrich, 2018), 58.

³² LAB A Pr Br Rep 030 Nr 18627, Paul Michaelis to Oberhofmarschallamt, April 6, 1910.

³³ Petzold, “Monarchischer Kult in der Moderne: Zur Herrschaftsinszenierung Wilhelms II im Kino,” 128–34.

³⁴ Giloi, “Copyrighting the Kaiser.”

³⁵ Kohlrausch, “The Workings of Royal Celebrity,” 55–59. Kohlrausch draws on the work of: Martin Loiperdinger, “Kaiserbilder: Wilhelm II als Filmstar,” in *Geschichte des dokumentarischen Films in Deutschland: Band 1: Kaiserreich 1895–1918*, ed. Uli Jung and Martin Loiperdinger (Stuttgart: Philipp Reclam jun., 2005), 253–68.

the possible dilution of the “royal brand” through rogue cameramen, the royal court went to considerable lengths to restrict their co-branding efforts. On ceremonial occasions and parade days, the police cordoned off Unter den Linden, creating a physical distance that prevented unauthorized cameramen from taking advantage of the emperor’s public appearances.³⁶

Although Wilhelm II was able to maintain some control over his public image in this way, he had little power over the distribution of his films once they were sold or the venues in which they were screened. Often shown in raucous variety and fairground venues, the emperor’s film appearances fit into the content structure of the “cinema of attractions,” which featured non-narrative real-life scenes and focused on exotic vistas, astonishing acrobatic feats, and glamorous events in order to hold the attention of an easily distracted theater audience. Without narrative structure, the cinema of attractions survived on visual exaggeration and ostentation, and the emperor’s baroque ceremonial worked well within this genre.³⁷ In consequence, the emperor on parade routinely appeared alongside automobile races, train wrecks, acrobats and other circus performers, Westerns, and gangster films. The effect of this style of screening on the audience, in terms of its reception of the royal image, is ambiguous. The film scholar Martin Loiperdinger suggests that this “cinematographic variety-potpourri” could not help but undermine the monarchy’s regal aura, even as it turned Wilhelm II into Germany’s first film star.³⁸ Reflecting back on his childhood, Wilhelm von Scholz remembered his sightings of the emperor in a similar vein: as being on a par with exhibits of “wild natives,” trapeze artists, and hot air balloons.³⁹ In this context, even if Manoli considered its colorful, illuminated portrait of Wilhelm II as a patriotic homage, it was not necessarily absorbed as such by a public accustomed to seeing the emperor lit up as a sensation on the silver screen.

The English uniform was suggestive of another popular trope, namely the emperor’s status as a dandy. Some of the most popular film clips of the emperor showed him at the Kieler Woche, the empire’s annual naval review, where he hobnobbed on his yacht with wealthy foreigners: Andrew Carnegie, J. P. Morgan, US Ambassador Charlemagne Tower, and multimillionaires Robert and Elsie Goelet.⁴⁰ Media reports on these exclusive soirees reinforced the image of the emperor as a dandy, which had emerged in Berlin at the outset of his reign. In 1890, a concerned patriot in Berlin complained to the police about a poster he had seen in a shop window advertising gentlemen’s evening wear. The fashion plate, from *Die Mode: Allgemeine Schneiderzeitung*, depicted Wilhelm II, the Austrian Emperor Franz Joseph, and King Umberto I of Italy in elegant civilian clothing—in other words, a triple alliance of fashion. As the police began to investigate, they found that no less than fifteen retailers in Berlin were using the same poster.⁴¹ In the following two years, the police found many more posters of this kind in retail shop windows, taken mostly from British haberdashery journals and showing Wilhelm II in a casual stance, cigar in hand, and wearing the latest fashions.

What did this image of Wilhelm II as fashion figure mean to ordinary Berliners? For some people, the switch from German uniform to English fashion could suggest a positive political move away from autocracy. As the *Moden Rund-Schau* commented: “The Englishman says: ‘the uniform marks the servant.’”⁴² For the conservative *Tägliche Rundschau*, on the other hand, the fashion posters were unacceptable because they made the emperor look like a *Gigerl* or fop.⁴³ No doubt the tailors who used the fashion plates expected it to help sell their wares,

³⁶ Peter Fritzsche, *Reading Berlin 1900* (Cambridge: Harvard University Press, 1996), 165–68.

³⁷ Petzold, “Monarchischer Kult in der Moderne: Zur Herrschaftsinszenierung Wilhelms II im Kino,” 126–27.

³⁸ Loiperdinger, “Kaiserbilder,” 267.

³⁹ Wilhelm von Scholz, *Berlin und Bodensee. Erinnerungen einer Jugend* (Leipzig: P. List, 1934), 50–51.

⁴⁰ Veteran Diplomat, “Monarchs Who Are Shrewd Captains of Industry,” *New York Times*, August 6, 1911.

⁴¹ LAB A Pr Br Rep 030 Nr. 14487, F. Hoffmann to Polizei-Präsidium Berlin, January 1890, Blatt 231.

⁴² A. Kalweit, “Wie die englische Mode in Deutschland heimisch werden konnte,” *Moden Rund-Schau* 1 (1911): 58.

⁴³ LAB A Pr Br Rep 030 Nr. 14487, clipping from *Tägliche Rundschau*, June 20, 1890, Blatt 237.

but it is hard to say whether they thought it would find widespread, popular approval or whether they were tapping into a niche market. Or perhaps the posters simply provided them with a convenient opportunity. With the British as recognized leaders in men's fashion, Berlin tailors often subscribed to English haberdashery journals, where they found the posters as inserts—indeed, as the *Tägliche Rundschau* intoned darkly: “The drawings betray English origins.”⁴⁴ Why those English trade journals chose to depict the kaiser as a dandy is a different question: perhaps they did so out of admiration for the glamour of royalty, or in tongue-in-cheek amusement, or as an act of wishful thinking about a change in German politics. Whatever the British motivations, for Berlin tailors the posters represented a readily accessible, inexpensive advertising prop.

The police also played a role as co-branders through their power to enforce what they deemed admissible. In the case of the fashion plates, the police were more lenient than the patriots who complained against the posters. In the words of the police, “These fashion pictures don't show anything objectionable per se”; they were “merely advertising images of a familiar kind.”⁴⁵ This unperturbed stance was different from von Jagow's objection to Manoli's advertisement twenty years later and suggests that the police force was not a monolithic entity. The years between 1890 and 1910 marked a time of transformation, when the Berlin police department was developing into a modern metropolitan force. In consequence, questions of international and national press coverage often factored into decisions on policing methods.⁴⁶ Germany's recovery from economic recession and increase in disposable income in the 1890s made it possible for more consumers to acquire fashionable goods, which often came from outside of Germany. To reject the fashion plates because they were English made the police look boorish and provincial, a stigma that some officers in the force were eager to avoid.

All of these factors played into Manoli's choices regarding The Kaiser Cigarettes, which were based on the company's own self-branding strategies. Loyalism was secondary to, and supportive of, the company's primary business interests, even as Jacob Mandelbaum, the company's owner, counted himself a Prussian patriot.⁴⁷ Born in Chrzanów in the Austro-Hungarian Empire in 1859, Mandelbaum had moved to Berlin in 1883 and gained Prussian citizenship in 1908. His wife Rosa came to the attention of Auguste Viktoria for her philanthropic works and received the Rote-Kreuz-Medaille III Klasse in 1912. Mandelbaum also received the Kronen-Orden IV Klasse in 1911 and was named *Kommerzienrat* in 1913.⁴⁸ In World War I, Mandelbaum would lend active aid to the war effort and change the name of “The Kaiser Cigarettes” into “Kaiser,” in the same way that he changed the “Gibson Girl” brand into “Wimpel” and “Dandy” into “Dalli.”

As the legal correspondence regarding the Kranzler-Eck reveals, however, in 1910 Mandelbaum's main concern was to build his own company brand, which included building bridges to the British market. As his attorney, Michaelis, admitted regarding The Kaiser Cigarettes: “The motive for the registration of this trademark name was the fact that the Manoli company owns a factory in London as well as a large market there.”⁴⁹ Michaelis further explained that, given its holdings in London, the company had a vested interest in helping to strengthen goodwill and diplomacy between the two countries, and felt that the lighted advertisement would contribute to that cause. By depicting the emperor in an English uniform, the company made use of Wilhelm's international recognition factor.

⁴⁴ LAB A Pr Br Rep 030 Nr. 14487, clipping from *Tägliche Rundschau*, June 20, 1890, Blatt 237.

⁴⁵ LAB A Pr Br Rep 030 Nr. 14487, correspondence January 22, 1890–January 15, 1892, Blatt 233–61.

⁴⁶ For concerns about domestic and international ridicule, see the files on the Lex Heinze in: GStA-PK I HA, Rep 77, Abt 2, Sekt 8, Tit 657, Nr 3, Bd 1, correspondence from 1900–1901, Blatt 209–320.

⁴⁷ Immensack, *Jacob “Manoli” Mandelbaum*.

⁴⁸ See Mandelbaum's biography in: LAB A Pr Br Rep 030 Nr 11937, Akten des Polizei-Präsidiums zu Berlin betreffend den Fabrikbesitzer Jakob Mandelbaum 1911–1917.

⁴⁹ LAB A Pr Br Rep 030 Nr 18627, Paul Michaelis to Oberhofmarschallamt, April 6, 1910.

Manoli straddled the German and British markets in other ways as well, for instance looking to its British counterparts as leaders in new production techniques. When the first British automated cutting machine came on the market in 1897, Manoli was the first firm in Germany to import one. Manoli's commercial inspirations did not stop in Great Britain: the company also drew on American know-how when it imported the first full-production cigarette manufacturing machines from the United States to Germany in 1905.⁵⁰ The image of cutting-edge technological progress was a main pillar of Manoli's branding strategy and extended to its role as an early pioneer of electrical lighting. Manoli became known for its innovative, animated electrified advertisements, which were so successful that other large retailers imitated its example.⁵¹

Manoli chose the Kranzler-Eck as the site for its illuminated The Kaiser Cigarette sign to meet another business goal: capturing the niche market of British and American tourists visiting Berlin on their summer holidays. As Michaelis noted in his letter, the company was attracted to that particular corner because of the "brisk traffic" of "foreigners." Summer tourism had become a lucrative market as Berlin grew in its status as a travel destination, thanks to the new technology of automobility that had turned it into a favorite transit point for tourists traveling to Carlsbad and the spas of southern Germany or over to Scandinavia and Russia.⁵² Located in the fashionable shopping district on Friedrichstrasse and along the royal promenade Unter den Linden, the Kranzler-Eck fulfilled the company's strategy of picking up the custom of well-heeled cosmopolitans.

Manoli's attention to cosmopolitans was not an afterthought, but at the very heart of its self-positioning in the competitive tobacco market. From the outset, Manoli had attached itself to the symbolism of Britain high society: some of its earliest product lines carried English names, such as Jockey Club, Union Club, and Derby, all sold primarily in Germany.⁵³ In 1909, the company gave a nod to American plutocracy with its new Gibson Girl product line, while continuing its British associations by introducing the Dandy line. Both products, with their English names, became bestsellers in Germany: in its launch year, the Dandy line was so popular that the company could not keep up with demand.⁵⁴ In this context, the popular association of Wilhelm II as a fashion dandy worked in Manoli's favor as well.

Also in 1909, Manoli commissioned the artist Lucian Bernhard to create a *Sachplakat* for the Dandy cigarettes, pointing to another set of networks at play: the cosmopolitan outlook of the advertising industry.⁵⁵ Manoli counts as a pioneer in modern advertising for commissioning Bernhard to create the Manoli logo, which has since become famous in the history of graphic design. Bernhard's influence on the aesthetics of advertising, and the *Sachplakat*, in particular, was seen at the time as representing Berlin's fast pace and industry, as well as its "American spirit."⁵⁶ Such cultural borrowing was common within the advertising industry: as Kevin Repp elucidates, German advertisers were heavily indebted to their American and British colleagues as leaders in the profession.⁵⁷ Numerous German manufacturers spent

⁵⁰ Zigarettenfabrik, *Festschrift zur Feier des 25jährigen Bestehens der Manoli Zigarettenfabrik*, 10–11.

⁵¹ Reinhardt, *Von der Reklame zum Marketing*, 313; Kevin Repp, "Marketing, Modernity, and 'the German People's Soul': Advertising and Its Enemies in Late Imperial Germany, 1896–1914," in *Selling Modernity: Advertising in Twentieth-Century Germany*, ed. Pamela E. Swett, S. Jonathan Wiesen, and Jonathan R. Zatlin (Durham, NC: Duke University Press, 2007); David Clay Large, *Berlin* (New York: Basic Books, 2000), 86.

⁵² "Americans Fill Berlin," *New York Times*, June 21, 1908; "Berlin Is Growing in American Favor," *New York Times*, May 23, 1909; "Germany Expects Big Influx," *New York Times*, March 27, 1910.

⁵³ Zigarettenfabrik, *Festschrift zur Feier des 25jährigen Bestehens der Manoli Zigarettenfabrik*, 9.

⁵⁴ Zigarettenfabrik, *Festschrift zur Feier des 25jährigen Bestehens der Manoli Zigarettenfabrik*, 12.

⁵⁵ For a review of the German advertising industry: Lamberty, *Reklame in Deutschland 1890–191*; Reinhardt, *Von der Reklame zum Marketing*; David Ciarlo, *Advertising Empire: Race and Visual Culture in Imperial Germany* (Cambridge, MA: Harvard University Press, 2011).

⁵⁶ Reinhardt, *Von der Reklame zum Marketing*, 62.

⁵⁷ Repp, "Marketing, Modernity, and 'the German People's Soul,'" 27–51.

time in the United States and Britain learning from their colleagues and bringing cutting-edge advertising techniques back to Germany.⁵⁸ This transnational influence also extended to the new field of psychological and subliminal advertising, with Hugo Münsterberg as a prime representative of German-American cross-fertilization. A German émigré and Harvard psychology professor, Münsterberg popularized ideas about the power of suggestion, people's susceptibility to illusion, and behavioral conditioning through propaganda, and became a leading authority for advertising in Germany and the United States alike.⁵⁹

The advertising profession's international focus brought German advertisers into conflict with local right-wing political organizations, such as the League for Homeland Protection, which sought to ban international influences from German culture. Bernhard and his *Sachplakat* were integrally involved in these conflicts, and Manoli landed on the cosmopolitan, innovative side of the equation by employing Bernhard and his modern graphics techniques, pushing the technological boundaries of illuminated signage, and fostering strong international business ties. This, in sum, was Manoli's brand, of which The Kaiser Cigarettes was a subsidiary.

Manoli's commercial success was so great that even the Berlin police acknowledged that the company's "skillfully managed advertising" had raised it to the top of its field.⁶⁰ The police also had to accept that Manoli had the legal right to use The Kaiser Cigarette trademark, which it had registered officially with the Imperial Patent Office. Unable to ban the trademark, von Jagow was only able to prohibit the sign at the Kranzler-Eck by invoking a traffic ordinance from 1904 which proscribed "overly eye-catching billboards" that could "cause shock" (*Anstoss erregen*) in the public and thus lead to "an obstruction of traffic" as people stopped to stare.⁶¹ It seems that von Jagow may have worried that his use of the ordinance, at least in this instance, would not hold up in court: his injunction against the Kranzler-Eck sign was circulated to the minister of Public Works, the minister for Trade and Commerce, and the minister of the Interior, all of whom signed it to give it added weight.⁶²

Trademark Law and Royal Brand Names

The determination of whether an advertising image was objectionable (*anstösserregend*) was important since the charges of *Anstoss* and *grober Unfug* were the only legal grounds on which the monarchy could stop the use of its image on consumer products. This leads to another fundamental set of networks in which the royal image was embedded: law codes governing the circulation of images and goods. Reaching back to the 1860s, the empire's commercial laws, including those regulating advertising and marketing, were designed to encourage businesses to develop and market new products, while also preventing unfair competition (*unlauterer Wettbewerb*) and protecting consumers from false advertising.⁶³ These laws affected royals in three particular areas: their photographs and other pictorial images; the use of their names for trademarks; and their escutcheons and signatures.

Escutcheons and signatures were relatively straightforward because they were considered a direct form of endorsement and were similar to royal warrants granted to purveyors to the

⁵⁸ Lamberty, *Reklame in Deutschland 1890–1914*, 122–23.

⁵⁹ Peter Borscheid, "Agenten des Konsums: Werbung und Marketing," in *Die Konsumgesellschaft in Deutschland 1890–1990*, 79–96, here 85–87; Reinhardt, *Von der Reklame zum Marketing*, 87–91; Matthew Hale Jr., *Human Science and Social Order: Hugo Münsterberg and the Origins of Applied Psychology* (Philadelphia, PA: Temple University Press, 1980).

⁶⁰ LAB A Pr Br Rep 030 Nr 11937, Report on Mandelbaum, May 17, 1913, Blatt 28.

⁶¹ LAB A Pr Br Rep 030 Nr 18627, Polizei-Präsident to Minister des Innern, May 29, 1910.

⁶² LAB A Pr Br Rep 030 Nr 18627, Minister des Innern to Polizei-Präsident, June 23, 1910.

⁶³ For overviews of the laws: Henning von Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896. Entstehungsgeschichte und Wirkung* (Berlin: Duncker & Humblot, 2002); Horst-Peter Götting, *Persönlichkeitsrechte als Vermögensrechte* (Tübingen: J. C. B. Mohr, 1995); Richard Brexel, *Die Entwicklung des Namensgebrauchs zu einem Persönlichkeitsrecht* (PhD diss., Freie Universität Berlin, 1962); Bataa Temuulen, *Das Recht am eigenen Bild. Rechtshistorische Entwicklung, geschützte Interessen, Rechtscharakter und Rechtsschutz* (Hamburg: Verlag Dr. Kovac), 2006.

court. A retailer could only use these emblems with the express permission of the royals involved since they implied that the royals used the businesses' services. To use an escutcheon without permission constituted false advertising. On the other hand, the likenesses of famous people, royals included, were initially free for use for marketing purposes, as long as the images were used to sell other products. According to the empire's original photograph copyright law of 1876, a photographer could not sell a famous person's portrait as a *portrait*—for instance as a *carte-de-visite*—without his or her permission, but a photographer or manufacturer could use any famous person's likeness on packages of ham, perfume, chocolates, or any other product, as long as the association with that product was not offensive.⁶⁴ What counted as offensive was based on the average consumer's perception, not the sentiments of the person whose likeness and name was being used. As Carl Hauss, the president of the Imperial Patent Office, explained to Wilhelm von Wedel, the minister of the Royal Household, in 1906: using Crown Princess Cecilie's portrait to market condoms or toilet paper would be considered offensive, but using it to market cigarettes was not, even if she did not consent to the latter.⁶⁵ It is on this same principle that Wilhelm II was not able to ban Manoli's use of his portrait in an English uniform, but could only prevent the construction of a specific advertisement on a particular corner by resorting to traffic ordinances.

Names of royals and other famous people—such as Count Ferdinand von Zeppelin—were also free for use in trademarks, within certain parameters. By law, every company had to register its name in the Trade Register (*Handelsregister*), with the owner's name as part of the company name. Once entered into the Trade Register, the company was free to create a brand name (*Warenmarke*) to be used in public and under which to sell its specific product lines (*Spezialmarken*). For instance, Manoli's official name in the Trade Register was "Manoli Zigarettenfabrik J. Mandelbaum," while it used "Manoli" as its public brand name and Dandy, Gibson Girl, The Kaiser Cigarettes, and so on for its individual product lines. If a company wanted to go a step further and protect its brand legally from infringement by competitors, it could register its brand name and product lines as legal trademarks (*Warenzeichen*). Gaining a trademark—as Manoli did with The Kaiser Cigarettes—was voluntary, not obligatory: applying to the Imperial Patent Office for a trademark conveyed the exclusive right to use the brand name.

For most of the nineteenth century, the vast majority of consumer products were not legally trademarked, including those carrying royal names. Trademarks only became important with the rise of mass-produced, nonlocal, nonperishable items and foodstuffs with a longer shelf life, meant to be sold at a distance (and not by word of mouth) through mail order catalogues, specialty shops, and department stores. These products were sold on a national level and through newspaper advertisements that had to create name recognition and establish trust with consumers while remaining territorially neutral. For nonessential goods in particular—typewriters, sewing machines, pianos, bicycles, bathtubs—names were chosen to accommodate market segmentation and to stimulate a positive affect that would encourage consumption. The names were then trademarked to avoid being hijacked by local producers. To meet these needs, the first iteration of German trademark law, the *Gesetz über Markenschutz*, came into effect in 1875, at a time when the United States and Great Britain were also drafting trademark laws to compete with France, the trademark pioneer.⁶⁶

⁶⁴ Giloi, "Copyrighting the Kaiser"; Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896*, 39–40.

⁶⁵ BArch R/131/228, fol. 1, Präsident des Kaiserlichen Patentamtes to Minister des Königlichen Hauses, June 12, 1906. For an in-depth discussion of these issues, focused on Crown Princess Cecilie Cigarettes: Eva Giloi, "Monarchie und Markennamen in der modernen Konsumgesellschaft," *Das Kaiserreich vermitteln: Brüche und Kontinuitäten seit 1918*, ed. Torsten Riotte and Kirsten Worms (Göttingen: Wallstein, 2022), 135–66.

⁶⁶ Paul Duguid, Teresa da Silva Lopes, and John Mercer, "Reading Registrations: An Overview of 100 Years of Trademark Registrations in France, the United Kingdom, and the United States," *Trademarks, Brands, and Competitiveness*, 9–30; Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896*, 45.

In its first iteration, the German trademark law was relatively loose in its requirements, although it did stipulate that product names had to contain the company owner's last name (such as Liebig or Maggi). It was replaced in 1894 by the *Gesetz zum Schutze der Warenbezeichnungen*, which sought to encourage and facilitate the use of trademarks more effectively since by now trademarks were considered vital for economic growth both domestically and abroad. In order to ease trademark registration, the new law dropped the requirement that a trademark contain the owner's last name. This is why Mandelbaum could trademark "Manoli" in 1894 without his last name attached; in 1895, Odol did the same for its mouthwash brand. The task of registering trademarks fell to the Imperial Patent Office since trademarks were seen as a tool to prevent identity theft between companies, similar to protecting patents as intellectual property. Stealing another company's trademark was only one form of unfair competition, though; false advertising was another, so the Imperial Patent Office also became responsible for ensuring that trademarks were not misleading and did not use false promises or claims of superiority to lure consumers away from competitors. The office thus became a type of consumer protection agency. The office also had to ensure that no single company monopolized a term that other companies had the right to use, as another form of preventing unfair competition.⁶⁷

These stipulations made choosing a brand name difficult. One could not use terms designating quality since they might imply a status comparison with other products, which, unless proven, would be unfair or deceptive. This made product lines such as Excellent, Majestic, Wonderful, and Splendid inadmissible.⁶⁸ It also led to arcane rulings: although the brand name Phenomen (for bicycles) was allowed, Phenomenal (for pencils) was not. Status words such as *pompös* or *prächtig*, which had been relatively obscure in common usage in the past but had recently become fashionable, went from being allowed to being rejected as their meaning became more widely known in the public. Overly generic names were also taboo: one could not trademark a product line called Medicinal Milk Cognac (*Medicinischer Milhcognac*) because it was too direct and descriptive of the product's properties, which would be unfair to other companies making the same kind of product. Casino-Sekt was problematic because it implied that this particular sparkling wine was intended for a specific consumer base: members of exclusive casino clubs. Consumers who identified with this group might be drawn to purchase this particular product as a result, wresting their custom unfairly away from other sparkling wine manufacturers.⁶⁹ Geographic brand names were equally tricky. Hochheimer Rot, for instance, was not allowed as a trademark for red wine since the color red would make customers think of wine and thus give the company an unfair advantage over other vintners in Hochheim who had an equal right to the place name. Hochheimer Grün was admissible, though, since the color green would not raise associations with wine, putting producers in the absurd position of having to choose a name that did not make consumers think of their product.⁷⁰

The Imperial Patent Office thus faced conflicting goals: the fact that the law banned qualitative, geographic, and status terms in order to avoid unfair competition complicated the registration process, which went against the mandate of encouraging trademark registration to foster economic growth. To meet this challenge, the office tended to view the use of famous names more liberally. Whereas the office ruled that it was not permissible to use a business competitor's name since that would imply direct involvement and would

⁶⁷ Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896*.

⁶⁸ Manufacturers chose these English names for a variety of products: ink, bicycles, and cigars. They were all rejected by the Imperial Patent Office, but not because they were in English; product lines with the names Continental (bicycle), Splendour (paints), and Cosmopolitan (perfume) were all approved.

⁶⁹ BArch R/131/223, fol. 1, Wortzeichen, Blatt 1–337; "Waarenzeichenrecht," *Gewerblicher Rechtsschutz und Urheberrecht (GRUR)* 1, no.9 (1896): 287–88; "Rechtsprechung," *GRUR* 1, no.1 (1896): 15–16.

⁷⁰ "Rechtsprechung," 15–16; Josef Kohler, "Ueber die Wortmarke," *GRUR* 2, no.1 (1897), 6–12. For more examples of trademark restrictions and regulations: "Waarenzeichenrecht," *GRUR* 3, no.7 (1898): 209; Biberfeld, "Phantasienamen für Liquere," *GRUR* 3, no. 4 (1898): 112–13.

constitute false advertising, the names of public figures who were not direct competitors were free for use. In other words, you could not use Count Zeppelin's name for your own brand of dirigibles, but you could use his name as a logo for cigars or beer since people would understand that the count was not himself brewing Zeppelin Beer. This ruling applied primarily to public figures and celebrities, including royals, but not to private individuals. It was assumed that, if a company used the name of a private individual, it would automatically give the impression that this person was a business partner since there was no advantage to using a relatively unknown person's name except to signal his or her business involvement. In that case, the risk of confusion for consumers—*Verwechslungsgefahr*—was relatively high. Celebrities were different, though: as the Imperial Patent Office reasoned, most people would be aware that those names were being used for “ornamental” and advertising purposes only.⁷¹

Royal names, in particular, did not run the risk of implying a false endorsement or business involvement. As Hauss explained in his letter to Wedel: just as no one would assume that Wilhelm II or Auguste Viktoria personally used industrial goods simply because they were called Hohenzollern Steam Engines or Hohenzollern Steel Rods, people would equally understand that Crown Princess Cecilie's name on cigarette packs did not mean that she smoked them herself. Hauss further argued that the Imperial Patent Office could not possibly determine whether a product called Kaiser Wilhelm Transmission Belts referred to Wilhelm II, who could potentially be a patron (however unlikely), or Wilhelm I, who was deceased and was no longer a patron of anything. The Imperial Patent Office therefore had no legal grounds on which to reject these types of royal trademarks.⁷²

Take, then, the following product names featuring the Prussian dynasty: Hohenzollern-Armor Corsets, Hohenzollern Animal Feed, and the perfume Violets Kaiser Wilhelm II.⁷³ For Violets Kaiser Wilhelm II, the manufacturer likely sought to tap into the glamour and sophistication of the royal court, given the overt association of perfume with luxury. Hohenzollern-Armor Corsets, on the other hand, were clearly intended to be humorous; the tongue-in-cheek analogy gave the product a hook that customers could easily remember. But all three trademarks—including Hohenzollern Animal Feed—were easy choices because they did not break trademark rules. Although it was not possible, for instance, to trademark the name German Violet Perfume (*Deutsche Veilchen-Parfümerie*) because all German manufacturers who used violets as a base for their perfumes had a right to the name, Violets Kaiser Wilhelm II was both specific and nondescript enough that it could be trademarked easily. Because they did not fall afoul false advertising stipulations, the only risk that a producer ran in choosing a royal brand name was that some consumers might reject it due to strong push factors. Even if that was the case, other consumers would presumably purchase the goods out of loyalism, while yet others would choose Hohenzollern Coffee or Kaiser's Liebling Soap due to the pull factors of quality and price.

Royal names were thus attractive because they checked many practical boxes. As cultural figureheads, and with their status of not participating in any field of work, monarchs did not suggest direct business involvement. Allusions to monarchy were also an easy way to convey value by association without risking an inadmissible qualitative claim—such as *excellent*—that could be deemed misleading. Royal trademarks had built-in name recognition, and they were often territorially and personally vague. When the word *kaiser* was attached to products, it did not specify which kaiser: German or Austrian, dead or alive. This ambiguity applied to royal first names as well, for instance when Prym chose the name Viktoria Clasp (*Viktoria-Verschluss*) for its corset line.⁷⁴ But which Viktoria? The queen of England or

⁷¹ BArch R/131/228, fol. 1, Präsident des Kaiserlichen Patentamtes to Minister des Königlichen Hauses, June 12, 1906.

⁷² BArch R/131/228, fol. 1, Präsident des Kaiserlichen Patentamtes to Minister des Königlichen Hauses, June 12, 1906.

⁷³ BArch: R/131/223, fol. 1, Wortzeichen, Blatt 1–337.

⁷⁴ Hans-Friedrich Müller, *Die schönsten Anzeigen in den Fliegenden Blättern. Werbung zu Kaisers Zeiten* (Hildesheim: Olms Presse, 1982).

Wilhelm II's only daughter? Or perhaps his deceased mother? The very thing that had traditionally marked monarchs' political dominance—the fact that they were referred to by their first names because they were synonymous with their territory—now made them generic. They could be read as representing a variety of values and appeal to multiple constituencies, and thus activate a multitude of weak pull factors by using the power of suggestion.⁷⁵

In sum, the choice of Hohenzollern names for industrial washing machines—or lumber, ink, sewing machines, and animal feed, all of which were registered trademarks—was conditioned in part by the rules of trademark registration, name recognition as a mnemonic device, the reassurance of familiarity through repetition, and implications of luxury and quality. This is not to say, of course, that loyalism didn't exist or that it didn't matter. To the contrary, mundane or even half-hearted consumption of royal images worked to stabilize the status quo by normalizing the monarchy's existence in what has been called “banal monarchism.”⁷⁶ It does remind us, though, of the dense web of considerations that went into royally branded products. Royals were not free agents. Their public image—or “royal brand”—was embedded in a thick network of outside interests: laws, technology, commercial supply chains, advertising structures, and other sectors of the consumer market such as tourism and the mass press. Producers were also more than co-branders who simply brought the monarchy's self-image to market. Manufacturers fielded a multitude of marketing strategies as well as business and legal networks when making decisions about their products.

The Legal Spigot

Was the German Empire an anomaly when it came to the legal terrain? In 1906, the Imperial Patent Office prepared a summary of how other nations dealt with the commercialization of public figures. In the Austrian Empire, the imperial family's portraits could not be used in trademarks as images alone, but they could be used if they were combined with other design elements or words and had express permission from the dynasty. For other famous figures, Austria's laws were similar to Germany's. Monarchies such as Sweden, Bulgaria, Norway, Denmark, Spain, and Finland forbade the use of all third-party names in commercial products, including royals. In the United States and many Central and South American countries, permission from the person depicted, if living, was required. Republican France was more ambiguous, or so stated the summary review: “In France, the law does not have any specific provisions in this regard, but in practice the assumption seems to hold that the name's possessor has the right of prohibition [*Verbotungsrecht*].” Italy had no such laws in place.⁷⁷

This summary represented a snapshot in time, though, as commercial laws were still developing in response to technological and economic changes and were slowly working their way through case law. Here, then, is another set of networks that determined the status of the royal image: the dynamics of debate regarding legal codes and their implementation and enforcement by different jurisdictional entities. The fate of royal brand names such as The Kaiser Cigarettes was decided by law codes, not by the personal intervention of the royal household in the affairs of the Imperial Patent Office.

The motor of change came from a conflicting set of laws passed in the decade after the trademark law of 1894. In 1900, the newly drafted *Bürgerliches Gesetzbuch* (BGB) introduced

⁷⁵ Repp, “Marketing, Modernity, and ‘the German People's Soul,’” 39–40.

⁷⁶ The term “banal monarchism” borrows from Michael Billig's concept of banal nationalism. Michael Billig, *Banal Nationalism* (London: Sage Publications, 1995). In banal nationalism, “nationalism is made ‘the endemic condition’ of people's daily lives” through ubiquitous, small-scale, repetitive patriotic acts. Banal monarchism likewise suggests that “a positive view of the monarchy is insinuated into the everyday lives of its subjects” through leisure, consumer culture, and media events. Andrzej Olechnowicz, “Historians and the Modern British Monarchy,” in *The Monarchy and the British Nation, 1780 to the Present*, ed. Andrzej Olechnowicz (Cambridge: Cambridge University Press, 2007) 6–46, here 33.

⁷⁷ BArch R/131/228, fol. 1, Minister des Königlichen Hauses Wedel to Amtsgericht I Berlin, May 28, 1902, Addendum, 1906.

the protection of personal rights (*Persönlichkeitsrechte*), among them *Namensrecht* as the protection against the misuse of one's name, including impersonation as a form of identity theft.⁷⁸ Based on the new law, the royal house won an early legal victory in 1902, when it forced the company Dampfwaschanstalt Hohenzollern Leopold Düsterwald to remove Hohenzollern from its name in the Trade Register. With that precedent in place, the Trade Register now rejected all company names that contained royal names without permission.⁷⁹ The victory proved empty, though, since the Imperial Patent Office declined to change its policies based on the Trade Register's precedent.⁸⁰ In other words, while Leopold Düsterwald had to change his company name in the Trade Register from "Dampfwaschanstalt Hohenzollern Leopold Düsterwald" to "Dampfwaschanstalt Leopold Düsterwald," he could still use the name "Dampfwaschanstalt Hohenzollern" as his company's name in public, as long as no other company had already trademarked that name. This difference in approach between the two offices was based on the assumption that the danger of false association was lower for a company's public name than it was for its name in the Trade Register: since a company's public name no longer had to include the business owner's name (a requirement dropped by the trademark law of 1894), there was lower risk that the public would see the name Hohenzollern and assume that the royal family were the company's owners or partners. Given that most people saw only the public names of companies and not the ones in the Trade Register, the royal house gained little from having its name removed from company names in the Trade Register.

In those same years, the development of snapshot photography, lightweight cameras, and halftone printing techniques made current events photography a staple of illustrated newspapers. The empire's existing copyright law, formulated in 1876, required a consent waiver for the publication of photographic portraits but not for drawn illustrations, harking back to an era when newspapers had relied mostly on lithographs. After 1900, the new photojournalists found themselves in a legal and professional bind: either they waited to gain consent and were scooped by their competitors, or they rushed to publish photographs without consent and risked legal action. In response, the new *Copyright Law for Art and Photography* of 1907 decriminalized modern news reporting by creating the legal category of *Personen der Zeitgeschichte*: public figures who belonged to the "history of their time." As the new law stipulated, when out in public, noteworthy people could be photographed at will by the press, paparazzi, and private citizens, with no say over how their images were published, unless the image was offensive. The rationale behind creating this exception was to ease the flow of trade, news, and photojournalism. The corollary effect was that likenesses of famous individuals continued to be free for use on packaging, as an exception to the BGB's personal right to one's own image (*Recht am eigenen Bilde*).

This trade in fame was challenged by Count Zeppelin in 1909–1910. After years of enduring the sale of Zeppelin beer, wallets, liqueur, harmonicas, and other consumer goods—without getting a cut of the profits or a licensing fee—the count finally went to court. In February 1909, Zeppelin won a court case against a chemist who had used his name to trademark a variety of goods from cleaning products and margarine to animal feed and pesticides. Zeppelin's lawyers expressed a particular concern about merchandizing, namely that the Zeppelin company would not be able to use his name if it wanted to expand out from dirigibles into drugstore products. On the basis of the BGB, the Landesgericht Leipzig ruled in Zeppelin's favor, striking the chemist's existing trademarks from the rolls of the Imperial Patent Office and forbidding him to use Zeppelin's name for any products—trademarked

⁷⁸ Brexel, *Die Entwicklung des Namensgebrauchs zu einem Persönlichkeitsrecht*.

⁷⁹ BAArch R/131/228, fol. 1, Abschrift, Königliches Amtsgericht, to Minister des Königlichen Hauses, Berlin, May 14, 1902. For the original law, *Das Allgemeine Deutsche Handelsgesetzbuch*: Hermann Kollrack, *Namen und Namensänderungen* (Berlin: Schoenfeldt & Co., 1900).

⁸⁰ BAArch R/131/228, fol. 1, Präsident des Kaiserlichen Patentamtes to Minister des Königlichen Hauses, Berlin, June 12, 1906.

or not—in the future. Skeptical about the chemist’s claim that he was using Zeppelin’s name to honor the great man, the court agreed that the defendant had illegitimately usurped the name as he put his own commercial interests above the court’s.⁸¹ That same spring, Zeppelin also sued a tobacco company in Mannheim to remove a trademark using his name and portrait because he wanted to convey their right of use to a different cigarette manufacturer who promised him a portion of the profits. Zeppelin argued that his material interests had been infringed, but also that he had suffered in morale and honor—he was “*moralisch geschädigt*”—so that his idealistic interests had also been breached.⁸² The Landesgericht Mannheim, too, ruled in Zeppelin’s favor based on the BGB’s *Namensrecht*. When the defendant submitted an appeal with the Oberlandesgericht Karlsruhe, the court of appeals upheld the ruling in Zeppelin’s favor. When the defendant then took his appeal to the imperial Reichsgericht in Zivilsachen, it too upheld the verdict in 1910, making the ruling an official precedent: no manufacturer could use Zeppelin’s name any longer for trademarked or untrademarked goods without his express consent.⁸³

Significantly, though, this ruling did not become the basis for a blanket ban against all use of famous names without prior approval, for the simple reason that a blanket ban was not possible given the nature of German *Namensrecht*. In German law, one’s legal name was inalienable and therefore not transferable, which meant that Zeppelin could not “give” his name to a manufacturer to use.⁸⁴ The Reichsgericht stated this very clearly in its ruling on the case: “It would be erroneous, however, to assume a transferability of names in this case; a name is ... not transferable.”⁸⁵ Instead, the ruling provided Zeppelin with a precedent that he could use in the future against other manufacturers, giving him the ability to promise companies of his choice that he *wouldn’t* sue them if they used his name: this was the technical mechanism through which he could “grant permission” to use his name. The precedent effectively quashed future trademarking attempts by unauthorized producers through the informal, implicit threat of litigation. Through this convoluted process, the BGB’s *Privatrecht* trumped the Imperial Patent Office’s *Spezialgesetz* on trademarks, directing the latter to reject all trademarks with Zeppelin’s name unless the application was submitted by Zeppelin himself.⁸⁶

The law was thus retrospective: famous names were protected, but only after the injured party had gone to court. The retrospective nature of the law made a proactive ban illogical. While this legal conceptualization might seem like a minor distinction, it meant that any other public figure who wanted to protect his or her name first had to sue a manufacturer and receive a court injunction to set a precedent against other manufacturers. As the Imperial Patent Office interpreted the ruling, all public figures were on their own, and until their specific cases were adjudicated by the courts, their names were free for registration. This principle was confirmed as late as 1913 by the new president of the Imperial Patent Office, Heinrich Robolski, in an internal memo to his officers. Stating that the Imperial Patent Office had no jurisdictional mandate to adjudicate privacy law on the basis of the BGB, but only to determine a trademark’s admissibility based on the trademark law’s definition of unfair competition, the memo affirmed that the office could not universally exclude trademarks that contained names of famous individuals. Since the Imperial Patent Office was not in a position to decide whether a producer had gained adequate permission from a third party—nor even who was indicated by the name in question—it was not responsible for denying such trademarks. As long as there was no risk of false advertising

⁸¹ “Aus der Praxis der Gerichte,” *Markenschutz und Wettbewerb* 8, no.8–9 (1909): 214–16.

⁸² *Entscheidungen des Reichsgerichts in Zivilsachen* 74 (1910): 308–13, here 310.

⁸³ *Entscheidungen des Reichsgerichts in Zivilsachen* 74 (1910): 308–13.

⁸⁴ Götting, *Persönlichkeitsrechte als Vermögensrechte*, 101–07; Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896*, 77.

⁸⁵ *Entscheidungen des Reichsgerichts in Zivilsachen* 74 (1910): 312.

⁸⁶ BArch R/8034-III/508, newspaper clipping from 1910, Blatt 55; see also newspaper clipping “Graf Zeppelin als Kläger,” *Hallesche Zeitung*, June 18, 1909, Blatt 60.

through false association, there were “no trademark-based objections to registration (of catchwords, names of famous men). The permission of the name-bearer is neither required nor inherently sufficient.”⁸⁷

The Zeppelin ruling coincided with the revision of the *Reichsgesetz zur Bekämpfung des unlauteren Wettbewerbs* in 1909, which had parallel effects on non-trademarked celebrity-branded goods. First drafted in 1896, the law aimed to prevent false advertising, defamation of competitors, bait-and-switch tactics (*Quantitätsverschleierung*), and industrial espionage. The law was updated in 1909 to include what was known as the “general clause” (*Generalklausel*), which made it possible to sue a company on the basis of an “infraction against public morals” (*Verstoß gegen gute Sitten*) without defining what that meant. Both associations and individual consumers were permitted to sue on those grounds. Manufacturers who used famous names without trademarking them were now open to litigation on the grounds that their use of the name fell into the vague category of an infraction against public morality. Even if they were likely to win a court case leveled against them, they might think twice about whether they wanted to spend valuable time and money fighting the case in the first place. For indeed, the number of lawsuits based on the general clause exploded soon after its promulgation, in what one contemporary decried as a “rage for denunciations” (*Denunziationswut*).⁸⁸

In sum, by 1910, Zeppelin’s precedent made it risky to trademark a famous name without permission, and the *Generalklausel* made it equally risky to use a famous name for untrademarked goods. Where the Hohenzollerns stood in regard to the law was not immediately clear, however. The issue at hand was the technical, legal definition of a person’s name, and specifically whether the BGB’s *Namensrecht* protected first names as well as surnames.⁸⁹ This was no small matter for the Hohenzollerns: in the twelve years between 1894 and 1906, 343 companies registered royal names and images as trademarks. Among those products, the name Hohenzollern was trademarked 30 times, while Prussian first names—such as Kaiser Wilhelm, Auguste Viktoria, or Crown Princess Cecilie—were trademarked 164 times. Until the protection of first names was definitively established, those names would continue to be free for use.

The question sparked vigorous debate among legal scholars. Already in 1902, in a widely cited text, the prominent law professor Georg Cohn noted that it was “debatable” (*streitig*) whether first names were protected by the BGB (in his opinion, they deserved protection).⁹⁰ In the following decade, this question became the stuff of many a law school dissertation. At issue was the purported function of first names and what exactly was being protected. It was assumed that names functioned primarily as identifiers of both an individual’s and a family’s identity and that they were protected based on the individual’s “right to personality” and the family’s right to protection from false association. Carl Weddemann thus argued in 1903 that, when it came to family rights, only the last name was protected since only the surname applied to the whole family. Regarding the individual’s right to personality, the first name was protected only if it was connected to the last name and therefore acted as a concrete identifier. A first name by itself was not unique enough to cause real damage to any specific individual; there was no real likelihood of confusion or slander in the use of a first name alone since too many individuals potentially corresponded to any given first name.⁹¹ In 1911, Friedrich Hahne weighed in by arguing that an exception should be

⁸⁷ BArch R/131/226, fol. 1, Kaiserliches Patentamt, Präsident Robolski, Warenzeichensache nr. 110, October 16, 1913.

⁸⁸ Lamberty, *Reklame*, 155–61, here 159. For a full history of the development of the law: Stechow, *Das Gesetz zur Bekämpfung des unlauteren Wettbewerbs vom 27 Mai 1896*.

⁸⁹ For a general review of the arguments: Brexel, *Die Entwicklung des Namensgebrauchs zu einem Persönlichkeitsrecht*, 117–33.

⁹⁰ Georg Cohn, *Neue Rechtsgüter. Das Recht am eigenen Namen. Das Recht am eigenen Bilde* (Berlin: Otto Liebmann, 1902), 36.

⁹¹ Curt Weddemann, “Das Namensrecht nach den Reichsgesetzen insbesondere nach dem Bürgerlichen Gesetzbuche” (PhD diss., Universität Leipzig, 1903), 54–57.

made for royal first names (such as “Friedrich III”) since they were unique enough to be identifiers even without the dynastic surname.⁹² But as Josef Kohler, the renowned legal scholar and prominent formulator of *Persönlichkeitsrechte*, noted in 1910, any such protection would not apply to “historical names” or “a figure who has already become historical.”⁹³ In essence, a name such as “Kaiser Wilhelm” would still be free for use since it was not an unambiguous identifier of either the living or the deceased Kaiser Wilhelm and could just as well be taken for the latter as for the former. Likewise, Prym was safe with its Viktoria Clasps because of the common nature of the first name.

Would the Hohenzollerns have taken up the challenge of this shifting legal landscape? Would the empire have been treated to the spectacle of each member of the royal family suing a manufacturer in order to prevent all other manufacturers from using his or her name without prior approval? It is difficult to say with the caesura of 1914 so close at hand, but it seems possible that things would have progressed in one of two ways. If the Hohenzollerns had decided to avoid the unsavory publicity of legal action, the increasing injunctions against names such as Zeppelin might have prompted even more producers to use royal names since the latter would still have been free for use as trademarks. In other words, the number of royal brands might have increased as the legal spigot closed off access to other famous names. Alternatively, if the Hohenzollerns had sued and thus gained the protection of their names against producers, the number of royal brands might have decreased if manufacturers found it too cumbersome to apply to the royal house for permission; they would have had to ask themselves if royal names were still worth the effort.

The real significance of this legal wrangling is that the legal system and the vagaries of conflicting law codes, case law, legal opinion, and individual court precedents would have determined the scope of royal goods out in circulation. While the intricacies of legal definitions and jurisdictional enforcement seem a world away from the leisurely consumption habits and tourist entertainments that opened this article, they were part of the networks that, based on their own internal logic and momentum, helped to determine the place of monarchy in the German Empire’s highly complex, modern society. Royal consumer goods might have contributed to a banal monarchism in the sense that they were embedded in everyday life, but the sophistication and complexity of the systems that regulated the modern encounter with monarchy were anything but banal, superficial, or straightforward in their predictability.

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⁹² Friedrich Hahne, “Das Namensrecht. Seine juristische Konstruktion” (PhD diss., Friedrich-Alexanders-Universität zu Erlangen, 1911), 37.

⁹³ Josef Kohler, *Warenzeichenrecht*, 2nd ed. (Mannheim: J. Bensheimer, 1910), 82. For a gloss on Kohler’s influence: Brexel, *Die Entwicklung des Namensgebrauchs zu einem Persönlichkeitsrecht*, 128–33.

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