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Exploring Legal Ownership of AI-Generated Images: Insights from the Indian Context

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Abstract

Artificial Intelligence has taken the world by storm, and its advancements have opened up new possibilities in various fields. One such field is image generation through AI technology that can produce images with remarkable detail and accuracy. However, as exciting as these developments are, they also raise some critical questions regarding the ownership of AI-generated images. AI-generated arts are disrupting social media, print media, and mass media whereas the Indian copyright office is faced with dilemmas and turmoil regarding the implementation of the strict action. Currently, there is no legal framework governing the right to AI-generated images, which creates several potential issues. For example, if an AI-generated image is used without the creator's consent, it can be considered copyright. The ownership of these images and the overall consideration of these images as intellectual property is strictly under question. This paper aims to explore and provide insight into this topic. The author will delve into the legal framework surrounding AI-generated image ownership in India while considering different stakeholders' perspectives on the issue. The author will also provide policy recommendations that would benefit all parties involved, such as creators, licensees, and the general public. Overall, this goal is to provide readers with a comprehensive understanding of the legal issues surrounding AI-generated images in India. The paper will conclude by providing recommendations for policymakers who must consider all relevant factors when creating policies regarding this complex matter.

Keywords: Artificial intelligence; Legal framework; ownership; Intellectual property; Policy recommendations





1. Introduction

Artificial intelligence has come a long way in recent years, and one of the most impressive advancements is AI-generated images. These are pictures that have been created by algorithms rather than human hands. AI-generated arts are created autonomously without any creative contribution from humans. While some people may be sceptical about the quality of these images, they can be surprisingly realistic and detailed. AI-generated images are created using deep learning technology, which involves training an algorithm on vast amounts of data until it learns to recognize patterns and generate new content based on those patterns. One example of AI-generated imagery is DALL-E [1], which creates unique illustrations from written text inputs. Another example is Midjourney's project "A.I Gahaku" which uses neural networks to create classical art portraits inspired by your photos [2]. While there are many potential applications for AI-generated images - such as in advertising or video game development - there are also important legal considerations to take into account when it comes to ownership and copyright. Presently the copyright act of India is in a dwindling situation regarding the way it should take an approach to AI-generated arts.

2. Legal Framework in India

In India, the legal framework for AI-generated images is still nascent. However, there are existing laws that can be applied to protect the rights of the parties involved in AI-generated image ownership. Intellectual property rights of individuals and entities against unauthorized use of their works. The Copyright Act of 1957 protects original artistic works, including photographs, paintings and drawings. It defines the owner of a copyright as the person who created it. Therefore, if an AI system creates an image without any human intervention or direction, then it is unclear who owns the copyright [3]. Another important aspect related to ownership is whether AI systems themselves can be considered owners under Indian law. Currently, machines cannot own property or enter into contracts in India. Creating clear policies around ownership of AI-generated images will be essential as this technology continues to advance and become more prevalent in society [4]. There have been calls to amend existing laws and create new ones specifically suited for various aspects related to AI technology, including ownership of generated content. Recently introduced draft rules aim to provide clarity on how IP protection applies in cases where AI generates work with minimal human involvement. The European Union recently proposed that AI-created works should be recognized as being owned by the creator or user rather than the machine itself. This proposal aims to provide clarity and consistency in terms of ownership rights [5]. Without specific legislation, courts may be the most appropriate forum to adjudicate disputes related to AI-generated images. Courts have been known to accord considerable weight to the originality of an AI-generated work in determining its copyright ownership. In addition, courts may also take into account the impact of the unauthorized use of AI-generated images on the market value of the original work [6]. While there are some provisions available under Indian law that offer some safeguards regarding intellectual property rights over generated content by AI systems, more specific regulations would help provide better legal certainty and protections for stakeholders involved in this emerging industry.

3. Ownership of AI-Generated Images in India

With the rise of Artificial Intelligence (AI) and deep learning technology, generating images using algorithms has become increasingly easy. AI-generated images have found their way into various industries, including advertising, gaming and entertainment. However, the question arises as to who owns these images. The Copyright Act of 1957 only covers works produced by humans and not those generated by machines or algorithms. This lack of clarity can lead to disputes between stakeholders regarding ownership rights. There may be concerns about bias or





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discrimination in the creation of these images, as well as questions about whether they should be considered works of art at all [6]. Since AI generates these images without any human intervention, they should be considered public domain with no individual owner. There have been several attempts to create legislation that would cover AI-generated images. The first bill, The Copyright (Amendment) Bill, 2017, was introduced in the Indian Parliament in February 2017. It aimed to raise a new category of copyright, which would apply to works created by artificial intelligence. However, the proposed legislation has been officially removed from consideration. However, the bill has yet to be passed. The second bill, The Copyright (Amendment) Bill, 2018, was introduced in the Indian Parliament in January 2018. It aimed to introduce a new category of copyright, which would apply to works created by artificial intelligence. The bill would also include provisions for compensation for creators of AI-generated works, as well as for the recognition of AI-generated works as art. However, the bill was withdrawn in March and was introduced in the Indian Parliament in January 2019 [7].

There are also concerns about copyright infringement when AI-generated images resemble existing copyrighted material owned by others. In order to clarify ownership rights for AI-generated content like Dall-E or Midjourney creations within India's legal system, steps are being taken. In India, there is no specific law that governs ownership rights over AI-generated images [7]. Policymakers need to review current laws related to intellectual property rights and consider creating new regulations specifically for AI-generated content. Hence, all stakeholders understand their position in regard to IP protection when using tools such as GANs or CNN models. Indian authorities should plan to take a flexible approach to tackle the issue without creating any obstruction to arts and creativity.

4. Stakeholders and Their Perspectives

Stakeholders in the ownership of AI-generated images in India include creators, users, and consumers. There are creators, like artists and designers, who utilize AI tools to create visual content. They have a vested interest in retaining control over their creations. They may argue that they should be recognized as the sole owners of the copyright for their works. On the other hand, users of AI-generated images may see them as tools to enhance creativity and improve efficiency. For example, companies can use these images for marketing purposes without having to pay high fees to professional photographers or graphic designers. Stakeholders have to abide by the Indian legal framework regarding the presentation of AI-generated graphics and should not promote any hatred or offence to anyone. Some countries, like the United States, have taken a more liberal stance on the ownership of AI-generated images and have allowed for their widespread use. In India, however, stakeholders are still trying to come to a consensus on the appropriate legal framework for the ownership of AI-generated images and protecting AI-generated images under copyright law if there is human involvement in their creation [8]. The Indian Copyright Act of 1957 only protects literary, dramatic, musical and artistic works. The Indian Copyright Board has issued Guidelines on the Protection of Computer-Generated Images, but these do not specifically address the issue of AI-generated images [9]. In India, those who have a stake in the ownership of AI-generated images are both the creators and users. In India, those who have a stake in the ownership of AI-generated images are both the creators and users. This means that anyone can use AI tools to generate images without worrying about copyright infringement. Consumers, on the other hand, are the people who use AI-generated images for their own purposes. They do not have any vested interest in the ownership of the images and do not have to abide by any legal framework. Each stakeholder has different perspectives depending on their interests and needs concerning ownership of AI-generated images [9].





5. Policy Consideration and Recommendations

When it comes to policy considerations and recommendations surrounding ownership of AI-generated images in India, several factors need to be taken into account. Firstly, there is a need for clear guidelines on how copyright laws apply to AI-generated images. The Copyright Act currently does not specifically address this issue, which means that there is potential for confusion and uncertainty among stakeholders. Secondly, it's important to consider the ethical implications of allowing AI-generated images to be owned by individuals or companies. Looking at examples from other countries can help inform decisions around legal frameworks and stakeholder perspectives [9-11]. Policymakers should take into account international best practices and standards when developing policies related to the ownership of AI-generated images. Ultimately, protecting ownership rights of AI-generated images will not only benefit creators but also promote innovation in this field. It will encourage more people and companies to invest time, money, and resources into developing new tools powered by machine learning algorithms without fear of being deprived of their rightful ownership.

Therefore, India should take proactive steps towards establishing robust policies concerning image copyrights while taking into account global best practices. By doing so, we can help foster a thriving creative industry powered by innovative technologies like artificial intelligence.

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