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Navigating Copyright Law in the Age of AI-Generated Voices

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ABSTRACT

This decade has witnessed a tremendous shift in the landscape of content generation. The recent entrance of various generative artificial intelligence tools in the entertainment industry cannot be labelled as anything but unprecedented. Various artists, writers and other players who occupy the creative front of the entertainment industry naturally stand to lose the most. With the opportunities within the industry already being so few and far between, there exists a very real danger of further contraction of opportunities within the industry. Between all of these developments, we must not forget that voice actors have become one of the most vulnerable groups who are in danger of being side-lined by the recent entry of AI voice cloning tools in the industry.

*This paper will seek to problematize copyright protection and argue that it should extend to one's voice. Literature within this domain does not pertain to empiricism and the lenses used to analyse copyright law have not been expanded to include recent developments in the industry. This paper is a doctrinal endeavour, which focuses primarily on Indian copyright law and refers to American jurisprudence with regard to the same. An analysis of cases such as *Midler v. Ford Motor Co.* and *Eastern Book Company & Ors vs D.B. Modak & Anr* have been used to demonstrate the need to impart copyright protections to voices as a cause of action. This paper will also refer to scientific papers, articles and journals to situate these generative AI models in the context necessary for a novel application of copyright law. This will enable us to identify and guarantee remedies for those who are in danger of being subject to exploitation.*

I. INTRODUCTION

Philosophers of the past century whether Bertrand Russel² or Alvin Toffler³, in their time envisioned that technological innovation and mechanization would subsume all material tasks, leaving human beings with the time to pursue creativity, fine arts and other objectives which we intrinsically categorize as being distinctively human. This philosophical line of thought has been uprooted by the advent of various constantly improving generative A.I. models. The same

¹ Author is a student at University of Petroleum and Energy Studies, Dehradun, India.

² Bertrand Russel, *In Praise of Idleness and Other Essays* (1st edn, George Allen & Unwin Ltd 1935)

³ Alvin Toffler, *The Third Wave* (1st edn, William Morrow 1980)

has since the past year been transforming how the media we consume is developed.

The response of the various writers, artists, producers, etc. over the apparent fall of the human monopoly over the domain of artistic and creative endeavours, has been met with a borderline reactionary response.⁴ This response is characterized by paranoia over the apparent loss of employment which culminated, together with other factors into the 2023 SAG-AFTRA Strike⁵, which in reference to artificial intelligence, led to the addition of separate provisions⁶ regarding the same, in order to protect the interest of the writers employed under the American Film Industry. In reality, this deal is only a single step in the several thousand which are yet to come in order, to protect the needs and interests of the content creators as these provisions in actuality don't provide for a proper relief mechanism to the writers and consists of various loopholes which make the writers vulnerable to exploitation⁷.

It is to note that between all these developments, within the entertainment industry. Recent Stories such as the alleged use of A.I. voice synthesisers by Bandai Namco⁸ in a game which was published on November 2023 have sparked controversy within the Gaming Industry, though the company has denied the use of the same. More Alarming with the recent strides in generative A.I. models, any book or PDF of the reader's choice can be converted into an audiobook⁹ and any podcast¹⁰ can be dubbed into any language accompanied by the tone and affliction of the particular speaker¹¹. Crucially, these generative Models have been so widely accessible, that individuals can make singers such as Frank Sinatra, sing songs of this century¹². generative A.I. has put Human Voice Actors in danger of falling into irrelevancy leading to a

⁴ Sarah Shaffi, 'It's the opposite of art': why illustrators are furious about AI' (The Guardian) <<https://www.theguardian.com/artanddesign/2023/jan/23/its-the-opposite-of-art-why-illustrators-are-furious-about-ai>> accessed 23 January 2023

⁵ Screen Actors Guild-American Federation of Television and Radio Artists (2023) Collective Bargaining Agreement: <https://www.law.ox.ac.uk/sites/default/files/migrated/oscola_4th_edn_hart_2012.pdf> accessed 09 November 2023

⁶ *ibid*, pt 2

⁷ Conor Murray, 'Here's Why Some Actors Oppose The SAG-AFTRA Artificial Intelligence Deal' (Forbes) <<https://www.forbes.com/sites/conormurray/2023/11/14/heres-why-some-actors-oppose-the-sag-aftra-artificial-intelligence-deal/?sh=4c8405c31ce2>> accessed 14 November 2023

⁸ Ana Diaz, 'Naruto game accused of using AI voice-over is just sloppy editing, admits Bandai' (Polygon) <<https://www.polygon.com/23978516/naruto-ai-voice-over-controversy-sloppy-bandai-admits>> accessed 29 November 2023

⁹ Janine Heinrichs, 'ElevenLabs Review: The Most Realistic AI Voice Generator?' (UNITE.AI) <ElevenLabs Review: The Most Realistic AI Voice Generator? - Unite.AI> accessed 16 April 2024

¹⁰ Alan Walker, 'Spotify and OpenAI Break Language Barriers with AI-Powered Voice Translation' (Certainly News) <<https://www.msn.com/en-us/news/technology/spotify-and-openai-break-language-barriers-with-ai-powered-voice-translation/ar-AA1jePHv>> accessed 11 January 2023

¹¹ Sovan Mandal, 'HarperCollins to produce AI-generated Audiobooks' (Goodereader) <<https://goodereader.com/blog/audiobooks/harpercollins-to-produce-ai-generated-audiobooks>> accessed 19 April 2024

¹² MEMECOVERS, 'Frank Sinatra - Come Sweet Death (Komm, süßer Tod) (AI COVER)' <<https://www.youtube.com/watch?v=EDOQ-y87YnE>> accessed 17 July 2023

seemingly imminent fall in the demand for employment opportunities in the Entertainment Industry¹³. The Indian Association of Voice Artists (AVA) have in a recent case petitioned against instances of malpractices where their voices would be essentially stolen from them, as generative A.I. can utilize any speaker's voice with the use of publicly available audio clips.¹⁴

II. IS VOICE COPYRIGHTABLE?

The verdict,

“Holding that a voice is not copyrightable because copyright only protects original works of authorship fixed in any tangible medium of expression—the sounds of a voice are not adequately ‘fixed’ and can therefore not be copyrighted or owned by any one individual.”¹⁵

Pronounced by the United States Court of Appeals for the Ninth Circuit under *Midler v. Ford*¹⁶ has emerged into the mainstream when the copyrightability of Voice in the context of A.I. is brought into question. However, the judgment pronounced should not be taken at its face value since the ‘voice’ produced by generative A.I. is fundamentally different from the ‘voice’ produced by soundalikes in the case at hand. The voice produced through the use of generative A.I. requires audio data of the voice of the speaker, whose voice is to be cloned¹⁷. This essential requires a preexisting corpus of audio data. This is of particular note as this audio data in the context of the Indian legal framework falls under the definition of cinematographic film¹⁸ given under the Copyright Act of 1957. It thus provides a basis of protection under Copyrights act, for the protection of audio performances of a voice actor. Therefore, in the context of Copyright law, a voice fulfils the requirements of a valid copyright claim as it is an original work of the

¹³ Amanda Hoover, ‘Voice Actors Are Bracing to Compete With Talking AI’ (Wired) <<https://www.wired.com/story/ai-voice-actors-jobs-threat/#:~:text=Industry%20experts%20agree%20that%20some%20jobs%20will%20be,craft%2C%20producers%20will%20still%20need%20to%20hire%20humans.>> accessed 3 October 2023

¹⁴ Ekta Mohta, ‘Before actors and screenwriters, voice artists organise to take on AI’ <<https://www.hindustantimes.com/cities/mumbai-news/mumbai-voiceover-artists-fear-losing-livelihood-to-ai-as-industry-expands-rapidly-101693249422416.html>> (Hindustan Times) accessed 29 August 2023; Himanshi Lohchab, ‘Voice actors air their fears about voice-stealing AI’ (Economic Times) <<https://economictimes.indiatimes.com/tech/technology/voice-actors-air-their-fears-about-voice-stealing-ai/articleshow/106617399.cms?from=mdr>> accessed 8 January 2024; Natasha Coutinho, ‘AI is posing a threat to the work of voice artistes in India’ (Times of India) <<https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/ai-is-posing-a-threat-to-the-work-of-voice-artistes-in-india/articleshow/108839292.cms>> accessed 28 March 2024

¹⁵ *Midler v Ford* (n. 01) 460, 462

¹⁶ *Midler v Ford* (n. 01)

¹⁷ Giuseppe Ruggiero, Enrico Zovato, Luigi Di Caro and Vincent Pollet, ‘Voice Cloning: a Multi-Speaker Text-to-Speech Synthesis Approach based on Transfer Learning’ (2021) arXiv.org <<https://arxiv.org/abs/2102.05630>> 10 February 2021; Ander González-Docasal and Aitor Álvarez, ‘Enhancing Voice Cloning Quality through Data Selection and Alignment-Based Metrics’ (2023) applied sciences <<https://www.mdpi.com/2076-3417/13/14/8049>> 10 July 2023

¹⁸ Copyright Act 1957, s 2(f).

voice actor and is a fixed piece of work in a tangible medium of expression.

The work put forward by Voice actors, in the form of the voice which they may use for a particular character, falls under the definition of original work, even in cases where such voice actor is trying to emulate the voice which may have originally been used by another voice actor. Still, the voice which has been produced by generative A.I. with the help of Audio Data of a human voice actor should not be considered an original work of that Artificial Intelligence, as originality does not relate to the originality of ideas¹⁹. But, rather originality in copyright is about the expression of thought. An act is not required to be executed in an original or novel form but rather that act should originate from the author of that act, in this case, the voice actor.²⁰

A voice produced by generative A.I. cannot be considered as its original work based on the fact that intellectual property is of human creation which leads to the formation of intellectual creation, thus wherever there is the presence of human endeavour or intervention of another, in this case, audio data of a human voice actor, the voice and audio thus produced as a result of such intervention does not produce an original intellectual creation.²¹

In furtherance of the same, AI has been classified to be of two types, that being strong artificial intelligence and weak artificial intelligence²², the various generative A.I. models which are utilised for synthesising human speech are of the latter type, as they work on the basis of an external manifestation, in this context the same being an audio database, which works as an input which results in the creation of a specific and predetermined output. In India, the Supreme Court in *D.B. Modak*²³ has adopted the American jurisprudence in the determination of the originality of any work, that being the 'Modicum of Creativity Test'²⁴ which is has determined that the work is considered to be original if it is an independent creation of its author separate from the work of another and it should have 'at least a modicum' of creativity. Thus, as the voice and audio produced by the generative A.I. is a direct result of the authorship of the voice actor whose, audio data was used as an input, without which the generative A.I. could not produce the audio independently. Therefore, it does not result in the creation of a new original work with a distinct authorship, separate from the voice actor, whose audio data was utilized

¹⁹ *Feist publications Inc. v. Rural telephone service co. Inc.* [1991] 499 U.S. 340

²⁰ *University of London Press Ltd. v University Tutorial Press Ltd.*, [1916] 2 Ch. 601; *Macmillan & Co. Ltd. v K. and J. Cooper*, [1923] PC [1924] AIR 75, 85

²¹ *Naruto v Slater* [2018] USCA 9th Cir. [2018] 888 F.3d 418

²² Khuramova Farangiz, 'Strong and Weak Artificial intelligence' (2022) EJRDs <https://www.researchgate.net/publication/371699764_STRONG_AND_WEAK_ARTIFICIAL_INTELLIGENCE> 8 August 2022

²³ *D.B. Modak* (n. 02)

²⁴ *Feist publications Inc. v. Rural telephone service co. Inc.* [1991] 499 U.S. 340

for its creation.

III. IDENTIFYING THE AUTHORSHIP OF THE VOICE SYNTHESISED BY GENERATIVE A.I.?

In continuation of the arguments put forward in the previous paragraph, it is pertinent for us first to identify, who is the author of the voice produced by the generative A.I. under copyright law, only those intellectual creations are warranted to be under the protection of law which are original. Originality under *Feist Publications Inc v Rural Telephone Service Company Inc.*²⁵ has been defined as the work which was independently created by the author and that possesses some minimal degree of creativity. It is pertinent for us to observe that then, the audio thus generated by artificial intelligence is thus not an original creation, by virtue of the fact that most, if not all of the generative A.I., are trained by a corpus of audio recordings of the concerned person whose voice is to be emulated, thus the audio subsequently produced by generative A.I. is not its original creation, thus it is to be seen that it infringes upon the rights of the voice actor, in the cases where the use of the corpus of audio from the recordings of the voice actor is used without their consent for some purpose other than for the film it was recorded for. Thus, it will attract the protection of copyright law.

Further, under *Asia Pacific Publishing Pte Ltd. v. Pioneers & Leaders (Publishers) Pte Ltd*²⁶, the legal status of authorship only extends to natural persons thus, irrespective of the fact, that the established industrial standard in the entertainment industry, being that the corpus of audio which is being used to train the generative A.I. is owned by the production studio, for which the voice actor works for, it is important to note that the production studio is only the owner of the work produced by their respective voice actors, while the later will remain as its author, in fact corporate entities can never for the purposes of copyright law be the author of any work which is created by its employees, which for the purposes and scope of this paper, are the voice actors and their voice as ever since the first ever statute on copyright law the Statute of Anne²⁷ better known as the Copyright Act of 1710, the objective of copyright law has always been to encourage and foster the creativity of natural authors. In addition, the court had concluded that juristic persons were never contemplated to be included under the ambit of copyright law, in light of the fact that copyright protection persists for a period of time, in India the same being the author's or performer's natural lifespan in addition with a period of protection spanning 60

²⁵ *ibid*

²⁶ *Asia Pacific Publishing Pte Ltd. v. Pioneers & Leaders (Publishers) Pte Ltd* [2011] SGCA 37, [2011] 4 SLR 381

²⁷ Statute of Anne, 1710 (8 Ann. c. 21)

years and 50 years for artistic works and performances respectively in view of giving benefit to the heirs of the same, being the foundation and basis of copyright protection was interpreted by the court that the protection under copyright law was intended to only extend to natural persons as juristic persons can never have a life span let alone subsequent generations.

IV. AVENUE OF PROTECTION UNDER THE MORAL RIGHTS OF A PERFORMER

It is to be seen that voice actors under the ambit of the Indian Copyright Act can be classified as Performers under section 2(qq) of the act²⁸, as had been held under *Neha Bhasin v. Anand Raj Anand*²⁹ where it was held that the presence of an audience is not a mandatory requirement for an act to constitute as a performance. Thus, an individual doing a voice performance inside a studio in the absence of an audience will be considered as a voice actor. A performer under the Indian Copyright Act can claim protection under Sections 38 and 38A³⁰ which gives the performer the right to claim damages against any distortion or mutilation of his performance which are prejudicial to his reputation and honour. It is to be seen that the performer's rights of the performer given under section 38A, subject to the performer's contract are not available to the performers who have consented to make their performance part of a film, concerning the use of their performance in that particular film so in the context of this research paper a production studio cannot use the audio of the voice actor outside of its intended use. However, it is to be seen that the rights of the performer and that of the artists though similar are different and distinct from each other as had been held under *Super Cassette Industries Limited vs Bathla Cassette Industries Pvt.*³¹ Though it is to be seen that the moral right of a performer under section 38B and the moral rights of an artist under section 57³² are analogous to the point of verbatim thus, case laws in respect of section 57 have been considered for the rights of voice actors who fall under the category of performers.

An Author as per section 57 of the Copyright Act of 1957, which confers moral rights upon the author which is distinct from the rights, conferred by ownership over the author's work. These moral rights protect the integrity of work produced by the artist post-transfer of its ownership. This protection extends to restraining or claiming damages in case of any distortion, mutilation, modification or any other act concerning the said work if the same would be prejudicial to the honour or reputation of the artist and his work.

²⁸ Copyright Act 1957, s 2(qq).

²⁹ *Neha Bhasin v. Anand Raj Anand* [2006] DHC [2006] 132 DLT 196

³⁰ Copyright Act 1957, s 38, s38A.

³¹ *Super Cassette Industries Limited vs Bathla Cassette Industries Pvt* [2003] DHC [2006] 107 DLT 91

³² Copyright Act 1957, s 57.

It is of further note that the moral rights provided through section 57 are of particular importance as they override the terms of the contract for the transferring of the ownership of the work, requiring every contract of the nature of the latter to be subject to the section as had been held under *Mannu Bhandari v Kala Vikas Pictures Pvt. Ltd.*³³

The case of *Jatin Das v Union of India*³⁴ is of particular importance concerning the extent of the moral rights of the artist, where the Delhi High Court had restrained the defendant, Steel Authority of India from carrying out any further distortion or destruction of the author's steel sculpture, the 'Flight of Steel', which had occurred when the artwork was moved from the Bhilai Steel plant of the defendant to a zoo. Thus, it is to be considered that the scope of moral rights extends far beyond constraining an owner from performing any act which would be prejudicial to the honour of the artist but also extends to protecting the original meaning or intention behind their work.

Further, the recent verdict of the Danish Maritime and Commercial High Court in *Tal Rosenzweig v Kanske Denmark ApS*³⁵ has held that any alteration in the work of the author in such manner that it would lead to the reproduction of their work in amended form is prejudicial to the author's literary or artistic reputation or individuality and is thus violative of section 3(2) of the Danish Copyright Act³⁶, which is analogous to section 57 of the Indian Copyright Act which are both in conformation with section 6bis of the Bern Convention for the protection of literary and artistic works.

The judgment is thus of particular importance in the context of the voice and audio produced by generative A.I. which is trained on the corpus of audio recordings of a voice actor, as it would mean that the unconsented use of generative A.I. in the reproduction of the voice of the said voice actor is violative of their moral rights as an artist and thus warrant the protection of section 57 of the Indian Copyright act, and the voice actor can thus seek injunction of the use of generative A.I. in reproduction of their voice.

V. AVENUE FOR PROTECTION THROUGH THE USE OF PERSONALITY AND PUBLICITY RIGHTS

In India *R. Rajagopal v. State of Tamil Nadu*³⁷, more famously known as the Auto Shankar Case has acted as the catalyst for the emergence of personality rights, where the Supreme Court

³³ *Mannu Bhandari v. Kala Vikas Pictures Pvt Ltd* [1986] DHC [1986] 30 DLT 502

³⁴ *Jatin Das vs Union Of India* [2018] DHC [2018] CS (COMM) 559/2018

³⁵ *Tal Rosenzweig v Kanske Denmark ApS* [2019] DMCHC [2019] SH2019.BS – 51005/2019

³⁶ Consolidated Act on Copyright 2014

³⁷ *R. Rajagopal v State of Tamil Nadu* [1994] SC [1994] 6 SCC 632

has recognised that a person has a right to control the commercial use of his own identity. The High Court of Delhi in *Titan Industries Ltd. v. Ramkumar Jewellers*³⁸ have defined the Right to Publicity as the right to control the commercial use of human identity. Further, the right to publicity entails not only the right of an individual who is famous to commercialise their own identity but also vests the right to have control over the commercial use of their Identity. Delhi High Court in *ICC Development (International) Ltd. v. Arvee Enterprises*³⁹, went on to further define this right to control the commercial use of one's own identity as the right to publicity which is a subset of the right to privacy, and thus is available to specific persons in respect of protection to the whole of or particular indicators of their personality, and does not extend to some non-human entity which the high court held would be violative of Article 19 and 21, which means that as per the judgment of the High Court of Delhi, any element which forms a part of the personality of an individual, such as the "voice" used by a voice actor in the context of this research paper can never be under the ownership of any non-human entity such as a production studio.

Right to Publicity refers to a person's inherent right to control the commercial use of their identity. It is an individual's right to exploit the commercial value of their name and fame.

In India the Right to Publicity was properly defined by the High Court of Delhi, adopting the same from American jurisprudence⁴⁰ in *Titan Industries Ltd. v. Ramkumar Jewellers*⁴¹, as, "The right to control the commercial use of human identity". It is to be further seen that if a person does grant the privilege of using the whole or any part of his human identity to another the same does not entail any transfer of business or anything else. However, it is to be seen that for any individual to exercise the right to publicity, there exists a prerequisite for such a person to be a celebrity. Delhi High Court has defined a celebrity as a person who is simply famous or well-known, where such celebrity has the sole right to exploit the social or economic value of being a celebrity. It further went on to define the basic elements of a valid claim towards the breach of the Right to Publicity, those being:

- Validity: The person owns a right in the identity or persona of a human being or character.
- Identifiability: The Celebrity must be identifiable from the defendant's unauthorised use or infringement of the right to publicity.

³⁸ *Titan Industries Ltd. v Ramkumar Jewellers* [2012] DHC [2012] 50 PTC 486

³⁹ *ICC Development (International) Ltd. v Arvee Enterprises* [2003] DHC [2003] 26 PTC 245

⁴⁰ *Haelan Laboratories v Topps Chewing Gum* [1953] 2d Cir. [1953] 202 F2d 866

⁴¹ *Titan Industries Ltd. v Ramkumar Jewellers* [2012] DHC [2012] 50 PTC 486

The court also provided methods for proving the identification of celebrities which it divided into unaided and other methods of proving identification:

- Unaided identification: if the plaintiff is well known then their identifiable features are by themselves sufficient to create a strong inference of identifiability.
- Other Methods of Identification: If several elements concerning the defendant's violation of the right to publicity together add up at a geometric rate to point towards the plaintiff's identity or if there exists direct or circumstantial evidence that the defendant wanted to use the plaintiff's identity as an economic leverage.

In the context of this research paper, it is thus, pertinent to prove whether voice actors come under the definition of a celebrity. Indian jurisprudence as given by the Delhi High Court has considered public perception as one of the main criteria for determining whether an individual should be considered a celebrity or not. Thus, though voice actors don't always fall under the traditional definition of a celebrity, those voice actors who are able to achieve a degree of fame or popularity among the general populace, especially with the growth in popularity of animations as a medium of entertainment, various voice actors do fall under the definition of a celebrity and are able to utilize their right to publicity. At the same time, it is important to see that, *Martin Luther King Jr Center for Social Change v American Heritage Products Inc.*⁴² provided by the United States Court of Appeals for the 11th Circuit has provided a broader interpretation of who would fall under the definition of a celebrity through the direct commercial exploitation of identity test. The same provides that when someone uses another's identity without such person's consent or authorization for some commercial purpose, the person whose identity has been misappropriated has for the purposes of Right to Publicity become a celebrity. The same thus provides for the protection of the vulnerable group of voice actors who don't fall under the definition of a celebrity as they are particularly susceptible to commercially exploitative practices.

The same line of thought regarding the broader interpretation of the right to publicity has been reflected by the High Court of Delhi, in *ICC Development (International) Ltd v Arvee Enterprises*⁴³, "which has held that as the right to publicity is a facet of the right to privacy from which it has evolved, it is available only to an Individual in relation to that individual's personality that is his name, personality trait, signature, voice etc." in addition the court had widened its interpretation regarding the applicability of the right to Publicity, "An individual

⁴² *Martin Luther King Jr Center for Social Change v American Heritage Products Inc.*, [1983] 11th Cir [1983] 694 F.2d 674

⁴³ *ICC Development (International) Ltd. v Arvee Enterprises* [2003] DHC [2003] 26 PTC 245

can acquire the right to publicity by the virtue of his association in relation to an event like a movie, sports etc.” Further, any effort made in order to take away or violate the right to publicity from an individual would be violative of articles 19 and 21 of the Constitution of India. It further held that the right to publicity has been recognized by the High Court of Delhi to be an Individual’s right, who alone is entitled to profit from his own persona.

One of the most important things to note from the above in the context of this research paper is that the right to publicity in relation to one’s personality is an individual’s right and that the same cannot be used without the consent of the voice actor, thus a voice actor has a valid claim for an ex-parte injunction available against the unconsented use of his voice in AI voice generation by their employer such as a production studio, who cannot use the recordings of the voice actor outside the intended purpose for which they were recorded which also includes the use of their voice recordings for the purpose of AI voice generation. Further, as the purpose of AI voice generation is to reduce the involvement and necessity and to automate the work of voice actors, which would lead to a reduction in employment opportunities thus leading to the voice actor being unable to earn profit from the generative AI which is using their voice.

Further, under *Anil Kapoor v. Simply Life India & Ors.*⁴⁴, the Delhi High Court has formerly defined the aspects which are associated with the persona of an individual among which voice, the manner of speaking and the delivery of dialogue have been included to be the part of the persona of the plaintiff further under *Amitabh Bachchan v Rajat Nagi & Ors.*⁴⁵, the Delhi High Court had also recognized voice to be protected under the right to publicity, which could only be used by the consent of the person in question. These judgments further provide protection to voice actors who perform the role of other fictional characters and these voice actors as per the judgment of the Delhi High Court under *Jaikishan Kakubhai Saraf alias Jackie Shroff v The Peppy Store & Ors.*⁴⁶ in reference with *D.M. Entertainment Pvt. Ltd. v. Baby Gift House & Ors.*⁴⁷, are expressly protected under the right of publicity against the unauthorized use of their personality, which includes their name, image, voice, and other distinctive attributes. The court held that the main purpose for the prevention of this unauthorized use is to prevent the loss of unearned commercial gains. One of the most important aspects of this judgment has been the protection of the plaintiff, in this case, Jackie Shroff from the use of Artificial Intelligence to impersonate his persona which in this case had been used by the defendants who had utilized his voice among other aspects of his persona such as his name, image among other

⁴⁴ *Anil Kapoor v Simply Life India & Ors.* [2023] DHC [2023] CS(COMM) 652/2023

⁴⁵ *Amitabh Bachchan v Rajat Nagi & Ors.* [2022] DHC [2022] CS(COMM) 819/2022

⁴⁶ *Jaikishan Kakubhai Saraf alias Jackie Shroff v The Peppy Store & Ors.* [2024] DHC [2024] I.A. 10963/2024

⁴⁷ *D.M. Entertainment Pvt. Ltd. v Baby Gift House & Ors.* [2002] DHC [2010] CS(OS) No. 893/2002

characteristics without his permission which led to the infringement on his personality and public rights, with the use of artificial intelligence in such manner has been considered by the High Court of Delhi to be prima-facie violative of Jackie Shroff's personality right and his right to publicity. Thus, it is to be seen that the Delhi High Court has recognized the fact that Artificial Intelligence can be used to impersonate the persona of an individual and thus cause the violation of personal Rights. This recognition thus provides protection to voice actors against any unconsented use of generative artificial intelligence for the reproduction of their voice, as the same has led to unearned commercial gains from which the voice actor couldn't get the benefit, violating their personality and publicity rights.

VI. CONCLUSION

While, the legal landscape regarding the subject of artificial intelligence at large, due to the reasons of its infancy remains underdeveloped with various legal ambiguities, this paper attempts to answer, the same in order to provide a basis for the various voice actors and other artists to pursue legal justice and remedies against any injustice or exploitation which may occur as a result of those aforementioned ambiguities with an emphasis on voice actors. This paper is an attempt to forge a pathway for legal remedies within the existing framework of copyright law, answering the various legal ambiguities regarding the topic in the absence of proper and specific legislation which would focus on the problem, relying on existing copyright legislation to reach a proper conclusion, that being that unconsented use of artificial intelligence in the generation of the particular voice of a specific person can attract the protection of the existing framework of copyright law.

The paper has analysed the relevant considerations which shows the fact that there can be grounds for the protection of their intellectual property illustrated by the three objectives that it had set out to achieve, those being; firstly, providing a foundation for the protection of copyright law underlying the main element of the performance of voice actors that being their voice, is subject to copyright law; secondly, that voice produced by generative A.I. lacks originality as they rely on pre-existing audio data of another voice actor; thirdly, voice actors can claim their moral rights as a performer of their work for any unconsented use of their work; fourthly, Voice Actor can also claim protection under personality rights and their right to publicity as, they fall under the definition of a celebrity, voice is a facet of one's persona which is capable of being impersonated by artificial intelligence. In conclusion, while the legal landscape surrounding AI-generated voice is ever-evolving, voice actors in India have a strong case for protection under the existing copyright framework. The originality of their

performances, authorship of the work, and moral rights all provide grounds for challenging the unauthorised use of generative A.I. technology. As AI continues to evolve, further legal developments are necessary to ensure the fair and just treatment of the various people engaged in the entertainment industry, with the view of promoting transparency and emphasizing consent during the stage of the formation of contracts between the voice actors and production studios and providing fair compensation to the artists whose audio data is used for the commercial use of their voice.
