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Reconceptualizing Idea-Expression Dichotomy through the Personality Theory: A Perspective on Generative AI and Ghibli Art

Debdeep Das[1†] and Mohar Mitra[2]
[1]W. B. National University of Juridical Sciences, Kolkata – 700 106, India
[2]St. Xavier's University, Kolkata – 700 160, India

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Art is a reflection of the artist's mind, the repeated expression of which leads to the acquisition of a distinctive style so intrinsically linked to the artist that a mere glance can indicate the infusion of the artist's personality.Although this link is present in all artistic works, it is magnified for artists who have profoundly impacted or influenced the field through recurrent expressions. Such artistic mastery is showcased by Studio Ghibli, who are known for using hand-drawn art to create immersive animations, resulting in the acquisition of immense fame, whilst inspiring future artists. However, recently, there have been several controversies around the creation of AI-generated artwork based on the Studio's work. When viewed through the lens of copyright law, Studio Ghibli's style does not qualify for protection due to the idea-expression dichotomy. From the perspective of moral rights jurisprudence, the artist is not afforded any stylistic rights since it is restricted to the right to attribution and integrity in the expression of the art. However, due to the AI-artwork's intrinsic stylistic resemblance with Studio Ghibli's expressions, the observers unmistakably draw a connection between the AI-generated art and the Studio. This article ventures into the reconceptualization of the idea-expression dichotomy by doctrinally testing it against character delineation and the personality theory, deploying exploratory, analytical and comparative approaches to reimagine the protection of styles under the copyright law. It detects the roadblocks in the Indian copyright regime, suggests a contemporary standard for stylistic delineation through reinterpretation and enhancement of the originality standard with AI-generated works as the focal consideration.

Keywords: Studio Ghibli, Style, Idea-Expression Dichotomy, Generative AI Art, Character Delineation

Art is a silent language through which humanity speaks across time and culture. It serves as a mirror to the realities of society, a capsule that preserves the memory of the artists and their view of the world, and a communicative tool transcending written or spoken languages, capable of emotive expression, which grants aesthetes and other viewers the luxury of individualized as well as universalized interpretations. From the perspective of the artists, their creation is a reflection of themselves, irrespective of the subject matter, as there is an intrinsic and inseparable linkage between the art, the lived experiences of the artists, and the environment inspiring the art, be it people, events, places, fantasies, or even previously existing art. Though imitation is often regarded as the greatest compliment to an artist or the best form of flattery, it often has legal implications, which have been further pronounced with the emergence of intellectual property laws, especially copyright law.

The intellectual property rights regime bases its premise on the pillars of the Labour Theory, the Utilitarian Theory, and the Personhood Theory. The Labour Theory or the Natural Rights theory finds its roots in the Lockean philosophy, which postulates the creation of a natural right in favour of the individual over his creations and the fruits of his creation and effort.[1] It can often be characterized as the conversion of property that is *res extra commercium*, property not privately owned, to *res in re propria*, property that is privately owned and is squarely applicable to corporeal and incorporeal property alike.[2] John Stuart Mill's Net Harm Principle[3] serves as a bridge between the Lockean Philosophy and the Utilitarian Model. As interpreted by Nozick[4], the *net harm principle* acts as a proviso or virtual safety net to the Labour Theory, preventing the depletion of the common pool during the conversion process, due to the potential of detriment to society at large. The linkage created by Mill leads to the Utilitarian Theory by Jeremy Bentham, which provides a different perspective

†Corresponding author: Email: debdeepdaschess@gmail.com

towards intellectual property. It taps into the welfare nature of intellectual property, stemming from its industrial and cultural relevance. It takes into consideration the greatest good of the greatest numbers, thereby incentivizing the creators for their contribution to society, alongside placing a duty on society to respect both the creators and their work.[5] The Personhood theory, developed by a conjunctive reading of the works of Immanuel Kant[6] and Georg Wilhelm Friedrich Hegel,[7] creates a linkage between the creator, his personality, and material things or his creations. It's argued that personality is deeply embedded in property rights, due to the previously mentioned influences of the environment on the art and the personality expression of the creator on his creation. The culmination of the discussed theories can be felt through different aspects of the Copyright Act, 1957. The Lockean and Utilitarian concepts can be viewed as the basis for the creation of exclusive rights, along with the exception of necessary provisions.[8] The Hegelian and Kantian concepts can be viewed as the basis for the creation of special rights of authors or the moral rights of authors.[9] However, unlike the exclusive rights granted to authors, there is no specific duration of protection that has been prescribed by the statute for the special rights of the author. Upon purposive perusal of the provision and associated cases,[10] it is clear that, unlike exclusive rights, the special rights are based on how relevant the artist and the artare when pressed against the contemporary time and need.[11] A similar picture can be sketched with the example of Studio Ghibli. The legendary Japanese animation studio known for its unique hand-drawn animations, emotional storytelling, and intricate world-buildingwas founded in 1985 by Hayao Miyazaki, Isao Takahata, and Toshio Suzuki. Their art style is characterized by soft color palettes, detailed backgrounds, expressive and deeply humanized character designs, realism, and fluid hand-drawn animations. After its establishment, multiple releases like *Tenkū no shiro Rapyuta* (Castle in the Sky), *Tonari no Totoro* (My Neighbor Totoro), *Majo no takkyūbin* (Kiki's Delivery Service), and *Kurenai no buta* (Porco Rosso) earned the Studio its deserved recognition. Though Miyazaki strongly believed that their work should not be released in the West, in 1996, the Studio partnered with Walt Disney Studios and made their work available to countries beyond Japan, including in Europe and America. However, a simple yet powerful caveat was added: that no film editing was to take place on their work, indicating their dissent towards making any alterations or modifications.[12]

Skipping two decades, discourse on the capabilities of alternative consciousness rivalling and replicating human intellect started to gain traction. The birth of artificial intelligence can be traced back to ancient mythological literature. However, reliable documentation relating to its development can be traced back to the 1940s. Nevertheless, its potential was explored and built upon dedicatedly inthe late 2010s. This era of technological advancement in artificial intelligence was characterized by a distinct departure from traditional AI, also known as Narrow AI, which focused on performing a specific task intelligently. This era saw the emergence of Generative AI, which, unlike Traditional AI, did not solely focus on responding to a particular set of inputs and rules but could now create something new from the data it had been fed. Departing from decision-making and predictive models, Generative AI was now getting closer to human behaviour. It's a leap from playing chess with a fixed set of rules to now creating a game resembling chess but with new rules and a different board layout.[13] Nonetheless, Generative AI came with its own set of drawbacks, and image generation was one of them, due to the production of subpar images and unreliable results, which have little to no value. However, in March 2025, OpenAIcame up with the GPT-4o image generation tool that was not only more advanced, but it produced photorealistic images based on the user's prompt. Nevertheless, this came with its own set of legal and ethical concerns. This was unintentionally highlighted by Sam Altman, CEO of OpenAI, who prompted a 'Group Selfie' in 'an anime frame'.[14] The results started a snowball effect, whereafter one, Grant Slatton, prompted the AI to convert a family photo into 'Ghibli Anime' and posted the same on the social media platform, X, previously known as Twitter.[15] This sent the internet into a frenzy with a huge rise in popularity for prompting the AI to generate Ghibli-style art. Upon learning about the same, Miyazaki heavily criticized the creation of art with the use of AI, and more specifically, the mimicking and replication of art reminiscent of works produced by Studio Ghibli. However, such criticism

falls short of protection under the black-letter interpretation of the Copyright Act, 1957. Thus, this research attempts to answer the following questions. First, whether artistic style can be protected under Copyright law. Second, whether the personality theory justifies the protection of style. Third, whether character delineation tests can be applied to style. Fourth, assuming the AI builds on the works of Studio Ghibli, whether an elevated originality standard is necessary for AI-generated artworks. Fourth, whether the special rights of authors under Section 57 and the concept of moral rights are adequate to address infringement of stylistic elements. The paper deploys a purely doctrinal methodology, relying on exploratory, analytical and comparative approaches. The exploratory approach has been purposely selected to address the emerging interface between AI-generated artworks, copyright law and moral rights vis-à-vis special rights of authors. The analytical approach guides the examination of legal and technological landscapes, while the comparative approach allows the identification of practices and originality standards in Commonwealth jurisdictions, having a legal texture similar to India. The forthcoming chapters focus on examining styles in the backdrop of the copyright law of India, the reconceptualization and reinterpretation of the idea-expression dichotomy to explore possible protection mechanisms for styles, and the linkage between the artist and style developed owing to consistent publication.

Revisiting the Idea-Expression Dichotomy inthe Backdrop of Style

In order to fully appreciate the issue at hand, a deeper understanding of the creative process behind the artistic work and the idea-expression dichotomy is imperative.

The Creative Process behind Artistic Work

With all due respect to artists around the world, and across time, the Biblical phrase from the *Book of Ecclesiastes,* "*What has been will be again, what has been done will be done again; there is nothing new under the sun"*, has a connotation that goes deeper than its literal meaning. Gathering inspiration is the epoch of the creative process, which more often than not does not originate out of a vacuum; rather, it taps into the experiences and environment of the artist. This is followed by the preparatory stage, which enables the artist to give direction to the art, forming the foundation. Followed by a stage of incubation, when the gathered inspiration and the preparatory materials are aligned and transformed in the artist's mind to come up with a definite idea, serving as a subconscious blueprint of the art. The subsequent stage is the actualization of the art. This ranges from rough sketches to the final artwork. Upon completion, there is a sub-stage of refinement, which is generally but not necessarily followed by the stage of publication or public display.

The Process of Image Generation by Artificial Intelligence

The machine counterparts of artists have a very similar trajectory while generating images, which is now often regarded as AI Artwork. Generative AI works on massive datasets of images with associated descriptions. This training data enables the AI to go through all possible variables that would be necessary for creating the piece. This serves as the environment or experience and memory of the AI.The AI algorithms identify patterns, styles, and relationships between the images and the text, which becomes imperative in the diffusion stages, i.e., introduction of noise or layers into the images. The prompt by the user acts as the trigger point, which can be in varied formats ranging from text to images or a combination of both. Based on the prompt, the image is generated that takes the training data and pattern recognition into consideration, which is followed by several steps of diffusion. Finally, the output might or might not be to the liking of the deployer, who may then choose to refine the image to their desire.

The following Table 1 draws a parallel between the creative process of traditional art and AI art.

Juxtaposing the Creative Process with Tenets of Copyright Law

Although the creative process of artistic works varies vastly based on the artist, the legal considerations are relatively streamlined. Copyright law recognizes works in which copyright subsists,[16] under which artistic works consist of paintings, sculptures, drawings, engravings, photographs, irrespective of their artistic quality, works of architecture, and any other work of artistic

Table 1 — A parallel between the creative process of traditional art and AI art

Traditional Art	AI Art
Inspiration	Training Data
Preparation	Prompt
Incubation	Diffusion
Actualization	Generation
Refinement	Refinement

craftsmanship. Upon the selection of the subject matter, there is a funneling process that leads to the conception of the idea, and finally, the tangible representation leads to the expression of the work, which is protectable under copyright law. However, there is a hurdle that lies between the idea and expression, i.e., style. The word style has not been defined, referred to, or dealt with by copyright law; however, it is the focal point of this study.

The Idea Expression Dichotomy- Conceptualized

The personality theory is based upon Hegel's deontological private property justification of the imposition of one's will over a thing, to convert it into private property.[17] Upon which the originator can impose an objective sense of self, recognizable to the individual and the world at large.[18] The objective imposition of self allows the artist to tell a tale by rethinking, deconstructing, changing, and shaping the work,[19] in a unique manner synonymous with the persona of the artist. According to Hegel, every individual has the right to make a thing his own by imposing his will over the whole extent of its use, and anything which is left to use falls outside the scope of the creator's appropriation.[20] While applying this logic to the non-rivalrous nature of intellectual property, one can't use up or claim rights over the entire idea, but only control the manner in which the idea is expressed. Since the idea is a general theory, concept, plot, fact, number, word, and symbol, granting protection to the same would stifle creativity, creating a chilling effect on subsequent production of copyrightable works, which would be a stark departure from the Lockean and the Net Harm Principles of leaving enough and good for others.[21] However, on the other hand, expression is the way the ideas are portrayed or arranged, provided that the underlying information is in the public domain or eligible for being adapted based on permission from the owner.[22]Simplistically, the idea is a general concept, but when much has been added to make it well defined, developed, and detailed, it becomes an expression. Similarly, structure, sequence, organization, etc., are matters of expression that are capable of being protected[23] in contrast to an idea.

Further clarity on the distinction has been provided by Hettinger, who defined idea as the content and expression as *the style in which the idea is expressed.* He further emphasizes that the distinction between style and content is notoriously problematic in artistic and literary work, especially if it is abstract or non-presentational.[24] Automatically, the more concrete, precise, mature, and well-defined the work is, the more the creator's style tends to stand out. The distinction becomes more evident in the case of images when compared to words, as they are more identifiable, arresting, and visually striking, and hence easier to protect independent of their original idea or context. It is pertinent to note that not every expression will be accompanied by style. Only that expression where the artist follows a recurring, repeating and persistent signature that becomes the hallmark of the artist's expressions tends to embody style. However, there are instances where the idea has so few forms of expression that the idea and expressions are merged,[25]thereby protecting the expression would lead to protecting the idea itself.[26]In these cases, the potential of granting exclusive rights is mitigated.[27] Thus, it can be inferred that the concept of style does not arise as it emerges as the byproduct of recurrent expression of a persistent signature or hallmark of the artist, and in terms of works being struck by idea-expression merger, the protectable recurring expression is absent. Additionally, the scènes à faire doctrine might appear to pose a lingering challenge. However, since AI artworks, being dealt with in this study, are not based on obligatory scenes, like common plot devices, setting, and themes naturally flowing from a specific genre, the application of the doctrine is negligible. The elements making up Studio Ghibli's style are assumed to be unique and distinct; thus, they are beyond the common or standard style of the genre, i.e., a combination of magical realism, low fantasy, and healing anime. Though there are other studios like Studio Ponoc and Studio Chizu, they categorically differ in terms of their animation technique, core storytelling and narrative tone. A more detailed discussion on this is provided in the 'Character Delineation Test' segment dealing with the objective and subjective elements of style.

The Relationship between Idea, Style and Expression

This dichotomy between idea and expression is more apparent in cases of artistic work, as no artistic quality is required for protection, and it is protected from the moment the ideas of the author are captured using concrete lines and colors.[28] The Indian Copyright Act gives an inclusive definition of artistic work, including "*a painting, a sculpture, a drawing, an engraving or a photograph, whether or not any such work possesses artistic quality.*"[29]Artistic work

doesn't require any originality of thought or research, but only that it has originated from the author.[30] However, there are certain artistic works that incorporate a higher degree of originality by incorporating some skill, labour, and judgement, which become unique to the author's style of expression.

When seen through the prism of personality theory, the moment a work embodies the personality of the author, it is protected, provided that it is not a mere idea, but rather an expression, incorporatingadditional elements unique to the author. These additional features, when having a unique, repetitive and representative character, become central to each expression of the artist, transcending from being a mere expression to an expression embedded with style. This style or unique manner of expressing becomes so central that in each successive and preceding work, this *style* is present. These features create a direct link to the identity of the creator behind the work. For instance, Jamini Roy's paintings feature almond-shaped eyes, elongated limbs, and minimal facial expressions, in the contextual backdrop of Santhal tribal motifs.[31] Even though the paintings of Jamini Roy depict everyday tribal life or tribal motifs, which make up the idea, theyget personalized due to the unique aesthetic features making up the stylistic component, which thereafter gets crystallized through expression. The recurrent expression of these features gives rise to the *style*, which is a unique way in which an artist shares their thoughts in their work. It can be spread across varied elements and principles of art, medium and materials used, genre, theme, influence, and personal experience of the artist, whose glimpse can be found in most works of the artist in a manner where the viewer will automatically associate the work with the artist.[32]

Similarly, Miyazaki's style of anime is known for its hand-drawn details and warm colors in contrast to the sleek, CGI-enhanced anime look.[33] For instance, blood-based weapons or superpowers are a common style of portraying superpowers in Japanese anime from *Naruto* to *Darker Than Black* to *Deadman Wonderland* and beyond, symbolizing the character's inner strength, lineage, and sacrifice.[34] In all these cases, even though the style of the artist is applied to public domain elements, they are protected provided they are distinctly delineated. The following figure indicates the spectrum of idea, style, and expression (Fig. 1).

Character Delineation Test

The Character Delineation Test is usually applied to protect fictional characters. Unlike other literary or artistic elements, fictional characters are not confined within the bounds of the copyrightable work; rather, they have a personality of their own, making them resonate with the public at large. By using the delineated character in a new and different work, the association of the earlier work is carried over. Similarly, when an artist's style is used in a subsequent work, it gives the impression that the two works are related to each other in some capacity, or are created by the same artist, or one is the sequel of the original work, even if the two are completely unrelated or used unauthorizedly.[35] Drawing a parallel between the characters and style, the associated delineation test can be applied in both circumstances to ascertain whether copying the style would also lead to unfair enrichment and infringement of copyright.

Classic Character Delineation Test

The test prescribes that the more developed the character, the more it embodies expression and less of the general idea. Infringement of character is assessed through two successive tests. It has to be determined whether the character's expression is sufficiently distinguished to demand protection, and if affirmed, whether there has been an infringement.

A character, when given detailed and unique characteristics, more than a stereotype, is said to be expressed. The uniqueness of a character comes out better in distinctively drawn and individualized artistic work, have a better scope of protecting character rather than textually created character,[36] as they require a lesser degree of development and

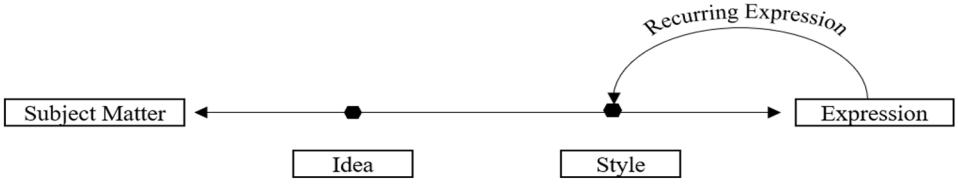


Fig. 1 — The spectrum of idea, style, and expression

usually create some individuality in the character easily when compared to literary work.[37] However, the context behind the work is generally greater in literary works due to the scope of putting forth added definitions. For a work to be infringing, or carrying on the essence of the character, a carbon copy of the original work is not a necessity.[38] Rather, it depends on the overall impression cast upon a lay observer. If substantial differences can be spotted between the two works, then it can be concluded that the works are not copies of each other.[39]

In order to determine the similarities and dissimilarities between the works, the works have to be broken down into objective and subjective elements. The objective elements are mostly based on the aesthetic elements of the work, which encompass how the appearance is expressed. The subjective elements take the individualized context into consideration, which includes the narrative, characteristics, traits, and behavior. For instance, in the case of 'Chulbul Pandey' from the movie franchise Dabangg, the subjective elements are his characteristics of being a corrupt yet fearless police officer with bizarre enforcement tactics, rocky family relationship, and the community moniker of "Robin Hood", while the objective elements are his handlebar moustache and back-of-the-collar aviator sunglasses placement.[40] Combining both subjective and objective elements, the character gets its personalized features, which bring life into the character, enabling it to have a different overall impression on the viewers, even to the extent of broad dissimilarities[41], differentiating them from the general stock of common features, for instance the crusader cop, with a perfect uniform, stoic and unbothered by familial issues, thereby making the character stand out.[42] The quantum of these elements differs in different works; however, it can be inferred as a rule of thumb that if both objective and subjective elements are similar, then it is a copy. On the contrary, if objective elements are similar and there is a difference in the subjective elements, which raises the potential for granting protection. However, originality, personality, and individuality are prerequisites for such protection.

Proposed Contemporary Stylistic Delineation Test

As established in the earlier discussion, copyrightable works comprise a combination of subjective and objective elements. When these elements in characters are sufficiently delineable and display consistent and widely identifiable traits, they warrant copyright protection.[43] At times, a pattern gets created either deliberately or inadvertently, since these characteristics carry a certain degree of personality, though in varying degrees.[44] Since every individual possesses a unique *personality*, the work differs from one person to another. The more detailed the work is, the more personality the author tends to leave behind in the work. A point comes when the personality of the creator becomes so overpowering that a bare look at the work hints towards the creator behind it. For instance, in Jamini Roy's paintings, the subjective element of the work is of village life, tribal life or tribal motifs, while the objective elements are of the almond-shaped eyes and elongated limbs in the village or tribal backdrop. This is consistent and unique in most of his works. However, these characteristic elements are more pronounced in works that are capable of directly showcasing both the aesthetics (objective elements) and the context (subjective element) through the same panel. Thus, it is easier to understand the context behind the character in the novel or motion picture, in comparison to a still image. Therefore, the classical delineation test falls short while addressing issues relating to the copying of styles, necessitating the framing of an alternative test for the determination of stylistic infringement.

Yet again, taking a cue from Jamini Roy's painting, the depiction of figures having almond-shaped eyes, elongated limbs, and minimal facial expressions is the objective (*aesthetic*) element. These are easily discernible. However, the subjective elements are complicated in terms of artistic works. Unlike in novels, where there is ample context, artistic works are more subtle in terms of the subjective elements. One route is to contextualize the layers or the details in the work. However, artistic expression does not necessitate artistic quality, which renders the test ineffective in caseslacking a sufficient number of layers. Here, the contextualization has to be in terms of the relevant context of the work. For example, the subjective elements of Jamini Roy's work would include the portrayal of tribal art, motifs, and village life. In the case of Ghibli Studio's artwork, the objective elements would include realistic human figures expressed through soft palettes. The subjective elements of the work would include other details, like magical realism, i.e., supernatural elements incorporated into normal, real-world settings, and natural elements and the environment. In addition, the depiction of Japanese folklore and mythology would be the requisite

for determining the similarity.[45] The elimination or alteration of such expression, by subsequent authors or artificial intelligence algorithms, will significantly alter the quality and diminish the power of the author's message.[46]

The proposed contemporary stylistic delineation test goes beyond the two factors of the classical test, i.e., first, the determination of whether the character's expression is sufficiently distinguished to demand protection, and second, whether the use of the character would lead to infringement. The proposed test is four-pronged. First, it has to be determined if there is a recurrent use of characteristics, patterns or traits by the author. Second, it has to be determined if the author's style is sufficiently distinguished to demand protection, after removing the idea, followed by determining if the work is struck by idea-expression merger andscènes à faire doctrines. Third, ascertaining the objective (aesthetic and ocular) and subjective (context-based) elements in the recurring expressions. Fourth, the extent of similarity of the subsequent work, i.e., if the work is similar in terms of both the subjective and objective elements, then it would result in infringement; otherwise, there shall be no infringement.

Demonstration of the Proposed Contemporary Stylistic Delineation Test

In order to demonstrate the test, four images have been selected. Figure 2 is an original piece from Studio Ghibli. Figure 3 is an image generated with the help of Stable Diffusion. Figure 4 is a viral meme generated with the help of ChatGPT. Figure 5 is an image generated through Mid-Journey. First, it can be inferred that Studio Ghibli recurrently uses the indicated objective (aesthetic) and subjective



Fig. 2 — Original frame from "Castle in the Sky" 1986

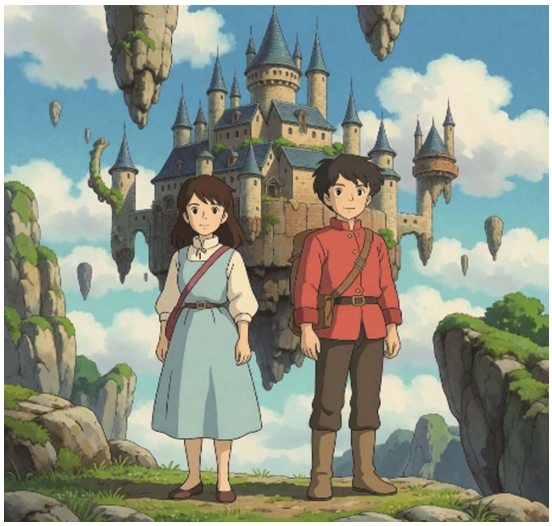


Fig. 3 — Image generated through Stable Diffusion

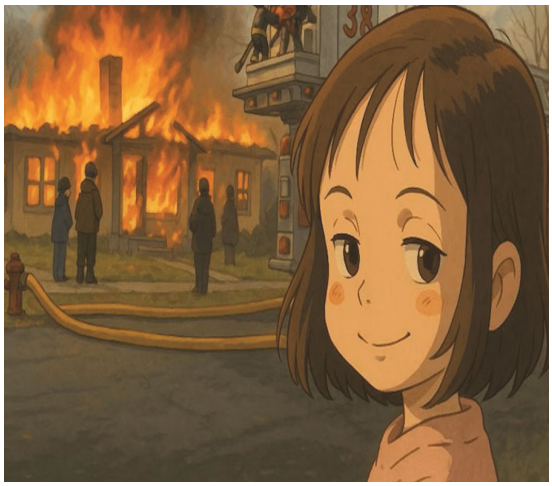


Fig. 4 — Image generated by ChatGPT



Fig. 5 — Image generated by Mid Journey

(context-based) elements, as evidenced in their works "Castle in the Sky" (1986), "Kiki's Delivery Service" (1989), "Only Yesterday" (1991), and their other feature-length animated films, television and short works. Second, their style is sufficiently distinguished owing to the unique and distinctive nature of the stylistic expression. The idea is based on the eco-technological dichotomy. The work is not struck by the merger doctrine since there can be several ways of expressing this idea.Scènes à faire might be triggered, requiring the presence of ecological and technological depiction in the same format, but the same can be depicted through vastly different expressions, for instance in Fig. 2.

Upon the satisfaction of the first two prongs of the test, the third point about objective (aesthetic) and subjective (context-based) element determination comes into play. The objective elements in Image 1, a frame from the movie "Castle in the Sky" (1986) from Studio Ghibli's collection, depict hand-drawn and watercolor textures, earthy and luminous color palettes, andhuman characters with soft and rounded features with expressive eyes. The subjective elements include magical realism, i.e., supernatural elements incorporated into normal, real-world settings, and natural elements and the environment.

Upon applying the test to Figs 3-5, in comparison to Fig. 2, i.e., the original frame taken from "Castle in the Sky", it can be inferred that Fig. 3 has both the objective (aesthetic) and the subjective (context-based) elements, Fig.4, though has the objective (aesthetic) elements along with a character, it fails to capture the subjective (context-based) elements which are present in the work of Studio Ghibli, and Image 4, though captures the subjective (context-based) elements of Studio Ghibli's work, expresses the objective (aesthetic) elements in a completely different manner. Thus, only Fig. 3 possesses both objective and subjective elements of Studio Ghibli's style.

The Roadblock in the Indian Context

Whilst viewing Ghibli Art created by artificial intelligence, like ChatGPT-4o, through the lens of the Copyright Act, 1957, two distinct aspects need to be considered. First, the aspect of exclusive rights needs to be viewed against the backdrop of art created by the AI through user prompts. It is settled that these rights only vest with the owner of the copyrightable work.[47] Further, when the art is being created, at least in the current use case scenarios, where the work is being used for personal use, the prompts are highly personalized, which means that the resultant output is a secondary work having objective elements of Ghibli Studio's work and may possess subjective elements which are more in line with the user's prompt, which may or may not be similar to the subjective elements of Ghibli Studio's art. This means that the subjective elements could introduce a different personality in the work, and the expression could have substantial differences, which would lead to a scenario that potentially results in the creation of a secondary work. Though there is a potential of commercial detriment to the owner of the primary work, rights cannot be detached from the owner of the secondary work unless both objective and subjective elements are substantially similar, since it would result in a chilling effect on the particular style of the work and creativity. However, in order to promote creativity whilst balancing the rights of the creator, the threshold of originality would have to be raised[48]for AI-assisted or generated works, which in most cases will be secondary works with the current progress in AI generative models. This means that there would have to be a departure from the requirement of skill and judgment[49] to a more Americanized standard of the modicum of creativity.[50] This argument is justified through the contextualization of originality required by human artwork in India. The baseline is the sweat of brow doctrine for primary works, whereas the instant that veil between primary and secondary work is permeated, the originality requirement is elevated to the inculcation of skill and judgment. However, in AI-assisted or generated works, the assumption is that the work is built on the foundation of the training data, which is the primary work; thus, all AI artwork is inherently secondary. Copyright law would intrinsically demand the application of skill and judgment as the baseline for AI artwork. However, when the artwork is copying the style of another artist, the involvement of the subjective and objective elements would necessitate a higher threshold, akin to the modicum of creativity standard, to ensure originality and immunity from stylistic infringement. However, another incidental question that arises is whether the prompt itself would have to be creative, or is it only the work? Though beyond the scope and province of our discussion, the prompts would have to be treated as a set of instructions, the expression of which would need to meet the standard of originality, depending on its genericity,[51] if it is assumed that AI is being used as a tool.[52]

Second, the aspect of moral rights or the special rights of the author needs to be addressed. It is abundantly clear that when an artist brings the work into existence, he projects a certain degree of his personality into the work, forming the basis for moral rights jurisprudence, which is an imperfect and ambivalent translation of the French concept of *'droit morale'*.[53] The modern-day interpretation of moral rights takes refuge in the Berne Convention, through the right of paternity and the right to integrity.[54] Though nomenclaturally different, the Indian legislation extends the same protection to the authors as in the Berne Convention. The moral rights in India are wider in terms of duration of protection, i.e. for perpetuity[55] and are seen as the soul of the author, who has a right to *"preserve, protect and nurture his creations."*[56] The integrity right enables the author to safeguard any subsequent modification of the work that is prejudicial to the honour and reputation of the author, by having control over the modification, alteration, or mutilation of their work. The right of integrity is independent of any proprietary right of the subsequent author, and the original creator can restrict the manner of later derivatives.[57] This means that Studio Ghibli should technically have the right to restrict the usage of their work by the AI in the creation of subsequent works. Thisscenario necessitates a policy shift which would prevent Generative AI systems from scraping data, in this case images, from the open internet for the creation of AI artwork. This would require a realignment of the data protection laws,[58] imposing mandatory licensing before scraping and processing copyrightable work of others. Only after such legitimate authorization, modifications which possess sufficient originality to stand on their own as a transformed work shall be kept beyond this overarching control of the author. The paternity right allows the author to claim authorship as well as non-authorship.[59] It is the right of the author to be rightfully attributed to his creations and also to disassociate himself from works which are not linked to him, and to restrict others from free-riding on the reputation of the authorwhile simultaneously maintaining the historical facts of authorship.[60] Since most prompts would include 'Studio Ghibli' as a trigger term and any subsequent publication also indicates the connection to Studio Ghibli, it creates an unwarranted nexus between the Studio and the Generative AI. Technical policies can be implemented to ensure responsible content generation. For instance, ChatGPT prevents the generation of nude images or pornographic material. The same is embeddedin its model instructions and safety/usage policy. A design restriction can be similarly embedded based on trigger terms, in the instant case on terms and phrases like "Studio Ghibli", "Ghibli" or "Ghibli Art", to name a few,preventing content generation which could have potentially detrimental copyright implications.

However, derogation, both in terms of integrity and paternity, tends tofall short due to the inherent limitation of the provision, which limits itself to only particular expressions and not batches or styles of the artist, evident from the usage of the word '*work*' in the text of the provision.[61] Though this is rationalized as being a preventive measure against the potential chilling effect resulting from monopolizationof stylistic vocabulary, and concerns relating to mergers of idea and expression due to functional constraints in artistic genres, this results in a disquieting reality, where the artist, yet again, stands vulnerable, overshadowed by machines and unguarded by the very laws meant to safeguard creativity.

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