
CAN AI BE AN AUTHOR? RETHINKING COPYRIGHT PROTECTION FOR AI-GENERATED CONTENT IN INDIA

Anya Bharti, Army Institute of Law

ABSTRACT

Rapid advancements in artificial intelligence (AI) have altered the creation of creative works and created a number of new challenges for copyright law. Literary, artistic, musical, and other creative works can now be produced by generative AI tools with varying degrees of human involvement. This raises significant issues under Indian copyright law, especially with regard to whether an AI system can be considered an author and, if not, who should be the owner of the copyright in such works. It can be difficult to apply some of the Copyright Act, 1957's current provisions to modern works made with artificial intelligence because it was designed with human authorship in mind. The recent DABUS ruling, which distinguishes the issue of legal authorship from the issue of originality in AI-generated works, is examined in this article along with the topic of AI authorship under Indian law. We also look at the copyright issues that arise when AI systems are trained using protected works. The article also compares the approaches adopted in the US, UK, and EU. The article makes the case that India needs more specific laws regarding ownership and authorship, the role of human involvement in AI-generated works, and the use of copyrighted works for AI training. Such regulations can give creators and AI developers more legal certainty while enabling technological advancement without diminishing the importance of human creativity and copyright protection.

Introduction

In today's world, artificial intelligence is developing at a rapid pace. Generative AI tools are now being used to create content, such as text, images, audio, video and computer code.¹ However, while AI has made things easier for many people, it is not without its risks and uncertainties. Work created by generative AI tools poses challenges to the copyright law in India. The work generated includes literary works, artistic works or sound recordings, which comes within the purview of copyright law. Therefore, AI-generated works raise questions about who should legally own them.²

With the advent of AI, the tasks which were earlier accomplished entirely by humans can now be done with little human input to tools like ChatGPT, Google Gemini and perplexity. This raises the key question of who owns the copyright of these AI-generated works – the person who gave the prompt or the developer of the AI system.

The Indian Copyright Act, 1957 came into existence at a time when a machine authoring a literary or artistic work was not a reality. The Act was made on the assumption that all protected works comes from the human mind.³ That assumption is now under serious strain as AI is now capable of generating works that are creative and educational but it lacks the thinking, feeling and intentions of humans and is the result of a computational process.⁴

This article examines whether AI can gain recognition as an author under the Indian copyright law and whether the existing legal framework is sufficient to deal with AI-generated content. This article also looks at the recent developments and the approach of different countries to the issue and discusses whether India needs a clearer legal framework to balance the development of artificial intelligence with the rights of human creators.

AI-Generated Content and the Problem of Authorship

Since the 1970s, machines have been involved in many types of creative works. However, at that time, machines were not as advanced and relied heavily on the input of the programmer

¹ World Intellectual Property Organization, *Generative AI: Navigating Intellectual Property* (2024).

² Nikhil Mishra & Digvijay Singh, "AI-Generated Works and Its Implications on Copyright Law in India," 35 J. Intell. Prop. Rts. 30 (2025).

³ Faiz Osmani, "AI Creativity and the Indian Copyright Act," 9 Int'l J. L. Mgmt. & Human. 861 (2026).

⁴ *Id.*

making them more of a tool or instrument just like a brush or a canvas.⁵ But in today's world, AI is no longer just a tool and has developed to the point where it can create creative works with little human input.

The role played by AI in creating a work can vary significantly. Copyrightability is closely connected with the extent and type of human contribution. The use of AI tools merely to assist in the creative process does not prevent copyright protection. Copyright protects the creative expression of a human author even if the work includes certain elements that are AI-generated. However, this protection does not extend to material that is purely AI-generated or where human control over the expressive elements is not sufficient.⁶

Traditionally, the ownership of copyright in computer-generated works was easier to determine because the program was not highly advanced and was more like a tool that assisted in the creative process. However, with the recent developments in artificial intelligence, the computer program is no longer just a tool and is capable of making many decisions involved in the creative process without human intervention.⁷ This makes it hard to determine whether the user, the developer, or the AI system itself should be regarded as the author.

Human Authorship and Copyright Protection

According to Section 13(1) of the Indian Copyright Act, 1957, copyright shall apply in India in original literary, dramatic, musical and artistic works, cinematograph films and sound recordings.⁸

To obtain protection of copyright under Indian law, one of the important requirements is originality. Originality means that the work created should have been created independently by the author without copying from the works of others and should possess a minimal degree of creativity. It does not simply mean original or inventive thought or novel ideas alone.⁹

⁵ Andres Guadamuz, "Artificial Intelligence and Copyright," *WIPO Magazine* (Oct. 1, 2017), <https://www.wipo.int/en/web/wipo-magazine/articles/artificial-intelligence-and-copyright-40141> (last visited Sept. 12, 2026).

⁶ U.S. Copyright Office, "Copyright and Artificial Intelligence, Part 2: Copyrightability" (2025), <https://www.copyright.gov/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf> (last visited Sept. 12, 2026).

⁷ *Supra* note 5.

⁸ The Copyright Act, 1957, § 13(1).

⁹ *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1.

Copyright law presumes that there is an determinable human creator behind every work. The author contributes his skills, judgement and creativity to the work. In human-created works, identifying this person is relatively easy. However, in AI-generated works, this identification becomes hard as the final expression may have been generated by the AI system.

The term “author” has been defined in section 2(d) of the Indian Copyright Act, 1957. The definition varies according to the type of work. In the case of dramatic, artistic, literary or musical works which are computer generated, section 2(d)(vi) considers the person who leads to the work being created as the author.¹⁰ This provision becomes relevant in the case of AI-generated works because it raises the question of who led to the work being created – the person who developed the AI system, the person who gave the prompt or the AI itself. So while this provision can be applied to computer-generated works its application to modern AI remains unclear.

The DABUS Decision

An application was filed by Dr. Stephen L. Thaler seeking recordation of copyright in the work titled, “A Recent Entrance to Paradise”. He asserted that the work was generated by his AI system named “Device for the Autonomous Bootstrapping of Unified Sentience” (DABUS). The Copyright Office found that while the artwork created by DABUS satisfied the originality requirement it could not be acknowledged as an author because it was neither a juristic nor a natural person recognized by the law.¹¹

The Office, therefore, issued a discrepancy letter requiring the applicant to identify the person who was legally entitled to be named as the author. The issue was not whether the artwork was original, but rather who could legally be treated as its author. The office recognized the originality of the artwork but refused to accept DABUS as the legal author.¹²

The decision clearly shows how originality alone is not sufficient to establish an AI system as an author. It also highlights the gap between existing copyright law and increasingly autonomous AI systems.

¹⁰ The Copyright Act, 1957, § 2(d)(vi).

¹¹ Atul Kumar, "Original, yes. Author, no: Copyright Office rejects AI authorship, but not AI-generated art," *SCC Times* (Sept. 1, 2026), <https://www.scconline.com/blog/post/2026/09/01/authorship-of-ai-legislativeprerogative-dabus-copyright-office/> (last visited Sept. 13, 2026).

¹² *Id.*

AI Training and Copyright Infringement

For the purpose of optimizing generative AI tools, vast amount of data – often billions of pages of texts or images – are utilized. Training data sets can include protected data (like works protected by copyright), freely accessible, unrestricted information (pure data), or a combination of the two. This raises the important question of whether the usage of such data or material amounts to copyright infringement.¹³

Section 52 of the Copyright Act, 1957 provides certain exemptions where using a copyrighted work does not constitute infringement. Section 52(1)(a) allows fair dealing for purposes such as private or personal use including research, criticism, a review, and the reporting of current events.¹⁴ However, the Act does not specifically mention whether the use of copyrighted works to train generative AI falls within these exceptions. This is significant because copyrighted works may be used to train many AI tools. This raises questions about whether such use can be covered by the current exceptions or if different regulations are needed for AI training. This further demonstrates that copyright issues can arise from the data used to create AI systems as well as from AI output.

International Approach

Regarding the issue of copyright protection for works produced by AI, different nations have adopted varying positions. The United States, for example, is mainly concerned with the level of human involvement in the creation of the work. The U.S. Copyright Office has contended that when AI tools are mainly used to provide assistance in the creation of a work, copyright protection may still be available. However, this protection does not apply to works that are purely AI-generated or where human control over the expressive elements is not sufficient. Therefore, the protection of creative expression in a work written by a human is the main focus.¹⁵

The scenario is different in the United Kingdom as it already has legal provisions for computergenerated works even in situations where there is no human author. The United Kingdom provides copyright protection even for purely computer-generated works. According to this clause, the person who makes the arrangements required for its creation is the author.

¹³ *Supra* note 1.

¹⁴ The Copyright Act, 1957, § 52(1)(a).

¹⁵ *Supra* note 6.

The consultation acknowledges that AI-generated content produced in response to a prompt can use this. Despite this, the UK Government has questioned whether this framework works properly or if it requires further reform.¹⁶

The European Union has taken a different path from the US and the UK. Under the AI Act, general purpose AI (GPAI) models are governed by the EU. The AI Act requires the providers of GPAI models to implement a copyright policy. Additionally, providers are required to create a comprehensive summary of the data used to train their models. This is important because AI systems are trained on extensive datasets which might include copyright-protected works. This demonstrates that EU focuses not only on AI-generated output but also on copyright compliance during AI training.¹⁷

These various strategies show that the copyright problems caused by AI lack a standard solution. The United States mainly focuses on the level of human contribution whereas the United Kingdom offers a framework for computer-generated work. Copyright compliance during AI model training has also been a focus of the European Union. These methods clearly demonstrate how copyright laws must change to adapt to the changing role of AI in the creation of works. While taking into consideration its own legal framework and the significance of human authorship, India can benefit from these developments.

Need for Reform

The current legislation pertaining to AI has gaps. To address these gaps a drafting committee was constituted by the Ministry of Electronics and Information Technology to draft suitable AI governance rules for India. The Guidelines recognize that targeted amendments may be required to address these gaps.¹⁸ In relation to copyright, clarification is required on how the existing copyright rules should apply to AI-generated works. A clear distinction can be made between works that are created with AI-assistance and works where the final expression is generated mainly by the AI. Determining when copyright protection should be granted and who

¹⁶ U.K. Government, "Copyright and Artificial Intelligence" (Dec. 2024), <https://www.gov.uk/government/consultations/copyright-and-artificial-intelligence/copyright-and-artificial-intelligence> (last visited Sept. 14, 2026).

¹⁷ European Commission, "General-purpose AI obligations under the AI Act," (Aug. 1, 2025), <https://digitalstrategy.ec.europa.eu/en/factpages/general-purpose-ai-obligations-under-ai-act> (last visited Sept. 14, 2026).

¹⁸ Ministry of Electronics and Information Technology, "India AI Governance Guidelines: Enabling Safe and Trusted AI Innovation" (2025), <https://static.pib.gov.in/WriteReadData/userfiles/document/2025/nov/doc2025115685601.pdf> (last visited Sept. 14, 2026).

can be considered the work's author would be made simpler with this clarification.

Another area requiring reform concerns AI training and copyright infringement. AI systems are trained by leveraging extensive data which may include copyright-protected works. Indian copyright law lacks explicit provisions addressing the use of copyrighted works for training generative AI models. The Government has examined different ways to balance the rights and entitlements of both the copyright owners and the AI developers.¹⁹ Both copyright owners and AI developers may feel more secure if precise legal guidelines are established for the use of copyrighted content in AI training.

Conclusion

Artificial intelligence has brought significant changes to the way literary and artistic works are created and has raised questions regarding the foundational principles copyright law. Copyright law was built on the assumption that behind every creative work lies a human author, but with the advent of AI, this assumption is no longer entirely true. AI tools are now capable of generating creative works with a simple prompt entered by humans. This raises questions about who, in accordance with current laws, should be recognized as the author of such works.

The international approaches demonstrate how legal systems are attempting to address these issues in various ways. Some have begun addressing copyright issues resulting from AI training, while others concentrate on the degree of human involvement. While creating its own legal system, India can take these strategies into consideration.

The DABUS decision further shows that originality alone is not enough to recognize an AI system as an author. As a result, the law must take into account both the originality of the work and the part that human played in its creation. Unambiguous guidelines can aid in differentiation between works produced with AI assistance and those in which AI is primarily responsible for the final expression. This would allow innovation to continue within a clear legal framework while giving creators, AI developers, and copyright authorities greater certainty. Therefore, India needs clearer rules regarding AI-generated works to determine who qualifies as the author.

¹⁹ Department for Promotion of Industry and Internal Trade, "One Nation, One License, One Payment: Balancing AI Innovation and Copyright," (Working Paper, Part 1, Dec. 9, 2025), <https://www.dpiit.gov.in/static/uploads/2025/12/f106bbeed10c48c3479c941484f5525.pdf> (last visited Sept. 14, 2026).