COPYRIGHT CHALLENGES IN AI-GENERATED CONTENT: AN INDIAN LEGAL PERSPECTIVE

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ABSTRACT

The rapid development of generative AI clearly exposes three deep issues with the Indian Copyright Act, which courts and the law are not easily able to resolve: The computer-generated works provision (2(d)(vi)) was added to the Copyright Act by the 1994 Amendments, and was originally intended to govern computer-generated works, but it's not working now because it wasn't explained who is the owner when the AI builders, operators and users all claim the output. In the interim, the amount of protected content that can be copied to train models falls outside the narrow "fair dealing" exceptions of Section 52(1). Beyond ownership, it remains unclear how legal responsibilities can be distributed in the roles in the AI pipeline. The similarities and differences between how these issues are dealt with in the U.S., U.K., and E.U. systems reveal a few practical solutions, including a raised bar for authorship when humans are using AI. Another idea has come from Europe, which proposes a data mining exception if there's no objection from rights holders. A third shift would distinguish accountabilities according to the part played by each party in creating or using the AI outputs.

Keywords: Copyright Act, 1957; Artificial Intelligence; AI-Generated Works; Human Authorship; Originality; Text and Data Mining; Fair Dealing; Moral Rights; Comparative Copyright Law.

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INTRODUCTION

Out of nowhere, machines now write stories, paint pictures, play sounds, even draft software - pulling it all from oceans of data they've studied. That throws a wrench into old ideas about who owns what in creative work. Laws meant to handle authorship? They're stuck in the past. While tech races forward, rules drag behind like shadows at sunset.

That part of India's copyright law changed in 1994[2] to cover software guided closely by people still struggles today when it comes to deciding who made what - a person using an AI tool, the company that built it, or someone else entirely. While the rules allow some uses without permission under certain conditions found in another section, they say nothing about machines reading data to learn patterns automatically. A case now waiting to be decided in Delhi[3] might show how poorly old laws fit new tech when judges try to stretch them too far. Because there is no clear legal responsibility spelled out for those involved with artificial intelligence systems, confusion grows on multiple fronts at once. Fixing these issues needs fresh laws shaped around actual problems instead of relying only on court rulings to inch forward over time.

Long ago, India made its Copyright Act because people thought only humans could create art. Not every bit of effort counts - the top court said there must be real thinking behind it. A rule says whoever makes a machine produce something owns what comes out. Still, nobody agrees if that includes smart machines working on their own. One judge refused to give rights to robots, calling them unfit for legal ownership.

Across nations, clarity remains absent. Still, the U.S. Copyright Office holds firm - protection applies solely to creations by people. In contrast, the UK names as author whoever sets up a machine to produce a work. Meanwhile, the EU pushes openness: its AI Act and copyright rules demand clear sourcing of training data, along with limits on automated mining for profit.

REVIEW OF LITERATURE

Most writings about AI and copyright grew fast, yet many came before big language tools spread widely. Instead of humans, machines now raise questions about who creates what. WIPO pointed

[2] Copyright (Amendment) Act, 1994, No. 38 of 1994, § 2(d)(vi), India Code.
[3] *ANI Media Pvt. Ltd. v. OpenAI OpCo, LLC*, CS(COMM) 1028/2024 (Delhi High Court) (pending).

out that ownership and newness sit at the core of tension[4] - when smart software makes things on its own, old rules struggle. While legal systems were built around people making art or texts, automatic output challenges their base idea. Guadamuz found current laws assume a person writes[5]; shifting rights to machines could twist why those laws exist in the first place

Indian scholars like Sibal and Dalmia pointed out that Section **2(d)(vi)** never meant to cover self-learning AI systems[6]. From another angle, Ramanujan pushed hard for a legal carve-out for text and data mining, saying current limits in Section 52(1)(a) fall short when it comes to structured AI learning[7]. Then there is Balganesh, whose thinking on creativity in Indian copyright law[8] helps frame how rulings like Eastern Book Company might apply to what AI produces. Yet despite these insights, past studies miss two key things - deep discussion on moral rights under Section 57, along with a line-by-line look at how Sections 2(d)(vi), 17, 51, 52, and 57 connect when dealing with generative AI.

RESEARCH OBJECTIVES AND METHODOLOGY

One aim here is to figure out how far the Copyright Act, 1957 reaches when it comes to material made by artificial intelligence - especially who counts as an author, whether something qualifies as original, and what moral rights might apply. Though often overlooked, the level of creativity needed for AI-made works slips into view through court views and legal interpretations across time. Looking at laws in India alongside those in the U.S., UK, and Europe shows contrasts that quietly shape how rules get built. Where rulings differ, patterns emerge - not neatly, but enough to notice shifts in thinking about ownership. Instead of assuming current law fits new tech, this work leans on close reading of statutes, changes over years, and key decisions from India's top courts. Behind each argument sit official papers from WIPO, national copyright offices, plus academic writing tested by experts abroad and within. Because gaps linger where law meets machine output,

[4] World Intell. Prop. Org. (WIPO), *WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI): Revised Issues Paper*, WIPO/IP/AI/2/2020/1 REV. (May 21, 2020).
[5] Andres Guadamuz, *Do Androids Dream of Electric Copyright? Comparative Analysis of Originality in Artificial Intelligence Generated Works*, 2 Intell. Prop. Q. 169 (2017).
[6] Raghav Sibal & Siddharth Dalmia, Copyright and AI-Generated Works, 12 Indian J. Intell. Prop. L. 45, 52–58 (2022).
[7] Adarsh Ramanujan, Text and Data Mining Under Indian Copyright Law, 14 J. Intell. Prop. Stud. 77, 88-95 (2023).

[8] Shyamkrishna Balganesh, Codifying the Common Law of Copyright, 22 Nat'l L. Sch. India Rev. 1, 17–21 (2010).

suggestions for change tie directly to sections in need of update. While no single answer rises above noise, small fixes rooted in real parts of the act could make room for clarity.

THEORETICAL FOUNDATIONS: AUTHORSHIP, ORIGINALITY, AND THE PURPOSE OF COPYRIGHT

Most ideas about copyright rest on one thing: a person must create it. Though incentive, effort, or self-expression shape these views, they all assume human origin. Shifting focus slightly, rewards for creators' drive can extend even when machines produce work. Instead of ignoring those who design artificial systems, their role fits best within updated motivation-based thinking. On the flip side, treating machine-made output as personal expression crumbles under scrutiny. Because identity cannot anchor itself in code, such reasoning fails. For India, adapting rules around purposeful creation offers clearer ground than emotional or existential claims. Not every framework bends well to new tech; some snap.

A short-term monopoly comes from copyright, under the idea that people make more when they expect reward. Machines do not weigh choices about creating - they just run. Still, if someone sets up the inputs or guides results through decisions, those actions might qualify under adjusted rules. Effort matters in another view - only work shaped by purposeful thinking counts - but machines chase patterns, not goals. Even so, a person tuning prompts or refining outcomes could claim credit. Expression tied to inner self finds no echo in code; programs lack presence, point of view, soul. What emerges reflects design, not being.

For something to count under the **Eastern Book Company** rule, a person must actually shape it with creative choices[9], not just press enter. Instead of handing off a single request and using whatever comes out, better results come when someone tweaks their queries, picks from several versions, then rewrites deeply based on personal intent. What separates those two approaches becomes the core problem lawmakers need to solve.

THE COPYRIGHT ACT, 1957 AND AI-GENERATED CONTENT: A PROVISION-BY-PROVISION ANALYSIS

[9] *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1, ¶ 36 (India).

A. Sections 13 and 2(d)(vi): Scope of Protection and the Authorship Trilemma

Outside the law's reach sits what lacks a clear maker. When creation flows solely from artificial processes, originality finds no home. Protection under Section 13 applies only where human touch shapes expression[10]. Works born without meaningful input from people miss the threshold entirely. Uncertainty creeps in when edges blur between what counts and what does not. Judges step in absent clear rules, yet their rulings shift case by case. Business deals stumble on ground that changes beneath them.

Whoever triggers the creation of a piece might mean different people - sometimes the one typing a short instruction, sometimes the builder behind the system's design, other times the operator setting usage boundaries. Each interpretation stumbles in its own way. A minimal input from someone asking for output hardly counts as inventive effort. Though foundational, the creator of the framework acts long before any individual result appears, more like supplying an instrument than making art. Those deploying the technology usually add almost nothing imaginative. Judges in India have yet to untangle these overlapping claims. Past records around the law changed in 1994 offer only faint clues.

B. Section 17: First Ownership and the Employment Dimension

Missing entirely from current discussions on AI and copyright, Section 17 assigns ownership of work created during employment to the employer, unless stated otherwise[11]. When a journalist employed by a news outlet applies a company-approved AI tool to produce an initial article draft - then reworks it heavily - a tension emerges between Section 17 and Section 2(d)(vi), leaving unclear who truly owns the output. Ownership uncertainty grows sharper when considering that treating the AI creator as legal author of each generated piece undermines what countless professionals reasonably expect. Because such an outcome clashes with real-world usage patterns, lawmakers need to revise both Section 9 and Section 2(d)(vi)[12] together - not in isolation.

C. Sections 51 and 52(1): Training-Data Infringement and the TDM Lacuna

[10] Copyright Act, 1957, § 13 (India); *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1 (India).
[11] Copyright Act, 1957, § 17 (India).
[12] Copyright Act, 1957, §§ 9, 2(d)(vi).

What lies behind Section 51 is the starting point for determining infringement. Building large language models means making digital copies of vast amounts of written material something that falls under copying as defined by Section 14(a)(i)[13], which typically needs permission. If there is wrongdoing identified under Section 51, the analysis then turns to the exceptions under Section 52, and it would be logical to discover what is wrong and then ask why. The allowed uses are set and limited, as they are in Section 52(1) - there is no provision for data mining of text[14]. For the purposes of fair dealing or private or personal use (including research) most works (not software) may be used regardless of their size, but the above does not apply to broad commercial uses of AI training. The profit-motives are ruled out in such use. The mechanical approach is quite different than the careful, case-specific investigation which the rule was meant to enable.

D. Section 57: Moral Rights and the Integrity of Human Creative Identity

Rules that are often viewed by legal experts as non-waivable and are the sole source of credit and expressive protection for authors are not discussed much in the context of AI. Proper recognition is lost when AI models steal the work of known creators and mimic their distinctive style without mentioning their names. The use of outputs that twist original expressions in a manner that is damaging to an author's reputation may be a violation of integrity protections. Whether the unintended alteration created by the self-operating machines is covered by the scope of this section, has not been considered by the courts in India so far. Infringing transparency requirements in such a way pass unnoticed by the person or persons whom the infringements affect.

THE ANI MEDIA LITIGATION: A CASE STUDY IN STATUTORY INADEQUACY

ANI Media Pvt. Ltd. v. OpenAI OpCo LLC[15], it is currently before the Delhi High Court and poses serious issues regarding the copyright aspects of AI training.

- Can you copy news articles to train machines?
- Does this go against copyright rules like Section 51?

[13] Copyright Act, 1957, § 14(a)(i) (India).
[14] Copyright Act, 1957, § 52(1) (India).
[15] *ANI Media Pvt. Ltd. v. OpenAI OpCo, LLC*, CS(COMM) 1028/2024 (Delhi High Court) (pending).

- What if you are training AI on a scale?
- Can you say it is fair dealing under Section 52(1)(a)?
- What if the AI outputs are like the works?
- Are they adaptations under Section 14(a)(vi)?
- Who is responsible then — the model developers, the ones who deploy it or those who give it prompts?

The answers, to these questions are not clear. If the court says AI training does not fit under Section 52(1) then it might be a copyright infringement. This could make lawmakers act fast. Or the court could say Section 52(1)(a) covers AI training. This might delay the issue. It could also change what fair dealing means. A stronger move would be for judges to send this issue to Parliament. They could say that lawmakers, not courts should decide these rules. Then there can be a discussion when there is time.

COMPARATIVE ANALYSIS: THE UNITED STATES, UNITED KINGDOM, AND EUROPEAN UNION

A. The United States: Strict Human Authorship

Copyright in the United States is for things that people create says the U.S. Copyright Office. They will not register anything that was made completely by a computer program[16]. This rule is clear. It is also very strict. It says that only people can be creative and it does not consider the money that can be made from intelligence.

Because of this rule artists who use computer programs to make their work might not use the legal protections. Instead, they might make deals or use secret methods. This means that things are not as open and honest as they could be.

Some people do not agree with this rule. They think it is not fair to say that something created with the help of intelligence does not deserve protection even if a person made many of the creative decisions. It is hard to justify this rule if we want to encourage people to make interesting things.

[16] U.S. Copyright Off., *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16,190, 16,192–93 (Mar. 16, 2023).

Artificial intelligence is a part of this and the rule does not take that into account. The idea of copyright in the United States and how it applies to intelligence is important and the rules, about copyright should consider the role of artificial intelligence.

B. The United Kingdom: Statutory Attribution to the Arranger

This rule does not involve a question of whether artificial systems can create, but rather it refers to the closest human who has made the "key preparations" for producing the computer-generated work under the UK's Copyright, Designs and Patents Act, 1988, section 9(3)[17]. Uncertainty remains in today's AI world as to who is protected - for works which are "preparations" it's fifty years, and the justification for such a period is not obvious given the fact that the costs of reproduction are virtually negligible. Unlike the latest European developments, Britain tightened up its rules in 2023, refusing to permit text and data mining for profit motives, whereas the EU did so.

C. The European Union: Transparency and Controlled TDM Exceptions

It's a different start each time and so is one path: authorship and training data are split according to EU rules and dealt with separately via targeted fixes. A copyright law from 2019[18] has provided room for innovative approaches - on the one hand a freedom to use text and data for studies without a profit motive, and on the other a right to use the creation for business purposes, provided the creators signal their refusal through automated tags. Some years later, when the 2024 AI Act[19] was enacted, it further weighed in by calling for disclosure of what had fed the general AI systems. But beyond the clear lines of policy are the dirty ones: machines cannot tell if anyone is following the rules, owners have no way to readily determine if someone is violating the rules, and the process of enforcement involves lengthy court battles that cost money – burdening rightsholders rather than builders. Out from this configuration, India could learn first: 'Keep these two issues apart'. Second insight? Even good ideas don't work unless there are weak tools or weak supervision when they're being used commercially.

[17] Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (UK).
[18] 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.
[19] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 Laying Down Harmonised Rules on Artificial Intelligence.

FINDINGS

There's one thing that is obvious at the outset. When works are solely created by artificial intelligence, without any involvement by real human beings in shaping the works, the Copyright Act, 1957 likely does not provide any protection[20].

- In the Eastern Book Company case, the Court set forth the criteria for legal protection for fully automated AI-generated content, which requires some level of originality in the work and a strong focus on human creators of the work. This limit is supported by the moral rights contained in Section 57.

- Section 2(d)(vi) mentions a potential owner, but doesn't specify whether it is the programmer, operator or user. Questions of ownership add to the confusion; these questions are involved in rules in Section 17, which thus far have not been addressed by courts or lawmakers.

- It could also be argued that there is no provision in the Copyright Act to permit text and data mining[21] and that Section 52(1) does not provide any support for wide-ranging commercial AI learning.

- If the same copyrighted content is copied multiple times throughout AI development, it can be easily seen as an infringement of the copyright, as contemplated in Section 51.

RECOMMENDATIONS

A. Amendment of Section 2(d)(vi): Qualified Authorship Threshold

Parliament should amend Section 2(d)(vi) to define 'the person who causes the work to be created' by reference to a qualified authorship threshold. Someone must decide what counts as real input when machines help make art or text. The law needs clearer rules about who made something if artificial intelligence was involved. Not every click or command means a person truly shaped the result. Only those whose effort shows clear choice and thought deserve rights over such work. This

[20] *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1 (India); U.S. Copyright Off., *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16,190 (Mar. 16, 2023).
[21] Copyright Act, 1957, § 52(1) (India); Adarsh Ramanujan, *Text and Data Mining Under Indian Copyright Law*, 14 J. Intell. Prop. Stud. 77 (2023).

could mean someone fine-tuning prompts many times until the outcome fits their vision. It might also cover picking one version from several machine-made options based on personal taste or insight. If no human adds anything of substance, then nothing gets protected.

B. Amendment of Section 52(1): A Two-Track Text-and-Data Mining Exception

Instead of blanket rules, Parliament ought to craft a specific TDM exemption modifying Section 52(1). Following the EU's dual approach, one path opens wide non-profit research bodies may freely analyses legally available materials when their goals stay outside market gain. On another track, businesses could carry out text mining, even for artificial intelligence development, so long as rightsholders can block use via digital tags set by the Copyright Office alongside India's standards body. Ignoring such a signal would count as breach under Section 51. Since small creators lack means to chase violations, a support pool funded by AI builders - paying fixed shares should deliver uniform payouts, covering both those who speak up and those who do not

C. Statutory Liability Framework for AI Stakeholders and Moral Rights Compliance

A new legal structure for AI responsibility could take shape through changes to Chapter IX or separate laws. Instead of shared blame, duties might shift based on role. Those who build systems carry main accountability if training data includes works gathered illegally or ignores clear withdrawal requests. Responsibility then extends to those deploying tools when proper checks are missing - especially if outputs copy large parts of protected texts under Section 14(a)(i), or visual material covered by Section 14(c)(i). People using these systems face consequences solely when intent is evident: asking for known infringing content while aware such prompts bypass safety layers. Regarding Section 57, deployment actors must reveal, upon demand, that content originated via artificial intelligence; including the specific model involved whenever possible. A new body focused on intellectual property could manage the payment pool, set technical rules, while offering steady direction to businesses. Such changes might allow India to handle machine-made works under copyright, keeping intact the emphasis on human invention that grounds legal legitimacy.

CONCLUSION

The ramifications of the ANI Media case will influence the approach of Indian courts to such activity. The reason is quite clear: There are no clear guidelines determining responsibility in the AI chain in India. These are important because if they're not in place, then conflicts get into

expensive court cases rather than being solved in a consistent way, and it affects individual creators more than big companies. What makes this worse is that when the machine produces the work, ownership seems to fall, and as Section 57 does anything to fix this, it simply amplifies the reach of the original. This omission has been completely ignored by researchers thus far.