Alliance Journal of Intellectual Property Law (AJIPL)
Volume: 3, Issue: 1, 2025 | e-ISSN: 2584-0363

HUMAN AUTHORSHIP IN THE AGE OF AI: ASSERTING COPYRIGHT OVER AI-ASSISTED CREATIONS

Manav Jiten Soneji[1]

ABSTRACT

Can a person who uses artificial intelligence to create a piece of art, music, or writing be called its author? This paper explores that very question, focusing on the role of AI as a tool of a human creator. As technology advances, the boundary between machine assistance and human authorship becomes increasingly blurred. While AI generates content at the click of a button, the user selects, refines, and guides what content they ultimately want. Should the law treat this user as the rightful author?

Indian copyright law is rooted in the idea that creativity stems from human skill and judgment. But when AI becomes part of the creative process, how much human involvement is enough? This paper examines the current legal framework in India and whether it adequately recognises the evolving nature of artistic creation. It also looks at probable solutions for dealing with the implications that arise while implementing a complex system of recognition and protection of AI-assisted copyrightable work.

The discussion raises broader concerns around originality, ownership, and the risk of undervaluing human input by AI' involvement. It does so by drawing comparisons with developments in other countries, whose legal systems with reference to AI in Intellectual Property Works is similar. The paper does not just point to the gaps in the law but also considers how they might be addressed without undermining the core values of copyright. It maintains the consistent idea of incentivising creations as the root of intellectual property protection.

Keywords: Artificial Intelligence, Copyright Protection, Infringement, Authorship, Originality.

RESEARCH PROBLEM

A legal question arises as s generative artificial intelligence tools become increasingly capable of creating original works: *Can a user of AI claim*

1. Manav Jiten Soneji, 3rd Year Law Student at School of Law, Christ (Deemed to be University).

copyright over AI-generated content under Indian law? This research explores whether the user's input, control, or creative choices in using AI meet the requirements of authorship and originality under the Indian Copyright Act. It further analyses the implications this has for ownership and protection in the digital era.

INTRODUCTION

The rapid integration of generative artificial intelligence into creative practices has raised pressing questions with regard to authorship and copyright ownership. As AI tools are increasingly used to generate images, music, and written content there is an uncertainty that persists over whether and to what extent such works may be protected under existing copyright frameworks.

This paper examines whether AI-assisted creations can satisfy the requirements of authorship and originality under Indian copyright law. It lays emphasis on the role of human input in the creative process. It analyses statutory provisions, judicial doctrines and legal developments to show how Indian copyright law may respond to AI-assisted creativity without undermining its foundational emphasis on human intellectual contribution.

The recognition of copyrights to AI-assisted works has seen resistance within both executive practice and judicial interpretation. The Practice and Procedure Manual of the Indian Copyright Office requires that authorship has to be attributed only to a natural person. This leads to effectively limiting the scope for recognising works created with substantial AI assistance. At the same time, judicial pronouncements such as *Eastern Book Company v. D.B. Modak* emphasise that originality is contingent upon the application of "*skill and judgment*," without offering a precise definition of these terms. This absence of clarity becomes particularly significant in the context of AI-assisted creation, where human input is seen to operate through prompt design, selection, and refinement and not direct manual execution. The resulting uncertainty regarding the attribution of authorship forms the central concern of this inquiry.[2]

THE POSITION OF OWNERSHIP OF COPYRIGHTABLE WORK

Artificial Intelligence and IPR have had clashes in enforceability and liability since AI's exposure to the world. Like most countries, India does not allow AI art to be copyrighted. Just like any other type of AI-generated product, AI art is not viewed as the work of a human. No author can copyright AI-generated art because AI isn't legally viewed as an author.

The ownership of the work is one of the main concerns with AI-generated products. The user who provided the prompts to the AI system that produces the invention may occasionally contend that they should possess the invention that is created. In other situations, though, it can be claimed that the innovation should belong to the owner of the data used to train the AI system.[3] The problem with the latter alternative is that the person who trained the AI trained a machine to create something without himself specifically knowing that the machine may make a product. In simple words, the coder merely coded the generator to have the capabilities to develop products, images or art, but did not code it to create a specific image. A parallel can be drawn directly with designing tools, music editors or computers for trademarks, copyrights and patents. In these cases, the rights are accorded to the user who collaborates with them to produce their property, not the company that develops it. From this perspective artificial intelligence may be understood as a medium for facilitation medium rather than an autonomous creative agent. This characterisation does not automatically resolve questions of authorship but it supports the view that proprietary claims may be reasonably examined with reference to the human actor who initiates and guides the creative process. Such an approach aligns with existing

2. Eastern Book Company v D B Modak (2008) 1 SCC 1 (India).
3. Dr Mohd Akhter Ali and M Kamraju, 'Impact of Artificial Intelligence on Intellectual Property Rights: Challenges and Opportunities' (2023) 1(1) OUJIPR 21, accessed 6 June 2025

legal treatment of other forms of creation where there is an element of technology, where tools are distinguished from authors.

Indian courts have denied any attribution of property rights to AI products due to the absence of a human touch. The concept of "skill" has not been exhaustively defined in Indian copyright jurisprudence. According to the Merriam-Webster Dictionary, skill[4] refers to the ability acquired through training, experience, or practice, as well as the effective application of knowledge in performance. When functionally examine this, we can see that generative AI systems are capable of performing tasks that align with this. It is particularly true in terms of executing complex instructions and producing outputs that resemble creative expression. However, this resemblance alone does not resolve the question of authorship.

Similarly, "judgment" is defined as the process of forming opinions through evaluation and comparison[5]. AI systems analyse and synthesise large datasets to generate outputs. But it is still a matter of contest whether such processes can be constituted as judgment in the legal. This ambiguity becomes central when we assess whether AI-assisted works can meet the originality threshold required under Indian copyright law.

This raises an important doctrinal question as to whether the requirement of originality which is understood as the application of skill and judgment, is satisfied when a person uses AI as a tool within the creative process. When human involvement is show through designing the prompt, selection of attributes, refinement of output, and evaluative choice between outputs, it then becomes arguable that the originality requirement is met. This is regardless of whether the final output is generated with technological assistance. Here, AI can function as both a tool for judgment and skill that generates the final product after interventions by a human author in the form of prompts and as a facilitator or medium which can be used to bring about the skill and judgment of the human author in their work. The prompts here function as a showcase of skill and judgment, which is used to refine the product. An example can be seen by observing two scenarios, (1) Where a prompt with well - defined instructions is given and the AI generates a picture based on the instruction and (2) when the author uploads a preliminary dratf of the product and through instructions uses the AI as a tool to facilitate the generation of an end product which they find desirable.

The lack of actual human involvement is often seen as the reason of the inability of the work of AI to qualify as a product that can be copyrighted. In Eastern Book Company v. D.B. Modak[6], the Supreme Court applied the modicum of creativity test and held that merely selecting or arranging words does not guarantee copyright unless sufficient creativity is involved. In *Navigators Logistics Ltd. v. Kashif Qureshi & Ors*.,[7] the Delhi High court held that there is a required level of skill, judgment, and creativity in making a creation that can be copyrighted. These judicial standards, developed in the context of traditional modes of creation, warrant reconsideration when applied to recent advancements in generative artificial intelligence, which alter the manner, but not necessarily the source of creative decision-making.

A second category of reform depends upon judicial interpretation instead of administrative action. AI systems now increasingly operate through human guidance for most actions. This guidance extends to users shaping outputs by giving detailed prompts, selecting between them and then making any modifications they want. While AI systems generate content using algorithms, they do so only when a human initiates it and does it within parameters which determined by the user.

4. 'Skill' Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/skill, accessed 8 June 2025
5. 'Judgment' Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/judgment, accessed 8 June 2025
6. Harshal Chhabra and Kanishk Gaurav Pandey, 'Balancing Indian Copyright Law with AI-Generated Content: The "Significant Human Input" Approach' (IJLT Blog, 2024), https://forum.nls.ac.in/ijlt-blog-post/balancing-indian-copyright-law-with-ai-generated-content-the-significant-human-input-approach/, accessed 6 June 2025.
7. Navigators Logistics Ltd. v. Kashif Qureshi, 2018 SCC OnLine Del 11321 (India)

This evolving mode of creation complicates the traditional distinction between human and machine contribution and raises unresolved questions regarding the threshold of human involvement required for copyright protection.

THE STANDARDS FOR IDENTIFYING THE REAL AUTHOR

The Indian Copyright Act was amended in 1994 to account for situations where An AI-like medium may generate artistic works, like a computer. The amendment inserted an additional provision, Section 2(d)(vi)[8], to the act, providing that the authorship of computer-generated works belonged to the person who caused the creation of such works.[9]. Multiple tests are used to determine who this person is and who caused the creation of such works.

Sweat of the Brow Doctrine

The "Sweat of the Brow" doctrine was traditionally used to justify limited copyright protection for works that involved substantial effort or manual labour, even if they lacked creativity or artistic expression. The main idea behind this doctrine was that the time and effort invested in producing the work should be rewarded with protection of the law, regardless of whether the work was original in the conventional sense of how originality was viewed.

However, over time, many jurisdictions have moved away from this doctrine, favouring originality as the benchmark for copyrightability. In *Feist Publications, Inc. v. Rural Telephone Service Co.*[10], the U.S. Supreme Court entertained a question of whether a telephone directory that list names and numbers in alphabetical order could be protected under copyright law. Rural Telephone, a small utility company, had refused to license its listings to Feist, which then used the data without consent in its own directory. The Court held that facts, no matter how much effort goes into collecting them are not eligible for copyright protection. This continues unless they are presented with some degree of creativity. It rejected the long-standing "*sweat of the brow*" approach and clarified that copyright law protects original expression, not the mere labour or time that is invested in compiling factual data. The decision established that even factual compilations must show at least a minimum level of originality to be protected. This showed a shift in the focus of copyright law away from effort and toward creative expression.[11]

In the Indian context, the doctrine has seen only marginal recognition and holds little weight in modern intellectual property jurisprudence. The Indian Copyright Act, 1957, clearly provides that originality and mere effort are the threshold conditions for copyright protection. The decision in *Eastern Book Company v. D.B. Modak* was pivotal in this shift[12]. The Court rejected the idea that just the mechanical or industrious compilation of any data would be enough to get a copyright. Instead, it held that the work must include or show minimal creativity, which involves the application of skill, judgment, or user discretion. Simply put, the author's hard work alone is insufficient, but the intellectual input of the author must be evident from it[13].

In this regard, the doctrine may be reconsidered where a user uses judgment and skill to actively guides the creative process. Decisions regarding the nature of the output, the elements to be emphasised on, and the manner in which the final work has to be refined shows actual human involvement and not passive reliance on automation. The AI in such

8. Indian Copyright Act 1957, s 2(d)(vi)
9. Ibid 5.
10. Feist Publications Inc v Rural Telephone Service Co 499 US 340 (1991).
11. Chinmaya Kumar Mohapatra, 'The Doctrine of "Sweat of the Brow"' (2020) 57 Psychology & Education Journal 9, 992-995.
12. Tanya Saraswat, 'Evolution of Tests of Creativity in Copyright' (2023) IP & Legal Filings (IPLF, 2023), https://www.ipandlegalfilings.com/evolution-of-tests-of-creativity-in-copyrights/, accessed 6 June 2025
13. Shreya Sinha, 'Reconsidering Originality in the Age of AI' (2021) 5 IJT 87.

cases functions as a technical medium through which the user's creative intent is executed. This mirrors the use of other digital tools where software does not replace a human's creativity but enables it.

A parallel is seen when one uses VFX in the song, doing the same that they would do when they interact with AI to execute their art. With VFX, the user puts in the hard work of combining what is played, where and for how long. They also put in the effort of instructing the software, which acts as a tool to implement their idea of how the song should end up. Even here, the user uses the software as a medium or tool to implement their skill and judgment. But the differential treatment being given to technologically assisted works shows the underlying tension in copyright jurisprudence. There are some forms of digital assistance which are readily accommodated. But this accommodation has not yet been extended to AI-assisted creation. This inconsistency highlights the need for a more coherent and principled approach to assessing human & creativity in technologically mediated authorship.[14]

Since then, Indian courts have consistently emphasised that copyright exists to protect original expressions, not industrious labour. The focus is firmly on the creativity embedded in the expression, not the energy expended in assembling it. Consequently, the "*Sweat of the Brow*" approach no longer holds as much importance anymore in Indian copyright law.

Modicum of Creativity Test

The "*Doctrine of Modicum of Creativity*" has its underlying principle well embedded in Indian copyright jurisprudence. In the Indian context it is more frequently referred to as the "*Threshold of Creativity*," which sets the standard for determining whether a work qualifies for copyright protection.

The Threshold of Creativity requires that a work exhibit a minimum level of originality or creative input to be qualified for protection under copyright law. This threshold is created to prevent copyright from being extended to works that are purely mechanical, routine, or lacking any real intellectual contribution.[15]

Eastern Book Company v. D.B. Modak is a landmark decision that clarified this position in India. The Court emphasised that even a modest or minimal degree of creativity can be sufficient. Creativity can take many forms and does not need to be groundbreaking, but there must be something beyond the merely functional or factual. This ensures that copyright protects genuine intellectual effort, rather than just industriousness. Applying the Threshold of Creativity test would mean that the work generated does not have to be an epitome of creativity and originality; instead, it must have a minimal degree of creativity and originality[16]. While the courts have repeatedly held that the meaning of originality is something novel, or put, something of value that did not exist before the creation of the work of art and/or something that was created without being aware of the presence of a similar version, in innocence.

Two debates arise here. Firstly, is the work still original if it was created using AI? Second, can it be termed original if two people are tasked to make the same art using AI? This issue has been addressed throughout the preceding analysis, which treats artificial intelligence as a tool employed within the creative process rather than as an independent author. Under this view, the focus remains on the extent and quality of human creative decision-making involved in the production of the final work.

Now, the final form of the artwork has never been a question. Whether it is a realistic painting drawn by hand or a picture for a book made on an

14. Anubha Sinha, 'Copyright and AI in India: An Overview' (Centre for Internet and Society, 2020), https://cis-india.org/a2k/blogs/copyright-and-ai-in-india-an-overview, accessed 7 June 2025.

15. Abrams, Howard B. "Originality and Creativity in Copyright Law." *Law and Contemporary Problems*, 55 *JSTOR* 2, 1992, https://doi.org/10.2307/1191773, accessed 7 June 2025.

16. Tabrez Ahmad and Ankur Mishra, "Creativity and Copyright: U.S. and Indian Perspective" [2011] SSRN Electronic Journal, http://dx.doi.org/10.2139/ssrn.1909168, accessed 13 June 2025.

iPad, which looks prima facie artificial, both are regarded as having the same level of originality in the eyes of the law. Thus, if one uses painting and brush corrections on iPads, they can still take credit for the work, although in the traditional sense, they haven't completed or worked alone on the picture or painting. Thus, although created using AI, the work was based on a visualisation and corrected to match it, making it no short of being original. Secondly, whether two people can replicate a final output using the same AI tools.

Although artificial intelligence models are typically designed to function deterministically, where identical inputs should atleast in principle produce identical outputs. But the possibility of achieving such consistency across users is difficult. There is a difference in how individuals would input data and interact with the AI models. This is what often leads to different results. Some models also incorporate adaptive mechanisms. This then uses your past interactions with it to change their output to meet your needs. This also helps to reduce the possibility of exact replication. Thus, it becomes clear that although the question may stand in principle, it is starkly different in application, making AI-driven property rights an increasingly desirable and realistic avenue.

In *Rupendra Kashyap* v. *Jiwan Publishing House Pvt. Ltd.*,[17] the Delhi High Court in the context of question papers for an examination, held that the author of the exam paper is the person who is the one to compile the questions. The person who does this compiling is a natural person and not an artificial person.

Thus, while the terminology may differ, the substance of what is sometimes informally called the "Doctrine of Modicum of Creativity" is very much part of Indian copyright law through the broader principle of the Threshold of Creativity.

The scène à faire doctrine test

The *scène à faire* doctrine is a well-established concept in copyright law that excludes from protection those elements of a creative work that are standard, expected, or indispensable within a particular genre or subject matter. The phrase, which translates from French as "scene that must be done," reflects the understanding that some expressions are so intrinsic to a genre, whether in literature, cinema, theatre, or other forms, that they lack the originality required for copyright protection.[18]

Although the term *scène à faire* is not commonly used in Indian judgments, the principle it embodies has been recognised in Indian copyright jurisprudence. Courts in India have acknowledged that specific narrative devices, settings, or plot elements are generic or conventional to a genre and cannot be appropriated by one author to exclude others.[19]. In *R.G. Anand v. M/S Deluxe Films*[20], the Supreme Court held that no copyright can subsist in the basic idea, theme or subject matter of a work. The Court clarified that similarities in scenes or expressions which naturally flow from a common theme do not amount to copyright infringement. Even if a work merely resembles a similar plot with another, without copying the original expression of the idea, it would fall outside the ambit of copyright infringement.

This doctrine is critical in maintaining the balance between protecting original expressions and safeguarding the public domain. For example, tropes like love triangles which are commonly seen in romantic dramas, or courtroom showdowns which are common in legal thrillers, or even hero-villain confrontations in action films are considered *scènes à faire*. It provides that the standard features of storytelling that must remain free for all authors to use. Their ubiquity within the genre renders them unprotectable. Therefore, the doctrine helps

17. Rupendra Kashyap v. Jiwan Publishing House Pvt. Ltd., (1994) 28 DRJ 286 (India).
18. Jane C Ginsburg, 'No "Sweat"? Copyright and Other Protection of Works of Information after Feist v Rural Telephone', (1992) 92 Columbia Law Review 338.
19. Rakesh Kumar, 'Originality and Copyright Law in India: A Judicial Perspective' (2015) 20 Journal of Intellectual Property Rights 99.
20. R G Anand v Deluxe Films (1978) 4 SCC 118 (India).

prevent the misuse of copyrights to monopolise commonly used motifs. It also ensures that there is a level playing field for all creators. It is thus used to promote diversity in creative expression while also maintaining respect for original work.

Similarly, when someone gives a prompt to an AI model, the output includes standard or expected features. This is because the AI was trained using large amounts of existing content. This data thus naturally consists of these common elements. For example, if someone asks an AI to generate an image of a courtroom drama, the AI might create a judge's bench, lawyers arguing, and a jury because those are standard features of that genre. But those parts are not protected anyway. What matters is how the user directs the AI to create something more unique from these common elements.

Just like how writers and artists who use typical ideas and settings but create original versions of them, AI users do the same. The user decides what it wants, gives specific prompts, selects the output, maybe edits it, and then uses the work in a larger project. That human input is what adds originality. The AI does not develop the final product independently rather it simply follows instructions. The process is no different from how photographers use cameras or how graphic designers use editing software. The tools don't own the work but it is the people using them that do.

The *scène à faire* doctrine thus shows that copyright does not need something which is entirely new or unusual. Even works which include common ideas can be protected if the creator adds their own personal touch or creativity. This same idea should apply to AI-assisted works. The AI might provide the setting, but it is the user who turns it into something original through their decisions and direction.

So, when people say AI shouldn't be part of the copyright system, this doctrine shows that we've already been dealing with similar situations for years. Authors and artists have always borrowed from what's common and made it their own. Using AI is just another way to do that. If the law accepts creativity in how people use common ideas, it should also accept creativity in how people use AI. Accordingly, the scène à faire doctrine supports an analytical framework in which artificial intelligence is evaluated as a technological instrument within the creative process. This perspective allows copyright law to distinguish between unprotectable generic elements and protectable human expression, even where AI systems play a substantial role in execution.

THE PRESENT TREND IN HUMAN AUTHORSHIP OF AI-DRIVEN WORK

Thaler v. Vidal[21] (The DABUS Case)

In the U.S., Stephen Thaler filed patent applications naming his AI system, DABUS (Device for the Autonomous Bootstrapping of Unified Sentience), as the[22] sole inventor. The United States Patent and Trademark Office (USPTO) rejected the applications on the grounds that only natural persons can be inventors under the Patent Act. The Federal Circuit upheld this decision, stating that the statutory language of 35 U.S.C. § 100(f)[23] and § 115[24] requires an inventor to be human. This ruling aligns with decisions in the UK (*Thaler v. Comptroller General of Patents*[25]) and the European Patent Office (EPO), which rejected DABUS-related filings on similar grounds.

21. Thaler v Vidal 43 F.4th 1207 (Fed Cir 2022) (USA).
22. Nicola Hayden, 'Why Cannot Our Own Creations Create?' (Clifford Gouldson Lawyers 2021), https://www.cglaw.com.au/why-cannot-our-own-creations-create/, accessed 8 June 2025.
23. Patent Act 1952, s 100(f)
24. Patent Act 1952, s 115
25. Thaler v Comptroller-General of Patents, Designs and Trade Marks [2021] EWCA Civ 1374 (USA).

Ankit Sahni & the "Suryast" Painting

India has recently seen a notable development in the conversation around authorship rights for AI-generated artistic works. The painting *Suryast*, created by an AI program named RAGHAV, was registered for copyright with Ankit Sahni as the co-author and rights holder.[26] This registration was based on an Adopted Resolution, which acknowledged that works generated by artificial intelligence may qualify for copyright protection, so long as there is a demonstrable element of human contribution in the creative process.[27]

In 2020, Indian IP lawyer Ankit Sahni filed a copyright application for a painting named "Suryast"[28], which was generated with the assistance of an AI software called RAGHAV. The Indian Copyright Office granted registration, recognising co-authorship between Sahni and the AI system, on the condition that there was sufficient human creative input in the process. This decision reflected an openness to acknowledging AI-assisted authorship where a human contributed.[29] Sahni also wanted registration for *Suryast* with the U.S. Copyright Office, which rejected the application. In its 2023 decision, the U.S. Copyright Review Board stated that Sahni's role of inputting prompts and selecting images did not amount to the kind of human authorship required under U.S. copyright law. The Board laid emphasise that authorship must be the product of human creativity.[30]

Zarya of the Dawn

Zarya of the Dawn is a graphic novel which was created using an AI image generation tool, Midjourney. It had a human input from Kristina Kashtanova, who claimed authorship. She used Midjourney to generate visual content based on her prompts and then compiled, arranged the elements and wrote the story. She then applied for a copyright in the United States for the entire novel. The Copyright Office granted the registration. But after sometime it assessed the application again after it got to know that AI was used for the images. In 2023, the Office removed the protection for the AI-generated images but upheld copyright in the story, arrangement, and text. This was seen as acknowledging Kashtanova's human authorship in those parts. The Office held that works created by generative AI without sufficient human control do not meet the standard of human authorship required under U.S. copyright law.[31] This was one of the first formal recognitions by the U.S. Copyright Office in addressing the limits of copyrightability in AI-generated works. The ruling supports the existing notion that only the human-authored components of AI-assisted works are eligible for protection. This also lays down the groundwork for how copyright law will handle increasingly complex human-AI collaborations.[32]

26. 'Sarkar S, "Exclusive: India Recognises AI as Co-Author of Copyrighted Artwork | Managing Intellectual Property" (MIP, June 9, 2022), https://www.managingip.com/article/2a5bqo2drurt0bxl7ab24/exclusive-india-recognises-ai-as-co-author-of-copyrighted-artwork, accessed 2 June 2025.
27. 'Copyright in Artificially Generated Work' (AIPPI, 2022), https://www.aippi.org/content/uploads/2022/11/Resolution_Copyright_in_artificially_generated_works_English.pdf, accessed 6 June 2025.
28. RNA Technology and IP Attorneys, 'Current Scenario of Artificial Intelligence and Patent Protection in India' (RNA, 2019), https://rnaip.com/current-scenario-of-artificial-intelligence-and-patent-protection-in-india/, accessed 6 June 2025.
29. Kasiva KS &, "Divergent Copyright Recognition: AI-Generated Works - Sahni's Case US vs India" (King Stubb & Kasiva, 2024), https://ksandk.com/intellectual-property/divergent-copyright-recognition-ai-generated-works-sahnis-case-us-vs-india/, accessed 8 June 2025
30. Second Request for Reconsideration for Refusal to Register SURYAST (SR # 1-11016599571; Correspondence ID: 1-5PR2XKJ) (Dec, 2023).
31. Zarya of the Dawn (Registration # VAu001480196), Correspondence ID: 1-5GB561K (Feb, 2023)
32. Rinchen Kyi, 'Case Analysis on Zarya of the Dawn' (2025) 2(3) Journal of Law Research & Justice Studies, pp. 576-583

THE IMPLICATIONS & SOLUTIONS OF PROTECTION TO THESE WORKS

The integration of generative AI into the process of creating artistic work leads to a critical inflexion point for Indian copyright jurisprudence. AI tools have opened access to artistic expression to everyone but because of this they also challenge the conventional understanding of authorship, originality, and ownership under the Copyright Act, 1957. As more creators employ AI in different degrees, like inspiration, substantial production, etc., the current framework must keep up with the requirements of human involvement and the scope of protection.

The responses to AI assisted authorship that are proposed operate at different institutional levels. Certain measures like disclosure requirements and categorisation of AI-assisted works, are immediately administratively feasible through procedural reform within the Copyright Office. Others meausres including a redefinition of standards of originality, depend on judicial interpretation. The last category of proposals, such as modifying the definition of authorship or introducing differentiated rights, would require legislative amendment in the law. This distinction is necessary to ensure both institutional feasibility and doctrinal clarity.

Increase in Volume of Copyright Applications

If works generated by using AI as a tool become eligible for protection under the Indian Copyright Act, 1957, then there could be significant implications. There would primarily be a sharp increase in the sheer volume of copyright applications in the Copyright Office. This is possible only because a substantial barrier to accessibility in producing original and creative content gets broken, allowing more people to be a part of the system of trade that recognises and protects their work. This covers text, artwork, music, images, songs, lyrics, and any other medium of expression that already receives protection. This accessibility reduces the traditional threshold of "effort and expertise" required to be put in while producing "original" work.[33] This may result in casual creators filing for copyright protection on unseen scales. In jurisdictions like India, where registration, although not mandatory, provides evidentiary value, it may cause a strain on the capacity of the Copyright Office to process and examine the applications effectively and accurately to ensure that no infringement has happened and proper procedure is followed to recognise the work.[34]

To address the administrative and doctrinal challenges posed by AI-assisted works, the following measures may be considered:

1. **Mandatory Disclosure of AI Use:** Applicants seeking copyright registration may be required to disclose the extent and nature of AI tools used in the creation of the work. Such a disclosure would then help the Office in assessing the degree of human creative input involved.
2. **Assessment of Human Contribution:** Copyright protection shall only be limited to works that meet a clearly articulated threshold of human originality. This would in turn help in ensuring that protection is not extended to outputs generated with minimal or no human direction.
3. **Structured Declaration Mechanism:** A formal declaration which is supported by affidavits and documentary evidence. This verifies the claims of human involvement in AI-assisted creation.
4. **Categorisation of AI-Assisted Works:** The Copyright Office may consider recognising AI-assisted works as a distinct category for administrative purposes. This thereby facilitates consistent examination

33. Nikhil Mishra and Digvijay Singh, 'AI Generated Work and Its Implications on Copyright Law in India' (2025) 30 JIPR 1.
34. Dr. Meenakshi Punia, "INTELLECTUAL PROPERTY RIGHTS IN GENERATIVE AI: CHALLENGES AND CONSIDERATIONS (IJALR, 2023), https://ijalr.in/volume-3-issue-4/intellectual-property-rights-in-generative-ai-challenges-and-considerations-dr-meenakshi-punia/, accessed 7th June, 2025

and reduces the uncertainty in registration practices.

Rise in Copyright Infringement Disputes

With an increase in the number of users relying on generative models to create artistic works, the possibility and risk of copyright disputes also increase. These disputes may not arise from intentional copying but can result from the AI models being trained on similar datasets. This raises a scepticism of unintentional infringement, especially when multiple users claim ownership over outputs that seem similar-looking. But this exists in a system which supports pure human creation as well, under the condition of innocent use. So, using the same method to solve this problem should not be as challenging as anticipated.

But a harm that does exist is the black box nature of AI systems. The user cannot access the internal mechanisms using which the output is produced. This results in difficulty in determining whether the particular work is genuinely original or an indirect form of the protected content of the AI's training dataset[35].

The following measures may be considered to deal with this:

1. **Dataset and Prompt Records:** The developers of the AI shall be required to keep a record of the datasets and prompts which they have used in training their AI models. This provides a traceable link between the input and output given by the user.
2. **Traceability-Based Ownership:** Records can help the authorities to evaluate whether human contribution in the artwork is able to meet the originality threshold. Due to this there is reduced ambiguity in ownership claims.
3. **Dedicated Dispute Resolution:** A specialised Copyright Resolution Panel could adjudicate AI-related disputes. This would led to promoting consistency and efficiency in decision-making.

The Dilution of Human Creativity

The possibility of human-driven AI also raises concerns about the future of human authorship. If AI-assisted works are given the same protection as those created using pure human effort, this could undermine the incentive structure on which copyright law is built. Human creators, particularly those in competitive fields like publishing, design and advertising, may find it increasingly difficult to compete with AI-assisted works that can be produced at a lower cost. This affects the creators' economic interests and puts the artistic landscape at risk of becoming a high-volume commercial market. The perception of creative effort being redefined can cause many to be discouraged from continuing to engage in their work.

The following incentivise traditional creators while also recognising AI-assisted works:

1. **Graduated Rights Model:** AI-assisted works may receive a limited form of copyright protection. This can be in the form of a shorter term of protection. This can also extend to specific exclusions of certain exclusive rights, including the right to prevent adaptations.
2. **Scale of Human Involvement:** The Eligibility for copyright protection shall depend on the level of human input in the creative process. Factors such as the complexity of user prompts, creative choices made during generation, and deviation from the basic AI outputs could be considered. Only works which demonstrate sufficient human input would qualify to be protected.
3. **Threshold Verification:** A declaration in the form of an affidavit, may be implemented to as a sworn record of the extent of human involvement. This should be proof for future cases and if actual involvement is

35. Christoph, 'Copyright and Privacy Issues of Generative AI' (Kaggle, 2025), https://www.kaggle.com/code/christph/copyright-and-privacy-issues-of-generative-ai, accessed 7 June 2025

proved to be lesser then penalties may be imposed,

CONCLUSION

At the core of copyright law is a promise to protect and incentivise human creativity. This protection gives exclusive rights to the author and recognises that their intellectual labour has economic value. However, this foundational assumption comes under question with the emergence of generative artificial intelligence, which is capable of producing content that appears to be[36] the same as that created by humans. The law must now confront whether the human–machine collaboration qualifies for protection, and if it does, how should the legal framework evolve to deal with this change?

The jurisprudence in India and globally, reflects a hesitation to extend protection to AI-assisted works. However, this reluctance, though understandable, does not respond to the realities of how creative production occurs today. Just as tools like Adobe Photoshop were initially viewed with scepticism, AI tools are simply an evolution of existing technologies. A revised statutory approach is needed to combine technological transparency, declaratory obligations, and a system to assess the threshold of human involvement. This can be modelled on existing standards under Section 2(d) of the Copyright Act, which already allows for attribution in cases of computer-generated works.

Ultimately, the direction that Indian copyright law takes on AI-generated works will serve as a precedent for broader digital rights governance. In countries like India, where courts play a transformative role in defining the scope of rights, a passive interpretation will only delay reform. Copyright law must therefore engage more closely with contemporary modes of content creation. This would be the start of recognising the evolving relationship between human creators and technological tools. This does not need to happen by ignoring the principles that are already established. This can instead happen by interpreting these again. Whether it is a student who is drafting a thesis using AI-generated images or it is a musician who collaborates with sound-synthesis models. They are all engaged in creative activities that deserve recognition. When the State gives recognition to human input in AI-assisted works, it then affirms that technology still relies on human agency. That vision must not go unprotected.

REFERENCES

4. Eastern Book Company v D B Modak, (2008) 1 SCC 1 (India).
5. Navigators Logistics Ltd. v. Kashif Qureshi, 2018 SCC OnLine Del 11321 (India).
6. Ani Media (P) Ltd. v. Open AI Inc, 2024 SCC OnLine Del 8120 (India).
7. Rupendra Kashyap v. Jiwan Publishing House Pvt. Ltd., (1994) 28 DRJ 286 (India).
8. R G Anand v Deluxe Films, (1978) 4 SCC 118 (India).
9. Feist Publications Inc v Rural Telephone Service Co, 499 US 340 (1991) (US).
10. Thaler v Vidal, 43 F 4th 1207 (Fed Cir 2022) (US).
11. Thaler v Comptroller General of Patents, [2023] UKSC 49 (UK).
12. Copyright Act 1957 (India).
13. Copyright Act 1957, s 2(d)(vi).
14. Second Request for Reconsideration for Refusal to Register SURYAST (SR # 1-11016599571; Correspondence ID: 1-5PR2XKJ) (Dec, 2023).
15. Zarya of the Dawn (Registration # VAu001480196), Correspondence ID: 1-5GB561K (Feb, 2023).
16. Indian Copyright Office, Practice and Procedure Manual (latest edn).
17. M A Ali and M Kamraju, 'Impact of Artificial Intelligence on Intellectual Property Rights:

36. 'OneClickCopy.com, "AI-Powered Content Creation: A Game-Changer in Digital Marketing" (OneClickCopy, 2023), https://oneclickcopy.com/blog/ai-powered-content-creation-a-game-changer-in-digital-marketing, accessed 8 June 2025.

Challenges and Opportunities' (2023) 1(1) OUJIPR 21.

18. Chinmaya Kumar Mohapatra, 'The Doctrine of "Sweat of the Brow"' (2020) 57 Psychology & Education Journal 9, 992-995
19. S Sinha, 'Reconsidering Originality in the Age of AI' (2021) 5 Indian Journal of Law and Technology 87.
20. H B Abrams, 'Originality and Creativity in Copyright Law' (1992) 55 Law & Contemporary Problems 3.
21. Jane C Ginsburg, 'No "Sweat"? Copyright and Other Protection of Works of Information after Feist v Rural Telephone' (1992) 92 Columbia Law Review 338.
22. R Kumar, 'Originality and Copyright Law in India: A Judicial Perspective' (2015) 20 Journal of Intellectual Property Rights 99.
23. Rinchen Kyi, 'Case Analysis on Zarya of the Dawn' (2025) 2(3) Journal of Law Research & Justice Studies, pp. 576-583
24. N Mishra and D Singh, 'AI Generated Work and Its Implications on Copyright Law in India' (2025) 30 Journal of Intellectual Property Rights 1.
25. 'Judgment' *Merriam-Webster Dictionary* https://www.merriam-webster.com/dictionary/judgment
26. 'Skill' *Merriam-Webster Dictionary* https://www.merriam-webster.com/dictionary/skill
27. Harshal Chhabra and Kanishk Gaurav Pandey, 'Balancing Indian Copyright Law with AI-Generated Content: The "Significant Human Input" Approach' (IJLT Blog, 2024), https://forum.nls.ac.in/ijlt-blog-post/balancing-indian-copyright-law-with-ai-generated-content-the-significant-human-input-approach/.
28. Tanya Saraswat, 'Evolution of Tests of Creativity in Copyright' (2023) IP & Legal Filings (IPLF, 2023), https://www.ipandlegalfilings.com/evolution-of-tests-of-creativity-in-copyrights/.
29. Anubha Sinha, 'Copyright and AI in India: An Overview' (Centre for Internet and Society, August 2020).
30. Tabrez Ahmad and Ankur Mishra, "Creativity and Copyright: U.S. and Indian Perspective" [2011] SSRN Electronic Journal, http://dx.doi.org/10.2139/ssrn.1909168.
31. Nicola Hayden, 'Why Cannot Our Own Creations Create?' (Clifford Gouldson Lawyers 2021) https://www.cglaw.com.au/why-cannot-our-own-creations-create/
32. Sarkar S, "Exclusive: India Recognises AI as Co-Author of Copyrighted Artwork Managing Intellectual Property" (MIP, June 9, 2022) https://www.managingip.com/article/2a5bqo2drurt0bxl7ab24/exclusive-india-recognises-ai-as-co-author-of-copyrighted-artwork
33. RNA Technology and IP Attorneys, 'Current Scenario of Artificial Intelligence and Patent Protection in India' (RNA, 2019), https://rnaip.com/current-scenario-of-artificial-intelligence-and-patent-protection-in-india/
34. King Stubb & Kasiva, 'The Divergence in Copyright Recognition for AI Generated Works: An In-Depth Analysis of Ankit Sahni's Case in the US and India' (2024).