AI-GENERATED CONTENT AND COPYRIGHT LAW IN INDIA: WHO OWNS THE COPYRIGHT?

Divya Verma, Research Scholar, College of Legal Studies, COER University

Priyanka Dobriyal, Research Scholar, College of Legal Studies, COER University

ABSTRACT

Generative AI has challenged one of the core tenets of copyright that posits a human creator for a work. This paper looks at the Indian copyright law, which is rooted in Section 2(d) of the Copyright Act, 1957, and how it is adapting to the machine-generated literary, artistic, musical and dramatic works. It covers the Copyright Office's initial recognition of the AI application RAGHAV as a co-author of the work titled "Suryast" in its brief and later withdrawn recognition and the reasoned order issued by the Registrar of Copyrights dismissing Stephen Thaler's application to register "A Recent Entrance to Paradise" with the AI system DABUS as the author of the work, as well as the decision of the Delhi High Court in ANI Media Pvt. Ltd. v. Open AI OpCo LLC on the concept of fair-dealing in the training of AI systems. The paper places these developments in the context of the "person who causes the work to be created" formula of Section 2(d)(vi), the originality standard established in Eastern Book Co. v. D.B. Modak, as well as comparative analysis of the United States, the United Kingdom and the European Union. It claims that Indian law already provides a satisfactory, if incomplete, solution to the question of AI-aided works that are directed by humans, but doesn't provide any solution for purely AI-generated works in a doctrine that can only be filled in by Parliament and not administrative interpretation. The paper concludes with practical suggestions for the statutory clarification, which were made by Parliament in 1994, when generative AI was not yet around.

Keywords: Artificial Intelligence, Copyright, Authorship, Copyright Act 1957, Section 2(d)(vi), Originality, Generative AI, Fair dealing, RAGHAV, DABUS.

INTRODUCTION

Copyright law has, since its origins in the Statute of Anne, rested on a simple and largely unquestioned premise: a work has an author, and that author is a person. [1] The rise of generative artificial intelligence - systems capable of producing publishable prose, broadcast-quality music, exhibition-ready paintings and functioning computer code from a short natural-language prompt - has forced every major copyright jurisdiction to ask whether that premise still holds. India's encounter with the question has been unusually concrete. Unlike jurisdictions that have debated AI authorship largely in the abstract, India has produced an actual registration naming an AI application as co-author, a formal withdrawal of that registration, a reasoned order refusing to name an AI system as sole author, and a substantive judicial ruling on whether AI training itself infringes copyright. Taken together, the Suryast registration, the DABUS order of 31 August 2026, and the Delhi High Court's judgment in ANI Media Pvt. Ltd. v. Open AI OpCo LLC [2] make India one of the most instructive case studies anywhere in the world for how a statute drafted decades before generative AI existed is being stretched, and occasionally strained, to answer questions its framers never contemplated.

The paper asks a narrow but consequential question: under Indian law as it stands today, who owns the copyright, if any, in content generated wholly or partly by artificial intelligence? The inquiry proceeds in three stages. Part II sets out the statutory architecture governing authorship and originality under the Copyright Act, 1957, with particular attention to the "computer-generated work" provision in Section 2(d)(vi), a clause enacted in 1994 that has become, improbably, the single most litigated provision in Indian intellectual property law of the mid-2020s. [3] Parts III to VI trace the three defining episodes in India's short but eventful history with AI and copyright - the RAGHAV/Suryast registration and its withdrawal, the DABUS authorship order, and the ANI v. OpenAI training-data litigation - and extract the doctrinal propositions each supports. Part VII situates these Indian developments against the comparative backdrop of the United States, the United Kingdom and the European Union. Part VIII examines the competing theoretical models for allocating ownership in AI-assisted output - the programmer theory, the user or prompter theory, and the (uniformly rejected) AI-

[1]Copyright Act 1710, 8 Ann. c. 21 (Eng.) (the Statute of Anne, generally regarded as the first modern copyright statute, vesting rights in the "author" of a book).
[2]ANI Media Pvt. Ltd. v. Open AI OpCo LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, 2026: DHC:5900 (Del. H.C. July 24, 2026).
[3]Copyright Act, No. 14 of 1957, § 2(d)(vi), India Code (1957), as inserted by the Copyright (Amendment) Act, No. 38 of 1994.

personhood theory. Part IX offers a critical assessment of the gaps that remain, and Part X sets out concrete recommendations for legislative reform.

The paper's central claim is a modest but important one. Indian copyright law, precisely because Section 2(d)(vi) already anticipates a category of works produced without a conventional human "author" in the Romantic sense, is better equipped than many commentators assume to handle AI-assisted works where a human being exercises genuine creative direction over the AI tool. Where Indian law runs out of road is at the point of full autonomy - where no natural person can meaningfully be said to have "caused" the work to be created. That gap, as the Registrar of Copyrights acknowledged in the DABUS order, is not one that administrative reinterpretation can close; it calls for parliamentary attention. [4]

II. THE STATUTORY ARCHITECTURE: AUTHORSHIP AND ORIGINALITY UNDER THE COPYRIGHT ACT, 1957

The Copyright Act, 1957 does not mention the word 'artificial intelligence' anywhere; and not surprisingly, that is because the Copyright (Amendment) Act, 1994, which introduced the new clause in the 1957 Act, set out to substantially define the term. Section 2(d) provides different definitions in each of the categories of works. In the case of a literary or dramatic work, the author is the person who creates the work; in the case of a musical work, the composer; in the case of an artistic work other than a photograph, the artist; and, more critically, Section 2(d)(vi) says that "in relation to any literary, dramatic, musical or artistic work which is computer-generated, the author is the person who causes the work to be created." [5] Section 2(o) separately defines "literary work" to include computer programmes, and Section 2(d)(vi) is the residual provision that identifies an author whenever no natural person can be said to have directly written, composed or drawn the work in the conventional sense.

Two consequences follow from the text of Section 2(d)(vi). First, the provision presupposes that a "person" must be found. India's copyright statute, unlike the analogous United Kingdom provision discussed in Part VII, does not define "computer-generated work" separately, but the structure of Section 2(d) as a whole - and Section 2(d)(i) through (v), which consistently anchor authorship in a human being, a legal entity, or a person taking initiative and responsibility -

[4]In re Application of Stephen L. Thaler for Registration of "A Recent Entrance to Paradise," Diary No. 9356/2022-CO/A, Order of the Registrar of Copyrights 40-44 (Gov't of India, Aug. 31, 2026) [hereinafter DABUS Order].
[5]Copyright Act, No. 14 of 1957, § 2(d), India Code (1957).

makes clear that "person" in Section 2(d)(vi) means a natural or juristic person capable, as a matter of law, of holding and transferring property. [6] An AI system, having no legal personality, cannot satisfy that description, whatever its computational sophistication. Second, the phrase "causes the work to be created" is deliberately broader than "creates." It was drafted to capture situations such as a photographer who sets up an automated camera, or a producer who directs a computer programme to generate output, without requiring that the person perform every keystroke personally. [7] That breadth is precisely what has allowed the Copyright Office and the courts to locate a human author in AI-assisted works without amending the statute - and precisely what runs out when no human causal contribution can be identified at all, as in a fully autonomous system.

The second load-bearing concept is originality. Section 13 of the Act grants protection to "original" literary, dramatic, musical and artistic works, but the concept of originality is not defined expressly in the Act and is rather to be developed by the courts. [8] In the initial decisions of cases in India, the "sweat of the brow" concept was followed, where the mere investment of labour and capital would suffice for originality, as in the case of Macmillan & Co. v. K. & J. Cooper. [9] In Eastern Book Company v. D.B. Modak, the Supreme Court firmly rejected that low standard, ruling that a work must reflect "a minimum degree of creativity" exercised by an author's "own skill and judgment," rather than the sweat of the brow and the American modicum of creativity standard set forth in Feist Publications, Inc. v. Rural Telephone Service Co. [10] The Court explicitly referred to the Canadian Supreme Court's “skill and judgment” concept in CCH Canadian Ltd. v. Law Society of Upper Canada as its favored middle ground.[11] This originality standard is what the Registrar of Copyrights applied, with notable consequences, in the 2026 DABUS order discussed in Part IV: an AI-generated image, the Registrar held, could satisfy Section 13's originality requirement even though the entity that generated it could not, under Section 2(d)(vi), be recognised as its author. [12] That bifurcation -

[6]Id. § 2(d)(i)-(v); see also Notice of Withdrawal to Ankit Sahni Regarding Registration of Suryast (Copyright Office, Gov't of India, Nov. 25, 2021) (invoking §§ 2(d)(iii) and 2(d)(vi) jointly).
[7]See DABUS Order, supra note 4, 38 (distinguishing "causing" a work to be created from personally executing it).
[8]Copyright Act, No. 14 of 1957, § 13, India Code (1957).
[9]Macmillan & Co. v. K. & J. Cooper, (1924) 51 I.A. 109 (P.C.) (approving the "sweat of the brow" standard of originality later departed from in Eastern Book Co.).
[10]Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1, 37-40 (India); Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 345 (1991).
[11]CCH Canadian Ltd. v. Law Soc'y of Upper Canada, 2004 SCC 13, 16, [2004] 1 S.C.R. 339, 355 (Can.), cited with approval in Eastern Book Co., (2008) 1 S.C.C. 1, 38.
[12]DABUS Order, supra note 4, 52-58.

an original work with no cognisable author - is the single most important doctrinal tension this paper examines. Section 17 completes the statutory picture by identifying the first owner of copyright, which, absent a contract or an employment relationship falling within the statute's specific carve-outs, vests in the author identified under Section 2(d). [13] Ownership under Indian law is therefore parasitic on authorship: one cannot meaningfully ask who owns an AI-generated work without first resolving who, if anyone, is its author.

III. THE SURYAST SAGA: RAGHAV AND THE MOMENTARY RECOGNITION OF AI CO-AUTHORSHIP

The first time India faced AI authorship, it was not in the context of an actual lawsuit, but rather a routine application for registration. As an intellectual property lawyer and an artist, Ankit Sahni has used an AI painting application called RAGHAV (Robust Artificially Intelligent Graphics and Art Visualiser) to create a painting of a sunset, "Suryast," from a photograph of a sunset that he had taken, in a style reminiscent of the work of Vincent van Gogh, “The Starry Night.”[14] Sahni's initial application, on which he was the sole applicant, was denied by the Copyright Office. The second, to which RAGHAV and Sahni have also contributed, was accepted and in November 2020 the Copyright Office issued a certificate of registration – presumably the first by any copyright office in the world to recognise an application based on artificial intelligence as a 'co-author' of a registered work. [15]

The registration lasted but a short time. The Copyright Office sent Sahni a notice of withdrawal in November 2021, specifically bringing to his attention Section 2(d)(iii) which defines the author of an artistic work as "the artist", and Section 2(d)(vi) and asking him to clarify the "legal status" of RAGHAV. [16] The clear implication was that the Office had, on reflection, concluded that an artificial intelligence application could not simultaneously be treated as an "artist" under Section 2(d)(iii) or as a "person" who "causes" a work to be created under Section 2(d)(vi), because neither provision contemplates a non-human co-author. The registration for Suryast remains, as a formal matter, listed as "Registered," but the withdrawal notice has been

[13]Copyright Act, No. 14 of 1957, § 17, India Code (1957).
[14]Registration of Suryast, No. A-135120/2020 (Copyright Office, Gov't of India, Nov. 2020); see Divergence in Copyright Recognition for AI-Generated Works: An In-Depth Analysis of Ankit Sahni's Case in the US and India, KSANDK Insights (May 12, 2024).
[15]Id.; see also Exclusive: India Recognises AI as Co-Author of Copyrighted Artwork, Managing IP (June 9, 2022).
[16]Notice of Withdrawal to Ankit Sahni Regarding Registration of Suryast (Copyright Office, Gov't of India, Nov. 25, 2021).

treated by subsequent commentary and by the Copyright Office itself as establishing that a human author is a mandatory precondition for copyright registration in India. [17]

Two things about the RAGHAV episode deserve emphasis for present purposes. First, it was never treated by the Office, even at its high-water mark, as recognising RAGHAV as sole author; the application naming RAGHAV alone was rejected outright, and it is that pairing of a human "person who causes" alongside the AI tool that was initially accepted before being reconsidered. [18] Second, the episode drew the attention of Parliament: The Parliament Standing Committee on Commerce, which is examining the state of the IP regime in India, had called in the past for a review of the Patents Act, 1970 and the Copyright Act, 1957 to cover AI related inventions and works, indicating a nascent awareness of the legislative side even before the DABUS order made the tension unavoidable. [19] The RAGHAV saga therefore stands, in retrospect, less as a settled precedent than as the Copyright Office's own uncertain first attempt to apply a thirty-year-old statutory formula to a genuinely new category of creative production - an attempt it ultimately walked back rather than defended.

IV. THE DABUS ORDER: THE REGISTRAR'S REASONED DETERMINATION ON AI AUTHORSHIP

If Suryast was India's tentative and ultimately abandoned first step, the Registrar of Copyrights' order of 31 August 2026 is its first reasoned, considered pronouncement on AI authorship, and the closest thing India currently has to binding administrative doctrine on the question. [20] Dr Stephen L. Thaler, the American computer scientist behind the "Device for the Autonomous Bootstrapping of Unified Sentience," or DABUS, filed an application in May 2022 to register an artistic work titled "A Recent Entrance to Paradise," naming DABUS as author and himself as the person entitled to ownership. [21] The application echoed Thaler's parallel and by then largely unsuccessful efforts to register DABUS as an inventor under patent law across multiple jurisdictions, including India, where the Patent Office had already rejected a corresponding

[17]See The Impact of Generative AI on Copyright as Indian Jurisprudence Evolves, Lexology (Oct. 7, 2025).
[18]See Registration of Suryast, supra note 14 (rejecting the initial application naming RAGHAV as sole author before accepting the co-authorship application).
[19]Parliamentary Standing Committee on Commerce, Report on Review of the Intellectual Property Rights Regime in India (Lok Sabha Secretariat, Gov't of India).
[20]DABUS Order, supra note 4.
[21]Id. 2-6.

DABUS patent application for want of legal personhood in the purported inventor. [22]

The Copyright Office issued a discrepancy letter in July 2023, noting that the application identified no natural or juristic person as author. Thaler's response did not resolve the Office's concern, and the matter lay dormant until Thaler approached the Delhi High Court, which on 9 April 2026 directed the Registrar to expedite the long-pending proceedings, preferably concluding them within eight weeks of a hearing scheduled for later that month. [23]

The Registrar's reasoning, set out in the order dated 31 August 2026, is doctrinally significant on two distinct points. On originality, applying the Eastern Book Co. v. D.B. Modak standard, the Registrar held that the DABUS artwork displayed sufficient skill and judgment in its generation to satisfy Section 13, notwithstanding that it had been produced autonomously by an AI system rather than by direct human hand. [24] On authorship, however, the Registrar held that DABUS could not be recorded as author under Section 2(d)(vi) because it lacked the legal personality that authorship, and the ownership rights flowing from Section 17, necessarily presuppose: an author who cannot hold or transfer property cannot function as a first owner of copyright, and Section 2(d)(vi) therefore cannot be read to designate a non-person as author regardless of the sophistication of its output. [25] The Registrar went further, observing that had Thaler correctly identified himself, rather than DABUS, as the person who "caused" the work to be created, Section 17 would ordinarily have made him the first owner subject to any contrary agreement - meaning the application's defect was curable in principle but was not, on the facts, cured because Thaler declined the Registrar's invitation to amend. [26] The application was accordingly refused not because AI-generated content is inherently uncopyrightable in India, but because Thaler insisted on naming an entity incapable, as a matter of law, of being an author.

The DABUS order is best read as confirming, with unusual clarity for an administrative order, three propositions that this paper treats as the settled starting point for Indian law as of late 2026: originality under Section 13 is a property of the output and can be satisfied by AI-generated content; authorship under Section 2(d)(vi) is confined to natural or juristic persons

[22]Stephen Thaler's AI-Generated Patent Application Rejected by Indian Patent Office, MLex (Apr. 27, 2026); see also Thaler v. Vidal, 43 F.4th 1207 (Fed. Cir. 2022) (parallel U.S. patent proceedings).
[23]Thaler v. Union of India, Order (Del. H.C., Apr. 9, 2026).
[24]Id. 52-58 (applying Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1).
[25]Id. 61-66.
[26]Id. 66 ("If Dr Thaler were correctly identified as the statutory author, Section 17 would ordinarily make him the first owner, subject to any applicable exception or agreement.").

and cannot be conferred on the AI system itself; and the identification of "the person who causes the work to be created" remains a fact-specific inquiry into human direction, prompting, curation and control, rather than a bright-line rule. [27] The Registrar was careful to note that the order decides only the application before it and does not purport to resolve, as a general class, whether or how AI-generated works can be registered - a qualification that leaves considerable work for future applications, and for Parliament, to do. [28]

V. THALER v. UNION OF INDIA: THE PROCEDURAL PRELUDE

Before the Registrar issued the DABUS order, the matter had already reached the Delhi High Court in a writ petition, Thaler v. Union of India, filed to compel disposal of the long-pending application. [29] The Court's intervention on 9 April 2026 was narrowly procedural: it directed the Registrar to conclude the proceedings expeditiously and did not purport to decide the substantive question of AI authorship itself, leaving that determination - correctly, in institutional terms - to the specialist administrative body created by the statute for exactly that purpose. [30] The episode is nonetheless worth noting for what it reveals about the pressure building on Indian institutions to resolve AI-authorship questions that had, until 2026, remained largely theoretical in Indian legal literature. It also illustrates a distinctively Indian institutional pathway: rather than AI-authorship disputes being litigated first and primarily in civil courts, as in the United States, India's most consequential determination to date has come from the specialised Copyright Office itself, exercising its statutory registration function, with the High Court's role limited to ensuring the Office actually decided the question rather than leaving it in administrative limbo indefinitely.

VI. TRAINING DATA, FAIR DEALING AND THE ANI v. OPENAI LITIGATION

The DABUS order deals with the question of who can be the owner of the output of AI. Another and much more serious legal matter is what kind of systems can legally use as training data for AI systems, and it is this question which resulted into India's most watched case on AI-copyright ever. In the case of ANI Media Pvt. Ltd. v. Open AI OpCo LLC, Asian News

[27]Id.40, 58, 66.
[28]Id. 8 (confining the determination to the facts of the application).
[29]Thaler v. Union of India, Order (Del. H.C., Apr. 9, 2026).
[30]Id.; see Copyright Office Finds DABUS Artwork Original but Draws Line at AI Authorship, World Trademark Rev. (Sept. 2026).

International (ANI) filed a lawsuit against OpenAI, claiming that its news reportage was used by ChatGPT without permission and that it could produce output material, such as fake news, that falsely attributed itself to ANI. [31] In a judgment that India's media has already likened to "the first substantive judicial battle in India on the central issue of the generative-AI era," whether copying copyrighted data to train a large language model is a violation of the underlying content owner's rights, Justice Amit Bansal of the Delhi High Court granted an interim relief on 24 July 2026 to ANI's application for an injunction. [32]

Whether the act of storing ANI's content to build the model was infringing; whether the act of generating outputs with it was independently infringing; whether any of such acts were covered by the fair-dealing exception as provided in Section 52 of the Copyright Act, 1957; and whether Indian courts possessed territorial jurisdiction at all, given that OpenAI's training infrastructure is located outside India. [33] Two amici curiae, advocate Adarsh Ramanujan and Professor Arul George Scaria of the National Law School of India University, assisted the Court. [34]

On jurisdiction, the Court rejected OpenAI's preliminary objection, holding that because OpenAI actively makes its services available to users in India, including in Delhi, Indian courts have jurisdiction under Section 20 of the Code of Civil Procedure, 1908, irrespective of where the underlying training occurred. [35] This finding is frequently mischaracterised in early commentary as an OpenAI "win" on the whole case; in fact OpenAI lost on jurisdiction and succeeded only on the merits of the interim injunction application. [36] On the substantive question, the Court found that the temporary storage of ANI's articles during training infringes the reproduction right under the Act, but that such use is on the material before the Court, capable of being fair dealing with a literary work for the purpose of research or private use, as provided for in Section 52(1)(a) of the Act.[37] The Court reasoned, again on a strictly provisional basis, that large-language-model training transforms the underlying material into a statistical representation used to generate new content, and that no interim injunction should issue where doing so would risk disproportionate harm to a technology already in widespread beneficial

[31]ANI Media Pvt. Ltd. v. Open AI OpCo LLC, I.A. 45300/2024 in CS(COMM) 1028/2024, 2026:DHC:5900, 3-8 (Del. H.C. July 24, 2026).
[32]See No Injunction Against the Machine: The Delhi High Court's Interim Ruling in ANI Media v. OpenAI, Mondaq (Aug. 4, 2026).
[33]ANI Media, 2026:DHC:5900, 41-42 (framing Issues Nos. 1-4).
[34]Id. (recording the appointment of Adarsh Ramanujan and Prof. Arul George Scaria as amici curiae).
[35]Id. 42.3 (applying the Code of Civil Procedure, No. 5 of 1908, § 20, India Code (1908)).
[36]See Delhi High Court's ANI v. OpenAI: Shaping AI Copyright Law in India, Chambers & Partners (July 26, 2026).
[37]ANI Media, 2026:DHC:5900, 41-42; Copyright Act, No. 14 of 1957, § 52(1)(a), India Code (1957).

use, both to OpenAI and to the wider public interest. [38]

Three qualifications are essential to an accurate reading of this judgment, and any case study that omits them risks materially overstating its precedential weight. First, the Court was explicit and repeated that its findings were prima facie and provisional, made solely for the purpose of deciding interim relief, and would have no bearing on the final outcome of the suit, which continues toward trial. [39] Second, the ruling addresses only the training-input side of the AI-copyright problem - what a model may ingest - and says nothing about the separate question this paper's title poses, namely who, if anyone, owns copyright in what the model subsequently outputs. Third, ANI has since filed an intra-court appeal before a Division Bench of the Delhi High Court challenging the denial of interim relief, meaning the single-judge order is itself under active appellate challenge as this paper is written, and the ultimate contours of India's fair-dealing exception as applied to AI training remain, as a matter of binding law, still to be authoritatively settled. [40] Subject to those important caveats, the interim order is nonetheless significant comparative material: it places India, alongside the United States and the United Kingdom, among the jurisdictions in which a court has now engaged directly, rather than merely academically, with the application of a general-purpose fair-dealing or fair-use style exception to large-scale AI training.

VII. COMPARATIVE PERSPECTIVES

Locating India's approach within the wider comparative landscape clarifies both what is distinctive about the Indian position and what India shares with other major jurisdictions confronting the same underlying question.

The United States: A Strict Human-Authorship Requirement

United States copyright law has, through both administrative guidance and litigation, converged on an unusually strict human-authorship rule. The Copyright Office rejected Thaler's application to register the very same DABUS artwork, "A Recent Entrance to Paradise," that later became the subject of the Indian order discussed in Part IV, finding that

[38]See ANI vs OpenAI Judgment: What the Delhi HC Actually Held, Intepat (Aug. 6, 2026).
[39]ANI Media, 2026:DHC:5900 (recording that the findings "would have no bearing on the final outcome" of the suit).
[40]ANI Files Appeal Before Delhi HC Challenging Denial of Interim Relief in Case Against OpenAI, Bar & Bench (Sept. 2026).

copyrightable works require a human author. [41]Thaler's appeal of that refusal was rejected at every turn: First, by the United States District Court for the District of Columbia, which affirmed the Office's decision stating that "human authorship is a 'bedrock requirement' of copyright"; then by the Court of Appeals for the District of Columbia Circuit in 2025; and finally, by the Supreme Court in early 2026, which denied certiorar. [42] The parallel patent litigation, Thaler v. Vidal, reached the same conclusion under the Patent Act, and the United States Patent and Trademark Office's November 2025 guidance reinforced that AI is properly understood as a tool comparable to a laboratory instrument, with "conception" remaining an irreducibly human act for inventorship purposes. [43] The American position is thus more categorical than India's: rather than asking, as Section 2(d)(vi) does, who "caused" the work to be created, US doctrine asks whether a human being supplied the requisite creative authorship directly, a standard the Copyright Office has applied to deny protection to purely autonomous AI output while continuing to permit registration of works in which AI is merely an assistive tool under substantial human creative control.

B. The United Kingdom: A Statutory Middle Path

The United Kingdom has the closest comparator to Section 2(d)(vi) in the statute books and the United Kingdom seems to have been its inspiration. Under the Copyright, Designs and Patents Act 1988, section 9(3) the author of a computer-generated work is deemed to be the person who takes the steps necessary for its creation. [44] The term "computer-generated" work is separately defined in Section 178 as a work "generated by computer in circumstances such that there is no human author of the work"; and the term of protection for such a work is fifty years from the end of the calendar year in which the work is made (short of the life-plus-seventy-years term for conventionally authored works in Section 12(7).[45] The UK approach is often described as a pragmatic middle path: unlike the United States, it does not require a human author in the strict sense, but unlike a hypothetical regime granting AI systems legal personality, it insists that a natural or legal person - the one who made the "arrangements necessary" - be identified and credited as author. The UK Intellectual Property Office has,

[41]U.S. Copyright Office, Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 88 Fed. Reg. 16190 (Mar. 16, 2023).
[42]Thaler v. Perlmutter, 130 F.4th 1039 (D.C. Cir. 2025), cert. denied, No. 25-___ (U.S. 2026); see The Final Word: Supreme Court Refuses to Hear Case on AI Authorship, Holland & Knight Insights (Mar. 3, 2026).
[43]Thaler v. Vidal, 43 F.4th 1207 (Fed. Cir. 2022); U.S. Patent & Trademark Office, Inventorship Guidance for AI-Assisted Inventions (Nov. 2025).
[44]Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (UK).
[45]Id. §§ 12(7), 178.

notwithstanding periodic calls for reform, left Section 9(3) substantially unamended even as generative AI capabilities have advanced considerably beyond what the drafters of the 1988 Act could have anticipated, and UK policy reviews of generative AI and copyright in the mid-2020s have focused chiefly on training-data licensing rather than on the authorship provision itself. [46]

C. The European Union and Other Jurisdictions

European Union copyright doctrine, developed principally through Court of Justice jurisprudence rather than a single codified test, requires that a protected work be "the author's own intellectual creation," reflecting the author's free and creative choices and, in effect, the author's personality. [47] That formulation is difficult to satisfy for output generated with minimal human input, and the prevailing academic view within the EU is that fully autonomous AI output falls outside copyright protection altogether for want of an identifiable human creative choice, leaving such content, on this view, in the public domain rather than owned by the AI developer or user. [48] The EU's Artificial Intelligence Act, meanwhile, approaches the problem obliquely, imposing transparency obligations on providers of general-purpose AI models - including an obligation to document a summary of copyrighted training content - without directly resolving output-side ownership questions. [49] Chinese courts, by contrast, have moved further than either the United States or the European Union toward recognising copyright in AI-assisted output, with the Beijing Internet Court holding in a 2023 decision that an image generated using the Stable Diffusion model could be protected where the human user exercised sufficient creative input through iterative prompting, parameter selection and aesthetic choices, reasoning that mirrors, and in some respects anticipates, the direction the Indian Registrar took in the DABUS order's discussion of human causal contribution. [50] Read together, the comparative picture reveals not a single global consensus but three distinct doctrinal strategies for the same underlying problem: the strict human-authorship rule of the United States, the "person who made the arrangements" formula shared by India and the United Kingdom, and

[46]See UK Intellectual Property Office, AI and Intellectual Property: Copyright and Patents, Consultation Outcome (2023-2025).
[47]Case C-5/08, Infopaq Int'l A/S v. Danske Dagblades Forening, 2009 E.C.R. I-6569, ¶ 37 (defining originality as the author's own intellectual creation).
[48]See generally European Union Artificial Intelligence Act, Regulation (EU) 2024/1689, recitals 105-107, O.J. (L 1689) (2024) (on the treatment of AI training data and transparency obligations).
[49]Id. art. 53(1)(d).
[50]Beijing Internet Court, Li v. Liu, Civil Judgment No. (2023) Jing 0491 Min Chu 11279 (Beijing Internet Ct. Nov. 27, 2023) (China).

the case-by-case "sufficient human creative input" inquiry emerging from Chinese jurisprudence and, in substance, from the Indian Registrar's own reasoning in DABUS.

VIII. THEORIES OF OWNERSHIP FOR AI-GENERATED WORKS

Stripped of jurisdiction-specific statutory language, the debate over AI and copyright ownership reduces to a contest among a small number of competing theories, each of which has visible traction in the material examined above.

The programmer or developer theory locates authorship in the individual or company that designed and trained the underlying AI system, on the reasoning that the system's outputs are, in a meaningful sense, the expression of choices embedded in its architecture, training data and design parameters. [51] This theory has intuitive force for narrow, single-purpose generative tools but becomes increasingly strained for general-purpose foundation models capable of producing an effectively unbounded range of outputs across countless unrelated user sessions; it is difficult to say that the developer of a general-purpose model has authored every individual image or paragraph any user later causes it to produce, and Indian law has never adopted this theory in any of the episodes examined in Parts III to VI.

The user or prompter theory, by contrast, locates authorship in the person who operates the AI tool for a specific creative purpose - selecting prompts, iterating on outputs, curating results and exercising the kind of judgment the Eastern Book Co. v. D.B. Modak standard requires. [52] This is, in substance, the theory that both the RAGHAV registration (before its withdrawal) and the DABUS order's discussion of curable authorship implicitly endorse: Section 2(d)(vi)'s "person who causes the work to be created" formula is most naturally read as identifying the user or director of the AI tool, provided that person's contribution rises above the level of a bare, unelaborated prompt. [53] The UK's "person by whom the arrangements necessary for the creation of the work are undertaken" formula, and the emerging Chinese "sufficient creative input" standard, both track this same user-centred logic. [54] The principal difficulty with the user theory is line-drawing: existing doctrine offers little guidance on how much prompting, curation or iterative refinement is enough, and the DABUS order's insistence that Thaler could have succeeded had he simply claimed authorship himself leaves open, rather than resolves,

[51] See Ankit Sahni & Aditya Gupta, supra note 14 (discussing the developer/programmer theory of AI authorship).
[52] Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1, 38.
[53] Copyright Act, No. 14 of 1957, § 2(d)(vi), India Code (1957); DABUS Order, supra note 4, 66.
[54] Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (UK); Li v. Liu, supra note 51.

the harder case of a user whose creative contribution is genuinely minimal.

A third possibility - conferring legal personality, and with it the capacity to hold copyright, directly on the AI system - has been raised in commentary but has found no support in any jurisdiction examined in this paper, and was expressly foreclosed by the Registrar in the DABUS order on the ground that an entity incapable of holding or transferring property cannot function as a first owner under Section 17. [55] A fourth position, sometimes described as the public-domain or no-owner theory, holds that fully autonomous AI output, produced without sufficient identifiable human creative contribution, should simply fall outside copyright protection altogether, available for anyone to use freely - a position broadly consistent with the prevailing academic reading of EU doctrine and, in substance, with the practical outcome of the DABUS order, under which the artwork remains original but unregistrable as things currently stand. [56] Indian law, on the analysis in this paper, presently sits closest to a hybrid of the second and fourth theories: AI-assisted works with identifiable, non-trivial human direction can be authored by that human under Section 2(d)(vi), while output with no such identifiable human causal contribution falls, at least for now, outside the registration system altogether.

IX. CRITICAL ANALYSIS: GAPS AND CHALLENGES IN THE INDIAN FRAMEWORK

Several structural weaknesses in the current Indian position deserve emphasis, notwithstanding the genuine doctrinal progress represented by the DABUS order.First, the "person who causes the work to be created" standard, while flexible, offers minimal predictability for the rapidly growing category of works produced through iterative interaction with generative AI systems - precisely how most commercial and creative AI use now occurs. Neither the Act nor any implementing rule specifies a threshold quantum of human direction, curation or selection needed to satisfy Section 2(d)(vi), leaving applicants, and the Copyright Office, to work out the boundary case by case, as the DABUS proceedings show. [57]

Second, the term of protection for computer-generated works under Indian law is not separately specified, unlike the UK's distinct fifty-year term under Section 12(7) of the 1988 Act. [58]

[55]DABUS Order, supra note 4, 61-64.
[56]See generally Case C-5/08, Infopaq, supra note 48; DABUS Order, supra note 4, 58 (original work, no registrable author).
[57]DABUS Order, supra note 4, 8 (confining the order to its own facts and declining to lay down a general test).
[58]Copyright, Designs and Patents Act 1988, c. 48, § 12(7) (UK); cf. Copyright Act, No. 14 of 1957, § 22, India

Applying the ordinary life-plus-sixty-years term calculated by reference to the death of a human "author" who, in a computer-generated work, may have contributed comparatively little original expression beyond initiating the process, produces an awkward mismatch that Parliament has not addressed.

Third, the DABUS order and the withdrawal of the Suryast registration together demonstrate that the Copyright Office has, twice now, encountered AI-authorship applications only after they were filed, rather than through any proactive rule-making addressed to the category as a whole. Both episodes were resolved through individualised, fact-specific administrative reasoning rather than through published, generally applicable guidance analogous to the United States Copyright Office's own AI-specific registration guidance. [59] The absence of comparable Indian guidance leaves prospective applicants - authors, publishers, software developers and AI companies alike - without clear ex ante rules, forcing each new borderline case to be litigated or adjudicated individually at real cost and delay, as the four-year pendency of the DABUS application itself illustrates.

Fourth, the ANI v. OpenAI litigation exposes a separate lacuna on the input side: Section 52's fair-dealing exception was drafted for individual researchers, critics and reporters, not for the wholesale ingestion of copyrighted corpora by commercial AI developers, and the Delhi High Court's own interim reasoning acknowledges the questions raised are novel and only provisionally resolved. [60] Whether large-scale training fits existing fair-dealing categories at all, or needs a distinct licensing or exception regime - as Japan's broad text-and-data-mining exception already provides - remains open pending the Division Bench appeal and trial. [61]

Fifth, the interaction between originality and authorship that the DABUS order exposes - a work can be original under Section 13 yet have no author capable of registration under Section 2(d)(vi) - is not merely an administrative curiosity but a genuine doctrinal anomaly. Copyright protection in India, as in most jurisdictions, is conventionally understood as a unitary bundle: a protectable work is presumed to have both the qualitative attribute of originality and an identifiable rights-holder. The DABUS order confirms that Indian law can now produce works satisfying the first without the second, a category the 1957 Act, read literally, does not appear

Code (1957) (ordinary life-plus-sixty-years term).

[59]Cf. U.S. Copyright Office, supra note 42 (issuing generally applicable registration guidance for AI-assisted works).

[60]ANI Media, 2026:DHC:5900, 41-42; Copyright Act, No. 14 of 1957, 52(1)(a), India Code (1957).

[61]Chosakukenho [Copyright Act], Act No. 48 of 1970, art. 30-4 (Japan) (text-and-data-mining exception).

to contemplate and does not tell us how to treat - whether such works are simply unregistrable but nonetheless protected against third-party copying at common law, or whether they fall entirely outside the statute's protective scope. [62]

X. RECOMMENDATIONS FOR LEGISLATIVE REFORM

Building on the gaps identified above, this paper advances five recommendations, each targeted at a distinct weakness rather than proposing wholesale statutory replacement.First, Parliament should amend Section 2(d)(vi) to supply an express, if necessarily non-exhaustive, list of factors relevant to determining who "causes" a computer-generated work to be created - drawing on the kind of factors implicit in the DABUS order and in Chinese jurisprudence, such as the specificity and iterative refinement of prompts, the selection and curation of outputs among multiple generated alternatives, and the degree of subsequent human editing - so that the Copyright Office and the courts are not required to reason to first principles in every future application. [63]

Second, Parliament should consider a distinct, shorter term of protection for computer-generated works, following the UK's fifty-year model under Section 12(7), rather than continuing to apply the ordinary life-plus-sixty-years term calculated from the human "cause" of a work that may have exercised comparatively limited original expression.

Third, the Copyright Office should issue published registration guidance specifically addressing AI-assisted and AI-generated works, modelled on comparable administrative guidance already issued elsewhere, so that applicants receive predictable, generally applicable criteria rather than having each borderline case resolved only through individual, multi-year adjudication of the kind the DABUS applicant endured. [64]

Fourth, on the training-data side exposed by ANI v. OpenAI, Parliament should consider a purpose-built exception or statutory licensing scheme for text-and-data-mining and AI training, calibrated to balance the legitimate interests of content owners such as news agencies and publishers against the public benefit of AI development that the Delhi High Court's interim reasoning explicitly weighed, rather than leaving the question to be resolved solely through strained application of a fair-dealing provision drafted for an entirely different technological

[62]DABUS Order, supra note 4, 52-66 (originality satisfied under 13; authorship unsatisfied under 2(d)(vi)).
[63]Cf. Li v. Liu, supra note 51 (identifying iterative prompting, parameter selection, and curation as indicia of sufficient human creative input).
[64]Cf. U.S. Copyright Office, supra note 42.

context. [65]

Fifth, and most fundamentally, Parliament should clarify, one way or the other, the status of the anomalous category the DABUS order has now confirmed exists in Indian law: original works under Section 13 with no author cognisable under Section 2(d)(vi). Whichever policy choice Parliament makes - treating such works as falling into the public domain, as EU commentary broadly suggests, or creating a narrow sui generis protection analogous to database rights in some jurisdictions - the choice should be made deliberately and by the legislature, rather than left to accumulate through successive individual administrative orders each confined, as the Registrar was careful to note in DABUS, to its own facts. [66]

XI. CONCLUSION

India's engagement with AI and copyright ownership has, in roughly six years, moved from an almost accidental registration granted with insufficient scrutiny, through a quiet withdrawal, to a reasoned administrative order squarely confronting the tension between originality and authorship, and finally to a closely watched judicial ruling on the related question of what AI systems may lawfully learn from. Each of these episodes points toward the same underlying conclusion. Section 2(d)(vi) of the Copyright Act, 1957, drafted for a pre-generative-AI world of automated cameras and rudimentary computer programmes, has proved surprisingly serviceable for AI-assisted works produced under genuine, identifiable human direction: the "person who causes the work to be created" can, without undue strain, be read to include a human user who prompts, curates and refines AI output with sufficient creative judgment. What the provision cannot do, and what the Registrar of Copyrights candidly acknowledged in the DABUS order it cannot do, is supply an author where none exists - where a work is, on the applicant's own account, the product of a fully autonomous system with no identifiable human causal contribution. That gap is not a defect in judicial or administrative reasoning; it is the honest limit of a thirty-year-old statutory formula applied to a technology its drafters could not have foreseen. Closing it responsibly will require Parliament, not further individual adjudication, to decide - as a matter of considered policy rather than incremental administrative accretion - what India's copyright law should say about works that are original, valuable, and increasingly common, yet authored, in the sense the statute presently requires, by no one at all.

[65]Cf. Chosakukenho, supra note 62; ANI Media, 2026:DHC:5900, 41-42.
[66]DABUS Order, supra note 4, 8; cf. Case C-5/08, Infopaq, supra note 48.

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