



Who Owns Ai-Generated Content? A Legal Blindspot In Copyright Law

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Abstract

The rapid advancement of artificial intelligence (AI) has revolutionized content creation, leading to increasingly sophisticated outputs such as literature, music, art, and code generated with minimal or no human input. However, this technological evolution has outpaced the development of legal frameworks, particularly in the realm of copyright law. Traditional copyright systems are built upon the notion of human authorship, leaving AI-generated content in a legal grey area. This paper critically examines the existing legal lacuna surrounding the ownership and protection of AI-generated works. It explores global perspectives, including approaches by jurisdictions such as the United States, the United Kingdom, and India, and highlights the inconsistencies and challenges in attributing authorship and rights. The study argues that the current copyright regime inadequately addresses the complexities of machine-generated creativity, thereby posing significant risks to creators, developers, and users. Through a doctrinal and comparative legal analysis, the paper underscores the urgent need for legal reform to redefine authorship and ownership in the age of artificial intelligence.

Keywords

AI-generated content, copyright law, intellectual property, artificial intelligence, machine creativity, legal lacuna, ownership rights, doctrinal analysis.

Introduction

Artificial Intelligence is revolutionising the way we create and consume content. Tools such as Chatgpt, Google's Gemini, Claude have vested people with the power to generate and create art, music, literature etc. with minimal human input. The core intent of the Copyright law is to protect human intellect and creativity. Traditional copyright law requires a human author, but what if the author is AI or an algorithm? The content is being produced at a large scale from Chatgpt, Sora etc. and this dilemma has led to a growing number of court cases, policy debates, and academic discussions while the ownership and authorship of AI created content remains a gray zone. This article examines the basics of copyright and AI generated content along with the legal landscape around the globe, with the ethical concerns and certain policy suggestions.

Copyright 101

The copyright law has certain core principles for the work or the content to be eligible for a copyright. According to the **Copyright Act, 1957** the first essential is originality which means the work must be original and it must originate from the author. Further, section 13(1) suggests the work is supposed to be expressed in a tangible form i.e. written, recorded etc. since the copyright law protects the expression of the idea not the idea itself. The work must also fall under the qualification criteria of protection under the Act. **The U.S Copyright Act, 1976** similarly incorporates these foundational elements.

What is AI-Generated content?

AI-Generated content refers to any form of creative output produced, in whole or in part by any artificial intelligence system. This content can be of two types i.e. fully AI-generated or AI-assisted. This is a wide spectrum hence, it is unclear where ownership and authorship lie. In a fully AI-generated work, AI operates independently and produces content without human control on the output. On the flip side, under AI-assisted human creations, AI acts as a tool to enhance and streamline the creative process.

The Global Legal Landscape

Countries around the world are struggling to figure out this gap between human authorship and ownership of AI-generated work. Different countries have put forward different stances through judgements and reports. Hence, the global legal landscape is fragmented and has varied interpretations and approaches.

The United States copyright office has been closely investigating the relationship between copyright law and artificial intelligence since 2023. In the Stephen Thaler and the “Creativity Machine” Case, Stephen Thaler was an inventor who asked for protection from the federal court for work created by AI through his Creativity Machine. The U.S. Copyright Office rejected the plea and confirmed that only human authors qualify for protection. The federal court further upheld this decision in **Thaler vs. Perlmutter**.

There were a series of reports published United States Copyright Office and as per the **U.S. copyright office policy**, only works with human authorship are copyrightable, thereby excluding AI-generated content from eligibility. The second stage of the report, published in January 2025, affirms that fully autonomous AI-generated content does not meet the current legal criterias of copyright law while content generated from a substantial human input may qualify for protection. furthermore, the report emphasized that merely providing basic prompts and minimal guidance does not meet the threshold of authorship.

The United Kingdom takes a unique view by adopting a hybrid approach. Under Section 9(3) of **the UK Copyright, Designs and Patents Act 1988**, the person who makes the arrangements of the AI's function may be considered as the author. Hence, it allows copyright for literary, dramatic, musical or artistic work which is computer generated and focuses of the human's role in the creative process.

Conversely, India has been silent and not defined AI or computer generated work specifically. **India's copyright act, 1957** does not define AI while the term author is defined as a human entity in most parts such as Section 2(d). This has been an emerging grey area within Indian law, as legal scholars continue to debate the issue, there has been no landmark judgements on the issue. Therefore, the Indian courts have been following the position of the U.S.

China is beginning to recognize AI created work and may become the first mover in the field of AI content protection. A Chinese court ruled in the favor of an AI-generated work for an Article created by Tencent's AI. The protection was granted considering the originality and intellectual input. Though Chinese does not explicitly recognize AI generated content, the matter has been left to the discretion of the judiciary to interpret and decide.

The growing influence of AI-generated content has hence raised various legal concerns and questions. The primary question that arises is whether the created work is owned by the user, the developer or no one? Another pressing issue is whether AI is considered as an author or an inventor. Liability is also a major concern. Who will be responsible if the content infringes Copyright? Lastly there is a need to reassess the boundaries of fair use of AI. As these tools combine existing data, the courts have to determine the originality of the work to grant protection under the Copyright Laws. These questions and issues highlight the challenges in defining creativity, ownership and responsibility and legal complexities in an AI driven world.

Policy Suggestions

As AI continues to play a crucial role, it has become necessary to bring policy frameworks to resolve this issue. One proposed solution could be to introduce a distinct category for machine generated works altogether. Such a framework could have its own rights and limitations distinct from those applicable to human authorship to acknowledge the unique nature of these creations.

On a global scale, existing frameworks and treaties should be revisited to incorporate the reality of AI-generated works. This would help create a harmonised global standard since international copyright laws currently presume human authors. Another important consideration is to obtain certain usage and derivative rights through licensing agreements. This will ensure innovation along with accountability and hence, will create a balance. Finally, implementing mandatory disclosure measures such as watermarking and labelling

could help distinguish AI-generated and human works and will promote responsible use of technology in creative industries

Conclusion

Current Copyright laws in most jurisdictions were crafted around human creativity which makes the ownership and authorship of AI-generated content a legal grey area. The line between tool and creator has become blurred even though the human input is considered important for eligibility of AI created work for protection. The disputes and legal ambiguity highlight concerns for frameworks to resolve this issue. To move forward, the policymakers, courts and international bodies must work together and frame guidelines to balance innovation and technology along with intellectual property.

Endnotes:

1. Copyright Act, 1957, § 13(1), No. 14, Acts of Parliament, 1957 (India).
2. Ibid., § 2(d).
3. U.S. Copyright Act of 1976, 17 U.S.C. § 102(a).
4. U.S. Copyright Office, **“Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence”**, March 2023.
<https://www.copyright.gov/ai/>
5. Thaler v. Perlmutter, No. 1:22-cv-01564 (D.D.C. Aug. 18, 2023).
6. Ibid.
7. U.S. Copyright Office, **Artificial Intelligence and Copyright: Second Public Report**, Jan. 2025, at 8–12.
8. Ibid., at 15.
9. Copyright, Designs and Patents Act 1988, § 9(3) (UK).
10. Ibid.
11. Copyright Act, 1957 (India), § 2(d).
12. See generally, Shamnad Basheer, Copyrighting the Creative Machines: The Curious Case of Artificial Authors, 13 JIPR 107 (2023).
13. Shenzhen Tencent v. Shanghai Yingxun, Beijing Internet Court, (Dec. 2019) (China).
14. Ibid.
15. See Jane Ginsburg, People Not Machines: Authorship and What It Means in the AI Era, Columbia Public Law Research Paper No. 14-738, 2023.
16. See WIPO, **Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence**, May 2021, available at: https://www.wipo.int/edocs/mdocs/mdocs/en/wipo_ip_ai_2_20_rev.pdf

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