

DEEPFAKES AND INTELLECTUAL PROPERTY RIGHTS: PROTECHTING FACE AND VOICE REPLICATION IN THE AGE OF ARTIFICIAL INTELLIGENCE

ABSTRACT

The rapid development of Artificial Intelligence AI has led to the emergence of deepfake technology which has enabled the realistic replication of an individual's face and voice. While deepfakes offer innovative application to entertainment, education and media, they also create significant legal challenges when used without consent. Existing research largely focuses on privacy, defamation and cybercrime; however, the intellectual property implication of unauthorized face and voice replication remain unexplored. This paper examines whether Indian intellectual property laws adequately protect individuals against AI generated deepfakes. It argues that current legal framework particularly copyright and trademark law fails to provide comprehensive protection on for face and voice replication thereby necessitating legislative reforms to address this emerging challenge.

Keywords: Deepfakes, Artificial Intelligence, Intellectual Property Rights, Voice Cloning, Face Replication, Personality Rights.

I. INTRODUCTION

Artificial Intelligence has transformed the digital landscape by enabling machines to create highly realistic content.¹ One of such development is the deepfake technology, which utilizes deep learning algorithms which helps to generate or manipulate images, videos, and even audio recordings. Through face swapping and voice cloning techniques, deepfakes can have legitimate use in filmmaking and digital innovation, leading to being misused. Public figures, celebrities, and even ordinary individuals have been subjected to unauthorized digital replication resulting in reputational harm, misinformation and commercial exploitation. The ability of AI systems to recreate a persons identity raises important questions regarding ownership and protection of one's face and voice.

¹ NITI Aayog, National Strategy for Artificial Intelligence #AIForAll (Government of India 2018)

II. UNDERSTANDING DEEPPAKES: FACE AND VOICE REPLICATION

Deepfakes are synthetic media created using artificial intelligence techniques that manipulates visual or audio content to imitate real individual.² Face replication involves digitally imposing a person's facial features onto another individual, while voice cloning uses AI models trained on speech samples to replicate a person's voice. The increasing accessibility of AI tools has made deepfakes creation easier and more affordable. As a result, individual can easily create deepfake content with no knowledge or consent of the person being replicated. Such misuse may lead to financial fraud, identity theft and reputational damage. Consequently, the legal system must determine whether a persons face and voice constitutes interest under intellectual property law.³

III. DEEPPAKES AND EXISTING INTELLECTUAL PROPERTY PROTECTION

Indian intellectual property law offers only limited protection against deepfake misuse. Under *Sections 13 and 14 of the Copyright Act, 1957*, copyright protects original literary, artistic, musical works, cinematograph films and sound recordings.⁴ However, a person's face or voice does not independently qualify as a copyrightable work unless it forms part of a protected photograph, film, or recording. *Section 29 of the Trade Marks Act, 1999* may apply where a deepfake falsely suggests endorsement or commercial association, but trademark law primarily protects goodwill and consumer interests, not personal identity.⁵ Indian courts have therefore relied on personality and publicity rights derived from *Article 21 of the Constitution*.⁶ In ***DM Entertainment Pvt. Ltd. v. Baby Gift House***⁷ and ***Anil Kapoor v. Simply Life India***⁸, the Delhi High Court recognized protection against unauthorized commercial exploitation of identity. Yet, these rights lack comprehensive statutory recognition for AI-generated face and voice replication.⁹

² Ministry of Electronics and Information Technology (MeitY), Advisory on Deepfakes and AI-Generated Content (Government of India, 2024)

³ Robert Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107(6) California Law Review 1753

⁴ Indian Copyright Act 1957, ss 13–14

⁵ Trade Marks Act 1999, s 29

⁶ Constitution of India 1950, art 21

⁷ DM Entertainment Pvt Ltd v Baby Gift House and Ors 2010 (54) PTC 240 (Del)

⁸ Anil Kapoor v Simply Life India and Ors 2023 SCC OnLine Del 6914

⁹ P Narayanan, Intellectual Property Law (Eastern Law House, 8th edn, 2024) 739–745

IV. LEGAL GAPS

- Despite the existing legal protections, several gaps remain in addressing deepfakes and AI-generated identity replication. First, Indian law does not contain specific provisions regulating deepfakes or the unauthorized use of AI to create persons face, image, or voice. The absence of a dedicated legal framework creates uncertainty regarding rights, liabilities, and available remedies.
- Second, the protection of voice rights remains limited. Although a person's voice can be a unique aspect of their identity and may have commercial value, Indian intellectual property laws do not expressly recognize voice as an independent subject of legal protection. This issue has become more significant with the rapid development of AI-based voice cloning technologies.¹⁰
- Finally, personality rights have largely been recognized through judicial decisions involving celebrities and public figures. As a result, ordinary individuals may face difficulties in establishing a violation of their rights or proving the harm caused by unauthorized deepfakes. This limits the availability of effective legal remedies for many victims.¹¹

V. RECOMMENDATIONS FOR REFORMS

India must develop a comprehensive legal framework to address the challenges posed by AI-generated face and voice replication.¹² The law should expressly recognize facial features and voice attributes as protectable elements of personal identity, thereby providing individual with effective remedies against unauthorized digital replication. Further, deepfake specific regulations must be introduced to establish clear standards of consent, disclosure, and liability for creators and distributors of harmful synthetic media.¹³ Finally, personality rights should be codified through legislation rather than relying solely on judicial interpretation, ensuring greater legal certainty and extending protection to both celebrities and ordinary individuals in the digital age.

¹⁰ World Intellectual Property Organization (WIPO), WIPO Conversation on Intellectual Property and Artificial Intelligence: Revised Issues Paper (WIPO 2020)

¹¹ Justice Yatindra Singh, *Cyber Laws* (Universal Law Publishing, 6th edn, 2022) 456–460

¹² NITI Aayog, *National Strategy for Artificial Intelligence #AIForAll* (Government of India 2018).

¹³ World Intellectual Property Organization (WIPO), WIPO Conversation on Intellectual Property and Artificial Intelligence: Revised Issues Paper (WIPO 2020)

VI. CONCLUSION

Deepfake technology has introduced complex legal issues that existing Indian laws are not fully equipped to address. While certain protections can be found under intellectual property and personality rights, significant gaps remain in dealing with the unauthorized use of a person's face, voice, or likeness through artificial intelligence. As use of such technology becomes more widespread, there is a growing need for clear legal standards that protect individual identity while allowing responsible technological development.

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