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ARTIFICIAL INTELLIGENCE MEETS INTELLECTUAL PROPERTY RIGHTS

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Abstract

As Artificial Intelligence (AI) continues to advance at an unprecedented pace, its influence on Intellectual Property Rights (IPR) is becoming increasingly significant. This paper explores the evolving intersection between AI and intellectual property, offering new insights into the legal, ethical, and practical implications of this emerging field. AI technologies are now central to modern innovation, contributing to breakthroughs across industries such as healthcare, finance, education, and the creative arts. However, these advances challenge the foundations of traditional IPR systems, which were not designed to accommodate non-human creators or autonomous content generation.

This study examines key issues such as authorship, ownership of AI-generated works, the use of copyrighted material for AI training, and the limitations of current legal frameworks in addressing these concerns. It also emphasizes the growing importance of redefining legal boundaries to ensure both the protection of original creators and the encouragement of innovation. As AI continues to evolve, the gap between technological capabilities and legal regulations widens, making it essential for lawmakers, creators, and technologists to collaborate on adaptive, forward-looking IP policies. Ultimately, this paper underlines the need for a balanced approach that secures intellectual property rights while supporting the continued growth and ethical deployment of AI-driven technologies.

Introduction

Sometime early in this century the intelligence of machines will exceed that of humans. Within a quarter of a century, machines will exhibit the full range of human intellect, emotions and skills, ranging from musical and other creative aptitudes to physical movement. They will claim to have feelings and, unlike today's virtual personalities, will be very convincing when they

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tell us so. – Ray Kurzweil (2008)[1]

Once considered a remote possibility reserved for science fiction, AI has advanced enough to approach a technological tipping point of generating ground breaking effects on humanity and is "likely to leave no stratum of society untouched"[2]

Artificial intelligence is going to put all of the artists out of work, well maybe, maybe not but AI is already here, and it is raising all kinds of ethical and legal questions. Should AI be able to get a copyright over the work that it produces and if tur AI does not own the copyright of a work who owns it and about training in AI using someone else's work such that AI can produce new works of art that looks exactly like the kind of style that a real human artist would produce. It is necessary to discuss these problems, and a lot of research is going on and still it is a question whether AI should be able to get a copyright.

What Is Artificial Intelligence?

Computers, combined with human intelligence, have advanced to even make decisions on their own. This ability of a computer to take decisions by itself is known as artificial intelligence.[3] AI is not a new phenomenon, with much of its theoretical and technological underpinning developed over the past 70 years by computer scientists such as Alan Turing, Marvin Minsky and John McCarthy. AI has already existed to some degree in many industries and governments.[4]The term 'artificial intelligence' was formally coined by Mr. John McCarthy, a computer scientist in 1956. According to him, it was a notion of a program, processing and acting on information, such that the result is parallel to how an intelligent person would respond in response to similar input.[5]No single definition of AI is accepted by all practitioners. Some define it broadly as a computerized system exhibiting behavior commonly thought of as requiring intelligence, whereas others define AI as a system capable of rationally solving complex problems or taking appropriate action to achieve its goals in real-world

[1] Ray Kurzweil, "The Coming Merging of Mind and Machine", Scientific American (23 March 2009), https://www.scientificamerican.com/article/ merging-of-mind-and-machine; accessed on 17th march,2021.
[2] Lauren Goode, "Google CEO Sundar Pichai compares impact of AI to electricity and fire",The Verge (19 January 2018), available at https://www.theverge.com/2018/1/19/16911354/google-ceo-sundar-pichai-ai-artificial-intelligence-fire-electricityjobs-cancer accessed on,17th March,2021.
[3] Swapnil Tripathi, Artificial Intelligence and Intellectual Property Law, 7 Christ University Law Journal, 83-97 (2017), ISSN 2278-4332X | https://doi.org/10.12728/culj.12.5
[4] Niti Ayog, Task Force Discussion Paper, available at http://niti.gov.in/content/nationalstrategy-ai-discussion-paper, accessed on 17th March,2021.
[5] Raquel Acosta, Artificial Intelligence and Authorship Rights (17/2/2012), available at https://jolt.law.harvard.edu/digest/artificial-intelligence-and-authorship-rights, accessed on 17th March,2021.

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circumstances.[6] AI is often described based on its problem space, such as logical reasoning, knowledge representation, planning and navigation, natural language processing (NLP) and perception,[7]or based on its often-overlapping subfields, including machine learning (ML), deep learning, artificial neural networks, expert systems and robotics.[8]

AI and Patent.

Patenting artificial intelligence (AI) systems and platforms presents unique challenges .Often, AI is designed to replicate tasks traditionally performed by humans . For example, of Microsoft's Inner Eye project is an AI system helping oncologists target cancer treatment in a shorter time. The system manages to accomplish this task by using machine-learning techniques in the analysis of magnetic resonance imaging scans of patients and delineate tumors from surrounding healthy tissue and bone. The oncologist himself previously accomplished this task manually contours on 3D images. However, if one were to seek a patent application is submitted for this task done by the machine, it would be rejected because one of the fundamental requirements of patentability, which describes how the invention works, is not met in this case. Innovative ideas and innovations have long played a central role in shaping society and are typically protected under intellectual property laws , with patents serving as a key component. Whilst patent law is still deeply moored in its roots in the industrial revolution, to a greater extend it has been able to adapt to the successive revolutions like the computing albeit with some challenges. The world is now at an unprecedented threshold of the most far-reaching revolution whose consequences to patent law in particular are so far reaching that its impact is still unknown. This is AI revolution.[9]

AI and Copyright.

Traditional Copyright law does not recognize AI generated works. It only protects the original creations of a human being. In the famous Monkey-Selfie dispute, U.S. Copyright Office clarified that to fall within the protective shield of copyright law a work must be created by a

[6] Frank Chen, "AI, Deep Learning, and Machine Learning: A Primer", Andreesen Horowitz (10 June 2016), https://a16z.com/2016/06/10/ai-deep-learning-machines), accessed on 17th March,2021.
[7] 3 Michael Mills, Thomson Reuters, "Artificial Intelligence in Law: The State of Play" (2016), https://www.neotalogic.com/wp-content/uploads/2016/04/Artificial-Intelligence-in-Law-The-State-of-Play-2016.pd, accessed on 17th March,2021.
[8] Future of AI, available at https://www.congress.gov/bill/115th-congress/house-bill/4625/text, accessed on 18th March,2021.
[9] Garikai Chimuka,Impact of artificial intelligence on patent law. Towards a new analytical framework – [the Multi-Level Model], World Patent Information,Volume 59,2019, available at https://doi.org/10.1016/j.wpi.2019 .101926.(https://www.sciencedirect.com/science/article/pii/S0172219018300814), accessed on 17th March,2021.

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human being.[10]

However, in United Kingdom the law is rather different. In UK Copyright Act, there is a provision which stipulates that if a work is computer-generated then the author is taken to be the person who facilitated the work to be created. [11]On similar terms we can assume that the author of the AI generated work would be one who made the arrangement necessary for the creation of work. In Indian legal standards, section 2(d) of the copyright Act 1957 defines "author" "in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created"

Should AI be able to get copyright?

The answer to the question whether AI should be able to get copyright in something is very clear, that it is a no. An AI under current law of any country cannot own any kind of copyright in the work that it produces. Because copyright is reserved solely for human authors. In India According to section 2(d) of copyright Act 1957, "author" means, —

(i) In relation to a literary or dramatic work, the author of the work;

(ii) In relation to a musical work, the composer;

(iii) In relation to an artistic work other than a photograph, the artist;[12]

(iv) In relation to a photograph, the person taking the photograph;[13]

[(v) in relation to a cinematograph film or sound recording, the producer; and

(v) In relation to any literary, dramatic, musical or artistic work which is computer-generated, the person Who causes the work to be created;][14]

But Australia and China have recognized AI as a patentee or inventor of a work when it comes to a patent.

Courts have interpreted the term author to means human author. The famous case in the U S, which involves this particular issue is so called monkey selfie case of Naruto *v. Slater.* [15] In the facts of this case a macaque monkey got a hold of a photographer's camera and pressed the

[10] Sana Singh and Sonil Singhania, India: Redefine Intellectual Property with Artificial Intelligence, available at https://www.mondaq.com/india/patent/1036180/redefine-intellectual-property-with-artificial-intelligence, accessed on 18th March,2021.
[11] Hacker, P. (2018). Teaching fairness to artificial intelligence: Existing and novel strategies against algorithmic discrimination under EU law. Common Market Law Review, 55(4), 1143-1185.
[12] https://legalserviceindia.com/copyright/copyright-act.htm
[13] https://copyright.gov.in/Copyright_Act_1957/chapter_i.html
[14] https://copyright.gov.in/documents/copyrightrules1957.pdf
[15]Naruto v. Slater, supra, 888 F. 3d 418,

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shutter button and was able to take a photo of itself. The organization PETA (People for the Ethical Treatment of Animals) tried to litigate the case claiming that the monkey was actually the author and not the cameraman, and thus monkey had certain rights to the photo. But the court said no, the Act says anyone other than a human person cannot have a copyright and cannot be the author for the purposes of the copyright Act.

Under the current copyright laws, copyright is available to original works of authors. Original means that the work must originate from its author and must not be copied from another work.[16] Who is liable for the copyright infringement?

Copyright infringement is the use of production of copyright protected material without the permission of the copyright holder. The AI has the potential to create an enormous amount of work with less investment in a Very short span of time. [17]The works created by AI may qualify for copyright protection in all the Jurisdictions for being original. The requirement of use of "skill and judgement" in originality May be deemed to have been satisfied by virtue of the "programming and parameter on which Such AI actually compiles and creates the work"[18].AI does not own copyright, and the developer of the AI also doesn't own copyright in the work that it generates. But just because you don't own a copyright in something doesn't mean that you didn't commit copyright infringement. AI is designed in a way that it's actually using information available in the public domain. Since an AI is not using the data to create something on its own or to use it on a commercial platform it will not amount to an intellectual property infringement. Similarly, it also needs some other data to generate the content which might be useful to the user. In that instance AI may be using some data which is copyrighted and using that type of data will cause copyright infringement. But again, the data input has been taken place by the humans so in that instance AI Could not be held liable for copyright infringement. But there is legal question whether it is legal to train AI using copyrighted data. The legality of training AI using copyrighted data is a complex issue that depends on several factors, including jurisdiction, the nature of the data used, and how it is used. In U S, in the case *Authors Guild v. Google,*[19] the court concluded the case, that Google's unauthorized

[16] Dr. S R Myneni, Law of copyright 72, (New Era Law Publication, 2019)
[17] www.ili.ac.in · pdf · vkaILI Law Review Winter Issue 2020
[18] Lucy Rana and Meril Mathew Joy, "India: Artificial Intelligence And Copyright – The Authorship", Mondaq, December 18, 2019, available at: https://www.mondaq.com/india/copyright/876800/artificial-intelligence-and-Copyright-the-authorship (last visited on December 1, 2020).
[19] Authors Guild, 954 F. Supp. 2d at 284.

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digitalizing of copyright protected works, creation of a search functionality and display of snippets from those work are non – infringing fair use.

But let's just look into pictures that are generated by AI. Obviously, pictures are protected under copyright, but not an artist's style. If someone asks an AI to produce a picture in a specific artist's style, it cannot be considered as copyright infringement. If someone files a suit claiming copyright infringement they should prove two things, first the AI must have copied an original work second, they must establish substantial similarity or that the copying amounts to an improper or unlawful appropriation. And an additional issue of a work that is generated by an AI based on these trained data, is that necessarily a derivative work, and does that infringe on the original work ls of copyright? That's an open question, maybe, but probably not. That's because copyright is always done on a case-by-case basis. A work should be compared with the original work. We cannot say by looking at the process, but at the output, whether there has been copyright infringement.

Training generative AI involves using large bodies of IP-protected works in ways that may be infringing under current laws. Governments seeking to "unlock" the potential of generative AI are now more often looking to legislate to permit text and data mining (TDM) of IP-protected data in order to train AI. Some jurisdictions however have delayed acting on organizations training AI without permission or attribution of the IP-protected data which they used. [20]

Images v. Stability AI Getty [21] Is an ongoing case in the UK. Getty images sued stability AI, claiming it had used millions of grey's copyrighted images without permission to train its image-generation mode l, stable diffusion. The dispute between Getty images and stability AI has the potential to shape copyright licensing in the AI age and precipitate reforms to UK copyright law that, if the materialized, could, materially impacts how attractive the UK id viewed as a country for developing AI solutions.[22]The potential significance of the case, which is currently pending trial before the high court in London, attaches to the defense stability AI intends to raise against the claims Getty has filed against it.

[20] https://www.dentons.com/en/insights/articles/2025/january/28/ai-and-intellectual-property-rights
[21] Getty Images (US), Inc. v. Stability AI, Inc., 1:23-cv-00135
[22] https://www.pinsentmasons.com/out-law/analysis/getty-images-v-stability-ai-implications-copyright-law-licensing

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AI in Trademark

A trademark is any symbol, word, or combination of these that identifies and distinguishes one company's goods and services apart from those of others on the market. It is a type IP that grantz the owner the sole right to use the trademark in connection with their products or services and prevents third parties from using a mark that is similar and might lead to confusion. Brand names, logos slogans and even sound or scents connected to a specific brand or business can all trademarked.[23]

The rise of AI-generated content introduces a new dimension to this dynamic, as automated systems can in advertently create content and assets that mirror or dilute existing trademark. For instance, AI ma generate brand names or logos that are strikingly similar to existing trademarks, leading to potential cases of infringement or trademark dilution. Notably, instance like the walt Disney case underscore the risks associated with the dilution of trademarks by AI. Here, AI generated content arguably blurs the distinctiveness of Disney's iconic brand, a challenge that highlights the need for vigilance in the era of AI driven creativity.[24]

Registering a trademark in UK grants legal protection, safeguarding brands goodwill and reputation infringement typically occurs when a third party uses an identical or similar mark in the course of trade for similar foods or services, creating likelihood of confusion among consumers. overall, the purpose of registering a trademark in the UK is to protect the goodwill and reputation associated with a brand, promote a fair competition, and to safeguard the interest of the booth businesses and consumers in the marketplace[25].

In India the examination process by the trademark's registry involves assessing the distinctiveness of a mark. Integrating AI tools into the process can enhance efficiency and accuracy, streamlining the registration process India's intellectual property offices are gradually embracing technology, and the incorporation of AI in the examination of trademarks may expedite the overall registration procedure [26]

[23] https://ijlsi.com/wp-content/uploads/Role-of-Artificial-Intelligence-in-Intellectual-Property-Rights.pdf
[24] https://depenning.com/blog/protection-of-trademarks-in-the-age-of-artificial-intelligence/
[25] https://www.marks-clerk.com/insights/latest-insights/102k38m-trade-mark-issues-arising-from-use-of-generative-ai/
[26] https://sandalawoffices.com/the-intersection-of-ai-and-trademarks/

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Who needs to act for changes?

Organizations like World intellectual property organizations (WIPO) Plays a pivotal role in forming policies to address these challenges. WIPO is actively developing guidelines and policies to address the challenges posed by AI in the intellectual property domain.

Strategies evolving proper licensing and respecting intellectual property rights are vital to protect AI generated content while encouraging innovation. Legal frameworks, contracts, and monitoring digital channels are crucial strategies for protecting creators and businesses IP rights while promoting responsible innovation with AI content. In the dynamic realm of AI addressing issues of ownership, infringement and fair use within intellectual property law is crucial. The rise of AI generated works requires a comprehensive understanding of IP rights to ensure adequate protection for creators and businesses. Thoughtful legislation and proactive industry standards will play a significant role in ensuring that AIs progress aligns with our legal frameworks and respects the rights of creators.

Conclusion

The role of Artificial Intelligence (AI) is expanding rapidly across all sectors, deeply influencing our daily lives and transforming the way we create, communicate, and innovate. However, this technological evolution is posing significant challenges to the current framework of Intellectual Property (IP) laws. Traditional IP systems were not designed with AI in mind, which has led to growing uncertainties and grey areas—particularly concerning authorship, ownership, and the applicability of doctrines like fair use when it comes to AI-generated content or datasets used to train machine learning models.

Determining who holds the rights to AI-generated works, whether it's the developer, the user, or the AI itself, remains a complex issue. Similarly, questions arise around the legality and ethics of using copyrighted data to train AI systems. Without clear legal guidelines, both creators and innovators face potential risks and limitations. These issues demand urgent attention from policymakers, legal experts, and technology developers.

To move forward, a collaborative approach is essential. Lawmakers must work with creators, technologists, and ethicists to develop balanced regulations that protect intellectual property rights while still encouraging technological progress. Only by achieving this balance can we ensure that AI continues to drive innovation without undermining the rights and incentives of human creators.