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Impact of Generative AI on Copyright and Creativity: A Legal Analysis with Special Reference to India

Ms. Vijaishree Tiwari, Dr. Nilesh Verma
[1]*Research Scholar, Dept of Law, R.K.D.F. University, Bhopal (M.P)*
[2]*Asst Professor, Dept of Law, R.K.D.F. University, Bhopal (M.P)*

Abstract: ***Generative artificial intelligence has moved copyright debates beyond ordinary copying and distribution into questions of training data, machine-authored outputs, market substitution and the future of human creativity. This paper examines how Indian copyright law can respond to AI systems that ingest protected works and generate text, images, music, code and audiovisual material. It argues that India should neither treat every act of machine learning as infringement nor treat every use of protected works for training as automatically lawful. The Copyright Act, 1957, Indian originality doctrine and fair dealing principles provide a foundation, but they require AI-specific application. The paper proposes a human-centred and market-sensitive framework based on disclosure of AI use, protection only for human creative contribution, liability for substantially similar outputs, calibrated licensing for commercial training datasets, preservation of research exceptions, and coordination with personality-rights and platform-governance rules.***

Keywords: Generative AI; Copyright; Creativity; Fair Dealing; Authorship; Training Data; India.

I. INTRODUCTION

Copyright law has always adjusted to technologies that alter the production and circulation of knowledge. The printing press, photography, sound recording, photocopying, software and the internet each forced courts and legislatures to ask whether new tools merely change the method of creation or change the legal meaning of creation itself. Generative artificial intelligence presents a sharper challenge because it is not merely a distribution technology. It is also a production technology. A model can draft poems, design images, imitate voices, write code and summarize news-like material in seconds. The question is whether this new productive capacity is built upon lawful learning or upon uncompensated appropriation of existing human expression.[1]

The difficulty lies in the distinction between technical learning and legal copying. Training a model usually requires collecting works, converting them into machine-readable form, tokenising or embedding them, and using them to adjust model parameters. At the output stage, the system may produce material that is wholly new, broadly stylistic, partially derivative, or substantially similar to an earlier work. The legal analysis must therefore separate three issues: the use of works as inputs, the copyrightability of outputs, and the effect of the technology on creative markets.[2] This paper argues that Indian law should follow a balanced path. Blanket immunity for AI developers would weaken the economic and moral position of writers, journalists, musicians, illustrators and performers. At the same time, a blanket prohibition on computational learning would chill research, accessibility, translation and innovation. The better approach is layered: strong remedies where protected expression is reproduced, disclosure and human-authorship rules for AI-assisted works, and licensing or remuneration models for large-scale commercial training where functioning licensing markets exist.

II. INDIAN COPYRIGHT FRAMEWORK

The Copyright Act, 1957 protects original literary, dramatic, musical and artistic works, cinematograph films and sound recordings.[3] Copyright is not a monopoly over ideas, facts, techniques, themes or styles. It protects the original expression of those elements. The statutory bundle of economic rights includes reproduction, communication to the public, adaptation and issuing copies, depending on the category of work.[4] These rights matter for generative AI because training may involve copying works into datasets or temporary storage, and because outputs may reproduce protected expression from the material on which a system was trained.

[1] Lionel Bently, Brad Sherman, Dev Gangjee & Phillip Johnson, Intellectual Property Law 7-11 (6th ed. 2022).
[2] Pamela Samuelson, Generative AI Meets Copyright, 381 Science 158, 158-61 (2023).
[3] The Copyright Act, No. 14 of 1957, § 13, India Code (1957).
[4] The Copyright Act, No. 14 of 1957, § 14, India Code (1957).

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Indian law also contains a provision for computer-generated works. Section 2(d)(vi) provides that for a computer-generated literary, dramatic, musical or artistic work, the author is the person who causes the work to be created.[5] This wording is useful but incomplete. It was drafted before contemporary generative AI and assumes that a human actor can be identified as the causal creator. A user who gives detailed instructions, curates alternatives, edits the result and determines expressive choices may be the person causing an AI-assisted work to be created. But a user who enters a broad prompt and accepts the first output has not necessarily supplied copyright-worthy authorship.

The Supreme Court's originality test in Eastern Book Company v. D.B. Modak is especially important. The Court rejected mere 'sweat of the brow' and required skill and judgment with a minimal degree of creativity.[6] This standard can prevent overprotection of machine outputs while preserving protection for genuine human contribution. A person should not obtain copyright merely by pressing a button; but where a person selects, arranges, rewrites or meaningfully controls expressive elements, copyright can subsist in that human contribution. Fair dealing under section 52 is more enumerated than the United States fair-use doctrine. It includes fair dealing for private or personal use, including research, criticism or review, and reporting current events.[7] The Delhi High Court's education-copying jurisprudence shows that Indian courts may interpret limitations in light of access to knowledge and public interest.[8] Even so, large-scale commercial training on expressive works gathered from the internet does not fit neatly within existing fair dealing categories.

III. TRAINING DATA, LEARNING AND MARKET HARM

AI developers often argue that training is analytical rather than expressive: a model studies patterns and does not normally keep a readable library of books, songs or paintings. Copyright owners respond that this learning cannot occur without reproduction at massive scale. Both propositions may be true. Training is not identical to selling pirated copies, but it normally begins with copying. The question is whether the copying is excused because it is transformative, incidental, research-oriented or socially beneficial. The broader scholarly debate on machine learning and fair use has emphasized that the answer may depend on the purpose of the use, the expressive nature of the inputs, and the risk of market substitution.[9]

Comparative developments are helpful though not binding in India. The United States Copyright Office's 2025 report on copyrightability reaffirmed that copyright requires human authorship and that protection may extend to human selection, arrangement or modification of AI-generated material.[10] Its separate report on generative AI training treated training as a context-specific issue and stressed that licensing and market effects are significant where commercial systems are trained on expressive works to produce substitutable outputs.[11]

The Thomson Reuters v. Ross Intelligence decision illustrates the market-substitution problem. The Delaware federal court held that Ross's copying of Westlaw headnotes to build a competing legal research tool was not fair use as a matter of law.[12] The case did not involve a general-purpose generative model, and Indian courts need not import the United States fair-use analysis wholesale. Its narrower lesson is still valuable: courts may be less sympathetic where protected material is used to develop a direct substitute in the same market. Indian litigation is also emerging. In ANI Media Pvt. Ltd. v. OpenAI, the Delhi High Court has been asked to consider allegations concerning use of news content for AI training and the generation of false attribution.[13] The case is ongoing, so its final doctrinal effect is uncertain. It nevertheless shows that Indian copyright law must address both input-side copying and output-side harms, especially in sectors such as news, music, film and publishing where licensing markets already exist.

IV. AUTHORSHIP AND COPYRIGHTABILITY OF AI OUTPUTS

The core of copyright is authorship. A copyright system that protects purely autonomous machine expression risks detaching copyright from human creativity. Scholarship on authors and machines has long warned that copyright doctrine should not confuse causation by a device with authorship of expression.14 Similarly, scholarship on machine authorship shows that legal personality, originality and incentives cannot be assumed simply because a machine produces an impressive result.15

[5] The Copyright Act, No. 14 of 1957, § 2(d)(vi), India Code (1957).
[6] Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1, 36-37 (India).
[7] The Copyright Act, No. 14 of 1957, § 52(1)(a), India Code (1957).
[8] Chancellor, Masters & Scholars of Univ. of Oxford v. Rameshwari Photocopy Servs., 2016 SCC OnLine Del 6229, 66-82 (India).
[9] Mark A. Lemley & Bryan Casey, Fair Learning, 99 Tex. L. Rev. 743, 746-50 (2021).
[10] U.S. Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability 2-3, 18-25 (Jan. 2025).
[11] U.S. Copyright Office, Copyright and Artificial Intelligence, Part 3: Generative AI Training 3-4, 77-91 (Pre-Publication Version, May 2025).
[12] Thomson Reuters Enter. Centre GmbH v. Ross Intelligence Inc., No. 1:20-cv-613-SB, slip op. at 20-26 (D. Del. Feb. 11, 2025).
[13] ANI Media Pvt. Ltd. v. OpenAI Inc., CS(COMM) 1028/2024, order at 1-5 (Delhi High Court Nov. 19, 2024).
[14] Jane C. Ginsburg & Luke Ali Budiardjo, Authors and Machines, 34 Berkeley Tech. L.J. 343, 349-58 (2019).
[15] Daniel J. Gervais, The Machine as Author, 105 Iowa L. Rev. 2053, 2067-72 (2020).

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For India, the most practical test is to distinguish AI-generated works from AI-assisted works. AI-generated works are outputs where the human role is limited to a simple prompt, acceptance of a result, or minor mechanical correction. Such outputs should ordinarily not receive copyright except for independently protectable human additions. AI-assisted works are different. A novelist may use AI to brainstorm but write the final chapter; a designer may generate rough images and then substantially redraw one; a musician may use AI suggestions but compose and arrange the final track. In those cases, protection should cover the human expression, not the autonomous contribution of the machine.

This approach is consistent with the Indian originality test. Section 2(d)(vi) can help identify the person who causes a computer-generated work to be created, but it should not erase the need for originality. Causation is not the same as creativity. A person may cause a photocopier to reproduce a page, but that does not make the operator the author of the copied expression. Likewise, a user may cause a model to generate output without authoring the protectable expression.

There is a separate question of infringement by outputs. Even if an AI output is not copyrightable, it may infringe someone else's work if it reproduces protectable expression. In R.G. Anand v. Deluxe Films, the Supreme Court emphasized that infringement turns on substantial similarity of expression rather than common ideas, themes or stock elements.[16] That principle can apply to generated images, songs, scripts and text. A machine's involvement should not excuse an output that appropriates protected expression from an earlier work.

V. CREATIVITY, ACCESS AND CULTURAL MARKETS

Generative AI can benefit creativity. It can help students, small businesses, disabled creators and regional-language users with drafting, translation, captioning, editing, coding and design. In India, where linguistic diversity and unequal access to professional tools are everyday realities, AI may democratize some forms of cultural production. It may also help preserve and restore old materials, create educational resources and improve access for users who cannot afford professional assistance.

At the same time, unregulated AI can weaken creative labour. If a model is trained on the works of journalists, illustrators, singers, coders or screenwriters and then supplies cheap substitutes, the market for human creators may shrink. Digital copyright scholarship has already shown that technological systems can shift bargaining power away from authors unless law pays attention to market structure.[17] The concern is not only copying of individual works; it is a one-way value transfer from human creative communities to large technology firms.

The problem is more acute where AI imitates identity. Deepfake and voice-cloning tools can mimic performers and public figures, raising personality-rights, passing-off and privacy issues beyond copyright. The Delhi High Court's Anil Kapoor order recognized the commercial and dignitary harm caused by unauthorized use of a celebrity's name, image, voice, mannerisms and AI-generated depictions.[18] Copyright therefore cannot operate alone; it must be coordinated with publicity rights, platform governance and information-technology remedies.

Overprotection would also be harmful. Copyright should not control facts, ideas, styles, grammar, genre conventions or general knowledge. A painter cannot monopolize a broad style, and a writer cannot monopolize a theme. The proper focus should be protectable expression, the scale and purpose of copying, the availability of licensing, market substitution, transparency and practical safeguards.

VI. RECOMMENDATIONS FOR INDIA

First, India should issue official guidance on AI-assisted authorship. The Copyright Office should require disclosure of material AI use in registration and should ask applicants to identify the human creative contribution. Protection should extend only to human selection, arrangement, editing, rewriting or original additions. This would reduce uncertainty while avoiding immediate statutory overreach. Second, India should build a training-data framework that distinguishes research from commercial deployment. Non-commercial research, accessibility projects and limited technical analysis may be accommodated through existing or expanded exceptions. Large-scale commercial training on copyrighted expressive works should move toward licensing, collective management, opt-out or remuneration models where identifiable licensing markets exist. Treatise commentary on copyright has long recognized that exceptions and licensing rules must be calibrated to technological realities rather than applied mechanically.[19]

[16] R.G. Anand v. Deluxe Films, (1978) 4 S.C.C. 118, 126-28 (India).
[17] Jessica Litman, Digital Copyright 18-22 (2001).
[18] Anil Kapoor v. Simply Life India, CS(COMM) 652/2023, order 21, 25, 40, 49-52 (Delhi High Court Sept. 20, 2023).
[19] 4 Melville B. Nimmer & David Nimmer, Nimmer on Copyright § 13F.07 (2025).

Third, transparency should be required at an appropriate level. Developers need not reveal every trade-secret detail of model architecture, but they should provide meaningful information about categories of training data, source policies, exclusion mechanisms and complaint procedures. This will help creators assess use of their works and help courts evaluate good faith, market harm and remedies.

Fourth, remedies should be proportionate. Where an output is substantially similar to a protected work, ordinary infringement remedies should apply. Where a system memorizes and regurgitates protected works, takedown, filtering and injunctive relief may be appropriate. Where the alleged harm arises from training on large datasets but outputs are not infringing, policy may prefer licensing or statutory remuneration over punitive damages. Courts should avoid shutting down socially useful tools unless infringement is clear, continuing and serious.

Fifth, India should coordinate copyright with personality rights, consumer protection and platform governance. Labelling of synthetic media, watermarking where feasible, and quick grievance mechanisms can address harms that copyright cannot solve. This is especially important for deepfakes, voice clones, false endorsements and AI-generated news-like content.

VII. CONCLUSION

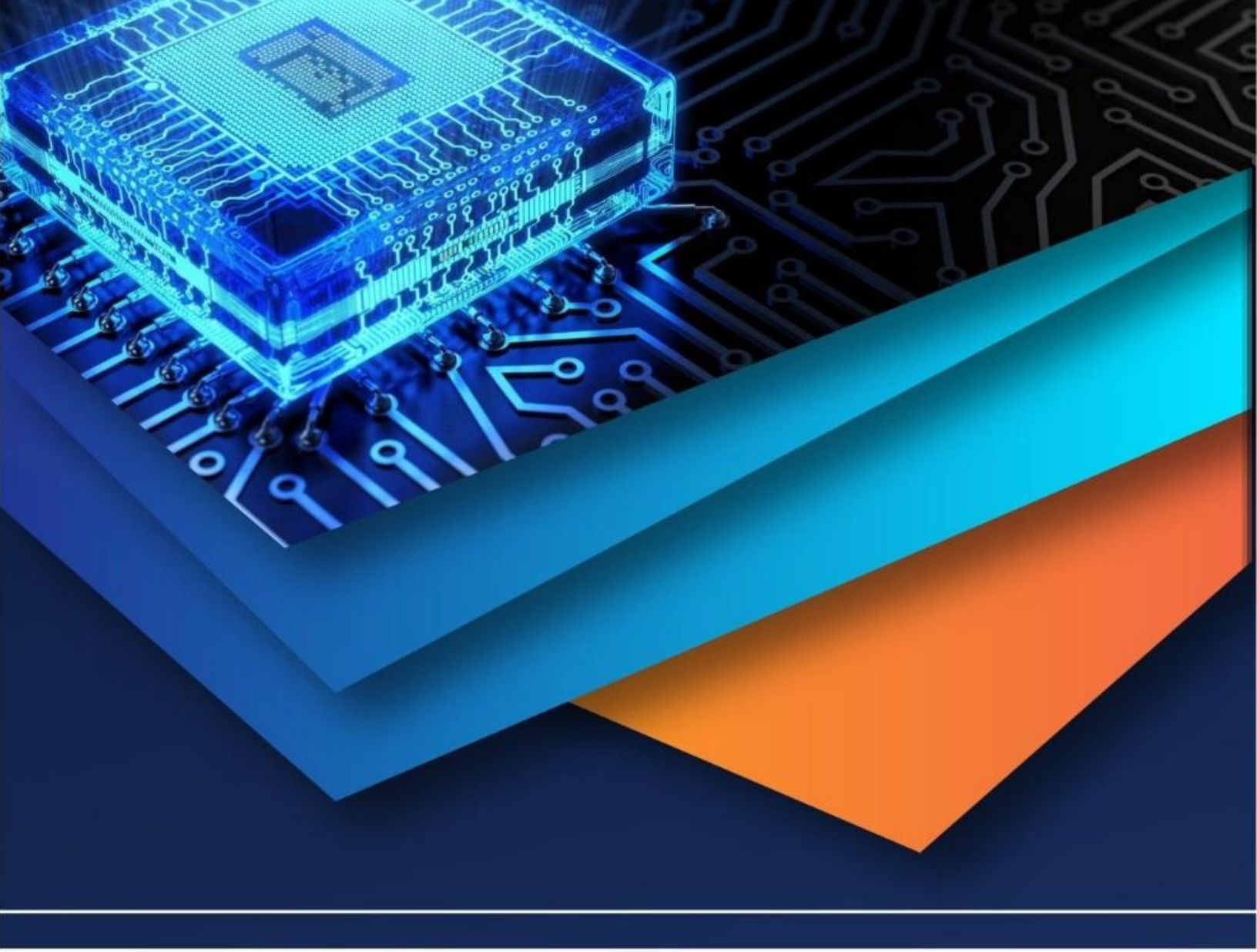
Generative AI does not make copyright obsolete. It tests whether copyright can remain faithful to its purpose in a new technological environment. Indian law should protect human creativity, encourage innovation and prevent unfair appropriation of expressive labour. The Copyright Act, 1957 already supplies important starting points: originality, authorship, economic rights, fair dealing and remedies. But those tools need AI-specific interpretation.

The most workable Indian approach is human-centred and market-sensitive. AI-assisted works should be protected only to the extent of human creative contribution. AI outputs that reproduce protected expression should be treated as infringing regardless of the machine's role. Training should be assessed by purpose, scale, commerciality, market effect, availability of licences and safeguards. This balance would allow India to support technological progress while respecting the labour of writers, artists, journalists, musicians, performers and other creators.

BIBLIOGRAPHY

[1] Ryan Abbott, The Reasonable Robot: Artificial Intelligence and the Law (Cambridge Univ. Press 2020).
[2] Research Handbook on Intellectual Property and Artificial Intelligence (Ryan Abbott ed., Edward Elgar Publishing 2022).
[3] Lawrence Lessig, Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity (Penguin Press 2004).
[4] Jane C. Ginsburg & Luke Ali Budiardjo, Authors and Machines, 34 Berkeley Tech. L.J. 343 (2019).
[5] Pamela Samuelson, Generative AI Meets Copyright, 381 Science 158 (2023).
[6] Annemarie Bridy, Coding Creativity: Copyright and the Artificially Intelligent Author, 5 Stan. Tech. L. Rev. 1 (2012).
[7] Shlomit Yanisky-Ravid & Luis Antonio Velez-Hernandez, Copyrightability of Artworks Produced by Creative Robots and Originality: The Formality-Objective Model, 19 Minn. J.L. Sci. & Tech. 1 (2018).
[8] Andres Guadamuz, A Scanner Darkly: Copyright Liability and Exceptions in Artificial Intelligence Inputs and Outputs, 73 GRUR Int'l 111 (2024).
[9] Peter Henderson, Xuechen Li, Dan Jurafsky, Tatsunori Hashimoto, Mark A. Lemley & Percy Liang, Foundation Models and Fair Use, 24 J. Mach. Learning Rsch. 1 (2023).
[10] U.S. Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability (2025).

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