

Guidelines to Using Generative AI as a Branding Tool for Your Business

Article

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Creating new business and product names, designs, and logos is a daunting task to those looking to launch develop their brands. In addition to wanting something memorable and appealing, trademark attorneys recommend avoiding existing words or phrases in order to create something unique and distinctive within the relevant marketplace.

With artificial intelligence (AI) on the rise, many are looking to generative AI systems to help create something that checks all of the boxes. Below are a few guidelines that can help those making use of generative AI ensure that they are still protecting valuable intellectual property.

Beware of Your Inputs

Whatever is put into an AI system is not necessarily kept confidential. Generative AI systems often use inputs to train and further develop the system's knowledge base, meaning something put into the system will be used to generate future outputs. When asking a generative AI system to suggest business or product names, be sure to avoid providing any confidential information or trade secrets. For example, when looking for a catchy name for a secret recipe (such as the KFC® Original Recipe, Coca-Cola®, etc.), avoid describing the contents of the recipe when generating a query.

Vet AI Outputs and Conduct a Thorough Trademark Search

Generative AI systems pull from a bank of existing information to create an output. This information bank includes content that is already circulating in the marketplace, meaning the output the system generates may not be entirely unique. There is also a chance that the system could generate something that infringes on an existing trademark. It is important to conduct a thorough search of what is already being used in the relevant marketplace to ensure the output is available for use. In addition, an AI system may generate outputs that will not function as a registerable trademark depending on its content and descriptiveness.

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Consider Broader Implications

When using generative AI to create logos or other design trademarks, understand that other available intellectual property protections may be limited. While the United States Patent and Trademark Office does not prohibit the use of generative AI to create trademarks, the Copyright Office restricts its use. To be copyrightable, a creative work must be one of human authorship. When AI is used to create a work, the Copyright Office considers whether such use results in a mechanical reproduction rather than an original work of authorship, which affects registrability. To avoid this outcome, AI outputs should be viewed as a starting point and users should seek to add to whatever is generated to incorporate their own marks of creativity.

Conclusion

Generative AI can be an incredibly helpful tool to businesses looking to establish and cement a distinctive brand identity. Potential business names, product names, or designs can be generated quickly and cheaply. However, it is important to remember that the tool is not foolproof and does not replace the need for human due diligence to ensure that whatever is created can be properly protected.

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