THE IMPACT OF GENERATIVE AI ON COPYRIGHT LAW IN INDIA: WHO OWNS AI-CREATED WORKS?

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ABSTRACT

The rapid advancement of generative artificial intelligence (AI) technologies has revolutionized creative industries, enabling machines to produce original works such as literature, music, art, and software code with minimal human intervention. In India, where copyright law is governed primarily by the Copyright Act of 1957, the emergence of AI-generated works poses significant legal challenges, particularly concerning ownership, authorship, and liability. This essay examines the impact of generative AI on India's copyright framework, focusing on the critical question: who owns AI-created works? It explores the limitations of existing legal provisions, which define authorship in anthropocentric terms, and evaluates whether AI can be recognized as an author or if ownership should vest in the human programmer, user, or AI developer. The analysis draws on international perspectives, including copyright regimes in the United States, the European Union, and the United Kingdom, to contextualize India's position. Key issues addressed include the requirement of human creativity for copyright protection, the moral and economic rights of stakeholders, and the potential infringement risks arising from AI training data. The essay also considers recent judicial interpretations in India, such as the brief recognition of AI as a co-author in a copyright registration case, which was later revoked, highlighting the judiciary's uncertainty. It argues that the current copyright law is ill-equipped to address AI-generated works due to its reliance on human-centric definitions and proposes legislative amendments to clarify ownership rules. These include recognizing the human user or developer as the default owner while introducing a sui generis protection for AI-generated works to balance innovation and creator rights. Additionally, the essay advocates for mandatory disclosure of AI training data to mitigate infringement risks and ensure fair use compliance. By addressing these challenges, India can foster a robust legal framework that supports AI-driven creativity while safeguarding intellectual property rights. The essay concludes that proactive reforms are essential for India to remain competitive in the global AI landscape and to provide clarity to stakeholders in an era where AI is reshaping creative expression.

INTRODUCTION

Generative artificial intelligence (AI) technologies, powered by deep learning models like GPT-4 and DALL-E, have transformed the creative landscape by producing works that rival human output in quality and originality. In India, a country with a thriving creative economy and a robust copyright framework under the Copyright Act of 1957, the rise of AI-generated content raises complex legal questions about ownership and authorship. The Act defines copyright as an exclusive right granted to the author of original literary, dramatic, musical, and artistic works, but it does not account for creations produced by non-human entities like AI. This gap in the law creates uncertainty about who—if anyone—owns the copyright to AI-generated works. Is it the programmer who developed the AI, the user who provided the input prompt, the company that owns the AI model, or the AI itself? This essay examines the impact of generative AI on India's copyright law, analysing the challenges posed by AI-created works and proposing solutions to address ownership disputes.

The essay is structured as follows: first, it outlines the fundamentals of India's copyright law and its anthropocentric focus. Next, it discusses the technical nature of generative AI and its implications for creativity and originality. It then explores the question of authorship and ownership, drawing on international case law and legal frameworks for comparative insights. The essay also addresses the risks of copyright infringement in AI training processes and the need for transparency. Finally, it proposes legislative and policy reforms to adapt India's copyright law to the AI era, ensuring clarity, fairness, and innovation.

INDIA'S COPYRIGHT FRAMEWORK: AN ANTHROPOCENTRIC APPROACH

The Copyright Act of 1957 is the cornerstone of India's intellectual property regime, granting authors exclusive rights over original works for a specified duration (typically the author's lifetime plus 60 years)[1]. Section 2(d) of the Act defines an "author" as the person who creates the work, implying human agency. Section 13[2] Copyright Act, 1957 (India). specifies that copyright subsists in original literary, dramatic, musical, and artistic works, among others, provided they meet the threshold of creativity and fixation. The judiciary has consistently

[1] https://www.drishtijudiciary.com/to-the-point/intellectual-property-rights-ttp/copyright-protection-under-the-indian-copyright-act
[2] https://www.indiacode.nic.in/show-data?actid=AC_CEN_9_30_00006_195714_1517807321712&orderno=13

interpreted originality as requiring a "modicum of creativity" or "intellectual effort" from a human author, as seen in cases like *Eastern Book Company v. D.B. Modak* (2008).

This anthropocentric framework assumes that creative works result from human ingenuity, leaving no room for non-human authors like AI. While the Act recognizes corporate ownership in certain cases (e.g., works created during employment under Section 17), it does not address scenarios where a machine generates the work autonomously. The absence of provisions for AI-generated works creates a legal vacuum, particularly as generative AI produces outputs that meet the originality and fixation criteria traditionally required for copyright protection.

UNDERSTANDING GENERATIVE AI: CREATIVITY WITHOUT CONSCIOUSNESS

Generative AI refers to machine learning models trained on vast datasets to produce new content based on user inputs or prompts. For example, a user might provide a text prompt to an AI model like ChatGPT to generate a poem or use MidJourney to create a digital painting. These models rely on neural networks, such as transformers, to analyse patterns in training data and generate outputs that mimic human creativity[3]. The resulting works often appear original, as they are not direct copies of existing content but rather novel combinations of learned patterns.

However, AI lacks consciousness, intent, or independent agency, raising questions about whether its outputs qualify as "creative" under copyright law. In India, the judiciary has emphasized human intellectual effort as a prerequisite for copyright, as in *R.G. Anand v. Delux Films* (1978)[4], where the court held that originality requires a personal touch. AI-generated works challenge this notion, as the human role is often limited to providing a prompt, while the AI performs the creative synthesis. This disconnect between human input and AI output complicates the attribution of authorship and ownership.

THE AUTHORSHIP CONUNDRUM: WHO OWNS AI-CREATED WORKS?

The question of ownership in AI-generated works hinges on authorship, as copyright law typically vests initial ownership in the author. In India, the Copyright Act's human-centric

[3] https://www.nice.com/info/understanding-generative-ai-the-future-of-creative-artificial-intelligence
[4] https://blog.ipleaders.in/r-g-anand-v-ms-delux-films-and-ors-case-analysis/

definition of authorship creates ambiguity for AI-created works[5]. Several stakeholders could claim ownership:

1. The Programmer or Developer: The individual or company that created the AI model might argue that their intellectual effort in designing and training the AI entitles them to ownership of its outputs. However, this approach overlooks the user's role in prompting the AI and the fact that developers often relinquish control over outputs once the AI is deployed.

2. The User: The person who provides the input prompt could claim authorship, as their creative direction influences the AI's output. For instance, a detailed prompt specifying the style, theme, and tone of a painting might justify attributing authorship to the user. Yet, minimal or generic prompts (e.g., "create a landscape") weaken this claim, as the AI performs most of the creative work.

3. The AI Itself: Recognizing AI as an author would require a radical redefinition of copyright law. In 2020, India's Copyright Office briefly registered an artwork co-authored by an AI tool called RAGHAV, sparking debate. However, the registration was later withdrawn, indicating reluctance to recognize AI authorship. Globally, courts have rejected AI authorship, as in the U.S. case *Thaler v. Perlmutter* (2023)[6], where the Copyright Office denied protection to an AI-generated image because it lacked human authorship.

4. The AI's Owner or Licensee: Companies like OpenAI or Google, which own or license generative AI models, might claim ownership of outputs based on their proprietary rights over the technology. However, this approach could discourage user creativity and raise monopolistic concerns.

Each option presents challenges. Attributing authorship to the programmer or AI owner could stifle innovation by centralizing rights, while recognizing the user as the author risks overlooking the AI's significant contribution. Granting authorship to AI itself is philosophically and legally contentious, as AI lacks legal personality and moral rights.

[5] https://www.forbes.com/sites/douglaslaney/2025/02/11/copyright-or-copywrong-ais-intellectual-property-paradox/
[6] https://www.wipo.int/wipolex/en/judgments/details/1840

INTERNATIONAL PERSPECTIVES: LESSONS FOR INDIA

Global copyright regimes offer insights into addressing AI-generated works, though no jurisdiction has fully resolved the issue:

- United States: The U.S. Copyright Office maintains that only human-authored works qualify for protection, as reiterated in *Thaler v. Perlmutter*. AI-generated works are considered public domain unless significant human intervention is demonstrated. This strict stance provides clarity but may discourage AI-driven creativity.

- European Union: The EU's Copyright Directive (2019) emphasizes human intellectual creation, effectively excluding AI authorship. Some member states, like Germany, allow human authors to claim rights over AI-assisted works if they exercise creative control. The EU's focus on human oversight could guide India in defining user roles.

- United Kingdom: The UK is an outlier, as Section 9(3) of the Copyright, Designs and Patents Act 1988 recognizes computer-generated works, vesting ownership in the person who made the "arrangements necessary" for the work's creation. This provision, though rarely tested, offers a pragmatic model for India by sidestepping AI authorship debates.

- China: Recent judicial decisions, such as the 2019 *Dreamwriter* case[7] have recognized AI-generated articles as copyrightable, with ownership vested in the human or entity that operated the AI. This user-centric approach aligns with India's potential direction.

These frameworks highlight the need for flexibility in India's copyright law. The UK's model of attributing ownership to the person arranging the work's creation could serve as a starting point, while the EU's emphasis on human oversight ensures that creativity remains tied to human agency.

COPYRIGHT INFRINGEMENT RISKS IN AI TRAINING

Beyond ownership, generative AI raises concerns about copyright infringement during the training process. AI models are trained on vast datasets, often scraped from the internet, which

[7] https://gowlingwlg.com/en/insights-resources/articles/2020/china-dreamwriter-case

may include copyrighted works like books, images, or music. In India, using copyrighted material without permission could violate Section 51 of the Copyright Act, unless it qualifies as fair dealing under Section 52.

The lack of transparency in AI training data exacerbates this issue. For example, if an AI model trained on copyrighted novels generates a new story, the output might inadvertently reproduce protected elements, leading to infringement claims. Globally, lawsuits like *The New York Times v. OpenAI* (2023)[8] have challenged AI developers for unauthorized use of copyrighted content in training datasets. In India, no such cases have reached the courts, but the risk is imminent given the growing use of generative AI.

Fair dealing provisions in India, which allow limited use of copyrighted works for research or criticism, may not cover commercial AI training. The judiciary's narrow interpretation of fair dealing, as in [9]*Super Cassettes Industries v. Hamar Television Network* (2011), suggests that large-scale data scraping could be deemed infringing. To mitigate this, developers must ensure that training data is licensed or falls within public domain or fair use exceptions.

JUDICIAL AND LEGISLATIVE DEVELOPMENTS IN INDIA

India's judiciary has yet to address AI-generated works comprehensively, but the brief recognition of AI as a co-author in the RAGHAV case signals an openness to evolving norms. The withdrawal of the registration, however, reflects caution and the need for legislative guidance. Courts may draw on existing principles, such as the "sweat of the brow" doctrine or the *Eastern Book Company* originality standard, but these are ill-suited for AI contexts.

Legislatively, India has not amended the Copyright Act to address AI, unlike countries like the UK. The 2019 Draft National E-Commerce Policy briefly mentioned AI's impact on intellectual property but offered no concrete proposals. The absence of AI-specific provisions contrasts with India's ambition to lead in AI innovation, as outlined in the NITI Aayog's 2018 AI strategy. Without reform, legal uncertainty could deter investment in AI-driven creative industries.

[8] https://harvardlawreview.org/blog/2024/04/nyt-v-openai-the-timess-about-face/
[9] http://spicyip.com/2010/06/fair-dealings-by-television-networks.html

PROPOSED REFORMS: ADAPTING COPYRIGHT LAW FOR THE AI ERA

To address the challenges posed by generative AI, India must reform its copyright law to provide clarity and balance stakeholder interests. The following proposals offer a roadmap:

1. Clarify Ownership Rules: Amend Section 2(d) of the Copyright Act to define authorship for AI-generated works. Ownership could vest in the user who provides the creative prompt, provided they demonstrate sufficient intellectual input. Alternatively, adopt the UK's model, attributing ownership to the person or entity making the "arrangements necessary" for the work's creation, such as the AI developer or licensee.

2. Introduce Sui Generis Protection: Create a new category of protection for AI-generated works, distinct from traditional copyright. This sui generis right could have a shorter duration (e.g., 25 years) and limited moral rights, reflecting the absence of human authorship. Such a framework would incentivize innovation while preventing monopolistic control over AI outputs.

3. Mandate Training Data Transparency: Require AI developers to disclose the sources of training data to ensure compliance with copyright law. This could involve a public registry of datasets or certifications that training data is licensed or public domain. Transparency would reduce infringement risks and build trust in AI technologies.

4. Expand Fair Dealing Provisions: Amend Section 52 to explicitly include AI training as a fair dealing exception, provided it is non-commercial or transformative. This would align with global trends, such as Japan's flexible fair use provisions for AI data mining.

5. Establish a Regulatory Body: Create an AI and Intellectual Property Task Force under the Ministry of Commerce and Industry to monitor developments, advise on policy, and mediate ownership disputes. This body could collaborate with international organizations to harmonize standards.

These reforms would position India as a leader in AI governance while fostering a creative ecosystem that respects intellectual property rights. They address the immediate need for clarity in ownership and mitigate long-term risks of infringement and legal uncertainty.

ETHICAL AND ECONOMIC IMPLICATIONS

Beyond legal reforms, generative AI raises ethical questions about the value of human creativity and the potential displacement of artists, writers, and musicians. In India, where the creative economy employs millions, AI's ability to produce low-cost content could disrupt livelihoods. However, AI also democratizes creativity, enabling small businesses and individuals to access high-quality tools. A balanced copyright framework must protect human creators while encouraging AI-driven innovation.

Economically, clear ownership rules would attract investment in India's AI sector, projected to contribute $957 billion to the economy by 2035 (NITI Aayog, 2018)[10]. Ambiguity in copyright law could deter developers and users, slowing adoption. By aligning its legal framework with global standards, India can enhance its competitiveness in the AI-driven creative market.

CONCLUSION

Generative AI is reshaping India's creative landscape, challenging the foundations of copyright law. The Copyright Act of 1957, with its human-centric focus, is ill-equipped to address AI-generated works, creating uncertainty about ownership, authorship, and infringement. By drawing on international models and implementing targeted reforms—such as clarifying ownership, introducing sui generis protection, and mandating training data transparency—India can adapt its copyright framework to the AI era. These changes would foster innovation, protect intellectual property, and position India as a global leader in AI governance. As generative AI continues to evolve, proactive legal reforms are essential to ensure that India harnesses its potential while safeguarding the rights of creators and stakeholders. The question of who owns AI-created works is not merely legal but a reflection of how society values creativity in an increasingly automated world.

[10] https://www.niti.gov.in/sites/default/files/2023-03/National-Strategy-for-Artificial-Intelligence.pdf

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