AI, AUTHORSHIP AND THE LAW - RETHINKING COPYRIGHT IN THE AGE OF ARTIFICIAL INTELLIGENCE

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ABSTRACT

A resurgence of creativity that is not wholly human has been brought about by the development of artificial intelligence. AI is now a recognized contributor to creative production, from visual art that is offered for sale at major auction houses to symphonies created by machine-learning algorithms. However, this increase in machine capabilities raises a crucial query: can a work produced by a non-human entity be owned, safeguarded, and controlled by our current copyright laws? This issue is fundamental to legal systems all throughout the world and goes beyond simple philosophy. Human authorship has always been the foundation of copyright law. It developed as a system to encourage the advancement of knowledge and culture, reward individual inventiveness, and provide creators with exclusive rights. However, as AI becomes more adept at producing unique and captivating content with little assistance from humans, it is now pushing the limits of what we consider to be "authorship." The need to fill the legal void surrounding AI-generated works is becoming more pressing. A composition created by an algorithm trained on copyrighted scores belongs to whom? Is it possible to copyright a novel produced by a language model, and if so, who should own that copyright—the user, the programmer, or maybe nobody? These are not merely hypothetical questions; they are now being investigated in international legislative chambers, copyright offices, and courts. A larger ethical and legal conflict at the heart of this discussion is how to strike a balance between recognizing machine-generated innovation and preserving human originality. This article examines the connections between authorship, copyright law, and artificial intelligence. It looks at the current legal systems in many jurisdictions, traces the history of copyright, and speculates on how future changes can harmonize established legal theories with new technical realities.

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I. INTRODUCTION

AI started off as a tool to improve humans before entering the creative sphere. To generate and polish their ideas, artists employed generative programs such as Adobe Firefly or Deep Dream. Platforms such as AIVA and Amper Music were used by musicians to create background music and try out new sounds. To get beyond writer's block or create original stories, authors experimented with AI-powered text production. However, AI didn't end there. As models like Google's MusicLM, OpenAI's GPT, and DALL·E gained popularity, AI systems started to create content that was on par with or at least a credible imitation of human production. An algorithm-generated painting might now be displayed in a gallery. A machine-written poem has the power to emotionally affect readers. Production companies might be interested in a script written by AI. The legal calculus is made more difficult by this transition from AI as an aide to AI as a creator. Conventional copyright theories, which are based on the notion of human intellectual effort, find it difficult to accept works created with little to no human intervention. Nevertheless, there is no denying these works' cultural and economic significance. Ignoring them completely runs the danger of underestimating the important creative contributions that AI systems are currently making.[2]

II. THE LEGAL FOUNDATIONS: COPYRIGHT AND ITS HUMAN CORE

In the past, copyright law evolved to honour individual intelligence. Often regarded as the first contemporary copyright law, the Statute of Anne (1710) was created to save human authors from monopolistic printers. The law has evolved throughout the ages to include new media, like as software, photography, cinema, and music, but it always assumed that the inventor was a human. Originality, authorship, and fixation remain the three main protection criteria used by the majority of copyright regimes worldwide. The piece must be original (not plagiarized), have the author's signature, and be permanently affixed to a material medium. By their very nature, these standards presume human participation.[3]

Feist Publications, Inc. v. Rural Telephone Service Co. (1991)[4], a case heard by the U.S. Supreme Court, confirmed that a certain amount of imagination is required in addition to hard

[2] Sertac Ogul, "Intellectual Property in the Age of Machine Creativity" Advances in human and social aspects of technology book series 333–58 (2024)
[3] Justice Prathiba M. Singh, ""Evolution of Copyright Law: The Indian Journey"" *Indian Journal of Law and Technology* (2020).
[4] Feist Publications, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340 (1991), available at https://www.law.cornell.edu/supremecourt/text/499/340.

work. To put it another way, information presented in a phone directory does not have copyright protection unless it exhibits some creative expression.[5]

AI-produced art questions these presumptions. Is it possible for an algorithm to show creativity? Could it be a writer? Does its output satisfy the fixation standard? These are questions that courts and copyright offices are being asked more and more, and the responses differ depending on the country.

III. GLOBAL PATCHWORK: JURISDICTIONAL APPROACHES TO AI COPYRIGHT

Countries vary greatly in their legal recognition of AI-generated works. Only humans can be authors, according to the Copyright Office's rigorous interpretation in the US. In the now-famous *Thaler v. Perlmutter* case, where an attempt to register a copyright for an artwork made wholly by an artificial intelligence (the "Creativity Machine") was turned down, this stance was reaffirmed. According to the Office, the work was not qualified for protection because it was not written by a human.

The position taken by the European Union is comparable. Its courts place a strong emphasis on the requirement that works protected by copyright represent "the author's own intellectual creation," hence excluding works produced entirely by machines.

The UK, however, provides a noteworthy exception. The person "by whom the arrangements necessary for the creation of the work are undertaken" is regarded as the creator of computer-generated works without a human author under the Copyright, Designs and Patents Act of 1988. This practical strategy preserves human accountability while permitting some legal acknowledgment of information produced by AI.

China has also demonstrated greater adaptability. A court acknowledged the copyrightability of an AI-generated piece in a 2019 case involving Tencent's Dreamwriter AI, stating that the human role in developing, monitoring, and implementing the system was adequate justification for protection.

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[5] Sanjeevi Amba, Intellectual Property Rights: Copyright, *available at:* https://ebooks.inflibnet.ac.in/lisp1/chapter/intellectual-property-rights-copyright (last visited on 24 March, 2025).

India, on the other hand, is still in the gray area. Indian courts have long stressed human creativity as a requirement, even if its copyright statute does not yet specifically address AI. However, there is growing push to define legal status as AI deployment spreads throughout Indian industry.

IV. DIGITAL PROTECTIONS IN AN ALGORITHMIC ERA

The issue is not only whether AI-generated content should be protected, but also how to properly implement such protection as it becomes more common. During the analog era, copyright violations included distribution or physical replication. It includes real-time copying, screen captures, screenshots, and torrents in the digital age. In the age of artificial intelligence, infringement is even more difficult to detect and frequently happens in the very framework of content creation. The digital guardians of copyright enforcement are Technological Protection Measures (TPMs) and Digital Rights Management (DRM). These systems monitor and govern the usage of creative content through the use of access control, fingerprinting, watermarking, and encryption. Such technologies are both necessary and harmful for AI-generated artwork.[6]

For example, watermarking can be used to add digital signatures to AI-generated music or images, making it easier to detect and monitor misuse. Fingerprinting algorithms can identify illegal duplication by comparing AI material to existing works. However, the emergence of protection has been matched by equally sophisticated evasion, as is the case with all weapons races. DRM limitations are always being removed or circumvented by hackers and piracy networks, making enforcement a high-tech game of cat and mouse.

Humorously, AI plays both sides. On the one hand, it assists in copyright enforcement by looking for patterns of infringement on platforms. Conversely, it facilitates advanced piracy, such as deep fakes, voice cloning, and style mimicry, which virtually eliminates detection and attribution. It gets more difficult to maintain the line between inspiration, imitation, and blatant stealing as the instruments get more potent. The ethical controversy surrounding fair usage is even more intricate. Since DRM systems are made to lock down content, they frequently hinder acceptable uses, such as using a song for criticism, repurposing a movie for teaching, or using pre-existing content to train an AI model for study. DRM can override these rights, which has prompted calls for greater accountability and transparency in the

[6] Gautami Khosla, “"Unlocking the Secrets of Digital Rights Management: A Modern Guide to Copyright Protection":” Legal Service India (2024).

implementation of digital protections, even while fair use is a flexible doctrine in some nations (like the U.S.) and codified as "fair dealing" in others (like India or the U.K.).[7]

V. THE MURKY WATERS OF INFRINGEMENT AND LIABILITY

Beyond protection, there is a more difficult question: who is responsible for copyright violations?

Publishers, distributors, and users are the obvious offenders under traditional copyright law. However, the responsibilities are ambiguous in AI. Was the algorithm created by the AI developer? The business that used copyrighted content to train it? Who was the final user to type a prompt? Or the AI itself?[8]

Naturally, AI is not recognized as a legal entity by the legal systems in place today. It is not subject to liability, fines, or lawsuits. Humans are left behind, yet it's difficult to draw the line of accountability. Courts may consider whether the user had significant creative influence over AI-generated derivative works.[9] Otherwise, the inventor of the system can become liable. Even so, it might be challenging to demonstrate intent and expertise. This conundrum has already arisen in well-known conflicts. It has been alleged that AI-generated content plagiarizes entire paragraphs, musical compositions, or artistic styles from previously published works. Some contend that this is fair usage because it is transformational, while others say it is algorithmic plagiarism. Training data further complicates the problem.[10] Without the original creators' express consent, a large number of AI models are trained on enormous datasets that are scraped from the internet, including books, photos, songs, and articles. The end effect is a model that may internalize and repeat protected expressions without really copying them. Lawsuits, public outcry, and demands for improved training material licensing regimes have resulted from this. Since the idea of infringement by machine doesn't cleanly fit into the current definitions of direct or contributory culpability, the legal world is now struggling with how to evaluate it. A third category—algorithmic liability—has

[7] Rao and Arvind, “Ownership Issues and Fair Use Considerations in AI-Generated Works."” 7 International Journal of Intellectual Property Rights 89-104 (2018).
[8] Rebecca Giblin and Kimberlee Weatherall, “The Copyright Issue in AI-Generated Content: Legal Challenges and Future Directions” 44 Columbia Journal of Law & the Arts (2021).
[9] Anshul Kumaria, “The Copyright Issue in AI-Generated Content: Legal Challenges and Future Directions” 6 Indian Journal of Law and Legal Research.
[10] Pam Samuelson, “Allocating Liability for Copyright Infringement in AI-Generated Works’” Berkeley Technology Law Journal (2020).

begun to be discussed in some jurisdictions, where autonomous systems' activities are viewed as extensions of human agency. However, there isn't much agreement as of yet.[11]

VI. ETHICS, ORIGINALITY, AND THE ILLUSION OF CREATIVITY

What constitutes "original" is still the central philosophical question in the copyright controversy. This question is blurred by AI. Even though the outputs can seem unique, the patterns and structures in their training data have a significant impact on them. Even though an algorithm-generated artwork can be completely original, is it really new if it mimics Van Gogh's brushstrokes or Picasso's composition? Or just a remix? There are significant ethical ramifications. AI systems that steal their work without permission and generate outputs that mimic their style are causing creators, particularly in the visual arts and literature, to become increasingly concerned. Some refer to it as digital plagiarism that avoids acknowledgment, royalties, and credit. In response, several authors and artists have advocated for style rights, a brand-new type of intellectual property that safeguards an artist's work's creative character in addition to its content. In order to provide viewers with a better understanding of authorship, some have advocated regulations requiring disclosure when content is created or helped by artificial intelligence.[12]

There is also a more general cultural worry: what will happen to the value of human work if robots can produce novels, scripts, symphonies, and paintings on a large scale? Will the market be overrun by soulless content? Or will viewers come to recognize—and possibly even value—real human expression?[13]

These questions are currently being answered. However, it is evident that copyright law currently sits at the nexus of ethics, culture, and technology. It must preserve artistic integrity in addition to safeguarding financial interests.

VII.REFORMING COPYRIGHT FOR THE AGE OF MACHINES

The need for reform is growing as the flaws in copyright law become more apparent.

Legislators in several countries are looking into measures to update intellectual property laws

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[11] Chacko, Matthew M. "Service Provider Liability for Copyright Infringement in India: Learning from the American Experience." Nalsar Law Review 1, 131-39,(2021).

[12] Gaffar, Hafiz, and Saleh Albarashdi. "Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape." Asian Journal of International Law, 1-24, (2024) Available at: https://doi.org/10.1017/S2044251323000735.

[13] Apoorva Singhal, Simran Dash, Ananya Satpathy, Swarnali Mallick, Tiwari Prashantipriya Awadhesh, et.al., "A Critical Analysis of Intellectual Property Rights" Indian Journal of Law and Legal Research (2024)." 7 Indian Politics & Law Review 163-178 (2023).

for the era of artificial intelligence.[14] Some support the creation of new authorship categories that would grant legal authorship to human creators who plan or oversee AI-generated works. Others propose supplementary rights, which are short-term safeguards that provide some degree of control over AI outputs without conferring complete copyright status. Decoupling originality from human authorship is also being called for, particularly for works that are commercially successful and exhibit innovation, even if it is not biologically derived. The emphasis would change from "who created it?" to "is it unique and valuable enough to deserve protection?" under this concept. In an effort to reach an agreement among member nations, international institutions such as WIPO (World Intellectual Property Organization) are currently actively consulting stakeholders on AI and IP.[15] Harmonization, however, takes time. There is no one-size-fits-all solution because of cultural, legal, and economic disparities. Courts continue to be crucial in the interim. Judges are progressively forming a body of case law through their decisions in situations involving AI-generated content, which may serve as the basis for future legislation.

VIII. TOWARDS A NEW LEGAL IMAGINATION

Creativity is no longer solely a human endeavour. In ways that were unimaginable just a generation ago, machines today play a significant role in society's cultural fabric. This change necessitates a new legal imagination as well as new regulations, one that can accommodate machine agency while maintaining the ethical and practical requirements of authorship.

At its finest, copyright law serves as a vehicle for striking a balance between creators and consumers, between innovation and protection, and between freedom and equity. The law must advance together with AI, not in opposition to it but rather in tandem with it.

One thing is certain: the future of creativity will be influenced not only by the ideas of artists but also by the code of machines—and the laws we create to regulate them. This is true whether it means reframing authorship, reconsidering infringement, or even redesigning ownership itself.[16]

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[14] Harsha M and Dr Avishek Chakraborty, "AI-Generated Work's Protection Under the Copyright Act, 1957" 6 Indian Journal of Law and Legal Research (2024).

[15] World Intellectual Property Organization (WIPO), *The Berne Convention for the Protection of Literary and Artistic Works* (Sept. 2022), https://www.wipo.int/treaties/en/ip/berne

[16] *The Interaction Between Intellectual Property Laws and AI: Opportunities and Challenges*, Norton Rose Fulbright (2024), https://www.nortonrosefulbright.com/en/knowledge/publications/c6d47e6f/the-interaction-between-intellectual-property-laws-and-ai-opportunities-and-challenges.

IX. COMPARATIVE LEGAL FRAMEWORKS: LESSONS FROM AROUND THE WORLD

The legal status of AI-generated works is a worldwide issue that requires more than simply domestic legislation. Inconsistencies in national copyright regimes provide legal ambiguity for developers, users, and artists alike as content flows freely across borders in the digital era. An AI-generated piece of work may be protected in one nation but completely unrecognized in another. Innovation, investment, and conflict resolution are all hampered by this legal fragmentation.[17]

The method is arguably the most practical in the United Kingdom. Computer-generated works are specifically covered by the Copyright, Designs and Patents Act of 1988, which confers authorship to "the person by whom the arrangements necessary for the creation of the work are undertaken." This concept only grants legal authorship to whoever sets up the AI system, negating the need for human innovation in the conventional sense. This offers a clear norm of ownership and permits copyright enforcement in AI-generated scenarios, even though it might not appease purist philosophers.

Another illustration of the evolution of law is provided by China. Because the AI system had been trained, directed, and implemented by human engineers, the court in the Tencent Dreamwriter case decided that an essay produced by the AI system should be protected by copyright. The decision treated human participation in AI operation as adequate for authorship, acknowledging the collaborative nature of AI content creation. This illustrates how Chinese policy is placing more and more focus on promoting innovation while providing adaptable legal frameworks to facilitate it.

The US, on the other hand, has adopted a much more stringent stance. According to the U.S. Copyright Office, only human authorship is eligible for protection. The Office reiterated that copyright must be based on human intellectual effort when it denied Dr. Stephen Thaler's request to register an AI-generated piece of art. The IT industry has criticized this conventional approach, claiming that it is out of step with technological realities and could leave important AI-generated content vulnerable.[18]

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[17] Anshul Kumaria, "The Copyright Issue in AI-Generated Content: Legal Challenges and Future Directions" 6 Indian Journal of Law and Legal Research.

[18] Sakkcham Singh Parmaar, "Copyright Challenges for Artificial Intelligence Creations" Institute of Intellectual Property Research and Development. (2025).

The emphasis on human inventiveness in European Union legislation is very similar to that of the United States. Protected works must represent "the author's own intellectual creation," according to a ruling by the European Court of Justice. The legal framework has not changed despite continuous debate about reform inside the EU, especially as AI-generated works become more popular in fields like publishing and design.[19]

India, on the other hand, is in a state of flux in the middle ground. Even though AI-generated works are not covered by current copyright laws, Indian courts are beginning to recognize the value of uniqueness and inventiveness as the cornerstones of protection. Cases such as *Eastern Book Company v. D.B. Modak* have highlighted the need for a creative spark in addition to effort. It remains to be seen if Indian law would adopt the more rigorous human-centric perspective or adopt the pragmatic approach used by the UK.[20]

The need for more uniformity is indicated by this global patchwork. Predictability is essential for developers and creators in the global content economy. Though a consensus is still far off, the World Intellectual Property Organization (WIPO) has started to facilitate talks on AI and intellectual property. It is evident that having flexible legal frameworks that can take into account AI's innovative influence is becoming more and more important to national innovation goals.[21]

X. PROPOSALS FOR LEGAL REFORM: STRIKING A NEW BALANCE

Legal experts and decision-makers from several jurisdictions have started to lay out changes meant to close the gap between conventional copyright law and contemporary AI technology. Although the scope and philosophies of these suggestions differ, they all aim to give fairness, protection, and clarity in a world where robots are creators. The establishment of a new legal category for works produced by AI is among the most frequently proposed ideas. This strategy would establish a sui generis system in place of attempting to accommodate such information inside the current copyright law, which assumes human authorship. This new approach, which acknowledges AI outputs' commercial worth without claiming traditional authorship, may provide limited protections for them. Assigning rights by default to a human

[19] European Parliament. *Directive on Copyright in the Digital Single Market.* (2019)
[20] Eastern Book Company and Ors. v. D.B. Modak and Anr., (2008) 1 SCC 1
[21] Ginsburg, and J. C, "The Concept of Authorship in Comparative Copyright Law." 54 Columbia Law Review, 1062-1097 (2003).

stakeholder—usually the AI creator, operator, or commissioning party—is an additional reform option. UK law follows this path, which is also reflected in a number of policy debates in other jurisdictions. Such a regulation would guarantee that there is no legal void surrounding AI-generated content and that someone can be held responsible in the event of disagreements or violations. Some plans go one step farther and demand that disclosures be made mandatory. For example, any AI-generated work could need to have a digital watermark or label indicating that it was produced by a machine. The distinction between human and non-human content—which is becoming more hazy in digital media—would be easier for consumers, authorities, and courts to make with this openness. Others still support redefining what originality is. No matter how it was created, a work should be protected if it exhibits enough originality and ingenuity. By this reasoning, the emphasis moves from the identity of the creator to the worth and quality of the final product. Though philosophically debatable, this notion represents a practical change in perspective: laws ought to change to safeguard the benefits of innovation, even if those benefits are produced in silicon rather than flesh.

The ultimate goal of these reforms is to achieve equilibrium. Without compromising the rights of human creators, they seek to acknowledge the achievements of AI. Their goal is to foster innovation while preventing unchecked appropriation. Additionally, they want to create a copyright framework that is resilient to technological disruptions in addition to being reactive.

XI. THE ROAD AHEAD: COPYRIGHT IN THE AGE OF MACHINE CREATIVITY

The discussion surrounding AI and copyright is about more than simply the law; it's also about the kind of creative culture we hope to foster. What does it mean to be an author in a world where machines can write novels, compose music, create movies, and create great art? What qualities do we appreciate in creative work—its provenance, originality, and emotional resonance? We will need to reconsider ownership, credit, ethics, and identity as AI becomes more pervasive in content production.[22] Some forecast the emergence of hybrid works that challenge binary authorship categories, co-authored by humans and robots. Others imagine a time when artificial intelligence (AI)-generated content predominates in the media and human creativity is reduced to a luxury or specialized art form.

[22] U.S. Copyright Office, Guidance on AI and Copyright, U.S. Copyright Off. (2023), https://www.copyright.gov/ai/2023.

Either way, the law must be revised. It must provide safeguards without restricting free speech. It must promote creativity without permitting misuse. It must also be guided by principles—the conviction that all types of invention are worthy of respect and acknowledgment—rather than merely following tradition.

Legal inventiveness, collaborative governance, and daring thinking will be necessary for the job that lies ahead. However, it's also a chance. If we do it well, we can develop a copyright framework that celebrates the creativity of our technology as well as the genius of human intellect, reflecting the diversity of the digital age.[23]

[23] T.J. Alok, “"The Evolution of Copyright Law in the Digital Age"” Indian Journal of Law and Legal Research, (2024).