
A CRITICAL ANALYSIS OF AI-GENERATED FANFICTION THROUGH THE LENS OF FAIR USE UNDER INDIA'S COPYRIGHT LAW

Rutuja Bhand, LL.M. (Intellectual Property and Technology Laws), Vishwakarma
University, Pune

ABSTRACT

Now machines write tales once shaped only by people. Sometimes they spin verses or pictures without much guidance at all. Old movies, novels, shows - these become raw material for fresh spins. Folks call it AI-made fan stories, though that label barely fits. Laws about ownership weren't built for this kind of remixing. Fans have bent rules quietly for years. Machines blur things further - who made it? Is it new? Does sharing count as fair? Questions pile up where tech runs ahead.

This work looks into the way India's Copyright Act from 1957 handles stories made by artificial intelligence that are inspired by existing tales. Because these creations borrow heavily, yet change form, questions arise about their place under current laws - do they count as new enough? Instead of taking sides, it checks court rulings, what lawmakers wrote, plus scholarly views to map out where fan-made AI texts might stand legally. While America draws lines one way, Europe another, each offers clues - but not answers - for how Delhi could respond when machines write fiction using someone else's world.

A fresh look at India's current copyright rules shows gaps when it comes to content made by artificial intelligence. Instead of holding firm, these laws struggle to keep pace with new forms of creation powered by machines. Clarity in legal guidelines becomes essential, especially where ownership is unclear. Licensing systems could work better if they adapt faster than they do now. Fair use ideas may need reshaping so inventors and artists aren't left behind. Innovation moves quickly - protection for creators should not lag.

Keywords: Generative Art, AI, Copyright Law, Fanfiction, Fair Use, Transformative Works, AI-Generated Projects, and Intellectual Property.

Introduction

Historically, Copyright (intellectual property) laws have been modified in accordance with the evolution of technological advancements and the tools of creativity that humans have developed throughout the years.¹ When books first got printed, that shook things up. Later came radio, then TV, each shifting how art gets shared. Now machines can dream up poems, songs, even pictures - all without much help from humans at all.² These smart systems learn by studying oceans of old works, mixing pieces into something fresh.

Out here, something stands out - stories made by artificial intelligence. These tales borrow people, places, or plots first seen in books, shows, or films that others own. Fans once wrote such pieces themselves, playing with old worlds to stretch them, question them, even twist their meaning.³ Now, machines can spin similar work in seconds, thanks to smart software trained on vast amounts of text.⁴ So what used to take hours now happens nearly at once, shifting how much gets made. The core idea stays: fans still reshape stories they love, just faster than before.

Nowhere is the tension clearer than in how India handles creative ownership. Control over copying, changing, or building on a work rests solely with the creator.⁵ Yet that control does not run unchecked - exceptions exist to keep ideas flowing. One path around strict rules appears in fair dealing, defined under Section 52 of the 1957 Act.⁶ Balance shapes much of what follows in disputes over expression versus protection.

What really matters here is if stories made by artificial intelligence count as new creative work allowed under fair dealing rules, or if they're just unapproved copies breaking copyright law. Complicating things further, these machine-made creations bring up tricky concerns around who truly creates them, who owns what, how unique the output must be, and where the data used to train such systems actually comes from.⁷

Around the world, legal systems handle creative transformation differently. In the U.S., courts

¹ Brad Sherman & Lionel Bently, *The Making of Modern Intellectual Property Law* (Cambridge Univ. Press 1999).

² Pamela Samuelson, *Allocating Ownership Rights in Computer-Generated Works*, 47 U. Pitt. L. Rev. 1185 (1986).

³ Henry Jenkins, *Textual Poachers: Television Fans and Participatory Culture* (Routledge 1992).

⁴ Ryan Abbott, *The Reasonable Robot: Artificial Intelligence and the Law* (Cambridge Univ. Press 2020).

⁵ Copyright Act, 1957, § 14 (India).

⁶ Copyright Act, 1957, § 52 (India).

⁷ World Intell. Prop. Org. (WIPO), *WIPO Conversation on Intellectual Property and Artificial Intelligence*, <https://www.wipo.int> (last visited May 1, 2026).

⁸often look at whether a new work adds fresh meaning - fair use being central here.⁸ Europe tends to prioritize control by creators, especially online.⁹ When it comes to writings made by artificial intelligence, Indian law has not yet set clear boundaries through court decisions.

This work questions how well fair dealing rules fit AI-made fan stories in India. Not every machine remix finds clear ground in today's legal ideas. Some gaps show where old concepts struggle with new tools. A fresh look could help match current tech with artist safeguards. What once worked may now need adjusting. Clarity often hides when law meets algorithm.

Research Questions

1. Are AI-generated Fan-Fiction copyrighted under Indian Copyright Law?
2. Do such works fall under fair dealing, according to Section 52 of the Copyright Act of India, 1957?¹⁰
3. Are the Current Indian Copyright Laws Able to Provide Proper Protection/Regulation Over AI-Generated Transformative Works?
4. What are the International Models That Will Assist in changing the current Indian
5. Copyright Law as It Pertains to Importing AI-Generated Works?¹¹

Objectives of the Study

1. To clarify the nature of AI-generated fanfiction.¹²
2. To assess whether fair dealing provisions apply to typical AI-generated transformative works.
3. To analyse copyright implications for derivatives, originality, and authorship.

⁸ U.S.C. § 107 (1976); *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994).

⁹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on Copyright and Related Rights in the Digital Single Market, 2019 O.J. (L 130) 92.

¹⁰ Copyright Act, 1957, § 52 (India).

¹¹ Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as revised; Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

¹² Jenkins, *supra* note 3.

4. To examine similarities & differences between Indian Copyright Law and other international approaches regarding AI-generated content.
5. To propose solutions that will balance creativity with copyright protection.

Hypothesis

It begins with a guess: India's copyright rules today are fuzzy when it comes to stories made by fans using artificial intelligence. What follows is this: old ideas about fair use might not hold up now that machines help reshape creative work. One thing stands out clearly - those legal exceptions need either a new meaning or fresh laws. Surprisingly little fits as-is in this shifting space where tech meets storytelling. Clarity slips away just when it's needed most. Behind the scenes, outdated structures struggle to keep pace. Not everything written before accounts for algorithms twisting plots in unseen ways.¹³

Research Methodology

This work builds on legal reasoning alongside comparison across jurisdictions. Secondary materials form its base: laws, court rulings, academic writing, published studies, global agreements, government documents, and assessments tied to copyright and machine-made creations. Close attention goes to India's 1957 Copyright Act, along with key judgments, when weighing how fair dealing might apply to stories made by artificial intelligence.¹⁴ Insights emerge through contrast with U.S. ideas about fair use and Europe's stance on AI output. The topic also gets contributions from new academic sources and those related to recreating artwork and creatively reusing pieces of content from various media, and forming online communities creating similar items together as a group.¹⁵

Fanfiction and AI-Generated Content: An Overview

Many stories based on pre-existing films, novels, and television series are the work of fandoms where people are creating and recreating familiar universes.¹⁶ Out of online groups grew a way for people to twist plots they love into something new. These writings turn viewers into makers instead of just watchers. Sometimes starting fresh means borrowing pieces already out there.

¹³ Abbott, *supra* note 4.

¹⁴ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1 (India).

¹⁵ Aaron Schwabach, *Fan Fiction and Copyright: Outsider Works and Intellectual Property Protection* (Ashgate 2011).

¹⁶ Jenkins, *supra* note 3.

What begins as imitation can shift into personal expression pretty quickly.

Fiction built on existing stories walks a thin legal line, since those worlds belong to someone else.¹⁷ A few creators allow fans to play in their universes, seeing it as loyalty; others see only unapproved borrowing. Whether such work stands up in law often comes down to how much it changes the original.

Out of old stories, fresh ones grow - twisted in theme or voice. Some tales reshape characters until they feel like strangers wearing familiar names. A different angle on events can turn borrowed worlds into something else entirely. When a story does more than echo its source, courts sometimes see it as its own thing. Meaning shifts happen through reimagined motives, altered endings, rewritten roles. Not every copy is just copying - one might spin gold from someone else's thread.¹⁸

Out of nowhere, stories shaped by machines started showing up across fan communities. Trained on huge piles of written work, these programs respond to simple directions with madeup plots.¹⁹ Without much help from people, they mimic voices and worlds fans already know. Sometimes it feels like the words were crafted by a person who truly gets the source material.

Out here, stories made by machines feel different - patterns stitched together without a person at the core. Questions pop up, not just about who made it, but who owns it, who answers for it. Copying someone else's world? That part gets sticky. Some say feeding books or scripts into systems is like stealing pages behind closed doors. Others claim it's more like taking notes through math. The line blurs when code reads what humans wrote.²⁰

Most laws in India still overlook questions about who owns stories written by artificial intelligence. Because old rules focused on people creating work, they now face challenges when machines help make new kinds of art.

Copyright Rules in India

Creators get special rights, so their work stays protected. Yet people outside can still use parts

¹⁷ Schwabach, *supra* note 15.

¹⁸ *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994).

¹⁹ Abbott, *supra* note 4.

²⁰ WIPO, *supra* note 7.

when needed for learning or new ideas. Rules exist to stop total control while making sure artists benefit, too. Protection does not mean full lockdown forever, though. Some uses are allowed even without asking first.²¹

India's main guidelines on copied work stem from a 1957 law.²² This includes protection for writings, performances, music, art, movies, and audio recordings. The moment a creation exists, it gains rights - no forms required. Owning that work means only they can decide how it gets copied, changed, shared, shown, or turned into another language.

Copyright ownership brings certain special privileges, spelled out in Section 14 of the Copyright Act.²³ Making copies, however you put it on paper or screen, falls within that control. Distribution to people who aren't part of the creation process is also reserved. Changing the original shape or turning it into another language? That belongs to the owner too. Sharing it publicly lands under their say-so as well. If someone steps into those areas without permission, trouble can follow under Section 51.

Originality matters most when it comes to holding copyright. Not long ago, judges in India began using a tweaked version - asking only for a small spark of imagination along with some effort and thinking. A key moment came with *Eastern Book Company versus D B Modak*, where top justices turned away from the old idea that hard work alone earns protection.²⁴ Instead, they stressed that fresh thought must be part of the mix. That ruling left deep marks on how India sees what counts as original.

Out here, where stories get retold by fans, things start touching on derivative work ideas. Built from already-copyrighted material, these versions twist or reshape what came before. Characters that belong to others show up, whole worlds borrowed - sometimes plots too - so it fits the pattern without trying. What emerges isn't new ground exactly, just familiar paths walked differently.²⁵

While protecting creators, the system also allows certain uses to keep speech free and serve community needs. These allowances live in India's Copyright Act as part of a principle called

²¹ World Intell. Prop. Org., *Understanding Copyright and Related Rights* (2016). ²²

²² Copyright Act, 1957 (India).

²³ Copyright Act, 1957, §§ 14, 51 (India).

²⁴ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1 (India).

²⁵ Schwabach, *supra* note 15.

fair dealing. Found in Section 52, they set clear boundaries instead of open-ended permissions. Across the Atlantic, U.S. rules give wider room under fair use. By contrast, Indian laws define permitted acts with tighter limits.

Some activities like personal study, commenting on work, reviewing art, covering news, teaching, and legal processes are allowed under Section 52.²⁶ Judges in India look at laws closely while weighing fairness when deciding what counts as acceptable use. A notable case - *Civic Chandran versus Ammini Amma* - saw the Kerala High Court suggest reworking material might still be a valid critique.²⁷

It's unclear how fair dealing applies to fanfiction since people usually write it just for fun or to join a creative conversation instead of offering critique. What makes things trickier now is when artificial intelligence produces these stories - such versions might copy big parts of original works, yet there's no real person rethinking or reshaping them along the way.²⁸

Who gets credit under India's copyright rules still lacks clarity. When it comes to software-made creations, the one who sets everything in motion is named author.²⁹ Different types of creative output have their own listed creators by statute. That rule took shape long before smart algorithms began producing on their own. What happens when machines act alone isn't spelled out at all.

Without laws focused on artificial intelligence, it is hard to know who owns what, who pays if something goes wrong, or when rules get broken. When stories made by AI copy existing characters or plots, figuring out faults turns messy. Sometimes people wonder if the blame belongs to those using the tech, building it, or hosting it online.³⁰

On top of its own laws, India follows global rules like the Berne Convention and the TRIPS deal. These agreements back creators' rights but allow some narrow leeway. Still missing from both? Clear guidance on AI that generates content.

Now comes a gap in India's copyright rules when it comes to creative work made by artificial intelligence. Because of this, judges might have to look again at old legal ideas so they fit

²⁶ *Civic Chandran v. Ammini Amma*, 1996 PTC 329 (Ker. HC).

²⁷ *Civic Chandran v. Ammini Amma*, 1996 PTC 329 (Ker).

²⁸ Jenkins, *supra* note 3.

²⁹ Copyright Act, 1957, § 2(d) (India).

³⁰ Abbott, *supra* note 4.

today's tech changes.

Copyright Questions Around AI-Made Fan Stories

Generated tales made by artificial intelligence stir up debates about ownership, copied elements, close resemblance to existing stories, uniqueness, and who truly creates them.³¹ Old rules on creative rights face pressure since smart algorithms mix fresh ideas with echoes of what they learned, making it hard to tell new ones apart from borrowed. Most worry comes when familiar story worlds get used without permission. Fan tales made by machines often pull directly from known plots, places, and people created by others. When those creations copy too much of what's protected, it crosses a legal line.³²

When judging copying, courts often turn to the substantial similarity check. What matters most isn't the concept but how it's expressed on the page. Instead of starting fresh, stories made by machines might echo a writer's rhythm, their way of shaping characters, even the flow between scenes. These echoes can feel too close to the source.³³

Stories built on older tales bring up big questions. Because fanfiction leans on worlds already made, new tools that write follow-ups, different finishes, or mix characters across series make unapproved changes more likely.³⁴

Who made it, who owns it - these questions get messy fast. Human thought behind creations - that idea sits at copyright's core. Yet when machines piece together words or images by crunching vast datasets, intent vanishes. India says the one who sets the process in motion gets credit for machine-made work.³⁵ Still, naming a creator that way feels shaky once AI builds complex things on its own.

Still debated, training data stirs tension. Many generative AI systems learn from books and texts shielded by copyright, yet pull from them without clear permission. Some say this amounts to using creative work without consent.³⁶

³¹ Samuelson, *supra* note 2.

³² Copyright Act, 1957, §§ 14, 51 (India).

³³ R.G. Anand v. Deluxe Films, (1978) 4 S.C.C. 118 (India).

³⁴ Schwabach, *supra* note 15.

³⁵ Copyright Act, 1957, § 2(d) (India).

³⁶ Abbott, *supra* note 4.

Stories made by artificial intelligence sit in a gray area under copyright rules, showing how current laws struggle with creative work shaped by machines. Not built for tools that learn, old legal ideas falter when faced with new forms of expression.

Fair Dealing Examined Through Comparison

One key limit on copyright in India is fair dealing.³⁷ Yet it aims to weigh creators' rights against wider needs like learning or free expression. Still, whether this applies to stories made by artificial intelligence remains unclear.

A person can sometimes use parts of protected material without permission. This happens only under certain conditions spelled out in law. One such condition is when someone studies alone at home. Another opens the door for commentary on creative pieces already shared publicly. Giving credit matters if a work gets quoted during a public discussion. News coverage also allows small lifts from original sources now and then. Schools may apply similar rules while teaching students. Yet these openings do not stretch as far as in the United States. That system gives courts more room to interpret what might qualify. Here, strict categories define each possible path forward.

Now here's a twist - figuring out if fanfiction counts as allowed reuse under Section 52 isn't straightforward. Sometimes it's made by people who reshape stories to mock, question, or reflect on the original, which might fit fair dealing rules. Yet most of the time, these writings exist just to amuse, not to critique.^{38,39}

Stories made by artificial intelligence add layers of difficulty since computer-written work might not truly reshape original material. When judges assess whether usage qualifies as fair, they look at things like why it was used, what kind of content it is, how much was taken, and its effect on existing markets. If AI-built tales copy large parts of copyrighted stories, these could harm businesses that rely on permissions to create new works based on older ones.

Out west, the U.S. leans on a wider idea called fair use, spelled out in Section 107 of its copyright law.³⁹ Judges there often look closely at how differently something is used - does it change the original? Way back in *Campbell against Acuff Rose Music Inc*, the top court asked

³⁷ Copyright Act, 1957, § 52 (India).

³⁸ *Civic Chandran v. Ammini Amma*, 1996 PTC 329 (Ker).

³⁹ U.S.C. § 107 (1976); *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994).

if the remix brought new insight or feeling. That case became a marker, showing that shift matters more than copy.

Out of left field, court rulings on transformative works have shaped how people talk about fanfiction. Because it often adds fresh viewpoints, some experts say it sparks meaningful conversation worth safeguarding. Yet down the line, critics warn that leaning too heavily on existing story worlds can weaken creators' control over their earnings. While creativity thrives in borrowed settings, tensions remain when profit and ownership clash.⁴⁰

Some U.S. court rulings show openness to new forms of creative work. Still, judges haven't agreed on how to treat stories made by artificial intelligence that borrow from existing ones. Cases now unfolding, where tech firms face claims over training data, could reshape how laws are understood down the line.⁴¹

Most of the time, the European Union leans toward tighter rules that prioritize creator rights. Protection for authors tends to be more robust there, with fewer loopholes allowed. On another track, new policies have emerged focusing on how artificial intelligence is managed and made visible.⁴²

Still, when set beside those regions, India's legal stance on writings made by artificial intelligence feels sparse. So far, judges haven't ruled clearly on whether stories reshaped by machines can count as fair use. Even so, India's legal system sometimes sees value in weighing copyright against creative freedom. From another angle, the Kerala High Court pointed out in *Civic Chandran v Ammini Amma* that changing a work deeply while critiquing it could allow brief unlicensed use.⁴³ Still, using this logic for AI-made fan stories hits a snag - these systems often create without any clear human voice behind them. What matters most boils down to how much people actually shape what comes out. When someone deeply tweaks, selects, or steers the material, the case for it being something new gains weight. Should AI stories take the place of official spin-offs, legal support might shrink. When automated tales challenge paid content, judges could hesitate before allowing free use claims.

⁴⁰ Jenkins, *supra* note 3.

⁴¹ Authors Guild v. Google, Inc., 804 F.3d 202 (2d Cir. 2015).

⁴² Regulation (EU) 2024/1689 of the European Parliament and of the Council of June 13, 2024 on Artificial Intelligence, 2024 O.J. (L 1689) 1.

⁴³ Civic Chandran v. C. Ammini Amma, 1996 (16) PTC 329 (Ker. HC).

Still, India's current rules on copyright do not handle the clash between AI-generated work and original creators' claims. Looking at how others tackle it shows room for looser readings that adapt when tech shifts underfoot.

Legal Gaps and Need for Reform

Out of nowhere, machines now create things people once thought only humans could make. Because of this shift, old rules about ownership feel outdated fast. India's legal system built its copyright ideas on art made by hand, mind, soul - not code. So, when software produces stories or images alone, confusion follows close behind.

It starts with who actually makes something. Rules about machine-made creations came long before smart AI showed up. Deciding on copyright is not easy to define what person holds copyright on what, thus who owns the Copyright. Without knowing this, it makes it very difficult to determine one's ownership of Copyrights.⁴⁴

Still uncertain where AI-made work stands under today's copyright laws. Not one part of Section 52 clearly covers works made by machines. Because of that, fan stories shaped by artificial intelligence sit in a legal gray zone. Fair dealing has no clear path when algorithms take part in reimagining content.⁴⁵

Most times, the rules around AI data feel like guessing. Training smart machines often pulls from books and stories others wrote. Without solid laws, it is hard to know what counts as fair in India. Machines learn using creative work - yet nothing clearly says if that is allowed.⁴⁶

Out in the open, tracking violations gets messy. When machines crank out endless copies at speed, under fake names, oversight starts to slip. Old ways of policing ownership? They might just fall apart.

Nowhere near every update fits neatly into old rules. Shaping new laws means weighing fresh ideas against the people who make them. Instead of waiting, India could lay down clear terms for how artificial intelligence handles creative work - spelling out credit, responsibility, and when data use crosses a line. Alongside that, what counts as fair use might need stretching, so

⁴⁴ Copyright Act, 1957, § 2(d)(vi) (India).

⁴⁵ Copyright Act, 1957, § 52 (India).

⁴⁶ Pamela Samuelson, *Generative AI Meets Copyright*, 76 Commc'ns ACM 20 (2023).

reimagined digital art doesn't get caught in outdated limits.

Licensing setups might offer a different path forward. Instead of lawsuits piling up, shared models that let AI tools tap into fictional worlds - on condition they pay writers - could keep things fair without slowing innovation down.

What if AI makers had to reveal more? Sharing details about data used to train systems could make oversight easier. Instead of hiding methods, opening up how content is built might support better handling of ownership rules. Clearer information paths help track who made what. This kind of openness tends to align efforts across legal and creative spaces.⁴⁷

Only time will tell how judges reshape legal thinking down the line. Courts in India might lean on adaptable methods, seeing author rights matter just as much as public creativity that builds on what came before.

Conclusion

Out here, artificial intelligence shifts how art comes into being, nudging aside old ideas about who owns what. One tangled example? Stories made by machines based on existing worlds - fan tales spun not by people but algorithms. These pieces sit where public enthusiasm meets reimagined expression, bumping up against rules meant to guard original work.

Nowhere is the legal gray area bigger than in stories made by machines using someone else's work. This research looked at how India's copyright rules handle that, especially when it comes to what counts as fair use. Fanfiction never had clear boundaries to begin with. But throw AI into the mix, and questions about who owns what get even messier. Originality blurs fast once algorithms start rewriting tales. Authorship slips through fingers like sand. Ownership becomes harder to pin down each time a model generates something new.

Nowhere does it clearly say how India's copyright rules should handle creative work shaped by artificial intelligence. Old laws assumed people would always be the ones making art, so they trip up when machines take part in crafting something new. Fair dealing might allow some leeway under Section 52, yet its tight wording leaves gray areas - especially for stories made

⁴⁷ Regulation (EU) 2024/1689 of the European Parliament and of the Council of June 13, 2024 on Artificial Intelligence, 2024 O.J. (L 1689) 1.

by fans using AI tools. Clarity fades where code begins to create.

Looking at how things differ between the U.S., Europe, and India shows uneven paths on creative reuse and tech rules. Because American law allows more room for new uses of existing work, artists and builders can stretch further. Yet across Europe, a tighter hold over creation limits such shifts. For now, India sits somewhere in between - without clear directions made just for artificial intelligence.

A too-tight grip on copyright might choke off tech advances, community-driven creativity, and bold new forms of expression. At the same time, letting AI freely use made-up worlds could hurt writers' income and personal connection to their work. So, finding middle ground in rules feels necessary - neither too loose nor too strict.

So, the paper pushes for clearer laws on who owns what when machines make art. It suggests old rules about fair use need fresh thinking, given how people remix content today. What if makers of AI had to explain their training sources more openly? Instead of locking things down, maybe flexible licenses could help share benefits across creators and users.

Change shapes how we see art, when machines help write stories people love. Laws must grow, yet stay true to rewarding new ideas. What fans create with artificial minds tests old rules, brings up who owns dreams built together - person plus program. This moment asks balance, keeps making things fair for those who start them.