



LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 3

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.364>

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AI-GENERATED WORKS AND COPYRIGHT LAWS: LEGAL CHALLENGES AND COMPARATIVE PERSPECTIVES

Prakash Singh¹

I. ABSTRACT

The rapid evolution of artificial intelligence (AI) has transformed creative expression, enabling non-human systems to generate sophisticated visual arts, literature, music, and software code. This paper examines the legal challenges posed by AI-generated content within the framework of contemporary copyright law, focusing on the fundamental requirement of human authorship. Traditional intellectual property frameworks, including international treaties such as the Berne Convention as well as national legislation in India, the United States, the United Kingdom, and the European Union, are fundamentally anthropocentric. As a result, the emergence of autonomous AI creators leaves significant doctrinal gaps regarding legal ownership, originality thresholds, and liability. Through a comparative doctrinal analysis, this study investigates whether existing legal principles can accommodate AI output or if specialized regulatory approaches are necessary. The finding indicates that while human-assisted AI creations can fit within existing copyright paradigms by attributing authorship to human contributors, fully autonomous AI creations lack human agency and cannot be granted copyright without undermining core principles of copyright law. To address this void without stifling technological innovation, the study evaluates emerging models such as sui generis rights, neighbouring rights, and contractual licensing. Ultimately, the paper recommends against recognizing AI as a legal author, advocating instead for a dedicated sui generis framework granting ten years of protection from first publication, so as to incentivize innovation while preserving the moral and theoretical integrity of human-centric copyright protection.

II. KEYWORDS

Artificial Intelligence, Copyright Law, Authorship, Originality, Sui Generis Rights.

¹ 4th year Student pursuing B.A. LL.B. (Hons.) at Amity Law School, Amity University, Haryana (India). Email: Prakaash2075@gmail.com

III. INTRODUCTION

The rapid advancement of artificial intelligence (AI) has transformed the landscape of creative industries. Today, AI systems are capable of composing symphonies, generating realistic paintings, writing poems and news articles, producing cinematographic scripts, and even developing computer code – often without human input beyond the initial design and instructions. These works, generated autonomously or semi-autonomously by algorithms such as GPT, DALL·E, and DeepArt, raise fundamental questions about the nature of creativity and authorship in the digital era.

As AI-generated content proliferates, it challenges the foundation of traditional copyright models, which are built on the premise of human creativity and moral authorship. Copyright law, both domestically and internationally, is premised on the protection of original works created by natural persons. The emergence of non-human agents as capable creators creates a legal and conceptual void. Questions arise regarding who, if anyone, can claim ownership over such works – whether it should be the programmer, the user, the data owner, or no one at all. The legal frameworks, particularly the Berne Convention and national laws such as the Indian Copyright Act, 1957 and the U.S. Copyright Act, do not currently accommodate the concept of non-human authorship.²

This research seeks to examine the challenges of attributing authorship in the context of AI-generated works within the framework of existing copyright law. It aims to identify the doctrinal gaps, assess the viability of proposed legal responses, and explore whether a reconceptualization of authorship is necessary in the age of artificial intelligence.

A. Research Problem

Traditional copyright regimes across global jurisdictions are fundamentally anthropocentric, requiring human creative agency and labour to grant copyright

² Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as revised at Paris, July 24, 1971, 1161 U.N.T.S. 30; The Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India); U.S. Copyright Act of 1976, 17 U.S.C. §§ 101–1401.

protection. The rapid rise of generative AI technologies capable of independently producing creative outputs creates an unresolved legal vacuum regarding authorship, originality, ownership, and moral rights.

B. Research Objectives

1. To examine whether traditional copyright principles and statutory definitions of authorship accommodate AI-generated works.
2. To analyse the judicial and regulatory approaches of different jurisdictions (India, U.S., U.K., and EU) toward machine-generated creations.
3. To evaluate theoretical frameworks and proposed legal solutions, including sui generis rights and licensing mechanisms.

C. Research Questions

The core research questions guiding this study are:

1. Can existing copyright law principles accommodate works generated by AI systems?
2. Who should be recognized as the legal author of an AI-generated work?
3. How do different jurisdictions approach this issue, and what lessons can be drawn from comparative perspectives?
4. Is there a need for legislative reform or the development of sui generis rights to protect AI-generated content?

D. Research Hypotheses

1. Existing legal frameworks in major jurisdictions are inadequate to attribute copyright ownership to fully autonomous AI outputs without statutory reform.
2. Establishing a sui generis right provides a more effective framework for balancing technological innovation with public access than expanding traditional copyright authorship to non-human entities.

E. Research Methodology

This paper adopts a doctrinal and comparative legal research methodology. Primary legal sources including statutory enactments (e.g., Indian Copyright Act 1957, U.K.

CDPA 1988, U.S. Copyright Act 1976) and judicial precedents—are analyzed alongside secondary sources such as international policy papers, administrative guidelines, and peer-reviewed scholarly literature.

F. Literature Review

Existing scholarly literature on legal ownership in computer-generated works (e.g., Samuelson, 1986; Gervais, 2020) highlights the tension between natural rights theories of personal expression and utilitarian incentives.³ Solaiman (2017) interrogates the legitimacy of conferring legal personality on artificial agents, comparing robots with corporations, idols and chimpanzees,⁴ while institutional reports from WIPO, the U.S. Copyright Office, and the UKIPO highlight divergent global regulatory responses.⁵ This study builds upon these works by analysing recent judicial and administrative decisions and providing policy options tailored to developing and developed jurisdictions.

IV. RESEARCH & ANALYSIS

This Part presents the research and analysis undertaken, moving from the conceptual framework to the legal issues, the comparative position, the theoretical debates, the solutions proposed, and a critical evaluation of them.

A. Conceptual Framework

1. Definition of Authorship in Copyright Law

Authorship is a foundational concept in copyright law, as the rights and protections granted under the law typically vest in the "author" of a work. However, this term is largely associated with natural persons. Under Indian copyright law, as defined in

³ Pamela Samuelson, *Allocating Ownership Rights in Computer-Generated Works*, 47 U. Pitt. L. Rev. 1185 (1986); Daniel J. Gervais, *The Machine as Author*, 105 Iowa L. Rev. 2053 (2020).

⁴ S.M. Solaiman, *Legal Personality of Robots, Corporations, Idols and Chimpanzees: A Quest for Legitimacy*, 25 Artif. Intell. & L. 155 (2017).

⁵ World Intellectual Property Organization (WIPO), *Revised Issues Paper on Intellectual Property Policy and Artificial Intelligence*, WIPO/IP/AI/2/GE/20/1 Rev. (May 29, 2020); U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16190 (Mar. 16, 2023); UK Intellectual Property Office (UKIPO), *Artificial Intelligence and Intellectual Property: Copyright and Patents* (consultation, Oct. 29, 2021 to Jan. 7, 2022; government response, June 28, 2022).

Section 2(d) of the Copyright Act, 1957, an "author" refers to the person who creates the work, with specific categories for literary, artistic, dramatic, and musical works. Notably, for computer-generated works, Section 2(d)(vi) deems "the person who causes the work to be created" as the author.⁶

Similarly, in the United Kingdom, Section 9(3) of the Copyright, Designs and Patents Act, 1988 explicitly states that for computer-generated works, the author is "the person by whom the arrangements necessary for the creation of the work are undertaken".⁷ This makes UK law relatively more flexible in addressing AI-generated works.

In contrast, U.S. copyright law under the Copyright Act of 1976 limits protection to works of human authorship. The U.S. Copyright Office has consistently refused to register works lacking human authorship, as its Copyright Review Board confirmed when refusing registration of the two-dimensional artwork *A Recent Entrance to Paradise*, submitted by Stephen Thaler, in which the system named as the sole author was the Creativity Machine.⁸ DABUS is the machine named in Thaler's parallel patent applications, and the copyright and patent strands of that litigation must be kept analytically distinct.⁹

At the international level, the Berne Convention for the Protection of Literary and Artistic Works presumes human authorship and does not envisage works created by machines or software. The Convention remains silent on the concept of non-human creators, which creates interpretative challenges as member countries attempt to adapt their domestic legal frameworks.

2. Nature and Types of AI-Generated Content

AI-generated works span across multiple creative domains, each challenging existing copyright taxonomies in distinct ways:

⁶ The Copyright Act, 1957, § 2(d)(vi), No. 14, Acts of Parliament, 1957 (India).

⁷ Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (United Kingdom).

⁸ U.S. Copyright Office, Copyright Review Board, *Decision Affirming Refusal of Registration of "A Recent Entrance to Paradise"*, Correspondence ID 1-3ZPC6C3 (Feb. 14, 2022).

⁹ *Thaler v. Vidal*, 43 F.4th 1207 (Fed. Cir. 2022) (holding that an AI system cannot be named as an inventor under the Patent Act).

- **Visual and Graphic Arts:** Advanced diffusion models and generative frameworks (e.g., DALL·E, Midjourney, DeepDream) produce digital paintings, composite graphics, and artwork from textual prompts. These outputs blur the line between user expression and algorithmic execution.
- **Music and Sound Composition:** Autonomous music engines (e.g., AIVA, Jukebox) generate complex symphonic scores, melodies, and sound design. These creations raise questions regarding performance rights, sound recording copyrights, and arrangement authorship.
- **Literary and Textual Works:** Large Language Models (LLMs such as GPT-4) compose poetry, investigative essays, news articles, and literary narratives. They challenge traditional thresholds of literary originality and skill-and-judgment tests.
- **Software Code and Technical Data:** Automated programming assistants (e.g., GitHub Copilot) write, debug, and optimize computer programs. This presents dual challenges regarding code authorship and potential infringement on training repositories.
- **Multimedia and Cinematography:** AI tools now script, animate, synthesize voiceovers, and edit short film sequences. This creates multi-layered ownership queries involving multiple technological and human contributors.

3. Distinction Between Human-Assisted AI and Fully Autonomous AI

Understanding the spectrum of AI involvement is essential for legal attribution and determining copyright eligibility:

- **Human-Assisted AI (Collaborative Creation):** In this model, a human actor actively guides the creative process, formulating iterative prompts, establishing parameters, editing intermediate outputs, or selecting final results. The human maintains primary creative direction and intellectual control. Most global copyright regimes are inclined to recognize the human user or developer as the legal author in such

instances, provided human creative contribution meets the minimum threshold of originality.

- **Fully Autonomous AI (Independent Generation):** Here, the AI system independently executes content generation based on underlying training data and algorithms without direct, creative human intervention or ongoing supervision. This poses profound legal obstacles, as no identifiable natural person can be credited with traditional mental conception or execution. Existing copyright statutes offer no clear framework for whether such autonomous outputs are copyrightable or belong to the public domain.

This conceptual division is crucial: it determines whether existing statutory definitions of authorship and tests of originality (such as the "modicum of creativity" or "skill and judgment" standards) can apply, or if novel *sui generis* legal mechanisms must be established.

B. Legal Issues in Attributing Authorship

1. Can AI Be Considered an "Author"?

At present, copyright law across most global jurisdictions is fundamentally anthropocentric built on the underlying assumption that only natural persons can conceive and create original works. The debate over whether artificial intelligence can be recognized as an "author" involves legal, philosophical, and policy considerations. AI systems lack legal personality, consciousness, subjective intent, and moral responsibility qualities traditionally intertwined with the concept of authorship in copyright jurisprudence.

No national copyright statute or international legal framework currently accords legal personhood to an autonomous machine. In *Thaler v. Perlmutter*, the United States District Court for the District of Columbia granted summary judgment in favour of the U.S. Copyright Office, holding that human authorship is an indispensable prerequisite for copyright eligibility; the Court of Appeals for the District of Columbia Circuit affirmed that holding on 18 March 2025, and the Supreme Court of the United

States denied certiorari on 2 March 2026.¹⁰ The appellate court nevertheless left open how much human input an AI-assisted work must display, a question taken up in the recommendations below on human-contribution thresholds. Consequently, under current statutory definitions and judicial interpretation, an AI system cannot independently hold the status of a legal author.

2. The “Originality” Requirement and AI Works

A cornerstone of copyright protection across common law and civil law jurisdictions is the requirement of originality, which typically mandates a minimal degree of creative spark coupled with independent intellectual creation. In India, the Supreme Court in *Eastern Book Company v. D.B. Modak* discarded the “sweat of the brow” approach and held that originality requires the exercise of skill and judgment carrying a minimum amount of creativity, so that trivial or purely mechanical variation does not qualify.¹¹

When an AI model generates output, it operates deterministically or probabilistically through computational algorithms without exercising human-like personal judgment or conscious intention. The decisive question is therefore whether machine output can carry that modicum of creativity where the human contribution consists only of a prompt.

In jurisdictions such as the United States, where copyright protection requires creativity to originate directly from a human mind, purely machine-generated outputs are excluded. Conversely, jurisdictions like the United Kingdom adopt a more pragmatic framework: Section 9(3) of the Copyright, Designs and Patents Act, 1988 recognizes copyright in computer-generated works by attributing authorship to the entity that undertook the necessary arrangements for the creation of the work, bypassing the requirement of direct human execution.¹²

¹⁰ *Thaler v. Perlmutter*, 687 F. Supp. 3d 140, 144 (D.D.C. 2023), *aff’d*, 130 F.4th 1039 (D.C. Cir. 2025), *cert. denied*, No. 25-449 (U.S. Mar. 2, 2026).

¹¹ *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1, ¶¶ 37, 60–61 (India).

¹² Copyright, Designs and Patents Act 1988, c. 48, § 9(3) (United Kingdom).

3. Ownership: Programmer, User, or AI?

The absence of clear statutory guidelines creates profound ambiguity regarding who holds title to an AI-generated creation. Four distinct entities are typically involved in the lifecycle of AI output:

- **The AI Developer or Programmer:** The developer who designs the underlying neural architecture, algorithm, and software code argues for ownership based on initial technical contribution and capital investment.
- **The End-User:** The user who inputs creative prompts, specifies stylistic constraints, and filters the machine's outputs claims authorship based on operational direction and creative control.
- **The Data Owner:** Copyright holders whose proprietary works were utilized in the AI training dataset may claim derivative rights or equitable compensation.
- **The Autonomous AI System:** While theoretically debated in academic circles, the AI system itself remains legally incapable of holding property or enforcement rights under existing property laws.

Under most legal regimes, rights default to human actors. Under Indian law, Section 17 of the Copyright Act, 1957 vests first ownership in the “author,” which Section 2(d)(vi) assigns to “the person who causes the work to be created” in the case of computer-generated works.¹³ Whether “the person” denotes the system developer or the end-user has not been settled by statute, although the Registrar of Copyrights has read the expression as pointing to the human who conceives, configures and initiates the generative process.¹⁴ While UK law explicitly attributes ownership to the arranger under Section 9(3), U.S. law requires verifiable human expression before registration can occur.

¹³ The Copyright Act, 1957, §§ 17, 2(d)(vi), No. 14, Acts of Parliament, 1957 (India).

¹⁴ In re Application of Stephen L. Thaler, Diary No. 9356/2022-CO/A, Registrar of Copyrights, Government of India (Aug. 31, 2026).

4. Precedents and Decisions

A growing body of administrative rulings and judicial decisions highlights international divergence on AI authorship:

- **United States:** In *Thaler v. Perlmutter*, the District Court for the District of Columbia held that works created entirely by autonomous algorithms without human creative oversight cannot qualify for copyright protection; the D.C. Circuit affirmed in 2025 and the Supreme Court denied certiorari in 2026.
- **Australia:** Australia operates no system of copyright registration, protection arising automatically upon creation, so no administrative office can refuse an application naming an AI system as author. The human-author requirement derives instead from case law: in *Telstra Corporation Ltd v Phone Directories Co Pty Ltd* the Full Federal Court held that copyright did not subsist in directories produced largely by an automated compilation process because the work did not originate from identifiable human authors, and in *Acohs Pty Ltd v Ucorp Pty Ltd* the Full Court reached the same conclusion for source code generated by a software program.¹⁵ The Australian position therefore operates at the level of subsistence rather than, as in the United States, at the level of registration practice.
- **United Kingdom:** Section 9(3) of the CDPA 1988 provides a statutory mechanism allocating rights to human arrangers. The High Court has since ruled on generative AI in *Getty Images (US) Inc v Stability AI Ltd*, rejecting the secondary infringement claim on the ground that the model weights are not “infringing copies” and upholding the trade mark claim in part; permission to appeal on secondary infringement has been granted.¹⁶ That judgment concerns training and secondary

¹⁵ *Telstra Corporation Ltd v Phone Directories Co Pty Ltd* [2010] FCAFC 149 (Austl.); *Acohs Pty Ltd v Ucorp Pty Ltd* [2012] FCAFC 16, [56]–[57] (Austl.).

¹⁶ *Getty Images (US) Inc v Stability AI Ltd* [2025] EWHC 2863 (Ch) (Joanna Smith J, Nov. 4, 2025) (Eng.); permission to appeal on the secondary infringement issue was granted in January 2026.

infringement, however, and the authorship of AI output remains untested before the UK courts.

- **India:** No Indian court has yet delivered a definitive ruling on purely AI-generated works, but the Copyright Office has produced administrative guidance. It registered the painting *Suryast* in November 2020 with the AI application RAGHAV named as co-author and subsequently issued a withdrawal notice questioning that application's legal status, which has not been acted upon.¹⁷ By an order dated 31 August 2026, the Registrar of Copyrights rejected Stephen Thaler's application naming DABUS as author, holding that a system without legal personality cannot be entered as author and that Thaler himself answered to "the person who causes the work to be created" under Section 2(d)(vi), while accepting that the output satisfied the minimum creativity threshold laid down in *Eastern Book Company*.¹⁸

5. Comparative Jurisdictional Perspectives

Legal jurisdictions globally have adopted distinct statutory and administrative approaches toward AI creations:

- **India:** Indian statutory law does not recognize AI as a legal author. Although Section 2(d) of the Copyright Act, 1957 refers to "the person who causes the work to be created," ambiguity persists regarding whether developers or end-users meet this statutory threshold. The Department for Promotion of Industry and Internal Trade has since issued Part I of its Working Paper on Generative AI and Copyright, which addresses the use of protected works to train AI systems and

¹⁷ *Suryast*, Registration No. A-135120/2020, Diary No. 13646/2020-CO/A, Copyright Office, Government of India (Nov. 2020). The Copyright Office subsequently issued a withdrawal notice questioning RAGHAV's legal status, on which no further action has been recorded.

¹⁸ *In re Application of Stephen L. Thaler*, Diary No. 9356/2022-CO/A, Registrar of Copyrights, Government of India (Aug. 31, 2026); *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1 (India).

expressly reserves the question of copyright in AI outputs for a forthcoming Part II.¹⁹

- **United States:** The U.S. Copyright Office maintains a strict human-authorship requirement. Under its 2023 policy guidance, registrations are refused for works produced solely by AI²⁰, though partial protection remains available for human-authored elements within AI-assisted works.
- **United Kingdom:** The UK framework under Section 9(3) of the CDPA 1988 provides a legal sanctuary for computer-generated works by assigning ownership to human arrangers, avoiding the need to grant legal personality to machines.
- **European Union:** EU law maintains a strict human-centric approach rooted in the CJEU jurisprudence (*Infopaq International A/S v. Danske Dagblades Forening*), requiring a work to reflect the author's "own intellectual creation".²¹ No EU directive addresses AI-generated output and the Court of Justice has not yet ruled on the question; the likely consequence of applying the human-creation standard is that wholly autonomous output attracts no copyright and falls into the public domain.²²
- **China:** Chinese courts have demonstrated an evolving approach, granting copyright protection to certain AI-assisted outputs where sufficient human selection, arrangement, and prompt formulation are proven. In *Li v Liu* the Beijing Internet Court held an image produced with Stable Diffusion to be a protected work of fine art because the claimant's choice of model, iterative prompt design and parameter

¹⁹ Department for Promotion of Industry and Internal Trade, Government of India, *Working Paper on Generative Artificial Intelligence and Copyright (Part I)* (Dec. 8, 2025).

²⁰ U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16190 (Mar. 16, 2023).

²¹ *Infopaq International A/S v. Danske Dagblades Forening*, Case C-5/08, [2009] E.C.R. I-06569 (Court of Justice of the European Union); Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 (EU InfoSoc Directive).

²² No Union directive addresses the authorship of autonomously generated output, and the Court of Justice has not yet ruled on the question.

adjustment reflected personal intellectual input. Outcomes are not uniform: the same court refused protection in September 2025 where the claimant could not evidence the creative process behind the image.²³

C. Theoretical and Policy Debates

1. Jurisprudential Foundations: Natural Rights vs. Utilitarian Frameworks

The debate over copyright protection for AI-generated works reveals a fundamental clash between two traditional theories of intellectual property:

- **Natural Rights and Personhood Theory:** Rooted in the philosophies of John Locke, Immanuel Kant, and Georg Wilhelm Friedrich Hegel²⁴, natural rights theory views copyright as an extension of the creator's personality, intellectual labor, and moral dignity. Because this framework presupposes human consciousness, intentionality, and moral agency, it fundamentally rejects attributing copyright or authorship to non-human, machine algorithms.
- **Utilitarian and Incentive Theory:** Predominant in common law jurisdictions such as the United States, the utilitarian perspective views copyright strictly as an economic tool designed to incentivize the creation and dissemination of works for public benefit. From a purely utilitarian standpoint, granting legal protection to machine-generated outputs may be justified if it encourages commercial investment in creative AI development and technology infrastructure.²⁵

2. Human-Centric Authorship vs. Machine Creativity

Copyright law has historically functioned to celebrate and reward human intellectual endeavour, personal choice, and creative judgment. As generative AI models achieve

²³ Li v Liu, Beijing Internet Court (Nov. 27, 2023) (China); cf. Beijing Internet Court, decision of September 2025 refusing protection where the claimant could not evidence the creative process.

²⁴ See John Locke, *Two Treatises of Government* (1689); Immanuel Kant, *Of the Injustice of Counterfeiting Books* (1785); Georg Wilhelm Friedrich Hegel, *Elements of the Philosophy of Right* (1820); see also Justin Hughes, *The Philosophy of Intellectual Property*, 77 Geo. L.J. 287 (1988).

²⁵ U.S. Const. art. I, § 8, cl. 8; William M. Landes & Richard A. Posner, *An Economic Analysis of Copyright Law*, 18 J. Legal Stud. 325 (1989).

autonomy in producing complex aesthetic outputs, the traditional boundary between human agency and algorithmic execution becomes increasingly blurred. Scholars favouring a strictly human-centric approach argue that extending copyright to machine output dilutes the dignity of human expression and distorts statutory definitions. Conversely, pragmatic scholars contend that denying protection to high-value AI creations creates market uncertainty and undervalues collaborative human-AI creative processes.²⁶

3. Incentivizing Technological Innovation vs. Preventing Over-Protection

Policy considerations surrounding AI copyright involve balancing incentives for technological development against the risk of market foreclosure:

- **Incentivizing Innovation:** Providing intellectual property rights for AI-generated material offers commercial certainty and financial returns to tech developers, data engineers, and investors.
- **Avoiding Over-Protection & Market Saturation:** Blanket or automated protection for AI outputs risks flooding the public domain with vast volumes of machine-generated works. This could create content monopolies dominated by large technology corporations, crowd out human creators, and restrict access to information and cultural assets.

4. Moral Rights Dilemma (Droit Moral)

Moral rights, principally the right of attribution (paternity) and the right to object to derogatory treatment (integrity), are fundamentally tied to the personality, honour, and reputation of a natural author.²⁷ Applying moral rights to an AI system presents insurmountable legal contradictions: an autonomous algorithm possesses no consciousness, psychological identity, or reputation to defend. However, if a human prompt engineer or developer is deemed the legal author, moral rights must be

²⁶ Daniel J. Gervais, *The Machine as Author*, 105 Iowa L. Rev. 2053 (2020).

²⁷ Berne Convention for the Protection of Literary and Artistic Works, art. 6bis; The Copyright Act, 1957, § 57 (India).

carefully re-conceptualized to apply strictly to human creative contributions rather than automated machine executions.

D. Emerging Solutions and Proposals

1. Statutory Guidelines and Administrative Regulatory Responses

In response to the rapid rise of AI-generated content, global administrative bodies have begun establishing regulatory boundaries:

- **United States:** The U.S. Copyright Office issued explicit policy guidance in March 2023²⁸, affirming that works created purely by AI without human agency are ineligible for registration. However, the Guidance established that works containing AI-generated material may still receive protection for human contributions—specifically where a human author selects, arranges, or edits the AI elements in a creative manner.
- **European Union:** The European Parliament’s non-binding Resolution of 20 October 2020 on intellectual property rights for the development of artificial intelligence technologies considered it essential to distinguish between “AI-assisted human creations and AI-generated creations”, recommended that rights “should only be granted to natural or legal persons who have created the work legally”, and stated that “AI should not be endowed with legal personality”.²⁹ EU policy consultations accordingly lean toward keeping pure AI outputs in the public domain or establishing alternative protection mechanisms under distinct regulatory frameworks.

2. Alternative Intellectual Property Rights Regimes

To resolve the legal vacuum without compromising traditional copyright principles, scholars and policymakers have proposed alternative statutory frameworks:

²⁸ U.S. Copyright Office, *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, 88 Fed. Reg. 16190 (Mar. 16, 2023).

²⁹ European Parliament, *Resolution of 20 October 2020 on Intellectual Property Rights for the Development of Artificial Intelligence Technologies*, 2020/2015(INI).

- **Sui Generis Protection Model:** Creating a specialized, standalone legal right (*sui generis*) specifically tailored to machine-generated content. Traditional copyright measures its term by the life of the author and a long post mortem period: sixty years in India under Section 22 of the Copyright Act, 1957, and seventy years in both the United Kingdom and the United States.³⁰ The United Kingdom already supplies a shorter benchmark for machine output, since Section 12(7) of the CDPA 1988 protects computer-generated works for fifty years from the end of the year of making. A sui generis right should be shorter still, and a term of ten years from first publication is recommended throughout this paper: long enough to recoup investment in generative systems, yet short enough to keep the public domain open.
- **Neighboring or Related Rights (*Droits Voisins*):** Extending neighboring rights—traditionally granted to music producers, broadcasters, and performers—to software developers, prompt engineers, or data curators. This approach grants economic exploitation rights to human investors and arrangers without conferring moral authorship or treating the underlying machine as a natural creator.

3. Contractual Allocation and Private Ordering

Pending statutory reform across jurisdictions, private ordering through contracts and licensing agreements serves as the primary practical mechanism for managing IP rights in AI outputs:

- **End-User License Agreements (EULAs):** AI developers use contractual terms to allocate, retain, or assign commercial ownership over outputs generated by their platforms (e.g., OpenAI, Midjourney).
- **Bespoke Licensing Frameworks:** Content creators and corporate enterprises increasingly rely on custom indemnification and

³⁰ The Copyright Act, 1957, § 22 (India); Copyright, Designs and Patents Act 1988, c. 48, §§ 12(2), 12(7) (United Kingdom); 17 U.S.C. § 302(a) (United States).

assignment clauses to establish legal clarity regarding output usage, revenue distribution, and liability allocation.

4. Ethical, Economic, and Practical Policy Imperatives

Any future legislative proposal regarding AI-generated works must balance competing policy objectives:

- **Preventing Market Distortion:** Granting full, long-term copyright protection to machine output risks devaluing human creative labour and creating corporate monopolies over automated content generation.
- **Incentivizing Technological Investment:** Conversely, leaving machine output entirely unprotected may discourage venture capital investment in generative AI infrastructure.
- **Training Data Transparency:** Regulatory solutions must address the input side of AI models ensuring transparency, fair remuneration, and fair use/fair dealing compliance for copyrighted works used to train generative models.

E. Critical Analysis

1. Systemic Risks of Granting Authorship to Autonomous AI Systems

Granting legal authorship or copyright status to AI systems presents fundamental doctrinal, practical, and economic hazards:

- **Absence of Legal Capacity and Accountability:** An AI algorithm lacks legal personality, consciousness, and moral responsibility. If an AI system generates content that infringes upon pre-existing copyrighted works, defames an individual, or violates privacy regulations, the machine itself cannot be sued, fined, or subjected to judicial injunctions. Decoupling authorship from legal accountability destabilizes the enforcement mechanism of copyright law.
- **Risk of Corporate Monopolization:** Equating machine output with human creativity creates a severe risk of market foreclosure. Tech conglomerates possessing vast computational infrastructure could

deploy automated generative systems to produce and register millions of works daily. This would allow large corporations to claim sweeping ownership over vast aesthetic and functional domains, effectively crowding out human creators and impoverishing the creative commons.

- **Erosion of Moral Rights (*Droit Moral*):** Moral rights safeguard the personal, non-economic bond between an author and their creation. Extending copyright to machine outputs lacking human intentionality dilutes the moral foundation of intellectual property, transforming copyright from a human-centric right into a purely mechanical property mechanism.

2. The Dilemma of Balancing Innovation Incentives with Public Access

A fundamental objective of copyright law is to balance exclusive economic rewards against public access to knowledge, culture, and innovation:

- **Over-Protection Hazard:** Assigning standard copyright terms, which run for the life of the author and a further sixty years in India or seventy years in the United Kingdom and the United States, to machine-generated content leads to severe over-protection. Because AI output requires minimal human marginal effort per iteration, granting long-term exclusivity locks up vast amounts of culture and information without a corresponding human creative investment to justify the monopoly.
- **Incentive Misalignment:** Traditional copyright incentivizes natural persons to expend time, intellect, and creative labour. An algorithm requires no economic incentive or personal protection to operate; incentives are needed solely for the human developers, data engineers, and investors who build and deploy the technology.

3. Evaluating Reform Avenues: Statutory Adaptation vs. Special (Sui Generis) Frameworks

Resolving the legal void surrounding AI outputs requires evaluating whether existing statutory frameworks should be expanded or if distinct legal categories must be established:

- **Inadequacy of Expanding Traditional Copyright:** Attempting to stretch traditional definitions of “author” or “originality” to encompass pure AI output distorts core legal doctrines established over centuries. It creates substantial friction with established case law such as *Eastern Book Company v. D.B. Modak* in India and *Thaler v. Perlmutter* in the United States. That friction is not uniform in degree: because the Indian test turns on a minimum amount of creativity rather than on labour alone, it leaves greater room for human-assisted output, where the user supplies creative selection and arrangement, than for wholly autonomous generation.
- **Viability of a Dedicated Sui Generis Regime:** Establishing a distinct, narrow sui generis right tailored specifically for AI-generated works offers the most balanced path forward. By providing short-term commercial protection of ten years from first publication, focused strictly on financial investment rather than moral authorship, lawmakers can protect commercial AI development while keeping the public domain rich, accessible, and vibrant for future human creators.

V. SUGGESTIONS AND RECOMMENDATIONS

To resolve the legal vacuum without damaging the core principles of intellectual property law, lawmakers and policymakers should adopt the following measures:

A. Recommendations for Lawmakers and Policymakers

1. **Reject AI Legal Personality:** Refrain from amending statutory definitions to grant authorship or legal personhood to AI systems, as machines lack moral agency, consciousness, and legal capacity.

2. **Establish a Dedicated Sui Generis Protection Framework:** Enact specialized legislation offering short-term commercial protection of ten years from first publication for machine-generated outputs. This protects commercial investment in generative technologies while preventing long-term private monopolies over automated content.
3. **Clarify Human Contribution Thresholds:** Issue explicit legislative or administrative guidelines defining the precise degree of human prompt engineering, selection, and creative arrangement required for a human co-creator to claim copyright in AI-assisted works.
4. **Restrict Moral Rights strictly to Natural Persons:** Reaffirm that moral rights (*droit moral*) such as attribution and integrity apply exclusively to human creators to preserve the moral foundation of copyright.
5. **Clarify the Indian Statutory Position:** Amend Section 2(d)(vi) of the Copyright Act, 1957 to provide expressly that “the person who causes the work to be created” means a natural person; settle by amendment to Section 17 whether first ownership in a computer-generated work vests in the end-user or in the developer; and locate any sui generis right in a separate chapter of the Act rather than within the definition of authorship. These reforms should be aligned with the policy framework under development in the DPIIT Working Paper on Generative AI and Copyright.³¹

B. Suggestions for Future Research

Future legal and scholarly research should focus on the following emerging operational areas:

1. **Copyright Issues in AI Training Datasets:** Investigating the legal boundaries of fair use, fair dealing, and text and data mining (TDM) exceptions regarding the ingestion of copyrighted works for AI training.

³¹ The Copyright Act, 1957, §§ 2(d)(vi), 17 (India); Department for Promotion of Industry and Internal Trade, *Working Paper on Generative Artificial Intelligence and Copyright (Part I)* (Dec. 8, 2025).

2. **Economic and Competition Impacts:** Conducting empirical studies on how IP protection for machine output affects market competition, independent human creators, and creative industry pricing.
3. **Global Harmonization in Developing Economies:** Analysing how developing nations can navigate international IP treaties to craft AI policies that protect local cultural expression while fostering technology adoption.

VI. CONCLUSION

The rapid expansion of generative AI systems presents profound structural challenges to copyright frameworks premised on human agency. Existing principles cannot accommodate wholly autonomous output: India, the United States and international instruments such as the Berne Convention recognize no non-human author, and the Registrar of Copyrights in India, the U.S. Copyright Office and the courts of both jurisdictions have each confirmed that authorship vests only in a natural person. Where a human supplies creative selection, prompt design and arrangement, that human is the author; where the machine operates without such input, no author exists.

Comparative practice confirms a divergence of method rather than of principle. The United Kingdom allocates computer-generated works to the human arranger under Section 9(3) of the CDPA 1988, the European Union applies the author's own intellectual creation standard, Chinese courts protect AI-assisted output on proof of human creative effort, and India's Section 2(d)(vi) remains textually ambiguous. Extending the ordinary term, which runs for the life of the author and a further sixty years in India or seventy years in the United Kingdom and the United States, to machine output would distort originality, invite corporate monopolization and sever legal rights from moral accountability. The balanced course is therefore not to recognize AI as an author but to enact a narrow *sui generis* right of ten years from first publication, supported by the statutory clarifications recommended above.

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