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Artificial Intelligence and IPR: Who Owns the Creation?

- ***Adrika Singh***

There has been a rapid growth in the field of artificial intelligence which has transformed industries across the globe ranging from entertainment to science and technology. A new UN Trade and Development (UNCTAD) report projects the global AI market will soar from $189 billion in 2023 to $4.8 trillion by 2033 – a 25-fold increase in just a decade.[1] Across nations, IPR Laws have been framed keeping in mind that the creations have been made by humans and thus they recognise only humans as owners of IPR. However, in today's time AI has developed so much that it is capable of composing music, writing news articles, generating artwork, and even invent novel technological solutions. These developments raise an essential legal question: who owns the rights to these AI-generated works?[2] This article deals with the question whether the ai generated content- a painting, music, invention, or even software is owned by a human or by the ai developer or neither. It emphasizes on copyright and patent rules, and considers how the various legalities work with those. It intends to discover if the applicable laws are enough or if they require extreme changes to deal with the complexities arising from AI.

Understanding IPR & AI Creation

Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time. IPR encompasses various forms, including patents, copyrights, trademarks, and trade secrets. IPRs are generally owned by the creator or inventor of the work although it can be transferred to others via various legal mechanisms, to provide protection and authentication to the works of the authors or artists. AI has challenged it by creating content with minimum human output raising a

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1 UNCTAD, *AI Market Projected to Hit $4.8 Trillion by 2033, Emerging as Dominant Frontier Technology*, UNCTAD (July 25, 2025), https://unctad.org/news/ai-market-projected-hit-48-trillion-2033-emerging-dominant-frontier-technology.

2 Aditi Gahlot, *AI and IPR: Who Gets Ownership Over AI-Generated Work*, **Record of Law** (May 26, 2025),https://recordoflaw.in/ai-and-ipr-who-gets-ownership-over-ai-generated-work/

question about it's ownership. AI is trained to fetch data from some specific databses which include public datasets, internal company data and data collected through web scraping and APIs.

Copyright and Artificial Intelligence

The regime of copyright law exists to protect "original works of authorship" that are "fixed in tangible medium." Copyright law extends protection to "authors" under the Berne Convention (as it also does in India). The U.S. Copyright Act and the Indian Copyright Act, 1957 both grant copyright protection to human persons as authors. In the seminal case of Naruto v. Slater[3], the United States courts found that a monkey cannot own a copyright. Even though this case dealt with a non-human animal (not AI), the decision provided a rule of precedent that only humans can be "authors" based on copyright law.

Law of Patents and Artificial Intelligence

Patent law aims to protect the inventiveness of human persons. The Patent Act requires that an invention be new, have an inventive step, and is capable of being applied industrially. In most jurisdictions including the (United States) Patent and Trademark Office ("USPTO"), the best practice in the United Kingdom, and European Patent Office Patent Directorate (EPOD) intend - Indian Patents Act, 1970 requires the inventor must be a "natural person." A high-profile and recent case for example that is DABUS[4] referred various patent applications in multiple jurisdictions and listed AI as the inventor. In DABUS the courts across jurisdictions, including US, UK and EU unanimously ruled that AI cannot be an inventor.

Who owns the AI creation?

1. The human user - The simplest answer might seem to be the developer or creator of the AI. As the designer of the system, this person or entity can be said to have set the stage (at best) for the eventual output from the AI system. While this answer might seem straightforward, it becomes more complicated when the autonomous output generated is not expected or perhaps even controlled by the developer.

3 *Naruto v. Slater*, 888 F.3d 418 (9th Cir. 2018).
4 *Thaler v. Hirshfeld*, 558 F. Supp. 3d 238 (E.D. Va. 2021), aff'd sub nom. *Thaler v. Vidal*, 43 F.4th 1207 (Fed. Cir. 2022).

2. User or operator

Another possible owner of the work may be the user who provides prompts and directs the AI to take specific action. In some cases, the user's creative vision and input data creates a connection that more resembles traditional authorship. As an example, when an artist wields an AI tool to generate a specific piece of art, the output will be a combination of the artist's intent, combined with the capabilities of the AI.

3. Employer or Owner (work-for-hire)

Using a doctrine from the United States (and supported in India), if the work for hire doctrine applies here, the employer of the creator of the work (either human or otherwise) will own intellectual property in the espanner work. Similar logic might hold if the AI is found to be a tool used to create the work of the employee or independent contractor.

4. Public Domain

Some argue that there should be no protection from IPR for AI-generated content and instead should be made part of the public domain. This opinion, which facilitates open access and innovation, may discourage investment in the production of AI-produced content since it is not exclusive to the publisher.

India's Stance on AI and IPR

Although India is a global hub for IT, it does not presently have clear legislative measures addressing copyright for works produced by AI. Recently, the Indian Copyright Office acknowledged the "RAGHAV AI Painting App" as a co-author (along with its human creator); however, this seems to be an exception rather than the rule. The Indian Patents Act, 1970 does not recognize inventors that are neither a person nor a living thing. All filings must include a natural person as inventor. Unless the relevant legislation is amended, or the courts take judicial activism in this regard, AI is unlikely to emerge as a recognized author, or inventor under Indian law in the foreseeable future.

Even in USA, EU and Australia AI authorship is not recognized and only humans are considered as the original authors or inventors. However, in China the answer to this question is yet not clear as the country is heading towards AI generated tools and works giving it due recognition.

Difficulties with AI Ownership

1. Accountability and Liability

If AI are granted ownership rights that are intellectual property rights, AI can also become liable for infringement and violation. Issues of enforcement and remedies are complex since AI has no legal persona.

2. Originality and Creativity

A key tenet in copyright is originality. Some critics argue that AI are only imitating training data and have no true creativity. Others say the final products of creativity are dissimilar enough to be original.

3. Incentives

IPR attempts to incentivize innovations with exclusivity. Without definitive ownership, people and businesses will be reluctant to invest in the AI content generation.

4. Depreciation of Human Creativity

AI can mass-produce content, which can saturation the marker and possibly diminish the value of works created by humans, compromising human creativity and creative businesses.

Options Moving Forward

1. Legislative Change

Governments need to amend the IPR, so that they specifically articulate who owns AI-generated works, while potentially defining ownership rights or exclusions of AI.

2. Co-authorship Model

There is an opportunity to develop a model of co-authorship that will be AI co-authorship with a human facilitator. This has limitations of protections afforded but represents a better balance of protection to the human input, effort and creativity.

3. Sui Generis Rights

Sui Generis rights for AI-generated content would provide limited time protection for creations by AI through a new category to existing rights. This could provide innovators the value of their ideas, while still allowing important access.

4. Ethical Guidelines and Licensing Frameworks

Building industry standards and guidelines to help train, deploy, and monetize AI systems can help to ensure fairness and protect rights.

Conclusion

Artificial Intelligence is changing the landscape of intellectual creation. Nevertheless, current IPR laws, being based on human-centric ideals, are yet to address the complex issues posed by machines not having a presumed human author. Although the courts or legislatures have yet to give recognition to AI as an author or an inventor, this issue is not closed. The future of IP in the context of AI will likely consist of regulations reform, judicial interpretation and international agreement. In the meantime, for now, at least, humans, being the developers, users, or owners, will assume responsible usership of any AI-generated creations and will be able to claim ownership and value from an AI-generated creation. However, the law will need to change not only to uphold rights but to protect the fairs rights and value created for human production of creativity ans innovations. Indeed, we also must consider the wider implications for society overall. As the creative economy becomes increasingly AI-mediated, the actors, including legal experts, policy-makers, artists, and technologists, must work together as allies to navigate the new, uncertain and evolving territory. A forward-thinking integrated approach that encourages innovation and that values fairness, accountability, and transparency must occur. Public conversations and cross-border discussions will be important in developing a robust framework that makes AI rights widely mandated while the rights of human