Generative AI and Copyright Issues

For Prelims: **Artificial intelligence**, **Copyright Infringement**, **ChatGPT**, DU Photocopy Case (Oxford v. Rameshwari Photocopy Services, 2016) case

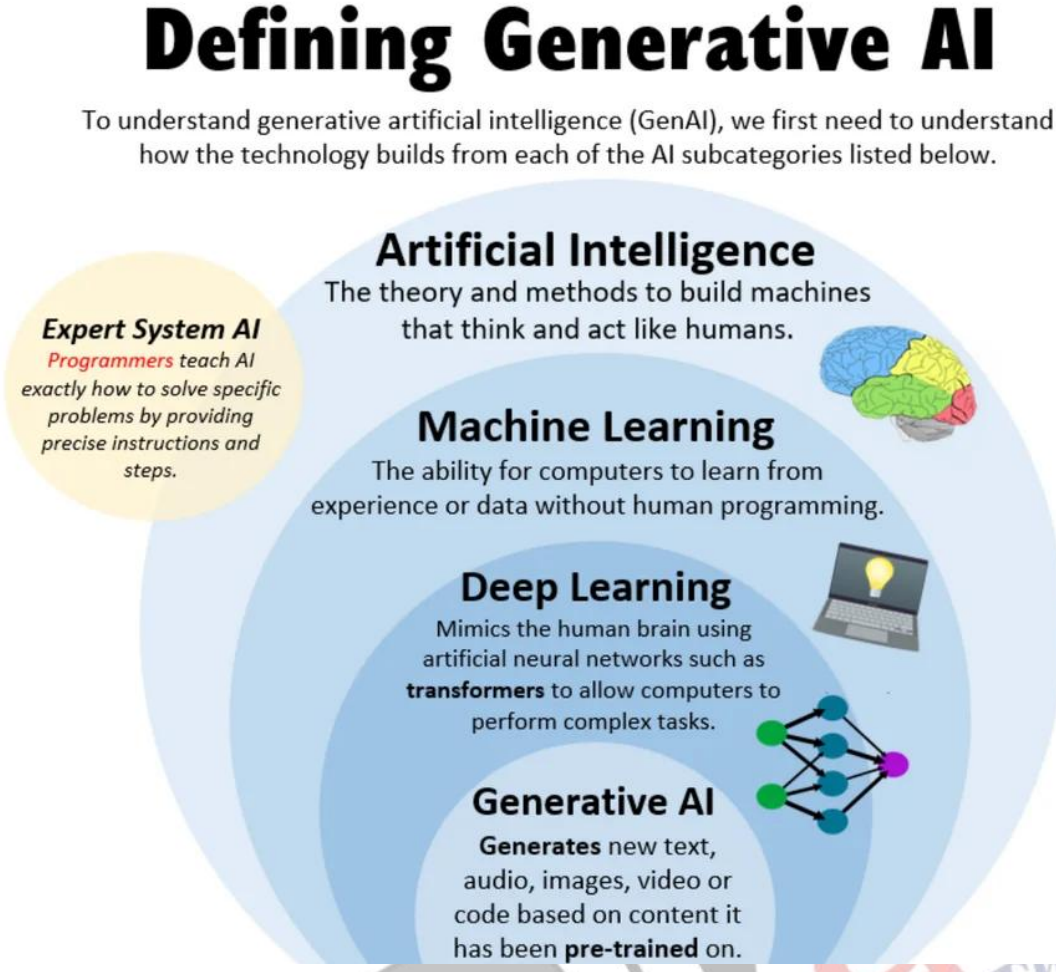
For Mains: Copyright Infringement and Use of AI, Fair Use and Transformative Use in the Context of AI-Generated Works

Source: IE

Why in News?

The rapid growth of **generative artificial intelligence (AI)** like ChatGPT and Gemini has triggered concerns over the **use of copyrighted content**, raising key debates around **intellectual property rights**, **authorship**, **deep fakes**, and **ethical AI governance**.

- These developments challenge conventional legal and ethical frameworks and require urgent attention.



What is Artificial Intelligence (AI)?

- **Artificial Intelligence (AI),** first coined by **John McCarthy** in **1956** broadly refers to the ability **of machines to perform tasks that typically require human intelligence**, such as learning, reasoning, and problem-solving.
- **Generative AI** represents a **major advancement in AI,** enabling machines to **create original content**—such as **text, images, music, code, or videos**—by **learning from large dataset**s like **books, websites, and digital art.**
- **Eg: ChatGPT**, **Gemini**, and **Claude** for natural language generation; **DALL·E** and **Midjourney** for image creation; and **AIVA** and **Amper Music** for music composition.

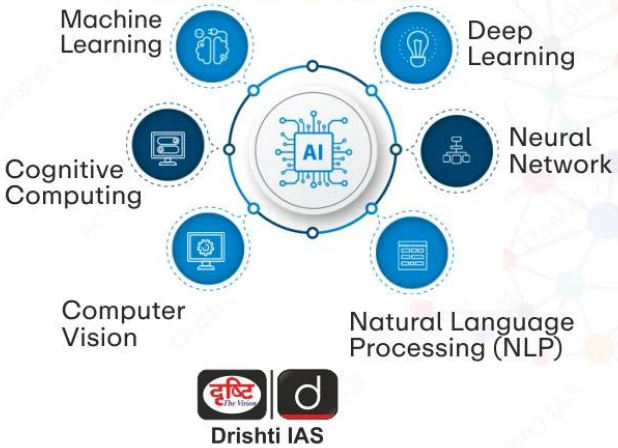
Artificial Intelligence(AI)

AI is the simulation of human intelligence in machines programmed to think and learn like humans, capable of problem-solving, reasoning, and adapting to new information.

AI Timeline - Major Milestones

- **1950s** – Turing Test Proposed; First AI Programs Developed
- **1956** – Dartmouth Conference Coins "Artificial Intelligence"
- **1960s** – Eliza Chatbot Created; Early Neural Networks Emerge
- **1996** – Deep Blue - a Chess-Playing Program
- **2012** – Deep Learning Breakthrough in Image Recognition
- **2014** – Generative Adversarial Networks (GANs) Introduced
- **2020** – GPT-3 Demonstrates Advanced Language Generation
- **2022** – Chatgpt Launches, Bringing Conversational AI to Masses
- **2023** – Generative AI Boom; Major Tech Companies Release AI Models

KEY COMPONENTS OF AI



Drishti IAS

Applications of AI

- **Healthcare:** Personalised medicine
- **Finance:** Algorithmic trading
- **Transportation:** Autonomous vehicles
- **Marketing & Customer Service:** Targeted advertising, chatbots
- **Education:** Adaptive learning systems, personalised tutoring
- **Agriculture:** Crop monitoring
- **Cybersecurity:** Threat detection
- **Energy:** Smart grid management, consumption forecasting

Concerns

- Deepfakes & misinformation
- Algorithmic bias
- Automation & job displacement
- Privacy issues
- Data ownership & liability issue
- Ethical decision-making complexes

Regulating AI

- **Global Partnership on AI (GPAI)** launched in 2020
- **Bletchley Declaration (2023):** Enhance Global Collaboration on AI
- **G20 New Delhi Leaders' Declaration (2023):** Harnessing AI responsibly for good and for all
- **Hiroshima AI Process (2023)** by G7

India and AI

- **National Strategy For AI 2018**
- **AI For All:** Self-learning online program
- **GPAI Summit 2023** hosted by India
- **IndiaAI Mission 2024**
- **US India Artificial Intelligence (USIAI) Initiative:** AI cooperation in critical areas
- **AIRAWAT** (AI Research, Analytics and Knowledge Assimilation Platform): Supercomputer

What are the Key Copyright Challenges Related to AI-generated Content?

- **AI Mimics Copyrighted Material:** AI models require vast datasets, often comprising **copyrighted texts, images, and music**, to train and optimize performance, raising concerns of **unauthorized copying when AI mimics or replicates creative elements** of original works.
    - Although the AI may not directly reproduce works, its **outputs can closely resemble protected content**, leading to potential **copyright infringement**.
- **Fair Use & Transformative Use:** The **doctrine of fair use** allows **limited use of copyrighted material** without permission, especially for **research, education, or commentary**. In the US, it is based on 4 factors: **purpose**, **nature**, **amount used**, and **market impact**.
    - Tech firms claim AI training is **transformative use**, adding new expression, meaning or utility and qualifying as **"non-expressive use"**, i.e., not directly replicating expressive elements.
    - In the Bartz *vs. Anthropic (Claude AI) case*, **a US court upheld fair use for AI training on pirated books** but acknowledged liability for storage.
    - In ***Silverman vs. Meta (LLaMA AI) case*****,** no market harm was found, but the court emphasized the need for **creator compensation frameworks** — highlighting evolving legal standards.
- **AI, Creativity & Legal Liability:** AI is reshaping copyright norms through **AI-generated works** (created solely by machines) and **AI-assisted works** (human-created with AI support).
    - AI-assisted content is owned by humans, but **AI-generated works raise unresolved questions** of **authorship and ownership**.
    - **Legal liability** in copyright infringement cases remains unclear, whether on the **developer, user, or platform**.

What is the Legal Status of AI-Generated Content in India?

- **Legal Status of AI-Generated Content in India:**
    - **Legal Gaps for AI-Generated Content:** Indian law currently does **not recognize non-human authorship**, the **Indian Copyright Act, 1957** attributes authorship solely to **natural persons**, excluding AI and its developers. As a result, **AI-generated works without significant human input are not protected**.
        - Additionally, the **use of copyrighted material for AI training** remains a **legal grey area**, with **no explicit provisions** in place.
        - While **Section 52 permits certain uses for "research,"** its applicability to AI training has **not been tested in Indian courts.**
    - **Protection for AI-Assisted Works:** When a human uses AI as a **creative tool**, the output **may be protected** and in such cases, **authorship lies with the human**, akin to traditional works created using digital tools.
- **Fair Use Provisions under Indian Copyright Law:** Section 52 of the **Copyright Act, 1957** outlines **exceptions** to infringement, including:
    - **Private or personal use**, including research or education
    - **Criticism or review** of any work
    - **Reporting of current events** or public lectures
    - **Reproduction for judicial proceedings**
    - **Transient or incidental storage** during digital transmission or linking
        - These exceptions form the **doctrine of fair dealing**, similar to the **fair use doctrine in the US**.
- **Judicial Interpretation Regarding Use of Copyrighted Material:**
    - **Civic Chandran v. Ammini Amma (1996):** The Kerala High Court held that **parody does not amount to infringement**, establishing a **3-factor test**: **quantity/value of content taken**, **purpose of use** and **likelihood of market competition**
    - **Eastern Book Company v. D.B. Modak (2008):** The Supreme Court (SC) held that **raw SC judgments** are **public domain** and **not copyrightable,** but **editorial additions** (like headnotes, formatting) by publishers are **copyrightable** if they show **originality through skill and judgment**.
        - The Court **rejected the "sweat of the brow" doctrine** and adopted the **"skill and judgment" test**, marking a key judicial interpretation on the originality threshold under Indian copyright law.
    - **India TV v. Yashraj Films (2012):** Delhi High Court, in this case **expanded fair**

dealing to **cinematographic and musical works**, especially after the **Copyright (Amendment) Act, 2012**, which included **exceptions for disabled access and non-commercial public use.**
    - **DU Photocopy Case (Oxford v. Rameshwari Photocopy Services, 2016):** The **Delhi High Court** ruled that **photocopying book excerpts for educational use was fair dealing**, affirming **access to knowledge and public interest** as guiding principles.
- **Comparative & Evolving Frameworks:** Indian courts increasingly rely on **US fair use factors** to interpret **fair dealing** under **Section 52 of the Copyright Act, 1957**, including the **purpose and character of use**, **nature of the copyrighted work**, **amount and substantiality**, **market impact**, and **transformative character**.
    - However, India **lacks a clear definition** of **"substantial portion"**, leaving **judicial discretion** to determine fair use on a **case-by-case basis**.
    - As a **TRIPS-compliant** nation, India seeks to align with **Article 13 of the TRIPS Agreement**, which mandates that **exceptions to copyright** must not **conflict with normal exploitation** of the work or **unreasonably prejudice** the rights holder.
- **Policy Developments**: A **2025 Commerce Ministry panel** is reviewing the **Indian Copyright Act, 1957** to address **digital and AI-related gaps**.

Comparative Global Approaches to AI-Generated Content

- **US:** Copyright is granted only if there's **substantial human creativity** (*Thaler v. Perlmutter, 2023*). Purely AI-generated works are **not protected**.
- **European Union:** The **AI Act 2024** mandates **transparency of training data**. Discussions are ongoing on a ***sui generis right*** for AI outputs, though the 2019 Copyright Directive lacks direct provisions.
- **China: Beijing Internet Court** delivered a **first-of-its-kind judgment** in mainland China, recognizing that a **picture generated using the AI software Stable Diffusion** qualifies as an **artwork protected under copyright law**.
    - The court emphasized the **"originality" and the intellectual contribution of the human creator**, despite the use of AI tools.
- **United Kingdom: Section 9(3**) of the **Copyright, Designs and Patents Act, 1988** allows copyright for **computer-generated works (CGWs)** without a **human author**, assigning authorship to the person making the **"necessary arrangements"**. However, such works lack **moral rights** and the provision remains **rarely applied** due to **legal ambiguities** and limited judicial interpretation.

Note

- In 2021, **South Africa became the first country to grant a patent to a machine-generated work**, recognizing **AI system DABUS** as the inventor of a food container design based on **fractal geometry**.

Way Forward

- **Legal Modernization & Fair Use Assessment:** To address AI-related challenges such as **training data usage and algorithmic reproduction**, the **Indian Copyright Act, 1957** should be **updated** to include **AI-specific provisions**.
    - Additionally, **courts can adopt a structured approach to fair use** assessment by applying the **4-factor test** outlined by the **Kerala High Court in Civic *Chandran v. C. Ammini Amma (1996)***, aligning India's framework more closely with **US fair use standards**.
- **Data Governance & Compliance:** Establish clear **data usage policies** for AI training with **oversight mechanisms**, audit trails, and **mandatory compliance officers** in AI firms to ensure adherence to copyright norms and ethical data handling.

- **Balanced Innovation & Rights Protection:** Develop a **multi-stakeholder regulatory framework** to strike a balance between innovation and copyright protection. This includes enabling **collective licensing models** and ensuring fair compensation for content creators.
- **International Cooperation & Standard Setting:** India should proactively engage in **global forums like WIPO** to shape harmonized copyright rules for AI and contribute to building global ethical and legal standards for generative technologies.

Drishti Mains Question:

Discuss the key legal and ethical challenges posed by generative AI in relation to copyright laws. Suggest suitable regulatory measures.

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Mains

Q. In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. (2014)