

INTELLECTUAL PROPERTY IN THE AI-DRIVEN ERA: COPYRIGHT CHALLENGES AND INCLUSIVE INNOVATION IN AI-GENERATED WORKS

*Yugasindhuja Karthikeyan**

ABSTRACT

In a world that is rapidly undergoing technological advancement, intellectual property (IP) becomes a determinant of innovation wherein there is fostering of inclusive growth amidst the challenges arising from digital transformation. The usage of Artificial Intelligence is an evolving tool to the creative sector, as new age innovation challenges the constructs of ownership unlike intellectual property before. While the usage of AI has increased the potential for innovation beyond productivity and accessibility, they also pose profound IP challenges such as the ambiguous nature of the author of AI-created work. AI tools such as DALL-E, Midjourney, and GPT-based invention drive art, music, literature, and software development independently, throwing into question a crucial IP paradigm which is human authorship. The paper deals with the legal challenges that may arise, followed by the consequences of AI interference on IP registration wherein implications for different IP rights come into play as the training of the AI system entails data mining and accessing other protected IP. This paper researches in depth the scope of IP registration of AI generated works by analysing various legal frameworks like Berne Convention, EU's Copyright Law, US's Copyright Act, India's Copyright Act, 1957 and its various amendments. The paper explores the implication of copyright laws in AI generated works and its usage by analysing cases such as Bartz v. Anthropic, 3:24-cv-05417 (N.D. Cal.), Kadrey v. Meta Platforms, Inc., 3:23-cv-03417, (N.D. Cal.), Arijit Singh v. Codible Ventures LLP, 2024 SCC Online Bom 2445, Getty Images and others v. Stability AI [2025] EWHC 38 (Ch). This paper highlights the crucial role that global collaboration and awareness play in the creation of copyright laws that support creativity in the AI era.

* Student, Government Law College, Viluppuram, India

KEYWORDS: Artificial Intelligence, Copyright law, Digital Transformation, Inclusive growth, Intellectual property systems.

INTRODUCTION

In recent years, rapid developments in computer systems and technologies transformed AI from a dream of the future into an integral part of business strategy. More and more companies across different industries are willing to incorporate AI into their operations as part of their business strategy where they are driven by the promise of enhanced efficiency and decision-making. It finds application in a broad spectrum of industries and impacts almost every element in the process of creation. There is no denying that AI systems are going to remain a norm and it is expected that using AI is going to radically alter how businesses function and operate in the future. Yet another aspect of developing and using AI is being clouded with controversy particularly with respect to IP law because there are numerous prominent AI disputes which have been argued before courts as the main question of who is the author lingers.

BRIEF HISTORY OF AI AND IT'S DEVELOPMENT

The phrase 'artificial intelligence' showed up in writing for the first time in the proposal for the Dartmouth Summer Research Project on AI," by John McCarthy, Marvin Minsky, and other researchers. Before the term was even created, Alan Turing a brilliant Mathematician in 1950 created the Turing test where he proposed whether a machine can think. The notion of Artificial intelligence evolved as the 20th century progressed into 21st century. For instance,¹⁹⁶in 2007, the ImageNet project which aimed at building one of the world's most comprehensive databases of labelled images was started as an initiative of Fei-Fei Li and her group at Princeton University.¹⁹⁷In 2020, the OpenAI company develops the GPT-3 language model with 175 billion parameters which makes it one of the world's most advanced language processing tools to date. Its capabilities range from being able to produce human-like language to carrying out conversational dialogue, writing computer programs, translated foreign languages, and even writing creative pieces.

¹⁹⁸From 2021 to 2023, OpenAI develops DALL-E, later DALL-E 2 and DALL-E 3 in which a set of generative AI models are created to give out detailed images using a text description. These AI-based computer vision tools use deep learning and a transformer model to produce intricate and artistic images

¹⁹⁶ Deng, J., Dong, W., Socher, R., Li, L.-J., Li, K., & Fei-Fei, L. (2009). *ImageNet: A large-scale hierarchical image database*. In *Proceedings of the 2009 IEEE Conference on Computer Vision and Pattern Recognition (CVPR)* (pp. 248–255). IEEE. <https://doi.org/10.1109/CVPR.2009.5206848>

¹⁹⁷ Brown, T. B., Mann, B., Ryder, N., Subbiah, M., Kaplan, J., Dhariwal, P., Neelakantan, A., Shyam, P., Sastry, G., Askell, A., Agarwal, S., Herbert-Voss, A., Krueger, G., Henighan, T., Child, R., Ramesh, A., Ziegler, D. M., Wu, J., Winter, C., ... Amodi, D. (2020). *Language models are few-shot learners*. *Advances in Neural Information Processing Systems*, 33, 1877–1901.

<https://papers.nips.cc/paper/2020/hash/1457c0d6bfc4967418bfb8ac142f64a-Abstract.html>

¹⁹⁸ OpenAI. (2023). *DALL-E 3*. Retrieved from <https://openai.com/index/dall-e-3/>

based on a description given by a user. Another AI was ¹⁹⁹launched in 2022, “Midjourney” is a well-known image creation AI bot that graphic designers or anyone interested in learning about AI-created artworks can utilize. AI has evolved itself to effectively output creations based on user’s input. Through its data mining and learning source, it can cover through various topics and be used by anyone. Even search engines like Google have started to use AI for their interface.

THE EFFECTS OF ARTIFICIAL INTELLIGENCE ON THE TRADITIONAL NOTIONS OF INTELLECTUAL PROPERTY REGISTRATIONS

Even though there are many advancements that Artificial Intelligence offers, there is also an increased challenge to the laws that govern Intellectual Property. The challenge that has been posed to intellectual property rights and that has been questioned are particularly the use of Patents. For instance, who really owns the Patent? since it is human beings that possess patent rights.

The DABUS case which is ²⁰⁰Stephen L Thaler v. Comptroller General of Patents, Design and Trademark brought dispute relating to legal framework pertaining to inventions created with the use of Artificial Intelligence. They challenged whether AI is capable of being the owner of intellectual property or if there needs to be any changes in patenting laws. Here a dilemma occurs on who is considered to be the author. Dispute of authorship occurs between the AI developer, the user who controlled the AI and the original author whose works the AI might have used for training the AI to create the AI generated creative work.

In this case, the supreme court stated that even if Thaler is the inventor and user of DABUS, he can’t get patents for his inventions made by AI. This was due to the fact AI is not a person and a person is needed to claim patents.

THE LEGAL IMPLICATIONS OF AI-GENERATED WORKS WITHIN THE EXISTING INTELLECTUAL PROPERTY REGIMES

The models are trained using massive amounts of data obtained from websites and databases. In most situations, a new and transformative work is created in light of patterns found in the data and not by copying the original work verbatim. The scope of the ‘originality’ in the Copyright Act, 1957 was considered by the Supreme Court of India in the case of ²⁰¹Eastern Book Company & Ors. vs. D.B. Modak, wherein the Court held that for the purpose of copyrighting a certain piece of work there should be a certain level of originality and intellectual effort that is required to be shown. Presently any argument that a person who is relying upon a computer for editing a couple of aspects in an already existing piece of work does not in any manner qualify a person as an ‘author’ under the Act and thus

¹⁹⁹ Midjourney. (2025). *Legacy features*. In *Midjourney documentation*. Retrieved from <https://docs.midjourney.com/hc/en-us/articles/33329788681101-Legacy-Features>

²⁰⁰ *Stephen L. Thaler v. Comptroller General of Patents, Designs and Trademarks* [2024] UKSC 20 (UKSC/2021/0201)

²⁰¹ *Eastern Book Company & Ors v. D.B. Modak & Anr.* (2008). AIR 2008 Supreme Court 809.

does not qualify them for a copyright. For example, using AI for creative purposes are done in two common scenarios:

- i. Works created by AI with human guidance: In this case, the creative inputs provided by humans are unique and constructed well this can lead to copyright ownership as there is clear contributions by human.
- ii. Works created by AI without human guidance: When AI generates works independently without any proper human creativity or input, it raises many questions of authorship and it leads to more complex problems. The attribution of authorship to AI itself raises a number of legal and conceptual issues.

Determining liability for AI-generated works is complex as it has to take into consideration the various roles which are the developers of AI, users of AI, and the AI itself have to play. Creators and users of AI-generated content are responsible in ensuring copyright laws compliance. If an AI system creates work on its own without human intervention, it becomes truly tricky to identify the rightful owner of the copyright. In situations where AI use leads to infringement, there are problems to sue whom as there is lack of legal personality by AI.

Best example that highlights this difference in attitude would be that of ‘Suryast,’ an art piece created by one Ankit Sahni. Ankit Sahni is a multifaceted artist and lawyer who used an AI-powered tool named RAGHAV (‘Robust Artificially Intelligent Graphics and Art Visualizer’) to create ‘Suryast’. Ankit Sahni received registration for his ‘Suryast’ in November 2020 through the Indian Copyright Office, thereby making him the first person to receive protection for his AI-generated artworks but there was a withdrawal application that casts a question on whether RAGHAV itself has a recognized legal position in India.

Pointing to the most pertinent portions of Section 2(d)(iii) and 2(d)(vi) in the Indian Copyright Act 1957, the notice highlighted the need for an ‘author’ to be an ‘artist’ or a ‘person who facilitates the creation of an artistic work’. The United States Copyright Office too rejected copyright registration as they stated that there was no human imprint of authorship. The Copyright Review Board upheld the rejection of the United States Copyright Office (USCO) of Sahni’s copyright application. They argued that RAGHAV’s rendering of Sahni’s picture came from the model’s training and not any specific efforts or directions provided by Sahni himself. The decision of the Board relies largely upon the ²⁰²Thaler v. Perlmutter court case in the United States District Court. ²⁰³Even the United States Court of Appeals said in this case that human authorship is a necessary requirement and all original works of authorship are to be created in the first instance by a human being which includes those who make

²⁰² *Thaler v. Perlmutter*, No. 22-cv-384-BAH (U.S. District Court for the District of Columbia, Aug. 18, 2023)

²⁰³ *Thaler v. Perlmutter*, No. 23-5233 (U.S. Court of Appeals for the District of Columbia Circuit, Mar. 18, 2025).

work for hire. The court based it on the US Copyright Act which only protects original works of authorship as per ²⁰⁴title 17 of Copyrights law section 102(a)

THE EFFECTS OF AI TRAINING MECHANISMS ON COPYRIGHTS AND INTELLECTUAL PROPERTY RIGHTS

The training of large language models (LLM)²⁰⁵ as well as the widespread usage of GenAI has identified a set of complexes evolving legal issues surrounding the usage of GenAI technologies. Specifically, regarding copyright law and the concept of authorship.²⁰⁶ A copyright gives the creator all rights pertinent to the usage, distribution and modification of their work for a temporary period of time. Intellectual property right (IPR) is generally the totality of legal rights designed to protect human creativity which includes artwork, patents, designs, and images.

The Emergence of AI as an additional creator goes on to directly contradict the entire structure of law in place revolving around the human creator.²⁰⁷ This brings in a series of complexities in place like for example when an artist uses the GenAI platform to create a digital piece of artwork where the AI generates the artwork using inspiration and style drawn from LLM trained copyrighted works.²⁰⁸ Lack of a conventional authoring mechanism in AI-driven content production means that profits and income will be in favour of those who own or control the AI technology or platforms rather than in favour of original creators.

This could have a major effect on artists, writers, or other human creators in terms of possibly causing economic inequalities²⁰⁹ and denigration of human creative efforts.²¹⁰ It is therefore imperative to strike a balance between technological innovation in terms of what is currently achievable through Gen AI combining with protecting the rights to economic reward in favour of content creators.

ANALYSATION OF VARIOUS LEGAL FRAMEWORKS IN REGARDS TO AI USAGE

BERNE CONVENTION

²⁰⁴ *Title 17 of the United States Code* (Copyrights) (2025). U.S. Copyright Office. <https://www.copyright.gov/title17/>

²⁰⁵ Bonadio, E., Dinev, P., & McDonagh, L. (2022). *Can artificial intelligence infringe copyright? Some reflections*. In R. Abbott & D. Geffen (Eds.), *Research Handbook on Intellectual Property and Artificial Intelligence* (pp. 245–257). Edward Elgar Publishing. <https://doi.org/10.4337/9781800881907.00019>

²⁰⁶ Hugenholtz, P. B., & Quintais, J. P. (2021). *Copyright and artificial creation: Does EU copyright law protect AI-assisted output?* *IIC – International Review of Intellectual Property and Competition Law*, 52(9), 1190–1216. <https://doi.org/10.1007/s40319-021-01098-2>

²⁰⁷ Liu, Y. C., Kuo, C. H., Wang, G. H., & et al. (2023). *Dialogues of Liu, Kuo & Wang creation: Collaborative content generation by the human author and ChatGPT and its impact on the evolving intellectual property landscape*. In E. Y. Li et al. (Eds.), *Proceedings of the International Conference on Electronic Business (ICEB 2023)* (Vol. 23, pp. 166–185). Chiayi, Taiwan.

²⁰⁸ Israhadi, E. I. (2023). *The impact of developments in artificial intelligence on copyright and other intellectual property laws*. *Journal of Law and Sustainable Development*, 11(11), e1965. <https://doi.org/10.38094/jlsd1111965>

²⁰⁹ Dwivedi, Y. K., Kshetri, N., Hughes, L., Slade, E. L., Jeyaraj, A., Kar, A. K., ... Wright, R. (2023). *Opinion paper: “So what if ChatGPT wrote it?” Multidisciplinary perspectives on opportunities, challenges and*

²¹⁰ Lucchi, N. (2023). *ChatGPT: A case study on copyright challenges for generative AI systems*. *European Journal of Risk Regulation*, 14, 1–23. <https://doi.org/10.1017/err.2023.59>

The Berne Convention is a cornerstone in the area related to copyrighting and is a brilliant example of the factors affecting the concept of authorship. The international convention aims at ensuring the works are protected globally and benefit the authors and their successors in title. It achieves this by giving the authors the powers to claim their rights and defend their works. The Berne Convention also helps in enhancing the clarity by promoting the act related to dealing with the name or pseudonym of the author thereby removing any doubts in the authors' identity.²¹¹ Although the word "originality" is not defined, it is implicitly contained within article 2(3) where translation, adaptation, musical arrangement, or other modification of a literary or artistic work is to be protected as an original work.

This indicates that such derivative works also qualify for individual copyright protection. The ideal can also be supported by a logical interpretation of Article 2(5), wherein it tackles the issue of collections of literary and artistic works such as encyclopaedias and anthologies. According to Article 2(5) such collections, by reason of their selection and arrangement of the contained work will qualify as intellectual creations. Thus, Article 2(5) establishes the point that such arrangement and compilation qualify as results of intellectual creativity and work which are separate and distinct from the copyrights held by the contained work. The Berne Convention emphasizes and establishes the importance of protecting the copyright of any work involving intellectual creation as long as such work qualifies by showing its creator or author the required intellectual creativity and originality.

However, it does not specifically cover the eligibility of AI output because such works were not in contemplation at the time of its adoption. It is worth noting that the convention also provides leeway to allow national laws to determine the conditions under which the work must be fixed in order to be under the protection of copyright. In that regard under the convention, national laws may adjust the determination of how AI's product can be copyrighted.

EU'S COPYRIGHT LAW

There are 13 directives and 2 regulations which make up EU copyright law which harmonise basic rights in authors, performers, producers, and broadcasters.²¹² The setting of harmonised standards of copyright law in the EU reduces the discrepancies that exist within the countries ensuring that the level of protection required for the creation of art and increase of creativity among others exists. The harmonised standards have fostered diversity, improved access to digital content, and services. Many of these directives incorporate disciplines reflected in the Berne Convention and the Rome Convention which includes disciplines imposed on the European Union and its Member States. They also have obligation to comply with disciplines provided through the World Trade Organization TRIPS Agreement, and the two World Intellectual Property Organization Internet Treaties of 1996 which is both the WIPO 'Copyright Treaty' and the WIPO 'Performances and Phonograms Treaty'.

²¹¹ *Berne Convention for the Protection of Literary and Artistic Works*, (1886), as amended. World Intellectual Property Organization. <https://www.wipo.int/wipolex/en/text/283698>

²¹² European Commission. (n.d.). *Copyright legislation*. Shaping Europe's Digital Future. <https://digital-strategy.ec.europa.eu/en/policies/copyright-legislation>.

The Directive 2001/29/ EC of the European parliament and of the council in 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society is one of the most important directives.²¹³ Where article 2 of this directive states reproduction right where "Member States shall provide for the exclusive right to authorise or prohibit their direct or indirect, temporary or permanent reproduction by any means or form, either whole or in part:

- (a) for authors, of their works;
- (b) for performers, of fixations of their performances;
- (c) for phonogram producers, their phonograms; etc"

The Article 3 of this directive states the right to publicly communicate works and the right to create where member states must grant authors the sole right to allow or disallow any public dissemination of their creations by wired or wireless methods which also includes the provision to the public of their creations so that the public can access them. Article 4 outlines the distribution right which requires Member States to ensure that authors are granted rights that concerns the original of their creations or any reproductions of their craft.

There are some exemptions or restrictions on the reproduction right specified in Article 2 which are applied in these instances:

- (a) Reproductions on paper or any comparable medium where they are influenced by the application of any type of photographic method etc as long as the right holder is compensated
- (b) Regarding copies on any medium created by an individual for personal use and for purposes that are not explicitly or indirectly commercial as long as the rights holders obtain remuneration.

The directive also states that Member States may establish exceptions or limitations to the rights granted in Articles 2 and 3 in where utilization solely for the aim of illustration in teaching or scientific research where the source with the author's name is acknowledged and there are many exceptions for instance using for benefit of disable person or religious purposes.

²¹⁴Another important Directive is the (EU) 2019/790 of the European parliament and of the council in 17 April 2019 on copyright and related rights in the digital single market and amending directives 96/9/EC and 2001/29/EC. It clearly states that in some cases, text and data mining may entail actions safeguarded by copyright, it can be the sui generis database right where the reproduction of works or other subject matter are concerned. When there is extraction of contents from a database where the data are standardized during text and data mining and there is no exception or limitation that exists then permission is necessary from rights holders.

²¹³ *Directive 2001/29/EC* of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 10–19 (2001). <https://eur-lex.europa.eu/eli/dir/2001/29/oj/eng>

²¹⁴ *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 and amending Directives 96/9/EC and 2001/29/EC*, OJ L 130, 92–125 (2019). <https://eur-lex.europa.eu/eli/dir/2019/790/oj/eng>

Article 15 of this directive specifies the safeguarding of press publications related to online applications whereby Member States are required to grant publishers of press publications located in a Member State the rights outlined in Article 2 and Article 3(2) of Directive 2001/29/EC for the online utilization of their press publications by providers of information society services. It's important to note that the rights specified in the first subparagraph are not applicable to private or non-commercial uses of press publications by single users. Also, the safeguard provided in the first subparagraph does not extend to hyperlinking actions. The main aim of the EU copyright law is to ensure that authors are not at loss due to unauthorised use and others don't make profits out of copyrighted works without holder's consent.

US COPYRIGHT ACT

The question of whether AI-generated works like the texts from ChatGPT or images from Midjourney can be protected by copyright primarily rests on the legal concept of "authorship."²¹⁵ The Intellectual Property (IP) Clause found in Article I, Section 8, Clause 8 of the U.S. Constitution gives Congress the power to "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." The Copyright Act grants copyright protection for "original works of authorship" in accordance with this authority. Despite the lack of a clear definition of "author" in the Constitution and Copyright Act, U.S. courts have not yet recognized copyright for works without a human creator such as those produced autonomously by artificial intelligence (AI) systems.

At least one lawsuit has so far unsuccessfully contested the requirement for human authorship in relation to AI.²¹⁶ In June 2022, Stephen Thaler filed a lawsuit against the Copyright Office for rejecting his request to register a visual artwork that he asserts was created "autonomously" by an AI system. Dr. Thaler maintained that the Copyright Act does not necessitate human authorship. In August 2023, a U.S. district court ruled in favour of the Copyright Office. The court determined that human authorship is a fundamental aspect of a legitimate copyright claim emphasizing that only human creators require copyright as motivation to produce expressive works.²¹⁷

In March 2025, the U.S. Court of Appeals for the D.C. Circuit upheld the district court's ruling in *Thaler v. Perlmutter* where they determined that the Copyright Act mandates all qualifying work to be initially created by a human. The court concluded that multiple sections of the Copyright Act suggest that the term "author" is intended exclusively for human beings.²¹⁸

²¹⁵ Zirpoli, C. T. (2025). *Generative artificial intelligence and copyright law* (CRS Legal Sidebar No. LSB10922). Congressional Research Service. <https://www.congress.gov/crs-product/LSB10922>

²¹⁶ *Thaler v. Perlmutter*, No. 22-cv-384-BAH (U.S. District Court for the District of Columbia, Aug. 18, 2023)

²¹⁷ *Thaler v. Perlmutter*, No. 23-5233 (U.S. Court of Appeals for the District of Columbia Circuit, Mar. 18, 2025).

²¹⁸ U.S. Copyright Office. (2023, March 16). *Copyright registration guidance: Works containing material generated by artificial intelligence* (88 Fed. Reg. 16190) (Statement of policy), Federal Register. <https://www.govinfo.gov/content/pkg/FR-2023-03-16/pdf/2023-05321.pdf>

In March 2023, the Copyright Office published Copyright Registration Guidance on works that include material produced by AI (the AI Guidance). In recognition of the fact that human authors can use AI in their creative process, the AI Guidance states that the key factor is the degree of creative control the human exercised over the work's expression. Accordingly, the AI Guidance states that where AI decides the expressive components of its output, the produced content is not a result of human authorship. However, works that include AI-generated content can be protected by copyright under certain circumstances like where there are sufficiently creative human modifications or adaptations of AI-generated content or where they combine AI-generated and human-authored content. The AI Guidance provides that copyright protection can be claimed only for their own contributions to such works and that they must acknowledge and claim the AI-generated portions of the works in their application for copyright registration.²¹⁹

In January 2025, the Copyright Office published the part of its report on Copyright and Artificial Intelligence that deals with the copyright status of works produced using AI. Citing the AI Guidance's emphasis on creative control, the report emphasizes that with the technology currently accessible, prompts alone do not provide sufficient human control for users of an AI system to be considered the authors of the resulting work. The report goes on to say that the Copyright Act's distinction between copyrightable works and uncopyrightable ideas makes works produced by AI using user input uncopyrightable because they are ideas.²²⁰

On March 21, 2024, the state of Tennessee enacted the Ensuring Likeness, Voice, and Image Security (ELVIS) Act of 2024, which expands the state's legal right of publicity (ROP) and presents new risks of liability for artificial intelligence services, online platforms, and technology companies that use voices and likenesses of artists. The act became effective on July 1, 2024.²²¹

The ELVIS Act amends the Tennessee Personal Rights Protection Act of 1984 in two significant respects. First, it expands existing law (section 47-25-1105) to prohibit any unauthorized commercial use of a person's voice and gives more restrictions on the use of a person's name, image, and likeness. The Act defines "voice" as a sound in a medium that is easily recognizable and assignable to a specific person, regardless of whether the sound is the actual voice or an imitation of the voice of the person. This broad definition raises the question of whether liability under the ELVIS Act might be imposed not only on the use of an existing sound recording of a person's voice but also on the creation of digital recordings or audiovisual works that are similar to personal voices. Currently AI works are under the

²¹⁹ U.S. Copyright Office. (2025). *Copyright and artificial intelligence, Part 2: Copyrightability* (Report of the Register of Copyrights). <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf>

²²⁰ Damle, S., Dukanovic, I., Lovejoy, B., & Stillman, A. (2024, April 8). *The ELVIS Act: Tennessee shakes up its right of publicity law and takes on generative AI* (Client Alert No. 3244). Latham & Watkins. <https://www.lw.com/admin/upload/SiteAttachments/The-ELVIS-Act-Tennessee-Shakes-Up-Its-Right-of-Publicity-Law-and-Takes-On-Generative-AI.pdf>

²²¹ Tennessee Code Annotated § 47-25-1105 (2021). Retrieved from <https://law.justia.com/codes/tennessee/2021/title-47/chapter-25/part-11/section-47-25-1105/>

scrutiny of the copyright office to judge whether they are truly human creation. The office uses its various guidelines and precedent of cases involving AI generated works to judge works.

INDIA'S COPYRIGHT LAW

Currently, the Indian copyright laws lack provisions regarding works produced by AI. The Copyright Act of 1957 in India has seen progressive developments.²²² It was amended to align with the TRIPS Agreement for international compliance and later it was amended again to strengthen strong digital protections and recognized online rights but there is a need to have rules regarding works produced by AI. In India, the RAGHAV AI case involved Ankit Sahni, the developer of the RAGHAV (Robust Artificially Intelligent Graphics and Art Visualizer) application who applied for copyright protection for an AI-produced work titled "Suryast." The Indian Copyright Office initially issued a registration notification in November 2020, recognizing RAGHAV as a co-author with Sahni. However, the Copyright Office later published a notice of withdrawal which casts uncertainty on the legal status of the AI application.

Although the Copyright Act of 1957 in India does not provide any specific provisions for works produced through AI, it has already recognized the rights of performers under Section 38 of the Copyright Act, as well as the producers of phonograms under Section 14(e) in combination with Section 2(xx), as well as broadcasting organizations under Section 37.

Already the recording of performances or broadcasts enjoys protection against unauthorized copying and public distribution. when computer-generated results appear in the form of recordings or audiovisual products, it raises complex regulatory questions about licensing, remuneration, and enforcement. It is therefore important that Indian policymakers consider both copyright and related rights regimes when addressing AI imagination.²²³

Section 52 of the Copyright Act protects the specific use of copyrighted works for the purpose of benefiting society at large without unreasonably affecting the rights of the original author. It recognizes that the right of copyright is not absolute and has to be harmonized with the needs of society such as education and the dissemination of information. This section applies to all types of works that includes literary works, musical works, artistic works, cinematic works, and sound recordings etc.

ANALYSIS OF ONGOING CASE LAWS REGARDING COPYRIGHT AND AI USAGE

BARTZ V. ANTHROPIC, 3:24-CV-05417 (N.D. CAL.)

At Anthropic, three authors filed a class action alleging that their copyrights were violated due to Anthropic's training of its AI service called Claude. To train Claude, Anthropic acquired millions of

²²² Ojha, A. (2025). *AI & copyright in India: Law, policy, and the future of creative rights* (Case study). National e-Governance Division, Ministry of Electronics & Information Technology, Government of India. <https://negd.gov.in/wp-content/uploads/2025/10/Astha-Ojha-AI-Copyright-in-India-Bridging-the-Digital-Divide.pdf>

²²³ *Copyright Act, 1957*, § 52 (India). Retrieved from https://www.indiacode.nic.in/show-data?actid=AC_CEN_9_30_00006_195714_1517807321712§ionId=14572§ionno=52&orderno=70

illegal books. It also acquired millions of tangible books, digitized them, and disposed of the originals. Anthropic utilized these shared copies to establish a central repository of the books. Anthropic subsequently chose different subsets of both the pirated and digitized materials from that library to train the large language models (LLM) utilized in Claude. It kept all the copies in the main library for any future needs that may come up. Before class certification, Anthropic filed a motion for summary judgment regarding its fair use defence.

In its motion, Anthropic contended it replicated the authors' works for a singular purpose which is to train LLMs. The authors claimed that Anthropic duplicated the books for two purposes which to train the LLMs and to create a large central repository of possibly valuable material. Judge Alsup ultimately evaluated both applications and both collections of works (the pirated books and the digitized hardcopy editions). For each instance, he utilized the four fair use criteria specified in section 107 of the US Copyright Act. Judge Alsup held that the use of the works to train the LLM was fair use. The heart of his decision was that the use of the works to train the AI was highly transformative and that no copies of the books were available to the public.

Judge Alsup also held that the use of the works to train LLMs would not affect the market for the works. First, he rejected the argument that training LLMs would cause a flood of competing works. Moreover, he rejected the authors' argument that the infringement would reduce their licensing market for training LLMs. He held that a hypothetical licensing market is not one that the Copyright Act guarantees authors the right to use.

²²⁴ In June 2025, Judge William Alsup of the Northern District of California issued a major summary judgment ruling. He held that Anthropic's use of legally obtained books for AI training was "fundamentally transformative" and thus protected by fair use. At the same time, he also held that Anthropic's creation and maintenance of a "central library" containing a partial mix of the pirated works was non-transformative and constituted infringement. This simultaneous defeat and victory prefaced the trial on damages. The latest Court order was on January 27, 2026 is regarding the opt-out and objections deadlines which are modified to be February 9, 2026 and the Plaintiffs to immediately disseminate the email notice.

KADREY V. META PLATFORMS, INC., 3:23-CV-03417, (N.D. CAL.)

On June 25, 2025, the Northern District of California decided whether Meta's use of copyrighted books for training its LLAMA language models constituted fair use under ²²⁵17 U.S.C. § 107. The plaintiffs, a group of famous authors including Sarah Silverman and Junot Díaz, alleged that Meta accessed their works through shadow libraries and incorporating them into the datasets used to train Meta's LLAMA models 1, 2, and 3. Meta acknowledged the downloading of copyrighted books through BitTorrent and their incorporation into the datasets.

²²⁴ *Bartz v. Anthropic*, No. 3:24-cv-05417 (N.D. Cal. 2024).

²²⁵ 17 U.S.C. § 107 (2025). *Limitations on exclusive rights*: Fair use. Legal Information Institute, Cornell Law School. <https://www.law.cornell.edu/uscode/text/17/107>

Finally, Judge Chhabria held that:

- (i) Meta's use of the works to train an LLM was fair use because of the transformative nature of the use and would not affect the authors' market;
- (ii) The market for authors to license their works for AI training was irrelevant to the fair use analysis; and
- (iii) A determination of no fair use would not impede AI innovation.

Meta offered evidence that its use of the plaintiffs' books to train Llama did not affect the sales of the plaintiffs' books. The plaintiffs did not offer any evidence to refute this. Judge Chhabria explained that the notion of market dilution was especially relevant to the fair use analysis in light of the ability of LLMs to flood the market with competing works.

While Judge Chhabria did rule in Meta's favour, he rejected the company's claim that failing to prevent Meta from using copyrighted books to train its LLMs would stifle technological progress. Judge Chhabria stated that these AI tools are expected to generate billions, even trillions of dollars for the companies that develop them and found it ridiculous that copyright enforcement would halt this technology in its tracks. Judge Chhabria further explained that a ruling against fair use does not mean that AI companies must stop developing their technology but that they must pay licenses to use copyrighted materials for training. *Kadrey v. Meta Platforms, Inc.* is presently in administrative motion to consider whether another party's material should be sealed where plaintiffs are filing an expert declaration fully under seal because it potentially contains information that Meta will move to seal.

ARIJIT SINGH V. CODIBLE VENTURES LLP, 2024 SCC ONLINE BOM 2445

In the case of *Arijit Singh v. Codible Ventures LLP & Ors.*, the rationale for the Bombay High Court's grant of an ex-parte ad-interim injunction is based on precedential principles relating to personality rights and interim relief as applied to the emerging threat of generative artificial intelligence.

At the outset, the Court held that the Plaintiff had made out a strong prima facie case of infringement of personality rights and the right of publicity. It was evident from the record that several of the defendants were using the Plaintiff's name, voice, vocal style, image, likeness, and overall persona in AI-generated works without authorization. The Court noted that the Plaintiff was readily identifiable in the impugned acts meeting the requirement that personality characteristics must unambiguously refer to the particular individual.

A central and novel aspect of the Court's reasoning lies in its treatment of AI-enabled voice conversion and generative content. The Court expressly recognized a celebrity's voice as an integral component of personal identity and public persona. It held that AI tools enabling the conversion or synthesis of a celebrity's voice without permission facilitate unauthorized appropriation and manipulation of identity which constitutes a direct violation of personality and publicity rights. The Court emphasizes that such

technological exploitation magnifies the scale, realism, and potential harm of infringement which exposes performers to heightened vulnerability in the digital ecosystem.

The Court further noted that the defendants' activities were commercial in nature aimed at attracting traffic, monetizing platforms, and selling merchandise by capitalizing on the Plaintiff's popularity and reputation. The Plaintiff's pleaded decision to refrain from endorsements and gross commercialization was treated as reinforcing his right to control the use of his identity.

The Court held that the balance of convenience was decisively in favour of the Plaintiff and that further exploitation would result in irreparable harm to the Plaintiff's career, reputation, and livelihood which could not be adequately compensated by monetary relief.

GETTY IMAGES AND OTHERS V. STABILITY AI [2025] EWHC 38 (CH).

On 4 November 2025, the High Court of England and Wales delivered its long-awaited decision in the case of Getty Images v. Stability AI which was brought by several entities within the Getty Images group together with a contributing entity (collectively, Getty) mainly on the grounds that Stability AI had infringed the intellectual property rights owned by Getty in the development, training, and use of Stability AI's Stable Diffusion image-generation AI model.

The Court mainly threw out the infringement claims brought before it by Getty, except for a few specific findings in respect of its trademark claim. Notably, the Court also dismissed Getty's secondary claim of copyright infringement in respect of Stability AI's Stable Diffusion, on the grounds that it was an "infringing copy" of "an article" containing Getty's alleged copyright works as it had been imported into the UK and its manufacture in the UK would have constituted copyright infringement of those works under the Copyright, Designs and Patents Act 1988 (CDPA).

Significantly, the Court that an "article" in relation to secondary infringement under Sections 22 and 23 of the CDPA may be intangible. Examining Sections 22 and 23 alongside Section 27 (which defines "infringing copy") and Section 17 (which outlines what constitutes "copying"), the Court determined that "article" is not limited to physical forms; electronic copies held in intangible forms (e.g., in cloud storage) may qualify as "articles."

The Court arrived at this conclusion by using the "always speaking" principle (i.e., that laws should be interpreted to address new situations and technologies as they develop) and a comprehensive interpretation of the CDPA, highlighting that Section 17 explicitly acknowledges copying through storage "in any medium by electronic means" and that refusing protection against secondary infringement simply because the storage medium is intangible instead of tangible would contradict those provisions.

Nonetheless, the Court determined that Stable Diffusion does not qualify as an "infringing copy" according to Section 27. The critical element was that every model version of Stable Diffusion in its concluding form do not and have not held reproductions of Getty's claimed copyright works since they result from training and are not actual replicas of the pertinent works.

Presently the High Court has granted Getty Images the permission to appeal against the recent landmark ruling that rejected Getty's claims of secondary copyright infringement against Stability AI.

PROPOSAL OF LEGAL REFORMS AND POLICY RECOMMENDATIONS

There should be a uniform approach to AI generated work and the category of what constitutes a legitimate work that allows permission for the copyright registration. This should be based upon the creative or original input given by the author. Presently AI is used everywhere from searching to analysing. Instead of viewing AI as a copycat producer, countries should implement universal standards of analysing whether usage of AI generation involves total content taken from other copyrighted works or was influenced by other copyrighted works.

There should be some intake in the approach of the European Union which involves an "opt-out" option, whereby right holders can take reasonable steps to prevent the developers of AI systems from accessing their protected works for reproduction and training purposes.²²⁶ Right holders can particularly restrict the use of their works by other people for the purpose of data analysis of this nature including works that can be processed by computers.

Copyright exceptions for Text and Data Mining (TDM) enable the copying of copyrighted material for analysis without the need for authorization, which is essential for AI development.²²⁷ Best practices have been developed in the EU (Articles 3 & 4 of the DSM Directive) and the UK (S29A Copyright Act) which typically require "lawful access" to data. While exceptions for research are mandatory, they may not be for commercial TDM.

The organizations or entities participating in TDM must respect the reservations and refrain from copying protected works for training.²²⁸ There is much ambiguity regarding the implementation of the "opt-out" system so countries should specify clauses to avoid discrepancies. Another aspect is that the work must have been "legally obtained". This is observed in countries such as the EU and Singapore. Countries should conceptualize an exception with a carefully crafted phrase that allows for commercial use and the words that are crafted to specifically include the training of AI and address some of the concerns mentioned above. It is to be noted that an exception without an "opt-out" provision undermines the interests of copyright holders as they will not receive any benefit or compensation despite their works being copied in the process of training AI Systems by AI Developers who may have business-related motives.

²²⁶ Geiger, C., Frosio, G., & Bulayenko, O. (2018). *The exception for text and data mining (TDM) in the proposed Directive on Copyright in the Digital Single Market* – Legal aspects (CEIPI Research Paper No. 2018-02). Centre for International Intellectual Property Studies. <https://doi.org/10.2139/ssrn.3160586>

²²⁷ Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India. (2025, December). *Working paper on generative AI and copyright* (Working Paper). <https://www.dpiit.gov.in/static/uploads/2025/12/ff266bbeed10c48e3479c941484f3525.pdf>

²²⁸ Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India. (2025, December). *Working paper on generative AI and copyright* (Working Paper). <https://www.dpiit.gov.in/static/uploads/2025/12/ff266bbeed10c48e3479c941484f3525.pdf>

This can be countered by giving disclaimer about information that is generated from copyrighted work or highly influenced by it. Suppose AI generates some image or text; there should be clear indication about its original source and authenticity. This will ensure that interest of copyright holders about their acknowledgement of their work is met.

AI companies should follow proper guidelines about which content to be used for learning model, illegal websites or pirate content should be not used. Countries should have proper legislation and penalise those who refuse to follow it.

CONCLUSION

The accelerated development of artificial intelligence has caused a paradigm shift in the traditional copyright regime which is based on human authorship and creativity. The current intellectual property regimes of both national and international level are increasingly challenged by the emergence of AI-authored and AI-assisted works. A comparison of the Berne Convention, EU copyright law, the U.S. Copyright Act, and the Indian Copyright Act of 1957 shows that all these regimes have not explicitly mentioned non-human authorship. The judicial treatment of AI-related cases in different jurisdictions indicates that there is a growing consensus that AI training can be considered a form of transformative use under fair use provisions but courts are reluctant to grant copyright protection to autonomous AI works. Recent cases such as *Bartz v. Anthropic*, *Kadrey v. Meta*, *Getty Images v. Stability AI*, and *Arijit Singh v. Codible Ventures LLP* demonstrate the conflict between technological progress, economic rights, and personality rights in the digital environment. The lack of standardized legal frameworks could exacerbate disparities between AI innovators and human creators which can potentially jeopardizing the very incentive structure that copyright law aims to safeguard. Accordingly, there should be a rebalanced copyright framework where there is maintenance of human creativity but also provides exceptions, opt-out arrangements, transparency requirements and fair remuneration terms to facilitate innovation enabled by AI technology. In the end, sustainable growth in the AI-enabled world can be realized only through international collaboration, dynamic legal adaptation, and a harmonious approach that balances technological advancement with human creative endeavour.

