GENERATIVE ARTIFICIAL INTELLIGENCE AND COPYRIGHT LAWS IN INDIA: THE NUANCES OF AUTHORSHIP AND FAIR DEALING

Gaurav Mongia, School of Law, GD Goenka University, Gurugram, Haryana, India[1]

ABSTRACT:

The advancement of information technology in the form Large Language Models (LLMs) or Artificial Intelligence models, also known as Generative AI, has given rise to important legal questions concerning Authorship, Ownership, Originality and the usage of copyrighted work for the training of AI Models. The Indian Copyright Act of 1957 is based on the traditional approach that the creative work originated from human intellectual efforts. However, the AI models such as Open AI's CHATGPT, Google's Gemini etc. can now produce literary, musical, artistic and other forms of content with very limited involvement of human. This development creates an uncertainty with respect to the recognition and ownership of AI-Generated works under the Indian Copyright Act, 1957. The primary statutory framework for considering these issues in India is provided by Sections 2(d), 13, 14, 17, 51 and 52 of the Copyright Act. These provision raises questions about the role of AI developers, users and other human participants. Likewise, the use of copyrighted works to train AI models raises questions of reproduction, infringement and the scope of statutory exceptions.

This research paper discusses if the use of copyright materials for AI training constitutes actionable infringement under Section 14 or is fair dealing under Section 52. It also questions whether the law created for human inventors can accept AI or the humans writing text prompts as "authors" from the context of Section 2(d) of the Act. Finally, the paper examines recent court decisions (Specially, the Delhi High Court decision on Interlocutory application in ANI Media Pvt Ltd v. OpenAI) to see how judges are ruling on these disputes as they are occurring.

Keywords: Generative Artificial Intelligence, Authorship, Ownership, Fair dealing, Copyright.

[1] School of Law, GD Goenka University, Gurugram, Haryana, India

INTRODUCTION

Generative Artificial Intelligence has transformed how creative content is created, shared and used. Based on user's prompts, Artificial Intelligence systems can create articles, drawings, photographs, music, computer code and other expressive material. These capabilities have opened up new possibilities in education, research, journalism, entertainment and business. They also create questions for copyright law, as the material used to develop artificial intelligence systems may include existing literary and artistic works that are protected by the copyright laws.

The copyright law has traditionally protected original expressions created by human authors. It grants the author exclusive rights of reproduction, publication, adaptation and communication to the public, within the limits recognized by law. These rights encourage creative activity by giving authors and rights holders control over the permissible usage of their works and the possibility of deriving economic benefits from them. Copyright law also serves a broader public purpose by allowing some uses for research, education, criticism and other legitimate activities.

Generative AI complicates this balance in two different ways. The first relates to authorship and ownership of AI-generated outputs. Where a person employs an AI system to generate a painting, article or musical composition, it may be difficult to establish whether the resulting expression is the product of the user's creativity or the system's automated processes or both. The second is the training of AI models on existing copyrighted material. Training might involve the collection, processing and storage of large amounts of text, images and other works. The legal question is whether such activities fall within the exclusive rights of copyright owners and, if so, whether they are licensed by a statutory exception.

The Copyright Act, 1957 does not on its own create a holistic framework for all aspects of generative AI. But its provisions on authorship, originality, ownership, reproduction and fair dealing provide a basis for considering these questions. Section 2(d)(vi) relates specifically to the person who causes a computer-generated literary, dramatic, musical or artistic work to be created. Its application to modern generative AI calls for careful consideration of the relationship between human instructions and automated generation.[2]

[2] "*Generative Artificial Intelligence and Copyright law in India: A Doctrinal Analysis of Ownership and*

The question of AI training has come to the limelight in India after *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*. The Delhi High Court examined whether the training of ChatGPT by storing and using ANI's copyrighted news material amounted to infringement and whether Section 52(1)(a) was applicable in this present case. The Court declined to grant ANI an interim injunction, taking a prima facie view on the material before it. The Court was clear that the observations were not to be taken as the last word in the suit as the suit is not finally decided.[3]

This is an important decision because it involves the relationship between copyright owner's exclusive rights and statutory provisions permitting certain uses of protected works. However, it should not be interpreted as a finding that all training of AI is legal or that any output from AI is not subject to copyright restrictions.

The challenge is thus to design a copyright regime that acknowledges actual human creativity, protects legitimate commercial interests and allows for research and technological progress, while blocking both unlimited appropriation and unduly broad control of information.

RESEARCH OBJECTIVES

- To analyse the definition of an "Author" under Section 2 (d) of the Indian Copyright Act, 1957 and check whether human prompt engineers or AI systems can claim legal ownership of the work generated by AI models
- To examine the "Fair Dealing" concept under section 52 and check whether it can protect the developers when they use the copyrighted work for training AI models.
- To identify the gaps in the current legal framework and suggest measures that balance the rights of creators with technological innovation.
- To study the role of the recent judgments for the development of the Indian Copyright jurisprudence.

RESEARCH QUESTIONS

1. To what extent does the Indian Copyright Act, 1957 addresses the question of

Authorship", authored by Rosini K. & Perarasan P.

[3] *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, CS(COMM) 1028/2024, I.A. 45300/2024 decided on 24th July 2026

authorship, ownership and originality of the AI generated or AI assisted works?

2. How does the usage of the copyrighted works for training of the AI models qualify as fair dealing under Section 52 of the Indian Copyright Act, 1957?

3. What legislative and policy reforms are required to address the legal uncertainties concerning AI authorship, Data used for training and copyright infringement in India while maintaining the balance between protection of creator's rights and technological advancements?

HYPOTHESIS

The current Indian copyright framework is inadequate for regulating Generative Artificial Intelligence.

PROBLEM STATEMENT

The Indian Copyright Act, 1957 does not address the legal issues created by the modern Generative AI models. Although provisions like Section 2(d)(vi) covers computer generated works but still there remains an uncertainty about the degree of human intervention/contribution necessary for authorship and the ownership of the work generated by the AI models. The act also does not address how the usage, reproduction and processing of copyrighted work during AI training should be treated.

The AI models are highly dependent upon data to function and they are trained using copyrighted material without the permission of the original creator. Such usage of copyrighted work for training raises questions about the scope of the reproduction right under section 14 and the exceptions available under section 52. An unrestricted approach towards usage of copyrighted work could weaken the control and economic interests of the creator. On the contrary, requirement of separate licenses or permissions for work used in training may create considerable barriers and transaction costs for developers of AI models.

The central problem is therefore how Indian copyright law can identify qualifying human creativity, autonomous AI-generated expression and create a principled framework for training-data use, infringement and fair dealing.

RESEARCH METHOD

This study uses a doctrinal and analytical legal research method. It examines the primary legal resources, including the Indian Copyright Act, 1957, and recent judgments, such as the *ANI Media Vs OpenAI* case. It also examines the secondary legal resources like working papers of the Government, academic journals and policies to understand how the problems occurring in the area of copyright jurisprudence may be resolved.

MAIN BODY

I. GENERATIVE AI AND PRINCIPLES OF COPYRIGHT LAW

Copyright does not protect ideas, facts or general information in and of themselves, but protects the expression of ideas. Section 13 of Copyright Act, 1957 in India specifies the types of works in which copyright may subsist including original literary, dramatic, musical and artistic works. Section 14 describes the exclusive rights associated with copyright, subject to the other provisions of the Act.[4]

Copyright protection is based on the idea of originality. In *Eastern Book Co. v. D.B. Modak*, the Supreme Court dismissed a purely mechanical approach based on labour alone and highlighted the need of skill and judgment that incorporates a degree of creativity.[5] The decision is relevant for AI-assisted works because the mere use of a technological tool does not automatically fulfill the originality criteria of the final work.

Generative artificial intelligence can produce outputs that look creative, but the illusion of creativity does not resolve the legal question of authorship.

The principle laid down by *R.G. Anand v Deluxe Films* is still relevant as well. Copyright infringement generally involves copying of protected expression and not simply the use of an idea, theme or concept.[6] Therefore, if there are similarities between an AI-generated work and an existing work, the analysis should focus on the protected expression, the nature of the similarities and the evidence of reproduction.

[4] The Copyright Act, 1957 (14 of 1957), Section 13 and Section 14
[5] *Eastern Book Co. v. D.B. Modak,* 2008 (1) SCC 1 decided on 12th December 2007
[6] *R.G. Anand v Deluxe Films.* 1978 AIR 1613, 1978 (4) SCC 118 decided on 18th August 1978

The challenge is to apply these settled principles without assuming that Artificial Intelligence systems are the same as human authors or that all content produced by AI is unprotected by copyright.

II. AUTHORSHIP UNDER SECTION 2(D)(VI) OF COPYRIGHT ACT

The term "author" is defined in Section 2(d) of the Copyright Act for various types of works. The author of a computer generated literary, dramatic, musical or artistic work is the person who causes the work to be created under section 2(d)(vi) of the Act.

This provision is important because it recognizes that a work may be generated by computer processes. But applying this to modern generative AI is not straightforward. In traditional computer-generated works and contemporary AI outputs, the degree of human control may vary. In the first case, one is able to identify the creative process with a reasonable degree of accuracy. In the second case the system might give such output content that could not have been predicted by the user in terms of its specific mode of expression.

The output's subject, style, arrangement and other characteristics can be affected by the user providing a detailed prompt. However, a prompt alone does not necessarily establish authorship of all expressive elements generated by the system.

For instance, someone who types "create a landscape painting" and accepts the result which has a different level of creative engagement than someone who writes detailed instructions, produces several options, selects particular components, alters the layout and makes original modifications. In the second situation, there may be a stronger case for finding copyright in the human contribution, if the statutory requirements are met.

The position is less clear in the case when an output is produced almost entirely by automated processes. The Act does not explicitly name AI as a legal author. To treat the system itself as the author would therefore create difficulties under the present statutory scheme. It can also create unjustified rights by automatically granting ownership to the developer or user without considering their creative contribution or the relevant statutory rules.

A more practical approach would be to distinguish between fully autonomous outputs and AI-assisted works that contain identifiable human creativity. Copyright protection should be determined based on the applicable legal requirements and the real contribution, not the mere

use of an AI tool.

III. OWNERSHIP OF AI GENERATED WORK AND AI ASSISTED WORK

Authorship and ownership are separate, but related, ideas. Authorship is the person who is legally recognized as the author, but ownership is who owns the relevant economic rights. Section 17 of the Copyright Act states that, generally, copyright is first owned by the author, with exceptions and agreements to the contrary.

Ownership may be different from authorship in employment, commissioned work and other legally recognized circumstances. Copyright law requirements may also affect the allocation or transfer of rights in contractual arrangements. But a contract between an AI platform and its user cannot alone produce copyright in material that would not otherwise qualify for protection under applicable law.

There are several players who can create content generated by AI - the developer of the AI model, the platform provider, the person who inputs the prompt and the person who edits or organizes the output. Every participant can add in a distinctive way. The developer can create the underlying software, but that does not make the developer the author of every work created by the system. For instance, buying access to an AI tool doesn't necessarily mean you own the copyright to everything it produces.

If the user has exercised significant creative control, the resulting work may contain protectable human expression. In such circumstances ownership should be determined by the nature of the contribution, the relevant statutory provisions and any valid contractual arrangement. Where no sufficient human authorship can be identified, existing law does not provide a clear and comprehensive means of allocating copyright in a fully autonomous output.

The controversy surrounding the artwork *"SURYAST"*, made with the help of the RAGHAV AI Painting App, highlights the real-world issues of determining authorship of AI-assisted works. The history of registration and what followed shows why administrative treatment of such works should not be taken as a definitive rule for all content produced by AI.[7]

The Copyright Office could provide more guidance to applicants on disclosing the use of AI,

[7] *Supra note 1*

identifying the human contributions and how to handle applications that involve substantially automated creation. Such guidance would promote greater consistency and also help to protect genuine human creativity.

IV. REPRODUCTION AND AI TRAINING UNDER SECTION 14 AND SECTION 51 OF COPYRIGHT ACT

Ownership of generated outputs is a separate issue from the use of copyrighted material for training AI models. Generative Artificial Intelligence systems may be trained on large collections of text, images, music and other works. Depending on the technical procedure, the development of these systems can consist in fetching, copying, storing or otherwise processing protected material.

Section 14 of the Copyright Act defines the exclusive rights of the copyright owners. In the case of literary, dramatic and artistic works, these rights include reproduction in material form. The reference in Section 14(a)(i) is specifically to the storage of a work in any medium by electronic means. Section 51 concerns situations in which copyright is violated, including certain unauthorized practices relating to exclusive rights.

The statutory inclusion of electronic storage is important because digital processes cannot be excluded from consideration of copyright simply because the material is processed by a computer. If reproduction within the meaning of Section 14 is part of the training process, then the legal analysis must include an examination of whether the activity is permitted or is covered by a statutory exception.

But it is also important not to assume that all technical interactions with copyrighted material inevitably constitute infringement. The exact process, the nature of the material, the rights involved and the statutory limitations applicable have to be borne in mind. Some material may not be protected by copyright; some activities may fall outside the scope of exclusive rights or be permitted by law.

Also, the training and the output generation have to be studied separately. A model can be trained on a copyrighted work without making a substantially similar copy of the work. Conversely, a particular output may reproduce protected expression even where the legal status of the underlying training process remains disputed.

It is therefore necessary to consider both the conduct in question and the rights protected by the Act when assessing infringement. The question of whether the act falls within any exception should be addressed only after identifying the relevant right and deterring whether the activity falls within its scope.

V. FAIR DEALING UNDER SECTION 52 OF COPYRIGHT ACT

Section 52 of the Copyright Act, 1957 provides for acts which does not constitutes infringement in certain cases. Section 52(1)(a) deals with fair dealing of a work, other than a computer program, for private or personal use including research, criticism or review and reporting of current events and current affairs.[8]

Indian law does not simply copy the broad, open-ended fair use model that goes with United States Copyright Law. Section 52 states statutory purposes and exceptions. To determine, whether a particular use is covered or not under exceptions, it requires interpretation of the relevant provision, its purpose and the circumstances of the activity.

The phrase "including research" when considering AI training raises a difficult question, because it could cover activities that are very different from traditional individual research. Training of models may involve automated analysis of large quantities of material. Training may be carried out by commercial organizations. The question is whether this activity is covered by the language of the statute and if so, under what circumstances.

The answer should not automatically be based on the commercial character of an activity. The statutory provision must be read in context, including the legislative distinction between exceptions that expressly impose non-commercial conditions and those that do not. But commercial benefit alone is not enough to prove that a use is fair dealing. The purpose of the particular use and whether it is fair still matters.

The assessment must also consider the interests of the proprietor of copyrights. Where AI training results in direct competition with a rights holder, substitutes for the original market or prejudices legitimate economic interests, those circumstances may be relevant to the fairness inquiry. Access to information, technological development and the public value of research,

[8] The Copyright Act, 1957 (14 of 1957), Section 52

are the relevant factors. Neither consideration should automatically override the other.

Indian courts have construed statutory exceptions to copyright in the light of their specific purpose. The Delhi High Court considered educational copying in light of the relevant statutory provisions in *The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services*.[9] That decision may provide helpful context for understanding the relationship between copyright and public-interest uses, but it does not necessarily resolve the legality of AI training.

The real question then is whether the use in question meets the conditions in Section 52. Training AI is not automatically legal because it is in aid of research, nor automatically illegal because it is done for commercial purposes.

VI. *ANI MEDIA PVT. LTD. V. OPENAI OPCO LLC: JUDICIAL TREATMENT OF AI TRAINING*

The Question to determine the legal relationship between AI training and Copyright law was brought before the Delhi High Court in the case of *ANI Media Pvt. Ltd. Vs. OpenAI OpCo LLC*. ANI claimed that ChatGPT trained on its copyrighted news content without permission and expressed concern over the output of responses associated to the ANI content. The dispute was about issues of reproduction, similarity of output, fair dealing and territorial jurisdiction.[10]

The Delhi High Court ruled on ANI's application for interim injunction on 24 July 2026. The Court examined whether the storage of ANI's works for the purpose of training the Large Language Models (LLMs) underpinning ChatGPT could constitute an infringement and whether the activity was protected by Section 52(1)(a). It also examined evidence relating to alleged memorization, regurgitation and substantial reproduction in ChatGPT-generated responses.

The Court observed that the reproduction right in Section 14(a)(i) includes electronic storage. But the presence of a right of reproduction does not end the inquiry because the rights conferred by section 14 are subject to the other provisions of the Act including section 52.

[9] *The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services*, 2016 SCC OnLine Del 6229 decided on 9th December 2016

[10] Supra note 2

In examining fair dealing, the Court considered the meaning of "private or personal use, including research" and the fair use in the circumstances before it. It examined; whether the use was limited to training the relevant language models; whether it was harmful to economic competition or ANI's legitimate interests; and whether the functions performed by the language model served the wider public interest.[11]

The Court took a prima facie view that the storage of the works of ANI for the purpose of training the relevant models was within Section 52(1)(a) on the material before it. It also found that the evidence in the interim application did not demonstrate the alleged memorization or substantial reproduction necessary to grant the relief sought. The Court thus rejected ANI's application for an interim injunction.[12]

The procedural phase of the decision is important. The court was not finally disposing of the entire copyright suit but was deciding whether to grant interim relief. The observations made for deciding the application would not influence the final outcome of the suit as is clearly indicated in paragraph 274. It should therefore be treated as an important judicial development, not as a final ruling that all AI training is lawful.

But the decision raises important questions for future cases. It shows that the analysis may require an examination of the reproduction right, the statutory purpose of the use, the economic consequences of the use, the evidence of output reproduction and the public interest. In future disputes, the training methods, sources of data, contractual arrangements, evidence of market harm or outputs that reproduce protected work/expression more closely may come into play.

The ruling also shows why AI training and outputs from AI need to be judged on their own merits. The fact that training occurred does not resolve, in itself, whether a particular output violates copyright. Similarly, the failure to provide sufficient evidence of substantial reproduction in one interim application does not show that generated outputs can never infringe.

Thus, the importance of *ANI v. OpenAI* lies in the legal questions raised and the interpretative stance adopted at the interim stage. Its wider scope will be decided on later judicial

[11] Supra note 2, para 173-190 and 234-256
[12] *ANI v. OpenAI: User Rights, Fair Dealing, and the Future of AI in Indian Copyright Law (Part II),* by VIshno Sudheendra

consideration, the ultimate result of the litigation and potential developments in Indian copyright law

VII. THE DPIIT WORKING PAPER AND THE QUESTION OF LICENSING

The Department for Promotion of Industry and Internal Trade's Working Paper on Generative AI and Copyright, Part I, *One Nation One License One Payment: Balancing AI Innovation and Copyright,* from December 2025, explores potential regulatory responses to the use of copyrighted material for AI training.[13]

The paper examines a proposed hybrid mandatory blanket-licensing regime under which AI developers would be permitted to use covered copyrighted works for training, subject to statutory remuneration. The proposal tries to overcome the practical difficulty of getting permission from a lot of individual copyright owners and at the same time offers a way for creators to get paid.

A blanket license agreement could reduce transaction costs and bring a more stable structure to large-scale training. It could also recognize that the use of creative works may help to the commercial development of artificial intelligence (AI) systems. However, the existence of such a mechanism would be subject to clear rules on the works concerned, the calculation and distribution of royalties, the identification of the rights holders and the handling of works with various licensing conditions.

The working paper also has a dissenting view in favour of a text and data mining exception with opt-out and lawful-access safeguards. Under such an approach, AI developers would be able to computationally analyse qualifying material unless the rights holder elected out, according to the conditions applicable. This model might help with research and lower the cost of building standard artificial intelligence systems, but it does raise questions about the effectiveness of opt-out mechanisms, the transparency of training datasets and the ability of individual creators to protect their interests.

The working paper is a policy document and not an amendment to the enacted Copyright Act. Its proposals should not be considered binding law. The point is that India is looking at various

[13] Department for Promotion of Industry and Internal Trade, Government of India, Working Paper on Generative AI and Copyright, Part I: *One Nation One License One Payment: Balancing AI Innovation and Copyright* (Dec. 2025).

avenues to tackle the tension between large-scale AI training and copyright protection.

Any future licensing framework should establish clear rules for identifying works that are eligible for licensing, calculating remuneration, resolving disputes and ensuring accountability. It should also distinguish between different categories of uses where appropriate, including commercial model development, academic research and other legitimate activities.

VIII. CONCLUSION

Generative AI poses a challenge to the assumptions that underlie copyright law. It enables the production of creative content through processes in which human instruction and automated generation interact in complex ways. There are legal questions not just about who owns the AI-generated work, but whether it is legal to use existing copyrighted material to build artificial intelligence systems in the first place.

These questions can be answered on the basis of the Copyright Act, 1957. Section 2(d)(vi) relates to authorship of works created by computer, Sections 13 and 14 relate to copyright protection and exclusive rights, Section 17 relates to first ownership and Sections 51 and 52 relate to infringement and statutory exceptions. But such provisions do not explicitly cover all issues raised by modern generative AI.

Specially, the important part is the distinction between AI-assisted and fully autonomous creation. Copyright protection may be available for qualifying human expression in which a human makes a demonstrable original contribution through creative selection, arrangement, editing or modification. Where an output is generated with little or no creative input from a human, the current framework does not provide a comprehensive answer to questions of authorship and ownership.

The same analysis needs to be applied to the use of copyright material for training, looking at the rights engaged and possible application of section 52. *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC* is significant since these issues were raised before the Delhi High Court within the current framework for an application for interim injunction. Its prima facie findings are an important point of reference but the Court said explicitly that its observations would not be the determining factor in the final outcome of the suit. The decision should therefore be read in the light of the procedural and factual constraints.

The DPIIT Working Paper further elaborates the need to consider alternative practical policy mechanisms including licensing and remuneration while considering alternatives that permit qualifying computational analysis subject to safeguards. Any future reform must be transparent, workable and responsive to the interests of both individual creators and AI developers.

India should take a balanced approach that guards identifiable human creativity, provides clarity regarding the use of copyrighted works for training and ensures meaningful remedies against infringement. This approach would reduce legal uncertainty without treating either copyright protection or technological innovation as an absolute interest. Indian copyright law can meet the challenge of generative AI with clear statutory guidance, consistent judicial interpretation and carefully designed licensing arrangements that preserve the central purpose of Indian copyright law to encourage creativity and promote public access to knowledge.

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