Defending the Algorithm™ Newsletter

Edition 2 by Henry M. Sneath, Esq.

February 12, 2026 at 4:00 PM EST

When AI Meets Trademark Law: Reverse Confusion and the Battle for Brand Identity in AI Computing

Welcome back to *Defending the Algorithm*™, a LinkedIn newsletter helping defense attorneys, insurance professionals, and corporate counsel navigate the intersection between artificial intelligence and the law. This newsletter is a companion to our podcast and blog series, available at: **Defending the Algorithm™**

In Edition 1, we examined the insurance discovery showdown in *Estate of Lokken v. UnitedHealth Group*, where plaintiffs are fighting to crack open the algorithmic "black box" behind AI-driven claims processing. This edition takes a sharp turn into trademark territory—where two separate lawsuits filed in the Northern District of California reveal what happens when Silicon Valley's biggest players choose brand names that collide with established marks in the rapidly emerging field of AI-powered, screenless computing. Their competition is fierce and is spawning Lanham Act lawsuits alleging trademark infringement, unfair competition, false designation of origin and also California state law claims.

The Collision Course: Product Launch Announcements, Two Lawsuits

Case #1: IYO (Pronounced "Eye O") v. IO

On May 21, 2025, OpenAI announced its $6.5 billion acquisition of IO Products, Inc.—a company co-founded by former Apple design legend Sir Jony Ive and backed by Sam Altman. The product: a screenless, AI-powered personal device designed to replace traditional smartphones and keyboards with natural language interaction. The announcement sent shockwaves through the tech industry. It also triggered two trademark infringement lawsuits that together illustrate the legal minefield companies face when AI product development and rollout implicates trademark similarity and the standards for likelihood of confusion.

The first suit, ***IYO, Inc. v. IO Products, Inc., OpenAI, Inc., OpenAI, LLC, Sam Altman, and Sir Jonathan Paul Ive***, was filed on June 9, 2025 at *Case number 3:25-cv-04861 in the Northern District of California.* The second, ***Autodesk, Inc. v. Google LLC****,* filed at *Case number 3:26-cv-01174 in the Northern District of California*, followed on February 6, 2026. The IYO case names Sam Altman and Jony Ive as individual defendants. Both cases allege willful trademark infringement. And both raise legal doctrines and questions that should make every defense attorney take notice: *reverse*

confusion and the scope of injunctive relief when "marketing" is alleged by the defendant to be of a brand, rather than an actual competing product.

When Homophones Beget Litigation

IYO, Inc. is a Delaware corporation headquartered in San Francisco and which was spun out of Google X in 2021. The company developed the IYO ONE product—an ear-worn device equipped with sixteen beamforming microphones and a natural language AI interface. No screen. No keyboard. Priced between $999 and $1,199, the IYO ONE was approaching its September 2025 delivery date with 20,000 units in manufacturing and $62.2 million in total investment behind it. IYO began using its IYO mark in commerce in February 2024 establishing what it alleged to be strong common law trademark rights. They had applied for a federal trademark on September 17, 2021 and it was issued on June 4, 2024. They were not required to prove secondary meaning due to the uniqueness of the IYO mark.

Then OpenAI announced the acquisition of IO Products—a company alleged to be developing a remarkably similar screenless AI device. The problem? "IYO" and "IO" are homophones. They sound identical when spoken aloud. And IO uses two of three letters from IYO – nearly identical. And the defendants clearly knew it as the evidence indicated during the injunction process.

The complaint lays out a detailed timeline of prior contact. In February 2022, IYO attempted to recruit Evans Hankey—who later became an IO Products co-founder—as an advisor. In March 2022, Sam Altman's Apollo Projects fund met with IYO and received technical information before declining to invest. The following month, Jony Ive's LoveFrom startup met with IYO and then declined collaboration. On March 4, 2025, Altman sent an email to IYO's CEO acknowledging he was "working on something competitive" and that the product was "called io."

Perhaps most striking: on April 17, 2025—just five weeks before the IO acquisition and brand launch announcement by OpenAI — IYO fitted seven IO representatives with demonstration devices, and on May 5, IO's co-founder Tang Yew Tan requested a review of IYO's intellectual property portfolio. IYO alleged that IO had both actual and constructive notice of the trademark rights.

On June 20, 2025, Judge Trina L. Thompson granted IYO's motion for a temporary restraining order enjoining IO: **"From using the IYO mark, and any mark confusingly similar thereto, including the IO mark in connection with the marketing or sale of related products."** The court's analysis of the *Sleekcraft* likelihood-of-confusion factors is instructive for defense counsel.

On *similarity of marks*, the court found, not surprisingly, that IYO and IO are "strikingly similar"—differing by only a single letter and functioning as homophones. On *proximity of goods*, both products (or the IO prospective product) occupy the same competitive space: screenless natural language AI devices marketed to general consumers. On *defendant's intent*, the court found the evidence compelling: the defendants had direct knowledge of the IYO mark through multiple meetings and other channels before IO

Products was even incorporated in September 2023. As alleged by IYO, a simple search of the USPTO database would have clearly shown the trademark protection.

The court then turned to what makes these cases so significant for practitioners: ***reverse confusion***. Unlike traditional "forward confusion" where a junior user trades on the senior user's reputation, reverse confusion occurs when the junior user's commercial power is so overwhelming that consumers come to associate the senior user's mark with the junior user. As the court noted, OpenAI's $6.5 billion investment threatened to "swamp" IYO's brand identity entirely. Investors had already begun confusing the two companies—a form of marketplace confusion that, the court found, serves as a reasonable proxy for consumer confusion. OpenAI's power of distribution was far superior to IYO and this heightened the threat of reverse confusion.

After determining that a finding of infringement was likely under the *Sleekcraft* factors, the court applied the remaining *Winter* factors to determine whether to order a TRO. The TRO was granted with zero bond and has continued to the present due to essential agreement of the parties and pending a hearing on a preliminary injunction in April. The TRO opinion/order is attached and is worth a read. The court found that IYO had demonstrated a likelihood of success on the merits, that irreparable harm was presumed, and that the balance of equities favored IYO because the defendants could simply rebrand—as they had no infringing product in the market yet. An immediate appeal went up to the 9th Circuit and the injunction ruling was upheld. Following that ruling the case was sent into ADR mode and a long case management order was entered with trial set in 2028.

In the interim however, IYO filed a motion to have OpenAI et.al. held in contempt for violation of the injunction order. IO had re-launched its announcement of its merger with IO and argued that it was merely a business announcement and not an advertisement for a specific product. After a hearing the Court denied the Motion for Contempt citing the narrowness of the language in the TRO which related to "marketing or sale of related products." A mediation then took place and the case did not settle. The alleged competitive intent of OpenAI seems egregious on its face, but they seem to be playing the long game in announcing the product well before actually rolling it our physically – and hence they claim "no sales = no infringement"

Case # 2: Autodesk v. Google - The Tonga Registration Gambit

If the IYO case turns on homophonic similarity, the Autodesk complaint adds an international trademark dimension that borders on the extraordinary.

Autodesk—the $60 billion design software company—owns the registered trademark FLOW (Registration No. 7,409,119, issued June 4, 2024) for its AI-enabled video production platform. The FLOW family includes FLOW Studio (acquired through Wonder Dynamics), FLOW Production Tracking, and FLOW Capture—all designed for film, television, and gaming production using natural language AI interfaces without traditional screens or keyboards. It is a valuable product which is widely used in Hollywood and the movie and video industry.

According to Autodesk's complaint, after similar types of pre-infringement meetings and business interactions that gave rise to the IYO litigation—and after being exposed to Autodesk's FLOW technology and IP during spring 2025 meetings—Google proceeded to launch its own AI-enabled video production software product under a mark that would use and/or incorporate the exact word "FLOW." The Complaint has not yet been answered but the boldness here of Google rivals the boldness shown by OpenAI in the IYO case.

Here is where the complaint takes a remarkable turn. Autodesk alleges that Google filed a trademark application for "FLOW" (as a standalone mark) in the Kingdom of Tonga—a small Pacific island nation **whose trademark registry is not publicly searchable.** Google then cited the Tonga registration as a basis for a United States trademark application (Serial No. 99/476,023, filed November 2025) under the Paris Convention's priority system. Autodesk characterizes this as a deliberate scheme to obscure the filing from Autodesk's trademark monitoring systems and establish a foreign priority date that would predate any U.S. challenge.

The complaint further alleges actual confusion: attendees at the 2025 Sundance Film Festival confused Google's product with Autodesk's existing FLOW Studio platform, and social media users began referring to the Google device as "Flow Studio"—which is Autodesk's product, and not Google's.

Autodesk asserts six claims: trademark infringement under 15 U.S.C. § 1114, false designation of origin under § 1125(a), California Unfair Competition Law violations, common law unfair competition, contributory trademark infringement, and inducement of infringement. On their face, the acts of Google seem egregious, as do those of OpenAI, and their size, whether public or privately owned, make them formidable opponents and likely enable their bold decisions such as in these cases.

The Reverse Confusion Doctrine: Why Defense and Corporate Counsel Should Pay Attention

Both cases present the reverse confusion doctrine in vivid terms. This is occasioned by the massive size of high-revenue and publicly traded Alphabet/Google and the large privately owned and heavily-funded OpenAI. A mom and pop shop would not likely be so bold to choose IO or FLOW as their marks. But these monster Junior Users, could easily swamp the smaller senior users. Traditional trademark infringement presumes a smaller junior user riding the coattails of an established senior brand. Reverse confusion flips this dynamic entirely: a larger, better-funded junior user enters the market with such force that it effectively drowns out the senior user's mark.

For defense and corporate attorneys, the implications are significant. When advising corporate clients on AI product launches—particularly those involving acquisitions—trademark clearance cannot be an afterthought. The IYO court's willingness to grant a TRO before IO even launched a commercial product demonstrates that courts will act on imminent harm, not just realized harm. And the Autodesk allegations regarding the Tonga filing strategy suggest that creative international trademark maneuvers may

invite, rather than avoid, judicial scrutiny. And who would have known about Tonga as a TM destination??

The contributory infringement and inducement claim in the IYO case also deserves attention. These theories potentially extend liability beyond the entity that directly uses the infringing mark to those who facilitate or encourage the infringement—potentially sweeping in investors, acquirers, and individual executives like Altman and Ive who are named as personal defendants in the IYO suit.

Practical Takeaways for the Defense Bar

These cases offer several lessons for attorneys advising companies deploying AI products and platforms.

First, conduct comprehensive trademark clearance before announcing acquisitions or product names. A $6.5 billion acquisition deserves more than a cursory search. The IYO court specifically noted that the defendants' prior knowledge of the mark weighed heavily in the Sleekcraft analysis.

Second, recognize that screenless and other AI computing is creating entirely new product categories where trademark boundaries (and copyright boundaries) are still being drawn. When the product interface is the natural language itself, brand identity becomes even more critical—and more easily confused.

Third, advise clients that reverse confusion claims may not require proof of the defendant's intent to trade on the plaintiff's goodwill. The sheer market power of the defendant's entry as a junior user can itself constitute the harm. For well-funded AI ventures, this means that bigger is not necessarily better from a trademark defense perspective.

Fourth, international filing strategies that appear designed to circumvent domestic trademark monitoring—such as the alleged Tonga registration scheme—may be characterized as evidence of willfulness rather than evidence of good-faith prosecution.

Finally, individual liability for corporate officers and founders is a real risk in these cases. The IYO complaint names Altman and Ive personally, alleging direct participation (inducement) in the decision to adopt the allegedly infringing marks.

Looking Ahead

We will continue tracking these cases as they proceed through the Northern District of California. The IYO preliminary injunction hearing is set for April and we expect substantive rulings on the merits in the coming months. The Autodesk case is in its earliest stages. Both cases have the potential to define how trademark law applies to the emerging category of AI-powered programs and devices, including screenless computing devices—and both present complex defense challenges that will require creative strategy and deep familiarity with the reverse confusion doctrine.

.

Connect With Us

Defending the Algorithm™ Podcast & Blog: Click Here.

Henry M. Sneath, Esq.
Houston Harbaugh, P.C.
Pittsburgh, Pennsylvania
sneathhm@hh-law.com and 412-288-4013

In cooperation with the DRI Center for Law and Public Policy — AI Task Force

---