



Podcast Transcript

Guardian at the Gate: AI's Role in Trademark Enforcement

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Lee: In today's digital economy, where brand identity is both a strategic asset and a frequent target of infringement, artificial intelligence, also known as AI, is rapidly becoming indispensable in trademark enforcement. Serving as both sword and shield, AI is transforming how legal professionals anticipate disputes, monitor brand usage, and enforce intellectual property rights across complex digital environments. In BakerHostetler's third annual IP Perspectives thought leadership piece, BHIPP, the Intellectual Property Practice Group highlights myriad IP-related topics that are at the forefront of industry developments and current challenges and trends. I'm Leeann Lee, and you're listening to BakerHosts.

On today's episode, we discuss Guardian at the Gate, AI's Role in Trademark Enforcement. To provide us with insight into this topic, we have Susan Kayser, a partner in the Intellectual Property Group at BakerHostetler, and Terrance Roberts, an associate in the Intellectual Property Group at BakerHostetler. Both are members of the Global Trademark and Brand Protection team. Welcome to the show, Susan and Terrance.

Kayser: Excited to be here.

Roberts: Thanks for having us.

Lee: Great. So, to start us off, the article describes AI as both a sword and a shield in the context of a modern brand's legal strategy. How does AI transition from being a luxury tool to a practical necessity?

Kayser: AI becomes a practical necessity because the scale and speed of today's digital marketplace simply exceeds human capacity. Brands are operating in an environment where infringement can be instantaneous across e-commerce platforms and social media. The traditional enforcement tools, manual searches, periodic audits, are just not sufficient. AI-enhanced tools can function as both a sword by enabling swift, data-driven enforcement, and a shield by forecasting disputes and mitigating risk before it materializes. AI is no longer optional. It is part of the foundational infrastructure for modern brand protection.

Lee: Absolutely. So traditional trademark law is often reactive, waiting for an infringement to happen before acting. How is AI shifting the industry towards proactive risk management? And what does that mean for a company's bottom line?

Roberts: AI fundamentally changes the timing of legal intervention. Instead of reacting after infringement occurs, AI analyzes trademark registries, market behavior, and online discourse to identify risks during the clearance and registration stages. Tools like CorSearch's NameCheck allow legal teams to spot phonetic, visual, and conceptual conflicts early, before brands invest in a market that could trigger litigation. From a cost perspective, this proactive approach significantly reduces exposure to expensive oppositions and enforcement actions. The bottom-line impact is clear. Less litigation, fewer disputes, and more informed strategic decisions made upstream.

Lee: And AI can analyze historical case law to forecast the outcome of opposition proceedings. How reliable are these predictions today, and what do you see as the next evolution?

Kayser: I would say right now these predictions are best described as support tools, not crystal balls. AI can review historical case law and administrative decisions, and we're seeing it can weigh likelihood of confusion factors such as similarity of marks and similarity of the goods and services, which allows it to forecast likely outcomes. They don't, however, replace legal judgment. These tools provide efficiency to the process and can accelerate the analysis grounded in this data. I would say the next evolution is continual refinement. These are incremental changes and efficiencies that we're hoping to gain over time. And once we have more nuanced modeling of these likelihood of confusion factors, then we can get improved accuracy as our data sets grow and the AI tools are refined and learned from the attorney feedback.

- Lee: So manual searches and periodic audits are described as inadequate for today's digital landscape. What are the specific blind spots that human legal teams have which AI-powered monitoring, like the systems used by Redpoints or Tracer, is designed to solve?
- Roberts: The biggest blind spot is volume. Humans can't continuously monitor thousands of listings, posts, and ads across global platforms in real time. AI-powered systems fill that gap by conducting constant surveillance across marketplaces, social media, and advertising channels. They also detect things humans often miss, embedded imagery, deceptive logos, modified product descriptions, and metadata patterns. Platforms like Redpoints and Tracer are designed precisely to uncover hidden networks and infringement that would otherwise remain invisible until the damage is already done.
- Lee: And let's shift gears a little bit here. E-commerce platforms host thousands of third-party sellers. How does AI help legal departments maintain consistent enforcement across such a massive scale without needing to hire an army of paralegals?
- Kayser: So, AI-enhanced tools are delivering scale through automation. They can continuously scan listings and flag unauthorized uses of protected marks across platforms. Because of this, it is going to allow legal departments to apply consistent enforcement standards globally without an army of paralegals. AI tools can not only identify infringements, they also can streamline the response protocols, enabling swift action. The result is enterprise-level enforcement that remains efficient, repeatable, and scalable.
- Lee: So, preserving brand equity and reinforcing a culture of compliance are key themes. In your view, does the mere presence of AI-powered enforcement act as a deterrent for potential infringers?
- Roberts: Absolutely. Early detection and consistent enforcement reinforce a culture of compliance. When infringers know brands can quickly identify and act on unauthorized use, often in real time, it changes behavior. AI doesn't just help counterfeit listings. It signals that enforcement is systematic and ongoing. That signaling effect plays a critical role in preserving brand equity and minimizing both reputational and financial harm.
- Lee: And I have just one last question for you. As AI evolves, so must the legal frameworks and professional practices. What is one major change you anticipate in trademark law or ethics as AI becomes the standard guardian at the gate?
- Kayser: Likely the most significant change will be the normalization of AI as the baseline professional tool rather than the exception. And with that, the legal frameworks and professional practices must evolve alongside this technology. We're still in the early stages, but things are moving fast. That means clearer standards around transparency, accountability, and professional judgment when using AI-driven insights. The role of the attorney with their judgment and oversight will remain critical. And expectations from clients and the industry will shift towards

strategic oversight of AI rather than purely manual analysis. I would say AI will and is becoming embedded in how we can best service our clients.

Lee: Thank you for your insight, Susan and Terrance. If you have questions for either of them, their contact information is in the show notes. As always, thanks for listening to BakerHosts.

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