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ARTIFICIAL INTELLIGENCE AND COPYRIGHT LAW: CHALLENGES AND LEGAL PERSPECTIVES IN INDIA

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I. ABSTRACT

Generative artificial intelligence (AI) has unsettled the assumptions on which copyright law was built. Systems that write, paint, compose and code are trained on vast quantities of existing works, and they produce outputs that can resemble, substitute for, or compete with human creativity. Indian copyright law, framed by the Copyright Act, 1957, was drafted for a world of human authors and identifiable acts of copying, and it contains no express provision on AI training, text-and-data mining, or AI-generated works. This paper examines the legal challenges that arise at three stages: the input stage (use of copyrighted works to train AI models), the output stage (authorship, originality and ownership of AI-generated content, and infringement by outputs), and the liability stage (responsibility of developers, deployers and users). It analyses the Copyright Act, 1957, the doctrines of originality and fair dealing as developed by Indian courts, the Delhi High Court's interim decision in *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC* (2026), and the Working Paper on Generative AI and Copyright released by the Department for Promotion of Industry and Internal Trade (DPIIT) in December 2025. It compares India's position with the United States, the European Union, the United Kingdom, Japan and Singapore. The paper argues that India needs a calibrated statutory response: clarity on training data, a workable remuneration mechanism for creators, a clear rule that copyright in AI-assisted works depends on human creative contribution, and transparency obligations for AI developers.

II. KEYWORDS

Artificial Intelligence; Copyright Law; Generative AI; Fair Dealing; Text and Data Mining; Authorship; DPIIT Working Paper; ANI v. OpenAI.

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III. INTRODUCTION

Copyright law exists to reward human creativity and to encourage the creation and dissemination of knowledge. It does so by granting authors exclusive rights over their original works for a limited period, while preserving exceptions that let society use those works for education, research, criticism and news reporting. This balance has survived the printing press, the photocopier, the cassette recorder and the internet. Generative AI presents a harder test, because it challenges the balance at both ends: it consumes copyrighted works at an unprecedented scale, and it generates content without a human author in the traditional sense.

Large language models and image-generation systems learn statistical patterns from large datasets, often assembled by scraping text, images, music and code from the internet.

Many of those materials are protected by copyright. Creators, publishers and news organisations argue that this is unlicensed copying on an industrial scale. AI developers respond that training is a non-expressive, transformative use, comparable to a human reading many books, and that restricting it would stifle innovation. At the other end, users and companies increasingly ask who, if anyone, owns a poem, image or song produced by an AI system.

India is directly affected. It is among the largest markets for AI services, it has a large creative and publishing economy, and it is building domestic AI capability. Yet the Copyright Act, 1957 says nothing expressly about AI. The question has now reached the courts and the policy process: in *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*, the Delhi High Court delivered India's first significant ruling on AI training and copyright, and in December 2025 the DPIIT published a working paper proposing a mandatory licensing model for AI training. This paper analyses these developments and evaluates how Indian law should respond.

A. Research Objectives

1. To examine how the Copyright Act, 1957 applies to the training of AI models on copyrighted works.
2. To analyse the questions of authorship, originality and ownership in AI-generated and AI-assisted works.
3. To evaluate the judicial and policy developments in India, in particular *ANI v. OpenAI* and the DPIIT Working Paper, in the light of comparative international approaches.
4. To suggest legal and institutional reforms that balance the rights of creators with the needs of technological innovation.

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B. Research Questions

1. Does the use of copyrighted works to train AI models amount to infringement under Indian law, or can it be defended as fair dealing?
2. Can AI-generated works attract copyright in India, and if so, who is the author and first owner?
3. What legislative and regulatory framework is needed to protect creators while permitting responsible AI development?

C. Research Methodology

This paper adopts a doctrinal and analytical methodology. Primary sources include the Copyright Act, 1957, the Copyright Rules, 2013, the Berne Convention, and decisions of Indian and foreign courts. Secondary sources include the DPIIT Working Paper, commentaries, law-firm analyses and journal articles. Because the field is developing quickly, the paper reflects the position as understood in late 2026, and developments after that date (including the pending appeal in *ANI v. OpenAI*) should be checked.

IV. UNDERSTANDING GENERATIVE AI AND ITS RELATIONSHIP WITH COPYRIGHT

Generative AI refers to systems that produce new text, images, audio, video or code in response to prompts. Their lifecycle can be understood in three stages, each of which raises a different copyright question.

1. **Data collection and training (input stage).** Works are collected, copied, stored and processed to train a model. The legal question is whether these acts infringe the rights of reproduction and storage under Section 14 of the Copyright Act, 1957, or fall within an exception.
2. **Model operation.** The trained model stores learned parameters rather than a library of works. Whether the model itself "contains" or is a copy of the training works is contested, and courts have treated it as a question of fact on the evidence.
3. **Generation (output stage).** The system produces content. The legal questions are whether the output infringes an existing work (for example by reproducing it, or by "regurgitating" memorised text), and whether the output is itself protectable and who owns it.

A separate cluster of issues concerns personality and voice. AI tools can clone a person's voice,

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face or style, which implicates personality rights, passing off and performers' rights rather than copyright alone.

V. THE INDIAN COPYRIGHT FRAMEWORK AND AI

A. Subsistence ofi Copyright and the Requirement ofi Originality

Section 13 of the Copyright Act, 1957 grants copyright in original literary, dramatic, musical and artistic works, cinematograph films and sound recordings. Indian courts have long held that originality does not require novelty, but it does require that the work originate from the author and involve the application of skill, judgment and some creativity. In *R.G. Anand v. Deluxe Films* ((1978) 4 SCC 118), the Supreme Court held that copyright protects the expression of ideas and not the ideas themselves. In *Eastern Book Company v. D.B. Modak* ((2008) 1 SCC 1), the Court rejected the pure "sweat of the brow" standard and adopted a "modicum of creativity" test, requiring a minimum degree of creativity and the exercise of judgment. These principles are central to AI-generated works, because an output produced by an algorithm in response to a short prompt may lack the human intellectual input on which the test is built.

B. Authorship and Ownership

Section 2(d) defines "author" for different categories of work. Clause (vi), added in 1994, provides that in relation to any literary, dramatic, musical or artistic work *which is computer-generated*, the author is "the person who causes the work to be created." This is one of the few provisions in the world that expressly contemplates computer-generated works, and it is often cited as a possible basis for protecting AI output. Under Section 17, the author is generally the first owner of copyright, subject to exceptions such as employment and commissioned works.

The provision is, however, ambiguous in the AI context. It was enacted with deterministic computer programs in mind, where a human operator controls the output closely.

Generative AI is different: the output depends on a model trained by one party, deployed by another, and prompted by a third, and the model's behaviour is probabilistic. It is unclear whether "the person who causes the work to be created" is the developer, the deploying company, or the user who typed the prompt. A user who supplies a single-line prompt exercises little creative control; a user who iterates, selects, arranges and edits exercises considerably more.

The registration of the artwork *Suryast* in 2020, in which an AI system called RAGHAV was initially listed as a co-author, illustrates the uncertainty. The Copyright Office later questioned the basis of that registration, and the matter did not result in a binding judicial precedent on AI authorship. It does, however, show that the Indian system has not settled whether a machine can be

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an author. The better reading of the Act, consistent with the structure of Sections 2(d), 17, 22 (term measured from the author's life) and 57 (moral rights), is that authorship is tied to a legal person and that a non-human system cannot itself be an author or owner.

C. Infiringement and Exceptions

Section 51 provides that copyright is infringed when a person, without a licence, does anything that the owner has the exclusive right to do, including reproducing the work, storing it in any medium by electronic means, and communicating it to the public (Section 14). Section 52 lists acts that are not infringement. Section 52(1)(a) permits fair dealing with a work (other than a computer programme) for the purposes of private or personal use including research, criticism or review, and the reporting of current events. Section 52(1)(aa) deals separately with computer programmes. Indian law has no general open-ended "fair use" clause like that of the United States, and, until now, no express exception for text-and-data mining (TDM).

VI. AI TRAINING AND THE INPUT-STAGE DEBATE

A. Arguments ofi Rights Holders

Authors, publishers and news organisations argue that training requires making copies of works, which is reproduction under Section 14. They contend that commercial AI developers profit from the expression embodied in those works without permission or payment, that AI outputs compete with the very works used to train the systems, and that the scale of copying distinguishes it from ordinary human learning. They also point to risks of regurgitation, where a model reproduces memorised passages.

B. Arguments ofi AI Developers

Developers argue that training is a transformative, non-expressive use: the system extracts statistical patterns and does not communicate the author's expression to the public. They rely on the idea-expression dichotomy, argue that Section 52(1)(a) accommodates research, and warn that a licensing requirement for all training data would favour large incumbents and discourage Indian start-ups and research.

C. ANI Media Pvt. Ltd. v. OpenAI OpCo LLC

ANI, a news agency, sued OpenAI in the Delhi High Court (CS(COMM) 1028/2024) in 2024. It advanced two claims: first, that OpenAI copied and stored its news articles on foreign servers to train the models behind ChatGPT (the "training claim"); second, that ChatGPT reproduced or

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substantially reproduced its content in answers to user prompts (the "output claim"). Because the questions were novel, the court appointed two *amici curiae* and allowed industry bodies, publishers, AI companies and policy groups to intervene.

Orders on the interim application were reserved in March 2026.

On 24 July 2026, a single judge dismissed ANI's application for an interim injunction. As reported in legal commentary (King Stubb & Kasiva, 2026), the findings were as follows. *First*, on jurisdiction, the court held that it could hear the case under Section 62(2) of the Copyright Act and Section 20 of the Code of Civil Procedure, 1908, because ANI carries on business in Delhi and OpenAI's service, and the outputs relied on, reach users in India; the foreign location of OpenAI's servers did not by itself oust jurisdiction. *Second*, on outputs, the court found on the material before it no sufficient proof that ChatGPT ordinarily memorises and substantially reproduces copyrighted works, while accepting that isolated regurgitation is possible and must be judged on evidence case by case. *Third*, on training, the court applied a two-stage inquiry under Section 52(1)(a), a purpose test and a fairness test. It refused to treat commercial use as automatically excluding fair dealing, noting that Parliament states an express non-commercial limit where it intends one, and, relying on the doctrine of updating construction, it held prima facie that training a large language model can fall within "research". Weighing the nature of the use, the effect on the owner's interests and the public interest in technological development, it concluded prima facie that storing ANI's works for training was fair dealing and not infringement under Section

51. The court stressed that these were interim observations with no bearing on the final outcome. The suit proceeds to trial, and ANI has appealed to a Division Bench, which has sought OpenAI's response.

The decision shows both the flexibility and the limits of existing law. By reading "research" in an updating manner, the court avoided a legislative vacuum, but it did so within a purpose-based exception drafted long before commercial model training existed. The result is a prima facie view that may change at trial or on appeal, and it sits uneasily with the DPIIT committee's own analysis, discussed next, which regarded commercial AI training as unlikely to fit within the enumerated exceptions of Section 52. A question of this economic weight is better settled by Parliament than left to case-by-case interpretation.

D. The DPIIT Working Paper on Generative AI and Copyright

In December 2025, a committee set up by the DPIIT in April 2025, with members from government, industry, the legal profession and academia, released Part I of its Working Paper on

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Generative AI and Copyright, titled "One Nation, One Licence, One Payment". Part I deals only with the use of copyrighted works as training input. The committee noted that Indian law has no text-and-data-mining (TDM) exception and, as reported, indicated that commercial AI training is unlikely to fit within the fair dealing provisions of Section 52. It rejected a blanket TDM exception, which it saw as a zero-price licence leaving creators uncompensated, and also a TDM exception with opt-out, which it found burdensome for rights holders and dependent on developer transparency. Purely voluntary licensing was considered impractical at AI scale. It therefore proposed a "hybrid model" whose main features, as reported, are:

- A mandatory blanket licence entitling developers to use lawfully accessed copyrighted works for training without negotiating with each owner, coupled with a statutory right to remuneration for creators.
- A government-designated, non-profit collecting body, the Copyright Royalties Collective for AI Training (CRCAT), to collect and distribute royalties, including to creators who are not members of copyright societies but register their works.
- Royalty rates fixed by a government-appointed rate-setting committee, reported as a percentage of the AI system's revenue, reviewed periodically (reportedly every three years) and open to judicial review.

Public consultation on Part I closed on 6 February 2026. The recommendation was a majority view: NASSCOM dissented and continued to prefer a TDM exception with machine-readable opt-out, while content industries had favoured voluntary licensing. The paper is a proposal and not operative law, and Part II, on AI-generated outputs, was still awaited in the sources consulted. Critics ask how a licence can be made compulsory when the paper does not first decide whether training infringes at all, and they fear administrative difficulty and cost for small developers. Supporters point to lower transaction costs and assured payment to creators. The Delhi High Court's interim fair dealing reasoning in *ANI* sits in tension with a regime requiring payment, and how the two will fit together is among the most significant open questions in Indian AI law.

VII. AI-GENERATED WORKS: AUTHORSHIP, OWNERSHIP AND INFRINGEMENT BY OUTPUTS

A. Can an AI-Generated Work Be Protected?

Three approaches are possible. The first denies protection to works without a human author, leaving them in the public domain. The second grants protection to the person who arranges for the work to be created, as in Section 2(d)(vi). The third recognises a distinct, shorter-term right

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for computer-generated output. In *Thaler v. Perlmutter* (D.C. Cir., 18 March 2025), the US Court of Appeals held that the US Copyright Act requires human authorship, and the US Copyright Office has taken the position that AI-assisted works are protectable only to the extent of human creative contribution (selection, arrangement, modification) and not for material generated by the system itself.

For India, the most defensible position, consistent with *Eastern Book Company*, is a spectrum test. Where a human exercises real creative control over expression, for example by detailed iterative prompting, selection and arrangement, substantial editing, or combining AI material in an original composition, the resulting work is protectable to the extent of that human contribution. Where output is generated with minimal human input, the originality requirement is unlikely to be met, and reliance on Section 2(d)(vi) to claim full ownership over raw AI output would be difficult to sustain.

B. Who Is the "Person Who Causes the Work to Be Created"?

If Section 2(d)(vi) is applied, three candidates exist: the developer, the deployer and the user. Treating the developer as author is unconvincing, since the developer does not choose the specific output. The user's role is the most direct, but it depends on the degree of creative control. In practice, ownership is often regulated by the terms of service of AI platforms, which commonly assign whatever rights exist in outputs to users; such contractual allocation cannot, however, create copyright where the statute does not recognise it. Courts and legislators will need to clarify the scope of the provision, or Parliament may amend or repeal it for generative AI.

C. Infiringement by AI Outputs

Even where training is lawful, outputs may infringe. If a model reproduces a protected work or a substantial part of it, the standard Indian test, which asks whether a substantial and material part of the original has been taken, as recognised in cases such as *R.G. Anand*, applies. The difficult questions are proof (showing that the output derives from the plaintiff's work), memorisation and regurgitation, and style imitation. Copyright does not protect style as such, but close imitation of a particular artist's distinctive expression may amount to substantial copying, and may also engage personality rights and passing off.

D. Personality Rights and Voice Cloning

Indian High Courts have recently granted protection against unauthorised AI-based use of a person's identity, including in *Anil Kapoor v. Simply Life India* (Delhi High Court, 2023), and in

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matters concerning AI voice cloning of well-known performers before the Bombay and Delhi High Courts. These decisions rely on personality rights and passing off rather than copyright, but they show courts willing to act against AI-enabled misuse. Performers' rights under Section 38 and moral rights under Section 57 may also be implicated where AI distorts or misattributes a work.

VIII. LIABILITY AND ENFORCEMENT CHALLENGES

Identifying the infringer. Training datasets are rarely disclosed, models are opaque, and a rights holder may not be able to establish that its work was used. Without transparency, enforcement is largely theoretical.

Direct and secondary liability. Liability may attach to the developer who copied works for training, to a platform that deploys the model, and to a user who prompts the system to generate infringing content. Section 51(a)(ii) addresses certain acts of permitting the use of a place for infringement for profit, and Section 63 provides for criminal liability, but the framework was not designed for distributed AI supply chains. The safe-harbour regime for intermediaries under Section 79 of the Information Technology Act, 2000 may not map onto generative systems that themselves produce, rather than merely host, content.

Jurisdiction. Many AI developers are located abroad and train models outside India. The Delhi High Court in *ANI* accepted jurisdiction on the basis that the service is offered to users in India and the plaintiff is based in Delhi, but enforcement of injunctions or damages against foreign developers remains difficult.

Evidence and remedies. Courts must develop methods for examining training data and model behaviour, such as expert evidence and controlled testing of outputs, without compromising trade secrets. Damages are hard to quantify where a single work is one of millions in a training set, which is an argument in favour of collective licensing rather than case-by-case litigation.

IX. COMPARATIVE PERSPECTIVES

1. **United States.** The US relies on the open-ended doctrine of fair use. District courts in 2025 reached decisions in cases such as *Bartz v. Anthropic* and *Kadrey v. Meta* treating training on lawfully acquired books as highly transformative and fair use on the facts, while distinguishing the acquisition and retention of pirated copies. In *Thomson Reuters v. Ross Intelligence* (D. Del., 2025), by contrast, a court rejected fair use for a non-generative legal-research tool. The position is fact-specific and still developing on appeal.

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2. **European Union.** The Digital Single Market Directive (2019/790) permits text and data mining for scientific research (Article 3) and, under Article 4, for other purposes unless the rights holder has expressly reserved its rights in an appropriate manner, such as machine-readable means. The EU AI Act (Regulation 2024/1689) requires providers of general-purpose AI models to maintain a policy to comply with EU copyright law, respecting opt-outs, and to publish a sufficiently detailed summary of the content used for training.
3. **United Kingdom.** The Copyright, Designs and Patents Act 1988 permits TDM only for non-commercial research (Section 29A). Section 9(3) expressly provides that the author of a computer-generated work is the person by whom the arrangements necessary for its creation are undertaken, a model similar to India's Section 2(d)(vi). The UK has consulted on reform, and in *Getty Images v. Stability AI* (High Court, 2025) the claimant's secondary infringement claim, concerning the model itself, was largely unsuccessful.
4. **Japan.** Article 30-4 of the Copyright Act permits use of works for information analysis and other non-enjoyment purposes, provided the use does not unreasonably prejudice the interests of the copyright owner, making Japan among the most permissive jurisdictions.
5. **Singapore.** Sections 243 and 244 of the Copyright Act 2021 permit computational data analysis, including training, on lawfully accessed material, with limits on circumventing access controls.

Three lessons follow. First, jurisdictions that favour innovation have done so by statute, not by stretching general exceptions. Second, opt-out and transparency mechanisms are becoming common. Third, no major jurisdiction has yet recognised a machine as an author. India's hybrid licensing proposal is distinctive, because it substitutes remuneration for the right to refuse, and its success will depend on institutional design.

X. CHALLENGES FOR INDIAN LAW

1. **Legislative silence on AI training.** No express TDM or training exception exists, leaving developers and rights holders uncertain and courts to apply a purpose-based fair dealing clause to a technology its drafters did not foresee.
2. **Ambiguity of Section 2(d)(vi).** The provision on computer-generated works does not clearly identify who "causes" generative output, and may conflict with the human-centred originality requirement.
3. **Opaque training data.** Rights holders cannot enforce rights without knowing whether their works were used.

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4. **Fair remuneration.** Creators, especially independent authors, illustrators, musicians and regional-language publishers, risk displacement without any share in the value created from their works.
5. **Risk to innovation.** Overly strict liability or heavy licence costs could harm Indian start-ups and researchers who cannot match the resources of global firms.
6. **Institutional capacity.** A collective licensing body, rate-setting committee and dispute mechanism would require significant administrative capability and safeguards against inefficiency and misdistribution.
7. **Cross-border enforcement.** Global models and foreign-based developers complicate injunctions, evidence and damages.
8. **Overlap with personality and data protection law.** AI misuse of identity, voice and personal data engages rights beyond copyright, including the Digital Personal Data Protection Act, 2023, and requires coordinated treatment.

XI. SUGGESTIONS AND RECOMMENDATIONS

1. **Amend the Copyright Act to address AI training expressly.** Parliament should provide clarity on whether and under what conditions copyrighted works may be used for training, rather than leaving the question to the interpretation of Section 52(1)(a). A statutory model combining a limited TDM permission for lawfully accessed material with a remuneration right for commercial uses would give both certainty and fairness.
2. **Refine the DPIIT hybrid model before adoption.** A statutory licence should be accompanied by transparent rate-setting criteria, differentiated treatment of research, non-profit and small-scale developers, independent governance of the collecting body, and periodic review. Creators should be able to see how royalties are calculated and distributed.
3. **Clarify authorship of AI-assisted works.** The Act should state that copyright subsists only where a human author's original contribution is present, and that protection extends to that contribution. Section 2(d)(vi) should be clarified, amended or confined so that it does not confer ownership over purely machine-generated output.
4. **Impose transparency obligations.** Developers of large models offering services in India should be required to disclose summaries of the categories and sources of copyrighted material used for training and to maintain records enabling rights holders to verify use.
5. **Provide a machine-readable opt-out or rights-reservation mechanism** for those who prefer to license on their own terms, as a complement to, not a substitute for,

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remuneration.

6. **Address output-stage infringement.** Developers should be required to adopt reasonable technical measures against memorisation and regurgitation, and rights holders should have a clear complaint and takedown process for infringing outputs.
7. **Protect personality and performers' rights.** Specific protection against unauthorised AI voice and likeness cloning should be codified or consolidated, consistent with emerging case law.
8. **Build judicial and administrative capacity.** Judges, the Copyright Office and the Intellectual Property Division of the High Courts need technical training and access to neutral experts to examine training data and model behaviour.
9. **Pursue international coordination.** India should engage with WIPO and bilateral partners to align approaches on cross-border enforcement and recognition of licences.

XII. CONCLUSION

The encounter between AI and copyright law is not a conflict between innovation and creativity, but a question of how the law distributes the benefits of both. Indian copyright law protects human authors and permits limited uses for research, criticism and reporting, but it was written long before generative AI. The Delhi High Court's interim decision in *ANI v. OpenAI* has given an early signal that existing exceptions may accommodate some AI training, but its provisional nature, the pending appeal, and the doctrinal strain of fitting commercial model training within fair dealing show that judicial interpretation alone is not enough. The DPIIT's proposed hybrid licensing model is a serious attempt to secure payment for creators without making AI development unworkable, though it requires careful design and safeguards.

On the output side, the better view is that copyright follows human creative contribution: AI can be a tool of authorship, but it cannot be an author, and the law should say so clearly. A balanced framework for India should combine legal certainty for developers, fair remuneration and transparency for creators, and protection of personality and data rights. If India acts through carefully drafted legislation rather than leaving the field to litigation, it can protect its creative economy while enabling responsible AI innovation.

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