



DAILY EDITORIAL ANALYSIS

TOPIC

**GENERATIVE AI & ISSUES OF
COPYRIGHT**

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GENERATIVE AI & ISSUES OF COPYRIGHT

Context

- **Generative AI** does not merely reproduce copyrighted works but trains on them, raising concerns about unauthorized usage, unlike previous technologies.

About the Generative AI

- It refers to AI systems capable of **creating new data**, whether it's text, images, or code. It is driven by advancements in **Large Language Models (LLMs)** that have the capability to generate new data, whether it's **text, images, or code**.
- **Generative AI models** are trained on **massive datasets**, often scraped from the open internet. These datasets **frequently include copyrighted material**, sometimes **without the explicit consent** of the copyright holders.
 - ♦ GenAI tools are now being used in mainstream journalism, advertising, entertainment, and education.
- It has **raised ethical and legal concerns** over whether the use of such data in training AI constitutes fair use or a breach of copyright law.

Evolution of Copyright Law

- **Statute of Anne (1710):** It was the world's first copyright law enacted in **England**, that introduced the **concept of the author of a work** being the owner of its copyright, and laid out fixed terms of protection.
 - ♦ It established **fixed terms of protection** and required registration at Stationers' Hall.
 - ♦ It also led to the **Copyright Act of 1790 in the United States**.
- **Berne Convention (1886):** It created **international copyright standards**, ensuring mutual recognition of copyrights across nations, and eliminated the need for separate registrations in different countries.
 - ♦ It remains **in force to this day**, and continues to provide the basis for **international copyright law**.
 - ♦ **India is part of the Berne Convention**.
- **Copyright Registration Systems:** Registration systems vary across countries, while the Berne Convention protects unpublished works.
 - ♦ Some nations offer optional registration, while others rely on automatic copyright protection.

Copyright Issues in Generative AI

- **Unauthorized Use of Copyrighted Content:** AI companies use **web scraping methods to train their LLMs** on a vast array of data, including both public and copyrighted content.
- **Fair Use Debate:** In the **USA**, OpenAI faces similar lawsuits, where it has invoked '**fair use**' and '**fair learning in education**' as defenses **under American copyright law**.
 - ♦ However, OpenAI has introduced an **opt-out mechanism** for future training, but it **does not address past usage**.
- **Legal Challenges in India:** The Federation of Indian Publishers and Asian News International have filed lawsuits against **OpenAI in the Delhi High Court**, alleging unauthorized use of their works.
- **Music Industry Concerns:** Bollywood music labels have joined copyright lawsuits against AI platforms, citing unauthorized use of sound recordings for AI training.

Global Legal Ambiguity

- **United States:** It has clarified that *purely AI-generated works are not eligible for copyright protection*.
 - ♦ It has prompted creators to include 'substantial human authorship' in AI-assisted works to ensure copyrightability.
- **Japan:** It has explicitly stated that **AI training using copyrighted data does not infringe copyright** as long as it is **non-consumptive and for machine learning purposes**.

Key Legislations in India

- **Copyright Act, 1957:** The **Copyright Act of 1957** does not directly address AI-generated works.
 - ♦ **Section 2(d) of the Act** defines an **‘author’ in human terms**, making it difficult to attribute authorship to a non-human agent.
- **Panel Review on AI & Copyright:** The Indian government has set up a panel to assess whether existing copyright laws are sufficient to regulate AI-related disputes.
- **No Separate IPRs for AI Content:** The government has clarified that there is no proposal to create separate **Intellectual Property Rights (IPRs)** for AI-generated content, relying on existing copyright and patent laws.

Legal Complexities in India

- India’s copyright framework is **significantly different from the US model**, as:
 - ♦ India follows an **enumerated exceptions approach**, not the flexible US ‘fair use’ test.
 - ♦ **Educational exceptions** in India are narrowly defined, confined to classroom use.
- It was **urged by the Delhi High Court** to consider whether it is **technically feasible** for **AI to ‘unlearn’** previously absorbed copyrighted data.
- It limits maneuverability for AI developers and may favor right-holders in litigation.

Way Forward: Toward Ethical AI Creation

- Regulatory frameworks need to evolve and ensure that **original human creators are respected, credited, and, where appropriate, compensated**.
- **Balancing Innovation and Protection:** **There is a need for a level playing field** to ensure fair competition in the AI space.
- Proposals gaining traction include:
 - ♦ **AI transparency laws**, requiring companies to disclose datasets used in training.
 - ♦ **Opt-out registries** for creators who do not wish to have their content used.
 - ♦ **Fair licensing schemes** that allow AI companies to use copyrighted data with remuneration.

Conclusion

- Copyright law stands at a pivotal moment. Generative AI challenges traditional legal interpretations, but its regulation must not hinder creativity and access to knowledge.
- By reaffirming the core principles of copyright and ensuring fair treatment of all players in the AI ecosystem, the law can continue to serve its dual purpose—**protecting creators while promoting learning and innovation**.

Source: TH

Mains Practice Question

[Q] In the evolving landscape of copyright and AI, do you think existing legal frameworks are sufficient to address the ethical and ownership challenges posed by generative AI? Discuss with relevant examples.

