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AI-GENERATED WORKS AND COPYRIGHT LAW: RE-EVALUATING AUTHORSHIP, ORIGINALITY, AND INFRINGEMENT IN THE INDIAN CONTEXT

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ABSTRACT

The rise of generative artificial intelligence (AI) raises an essential and complicated problem for the Indian Copyright Act of 1957. The Act is the product of the pre-digital age, which relies on human-focused concepts of authorship and originality that have been complicated through fully automated or semi-automated AI systems. The key issue is a significant legal and regulatory gap. The lack of a clear statutory definition for AI generated works means there remain very few guidelines regarding copyright eligibility, and also raises complicated legal copyright infringement issues for AI model training based on enormous and often copyrighted datasets. This legal gap impacts a range of stakeholders, from registered content creators to developing AI initiatives. This paper will examine the intersection of the legal position in India through a critical examination of notions of authorship and originality as expressed by Indian courts. The paper situates India's legal position through a comparative analysis of different ways various jurisdictions define and approach the question of authorship, including the United States adherence to strict "human authorship," the United Kingdom's separate treatment for "computer-generated works," and the use of a regulatory framework in the European Union.

Keywords: Copyright, Authorship, Originality, Infringement, Artificial Intelligence

INTRODUCTION

The emergence of generative artificial intelligence (AI) marks a major change in the evolution of creative and intellectual activities. From systems that primarily processed and classified data, AI is now creating complex literary, dramatic, musical, and artistic works that we would not readily distinguish from human authors. Whether it is AI systems creating symphonies or algorithms generating visual art, machine creativity is now producing works that challenge our

conventional human-centric understanding of intellectual property law¹. This technological disruption presents significant legal questions regarding the idea of authorship, originality, and even the act of creativity itself in conventional copyright systems.

The Copyright Act, 1957 which is India's primary copyright legislation, was enacted in an era when computer-generated creativity was only a theory. Protecting AI-generated works is made extremely difficult by the Act's author-centric approach, which is embodied in Section 2(d)'s definition of "author" and supported by court rulings that emphasize human skill and judgment. It's unclear how Section 2(d)(vi)², which assigns authorship to "the person who causes the work to be created," applies to advanced AI systems that function with little assistance from humans, even though it aims to address computer-generated works. These problems have recently come into sharp focus. The case of ANI Media v. OpenAI³ in 2024 is the country's first significant case on AI copyright issues, specifically addressing whether it is illegal to use copyrighted content to train AI models. The inconsistency in approaches to AI authorship is also highlighted by the contentious RAGHAV AI painting case, in which an AI system was first acknowledged as a co-author of a copyrighted work before being subject to withdrawal proceedings.

Jurisdictions around the world have taken distinct viewpoints on AI copyright issues. According to the United States' Copyright Office's 2025 report, copyright protection for works created entirely by artificial intelligence is categorically rejected, which shows the United States' strict human authorship requirements. In contrast, the United Kingdom's Copyright, Designs and Patent Act 1988 offers limited protection to computer generated works, though the act predates the current AI capabilities⁴. The lack of global agreement on issues of AI authorship and ownership is reflected in the World Intellectual Property Organization's ongoing consultations.

STATEMENT OF PROBLEM

A complex legal issue that is raised by the relationship between AI-generated works and Indian copyright law calls into question is long-held beliefs about authorship, creativity, and intellectual property protection. The core issue is that the human-centric framework of the

¹ Isha (2024), "The Indian Copyright Law and Artificial Intelligence"

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

³ 2024 SCC OnLine Del 8120 (India)

⁴ Das, Apurba (2023), "Artificial Intelligence: A Machine or an Author in Reference to Copyright Act in India"

Copyright Act of 1957 is doctrinally incompatible with the reality of increasingly autonomous AI systems creating works that meet traditional originality standards but lack human authorship. The central challenge is the definitional crisis of authorship. Section 2(d) of the Copyright Act defines "author" in relation to different types of works, but it always presumes human agency. While subsection (vi)⁵ assigns authorship to "the person who causes the work to be created" in order to address computer-generated works, this clause becomes problematic when applied to advanced AI systems that function with little to no human supervision or guidance. The definitional ambiguity raises legal questions regarding the ownership of copyrights and whether AI-generated works can be protected by them.

AI systems trained on copyrighted content present difficult issues regarding illegal reproduction and the production of derivative works from the standpoint of infringement. AI training on copyrighted data may be prima facie illegal under Section 14 of the Copyright Act, which grants copyright owners the exclusive right to reproduce. AI training activities however, may not be covered by Section 52's fair dealing exceptions, which permit use for research, criticism, and other particular purposes, leaving AI developers legally uncertain.

RESEARCH METHODOLOGY

This research uses a doctrinal research method to examine statutory provisions, court rulings, and scholarly commentaries. This study looks at how various legal systems address AI generated works and copyright law in India. Additionally, a comparative legal approach is employed to evaluate how jurisdictions like US, UK and EU address authorship, originality and infringement in the context of artificial intelligence. Primary sources include legislative statutes, case laws and international treaties; and secondary sources such as academic articles, legal commentaries and public policy documents.

RESEARCH QUESTIONS

1. How do Indian copyright laws currently address issues of authorship, originality, and ownership in the context of AI-generated works?
2. What insights can India draw from other jurisdictions' approach to AI copyright challenges and training data use?

⁵ Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India)

3. What legal reforms are necessary for India to create a balanced framework protecting both human creators and assisted works?

RESEARCH OBJECTIVES

1. To analyze how Indian copyright law addresses issues relating authorship, originality, and rights in AI-generated works.
2. To compare international legal approaches on AI authorship and copyright to identify best practices for India.
3. To propose legislative and policy reforms to clarify AI-generated works' copyright status and liability in India.

Legal Framework Analysis:

The Copyright Act, 1957: Foundational Principles and Challenges:

The Copyright Act, 1957 provides a strong foundation for the protection of original creative works. However, this framework assumes something very basic about intellectual work, namely, that it is always the work of a human mind. Although completely reasonable in the 20th century, this assumption is currently facing its biggest challenge due to the development of generative AI. Authorship and originality are two fundamental ideas that must be re-examined in order to determine the legal standing of AI-generated works.

Definition of Author and AI Implications:

Under Section 2(d) of the Copyright Act, the term "author" is addressed in each category of work, while the definition in each category assumes human ownership of the work. For literary and dramatic works, the author, as defined by the Act, is "the author of the work," whereas for artistic works, the author is "the artist." Given the Act's human-centric origins, the circular definition implies that authorship is self-evident. Importantly, Section 2(d)(vi) which defines the author as "the person who causes the work to be created" in order to address "any literary, dramatic, musical, or artistic work which is computer-generated."

This clause was put into effect when people believed that computers were only instruments for human expression and not independent creative beings. The level of human "causation" required for a complex AI output is not specified by the law. A serious legal issue is brought about by this ambiguity. Who is the "person who causes the work to be created"—the user who composed a straightforward text prompt, the AI developer who created the model, or both?

The idea of "authorship" for AI-generated works is in flux because the law doesn't offer a definitive response⁶.

The "Raghav" case in India served as an important example of the tension between the conventional human-centric viewpoint and the reality of AI-driven creation. The Indian Copyright Office in late 2021, first granted the copyright registration of an AI-generated piece of art called "Raghav". Some viewed the registration as a turning point in acknowledging AI's contribution to artistic expression. Subsequently, the registration was canceled by the copyright office. The Copyright Office pointed to the absence of a human author, which is a basic requirement of the Copyright Act as the reason for cancellation of registration⁷. This outcome is not merely an administrative action but a profound symbolic event that exposes the chasm between the law's outdated definitions and the current technological reality.

The "Modicum of Creativity" Test and AI's Challenge to Originality:

In India, a work needs to be "original" in order to qualify for copyright protection. Since "originality" is not defined in the Indian Copyright Act of 1957, the judiciary is left to interpret it. The "sweat of the brow" theory has given way to a more sophisticated standard in Indian jurisprudence over time. Regardless of a work's originality or creative merit, copyright protection was granted based on the effort, skill, and judgment put into it by the British legal import known as the "sweat of the brow" doctrine. This method, which emphasized the creator's quantitative effort, was a long-standing norm in India. The Supreme Court of India, however, rejected the doctrine of "sweat of the brow" and came up with "modicum of creativity" or "skill and judgment" approach in the landmark case *Eastern Book Company v. D.B. Modak*⁸. This choice was a significant one because it shifted the emphasis from the actual work to the author's intellectual contribution. Similar to the U.S. Supreme Court's position in *Feist Publications, Inc. v. Rural Telephone Service Co.*⁹, the Court ruled that a work must have at least a minimal level of creativity in order to be protected by copyright¹⁰.

AI-generated art poses a serious challenge to this framework. Artificial intelligence (AI) systems function through algorithmic processes rather than human intellect, even though they

⁶ M. S. Srinithi & Viveka Kumar, Explore the Potential of Artificial Intelligence in Augmenting Human Creativity by Using AI Systems and Machine Learning to Assist Inventive Minds in Generative Novel and Imaginative Works, 7 INT'L J.L. MGMT. & HUMAN. 1533 (2024)

⁷ Thushar V. Senan, Abey Augustine & Aswathy Krishnan, AI, Creativity, and Copyright Law in India: Navigating the Boundaries of Originality and Authorship, 6 INT'L J.L. MGMT. & HUMAN. 2941 (2023).

⁸ 2008 (36) PTC 1 (SC)

⁹ 499 U.S. 340 (1991)

¹⁰ Hema k (2023), "Protection of Artificial intelligence Autonomously Generated Works under the Copyright Act, 1957- An Analytical Study"

may generate incredibly creative outputs. The issue is whether AI systems can use "skill and judgment" in a way that is legally recognized or if, even though they satisfy standards for both functional and aesthetic creativity, such works must be considered unoriginal¹¹. The Court's focus on "intellectual effort" implies that originality requires human cognitive engagement, which might bar works created solely by artificial intelligence from protection.

Copyright Infringement in the Age of AI: The Training Data Conundrum

A more pressing legal concern is whether training AI models on large datasets violates copyright, which goes beyond the issue of copyrightability for AI-generated works. Large amounts of data, frequently containing a diverse range of copyrighted works like text, images, and music, are ingested and processed in order to train generative AI systems. Digital reproductions of these works are created during this process, which is an act that is solely within the copyright owner's rights.¹²

Perhaps the most important copyright dispute in India pertaining to this matter is the one that is currently pending in the Delhi High Court: ANI Media Pvt. Ltd. v. OpenAI Inc¹³. The lawsuit was filed by news outlet ANI, which claimed that OpenAI had infringed its copyright by using its journalistic content to train ChatGPT. The primary contention of the plaintiff's is the unapproved processing and duplication of its content which is a protected literary work, violates its exclusive rights. OpenAI's defense raised significant legal questions, including the jurisdiction of Indian courts and the application of the "fair dealing" theory in line with Section 52 of the Copyright Act.

International and National Regime: A Comparative Analysis:

India's legal void is not unique; countries all over the world are battling copyright and artificial intelligence issues. Their methods, however, have greatly differed, providing important insights for India's future.

The Human Centric Approach: The United States

Based on the idea of "human authorship," the US has taken a rigorous and uniform stance

¹¹ Deepa B (2024), "Redefining Authorship: Impact of AI and Future of Copyright"

¹² Michael D. Murray, Generative AI Art: Copyright Infringement and Fair Use, 26 SMU SCI. & TECH. L. REV. 259 (Fall/Winter 2023).

¹³ CS(COMM) 1028/2024

toward AI-generated works. Federal courts and the U.S. Copyright Office have reaffirmed time and time again that only human created works are protected by copyright. The fundamental justification for this is that copyright legislation serves as a means of rewarding and encouraging human intellectual work. This position was upheld in the landmark case of *Thaler v. Perlmutter*¹⁴, in which a U.S. district court maintained the Copyright Office's ruling to reject registration for an AI-generated image. According to the court's decision, copyright law has never "stretched so far... to protect works generated by new forms of technology operating absent any guiding human hand." Since then, the U.S. Copyright Office has made it clear that the human creator of a work produced with AI assistance must exhibit "creative control over the work's expression."¹⁵ Simply giving a detailed prompt is not enough, because it is an "unprotectible idea" and the expressive elements of the output are determined by the AI, not the user.

The Pragmatic Framework: The United Kingdom

The UK, is a noteworthy exception which has a law that specifically acknowledges "computer-generated works." According to Section 9(3) of the Copyright, Designs and Patents Act 1988 (CDPA), "the person by whom the arrangements necessary for the creation of the work are undertaken" is designated as the author. In order to address a different technological reality, that of programmers writing the code that produced works on early computers this provision was passed in 1988. It was believed that authorship would safeguard the programmer's work in developing the underlying software.

Although this framework seems practical, it is unclear how it can be applied to contemporary generative AI. In a modern setting, the "necessary arrangements" might be as straightforward as a brief text prompt, which might not account for a significant creative contribution. Because the law does not differentiate between the significant effort of the AI developer and the minimal effort of a user, this results in a situation that is similar to India. Despite its clear provisions, the UK's framework continues to struggle with authorship, albeit from a different perspective. It is an alert to India that a technology-specific legislative solution can quickly become outdated.¹⁶

¹⁴ . CV 22-1564 (BAH) (D.D.C. Aug. 18, 2023)

¹⁵ Michael D. Murray, *Generative AI Art: Copyright Infringement and Fair Use*, 26 SMU SCI. & TECH. L. REV. 259 (Fall/Winter 2023).

¹⁶ John T. Kivus, *Generative AI and Copyright Law: A Misalignment That Could Lead to the Privatization of Copyright Enforcement*, 25

The Regulatory Path: The European Union

Rather than establishing new copyright rights for AI, the European Union has adopted a different approach, focusing on transparency and regulation. The question of AI authorship is not specifically dealt with under the EU AI Act or its Code of Practice. Rather, they place explicit requirements on AI developers. Developers must give creators a way to "opt-out" of having their work used for training, and they must publish summaries of the copyrighted data used for training. This method transfers control from the legal system to a contractual and technical framework.¹⁷

The EU's approach is a policy-based resolution to a legal issue. It recognizes that illegal data ingestion during training poses a greater threat to creators than the final product. Without necessitating a complete revision of copyright principles, the EU strikes a balance between the interests of creators and developers by enforcing transparency and opt-out requirements. A possible legal tool for India to address the jurisdictional concerns brought up in the ANI v. OpenAI case is the EU's readiness to enforce its laws against foreign corporations through the use of an extraterritoriality clause. Because it concentrates on the pragmatic and moral concerns of training data and transparency, this strategy is extremely pertinent and provides India with a useful road map.

SUGGESTIONS

There is a great deal of ambiguity surrounding AI and copyright in India's current legal and policy environment. A multifaceted strategy that combines proactive policy initiatives with legislative reform is required to address this gap and promote a balanced ecosystem for both creators and innovators.

Proposed Amendment to Section 2(d):

A legislative amendment to the Copyright Act is necessary to explicitly define the legal status of AI-generated works. This could follow one of the two models:

Human Assisted Model:

India could adopt the United States' lead and implement a "human creative control" test. The

N.C. J.L. & TECH. 447 (April 2024)

¹⁷ Manish Saini, AI-Generated Works and Copyright Ownership, 4 LEGAL LOCK J. 249 (2024)

"modicum of creativity" required by Eastern Book Company v. D.B. Modak would be demonstrated by this model, which states that copyright would only exist if there is substantial human intervention beyond a simple prompt. Although this method offers clarity, it might not protect works created with little human involvement.

Sui Generis Rights:

The development of a new, sui generis category of rights tailored to AI-generated works is the most practical and progressive solution. The person who makes the "arrangements" for the creation of the work, such as the user or the AI developer, would be granted a limited term of copyright under this new class of protection. This method focuses on the economic and policy ramifications rather than the philosophical argument over whether AI has a "author." In order to balance the need to encourage AI development with the need to prevent perpetual copyright on AI-generated content, a problem underscored by the fact that AI is "immortal" India can grant limited protection and a shorter copyright term by establishing a distinct category.

Data Governance and Licensing:Policy Recommendations

Mandate Transparency:

In addition to updating the law and the notion of authorship, India must establish a specific framework regarding the usage of copyrighted output in the AI training process.

Establish a Centralized Licensing Framework: The establishment of a digital copyright registry or a centralized, industry-led licensing system should be investigated by the government. This would give creators a new source of income and give AI companies a transparent, law-abiding way to obtain training data. This strategy would allay worries expressed by organizations such as IGAP regarding the exorbitant licensing fees.

Clarify "Fair Dealing" for AI:

The current exception of "fair dealing" in India established by Section 52 of the Copyright Act is incapable of addressing the complexities of AI training. Legislative reforms are needed to clarify how this exception relates to text and data mining. The government may also wish to assess the possible expansion of the exceptions to cover TDM for non-consumptive purposes, as proposed in other jurisdictions.

Promoting Legislative and Judicial Harmony

The legislature and the judiciary must take a united stance in order to guide India's future. The

government should stop claiming that the law is "sufficient" and formally acknowledge the gaps in the law. It is encouraging that a government committee on AI and copyright was recently established. To create a framework based on consensus, this body ought to have the authority to consult with multiple stakeholders. Since a comprehensive legislative response is the only way to ensure legal clarity and certainty for all stakeholders, it is imperative that the judiciary refrain from attempting to resolve this issue solely through judicial borrowing.

CONCLUSION

The Indian Copyright Act of 1957 is currently experiencing significant legal and philosophical strain due to the emergence of generative AI. The current framework is not prepared to deal with the complexity of a technology that blurs the boundaries between creator and tool because it is based on the idea of human-centric authorship and originality. As shown by the internal inconsistencies of Section 2(d)(vi), the inadequate "modicum of creativity" test, and the regulatory void revealed by cases such as "Raghav," it has proven that the current legal system is insufficient.

This paper concludes that there is an urgent need for a balanced and forward-looking legal framework by taking insights from the various international regimes. A clear, albeit possibly restrictive, model is provided by the United States' rigorous adherence to human authorship. The antiquated "computer generated works" clause in the UK serves as an example of the dangers of technology-specific laws that don't account for new developments. The regulatory, policy driven strategy of the European Union, on the other hand, provides India with a convincing model since it avoids the philosophical controversies surrounding authorship and instead concentrates on workable solutions like transparency and data governance.

India needs to take a decisive and multifaceted approach to its future. The legislative gap cannot be filled solely by the judiciary. The government must take proactive measures to amend the Copyright Act of 1957 and stop asserting that the current legislation is adequate. A precise legal definition for AI-generated works should be part of this reform, possibly by establishing a sui generis category of rights. To ensure fair compensation for creators and protection of their rights, a robust data governance framework should be established to regulate the use of copyrighted works for AI training purposes. By establishing a fair and progressive legal framework, India can preserve its artistic legacy as well as build on its leadership of AI

innovation in the world.

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