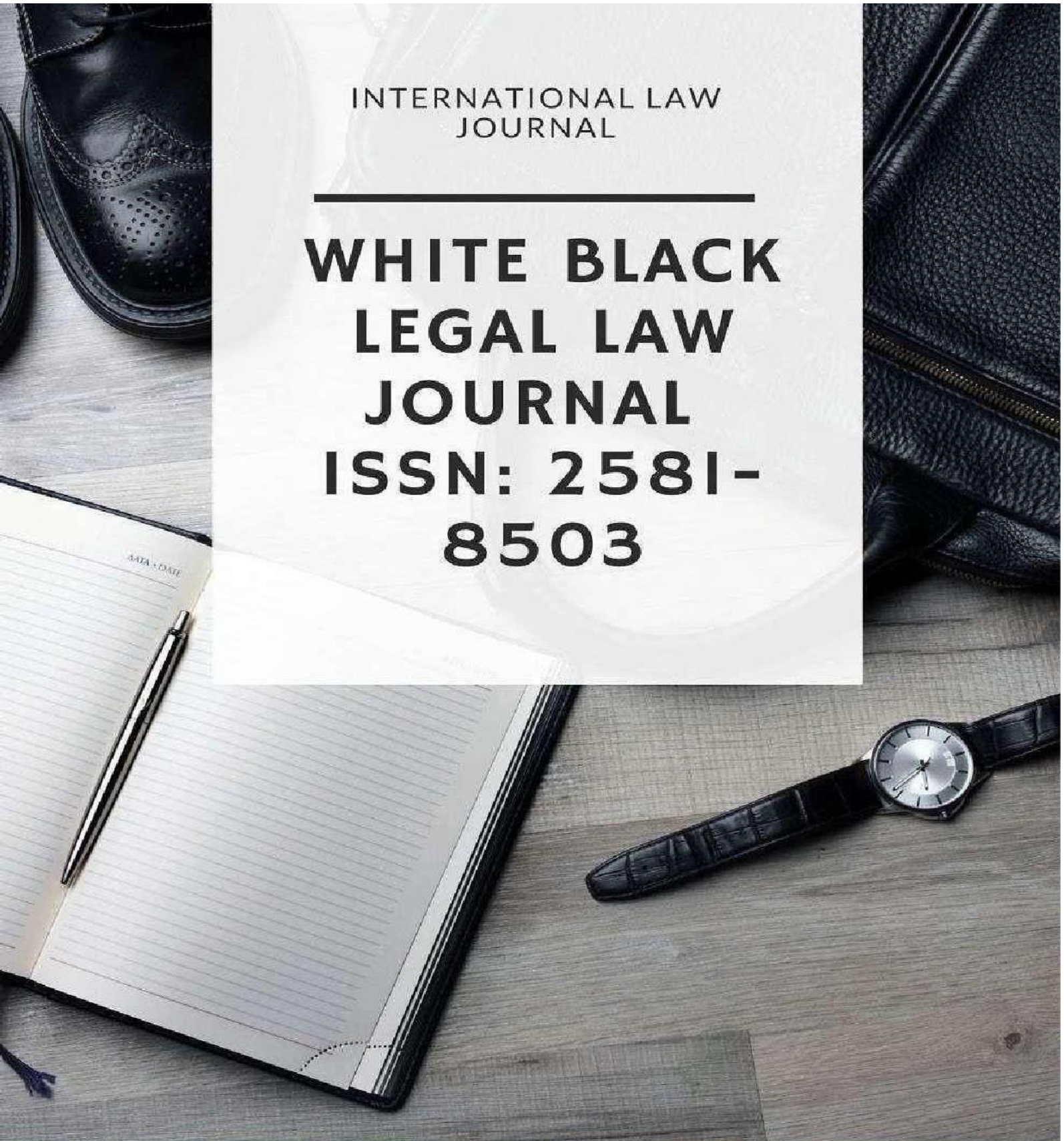




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WHO OWNS AI-GENERATED WORKS? **RECONSTRUCTING AUTHORSHIP AND** **OWNERSHIP UNDER INDIAN COPYRIGHT LAW**

AUTHORED BY - ABHISHEK VERMA

Abstract

The rapid diffusion of generative artificial intelligence (“AI”) systems capable of producing literary, artistic, musical and audio-visual outputs with minimal human intervention has destabilised the foundational premises of Indian copyright law, which was conceived around a human author possessed of skill, judgment and originality. This paper undertakes a doctrinal and comparative examination of the question of authorship and ownership in AI-generated works under the Copyright Act, 1957, with particular reference to Section 2(d), Section 2(d)(vi), Section 13 and Section 17. The paper traces the historical evolution of the “computer-generated work” provision introduced by the 1994 amendment, situates it against the 2020–2021 controversy surrounding the RAGHAV/‘Suryast’ registration, and analyses the interim ruling of the Delhi High Court in ANI Media Pvt. Ltd. v. OpenAI OpCo LLC (24 July 2026) as the first substantive judicial engagement with generative AI in Indian copyright jurisprudence. Employing a comparative method, the paper juxtaposes the Indian “person who causes the work to be created” standard against the United Kingdom's Copyright, Designs and Patents Act 1988, the United States' strict human-authorship rule affirmed in Thaler v. Perlmutter, and the European Union's originality jurisprudence. The analysis demonstrates that Section 2(d)(vi), though textually capable of accommodating AI-assisted works through a human intermediary, was not drafted with autonomous generative systems in mind, and that the Copyright Office's vacillation in the RAGHAV matter reflects deeper doctrinal uncertainty regarding the originality threshold, the modicum-of-creativity standard, and joint authorship principles under Indian law. The paper further evaluates ownership consequences under Section 17, work-for-hire arrangements, and contractual allocation in commercial AI-deployment contexts. It concludes that incremental judicial interpretation is an insufficient substitute for legislative recalibration, and proposes a tiered statutory framework distinguishing fully autonomous, AI-assisted and AI-tool-assisted works, coupled with a mandatory disclosure regime for AI-assisted registrations. The paper is intended to contribute

to the emerging Scopus and UGC CARE-indexed literature on technology law and copyright reform in India.

Keywords

Artificial Intelligence; Copyright Act, 1957; Authorship; Ownership; Section 2(d)(vi); Computer-Generated Works; RAGHAV/Suryast; ANI v. OpenAI; Originality; Comparative Copyright Law.

1. Introduction

Copyright law rests on an anthropocentric premise: that a work, to merit protection, must originate from a human mind exercising independent skill, labour and judgment.¹ The emergence of generative AI systems — large language models, diffusion-based image generators and neural audio synthesisers — capable of producing finished literary, artistic and musical outputs from a short natural-language prompt has placed unprecedented strain on this premise. Tools such as ChatGPT, Midjourney, Stable Diffusion, and India-origin systems including RAGHAV (Robust Artificially Intelligent Graphics and Art Visualiser) now generate outputs that are, on their face, indistinguishable in creative sophistication from human-authored works.

The Indian Copyright Act, 1957 does not employ the expression “artificial intelligence” anywhere in its text.² The closest legislative anchor is Section 2(d)(vi), inserted by the Copyright (Amendment) Act, 1994, which defines the “author” of a computer-generated literary, dramatic, musical or artistic work as “the person who causes the work to be created.”³ This provision was drafted in the pre-generative-AI era to address rudimentary computer-assisted outputs — spreadsheet macros, simple graphics software, and the like — and its capacity to absorb the far more autonomous character of contemporary generative systems remains untested by any final appellate pronouncement.

The controversy attained concrete form in 2020, when Ankit Sahni, an artist and intellectual-property lawyer, applied to the Copyright Office for registration of an artwork titled ‘Suryast’, created by feeding a photograph of a sunset and Vincent van Gogh's *The Starry Night* into the RAGHAV application. The Copyright Office initially registered the work in November 2020,

¹See Copyright Act, 1957, s. 13; *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1, holding that a work must reflect a ‘modicum of creativity’ beyond mere sweat of the brow.

²Copyright Act, 1957 (Act No. 14 of 1957), as amended by the Copyright (Amendment) Act, 2012; no reference to ‘artificial intelligence’ or ‘generative AI’ appears in the statute as of August 2026.

³Copyright Act, 1957, s. 2(d)(vi), inserted by Act 38 of 1994, s. 2(b).

listing Sahni and RAGHAV as co-authors — reportedly the first instance globally of an AI system being named a copyright co-author — before issuing a withdrawal notice in 2021 questioning RAGHAV's legal capacity to be recognised as an author at all.⁴ The matter remains formally unresolved: the registration continues to be listed while its co-authorship recognition stands administratively withdrawn, leaving both practitioners and courts without binding guidance.

A second and more consequential development arose in the input, rather than output, dimension of AI copyright: the question of whether training large language models on copyrighted material infringes the reproduction right. In *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, the Delhi High Court, on 24 July 2026, dismissed an application for interim injunction filed by Asian News International against OpenAI, holding, on a prima facie basis, that the storage and use of ANI's news content for training ChatGPT fell within the fair-dealing exception under Section 52(1)(a) of the Act.⁵ While this ruling addresses the input side of the AI-copyright problem rather than the authorship of AI outputs, it is jurisprudentially significant as the first substantive Indian judicial pronouncement to engage with generative AI, and it informs the broader policy debate examined in this paper.

This paper is structured as follows. Part II reviews the existing literature on AI authorship and ownership, both in India and comparatively. Part III undertakes a doctrinal analysis of Sections 2(d), 2(d)(vi), 13 and 17 of the Act, read in light of the RAGHAV episode and *ANI v. OpenAI*. Part IV sets out the paper's findings. Part V offers law-reform recommendations. Part VI concludes.

2. Literature Review

2.1 Doctrinal Foundations of Authorship in Indian Copyright Law

Indian courts have consistently required a “modicum of creativity” for a work to be original within the meaning of Section 13, rejecting both the low United Kingdom ‘sweat of the brow’ threshold and the higher United States ‘extremely low but discernible creativity’ test articulated in *Feist Publications, Inc. v. Rural Telephone Service Co.*⁶ In *Eastern Book Company v. D.B. Modak*, the Supreme Court of India adopted a middle path, holding that copyright subsists in a

⁴Copyright Office (India), Registration No. A-133894/2020 (‘Suryast’); see also Astha Ojha, ‘AI Copyright in India: Bridging the Digital Divide’ (NeGD, 2025); Divergent Copyright Recognition: AI-Generated Works, Sahni’s Case in the US and India, KSandK (2025).

⁵*ANI Media Pvt. Ltd. v. Open AI OpCo LLC*, I.A. 45300/2024 in CS(COMM) 1028/2024 (Del HC, 24 July 2026, Bansal J.).

⁶*Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340 (1991).

work only where it exhibits a minimal degree of creativity attributable to human skill and judgment.⁷ Scholars such as Basheer and Kochupillai have argued that this creativity threshold, being avowedly human-centric, sits uneasily with outputs generated by autonomous algorithmic processes.⁸)

2.2 The RAGHAV/Suryast Episode and Emerging Indian Commentary

A growing body of post-2024 Indian scholarship examines the RAGHAV episode as a signal of regulatory uncertainty rather than a settled precedent. Sinha's 2025 study situates RAGHAV within a comparative framework that includes *Naruto v. Slater*⁹, concluding that while fully autonomous AI authorship remains unrecognised across jurisdictions, joint human-AI authorship may find incremental acceptance where human creative control is demonstrable.¹⁰ Prasad's 2026 analysis similarly notes the absence of any Supreme Court pronouncement on generative-AI authorship, observing that Indian jurisprudence in this area is presently being shaped incrementally by the Copyright Office and subordinate courts rather than through apex-court doctrine.¹¹ Other commentators frame Section 2(d)(vi) as conceptually proximate to, though textually looser than, Section 9(3) of the United Kingdom's Copyright, Designs and Patents Act 1988, which vests authorship of a computer-generated work in “the person by whom the arrangements necessary for the creation of the work are undertaken.”¹²)

2.3 Comparative Perspectives: United States, United Kingdom and European Union

The United States Copyright Office's human-authorship requirement was reaffirmed in *Thaler v. Perlmutter*, in which the D.C. Circuit upheld the denial of registration to an artwork autonomously generated by the DABUS system, holding that the Copyright Act's use of “author” presupposes human agency.¹³ The Office's 2025 Report on Copyrightability further concluded that copyright protection may extend to AI-assisted works only to the extent of the human-authored expressive elements, denying protection to purely machine-generated content

⁷Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1, para 38.

⁸Shamnad Basheer & Mrinalini Kochupillai, ‘The “Idiot” Author’, (2011) 3 NUJS L. Rev. 259.

⁹*Naruto v. Slater*, 888 F.3d 418 (9th Cir. 2018) (the ‘monkey selfie’ case, denying standing to a non-human claimant).

¹⁰Ayushee Sinha, ‘AI-Generated Works in IP Laws: Contemporary Authorship and Ownership Challenges Amidst Evolving Legal Frameworks’, E-JAIRIPA, Vol. VI, Issue I (Jan–June 2025) 57.

¹¹Shradha S. Prasad, ‘From Prompt to Protection: Evaluating Copyright Ownership of AI-Generated Works in India’ (2026).

¹²Copyright, Designs and Patents Act 1988 (UK), s. 9(3); see also comparative discussion in ‘Copyright Protection for AI-Generated Works in India’, Intl. J. Progressive Research in Engg. Mgmt. & Sci., Vol. 05, Issue 12 (Dec 2025) 822.

¹³*Thaler v. Perlmutter*, 130 F.4th 1039 (D.C. Cir. 2025).

— an approach mirrored in the ‘Zarya of the Dawn’ comic-book registration, which protected only the human-arranged text and layout.¹⁴ The United Kingdom, by contrast, has retained its 1988 ‘arrangements undertaken’ standard, which does not require any natural person to have contributed creative expression, but merely the practical or technical arrangements for the AI’s operation — a markedly more permissive position than either the American or, arguably, the Indian standard.¹⁵ The European Union has not legislated specifically on AI-output authorship; the Court of Justice’s jurisprudence, notably *Infopaq International A/S v. Danske Dagblades Forening*¹⁶, requires that a protected work reflect the author’s “own intellectual creation,” a standard the Commission’s 2020 White Paper on Artificial Intelligence suggests cannot presently be satisfied by autonomous machine output.¹⁷)

2.4 The Input Side: Training Data and Fair Dealing

A parallel and analytically distinct strand of literature addresses whether the use of copyrighted material to train generative models infringes copyright. In the United States, *Bartz v. Anthropic PBC*¹⁸ and *Kadrey v. Meta Platforms, Inc.*¹⁹ both examined the fair-use status of training on copyrighted books, while *Thomson Reuters Enterprise Centre GmbH v. ROSS Intelligence Inc.*²⁰ rejected a fair-use defence where the AI tool was found to be a direct market substitute for the plaintiff’s product. In the German context, the Munich Regional Court’s November 2025 ruling in favour of GEMA held that memorised and reproducible song lyrics amounted to infringement, illustrating that the input-side inquiry frequently turns on whether the model can be shown to reproduce, rather than merely learn statistical patterns from, protected expression.²¹ India’s own entry into this discourse, *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, is analysed in depth in Part III below.

¹⁴U.S. Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability (2025); Zarya of the Dawn, Registration No. VAu001480196 (U.S. Copyright Office, 2023).

¹⁵Copyright, Designs and Patents Act 1988 (UK), s. 9(3), s. 178 (defining ‘computer-generated’).

¹⁶Case C-5/08, *Infopaq International A/S v. Danske Dagblades Forening*, [2009] ECR I-6569.

¹⁷European Commission, White Paper on Artificial Intelligence: A European Approach to Excellence and Trust, COM(2020) 65 final.

¹⁸*Bartz v. Anthropic PBC*, No. 3:24-cv-05417 (N.D. Cal., 23 June 2025) (Alsup, J.).

¹⁹*Kadrey v. Meta Platforms, Inc.*, No. 3:23-cv-03417 (N.D. Cal., 2025).

²⁰*Thomson Reuters Enterprise Centre GmbH v. ROSS Intelligence Inc.*, No. 1:20-cv-613 (D. Del., Feb. 2025) (Bibas, J.).

²¹*GEMA v. OpenAI*, Munich Regional Court (Landgericht München I), Judgment of 11 November 2025.

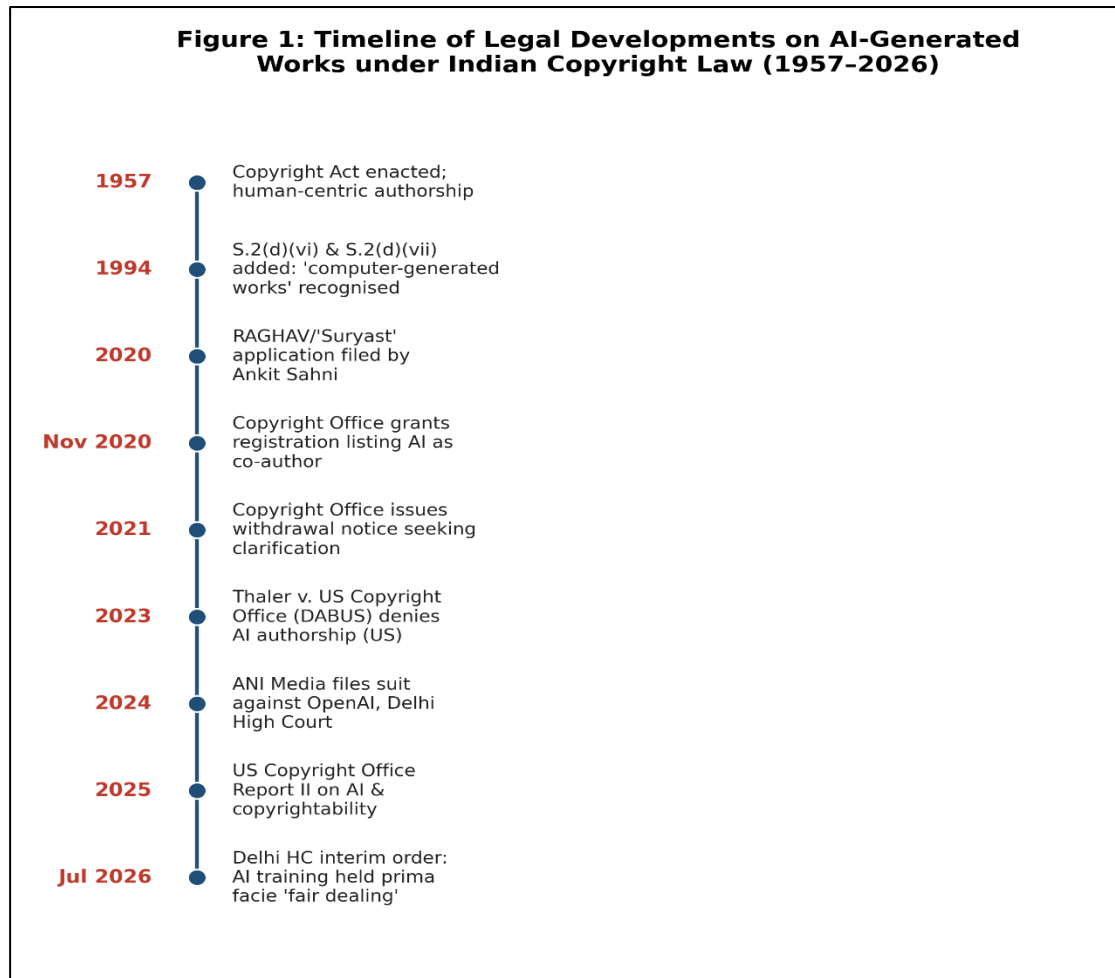


Figure 1: Timeline of Legal Developments on AI-Generated Works under Indian Copyright Law (1957–2026)

3. Analysis and Discussion

3.1 Section 2(d)(vi): Textual Reach and Interpretive Limits

Section 2(d)(vi) defines the author of a computer-generated literary, dramatic, musical or artistic work as “the person who causes the work to be created.”²² Read literally, this formulation is agent-neutral as to the degree of creative contribution required of the human causer: it asks only who caused the work to come into existence, not how much creative judgment that person exercised in shaping the expressive content. This textual breadth is double-edged. On one view, it comfortably absorbs AI-assisted creation — a user who supplies a detailed, iteratively refined prompt to a generative model plausibly “causes” the resulting output to be created, and may therefore be recognised as its author under the plain words of the sub-clause. On another view, the provision was drafted in 1994 to address a materially different

²²Copyright Act, 1957, s. 2(d)(vi).

technological reality — spreadsheet formulae, expert systems and template-driven design tools — in which the causal link between human input and machine output was direct, deterministic and easily traceable. Generative AI models complicate this causal analysis because their outputs are probabilistic, are shaped substantially by training data and model architecture over which the prompting user has no control, and frequently exceed or diverge from what the user could have anticipated or specified.

This interpretive tension is precisely what surfaced in the RAGHAV/Suryast registration. The Copyright Office's initial 2020 decision to list RAGHAV itself as a co-author sat uneasily with Section 2(d)(vi), which speaks only of a “person” — a term that, under the General Clauses Act, 1897 and settled copyright doctrine, denotes a natural or juristic person, not a software system.²³ The subsequent withdrawal notice, requiring Sahni to clarify RAGHAV's legal status, reflects the Office's belated recognition that no juridical basis exists in Indian law for treating an AI system as a co-author. Yet the Office did not deny copyright in Suryast altogether; the registration remains listed, suggesting that Sahni himself — as the person who caused the work to be created by selecting the source photograph, curating the stylistic parameters and directing RAGHAV's operation — continues to be treated as (at minimum) an author. This outcome is doctrinally more defensible than the initial co-authorship grant: it locates authorship in the human “causer” envisaged by Section 2(d)(vi), while implicitly declining to extend legal personality or authorial status to the AI tool itself.

3.2 Originality and the Modicum-of-Creativity Standard

Even where a human “causer” can be identified, the work must independently satisfy Section 13's originality requirement, as elaborated in *Eastern Book Company v. D.B. Modak*. The Supreme Court's ‘modicum of creativity’ test demands more than mechanical or trivial variation but does not require the elevated novelty threshold of patent law.²⁴ Applied to generative AI outputs, this standard generates a spectrum of outcomes. Where a user's prompt is minimal and generic (e.g., “paint a sunset”), the resulting image reflects predominantly the model's learned statistical patterns rather than the user's own intellectual contribution, and arguably fails the originality threshold for want of identifiable human creative judgment. Where, as in the Suryast case, the user supplies a specific base photograph, selects a particular stylistic reference work, and iteratively adjusts the degree of style transfer, the resulting

²³General Clauses Act, 1897, s. 3(42) (definition of ‘person’); see also *Naruto v. Slater*, 888 F.3d 418 (9th Cir. 2018).

²⁴*Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1, paras 37–39.

composite plausibly reflects sufficient human creative selection and arrangement to satisfy *Modak*. The originality inquiry, in other words, cannot be resolved categorically for ‘AI-generated works’ as a class; it must be conducted on a case-by-case, work-by-work basis that examines the quality and specificity of human creative input relative to the AI system's autonomous contribution.

3.3 Joint Authorship and Section 17 Ownership Consequences

Where a work is found to have both a human “causer”/author and a commercially deployed AI system (frequently licensed from a third-party developer under terms of service that may themselves purport to allocate output rights), questions of joint authorship under Section 2(z) and first ownership under Section 17 arise in combination. Section 17 vests first ownership in the author, subject to exceptions for works made in the course of employment, works commissioned for valuable consideration (Section 17(b)/(c)), and contractual assignment.²⁵ In practice, many generative-AI platforms' terms of service assign to the user any rights the platform may hold in the output, while others reserve broad licences for the developer. Because Indian courts have not yet adjudicated the enforceability of such AI-platform terms as instruments of copyright assignment, the position remains contractually contingent and legally untested — a significant source of uncertainty for commercial users in advertising, publishing, game design and journalism who rely on generative AI at scale.

3.4 ANI Media v. OpenAI: The Input-Side Complement to the Authorship Debate

While *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC* does not directly resolve the authorship of AI outputs, its reasoning is instructive for the broader policy architecture within which any authorship rule must operate. Justice Amit Bansal held, on an interim and explicitly non-final basis, that OpenAI's storage of ANI's news content for training ChatGPT fell within the fair-dealing exception under Section 52(1)(a) of the Act, reasoning that an injunction would cause disproportionate harm to the public interest in continued access to AI tools used by an estimated hundred million Indian users weekly, and that requiring licences from every prospective training-data source would render large-scale model development “economically unviable.”²⁶ The Court simultaneously rejected OpenAI's jurisdictional objection, holding that Indian courts may entertain disputes involving global AI platforms whose effects are felt within India — a

²⁵Copyright Act, 1957, s. 17 and provisos (a)–(c).

²⁶*ANI Media Pvt. Ltd. v. Open AI OpCo LLC*, I.A. 45300/2024 in CS(COMM) 1028/2024 (Del HC, 24 July 2026, Bansal J.), paras cited in contemporaneous commentary; see The New Publishing Standard, ‘Delhi High Court Rules for OpenAI’ (27 July 2026).

holding of considerable significance for the extraterritorial reach of Indian copyright enforcement.²⁷ The ruling's fair-dealing reasoning stands in instructive contrast to the Munich Regional Court's GEMA decision, where proven memorisation and near-identical reproduction of lyrics defeated a comparable defence — suggesting that the dispositive question across jurisdictions is increasingly the demonstrability of verbatim or near-verbatim reproduction in outputs, rather than the legality of training as such.

Read together, the authorship uncertainty exposed by RAGHAV/Suryast and the input-side fair-dealing latitude confirmed (albeit provisionally) in *ANI v. OpenAI* produce an asymmetric legal environment: Indian law currently affords generative-AI developers considerable latitude on the training side, while leaving the ownership status of the resulting commercial outputs unsettled. This asymmetry is unsatisfactory from both an incentive and a certainty standpoint, since firms deploying AI at scale for commercial content production face doubt as to whether they hold enforceable rights in what the technology enables them to train on relatively favourable terms.

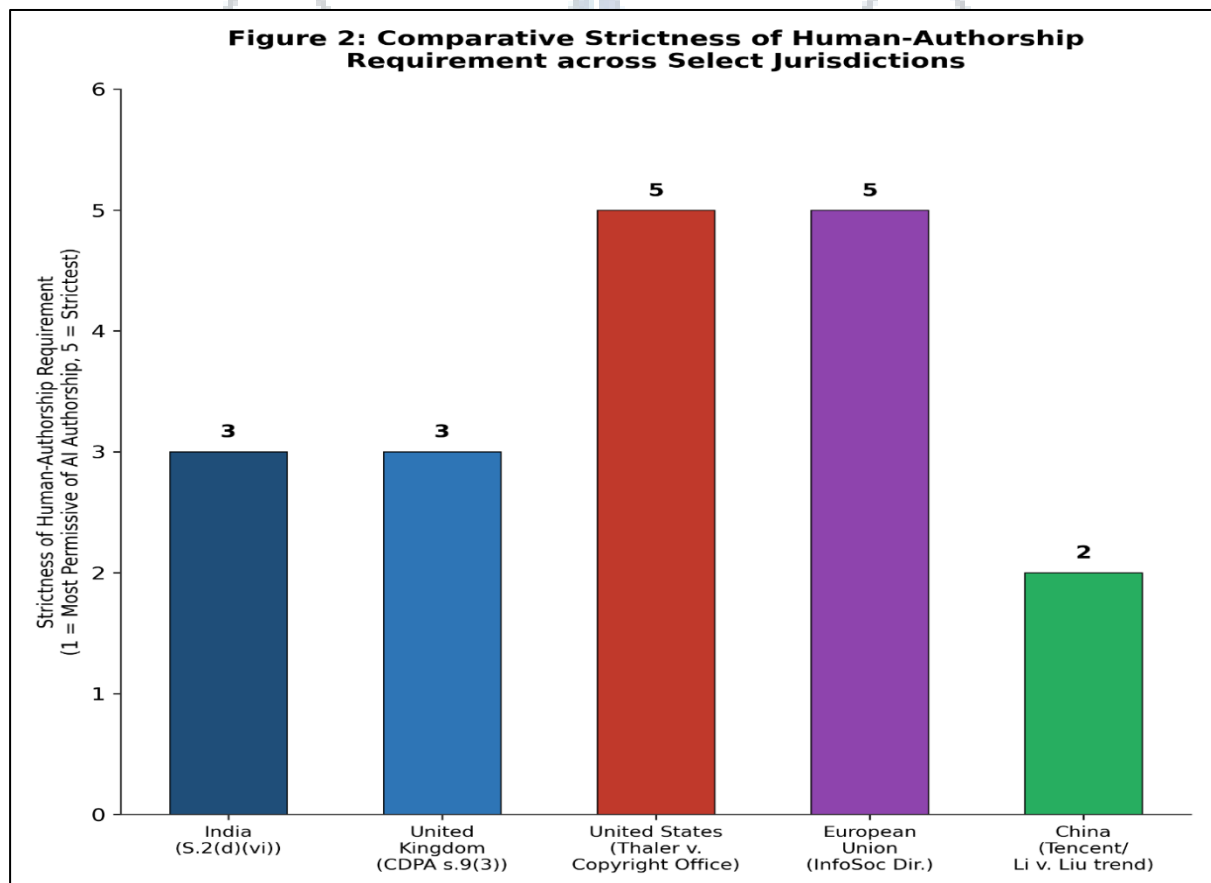


Figure 2: Comparative Strictness of Human-Authorship Requirement across Select Jurisdictions

²⁷Chambers and Partners, 'Delhi High Court's ANI v. OpenAI: Shaping AI Copyright Law in India' (2026).

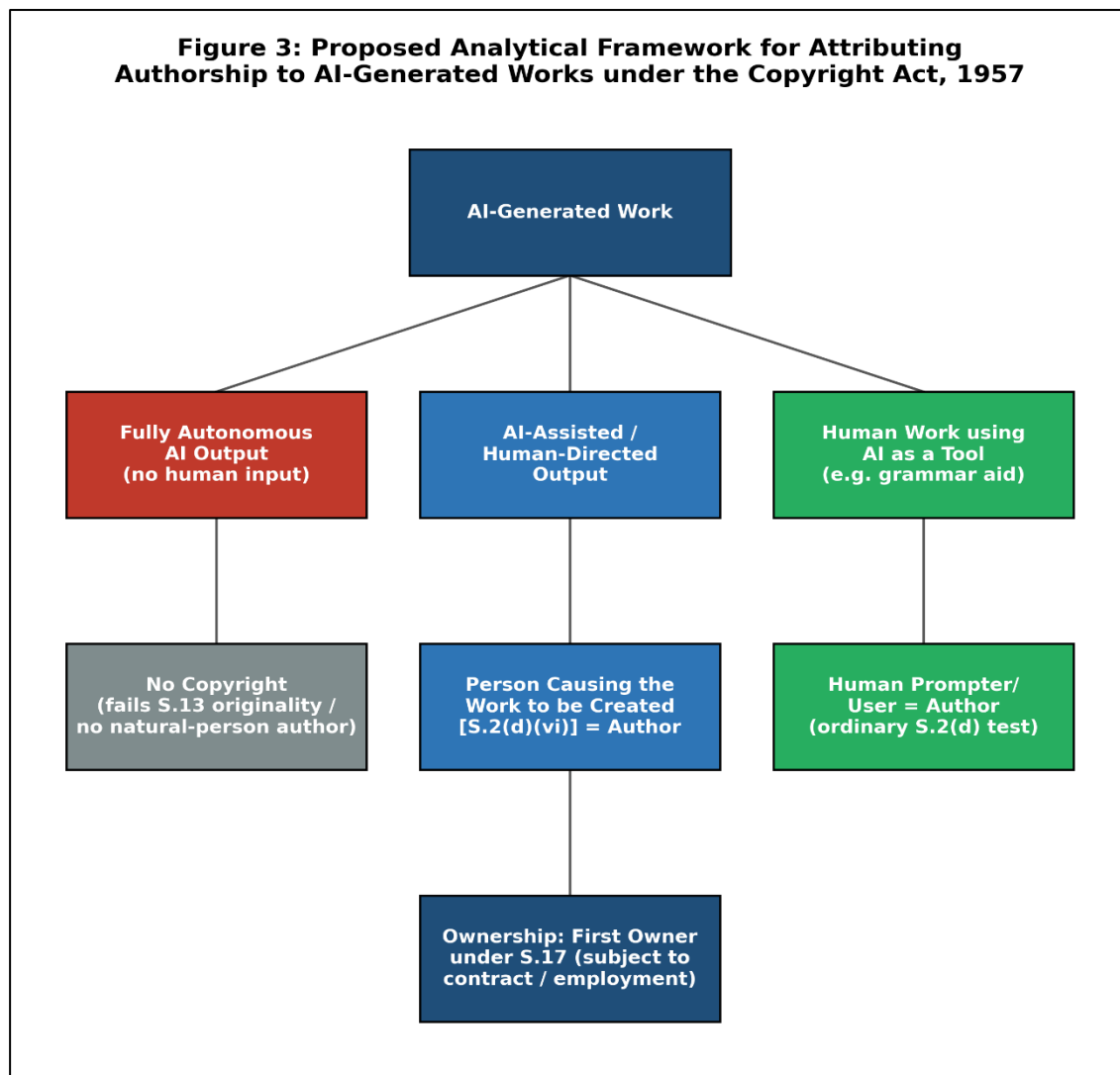


Figure 3: Proposed Analytical Framework for Attributing Authorship to AI-Generated Works under the Copyright Act, 1957

4. Findings

1. Section 2(d)(vi) is textually capable of accommodating AI-assisted works through a human ‘causer’, but was not drafted with autonomous generative systems in mind, producing genuine interpretive ambiguity rather than a settled rule.
2. The RAGHAV/Suryast episode did not establish AI co-authorship as a matter of law; the Copyright Office's withdrawal notice indicates that Indian law does not presently recognise an AI system as a ‘person’ capable of authorship.
3. The originality/modicum-of-creativity standard under *Eastern Book Company v. D.B. Modak* requires a case-by-case inquiry into the specificity and creative quality of human input, rather than a categorical rule for all AI-assisted works.

4. No Supreme Court or final appellate ruling on generative-AI authorship exists in India as of August 2026; the field is presently shaped by Copyright Office practice and interim/subordinate-court reasoning.
5. ANI Media v. OpenAI (Delhi HC, 24 July 2026) resolves an input-side fair-dealing question, not an authorship question, but its reasoning — emphasising public interest and market impact — will likely inform future authorship and ownership disputes by analogy.
6. India's approach sits between the United Kingdom's permissive 'arrangements undertaken' standard and the United States' strict human-authorship rule affirmed in Thaler v. Perlmutter, but leans doctrinally closer to a human-intermediary requirement.
7. Ownership allocation under Section 17 in commercial AI-deployment contexts is presently governed by private platform terms of service whose enforceability as copyright assignments remains judicially untested in India.

5. Recommendations

1. Legislative amendment of Section 2(d)(vi): Parliament should amend the sub-clause to expressly define a tiered authorship structure distinguishing (a) fully autonomous AI output, (b) AI-assisted human-directed output, and (c) human work using AI merely as an editorial tool, with authorship and ownership consequences calibrated to each tier (see Figure 3).
2. Mandatory AI-assistance disclosure at registration: The Copyright Office should require applicants to disclose the extent and nature of AI tool involvement in the creation of a work, enabling more consistent and transparent originality assessment across applications.
3. Statutory clarification that AI systems lack legal authorship capacity: To remove the ambiguity exposed by the RAGHAV episode, the Act should expressly state that an AI system, not being a natural or juristic person, cannot be named as an author or co-author, while preserving the human causer's authorship claim.
4. Guidance on platform terms of service as assignments: The Copyright Office or the Department for Promotion of Industry and Internal Trade should issue interpretive guidance on when AI-platform terms of service validly operate as assignments under Section 19, to reduce commercial uncertainty.

5. Judicial development of a structured originality test for AI-assisted works: Building on *Eastern Book Company v. D.B. Modak*, courts should articulate factors (specificity of prompt, degree of iterative human curation, selection and arrangement of AI-generated elements) for assessing originality in AI-assisted works.
6. Harmonised treatment of input and output questions: Policymakers should ensure that the fair-dealing latitude extended to AI training under Section 52, as recognised in *ANI v. OpenAI*, is accompanied by a correspondingly clear ownership rule for outputs, to avoid the asymmetry identified in Part III.
7. International engagement: India should participate actively in WIPO's ongoing conversations on AI and IP to ensure that any future international instrument accommodates the distinctive features of the Section 2(d)(vi) human-causer model rather than defaulting to either the UK or US extremes.

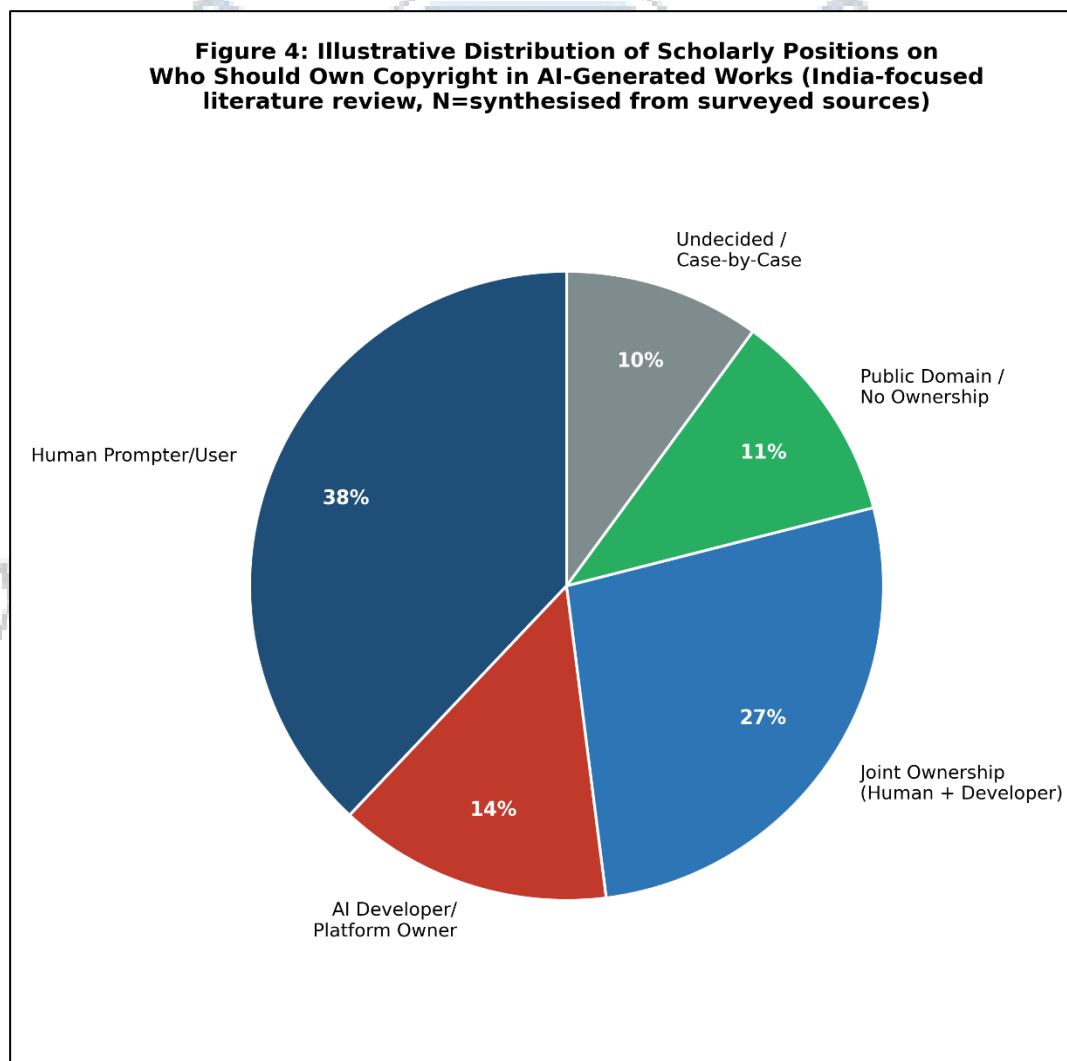


Figure 4: Illustrative Distribution of Scholarly Positions on Who Should Own Copyright in AI-Generated Works (India-focused literature review)

6. Conclusion

The question of who owns an AI-generated work under Indian copyright law cannot presently be answered with confidence, because the statutory text of Section 2(d)(vi) was drafted for a technological reality that generative AI has since outgrown, and because the only significant administrative episode to test the provision — the RAGHAV/Suryast registration — ended in an unresolved withdrawal rather than a considered ruling. The Delhi High Court's 2026 interim decision in *ANI Media v. OpenAI* demonstrates that Indian courts are willing to engage substantively with generative-AI questions, but that decision addresses the training-data input side of the problem rather than the authorship of AI outputs, leaving the central question this paper set out to answer — who owns the output — still open. This paper has argued that the most doctrinally coherent resolution, consistent with both the text of Section 2(d)(vi) and the originality jurisprudence of *Eastern Book Company v. D.B. Modak*, is to locate authorship in the human ‘causer’ of an AI-assisted work wherever that person's creative selection, curation or direction rises above a de minimis threshold, while declining to recognise the AI system itself as an author or co-author. This judicially achievable position should, however, be reinforced and clarified through legislative amendment, mandatory disclosure obligations, and clearer rules on the enforceability of platform terms of service as instruments of assignment. Absent such reform, the uncertainty exposed by the RAGHAV episode will recur with greater frequency and higher commercial stakes as generative AI becomes further embedded in India's creative and knowledge economy.

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