AI-GENERATED WORKS AND COPYRIGHT LAW IN INDIA: AN ANALYTICAL STUDY

By Geethanjali P[1]

ABSTRACT

Copyright law in India — and in most countries — was designed for a world where creative works come from human minds. Every part of the Copyright Act, 1957 — who counts as an author, what makes a work original, who owns the resulting rights — is built around this assumption. Generative AI systems now challenge that assumption directly. This article introduces the analytical framework for examining how Indian copyright law must respond to AI-generated works. It identifies the core research questions — authorship, originality, ownership, liability, and training data — explains why Indian copyright law requires focused analysis rather than a simple transplant of foreign solutions, and sets out the scope, methodology, and structure of the inquiry. The article argues that India occupies a distinctive position: it is simultaneously a major technology-producing nation and a large creative economy, and its legal framework must serve both communities. A principled domestic framework is needed now, rather than waiting for international consensus to emerge.

Keywords: Copyright Act 1957; Artificial Intelligence; Authorship; Section 2(d)(vi); Originality; Generative AI; Indian Copyright Law; Research Methodology

I. THE QUESTION THIS ARTICLE ADDRESSES

Here is a thought experiment. Suppose you open an AI application and type the following instruction: "Write me a short story about grief." Thirty seconds later, you have a complete story — characters, dialogue, structure, emotional arc. You did not write it. The AI did. Now ask yourself: does anyone own that story? And if so, who?[2]

These questions are not hypothetical anymore. Generative AI systems have become widely

[1] Author is a LLM student (Intellectual Property) at Amity Law School, Amity University Noida.

[2] This thought experiment captures the central legal problem posed by autonomous AI generation. For an early academic exploration of similar questions, see Pamela Samuelson, Allocating Ownership Rights in Computer- Generated Works, 47 U. Pitt. L. Rev. 1185, 1186–88 (1986).

accessible tools used by writers, musicians, designers, filmmakers, and ordinary people every day. They produce outputs that are, in many cases, commercially valuable. And they produce those outputs in ways that the law was simply not built to address. Copyright law in India — and in most countries — was designed for a world where creative works come from human minds. That world has not disappeared, but it has become considerably more complicated.[3]

The Copyright Act of 1957 is India's primary copyright statute.[4] It was enacted in a world before personal computers, let alone artificial intelligence. Over the following decades it was amended several times, but none of those amendments addressed AI in any meaningful way. The closest the Act comes is Section 2(d)(vi), which says that for a computer-generated work, the author is "the person who causes the work to be created." That provision was added in 1994 and was designed for situations where a human programmer writes software that generates a simple output. It was not designed for large language models trained on hundreds of billions of words, or for image generators that can produce photorealistic artwork in seconds.[5]

This article takes that gap seriously. It explains what the current law actually says, identifies where it breaks down when applied to AI-generated works, and situates that analysis within the broader landscape of how other countries are handling the same problems. The goal is not to be exhaustive

I. WHY INDIAN COPYRIGHT LAW REQUIRES FOCUSED ANALYSIS

There are plenty of general analyses of AI and copyright law published in American and British academic journals. This article focuses specifically on Indian law for a reason: the problems look different through an Indian legal lens, and the solutions need to be calibrated for Indian conditions.[6]

India's copyright framework has its own distinct doctrinal character. The originality standard, for instance, was transformed by the Supreme Court's 2008 decision in *Eastern Book Company v. D.B. Modak*, which moved Indian law away from the old "sweat of the brow" doctrine and towards a

[3] Andres Guadamuz, Do Androids Dream of Electric Copyright? Comparative Analysis of Originality in AI-Generated Works, 2017 Intell. Prop. Q. 169, 169–70 (noting that existing copyright frameworks were drafted without contemplating autonomous AI creativity).

[4] Copyright Act, 1957, No. 14 of 1957, India Code (as amended through 2012).

[5] The Copyright (Amendment) Act, 1994 inserted Section 2(d)(vi). The legislative history indicates the provision was primarily intended to address software outputs and computer programs, not autonomous creative AI. See Statement of Objects and Reasons, Copyright (Amendment) Bill, 1994, Gazette of India, Mar. 15, 1994.

[6] See generally Tim W. Dornis, Artificial Creativity: Emergent Works and the Void in Current Copyright Doctrine, 22 Yale J.L. & Tech. 1 (2020) (providing a general doctrinal analysis that does not address Indian law specifically).

creativity-based standard that has particular implications for AI.[7] The moral rights framework under Section 57 creates complications that do not exist in the same form in US or UK law. The fair dealing provisions in Section 52 are structured differently from the US fair use doctrine. These are not minor technical details — they matter for how the AI problem plays out in Indian courts.

India is also at a distinctive moment in its technological and economic development. The country has a large and growing technology sector, a vibrant creative economy, and a government that has made AI development a national priority. All of these interests intersect in the law of AI-generated works, and the legal framework needs to balance them thoughtfully.

II. THE STAKES: CREATIVE ECONOMY AND TECHNOLOGY INDUSTRY

India's technology sector is one of the largest in the world. According to government figures, the IT and IT-enabled services industry contributed approximately USD 227 billion to GDP in 2023 24.[8] The India AI Mission, approved by the Cabinet in February 2024 with an allocation of Rs 10,372 crore, signals that the government views AI as a strategic national asset.[9] The legal framework for AI-generated works will directly affect investment decisions in this sector — businesses need to know whether the outputs of their AI systems can be legally protected before they commit to building those systems.

At the same time, India has one of the world's most diverse creative economies. The Indian film industry produces more films annually than any other country. India has enormous music, publishing, and software industries, as well as millions of individual writers, artists, musicians, and creators whose livelihoods depend on copyright protection.[10] These communities have a direct stake in how AI-generated works are treated legally, because AI systems trained on their work are increasingly producing content that competes with them in the marketplace.

Getting the legal framework right means serving both of these communities. That is a difficult balance to strike, and it requires moving beyond both uncritical enthusiasm for AI development

[7] E. Book Co. v. D.B. Modak, (2008) 1 SCC 1 (India) (holding that copyright requires a minimum degree of creativity beyond mere labour or effort). The Court drew on Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340 (1991) in reformulating the Indian standard.

[8] Ministry of Electronics and Info. Tech., Govt. of India, Annual Report 2023–24 (2024).

[9] Press Information Bureau, Govt. of India, Cabinet Approves IndiaAI Mission (Feb. 19, 2024), https://pib.gov.in/PressReleasePage.aspx?PRID=2007737.

[10] India's film industry (combining Bollywood and regional industries) produces approximately 1,500–2,000 films annually, more than any other national industry. See Dept. for Promotion of Industry and Internal Trade, Annual Report 2022–23 (noting over 30,000 copyright registrations annually across all categories).

and reflexive protectionism on behalf of existing rights holders.

III. RESEARCH QUESTIONS AND OBJECTIVES

This article is guided by five research questions:

First: Who, if anyone, can be identified as the author of an AI-generated work under Indian copyright law? This question engages Section 2(d)(vi) directly and requires analysis of what "the person who causes the work to be created" means in the context of modern generative AI, where no human made the specific creative choices that produced the output.

Second: Can AI-generated works satisfy the originality requirement as developed in Indian case law? The minimum degree of creativity standard from Eastern Book Company requires genuine intellectual creative choices. Whether those choices can be attributed to a human user of an AI system — or whether they are absent altogether — depends on the specific circumstances of generation.

Third: How should ownership of AI-generated works be allocated under Indian law? The first-ownership rules in Section 17 were designed for bilateral human creative relationships. Multi-party AI production contexts — involving developers, cloud providers, API users, and end users — require analysis of how those rules apply and where they fall short.

Fourth: How are other jurisdictions handling these questions? The UK, the United States, the European Union, China, Japan, and Australia have all made different choices, and each offers something that can inform Indian law reform.

Fifth: What changes to Indian law would produce the most equitable and workable outcome? The analysis in earlier sections builds toward five concrete recommendations for legislative and policy reform.

IV. SCOPE AND LIMITATIONS

This analysis is limited to copyright law. Patent law, trade secret law, and contract law each have some relevance to AI and intellectual property, but addressing them all adequately would require a much longer work.[11] The comparative analysis covers six jurisdictions chosen for their relevance

[11] See, e.g., Thaler v. Vidal, 43 F.4th 1207, 1210 (Fed. Cir. 2022) (holding that only natural persons can be listed as inventors

to India's situation — the UK (shared common law heritage and a structurally similar statutory provision), the US (the world's most influential copyright regime), the EU (the most sophisticated recent regulatory effort), and China, Japan, and Australia (major technology-producing nations with instructive approaches).

Two significant limitations should be acknowledged at the outset. First, AI technology is developing faster than legal scholarship can easily track, and some of the analysis here will require updating as new systems emerge and as courts and legislatures act. Second, the absence of Indian judicial decisions specifically on AI-generated works means the analysis must rely on analogical reasoning from general principles — a method that is well-established in legal scholarship but carries some inherent uncertainty.

V. METHODOLOGY

The methodology is doctrinal and analytical.[12] The primary sources are the text of the Copyright Act and related legislation, judicial decisions from India and the comparative jurisdictions, and official policy documents from government bodies and international organisations. Secondary sources — academic journal articles, conference papers, and working papers — are used to contextualise and support the legal analysis. No empirical research (surveys, interviews, or quantitative analysis) has been used; the focus is on law and policy rather than social inquiry.

The comparative analysis is selective rather than exhaustive. Each of the six jurisdictions surveyed has been chosen because it offers something specific that is relevant to Indian conditions — the UK because of the structural similarity of its computer-generated works provision; the US because of the influence of its Copyright Office guidance; the EU because of the sophistication of its text and data mining framework; China because of its unusually permissive approach to AI-generated works; Japan because of its machine learning exception; and Australia as an example of a jurisdiction that has deliberately chosen to wait and observe.

on US patents, a holding with obvious parallels to the copyright authorship question).

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VI. KEY TERMS

'Generative AI' refers to AI systems that produce creative content — text, images, audio, video, code — by learning statistical patterns from training data and applying those patterns to generate new outputs. The key characteristic distinguishing these systems from earlier software is that their outputs are not specified step-by-step by a human programmer.[13]'AI-generated works' refers to outputs of AI systems with or without meaningful human creative input. Where the distinction between AI-assisted works (with human creative control) and autonomous AI outputs (without meaningful human creative input) is relevant, it is drawn explicitly in the text.

'Authorship' is used in its legal sense — the quality that makes a person the author of a work for copyright purposes, as defined under Section 2(d) of the Copyright Act.[14] 'Originality' refers to the threshold requirement of creative intellectual effort established by the Supreme Court in *Eastern Book Company*. 'Ownership' refers to who holds the economic rights in a copyright work, which may be a different person from the author.

'Large language model' or 'LLM' refers specifically to a class of AI system trained on large volumes of text data and capable of generating coherent, contextually appropriate text in response to natural language prompts. The analysis applies, with appropriate adaptation, to other generative AI modalities including image generation, music composition, and code generation.[15]

VII. CONCLUSION

The question this article asks — what happens to Indian copyright law when you remove the human from the centre of the creative process — is not a hypothetical for the future. It is a practical legal problem in the present. AI systems are generating commercially valuable works every day. Indian courts and businesses are operating in a framework that was not designed for this reality.

The Copyright Act of 1957 has served India well for nearly seven decades, but it was built on an

[13] See Andres Guadamuz, Artificial Intelligence and Copyright, WIPO Mag., Oct. 2017, at 14, 14–15 (describing the distinction between rule-based computer programs and modern machine-learning systems for purposes of copyright analysis).
[14] Copyright Act, 1957, § 2(d)(vi).
[15] The term 'generative AI' is used here to refer to AI systems that produce creative content — text, images, audio, video, code — by learning statistical patterns from training data and applying those patterns to generate new outputs. The key distinguishing characteristic is that outputs are not specified step-by-step by a human programmer. See Jane C. Ginsburg & Luke A. Budiarjo, Authors and Machines, 34 Berkeley Tech. L.J. 343, 345–50 (2019).

assumption that is no longer universally true. Section 2(d)(vi), the only provision that directly addresses computer-generated works, was designed for 1994 technology and is inadequate for 2026 AI systems. The originality standard creates real problems when applied to AI outputs. The ownership rules produce uncertain results in multi-party AI production contexts.

None of these problems are insurmountable. Other jurisdictions have begun to develop responses-some more satisfactory than others — and India has the advantage of being able to learn from their experience. The analysis that follows builds toward five concrete recommendations: clarifying Section 2(d)(vi) with functional language suited to modern AI; creating a limited sui generis right for AI-generated works; enacting a statutory exception for AI training; requiring transparency for commercially distributed AI-generated content; and establishing a dedicated national body to keep India's legal framework current. The foundation for those recommendations is set out in the sections that follow.

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