



The global governance of Artificial Intelligence and the bedrock requirement of Human Authorship in contemporary jurisprudence

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Abstract

The period between 2024 and 2026 represents a transformative era in the legal history of artificial intelligence (AI), characterized by the transition from aspirational soft law to binding statutory frameworks and definitive judicial precedents. This study investigates the primary pillars of this transformation: the judicial consolidation of human-centric intellectual property doctrines in the United States, the constitutionalization of algorithmic regulation via the European Union Artificial Intelligence Act, and the emergence of India's assertive "techno-legal" framework. Through an exhaustive analysis of the March 2026 denial of certiorari by the United States Supreme Court in *Thaler v. Perlmutter*, the study demonstrates that human authorship remains an immutable requirement of copyright law, effectively precluding fully autonomous machine-generated works from protection. Simultaneously, the report evaluates the implementation of the EU AI Act and India's Information Technology Amendment Rules of 2026, which introduce historic three-hour takedown windows for synthetic media. By synthesizing data from the World Trade Organization 2025 report and the Council of Europe Framework Convention on Artificial Intelligence, the analysis identifies a widening governance deficit and a trend toward massive copyright settlements. The findings suggest that while domestic legal systems are erecting barriers against machine-authored content, the absence of a unified global treaty necessitates a new paradigm of algorithmic interoperability to prevent a fragmented regulatory mosaic that threatens international trade and fundamental human rights.

Keywords: Artificial intelligence, global governance, human authorship, IT rules 2026, EU AI Act

Introduction

The year 2026 serves as a definitive temporal marker in the evolution of global technology law. For over a decade, the legal community functioned within a vacuum of specific artificial intelligence (AI) statutes, relying instead on the creative interpretation of existing consumer protection, data privacy, and intellectual property (IP) laws. This period of "soft law" dominance has officially yielded to a regime of "hard law" characterized by binding mandates, historic enforcement actions, and the constitutionalization of algorithmic rights.

The Genesis of Algorithmic Regulation

The rapid proliferation of AI technologies has fundamentally transformed how personal data is collected, processed, and utilized across global jurisdictions. As AI systems increasingly permeate critical sectors—from healthcare and finance to law enforcement—the tension between technological innovation and fundamental privacy rights has intensified. Traditionally, the law has struggled to keep pace with the "viral" nature of algorithmic deployment, leading to a period of experimentation with non-binding ethical frameworks.

From Aspirational Ethics to Statutory Mandates

Historically, AI governance was characterized by the proliferation of ethical guidelines, such as the 2017 Asilomar AI Principles and the 2019 Beijing AI Principles. These documents functioned as a "global soft law" baseline, encouraging voluntary safety standards without the threat of legal sanctions. However, by early 2025, public scrutiny regarding algorithmic bias and deepfake-enabled misinformation reached a tipping point, prompting legislatures to codify these ethics into enforceable statutes.

The move from "soft law" to "hard law" is not merely a change in enforcement but a fundamental shift in the legal status of the machine.

The Global Governance Deficit and the "Regulatory Mosaic"

As of 2026, there remains a notable global governance deficit. Despite international discussions, the patchwork of norms is nascent and full of gaps, with accountability often notable for its absence. This state of affairs is increasingly referred to as a "regulatory mosaic," where an incompatible patchwork of governance logics—rights-based in the EU, market-oriented in the US, and state-centric in China—weakens interoperability and adds massive compliance demands for multinational corporations.¹¹

Conceptualizing the Techno-Legal Shift

The central challenge for governments in 2026 is that traditional regulation—making a rule and punishing a violation later—moves too slowly for technologies that change in real time. In response, countries like India and the EU are adopting "techno-legal" frameworks. This approach integrates legal instruments and technical enforcement mechanisms directly into the technical architecture of an AI system by design, ensuring that governance is an intrinsic feature rather than an external constraint.

Judicial Finality and the Human Authorship Requirement

At the center of the intellectual property debate lies the fundamental question of whether a non-human machine can be an author. This question moved from academic speculation to judicial finality on March 2, 2026, when the Supreme Court of the United States denied certiorari in *Thaler v. Perlmutter*.

The Thaler v. Perlmutter Precedent

Dr. Stephen Thaler sought to secure copyright protection for "A Recent Entrance to Paradise," a visual artwork generated autonomously by his "Creativity Machine" AI. The US Copyright Office (USCO) originally rejected the application, citing the "human authorship requirement." The US Supreme Court's denial of review concludes this specific litigation and leaves the D.C. Circuit's 2025 ruling as the standing law: human authorship is a "bedrock requirement" of the Copyright Act.

Statutory Limitations of Machine Authorship

The D.C. Circuit's March 18, 2025, opinion found that while the Copyright Act does not explicitly define an "author," its structural provisions assume a human entity. For instance, ownership provisions assume the author can hold property, duration provisions measure terms by a human lifespan, and registration requires a signature—all capacities only humans possess. This decision effectively precludes purely AI-generated material from copyright protection, though it leaves open the status of "AI-assisted" works where human creative contribution is documented.

The European Union's Constitutional Model: The AI Act

The European Union has established the Artificial Intelligence Act (Regulation (EU) 2024/1689) as the world's first comprehensive legislative endeavor on AI. Published on July 12, 2024, the Act is currently undergoing a phased implementation that reaches full applicability in 2026.

1. The Risk-Based Hierarchy

The EU model utilizes a mandatory framework based on risk classification:

- **Unacceptable Risk:** Practices like social scoring and subliminal manipulation are banned as of February 2, 2025.
- **High-Risk:** Systems used in critical infrastructure or employment face strict documentation, data governance, and human oversight mandates, with full enforcement starting August 2, 2026.
- **Transparency Obligations:** Chatbots and AI-generated content (Article 50) must be clearly labeled as synthetic.

2. Enforcement and the "Digital Omnibus"

Failure to comply with the AI Act carries penalties that exceed even those of the GDPR, with maximum fines set at €35,000,000 or 7% of annual worldwide turnover. While the "Digital Omnibus" proposal of late 2025 suggested potentially delaying certain high-risk obligations until 2027, compliance experts advise treating August 2026 as the binding deadline for most operators.

India's Emerging "Techno-Legal" Architecture and the 2026 IT Rules

India has distinguished itself by adopting a principle-based, techno-legal approach anchored in the "Seven Sutras." This framework, unveiled by the Ministry of Electronics and Information Technology (MeitY) ahead of the India AI Impact Summit 2026, focuses on "AI for All" and democratizing technology.

1. The Seven Sutras of Governance

The "India AI Governance Guidelines 2025" define their moral compass through seven principles: Trust, People-First, Innovation over Restraint, Fairness, Accountability, Understandable by Design, and Safety. Unlike the EU's generic risk grids, India's model focuses on national security and harms to vulnerable groups, such as deepfakes targeting women or caste-based bias.

2. The IT Rules Amendment 2026: The 3-Hour Mandate

On February 10, 2026, MeitY notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026. These rules introduce a historic compression of takedown timelines:

- **3-Hour Takedown:** Platforms must remove unlawful "Synthetically Generated Information" (SGI) within three hours of receiving a government or court order.
- **2-Hour Takedown:** For non-consensual intimate imagery, the window is restricted to just two hours.
- **Mandatory Labeling:** All AI-generated content must carry "prominent and visible" labels to prevent the erosion of digital trust.

Non-compliance triggers the loss of "Safe Harbor" under Section 79 of the IT Act, exposing platforms to unlimited civil and criminal liability as publishers of the content.

Macroeconomic Impacts and Geopolitical Competition

The economic implications of these legal developments are profound. The WTO's 2025 report projects that AI could boost global trade by 34-37% between 2025 and 2040, particularly in digitally deliverable services. However, the AI infrastructure boom—with U.S. data-center spending alone expected to exceed half a trillion dollars in 2025—benefits high-tech hubs disproportionately, potentially widening the digital divide.

1. Geopolitical Divergence: US vs. China

In the United States, President Trump's Executive Order 14365 (December 2025) [22] seeks to ensure "global AI dominance" through a minimally burdensome framework, challenging stricter state laws like the New York RAISE Act and California's SB 53. Conversely, China has implemented binding standards for generative AI and algorithmic recommendations, prioritizing social stability and state control over individual creative rights.

Conclusion

The legal landscape of 2026 confirms that while AI is a borderless and transformative technology, governance remains a steadfast human choice. The Supreme Court's final word in Thaler v. Perlmutter reinforces the resilience of the human-centric legal order, ensuring that copyright remains a reward for human ingenuity rather than a byproduct of machine processing. Simultaneously, the assertive frameworks of the EU AI Act and India's IT Rules 2026 provide the world's most sophisticated mechanisms for managing the risks of high-stakes automation.

The challenge for the remainder of the decade lies in bridging the "Global Governance Deficit." The fragmented "regulatory mosaic" currently increases the burden on global innovation and leaves vulnerable populations at risk in

jurisdictions with weaker protections. Only through the establishment of interoperable standards—anchored in the Council of Europe Framework Convention and the WTO's emerging digital trade rules—can the international community ensure that the age of intelligence serves the public interest and upholds the bedrock principles of human dignity and the rule of law.

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