



AI-generated Content and Copyright Authorship: Tracing India's Human-Authorship Standard against Generative AI

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Abstract: This article examines the unresolved legal status of AI-assisted copyright authorship in India, centred on the *Suryast* artwork episode. In November 2020, the Indian Copyright Office briefly registered the AI system 'RAGHAV' as a co-author alongside human applicant Ankit Sahni, but subsequently issued an unexplained withdrawal notice. This administrative silence has persisted for over five years, creating a legal vacuum despite India possessing Section 2(d)(vi) of the Copyright Act 1957, a provision specifically designating the author of a computer-generated work as the person who "causes the work to be created". The paper contrasts India's statutory framework with the strict human-authorship standard maintained by the United States and highlights the divergent international administrative treatment of the *Suryast* artwork. Doctrinally, the article analyses how India's 'modicum of creativity' standard applies to generative AI outputs, questioning whether parameter-tuning and prompting constitute sufficient human contribution. It further explores the statutory incompatibility of naming AI as a joint author under Section 2(z) of the Act, which excludes software from the definition of a 'person'. Finally, the article outlines downstream copyright issues, including training-data infringement, ownership mapping, and moral rights that remain paralyzed by the unresolved authorship question. Concluding with a comparative analysis of the United Kingdom and the United States, the author argues that India's supposedly AI-ready statute remains practically unsettled. The article calls for a reasoned administrative order, a judicial test case, or a legislative amendment to clarify the boundaries of computer-generated authorship in the generative AI era.

Keyword: Generative AI; Copyright Authorship; Computer-Generated Works; Indian Copyright Act; Human-Authorship Standard

1. Introduction

In November 2020, the Copyright Office of India briefly did something no copyright office in the world had done before: it registered an artificial intelligence system as a co-author of a copyrighted work. The artwork, titled *Suryast*, was produced when an artist and intellectual property lawyer, Ankit Sahni, fed a photograph he had taken of a sunset into an AI-powered style-transfer application called RAGHAV, which reworked the image in the style of Vincent van Gogh's *The Starry Night*. Sahni's application named himself as author of the underlying photograph and named RAGHAV as an additional author of the resulting two-dimensional artwork. The Copyright Office granted the registration.^{1,2} Sometime later, without ever issuing a reasoned order, the Office reversed course. It sent Sahni a withdrawal notice questioning the legal status of RAGHAV as an author and inviting his attention to Sections 2(d)(iii) and 2(d)(vi) of the Copyright Act 1957.^{3,4} More than five years on, that

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notice remains the last word from the Indian copyright establishment on the question. There has been no further order, no appeal decided, and no test case reaching the High Courts.

This is a curious silence, because India's copyright statute is, on its face, better equipped than most to answer the question the *Suryast* episode raised. Unlike the United States, where copyright protection has always been understood to require a human author, the Indian Copyright Act 1957 contains a specific clause addressing works generated by a computer: Section 2(d)(vi) deems the author of a computer-generated literary, dramatic, musical or artistic work to be "the person who causes the work to be created."⁵ Enacted decades before generative artificial intelligence existed, the provision was almost certainly drafted with something narrower in mind, computer-aided design outputs, spreadsheet-generated charts, and the like, where the causal chain between a human operator and the final expression was short and traceable. Generative AI systems trained on billions of parameters and prompted in natural language stretch that chain to its limit, and arguably past it.

This article argues that the *Suryast* withdrawal notice is analytically more significant for what it declined to decide than for anything it held. Part II sets out the statutory architecture of Section 2(d) and situates it against the human-authorship rule that prevails in the United States. Part III examines the *Suryast* episode itself, together with the divergent outcomes the same artwork produced when registration was sought in the United States and Canada. Part IV turns to originality doctrine, asking how much human contribution Section 2(d)(vi) actually requires once the tool, rather than the operator, supplies most of the expressive content. Part V considers three downstream problems, training-data infringement, ownership, and moral rights that persist even once an authorship answer is reached. Part VI places India's position alongside the United Kingdom's cognate provision and the United States' recently hardened human-authorship rule. Part VII concludes that India's supposedly AI-ready statute is, in practice, no more settled than the AI-hostile one across the Pacific.

2. The Statutory Framework: Section 2(D) and Its Odd Foresight

A. The 'Computer-Generated Work' Clause

Section 2(d) of the Copyright Act 1957 defines "author" differently for each category of work: the author of a literary or dramatic work is the person who creates it, the author of a musical work is the composer, and the author of an artistic work other than a photograph is the artist.⁵ Clause (vi), added by amendment to bring the Act into line with the United Kingdom's Copyright, Designs and Patents Act 1988, addresses works that do not fit this human-centred taxonomy at all: "in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created."⁵ The United Kingdom's own version, Section 9(3) of the CDPA 1988, uses near-identical language, and defines a computer-generated work in Section 178 as one "generated by computer in circumstances such that there is no human author of the work."⁶ India's provision is thus not an accident of drafting but a deliberate, borrowed answer to a problem legislators in both jurisdictions foresaw well before generative AI existed: what happens when a machine, rather than a person, does the expressive work.

B. Divergence from the United States' Human-Authorship Standard

The United States took, and has maintained, the opposite position. Copyright protection under the Copyright Act of 1976 has consistently been read to require a human author, a principle traceable to the Supreme Court's nineteenth-century recognition that a photograph could be copyrighted only because the photographer made a series of creative choices, posing the subject, arranging light, selecting the exposure, that were "original intellectual conceptions of the author."⁷ The United States Copyright Office has applied that principle without exception to AI output, refusing registration for the *Zarya of the Dawn* comic book's AI-generated panels once it learned they had been produced by the Midjourney system, while allowing protection for the human-authored text and the human-directed selection and arrangement of images.⁸ The District Court for the District of Columbia endorsed the same principle in *Thaler v Perlmutter*, rejecting a registration application that named an AI system, the "Creativity Machine," as sole author of a visual artwork; the Court of Appeals for the District of Columbia Circuit affirmed in March 2025, holding that the Copyright Act "requires all eligible work to be authored in the first instance by a human being," and the Supreme Court declined to disturb that holding when it denied certiorari on 2 March 2026.^{9,10} On this reading, Section 2(d)(vi) does not merely fill a gap left open by American law; it rejects the premise on which American law proceeds.

C. The Unresolved Textual Question

What Section 2(d)(vi) does not resolve is how far the phrase "causes the work to be created" travels once the causal chain runs not through a bounded piece of software executing deterministic instructions, but through a foundation model trained on an unknowable quantity of third-party expression and prompted in open-ended natural language. A person who instructs a computer-aided design program to render a building to precise specifications plainly causes the resulting drawing to be created in a meaningful sense: the expressive choices are the operator's and the software merely executes them. A person who types a handful of words into a text-to-image model and receives one of an effectively infinite space of possible outputs occupies a much less certain position. The statute offers no test for distinguishing the two, and, as the next Part shows, the one Indian episode that squarely raised the question was resolved without one.

3. The Suryast Episode As Case Study

A. Facts and Procedural History

Sahni supplied RAGHAV with two inputs: a photograph he had personally taken of a sunset, and a reference image of van Gogh's *The Starry Night*, together with a numerical parameter controlling the strength of the style transfer applied to the first

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image. He maintained that he retained creative control over the extent of stylisation and therefore that the resulting work reflected a blend of his own photographic choices and the AI tool's stylistic transformation.^{4,11} An initial application naming RAGHAV as sole author was refused. A second application, naming Sahni as author of the underlying photograph and RAGHAV as an additional author of the resulting artistic work, was accepted and registered in November 2020.¹² The registration attracted international attention as a rare instance of a national copyright authority naming a non-human system as a co-author of a protected work.

B. What the Withdrawal Notice Establishes and What It Does Not

The subsequent withdrawal notice directed Sahni's attention to Sections 2(d)(iii) and 2(d)(vi), provisions that, respectively, require the author of an artistic work to be the person who creates it and deem the author of a computer-generated work to be the person who causes it to be created.³ Read narrowly, the notice establishes only that the Office considered it improper to name a non-human system as a co-author *alongside* a human applicant, an objection that sounds in the definition of "person" under Section 2(z) of the Act, which contemplates natural and juristic persons but not software, rather than in any reasoned view on originality or on how much AI involvement a work generated with human assistance can tolerate.⁵ What the notice does not do is answer the question the case actually raised: whether Sahni, naming himself as sole author and disclosing RAGHAV merely as the tool used, could have relied on Section 2(d)(vi) to claim authorship of the AI-assisted output in its entirety. Sahni is reported to have contended that the Office lacked jurisdiction to reconsider a registration it had already granted.⁴ No reasoned order resolving that jurisdictional objection, or the underlying substantive question, appears to have followed.

C. Comparative Divergence: The United States and Canada

i. The United States

Sahni pursued parallel applications for *Suryast* in the United States. The Copyright Office refused registration, and the Copyright Review Board affirmed that refusal in December 2023 on the basis that the AI tool, rather than Sahni, had originated the "traditional elements of authorship" in the stylised image.⁴ In May 2026, a company to which Sahni's rights in the work had reportedly been assigned filed suit against the United States Copyright Office in the Central District of California, arguing, notably, not that RAGHAV should be treated as an author, but that Sahni himself should be recognised as the human author of a work made with the assistance of an AI tool, in the same way a photographer is the author of a photograph taken with the assistance of a camera.¹³ That litigation remains pending.

ii. Canada

The Canadian Intellectual Property Office took a third position, registering *Suryast* and naming both Sahni and RAGHAV as co-authors, the same configuration India had briefly permitted and then withdrawn.^{3,14} That registration has itself since been challenged before the Federal Court of Canada by a public-interest technology law clinic, on the ground that the work lacks originality and that an AI system cannot in any event be an author under Canadian law.³ A single artwork has thus produced three different administrative postures within the space of a few years: a granted-then-withdrawn co-authorship in India, a refused sole-authorship claim under active litigation in the United States, and a granted co-authorship now under judicial challenge in Canada. No jurisdiction has yet produced a reasoned final answer.

D. Why India's Non-Decision Matters

India's silence is analytically more consequential than either the American refusal or the Canadian grant, because Section 2(d)(vi) is the one provision among the three jurisdictions' laws that was actually designed to answer this kind of question. A statute drafted for computer-generated works and then left untested by its own drafters' successors, when the paradigm case for its application finally arrives, is worse off than a statute that simply excludes the possibility. The American rule is contestable but at least predictable: applicants know in advance that autonomous AI output will not be registered, and the live dispute in *Allen v Perlmutter* is confined to the narrower, genuinely difficult question of how much iterative prompting and post-processing suffices for human authorship of an AI-assisted, rather than AI-autonomous, work.^{15,16} India's applicants, by contrast, are registering AI-assisted work against a statute that appears to invite exactly the claim Sahni made, without any administrative or judicial guidance on where its limits lie.

4. Doctrinal Analysis: Originality Where The Tool Supplies The Expression

A. The Modicum-of-Creativity Standard

India's threshold for originality sits between the low bar of the old English "skill and labour" doctrine and the higher bar the United States Supreme Court set in *Feist Publications Inc v Rural Telephone Service Co*, which required a "modicum of creativity."¹⁷ The Supreme Court of India adopted the same phrase in *Eastern Book Co v D.B. Modak*, holding that the arrangement, cross-referencing and editorial additions law reporters made to raw judicial text involved enough independent skill and judgment to meet the originality threshold, even though the underlying judgments themselves were not the reporters' own creation.¹⁸ The case is instructive by analogy: it confirms that Indian law is willing to locate originality in a compiler's or editor's judgment exercised *over* pre-existing material, rather than only in the wholesale creation of new expression. The question for AI-assisted work is whether prompt selection, parameter-tuning and curation amount to the same kind of judgment *Modak* rewarded, or whether they are closer to the "sweat of the brow" the same judgment expressly declined to protect.

B. Degrees of Human Contribution

Not all AI-assisted authorship claims are alike, and the *Suryast* facts sit closer to the more defensible end of the spectrum than a bare text prompt would. Sahni supplied the base photograph himself, selected the reference style image, and controlled a parameter governing the intensity of the stylisation; the American litigation over *Allen v Perlmutter* concerns a starker case, an image produced after more than six hundred iterative Midjourney prompts, extensive use of the platform's variation and upscaling tools, and manual post-processing in Photoshop, which the United States Copyright Office's Review Board nonetheless found insufficient because the prompts were "instructions that convey unprotectable ideas" rather than direct authorial expression, and because identical prompts do not reliably produce identical output.^{19,20} Section 2(d)(vi) supplies no analogous vocabulary for distinguishing a photographer-style contribution of the kind Sahni made from the more attenuated contribution of a prompt-writer, and until an Indian tribunal draws that line, applicants have no way of knowing on which side of it their own AI-assisted work falls.

C. The Joint-Authorship Trap

A separate, more basic difficulty may explain the Copyright Office's discomfort better than any originality objection does. Section 2(z) defines "person" to include natural persons and certain juristic entities, but not software.⁵ Naming RAGHAV as a co-author alongside Sahni, as the second *Suryast* application did, therefore asked the Office to recognise joint authorship between a legal person and an entity that is not a person under the Act at all, a category error quite distinct from the question whether Sahni alone, relying on Section 2(d)(vi), could have claimed sole authorship of the whole work. The withdrawal notice's citation to Sections 2(d)(iii) and 2(d)(vi) is consistent with either reading, and its brevity leaves it impossible to tell which objection the Office actually pressed, the impermissibility of naming a machine as co-author, or a broader doubt about whether Sahni's contribution was creative enough to support sole authorship under Section 2(d)(vi) at all.

5. Downstream Problems Authorship Alone Does Not Solve

A. Training-Data Infringement and Section 52

Even a settled answer on output-side authorship leaves input-side liability untouched. Generative models are trained on large volumes of scraped material, much of it copyrighted, and Section 52's fair-dealing exceptions were not drafted with machine-learning training in mind. The provision permits fair dealing with a literary, dramatic, musical or artistic work for limited purposes such as private use, research, criticism and review, and contains a research-oriented exception for the storage of a work in electronic form,⁵ but has no dedicated safe harbour for text-and-data mining or model training comparable to the exceptions some other jurisdictions have adopted. Whether large-scale ingestion of copyrighted text and images for the purpose of training a commercial generative model falls within the existing fair-dealing categories, or requires a purpose-built exception Parliament has not yet enacted, remains untested in Indian courts.

B. Ownership Under Section 17

Section 17 vests copyright in a work's "first owner", ordinarily the author, subject to exceptions for works made in the course of employment or under a contract of service.⁵ That framework assumes an identifiable author exists from whom ownership can then be traced or contracted away. Where the authorship question is left unresolved, as it has been for AI-assisted work since the *Suryast* withdrawal notice, the ownership chain is frozen at its very first link. This has immediate commercial consequences: a business commissioning AI-assisted content, or an AI-tool developer seeking to license outputs to end users by contract, cannot draft an enforceable assignment or licence of rights that may not exist, or that may vest in a person other than the one the contract assumes.

C. Moral Rights Under Section 57

Section 57 preserves an author's special rights, the right to claim authorship and the right to restrain distortion or mutilation prejudicial to honour or reputation, independent of any assignment of economic rights.⁵ These rights presuppose a person capable of holding honour or reputation in the work, a premise that translates awkwardly, if at all, onto a computer-generated work whose Section 2(d)(vi) "author" may have contributed little beyond initiating a process whose expressive output was substantially determined by the tool. A coherent account of AI-assisted authorship in India will eventually need to explain not only who owns such a work, but what, if anything, moral rights protect when the human contribution is confined to selection and initiation rather than expression.

6. Comparative Postscript

A. The United Kingdom

As the direct source of Section 2(d)(vi), the United Kingdom's Section 9(3) is the closest comparator, and it has fared little better in practice. The provision has existed since 1988 without significant appellate interpretation in the generative-AI context, leaving UK guidance, like India's, to rest on Intellectual Property Office commentary rather than reasoned judicial authority. The UK Government's own consultations on AI and copyright, seeking views on whether Section 9(3) should be retained, narrowed or repealed, indicate that even the jurisdiction that authored the model provision remains uncertain whether it is fit for the generative-AI era.

B. The United States After Thaler and Allen

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The United States, having definitively closed the question of autonomous AI authorship when the Supreme Court declined to hear *Thaler*, now faces the harder question India's own facts already raised: how much iterative human involvement in an AI-assisted work suffices for authorship. *Allen v Perlmutter*, pending in the District of Colorado, is expected to supply the first real judicial test of that line.¹⁶ India, despite possessing a statutory provision the United States lacks, has not yet produced even a reasoned administrative decision on the equivalent question, still less a judicial one. The result is an unusual inversion: the jurisdiction with the less accommodating rule is closer to a considered answer than the jurisdiction whose rule was written to provide one.

7. Conclusion

Section 2(d)(vi) of the Copyright Act 1957 was drafted for a world in which “causing” a computer-generated work to be created meant something narrower and more traceable than prompting a foundation model trained on an unknowable quantity of third-party expression. The *Suryast* episode was India's opportunity to say what the provision means in the generative-AI era, and the Copyright Office's unexplained withdrawal notice let that opportunity pass. A clear grant would have been controversial; a clear, reasoned refusal would have been at least as defensible as the American position. What India produced instead, an initial registration, a silent reversal, and five years of nothing further, is worse than either, because it leaves every AI-assisted applicant since 2020 registering, or declining to register, in a legal vacuum.

Resolving that vacuum does not require Parliament to choose between the Indian and American models in the abstract; it requires one of three concrete steps that have so far not been taken: a reasoned order from the Copyright Office on remand explaining precisely what combination of Sections 2(d)(iii), 2(d)(vi) and 2(z) it applied to the *Suryast* facts; a test case reaching the Delhi High Court squarely presenting the sole-authorship question the withdrawal notice avoided; or a legislative amendment to Section 2(d)(vi) that speaks directly to prompted, rather than merely operated, computer generation. Until one of these occurs, India's supposedly AI-ready statute remains, in practice, no more settled than the AI-hostile one it was never quite tested against.

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