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COPYRIGHT INFRINGEMENT IN THE COMING OF AGE OF ARTIFICIAL INTELLIGENCE: CHALLENGES AND LEGAL RESPONSES IN INDIA

Kumar Hardik[*]

I. ABSTRACT

Generative artificial intelligence (AI) has revived a basic question of copyright law: whether systems trained on human creative works may lawfully copy those works, and who, if anyone, owns what they produce. Language and image models are trained on vast collections of text, images, audio and code, much of it protected by copyright, and generate outputs in response to user prompts. Creators face two risks: the unlicensed use of their works as training inputs, and outputs that reproduce or substitute for protected expression. The Copyright Act, 1957 predates generative AI and does not expressly address training, memorisation or machine authorship. This paper examines whether the Act, as read by the Delhi High Court in ANI Media Pvt Ltd v OpenAI OpCo LLC (24 July 2026), adequately addresses AI training, outputs and authorship. Adopting a doctrinal method, it analyses the statute, Indian and foreign judicial decisions and the DPIIT Working Paper on Generative AI and Copyright (Part 1). It finds that the Court treated electronic storage of training data as reproduction, but held at the prima facie stage that such storage fell within the fair dealing exception for private or personal use, including research, under section 52(1)(a), and therefore declined an interim injunction. That ruling is interlocutory and is under appeal. The paper further finds that the DPIIT's proposed hybrid model, a mandatory blanket licence with statutory royalties, sits uneasily with the Court's broad reading of the exception. It concludes that existing law offers uncertain and uneven protection, particularly to smaller creators. It recommends a legislative choice between the hybrid licence and a narrow research exception, a statutory duty to disclose training data,

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clarification of authorship of AI-generated works, and stronger collective management of royalties.

II. KEYWORDS

Artificial Intelligence, Copyright Infringement, Generative AI, Intellectual Property Rights, Indian Copyright Law.

III. INTRODUCTION

Large language models (LLMs), and image- and music-generating systems, increasingly permeate the creative ecosystem. Unlike a human artist who creates a painting through personal creative labour, these systems are trained on large volumes of text, images, sounds and code, much of which is protected by copyright, and then generate content in response to users' prompts. Creators raise two concerns: first, the unlicensed use of their works as training inputs; second, outputs that infringe protected expression, imitate voices or styles, or flood the market with cheap substitutes for existing creative works.

The legal contest has already reached India, which is both a large market for AI services and a major producer of news, films and music. In November 2024, the news agency ANI filed a suit against OpenAI in the Delhi High Court.[1] On 24 July 2026, Justice Amit Bansal dismissed ANI's application for an interim injunction.[2] Earlier, in December 2025, a government committee had recommended a statutory licensing regime for AI training.[3] These developments point in different directions and, taken

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[1] *ANI Media Pvt Ltd v OpenAI OpCo LLC* CS(COMM) 1028/2024 (Del HC), instituted on 19 November 2024; CMS, 'India: ANI Media Pvt Ltd v OpenAI OpCo LLC' (*AI and Copyright Case Tracker*) <https://cms.law/en/int/publication/artificial-intelligence-and-copyright-case-tracker/ani-media-pvt-ltd-v.-openai-opco-llc> accessed 17 November 2026.

[2] *ANI Media Pvt Ltd v OpenAI OpCo LLC* 2026:DHC:5900 (Del HC, 24 July 2026), IA 45300/2024 in CS(COMM) 1028/2024 <https://delhihighcourt.nic.in/app/showFileJudgment/ABL24072026SC10282024_171649.pdf> accessed 17 November 2026; see also Krishna Ravi Srinivas and Feba Sara Vinu, 'Not Memory, Just Retrieval: Narrow Escape for OpenAI' (*LiveLaw*) <https://www.livelaw.in/articles/narrow-escape-openai-544856> accessed 17 November 2026.

[3] Department for Promotion of Industry and Internal Trade (DPIIT), *Working Paper on Generative AI and Copyright: Part 1* (8 December 2025) <https://www.dpiit.gov.in/static/uploads/2025/12/ff266bbeed10c48e3479c941484f3525.pdf> accessed 17 November 2026; 'DPIIT Releases Draft Policy on AI Copyright, Proposes Hybrid

together, reveal uncertainty about the legal position in India. This paper analyses the present law, its gaps, the issues raised by AI-generated material, and possible reforms.

A. Research Problem

The Copyright Act, 1957 was enacted, and last substantially amended in 2012, before generative AI emerged. Its reproduction right, its closed list of exceptions and its provision on computer-generated works were not designed for machine learning. The research problem is whether the Act, as interpreted in *ANI Media v OpenAI*, adequately addresses three matters: the copying of protected works to train AI systems, the reproduction of protected expression in AI outputs, and the authorship of AI-generated works.

B. Research Objectives

This paper seeks:

1. To examine how the reproduction right and the exceptions in section 52 apply to the training of AI systems;
2. To analyse the reasoning in *ANI Media v OpenAI* on jurisdiction, reproduction, fair dealing and outputs;
3. To assess the position on authorship of AI-generated works under section 2(d)(vi); and
4. To evaluate the DPIIT hybrid licensing proposal against foreign approaches and to propose reforms.

C. Research Questions

1. Does the storage of protected works for AI training engage the reproduction right under section 14(a)(i), and can it be justified under section 52?

Licensing Model' *Free Press Journal* (10 December 2025) <https://www.freepressjournal.in/tech/dpiit-releases-draft-policy-on-ai-copyright-proposes-hybrid-licensing-model> accessed 17 November 2026.

2. How far does the reasoning in *ANI Media v OpenAI* resolve liability for training and for outputs?
3. Who, if anyone, is the author of an AI-generated work under the Act?
4. What legislative or policy reforms would best balance creators' rights with AI development in India?

D. Research Methodology

This paper adopts a doctrinal and analytical method. Its primary sources are the Copyright Act, 1957, the Information Technology Act, 2000 and the rules made under it, decisions of the Supreme Court of India and of the Delhi and Bombay High Courts, an order of the Registrar of Copyrights, and the DPIIT Working Paper on Generative AI and Copyright (Part 1). Decisions from the United States and Germany, and the EU Directive on copyright in the Digital Single Market, are used comparatively. Secondary sources include scholarly commentary, law firm analyses and legal news reports. The study has one important limitation: the ruling in *ANI Media v OpenAI* is an interim order that is under appeal, and its reasoning may be revised. The law is stated as on 17 November 2026.

IV. COPYRIGHT AND ARTIFICIAL INTELLIGENCE

At each stage of the life cycle of an AI system, different questions of law arise. This is an outline of key stages. Training: AI developers gather data sets (scraped from the web). The data is then used to tune its parameters so that the system can recognize a pattern and produce the content. But the main legal question is: do the copies produced by this process violate the reproduction right of the copyright owner? If so, the question would be whether any of the statutory exceptions are applicable. Deployment of an AI system: For example, the user might ask the AI system to generate text or images that resemble a protected work.

This is called memorization or regurgitation. Retrieval-augmented generation (RAG) systems go a step further and pull in external content to answer a user query. Which begs the question whether the output is derived from significant portions of a copyrighted work. AI-generated works: If the output of the AI is sufficiently original

and not copying another work, then the next question is whether AI output can be copyrighted and who should own it. Impersonation (Deepfakes, photoshopped images, AI-generated speech/voice): The fourth question is impersonation (deepfakes, photoshopped images, and AI-generated speech/voice). These overlap with the issues of personality rights and copyright law.

V. FRAMEWORK OF THE LAW

The Copyright Act, 1957 contains no AI-specific provision; its general provisions on authorship, reproduction and exceptions are being applied to AI by analogy.[4] The closest textual hook is section 2(d)(vi), which addresses computer-generated works but predates generative AI. Whether it extends to the outputs of generative systems has not been judicially settled (see Part 5.4).

A. Authorship and Ownership

Section 13 of the Act protects original literary, dramatic, musical and artistic works, cinematograph films and sound recordings. In *Eastern Book Company v DB Modak*, the Supreme Court adopted a skill-and-judgment test of originality, with the rider that a minimal degree of creativity is essential.[5] Under section 17, the author is the first owner of copyright, subject to exceptions. Section 2(d)(vi) 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'.[6]

B. Infringement of Copyright

Section 14(a)(i) confers on the copyright owner, in the case of a literary, dramatic or musical work 'not being a computer programme', the exclusive right 'to reproduce the work in any material form including the storing of it in any medium by electronic means'. Under section 51, copyright is infringed when a person does any of these acts

[4] Copyright Act, 1957 (Act 14 of 1957), as on 15 June 2026 <https://www.indiacode.nic.in/bitstream/123456789/1367/1/a195714.pdf> accessed 17 November 2026.
[5] *Eastern Book Company v DB Modak* (2008) 1 SCC 1.
[6] Copyright Act (n 5) ss 2(d)(vi), 13, 17.

without a licence from the owner.[7] Copyright protects the expression of an idea, not the idea or facts themselves. In *RG Anand v M/s Delux Films*, the Supreme Court held that infringement requires substantial and material copying of the protected expression, judged by whether an ordinary observer would form the unmistakable impression that the later work is a copy of the original.[8]

C. Copyright infringement legal defenses

Indian copyright law has no general fair use defence. Instead, section 52 lists specific acts that do not infringe copyright. The provision most relevant to AI is section 52(1)(a), which permits fair dealing with any work, not being a computer programme, for three purposes:

1. Private or personal use, including research;
2. Criticism or review, whether of that work or of any other work; and
3. The reporting of current events and current affairs, including the reporting of a lecture delivered in public.[9]

For AI training, the debate turns on two words in the first limb, 'private' and 'research', which Part 6 examines. In *University of Oxford v Rameshwari Photocopy Services*, a Division Bench of the Delhi High Court set aside the single judge's dismissal of the suit. It held that section 52(1)(i), which permits reproduction by a teacher or pupil in the course of instruction, is not subject to a fair dealing limitation; the test is whether the inclusion of the work is justified by the purpose of instruction, a factual question it remanded for trial.[10] The decision shows that each clause of section 52 is read on its

[7] Copyright Act (n 5) ss 14(a)(i), 51.
[8] *RG Anand v M/s Delux Films* (1978) 4 SCC 118.
[9] Copyright Act (n 5) s 52(1)(a).
[10] *Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* 2016:DHC:7940-DB (Del HC, 9 December 2016), RFA(OS) 81/2016 <https://delhihighcourt.nic.in/app/case_number_pdf/2016:DHC:7940-DB/PNJ09122016RFAOS812016.pdf> accessed 17 November 2026, setting aside CS(OS) 2439/2012 (Del HC, 16 September 2016); applied in *ANI Media* (n 3) [228].

own terms, a point relied on in *ANI Media v OpenAI*. Unlike the European Union or Japan, India has no express text-and-data-mining (TDM) exception.[11]

D. Moral Rights, Remedies and Jurisdiction

Section 55 provides civil remedies for infringement, including injunction, damages and accounts. Section 63 makes knowing infringement, or its abetment, a criminal offence. Under section 62(1), every suit or civil proceeding for infringement must be instituted in the district court having jurisdiction. Section 62(2) adds a plaintiff-centred forum: notwithstanding the Code of Civil Procedure, 1908, that court includes the district court within whose local limits the plaintiff actually and voluntarily resides, carries on business or personally works for gain. This forum is why the Delhi High Court could entertain ANI's suit against a foreign defendant (Part 6.2). Section 57 grants the author the right to claim authorship and to restrain any distortion, mutilation or modification of the work that would be prejudicial to the author's honour or reputation.[12]

VI. THE PRINCIPAL LEGAL ISSUES

A. The Right to Make a Copy & AI Training

The legal analysis of AI training is not straightforward, because training is a technical process. Developers argue that a model does not retain individual works but learns statistical patterns from the material on which it is trained. Copyright owners contend that their works are downloaded, copied and stored in training datasets. On the reproduction right, owners have the stronger argument, because section 14(a)(i) draws no distinction between temporary and permanent electronic storage.[13] Whether an exception applies is less clear.

Section 52(1)(b) excludes the transient or incidental storage of a work purely in the technical process of electronic transmission or communication to the public, and

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[11] Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market [2019] OJ L130/92, art 4; on the Japanese exception, see DPIIT, *Working Paper* (n 4).
[12] Copyright Act (n 5) ss 55, 57, 62, 63.
[13] Copyright Act (n 5) s 14(a)(i); *ANI Media* (n 3) [148]–[149].

section 52(1)(c) excludes transient or incidental storage for providing electronic links, access or integration not expressly prohibited by the right holder.[14] Both clauses are designed for network intermediaries. The deliberate assembly and retention of training corpora is neither a purely technical transmission nor linking, so neither clause comfortably covers it.

The Explanation to section 52(1)(a) provides that storing a work in an electronic medium for the purposes of that clause does not infringe copyright. In *ANI Media v OpenAI*, the Court read the Explanation's limitation, that the stored copy must not itself be an infringing copy, as confined to the incidental storage of computer programmes and not to works stored electronically.[15] The reproduction right is therefore engaged, but the exceptions are contested. Section 52 is a closed list, and India has no express TDM exception. Developers must therefore fit mass, commercial-scale training within existing heads such as research, whose application to training is disputed.[16]

B. Outputs and memorization and proof

Even if training is lawful, outputs may infringe. With suitable prompts, a model may reproduce text, lyrics or images. The test is whether the output reproduces a substantial part of the protected expression of a work, not merely its idea. This creates evidentiary difficulties for copyright owners. Without access to training datasets, they may be unable to show that a given work was copied, and may need laborious prompt experiments to prove memorisation or reproduction.

Retrieval-augmented generation (RAG) adds a further complication. A RAG-enabled system may fetch and reproduce live content at the time of a query, whereas a model without retrieval can reproduce only what it has memorised during training. Each route raises a different infringement question: the first concerns copying at the output stage, and the second concerns what the model retained from training.

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[14] Copyright Act (n 5) s 52(1)(b)–(c).
[15] *ANI Media* (n 3) [194], [201].
[16] Copyright Act (n 5) s 52; DPIIT, *Working Paper* (n 4).

C. Transparency of Training Data

To enable copyright holders to prove copying and courts to test exceptions, developers should disclose the datasets on which their models are trained. Transparency is even more important in an opt-out system. The DPIIT committee itself recognised that an opt-out regime would be inadequate without transparency from developers.[17] Without disclosure of training datasets, copyright owners cannot inspect them, and so cannot prove copying or enforce an opt-out.

D. Copyright in AI-generated works

Under the Act, the identity of the author remains important, because the author is ordinarily the first owner. For computer-generated works, section 2(d)(vi) names 'the person who causes the work to be created'. Three candidates emerge: the user who enters the prompt, the developer who built and trained the model, or no one. A prompt may supply the idea but little of the expression, while the developer has no connection with any particular output; if neither has caused the work in a meaningful sense, the work may have no author.

Separately, under the standard in *Eastern Book Company*, an output generated with minimal human skill, judgment or creativity may fail the originality requirement.[18] Administrative practice is unsettled. In November 2020, the Copyright Office registered the artwork 'Suryast' naming the RAGHAV application as co-author, but on 25 November 2021 it issued a withdrawal notice asking the applicant to explain RAGHAV's legal status.[19]

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[17] DPIIT, *Working Paper* (n 4); Ikigai Law, 'Exploring the DPIIT's Working Paper on Generative AI and Copyright' (*Mondaq*, 15 December 2025) <https://www.mondaq.com/india/copyright/1718746/exploring-the-dpiits-working-paper-on-generative-ai-and-copyright> accessed 17 November 2026.

[18] *Eastern Book Company* (n 6).

[19] 'Exclusive: Indian Copyright Office Issues Withdrawal Notice to AI Co-author' (*Managing IP*) <https://www.managingip.com/article/2a5bqtj8ume32iwlaoy5y/exclusive-indian-copyright-office-issues-withdrawal-notice-to-ai-co-author> accessed 17 November 2026; Vedika Chawla, 'Ankit Sahni's AI "Co-authored" Artwork Denied Registration by US, Continues to be Registered in India' (*SpicyIP*, December 2023) <https://spicyip.com/2023/12/ankit-sahnis-ai-co-authored-artwork-denied-registration-by-us-continues-to-be-registered-in-india.html> accessed 17 November 2026.

By an order dated 31 August 2026, the Registrar of Copyrights refused to register 'A Recent Entrance to Paradise' with the AI system DABUS named as author, holding that DABUS is neither a natural nor a juristic person, while accepting that the human who caused the work to be created could be identified as its author.[20] Neither the notice nor the order is a judicial precedent. In the United States, *Thaler v Perlmutter* held that the Copyright Act requires human authorship, and the Supreme Court denied certiorari on 2 March 2026; in India the decision is only persuasive.[21] Part 1 of the DPIIT Working Paper addresses only the use of works for training; Part 2, on AI outputs and authorship, has not yet been published.[22]

E. Jurisdiction and enforcement

AI developers, their training infrastructure, and servers are often in foreign jurisdictions. However, as discussed below, Indian courts have been eager to exercise jurisdiction in litigations against foreign AI developers.[23] In practice, however, enforcing an order against a foreign defendant is difficult.

F. Style, voice, similarities

Copyright does not protect a person's voice, likeness or style as such. Under the idea–expression principle affirmed in *RG Anand*, a style is closer to an idea or technique than to protected expression.[24] This is why deepfakes and AI voice cloning create risks for artists and others that copyright cannot meet. Indian courts have addressed the gap through personality rights, notably in *Anil Kapoor v Simply Life India* (Delhi High Court, 2023)[25] and *Arijit Singh v Codible Ventures LLP* (Bombay High Court, 2024).[26]

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[20] Copyright Office, Order of the Registrar of Copyrights in Diary No 9356/2022-CO/A, *A Recent Entrance to Paradise* (31 August 2026); Riya Rathore, 'Copyright Office Says AI System DABUS Can't Be Copyright "Author" Under Indian Law' (*LiveLaw*, 1 September 2026) <https://www.livelawbiz.com/copyright/copyright-office-rejects-bid-to-register-ai-system-dabus-as-author-of-artwork-548065> accessed 17 November 2026.
[21] *Thaler v Perlmutter* 130 F 4th 1039 (DC Cir 2025), cert denied, No 25-449 (US, 2 March 2026).
[22] DPIIT, *Working Paper* (n 4); Ikigai Law (n 18).
[23] *Neetu Singh v Telegram FZ LLC* 2022 LiveLaw (Del) 822, CS(COMM) 282/2020 (Del HC, 30 August 2022); *ANI Media* (n 3) [51]–[55].
[24] *RG Anand* (n 9).
[25] *Anil Kapoor v Simply Life India* 2023 SCC OnLine Del 6914.
[26] *Arijit Singh v Codible Ventures LLP* 2024 SCC OnLine Bom 2445.

This protection is judge-made, lies outside the Copyright Act, and is developed case by case rather than codified. The 2026 amendment to the intermediary rules, discussed in Part 9.1, now adds platform-level duties to label and remove such synthetic content.

G. Too many private resources

It is costly and risky to litigate a tech company that is better resourced. It took more than 20 months and several hearings and interveners to get interim orders.[27] These disadvantages individual authors, illustrators, and musicians in asserting their rights. The smaller creators are least able to afford litigation and are vulnerable to unauthorized appropriation as well as unauthorized use of their work.

VII. THE FIRST MEANINGFUL JUDGMENT FROM INDIA: ANI MEDIA V. OPENAI

A. The Dispute

ANI made two claims. First, it alleged that OpenAI had scraped and stored ANI's news content to train the large language models underlying ChatGPT. Second, it alleged that ChatGPT's outputs reproduced that content in response to user prompts. OpenAI raised four defences: that the Court lacked territorial jurisdiction; that Indian copyright law could not reach training carried out on servers outside India; that any storage fell within the fair dealing exception in section 52(1)(a); and that the public interest weighed against an injunction. Publishing and music industry bodies intervened in support of ANI, technology bodies intervened in support of OpenAI, and the Court appointed two amici curiae.[28]

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[27] CMS (n 2); *ANI Media* (n 3) [9], [28]–[30].

[28] *ANI Media* (n 3) [9], [29]–[30], [41]–[42], [51]; Cyril Amarchand Mangaldas, 'ANI v Open AI: Delhi High Court Refuses Interim Injunction in Landmark AI Copyright Dispute' (*Cyril Amarchand Mangaldas Blog*, 30 July 2026) <https://corporate.cyrilamarchandblogs.com/2026/07/ani-v-open-ai-delhi-high-court-refuses-interim-injunction-in-landmark-ai-copyright-dispute/> accessed 17 November 2026.

B. The Judgment

By a judgment of 135 pages dated 24 July 2026 in CS(COMM) 1028/2024, Justice Amit Bansal dismissed ANI's application for an interim injunction.[29] The findings are prima facie and do not prejudice the outcome of the suit. Jurisdiction: The Court held that it had jurisdiction because ANI's principal place of business and registered office are in Delhi, satisfying section 62(2), and because ChatGPT is offered to users in Delhi, where the impugned responses were generated. Relying on *Neetu Singh v Telegram FZ LLC* and section 20 of the Code of Civil Procedure, it held that storage on servers outside India does not oust the jurisdiction of Indian courts.[30]

Reproduction: The Court held that storing a literary work in any medium by electronic means amounts to reproduction under section 14(a)(i), and that the provision draws no distinction between temporary and permanent storage. It recorded that OpenAI admittedly stores ANI's works, at least temporarily, during training.[31] This rejects the argument that storage for AI training is not reproduction. Fair dealing: The Court nevertheless held, prima facie, that OpenAI's storage fell within section 52(1)(a), applying a two-step test of purpose and fairness.[32]

On purpose, it read 'private' broadly to include private entities and closed groups, and held that research need not be performed by humans and may include machine learning; commercial activity did not bar reliance on the exception.[33] On fairness, it weighed three factors consistent with Article 9 of the Berne Convention: that the use was limited to training, the absence of evidence of harm to ANI's commercial interests, and the public interest in the development of AI.[34]

Outputs: The Court examined the outputs separately and found the responses relied on not substantially similar to ANI's articles. Those articles post-dated the training cut-off dates of the relevant models, so memorisation could not be shown, and even

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[29] *ANI Media* (n 3).
[30] *ANI Media* (n 3) [45]–[55]; *Neetu Singh* (n 24).
[31] *ANI Media* (n 3) [148]–[149], [169].
[32] *ANI Media* (n 3) [168].
[33] *ANI Media* (n 3) [207]–[208], [212]–[219], [249].
[34] *ANI Media* (n 3) [236]–[256].

ANI's detailed, repeated prompts did not produce substantial reproduction.[35] Balance of convenience: The Court noted that ANI had not blocked OpenAI's crawlers and had itself offered OpenAI a licence for USD 7.5 million, so that any loss could be compensated in money. It held that an injunction would cause irreparable injury to OpenAI and to the public interest.[36]

C. Reasoning

The ruling is limited but significant. It does not hold that all AI training is lawful. On the evidence, the Court found that storage for training was prima facie exempt under section 52(1)(a), and that the responses examined were not substantially similar to ANI's works. Broader questions remain for other cases and for trial: other kinds of RAG output, ownership of AI-generated works, the use of paywalled or pirated datasets, and the legal consequences of memorisation.

The reasoning is also open to criticism.[37] Treating large-scale commercial training as 'research' within 'private or personal use' stretches a limb that, on its ordinary reading, contemplates study by individuals or closed groups rather than the building of a product offered to the public. Further, the Court's conclusion on fairness rested heavily on the absence of proof of present loss, which also drove its balance-of-convenience reasoning; that assessment may not hold once evidence is led at trial.[38] ANI has appealed. On 15 September 2026, a Division Bench issued notice on ANI's appeal and declined to grant interim relief before hearing OpenAI. The appeal is listed for further hearing on 8 December 2026.[39] The position stated here is as on 17 November 2026 and may change as the proceedings continue.

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[35] *ANI Media* (n 3) [113]–[125], [202].
[36] *ANI Media* (n 3) [262], [265], [270]–[272].
[37] Srinivas and Vinu (n 3); 'No Injunction Against the Machine: The Delhi High Court's Interim Ruling in ANI Media v OpenAI and Where It Sits in the Global AI-Copyright Landscape' (*Legal 500*, 4 August 2026) <https://www.legal500.com/intelligence/india/intellectual-property/no-injunction-against-the-machine-the-delhi-high-courts-interim-ruling-in-ani-media-v-openai-and-where-it-sits-in-the-global-ai-copyright-landscape> accessed 17 November 2026.
[38] *ANI Media* (n 3) [250]–[251], [270]–[272].
[39] Nupur Thapliyal, 'Delhi High Court Issues Notice on ANI's Appeal Against Denial of Interim Relief in Copyright Case Against ChatGPT' (*LiveLaw*, 15 September 2026) <https://www.livelaw.in/high-court/delhi-high-court/notice-ani-appeal-interim-relief-copyright-case-against-chatgpt-550053>

VIII. THE GOVERNMENT'S PROPOSAL FOR HYBRID LICENSING

In April 2025, DPIIT formed a committee on matters relating to copyright and artificial intelligence (AI)-generated material.[40] Based on this, it published its first recommendations. Its Working Paper, Part I, 8 December 2025, considered and rejected several possible approaches:[41]

1. **A general blanket TDM exception:** This would allow the training to proceed without any control or payment to the creators.
2. **Voluntary licensing:** It was deemed difficult to scale due to high transaction costs and practical implementation challenges.
3. **Opt-out:** This was considered inadequate without sufficient transparency from the developers. The committee instead proposed a mixed licensing system. Under this model, developers would have the legal right to train on any copyrighted work to which they have legal access in exchange for paying creators their fair share of the proceeds. Royalties would be set by a governmental committee as a percentage of revenue earned by artificial intelligence systems trained on copyright works. Rightsholders would not be able to opt out of the statutory proposal.[42] That was the majority view of the committee. NASSCOM committee members disagreed and recommended a carve-out with its TDM regarding lawful access and machine-readable opt-out of public material and contracts/other agreements/licenses for non-public material.[43] It has been criticized for not engaging with the argument that some forms of AI training might be already lawful under existing law. It has also

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accessed 17 November 2026; 'Delhi High Court Seeks OpenAI Response on ANI Appeal Against Denial of Interim Copyright Relief' (*CourtBook*) <https://courtbook.in/posts/delhi-high-court-seeks-openai-response-on-ani-appeal-against-denial-of-interim-copyright-relief> accessed 17 November 2026.

[40] DPIIT, *Working Paper* (n 4); *Free Press Journal* (n 4).

[41] DPIIT, *Working Paper* (n 4); Ikigai Law (n 18).

[42] DPIIT, *Working Paper* (n 4).

[43] DPIIT, *Working Paper* (n 4); 'DPIIT Releases Working Paper on Copyright and AI, Proposes Hybrid Licensing Model' (*Storyboard18*) <https://www.storyboard18.com/digital/dpiit-releases-working-paper-on-copyright-and-ai-proposes-hybrid-licensing-model-85551.htm> accessed 17 November 2026.

been criticized for not giving adequate consideration to the preferred approach to text and data mining through an opt out system.[44] But there is no straightforward answer to the apparent clash between the working paper and the ANI judgment. Even assuming the blanket exception is rejected, the presence of the obligation to pay in the statutory license might make it less likely that Parliament intended AI training to fall within Section 52(1)(a). However, the hybrid model could offer legal certainty if the Division Bench opts for a restrictive interpretation of the existing exception. The committee's focus on legal access to works mimics the Delhi High Court's approach to differentiating between freely available works and works from illegal sources.[45]

IX. COMPARISON FROM OTHER JURISDICTIONS

The legal position on AI training is not settled internationally. In the United States, *Bartz v Anthropic PBC* and *Kadrey v Meta Platforms, Inc* (ND Cal 2025) considered when AI training may be fair use. In June 2025, the court in *Bartz* held that training an LLM on lawfully acquired books was fair use, but refused to extend that ruling to pirated copies retained in Anthropic's central library.[46] Those claims were never tried. They were resolved by a class settlement of USD 1.5 billion, which received final approval on 20 July 2026.[47]

The June 2025 fair use reasoning therefore stands only as a district court order. In *Kadrey v Meta* (June 2025), the court granted summary judgment to Meta on its fair use

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[44] 'Innovation Under Licence: A Critical Analysis of DPIIT's Generative AI Copyright Proposal' (*IIPRD*) <https://www.iiprd.com/?p=17742> accessed 17 November 2026.
[45] DPIIT, *Working Paper* (n 4); Intepat, 'ANI vs OpenAI Judgment: What the Delhi High Court Actually Held' <https://www.intepat.com/blog/ani-vs-openai-judgment-delhi-high-court> accessed 17 November 2026.
[46] *Bartz v Anthropic PBC* No 3:24-cv-05417-WHA (ND Cal, 23 June 2025), ECF No 231 (order on fair use) <https://storage.courtlistener.com/recap/gov.uscourts.cand.434709/gov.uscourts.cand.434709.231.0_5.pdf> accessed 17 November 2026.
[47] *Bartz v Anthropic PBC* No 3:24-cv-05417-AMO (ND Cal, 20 July 2026) (order granting final approval of class settlement); Authors Guild, 'Court Grants Final Approval of $1.5 Billion Anthropic Copyright Settlement' <https://authorsguild.org/news/court-grants-final-approval-anthropic-copyright-settlement/> accessed 17 November 2026.

defence for training on copyrighted books, including books from shadow libraries, but expressly confined the ruling to the evidence and arguments in that case; it is not authority that all AI training is fair use.[48]

In the European Union, Article 4 of the Directive on copyright in the Digital Single Market permits text and data mining, subject to the right holder's ability to reserve rights by appropriate means, such as machine-readable means.[49] However, in *GEMA v OpenAI*, the Munich Regional Court held on 11 November 2025 that the memorisation and reproduction of song lyrics by large language models infringed copyright.[50]

The Delhi High Court considered *GEMA* and distinguished it. In *GEMA*, the lyrics were reproduced verbatim in response to non-adversarial prompts; in *ANI*, the articles relied on post-dated the training cut-off, and even ANI's detailed, repeated prompts did not produce substantial reproduction of its protected expression.[51] In practice, therefore, India's middle path is closer to the European route, but rests on a closed list of statutory exceptions rather than an open-ended fair use doctrine. This matters because, under a closed list, the legislature remains the principal force in answering the challenge of new technologies.

X. REMEDIES AND SELF-HELP

A. Remedies available

If an AI system infringes copyright, the owner may seek interim and permanent injunctions, damages, accounts of profits and delivery up of infringing copies under section 55 of the Copyright Act, with interim relief under Order XXXIX of the Code of

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[48] *Kadrey v Meta Platforms, Inc* No 3:23-cv-03417-VC (ND Cal, 25 June 2025); Debevoise & Plimpton, 'Anthropic and Meta Decisions on Fair Use' (26 June 2025) <https://www.debevoise.com/insights/publications/2025/06/anthropic-and-meta-decisions-on-fair-use> accessed 17 November 2026.

[49] Directive (EU) 2019/790 (n 12) art 4.

[50] *GEMA v OpenAI* LG München I, 42 O 14139/24, 11 November 2025 <https://www.gesetze-bayern.de/Content/Document/Y-300-Z-GRURRS-B-2025-N-30204> accessed 17 November 2026; Taylor Wessing, 'GEMA v OpenAI' (November 2025) <https://www.taylorwessing.com/de/insights-and-events/insights/2025/11/gema-v-openai> accessed 17 November 2026.

[51] *ANI Media* (n 3) [117]–[118] (GEMA), [119], [124], [202] (ANI).

Civil Procedure, 1908.[52] The Delhi High Court has also developed enforcement tools, such as John Doe orders and dynamic injunctions, that may be used against infringing content disseminated through AI platforms. Dynamic injunctions of the kind granted in *UTV Software Communication Ltd v 1337X.to* extend blocking orders to mirror websites.[53]

Section 63 provides a criminal remedy for knowing infringement or its abetment, but it would be difficult to apply in a technologically complex dispute. Section 79 of the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, govern intermediary liability and the removal of unlawful content where the platform is an intermediary.[54]

The 2026 amendment, notified on 10 February 2026 and in force from 20 February 2026, defines 'synthetically generated information', requires such content to carry labels and provenance metadata, and reduces the time for removal on a court order or reasoned government intimation from 36 hours to three hours (two hours for non-consensual intimate imagery). It also clarifies that removal in compliance with the Rules does not breach the conditions for safe harbour under section 79(2).[55]

These changes bear directly on the deepfakes discussed in Part 5.6. Unauthorised use of voice and likeness may also find a personality rights action for an injunction.[56] Section 57 further protects authors against certain distortions of their works. The ANI proceedings show the limits of these remedies: the Court regarded ANI's own licence offer of USD 7.5 million as showing that its loss could be compensated in money, and

[52] Copyright Act (n 5) s 55; Code of Civil Procedure, 1908, O XXXIX rr 1–2.
[53] *UTV Software Communication Ltd v 1337X.to* CS(COMM) 724/2017 (Del HC, 10 April 2019); *Neetu Singh* (n 24).
[54] Information Technology Act, 2000, s 79; Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, GSR 139(E) (25 February 2021); *Neetu Singh* (n 24).
[55] Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, GSR 120(E) (10 February 2026), in force 20 February 2026, rr 2(1)(wa), 3(1)(d), 3(3).
[56] *Anil Kapoor* (n 26); *Arijit Singh* (n 27).

declined interim relief.[57] Copyright holders should therefore preserve evidence of lost revenue, records of memorisation through ordinary prompts, and clear proof of ownership.

B. Self-help

The Court observed that the opt-out mechanism was available to ANI to block OpenAI's web crawlers, but ANI had not used it.[58] Blocking access is not itself a copyright right. However, express terms of use, robots.txt instructions and paywalls that are machine-readable can strengthen a copyright owner's position when interests are balanced. Such measures evidence a restriction on use and may support the owner's case on balance of convenience, but a robots.txt instruction does not itself create a copyright right and does not guarantee compliance by every crawler. These measures can also support a claim that material was included in datasets without permission.

XI. SUGGESTIONS AND RECOMMENDATIONS

This paper recommends a hybrid licensing regime, supplemented by a narrow, conditional exception for non-commercial research. The two components fit together: commercial training on lawfully accessed works would be licensed and remunerated, while non-commercial research would remain free, provided that the works are lawfully accessed and the copies are used for no other purpose. The following proposals answer the fourth research question.

1. **A legislative choice on AI training:** Parliament, on DPIIT's advice, should decide expressly whether and how AI training is permitted, rather than leave the question to interim rulings. It should enact the hybrid licence for commercial training and add a narrow research exception to section 52. Expected effect: legal certainty and fair remuneration for creators. Main

[57] *ANI Media* (n 3) [265].
[58] *ANI Media* (n 3) [262].

objection: transaction costs and possible deterrence of AI development in India; a blanket licence at a statutory rate reduces both.

2. **A statutory duty to disclose training data:** Parliament should require developers to publish sufficiently detailed summaries of their training datasets and to keep records of sources, with DPIIT prescribing the format. Expected effect: owners can detect use, enforce opt-outs and claim royalties. Main objection: trade secrecy; disclosure at the level of sources rather than individual files, with confidential filing where necessary, meets this concern.
3. **Clarification of section 2(d)(vi):** Parliament should amend section 2(d)(vi), and DPIIT should issue interim guidance, to state who causes an AI-generated work to be created and what minimum human creative contribution is required for protection. Expected effect: consistent registration practice and predictable ownership. Main objection: rapid technological change; a principle-based standard, rather than a technology-specific rule, answers this.
4. **Stronger collective management:** DPIIT should strengthen copyright societies and the proposed royalty collective through transparent and auditable distribution rules, with particular attention to individual and smaller creators.[59] Expected effect: royalties that actually reach creators. Main objection: administrative cost and the governance record of collecting societies; independent audit and statutory reporting address this.

XII. CONCLUSION

Generative AI exposes the limits of a copyright statute framed long before it. This paper finds that the Copyright Act, 1957, as read in *ANI Media v OpenAI*, addresses AI training, outputs and authorship only partially and provisionally. On the first research question, storing protected works for training engages the reproduction right under section 14(a)(i); whether section 52 excuses it depends on a broad reading of 'private

[59] DPIIT, *Working Paper* (n 4); Ikigai Law (n 18).

or personal use, including research', which the Delhi High Court adopted at the prima facie stage.

On the second, the ruling settles little finally: it is interim, the appeal is pending, and it leaves open memorisation, RAG outputs and the use of unlawfully obtained data. On the third, section 2(d)(vi) assigns authorship to the person who causes a computer-generated work to be created, but neither the courts nor the Copyright Office have settled how that applies to generative AI, beyond refusing to treat an AI system as an author.

On the fourth, the DPIIT hybrid licence offers a path to certainty, but it remains a proposal. Until Parliament acts, copyright holders should rely on the remedies available, sound evidence and technical measures, while developers should treat the ANI ruling as fact-specific and source training data lawfully. The longer reform is delayed, the more these questions will be settled through slow, costly and unpredictable litigation. Clear legislation would better serve both technological innovation and the creative community. These conclusions reflect the law as on 17 November 2026.

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