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ARTIFICIAL INTELLIGENCE AUTHORSHIP AND COPYRIGHT OWNERSHIP IN INDIA: REASSESSING HUMAN CREATIVITY IN THE AGE OF GENERATIVE TOOLS

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Abstract
Artificial intelligence is increasingly capable of generating text, images, music, software and other expressive outputs that appear original, valuable and commercially usable. This development has created a fundamental copyright question: can artificial intelligence itself be treated as an author or owner of intellectual property under existing copyright law? This paper examines the issue with particular reference to Indian copyright law, comparative judicial developments and the human authorship requirement. It argues that, under the present legal framework, artificial intelligence cannot be granted copyright ownership because it lacks legal personality, volition and statutory recognition as an author. However, the paper also recognises that AI-generated and AI-assisted works may qualify for protection where sufficient human creative contribution is present. The study analyses the Copyright Act, 1957, the treatment of computer-generated works, the idea-expression distinction, originality, fixation, moral rights, and leading cases on non-human authorship and machine-generated outputs. It further proposes a "significant human input" standard to distinguish protectable human-guided outputs from autonomous machine-generated works. The paper concludes that India does not presently require recognition of AI as an author, but it urgently requires clearer statutory guidance on ownership, disclosure, attribution, licensing and liability in AI-generated content.

Index Terms - Artificial intelligence, copyright, authorship, ownership, generative AI, originality, human creativity, Indian copyright law.

I. INTRODUCTION

Artificial intelligence has moved from being a technical tool to becoming an active participant in creative production. Systems based on machine learning and generative modelling can now prepare legal drafts, compose music, generate paintings, write poetry, design software code and produce research summaries with minimal human prompting. This development challenges traditional copyright law, which was historically designed around human creativity, human personality and human labour.

Copyright protects the expression of ideas rather than the ideas themselves. For a work to receive copyright protection, it must be expressed in a tangible or perceptible form and must satisfy the applicable standard of originality. In India, copyright protection is governed primarily by the Copyright Act, 1957. The Act protects literary, dramatic, musical and artistic works, cinematograph films and sound recordings. However, the Act does not expressly recognise artificial intelligence as a legal person or as an independent author.

The central research question addressed in this paper is whether artificial intelligence can be given ownership of intellectual property under the present copyright framework. The answer, under current law, is negative. AI may assist in creating protectable works, and AI-generated outputs may sometimes be protected when sufficient human creative input exists, but AI itself cannot own copyright. This paper therefore argues for a human-centred but technology-responsive framework that recognises meaningful human contribution without extending legal personality to machines.

II. RESEARCH OBJECTIVES AND METHODOLOGY

The objectives of this paper are fourfold. First, it examines the statutory position of authorship and ownership under Indian copyright law. Second, it analyses whether AI-generated outputs satisfy the requirements of fixation, originality and creativity. Third, it evaluates comparative case law on non-human authorship and AI-generated works. Fourth, it proposes a practical test for determining copyright ownership in AI-assisted and AI-generated works.

The paper adopts a doctrinal research methodology. It relies upon statutory interpretation, case law analysis, comparative legal developments and secondary literature. The discussion is primarily centred on Indian copyright law but draws upon United States and international developments where they assist in understanding the global direction of copyright policy in relation to artificial intelligence.

III. EVOLUTION OF COPYRIGHT LAW IN INDIA

Copyright law in India has evolved from colonial legislation to a modern statutory framework. The earliest formal copyright regime in India can be traced to the colonial period, when copyright protection was largely aligned with English law. The Copyright Act, 1914 extended substantial parts of the United Kingdom Copyright Act, 1911 to India and remained in force until the enactment of the Copyright Act, 1957.

The Copyright Act, 1957 modernised Indian copyright law and has subsequently been amended to respond to technological and international developments. Important amendments were introduced in 1983, 1984, 1992, 1994, 1999 and 2012. The 2012 amendment was particularly significant because it aligned Indian copyright law more closely with the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

However, despite these amendments, Indian copyright law does not yet contain a comprehensive framework for generative artificial intelligence. The Act recognises computer-generated works in a limited manner by treating the author of such work as "the person who causes the work to be created" [1]. This language indicates that Indian law is not entirely silent on computer-generated works, but it continues to locate authorship in a human or legally recognised person who causes the creation rather than in the machine itself.

IV. PRINCIPLES OF COPYRIGHT LAW RELEVANT TO AI

Three foundational principles are especially relevant to AI-generated content: authorship, originality and fixation.

First, copyright law presupposes an author. Section 2(d) of the Copyright Act, 1957 defines "author" in relation to different categories of works. In the case of computer-generated literary, dramatic, musical or artistic work, the author is the person who causes the work to be created [1]. This provision is important because it suggests that even where the output is generated through computational processes, the law seeks a human or juristic link behind the creation.

Second, copyright protects original expression. Originality does not require novelty in the patent-law sense. It requires that the work should not be copied and should involve sufficient skill, judgment or creativity. In Eastern Book Company v. D.B. Modak, the Supreme Court of India moved away from a purely labour-based "sweat of the brow" approach and adopted a standard requiring a minimal degree of creativity [2].

Third, copyright protects works expressed in a tangible or perceptible form. The law does not protect abstract ideas, themes or concepts. In R.G. Anand v. Delux Films, the Supreme Court reiterated that copyright subsists in the expression of an idea and not in the idea itself [3]. Therefore, an AI output may satisfy the fixation or expression requirement if it is embodied in text, image, sound, code or any other perceptible medium. The more difficult issue is not fixation, but authorship and ownership.

V. RIGHTS GRANTED TO COPYRIGHT OWNERS

Copyright confers both economic rights and moral rights. Economic rights enable the copyright owner to reproduce, issue copies, communicate, adapt, translate, perform or commercially exploit the work. These rights may be assigned or licensed in accordance with the Copyright Act. Moral rights, recognised under Section 57, protect the author's right of paternity and integrity by allowing the author to claim authorship and object to distortion, mutilation or modification prejudicial to honour or reputation [1].

The moral rights framework strongly reflects the human personality foundation of copyright law. A machine cannot possess honour, reputation, dignity or personal attachment to a work. This is one of the strongest conceptual reasons for refusing to recognise AI as an author under the present legal framework. Even if an AI output appears creative, the statutory scheme of copyright continues to revolve around human interests, human reputation and human accountability.

VI. JUDICIAL APPROACH TO NON-HUMAN AUTHORSHIP

Courts have generally resisted recognising non-human entities as authors. The monkey selfie dispute, Naruto v. Slater, is instructive. A macaque took photographs using a photographer's camera, and litigation was initiated claiming copyright on behalf of the animal. The United States Court of Appeals for the Ninth Circuit affirmed dismissal of the claim, holding that animals lacked statutory standing under copyright law [4]. The dispute illustrates the judicial tendency to locate copyright in a legally recognised human author rather than in a non-human creator.

This reasoning is relevant to artificial intelligence. Like animals, AI systems are not legal persons under current copyright law. They cannot sue, assign rights, receive royalties, bear liability or exercise moral rights. Even if AI demonstrates functional creativity, copyright ownership requires legal capacity, not merely technical capability.

In the United States, the Copyright Office has also adopted a human authorship approach. Its 2023 guidance states that where a work contains AI-generated material, applicants must disclose AI-generated elements and may claim copyright only in the human-authored aspects of the work [5]. More recently, Thaler v. Perlmutter confirmed that works created entirely by AI without human authorship do not qualify for copyright protection under United States copyright law [6]. Although these developments are not binding in India, they are persuasive indicators of the global judicial and administrative approach.

VII. AI GENERATED WORKS AND THE INDIAN POSITION

Indian copyright law presents a nuanced position. On the one hand, AI cannot be an author because it lacks legal personality and is not recognised as a rights-bearing entity. On the other hand, Section 2(d)(vi) expressly contemplates computer-generated works and identifies the author as the person who causes the work to be created [1]. Therefore, Indian law is better understood as recognising human responsibility for computer-generated works rather than recognising machine authorship.

This interpretation is also consistent with Section 17 of the Copyright Act, which deals with first ownership of copyright. The section assumes that the author is the first owner, subject to statutory exceptions and contractual arrangements. Where a company, employer, programmer, user or commissioner contributes to the creation of AI-generated content, ownership may have to be resolved through contract, employment terms, platform terms or statutory interpretation.

The practical difficulty arises where multiple actors contribute to an AI output: the developer who created the model, the owner of the training data, the platform operator, the user who entered the prompt and the person who edited the final output. Current law does not clearly determine which of these actors "caused" the work to be created. This uncertainty makes reform necessary.

VIII. ORIGINALITY AND THE ROLE OF HUMAN CREATIVITY

The originality requirement remains central to the copyrightability of AI-assisted works. If a human uses AI merely as a mechanical tool, such as a camera, word processor or editing software, the resulting work may be protected as a human-authored work. However, if the human contribution is limited to a simple instruction and the expressive elements are generated autonomously by the AI system, copyright protection becomes doubtful.

AI systems can generate outputs that appear original because they can analyse data, identify patterns and produce new combinations. However, copyright originality is not merely about novelty of output; it is also about human intellectual contribution. The relevant question is whether the human user exercised creative control over the selection, arrangement, refinement, editing or final expression of the work.

For example, a poem generated entirely from a one-line prompt may not reflect sufficient human authorship. By contrast, a research paper drafted with AI assistance but substantially structured, edited, verified and rewritten by a human author may contain protectable human expression. The law should therefore distinguish between AI-generated works and AI-assisted works.

IX. THE SIGNIFICANT HUMAN INPUT TEST

This paper proposes a "significant human input" test for determining copyright ownership in AI-assisted works. The test asks whether the final work would have existed in substantially the same expressive form without meaningful human creative contribution. If the answer is yes, the work should

not receive copyright protection beyond any human-authored elements. If the answer is no, the human contributor should be recognised as the author or co-author of the protectable expression.

The test may consider the following factors:

- The specificity and creativity of prompts supplied by the human user.
- The extent of human selection, arrangement, modification and editing.
- The degree of control exercised over the final expressive form.
- Whether the AI output was accepted mechanically or transformed creatively.
- Whether the final work reflects human judgment, skill and aesthetic choice.

The significant human input standard avoids two extremes. It does not deny protection to all AI-assisted works, because such a rule would discourage creative use of technology. At the same time, it does not grant copyright to purely autonomous machine outputs, because such recognition would dilute the human authorship foundation of copyright law.

X. INTERNATIONAL INFLUENCES AND POLICY DEVELOPMENTS

International copyright instruments also support a human-centred understanding of copyright. The Berne Convention protects literary and artistic works and recognises moral rights, which are closely connected to human personality and reputation [7]. The TRIPS Agreement incorporates substantive copyright obligations within the international trade framework and requires member states to maintain minimum standards of protection [8].

The World Intellectual Property Organization has actively examined the relationship between artificial intelligence and intellectual property. Its discussions reflect a growing global concern that existing IP systems must respond to AI without undermining the incentive structure designed for human creators [9]. India, as a member of these international frameworks, must develop an approach that balances innovation, authorship certainty and protection of human creativity.

XI. APPLICATIONS OF AI IN CREATIVE INDUSTRIES

AI is already being used in literature, music, art, filmmaking, design and legal research. Tools such as Google Magenta, IBM Watson Beat and other generative systems can produce musical compositions using deep learning networks. Chatbots and language models can generate poems, articles, essays, scripts and legal drafts. Image generators can create portraits, illustrations and digital designs based on textual prompts.

These applications show that AI has become a powerful creative assistant. However, they also reveal the risk of over-attribution. Not every output generated with AI should be treated as a human work. Conversely, not every use of AI should destroy copyright. A balanced legal framework should evaluate the quality and quantity of human creative involvement in each case.

XII. NEED FOR REFORM IN INDIA

Indian copyright law should be clarified to address AI-generated content. The current phrase “person who causes the work to be created” is useful but insufficient for complex generative AI systems. It does not specify whether the relevant person is the programmer, the platform owner, the prompt user, the commissioning party or the person who curates and edits the final work.

The following reforms may be considered:

- A statutory explanation distinguishing AI-generated works from AI-assisted works.
- A disclosure requirement for registration of works substantially generated through AI.
- Recognition of copyright only in human-authored selection, arrangement, editing or modification.
- Default ownership rules for employment, commissioned works and platform-based AI generation.
- Clarification that AI systems cannot possess moral rights or independent copyright ownership.
- Guidelines for training data, licensing and liability where AI outputs substantially reproduce protected expression.

These reforms would protect human creators while allowing responsible technological innovation. They would also reduce uncertainty for publishers, researchers, artists, technology companies and courts.

XIII. CONCLUSION

Artificial intelligence is capable of producing works that appear creative, original and commercially valuable. Nevertheless, under the current copyright framework, AI cannot be granted ownership of

intellectual property. Copyright law is not merely concerned with output; it is concerned with authorship, legal personality, accountability, moral rights and human creativity.

Indian law does not recognise AI as an author. Section 2(d)(vi) of the Copyright Act, 1957 instead identifies the author of computer-generated work as the person who causes the work to be created. This reflects a human-centred approach. Therefore, AI-generated outputs may be protected only to the extent that they involve significant human creative contribution.

The correct legal approach is not to confer authorship upon AI, but to develop a clear statutory and judicial framework for AI-assisted creation. The proposed significant human input test provides a workable standard for distinguishing protectable human-guided works from unprotectable autonomous machine outputs. As generative AI continues to evolve, India must modernise its copyright law to preserve human creativity while enabling innovation in the digital economy.

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