



CHATGPT AN ARTIFICIAL INTELLIGENCE DEALING WITH COPYRIGHT ISSUES IN INDIA

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ABSTRACT

The concept of digital world in this modern world basically comes from artificial intelligence and with artificial intelligence various tools generated like chatGPT and many more. Now the main concern about these AI is the copyright issues which are being faced in recent days. So this research paper aims to explore the concept of AI dealing with copyright issues in India.

This paper starts with discussing about what artificial intelligence and the about chatGPT. And what are the impact on the modern world. It also discuss about the chatGPT and its start. Furthermore, the paper talks about copyright law in India relating to AI and the landmark cases. This paper also explores about the data privacy in context to AI and landmark cases related.

Finally, the paper concludes by discussing the laws and authorship of the artificial intelligence and what are the steps that should be taken.

Keywords: artificial intelligence, modern world, chatGPT, copyright, data privacy.

INTRODUCTION

In recent time, the attention has drawn towards the copyright issues in the realm of artificial intelligence. One of the most significant aspects of intellectual property rights is copyright, which safeguards any unpermitted use of an author's original work. An AI is originally formed through programming, but when it gains the ability to complete tasks and produce creative works like songs, lyrics, and photographs without any outside input from its creator, it effectively assumes authorship of the finished product. The processing of natural language is

used by ChatGPT, an artificial intelligence chatbot, to produce conversational discourse that sounds human. The language model is capable of giving answers to queries and creating a variety of written material, such as blog posts, social media updates, essays, code, and emails. Artificial intelligence is a vast topic that includes the creation of intelligent systems that are capable of carrying out activities that traditionally require human intellect, including as learning, problem-solving, awareness, and comprehension of language. There is currently not a common understanding on how to handle the copyright problem with AI-generated work because it is still a developing subject in the modern world. Some contend that the entity or person that taught the artificial intelligence system themselves should be regarded as the inventor and owner of the copyright for AI-generated material. Even while artificial intelligence is theoretically capable of producing unique work, it can lack the originality and creativity needed to be protected by copyright. Because of this, it could be unclear who is the charge of AI-generated content's copyright. Although it has the ability to completely change the way information is produced and delivered, there are also dangers and difficulties that come with using it in terms of copyright problems. material is being produced by AI models, and it might be challenging to distinguish between material produced by people and content produced by AI models. The content of these models is drawn from sources other than the corpus of generated works on which they were trained (Gartner, 2023). To guarantee that artificial intelligence (AI) is utilised in an accountable and ethical way, it is crucial to thoroughly analyse these concerns and create suitable safeguards and best practises. As India follows copyright act, 1957 and in India copyright is can never give granted to an artificial intelligence.¹ As in this section it talks about the word mentioned “author” which says the legal person should be there in any ownership with copyrighted work.

CHATGPT AS AN ARTIFICIAL INTELLIGENCE

The processing of natural language is used by ChatGPT, an AI chatbot, to produce conversational discourse that sounds human. As the word “GPT” stands for generative pre-trained transformer. Which means how ChatGPT formulate requests and answers. The language model is capable of giving answers to queries and creating a variety of written material, such as blog posts, updates on social networks, essays, programming, and mails. People may ask ChatGPT questions or seek explanation on its responses, similar to automated chat services experienced on customer support websites. In November 2022, ChatGPT was produced and released by OpenAI, a corporation that does AI research. Elon Musk as well as Sam Altman were among the businessmen and academics that created it in 2015. Many investors support OpenAI, with Microsoft among the most known. The AI text-to-art generator Dall-E was also developed by OpenAI. Using the Generative Pre-trained Transformer, ChatGPT analyses data sequences in order to identify patterns. The third version of Generative Pre-trained Transformer, a neural network-based machine learning model, and ChatGPT all make use of the GPT-3 language model. To create a response, the transformer uses a sizable quantity of information.

COPYRIGHT LAWS IN INIDA IN CONTEXT TO AI

So basically in Indian Copyright Act, 1957, original works of writing that are communicated in a physical manner are protected by copyright laws.² As you might be surprised to know that in 2019 an AI generated painting was sold in delhi over \$400,000 at an auction. And thenafter in 2021 an AI generated poem was also registered which named “AI-dada”. Consideration of the effects of AI-generated material on copyright ownership is vital as India modifies the copyright laws to adapt the digital age. Artificial Intelligence has the capacity to produce a huge quantity of work quickly and efficiently with little expenditure. Due to their originality, the works produced by AI could be eligible for protection under copyright in all relevant nations. By virtue of the "programming and parameter that are used when this artificial intelligence actually generates

¹ Section 2(d), copyright act, 1957

² The Indian Copyright Act, 1957, No.14, Acts of Parliament, 1957, Sec 24.

and creates the work," the criteria of application of "skill and judgement" in originality may be regarded to have been satisfied.³ The issues which currently being handled is the issue of authorship. Unique works of authorship are safeguarded by a type of intellectual property known as copyright. It is the lawful ability to publish, perform, or sell one's original creative work for a profit. In India, the author's copyright is valid for their lifetime and an additional 60 years after their passing. And it can be seen in three types in respecting the possibilities of authorship issues:

- (i) The AI copyright system requires to acknowledge authorship.
- (ii) (ii) AI-generated works should not have an author and should instead be considered as a "public domain".
- (iii) (iii) Sui generis ⁴ legislation should be used to safeguard such works rather than copyright legislation.

As in this the delhi high court held that since the plaintiff serves as a lawyer, she is unable to be the creator of any work that would be protected by copyright.⁵ Additionally, it should be stated that Section 2(d)(vi) ⁶ recognises the human situation when it uses the pronoun "who" to attribute authorship to a specific person. While the Act does not apply to the question which is regarding if a person may be assigned the output of ChatGPT, it is obvious that a human cannot be the one who created of the content produced by ChatGPT.

As in this case Delhi High Court observed that "Laws are designed to safeguard the rights just in compensation to the physical world. But life goes beyond things. It is also temporal. Many of us think that there is a soul. The author's moral principles are what gives his writings a soul. Through his moral rights, the author is entitled to maintain, safeguard, and care for his works."⁷

Making AI the author of the work of art will be a challenging endeavour since it will probably to cause more problems than it will solve. AI-generated works should not have authors and should instead belong to the "public domain". There are various reasons to make AI-generated artwork available to the public. One of the reasons is that since an AI-generated work incurs no costs during production, making it freely available to the general public makes perfect sense. Secondly With no additional resources or costs, AI is able to produce unlimited amount of iterations of the work it produces. One of the goals of copyright law is to aim and give the creator of the work incentives in the form of financial as well as moral rights to encourage him to create new works for the benefit of society. Being non-human, the AI does not need this kind of inspiration to produce the job.⁸

The definition of "author" was expanded by the Delhi High Court. Because it was impossible to identify the creator of such a carton, the courts ruled that "mechanically reproduced printed carton" was not a subject of copyright. The Court additionally ruled that "copyright is exclusively granted to writers or to natural persons who are the source of the work. Given the facts, the plaintiff is unable to assert any copyright in any cartons that have been mechanically copied through a printing process since the author cannot be considered to have created the work.

³ Lucy Rana and Meril Mathew Joy, "India: Artificial Intelligence And Copyright – The Authorship", Mondaq, December 18, 2019, available at: <https://www.mondaq.com/india/copyright/876800/artificial-intelligence-and-copyright-the-authorship>

⁴ "of its/their own kind" available at: https://en.wikipedia.org/wiki/Sui_generis

⁵ Tech Plus Media Private Limited v. Jyoti Janda 2014 (60) PTC 121 (Del), available at: <https://indiancaselaws.wordpress.com/2020/07/29/tech-plus-media-private-limited-v-jyoti-janda/>

⁶ Indian Copyright Act, 1957

⁷ Amarnath sehgal v. Union of India, 2005 (30) PTC 253 (Del). Available at: <https://www.theipmatters.com/post/amarnath-sehgal-v-union-of-india>

⁸ Ayush Pokhriyal and Vasu Gupta, "Artificial Intelligence Generated Works under Copyright Law", 6(2) NLUJ Law Review 116 (2020).

As chatGPT was used for bail petition in Indian high courts as in Punjab and Haryana high court. As Justice Anoop Chitkara also mentioned in the order that chatGPT was only used for the clarification and to see the desired case in a wide picture and not as a merit of opinion. As the chatGPT said one of the guiding principles of the legal system is the presumption of innocence. and that, barring compelling circumstances, every accused are entitled to bail. If the judge decides that the attackers do not constitute a flight risk or a risk for the community, they may be granted bail even though they have committed brutal assaults.⁹

ARTIFICIAL INTELLIGENCE AND DATA PROTECTION

Data are a crucial component in applications of AI. The rationale is that these applications rely on "machine learning methods which utilise data for training as well as validation". The collection, usage, exchange, and sharing of personal data, as well as its security, are all governed by data protection legislation. People are given accessibility to their data, accountability requirements are established for companies who utilise it, and remedies are provided for inappropriate or harmful processing. An artificial intelligence application that understands from data that has been utilised to train a similar artificial intelligence application may generate the creative works. The data utilised in this way could have copyright protection and be monetarily valuable. It's also crucial to remember that, as an intellectual production, "selection or arrangement of data" may be protected by copyright or a sui generis legislation in different jurisdictions. This compilation's data might or might not be protected by copyright. A legal framework for data protection is essential for establishing authorship in the case of artistic creations and invention in the case of innovations given the significant and expanding role played by AI. A similar regulation is required to foster innovation and creativity as well as to guarantee fair competition in markets in society. Because too much data protection might harm machine creativity, which is expected to take over the field of innovation in the future, the legislation has to take a balanced approach.

India is considered a nation-state, hence its inhabitants' personal information is regarded as a national asset. This national asset might require to be safeguarded and kept inside national boundaries depending on India's security and geopolitical goals. That would encompass both corporations and governments as well as non-governmental organisations. Despite the fact that India is a member of various international bodies, such as the United Nations Commission on International Trade and the clauses in the Directive Principles of State Policies, that focus on data protection methods. The general welfare of the populace is addressed in Article 38. In essence, a welfare state is tied to privacy and data protection. As stated in Article 51, the State shall seek to encourage conformity to treaty commitments and international law in order to foster global peace and security.

Sensitive data is protected against loss, alteration, and unauthorised use. Being an element of the right to life and personal liberty, the Hon. Supreme Court of India declared the right to privacy to be a basic right under Article 21 of the Indian Constitution.¹⁰ This case is also known as privacy judgement case.

Sections 469 and 509¹¹, as well as Section 67 of the IT Act¹², were the subjects of the victim's complaint. The accused posted obscene comments about the victim in several groups in an effort to humiliate the woman. He revealed her telephone number and started a bogus profile in her name in an effort to damage

⁹ Jaswinder Singh v. State of Punjab and another, CRM-M-22496-2022. available at: https://www.livelaw.in/pdf_upload/jaswinder-singh-jassi-vs-state-of-punjab-and-another-punjab-and-haryana-high-court-465630.pdf

¹⁰ Justice K.S. Puttaswamy v. Union of India, Writ Petition (Civil) No 494 of 2012; (2017) 10 SCC 1; AIR 2017 SC 4161, available at: <https://indiankanoon.org/doc/127517806/>

¹¹ Section 469 & 509 of Indian penal code, 1860

¹² Section 67 of Information Technology Act, 2000

her image. The court determined that the accused was guilty in accordance with the aforementioned Sections. Because it inspired others all around the country to come ahead and report instances of online harassment, this case is noteworthy.¹³

In 2021, the Union Government released a series of regulations. These regulations supersede the Information Technology (Intermediaries Guidelines) Rules, 2011, acting under the power provided to it by Section 87 of the Act¹⁴. Through these measures, the government seeks to regulate social network middlemen, digital news providers, and streaming services. These laws provide that social media intermediaries must follow the internal grievance redressal procedure that has been established. Such intermediaries are also required to give the authorities the information on the sender of the offensive message in cases of serious violations. Intermediaries who break the rules lose the security afforded by the Section 79 of the Act¹⁵. Intermediaries who break the rules lose the protection afforded for them by Section 79 of the IT Act, as indicated in the guidelines. In accordance with the legislation, digital news organisations must also develop an internal grievance procedure and uphold a code of ethics. In this instance, a number of businesses have disputed these rules, namely WhatsApp, Quint, LiveLaw, and the Centre for Independent Journalists. The Supreme Court is now considering listing the petition for the case, which would determine the future course of Indian law in the area of information technology.¹⁶

CONCLUSION

AI is completely changing how people work, live, and interact with one another. It will additionally impact how we view ourselves and drastically alter economies and society. The emergence of text produced by AI has necessitated the consideration of copyright regulations. With the development of ChatGpt, it can now produce content from start. Undoubtedly, India has plenty of miles to go before figuring out what would work most effectively for a country like ours, especially given how poorly understood data privacy is here. To grant these rules and regulations legislative power, India has made and is still making a number of initiatives. By giving AI a legal identity, we may enable it to exercise its rights. In conclusion, it is necessary that all nations work together to establish a consensus regarding who should hold the copyright to an AI-generated work. Additionally, domestic copyright legislation for AI creations must begin in order to avoid future complications and ensure that the law is not abused.

¹³ State of Tamil Nadu v. Suhas Katti, C No. 4680 (2004), available at: <https://indianlawportal.co.in/suhas-katti-v-state-of-tamil-nadu/>

¹⁴ Section 87 of Information Technology Act, 2000

¹⁵ Section 79 of Information Technology Act, 2000

¹⁶ Praveen Arimbrathodiyil v. Union of India (2001)