

CHATGPT & IPR INFRINGEMENT CHALLENGES

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ABSTRACT

Launched by Open AI in 2022, Chatgpt is an artificial intelligence (AI) chatbot. It uses natural language processing to hold conversations with users that are akin to those between a human and a human. Based on its instant access to a mind-bogglingly wide range of knowledge, the bot will respond with an answer on practically any topic in a matter of seconds. Chatgpt, an Open AI language model, can produce text that resembles human speech in response to commands. Although this technology can completely alter the way humans interact with computers and produce information, it also presents significant legal and ethical concerns around intellectual property rules and how they will be applied to the output of language models like Chatgpt.

Keywords: Chatgpt, Intellectual Property, Infringement, Artificial Intelligence.

I. INTRODUCTION

Artificial intelligence has greatly advanced in recent years. It enabled individuals to use artificial intelligence to perform valuable work for them. The Chatgpt is a recently developed artificial intelligence chatbot that provides conversational outputs in the same way that humans do. It is one of the most current developments in the field of artificial intelligence. As artificial intelligence becomes more and more popular, it becomes more important to protect intellectual property, such as copyright¹. When it comes to their application, copyright laws in India are complicated. The law of copyright grants the creator of the work the sole right of use for creation, reproduction, and distribution. Original creative works, such as literature, music, art, and software, are protected by copyright.

The author must give their consent before someone can utilize their writing without their permission. Originality is a purely arbitrary concept in Indian copyright law. It implies that you must determine whether anything is more than just a straightforward

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¹ The Workings of ChatGpt., " *The Hindu*, <https://www.thehindu.com/sci-tech/technology/the-workings-of-chatgpt-the-latest-natural-language-processing-tool/article> (Last Visited on 10th May)

copy of another work. Even though originality is largely a matter of opinion, it is important to remember that certain standards may be used to judge whether or not anything meets the definition of novelty. The Indian Copyright Act, which was passed in 1957, was subject to interpretation by the Supreme Court in the case of *Eastern Book Company*². The main question was whether the Eastern Book Company's head notes or summaries of court decisions, qualified as "literary works" under the Copyright Act and could, therefore, be protected by the copyright. The Supreme Court determined the head notes unquestionably met the criteria for literary works and were thus covered by copyright. The Court emphasized the need of giving the provisions of the Copyright Act a thorough and flexible interpretation.

II. INTELLECTUAL PROPERTY RELATED ISSUES

For the bot to have a wide breadth of knowledge, during training, developers fed it huge amounts of academia such as articles and blog posts. Authors and artists are now getting more and more worried that their works might be used without their consent or credit in Chatgpt comments. Notably, Getty Photos has brought a lawsuit against another AI platform for copyright infringement, alleging that the AI was trained using millions of Getty photos.

The law is currently catching up to AI due to its rapid development, similar to other technological fields. Copyright liability is one topic that has gained traction. Is the bot responsible for infringing on the intellectual property rights of other authors, or are the software developers who input the data? Similarly, as in other areas of innovation, simulated intelligence's quick advancement has implied that the law is presently playing to get up to speed. One region which has become effective is copyright obligation. Is the actual bot encroaching on other creators' copyright, or is the obligation on the computer programmers to take care of the data in the framework? Another copyright issue connects with whether copyright exists in what Chatgpt produces. Copyright doesn't safeguard thoughts, yet rather the substantial articulation of those thoughts (like in books, fine art, and melodic works) Under the Copyright Act 1968, the infringer is the person who does or authorizes the doing of, the infringement of the owner's copyright.

² Eastern Book Company & Ors vs D.B. Modak & Anr (2008) 1 SCC 1

Although Australian law³ does not explicitly state that authors must be "human" for copyright to be protected, the courts have consistently favored human authorship. This was made clear by the Federal Court's ruling that the lack of human authorship prevented a computer-generated phone book from being covered by copyright. This means that since a computer (and not a human) was the author of the work, any content produced by a company or individual using AI will not be covered by copyright laws.

For copyright reasons, the author in the US must be a person. In the monkey selfie incident, a monkey used a photographer's camera to take a selfie, and the photographer later published a book of pictures that featured the monkey selfie. The US copyright office further indicated that they would only register an original work if the creator is a human, and the court ruled that the monkey could not file a lawsuit for copyright infringement.

In contrast, the UK has a provision that exempts computer-generated works from the requirement for human authorship and designates the programmer or user of the AI as the author. The resulting work might be protected by copyright if a human (rather than an AI) is designated as the author. As next-generation AI chatbots (like Open Ai's Chatgpt) develop, they raise crucial issues regarding intellectual property (IP) law and how it applies to this cutting-edge technology. There are particular concerns about who owns the content that is originated by AI chatbots and it should be controlled and secured.

One critical question is whether AI chatbots qualify as "creators" of original content under copyright laws. These systems will eventually be able to create text, images, and other types of information that are the same as what is produced by humans as they advance. This calls into question who should be regarded as this content's "author" for copyright purposes and whether or not such content is deserving of the same intellectual property protections as works made by people. Copyrighted materials are typically "original works of authorship" that have been fixed in a tangible form and were produced by people. To be covered by copyright law, the work must exist in physical or digital form, such as a book, a painting, or a computer file.⁴

³ChatGpt has Entered the Chat, <https://bespokelaw.com/copyright-has-entered-the-chat-gpt/> (Last Visited 10th May,2023)

⁴ The Copyright Act, 1957 Acts of Parliament, 1957

Whether the content created by AI chatbots would be regarded as original and fixed in a tangible form, and thus qualify for copyright protection in the case of these systems, is unclear. Some may contend that since an AI was only a tool or instrument used by a human author to produce the work, the human author ought to be regarded as the work's creator and owner. Some contend that since AI can create original content without human assistance, it ought to be treated as the work's author and owner.

Whether AI-generated content would be covered by copyright protection under current legislation is unclear. The development of these technologies does indeed raise important issues and problems that need to be addressed to ensure the protection and maintenance of intellectual property rights. The potential for AI chatbots to violate intellectual property is another problem. The likelihood that these systems will produce information that infringes on others' intellectual property rights or is identical to other AI-generated content increases as they are used more frequently. For example, an AI chatbot that produces text or images based on previously unlicensed works might be considered to be infringing.

There are significant intellectual property issues that have been brought up by the development of next-generation AI tools that need to be addressed if we are to ensure that these technologies are used morally and in a way that respects the rights of human creators. Technologists, attorneys, and legislators will need to carefully consider these issues and collaborate to establish appropriate legal frameworks for the use of artificial intelligence (AI) in the creation of creative works.

The two main issues for intellectual property law that Chatgpt presents are authorship and ownership. Because Chatgpt is essentially a machine that generates text based on inputs and algorithms, it can be difficult to determine who or what should be given credit for writing it. If Chatgpt is used to generate writing that is later published or distributed, it is unclear whether the prompt's author or the model's designers themselves should be credited as the author.

Copyright infringement is a concern brought up by Chatgpt. The text that Chatgpt generates may contain elements that are identical to or similar to those found in previously published works because it is trained on a sizable dataset of human-generated content. In this case, the original authors of the work might be able to charge Chatgpt with violating their copyright. Because Chatgpt is not a person and cannot be

held accountable for its actions in the same ways that a person can, it is unclear how the law would apply in this case. Chatgpt raises questions about these problems as well as the place of AI in the creative process. Language models like this one are becoming more complex as they can generate output that is more sophisticated and imaginative.

Thanks to recent advancements, at least those that are available to the general public, AI can now produce meaningful work. AI can produce publishable content on a particular topic or task that can be immediately helpful in place of "googling" a question and receiving results that must be separately analyzed and digested. There is currently discussion regarding how AI-generated works should be handled about the laws and regulations establishing and defending intellectual property rights. However, it is undeniable under the current intellectual property law that only a natural person is qualified to be acknowledged for authorship of works that are protected by copyright and patent protection. This is significant because, unless certain conditions are met, the person who comes up with a patentable invention or creates an original work of literature is frequently recognized as the owner of the applicable IPR of credited work.

III. PLAGIARISM, AUTHORSHIP, AND COPYRIGHT

The attribution of authorship is a significant issue in the age of new information by astute specialists. There may be questions about who is responsible for the model's content. The client most likely holds the copyright to the final product if they give the model input data and it uses that data to generate content.⁵ However, if the model generates content without client input, the information provided is extremely limited, or if the substance is essentially altered by anyone except the client, determining ownership may be more difficult.

In these cases, it isn't necessary always to incorporate the model as a coauthor of the composition, based on the understanding reached by the designer of the model that produces the substance. If you have any questions about the model's share to the formation of the information, you should contact the engineer. A few distributors are thinking about eliminating open-access logical exploration papers to forestall artificial intelligence, like Chatgpt, from getting to the articles, trying to relieve moral worries.

⁵ Brady D. Lund, Ting Wang, Nishith Reddy Mannuru, Bing Nie, Somipam Shimray, Ziang Wang ChatGPT and a New Academic Reality: (9-10-11), (2022)

In any case, if freely supported research and application papers are not accessible to people in general, it might prompt different moral conversations about open-access approaches different distributors have clarified their strategies concerning the use of ChatGPT and comparative huge language models in academic distributions. For example, editors from the famous distribution Science have denied the utilization of any message created by ChatGPT or some other simulated intelligence devices in papers distributed in the diary Reference rehearses in the scholarly community are a fundamental part of academic work, as they fill a few needs. Referring to sources exhibits the essayist's skill in their field, showing that they are known about the current examination on a specific point Stages like ChatGPT, which use reference includes as a consider figuring out which distributions to refer to, may worsen this impact. In this way, it is pivotal that specialists keep on participating in cautious surveys of the writing, in any event, while utilizing devices like ChatGPT to help with the reference cycle. This will assist with guaranteeing the quality and meticulousness of scholarly work and forestall the propagation of imbalances in the field.

IV. CONCLUSION AND SUGGESTIONS

Without a doubt, ChatGPT is one of the most revolutionary AI tools to be created in recent yet. It creates both opportunities and challenges for organizations, societies, and individuals. As previously stated, "something must be an original creation of the human mind to be protected by copyright." This comment responds to a question about Chatgpt, an AI that can generate outputs based on user feedback. If the output produced by Chatgpt contains any quotes, photographs, or specific copyright materials, it is preferable to avoid or edit such elements. This is something that businesses and people should bear in mind when employing AI to produce works and ideas that they want to protect or copyright. Additionally, even if it is not the intended outcome, AI-generated works may nevertheless violate the copyright and patent rights of third parties.

To make our content copyright-free, we should avoid using any third-party copyright materials, which typically make up the majority of copyrighted content. Although you are free to copy the outputs produced by Chatgpt or any other AI, you should be aware of any copyrighted materials that may be present. Instead of simply copying and pasting, use Chatgpt to gather and comprehend information. It is my opinion that

Chatgpt's ability to converse like a colleague is its key strength. It is preferable to employ AI to gather information and reduce obstacles when producing original content. No particular person or organization has asserted that AI-generated content is exempt from copyright protection.

In most places, copyright law has established it as a principle. Anything that wants to be protected under copyright law has to be an original work of the author's imagination. This suggests that some degree of human ingenuity, talent, or work must have been involved. The output of AI systems is not believed to have been produced by the human mind because AI systems lack thoughts, creativity, and consciousness. Infringement on another person's intellectual property, as a result, does not provide protection.⁶

⁶ ChatGpt, <https://www.madhusudangaire.com.np/ChatGPT-OpenAI> (Last Visited 11th May 2023)