

Legal Ramifications of Employing AI-Generated Logos as Brand Identities: A Juridical Examination

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Abstract

The utilization of Artificial Intelligence (AI) technology is experiencing rapid expansion in contemporary times. Within the domain of trademark law, a logo serves as a visual identity utilized to distinguish a product or service from its competitors. The utilization of a logo as a brand identity is afforded specific legal protections pursuant to Indonesian Law No. 20/2016 concerning Trademarks. A pivotal consideration pertains to discerning the rightful owner of the rights to the logo created by AI. Is it the proprietor of the AI software employed in crafting the logo, or is it the proprietor of the company or individual who commissioned the logo? The method employed in this research is a normative juridical approach, which scrutinizes the application of legal principles or norms. The approaches employed in this research encompass conceptual and statutory analyses. The objective of this research pertains to understanding the Legal Implications of Utilizing Artificial Intelligence-Generated Logos as Brand Identities, and serving as a reference material for subsequent legal inquiries, particularly those related to the advancement of artificial intelligence. The majority of regulations concerning copyright and ownership of artistic works still hinge upon Copyright Law No. 28/2014. Despite its enactment, the Copyright Law remains bereft of provisions safeguarding works generated by Artificial Intelligence. In the realm of AI or artificial intelligence, there are instances where AI applications inadvertently generate trademark logos bearing visual resemblance to other trademark logos. Such resemblances have the potential to bewilder consumers and undermine the authenticity of a brand.

1. Introduction

The current technological advance nowadays have profoundly altered human life, making it faster and more efficient. As technology advances swiftly, human interactions have become easier because already facilitated by the latest technological innovations. Beside affecting social interactions, technological advancements have also drastically changed the way humans work, shifting from manual labor to automated and digitalization.¹ One major catalyst driving this change is the advancements in the field of artificial intelligence, commonly known as AI.² Artificial Intelligence (AI) is basically a machine (or computer) that Capable performing tasks that demand human intelligence to be done.³

¹ Hari Sutra Disemadi, "Urgensi Regulasi Khusus Dan Pemanfaatan Artificial Intelligence Dalam Mewujudkan Perlindungan Data Pribadi Di Indonesia," *Jurnal Wawasan Yuridika* 5, no. 2 (2021): 177, <https://doi.org/10.25072/jwy.v5i2.460>.

² Ghazmi Shabrina Fadiah, "Urgensi Pengaturan Artificial Intelligence Pada Sektor Bisnis Daring Di Indonesia," *Jurnal Hukum Lex Generalis* 2, no. 8 (2021): 782–803, <https://doi.org/10.56370/jhlg.v2i8.104>.

³ Sikender Mohsienuddin Mohammad, "Artificial Intelligence in Information Technology," *International Journal of Innovations in Engineering Research and Technology (IJERT)* 7, no. 6 (2020): 169, <https://dx.doi.org/10.2139/ssrn.3625444>.

The utilization of Artificial Intelligence (AI) technology is expanding rapidly nowadays, including in the field of graphic design. One of few popular application right now that utilize AI is about generating logos and brand identities. Despite AI's assistance in streamlining the design process to make it more easier, issues have emerged concerning about the legal implications of using AI-generated logos as brand identities. "Brand essentially is a mark attached to a product to signify its origin". Therefore, the brand will be directly associated with the origin of a product. Ensuring that circulating brands genuinely originate from their respective owners is a protective measure for both the brand owners and the community.⁴ Besides serving as a symbol, a brand is also inherently associated with the quality of a product produced by the manufacturer, which then becomes an asset for the manufacturer. The product identity also describes the quality of an item, indicating that the item possesses its own distinctive traits.⁵ In the context of trademark law, a logo is one of the visual identities used to distinguish a product or service from its competitors. The utilization of a logo as a brand identity is granted specific legal protections according to Law Number 20 of 2016 Concerning the Trademarks and Geographical Indications (hereinafter referred to as Law No. 20/2016). However, when the logo is generated by AI, issues arise concerning ownership and copyright.

A logo created conventionally will of course be directly attributed to the person who created the logo, and of course the creator will refer to the person who designed the logo. Is different if the logo is created using artificial intelligence (AI) and will raise questions regarding who is the creator of the logo? and is it in accordance with trademark law? The consideration lies in determining who owns the rights to the logo created by AI. Is it the owner of the AI software used to create the logo, or is it the owner of the company or individual who commissioned the logo? While trademark law provides mechanisms for registering logos as brand identities, it remains unclear how legal protection extends to logos generated by AI, which may not necessarily be owned by the commissioner. Furthermore, it is also necessary to consider the aspects of validity and originality of logos created by AI. Does the logo meet the standards of uniqueness and originality required to register a trademark? The utilization of AI in logo design may prompt questions regarding the actual creator, whether it is a human or a computer program.

There are already many creation about Copyright that have been generated using AI technology. However, before discussing these Copyright, it is important to understand the basic concepts of intellectual property and copyright first. According to McKeough and Stewart, intellectual property right refers to a set of legal rights granted to protect the economic and moral aspects of creative output.⁶ About the defintion about intellectual property and

⁴ Irwan Prasetya and Suroto, "Perlindungan Hukum Bagi Pemegang Hak Atas Merek Terhadap Penggunaan Merek Terdaftar Oleh Pihak Lain," *Jurnal Akta Notaris* 2, no. 2 (2023): 149, <https://doi.org/10.56444/aktanotaris.v2i2.1201>.

⁵ Prasetyo Kamila, "Kepastian Hukum Atas Pemberlakuan Sistem Pendaftaran Merek First to File Terhadap Merek Terkenal Di Indonesia," *JURNAL NOTARIUS Program Studi Kenotariatan Pascasarjana UMSU* 1, no. 2 (2022): 302, <https://jurnal.umsu.ac.id/index.php/notarius/article/view/15719>.

⁶ Muhlis Ibrahim, "Legal Protection of Moral Rights Against Songwriters at the Republic of Indonesia Radio Broadcasting Institution (RRI) in Ternate City," *De Jure Jurnal Ilmiah Ilmu Hukum* 3, no. 1 (2022): 61-77, <https://doi.org/10.33387/dejure.v3i1.4358>.

copyright from the experts, question have emerged regarding legal responsibility if the AI-generated logo violated upon the copyrights or trademarks of others. Who bears the responsibility for potential legal violations: the owner of the AI software, the user of the AI program, or the commissioner of the logo? If the logo is accused of resembling or plagiarizing an existing logo, it will lead to complex legal disputes related to copyright and trademark issues.

With the growing use of AI in logo and brand identity creation, there is a need for legal explanations that clearer than before about the implications of using AI-generated logos. Legal protection for copyrights, trademarks, ownership, authenticity, and liability must be clarified in the context of AI technology use. This is a new challenge in the legal field that needs to be handled to uphold justice and legal certainty in the graphic design and marketing industries. Actually, there are several research articles discussing the artificial intelligence and its correlation with the Indonesian law's, especially in intellectual property rights. First, Cantika Aulia, Egi Nugraha, and Raja Siahaan in their journal titled "Copyright Responsibilities of Artificial Intelligence in the Digital Age"⁷, this article The results showed that Indonesia has not accommodated regulations regarding works of art from Artificial Intelligence so that these arrangements are needed so that laws are created that are able to follow the flow of the times and create protection for Artificial Intelligence creations. Secondly, in 2023, Richard Jatimulya Alam Wibowo in his journal titled "Creations and Inventions from Artificial Intelligence Outcome in The Perspective of Copyright And Patents"⁸, this article explains that that AI cannot be a creator and inventor because moral rights and human rights are reserved for humans, besides that AI also cannot take advantage of economic rights obtained from creation or patent protection. Thirdly, the research conducted by Muhammad Raihan Nugraha in 2024, titled "Legal Regulations on Works of Fine Art Resulting from an Artificial Intelligence Image-Producing System (Ai Generated Image) Viewed from of Law Number 28 of 2014 concerning Copyright"⁹, this article explain the he AI system cannot be considered the owner of the copyright because it is not a legal subject, whether human or a legal entity. Regarding ownership and responsibility for the creation of such images, they are determined by the terms and conditions of each Artificial Intelligence system.

Different from the previous articles, this article will explain more specifically about the legal status of Logos Generated by Artificial Intelligence as Brand Identity, where we all know that the phenomenon of the emergence of artificial intelligence works is increasingly being used in all circles. life, and one of them is a logo for a trademark which previously still relied on logo designs from illustrators, now using artificial intelligence raises the question of

⁷ Cantika Aulia, Egi Nugraha, and Raja Siahaan, "Copyright Responsibilities of Artificial Intelligence in the Digital Age," *Indonesia Law Reform Journal* 3, no. 2 (2023): 145, <https://doi.org/10.22219/ilrej.v3i2.26042>.

⁸ Richard Jatimulya Alam Wibowo, "Ciptaan Dan Invensi Hasil Kecerdasan Buatan Dalam Perspektif Hak Cipta Dan Paten," *Jurnal Ilmiah Kebijakan Hukum* 17, no. 3 (2023): 269, <http://dx.doi.org/10.30641/kebijakan.2023.V17.269-288>.

⁹ Muhammad Raihan Nugraha, "Pengaturan Hukum Terhadap Karya Seni Rupa Hasil Dari Sistem Intelegensi Artifisial Penghasil Gambar (Ai Generated Image) Ditinjau Dari Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Bandung Conference Series: Law Studies* 4, no. 1 (2024): 482, <https://doi.org/10.29313/bcsls.v4i1.9948>.

whether artificial intelligence generated logos can be protected by trademark law? and do logos generated by artificial intelligence have legal implications, especially regarding the legal status of logos generated by artificial intelligence? where in previous research many authors questioned the legal status of artificial intelligence itself.

2. Methods

The method that are used to conducting this research is a normative juridical approach, which is focused on verify the application of legal principles or norms. The approaches used on this research are conceptual approach and statute approach.¹⁰ A conceptual approach is used when the researcher does not depart from existing legal regulations. This was done because there were no or no legal regulations for the problems being faced. The conceptual approach arises from Law expert perspectives and doctrines that develop within the field of legal studies. The Statue Approach is an approach carried out by analyzing the rules and regulations that are relevant to the legal issue.¹¹ The legal materials used in legal research are threefold: primary legal materials consist rule or regulation, and all official documents containing legal provisions; secondary materials consist of books, articles, journals, research findings, papers, and so on that are still related to the issues; and tertiary materials consist of dictionaries or encyclopedias that assist primary and secondary legal materials in providing further explanations. The data collection technique in this research is library research or document/library study. Furthermore, the data that already collected then analyzed using qualitatively technique by examining the collected materials, which is studied and reviewed with various literature related to the issues regarding the The Legal Implication of Using Artificial Intelligence-Generated Logo as Brand Identity. The purpose of this research is related to knowing the Legal Implications of Using Artificial Intelligence-Generated Logo as Brand Identity, as well as becoming reference material in further legal research, especially related to the development of artificial intelligence.

3. Results and Discussion

3.1. Elucidating Legal Standing: Ownership and Copyright of Logos Produced by Artificial Intelligence

The advancements in Artificial Intelligence (AI) technology have brought about significant impacts in various aspects of life, including the creation of art and design, such as company logos. A logo represents one aspect of branding, as defined in Article 1 number 1 of Law No. 20/2016, which states that a sign that can be displayed graphically in the form of images, logos, names, words, letters, numbers, color arrangements, in two (2) or three (3) dimensions, sound, holograms, or combinations of two (2) or more of these elements to distinguish goods and services produced by individuals or legal entities in the trading of goods and/or services. When considering concept ownership and copyright of logos generated by AI, several questions emerge regarding ownership and copyright. This issue becomes progressively significant in the context of technological advancements in the digital era. In countries like the United Kingdom, regulations exist regarding the results of artificial intelligence work. The United Kingdom Copyright Act has a more sophisticated approach to

¹⁰ Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, cetakan-15 (Jakarta: Kencana Prenada Media Group, 2021).

¹¹ Mahmud Marzuki.

copyright protection issues surrounding AI creative works. Section 9 (3) of the Copyright, Design and Patents Act (CDPA) addresses copyright protection for literary, dramatic, musical, or artistic works generated by computers, where there is no human author. In essence, for a computer-generated work in the UK, human authorship is irrelevant to its copyrightability. The CDPA 1988 further specifies that the author of the computer-generated work is 'the person by whom the arrangements necessary for the creation of the work are undertaken.'¹² The CDPA law defines computer-generated works as those "produced by a computer in such circumstances so that there is no creator of human works."

In the case of the United States, the US Copyright Act of 1976, Section 101 of Title 17, explains that an "anonymous work is a work on the copies or phonorecords of which no natural person is identified as the author." This provision indicates that the US Copyright Act protects works created by either a human or by a human utilizing AI as a tool or medium in the creation process. In such AI-assisted works, the copyright is attributed to the human owner who is responsible for their creation. However, under the Copyright Act of 1976, the US does not afford protection to works created independently by AI without human intervention. Consequently, such works enter the public domain immediately after creation without any copyright protection.¹³

The situation in France differs, as explained in the French Intellectual Property Code, Article L 111-1: "The author of a work of the mind shall enjoy in that work, by the mere fact of its creation, an exclusive incorporeal property right which shall be enforceable against all persons." The attribution of copyright protection to artificial intelligence raises questions. Traditionally, copyright protection is granted to so-called "original" works, a fundamental criterion for protection. It is stipulated that the work must bear the imprint of the author's personality. Originality, defined in copyright law as the expression, however minimal, of the human spirit, may not be the most suitable concept for granting legal protection over the literary or artistic output of robots, irrespective of their artificial intelligence level. It is evident that only the natural or legal person responsible for creating the algorithms could hold intellectual property rights, and the AI system, not being a legal entity, would be entirely and definitively deprived of this right.¹⁴

Essentially, Indonesian law has provisions concerning ownership and copyright of artistic works, such as logos, but it does not specifically regulate artworks produced by Artificial Intelligence. This raises questions about the legal clarity regarding ownership and copyright of logos created by Artificial Intelligence within the scope of Indonesian law. The ownership of logos generated by AI is a debatable subject due to their creation process, which involves machines and algorithms capable of generating creations independently, without human involvement. Under Indonesian law, ownership of a creation must be transparent and regulated by Law Number 28 of 2014 Concerning Copyright (hereinafter referred to as Law

¹² Jyh-An Lee, "Computer-Generated Works under the CDPA 1988," *The Chinese University of Hong Kong Faculty of Law Research Paper*, no. 2021-65 (2021): 177-80, <https://ssrn.com/abstract=3956911>.

¹³ Hema K, "Protection of Artificial Intelligence Autonomously Generated Works under the Copyright Act, 1957- An Analytical Study," *Journal of Intellectual Property Rights* 28, no. 3 (2023): 197-98, <https://doi.org/10.56042/jipr.v28i3.708>.

¹⁴ Alain Duflot, "Artificial Intelligence in the French Law of 2024," *Legal Issues in the Digital Age* 5, no. 1 (2024): 51, <https://doi.org/10.17323/2713-2749.2024.1.37.56>.

No. 28/2014). Copyright is a specific right (exclusive right) that can only be obtained or owned by a creator when they successfully manifest their ideas into a tangible form.¹⁵ The existence of the Copyright Law creates a society that feels safe concerning potential infringements committed by others against their creative works. This law offers legal protection for creations produced by human creators. Unfortunately, the Copyright Law only applies to legal entities specified within its provisions.¹⁶ On the other hand, artificial intelligence can also be considered as an object. The status of artificial intelligence remains uncertain and there is no specific law that explicitly the position of artificial intelligence in Indonesian civil law.¹⁷ The government has issued Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which intends to inform the public that AI is a system controlled solely by a person's command, those statement can be conclude that AI is not a legal subject but only a legal object.¹⁸

The issue regarding AI as a legal subject originates from the argument presented by legal expert L. J. van Apeldoorn, who contends that "certain requirements must exist to allow a legal subject to perform a legal act, namely the capacity to hold rights."¹⁹ Based on this assertion, specific prerequisites such as maturity and authority must be fulfilled to be recognized as a legal subject with the capability and authorization to undertake legal acts. Those failing to meet these requirements are neither considered nor can be deemed legal subjects. With regard to the legal status associated with AI, this inevitably sparks numerous debates, each offering its own opinions and perspectives on AI's position concerning its legal actions. AI cannot be equated with legal entities. Unlike legal entities, which have clearly defined purposes and objectives in their establishment and entail minimal human involvement, AI cannot operate independently. It is widely acknowledged that computers are tools managed and programmed by humans. If a computer or AI makes a decision that parallels human actions, the reliability of that decision cannot be ensured without human oversight in decision-making, as computers are susceptible to errors, referred to as system errors.²⁰

According to Darshan Bhora and Kuldeep Shravan, who quote Minsky's viewpoint, artificial intelligence (AI) is defined as a machine capable of performing various tasks similar to humans, utilizing its intelligence. AI is engineered to replicate human attributes such as work planning, problem-solving, reasoning, idea or concept recognition, simulating thinking

¹⁵ Made Yunanta Hendrayana, I Nyoman Putu Budiarta, and Diah Gayatri Sudibya, "Perlindungan Hak Cipta Terhadap Konten Aplikasi Tiktok Yang Disebarluaskan Tanpa Izin, Jurnal Preferensi Hukum," *Jurnal Preferensi Hukum* 2, no. 2 (2021): 419, <https://doi.org/10.22225/jph.2.2.3351.417-422>.

¹⁶ Gede Sastrawan, "Analisis Yuridis Pelanggaran Hak Cipta Pada Perbuatan Memfotokopi Buku Ilmu Pengetahuan," *Ganesha Law Review* 3, no. 2 (2021): 119, <https://doi.org/10.23887/ glr.v3i2.446>.

¹⁷ Prianto Yuwono, Viony Kresna Sumantri, and Paksi Yudha Sasmita, *Pros and Cons of AI Robot as a Legal Subject* (Paris: Atlantis Press, 2020).

¹⁸ Muhammad Tan Abdul Rahman Haris and Tantimin, "Analisis Pertanggungjawaban Pidana Terhadap Pemanfaatan Artificial Intelligence (AI) Di Indonesia," *Jurnal Komunikasi Hukum* 8, no. 1 (2022): 311, <https://doi.org/10.23887/jkh.v8i1.44408>.

¹⁹ Febri Jaya and Wilton Goh, "Analisis Yuridis Terhadap Kedudukan Kecerdasan Buatan Atau Artificial Intelligence Sebagai Subjek Hukum Pada Hukum Positif Indonesia," *Supremasi Hukum* 17, no. 2 (2021): 6, <https://doi.org/10.33592/jsh.v17i2.1287>.

²⁰ Eli Ben-Michael et al., "Does AI Help Humans Make Better Decisions? A Methodological Framework for Experimental Evaluation," *Arxiv Cornell University*, 2024, 1-2, <https://doi.org/10.48550/arXiv.2403.12108>.

abilities, and various other activities that facilitate rapid and efficient work.²¹ However, despite possessing human-like capabilities, AI cannot be considered equivalent to human legal status as a legal subject.

According to Indonesian Law Number 19 of 2016 Concerning Information and Electronic Transactions (hereinafter referred to as Law No.19/2016), AI is classified as an electronic system and electronic agent, wherein all actions and activities performed by AI are unequivocally directed by humans. Under this law, the commands given by the electronic system provider, which comprises several legal subjects within it, dictate AI's actions. Therefore, based on this premise, AI cannot be regarded as an independent legal subject or equated with other legal entities.²² A legal subject is defined as someone who possesses the rights and capacity to act within the law, with individuals (people) and legal entities (companies, organizations, and legal entities) constituting supporters of rights and obligations. According to Abdulkadir Muhammad, the subject of law is a supporter of rights and obligations, referred to as a person. Persons in the legal sense encompass individuals and legal entities.²³ Based on the explanations provided above, it can be understood that AI is essentially nothing more than an algorithm or computer program developed by humans. Although AI has the ability to learn and generate creations, ultimately, AI operates based on rules and logic programmed by humans. Therefore, AI lacks consciousness or its own will like humans and cannot be considered a legal subject.

When a creation is generated by an AI machine, it creates ambiguity in determining who should rightfully possess exclusive rights to that creation. The context of ownership and copyright over Artificial Intelligence works is highly complex. There is a question regarding AI creations, specifically whether the credit should be assigned to the owner of the AI machine that crafted the artwork, or to the creator who employed the AI machine for artistic production. This subsequently leads to legal inquiries about who is entitled to ownership and copyright over the logos generated by AI. Indonesia's law itself has not specifically regulated AI-generated logo works. This raises ethical and legal questions regarding copyright protection for the owner of the AI machine or algorithm. If we talk about the copyright for logos created by AI, the Copyright Law provides legal protection for creations originated by humans. However, in the case of creation produced by AI, copyright becomes ambiguous as there are no specific regulations governing copyright for AI-generated works. This creates ambiguity regarding legal protection for logos produced by AI.

Most regulations concerning copyright and ownership of artistic works still rely on Copyright Law No.28/2014. According to this law, it is stipulated that the creator holds the copyright to the creation produced. However, it is necessary for the creator to affirmatively assign or grant rights to another party if they do not wish to retain copyright ownership. Since

²¹ Darshan Bhora and Kuldeep Shraavan, "Demystifying the Role of Artificial Intelligence in Legal Practice," *Nirma University Law Journal* 8, no. 2 (2019): 1-13, <https://doi.org/https://ssrn.com/abstract=3443000>.

²² Muhammad Khaeruddin Hamsin, Rizaldy Anggriawan, and Farisma Jiatrahman, "Unveiling Ethical Implications: AI Robot Accountability in Islamic Context," *Jurnal Media Hukum* 30, no. 2 (2023): 123, <https://doi.org/10.18196/jmh.v30i2.18524>.

²³ Gilang Rizki Aji Putra, "Manusia Sebagai Subyek Hukum," *Adalah Buletin Hukum & Keadilan* 6, no. 1 (2022): 32, <https://doi.org/https://doi.org/10.15408/adalah.v6i1.26053>.

its inception, the Copyright Law still does not provide protection for works created by Artificial Intelligence. When AI want to generated a creation, AI must utilize creativity, namely algorithms, which are more complex compared to human thinking. If we look at Article 1 paragraph (1) Law No.28/2014, it is explained that Copyright is the exclusive right of the creator that arises automatically based on declarative principle after a creationis manifested in tangible form, without prejudice to limitations as stipulated by laws and regulations. What is not fulfilled by the AI creation in the elements of Article 1 paragraph (1) Law No.28/2014 are the elements of creator and elements without prejudice to restrictions in accordance with the provisions of the laws and regulations.

The requirement of originality is also reflected in the definition of 'Creator' in Article 1 paragraph (2) Law No.28/2014, it is explain that a person or several people who individually or jointly produce a work that is unique and personal. This personality refers to the fact that in order to be recognized as a creation, the creator must be able to have a personality, which only humans can have. Based on this definition, works created by AI do not meet the concept of originality because apart from not being created by humans, AI works are a combination of previous works modified by machines so that the work does not reflect the characteristics and personality of its creator. "Unique and personal" characteristics are closely related to the creator's knowledge of his creative work. Furthermore, a work is distinctive and personal in terms of this is done by testing whether claim copyright on the work knowledge about the work itself, however, in this case, artificial intelligence cannot create the work itself. Artificial intelligence produce certain work results after analysing data provided by the person who running the artificial intelligence.

The absence of these two elements precludes AI-generated creations from receiving protection under Copyright Law, despite fulfilling the criterion of being manifested in tangible form. Consequently, for AI-generated creations to qualify for protection, AI's status must transition from being a legal object to a legal subject. However, as previously elucidated, AI cannot be deemed a legal subject. Therefore, concerted efforts are imperative to devise legal provisions capable of accommodating AI-generated works within the existing legal framework. This necessitates collaboration among pertinent stakeholders, including government entities, scholars, and legal practitioners, to formulate regulations governing the ownership and copyright of AI works. The imperative of achieving legal clarity regarding the ownership and copyright of logos created by Artificial Intelligence merits substantial attention within the realm of legal development in Indonesia.

3.2. Dispute Resolution in Cases of AI-Generated Logos Resembling Registered Trademarks

A brand serves the function of providing a distinctive identifier for products, distinguishing the products of one individual or company from those of another individual or company. For the Seller, brands are used to promote their product in order to expand their market reach. From the consumer's perspective, brands are necessary to make choices regarding which products to purchase.²⁴ Essentially, a constitutive system only protect brand owners who register their trademarks. this results in its absence protection for unregistered

²⁴ Atika Sunarto et al., "Implementasi Hukum Terhadap Merek Sebagai Konsep Hak Kekayaan Intelektual," *Jurnal Preferensi Hukum* 4, no. 3 (2023): 391, <https://doi.org/10.55637/jph.4.3.7543.389-395>.

marks due to mandatory registration to obtain legal protection from the country.²⁵ Under Article 3 Law No.20/2016, protection rights are acquired following trademark registration. protection rights are acquired after the trademark is registered and the Trademarks itself play a vital role and hold significant functions in the economy. As a fundamental concept, two aspects can be highlighted:²⁶

- 1) The trademark being used must possess a distinguishing feature from other trade marks;
- 2) The trademark being used must original, meaning it has not been previously utilized by another individual or company;

In the context of the rapid development of Artificial Intelligence (AI) technology, legal issues arise concerning the utilization of logos generated by AI that resemble other registered trademarks in Indonesia. The utilization of artificial intelligence (AI) technology in creating design works, including logos, has become quite controversial in the legal world. Technically, AI operates as a robotic technology without copyright. The way AI works is by gathering images from the internet and collecting millions of pieces of information to then process into their database. Afterward, AI will generate works based on the provided descriptions. Unlike artists or illustrators, who often require extensive time to search for ideas, observe, and develop conceptual works. AI technology makes the process of creating art appear easy, resulting in many similar yet not identical works. Moreover, AI has widespread access, enabling individuals without knowledge of art to easily create it. This can reduce the value and the function of a work of art.²⁷ From the previous explanation which explains that artificial intelligence is not a legal subject, but is only a "tool", and the work of artificial intelligence cannot be protected by law, of course the use of this logo can cause problems. As technology advances, logos created using AI applications sometimes resemble other registered trademarks. This raises questions about the legal implications of utilizing AI-generated logos that closely resemble registered trademarks. Utilizing AI in logo creation can provide various benefits in terms of efficiency and design variation, but there are several implications that need to be considered, logo produced from artificial intelligence, which we know is how artificial intelligence itself works by collecting data from open sources and then processing it into something that is in accordance with the orders of the artificial intelligence user, this becomes a problem, if the data collected is sourced from public property, or it even resembles previously existing works. In addition, the use of artificial intelligence raises issues about the authenticity and uniqueness of the design. With AI's ability to generate designs in large quantities there is a possibility that some logo designs generated by AI may bear resemblance

²⁵ Nadia Irvan, Rorry Jeff Akywen, and Agustina Balik, "Perlindungan Hukum Bagi Pemilik Merek Tidak Terdaftar," *Tatohi Jurnal Ilmu Hukum* 1, no. 12 (2022): 1240, <https://doi.org/10.47268/tatohi.v1i12.878>.

²⁶ Wulan N.M.Wulur, Firdja Baftim, and Renny Nansy S. Koloay, "Perlindungan Hukum Terhadap Pemegang Merek Terdaftar Di Indonesia (Studi Kasus Putusan Nomor 2/PDT.SUS.HKI/Merek/2022/PN Niaga Mdn)," *Lex Privatum* 12, no. 2 (2023), <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/49467>.

²⁷ Alya Nur Fadilla, Putri Munadiyah Ramadhani, and Handriyotopo, "Problematika Penggunaan AI (Artificial Intellegence) Di Bidang Ilustrasi : AI VS Artist," *Citra Wira : Jurnal of Advertising and Visual Communication* 4, no. 1 (2023): 132, [/https://doi.org/10.33153/citrawira.v4i1.4741](https://doi.org/10.33153/citrawira.v4i1.4741).

or even be identical to existing logo designs. This could pose copyright and design authenticity issues, potentially causing harm to companies that already possess logos with similar designs.

Law No.20/2016 generally governs instances of logo similarity intended for registration, as outlined in Article 21, paragraph 2 Law No.20/2016, which states that the application will be rejected if the trademark:

- a. Represents or bears resemblance to the name or abbreviation of a famous individual, photograph, or the name of a legal entity owned by another party, unless with written consent from the rightful owner;
- b. Is an imitation or bears resemblance to the name or abbreviation, flag, symbol, emblem, or insignia of a nation, or national or international institution, unless with written consent from the authorized entity; or
- c. Is an imitation or bears resemblance to the mark, seal, or official stamp used by a state or governmental institution, unless with written consent from the authorized entity.

And if one still wishes to Register a trademark logo, then an examination can be conducted in accordance with Article 24 paragraph 1 of Law No. 20 /2016. In the event the Examiner decides the Application can be registered, the Minister can:

- a. Registering the trademark;
- b. Informing the applicant or their representative about the registration of the trademark;
- c. Issuing the trademark certificate; and
- d. Publishing the trademark registration in the Official Trademark Gazette, both electronically and non-electronically.

According to that article, if the trademark logo submitted meets the requirements and has passed the examination, then according to the article, the minister can register the trademark. In the context of AI or artificial intelligence, sometimes AI applications inadvertently create trademark logos that visually resemble other trademark logos. The utilization of AI algorithms in designing brand logos can lead to similarities in shape, color, and visual elements among different logos. Despite being unintentional, these resemblances can confuse consumers and diminish the authenticity of a brand. In this regard, in accordance with Article 21 paragraph 2 of Law No. 20 /2016, such logos would be rejected.

The utilization of artificial intelligence (AI) technology has transformed and simplified various aspects of human life, including graphic design. However, the use of AI in graphic design also presents new challenges related to intellectual property rights, especially concerning the use of logos that resemble other registered trademarks. Disputes regarding the use of AI-generated logos resembling other registered trademarks have gained significant attention. The utilization of AI in logo design can yield creations resembling logos of other registered trademarks, which may lead to legal disputes concerning trademark infringement.

Trademark infringement have the motivation to gain profit easily, by trying, imitating, or counterfeit brands already well known in society. Fraudulent acts and unfair business competition in industrial property related to trademarks includes counterfeiting, plagiarism, piracy, and adjudication of a brand.²⁸ A registered trademark has legal protection against

²⁸ Niru Anita Sinaga and Muhammad Ferdian, "Pelanggaran Hak Merek Yang Dilakukan Pelaku Usaha Dalam Perdagangan Melalui Transaksi Elektronik (E-Commerce)," *Jurnal Ilmiah Hukum Dirgantara* 10, no. 2 (2020): 81, <https://doi.org/10.35968/jh.v10i2.463>.

unauthorized use or imitation. If the logo design bears a close resemblance to that of a registered trademark, the trademark owner has the right to pursue legal action for trademark infringement.

It is known that there are 2 (two) ways of Resolution of disputes arising from counterfeiting/fraudulent actions, as we know, can be settled through non-litigation namely the process of resolving disputes outside of court, and litigation pathways through channels court.²⁹ Non-litigation dispute resolution, or settlements outside the court, can be achieved through alternative dispute resolution methods such as mediation, negotiation, conciliation, and arbitration. Disputes that can be settled are those outlined in Article 93 of Law No. 20 /2016, which states that "In addition to settling lawsuits as mentioned in Article 83, parties may resolve disputes through arbitration or alternative dispute resolution," and the Explanation of Article 95 paragraph (1) of Law No.28/2014, namely:

1. Arbitration

As stated in Law Number 30 of 1999 concerning the Arbitration and Alternative Dispute Resolution (hereinafter referred to as Law No. 30/1999), arbitration is defined as follows: "Arbitration is a method of settling a civil dispute outside the general court system based on an arbitration agreement made in writing by the disputing parties." The procedural provisions in the arbitration process are outlined in Articles 27, 28, 29, and 30 of Law No. 30/1999. The outcome of arbitration is a decision, as stated in Article 54 of Law No. 30/1999. Mediation In Article 1 paragraph (6) of Supreme Court Regulation Number 2 of 2003 concerning Mediation Procedures in Court, mediation is defined as follows: "Mediation is the resolution of disputes through a negotiation process between the parties with the assistance of a mediator."

2. Negotiation

Negotiation is a bargaining process by negotiating between the parties to the dispute to seek mutual agreement.³⁰

3. Conciliation

Information about conciliation can be located in Article 1 paragraph (10) and paragraph 9 of the General Explanation of Law No. 30/1999, which states: "Conciliation is one of the alternative institutions in dispute resolution. Therefore, conciliation is an alternative dispute resolution process involving a third party who is engaged to resolve the dispute."

Settlement in court can be conducted to determine how much compensation to be received by the aggrieved party. This is regulated and explained in Article 96 of Law No.28/2014. The procedure for filing a lawsuit in court follows the stages outlined in Article 100 of Law No.28/2014, and the resolution stage will be completed within a maximum of 90 (ninety) days, with a possible extension of up to 30 (thirty) days as explained in Article 101 of Law No.28/2014. Disputes involving copyright or trademark infringement are filed in the

²⁹ Ni Made Trisna Dewi, "Penyelesaian Sengketa Non Litigasi Dalam Penyelesaian Sengketa Perdata," *Jurnal Analisis Hukum* 5, no. 1 (2022): 82, <https://doi.org/10.38043/jah.v5i1.3223>.

³⁰ Syafrida and Ralang Hartati, "Keunggulan Penyelesaian Sengketa Perdata Melalui Negosiasi," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 7, no. 2 (2020): 253, <https://doi.org/10.32493/SKD.v7i2.y2020.9213>.

Commercial Court. As mentioned in Articles 83-86 of Law No. 20/2016 and Article 95 of Law No. 28/2014 concerning Copyright:

- 1) Dispute resolution regarding Copyright can be resolved through alternative dispute resolution, arbitration, or litigation.
- 2) The court that had authority, as referred to in paragraph (1), is the Commercial Court.
- 3) Other courts, besides the Commercial Court as stated in point (1), do not have jurisdiction to handle Copyright dispute resolutions.
- 4) Apart from copyright and/or related rights infringement in the form of piracy, as long as the disputing parties are identified and/or present within the territory of the Unitary State of the Republic of Indonesia, they must first attempt dispute resolution through mediation before initiating criminal charges.

In the realm of copyright infringement litigation, the utilization of temporary injunctions, as stipulated in Article 106 of Law No. 28/2014, is well-established. These injunctions are granted by the Commercial Court upon petition from the aggrieved party whose rights have been violated. Within the Indonesian trademark law landscape, particularly under Law No. 20/2016, robust legal safeguards are afforded to registered trademarks. The Trademark Law explicitly proscribes the unauthorized use of an identical or similar trademark to a registered one in commercial endeavors. Should an AI-generated logo bear resemblance to a registered trademark, it could potentially constitute trademark infringement under the purview of the Trademark Law. It is discernible from the foregoing elucidation that logos crafted by artificial intelligence entail multifarious implications. For instance, when these logos are derived from open sources, where the underlying material resides in the public domain, they inherently belong to the public domain and cannot be subject to individual ownership claims. Moreover, logos originating from artificial intelligence lack the attributes of "authenticity and uniqueness," thus heightening the probability of resemblance to registered logos.

4. Conclusions

Based on the aforementioned exposition, it can be deduced that AI cannot be ascribed legal subject status. This is attributable to AI's nature as an artificial system devoid of a discernible legal persona. Within the realm of copyright ownership, this poses a nuanced challenge as there exists no identifiable legal entity as the creator of AI-generated works. Artificial intelligence fundamentally operates as an algorithm engineered and developed by humans to execute specific tasks. Lacking the capacity to assume rights or obligations, AI fails to meet the criteria for legal subject classification. Despite AI's remarkable sophistication and its capacity to produce intricate creations, its existence is contingent upon human intervention. Furthermore, works generated by AI are ineligible for copyright protection due to the absence of a human creator element. Within the domain of copyright ownership, Copyright Law mandates that copyright is exclusively granted to works imbued with a creator element. In this context, AI cannot be recognized as a creator owing to its inherent incapacity for will or intention to create. Copyright protection is extended solely to works demonstrating originality and creativity emanating from a human creator. Works generated by AI fall short of meeting these requisites as they lack human involvement in the creative process. AI functions as a mere tool, executing the desires of humans devoid of direct creative input from the individual AI

user. Under Trademark Law, the use of an identical or similar trademark to a registered trademark in commercial activities sans the consent of the trademark owner is prohibited. Furthermore, dispute resolution pertaining to trademarks can be pursued through diverse avenues as delineated in Article 95 paragraph (1) of Law No. 28/2014, including arbitration, mediation, negotiation, and conciliation between the proprietor of the registered trademark and the party employing a logo generated by AI. Through mediation or negotiation, it is envisaged that a mutually agreeable resolution can be attained by both parties sans resorting to protracted and costly litigation proceedings. In the context of utilizing logos generated by AI, it is imperative to meticulously adhere to the legal precepts governing trademarks. Unauthorized utilization of trademarks can precipitate grave legal ramifications; hence, preemptive measures and judicious dispute resolution steps ought to be embraced to forestall unwarranted legal entanglements. Hence, incorporating AI in logo creation while cognizant of legal considerations will afford protection to all stakeholders. Logos crafted by artificial intelligence engender several ramifications, including their derivation from open sources residing in the public domain, thereby precluding individual ownership claims. Additionally, AI-generated logos lack the attributes of "authenticity and uniqueness," rendering them susceptible to bearing resemblance to registered logos. If an AI-generated logo bears semblance to a registered trademark, it constitutes trademark infringement. Infringement of trademark laws can elicit severe legal repercussions for the parties implicated. Registered trademark proprietors perceiving an AI-generated logo as akin to their trademark may contemplate legal recourse for trademark infringement. In such instances, parties employing such akin logos could face consequential repercussions, including fines and even criminal prosecution upon substantiation of Trademark Law violations.

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