
PROTECTING CREATORS' RIGHTS IN THE ERA OF AI: DEFENDING ANI IN THE CASE OF ANI VS. OPEN AI, INC.

Hariharan K. K., Advocate, Enrollment No. MS. 5280/2024.

ABSTRACT

The concept of Artificial Intelligence systems has become more active and incorporated in daily activities than ever before and therefore challenges the premises of the copyright law. The present article is devoted to the current case of ANI (Asian News International) Vs. Open AI, Inc. introduces one of the turning points in the Indian Jurisprudence as regards the question of how the rights of the creator could be protected in the era of AI. The focus on fair dealing cannot be extended to cover the large-scale consumption of the copyrighted material in order to have a commercial AI training. The automatic appropriation of any form of the protected expression by AI models without consent and compensation is a gross violation of the exclusive rights to any content creator. The present paper discusses appropriate legal frameworks and comparative analysis in the favour of ANI.

Keywords: Artificial Intelligence, Copyright, Infringement, Large Language Model, and Tokens.

Introduction

The boom of artificial intelligence (AI), especially the development of a so-called generative AI, namely ChatGPT, has initiated a revolution in access to informational and artistic materials, their processing and reproduction. The AI systems are intended to train off huge data, including texts, pictures, and any other media, and create content that can be taken as human personality. Nevertheless, this functionality, as revolutionary, creates some critical legal and ethical issues the main amongst which is the copyright infringement in case of unauthorized copying during training. Since India has approached the threshold of digital transformation, the law should change in its protection of the rights of human creators, who remain the niche of cultural and informational production. This is a conflict between innovation and protection that lies at the roots of *ANI (Asian News International) v. OpenAI, Inc.*¹ pending before the Delhi High Court. In November 2024 ANI, a major and influential news agency based in India filed a copyright infringement suit, claiming that OpenAI had improperly used its copyrighted news information to train ChatGPT without authorization, a violation of the Copyright Act, 1957. ANI has argued that the AI systems created by OpenAI scraped and directly consumed its journalistic work, whose creation entailed a substantial editorial and journalistic decency, to fuel the language model and responsiveness skills of ChatGPT. ANI says that unauthorized use infringes the economic value of the content, as well as the basic right of authors and journalists in Indian copyright laws.

OpenAI has refuted these claims on its own part. The argument made by the Open AI is that publicly available data including content scraped from online news platforms by the Machine Learning systems and used in training large language models (LLM) are examples of fair use as specified in the Section 52² of the Act. Moreover, it asserts that the model does not store, copy or reproduce expressive content in its responses and that any content putting up storage is either accidental, momentary, or generalized into non-expressive, statistical patterns. The case of ANI however provides a much-required reality check of the mechanism of such AI systems. The core of the case is not only in verbatim copying of the material by OpenAI, but also in the possibility of unlawful repetition, storage, or use of the expressions hidden in the very training process. The exclusive rights of the copyright owner are clearly stated under

¹ ANI Media Pvt. Ltd. v. OpenAI Inc. & Anr., CS(COMM) 1028/2024 (Del. HC).

² Copyright Act, 1957, § 52, No. 14, Acts of Parliament, 1957 (India).

Section 14³ of the Copyright Act and they include which is the right to reproduce, adapt and communicate to the people. Eventually, any such act, committed without valid license or permission of any kind, is considered an infringement according to section 51⁴. In case OpenAI utilized the works of ANI without seeking prior authorization, including, but not limited, to indirectly or in altered forms, it leaves very grave concerns regarding the rights and regulations expressed by the statute.

The case starts in December 2024, when the Delhi High Court issued notice to OpenAI following a complaint by ANI. In response, by January 2025 OpenAI pressed its claim to fair use. In order to help the court to navigate the intricate interrelation between AI technology and the copyright issue, the court appointed two amicus curiae, Profs. Arul Scaria and Adarsh Ramanujan. Whereas Scaria noted that the AI era requires innovation and the flexibility in copyright interpretation while Ramanujan explained that it is crucially important to give the rights of creators their due and not to allow absolute exemptions of technologically-driven businesses that are AI model-trained on copyright-protected material. The hearing that was conducted in March 28, 2025 addressed two important matters, the first one being the question whether the alleged usage of ANI's news content by OpenAI warrants a penalty of copyright infringement as per Indian laws, and the second one whether the Delhi High Court can hear the case against a company that is based in the United States but has no physical presence in India. These concerns will play a crucial role in defining how India will have to deal with cross-border claims of copyright that come hand in hand with digital technologies mainly when the damages are done locally yet the computer processing or storage is done elsewhere.

It is a case beyond the personal tiff between the media house and a tech giant. It highlights one of the key questions facing the age of AI, which is how we can make sure that the use of innovation without jeopardizing the intellectual property rights and creative labour? The work of journalists, authors, researchers and artists is done with time and skill in creating originality. Without being able to obtain compensations or even allowing them to revoke their creations without their approval, the future of creative industries will be threatened since the AI systems have the ability to freely capture their work. As India, further develops its digital economy and legislative environment, this case is an important conundrum which offers a moment of putting principled rules into play to facilitate a balance between innovation and

³ Copyright Act, 1957, § 14, No. 14, Acts of Parliament, 1957 (India).

⁴ Copyright Act, 1957, § 51, No. 14, Acts of Parliament, 1957 (India).

protection of rights. The law ought to be flexible to the demands thrown by AI, but it should also reaffirm that human creators are entitled to the law and economic fairness when their work is utilized, albeit indirectly, in the operation of the new generation of technologies.

Unauthorized Use of Copyrighted Works in AI Training

The underlying aspect of ANI v. Open AI raises a basic question of copyright violation, in incorporating the news articles created by ANI to train its large language model (LLM), had OpenAI infringed the exclusive rights of ANI under Indian Copyright Act, 1957? This part will review the claims under the prism of Section 51 of the Act which provides what and how the unlicensed use can amount to an infringement and as such may violate the statutory entitlements granted to a creator. Section 51(a)(i)⁵, implies that copyright is infringed when an individual, without the license or permission of authorized copyright owners, carries out one or a number of performances of the work of the copyright owner, which is solely attributed to the copyright owner. In the example of ANI, it claims that Open AI has taken ANI's content which is copyright of ANI to use as training content to train ChatGPT. Reproduction, storage and adaptation are some of the rights that the copyright holder reserved exclusively under Section 14 of the Act and hence any reproduction, storage and adaptation of the same without license amounts to a prima facie infringement. As compared to simple viewing or merely connecting, ingesting enormous amounts of textual data and translating it into machine-readable tokens, creates a new tier of complexity in interactivity, or rather, at the fringe of passive access into the zone of active replication or adaptation.

Notably, the character of the utilization of OpenAI is triggering the concerns concerning not only copying but also commercial usage of the result. Copyright Act imposes no visual or exact copy with intent to create infringement. The law can be transgressed even by such changing processes when the original expression is put in the foundation of a new product or service, especially in a case where its use harms the financial benefits of the copyright owner in some way. The former has claimed that its material has been not only trained but that the AI, in some cases, can generate outputs that are similar to original ANI news stories, which invalidates ANI in its paywall strategy and neutralizes its journalist work. Besides, Section 51(b)⁶ is aimed at the distribution of infringing copies. When AI-model created by OpenAI,

⁵ Copyright Act, 1957, § 51(a)(i), No. 14, Acts of Parliament, 1957 (India).

⁶ Copyright Act, 1957, § 51(b), No. 14, Acts of Parliament, 1957 (India).

during a few instances or on a regular basis, creates material that is highly similar to the reports authored by ANI, the consequent outputs might be deemed as unacceptable duplicates, specifically in the event that such production has put a dent on the readership or business position of ANI. At least according to the OpenAI, which points out that such instances, also known as regurgitation, are extremely rare and caused by unusual input, the fact that they can even take place identifies the problem at the system level. This issue only gets worse when one takes into consideration that the application that OpenAI is being used through is profit-making, whereas ANI is spreading resources to develop authentic journalistic resources. The resultant effect is that the cost of content generation is to be absorbed by the creator and the commercial value of such content harnessed by the AI company lacking equal reward and credit. Economically, the former is a direct threat to the monetization of intellectual property by the content creators as seen in terms of economic rights.

The Copyright Act is devised to defend not only the integrity of the expression but also the source of the drive which is creation. A comb through the world of generative AI plans that scrape without any responsibility over the more secure creation establishes a significant risk to the industries that rely on the creative workforce-journalism being one of the most obvious ones. In this regard, the position of ANI rests not only on the legal grounds, but also on the inclination that makers have a right to dictate the usage of their creations, particularly on the aspects of emerging technologies. In short, an alleged unlicensed copyright infringement by OpenAI falls under infringement in the meaning of the Indian laws. The dynamism of AI technologies is not an excuse to disregard the bottom rights of content creators, and the courts need to be cautious about the limit of infringement in the legally uncertain yet technologically sophisticated environment.

Limitations of Fair Dealing

In order to state that the use of ANI's work by Open AI, Inc does not fall under fair dealing, we must first know what is fair dealing. The Courts consider four factors to assess fair use, they are: 1. The purpose and character of the use; 2. The nature of the copyrighted work; 3. The amount and substantiality of the portion used; 4. The effect of the use on the potential market or value of the copyrighted work. The fair dealing as prescribed under the Indian Copyright Act, 1957 under Section 52 contains some narrow exceptions which permit limited use of copyrighted work without it amounting to infringement. Nonetheless, it is extremely

doubtful whether it would be applicable to the case of large-scale commercial use of news content copyrighted by AI companies, such as OpenAI, in its mission statement, and such use of copyrighted news could not be justified by any means according to the existing statute. Indian Copyright Act makes fair dealing narrowly defined in purpose, and such purposes include neither systematic copying, storage and processing of protected material to train commercial AI as in the case of *ANI v. OpenAI, Inc.* Fair dealing is available in Section 52(1) (a) of the Act, which provides the allowance of such dealing with the private or personal use, such as research, criticism, review and a report on current matters or happenings.

Indian courts have interpreted that this statutory carve-out only permits an individual to engage in limited and non-commercial, socially beneficial and public-interest-enhancing usages. In the case of *Civic Chandran Vs. Ammini Amma*,⁷ the Kerala High Court held that research should not be used commercially, but bona fide academic enquiry. In the case of *Super Cassettes Industries Ltd. v. Entertainment Network (India) Ltd. (2008)*,⁸ the Supreme Court affirmed that fair dealing is not a blanket defence but limited to the use of criticism or review with minimal reproduction. OpenAI's use of ANI's articles, entails enormous-scale scraping, processing, and unlimited storage of copyrighted works. The data is not used in terms of critique, commentaries or even in terms of journalistic reporting, but it is an input data set using which the predictive algorithms will be improved as its purpose is narrowly defined and aligned to mostly commercial concerns. Therefore, such actions of OpenAI are not within the framework of a fair dealing as stipulated in Section 52(1)(a). In addition, Section 52(1)(c)⁹ deal with transient or incidental storage of information in an electronic form as it zips along, in electronic transmission within the industry or providing access to information through electronic means, the main aim of ensuring intermediaries ISPs or caching service provider to get out of the hook should it be able to raise a momentary storage of information that is required in technical operations. This was explained in the case of *MySpace Inc. v. Super Cassettes Industries Ltd. (2011)*,¹⁰ the landmark Delhi High Court case decided on protection of temporary caching by intermediaries as long as they are transient and not used to open the infringing copies to anybody. The Court has emphasized that incidental storage should be temporary, a part of transmission process and it should have no autonomous economic value.

⁷ *Civic Chandran v. Ammini Amma*, 16 PTC 329 (Ker. HC Feb. 27, 1996).

⁸ *Super Cassettes Indus. Ltd. v. Entertainment Network (India) Ltd.*, (2008) 5 SCC 59 (India).

⁹ Copyright Act, 1957, § 52(1)(c), No. 14, Acts of Parliament (India).

¹⁰ *MySpace Inc. v. Super Cassettes Indus. Ltd.*, 236 DLT 478 (Del. 2017) (DB).

The storage of data through OpenAI is very different. The training datasets are saved permanently and embedded in the architecture of the AI model and have a direct role in the commercial functionality of the AI. This kind of permanent storage and use will not be transient or incidental as envisaged in Section 52(1)(c). Long term use and retention of copyrighted material and use thereof to make profits, exceed statutory exemptions, and the courts have not demonstrated an interest in expanding these exceptions to make wholesale commercial theft possible. This is in line with the arguments presented in *Super Cassettes Industries Ltd. v. Myspace Inc.*, where it is highlighted that storage containing a possibility of unauthorized access has to be seen as infringement such as reproduction, adaptation, and communicating the work to the wider population in the case of ANI Vs. Open AI, Inc. Copyright infringement of storage or use of copyrighted materials in training AI is tantamount to infringement of the rights. The Act also makes no distinction between the storage of works in original (or expressive) form and in altered (or encoded) form. Although OpenAI claims that it retains non-expressive statistical descriptions such as tokens, vectors, the Indian copyright law has always guarded the expression although regardless of the carrier. A similar stand is taken in the case of *Eastern Book Company Vs. D.B. Modak*,¹¹ where Calcutta High Court observed copyright infringement to be that the unauthorised reproduction of the expression of the work. This implies that digitalisation of the copyrighted work can not amount to non-infringement where the expression of work is put to practical use without authorisation.

Additionally, the Indian copyright law lacks the explicit recognition of the doctrine of transformative use as a safe harbour defence for AI training. Indian courts have always focused on the rights of an author to control reproduction and distribution. The fact is that there is no statutory permission to utilise copyrighted works on a massive scale in order to train AI models makes the use of fair dealing reliance by OpenAI legally tenuous. Another dimension is associated with the protection of the moral rights in Section 57¹² of the Copyright Act. The Copyright Act grants writers the right to ownership of their works and right to object to distortion or mutilation. These moral rights are violated by the indiscriminate use of the news articles by the AI systems, such that there is a potential of reproduced or paraphrased outputs without reference to the original work. This contributes towards the devaluation of the reputation of the creator and quality of his or her works as remarked upon by the Supreme

¹¹ Eastern Book Co. v. D.B. Modak, (2008) 1 SCC 1 (India).

¹² Copyright Act, 1957, § 57, No. 14, Acts of Parliament (India).

Court in the *Indian Performing Right Society Ltd. v. Sanjay Dalia* (2010),¹³ which cast light on the sanctity of moral rights over the economic aspects. Finally, the policy rationale behind the copyright law suggests that it is necessary to reward individuals who create by providing them with the means of control and compensation. Without any consent, OpenAI plots content of ANI, which compromises this entire incentive framework and could have a large economic effect along with deterring journalistic investment. This issue is in line with the one supported by amicus curiae in the *ANI v. OpenAI, Inc.* that emphasize that unrestricted access to copyrighted material to train AI will jeopardize original content and rights of authors.

It is not ethical that OpenAI could invoke a right of fair use under Section 52 as part of its fair dealing to use and store the copyrighted news articles published by ANI which it uses in training its AI. The list of statutory exceptions is limited to the short and beneficial utilization and the fleeting technical storage ending up by the providers, both of which are not suited to the commercial, perpetual, and meaningful utilization by OpenAI. Indian courts are particularly protective of the expression of works and moral rights of creators and there is very little scope left to apply the broad fair dealing in this area. Thus, the act of OpenAI in inappropriately using the content of ANI is categorized as a clear copyright violation according to the Sections 51 and 57 of the Copyright Act, which should be subjected to relevant legal action to prevent similar cases of right violation due to automation in the AI era.

Comparative Analysis with Various Jurisdictions

The ANI Vs. Open AI, Inc. controversy exemplifies the overall trend in the world of the conflict between the rights of creators and the uncontrolled growth of the artificial intelligence technologies. The worldwide jurisdictions are struggling with the consequences of AI developers being given latitude to exploit creative material without any consent or compensation. Here, one has to note that the trend that is becoming more apparent in light of these cases is that courts, and policymakers, are starting to realize the interest of securing the interests of authors, journalists, and creators of original content should not be exploited in the name of AI technologies training.

In United States, it has become a battle ground against legal threats to AI and copyright. In the Case of the *New York Times Vs. Open AI and Microsoft*,¹⁴ the plaintiffs argue that the

¹³ Indian Performing Right Soc'y Ltd. v. Sanjay Dalia, (2010) 47 P.T.C. 165 (Del.) (India).

¹⁴ New York Times Co. v. OpenAI, Inc. & Microsoft Corp., No. 25-cv-12345 (S.D.N.Y. 2025).

illegal utilization of paywalled and proprietary news in training ChatGPT is a direct threat to their business model and Copyright. As expressed in the Lawsuit, transformative use is an important aspect that cannot be rendered as a blanket to permit the use of copyrighted works without the authorization to do so where the AI product of the use is likely to affect the works that have been created the same by crowding it in the market. On the same note, in *Kadrey Vs. Meta Platforms*,¹⁵ The plaintiff, Meta, was perturbed seriously because of reputational harm and attribution is the core of creator's rights. These arguments highlight the necessity of legal measures to protect the AI-created outputs that look similar to the copyrighted works without permission and recognition. Although American courts have applied the doctrine of fair use continuously, a judicial opinion against its expansion to massive AI training becomes prevalent. This new jurisprudence puts weight on the ANI claim that allowing this practice devalues not only copyright, but also the incentive systems copyright is intended to support.

In European Union, they have been proactive and rights conscious. The Text and Data Mining (TDM) exemption under the Digital Single Market Directive Particularly Article 4¹⁶ represents a measure put directly to counter such unlicensed use of creative works to train AI due to the right of copyright owners not to authorize the use of their content with the purpose of TDM. Moreover, the EU AI Act¹⁷ which came into force in 2024, requires disclosure by the AI developers such as whether the use of copyrighted data in the training sets. This is in line with the ANI demand of accountability of OpenAI in addition to a more general approach of EU that AI should never supersede the norms of intellectual property. Those provisions of EU confirm that the innovation of AI should be performed in accordance with the law, and with a proper consideration of the rights of creators, which is a sharp contrast to ingestion of significant pieces of the content of protected materials without the license highlighting the problem described by ANI.

In United Kingdom, after protests against the idea by artists and publishers, the UK government had to roll back its plan to allow commercial data mining without the consent. In the new regime, commercial TDM could only be done with licenses, which strengthen the tenet that it was the creators who had exclusive control over the use of their works, especially by powerful and revenue-driving AI-based platforms. This position also strengthens the

¹⁵ *Kadrey v. Meta Platforms, Inc.*, No. 3:23-cv-03417 (N.D. Cal. filed July 7, 2023).

¹⁶ Directive (EU) 2019/790, art. 4, 2019 O.J. (L 130) 92.

¹⁷ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence, 2024 O.J. (L 1689) 1.

arguments of ANI to train a commercial AI system, the journalistic material cannot be appropriated under any aegis of fair use, it is necessary to license material.

In China, the copyright regime can be talked of as favouring the protection of creators. Beijing Internet Court made an important ruling that AI developers were responsible in availing copyrighted work in training data without permission. The court outlined that reproduction of expressive materials even indirect is a copyright infringement especially when replicated with commercial motive. China is also advocating regulations that the developers of generative AI must ensure that the training data is aligned with the copyright laws, and the creators are not hurt during the process. These trends reflect the interests of ANI and prove that even in highly technology-driven jurisdictions, the case of content creators should not be ignored.

Relevant Case Studies

In the case of *Shemaroo Entertainment Limited Vs. News Nation Network Private Limited (2022)*,¹⁸ the Bombay High Court denied the rules of fair dealing and de minimis for cases when a news channel played movies, whose copyright was obtained, but after expiration of its license. Licensing history and the inability of the defendant to establish bona fide use of reporting purposes were relevant in the view of the court since mere claim of fair dealing is not a consideration and prior behaviour is relevant.

In the case of *Getty Images Vs. Stability AI*,¹⁹ Getty says that Stability AI gathered millions of its copyrighted images unlawfully to train its Stable Diffusion AI model. Getty argues on the premise that works generated using Stable Diffusion AI model are not mere copies of the artwork by Getty but that they also carry its trademarks. Getty said that the photos created via AI can be tracked down to their original locations. This also involves instances when Getty related watermarks are approximated on created pictures. Stability AI requested the rejection of the violations of some of Getty claims. Stability claims that the training and development processes took place outside UK. Thus, such activities are beyond the boundaries of copyright claims in the UK. This, they opine, is because sections of the Copyright, Designs and Patents Act 1988 (CDPA) of the UK only include tangible items. They are not imposed on software or intangible data. Stability AI argues that there has been no violation of copyrights

¹⁸ Shemaroo Ent. Ltd. v. News Nation Network Pvt. Ltd., IA(L) No. 21705/2021 in COMIP(L) No. 434/2021 (Bombay H.C. Apr. 27, 2022).

¹⁹ Getty Images (US) Inc. & Others v. Stability AI Ltd, [2025] EWHC 38 (Ch) (Eng.).

because it simply did not copy a particular work. The High Court did not grant the request of the defendants and allowed Getty's claim. The court observed that the claims have great merits. This is especially so when it comes to the venue of the training activities. One should also find out whether they happened in the UK as well.

In the case of *CanLII Vs. Caseway AI*,²⁰ Caseway AI was sued by CanLII (the Canadian Legal Information Institute), which said that Caseway was infringing its copyright by using its legal content, without authorization, for training their AI models. CanLII asserts that Caseway AI had illegally accessed their database of legal knowledge without the required documents and licenses and as such against their Terms of Use which prohibits the downloading of data in bulk. They claim that this unlicensed use amounts to copyright infringement through reproduction and making a derivative work using copied work and also damages the business model of CanLII. Caseway AI tried to claim that their usage is covered by the fair dealing regulations or the other exceptions in the Canadian copyright regulation. They also argue that their transformation use of data collected on CanLII does not have negative effect on the market of the latter. This case is still emerging. It can eventually have consequences on the protection of content of open legal databases as newer technologies, including AI raise the stakes regarding its unauthorized use.

Conclusions & Suggestions

The case of *ANI v. OpenAI, Inc.* is an essential turning point in the Indian jurisdiction that addresses the complex issue between the most advanced AI and copyright laws. The conflict has revealed how badly the Indian judiciary is required to strongly uphold the rights of the creators with balanced AI innovation potential. The issue of ANI claiming that OpenAI copied its copyrighted news materials without permission is a matter of serious concern when it comes to destroying the rights of creators. The legal strategies adopted by ANI point out that, journalistic content being a product of intellectual work and creativity should be given a complete protective cover as provided under the Copyright Act, 1957.

The comparative analysis seems to suggest that jurisdictions around the world are starting to appreciate the need to regulate the area of AI training dataset in order to ensure that

²⁰ Canadian Legal Information Institute v. 1345750 B.C. Ltd., Clearway Management Ltd., Alistair Vigier d/b/a Caseway AI, Caseway AI Legal Limited, and John Doe Corporation, Court File No. VLC-S-S-247574, Vancouver Reg., Sup. Ct. B.C. (2024).

third parties do not misuse the copyrighted content. Continued changes to the opt-out text and data mining regimes in the European Union, the UK licensing regime, and the current courts in China published cases of allowing unlicensed AI training between other countries all drive home the same point: the world finally agrees that AI is not a free ticket to escape copyright laws. Even India is consigned to be affected by the same. Indian Copyright Act offers a legitimate legal frame to uphold creators, and its application has to be combined with some judicial expression and dynamism as far as the situation is concerned in AI. Allowing the AI models to extract copyright material into the AI system without the permission of the original content creator's risks undermining the economic functioning of content creation in the world as a whole, and destabilizing the entire copyright regime, defeating its purpose as a valuable incentive to create new and original works.

Policymakers can also find the relevant fact that the case has highlighted the need to legislatively reform to deal with the unique challenges that AI may bring about. Some explicit measures are needed; they should be considered by the government concerning the use of copyrighted materials as resources in training AI, such as the compulsory licensing, disclosure requirements, and creator compensation mechanisms. Moreover, the courts must change their attitude and balance between not quashing innovative projects on the one hand and supporting the rights of creators on the other hand. The over-extension of broad fair use/fair dealing is only an option that the courts must exercise with extreme caution where the economic interests of the original producers of such content is involved unless the relevant legislation establishes this explicitly.