Generative AI and Copyright Conundrum

Mains Syllabus: GS III - Awareness in the fields of IT, Space, Computers, robotics, nano-technology, bio-technology and issues relating to intellectual property rights.

Why in the News?

OpenAI sued for copyright infringement by publisher Ziff Davis.

What is copyrights law?

- **Copyright** – It is a legal right granted by the law to creators of literary, dramatic, musical, artistic works and producers of cinematograph films and sound recordings.
- **Objective** - Copyright is aimed at safeguarding the creator's original expressions from unauthorised use, which can include copying, adapting and distributing the copyrighted material without permission.
- **Duration of copyright**- The copyright owner is bestowed with ownership over the work for a limited number of years.

In India, under Copyright Act, 1957 , copyright protection for original literary, dramatic, musical, and artistic works lasts for the author's lifetime plus 60 years from the year following their death.

For other works like cinematograph films, sound recordings, and photographs, copyright lasts for 60 years from the end of the year of first publication.

- **Post ownership period** - Once the ownership period ends, the work enters the public domain, whereby it becomes common for all to use.
- **Exemptions** - The copyright laws in general provides certain exceptions to infringement such as private use and non-commercial use.

Previous encounters of Copyright law with Technologies
• **Photocopying machine** - when it was invented, it was a common fear among the creative community that copying would become rampant and the law-given monopoly would no longer remain meaningful. • **Internet** - When the Internet boom occurred, it was again felt that the creative works were open in the virtual space that enabled people to have access to copyrighted work by bypassing the legal route.

Generative AI
• It is a type of artificial intelligence that focuses on creating new content, like text, images, music, or videos, based on patterns and examples from existing data. • It learns from vast datasets to generate novel outputs, going beyond traditional AI which primarily analyzes and predicts.

What are the copyrights issues with generative AI?

- **Training AI with copyright contents** – Generative AI models are often trained on vast datasets of copyrighted material, including text, images, and music.
- This raises concerns about unauthorized use of copyrighted works and potential infringement.
- **Replacing human author** - The previous technological development(s) only enabled third parties to have access to the copyrighted content, but generative AI models threaten to replace the human author.
- **Loss of creative authenticity** - The rise of AI-generated art, music, and literature raises concerns about the potential for a loss of human creativity and originality.
- **Unfair competition**- AI platforms could create competing products/contents using original material and discourage users from visiting original creators website.
- **Infringement of personality rights** - Using a singer's voice without permission in AI applications raises significant copyright and personality rights issues, potentially leading to legal action.

Personality rights, also known as publicity rights, are an individual's legal control over their identity, including name, image, likeness, voice, and other recognizable attributes.

- While traditional copyright laws may not explicitly cover a singer's voice, their voice is considered a valuable asset, and unauthorized use can violate their right to publicity and privacy.

In Amitabh Bachchan v. Rajat Nagi (2022), legal protection was extended to actor Amitabh Bachchan against the misuse of his personality traits.

What are the challenges in enforcing copyright laws with AI content?

- **Blurred lines** - Generative AI raises complex copyright issues by blurring the lines of authorship and ownership, particularly concerning AI-generated content that is not human-created.
- **Identifying the infringement** - These models are educated on a vast trove of materials available on the Internet.
- It would be difficult to pinpoint the exact occurrence of infringement, as the platform learns the nuances from the existing creation and creates based on prompts given by the user.

- **Defining originality** - Determining whether AI-generated content is sufficiently original and not merely derivative of existing works is a challenge.
- **Determining authorship** - Current copyright laws in most jurisdictions do not explicitly address the ownership of AI-generated content.
- Establishing who is the author of an AI-generated work (e.g., the human prompt, the AI, or the developers) can be complex.

  In the U.S., even a minimal degree of creativity can be sufficient for copyright protection. However, the EU's standard is higher, requiring a more substantial level of human input and creative expression.

- **Large scale and widespread use** - Identifying and addressing potential copyright infringement on a large scale, as AI-generated content becomes more widespread, is a significant challenge.

What lies ahead?

- Copyright laws need to be updated with the evolving AI technology.
- Training datasets for AI can be put under monitoring and regulation for infringement of unauthorized access and use.
- AI developers should ensure that they are in compliance with the law in regards to their acquisition of data being used to train their models.
- The emerging technological changes necessitates the reclassification of data accessibility and their different types of usage.
- These changes can be included in the data laws of the country.
- Generative AI will change the nature of content creation, enabling many to do what, until now, only a few had the skills or advanced technology to accomplish at high speed.
- As this burgeoning technology develops, users must respect the rights of those who have enabled its creation – those very content creators who may be displaced by it.

Reference

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