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AI and Intellectual Property: Ownership of AI-Generated Content

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Traditional intellectual property (IP) frameworks are facing serious challenges as a result of artificial intelligence's (AI) emergence as a creative force, particularly with regard to authorship and ownership of content produced by AI. Questions about consent, compensation, and the boundaries of existing IP laws arise as AI tools produce more and more literature, music, art, and code, often by training on enormous datasets that contain copyrighted works. This study examines the relationship between content produced automatically by AI systems such as ChatGPT, Midjourney, and DeepMind and fundamental legal concepts like originality, creativity, and human authorship. It analyses key legal responses in countries like the US, UK, EU, and India while looking at competing ownership models, including developer, user, joint, and AI-as-author. The study draws attention to the fact that many jurisdictions lack legal recognition and consensus regarding AI-generated works, particularly in cases where human input is either nonexistent or very limited. For example, AI authorship is not specifically covered by Indian copyright law, whereas US and EU frameworks firmly link protection to human creativity. In order to resolve the ambiguity surrounding non-human creators and protect the changing interests of human stakeholders in an AI-driven creative landscape, this paper emphasises the urgent need for legal reform, possibly through new legislation or sui generis rights through case law, statutory interpretation, and comparative analysis.

Keywords: *ai, ipr, content, copyright.*

INTRODUCTION

The emergence of artificial intelligence as a generative force in the creative industries has ignited one of the most critical discussions to date involving intellectual property law. Artificial intelligence is widely recognised as the catalyst of the fourth industrial revolution.¹ It is transforming the way intellectual works are created and consumed, thus compelling a shift in legal systems to reconsider fundamental principles such as authorship and ownership in intellectual property rights. Artificial intelligence has transformed the various creative domains such as producing literature, art, music and software, which now represents a substantial threat to human creations. AI tools such as OpenAI's ChatGPT, Google's DeepMind, Midjourney, etc, are capable of generating work that could traditionally only be produced by humans. AI-generated content is generated through training on vast data sets. These data sets often include copyrighted works such as digital paintings, images, stories, and music from composers. More often than not, the creators of this content are neither asked for their consent nor compensated.²

Intellectual property rights are legal rights that give individuals exclusive control over how their works are used and commercialised for a limited period.³ Industrial property and copyright are the two main categories into which IPR is usually divided. In order to promote and reward creative endeavours, copyright protects literary and artistic works, including books, music, movies, on software as well as rights of performers, producers and broadcasters. This protection typically lasts for at least 60 years beyond the creator's life. Industrial property includes innovation-related rights like patents, industrial designs, trade secrets, and protection of distinctive signs like trademarks and geographical indicators that help consumers in identifying and differentiating products. In the context of AI-generated content, copyright law is the most

¹ Xuesong Zhai et al., 'A Review of Artificial Intelligence (AI) in Education from 2010 to 2020' (2021) Complexity <<https://doi.org/10.1155/2021/8812542>> accessed 11 June 2025

² Dan Valeriu VOINEA, 'AI AND COPYRIGHT - WHO OWNS AI GENERATED CONTENT?' (2023) 10(1) SOCIAL SCIENCES AND EDUCATION RESEARCH REVIEW <<https://doi.org/10.5281/zenodo.15252004>> accessed 11 June 2025

³ 'What are intellectual property rights?' (*World Trade Organisation*) <https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm> accessed 11 June 2025

relevant form of intellectual property rights. Originality, creativity⁴ and human authorship⁵ are essential components of the traditional copyright framework.

AI works are often on par with the content produced by humans; however, this intelligence is not that of a human user, but rather it is produced by AI by combining and analysing an enormous volume of human knowledge from Big Data. 'Big Data' refers to a new approach to storing, searching and analysing substantial amounts of data, which can be used by AI.⁶ This data is usually collected from humans. Therefore, AI-generated content is usually a mix of works of various creators, and there is no single human who can be said to be the author of the work. Few models can be used to determine the ownership of AI-generated content.

Developer's Ownership: In this system, the developer of the AI may claim ownership. But in this case, a programmer cannot know what the artificial intelligence will create since the user is the one who determines the final result based on their prompts.⁷

User Ownership: The user who provides the prompts to the AI system may be considered the author if he is the one who is undertaking the creative process. In the UK, a person may be an author if they contribute a series of ideas or concepts that are sufficiently detailed where defined and original.⁸

AI as Author: AI systems do not create any new content, but they generate content based on data that is owned by human creators. AI lacks legal personality. It cannot own property and cannot be treated as an author under the current legal frameworks.

⁴ 'Re: Comments in Response to Draft Issues Paper on Intellectual Property Policy and Artificial Intelligence' (WIPO Secretariat, 29 May 2020) <https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=499504> accessed 11 June 2025

⁵ Hafiz Gaffar and Saleh Albarashdi, 'Copyright Protection for AI-Generated Works: Exploring Originality and Ownership in a Digital Landscape' (2025) 15(1) Asian Journal of International Law 23 <<https://doi.org/10.1017/S2044251323000735>> accessed 11 June 2025

⁶ Djuro Klipa et al., 'Big Data and Artificial Intelligence' (2022) 1(1) International Journal of Management Trends, Key Concepts and Research 3 <<http://dx.doi.org/10.58898/ijmt.viii.03-14>> accessed 11 June 2025

⁷ A Kirakosyan, 'Intellectual Property Ownership of AI-Generated Content' (2023) 4 Digital LJ 40

⁸ Neville Cordell and Beverley Potts, 'Ownership of AI-Generated Content in the UK' (AO Shearman, 20 August 2024) <<https://www.aoshearman.com/en/insights/ownership-of-ai-generated-content-in-the-uk#26>> accessed 11 June 2025

Joint Ownership: This theory allows a joint ownership between the user and the developer that could provide some protection to the author without equating AI output with 100% human creations.

The US copyright office has repeatedly emphasised that only works with human authorship are eligible for copyright. In 2022, the office rejected Dr. Stephen Thaler’s attempt to register “A recent entrance to Paradise,” an AI-generated artwork produced by his AI system called the “Creative Machine”⁹ In the subsequent lawsuit, *Thaler v Perlmutter*,¹⁰ the district court upheld the ruling that human authorship is a bedrock requirement of copyright. The US copyright office and its March 2023 guidance made it clear that AI-generated work can only be registered if a human has used sufficient creativity in the coordination, selection or arrangement of AI output.¹¹

A unified legal framework guided by directives and interpreted by the Court of Justice of the European Union (CJEU) governs copyright protection in the EU.¹² This system’s fundamental principle is that a protected work must be the “author’s intellectual creation,” which necessitates originality derived from the author’s free and imaginative decisions. Because AI systems are unable to create a personal touch or creatively express personality, only works created by humans are eligible for copyright protection. Under current EU law, autonomously generated AI content is unlikely to meet the originality threshold, even though AI-assisted works might be protected if a human exercises meaningful creative control. In 2020, the European Parliament demanded a civil law framework and urged the commission to consider granting AI limited legal personhood for specific usage. In 2021, the commission published the proposal for a regulation laying down rules on AI.¹³ As of 2024, the European Union framework in the area of artificial

⁹ Sam Moghadam, ‘Trouble in Paradise: The Copyright Office Says Artificial Intelligence Cannot Author Art’ (2022) Columbia Journal of Law and the Arts
<<https://journals.library.columbia.edu/index.php/lawandarts/announcement/view/456>> accessed 11 June 2025

¹⁰ *Thaler v Perlmutter*, No. 22-CV-384-1564-BAH (D.D.C. 2023)

¹¹ ‘Copyright and Artificial Intelligence: Part 2—Copyrightability, report of the Register of Copyrights (US Copyright Office, 29 January 2025) <<https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf>> accessed 11 June 2025

¹² Prof Kristofer Erickson, ‘Copyright Protection in AI-Generated Works: Evolving Approaches in the EU and China’ (Creative Industries Policy and Evidence Centre, 17 July 2024)
<https://pec.ac.uk/blog_entries/copyright-protection-in-ai-generated-works-2/> accessed 11 June 2025

¹³ Beatrice Schütte et al., ‘Damages Liability for Harm Caused by Artificial Intelligence – EU Law in Flux’ (2021) Helsinki Legal Studies Research Paper No 69/2021

intelligence consists of the AI Act,¹⁴ GDPR,¹⁵ and various other sectoral directives covering data privacy, liability and ethics.

The Copyright Act 1957, which governs copyright in India, does not currently include any specific clauses addressing authorship or ownership of works produced by artificial intelligence. The legal framework is predicated on the idea that the only people who can be acknowledged as authors or owners of rights are natural persons (humans) or legal persons (businesses). Since AI lacks legal personhood and is unable to own property or enforce rights under Indian law, this leads to a serious legal gap regarding creations made by AI systems on their own. The definition of “author” under Section 2(d) of the Act depends on the kind of work. The creator of a work of literature, theatre, music, or art is known as the author. Notably, the Act defines the author as “the person who causes the work to be created” when it comes to computer-generated works. Theoretically, this phrase might offer little room for assigning authorship in AI-assisted content to the person who configures or commands the AI system. However, in the context of completely autonomous AI-generated works, this interpretation is not established law and has not been put to the test in Indian courts.

Originality is a key prerequisite for copyright protection in India. According to Indian courts, a work must require at least a minimal level of creativity and skill to be eligible for copyright protection, as held in the *Eastern Book Company v D.B. Modak* case.¹⁶ When an AI system creates content without human input or creative direction, the requirement of originality presents additional challenges for AI-generated works. Since they don't originate from human intellect or creativity, such works are unlikely to satisfy the originality requirement.

The outputs produced by an AI system, such as a poem, artwork, or musical composition, are not automatically protected unless a human can be identified as the creator. This is significant because, although the software or code that powers an AI system is protected under Indian copyright law as a literary work. This distinction emphasises that while the AI tool is protected by current Indian copyright law, the content it generates on its own is not always.

¹⁴ The Artificial Intelligence Act 2024

¹⁵ General Data Protection Regulation 2016

¹⁶ *Eastern Book Company & Ors v D.B. Modak & Anr* AIR 2008 SC 809

AI as an author is not recognised by Indian copyright law, and content produced by AI systems on its own is not protected. The human user may be considered the author of works that entail significant human involvement, such as choosing prompts, curating outputs, or controlling the AI's behaviour. Legislative clarity or judicial interpretation is needed, as this is still a grey area in the law. India may eventually need to think about legal reforms that incorporate new types of human-machine collaboration as AI continues to play a bigger role in the creative and commercial industries.

Courts have consistently held that for a work to be copyrighted, it must be original. In the case of *Feist Publications, Inc. v Rural Tel. Serv. Co.*,¹⁷ the US Supreme Court explained that originality requires independent creations plus a modicum of creativity. It must be independently created by the author. AI-generated works challenge this since originality in this context becomes algorithmically derived rather than crafted through human intellect. Judiciaries throughout the world seem reticent to grant full copyright or patent rights to outputs strictly produced by AI systems. However, there is a rising acknowledgement that any human input may prompt or configure AI systems. Courts may increasingly consider the extent of human contribution on a case-by-case basis to assess eligibility. Additionally, as the AI systems to which we are referring become more autonomous, this distinction may evaporate completely, requiring a mandate to act on the part of lawmakers.

Non-human authorship is not explicitly recognised by India's copyright legislation. The legislation provides for copyright in works produced by a natural or legal person. Courts in India have not been confronted with a case about AI authorship as of yet. Given the fact that Indian copyright jurisprudence has a particular emphasis on human creativity, it is unlikely that works created by AI will be protected unless they have had a human touch.

The legal and philosophical issue of AI ownership of an AI-generated work has not yet been resolved. The current frameworks in law and policy only contemplate a natural or legal person holding similar rights as it relates to IP, excluding AI from claiming author or inventor status. Jurisdictions like the UK empower humans to take authorship in computer-generated works, and other jurisdictions like the US restrict copyright to human creation only.

¹⁷ *Feist Publications, Inc. v Rural Telephone Service Co.* [1991] 499 US 340

The level of advancement in AI now is accelerating to a point where we will need legal mechanisms to manage this. Legislative change, international treaties or new sui generis rights are all options to consider, but the important point is that we must change the current IP laws to accommodate and manage the use of AI-created content. Finding the appropriate balance between incentivising innovation while retaining a human-driven economy focused on human content creation will be a significant challenge for IP law at this time of rapid technological development and advancement with AI.