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INTELLECTUAL PROPERTY IN THE DIGITAL AGE: AUTHORSHIP AND OWNERSHIP IN AI-GENERATED CONTENT

~ Bhumi Pal

WHAT ARE INTELLECTUAL PROPERTY RIGHTS?

Intellectual property rights (IPR) are legal rights that people hold over the creation of their minds. They generally give a creator the exclusive right to use and exploit a creation for a fixed period. IPR is traditionally divided into two areas: copyright and related rights, and industrial property.[1]

1. COPYRIGHT AND RELATED RIGHTS

Copyright protects the authors of literary and artistic works, such as books, musical compositions, paintings, sculpture, computer programs, and films. Under international norms, protection lasts at least 50 years after the author's death; India's Copyright Act grants 60.[2] Related, or 'neighbouring,' rights protect performers, producers of sound recordings and broadcasting organizations. The social purpose is to encourage and reward creative work.

2. INDUSTRIAL PROPERTY

This branch has two strands. The first protects distinctive signs: trademarks, which distinguish one business's goods or services from another's, and geographical indications, which identify goods whose qualities are essentially attributable to their place of origin. These promote fair competition and informed consumer choice, and can last indefinitely while the sign stays distinctive. The second strand covers inventions (patents), industrial designs and trade secrets, and exists to stimulate innovation by protecting the results of investment in new technology.

INTELLECTUAL PROPERTY IN THE DIGITAL AGE

[1] World Trade Organization, What Are Intellectual Property Rights?, WTO.ORG (last visited Oct. 20, 2026).
[2] The Copyright Act, No. 14 of 1957, § 22, India Code (1957).

The internet, social media and digital platforms have changed how content is created, shared and consumed. Creative works now cross borders almost instantly, which has created serious problems for rights holders, including digital piracy, unauthorised distribution and effortless copying. Strong and adaptable IP laws are essential if creators are to keep control of their work online.[3]

Digital transformation has also changed what counts as intellectual property. Artificial intelligence, blockchain and the internet of things have produced new forms of protectable subject matter, such as software patents, digital trademarks and rights in user-generated content. Yet traditional IP laws were not designed for the digital context, and because content can be copied, altered and redistributed so easily, there are real doubts about whether existing frameworks can handle infringement and preserve fair use.[4]

AI TOOLS AND HOW THEY GENERATE CONTENT

Generative AI adds a further layer. These systems produce text, images, designs and music in response to user instructions, called prompts. Their performance depends heavily on training data, and a large share of the data used by today's large language models is gathered from publicly available sources, often by scraping the internet, and frequently includes copyright-protected works.[5] AI therefore raises IP questions at both ends of the process: what goes in (training material) and what comes out (generated content).

WHEN AI CREATES, WHO IS THE AUTHOR?

The central question is who, if anyone, is the author and owner of a work an AI system has generated. Copyright law has always been built around human creators. Originality and authorship assume a person who exercises skill, judgment and creativity. AI complicates this because a machine now performs much of the creative work, and the law must decide how much human involvement is enough.

It also challenges the copyright system itself. Early on, the worry was that generative AI would damage the market for human works. A more pressing concern has since emerged: the real risk to human creativity may be the human desire to claim authorship over AI output. People are asserting copyright in AI-generated objects even where their connection to the output is nothing like the bond between an author and their work. If such claims become

[3] Legal Research and Analysis, LEGALRESEARCHANDANALYSIS.COM (last visited Oct. 20, 2026).
[4] ResearchGate, RESEARCHGATE.NET (last visited Oct. 20, 2026).
[5] World Intellectual Property Organization, WIPO Conversation on Intellectual Property (IP) and Artificial Intelligence (AI), Ninth Session, WIPO.INT (last visited Oct. 20, 2026).

routine, the concept of authorship shifts, and society risks people losing the motivation to create. So before granting legal advantages for something a person did not create, it is worth asking what human effort truly deserves reward, and whether copyright is necessarily the right one.[6]

KEY CONCEPTS: COPYRIGHT, AUTHORSHIP, OWNERSHIP AND ORIGINALITY

Copyright is the exclusive legal right given to a creator to control the reproduction, distribution and use of their original creative work.

Authorship is the fact of being the person who wrote, created or originated a work.

Ownership is the legal right to possess, control and enjoy an asset. In copyright it is distinct from authorship, though the two often coincide.

Originality is the quality of being new and independent rather than a copy of something else.[7]

1. SECTION 2(D): WHO IS AN 'AUTHOR'

The definition depends on the type of work: the writer of a literary or dramatic work, the composer of a musical work, the artist of an artistic work, the person who takes a photograph, and the producer of a film or sound recording. Clause (vi) provides that for a computer-generated literary, dramatic, musical or artistic work, the author is the person who causes the work to be created.[8]

2. SECTION 13: WORKS IN WHICH COPYRIGHT SUBSISTS

Copyright exists in original literary, dramatic, musical and artistic works, cinematograph films and sound recordings. The word 'original' is the key requirement for AI-related questions. The section also sets territorial conditions, generally requiring first publication in India or an Indian citizen as author (or, for unpublished works, an author domiciled in India).[9]

3. SECTION 17: FIRST OWNER OF COPYRIGHT

The author is the first owner, subject to exceptions unless there is a contrary agreement: employers own work made under a contract of service, persons who commission photographs, paintings, portraits, engravings or films for valuable consideration own those works, and newspaper proprietors own publication rights in employees' work. Special rules

[6] ResearchGate, RESEARCHGATE.NET (last visited Oct. 20, 2026).
[7] Black's Law Dictionary (11th ed. 2019).
[8] The Copyright Act, No. 14 of 1957, § 2(d), India Code (1957).
[9] The Copyright Act, No. 14 of 1957, § 13, India Code (1957).

cover public speeches, Government works, public undertakings and international organisations.[10]

Ownership under Section 17 flows from authorship, and authorship under Section 2(d) is tied to identifiable persons. If no author can be identified, the chain leading to a first owner is at risk of breaking.

INDIA'S LEGAL POSITION ON AI-GENERATED CONTENT

India has no standalone AI law, though AI governance is shaped by existing legislation and by binding AI-specific rules in force since 20 February 2026.[11]

1. IT RULES, 2021, AS AMENDED IN 2026

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, notified on 10 February 2026 under the Information Technology Act, 2000, apply only to intermediaries. They define 'synthetically generated information' as audio, visual or audio-visual content artificially or algorithmically created or altered so that it appears real and is likely to be perceived as indistinguishable from a real person or event, with carve-outs for routine good-faith editing, document preparation and accessibility uses. Intermediaries offering tools that enable such content must use reasonable technical measures to prevent unlawful material (such as child sexual abuse material, non-consensual intimate imagery, false documents and deceptive depictions), label all other synthetic content, and embed permanent metadata, including a unique identifier. Significant social media intermediaries must also obtain and technically verify user declarations. Non-compliance can cost an intermediary its safe harbour.[12]

2. INFORMATION TECHNOLOGY ACT, 2000

It penalises AI-enabled cyber offences such as identity theft, cheating and obscene deepfakes, and governs intermediary liability.

3. COPYRIGHT ACT, 1957

It extends to computer-generated works but does not make an AI system, as an artificial person, an author. Its fair-dealing exceptions may be relevant to AI training.

4. OTHER LAWS

[10] The Copyright Act, No. 14 of 1957, § 17, India Code (1957).
[11] CMS Legal, AI Laws and Regulations in India, CMS.LAW (last visited Oct. 20, 2026).
[12] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, G.S.R. 120(E) (Feb. 10, 2026) (India).

The Digital Personal Data Protection Act, 2023 (consent, safeguards and algorithmic audits for Significant Data Fiduciaries), the Consumer Protection Act, 2019 (dark patterns and AI-driven deceptive design) and the Bharatiya Nyaya Sanhita, 2023 (criminal liability for malicious AI use). The Reserve Bank of India and the Competition Commission of India have also issued sectoral AI guidance.

LEGAL ANALYSIS: PROMPTS, EDITS AND FULLY AI-GENERATED OUTPUT

1. DOES ENTERING A PROMPT MAKE SOMEONE AN AUTHOR?

A prompt can itself be original. Prompts often reflect the writer's skill, judgment and creative choices, and where they express the writer's intellectual creation, that human contribution is visible.[13] The difficulty is linking the prompt to the finished output, because the AI performs much of the creative work.

Indian originality law shows why effort alone is not enough. In *Eastern Book Company v. D.B. Modak*, the Supreme Court rejected the 'sweat of the brow' approach, under which labour alone earns protection, and required skill and judgment together with at least a minimal degree of creativity. Editorial inputs such as paragraph numbering and marking concurring and dissenting opinions qualified, while trivial variations did not.[14] By analogy, repeatedly re-running a prompt is unlikely to suffice, whereas genuinely creative choices might.

Copyright theory points in different directions. Locke's labour theory supports protection where a person invests creative effort, whereas Hegel's personality theory is harder to satisfy because AI's substantial role dilutes the link between the author's personality and the work. Utilitarian theories look to social consequences: the creative industries contribute significantly to growth and employment, and millions of jobs could be affected.

2. WHAT IF THE USER EDITS THE OUTPUT?

Where a work combines AI-generated material with human authorship, the human-authored parts can be protected. This includes human-written text and a human's minimally creative selection, arrangement and coordination of elements, and the human author owns those protected elements.[15] The US Copyright Office applied this approach in *Zarya of the Dawn* (2023), protecting the comic's human-written text and the selection and arrangement of its

[13] Wiley Online Library, ONLINELIBRARY.WILEY.COM (last visited Oct. 20, 2026).
[14] Eastern Book Co. v. D.B. Modak, (2008) 1 S.C.C. 1 (India).
[15] Copyright Alliance, COPYRIGHTALLIANCE.ORG (last visited Oct. 20, 2026).

images, but not the individual Midjourney-generated images.[16] Its January 2025 report similarly concluded that prompts alone do not currently give users enough control over the expressive elements of an output to make them authors.[17]

3. WHAT IF AI GENERATES THE ENTIRE OUTPUT?

A work generated entirely by AI without human authorship does not qualify for copyright and effectively falls into the public domain. In *Thaler v. Perlmutter*, the D.C. Circuit held in 2025 that the US Copyright Act requires human authorship, and in March 2026 the US Supreme Court declined to review the decision. It settles only that a machine cannot be an author; how much human input suffices remains open.[18]

India's position is less settled. Section 2(d)(vi) attributes authorship of computer-generated works to the person who causes them to be created, which could arguably cover a user who directs an AI system. But the Act does not recognise an AI system as an author. In the *Suryast* matter, the Indian Copyright Office registered an artwork in 2020 naming both Ankit Sahni and his AI tool RAGHAV as co-authors, then issued a withdrawal notice in 2021 questioning the tool's legal status and pointing to Sections 2(d)(iii) and 2(d)(vi). The matter has not been conclusively resolved, and it shows the uncertainty about how far the computer-generated provision reaches.[19]

INDIA AND THE INTERNATIONAL POSITION

1. UNITED STATES

Human authorship is a strict requirement. Purely AI-generated works are refused registration, and works combining AI output with human elements are protected only to the extent of the human contribution, as *Thaler* and *Zarya of the Dawn* show.

2. UNITED KINGDOM

The Copyright, Designs and Patents Act, 1988 protects computer-generated works, treating as author the person by whom the arrangements necessary for the creation of the work are undertaken.[20] This resembles Section 2(d)(vi) in spirit. Yet the UK government has acknowledged that it is unclear whether this protection is widely used or works properly, and has sought views on reform. Its consultation also notes that the current framework serves

[16] U.S. Copyright Office, Decision Letter re: Zarya of the Dawn (Feb. 21, 2023).
[17] U.S. Copyright Office, Copyright and Artificial Intelligence, Part 2: Copyrightability (Jan. 2025).
[18] Thaler v. Perlmutter, 130 F.4th 1039 (D.C. Cir. 2025), cert. denied, No. 25-449 (U.S. Mar. 2, 2026).
[19] U.S. Copyright Office, Withdrawal Notice re: Suryast (RAGHAV) Registration (Nov. 25, 2021), as reported in Managing IP (2022).
[20] Copyright, Designs and Patents Act 1988, c. 48, §§ 9(3), 178 (U.K.).

neither creators nor AI developers well: creators worry about unpaid, unauthorised training use and a lack of transparency, while developers face legal uncertainty and often train models abroad. The government proposes a text-and-data-mining exception with a right for rights holders to opt out, greater transparency, better technical standards, support for licensing and labelling of AI outputs.[21]

3. EUROPEAN UNION

Originality means the author's own intellectual creation, which presupposes a human author making free and creative choices.[22]

4. INTERNATIONAL LEVEL

The World Intellectual Property Organization (WIPO) has hosted a series of conversations on AI and IP, including a session on how training data relates to copyright.[23]

5. INDIA

In *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, the Delhi High Court on 24 July 2026 refused ANI an interim injunction. It held prima facie that storing news content to train large language models fell within the fair-dealing exception in Section 52(1)(a) of the Copyright Act and that ANI had not shown ChatGPT reproduced its reports. The findings are interim and the suit continues, but this is India's first substantive judicial treatment of generative AI and copyright, and it suggests courts may lean towards permitting training while leaving questions about outputs and authorship open.[24]

WHO OWNS AI-GENERATED OUTPUT?

1. SOLELY AI-GENERATED WORKS

With no human authorship there is no copyright and therefore no owner. The work is treated as being in the public domain.

2. WORKS COMBINING AI AND HUMAN INPUT

The human author owns the parts that qualify for protection, such as their own text or creative arrangement.

3. UNDER INDIAN LAW

[21] U.K. Government, Consultation on Copyright and Artificial Intelligence, GOV.UK (last visited Oct. 20, 2026).
[22] Case C-5/08, Infopaq Int'l A/S v. Danske Dagblades Forening, 2009 E.C.R. I-6569 (CJEU).
[23] World Intellectual Property Organization, WIPO.INT (last visited Oct. 20, 2026).
[24] ANI Media Pvt. Ltd. v. OpenAI OpCo LLC, CS(COMM) 1028/2024 (Delhi H.C. July 24, 2026) (India).

The default rule in Section 17 is that the author is the first owner, subject to the employer, commissioner and other exceptions and to any contrary agreement. Where Section 2(d)(vi) applies, the person who causes the work to be created is the natural candidate for authorship and first ownership. In practice, contracts and employment arrangements will often decide the question.

With so many parties involved, including developers, users, employers and the owners of training material, clear rules on who holds which rights are needed.

THE NEED FOR A BETTER FRAMEWORK

The existing framework was not built for AI, and several reforms deserve consideration.

1. TAILORED GUIDELINES

Clear criteria for when AI-assisted work qualifies for protection, and a definition of the roles of AI developers and users, would reduce disputes.[25]

2. ALTERNATIVE LEGAL MODELS

Options include applying the work-made-for-hire doctrine to AI output or creating a special (sui generis) right for generated works.

3. LICENSING AND COLLECTIVE MANAGEMENT

Licensing agreements, royalty systems and collecting societies can ensure fair compensation both for creators using AI and for owners of material used in training.

4. OPEN LICENSING

Creative Commons licences can encourage sharing while respecting creators' choices.

5. REGISTRATION MECHANISMS

A registration system could require documentation of the user's interaction with the AI, including prompts, parameters and output, to authenticate authorship.

6. TRANSPARENCY, STANDARDS AND LABELLING

Trust between developers and rights holders requires disclosure about training data, workable tools for rights holders to reserve their rights, and reliable labelling of AI output.[26]

[25] Wiley Online Library, ONLINELIBRARY.WILEY.COM (last visited Oct. 20, 2026).
[26] U.K. Government, GOV.UK (last visited Oct. 20, 2026).

For India, national AI policy treats intellectual property, together with privacy, security and ethics, as a common thread of responsible AI, and its approach is deliberately descriptive rather than prescriptive, pending broad consultation.

CONCLUSION

Artificial intelligence has exposed a gap in copyright law. Originality, authorship and ownership were designed around human creators and do not map easily onto content produced largely by machines. The Copyright Act, 1957 offers a starting point in Section 2(d)(vi), but it leaves open how far a prompt or an edit amounts to authorship, how modern generative AI fits the notion of a computer-generated work, and how training on protected material should be treated. Indian originality doctrine, the unresolved Suryast registration and the interim ruling in ANI v. OpenAI all show that the courts and the Copyright Office are still feeling their way.

Comparative practice shows that no jurisdiction has a complete answer: the United States insists on human authorship, the United Kingdom is reconsidering its protection for computer-generated works, and international bodies are still working through the training-data problem. India therefore has both an opportunity and a responsibility to build a framework that is fair to human creators and open to technological progress.

The guiding principle should be that legal protection follows meaningful human creative contribution, not the mere use of a tool. Reform should combine clear guidelines on authorship and ownership, transparent and fair licensing of training data, workable registration and labelling mechanisms, and consultation with all stakeholders. Getting this balance right will protect the value of human creativity while allowing AI to be used responsibly as a tool for innovation.