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EFFECT OF ARTIFICIAL INTELLIGENCE ON INTELLECTUAL PROPERTY RIGHTS

- Archit Jain¹

INTRODUCTION

Artificial Intelligence has emerged as a programme which can generate literary works, musical compositions, industrial designs and even technological inventions. As these outputs oppose the foundational assumption of Intellectual Property Law that only humans can be authors, creators or inventors. The current statutory framework does not anticipate non-human creators, thereby deciding cases related to non-human produce is a challenge for courts, policymakers, and right holders. The rapid increase in computing power and the availability of large databases allow AI systems to contribute to innovative solutions at an unprecedented rate. However, the intersection of AI and IP rights raises complex legal and philosophical questions, particularly regarding the nature of authorship and invention in the age of AI.

ARTIFICIAL INTELLIGENCE

It is the ability of a digital computer or computer-controlled robot to perform tasks commonly associated with intelligent beings. The term is frequently applied to the project of developing systems endowed with the intellectual processes characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience. Since their development in the 1940s, digital computers have been programmed to carry out very complex tasks—such as discovering proofs for mathematical theorems or playing chess—with great proficiency. Despite continuing advances in computer processing speed and memory capacity, there are as yet no programs that can match full human flexibility over wider domains or in tasks requiring much everyday knowledge. On the other hand, some programs have attained the performance levels of human experts and professionals in executing certain specific tasks, so that artificial intelligence in this limited sense is found in applications as diverse as medical diagnosis, computer search engines, voice or handwriting recognition, and chatbots.- By: B.J Copeland

¹ 3rd year law student, Vivekananda Institute of Professional Studies

In simple terms Artificial Intelligence (AI) is a technology which is used to solve different problems by applying humanistic approach. It collects data from various sources and generates the answer accordingly.

INTELLECTUAL PROPERTY

a category of intangible rights protecting commercially valuable products of human intellect comprising primarily trademark, copyright and patent rights and includes trade secret rights and publicity rights.

WHAT ARE INTELLECTUAL PROPERTY RIGHTS?

Intellectual Property Rights (IPR) refer to the legal rights granted to individuals or organizations based on intellectual property rights or intellectual creations. These rights allow creators to control and exploit their creations.

INTER-RELATION BETWEEN ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY

Artificial Intelligence is a powerful tool that gathers information from numerous sources and generates outputs based on that data. However, these AI-generated results may sometimes infringe on intellectual property rights an issue we've recently seen in high-profile legal disputes. To address this, AI systems need stronger regulation and must verify the origins of their inputs, because using someone else's creative content without permission clearly constitutes IP infringement.

Another critical question is whether AI-generated inventions can be patented under Indian law—particularly under Section 3(k) of the Patents Act, 1970. This section excludes “computer programs per se” from patentability, but its interpretation remains ambiguous. Unlike other Indian statutes, which typically protect only human-generated creations, Section 3(k) raises the possibility that certain AI-driven innovations may qualify as patentable if they produce a technical effect or contribution.

QUESTION ARISES?

CAN AN AI-DERIVED INVENTION BE PROTECTED UNDER INDIAN PATENT LAW?

Under Section 3 of the The Patents Act, 1970, certain subject matter is explicitly excluded from patentability. Clause 3(k) states: *a mathematical or business method or a computer programme per se or*

algorithms. At face value, this suggests that any invention involving computer programme would be automatically disqualified. However, judicial interpretation has clarified that this prohibition applies only to software as such, not to innovations that employ computer programs. The court held that the exclusion in Section 3(k) does not bar all software-based inventions. Importantly, it emphasized that inventions involving computer programs can be patentable. This judgment opens the door for Artificial Intelligence, the court made it clear that AI-enabled inventions can be patented

Ferid Allani v Union of India and others Case No : W. P. (C) 7/2014 & CM APPL. 40736/2019 Para 10- Moreover, Section 3(k) has a long legislative history, and various judicial decisions have also interpreted this provision. The bar on patenting is in respect of 'computer programs per se....' and not all inventions based on computer programs. In today's digital world, when most inventions are based on computer programs, it would be retrograde to argue that all such inventions would not be patentable. Innovation in the field of artificial intelligence, blockchain technologies and other digital products would be based on computer programs, however the same would not become non-patentable inventions - simply for that reason. It is rare to see a product which is not based on a computer program. Whether they are cars and other automobiles, microwave ovens, washing machines, refrigerators, they all have some sort of computer programs in-built in them. Thus, the effect that such programs produce including in digital and electronic products is crucial in determining the test of patentability.

CAN AN ARTIFICIAL INTELLIGENCE INVENTION BE HELD LIABLE UNDER INTELLECTUAL PROPERTY LAW?

Yes, If AI uses data protected by IP law, it must not use that content without the author's consent. Recently, AI tools have been used to create unauthorized videos and images of celebrities clearly infringing personality rights and protected data. In *Arijit Singh v. Codible Ventures LLP & Ors.* (COM IPR Suit (L) No. 23443 of 2024; Bombay HC, 26 July 2024), the court held AI platform operators liable for infringing the singer's personality rights by replicating his voice, image, likeness, and mannerisms without permission.

Arijit Singh v. Codible Ventures LLP & Ors. Comm IPR Suit (L) No. 23443 of 2024 (Bombay High Court) Para 18 Making AI tools available that enable the conversion of any voice into that of a celebrity without his/her permission constitutes a violation of the celebrity's personality rights. Such tools facilitate unauthorized appropriation and manipulation of a celebrity's voice, which is a key component of their personal identity and public persona.

CONCLUSION

AI is rapidly evolving and being used daily for various tasks. However, because these systems rely on unverified sources, they raise significant data-privacy issues and present new challenges for the judiciary, particularly under intellectual property law. Courts have been interpreting and applying existing statutes to address AI-related disputes. While judicial creativity has bridged some gaps, more comprehensive statutory frameworks are needed for the effective and efficient resolution of these matters. Although countries have agreed to grant copyright to AI works, determining who owns the copyright remains a challenge. The current law requires a legal identity for the copyright holder, which AI lacks unless this status is granted on behalf of the creator. Some countries, such as the UK and New Zealand, have solved this problem by giving copyright in AI creations to programmers through legal fictions.

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