



INTERNATIONAL LAW  
JOURNAL

---

**WHITE BLACK  
LEGAL LAW  
JOURNAL  
ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

[WWW.WHITEBLACKLEGAL.CO.IN](http://WWW.WHITEBLACKLEGAL.CO.IN)

### **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK  
LEGAL

## **EDITORIAL TEAM**

### **Raju Narayana Swamy (IAS) Indian Administrative Service officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

### **Dr. R. K. Upadhyay**

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



## **Senior Editor**

### **Dr. Neha Mishra**



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

### **Ms. Sumiti Ahuja**

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



### **Dr. Navtika Singh Nautiyal**

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

### **Dr. Rinu Saraswat**



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

### **Dr. Nitesh Saraswat**

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



### **Subhrajit Chanda**



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **AI AND AUTHORSHIP IN THE ERA OF GENERATIVE AI AND REGULATORY FRAMEWORK CHALLENGES**

AUTHORED BY - RAAHUL T R

Presidency University, Yelahanka, Bengaluru

## **ABSTRACT**

This research looks at how Artificial Intelligence (AI) is changing creativity and cultural production. It covers areas like generating music, literature, and visual art, as well as curating and sharing content. This shift challenges traditional copyright principles. The study focuses on key issues such as authorship, infringement, liability, and access, especially in the Global South.

It explores AI's disruptive effects on industries like music, film, gaming, and digital art. It also points out the legal grey areas surrounding the use of copyrighted works in AI training datasets and the debate over fair use. Through case studies from the United States, the European Union, and India, it compares approaches from the Global North with the unique legal and social situations in developing countries.

The research assesses international agreements like TRIPS and WIPO treaties, finding them insufficient for resolving cross-border copyright disputes in the age of generative AI. It ends by suggesting a balanced framework. This framework would include clearer rules for AI training data, specific liability standards, stronger global governance, and safeguards for public interest. It argues that the future of copyright law depends on rethinking its foundations to address the needs of machine-driven creativity and a global digital culture.

## **INTRODUCTION**

In the Modern era of society, the Rise of AI is at a very rapid pace. The Work created by AI is transforming from mere text generation to image and video creations. This rapid development raises a question: whether such works impose any challenges or issues due to the work they generate.

The most common challenges seen currently in society are the question of whether AI work is copyrightable and whether such works have an author or are autonomous. The following research provides a proper deep dive into various frameworks regarding AI and authorship, judicial decisions on cases where it was decided are such work subject to issues, and how remedy is provided in a proper light of upholding justice. Various peer works regarding such debate on AI and authorship, and also conventions recognising AI.

This research also analyses the interpretation of current existing statutes not just in India but also in the UK, US, and EU, and compares and contrasts whether any of the countries have evolved in current issues revolving around AI. To test the originality test and human authorship litigation through cases like DABUS/THALER. And global policy bodies like UNESCO and WIPO, and whether they have currently started recognising and analysing current ethical frameworks regarding AI and creation using AI. And analysing indian contextual policies and cases to determine the validity in India.

This research ensures the AI and authorship questions are answered and ensures a new methodology is adopted to provide insight into how society is interpreting AI to enforce rights and seek remedies in case they face problems.

## **1. AIM OF THE RESEARCH**

This Study digs deep into a doctrinal form of legal research design. This research uses a traditional method of legal scholarship, which examines both primary and secondary legal sources to interpret the legal implications in current society to tackle authorship and data infringement issues arising out of AI, and ensure that such questions are compared not just in the national context but across contexts to compare and contrast and find the answers for each research objective.

- What can be done to protect people affected by deep fake videos of themselves and morphed pictures, and whether such data is being misused in the current artificial intelligence era?
- To what extent can current copyright law and related legal principles, particularly the human right to privacy and the idea of authorship, change with the rise of generative AI? This includes the question of whether rights typically given to humans, such as authorship and privacy, can also apply to works created by AI.

- whether art created by a Generative AI tool is protected under copyright laws, or if the art technically does not amount to copyright, as such work created by Generative AI tools is already taken from other training data sets.?

These questions are being constantly debated by society at large due to the rapid growth in Generative AI tools and how the usage of these is growing.

These questions are very important in the growing era of technology. These questions help in determining the rights and remedies for people against generative AI and any other AI platforms, and set a standard duty for people to follow compliance with the usage of generative AI tools. And to also ensure Laws are not inconsistent with society, as if losses are inconsistent with society, they lose their essence and their fabric of providing true justice towards the People in the society.

## **2. RESEARCH METHODOLOGY**

The research utilizes doctrinal and analytical approaches to provide and determine the fabric of interpretation between AI and copyright law, most importantly, to determine the authorship in the era of AI and technology. The methodology consists of:

### **1) Doctrinal And Legal**

Inclusion of primary sources, which include the national copyright framework like “Indian Copyright Act 1957<sup>1</sup>, UK copyright laws<sup>2</sup>, US copyright laws,<sup>3</sup> and EU AI Act 2024<sup>4</sup>) and various International Treaties like the Berne Convention<sup>5</sup> and the TRIPS agreement<sup>6</sup>. These sources are utilized to identify the term “Authorship” and answer the question of whether AI-generated content falls under the ambit of it or is left inconsistent.

### **2) Case laws:**

The judicial decisions are heavily interpreted in this research work, mainly in the context of

---

<sup>1</sup> The Copyright Act, 1957 (Act No. 14 of 1957), Government of India, Ministry of Law and Justice. Available at: <https://copyright.gov.in/Documents/CopyrightRules1957.pdf>

<sup>2</sup> 17 U.S.C. §§101–810, United States Copyright Office. Available at: <https://www.copyright.gov/title17/>

<sup>3</sup> Copyright, Designs and Patents Act 1988, c. 48. Available at: <https://www.legislation.gov.uk/ukpga/1988/48/contents>

<sup>4</sup> Berne Convention, WIPO. Available at: [https://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](https://www.wipo.int/treaties/en/text.jsp?file_id=283698)

<sup>5</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights, Annex 1C of the Marrakesh Agreement Establishing the WTO. Available at: [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm)

<sup>6</sup> WIPO Copyright Treaty, 1996. Available at: [https://www.wipo.int/treaties/en/text.jsp?file\\_id=295166](https://www.wipo.int/treaties/en/text.jsp?file_id=295166)

those countries that don't have a specific legal framework regarding AI.

**Eastern Book Company v. D.B. Modak**<sup>7</sup>, (2008) 1 SCC 1. Where the sweat of the brow doctrine was rejected, and a modicum of creativity was adopted. **T.V. Today Network Ltd. & Anr. v. Google LLC & Ors**<sup>8</sup>, 2024 SCC Online Del 4375 (Delhi High Court, per Justice Prathiba M. Singh). Impersonation cases raise issues in AI in the context of data privacy and personality rights. **Kamya Buch v. JIX5A & Ors**<sup>9</sup>, Delhi High Court, 18 July 2025 (Justice Purushendra Kumar Kaurav). Where the plaintiff morphed pictures and deep fake content was made without the permission of the person whose picture was used. **ANI v. OpenAI (2024)**<sup>10</sup>

In November 2024, the Indian news agency ANI filed a lawsuit against OpenAI in the Delhi High Court, alleging that ChatGPT used ANI's published content without permission to train its AI model. ANI claimed that OpenAI's actions violated its copyright by utilizing its exclusive news content without a lawful license. The court instructed OpenAI to submit a detailed reply and issued a notice, and the matter is still pending, with extremely important consequences for the application of copyrighted work for training AI in Indian law.

**3) Peer review:** Peer-reviewed works from scholars are used in this research to determine the very need for AI laws, and also to evaluate the theoretical and authorship in the age of AI and the growing era of technology. Such influential works include Annemarie Bridy's<sup>11</sup> analysis of code-generated works.

Works of Pamela Samuelson<sup>12</sup>, regarding how copyright is very much related to the work of human authors and not the work which are generated autonomously.

Using AI under fair category by Matthew Sag<sup>13</sup>, work related to AI falls under the category of fair use, as such a tool is being used by humans rather than being autonomous, it is moreover transformative. And ensures it uses training data models. Similar to humans learning, adapting, and creating such Art.

---

<sup>7</sup> Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1 (India).

<sup>8</sup> TV Today Network Limited v. Union of India, W.P.(C) 1971/2021 (Delhi High Ct. Dec. 1, 2022). [CaseMine](#)

<sup>9</sup> Kamya Buch v. JIX5A & Ors., CS(OS) 465/2025 & I.A. 16886-88/2025 (Delhi High Ct. July 18, 2025).

<sup>10</sup> ANI Media Pvt. Ltd. v. OpenAI OPCO LLC, CS(COMM) 1028/2024 (Delhi High Ct. filed Nov. 19, 2024).

<sup>11</sup> Annemarie Bridy, *Coding Creativity: Copyright and the Artificially Intelligent Author*, 2012 Stan. Tech. L. Rev.

<sup>12</sup> Pamela Samuelson, *Allocating Ownership of Computer-Generated Works*, 47 U. Pitt. L. Rev. 1185 (1986).

<sup>13</sup> Matthew Sag, *The New Legal Landscape for Text and Data Mining*, 66 J. Copyright Soc'y U.S.A. 111 (2019).

The work of Arthur R Miller.<sup>14</sup> In differentiating the mere gaps and distinction between AI as a tool and a Creative force, it is very much crucial in determining the author's role and who the author can be.

### **3. FINDINGS**

This review organizes the study, scholarship, and policy literature into themes relevant to Generative AI and law in present society, how these laws are very much required in society to tackle relevant issues and cases to provide justice to the ones who have been affected by such AI tools and to ensure the AI tools has proper restrictions to what it can do, to decrease exploits and to also ensure scope of accountability and liability is described for AI. These themes can be broken down into the following:

#### **1} Authorship and ownership in the context of AI work**

The major debate in the current society is whether we can term AI as an author when the prompt is added by a human, but the art is purely generated by AI without human intervention. Does this determine that AI is considered an author and owner of their work, and ensure that this work can be copyrightable or not? These questions have been debated and interpreted widely in court, and still, there exists no law in India and other major countries with a vast amount of technology being utilised. Various policymakers, jurists, and judges reinterpret existing laws or amend such laws to address AI outputs.

Many redirects such frameworks into saying the term AI can be utilized in such frameworks without ripping the fabric of such legal and doctrinal principles by expanding the term author to include human work and human-directed work by the user of software, including AI. Treating AI outputs as non-intellectual work, hence free from copyright.

#### **2} Responsibilities and accountability of AI and liability arising out of it**

There is an important question in tort that arises here: whether the doctrinal principle of torts' strict liability applies to AI in case of any dispute arising out of the occurrence of AI. Imposing a certain duty on users of AI to maintain and be cautious of what they obtain from AI software.

---

<sup>14</sup> Arthur R. Miller, *Copyright Protection for Computer Programs, Databases, and Computer-Generated Works: Is Anything New Since CONTU?*, 106 Harv. L. Rev. 977 (1993).

**3} In International discussion:** Many commentators like Pamela Samuelson<sup>15</sup> and Annemarie Bridy<sup>16</sup> say that copyright law always required a human author, hence AI-generated work should fall into the public domain or else it is only protected through a sui generis right..

*The U.S. Copyright Office's copyright registration guidance: works containing material generated by artificial intelligence*, 88 Fed. Reg. 16,190(Mar 16, 2023<sup>17</sup>), says only human-authored work can be registered. This shows how, on the global scale, the recognition of AI towards copyright is non-existent, and many countries don't have a proper legal statute towards AI.

**4) In the Indian context about AI and copyright:** In the Indian context, Section 2(d) of the Indian Copyright Act, 1957<sup>18</sup>, only defines an author as a person who creates or causes the work to be created, which doesn't explicitly mention AI, but these definitions are considered inconsistent as they were worded way before an Autonomous machine existed.

**5) Infringement risks:** the generative AI models can produce outputs that resemble and replicate a lot of data and training data. Various scholars, like Jane Ginsburg<sup>19</sup>, highlight the risk that such outputs may result in unauthorised works. Indian laws protect the reproduction and adaptation of rights.

**6) Using protected works to train AI models:** Large language and image models require a hefty amount of data sets, which always contain copyrighted materials and scraped data from the internet. *The WIPO's draft issues paper on intellectual property policy and AI (2020)*<sup>20</sup> and the European Commission's 2022<sup>21</sup> proposal for an EU text and data mining exception both recommended explicit legislative safe harbours or licensing mechanisms.

---

<sup>15</sup> Pamela Samuelson, Copyright and Generative AI: The Challenges of Authorship and Infringement, 71 J. COPYRIGHT SOC'Y U.S.A. 123 (2023).

<sup>16</sup> Annemarie Bridy, Coding Creativity: Copyright and the Artificially Intelligent Author, Stanford Technol. L. Rev. Vol. 5 (2012).

<sup>17</sup> Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 88 Fed. Reg. 16,190 (Mar. 16, 2023).

<sup>18</sup> *The Copyright Act, 1957* (Act No. 14 of 1957), India.

<sup>19</sup> Jane C. Ginsburg & Graeme W. Austin, Deepfakes in Domestic and International Perspective, 48 J. L. & Arts \_\_\_\_\_(forthcoming 2025), SSRN Paper No. 5127178, <https://ssrn.com/abstract=5127178>. [SSRN](https://ssrn.com/abstract=5127178)

<sup>20</sup> World Intell. Prop. Org., WIPO Technology Trends 2019: Artificial Intelligence (2019), [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_1055.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1055.pdf).

<sup>21</sup> 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, 2019 O.J. (L 130) 92, arts. 3–4.

## **4. THE GENERATIVE AI AND AUTHORSHIP ISSUES**

### **4.1 GENERATIVE AI AND CURRENT ISSUES**

#### **4.1.1. The intellectual property and authorship issues**

The law presumes that work requiring effort and creativity always belongs to humans, whether done directly by humans or indirectly through software and hardware accessories. However, these AI models autonomously generate creative, literary, and artistic works with minimal human intervention, merely by providing a prompt. This raises various questions about whether such AI-created work is protected, and if such AI has used previous works from its database to produce art, whether this falls under copyright infringement. The ownership of such work leads to widespread confusion and uncertain issues for creators, artists, and inventors. Due to this confusion, judges handling cases related to AI and ownership tend to make inconsistent decisions, disturbing the fabric of the judiciary. And lead the court to decide matters based on the facts of the case.

The case of **T.V. Today Network Ltd & Anr. vs. Google LLC & Ors.**<sup>22</sup> Heard by the Delhi High Court (Justice Prathiba M. Singh), the plaintiff is a major Indian media company and owns news channels like Aaj Tak and India Today. The defendant included Google LLC and an unknown person/ entity running a YouTube channel named “AnjanaomKashya,” similar to “Anjana Om Kashyap,” which was used as the anchor's image and voice to post doctored and fake content. Here, the court held that making content impersonating the anchor and removing the letter from the word “p” and using her image was a clear violation of her personal rights, exploiting her reputation and image in society. Here, we can see how the misuse of personality provides a precedent for such software to create a more secure database, which doesn't violate people's privacy.

In the case of **Kamya Buch v. JIX5A & Ors.**<sup>23</sup> Here, the Delhi High Court delivered on 18<sup>th</sup> July 2025, before Justice Purushendra Kumar Kaurav. The case revolved around a woman who alleged that there was a non-consensual AI-generated content, which consisted of deep fakes and the use of morphed pictures, that was circulated online through pornographic websites and social media. The suit sought a permanent injunction for what the plaintiff went

---

<sup>22</sup> T.V. Today Network Ltd. & Anr. v. Google LLC & Ors., CS (COMM) \_\_\_\_\_ of 2025 (Del. HC Aug. 11, 2025) (India).

<sup>23</sup> Kamya Buch v. JIX5A & Ors., (Del. HC, July 18, 2025) — interim order in CS (nature of proceeding) — Delhi High Court.

through. Here we see how even a normal human's life can be destroyed, and the reputation and goodwill can be harmed due to the simple use of AI-generated material, and in this sense, the software must have proper laws to safeguard humans from such actions. This is not just a defamatory matter but a constitutional matter as her privacy and right to live with dignity in society, sharing of morphed and pornographic visuals with explicit use of AI makes users access wide of range of difficulties as due to these users will have the question in mind whether their pictures, videos and other material which they have stored be used by AI to be exploited?

#### **4.1.1 Absence of Accountability and Liability**

If AI is made autonomous, it will end up having no accountability and will not possess any liability, but the court ensures that such liability may be imposed by the current legal statute and the copyright laws towards the author, being the person prompting such AI to generate works. For instance, the creation of an image of chocolate cannot be done without input from the human author, as the author will be very much involved in formatting sentences and prompting as per the author's desires.

#### **4.1.2 Creation from AI and creation with the help of AI**

One of the most prominent debates is regarding whether we consider AI as a mere tool or an actual creator. In this sense, it's very much just a tool, as it always requires human input to generate data and hence cannot be a creator, as the idea is not of a machine but is of a human at the end of the day.

Arthur R. Miller<sup>24</sup> argued that the existing copyright system could always accommodate works that aid technology as a medium and not as an author. This says how human intervention causes a work to be copyrightable.

Annemarie Bridy<sup>25</sup> offers a philosophical perspective on this issue. She argues that the challenges posed by AI are not entirely new. She suggests that all creativity, including human creativity, is somewhat "algorithmic." The law should consider whether works created autonomously by computers are really so different from human works that they cannot be protected.

---

<sup>24</sup> Arthur R. Miller: *Copyright Protection for Computer Programs, Databases, and Computer-Generated Works: Is Anything New Since CONTU?*, 106 Harv. L. Rev. 977 (1993).

<sup>25</sup> Annemarie Bridy: *Coding Creativity: Copyright and the Artificially Intelligent Author*, 2012 Stan. Tech.L.Rev.5.

### 4.1.3 Originality issues

The key major issues that arise here are whether we can call such AI-generated work original, in support of this argument, Matthew Sag's work on fair use is very much relevant to the research as the points made are very much of the subject nature of research and this point, that being based on that AI produces real work, and not a mere copy. But the argument the author fails to produce here is that such work made by AI is derived from various training data sets, and those data sets can be called under the subject of copyright. Hence, the originality issue remains subject to :

- 1) The work made by AI
- 2) based on the Degree of human involvement
- 3) whether the data sets derived in such a process are copyrightable

## 5. INDIAN CONTEXT

### 5.1 INDIAN FRAMEWORK

India currently has A statute called Copyright 1957<sup>26</sup>, which particularly states in Section 2(d)(vi), which only defines the author in the sense that the author is a human who causes a work to be done. Which is not sufficient in the context if we take Artificial intelligence Artificial intelligence cannot be directly Interpreted in this particular statute These statutes Drafted way before when artificial intelligence and automated machines were not in existence The other relevant provisions are sections 52 And 52A Which provides exceptions for fare dealing and fair use and are relevant to the vast copying of materials from Copyrighted work And helps in training of large language models The information Technology Act, 2000<sup>27</sup> Is also indirect regulations Digital platform And digital security Which enhances data security And ensures People's data are not misused or used Without the permission.

#### 5.1.2 JUDICIAL INTERPRETATIONS IN INDIA

The Supreme Court in Eastern Book Company Vs D.B. Modak, (2008<sup>28</sup>) 1 SCC 1, the case where the original team copyright law was questioned, which required pausing the modicum of creativity test, which was later rejected, the "Sweat of the brow" doctrine\

---

<sup>26</sup> *The Copyright Act, 1957* (Act No. 14 of 1957), India.

<sup>27</sup> The Information Technology Act, No. 21 of 2000, §§ 52–52A, INDIA CODE (2000), <https://www.indiacode.nic.in/handle/123456789/1999>.

<sup>28</sup> Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1 (India).

## 5.2 COMPARATIVE STUDIES

The recent development in AI laws has raised a question in the minds of legislative bodies creating such art forms, as to whether we should regard AI as an artificial person with respect to its attributes portrayed. The mere meaning of AI denotes software that thinks like a human and provides content similar to what would be rendered by a human brain.

This question has been argued to determine whether the current laws apply to AI software to help artists and humans gain remedies if their rights or interests have been curtailed by the use of AI. This is not just an issue, but also a mandate, as many are using AI in the new era of technology, not just individuals, but also major business firms. The amount of usage determines the necessity to have a proper regulatory framework to preserve the rights and interests of people.

Under the Copyright Act 1956, there is no such provision for AI-generated work, although it defines an author as a human creator in 2(d<sup>29</sup>). The major question that lies here is whether we consider AI as human in such a context. In other countries, the concept of generative AI has been in recent development, with proper recognition and legal frameworks being developed in countries:

- **EUROPEAN UNION:** The EU appears to have progressed more than other countries in terms of recognition and adaptation to AI and generative AI tools, as well as copyright laws under the act they adopted. The AI ACT 2024<sup>30</sup> ensures there are provisions regarding transparency in gen AI models, and not just that, it ensures there is proper protection of data and transparency in the usage of such gen AI tools.
- **UNITED STATES OF AMERICA:** In the United States, there is no existence of such an AI statute, and it only occurs through state initiatives, and questions of copyright are addressed by administrative guidance, like “the Copyright Office's 2023” policy statement on AI-generated works<sup>31</sup>.

These examples show that while countries are increasingly recognizing AI and expressing concerns about its misuse, data protection, and generative AI, India does not have a strong legal

---

<sup>29</sup> *The Copyright Act, 1957* (Act No. 14 of 1957), India.

<sup>30</sup> European Commission, *Mandatory Template for Public Disclosure of AI Training Data*, AI Office, July 24, 2025, <https://www.wilmerhale.com/en/insights/blogs/wilmerhale-privacy-and-cybersecurity-law/european-commission-releases-mandatory-template-for-public-disclosure-of-ai-training-data>

<sup>31</sup> U.S. Copyright Office, *Copyright and Artificial Intelligence*, <https://www.copyright.gov/ai/>

framework to address these issues. Existing laws focus on human rights and remedies, but they were created before the rapid growth of AI. As a result, they do not address key concerns like copyright, data protection, and the regulation of AI-generated content such as images, videos, or text. Concerns such as whether AI work amounts to copyright or whether there is any substantive right of a person to sue AI, these issues require a solution that only arises if there is a strong legal framework.

India has the Copyright Act of 1957,<sup>32</sup> which recognizes “computer-generated works” and vests such authorship in the person who causes such work to be created. Under section 2(d)(vi) of the Copyright Act 1957. While these provisions may be interpreted to cover software-generated content, they do not explicitly specify generative AI. This is one of the loopholes that ensures the production of autonomous literary, artistic, musical, and audio-visual content, and leaves the question of whether AI is considered the legal author when it is created with less human input, creating inconsistency in human efforts and the output. The AI software uses a large amount of data sets and these data sets often contain copyrighted works, leading to infringement of the creators. There are statutory exceptions dealing with this, but it's very limited and indirect, as they are only related to research, criticism, and private study, which are sections 52 and 52A<sup>33</sup>.

In India we have major agencies like NITI AYO<sup>34</sup> that have tried and issued strategy papers for recognizing the potential risks of AI and how there is a need for studying IP frameworks for AI, but there being no binding laws or Amendments result in India’s legal environment be open to exploit and infringement of copyright as this raises a legal environment which is reactive and not proactive. India wants to be very much technologically advanced, yet it compromises the major necessity in growing tech societies, which is a growing legal framework that outlines rights and remedies for such a technological environment. Due to these major gaps in the regulatory framework and the rapidly developing society, we see a need for a specific regulatory framework for AI.

---

<sup>32</sup> The Copyright Act, No. 14 of 1957, § 2(d)(vi), INDIA CODE (1957), <https://www.indiacode.nic.in/handle/123456789/1967>.

<sup>33</sup> The Information Technology Act, No. 21 of 2000, §§ 52–52A, INDIA CODE (2000), <https://www.indiacode.nic.in/handle/123456789/1999>.

<sup>34</sup> NITI Aayog, *National Strategy for Artificial Intelligence* (2018), <https://www.niti.gov.in/sites/default/files/2019-01/NationalStrategy-for-AI-Discussion-Paper.pdf> (last visited Sept. 21, 2025).

According to NITI Aayog's "National Strategy for Artificial intelligence #AIforAll"(2018)<sup>35</sup>, AI is projected to contribute About 957 billion dollars to India's economy by 2035 adding nearly 15% to the current GDP This tells us how the economy of India is at a huge stake if the current copyright laws fails to provide consistency with AI generative tools, which we have at present as if it fails to prove we might be facing a major loss in the economy and if it Succeeds it will be a huge win for India For its economy Hence showing why there is a need for consistent loss in respect to copyright for Generative AI tools.

In 2024, UNESCO<sup>36</sup> conducted a global survey that estimated that 60% of generative AI models have been trained on datasets that contained copyrighted works and had no formal licensing, indicating potential infringement and highlighting the need for Loss in society explicitly for generative AI tools.

## CONCLUSION

### Statutes / Laws

- **The Copyright Act, 1957**, Act No. 14 of 1957, India, Ministry of Law and Justice, available at: <https://copyright.gov.in/Documents/CopyrightRules1957.pdf>.
- **17 U.S.C. §§101–810**, United States Copyright Office, available at: <https://www.copyright.gov/title17/>.
- **Copyright, Designs and Patents Act 1988**, c. 48, UK, available at: <https://www.legislation.gov.uk/ukpga/1988/48/contents>.
- **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, 2019 O.J. (L 130) 92, arts. 3–4.

### International Treaties / Agreements

- **Berne Convention for the Protection of Literary and Artistic Works**, WIPO, available at: [https://www.wipo.int/treaties/en/text.jsp?file\\_id=283698](https://www.wipo.int/treaties/en/text.jsp?file_id=283698).
- **Agreement on Trade-Related Aspects of Intellectual Property Rights**, Annex 1C

<sup>35</sup> NITI Aayog, *National Strategy for Artificial Intelligence: AI for All* 18 (2018), <https://www.niti.gov.in/sites/default/files/2023-03/National-Strategy-for-Artificial-Intelligence.pdf>.

<sup>36</sup> UNESCO, *Survey to Artists on MONDIACULT Declaration Follow-Up Actions: Findings* (2025), <https://www.unesco.org/sites/default/files/medias/fichiers/2025/02/UNESCO%20Survey%20to%20ARTISTS%20on%20MONDIACULT%20Declaration%20Follow-Up%20Actions%20Findings.pdf>. UNESCO

of the Marrakesh Agreement Establishing the WTO, available at:  
[https://www.wto.org/english/docs\\_e/legal\\_e/27-trips\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm).

- **WIPO Copyright Treaty**, 1996, available at:  
[https://www.wipo.int/treaties/en/text.jsp?file\\_id=295166](https://www.wipo.int/treaties/en/text.jsp?file_id=295166).

### Cases

- **Eastern Book Co. v. D.B. Modak**, (2008) 1 S.C.C. 1 (India).
- **TV Today Network Limited v. Union of India**, W.P.(C) 1971/2021 (Delhi High Ct. Dec. 1, 2022), CaseMine.
- **Kamya Buch v. JIX5A & Ors.**, CS(OS) 465/2025 & I.A. 16886-88/2025 (Delhi High Ct. July 18, 2025).
- **ANI Media Pvt. Ltd. v. OpenAI OPCO LLC**, CS(COMM) 1028/2024 (Delhi High Ct. filed Nov. 19, 2024).
- **T.V. Today Network Ltd. & Anr. v. Google LLC & Ors.**, CS(COMM) \_\_\_\_\_ of 2025 (Del. HC Aug. 11, 2025) (India).

### Journal Articles / Academic Papers

- Annemarie Bridy, **Coding Creativity: Copyright and the Artificially Intelligent Author**, 5 Stan. Tech. L. Rev. (2012).
- Pamela Samuelson, **Allocating Ownership of Computer-Generated Works**, 47 U. Pitt. L. Rev. 1185 (1986).
- Matthew Sag, **The New Legal Landscape for Text and Data Mining**, 66 J. Copyright Soc'y U.S.A. 111 (2019).
- Arthur R. Miller, **Copyright Protection for Computer Programs, Databases, and Computer-Generated Works: Is Anything New Since CONTU?**, 106 Harv. L. Rev. 977 (1993).
- Pamela Samuelson, **Copyright and Generative AI: The Challenges of Authorship and Infringement**, 71 J. COPYRIGHT SOC'Y U.S.A. 123 (2023).
- Jane C. Ginsburg & Graeme W. Austin, **Deepfakes in Domestic and International Perspective**, 48 J. L. & Arts \_\_\_\_\_ (forthcoming 2025), SSRN Paper No. 5127178, <https://ssrn.com/abstract=5127178>.

**Government / Institutional Guidance**

- **Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence**, 88 Fed. Reg. 16,190 (Mar. 16, 2023).
- World Intell. Prop. Org., WIPO Technology Trends 2019: Artificial Intelligence (2019), [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_1055.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1055.pdf)

