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Authorship is not Enough: Reassessing Copyright Protection for AI-Generated Works Under Indian Law

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The rapid adoption of generative artificial intelligence (AI) has complicated traditional understandings of authorship and originality in copyright law. Systems such as ChatGPT, Midjourney, and DALL-E can produce text, images, music, and code with minimal user input, raising difficult questions about whether such outputs qualify for copyright protection and, if they do, who should own them. This article argues that Indian copyright law should neither recognise AI systems as authors nor automatically confer copyright upon every user of a generative AI tool. Instead, copyright protection should depend upon the extent of human creative involvement in producing the final work. A central focus of the article is Section 2(d)(vi) of the Copyright Act, 1957, which identifies the author of a computer-generated work as "the person who causes the work to be created." While this provision is often treated as a complete answer to the problem of AI-generated works, such an interpretation overlooks the separate requirement of originality. Drawing upon the Supreme Court's decision in Eastern Book Company v D.B. Modak, the article argues that identifying an author under Section 2(d)(vi) does not automatically establish copyright ownership. The claimant must still demonstrate the exercise of skill and judgment sufficient to satisfy the originality threshold under Indian law. The article proposes a meaningful human contribution test that focuses on the extent to which a claimant directed, selected, modified, and refined the final work. Such an approach preserves the human-centred foundations of copyright law while allowing existing doctrine to accommodate emerging forms of AI-assisted creation.

Keywords: *copyright, authorship, originality, artificial intelligence.*

INTRODUCTION

Indian copyright law has always proceeded on a relatively straightforward assumption: creative works are produced by human beings. Generative AI complicates that assumption. Today, a user can generate a poem, an illustration, a song, or even an entire article within seconds. The resulting output may appear original, yet the process through which it was produced differs significantly from the forms of authorship that copyright law was designed to regulate. The growing use of generative AI has therefore revived a question that copyright law has rarely had to confront in such direct terms: who, if anyone, is the author of an AI-generated work? The answer matters because authorship remains the foundation upon which copyright protection rests. The author is the person entitled to claim rights in a work and enforce those rights against others. Where authorship becomes uncertain, ownership becomes uncertain as well.

Responses to this problem often fall into two opposing camps. One view suggests that copyright should attach automatically to AI-generated outputs because users initiate the process and provide instructions to the system.[1] Another argues that AI-generated works should receive no copyright protection at all because the machine, rather than the user, performs most of the creative labour.[2] Both approaches are unsatisfactory. The first risk extends copyright protection to works that involve little or no human creativity. The second ignores situations in which AI functions as one tool within a broader process involving substantial human contribution.

The Copyright Act, 1957[3] does not provide an explicit answer. Although Section 2(d)(vi)[4] states that, in relation to a computer-generated literary, dramatic, musical, or artistic work, the author is "the person who causes the work to be created", the provision predates modern generative AI by several decades. More importantly, it addresses only one aspect of the problem. Identifying a potential author is not the same thing as determining whether a work satisfies the originality requirement necessary for copyright protection.

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[1] Andres Guadamuz, 'Do Androids Dream of Electric Copyright? Comparative Analysis of Originality in Artificial Intelligence Generated Works' (2017) 2 Intellectual Property Quarterly <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2981304> accessed 24 May 2026

[2] *Copyright and Artificial Intelligence, Part 2: Copyrightability* (US Copyright Office, 2025)

[3] The Copyright Act 1957

[4] The Copyright Act 1957, s 2(d)(vi)

This distinction has received surprisingly little attention in discussions of AI-generated works. Much of the existing debate treats Section 2(d)(vi) as though it automatically resolves the question of copyright ownership. Yet Indian copyright law has never granted protection solely because an individual is connected to the creation of a work. Copyright protects original expression, and originality remains an independent requirement. The Supreme Court's decision in Eastern Book Company v D.B. Modak[5] made clear that copyright protection depends upon the exercise of skill and judgment rather than mere effort or involvement in a production process.

The same principle should govern AI-generated works. Neither AI systems nor users who merely generate outputs through simple prompts should automatically receive copyright protection. Instead, protection should depend upon whether the claimant has made a sufficiently significant creative contribution to the final work. The relevant question is not whether AI was used, but whether the work reflects human intellectual creation of the kind recognised by Indian copyright law.

The discussion proceeds in four parts. Part I examines the human-centred foundations of Indian copyright law and the relationship between authorship and originality. Part II considers the significance of Section 2(d)(vi)[6] and explains why it cannot be treated as an automatic source of copyright protection for AI-generated works. The remaining sections develop a contribution-based framework for assessing AI-assisted works and consider why such an approach is preferable to either automatic protection or complete exclusion.

THE HUMAN-CENTRED FOUNDATIONS OF INDIAN COPYRIGHT LAW

An examination of the issues concerning AI works can only begin with the framework in which the copyright laws of India are constructed. While the Copyright Act 1957 may not have directly indicated that an author must necessarily be a human being, the assumption was incorporated into the copyright laws. The rights, obligations, and protections recognised by copyright law all presuppose the existence of a human creator or, at the very least, a legal person capable of holding and enforcing rights.

[5] *Eastern Book Company & Ors v D B Modak & Anr* (2008) 1 SCC 1
[6] Copyright Act 1957, s 2(d)(vi)

The Act protects original literary, dramatic, musical, and artistic works, along with cinematograph films and sound recordings. Throughout the statute, authorship is linked to identifiable human activity. Section 2(d) defines authors by reference to creative roles: the author of a musical work is the composer, the author of a photograph is the person taking the photograph, and the author of an artistic work is the artist.[7] Despite the Act addressing cases where the work involves computer-generated outputs, the authorship is ultimately attributed to a human being rather than the machine itself.

The emphasis on humans as authors of copyrighted work arises out of the goal of the law, which is to incentivise creativity. The copyright owners enjoy several exclusive rights such as reproduction, adaptation, distribution and communication of their work to the public. Copyright may be assigned, licensed, inherited, or commercially exploited. Authors may institute infringement proceedings and seek remedies before courts. In addition, Section 57 recognises moral rights, including the right to claim authorship and the right to object to certain forms of distortion or mutilation of a work.[8] These rights are meaningful because they are attached to individuals capable of possessing legal interests and enforcing legal claims.

The importance of human intellectual contribution is reinforced by the requirement of originality. Copyright protection does not arise merely because effort has been expended or because a work exists. The work must satisfy the originality threshold recognised by law. The leading authority on this question remains Eastern Book Company v D.B. Modak.[9] In Eastern Book Company, the Supreme Court rejected a purely labour-based approach to originality. Copyright protection, according to the Court, involves skilful and creative effort in producing a work containing a minimal level of creativity. Such mechanical effort, compilation, or automated processes will not suffice for protection under the Copyright Act. Instead, it is the presence of intellectual creation, and therefore originality, in the work by the author that counts.

The significance of this ruling lies in its applicability in the context of copyright issues regarding works created using AI. What is most important is not whether a human started

[7] Copyright Act 1957, s 2(d)
[8] Copyright Act 1957, s 57
[9] *Eastern Book Company & Ors v D B Modak & Anr* (2008) 1 SCC 1

the process of creating the work. Rather, the matter is whether sufficient human intellectual input goes into producing a work to qualify as original.

This distinction becomes particularly important in the context of generative AI. Modern AI systems can produce substantial expressive content with very limited user input.[10] A user may generate a detailed image, essay, or musical composition by entering a short prompt and waiting a few seconds for the output to appear. In such circumstances, identifying a person associated with the generation process does not necessarily establish that the resulting work embodies the skill and judgment required by Eastern Book Company.

The challenge posed by AI-generated works is therefore not simply a question of authorship. It is a question of how authorship interacts with originality. Before determining whether a claimant deserves copyright protection, it is necessary to examine a provision that is frequently treated as providing a complete answer to the problem: Section 2(d)(vi) of the Copyright Act. [11]

THE LIMITS OF SECTION 2(d)(vi)

Many of the arguments around the authorship of AI works in India are centred on Section 2(d)(vi) of the Copyright Act, 1957. According to this section, where a computer program generates literary, dramatic, musical, or artistic work, the author of such a work is the one who 'causes the work to be created'. Section 2(d)(vi) provides an easily available answer to the problem of authorship of an AI work.

For instance, when a user input prompts in ChatGPT, Midjourney or any other generative AI tool and the output work is produced by the AI, it could be inferred that the user has "caused" the creation of the AI work and therefore qualifies to be considered as its author. Unlike many jurisdictions, which continue to rely primarily on traditional human-authorship principles, Indian copyright law contains a provision that appears directly applicable to computer-

[10] Cole Stryker and Mark Scapicchio, 'What is generative AI?' (*IBM*) <https://www.ibm.com/think/topics/generative-ai> accessed 24 May 2026
[11] The Copyright Act 1957, s 2(d)(vi)

generated works.[12] This view is gaining popularity in the discourse around AI content. Therefore, Section 2(d)(vi) is looked upon as a ready-made answer to the problem.

Section 2(d)(vi) identifies a potential author, but it does not determine whether the resulting work is entitled to copyright protection. Copyright law requires both authorship and originality. While these inquiries often overlap in traditional creative settings, generative AI separates the act of initiating a creative process from the act of producing expressive content. A user who enters a prompt undoubtedly participates in the creation process. The more difficult question is whether that participation amounts to the exercise of skill and judgment required by Indian copyright law. If it does not, identifying the user as the author under Section 2(d)(vi) should not automatically result in copyright protection.

This position can be further clarified with the help of the case of Eastern Book Company v D.B. Modak. The Court concluded that copyright cannot be awarded based simply on the effort of people alone, since the requirement of originality requires intelligence and judgment.

A literal interpretation of Section 2(d)(vi) would render this principle meaningless, as it would mean that anyone who had contributed towards the creation of the work should receive copyright. Copyright would arise not because the claimant contributed creative expression but because they initiated a technological process. In practical terms, the distinction between authorship and originality would collapse.

Consider a user who enters the prompt: 'Write a 1,000-word article about climate change.' Although the produced writing will incorporate certain elements of style, argument, structure, and examples, most of these aspects of expression are products of the artificial intelligence technology used to produce the writing, not of any choice made by the user. This approach conflicts with the Supreme Court's decision in Eastern Book Company. However, the standard of originality required here goes beyond the mere contribution in the creation of the work.

[12] *COPYRIGHTS AND NEIGHBORING RIGHTS IN OUTPUTS MADE BY OR WITH AI SYSTEMS* (International Trademark Association, 2023); Jyh-An Lee et al., *Artificial Intelligence and Intellectual Property* (OUP 2021)

The historical context of Section 2(d)(vi) further supports a careful interpretation. This section was written at a time when computer-generated works typically employed technologies that were much easier to predict than current-generation generative artificial intelligence software. Computers merely served as machines following instructions set forth by human users. The legislature was not confronted with systems capable of producing lengthy texts, realistic images, musical compositions, or software code from a brief natural-language prompt.[13]

This is not to suggest that Section 2(d)(vi) has become obsolete. On the contrary, the provision remains relevant because it confirms an important principle: where computer-generated works are concerned, authorship must ultimately be attributed to a human actor rather than to the machine itself. What the provision does not establish is that every human actor connected to the process automatically satisfies the originality requirement necessary for copyright protection.

A more coherent interpretation treats Section 2(d)(vi) as the starting point rather than the end of the inquiry. The provision identifies the person who may claim authorship of a computer-generated work. Once that individual has been identified, a second question must still be asked: Does the work reflect sufficient human skill and judgment to justify copyright protection?

It also avoids a broader concern. Copyright law has historically rewarded creativity rather than mere access to technology.[14] If ownership arises automatically whenever a user generates an output through an AI system, copyright protection becomes detached from the very justification on which it rests. The law would begin rewarding the ability to operate a tool rather than the exercise of creative judgment.

For these reasons, Section 2(d)(vi) should not be understood as providing a complete answer to the problem of AI-generated works. The provision identifies a potential author, but the

[13] Guadamuz (n 1)
[14] Zachary L Catanzaro, 'Beyond Incentives: Copyright in the Age of Algorithmic Production' (2024) 13(1) New York University Journal of Intellectual Property & Entertainment Law <https://jipel.law.nyu.edu/beyond-incentives-copyright-in-the-age-of-algorithmic-production/> accessed 24 May 2026

question of originality remains unresolved. Answering that question requires closer attention to the nature of the human contribution involved in the creation of the work.

WHY PROMPTING ALONE IS NOT ENOUGH

If Section 2(d)(vi) does not automatically confer copyright protection, the question becomes how much human involvement is required before an AI-assisted work can be regarded as original. A common assumption in discussions of generative AI is that the user should receive copyright protection because they provided the prompt that initiated the process. This view is reflected in earlier scholarship on computer-generated works. Samuelson argued that the user of a generator program is best placed to claim authorship,[15] while Denicola contended that copyright law should recognise users as authors where they initiate and guide the creative process.[16] At first glance, this position appears intuitive. After all, the AI system does not generate content spontaneously. The user decides whether to generate an output, chooses the subject matter, and frames the instructions given to the system. Yet these observations do not necessarily establish authorship in the copyright sense.

Copyright law has never treated every form of human involvement as creative authorship. The fact that an individual initiates a process does not automatically mean that they have contributed sufficient intellectual input to the final work. As far as the test for originality is concerned, what is recognised in Eastern Book Company v D.B. Modak is that one needs to exhibit some level of skill and judgment, which finds its expression in the final product.

Generative AI presents a challenge because the degree of human involvement can vary dramatically from one situation to another. At one end of the spectrum are users who provide minimal instructions and accept the first output generated by the system. At the other end are users who engage in a lengthy process of refinement, revision, and creative direction before arriving at a final work. Treating both situations identically would ignore meaningful differences like the contribution being made.

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[15] Pamela Samuelson, 'ALLOCATING OWNERSHIP RIGHTS IN COMPUTER-GENERATED WORKS' (1986) 47 University of Pittsburgh Law Review <https://www.law.berkeley.edu/wp-content/uploads/2024/01/Pam-Samuelson-Allocating-Ownership-Rights-in-Computer-Generated-Works.pdf> accessed 20 May 2026

[16] Robert C Denicola, 'Ex Machina: Copyright Protection for Computer-Generated Works' (2016) 69 Rutgers University Law Review <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3007842> accessed 24 May 2026

At the same time, it would be equally problematic to conclude that all AI-assisted works lack copyright protection. Such a position fails to account for the many situations in which users exercise substantial creative control over the generation process. Consider a different example. A writer uses a generative AI system while developing a short story. Instead of accepting the first output, the writer generates multiple drafts, rejects unsatisfactory responses, rewrites sections of the text, alters the narrative structure, develops character motivations, and incorporates original material of their own. As a result, the final text demonstrates the creativity applied to a greater extent than merely starting the process of writing the text. This example illustrates why the nature of a claimant's contribution matters. The writer not only starts the generation of the text, but also makes several decisions throughout the creation process, thus shaping the result through their personal input, which is much more than starting the generation process itself. In this situation, the relationship between the copyright holder and the result is more apparent than in any other similar case. The difference is not simply a matter of time or effort. What matters is the nature of the contribution rather than its duration.

This point is consistent with the reasoning in Eastern Book Company. The Supreme Court did not suggest that originality depends upon the quantity of labour invested in a work. On the contrary, the question was about whether the claimant had exhibited skill and judgment to such an extent that it found expression in the product. This should apply to cases of AI products as well, since the crucial question here is not whether the person utilised AI or not.

As regards copyright claims where AI is involved in the creation of the final product, the emphasis should be placed on the degree to which the claimant was able to influence the output of that work. Relevant criteria could include the level of instruction given to the computer program, the number of selections made and revisions applied, and the degree to which the final product embodies the choices of the creator. This analysis would conform with the originality principle outlined in Eastern Book Company because skill and judgment are emphasised there.

This binary solution is unhelpful in addressing the problem in question. An automatic granting of copyright rights in all cases disregards the differences in degrees of human involvement, whereas an absolute refusal of any copyright to such products does not consider instances when computers act merely as tools in the creative process of humans.

What seems more reasonable is analysing the contribution made by the claimant in terms of skill and judgment.

CONCLUSION

Generative AI has undoubtedly complicated traditional understandings of authorship, but it has not displaced the principles that underpin copyright law. The real challenge is not determining whether machines can be authors. Under the existing framework of Indian copyright law, authorship remains rooted in human creativity. The more difficult question is how copyright should respond when creative works emerge through varying degrees of interaction between human users and AI systems.

This article has argued that Section 2(d)(vi) of the Copyright Act 1957 should not be treated as a complete answer to the problem of AI-generated works. While the provision identifies the person who causes a computer-generated work to be created, it does not eliminate the separate requirement of originality. Copyright protection cannot arise merely because an individual initiated a technological process. The work must still reflect the exercise of skill and judgment recognised by the Supreme Court in Eastern Book Company v D.B. Modak.

A more coherent approach focuses on the nature of the human contribution to the final work. Where there is a genuine use of creativity by the claimant in terms of guidance, choice, alteration, and improvement, there would be an arguable case for copyright. But, if this element is not present, mere use of AI technology based upon the claimant's direction cannot result in copyright.

All theoretical measures required for addressing copyright matters emerging from AI-generated creations have been provided by the Indian Copyright Act. Rather than inventing new classifications of machine authorship or discarding well-settled doctrines, courts need to extend their application to a contemporary technological environment.