



AI-Generated music and copyright: Exploring the intersection of creativity and ownership

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Abstract

As artificial intelligence contributes to compose, produce, and distribute music autonomously, it disrupts traditional notions of authorship and creativity.

It explores how existing copyright frame work may need to adapt to accommodate this technological shift, ensuring both protection for innovators and access to creativity works. As Artificial Intelligence keeps making music, we need to figure out who is the real owner of the work. We need to make sure artists are rewarded but we also want to encourage AI innovations. It is a balancing act we need to get right as AI Generated music becomes more and more popular.

This abstract sets the stage for in depth exploration of the complex issues dealing with transformative fusion of technology and artistry. AI in music industry is a question of great concern because AI is currently yielding unexpected results in fields that are completely dependent on human innovation. These changes necessitate a careful examination of what is happening and evaluation of how it is altering and has the potential to influence our connection with music both positively and negatively. Who Owns the Ai generated Music is a question of great concern. In this paper we will look at the concept of creativity and ownership in AI Generated Music.

Keywords: Creativity, technological shift, fusion, balance, influence

Introduction

Artificial Intelligence is a multidisciplinary field of science which trains computers to think same as human being. It involves creating machines with intelligence that are able to process information, reason, and make conclusions. These robotic creatures will additionally be able to play games, detect faces, and interpret speech, among various other tasks. AI is used in many different applications, ranging from self-driving cars to voice assistants like Alexa and Siri to medical diagnostics. While it has the potential to simplify and improve the efficiency of our lives, it also raises significant moral and responsible usage concerns.

Artificial intelligence is also widely used in music industry. it is enormously use to generate algorithms which are use to create music. With the advancement of science and technology a person with minimal or no even with no knowledge can create music with the help of artificial intelligence infringing the rights of true owners.

Current intellectual property laws are not capable enough to deal with the issues of ownership of intangible assets created by artificial intelligence. Ownership issues under intellectual property mainly deals with issues related to data ownership, data privacy, ethical consideration, algorithm ownership. The ownership related issues of music is a complex and wide topic. who owns the final created music becomes a major problem. Although artificial intelligence creates music by its own it is difficult to signify that who is the real owner the organisation utilizing it or the programmer.

What are intangible assets

Intangible assets are the assets which we can buy sell own but can't touch. These are the intellectual property right such as trademark, patent, copyright etc. An asset that lacks tangible characteristics is called an intangible asset.

Intangible assets cannot be kept or controlled since they lack a physical form. Intangible assets that are frequently utilised include intellectual property, goodwill, and brands. Because these assets have no established structure or form, businesses can value them in a variety of ways, which can be tricky. They are not the same as tangible assets, which can be held and have physical forms.

Since the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (ICH) was established by UNESCO, music has been an integral part of humanity's Intangible Cultural Heritage (ICH). More generally, "intangible heritage" appears to have taken the stage in procedures of international musical practise recognition and heritability outside of the United Nations ^[3].

Ownership issues of music created by artificial intelligence

AI-generated work may be categorised into two categories. First, the work produced by AI is derived from input. In this instance, the programmer or human providing the command and using their creative and innovative thoughts that generate an output; for this reason, the authorship and ownership may be attributed to the human providing the AI with novel input. Second, when AI generates a work without human input, the developer of the programme that created the AI—that is, the person who possesses copyright over the AI software will receive both authorship and ownership of the work. Despite from ownership issues there are many more issues which arise because of the lack of legislation for the concerned issue such as fair use, and the boundaries of creativity come into play when AI-generated music is assessed for its similarity to existing human-created works.

"Who possesses the outcomes of generative A.I.?"

Currently, only human-created work is eligible for copyright protection. However, what about content that is partially

reliant on generative A.I.? Some developers of these tools have indicated they won't claim copyright over materials produced by their AI systems. In February, the Copyright Office declined to grant copyright for A.I.-generated images in a graphic novel, even though the author contended that she had engaged in a 'creative iterative process' involving 'composition, selection, arrangement, cropping, and editing for each image.' The government equated using the A.I. tool to hiring an artist. Nevertheless, as the prevalence of such tools increases, the demarcation lines may become less clear. Just as the tools themselves are a work in progress, intellectual property issues are set to grow more intricate." — Ephrat Livni ^[4]

Identifying the lawful owner of AI-generated music is a challenging task. Unlike conventional music production, in which human composers and performers have unambiguous ownership, AI-generated music poses difficulties. Ownership of AI-generated music may involve a number of stakeholders, including the AI developers who developed the systems, the users who input data and commands, and maybe the collaborating human artists. Copyright regulations, licensing agreements, and contractual agreements all play significant roles in determining ownership. The music business, legal experts, and legislators are dealing with the need to alter intellectual property legislation to reflect this developing frontier as AI's involvement in music composition. Clarity in ownership of AI-generated music is required to guarantee composers are appropriately recognised and rewarded, as well as to protect the rights of original human beings.

In the case of *Rogers v. Koons*, the court's opinion appears to underscore the significance of evaluating the potential market impact as a critical element within the fair use analysis. This entails an assessment of whether a copyrighted work interferes with the copyright owner's capacity to derive income or disrupts the development of a new or potential market for the work. Engaging in actions that diminish the rightful income of a copyright owner is likely to be deemed an effect of copyright infringement and generally falls outside the purview of fair use exceptions. Nevertheless, a persuasive argument in support of this notion is the exercise of the right to publicity by any musical artist. In contrast to the United States, this has the Lanham Act of 1946 and state laws addressing publicity rights, India lacks a separate statute governing these rights. In India, the deprivation of an individual's right to publicity is regarded as an outcome of the Right to Privacy, thereby impinging on Articles 19 ^[5] and Article 21 ^[6] of the Constitution.

The Delhi High Court in India has established that an individual's voice associated with a musical work can bestow the right of publicity upon the author. Sections 38 and 57 of the Copyright Act consider the utilization of a famous person's identity for advertising without their consent. The concern lies not in disallowing commercial gains from such utilization, but rather in ensuring that the famous individual retains the authority to control the circumstances surrounding the use of their identity. This violation of the right to publicity is encapsulated within these sections. Consequently, the artist would ideally need to initiate legal proceedings, asserting that the (in this case, AI-generated) work has damaged their reputation and goodwill through the unauthorized use of their name, as determined by the Madras High Court in the case of *Mr. Shivaji Rao Gaikwad v. M/S. Varsha Productions* ^[7].

Alfred Bell & Co. v. Catalda Fine Arts, Inc.

This verdict marked a shift towards a more lenient stance on copyright by the judiciary. The court relaxed the standards for originality, determining that a work need not be copied from a similar artistic piece to qualify as original. Additionally, it ruled that authors could assert unintentional or incidental variations as their own. This judgment brought relief to individuals claiming copyright over works produced by AI, even in cases where certain programming and algorithms did not precisely replicate the content. These three rulings, to some extent, addressed the ambiguity surrounding the protection afforded to AI systems. However, the lack of a conclusive stance continues to impact potential right holders ^[8].

Legislative framework in India

The Copyright Act of 1957 safeguards any literary or artistic work that is original and creative which is not copied and which can't be found elsewhere. The act does not provide any protection for the work created by the artificial intelligence without human intervention. It only provides protection to human creativity.

According to Section 13 ^[9] of the said act, originality is an essential element that may be determined by originality tests in order to assert ownership over work (musical, literary or theatrical) generated by Artificial intelligence. AI is capable of exploring data or information that is available under someone else's copyright or in the public domain, but only to the extent that the software programmer allows. As a result, AI could not be capable of producing unique content.

As per Section 17 ^[10] of the aforementioned act, transferring ownership rights to another party through an agreement becomes a challenging task, as the AI lacks the capability to consent to its developer becoming the rightful owner of the work. Therefore, should ownership be attributed to the AI, effecting such a transfer would present significant difficulties.

Section 57 ^[11] of the copyright act 1957 states that an author has moral rights, which include the right to be identified as the author and the right to maintain the integrity of the work. As a result, it is extremely improbable that AI will be able to determine how any action may have impacted the owner's work. Since moral rights are strongly linked to human feelings related to the job, using AI to enforce these rights might not be appropriate. Considering the development of AI technology, attributing credit to work generated by AI is not implausible. Sophia, an AI humanoid robot, was awarded citizenship in Saudi Arabia in 2017. Their pledge to upholding intellectual property rights and protection is also implied by this judgment.

According to forecasts, "advanced robots will have the right to marry, own property, and participate in regular elections by 2045." We should expect big things. To change in this area soon. Since the aforementioned laws were passed. In 1957, artificial intelligence has grown significantly in popularity. But it's also important to have a well-thought-out strategy for this new area.

AI generated copyright in India

Copyright is the legal entitlement granted to the holder of intellectual property. Put more plainly, it signifies the authority to duplicate. Consequently, the initial creators of content and those they grant permission to are the sole individuals with the exclusive privilege to replicate the material.

Sections 14(a)(i) through 14(a)(vii)^[12] of the Copyright Act of 1957 delineate the rights granted to the Author/Originator concerning Dramatic, Literary, and Musical works.

- Duplicate the work
- Showcase the work to the public
- Stage public performances of the work
- Make the work publicly available
- Incorporate the work into a cinematographic production
- Render translations of the work in various languages^[13]

In the case *Wiley Eastern Ltd. & Ors. v. Indian Institute of Management*, [1995 PTC (15) (Del) (DB)] "The principal aim of Section 52 is to preserve the freedom of speech as guaranteed by Article 19(1) of the Indian Constitution, guaranteeing the protection of endeavours like research, individual study, critique, assessment, or reporting on current affairs. The court also stressed that Parliament intended Section 52 to have a wider function in preserving the previously specified liberties, not just to identify what constituted violation."^[14]

Doctrine of fair use

As computing technology advances, the ability to differentiate between human-produced and machine-generated works is becoming progressively more difficult. Consequently, it falls upon us to decide the level of protection we should grant to creations generated by AI, even in cases where human involvement is minimal or absent.

The determination of Fair Use involves consideration of four factors:

1. The intent and nature of the usage.
2. The inherent characteristics of the copyrighted work.
3. The scope and importance of the portion utilized in relation to the entire copyrighted work.
4. The influence of the usage on the potential market or value of the copyrighted work.

In India, the concept of fair dealing is addressed in Section 52^[15] of the Indian Copyright Act, 1957, which draws extensively from the UK Copyright law. Notably, the Act does not explicitly define the defense of fair dealing. Section 52 comprehensively encompasses the provision of fair dealing, stating that the reasonable use of a literary, dramatic, musical, or artistic work for the purposes of research, private study, criticism, or review—whether of that specific work or any other—and reporting current events does not constitute a copyright infringement.

The Copyright Amendment Act of 2012 has expanded the scope of works eligible for private and personal use by introducing the phrase 'any work.' This amendment broadens the fair use provision to include cinematograph films and musical works^[16].

The future of ai in music

Artificial intelligence will lead to great concern in the future. it will continue to affect the music industry as well as it would be a great challenge to the existing legal frameworks. use of artificial intelligence would become a prominent part for the music composers.

While AI is advancing and offering valuable support to artists in honing their skills, it introduces potential challenges to the music industry. Eventually, industry experts will need to grapple with AI-related issues. Notably,

there have been instances of songs featuring renowned artists, such as the track "Heart on My Sleeve" by Drake and The Weekend, where it appears as though these artists performed the song. However, what may come as a surprise is that neither of these artists physically entered a recording studio to lay down their vocals. Instead, their voices were replicated using artificial intelligence and incorporated into an original composition. This presents a predicament for both the artists and their record labels. Given that neither Drake nor The Weekend consented to the use of their voices in this manner, it raises concerns of potential copyright infringement^[17].

It is important to insure that music created by artificial intelligence does not infringe the copyright of the real owner. This also gives rise to legal as well as ethical concern. Many regulatory frameworks primarily focus on non-musical applications such as healthcare, facial recognition, surveillance, or autonomous vehicles. Nevertheless, some noteworthy instances demonstrate the ethical integration of AI into the realm of music. Certain AI music companies have taken steps to develop their tools using proprietary training datasets obtained with proper permissions or appropriate compensation. For instance, Sound Cloud's Musiio app effectively harnessed Rolls Royce's publicly available Aletheia Framework. The endeavors of Holly Herndon and Mat Dryhurst provide valuable examples of ethical AI-generated music. Their Spawning API introduces a "consent layer" to facilitate AI projects that adhere to ethical data usage, while their "Have I Been Trained?" tool empowers artists to choose whether their work is used in training datasets. Herndon's Holly+ project stands out as a remarkable experiment in open music creation, using her voice as the primary tool. The duo also actively engage in public discussions about the implications of technology and the future for creative professionals^[18].

Conclusion

In summary, the incorporation of Artificial Intelligence (AI) into the music industry has ushered in a myriad of both favorable and unfavorable consequences. On one side Artificial intelligence has instigated a transformation in the creation, consumption, and discovery of music. It has provided artists with new realms of creative exploration, equipped music producers with advanced tools, and elevated the overall music listening experience for aficionados.

Nevertheless, in conjunction with these constructive aspects, there are also adverse implications that warrant attention. One major apprehension pertains to the potential erosion of human creativity and authenticity. While AI-generated music can be impressive, it lacks the profound emotional depth and personal experiences that human musicians infuse into their compositions. The risk of standardization and an overabundance of indistinguishable AI-generated tracks could result in a decline in the distinctiveness and variety of musical expression.

The advancements in computing are reaching a point where distinguishing between works created by humans and those generated by machines will become increasingly challenging. Hence, it becomes our responsibility to determine the extent of protection we should afford to AI-generated works, even when they involve minimal or no human intervention

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