

CHALLENGES TO COPYRIGHT LAW IN INDIA VIS A VIS GENERATIVE AI

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CHAPTER 1: Introduction

There has been a never-ending narrative throughout the growth of legal frameworks all over the globe about the symbiotic link that exists between copyright law and technological progress. In this day and age of digital technology, the merging of conventional copyright paradigms with the revolutionary potential of Generative Artificial Intelligence (Generative AI) reveals a landscape that is both laden with issues and possibilities. In this dissertation, an academic trip is undertaken with the purpose of dissecting the complex relationship that exists between copyright law in India and the rapidly developing field of generative artificial intelligence. As the ways in which material is created, distributed, and consumed continue to be reshaped by digital technology, the legal underpinnings that enable the protection of intellectual property are being challenged with unexpected complexity. It is necessary to conduct a thorough analysis of the legal frameworks that are now in place because generative artificial intelligence, which is distinguished by its ability to independently develop and repeat creative creations, represents a paradigm change. Through the provision of an in-depth examination of the present regulatory environment, case studies of copyright infringement occurrences, and the socio-legal consequences of the growing technological landscape, the purpose of this research is to investigate the myriad of issues that Generative AI raises for copyright law in India.

When it comes to protecting the rights of artists, encouraging innovation, and establishing a fair balance between rights holders and the public interest, the inherent dynamic of generative artificial intelligence technology poses serious challenges about the appropriateness and flexibility of existing copyright laws. Through the weaving together of legal theories, technical complexity, and socio-economic factors, the dissertation intends to disentangle the complications that surround this juncture. Through a perspective that combines legal scholarship, technical discourse, and social implications, the purpose of this study is to make a significant contribution to the current dialogue taking place all over the world concerning the development of copyright frameworks that are both responsive and forward-looking. This dissertation seeks to shed light on the way forward, offering insights that go beyond legal analysis to encompass the broader implications for the cultural, economic, and technological fabric of the nation. At a time when India is at a crossroads between embracing transformative technologies and upholding its commitment to intellectual property rights, this dissertation aims to shed light on the path forward.

Literature Review

Legally speaking, artificial intelligence is a fairly new field of study. Most research materials, like e-books, online journals, IPblogs, government reports, and court decisions, can be found online, so the researcher will be able to answer all of their questions using these sources. The way these resources were used made sure that there was no room for doubtful interpretations or possible scenarios. For better understanding, the researcher has focused on studies from different international groups, like the WIPO, and on the laws of other developed countries, like the EU, the UK, and the USA.

In the evolving landscape of AI in India, strategic initiatives and policy frameworks have been spearheaded by NITI Aayog and various ministries. The 2018 National Program on AI underscored India's potential global leadership but acknowledged challenges in the intellectual property (IP) regime. Reports from 2019 and 2021 committees highlighted the crucial role of strong IP mechanisms for fostering AI innovation in key sectors. NITI Aayog's Responsible AI documents and the November 2022 report on Facial Recognition Technology delved into IP considerations amid security risks and economic value attached to facial data. The Global Partnership on AI, with India's chairmanship, emphasizes IP under the Innovation and Commercialisation theme. Industry insights from Google and NASSCOM showcase a tenfold growth in AI-related patents in the past decade, while also expressing concerns over the patent examination regime. Calls for reform in patent laws, addressing algorithmic patentability and copyright issues, underscore the dynamic interplay between AI and IP, shaping India's stance in the global AI landscape.

A piece in WIPO Magazine by Andres Guadamuz talks about copyright problems that affect work made by AI on a global scale, giving readers a view from around the world. Ben Coppin, Deyi Li, Selmer Bringsjord, and Stuart J. Russell have written books about AI that explain its history and ideas. Also, Hristov Kalin and Charles Davi's latest pieces look at copyright protection for AI-generated works in the US, and Toby Bond and Sarah Blair's article looks at copyright protection for computer-generated works in the UK. Harry Surden and Clark D. Asay have written scholarly works that talk about the bigger legal effects of AI, especially when it comes to copyright. The study also looks at the rules for the US Copyright Act and the EU Copyright Directive, which affect the rules for works made by AI. *Feist Publications v. Rural Telephone Service*¹, *IceTV Pty Limited v. Nine Network Australia Pty Limited*², *Nova Productions v. Mazola Games*³, and *Telstra Corporation Ltd. v. Desktop Marketing Systems Pty*⁴. are some of the

court cases that help us understand how AI affects copyright laws by showing us how copyrightability and joint authorship issues work.

Statement of Problem

These days, computer programs—especially those powered by artificial intelligence, or AI—are essential to the production of a wide range of artistic mediums, including software, movies, books, and music. But the Indian copyright system's existing structure is ill-equipped to handle the growing number of AI-generated works. According to preliminary research, there is a general lack of clarity about the copyright protection that AI-generated works are granted in different countries. While acknowledging AI's significant impact on innovation, questions are raised over how well India's copyright laws would be able to handle this paradigm change. The prevailing conundrum is authorship and whether AI-generated works satisfy the fundamental requirements of creativity as stipulated by copyright laws. There are still questions about who created the AI, who owns it or programmed it, and if AI may be named as a co-author. Moreover, questions remain over AI's legal personality, which makes copyright infringement accountability difficult. When trying to define AI in a way that takes into account its autonomous functioning with little human oversight and intrinsic lack of transparency, the legal difficulties become more profound. The main issue this research attempts to solve is the need of determining AI's legal standing in relation to copyright protection, especially in cases when AI functions mostly on its own without much assistance from humans. The objective of this study is to examine the complexities associated with AI-generated works, including authorship and ownership difficulties, as well as whether or not they meet the requirements for copyright protection. Through an examination of international and national laws, this research aims to provide complete answers that are in line with modern standards and practices, with a particular emphasis on advanced jurisdictions such as the US of America, the United Kingdom, and the European Union.

Research Objectives

The researcher aims at fulfilling the given objectives:

- Point out the gaps in India's present IP legal and law enforcement frameworks, particularly as they relate to artificial intelligence (AI)-generated works and its exploitation.
- Examine strategies and tactics used in developed countries like the US, UK, and EU to bring Indian law into compliance with international norms and promote harmonisation with international legal frameworks.
- Analyse how future restrictions may affect AI-generated works that fall under the Indian Copyright Act of 1957.
- Ascertain if AI-generated works are protected by Indian copyright laws, and if so, specify who may be the creator and owner.

Research Question

The researcher shall be researching on the given research questions:

- What is the relationship between AI and copyright principles, and how good is AI at producing works of art that fall inside the purview of copyright laws at the moment?
- Should AI-generated content be covered under India's copyright laws?
- If AI-generated works are protected by Indian copyright laws, how can authorship and ownership be established?
- How much protection for AI-generated works is offered by international agreements like the TRIPS (1995) and Berne Convention (1986)?
- To what extent are AI-generated works covered by the legal and judicial systems in the US, the United Kingdom, India, and the European Union, and does the current legal framework need modification?

Research Hypothesis

This study seeks to examine the following hypotheses:

- Although the existing Indian legal system provides adequate protection for copyright, it falls short in fully covering AI-generated works.
- There is an anomaly in the Indian copyright system when it comes to protecting works generated by artificial intelligence.

Research Methodology

The proposed study will utilise a doctrinal research methodology, which entails conducting a thorough analysis of legal doctrines, existing literature, and judicial perspectives. First, a thorough examination of existing literature will be undertaken to gain a deeper understanding of the theoretical concepts related to the convergence of copyright law and AI-generated creations. This process will require a comprehensive examination of scholarly articles, legal texts, and pertinent case law. In addition, the analysis of judicial opinions on similar matters will help to understand the changing legal interpretations and precedents. The study will be built upon theoretical constructs found in literature and judicial views. These constructs will guide the exploration of the identified problem and help gain a detailed understanding of potential outcomes. Through the utilisation of this approach, the study seeks to combine current knowledge and legal interpretations, establishing a strong theoretical foundation for the subsequent examination of the obstacles presented by AI-generated works to the existing copyright system in India. This approach guarantees

a thorough and knowledgeable investigation of the research questions, allowing the study to provide valuable insights to the ongoing discussion on the harmonisation of copyright law and artificial intelligence.

Tentative Chapterization

Chapter 1: Introduction

Chapter 2: Conceptual Analysis of AI

Chapter 3: AI Generated work and Copyright issues

Chapter 4: Comparative Analysis

Chapter 5: Conclusion and Suggestions

¹ 499 U.S. 340

² HCA 14; (2009) 239 CLR 458; 254 ALR 386; 83 ALJR 585

³ [2007] EWCA Civ 219

⁴ 2002] FCAFC 112

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