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Copyright Ownership And Ai-Generated Works: A Legal Conflict?

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Abstract: *Generative Artificial Intelligence is able to create works of literature, music, visual arts, photography, software as well as other audiovisual materials under minimal human involvement. As the creative potential of generative AI continues to evolve it challenges the historic roots of copyright law that have traditionally been based upon human authorship, originality and legal identification of the creator/owner. This Article will examine whether an AI-created work is eligible for copyright protection and if so where title should rest with the user, programmer, developer or individual who facilitates the creation of the AI. The paper is primarily concerned with India's Copyright Act 1957 but also compares development in the U.S., U.K., E.U. & China. In addition, this paper will evaluate how human creativity input differs from non-human generated AI-assistance; the extent to which a user maintains creative control; the ability to contractually assign rights to users of AI systems; and the potential that uses of AI could lead to infringement claims against existing works. Emerging jurisprudence (e.g., the Indian Copyright Office's 2026 decision regarding the DABUS determination and the recent U.S. litigation in Thaler v. Perlmutter) indicates growing agreement that an AI system cannot independently act as an author. However, Indian law's use of "the person causing" a computer-generated work to be created creates ambiguity surrounding issues of prompt creation, creative control and multiple claimant(s). Ultimately, this paper advocates for a human-centric model using a contribution-based approach that includes disclosure, record keeping and provides some protections to qualifying human expression.*

Key words: Artificial intelligence, copyright, authorship, AI, computer-generated work, DABUS, human.

1. Introduction- Generative Artificial Intelligence (AI) has dramatically impacted how people perceive both technology and creativity. Today's contemporary AI systems are able to generate poetry, research papers, paintings, music, movies and software code based on what the user provides via prompts. While the results may seem original and possess commercial value, there was no human that determined each element of the creative output. This causes a fundamental legal contradiction; U.S. Copyright Law affords copyright protection for all forms of creative expression produced by an author, yet generative AI systems do not have legal personalities and therefore cannot establish either moral or economic interests in their generated outputs.

There are also two different legal issues at play here. The first question is whether a work generated by a generative AI system is eligible for copyright protection. If so, then the second question becomes who would be entitled to claim such copyright protection-the creator/developer/user of the AI model, the developer/model provider/manufacture, the employer of the developer/model user or some other individual?

It is essential to note that these two questions are separate from the third issue regarding the legality of utilizing copyrighted materials as inputs into an AI training process. The use of copyrighted materials for AI training could potentially infringe upon those copyrights as input works. In contrast, the issue of who is legally entitled to protect and/or own the copyrightable output generated through the use of an AI system addresses the rights afforded to the parties involved in the creation of the output.

Historically, copyright law has been premised upon a direct correlation between human intellect and creative expression. The Berne Convention defines "author" rights, although does not specifically state that authors must be natural persons.¹

Each national copyright law, however, has established copyright protections around human creativity, personality, judgment and responsibility. As noted above, generative AI systems challenge this premise in that the user may provide an idea but ultimately determine the final form of expression.

2. Definition and Classifications of Artificial Intelligence-Produced Work (s)- The terms "AI-produced work" are typically applied without making clear distinctions among varying levels of human involvement. These differences are important from a legal standpoint.

An AI-assisted work refers to a situation in which a person utilizes AI technology as a tool, while retaining ultimate creative control. For example, when authors use AI software to edit their writing for grammar errors; artists employ AI to generate backgrounds for artwork that they then modify themselves; filmmakers utilize computer software to enhance visual effects within their film. Generally, copyrights will exist in the human authored portion of each work (e.g., selections, arrangements, modifications, and final expressions).

In contrast, a partially AI-generated work includes both human authored and machine generated content. Graphic novels represent an illustration of this form of production. Although the graphics illustrated through the novel were produced by artificial intelligence technology, a human created the written dialogue contained within the novel. While copyrights could potentially protect the portions of the graphic novel authored by humans, it is unlikely that copyrights would protect all of the machine generated content.

Finally, there are those situations in which a user provides a general prompt to an AI system and it creates the entire work including selecting the composition, language, color palette, light source, style, etc. In such cases, the relationship between a specific individual and the ultimately created product may be sufficiently attenuated so as to fail to establish the level of creative control required to meet the definition of "authorship" found in copyright law.

Therefore, rather than focusing on whether an AI system was utilized at some point during the creation process, it is necessary to inquire into whether an individual employed sufficient creative control over the protected aspects of the work.

3. Copyright Authorship and Ownership Under Indian Law- Section 13 of India's Copyright Act, 1957 defines what types of intellectual property rights may be granted with respect to certain categories of works (i.e., original literary, dramatic, musical and artistic works, cinematograph films, and sound recordings).² There appears to be no express requirement in the Act that all works must have been created without the aid of technological assistance. However, as has always been the case with copyright protection in India (and indeed worldwide), originality continues to remain fundamental.

Under "*Eastern Book Company v D.B. Modak*, the Supreme Court held that originality requires the exercise of skill and judgment possessing at least a minimal degree of creativity.³ Mechanical labour alone is insufficient. Applied to generative AI, a person claiming copyright should therefore demonstrate creative choices that are reflected in the final work."

"Section 2(d)(vi) contains a provision directly relevant to computer-generated works. It states that, in relation to a literary, dramatic, musical or artistic work that is computer-generated, the author is the person who causes the work to be created.⁴ This provision was enacted before modern generative AI and originally addressed conventional computer-created material. It nevertheless provides the most plausible statutory basis for recognising human ownership of an AI-generated work."

The difficulty lies in identifying the person who "causes" the work. A user may enter the prompt, but the developer designed the model, selected or obtained the training material and established its operational parameters. A platform may provide the computing infrastructure, while an employer may finance and direct the project. Causation cannot be understood merely as the final act of pressing a button.

The preferred understanding would appear "to place authorship with the individual (natural or legal) who has exercised creative control over the creation of the work and made the primary intellectual decisions on its ultimate form." Establishing authorship can involve providing specific direction; selecting from multiple output options; performing tasks like image masking; editing and arranging content. In contrast, a directive as brief as "paint a picture of a sunset" will likely not serve this function.

Section 17 governs first ownership. However, there are several exceptions including those related to employment, commission-based works and contract provisions.⁵ Even when a user is identified as an author pursuant to Section 2(d)(vi), it is possible for ownership to reside with the user's employer or for ownership to have been assigned to another party through a valid agreement. Terms contained in an AI-platform may not generate copyright protection if the statute does not otherwise provide for the generation of copyright protection based upon the terms and/or actions taken by the parties.

4. The Indian DABUS Determination- A significant development "took place on 31st of August 2026 when the Indian Copyright Office denied an application regarding A Recent Entrance to Paradise, an artwork created by Stephen Thaler's DABUS system. While the Office agreed that the artwork exhibited originality in the sense that there was no evidence of copying, it chose not to recognize DABUS as the creator."⁶

The Office indicated that it understood the individual who caused a work to be created (i.e., the one responsible for the creation) to be different from the device used to produce the means of expression. This distinction has major implications: Although an artificial intelligence system might cause the production of a work, it would still not be able to hold copyright rights due to lack of legal status/personality. This ruling aligns U.S. copyright laws, which are based upon human authors, with India's position generally. However, this decision is far from finalizing how to handle issues related to AI-generated works under Indian copyright law. The decision makes clear that AI systems cannot be recognized as creators; however, difficult



decisions remain with respect to determining if a human prompter provided enough creative input in the process and whether a human-controlled creative elements or not, a question related to copyright protection of AI-created works.

5. Comparative Legal Position- 5.1 United States: American copyright law has traditionally been based on the view of human authors. In *Burrow-Giles Lithographic Co. v Sarony*, the U.S. Supreme Court defined an "author" as the individual responsible for creating a work's originality and conceptualization.⁷ On the other hand, in *Naruto v Slater*, the Ninth Circuit determined that animals do not have the capacity to bring copyright infringement claims related to photos they took.⁸ While this decision involved an animal and not a computer or artificial intelligence (AI), it established the assumption that only humans are capable of being authors.

In "*Thaler v Perlmutter*,"⁹ Stephen Thaler applied for registration of *A Recent Entrance to Paradise*. He identified his Creativity Machine as the author of the image. The District Court held that there was no copyright protection available under current law because of the requirement for a human author. The U.S. Court of Appeals for the District of Columbia Circuit in March 2025 also ruled that Thaler could not obtain copyright protection for his Creativity Machine created artwork.¹⁰ In addition, in March 2026, the U.S. Supreme Court refused to hear *Thaler v Perlmutter*, which left intact the court's determination that copyright requires a human author."¹¹

A 2025 report from the United States Copyright Office regarding the ability to secure copyrights for works produced by Artificial Intelligence stated that current laws provide adequate protections for works produced by AI systems. Works generated solely through an AI system would not be entitled to receive copyrights, however expressions authored by humans with creative input and direction provided by humans such as selecting and arranging elements, modifying elements and other forms of creative input would be eligible for copyrights.¹² Users typically use prompts as directions or guides to produce a desired output; the fact that a user uses increasingly detailed prompts, does not automatically mean that the user should be considered to be the author.

Similarly, both registration "determinations made for *Zarya of the Dawn* and *Théâtre D'opéra Spatial* distinguished between edits and selections made by humans and machines that generate completely autonomous images."¹³ Therefore, the United States protects human contributions while denying copyrights to purely autonomously generated content."

5.2 United Kingdom- Statutory copyright protection in the U.K. differs significantly. Under s. 9 (3) of the Copyright, Designs and Patents Act 1988, it has been established that when a "computer generated" literary, dramatic, musical or artistic work is created, the author will be defined as "the person by whom the arrangements necessary for the creation of the work are taken."¹⁴ A "computer generated" work was defined under s. 178 of the same act as a work created without a human author.

The wording of the two provisions are very similar to each other, however, the British version of this provision places greater emphasis on making the arrangements which are "necessary" for creating the work. Consequently, in practice, the arrangement-making party can be the user, programmer or some other individual with de facto responsibility for operating the model. Additionally, determining which individual(s) have made the required arrangements is often problematic due to multiple parties developing, training, hosting and maintaining the models. Computer-generated works also have a shorter duration than human authored works at 50 years from creation, but they do not enjoy all of the moral rights available to human authors.¹⁵

5.3 European Union- "European Union copyright law has not created a separate ownership rule for autonomous AI works. The Court of Justice of the European Union requires a work to be the author's own intellectual creation, reflecting the author's free and creative choices."¹⁶ This standard strongly implies human intellectual activity. Where AI is only a tool and a human determines the expressive result, protection may arise. Where the output does not reflect human free and creative choices, copyright is doubtful."

The EU Artificial Intelligence Act, 2024 does not determine ownership of AI-generated works. It mainly regulates AI-related risk, transparency and governance. Providers of general-purpose AI models must adopt policies concerning Union copyright law and publish sufficiently detailed summaries of the content used for training.¹⁷ These obligations improve transparency but do not make an AI system an author.

5.4 China- Chinese courts have adopted a more fact-sensitive position. In the *Dreamwriter* litigation, a Chinese court protected a computer-generated financial article because the creation process was attributable to the intellectual activities and organisational arrangements of the claimant's human team.¹⁸ More recently, the Beijing Internet Court recognised copyright in an AI-generated image where the user had



repeatedly selected and revised prompts, parameters and outputs.¹⁹ The court treated these decisions as sufficient intellectual contribution.

The Chinese approach does not recognise AI as an author. Instead, it asks whether the human user's decisions are reflected in the resulting expression. This contribution-based approach offers useful guidance for India.

6. Competing Claims to Ownership- Four principal claimants may assert rights over an AI-generated work.

First, the user or prompter may claim authorship because the work was generated at the user's initiative. This claim is strongest where prompts are detailed, repeatedly revised and accompanied by editing, selection or arrangement. It is weakest where the user supplies only an abstract idea.

Secondly, the developer or programmer may argue that the system's architecture and operation made the work possible. However, creating a general-purpose tool does not ordinarily make its developer the author of every work created with it. A camera manufacturer does not own photographs taken with the camera. Developers should receive copyright in software code, documentation and other human-created material, but not automatically in all outputs.

The fourth reason is because a commissioner (the person who hired you) or an employer could claim legal rights for their own benefit as a result of hiring you. Any such claims are based on contract, and would have no effect if there was no copyright, or if the work had insufficient human authorship. The fifth reason is that a third party could claim rights under a service agreement. For example, a service provider has agreed with you, by way of terms and conditions, that you will retain rights in the output; however, this does not create statutory copyright where there is insufficient authorship.

7. Infringement, Similarity and the Ownership Paradox- Even though an output produced by an AI has not been protected, it can still infringe upon an existing work. Liability under U.S. Copyright law is based upon the copying of protected expressions and substantial similarities to protect works; it is not dependent upon the defendant's ability to establish independent entitlement to protect their own work. As such, even if a user produces a purely machine generated image that contains the protected characterizations, composition or other distinctive visual elements of another person's work, they could potentially be held liable as well as any platform for the unlawful reproduction of that work.

There appears to be a major contradiction within this issue. A user will generally have no copyrights in a solely machine generated product, however, they may still be liable for copyright infringement if their products are copied from someone else's copyrighted materials. Since users and businesses operating platforms cannot rely on disclaimers made by those providing services (i.e., AI software), they must compare all of the outputs produced to determine if there are similar images created, maintain records of the prompts used and any subsequent edits to them and avoid instructing their machines to reproduce original works of art created by living persons or use any protected characters.

8. Recommended Legal Framework for India- India needs to keep human creativity at the core of copyright law. There is no logical way to conceive of recognizing an artificial intelligence (AI) system as a creator. An AI does not have legal capacity to act in its own name, cannot convey rights or grant licenses to others, has no ability to exercise moral rights or accept liability for infringement.

Section 2(d)(vi), should either be amended by statute or clarified by the Copyright Office through regulations. Whoever "caused" a creative work to come into existence, should be whoever had the greatest influence on how it was expressed. The most relevant factors to consider when assessing whether a work was substantially influenced by a human will include:

1. how specific were the prompts used to generate the work?
2. whether iterative revisions were made and/or selections from outputs were made prior to selecting the final output(s)?
3. did you have control over aspects such as composition, structural arrangements, characterization and expressiveness?
4. were there any changes made to the generated work by humans?
5. did you select and arrange the elements of the work?
6. to what degree did your judgment contribute to the creation of the final work?

For applicants seeking to register works created using generative AI systems, they must disclose their use of generative AI systems and specify which parts of the work are being claimed as having been authored by a human. Applicants should also preserve all prompt histories and editing records if commercial



rights are claimed in relation to the registered work. If fraudulent concealment of material contributions of an AI system occurs, this may provide grounds to cancel registration.

Purely autonomous creations should continue to be excluded from copyright. Providing extended monopoly protection for machine-created content would lead to an overwhelming number of copyrights, limiting public access and creating incentives based upon ownership of computer hardware instead of human creativity. If evidence demonstrates that some protection is required to stimulate investment in creative content, parliament can establish a sui generis right protecting limited areas of creative content and for a relatively brief period without conferring moral rights.

9. Conclusion- The legal issue that copyright law must address is a very real but very controllable one. Copyright law does not have to pick between creating laws that ban artificial intelligence (AI) generated works, or creating laws that allow computers to become legal authors. Instead, “it can create a separation between technology generating works and legal authorship and then determine how much human creative input was involved in the work’s creation.”

Although Indian law has a potentially malleable provision in Section 2(d)(vi) for determining legal authorship; the term “a person who causes the work to be created” will require some careful examination. The decision made by the 2026 DABUS Court of Appeal correctly ruled against granting legal personality to AI systems. However, there needs to be additional clarification on what type of human-AI collaborative activities are protected under copyright versus the type of activity that constitutes solely the production of an automated machine.

In order to provide adequate protection for creators using AI while at the same time providing adequate protection for consumers of those works, a human centred approach with a focus on contributions - supported by disclosure, documentary proof and contractual clarity - would be the most effective way to ensure that creators receive protections without allowing for unjustified monopolies over cultural products created through computer-aided processes.

REFERENCES

- Abbott, Ryan. *The Reasonable Robot: Artificial Intelligence and the Law*. Cambridge University Press, 2020.
- Berne Convention for the Protection of Literary and Artistic Works, 1886.
- Copyright Act, 1957 (India).
- Copyright, Designs and Patents Act, 1988 (United Kingdom).
- Ginsburg, Jane C. and Luke Ali Budiardjo. “Authors and Machines.” *Berkeley Technology Law Journal*, vol. 34, 2019, pp. 343–456.
- Guadamuz, Andres. “Artificial Intelligence and Copyright.” *WIPO Magazine*, 2017.
- Indian Copyright Office. Decision concerning DABUS and A Recent Entrance to Paradise, 31 August 2026.
- Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence.
- Samuelson, Pamela. “Allocating Ownership Rights in Computer-Generated Works.” *University of Pittsburgh Law Review*, vol. 47, 1986, pp. 1185–1228.
- US Copyright Office. Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence. 88 Federal Register 16190, 2023.
- US Copyright Office. Copyright and Artificial Intelligence, Part 2: Copyrightability. Washington, DC, 2025.
- WIPO. Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence. World Intellectual Property Organization, 2020.

ENDNOTES

1. Berne Convention for the Protection of Literary and Artistic Works 1886, arts 2 and 5.
2. Copyright Act 1957, s 13.
3. *Eastern Book Company v D.B. Modak* (2008) 1 SCC 1.
4. Copyright Act 1957, s 2(d)(vi).
5. Copyright Act 1957, ss 17–19.
6. Indian Copyright Office, decision concerning A Recent Entrance to Paradise and DABUS, 31 August 2026; see Indian Express explanatory report.
7. *Burrow-Giles Lithographic Co v Sarony*, 111 US 53 (1884).



8. *Naruto v Slater*, 888 F 3d 418 (9th Cir 2018).
9. *Thaler v Perlmutter*, 687 F Supp 3d 140 (DDC 2023).
10. *Thaler v Perlmutter*, US Court of Appeals for the District of Columbia Circuit, decided 18 March 2025.
11. United States Supreme Court, denial of certiorari in *Thaler v Perlmutter*, 2 March 2026; see report of the disposition.
12. US Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability (January 2025), available through the US Copyright Office AI portal.
13. US Copyright Office Review Board, decision concerning *Zarya of the Dawn* (21 February 2023); Review Board decision concerning *Théâtre D’opéra Spatial* (5 September 2023).
14. Copyright, Designs and Patents Act 1988 (UK), s 9(3).
15. Copyright, Designs and Patents Act 1988 (UK), ss 12(7) and 79.
16. *Infopaq International A/S v Danske Dagblades Forening*, Case C-5/08, EU:C:2009:465; *Painer v Standard VerlagsGmbH*, Case C-145/10, EU:C:2011:798.
17. Regulation (EU) 2024/1689, arts 53(1)(c)–(d), official text at EUR-Lex.
18. *Shenzhen Tencent Computer Systems Co Ltd v Shanghai Yingxun Technology Co Ltd*, Shenzhen Nanshan District People’s Court, 2019.
19. *Li v Liu*, Beijing Internet Court, judgment of 27 November 2023.
