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**PROGRAM MATERIALS**

**Program #35158**

**July 29, 2025**

## **The New Front Lines: How AI and Algorithms Threaten Brand Integrity and Legal Protection**

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- **Allen Adamson - Co-Founder, Metaforce; Expert Witness in Brand, Trademark, and Defamation Litigation**

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# The New Front Lines: How AI and Virality Threaten Trademark Distinctiveness and Brand Integrity

Program #AA35158-72925

Presentation by:

Allen Adamson  
Co-Founder Metaforce

July 29, 2025





# Allen Adamson

## Co-Founder Metaforce

Allen Adamson is a noted industry expert in all disciplines of branding. He's worked with a broad spectrum of clients in industries ranging from packaged goods and technology, to health care and financial services, to hospitality and entertainment, as well as brands in the non-profit sector. Given his perspective and depth of experience, Allen has helped his clients understand and put into play strategies that enable them to shift ahead of the market and the competition, generating long-term value and increased brand equity.

Allen's newest book, *Seeing the How: Achieving Market Advantage by Transforming the Stuff We Do, Not the Stuff We Buy*, published in May 2023, focuses on the consumer experience as a competitive advantage and how this change in perspective has allowed companies to achieve dramatic growth and categorical leadership. The book's driving idea was sparked by Allen's recognition that experience transformation has been fast outpacing product transformation as a winning and sustainable marketing strategy. His previous books, *BrandSimple*, *BrandDigital*, *The Edge: 50 Tips from Brands that Lead* and *Shift Ahead*, are used as textbooks in higher education business programs across the country.

Prior to Metaforce, Allen was Chairman, North America of Landor Associates, a global branding firm. Under his leadership, the company partnered with a wide array of iconic brands, including Accenture, GE, Johnson & Johnson, FedEx, HBO, Marriott, MetLife, P&G, Sony, and Verizon. Before Landor, Allen was an executive at Unilever, responsible for leading marketing for a number of major packaged goods brands. Previously, he held senior management positions at Ogilvy & Mather and DMB&B.

Allen received his BS from the S.I. Newhouse School of Public Communications at Syracuse University, and an MBA from New York University's Stern School of Business.

# A cross-section of the brands I have worked with.....

accenture

amazon



audible

BlackBerry

Bloomberg



Goldman Sachs

Google

hibü



IBM

intel®

Johnson & Johnson



lenovo



Microsoft

nationalgrid

nest



P&G



SAMSUNG

SoftBank



verizon✓



# Brand and marketing context is helpful for many cases

Trademark Infringement

False Advertising & Unfair Competition

Defamation

Brand Dilution

Product Liability & Brand Damage

Trade Dress & Copyright Violations

Brand Licensing & Contractual Disputes

Deviation

Social Media & Online Reputation Management

Consumer Protection & Class Action Lawsuits .

Brand Counterfeiting & Grey Market Goods

Domain Name Disputes & Cybersquatting.

Right of Publicity

Mergers & Acquisitions & Brand Valuation

Today we will cover

## **Brand Level Setting**

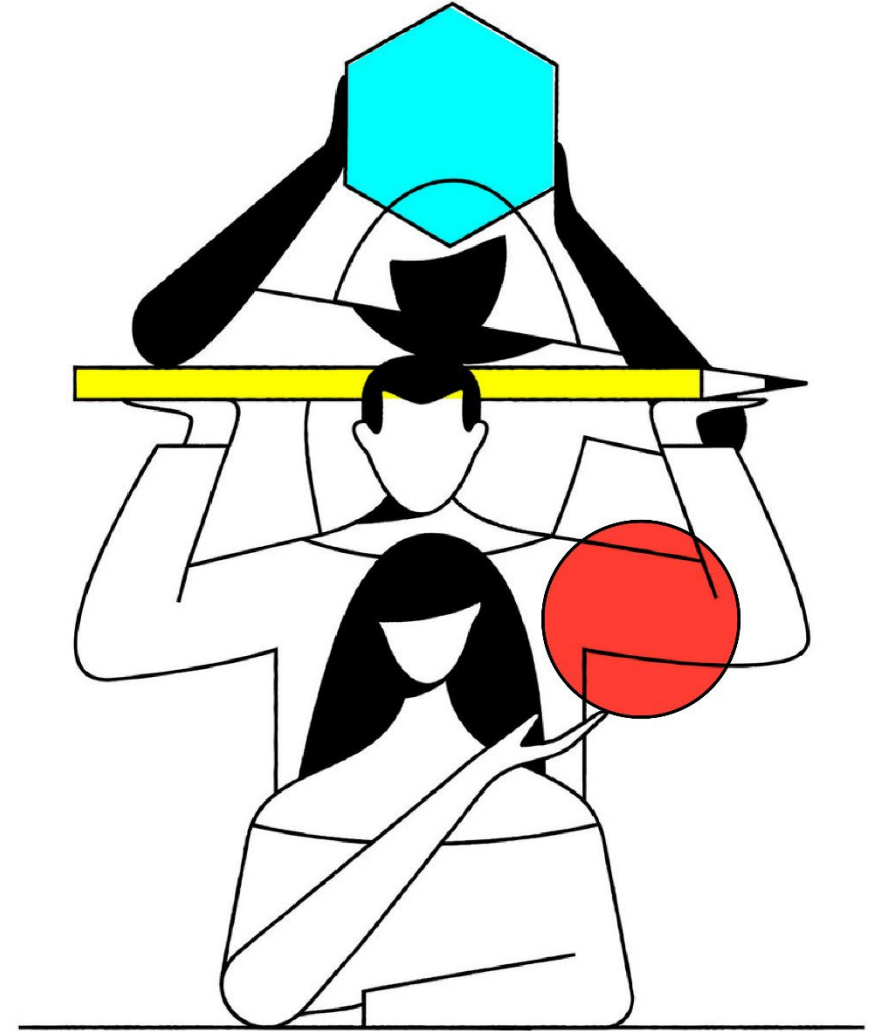
**Story 1 – Lululemon’s \$5 Problem.**

**Story 2 – Invisible Losses: Estimating Reputational Harm Beyond the Balance Sheet.**

**Story 3 –The AI Double Threat Strategy and Style**

**Story 4 The Thought Leadership Trap: When AI Makes Professional Service Brands Indistinguishable**

# Brand Level Setting



# Too much jargon

Brand Ambassador  
Brand Archetypes Brand Architecture  
Brand Assets  
Brand Attributes  
Brand Audit  
Brand Awareness  
Brand Colors  
Brand Differentiation  
Brand Discovery  
Brand Equity  
Brand Essence  
Brand Experience  
Brand Exposure  
Brand Extension  
Brand Fonts  
Brand Gap  
Brand Guidelines  
Brand Harmonization  
Brand Strategy  
Style Guide  
Sub Brand  
Symbol  
Tagline

Trademark  
Style Guide  
Sub Brand  
Symbol  
Style Guide  
Sub Brand  
Symbol  
Tagline  
Trademark  
Typographic System  
Unique Buying Proposition (UBP)  
Unique Selling Proposition (USP)  
Value Proposition Statement  
Verbal Identity  
Vision Statement  
Visual Direction  
Visual Identity  
Wordmark  
Brand Hierarchy  
Brand Identity  
Brand Image  
Brand Influencer  
Brand Insistence  
Brand Loyalty

Brand Management  
Brand Map  
Brand Messaging  
Brand Mission Statement  
Brand Mood Board  
Brand Naming  
Brand Naming  
Brand Parity  
Brand Perception  
Brand Personality  
Brand Positioning  
Brand Preference  
Brand Promise  
Brand Recall  
Brand Recognition  
Brand Reputation  
Brand Salience  
Brand Standards  
Brand Story  
Brand Support  
Brand Tone  
Brand Touchpoint  
Brand Valuation  
Brand Values  
Brand Voice

Branding  
Branding Agency  
Co-branding  
Color System  
Corporate Identity  
Corporate Image  
Customer Touchpoints  
Endorsed Brand  
Environmental Branding  
Generic Brand  
Graphic Style  
Icon  
Interior Branding  
Masterbrand  
Monogram  
Parent Brand  
Rebranding  
Repositioning  
Service Brand



## What is a brand? Ask ChatGPT



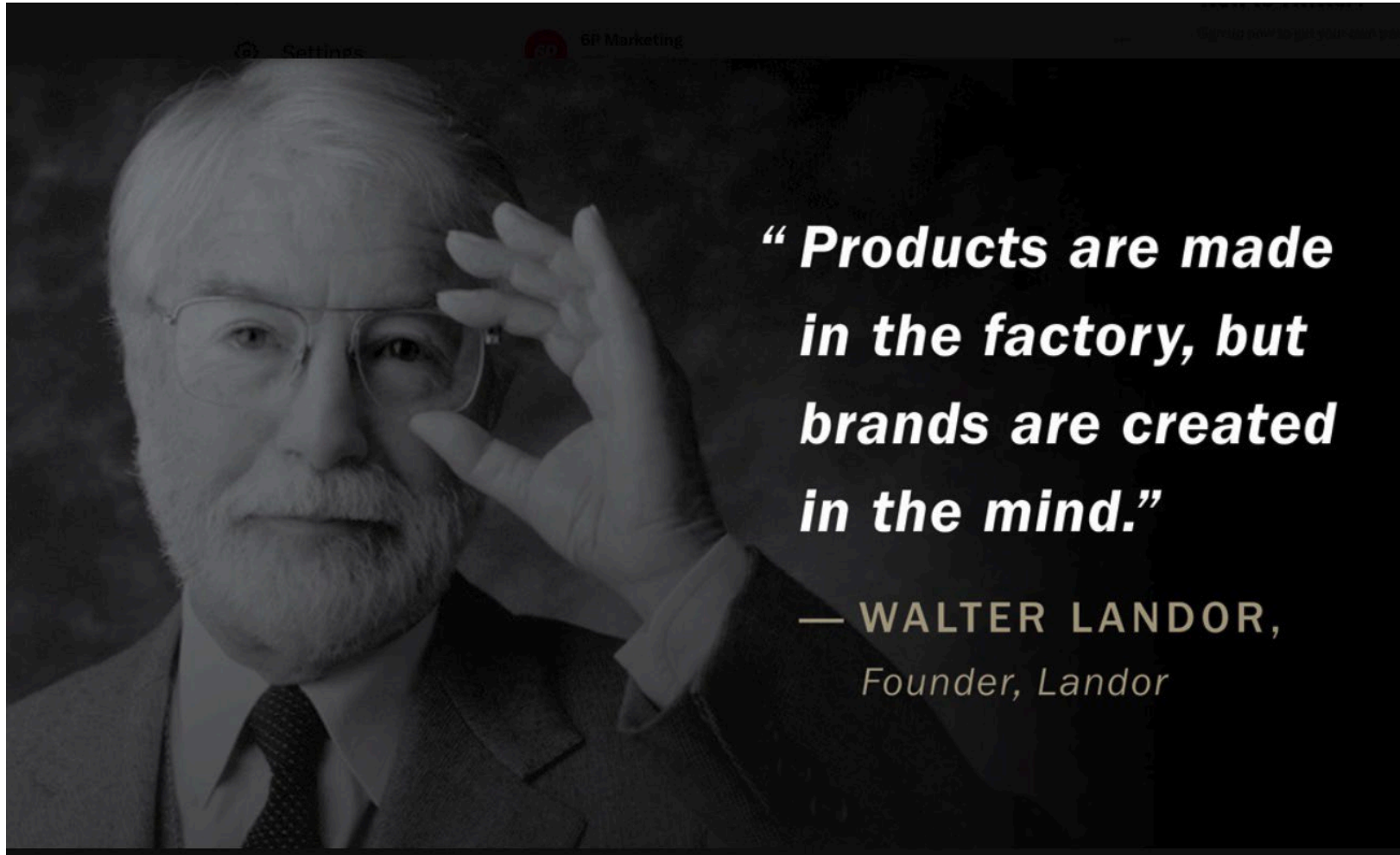
What is a simple definition of a brand



A brand is a unique combination of a company's name, logo, design, and reputation, which distinguishes its products or services from others and communicates a specific identity, value, and perception to customers.



## What is a brand? Ask Walter





Brands help companies, products and people stand out...a simple idea





# branding

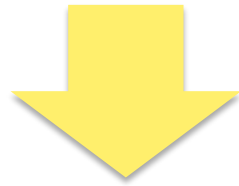
STORY

SIGNALS

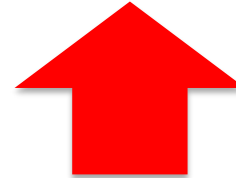


Strong brand stories are driven by

Do I care?



Relevant differentiation



What stands out?

The decline of product differentiation is changing brand stories



The Samsung Galaxy S24 (left) and iPhone 15 Pro (right) (Image credit: Samsung / Apple / Future)

Branding : How you get a brand story into customers' heads

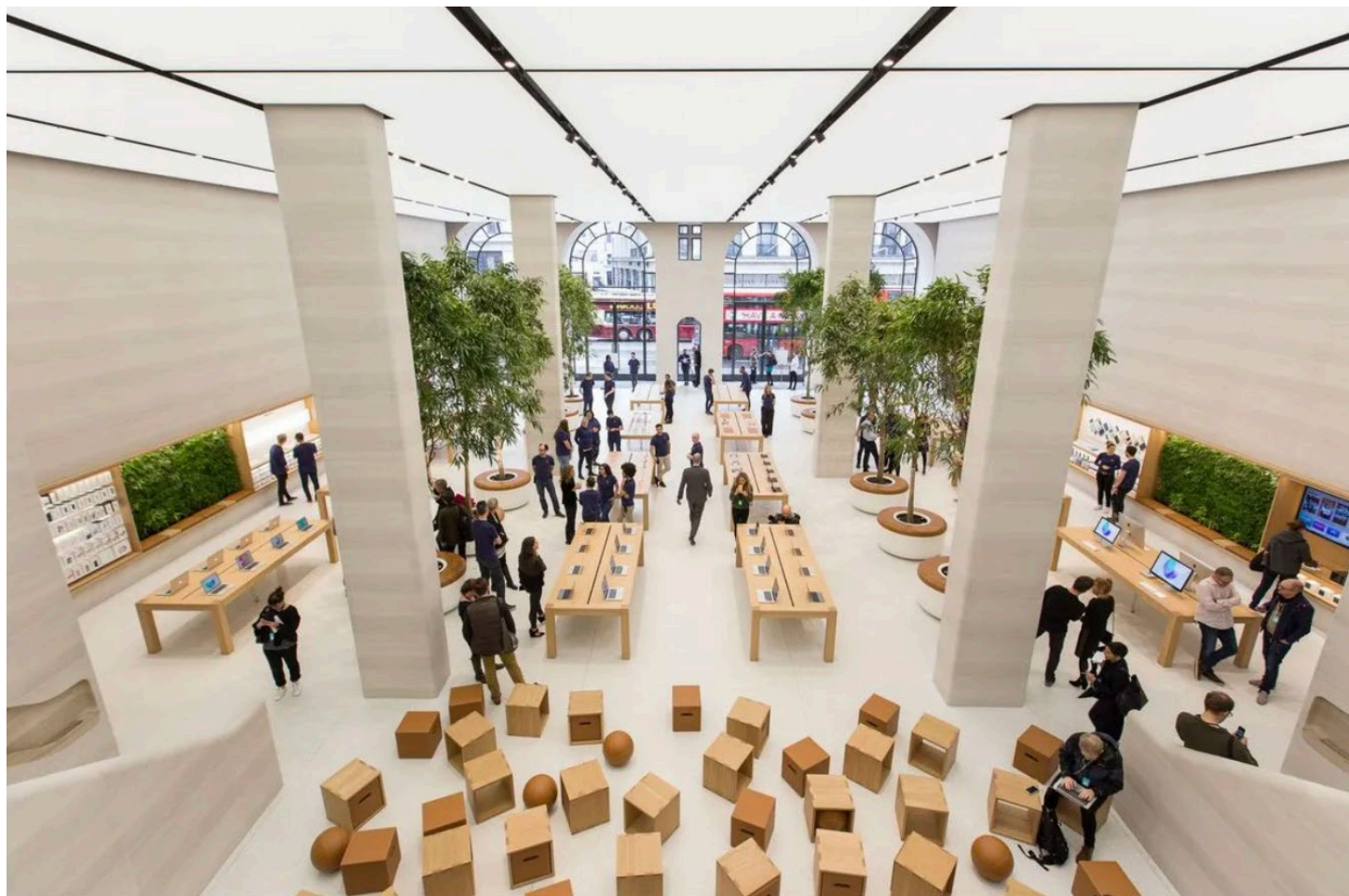






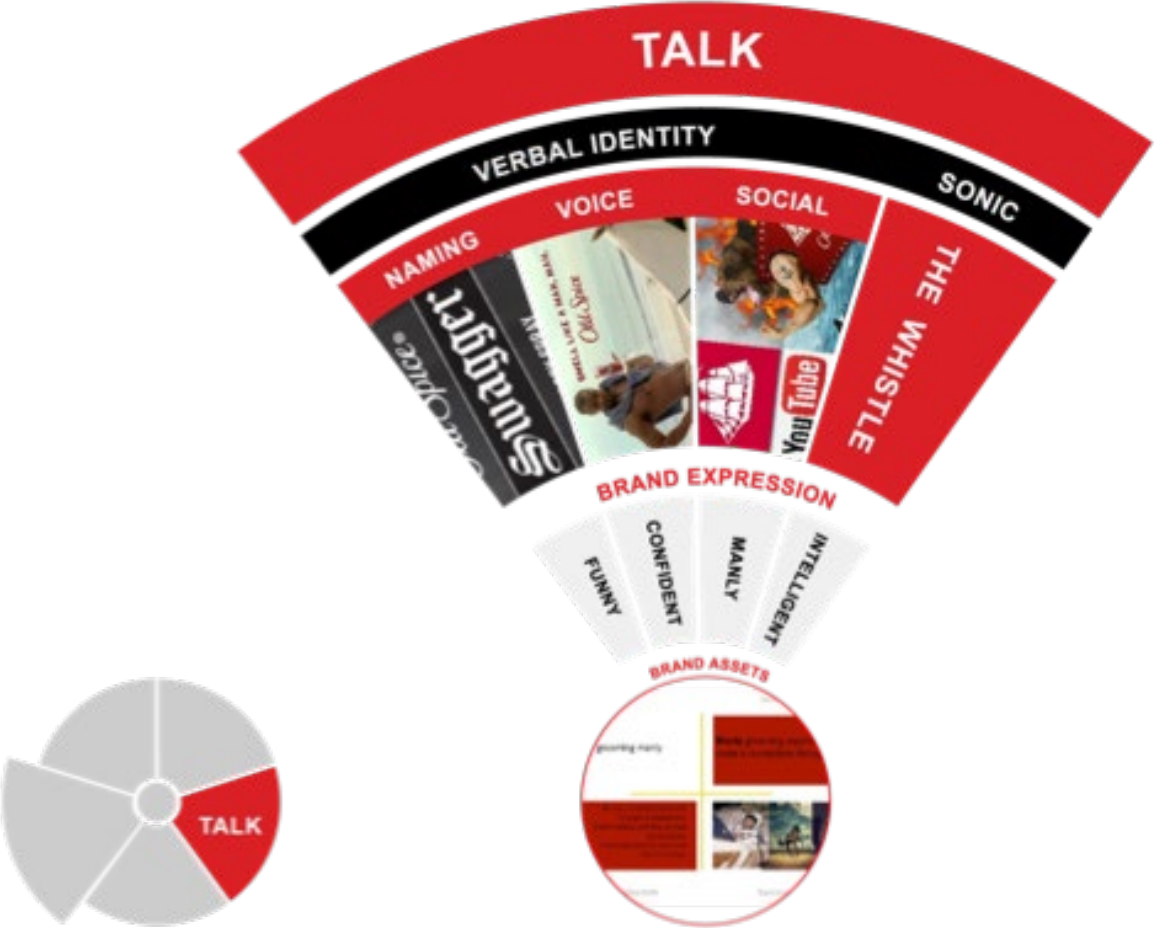
## Branding driven by design system







Old Spice experience map





How the brand will talk



Word of Mouth is the most important marketing touchpoint



But MORE important than WORD OF MOUTH is...WORD OF EYE





# Story 1 – Lululemon's \$5 Problem

## Lulu Lemon Branding

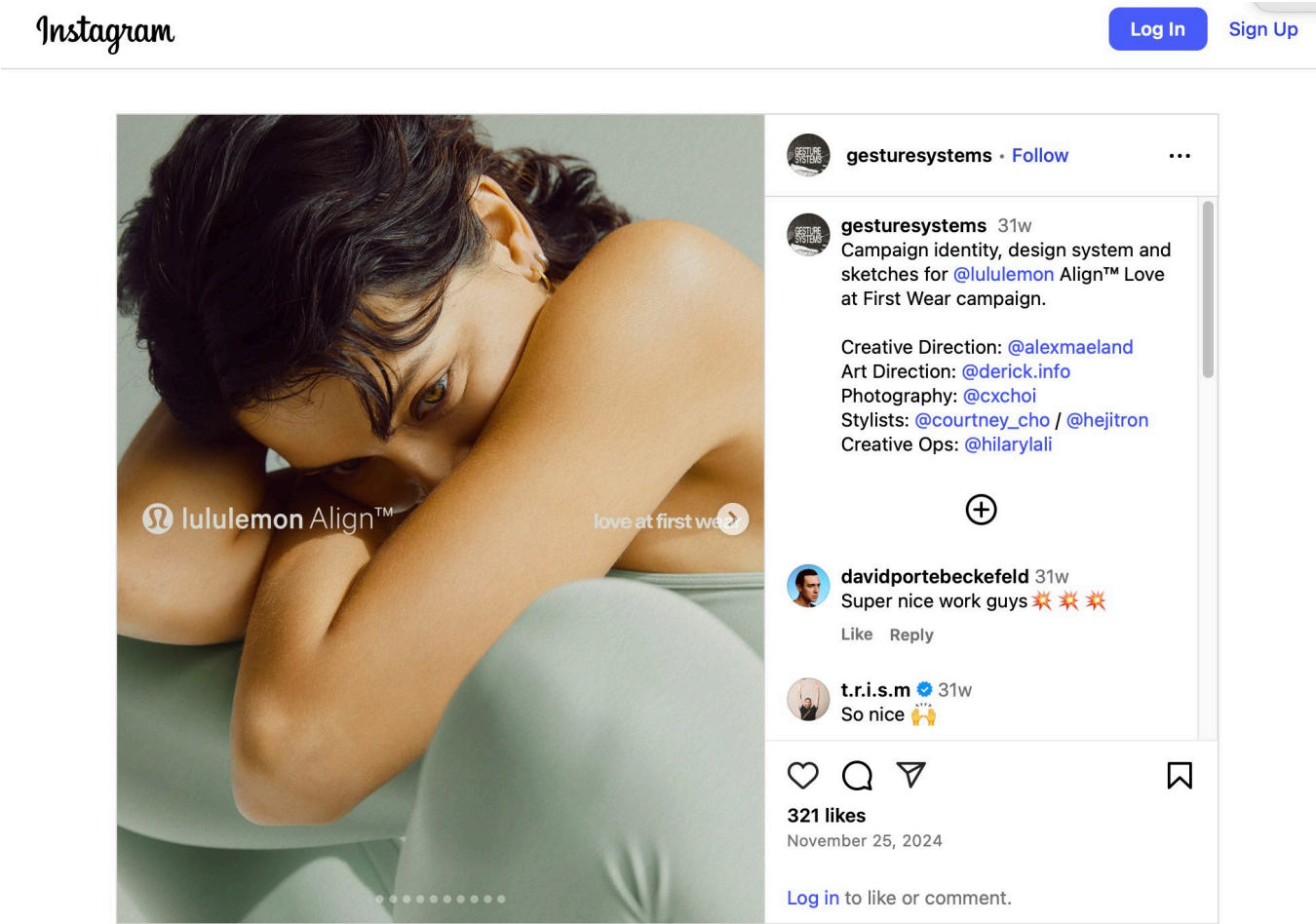
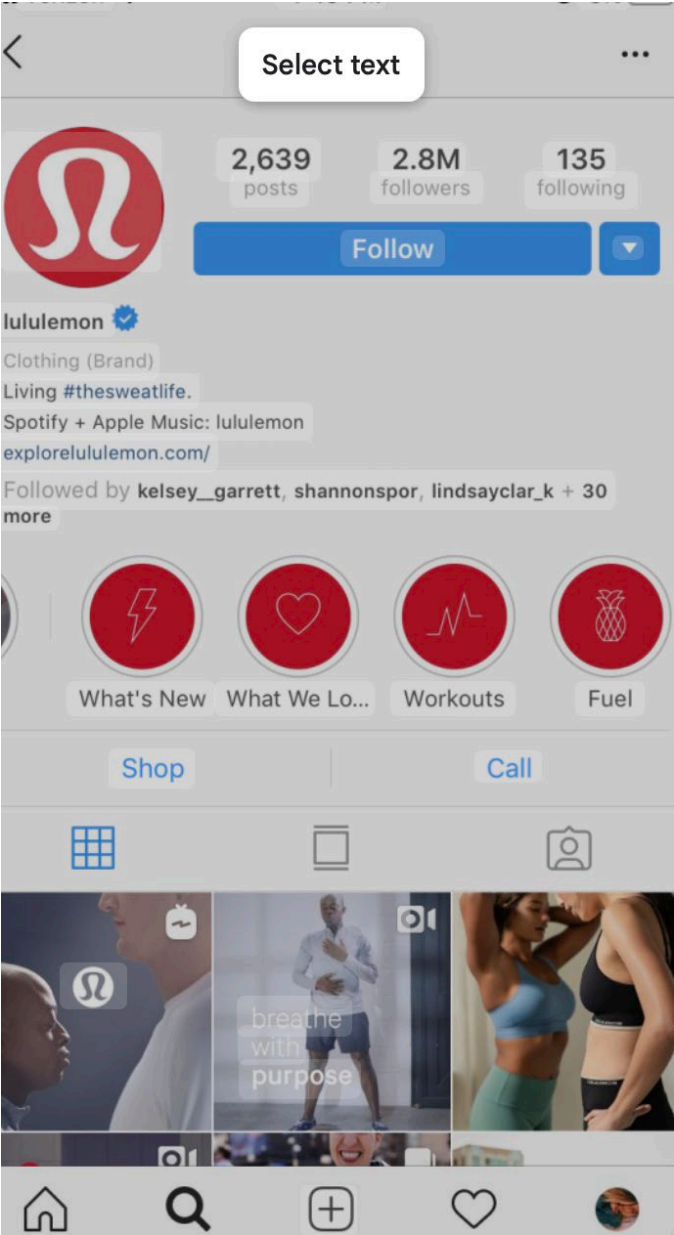


# Lulu Lemon Branding

<https://youtu.be/5yepJtJ4OZI?si=q2qv3PcshIntrJIA>

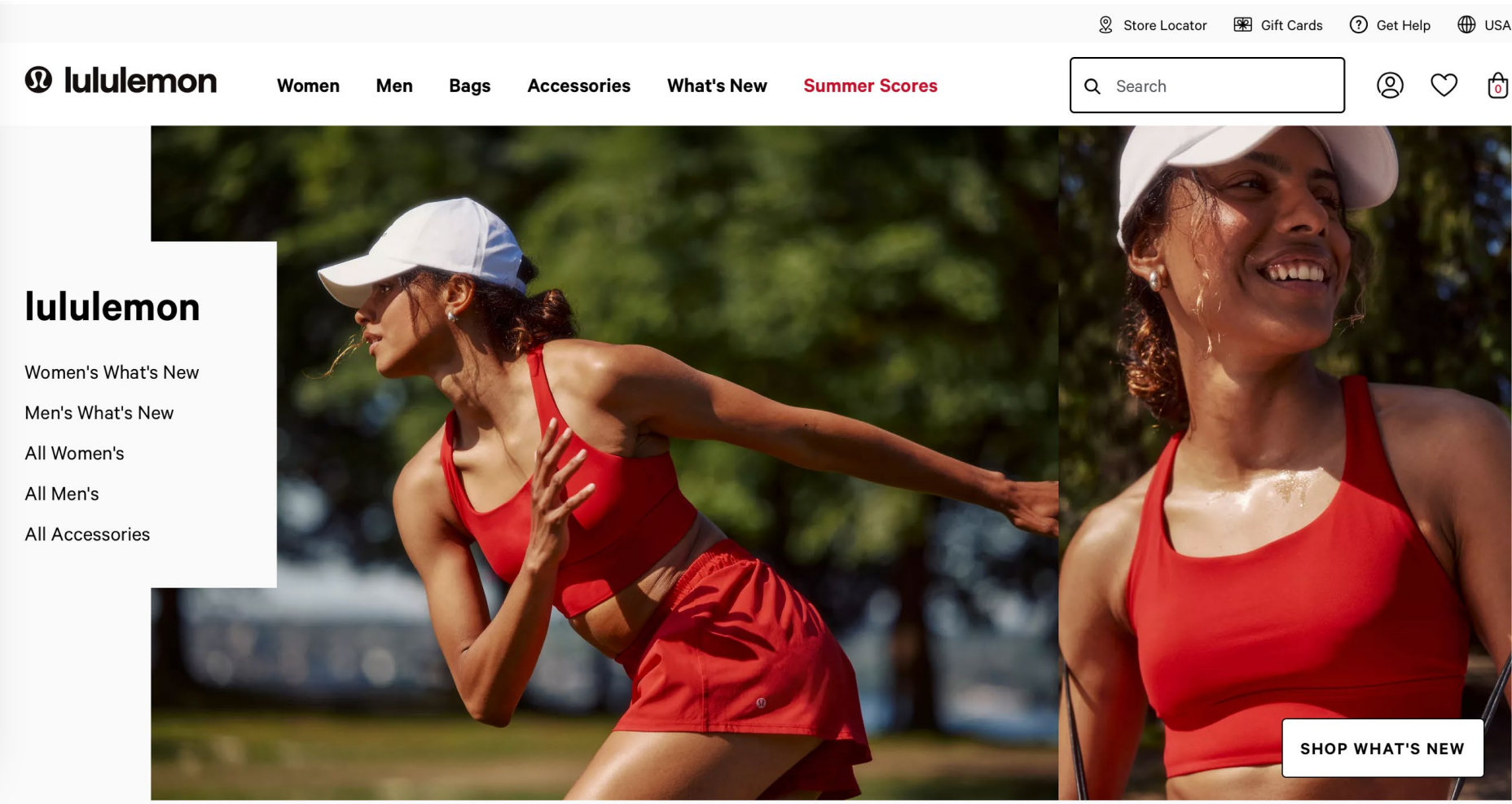


# Lulu Lemon Branding





# Lulu Lemon Branding



# Lulu Lemon Branding

Back to [lululemon.com](http://lululemon.com)

Enjoy free shipping on all orders over \$

**lululemon** Like New

## Women

Men

## Hidden Gems

### Trade-in

## About

Q Search



## Secondhand faves for sunny days.

**Shop Women's**

Shop Men's

**Support**

 metaforce

Breeze through summer in these pre-loved gems.



# Lulu Lemon Branding

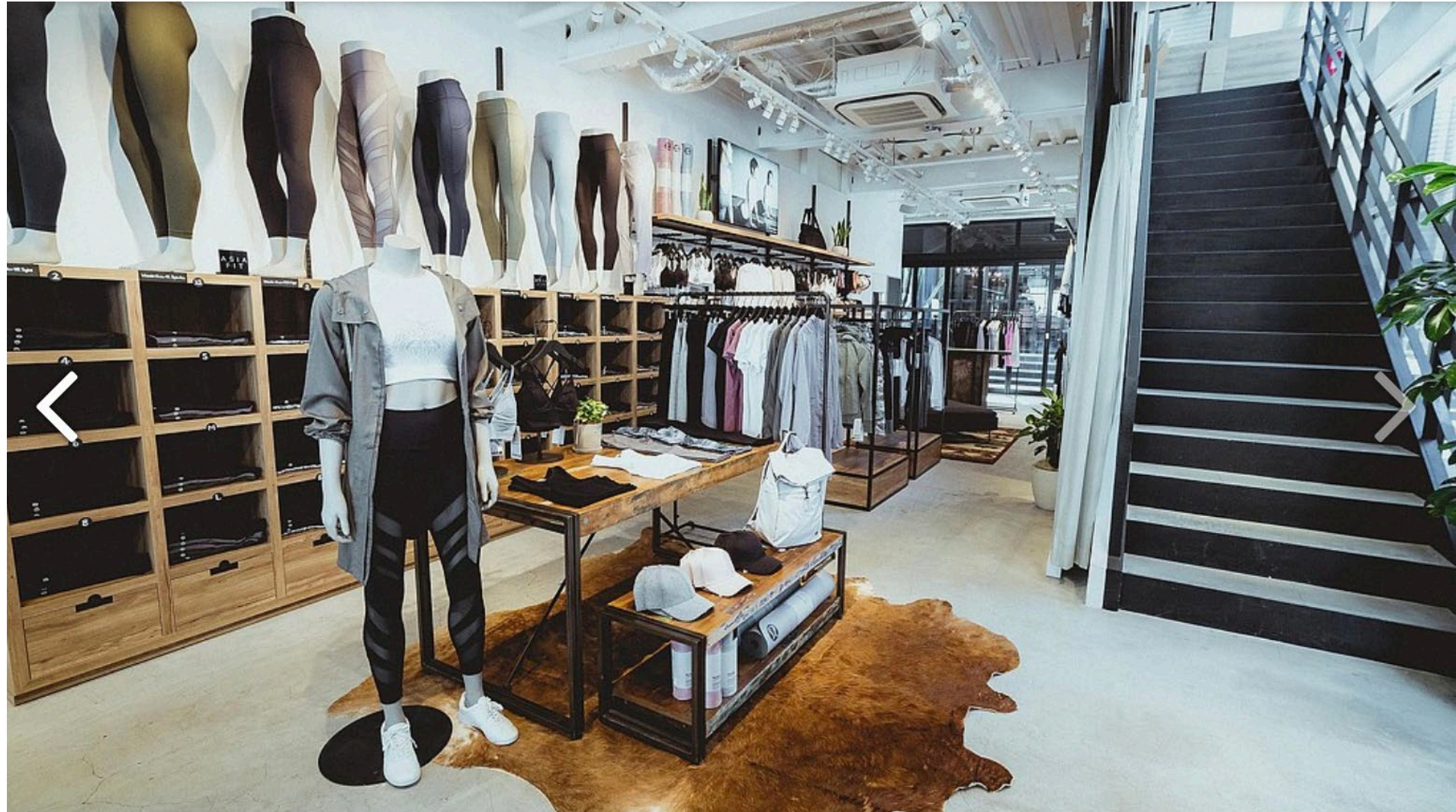


## Lulu Lemon Branding





## Lulu Lemon Branding





## Lulu Lemon Branding



## Lulu Lemon Branding

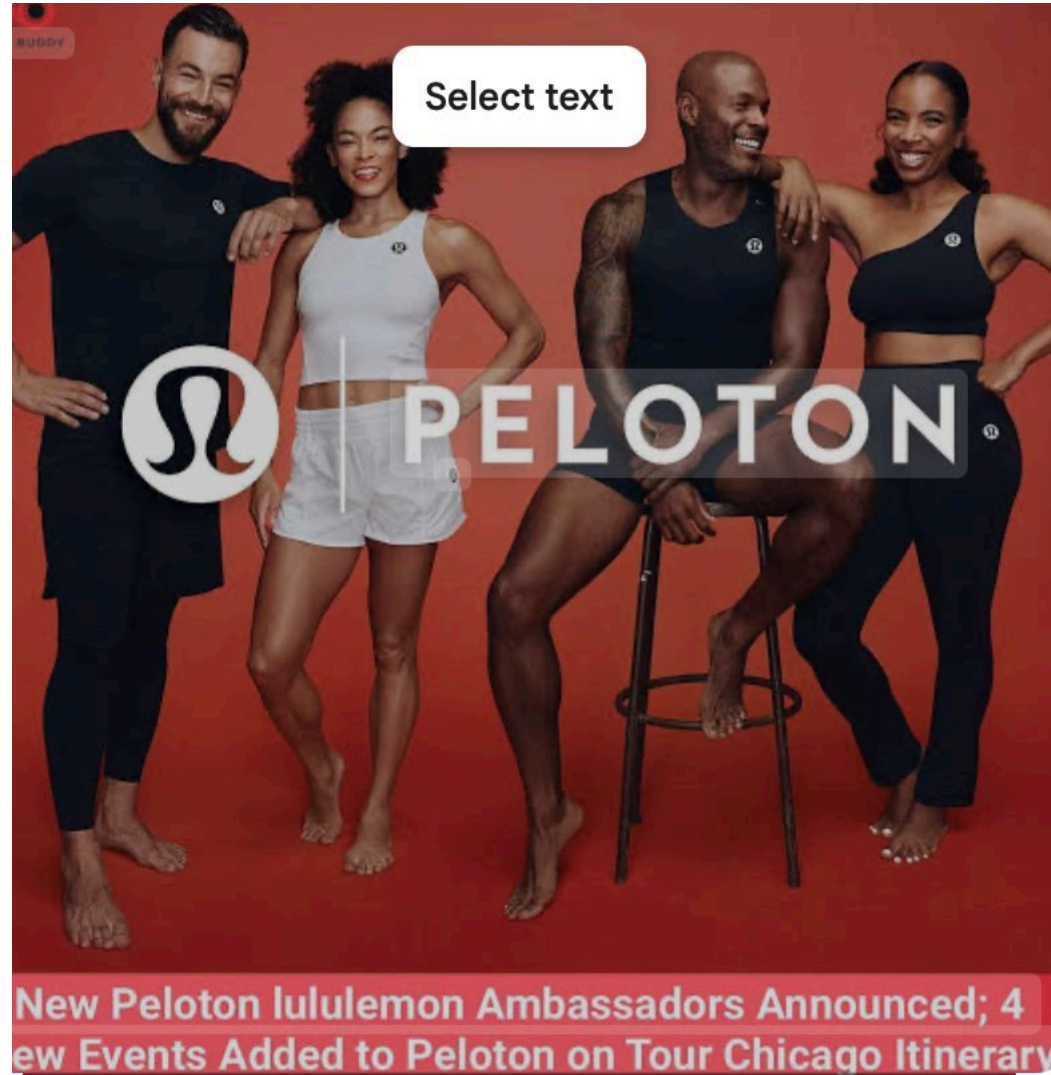




# Lulu Lemon Branding



## Lulu Lemon Branding





All branding touch point work together to support overall Brand Strength



A broken “cable” or Branding Proof Point can damage Brand Strength



*The morning after. Morbi pedestrian deck collapsed after suspension cable gave way.*

It takes 20 years to build a  
reputation....

and five minutes to ruin it.





## Viral Tik Tok Videos : “Same materials, same factory—for \$5, why pay \$100?”



“Same materials, same factory—for \$5, why pay \$100?”

A creator compares \$5 to Lululemon’s \$100+ leggings focused on emotional framing, not quality: 'you’re just paying for the name.

The video goes viral, not over design or quality, but because it questions Lululemon’s **price narrative** and **emotional value**.

The video became a catalyst for viral commentary, with many viewers reinforcing the idea that Lululemon’s price is unjustified.

The hashtag #Lululemon Dupes continues to gain traction, showing the normalization of brand devaluation through peer-shared content

This undermines Lululemon’s value narrative. Its premium brand equity built over years through branding , not just performance.

COSTCO “ Same materials, same factory



**costco hype** • Follow  
Ariana Grande • December

**costco hype** • 26w  
NEW Lululemon Dupes at Costco??? 🤔

These yoga jackets and pants look very similar to the popular Lululemon Define Jackets and High Rise Flared Pants! Plus they're both on sale under \$13! What do you think of these??

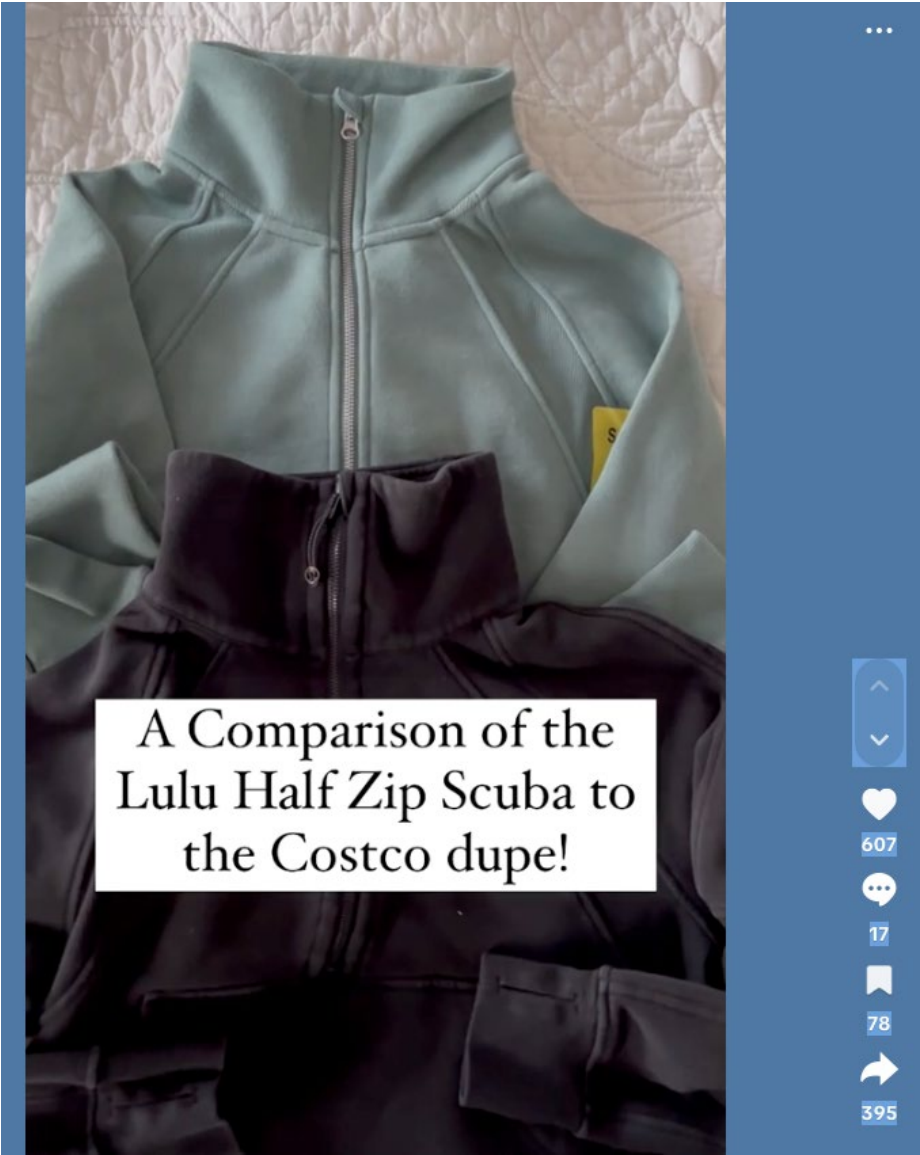
#costco #costcohype #costcodeals  
#costcohaul #costcofinds #costconew  
#costcobuys #shopping #shop #new  
#deal #clothes #costcoclothes  
#lululemon #lululemondupe #dupe  
#yoga #yogajacket #yogapants #ladies  
#gym #fitness #workout #sale #jacket  
#leggings #activewear #fashion #ootd  
#reels

 **la\_yes\_si** 26w



Liked by **rainacleanbholed** and others  
December 28, 2024

 Add a comment... 





# The Pants Cost \$20. They Explain \$86 Billion of Costco Sales.

Kirkland Signature is now bigger than some of the world's biggest companies—and it has become essential to Costco's business



607



Gift unlocked article



Listen (8 min)





Even Costco's \$1.50 hot-dog-and-soda combo is branded as a Kirkland product. PHOTO: PATRICK T. FALLON/AGENCE FRANCE-PRESSE/GETTY IMAGES

It doesn't just drive sales. It also breeds loyalty. It gives people a reason to become members—and members a reason to keep coming back. If the cult of Costco had a Kool-Aid, it would definitely be Kirkland Signature.

Perhaps the most important thing that Kirkland does is bring down the price of other brands.

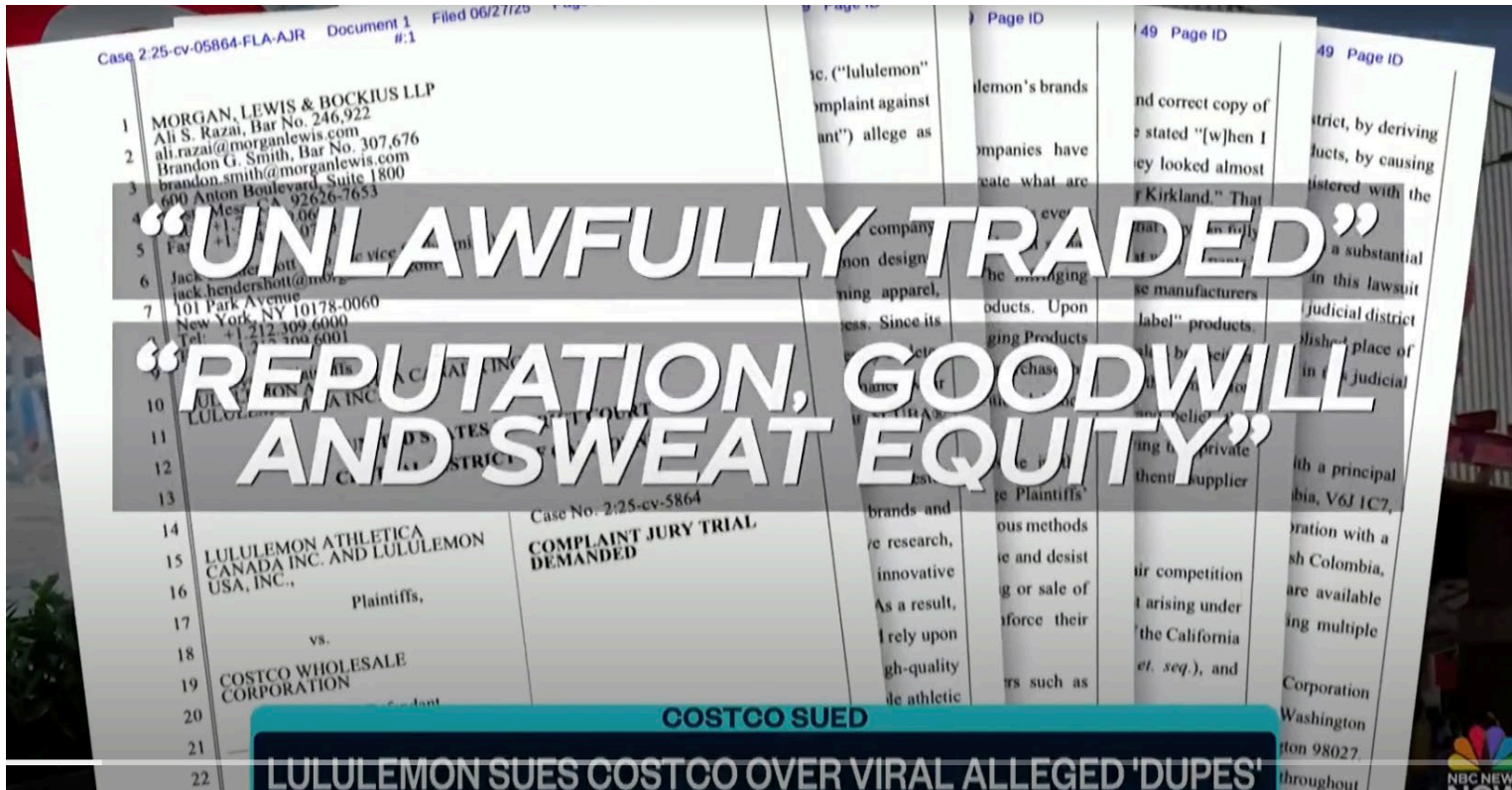
To understand why, it helps to have a basic understanding of Costco economics. The company stocks fewer items than traditional retailers and makes up for smaller margins with absurdly large volumes. It sells branded products at no more than 14% above cost, even if that means leaving extra profit on the table. For Kirkland products only, Costco makes an exception and permits a markup of 15%.



Costco “ Same materials, same factory



Costco “Same materials, same factory for less”



## Lulu Lemon Costco legal action

On **June 27, 2025**, Lululemon filed suit in federal court (California) against Costco's Kirkland and affiliated labels (Danskin, Jockey, Spyder, Hi-Tec), alleging infringement of **trade dress** and **design patents** for its Scuba hoodies, Define jackets, and ABC pants.

The complaint claims these knockoffs some priced as low as \$10–\$20 vs. Lululemon's \$118–\$128 cause **consumer confusion**, misleading buyers to believe they share brand origin.

Lululemon specifically accuses Costco of trading on its **brand reputation, goodwill, and “sweat equity”** arguing that cheap products dilute its brand value.

Evidence includes side-by-side comparisons in a detailed 49-page filing and public confusion captured through hashtags like **#LululemonDupes** and influencer posts.

# Key Points Points

## 1. Traditional vs. Narrative Loss

**Trademark/Design law:** protects visual identifiers and patented silhouettes. But does **not** protect pricing narratives or emotional value journeys.

**Narrative damage:** The TikTok comparison diluted Lululemon's premium positioning even before any legal remedy was considered.

## 2. Dual Levels of Brand Erosion

**Narrative attack:** The TikTok comparison reframed the brand's "reason to exist."

**Legal action:** The lawsuit addresses the visual resemblance and source confusion *after* the narrative damage begins. Traditional enforcement is reactive, while narrative damage often occurs proactively and imperceptibly.



# Key Legal Points

## 3. Sweat Equity & Consumer Confusion

Courts may recognize **trade dress infringement** when Costco's ABC pants have similar seam details or color choices (like Tidewater Teal).

Lululemon argues Costco's marketing lacks clarity around manufacturing origins—a key cause of confusion.

## 4. Strategic Counsel Imperatives

**Early monitoring:** Track viral mentions, hashtags, dupe trends

**Narrative governance:** Brands must own their story proactively to defend against perception-based erosion.

**Hybrid playbooks:** Legal teams should coordinate with marketing/PR to deploy narrative corrections faster than legal filings



# Invisible Losses: Estimating Reputational Harm Beyond the Balance Sheet

# Situation

An employee ( software engineer) of Fintech Company is disruptive at work and is fired

Launches Social Media campaigns to damage the reputation of the firm and CEO

Also, a former copywriter used powerful copy in social media campaigns

Enlists friends to promote his content

Used Google Ads to promote his comments

Used PR outreach to get the media to write negative stories

It became difficult for the company to hire software engineers

The reputation of the firm and CEO was damaged

The firm had not spent much on marketing

**How do you assess dollar damages?**

# Defense damages focus

Balance sheet driven

Identify lost sales and increase recruiting costs

Unless you have proven expenses there are no damages



## “Invisible damages”

But what the spreadsheets didn't show and what the court needed to understand were the **“invisible losses”**

The deals that never happened

Customers do not call and say they are not going to do business with you...they just don't call ...

Prospective hires don't call and tell you they are not going to apply...

Headhunters don't call CEO candidates with “reputation” questions



Repairing this damage is challenging and expensive Here is why :

- In B2B marketing, word-of-mouth (WOM) is often the most influential touchpoint in the buyer's journey.

Social Media lives forever.

Social Media reputation damage takes time to impact the Brand

Once the target audience has “dismissed” your brand, getting them to CHANGE their opinion is extremely difficult

You need target messaging and media.

It is costly to repair a Brand reputation once damaged.

# Repairing damage requires more than a social media apology....

It is far more difficult to repair brand reputation damage once the audience has placed you on the “damaged “ shelf in their heads.

Social media is more believable than traditional brand-building, so a simple “we are not what you think message” is ineffective once a reputation has been damaged.

Repairing damaged brands via Social Media takes a long time to execute.

CEO Brand all almost impossible to repair as hiring firms are risk-averse.

Separate efforts, with separate messaging, need to be executed for each audience audience.

Customers

Prospects

Potential employees

Rebuilding a CEO's reputation takes a long time.

.



A separate plan was developed to address damage for each impacted audience

Total Investment level: \$1,350,000

LinkedIn display: \$200,000

LinkedIn video: \$200,000

High impact display: \$200,000

PMP display: \$150,000

Standard video: \$200,000

YouTube: \$50,000

PMP video: \$200,000

Streaming audio: \$50,000

Digital OOH: \$100,000

Brand Repair Programs can take 2-3 years to meet objectives

# The New Front Lines: How AI and Virality Threaten Trademark Distinctiveness and Brand Integrity - July 29, 2025 - 10:00 a.m. ET

*In order to comply with NY regulations, attorneys looking for CLE credit in NY will need to be able to provide a code. This code is not intended for the CeriFi LegalEdge audience either live or on-demand. I will read this code twice and only twice and cannot repeat it or email it to you, so please make note of it. The NY State code number is:*

AA35158-72925

*again, the NY state code number is*

AA35158-72925

PLEASE NOTE THAT Y I WILL READ THE ABOVE PARAGRAPH ONLY ONCE DURING THE PROGRAM).

# Story 3 –The AI Double Threat

## Strategy and Style



## When AI Mimics Strategy and Style

- Everyone's talking about how AI can now make ads. And yes it's fast, cheap, and often clever.
- But here's the real issue: making ads isn't where most of the value lies for a creative agency.
- The true value is upstream in the research and strategy work that uncovers the insight behind the ad.
- That unseen insight is what makes the execution work. And now, AI is getting good at reverse-engineering that too

## When AI Mimics Strategy and Style

Like a codebreaker, it reverse-engineers why something worked then makes a new version based on those same insights

- Suddenly, the thinking that gave one agency an edge is available to everyone, flattening competitive advantage.





## When AI Mimics Strategy and Style

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- 
- Suddenly, the thinking that gave one agency an edge is available to everyone, flattening competitive advantage.
- 



# Strategic and Legal Response

- This is not a simple copyright issue because insights and strategies aren't protectable under current law.
- It's a brand dilution issue your distinct approach to problem-solving is part of your brand equity.
- Legal teams and agency leaders need to develop hybrid strategies: confidentiality frameworks, proprietary process documentation, and brand-specific tone guidance.
- Agencies must invest in making their strategy visible and valued so clients see what they're really buying isn't the ad it's the thinking behind it.





# Story 4 The Thought Leadership Trap: When AI Makes Professional Service Brands Indistinguishable

# When AI Makes Professional Service Brands Indistinguishable

.

- I recently discovered my own book Shift Ahead had been used without permission to train AI models. This isn't just a copyright problem it's a brand problem.
- In the past, professional service firms whether consulting, legal, financial, or marketing built distinctiveness around how they think, not just what they do.
- Proprietary frameworks, unique methodologies, and signature points of view created differentiation that justified premium fees and loyalty.



# Unlocking Experience Innovation to Drive Growth

Find new ways to  
look for growth  
opportunities

## SEEING THE HOW

Transforming what  
people do, not buy,  
to gain market  
advantage

Allen P. Adamson

A close-up photograph of a woman's face, looking directly at the camera. The image is framed as if through a camera viewfinder, with a dark border. The background is dark with many out-of-focus, bright white and yellow circular lights, creating a bokeh effect. The woman has dark hair and is looking slightly upwards and to the right.


# The Lenses



### Lens 3 - Look to join forces




# Lens 5 - Go the rental route




Manhasset... 9PM 10002

What can we help you find today?

Shop AllServicesDIYMeCart

Home / Tool Rental / Lawn & Garden Equipment Rental




**SAME-DAY DELIVERY**  
Order Select in-Stock Items by 4 p.m.  
Subject to Availability

**NEXT-DAY DELIVERY**  
Subject to Availability

[Learn More](#)

## CHAINSAWS




### 36V Cordless Chainsaw 14"

Category #01 Group #125

With zero emissions and lower noise, this cordless chainsaw is great for cutting and trimming applications. Users get a high-powered efficiency equivalent to a gas chainsaw.

Check Availability




### Electric Chainsaw 16"

Category #01 Group #020

Ideal for light household projects and yard work within reach of a power source, such as trimming, pruning and light cutting. Mid-sized electric chainsaw engineered with professional features. Electric chain brake for maximum productivity.

Check Availability




### Gas Chainsaw 16"

Category #01 Group #021

Easy-to-start, mid-sized chainsaw engineered with professional features perfect for small trees, medium-sized limbs and brush. Compact and lightweight design provides easier control during use. Engineered with smooth rounded surfaces for comfort, reducing operator fatigue.

Check Availability




### Gas Chainsaw 20"

Category #01 Group #024

Ideal for heavy duty applications of cutting down trees, clearing brush and chopping logs. The 64cc chainsaw offers power and job site flexibility not found in an electric chainsaw. Advanced vibration dampening system engineered to reduce vibration and operator fatigue.

Check Availability

Feedback

# When AI Makes Professional Service Brands Indistinguishable

- Now, that distinctiveness is under siege from AI. Generative models trained on public and pirated data can mimic both the tone and structure of thought leadership content.
- When your insights and frameworks become training data, your firm's intellectual edge becomes everyone's baseline. You become indistinguishable.

Brief

# AI Is Transforming Productivity, but Sales Remains a New Frontier

Potential applications of generative and agentic AI could free up more selling time and boost conversion rates.

By Ann Bosche, Jue Wang, Peter Bowen, Tamara Lewis, Justin Murphy, and Mark Kovac

6 min read



Authors



Listen to this article 9 minutes



Related Industries

Technology



Brief

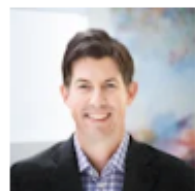
# Unsticking Your AI Transformation

Treating gen AI as a tool isn't working. It's time to redesign work, rethink operating models, and lead from the top.

By Chuck Whitten, Sarah Elk, Florian Mueller, and Richard Fleming

9 min read

## Authors



Chuck Whitten ▶  
Partner, Dallas



Listen to this article 15 minutes

## At a Glance

- Most companies are stuck in gen AI experimentation, not transformation; real impact requires business redesign, not just tech deployment.

## Related Consulting S

[Accelerated Performance Transformation](#)

[AI, Insights, and Solutions](#)

[Enterprise Technology](#)

[Operations](#)

[Support Functions](#)



## We Were All Trained For AI. We Didn't Know.

by Allen Adamson ›



## The Cracks in America's Brand Are Getting Bigger

by Allen Adamson ›



## When Markets Turn: The Marketing Leader's Guide to Thriving During Economic Uncertainty

by David, Allen & The Metaforce Team ›



## Before you sell me anything, get me to trust you



## Stop Guessing, Start Listening



## Doritos vs. FanDuel: Early Leaders in the REAL Super Bowl Competition

Show me a Brand Framework used by Allen Adamson

Here is a brand framework modeled after the principles and approach often used by **Allen Adamson**, drawn from his books (*BrandSimple*, *BrandDigital*, *Shift Happens*) and consulting work at Metaforce and Landor. The framework focuses on clarity, relevance, and activation, and is designed to help brands cut through clutter and build meaning quickly:

## Allen Adamson's Brand Framework: "Simple, Differentiated, Activated"

### 1. What's the Big Idea? (The Core Brand Promise)

- **Definition:** A clear, simple articulation of what your brand stands for in the minds of your customers.
- **Goal:** Make it **memorable**, **relevant**, and **differentiated**.
- **Questions to Answer:**
  - What do we want to be known for?
  - What problem do we solve better than anyone else?
  - What's the one idea we want people to associate with our brand?



### 2. The Brand Drivers (Support Pillars)

# When AI Makes Professional Service Brands Indistinguishable

## The Brand Consequences

- In professional services, the brand is the thinking. Unlike a product, which can be patented or physically protected, intellectual differentiation is often intangible.
- AI can now recreate diagnostic models, presentation formats, and white paper logic with alarming fluency.
- Clients are inundated with similar-sounding insights. The uniqueness of your firm's perspective the foundation of its brand equity gets flattened into sameness.



# When AI Makes Professional Service Brands Indistinguishable

## Strategic Vulnerability

- When your thinking becomes generic, so do your margins. The perceived value declines.
- The commoditization effect kicks in: clients begin to treat your services like interchangeable vendors rather than trusted advisors.
- This is especially dangerous for mid-tier firms that are not big enough to be a global brand but are heavily reliant on intellectual differentiation.

# When AI Makes Professional Service Brands Indistinguishable

## What Firms and Counsel Can Do

- Treat thought leadership not just as marketing, but as brand IP. Document your frameworks, methodologies, and signature logic.
- Use contracts to assert proprietary rights in your thinking, including provisions that limit AI training or redistribution of deliverables.
- Educate clients on the source of your value: not the blog post, but the decades of insight that produced it.
- Join collective action where possible, support legislation or coalitions pushing back against unfair data scraping practices.

# When AI Makes Professional Service Brands Indistinguishable

## Closing Note

- We once believed AI would take over repetitive tasks and leave creativity to humans.
- But now we face the inverse: our most human work thinking, insight, brand identity is what's being mimicked.
- If we don't act, professional service brands risk becoming algorithmically indistinct and the trust and pricing power we've built over decades will erode.

.

# Summary



# Summary

## **The New Reality: Brand Risk Is Evolving Faster Than Legal Protection**

### **The battlefield for brand equity has shifted.**

Today's threats AI mimicry, virality, and digital duplication don't just damage reputation; they erode the *distinctiveness* at the core of trademark protection.

These threats don't come through the front door (traditional infringement); they slip in through viral content, synthetic media, and algorithmic imitation.

### **Key Takeaway for Counsel:**

Trademark lawyers must now think like brand stewards, anticipating threats to perception and distinctiveness, not just legal use.

# Summary

## The Distinctiveness Dilemma : How AI and Viral Culture Blur Brand Identity

**What makes a brand *ownable* is harder to define and defend.**

It's no longer just logos, taglines, and names that define a brand but also *voice, style, strategy, and narrative*.

Generative AI can replicate tone and logic. Viral platforms can distort a brand's emotional value in days.

Invisible harms like pricing power erosion, lost referrals, or strategy theft may never show up in court but they hollow out a brand's trademark value.

### **Key Takeaway for Counsel:**

Attorneys must work more closely with marketers to understand what elements truly make a brand distinctive—and explore hybrid protections (contracts, confidentiality, surveillance).

# Summary

## **A Call for Collaboration : Why Brand Experts and Legal Teams Need Each Other**

### **Protecting brand equity now requires creative and legal fluency.**

As brand value becomes increasingly tied to perception, storytelling, and unique thinking, legal frameworks must evolve or, at the very least, be supplemented.

Trademark counsel are uniquely positioned to become proactive brand defenders, but only if they understand the full spectrum of threats.

### **Key Takeaway for Counsel:**

Invite brand strategy into the room early. Proactively align on how to monitor, measure, and defend trademark distinctiveness before damage is visible or irreversible.

# Questions



# Thank you