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ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY RIGHTS: WHO OWNS AI-GENERATED CONTENT?

Abstract

The rapid advancement of Artificial Intelligence has disrupted the traditional foundations of Intellectual Property Rights. AI systems like ChatGPT, Midjourney, and DALLE can now generate literary, artistic, and inventive outputs with minimal human intervention, raising a fundamental question: who is the owner of AI-generated content? Traditional IP laws across jurisdictions are premised on human authorship and inventorship. This paper analyses the legal vacuum surrounding ownership of AI-generated works under Copyright and Patent law, with a comparative analysis of the US, UK, EU and Indian positions. It examines the Indian Copyright Act, 1957 and Patent Act, 1970 in light of AI, and critically evaluates landmark decisions such as Thaler v. Perlmutter (US) and the RAGHAV case (India). The paper concludes that India needs a sui generis framework recognizing AI as a tool and attributing ownership to the human exercising creative control, while also suggesting legislative reforms.

Keywords: Artificial Intelligence, Intellectual Property Rights, Copyright, AI-Generated Content, Authorship, Patent, Indian Copyright Act 1957

Introduction

Intellectual Property Rights are designed to reward human creativity and innovation. However, Generative AI has blurred the line between human and machine creation. In 2023, an AI-generated artwork "Théâtre d'Opéra Spatial" won an art competition, and the US Copyright Office refused registration for lack of human authorship. In India, the Copyright Office granted recognition to an AI tool RAGHAV as a co-author of a painting in 2020, only to later withdraw it, creating confusion.

This paper addresses three core questions:

a) Can AI be considered an author/inventor?
b) Who owns the AI-generated output - the programmer, the user, or the AI itself?
c) How should India reform its IP laws?

Understanding Ai-Generated Content

AI-generated content is of two types:
- AI-assisted: Human provides substantial creative input, AI is a tool (e.g., Photoshop with AI features).
- AI-autonomous: AI generates output based on minimal prompt with no human creative control.
Current legal issues arise mainly in the second category.

International Legal Framework

a) United States: The US Copyright Office strictly requires "human authorship." In _Thaler v. Perlmutter (2023)_, the court upheld refusal to register an artwork created solely by AI system Creativity Machine. Similarly, USPTO held AI cannot be an inventor in _Thaler v. Vidal_.
b) United Kingdom: Section 9(3) of the Copyright, Designs and Patents Act, 1988 is progressive - it states the author of a computer-generated work is "the person by whom the arrangements necessary for the creation of the work are undertaken." It provides 50 years protection.
c) European Union: EU also mandates human intellectual creation. AI-generated works without human originality are not protected.

Position In India, Usa, China

a) Under Copyright Act, 1957: Section 2(d) defines author as - for literary work, the author; for artistic work, the artist etc. All definitions presuppose a natural person. Section 17 states the first owner is the author. The Act does not recognize non-human authorship.
The Indian case of RAGHAV Artificial Intelligence Painting App (2020) is significant. Artist Ankit Sahni used AI tool RAGHAV to create painting "Suryast". Copyright Office first granted co-authorship to RAGHAV + Ankit Sahni. Later withdrew it and asked for clarification. Shows India's confusion on AI as author.
b) Under Patent Act, 1970: Section 6 allows only a "true and first inventor" to apply. Indian Patent Office has rejected applications naming AI (DABUS) as inventor, aligning with global stance.

2. DABUS Order - India (2024-2025) - Most recent same artwork as US case - "A Recent Entrance to Paradise" by AI DABUS. Dr. Stephen Thaler applied in India naming DABUS as author and himself as owner. Indian Copyright Office rejected it in December 2024.
Reason: Section 2(d)(vi) says author of computer-generated work is "person who causes the work to be created". DABUS is not a natural or juristic person, cannot hold or transfer copyright under Sec 17-19. But Office said work _was original_ under Sec 13 and Dr. Thaler himself could be author if he corrects the application. 5333

3. Thaler v. Perlmutter - USA (2023-2026) - Global leading case

Dr. Thaler tried to register same image "A Recent Entrance to Paradise" with Creativity Machine as author. US Copyright Office refused. District Court and D.C. Circuit affirmed human authorship is backbone of copyright law. In March 2026, US Supreme Court declined to hear the appeal - final ruling: AI cannot hold copyright, only human creative input qualifies. b423

4. Zarya of the Dawn - USA (2023) - Midjourney case
Author Kristina Kashtanova wrote graphic novel text herself but images were made with Midjourney. Copyright Office gave copyright for human text + selection and arrangement, but revoked copyright for AI-generated images. Reason: Prompts are like instructions to a commissioned artist, user cannot control exact expression, so prompts alone are not authorship. f560

5. Li vs Liu - Beijing Internet Court, China (Nov 2023) - Opposite to US
This is the only case where AI image _got_ copyright. Plaintiff Li used Stable Diffusion with many prompts and parameter adjustments to create an image.
Court held it WAS copyrightable because Li made substantial intellectual investment and creative control. This judgment is important to show different view from US.
In your analysis table, write:
Case Country AI as Author? Final Owner
RAGHAV India Initially Yes, then No Confused
DUBUS Copyright Order India No Human who caused creation
Thaler v Perlmutter USA No No copyright if only AI
Zarya of the Dawn USA No for images Human for text+arrangement
Li v Liu China Yes (with human control) User who refined prompts

Key Challenges Of Ownership

i) Authorship Vacuum: If AI cannot be owner, and human contribution is minimal, the work may fall into public domain, discouraging investment.
ii) Infringement Risk: AI models are trained on copyrighted data. Who is liable if AI generates infringing content - user or developer?
iii) Moral Rights: Section 57 of Copyright Act gives moral rights to authors. Can AI claim paternity or integrity rights? No.
iv) Accountability: IP rights come with liabilities. AI cannot be sued.

Suggestions And Way Forward For India
1. Adopt UK-style approach: Amend Section 2(d) to include a clause for computer-generated works - ownership should vest in the person who made arrangements necessary for creation (programmer or user with creative control).

2. Distinguish between AI-assisted and AI-autonomous: Grant full copyright to human in AI-assisted cases; for AI-autonomous, grant a shorter, sui generis protection of 15-25 years to the investor/user.
3. Mandatory Disclosure: Applicants must disclose use of AI in creation and data used for training.
4. No Legal Personhood to AI: India should not grant legal personhood to AI as it creates more complexities than solutions.
5. New Section 2(d)(vi): Insert definition - "in case of AI-generated work, the person exercising creative control over the input or prompt shall be deemed author."

Conclusion

AI is not replacing human creativity but augmenting it. The law cannot remain silent. Denying protection altogether will push AI innovations to trade secrets, harming public knowledge. Granting ownership to AI is legally untenable. The balanced path for India is to recognize the human behind the AI as the owner, following the principle of "AI as a tool, not author." Legislative amendment in Copyright and Patent Acts is the urgent need to maintain India's position as a hub for AI innovation while protecting human creators.

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