

A DIVERSE STUDY ON IMPLICATION OF ARTIFICIAL INTELLIGENCE ON INTELLECTUAL PROPERTY RIGHTS**AUTHOR** – AKASH RANA¹ & Dr. AMIT DHALL², STUDENT¹ & PROFESSOR² AT AMITY LAW SCHOOL, NOIDA**BEST CITATION** – AKASH RANA & Dr. AMIT DHALL, A DIVERSE STUDY ON IMPLICATION OF ARTIFICIAL INTELLIGENCE ON INTELLECTUAL PROPERTY RIGHTS, INDIAN JOURNAL OF LEGAL REVIEW (IJLR), 4 (1) OF 2024, PG. 710-714, APIS – 3920 – 0001 & ISSN – 2583-2344.**Abstract**

This paper analyses and evaluates the currently rising involvement of Artificial Intelligence generated creative works and inventions with respect to rising threat towards Intellectual Right infringement. Throughout the study it is put forward how these two worlds have collided and concludes that we are in need of a regime that will help the government address the woes in regard with rising use of intuitive artificial intelligence tools inherent in the current system. Further this paper aims to disclose how India's Legal Framework will have to put in hard work and a thought process as to how we will adopt the schemed regime so that we can bring out a balance between the artificially intelligent innovations and the rights of users respectively.

Keywords: Artificial Intelligence, Technology, Intellectual property rights, Copyright, Machine learning, Patents

INTRODUCTION

'If a machine acts as intelligently as a human being, then it is as intelligent as a human being'. We have moved on as a society which belonged to the era of science fiction and reinstated our realm as that of science facts. Computers no longer need the data we were initially conceptualized to provide but man has given it the power of deductive reasoning, questioning, intercepting, intuitive thinking with the help of which they are communicating with the users. Even though it not be deduced from the above statements that they have a brain now, but is that a far cry?

Copyright and patent laws did not contemplate that they will see artificial intelligence as a threat in future so they did not include 'protection from machine learning' as the subject of their matter which has a potential to become a major issue. Programs related to AI have not been predefined in Intellectual property rights thus causing vagueness when it comes to the applicability.

At the moment, Intellectual Property Rights are

met with the creations of artificial intelligence. This is a complicated union which raises the question that will the human creativity and innovation be protected from the creation of Artificial Intelligence, will we be able to distinguish, if it is so who will the rights stay with? We find ourselves in middle of another argument before the last one finishes which is can Artificial Intelligence claim Intellectual Property Rights for its inventions?

Artificial Intelligence could be put into the category of intangible irrelevant fiction a few years back. Now making a massive influence on categories like art, media, music, literature it cannot be treated the same especially with the abilities like cognitive thinking and choice making which put the legal framework of IPR at risk. Evolution of Artificial Intelligence has revolutionized many industries and the activities we indulge in every day.

This rapid revolution and influence have been possible because nowadays we have been emitting vast data sets which are being scrutinized. Our everyday life is at someone's fingertips without us realizing it. The mechanics

and automations have imprinted in our personality hence providing us with creations that we feel are very personalized and can be put to our disposal.

This paper will further probe these challenges and will provide a deeper look at how the present legal frameworks are trying to cope up with these challenges and also as we head along the way with Artificial Intelligence what will our future regimes look like so that we will achieve the balance between creations of mankind and machinery without creating a property right dispute.

METHODOLOGY

The methodology used in this paper is extensive comparative study about Artificial Intelligence and Intellectual Property Rights. It started by reading a bunch of innovative articles about the relevance of AI on current grounds and comparing the connection of human technology with artificial intelligence. The study further revolves around detailed discussion about the Indian framework of IPR and AI. There has been extensive literature review on how is the current scenario of trademarking and patent laws. A comparative study has been done which involves various case studies and what these terms mean in the current panorama. Laying a foundation which defines these basic terms makes literature comprehension easy. In the middle of the paper there are various cases with reference to IPR which take place in USA, EU and other key international places. This study is concluded by giving the closing remarks on what the future AI trends may look like and how our existing framework tackles with the threat

posed followed by recommendations on how to protect the rights. This paper aims to give an insightful perspective and multidimensional understanding of the concept.

A.I INNOVATIONS & IP LAWS

Use of Artificial Intelligence has affected almost every aspect from education to art, from

literature to architecture, from music to media. As of now there is no denying or counter attacking the fact that AI has the ability to create original content. Its ability of machine learning has severely changed the format in which people used to work. AI algorithms are replacing the existing IP databases with efficiency. Also it has database and technical information imbibed with the help of which it can avoid the Infringement of Intellectual Property Rights.

Ownership & Authorship : According to traditional Intellectual rights the author /creator of a piece of work is the owner and by definition has the rights to it. But if there are multiple parties involved in creation of an AI generated work who will the ownership go to. The question remains will the author become the owner or the ownership will be retained by Artificial Intelligence.

Naruto vs David Slater case, also widely known as the Monkey Selfie case is a notable example in this scenario. A group of wild macaques got hold of a photographer's camera and took a range of selfies. An argument started online whether the owner of those pictures is the cameraman or the monkeys. This debate turned legal quickly raising the question whether non-humans like artificial intelligence, in this case monkeys can claim ownership rights. This has created a dilemma between people and there is obvious and unavoidable chaos that is bound to happen over ownership of a creation.

Copyright Challenges: The U.S copyright office has stated that there is no protection of ownership by non-humans whereas the U.K court continues to approve the rights of ownership for artificial intelligence. The definition of term copyright should be re-evaluated in terms of AI. Above discussed ownership challenge brings us to the next challenge which is, whether AI generated data is subject to copyright or not. AI will generate data with the help of its own search engine which may also be involved in copying data and then

reproducing the same content which could be already copyrighted hence subjecting you to Intellectual Property Right Infringement.

Ethical Implications of AI in IPR: Maintaining ethical norms requires careful consideration of achieving balance between innovations by artificial intelligence and intellectual property rights. There is a threat to creators due to artificial intelligence when it does not honor patents, copyrights and other forms of IPR. Infringement of IPR ironically diminishes the possibility of flourishing of AI at least on ethical grounds as we are considering it. The legal framework surrounding the IPR in the era of AI needs to be modified globally. There should be a limit to include AI in process of creating and inventing processes. Also global standards should be established and strict laws should be put in action to prevent theft of creative work of human creators in this issue.

A.I AND TRADEMARK INFRINGEMENT

Trademark is considered as an important intellectual property right across the globe. Unauthorized use of trademark by another brand results in trademark infringement. Artificial intelligence has been put to work to create trademarks which are distinctive and highly efficient since A.I is always analyzing the market trends so it will always be ahead of the curve since it is been fed huge data sets so the pattern of market is an easy task for artificial intelligence. This can more effectively prevent trademark infringement. Simultaneously, using AI to generate trademarks can be a tedious task. As much potential as AI has to create original and effective content, originality is not always promised. To determine whether an AI generated Trademark can be authorized and registered is a complex issue.

Case law study: In this segment as we go forward, we will analyze some legal instances which give us an idea about how interaction of AI and IPR rights looks like in real time and how our courts of law are adopting or dealing with the situations posed by AI:

1. Thaler vs US Patent and Trademark Office (USPTO): Computer scientist Stephen Thaler challenged the USPTO putting forth the argument that creative works that are entirely generated by Artificial Intelligence should be eligible for copyright protection hence asking them to reverse the human centric copyright protection system. He supported his argument by saying that giving AI the copyright protection will contribute to overall development of the whole copyright protection system. The US court upheld their decision and rejected Thaler's bid

2. The UK Intellectual Property Office's Decision on DABUS : In December 2023, the UK supreme court decided that an AI machine (DABUS) cannot be given the title of an innovator and that only a natural person can be named an innovator. This case was moved from US court to UK court by same Mr. Thaler.

3. Warner Music's Copyright of AI generated music: Warner Music has signed a deal with an AI generated music-based company which brings into question that if a company as big as Warner is going into the AI generation business will the copyright protection framework be able to uphold their interests at best for long.

The Indian Union Ministry Of Commerce, in their 161st Parliamentary Report has said in bold letters

AI & THE INDIAN FRAMEWORK OF IPR

that the Indian IPR protection regime is well equipped to deal with any challenges that Artificial Intelligence will pose in future. The Ministry has ruled out any special set of policies or rights to be established whatsoever to deal with the IPR infringement caused by generative AI. Indian IPR framework derives its set of policies from the Copyright Act 1957 and Patents Act 1970, with amendments made over years.

The soul of this framework is that an individual, which here would be an Indian citizen, holds rights against his work being used without his permission (Copyright Act 1957). The lawmakers have decided that the Intellectual Property

Rights are private rights hence they should be enforced by individual right holders. The rights here will be given to citizens after due scrutiny and the set criteria. After going through all this one cannot help but feel that the focus here is on the human aspect rather than the technological aspect of this whole situation. The scrutiny is on humans when it should be on AI related innovations and what it can potentially do.

The current copyright laws will hold the 'user' responsible if there is any infringement and license provoking. The burden here is falling on the user who in most of the cases will not be even aware that he is using already patented data which hardly seems equitable.

In my opinion there is lack of understanding and enforcement of a proper regime. Rather than being inclusive on the human front the policies should much relate to the protection of humans from misused content. Legal impositions should be put on the AI developers so that their programs respect the exclusive rights of human creators in training datasets and users should not be obligated to ensure compliance with relevant laws.

MITIGATING RISK

First option towards any infringement issue should be the Legal Reforms. Law takes shape of a protector anywhere and if we make amendments to the current Copyrights Law, we will be able to deal with the infringements accordingly. With proper legal reinforcements miscreants will always have something to fear of. We can start off by simply either denying the copyright simply where there is no or minimal human interaction or we can hold the developer of a particular AI program responsible.

We can create a section of special copyright protection for AI users if we want this to work because giving them a copyright or patent will allow them to protect their own creation from being misused. This will require a balance and the process has to be multilayered and lot of scrutiny needs to be placed on creators who

are seeking the protection.

The users or customers should be more vigilante when using AI generated programs so that they will not face legal obligation and must ask the developers if their program is legitimate or licensed. They should be reviewing the terms of service and privacy policies.

Creators should be informed if their work is being displayed, manipulated or misrepresented on any platform and should be taking immediate action against those who they find behind it. As owners of a particular program or a piece of work they are within their rights to make sure that the people doing it are facing maximum legal obligations.

Businesses who use Artificial Intelligence will come under the top tier customers of AI. They purchase AI programs to study large data sets which help them to stay ahead of the market curve in this cut throat competition. So this makes them susceptible to being sold already patented data or data that was not theirs to buy. So what they can do is before buying is that they should ask for a proper licensure as a protection detail.

Laws around Artificial Intelligence will evolve rapidly with time and so will Artificial Intelligence. Organizations that use AI or have vendors that use AI should keep a legal team on standby so that they can be informed and each clause they put in their deal with the AI generators ensures that their business is safe from Intellectual Property Right Infringement. Terms of business should be clear on both sides and it should be made clear that IPR are understood and respected. Another important issue that needs to be discussed is that how the authorship and ownership will work. If two parties are coming together its necessary that these terms will be discussed as nothing but a

FUTURE TRENDS AND PREDICTIONS

measure to minimize the risk.

This section of the paper will meticulously discuss

what the possible trends look like in future of Artificial Intelligence and how can the legal challenges from future be anticipated. AI's involvement is going to increase over the years and there is no denying that it is going to be on the forefront of technological advancement so the effect is going to be more profound. This will also result in the legal challenges as our current systems are not ready for the rapid advancements AI is going to make so some amendments will be the need of the hour. The lawmakers need to study the legal, commercial and ethical implications of AI and the we need to stay updated on the AI trends . Business owners needs to stay knowledgeable about the impact of advancements of AI and integrate this knowledge into their IP techniques and practices and we need overall legal reforms on IPR . There will rigorous involvement of Alin every area so our existing framework of IPR needs to address this and take a pro-active approach. We need to be prepared for this in advance so that there is minimal risk and damagedone.

RESULT AND CONCLUSION

This research paper has analyzed the impact of AI on the IP rights , the current framework in multiple countries and how there need to be reforms that will cushion the impact of technological advancements in AI as global phenomenon. We somehow understood how practitioners , content makers, lawmakers, businessmen will be impacted by these changes and what is the need for having multifaceted security details as we are heading towards the intersection of AI and IP rights. AI as a machine learning content generator poses a threat to human creators all over the world . Its work is perfection so it's beyond the distinguishment, in such environment how our trademarking will work and how have the copyright mechanisms evolved.

We further discussed how the Indian Framework works in all this and what are the various changes that need to be made in order to make it more proactive than reactive . The various aspects to look for businesses when investing in

AI related programs . Susceptible areas need to be made strong by help of amendments which ,this paper has tried to help, shed light on . This was an attempt in the direction which needs to be done more aggressively to protect interest of humans especially when they are creating content with the intent of contributing to the society and it ends up being misused. We have IPR put in place and yet there seems to be no end to loopholes because the technology is evolving every hour. The future of AI generated content needs to be in a balance with the protection of Intellectual Property Rights.

The future IP laws need to be in equilibrium with the AI innovations and simultaneously protecting rights of human kind . There is no stopping to evolution of technology but what we can do is work on our existing framework of IPR and how it needs to revolve around protection of IPR keeping AI in consideration. This is not a one-day job but with continual reassessment of procedures and study of trends it will be possible to maintain balance and create harmony between human and Artificially Intelligent tools of new generation.

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