

AI, CREATIVITY AND COPYRIGHT: ADDRESSING THE CHALLENGES OF NON-HUMAN AUTHORSHIP

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ABSTRACT:

Artificial Intelligence (AI) has brought revolution in creative fields, enabling machines to generate art, music, literature, and more which was traditionally human-centered. While this opens up exciting possibilities, it also raises important legal and ethical questions, such as who owns AI-generated works and whether they should be eligible for copyright protection? Traditional copyright laws, including the Berne Convention and national regulations like the U.S. and Indian Copyright Acts, were designed with human authorship in mind, leaving AI-generated content in a legal grey area. This paper examines the challenges of AI authorship, including disputes over ownership such as should the rights go to the AI's developer, the user, or should the work fall into the public domain? Ethical concerns also arise, such as the impact on human artists and the originality of AI creations.

Different countries are taking different approaches. For example, the U.S. and India are strictly requiring human involvement for copyright, while China explores new frameworks. As AI continues to reshape creativity, there is an urgent need for copyright laws to evolve accordingly, ensuring fair treatment for both human and AI-assisted creations.

KEYWORDS:

AI-generated content, Copyright law, Intellectual property rights, non-human authorship, Ethical implications of AI.

INTRODUCTION:

Artificial Intelligence (AI) is changing the way we create and consume art, music, and literature. What was once purely a human endeavour is now being influenced, and in some cases even led, by AI systems capable of generating paintings, composing music, and writing poetry. AI-generated works have gained widespread attention, with some being sold at prestigious auctions and others being used in commercial projects. This rapid advancement, however, has sparked an important debate—who owns the rights to content created by AI?

Copyright laws have always been designed to protect human creativity, ensuring that writers, artists, and musicians receive recognition and rights over their work. But AI complicates this system. If an AI generates a painting or a song, does the credit go to the developer who built the AI, the user who provided instructions, or does the work belong to no one at all? With no clear legal framework in place, courts and lawmakers are struggling to keep up with the challenges posed by AI-generated content.

This paper explores these issues, looking at legal battles, ethical concerns, and how different countries are approaching AI and copyright. It also considers potential changes to intellectual property laws that could help balance innovation with fair protection for human and AI-assisted creations.

UNDERSTANDING COPYRIGHT AND HUMAN AUTHORSHIP:

Copyright in a simple language means an exclusive right to copy. Copyright is that legal protection which is given to the creators for their original works. It applies to a wide range of

creations such as books, paintings, music, and films. The core idea behind copyright is to protect the unique way in which the idea is expressed and not the idea itself. The same is reflected in the sec. 13 of the Indian Copyright Act, 1957 which limits the award of copyright to, “original literary, dramatic, musical and artistic works and also to the sound recordings and the cinematographic films.”¹ So, if you write a novel, paint a picture, or compose a song, copyright ensures that others can’t copy or use your specific work without permission.

Copyright laws traditionally give rights to human creators, meaning that only people (or in some cases, organizations) who create original works can claim ownership. For a work to be copyrighted, it generally needs to meet a few requirements: such as originality, Fixation and human authorship.

In India, the Copyright Act, 1957, places a clear emphasis on human authorship when it comes to protecting creative works. According to Section 17 of the Act, the person who creates a work is considered its author, which means that copyright protection is intended for works created by humans.² Although the Act doesn’t explicitly define the term "author," it is generally understood to refer to natural persons (humans) or legal entities like companies.³ Since AI is neither a human nor a legal entity, it cannot be considered as the author of a work and cannot be granted rights on the work created.

This human-centered approach to copyright protection and authorship has been a constant in copyright law for a very long time. However, with the advent of different AI systems that can generate content, there are now questions about how copyright laws should address these works created by AI.

LEGAL CHALLENGES OF AI-GENERATED CONTENT IN COPYRIGHT LAW:

The rise of artificial intelligence (AI) has brought new and complex challenges in copyright law, especially when it comes to determining authorship and ownership of works created by AI systems. Copyright laws have always been rooted in the idea that creativity stems from human effort, and this has led to a number of legal challenges as AI becomes more capable of producing original content. Following are the legal challenges which need to be addressed with the advent of different AI systems:

1. Who Owns the AI-Generated Work?

One of the biggest questions is who owns the rights to works created by AI. Since AI doesn’t have legal personhood and is not considered a human, it cannot be regarded as an author under current copyright laws. This leaves us with an unanswered question that if an AI system generates content, then who owns the exclusive rights of copyright? Is it the developers who created the AI, the users who provided input, or the organization owning the AI?⁴ In India, the Copyright Act, 1957, specifies that the author of a work is the person who creates it, which traditionally refers to human creators. This principle leaves AI-generated works with a disputed ownership under existing law.

2. The Role of Data in AI Training

Another issue is how AI systems are trained. AI models often learn from vast datasets available, which may include copyrighted content such as music, text, or images. This has raised concerns about whether using such copyrighted material without permission constitutes infringement. For example, several music labels in India have filed lawsuits against OpenAI, accusing the company of using their copyrighted music to train its AI models without consent.⁵

3. Who Is Responsible for Infringement?

AI systems can sometimes produce content that infringes upon existing copyrighted works. But who is responsible in such cases? As the ownership is itself not clear for the AI generated content so is the liability not clear for the same. Should the AI developers be held accountable, or should it be the users who operate the AI?⁶ This issue complicates the enforcement of copyright protection in the digital age.

4. International Legal Complexities

AI systems often operate across borders, and their creators and users are frequently located in different countries. This global reach adds another layer of complexity when it comes to enforcing copyright laws. For example, OpenAI, a company based in the United States, is facing legal challenges in India, where local copyright laws are being applied to an international entity. This situation raises difficult questions about how different countries' copyright laws can be harmonized in the age of AI.⁷

5. Ownership of AI-Generated Works with Minimal Human Involvement

One more significant legal challenge is determining that whether AI-generated works with minimal or no human involvement should be afforded copyright protection. In some cases, AI systems may generate work autonomously, with very little human input such as ChatGPT and Gemini. The question which arises is whether such works can be protected under copyright laws that traditionally require human authorship?

ETHICAL AND PHILOSOPHICAL CHALLENGES:

Here are some of the important ethical and philosophical concerns surrounding AI-generated content:

1. Intellectual Property Challenges: As previously mentioned AI systems often learn from large datasets available, which can include copyrighted works. This raises the concern that AI could unintentionally copy or take the content from the already protected materials.⁸ Determining whether AI-generated content is truly original or if it infringes on existing intellectual property rights is a key challenge in this area.

2. Authenticity and Trustworthiness of Content: While AI can generate content that looks credible, it can sometimes produce inaccuracies, biases, or errors.⁹ This poses a problem when AI is used in areas like journalism, education, or research, where the accuracy and reliability of information is very essential.

3. Reevaluating Creativity and Authorship: AI has now become better in creativity. Even a small but appropriate prompt is necessary for AI to generate very well creative content. This challenges traditional ideas about authorship, as AI-generated works blur the lines between human and machine-made content. It prompts a broader discussion about the value of human creativity and what it means for a work to be truly unique.¹⁰

INTERNATIONAL PERSPECTIVES ON AI AND COPYRIGHT:

The global approach to AI and copyright law varies significantly across different countries.

In the United States, copyright law strictly requires human authorship, as reinforced in the case *Thaler v. United States Copyright Office*, where it was ruled that works created solely by AI without human involvement cannot be copyrighted.¹¹ Similarly, the United Kingdom also emphasizes human authorship but is considering potential reforms to address AI's role in creative processes.

China and Japan are taking more flexible approaches. China is focused on how AI-generated content fits within the framework of adaptation and transformation rights, while Japan has issued guidelines on AI's role in copyright.¹²

When it comes to India it has always been a debatable question. For example, In 2020, Ankit Sahni applied for copyright registration of a 2-D artwork titled "Suryast," created by the AI tool RAGHAV, and listed both himself and RAGHAV as co-authors.¹³ Initially rejected for lacking a human author, the Indian Copyright Office surprisingly granted protection, making Sahni the first to secure copyright for AI-generated content.¹⁴ However, the office later requested further details on RAGHAV's legal status, and after receiving a response, no further action has been taken, leaving the work still listed in the copyright registry.¹⁵ This case highlights the potential for recognizing AI-generated works, offering a way to incentivize AI businesses by granting them legal protection.

POSSIBLE LEGAL SOLUTIONS:

Here are some possible legal solutions to address the growing AI-generated content:

1. **Significant Human Input Test:** This approach would basically allow copyright protection for the works which are created with significant human guidance, even after AI produces the final output. It ensures that human creativity and involvement are recognized, while still giving credit to the role of AI.
2. **Sui Generis Right for AI Creations:** This aims to create a unique legal category for works generated by AI which could help recognize AI's contribution while also assigning rights to the respective people. This would acknowledge the changing landscape of creativity in a tech-driven world.
3. **Ownership Clarification:** This asserts for the introduction of Clear rules which would define who owns AI-generated works? Whether it's the developer of the AI, the user, or another party? This ensures that intellectual property rights are properly allocated.
4. **Global Legal Consistency:** This aims to bring a consistency of laws and harmonious construction among the laws present in different countries through enforcing different treaties and conventions on AI generated content and copyright.
5. **Amendment to Copyright Laws:** Copyright frameworks need to be amended to address AI's role directly, ensuring that both human creators and AI contributions are fairly protected.

CONCLUSION:

In conclusion, it can be said that the rapid developments of AI in creative fields presents new challenges for copyright law, as it has traditionally been centered around human authorship only. As AI systems generate increasingly complex and original content, current legal frameworks struggle to address issues of authorship, ownership, and intellectual property rights. This paper has explored the complexities of AI's role in creative processes, shedding light on the need for new legal approaches that can adapt to the evolving nature of creativity in a tech-driven world.

To address these challenges, potential solutions such as the "Significant Human Input" test, the establishment of a sui generis right for AI-generated works, and global legal harmonization could help reshape copyright law to fit the realities of AI-generated content. The evolving landscape requires a balance between protecting human creators and recognizing the contributions of AI. As AI continues to transform creative industries, it is essential for copyright law to evolve, ensuring fair protection and incentivizing both human creators and AI developers.

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Refer point no. 02.