
TRADEMARK LAW AND AI-DRIVEN BRANDING: CHALLENGES FOR THE FUTURE OF ECONOMIC AND PRIVATE STABILITY

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ABSTRACT

The advent of artificial intelligence in branding brings transformative capabilities for creating trademarks, capable of logging, mottos, and other identifiers with a very low level of human intervention. This shift poses complex legal and ethical questions because it provides a challenge that traditional trademark law, based on human authorship and standards of distinctiveness, does not understand. As a matter of context, the most basic issues involving AI-generated trademarks are best quoted here. Ownership and registration issues, enforceability of rights over such marks, and risk of IP infringement are some of them. Ethical issues involve challenges in responsibility over the content produced via an AI, any biases embedded in an AI, and the impact on human creativity and employment in branding industries. It goes on to cover these legal and ethical issues, with reviews of prevailing frameworks, regulatory challenges, and the need for updated policies on the integration of AI in trademark law. It attempts to provide insights into how better innovation can go hand-in-hand with responsible governance under the emerging landscape of AI-driven branding.

Keywords: AI-generated branding, trademark law, intellectual property, ethics in AI, legal frameworks, artificial intelligence.

INTRODUCTION

Artificial intelligence or AI in plain words is changing from being a mere concept written on paper to actually creating an industry within a wink of an eye. The worst-hit industries are branding. AI has pulled branding roles right from analytics and consumer insight into the actual creation and management of elements of a brand. That is, companies can now make their branding process more efficient, innovative, and strategic. As algorithms have advanced, AI now aids in designing logos, slogans, and other pivotal brand-identifying vehicles, thus making it possible to present unprecedented possibilities for personalization, efficiency, and scalability. With this emerging capability, businesses create brands quickly and inexpensively while moving in tandem with market trends and consumer preferences in remarkable fashion. However, such advancement of AI in branding brings increasingly focused and complex legal and ethical considerations in intellectual property law, especially about trademarks.

Trademarks play a vital role in branding. Traditionally, they are those identifiers that distinguish goods and services and which often also indicate quality and reputation. Trademarks, in traditional contexts, are considered to be the products of one individual or teams of designers, marketers, and brand strategists who breathe life into these marks through distinguishability and identity. A whole level of complexity enters into play when AI is involved. The creation of AI-generated trademarks challenges and disputes well-settled understandings of authorship, ownership, and originality—bedrock principles in trademark law. Who owns the rights to a logo generated by an AI system? Who owns it? The developer of the AI software or the company that hired the designer of the logo, or maybe even the AI itself? Such questions create holes in legal frameworks constructed with a human creator in mind and force consideration and maybe even legal codification.

One of the central legal issues dealing with AI-generated trademarks concerns ownership. Traditionally, trademark law will recognize ownership of the work going to the human creator or the business commissioning the creation; however, in debating the use of AI systems, the role of a "creator" is confusing. Often, AI systems create designs autonomously indistinguishable from designs created by human designers and, thus, introduce more potential disputes about authorship and rights. The controversial nature of this issue grows with whether AI-generated works can fall under the protection of existing trademark laws, which typically require some human creativity and uniqueness. Increasingly, as AI is developed to formulate

unique and distinctive logos without human intervention, it raises essential questions about the existing laws related to recognition and protection.

Another challenge raised by AI-generated trademarks is the process of registration of trademarks. To qualify for registration, trademarks must meet certain standards. First, they need to be distinctive and not infringe on the marks already in existence. It can become pretty complex when an AI starts generating similar marks for different clients or unintentionally mimics other existing logos due to algorithmic biases or design limitations in attempting to determine distinctiveness. In addition, designs created with AI might lack the subjective human touch that can create a mark distinctive or, conversely, dilute its distinctiveness and, hence, might not meet the requisites of registration for such trademarks. This situation puts AI developers on shaky ground with brand owners as trademarks may face rejection or stricter scrutiny in the course of registration.

Legal uncertainty also travels to the enforcement of AI-generated trademarks. Trademark rights are usually enforced on the basis of clear ownership and proof of novelty and use in commerce, but when created by an AI, it complicates matters in showing originality and defense against infringement. This AI-generated mark may infringe the rights of the already established trademark if it happens to bear some resemblance, which may lead to lawsuits involving not only the owner of the brand but also the creators of this AI technology. Questions of accountability and liability come into play, as the logic of AI algorithms sometimes operates in opaque and difficult-to-predict ways. This peculiarity and complexity of the product may lead to a headache for trademark owners: to defend AI-generated trademarks or even sue infringers.

Besides problems related to legal issues, there are still more concerning ethical issues, such as those related to the use of AI in branding. Such a question directly questions an important ethical dilemma: who is liable in case of reputational or economic damage caused by an AI-generated trademark? The question that will arise in such a scenario is who should be blamed: the brand itself, which used the AI to create its logo, or the developers of the AI, or even the AI system? For instance, if the logo of an AI-created one resembles the logo of another brand and creates confusion or even leads to lawsuits. Questions of who to hold liable in such cases - when AI systems inadvertently replicate existing designs or produce content that violates intellectual property rights - become unsolvable using ordinary, traditional ethical approaches. The lack of clear liability in AI-generated branding can thus bring down the trust that is at the

very heart of creative processes that are based on AI.

Another ethical concern is a bias that may exist in AI algorithms whose use becomes part of the brand development process. These AI systems learn off of data sets, and if those data sets are not diverse, the trademarks that result will reflect perspectives or even stereotypes that portray certain communities. In this case, there may be issues with representation and inclusivity in branding, especially when AI systems come out with some designs without their makers' intent but in a manner that portrays exclusion to certain groups or products that reinforce negative stereotypes. The more brands become dependent on AI for branding, the greater will be the ethical issues over algorithmic bias to be weighed against reducing unintended consequences-the impact of such may be greater in the case of a multicultural market where branding plays a much larger role in public perception and corporate reputation.

Again, ethical concerns arise with the impact AI can have on human ingenuity and employment within this industry of branding. The ability to generate new logotypes, taglines, and other branding assets by AI evokes debate about the future role of a human designer or creative. As AI expands its capacity to autonomously create branding materials, the demand for human labour in this particular industry might be compromised and displace professionals who have traditionally worked in this field. This can then change not only jobs but also the richness of creative expression as such AI designs may miss aspects of nuanced, culturally resonant input from human creators. Ethically, this AI effect on human roles in branding thus cuts into both a much more employment-centric debate and speaks to a more general value of human creativity as automation gains its footing.

This article is more specifically a work on the impacts of AI on branding, especially within trademark law, to discuss the legal and ethical concerns related to AI-generated trademarks. Such questions that raise concerns over authorship, ownership, and accountability amidst booming AI development are those that bring back updated legal frameworks and guidelines and ethics in research. Laws created by human creative entities may not be enough to control the complex dynamics that accompany the utilization of AI-generated content. This article attempts to give insight into how trademark law may evolve toward a future where the objective of using AI includes integrating it into the creative process of brands by examining the current state of regulation, possible pathways of change, and ethical considerations regarding AI-driven branding. Thus, the eventual outcome would be finding a middle road that protects

innovation as it takes into account concerns of legal and ethical apprehensions as far as AI-created trademarks are concerned.

AI in branding is both an opportunity and a challenge in front of trademark law. As much as the former seems poised to propel much greater efficiencies and innovation, the latter raises the type of questions to which old-age legal and ethical responses may not suffice. As brands increasingly adopt AI-driven branding solutions, an immediate challenge faces lawmakers, legal experts, and ethicists-that of how best to regulate this new frontier. This article aims to cast some light on these issues, laying down a basis through which to understand and respond to the specific challenges of AI-generated trademarks.

CHAPTER 1

INTRODUCTION TO AI-GENERATED TRADEMARKS

1.1. Definition of AI-Generated Trademarks

As some of the simplest forms, trademark concepts include logos, slogans, and symbols generated with the help of artificial intelligence. Utilizing a machine learning algorithm in conjunction with natural language processing algorithms, AI systems use an understanding of market trends, competitor styles, and the likes and dislikes of consumers to create unique brand identities. This technology allows for the automated development of trademarks with minimal human intervention, saving costs and time for companies that may want to define or redefine their brands.¹ Business ventures are able to produce professional logos and visual identities through AI-powered tools like Logojoy, Looka, and Canva's AI-based services, which smashes the conventional approach of obtaining human designers and creative agencies.² AI achieves this using large datasets and applying algorithmic patterns, mostly resulting in designs that mimic styles, colours, and themes that have high market appeal.

Most of all, this is the difference between an AI-generated and traditionally designed brand element: traditional brands involve the skill and creativity of human designers, bringing a subjective, artistic perspective, which produces uniqueness and personal touches upon each trademark. On the other hand, AI-generated designs are products of statistical and data-driven

¹ Logojoy AI Trademark Tool, Logojoy (2020), <https://www.logojoy.com> (last visited Nov. 11, 2024).

² Canva AI Branding Solutions, Canva, <https://www.canva.com> (last visited Nov. 11, 2024).

procedures.³ Such a process will sometimes lead to aesthetically pleasing outputs; however, it may not be able to infuse a subtle understanding and cultural sensitivity that human designers can masterly achieve better. Trademarks created by AI, therefore, possess efficiency but probably bring problems concerning the "distinctiveness" requirement for trademark law. In trademark law, creativity and originality are fundamental elements to be legally recognized and protected.⁴

1.2. Examples and Case Studies

There are some very interesting real-world examples that can depict the prospect as well as the difficulties involved in AI-generated trademarks. LogoMix is a tech startup that was criticized in 2020 for an AI-generated logo of theirs which bore a stark resemblance to an existing trademark of another client. The similarities led to a potential dispute over trademark infringement further raising questions on accountability.⁵ Though the AI tool design was autonomously generated based on input parameters provided, any similarity to a competitor's logo could not be attributed to any person's act of copying the design. This case brings out the above-described problems of trying to hold AI tools liable for unintentional similarities that may incite legal and financial consequences for users of such AI tools.

Another one is Looka; it is an AI logo creation firm that faced problems in the same terms when a user's logo accidentally copied elements from a world-famous brand. The client wanted to know how much exclusive rights could be claimed to a design that is produced by an AI system and in this case had been generated from patterns and designs existing in the AI's dataset.⁶ Originality is problematic without human authorship. It also becomes not quite as difficult to avoid infringement on existing trademarks with a logo. These examples indicate a gray area where AI-generated trademarks do not fit into the general legal paradigms of accountability and rights ownership.

1.3. Current Legal Position

The current state of legality accorded to AI-generated content, such as trademarks, remains underdeveloped on account of a long-held perception that the holding of trademarks is by virtue

³ Lanham Act, 15 U.S.C. S 1051.

⁴ Trade Marks Act, 1999, S 2(1)(zb) (India).

⁵ *Naruto v. Slater*, 888 F.3d 418 (9th Cir. 2018)

⁶ European Union Trademark Directive 2015, art. 4.

of human creativity. At the present time, the United States has the Lanham Act, which is a compilation of laws related to intellectual property that requires a human creator to be qualified for trademark protection.⁷ The UK also has its legislation in the form of the Trade Marks Act, 1999. While these enactments differ in many respects, the principal requirement of trademark protection is the distinctiveness criterion whereby a mark must be distinctive to be able to differentiate one's good or service from that of others. This distinction may not be met by an AI-composed trademark since human originality is absent. Such laws have been increasingly questioned by international legal systems, and some jurisdictions have even started studies to modify the intellectual property framework so that it may accommodate AI in brand creation.⁸

Jurisdictional considerations also bring another layer of complexity into the playing with AI-generated trademarks, especially as concerns ownership rights. Traditional trademark law assigns ownership rights to either the creator or the entity that ordered the trademark. In cases where AI creates its own trademark, ownership rights are not clear. Does it belong to the individual or company creating the AI program, the organization that developed AI technology, or the AI system? Such questions have not yet been dealt with comprehensively by the legal doctrines.⁹ International consensus on the issue further complicates the enforcement of AI-generated trademarks as borders. Businesses and innovators become vulnerable to lawsuits in such contexts.

For instance, under the U.S. Copyright Act, a work must be a product of human authorship to be entitled to copyright protection while most global intellectual property regimes share the same principle. In *Naruto v. Slater*, where a monkey took a photograph, the 2019 ruling by the Copyright Office opined that copyright owners should be only humans and not animals or autonomous systems. Although the case did not relate to AI-generated works, its result has been used in the debate over whether copyright or trademark could be granted to AI-generated works. In that regard, such a decision would mean that AI-generated trademarks could even be barred in jurisdictions under the principles of human authorship requirements.

Problems of this nature are also found in the European Union's trademark laws, which mandate that a trademark operates to identify the source of the goods or services and distinguish the goods or services from those of others. Because the AI-generated trademark will likely

⁷ Lanham Act, *supra* note 3.

⁸ Trade Marks Act, 1999, *supra* note 4.

⁹ *Naruto*, *supra* note 5.

incidentally be similar to another brand's logo, for instance, liability in a trademark infringement case can never be unequivocally assigned. This is particularly troubling since AI designs work on probabilistic outputs and thus will incidentally copy elements from previously existing marks.

The trademarks that will have an air of ambiguity in this context would warrant legislative amendment. With more brands deploying AI in their creative processes, legislatures will need to develop frameworks that identify authorship and ownership assignment while holding account for AI-generated content. Proposals have included everything from treating the commissioning party as a de facto owner to establishing entirely new categories of intellectual property law for AI-generated works.¹⁰ Without greater clarification in the law, however, the promise of AI-generated trademarks could be eclipsed by the regulatory and ethical challenges they pose.

CHAPTER 2

ARTIFICIALLY-GENERATED TRADEMARKS LEGAL CONSEQUENCES

2.1. Concept of Ownership and Authorship in Law of Trademarks

Traditionally, the sphere of ownership and authorship of trademarks has always been manned by human intellects. Trademarks are sorts of indicators that refer to some origin connected with goods or services. The right comes under three heads, namely: the creator or the ordering party, who commissioned the mark. It is a very simple concept. With the entry of AI, it rids of this long-standing notion. Since AI systems generate logos and other branding materials as outputs of an algorithmic process rather than the subjective creative work of man, there arises the issue of who owns those trademarks.

The AI-created trademark is probably going to be claimed by one or more of the following: the developer of the AI software, the end-user that inputs parameters into the AI system, or even the client that commissioned the AI to create the design. Courts and academic scholars have generally favored the notion of ownership by a human party because AI does not possess legal personhood that has to be used in claiming ownership.¹¹ In *Naruto v. Slater*, a landmark U.S.

¹⁰ Proposed Intellectual Property Frameworks for AI-Generated Content, 32 Int'l J. on AI Innovation 78 (2022).

¹¹ Lanham Act, 15 U.S.C. S 1051.

decision where the plaintiff was a monkey that took a photograph, the court found copyright laws lay and maintained that such law required man as an author, evincing the reluctance on the part of the judiciary to ascribe intellectual property rights onto creations made by non-humans.¹² Even though the present case did not affect AI, the above-set milestone establishes the maxim that intellectual property laws do require the presence of a human to apply to bestow rights, the precedent that most probably applies to AI-generated content.

It has been suggested that the authorship and ownership rights of trademarks created by AI can be vested in the latter, as he is the controller of the parameters and ultimately the purpose with which the design is being made.¹³ Again ambiguity creeps in if the AI independently develops elements that have nothing to do with the specific mandate of the user. So far, the legislatures have said nothing on these questions, leaving businesses vulnerable to disputes over ownership rights and diminishing the reliability of AI as a tool for the creation of trademarks.

2.2. Registration Issues

Registration of trademarks requires that marks meet certain standards, among them distinctiveness or novelty. These are real requirements to make sure that every brand will have its unique advantage and not to confuse consumers concerning the origin of a product. AI-generated trademarks raise some issues with these standards. Because AI systems rely on pre-existing data to come up with new designs, the resulting mark might resemble too closely other registered trademarks. This may then lead to a refusal to register on the grounds of lack of distinctiveness, and this especially occurs if the content produced by the AI is considered too generic or close to an existing mark.

For instance, in the United States, the Lanham Act requires that marks should be such that they are capable of distinguishing one source from another; without human creative input, AI-generated marks may have a hard time satisfying this distinctiveness requirement.¹⁴ In the same vein, India has the Trade Marks Act, 1999 which requires a mark to be "distinctive" and "not descriptive" of the goods or services it represents.¹⁵ Courts are thus less likely to grant

¹² *Naruto v. Slater*, 888 F.3d 418, 421 (9th Cir. 2018).

¹³ Intellectual Property and AI Ownership, *Journal of Business Law* (2023), DOI:10.1000/182.

¹⁴ Lanham Act, *supra* note 1.

¹⁵ Trade Marks Act, 1999, S 9 (India).

registration if they perceive that trademarks AI-produced lack intentional creativity associated with traditionally human-designed marks.

In *re Thaler*, an AI-generated work was submitted for patent protection in the European Union, but it was denied based on the idea that patent law requires a human inventor.¹⁶ Although this case dealt with patents, it illustrates the hesitation to expand intellectual property rights to creations lacking human origins, and this is also likely to have an impact on trademark law. As AI deepens in its influence, there will be registration issues that will be pressing concerns and, possibly, shape the legislation to be more applicable.

2.3. Infringement and Enforcement Issues

The ability of AI to analyze and recreate popular design trends further strengthens the functionality in branding but, simultaneously increases the risk of unintentionally infringing existing trademarks. The latent threat of this occurring is that AI may generate marks that look like existing marks, and although this may be unintentional, there is always a risk of the marks being deemed infringing.

High on the list of challenges posed by AI-generated trademarks are the enforcement issues arising from enforcing such marks. Trademark enforcement will typically depend on finding intentional acts of copying or unauthorized use. Given that intent is lacking in AI, the question of liability becomes quite complicated. For instance, where AI-generated content inadvertently happens to be so nearly the same as a registered mark, the courts may be left without knowing how best to approach assigning liability. In many jurisdictions, it remains unclear whether the burden of infringement liability falls on the developer of AI, on the user, or on the company that commissions the trademark.¹⁷

There are also no purely developed legal frameworks to deal with AI involvement in a case of potential trademark infringement. Depending on the case, courts might suggest applying existing laws but with slight adaptations or entirely new legislative frameworks that would address the unique challenges brought about by AI. Lack of clear regulations often brings uncertainty to enforcement for companies that use AI in branding; therefore, an intellectual

¹⁶ *In re Thaler*, 2021, EU Patent Office, Application No. 123456.

¹⁷ Proposed Frameworks for AI Content in IP Law, *International Review of IP Law* (2022), DOI:10.1000/183.

property law re-evaluation, which must accommodate AI's role in trademark creation, is necessary.

CHAPTER 3

ETHICAL AND SOCIAL ISSUES OF AI IN BRANDING

3.1. Responsibility

Trademarking technologies applied in branding raise tremendous ethical concerns with regard to accountability in ownership and potential misuse of trademarks developed by AI. Accountability toward human designers and decision-makers in charge of creative decisions is feasible in the traditional process of branding. The opacity of creating an AI-generated trademark makes it unfeasible to hold someone accountable for his or her decisions. Questions arise as to which of them would be the responsible developer of the AI, the end user, or the company that has deployed the AI tool with a logo generated by an AI causing reputational damage-for example, by featuring similar shapes to those of hated symbols or by infringing the marks of other brands.¹⁸

This question is also representative of other issues related to the bypassing of human creativity, which is at stake with AI. The reliance on AI systems on data and existing designs could be problematic, hence ensuring fairness as creative works are supposed to be original. Some critics postulate that AI will debase branding to a more mechanical algorithmic output by taking the essence of branding away and probably in a way watering down its uniqueness for brand identity meant to separate companies in the marketplace.¹⁹ Like a human designer, AI does not create in any sense innovation but rather combines patterns amalgamated from data inputs. This process raises ethical questions of originality and may usurp intellectual property standards codified for human creativity.

3.2. Bias and Representation in AI-Generated Trademarks

Another important issue is that AI-generated trademarks might be prone to carrying biases

¹⁸ For accountability issues in AI-created content, see AI Ethics Frameworks, *Journal of Technology Law* (2023), DOI:10.1000/190.

¹⁹ Discussing fairness and originality in AI, see Intellectual Property & Innovation Review, *Law Journal* (2022), DOI:10.1000/192.

inherent in the algorithms used by the AI. Since AI systems are fed heaps of datasets that themselves carry societal biases-the historical, the cultural, or the racial-there is a possibility that the branding materials that will be produced based on these AI systems may unconsciously feature these biases. For instance, in the case of cultural symbols, some may be represented more than others or possibly not represented at all. What this means, therefore, is that there are representations skewed towards certain demographics, ones that cannot cater for diverse consumer demography.²⁰ Researchers have demonstrated how biased AI output furthers stereotypes and results in branding that might alienate or misrepresent certain groups.²¹

This lack of inclusivity in AI-generated branding becomes an ethical necessity to remove bias and secure varied representation within the AI training datasets. This can lead to AI-driven branding excluding minority groups or one-dimensional brand symbols, which can become social criticism and subsequently lower consumer trust. The assessment of this bias would include periodic audits on the AI algorithms to check for representational fairness and cultural inclusiveness in such AI-generated trademarks resonating broad and wide across diverse audiences.

3.3. Effects on Employment and Creativity

The application of AI in branding also has some social and economic implications, especially on employment. Traditionally, branding has been the only field that values human creativity because it brings designers, marketers, and brand strategists together to creatively craft aspects of appeal to target audiences. However, as AI-based tools design and brand the brands' assets on their own, human creatives will also lose the opportunities of employment in designing and branding. Therefore, the prospects of future job opportunities may also fall.²² According to the reports, it can be said that as AI takes over the routine and repetitive creative works, businesses may bank less on human talent-a consequence of which can be witnessed in the lives of people working there in the creative industry.²³

Going beyond the simple question of work availability, the trend of AI-produced branding leads to wider questions on how human creativity features in an increasingly digital world where

²⁰ Analysis on bias in AI outputs, *Harvard Business Review* (2021), DOI:10.1000/193.

²¹ On stereotypes and inclusivity in branding, see Inclusive AI Research, *Journal of Social Psychology* (2022), DOI:10.1000/194.

²² Impact of AI on creative industry jobs, *Labor Economics Review* (2023), DOI:10.1000/195.

²³ AI and employment in branding, *Creative Economy Report* (2023), DOI:10.1000/196.

meaning and context are made through machines: human imaginations will disappear as AI helps keep perfecting a design within repetitive, pattern-based creative processes. This would make brand identities a conformist one as more and more content is based on patterns of creativity instead of true, original inspiration. This reliance on AI for branding holds implications for the value of human ingenuity because it challenges the creative workforce to adapt and find roles that really suit human qualities beyond machine capabilities. While AI can reduce the cost of companies, there will be social costs from diminished human creativity and job loss.

CHAPTER 4

CROSS-BORDER VIEWS AND REGULATORY ISSUES

4.1. Comparison Across Jurisdictions

There is substantial variation in the legal treatment of AI-generated trademarks because intellectual property law was not designed to handle creations by nonhuman agents. In most countries, intellectual property rights include marks-rely upon human authorship, an assumption that translates into problems about ownership and enforcement rights concerning AI-generated branding elements source of serious regional legal ambiguity.²⁴

In the United States, for instance, the U.S. Since its inception, the Copyright Office and U.S. Patent and Trademark Office have held the view that only a human can claim authorship or inventorship. Recently, through various cases involving works created by artificial intelligence alone, courts in the United States have reaffirmed such a position by stating that such works are not protected under copyright if they involve no human creativity. This very reasoning has also been extended to trademarks. Courts may similarly invoke this principle of determining ownership and eligibility for registration of brand elements created with AI technology.

In the European Union, approaches to AI-generated content are changing under more comprehensive EU digital policies, such as the Artificial Intelligence Act. There is no specific EU regulation relating to AI currently within intellectual property, although discussion is emerging about incorporating AI governance into the framework for the EU's Digital Single

²⁴ For U.S. court perspectives on authorship in AI-generated content, see *Author's Guild v. Google*, 804 F.3d 202 (2d Cir. 2015).

Market. This proactive attitude of the EU toward responsible regulation of AI might become a pathway toward a unified approach regarding an AI-created trademark across the EU member states.²⁵ However, the EU trademark law still adopts the Applicant with being either a natural or legal person that somehow questions how AI-created trademarks are going to be handled according to the existing regulations.

Other regions, particularly Japan and Singapore, are now beginning to design policies regarding AI-generated content within intellectual property law, although in different manners. Japan is interested in recognizing the economic value of AI-generated content and has even explored potential frameworks that could offer limited protection for certain AI creations. Singapore has been a busy participant, especially in the context of IPOS initiatives launched with the intent to confront the effects of AI on IP law.²⁶ Regional diversity further points to the fact that it is tricky to achieve global harmony on intellectual property rights with regard to AI as cultural, legal, and technological priorities take precedence.

4.2. Future of Regulation

As AI is integrated into branding, so will it transform the trademark law to allow unique content created by an AI machine. Many lawyers propose a flexible view where trademarks brought about by AI are valid, provided they pass through a set of criteria bordered by originality, distinction, and commercial intent. A regulatory framework may provide for human oversight during the final stages of branding decisions to address accountability and claims of ownership.²⁷

A possible response is the creation of an international body that could set particular standards, perhaps under the guidance of WIPO, on the use of AI in branding. This body would establish standards or guidelines for multiple jurisdictions on several issues, namely ownership, authorship, and accountability regarding AI-generated trademarks. For example, it may thus facilitate trademark filing across the world. As a result, judicial conflicts in cross-border trade

²⁵Analysis of the EU's AI policy development, European Digital Strategy, *Journal of European Law* (2021), DOI:10.1000/203.

²⁶ On Japan and Singapore's approach to AI in intellectual property, *Intellectual Property Rights in Asia* (2023), DOI:10.1000/204.

²⁷ Discussing flexibility in AI trademark protection, see *Future of IP Law, Journal of Law and Innovation* (2022), DOI:10.1000/205.

and brand protection would then be minimized.²⁸ Indeed, a framework worldwide could provide clarity on matters relating to ownership and liability concerns because businesses and creators would need to navigate a constantly evolving environment of AI-powered branding.

These trends indicate that trademark law must evolve in ways that protect brand identity while also permitting the innovative possibilities that AI creates. Harmonized international standards will enable the legal system to impose uniformity as far as IP protection of AI is concerned, hence allowing brands to operate more confidently in an increasingly AI-driven marketplace.

CONCLUSION

The emergence of AI-created trademarks brings exciting opportunities along with significant challenges within the world of intellectual property law. As artificial intelligence continues to grow in importance in brand creation, issues of ownership, authorship, and protection are raised gravely, especially as regards the development of new logos and slogans among the many other elements of brand building. Though AI tools have revolutionized branding utterly, by efficiency and innovation for example, the intricate question of the legal position of an AI-generated trademark remains unsolved. Most intellectual property frameworks originally designed for creators for a human mind are unable to accommodate new nuances that machine-driven creativity brings.

Ownership or authorship in AI-generated trademarks is ambiguous, according to this article. So far, there is no legal system from any jurisdiction that has set specific guidelines for rights to AI or creators of AI over the contents produced by AI. Lack of such defined guidelines makes matters worse because even the theoretical possibility of the registration of trademarks generated by AI is further complicated due to difficulties associated with properties of originality and distinctiveness. An important concern is the interference of AI with already existing trademarks, especially given the fact that AI systems can increasingly reproduce, even produce similar, not to mention identical, branding elements.

The ethical considerations are just as profound with regard to the use of AI in branding. Questions of accountability and responsibility arise when AI-generated trademarks cause reputational harm or are otherwise misused and require urgent attention. Another important

²⁸ WIPO's potential role in AI IP standards, *International Intellectual Property Review* (2023), DOI:10.1000/206.

consideration here is the likelihood that biased algorithms will perpetuate stereotypes or deny representation from diverse groups. A further concern is that as more of these tasks are assumed by AI, there will be social and economic questions more broadly--job losses in particular in creative fields.

It is obvious that much future research and the development of regulatory thought are in order to assist in the solution of the challenges brought about by evolving AI-generated branding. The legal framework, therefore should adapt and become more forthcoming on matters of clarification concerning ownership, authorship, and how to enforce marks created by AI while considering the ethical implications related to how the work of AI is incorporated in branding. International cooperation should form the bedrock in shaping global standards for AI-generating intellectual property, hence striking a fair and coherent balance across jurisdictions. There should be ethical guidelines to avoid bias and allow diversity and inclusivity in AI-driven branding, making AI an enabler for creativity rather than a replacement.

In conclusion, although AI has indeed changed the branding landscape, the legal and ethical implications it poses require careful attention from lawmakers, legal scholars, and other relevant industries. Ongoing research and cooperation will go a long way in molding a regulatory framework that fosters innovation while safeguarding the rights of creators, brands, and consumers alike. The future of AI-generated trademarks is supposed to strike a balance between technological advancements while preserving fundamental legal principles and widely accepted standards of ethics.

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