
CAN ARTIFICIAL INTELLIGENCE BE AN AUTHOR? AN ANALYSIS OF THE INDIAN COPYRIGHT ACT, 1957

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ABSTRACT

The emergence of generative Artificial Intelligence (AI) has transformed the traditional understanding of creativity, authorship, and ownership within copyright law. AI systems are now capable of independently producing literary works, music, paintings, software code, and cinematic content with minimal human intervention. This technological advancement raises a fundamental legal question: can Artificial Intelligence be recognized as an “author” under the purview of the Indian Copyright Act, 1957? Indian copyright jurisprudence has historically been premised on human creativity and intellectual labor. However, the increasing autonomy of AI systems challenges the anthropocentric foundations of copyright law.

This article examines the concept of authorship under the Indian Copyright Act, 1957 and critically evaluates whether AI-generated works can receive copyright protection in India. The article analyzes statutory provisions such as Sections 2(d), 13, and 17 of the Act, judicial interpretations of originality, and the legal status of computer-generated works. It further undertakes a comparative analysis of approaches adopted in jurisdictions such as the United States, the United Kingdom, and the European Union. The article argues that existing Indian copyright law is insufficient to address fully autonomous AI-generated creations and highlights the need for legislative reform. It concludes by proposing a balanced framework that recognizes substantial human contribution while preventing monopolization of machine-generated content.

Introduction

Artificial Intelligence has emerged as one of the most disruptive technological developments of the twenty-first century. Generative AI models such as ChatGPT, Midjourney, DALL-E, and Gemini can create poems, articles, paintings, music compositions, and even software programs that resemble human creativity. Unlike traditional computer programs that merely execute commands, modern AI systems rely on machine learning algorithms capable of autonomous decision-making and content generation. This evolution has created unprecedented legal and philosophical questions regarding the rights of such intellectual property.

Copyright law traditionally protects the fruits of human creativity. The Indian Copyright Act, 1957 grants protection to original literary, dramatic, musical, and artistic works created through intellectual labor. The concept of “authorship” lies at the heart of copyright protection because ownership and economic rights flow from authorship. However, the rise of AI-generated works destabilizes this framework because AI systems lack legal personality¹, and intent.

The central issue is whether AI can be recognized as an “author” under Indian copyright law or whether copyright protection should instead vest in the programmer, user, or owner of the AI system. The issue becomes more complex where AI operates autonomously with minimal human involvement. Indian copyright legislation does not explicitly address AI-generated works, thereby creating a significant legal vacuum. Although Section 2(d)(vi) recognizes “computer generated works,” the provision was enacted long before the advent of generative AI and does not adequately resolve questions relating to autonomous machine creativity.

The issue has gained global relevance due to increasing litigation concerning AI-generated content and AI training datasets. Courts and policymakers worldwide are debating whether copyright law should continue to require human authorship or evolve to accommodate machine-generated creativity. India has also initiated discussions regarding reform of copyright law in light of AI-related disputes and ongoing litigation involving AI companies.

This article examines whether AI can legally qualify as an author under the Indian Copyright Act, 1957. It analyzes the statutory framework, doctrinal challenges, comparative international

¹ Ryan Abbott, *The Reasonable Robot: Artificial Intelligence and the Law* (Cambridge University Press 2020).

developments, and future implications of AI-generated works within copyright jurisprudence.

Literature Review

The intersection between Artificial Intelligence and copyright law has emerged as one of the most debated issues within contemporary intellectual property jurisprudence. The rapid development of generative AI systems capable of independently producing literary, artistic, musical, and audio-visual works has prompted scholars across jurisdictions to reconsider the traditional theories of authorship, originality, ownership, and creativity. Existing literature reveals significant disagreement regarding whether copyright law should evolve to accommodate AI-generated works or continue to remain exclusively focused on human creations.

Traditional Theories of Copyright and Human Authorship

Classically, the concept of copyright has historically viewed authorship as inseparable from human intellectual labor and creativity. Philosophical justifications for copyright law are primarily rooted in three major theories: the natural rights theory, the utilitarian theory, and the personality theory.

The labor theory of Locke argues that individuals possess proprietary rights over the products of their mental labor². Copyright protection therefore rewards human effort, skill, and investment in creative activity. Similarly, Hegel's personality theory conceptualizes creative works³ as extensions of an individual's personality and moral identity. These theories collectively assume that authors possess emotional and intentional expression as attributes that are absent in AI creations.

Several scholars argue that because AI lacks independent consciousness and moral agency, it cannot satisfy the philosophical foundations underlying copyright law. According to this view, AI merely functions as a sophisticated computational tool rather than an original creative entity. Consequently, granting authorship to AI would dilute the conceptual basis of copyright jurisprudence and undermine the legal relationship between creator and creation.

However, other scholars challenge the continued relevance of purely anthropocentric theories

² John Locke, *Second Treatise of Government*, 1689

³ Margaret Jane Radin, "Property and Personhood" (1982) 34 *Stanford Law Review* 957

in the era of machine learning. They argue that generative AI systems increasingly demonstrate autonomous decision making capabilities that can resemble creative processes traditionally associated with human authorship. Some commentators therefore contend that copyright law must evolve functionally rather than philosophically in order to respond effectively to technological realities.

The Concept of Originality in Copyright Jurisprudence

The literature surrounding originality forms a central component of debates concerning AI-generated works. Copyright protection in most jurisdictions, including India, depends upon originality. Indian courts have interpreted originality through the “modicum of creativity” standard established in *Eastern Book Company v. D.B. Modak*⁴, which requires the application of skill, judgment, and intellectual effort.

Scholars remain divided regarding whether AI-generated outputs satisfy originality requirements. One school of thought argues that originality inherently requires human intellectual contribution. According to this perspective, AI systems merely generate outputs through algorithmic pattern recognition based on training data and therefore lack genuine creativity. Since machines do not possess subjective consciousness or intentionality, their outputs cannot qualify as original works in the legal sense.

Conversely, another group of scholars argues that originality should focus on the novelty and uniqueness of the final output rather than the metaphysical status of its creator. They contend that certain AI-generated works exhibit substantial creativity, unpredictability, and originality that may rival or surpass human-generated content. Under this approach, denying protection solely because a machine participated in creation could discourage technological innovation and fail to reflect practical realities within modern creative industries.

This debate has intensified with the emergence of generative AI models capable of producing sophisticated artistic and literary works without detailed human instructions.

AI-Assisted Works versus AI-Generated Works

Contemporary literature increasingly distinguishes between AI assisted works and fully AI

⁴ *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1

generated works. This distinction has become central to modern copyright scholarship because varying levels of human involvement directly affect questions of authorship and ownership.

AI-assisted works refer to creations where humans exercise substantial creative control while using AI merely as a tool. Examples include artists using AI software for editing images, musicians employing AI-based sound enhancement tools, or writers utilizing AI for drafting assistance. Scholars generally agree that such works can be considered copyright because meaningful human creativity continues to exist.

In contrast, AI-generated works involve situations where AI autonomously determines significant expressive elements of the final output with minimal or negligible human intervention. Here, the human role may be limited to entering prompts or activating the system. The legal challenge arises because existing copyright frameworks were not designed to accommodate autonomous machine creativity.

A substantial body of literature argues that prompt-based interaction alone may not constitute sufficient creative contribution for copyright protection. Others, however, argue that prompts often involve complex creative choices that meaningfully shape the final output. The ambiguity surrounding prompt engineering has therefore become a major area of scholarly debate.

Comparative Legal Analysis

The question of whether Artificial Intelligence can qualify as an author under copyright law has generated substantial legal debate across jurisdictions. Different countries have adopted varying approaches regarding the copyrightability of AI-generated works, particularly concerning the requirement of human authorship, originality, and ownership. A comparative legal analysis of major jurisdictions demonstrates that although legal systems recognize the growing role of AI in creative industries, most continue to preserve human creativity as the foundational basis of copyright protection.

United States

The United States adopts one of the strictest approaches regarding AI-generated works by firmly maintaining the requirement of human authorship. American copyright jurisprudence is based on the principle that copyright protection extends only to works originating from human intellectual creativity.

The U.S. Copyright Office has consistently clarified that copyright protection cannot subsist in works generated entirely by Artificial Intelligence without meaningful human contribution. This position was reaffirmed in recent decisions concerning AI-generated artworks where registration was denied on the ground that copyright law protects only “the fruits of intellectual labor” founded upon human creativity.⁵

American courts have therefore drawn a distinction between AI-assisted works, where humans exercise creative control using AI as a tool; and fully AI-generated works, where the machine autonomously determines the expressive output.

Under this framework, AI-assisted works may receive copyright protection if sufficient human creativity exists in the selection, arrangement, modification, or direction of the generated content. However, purely autonomous machine-generated outputs remain outside the scope of copyright protection.

This approach reflects the broader philosophical foundations of American copyright law, which emphasize human individuality, intellectual effort, and constitutional incentives for creative expression. Nevertheless, critics argue that the rigid insistence on human authorship may inadequately address the realities of modern generative AI systems and could discourage investment in AI-driven creative technologies.

Recently, in a landmark development, the United States Copyright office granted limited copyright protection to a graphic novel that was illustrated by generative AI MidJourney. The novel titled ‘Zarya of the Dawn’ written by the author Kris Kashtanova, features a human generated storyline alongside AI generated illustrations⁶.

United Kingdom

The United Kingdom adopts a comparatively more flexible statutory framework regarding computer-generated works. Section 9(3) of the UK Copyright, Designs and Patents Act, 1988 provides that in the case of a “computer-generated” work, the author shall be “the person by whom the arrangements necessary for the creation of the work are undertaken.”⁷

⁵ Thaler v. Perlmutter, 687 F. Supp. 3d 140 (D.D.C. 2023)

⁶ Robert J. Kasunic, U.S. Copyright Off., *Zarya of the Dawn* (Registration # VAu001480196) (2023)

⁷ Copyright, Designs and Patents Act 1988

Unlike the American model, the UK framework does not require direct human expression within every aspect of the creative process. Instead, it permits attribution of authorship to the individual responsible for facilitating or organizing the creation of the work.

The British approach is particularly significant because it recognizes the possibility of copyright subsisting even where no traditional human author directly creates the expressive content. Consequently, programmers, operators, or users responsible for initiating the creative process may potentially qualify as authors.

However, contemporary legal commentators have questioned the continued adequacy of Section 9(3) in the context of modern generative AI systems. The provision was enacted during a period when computer-generated works primarily involved rule-based automation rather than autonomous machine learning systems capable of independently producing sophisticated creative outputs.

As a result, uncertainty persists regarding:

- the extent of human involvement required,
- the identification of the person making “necessary arrangements,” and
- the applicability of the provision to advanced generative AI systems.

India’s Section 2(d)(vi) of the Copyright Act, 1957 bears substantial similarity to the UK framework, making British jurisprudence particularly relevant for Indian copyright discourse.

European Union

The European Union adopts a strongly human-centric approach toward copyright protection. European copyright jurisprudence consistently emphasizes that copyright subsists only in works constituting the “author’s own intellectual creation.” This principle has been repeatedly affirmed through decisions of the Court of Justice of the European Union (CJEU).

Under the European approach, originality depends upon the existence of free and creative choices made by a human author. Consequently, purely AI-generated works lacking meaningful human intellectual contribution are generally considered incapable of receiving copyright protection.

The European framework reflects broader normative concerns regarding:

- protection of human dignity and creativity,
- preservation of moral rights,
- ethical regulation of technology,
- and prevention of excessive concentration of creative control within technology corporations.

European legal commentators additionally express concern that granting copyright protection to fully autonomous AI-generated works may undermine the public domain and weaken incentives for human artistic and literary production⁸

At the same time, the European Union has actively pursued regulatory initiatives addressing Artificial Intelligence through broader technological governance frameworks, including transparency obligations, accountability mechanisms, and ethical safeguards. This demonstrates a preference for regulating AI through specialized policy instruments rather than expanding traditional copyright doctrines to accommodate machine authorship.

Indian Position in Comparative Perspective

India presently occupies an uncertain position within the global copyright landscape concerning AI-generated works. The Indian Copyright Act, 1957 does not expressly recognize Artificial Intelligence as a legal author. However, Section 2(d)(vi), which attributes authorship of computer-generated works to “the person who causes the work to be created,” introduces interpretative ambiguity.

Unlike the United States, Indian law does not explicitly require human authorship through statutory language or judicial precedent. Simultaneously, unlike the United Kingdom, India lacks substantial judicial interpretation clarifying the scope of computer-generated authorship provisions.

Indian copyright jurisprudence continues to rely heavily upon traditional concepts of

⁸ Infopaq International A/S v. Danske Dagblades Forening (Case C-5/08) [2009] ECR I-6569.

originality, skill, judgment, and intellectual creativity as articulated in *Eastern Book Company v. D.B. Modak*. These principles implicitly favor human-centered creativity while leaving unresolved questions concerning autonomous AI systems.

Consequently, the Indian legal framework presently reflects elements of both the American and British approaches without fully adopting either model. This ambiguity creates uncertainty regarding:

- ownership of AI-generated works,
- identification of authorship,
- allocation of liability,
- and standards for originality.

Key Observations

A comparative legal analysis of international jurisdictions reveals several common trends.

First, no major jurisdiction presently recognizes Artificial Intelligence itself as a legal author possessing independent copyright ownership. Despite increasing technological sophistication, copyright systems continue to prioritize human creativity as the conceptual foundation of authorship.

Second, jurisdictions increasingly distinguish between AI-assisted works and fully autonomous AI-generated works. Copyright protection is generally more likely where meaningful human creative contribution exists.

Third, legal systems remain divided regarding the extent to which existing copyright frameworks should adapt to technological advancements. While the United States adopts a restrictive human-authorship model, the United Kingdom permits more flexible attribution through statutory interpretation. The European Union, meanwhile, prioritizes preservation of human intellectual creation and ethical technological governance.

Finally, comparative legal analysis demonstrates that existing copyright statutes across jurisdictions were largely developed before the emergence of modern generative AI systems.

Consequently, most legal frameworks presently struggle to adequately address issues regarding autonomous machine creativity and AI-generated content.

The comparative position therefore indicates an urgent need for legislative action in order to revise the statute to fit the current times. For India specifically, comparative jurisprudence provides valuable guidance for developing a balanced legal framework capable of protecting technological innovation while preserving the human-centered foundations of copyright law.

AI Training Data and Copyright Infringement

Another rapidly expanding area is based upon studying AI training datasets. Generative AI systems are trained using massive volumes of copyrighted books, artworks, music, articles, and online content. This process has generated significant debate regarding whether AI training constitutes copyright infringement.

Some scholars argue that training AI on copyrighted material without permission amounts to unauthorized reproduction and exploitation of protected work. They have brought up the fact that AI companies benefit commercially from copyrighted material without compensating original creators.

Others argue that AI training should qualify as fair use or fair dealing because the process is transformative and necessary for technological advancement. They compare AI training to search engine indexing or data mining activities previously recognized as legitimate within certain jurisdictions.

Indian scholarship on this issue remains relatively underdeveloped but is expected to grow rapidly as AI related litigation expands globally.

Emerging Scholarly Consensus

Although scholars differ significantly regarding solutions, certain broad patterns emerge from existing literature:

1. Most scholars reject direct legal personhood for AI.
2. Human creativity continues to remain central to copyright protection.

3. Existing copyright statutes are widely considered inadequate for addressing autonomous AI-generated works.
4. There is increasing support for legislative reform clarifying ownership and originality standards.
5. Many scholars favor distinguishing between AI-assisted and fully autonomous AI-generated works.

The literature therefore reflects an ongoing transition within copyright jurisprudence from traditional human-centric frameworks toward more technologically responsive models. However, no universal consensus has yet emerged regarding the appropriate balance between protecting innovation and preserving the foundational principles of copyright law.

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