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## IPR IN THE AGE OF AI: EXPLORING OWNERSHIP AND LIABILITY ISSUES

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### INTRODUCTION

The development of Artificial Intelligence (AI) has transformed industries by enabling machines to innovate and create, from doing basic calculations to producing artistic and literary creations, among other complex creative outputs. However, this rapid growth of AI is giving rise to critical challenges in the realm of Intellectual Property Rights (IPR), in terms of ownership and liability. The IP framework is developed on the basis of the human creator's original input, mainly focusing on patents, trademarks, copyrights, and protection measures related to original content.<sup>1</sup> As the use of Generative AI is increasing, it becomes important to inspect how the present IPR laws deal with such advancements.

### INTERSECTION OF AI AND INTELLECTUAL PROPERTY RIGHTS

The term “artificial intelligence” was coined by John McCarthy in the year 1956 at the Dartmouth Workshop. In today's era, AI has become a tool that holds tremendous importance among human creators. AI is contributing towards the creation of IP. AI performs tasks by using intelligence methods such as machine learning, problem solving, reasoning, linguistic intelligence and perception. AI powered Algorithm can help in analyzing technical information and documents to determine existing relevant work to prevent copyright infringement.<sup>2</sup> The main purpose of IPR is

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<sup>1</sup> Jing Li & Quanwei Huang, *Intellectual Property Protection in the Age of AI: From Perspective of Deep Learning Models*, 16(4), IJACSA 232 (2025).

<sup>2</sup> *Impact of AI on Intellectual Property Practices*, Free Law (Jan. 31, 2024), <https://www.freelaw.in/legalarticles/Impact-of-AI-on-Intellectual-Property-Practices> .

to deal with human creation but the content generated by AI without any human authorship is forcing the lawmakers to reconsider whether current IP laws can address the value and nature of content generated by AI. For instance, the recent social media trend of Ghibli-style images, which involves AI tools, has also raised concerns regarding ownership and copyright issues. AI systems are capable of producing articles, poems, music, paintings, images, software tools, etc., which gives rise to legal issues like copyright, patentability, ownership and liability.

## **THE OWNERSHIP DILEMMA OF AI-GENERATED WORK**

AI tools like ChatGPT and DALL-E have linked machine and human creativity. AI tools are blurring the lines between machines and humans, which is creating legal concerns. Deciding the ownership of AI-generated content is one of the central issues in the field of IPR and AI. Generally, Intellectual Property Law assigns the ownership, such as copyrights, patents, or trademarks, to the human creators. When any AI tool generates any content it becomes difficult to identify the ownership and authorship.

**Copyright and Authorship-** Copyright laws protect the original content of authorship, like art, music, literature, etc. In many jurisdictions, the copyright laws only recognize humans as creators.

In India, the Copyright Act, 1957, is the legislation that governs the concept of copyright. The Copyright Act, 1957, does not explicitly address AI-generated content, but section 2(d)(vi) of the Act says that the authorship of the computer-generated work belongs to the person who causes the work to be created.<sup>3</sup>

The RAGHAV Case: In 2020, the Indian Copyright Office rejected the application which listed an AI system as the sole author. Later on, the office registered an artwork named ‘Suryast’, for which an AI system called “RAGHAV” was listed as co-author. The decision was later withdrawn, but the website of the Indian Copyright Office still suggests that the work concerned continues to remain registered.<sup>4</sup>

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<sup>3</sup> Copyright Act, No. 14, Acts of Parliament, 1957, § 2(d)(vi)(India).

<sup>4</sup> Arul George Scaria, *AI and the Issue of Human-centricity in Copyright Law*, The Hindu, Nov. 2, 2023, <https://repository.nls.ac.in/popular-media/48> (hosted in Popular Media, National Law School of India University Scholarship Repository).

In the UK, section 9(3) of the Copyright, Designs and Patents Act, 1988 also says that the authorship of computer-generated work belongs to the person by whom the arrangements necessary for the creation of the work are undertaken.<sup>5</sup>

The U.S. Copyright Office has stated that work generated by AI without any human involvement cannot be copyrighted. In *Thaler v. Perlmutter*, the court held that work generated by AI without any human involvement is not eligible for copyright.<sup>6</sup>

**Patentability of AI inventions-** Patent law faces similar challenges in relation to AI-generated work, as it is based on human inventions. The case of DABUS is one of the most significant cases of AI inventorship. DABUS (Device for the Autonomous Bootstrapping of United Sentience) is an AI system which is developed by Dr. Stephen Thaler. A patent application was filed naming DABUS as an inventor. This application was rejected in Australia, the U.S and the European Union on the grounds that only humans can be inventors. In 2021, South Africa became the first country to grant the patent.<sup>7</sup>

## LIABILITY ISSUES IN AI

Liability is a critical concern when any AI tool infringes on existing IP rights. AI tools are capable of generating copyrighted materials, spreading reputational harm or misinformation. Therefore, determining who is liable for the work generated by AI is very complex. The case *Anil Kapoor v. Simply Life India & Ors.*, safeguarded the personality rights against unapproved depictions by AI.<sup>8</sup> The Liability for AI-generated inventions may fall on the developers, platforms hosting AI tools or users for particular prompts. The Indian Copyright Act, 1957, considers human authorship, which leaves AI-generated work in a dark area. Similarly, there are many jurisdictions which only take human authorship into account. Clear liability frameworks are important to maintain innovation while defending creators' rights in the developing AI-driven landscape.

## CONCLUSION

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<sup>5</sup> Copyright, Designs and Patents Act 1988, c. 48, § 9(3)(U.K.).

<sup>6</sup> *Thaler v. Perlmutter*, 687 F. Supp. 3d 140 (D.D.C.2023)

<sup>7</sup> Igor Slabykh & Yaroslav Eferin, *Inventors and Innovations in the Era of AI*, Data Blog (Apr. 5, 2022), <https://blogs.worldbank.org/en/opendata/inventors-and-innovations-era-ai> .

<sup>8</sup> *Anil Kapoor v. Simply Life India and Ors.*, CS(COMM) 652/2023, I.A. 18237/2023-18243/2023 (Del. HC Sept. 20, 2023).

The era of AI presents both opportunities and complex legal issues. As the AI tools continue to generate IP content, the traditional legal frameworks of ownership and liability are being stressed. While current legislations find it difficult to facilitate AI creators, the future needs technological knowledge and adaptable laws. Our legal system needs to change swiftly to remain relevant in this new era of AI creativity.