
WHOSE WORK IS IT: THE AUTHORSHIP CRISIS IN INDIAN COPYRIGHT LAW AND AI

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ABSTRACT

With the evolution of Artificial Intelligence, copyright law faces a greater threat, one that questions the very concept of authorship itself. It raises doubts about the credibility of human intervention in works created using Artificial Intelligence. While many jurisdictions have passed orders and judgments on similar subject matters, there is no unanimous global consensus. This lack of agreement creates confusion, especially in the acceptance and recognition of copyright registrations across borders. It also opens up new interpretations regarding the concept of computer-generated works in copyright law. Such legislative gaps pose challenges for artists who use Artificial Intelligence in their creations, calling into question their creativity and methods of creation. This paper presents a comparative analysis of legal principles in various nations such as the EU, USA, and Japan, which have played significant roles in the global AI market. It aims to explore where Indian copyright law currently stands, the gaps it holds in recognising AI-generated works, and whether the present legal framework is capable of adapting to the technological shift that challenges the very definition of authorship.

1. Introduction

We are now in a Time where creativity is no longer exclusive to humans, Artificial Intelligence (“AI”) is reforming or rebasing the very foundations of the concept of authorship. AI-generated music, literature, paintings, and even news articles can now be found in the main stream media, and people are consuming it day to day life. What was once a futuristic science fiction scenario has now become a reality: machines (AI) can now “create” original content. But can these creations be copyrighted? More importantly, who, if anyone, owns them? (either the machine, which created it, or the human who prompted the task).

This fundamental question has placed existing copyright laws under an immense stress as the time passes. Globally, copyright is based on the assumption that a work must consist of a human intellect. Yet, AI challenges this assumption. In India, the governing law—the Copyright Act of 1957—predates this technological revolution. Although Section 2(d)(vi) provides a definition of an author for computer-generated works, it remains ambiguous in the context of autonomous or semi-autonomous AI systems¹.

2. The Ankit Sahni Case: raise of crucial issue

In 2020, Ankit Sahni, a lawyer and a creative artist from India had created “Suryast,” an artwork produced with the usage of an AI tool named “**Robust Artificially Intelligent Graphics and Art Visualizer**” hereinafter referred as RAGHAV. When he applied for copyright registration, he listed both himself and RAGHAV as co-authors for the work they made. The Copyright Office initially approved the registration, marking a historic first in Indian legal history as it’s the instance where the Authority had provided authorship for an Ai and even recognized it. But the decision was later reversed or has been revoked without an official explanation by the copyright registry, exposing the legal issue pertaining around AI-generated works.

The Copyright Act defines the author of a computer-generated work as “the person who causes the work to be created”. However, it doesn’t clarify whether this includes someone who merely prompts (provides / allocates a work to) an AI system. How much human input is enough? Is clicking “generate” sufficient, or must there be curation, editing, or conceptual framing?

1. Copyright Act, 1957, 2(d)(vi), No. 14, Acts of Parliament, 1957 (India)

3. Comparative Analysis

A. United States

The U.S here takes a solid position in its decision regarding the authorship to Ai: only humans can hold copyrights. The U.S. Copyright Office has consistently rejected applications for works that have been generated by non-human entities (Artificial Intelligence in this instance), However Non-Human Entities Such as companies and non-governmental organizations can still register for copyright with the appropriate provision laid in the US legislation. In the case of *Thaler v. Perlmutter*, the court ruled that a work produced by AI without human involvement is ineligible for copyright protection.²

The New York Times lawsuit against OpenAI and Microsoft deepens the complexity. The Times argues that its content was used to train AI models, including ChatGPT, which now generates summaries or reproductions of its journalism. While the Times previously resisted robust copyright protections for freelancers in *NYT v. Tasini*³, it now invokes strong “romantic authorship” claims to protect its own rights. This shift underlines the inconsistency in how copyright frameworks adjust to technological disruptions.

B. European Union

The European Union has taken a more nuanced approach. Although it still upholds the principle that only human authors can claim copyright, the EU accepts AI as a tool in the creative process. The EU Parliament’s 2020 report acknowledged the growing influence of AI and recommended clear distinctions between AI-assisted and AI-generated works.

It is also to be noted that the, EU member states differ in their role of dealing with ai in judicial practices. The UK granted limited protections to computer-generated works, which may serve as a precedent for future legislative amendments across the EU countries.

C. Japan

Japan's legal framework is among the most futuristic thinking country, as their amendments to

² *Thaler v. Perlmutter*, 23-5233, 2025 WL 839178 (D.C. Cir. Mar. 18, 2025), <https://media.cadc.uscourts.gov/opinions/docs/2025/03/23-5233.pdf>.​;contentReference[oaicite:1]{index=1}

³ *New York Times Co. v. Tasini*, 533 U.S. 483 (2001), <https://supreme.justia.com/cases/federal/us/533/483/>

its Copyright Act in the year of 2018 introduced Article 30-4, which allows copyrighted content to be used without permission for data analysis—including AI training. More importantly, Japan treats AI as a mere tool, not an author. Copyright can be awarded to a human if there's meaningful involvement in the creation process (human intervention to specified limits).

This model strikes a balance between fostering original and novel innovation and protecting genuine human creativity.

D. China

China stands out from the other nations of the list for recognizing AI-generated works under certain conditions subjected to limitations specified. In a landmark judgement by the Beijing Internet Court in the case of *li v. liu*, an AI-generated article was granted copyright protection on the grounds of originality and human oversight⁴ (Sufficient human intervention). This case signals a more progressive, regulated, approach that might shape developing nations' legislative direction including India's copyright legislation.

4. The “Ghibli Effect”: Artistic Style and Copyright⁵

The “Ghibli Effect” refers to AI-generated works that replicate the visual and emotional style of Studio Ghibli's animation, One of Japan's Quality Animation Studio creating Excellent Visuals That Were Drawn with hand and took a lot of effort and time-consuming works of artists which in turn these days mimicked in seconds with usage of Artificial intelligence affecting pain and sacrifices made by the creators.

After seeing an AI-generated animation, Hayao Miyazaki, co-founder of Ghibli Studios, reacted unease and called it an "insult to life itself." He fears that AI will produce art that lacks soul and emotion since it cannot reproduce the real human experience and emotions that are necessary for producing authentic art. The response relates to more universal concerns about

⁴ Seagull Song, China's First Case on Copyrightability of AI-Generated Picture: *Li v. Liu*, KWM (Dec. 7, 2023), <https://www.kwm.com/cn/en/insights/latest-thinking/china-s-first-case-on-copyrightability-of-ai-generated-picture.html>.

⁵ Obhan & Associates., The Ghibli Effect: Blurring the Lines Between Creativity and Copyright, Lexology (Apr. 1, 2025), <https://www.lexology.com/library/detail.aspx?g=fe1fc20-8ca4-40fc-b2a1-d2e7b788f315>.

how AI will affect artistic value and originality.⁶

These are not exact copies but often indistinguishable from hand-drawn originals in tone, composition, and detail. Obhan & Associates argue that even though style isn't traditionally copyrightable, the consistent emulation of such styles via AI challenges the ethical and legal core of originality and moral rights.⁸

In India, where the law does not protect artistic "style," such cases fall into grey areas. But as AI tools improve, the risk of market dilution and misattribution grows—prompting calls for an expanded doctrine of moral rights under Section 57 of the Act.

5. Implications for Indian Copyright Law

The Copyright Act of 1957, though once a progressive piece of legislation, is ill-equipped to deal with AI-generated content. The notion of "the person who causes the work to be created" is not self-executing in the case of autonomous systems.

Without judicial interpretation or statutory amendment by either judicial or legislative body, India risks becoming a legal outlier in the global AI economy. Not only does this create uncertainty for creators and innovators across the globe in setting up or bringing their innovative work in India, but it could also stifle investment in digital creative industries such as Music, Art or any other form of content specified in the copyright act.

Furthermore, unequal legal burdens may inappropriately impact independent artists using generative tools for their work, while large corporations can exploit vague laws with minimal accountability. Sahni's experience underscores this imbalance.

In a non-relevant situation pertaining to copyright law or any other form of intellectual property, Justice Surya Kant said that "Artificial Intelligence Has Very Serious Biases, We Must Remind Ourselves It's a Man-Made Machine"⁷, Which Explicitly comes from a renowned judge, judiciary in our perspective commenting the Artificial Intelligence as mere tool made

⁶ *SC seeks EC, Centre reply on PIL against paper ballots*, *Times of India* (Apr. 23, 2025, 11:24 AM), <http://timesofindia.indiatimes.com/articleshow/119595418.cms> (discussing Hayao Miyazaki's disapproval of AI-generated animation and its implications on artistic integrity).

⁷ Live Law News Network, *Artificial Intelligence Has Very Serious Biases, We Must Remind Ourselves It's a Man-Made Machine: Justice Surya Kant*, LiveLaw (Apr. 15, 2024, 12:17 PM), <https://www.livelaw.in/top-stories/supreme-court-j-surya-kant-artificial-intelligence-man-made-machine-has-very-serious-biases-290135>.

by man, therefore suggests a sufficient human intervention for a better cause of protecting the originality of a creation.

6. Recommendations for future

1. Amend the Section 2(d) of the Copyright Act to differentiate between AI-generated and AI-assisted works, setting out criteria for human contribution and the involvement of Ai in a creation.
2. Introduce sui generis (“a Latin expression that translates to **“of its own kind.”** It refers to anything that is peculiar to itself; of its own kind or class. In legal contexts, sui generis denotes an independent legal classification”) rights for wholly AI-generated works to allow limited protection without extending full authorship rights just as in the case of Japan, where they allowed such activity of providing limited protection to Ai generated works.
3. Establish transparent Copyright Office procedures for registering collaborative works between humans and AI.
4. Adopt limited fair use exceptions for AI training under a public interest framework, providing a guideline which are globally ractified to prevent any cross-border intellectual property issues in general.
5. Mandate capacity-building for legal institutions, including judges and policymakers, to handle complex IP-AI intersections.
6. Engage with international forums to negotiate harmonized standards, enhancing global enforceability for collaborative creations between humans and Ai.

7. Conclusion

Artificial Intelligence is reshaping the very Structure of creativity. While this transformation opens immense newer possibilities, it also demands a potential rethinking of copyright jurisprudence. India stands at a crucial juncture. If it can create a balance innovation with intellectual property protection, it will not only secure the rights of its creators but also stake a leadership position in the global AI economy and provide a suitable solution to arising problems in an international level.

The Sahni case and the Ghibli-style controversies are not outliers they are just the starting points. And the legal questions they raise will only multiply in the years ahead. Indian law must be ready to answer them and must be amended or bring a suitable legislation dealing with matters related to Artificial Intelligence addressing them in a separate manner by enacting a newer legislation.

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9. Sahni v. Registrar of Copyrights (India), Correspondence and File Notes (2021).