
AI AS AN AUTHOR: DELHI HC'S TAKE ON AUTHORSHIP & COPYRIGHT

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ABSTRACT

The rise of artificial intelligence has changed how content is created, shared, and consumed across various fields in the world. From art to journalism, AI is performing majority of tasks that were once strictly human domains. This advancement raises a critical legal question: whether AI-generated content enjoy copyright protection, and if so, who owns it? This debate came sharply into focus in ANI Media Pvt. Ltd. v. OpenAI Inc & Anr, a case reforming India's approach to intellectual property in the AI era.

This paper seeks to examine the questions posed by the case, the first being whether storage of the news agency's protected data for training of AI systems amount to copyright infringement; and the second relating to the use of such data by the AI systems to generate response for users amount to copyright infringement. Further, the paper analyses the applicability of "fair use" doctrine, while also examining the territorial jurisdiction of courts in India to entertain this matter by emphasising upon the effects doctrine.

Keywords: artificial intelligence, OpenAI, fair use doctrine, copyright law, ChatGPT, AI training

I. INTRODUCTION

The copyright law in India is governed by the Copyright Act, 1957 (*'the Act'*) which grants protection to the original works of authorship. Section 2(d)¹ of the Act defines an “author” depending on the category of their work like literary, artistic, dramatic, musical, photographic or cinematographic. It is assumed that the author is either a natural person or a juristic person like a company. The legislation is silent on non-human creators which include artificial intelligence and their systems.

International jurisdictions have also struggled with this issue. In the United States of America, the Copyright Office explicitly denied copyright to AI-generated graphic novel, *Zarya of the Dawn, 2023*², asserting that the copyright law protects only “human works of authorship” and therefore limited copyright protection to the author’s text and excluded graphics generated by the AI software for the book. The United Kingdom, in contrast, under Section 9(3)³ of its Copyright, Designs and Patents Act, 1988, provides that for work generated by computer systems, the author is the person “by whom the arrangements necessary for the creation of the work are undertaken.”

The lack of uniformity in statutory provisions and judicial guidance on AI-generated works across globe has now come under the spotlight in *ANI Media Pvt. Ltd. v. Open AI OPCO LLC*⁴ (*'ANI v. OpenAI'*)

II. GENESIS OF THE LITIGATION

a. Facts

The Asian News International (ANI), an Indian news agency, filed a civil suit before the Delhi High Court (*'the Court'*) in November 2024, against the American artificial intelligence company, OpenAI, alleging that its large language model, ChatGPT, through unauthorised means had used ANI’s copyrighted content including both publicly accessible and paywalled material protected under the Act, without permission from ANI or negotiating a licensing agreement. ANI claims that the material had been accessed for training purposes

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

² Kris Kashtanova, *Zarya of the Dawn*, U.S. Copyright Office, Registration No. VAu001480196, 2023.

³ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (U.K.).

⁴ ANI Media Pvt Ltd v. OpenAI Inc & Anr, CS(COMM) 1028/2024 (Delhi HC).

of the chatbot, aggrieved by which ANI approaches the Court seeking declaration from the Court to restrain the Defendants from storing, publishing, reproducing and using the Plaintiff's copyrighted work or any other original works while also directing the Defendants to disable access of the chatbot to the Plaintiff's work.

b. Issues

The Plaintiff approached the Delhi High Court by way of a copyright infringement suit, wherein the primary issues which arose were, firstly, whether storage of Plaintiff's data which is in the nature of news and claimed to be protected under the Copyright Act, 1957, by the defendant for training its software would amount to copyright infringement. Secondly, whether the use of plaintiff's copyrighted data by the defendant in order to generate responses for its users would amount to copyright infringement. Thirdly, whether the use of Plaintiff's copyrighted data by the Defendant qualifies as "fair use" under Section 52⁵ of the Copyright Act, 1957. Fourthly, whether the Courts in India have the jurisdiction to entertain the lawsuit since the Defendants are located in the United States.

III. ADDRESSING THE SHORTCOMINGS

While considering the first issue, the Court examined whether storage of ANI's copyrighted works by OpenAI for training of its chatbot constitutes reproduction under Section 14(1) of the Act. ANI contends that even though their material is accessible publicly, copying and storage of it amounts reproduction. The Court recognises that AI systems cannot function without ingesting large amounts of data but at the same time, it remains cautious since AI training is a commercial activity which cannot be equated with mere technological use. The first issue is currently open and under adjudication.

With respect to the second issue regarding whether the use of Plaintiff's copyrighted data by the Defendant in order to generate responses for its users would amount to copyright infringement, it is recognised that even though facts and news events are not protected by the Act, the original expression of the work is protected. If AI generates a response which is substantially similar to the work of the Plaintiff, such outputs cannot bypass infringement merely because they are generated by a bot. Therefore, the Court focuses on what the output

⁵ Copyright Act, 1957, § 52, No. 14, Acts of Parliament, 1957 (India).

contains and believes that AI may be innovative with its response but it cannot evade the provisions of infringement if the output is a reproduction of Plaintiff's copyrighted content.

With respect to the third issue that deals with whether the Defendant qualifies the condition of "fair use" under Section 52 of the Act, the Court notices that the doctrine of fair use doesn't have a broad meaning under the Act and therefore, only those uses that are mentioned under the statute can be exempted from infringement. According to the Court, AI training by use of large volumes of data does not fall under any of the categories mentioned under Section 52 including personal or private use, research, criticism, or reporting of current events. The Court believes this issue is better left to the legislature than judicial interpretation.

With respect to the fourth and final issue of the matter that deals with whether Indian courts have jurisdiction to entertain the matter since the Defendants are located in the US, the Court relies on the Effects Doctrine to determine territorial jurisdiction. In cases involving online platforms or services, the physical location of the Defendant is not decisive, rather the place of legal injury is utmost important for consideration.

In *Swami Ramdev v. Facebook*⁶, the Court held that global platforms causing harm in India are subjected to Indian jurisdiction even if their servers and corporate offices are located abroad. Since ChatGPT is accessible to users in India and the alleged copyright infringement to ANI has happened within the Indian territory, the Court considers this as cause of action has taken place in India. Accordingly, the Court affirms that courts in India have the jurisdiction to entertain the matter despite the location of Defendants is outside India.

IV. SUBSEQUENT PROCEEDINGS ACROSS DIFFERENT JURISDICTIONS

ANI filed a copyright infringement suit before the Delhi High Court originally and since then, the lawsuit has drawn interest from various other industries like music companies, book publishers, and news agencies, all highlighting the alleged copyright concerns.

In December 2024, the Federation of Indian Publishers (FIP) filed an intervention application in the ongoing civil suit of *ANI v. OpenAI*, representing prominent members such as Bloomsbury, Penguin Random House, Cambridge University Press, S. Chand and Co., Pan

⁶ *Swami Ramdev & Anr. v. Facebook Inc. & Ors.* CS (OS) 27/2019 (Delhi HC)

Macmillan and Rupa Publications, accusing OpenAI of using copyrighted literary works protected under the Act.

Subsequently, in January 2025, NDTV filed an intervention application stating that OpenAI has scraped their copyrighted content to train its AI systems. Alongside NDTV, other prominent entities such as Network18, Indian Express, Hindustan Times, and members of the Digital News Publishers Association (DNPA) also sought to intervene in the case.

Furthermore, in February 2025, music industry giants such as Saregama, T-Series, and the Indian Music Industry (IMI) collectively presented their concerns before the Court, arguing that OpenAI extracts protected song lyrics, recordings and music compositions without proper licensing or compensation for training its AI systems.

Internationally, OpenAI has been accused to use copyrighted content of entities via unauthorised means. In November 2024, GEMA, Germany's music licensing body, filed a lawsuit⁷ against OpenAI, alleging the company of reproducing protected song lyrics by German authors in its tool, ChatGPT, without having remunerated the authors of the works used.

In the US, lawsuits from news publishers including the New York Times and authors including John Grisham, Jonathan Franzen, and George R.R. Martin have accused OpenAI and other AI platforms of using copyrighted materials as training data.

V. THE BOTTOM LINE

As of 2025, the case of *ANI v. OpenAI* is still ongoing before the Delhi High Court in the courtroom of Justice Amit Bansal. The case has allowed India to confront the internationally contested copyright infringement dispute.

Unlike the UK, copyright law in India has not been designed to include non-human creative entities other than natural persons or juristic persons like a company. The analysis of the Court will not only determine the rights of an Indian news agency against an American tech-giant but, shape the copyright law in this tech-backed era.

⁷ GEMA v. OpenAI, Munich Reg'I Ct. (Ger.) (2024).