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Copyright Law in the age of AI: Analyzing The AI-Generated Works and Copyright Challenges in India

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Abstract

In the digital era, the intersection of copyright law and artificial intelligence (AI) has created complex legal challenges, particularly in India where existing legislation—namely the Copyright Act of 1957—predates the advent of autonomous content creation technologies. This article critically analyzes the

Indian legal framework's response to AI-generated works, focusing on the legal status of such creations, authorship definitions under Section 2(d)(vi), and case precedents such as the Raghav AI artwork controversy. Through doctrinal analysis and case law review, it explores the applicability of the "skill and judgment" standard from *D.B. Modak*, and explains why AI cannot currently qualify as an author under Indian law. The study introduces the "Significant Human Input" test to evaluate originality in AI-assisted outputs and compares India's evolving approach with global standards in the US and EU. It also proposes amendments, including sui generis rights for fully AI-generated works and clarification of authorship provisions, without granting legal personhood to AI. The article concludes that while India is cautiously progressive in accommodating AI within copyright law, preserving the foundational principle of human creativity remains paramount.

Keywords: Copyright Law, Artificial Intelligence, AI-generated Content, Sui Generis Rights, Legal Personhood, Creative Expression.

Introduction

Copyright AI debates reached a critical turning point when the Indian Copyright Office initially approved an AI-generated artwork by Raghav but later revoked the license. This reversal highlighted a fundamental issue: the absence of a human author as required under the Copyright Act of 1957. The rapid emergence of AI tools like ChatGPT, MidJourney, and DALL-E has significantly challenged creative industries worldwide, raising complex questions about who truly owns AI-generated content. Currently, India's copyright system operates under legislation that predates the digital revolution and lacks specific provisions for AI-generated works. This legal gap creates substantial uncertainty for creators and businesses alike. Despite growing worldwide attention to this issue, AI-generated content is not protected by copyright laws in India without substantial human involvement. The ANI v. OpenAI case further complicates matters by questioning whether copyrighted material can be used to train AI systems without permission. Throughout this article, we will analyze how law AI India is addressing these challenges, examine which creative outputs are not protected by the Indian copyright law, and explore potential solutions that balance innovation with creator rights.

Legal Status of AI-Generated Works Under Indian Copyright Law

The Indian Copyright Act of 1957 establishes the framework for determining authorship and ownership rights, which becomes increasingly complex in the context of AI-generated works. Understanding the legal status of such works requires examining the statutory language and recent case developments that highlight the limitations of current legislation.

Section 2(d)(vi) and the Definition of 'Author'

Section 2(d)(vi) of the Copyright Act defines an "author" in relation to computer-generated works as "the person who causes the work to be created" [1]. This provision, introduced through a 1994 amendment, was designed to address works created with computer assistance at a time when human involvement could still be traced behind computer-generated works [2].

However, the Act does not explicitly define what constitutes a "person" in this context. While some argue that the General Clauses Act's definition of "person"—which includes "any company or association or body of individuals, whether incorporated or not"—could potentially encompass AI systems [1], this interpretation faces significant challenges. The Karnataka Bank Ltd vs. State of A.P. & Ors case established that the definition of "person" is illustrative rather than exhaustive [1], nevertheless, courts have generally maintained that authorship remains tied to human creativity.

Why AI Cannot Be an Author Under Current Law

Several fundamental barriers prevent AI from qualifying as an author under current Indian law. First, the copyright regime is inherently based on incentivizing and protecting human creativity [2]. Unlike humans, AI systems require no incentives to produce works and lack the intellectual capacity to claim authorship [2].

Secondly, although the Copyright Act accommodates computer-generated works, it presupposes that these works result from human direction. Generative AI, conversely, can operate with minimal human input, creating outputs that may have multiple potential "authors"—from software developers to users who provide prompts [2].

Additionally, copyright ownership traditionally connects to legal personhood. Under Section 17 of the Act, the author is typically considered the first owner [1]. Since AI lacks legal personhood in India, it cannot enter into contracts or manage rights—requirements for copyright ownership [1]. Consequently, autonomous AI creations currently fall outside the scope of copyright protection [2].

Case Reference: Raghav AI Artwork and Copyright Office Reversal

The most illuminating example of this legal ambiguity comes from the RAGHAV Artificial Intelligence Painting App case. In 2020, Ankit Sahni submitted two copyright applications for AI-generated artworks [3]. The Copyright Office rejected his first application, which listed RAGHAV as the sole author [3]. Interestingly, his second application—naming both himself and the AI as co-authors—was initially granted registration in November 2020 [3][4].

This decision was groundbreaking, as it marked the first time the Indian Copyright Office recognized an AI tool as a co-author of a protected work [3]. The AI had been trained using Vincent van Gogh's "Starry Night" and a photograph taken by Sahni as base datasets [3].

However, this recognition proved short-lived. The Copyright Office subsequently issued a withdrawal notice, citing Sections 2(d)(iii) and 2(d)(vi) of the Act and requesting clarification about RAGHAV's legal status [5]. The notice emphasized that an "author" must be either an artist or a person who causes the artistic work to be created [5].

Sahni contested this withdrawal, arguing that the Copyright Office lacked authority to review its own decision [5]. According to the registry website, the status remains "registered" [1], although the legal validity of this registration remains uncertain. This case highlights the fundamental tension in copyright law between recognizing technological innovation and maintaining human authorship requirements.

Evaluating Originality in AI-Assisted Creations

Establishing originality criteria for AI-assisted works has become a central challenge for Indian courts as they navigate copyright protection in the digital age. The threshold of originality directly impacts whether AI outputs qualify for legal protection or remain in the public domain.

D.B. Modak Case and the 'Skill and Judgment' Standard The landmark Eastern Book Company v. D.B. Modak case fundamentally reshaped India's approach to evaluating originality in copyright law. In this pivotal decision, the Supreme Court rejected both extremes of copyright doctrine—the low threshold of 'sweat of the brow' and the higher standard of 'modicum of creativity'—instead adopting a balanced middle path focused on 'skill and judgment'.The Court introduced the concept of "flavor of minimum requirement of creativity" as essential for copyright protection. It emphasized that "to secure a copyright, the labor, skill and capital invested should be sufficient to communicate or impart to the work some quality or character which the original does not possess" [6]. This standard requires that protected works demonstrate both intellectual effort and a distinguishable improvement over raw materials. Specifically, the Court determined that "copyright is conferred on works which have originated from the author and are not merely copies of original works" [6]. Importantly, the judgment clarified that creativity need not reach the level of novelty or non-obviousness, yet must exceed trivial variations or mechanical effort.

Why Single-Prompt Outputs Fail the Originality Test

Basic AI-generated outputs typically fail to meet India's originality threshold primarily because they lack sufficient human creative input. When users provide only simple prompts (such as "recipe for cheesecake"), the resulting AI-generated content rarely demonstrates the intellectual effort required for copyright protection [7].

Notably, the originality test applies to the final output rather than the prompt itself. As established in legal precedent, "the test would primarily apply to the output of the AI generative system and not the prompts" [8]. Consequently, even if a user crafts a creative prompt, the resulting output must independently satisfy originality criteria.

Single-prompt outputs generally fail because:

- They lack "substantive variation" beyond trivial modifications
- They often mirror existing works without transformative elements
- They demonstrate algorithmic processing rather than human judgment

Indian courts have consistently emphasized that "for copyright protection, a work must meet the criterion of originality" and must result from "the author's skill, judgment, and creativity" [9]. Since AI systems rely on existing data and algorithms, their autonomous outputs rarely satisfy these requirements.

Comparison with 'Sweat of the Brow' and 'Modicum of Creativity' The evolution of originality standards offers critical context for understanding AI copyright challenges. India has moved through distinct approaches:

The 'sweat of the brow' doctrine, originally followed in India, grants protection based primarily on labor, effort, and diligence invested in creating a work, regardless of creative originality [10]. Under this doctrine, "anybody with the provisions of labor and capital" would qualify for copyright protection [11].

In contrast, the 'modicum of creativity' doctrine, applied in American jurisprudence, requires works to demonstrate "some level of intellectual creativity" [12]. This standard demands that original works arise from "coordination, selection, or arrangement of pre-existing information" with emphasis on both judgment and skill [8].

The D.B. Modak case positioned India between these extremes by requiring "adequate skill and judgment" [11]. This balanced standard acknowledges effort while insisting on intellectual contribution—particularly relevant for AI works, which involve both computational processing and potential human guidance. As noted by law professor Ashwini Siwal, India may need to "reconsider the idea, especially as there was no definition of creativity in the Copyright Act itself" given how easily AI now generates seemingly original content [12]. Until then, courts will likely continue applying the current skill and judgment standard to evaluate AI-assisted creations.

The 'Significant Human Input' Test Explained

As courts grapple with determining copyright protection for AI-generated works, a balanced approach has emerged in India's legal landscape. The 'Significant Human Input' test offers a pragmatic framework that bridges traditional copyright principles with technological innovation. Two-Part Test: Originality and Human Involvement The 'Significant Human Input' test establishes two fundamental criteria for determining copyright eligibility of AI-assisted works. First, the work must satisfy the originality requirement as established under Indian copyright law. Second, there must be substantive human involvement in the creative process. This two-pronged approach operates within the existing 'Skill and Judgment' framework but adds a crucial inquiry: would the work exist in its tangible form without human involvement?

The objective element evaluates whether humans participated in the creation process at all, whereas the subjective element assesses the extent of human contribution. As one legal analysis notes, "the 'extent' of human ability, judgment, and labor spent in its development must be substantial enough that the output would be fundamentally different or non-existent without it" [2].

This test creates a distinction between fully autonomous AI-generated works and those created through meaningful human-AI collaboration. Primarily, it addresses the core issue that "AI-generated content may not meet the criteria of originality or creativity since it is based on data taken from several pre-existing sources" [13].

Legal Commentary Example: AI-Assisted Legal Writing Consider legal commentary generated using AI assistance. When a lawyer uses AI to draft initial legal analysis but substantially edits, restructures, and adds original insights to the output, the resulting work likely meets the significant human input threshold. Conversely, merely prompting an AI system to "analyze recent copyright cases" without further refinement would likely fail this test. Indeed, intellectual property experts note that "when AI produces an artwork that is substantially similar to a copyrighted piece, 'the company could be held responsible for the infringement'" [14]. This principle applies equally to legal writing, where unmodified AI outputs might inadvertently reproduce protected content. Threshold for 'Significant' Input in Practice Determining what constitutes "significant" human input remains contextual. The Beijing Internet Court case provides valuable insight, where copyright protection was granted to an AI-generated image following substantial human direction through multiple prompts. The court found that "the AI-generated image reflected the plaintiff's original intellectual input and personal expression, making it a work of human authorship" [14].

Furthermore, the U.S. Copyright Office recently clarified that "assessing the copyrightability of these modifications depends on a case-by-case determination" [15]. This aligns with the Indian approach, which examines whether human contribution fundamentally shapes the final work rather than merely initiating it. Overall, the 'Significant Human Input' test acknowledges that copyright protection should extend to works where humans exercise meaningful creative control, regardless of AI assistance. The test effectively balances competing interests by requiring demonstrable human intellectual contribution while accommodating technological advancement in creative fields. Comparative Analysis with Global Standards Global approaches to AI copyright protection reveal important differences in how jurisdictions balance innovation with traditional copyright principles. These variations significantly impact the legal strategies creators must adopt when working with AI tools. Zarya Case and the US Copyright Office Policy In 2021, the US Copyright Office's handling of "Zarya of the Dawn" marked a pivotal moment for AI copyright law. The Office initially registered this AI-assisted comic book but later partially revoked protection upon discovering Midjourney's involvement in creating the images. Markedly, the Office allowed copyright protection only for the human-authored text and the "selection, coordination, and arrangement" of images, while explicitly excluding the AI-generated artwork itself [16]. This decision emphasized that "courts interpreting the phrase 'works of authorship' have uniformly limited it to the creations of human authors" [16]. The Office determined that Midjourney—not the human user—"originated the traditional elements of authorship" in the images [16]. EU AI Act and Text/Data Mining Exceptions Meanwhile, the European Union has developed a more comprehensive regulatory framework. The EU AI Act includes specific provisions addressing copyright ownership of AI-generated works, attributing protection "to the person or organization that has made a significant contribution to the creation" [17]. Furthermore, the EU established mandatory Text and Data Mining (TDM) exceptions through Articles 3 and 4 of the CDSM Directive. Article 3 covers TDM for scientific research without allowing rights holders to control usage, whereas Article 4 permits commercial TDM while giving rights holders limited control through an opt-out mechanism [18]. Essentially, the EU approach balances creator rights with innovation needs through a structured legal framework. Why the Indian Standard Differs from the US 'Creativity' Threshold In comparison to these approaches, India's copyright standard occupies a distinct middle ground. While the US emphasizes a "modicum of creativity" requirement and focuses strictly on human authorship, India has adopted the "skill and judgment" standard from the D.B. Modak case. This fundamental difference means India potentially recognizes a broader range of AI-assisted works that demonstrate significant human input, even if they might not meet the US creativity threshold. The Indian framework's flexibility allows courts to evaluate AI-assisted works case-by-case, focusing on the human contribution rather than imposing categorical restrictions on AI involvement. Therefore, as noted in the Raghav AI case, India seems more concerned with the nature and extent of human participation than with completely excluding AI contributions from copyright protection.

Proposed Legal Adaptations for India Ongoing debates concerning AI-generated works necessitate thoughtful amendments to India's copyright framework. Legal experts suggest several potential adaptations that balance innovation with traditional principles of intellectual property.

Retaining Human Authorship While Allowing AI Assistance Presently, Indian courts are exploring a balanced approach that preserves human authorship requirements while accommodating technological advancements. The Delhi High Court has begun examining the distinction between economic rights (reproduction, distribution) and moral rights (attribution, integrity) in AI contexts [1]. This bifurcated approach acknowledges that even if economic rights could potentially be assigned to developers or users, moral rights present unique challenges since they traditionally connect to the personal relationship between human creators and their work. A prudent path forward involves clarifying Section 2(d)(vi) of the Copyright Act to

explicitly recognize AI-assisted works where humans provide substantial creative input. This approach aligns with India's "skill and judgment" standard without requiring complete overhauls of existing legislation. Correspondingly, amendments should clearly establish whether ownership of AI-generated content belongs to developers or users who prompt the AI [19].

Sui Generis Rights for Fully AI-Generated Works

For works created autonomously by AI with minimal human direction, a sui generis (unique, purpose-built) rights framework offers a promising solution. This approach would:

- Create special limited-duration protections for AI outputs [1]
- Establish centralized licensing mechanisms through Self-Regulatory Organizations [19]
- Focus on contract law rather than traditional copyright for governing AI content rights [1]

Legal scholars argue that such protections are necessary "to encourage investment and AI developers to make developing new algorithms a priority" [20]. Simultaneously, this framework would help "protect these inventions while retaining enough flexibility to encourage creativity" [19].

Avoiding Overreach: Why AI Should Not Be Granted Personhood

Despite some proposals advocating for AI personhood, this approach remains problematic. AI systems cannot exercise responsibility over their outputs or enforce rights [20]. The Ministry of Commerce and Industry has explicitly stated that "there is no requirement to create a separate category of rights for AI and related innovations in the Indian IPR Regime" [21].

Granting legal personhood to AI would fundamentally contradict copyright's purpose of incentivizing human creativity. Unlike corporations (which have human stakeholders), AI lacks consciousness and intent necessary for meaningful legal personhood [22]. Additionally, AI cannot enter contracts or authorize relationships in any contractual context [23].

To address emerging challenges, India has established an expert committee to examine whether existing copyright law sufficiently addresses AI-related disputes [24]. This measured approach acknowledges that while adaptations are necessary, they should occur within a framework that preserves human authorship as the foundation of copyright protection.

Conclusion

India stands at a critical juncture regarding copyright protection for AI-generated works. The current legal framework, designed for human creativity, faces unprecedented challenges as generative AI continues to blur traditional authorship boundaries. Throughout this analysis, we have examined how the Indian Copyright Act of 1957 struggles to accommodate AI creations due to its human-centric definition of authorship. The revocation of copyright for Raghav's AI-generated artwork clearly demonstrates this tension. Subsequently, courts have applied the "skill and judgment" standard from the D.B. Modak case, creating a middle path between the stringent "modicum of creativity" approach and the lenient "sweat of the brow" doctrine. This balanced standard requires significant human input to establish copyright protection. Contrarily, fully autonomous AI outputs remain unprotected under existing law. The comparative analysis with US and EU approaches reveals India's unique position—less restrictive than American standards yet lacking the comprehensive regulatory framework found in Europe. Although India has established an expert committee to address these challenges, fundamental questions about originality, authorship, and ownership remain unresolved. Looking forward, India must adapt its copyright regime while preserving core intellectual property principles. The proposed sui generis rights system for AI-generated works represents a promising solution that acknowledges technological advancement without undermining human creativity. Likewise, amendments clarifying Section 2(d)(vi) could provide certainty for creators and businesses utilizing AI tools. The copyright-AI debate ultimately extends beyond legal technicalities into philosophical questions about creativity itself. Regardless of future legislative changes, courts will likely continue evaluating AI-assisted works case-by-case, focusing on substantive human contribution rather than the technological means of creation. This pragmatic approach balances innovation with the foundational purpose of copyright law—protecting and incentivizing human creative expression.

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