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Copyright Violations through AI Generated Contents

VAISHALI SAMADHIA¹

ABSTRACT

This paper explores the violations of copyright through the AI generated contents such as contents from ChatGPT, AI is the emerging technology in present times with more people exposure to internet but the content of AI are owned by whom as they are not created directly by humans and such content cannot get copyright protection as it is not original work of author, we will understand these copyright violations as per copyright law in India in relation with content generated from AI. We would deal with infringement and liability that can be arise from such violations and also addressing the challenges in determining the ownership and authorship, through various case laws we will understand the importance of upholding the authorship and originality principle of copyright work and how AI generated contents are violating the rights of the author of the original literary work.

Keywords: Artificial Intelligence, Copyright, Copyright Violations, AI Generated Contents.

I. INTRODUCTION

“Artificial intelligence is not a substitute for human intelligence; it is a tool to amplify human creativity and ingenuity.”

Artificial Intelligence has been more revolutionized as now most of the people in the world are exposed to use of the internet and the increasing use of the technology in various fields and especially in entertainment field as AI is now getting used in creation of music, movies, gaming, photography etc. but is the work generated from AI can be protected under the copyright law.

Copyright means a protection to the creator of the original literary, artistic, dramatic or musical work like in case of literary work it includes any research paper, novel, film script. In case of Artistic work includes painting, architecture and craftsmanship etc. and dramatic work includes choreography, recitation and any scenic arrangements and Musical work includes all graphical notions that are used to create such work. So when the creator of such work gets copyright protection he gets all the exclusive rights and can prevent any other person from copying their original work under the copyright act but the work should be original work of creator and should have creativity. But the point of concern is that this protection from infringement is only given

¹ Author is a student at Amity University Madhya Pradesh, India.

to the work that are created by human and the copyright act does not cover any protection against the infringement of the AI generated contents.

Artificial Intelligence intersection with the intellectual property is leading towards several complexities that needs to be addressed as AI is the ability of machine to do work that are related to human intelligence but does not require any human intervention but this a point to contradict that then who will be considered as creator and owner of such work and will it get the protection under the copyright law as AI is becoming more efficient and effective and is getting exploited under many sectors and Intellectual Property Law especially the copyright does not have any law on such violations and such shortcomings hinders its usage that need to dealt with.²

(A) Research Methodology

This paper is descriptive and the research is based on secondary sources for a proper and better understanding of copyright violations through AI generated contents like ChatGPT. Secondary sources of information like websites, research papers, articles and journals are used for the research.

(B) Research Objective

The purpose of this research paper is to understand and analyze the issues of copyright violations through Artificial Intelligence generated contents, explore the important points like authorship and ownership, Infringement and liability. How AI generative contents leads to copyright infringement.

II. ARTIFICIAL INTELLIGENCE (AI) & COPYRIGHT

The intersection of AI and intellectual property particularly copyright leads towards various complex issues like the work generated by AI are not its original work and work they are generating is leading to copyright infringement of original author of that work. Copyright is the legal right given to author for the creation of an original literary, artistic, dramatic, musical, cinematography work created with use of human intellect and such owner have a right to exploit his work by granting his rights to third person in return of some amount of consideration through licencing or assigning his rights. But with rapid growth of technology and development of artificial intelligence people are now using AI which generates content without any human intervention and are created with the help of existing data and algorithms leads to a violation of copyrights of original author.

The main aim of copyright law is to grant exclusives rights to its original author and to preserve

² Is training AI to generate content a violation of copyright laws? | LinkedIn

the intelligence and originality of work created by them and further promoting others also to creates something with human intelligence and original work and their work will be protected leading to innovations in subject matter of copyright like literary, artistic, dramatic, musical etc. whereas the AI is working on the basis of existing data and algorithms which includes a huge amount of data from different individuals intellect and using such data by AI leads to copyright violations.

AI has become an important tool in various sectors like literature, art, computer software, transport, hospitals etc. the work of AI is continuously increasing and have become an integral part, it has become important to strike a balance between the elements of copyright which are originality and creativity which is created by human intervention and their intelligence whereas the AI generated content is capable of copyright protection or such content of AI is violation of copyright as they are not created with human intervention also the work of AI lacks in originality as their content is not original and created with the help of existing data and copyright is granted to a human author and not a AI software as most of the work in AI contents is done b AI itself and not by any human and therefore for copyright protection the must be original and creative and result of author's creativity, skill, judgement. A well known and most used example of AI is ChatGPT which answers to texts by compiling various data and through its algorithms it trained itself accordingly as these can replicate the original content of author leading to legal complexities and potential infringement of copyright laws.³

III. AUTHORSHIP & OWNERSHIP

One of the major complex issue that arises from the intersection of Artificial Intelligence technology and copyright is the status of authorship. Who is the author of original work so as section 17 of Copyright Act, 1957 talks about who will be the author of the copyright work it says that any person who causes the work to be created is the author of the work and the word person means any human or a legal person who have created any work with his human intelligence, and till now the AI is not termed as a legal person. Even though after so much of rapid and advancement in technological development the implementation of Artificial Intelligence requires an investment by humans because of this AI cannot be termed as a legal person. So Indian copyright doesn't recognise AI as an author as the giving AI the ownership of content produced such as from ChatGPT can further create more complexities and till now in India doesn't have any legal framework for addressing such issue. Authorship is essential for Intellectual property rights as these rights protects the interest of the creators and rewarding for

³ Balancing Indian Copyright Law with AI-Generated Content: The 'Significant Human Input' Approach

their creation but some have an opinion that authorship should be given to AI as it is capable of acting on its own but it is only a tool created for human assistance some also suggest that maker of AI should be given copyright for work created through AI.

Authorship: As per section 17 of the Copyright Act 1957 author is regarded as the first owner and an author of the work is the person who causes the work to be created and person word here only includes human or any legal person who can be hold liable for the work they created and if AI would be given status of legal person means holding it accountable for the its work as well in case if there is defamatory or scandalous work then but Ai has not been a legal person so then who will be held responsible for giving damages to the affecting party and as per our present legal system we don't have guidelines for such violations as infringement can only be done by any human and not by any juristic personality.

Ownership: who will own the work generated by AI for example all the content that is generated by ChatGPT so is ChatGPT is the owner or the person who is using such content will be termed as owner. As the work done by AI is completely created on basis of existing data and algorithms fed by the creator, so giving ownership of such contents to its creator is unfair as it's the user who has used such work created by AI, so deciding the ownership of such contents is a complex issue.

There was a case where a money took selfie of himself using device of another person and used it as his own property this was challenged in the court that who owns the picture so court held that owner of device is not copyright owner as copyright requires a human intervention.

The copyright law came to safeguard the rights of individuals who have created the original work with their human intelligence and to encouraging such creations by granting them exclusives rights like to exploit their work in return of some consideration for a specific period of time and protect the unauthorised use of such work. The use of copyrighted material has raised difficulties as ChatGPT are using the works of protected authors and artists for creating the their derivative works.

IV. INFRINGEMENT & LIABILITY

As per present legal framework it is silent as to who will be liable for infringement of intellectual property because as per the general rule if there is an infringement then then the author will be held liable so all these contents generated by AI then in such case the AI creator will be held liable for copyright infringement. To determine liability for AI created contents is a complex issue as to decide who will be responsible the AI creator or the user of AI generated content can bear responsibility as per copyright laws but AI is a tool for human assistance and is self

sufficient and work on its own without any human intervention then in such cases it becomes issue to determine liability because till now AI has not been given an status of legal personality.

Copyright infringement through AI generated contents problem arises to establish liability of AI as it works without human intervention its becomes complex to determine the beneficiary, also when you make the machine learn and present work from exiting data and algorithm patterns feed into the system accordingly increases the efficiency of imitating humans as with increasing growth of technology more power is now given to computer then it becomes difficult to identify which work is generated by machine and humans. Recently India had allowed AI Raghav to co-own the production of Suryast and also allowed other writers to be creators.

There are many countries that have started granting copyright ownership to creators of the AI system and this recognizes an AI creator for their intellectual creativity. AI works independently and responds to texts by generating the work so it should be considered as author and hold copyright ownership and should be held liable for the infringement that is caused because for example if the work generated by AI is offensive, or defamatory or if work generated is of earlier published work than it amount to copyright violations, but then AI cannot be held liable as they are not recognize as a legal person because copyright laws requires human intervention and authorship to any human or legal person as AI is only created for human assistance.

In case of *Infopaq International A/S v Danske Dagbaldes Forening*: the court held that copyright is granted to only humans over the work they created using human intelligence and it should be original work of the author created from his own intellect.

In *Achos Pty Ltd. V Ucorp Pty Ltd.*: in this case court had refused to grant copyright protection to AI as it is not been produced by a human being.

V. IS AI GENERATIVE CONTENT IS INFRINGEMENT OF COPYRIGHT

With the rapid development of technology and the advancement of AI has created a lot of complex issues and challenging to differentiate between AI generated work and original work by human leading to a major challenge for Intellectual property laws as vagueness in deciding the ownership, liability, infringement and ethical concerns related to using unlicensed data to train AI models. This issue must be addressed like with use of Fair use doctrine, authorised licensing or assignment, consent from owner, to determine whether the AI generative content is a violation of copyright. There are 4 criteria that need to be examined before invoking fair use doctrine these conditions should be adhered we can make sure that the usage of AI generative contents is ethical and in compliance with copyright laws:

1. **Nature & intent of the use:** a copyrighted material can only be used for educational, research, or any business purposes, so to find copyright violation it must be considered that for what purpose and intent it is been used and it should be just and reasonable. By this we can avoid any future legal challenges if you make sure that work has been used in a fair and ethical way.
2. **Composition of protected work used:** another important aspect is to make sure that creative work used in any project is based on factual or non- fictional material and should be informative and true and relevant to the topic of study otherwise it may lead to confusion or misrepresentation among the people.
3. **Proportionate size of work:** this means that while using any copyrighted work it has to be make sure that amount of work used is appropriate and in proportion to the entire work as compared to original work so that the author's original work is not copied and becomes an important part of your work, ensuring that original author's rights are not infringed and fair use is there.
4. **Impact on potential market and value of original work authorized:** when you are using a copyrighted work just make sure that it does not adversely affecting the market value of an original work. This is an important factor in determining whether or not it is appropriate to use copyrighted material. The criteria should therefore be carefully considered to avoid any negative impact on the potential market and the value of the original work.⁴

VI. CURRENT SCENARIO AS PER INDIAN LAW

Around the world we can see there are many copyright issues like violation of work created by AI. Every country have their own opinion for example In US there copyright law gives importance to human creativity as author of original work needs to be a human, whereas the UK copyright law have different opinion that accepts creative work of the AI and eligible to get a copyright but is silent on the ownership of the work. In India is still on traditional side, in case of *Rupendra Kashyap v Jiwan Publishing House Pvt. Ltd.* The court held that only natural person are eligible to that the work copyrighted and CBSE being an artificial person cannot have copyright therefore the copyright cannot be claimed by AI models. These challenges need to be addressed by either clearly defining the authorship over the work by AI to prevent any hardships or biasness against any human authors and their liability in case of infringement. In

⁴ Who owns AI-generated works? Here's what the laws say on copyright issue - India Today

case of creations by humans and AI both can be given joint ownership and for works by AI without human intervention should be governed from new legal framework. In India the Copyright Act, 1957 governs the creations of work by person here the term person only includes natural person or any legal entity. Indian Judiciary have said that AI cannot be termed as legal entity and not creator of copyrighted work. For determining the AI generated content is fair use or not examine the work with four criteria such as purpose, nature, intent, significance and impact on market. In India copyright is granted to an author means a person who has actually created the work it can be a human or a legal person.

VII. SUGGESTIONS

- As till now the AI has not been recognized as a legal person but the work done by AI should get recognition for their work if as per fair use doctrine, this can v=bring us to better situation.
- The Intellectual Property Code now should clearly get a update in compliance with new AI technology and addressing the new challenges arising in relation to ownership and infringement, liability of copyright.
- AI management department must comply with policies and guidelines effectively for example monitoring the work and keeping a proper follow up to ensure that content used is just and fair with ethical practices.
- A compliance officer should be appointed for legal protection or investigation and conflict resolution in case of copyright violations.

VIII. CONCLUSION

This intersection of Intellectual property rights and AI technology has posed many significant challenges in India. With rapid advancement of AI the potential for copyright infringement in increasing and we need to strike a balance between the AI generated contents rights of authors, and Innovation of AI with help of fair use doctrine we can minimize and resolve these issues leading to a good governance are steps for promoting the advancement of AI in India. The legal framework including a clear guidelines and standards to address such issues with fair use doctrine, authorised licensing or assignment and consent from the original owner. Going forward, there is a crucial need for an international cooperation in developing strong guidelines and training protocols for reproductive AI prototypes to encourage innovation and creativity in AI development and make sure to protect the intellectual property rights.

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