



# THE PROTECTION OF AI-GENERATED ARTISTIC WORK UNDER COPYRIGHT LAWS IN THE DIGITALIZED ERA: A CRITICAL STUDY

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The developing digitalization of human everyday day-to-day routines has reached a level that it has been overtaken by artificial intelligence for simplifying the complexity of life. An artistic nature of the human being is also affected by the artificial intelligence in both negative and positive aspects. Now the human mind is more dependent on the artificial mind for quick and effective responses. However, it is pertinent to ask whether a copyright law protected the AI-generated artistic work. The law was only made for humans and effective and applicable to only human beings, but now the newly created entity, AI, has also entered the regime of IPR laws. Thus, it is omnipotent to protect every artistic work, regardless of whether it is human-made or AI-generated. The pre-digital era was more productive for human minds to work upon artistic work, but in the present revolutionary digital world, most of the content is made with the help of artificial intelligence or directly through artificial intelligence by entering a few relevant commands. Thus, it is highly impossible to make a distinction between human artistic work and AI-generated artistic work. The aim of IPR laws is to make sure that the intellectual ideas or invention must be protected to maintain their originality. So, it must protect it with a full threshold without making any discrimination among living and non-living creatures. Written text, music, video, code, and other material created using generative artificial intelligence technologies are all considered AI-generated content. These computers are trained on massive volumes of data, allowing them to produce appropriate results in response to a word, phrase, question, or other type of input.

Keywords: AI, Artistic Work, Copyright, Digitalization, ARTIFICIAL INTELLIGENCE generated artistic works

## RESEARCH PAPER

The emergence of Artificial Intelligence (AI) in the art domain marks a pivotal period, when the limits of creativity and technology are being redefined. The incorporation of artificial intelligence into the domain of art has unveiled several possibilities, fundamentally altering artistic methods and our perception of art. The capabilities of artificial intelligence in the artistic sector are extensive and diverse, encompassing the generation of whole pictures and the facilitation of intricate creative processes. These sophisticated programs may generate art from inception, replicate known forms, or amalgamate many genres to get something wholly novel and distinctive. Artificial intelligence algorithms can analyse and learn from previous artworks, allowing them to produce pieces that are both novel and indicative of past creative movements. These expanded capabilities can function as a novel medium for creative artistic expression. In the domain of creative creativity, artificial intelligence serves as a transformative force, facilitating novel forms of expression and cooperation. Artists may utilize artificial intelligence to augment and facilitate their artistic endeavours in several manners. Artists may utilize artificial intelligence techniques for inspiration and research purposes. Artificial intelligence enables artists to swiftly access an extensive reservoir of artistic styles, historical trends, and cultural themes, acquiring insights that would need innumerable hours to gather manually. Artificial intelligence algorithms, by their capacity to absorb and analyse extensive information, can reveal concealed links and patterns in art history, propose innovative stylistic combinations, or even emulate the progression of creative trends. This abundance of knowledge and viewpoints not only stimulates the artist's creativity but also enhances their research, yielding a more profound and intricate comprehension of their art. Consequently, artists may utilize artificial intelligence to expand their creative boundaries, leveraging a wide range of inspirations and concepts to enhance their work in unprecedented ways. Furthermore, artists may expedite the conceptualization phase by employing an artificial intelligence art generator to depict their concepts from many perspectives. An artificial intelligence art work generator enables artists to swiftly see their concepts in many colour palettes, perspectives, and alterations, facilitating the exploration of several versions of their ideas. Upon identifying the version that aligns most closely with their idea, they may proceed to render it through drawing, painting, or sculpting. This approach is far more efficient than the manual creation of several iterations of your art concept until the preferred version is identified. Consequently, artists will have increased time to concentrate on creative conception and expression.<sup>1</sup>

Artistic activity encompasses a wide range of expressions, from visual art and sculpture to writing and music. This offers as proof of the creative and expressive capabilities of humans. However, despite its vitality and diversity, the sphere of art is also protected by the law via the use of copyright legal protection. For the purpose of protecting the rights of writers, creators, and artists, copyright provides them with the ability to exercise exclusive control over their creative works. Indian copyright law provides comprehensive protection for creative creations, emphasizing the safeguarding of authors' and artists'

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<sup>1</sup> Dan Milmo, 'UK government tries to placate opponents of ARTIFICIAL INTELLIGENCE copyright bill' (The Guardian, 2 Apr 2025) <<https://www.theguardian.com/technology/2025/apr/02/uk-government-tries-to-placate-opponents-of-ai-copyright-bill>> accessed 1 April 2025.

rights. Artistic creations protected by Indian law include paintings, sculptures, drawings, photography, architectural designs, applied art, and several other forms of creative expression. The Copyright Act of 1957 confers exclusive rights to artists about their creative creations. These rights include the right to copy the work, disseminate it to the public, change or adapt it, and distribute copies of the work. These rights empower artists to regulate and profit from their works, fostering a vibrant creative community. The Indian Act also acknowledges moral rights, which confer upon artists the entitlement to assert ownership of their creations and to prohibit any distortion, mutilation, or alteration that may jeopardize their reputation.

Copyright does not protect the subsequent: Copyright does not safeguard ideas, concepts, or hypotheses. It alone safeguards the concrete manifestation of concepts. One cannot copyright the concept of a sunset painting; but, a particular rendition of a sunset may be copyrighted. Copyright does not protect facts, data, or information. This indicates that copyright cannot be asserted on factual information, including historical occurrences, scientific findings, or statistical data. Common Symbols and patterns: Copyright does not safeguard symbols, patterns, or motifs that are prevalent and deemed part of the public domain. Examples include fundamental geometric forms, conventional symbols, or often used patterns. Utilitarian things: It does not include utilitarian things or functional products. The creative aspects of a utilitarian product may get protection, but its main functioning or design intended for practical use is governed by other types of intellectual property, such design patents or industrial design rights. Names, titles, slogans, and brief phrases are not protected. These features may qualify for trademark protection if used to identify and differentiate certain products or services. Copyright infringement in creative works may manifest in several forms. These are a few typical situations, like as Unauthorized Reproduction: The unauthorized copying, duplicating, or reproducing of a creative work by an individual constitutes copyright infringement. This includes reproducing paintings, sculptures, photography, or other visual art forms. Public exhibition and Distribution: Unauthorized public exhibition or distribution of copyrighted creative works is an infringement of the copyright holder's rights. This may include displaying original artwork, selling reproductions, or disseminating photos online without permission. Derivative Works: The creation of derivative works from copyrighted creative works without appropriate authorization is an infringement. This includes creating adaptations, alterations, or new iterations of the original work without securing authorization.

Unauthorized Use in Commercial Contexts: Utilizing creative works in commercial contexts, such commercials, packaging, or promotional materials, without securing the requisite licenses or permissions from the copyright holder may result in infringement. Digital Piracy: In the digital era, the unauthorized sharing, downloading, or streaming of copyrighted creative creations, whether pictures, illustrations, or digital paintings, without the artist's authorization becomes a widespread type of infringement. Infringement may result in legal repercussions, including damages, injunctions, and other financial responsibilities. Copyright holders must be diligent in safeguarding their works and implement suitable procedures to prevent and rectify infringement.

It is pertinent to analyze the view of different countries having large population and proactive in making law and regulations in technological sectors. The nations who want to build artificial intelligence and those who are in race making a compactible artificial intelligence in future has to recognize the copyrightability of artificial intelligence generated artistic work.

The first initiative taken in China in this context, In November 2023, the Beijing Internet Court in China made a landmark AI-generated picture copyright infringement verdict. The primary concerns raised by the decision were whether or whether AI-generated works could be legally protected by copyright, and if so, who would hold the rights to do so.<sup>2</sup> In China, the Interim Measures on the Administration of Generative artificial intelligence Services took effect in August 2023, imposing requirements on generative artificial intelligence service providers to guarantee that training data is sourced lawfully and does not violate the intellectual property rights of others. There are indications that a comprehensive artificial intelligence Law may be presented in China. In this advancing age of artificial intelligence, achieving a delicate equilibrium between protecting rights and promoting scientific progress will be essential. This case elucidates the assertion that AI-generated work may be subject to copyright in China; yet, legal ambiguities persist about artificial intelligence and intellectual property, particularly concerning the potential culpability of artificial intelligence service providers for copyright infringement. In a recent ruling from February 2024, the Guangzhou Internet Court determined that an artificial intelligence company infringed upon the copyright of the renowned Japanese superhero, Ultraman, by engaging in unauthorized copying and adaptation, as certain images produced by the company's artificial intelligence service were deemed substantially similar to the character. This case exemplifies the possible accountability of service providers for the results produced by their artificial intelligence technologies and initiates discourse on their obligations for intellectual property protection.

The USA Copyright Office believes existing legal doctrines may address copyrightability issues based on copyright fundamentals, fast-evolving technology, and NOI responses. Copyright law has long evolved to new technologies and can determine whether AI-generated outputs are human-generated enough to justify copyright protection. As mentioned above, their outputs are often copyrightable when artificial intelligence is utilized as a tool and a human can identify their expressive aspects. At this point, prompts alone are unlikely to meet those standards. The Office monitors technical and legal advancements to determine if a change is needed. The Office will release further registration guidelines and update the appropriate parts of the Compendium of U.S. Copyright Office Practices to help the public with generative artificial intelligence copyrightability problems.<sup>3</sup>

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<sup>2</sup>Loke- Khoon Tan, 'China: A landmark court ruling on copyright protection for AI-generated works' (India Today, May 8, 2024) <[---

IJCRT2604210 | International Journal of Creative Research Thoughts \(IJCRT\) www.ijcrt.org | b706](https://globaltigationnews.bakermckenzie.com/2024/05/08/china-a-landmark-court-ruling-on-copyright-protection-for-ai-generated-works/#:~:text=Artificial%20Intelligence-.China%3A%20A%20landmark%20court%20ruling%20on,protection%20for%20AI%2Dgenerated%20works&text=Recentl y%2C%20a%20groundbreaking%20court%20judgment,by%20Artificial%20Intelligence%20(AI).> accessed 1 April 2025</a><br/><sup>3</sup> United States Copyright Office, Copyright and Artificial Intelligence: A REPORT Of The Register Of Copyrights ch 4</p></div><div data-bbox=)

In Indian context, the openai's conversational artificial intelligence model chatgpt is popular. Chatgpt can answer questions, explain, produce content, and enable interactive text-based conversations on many topics. artificial intelligence copyright registration and protection are not effectively addressed under Indian law. Indian copyright law does not recognize artificial intelligence as a creator, making chatgpt content ownership complicated and developing. Chatgpt states that under Indian law, the ownership of content produced by artificial intelligence tools like chatgpt can be complicated and developing, and the legal framework may not yet handle AI-generated content ownership.<sup>4</sup>

As the topic is not itself in the express legal framework of any country, it has to be ascertained by the researcher through empirical study by analyzing the views and opinions of people. The researcher opted for empirical methodology to reach the conclusion of this problem. A set of questionnaires has been prepared related to this topic by giving various options through which people's views can be noted. Due to paucity of time, the data has been restricted to 100 to 150 qualitative and quantitative samples.

## FINDINGS

The findings of the empirical study show the opinion of people, which is purely based on the rationale that artificial intelligence can be treated as a slave, deprived of rights and duties, or any kind of legal recognition. The researcher first classified the age group of samples, and it was found that about 71.1% of the samples are in the age group of 30 to 35 years. The majority of samples are falling in the age group of young people who are the most decisive and regular users of digital technologies; it is hence assumed that the sample structure is only based upon the rationale of young people. It is important not only to assume that they are the regular users but also to know the time duration they spent on technologies and their dependency on the artificial intelligence. Certain by then how many times they usually spend on artificial intelligence for creating artistic work such as picture editing, creating pictures, music composing, making videos, and adding special effects to them by commanding data to the artificial intelligence. About 73.3% of samples prefer to opt for the option of 1-2 hours daily on the air to create artistic works; the majority of samples confirmed that they are using artificial intelligence on a regular basis and it has become an integral part of their life. It can also be assumed from the figures that the samples are well versed with the use of artificial intelligence and deliberately they are using it for their work as well as as a part of entertainment. About 64.4% of samples also accepted that they know the use of artificial intelligence, and it is not a new concept for human intelligence. It is a controversial fact that, in spite of a vast majority of people knowing about the use of artificial intelligence, only 49.9% of samples confirmed that they know even artistic works can be created through artificial intelligence. It shows that people don't know the capabilities of artificial intelligence; therefore, it has been often ignored by many. Therefore, it is certain that half knowledge about artificial intelligence could lead to more critical complications. The legal framework on artificial intelligence created artistic work by intellectual property laws is critically needed;

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<sup>4</sup>Srishti Ojha, 'Who owns AI-generated works? Here's what the laws say on copyright issue' (India Today, Sep 22, 2023) <<https://www.indiatoday.in/law/story/chatgpt-ai-generated-content-copyright-ownership-complexities-india-2439165-2023-09-22>> accessed 1 April 2025

it could lead to a better version of data privacy in the related field. It may not be seen as a crucial factor at present, but in the coming future it may overturn the tables and become the most important legal curiosity to control the artificial intelligence and create boundaries on AI-generated artistic work. It cannot be ignored that artificial intelligence is a more refined version of human intelligence; the only difference between both is the sense of emotions and the feelings that give an exclusive identity to the artistic work originally created by human intelligence. Furthermore, on the given question, the respondents denied that artificial intelligence, if creating an artistic work, should not be given credit as an author related to the originality of the work. The majority of samples gave negative answers to this question. It is strange to see the pattern that samples were fantasized about by artificial intelligence artistic work but do not want to give credit to such works and also do not want to give credentials to AI-generated work by giving intellectual property rights to it. Most of the samples that were asked responded that artificial intelligence could never supersede human intelligence based on the fact that both do not stand on the same parameters in the field of artistic work.

The researcher, while framing the question, wanted to approach the core knowledge of the respondent and their daily life experiences by adding some real-life experiences and asking questions based on them. Nevertheless, it has been found that people are not fully aware of the artificial intelligence capabilities; rather, they are only seeing the convenience and the beneficial results offered by several artificial intelligence portals. Nonetheless, the potential of artificial intelligence is extraordinary; so, it is imperative to integrate artificial intelligence with human intelligence within the legal framework. The researcher deployed a contemporary example of the latest trend of transforming personal photographs into cartoon images through the utilization of artificial intelligence platforms. Consequently, the researchers utilized Ghibli art as an example that has been trending and capturing significant interest among the youth on social media. The overwhelming majority of respondents acknowledged that sharing their personal images on social media via Ghibli art constituted an invitation to trespass into their private lives. The respondents were explicitly inquired about their views on sharing personal images on an unprotected internet platform just for the sake of creating an artistic, cartoonish work. A disclosure of personal information that invites data privacy intrusions into one's private concerns. The responder mostly acknowledged that, both unintentionally and with limited awareness of their privacy issues and data security, they gave their personal image, and no obligation is placed on the artificial intelligence portal about the data supplied. The shared data has been retained and analyzed by numerous artificial intelligence platforms, which may utilize it for training by studying diverse behaviors and patterns in photos. It has been understood that artificial intelligence possesses the potential to reverse the procedure and reconstruct the original pictures from the cartoonish creative creations. It has so escalated into a more significant danger to global privacy breaches. Approximately 61.7% of surveyed respondents endorse the proposition of acknowledging IPR loss for AI-generated artistic works, since it would provide a legal obligation for the author to safeguard the data, rendering them liable for any data breaches and subsequent misuse. A fundamental inquiry is to whether the legal obligation placed on the creator of the AI-generated content will provide essential rights

for the data provider. Approximately 78.7% of the respondents advocate for granting rights against the misuse of their personal data by imposing legal obligation to the author of such artistic work.

## CONCLUSION

The future lies in the realm of artificial intelligence. The unique capabilities of artificial intelligence remain mostly undisclosed; yet, it is now established that artificial intelligence may produce creative artwork that may be original but are derived from existing data. After examining the judicial systems of multiple nations and the perspectives of legal scholars, it is evident that imposing an obligation on machines to solely generate artistic works through data pattern analysis is distinct from the legal frameworks of other countries. The intellectual property rights legislation does not address the issue of artificial intelligence and its potential to generate unique artistic works from data; hence, it remains ambiguous regarding the associated rights and responsibilities, which might provide responsibility for AI-generated artistic creations. During the course of action of this study, the diverse perspective posed a significant query to the researcher: despite people's awareness of artificial intelligence's potential and desire to establish a legal requirement for the privacy of such data, they are careless in giving a machine authorship because they believe that human intelligence will always be superior to artificial intelligence. Consequently, it requires rectification over time, and in this technologically sophisticated day, it is imperative to establish accountability for machines to safeguard privacy. In the event of a data breach, accountability and responsibility must be assigned.

## ANNEXURE- QUESTIONNAIRE

### 1. Age group?

15-25

30-45

25-30

45 above

### 2. Do you know about artificial intelligence?

yes

no

heard about it but never used it

Prefer not to say

### 3. Do you agree that any artistic creative work can be also done by Artificial intelligence

Yes

No

Sometimes with human command

Prefer not to say

### 4. How much do you spend on internet in a day using AI tools for creating art work like photos, sketching, editing commanding AI or using open AI?

1-2 hrs.

2-3 hrs.

3 hrs or more

Prefer not to say

### 5. Do you feel that if any person is creating any artistic work using AI by commanding or feeding data to it and claims it as his own is justiciable ?

Yes, I think so.

No, I do not think so

- Never thought about it  Prefer not to say
6. What are your thoughts on the possibility of copyrighting creative work that is created by artificial intelligence (AI) by the human author who provides the data to the AI or commands the features and ideas to the AI? Alternatively, do you believe that it is possible to copyright the work to the only model of AI, so granting complete credentials to a machine as if it were a human?
- Yes  
 No  
 AI can't be a human so treating both on equal parameter is not justiciable but it could be done for data privacy to impose a duty on author (human or AI) to maintain data privacy upon which the work has been created.  
 Prefer not to say
7. As an example of using artificial intelligence to create your own image in a cartoonish portrait, the most recent case of Ghibli art, which has been trending, is an example of using AI to create your own image. Many people shared their personal image data with AI, but the data privacy is still ghosting many people's personal lives where they voluntarily gave access to their images to AI. It is not considered a violation of the law even if the right to privacy has been violated since the data protection legislation of India clearly exempts this voluntarily sharing from the data privacy provisions. Are you under the impression that you are knowingly allowing the invader to access your personal space?
- Yes  No  
 Never thought of it  Prefer not to say
8. If the copyright law has acknowledged the artistic work that is made by artificial intelligence, then it follows that a duty has been imposed to ensure the safety of the data that is exchanged with the AI model through the participation of humans. Do you consider this image to be realistic and applicable to real-world purposes?
- Yes, I know the fact.  No, I just got to know  
 I do not follow such news  Prefer not to say
9. AI generated artistic work must get a specific recognition under a IPR legal framework. Do you agree on this?
- Agree  Disagree  Can't Say
10. Any personal remarks on copyrightability of AI generated artistic work.