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## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

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# **COPYRIGHT INFRINGEMENT AND ARTIFICIAL INTELLIGENCE TRAINING DATA: STRIKING A BALANCE BETWEEN THE FAIR USE DOCTRINE AND CREATIVE INNOVATION.**

AUTHORED BY - KARTTIKA K

## **ABSTRACT**

The rising use of artificial intelligence (AI) in creative and technological sectors has called into question established understandings of copyright law. Modern AI systems rely significantly on large databases of copyrighted works to train and develop new material, raising issues about infringement and originality. This study critically investigates the legal consequences of utilizing copyrighted content in AI training datasets, determining whether such usage constitutes infringement or is permissible under the fair use doctrine. It delves deep into the fair use doctrine developed in the US and widely accepted through Section 52 of the Copyright Act, 1957. The article concludes by emphasising the importance of a balanced legal framework that promotes innovation while protecting creators' moral and economic interests.

## **RESEARCH PURPOSE**

The paper's main purpose is to examine how unrestricted AI access to creative works could jeopardise a copyright owner's rights and have a negative impact on their creative freedom.

The following section presents the fundamental function of Artificial Intelligence and the difficulties it presents for conventional copyright standards in order to delve deeper into this conflict between innovation and ownership.

## **INTRODUCTION**

*“Artificial intelligence is not a substitute for human intelligence; it is a tool to amplify human creativity and ingenuity.”<sup>1</sup>*

AI is trained by giving massive amounts of data to algorithms, which learn to recognise patterns

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<sup>1</sup> WE NEED EFFECTIVE GOVERNANCE TO SHAPE AI FOR GOOD UNITED NATIONS UNIVERSITY, <https://unu.edu/article/we-need-effective-governance-shape-ai-good> (last visited Oct 31, 2025)

and predict outcomes. Such data provided to AI for training purposes can be classified into two:

- 1) Openly accessible data without any copyright restrictions, and Openly accessible data with copyrighted restrictions.

When a copyrighted content is being used for AI training, it raises various questions on its legal implications. Generative AI systems such as ChatGPT and OPENAI may generate writing, music, and art that closely imitate human creativity. However, these algorithms are trained on enormous databases containing previously published works, many of which are copyrighted. The practice of employing copyrighted material for training presents significant legal issues of ownership and [infringement](#). It has become quite difficult to distinguish between AI generated content and the original content of artists' which has imposed a major threat on the personality rights of artists too.

There are cases where the AI benefits monetarily from any outcome/data created by itself using the training data available, solely since it imitates the artists' work. In such circumstances, the public is misled into believing that the resulting product is the artist's original creation. There have been instances where artistic works have been sold to consumers by falsely claiming that the product was created by the artist himself. In such circumstances, the major problem is whether the fair use concept is applicable or not. Although the creation is only a replica of the artist's work or style, is it really acceptable for the AI to claim ownership of the generated art and benefit from the same?

The New York Times openly contended in *The New York Times v. OpenAI and Microsoft*<sup>2</sup>, claiming that its published articles were used to train their AI models, notably ChatGPT. The complaint contends that AI-generated material directly competes with its original journalism and has had an impact on the profits of the business. Artists Erin Hanson, Daniel Danger, and Tara McPherson discovered that their copyrighted works were being utilised without permission to train AI graphic generators such as Stable Diffusion. While companies like Stability AI and LAION argue that such usage is fair use, artists and technologists, like Mathew Dryhurst and Holly Herndon of Spawning, are lobbying for mechanisms that let creators to opt out and be rewarded for the use of their work in AI training datasets.<sup>3</sup>

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<sup>2</sup> The New York Times Company v. Microsoft Corporation, 1:23-cv-11195, (S.D.N.Y.).

<sup>3</sup> THESE ARTISTS FOUND OUT THEIR WORK WAS USED TO TRAIN AI. NOW THEY'RE FURIOUS | CNN BUSINESS CNN, <https://edition.cnn.com/2022/10/21/tech/artists-ai-images> (last visited Oct 31, 2025)

As a result, it is vital to investigate when the copyright law should be lenient and when it should impose strict limitations on AI's usage of copyrighted content for training purposes. The upcoming paragraphs seek to evaluate the length to which the fair use doctrine is relevant and when there is a need to give primacy to the author's right above AI's creative freedom.

To understand where that boundary should be drawn, consider the fair use doctrine, which is the legal foundation most usually claimed to defend AI's use of copyrighted content.

## FAIR USE DOCTRINE

The fair use doctrine traces its origin back to the US. *Folsom v. Marsh*<sup>4</sup>, in which the court ruled that replicating portions of a biography was not fair use, is widely regarded as the first case to establish the principle of fair use. The fair use doctrine fluctuates in its friendliness to technology.<sup>5</sup> Under the fair use doctrine, certain uses of copyrighted content—such as criticism, commentary, news reporting, research and education—can be used without the owner's consent. Instead than just reproducing the original, courts frequently take into account whether the use is "transformative," which means it adds additional meaning or context. This approach aids in avoiding a strict interpretation of copyright law, which would inhibit the very innovation that the legislation is intended to promote.<sup>6</sup>

The fair use doctrine has been largely accepted by Indian courts as a means of determining whether copyright infringement occurred. In the case of *Eastern Book Company v. Modak*<sup>7</sup>, the Indian Supreme Court decided that using or replicating portions of judgements is permissible and does not violate copyright since it is used for educational purposes.

The following are the main factors in the determination of fair use:

1. A fair use is less likely to occur when the copyrighted material is unpublished.
2. Fair use will be weighed against if the use hurts the copyright owner's present or future market.
3. Transformative uses don't replace the work's original purpose; rather, they contribute something new with a different character or purpose.

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<sup>4</sup> *Folsom v. Marsh*, 9 F.Cas. 342 (C.C.D. Mass. 1841)

<sup>5</sup> Michael W. Carroll, *Copyright and the Progress of Science: Why Text and Data Mining is Lawful*, 53 U.C. DAVIS L. REV. 893, 936 (2019).

<sup>6</sup> AI COPYRIGHT LAW INDIA: OWNERSHIP EXPLAINED MAHESHWARI & CO., <https://www.maheshwariandco.com/blog/ai-copyright-law-india/> (last visited Oct 31, 2025)

<sup>7</sup> *Eastern Book Company & Ors. v. D.B. Modak & Anr.*, (2008) 1 SCC 1.

3. Fair use is more likely to occur when the usage is transformative, and less likely to occur when it is not.
4. While certain scholars assert that AI training is a sort of transformative utilisation, others vehemently maintain that it poses a serious danger to the moral rights of authors and the protection guaranteed by copyright.

Although fair use allows for transformational innovation, its applications are not without limitations. Artificial intelligence generated works may violate existing works if they are too similar to them. This is best explained by the principle of substantial similarity.

## **SUBSTANTIAL SIMILARITY CONSTITUTES COPYRIGHT INFRINGEMENT**

Under *Section 14*<sup>8</sup> of the Copyright Act, 1957, copyright confers the exclusive right to reproduce and modify works to the owners thereof. The visual artwork is subject to copyright protection.

*Section 2*<sup>9</sup> delineates the circumstances under which copyright may be infringed, stating:

*"2(1) Copyright in a work shall be considered infringed by any individual who, without the consent of the copyright owner, engages in any activity that is exclusively granted to the copyright owner by this Act."*

Furthermore, the Courts have decided that "substantial similarity", not simple exact copying, constitutes infringement. The same has been held in the case of *R.G. Anand v. Deluxe Films*<sup>10</sup> where the Supreme Court in paragraph 2 held that

*"In such a case the courts should determine whether or not the similarities are on fundamental or substantial aspects of the mode of expression adopted in the copyrighted work. If the defendant's work is nothing but a literal imitation of the copyrighted work with some variations here and there it would amount to violation of the copyright."*

The "substantial similarity" requirement may not only apply to human imitation but also to AI-generated art. Thus, a claim for copyright infringement arises when the final product

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<sup>8</sup> The Copyright Act, 1957, § 14, No. 14, Acts of Parliament, 1949 (India)

<sup>9</sup> The Copyright Act, 1957, § 2, No. 14, Acts of Parliament, 1949 (India)

<sup>10</sup> R.G. Anand v. Delux Films, (1978) 4 SCC 118

generated by AI is observably "substantially similar" to the original work of the artist.

The significance of getting the right authorisation is highlighted by the realisation that even partial imitation might constitute infringement. This leads us to the important topic of whether licenses need to be obtained before AI developers may use copyrighted content for training.

## **NEED FOR A LICENSE TO USE COPYRIGHTED MATERIAL FOR AI TRAINING PURPOSES**

*Section 51(a)*<sup>11</sup> stipulates that copyright infringement occurs whenever the defendant engages in any action that is within the exclusive rights of the copyright owner. The *Department for Promotion of Industry and Internal Trade (DPIIT)*, part of the Ministry of Commerce, elucidated in mid-2024 that AI developers need authorization to use copyrighted material for training purposes, in accordance with the Berne Convention.<sup>12</sup> The DPIIT notably dismissed any universal fair use defense under *Section 52*<sup>13</sup> of the Copyright Act, 1957 for commercial-scale AI training.

Therefore, using publicly available artworks without a license is illegal reproduction of copyrighted content.

Unlicensed AI training has significant human repercussions in addition to legal compliance issues. The impact of such activities on artists' motivation, creativity, and means of subsistence is examined in the next section.

## **IMPACT OF AI-GENERATED OUTPUTS BASED ON THE TRAINING DATA ON ARTISTS**

Artists feel discouraged from creating art due to the similarity in the end result created by Artificial Intelligence, which causes them to lose their creative motivation. In some situations, the AI outputs have an influence on financial income, and the market value of the art may fall. For example, the new trend on Instagram has generated great grief among Ghibli artists since AI has replaced the hard effort they put in to create their art, which takes between days and

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<sup>11</sup> The Copyright Act, 1957, § 51(a), No. 14, Acts of Parliament, 1949 (India)

<sup>12</sup> AI COPYRIGHT LAW INDIA: OWNERSHIP EXPLAINED MAHESHWARI & CO.,  
<https://www.maheshwariandco.com/blog/ai-copyright-law-india/> (last visited Oct 31, 2025)

<sup>13</sup> The Copyright Act, 1957, § 52, No. 14, Acts of Parliament, 1949 (India)

months.

These monetary and emotional losses highlight the need to strike a balance between respect for creative uniqueness and technical advancement. Indian courts have already started to recognise this balancing by recognising moral rights of celebrities.

## **HOW TO ATTAIN A BALANCE BETWEEN THE CREATIVE INNOVATION OF AI AND THE PERSONALITY RIGHTS OF THE ARTIST INCLUDING FAIR USE OF THEIR COPYRIGHTED MATERIAL**

Indian courts have acknowledged the significance of an artist's personality rights under *Section 57<sup>14</sup> of the Copyright Act* (right to integrity and credit). In *Amarnath Sehgal v. Union of India<sup>15</sup>*, 2005, the courts determined that "*Authorship is a matter of fact.*" It is historical. Understanding authorship not only recognizes the artist but also delineates their contribution to national culture.

In *Titan Industries Limited v. M/s Ramkumar Jewellers<sup>16</sup>*, the Court explicitly protected the personality rights of celebrities, including *Mr. Amitabh Bachchan*, whose images were used in commercial promotions without their consent. The Delhi High Court recently on September 9, 2025 granted *Mrs. Aishwarya Rai* an interim injunction to safeguard her personality rights. This order includes barring certain websites that violate her rights and prohibiting the unapproved use of her name, image, and likeness on digital platforms and through artificial intelligence techniques. The court's September 2025 opinion recognizes that using her identity improperly for personal or business purposes harms her dignity, causes financial injury, and raises questions regarding endorsements.<sup>17</sup>

Following this, in an appeal filed by *Mr. Abhishek Bachhan* before the Delhi High Court on September 10, 2025 accusing number of websites for stealing Bachchan's name, likeness, identity, and voice for profit without permission., Justice Karia has held that "*These attributes*

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<sup>14</sup> The Copyright Act, 1957, § 57, No. 14, Acts of Parliament, 1949 (India)

<sup>15</sup> Amar Nath Sehgal v. Union of India, 2005 SCC OnLine Del 209

<sup>16</sup> Titan Industries Limited v. M/s Ramkumar Jewellers, 2012 (50) PTC 486 (Del)

<sup>17</sup> Editor, DELHI HC GRANTS INTERIM INJUNCTION PROTECTING AISHWARYA RAI'S PERSONALITY RIGHTS; DIRECTS BLOCKING OF ALL INFRINGING WEBSITES, PLATFORMS AND YOUTUBE CHANNELS SCC TIMES (2025),

<https://www.sconline.com/blog/post/2025/09/12/del-hc-protects-aishwarya-rai-personality-rights/> (last visited Oct 31, 2025).

*are linked to the plaintiff's professional work and associations in the course of his career. The unauthorised use of such attributes has the effect of diluting the goodwill and reputation associated with him*<sup>18</sup>

To preserve the creator's moral rights, the court may choose to adopt a statutory legal framework that requires AI developers to get a valid license before utilising copyrighted content for training purposes. These AI developers should also accept the strict liability that comes with ownership of all AI outputs in circumstances when the artists' rights are violated. The creators shall have the discretion and ability to 'opt-out' if they do not wish to grant a license for AI training purposes. AI companies should also be required to reveal their sources so that creators may quickly recognise their work, promoting openness and compliance. Finally, these judicial developments and policy recommendations hint to a greater principle: innovation and integrity must coexist in copyright law.

## CONCLUSION

In light of the above decisions, the author would like to highlight that ***“Copyright should take precedence over the freedom of creative creation and expression”***.

Although advancement in technology is critical in our rapidly changing world, human creativity should never be substituted by AI. Given that artificial intelligence (AI) outputs can easily mimic artistic creations and pose a serious threat to an artist's career, it is imperative to make sure that AI companies do not profit financially from these outputs, that they have obtained the necessary licenses for them, that they are prepared to disclose the sources of the output to the public so that they are not misled into believing that it is the artist's original work, and that they are prepared to face strict liability for any legal infringement. At the same time it is vital to guarantee that such constraints don't go far beyond in a way in which it functions as a block towards the technical growth of Artificial Intelligence. In addition to honouring, acknowledging and encouraging the inventors, the advancement of society should also be taken into account. A balanced copyright framework must guarantee that AI innovation occurs concurrently with respect for human creation, rather than at its expense.

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<sup>18</sup> DELHI HC PROTECTS ABHISHEK BACHCHAN'S PERSONALITY RIGHTS, BARS WEBSITES FROM ILLEGALLY USING HIS NAME THE NEW INDIAN EXPRESS, <https://www.newindianexpress.com/nation/2025/Sep/12/delhi-hc-protects-abhishek-bachchans-personality-rights-bars-websites-from-illegally-using-his-name> (last visited Oct 31, 2025)

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