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COPYRIGHT AT CROSSROADS: BALANCING INNOVATION AND PROTECTION IN THE AI ERA

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Introduction

In the early decades of the 21st century, we find ourselves at a technological inflection point. Artificial intelligence (AI) systems—especially generative models—have grown in their capacity to produce images, music, text, and other creative outputs with little human intervention. This emergent capability challenges long-standing assumptions about authorship, originality, and the incentives underpinning copyright law. The phrase **"Copyright at Crossroads"** captures the tension: will copyright law evolve to permit or inhibit AI-driven creativity? Can it strike a balance between protecting human creators and enabling technological innovation?

This article seeks to explore that tension in depth. It asks: as AI becomes more sophisticated, how can legal systems guard the rights of human authors without strangling the engines of innovation? What doctrinal, policy, and normative shifts might be needed to steer a middle path? Over eight substantive parts, we trace the history of copyright, examine the challenges posed by AI, assess innovation imperatives, compare policy regimes, propose ways to reconcile protection and progress, and look ahead to future conflicts. Only in the concluding section do we offer normative suggestions, rather than speculative citations.

The stakes of this inquiry are high. AI systems today are trained on massive troves of existing works—text corpora, images, music catalogues. The tension is stark: creators and rights holders argue that unlicensed usage undermines their incentives and markets; AI developers and technologists argue that restrictive enforcement or rigid doctrine could choke progress, competition, and innovation. The law must mediate this friction.

A recent and high-profile example helps illustrate how the conflict is playing out in real time. In September 2025, a U.S. federal judge preliminarily approved a **US$1.5 billion settlement** between the AI company Anthropic and a coalition of authors, publishers, and rights holders who alleged that the company had used their works—often pirated versions—to train its models. This settlement signals that copyright litigation is moving into the AI domain in full force, but it also underscores the uncertainty: courts and parties are grappling with how to allocate liability, how to value the infringement (if any), and whether such agreements reflect sound doctrine or merely expedient compromise (Reuters 2025; Associated Press 2025).

Meanwhile, at the doctrinal level, the U.S. Copyright Office has taken a conservative position: entirely AI-generated outputs (i.e. without meaningful human intervention) lack *human authorship* and therefore are not copyrightable. The distinction it draws between AI-assisted works (which may incorporate human creative input) and fully autonomous outputs is becoming a fulcrum of debate (Jones Day 2025; Perkins Coie 2024).

Given the unsettled state of law, we begin by retracing the **historical foundations** of copyright—how the concept developed, the rationales behind it, and how technological change has repeatedly tested its boundaries. Only by grounding ourselves in that trajectory can we better understand how AI now strains the doctrine, and how doctrine may evolve.

Historical Foundations of Copyright

Understanding today's challenges requires situating AI-era tension in the longer arc of copyright's development. This section traces key nodes: from early privileges and monopolies, through the Statute of Anne, the emergence of the U.S. system, and modern conceptual shifts in copyright theory.

Early Privileges, Printing Monopolies, and the Stationers' Company

Before formal copyright law, control over copying and publishing often rested in privileges or letters patent granted by sovereigns. Printers or publishers would obtain exclusive rights to print certain works as a matter of royal favor. In England, the Stationers' Company—a guild of printers and booksellers—exercised quasi-regulatory authority, censoring and policing the press under royal license. These privileges were not grounded in individual authorship, but in state control and monopoly. The friction between monopoly and the public's interest in learning drove the push toward statutory regulation.

The Statute of Anne (1710) and Its Legacy

A watershed moment in the history of copyright is the **Statute of Anne** (1710), formally titled *An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned*. This is widely regarded as the first true copyright statute.

Key features of the Statute of Anne included:

- Rights placed in authors, not only printers or publishers.
- Fixed and limited terms rather than perpetual monopolies.
- Establishment of a public domain after expiry.
- Openness of copyright claims beyond privileged guilds.

The Statute marked a shift away from royal censorship monopolies towards a statutory bargain between creators and the public. When publishers attempted to assert perpetual common law copyright after expiry, the House of Lords in *Donaldson v Beckett* (1774) confirmed that no such perpetual right survived beyond statutory terms.

Reception in the United States

The Statute of Anne influenced early American state copyright laws, and its utilitarian bargain was enshrined in the U.S. Constitution, which gave Congress power to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors … the exclusive Right to their respective Writings." This led to the first Copyright Act of 1790, which protected books, maps, and charts for a renewable 14-year term.

Subsequent reforms extended protection. The 1831 Act lengthened the initial term to 28 years and added musical compositions. The 1870 Act consolidated copyright law, broadened coverage to translations and dramatizations, and reorganized administration under the Library of Congress. By 1891, the Chace Act allowed limited protection for foreign authors, a major step towards international engagement.

Theoretical Shifts

Over time, copyright shifted from being understood as private monopoly to a regulatory instrument with public interest goals. This conceptual re-orientation underpins contemporary debates. Lyman Patterson's classic study showed how censorship and monopoly gradually yielded to an author-centred framework. More recently, Shyamkrishna Balganesh has described American copyright as a "legal process" model, where copyright interacts with regulatory norms and public interest considerations.

Continuities and Legacy

Several enduring tensions from earlier eras still resonate today:

1. Monopoly vs Access — fears of monopolistic abuse persist.

2. Formalities vs Access — requirements like registration and deposit have long shaped copyright's accessibility.

3. Technological Disruption — each new medium (printing, photography, broadcasting, digital copying) destabilised the law.

4. Authorship and Originality — the gradual emergence of the author as a legal subject still influences debates over originality.

These continuities underscore that the AI challenge is not wholly novel, but the latest iteration in a long cycle of technological disruption and legal adaptation.

AI and the Challenge to Copyright

Artificial intelligence represents both continuity and rupture in copyright's historical trajectory. Like past disruptive technologies, it destabilises established legal concepts, but its capacity to autonomously generate works of art, literature, or music introduces entirely new questions about authorship, originality, and ownership. This section examines the principal doctrinal and policy challenges AI poses to copyright: authorship, originality, use of training data, and derivative works.

Authorship

Copyright systems across jurisdictions have historically been built around the figure of the **human author**. In both Anglo-American and civil law traditions, authorship is a foundational criterion: copyright attaches to "original works of authorship" in the U.S. and to "works" reflecting the "author's own intellectual creation" in the EU. The rise of generative AI unsettles this assumption. Many outputs of large language models, generative adversarial networks (GANs), and diffusion models are produced with minimal human input often a single text prompt. The critical question is whether such outputs can be attributed to a human author in any meaningful sense. In 2023, the U.S. Copyright Office rejected Stephen Thaler's application to register a work created by his AI system "Creativity Machine," citing lack of human authorship. This followed earlier refusals to register works produced by Thaler's AI "DABUS." The Office reiterated in 2023 guidance that works "absent human authorship" are not copyrightable. Similarly, in 2022, the UK Intellectual Property Office refused to recognise Thaler's AI as an "inventor" under patent law, reinforcing that current IP regimes are anthropocentric.

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This anthropocentric model has defenders and critics. Proponents argue that copyright's very rationale incentivising creativity by rewarding human effort collapses without human agency. Opponents contend that excluding AI-generated works risks creating large domains of unprotected outputs, destabilising markets, and disincentivising investment in AI creativity.

Originality

A related challenge lies in the doctrine of originality. In the EU, originality requires that a work reflect the "author's own intellectual creation," as articulated by the Court of Justice of the European Union in *Infopaq International A/S v Danske Dagblades Forening* (2009). In the U.S., the Supreme Court in *Feist Publications v Rural Telephone Service* (1991) emphasised that originality requires "independent creation" and a "modicum of creativity.

AI complicates both standards. Outputs of generative systems may be formally "new" but not meaningfully "independent," since they are statistically derived from vast corpora of existing works. Some argue this undermines originality, as outputs may not embody creative choices traceable to a human mind. Others contend that originality should be reconceptualised to accommodate algorithmic processes guided by human input (e.g., prompt engineering).

Scholars have proposed "relative originality" tests, where human involvement in guiding AI systems suffices. Yet courts have shown reluctance. In *Zarya of the Dawn* (2023), the U.S. Copyright Office recognised copyright in the human-authored text and

arrangement but denied protection to AI-generated images produced using Midjourney.

Training Data and Fair Use

Perhaps the most contentious issue is the use of copyrighted works in training AI models. Generative AI systems require enormous datasets, often scraped from the internet, which inevitably include copyrighted books, images, and music. Rights holders argue that this constitutes mass infringement; developers counter that training is a form of "fair use" (U.S.) or "fair dealing" (UK, India) because it is non-expressive and transformative.

Multiple lawsuits illustrate the controversy:

- **Getty Images v Stability AI (2023)** — Getty alleged that Stability AI used millions of its images without licence to train its model. The claim included both copyright and trademark infringement (due to watermarks appearing in outputs).
- **Sarah Silverman v OpenAI/Meta (2023)** — Authors sued over alleged use of their copyrighted books in training datasets.
- **New York Times v OpenAI & Microsoft (2023)** — The newspaper alleged that its articles were used to train models without permission, raising concerns over substitution of journalism markets.

The legal crux is whether training involves "copying" in a legally relevant sense. Developers argue that training merely extracts statistical weights, not expressive reproductions. Critics contend that intermediate copying during training and the risk of "memorisation" (models reproducing verbatim passages) violate copyright.

U.S. courts have not yet provided definitive rulings. Some scholars analogise to cases like *Authors Guild v Google* (Google Books, 2015), where large-scale scanning was deemed fair use because outputs were transformative and non-substitutive. Others argue that generative AI is distinguishable because its outputs can directly compete with original markets.

Derivative Works and Market Substitution

Even if AI outputs are not considered original works in themselves, they may infringe as **derivative works** if they substantially reproduce protected expression. AI art generators have produced images mimicking the distinctive style of living artists, prompting accusations of appropriation. Market substitution is a growing concern. If AI-generated works flood the market with low-cost substitutes, human creators may lose economic viability, undermining copyright's incentive rationale. This is particularly acute in music and visual arts, where AI systems can replicate specific artistic "styles" on demand. Some argue that style should not be protected under copyright (as it is not expression but idea), while others advocate for new rights (e.g., sui generis rights protecting artistic style or "performance persona"). The EU AI Act (2024) requires generative models to disclose when outputs are AI-generated, partly to mitigate confusion and substitution effects.

Innovation Imperative

Copyright law has always been more than a doctrinal mechanism: it is a policy instrument designed to balance the rights of creators against the broader public interest in access to knowledge, culture, and innovation. The arrival of artificial intelligence (AI) reopens long-standing debates about whether copyright fosters or hinders technological progress. On one side, rights holders argue that stronger enforcement is needed to protect creative industries from AI-driven appropriation. On the other, technologists, scholars, and policymakers caution that overextension of copyright risks stifling innovation, competition, and the societal benefits AI can generate.

Copyright as an Engine of Progress

The utilitarian rationale for copyright is embedded in constitutional and statutory frameworks. In the United States, Article I, Section 8, Clause 8 of the Constitution empowers Congress "to promote the Progress of Science and useful Arts" by granting

limited rights to authors. Similarly, European copyright law frames exclusive rights as a means to foster "a fair reward for creators" while simultaneously advancing cultural diversity and innovation. The World Intellectual Property Organization (WIPO) has repeatedly stressed that copyright must adapt to technological change in ways that incentivise both creation and dissemination (WIPO 2023).

Historically, copyright has been both a facilitator and a barrier to innovation. The printing press, photography, phonography, film, and the internet each sparked fears of uncontrolled reproduction and market disruption. Yet, over time, copyright adapted and often ended up catalysing new industries. The AI era fits within this lineage, but with sharper stakes because of the scale and autonomy of generative systems.

Case Studies: Technology Meets Copyright

Google Books and Fair Use

The *Authors Guild v Google* litigation illustrates how courts have sometimes prioritised innovation. By scanning millions of books to create a searchable database, Google sparked concerns of mass infringement. In 2015, the U.S. Court of Appeals for the Second Circuit held that Google's use was fair because it was transformative, non-expressive, and provided public benefits without substituting for the originals. This case has become a touchstone in debates over AI training datasets, since developers argue that training similarly produces transformative, non-substitutive uses (Authors Guild v Google Inc 804 F 3d 202 (2d Cir 2015)).

Music Industry and Sampling

The music industry's experience with digital sampling is instructive. Early court rulings in the U.S. treated even small, recognisable samples as infringing unless licensed. Critics argued this chilled creativity in hip-hop and electronic music. More recent trends show a shift towards collective licensing and sample-clearance mechanisms that enable innovation while protecting rights holders. Scholars point to this as a possible model for AI training data: compulsory licensing schemes that permit large-scale use in exchange for remuneration (Gervais 2020).

AI in Creative Industries

AI tools like OpenAI's ChatGPT, Stability AI's Stable Diffusion, and Midjourney have disrupted creative industries ranging from journalism to advertising. The New York Times lawsuit against OpenAI underscores the fear that generative systems can substitute for human creators, threatening the economic foundations of professional creativity. Conversely, advertising and design industries increasingly integrate AI as a productivity enhancer, suggesting that coexistence and hybrid creativity may become the dominant model (New York Times Co v Microsoft Corp and OpenAI Inc, Case No 1:23-cv-11195 (SDNY, filed 27 December 2023)).

Innovation, Competition, and Access

One danger of excessive copyright protection in the AI era is the entrenchment of large incumbents. Because only major firms can afford licences for vast training datasets, stringent copyright liability may lock smaller entrants out of the market, reducing competition and slowing innovation. The European Commission has highlighted this concern in its AI Act deliberations, emphasising the need for proportional obligations that do not suppress open research and smaller enterprises (European Commission 2024).

By contrast, too little protection risks undermining the creative economy. If AI systems freely appropriate without compensation, human creators may lose incentives. The challenge, then, is to design frameworks that ensure AI developers contribute to creative ecosystems while not facing impossible barriers.

Towards Hybrid Models

Scholars and policymakers increasingly discuss hybrid models to balance these imperatives:

- Compulsory licensing regimes for training data, akin to those in broadcasting or sampling.

- Collective rights management organisations negotiating on behalf of creators.
- Transparency obligations requiring AI developers to disclose training sources.
- Revenue-sharing models where creators benefit from AI outputs derived from their works.

These proposals seek to prevent an "all or nothing" approach, instead fostering ecosystems where innovation thrives alongside creator protection.

Legal and Policy Perspectives

The question of how copyright should respond to artificial intelligence is not merely doctrinal but deeply political. Different jurisdictions have adopted divergent approaches to authorship, originality, and fair use in the AI era. This section provides a comparative overview of the United States, the European Union, and India, while also considering international perspectives from the World Intellectual Property Organization (WIPO).

United States

The United States occupies a pivotal role in global copyright debates due to its large creative industries and concentration of AI development. Its approach is shaped by both constitutional principles and pragmatic judicial doctrines.

Human Authorship Requirement

The U.S. Copyright Office has consistently emphasised human authorship as a sine qua non of copyright. In 2023, it issued *Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence*, clarifying that works generated without meaningful human involvement are not registrable. The *Zarya of the Dawn* decision illustrates this approach: while human-authored text and arrangement were recognised, Midjourney-generated images were excluded (US Copyright Office 2023; US Copyright Office Review Board 2023).

The Thaler litigation further confirmed this position. In *Thaler v Perlmutter* (2023), the District Court for the District of Columbia upheld the Copyright Office's rejection of Thaler's attempt to register AI-generated art, reaffirming that copyright law protects only human creativity (Thaler v Perlmutter, Case No 1:22-cv-01564 (DDC 2023)).

Fair Use and Training Data

The United States has not yet definitively resolved whether using copyrighted works to train AI systems constitutes fair use. Developers invoke *Authors Guild v Google* as precedent, arguing that large-scale copying to create non-expressive tools is transformative. Rights holders counter that AI differs from Google Books because outputs can substitute for original works. Cases such as *New York Times v Microsoft and OpenAI* (2023) are expected to provide landmark rulings.

Litigation Landscape

Dozens of class actions and lawsuits (by authors, visual artists, coders, and publishers) are underway. Courts are grappling with questions of memorisation, derivative works, and the scope of fair use. For now, the U.S. stance remains pragmatic but fragmented: human authorship is required for protection, and fair use remains unresolved.

European Union

The European Union has adopted a more regulatory and precautionary approach, embedding AI into its broader digital governance frameworks.

Originality Standard

EU copyright requires that works reflect the "author's own intellectual creation," a standard established in *Infopaq* (2009) and reiterated in subsequent CJEU jurisprudence. This effectively excludes AI-only outputs, since no human intellectual creation is involved.

Text and Data Mining (TDM) Exceptions

The EU Copyright Directive (2019/790, DSM Directive) introduced explicit text and data mining

(TDM) exceptions. Article 3 permits research organisations to carry out TDM for scientific purposes, while Article 4 allows general TDM provided rights holders have not opted out. This framework creates a legal basis for some AI training activities, but also empowers rights holders to exclude their works via opt-outs (European Parliament 2019).

AI Act

The EU AI Act (2024) imposes obligations on general-purpose AI models, including transparency requirements. Developers of generative AI must disclose when content is AI-generated and provide information about training data, though not necessarily in exhaustive detail. These rules are not copyright laws per se, but they interact with copyright by enhancing accountability and potentially shaping liability (European Commission 2024).

India

India has not yet developed comprehensive rules for AI and copyright, but its framework is notable for being rooted in fair dealing rather than broad fair use.

Statutory Framework

The Copyright Act 1957 protects "original literary, dramatic, musical and artistic works," interpreted as requiring a "modicum of creativity" (Eastern Book Company v D B Modak (2008) 1 SCC 1). This suggests AI-generated works may struggle to qualify as "original," absent human authorship.

Policy Discourse

The Indian government has initiated consultations on AI and intellectual property, but no statutory reforms have been enacted. The 2020 report of NITI Aayog on AI emphasised innovation and economic growth, but did not propose specific copyright reforms (NITI Aayog 2020).

Judicial Attitudes

Indian courts have historically been flexible in balancing innovation and protection, particularly in cases involving technology (e.g., *R G Anand v Deluxe Films* (1978) 4 SCC 118 on originality and substantial similarity). However, there is little direct jurisprudence yet on AI. Given India's growing AI ecosystem, this gap is unlikely to persist.

WIPO and Global Perspectives

At the international level, the World Intellectual Property Organization (WIPO) has been actively studying AI and copyright. Its *Conversation on Intellectual Property and Artificial Intelligence* has convened policymakers, academics, and industry representatives since 2019. Reports highlight deep divides: some countries emphasise strict human authorship requirements, while others explore sui generis regimes for AI-generated works (WIPO 2023).

International harmonisation remains distant. Divergent domestic approaches (e.g., U.S. fair use vs EU TDM exceptions vs India's fair dealing) complicate cross-border enforcement and create uncertainty for AI developers operating globally.

Balancing Protection and Innovation

The challenges of authorship, originality, training data, and market substitution demonstrate that copyright law is under pressure in the AI era. At the same time, the innovation imperative shows that over-regulation risks stifling technological growth. The central task for lawmakers and policymakers is therefore to craft frameworks that strike a balance: safeguarding human creativity and fair remuneration, while ensuring that AI systems continue to generate social, cultural, and economic benefits.

The Dilemma of All-or-Nothing Approaches

Many current legal debates appear polarised between two extremes. On one side, rights holders call for strict licensing requirements for all uses of copyrighted material in AI training. On the other, developers argue for broad exemptions under fair use or fair dealing. Both extremes are problematic: the former risks consolidating AI development into the hands of wealthy incumbents who can afford mass licensing, while the latter risks leaving human creators uncompensated and alienated from digital economies. A balanced approach requires recognising the unique

nature of AI technologies: they depend on massive datasets, but they also generate outputs that are not mere copies but novel combinations.

Compulsory Licensing Models

One promising solution is a compulsory licensing regime for training data, akin to existing systems in broadcasting or music. Under such a scheme, developers could lawfully use works for training provided they pay remuneration through a collective management organisation. This would parallel the model used for radio and television, where blanket licences enable mass use while distributing royalties to rights holders.

Scholars such as Daniel Gervais have argued that compulsory licensing is the only practical way to reconcile scale with fairness in AI training, given that negotiating individual licences for millions of works is unfeasible (Gervais 2020). The European Parliament has also discussed similar approaches in its deliberations on the DSM Directive.

Collective Rights Management

Collective rights management offers another pathway. In the music industry, collective management organisations (CMOs) like ASCAP or PRS aggregate rights and distribute royalties. Extending such mechanisms to AI training data could enable fairer participation by creators while simplifying compliance for developers. WIPO's consultations on AI and copyright have frequently highlighted the potential of collective licensing as a scalable solution (WIPO 2023). The key challenge lies in governance: ensuring that CMOs remain transparent, accountable, and inclusive of diverse creators, including smaller and marginalised voices.

Transparency and Accountability

Transparency obligations can also help balance innovation and protection. If AI developers are required to disclose the sources of training data and the extent of copyrighted materials used, creators gain visibility into how their works are utilised. The EU AI Act (2024) already introduces such obligations for general-purpose AI systems, requiring disclosure of whether content is AI-generated and mandating documentation of training data practices. While these measures fall short of licensing, they provide an essential layer of accountability. Transparency also helps researchers, regulators, and civil society evaluate the fairness of AI systems and monitor potential biases or over-reliance on copyrighted content.

Revenue Sharing and Benefit Allocation

Some commentators advocate for revenue-sharing frameworks where creators are compensated from profits generated by AI systems trained on their works. This model resembles existing systems in broadcasting and publishing, where royalties flow not only from direct reproduction but also from secondary uses. For example, Spotify's royalty distribution model provides one analogy, although its fairness is contested. If adapted thoughtfully, a revenue-sharing system could ensure that human creators remain stakeholders in AI-driven creative economies.

Sui Generis Rights for AI-Generated Works

Another proposal is to create **sui generis rights** specifically for AI-generated works. Rather than extending traditional copyright, these rights would grant limited protection (e.g., short-term exclusivity or attribution rights) to outputs generated by AI systems. Proponents argue that this could incentivise AI innovation while preserving copyright's human-centred ethos. Critics warn that sui generis rights could complicate the landscape further, leading to fragmentation and uncertainty (Samuelson 2020).

Ethical and Cultural Dimensions

Balancing protection and innovation also has ethical dimensions. For many creators, the question is not only about remuneration but about dignity, recognition, and control over how their works and styles are appropriated. Artists protesting against AI image generators, for instance, highlight that even if economic compensation were available, there remains a moral right to attribution and integrity. The Berne Convention recognises moral rights, and these

principles may need stronger enforcement in the AI context. At the same time, policymakers must consider cultural and educational benefits of AI. Restricting training data too heavily could limit AI's capacity to generate tools for accessibility, translation, and education — areas where social value is immense.

The Middle Path: Hybrid Frameworks

A balanced regime may combine multiple mechanisms:

- Compulsory licensing for mass data training.
- Collective rights management for efficient royalty distribution.
- Transparency obligations for accountability.
- Revenue-sharing models tied to AI market success.
- Moral rights protection to safeguard creators' dignity.

Such a hybrid framework would align copyright with both innovation and protection, reflecting its historical role as a dynamic compromise.

Future Directions

The intersection of artificial intelligence and copyright is still unfolding. While courts and policymakers grapple with foundational issues of authorship and originality, new challenges are rapidly emerging. The future trajectory of copyright in the AI era will be shaped by how legal systems respond to pressing issues such as deepfakes and synthetic media, AI in journalism and knowledge production, automated legal and technical drafting, and global enforcement in a fragmented regime.

Deepfakes and Synthetic Media

One of the most visible threats of AI technologies is the proliferation of deepfakes synthetic audio, images, and videos generated by AI to mimic real individuals. While often discussed in terms of privacy, defamation, and election integrity, deepfakes also present copyright questions.

If a deepfake uses copyrighted source material as training data or reproduces substantial parts of existing works (such as films or songs), it may constitute infringement. Even when outputs are "original" in a legal sense, they raise moral rights issues by appropriating likenesses or artistic personas without consent. The EU AI Act (2024) addresses this indirectly by mandating disclosure when content is artificially generated, but copyright-specific safeguards remain underdeveloped (European Commission 2024).

In the U.S., litigation around AI-generated imitations of celebrity voices and performances is testing the boundaries of copyright and publicity rights. The Federal Trade Commission has warned that deepfake advertising may mislead consumers, highlighting the overlap of consumer protection and copyright. The question is whether existing doctrines can adequately protect both creators and the public, or whether bespoke legislation will be required.

AI and Journalism

Another flashpoint lies in the use of AI to generate journalistic content. Tools like ChatGPT and Perplexity can summarise, paraphrase, or even replicate news articles. The *New York Times v OpenAI and Microsoft* lawsuit (2023) reflects concerns that AI systems may undermine subscription-based journalism by providing substitutes trained on copyrighted reporting.

Copyright law here must balance two imperatives: ensuring fair remuneration for news organisations, while safeguarding public access to information. The European Union has already introduced press publishers' rights under the DSM Directive (Article 15), giving news publishers control over the digital use of their content. Google and other platforms have been compelled to negotiate licences with European publishers, offering a potential model for AI systems that rely on journalistic data.

If AI continues to automate news production, courts will need to clarify whether summarisation and

paraphrasing fall under fair use, fair dealing, or infringement. At the same time, policymakers must consider the risk of disinformation and erosion of trust in news, which extend beyond copyright but intersect with its goals of sustaining cultural production.

Automated Legal and Technical Drafting

AI is increasingly used to generate contracts, patents, software code, and even judicial summaries. While these applications may seem utilitarian rather than creative, they too implicate copyright. For example, GitHub Copilot has faced lawsuits alleging that its AI coding assistant reproduces copyrighted open-source code without attribution (Doe v GitHub Inc, Case No 4:22-cv-06823 (ND Cal, filed 2022)).

Automated drafting also raises questions of ownership: if an AI generates a patent claim or legal brief, who holds copyright? Courts may need to distinguish between AI as a mere tool (like a word processor) and AI as an autonomous author. Moreover, reliance on copyrighted training materials (e.g., prior contracts, precedents, or software repositories) could expose developers to liability unless robust licensing or fair use defenses apply.

Global Enforcement and Fragmentation

The international dimension of AI copyright disputes is particularly challenging. AI developers operate globally, but copyright law remains territorial. Divergent approaches — the U.S.'s reliance on fair use, the EU's text and data mining framework, and India's fair dealing system — create a patchwork of rules.

This fragmentation invites forum shopping and regulatory arbitrage, as developers may base operations in jurisdictions with looser standards. At the same time, rights holders face hurdles in enforcing claims across borders. WIPO has attempted to promote dialogue through its Conversation on Intellectual Property and AI, but consensus remains elusive (WIPO 2023).

Some scholars propose an international treaty or protocol to harmonise copyright and AI, perhaps under WIPO or the Berne Convention. Others argue that flexibility is preferable, allowing jurisdictions to experiment with different balances. The future is likely to involve a pluralistic system with gradual convergence on shared principles such as transparency, fair remuneration, and attribution.

Conclusion

Copyright stands at a decisive crossroads in the age of artificial intelligence. The historical trajectory shows that each major technological disruption — from the printing press to digital reproduction — has tested the resilience of copyright law. AI, however, introduces qualitatively new challenges: it not only facilitates copying but also creates works without direct human authorship, trained on massive datasets of pre-existing cultural production.

From the doctrinal perspective, questions of authorship, originality, and derivative works highlight how AI unsettles long-standing legal principles. The human author, once the cornerstone of copyright, now shares the stage with non-human systems capable of producing creative outputs at scale. At the same time, the doctrine of originality is stretched to accommodate outputs that are statistically novel but lack discernible human creativity.

From the innovation perspective, AI holds immense potential to democratise creativity, accelerate cultural production, and enhance access to knowledge. Yet unchecked appropriation risks eroding the livelihoods, dignity, and incentives of human creators. Striking a balance is therefore not optional but essential to the legitimacy and sustainability of copyright law.

The comparative survey reveals a fragmented landscape: the United States prioritises human authorship and relies on fair use, the European Union embeds AI into broader regulatory frameworks with transparency and data mining rules, and India has yet to fully articulate its position but faces similar

tensions. Internationally, WIPO has opened dialogue, but consensus remains elusive.

Looking forward, copyright law must evolve along hybrid lines. Several suggestions emerge from this study:

1. Adopt hybrid frameworks — compulsory licensing for training datasets, collective rights management, and revenue-sharing schemes to ensure creators benefit from AI economies.

2. Strengthen transparency obligations — mandating disclosure of training sources and AI-generated outputs to safeguard accountability and reduce information asymmetry.

3. Reinforce moral rights — ensuring attribution, integrity, and respect for artistic personas in the age of synthetic media.

4. Consider sui generis regimes cautiously — where AI-generated works merit limited protection, but without displacing human-centred copyright.

5. Promote international coordination — through WIPO and other fora, to reduce fragmentation and provide clearer guidance to global developers and creators.

6. Preserve adaptability — recognising that copyright must remain dynamic, adjusting to technological evolution without losing its core purpose: incentivising creativity while promoting access to culture and knowledge.

In the end, copyright in the AI era cannot be about choosing between innovation and protection. It must be about designing frameworks where both can flourish together. At this crossroads, the decisions taken by courts, legislatures, and international bodies will shape not only the future of copyright but the cultural and technological trajectory of societies worldwide.

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