



CM ADVOCATES LLP

Intellectual
Property

A magnifying glass with a black handle is positioned over a white label that reads 'Intellectual Property'. The label is one of several scattered on a dark grey surface. Other visible labels include 'Law', 'Trade', 'License', 'ht', and 'hink'.

NAVIGATING TRADEMARK PROTECTION FOR AI-GENERATED LOGOS IN KENYA

Artificial Intelligence (AI) is transforming the way businesses create and protect brand identities. In Kenya, companies increasingly rely on AI tools to design logos, a task traditionally handled by natural persons.

This shift offers efficiency and creative freedom, but also raises legal questions under the trademark regime in Kenya.

For businesses seeking enforceable trademark rights while avoiding costly intellectual property disputes, understanding how the law treats AI-generated logos is essential.

AI and logo generation

AI creates logos by analyzing extensive datasets of existing images, learning patterns in shapes, colours and layouts, and then producing designs by recombining these patterns according to user prompts.

AI models rely on statistical connotations rather than legal principles, which means outputs may unintentionally replicate distinctive features from existing trademarks.

For example, a dataset containing numerous educational logos featuring animals holding books could lead an AI model to generate a similar design when prompted to create a new educational logo.

Such similarity does not automatically result in legal liability; however, it increases the risk that the new logo will fail to function as a badge of origin, thereby creating the potential for consumer confusion.

Trademark protection in Kenya

The law prioritizes the function of a trademark in the marketplace rather than the method of its creation. *Section 2 of the **Trademarks Act, Cap. 506** (the Trademarks Act)* defines a trademark as a mark used, or proposed to be used, to indicate a connection between goods or services and a particular proprietor.

The Trademarks Act does not require human authorship. The most important factor is whether the trademark is used in trade and whether it can distinguish the goods or services of one trader from those of others.

The relevance of AI-generated similarity emerges through the concept of the likelihood of confusion.

Section 14 of the Trademarks Act prohibits the registration of trademarks that cause confusion. Confusion occurs when consumers are likely to be misled about the origin, affiliation or endorsement of goods or services.

Marks that are generic, descriptive or closely resemble existing marks are likely to create confusion in the marketplace and diminish a trademark's capacity to serve as a badge of origin.

The courts in Kenya assess similarity from the perspective of the average consumer, considering the overall visual, aural and conceptual impression of the trademarks rather than isolated elements.

Minor variations in colour, font or layout do not prevent a finding of similarity where the trademarks convey a similar commercial identity.

Consequently, where AI-generated logos reproduce dominant features found in existing trademarks, the risk of confusion is material.

AI-generated similarity and trademark liability

Although the courts in Kenya are yet to handle trademark disputes arising from AI-generated logos, comparative jurisprudence provides guidance on how existing trademark principles apply to AI outputs.

The UK's High Court decision in Getty Images v. Stability AI [2025] EWHC 38 (Ch) illustrates the challenges posed when AI systems reproduce distinctive branding elements.

In the case, Getty alleged that Stability AI's image-generation model produced outputs incorporating Getty's watermarks and other marks.

The Court found infringement under the UK trademark law while dismissing broader claims of dilution and unfair advantage.

Further, the Court emphasized that liability turns not on the method of creation but on the effect of the output on consumer perception i.e. whether the similarity is likely to cause confusion or undermine the trademark's function as a badge of origin.

This reasoning aligns with the Kenyan trademark doctrine. Under the Trademarks Act (*Sections 7, 8 and 9*), infringement is assessed by reference to the likelihood of confusion and the overall commercial impression of a mark.

Accordingly, even unintentional replication of distinctive branding elements through AI-generated processes may give rise to infringement where consumer confusion is probable. The risks arising from AI training datasets and pattern-based generation are therefore not merely technical concerns but carry direct legal consequences under established trademark principles.

Legal considerations for proprietors using AI tools

To evade trademark liability posed by the use of AI generated logos, businesses must take deliberate steps to mitigate the resulting risk of similarity and consumer confusion. The measures include:

- ***Distinctiveness and human oversight***

While human authorship is not required, careful human review is essential to ensure the logo is distinctive and does not replicate features of existing trademarks.

- ***Pre-registration trademark clearance***

Before commercial use or filing, conduct trademark searches at the Kenya Industrial Property Institute (KIPI) to identify potential conflicts with existing marks.

- ***Monitor and enforce once in use***

After rollout, monitor the marketplace and official publications for similar marks that could dilute or conflict with your logo.

Conclusion

In Kenya, the key to protecting a logo, whether AI-generated or not, is ensuring that it is distinctive and capable of identifying the source of goods or services. While AI can assist in creating innovative designs, it may inadvertently reproduce elements from existing trademarks, which can give rise to consumer confusion and potential infringement.

Businesses can minimize these risks by conducting trademark searches, reviewing designs carefully and monitoring use after launch. Combining AI creativity with informed legal oversight allows businesses to develop logos that are both distinctive and enforceable under the Trademarks Act, safeguarding their brand identity.

How CM Advocates LLP's Intellectual Property and Technology Unit Can Support You

At CM Advocates LLP, our Intellectual Property and Technology Unit assists businesses in safeguarding their brand assets, including trademarks.

With expertise across Kenya, Uganda, Tanzania, Rwanda, South Sudan, Zambia and Ethiopia, we provide regionally informed legal guidance to help clients navigate trademark registration, prevent infringement and maintain the distinctiveness of their brand identities.

Our support services include:

- Trademark clearance and registration: We conduct comprehensive searches and guide clients through the registration process to ensure logos and marks are legally protectable.
- Enforcement and dispute resolution: We assist clients in addressing potential infringements, including oppositions, cease-and-desist actions and litigation where necessary.
- Policy and strategy development: We help businesses implement internal procedures for brand management, ensuring compliance with Kenyan law and international best practices.

Head Office - Nairobi, Kenya

I&M Bank House, 7th Floor, 2nd Ngong Avenue
T: +254 20 2210978 / +254 716 209673
P.O. Box 22588 – 00505, Nairobi Kenya
E: law@cmadvocates.com

Mombasa Office - Kenya

Links Plaza, 4th Floor, Links Road, Nyali
T: +254 041 447 0758 / +254 41 447 0548
P.O. Box 90056 – 80100, Mombasa Kenya
E: mombasaoffice@cmadvocates.com

Regional Presence

Uganda | Tanzania | Rwanda | Zambia | Ethiopia | South Sudan

www.cmadvocates.com

Need legal guidance?

For support with trade secret protection or related intellectual property matters, please contact:

CONTRIBUTOR



Mercy Chore,
Associate Advocate
Email: mchore@cmadvocates.com
CM Advocates LLP

Or reach our Commercial Practice Team at: corporate.commercial@cmadvocates.com

Head Office - Nairobi, Kenya

I&M Bank House, 7th Floor, 2nd Ngong Avenue
T: +254 20 2210978 / +254 716 209673
P.O. Box 22588 – 00505, Nairobi Kenya
E: law@cmadvocates.com

Mombasa Office - Kenya

Links Plaza, 4th Floor, Links Road, Nyali
T: +254 041 447 0758 / +254 41 447 0548
P.O. Box 90056 – 80100, Mombasa Kenya
E: mombasaoffice@cmadvocates.com

Regional Presence

Uganda | Tanzania | Rwanda | Zambia | Ethiopia | South Sudan

www.cmadvocates.com