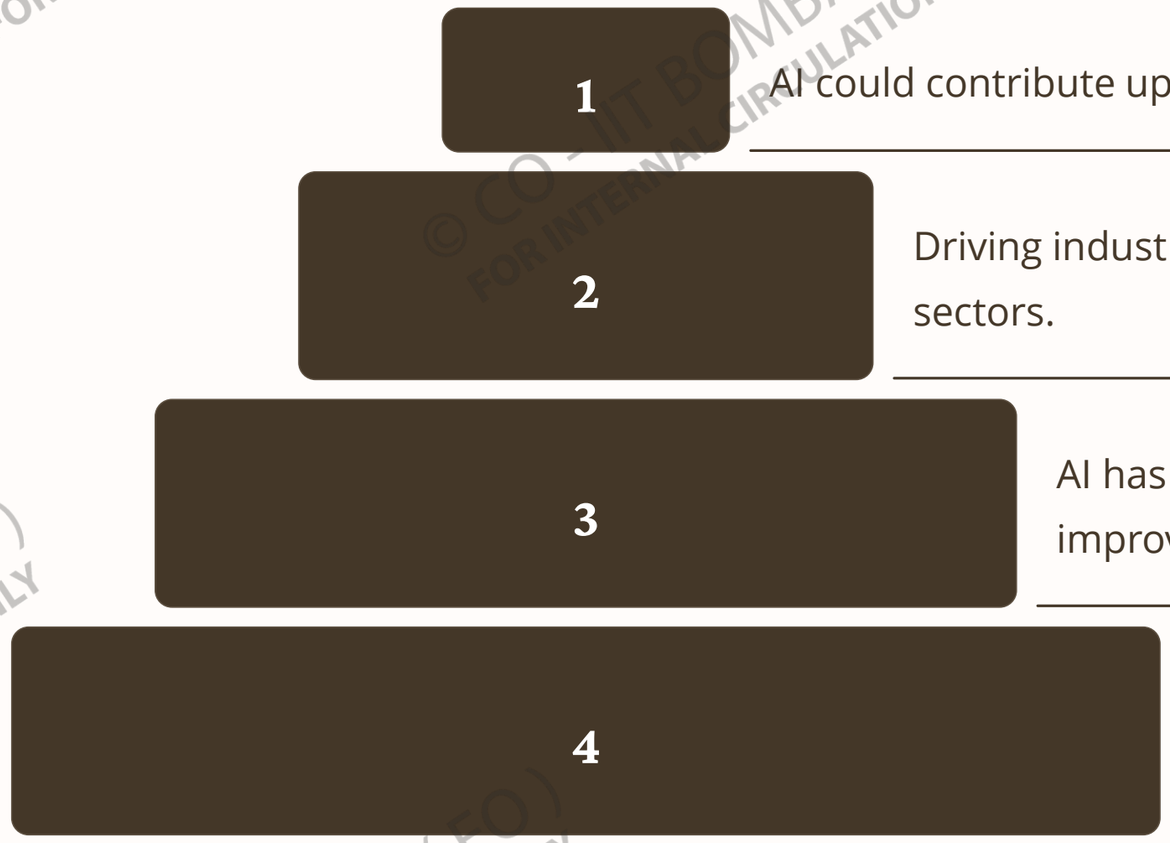
AI - Copyrights and Ethics

Introduction

- I'm Pritish - Associate Partner at **TMT Law Practice**, heading the Technology Practice.
- Experience in handing matters in media and emerging technologies.
- I am also a certified privacy professional (CIPP/E).

How AI is transforming the world



AI could contribute up to $15.7 trillion to the global economy in 2030.

Driving industry transformations and increasing investment in tech sectors.

AI has had positive impacts on increasing productivity and improving skills.

AI enhances decision-making by analyzing vast amounts of data quickly and accurately.

What is Artificial Intelligence?

The two key principles of any AI system:

- **Autonomy** - The ability to perform tasks in complex environments without constant guidance by a user.
- **Adaptivity** - The ability to improve performance by learning from experience.

Learning

Acquiring and applying knowledge from the training data.

Reasoning

Solving problems and making decisions on its own.

Perception

Recognizing patterns in speech, images, or environments.

Interaction

Communicating through natural language and responding to user inputs.

Exercise: Is this AI or Not?

1. Spreadsheet performing basic calculations.
2. Predicting the stock market by fitting a curve to past data about stock prices.
3. A GPS navigation system for finding the fastest route.
4. A music recommendation system such as Spotify that suggests music based on the users' listening behavior.
5. Photo editing features such as brightness and contrast in applications such as Photoshop.

Answers:

1. Spreadsheet performing basic calculations - **NO,** *The outcome is determined by the user-specified formula, no AI needed.*

2. Predicting the stock market by fitting a curve to past data about stock prices - **YES,** *Fitting a simple curve is not really AI, but there are so many different curves to choose from, even if there's a lot of data to constrain them, that one needs machine learning/AI to get useful results.*

3. A GPS navigation system for finding the fastest route - **YES,** *The signal processing and geometry used to determine the coordinates isn't AI, but providing good suggestions for navigation (shortest/fastest routes) is AI, especially if variables such as traffic conditions are taken into account.*

4. A music recommendation system such as Spotify that suggests music based on the users' listening behavior. **YES,** *The system learns from the users' (not only your) listening behavior*.

5. Photo editing features such as brightness and contrast in applications such as Photoshop. **NO**, *Adjustments such as color balance, contrast, and so on, are neither adaptive nor autonomous.*

The Agenda

Part 1: Potential harms

Part 2: What is responsible AI?

Part 3: GenAI and copyright issues

Part 4: Cases and current regulations

Part 1: The Potential Harms of AI

I. Potential Harms to an Individual/Groups

AI can infringe upon personal rights, economic access, and safety.

- **Civil Rights**: Facial recognition tech misidentifying people may led to wrongful arrests.
- **Safety**: Self driving cars may cause accidents due to flawed decision-making.
- **Discrimination**: Hiring tools may create bias against women or minorities (e.g., Amazon's AI recruitment tool).
- **Marginalization**: Biased healthcare diagnostics failing to meet the needs of underserved populations (e.g., racial disparities in medical AI systems).

II. Potential Harms to Society and Ecosystem

AI affects societal trust, democracy, and economic stability.

- **Democratic Processes**: Deepfakes undermining elections (e.g., 2020 U.S. election disinformation).
- **Public Trust**: Erosion of confidence in institutions due to misuse (e.g., biased predictive policing systems).
- **Economic Disruption**: AI-fueled automation displacing jobs and widening inequalities (e.g., manufacturing job loss).
- Carbon Dioxide Emissions: Training a large language model like GPT-3 can produce around **300,000 kg** of **carbon dioxide** emissions.

III. Potential Harms to Companies or Institutions

AI poses reputational, cultural, and operational risks for organizations.

- **Reputation**: Biased systems damaging brand image (e.g., Google Photos tagging controversy).
- **Economic Risks**: Legal and regulatory costs from poorly governed AI (e.g., GDPR fines).

Part 2: So what makes any AI, a Responsible AI?

Human-Centric AI

AI should prioritize human well-being and values, enhancing—not replacing—human decision-making. It must reflect ethical principles of fairness and inclusion.

- Designed to enhance human decision-making, not replace it.
- **Reflect ethical principles, promoting fairness and inclusion.**

Accountable AI

- Current legal frameworks for AI failures are unclear; liability is often shifted via indemnity clauses.
- **AI companies must be held accountable for all AI system failures.**

Transparent AI

AI systems should clearly explain their decision-making:

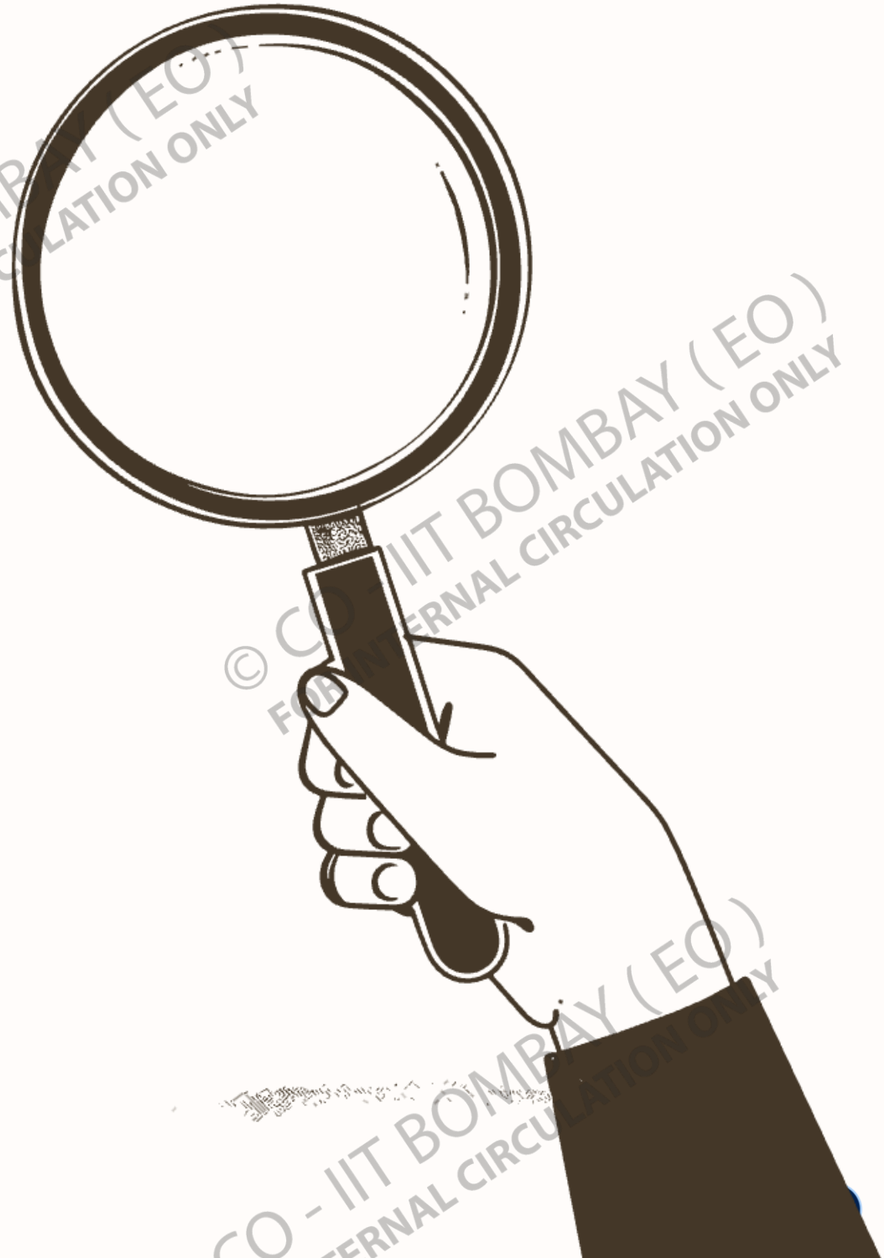
- Open data, clear disclosures of functions and processes.
- **Users must be able to easily understand the associated risks on using any AI system.**

Explainable AI

- **AI systems should provide insights into its AI decisions.**
- Builds trust and understanding, especially in critical situations.

Privacy and Consent

- Users often don't understand how and what personal data is collected to train AI systems.
- **AI systems must safeguard user data, privacy, and maintain confidentiality for the data that is collected.**



Part 3: GenAI and Copyright Issues

Generative AI systems pose unique challenges to the legal landscape:

Generative AI's rapid evolution presents complex copyright and ethical questions regarding ownership, legal application, and ethical boundaries.

Who owns the AI-generated content?

How the current laws apply to AI-generated content?

What are the ethical boundaries for using Generative AI?

Copyright Ownership in AI Generated Works

India (Copyright Act, 1957)

- No explicit provision for AI-generated works.
- As per the Act, authorship automatically vests with the "person who causes the work to be created" (programmer/user). Registration is not mandatory.
- AI itself cannot be an author as it is not a legal person under the eyes of the law.

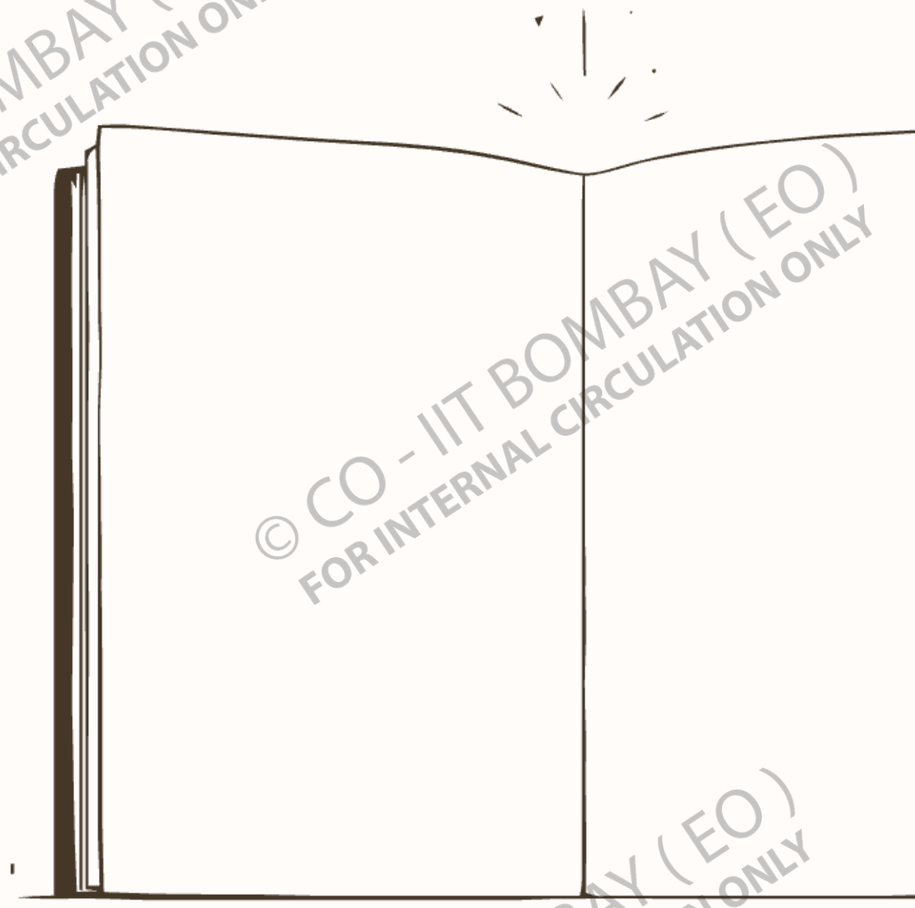
USA (Copyright Act,1976 & USCO guidelines)

- Only human authorship qualifies for copyright.
- No copyright protection for AI Generated Work; the work is in the public domain.
- **Solely Generated by AI**: US Copyright Office denies copyright to works solely generated by AI.
- **Works with a Mix of AI and Human Elements:** Copyright belongs to the human author for the protectable elements.

Gen AI in Research and Academia

Generative AI significantly impacts research and academic work, presenting several challenges:

- **Fair Use Doctrine (Sec. 52, Copyright Act)**: Allows usage of copyrighted work for research & academia. But it may not be extended to AI Generated Works.
- **Attribution:** Ethical concerns arise from using AI-generated text or images without proper attribution.
- **Plagiarism and Integrity Issues:** The use of AI raises risks of plagiarism and fabrication in research papers.



Commercial Usage and Infringement Issues

Commerical Usage of AI Generated Works

- Using AI to create commercial content will raise legal and ethical risks.
- Proper disclaimers and attribution are highly recommended to be used - howsoever that might not guarantee absolute legal protection.

Copyright Infringement Issues

- **Training Data:** AI systems require large amounts of data, including copyrighted material, to train their algorithms.
- **Replication:** AI can replicate existing copyrighted works, raising infringement questions.
- **Liability:** The liability is often shifted on the users by the AI platforms.

Open AI - Terms of Use and Privacy Policy

Content

Your Content. You may provide input to the Services ("Input"), and receive output from the Services based on the Input ("Output"). Input and Output are collectively "Content." You are responsible for Content, including ensuring that it does not violate any applicable law or these Terms. You represent and warrant that you have all rights, licenses, and permissions needed to provide Input to our Services.

Ownership of Content. As between you and OpenAI, and to the extent permitted by applicable law, you (a) retain your ownership rights in Input and (b) own the Output. We hereby assign to you all our right, title, and interest, if any, in and to Output.

Similarity of Content. Due to the nature of our Services and of AI and AI intelligence generally, Output may not be unique and other users may receive similar Output from our Services. Our assignment above does not extend to other users' Output or any Third Party Output.

Our use of Content. We may use Content to provide, maintain, develop, and improve our Services, comply with applicable law, enforce our terms and policies, and keep our Services safe. If you're using ChatGPT through Apple's integrations, see Apple's Privacy article for how we handle your Content.

Opt Out. If you do not want us to use your Content to train our models, you can opt out by following the instructions in this Help Center article. Please note that in some cases this may limit the ability of our Services to better address your specific use.

Accuracy. Artificial intelligence and machine learning are rapidly evolving fields of study. We are constantly working to improve our Services to make them more accurate, reliable, safe, and beneficial. Given the probabilistic nature of machine learning, use of our Services may, in some situations, result in Output that does not accurately reflect real people, places, or facts.

When you use our Services you understand and agree:

- Output may not always be accurate. You should not rely on Output from our Services as a sole source of truth or factual information, or as a substitute for professional advice.
- You must evaluate Output for accuracy and appropriateness for your use case, including using human review as appropriate, before using or sharing Output from the Services.
- You must not use any Output relating to a person for any purpose that could have a legal or material impact on that person, such as making credit, educational, employment, housing, insurance, legal, medical, or other important decisions about them.
- Our Services may provide incomplete, incorrect, or offensive Output that does not represent OpenAI's views. If Output references any third party products or services, it doesn't mean the third party endorses or is affiliated with OpenAI.

1. Personal Data we collect

We collect personal data relating to you ("Personal Data") as follows:

Personal Data You Provide: We collect Personal Data if you create an account to use our Services or communicate with us as follows:

- *Account Information:* When you create an account with us, we will collect information associated with your account, including your name, contact information, account credentials, date of birth, payment information, and transaction history, (collectively, "Account Information").
- *User Content:* We collect Personal Data that you provide in the input to our Services ("Content"), including your prompts and other content you upload, such as files, images, and audio, depending on the features you use.
- *Communication Information:* If you communicate with us, such as via email or our pages on social media sites, we may collect Personal Data like your name, contact information, and the contents of the messages you send ("Communication Information").
- *Other Information You Provide:* We collect other information that you may provide to us, such as when you participate in our events or surveys or provide us with information to establish your identity or age (collectively, "Other Information You Provide").

Personal Data We Receive from Your Use of the Services: When you visit, use, or interact with the Services, we receive the following information about your visit, use, or interactions ("Technical Information"):

- *Log Data:* We collect information that your browser or device automatically sends when you use our Services. Log data includes your Internet Protocol address, browser type and settings, the date and time of your request, and how you interact with our Services.
- *Usage Data:* We collect information about your use of the Services, such as the types of content that you view or engage with, the features you use and the actions you take, as well as your time zone, country, the dates and times of access, user agent and version, type of computer or mobile device, and your computer connection.
- *Device Information:* We collect information about the device you use to access the Services, such as the name of the device, operating system, device identifiers, and browser you are using. Information collected may depend on the type of device you use and its settings.
- *Location Information:* We may determine the general area from which your device accesses our Services based on information like its IP address for security reasons and to make your product experience better, for example to protect your account by detecting unusual login activity or to provide more accurate responses. In addition, some of our Services allow you to choose to provide more precise location information from your device, such as location information from your device's GPS.
- *Cookies and Similar Technologies:* We use cookies and similar technologies to operate and administer our Services, and improve your experience. If you use our Services without creating an account, we may store some of the information described in this policy with cookies, for example to help maintain your preferences across browsing sessions. For details about our use of cookies, please read our Cookie Notice.

OpenAI's Terms of Use govern access and usage of their models and services, covering data usage, intellectual property, and acceptable use policies.

Ownership of Content: You retain the ownerships rights in Input and the Output (subject to applicable laws).

OpenAI's Use of Content: Open AI may use Content to develop or improve their Services. However, there is an Opt Out mechanism provided incase do not want OpenAI to use your content.

Part 4: Regulation and Notable Cases

India's Regulatory Steps

The National Strategy for Artificial Intelligence (2018)

Established a foundation for responsible AI development in India.

The Principles for Responsible AI (2021)

Provided a roadmap for ethical AI practices within India's diverse sectors.

Digital Personal Data Protection Act (2023)

Aimed to protect digital personal data of the citizens.

MEITY Advisories on AI (2024)

Addressed deepfakes, misinformation, and the safe use of AI tools.

Draft AI Governance Guidelines (2025)

Emphasizes transparency in AI development, accountability for developers, safety and reliability in operation, and robust data protection.

THE EU AI ACT, 2024

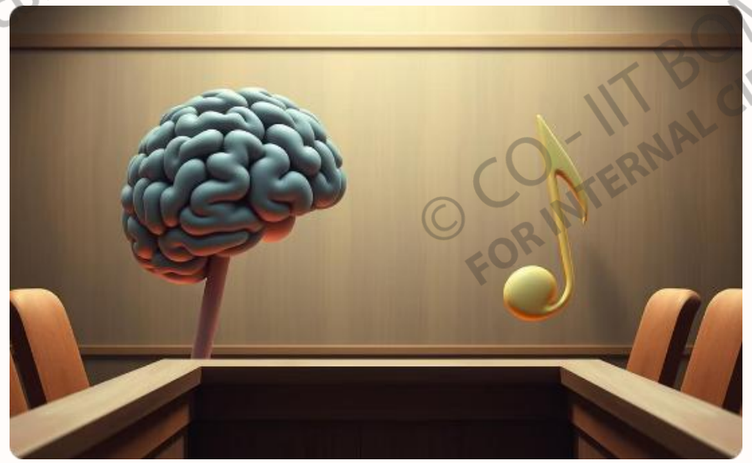
First Comprehensive AI Legal Framework

- **Risk-Based Approach:** AI classified into four risk levels—stricter rules for higher risks.
- **Transparency & Accountability:** Developers ensure explainability for high-risk AI.
- **Legal Complement to GDPR:** Addresses modern AI challenges like LLMs.
- **High-Risk Applications:** AI in healthcare, law enforcement, and sensitive sectors must meet rigorous standards.
- **Strict Compliance & Penalties:** Fines up to 7% of global turnover for violations.
- **Innovation & Ethics:** Balances AI advancement with ethical considerations.
- **Regulatory Oversight:** National authorities and the European AI Board enforce compliance.

Cases Against OpenAI (ChatGPT) and other AI platforms

Class Action Lawsuits

In the US, a class action suit has alleged that OpenAI has non-consensual transcripted millions of YouTube videos to train its AI models.



GEMA vs. OpenAI

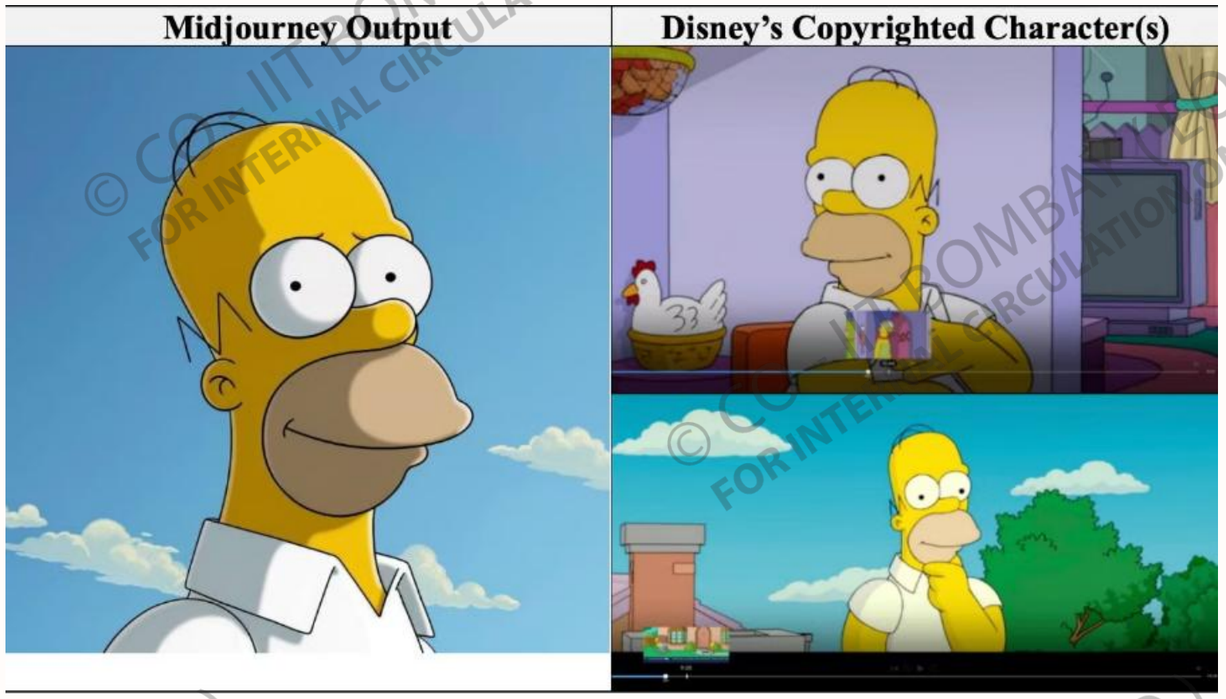
Music publisher GEMA alleges AI models illegally used song lyrics to train its AI models.

Raw Story vs. OpenAI

Raw Story, a publisher alleges that thousands of its articles were used without permission to train ChatGPT, reproducing copyrighted material.

Disney, Universal Sue Midjourney Over AI-Generated Images

The lawsuit seeks $150,000 per infringed work, injunction to stop MidJourney from generating infringing images, and a ban on its video-generation service unless copyright protections are implemented.



LLM Student Takes on Jindal Global Law School

1

The Incident

An LLM student at Jindal Global Law School, was debarred an allegation that his assignment answer sheets were "AI-generated".

2

Allegation

The University's committee alleged that his assignment was 88% AI-generated and was plagiarized.

3

Defense

The student argued that AI was merely a tool, and that no copyright subsists with AI, therefore no plagiarism occurred, and no such guideline was explicitly stated by the University.

4

Judgment: Punjab & Haryana HC

The Court dismissed the Case and asked the University to allow the student to retake the exam.

The Lawsuit That Could Change India's AI Legal Landscape: ANI Media vs. OpenAI

ANI, an Indian news agency, sued OpenAI in Delhi High Court for unauthorized LLM training data use, seeking damages and an injunction.

ANI's Arguments

- Direct copying of ANI content in ChatGPT outputs.
- ChatGPT's "hallucinations" falsely attributed fabricated stories to ANI, raising significant public interest concerns.

OpenAI's Defense

- Denies wrongdoing; suggests defense under the fair use doctrine.
- Challenges court jurisdiction due to its servers being outside India.

The court appointed a law professor and an attorney as experts for their opinion on the subject.

- **Jurisdiction**: Experts agreed Delhi High Court has jurisdiction due to ANI's operations in India.
- **Fair Use**: The experts suggested AI training could fall under fair use, but substantial reproduction constitutes infringement. The experts also argued that AI training itself infringes copyright, regardless of direct or indirect reproduction.

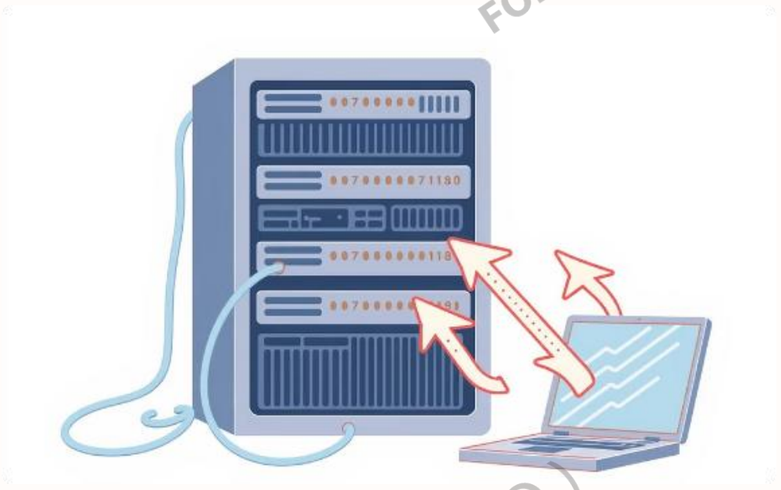
Recently, a few other media outlets such as NDTV, News18 and others have also joined this suit against OpenAI in India.

OpenAI And DeepSeek Controversy

DeepSeek, a Chinese AI company, developed a cost-effective LLM model (nearly 90% cheaper), disrupting the market and causing significant losses for major tech companies.

Model Distillation

OpenAI alleges that DeepSeek used model distillation—training a smaller model using outputs from a larger one.



API Queries

Open AI claims that DeepSeek allegedly queried OpenAI's API extensively for training data.

Legal Ramifications

This raises concerns about intellectual property, AI ethics, and regulation. Potential violation of OpenAI's Terms of Service.

Ghibli Art or Ghibli Trap

Associated Risks

1. Data Privacy Risk

- Uploading personal photos can expose biometric and facial data leaks.
- Unclear policies on data storage, deletion, and reuse at the AI Platforms terms.
- Potential misuse for profiling or AI training.

2. Intellectual Property (IP) Risks

- Studio Ghibli's art style is copyright-protected.
- AI-generated "Ghibli-style" images could be unauthorized derivative works.
- Possible violation of copyright and moral rights.

Things to Remember:

- Always review app permissions and privacy policies.
- Understand that sharing photos can lead to long-term data risks.

Thank you!

I hope you found this presentation insightful. I now welcome any questions!

You can connect with me on LinkedIn OR on Whatsapp by scanning the below QRs: