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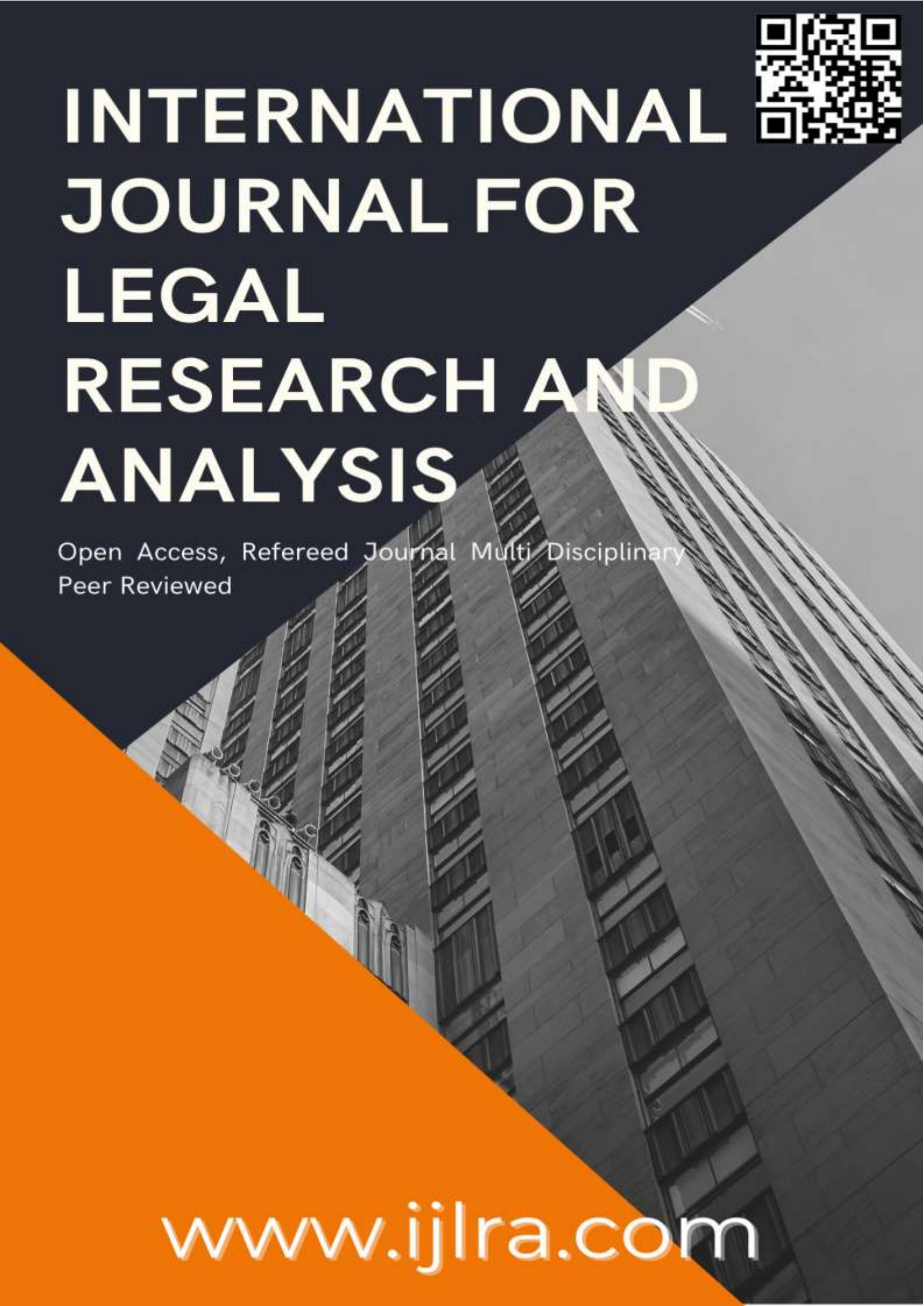

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COPYRIGHT PROTECTION FOR ARTIFICIAL INTELLIGENCE-GENERATED WORK

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LIST OF ABBREVIATIONS

AI Artificial Intelligence

CDPA Copyright, Designs and Patents Act 1988 (United Kingdom)

CJEU Court of Justice of the European Union

CONTU Commission on New Technological Uses of Copyrighted Works (USA)

EU European Union

GPAI General-Purpose Artificial Intelligence

IP Intellectual Property

MeitY Ministry of Electronics and Information Technology (India)

OTA Office of Technology Assessment (USA)

TDM Text and Data Mining

TRIPS Agreement on Trade-Related Aspects of Intellectual Property Rights

USCO United States Copyright Office

WIPO World Intellectual Property Organization

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Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991).

Football Dataco Ltd v. Yahoo! UK Ltd, Case C-604/10 (CJEU).

Gao Yang v. Youku, (2017) Jing 73 Min Zhong No. 797.

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Urantia Foundation v. Maaherra, 114 F.3d 955 (9th Cir. 1997).

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ABSTRACT

Copyright law, at its most basic level, is a bargain between society and the creator: we give you exclusive rights over what you made, and in return you release it to the public after a fixed period. That bargain has always assumed a human creator. What happens when the creator is a machine?

This dissertation examines that question, with particular attention to how Indian law—and the Indian regulatory environment—fits into a global legal landscape that is visibly struggling to keep up with generative AI technology. The study is comparative in method, examining the legal positions adopted in the United States, the United Kingdom, the European Union, China, India, Singapore, Australia, and Thailand. It scrutinises the three pivotal concepts through which copyright law has traditionally assessed creative works: *authorship*, *originality*, and *ownership*. Each of these concepts, this dissertation argues, is strained to breaking point when applied to works produced autonomously by AI systems.

The central argument is that the threshold of originality—as understood across all major legal traditions—cannot comfortably accommodate purely AI- generated outputs, because every formulation of that threshold ultimately requires the expressive choices that define a work to be traceable to a human creative will. AI-assisted works, where a human author makes substantial creative contributions using AI as a tool, occupy a more defensible position. The distinction between these two categories is likely to be the organising principle of AI copyright law for the foreseeable future, even if it becomes progressively harder to apply as AI capabilities advance.

From an Indian perspective, the dissertation identifies a significant legislative gap. The Copyright Act, 1957 does not address computer-generated or AI-generated works in any direct sense, and Indian courts have not yet had occasion to develop the kind of case-law that has emerged in the United States and the European Union. The National Intellectual Property Rights Policy 2016 and the emerging AI regulatory framework under the Ministry of Electronics and Information Technology (MeitY) gestures towards innovation but do not resolve the authorship question. This disserta- tion argues that India needs proactive legislative reform—and that the reform should be thoughtfully calibrated to serve Indian creators, Indian technology companies, and the Indian public, not simply transplanted from Western models.

Keywords: Artificial Intelligence, Copyright, Authorship, Originality, Own- ership, AI-Generated Works, Berne Convention, India, Generative AI, Copyright Act 1957.

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CHAPTER 1 INTRODUCTION

1.1 Background and Context

It is now possible to sit at a laptop, type a sentence or two into a text box, and receive back a fully formed short story, a detailed legal analysis, a painting in any art-historical style, or a musical composition in any genre. The technology that makes this possible—generative AI, powered by large language models and diffusion-based image generators—has moved from research laboratories to mass consumer products in less than five years. The legal implications of that shift are only beginning to be worked out, and they are going to occupy courts, legislatures, and scholars for a long time.

Copyright law is at the centre of this reckoning. Copyright is the branch of intellectual property law that protects original literary, dramatic, musical, and artistic works. It exists in every major legal system in the world. And it was built, almost universally, around the assumption that works are created by human beings. When something resembling a short novel emerges from an AI system in response to a brief prompt, copyright law finds itself asking a question it was not designed to answer: is this a work? Who made it? Does anyone own it?

The questions are not abstract. In 2023 alone, the United States Copyright Office denied registration to three AI-generated artworks, ruling that human author- ship was absent.[1] The *New York Times* filed suit against OpenAI and Microsoft, alleging that billions of its copyrighted articles had been used without permission to train an AI system.[2] Getty Images launched parallel proceedings in the United States and the United Kingdom against Stability AI.[3] These are not edge cases or academic hypotheticals. They represent billions of dollars in potential liability and the possible restructuring of entire creative industries.

For Indian readers, this is not merely someone else's problem. India's technology sector is a significant producer and user of AI tools, and the Indian creative economy—film, music, literature, journalism, software—is increasingly intersecting with AI-generated content. Yet the Copyright Act, 1957, which is

[1]U.S. Copyright Office, Review Board Decision, "A Recent Entrance to Paradise" (Feb. 14, 2022); "Zarya of the Dawn" (Feb. 2023); "The´aˆtre D'Ope´ra Spatial" (Sept. 2023).

[2]*The New York Times Company v. Microsoft Corporation et al.*, Case No. 1:23-cv-11195 (S.D.N.Y. filed Dec. 27, 2023).

[3]*Getty Images (US) Inc. v. Stability AI Ltd.*, No. 23-cv-135 (D. Del. filed Feb. 3, 2023).

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the foundational statute governing intellectual property in creative works in India, was enacted decades before any of this was imaginable. It has no provision that directly addresses computer-generated or AI-generated works. It has no definition of "artificial intelligence". Its concept of authorship—which is what determines who holds copyright—assumes a natural person or a legal entity that engaged a natural person to create. That assumption is now under strain.

This dissertation takes the view that the gap in Indian law is not merely inconvenient; it is a genuine legal problem that creates uncertainty for creators, technology companies, courts, and consumers. The dissertation approaches that problem comparatively: by examining how other legal systems have responded to the AI authorship question, it tries to identify which approaches are worth adopting in the Indian context, and which are not.

1.2 Statement of the Problem

The fundamental problem that this dissertation addresses is this: copyright law was designed for a world in which works had identifiable human creators, and the concepts it uses to determine protection—authorship, originality, and ownership—do not translate cleanly into a world where sophisticated AI systems generate expressive outputs autonomously. Attempts to apply existing doctrine produce results that are either incoherent (recognising the output as a work but struggling to identify who made it), unsatisfying (declaring the output unprotectable and thus unowned), or circular (attributing authorship to whoever "prompted" the system, regardless of how small their creative contribution was).

The Indian dimension of this problem is particularly acute. Unlike the United Kingdom, which enacted a specific provision addressing computer-generated works in 1988,[4] and unlike the European Union, which has developed an extensive body of case law on the originality of works produced with technical assistance, India has taken no comparable legislative or judicial step. The National Intellectual Property Rights Policy, 2016 commits to promoting IP as a tool for innovation and economic development but does not address AI authorship specifically. The Parliamentary Standing Committee on Commerce, in its 2021 report on IP, flagged the need to revisit the Copyright Act in light of technological change—but legislative reform remains pending.

1.3 Research Objectives

This dissertation pursues the following objectives:

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(i) To trace the philosophical foundations of copyright authorship and explain

[4]Copyright, Designs and Patents Act 1988 (UK), s. 9(3).

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why those foundations make AI authorship conceptually problematic;

(ii) To examine the concept of originality as understood across common law, civil law, and EU legal traditions, and to evaluate how those different understandings play out when applied to AI-generated outputs;

(iii) To conduct a comparative analysis of the legal positions adopted in the United States, the United Kingdom, the European Union, China, India, Singapore, Australia, and Thailand with respect to AI-generated works;

(iv) To examine the implications of the EU AI Act 2024 and the USCO's 2025 Copyrightability Report for the future architecture of AI copyright law; and

(v) To develop concrete recommendations for the reform of the Copyright Act, 1957, drawing on comparative insights but attending carefully to India's spe- cific legal, economic, and social context.

1.4 Research Questions

The central research questions guiding this dissertation are:

(i) Can an AI system be an "author" within the meaning of existing copyright law, and if not, which human actors in the AI creative process should be recognised as the legal author?

(ii) Can AI-generated works satisfy the originality requirement as understood across different jurisdictions, and does the answer differ as between purely AI-generated and AI-assisted works?

(iii) How do major legal systems differ in their approach to ownership of AI- generated works, and what normative conclusions follow from those differ- ences?

(iv) What specific legislative amendments to the Copyright Act, 1957 are needed to bring Indian law into a coherent relationship with the realities of generative AI?

1.5 Research Methodology

This dissertation employs a doctrinal and comparative methodology. Primary sources are treaties, statutes, judicial decisions, and official reports are the foundation of the analysis. Secondary sources peer-reviewed journal articles, scholarly monographs, and policy documents are used to contextualise and critically engage with the primary material. The comparative method is used to identify patterns, contrasts, and lessons across jurisdictions. The study is not merely descriptive; it is evaluative and normative. The aim is not only to state what the law is but to assess whether it is adequate to the challenge, and to argue for specific

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changes.

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1.6 Scope and Limitations

This dissertation focuses on copyright law. It does not address patent law, trade secrets, or database rights except where those areas directly illuminate the copyright analysis. The jurisdictions selected for comparative study—the United States, the United Kingdom, the European Union, China, India, Singapore, Australia, and Thailand—represent a range of legal traditions (common law, civil law, mixed systems) and levels of AI regulatory development. The selection does not imply that other jurisdictions are unimportant.

The law in this area is moving quickly. This dissertation reflects the legal position as of April 2026. Some positions will undoubtedly shift as courts and legislatures continue to respond to the challenge. That caveat aside, the foundational concepts under examination are likely to remain central to the debate for many years.

1.7 Chapterisation Scheme

Chapter II examines the orthodox concept of authorship in copyright law and the philosophical traditions that underpin it, before tracing the early debates about computer-generated works and the rise of generative AI. Chapter III presents the comparative jurisdictional analysis of authorship and ownership. Chapter IV examines the originality requirement in depth. Chapter V addresses contemporary developments—the EU AI Act, the USCO's 2025 report, training data litigation, and the human-AI collaboration spectrum. Chapter VI concludes with findings and recommendations, with particular attention to the Indian context.

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CHAPTER 2

THE ORTHODOX CONCEPT OF AUTHORSHIP AND THE RISE OF AI CREATIVITY

2.1 Why Authorship Matters

There is a reason copyright lawyers spend so much time on authorship: it is not merely a gate-keeping requirement. It is the concept that determines who holds what rights, for how long, and against whom. Get authorship wrong, and everything downstream ownership, licensing, enforcement, duration goes wrong too. In the context of AI-generated works, the question of authorship is not a technicality. It is the central legal question, and the one for which existing doctrine is least well- equipped.

Copyright law has, across different legal traditions, developed two broad philosophical justifications for why authors deserve protection. The first is grounded in natural rights theory. John Locke argued that a person who mixes their labour with something acquires a property right in the result.[1] Kant and Hegel offered a variant grounded in personality: the author's work is an expression of their selfhood, and to allow others to appropriate it without consent violates their dignity.[2] Both versions of the natural rights account share a crucial assumption: the author is a conscious human being with free will, creative intentionality, and a personality capable of being expressed.

The second justification the utilitarian account associated with British and American copyright theory treats copyright as an incentive mechanism. We grant authors a temporary monopoly because, without it, the public-goods character of creative works would mean that free-riders could appropriate the author's output without paying, leaving authors with insufficient incentive to create. On this view, the philosophical identity of the author matters less than the question of whether copyright is necessary to incentivise the creation.[3]

Both accounts have in different ways, struggled with AI. The natural rights accounts break down because AI systems do not have personalities, do not exercise creative will in any philosophically meaningful sense, and cannot be harmed or dignified by

[1]John Locke, *Two Treatises of Government* (Peter Laslett ed., Cambridge University Press, 1988), Book II, Ch. 5.
[2]Christopher Yoo, "Rethinking Copyright and Personhood" (2019) 2019 *University of Illinois Law Review* 1049.
[3]William Landes and Richard Posner, "An Economic Analysis of Copyright Law" (1989) 18 *Journal of Legal Studies* 325.

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legal treatment. The utilitarian account raises a different problem: AI systems do not need copyright as a financial incentive. The investment that produces AI-generated works is in the development and training of the model, not in the generation of any particular output. Whether extending copyright to AI outputs serves the utilitarian purpose of incentivising the production of creative works is genuinely contestable.

2.2 The International Framework: The Berne Convention

The Berne Convention for the Protection of Literary and Artistic Works, adopted in 1886 and subsequently revised, is the foundational international framework for copyright law. It is worth being clear about what the Berne Convention does and does not say about authorship, because the Convention is often cited in debates about AI copyright in ways that paper over its actual content. The Convention does not define "author". This was not an oversight: the drafters regarded the human identity of the author as so obvious as to need no statement. Professor Sam Ricketson, one of the leading authorities on the Convention, has observed that the assumption of human authorship was an "implicit premise, considered too obvious to mention."[4] But the consequence of this silence is that the Convention provides no direct guidance on the AI authorship question. Member states are left to work it out for themselves, within the general framework the Convention establishes.

What the Convention does provide is a concept of what makes a work protectable. Articles 2(3) and 2(5) collectively suggest that works deserve protection because they embody intellectual creation—the selection, arrangement, and expression of ideas and information in ways that reflect the creative effort of their maker.[5] This concept of intellectual creation is, effectively, the international baseline for the concept of originality. Whether AI-generated outputs can satisfy it is the subject of Chapter IV.

2.3 Early Encounters Between Copyright and Computing

It is easy to treat the current AI copyright debate as entirely novel, but the questions it raises are not entirely new. They were prefigured by debates in the 1970s and 1980s about the copyright status of computer programs and computer-generated works.

In the United States, the Commission on New Technological Uses of Copy-

[4]Sam Ricketson, "The 1992 Horace S. Manges Lecture—People or Machines: The Berne Convention and the Changing Concept of Authorship" (1991) 16 *Columbia-VLA Journal of Law and the Arts* 1, 37.
[5]Berne Convention for the Protection of Literary and Artistic Works, 9 September 1886 (as

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revised), Arts. 2(3), 2(5).

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righted Works (CONTU), established by Congress in 1974, examined the copyright implications of computer technology and recommended in its 1979 report that computer programs be recognised as copyrightable works.[6] The focus was on programs as authored works—not on the outputs those programs might generate. In 1986, the Office of Technology Assessment examined the broader impact of emerging technologies on intellectual property, concluding that technological change would require ongoing adaptation of IP law.[7]

In the United Kingdom, Parliament took a more direct approach. The Copyright, Designs and Patents Act 1988 (CDPA) introduced a specific provision address- ing computer-generated works: works produced by a computer in circumstances where there is no human author. Section 9(3) provides that the "author" of such a work is the person who undertakes the arrangements necessary for its creation.[8] This was genuinely pioneering legislation it anticipated, at least in outline, the kind of question that generative AI would make urgent three decades later.

India, in the meantime, did not follow suit. The Copyright Act, 1957 was amended in 1994 to bring it into conformity with the TRIPS Agreement and to address some aspects of digital technology, but it did not introduce a computer- generated works provision analogous to the UK model. Section 2(d) of the Act defines "author" for various categories of work but does not explicitly address the case of works generated autonomously by a computer or AI system.[9] This is a gap that has persisted, and that this dissertation argues needs to be filled.

2.4 The Arrival of Generative AI

The development of deep learning in the 2010s and the deployment of large language models and diffusion-based image generators from 2020 onwards transformed the AI copyright debate from a theoretical curiosity into a pressing practical problem. Systems like GPT-4, DALL-E, Midjourney, and Stable Diffusion can generate high-quality text, images, music, and code in response to brief natural language prompts, at speed and at industrial scale.

Several illustrative examples are worth noting. British researchers developed a poetry-generation system trained on the work of over a hundred contemporary British poets; its outputs bore the stylistic imprints of named human poets such as Simon Armitage and Alice Oswald.[10] In Japan, a novel co-generated by an AI

[6]National Commission on New Technological Uses of Copyrighted Works (CONTU), *Final Report* (1979), at 54.

[7]U.S. Congress, Office of Technology Assessment, *Intellectual Property Rights in an Age of Electronics and Information*, OTA-CIT-302 (1986).

[8]Copyright, Designs and Patents Act 1988 (UK), s. 9(3).

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[9]Copyright Act, 1957, s. 2(d).
[10]Alison Flood, "'A box of light': AI inspired by British verse attempts to write poetry", *The*

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system was shortlisted for the prestigious Hoshi Shinichi Literary Award in 2016.[11] The Jukedeck platform used machine learning to compose original music in genres from jazz to rock.[12]

These examples demonstrate that AI-generated creative output is no longer a laboratory curiosity. It is commercially significant and culturally visible. The legal framework needs to respond. Chapters III through V examine how it is doing so, and how adequately.

Guardian (20 March 2021).

[11]Jacob Brogan, "An A.I. Competed for a Literary Prize, but Humans Still Did the Real Work", *Slate* (25 March 2016).

[12]Samuel Fishwick, "Robot rock: How AI singstars use machine learning to write harmonies", *The Standard* (1 March 2018).

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CHAPTER 3

AUTHORSHIP, OWNERSHIP, AND AI: A COMPARATIVE ANALYSIS

3.1 The United States

3.1.1 Constitutional and Statutory Foundations

American copyright law rests on Article I, Section 8, Clause 8 of the Con stitution, which empowers Congress to secure to "Authors and Inventors" exclusive rights in their "Writings and Discoveries." The word "Authors" has consistently been read by the courts to mean human beings. In *Burrow-Giles Lithographic Co.*

v. Sarony, the Supreme Court defined an author as the "originator" or "maker" of a work the person to whom the work owes its origin.[1] In *Goldstein v. California*, the Court reiterated that an author, in the constitutional sense, is an individual who writes or composes an original work.[2]

Title 17 of the United States Code the Copyright Act gives statutory form to these constitutional principles. Copyright subsists in original works of authorship fixed in any tangible medium of expression.[3] The authorship requirement has been interpreted consistently to require a human creator.

3.1.2 Judicial Treatment of Non-Human Authorship

American courts have drawn the human authorship line firmly, in a series of cases that span quite different factual scenarios. In *Urantia Foundation v. Maaherra*, the Ninth Circuit held that a book purportedly authored by non-human spiritual beings could be copyright eligible only if there was evidence of human selection and arrangement of the content.[4] In *Cetacean Community v. Bush*, the court held that animals lack statutory standing under the Copyright Act.[5] In *Kelley v. Chicago Park District*, the Seventh Circuit held that a living garden too dynamic and unstable to be fixed in an authored form was not a copyrightable work.[6]

The definitive AI-specific ruling came in *Thaler v. Perlmutter*. Stephen Thaler, the developer of an AI system called DABUS, applied to the USCO for copyright registration of an artwork he described as having been created "autonomously" by the AI. The Copyright Office refused. The District Court upheld the refusal, holding that "human

[1] *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 58 (1884).
[2] *Goldstein v. California*, 412 U.S. 546, 561 (1973).
[3] 17 U.S.C. § 102(a).
[4] *Urantia Foundation v. Maaherra*, 114 F.3d 955, 964 (9th Cir. 1997). [5] *Cetacean Community v. Bush*, 249 F. Supp.

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2d 1206 (D. Haw. 2003). [6]*Kelley v. Chicago Park District*, 635 F.3d 290, 304 (7th Cir. 2011).

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authorship is an essential part of a valid copyright claim," and that the Copyright Act was not designed to protect works generated without human creative agency.[7] The D.C. Circuit affirmed in 2025, and the Supreme Court denied certiorari in March 2026.[8] As things stand, that is the settled law in the United States.

3.1.3 The USCO's 2025 Report on Copyrightability

In January 2025, the USCO published the second part of its multi-part report on Copyright and Artificial Intelligence, focusing on copyrightability.[9] The report is worth examining carefully because it is the most detailed official statement of how the world's most influential copyright office currently thinks about AI authorship.

The report reaffirmed the human authorship requirement as absolute for purely AI-generated content. But it went further by developing a nuanced framework for works that involve some mix of human and AI contribution. It identified four categories of human involvement: (i) using AI as a tool to facilitate the human creative process without surrendering authorial control; (ii) using text prompts to generate outputs—where the USCO maintained that prompts alone, under current technology, generally do not provide sufficient human control to constitute authorship of the output; (iii) using "expressive inputs" such as original photographs or drawings that the AI then modifies; and (iv) human selection, arrangement, and modification of AI-generated content, where the human-authored elements may be separately protectable.

The practical implication is clear: if you are using AI as a tool and making substantial creative decisions yourself, copyright can still attach to your human authored elements. If you are typing a prompt and receiving output, the output itself is unlikely to be yours.

3.2 The United Kingdom and Common Law Nations

3.2.1 The Computer-Generated Works Provision

The United Kingdom's CDPA 1988 is, as already noted, the most significant legislative attempt to address the question of authorship in AI-generated works. Section 9(3) provides that in the case of a literary, dramatic, musical, or artistic work generated by a computer in circumstances where there is no human author, the author is taken to be "the person by whom the arrangements necessary for the creation

[7] *Thaler v. Perlmutter*, No. 22-1564 (D.D.C. Aug. 18, 2023).
[8] *Thaler v. Perlmutter*, No. 23-5233 (D.C. Cir. 2025).
[9] U.S. Copyright Office, *Copyright and Artificial Intelligence, Part 2: Copyrightability* (Jan. 29, 2025).

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of the work are undertaken."[10] Section 178 defines "computer-generated" to mean generated by computer in circumstances where there is no human author involved.

This is a workable solution to the ownership problem—it always produces an answer, because someone will always have "undertaken the arrangements." In the generative AI context, that would typically be the operator or deployer of the AI system, or the user who configures and runs it.

3.2.2 The Problems with the UK Approach

But workability is not the same as correctness. The UK provision has attracted sustained scholarly criticism, and for good reason. The most fundamental problem is that treating the person who "undertakes the arrangements" as the author effectively decouples authorship from creativity. Consider a case where a user types the prompt "write a sonnet about autumn" into a generative AI system and receives a polished fourteen-line poem. The user has "undertaken the arrangements" in some minimal sense they turned the system on and typed the prompt. But can it seriously be said that they are the author of the poem that emerged? They made no choices about metre, imagery, diction, or structure. All of those choices were made by the algorithm.[11]

The provision was drafted with a much simpler kind of computer generation in mind deterministic systems in which a human programmer wrote code that produced predictable outputs, and where attributing the output to the programmer made intuitive sense. Generative AI, which is probabilistic and emergent, producing different outputs from the same prompt on different occasions, does not fit this model.

There is also a deeper normative objection. If the purpose of copyright is to incentivise human creativity, extending copyright protection to outputs generated autonomously by AI regardless of how small the human contribution was does not serve that purpose. The user who typed "write a sonnet about autumn" did not need a copyright incentive to do so. It took them ten seconds.

New Zealand (s. 5 of the Copyright Act 1994), Hong Kong (s. 11(3) of the Copyright Ordinance), and Ireland (s. 21(f) of the Copyright and Related Rights Act 2000) have adopted provisions substantially similar to the UK model.[12]

[10]Copyright, Designs and Patents Act 1988 (UK), s. 9(3).

[11]Andre´s Guadamuz, "Do Androids Dream of Electric Copyright? Comparative Analysis of Originality in Artificial Intelligence Generated Works" (2017) 2 *Intellectual Property Quarterly* 169. [12]New Zealand Copyright Act 1994, s. 5; Copyright Ordinance (HK) Cap. 528, s. 11(3); Copyright and Related Rights Act 2000 (Ireland), s. 21(f).

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3.3 The European Union

3.3.1 The CJEU's Originality Standard

The European Union's approach to copyright authorship is distinctive because it is structured around a particular definition of originality the "author's own intellectual creation" standard that has been developed by the CJEU through a series of cases and then generalised across all categories of protected works. The standard is demanding in a specific way: it requires not just any creative effort, but creative effort that reflects the author's personality through free and autonomous choices.

The foundation case is *Infopaq International A/S v. Danske Dagblades Foren- ing,* where the CJEU held that copyright subsists in a work if it represents the author's own intellectual creation, and that this requires the work to reflect the author's personality through the choices they made in expressing ideas and information.[13] In *Levola Hengelo BV v. Smilde Foods BV,* the court added the requirement that the work be identifiable with sufficient precision and objectivity.[14] *Eva-Maria Painer v. Standard Verlags GmbH* is particularly relevant for thinking about AI. The court held that a photograph can satisfy the originality standard if the photographer makes free and creative choices in producing it in composition, framing, lighting, the moment of exposure.[15] The camera is a tool; the photographer is the author. Applied to AI: the generative AI system is a tool; but if no human is making the relevant creative choices, who is the author? *Cofemel — Sociedade de Vestuário SA v. G-Star Raw CV* and *Football Dataco Ltd v. Yahoo! UK Ltd* together establish that where the realisation of a work is dictated by technical considerations, rules, or constraints that leave no room for creative freedom, the work cannot meet the originality threshold.[16] A work generated autonomously by an AI algorithm where the algorithm makes all the expressive choices seems to fall squarely within this exclusion.

3.3.2 The EU AI Act and Copyright

The EU AI Act (Regulation (EU) 2024/1689), published on 12 July 2024, is the world's first comprehensive legal framework for AI. It does not directly address the copyrightability of AI-generated outputs that remains governed by existing

[13]Case C-5/08, *Infopaq International A/S v. Danske Dagblades Forening* [2009] ECR I-6569, para. 45.
[14]Case C-310/17, *Levola Hengelo BV v. Smilde Foods BV* [2018] ECLI:EU:C:2018:899, paras. 34–37.
[15]Case C-145/10, *Eva-Maria Painer v. Standard Verlags GmbH* [2011] ECR I-12533, paras. 120–121.
[16]Case C-683/17, *Cofemel* [2019] ECLI:EU:C:2019:721, para. 31; Case C-604/10, *Football Dataco* [2012] ECLI:EU:C:2012:115, para. 39.

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copyright law and CJEU case law. What it does address is the training data question. Recital 105 of the Act acknowledges that developing and training GPAI models requires access to vast quantities of copyright-protected material, and that text and data mining for this purpose requires either authorisation from rightsholders or coverage by a copyright exception. Article 53(1)(c) requires GPAI model providers to implement policies to comply with EU copyright law, including the opt-out reservation mechanism under the Digital Single Market Directive 2019.[17] Article 53(1)(d) requires providers to publish summaries of training data.[18] These obligations have extraterritorial reach: they apply to any provider placing a GPAI model on the EU market, regardless of where training occurred.

The Code of Practice implementing these provisions was published in July 2025, with twenty-six major AI providers including Anthropic, Google, Microsoft, and Aleph Alpha as signatories. Whether it will effectively protect the rights of human creators is a question that remains open.

3.4 China

3.4.1 A More Flexible Judicial Approach

China's experience with AI and copyright is instructive precisely because the courts have, in at least some cases, been willing to extend protection to AI-generated outputs in ways that American and European courts have not.

In *Shenzhen Tencent v. Shanghai Yingxun* (2019), the Nanshan District People's Court considered whether an article generated by Tencent's Dream Writer AI system was eligible for copyright. The court found it was, but grounded the holding in the creativity of the human engineers and the legal person (Tencent) who designed and deployed the system not in any creative agency of the AI itself.[19] In *Gao Yang v. Youku* (2017), the Beijing court found that photographs taken automatically by a camera attached to a hot-air balloon were copyrightable, on the basis that the user's act of attaching and configuring the camera constituted a sufficient creative contribution.[20]

The most significant recent development was a 2023 ruling by the Beijing Internet Court, which recognised copyright in an AI-generated image produced by the Stable Diffusion system. The court held that the user's iterative process of prompt-crafting and output-selection constituted sufficient creative effort to ground protection.[21] This is a noticeably more permissive approach than that of the USCO

[17]Regulation (EU) 2024/1689 (AI Act), Art. 53(1)(c); Directive (EU) 2019/790 (DSM Directive), Art. 4(3).
[18]AI Act, Art. 53(1)(d).

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[19]*Shenzhen Tencent v. Shanghai Yingxun*, (2019) Yue 0305 Min Chu No. 14010.
[20]*Gao Yang v. Youku*, (2017) Jing 73 Min Zhong No. 797.
[21]Beijing Internet Court ruling on AI-generated image (November 2023), cited in "AI, Copyright,

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in the same period, and it reflects China's regulatory interest in encouraging AI development alongside its equally strong interest in maintaining legal order in the creative economy.

3.5 India, Singapore, Australia, and Thailand

3.5.1 India: The Central Lacuna

Indian copyright law, as it currently stands, cannot comfortably accommodate AI-generated works. The Copyright Act, 1957 defines "author" in section 2(d) according to the category of work: for a literary or dramatic work, the author is the person who creates it; for musical works, the composer; for artistic works, the artist; for photographs, the person taking the photograph; and—crucially—for computer-generated works, the person who causes the work to be generated.[22]

That last sub-clause is important. India's statute *does* acknowledge the category of computer-generated works, at least in passing. But the acknowledgement is brief and undeveloped. The Act does not define "computer-generated works." It does not address what level of human creative contribution is needed to "cause" a work to be generated in the relevant sense. It does not specify whether a person who types a brief prompt into a generative AI system has "caused" the output, or whether something more is required. These silences leave Indian courts, if the question were to arise, without meaningful statutory guidance.

The leading Indian case on copyright originality—*Eastern Book Company v. D.B. Modak*[23] held that a work must involve the exercise of skill, judgment, and labour of its author to qualify for copyright, and that mechanical, routine, or slavish reproduction does not suffice. The Supreme Court in that case was careful to distance Indian law from the purely "sweat of the brow" approach and to insist on some minimum level of creative skill. This standard skill, judgment, and labour is one that AI-generated outputs, produced without any human exercise of skill or judgment in the expressive choices, would struggle to satisfy.

What India is missing is a coherent legislative framework that: (a) defines AI- generated works with sufficient precision; (b) specifies who holds copyright in such works, if anyone; (c) articulates what level of human creative contribution is needed to ground that ownership; and (d) addresses the training data question whether using copyright-protected Indian works to train AI systems requires authorisation. The National Intellectual Property Rights Policy 2016, for all its ambition, does not provide this framework. The 2021 Parliamentary Standing Committee report identified the need for legislative reform but did not translate that recognition into a

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and the Law" (2025) IP & Technology Law Society, USC.

[22]Copyright Act, 1957 (India), s. 2(d).

[23]*Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1.

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draft Bill. MeitY's various AI strategy documents discuss AI governance at a high level but are not focused on intellectual property. The gap is real and it is growing.

3.5.2 Singapore

Singapore's copyright law, as developed through *Asia Pacific Publishing Pte Ltd v. Pioneers & Leaders (Publishers) Pte Ltd*,[24] emphasises that authorship is a characteristic of natural persons. The Singapore International Commercial Court's observations in *B2C2 Ltd v. Quoine Pte Ltd* that the legal framework for dealing with AI-executed transactions is still evolving are suggestive of the uncertainty that prevails even in one of Asia's most sophisticated legal systems.[25] Singapore currently offers no explicit copyright protection for purely AI-generated works.

3.5.3 Australia and Thailand

Australia's copyright law, as interpreted in *IceTV Pty Ltd v. Nine Network Australia Pty Ltd*,[26] requires human creative expression for copyright to subsist. There is no provision equivalent to the UK's computer-generated works clause, and purely AI-generated outputs are not protectable. Thailand is in a similar position: the requirement of human personality for copyrightability means that AI-generated works fall outside the scope of Thai copyright law.[27]

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[24]*Asia Pacific Publishing Pte Ltd v. Pioneers & Leaders (Publishers) Pte Ltd* [2011] SGCA 37.

[25]*B2C2 Ltd v. Quoine Pte Ltd* [2019] SGHC(I) 03, paras. 206–208.

[26]*IceTV Pty Ltd v. Nine Network Australia Pty Ltd* [2009] HCA 14.

[27]Nattapong Suwan-In, "Copyright Protection on AI-Generated Work: The Case Study of the US, UK, and Thailand Copyright Laws" (2021) *Journal of Law, Public Administration and Social Science* 131, 142.

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CHAPTER 4

ORIGINALITY IN AI-GENERATED WORKS

4.1 What Originality Is Supposed to Do

Originality is the threshold concept in copyright law. Without originality, a work does not qualify for protection, no matter how much skill or investment went into its production. Originality serves two functions. First, it is the mechanism by which copyright law limits its own reach: by requiring that a work be original, the law ensures that copyright does not extend to unprotected ideas, facts, or information in the public domain—only to the particular original expression of those things. Second, originality is the means by which the law connects copyright to human creative agency: a work is original if it originated from its author, in the sense of reflecting their creative choices, not being copied from another source.

The concept of originality is, however, not uniform across legal systems. The differences between the "sweat of the brow" approach associated with older English and Commonwealth law, the "minimal creativity" approach of United States law following *Feist*, and the "author's own intellectual creation" standard of EU law are significant—and they matter more, not less, when we are trying to assess the position of AI-generated outputs.

4.2 The Common Law Tradition

4.2.1 The English Approach

In England and Wales, the traditional test of originality was relatively modest. In *University of London Press v. University Tutorial Press*, Peterson J. held that "the word 'original' does not in this context mean that the work must be the expression of original or inventive thought" but simply that it must originate from the author and involve at least some intellectual effort.[1] The case of *Hollinrake v. Truswell* confirmed that originality is not about novelty but about the work having been independently created by the author.[2]

This "skill and labour" approach—sometimes called the "sweat of the brow" doctrine—was relatively hospitable to mechanical or routine productions, provided they involved some expenditure of effort. Whether it would extend to AI-generated outputs is an interesting question: the output is generated in fractions of a second

[1] *University of London Press v. University Tutorial Press* [1916] 2 Ch 601, 608–609.

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[2]*Hollinrake v. Truswell* [1894] 3 Ch 420, 427.

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without any human skill or labour in the expressive phase. Even the most permissive reading of the skill-and-labour standard would struggle to locate the relevant skill and labour in the act of typing a prompt.

Following UK membership of the EU and the influence of CJEU jurisprudence particularly after *Infopaq* English courts moved toward the "author's own intellectual creation" standard, raising the threshold of what counts as originality. Whether Brexit changes this position in the longer run is uncertain; for now, the higher standard prevails.

4.2.2 The United States: The Feist Standard

The United States Supreme Court's ruling in *Feist Publications, Inc. v. Rural Telephone Service Co.* is the definitive statement of the American originality standard. The Court held that a work qualifies for copyright if (i) it was independently created by the author meaning not copied from another source and (ii) it possesses at least a minimal degree of creativity.[3] The Court emphatically rejected the sweat of the brow doctrine: labour, skill, and effort are not substitutes for creativity.

Applied to AI-generated works, the *Feist* standard creates a double problem. First, the "independent creation" requirement is not satisfied by the user who inputs a prompt, because it is the AI system not the user that independently makes the expressive choices that constitute the work. Second, the minimal creativity requirement cannot be met by expressive choices that were not made by a human creator at all.

Earlier cases elaborated the standard in ways that remain relevant. In *Alfred Bell & Co. v. Catalda Fine Arts,* the Second Circuit held that originality requires independent origin and at least a minimal level of novelty the work must exhibit some degree of distinctiveness.[4] In *Baltimore Orioles, Inc. v. Major League Baseball Players Ass'n*, the Seventh Circuit articulated the dual requirements of independent origin and minimal creativity as the twin components of originality.[5]

4.3 The Civil Law and EU Approaches

4.3.1 The Personality Theory of Originality

Civil law systems—particularly the French *droit d'auteur* tradition approach originality from a personality-centred perspective. Copyright protection requires that a work bear the imprint of the author's personality (*l'empreinte de la personnalite´ de l'auteur*): it must reflect the author's individual creative sensibility and choices.

[3] *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340, 345 (1991).

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[4]*Alfred Bell & Co. Ltd. v. Catalda Fine Arts, Inc.*, 191 F.2d 99, 104 (2d Cir. 1951).

[5]*Baltimore Orioles, Inc. v. Major League Baseball Players Ass'n*, 805 F.2d 663, 668 (7th Cir. 1986).

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French courts have developed a body of case law identifying creative choices in composition, framing, selection, tone, rhythm as the markers of the author's personality that ground originality.

This personality-based theory is, if anything, more inhospitable to AI authorship than the utilitarian approach. An AI system does not have a personality. It makes computational selections among possible outputs, but those selections are not the expression of an individual creative self. The outputs of a generative AI system may stylistically echo the human-generated works on which it was trained, but they do not express the personality of the AI, because the AI has none.

4.3.2 The CJEU's Synthesis

The CJEU's "author's own intellectual creation" standard developed across *Infopaq*, *Levola Hengelo*, *Painer*, *Cofemel*, and *Football Dataco* represents a synthesis of the personality approach and an objective assessment of creative freedom. A work is original if it reflects the author's personality through free and creative choices that enabled the author to express their individuality. Where features of a work are predetermined by technical considerations, rules, or constraints that leave no room for creative freedom, the work cannot be original.

Applied to AI-generated works, this standard is quite clear in its implications: a work generated autonomously by an AI algorithm where the algorithm makes all the expressive choices does not satisfy the originality requirement, because there is no human author whose personality is expressed through free creative choices. AI- assisted works, where a human author retains meaningful creative control, occupy a different position.

4.4 Originality in the Indian Context

4.4.1 The Modak Standard

The Supreme Court of India's ruling in *Eastern Book Company v. D.B. Modak* is the leading authority on originality in Indian copyright law. The Court held that a work must be the product of the author's "skill, judgment, and labour" and that it must involve "some minimum amount of creativity" to qualify for protection.[6] The Court specifically rejected the pure "sweat of the brow" approach mere labour without creative judgment is not sufficient but it also did not adopt the higher CJEU standard requiring the expression of the author's personality.

The *Modak* standard sits somewhere between the English skill-and-labour approach and the American minimal creativity standard. It requires creative judgment, not just effort, but it does not go so far as to require the work to bear the imprint of

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[6]*Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1.

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the author's individual personality in the French sense.

How does this standard apply to AI-generated works? The answer is fairly clear, even if Indian courts have not yet had to give it: an output generated au- tonomously by a generative AI system, in which the human user's contribution consists of a brief prompt, does not satisfy the *Modak* standard. There is no exercise of skill, judgment, or creativity by a human author in the expressive choices that constitute the work. The prompt is an instruction; the output is the AI's response. The human who typed the instruction cannot claim authorship of the response any more than a client can claim authorship of a brief written by a lawyer in response to their instructions.

AI-assisted works are more complex. Where an Indian author uses AI as one tool among many in a creative process in which they exercise meaningful judgment and creative control—selecting, arranging, modifying, and shaping AI- generated material—the resulting work may satisfy the *Modak* standard in respect of the elements to which the human's judgment was applied. But the Act, as currently drafted, provides no clear mechanism for delineating which elements attract protection and which do not.

4.4.2 Applying the Berne Convention

India is a member of the Berne Convention and bound by its provisions. As noted in Chapter II, the Convention implies an originality requirement through its provisions on derivative works and collections (Arts. 2(3) and 2(5)) but does not define the standard explicitly.[7] The WIPO has acknowledged that AI-generated works were not contemplated by the Convention's drafters and that member states have significant latitude in determining how to handle them.[8] India's flexibility to develop an appropriate originality standard for AI works is therefore considerable the challenge is to exercise that flexibility intelligently.

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[7]Berne Convention, Arts. 2(3), 2(5).

[8]WIPO Secretariat, "Revised Issues Paper on Intellectual Property Policy and Artificial Intelli- gence", WIPO/IP/AI/2/GE/20/1 REV (11 June 2022), para. 23.

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CHAPTER 5

CONTEMPORARY DEVELOPMENTS AND EMERGING CHALLENGES

5.1 The Generative AI Copyright Explosion (2023–2026)

The pace of legal development in this field between 2023 and 2026 was remarkable. Courts, copyright offices, and legislatures across the world were confronted simultaneously with registration disputes, litigation over training data, policy consultations on AI governance, and debates over the adequacy of existing statutory frameworks. What follows is a selective account of the most significant developments.

The USCO's three 2023 registration denials for "Zarya of the Dawn," "Théâtre D'Opéra Spatial," and "SURYAST" established clearly that AI-generated outputs, generated through text prompts without substantial further human creative input, would not be registered.[1] At the same time, the USCO confirmed that it had registered hundreds of works incorporating AI-generated material where the human- authored elements were sufficiently distinctive. This confirmed that the USCO's position was not a categorical refusal to deal with AI-incorporating works but a nuanced assessment of human creative contribution.

The D.C. Circuit's 2025 affirmation of *Thaler v. Perlmutter* and the Supreme Court's subsequent denial of certiorari closed off, at least for the foreseeable future, the argument that the human authorship requirement is merely statutory and could be removed by legislation or reinterpretation without a constitutional change.[2] This is a significant development: it means that in the United States, extending copyright to purely AI-generated works would require constitutional amendment, not merely a statutory fix.

An interesting outlier in the 2025 landscape was the USCO's registration of "A Single Piece of American Cheese" a visual artwork composed entirely of AI-generated images. The registration was granted on the basis that the human-driven process of selection, arrangement, and coordination of the AI outputs constituted sufficient human authorship to ground protection.[3] This is a significant data point: it demonstrates that collective, curatorial human creativity applied to AI-generated material can attract copyright, even if any single AI output cannot.

[1]See supra note 1.

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[2]See supra notes 5, 6.

[3]Wikipedia, "Artificial Intelligence and Copyright" (accessed April 2026).

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5.2 The EU AI Act and Its Copyright Implications

The EU AI Act's transparency and copyright compliance obligations, discussed in Chapter III, represent a significant step toward addressing the training data dimension of the AI copyright problem. The Code of Practice published in July 2025 is the practical instrument through which those obligations are implemented.

Several tensions in the EU approach deserve mention. First, the territorial reach of the Act's copyright obligations is contested: Recital 106's attempt to give extraterritorial effect to TDM opt-out requirements is legally controversial and may not survive challenge.[4] Second, the adequacy of the Robot Exclusion Protocol (robots.txt) as a mechanism for rightsholders to reserve their rights has been questioned: the protocol is advisory, not enforceable, and compliant bots are not the only threat to copyright.[5] Third, the transaction costs of the licensing model envisaged by the Act whereby AI developers would need to negotiate licences with millions of individual rightsholders are potentially prohibitive, and collective licensing is an imperfect substitute.

What the EU Act does not do and this is important is resolve the copyrightability question for AI-generated outputs. That question remains governed by existing EU copyright law and CJEU case law, which, as Chapter III explained, effectively denies protection to purely AI-generated works. The AI Act is about the inputs (training data); the copyrightability debate is about the outputs.

5.3 Training Data Litigation and the Fair Use Question

The use of copyrighted works to train AI models is one of the most commercially significant copyright questions of the present decade. The basic fact pattern is well-known: generative AI systems have been trained on datasets comprising billions of texts, images, and other creative works, the vast majority of which are copyright-protected. The question is whether this training constitutes infringement. In the United States, the answer depends on the fair use doctrine. AI developers have argued that training is transformative to use the model learns from the works, as a human reader learns from books, without reproducing them verbatim. Copyright holders argue that training reproduces copyrighted works at scale and creates systems that can produce outputs substituting for the originals in the market. The Supreme Court's 2023 ruling in *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith* cautioning that trans-formativeness is a matter of degree and that a use fulfilling the same commercial function as the original is unlikely to be fair.

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[4]See Kluwer Copyright Blog, "Copyright, the AI Act and extraterritoriality" (November 2024).

[5]IAPP, "The EU AI Act and copyrights compliance" (2024).

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complicated the AI developers' position.[6]

For India, this question is equally pressing. India has no fair use doctrine in the American sense; it has a closed list of fair dealing exceptions in section 52 of the Copyright Act, 1957. None of these exceptions clearly covers the use of copyright-protected works as AI training data. If India's AI industry which is growing rapidly is to have legal certainty about the use of copyright-protected material in training, either a new exception needs to be drafted or existing exceptions need to be interpreted expansively. Neither option is currently available without legislative action.

5.4 The Human-AI Collaboration Spectrum

Perhaps the most useful conceptual contribution to emerge from recent scholarship and regulatory guidance is the idea of a spectrum of human-AI collaboration, along which copyright protection gradually becomes available as the human creative contribution grows more substantial.

At one end: fully autonomous AI output, generated in response to a minimal prompt with no further human creative input. No jurisdiction provides copyright for this.

At the other end: a work in which AI functions as a purely administrative tool a spell-checker, a synonym-suggester and the human author makes all substantive creative decisions. Copyright attaches fully to the human author's work.

In the middle: the genuinely difficult cases. A writer who uses AI to generate several versions of a chapter, then selects one and substantially rewrites it. An artist who generates fifty AI images and carefully selects, crops, and combines three of them into a composite work. A musician who generates AI melodies and then harmonises, arranges, and records them in a human performance. In these cases, there is real human creative contribution but it is selective and curatorial rather than directly generative. Whether it suffices for copyright depends on the jurisdiction and the specifics of the contribution.

Scholars like Mazzi have proposed that copyright registration for AI-incorporating works should require applicants to document the interaction between the human user and the AI system the prompts given, the parameters set, the iterations performed,

the selection made.[7] This proposal has real merit: it creates a record that allows copyright offices and courts to assess the nature and degree of the human contribution, without presuming either that any prompt is sufficient or that no prompt can ever be

[6] *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508 (2023).

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[7]Francesca Mazzi, "Authorship in Artificial Intelligence-Generated Works: Exploring Originality in Text Prompts and Artificial Intelligence Outputs through Philosophical Foundations of Copyright and Collage Protection" (2024) 27 *Journal of World Intellectual Property* 410, 425.

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sufficient.

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CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

6.1 Summary of Key Findings

This dissertation has examined a set of questions that are genuinely difficult not merely technically complex but difficult in the deeper sense that they require us to decide what copyright law is *for* before we can say how it should respond to AI-generated works. The comparative analysis across eight jurisdictions has produced the following key findings.

First, there is a global consensus that AI systems cannot be copyright authors. The United States, the European Union, India, Singapore, Australia, and Thailand all require human authorship as a condition of copyright. The United Kingdom and a handful of other common law countries extend statutory authorship to computer- generated works, but they do so by attributing authorship to a human being (the person who "undertakes the arrangements"), not to the AI system itself. China has been the most flexible jurisdiction in practice, but even Chinese courts have grounded AI-related copyright in human creative contribution rather than AI creative agency.

Second, the originality standard as understood in every major legal tradition creates a significant obstacle to the copyright protection of purely AI-generated works. Whether the test is minimal creativity (*Feist*), skill and judgment (*Modak*), or the author's own intellectual creation (*Infopaq*/*Cofemel*), the standard requires that the expressive choices that define the work be traceable to a human creative will. Purely AI-generated outputs, in which those choices are made by the algorithm, do not satisfy any of these standards.

Third, AI-assisted works where a human author makes substantial creative contributions using AI as a tool occupy a more defensible position, and copyright can attach to the human-authored elements. The key question in every case is whether the human creative contribution is qualitatively sufficient, not whether the human participated in the production process at all.

Fourth, the training data question whether using copyright-protected works to train AI models is infringement remains unresolved in most jurisdictions, including India. This is a distinct question from the copyrightability of outputs, but it is equally important for the future of the AI industry and the rights of human creators.

Fifth, India has a significant legislative gap. The Copyright Act, 1957 does not adequately address AI-generated works, and Indian courts have not yet developed

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the case law that would compensate for the statutory silence. The *Modak* standard provides a useful baseline for the originality analysis, but it needs to be developed and applied to AI contexts by legislation and, eventually, judicial decision.

6.2 Recommendations for Reform of Indian Copyright Law

The following recommendations are directed primarily at the Indian legislature and executive, though several have broader relevance.

Amendment of the Copyright Act, 1957

The most pressing need is for a specific provision addressing AI-generated works in the Copyright Act, 1957. The amendment should do several things. It should define "AI-generated works" with sufficient precision to distinguish them from AI-assisted works a definition might focus on the degree to which the expressive choices are made autonomously by the AI system, as opposed to being guided by meaningful human creative input. It should specify who holds copyright in AI- generated works where the human creative contribution meets the threshold likely the person who directed and controlled the creative process, not merely the person who turned the system on. It should provide for a shorter copyright term for AI- generated works, analogous to the UK's fifty-year term for computer-generated works, reflecting the reduced incentive rationale. And it should make clear that purely AI-generated outputs where the human's contribution consists only of a brief prompt do not attract copyright protection.

A Text and Data Mining Exception

India urgently needs a text and data mining exception in section 52 of the Copyright Act, 1957, covering the use of copyright-protected works for AI training purposes. The exception should be modelled broadly on the EU's Digital Single Market Directive 2019, which permits TDM for commercial purposes subject to a rightsholder opt-out mechanism. This would give Indian AI developers legal certainty about training on domestically available copyright-protected material, while preserving the rights of Indian creators to withhold their works from commercial training. The opt-out mechanism should be technically accessible and practically effective not merely nominally available.

A Mandatory Disclosure Regime

Indian creators and users of generative AI systems should be required to disclose, in any copyright registration application, whether the work was wholly or substantially generated by AI, and to document the nature and extent of the human creative contribution. A registration system without this requirement is of limited

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utility in the AI context: the Copyright Office cannot assess the human contribution if it does not know AI was involved.

Engagement with International Harmonisation Efforts

The divergence between national approaches to AI copyright is a source of significant legal uncertainty for creators and technology companies operating across borders. India should actively engage with WIPO's ongoing deliberations on IP and AI, advocate for an international framework that establishes minimum standards for human authorship and originality, and participate in the development of model legislative provisions that could reduce global divergence. Given India's growing role in the global AI economy, it has both the interest and the standing to be a constructive voice in these deliberations.

Ethical Guidelines for AI-Assisted Creative Industries

Beyond formal legal reform, India should develop ethical guidelines jointly developed by the government, industry, and creative communities addressing the attribution of creative credit and financial remuneration where AI is involved in the production of commercially significant creative works; the responsibilities of AI developers and deployers for the legal compliance of their systems; and the protection of Indian cultural heritage from unauthorised use as AI training data, an issue of particular importance given the vast resources of Indian literature, music, cinema, and visual art that are increasingly accessible in digital form.

6.3 A Final Note

There is a temptation, when writing about AI and the law, to frame the issue as a conflict between technology and creativity to treat AI as a threat to human authorship and copyright as the mechanism of defence. This dissertation has tried to resist that framing, because it is too simple. AI is, among other things, a creative tool of remarkable power, and many human creators are already using it to make things they could not have made without it. The legal framework that emerges from the current debates will need to accommodate that reality, not suppress it.

At the same time, copyright law exists to serve human creative flourishing not to protect the outputs of machines. The challenge for legislators, courts, and scholars is to develop a framework that does both: that makes space for AI-assisted creativity while ensuring that the rights and interests of human creators are not eroded in the process. This dissertation has tried to contribute to that project. Much remains to be done.

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