



IMPACT OF ANI VS. OPENAI ON INDIAN AND GLOBAL COPYRIGHT JURISPRUDENCE

Nikhil Singh Banjare*

INTRODUCTION

The grievance filed against Open AI by Asian News International (ANI)¹ touches on the copyright law and artificial intelligence (AI) issues which have been debated for quite some time. This case was instituted in a New Delhi court on November 19, 2024, in the context of a developing narrative of legal actions targeting AI companies in many parts of the world, more so in relation to the incorporation of copyrighted content in the development of large language models (LLM)s.

The finality of the case will affect the AI sector of the economy, the law of copyrights, and indeed the future of the creation and dissemination of content in a variety of mediums.

OBJECTIVES

- This study aims to analyze copyright violation, user content misuse, and damage to reputation by ANI against OpenAI, particularly against the legal framework in India Copyright law.
- This project aims to establish what factors: economic, technological, and regulatory relate to the AI industry across the world and the predicaments faced with regard to intellectual property protection and ethical considerations.
- This study aims to examine the AI Copyright Act of 1957 in regard to generated content about the absence of originality, the establishment of authorship, and the limits on fair use and provide missing aspects concerning the present legal policies.

*BA LLB, SECOND YEAR, HIDAYATULLAH NATIONAL LAW UNIVERSITY.

¹ ANI v OpenAI [2024] Delhi HC [pending]

- This project aims to build an understanding of how the ANI vs OpenAI case may influence future Indian copyright laws and aid in understanding the use of AI systems within copyright law in the international context.

RESEARCH QUESTIONS

1. How does the Indian Copyright Act handle the licensing and fair use of AI training datasets?
2. Is it possible that ANI claims together with reputation harm and unfair competition exist in the context of the protection of intellectual property and business practices as per the law in India?
3. To what extent does the submission by OpenAI of ANI's content amount to copyright violation from the perspective of Indian legislation?

LEGAL BACKGROUND OF THE ANI VS. OPENAI CASE

The core of ANI's suit against OpenAI are as follows:-

User Content Violation: ANI is of the opinion that OpenAI unlawfully incorporated its creation which is valid news without applying for a legal license, as that will include ChatGPT LLMs. This act is unlawful and therefore infringes on ANI's copyright. The suit says that such abuse of the rights of authors means that ChatGPT can repeat word to word, content belonging to ANI in the event users of the application make certain queries to the model.

Such a situation, as accusing the defendant of creating any fake news and attributing its authorship to the agency, entails a risk that the agency's reputation for being reliable and responsible will be cast in doubt by the open public.

Damage to Reputation and Business Interests: ANI claims that it is determined to defend its reputation as well as its business interests from the unfair competitive practices that led to significant losses caused by Open AI's actions. Even after making claims that Living Law did not intend to continue using any of the referenced materials for training purposes, Ani asserts that none of ANI's content has been removed from the responses hence infringement of its IP rights remains intact.

INDIAN COPYRIGHT JURISPRUDENCE IN THE CONTEXT OF AI

Current framework

In India, copyright law is governed by the Indian Copyright Act, which was enacted in 1957. However, it is silent on the issue of works created by Artificial Intelligence and even on the position of such intelligence as the same authorship. Among the most notable aspects of the Act pertaining to AI are the following:

As stated in the section 2(d)² An 'author' is defined as the maker of the work. In the case of works completed through computers, the person who can reasonably be attributed to having the work completed is classified as the creator. The Act states that protection shall be awarded to "works which are original", which creates problems in the context of AI content generation that would not pass off the test of originality in the traditional context.

The 1994 Amending Act added the word section 2(d)(vi)³ which dealt with computer-generated works and gave credit for authorship to the individual who had the work completed. Section 52⁴ makes provision for fair dealing exceptions which may apply possibly to AI systems training with the use of copyrighted material.

Obstacles in the Existing Structure

The present legal framework also encounters some difficulties regarding AI application, such as the Absence of AI-Specific Provisions, There is no specific mention of works composed by AI cutting-edge technologies in the Act, resulting in uncertainty concerning authorship and adjoining rights.

The Act puts natural persons at the center as authors of the works further complicating possibilities of coming up with AI systems or AI developers as authors or owners of the works produced by AI Generative content. Originality is a prerequisite in copyright law and this brings about problems in content produced by AI which is created out of data and algorithms.

² Indian Copyright Act, s 2(d)

³ Indian Copyright Act, s 2(d)(vi)

⁴ Indian Copyright Act, s 52

CASE LAW ANALYSIS OF EXISTING LEGAL FRAMEWORK REGARDING AI AND COPYRIGHT LAWS

University of Cambridge v. BD Bhandari⁵

The University of Cambridge claimed that BD Bhandari published books dubbed 'MBD English Guide' which heavily borrowed materials from the university's publications that are under copyright protection without consent.

The whole matter posed practical issues on the limitations of what could be considered fairly an educational resource and when those resources would be infringed areas of copyright. This case recognized transformative use, which might be useful in determining whether AI training is fair use or not.

Akuate Internet Services Pvt. Ltd. v. Star India Pvt. Ltd⁶

The defendant in this case, Akuate is the company that owns Cricbuzz, a cricket-focused website that offers timely scores, updates, stories, and other features that cover individual and series of cricket matches. One of the business models of Akuate comes from peer-to-peer technologies that facilitate update broadcasting for cricket games' real-time coverage including via SMS services. Whereas the plaintiff, Star India is one of the top media and entertainment companies based in India. Part of The Walt Disney Company India, Star India is an active player within the broadcasting sector in the country especially with sports content. The firm had obtained exclusive broadcasting rights from the Board of Cricket Control in India (BCCI) to broadcast information and content from cricket matches including telecasts.

Eastern Book Company v. D.B. Modak⁷: In this case, the court held that a work must contain a minimum level of creativity to be eligible for copyright protection which has potential implications for the way that works created with the assistance of AI are assessed for originality.

⁵ Syndicate of the Press of the University of Cambridge v. B.D. Bhandari & Anr [2011] 185 DLT 346 [Delhi High Court]

⁶ Akuate Internet Services Pvt. Ltd. v. Star India Pvt. Ltd. [2013] 194 DLT 1 [Delhi High Court].

⁷ Eastern Book Company v. D.B. Modak [2008] 1 SCC 1.

Navigators Logistics Ltd. v. Kashif Qureshi & Ors⁸ : This case reaffirmed that a literary author must always be a legal entity, thus emphasizing the economics of creativity in authoring a work on an exclusive basis.

IMPACT ON INDIAN COPYRIGHT JURISPRUDENCE

The case ANI vs. OpenAI is likely to have far-reaching consequences for Indian copyright law as it relates to artificial intelligence, digital content, and their intersections. Here are the main aspects of concern:

1. Unique Legal Issues Encountered

The case raises questions that surely have not been exhausted in the case of creation by AI frameworks and the copyrighting of pertinent materials. It puts into the spotlight the question of whether OpenAI infringes copyright by storing and utilizing ANI's news data in training its models or whether such acts come within the bounds of the fair use limitation provision in section 52 of the Indian Copyright Act 1957.

This rationale will be strong in assisting how the courts in India will in the future treat AI, especially about processing works protected by copyright

2. Fair Use Construction

In this case, the fair use of the country's context is what seeks to be clarified. It is the case that in other jurisdictions such as the US, the transformative use of the copyright is an acquiesced defense, Indian law is silent in that respect. The court's ruling as to whether AI's reworking of copyrighted materials is an innovative use or simply a reproduction will determine the scope of alignment of copyright law with the AI systems' outputs. This would in effect result in a refined definition of what fair use means in the digital space.

3. AI's Role in Creativity and Authorship

In this case, it has been pointed out how the Indian Copyright law has a vagueness when it comes to the issue of AI-generated content. The Indian Copyright Act has stated that AI cannot be a written creator, and in the case of computer-generated works, the person who brought about that computer-generated work is seen as the writer. This has great potential in

⁸ Navigators Logistics Ltd. v. Kashif Qureshi & Ors [2018] 254 DLT 307 [Delhi High Court]

determining how the creation and ownership of AI-generated works will be perceived in legal terms.

IMPACT ON GLOBAL COPYRIGHT JURISPRUDENCE

The case of ANI vs. OpenAI, wherein OpenAI is a defendant, is not only relevant to India but has an international interest as well:

1. International Precedent

The preliminary ruling is likely to take into consideration the principle of precedents in law. This is considered 'sub' jurisdictional and am considering it on a hypothetical basis in order to answer the larger legal question. This issue has already provoked discussions within the global AI and legal communities as it may become a binding authority in the area of copyright law and AI systems internationally.

2. International Copyright Convergence

The consensus highlights understanding the legal issues around AI-developed technologies. It may assist in the processes that are aimed at the unification of copyright laws about AI outputs to ensure their equal legal treatment in different countries.

3. The Need for Innovation versus Copyright Override

The present case is an illustration of the universal problem of the need for enhancement of technology vis-a-vis the protection of IP. The strategies that this Indian court may adopt to achieve the balance will have policy implications for other countries that are facing similar situations.

POTENTIAL FUTURE TRENDS IN AI AND COPYRIGHT LAW

Global Legislative Efforts

More complex policies/strategies dealing with the relationship between AI and copyright law seem to be gaining traction as time goes by. The timing and the manner in which this is done differs from one country, however, there is an understanding of the need for such laws to be in place.

- The US is actively looking into the impact of technology particularly AI on copyright law through some of the initiatives of the US Copyright Office⁹.
- In a bid to achieve a comprehensive approach towards AI regulation, the European Union enacted the AI Act that sets out to regulate developments such as copyright¹⁰.
- A more prescriptive model for the regulation of AI is reportedly being considered for the UK which may or may not make it mandatory for the companies that develop big AI models¹¹.

Technological Advancements and Their Impact

- Enhanced AI Capabilities: More AI copyright issues are expected as AI Technologies for generative AI and large language models (LLMs) continue to improve. These technologies will create more works that are hard to tell whether humans created or machines trained on humans' works and ideas, and therefore copyright questions arise.
- AI in Legal Professions: The development of AI systems that would be able to do legal work without human intervention could disrupt the legal industry quite significantly. Some experts say that in 5 years¹² AI will be able to train junior lawyers and it is possible to come up with something fundamentally new in the area of copyright law.

Economic Implications

AI's Economic Contribution estimates indicate that AI can grow the global economy by about two and a half trillion US dollars¹³ A year ranking AI as one of the fastest-growing economic contributors in the world. This economic potential is likely to prompt more investment and growth into AI technologies, stars, for instance, patent circle.

⁹ RAND Corporation, 'This paper addresses U.S. copyright law and policy issues raised as artificial intelligence (AI) systems are increasingly capable of generating material that would be eligible for copyright protection if created by a human author' (RAND Corporation, 2023) <<https://www.rand.org/pubs/perspectives/PEA3243-1.html>> accessed 16 December 2024

¹⁰ White & Case LLP, 'AI Watch: Global regulatory tracker - European Union' (White & Case LLP, 2024) <<https://www.whitecase.com/insight-our-thinking/ai-watch-global-regulatory-tracker-european-union>> accessed 16 December 2024.

¹¹ Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 'AI and Copyright Policy Under the New UK Labour Government' (Finnegan, 2024) <<https://www.finnegan.com/en/insights/articles/ai-and-copyright-policy-under-the-new-uk-labour-government.html>> accessed 16 December 2024.

¹² National Law Review, 'What to Expect in 2025: AI Legal Tech and Regulation (65 Expert Predictions)' (National Law Review, 2024) <<https://natlawreview.com/article/what-expect-2025-ai-legal-tech-and-regulation-65-expert-predictions>> accessed 16 December 2024.

¹³ Adil S. Al-Busaidi, 'Artificial Intelligence, Firm Growth, and Product Innovation' (ScienceDirect, 2024) <<https://www.sciencedirect.com/science/article/pii/S2444569X24001690>> accessed 16 December 2024.

- Growth of AI Content Creation Market: The market for AI-based content creation is forecasted to expand markedly to 1.29 billion US dollars¹⁴ in throughput by 2025 This growth will likely uphold creativity in AI content production settings giving rise even more to the concepts of AI and human-generated content.

Global Partnerships

International structures such as world federations are likely to have a greater say in artificially intelligent creations and copyright structures in the future. The Global Partnership on AI (GPAI) initiated, and the OECD AI Policy Observatory is indicative of the increased call for multilateral efforts on AI standards and regulation building.

CONCLUSION

The ANI vs. OpenAI dispute raises important copyright issues about AI technologies in India. ANI's copyright and defamation claims highlight the deficiencies in the statutory copyright system with regard to AI content. This case is surely going to force Indian courts to adopt more specific interpretations of the concepts of originality, authorship, and copyright fair use in the context of AI. It may also do more than that—perhaps there is potential for provisions regulating AI technologies to be introduced without sacrificing innovation. In this case, it could provide a context for copyright integration across countries and promote debates on the legal regimes for AI-created works around the world.

¹⁴ Market Size and Trends, 'AI Content Creation Market' (Market Size and Trends, 2024)
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