



DATE DOWNLOADED: Sun Nov 6 11:41:06 2022

SOURCE: Content Downloaded from [HeinOnline](#)

Citations:

Bluebook 21st ed.

Aakanksha Bhatia, AI and Copyright, 2 Jus Corpus L.J. 747 (2022).

ALWD 7th ed.

Aakanksha Bhatia, AI and Copyright, 2 Jus Corpus L.J. 747 (2022).

APA 7th ed.

Bhatia, A. (2022). AI and Copyright. Jus Corpus Law Journal, 2(3), 747-753.

Chicago 17th ed.

Aakanksha Bhatia, "AI and Copyright," Jus Corpus Law Journal 2, no. 3 (March-May 2022): 747-753

McGill Guide 9th ed.

Aakanksha Bhatia, "AI and Copyright" (2022) 2:3 Jus Corpus LJ 747.

AGLC 4th ed.

Aakanksha Bhatia, 'AI and Copyright' (2022) 2 Jus Corpus Law Journal 747.

MLA 8th ed.

Bhatia, Aakanksha. "AI and Copyright." Jus Corpus Law Journal, vol. 2, no. 3, March-May 2022, p. 747-753. HeinOnline.

OSCOLA 4th ed.

Aakanksha Bhatia, 'AI and Copyright' (2022) 2 Jus Corpus LJ 747

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at

<https://heinonline.org/HOL/License>

-- The search text of this PDF is generated from uncorrected OCR text.

-- To obtain permission to use this article beyond the scope of your license, please use:

[Copyright Information](#)



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium, provided the original work is properly cited.

AI and Copyright

Aakanksha Bhatia^a

^aUniversity of Petroleum and Energy Studies, Dehradun, India

Received 20 April 2022; Accepted 09 May 2022; Published 16 May 2022

A computer program that is developed for the purpose of machine learning has already a built-in system that allows the system to learn from the data input as well as to evolve and mainly make future decisions that may be either independent or directed. The usage of Artificial intelligence has seen immense growth with the use of new technological advances. Therefore, it is necessary to strengthen the rules and regulations in the concerned matter. In this article, we will learn about how the copyright act deals with the works created by Artificial Intelligence and mainly what should be the perks as well as legal liabilities incurred on AI if the copyright is infringed. It will also discuss legal options available and the amendments which can be done to improve the current situation of the laws. The article will also talk about the future of Artificial Intelligence and the need for it in the coming time and will discuss relevant case laws which are dealt with in the matter.

Keywords: *artificial intelligence, intellectual property rights, copyright, technology*

INTRODUCTION

Artificial Intelligence (AI) is developing at a dramatic rate all throughout the world. This blast brings up the issue of Intellectual Property management in AI.¹ There have been conversations and controls yet not an end on the topic. The inquiry with regards to the allowing of

¹ Joel Shurkin, 'Expert systems: the practical face of artificial intelligence' (1983) 86 TECH. REV. 72

extraordinary status to the work created by an AI actually perseveres. There are various irregularities with regards to the guideline of IPR inside man-made consciousness. These consist of inquiries regarding the responsibility for and copyright and extraordinary worries over the encroachment issues and the punishments in question. Indeed, even with peaceful accords and shows set up, there is no lucidity in the rules and regulations prescribed with the propelling innovation. Nations such as the United Kingdoms as well as the United States of America have put forth tenacious attempts to decipher the current regulations in a way that includes the AI highlight also. The copyright issue on account of a monkey taking a selfie in the USA as well as the famous case of Infopaq in Europe deciphered the current regulations and the utilization of words such as 'authorship' and 'Intellectual creation' to dissect and then reach a resolution for the responsibility for. In any case, when considering the rate at which AI is being utilized in eminent applications, it is essential that legitimate regulations have been set up which can likewise intend to pursue massive changes in the TRIPS understanding.

AI AND COPYRIGHT

Artificial Intelligence is considered to be a field that is growing at a faster rate. "Artificial Intelligence" is a term that is utilized to portray a particular field inside the area of software engineering that is pointed toward delivering PCs that show a wise leader. Generally, the PC produced works were not being referred to as the program only an apparatus that upheld the inventive works. Anyway, with the most recent kinds of man-made reasoning, the PC program is at this point, not just a device however it really settles on choices that include imaginative works without human mediation. One could argue the commercial implications in the manner the law treats the various types of machine-driven creativity. As artificial intelligence is already being used in various fields such as journalism, gaming, music, and many more. Copyright is basically considered to be possessed by the creator of "musical work, literary or artistic work" which in the end permits the real maker of the work to possess a right to either sell or use or distribute their work.² In a landmark judgment of "Burrow gills lithographic company v

² Trevor W. Nagel, 'Software Development: The Limits of Existing Legal Protection' (1987) 9(3) HARV. INTL. REV. 46

Sarony³”, the primary issue in regards to the copyright security was whether this copyright insurance can be conceded to an image as there was a contention between the mechanical work as well as the inventive. The choice of the court was that copyright security can be allowed to an essential item that is a result of a specific machine that in the long run is the result of human creation. Consequently assuming that this kind of severe methodology would be applied to computerized reasoning frameworks, allowing copyright for the works made by the AI would be hard to secure.

IMPLICATIONS FOR COPYRIGHT LAW

The work involving “Artificial Intelligence” can have significant ramifications in intellectual property regulation. On the off chance that we discuss the customary way, the responsibility for copyright in the computerized works was never being referred to on the grounds that the program was almost thought to be as an instrument which upheld the inventive approach, a lot of like a pen and a paper. The inventive works really fit the bill for copyright insurance assuming they are unique and the subsequent angle would be considered as though the meaning of unique AI contains a human Author. In a large portion of the locales including Spain and Germany, in these states, the works made by humans can be safeguarded by copyright yet not so much for Artificial Intelligence.

But if we talk about the latest times, the computer program is no longer considered a tool but it actually tends to make many of the essential decisions which actually involve a creative process without even interference of any human. In a comparable judgment of *Bleistein v Donaldson Lithographing Co.*⁴, the court separated between the manifestations of a human to that as something fake. “Justice Holmes” gave accentuation on the human instinct as a fundamental angle to make a copyrightable work. The court focused on this and expressed that there is no extension for anything to be copyrightable which not a result of man's innovativeness was. Regardless of whether WIPO and the consent of the nation to giving copyrights crafted by computerized reasoning the inquiry that who gets the copyright stays dynamic as well as enigmatic. The explanation for this is the ongoing status of regulation

³ *Burrow Gills Lithographic Company v Sarony* [1884] 111 U.S. 53

⁴ *Bleistein v Donaldson Lithographing Co.* [1903] 188 U.S. 239

which requires lawful personhood of a right-holder something which AI needs except if the maker of the AI is conceded the copyright for its benefit.

EUROPEAN UNION AND UNITED STATES

The first step would be there has to be a clear distinction between two factors which are the AI created works as well as AI-assisted works. In the case of *Burrow Gills* case, there was no protection given because of the reason that there was no human intellect involved, and in the latter case of *Bleistein v Donaldson*,⁵ the copyright holder was considered as the human who created the substance.

THE UNITED KINGDOM

If we talk about the United Kingdom the practise followed there is contrary to the practice followed in the European Union and the United States of America, the regime which is followed in the UK is that the computer-generated works (CGW). As indicated by this system it says that the developer of the “Artificial Intelligence” is really the copyright holder of the result of that specific machine.

CRIMINAL LIABILITY OF AI

Does the inquiry emerge whether these thinking machines can be held at risk under criminal regulation? This is equivalent to finding out if the copyright ought to be given to the creator of the pen or the author himself. The popular instance of Microsoft Word, Microsoft in the long run fostered the Word PC program yet determinedly doesn't claim every single piece of the work which is created utilizing the product. In this way, the copyright lies with the actual client who is the creator who used to program his work. Yet, when there lies the instance of Artificial Intelligence calculations that are all alone fit for creating a work, the commitment of the client lies just to press a button so the framework begins its work. In the year 1981, a Japanese worker at a bike processing plant was working so close to a robot that he was killed by a robot. The robot tracked down him as a danger to its main goal and afterward determined

⁵ *Ibid*

that the most proficient method for disposing of the danger would be by driving him into a working machine neighbouring the robot. Utilizing his strong pressure-driven arm, the robot crushed the worker into the machine, which killed him on the spot. So here the lawful inquiry which emerges is who might be obligated for this cutthroat homicide? Criminal regulation comprises the most huge legitimate socio control in present-day progress. The feeling of dread toward individuals in the vast majority of the cases depends on a specific truth that AI is not viewed as a subject to the law of the nation uncommonly if discussing criminal regulation. For a couple of years, individuals were unfortunate about the organizations and their ability to perpetrate violations but since now the enterprises are considered legitimate elements subject to criminal as well as corporate regulation this sort of dread has then diminished. Accordingly, the cutting edge question emerges Whether AI substances be exposed to lawful social control as some other legitimate element? At first, assuming the man-made reasoning is given similar powers as a person for designing or making a specific work then they ought to likewise be made to enter the universe of encroachment as well as requirement. An AI programming ought to be expected to take responsibility for encroachment and the product ought to likewise have the option to go into a legitimate agreement on its own which doesn't appear to be conceivable and it demonstrates the way that It can't be a lawful substance.

LEGAL OPTIONS

Copyrights deal with works created by a person but it also deals with the words where there is least interaction by any person. So for this two ways can be opted - 1. Rejecting the copyright protection to the work created via computer. 2. By giving protection to the person as an author who designed the program to create such work till now, the protection of copyright to words generated by AI has never been rejected. But in various jurisdictions, non-human works are not given copyright protection. In a famous case "*Feist Publications v Rural Telephone Service Company*"⁶, the Copyright Office announced that it will "register a unique work of Authorship, given that the work was made by an individual." In a new Australian instance of *Acolis Pty Ltd v Ucorp*

⁶ *Feist Publications v Rural Telephone Service Company* [1991] 499 U.S. 340 (1991))

*Pty Ltd.*⁷, a court pronounced that a work made by a PC can't be given assurance of copyright as it isn't created by a human. In Europe, the Court of Justice of the European Union (CJEU) has likewise expressed in different cases like in *C-5/08 Infopaq International A/S v Danske Dagbaldes Forening*⁸ that copyright assurance must be given to unique works which not set in stone though creator's own scholarly creation." It implies that a creator for example human is important to guarantee copyright security for his work. The subsequent way - of giving initiation to the individual making the program, is found in certain nations like Hong Kong (SAR), India, Ireland, New Zealand, and the UK. This idea is all around articulated in Section 9(3)⁹ of the Copyright, Designs and Patents Act (CDPA), of UK intellectual property regulation which states:

"In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken." Section 178¹⁰ of the CDPA characterizes a PC created work as "the work which is produced by PC in conditions to such an extent that there is no human creator of the work". The goal behind such officials was to make a special case of the first arrangement with respect to - giving the assurance to the person who made the program which produces the work no matter what any advancement is taken by the machine.

CONCLUSIONS AND SUGGESTIONS

"Artificial Intelligence" has now turned into a fundamental piece of living souls. With effective use of AI, significant information can be gathered or even altered in a superior manner and in a Time productive way. Now that the use of these new innovative devices has been bombarded it becomes desperation to make legitimate guidelines and regulations regarding something very similar. Is that innovation that is moving at a quicker rate thusly it is pivotal to break down and inspect the difficulties and issues which could it accompanies it. IPR is as of now thought to be a growing region. The ongoing circumstance of AI and IPR is testing. The

⁷ *Acohs Pty Ltd v Ucorp Pty Ltd*. [2012] 201 [FCR] 173

⁸ *C-5/08 Infopaq International A/S v Danske Dagbaldes Forening* [2009] C-5/08

⁹ Copyright, Designs and Patents Act, 1988, s 9(3)

¹⁰ Copyright, Designs and Patents Act, 1988, s 178

execution of the technique and well-being logs is viewed as a genuine issue. There additionally emerges a test in understanding the different various elements of man-made brainpower, which turns into a more prominent issue in agricultural nations, for example, India which is as yet creating concerning Technology. In present situations, the issues spinning “IPR AND AI” are settled through the translation of courts. However, there exists a requirement for clear guidelines, and guidelines and there ought to be revisions made in the ongoing IPR regulations to resolve the issue of man-made consciousness also. India is looking forward to different ways of investigating the matter. Niti Aayog in their conversation paper in the year 2018, depicted the fundamental component of AI in various areas, for example, schooling medical care air foundation, and some more. It tends to be done in different ways, for example, there ought to be a particular test that would have the option to separate between AI made works and AI-supported works. Likewise in the event that we discuss the copyright act the meaning of origin under the demonstration ought to be analyzed and ought to be revised by the elements which are evolving. WIPO has previously made moves on the forthcoming issues with AI and has been examined yet there is a requirement for forming an appropriate strategy at a worldwide level.