



AI-Generated Works and Copyright Ownership

For Prelims: [Artificial intelligence](#), [Copyright Infringement](#), [ChatGPT](#)

For Mains: Impact of the intersection between copyright infringement and AI, Fair use and transformative use in the context of AI-generated works

Why in News?

Recently, the issue of copyright infringement in the context of [artificial intelligence \(AI\)](#) has gained considerable attention and sparked essential discussions.

- A prominent case that exemplifies this intersection involves the Andy Warhol Foundation and Lynn Goldsmith's photograph of musician Prince.
 - The dispute revolves around the question of whether Warhol's use of the photograph in creating multiple adaptations constitutes fair use or [copyright infringement](#).

What is the Relationship Between Copyright Infringement and AI?

- **Use of Copyrighted Material as Training Data:**
 - AI systems like [ChatGPT](#), often **require large amounts of data to train their algorithms** effectively.
 - This **includes copyrighted material** such as images, texts, and music, which may raise copyright infringement concerns.
 - AI technologies can be used to replicate or mimic existing copyrighted works. The algorithms can analyse and generate content that closely resembles protected works, raising questions about the legality and ethical implications of such replication.
- **Fair Use and Transformative Use:**
 - **Fair use is a legal doctrine of the US (as US Supreme Court observed recently)** that **allows for limited use of copyrighted material without permission**, under certain circumstances.
 - Determining whether an AI-generated work qualifies as fair use requires considering factors such as the **purpose, nature, amount, and effect of the use**.
 - **Transformative use**, which involves adding new meaning or expression to a copyrighted work, is often a crucial factor in fair use analysis.
- **Liability and Responsibility:**
 - Determining liability for copyright infringement in AI-generated works can be **complex, involving questions about the role of AI developers, users, and the AI itself**.
 - The responsibility for ensuring compliance with copyright law rests with both the **creators and users of AI-generated works**.
 - If an AI system creates a work without human intervention, determining the rightful copyright owner becomes challenging.

What is the Current Legal Position of AI-generated Content in India?

- **Indian Copyright Act, 1957 and The Patents Act, 1970** provides specific provisions for **fair dealing and enumerated exceptions to copyright infringement**.
- The use of copyrighted materials for training AI models is considered to be in a **legal grey area**.
 - As it stands now, **copyright laws do not safeguard any creation that is wholly generated by AI**, regardless of whether it stemmed from a human-crafted text prompt.
- The observations and rulings of international and other courts, such as the recent US Supreme Court decision on copyright and AI, **may influence interpretations of fairness in Indian copyright law**.
- Indian copyright law and fair use provisions **will need to adapt to address the challenges posed by AI-generated content**.

Way Forward

- Despite the lack of legal precedent, the four-factor test laid down by the **Kerala High Court** in the case of **Civic Chandran versus C. Ammini Amma (1996)** can be useful when determining if a use is considered fair use. It is like the four-factor test of the US fair use doctrine. These factors are:
 - The **purpose of the use**, including whether it is for **commercial or non-profit educational purposes**.
 - The **nature** of copyrighted work.
 - The **amount and substantiality of the portion used** in comparison to the entire copyrighted work.
 - The **impact of the use on the potential market or value** of the copyrighted work.
- **Update intellectual property laws** to align with the **advancements in AI technology**.
 - Implement **data usage and governance policies for AI projects** with oversight and **compliance mechanisms**.
 - Mandate AI firms to appoint **compliance officers responsible for copyright protection, audits, and assessments**.
- The intersection of copyright infringement and AI can have an impact on the development of AI technology and its potential applications. Striking a balance between protecting copyright owners' rights and fostering innovation in AI is essential for the growth and advancement of the field.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**

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