LEX LOCALIS-JOURNAL OF LOCAL SELF-GOVERNMENT
ISSN:1581-5374 E-ISSN:1855-363X
VOL. 24, NO. S2 (2026)

TRADEMARK AND ARTIFICIAL INTELLIGENCE: EMERGING CHALLENGES AND LEGAL PERSPECTIVES

Dr. Nazima Munshi[1] , Dr. Govind Singh Rajpal[2]

[1]Ph.D. Research Scholar, School of Law, MIT Art, Design and Technology University, Pune, India.
[2]Professor, School of Law, MIT Art, Design and Technology University, Pune, India.

Abstract
Artificial Intelligence (AI) has been evolved from being a helpful instrument to a creator which is that has led to questioning the existing structure of Intellectual Property Law and Branding works. The Trade Marks Act, 1999 is being drawn out in ways not contemplated by lawmakers in particular in designing logos and which determine the next large marketing drifts. The paper scrutinizes two critical queries about who is responsible for Artificial Intelligence crossing the lines of existing rights, and who actually owns a mark created by Artificial Intelligence? Considering at recent cases in India, along with what is happening in other countries, Indian Law needs to update on serious notes. The goal for helping for up keeping the standards of Indian trademark with the fast-moving digital global economy.

Keywords: Trade Marks, Artificial Intelligence, logo, market, legal, challenges.

Introduction

Trademarks have always been a heartbeat of commercial identity. Trademark assistance to businesses to stand out in overcrowded markets and give consumer confidence about what product they are buying. Under Section 2(1)(zb) of the Trade Marks Act, 1999, a trademark is anything that can be shown graphically and distinguishes one person's goods or services from another's.[2] In the past this identification whether words, symbols, or designs, were seen as unique creation of human which building the reputation of companies with customers' trust.
But, the fast-evolving advance technologies and generative software are challenging the old, human created system. Today's software is not just helper; it is a creator. Today, software programs independently generate logos and brand names, the line between what is made by a human and what's spit out by a machine gets very blurry.

The Indian judiciary system has been always protecting consumer while resolving trademark disputes. A historical landmark case of Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) which highlights the urgent need to prevent public confusion, especially with regard to pharmaceuticals products.[3]
In spite of long trademark Law history with clear rules, things get difficult when brand identities are entirely created by autonomous software instead of a person. The Law was written with human made creation in mind, as applying those same rules to AI-made brand isn't straightforward. International organizations such as the World Intellectual Property Organization (WIPO) and the European Union Intellectual Property Office (EUIPO) are currently hustling to draft new guidelines to address digital innovation in intellectual property, but there is no universal rulebook yet.

Trademark Fundamentals

Trademark is simply serving as a legal document to safeguard a brand's identification and take care of consumer trust, spreading out beyond mere asset protection. According to Section 2(1)(zb) of the Trade Marks Act, 1999 defines a trademark as "a mark capable of being represented graphically and

[2] Trade Marks Act, 1999, S. 2(1)(zb)(India)
[3] Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73.

capable of distinguishing the goods or services of one person from those of others."[4] Two pillars of this definition are visual representation and distinctiveness. Visual representation guarantees that marks can be accurately seen and recognized, while distinctiveness ensures that consumers can constantly associate with a product or service of its origin.

Indian courts has been always looking things from the consumer's angle and working on keeping away confusion that goes all the way back to Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., the Supreme Court established a comprehensive test for deceptive similarity, underscoring that preventing confusion is of utmost importance.[5] Likewise, in Parle Products v. J.P. & Co., the Court noted that similarity should be assessed from the standpoint of the "average consumer with imperfect recollection."[6] These cases set an example how Indian judicial system regarded trademarks not as business identifiers but also to safeguard consumer's welfare.

Globally, the TRIPS Agreement instructs that member countries should safeguard trademarks that distinguish between goods or services. Meanwhile, WIPO has emphasized the importance of setting standards in the context of digital technologies,[7] and emphasizing the essential balance between commercial interests and consumer protection. As the rise of AI technology makes this trickier. When machines made and not humans made marks, we have to reconsider what "distinctive" and "visually represented" really mean.

AI in Branding and Advertising

Artificial Intelligence (AI) has been constantly used has changed the field of branding and advertising which were carried out by human beings. AI now anchorage vast consumer behaviour data for generating logos, slogans, and complete brand strategies. This step has caused legal problems under trademark law about originality and authorship.

Courts in India have been focusing on consumer perception when dealing with cases of brand similarity, as it goes with case in the Starbucks Corp. v. Sardarbuksh Coffee & Co. In Starbucks Corp. v. Sardarbuksh Coffee & Co., the Delhi High Court ordered the defendant to change its name and logo, recognizing the likelihood of confusion between "Starbucks" and "Sardarbukhs."[8] Liability arises when AI systems create marks, which resembles to established brands, prompting questions about accountability for the establishment using the AI, the AI user, or the programmer.

The aperture in understanding laws is communicated by the connection between AI and Branding. Section 9 of the Trade Marks Act, 1999 prohibits registration of marks lacking distinctiveness.[9] The standard for what is considered distinctive may need to be modified due to the rapid creation of numerous potential trademarks by Artificial Intelligence. EUIPO decisions say AI-created trademarks need to pass the same uniqueness tests, but more carefully, to avoid the mishaps of automated replication.[10]

Trademark Infringement in the Age of AI

Trademark infringement laws are getting more complicated as AI churns out or create logos, brand names, and product packaging that exactly mimic existing brands, causing confusion among consumers. Section 29 of the Trademarks Act 1999 issues an extensive structure for counterfeiting.[11] However, Artificial Intelligence was not born when these rules were laid down.

Artificial Intelligence does not try to dupe like human being, yet the result can be confusing or misleading for consumers. This raises a doctrinal problem. Should liability depend on intent or only on the likelihood of disruption? Indian Judiciary have conventionally concentrated more on consumer

[4] Supra Note 2.
[5] Supra Note 3.
[6] Parle Products (P) Ltd. v. J. P. & Co., AIR 1972 SC 1359.
[7] Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U. N. T. S. 299.
[8] Starbucks Corp. v. Sardarbuksh Coffee & Co., CS (COMM) 760/2018 (Delhi HC).
[9] Trade Marks Act, 1999, S. 9 (India).
[10] EUIPO Guidelines for Examination of European Union Trade Marks, 2021.
[11] Trade Marks Act, 1999, S. 29 (India).

protection rather than intent. Yahoo! Inc. v. Akash Arora of the Delhi High Court has ruled that domain names are eligible for trademark protection, recognizing that the similarity of online identifiers can mislead consumers.[12] This logic is very important today, because copying can happen automatically without any human efforts through Artificial Intelligence.

Artificial Intelligence and machine learning can now create counterfeit products with incredible accuracy by gathering the information from existing brand databases. Copying is quick and easy through new technology; trademark law finds it hard to keep pace. In today's general practice, it is very easy to take clever ideas, tweaking it to fit your own needs, and saving on both time and money while putting it to practical use. A good example is the Google LLC v. Oracle America Inc. case in the United States, although it was mainly about copyright, it showed the bigger picture of how technology keeps challenging intellectual property rules[13] and forcing the law to adapt.

Indian Judiciary also tackle dilution, which undermines the uniqueness of a well-known trademark, as a form of infringement, even in the absence of direct confusion. Opposed in case of Tata Sons Ltd. Manoj Dodia of the Delhi High Court stressed the need to protect the reputation of established brands and restrained the defendants from using 'Tata' in their domain name, emphasizing the need to protect the reputation of established marks.[14] AI-based imitations pose similar dilution risks. The market can be flooded with identical brands, diluting the uniqueness of iconic brands with presence of automated systems.

Legal interpretation needs to be re-examined to prevent rights being infringed in the age of Artificial Intelligence. Indian Courts needs to take a much tougher stance when someone is caught selling counterfeited products. Instead of getting stuck on whether they meant to do it, they should focus on the damage done to ordinary consumer who got tricked into buying poor-quality counterfeit products. In the meantime, law enforcement requires better tech tools to spot and stop these counterfeit products being made and sold online using AI, which can create very convincing copies. If these changes do not happen, the laws that are supposed to protect brands and consumers will become so weak that they would not really matter anymore. That would make people lose trust in online shopping, and the whole world of digital market will be at risk.

AI and Trademark Registrability

The fundamental questions are raided whether a product can be registered beyond infringement; AI raises fundamental questions about whether a product can be registered. Section 18 of the Trade Marks Act 1999 provides that ``any person'' who claims to be the owner of a trademark may apply for registration of that trademark.[15] The language of the law envisions human or corporate candidates, so uncertainty remains as to whether AI systems themselves qualify as unique.

Consider, for example, an artificial intelligence program that autonomously generates distinctive word marks. Can such marks be registered under Indian law? Recent Court judgements states that you cannot own something unless you are legally recognized as a person or entity. AI-created brand names and logos are already being used for commercial purpose and if it is not officially registered consumers might remain unprotected and records could end up missing important information.

To get a trademark officially registered, it has to be distinctiveness and be unique. Section 9 of the Act says that non-distinctive trademark is forbidden from registration.[16] AI can quickly generate thousands of brand names and logos which is harder to decide what counts as truly unique. If an identical design is generated by computer which is already in use, people would wonder whether to judge its uniqueness differently. EUIPO's says AI-made brands should be compare by the same rules as human-made brands, but they need extra careful checking to make sure the system doesn't accidentally copy existing designs.[17]

[12] Yahoo! Inc. v. Akash Arora, 1999 IIAD Delhi 229.
[13] Google LLC v. Oracle America Inc., 593 U.S. (2021).
[14] Tata Sons Ltd. v. Manoj Dodia, CS (OS) 264/2011 (Delhi HC).
[15] Trade Marks Act, 1999, S. 18 (India).
[16] Supra Note 9.
[17] Supra Note 10.

It is not about whether an AI created brand can be registered as a trademark, but also about figuring out about the owner. Logo generated by computer whether it belongs to the programmer of the software, or the person who is using it or the company who is running it? Indian Law is yet not clear about the accountability. But globally, common view is that ownership should go to person or company in charge of the AI, as responsibility is clear and the Trademark register remains reliable.

Policy Challenges and Statutory Interpretation

The integration of AI in branding and branding has exposed critical policy gaps in Indian law. The 1999 Trademark Act was drafted at a time when human copyright was presumed and did not take into account the creativity of autonomous machines. This poses hard to Courts and lawmakers to figure out what rules should be for interpretive problems.

One of the main issues is that of authorship and ownership. Section18 of the Trademark Act requires that "anyone" apply for registration, but AI does not have legal personality.[18] Therefore, the court must assume that the applicant is a human, and it remains unclear whether ownership resides with the programmer, the user, or the company implementing the AI. Trademark registrations will start losing trust and value if the rules are not made clear which exacerbate ownership disputes and undermine.

Consumer protection is a big worry in India. Indian Courts have always emphasized that brand names should not confuse people. In the Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd. case, the Supreme Court made it clear that stricter rules are needed for consumer protection.[19] However, with AI generating thousands of potential brands at one go, the chances of confusion are even higher. To safeguard consumers, Courts may have to demand that AI-made brands be even more unique and clearly different from existing ones.

Unfair use of famous brand names creates huge policy problems. In the Tata Sons Limited v Manoj Dodia, the Delhi High Court said that the reputation of a well-known brand like “Tata” must be protected, and should stopped people from misusing name in website domain.[20] The same logic may need to apply for AI systems. If AI starts flooding the market with similar brand names, it could damage or weaken the uniqueness of established trademarks.

Seeing how other countries are dealing with this makes it clear that India should act quickly. The EUIPO has started writing rules for brands created by Artificial Intelligence, reminding that what really matters is how consumer s recognizes and connects to these brands.[21] The WIPO also acknowledged that this is a worldwide problem and openly started talking on Artificial Intelligence and intellectual property. For India to stay stronger in the digital economy, its law must keep up with these international standards.

The way Indian Courts interpret and use the law will be extremely important as Indian Courts often use practical approach instead of sticking to the exact words of the law, they look at the bigger purpose behind it and how it fits with modern realities. In Yahoo! Inc. v. Akash Arora case, the Court stretched Trademark Protection to cover website domain names[22], even though the law didn’t mention them directly. The challenges created by Artificial Intelligence, Indian law has to keep pace with same flexible thinking.

Future of Trademark Law in the AI Era

The future of trademark law will heavily depend on how much Artificial Intelligence is used for Branding and Advertising. Artificial Intelligence can also predict the behaviour of consumers apart from creating logos and brand names. The big companies and corporates get power to grab and hold consumer’s attention through targeted algorithms. This problem can lead to fewer choices for consumers unfair advantages for large corporations and too much control in the hands of few players.

[18] Supra Note 15.
[19] Supra Note 3.
[20] Supra Note 14.
[21] Supra Note 10..
[22] Supra note 12.

One possible solution to fix the problem while applying for Trademark is to make applicants disclose whether the logo or brand name is created by Artificial Intelligence.[23] Such transparency would help the registries to track of AI-made brands and will be useful background to decide whether there is any similarity between two mark or brands.[24] This will ensure that the accountability will be on shoulder of the person or company using or controlling the AI, so the blame doesn't get lost in the "black-box" of technology.

Indian law must also adapt to the global context. As multinational corporations started using Artificial Intelligence in branding. It is very important for India to start align its rules with global standards. The TRIPS Agreement and ongoing talks at the WIPO has already set the stage, but India needs to take part actively in shaping these global rules.[25] Failure to do this Indian law could fall behind and struggle to deal with new technologies that cross international borders.

In the end, the future of trademark law in the era of Artificial Intelligence will depend on finding right balance. Courts and lawmakers need to make sure that Artificial Intelligence enhances creativity, but not in a way that weakens the uniqueness or trustworthiness of trademarks. If Indian adopts these approaches, its law can stay stronger against the fast technological change while still protecting consumer trust.

Conclusion

The intersection of trademarks and Artificial Intelligence presents one of the most pressing challenges for intellectual property law in the twenty-first century. AI systems are no longer passive tools; they actively generate creative outputs that resemble traditional trademarks, raising difficult questions of registrability, infringement, and liability. Indian law, rooted in the Trade Marks Act, 1999, provides a robust framework for consumer protection, but its anthropocentric assumptions leave gaps when confronted with autonomous machine creativity.

Judicial precedents such as Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd. and Yahoo! Inc. v. Akash Arora demonstrate the Indian judiciary's willingness to adopt purposive interpretation in response to technological change. Yet the rise of AI demands more than judicial innovation; it requires legislative reform. Statutory provisions addressing AI-generated marks, ownership, and liability will be essential to maintain the integrity of trademark registries and safeguard consumer trust.

International bodies such as WIPO and the EUIPO have already begun exploring guidelines for AI and intellectual property, underscoring the global nature of the challenge. India must engage with these efforts to ensure harmonization and competitiveness in the digital marketplace. Ultimately, the future of trademark law in the AI era will depend on striking a delicate balance: fostering innovation while preserving the distinctiveness and reliability of trademarks. By embracing purposive interpretation, statutory reform, and international cooperation, Indian law can remain resilient in the face of technological disruption.

Bibliography

Statutes

- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.
- Trade Marks Act, 1999 (India).

Cases:

1. Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73
2. Google LLC v. Oracle America Inc., 593 U.S. (2021)

[23] Proposal discussed in WIPO, Artificial Intelligence and Intellectual Property, Policy Reports, 2020.
[24] Supra Note 10.
[25] Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994; WIPO Policy Reports, 2020.

3. Parle Products (P) Ltd. v. J.P. & Co., AIR 1972 SC 1359
4. Starbucks Corp. v. Sardarbuksh Coffee & Co., CS (COMM) 760/2018 (Delhi HC)
5. Tata Sons Ltd. v. Manoj Dodia, CS (OS) 264/2011 (Delhi HC)
6. Yahoo! Inc. v. Akash Arora

Secondary Sources

- European Union Intellectual Property Office (EUIPO). Guidelines for Examination of European Union Trade Marks. Alicante: EUIPO Publications, 2021
- Ghosh, A. "Algorithmic Creativity and Intellectual Property." Journal of Law and Technology, Vol. 18 (2021)
- Reddy, S. "Trademark Law in the Age of AI: Challenges and Opportunities." Indian Journal of Intellectual Property Law, Vol. 12 (2022)
- World Intellectual Property Organization (WIPO). Artificial Intelligence and Intellectual Property: Policy Reports. Geneva: WIPO, 2020