

Protecting the Intellectual Rights of Creators from Attack Using Artificial Intelligence between Jurisprudence and Law: A Descriptive Comparative Study

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Abstract:

This research aims to study the phenomenon of attacking the intellectual rights of creators using artificial intelligence and protecting them in jurisprudence and law through a comparative study between them, in which the researcher explains what is meant by artificial intelligence and intellectual rights, then shows images of attacks on intellectual rights using artificial intelligence and how jurisprudence and law protected these rights through a comparative study that shows the points of agreement and differences. The researcher followed the descriptive comparative approach, so he sought to clarify the scientific terms in the research, then mentioned some cases of theft of the rights of creators and studied how jurisprudence and law worked to protect them and what they agreed on and what they disagreed on, then he came out with results including the importance of protecting the intellectual rights of creators in the law and activating the moral aspect of protecting rights. He also concluded that working to protect the rights of creators should be collective, not individual, by institutions and governments, and that jurisprudence and law have done a good job of protecting intellectual rights, but with the development of images of attacks on intellectual rights, we need new formulas and intensive cooperation to curb them.

Acknowledgment:

The authors extend their appreciation to the Deanship of Research and Graduate Studies at King Khalid University, KSA, for funding this work through Small Research Group under grant number. (RGP.1/287/45)

the introduction

Laws, regulations and laws have protected all intellectual rights, both moral and material, of authors for several centuries, and violating these rights exposes its owner to legal and moral accountability. Violations have taken many forms, and with the development of the ages, the forms of violations have increased, until the era of artificial intelligence came, and instead of using it in what benefits and does not harm, and what serves and does not destroy, some users have made artificial intelligence a means of violating intellectual property rights. Because these practices need to be stopped, researchers must shed light on them, and institutions and legislative bodies must legislate what guarantees the rights of creative people, and regulatory

institutions must cooperate with everyone to stop these violations, which will lead us to a new era in which the least of which is the unjust usurpation of the creator's right.

Importance of research:

The importance of the research is evident from several points, the most prominent of which are:

- ❖ Explaining what artificial intelligence is.
- ❖ Statement of the nature of intellectual rights for creators.
- ❖ Trying to reduce the violations that creators are exposed to.
- ❖ Highlighting the role of jurisprudence in reducing intellectual attacks on the rights of creators.
- ❖ Highlighting the role of law in reducing intellectual attacks on the rights of creators.
- ❖ A comparison is made to show what jurisprudence and law have agreed upon in combating attacks on the rights of creators and what they have differed on.

Research objectives:

This research aims to achieve several objectives, the most prominent of which are:

- Explaining what artificial intelligence is.
- Explaining what intellectual rights are for creators.
- Highlighting the need to stop attacks on intellectual property rights.
- Calling on jurisprudence and law to stand firmly to stop the assault on the rights of creators by artificial intelligence.

Research problem and questions:

The research problem lies in the question of how did jurisprudence and law protect the intellectual rights of creators? What did they agree on and what did they disagree on? Several questions arise from the research problem:

- 1- What is artificial intelligence?
- 2- What is meant by intellectual property rights?
- 3- What are the forms of attacks on the intellectual rights of creators?
- 4- What is the role of jurisprudence in reducing intellectual attacks on the rights of creators?
- 5- What is the role of law in reducing intellectual attacks on the rights of creators?
- 6- What are the things that jurisprudence and law agree upon in combating attacks on the rights of creators?
- 7- What are the things that jurisprudence and law differ on in combating attacks on the rights of creators?

Research methodology:

In this research, the researcher followed the descriptive comparative approach. He studied the phenomenon by stating the meaning of the terms included in the research, then described the situation in the research by stating the most prominent forms of attacks on the intellectual property rights of creators, then compared the role of both jurisprudence and law in combating attacks on intellectual rights.

Research structure:

This research consists of an introduction, three chapters and a conclusion.

Introduction: It includes the importance of the research, its objectives, problem, questions, methodology and structure.

Chapter One: Definition of Artificial Intelligence.

Section Two: Definition of intellectual property rights.

Section Three: Forms of infringement on intellectual property rights using artificial intelligence.

Chapter Four: The role of jurisprudence and law in protecting the intellectual rights of creators and criminalizing their violation by artificial intelligence.

Conclusion: It includes the results and recommendations.

Chapter One: Definition of Artificial Intelligence.

Scientists have differed in their definition of artificial intelligence. Some of them defined it as: “It is one of the fields of science and technology that has developed during the last thirty years, and its development has relied on many fields of knowledge, the most important of which are electronic engineering, computers, cybernetics, and psychology, especially what relates to perception and mental operation of information, in addition to specialized knowledge related to the fields of application.”⁽¹⁾

Some of them defined it as “the technology of building machines that have the ability to simulate humans in the processes of thinking, forming opinions, issuing judgments, and the ability to develop and learn. These methods are not limited to building machines and devices, but rather extend to designing and developing electronic systems and programs that give these machines the characteristic of human simulation. Without linking these machines to computer systems and programs, they cannot perform operations characterized by intelligence.”⁽²⁾

The American scientist John McCarthy, who is considered the originator of the term artificial intelligence in 1956, defined it as: “The science and engineering of making intelligent machines, especially intelligent computer programs, or: it is the branch of computer science that aims to create intelligent machines.”⁽³⁾

In simple terms: Artificial Intelligence is the study of intelligent behavior in humans, animals, and machines, and an attempt to find ways in which such behavior can be introduced into artificial machines⁽⁴⁾.

It can be said that the previous definitions revolve around a meaning, which is the ability of a device or machine to think or act like humans; but recent applications have tried to go beyond human intelligence, so artificial intelligence can be defined as: simulating optimal behavior (in terms of intelligence) in computers⁽⁵⁾.

Section Two: Definition of intellectual property rights.

There are several attempts to define intellectual property rights, including:

- Definition of the World Intellectual Property Organization: “Rights in literary, artistic and scientific works, such as artistic performances, homographs, creative works, inventions in all fields, scientific discoveries, industrial designs, trademarks, service marks, trade names, protection against unfair competition and any other rights secured by intellectual activities in the industrial, scientific, literary and artistic fields.”⁽⁶⁾
- The World Trade Organization defined it as: “the rights granted to human beings over the products of their mental creations, which include industrial property rights as well as literary property rights.”⁽⁷⁾
- It is also known as: “moral rights that give their owners the exclusive right to exploit a new objective innovation such as a patent, or a new innovation in form and design such as industrial drawings and models, or to exploit certain marks or signs to distinguish the establishment such as a trade name, or to distinguish its products such as a trademark.”⁽⁸⁾

There are other definitions, but through the above and others we can say that intellectual rights are special creative rights that include literary, artistic and scientific works. These rights have been granted to their owners for the

mental, intellectual, literary, scientific and creative effort they have made to reach them.

Section Three: Forms of infringement on intellectual property rights using artificial intelligence.

Although intellectual rights are the right of their owner in jurisprudence and law but with contemporary developments, it has become easy to attack these rights by various means. Here we will talk about intellectual rights and how to steal them using artificial intelligence. Some of the forms of attacking intellectual property rights using artificial intelligence are:

- Robbery and assault on the creator's right to attribute his production: The creator has the right to attribute his creativity to himself and not to rob it and attribute it to others. For example, by means of artificial intelligence in research fields, some works are robbed and quoted from without attributing it to its owner, whether it is a quote in the text or with minor modifications so that it is not revealed using special quotation programs, changing what does not affect the text and then attributing it to someone other than its owner, or an artistic work is robbed and not attributed to its owner. All Arab laws have stipulated the protection of the creator's right. The Berne Convention stipulated in Article 6 that the financial rights belong to the author, and even after these rights are transferred, the author retains the right to demand attribution of his work to him.⁽⁹⁾
- Theft of the creator's right to decide whether or not to publish his work: The creator has the right to publish his work or not, in addition to his right to publish it in the way he wants and in the form he wants. Examples of theft of this right include, for example: including texts of his words in books that the author does not want, or putting his creative artistic work in forms that he does not approve of, such as putting his voice in another tune, or his tune in another voice, or his words in a voice that he does not want, or his picture with someone he does not want to be with in his pictures, or including his picture in a cinematic work with someone else or in a scenario that he does not want... etc. The laws stipulate the author's exclusive right to decide whether to publish his work and determine the time and method of publication without coercion or interference from anyone. All of these are the author's private property, and he has no authority over the product of his mind, thinking, and creativity.⁽¹⁰⁾
- Stealing the copyright in modifying his work: The creator has the right to modify his work in the way he sees fit, even after it is shown to people. There are many forms of stealing this right using artificial intelligence. He may install the voice of one person on another, install strange words on someone who did not say them, install the words of a poet on the voice of a singer, and modify intellectual works such as books and research in a way that does not change the content... etc. It is self-evident that since the author has the right to attribute his creativity, the method of publishing it, and the time of its publication, he has the right to modify his work as he sees fit and this right is not taken away, as the follower is a follower, as the jurists say, so the modification is a follower of the original, which is the production, so it has the ruling of the original.
- The right to keep the product without distortion: The creator has the right to keep his product without distortion, distortion or modification, whether it goes beyond his intention or not, even if it is for the better from the point of view of

the modifier. The scope of creativity is wide for whoever wants it, but without stealing the rights of others. The product is the fingerprint of its owner and his product is his personality, whatever it may be. The creator likes to produce his product in the way he produced it, and he has the right to repel the distorted and distorted aggression against his production. Examples of stealing this right include installing some images on bodies and with people and in clips that the owner does not approve of, as well as installing some sentences in the creator's native language or otherwise or inserting some voices for some characters...etc. The law protects moral intellectual rights and prevents tampering with them, distorting them, distorting them or tampering with them.⁽¹¹⁾.

- The infringement of the creator's right to withdraw his work and prevent it from being circulated: The creator has the right to withdraw his product from circulation for any reason. One of the forms of infringement on this right is that after it has been distorted, altered, modified, or stolen in any way, it is not attributed to the creator but to the one who modified it. Therefore, the owner of the original product cannot withdraw it, as he does not own his intellectual rights. The law gives the creator the right to withdraw his product for any reason he sees. He may see in it a mistake that he has retracted, or that it has become inappropriate for modern developments, or that he has retracted from adopting a doctrine, or for fear of reactions, whether public, legal, or political, or for fear of something in the future, or for any other reason. Since the right to publish the product was his, he established the right to withdraw it. The right to withdraw is subject to the right to publish. The laws have stipulated the prohibition of this. For example, Article 24, paragraph 1 of the Algerian law states: "The author who believes that his work no longer conforms to his convictions may stop making it, or inform the public of the work to exercise his right to repent, or withdraw it." The work previously published by the notification authority to the public by exercising its right of withdrawal⁽¹²⁾.

The third topic: The role of jurisprudence and law in protecting the intellectual rights of creators and criminalizing their infringement through artificial intelligence.

In this section, the researcher will discuss the role of Islamic jurisprudence in protecting intellectual property rights, then the role of law in protecting intellectual property rights, and then show the points of agreement and difference between them:

First: The role of jurisprudence in protecting the intellectual rights of creators and criminalizing their violation by artificial intelligence.

Contemporary jurisprudence views intellectual rights as a valuable benefit and a financial result. It is money. Islamic jurisprudence, most likely, does not require that the subject be a material thing, but rather everything that falls under the meaning of money, whether it is an asset or a benefit, and has a value among people, and the Shari'a permits benefiting from it. Accordingly, contemporary jurisprudence sees that intellectual rights fall under the name of legitimate money because they have a significant value among people and ownership, specialization, and monopolization apply to them.

If this is decided, then the Sharia came to respect rights and money and did not permit eating it unjustly. God Almighty said: (no Eat Your money Between you In vain And you are leading With it to The rulers To eat Team from Money People By sin And you You know) [Surat Al-Baqarah: 188], so God Almighty indicated that it is

forbidden to eat people's money unjustly, including intellectual rights, and therefore it is not permissible to transgress against them.

It is also one of the general rules of Sharia that the tax is subject to guarantee, and this rule means that the yield and fruit of something is for the one who bears responsibility for it, and moral rights arise from the creativity of its owner, whether he is an inventor, author or artist, so in Sharia they are responsible for any harm caused by their product and they have the right in return to benefit from their product, so the tax is subject to guarantee, so just as they are responsible for their product, they have the right to moral and financial benefit from this product and it is not permissible to violate it⁽¹³⁾.

This is confirmed in Islamic jurisprudence by texts including: "Whoever is the first to do something that no Muslim has done before him, it is his."⁽¹⁴⁾ Intellectual and moral production is one of the permissible matters that were previously discovered or created by its owner. Monopolizing it is the right of its owner, and attacking it is contrary to Sharia. He has the right to exploit it financially, and attacking it is an attack on the finances of its owner.

This behavior was practiced by Muslims throughout their history, Muslims respect knowledge and know its rights and respect scholars and preserve their rights as well, and therefore Muslims knew the system of depositing literary and artistic works to protect them and called it immortality, as they carried out this task in the most famous house, which is the House of Knowledge in Baghdad, and they also knew the courts of literary criticism that were based on protecting the rights of authors from being violated, and these courts were the only ones competent to consider this type of violation, and those courts used to call those violations terms such as theft, violation, raid, usurpation, distortion and plagiarism⁽¹⁵⁾.

This protection that jurisprudence has given does not differ according to the means. In our current era, theft by artificial intelligence has become so sophisticated that the average person cannot differentiate between truth and imitation. People have become able to steal intellectual rights, whether they are written, such as poetry, prose, stories, research, etc., or audible, such as recitations and songs, or visual, such as videos, films, etc., and by means of this machine it has become easy to plagiarize all of the above and attribute it to someone other than its owner.

The phenomenon of plagiarism and impersonation has existed throughout history, and scholars used to denounce its perpetrators. Many Muslim scholars have addressed this phenomenon in their books and writings. Ibn al-Fadl Ahmad ibn Abi Dhahir Tayfur wrote a book called: The Plagiarisms of Poets, and al-Suyuti wrote a book called: The Difference Between the Compiler and the Thief, in which he said: "The traitorous thief... who raided several books, so he took the book (The Miracles and Characteristics of the Long and the Short) and stole what was in it using my expressions that those with insight know, and he went beyond the theft and attributed it to himself unjustly and aggressively."⁽¹⁶⁾

We can say that there is no disagreement in jurisprudence about the prohibition of aggression against rights, whether moral or material, and that jurists have made aggression against property a counterpart to aggression against lives: "Your blood and your property are sacred to you, as sacred as this day of yours, in this month of yours, in this country of yours."⁽¹⁷⁾ Scholars have decided this ruling based on practical practices. Imam Al-Ghazali mentioned that Imam Ahmad was asked about someone who had dropped a piece of paper on which he had written hadiths or something similar. Is it permissible for someone who finds it to write from it and then return it? He said: No, rather he should ask permission. Then he writes⁽¹⁸⁾.

In conclusion: Islamic jurisprudence considers intellectual rights as rights that are proven to their owner and proves their financial value and that their owner has the right to them and is liable for any harm resulting from them. Islamic jurisprudence preserves this right and makes the aggressor subject to accountability, whether these attacks are by direct theft or by any means, including artificial intelligence.

Second: The role of law in protecting the intellectual rights of creators and criminalizing their violation by artificial intelligence.

Intellectual production in law is characterized by universality, as it does not stop at the borders of a specific country, but rather extends beyond it, and its owner has the financial right to the material returns resulting from it. This results in its protection being obligatory for all countries, because national protection is not sufficient to achieve protection, which necessitates working on ways of international protection⁽¹⁹⁾.

From the point of view of legal experts, there are negative consequences that harm the individual and society as a result of the infringement of intellectual rights, including:

- Low sales of original products and lost opportunity to make profits.
- Ignorance of consumers of counterfeit products, with the resulting loss of opportunities for these projects to sell or market their other products that could be technically or technologically integrated with counterfeit products.
- The inability of these projects to develop new generations of original products that have been imitated.
- Depriving these projects of benefiting from suggestions from consumers of counterfeit goods regarding the advantages or disadvantages of these goods so that they can be developed or new products can be developed.
- The practice of piracy of intellectual property rights related to names and trademarks and their exploitation without the permission of their owners may result in a decrease in their commercial value, destruction of their reputation and acceptance, and weakening of their market value.⁽²⁰⁾

To avoid these negatives, laws sought to preserve intellectual rights. In 1883, the Paris Convention for the Protection of Industrial Property, including Trademarks, Patents, and Industrial Designs, was concluded, and many amendments were made to it, the last of which was at the Brussels Conference in 1948. Finally, the GATT agreement focused on organizing and protecting literary and artistic property, and is based on the implementation of the World Trade Organization as of January 1995. During the talks held in Marrakesh in 1994, member states signed the General Agreement on Trade and Tariffs to the World Trade Organization, as of January 1995. Before the issuance of these laws, the courts ruled to protect copyright based on the rules of justice, as they required anyone who violated this right to compensate its owner for the damages he suffered as a result of this violation⁽²¹⁾.

Some researchers believe that the idea of criminal protection of intellectual property rights came about in order to achieve more effective protection in view of the inadequacy of civil or administrative protection in national laws. It is also noted that this protection has emerged with the increasing need to raise the level of protection granted to these rights. Countries have begun to enact domestic legislation to protect intellectual rights and amend them whenever necessary, in addition to concluding several international agreements, as well as urging countries to prohibit attacks on them and stating the need to include penalties for attackers in their domestic laws⁽²²⁾.

Third: The points of agreement and difference between jurisprudence and law in protecting intellectual property For creators and criminalizing attacks on them through artificial intelligence.

Some researchers have summarized the points of agreement and difference between jurisprudence and law in protecting the intellectual property of creators. The most prominent points of agreement are:

- After considering jurisprudence and law in explaining the nature of criminal protection of intellectual property rights, it can be said that the two points of view are in general agreement.
- Jurisprudence and law agree that the intellectual rights of creators are protected by Sharia and law, and their owners have the right to dispose of them, and they may not be violated.
- Jurisprudence and law agree that intellectual property includes literary and artistic property, and industrial property, all of which are protected rights.
- Jurisprudence agrees with the law in the concept of ownership, which gives its owner authority that allows him to use, exploit and dispose of it, and he can monopolize his right and prevent others from it without his permission. This right requires immunity from jurisprudence and the law that protects it from imitation, forgery, usurpation and fraud.
- Jurisprudence and law also agree that intellectual rights may not be violated, whether they are separate from their owner, such as a book, plan, tape, invention, trademark, or design..., or whether they are not separate from their owner, as they are still ideas in his mind, and all are protected by Sharia and the law.

The most prominent points of difference between jurisprudence and law in protecting the intellectual rights of creators are:

- The idea of ownership in Islamic jurisprudence is broader than in law, as the divisions of ownership are multiple among Islamic jurists for different considerations other than what they are in law, and this highlights the flexibility of jurisprudence in particular and Sharia in general.
- Islamic jurisprudence preceded systems and laws in recognizing intellectual property rights and providing the best ways to protect them and attribute them to their owners, and applied criminal penalties for those who violate them.
- Intellectual property in jurisprudence is distinguished by the fact that the term “intellectual property” is a new term, but it is fixed in the rulings and applications in jurisprudence, as we have presented.
- Jurisprudence also preceded positive laws in establishing the rules of criminal protection of intellectual property, as it is not something new. The early Muslims knew the creations that give their owner the right to dispose of his work as he wishes. History’s interest in intellectual property rights is indisputable, as the author is only attributed to his owner through legal principles, with the prohibition of fraud, deception, and theft⁽²³⁾.

Conclusion: It includes the results and recommendations:

Results:

- Artificial intelligence is the ability of a device or machine to think or act like humans; however, recent applications have attempted to surpass human intelligence. Artificial intelligence can be defined as: simulating optimal behavior (in terms of intelligence) in computers.

- AI applications aim to: think like a human, think reasonably, act like a human, and act reasonably.
- Intellectual rights are special creative rights that include literary, artistic and scientific works. These rights are granted to their owners for the mental, intellectual, literary, scientific and creative effort they have made to obtain them.
- The most prominent forms of infringement on intellectual rights by artificial intelligence are the following: theft and infringement on the creator's right to a share of his production, theft of the creator's right to decide whether or not to publish the work, theft of the author's right to modify his work, theft of the creator's right to withdraw his work and prevent it from being circulated, and the infringement of the right to keep the product without distortion.
- There is no disagreement in jurisprudence regarding the prohibition of attacking rights, whether moral or material. Jurists have made attacking property akin to attacking lives. An attack on money is an attack on intellectual rights because they are financed.
- There are negatives to attacks on intellectual rights, and in order to avoid these negatives, legal experts have established legislation that prevents attacks on the intellectual rights of creators, and they have stipulated laws that criminalize attacks on them, protect them, and impose punishment on attackers.
- Islamic jurisprudence preceded systems and laws in recognizing intellectual property rights and providing the best ways to protect them and attribute them to their owners, and applied criminal penalties for those who violate them.
- Intellectual property in jurisprudence is distinguished by the fact that the term "intellectual property" is a new term, but it is fixed in the rulings and applications in jurisprudence.

Recommendations:

The most important recommendations concluded by this research are as follows:

- The necessity of combating all forms of aggression against the intellectual rights of creators.
- The need for cooperation between individuals and entities to endeavour to paralyse the hands that seek to take the rights of creators.
- Enacting deterrent laws to stop those who violate intellectual rights through artificial intelligence.

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