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Art and AI: Who Owns the Rights to AI-Generated Content?

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ABSTRACT

Artificial intelligence (AI) is a powerful technology that can create amazing works of art but the question arises - who owns the entitlement to these creations? This paper examines the legal implications and difficulties associated with artificial intelligence (AI)-generated content in relation to intellectual property rights. It explores the current status of the law in India and other jurisdictions and looks at the questions of authorship, originality, and ownership of works produced by AI systems.

The paper suggests possible ways to address the gap between the existing legal framework and the emerging reality of AI creativity backed up with arguments about the current laws and inadequacy to deal with the complexities whilst it highlights the ethical and social aspects of AI creativity and calls for an inclusive approach to foster innovation to protect human interests.

Keywords: *AI-generated content, Authorship, Intellectual property rights, Legal Framework.*

I. INTRODUCTION

Stories concerning the rapid development of AI technology has generated headlines all over the world, highlighting both the potential benefits and risks of this technology, which is very close to human-level capabilities.³ John McCarthy offered the definition of artificial intelligence where he said that AI goes beyond techniques that can be observed in biology.⁴ In basic terms, artificial intelligence (AI) refers to a group of software interfaces designed to enable computers to form opinions of their own without human intervention through the use of algorithms and commands.⁵

AI has improved to the point where it can create highly intricate artistic masterpieces. Currently,

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³ Bubeck S, Chandrasekaran V, Eldan R, Gehrke J, Horvitz E, Kamar E, et al. Sparks of Artificial General Intelligence: Early experiments with GPT-4, 24 LEIDEN J. INT'L L. 561, 561-580 (2023) [2303.12712] Sparks of Artificial General Intelligence: Early experiments with GPT-4 (arxiv.org).

⁴ John McCarthy, What is Artificial Intelligence? 1-2 (2007), www-formal.stanford.edu/jmc/whatisai.pdf.

⁵ Siddharth Jain, Artificial Intelligence and Copyright Law in India: The Predicament Concerning Computer Generated Works and Their Ownership, 2.1 DSNLUJ SCI TECH L 32, 32-45 (2022).

artificial intelligence is trained to produce artistic works of a quality that may exceed human imagination. Authorial works have been created using technology for a long time. Now, the matter of artificial creativity, together with the issue of artificial intelligence, has acquired substantial prominence in the intellectual property rights framework.⁶

Google regards its trademarks, logos, copyrights, trade secrets, and patents as the most useful assets they own, which means that any improper implementation of the free information policy will infringe on its intellectual privacy rights.⁷ It does not pose any problematic issue from a copyright perspective. In contrast, machine learning software with AI capabilities is the real creator of the finished products.

The concerns surrounding authorship of works protected by copyright that are produced by computers and artificial intelligence are the main topic. (AI), for this, I asked for ChatGPT-4 to identify the implications of AI for content production as a base of this blog post over a specific topic, then asked about the ownership of the content generated. The answer -

“As a machine learning model, I don't have the capability to own or assert copyright over the content I generate. The output I produce belongs to the user who prompts the request. If you use the content created by me, you have the right to assert your copyright over the specific implementation or arrangement of the information.”

AI cannot defend its intellectual property, bring legal action against others for copyright violations, or freely license or assign works. Margaret Heffernan (2019), classifies *“The human skills we need in an unpredictable world,”*⁸ especially "bravery, imagination, coalition-building, preparedness, and experiments." Her warnings against over-reliance on technical cures seem particularly current.

The ownership of computer- or AI-generated works is a pertinent, unresolved, and necessary topic that this paper aims to address. It also aims to comprehend legal issues surrounding intellectual property rights, particularly the possible effects of copyright law on AR technology.

II. ORIGINALITY, AUTHORSHIP AND AI

AI has infiltrated much of digital everyday writing and study, as well as futuristic activities.⁹

⁶ Shubham Sharma, Authorship of AI Generated Works Under the Copyright Act, 1957: an Analytical Study, 8.2 NULJ 37 (2019).

⁷ Rajat Sharma, Google will protect you from AI copyright cases, but T&C apply: All the details, TIMES OF INDIA.

⁸ Margaret Heffernan, The Human Skills We Need in an Unpredictable World, TED CONFERENCES (June 2019), Margaret Heffernan: The human skills we need in an unpredictable world | TED Talk.

⁹ Corinna Underwood, Automated Journalism – AI Applications at the New York Times, Reuters, and Other Media Giants, EMERJ (Nov. 17, 2019), <https://emerj.com/ai-sector-overviews/automated-journalism-applications/>.

The program receives structured data and "processes through conditional logic" it in order that the output sounds like a human generated piece of content. On the other hand, artificial intelligence is also used in architecture design through a concept known as "generative design," which one lab head at Alphabet, the parent company of Google, referred to as "working with an allpowerful, really painfully stupid genie."¹⁰

It is necessary to determine whether AI-generated works are right protectable. Only the "person" who develops the computer-generated work is granted authorship rights in India under Section 2(d)(vi) of the Copyright Act, 1957. Remarkably, on July 23, 2021, the Rajya Sabha released its 161st Report, entitled "Review of the Intellectual Property Rights Regime in India."¹¹ acknowledged that the current Copyright Act is not the best to support AI authoring and ownership, and they have called for a priority review of the law.¹²

Subsequently, where on the comparative analysis of US copyright law, the graphic memoir "Zarya of the Dawn" received limited copyright protection from the US Copyright Office, which is a recent advancement in the rapidly expanding field of artificial intelligence-assisted creative works.¹³

On the other hand, Indian courts don't say anything about the ownership of content created by artificial intelligence; however, there are instances where authorship of AI work is denied to the person claiming it due to copyright laws. Ankit Sahani, who owns Raghav, The AI-generated artwork Suryast has been the subject of two copyright applications made by an AI-based painting program. Raghav filed the initial copyright application for registration, which was immediately denied by the copyright registrar. The other application for registration was filed in Mr. Sahani's name, with Raghav as co-author. While the second Suryast application was registered, the Copyright Office later raised issues and attempted to cancel the registration.¹⁴

Straightforwardly, computational inventiveness is a method that encourages creative or inventive output nonetheless, has no essential bearing on subsequent intellectual property rights.¹⁵ However, this method has a detrimental impact, such as seeing a robot as conventional

¹⁰ Derek Thompson, The Spooky Genius of AI, ATLANTIC (Sept. 28, 2018), <https://www.theatlantic.com/ideas/archive/2018/09/can-artificial-intelligence-besmarter-than-a-human-being/571498/>.

¹¹ Department Related Parliamentary Standing Committee on Commerce, Review of the Intellectual Property Rights Regime in India, No. 161, Acts of Parliament, 2021 (India).

¹² Impact of US Copyright Office Guidelines on AI-Generated Work], 2023 SCC ONLINE BLOG EXP 33.

¹³ Sarah R. Wasserman Rajec, Zarya of the Dawn: How AI is Changing the Landscape of Copyright Protection, JOLT DIGEST <https://jolt.law.harvard.edu/digest/zarya-of-the-dawn-how-ai-is-changing-the-landscape-of-copyright-protection>.

¹⁴ Shradha Prakash, Copyright Ownership of AI Generated Content in India, HARVARD BLUEBOOK [20TH EDITION].

¹⁵ Deepak Somaya & Lav R. Varshney, Ownership Dilemmas in an Age of Creative Machines, 36 ISSUES SCI. & TECH. 79, 79-85 (2020), <https://www.jstor.org/stable/26949112>.

technology for innovation. Giving way authorship rights to an AI in an artificial intelligence work will have major repercussions and will be illegal unless parliament updates the laws and establishes AI's legal status. Furthermore, under Indian law, the 60-year protection period for original literary, theatrical, musical, and creative works begins the year after the writer's passing. If AI is assigned authorship over such work, the entire rationale for the temporal period of protection under copyright law is rendered inapplicable because AI exists indefinitely.

III. CONCLUSION

The grant of copyright registration in the name of an AI does not appear to be a practicable or plausible step thus far. Before AI can be granted copyright ownership, copyright law must undergo significant and complete modification. The degree of human involvement in task completion determines whether the work produced by AI is AI-generated or AI-assisted. The Copyright Act, 1957 does not usually protect AI-generated work because it is unclear what constitutes "originality" and "authorship/ownership" of the work produced by the AI system.

To fully address the situation, politicians should consider not only upgrading existing copyright legislation, but also enacting AI-specific laws and regulations. However, in order to avoid counterproductive overregulation that will eventually stifle necessary innovation, it will be beneficial to invite experts and entrepreneurs from all relevant industries to provide comments, contributions, and proposals on AI legislation in order to ensure a fair balance of all legitimate interests.
