INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

 ISSN: 2582-6433

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 ISSN: 2582-6433

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 ISSN: 2582-6433

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 ISSN: 2582-6433

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 ISSN: 2582-6433

A LEGAL ANALYSIS OF INTELLECTUAL PROPERTY PROTECTION OF SONIC BRANDING OF TRADITIONAL AND AI-GENERATED

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Abstract

In the rapidly evolving digital economy, brands are increasingly relying on non-traditional elements such as sound to create distinct and memorable consumer experiences. Sonic branding also known as audio branding has emerged as a powerful tool wherein companies use unique sound elements such as jingles, brand tunes, and auditory logos to enhance brand recall and recognition. Traditionally, corporations like Intel, Nokia, and McDonald's have utilized human-composed musical signatures protected under conventional trademark and copyright frameworks. The legal mechanisms that facilitated such protection are now being tested by the advent of Artificial Intelligence (AI)-generated sonic branding.

The emergence of AI-driven technologies that autonomously generate audio content challenges long-standing principles of intellectual property law. Key issues arise around authorship, ownership, distinctiveness, and registrability of AI-generated sound marks. Indian law, notably the Trade Marks Act, 1999, and the Copyright Act, 1957, has not yet evolved to accommodate the nuances posed by AI-authored creative outputs, including sonic branding. While the law permits the registration of sound marks under certain conditions, it is silent on autonomous AI-generated works and their protection.

Although global frameworks such as the Madrid Protocol, TRIPS Agreement, and institutions like the USPTO, EUIPO, and WIPO have begun recognizing the implications of AI in intellectual property law, the Indian legal regime remains underdeveloped in this respect. The regulatory ambiguity raises significant concerns, especially as AI-generated content becomes increasingly indistinguishable from human-created works.

This research proposes a critical legal analysis of the protection offered to both traditional and AI-generated sonic branding within Indian intellectual property law, with comparative insights

 ISSN: 2582-6433

from international jurisdictions such as the United States, European Union, Singapore, and global treaty frameworks. It aims to identify doctrinal gaps, assess policy challenges, and propose legislative and regulatory reforms necessary to balance innovation in AI with the foundational objectives of IP law.

Keywords : Sonic Branding, AI-generated content, Intellectual Property, Sound Marks, Copyright, Trademark, India, Global IP Regime

1. INTRODUCTION

In the evolving landscape of the digital economy, branding is no longer confined to visual elements alone. Businesses today operate in an ecosystem driven by multisensory engagement, where sound has emerged as a critical tool in shaping consumer identity and loyalty. This practice, referred to as sonic branding or audio branding, refers to the strategic use of sound elements such as jingles, auditory logos, brand tunes, and even voice cues to create a memorable and emotionally resonant association with a product or service.[1] These sonic cues can significantly enhance brand recall, customer engagement, and market differentiation, especially in an era of shrinking attention spans and oversaturated media spaces.

Historically, human-created sonic branding has played a powerful role in corporate communication. The iconic four-note motif of Intel, the distinctive Nokia tune derived from Francisco Tárrega's *Gran Vals*, and McDonald's globally recognized "I'm Lovin' it" jingle are prime examples of brands leveraging sound as intellectual property.[2] These compositions were originally created by human artists or marketing agencies, and their protectability was well-established under traditional intellectual property (IP) frameworks, primarily trademark and copyright laws. The human authorship in these cases aligned with legal definitions of originality, creativity, and ownership.

Whereas with the rapid advent of artificial intelligence (AI) technologies in the creative domain, the legal landscape is facing unprecedented challenges. AI-based platforms now generate music, jingles, and audio logos autonomously or semi-autonomously, often without

[1] David Allan, *Sound Retailing: A Review of Experimental Evidence on the Effects of Music on Shopping Behavior*, 25 *The Journal of Marketing Management* 86, 88 (2009).
[2] Ananya Bhattacharya, *The Little Tune That Built the Nokia Brand*, *Quartz India* (Jan. 2018), https://qz.com/india/1170721/the-story-of-the-nokia-tune/.

 ISSN: 2582-6433

direct human input in the creative process.[3] These AI tools ranging from generative adversarial networks (GANs) to natural language processing-based audio synthesizers can analyse consumer data, past compositions, and emotional resonance to generate unique and brand-specific sound profiles.[4] As AI-generated content becomes increasingly indistinguishable from human-created works, the traditional doctrines of intellectual property law, particularly those concerning authorship, originality, and ownership are being tested.

At the heart of intellectual property protection lies the concept of authorship and originality, which serve as the foundational criteria for granting legal rights. Under Indian copyright law, for instance, Section 2(d) of the Copyright Act, 1957 defines an "author" as the creator of a work, implying the necessity of human creativity.[5] Similarly, trademark protection under the Trade Marks Act, 1999 is extended to sound marks that are capable of being graphically represented and are distinctive in nature criteria that presuppose a human intention and purpose behind the creation.[6] In the case of AI-generated sonic branding, the ambiguity lies in whether such works fulfil the requisite threshold of originality, and who, if anyone, can be deemed the rightful "author" or "owner" of such works.

Further complicating matters is the lack of legal personality for AI entities, which precludes them from holding rights or liabilities under current law. While AI may function as a tool in the hands of a human creator, scenarios where AI systems operate autonomously challenge this premise. Courts and legal scholars worldwide remain divided on whether to recognize AI as a co-author, to attribute authorship to the programmer or user, or to deny protection altogether.[7] The Indian legal framework remains notably underdeveloped in addressing these complexities, creating a regulatory vacuum that could hamper innovation and dispute resolution in the near future.

[3] Andres Guadamuz, *Artificial Intelligence and Copyright*, 39 *WIPO Magazine* 10, 12 (2017).
[4] Matthias Leistner, *Intellectual Property Rights and AI-Generated Content: A European Perspective*, in *Intellectual Property and the Digital Economy* 143 (2021).
[5] Copyright Act, No. 14 of 1957, s. 2(d) (India).
[6] Trade Marks Act, No. 47 of 1999, s.s. 2(zb), 9(1) (India).
[7] U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (Mar. 2023), https://www.copyright.gov/ai/.

 ISSN: 2582-6433

2. UNDERSTANDING SONIC BRANDING IN INTELLECTUAL PROPERTY LAW

Sonic branding, also known as audio branding or sound branding, is the strategic use of sound to reinforce brand identity and foster emotional connections with consumers.[8] In contrast to visual identifiers such as logos and colour schemes, sonic branding relies on auditory stimuli such as jingles, theme songs, tones, and voice signatures to create a distinctive, often subliminal brand presence. The use of such sound elements is rooted in cognitive psychology, as human memory tends to respond strongly to auditory cues, particularly those tied to repetition and emotional resonance.[9] As businesses transition into digital-first and AI-integrated environments where consumers interact with brands through voice assistants, podcasts, and smart devices the relevance of sonic branding continues to grow.

2.1 Elements and Categories of Sonic Branding

Sonic branding can take various forms, including but not limited to:

Jingles	Short musical phrases associated with a brand (e.g., Britannia's "ting-ting-ta-ding").
Auditory logos	Brief sound motifs that accompany visual logos (e.g., intel's five-note chime).
Voice marks	Distinctive voice phrases or tones (e.g., the deep "hello moto" greeting).
Musical signatures	Background themes associated with a brand identity (e.g., Netflix's intro sound).[10]

These elements not only enhance the marketing impact but can also serve as *protectable intellectual property*, provided they meet certain legal criteria.

2.2 Trademark Protection for Sound Marks

Under trademark law, sonic branding elements can be protected as sound marks, a subset of non-conventional trademarks. The Indian Trade Marks Act, 1999 does not explicitly define

[8] Daniel Jackson, *Sonic Branding: An Overview*, in *Sonic Branding: The Power of Sound* 1–16 (Palgrave Macmillan 2003).
[9] Adrian North et al., *The Influence of Music on Consumer Behavior*, 47 *The Journal of Applied Psychology* 563 (1999).
[10] Arpan Banerjee, *Trademark Protection of Non-Conventional Marks: The Indian Position*, 56 *JILI* 342, 348 (2014).

 ISSN: 2582-6433

"sound marks," but its inclusive definition of "mark" under Section 2(m) allows for any "device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof."[11] In 2008, India formally accepted the registration of sound marks, beginning with Yahoo!'s yodel, the first registered sound mark in the country.[12] To qualify for protection under Indian trademark law, a sound mark must be capable of graphical representation (typically as a musical notation or spectrogram), and have distinctiveness, i.e., the ability to identify goods or services as originating from a particular source.[13]

This has historically worked well for traditional jingles and tunes composed by identifiable human authors. Graphical representation has often posed a technical barrier, especially for more complex or abstract auditory works, such as algorithmically generated soundscapes.

2.3 Copyright Protection for Musical Works

Sonic branding may also receive protection under copyright law, particularly when the sound is categorized as a musical work, sound recording, or both. Section 2(p) of the Indian Copyright Act, 1957 defines a "musical work" as a work consisting of music, and includes graphical notations of such work.[14] Sound recordings which may be layered combinations of musical work, performance, and recording are protected under Section 2(xx).[15]

For copyright protection, the work must satisfy the requirements of:

- Originality: The work must be independently created and not copied from another source.
- Fixation: It must be expressed in a tangible medium written notation, recorded file, or digital code.[16]
- Authorship: The author is typically the composer or the person who initiates the creative process.[17]

Traditional sonic branding being manually composed or recorded generally meets all of these criteria. Authors or rights holders (often the commissioning companies) enjoy economic rights (e.g., reproduction, distribution, communication to the public) as well as moral rights under

[11] Trade Marks Act, No. 47 of 1999, s. 2(m) (India).
[12] Yahoo! Inc.'s sound mark was registered in India under TM Application No. 1270400.
[13] Rule 26(5), Trade Marks Rules, 2017 (India).
[14] Copyright Act, No. 14 of 1957, s. 2(p) (India).
[15] Id. 2(xx).
[16] Eastern Book Co. v. D.B. Modak, (2008) 1 SCC 1.
[17] Copyright Act, s. 2(d).

 ISSN: 2582-6433

Section 57.[18] These protections enable enforcement against unauthorized commercial use or imitation by competitors.

2.4 Registrability and Enforcement

India's IP regime has gradually opened its doors to non-traditional marks, especially in trademark law. However, enforcement of rights in sonic branding remains underdeveloped. Indian courts and tribunals have not yet evolved a rich jurisprudence on sound mark infringement, largely due to the novelty of such registrations. Enforcement often depends on demonstrating consumer association, likelihood of confusion, and commercial use without authorization.[19]

In cases involving copyright infringement, Indian courts have typically emphasized the test of "substantial similarity" and access.[20] For jingles or musical works, this may involve forensic audio analysis or expert testimony, especially where similarities arise due to common musical structure or public domain usage.

The Indian IP Office has issued some guidance, notably allowing MP3 files of sound marks (of up to 30 seconds) during trademark registration.[21] However, the procedural mechanism for such registration remains less efficient than that for visual or word marks. As the technology evolves, so too must the administrative frameworks, governing such submissions.

2.5 Business Use and Strategic Protection

Global corporations have successfully leveraged IP protection mechanisms to build valuable sonic assets. For example:

- Intel Corporation registered its five-note chime across multiple jurisdictions, associating it with processor quality.
- McDonald's filed for trademark protection of its "I'm Lovin' it" jingle, produced in collaboration with music artists.
- Netflix's "ta-dum" sound has become globally recognized and is now protected under U.S. and international law.[22]

[18] Id at 57.
[19] Cadbury UK Ltd. v. ITC Ltd., (2014) 60 PTC 535 (Del).
[20] R.G. Anand v. Delux Films, (1978) 4 SCC 118.
[21] Trade Marks Manual, Indian Trademark Registry (2015).
[22] U.S. Trademark Reg. No. 5739477 (Netflix's sonic logo).

 ISSN: 2582-6433

In India, brands like ICICI Bank, Britannia, and Airtel have experimented with distinctive sonic branding, though not all have pursued formal IP protection. As market competition intensifies in the audio-first consumer era, more companies are expected to invest in both creation and protection of sound-based identifiers.

3. LEGAL FRAMEWORK IN INDIA FOR PROTECTION OF TRADITIONAL SONIC BRANDING

The Indian legal system, though historically focused on visual and literary forms of expression, has gradually begun recognizing and adapting to non-conventional forms of intellectual property (IP), including sonic branding. The protection of sound-based brand elements primarily lies within two legal regimes: the Trade Marks Act, 1999 and the Copyright Act, 1957. While both provide avenues for securing exclusive rights, the application of these frameworks to traditional human-created sonic branding remains procedurally and doctrinally limited.

3.1 Trademark Law and Sound Marks

The Trade Marks Act, 1999 provides the foundational framework for the protection of brand identifiers, including sound marks. Under Section 2(zb), a "trademark" is defined as a mark capable of being represented graphically and capable of distinguishing the goods or services of one person from those of others.[23] Although sound is not explicitly listed in the definition, the inclusive nature of the term "mark" under Section 2(m)which includes "any name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof" has been interpreted to encompass sounds.[24]

The registration of sound marks in India became officially feasible with Yahoo!'s sound mark in 2008, marking a significant development in the recognition of non-traditional trademarks.[25] To be registrable, a sound mark must satisfy three key criteria:

SOUNDMARK CRITERIA
1. Graphical Representation: The sound must be capable of being visually represented, typically through musical notations or sonograms.

[23] Trade Marks Act, No. 47 of 1999, s. 2(zb) (India).
[24] Id at 2(m).
[25] Yahoo! Inc.'s "Yahoo!" yodel was India's first registered sound mark (TM No. 1270400).

 ISSN: 2582-6433

2. Distinctiveness: It must serve to identify and distinguish the source of goods or services.
3. Use in Commerce: The sound must be used in trade and must not be generic, descriptive, or functional.

Rule 26(5) of the Trade Marks Rules, 2017 explicitly states that a sound mark application must be submitted with a sound clip in MP3 format not exceeding 30 seconds, accompanied by a graphical representation of the notation.[26]

Despite these procedural accommodations, jurisprudence on sound mark infringement in India remains scarce. While courts have addressed issues related to shape marks and colour combinations, they have yet to meaningfully interpret or enforce sound mark rights. As a result, brand owners often rely on common law remedies of passing off, which require proof of goodwill, misrepresentation, and damage.

3.2 Copyright Law and Musical Works

In addition to trademark protection, sonic branding elements such as jingles, musical logos, and background compositions are often eligible for protection as musical works under the Copyright Act, 1957. A "musical work" is defined in Section 2(p) as "a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music."[27] Sound recordings are separately protected under Section 2(xx) as "a recording of sounds from which sounds may be produced regardless of the medium."[28]

Traditional sonic branding, being manually composed and recorded by human creators, comfortably satisfies the legal requirements for copyright protection:

- Originality: Following the *Eastern Book Co. v. D.B. Modak* case, originality requires the application of a minimum degree of creativity.[29] Traditional jingles and sound motifs often meet this standard.
- Fixation: The work must exist in a tangible form, such as a digital audio file or written notation.

[26] Trade Marks Rules, 2017, Rule 26(5) (India).
[27] Copyright Act, No. 14 of 1957, s. 2(p) (India).
[28] Id at 2 (xx).
[29] Eastern Book Co. v. D.B. Modak, (2008) 1 SCC 1.

 ISSN: 2582-6433

- Human Authorship: Under Section 2(d), the author of a musical work is the composer. For sound recordings, it is the producer or the person who initiates the recording.[30]

The owner of the copyright enjoys exclusive rights under Section 14, including the right to reproduce, perform, distribute, and license the work. Violations can be civilly and criminally actionable under Sections 51 and 63 of the Act. Additionally, moral rights under Section 57 grant the author the right to be credited and to object to distortion or mutilation of the work. This becomes particularly important in brand-sensitive uses, where unauthorized remixing or distortion may damage brand identity or consumer perception.[31]

3.3 Contractual Ownership and Licensing

In most commercial settings, sonic branding elements are created by independent composers, ad agencies, or sound designers. As per Indian law, unless there is a work-for-hire agreement or express assignment, the copyright vests in the author. This can lead to disputes if sound assets become valuable after use in marketing campaigns.

Under Section 19 of the Copyright Act, any assignment of copyright must be in writing, clearly specifying the rights assigned, duration, and territorial scope. If not specified, the assignment is deemed to be for five years and limited to the territory of India.[32] This becomes especially significant in global branding strategies, where multinational use of a jingle or sound logo requires clarity in ownership rights across jurisdictions.

3.4 Overlap Between Trademark and Copyright Law

Sonic branding often benefits from dual protection under both trademark and copyright laws:

- Copyright protects the creative expression of the sound or music.
- Trademark protects the function of the sound as a source identifier.

This overlap can be strategically useful for brand owners, offering both economic incentives and legal remedies. For instance, a brand can use copyright law to prevent unauthorized reproduction of its jingle, while using trademark law to stop competitors from using a confusingly similar sound.

Overlapping rights can also lead to doctrinal inconsistencies, especially when questions arise

[30] Copyright Act, s. 2(d).
[31] Id at 57.
[32] Id at 19.

 ISSN: 2582-6433

about the originality of the work or its use as a brand identifier rather than a creative work. Indian law does not currently offer a harmonized doctrine for resolving such overlaps, leaving room for ambiguity.

Despite the theoretical availability of protection, practical enforcement of rights in traditional sonic branding remains limited in India due to:

- Low awareness among businesses and marketing professionals about the registrability of sound marks.
- Lack of judicial precedent interpreting infringement or dilution of sonic marks.
- Procedural constraints, such as graphical representation and evidence of acquired distinctiveness.
- Technological barriers, like verifying originality in a globalized digital environment.

Unlike the U.S., where courts have dealt with sonic branding in cases like *Qualitex Co. v. Jacobson Products Co.*, or the EU where sound marks are explicitly recognized under EUIPO guidelines, India remains in a nascent stage.[33] With the increasing use of digital media, OTT platforms, and voice technologies, there is a growing need for a robust adjudicatory framework that can address both traditional and emerging forms of sonic brand expression.

4. AI-GENERATED SONIC BRANDING AND CHALLENGES IN IP LAW

The integration of Artificial Intelligence (AI) in creative industries has blurred the traditional boundaries between human authorship and machine-generated outputs. In the realm of sonic branding, AI tools now produce jingles, soundscapes, and brand tunes with minimal or no human intervention. These developments though transformative pose significant legal challenges, especially in the context of authorship, originality, and ownership within India's existing IP framework.

AI models such as Google's Magenta, OpenAI's Jukebox, and AIVA (Artificial Intelligence Virtual Artist) can autonomously compose original pieces of music by processing vast datasets of musical works.[34] These models use algorithms trained on thousands of songs to understand

[33] Qualitex Co. v. Jacobson Products Co., 514 U.S. 159 (1995); EUIPO Guidelines for Examination of EUTMs (2022 ed.).
[34] Gaëtan Hadjeres & François Pachet, *DeepBach: A Steerable Model for Bach Chorales Generation*, 34 *ICML Proceedings* 1362 (2017).

 ISSN: 2582-6433

rhythm, pitch, tone, and genre, then produce new audio compositions. Brands seeking cost-effective, rapidly generated sound assets are increasingly adopting such technologies.

Unlike traditional compositions, AI-generated audio content may lack a human composer in the classical legal sense. This raises questions about whether such outputs qualify as "original works" and whether they fall within the protective scope of current copyright and trademark laws in India.

4.1 The Problem of Authorship in Copyright Law

Indian copyright law, like most global frameworks, is premised on the notion of human authorship. Under Section 2(d) of the Copyright Act, 1957, an author is defined as - For a literary or artistic work: the creator, for a musical work: the composer, for a sound recording: the producer or person who causes the recording.[35] This definition does not include AI systems or machines, as the law presumes creative intent and moral agency. As such, AI-generated music may fall into a legal vacuum not authored by a human and hence not protectable under current copyright norms.

For example, if a jingle is created entirely by an AI without human input, who owns the copyright? The coder of the AI? The user of the AI? The company that owns the AI? These questions lack statutory or judicial clarity in Indian law. In contrast, some jurisdictions like the UK recognize the person making the arrangements necessary for the creation as the author of computer-generated works under Section 9(3) of the Copyright, Designs and Patents Act, 1988.[36] Indian law has no such provision.

Another legal concern arises from the requirement of originality. Indian courts have held that originality under the Copyright Act demands a minimum level of creativity and independent skill, as established in *Eastern Book Co. v. D.B. Modak*.[37] However, originality in AI-generated content is debated because the output: Is not a product of human creativity and often mimics or recombines existing works, which may involve randomness or automation. Even if the algorithm is coded and trained by humans, the ultimate composition may not reflect any individual's creative expression, thus failing the originality test. If the data used to train the AI

[35] Copyright Act, No. 14 of 1957, s. 2(d) (India).
[36] Copyright, Designs and Patents Act 1988, c. 48, s. 9(3) (UK).
[37] Eastern Book Co. v. D.B. Modak, (2008) 1 SCC 1.

 ISSN: 2582-6433

includes copyrighted material, the resultant jingle may infringe underlying works or raise derivative work issues especially when AI mimics specific musical styles or artists.[38]

4.2 Ownership and Licensing Dilemmas

Assuming AI-generated works can somehow be recognized under Indian IP law, questions still persist around ownership:

- Does the user who inputs the prompt or selects the genre own the work?
- Does the AI software company retain ownership through terms of use?
- What about co-creation between human and machine?

In absence of legislative clarity, ownership is largely governed by contractual terms. Most AI platforms currently operate on restrictive licenses, granting limited commercial rights to users. However, this contract-based approach is insufficient when disputes arise over exclusivity, authorship attribution, or infringement. Even if the user is declared the "owner," they may not enjoy full copyright protection unless courts accept their role as equivalent to that of a composer or producer.

4.3 Trademark Concerns with AI-Generated Sound Marks

From a trademark law perspective, AI-generated sonic branding can theoretically be protected as sound marks under the Trade Marks Act, 1999, provided it satisfies graphical representation, and distinctiveness as an indicator of source. However, concerns arise when the sound lacks human authorship, making it harder to establish commercial source. Similar AI tools generate overlapping or confusingly similar audio files for multiple users. There is no control over the exclusivity or novelty of the sound, raising risk of rejection or cancellation due to lack of distinctiveness. Thus, brands may find it challenging to register or enforce AI-generated sound marks, especially in India where sound trademark jurisprudence is still emerging.

4.4 Comparative Jurisdictions: Evolving Trends

Countries	Sound branding jurisdictions
United States	The U.S. Copyright Office has clearly stated that works without human authorship are not eligible for copyright protection.[39] This

[38] Andres Guadamuz, *Artificial Intelligence and Copyright*, 20 *WIPO Magazine* (Feb. 2020).
[39] U.S. Copyright Office, Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence (Mar. 16, 2023), https://www.copyright.gov/ai/ai_policy_guidance.pdf. See also Thaler v. Perlmutter,

 ISSN: 2582-6433

	position was reaffirmed in Stephen Thaler v. Shira Perlmutter, denying copyright registration to an AI-authored work.
European Union	The EUIPO allows registration of sound marks and requires only that the mark be perceptible and represented in a clear and precise manner.[40] However, copyright protection still depends on human authorship.
Singapore	Recognizing the rise of AI-generated content, Singapore's IP Strategy 2030 recommends developing frameworks to deal with non-human creativity while maintaining incentives for human creators.[41]

These examples demonstrate that while the international community is aware of the implications of AI in IP law, most regimes including India have yet to provide definitive statutory solutions.

In India, the lack of clear legal doctrine around AI-generated works poses significant regulatory risks, for instance unregistered and unprotected assets may lead to loss of exclusivity or revenue. IP disputes over authorship or originality may become more frequent. Brand dilution and imitation risks increase with widespread, open-access generative tools. Judicial uncertainty may discourage investment in AI-based sonic branding. These regulatory gaps undermine the very purpose of IP law to incentivize innovation, ensure exclusive use, and facilitate commercial exploitation of creative assets.

No. 22-1564 (D.D.C. Aug. 18, 2023), where the court upheld the U.S. Copyright Office's denial of copyright for an AI-generated image due to the absence of human authorship.

[40] European Union Intellectual Property Office (EUIPO), Guidelines for Examination of European Union Trade Marks, Part B, Section 4: Non-traditional Marks (2023), https://euipo.europa.eu/ohimportal/en/trade-mark-guidelines. The EUIPO allows the registration of sound marks so long as they are presented in a manner that enables reproduction without ambiguity.

[41] Intellectual Property Office of Singapore (IPOS), Singapore IP Strategy 2030 (Apr. 2021), https://www.ipos.gov.sg/docs/default-source/about-ipos-doc/full-report_singapore-ip-strategy-2030.pdf. The Strategy highlights the need to address challenges posed by AI-generated works and to future-proof Singapore's IP regime.

 ISSN: 2582-6433

5. COMPARATIVE ANALYSIS: INTERNATIONAL APPROACHES TO SONIC BRANDING AND AI-GENERATED IP

The legal complexities surrounding sonic branding particularly when generated using Artificial Intelligence (AI)are not unique to India. Several international jurisdictions and supranational bodies have undertaken efforts to clarify or adapt their legal frameworks in response to these developments. A comparative perspective provides valuable insights into how Indian IP law might evolve to accommodate the twin challenges of non-traditional marks and non-human creativity.

5.1 United States: Conservative Approach to AI and Progressive Trademark Protection

In the United States, protection of sonic branding primarily falls under the Lanham Act, which governs trademark law. The U.S. Patent and Trademark Office (USPTO) has a well-developed system for sound marks, with examples like the NBC chimes and the MGM lion's roar being protected.[42] A sound mark in the U.S. must be distinctive (either inherently or through acquired distinctiveness), used in commerce, and identifiable as a source indicator.

Regarding AI-generated content, however, the U.S. Copyright Office has firmly denied protection to non-human works. In 2019, it refused to register an artwork created by AI under the guidance of Stephen Thaler, reinforcing the position that "human authorship is a prerequisite" for copyright.[43] This was reaffirmed in *Thaler v. Perlmutter*, where the D.C. District Court held that only human beings can be considered "authors" under the Copyright Act.[44] This dual-track approach permitting trademark protection based on use and distinctiveness, but refusing copyright without human authorship offers a clear but rigid boundary. It protects branding elements only when commercial use and consumer association are evident but excludes AI-generated creative content from authorship claims.

5.2 European Union: Structured but Cautious Recognition

The European Union (EU), through the EU Intellectual Property Office (EUIPO), has adopted a liberal approach toward non-traditional marks, including sound marks. Under the EU Trade Mark Regulation (2017/1001), the requirement of graphical representation was removed,

[42] In re Gen. Elec. Broad. Co., 1994 TTAB LEXIS 12 (TTAB 1994).
[43] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices*, s. 306 (3d ed. 2021).
[44] Thaler v. Perlmutter, No. 22-1564 (D.D.C. 2023).

 ISSN: 2582-6433

allowing sounds to be registered through audio files or sonograms.[45] The regulation only requires that a mark be "clear, precise, self-contained, easily accessible, intelligible, durable, and objective."[46] Some prominent EU-registered sound marks include the Tarzan yell and the sound of a can opening followed by fizzing. These developments reflect the EU's relatively flexible standards for source identifiers. In contrast, AI-generated content in the EU continues to be governed by traditional copyright norms, which assume human creativity.

The European Parliament has discussed the challenges of "electronic personhood" and algorithmic authorship,[47] but there is no binding law recognizing AI as a creator. The European Commission's AI Act, passed in 2024, focuses more on ethical AI deployment and risk regulation rather than IP ownership.[48] This creates a progressive yet fragmented environment: while brand owners can register and enforce AI-generated sound marks, copyright protection remains elusive without a human creator.

5.3 United Kingdom: Recognition of Computer-Generated Works

The United Kingdom (UK) offers a unique legislative solution through Section 9(3) of the Copyright, Designs and Patents Act 1988, which states: "In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken."[49]

This provision enables recognition of AI-assisted works, provided a human entity has exercised control over the creative process. The UK also allows registration of sound marks under the Trade Marks Act 1994 and aligns with EUIPO standards post-Brexit in terms of format and representation. While no precedent has definitively interpreted the authorship of AI-exclusive outputs, the UK model provides a statutory gateway for brands using AI to claim ownership through functional human involvement, making it more inclusive than either the U.S. or EU.

5.4 Singapore: Forward-Looking Policy Model

Singapore has been proactive in anticipating the implications of AI in the IP domain. In its

[45] Regulation (EU) 2017/1001 of the European Parliament and of the Council (on the EU trade mark).
[46] Case T-508/08, Audi AG v. OHIM, 2010 E.C.R. II-3327
[47] European Parliament, Resolution on Intellectual Property Rights for the Development of Artificial Intelligence Technologies, 2020/2015(INI).
[48] European Commission, *Artificial Intelligence Act*, 2024 (COM/2021/206 final).
[49] Copyright, Designs and Patents Act 1988, s. 9(3) (UK).

 ISSN: 2582-6433

Intellectual Property Strategy 2030 (SIPS), the government identified the need for legislative adaptation to AI-generated works and the development of frameworks for rights attribution and liability allocation.[50] Although Singapore's IP laws still require human authorship for copyright, the Singapore IP Office (IPOS) has undertaken consultations on ownership models for AI-generated works, licensing structures for AI-generated content, and liability for infringement involving autonomous AI systems.[51]

Singapore also follows EU-like standards for sound trademark registration, making it an ideal testbed for tech-integrated IP reform.

5.5 Global Institutions and Treaties

At the international level, treaties like the TRIPS Agreement and institutions like the World Intellectual Property Organization (WIPO) have yet to adopt a consolidated position on AI-generated works. However, the WIPO Conversation on AI and IP, initiated in 2019, has held multiple sessions discussing the legal personality of AI, data training rights, and the future of authorship.[52] The Madrid Protocol permits the international registration of sound marks through the Madrid Goods and Services Manager, as long as domestic laws allow it.

Thus, global harmonization is still evolving, but institutional recognition of AI's impact is increasing. However, binding reforms remain jurisdiction-specific and largely dependent on national priorities.

6. POLICY CHALLENGES AND DOCTRINAL GAPS IN THE INDIAN LEGAL SYSTEM

India's intellectual property (IP) regime, though substantially developed in conventional domains such as literary and musical works, faces significant gaps when it comes to non-traditional and AI-generated content like sonic branding. The present framework under the Trade Marks Act, 1999, and the Copyright Act, 1957, is deeply rooted in assumptions of human creativity, volition, and authorship. These legal doctrines are increasingly incompatible with the technological realities of AI-generated sonic branding, posing unique challenges to policymakers, jurists, and industry stakeholders.

[50] Intellectual Property Office of Singapore (IPOS), *Singapore IP Strategy 2030*, available at www.ipos.gov.sg.
[51] IPOS Public Consultation on AI and IP, 2021.
[52] WIPO, *WIPO Conversation on Intellectual Property and Artificial Intelligence*, 2019–2024 sessions.

 ISSN: 2582-6433

6.1 Doctrinal Rigidity of Human Authorship

The most fundamental challenge lies in the Indian Copyright Act's presumption of human authorship. Section 2(d) identifies different categories of authorship depending on the nature of the work composer for music, producer for sound recordings, etc.[53]The legislative text and judicial interpretation have both assumed a natural person as the source of creativity. No provision currently exists for non-human or computer-generated creative acts.

This doctrinal rigidity means that when AI generates a jingle or audio mark without human intervention, there is no clear legal subject to whom rights can be attributed.[54] Consequently: AI-generated jingles may fall outside copyright protection, conflicts may arise over contractual ownership, brands may be unable to assert exclusive rights over their sonic assets in courts.

As AI becomes a co-creator or even sole creator in branding, the lack of a legal personality for AI or an author-surrogate framework creates significant doctrinal uncertainty.

6.2 Absence of Provisions for Computer-Generated Works

Unlike the UK's Section 9(3) of the Copyright, Designs and Patents Act 1988, India's copyright law contains no provision recognizing the arranger or facilitator of computer-generated works as the author. This absence leaves AI-generated outputs in a grey area, complicates ownership claims, and discourages innovation and investment in AI-based branding systems.

Given the rising popularity of generative tools like OpenAI's *Jukebox* and Google's *MusicLM*, the Indian regime's silence on the matter appears increasingly untenable.[55]

6.3 Challenges in Sound Mark Registration under Trade Marks Law

While Section 2(zb) of the Trade Marks Act, 1999 allows for non-visual marks like sound marks, the legislative framework does not clearly define standards for distinctiveness in sound marks, graphical representation requirements, and treatment of AI-generated sound assets.

India's landmark sound mark registration the Yahoo! Yodel was allowed only after extensive

[53] Copyright Act, No. 14 of 1957, s. 2(d) (India).
[54] Arul George Scaria, *Copyright and AI in India: A Doctrinal Dead-End*, 62 JILI 245 (2022).
[55] Brian G. Love & Christian Helmers, *AI and IP: Do We Need New Rights for New Creators?*, WIPO Research Paper No. 58 (2023).

 ISSN: 2582-6433

argumentation and submission of musical notation.[56] The registration process remains cumbersome and lacks standardization, especially when the sound is generated by an AI and may not be easily transcribable using traditional notation. Further, where the same AI platform is used by multiple brands, risk of similar or overlapping audio outputs raises the possibility of rejection for lack of distinctiveness.

6.4 Unclear Ownership and Licensing Models for AI Output

In practice, AI-generated sonic content is often created via cloud platforms governed by click-wrap license agreements. These agreements are vague and vary from platform to platform: Some assign copyright to the user, others reserve all rights for the service provider and some assert no ownership claims at all. In the absence of a statutory framework or judicial guidance in India, such contractual arrangements remain fragile, especially when disputes arise over multiple claimants, or content is co-generated using public data, and where AI mimics existing sound marks or compositions.

This ambiguity can make AI-generated sonic branding a liability for businesses, especially where exclusivity and enforceability are central to brand strategy.

6.5 Lack of Judicial Precedents or Policy Guidance

Unlike in the U.S. or U.K., where at least some case law or statutory commentary exists, Indian courts have yet to engage with AI authorship questions or even the registration of AI-generated IP. This judicial vacuum results in unpredictability of legal outcomes, deterrence for innovation, and weak enforcement mechanisms for rights holders.

Further, while the Department for Promotion of Industry and Internal Trade (DPIIT) has initiated dialogues around IP modernization, no white paper, draft bill, or policy consultation has yet addressed AI-generated content, particularly in audio formats.[57]

6.6 Interplay with Data Protection and AI Ethics

Another doctrinal concern arises from the use of training data in generating AI-based sonic branding. Generative AI models often use large datasets of existing songs and audio cues. This can infringe underlying copyright, violate performer's rights (if vocals or tonal features are

[56] Application No. 1270443, Yahoo Inc. v. Registrar of Trademarks, IN Registry of Trademarks (2008).
[57] DPIIT, *National IPR Policy Implementation Report* (2021).

 ISSN: 2582-6433

replicated), and can trigger issues under personality rights or moral rights.

The Copyright Act, 1957, does not currently recognize "style" or "musical similarity" as a category of infringement. However, as tools like *Suno AI* and *Voice.ai* replicate famous voices or styles, the risk of unauthorized imitation rises. India lacks a comprehensive AI regulation, unlike the EU's AI Act or Singapore's SIPS, which integrate ethical and IP considerations. This lacuna risks misuse and uncertainty in deployment of AI branding technologies.

6.7 Exclusion from Government-Led IP Modernization Initiatives

Despite India's rising global profile in software and innovation, current initiatives like the National IPR Policy 2016 and Vision 2047 do not mention AI-generated works.[58] There is a missed opportunity in recognizing AI as a tool of innovation in creative sectors, updating the IPR registration infrastructure for digital and non-traditional formats, and by initiating public consultations on AI and IP rights.

The absence of such a roadmap leaves India disconnected from global trends and unprepared to support a rapidly changing creative economy.

The result of these gaps is a system in which AI-generated sonic assets may not qualify for protection, where there is uncertainty in ownership, enforcement, and licensing, Indian companies remain vulnerable to brand dilution or infringement. Without legal certainty, Indian innovators may shift toward foreign registrations, outsourcing their brand creation abroad to jurisdictions with clearer laws, or forego sonic branding altogether, creating a chilling effect on domestic brand innovation.

7. PROPOSED LEGISLATIVE AND REGULATORY REFORMS IN INDIA

The challenges posed by sonic branding in the age of Artificial Intelligence demand more than incremental adjustments they necessitate a paradigm shift in how Indian law perceives creativity, authorship, and ownership. The current intellectual property framework in India, particularly under the Trade Marks Act, 1999 and the Copyright Act, 1957, has proven inadequate in addressing the complexities of AI-generated content. While traditional sonic

[58] Ministry of Commerce and Industry, *IP Vision 2047*, Govt. of India (2023).

 ISSN: 2582-6433

branding, created by human composers and integrated into branding strategies, finds some degree of recognition under existing legal provisions, AI-generated audio works remain legally undefined and vulnerable to misappropriation. Therefore, a forward-looking reform agenda is imperative.

One of the foremost reforms should involve the recognition of AI-generated works within Indian copyright law. While granting personhood to AI may be philosophically and legally untenable, India can adopt a model similar to the United Kingdom's Copyright, Designs and Patents Act 1988, which attributes authorship of computer-generated works to the person who made the necessary arrangements. Incorporating a similar provision in the Indian Copyright Act would allow branding professionals and businesses using generative AI tools to claim ownership, provided a human has exercised substantial control over the creative process. This would ensure legal clarity without attributing authorship to non-human entities and would provide a framework for enforceable rights.

Additionally, reforms in trademark law are essential to accommodate the registration of AI-generated sound marks. The Trade Marks Rules, 2017 should be amended to specifically provide a clear format for filing sound marks, such as mandatory audio file submissions along with a sound spectrogram. These procedural upgrades must also be supported by substantive clarity in evaluating distinctiveness, especially when the sound originates from AI tools accessible to multiple users. Registrars should be equipped with technical guidelines and possibly even AI-based similarity detection systems to assess the uniqueness of an AI-generated sonic mark. This would reduce subjectivity and increase consistency in sound mark approvals.

The issue of originality and fixation, which lies at the heart of copyright law, also requires reinterpretation in light of generative AI. Traditionally, courts and statutes have demanded that a work be original and "fixed" in a tangible medium. In the case of AI-generated sonic branding, fixation may happen through digital storage or cloud-based generation, and originality may stem from algorithmic novelty rather than human input. Indian courts and policymakers must be willing to expand the conceptual meaning of originality to include "functional originality" that arises from unique AI-generated outputs, particularly when the user has provided specific prompts, tonal references, or brand themes to guide the generation process.

 ISSN: 2582-6433

The legislative reform must address the ambiguity surrounding the ownership and licensing of AI-generated sonic content. Presently, content created using AI tools is governed by private terms of use, which are often inconsistent and open-ended. A standard legislative mechanism or guiding principles for ownership attribution in such cases can offer businesses the certainty they require. This can be done through a combination of statutory clarification and industry best-practice codes, preferably developed in consultation with stakeholders including technology providers, brand managers, legal scholars, and consumer rights groups.

In tandem with legislative measures, regulatory bodies such as the Indian Copyright Office and the Trade Marks Registry must undertake capacity-building initiatives. This includes training of examiners, integration of AI tools to evaluate applications, and public dissemination of filing procedures for non-traditional marks. Regulatory updates must be complemented by judicial sensitization, enabling courts to interpret AI-influenced IP issues with both doctrinal flexibility and technological understanding. This is especially urgent, as Indian courts have yet to hear a definitive case on AI-generated content, leaving the interpretive space vulnerable to rigid or outdated rulings.

India must also take cues from international developments and actively participate in global forums, such as the WIPO Conversation on AI and IP. Engaging in treaty dialogue, forming bilateral collaborations, and studying the regulatory models of countries like Singapore and the UK can help India tailor its reforms in a way that balances global harmonization with domestic priorities. As a TRIPS-compliant jurisdiction, India must prepare itself to deal with transnational IP disputes that may arise from cross-border use of AI-generated sonic content. A reformed and robust domestic legal framework will also enhance India’s attractiveness as a jurisdiction for registering and commercializing emerging forms of branding.

Finally, reforms must not lose sight of broader ethical and cultural implications. Sonic branding, especially when AI-generated, can intersect with community sounds, traditional music, and folk tunes are as sensitive to cultural appropriation and identity. Any legislative initiative must incorporate safeguards that prevent AI from mimicking or extracting from indigenous or minority cultures without due recognition and compensation. This calls for an integrated framework that includes not just IP law, but also data protection, cultural heritage preservation, and AI ethics.

 ISSN: 2582-6433

8. CONCLUSION

Sonic branding stands at the frontier of modern brand identity, leveraging auditory cues to build emotional resonance and market recall. With the rise of Artificial Intelligence, the production of these cues is no longer confined to human creativity. While this transformation enhances branding possibilities, it simultaneously exposes the inadequacies of existing intellectual property frameworks. Indian IP law, though progressive in many respects, remains structurally unprepared to address the legal questions raised by AI-generated sonic assets questions of authorship, originality, ownership, and enforceability.

A comparative analysis with jurisdictions such as the United States, United Kingdom, European Union, and Singapore reveals that India lags in legislative and procedural adaptability. Without meaningful reform, India risks sidelining itself in the global digital economy where AI will increasingly dictate the creation of intangible assets, including brand identities. The doctrinal silence on AI-generated works, the procedural opacity in registering sound marks, and the absence of a coherent ownership model for AI outputs combine to form a fragile legal foundation for sonic branding.

To rectify this, a multifaceted reform strategy is essential comprising statutory amendments, regulatory restructuring, judicial engagement, and ethical foresight. Only then can India's IP regime evolve from a reactive framework to a proactive and innovation-friendly ecosystem. In doing so, it will not only safeguard the rights of businesses and creators but also align itself with the future trajectory of branding, where code and creativity increasingly converge in sound.