

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 8 | Issue 2

2025

© 2025 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

The Impact of AI on Copyright and Trademark Laws: A Legal Perspective

ARYAN SHARMA¹ AND MUNMUN DAS²

ABSTRACT

The growing reliance on Artificial Intelligence (AI) tools for content generation and branding poses new risks to the intellectual property framework of India, especially with respect to copyright and trademark laws. The Copyright Act, 1957 initially caters to human authors and does not account for AI as a potential creator, while the Trade Marks Act, 1999 has to increasingly grapple with issues of AI-created branding and logo making. As AI design tools and content generators rise in prominence, the distinction between human and machine authorship is incredibly fuzzy. Further, AI's propensity to analyze data and independently create brands poses new questions with regard to originality, ownership, and even trademark clashes. The aim of this paper is to assess the situation in India with respect to the existing legal framework of copyright and trademarks, understand the challenges of AI, and suggest how the legal system can be modified to manage ownership issues, liability problems, and enforcement policies. India is one of the many nations that need to protect AI innovations while ensuring that there is sufficient legal coverage to mitigate the infringement of intellectual property rights.

Keywords: Intellectual Property Rights, Copyright Law, Trademark Law, Infringement and Legal Remedies.

I. INTRODUCTION

AI has drastically improved the way content is created in numerous areas and sectors like music, literature, visual arts, software engineering, and even in establishing brand names. Although AI-produced artworks are getting more advanced, the Indian IP laws comprising the copyright and trademark rules still follow the basic premise of creation and ownership being vested with a person. The 1957 Copyright Act doesn't recognize that AI can be an author, thus important issues of attribution, infringement, and appropriate use come into play. Likewise, the 1999 Trade Marks Act, which deals with the protection of brands, does not seem to recognize the reality of AI-produced trademarks, logos, and other brand markings. This creates problems with registration and even with enforcement. It is evident that more and more people are turning to

¹ Author is a student at Chandigarh University, India.

² Author is a student at Chandigarh University, India.

AI for branding, content development, and even for the design automation which creates a definite need for a legal system that accommodates AI's contributions to Intellectual Property.

II. COPYRIGHT FRAMEWORK IN INDIA

The Copyright Act of 1957 instituted a strong legal regime to protect original works of authorship in India³. The Act grants the creator of the work certain exclusive rights to ensure that the creator's intellectual property is not misused. Still, the framework is now contending with the issue of Artificial Intelligence generated content, which is difficult to regulate in regard to non-human authors, and the creation of content through AI.

Key Provisions

The Act is concerned with the following works:

- Literary and artistic works including dramatics and music (Section 13)⁴
- Cinematographic plays and recordings of sounds (Section 13)
- Computer programs (treated as literary works under Section 2(o))⁵

The authors of such works under this Act enjoy various exclusive rights, which comprise the right to determine the use, distribution, and monetization of their work.

1. Proprietary Economic Rights of Authors

Section 14⁶ states that the copyright owner has the powers to:

- Reproduce the work in any material form.
- Publicly distribute copies of the work.
- Disseminate or broadcast the work to the public.

Adapt or translate the work into other languages and cultural contexts. With the power to commercially exploit the work, creators are assured that no unauthorized copies or alterations will be made to their work. Such unauthorized copies can be legally contested.

2. Authors' Personal Rights (Section 57)

In addition to self-publication, authors also enjoy moral rights under section 57⁷.

- **Right of Paternity:** The right to recognition as the creator of a work.

³ Parkerip, <https://www.parkerip.com> (last visited Mar. 29, 2025)

⁴ Copyright Act, 1957, § 13, No. 14, Acts of Parliament, 1957 (India)

⁵ Copyright Act, 1957, § 2(o), No. 14, Acts of Parliament, 1957 (India)

⁶ Copyright Act, 1957, § 14, No. 14, Acts of Parliament, 1957 (India)

⁷ Copyright Act, 1957, § 57, No. 14, Acts of Parliament, 1957 (India)

- **Right of Attribution:** The right to the protection of any work showing the author's name against any form of distortion or degradation that would not enhance the author's reputation. Even when the work is towards legal ownership by other parties, these rights continue to exist to ensure the personal bond of the author with his work is secured.

3. Fair Dealing Exceptions (Section 52)

Copyrighted materials are able to be used without consent due to the Fair Dealing Clause (Section 52⁸) in the following ways:

- Research and other Private or personal activities
- Criticism, review, and reporting of current happenings
- Teaching in schools and institutions, plus use of Libraries

This provision seeks to protect the general public's interest and at the same time provides some level of protection against infringement. However, the birth of AI content challenges such determination, particularly in the case where AI-created transformations are considered fair dealing as opposed to infringement.

4. Duration of Copyright Protection (Section 22 – Section 29)

With regards to the type of work produced, the duration of copyright protection varies:

- Literary, artistic, and musical as well as dramatic works: Lifetime of the author plus sixty years
- Cinematographic films, sound recordings, and government works: Publisher's life plus sixty years from the year of publication.

When it comes to intellectual properties, a limited duration is necessary in order to encourage people to make new creations after the materials go in the public domain.

III. CHALLENGES IN THE COPYRIGHT ACT, 1957 WITH RESPECT TO AI

The framework of AI-created content has of course brought up many new issues to be solved under the Indian copyright regime. The challenges arise due to The Copyright Act of 1957 not having adequate provisions to resolve the intricacies concerning non-human authors' complexities. Some of the major concerns are listed below:

⁸ Copyright Act, 1957, § 52, No. 14, Acts of Parliament, 1957 (India)

(A) Absence of Author Recognition for AI

- In any case, the Act assumes the authorship is of a human, which poses a question as to whether any form of AI will be able to get protection under copyrights for any works created by these systems.
- The authors' definition is outlined in Section 2(d)⁹ but it doesn't cover artificial intelligence or machine authors.
- This only creates a vacuum whereby ownership rights for works done by algorithm processes without any human interaction becomes highly doubtful.

(B) Confusion in ownership of works produced by AI

- Now the question suddenly arises, if a computer generates a literary or artistic work, who holds the right to the copyright? Is it the Developer, User or the Company controlling the AI?
- As opposed to the UK Copyright, Designs and Patents Act of 1988, Indian law does not specify who gets the copyright in cases where an AI works. The UK law very clearly gives the right to the individual who arranges everything in passive AI works.
- In the absence of such guidelines, disputes are bound to occur between AI developers and their AI dependent content creators and the businesses using such AI for creation purposes.

(C) Training AI and Copyright Issues

- The bulk of AI data sets involve proprietary content owing to the large volume of datasets AI models use containing copyrighted material.¹⁰
- It is unclear whether copyrighted works for AI training are eligible for fair use (Section 52¹¹), or infringe on the law (Section 51¹²).
- That ambiguity might result in legal predicaments for companies and scholars exercising the use of copyrighted data while training AI models.

(D) Issues with Attribution and Moral Rights

- Under Section 57¹³ Moral rights provide recognition that authors prevent distortion of

⁹ Trade Marks Act, 1999, § 2(d), No. 47, Acts of Parliament, 1999 (India)

¹⁰ Techtargat, <https://www.techtargat.com> (last visited Mar. 29, 2025)

¹¹ Trade Marks Act, 1999, § 52, No. 47, Acts of Parliament, 1999 (India)

¹² Trade Marks Act, 1999, § 51, No. 47, Acts of Parliament, 1999 (India)

¹³ Trade Marks Act, 1999, § 57, No. 47, Acts of Parliament, 1999 (India)

their work and need to be credited.

- What attribution is required, if any, in AI-generated content and to whom should it be credited is uncertain.
- If AI transforms an existing work, does an author have a case for moral rights infringement? The Act is silent on this.

(E) Issues with Licensing and Commercial Exploitation

- The use of AI-generated works is on the rise in commercial purposes like movies, music and digital art.
- The Act remains silent as to whether those works are subject to licensing and if so, who would need to issue the permissions.
- This ambiguity impacts revenue sharing paradigms making the construction of legal regimes for monetization problematic.

(F) International Legal Disparities and Compliance

- The US, UK, and EU are already working on the copyright-related aspects of AI, while India is still figuring out the necessary legal frameworks it needs to have in place.
- The lack of uniform standards makes it challenging to enforce copyrights across borders, especially with regards to the distribution of AI-generated content.
- Indian decision-makers must develop strategies that help retain competitiveness in the AI-enabled creative economy by adopting international standards.

IV. UNDERSTANDING TRADEMARK

A trademark is a legal protection given to marks of trade like brands, signs and symbols. Trademark is an identity that certain products or services are provided by a certain person or entity.¹⁴ They are the quality symbols that are set as a priority for the consumer while purchasing things or availing services. Trademarks also provide information to the consumers about the quality of goods supplied under it, therefore playing an important role in making decisions for the purchaser. Marks are the product of intellect, i.e., the creation made by a human being using his intellectual powers and ideas. These are a form of Intellectual Property and need protection. Therefore, the Trademarks Act of 1999, was introduced to protect the ideas and creation of an individual or an entity. The act of 1999, also fulfills India's obligation under TRIPs by providing

¹⁴ Legal60, <https://legal60.com> (last visited 29. Mar, 2025)

for the protection of well-known marks.

Trademark differs from other Intellectual Property Rights, since it is given for an indefinite time. Trademark is actually registered for 10 years as per the act of 1999, but it can be renewed again and again indefinitely.

Trademark is defined under Section 2(zb)¹⁵ of the Trademarks Act, 1999, it states that “Trade mark” means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colors .

The following are some of the components of Trademark that helps in distinguishing and identifying a brand:

1. Word Marks
2. Device Marks
3. Service Marks
4. Collective Marks
5. Certification Marks
6. Well Known Marks
7. Unconventional Trademarks (Like Color trademark, Sound marks, Shape marks, Smell marks)

(A) Navigating Trademark Registration

The registration process is given under Section 18 to Section 23 of the Trademarks Act, 1999. Registration of a trademark is an essential process since it provides rights and protection to the trademark owner. The first step for registration is submission of an application to the Trademark Registry by the owner for registration, then the next step follows with the trademark office examining and reviewing the applications and making sure the trademark is non-existing and has no conflict with any other trademark holder. After the application is approved the next step for it is being published in the Trademark Journal. Lastly, after all of these steps are completed, the trademark is officially registered and is eligible for availing legal protection of the rights .

Enforcement of registration of trademark is necessary as it helps in prohibiting the unauthorized usage of brand names or logos which are AI-generated. We also know that the trademark registration process lacks mechanisms that can determine whether the application for trademark

¹⁵ Trade Marks Act, 1999, § 2(zb), No. 47, Acts of Parliament, 1999 (India)

registration submitted was AI-generated or was made by a human being. With the rapid growth of AI and its generating almost everything that a human can create makes it difficult to differentiate, since it has a high probability of exactly resembling the human intellect. During the trademark registration the trademark office examines the application manually and has no such program or device or a system that can detect AI-generated submissions. This is where the registration process lacks in the era of Artificial Intelligence since no provision or law exists regarding the protection of AI-generated content.

Implementing tools that can detect AI-generated content in Trademark Offices and implementing laws and provisions that recognize AI can be the possible solutions to overcome these challenges.

(B) Rights conferred to trademark holder under the Act of 1999:

The Act of 1999, provides legal protection of the rights to the owner of a trademark. This legal protection may result in encouraging the producers to produce quality goods and services. The Trade mark and service marks unless registered, do not get any legal protection as per the Act. The trademark holder becomes legally entitled to certain rights which he may exercise when his rights have been infringed.

Under the Trademark Act of 1999, a trademark holder possesses some of the following rights:

- Section 28¹⁶ - This section provides a registered trademark holder the right to exclusively use the trademark of the goods and services it was registered for.
- Section 38¹⁷ - Here, the trademark holder is given the right to assign the trademark to any other individual or company.
- A trademark holder also has the right to seek legal remedies against infringement like asking for injunction or claiming damages from the court.

(C) The Dynamics of Trademark Infringement

Trademark Infringement is when any person without the consent of the owner of the trademark, uses the mark or a mark similar to it or identical goods or services which may result in creating confusion among the public as regards to the registered trademark, then that person may be held guilty for infringement of such trade mark. Section 29¹⁸ deals with infringement, that states that if any person uses the exact same mark or a mark that closely resembles a registered trademark,

¹⁶ Trade Marks Act, 1999, § 28, No. 47, Acts of Parliament, 1999 (India)

¹⁷ Trade Marks Act, 1999, § 38, No. 47, Acts of Parliament, 1999 (India)

¹⁸ Trade Marks Act, 1999, § 29, No. 47, Acts of Parliament, 1999 (India)

or if he uses the mark without the owner's permission or creates confusion among the consumers then that person shall be held liable for such infringement and will be punished under the Act of 1999.

Also, if anyone has the permission to sell goods or services with a trademark, then that does not give them the permission to use that trade mark. The trademark holders should implement tools or devices to monitor and identify the instances of infringement across online platforms, since these platforms with the help of artificial intelligence are used in bulk to infringe the rights of a trademark holder by using AI-generated content creating confusion in differentiating between the original content and the AI-generated one among the consumers.

Having no such law or provision that can protect the rights of a trademark owner where the AI plays a role in the infringement forces the owner to actively protect and manage their intellectual property from any such infringement.

V. THE INTERSECTION OF TRADEMARK AND ARTIFICIAL INTELLIGENCE-CHALLENGES IN DIGITAL AGE

Artificial Intelligence is becoming increasingly significant across various industries and has an impact on Intellectual Property, especially Trademark. Trademark being the identity of a business helps consumers connect to the brand. But with the emergence of artificial intelligence (AI) the question arises about how AI can generate anything which can also be a trademark¹⁹. AI brings with it complexities for trademark owners and raises concern about brand protection, and how it can create confusion among consumers and as we know, the Trademarks Act, 1999 requires the trademarks to be distinctive in nature and that it should be capable of being distinguished with goods and services of other entities, but with the evolution of AI and its capability of generating or creating content, logos, even brand names, brings concern about whether the AI-generated trademarks is protected under the Trademarks Act of 1999, or under any Indian Law.

AI- The Rise of Infringement Risks - Artificial Intelligence comes with its merits as well as demerits, like it can create issues in the Intellectual Property Sector since it possesses the power to create any kind of logo, brand, design, or exact replica of something that may be protected under the IP Law. Differentiating the AI-generated Trademark with the actual existing trademarks can be a challenge when it comes to trademark infringement. AI increases the risk of infringement like generating content that resembles an existing trademark and also with the

¹⁹ Mondaq, <https://www.mondaq.com> (last visited Mar. 29, 2025)

high rise of using AI assistance and chatbots which may refer brands incorrectly leading confusion among the consumers.

AI as an Extension of Human Intellect - Artificial Intelligence is such a tool that has been cautiously created to replicate the human's intellectual ability. AI can create a replica or lookalike product of a well-known brand and this can contest the implication. It becomes difficult in identifying infringers especially in cases of AI-generated content since that can be done anonymously whereas in the traditional way of identifying an infringer is easy. AI wields power to generate any kind of content be it a deep fake video or any advertisement or any kind of misrepresentation regarding a brand's logo or sign which can bamboozle the consumers and it can also generate inappropriate contents bringing down the reputation of such brand in the market. We know the main aim of trademark law is to protect and safeguard the rights of the individual or entity who sells goods and services with unique trademarks from being infringed by any other individual who may misuse and fraudulently represent the trademarks.

The Power of AI in Shaping Consumer Preferences - AI has an influence on the consumers regarding their purchasing decisions and also impacts the trademark law since some of the E-commerce platforms use AI tools for recommending products and which may unintentionally promote sham products or fake labels and logos, making the imitation goods hard to identify or detect and so this may lead to revenue loss or damage the reputation of a trademark owner. Trademarks are basically created with the ideas and intellect of humans but with the evolution of AI the human factor or interaction regarding products and services has reduced since AI has emerged with the capability of creating anything a human being can, in case of trademark, AI can design logos, signs, brand names, etc. AI may also have some features like voice assistance or autocorrect which play an important role in misrepresenting or misleading the consumers in suggesting or recommending incorrect brands while they request for a specific brand, this is one of the challenges faced by the trademark owners as they may struggle in ensuring the AI systems to recognize their brands correctly. All these lead to a reputational harm of a trademark owner and infringes his rights. Therefore, the impact of AI on trademark law will keep on increasing with AI devices, tools, and programs becoming more advanced and bringing transformations in various parts of society adding more challenges for trademark owners if proper law is not implemented to protect the IP laws from AI.

Challenges in Cross border Trademark Infringement - Another challenge that the trademark owners face due to AI-generated content is the cross-border infringement of trademarks. With the rise in globalization, AI enables the spread of content globally and makes it a task for trademark holders to protect their trademark because they face issues like which jurisdiction

will be applied when such a case arises, it becomes difficult for them when the infringement includes multiple jurisdictions. Not only this but different nations have different laws and the involvement of customs authorities or any other measures that need to be followed by one when it comes to cross-border disputes makes it even tougher for a trademark holder to protect their trademark. Other factors or barriers can include language, culture, cost, and even procedures that may be complex in nature.

The Legal Void - As discussed above the trademark holder has been granted certain rights and legal protection under the Trademarks Act of 1999, but when it comes to AI-generated content the Act of 1999 does not have any provision that can protect the AI-generated content nor does any specific Indian Law protect or recognize these contents and the Intellectual Property Law specifically states that only a Natural Person or Human Being will be considered as an inventor or a creator of any work and will provide protection to such individual or entities. Since AI can create any logo or brand name that resembles an existing trademark and India lacks enforcement for such issues raises a question of who shall be held liable for such infringement hence the lack of legal framework brings a huge challenge for trademark holders to keep their trademark protected from being infringed.

The Liability Dilemma - To address the intersection of Trademark and Artificial intelligence requires an established regulatory system that can create a balance between fostering creativity and protecting intellectual property rights. Artificial Intelligence has a tendency to cause error or misinterpretation, during which who will be held accountable for such setbacks is the main issue, and looking at the status quo we can see that there is no such law in India that provides protection to an AI or holds someone liable for its creation. In fact, the law of India only protects human beings as an inventor or a creator of a trademark and gives them the right of an owner too. Then, the question arises as to who shall be held liable if an AI-based tool or device produces material that may have infringed another party's property. Whether the AI developer, the Platform that uses the AI tool, or the User that used the AI for generating any content leading to trademark infringement shall be held liable. Since there is no such law that states who shall be held liable when an AI generates such content this makes the trademark owner struggle to hold the AI company liable or accountable under the existing laws. An Artificial Intelligence does not have any legal existence as it has no recognition under the Intellectual Property Law and it does not recognize AI as an entity so it can have no legal protection as well as hold any right, the IP law only considers a 'Person' as an actual owner or author for the work he has created or invented.

VI. SUGGESTIONS

- **Letting AI be a Creator** - There should be an AI creator clause added to the Copyright Act of 1957. A possible revision could be analogous to the UK Copyright, Designs, and Patents Act 1988, which attributes authorship to the individual who makes requisite arrangements for works produced by AI. There is an urgent need to formulate a legal structure for ownership of AI content to avoid ambiguities of law.
- **Claiming Ownership of AI-Produced Content** - AI not having legal standing makes it crucial for the law to have a definitive stance on the ownership of AI content. The ownership could lie with the creator of the AI, the user interfacing with the AI, or the client who ordered the work. India can have a mixed system where the owner of the AI's output is determined by the level of active contribution to the AI product by a human.
- **Amendments of the Copyright Act as Related to Use of AI Training Data** - The issue of infringing the rights of the copyright holder while using their works for training AI systems needs to be solved. Chapter IV, section 52 of the Act, which discusses fair dealing, ought to state whether AI training/use is included in fair dealing and does not need express permissions, or if it does. There may be a statutory licensing scheme permitting the use of copyrighted material for the purpose of aiding AI developers.
- **Placing AI Detection Systems Within Trademark Registration Procedures** - The Trademark Registry should implement AI detection systems capable of telling apart human-created brand features from those created by AI. There must also be new rules that outline the minimum requirements in terms of distinctiveness for trademarks generated by AI within the framework of Section 2(zb) of the Trademarks Act of 1999.
- **Considering Infringement of AI-Generated Trademarks** - The law must provide clear guidelines for the infringement of preexisting trademarks by AI systems. Such systems can automate trademark infringement monitoring for sales on numerous digital and e-commerce platforms by creating specialized monitoring and detection systems.
- **Outlining Regulations for Logos And Brand Components Produced By AI** - Conventional trademark legislation must be modernized by incorporating regulations for branding materials produced using AI technology. An originality and distinctiveness criterion has to be established in order to deal with issues of registration and enforcement of AI-generated logos and symbols.

- **International Alignment with AI and IP Laws** - The US, UK, and EU have regulations that India can refer to in order to align its AI and IP laws with global AI best practices. Such moves will facilitate the design of a unified legal framework capable of making India competitive in the AI-powered globalized economy.
- **Establishing an AI-specific IP Regulatory Authority** - An autonomous body is needed for the AI-specific IP regulatory affairs to manage conflicts of interest, license issuing, and policy framework development regarding AI-produced content. This body will ensure that increasing amounts of AI content will be generated while the laws surrounding these creative industries will be nurtured.

VII. CONCLUSION

Artificial Intelligence is already disrupting the content creation and brand development processes. This brings new challenges targeted at India's existing Copyright and Trademark laws. The Copyright Act, of 1957 and the Trade Marks Act, of 1999 do not properly address works created by artificial intelligence due to their scope being circled around human authors and brand creators. Under Indian law, questions like who owns the AI-generated content and who gets the credits, moral entitlements, and damages due to infringing AI content remain unanswered.

There are legal gaps that can be filled by acknowledging AI as a creator, establishing ownership and licensing frameworks for AI training, and using AI detection mechanisms during trademark registration. In addition, addressing these gaps requires proactive policy formulation, international harmonization, and the establishment of an AI-specific IP regulatory authority which would allow for the adequate balancing of encouraging AI development with the enforcement of IP rights.

These changes will provide a comprehensive legal framework accommodating creativity stemming from AI while maintaining the efficacy of copyrighted and trademarked materials in the digital realm.
