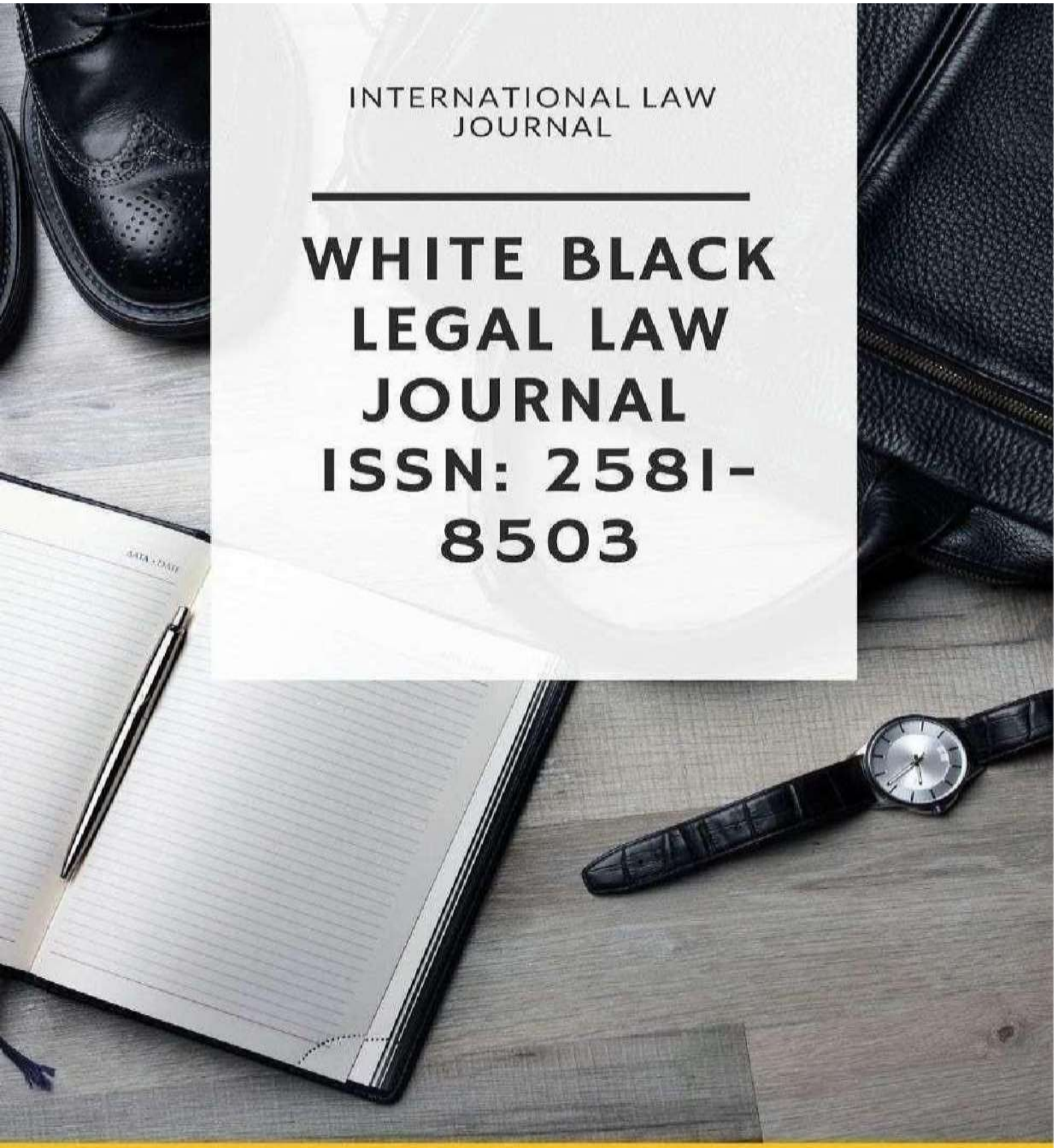

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AUTHORSHIP AND ORIGINALITY OF AI WORKS UNDER INDIAN COPYRIGHT LAW AND A COMPARATIVE STUDY OF FOREIGN LAWS

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ABSTRACT:

This doctrinal study critically examines the authorship, ownership, and protectability of AI-generated works under the Indian Copyright Act, 1957, amid the rise of generative tools like ChatGPT and DALL-E. Analyzing key provisions such as Sections 2(d), 13, and 2(d)(vi)alongside precedents like Eastern Book Company v. D.B. Modak (2008) and ongoing litigation (ANI v. OpenAI, 2024), it identifies gaps in human-centric originality requirements, training data infringement, and moral rights applicability. Through comparative insights from the US (strict human authorship), UK (computer-generated works under CDPA 1988), and EU (AI Act transparency), the research highlights India's doctrinal lag, as noted in the DPIIT Working Paper (2025). It proposes reforms including a "significant human input test," mandatory licensing for AI training, and amendments to foster innovation while protecting creators.

KEY WORDS:

Copyright Act, AI generated Works, US, UK, EU Approaches and Their Laws and IPR Law.

INTRODUCTION:

The advent of artificial intelligence (AI) has revolutionized creative processes, enabling machines to generate literary, artistic, and musical works with minimal human intervention. Tools like ChatGPT for text and DALL·E for images challenge traditional notions of authorship and ownership in copyright law. This study examines the legal implications under the Indian Copyright Act, 1957 focusing on whether AI generated works qualify for protection, who holds authorship, and the adequacy of existing frameworks. By analyzing Indian

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provisions alongside comparative insights from the US, UK, and EU, the research highlights gaps and proposes reforms to balance innovation with intellectual property rights.

The advent of artificial intelligence (AI) has fundamentally transformed creative processes, allowing machines to produce literary texts, visual art, and music with unprecedented autonomy and minimal human input. Advanced tools such as ChatGPT for generating sophisticated prose and poetry, and DALL·E for creating intricate images from textual prompts, have democratized content creation, enabling individuals and industries to produce high quality works at scale. This technological leap, however, profoundly challenges longstanding principles of copyright law, particularly the concepts of authorship, originality, and ownership.

Under the Indian Copyright Act, 1957, copyright protection traditionally hinges on human creativity. Section 2(d) defines an "author" primarily as a natural person who creates the work, while Section 2(d)(vi) addresses computer-generated works by attributing authorship to "the person who causes the work to be created." This provision, introduced in earlier amendments to accommodate digital tools, offers a potential pathway for human users of AI to claim rights over outputs shaped by their prompts, edits, or curation. However, purely autonomous AI generated content produced without meaningful human intellectual effort raises doubts about eligibility for protection, as Indian jurisprudence emphasizes a "modicum of creativity" from a human creator. Recent developments, including government panels reviewing AI and copyright (as of 2025–2026), highlight ongoing deliberations on authorship attribution, fair compensation for training data, and potential amendments to address these gaps. Cases like the withdrawn registration of an AI co authored artwork underscore the current reluctance to recognize non human entities as authors, leaving purely machine-made works in a legal gray area or potentially unprotected.

Comparatively, jurisdictions like the United States adhere strictly to human authorship requirements, as affirmed in recent U.S. Copyright Office reports (e.g., 2025), denying protection to works lacking sufficient human creative input. The United Kingdom uniquely provides copyright for computer-generated works, vesting it in the person making necessary arrangements, though debates persist on its adequacy for generative AI. The European Union emphasizes "author's own intellectual creation" with a human centric focus, bolstered by the AI Act's transparency rules on training data and opt-out mechanisms for rights holders, while

rejecting fully autonomous AI as authors.

These divergent approaches reveal significant inconsistencies in global frameworks, exposing vulnerabilities in India's regime: inadequate provisions for AI training on copyrighted materials, unclear ownership in hybrid human-AI creations, and risks to creators whose works fuel AI models without remuneration. The rapid proliferation of generative AI demands urgent reforms to prevent innovation from outpacing legal safeguards, potentially disincentivizing human creators or enabling unchecked exploitation.

This study critically examines the legal implications of AI generated works under the Indian Copyright Act, 1957[3], assessing whether such outputs qualify for protection, identifying the rightful holder of authorship and ownership, and evaluating the framework's sufficiency in the generative era. By juxtaposing Indian provisions with insights from the US, UK, and EU including recent policy evolutions this research identifies key gaps, such as the absence of explicit rules on AI authorship and data usage. It proposes targeted reforms, including clearer guidelines on human involvement thresholds, statutory remuneration for training data, and balanced exceptions to foster innovation while upholding intellectual property rights and cultural heritage.

HISTORICAL/THEORETICAL FRAMEWORK/BACKGROUND OF THE STUDY:

Copyright law originated in the 18th century with the Statute of Anne (1710) in England, granting authors exclusive rights to incentivize creation. In India, colonial influences shaped the Copyright Act, 1914, evolving into the 1957 Act post-independence, aligning with the Berne Convention (1886) for international protection.

Theoretically, copyright balances utilitarian incentives (Lockean labor theory) with personality rights (Hegelian expression). AI disrupts this: Utilitarian views support protection to encourage development, while personality theories demand human essence. Jurisprudential foundations, like Article 300A of the Indian Constitution (right to property), extend to IP, but AI autonomy questions human-centric doctrines. Doctrinally, originality as "skill and judgment" (R.G.

[3] Copyright Act, 1957

Anand v. Delux Films, 1978)[4] excludes mechanical outputs, yet AI's data-driven creativity challenges this binary.

The origins of modern copyright law trace back to the early 18th century in England with the Statute of Anne (1710), often regarded as the world's first copyright statute. Enacted to curb monopolistic practices of printers and booksellers, it granted authors exclusive rights to print and reprint their works for a limited term typically 14 years, renewable once shifting focus from publisher privileges to author incentives. This marked a pivotal shift toward recognizing creation as deserving protection to encourage literary and artistic output, laying the foundation for balancing individual rights with public access to knowledge.

In India, copyright law evolved under colonial influence. The British East India Company introduced early regulations, culminating in the Indian Copyright Act, 1914, which largely extended the UK's Copyright Act, 1911 to the subcontinent with minor adaptations. This Act provided comprehensive protection for literary, dramatic, musical, and artistic works, aligning with emerging international norms. Post-independence, India replaced this colonial framework with the Copyright Act, 1957, which came into force on January 21, 1958. The 1957 Act was designed to suit India's sovereign needs while aligning with the Berne Convention for the Protection of Literary and Artistic Works (1886), to which India acceded (as modified at Paris in 1971). Subsequent amendments in 1983, 1984, 1992, 1994, 1999, and notably 2012 strengthened protections for digital works, performers' rights, and compliance with TRIPS (1995), WIPO Copyright Treaty (1996), and other treaties, ensuring automatic protection without registration and harmonization with global standards.

Theoretically, copyright rests on dual philosophical pillars: utilitarian incentives and personality based rights. The utilitarian perspective, drawing from thinkers like Jeremy Bentham, views copyright as a policy instrument to maximize social welfare by providing economic incentives for creation and dissemination of works. Without temporary monopolies, creators might under-invest in innovation due to free riding, reducing cultural output. In contrast, personality theories, rooted in Hegelian philosophy, treat intellectual works as extensions of the author's self expressions of individuality, will, and identity. Hegel argued that property externalizes human freedom, allowing self-actualization; thus, moral rights

[4] R.G. Anand v. Delux Films, 1978

(attribution, integrity) protect the personal bond between creator and creation. Lockean labor theory complements this, positing that individuals acquire property rights by mixing their labor with unowned resources, deserving reward for effort though adapted to non rivalrous intellectual goods, it emphasizes "value-added" creativity without depleting commons.

These theories create a balance: utilitarian approaches prioritize public domain access post-term, while personality rights (stronger in civil law traditions) safeguard non economic interests. In India, the framework leans toward a blended model, influenced by common law traditions yet incorporating moral rights under Section 57 of the 1957 Act.[5]

The advent of artificial intelligence (AI) disrupts this equilibrium. AI generated works images, text, music produced autonomously via machine learning challenge human-centric doctrines. Utilitarian views might favor protection to spur AI innovation and investment, viewing outputs as socially beneficial. Personality theories, however, demand a "human essence" or personal expression, rendering purely autonomous AI ineligible, as works lack the author's will or individuality. Lockean labor justifies protection only where significant human effort infuses value.

Indian jurisprudence reinforces human authorship. The landmark R.G. Anand v. Delux Films (1978) established that copyright protects expression, not ideas, requiring originality through "skill, judgment, and labor" a threshold echoed in cases like Eastern Book Company v. D.B. Modak (2008), emphasizing minimal creativity over mere sweat. Mechanical or data-driven outputs without intellectual effort fall short. Constitutionally, Article 300A (right to property, post-44th Amendment) extends to intellectual property, protecting ownership "save by authority of law," but AI autonomy questions whether non-human creations qualify as property tied to human endeavor.

This tension between incentivizing technological progress and preserving human centric creativity exposes gaps in the 1957 Act, drafted pre-AI. Ongoing cases like ANI v. OpenAI (2024 onward) highlight training data infringement, while withdrawn registrations (e.g., Suryast AI artwork) underscore authorship ambiguities. The study builds on this historical and theoretical foundation to critique doctrinal limitations and propose reforms, such as a

[5] Section 57

"significant human input" test, to reconcile AI's disruptive potential with enduring principles of originality and incentive.[6]

ROLE OF JUDICIARY IN THE SUBJECT MATTER:

Indian courts have shaped copyright through human-centric lenses:

1. **Eastern Book Co. v. D.B. Modak (2008):** Originality needs minimal creativity, not mere labor excluding pure AI outputs.
2. **R.G. Anand v. Delux Films (1978):** Protects expression, not ideas; AI mimicking styles may infringe.
3. **ANI v. OpenAI (2024):** Examines training data as infringement, emphasizing fair dealing under Section 52.
4. **Tech Plus Media v. Jyoti Janda (2014):** Copyright for expressions; influences AI cases. Judiciary has influenced rights protection but lacks AI-specific precedents, impacting governance by urging legislative clarity.

The Indian judiciary plays a pivotal role in interpreting and evolving copyright law, particularly under the Copyright Act, 1957, by applying constitutional principles and adapting precedents to emerging technologies. As the guardian of fundamental rights, including the right to property under Article 300A of the Constitution, courts have historically shaped copyright through a human centric lens, emphasizing creativity, expression, and fair use.[7] However, the rise of artificial intelligence (AI)-generated works has exposed limitations in this approach, with judiciary decisions highlighting doctrinal gaps while indirectly urging legislative reforms. Lacking AI specific precedents, courts rely on analogical reasoning from traditional cases, influencing governance by balancing innovation incentives with rights protection. This section analyzes key judicial contributions, their implications for AI, and the broader impact on policy. A cornerstone precedent is Eastern Book Company v. D.B. Modak (2008), where the Supreme Court refined the originality standard under Section 13 of the Act. Rejecting the UK's "sweat of the brow" doctrine (mere industrious collection), the Court mandated "minimal creativity" involving skill, judgment, and intellectual effort beyond mechanical labor. In the context of legal headnotes derived from judgments, the ruling held that only original expressions qualify for protection, not raw facts or public domain materials. Applied to AI, this excludes purely

[6] significant human input
[7] Article 300A

algorithmic outputs generated via data patterns without human ingenuity from copyright eligibility. For instance, AI art or text produced autonomously lacks the requisite "creative spark," potentially deeming such works public domain and vulnerable to exploitation, while AI assisted creations with substantial human input might qualify. This human-centric filter underscores judicial reluctance to extend rights to non-human entities, reinforcing personality-based theories of copyright but creating uncertainty for developers and users in AI ecosystems. The idea expression dichotomy, foundational to Indian copyright, was articulated in R.G. Anand v. Delux Films (1978). The Supreme Court ruled that copyright safeguards expressions, not ideas, themes, or facts, requiring substantial similarity for infringement claims. In this film adaptation dispute, the Court emphasized that while plots or concepts are free for use, their unique articulation merits protection. For AI, this principle implies that mimicking artistic styles (e.g., via style transfer algorithms) could infringe if outputs substantially reproduce protected expressions from training data. However, distinguishing infringement in probabilistic AI generations where outputs remix elements unpredictably poses evidentiary challenges. Courts may analogize AI "styles" to dramatic adaptations, potentially expanding liability for developers whose models inadvertently replicate copyrighted motifs, thus deterring unchecked data scraping.

The ongoing ANI Media Pvt. Ltd. V. OpenAI Inc. (CS(COMM) 1028/2024), filed in November 2024 before the Delhi High Court, represents a landmark AI-copyright confrontation. ANI, a news agency, alleges that OpenAI infringed its copyrights by scraping and storing content for training ChatGPT, constituting unauthorized reproduction and adaptation under Section 14. The case scrutinizes Section 52 fair dealing exceptions, questioning whether text and data mining (TDM) for AI training qualifies as "research" or "private study."[8] As of February 20, 2026, the matter remains sub judice, with arguments advanced but no final judgment. Interim proceedings (late 2025) saw the Court frame four issues: infringement via data storage/reproduction, output violations, fair dealing applicability, and jurisdictional authority over foreign entities. OpenAI's defense invokes transformative use and de minimis copying, drawing US fair use parallels, while ANI seeks injunctions and damages. This litigation influences governance by highlighting enforcement gaps, such as cross-border data flows and proof of substantial similarity in black-box models. Judicial observations have urged statutory clarity on TDM exceptions, aligning with the Department

[8] private study

for Promotion of Industry and Internal Trade's (DPIIT) Working Paper on Generative AI and Copyright (Part I, December 2025), which proposes mandatory blanket licensing. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026 (effective February 20, 2026), mandating labeling of synthetically generated information (SGI), complements this by aiding attribution but falls short on substantive rights.

Another influential ruling is Tech Plus Media Private Ltd. V. Jyoti Janda (2014)**,** where the Delhi High Court affirmed copyright for original expressions in digital content, granting an interim injunction against unauthorized reproduction.[9] Though not AI-specific, it reinforces protection for multimedia expressions, influencing AI cases by analogizing generative outputs to derivative works. Courts may extend this to hold that AI-altered content dilutes moral rights under Section 57 (integrity and attribution), especially in deepfakes or hallucinations misattributing sources.

Beyond these, administrative actions like the Copyright Office's handling of the RAGHAV Artificial Intelligence Painting App (2020-2021) illustrate judicial-adjacent gaps: An AI-generated artwork ("Suryast") was initially registered with the AI as co-author but withdrawn, affirming human-only authorship. No appellate ruling exists, leaving a vacuum.

The judiciary's influence on rights protection is dual-edged: It upholds human creativity, fostering incentives for traditional authors, but the paucity of AI precedents perpetuates uncertainty, stifling innovation in sectors like media and art. Courts have indirectly impacted governance by signaling needs for reform e.g., through obiter dicta in ANI proceedings prompting policy responses like DPIIT consultations (extended to February 2026). Globally, Indian courts draw from US cases like Thaler v. Perlmutter(2023), denying AI authorship, while contrasting UK's arranger-based model. Ultimately, the judiciary acts as a bridge, interpreting the Act dynamically but underscoring the imperative for legislative amendments to define AI authorship, introduce sui generis rights, and clarify TDM, ensuring balanced governance in the AI era.

[9] Tech Plus Media Private Ltd. V. Jyoti Janda (2014)

CONCLUSION & SUGGESTIONS:

KEY FINDINGS:

AI-generated works challenge Indian copyright's human centric framework, lacking originality without input. Judiciary emphasizes creativity, but gaps persist. Comparatively, UK's approach offers a viable model.

SUGGESTIONS:

1. Amend Section 2(d) to include "significant human input" test for AI co authorship, linked to challenges in Chapter IV.
2. Introduce sui generis rights for pure AI works, 50-year term like UK.
3. Clarify fair dealing for training data via guidelines.
4. Establish AI-IP registry for transparency.

This study reveals that the Indian Copyright Act, 1957 rooted in a pre AI era faces fundamental challenges from generative artificial intelligence. The Act's human-centric framework, particularly under Section 2(d) (defining "author" as a natural person or the one causing computer generated creation) and originality standards requiring "skill, judgment, and labor" (as per Eastern Book Company v. D.B. Modak, 2008), struggles to accommodate AI generated works. Purely autonomous outputs lack the requisite human intellectual effort, rendering them ineligible for protection, while hybrid creations with minimal input create authorship ambiguities, as evidenced by the withdrawn registration in the RAGHAV (Suryast) case (2020-2021). Training processes risk infringement by reproducing protected elements without permission, highlighted in the ongoing ANI Media Pvt. Ltd. V. OpenAI Inc. (CS(COMM) 1028/2024), where the Delhi High Court continues to examine fair dealing under Section 52 and jurisdictional issues (still sub judice as of February 2026, with no final ruling).

Judicial interpretations maintain a human-centric lens protecting expression over ideas (R.G. Anand v. Delux Films, 1978) and emphasizing minimal creativity but lack AI-specific precedents, perpetuating uncertainty. Comparatively, the United States enforces strict human authorship (Thaler v. Perlmutter, 2025 affirmation), denying protection to autonomous AI works while allowing some fair use for training (Bartz v. Anthropic, 2025).[10] The European Union ties originality to "author's own intellectual creation" (Infopaq, 2009; Painer, 2011),

[10] Bartz v. Anthropic, 2025

excluding pure AI outputs. The United Kingdom stands out with Section 9(3) of the CDPA 1988, protecting computer-generated works via the "arranger" as author for a 50-year term, offering flexibility without moral rights.

These gaps undermine copyright's dual purpose: incentivizing creation and ensuring public access. Uncertainty deters AI innovation in creative sectors, exposes human creators to uncompensated data use, and fails to balance technological progress with justice. Recent developments, including the DPIIT Working Paper on Generative AI and Copyright (Part I, December 2025) proposing a "One Nation, One License, One Payment" mandatory blanket licensing for training (consultation extended to February 6, 2026, with Part II on outputs pending), and the IT (Intermediary Guidelines) Amendment Rules, 2026 (effective February 20, 2026) mandating labeling of synthetically generated information (SGI), address transparency and harms but not core authorship/ownership issues.

1. Amend Section 2(d) to incorporate a "significant human input" test, granting co-authorship or protection where users demonstrate substantial creative control, skill, or judgment linked to doctrinal challenges in originality and ownership (Chapter IV precedents). This would differentiate AI assisted from autonomous works, aligning with India's jurisprudence while drawing from EU human centric standards.
2. Introduce sui generis rights for pure AI generated works, with a shorter 50-year term akin to the UK's model, providing limited economic protection (reproduction/distribution) without moral rights, to incentivize investment without diluting human creators' incentives.
3. Clarify fair dealing for AI training through explicit guidelines or amendments to Section 52, potentially adopting a limited text and data mining exception with opt-out or remuneration mechanisms, informed by DPIIT's hybrid proposals and US fair use insights.
4. Establish an AI-IP registry under the Copyright Office for voluntary disclosure of training data, outputs, and human contributions, enhancing transparency, traceability, and enforcement complementing the 2026 IT Rules' SGI labeling.[11]

These reforms would modernize the Act, reinforce copyright's significance in fostering innovation, protecting cultural creators, and promoting equitable justice in India's AI

[11] IT Rules'

ecosystem. By adapting proven international models to local needs, India can lead in balanced AI governance, ensuring the law evolves with technology rather than lagging behind.

These reforms reinforce copyright's significance, fostering innovation and justice.