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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ARTIFICIAL INTELLIGENCE (CHAT GPT) **AND COPYRIGHT LAWS IN INDIA**

AUTHORED BY - PALASH JAIN

Artificial Intelligence(AI) has been making tremendous strides in recent years on the contrary it also raised questions about copyright laws and how they apply to AI generated work. There is a growing need for clarity in this area. This article provides an overview of the current state of AI and copyright laws in India.

Introduction

There were a slew of articles on Chat GPT and other AI bots on the internet and in social media. Although it will take time for the veracity of these claims to become clear, these writings about the bots that allegedly threaten the professional careers of a variety of professionals, including software engineers, content writers, and lawyers, among others, are extremely alarming. Nevertheless, these bots merit our focus and attention. It is crucial to comprehend the principles of these bots before dealing with any potential legal difficulties.

Artificial intelligence (AI) is a branch of research that examines the power of machine learning like humans and the ability to react to particular behaviours. The phrase was initially used by American computer scientist John McCarthy. Artificial intelligence (AI) is the study of how to programme robots to act logically, solve issues, and do tasks in the kinds of challenging circumstances where people need intelligence to succeed (John McCarthy).

Computer science's field of artificial intelligence (AI) investigates and creates software and hardware with intelligence. AI tries to make machines replicate human intelligence and conduct when carrying out specific activities, such as speech recognition, visual perception, decision-making, and language translation (IBM). Robotics, machine learning, natural language processing, and machine vision are all included in AI automation.

information is being produced by AI models, and it might be challenging to distinguish it from information produced by humans. The content of these models is derived from outside sources

and they are trained on corpora of original works (Gartner, 2023). It is unclear whether the author is aware of any legal precedents regarding the ownership of the intellectual property rights of the content created using these models. This article aims to conduct research on Indian copyright laws and content produced by AI bots. This article will examine who owns the rights to AI-generated works, how copyright law applies to those works, and what the consequences of infringement are. It will also go through how copyright laws in India currently apply to AI and how solicitors can assist clients in maintaining their rights with regard to AI-generated works.

The Law of Copyright in India

With the growing popularity of AI comes the necessity to safeguard intellectual property, such as copyright. There is no simple way to comprehend how India's complicated copyright rules work. In this article, we'll look at some of the exclusions to the use of works protected by copyright as well as the principles of originality under the Indian Copyright Law 1957 (Act).

Original works of authorship are safeguarded by a type of intellectual property known as copyright. It is the legitimate ability to publish, perform, or sell one's original creative work for a profit. In India, a writer's copyright is valid for their lifetime and an additional 60 years after their passing.

In India, copyright is created as soon as a work is generated, and no formalities are necessary to get copyright; registration of copyright is optional, not mandatory. Copyright is "right in rem, where the right excludes others from using the work in any manner for a definite period of years. In India, to obtain protection for a work, it must be original and meet certain criteria. As per the Act, the author of the work is entitled to all rights pertaining to the originality of the work in various forms of intellectual property, including original literary work. Further, the first ownership of the copyright subsists with the author of the work (section 17), and in the absence of any agreement, the proprietor shall be considered the original owner of the copyright. The first owner of the copyright in any photograph, painting, portrait, or engraving done at the request of another person for valuable consideration is that person.

Monkey selfie case

In order to get the greatest pictures of monkeys, professional photographer David Slater went to Indonesia in 2008 and voluntarily left the camera on a tripod. One of the monkeys used the camera, clicking pictures and taking "monkey selfies." The selfies the monkeys took were then published in a magazine by Slater. The pictures were published on the Wikipedia website in 2011. Slater complained to Wikipedia about his copyright violation and demanded that photographs be taken down from the site. When Wikipedia refused to budge, Slater and Wikipedia got into a court spat. However, in 2015, a group called Prevention for the Ethical Treatment of Animals (PETA) filed a lawsuit against Mr. Slater in a California court on behalf of the monkey, asserting that the monkey is the rightful owner of the copyright. The judge decided that animals are not covered by copyright. The dispute was settled by a settlement between the parties after PETA filed an appeal with the Court of Appeals of the 9th Circuit, which concluded that animals lack statutory standing under the Copyright Act.

Copyright merely safeguards an idea or information's expression in specified ways (such as through writing), not the concept or information itself. According to international treaties and accords, the extent of copyright protection varies from nation to nation.

Copyright as a right

The rights of the author include the following:

- The right to publish or distribute their own work without the owner's permission, which is a violation of the owner's rights.
- The right to adapt their work for use by others.
- The right to communicate or reproduce it in any medium.

Statutory exceptions for the use of copyrighted works

- In India, the copyright law has a variety of statutory exceptions (Section 52). Some of the most typical include the following:
- Educational uses - Under this exception, copyrighted works may be distributed and reproduced under specific restrictions, including that they be used solely for educational purposes.

- Reproduction for research purposes - This exception applies to instances in which material is copied without violating any other copyright laws and is done so for research purposes.
- Critique, review, and news reporting - If you're writing about a book or movie that hasn't been released by you (and isn't your own), you may use quotes from such works as long as you don't try to pass them off as your own or in an unfair attempt to outdo them.
- Public interest - This enables anyone with a creative interest to adapt existing works of art or motion pictures into new creations without breaking copyrights.
- Judicial procedures - Since judges who preside over court cases frequently need access to photos taken during their trials, this clause permits them access without breaking any copyrights.

The Principle Of Originality Under Indian Copyright Law

Originality is a highly individualised notion in Indian copyright law. It implies that you must determine whether anything is more than just a straightforward copy of another piece of art. Someone may be violating your copyright, for instance, if they take a copy of your song and make minor modifications to the lyrics to make it look like their own creation. This is because you cannot be held responsible for words that have been altered from their original form by another person.

However, it's crucial to remember that, although if originality might be hard to define in practise due to its arbitrary nature, there are some standards that can assist evaluate whether something counts as "new" or not.

Talent - In order for something be regarded as original under Indian copyright rules (and so protected), there must be some amount of talent involved in its development; Otherwise, no one would be able to benefit from this protection while utilising another person's work without first getting their consent! Because they didn't truly discover anything new during the production process, even if someone tries really hard but fails horribly to create something new out of thin air, they wouldn't lose any rights in such a situation.

The Indian Copyright Act, 1957, was being interpreted by the Supreme Court in the case *Eastern Book Company & Ors v. D.B. Modak & Anr.*

The key question was whether the Eastern Book Company's headnotes, or summaries of court

decisions, qualified as "literary works" under the Copyright Act and could, therefore, be protected by the copyright.

According to the Supreme Court, head-notes do meet the criteria for literary works and are thus covered by copyright. The Court emphasised the significance of giving the provisions of the Copyright Act a broad and liberal interpretation in order to foster creativity and advance knowledge. The Court further noted that head-notes were to be maintained since they were essential for the spread of legal information.

The Eastern Book Company & Ors v. D.B. Modak & Anr case, in conclusion, clarified the classification of head-notes as literary works under Indian Copyright Act and reaffirmed the idea that the Act's provisions should be interpreted broadly in order to foster innovation and knowledge expansion.

Originality and autonomous creativity under Indian copyright law

According to Indian copyright law, a work must be original and not just a copy or parody in order to be protected. The content generated by AI-driven content cannot therefore be regarded as original. Since this would imply that all AI-driven content would violate the copyrights of others, it is crucial for businesses creating AI-driven content to comprehend how their work is protected by international copyright laws so they can ensure compliance before making their product or service offering publicly available.

Originality is difficult to separate from talent and labour. The task is difficult since there is no recognised norm that can be utilised to show originality and because there are no set guidelines for doing so. The difficulty arises from the vagueness surrounding what originality actually is:-

Arduous task of delimiting originality from skill and labour

- The task is arduous because it is not clear what constitutes originality.
- The task is arduous because there is no clear principle that can be applied to determine originality.
- The task is arduous because there are no clear guidelines on how to determine originality.

Doctrine of Sweat of the Brow

The Doctrine of Sweat of the Brow places more stress on the author's talent and labour than it does on the work's originality or innovation. The courts in the UK ruled that the work product must be the result of the author's labour and that novelty or originality are essentially irrelevant. As long as the work was produced entirely by the individual and was not plagiarised, they are entitled to exclusive rights to the work, regardless of its uniqueness, originality, or inventiveness, including the compilation of records and the building of databases, etc.

Conqueror or Creator - Is AI driven content infringement of copyright?

Robots powered by AI lack originality, autonomy, and creativity. Both they and it lack an independent mind as well as a soul and a heart. The only thing that AI bots are is computers that obey human commands. In other words, the only thing that can be said about them is that they have been programmed to carry out specific duties like responding to inquiries or making judgements depending on information obtained from you (the human user).

Who will possess ownership of the intellectual property created by artificial intelligence?

The information used to construct the content by various AI models, such as ChatGPT and Bard AI, is taken from a wide range of literary and other corpora as well as from the writings of other authors. There is no copyright violation if the content was inspired by an already existing work. Whoever generated or created the content, whether it is the OPEN AI or the input supplier or both, is not immediately obvious.

Though there may be certain exclusions based on the individual terms and conditions, it is likely that the user will maintain ownership of any copyright in any item they submit. Therefore, before sending any resources to an AI authoring tool, users should carefully examine these.

Conclusion

AI is completely changing how people work, live, and interact with one another. It will also affect

how we see ourselves and drastically alter economies and society.

The introduction of text produced by AI has necessitated the consideration of copyright regulations. With the emergence of ChatGPT, which can now produce content from scratch. As a result, the stakeholders will need to think about how new technology may affect copyright infringement. In India, AI-created text and copyright laws provide a number of difficulties, including how to implement these regulations and safeguard artists against copying. There have been claims of copyright infringement as a result of ChatGPT's use of AI. According to Open AI, it will try to shield viewers from illegal content while making money for the creators of the original content. However, the ambiguity surrounding the legal status of material produced by AI raises concerns about the legitimacy of this platform as well as the application of copyright laws in India.

As we have seen, history and culture have influenced Indian copyright law. It has helped to promote innovation and safeguard a wide diversity of artistic creation. The law of copyright is dynamic and always changing. Given that technology creates new methods of doing things, it must be dynamic to stay up with the times. The law of copyright should also be adaptable enough to take into account new technologies and procedures that don't necessitate considerable (or any) legal action.

However, given the growing usage of AI and its derivatives, which present a risk of infringement, the legislation must now be amended with an eye towards modern changes in technology and society. The user should also be aware of Open AI's disclaimer, which states that it is not designed to give advice and that it may occasionally produce inaccurate or misleading information as well as offensive or biased content. Before using the content, the user must use his or her own judgement. There is no artificial intelligence involved in the creation of this essay; I wrote it myself.

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