

Indian Perspective of Intellectual Property for AI-Created Works

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Abstract: The frame around every canvas does not restrict the artist but defines the space where creativity can flourish. Without it, the canvas can lose form and the paint may run, rendering the work incomplete. Intellectual property (IP) functions similarly-it protects rather than stifles innovation. However, as the AI era unfolds, this protective frame is weakening. Data used for training AI models doesn't emerge from nowhere, and not all companies secure valid licenses before using copyrighted content. For instance, Getty Images' suit against Stability AI, the creator of Stable Diffusion, alleged unauthorized scraping of millions of copyrighted photos. Similar concerns have been raised against Google. These companies often defend their actions as "transformative use," while shifting the burden onto artists to opt out rather than requiring explicit consent. This is especially alarming in a world where intangible assets now constitute 90% of the S&P 500's total value, compared to just 17% in 1975. AI, contributing much to world economies, especially the £3.7 billion to the UK economy, complicates the matter further. Globally, there is no consensus on AI authorship or liability. In India, laws such as the Copyright Act and Patents and Designs Act provide no clear answers, as illustrated by the recent RAGHAV case. This research begins by situating IP as a structural safeguard for creativity in the digital era. The second section critically examines the legal uncertainty surrounding AI-generated works, focusing on authorship, licensing, and liability under Indian IP law. It draws on Parliamentary Standing Committee Report No. 161, which recommends a separate category for AI-based inventions-an encouraging step. The paper concludes by evaluating international models-particularly New Zealand's risk-based, light-touch regulatory approach-and argues that India must adopt a similar framework to ensure transparency, provenance tracking, and fair contractual practices between AI developers and users. Only then can we preserve creativity while encouraging responsible technological growth.

Keywords: AI; copyright act; getty images; intellectual property; Raghav case

1. Introduction

Leonardo Da Vinci, the renowned Italian polymath known for his magnum opus Mona Lisa, is said to have gone extents and deliberately poorly designed his artefacts and employed several anti-theft design methods that not only included mirror writing and reverse scriptures in his sketches but also extended to misleading diagrams which were deliberately ambiguous.

However, fortunately, this is not the case now. One no longer must deliberately put in layers of secrecy and unilaterally employ mechanisms to protect his or her data. This, for one, is due to globalization, where the ability of intellectual property (IP) to transcend national boundaries was first realized. This phenomenon resulted in the ability to sell various art forms-be it literary, musical, or dramatic-from one culture to another with little effort. For example, the simple 'symbol of resistance' against colonialism was enough for Mahatma Gandhi's promotion of Khadi to be embraced by artists, activists, and intellectuals globally, including Europe, where it found its way into fashion and art, influencing global movements (Prasad 2001). Figures such as John Ruskin (who admired Gandhi's notion of simple living) and Ralph Waldo Emerson were drawn to the values underlying Khadi. For them, the fabric itself symbolized a return to manual labor and self-reliance, which was attractive to Western thinkers who were critical of industrialization and mass production. So, this became the selling point. In the US, during 1960s and '70s, the concept of 'Khadi' shed its primary meaning and even started acquiring secondary meanings in US counterculture movements, where it became associated with environmentalism and peace.

Moreover, Bollywood songs have not always found immense success across the globe. However, thanks to digital platforms like YouTube and Spotify, they are now sold and enjoyed by diverse audiences worldwide. The height of this can be seen in how Sooraj Cherukat, the popular

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Malayali artist who goes by the label 'Hanuman kind,' saw his song Big Dawgs debut at number 57 on the US Billboard Hot 100.

The second important aspect can be attributed to the rising importance of intangible properties. According to WIPO's World IP Report (2017), on average, the value of IP and other intangible assets in products manufactured and traded along value chains is roughly twice that of tangible capital (World Intellectual Property Organization 2025). The Global Innovation Index (GII)-which ranks the most innovative economies based on their ability to adapt, sustain, and maintain the 'pulse' or 'spark' of innovation during tough times-suggested in 2023 that the global value of all intangibles was USD 62 trillion, after rapid and almost unpredictable growth spanning 25 years (World Intellectual Property Organization 2025).

However, nothing was amiss until this point because ownership, attribution, and authorship were clearly defined and, technically, conferred on the 'human.' So, the protective frame remained intact. But then came a new force-artificial intelligence (AI)-which weakened this protective frame. Initially, humanity did not realize its advent, but by the time it did, it was too late. This led to massive ambiguity, confusion, and chaos, with legal determinations and questions still awaiting answers. What took decades for globalization to achieve-shaping and necessitating the rise of this protective framework of intellectual property-was, in contrast, accomplished in just a few years by AI.

AI has enabled cross-border exchanges at an unprecedented pace (Dreyfuss and Ng 2018). Just as Khadi's symbolism transcended its original cultural context to enter new countries, AI-already ambiguously defined-has crossed borders, adopting multiple meanings and regulatory interpretations in every country. This has led to the critical question of who owns AI-generated works when they are used globally. Gradually, the lines demarcating ownership, attribution, and authorship have begun to blur.

2. Human Rights vs. Intellectual Property: The Ethical Collision in the Age of Generative AI

Gone are the days when IP and human rights were viewed as existing within the same framework (Austin 2021). These concepts cannot, in any form, be considered synonymous. If anything, they are mutually contradictory. As Ruth Okediji aptly states, *"Intellectual property is no more and no less than an instrument of social policy."* (Mtima and Jamar 2024). Early legal instruments-such as the Paris Convention for the Protection of Industrial Property, the Berne Convention, and Article 15(1)(c) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)¹-initially attempted to reconcile these frameworks. But over time, this interpretation is facing criticism, especially from UN Special Rapporteurs. Notably, Shaheed (REFERENCE) thoroughly examined the fundamental conflict between broad intellectual property rights (IPRs) and the fundamental goals of human rights in her December 2014 report to the Human Rights Council, Copyright Policy and the Right to Science and Culture (United Nations Human Rights Council 2014). She maintained that corporate actors' ownership and exploitation of IPRs should not be strengthened or expanded under the guise of human rights.

While addressing the Human Rights Council, the Special Rapporteur in the field of cultural rights made this sentiment more explicit. The speech was delivered on March 11, 2015, during the presentation of her final thematic report on copyright policy and the right to culture and science, as well as a report on a country visit to Vietnam. While the Special Rapporteur reflected on her six-year tenure as an Independent Expert and later as Special Rapporteur-focusing on IP regimes and their impact on cultural and scientific rights-she noted:

"Intellectual property rights are not human rights. This equation is false and misleading. In some ways, copyright policy falls short of adequately protecting authorship; in other ways, it often goes too far, unnecessarily limiting cultural freedom and participation."

She clearly addressed how human rights protections for authors do not align neatly with copyright law-sometimes they demand stronger safeguards for authors' dignity, and other times they require fewer restrictions to ensure public access.

"Third, protection of authorship as a human right requires in some ways more and in other ways less than what is currently found in the copyright laws of most countries. This holds true for both the moral and the material interests of authors."

Finally, she highlighted that the 'open licensing' system needs to be protected at all costs in this era to achieve the social objectives of IP:

"Our world is changing, and today open licensing is contributing to create a 'cultural commons,' in which everyone can access, share, and recombine cultural works. These are particularly important for the dissemination of scholarly knowledge and are increasingly encouraged in academic institutions. Such models should be strongly supported."

These statements play a pivotal role not only in demarcating human rights and IP reinforcing an important point-that the commoditization of creativity by manipulating legal frameworks to foster monopolies should be avoided (Dermawan 2023). Thus, human rights have relevance in the realm of copyright only insofar as they can determine how well IP policies fulfill their respective social objectives and serve the inventors and authors they were designed to protect (Medina 2025). However, in today's world, this is a primary issue. Big firms are hiding behind the guise of using unlicensed and unprotected works by strategically invoking the language of human rights to justify why IP regimes must necessarily be restrictive in nature. They control the data, models, and content, arguing that this is required to safeguard the material and ethical interests of creators. While using these dishonest strategies, they even refer to "transformative work" and fair use. This cloaks aggressive corporate monopolization in the rhetoric of human rights-they intentionally weaponize the human rights discourse to fortify their monopolies and insulate their corporate interests.

In reality, generative AI systems are typically trained on massive datasets-often referred to as "data lakes"-that include vast amounts of unlicensed and copyrighted material (Jeganathan and David 2024). Because these models rely on the systemic ingestion and transformation of such protected works, it is practically impossible to justify their use under doctrines like fair use or as the creation of derivative works. The issue arises not at the output stage, but at the input level, where the training process itself is built upon the widespread, unconsented use of original content-thus undermining the legal and ethical thresholds required for fair or transformative use.

¹. International Covenant on Economic, Social and Cultural Rights art. 15(1)(c), Dec. 16, 1966, 993 U.N.T.S. 3.

3. Defining IP Liability in the Age of Generative AI

AI and IP are certainly on a long journey towards mutual understanding. This reconciliation process will take time. AI is being perceived as a threat to existing IP frameworks. The intersection between the two is particularly complex because IP regimes were never designed to protect the outputs of artificial intelligence. In fact, AI is an unfamiliar legal territory that these systems were never prepared to confront. This dilemma draws on the basic premise that artificial intelligence, being non-human, contrasts with creativity, which traditionally involves human innovation and expression. Yet, AI-through its decision-making and content-generation capabilities-is pushing the boundaries of what IP was originally designed to protect, making those boundaries increasingly ambiguous.

Getty v. Stability AI:² Mass Claims and Dataset Opacity

One notable case is Getty Images v. Stability AI, in which Getty alleged that millions of its images were scraped to train Stability Diffusion without permission. A peculiar legal situation arose in this context that led to a significant question. Alongside Getty, a sixth claimant, Thomas Barwick Inc., represented over 50,000 claimants whose works were also allegedly licensed exclusively to Getty. This led to an attempt at a ‘mass claim’ suit. The court, however, rejected this representative action, due to insufficient proofs to determine which particular images had been used in training and, consequently, no concrete evidence that the claimants had the same interests or legal standing. The core issue lies in identifying a coherent ‘class of claimants’ (Schor 2024). Stability AI acknowledged that some Getty images had been used but failed to specify which ones. This vagueness hindered the formation of a legally cohesive class. The court cautioned against using vague class definitions or late procedural maneuvers to simplify complex litigation into an unsuitable mold.

The ruling, which was criticized for ignoring current issues, concentrated mostly on future preventive measures. It proposed that clear disclosures about AI training, like those being considered in the UK, would greatly lessen the burden on creators, allowing them to demonstrate that their work was used and take successful legal action (Merebashvili 2025). When asked about the feasibility of ‘sampling’ datasets to verify infringement, the court responded hesitantly, suggesting that such measures might become viable depending on future standards and transparency levels. Although it is reasonable to criticize the court for not taking more initiative to address pressing issues, the case highlighted that the size and opacity of AI training processes are currently beyond the scope of IP laws and procedural regulations. Until regulatory clarity and standardization-such as mandatory dataset transparency-are established, claimants will face challenges in coordinating large-scale enforcement actions.

Andersen v. Midjourney:³ Class Action and the Question of Direct Infringement

This is by no means an isolated incident. A similar situation arose in late 2022, when legal action prompted courts directly address the ongoing concerns about AI and copyright. Sarah C. Andersen, the American cartoonist known for her works Sarah’s Scribbles and Fangs, filed a class action lawsuit after garnering support from several other artists. The suit was brought against Stability AI, Midjourney, and DeviantArt in federal court for copyright infringement.

“*I see a monster forming.*” Andersen said in response to the LAION dataset, which consisted of approximately 5.85 billion CLIP-filtered image-text pairs scraped from Google to train AI image generators. Although the recreations produced by Stable Diffusion weren’t exact copies in the conventional sense, they nonetheless alarmed Andersen and many others. In its 12th August ruling, the court dismissed claims under the DMCA, as well as those for unjust enrichment, breach of contract, and breach of the implied covenant of good faith and fair dealing. However, it declined to dismiss claims brought under the Lanham Act (Trademark Act of 1946). The plaintiffs were able to plausibly argue both induced and direct infringement. Regarding the latter, although the defendants argued that Andersen and her co-plaintiffs failed to allege any active steps constituting direct infringement, the court rejected this defense. It reasoned that the defendants’ entire data lake was built on copyrighted material, thus weakening their claim-unlike previous cases involving neutral technologies, such as VCRs, where the intent to infringe was not easily inferred. The court further noted: “*Both the model theory and the distribution theory of direct infringement depend on whether plaintiffs’ protected works are contained, in some manner, in Stable Diffusion as distributed and operated.*” Finding that this claim had merit, the court allowed the case to proceed. The trial is now scheduled for September 2026, where several significant legal questions are expected to be addressed.

4. Artistic Style, Fair Use and AI’s Challenge to Copyright

An interesting question arises in the context of us starting to dehumanize every humanly endeavor we did before. And of course, there exists the question of whether this humanization by an AI or some other trained model can be touted to be valid. An even more significant question arises, as to what is the real consequence now of this dehumanization?

Hayao Miyazaki, the Japanese manga artist and filmmaker who’s well known for films like Howl’s Moving Castle, My Neighbor Totoro, Spirited Away, has always spoken against AI-generated art. In a popular video that surfaced from the past recently, he has spoken against a team of young CGI animators who showed him the potential of AI to create animation just by training it and has called it an ‘insult to life itself’. This has now surfaced after the recent uproar caused by a section against ‘Ghibli stylized AI art’ by OpenAI.

Style vs. Substance: The Legal Grey Area of Aesthetic Mimicry

The question remains as to if these are copyrighted works that the models are trained on, regarding that the company maintains that it uses publicly available data and provides mechanisms for content owners to opt out of training datasets. And even considering that those are copyrighted, do they need to get permission before engaging in such an act?

² Getty Images (US) Inc. & Ors v. Stability AI Ltd, [2025] EWHC 38 (Ch) (14 Jan. 2025).

³ Andersen v. Stability AI Ltd., No. 3:23-cv-00201-WHO (N.D. Cal. filed Jan. 13, 2023).

However, it is to say that they are currently in a position where Studio Ghibli is in a state of paralysis. This is in furtherance of the view that even if they have a grievance, concern, and are sure that it is on their copyrighted material that the models have been tried on and the same hasn't been licensed, they are in a legal deadlock. Because they don't really have a resort in the form of any precedents to rely on, nor are the conventions or acts of any use to them. It remains unresolved whether training on copyrighted content-especially if scraped from the internet-constitutes infringement (Artificial Inventor Project 2025). Even under the relevant act, that could be turned into this sort of a moment, it is unclear as to whether they'll get protection as there is still ambiguity regarding the extent to which AI-generated works can be considered infringing, particularly when the output does not directly replicate specific copyrighted elements but only mimics a general style or aesthetic (Desai and Riedl 2024).

This is in furtherance of considering the 'idea-expression dichotomy'. In such a legal suit, it would be paramount for Studio Ghibli to show the court that it was not the 'Ghibli look' say, the soft color palettes, dreamy landscapes, expressive characters-that were copied, since all this fall under the category of 'style'. This is in view of the fact that the law or the Lanham Act under which these people could claim only protects specific expressions and these don't extend to 'artistic styles' (Raghav 2012). The need of the time is that there should be a clear line demarcating infringement from non-infringement; however, unfortunately, there's little to no precedent regarding AI systems mimicking styles. Courts are yet to resolve whether AI outputs that "feel like" a creator's work count as derivative or infringing. And regarding the question initially touted to be of the primary importance, the consequence? As we all know, Copyright law or even the Lanham Act typically requires human authorship, but it is observed that AI-generated images lack clear human creators, making it hard to say who-if anyone-violated copyright in the first place (Błaszczuk, McGovern and Stanley 2024).

Some, like Rosenberg, now the founder of Telluride Legal Strategies, whom 'Futurism' reports argue that training data use and transformative outputs fall under "fair use" especially if outputs don't recreate specific scenes or characters-and OpenAI clearly doesn't reproduce specific scenes or characters due to the conditional or contingent nature of generative AI, it becomes a hard question and even courts haven't clearly defined where the line lies (Beebe 2012). Only one argument that might give some sort of trouble to OpenAI is the 'moral rights' line of arguments, or even dilution, but even these arguments lack firm footing in many jurisdictions. Moreover, if the AI doesn't reproduce specific scenes or characters but only mimics the "aesthetic," or the "feel," courts may say no specific protected work was harmed. And to add on to this is the fact that courts haven't decided if AI mimicking a style without directly copying elements qualifies as a derivative work.

Opt-Out Mechanisms, User Liability, and the Role of Courts

The recent 'opt out' excuse behind the veil of which it seems today all companies have hidden, and OpenAI may easily retort that they provide all the necessary mechanisms for content owners to opt out of training datasets. Another slightly disturbing and threatening question courts will have to answer is regarding the user's liability. Since generative AI is reliant on the input that is given by a human user, the question is whether OpenAI may shift responsibility to users, not itself, under its terms of service. The tool is generative-users input prompts; OpenAI does not control or publish those prompts or outputs directly.

However, the dispute isn't merely black and white. While considering the sentimentality that as AI continues to grow and upgrade, human artists could be displaced, leading to a significant shift in the creative industry, courts and legislators should come up with a solution that acts neutrally in a way that sympathizes with this, while simultaneously recognizing the rights of AI in democratizing creative tools. So, much depends on how these questions are answered by the court in the future, and courts and legislators should dispose of these questions as quickly as possible, not answering these questions would potentially put parties at a legal blockade, not able to claim infringement in cases where it's offensive to their art. In the meanwhile, legislations should play an important role in recognizing AI as an important tool while framing the regulations, and it shouldn't undermine the part of AI in any manner.

5. Authorship, Agency, and India's Ip Dilemma On AI-Assisted Creativity

The existing landscape is rather a tacky one. The whole object of intellectual property in the first instance, is to incentivize creations. However, the question of how well the same will apply in the case of AI-based applications and tools is one to be questioned. Enter 2021: India grants for the first time the recognition of Suryast, which is an artwork produced by an AI model called RAGHAV (Robust Artificially Intelligent Graphics and Art Visualizer) (SpicyIP 2023). While the move was revolutionary and progressive, as it came right after South Africa became the first country to issue a patent designating an AI tool-DABUS-as the inventor, in 2023 the IP office withdrew it (Conlon 2021). The same raises various jurisdictional concerns as well as other legal concerns. All these stems from India's inability to keep in line with the advancement of technology; we have unfortunately always been falling behind in this regard.

Despite Ankit Sahni, its creator, who also happens to be a lawyer-whose illustrious career is marked by experiences in the International Trademark Association, of which he's still working, and the European Union Intellectual Property Office-claiming that 'he could control the extent of "style transfer" from the style input in the software', the US Copyright Office, while rejecting his application, based their rejection on the contention that the final image was a derivative work primarily authored by RAGHAV. Sahni retorted with contentions based on the 'assistive' nature of the work, its non-derivative character, and the human assets involved in the same, akin to a camera or photo-editing software, and that his inputs were integral to the final artwork. Soon after this, in 2023, the Indian Office issued a withdrawal notice, requesting clarification on RAGHAV's legal status. The notice highlighted that, under Sections 2(d)(iii) and 2(d)(vi) of the Indian Copyright Act, 1957, an 'author' must be a human who creates a work. Sahni contested the withdrawal, arguing that the Office lacked the authority to revoke a granted registration. Because of the hesitancy coefficient and the ongoing discussion in India about AI-generated works, Suryast's status is still unclear.

So, this is as an important illustration of the ongoing battle by the international legal community to define authorship and ownership in the context of AI-generated content. Much to Sahni's dismay, the court finally decided that, despite his involvement being clearly creative, it did not qualify as copyrightable authorship. The court determined that these efforts were not sufficiently original or direct to qualify as authorship, even though the style was chosen, the input parameters were established, and the final

product was curated. This highlights a crucial conundrum: as the distinction between human input and machine output becomes hazier and dubious in particular-IP regimes everywhere need to reconsider how creative ownership should be assessed and safeguarded.

The analogy Sahni drew—likening RAGHAV to tools like cameras or photo-editing software—definitely deserves deeper consideration. If photographers are granted rights over works produced with highly automated cameras, or digital artists with AI filters, then denying Sahni the same appears inconsistent. This draws attention to the thin and problematic line our laws currently draw between ‘assisted creation’ and ‘authorship’. The US case *Feist Publications v. Rural Telephone Service Co.*⁴ requires only a modicum of creativity for protection, yet insists that such creativity must originate from a human. Indian jurisprudence too has, in *Mathrubhumi v. Narendra Publishing*⁵, acknowledged the editorial discretion involved in deriving new works as copyrightable—an argument that strengthens Sahni’s position.

Another dimension is the question of moral rights and agency. Can a machine possess moral rights? Likely not. But can a human exercising aesthetic discretion over a machine’s output deserve such rights? Possibly. The WIPO Standing Committee on Copyright has begun grappling with these issues, suggesting a model where the threshold for human authorship is recalibrated to accommodate ‘curatorial authorship’ where humans guide the process, even if machines execute the details. This perspective supports Sahni’s contention that he was more than a passive operator; he was a co-creator in the truest sense. This uncertainty about AI authorship has a detrimental effect on the creative industries. Developers, artists, designers, and filmmakers are in a legal limbo when using AI tools, unsure if their work will be protected. This chilling effect may deter the use of AI in creative innovation or force creators to relocate to nations like China that have more transparent laws. Such legal lag can hurt India’s standing as a hub for technology and intellectual property in the global digital economy. Indian law must change going forward, either by legislative amendment or judicial interpretation. Indian parliament needs to include a framework for AI-assisted creations, maybe based on global models that strike a balance between technological assistance and human creativity. WIPO discussions, scholarly opinions by figures like Lawrence Lessig and Shamnad Basheer, and global case studies can inform this much-needed reform (Beer 2009). Without it, cases like *Suryast* will continue to symbolize not just individual disappointment, but rather a systemic failure to embrace the future.

6. Comparison between Indian and New Zealand’s AI-IP Models

India is lagging behind in the provisions it has with respect to intellectual property specifically, and in creating a regulatory framework in general. Currently, India has rather inefficient provisions regarding ownership and recognition of AI-generated works, and not ready to come to terms with its fully deficient nature. This leaves India stranded in a state of ‘administrative’ and ‘judicial’ hesitancy. It is within this void that India dwells, and it is within this space that all its homegrown AI systems—and foreign systems, from OpenAI too—exist.

A notable exception—though still not sufficient to this exists in the Copyright Act of 1957, which recognizes the person who creates a computer-generated work as the author of the work. However, it is unclear whether AI-generated works would fall under the ‘computer-generated work.’⁶ Nonetheless, this is comparatively better when we consider acts like the Patents Act, 1970, or the Designs Act, 2000, where such provisions don’t even exist. When compared to the UK Copyright, Designs and Patents Act 1988 (CDPA 1988), India’s provisions fall woefully short, as the latter grants recognition—but only for the ‘arrangements necessary for the creation of the work.’

New Zealand is faring better in terms of intellectual property, as its approach has been multifaceted and prone to certainty, tackling various domestic legislations and international agreements in its own way. India’s first-to-file approach differs from New Zealand’s. In New Zealand, the framework governing the first-to-file approach is much more stringent and stricter than India’s. In India, more weight is given to prior use in trademarks; according to Section 34 of the Trade Marks Act,⁷ The law carves out a statutory recognition of prior use, stating that the proprietor of a trademark shall not interfere with the use of a similar mark by another party who has been using it prior to the registered proprietor. Consequently, Indian courts often uphold common law rights based on prior use.

New Zealand’s courts are typically quick and more effective, and enforcement is less bureaucratic (Sharp et al. 2010). Intellectual Property Office of New Zealand (IPONZ) is known for being user-friendly. Contrarily, litigation can take years and enforcement is frequently slow in India. The enforcement of intellectual property rights frequently relies on injunctions and temporary relief rather than speedy trials, and courts are usually overworked and hesitant. In both countries, intellectual property rights are regarded as private property, and governments do not defend them on behalf of private individuals. However, there is a widespread expectation in India, particularly among foreign rights holders, that the government will step in through policy or regulatory measures, especially in sectors like pharmaceuticals (e.g., compulsory licensing in *Bayer v. Natco*, 2012⁸).

The strategy used in New Zealand is more direct and unyielding: proactive enforcement by the owner takes precedence over any political resolution of legal disputes. Due to an active border protection regime, IP holders in New Zealand can register their rights with customs to prevent the importation of goods that infringe upon their rights. Although border controls are in place in India as well, the Indian Customs registration system (ICEGATE) is less effective and rarely used (EU Commission Study 2025). New Zealand has a mature IP culture, especially among startups and tech companies. India is evolving, but IP literacy remains uneven, especially outside major urban and corporate hubs. IPONZ provides accessible, plain-language guides for creators and inventors.

4. *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340 (1991)

5. *Mathrubhumi Printing & Publishing Co. Ltd. v. Vardhaman Publishers Ltd.*, [1992] 73 Comp. Cas. 80 (Ker.)

6. The Copyright Act, No. 14 of 1957, § 2(d)(vi), India Code (2021).

7. The Trade Marks Act, No. 47 of 1999, § 34, India Code (2021).

8. *Bayer Corp. v. Natco Pharma Ltd.*, OA/35/2012/PT/MUM (Intell. Prop. App. Bd. Mar. 4, 2013).

India's IP office has improved significantly compared to the past, but its guidance remains more legalistic and less navigable for laypersons. On July 25, 2024, the New Zealand government released a cabinet paper called "*Approach to Work on Artificial Intelligence*" proposing strategic approach to AI in Aotearoa New Zealand. Hon. Judith Collins KC, the Minister of Science, Innovation, and Technology, is in charge of this project, which is a light-touch, proportionate, and risk-based regulatory approach to AI.

A very calculated framework for AI development is outlined in the Cabinet paper in five main areas namely encouraging AI adoption to boost productivity and innovation; facilitating the safe and responsible use of AI in public services; offering advice to companies on how to use AI to boost economic growth; interacting globally to influence international AI norms and standards; and coordinating AI developments to support national security interests. New Zealand's regulatory philosophy is constantly evolving and smart. Instead of enacting a standalone AI Act like the European Union, New Zealand used existing laws, such as those relating to consumer protection, privacy, and human rights (Ministry of Business, Innovation & Employment 2010). They firmly state that any 'consideration' should only be given to regulatory actions when necessary to address urgent risks or spur innovation. This approach has statistically encouraged the responsible development and application of AI in accordance with the OECD AI Principles. The Government Chief Digital Officer (GCDO) is tasked with leading AI adoption across public services, setting standards, and guiding agencies in ethical and secure AI use.

Their very attitude is something that catches everyone's eye, especially regarding how New Zealand positions itself on the global stage. It shows its passionate attitude and commitment in aiming to be a "fast follower" in AI-adopting successful international practices and standards. Engagement in global AI initiatives ensures that New Zealand remains abreast of emerging risks and helps it utilize every single opportunity that is presented. International perspectives on AI inventorship and copyright protection has a lot to offer to India for its framework strengthening (de Beer 2009). The divergent legal frameworks across the world convey the similar legal conundrums being faced by jurisdictions all over the world. The legality of AI authorship is up for debate because the DABUS patent in South Africa was awarded by the IP Office rather than a court (Khurana & Khurana Advocates and IP Attorneys 2025). Citing the requirement for a natural person, the UK and EU have specifically rejected patent applications that name AI as an inventor. China, meanwhile, has adopted a more accommodating stance by giving AI-assisted works limited copyright protection-so long as it can be shown that significant human input was involved. These changing models show how different people around the world are handling the same technological reality, which emphasizes how crucial it is for India to update its own position in order to stay relevant.

7. The Promise and Pitfalls of India's Parliamentary Report

In India, a much-needed clarity seemed to be finally arriving through the Parliamentary Standing Committee Report No. 161, titled "*Review of the Intellectual Property Rights Regime in India.*" (Dep't-Related Parliamentary Standing Committee on Commerce, Rajya Sabha 2021). The main objective of this report was to emphasize the necessity of updating the present IP legislations to make them more accommodative of evolving technology. Especially with the rise of AI-generated works and solutions, it interestingly suggests that these should not be integrated into the existing framework but rather calls for the creation of a separate and isolated category for IP protection specifically for AI-generated works.

While this certainly seems ambitious, a deeper examination reveals the real flaws associated with it and the superficiality it encompasses. This 2021 report, although acknowledges the rising economic potential of AI-projecting a possible USD 957 billion contribution to the economy by 2035-and recommends a re-evaluation of existing IPR frameworks to accommodate AI-generated innovations, falls short in critical ways. This report, despite being well-intentioned, fails to engage with the deeper legal, technical, and philosophical questions involved in recognizing AI as an inventor or owner under the Patents Act, 1970 (Jhavar 2021). The consequences of recognizing AI as a creator, as highlighted earlier, are significant raising many important questions. The credibility and concreteness of the entire report are seriously compromised as important concepts like "AI-generated works" and "AI solutions" are undefined and that Indian patent law currently requires a human inventor (Section 6(1)(a)⁹).

Granting AI inventorship would require both major legislative changes and the creation of a new legal status, perhaps similar to "electronic personhood," as discussed in the EU Parliament. The Report's recommendations also ignore issues such as AI's lack of accountability, legal personality, and the capacity to enter into contracts, assign rights, or carry out obligations. Some jurisdictions, such as the UK, EPO, and USPTO, have rejected patent applications listing AI as the inventor due to the absence of a human inventor, while others, such as South Africa and Australia, have shown differing degrees of openness to AI inventorship (e.g., the DABUS case). A thorough, fact-based investigation into these complexities has yet to be initiated by the Indian government. The legal definition of an "inventive step" depends on a person skilled in the art, and Section 6(1)(a) of Indian patent law currently requires a human inventor-both of which are incompatible with autonomous AI outputs (Jhavar 2021). Furthermore, proposals to name AI as an inventor or owner fail to acknowledge that machines lack legal personality and accountability. Granting such rights to AI undermines the fundamental tenets of IP law-ownership, enforceability, and responsibility. Jhavar notes that India's involvement in this discussion is still quite limited but draws on global examples, such as how South Africa and Australia have handled the DABUS case, to illustrate the divergence among jurisdictions. Hastily integrating AI into current IP regimes risks compromising the integrity and enforceability of patent law in the absence of a sui generis framework or thorough legal analysis.

8. Suggestions

India has the potential to become a center for technological innovation and digital creativity. Although the Parliamentary Standing Committee Report No. 161 indicates a readiness to examine reforms unique to AI, its suggestions are conceptually undeveloped and practically ambiguous. Creators and innovators run the risk of being forced to operate in foreign jurisdictions or, worse, into uncertainty due to a lack of clear definitions, enforceable standards, and a strong dispute resolution mechanism with more

⁹ The Patents Act, No. 39 of 1970, § 6(1)(a) (India).

predictable legal environments (Varsha 2021). A more forward-thinking, risk-based strategy that strikes a balance between innovation and accountability is provided by New Zealand. India would do well to adopt New Zealand's regulatory model, which places more emphasis on openness, the current legal framework, and moral application than it does on strict laws or disjointed amendments.

Perhaps most importantly, though, this discussion is about power, agency, and justice rather than just law or technology. Reclaiming intellectual property as a framework that values the labor and dignity of human creators is crucial at a time when large corporations are using the terms "transformative use" and even "human rights" to cover up exploitative practices. IP shouldn't be used to strengthen monopolies or weaken material and moral rights, particularly as the creative economy depends more and more on digital tools. The future of intellectual property lies not in resisting AI but in reimagining the canvas upon which creativity is expressed and protected. Legal reform must embrace the hybridity of human-AI collaboration, ensuring that innovation is neither stifled by outdated norms nor exploited under the guise of progress. Only through a deliberate and principled recalibration of our IP laws can we ensure that the rights of creators-both human and human-guided-are upheld in a world shaped by algorithms. In this new canvas of creation, the law must do more than frame the picture-it must preserve its soul.

India should establish a separate legal category for AI-generated and AI-assisted works, with clear definitions of authorship and ownership. AI developers should disclose datasets used for training, ensuring accountability and enabling creators to verify unauthorized use. IP laws can be amended to credit human creators for their aesthetic input and creative direction, even when final execution is by AI. Fair-use based licensing schemes should be introduced for training data, ensuring creators are compensated when their works are used. Moral rights should be expanded to cover cases where AI mimics an artist's distinctive style, even without directly copying content.

9. Conclusions

Artificial intelligence has become both a creative force and a legal oddity as the global digital landscape changes at a never-before-seen rate. The current IP regimes based on originality, human authorship, and the ability to assign liability, are unable to handle the subtleties of works produced by artificial intelligence. Machines can now produce outputs that go against the definitions and tenets that have long guided IP laws, from literature and art to invention and design. This study has illustrated that legal community is grappling with the fundamental questions posed by AI: Who owns the work generated by an algorithm? Can a machine be an author or an inventor? What are the rights of a human who guides, curates, or directs an AI system? Not only are these questions theoretical, but they are also showing up in boardrooms, courtrooms, and creative studios all over the world. The Getty v. Stability AI and Andersen v. Midjourney lawsuits, along with the removal of copyright registration for the artwork created by RAGHAV in India, highlight how urgently these issues must be resolved.

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