



Artificial Intelligence and Intellectual Property Rights: Addressing Legal Uncertainty in India

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ABSTRACT

The integration of Artificial Intelligence (AI) into creative and inventive processes presents profound challenges to traditional Intellectual Property Rights (IPR) frameworks. In India, existing laws under the Copyright Act, 1957 and the Patents Act, 1970, are fundamentally human-centric and lack provisions to address the growing phenomenon of AI-generated works and inventions. This paper explores the legal uncertainties surrounding AI and IPR in India by analyzing the current statutory limitations, reviewing landmark legal cases, and comparing international legal responses. It further proposes legislative and policy recommendations aimed at bridging the gap between technological advancement and legal recognition. Through doctrinal and comparative analysis, the study emphasizes the need for a forward-looking legal framework that ensures clarity, fosters innovation, and protects rights holders in an AI-driven world.

Keywords: Artificial Intelligence, Intellectual Property Rights, Copyright, Patent, India, Legal Reform, AI Authorship, AI Inventorship, IP Law, Comparative Law

I. Introduction

The integration of Artificial Intelligence (AI) into the domains of innovation and creativity has triggered complex legal debates, particularly concerning Intellectual Property Rights (IPR). As AI systems increasingly contribute to the creation of music, literature, inventions, software, and even art, they challenge foundational legal assumptions about authorship, ownership, and inventorship—concepts traditionally rooted in human agency. This technological shift poses significant questions for legal systems worldwide, especially in India, where current IP laws do not comprehensively accommodate AI-generated outputs.

India's legislative framework, primarily the Copyright Act, 1957 and the Patents Act, 1970, presumes a human creator or inventor.¹ These statutes do not anticipate a scenario where non-human entities such as AI generate intellectual property independently. This omission has created legal uncertainty about whether, and how, the products of AI can be protected, who the rightful owner is, and what rights, if any, can be enforced. The lack of clarity threatens both innovation and investment in AI-driven industries, as creators and developers remain unsure of the legal protections their work can receive.

Moreover, in the absence of express legal provisions, Indian courts may be called upon to interpret existing laws in novel ways. This uncertainty highlights an urgent need for statutory reform or judicial guidance to address these emerging issues. The objective of this research paper is to critically examine the challenges posed by AI to India's current IP regime, analyze comparative international responses, and propose a legal framework to regulate AI-related intellectual property disputes.

II. AI and Copyright Law in India

Copyright law in India is governed by the Copyright Act, 1957, which provides protection to "original" literary, artistic, musical, and dramatic works, among others. Central to the concept of copyright is the requirement of originality and human authorship. Section 2(d) of the Act defines the term "author" in various contexts, such as the composer in the case of musical work or the writer in the case of literary work.² However, it notably lacks any mention of non-human authors, leaving AI-generated content in a legislative gray area.

The issue of authorship becomes especially contentious when AI systems autonomously generate creative works without direct human involvement. Under current Indian law, such works may not qualify for copyright protection as they lack the required human input traditionally associated with "authorship."³ While in some cases, courts have considered the "person who causes the work to be created" (such as a programmer or developer) as the legal author, this approach is inconsistent and lacks a clear legal basis.

¹ The Copyright Act, 1957, § 2(d), No. 14, Acts of Parliament, 1957 (India); The Patents Act, 1970, § 6, No. 39, Acts of Parliament, 1970 (India).

² The Copyright Act, 1957, § 2(d), No. 14, Acts of Parliament, 1957 (India).

³ Indian Journal of Law and Technology, "Artificial Intelligence and Copyright Law in India: Issues and Challenges," Vol. 17 (2021).

Globally, jurisdictions are taking diverse approaches. For instance, the United Kingdom recognizes computer-generated works under Section 9(3) of its Copyright, Designs and Patents Act, 1988, assigning authorship to the person who made the necessary arrangements for the creation.⁴ India, however, has not incorporated any such provision into its Copyright Act, despite the growing role of generative AI in industries like advertising, journalism, and digital content creation.

Moreover, the test of originality in India, shaped by judgments such as *Eastern Book Company v. D.B. Modak*, emphasizes a modicum of creativity and human skill.⁵ This interpretation further limits the copyright eligibility of AI-generated works that lack human creative input. As a result, creators and businesses using AI tools are often left without clear legal remedies or protections for their outputs, discouraging innovation and raising complex ownership disputes.

III. AI and Patent Law in India

Patent law in India is governed by the Patents Act, 1970, which grants protection to inventions that are novel, involve an inventive step, and are capable of industrial application. Like copyright law, the patent regime in India is based on the premise of human inventorship. The Act, however, does not define the term “inventor” nor does it provide explicit guidance on whether non-human entities, such as Artificial Intelligence (AI), can be credited as inventors.⁶

Section 6 of the Patents Act allows applications to be filed by the “true and first inventor” or their assignee.⁷ In the context of AI, this raises significant legal ambiguity. If an AI system autonomously generates a new invention without direct human involvement, it remains unclear whether such an invention qualifies for patent protection under Indian law, and if so, who can claim inventorship and ownership.

This uncertainty is further compounded by the global debate on whether AI can be recognized as an inventor. The case of *Thaler v. Commissioner of Patents* in jurisdictions such as the United States, United Kingdom, and European Union has resulted in consistent rulings that AI cannot be an inventor under existing legal frameworks, which require inventors to be natural persons.⁸ Indian law, while not yet tested in this specific scenario, is likely to follow similar interpretive lines given its statutory and jurisprudential foundations.

Additionally, the concept of inventive step under Indian patent law—requiring a “technical advance” or “economic significance” over prior art—complicates matters when evaluating inventions created by AI systems. Determining whether the inventive contribution lies with the human developer, the user, or the AI itself becomes challenging. The current legal framework lacks the necessary mechanisms to address such attribution questions adequately.

India also adheres to the international Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which requires member states to protect the rights of inventors but does not mandate the inclusion of non-human inventors.⁹ Consequently, until Indian legislation explicitly addresses the status of AI in patent law, AI-generated inventions are likely to remain unrecognized or attributed to the closest human agent involved in the invention process.

Thus, India's existing patent system is ill-equipped to accommodate the realities of AI-generated innovation. To encourage and regulate AI-driven technological advancement, India must consider amending its laws to clarify inventorship rules, perhaps recognizing the role of AI-assisted inventions and assigning rights to human agents responsible for the AI's development or operation.

IV. Case Studies and Legal Precedents

As AI-generated content becomes increasingly sophisticated, legal disputes around ownership, usage rights, and personality protection are emerging in India and globally. While Indian courts have yet to directly confront the question of AI inventorship or authorship in a comprehensive manner, several recent cases demonstrate how existing laws are being tested by AI-related developments.

One notable case is the lawsuit filed by Asian News International (ANI) against OpenAI and Microsoft for alleged unauthorized use of ANI's copyrighted news content in the training of AI models like ChatGPT.¹⁰ ANI contended that its news articles, though publicly accessible, were used without license or attribution, thereby violating its copyright. OpenAI and Microsoft defended their actions under the doctrine of fair use, arguing that their AI training practices involved minimal and transformative use of public data. The case raises urgent questions about the extent to which copyrighted content can be utilized to train AI, and whether such use constitutes infringement or falls within permissible exceptions.

Another important precedent emerged in the case of *Anil Kapoor v. Simply Life India & Ors.*, where the Bombay High Court recognized the actor's right to control the commercial use of his image, voice, and personality features.¹¹ The court issued an injunction against the unauthorized use of AI

⁴ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (U.K.).

⁵ *Eastern Book Company & Ors. v. D.B. Modak & Anr.*, (2008) 1 SCC 1.

⁶ The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India).

⁷ *Ibid.*, § 6.

⁸ *Thaler v. Commissioner of Patents*, [2021] EWCA Civ 1374 (U.K.); *Thaler v. Hirshfeld*, 558 F. Supp. 3d 238 (E.D. Va. 2021) (U.S.); European Patent Office, Legal decision J 8/20.

⁹ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Art. 27(1), Apr. 15, 1994, 1869 U.N.T.S. 299

¹⁰ *Asian News International v. OpenAI Inc. & Microsoft Corp.*, Suit filed in Delhi High Court (2024), reported in Reuters, “Indian News Agency ANI Sues OpenAI Over AI Training Content Use” (Nov. 2024), available at: <https://www.reuters.com/technology/artificial-intelligence/indian-news-agency-ani-sues-openai-unsanctioned-content-use-ai-training-2024-11-19/>

¹¹ *Anil Kapoor v. Simply Life India & Ors.*, (2023), Bombay High Court, reported in Time Magazine, “Anil Kapoor Wins Court Case Over AI Use of His Voice and Image” (Sept. 2023), available at: <https://time.com/7012843/anil-kapoor/>

tools to recreate Kapoor's persona for commercial gain or entertainment purposes. This judgment is significant in establishing that Indian personality rights extend to protection from AI-generated replicas, aligning with global developments in image and voice rights.

Globally, courts have uniformly ruled against recognizing AI as an inventor or author. In the widely discussed *Thaler v. Comptroller-General of Patents* case in the UK, the court held that only a natural person could qualify as an inventor under the Patents Act 1977.¹² Similar judgments were issued in the U.S. and by the European Patent Office. While these are not binding on Indian courts, they carry persuasive value, especially in light of the absence of Indian jurisprudence directly addressing these issues.

These cases underscore the urgent need for India to establish statutory and judicial clarity on how AI-related disputes should be adjudicated. Without clear legal recognition of AI's role in content creation and invention, courts will continue to rely on analogies to outdated frameworks—leading to inconsistent and potentially unjust outcomes.

V. International Perspectives

The intersection of Artificial Intelligence (AI) and Intellectual Property Rights (IPR) has become a global legal concern, with jurisdictions around the world adopting varied and evolving approaches to address the challenges posed by AI-generated content and inventions. While there is no uniform international standard yet, comparative legal analysis reveals significant trends and lessons that India can draw from.

In the **United Kingdom**, the Copyright, Designs and Patents Act, 1988 uniquely provides protection for computer-generated works. Section 9(3) states that "the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken."¹³ This approach offers a solution to the authorship dilemma by attributing copyright to the human who orchestrated the AI's operations, rather than the AI itself. Although practical, this model still leaves questions about originality and creative input unresolved.

In contrast, the **United States** has categorically ruled that AI cannot be recognized as an inventor or author. The U.S. Copyright Office, in a 2022 decision, denied copyright registration for an artwork autonomously created by an AI system named "Creativity Machine," emphasizing that "human authorship is a bedrock requirement of copyright."¹⁴ Similarly, U.S. courts in *Thaler v. Hirshfeld* held that an AI system cannot be considered an inventor under the Patent Act.¹⁵ These decisions reflect a strict anthropocentric interpretation of intellectual property law, reinforcing the necessity of human involvement.

The **European Union (EU)**, while also rejecting AI as an inventor or author, has adopted a more balanced approach in certain areas. For instance, the EU Copyright Directive includes exceptions for text and data mining, thereby facilitating the lawful use of copyright-protected material for training AI systems, provided certain conditions are met.¹⁶ The EU's AI Act, still under discussion, is poised to introduce regulatory frameworks that may further influence how AI-generated content is treated in the IP domain.

In **Australia**, the Federal Court initially ruled that AI could be recognized as an inventor in *Thaler v. Commissioner of Patents*, but this decision was later overturned by the Full Court, affirming the requirement of a human inventor under the Australian Patents Act.¹⁷ This judicial reversal reflects the global hesitance to detach inventorship from human creators.

These international developments underscore a shared reluctance to recognize AI as an autonomous legal entity for IPR purposes. However, they also highlight innovative legislative attempts to adapt existing laws to the digital age. As India considers reforms to its IP framework, these comparative experiences offer valuable models for balancing innovation with legal certainty.

Conclusion and Recommendation

The evolution of Artificial Intelligence presents profound challenges to India's existing Intellectual Property Rights framework, which is fundamentally designed around human authorship and inventorship. Current Indian laws neither recognize AI as a legal creator nor provide clarity on ownership of AI-generated works and inventions. This legal ambiguity threatens innovation, investment, and the protection of rights in AI-driven industries.

Recommendations:

1. Update the Copyright Act and Patents Act to define authorship and inventorship in the context of AI.
2. Allow human facilitators of AI-generated content to hold IP rights.
3. Introduce clear policies on data usage, authorship attribution, and liability in AI training and outputs.
4. Adapt relevant elements from jurisdictions like the UK and EU that offer interim solutions for AI-IP dilemmas.

REFERENCES

1. The Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).

¹² *Thaler v. Comptroller-General of Patents, Designs and Trade Marks*, [2021] EWCA Civ 1374 (UK Court of Appeal).

¹³ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (U.K.).

¹⁴ U.S. Copyright Office Review Board, "Second Request for Reconsideration for Refusal to Register A Recent Entrance to Paradise," Feb. 2022.

¹⁵ *Thaler v. Hirshfeld*, 558 F. Supp. 3d 238 (E.D. Va. 2021), aff'd sub nom. *Thaler v. Vidal*, No. 21-2347 (Fed. Cir. 2022).

¹⁶ 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, Articles 3 and 4.

¹⁷ *Thaler v. Commissioner of Patents*, [2021] FCA 879; overturned in [2022] FCAFC 62 (Australia).

2. The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India).
3. Indian Journal of Law and Technology, "Artificial Intelligence and Copyright Law in India: Issues and Challenges," Vol. 17 (2021).
4. *Eastern Book Company & Ors. v. D.B. Modak & Anr.*, (2008) 1 SCC 1.
5. Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (U.K.).
6. *Thaler v. Commissioner of Patents*, [2021] EWCA Civ 1374 (U.K.).
7. *Thaler v. Hirshfeld*, 558 F. Supp. 3d 238 (E.D. Va. 2021).
8. European Patent Office, Legal decision J 8/20.
9. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Apr. 15, 1994, 1869 U.N.T.S. 299.
10. *Asian News International v. OpenAI Inc. & Microsoft Corp.*, Suit filed in Delhi High Court (2024), reported in Reuters, "Indian News Agency ANI Sues OpenAI Over AI Training Content Use" (Nov. 2024).
11. *Anil Kapoor v. Simply Life India & Ors.*, Bombay High Court (2023), covered in Time Magazine, "Anil Kapoor Wins Court Case Over AI Use of His Voice and Image."
12. U.S. Copyright Office Review Board, "Second Request for Reconsideration for Refusal to Register A Recent Entrance to Paradise," Feb. 2022.
13. 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.
14. *Thaler v. Commissioner of Patents*, [2021] FCA 879; overturned in [2022] FCAFC 62 (Australia).