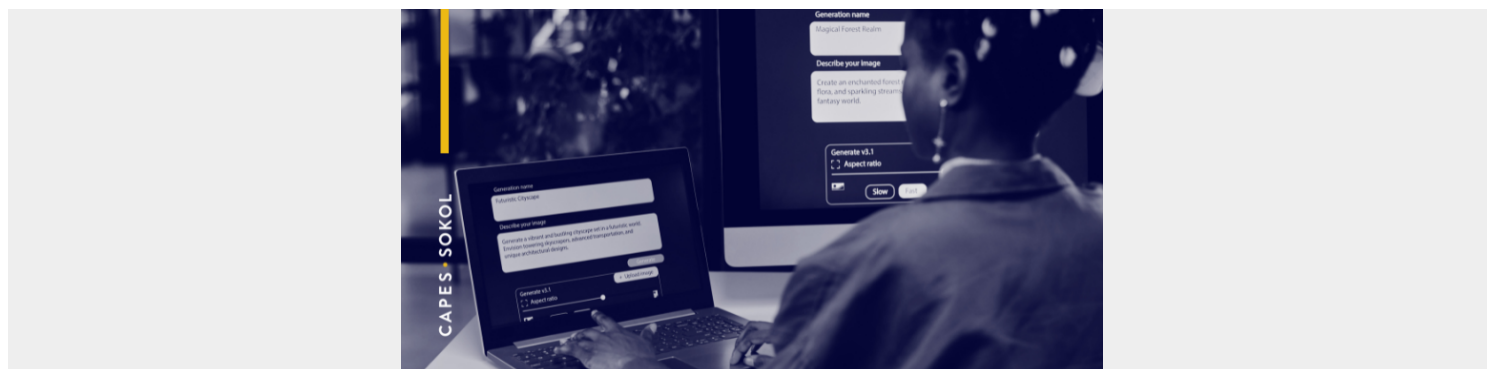


AI, IP & YOUR BUSINESS: WHY AI IS A TRADEMARK MINEFIELD FOR BUSINESS OWNERS

Posted on January 27, 2026 by Danielle M. Durban



Tags: [AI and trademarks](#), [AI for business](#), [AI legal risks](#), [AI-generated branding](#), [brand names and logos](#), [brand protection](#), [brand strategy](#), [business branding](#), [consumer confusion](#), [Intellectual Property](#), [IP risk management](#), [legal compliance](#), [likelihood of confusion](#), [marketing and AI](#), [trademark infringement](#), [Trademark Law](#), [trademark misconceptions](#), [trademark registration](#), [trademarks and branding](#)



If copyrights protect content, trademarks protect brands.

Trademarks cover the names, logos, slogans, and other identifiers that consumers associate with your goods or services. The goal of trademark law isn't just to protect business owners—it's also to protect consumers from being misled or confused about who they're buying from.

In that same vein, a critical point many business owners miss is that **trademark infringement is about likelihood of confusion, not intent**. In other words, because trademark law is concerned with protecting consumers from being misled, if a **consumer** is likely to be confused between your brand and another brand, trademark infringement may have occurred, **even if** you didn't mean to copy (or were unaware you were copying—or that AI was copying) someone else's branding.

Another common misconception in the trademark world is that once you do obtain a trademark, you

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can prevent **everyone** from using it, but trademark law **only protects your trademarks as they are used in connection with specific goods or services**.

For example, McDonald's does not own the word "McDonald's" in every possible context. What McDonald's owns are trademark rights in the word "McDonald's," the golden arches, and related branding **as used in connection with fast-food restaurant services**—because consumers have come to associate those marks with a place to get fast burgers, fries, and sodas. This then affords McDonald's the right to prevent another restaurant from using confusingly similar branding, but it cannot stop a completely unrelated business—like a car wash—from using the name "McDonald's" since consumers would not reasonably assume a connection between those industries.

Trademark rights can arise simply from using a brand in the marketplace, but registering a trademark provides far stronger protection, including nationwide rights and clearer enforcement options. And unfortunately, trademark problems often don't surface until *after* a business has invested significant time, money, and goodwill into a brand—making rebrands painful and expensive.

Enter AI: Where Things Get Complicated

Now let's bring AI into the picture. As of today, many popular AI tools—including generative AI platforms—state in their terms and conditions that **all right, title, and interest in the content generated for you belongs to you**, the user.

That sounds reassuring—and it can be.

However, it's important to remember two things:

1. **Those terms and conditions can change at any time**, often without much notice.
2. **AI-related laws and regulations are evolving rapidly**, both at the state and federal levels.

In other words, just because the terms say one thing today does not guarantee they will say the same thing tomorrow. Business owners using AI as part of their operations should periodically review the terms of the tools they rely on and stay informed about legal developments in this space.

And even if your brand survives, how you talk about AI-created work can create an entirely new category of legal risk. In the final installment of this series, I examine how marketing claims and AI disclosures are quickly becoming compliance issues.

Read Part Three: *The Legal Risk of Calling AI-Created Work "Custom."*

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