Business Software Alliance lobbies for text and data mining exception in India's copyright law

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The Business Software Alliance (BSA), a global association of enterprise software companies including Microsoft and Adobe, is lobbying for the inclusion of a text and data mining (TDM) exception under India's copyright law.

This push for a TDM exception is expressed in BSA's report titled *Enterprise AI Adoption Agenda for India* released on November 6, 2025, during an AI forum held in New Delhi.

The statutory fair dealing exceptions under Section 52 of India's copyright law mainly cover private research or criticism. Commercial large-scale automated TDM, a necessity in AI training, is not included. According to Dhruv Anand, a partner at Anand and Anand in Noida, this not only hampers AI research but also exposes creators and AI developers to unpredictable legal outcomes.

"In view of the essentiality of TDM for robust AI innovation, there is a strong case for introducing a TDM exception into Indian Copyright law, provided that the same is narrowly tailored to ensure technological progress while effectively protecting creators' rights," said Anand.

"In fact, the Government of India has taken cognizance of this and the recent India AI Governance Guidelines issued by the Ministry of Electronics and Information Technology in November 2025 states that 'Existing laws on copyright may need to be amended, for example, to enable large-scale training of AI models while ensuring adequate protections for copyright holders and data principals,'" added Udita M. Patro, a partner at Anand and Anand in Noida.

According to Anand and Patro, a robust TDM exception for AI training under Indian copyright law should include explicit safeguards, such as:

- **Lawful access only**

"TDM activities should be allowed only as regards those works to which an AI developer has lawful access, preventing use of illegally or unauthorized copies of works, in consonance with Articles 3 and 4 of the EU Digital Single Market (DSM) Directives and Article 30-4 of the Japan Copyright Act," said Anand.

- **Reservation of Rights or Right to Opt-out**
- **Limits on Further Use and Retention & Secure Storage of Copies**

"Reproductions or extractions of works made for the purposes of TDM may only be retained for as long as is necessary for the purposes of TDM. Copies made for TDM should be securely stored through technical and organizational measures, used only for permitted purposes and destroyed or deleted when no longer required," explained Patro, adding that this was in consonance with Article 4 of the EU DSM Directives.

- **Prohibitions on use**

"The outputs of TDM may not infringe upon moral rights or be used to unfairly compete with the original works. Further restrictions may be imposed concerning personal data or sensitive information in compliance with applicable privacy laws," Patro stated.

- **Attribution**

There must be proper attribution to the original works used in the TDM, especially in public disclosures or commercial deployments.

- **No override of licence or contracts**

"The TDM exception should not override any contractual agreements or licensing arrangements between right holders and users allowing TDM under specific negotiated terms," Anand explained.

- Espie Angelica A. de Leon

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View Bio of Dhruv Anand

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