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CAN A MACHINE BE AN "AUTHOR"? COPYRIGHT'S IDENTITY CRISIS IN THE AGE OF AI

~Aviral Goyal

ABSTRACT

*This article examines the Indian Copyright Office's unresolved treatment of artificial intelligence and authorship, beginning with the 2020 registration and subsequent quiet withdrawal notice concerning Ankit Sahni's AI-assisted artwork *Suryast*, registered under Section 2(d)(vi) of the Copyright Act, 1957. It then turns to Stephen Thaler's pending Indian copyright application for *A Recent Entrance to Paradise*, and the Delhi High Court's April 2026 order directing the Registrar of Copyrights to finally decide the question. Drawing a comparison with the UK's Copyright, Designs and Patents Act 1988 and the more restrictive US position following *Thaler v. Perlmutter*, the article argues that India's identity crisis on AI authorship is not a product of inadequate statutory language, but of persistent administrative hesitation to apply a provision that has existed since 1994.*

INTRODUCTION

In November 2020, the Indian Copyright Office did something no patent office anywhere in the world had done before, or has done since: it registered an artificial intelligence system as a co-author. Ankit Sahni's artwork *Suryast* listed a human and an AI painting app, RAGHAV, side by side on the same certificate.¹ It looked, briefly, like India had leapt ahead of a debate the rest of the world was still having. Then the office quietly asked for it back.

¹ Ankit Sahni, Copyright Registration for *Suryast*, Diary No. 13646/2020-CO/A (Copyright Office, India, Nov. 2020).

A STATUTE THAT SAW THIS COMING

The provision doing the work here is not new, and that is what makes the story interesting. Section 2(d)(vi) of the Copyright Act, 1957, inserted by amendment in 1994, defines the author of a computer-generated literary, dramatic, musical or artistic work as "the person who causes the work to be created."² Unlike copyright statutes that insist on a human hand actually executing the work, this language was written to accommodate exactly the scenario now playing out: a work where a machine does the producing and a person does the causing. It has sat quietly in the Act for three decades, waiting for generative AI to catch up to it.

GRANT, THEN PANIC

Sahni's first attempt, listing RAGHAV as sole author, was rejected outright, on the straightforward basis that Indian law has never recognised a non-person as an author standing alone. His second attempt, listing himself and RAGHAV as co-authors, was accepted in November 2020 under Diary No. 13646/2020-CO/A, the world's first registration naming an AI as co-author of a creative work.³ The moment drew international attention, and international discomfort followed close behind. The Copyright Office then issued a withdrawal notice, pointing back to Sections 2(d)(iii) and 2(d)(vi) and asking Sahni to clarify RAGHAV's legal status. No court has ever ruled on the question, and the registration's online status reportedly still reads "registered." Not granted, not un-granted: a live registration nobody in the system is willing to either defend or formally revoke, sitting in exactly the kind of limbo a statute is supposed to prevent.

THALER TRIES THE STATUTE INSTEAD OF THE MACHINE

Stephen Thaler, DABUS's creator, ran a very different play. In the US, he listed DABUS's precursor, the Creativity Machine, as sole author of an artwork titled *A Recent Entrance to Paradise*, with himself merely as owner, a position the DC Circuit rejected and the Supreme Court declined to revisit.⁴ In India, filing for the same artwork under Diary No. 9356/2022-CO/A, he argued something narrower: that he, as the person who caused DABUS to create the work, is himself the deemed author under Section 2(d)(vi).⁵ It is a more careful argument than

² The Copyright Act, No. 14 of 1957, § 2(d)(vi) (India), as inserted by the Copyright (Amendment) Act, 1994.

³ Ankit Sahni, Copyright Registration for *Suryast*, Diary No. 13646/2020-CO/A (Copyright Office, India, Nov. 2020); withdrawal notice citing The Copyright Act, No. 14 of 1957, §§ 2(d)(iii), 2(d)(vi) (India).

⁴ *Thaler v. Perlmutter*, 130 F.4th 1039 (D.C. Cir. 2025), *cert. denied*, No. 25-449 (U.S. Mar. 2, 2026).

⁵ Stephen L. Thaler, Copyright Application for *A Recent Entrance to Paradise*, Diary No. 9356/2022-CO/A (Copyright Office, India, filed Mar. 29, 2022).

the one that failed everywhere else, built on India's own statutory text rather than on the claim that a machine can hold authorship in its own right.

A COURT THAT WOULD NOT TOUCH THE MERITS

That argument sat completely unexamined for four years. Thaler eventually filed a writ petition, and on 9 April 2026 the Delhi High Court, per Justice Tushar Rao Gedela, ordered the Registrar of Copyrights to decide the application within eight weeks of a hearing already scheduled for 27 April.⁶ The order is carefully procedural. It says nothing about whether Section 2(d)(vi) can stretch to cover DABUS's output, only that the Copyright Office has to stop sitting on the question and actually answer it.

THE CRISIS ISN'T IN THE STATUTE

Seen against the rest of the world, India's hesitation looks almost self-inflicted. The UK's Copyright, Designs and Patents Act 1988 assigns authorship of computer-generated works to the person making the arrangements necessary for creation, language close enough to Section 2(d)(vi) that Indian courts could borrow from decades of UK practice if they chose to.⁷ The US has gone the opposite way, insisting on human authorship in the traditional sense and shutting Thaler out entirely, first at the Copyright Office, then in the courts, and finally at the Supreme Court itself. India occupies neither position by design. It occupies a third, accidental one: a statute drafted flexibly enough to answer the question, sitting next to a regulator too cautious to actually apply it. What India has lacked is not legal tools but administrative nerve. The Copyright Office granted RAGHAV's registration and then flinched rather than defend or formally withdraw it through proper channels, and it sat on Thaler's application for four years rather than apply its own text one way or the other. The real identity crisis was never whether a machine can be an author. It is whether the people administering the Act are willing to answer the question their own statute already anticipated, thirty years before anyone needed it to.

⁶ *Stephen L. Thaler v. Union of India & Ors.* (Delhi High Court, Gedela, J., Apr. 9, 2026).

⁷ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (UK).