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INTELLECTUAL PROPERTY RIGHTS IN THE DIGITAL AGE

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1. Introduction

The basis of intellectual property law, in simple terms, is a barter the state grants creators and inventors a time-limited exclusive right over their output in exchange for disclosure, and ultimately, beneficial public use. The deal was made for a physical world of books, machines and things, where copying was slow, expensive and detectable. The digital age has dismantled all those assumptions. Now that we have an idea of what is happening in terms of use and licensing, let's take a look at some intellectual property (IP) principles that will help explain the issues that may arise when AI programs reproduce art and/or code. The emergence of NFTs and virtual marketplaces has added a layer of complexity to trademark law because they disassociate goods bearing a trademark from any physical referent.

This study assesses the state of development of intellectual property in India. The author compares Indian laws with standard practices international when it comes to intellectual property. Copyright, trademark law, and patent law are researched for this paper. Part 2 focuses on copyright law, looking at the pirate and enforcement innovations of Indian courts and the now unsettled question of authorship. Part 3 issues concerning patent law will turn to the global litigation about whether the name of an AI system can be an inventor. Part 4 examines trademark law's objections to domain names, NFTs and deepfakes. Part 5 places these changes within the international treaty architecture and the Indian statutory framework and recent regulatory responses to AI. Section 6 attacks the technologies mostly blockchain and AI-assisted enforcement instruments that simultaneously present a risk of infringement and function as tools for rights management. Part 7 makes some recommendations for policy and Part 8 concludes.

2. Copyright Protection in the Digital Age

Copyright arises on the instant a literary, dramatic, musical or artistic work, cinematograph film, sound recording or computer program is created and fixed in a tangible or, as is increasingly the case, an intangible digital medium. Registration is not a requirement for

protection, as India does under the Berne-inspired tradition, although it does facilitate protection. It is not so much that the digital space has changed the content of the right itself, as much as that it has made possible, in numbers beyond what previous generations of legislators would ever have imagined, infringements of that right, from peer-to-peer file-sharing sites to mirror and redirect sites to recent incidents where copyrights corpora were used to train Generative AI systems.

2.1 Streaming Piracy and India's developing injunction jurisprudence

The challenge that rogue websites that stream pirated film, TV and sports programming pose to enforcement is unique: if one site is blocked, an operator just moves the same content to a different domain, and is typically only discovered hours or days later. In response, Indian courts have been gradually expanding the grounds for granting interim reliefs to rights holders. A traditional 'dynamic injunction' enables a plaintiff to inform a court-appointed nodal officer of the discovery of any mirror domains or redirect domains without having to file new actions for each. The 'dynamic-plus' injunction has since been taken much further – it would enable ISPs and the Department of Telecommunications and the Ministry of Electronics and Information Technology to block new platforms that infringe on the plaintiff's rights in real time 'on the basis of supporting evidence' – without a plaintiff ever having to go to court. In December 2025, the Delhi High Court granted this remedy in a case filed by a group of entertainment companies against over 150 streaming websites and in early 2026, in Warner Bros. Entertainment Inc. v. animesugez.to, Justice Tejas Karia issued a blocking order for streaming websites that illegally broadcast popular television series from the West, while also granting a safeguard to any website blocked in error that is not linked to copyright infringement.

The same principle has been applied to live sports, where the exclusive advantage is quickly rendered worthless after a game. The Delhi High Court also awarded a 'real-time' dynamic relief in Star India Pvt. Ltd. v. rogue IPTV operators and in its 2026 lawsuit to safeguard its streaming rights for the Indian Premier League, reasoning that such an extension process with affidavits was unfeasible in the context of a live tournament. The court had issued a similar order to a broadcaster days after it secured the rights to broadcast the World Cup ahead of the 2026 match, pointing out that rogue sites had already started to hawk down unauthorised streams before kick-off. Supporting arguments for these decisions have cited yet another category, which has even been called a 'superlative' injunction, which would allow rights holders to report directly to the registrars and intermediaries, without having to go through the nodal-officer step. All of these cases illustrate the fact that the judiciary is updating their

methods of justice to keep up with the speed of infringement while still offering procedures which help guard against overblocking.

2.2 Artificial Intelligence and the Ethics of Music Generation

A more basic objection to copyright doctrine is the use of a massive body of copyrighted text, music, and images to train generative AI systems—and the possibility that what is generated might be copyrightable, and whose. This has led to the emergence of two key legal questions internationally: (1) Does training an AI model on copyrighted works without a licence require copyright infringement or is it covered by the exception for fair use or text and data mining; and (2) does a work created almost entirely by an AI system, but with only a human-provided prompt, correspond to the traditional requirement for a human author?

The litigation in the United States has left mixed but strengthening results on the first question. A federal court ruled that Thomson Reuters' proprietary headnotes, used to train its model, were not subject to fair use, primarily because the tool was in direct competition with the marketplace for Thomson Reuters' own legal research product, Thomson Reuters Legal Research; the decision is pending appeal with the Third Circuit. In *Bartz v. Anthropic PBC*, a class of authors claimed that Anthropic used pirated versions of their books to train its models, which it argued would have been a violation of the copyright; the court said it was unclear whether training on lawfully obtained copyrighted material would constitute a violation of copyright, but storing pirated copies would not, and ultimately settled the case for about US\$1.5 billion, or roughly US\$3,000 per book in the settlement class. In January 2026, Universal Music Publishing Group, Concord Music Group and ABKCO Music collectively sued Anthropic for US\$3.1 billion for allegedly using unlicensed and torrented music to train its models. But not all conflicts have concluded in litigation: Warner Music's lawsuit against Suno, the AI music platform, was resolved in November 2025 by a licensing agreement that gives rights holders the ability to control the use of their names, likenesses and voices in AI-generated music — a model that could be more enduring than litigation to balance the rights-holders and AI creators. Like *Company v. Google* will be the first case to directly challenge whether the EU Copyright Directive's text-and-data-mining exception applies to commercial large language model training on a massive scale, before the Court of Justice's Grand Chamber in March 2026 in the EU. In the European Union, the Court of Justice's Grand Chamber will listen to the arguments in *Like Company v. Google*, which is the first case to test head-on whether the text-and-data-mining exception in the EU Copyright Directive extends to commercial large language model training at scale.

India is not spared of this debate. ANI Media (P) Ltd. v. Open AI Inc., filed before the Delhi High Court in 2024, is the country's first major court case involving copyright and generative AI, as it related to the unauthorised reproduction and summarisation of copyrighted news content by an AI chatbot; the case is pending. The Ministry of Commerce and Industry has also set up an eight-member expert committee in May 2025 to consider whether the Copyright Act, 1957, which was framed in a completely different technological age, is sufficient to provide answers for the issues relating to authorship, ownership and infringement arising out of the use of generative AI. Proposals are said to be under consideration to define works created by AI and outline responsibility for the developers and deployers of AI. The guidelines further include provisions for digital watermarking and the adoption of the international Coalition for Content Provenance and Authenticity, which aim to ensure traceability of AI-generated content even in instances where there is an unresolved copyright question. Digital watermarking and standards for verifying the provenance of AI-generated content under the international Coalition for Content Provenance and Authenticity are also separately encouraged in the guidelines, a regulatory instinct to make AI-generated content traceable even in the absence of a settled copyright question.

The second question, whether humans authored AI-generated content and this constitutes a significant difference between the U.S. and Europe, has already resulted in an amazing transatlantic divergence around one single case. The Indian artist and IP activist, Ankit Sahni, took a picture and converted it into an artwork named *Suryast* in the style of Vincent van Gogh's *The Starry Night* using an AI application called RAGHAV. Sahni's initial application named RAGHAV as the sole author, which the Indian Copyright Office rejected; a revised application was registered in November 2020 with Sahni and RAGHAV as the authors, allegedly the first time in history that an AI system is named as co-author of a copyrighted work. The Copyright Office then issued a notice asking for withdrawal of that registration, alleging that RAGHAV did not have a legal right to the copyright under the 'author' and 'artistic work' definitions in S. 2(d)(vi) and (viii) of the Copyright Act, 1957, and the issue still has no final ruling by either a court of law or the Copyright Office. However, Sahni's parallel application in the United States had a different outcome: The U.S. Copyright Review Board, in December 2023, determined that the work was not sufficiently human-authored to be eligible for copyright protection, a decision that was ultimately upheld on appeal and that was left intact after the Supreme Court rejected an additional appeal. The RAGHAV episode highlights the divergent approaches of two dominant jurisdictions to the same set of facts and serves as a reminder of the impact that India's current consultation on the Copyright Act may have far reaching consequences beyond

its boundaries.

3. Patent Issues In The Digital Age.

The Patent Act, 1970, materially amended in 2005 to give product-patent protection to pharmaceuticals, food and chemicals, is the main law governing patent law in India, which protects new, non-obvious and industrially applicable inventions. The patentability and examination of software- and algorithm-based inventions, and the even more fundamental issue of whether the invention, created through a process of artificial intelligence without a traditional human inventor, can be patented in the first place, are two of these pressures in the digital age that have proven particularly vexing.

3.1 The DABUS Litigation: A worldwide test for inventorship

Dr Stephen Thaler, who has developed an AI system called DABUS (Device for the Autonomous Bootstrapping of Unified Sentience), applied for patents in over a dozen jurisdictions claiming that DABUS was the sole inventor of a light-producing emergency beacon on a food container with a surface patterned in fractal geometry. The applications were submitted as a kind of 'test case' to see if patent acts which explicitly refer to an 'inventor' but do not specifically require that the inventor be a natural person could be interpreted as covering an invention made by a machine.

Most have responded in the negative. In *Thaler v. Vidal*, the United States Court of Appeals for the Federal Circuit ruled that the term 'individual' in the Patent Act restricts inventorship to natural persons, which the Supreme Court did not follow up. In 2023, the United Kingdom Supreme Court came to the same conclusion and stated that, in any case, if Thaler could claim an invention from DABUS, it would be impossible for him to claim entitlement to a new invention created by DABUS, under the doctrine of accession by which the owner of a property acquires new property produced by it. The European Patent Office's Legal Board of Appeal also rejected the applications, but it still did not rule out the possibility that a human user or owner of an AI system could be a designated inventor in an application relating to an AI-assisted invention - a conclusion reached by the Board again on procedural grounds in February 2026. In January 2025, Japan's Intellectual Property High Court ruled against Thaler and, in March 2026, the Japanese Supreme Court rejected a next appeal, ending the Japanese court's seven-year saga in the litigation. In June of 2025, the Patent Appeal Board of Canada made the same decision, which Thaler has now appealed to the Federal Court. The Controller General of Patents rejected the application in India on the ground that Sections 2 & 6 of the Patents Act,

1970 assume a natural man who can have property, execute legal instruments and assign rights, which an AI system cannot do, and that only a natural person who has actually used its skill and ingenuity in an invention is entitled to be named as its inventor, according to a reasoning consistent with the earlier precedent in India. South Africa is the only jurisdiction that has granted a patent for DABUS, although its patent office has no substantive examination of applications and thus the patent was registered on a formalities basis rather than a conscientious decision on whether the patent was granted to a human inventor or an AI inventor.

More interesting doctrinal divides have arisen between AI-assisted inventions and AI-authored inventions, where the human plays a meaningful role in directing or contributing to the work of the AI system. The Federal Court of Justice in Germany has ruled in favour of an inventor designation that names Thaler as the inventor and that he had 'prompted the artificial intelligence DABUS to generate the invention', thereby resolving an earlier disagreement among the German appellate courts, and indicating that inventions created with the help of artificial intelligence can be patented as long as a human is named as inventor, even if his role was small. In June 2025, the Federal Administrative Court of Switzerland ruled that a natural person is a co-inventor if they had a significant influence on the AI system through their involvement in the data processing and invention. In November 2025, the United States Patent and Trademark Office (PTO) issued guidance stating that a natural person may still be named an inventor if they used an AI tool in connection with creating an invention, but the use of the tool was a 'significant contribution' to the invention. In other words, the current international consensus is not that AI-assisted inventions should not be patentable but that patent law will continue to require assigning to a human whose intellectual contribution the invention is meant to reward a position that the World Intellectual Property Organization's current Conversation on Intellectual Property and Frontier Technologies has identified as one that creates a 'transparency gap'.

3.2 Software Patentability and Examination Practice

The scope of software patentability and the role of examination practice in software patents. In addition to the inventorship issue, patent offices around the world are still struggling with the distinction between an abstract algorithm (generally not patentable) and a technical solution to a technical problem (usually patentable) implemented via software. Section 3(k) of the Patents Act, 1970, in India specifies that 'computer program per se' cannot be patented. This has been a litigated issue since when does a computer-implemented invention become a patentable invention and vice versa. Blockchain and IoT can be seen as a new frontier in AI-

driven technology, as this innovation starts to become technology more akin to hardware than software. WIPO's new initiatives focused on frontier technologies are a priority for member states' patent offices over the next few years, and one that will become increasingly challenging for patent offices to provide clear and technology-specific guidance about in examination.

4. Trademarks in the Digital Age

The problems of trademark law in the digital age fall in a wide variety of contexts, including domain names, virtual goods, and AI-generated and/or manipulated content, as the distinctiveness of the trademark is required to identify the commercial origin of goods and services, which can be appropriated, imitated, or diluted wherever the trademark can.

A. Domain Names and Cybersquatting

One of the first trademark disputes to be transferred online was the bad-faith registration of domain names identical or confusingly similar to the existing trademark; and early in the development of online trademark disputes, Indian courts found that an online domain name has the same source-identifying function as an offline trademark, and that therefore the rules of passing off and trademark infringement apply to disputes concerning deceptively similar domain names. This core rationale remains as the foundation for Indian courts in dealing with newer instances of digital brand misappropriation.

4.2 Non-Fungible Tokens and the Metaverse: Hermès v. Rothschild

Non-fungible tokens presented an entirely new pattern: a digital artist who uses a famed brand name and a famed product silhouette to create and sell tokenised digital images, which he argues – and in this instance successfully argues – are forms of First Amendment-protected expression. As part of the lawsuit, Hermès International claims the creator infringed upon its trademark rights, cybersquatted the metabirkins.com domain and caused the "MetaBirkins" digital artwork to dilute the luxury brand's famous Birkin trademark. In February 2023, a federal jury in New York convicted Rothschild on all three counts and awarded Hermès US\$133,000—which was to be disgorged as a form of damages, in addition to statutory damages in connection with cybersquatting—and found that he was not entitled to be shielded from liability by the *Rogers v. Grimaldi* test, which protects uses of the trademark in expressive works when it is not “plainly misleading.” Rothschild's appeal, which followed the Supreme Court's intervening ruling in *Jack Daniel's Properties, Inc. v. VIP Products LLC*, which established a new rule on areas of expressive and source-identifying trademark use, will send

a strong message about the limits of artistic-expression defenses in commercial NFT sales. In either case, the trial decision is the first to be made by a court on the question of whether a brand's rights extend to virtual, tokenised goods, and the brand owners have since used it in their arguments that protection should not expire simply because the infringing product is not a physical article but is instead a virtual image on the blockchain.

4.3 Deepfakes and the loss of source identification.

The related but different threat is that deepfake technology — a combination of AI-generated synthetic audio and video showing a person or brand saying or doing something that they never actually did — can simulate a brand's endorsement, a celebrity's likeness or a company spokesperson's statements without any conventional 'use' on a registered mark that infringement doctrine was designed to prevent. For now, the regulatory response to this issue has been largely through obligations for content takedowns, and not trademark doctrine — the rules under the Information Technology framework require removal of material that is synthetic or deepfake content within a tight timeframe, while the AI Governance Guidelines of 2025 urge a watermarking and provenance-labelling standard for AI-generated or AI-altered material to enable its identification at the time of consumption. These are not measures that extend trademark rights, but rather measures that deal with the harm in the context of content moderation, and they continue a trend of managing IP problems in the digital age by using nearby regulatory mechanisms (such as data protection law, intermediary liability rules and content-authentication standards) rather than amending the substantive IP statutes.

5. International and Indian legal frameworks

5.1 The International Treaty Architecture

India's internal IP laws operate in and are significantly influenced by a tiered international treaty regime. The Berne Convention for the Protection of Literary and Artistic Works of 1886 (1971 Paris Revised) lays down the principle of the national treatment and automatic protection of literary and artistic works between the parties. This framework is supplemented by the Universal Copyright Convention of 1952 (administered by UNESCO) and the Geneva Phonograms Convention of 1971 (especially in regard to sound recordings). The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was adopted in 1995 as part of the framework of the World Trade Organization, and its minimum substantive standards, as spelled out in its various provisions on copyright, patent, trademark and related rights, were the impetus for India's 2005 amendment to the Patents Act. Both the WIPO Copyright Treaty and

WIPO Performances and Phonograms Treaty (1996) expressly provide for the extension of copyright and related rights to the digital environment, including rights of communication to the public over computer networks that were not envisioned by the previous treaties.

5.2 The Indian Statutory Framework

India's Copyright Act, 1957 came into force on 21 January 1958 and remains the key legislation regulating literary, dramatic, musical and artistic works, cinematograph films, sound recordings and computer programs; its most recent major amendment, the Copyright (Amendment) Act, 2012, enhanced and clarified protection for authors and performers, including in the digital and broadcast context, and brought India's laws closer to WIPO's Internet Treaties. India's Patents Act, 1970, as amended in 2005, regulates the grant, examination and revocation of patents, with jurisdiction over infringement disputes held by the High Courts. India's Trade Marks Act, 1999, enacted on 30 December 1999 and coming into force on 15 September 2003, replaced the previous Trade and Merchandise Marks Act, 1958 (itself a replacement of India's first trademark law of 1940), consolidating registration, infringement and enforcement provisions, including specific procedures for conducting search and seizure against counterfeit goods.

5.3 Regulatory Responses to Artificial Intelligence

India does not have an individual statute regulating AI; it is expected that the proposed Digital India Act will ultimately provide the main legal framework for regulating issues related to AI that are at present dispersed between the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, and industry-specific guidelines. In the meantime, 2025 AI Governance Guidelines and the panel appointed by India's Ministry of Commerce and Industry to review the Copyright Act are the two most substantive responses in India to addressing the impact of generative AI on the country's IP law, while a 2026 report by a Parliamentary Standing Committee recommended to the government to explore the possibilities of enacting a comprehensive law for regulating AI and to look into the potential problems with the origin of data used to train foreign models in India. Internationally, the WIPO's Conversation on Intellectual Property and Frontier Technologies, initiated in 2019 and presently holding its twelfth session, together with the organisation's 2026 AI Infrastructure Interchange initiative, has become the main platform for coordinating the member countries' approaches to IP issues arising from AI development, ranging from examination of patents for AI inventions to content attribution and watermarking standards.

6. Emerging Technologies as Both Threat and Tool

6.1 Blockchain and Rights Management

Apart from being the technology behind NFTs, blockchain technology provides intellectual property owners with a way to create an immutable and timestamped record of a work's creation, ownership and licensing history. Given the fact that changes in a publicly available or permissioned blockchain become nearly impossible to make after the initial entry, IP offices and rights holders have started using the technology for recording the provenance of creative works and facilitating the licensing of digital assets as well as providing better documentation for first use in trademark and copyright disputes. This technology is a double-edged sword: while the properties which make NFTs useful for documenting provenance of a work can also be used by bad-faith actors to mint and trade tokens representing other people's copyrighted mark or artwork, as seen in the MetaBirkins case, blockchain's contribution to managing IP remains as much a standard-setting and governance issue as a technical one.

6.2 Artificial Intelligence as an Enforcement Tool

AI's abilities to generate and recognise patterns can also be put to defensive use: AI-assisted monitoring services are increasingly being used to scan the internet for unauthorized usage of copyrighted works and counterfeit marks on products, identify websites which redirect traffic to pirated content to implement dynamic injunction relief described in Part 2 and detect deepfakes and synthetic content to take action based on content provenance framework. DRM systems, watermarking and content authentication standards, such as those included in India's 2025 AI Governance Guidelines, constitute an important additional layer of technological self-help which complements statutory enforcement mechanisms, rather than replaces them.

7. Recommendations

A number of targeted reforms would allow Indian and international IP law to adapt to the new technologies described above without requiring fundamental reconstruction of existing legal doctrines.

First, India's current review of the Copyright Act, 1957 should clear up the problem revealed in the RAGHAV/Suryast case by defining the level of human creativity necessary for a copyrighted work to be created with the help of AI and by providing clarity regarding what should be done about contributions of the AI tool without giving authorship to the machine.

Second, the law of trademarks would benefit from clear legislative or administrative guidance affirming that use of a mark on an NFT or in virtual environments constitutes infringement and dilution of the mark, thereby avoiding reliance on case-by-case application of physical goods precedent.

Third, the safeguards included in India's dynamic-plus and emerging superlative injunction jurisprudence, in particular, the right of a wrongly-blocked website to have the blocking order immediately modified, should be formalized through statute or regulation, rather than left to case-by-case judicial discretion, in order to bring greater certainty to intermediaries and to avoid overblocking of websites as this remedy is expanded to new forms of infringement.

Fourth, the framework for licensing the copyrighted works used as the training material for AI models whether by negotiation with collective societies or through a statutory licensing scheme like that which is now used for broadcasting would decrease the risks of litigation for the developers of AI models while guaranteeing remuneration for rights holders, following the example of the Warner Music–Suno settlement, rather than embarking on a contentious litigation like the ongoing one between news publishers and the author guilds.

Fifth, patent offices, including India's, should issue guidelines for examination of AI-assisted inventions consistent with the emerging international consensus on the necessity to identify at least one human inventor, basing their policies on the approach adopted by Germany, Switzerland and the US, rather than making all applications with the use of AI automatically unpatentable.

Finally, continuing participation in WIPO's Conversation on Intellectual Property and Frontier Technologies and the organisation's 2026 AI Infrastructure Interchange would provide India and other countries with an opportunity to harmonize watermarking, attribution and cross-border enforcement standards and reduce the risk of regulatory arbitrage, which arises because AI developers and infringers can relocate their operations to jurisdictions with lower standards.

8. Conclusion

The digital era has not required intellectual property law to dismantle its framework of exclusive, temporary rights granted in exchange for disclosure and public benefit. What has been required is a constant process of interpretive and procedural adaptation, seen for instance,

in the concerted expansion of Indian courts' injunctive toolkit against piracy, in the emerging international consensus independently reached in courts and patent offices on four continents that patent inventorship remains tethered to natural persons (for now) even as AI tools become more common in the inventive process, and in the still unresolved but closely monitored question of how much human creative control a work must retain to qualify for copyright when the AI system does much of the generative work. From our analysis, we expect that many of the brand uses of NFT image files, the metaverse, and other virtual goods and services will be adjudicated under existing misappropriation doctrine – unless, of course, the creators of these goods devise strategies that avoid the use of the brand's name. None of these developments indicate that intellectual property law is becoming obsolete in the digital age; instead, these developments show us that we are in the middle of an era of consolidation of doctrine during which India's dual approach of updating domestic Copyright Act, injunction jurisprudence and multilateral WIPO processes puts India in a position to help craft rules for the future generation of digital/IP protections.

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- Federal Court of Justice of Germany, decision on DABUS inventor designation (lunchbox/food container patent application).