



An Analysis of How Intellectual Property Law Contributes to the Wealth Gap Between White and Minority Businesses.

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2019 Median Income by Race in America (Economic Policy Institute)

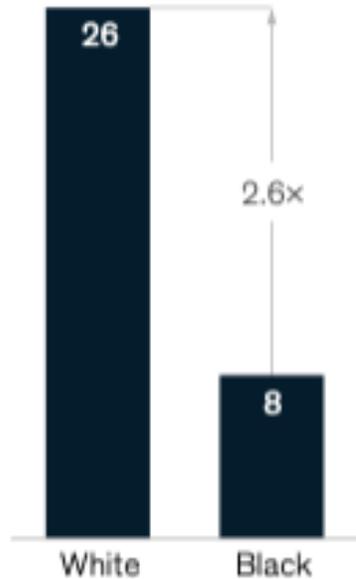
- Asian American Families
 - \$98,174
- White American Families
 - \$76,057
- LatinX American Families
 - \$56,113
- Black American Families
 - \$45,422

PERSONS IN FAMILY/HOUSEHOLD	POVERTY GUIDELINE
1	\$12,490
2	\$16,910
3	\$21,330
4	\$25,750
5	\$30,170
6	\$34,590
7	\$39,010
8	\$43,430

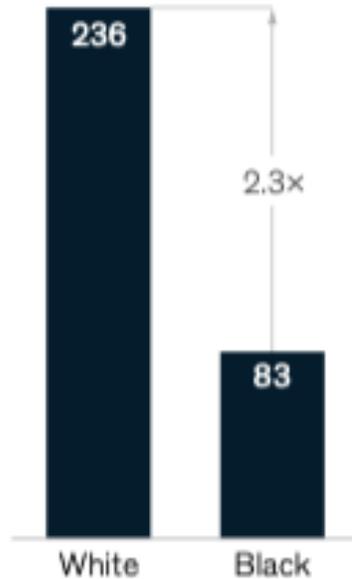
For families/households with more than 8 persons, add \$4,420 for each additional person.

Black families begin with lower endowments of equity capital because of differences in rates of inheritance.

Share of population receiving inheritance in 2016, %



Average inheritance value in 2013, \$ thousand



Source: "2016 survey of consumer finances," Federal Reserve Board, September 2017, federalreserve.gov; Jeffrey P. Thompson and Gustavo A. Suarez, "Exploring the racial wealth gap using the survey of consumer finances," Federal Reserve Board, August 2015, federalreserve.gov

Family wealth

- The keys to a stable base of family wealth:(page 11)
 1. Capital
 2. Liquid savings
 3. Credit
 4. Access to investable assets
- Black families have uneven access to each of these key components:
 - Why?
 - They begin with lower levels of wealth:" only 8 percent of black families receive an inheritance, compared with 26 percent of white families." (page 11)
- An inheritance for a black family is 35 percent of the value of that of a white family. (page 11)
- What impact does the lack of access to "stater" wealth have on black Americans? (page 11)
 - Black college graduates are more likely than white college graduates to support their parents causing their wealth to decline after graduation.
 - Black college graduates are 1.3 times more likely than white families to have student debt.
 - Black student loan debt is typically 1.7 times higher than those of white families.
 - Black borrowers are 2.3 times more likely than white borrowers to default on their loans.

Hypothesis

- IP Law has contributed to the wealth gap between white and minority businesses by hindering the attainment of generational wealth & not catering to Afrocentric methods of creativity.

INTELLECTUAL PROPERTY



What is IP Law?

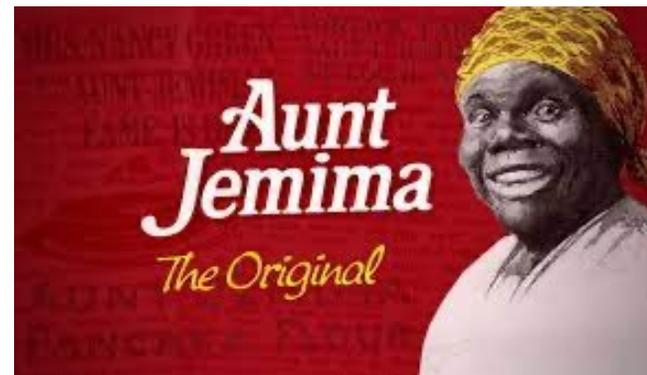
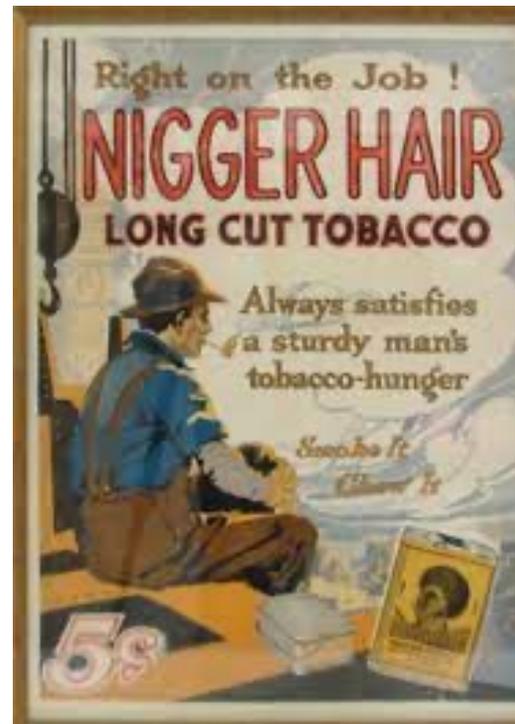
- Intellectual Property "is a range of creations that, because they have value, are given specific legal protections through property rights."
 1. Trademarks
 2. Trade secret laws
 3. Copyrights
 4. Patents

Lanham Act

- In 1946 Congress enacted the Lanham Act.
- Two foundational requirements need to be met for a mark to qualify for trademark protection.
 - Must be in use in commerce
 - Needs to be distinctive.
- Section (2)(a) of the Lanham Act prohibits the registration of trademarks that are "scandalous or disparaging" in nature.¹
- Lanham Act only prohibits the federal registration of racially derogatory trades not the use of a racially derogatory trademark.
- *Matal v. Tam*, 137 S. Ct. 1744 (2017).

How does trademark law aid in creating the wealth gap between white and minority businesses?

Trademark law protects identity in the marketplace by prohibiting third parties from using identifiers such as a symbol or name that is associate with a particular provider.



Aunt Jemima

- Greene notes that trademark law and its protections has contributed to the promotion of "derogatory racial stereotypes that facilitate racial subordination."
- Derogatory racial stereotypes, such as the mammy that is depicted by Aunt Jemima, facilitate the racial subordination that Greene mentions in his article.
- For roughly 130 years, Quaker Oats has used "Aunt Jemima" as their mascot for their pancake and syrup brand.
- Aunt Jemima is a racist symbol of an enslaved mammy caricature.
- "We recognize Aunt Jemima's origins are based on a racial stereotype."



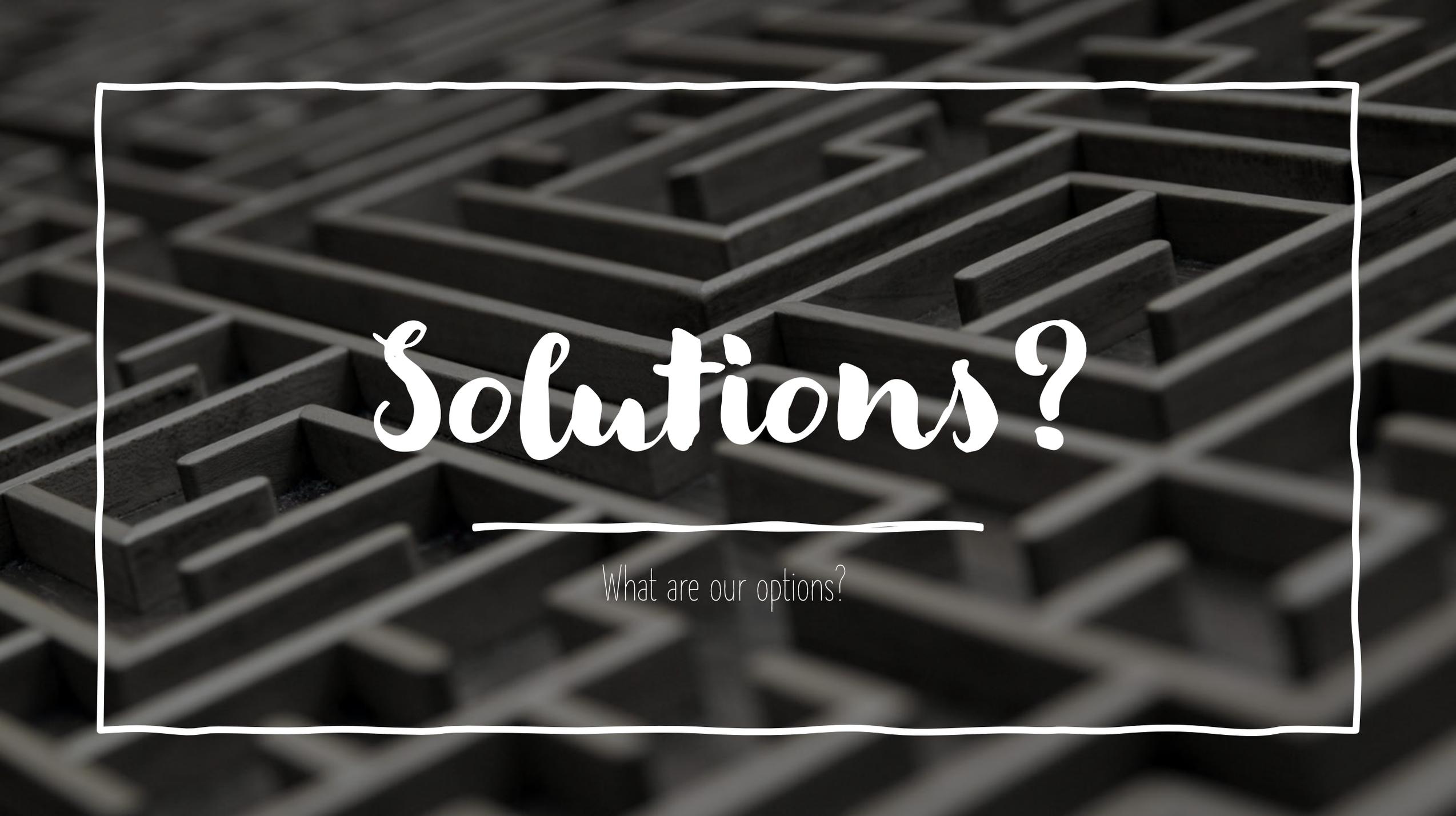
Origins of Racial Stereotypes about African Americans

- The racial stereotypes about African Americans, that were formed during the earlier part of America history, played a significant role in the modeling of attitudes towards African Americans.
- The Mammy characterized black women as caretakers of white children, obedient to white people, unattractive, and a tyrant who dominated black men and children.
- Out of the Mammy image came the stereotype of Aunt Jemima.
- For over a century, generations of Americans subconsciously or consciously partook in the promotion of "the Mammy" stereotype by purchasing Aunt Jemima products.

Matal v. Tam

- The Court in *Matal v. Tam* held that the disparagement clause within the Lanham Act was unconstitutional because it violated the free speech clause of the First Amendment.





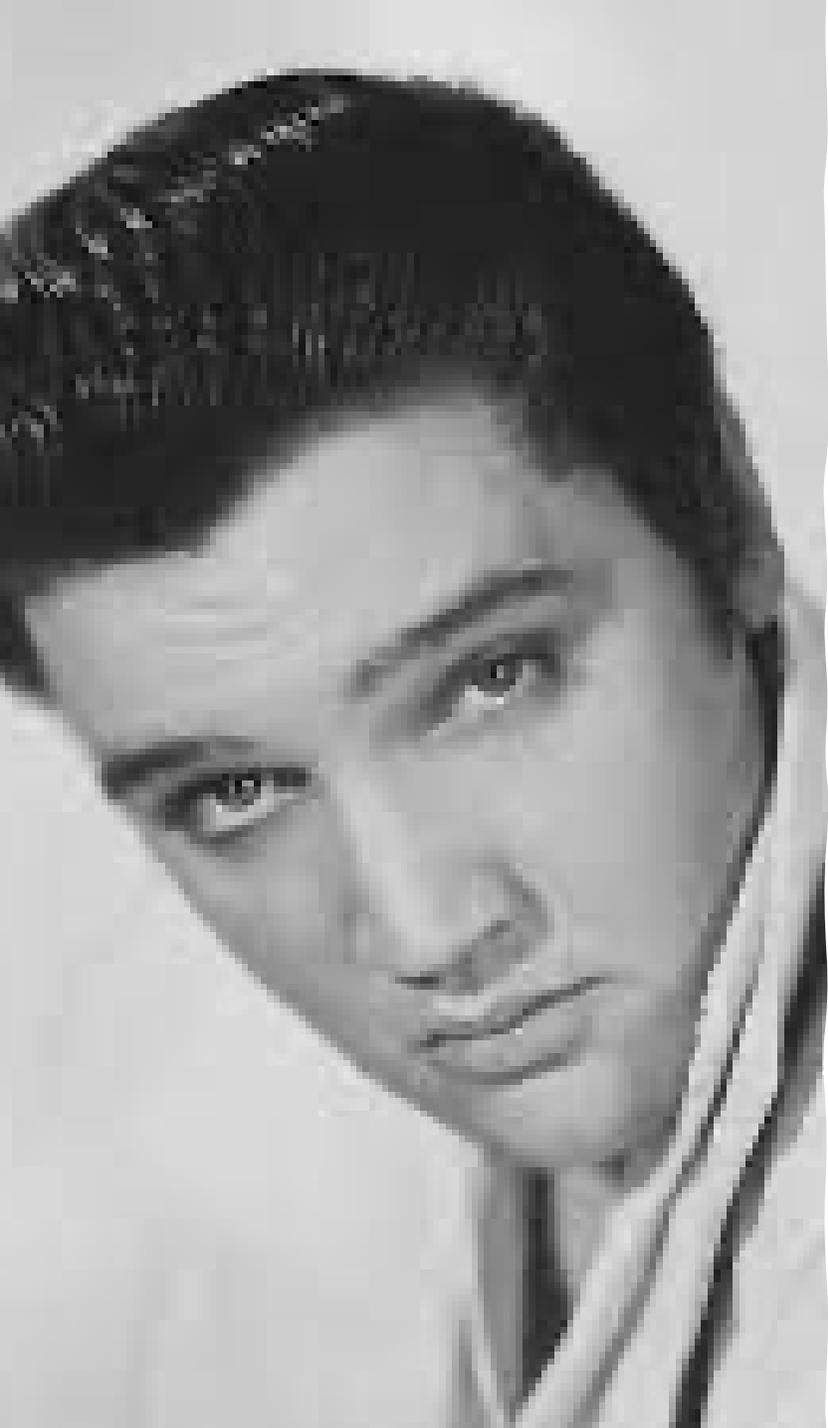
Solutions?

What are our options?

How does copyright law aid in creating the wealth gap between white and minority businesses?

Copyright law gives creators the sole rights to reproduce their creations .





"I will Always Love You"

- Copyright law is intended to give creators the sole rights to reproduce their creations, but it has been used to protect the appropriation of black artist by nonblack artist.
- In the early part of U.S. history African American blues artists were heavily placed in the public domain

The five copyright structures that create a disadvantage for productions from black culture



- The first copyright structure that creates a disadvantage for black creators is copyright law forbids protection for "raw ideas, and protects only expression of ideas.
- Greene argues the failure to protect ideas disadvantages black composers whose works were widely imitated leading their works to become the "idea" and thus unable to copyright.
- Hip Hop music

The five copyright structures that create a disadvantage for productions from black culture (cont.)

- The second copyright structure that disadvantages black creators is the fixation standard of copyright law.¹¹ Copyright law only protects works that are "in a tangible medium of expression."
- Greene asserts that because African American use oral tradition as a means for cultural production, the fixation within copyright law disadvantages African Americans.



The five copyright structures that create a disadvantage for productions from black culture (cont.)



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- The third copyright structure that Greene states disadvantages black cultural production is the low standards of originality that copyright law requires.
 - Greene argues that the low standards of originality "encourages imitation."



The five copyright structures that create a disadvantage for productions from black culture (cont.)

- The fourth disadvantage is the formalities of copyright law.
- Greene notes that prior to 1976 copyright protections were not easily accessible to illiterate creators of the blues.

The five copyright structures that create a disadvantage for productions from black culture (cont.)

- Lastly, Greene asserts, "there is a general absence of moral rights protection, which protects against harms to authorial dignity."



Solutions

How does patent law aid in creating the wealth gap between white and minority businesses?

- Patent law allows creators to prevent others from making or selling their creation



Who is not getting approved?



- A twenty-first century empirical study of patent grant rates based on race and gender highlights that minorities and women are less likely to have their patent application approved when compared to the general population
- Women are less likely, when compared to men, to file a patent application.
- In 2016, only 12% of patent applications filed were by women.
- Between 2000 and 2016 67.2 percent of patent applications by women were accepted. However, 73.0 of patent applicants filed by men were accepted.

A collection of colorful wooden puzzle pieces, including various shapes like crosses, L-shapes, and rectangles, scattered on a wooden surface. The colors range from purple and blue to red, green, yellow, and brown. The word "Solutions" is written in a white, cursive font across the center of the image.

Solutions



Questions?
