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AI AND INTELLECTUAL PROPERTY LAW: RETHINKING AUTHORSHIP AND OWNERSHIP IN THE AGE OF MACHINES

Abstract

Artificial Intelligence (AI) has emerged as a transformative force, redefining the nature of creativity and innovation in the digital era. With the capability to generate literary works, artwork, and software with minimal human intervention, AI challenges the traditional foundations of Intellectual Property (IP) law, which have historically been rooted in human authorship and originality. This development raises complex legal questions regarding the ownership and authorship of AI-generated content.

This paper examines the growing tension between technological advancement and existing IP frameworks, particularly in the context of copyright law. It explores key issues such as whether AI-generated works qualify for protection, who should be recognized as the rightful owner, and the legality of using copyrighted materials as training data for AI systems. The uncertainty surrounding these questions highlights significant gaps in current legal doctrines.

Focusing on both Indian and global developments, the paper analyses emerging legal and policy responses that emphasize the need to reinterpret core IP concepts such as originality, authorship, and ownership in light of AI-driven creativity. It argues that the existing human-centric framework of intellectual property law is increasingly inadequate to address the realities of machine-generated works.

The paper advocates for a balanced and adaptive legal approach that accommodates technological innovation while ensuring adequate protection for human creators. Such a framework is essential to maintain fairness, promote innovation, and safeguard the rights of individuals in an evolving digital landscape.

Keywords: Artificial Intelligence (AI), Intellectual Property (IP), AI-generated content, authorship, ownership, copyright law, legal challenges.

Introduction

Artificial Intelligence (AI) has rapidly evolved from a simple technological tool into a system capable of performing tasks that traditionally required human intelligence. From generating written content and composing music to producing digital artwork and developing software, AI is increasingly engaging in activities that were once considered the exclusive domain of human creativity. This transformation has significantly altered the understanding of innovation and intellectual production in the contemporary digital landscape.[1]

Intellectual Property (IP) law, particularly copyright law, has historically been grounded in the assumption that creativity originates from human effort, skill, and judgment. Legal protection is granted to works that reflect originality and are the result of human authorship[2]. However, the rise of AI-generated content challenges these foundational principles. When content is created with minimal or no human intervention, it becomes difficult to determine who should be recognized as the author and who should hold the rights over such creations.

Another important issue relates to the use of copyrighted material as training data for AI systems. Modern AI models rely on large datasets, many of which include protected works such as books,

[1] Ryan Abbott, *I Think, Therefore I Invent: Creative Computers and the Future of Patent Law*, 57 B.C. L. Rev. 1079, 1085–86 (2016).
[2] Copyright Act, 1957, No. 14 of 1957, § 13 (India); Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1 (India).

articles, images, and music. This raises significant legal concerns regarding whether such use falls within the scope of fair dealing or amounts to copyright infringement.[3] The absence of clear legal guidelines further complicates this issue and creates uncertainty for both creators and developers.

In the Indian context, the existing legal framework does not explicitly address the challenges posed by AI-generated works. Laws such as the Copyright Act, 1957 were enacted in a period when machines functioned merely as tools rather than independent creators.[4] As a result, the law struggles to adequately address questions of authorship, ownership, and liability in relation to artificial intelligence.

This paper examines the evolving relationship between AI and intellectual property law, focusing on issues of authorship, ownership, and the use of training data. It argues that the current human-centric framework of IP law is increasingly inadequate and highlights the need for a balanced and adaptive legal approach.

Evolution Of Artificial Intelligence And Intellectual Property

Intellectual Property (IP) law has traditionally been based on the understanding that creativity is a product of human intellect. Legal protections such as copyright, patents, and trademarks were designed to recognize and reward human effort, skill, and originality. This human-centric approach has long provided clarity in determining authorship, ownership, and rights over creative works, forming the foundation of modern IP regimes.[5]

However, the emergence of Artificial Intelligence has significantly altered this landscape. Unlike conventional tools that merely assist human creators, modern AI systems possess the capability to analyse vast amounts of data, identify patterns, and generate outputs with minimal human intervention.[6] These systems can produce written content, visual art, music, and even software

[3] Andres Guadamuz, *Artificial Intelligence and Copyright*, 41 WIPO J. 1, 8–10 (2017).
[4] Copyright Act, 1957, No. 14 of 1957 (India).
[5] WILLIAM CORNISH ET AL., INTELLECTUAL PROPERTY: PATENTS, COPYRIGHTS, TRADEMARKS AND ALLIED RIGHTS 36–38 (8th ed. 2013).
[6] Ryan Abbott, *The Reasonable Robot: Artificial Intelligence and the Law* 7–10 (2020).

code, often with a level of sophistication that closely resembles human creativity. This shift marks a transition from AI as a tool to AI as a potential creator.

The evolution of AI has therefore created uncertainty within existing IP frameworks. Traditional legal doctrines struggle to accommodate situations where creative outputs are generated without direct human involvement. Since IP law relies heavily on concepts such as originality and human authorship, the growing role of AI challenges the applicability of these principles.[7] It becomes increasingly difficult to determine whether such outputs should qualify for protection and, if so, under whose ownership.

Furthermore, the distinction between AI-assisted and AI-generated works adds another layer of complexity. In AI-assisted creation, human involvement remains significant, making it easier to apply existing legal principles. However, in cases where AI operates autonomously, the absence of clear human contribution complicates the assessment of authorship and originality.[8] This blurred boundary highlights the limitations of current legal frameworks.

In response to these challenges, there is a growing recognition among policymakers, scholars, and legal institutions that intellectual property law must evolve. The traditional human-centric model is no longer sufficient to address the realities of machine-generated creativity. Instead, there is a need for a more flexible and adaptive legal approach that can accommodate technological advancements while continuing to promote innovation and protect genuine creative contributions.[9]

Legal Issues In Ai-Generated Content

The increasing use of Artificial Intelligence in creative and commercial activities has led to a range of complex legal issues, particularly within the framework of intellectual property law. These challenges arise because existing legal doctrines were developed in a context where creativity was understood as an exclusively human activity. As AI systems begin to generate

[7] Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1 (India); Feist Publ'ns, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340 (1991).

[8] Andres Guadamuz, Do Androids Dream of Electric Copyright? Comparative Analysis of Originality in Artificial Intelligence Generated Works, 2 Intell. Prop. Q. 169, 175–78 (2017).

[9] World Intellectual Property Organization, WIPO Conversation on Intellectual Property and Artificial Intelligence (2019).

content with minimal human intervention, the application of traditional legal principles becomes uncertain and, in many cases, inadequate.[10]

Ownership Of Ai-Generated Content

One of the most significant legal questions concerns the ownership of AI-generated content. Copyright law has traditionally been based on the premise that a work must originate from human skill, labour, and judgment.[11] However, when an AI system independently produces a creative output, it becomes difficult to identify a clear legal owner.

Several possible approaches have been suggested in legal discourse. One view is that ownership should vest in the developer of the AI system, as they are responsible for creating the technology that enables such outputs. Another perspective argues that the user who provides prompts or instructions should be considered the owner, as they initiate the creative process. A third approach suggests that AI-generated works should not be granted copyright protection at all, since they lack direct human authorship.[12]

The absence of a clear and uniform approach has created uncertainty, particularly for businesses and individuals relying on AI tools. Without defined ownership rights, issues related to commercialization, licensing, and enforcement become increasingly complex. This highlights the need for a coherent legal framework that can address ownership in the context of AI-generated works.

Authorship And Originality

Closely related to ownership is the issue of authorship. Intellectual property law traditionally recognizes the author as the individual who creates an original work through the application of skill and judgment. However, AI challenges this concept by generating outputs through algorithmic processes rather than human intention.

The question of whether an AI system can be considered an "author" remains highly debated. Most legal systems, including India, continue to link authorship to human creativity. This

[10] Ryan Abbott, *Artificial Intelligence, Big Data and Intellectual Property: Protecting Computer-Generated Works in the United Kingdom*, 10 I.P. L. Rev. 15, 18–19 (2017).
[11] Copyright Act, 1957, No. 14 of 1957, § 13 (India); *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340 (1991).
[12] Andres Guadamuz, *Artificial Intelligence and Copyright*, 41 WIPO J. 1, 10–12 (2017).

position is reflected in judicial interpretations such as ***Eastern Book Company v. D.B. Modak***, where the Court emphasized the requirement of a minimal degree of creativity for a work to qualify as original.[13] While this standard works well in human contexts, its application becomes uncertain when dealing with machine-generated outputs.

AI-generated works may appear original in form, but they are often derived from patterns identified in existing data. This raises doubts about whether such outputs truly meet the requirement of originality in the legal sense. As a result, courts and policymakers are increasingly faced with the challenge of redefining authorship and originality in a manner that reflects technological realities while preserving the core principles of IP law.[14]

Use of Training Data

Another major legal issue relates to the use of training data in AI systems. Modern AI models rely on large datasets, which frequently include copyrighted materials such as books, articles, images, and music. The use of such data raises important questions about legality and fairness.[15]

A key issue is whether the use of copyrighted material for training AI falls within the scope of fair use or fair dealing. Proponents argue that training is a transformative process that does not directly replicate original works and therefore should be permitted. In contrast, critics contend that using protected content without authorization amounts to infringement and undermines the rights of creators.

Additionally, practices such as data scraping where large volumes of online content are collected without consent have intensified these concerns. Unauthorized use of such data can lead to economic loss for creators and raises questions about consent, transparency, and accountability.[16]

The lack of clear legal guidelines in this area has resulted in ongoing debates across jurisdictions. As AI continues to evolve, resolving these issues will be essential to ensure a fair balance between technological innovation and the protection of intellectual property rights.

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[13] Eastern Book Company v. D.B. Modak, (2008) 1 S.C.C. 1 (India).
[14] Thaler v. Comptroller-General of Patents, [2023] UKSC 49.
[15] World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* 14–18 (2020).
[16] Authors Guild v. Google, Inc., 804 F.3d 202 (2d Cir. 2015).

Indian Legal Position On Ai And Intellectual Property

The Indian legal framework governing intellectual property, particularly copyright law, remains largely grounded in the concept of human authorship. The Copyright Act, 1957 provides protection to "original works," which are understood to require the application of human skill, labour, and judgment.[17] However, the Act does not explicitly address the legal status of AI-generated works, thereby creating uncertainty in the context of rapidly evolving technologies.

Indian courts have consistently emphasized the importance of human creativity while interpreting originality. In ***Eastern Book Company v. D.B. Modak***, the Supreme Court held that originality requires a **"modicum of creativity"** and rejected the earlier **"sweat of the brow"** doctrine.[18] This judgment is significant in the context of AI-generated content, as it suggests that purely mechanical or automated outputs may not qualify for copyright protection unless there is sufficient human intellectual input.

Similarly, in ***R.G. Anand v. Deluxe Films***, the Court clarified that copyright protection extends to the expression of ideas rather than the ideas themselves.[19] While this principle remains relevant, its application becomes complex when AI systems generate content by analysing patterns from existing works, potentially blurring the line between inspiration and reproduction.

Another important statutory provision is **Section 2(d) of the Copyright Act**, which defines an "author" in different contexts. In the case of computer-generated works, the law recognizes the person who causes the work to be created as the author.[20] However, this provision was introduced at a time when computers functioned merely as tools under direct human control. With the emergence of advanced AI systems capable of autonomous decision-making, the applicability of this definition becomes increasingly uncertain.

At the policy level, India has begun acknowledging the implications of artificial intelligence. Government initiatives such as the India AI framework and ongoing discussions around digital

[17] Copyright Act, 1957, No. 14 of 1957, § 13 (India).
[18] Eastern Book Company v. D.B. Modak, (2008) 1 S.C.C. 1 (India).
[19] R.G. Anand v. Deluxe Films, (1978) 4 S.C.C. 118 (India).
[20] Copyright Act, 1957 § 2(d) (India).

regulation reflect a growing awareness of the need to adapt legal systems to technological advancements.[21] However, these efforts remain at a preliminary stage, and there is currently no dedicated legal framework specifically addressing AI-generated content.

Furthermore, Indian jurisprudence has not yet directly dealt with disputes involving AI-generated works, leaving several key questions unanswered. Issues relating to ownership, liability, and the use of copyrighted training data continue to exist in a legal grey area. This lack of judicial clarity adds to the uncertainty faced by creators, developers, and businesses operating in the AI space.[22]

Therefore, the Indian legal position can be described as transitional. While existing laws and judicial interpretations provide some guidance, they are not fully equipped to address the complexities introduced by artificial intelligence. This highlights the urgent need for legislative reform and clearer judicial interpretation to ensure that intellectual property law remains relevant, effective, and capable of addressing future technological developments.

Global Developments In Ai And Intellectual Property

The challenges posed by Artificial Intelligence to intellectual property law are not confined to India; they have emerged as a global concern. Different jurisdictions and international organizations have begun addressing the legal implications of AI-generated content, leading to diverse approaches and ongoing debates.[23]

In the United States, the position on AI-generated works remains largely centered on the requirement of human authorship. The U.S. Copyright Office has clarified through policy guidance that works created without human involvement are not eligible for copyright protection.[24] This stance was reaffirmed in decisions where copyright registration was denied to works generated entirely by AI systems.[25] The U.S. approach therefore reinforces the traditional view that intellectual property rights are fundamentally linked to human creativity.

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[21] NITI Aayog, *National Strategy for Artificial Intelligence* (2018).
[22] Arul George Scaria, *Artificial Intelligence and Copyright in India: A Critical Analysis*, 12 J. Intell. Prop. L. & Prac. 1, 6–8 (2020).
[23] Ryan Abbott, *The Reasonable Robot: Artificial Intelligence and the Law* 15–18 (2020).
[24] U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence* (2023).
[25] Thaler v. Perlmutter, 687 F. Supp. 3d 140 (D.D.C. 2023).

The European Union has taken a broader regulatory approach by focusing not only on intellectual property but also on the ethical and governance aspects of artificial intelligence. The proposed AI regulatory framework emphasizes transparency, accountability, and responsible use of AI technologies.[26] Although it does not directly resolve issues of authorship and ownership, it reflects an effort to create a structured legal environment in which AI can operate while minimizing risks.

At the international level, the World Intellectual Property Organization (WIPO) has been actively facilitating discussions through its ongoing initiatives on AI and intellectual property. Through platforms such as "WIPO Conversations," the organization brings together policymakers, legal experts, and stakeholders from across the world to deliberate on issues such as AI inventorship, copyright protection, and the use of training data.[27] These discussions highlight the growing need for harmonized global standards.

In addition, several international conferences and summits have emphasized the urgency of addressing AI-related IP challenges. These platforms have consistently highlighted concerns regarding authorship, ownership, and the use of copyrighted data, reflecting a shared recognition that existing legal frameworks are insufficient to deal with rapidly advancing technologies.

A key issue in the global context is the lack of uniformity in legal approaches. While some jurisdictions strictly adhere to the requirement of human authorship, others are exploring more flexible interpretations. This inconsistency creates challenges in cross-border enforcement of intellectual property rights, particularly in a digital environment where AI-generated content can easily circulate across jurisdictions.[28]

Overall, global developments indicate that intellectual property law is at a critical stage of transition. While efforts are being made at national and international levels to address emerging challenges, there is still no consensus on how to regulate AI-generated works. This underscores the need for coordinated global action to develop a balanced and consistent legal framework that can effectively address the complexities of artificial intelligence.

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[26] EU AI Act, COM (2021) 206 final (proposed regulation).
[27] World Intellectual Property Organization, *WIPO Conversation on Intellectual Property and Artificial Intelligence* (2019–ongoing).
[28] Thaler v. Comptroller-General of Patents, [2023] UKSC 49.

Need For Legal Reform

The rapid advancement of Artificial Intelligence has exposed significant gaps in existing intellectual property frameworks, making legal reform both necessary and urgent. Traditional IP laws were designed in a context where creativity was exclusively human, and therefore, they struggle to adequately address the complexities introduced by AI-generated content.[29] As AI continues to evolve, it is essential for legal systems to adapt in a manner that remains both relevant and effective.

One of the key areas requiring reform is the concept of authorship. The current legal framework links authorship strictly to human creativity, which creates uncertainty in cases involving AI-generated works. There is a need to reconsider this approach and develop a more flexible understanding that acknowledges the role of both human input and machine processes.[30] A possible solution could involve recognizing the individual who significantly contributes to or controls the AI system as the author, thereby ensuring accountability while maintaining legal clarity.

Another important issue is the lack of clear guidelines regarding ownership. The absence of a defined legal position on who owns AI-generated content creates difficulties in commercial use, licensing, and enforcement. Establishing clear rules on ownership whether in favour of developers, users, or a hybrid model is essential to provide certainty and encourage innovation in the AI ecosystem.[31]

The use of copyrighted material as training data also requires regulatory clarity. Governments and policymakers must develop well-defined standards to determine when such use is permissible and when it constitutes infringement. This could involve introducing licensing mechanisms or compensation models to ensure that creators are fairly rewarded for the use of their works in training AI systems.[32]

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[29] World Intellectual Property Organization, *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence* 3–5 (2020).
[30] Ryan Abbott, *I Think, Therefore I Invent: Creative Computers and the Future of Patent Law*, 57 B.C. L. Rev. 1079, 1105–08 (2016).
[31] Andres Guadamuz, *Artificial Intelligence and Copyright*, 41 WIPO J. 1, 12–14 (2017).
[32] Organisation for Economic Co-operation and Development, *OECD Principles on Artificial Intelligence* (2019).

At the same time, legal reform must strike a careful balance between promoting innovation and protecting creators' rights. Overly restrictive regulations may hinder technological development, while weak protections could undermine the value of human creativity. Therefore, a balanced and nuanced approach is necessary one that encourages the growth of AI while safeguarding the interests of individuals whose intellectual contributions remain fundamental to its functioning.[33]

Furthermore, international cooperation will play a crucial role in shaping effective legal responses. Since AI operates across borders, inconsistent legal frameworks can lead to confusion and enforcement challenges. Developing harmonized global standards can help ensure fairness, reduce conflicts, and create a more predictable legal environment.[34]

In conclusion, legal reform in the field of intellectual property is no longer optional but imperative. Adapting the law to accommodate AI-generated content will be essential to ensure that it continues to serve its primary purpose promoting innovation while protecting the rights of creators in an increasingly digital and automated world.

Conclusion

Artificial Intelligence has emerged as a transformative force that is reshaping the landscape of creativity, innovation, and intellectual production. Its ability to generate content that closely resembles human work has created new opportunities while simultaneously challenging the foundational principles of intellectual property law. Concepts such as authorship, originality, and ownership, which have traditionally been clear and well-defined, are now increasingly ambiguous in the context of AI-generated works.

The analysis in this paper highlights that existing intellectual property frameworks, both in India and globally, remain largely rooted in a human-centric approach. While this framework has historically served its purpose, it is no longer sufficient to address the complexities introduced by artificial intelligence. Issues relating to ownership, authorship, and the use of training data continue to exist in a legal grey area, creating uncertainty for creators, developers, and policymakers alike.

[33] EU AI Act, COM (2021) 206 final.
[34] World Intellectual Property Organization, *WIPO Conversation on Intellectual Property and Artificial Intelligence* (2019–ongoing).

At the same time, it is important to recognize that AI is not merely a challenge but also a driver of innovation and economic growth. Any legal response must therefore strike a careful balance between regulating technological developments and preserving the rights and incentives of human creators. Over-regulation could hinder innovation, while inadequate protection could lead to the erosion of creative rights.

In this context, the need for a balanced and adaptive legal framework becomes evident. Such a framework should provide clarity on key issues while remaining flexible enough to accommodate future technological advancements. Ultimately, the effectiveness of intellectual property law in the age of artificial intelligence will depend on its ability to evolve in a manner that promotes innovation, ensures fairness, and protects the fundamental value of human creativity.

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