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COPYRIGHT - HOW A COMPUTER GENERATED WORK IS PROTECTED

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ABSTRACT

Copyright law is a complex law which has a scope to evolve and expand. But the growth of it is challenged by the advent of AI and its creativity. When a work is produced by a man, the copyright law and it's functioning is simple. But when a creative artwork is produced by an AI the same is put under the dubious eyes of law. This paper seeks to explore the various aspects of copyright law that needs to be made available with the expansion of technology. A detailed analysis is to be done in order to amend the same. We have reached to a point where such expansion of law is the need for the hour. Copyright law in India is still in its growing phase. We need to improve and expand the same. The current laws are incompetent with the ever-evolving technology. The need is to amend such laws to give rise to new possibilities. For this, AI must be given a legal identity separate from its owner or developer.

Keywords - *Copyright law, Technology, Artificial Intelligence, Creative works, Law*

INTRODUCTION

With the ever-evolving expansion of technology, the artistic and creative expressions have touched the new horizons of system made and altered works. In the new world run by artificial intelligence and computer-generated creative works, the copyright issues have taken its new form challenging the prevailing copyright protection laws. If we were to recheck the validity of the existing laws that protect and safeguard the human creativity and capabilities, the same will ignite a wave of confusion among us. This confusion questions the validity of these laws when applied to the computer-generated works.

This article intends to reveal the copyright laws falling short to render the specified protection as the expansion of technology led us to the creative expressions being made through computers.

COMPUTER-GENERATED WORKS

A ‘work’ can be produced either by human beings, through human beings or by systems. The Computer-generated works fall into the third category. Conventionally speaking, a ‘work’ is something that is produced by human beings. The conventional laws disregard a work produced by a natural source or by a non-human intervention. Copyright laws protect computer-generated works to some extent, but with the ever-evolving technology, it is high time for us to amend the copyright laws to protect the computer-generated works.

In a South African case - ***Payer Components South Africa Ltd V. Bovic Gaskins***[1], the court held that the copyright laws are to be amended by the respective governments of various jurisdictions in order to cover maximum protection to the computer-generated works.

INDIA AND COMPUTER-GENERATED WORKS.

Section 14 of the Copyright Act of 1957 defines the term ‘Copyright’. As per this section, copyright is an exclusive right of an owner to do or authorise the doing of any particular acts mentioned in the Section. (such as - to issue copies, perform, publish, etc).

Section 17 of the Copyright Act says that the first owner of the copyright shall be the person who is the author of the work.

Who is an Author? - An Author as per Section 2(d) (vi) of the Copyright Act, 1957 is the person who causes the work to be created in relation to any literary, dramatic, musical or artistic work which is computer-generated. In India, the term person refers to a living person as well as a juristic person in certain cases. As stated above in the Section 2(d) (vi) of the Act, the computer-generated work is to be initiated from a natural person. In India the copyright laws relating to the Computer-Generated Works are in their budding stage. Hence, we cannot find any precedents to that effect which preferably says that computers, machines, systems, etc come under the category of ‘author’ when broadly interpreted.

Spain and Germany have different views on the nature of such an ‘author’ and this term is very much limited to natural persons only.

In ***Naruto et al V. David Slater*** [2] also known as the famous Macaque Selfie Case, the question was whether a monkey can be given the ownership right, as suggested by PETA, where it had taken an accidental selfie. The court held that it is necessary to find the closest human nexus which caused the work and an animal cannot be the author or protect its claim.

ARTIFICIAL INTELLIGENCE - THE WORK OF AI

AI is a field of technology that is growing at a very rapid pace. To have competent laws for the same is to amend the existing laws and mold it into a more dynamic one. During the early days of development of AI; people were fascinated by the technological advancement taking place in front of them. These advancements needed computer programmers to do heavy work who produced the work through these systems. When AI developed further, these systems needed no human interference and computers automatically produced work. In the first scenario where there was human interference, the law made it clear that the human nexus will regard the human as the author. The main issue arises when the computer automatically produces work, in such a case, law wears the blindfold and stands silent. As of now, the owner of an AI can claim copyright when it comes to a work generated by the system.

India still does not recognise AI and give rights to the AI created work. For this, AI must be given a legal identity separate from its owner or developer. The global trends show that, till now there is no official acceptance to give AI the status of non-bionic persons. It was in 2017 that the robot named ‘Sophia’ was given the status of a Citizen in Saudi Arabia. But when the topic of legal rights comes before us, the principle of Common Law has to be taken into consideration. A ‘person’ refers to someone who can sue or get sued. Therefore, the person has to be a legal entity.

In ***Yogendra Nath Naskar V. CIT*** [3], a religious idol was given identity through the agent or representative that law appoints to carry out tasks like litigation, contractual obligations, etc. Thus, an AI which has more capabilities is arguably fit for the recognition as a legal entity.

ANALYSIS –

Computer generated works form an integral part of our current lives. We have witnessed the rapid expansion of technology in the last few decades. The same is to evolve into new dimensions in the coming days. With the advent of human like Artificial Intelligence and Virtual Reality exploration, it is inevitable for us to hold on to the current laws. When it comes to the copyright issue of something that the Artificial Intelligence has created, the same is to be analysed with regards to human creation. The question of ownership is a difficult one. If the AI was to provide the ownership rights, the need for it has a separate legal status is submitted before us.

There are various types of AI systems that functions and have a high scope for its innovative expansion. These AI systems are identified by the World Intellectual Property Organization (WIPO). According to WIPO, there are three main systems, namely

1. **Expert systems -** These systems are used in the medical field for diagnosis and recommending treatments along with providing knowledge as to geological conditions. These systems can also be used in producing creative works and such other works
2. **Perception Systems -** These systems recognise and perceive the sense of sight and it can hear. These are highly used by topologists and experts working on the field of linguistics which involves word context identification.
3. **Natural Language Systems -** These systems are used to recognise and identify the meanings of the words. It requires a dictionary database. Moreover, it provides an insight as to semantic and grammatical analysis to be done.

With these three systems in hand and its scope for expansion, the copyright law seems to lack insight. Law in general considers the work done by an AI as not a creative one, because creativity is identified as a spontaneous act of mind dueled by an artistic expression. The Act of AI is simply a result of following rules in the prescribed manner to project a desired result.

The above-mentioned systems indicate that the AI is something which is to be evolved for the betterment of society. For the same, the legal aspect that is its copyright is either to be neglected or is to be legalized by providing the AI a legal entity status. To proceed with the first scenario is to take a blindfolded action which is to prevent the legal growth of the society. If we were to opt

for the application of the second scenario, it is to take the law in hands for experimentation. The same is time consuming and is to flip the existing laws into upside down. So as a matter of caution before the amendment, all the possible scenarios arising out of the amendment are to be considered.

It is the duty of the legislators to duly draft a legislation considering the dynamic aspects of the ever-evolving technology. For that not only from the field of law, but also experts from the field of IT, robotics and other technology related areas are to be consulted.

CONCLUSION

The current laws are incompetent with the ever-evolving technology. The need is to amend such laws to give rise to new possibilities. But with a growing technology like AI; The issues and hurdles it renders can also not be disregarded while amending the laws. AI is a programmed machine, it uses existing information or contents and develops further, in such a case, the chances are high that the AI recognises something which is already existent and it may harm the copyright of the owner of such existent information or content.

Our copyright laws are inconsistent as of now with regards to the same. The idea is to amend the Copyright Act of 1957 and to fit in AI as a separate legal entity. But making a decision like that will stir up the whole foundation of our legal system. Therefore, an amendment of such nature is not probable in the near future.

Citation

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