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**Intellectual Property Protections for Generative AI Resume Startup**

There are many intellectual property (IP) challenges that a startup in the business of generating resumes using artificial intelligence (AI) can face. The purpose of this essay to explore some these challenges, both in the United States of America and abroad, and the IP protections that these businesses can use for their name and logo, the product made by their generative AI, and the revolutionary process used for auto-generating the resumes.

Company names and logos are vital for business as they serve as identifiers for the company and for their products and services. In the United States of America, in accordance with Trademark laws, which is a legal framework responsible for governing the use of a device (which includes word, phrases, symbols, shapes, and logos)1, to register a company name and logo businesses need to register with the United States Patent and Trademark Office (USPTO) to legally gain exclusive rights to use these identifiers in the exercise of their business. Once the USPTO approves the petition, companies can apply the famous “®” to their product or service. However, when it comes to doing business internationally, companies need to adhere to different laws due to trademark protections being inherently territorial.

When a business decides to extend its practices abroad, they need to register with each country’s “Patent Office” where they intend to work in. This can be very expensive in both fees associated with registration, but also in terms of manpower to navigate through all the legalities. Because of the different laws that different countries employ, international treaties and agreements exist to facilitate this process. One famous agreement is the Madrid Protocol, where a business can file a single petition and, if approved, can utilize their trademark in up to 130 countries.2 Although the Madrid Protocol does facilitate trademark registration, there are still plenty of challenges that businesses need to endure such as each countries’ legal system, language barriers, and culture. It is vital that companies take into consideration the cultural and linguistic implications of their brand so that it resonates positively in diverse markets. It is also important to stay up to date on legal nuances in trademark laws across all countries where business is being done so that compliance can be upheld.

When it comes to the resumes generated by AI, they may contain original and creative content eligible for copyright protection. The USPTO states that copyright can only be applied to work created by human beings. As of November 2023, the USPTO and Federal Circuit determined in Thaler v. Vidal that conception is not presumed and that the USPTO does not see machines as being capable of conception. However, the United States Copyright Office (USCO) position on AI authorship conflicts with the USPTO’s view. USCO adopts a “de minimis test that automatically precludes copyrightability to any portion of work in which the AI’s contribution is determined to be more than de minimis” 3. A case can also be made that there is creative human work in AI generated resumes because the AI was designed, trained, and received input to generate the resume by humans. Internationally speaking, the situation doesn’t get any easier. The UK has provisions that grants protection and ownership to the person who made the arrangements for the work’s creation by AI 4. Other countries like Spain and Germany currently do not recognize AI authorship much like the USPTO 5. Putting this all together, legal challenges rise for the startup as these topics simply haven’t been worked out in every country’s legal system.

The new idea for AI auto-generating resumes represents the invention that the startup would like to patent. The USPTO and Federal Circuit’s opinion is that inventions made by humans with the aid of AI are eligible for patent protection. However, it is still uncertain as to how much of the work was done by the AI for it be patentable. If the AI assists too much, then the idea may not be eligible for patentability 6. The startup must also weigh the pros and cons of patenting compared to alternatives such as trade secrets which offers indefinite protection without registering with the USPTO but also makes the idea or, in this case, the algorithm/model used by the startup, vulnerable to competition discovery or reverse engineering.

In conclusion, venturing into the business of AI-generated resumes has several intellectual property challenges for startups. From securing trademarks for company names and logos to navigating the complex landscape of international trademark laws, businesses face a multifaceted journey. The challenges also extend to copyright protection for AI-generated content, with conflicting perspectives between the USPTO and USCO, further complicated by varying international stances. Additionally, the innovative concept of AI auto-generating resumes introduces patent considerations, with uncertainties surrounding the level of AI involvement and the choice between patenting and alternative protection methods. As startups navigate this young and quickly evolving landscape, it becomes critical to not only adhere to legal frameworks but also to anticipate and adapt to the dynamic intersection of technology, creativity, and intellectual property laws on a global scale.

**Sources:**

**1 -** [**Trademark Law (BitLaw)**](https://www.bitlaw.com/trademark/index.html#:~:text=Trademark%20law%20governs%20the%20use,made%20or%20sold%20by%20another.)

**2 -** [**WIPO Madrid System – International Trademark Protection**](https://www.wipo.int/madrid/en/)

**3 -** [**The USPTO and the USCO Must Resolve Their Disparate Approaches to AI Inventorship and Copyrightability (ipwatchdog.com)**](https://ipwatchdog.com/2023/11/12/uspto-usco-must-resolve-disparate-approaches-ai-inventorship-copyrightability/id=169540/#:~:text=However%2C%20the%20U.S.%20Copyright%20Office%27s,be%20more%20than%20de%20minimis.)

**4 -** [**UK set to decide on copyright protection of creative works generated by AI (pinsentmasons.com)**](https://www.pinsentmasons.com/out-law/analysis/uk-to-decide-copyright-protection-creative-works-generated-ai)

**5 -** [**Artificial intelligence and copyright (wipo.int)**](https://www.wipo.int/wipo_magazine/en/2017/05/article_0003.html)

**6 -** [**AI and Patent Law: Balancing Innovation and Inventorship | Insights | Skadden, Arps, Slate, Meagher & Flom LLP**](https://www.skadden.com/insights/publications/2023/04/quarterly-insights/ai-and-patent-law#:~:text=The%20USPTO%20and%20Federal%20Circuit%27s,is%20too%20much%20for%20patentability.)