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WHO OWNS WHAT A MACHINE CREATES? **RETHINKING COPYRIGHT IN THE AGE OF** **ARTIFICIAL INTELLIGENCE**

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Abstract

Generative AI now produces text, images and music at scale, yet copyright law was written for human authors. This article asks who owns a work generated by AI. It examines the Indian position under the Copyright Act, 1957, in particular Section 2(d)(vi) on computer-generated works, the originality standard in *Eastern Book Company v D.B. Modak*, and the Copyright Office's 2026 DABUS order. It compares these with developments in WIPO, the United States and the United Kingdom, and notes India's DPIIT working paper on AI training. It argues that authorship and ownership should follow human creative contribution, and it proposes a reform framework with six objectives, an implementation plan, evaluation indicators and a risk assessment. The framework covers classification of AI-generated and AI-assisted works, disclosure requirements, defined ownership standards and an AI Copyright Registry.

Keywords: artificial intelligence; copyright; authorship; ownership; computer-generated works; India

Introduction

Artificial Intelligence (AI) is fast taking over tasks that once seemed to need a human mind. In McKinsey & Company's 2024 global survey, 72% of respondents said their organisations had adopted AI in at least one business function, and 65% said their organisations were regularly using generative AI (GenAI).¹ The gains in speed and efficiency are real. So are the questions: about originality, authorship, ethical use, quality control and accountability.

One of those questions cannot wait. When a machine produces a poem, an image or a piece of music, who owns it? Copyright law was built around human authors, and it is still unsettled what happens when no human wrote the words or drew the lines. This article argues that clear, human-centric rules are needed to settle ownership of AI-generated works, to encourage responsible use of AI, and to keep innovation in balance with transparency and the protection of

intellectual property rights. It first describes the Indian legal position, then looks at global and comparative developments, and finally sets out a reform proposal with its implementation, evaluation and risks.

Intellectual Property and Human Creativity

Intellectual property (IP) rights exist to protect the products of human intellect and creativity. The Convention Establishing the World Intellectual Property Organization (1967) does not define IP. Instead, it lists the subjects in respect of which rights are protected: literary and artistic works, performances of performing artists, inventions, scientific discoveries, industrial designs, trademarks, service marks, commercial names, and protection against unfair competition. It also extends protection to all other rights arising from intellectual activity in the industrial, scientific, literary or artistic fields.²

AI unsettles the assumptions behind this list. Most IP laws were written with a human creator in mind. When a machine generates a work, it is unclear who the author is, who owns the result, and who is accountable for it. IP frameworks therefore need to adapt, so that they can answer these questions and still leave room for innovation.

The Indian Legal Framework

The Statute

Copyright in India is governed by the Copyright Act, 1957. Section 13 protects original literary, dramatic, musical and artistic works, as well as cinematograph films and sound recordings, and computer programs are treated as literary works.³ Section 14 sets out the exclusive rights that make up copyright, such as the rights to reproduce the work, issue copies to the public, communicate it to the public and adapt it.⁴ Under Section 17, the author is generally the first owner of copyright, subject to specified exceptions.

The Act does not mention AI by name, but it does contain a provision on computer-generated works. Section 2(d)(vi), inserted by the Copyright (Amendment) Act, 1994, provides that, for a literary, dramatic, musical or artistic work that is computer-generated, the author is “the person who causes the work to be created.”⁵

The Originality Threshold

Protection also depends on originality. In *Eastern Book Company v D.B. Modak*, the Supreme Court moved away from the older “sweat of the brow” approach, under which effort alone could

earn copyright, and required that a work show a degree of skill, judgment and creativity.⁶ That standard assumes a mind from which the creativity comes. Whether an AI output meets it, and whose creativity is being measured, is exactly where the difficulty lies.

The 2026 DABUS Order

The Copyright Office has recently addressed some of these points. Stephen L. Thaler applied to register an artwork, *A Recent Entrance to Paradise*, naming his AI system DABUS as author and himself as owner. In an order reported on 31 August 2026, the Registrar of Copyrights held that an AI system cannot be recorded as an author under Section 2(d)(vi) because it is not a natural or juristic person. The Registrar also held that Dr. Thaler was the person who caused the work to be created and so was capable of being identified as its statutory author. The work was accepted as crossing the limited threshold of originality under Section 13. The application itself was rejected, however, because Dr. Thaler did not amend the particulars, and naming DABUS as author and himself as owner was inconsistent with Sections 17 to 19.⁷

The order is a useful signal, but it should be read with care. It is an administrative decision, not a judgment of a court, and it turned on its own facts. Commentators have observed that it does not mean every AI-generated work is protected; the question in each case is who actually caused the specific work to be created, which may depend on who designed the process, supplied the inputs and configured the system.⁸ Hard questions therefore remain, especially where several people are involved or where the output is produced with almost no human direction. That uncertainty is the main reason a clearer policy framework is needed.

Emerging Global Challenges

The concern is not limited to India. In December 2019, the World Intellectual Property Organization (WIPO) published a draft issues paper on IP policy and AI and opened a public consultation. It drew more than 250 submissions from around the world, and a revised issues paper followed on 29 May 2020⁹. The second session of the WIPO Conversation on IP and AI, held in July 2020, discussed questions of IP protection for AI-generated works, inventions and data¹⁰

Other international and regional frameworks have also emerged, including the European Union AI Act, the OECD AI Principles and the African Union Continental AI Strategy. Most of them, however, concentrate on ethics, transparency and risk management. The specific point where AI meets intellectual property remains underdeveloped, which is why continued international discussion matters.¹¹

How Other Jurisdictions Are Responding

The United States

In *Thaler v. Perlmutter*, the US Court of Appeals for the District of Columbia Circuit held in March 2025 that the Copyright Act of 1976 requires a work to be authored in the first instance by a human being, and upheld the refusal to register an image generated autonomously by Dr. Thaler's system. The court stressed that the rule does not bar protection for works a human creates with the help of AI; whether the human contribution is enough is a case-by-case question.¹³ The US Supreme Court declined to hear the case on 2 March 2026.¹²

The US Copyright Office took a similar line in Part 2 of its report on copyright and AI (January 2025). It concluded that purely AI-generated material is not protected, and that, with current technology, prompts alone do not give the user enough control over the expressive elements of the output. Human contribution can still attract protection where a person supplies their own expressive input, or modifies, selects or arranges AI-generated material in a sufficiently creative way.¹³

The United Kingdom

The UK has long had a provision close to India's. Section 9(3) of the Copyright, Designs and Patents Act 1988 treats the author of a computer-generated work as the person by whom the arrangements necessary for its creation are undertaken, and section 178 defines such a work as one generated by computer in circumstances where there is no human author.¹⁶ The UK Government is now reconsidering it. Its March 2026 report on copyright and AI took the provisional view that this protection should be removed, because the provision is unclear for authorial works and brings no economic benefit. AI-assisted works involving meaningful human creative contribution would remain protected, and a final decision is still to be made.¹⁵ Taken together, these developments point in one direction. Courts and regulators are anchoring protection in human creativity, and the UK's rethink suggests that giving rights to purely machine-made output is hard to justify. That supports the human-centric approach proposed in this article.

Policy Developments in India

India has also begun to address AI and copyright at the policy level. The Department for Promotion of Industry and Internal Trade (DPIIT) set up a committee in April 2025, and on 8 December 2025 it released Part 1 of its Working Paper on Generative AI and Copyright,

title *One Nation, One Licence, One Payment*. That paper deals with the use of copyrighted works to train AI systems. It proposes a “hybrid model”: a mandatory blanket licence for training on lawfully accessed works, paired with a statutory right to remuneration for rights holders, with payments collected through a central body.¹⁶

This is a different question from the one this article addresses. The working paper is about what goes into AI systems; this article is about who owns what comes out. The second part of the working paper is expected to take up the copyright status of AI-generated outputs, and it will be the more directly relevant document. Until then, the ownership gap remains.

Who Should Own an AI-Generated Work?

Four candidates are usually put forward, and each has difficulties.

- **The AI system itself.** An AI system has no legal personality, and both the Indian Registrar and the US courts have declined to treat it as an author.
- **The developer.** Developers build the tool, but they rarely direct a particular output. Rights between developers and users may, in practice, also be shaped by contract.
- **The user.** The person who prompts and directs the system is the closest fit for the “person who causes the work to be created.” But a short prompt may supply little creative expression of its own, which is the concern the US Copyright Office raised.
- **No one.** Where the output is wholly autonomous and no human has made creative choices, it may be that no one should hold copyright at all.

A workable rule should follow human creative contribution rather than mere ownership of the machine. The more a person shapes the expressive content of a work, by directing, selecting, editing and arranging it, the stronger the claim to authorship and ownership. Where there is no meaningful human contribution, the law should say so plainly instead of stretching the idea of authorship to fit. This is the logic behind the reform objectives below.

Objectives of Reform

The proposed policy seeks to modernise copyright law so that it responds to AI and gives legal certainty on authorship and ownership. Its main objectives are to:

- **Classify AI-generated and AI-assisted works**, so that works created wholly by AI are distinguished from those created by humans using AI tools.
- **Acknowledge human-centric authorship**, keeping human creativity at the core of copyright protection.

- **Develop consistent ownership standards** for determining who holds rights in AI-generated content.
- **Promote transparency and accountability** by requiring disclosure when AI tools are used to create copyrighted works.
- **Support innovation and responsible AI use** while safeguarding the rights of creators.
- **Establish a special regulatory framework** for dispute resolution, supervision of AI in copyright matters, and regular review of emerging issues.

Implementation Plan

Putting these objectives into practice would involve four steps:

1. Amending the Copyright Act, 1957, beginning with Section 14 and, where needed, the definition of “author” in Section 2(d)(vi), so that the Act covers content produced by AI.
2. Issuing government policies on AI-generated works.
3. Creating an AI Copyright Registry.
4. Running public awareness programmes so that creators, developers and other stakeholders understand the legal and ethical implications of AI-generated content.

Evaluating the Policy

The policy’s effectiveness would be measured against three indicators:

- the number of disputes resolved within the new framework;
- the level of compliance with mandatory disclosure requirements; and
- the number of registrations in the AI Copyright Registry.
- Because the technology changes quickly, the policy should also be reviewed every three to five years to keep it relevant and effective.

Risks and Challenges

Several risks could affect how the policy is implemented:

- **Legal uncertainty:** authorship and ownership of AI-generated works remain unclear under existing copyright law.
- **Compliance difficulties:** disclosure obligations and regulatory requirements may be hard to enforce.

- **Technological change:** AI may evolve faster than regulation can keep up.
- **Administrative burden:** setting up regulatory bodies and registry systems requires significant resources and infrastructure.
- **Stakeholder resistance:** creators, developers and platforms may resist the policy.
- **Data integrity:** reporting mechanisms may suffer from problems of accuracy, transparency and reliability.

Conclusion

AI has challenged long-held ideas of authorship and copyright ownership. Indian law offers a starting point in Section 2(d)(vi) and, now, the Registrar's DABUS order, but neither settles who owns a work when a machine does most of the creative work. Courts and regulators elsewhere are converging on human creativity as the anchor of copyright, and the UK is questioning protection for purely machine-made output. These developments strengthen the case for reform rather than weaken it.

What India needs is a clear, human-centric policy that gives legal certainty, protects creators and encourages responsible innovation. The reforms proposed here, namely classification of AI works, disclosure requirements, defined ownership standards and an AI Copyright Registry, offer a workable basis for a balanced regime of ownership and protection.

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