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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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AI-GENERATED ART AND COPYRIGHT CHALLENGES: AN ANALYSIS OF THE DISNEY AND UNIVERSAL VS. MIDJOURNEY CASE

AUTHORED BY - MAHIMA SHREE

Abstract

The surge of Artificial Intelligence (AI) in the creative industry has brought massive legal and ethical challenges to intellectual property rights (IPR). One of the hottest controversies revolves around entertainment titans Disney and Universal suing prominent AI image generator Midjourney for copyright infringement. This article delves into the intricacies of copyright protection in the case of AI-generated artwork, specifically through the lens of the Midjourney lawsuit, wider legal frameworks, ethical issues, and future developments for intellectual property law.

Keywords: Artificial Intelligence, Copyright Infringement, Intellectual Property Rights, AI Art, Midjourney, Disney, Universal, Fair Use

1. Introduction

The revolution in digital technology has changed the way creative content is produced, distributed, and consumed. The emergence of generative artificial intelligence software such as Midjourney, Stable Diffusion, and DALL·E has altered the art of creation itself from human-based art to algorithmic creation. This technological advancement comes at the expense of undermining the premise of conventional copyright law based on the concept of human authorship.

The court fight between Disney and Universal and Midjourney highlights the increasing conflict between intellectual property rights and AI-generated content. The suit poses deep questions regarding authorship, ownership, fair use, and the future relevance of intellectual property frameworks to creations generated by AI.

2. Background of the Case: Disney and Universal vs. Midjourney

In 2024, Disney and Universal jointly initiated legal proceedings against Midjourney, accusing the company of large-scale copyright infringement through its generative art function. Their primary allegation is based on the fact that Midjourney's models were showing resemblance with the characters of Disney and universal studios, without any proper liscence. The two studios claim Midjourney's tool makes "innumerable" copies of characters including Darth Vader from Star Wars, Frozen's Elsa, and the Minions from Despicable Me.¹ Disney's chief legal officer Horacio Gutierrez said the firm was "optimistic" about how AI "can be used responsibly as a tool to further human creativity".

"But piracy is piracy, and the fact that it's done by an AI company does not make it any less infringing," he said.²

Unsurprisingly, AI companies are fighting back in court. They're also working on another path forward to retain their ability to train their models as they see fit: through governmental policy. In January, OpenAI sent a memo to the White House arguing their ability to train on copyrighted material should be "preserved." They then relaxed several rules around copyright in the name of "creative freedom," which triggered a flood of Studio Ghibli-style images on social media.³

Key Allegations:

- **Unauthorized Use of Copyrighted Material for Training:** Disney and Universal present the argument that the data used to train Midjourney contains copyrighted images without permission or license.
- **Derivative Works:** The users may encourage the AI to create images that look like well-known Disney or Universal characters or styles, which are nothing but unauthorized derivative works.
- **Commercial Exploitation:** The users can commodify these images that are produced using AI, impacting the original creators' business interests.

¹ <https://www.bbc.com/news/articles/cg5vjqdm1ypo>

² <https://www.bbc.com/news/articles/cg5vjqdm1ypo>

³ <https://time.com/7293362/disney-universal-midjourney-lawsuit-ai/>

3. Copyright and Intellectual Property Challenges in AI-Generated Art

3.1. Authorship and Ownership

Under conventional copyright legislation, protection is granted to "original works of authorship" authored by a human author. Artificially intelligent works short-circuit this idea.

No Human Creator: When an AI generates an artwork, the question arises—who is the author? The developer of the AI, the user providing the prompt, or the AI system itself?

Current Legal Gaps: Jurisdictions like the US, EU, and India have yet to provide definitive guidance on the authorship of AI-generated works.

3.2. Fair Use Doctrine:

Fair use is a legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. Section 107 of the Copyright Act provides the statutory framework for determining whether something is a fair use and identifies certain types of uses—such as criticism, comment, news reporting, teaching, scholarship, and research—as examples of activities that may qualify as fair use.

Fair use is a potential defence for AI developers like Midjourney. Courts generally consider four factors:

When courts determine whether a use is fair, they look at four main factors:

Purpose and Character of the Use: This looks at why the copyrighted material is being used and under what circumstances. Uses for nonprofit or educational purposes are more likely to be considered fair, but this is not a hard and fast rule. Commercial applications could be fair if they are deemed "transformative"—i.e., the new work offers something creative or offers the material in a different way for a different reason, not simply reproducing the original.

Nature of the Copyrighted Work: This aspect looks at the kind of work. Drawing from creative works such as novels, movies, or songs generally weighs against fair use, but drawing from factual or informational works tends to favour a fair use. Additionally, drawing from unpublished works tends to weigh against fair use since authors have exclusive rights over the initial publication of their work.

Amount and Substantiality of Portion Used: Courts determine both how much of the copyrighted work is taken and if the portion taken was a fundamental or significant portion of the original. Taking a large portion or the "heart" of the work is less probable to be deemed

fair. Yet, in certain instances, even taking an entire work has been considered fair depending on the situation.

Effect on the Market: This assesses whether or not the unlicensed use harms the existing or potential market for the original work. The courts examine whether use would suppress sales or hinder the copyright owner from benefiting from their work. If widespread use of the work in a similar manner would prejudice the market, that is against finding fair use.

In addition to these four primary considerations, a court could also consider other pertinent facts based on the nature of the case. There is no set formula or percentage that will be determinative as to whether a use is fair. Rather, each case is resolved on its own facts, and courts make such determinations on a case-by-case basis.

3.3. Derivative Works

Copyright law protects not only original works but also derivative works. If AI-generated content closely resembles copyrighted characters or designs, as alleged in this case, it may constitute infringement unless explicitly authorized.

4. Ethical Considerations:

4.1. Effect on Human Creators

The most significant ethical concern is the possible displacement of human artists. AI art websites can create pieces in seconds, which threatens the labour and creativity of professional artists. The application of copyrighted content for training without permission also poses moral issues related to appropriation and artistic integrity.

4.2. Consent and Transparency

Another ongoing complaint is the invisibility of what data sets are utilized to train AI systems. Artists have reported finding AI products that are unmistakably similar to their original works, created without their permission or recompense.

4.3. Monopoly Worries

Oddly, while media behemoths Disney and Universal battle AI platforms, others worry that the very same corporations could monopolize future AI creative processes, further displacing independent creators.

5. Industry Responses and Policy Recommendations

-Legislative Proposals

Policy recommendations emerging from the discourse include:

- **Mandatory Transparency of Training Data:** AI companies should disclose the sources used for model training.
- **Opt-Out Mechanisms for Creators:** Artists should have the right to exclude their work from AI training datasets.
- **New Licensing Frameworks:** Platforms could adopt licensing models where creators are compensated if their works contribute to AI training.
- **Amending Copyright Law:** Updating statutory definitions to account for AI-generated works, potentially recognizing shared authorship models where applicable.

6. Copyright Future in an AI World

Regardless of the short-term disposition, the Midjourney case will have a long-term impact on worldwide legislative developments regarding IPR and AI. Courts might solidify standard interpretations of copyright law or acknowledge the sui generis challenges that generative AI presents, which would encourage new legal principles.

Possible future developments:

- **AI-Specific Copyright Regimes:** Creating a distinct type of IP protection for works created by AI.
- **Collaborative Models:** Hybrid models in which AI creators, prompt writers, and underlying copyright holders are given credit or payment.
- **Technological Solutions:** Employing blockchain for tracing ownership and permission for AI training data.

7. Conclusion:

The legal battle between Disney, Universal, and Midjourney is representative of the broader clash between rapidly advancing technologies and established legal systems. As artificial intelligence becomes an increasingly dominant force in the creative sectors and generative arts, courts and legislators will need to revisit long-standing IP doctrines and revisit the copyright laws to address the emerging challenge of copyright infringement.

This is not the first time Midjourney has been accused of misusing artists' work to train their

AI systems. A year ago, a California federal judge found that 10 artists behind a copyright infringement suit against Midjourney, Stability AI and other companies had plausibly argued these AI companies had copied and stored their work on company servers, and could be liable for using it without permission. That ruling allowed the lawsuit over the unauthorized use of images to proceed. It is in the process of litigation.⁴

Behind this debate is a single, essential question: how do we reconcile technological innovation with human creators' rights? The resolution might be in finding a balanced compromise—a one that preserves creative labour while not inhibiting the revolutionary power of AI. The next few years will probably see test-case decisions and legislative changes that will redefine intellectual property rights for the age of AI.



⁴ <https://www.theguardian.com/technology/2025/jun/11/disney-universal-ai-lawsuit>