CHALLENGES OF AI GENERATED WORK IN THE COPYRIGHT DOMAIN

Hemavathy. P, Government Law College, Chengalpattu

ABSTRACT:

AI-generated work presents several challenges in the domain of copyright, raising questions about authorship, ownership, and legal protection. One of the primary concerns is the identification of authorship, as AI systems lack legal personality, making it difficult to assign copyright to an AI-generated work. This leads to ambiguity over who holds the rights—the developer, the user, or the AI itself. Additionally, traditional copyright laws, which are designed to protect human creators, struggle to adapt to AI's role in content creation. The issue of originality also arises, as AI often generates work by learning from existing copyrighted materials, potentially infringing on intellectual property rights. Moreover, the evolving nature of AI technology requires constant updates to legal frameworks to address new forms of creation. As AI continues to shape the creative landscape, these challenges necessitate ongoing dialogue and legal reform to ensure fair protection for both human and AI-generated works.

Keywords: AI, copyright, authorship, ownership, intellectual property, originality, legal reform.

INTRODUCTION:

The fast growth of artificial intelligence (AI) technology has sparked a surge of innovation across several industries, including the creation of artistic works. We now, have apps, websites, and tools to create a new content without using as much effort as, the only requisite is to provide these tools with an old creation and fill in the AI with how you want this creation to be altered. You have your own very new creation. As AI systems get more advanced, they can now generate music, art, literature, and other forms of expression. This meeting of AI and creativity poses some twisting problems concerning intellectual property, copyright, and ownership of AI-generated creations. The below content will explain and look at the issues and opportunities in the domain of copyright, that arise when AI is used to make creative works, with a specific focus on current copyright battle in India.

CONCEPTS TO BE ACCUSTOMED TO:

1. What is Copyright:

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. In fact, it is a bundle of rights including, *inter alia,* rights of reproduction, communication to the public, adaptation and translation of the work. There could be slight variations in the composition of the rights depending on the work.[1]

Copyright is an intellectual property that safeguards the authorship of original works. Section 13 of the Copyrights Act, 1957[2] subsists the works that can be included under the domain of copyright. It grants the copyright holder the only right to reproduce, distribute, modify, exhibit, and perform the work. Books, music, art, sculpture, films, and computer programs all fall under the purview of copyright protection.

2. Artificial Intelligence (AI):

Artificial intelligence (AI) the name itself suggests that an intelligence which is not natural or intellect which does not belong to human or living thing in other words it refers to a machine's capacity to replicate human intellect and do activities that would normally need human intelligence. Machine learning, natural language processing, computer vision, and robotics are all examples of AI technology.

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[1] Government of India Department for Promotion of Industry and Internal Trade Ministry of Commerce and Industry, A Handbook of Copyright law, Pg. 1

[2] The Copyright Act, 1957, § 13, No. 14, Acts of Parliament, 1957 (India).

3. Creative Work:

Creative works of authorship that are fixed in a physical medium of expression are referred to as creative works. This encompasses a wide range of works, including: Works of literature, visual arts, music, dramatic pieces, audio recordings and works of architecture**.** Ordinarily the author is the first owner of copyright in a work.

In the case of a literary or dramatic work the author, i.e., the person who creates the work.

- In the case of a musical work, the composer.

- In the case of a cinematograph film, the producer.

- In the case of a sound recording, the producer.

- In the case of a photograph, the photographer.

- In the case of a computer-generated work, the person who causes the work to be created.

4. AI-generated:

AI-generated content, also known as AI-created or AI-produced content, is content created by artificial intelligence (AI) algorithms, such as text, photos, audio, or code. These algorithms are trained on vast volumes of data and can learn to produce new material that is comparable to the training data. AI-generated content may be used for several objectives, including the development of creative content, new goods and services, the automation of processes, and the personalization of experiences [3].

5. Copyright Laws:

In India, copyright law is governed by several acts and regulations, with the primary legislation being the *Copyright Act, 1957[4]*. This Act provides the framework for the protection of the rights of authors and creators of literary, dramatic, musical, and artistic works. It covers a broad range of creative works, ensuring that the original creators are granted exclusive rights over their works, including the right to reproduce, distribute, perform, and display their works. The Act also defines the duration of copyright, which generally lasts for **the lifetime of the author plus 60 years,** and provides provisions for fair use and statutory licenses.

To keep up with global developments and technological advancements, the *Copyright*

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[3] Global Patent Filing, https://www.globalpatentfiling.com, (last visited Oct. 6, 2024)
[4] The Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).

(Amendment) Act, 2012[5] made significant changes to the original 1957 Act. It expanded the definition of "work" to include sound recordings and cinematograph films, updated the penalties for copyright infringement, and introduced provisions for the protection of works in the digital space. This amendment also addressed the issue of statutory licenses, allowing the use of copyrighted works under certain conditions without seeking permission from the copyright holder. Additionally, the Amendment Act brought Indian copyright law closer in line with the **Berne Convention and the World Intellectual Property Organization (WIPO) Copyright Treaty.**

The ***Information Technology Act, 2000* (IT Act)** also plays a crucial role in the enforcement of copyright in India, especially in the digital domain. **Section 66A of the IT Act** deals with the punishment for sending offensive messages through communication services, which can be linked to the misuse of copyrighted material. The Act also provides legal provisions related to cybercrimes, including the unauthorized access and dissemination of copyrighted works over the internet. This intersection of IT law with copyright law helps to protect digital creators and content owners from online infringement and piracy.

Another important act related to copyright in India is the ***Indian Penal Code, 1860 (IPC).*** The IPC contains provisions for criminal liability in cases of copyright infringement, including penalties for the illegal reproduction, distribution, or performance of copyrighted works. These sections make it a criminal offense to pirate works, which can lead to imprisonment and fines. Copyright infringement cases under the IPC are often accompanied by civil suits under the Copyright Act, depending on the nature and extent of the violation.

Finally, the ***The Copyright (Amendment) Act, 2019[6]*** further refined India's approach to copyright law. It introduced provisions regarding the protection of works in the digital environment, especially in light of streaming services and online platforms.

This amendment strengthened provisions related to the rights of authors and performers in the digital age, making it mandatory for streaming platforms to obtain licenses for broadcasting copyrighted works. The law also updated the provisions for statutory licenses and brought more clarity on the role of intermediaries, such as online platforms, in copyright enforcement. Through these various acts and amendments, India continues to evolve its copyright framework to protect the rights of creators in a rapidly changing digital landscape.

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[5] The Copyright (Amendment) Act, 2012, No. 27, Acts of Parliament, 2012(India)
[6] The Copyright (Amendment) Act, 2019, No. 20, Acts of Parliament, 2019(India)

6. AI-Generated Copyright Laws: An International Perspective

The landscape of international copyright law is undergoing a profound transformation with the emergence of artificial intelligence, presenting unprecedented challenges to traditional intellectual property frameworks across global jurisdictions. Currently, there is no unified international standard for addressing copyright protection of AI-generated works, leading to a complex and fragmented regulatory environment.

In the **United States**, the copyright approach remains predominantly human-centric, with the Copyright Office requiring substantial human creativity and intervention for any work to receive legal protection. This stringent stance contrasts with the European Union's more nuanced and adaptive framework, which recognizes the collaborative potential of human-AI creative processes and seeks to balance technological innovation with intellectual property rights.

The **World Intellectual Property Organization (WIPO)** has emerged as a critical platform for initiating global discussions on AI-generated content. Existing international treaties like the **Berne Convention**, traditionally designed to protect human-created works, are now being critically re-examined to accommodate the complex nature of AI-generated creative output. The fundamental challenge lies in determining authorship, distinguishing between human and machine contributions, and establishing clear attribution mechanisms across different legal jurisdictions.

Different regions have adopted varied approaches to this emerging challenge. While the United States maintains a strict interpretation, countries like China and Japan are developing more progressive frameworks that emphasize technological innovation. The European Union has been particularly proactive, proposing adaptive legal mechanisms that recognize the potential of AI-generated works while maintaining ethical considerations and protecting human creativity.

Key international legal challenges include jurisdictional variations, cross-border intellectual property disputes, and the need to develop harmonized standards. Proposed solutions involve creating hybrid authorship models, implementing transparent content classification systems, and developing flexible copyright registration processes that can adapt to rapidly evolving technological landscapes.

The global community is gradually recognizing the need for collaborative strategies. Multinational legal working groups, international technology forums, and organizations like

the United Nations are increasingly engaged in developing comprehensive guidelines that can address the complex intersection of AI technology and intellectual property rights.

Ethical considerations remain at the forefront of these discussions. The primary objectives are to protect human creativity, prevent unauthorized content reproduction, ensure fair compensation, and maintain a balance that encourages technological innovation. This requires an unprecedented level of international cooperation and a willingness to reimagine traditional concepts of authorship and creative ownership.

As artificial intelligence continues to advance, the international legal community faces the critical task of developing flexible, forward-thinking frameworks that can effectively protect intellectual property rights. Success will depend on continuous dialogue between technology developers, legal experts, policymakers, and intellectual property scholars, creating adaptive mechanisms that can keep pace with technological innovation while preserving the fundamental principles of creative expression.

The future of international copyright law in the AI era demands a delicate balance between protecting human creativity and embracing technological potential. It represents not just a legal challenge, but a profound philosophical and ethical exploration of creativity, intelligence, and the evolving nature of human-machine collaboration.

Further moving towards the Challenges and Opportunities that AI garners as it steps into the domain of creative works under Copyright laws in India.

CHALLENGES:

1. Authorship and Ownership:

Determining authorship and ownership of AI-generated creative works is one of the most difficult difficulties. The creator of a work is both its author and the first owner of copyright under classical copyright law. When AI is engaged, however, who should be acknowledged as the creator and owner? For example, should the programmer who created the AI algorithm be regarded the artist of an AI-generated picture or musical piece, or should the AI itself be recognized? This topic challenges established copyright law and necessitates new legal interpretations.

The advent of artificial intelligence (AI) in creating works of art, literature, music, and other creative outputs has brought a unique challenge: identifying the author or owner of such works. Unlike traditional creations, where a human creator's identity is clear, AI-generated works often

blur the lines between the roles of the developer of the AI, the user of the AI system, and the AI itself. Determining authorship is complex because AI systems function as tools that operate based on pre-programmed algorithms and datasets, yet their outputs often appear as original works without direct human input.

One of the main difficulties lies in deciding whether the AI system can be recognized as the author. Legally and philosophically, authorship is a concept tied to human agency, creativity, and accountability. Since AI lacks consciousness or intentionality, many argue it cannot hold copyright. However, the creative independence demonstrated by some advanced AI systems raises questions about whether the programmer, user, or neither should claim ownership. This uncertainty leads to disputes, especially in jurisdictions where copyright laws do not explicitly address AI-generated works.

Another layer of complexity involves collaboration between AI and humans. In cases where an individual guides the AI by providing specific prompts or refining its output, it can be challenging to determine the extent of human contribution. Should the AI user be regarded as the author for initiating the creative process, or is the AI simply an advanced tool that does not alter traditional notions of authorship? These ambiguities make it harder to establish ownership, particularly in collaborative or partially automated scenarios.

The issue becomes even more intricate when multiple parties are involved in the creation of the AI system itself. Developers, data trainers, and corporations that fund AI projects may all have stakes in the output. In such cases, determining ownership requires clear contracts or policies, but these are often absent or inadequately defined. Disputes over proprietary datasets, training processes, and licensing further complicate ownership claims, leading to potential legal battles.

Lastly, the global nature of AI technologies exacerbates the problem. Different countries have varying interpretations of copyright laws, with some jurisdictions explicitly disallowing copyright for AI-generated works while others remain silent on the matter. This lack of harmonization creates confusion in cross-border scenarios, such as when AI-generated content is distributed or commercialized internationally. As AI continues to evolve, the challenge of identifying authorship and ownership will require significant updates to legal frameworks and a rethinking of traditional intellectual property principles.

2. Originality and Creativity:

Copyright law traditionally protects works that are original, unique, and the result of human

creativity. This fundamental requirement of originality becomes complex in the realm of AI-generated works, where algorithms analyse vast datasets to produce new material. AI systems generate outputs by identifying patterns, recombining existing elements, and sometimes mimicking human creativity. However, the lack of direct human involvement in generating these works raises doubts about whether they meet the legal standards for originality and inventiveness. This challenge is at the heart of global debates on whether AI-generated creations qualify for copyright protection.

AI-generated works often rely on extensive pre-existing data, raising concerns about their uniqueness. The works produced might inadvertently replicate existing content, as AI models often draw heavily from the material they are trained on. For example, AI-generated music or art may unintentionally resemble existing pieces, making it difficult to distinguish between originality and replication. This issue is particularly significant in India, where copyright laws emphasize the importance of "original expression." Courts face the challenge of determining whether AI-generated outputs are sufficiently transformative or merely derivative of the training data.

Recent debates in India have highlighted the complexity of this issue, especially in creative industries like music, writing, and visual art. When AI is used to compose songs or generate artwork, questions arise about whether the resulting works can be considered unique contributions or just rearrangements of pre-existing ideas. Indian copyright law, rooted in the Copyright Act, 1957, does not explicitly address AI-generated works, leaving significant legal ambiguity. These uncertainties demand judicial interpretation to define what constitutes "originality" in the context of AI-generated outputs.

Moreover, the concept of originality has broader implications for intellectual property law in India. Courts may need to evaluate whether originality should continue to depend on human creativity or whether the role of the AI system and its developers should also be considered.

In some cases, the user of the AI system may influence the final output through input prompts or iterative refinements, leading to questions about the extent of human involvement required for a work to qualify as original. Such scenarios complicate the attribution of authorship and ownership, making it unclear who has the legal rights to the work.

 The use of AI to create music, writing, and art has introduced a need to reassess the traditional definitions of originality and authorship under copyright law. India's legal system must grapple with these issues to ensure that intellectual property protections evolve to address the

complexities of AI-generated creations. Judicial decisions and legislative updates will likely play a critical role in resolving these concerns. Meanwhile, stakeholders in creative industries must navigate a landscape of uncertainty, balancing the opportunities offered by AI with the need for fair attribution and protection of original works.

3. Copyright Duration:

Copyright Challenges in AI-Generated Works: Originality and Duration

The rise of artificial intelligence (AI) in creative industries has raised profound challenges for copyright law, particularly regarding originality and the duration of protection. Copyright law traditionally safeguards work that are original, unique, and the product of human creativity. However, AI systems, which generate new content by analysing patterns in vast datasets, blur the boundaries of originality. These systems can create music, art, and literature that mimic human ingenuity, but the absence of direct human input raises questions about whether these creations meet the legal standards for copyright protection. The reliance of AI on pre-existing data also sparks debates about whether such works are genuinely transformative or merely derivative.

In India, where copyright law emphasizes "original expression," courts face significant challenges in determining the originality of AI-generated outputs. AI systems often produce works that may unintentionally replicate elements of their training data, complicating the assessment of uniqueness. Recent debates have highlighted the difficulty in distinguishing between AI-generated creations and pre-existing works, particularly in fields like music, visual art, and literature. These concerns demand judicial interpretation to define what constitutes originality in the context of AI while ensuring that the rights of human creators are not undermined.

Another significant issue in the context of AI-generated works is copyright duration. Under **Section 22** of the Copyright Act, 1957[7], copyright protection typically lasts for the author's lifetime plus 60 years. However, this framework is incompatible with AI-generated works, as there is no human author in the conventional sense. This raises critical questions about the length of copyright for such creations. Without a human lifespan to base the duration on, AI-generated works could theoretically enjoy much longer protection periods, potentially leading to monopolies that stifle innovation and public access to creative content.

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[7] The Copyright Act, 1957, § 22, No. 14, Acts of Parliament, 1957 (India).

The possibility of extended copyright terms for AI-generated works could disrupt creative markets. If ownership of such works is attributed to AI developers, users, or corporations, the duration of protection might default to corporate terms, which could be indefinite under certain conditions. This creates an imbalance, as human-authored works would be subjected to finite terms, while AI-generated content might dominate for extended periods. To address this, policymakers could consider fixed-term copyrights for AI creations, ensuring they enter the public domain within a reasonable time frame to benefit society as a whole.

Both the originality and duration challenges highlight broader philosophical questions about the purpose of copyright law. Historically, copyright has aimed to incentivize human creativity and ensure a balance between rewarding creators and providing public access to knowledge and culture. In the case of AI-generated works, lawmakers must consider whether the principles of human ingenuity and expression still apply. New approaches, such as distinct legal categories for AI-generated works, shorter copyright terms, or standardized rules for ownership, may be necessary to address these complexities.

AI's transformative role in the creative process necessitates a re-evaluation of traditional copyright laws. The challenges surrounding originality and duration demand legislative reform and judicial clarity to adapt to the realities of AI-generated works. Additionally, international collaboration is essential to harmonize regulations, as AI-created content transcends borders. By addressing these issues, copyright frameworks can evolve to ensure fairness for creators, users, and society in an increasingly AI-driven world.

The challenges of AI-generated work in the copyright domain centre on questions of authorship, ownership, fair use, and infringement. These challenges are particularly significant in Europe, the UK, and Ukraine, where recent cases and evolving legal frameworks highlight the complexities. Below is an analysis with relevant cases and examples from these jurisdictions:

1. Authorship and Ownership Challenges

- **Issue:** Copyright traditionally requires a human author. AI-generated works raise questions about whether such works can be copyrighted and, if so, who owns the rights.

Relevant Cases:

- **Europe:**
  The EU Directive on Copyright in the Digital Single Market (2019) requires member states to ensure that copyright-protected content used in text and data mining is

authorized unless an exception applies. However, it doesn't address authorship for AI-generated works explicitly.

- **UK:**

Under Section 9(3) of the UK Copyright, Designs and Patents Act 1988, copyright for computer-generated works (where no human author is identifiable) is granted to the "person by whom the arrangements necessary for the creation of the work are undertaken." However, this remains a point of contention, especially for generative AI outputs.

Example: Copyright Office's Rejection of AI-Generated Monkey Selfie (2018) Though not a UK-specific case, it highlights how courts resist granting copyright to non-human creators, influencing UK perspectives.

- **Ukraine:**

Ukraine's copyright laws, under the Civil Code and Law on Copyright and Related Rights, require human authorship, leaving no room for purely AI-generated works to claim copyright protection.

2. Use of Copyrighted Materials for Training

- **Issue:** AI\models are trained on vast datasets that may include copyrighted material. This raises concerns about infringement and fair use.

Relevant Cases:

- **UK:**

Text and Data Mining (TDM): The UK allows limited exceptions for TDM under its copyright framework, but it doesn't fully exempt AI training datasets. Content owners can explicitly opt-out.

Example: Stability AI, Mid Journey, and Deviant Art Lawsuit (2023) While primarily a U.S. case, this lawsuit also implicates training datasets in Europe and the UK, challenging AI models trained on copyrighted works without consent.

- **Europe:**

EU law provides TDM exceptions under the Copyright Directive, allowing AI training for research purposes unless explicitly restricted by rightsholders. However, commercial use remains contentious.

- **Ukraine:**

  Ukraine does not currently have specific provisions for TDM. As a result, AI developers must rely on general copyright principles, leading to legal uncertainties.

3. Risk of Infringement in Outputs

- **Issue:** AI outputs may resemble existing copyrighted works, leading to claims of infringement.

  Relevant Cases:

- **Europe:**

  European Copyright Society Guidance: The society has issued guidance on how derivative works and transformative use might apply to AI outputs, but definitive case law is sparse.

- **UK:**

  Example: DeepMind and Music Composition (2020): AI-generated music compositions raised concerns about whether the AI system infringed upon training data, though no direct legal action followed. This reflects ongoing ambiguity.

- **Ukraine:**

  Ukraine has not yet had high-profile cases, but AI-generated works resembling copyrighted pieces would likely be deemed derivative works, requiring authorization from the original rightsholder.

4. Ethical and Policy Challenges

- **Issue:** Balancing innovation and protecting creators' rights while ensuring transparency and fairness.

  Relevant Legal Developments:

- **Europe:**

  The EU Artificial Intelligence Act (in development) is expected to introduce regulatory frameworks addressing ethical AI use, which may influence copyright practices.

- **UK:**

  UK policymakers have proposed amendments to better align copyright law with AI

developments, focusing on licensing and creator compensation.

- **Ukraine:**

    Ukraine's legal framework has lagged in addressing AI-specific copyright issues, partly due to ongoing geopolitical challenges. However, international agreements like the Berne Convention influence its policies.

The challenges of AI-generated works in the copyright domain remain unresolved across Europe, the UK, and Ukraine. Legal frameworks are evolving, with case law and policy shifts driving incremental changes. Balancing innovation in AI with respect for intellectual property rights will require international collaboration, clear regulations, and adaptive legal systems.

OPPORTUNITIES

Opportunities in AI and Copyright:

1.Novelty in Creation Artificial intelligence:

AI has revolutionized the creative landscape by enabling the production of novel forms of art and literature. AI systems, with their ability to analyse vast datasets, identify patterns, and generate new content, introduce possibilities for innovation that were previously unimaginable. These systems can produce unique artworks, experimental music, or literature that challenges traditional boundaries, providing fertile ground for creative exploration. This technological capability offers artists and authors a tool to explore new styles, techniques, and forms of expression, broadening the horizons of creativity.

One of the most exciting aspects of AI is its capacity to produce content that surprises even its creators. By generating outputs based on a combination of learned patterns and probabilistic modelling, AI tools can create art or narratives that human creators might not have conceived. This element of surprise can serve as a source of inspiration for human creators, sparking new ideas and directions for projects. AI-generated works can act as a springboard for human creativity, rather than replacing it.

In India, recent copyright disputes have highlighted AI's potential to complement human creativity. For example, AI-generated designs or music have been used as drafts that human creators refine and personalize. This partnership between human ingenuity and machine efficiency demonstrates that AI can be a co-creator rather than a competitor. Artists and writers can leverage AI tools to break through creative blocks and explore uncharted territories.

Furthermore, AI's ability to adapt and learn enables it to cater to specific artistic needs, whether

it's generating a melody in a particular style or creating visual art with a specific emotional tone. By harnessing these capabilities, creators can develop innovative works that appeal to diverse audiences. This synergy between human creators and AI has the potential to redefine the role of technology in art and literature.

Finally, the collaborative potential of AI challenges the notion of traditional authorship and creativity. By incorporating AI as an active participant in the creative process, we may need to reframe how we perceive originality and ownership. This shift does not diminish the role of human creators but rather enhances it by adding new dimensions to their work.

2.Increased Copyright Protection:

While AI poses challenges to copyright law, it also offers significant opportunities to strengthen copyright protection. AI technologies can be used to monitor digital platforms for unauthorized usage of copyrighted works, making enforcement faster and more efficient. Content identification systems powered by AI can automatically detect infringements, such as unauthorized use of music, video, or written content, enabling copyright holders to take swift action.

One practical application of AI in copyright enforcement is the detection of piracy on digital platforms. AI algorithms can scan websites, streaming services, and social media to identify illegal copies of movies, books, or music. This ability is particularly useful in a country like India, where digital piracy is a significant issue. By automating the monitoring process, AI reduces the time and resources required to identify infringements, allowing creators and companies to focus on innovation rather than enforcement.

AI can also assist in managing digital rights through tools like blockchain technology, which can track the ownership and usage of copyrighted works. For example, an AI system can maintain a ledger of where and how a piece of content is used, ensuring transparency and accountability. This combination of AI and blockchain could revolutionize the way copyright is managed, providing an unprecedented level of control for creators and rights holders.

Additionally, AI's predictive analytics can help copyright holders anticipate potential infringement trends. For instance, by analysing user behaviour on digital platforms, AI can identify high-risk areas for copyright violations and enable proactive measures. This foresight can help creators safeguard their work before significant damage occurs, preserving the economic value of their intellectual property.

In India, AI has already been employed in legal battles to track instances of copyright infringement in digital content. These tools not only assist in identifying violations but also provide evidence for legal proceedings, strengthening the position of copyright holders in court. As AI technologies advance, their role in copyright enforcement is likely to become even more integral, ensuring creators' rights are protected in an increasingly digital world.

3. Collaborative Creativity:

AI has also opened new doors for collaborative creativity, enabling artists and authors to work alongside intelligent systems to enhance their creative processes. AI can act as a tool for idea generation, helping creators overcome mental blocks and explore uncharted concepts. By analysing existing works and generating new variations, AI offers a fresh perspective that can enrich human creativity.

One of the key advantages of collaborative creativity is the ability of AI to enhance efficiency. For instance, a writer can use AI to generate a draft or outline, which they can then refine and personalize. Similarly, visual artists can employ AI to create initial sketches or patterns that serve as the foundation for more intricate works. This symbiotic relationship allows creators to focus on refining their vision rather than starting from scratch, accelerating the creative process.

Moreover, AI can help democratize creativity by providing tools that are accessible to individuals with little or no artistic training. For example, an amateur music producer can use AI to compose a melody, which they can then develop further. This accessibility can foster a new wave of creators, bringing diverse voices and perspectives into the creative landscape.

AI's role as a collaborator is particularly valuable in experimental projects that require exploring unconventional ideas. For instance, artists can use AI to create works that blend multiple styles or challenge traditional artistic norms. These collaborations can lead to unique and engaging creations that might not have been possible with human effort alone.

Finally, the partnership between AI and humans raises important questions about authorship and ownership. When an AI tool contributes significantly to a creative project, the lines between human and machine authorship blur. This dynamic necessitates a reevaluation of copyright laws to account for collaborative creativity, ensuring that both human and machine contributions are acknowledged and rewarded appropriately. In this context, AI is not just a tool but a partner in the ever-evolving journey of creation.

Recent Copyright Disputes in India

Anil Kapoor v. Simply Life India & Ors [8].

In this case, actor Anil Kapoor sued Simply Life India for using generative AI methods without his authorization to depict him in fake scenarios. Simply Life India was handed an injunction by the Delhi High Court, which stated that employing artificial intelligence to produce such content violated Kapoor's personality rights. This case emphasizes the importance of privacy and publicity rights in the context of AI-generated content.

Ankit Sahni v. Copyright Office

In this instance, Ankit Sahni, the designer of the AI system RAGHAV, tried to register RAGHAV as the sole author of an artwork. The Copyright Office approved the registration at first, but subsequently withdrew it, citing the Copyright Act of 1957, which specifies that AI systems cannot be considered writers. This case exemplifies the current dispute about artificial intelligence authorship and intellectual property rights.

Mattel, Inc. v. Jayant Agarwalla[9]

In this case, Mattel, the owner of the Barbie brand, sued Jayant Agarwalla for making and selling AI-generated pictures of Barbie dolls. The Delhi High Court granted Agarwalla an injunction, finding that his use of artificial intelligence to create and sell Barbie images infringed Mattel's trademark rights. This case highlights the potential for artificial intelligence to generate illegal content, as well as the need of trademark owners safeguarding their rights in the digital realm.

Relationship between copyright and AI-generated works:

The relationship between copyright and AI-generated works will continue to be an essential and rising component of intellectual property law as AI technology improves. Balancing the rights of creators, whether human or artificial intelligence, while encouraging innovation and creativity will be a big challenge for policymakers and legal professionals in India and throughout the world.

Judicial precedent related to AI in USA:

While there are limited case laws specifically addressing copyright and AI in the United States, a few notable legal disputes and decisions provide insight into how courts are beginning to

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[8] 2023 SCC OnLine Del 6914.
[9] 2008 (153) DLT 548

address issues surrounding AI-generated works. Here are key examples:

1. *Naruto v. Slater* (2018)[10]: Authorship Beyond Humans

While not directly related to AI, the *Naruto v. Slater* case involved the authorship of a photograph taken by a monkey. The U.S. Court of Appeals for the Ninth Circuit ruled that copyright can only be granted to works created by humans, emphasizing that non-human entities (including animals) cannot hold copyright. This decision sets a precedent for AI-generated works, as AI systems, like animals, lack the consciousness and human agency required for authorship under current U.S. copyright law.

2. *Thaler v. Perlmutter* (2023)[11]: Copyright Denied for AI-Generated Art

In a landmark decision, the U.S. Copyright Office denied copyright registration for a work generated solely by AI in the case brought by Dr. Stephen Thaler. Thaler sought copyright protection for an artwork created by an AI system he developed, claiming the AI was the sole creator. The Copyright Office ruled that copyright law requires a human author, reaffirming that AI-generated works without human creative input are not eligible for protection. This case highlights the legal challenges of defining authorship in the context of AI-generated works.

3. *Feist Publications, Inc. v. Rural Telephone Service Co.* (1991)[12]:

The Standard of Originality while not directly involving AI, the Supreme Court's decision in this case established that originality is a fundamental requirement for copyright protection. This principle is critical when evaluating AI-generated works, as originality must stem from human creativity. Courts have yet to fully address how this standard applies to works created with minimal or no human input, but the case provides a legal benchmark for assessing originality in creative works.

4. *Authors Guild v. Google, Inc.* (2015)[13]: Fair Use and Transformative Use

This case addressed Google's use of copyrighted books in its Google Books project. The court ruled that Google's actions constituted fair use because the project was transformative and added value to the original works. The concept of transformative use is relevant to AI-generated works, as it may influence whether outputs derived from existing datasets are considered sufficiently original or simply derivative.

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[10] Naruto v. Slater, supra, 888 F.3d 418
[11] No. 22-CV-384-1564-BAH, WIPO Lex
[12] 499 U.S. 340 (1991)
[13] 804 F.3d 202 (2nd Cir. 2015)

5. Andres Guadamuz's "Zarya of the Dawn" Case (2023): Use of AI in Illustrative Art

In a significant development, the U.S. Copyright Office granted, and then partially retracted, copyright protection for *Zarya of the Dawn*, a graphic novel created by Kristina Kashtanova using MidJourney, an AI tool. The retraction pertained to the visual elements generated by the AI, as they lacked human authorship, but copyright was upheld for the text and narrative structure created by Kashtanova. This case underscores the complexity of assigning copyright when AI is used collaboratively, distinguishing between human and machine contributions.

6. GitHub Copilot and OpenAI Lawsuit (Ongoing, 2023): AI Training on Copyrighted Works

This ongoing case involves a class action lawsuit against GitHub, OpenAI, and others for using copyrighted code to train AI systems like GitHub Copilot. The plaintiffs argue that training AI on copyrighted material without permission constitutes infringement. While this case does not directly address the copyrightability of AI-generated works, it highlights critical questions about the legality of using copyrighted material to train AI models, which could influence future copyright law and policy.

Key Takeaways:

- U.S. courts and the Copyright Office have consistently upheld the principle that human authorship is a prerequisite for copyright protection, as seen in cases like *Naruto* **and** *Thaler v. Perlmutter*.

- Issues of originality, transformative use, and fair use are pivotal in evaluating AI-generated works.

- Collaborative works where AI and humans interact, such as in the *Zarya of the Dawn* **case**, may require nuanced distinctions between human and AI contributions.

- Emerging lawsuits, such as those involving training data, will likely shape the future of copyright law in the AI era.

As AI-generated content becomes more prevalent, these cases underscore the urgent need for clear legislative guidelines to address the complexities of authorship, originality, and ownership in AI-driven creativity.

Conclusion:

The intersection of artificial intelligence and copyright law represents a complex, dynamic

landscape fraught with unprecedented legal and ethical challenges. Traditional intellectual property frameworks are fundamentally challenged by AI's capacity to generate creative works, exposing critical gaps in existing legal definitions of authorship, originality, and creative ownership. The global legal community faces the monumental task of developing adaptive, nuanced frameworks that simultaneously protect human creativity, encourage technological innovation, and establish clear guidelines for attributing and protecting AI-generated content. Resolving these challenges requires unprecedented international collaboration, interdisciplinary dialogue, and a willingness to reimagine fundamental concepts of intellectual property in an era of transformative technological capabilities.

The future of copyright law hinges on creating flexible, forward-thinking mechanisms that can balance the rights of human creators with the emerging potential of artificial intelligence, ultimately establishing a comprehensive and equitable approach to intellectual property in the digital age. As AI continues to evolve, the legal landscape must remain dynamically responsive, ensuring that innovation is both protected and appropriately attributed while maintaining the core principles of creative expression and human ingenuity.