

YOGA AS PROPERTY: A CENTURY OF UNITED STATES YOGA COPYRIGHTS, 1937–2021

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ABSTRACT

Public debate on yoga as property fixates on whether yoga should be owned, asking if yoga can be Indian property. Framed as such, the public discourse obscures a century-long, ravenous arc of yoga ownership in the United States, accumulated by whiteness, beginning in the early twentieth century. What do the stories of yoga in American law tell us and hide about property and intellectual property? In this critical intellectual property (IP) study, I present the first map of U.S. yoga copyrights grounded in quantitative data. The map reflects that yoga has been exponentially “proptertized” by U.S. copyright law. My evidentiary data set includes over 7,500 yoga copyright titles culled from archival research in the United States Copyright Records Room, Library of Congress (pre-1978), and the Copyright Public Records Portal. I find a 14,000% rise in yoga copyrights from 1937 to 2015. Total growth overall in American copyright titles during the same time period hovers just under 300%—a disparity that highlights how extreme the rise in yoga as property has been for a century. The proptertization of yoga under copyright law continues at a soaring rate. This Article is intended to raise questions about the implications of the story of yoga as American property. What stories does a map of legal ownership and exclusion in American yoga tell us vis-à-vis ongoing debates in property law and IP at the intersection of traditional knowledge, indigeneity, and race? One such story reveals a throughline of tensions around belonging. Yoga, as a form of age-old traditional knowledge chronicled in the Global South, is categorized under IP law as orphaned in the public domain—a *terra nullius* cultural property without inhabitants, history, or ties that bind. Yoga is deemed freely available to extract and domesticate into profitable private property. Ironically, in this story, yoga was readily domesticated into American property for decades while Indians were legally banned from stepping foot into U.S. territory and barred from the right to obtain citizenship. Ultimately, this Article is not bent toward doctrinal reform but instead engages a Critical Yoga Theory approach, using “yoga as property” as a lens through which to notice racial tensions harbored in dominant narratives of property. Critical Yoga Theory frameworks such as “yoga as property,” work to unearth, notice, and mend contradictions in the stories we tell and do not tell, about IP law.

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INTRODUCTION

In 2011, I completed a 200 hour yoga teacher training at Yoga to the People in the East Village while I was a graduate student at New York University.¹ I was the only Indian in a cohort of forty.² I attended yoga classes at Yoga to the People frequently and noticed that at the end of each tightly scripted yoga class, instructors were required to read aloud a rallying cry against the ownership of yoga. “No one owns yoga,” they proclaimed to a room full of people lying prone in *shavasana*, often the final

1. Unearthing stories and storytelling are core methodologies of critical race theory, LatCrit, and critical yoga theory. Through stories, otherwise broad sweeping laws and legal impacts are humanized. Experiential knowledge is deemed valuable. The law in its entirety—from legal codes to mechanics of enforcement, to pendulum swings in policy, to the creation and maintenance of nations—consists of more and less powerful stories. In critical race theory and subfields, stories are understood to be strategic, liberatory tools. Critics have asserted that stories are not rigorous scholarship. However, narrative and narrative analysis are not new to legal scholarship or scholarship broadly. Foundational critical race theorist, Angela Harris writes, critical race theory’s “primary methodological innovations in legal scholarship have been the use of ‘storytelling,’ fictional or anecdotal, to criticize legal reasoning and legal doctrine; and a method of ‘reading against the grain’ that refuses to take legal doctrines at face value.” Angela P. Harris, *Critical Race Theory*, U.C. DAVIS, 2012, at 5.

2. One day during the teacher training—after enduring a morning session with a tiresome trainer who exoticized India in stereotypically racialized ways—I joked over lunch that my Indian family regularly levitated at home, evoking a classic racial trope of a yogi climbing an unanchored rope. I was stunned when most of my cohort seemed to miss the joke, believing me despite their cosmopolitan surroundings. This was not the first or last of an ongoing set of racialized experiences I continue to have in yoga classes, trainings, conferences, and as a teacher. As a result of my experience of race in yoga, I created the first public discourse on the topic of yoga, race, and cultural appropriation that centered South Asians; South Asian American Perspectives in Yoga. This public panel project ran for two years and culminated in a keynote I delivered at U.C. Berkeley’s Race and Yoga Conference in 2016.

resting pose of a yoga class.³ This was strange, but at the time, the topic of intellectual property (IP) ownership in yoga was having a moment. A debate raged across western media as to whether yoga could or should ever be owned.⁴ The heated discourse rose in response to moves by an Indian yoga guru entrepreneur, and later India itself, to claim any ownership and stewardship in yoga.⁵ A rallying cry emerged from the discourse, which

3. In 2011, Yoga to the People's founder, Greg Gumucio was being sued by his former mentor, Bikram Choudhury, for copyright infringement of Choudhury's signature, twenty-six-step "hot yoga" postural sequence. Complaint, *Bikrams Yoga Coll. of India LP v. Yoga to the People Inc.*, No. 2:11-cv-07998-DMG-FMO (C.D. Cal. Nov. 30, 2011). The case was settled in 2012, when Gumucio agreed to stop using Bikram yoga's exact twenty-six postures in the specific sequence used at Bikram yoga franchise studios globally. *'Hot Yoga' Guru Settles Suit v. Poser Who Stole His 5,000-Yr-Old Moves*, HEAVY. (Dec. 3, 2012, 5:30 PM), <https://heavy.com/news/2012/12/bikram-choudhury-lawsuit-greg-gumucio-goya-asanas/>. In the years after this feud, both Choudhury and Gumucio were accused of widespread sexual harassment and assault, resulting in the 2020 closure of Yoga to the People's nationwide studios, and Bikram Choudhury fleeing the United States after losing a \$6.8 million dollar civil suit for sexual harassment in 2017. *Jafa-Bodden v. Choudhury*, B272374 (Cal. Ct. App. Aug. 24, 2017); Adrian Horton, *'He Got Away With it': How the Founder of Bikram Yoga Built an Empire on Abuse*, GUARDIAN (Nov. 20, 2019, 2:06 PM), <https://www.theguardian.com/film/2019/nov/20/bikram-choudhury-yoga-founder-abuse-netflix-documentary>; *Bikram Sues Yoga to the People*, YOGA J. (Dec. 5, 2011), <https://www.yogajournal.com/yoga-101/types-of-yoga/hot-yoga/bikram-sues-yoga-to-the-people/>; Laura Wagner & Shannon Wagner, *Fear, Control, and Manipulation at Yoga to the People*, VICE (July 24, 2020, 2:25 PM), <https://www.vice.com/en/article/4ayqk3/he-knew-everything-fear-control-and-manipulation-at-yoga-to-the-people>; David Wright, Ben Newman, & Lauren Efron, *Bikram Yoga Guru Reaches Settlement in Copyright Suit*, ABC NEWS (Dec. 3, 2012, 12:09 PM), <https://abcnews.go.com/Business/bikram-yoga-guru-reaches-settlement-copyright-suit/story?id=17869598>.

4. For a selection from the many articles circulating at the time, weighing in on the debate about who owns yoga, and whether yoga can or should be owned see *Who Owns Yoga?*, YOGA INT'L, <https://yogainternational.com/article/view/who-owns-yoga/> (last visited June 21, 2022); *Does Yoga Belong to India?*, THE WEEK (Feb. 9, 2015), <http://theweek.com/articles/537675/does-yoga-belong-india>; Deepak Chopra, *Who Owns Yoga?*, HUFFPOST (Dec. 1, 2010, 9:00 AM), http://www.huffingtonpost.com/deepak-chopra/who-owns-yoga_b_790078.html; Rebecca Sullivan, *The Debate Over Whether India can Claim it Owns Yoga*, NEWS.COM.AU (Feb. 5, 2015, 3:10 PM), <http://www.news.com.au/lifestyle/fitness/exercise/the-debate-over-whether-india-can-claim-it-owns-yoga/news-story/c107581073b2dbbaa1ba31b41349c06>; Joshua Kurlantzick, *The Money Pose*, MOTHER JONES (2005), <http://www.motherjones.com/politics/2005/03/money-pose?page=2>.

5. The public debate on yoga and intellectual property (IP) ownership was catalyzed by an Indian yoga guru, Bikram Choudhury, and, later, the government of India using IP law and strategies to claim ownership in and stewardship of yoga. The Choudhury cases were a series of IP cases initiated by Bikram Choudhury, founder of Bikram yoga, who attempted to protect his business model and his specific twenty-six-posture sequence. Maureen Farrell, *Bikram Yoga's New Twists*, FORBES (Sep. 3, 2009, 5:20 PM), <http://www.forbes.com/forbes/2009/0921/entrepreneurs-franchising-bikram-yoga-new-twists.html>; Katherine Machan, *Bending Over Backwards for Copyright Protection: Bikram Yoga and the Quest for Federal Copyright Protection of an Asana Sequence*, 12 UCLA ENT. L. REV. 29 (2004); Allison Fish, *The Commodification and Exchange of Knowledge in the Case of Transnational Commercial Yoga*, 13 INT'L J. CULTURAL PROP. 189–206 (2006); *The Litigious Yogi*, ECONOMIST (June 24, 2004), <http://www.economist.com/node/2765973>. Leading up to and in 2014, the Indian government made several moves to associate itself with yoga and claim yoga stewardship for the purposes of nation building, spreading yoga, and protecting yoga from the onslaught of western IP claims that threaten to freely extract and accumulate yoga. In 2014, the Indian government introduced a popular UN resolution to declare June 21 as International Yoga Day. Abhay B. Mane, *International Yoga Day: Positive Step Toward Global Health*, 8 INT'L J. YOGA 163, 163 (2015). Also in 2014, the Indian government named a Ministry of AYUSH to steward indigenous medicines. Senthilkumar Muthappan, Rajalakshmi Elumalai, Natarajan Shanmugasundaram, Nikilniva Johnraja, Hema Prasath, Priyadarshini Ambigadoss, Ambika Kandhasamy, Dhivya Kathiravan, & Manickam Ponnaiah, *AYUSH Digital Initiatives: Harnessing the Power of Digital Technology for India's Traditional Medical Systems*, 13 J. AYURVEDA & INTEGRATIVE MED. 1, 2 (2022). AYUSH is defined as "Traditional & Non-Conventional Systems of Health Care and Healing Which Include Ayurveda,

sounded like: No to yoga ownership! Yoga must remain freely available for all to use in the public domain.⁶ Yet, yoga has a long history of being owned, specifically accumulated as U.S. private IP. This Article maps nearly a century of yoga ownership using data from my discovery of archival yoga copyright claims dating back to 1937. My findings show the “Can yoga be owned?” debate operated on the false premise that no one had ever tried to own yoga. Instead, yoga has been owned as private IP for the first time in the United States and is rapidly being accumulated as western private property. Therefore, a more rigorous debate may have centered such questions as, “Can Indians claim any ownership or stewardship of yoga?” Or, “Can anyone else lay claim to yoga besides the west, the United States, and whiteness?”

What do the stories of yoga in American law tell us and hide about property and IP?⁷ To address these questions, this Article presents the first empirical investigation into the ownership of yoga through U.S. IP law, focusing on yoga copyrights. Using a quantitative map to chronicle the rise of U.S. proprietization of yoga, I take one step on a longer journey towards raising questions about the implications of yoga as American property. In this study I am motivated by personal experience of being a *desi*, a displaced indigenous, Indian-American yoga teacher and leader. When I was a collective owner at a popular yoga studio in Flatbush, Brooklyn, New York, I found myself consistently stereotypically racialized as an Indian “Other” in U.S. yoga studios, yoga teacher trainings, and yoga governance

Yoga, Naturopathy, Unani, Siddha, Sowa-Rigpa and Homoeopathy etc.” *Id.* Finally, in 2009, the Indian government created the Traditional Knowledge Digital Library, a database of yoga postures designed to combat western IP encroachment on yoga. Vishwas Kumar Chouhan, *Protection of Traditional Knowledge in India by Patent: Legal Aspect*, 3 J HUMAN. & SOC. SCI. 35, 35 (2012); *India Creates Database of 1,500 Yoga Poses to Thwart Western Patent Claims*, RT (Aug. 10, 2015, 2:00 PM), <https://www.rt.com/news/312015-india-yoga-asanas-patent/>.

6. There are many theories of the public domain, but essentially the public domain is “where” all freely available creative work “lives” when that work is not exclusive to any owner, or free of all IP claims. See Jessica Litman, *The Public Domain*, 39 EMORY L.J. 965, 968 (1990). The U.S. Copyright Office provides this definition of the public domain: “A work of authorship is in the ‘public domain’ if it is no longer under copyright protection or if it failed to meet the requirements for copyright protection. Works in the public domain may be used freely without the permission of the former copyright owner.” *Copyright: Definitions*, LIBR. CONG., <https://www.copyright.gov/help/faq-definitions.html>, (last visited June 21, 2022).

7. For some formative scholarship on critical race theory and stories see Derrick Bell, *Foreword: The Civil Rights Chronicles*, 99 HARV. L. REV. 4 (1985); DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL* (1992); Derrick Bell, *Racial Equality: Progressives’ Passion for the Unattainable*, 94 VA. L. REV. 495 (2008); Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination*, 85 CALIF. L. REV. 1395 (1997); Robert S. Chang & Neil Gotanda, *The Race Question in LatCrit Theory and Asian American Jurisprudence*, 7 NEV. L.J. 1012 (2007); Kimberlé W. Crenshaw, *Foreword: Toward a Race-Conscious Pedagogy in Legal Education*, 11 UCLA NAT’L BLACK L.J. 1 (1988); KIMBERLÉ W. CRENSHAW, NEIL GOTANDA, GARY PELLER, & KENDALL THOMAS, *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* (1995); Neil Gotanda, *A Critique of “Our Constitution is Color-Blind”*, 44 STAN. L. REV. 1 (1991); Ian F. Hané López, *Race, Ethnicity, Erasure: The Saliency of Race to LatCrit Theory*, 85 CALIF. L. REV. 1143 (1997); Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990); Cheryl I. Harris, *Critical Race Studies: An Introduction*, 49 UCLA L. REV. 1215 (2002).

sites.⁸ I launched the first public discussions of yoga and cultural appropriation in a nationwide panel project called SAAPYA (South Asian American Perspectives on Yoga). As I moderated panels at the University of California Berkeley's Race and Yoga Conference, and keynoted the conference, I formulated a core question: Is yoga considered more American than I am? If so, how did this happen? I began my investigation by tracing the transformation of yoga into U.S. IP titles, which are, by definition, private and exclusionary.

This Article draws on quantitative data to find an exponential rise in the propertization of yoga under copyright law. Based on this finding, I ask: What do the stories of yoga as property tell us about property and IP? Complex narratives emerge from my discovery of a long arc of propertization of yoga under copyright law. I gathered a data set of over 7,500 yoga copyright titles culled from archival research in the United States Copyright Records Room in the Library of Congress. The data set shows a 14,000% increase in yoga copyrights from 1937 to 2015. Total growth overall in American copyright titles during the same time period hovered just under 300%—a disparity that highlights how extreme the rise in yoga as property has truly been. The propertization of yoga under copyright law continues at a soaring rate.

This Article intends to raise questions about the implications of the story of yoga as American property and does not engage a prescriptive, doctrinal-reform approach. Instead, this law and culture study is framed around the question: What stories does a map of legal ownership and exclusion in American yoga tell us through ongoing debates in property law and IP at the intersections of traditional knowledge, indigeneity, and race? One such story reveals a throughline of tensions around belonging.⁹ Yoga, a form of age-old traditional knowledge chronicled in the Global South, is categorized under IP law as orphaned in the public domain—a *terra nullius* cultural property without inhabitants, history, or ties that bind knowledge to creators. Yoga is deemed freely available to extract and domesticate into profitable private property.¹⁰ Ironically, in this story, yoga was readily domesticated into American property for decades while Indians were legally banned from U.S. territory and denied access to citizenship.¹¹ Ultimately, this Article raises questions about the implications of

8. Edward Said's framework of the "Other" reveals a binary of strange ("Oriental," "them") and familiar (whiteness, West, European, the "norm," and "us"). Said argues this binary is used at every scale to funnel power to a minority over the global majority. Edward W. Said, *Orientalism Reconsidered*, RACE & CLASS, 1985, at 2–15.

9. Roopa Bala Singh, *Yoga's Entry Into American Popular Music is Racialized (1941-1967): A Critical Yoga Studies Analysis of Race, Othering, and "Belonging,"* 1 RESONANCE: THE J. OF SOUND & CULTURE 132, 132–62 (2020).

10. Roopa Singh, *How Yoga Became "White": Yoga Mobilities, Race, and the U.S. Settler Nation (1937-2018)*, 36–37 (2019) (Ph.D. dissertation, Arizona State University) (ProQuest).

11. See K. TSIANINA LOMAWAIMA & TERESA L. MCCARTY, *TO REMAIN AN INDIAN: LESSONS IN DEMOCRACY FROM A CENTURY OF NATIVE AMERICAN EDUCATION* 6–7 (James A Banks ed., 2006) (using the "Safety Zone Theory" as a framework to explain why "the Indian" and certain cultural

this story of (not) belonging and other stories raised by examining yoga as property.

This Article begins with a discussion of the legal scholarship my study contributes to. I then provide background into what yoga is and is not. I clarify that yoga is a site of complex international circuits of politics, property, money, and culture in India, and in the world. I then present the yoga copyright map, share about data gathering, and highlight a sample of stories based on this map.¹² Finally, I center four stories derived from the yoga copyright map and discuss what these new narratives add to our understanding of the meeting point between IP, yoga, race, and traditional knowledge. Ultimately, these yoga copyright narratives reveal that IP's race and power dimensions are designed for expropriation.

I. YOGA IN THE CONTEXT OF PROPERTY LAW AND IP

U.S. property law is bound to race and occupation in that property law has justified all forms of ownership of people, animals, and land to nation build.¹³ Under settler colonial law, anything and everything is property.¹⁴ Real property engulfs tangible land and items, while IP converges upon intangible goods—such as yoga, culture, and traditional

markers of “Indianness” swing from belonging and safely domesticated to criminalized as unsafe and having no place of belonging under settler colonialism—specifically in reference to “Indian boarding schools” and attendant tensions between state and federal processes of domestication and subordination of Indigenous peoples under the auspices of education); IAN HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 29–31 (Richard Delgado & Jean Stefancic eds., 10th Anniversary ed. 2006) (noting the legal constructions of whiteness and of “Indians” belonging to the racial category of white for the purposes of citizenship were always in flux and remain in constant contention).

12. I use the terms “map” and “mapping” in the context of critical geography and a subfield of critical geography, mobilities studies. I create a map of propertization in yoga through U.S. law, by tracing a new cartography of where yoga is, how it is moving, and why. I aim for the map to be of assistance to those navigating the relatively uncharted scholarly territory of yoga and the law, which is related to studies of law and traditional knowledge. Critical geography “maps” the relationship of power to people, processes, and space. The interdisciplinary study of mobilities grew out of critical geography, and traces systems of power through looking at people, processes, movements and stillness. Kevin Hannam, Mimi Sheller, & John Urry, *Editorial: Mobilities, Immobilities and Moorings*, 1 *MOBILITIES* 1, 2 (2006). My map reveals, for the first time, a lengthy, active accumulation of privatized yoga in America. I chart the mobility of yoga from India and the Global South, where it lived in the public domain, which serves a nation-building function, by adding to the coffers of the settler colonial nation state. As I create critical yoga theory, I add to emerging scholarship that connects law, race, and critical geography; and mobilities studies to indigenous studies. Patricia L. Price, *At the Crossroads: Critical Race Theory and Critical Geographies of Race*, 34 *PROGRESS IN HUM. GEOGRAPHY* 147, 149 (2010).

13. See generally Gordon Christie, *Indigenous Legal Theory: Some Initial Considerations, in INDIGENOUS PEOPLE AND THE LAW: COMPARATIVE AND CRITICAL PROSPECTIVES*, 195, 216, 222 (Benjamin J. Richardson, Shin Imai, Kent McNeil, eds., 2009); *Objects, Subjects, and Types of Possessory Interests in Property*, BRITANNICA, <https://britannica.com/topic/property-law/Objects-subjects-and-types-of-possessory-interests-in-property> (last visited May 6, 2022).

14. AILEEN MORETON-ROBINSON, *THE WHITE POSSESSIVE: PROPERTY, POWER, AND INDIGENOUS SOVEREIGNTY* 49–50 (2015); Jessica A. Shoemaker, *Transforming Property: Reclaiming Indigenous Land Tenures*, 107 *CALIF. L. REV.* 1531, 1540–44 (2019).

knowledge.¹⁵ IP itself is propertized, or made into property, over time.¹⁶ Yoga as property is a new analysis, which builds upon established conversations on race as property.¹⁷ This Article joins emergent scholarship on race and IP, with a focus on race and copyright law.¹⁸

A. Property Law

Traditionally, considerations of property law have focused on the establishment and evolution of the four classic incidents of property ownership: possession, use, alienation, and exclusion.¹⁹ Some property scholars have argued for the addition of a stewardship stick²⁰ to the bundle of property rights as a means to address tensions between individualism and social interests in real property.²¹ Other legal scholars seek to expand traditional notions of property by contending that “sharing” is not anathema to American property law, but is in fact embedded in it.²² Progressive property scholars also challenge traditional property scholarship and specifically decenter exclusion to center social relations in the core definition of property, which, they argue, consists primarily of relationships among persons with respect to valued resources.²³ As of this writing, emerging legal

15. Julie E. Cohen, *What Kind of Property is Intellectual Property?*, 52 HOUS. L. REV. 691, 692 (2014); Mark A. Lemley, *What's Different About Intellectual Property?*, 83 TEX. L. REV. 1097, 1099–1100 (2005); Lawrence Lessig, *Intellectual Property and Code*, 11 ST. JOHN'S J. LEGAL COMMENT., 635, 638 (1996); Claire Priest, *Creating an American Property Law: Alienability and its Limits in American History*, 120 HARV. L. REV. 385, 404 (2006); JEREMY WALDRON, *THE RIGHT TO PRIVATE PROPERTY* 38–42 (1988) (noting various kinds of property regimes).

16. Michael A. Carrier, *Cabining Intellectual Property Through a Property Paradigm*, 54 DUKE L.J. 1, 6–7 (2004).

17. Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1716 (1993); MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* 76 (3d ed. 2015); GEORGE LIPSITZ, *THE POSSESSIVE INVESTMENT IN WHITENESS: FROM IDENTITY POLITICS 2* (2006).

18. Anjali Vats & Deidre A. Keller, *Critical Race IP*, 36 CARDOZO ARTS & ENT. L.J. 735, 737–38 (2018) (arguing towards a Critical Race Theory of IP and drawing upon scholarship arising from the first Race + IP conference at Boston College in 2017); K.J. Greene, *Copyright, Culture & Black Music: A Legacy of Unequal Protection*, 21 HASTINGS COMM'N. & ENT. L.J. 339, 340–41, 358–59 (1999); Keith Aoki, *Balancing Act: Reflections on Justice O'Connor's Intellectual Property Jurisprudence*, 44 HOUS. L. REV. 965, 975 (2007).

19. D. BENJAMIN BARROS, ANNA P. HEMINGWAY, & SHELLEY CAVALIERI, *PROPERTY LAW 1* (2nd ed. 2020); see ALAN BRUDNER, *THE UNITY OF THE COMMON LAW: STUDIES IN HEGELIAN JURISPRUDENCE* 41, 46, 50, 54, 57 (1995).

20. James P. Karp, *A Private Property Duty of Stewardship: Changing Our Land Ethic*, 23 ENV'T. L. 735, 748 (1993).

21. See RICHARD R. POWELL, *POWELL ON REAL PROPERTY* §745, 494–96 (Matthew Bender and Co., Inc., 1970); William N. R. Lucy & Catherine Mitchell, *Replacing Private Property: The Case for Stewardship*, 55 CAMBRIDGE L.J. 566, 582 (1996).

22. Rashmi Dyal-Chand, *Sharing the Cathedral*, 46 CONN. L. REV. 647, 649, 654 (2013) (arguing that “sharing” is a core feature of American property law and that this sharing aspect of property can be explored and expanded).

23. See Gregory S. Alexander, Eduardo M. Peñalver, Joseph William Singer, & Laura S. Underkuffler, *A Statement of Progressive Property*, 94 CORNELL L. REV. 743, 743–44 (2009) (establishing fundamentals of the progressive property movement as specifically moving beyond exclusion and access to center social relations and the relation owners have to property and one another); Brandon M. Weiss, *Progressive Property Theory and Housing Justice Campaigns*, 10 U.C. IRVINE L. REV. 251, 257–59 (2019); Ezra Rosser, *The Ambition and Transformative Potential of Progressive Property*, 101 CALIF. L. REV. 107, 109 (2013) (arguing progressive property movement must move beyond considerations of exclusion and social relations to include examinations of race-related acquisition and distribution issues plaguing American property).

scholarship on real property and race focuses on the intersection between land and labor.²⁴ The emergent real property and race literature builds upon established scholarship, which draws a throughline between race and intangible property.²⁵

1. Whiteness as Property

The formulation of “whiteness as property” aided understandings of race as property.²⁶ This seminal legal theory finds property law to be the spine of a legal system of racial subordination.²⁷ Under U.S. property law, and settler colonial property law in general, Indigenous and Black bodies were reduced to parcels of private property, inventory used for labor, and chattel traded as property in slave markets.²⁸ This use is not only a part of history. Humans and life as property continue to fuel ongoing racial categorizations and hierarchies, which may or should be trespassed upon.²⁹ Indigenous scholars add to “whiteness as property” with the “white possessive,” which invokes property to explain the ongoing accumulation of power by whiteness³⁰—a racial category introduced alongside colonization, globally used to organize and control humanity through violently and systemically enforced false hierarchies, nationalisms, and social constructs—to maintain racial constructions and settler colonial dominance.³¹

B. IP Law

The three federal categories of IP protections include copyrights, patents, and trademark law. Copyright law provides a mechanism through

24. See K-Sue Park, *Money, Mortgages, and the Conquest of America*, 41 L. & SOC. INQUIRY 1006, 1009 (2016); JOSEPH WILLIAM SINGER & BETHANY R. BERGER, *PROPERTY LAW: RULES POLICIES AND PRACTICES* (2014); Bethany R. Berger, *It's Not About the Fox: The Untold History of Pierson v. Post*, 55 DUKE L.J. 1089, 1099, 1118 (2006); Brenna Bhandar, *Title by Registration: Instituting Modern Property Law and Creating Racial Value in the Settler Colony*, 42 J. L. & SOC'Y 253, 256 (2015); BRENNA BHANDAR, *COLONIAL LIVES OF PROPERTY: LAW, LAND, AND RACIAL REGIMES OF OWNERSHIP 2* (2018).

25. Cheryl I. Harris, *Finding Sojourner's Truth: Race, Gender, and the Institution of Property*, 18 CARDOZO L. REV. 309, 312 (1996). At base, real property has to do with land and intangible property has to do with things. Harris, *supra* note 17, at 1721, 1724–25.

26. Cheryl I. Harris, *Reflections on Whiteness as Property*, 134 HARV. L. REV. F. 1, 1, 8 (2020).

27. Harris, *supra* note 17, at 1713–14.

28. *Id.* at 1718.

29. See Charles R. Lawrence III, *Passing and Trespassing in the Academy: On Whiteness as Property and Racial Performance as Political Speech*, 31 HARV. J. RACIAL & ETHNIC JUST. 7, 8 (2015).

30. See RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL WHITE STUDIES: LOOKING BEHIND THE MIRROR* 46 (1997); IAN HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE 7–8* (Richard Delgado & Jean Stefancic, 1st ed. 2006); Stephanie M. Wildman, *The Persistence of White Privilege*, 18 WASH. U. J.L. & POL'Y 245, 245–46 (2005).

31. See MORETON-ROBINSON, *supra* note 14, at 9–13; LISA FORD, *SETTLER SOVEREIGNTY: JURISDICTION AND INDIGENOUS PEOPLE IN AMERICA AND AUSTRALIA, 1788–1836* 4, 11–12, 183 (2010); Cynthia G. Franklin, Njoroge Njoroge, & Suzanna Reiss, *Tracing the Settler's Tools: A Forum on Patrick Wolfe's Life and Legacy*, 69 AM. Q. 235, 239 (2017); Robin D.G. Kelley, *The Rest of Us: Rethinking Settler and Native*, 69 AM. Q. 267, 267–68 (2017); Patrick Wolfe, *Land, Labor, and Difference: Elementary Structures of Race*, 106 THE AM. HIST. REV. 866, 867 (2001); Patrick Wolfe, *Settler Colonialism and the Elimination of the Native*, 8 J. OF GENOCIDE RSCH. 387, 388 (2006).

which authors can protect their creative works.³² Trademark law governs the use of a device such as a logo or a business name to protect a business identity or brand from infringement or consumer confusion.³³ Patent law creates exclusive rights in new inventions and innovations.³⁴ This Article focuses on copyright law. According to the legal standard, a creator is entitled to a copyright in an original work of authorship tangibly fixed in the realm of expression.³⁵ Through copyright law, a creator may protect a specific, fixed, creative work.³⁶ Copyright protection extends to the expression of an idea but not the idea itself.³⁷ The simple process of registering a copyright interest in a creative work includes completing an application, paying a fee, and depositing a copy (physically or digitally) in the United States Copyright Office.³⁸

1. Critical IP and Race

Copyright law in yoga, while ostensibly neutral, acts as a “powerful tool for the regulation, control, and manipulation of meaning.”³⁹ Critical IP scholars assert that copyright regimes are contradictory and used in various ways by people with many different relationships to power. For example, Indigenous populations worldwide grapple with oppressive intellectual property regimes through engaging in IP law on colonial terms.⁴⁰

32. U.S. CONST. art. I, § 8, cl. 8 (providing Congress the power to promote the progress of arts and science through awarding artists exclusive property rights to artistic works and discoveries, for a limited time).

33. See William M. Landes & Richard A. Posner, *Trademark Law: An Economic Perspective*, 30 J. L. & ECON. 265, 268, 300–01 (1987) (explaining that trademark regulations impose requirements on new marks to prevent confusion with and infringement of existing marks).

34. *Innovation and Intellectual Property*, WORLD INTEL. PROP. ORG., https://www.wipo.int/ip-outreach/en/ipday/2017/innovation_and_intellectual_property.html (last visited May 7, 2022).

35. Gregory S. Donat, *Fixing Fixation: A Copyright with Teeth for Improvisational Performers*, 97 COLUM. L. REV. 1363, 1363, 1368 (1997).

36. 17 U.S.C. § 102. Categories of copyrights include: literary works; musical works including accompanying words; dramatic works and accompanying music; choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works. *Id.*

37. *Id.* (“In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.”).

38. *Registering a Work*, UNITED STATES COPYRIGHT OFFICE, <https://www.copyright.gov/help/faq/faq-register.html> (last visited May 7, 2022).

39. Borrowed from Singh, *supra* note 10, at 27 (quoting John Tehranian, *Towards a Critical IP Theory: Copyright, Consecration, and Control*, 2012 BYU L. REV. 1233, 1233 (2012)).

40. Adapted from Singh, *supra* note 10, at 27; Kristen A. Carpenter, *A Property Rights Approach to Sacred Sites Cases: Asserting a Place for Indians as Nonowners*, 52 UCLA L. REV. 1061, 1065–66, 1091 (2005) (arguing for a balance of property rights between “Indian” Nations as nonowners and the federal government as the undisputed owner of federal lands); Trevor Reed, *Itaataatawi: Hopi Song, Intellectual Property, and Sonic Sovereignty in an Era of Settler-Colonialism* (2018) (Ph.D. dissertation, Columbia University) (on file with Academic Commons, Columbia University) (explaining the tension between copyright law and copyright protection of sound recordings made on tribal land); Rebecca Tsosie, *Indigenous Peoples’ Claims to Cultural Property: A Legal Perspective*, 21 MUSEUM ANTHROPOLOGY 5, 5 (1997) (examining property law and Indigenous peoples’ claims to cultural property); Anjali Vats, *Marking Disidentification: Race, Corporeality, and Resistance in Trademark Law*, 81 S. COMM’N J. 237, 237–38 (2016); ANJALI VATS, *THE COLOR OF CREATORSHIP: INTELLECTUAL PROPERTY, RACE, AND THE MAKING OF AMERICANS 2* (2020).

Critical, and even skeptical, engagements with IP law by scholars such as Pamela Samuelson, Madhavi Sunder, and Lawrence Lessig have interrogated social and political relations reverberating in and around the propertization of knowledge, culture, and creation.⁴¹ IP scholarship traditionally did not focus on race, gender, or other channels of systemic oppression. Kevin J. Greene, a founder in the study of race and IP law,⁴² argues that “[t]he long omission of an analysis of race in the IP context is glaring given the tremendous innovative contributions of [B]lack authors and inventors”⁴³ Increasingly, however, treatments of IP within legal scholarship do explore critiques and analyses of systemic asymmetries of power such as race, gender, and ongoing colonial tensions.⁴⁴

In this study, I provide the first comprehensive map of yoga copyrights and initiate the “yoga as property” framework. As of this writing, there is one other critical study of yoga, copyright law, and ownership, which focuses on the Bikram cases.⁴⁵ When I began writing about yoga as property,⁴⁶ I saw that it would be strategic to ground my analyses in empirical data and legal history. My vision of a legal history of yoga copyrights led me to conduct extensive archival research in the United States Copyright Records Room for all historic records dated prior to 1978—an essential step in the process to create this compelling, historic map. Like the yoga copyrights study that anchors this Article, there is existing and emerging legal scholarship that addresses the debate on whether copyright law displaces creativity and belonging where it intersects with traditional knowledge, indigeneity, and race.⁴⁷

41. MADHAVI SUNDER, FROM GOODS TO A GOOD LIFE: INTELLECTUAL PROPERTY AND GLOBAL JUSTICE 2–3 (2012); Madhavi Sunder, *Intellectual Property and Identity Politics: Playing with Fire*, 4 J. GENDER, RACE & JUST. 69, 70 (2000); see Madhavi Sunder, *IP³*, 59 STAN. L. REV. 257, 263 (2006); LAWRENCE LESSIG, THE FUTURE OF IDEAS: THE FATE OF THE COMMONS IN A CONNECTED WORLD 14 (2001); Pamela Samuelson, *Enriching Discourse on Public Domains*, 55 DUKE L.J. 783, 784 (2006) (explaining why recognition of multiple public domains is essential to preserving the social values served by such domains).

42. Greene, *supra* note 18, at 340.

43. K.J. Greene, *Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues*, 16 J. GENDER, SOC. POL’Y & L. 365, 370 (2008).

44. Vats & Keller, *supra* note 18, at 737–38 (arguing towards a Critical Race Theory of IP and drawing upon scholarship arising from the first Race + IP conference at Boston College in 2017); K.J. Greene, *What the Treatment of Black Artists Can Teach About Copyright Law*, in, 1 INTELLECTUAL PROPERTY AND INFORMATION WEALTH: ISSUES AND PRACTICES IN THE DIGITAL AGE 385, 386 (PETER K. YU ed., 1st ed. 2007); Aoki, *supra* note 18, at 968–69, 973; Rashmi Dyal-Chand, *Pragmatism and Postcolonialism: Protecting Non-Owners in Property Law*, 63 AM. UNIV. L. REV. 1683, 1687–88 (2014) (arguing the rights of nonowners are confoundingly vague).

45. See generally Anjali Vats, *(Dis)owning Bikram: Decolonizing Vernacular and Dewesternizing Restructuring in the Yoga Wars*, 13 COMMC’N & CRITICAL/CULTURAL STUD. 325, 325–45 (2016). Yoga guru and entrepreneur Bikram Choudhury is the man behind the “hot yoga” phenomenon. His “hot yoga” model was copied by many—in his attempts to protect his business model, Choudhury initiated several copyright lawsuits, which I refer to here as the “Bikram cases.”

46. Roopa Kaushik-Brown, *Towards Yoga as Property*, in YOGA, THE BODY, AND EMBODIED SOCIAL CHANGE 67 (Beth Berila, Melanie Klein, & Chelsea Jackson Roberts eds., 2016).

47. VATS, *supra* note 40; LAURA A. FOSTER, REINVENTING HOODIA: PEOPLES, PLANTS, AND PATENTS IN SOUTH AFRICA 3–6 (2017) (exploring a South African case study as representative of one of the first instances of collectively owning and distributing patent rights, here a plant was shared

II. MAPPING A CENTURY OF YOGA COPYRIGHTS

I designed this study to analyze as many yoga copyrights as possible within the limitations of the archive and database.⁴⁸ I began my search for yoga-related copyrights in the card catalogues at the Copyright Public Records Reading Room located in the Library of Congress.⁴⁹ This physical archive of over thirty-five million copyright certificates is the only source of documentation of pre-1978 copyright claims.⁵⁰ I began by searching under “Y” for any yoga-titled claims, starting with the earliest certificates in 1870. I worked my way up through the years as held in physical card catalogues until I found the first “yoga” titled copyright in 1937, and then continued to explore all years in this fashion until 1978, at which point I turned to the online database, Copyright Public Records Portal.⁵¹

I draw upon archival and contemporary copyright data to create a comprehensive map of yoga copyrights from 1937 through 2015 and to map the total number of all copyright claims during the same period.⁵² Within this period, I grouped seven representative decades: 1937–1947; 1948–1958; 1959–1969; 1970–1980; 1981–1991; 1992–2002; and 2005–2015.⁵³ I found that a decade time span enables smooth interpretation of macro-level shifts in the propertization of yoga via yoga copyright claims. I grouped the decades this way for organization and interpretation of data from the very first yoga copyright found, up to the most recent copyright. The graphs presented below show a steep rise in yoga copyrights over the years. The approximately 14,000% increase in yoga copyrights is disproportionately high compared to the overall 300% increase of

between patent holders and Indigenous populations—in this case CSIR scientists agreed to share patented benefits of a plant with Indigenous peoples and Hoodia growers who had been tending the plant for generations prior to the propertization of it); Azita Mirzaian, *The Utility of Prettiness: Copyright Protection for Mardi Gras Indian Suits in the Era of the Useful Article Analysis*, 59 J. COPYRIGHT SOC'Y USA 747, 748–49 (2012) (examining Mardi Gras Indian tribe efforts to situate their “useful articles” as appropriate for copyright protection as a means to protect their elaborate celebratory suits from unauthorized commercial exploitation); ANTHEA KRAUT, CHOREOGRAPHING COPYRIGHT: RACE, GENDER, AND INTELLECTUAL PROPERTY RIGHTS IN AMERICAN DANCE 1–6 (2015); Miriam Latorre Quinn, *Protection for Indigenous Knowledge: An International Law Analysis*, 14 ST. THOMAS L. REV. 287, 313 (2001); William Fisher, *Why is Traditional Knowledge Different from All Other Intellectual Property?*, 58 WASHBURN L.J. 365, 365, 367 (2019) (identifying ways traditional knowledge is disadvantaged under the law, using a case study of Kaqchikel Mayan weavers who aim to protect their creations in textiles, which are central to their culture, sovereignty, and personhood).

48. Adapted from Singh, *supra* note 10, at 31.

49. Adapted from Singh, *supra* note 10, at 31.

50. See *Copyright Public Records Reading Room*, U.S. COPYRIGHT OFF., <https://www.copyright.gov/rrc/crr.html> (last visited May 7, 2022) (stating in a note on “Using the Collection,” that “copyright registrations and renewals covering the period 1870 through 1977 are accessible through a physical card catalog housed in the Copyright Office and also through a virtual set of volumes titled the ‘Catalog of Copyright Entries’ (CCEs), which cover 1891 to 1977. Records from 1955 through 1977 also can be viewed online through the Virtual Card Catalog Proof of Concept.”).

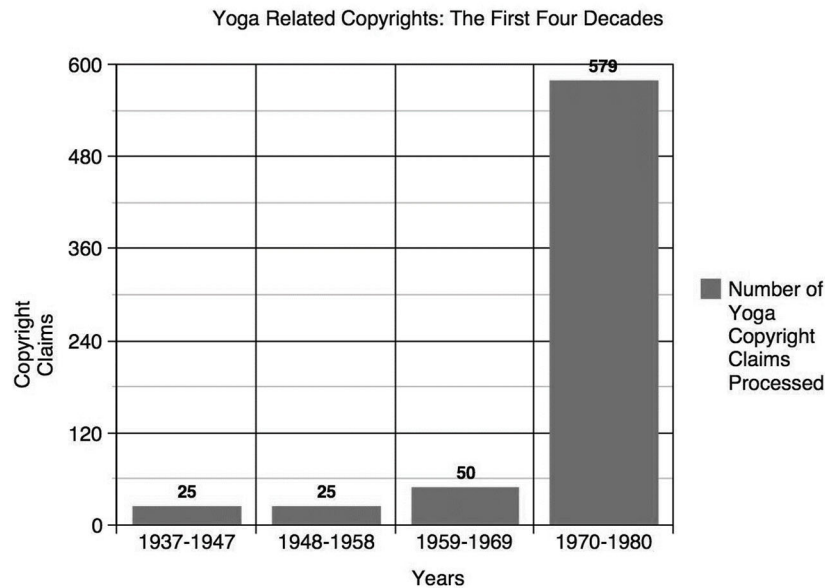
51. See *Public Catalog*, U.S. COPYRIGHT OFF., <https://www.copyright.gov/public-records/> (last visited May 7, 2022).

52. Adapted from Singh, *supra* note 10, at 28.

53. Adapted from Singh, *supra* note 10, at 28.

U.S. copyright claims over the same period.⁵⁴ Separately, I conducted a search from 2016 to 2021 for yoga-related copyright claims, which confirmed, at the time of this writing, a steady pace of at least three hundred yoga copyright claims a year.⁵⁵ These numbers indicate sustained momentum in copyright-based propertization of yoga over nearly a century.

FIGURE 1. *Yoga Related Copyrights: The First Four Decades*⁵⁶

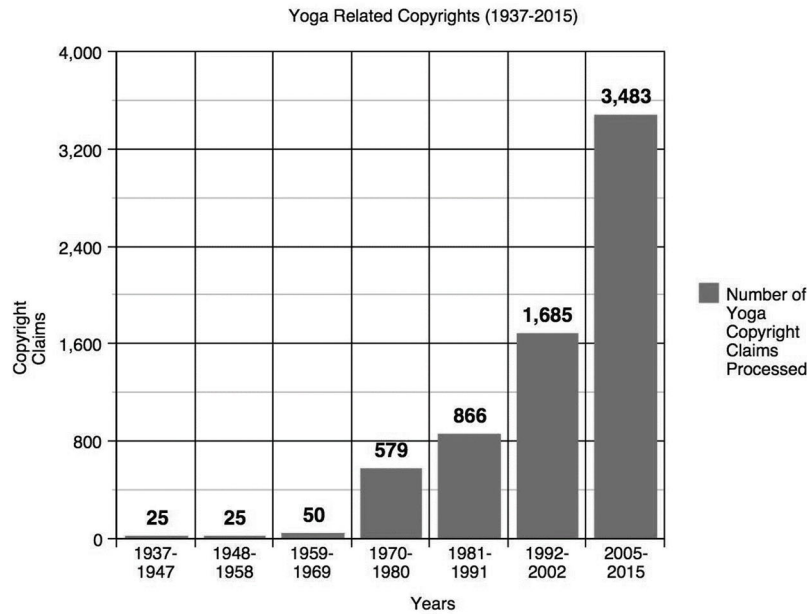


U.S. Copyright Office, Public Records Reading Room, Library of Congress

54. See generally *Copyright Public Records Reading Room*, *supra* note 50; *Card Catalog*, U.S. COPYRIGHT OFF., <https://vcc.copyright.gov/browse> (last updated May 7, 2022); *Public Catalog*, *supra* note 51.

55. See *Public Catalog*, *supra* note 51.

56. Borrowed from Singh, *supra* note 10, at 30; see *Copyright Public Records Reading Room*, *supra* note 50; *Card Catalog*, *supra* note 54; *Public Catalog*, *supra* note 51.

FIGURE 2. *Yoga Related Copyrights (1937-2015)*⁵⁷

I charted a steady flow between the first two decades of yoga claims (twenty-five in 1937–47; twenty-five in 1948–58).⁵⁸ Then, between the second and third decade, the number of yoga claims doubled (fifty in 1959–69).⁵⁹ Next, between the third and fourth decade the number of yoga claims increased over tenfold (579 in 1970–1980).⁶⁰ Moving forward, yoga copyright claims essentially doubled every decade that followed (866 in 1981–1991; 1,685 in 1992–2002; and 3,483 in 2005–2015).⁶¹ From the first decade to the last, the number of yoga copyrights rose by 13,932%.⁶² Comparatively, from the first decade to the last, there was only a 273% rise overall in the growth of all copyrights.⁶³ The growth of total copyright claims was quite steady; with an average increase of 120% every decade.⁶⁴ The average growth of yoga copyright claims hovered over 200% every decade.⁶⁵ A 2021 search for yoga copyright claims confirmed a steady

57. Borrowed from Singh, *supra* note 10, at 31; see *Copyright Public Records Reading Room, supra* note 50; *Card Catalog, supra* note 54; *Public Catalog, supra* note 51.

58. Adapted from Singh, *supra* note 10, at 32.

59. Adapted from Singh, *supra* note 10, at 32.

60. Adapted from Singh, *supra* note 10, at 32.

61. Adapted from Singh, *supra* note 10, at 32. To reach this calculation, I used the number of yoga copyrights in each decade and compared these to reach the percentage. So, the percentage difference between 25 and 3,483 is nearly 14,000%, or 13,932%. All calculations were made based on the total number of copyrights per decade, unless otherwise indicated.

62. Borrowed from Singh, *supra* note 10, at 32; see *Copyright Public Records Reading Room, supra* note 50; *Card Catalog, supra* note 54; *Public Catalog, supra* note 51.

63. Adapted from Singh, *supra* note 10, at 28; see *Copyright Public Records Reading Room, supra* note 50; *Card Catalog, supra* note 54; *Public Catalog, supra* note 51.

64. Adapted from Singh, *supra* note 10, at 32–33.

65. Adapted from Singh, *supra* note 10, at 33.

pace of over three hundred such claims a year.⁶⁶ These data indicate sustained momentum in copyright-based propertization of yoga over nearly a century.

III. ANALYSIS: USING THE MAP TO NAVIGATE YOGA AS PROPERTY

The dominant question of whether yoga “should” be property obscures the reality that yoga *is* property—primarily accumulated as white and U.S. property. Yoga propertizations are rapidly increasing. In the United States, yoga has been transformed into property since the early twentieth century. A seemingly inexhaustible mining effort to dig into yoga and create valuable, racialized property has been on the rise ever since the first yoga copyright records in 1937.⁶⁷ A clear map of the exponential propertization of yoga through IP surfaces previously hidden, answerable questions with replicable results, such as: is yoga property? Yes. Is yoga owned? Yes. Is yoga generally Indian property? No. What is buried in this disjuncture between legal fact and public discourse? Evident in this data is a hunger for yoga property in the form of yoga copyrights, which has substantially whitened in ownership over time. Yoga property is accumulated through disorienting, exponential categorizations in yoga which operate to render a traditional knowledge into sellable parcels, packages, and products.

What do the stories of yoga and copyright law tell us about property and IP? The relationship between yoga and U.S. IP regimes is complicated. There is more to the story here than incentivizing innovation. A closer investigation of the content of yoga copyrights shows that the point of contact between U.S. IP regimes and yoga contains an arsenal of tools of colonial war, such as: propertization, which consists of severing a living entity (like land, culture, yoga) into exclusionary, sellable parcels of things; categorization, which severs yoga from a geographic home and history; and the rapid transfer of these newly propertized titles to white ownership, thereby continuing to fulfill the thirst for occupation.⁶⁸ The story of occupation through yoga relies on a *terra nullius* designation of yoga as abandoned or empty property, paving the way for a seemingly logical, legal, and long-lasting transition to occupied territory.

A. Yoga Extraction and Private Accumulation Through Law

As yoga becomes more popular, it becomes more private, exclusive, and industrialized. The yoga copyright map traces a steady propertization of yoga through law. The accumulation of yoga as property in the United States parallels a rise in yoga’s popularity.⁶⁹ These yoga-related copyrights

66. *Public Catalog*, *supra* note 51.

67. Koor T. Behanan, *Yoga; A Scientific Evaluation*, A104625 (Apr. 13, 1937).

68. *See* discussion *infra* Section III.A.

69. *The 2016 Yoga in America Study Conducted by Yoga Journal and Yoga Alliance*, IPSOS PUB. AFFS.,

are not only part of history, they are living, exclusionary titles that enclose the yoga space. Every copyright mapped in this Article still grants the original claimant an exclusive right, including the very first one granted in 1937.⁷⁰ Those original yoga copyright claims in 1937 do not return to the public domain—a public pool of traditional knowledge from which every yoga claim was freely mined—until 2032, because copyrights claimed between 1923 and 1977 are protected for ninety-five years from the date of publication.⁷¹ Later, from 1978, copyright claims are protected for the life of the author plus seventy years.⁷² The shelf life of these exclusive property titles in yoga spans lifetimes and generations.

Yoga copyright owners have the right to exclude others from their yoga property for a century or more.⁷³ The more popular a property becomes, the more it is valued in the market and by whiteness, the more likely it will be owned—not neutrally owned (if there is such a thing) but owned according to the logics of racialized settler regimes.⁷⁴ These regimes make property out of and siphon valuable, powerful parts of the living cosmos (such as yoga, traditional knowledge, land) toward white settler possession.⁷⁵ Copyrights in yoga follow a similar trajectory.⁷⁶ The more lucrative yoga property becomes, the more owned—and less public and accessible—it becomes.⁷⁷

Rising yoga copyrights remove more yoga from the public domain, challenging powerful assumptions that globalized yoga is increasingly public and accessible.⁷⁸ In yoga, popular does not equal public.⁷⁹ Images circulate widely of multitudes doing *asana*—physical “yoga” postures—in Times Square and New Delhi on International Yoga Day.⁸⁰ Media

<https://www.yogaalliance.org/Portals/0/2016%20Yoga%20in%20America%20Study%20RESULTS.pdf> (last visited May 7, 2022); Louie Andrey, *47 Compelling Yoga Statistics: 2022 Data on Industry Growth & Effects on Health*, FINANCESONLINE, <https://financesonline.com/yoga-statistics/> (last visited May 7, 2022); Amara Miller, *Yoga R/Evolution: Deconstructing the "Authentic" Yoga Body* (March 2019) (Ph.D. thesis, University of California, Davis) (ProQuest).

70. 17 U.S.C. § 106 (2021).

71. PETER B. HIRTLE, EMILY HUDSON, & ANDREW T. KENYON, *COPYRIGHT & CULTURAL INSTITUTIONS: GUIDELINES FOR DIGITIZATION FOR U.S. LIBRARIES, ARCHIVES, & MUSEUMS* 45, 49–50 (2009).

72. *Id.* at 54; 17 U.S.C. § 302 (1998); 3 MELVILL B. NIMMER & DAVID NIMMER, *NIMMER ON COPYRIGHT: A TREATISE ON THE LAW OF LITERARY, MUSICAL AND ARTISTIC PROPERTY, AND THE PROTECTION OF IDEAS* § 9.10 (Matthew Bender ed., 1978).

73. Borrowed from Singh, *supra* note 10, at 36.

74. Adapted from Singh, *supra* note 10, at 36.

75. LINDA TUHIWAI SMITH, *DECOLONIZING METHODOLOGIES: RESEARCH AND INDIGENOUS PEOPLES* 59–62, 67, 117–18 (2013); ASHIS NANDY, *THE INTIMATE ENEMY: LOSS AND RECOVERY OF SELF UNDER COLONIALISM* 98 (1983).

76. Borrowed from Singh, *supra* note 10, at 36.

77. Borrowed from Singh, *supra* note 10, at 36.

78. Adapted from Singh, *supra* note 10, at 37.

79. Adapted from Singh, *supra* note 10, at 37.

80. Adapted from Singh, *supra* note 10, at 37; see *id.*; Katherine Rosman, *Downtown-Facing Yoga Pose: The Hectic Hub of Times Square Became a Plein-Air Yoga Studio for the Summer Solstice*, N.Y. TIMES (June 22, 2018), <https://www.nytimes.com/2018/06/22/style/yoga-summer-solstice.html>; Meenakshi Ray, *International Yoga Day 2021: From the First to the Seventh Edition*, HINDUSTAN

accounts of skyrocketing profits in commodified yoga boast of a thriving yoga market,⁸¹ which seems to affirm heightening public buy-in to yoga.⁸² In one estimation from 2016, yoga was worth \$30 billion in the United States and \$100 billion worldwide, largely generated through yoga tourism.⁸³ These hefty profits and access to yoga are generally exclusive to few.⁸⁴ About forty million Americans practiced yoga in 2016 and the number nearly doubles every three years.⁸⁵ Despite glossy magazine covers announcing America's constant discovery of yoga and mindfulness, suffering due to environmental and political crises is rising.⁸⁶ Much of this suffering is rooted in the excesses of the United States, and is increasingly borne out in the bodies and lands of people of color, Indigenous people, and the people of the Global South.⁸⁷

Yoga may be more popular and increasingly globalized, but it is not more public or accessible.⁸⁸ Globalization is not a smooth process of upliftment for all.⁸⁹ It is illustrative that the racist violence of the neoliberal market represents globalization's third phase, after the Atlantic slave trade and colonization.⁹⁰ For India, capitulating to globalization narrows its

TIMES (June 21, 2021, 9:53 AM), <https://www.hindustantimes.com/india-news/international-yoga-day-2021-from-the-first-to-the-seventh-edition-101624248743717.html>.

81. Adapted from Singh, *supra* note 10, at 37; Andre, *supra* note 69; *2016 Yoga in America*, *supra* note 69; Jen Wiczner, *Meditation Has Become A Billion Dollar-Business*, FORTUNE (Mar. 12, 2016, 8:00 AM), <https://fortune.com/2016/03/12/meditation-mindfulness-apps/>; Jeremy Lim, *Lululemon Revenues Increase 30% to \$1.5 Billion in Third Quarter*, THE INDUS. FASHION (Dec. 10, 2021), <https://www.theindustry.fashion/lululemon-revenues-increase-30-to-1-5-billion-in-third-quarter/>.

82. Adapted from Singh, *supra* note 10, at 37.

83. See Christina Gough, *U.S. Health Club Industry Revenue 2000-2020*, STATISTA (Sept. 23, 2021), <https://www.statista.com/statistics/236120/us-fitness-center-revenue/>; Christina Gough, *Total Revenue of the Global Health Club Industry*, STATISTA (Sept. 23, 2021), <https://www.statista.com/statistics/275035/global-market-size-of-the-health-club-industry/>.

84. Adapted from Singh, *supra* note 10, at 37.

85. See Arthur Zuckerman, *Significant Yoga Statistics: 2020/2021 Benefits, Facts & Trends*, COMPARECAMP (May 30, 2020), <https://comparecamp.com/yoga-statistics/>.

86. Adapted from Singh, *supra* note 10, at 37; Muse Mohammed, *Number of Migrants Now Growing Faster Than World Population, New UN Figures Show*, U.N. NEWS (Sept. 17, 2019), <https://news.un.org/en/story/2019/09/1046562>; Emma Vickers & Caroline Alexander, *Why Migration Is Bigger and More Contentious than Ever*, BLOOMBERG BUSINESSWEEK (Oct. 3, 2019), <https://www.bloomberg.com/graphics/2019-how-migration-is-changing-our-world/>.

87. Adapted from Singh, *supra* note 10, at 37; Jason Hickel, Dylan Sullivan, & Huzaifa Zoomkawala, *Rich Countries Drained \$152tn From the Global South Since 1960*, ALJAZEERA (May 6, 2021), <https://www.aljazeera.com/opinions/2021/5/6/rich-countries-drained-152tn-from-the-global-south-since-1960>; Dominique Mosbergen, *Here's Why America Is Dumping Its Trash In Poorer Countries*, MOTHER JONES (Mar. 9, 2019), <https://www.motherjones.com/environment/2019/03/heres-why-america-is-dumping-its-trash-in-poorer-countries/>; Laura Parker, *U.S. Generates More Plastic Trash than Any Other Nation, Report Finds*, NAT'L GEOGRAPHIC (Oct. 30, 2020), <https://www.nationalgeographic.com/environment/article/us-plastic-pollution>; Jason Hickel, *Aid in Reverse: How Poor Countries Develop Rich Countries*, THE GUARDIAN (Jan. 14, 2017, 5:00 AM), <https://www.theguardian.com/global-development-professionals-network/2017/jan/14/aid-in-reverse-how-poor-countries-develop-rich-countries>.

88. Borrowed from Singh, *supra* note 10, at 38.

89. Borrowed from Singh, *supra* note 10, at 38; PHENG CHEAH, *INHUMAN CONDITIONS: ON COSMOPOLITANISM AND HUMAN RIGHTS* 46 (2006).

90. Adapted from Singh, *supra* note 10, at 38; SHASHI THAROOR, *INGLORIOUS EMPIRE: WHAT THE BRITISH DID TO INDIA* 79–80 (2017).

choices.⁹¹ Globalization makes property out of practices, and in doing so, compresses both property and practices into things that can be sold, and exclusively owned.⁹² Public spectacles of “yoga,” best seller books and magazines, and wide circulation of iconic images of thousands engaged in simultaneous movement against a backdrop of defining locations of national and regional identity make it seem as though yoga is everywhere.⁹³ However, the more ubiquitous yoga has become, the harder it can be to find and access.⁹⁴ Simultaneous public movement—such as large-scale spectacles of people doing coordinated yoga in public squares—mistranslates yoga.⁹⁵ Yoga focuses on a noticing of breath and allows the breath to guide pace of movements and thoughts,⁹⁶ which means that yoga is not part of a unified group movement.⁹⁷ A synchronized body movement practice indicates a centering of another priority altogether, which may be powerful to witness or experience, but which does not entail the same noticing and service to the breath that yoga does; it is arguably not yoga.⁹⁸ These large-scale spectacles raise other questions such as who is present and who shows up to be surveilled and to move so publicly.⁹⁹

Such public events are not accessible for all; for example, heavily surveilled transgender, Muslim, and Black bodies in the United States will not experience yoga as a safe space by virtue of a massive, coordinated, outdoor event.¹⁰⁰ What do these images of mass yoga events justify?¹⁰¹ In what ways do these spectacles circulate truth discourses as strategies of war?¹⁰² These powerful yoga discourses convey unity at a time of ever-ripening division; they convey public safety at a time of deepening public danger; they indicate public wellness at a time of increasing, sickening abandonment of the populace.¹⁰³ These displays point to a nation that is powerfully at peace, at a time when “extreme,” “violent,” and “chaotic” are also accurate characterizations of America.

B. Yoga Property Is Racial and Relational

Both the overall yoga copyright data set, and the spotlight on yoga songs prove that increased categorization in the first four decades of yoga-related copyrights is accompanied by a whitening. The transition of yoga from Brown hands to white is evident in the geography of where property rights in yoga have accumulated, compared to the Indianness or

91. Borrowed from Singh, *supra* note 10, at 38; NANDY, *supra* note 75, at 73.

92. Adapted from Singh, *supra* note 10, at 38.

93. Adapted from Singh, *supra* note 10, at 38.

94. Adapted from Singh, *supra* note 10, at 37; Kaushik-Brown, *supra* note 46, at 78–79.

95. Adapted from Singh, *supra* note 10, at 37; Rosman, *supra* note 80.

96. Jessica Levine, *The Science of Breathing*, YOGA J. (June 17, 2015), <https://www.yogajournal.com/yoga-101/science-breathing/> (discussing the science of breathing).

97. Adapted from Singh, *supra* note 10, at 38.

98. Adapted from Singh, *supra* note 10, at 38–39.

99. Adapted from Singh, *supra* note 10, at 39.

100. Adapted from Singh, *supra* note 10, at 39.

101. Adapted from Singh, *supra* note 10, at 39.

102. Adapted from Singh, *supra* note 10, at 39.

103. Adapted from Singh, *supra* note 10, at 39.

Brownness of where they originated. For this analysis, it is fruitful to look at the period between the first-found yoga-related copyrights in 1937 up to 1953. I found a total of thirty-five yoga-titled copyrights during this seventeen-year period.¹⁰⁴ Nineteen of these first thirty-five yoga-titled copyrights went to discernibly Indian authors, fifteen of which were copyrights in Yogananda's name.¹⁰⁵

104. Kovoort T. Behanan, *Yoga; A Scientific Evaluation*, A104625 (Apr. 13, 1937); Felix Guyot, *Yoga, The Science of Health*, A106291 (May 17, 1937); Swami Yogananda, *Weekly Praecepta, Step IV. Self-Realization Fellowship*, AA263491 (Mar. 1, 1938); Swami Yogananda, *Weekly Praecepta, Step V. Self-Realization Fellowship*, AA273115 (July 5, 1938); Swami Yogananda, *Super-Advanced Adeptship in the Seven Steps of Self-Realization*, AA279765 (Oct. 6, 1938); Swami Yogananda, *Weekly Praecepta, Step VII*, AA282854 (Nov. 16, 1938); Al Goodhart, *Yogi, Yogi, the Fakir Man*, E unpub209741 (Dec. 15, 1939); Yogi Vithaldas, *The Yoga System of Health*, A int.25563 (Oct. 5, 1939); Al Goodhart, *Yogi-Yogi (the Fakir Man)*, E pub94276 (Apr. 10, 1940); Frank Gilmore King & Wolff Kaufman, *The Yoga Philosopher*; Paramhansa Yogananda, *Cosmic Chants. Spiritualized Songs*, AA288383; Rishi Krishnananda, *Yoga Science of Eating*, AA374211 (June 16, 1941); Jimmy McHugh & Johnny Mercer, *The Yogi Who Lost His Will Power (With Symbols for Guitar)*, E pub93268 (Feb. 17, 1941); Edmond Bordeaux Szekely, *Yoga in the Twentieth Century and the Meaning of Christams*, AA417833 (Dec. 5, 1942); Deva Ram Sri. Sukul, *Yoga and Self Culture. Higher Laws of Spiritual Dynamics Including Outline of Philosophy of Vedas*, A174574 (May 26, 1943); Claude Bragdon, *Yoga for You*, A174509 (July 30, 1943); Paramhansa Yogananda, *The Attributes of Success*, AA471527 (Nov. 21, 1944); Arthur Koestler, *The Yogi and the Commissar and Other Essays*, A inb.28940 (Apr. 30, 1945); Paramhansa Yogananda, *The Cosmic Mother; One Aspect of God*, AA1632 (Dec. 3, 1945); John James Darrigo, *YOGA Relaxation Formula*, C3447; Lucile Josephine Greathouse, *Paramhansa Yogananda*, GP5031; Paramhansa Yogananda, *Explanation and Practice of Recharging Exercises*; Paramhansa Yogananda, *The Master Said*, A70707; Paramhansa Yogananda, *Autobiography of a Yogi*, A9494 (Dec. 12, 1946); Deva Ram Sukul, *Yoga and Self-Culture*, A25738 (Mar. 17, 1948); J.M. Watkins, *The Yoga of the Bhagavat Gita*, AI2740 (Feb. 1, 1949); Paramhansa Yogananda, *Whispers From Eternity, A Book of Answered Prayers*, A38612 (Sept. 14, 1949); Charles Vachot, *Le Yoga de L'art; Conférence Faite à Lyon Pour Les Amis Du Musée Guimet Le [The Yoga of Art; Conference in Lyon for the Friends of the Guimet Museum]*, AF0-4469 (Oct. 29, 1950); James Lee-Richardson, *Yoga for Everyman; How to Have Long Life and Happiness*, AIO-1995 (Dec. 13, 1951); Prana Press, *YOGAS (Journal of the Yoga Research Institute)*, 386225 (Oct. 22, 1952); Paramhansa Yogananda, *The Master Said; A Collection of Paramhansa Yogananda's Sayings and Wise Counsel to Various Disciples*, A70707 (Sept. 1, 1952); Fred Peoppig, *Yoga Oder Meditation, Der Weg Des Abendlandes [Yoga or Meditation, the Way of the Occident]*, AFO-13277 (Nov. 1, 1953); Felix Riemkasten, *Yoga für Sie; Lehrbuch Zur Praktischen Ausübung des Hatha Yoga [Yoga for Her; Textbook for the Practical Practice of Hatha Yoga]*, AFO-11505 (July 4, 1953); Paramhansa Yogananda, *The Science of Religion*, A111492 (Sept. 19, 1953); Paramhansa Yogananda, *Cosmic Chants*, A97574 (Apr. 30, 1953).

105. Kovoort T. Behanan, *Yoga; A Scientific Evaluation*, A104625 (Apr. 13, 1937); Swami Yogananda, *Weekly Praecepta, Step IV. Self-Realization Fellowship*, AA263491 (Mar. 1, 1938); Swami Yogananda, *Weekly Praecepta, Step V. Self-Realization Fellowship*, AA273115 (July 5, 1938); Swami Yogananda, *Super-Advanced Adeptship in the Seven Steps of Self-Realization*, AA279765 (Oct. 6, 1938); Swami Yogananda, *Weekly Praecepta, Step VII*, AA282854 (Nov. 16, 1938); Paramhansa Yogananda, *Cosmic Chants. Spiritualized Songs*, AA288383; Rishi Krishnananda, *Yoga Science of Eating*, AA374211 (June 16, 1941); Deva Ram Sri. Sukul, *Yoga and Self Culture. Higher Laws of Spiritual Dynamics Including Outline of Philosophy of the Vedas*, A174574 (May 26, 1943); Paramhansa Yogananda, *The Attributes of Success*, AA471527 (Nov. 21, 1944); Paramhansa Yogananda, *The Cosmic Mother; One Aspect of God*, AA1632 (Dec. 3, 1945); Paramhansa Yogananda, *Explanation and Practice of Recharging Exercises*; Paramhansa Yogananda, *The Master Said*, A70707; Paramhansa Yogananda, *Autobiography of a Yogi*, A9494 (Dec. 12, 1946); Deva Ram Sukul, *Yoga and Self-Culture; Higher Laws of Spiritual Dynamic Including Outline of Philosophy of the Vedas*, A25738 (Mar. 17, 1948); Paramhansa Yogananda, *Whispers From Eternity, A Book of Answered Prayers*, A38612 (Sept. 14, 1949); Prana Press, *YOGAS (Journal of the Yoga Research Institute)*, 386225 (Oct. 22, 1952); Paramhansa Yogananda, *The Master Said; A Collection of Paramhansa Yogananda's Sayings and Wise Counsel to Various Disciples*, A70707 (Sept. 1, 1952); Paramhansa Yogananda, *The Science of Religion*, A111492 (Sept. 19, 1953); Paramhansa Yogananda, *Cosmic Chants*, A97574 (Apr. 30, 1953).

In the first two decades studied, nearly half of all yoga-titled copyrights went to India and Indians, and in particular, Yogananda.¹⁰⁶ Yogananda was one of few Indian spiritual practitioners who visited and toured America in the early twentieth century.¹⁰⁷ These pre-Indian-independence visits were generally catalyzed by the first Parliament of World's Religions, which took place in 1893 in Chicago.¹⁰⁸ Yogananda is one of the *swamis*, or saints, credited with bringing Indian yoga and meditation practices to America.¹⁰⁹ Names with the root “Yog” were (and still are) common in India. The copyrights found through my search for “Yoga” often resulted in Yogananda’s given name popping up in the archival card catalog.¹¹⁰ In 1935, Yogananda’s Los Angeles based retreat center and group, the Self-Realization Fellowship, was legally incorporated into a nonprofit religious organization.¹¹¹ Shortly thereafter, his staff began to pursue copyright claims in his name for his written materials, talks, and music recordings.¹¹² The earliest American copyright claim in yoga that went to an Indian person was awarded to Swami Yogananda in March 1938.¹¹³ 1953 represents a tipping point in the balance of Indian and white yoga copyright owners, perhaps because Swami Yogananda’s team stopped filing for extensive copyrights over his lectures, meditations, chants, and writings.¹¹⁴ Also, because whiteness encroaches abruptly and with absolute-ness.¹¹⁵

106. Adapted from Singh, *supra* note 10, at 43; see sources cited *supra* note 104.

107. Adapted from Singh, *supra* note 10, at 43; *Centennial of Paramhansa Yogananda's Coming to America, Approaching*, NEWS INDIA TIMES (Sept. 8, 2020), <https://www.newsindiatimes.com/centennial-of-paramhansa-yoganandas-coming-to-america-approaching/>; Deborah Netburn, *If You Practice Yoga, Thank This Man Who Came to the US 100 Years Ago*, DETROIT NEWS (Dec. 1, 2020, 12:05 PM), <https://www.detroitnews.com/story/life/2020/12/01/practice-yoga-thank-man-came-us/115078516>; Richard Rosen, *The Life of Paramahansa Yogananda: The Early Years in America (1920-1928)*, YOGA J. (Aug. 28, 2007), <https://www.yogajournal.com/lifestyle/the-life-of-paramahansa-yogananda-the-early-years-in-america-1920-1928/>.

108. Adapted from Singh, *supra* note 10, at 43–44; *At the 1893 World's Parliament of Religions*, HARV. UNIV. THE PLURALISM PROJECT, https://hwpi.harvard.edu/files/pluralism/files/at_the_1893_worlds_parliament_of_religions_1.pdf (last visited May 8, 2022); *Parliament of Religions*, YOGAPEDIA, <https://www.yogapedia.com/definition/10593/parliament-of-religions> (last visited May 8, 2022).

109. Borrowed from Singh, *supra* note 10, at 44; Holly Hammond, *The Timeline and History of Yoga in America*, YOGA J. (Aug. 29, 2007), <https://www.yogajournal.com/yoga-101/yogas-trip-america/>; Philip R. Deslippe, *The Swami Circuit: Mapping the Terrain of Early American Yoga*, 1 J. OF YOGA STUD. 5, 8–10 (2018).

110. Adapted from Singh, *supra* note 10, at 44; *Yog*, KIDPAW, <https://www.kidpaw.com/names/yog> (last visited May 8, 2022); *Yog*, BABYCENTER, <https://www.babycenter.in/baby-name/25047841/yog> (last visited May 8, 2022).

111. Adapted from Singh, *supra* note 10, at 44; OFF. OF SEC. STATE CAL., ARTICLES OF INCORPORATION OF SELF REALIZATION FELLOWSHIP CHURCH, Corp. No. 162095 (Mar. 29, 1935).

112. Adapted from Singh, *supra* note 10, at 44; see, e.g., Swami Yogananda, *Weekly Praecepta, Step VII*, AA282854 (Nov. 16, 1938) (written material); Paramhansa Yogananda, *Cosmic Chants. Spiritualized Songs*, AA288383 (music); Paramhansa Yogananda, *The Master Said: A Collection of Paramhansa Yogananda's Sayings and Wise Counsel to Various Disciples*, A70707 (Sept. 1, 1952) (talks).

113. Adapted from Singh, *supra* note 10, at 44; Swami Yogananda, *Weekly Praecepta, Step IV. Self-Realization Fellowship*, AA263491 (Mar. 1, 1938).

114. Adapted from Singh, *supra* note 10, at 44.

115. Adapted from Singh, *supra* note 10, at 44.

The first seventeen years of yoga copyrights were essentially half Indian and half white.¹¹⁶ The next thirteen years reveal hardly any Indian copyright owners at all, a trend that continues to the present day.¹¹⁷ Between 1953 and 1967, a few copyrights were filed pseudonymously under Indian names, which is also a continuing trend.¹¹⁸ It was not until 1967 when the next discernibly Indian copyright author appears in the archive; a copyright of a monologue by Maharishi Mahesh Yogi, of the Beatles and Woodstock fame.¹¹⁹ It is clear that white copyright owners in yoga who filed under Indian names understood the value of Indian authenticity in yoga.¹²⁰ Elements of Indianness are claimed and made valuable to whiteness, even while Indians themselves have been ejected from the United States, cannot attain citizenship, and are still enduring British occupation in India.¹²¹ Fascination with things Indian in the yoga world does not coincide with solidarity with India and Indians. The white and American obsession with owning and occupying yoga point to a strange intimacy in which western “yogis” consume Indian traditional knowledge without appreciation for the creators of this knowledge—which is the general pattern of appropriation, as recognized by scholars of colonialism and Hip Hop, alike.¹²²

The first yoga-related U.S. copyrights granted to Indians include: six copyright claims secured in Yogananda’s name, including a 1946 copyright for his seminal text, “Autobiography of a Yogi”; two claims to written works by “British Indian” citizen Deva Ram Sri Sukul (1943, 1947); one claim to “Indian” citizen author Yogi Vithaldas (1939); and another copyright claim to author Rishi Krishnananda (1941).¹²³ Between 1948–1958, five more copyrights go to the works of Yogananda; one goes to Swami Sivananda (1954); one goes to Sri Krishna Prem (1948); one goes to Yogi Vithaldas; and one goes to Yogi Gupta, also known as Swami

116. Adapted from Singh, *supra* note 10, at 44.

117. Borrowed from Singh, *supra* note 10, at 44.

118. Borrowed from Singh, *supra* note 10, at 44; Swami Sivananda, *Yoga im Täglichen Leben [Yoga in Daily Life]*, AFO-15034 (Aug. 3, 1954); Yogi Gupta, *Yoga and Long Life*, A350179 (Aug. 13, 1958); Michael Volodchenko, *Yoga Over Forty*, AF23527 (May 18, 1965); Alfred Schmielewski, *Yoga, A Detailed 12 Month Course*, AFO-50113 (Feb. 23, 1967); James Donald Walters, *Yoga Postures for Self-Awareness*, A929312 (Mar. 7, 1967).

119. Adapted from Singh, *supra* note 10, at 44; Maharishi Mahesh Yogi, *My Lord, My Love, God*, C20370 (Nov. 13, 1967).

120. Borrowed from Singh, *supra* note 10, at 44.

121. Adapted from Singh, *supra* note 10, at 44; see sources cited *supra* note 11.

122. Adapted from Singh, *supra* note 10, at 44–45; see generally TRICIA ROSE, THE HIP HOP WARS: WHAT WE TALK ABOUT WHEN WE TALK ABOUT HIP HOP--AND WHY IT MATTERS 99 (2008); Prachi Patankar, *Ghosts of Yogas Past and Present*, BETA (Feb. 26, 2014), <https://www.jadaliiya.com/Details/30281>.

123. Adapted from Singh, *supra* note 10, at 45; Paramhansa Yogananda, *Autobiography of a Yogi*, A9494 (Dec. 12, 1946); Deva Ram Sri Sukul, *Yoga and Self Culture. Higher Laws of Spiritual Dynamics Including Outline of Philosophy of Vedas*, A174574 (May 26, 1943); Deva Ram Sukul, *Yoga and Self-Culture; Higher Laws of Spiritual Dynamics Including Outline of Philosophy of the Vedas, and the Six Systems of Hindu Philosophy*, A25738 (Mar. 17, 1948); Yogi Vithaldas, *The Yoga System of Health*, A int.25563 (Oct. 5, 1939); Rishi Krishnananda, *Yoga Science of Eating*, AA3742112 (June 16, 1941).

Kailashananda (1958).¹²⁴ There is some evidence that these last two authors filed copyrights under Indian pseudonyms, such as evidence of these authors' non-Indian, Anglo Saxon names.¹²⁵ Between 1959–1969, a maximum of ten yoga copyrights are claimed by Indians, with five of those claimed by Yogananda's camp (up until 1953).¹²⁶ The remaining five include one to Hari Prasad Shastri (1960); one to Kailash Nath Gupta or Yogi Gupta (1961); one to Father Subramuniya (1965); one to Sachindra Kumar Majumdar (1968); and one to Maharishi Mahesh Yogi (1967).¹²⁷ Of these five, at least two may have been filed under Indian pseudonyms.¹²⁸ This means that within a relatively short period of time, yoga copyrights went from being half Indian owned and half white owned, to 15% or less Indian owned.¹²⁹ Based on these data, it is likely that contemporary copyright attempts and titles secured by U.S. based "hot yoga" mogul, Bikram Choudhury,¹³⁰ represent some of the only yoga-related copyrights to be awarded to Indians.¹³¹ Whether Bikram is claimed by Indians across the diaspora is a separate matter.¹³² Here, I am simply proposing

124. Adapted from Singh, *supra* note 10, at 45; Paramhansa Yogananda, *Whispers From Eternity, A Book of Answered Prayers*, A38612 (Sept. 14, 1949); Paramhansa Yogananda, *The Master Said: A Collection of Paramhansa Yogananda's Sayings and Wise Counsel to Various Disciples*, A70707 (Sept. 1, 1952); Paramhansa Yogananda, *The Science of Religion*, A111492 (Sept. 19, 1953); Paramhansa Yogananda, *Cosmic Chants*, A97574 (Apr. 30, 1953); Swami Sivananda, *Yoga im Täglichen Leben*, AFO-15034 (Aug. 3, 1954); Sri Krishna Prem, *The Yoga of the Bhagavat Gita*, AI-2740 (Feb. 1, 1949); Yogi Vitthaladas, *The Yoga System of Health*, A int.25563 (Oct. 5, 1939); Yogi Gupta, *Yoga and Long Life*, A350179 (Aug. 13, 1958).

125. Adapted from Singh, *supra* note 10, at 45; Yogi Vitthaladas, *The Yoga System of Health and Relief from Tension*, A314240 (Oct. 10, 1957); Yogi Gupta, *Yoga and Long Life*, A350179 (Aug. 13, 1958).

126. Adapted from Singh, *supra* note 10, at 45; Yogi Vitthaladas, *The Yoga System of Health*, A int.25563 (Oct. 5, 1939); Rishi Krishnananda, *Yoga Science of Eating*, AA374211 (June 16, 1941); Deva Ram Sri Sukul, *Yoga and Self Culture. Higher Laws of Spiritual Dynamics Including Outline of Philosophy of Vedas*, A174574 (May 26, 1943); Paramhansa Yogananda, *The Attributes of Success*, AA471527 (Nov. 21, 1944); Deva Ram Sukul, *Yoga and Self Culture: Higher Laws of Spiritual Dynamics Including Outline of Philosophy of the Vedas, Upanishads, Bhagavad Gita, and the Six Systems of Hindu Philosophy*, A25738 (Mar. 17, 1948); Hari Prasad Shastri, *Yoga*, A497784 (Nov. 1, 1960); Kailish Nath Gupta, *Yoga and Yogic Powers*, A616668 (Mar. 22, 1963); Father Subramuniya, *Christian Yoga*, A797935 (Jan. 15, 1965); Sachindra Kumar Majumdar, *Yoga for Physical and Mental Fitness*, A24081 (Oct. 15, 1968); Maharishi Mahesh Yogi, *My Lord, My Love, God*, C20370 (Nov. 13, 1967).

127. Adapted from Singh, *supra* note 10, at 45; Hari Prasad Shastri, *Yoga*, A497784 (Nov. 1, 1960); Kailish Nath Gupta, *Yoga and Yogic Powers*, A616668 (Mar. 22, 1963); Father Subramuniya, *Christian Yoga*, A797935 (Jan. 15, 1965); Sachindra Kumar Majumdar, *Yoga for Physical and Mental Fitness*, A24081 (Oct. 15, 1968); Maharishi Mahesh Yogi, *My Lord, My Love, God*, C20370 (Nov. 13, 1967).

128. Adapted from Singh, *supra* note 10, at 45.

129. Adapted from Singh, *supra* note 10, at 45.

130. See Jennifer D'Angelo Friedman, *What the Bikram Copyright Rejection Means for Yoga*, YOGA J. (Oct. 16, 2015), <http://www.yogajournal.com/yoga-101/rejection-bikram-copyright-upheld-means-future-yoga/>; Michael Barclay, *What Do Yoga and APIs Have in Common? Neither are Copyrightable*, ELEC. FRONTIER FOUND. (Oct. 9, 2015), <https://www.eff.org/deeplinks/2015/10/what-do-yoga-and-apis-have-common-neither-are-copyrightable>; Andy Newman, *Feeling the Heat, Yoga Chain Bows to Bikram, Despite Federal Ruling*, N.Y. TIMES (Dec. 10, 2012, 12:03 PM), http://cityroom.blogs.nytimes.com/2012/12/10/feeling-the-heat-yoga-chain-bows-to-bikram-despite-federal-ruling/?_r=1.

131. Adapted from Singh, *supra* note 10, at 45.

132. Adapted from Singh, *supra* note 10, at 45.

that Bikram is one of the last Indians in American yoga who had a viable yoga business practice, including accompanying IP titles, in his empire.¹³³

Yogananda, the first Indian-American yoga copyright holder, has copyright claims numerous enough that they receive their own content title card in the index archives.¹³⁴ Over the earliest four decades of yoga-related copyright history, “Yogananda” and his associated copyright claims follow just behind the index title card indicating the section for copyrights in “Yoga.”¹³⁵ This means that copyright claims in yoga began as largely protecting the work of an Indian yogi.¹³⁶ But not just one Indian yogi; in the first decade of yoga copyrights, half of the claims awarded protected the yoga work of Indian authors on the yogic path.¹³⁷ When Yogananda’s works are factored in, Indians took out the most U.S. copyright claims in yoga for the first two decades.¹³⁸ The nexus between U.S. copyrights in yoga and Indians changed dramatically over time, and became particularly white when popularity, profits, and power in yoga skyrocketed.¹³⁹

1. When Yoga is Owned, Who Owns It?: White Yoga Property

What stories do the yoga copyrights themselves tell about yoga as racial property? A closer read of three select yoga copyrights—which, together, cover seventy-two years of yoga as U.S. property history—demonstrates a steady shift from racial equity towards racialization, and ultimately, dominant commercialization.

Secured in 1949, one of the earliest recorded U.S. yoga copyrights belongs to Paramhansa Yogananda, who received title in his book, *Whispers from Eternity, A Book of Answered Prayers*.¹⁴⁰ Yogananda is widely recognized as one of the first “East Meets West” *swamis* or holy men who, collectively, are credited with bringing yoga to the United States.¹⁴¹ Yogananda’s team at the Self-Realization Publishing House was responsible for a bulk of early, Indian-American owned U.S. yoga copyrights.¹⁴²

Almost two decades later, in 1967, Elvis Presley sang, *Yoga Is as Yoga Does*, in the Paramount film, *Easy Come, Easy Go*.¹⁴³ In the number, Elvis ridicules yoga practice and a kooky yoga instructor, Madame

133. Adapted from Singh, *supra* note 10, at 45.

134. Adapted from Singh, *supra* note 10, at 46.

135. Adapted from Singh, *supra* note 10, at 46; GENERAL COPYRIGHT INDEX, U.S. COPYRIGHT OFF. (photo. reprt. 2022) (on file with author).

136. Adapted from Singh, *supra* note 10, at 46.

137. Adapted from Singh, *supra* note 10, at 46.

138. Adapted from Singh, *supra* note 10, at 46. See sources cited *supra* notes 104.

139. Adapted from Singh, *supra* note 10, at 46.

140. Paramhansa Yogananda, *Whispers from Eternity, a Book of Answered Prayers*, A38612 (Sept. 14, 1949).

141. Shannon Sexton, *Why Paramahansa Yogananda Was a Man Before His Time*, YOGA J. (Oct. 10, 2014), <https://www.yogajournal.com/lifestyle/sneak-preview-awake-life-yogananda/>.

142. See *supra* note 105.

143. Gerald Nelson & Fred Burch, *Yoga is as Yoga Does*, EU989091 (Apr. 3, 1967); *Easy Come, Easy Go*, TURNER CLASSIC MOVIES, <https://www.tcm.com/tcmdb/title/18729/easy-come-easy-go#overview>, (last visited May 8, 2022).

Nehrina (Elsa Lanchester), who presents as a stereotypical “hippie,” witchy older white woman, dressed in a bright, shapeless kaftan and stacks of beaded jewelry, employing “crazy” tropes such as clownish bug eyes and chaotic hand movements.¹⁴⁴

In 2021, five decades after Elvis sang *Yoga Is as Yoga Does*, a massive yoga company called YogaWorks filed seventy-nine yoga copyrights; nearly one-third of all yoga copyrights granted that year.¹⁴⁵ YogaWorks was a large-scale company that sold for \$45 million in 2014.¹⁴⁶ In 2016, YogaWorks recorded three million student visits, and a broad array of commercial offerings, including yoga merchandise.¹⁴⁷ In 2017, YogaWorks operated sixty-six studios nationally.¹⁴⁸ In 2020, the company declared bankruptcy, citing the pandemic, yet effectively stopping a nationwide unionization effort by the company’s yoga instructors.¹⁴⁹ YogaWorks was founded by, and continues to be run by, white men.¹⁵⁰

A dip below the surface of yoga copyright data illuminates what is owned and protected in yoga, revealing a telling arc. There was a relatively equitable start to the proprietization process, which included Indian-Americans equally alongside white yoga owners.¹⁵¹ This equitable start gave way to a steep rise in the trendiness of yoga and an accompanying increase in whiteness as a source of racial dominance in yoga. In 2021, white ownership in yoga copyrights was corporate-led, arguably anti-union, and defined by extremes of race, power, and profitability.¹⁵²

144. See bodean137, *Elvis Presley—Yoga Is as Yoga Does (1967)*, YOUTUBE (Jul. 18, 2017), <https://www.youtube.com/watch?v=23FHQSbeJLM>.

145. U.S. COPYRIGHT OFF.: PUB. RECS. SYS., *YogaWorks*, [https://publicrecords.copyright.gov/search?query=yogaworks&field_type=Keyword&records_per_page=25&page_number=0&date_field=none&start_date=Sun%20Jan%2001%201967%2000:00:00%20GMT-0700%20\(Mountain%20Standard%20Time\)&end_date=Fri%20Jan%2001%202021%2000:00:00%20GMT-0700%20\(Mountain%20Standard%20Time\)](https://publicrecords.copyright.gov/search?query=yogaworks&field_type=Keyword&records_per_page=25&page_number=0&date_field=none&start_date=Sun%20Jan%2001%201967%2000:00:00%20GMT-0700%20(Mountain%20Standard%20Time)&end_date=Fri%20Jan%2001%202021%2000:00:00%20GMT-0700%20(Mountain%20Standard%20Time)) (last visited May 8, 2022).

146. Stuart Goldman, *YogaWorks Acquired for Reported \$45 Million*, CLUB INDUS. (Jul. 22, 2014, 6:45 AM), <https://www.clubindustry.com/commercial-clubs/yogaworks-acquired-for-reported-45-million>; Samantha Masunaga, *YogaWorks Chain Stretches its Reach in California with Deal*, L.A. TIMES (June 4, 2015, 2:39 PM), <https://www.latimes.com/business/la-fi-yogaworks-acquisition-20150604-story.html>; Mediha Dimartino, *YogaWorks Files for Bankruptcy*, L.A. BUS. J. (Oct. 18, 2020), <https://labusinessjournal.com/retail/yogaworks-files-bankruptcy/>.

147. *YogaWorks, Inc. Announces Pricing of Initial Public Offering*, GLOBENEWSWIRE (Aug. 10, 2017, 5:59 PM), <https://www.globenewswire.com/news-release/2017/08/10/1083528/0/en/Yoga-Works-Inc-Announces-Pricing-of-Initial-Public-Offering.html>.

148. See *YogaWorks Acquires Four Premier Studios in Atlanta*, GLOBE NEWSWIRE (Nov. 14, 2017, 7:00 AM), <https://www.globenewswire.com/news-release/2017/11/14/1185713/0/en/Yoga-Works-Acquires-Four-Premier-Studios-in-Atlanta.html>.

149. See Sarah Jones, *Yoga Teachers are Unionizing to Heal the Wellness Industry*, THE CUT (Sept. 12, 2019), <https://www.thecut.com/2019/09/yogaworks-teachers-first-yoga-teacher-union.html>; see also *Yoga Instructors Are Unionizing*, NPR (Oct. 12, 2019, 5:08 PM), <https://www.npr.org/2019/10/12/769783749/yoga-instructors-are-unionizing>.

150. *Our Story: From India to Santa Monica*, YOGAWORKS, <https://www.yogaworks.com/about/our-history/> (last visited May 8, 2022).

151. See *supra* Part II.

152. See *supra* Part II.

2. A Story of Copyrighted Yoga Songs: Racist Tropes Pervade

A closer examination of songs in the yoga copyright data set reveals that racialization has always accompanied yoga's entry into U.S. property regimes and popular culture. During my archival study in the Copyright Records Room in the Library of Congress, I realized that yoga-related songs (created by white artists and circulated within white-dominant U.S. commercial channels) constitute a strong thread within the first yoga-related copyright claims in United States and world history.¹⁵³

As I combed through the vast copyright card catalogues, I grew particularly interested in an Elvis Presley song, *Yoga Is as Yoga Does*.¹⁵⁴ I assumed this Elvis song must have circulated broadly, and that out of all of the songs discovered, traces of this song would be the most prominent. In a clip of a performance of the song, found on YouTube, Elvis clownishly contorts his body, ridicules yoga, and sings a song designed to racially stereotype yoga and yogis through lyrics and visual culture.¹⁵⁵

Intrigued, I engaged in a study of sound, lyrics, and films of three popular yoga songs I uncovered from the yoga copyright archives: (1) A 1941 popular song, *The Yogi Who Lost His Will Power*, by Orrin Tucker's Big Band; (2) 1960 chart-topper, *Yogi*, that catapulted The Ivy Three to one-hit-wonder status; and (3) the previously mentioned Elvis Presley song, *Yoga Is as Yoga Does*.¹⁵⁶ Through my research I questioned whether racist displacements appear in historic contexts of sonic productions and United States proliferation in yoga. What racial stereotypes accompanied yoga's entry into American cultural discourse? The results of my research support three key findings: (1) yoga's movement into American popular culture is inextricably tied to racism and othering; (2) widely circulating stereotypes of Indians, yoga, and yogis in American popular music include classic racist tropes, such as the grinning Sambo;¹⁵⁷ and (3) the logic of elimination operates to hide a U.S. music history of racialized yoga.¹⁵⁸

153. These songs include such titles copyrighted as: Al Goodheart, *Yogi, Yogi, the Fakir Man*, E unpub.209741 (Dec. 15, 1939); Jimmy McHugh & Johnny Mercer, *The Yogi Who Lost His Will Power*, E pub.93268 (Feb. 17, 1941); Charles Koppelman, Lou Stallman, & Sid Jacobson, *Yogi*, v43 p516 (July 7, 1960); Jack Starling & Pierre Nicot, *Yoga*, EFO-106225 (Dec. 21, 1964); Gerald Nelson & Fred Burch, *Yoga is as Yoga Does*, EU989091 (Apr. 3, 1967); Tommy Reynolds, *The Yoga Song*, EU361359 (Oct. 10, 1972).

154. *Elvis Presley—Yoga Is as Yoga Does (1967)*, *supra* note 144.

155. *Id.*

156. Jimmy McHugh & Johnny Mercer, *The Yogi Who Lost His Will Power*, E pub. 93268 (Feb. 17, 1941); Charles Koppelman, Lou Stallman, & Sid Jacobson, *Yogi*, v43 p516 (July 7, 1960); Gerald Nelson & Fred Burch, *Yoga is as Yoga Does*, EU989091 (Apr. 3, 1967).

157. A rich scholarship exists in Black cinema studies and African American media history which traces the global life of the Sambo character. This racist trope, and other historic tropes such as the Black Mammy, continue to be deployed against Black people and Others in current media representations. *See generally* DONALD BOGLE, TOMS, COONS, MULATTOES, MAMMIES, AND BUCKS: AN INTERPRETIVE HISTORY OF BLACKS IN AMERICAN FILMS (4th ed. 2001); Daniel J. Leab, *From Sambo to Superspade: The Black Experience in Motion Pictures* (1976); Assatu N. Wisseh, *Mapping Mammy 2.0: Inseure and the Middle-Class Black Woman's Burden*, 30 *HOW. J. COMMUN* 391 (2019).

158. One central theory of Indigenous studies is that the elimination of the native is the goal upon which all logics of the settler colonial society function. *See* Patrick Wolfe, *Settler Colonialism and the Elimination of the Native*, 8 *J. GENOCIDE RSCH.* 387 (2006).

Racialization in historic, yoga-related, copyright protected, popular American songs is hidden, but discoverable. This documented, racist strain of U.S. yoga history is not the exception but the rule in defining the proprietization of yoga through law.

C. Yoga as Traditional Knowledge Extracted by Law

Yoga is not a pure or authentic resource that has ever existed free from encumbrances of systemic oppression and asymmetries of power—not in India, and not in the West. Yoga is part of a complex international circuit involving property, money, culture, and power. Even in India, yoga is contested, fettered by movements enacted in the interest of fundamentalist nationalism.¹⁵⁹

Yoga is a branch of traditional knowledge now characterized by Hindu fundamentalism in India and multi-billion-dollar yoga and wellness industries that are presented as the poster children of “smooth” globalization and equitable nation-building.¹⁶⁰ U.S. yoga and its productions, such as “Yoga Journal,” are generally associated with whiteness and are disassociated from Indian bodies, history, and culture.¹⁶¹ Racism and nativism in U.S. yoga studios, classes, media, and governance are rampant; a Santa Barbara “Gangster Yoga” class used blackface,¹⁶² and a California court allowed yoga in schools on the condition that all Sanskrit postural names be banned.¹⁶³ Privatized and commercialized U.S. yoga brands the nation as peaceful and flexible. Ultimately, the U.S. yoga brand serves as powerful camouflage for violent nationalisms both “at home and abroad.”

Scholars engaging critical perspectives of IP law and those contributing to debates about the role of IP law through traditional knowledge have recognized an ongoing asymmetry of power between cultural and tangible resources held in the Global South and “Third World,” and the seemingly absolute legal right of the “Western,” colonial world to extract and accumulate these resources.¹⁶⁴ As John Tehranian has noted, copyright contradictions abound, the law that enables elimination can also be used

159. Anusha, Lakshmi, *Choreographing Tolerance: Narendra Modi, Hindu Nationalism, and International Yoga Day*, 5 U.C. BERKELEY RACE & YOGA 42, 44 (2020).

160. Scholars of globalization have argued that there is no such thing as a smooth globalization process because all globalization processes are wrinkled by power. PHENG CHEAH, *INHUMAN CONDITIONS: ON COSMOPOLITANISM AND HUMAN RIGHTS* 46 (2006)

161. See generally YOGA JOURNAL, <https://www.yogajournal.com> (last visited May 8, 2022).

162. Kelsey Brugger, *Yoga Studio Receives Massive Backlash Over ‘Ghetto Fabulous’ Class*, SANTA BARBARA INDEP. (Sep. 06, 2013, 10:00 AM), <https://www.independent.com/2013/09/06/yoga-studio-receives-massive-backlash-over-ghetto-fabulous-class/>; Katie J.M. Baker, *Santa Barbara Yoga Studio Gives Out Do-Rags at ‘Ghetto Fabulous’ Class*, JEZEBEL (Sept. 4, 2013, 11:10 AM), <https://jezebel.com/santa-barbara-yoga-studio-gives-out-do-rags-at-ghetto-1251090792>.

163. See Mark Walsh, *California State Appellate Court Upholds Public School Yoga Program*, EDUCATIONWEEK (Apr. 6, 2015), <https://www.edweek.org/education/california-state-appellate-court-upholds-public-school-yoga-program/2015/04>.

164. Angela R. Riley, *Indigenous Peoples and Emerging Protections for Traditional Knowledge*, in 4 INTELLECTUAL PROPERTY AND INFORMATION WEALTH: ISSUES AND PRACTICES IN THE DIGITAL AGE 373, 373–74 (2007).

to protect those at risk of elimination.¹⁶⁵ Indigenous people and Black people around the world are experimenting with using IP law to protect endangered practices and knowledge to varying degrees of success.¹⁶⁶ However, these experiments are still from within the margins, and sovereign, successful protection of endangered traditional knowledge forms are rare.

Kevin J. Greene establishes a link between the subordination of traditional Indigenous knowledge under U.S. law and the legal appropriation of African-American women's music contributions.¹⁶⁷ Copyright requirements include fixation,¹⁶⁸ a "new" expression of an idea, identifiable authors, and an individual author for attribution.¹⁶⁹ Yoga as a form of traditional knowledge is disadvantaged by these copyright law requirements.

Yoga is an idea and not the expression of an idea—a key disadvantage to copyright protection that privileges even marginally creative expressions of yoga. Yoga is a confluence of medicinal, liberatory art, and science practices—a vast store of resources established across oral and written traditions over thousands of years and countless hands and voices in South Asia, Africa, and other regions of the Global South.¹⁷⁰ Copyright law's fixation requirement protects those creative expressions that are tangibly documented and attributable to one person. This framework subordinates traditional knowledge, which may be entirely or primarily oral, and collectively created. Additionally, yoga being nearly as old as human history has made it freely available to pillage in the public domain.¹⁷¹ U.S. copyright law includes no mechanism through which to respect or protect any entity older than the settler colonial society from which it emerges.¹⁷² The harms embedded in lawful cultural appropriation of traditional knowledge are compounded by the subordination of cultural and natural resources, which impact Indigenous peoples for generations accruing incalculable loss.

How was yoga moved from the commons to U.S. private property? "Commons" is a term used to refer to a proverbial field of resources that are not exclusive like copyrights, but shared, including forms of traditional knowledge which have existed in the public domain for most of human

165. Tehranian, *supra* note 39, at 1237.

166. Christine Haight Farley, *Protecting Folklore of Indigenous Peoples: Is Intellectual Property the Answer?*, 30 CONN. L. REV. 1, 13, 16–17, 39–40 (1997).

167. Greene, *supra* note 18, at 380–81.

168. The U.S. Copyright Office requires all applications for copyright to exist in some tangible form, such as a copy of a book, or a sound recording that can be sold or traded. *Copyrightable Authorship: What Can be Registered*, in COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES 305 (3rd ed. 2021).

169. See 17 U.S.C. §§ 101, 102(a).

170. See Durga TK, Sridhar MK, & HR Nagendra, *Consciousness in Upanishads*, 4 Int'l J. Sanskrit Rsch. 66, 66–68 (2018) (discussing the oral tradition inherent with Upanishads and the teachings of consciousness in relation to the self).

171. See Farley, *supra* note 166, at 20–21 (discussing the inherent limitations of originality when copyrighting aboriginal folklore of ancient origin).

172. See 17 U.S.C. §§ 302, 304.

history.¹⁷³ One dominant origin story of U.S. yoga is that yoga was a free gift from a few Indian “god men” who traveled to the United States at the end of the nineteenth century.¹⁷⁴ This “Thanksgiving” style mythology about how the “Indians gave yoga to the west,” is false.¹⁷⁵ The truth about U.S. yoga development is more dynamic and complicated. In both the Thanksgiving and yoga as a gift to the West stories, the “giving away” was arguably not perceived by the Indigenous population because each parties’ concepts of “property” were fundamentally different. It is one thing to share in land and culture as equal stewards and quite another to own exclusively, for lifetimes, with a right focused on the ability to sever and sell.

Steep profits in yoga trigger exponential interest in yoga claim staking, or “biopiracy”—in which western IP law is used to plunder, extract, and accumulate natural resources from the former and current colonies in the Global South and Indigenous lands—in the yoga space.¹⁷⁶ The yoga copyright map presented in this study disrupts assumptions underlying the pairing of popular with public, because in this case yoga comes into steeply increased private ownership as it gains popularity in the West.¹⁷⁷ This trend is one of the clearest stories uncovered by this legal history study. Prior to being appropriated into U.S. IP regimes, yoga was not owned.¹⁷⁸ Yoga terrain is like land in the United States prior to European conquest; it was deemed *terra nullius*, empty land, and turned into property to make room for white settlement. Copyright regimes in yoga are layered and there is still space within the regime for marginalized bodies to challenge power.¹⁷⁹ However, narratives emerging from the data trends indicate that the propertization of yoga newly, rapidly, and racially encloses the yoga space. The propertization of yoga privileges copyright owners over traditional knowledge and the public domain. Yet, the public

173. See Charlotte Hess & Elinor Ostrom, *Introduction: An Overview of the Knowledge Commons*, in UNDERSTANDING KNOWLEDGE AS A COMMONS 3, 4–5 (Charlotte Hess & Elinor Ostrom eds., 2007); Séverine Dusollier, *The Commons as a Reverse Intellectual Property — From Exclusivity to Inclusivity*, in CONCEPTS OF PROPERTY IN INTELLECTUAL PROPERTY LAW 258, 261–62 (Helena R. Howe & Jonathan Griffiths eds., 2013); David Harvey, *The Future of the Commons*, RADICAL HIST. REV., Winter 2011, at 101, 102–04.

174. See Philip Deslippe, *Yoga Landed in the U.S. Way Earlier Than You’d Think—And Fitness Was Not the Point*, HISTORY (Jun. 20, 2019), <https://www.history.com/news/yoga-vivekananda-america> (noting that while Swami Vivekananda’s 1893 Chicago speech is the often-cited origin story of yoga, Vivekananda was actually dismissive of hatha yoga, calling it “gymnastics”); see also Dermot Kilingley, *Manufacturing Yogis: Swami Vivekananda as a Yoga Teacher*, in GURUS OF MODERN YOGA 17, 22–26 (Mark Singleton & Ellen Goldberg eds., 2013) (noting that there is no indication that yoga or its teaching was intended in Vivekananda’s early speeches in the United States).

175. Singh, *supra* note 9, at 156.

176. VANDANA SHIVA, *BIOPIRACY: THE PLUNDER OF NATURE AND KNOWLEDGE* 5, 10 (2016); Vandana Shiva, *Bioprospecting as Sophisticated Biopiracy*, 32 U. CHICAGO PRESS 307, 308–12 (2007): 307–313; adapted from Singh, *supra* note 10, at 37.

177. Adapted from Singh, *supra* note 10, at 37.

178. Adapted from Singh, *supra* note 10, at 37; see Seemantani Sharma, *A Copyright Incentive for Promoting ‘Aesthetic Sports’ in India*, 17 ENT. & SPORTS L.J. 1, 5–6 (2019) (discussing the decision by the Delhi High Court to not extend copyright protections to yoga *asanas*); Allison Fish, *The Commodification and Exchange of Knowledge in the Case of Transnational Commercial Yoga*, 13 INT’L J. OF CULTURAL PROP. 189, 197–98, 200–01 (2006) (discussing the Indian government’s attempts to thwart IP-related yoga claims).

179. Adapted from Singh, *supra* note 10, at 37.

domain is where yoga has lived primarily, for centuries, until its recent privatization in the early twentieth century under U.S. IP law.¹⁸⁰

D. Yoga Property for Sale: Severing Yoga Into Categories

Increased categorization of yoga is evident in the yoga copyright map. The upward trend in classification reveals tensions between engagement with yoga and what scholars of settler colonialism have called, “elimination of the natives.”¹⁸¹ In settler colonial societies, classification is used as a strategy of occupation and war.¹⁸² Here, endless categorizations of yoga into sellable, severed, and private parts, disorient yoga from place, space, and time, so that it can be infinitely mined as *terra nullius*, or historic, raw material. Though copyrights in yoga seem to be innocent protections of creative works, in fact, copyrights enable categorization, which breaks up the history, knowledge, and family that yoga had as a medicinal arts practice connected to a place now called India.¹⁸³ The copyright title only requires a minimal showing of creative spin on yoga.¹⁸⁴ This means that yoga-related copyrights need hardly any justification to obtain.¹⁸⁵ The results are a growing slew of copyrighted works, such as texts of all manner, that are disorienting in their similarity and dislocation.¹⁸⁶

In the first decade of the yoga copyright map (1937-1947), the types of the twenty-five copyrighted works in yoga were generally limited to the science of yoga, the systems of health addressed by yoga, and interpretations of sources of yoga philosophy and knowledge in Indian texts such as the *Vedas*, the *Upanishads*, and the *Bhagavad Gita*.¹⁸⁷ This first decade was the most restrained in classification, in that these protected works acknowledged a connection to India and to a long standing practice that these creations were building upon and engaging with.¹⁸⁸ These initial copyrights in yoga tended to appreciate and affirm a wholeness in the stories they tell of the medicinal arts practice that is yoga.¹⁸⁹ In the second decade

180. See *supra* Part II.

181. Wolfe, *supra* note 31, at 389.

182. *Id.* at 387–89.

183. Adapted from Singh, *supra* note 10, at 39.

184. Adapted from Singh, *supra* note 10, at 39; *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991) (“To be sure, the requisite level of creativity is extremely low; even a slight amount will suffice. The vast majority of works make the grade quite easily . . .”).

185. Adapted from Singh, *supra* note 10, at 39.

186. Adapted from Singh, *supra* note 10, at 39; see *supra* notes 104–05, 125–26; *The 30 Percent Rule in Copyright Law*, GERBEN: IP, <https://www.gerbenlaw.com/blog/the-30-percent-rule-in-copyright-law/> (last visited May 8, 2022).

187. Adapted from Singh, *supra* note 10, at 40; see Kovoort T. Behanan, *Yoga: A Scientific Evaluation*, A104625 (Apr. 13, 1937); Yogi Vithaldas, *The Yoga System of Health*, A int.25563 (Nov. 25, 1939); Deva Ram Sukul, *Yoga and Self-Culture; Higher Laws of Spiritual Dynamics Including Outline of Philosophy of the Vedas, Upanishads, Bhagavad Gita, and the Six Systems of Hindu Philosophy*, A25738 (Mar. 17, 1948).

188. Adapted from Singh, *supra* note 10, at 40.

189. Adapted from Singh, *supra* note 10, at 40; see Felix Guyot, *Yoga, the Science of Health*, R357345 (May 17, 1937); Swami Yogananda, *Weekly Praecepta, Step IV. Self-Realization*

(1948–1958), the twenty-five copyrighted works in yoga included “East meets West” stories of yoga and also awarded property in yoga to owners in France, London, and Germany.¹⁹⁰ This points to the United States as the early, definitive clearing house for global propertization in yoga.¹⁹¹ In the second decade, copyright stories began to disconnect from India and project a smooth globalization of yoga.¹⁹² They affirmed colonial discourses on yoga being an imperial gift to India and the world.¹⁹³ The third decade (1959–1969) featured a deepened classification evident in fifty yoga-titled copyrights, including copyrights in both “ancient” and “new” yoga that played into colonial stories of dichotomies of time.¹⁹⁴

Indian colonialism scholars help decipher the colonial use of time to sever India and yoga into old and new.¹⁹⁵ Subaltern scholar Ashis Nandy pays special attention to this binary construction of time that oscillates between fabricated and weaponized concepts of “ancient” and “modern.”¹⁹⁶ Critical Yoga Theory extends Nandy’s findings on binary, violent, colonial interpretations of the concept of time to yoga, which is increasingly and relatedly also divided into “ancient” and “modern” as a means of cultural erasure.¹⁹⁷ Constructed binaries of time are tactics of war used to justify British social and economic degradation of India.¹⁹⁸ India is, at the very least, one of the important birth and development sites of yoga.¹⁹⁹ Colonization is framed as a gift to the occupied.²⁰⁰ For instance, the British called the visceral ruin of once thriving, cosmopolitan Indian textile and

Fellowship, AA263491 (Mar. 1, 1938); Swami, Yogananda, *Weekly Praecepta, Step V. Self-Realization Fellowship*, AA273115 (July 5, 1938); Swami Yogananda, *Super-Advanced Adeptship in the Seven Steps of Self-Realization*, AA279765 (Oct. 6, 1938); Swami Yogananda, *Weekly Praecepta, Step VII*, AA282854 (Nov. 16, 1938); Yogi Vithaldas, *The Yoga System of Health*, A int.25563 (Nov. 25, 1939); Rishi Krishnananda, *Yoga Science of Eating*, AA374211 (June 16, 1941).

190. Adapted from Singh, *supra* note 10, at 40; see James Lee-Richardson, *Yoga for Everyman: How to Have Long Life and Happiness*, AI0-1995 (Dec. 13, 1951); Mircea Eliade, *Le Yoga; Immortalite et Liberte*, AFO-16389 (Dec. 8, 1954); Paul von Cyrass, *Praktische Anwendung der Yoga-Lehre*, AFO-163654 (Nov. 26, 1954); Selvarajan Yesudian, *Yoga Uniting East and West*, A252283 (Sept. 19, 1956).

191. Adapted from Singh, *supra* note 10, at 40.

192. Adapted from Singh, *supra* note 10, at 40; see Charles Vachot, *Le Yoga de L'art*, AFO-4469 (Oct. 29, 1950); James Lee-Richardson, *Yoga for Everyman: How to Have Long Life and Happiness*, AI0-1995 (Dec. 13, 1951); Fred Peoppig, *Yoga oder Meditation: Der Weg des Abendlandes*, AFO-13277 (Nov. 1, 1953); Felix Riemkasten, *Yoga für Sie: Lehrbuch zur Praktischen Ausübung des Hatha Yoga*, AFO-11505 (July 4, 1953); Paul von Cyrass, *Pratische Anwendung der Yoga-Lehre*, AFO-16354 (Nov. 26, 1954); Mircea Eliade, *Le Yoga: Immortalite et Liberte*, AFO-16389 (Dec. 8, 1954); Swami Sivananda, *Yoga im Täglichen Leben*, AFO-15034 (Aug. 3, 1954); Felix Riemkasten, *Yoga Für Fortgeschrittene*, AFO-15551 (Oct. 2, 1954); C. Kerneiz, *Le Yoga de la Connaissance*, AFO-17429 (Apr. 24, 1955).

193. Adapted from Singh, *supra* note 10, at 40.

194. Adapted from Singh, *supra* note 10, at 40; see, e.g., Archie J. Bahm, *Yoga, Union with the Ultimate: A New Version of the Ancient Yoga Sutras*, A604890 (June 19, 1961); Rolf Germer, *Yoga Für Heute*, AFO-36765 (June 25, 1962).

195. Adapted from Singh, *supra* note 10, at 40.

196. Adapted from Singh, *supra* note 10, at 40; see NANDY, *supra* note 75, at 60.

197. Adapted from Singh, *supra* note 10, at 40; see THAROOR, *supra* note 90, at 101.

198. Adapted from Singh, *supra* note 10, at 40; NANDY, *supra* note 75, at 98 n.61.

199. Adapted from Singh, *supra* note 10, at 40.

200. Adapted from Singh, *supra* note 10, at 40.

agrarian industries a gift.²⁰¹ The gift myth was made possible by categorizing the “ancient” industries as outdated, savage, already ruined, and in desperate need of “modern,” British-led industrial practices (that failed).²⁰² Colonial maxims held that the British saved India by gifting the country modernity, a formation that was justified by an “out with the old, in with the new” storyline.²⁰³ Time binaries helped gloss over degradation as a self-inflicted state, an inherent quality of “ancient India” that only the British could heal.²⁰⁴ Regardless of the extreme pulls of nationalism and proprietization, neither India nor yoga can be severed into binary constructions.²⁰⁵ Yoga is a living and breathing medicinal arts practice, an unceasing part of the human experience that transcends narrow binaries such as “ancient” or “modern.”²⁰⁶ The use of these binaries in the yoga space implies that at some point yoga was severed into two, but this is a myth that is defied by a widespread, continual practice of yoga sciences and arts in the everyday lives of South Asian diasporic people.²⁰⁷ When I challenge the binary of time in these categorizations of yoga, I aim to disrupt the dominant truths that “modern” postural yoga is a European or American gift to “ancient” Indian yoga.²⁰⁸ In fact, the violent surveillance and binary formations that accompany colonialism are no gift.²⁰⁹

The third decade of yoga copyrights (1959–1969) featured fifty works, double the number of the previous two decades, including the following: “Christian yoga,” “yoga for Americans,” cookbooks, yoga “for business executives and professional people,” works on yoga for youth, yoga for people over forty, and yoga for fitness and diet, with titles such as “slimnastics.”²¹⁰ White yoga celebrities and yoga profiteers began to appear, along with several Indian pseudonyms.²¹¹ Indra Devi, a white female yoga teacher “to the stars,” authored *Yoga for Americans*.²¹² Richard Hittleman built a small yoga empire with multiple copyrighted works in

201. Adapted from Singh, *supra* note 10, at 40; see THAROOR, *supra* note 90, at 5–6, 176, 219–20.

202. Adapted from Singh, *supra* note 10, at 40; see THAROOR, *supra* note 90, at 5–6, 149, 218–20.

203. Adapted from Singh, *supra* note 10, at 40–41; see THAROOR, *supra* note 90, at 175.

204. Adapted from Singh, *supra* note 10, at 41; see THAROOR, *supra* note 90, at 175.

205. Adapted from Singh, *supra* note 10, at 41.

206. Adapted from Singh, *supra* note 10, at 41.

207. Adapted from Singh, *supra* note 10, at 41.

208. Adapted from Singh, *supra* note 10, at 41; see THAROOR, *supra* note 90, at 101.

209. Adapted from Singh, *supra* note 10, at 41.

210. Adapted from Singh, *supra* note 10, at 41; see *supra* Figure 1 (illustrating the increase in copyright works during this decade); Father Subramuniya, *Christian Yoga*, A797935 (Jan. 15, 1965); Indra Devi, *Yoga for Americans*, A457031 (June 15, 1960); Edna Thompson, *The Yoga Cookbook*, A388528 (Apr. 8, 1959); Archie J. Bahm, *Yoga for Business Executives and Professional People*, A777921 (July 19, 1965); Michael Volodchenko, *Yoga Over Forty*, AF23527 (May 18, 1965); Audrey Webb, *Yoga & Slimnastics for Health, for Happiness*, A89955 (May 7, 1969).

211. Adapted from Singh, *supra* note 10, at 41; William Slater (a.k.a. P.K. Guruswamy), *Study of Yoga*, BB15631 (Sept. 22, 1960); Alfred Schmielewski (a.k.a. Yogi Siddha-Guru), *Yoga, A Detailed 12 Month Course*, AFO-50113 (Feb. 23, 1967); James Donald Walters (a.k.a. Kriyananda), *Yoga Postures for Self-Awareness*, A929312 (Mar. 7, 1967).

212. Adapted from Singh, *supra* note 10, at 41; Indra Devi, *Yoga for Americans*, A457031 (June 15, 1960).

yoga that he assures “ten million Americans believe,” including yoga for “figures,” yoga for “facial beauty,” and a yoga “28 day plan.”²¹³ In this decade, there were almost no references to India, or to the texts and philosophies of India that nurtured and birthed yoga, outside of a few copyrights to Indians.²¹⁴ Steady accumulation of yoga by whiteness requires control over yoga’s Indian geographies, creation stories, philosophies, and instructions.²¹⁵ The yoga space quickly pivots away from maintaining connection to the yoga diaspora, because propertization requires the *terra nullius*, dislocation of yoga.²¹⁶

In the fourth decade (1970–1980), the number of yoga-related copyrights scaled up to 579.²¹⁷ The sheer number of copyrights necessitates a deepening categorization in yoga, because each copyrighted work is held to minimal standards of authorship that require a basic showing of creative spin.²¹⁸ In this decade, the types of copyrights included works in forms of flashcards, course readings, illustrated poses, theater, radio, lecture, newsletters, and the magazine *Yoga Journal*, which acquired five copyrights.²¹⁹ Within these types of copyrighted material there are categories of yoga works for various age groups (“young people,” “people over 50,” and “children”); for varying stages of life and exposure (“for beginners,” “for everyone,” “new parents,” “for all,” “for westerners,” “for executives,” and “for the new age”); and yoga for marriage, love, and sex; as well as yoga recipe books, cookbooks, and food books.²²⁰ Overwhelmingly, these yoga-related copyrights are applied for and issued to white westerners.²²¹

Copyright law requires only a minimal showing of creativity to assert authorship.²²² This low standard for ownership is an element of the copyright regime that arguably supports those in power to author and protect their stories, which then underwrites the accumulation of U.S. and white ownership in yoga.²²³ Under racist colonial power dynamics, the othered,

213. Adapted from Singh, *supra* note 10, at 41; Richard L. Hittleman, *Fundamentals of Physical Yoga (Yoga for Health)*, A518275 (Aug. 17, 1961); Richard Hittleman, *Yoga U.S.A.; The Unique Exercise System 10 Million Americans Believe In*, A11608 (Feb. 5, 1968); Richard L. Hittleman, *The Yoga Way to Figure and Facial Beauty*, A35030 (Nov. 22, 1968); Richard L. Hittleman, *Yoga 28 Day Exercise Plan*, A159810 (Oct. 15, 1969).

214. Adapted from Singh, *supra* note 10, at 41.

215. Adapted from Singh, *supra* note 10, at 41–42.

216. Adapted from Singh, *supra* note 10, at 42.

217. Adapted from Singh, *supra* note 10, at 42; *see supra* Figure 1.

218. Adapted from Singh, *supra* note 10, at 42.

219. Adapted from Singh, *supra* note 10, at 42; *see* U.S. COPYRIGHT OFF.: PUB. RECS. SYS., https://publicrecords.copyright.gov/search?query=Yoga%20Journal&field_type=Keyword&records_per_page=10&page_number=0&date_field=none&sort_field=representative_date&sort_order=asc (last visited May 8, 2022) (showing copyright records obtained by Yoga Journal during the 1970–1980 period); *see, e.g.*, Harry Ailster, *Script for Ninety-Nine Minutes of Recording Yoga Albums: Conditioning for Yoga (Yoga for Beginners)*, C23106 (Apr. 9, 1970) (radio); Claude Bragdon, *Yoga for You*, R491879 (Oct. 2, 1970) (illustrations); Joan Gould, *Yoga for Health and Beauty*, AF0-91015 (Mar. 3, 1970) (magazine).

220. Adapted from Singh, *supra* note 10, at 42; Harry Ailster, *Script for Ninety-Nine Minutes of Recording Yoga Albums: Conditioning for Yoga (Yoga for Beginners)*, C23106 (Apr. 9, 1970).

221. Adapted from Singh, *supra* note 10, at 42.

222. Adapted from Singh, *supra* note 10, at 42; Feist Publ’ns, Inc., 499 U.S. at 340.

223. Adapted from Singh, *supra* note 10, at 42.

colonized body experiences a silencing of stories under layers of defensive stiffening.²²⁴ In contrast, IP regimes aid in the infinite storytelling of the dominant.²²⁵ Nandy contends that modern oppression is not an encounter between self and enemy; instead, it is between the “pseudo-rulers and their fearsome other selves projected onto their ‘subjects.’”²²⁶ The oppressor must always project, and copyright regimes facilitate this projection through affirming dominant authoring, storytelling, and copying.²²⁷ In *Postmodern Geographies*,²²⁸ Edward Soja speaks to the restless proliferation of simulacra or copies of the oppressive that sever, classify, and are hyperprojected so “all that is seen is so fragmented and filled with whimsy and pastiche, the hard edges of the capitalist, racist, patriarchal landscape seem to disappear, melt into air.”²²⁹ The map of yoga-related copyrights clearly shows that increased classification accompanies propertization.²³⁰ These increasingly severed parts of “yoga” bear more resemblance to the projections of power than to the medicinal arts practice of yoga.²³¹ Growth in categorization affirms myths about discovery and creation that serve to hide how classification is a tool of war designed to support the settler maxim that yoga was without space or people, and in this abandoned, savage state, it is a gift of creation to modernize yoga for the West and the world.²³²

The complex relationships discussed in Part II of this Article include deeply layered consolidations of power and contradictions that can merely be pointed toward in article format.²³³ The deductions offered here do not support a view that “India” and “Indians” are solely victims of U.S. copyright regimes, or for that matter, colonization or racist neoliberal violence.²³⁴ Indians have agency, though yoga itself may not. Nevertheless, the Critical Yoga Theory framework I deploy here includes valuing agency of the oppressed.²³⁵ In a moment of rising human suffering and displacement linked to environmental unwellness, propertized yoga in the United States projects a discourse of grounded white wellness.²³⁶ But this is simply one version of one story.²³⁷ My analysis points to other stories: yoga becomes more privatized and categorized even as it gains popularity and yoga properties are hoarded by whiteness in the West.²³⁸ In this power

224. Adapted from Singh, *supra* note 10, at 42; FRANTZ FANON, *THE WRETCHED OF THE EARTH* 235 (Constance Farrington trans. 1968).

225. Adapted from Singh, *supra* note 10, at 42.

226. Borrowed from Singh, *supra* note 10, at 42; NANDY, *supra* note 75, at xvi.

227. Adapted from Singh, *supra* note 10, at 42–43.

228. EDWARD W. SOJA, *POSTMODERN GEOGRAPHIES: THE REASSERTION OF SPACE IN CRITICAL SOCIAL THEORY* (1989).

229. Adapted from Singh, *supra* note 10, at 43; *id.* at 246.

230. Adapted from Singh, *supra* note 10, at 43.

231. Adapted from Singh, *supra* note 10, at 43.

232. Adapted from Singh, *supra* note 10, at 43.

233. Adapted from Singh, *supra* note 10, at 47.

234. Adapted from Singh, *supra* note 10, at 47.

235. Adapted from Singh, *supra* note 10, at 47.

236. Adapted from Singh, *supra* note 10, at 47.

237. Adapted from Singh, *supra* note 10, at 47.

238. Adapted from Singh, *supra* note 10, at 47.

play, infinite projections of dominant selves onto “Others” indicate an inventory of the costs to wellness the dominant have paid.²³⁹ Certainly, in an increasingly chaotic and less-resourced world, no one—neither colonizers nor colonized—can ultimately live healthily ever after.²⁴⁰

CONCLUSION

In this Article, I identify an exponential increase in the propertization of yoga using quantitative data to create a yoga copyright map. Based on this map, I ask: What do the stories of ownership in yoga tell us about property and IP? I also ask: What narratives are exposed by the high relief of the yoga copyright map? What are hidden, animating logics behind yoga’s rapid accumulation into U.S. private property? The study reveals that there is more to the story of yoga and IP than incentivizing innovation and promoting efficiency. The yoga copyright map reveals four compelling conclusions: (1) IP law draws yoga into private property; (2) the propertization of yoga is racialized as is all property; (3) yoga is a form of traditional knowledge, vulnerable to propertization and IP law as a tool of colonial accumulation, extraction, and erasure; and (4) propertized yoga is severed and mined through categorizations into alienable goods.²⁴¹

First, yoga is in the midst of an avalanche of privatization and commercialization through U.S. IP law. The sustained rise of propertization in yoga directly contradicts recent public discourse on yoga, which seemingly rejects the idea that anyone can “own yoga.” There is no denying the stark rise of ownership in yoga.

Second, yoga is racial property. The assertion that yoga is racial property is supported by a deeper look at three copyrighted yoga songs.²⁴² Each of the songs aims well-recognized anti-Black and Orientalizing racial tropes at yoga, yogis, and Indians.

Third, yoga is a form of traditional knowledge freely mined as *terra nullius* cultural property terrain. As traditional knowledge, yoga is expropriated and disadvantaged by U.S. copyright law.

Fourth, the legal propertization of yoga relies on a severing process that divides yoga into endless and dubious categorizations—differentiations that pave the way for profitable extractions. Ultimately, the propertization of yoga by U.S. IP law expropriates yoga from a living entity connected to people, place, and history into a *terra nullius* creative property, emptied of encumbrances, primed and ready for expropriation.

The yoga copyright data shows that the popularity of yoga is accompanied by rising exclusion and alienation, which are defining characteristics of U.S. IP and property rights. Increased categorization in yoga via

239. Adapted from Singh, *supra* note 10, at 47.

240. Adapted from Singh, *supra* note 10, at 47.

241. See discussion *supra* Part III.

242. *Easy Come, Easy Go*, *supra* note 143.

sharply rising numbers of dislocated yoga copyrights indicates the steady operation of tried-and-true colonial tools of domination. In the 1930s to the early 1950s, yoga copyright owners were as likely to be Indian from India as they were to be non-Indian, American, and predominantly white. Copyright claims were whitened as yoga gained popularity and profit through the 1950s and into the present day. Traditional knowledge is turned into a commodity, de-Indianized, even disoriented, in the process.

The discourse of *Whiteness as Property*²⁴³ suggests that property is an expectation of whiteness.²⁴⁴ Whiteness benefits from developments that reimagine the world as disposable.²⁴⁵ In the realm of yoga, this means that a vastly pluralistic science is subject to narrow property regimes led by two core values: alienation, or the right to sever and sell, and exclusivity.²⁴⁶ If yoga is a disposable, historic, raw material that may be infinitely copied and owned, then these ensuing properties are not only of yoga.²⁴⁷ These properties may have hints of yoga, but they are also something else entirely: a product that has not been named but profits from associations with “yoga” that include wellness, flexibility, strength, positive moral character, and balance.²⁴⁸ In sustainability studies, a related phenomenon is called “greening,” whereby the very industrial entities that create toxic imbalances in the environment appropriate the language of “green” environmentalism to earn both monetary and social capital.²⁴⁹ In creating an absolute right to use yoga, and constructing within yoga a potentially infinite well of appropriation, the process of propertization continues extraction practices that funnel power towards whiteness and the U.S. settler nation state.²⁵⁰

Private ownership in yoga increases as aspects of yoga, and India, become safer or assimilate to affirm the settler nation.²⁵¹ Data shows that copyright ownership in yoga doubled every decade, at minimum, for the better part of a century.²⁵² The first two decades of yoga-related copyrights, from 1937–1958, show moderate propertization of yoga, in the amount of a steady twenty-five copyrights per decade.²⁵³ Importantly, in these decades the number of yoga-titled copyrights remained constant.²⁵⁴ But between 1959–1969, the number of yoga-related copyrights at least

243. Harris, *supra* note 17, at 1718, 1729, 1745, 1756.

244. Adapted from Singh, *supra* note 10, at 48.

245. Adapted from Singh, *supra* note 10, at 48.

246. Adapted from Singh, *supra* note 10, at 48.

247. Adapted from Singh, *supra* note 10, at 48–49.

248. Adapted from Singh, *supra* note 10, at 49.

249. Adapted from Singh, *supra* note 10, at 49; see generally Mira Klein, Bonnie Keeler, Kate Derickson, Kaleigh Swift, Fayola Jacobs, Hillary Waters, & Rebecca Walker, *Sharing in the Benefits of a Greening City: A policy toolkit in Pursuit of Economic Environmental, and Racial Justice*, CREATIVE INITIATIVE (2020), https://create.umn.edu/wp-content/uploads/2020/02/sharing_in_the_benefits_of_a_greening_city_-_final_web.pdf.

250. Adapted from Singh, *supra* note 10, at 49.

251. Adapted from Singh, *supra* note 10, at 35.

252. See *supra* Part II; adapted from Singh, *supra* note 10, at 35.

253. See *supra* Part II; adapted from Singh, *supra* note 10, at 35.

254. Adapted from Singh, *supra* note 10, at 35.

doubled as selected elements of India and yoga became more popular, even iconic, in American popular culture.²⁵⁵ Peak indicators of this American popularity include great attention to the Beatles going to India in 1968, and Maharishi Mahesh Yogi opening ceremonies at Woodstock.²⁵⁶ These events and others indicate a pendulum swing towards safety for certain aspects of yoga and India.²⁵⁷ As the yoga space is assimilated, it becomes safe, or affirming of the settler nation, rather than a threat to it, such as when the British occupying forces banned uncooperative Indian yogis.²⁵⁸ In the late 1960s, the U.S. yoga space shifted towards being safe and affirming of the settler nation through mistranslations with lasting impact.²⁵⁹ The safe, dislocated yoga space has a sheen of New Age mysticism mistakenly associated with Hindu spirituality; it privileges *asana* or postures over other aspects of yoga sciences, and it inserts white bodies into nearly all visible layers of the space.²⁶⁰ In 1968, the United States was violently oppressing people at home and colonizing abroad, and the world was lit by liberation struggles; we can see the American turn to India and yoga as a strategy to continue waging these wars while projecting wellness and harmony inside and out.²⁶¹ Beneath the seemingly objective, neutral surface of copyright law, yoga is propertized at an accelerated rate, and these yoga properties are primarily held by white Americans.²⁶²

IP regimes are complex; they can make space for the resistance they aim to exclude. Embracing propertization, which is a key tool used to build the master's house, does have potential to connect yoga to the land in ways that can decolonize yoga. Further studies on yoga-related copyrights would benefit from envisioning how to steer the decolonization of yoga from metaphor to substantive decolonial methodologies that engage strategies of repatriation and reparations. A key step in decolonizing yoga as property will be to find space in unsettled copyright regimes to use propertization to link land and yoga, and more broadly, IP to real property. Yoga is interpreted to exist in the ephemeral realm of ideas, traditional knowledge, and medicine. It will be strategic to extend the propertization of yoga toward retranslating yoga as real property. I posit that yoga, as a part of the natural environment, is not an infinite resource that can be propertized, severed, and alienated forever. When situated on a spectrum of "real" property, yoga is more visible as a foundational terrain to settler

255. See *supra* Part II; adapted from Singh, *supra* note 10, at 35.

256. Adapted from Singh, *supra* note 10, at 35; Vikram Zutshi, "India Syndrome," and the Strange Side of Americans' Obsession with Hindu Spirituality, QUARTZ INDIA (Feb. 7, 2019), <https://qz.com/india/1545769/india-syndrome-and-the-strange-side-of-americans-obsession-with-hindu-spirituality/>.

257. Adapted from Singh, *supra* note 10, at 35.

258. See *supra* Part III.D; adapted from Singh, *supra* note 10, at 35.

259. Adapted from Singh, *supra* note 10, at 35.

260. Adapted from Singh, *supra* note 10, at 35.

261. Adapted from Singh, *supra* note 10, at 35–36; see, e.g., Jane Howard, *Year of the Guru*, LIFE MAG. (Feb. 9, 1968), https://books.google.com/books?id=K0kEAAAAM-BAJ&pg=PA52&source=gbs_toc_r&cad=2#v=onepage&q&f=false.

262. Adapted from Singh, *supra* note 10, at 36.

colonialism. Understanding IP on a spectrum of real property, and then yoga as land, helps clarify that greater attention to sustainability in yoga development is a valuable aim. Hopefully, this map can fuel these ongoing discussions and contribute to yoga continuing to exist and give wellness to more, for longer into the future.

Yoga can be practiced in any moment, under any conditions, including under duress, suffering, human bondage, and disaster as well as in joy; this is a resonant aspect of yoga in contemporary times of heightened surveillance and violence against the bodies of Others. People without land can still do *asana*, but the ability to engage one aspect of yoga is not equivalent to being able to practice the full medicinal arts practice.²⁶³ For example, an incarcerated body may find it possible to focus on the breath and move through a near daily set of warrior postures.²⁶⁴ When this same body is forced to ingest poisonous foods, and experience routine sexual violence and traumatic surveillance, the ability to practice yoga is adversely affected.²⁶⁵ Unsustainable development and resulting environmental toxicity results in upheaval, disease, and exposure to violence. Yoga can help bodies heal from these symptoms, but these growing calamities, asymmetries, and multiscale extremes are fundamentally antithetical to yoga.²⁶⁶ When there is no longer access to land to grow medicinal foods, and when mental health is burdened by displacement from homes into constant transition, the ability to practice the full medicinal practice of yoga is curbed.²⁶⁷ Because of air pollution in Delhi, air quality is now generally unfit for human existence.²⁶⁸ I know members of my own family in Delhi who engage life-long practices of regular regimens of Ayurveda and yoga through medicinal foods, *asana*, meditation, expertise in Indian classical music, and Sanskrit scholarship.²⁶⁹ One such aunt, who has lived in the heart of Delhi for fifty years, is on her second battle with cancer and wishes to leave town but cannot because of her chemotherapy regimen.²⁷⁰ The aim of the liberatory science of yoga is an abolishment of suffering.²⁷¹ When the suffering of all beings, animate and inanimate, increases due to rising extremes, such as climate change and asymmetries of power, there is more need for yoga.²⁷² Unfortunately, as I have shown here that rise in need is countered by popularity and profitability in yoga which encloses it, makes it more private, and creates less access to the practice and tools that comprise yoga.

263. Adapted from Singh, *supra* note 10, at 49.

264. Adapted from Singh, *supra* note 10, at 49.

265. Adapted from Singh, *supra* note 10, at 49.

266. Adapted from Singh, *supra* note 10, at 49.

267. Adapted from Singh, *supra* note 10, at 49.

268. Adapted from Singh, *supra* note 10, at 49; James Hamblin, *We Are Running Out of Air*, THE ATLANTIC (Nov. 6, 2019), <https://www.theatlantic.com/health/archive/2019/11/delhi-air-crisis/601507/>.

269. Adapted from Singh, *supra* note 10, at 49–50.

270. Adapted from Singh, *supra* note 10, at 50.

271. Adapted from Singh, *supra* note 10, at 50.

272. Adapted from Singh, *supra* note 10, at 50.

Ultimately, the stories of yoga as property indicate that IP's race and power dimensions are complex and can facilitate racialized expropriation even while not obliterating agency or obscuring the potential for stewardship. In this Article, I do not engage in a traditional doctrinal-reform project but instead a law, culture, and legal history project designed to fuel future prescriptive legal scholarship in property, IP, race, traditional knowledge, and yoga.