



Intellectual Property Rights Violation by Artificial Intelligence in Islamic Jurisprudence: Analytical study

¹ Dr. Saeed Ahmed Saleh Farag, ²Dr. Ahmed Mohamed Azzab Moussa,

¹Associate Professor of usul al-fiqh at king Khalid university

Saeed_frg@yahoo.com

²Associate professor of usul al-fiqh at king Khalid university

Ahmedazab1900@gmail.com

Research Summary:

This research aims to clarify the legal ruling on the assault and theft of intellectual property rights using artificial intelligence. Users of artificial intelligence have expanded the use of intellectual rights of others, whether by quoting from the literary, intellectual or artistic creativity of others without any consent from the owner of the intellectual right. The main problem of the research lies in answering the question of what is the legal ruling on the assault on intellectual rights using artificial intelligence. In this research, the researcher adopted the analytical inductive approach, as he resorted to Islamic jurisprudence and searched for evidence to preserve intellectual property rights, then applied it to the contemporary innovation, which is the use of artificial intelligence. In this research, he reached several results, the most important of which are: that jurisprudence preserves intellectual rights and that Islamic history has many practices to emphasize this preservation, that the assault on intellectual rights is an assault on the property of others, and that the assaulter of intellectual rights is held accountable for this act from a legal perspective.

Keywords – assault, Artificial, Preserve, Innovation, assaulter

Received:13 March 2024 **Revised:** 19 May 2024 **Accepted:** 16 June 2024

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

With the advancement of modern science, new images come that need to be researched for their jurisprudential ruling, and new developments are generated from the womb of societies. Since the principles of Sharia are fixed and accommodate many new images, it was necessary for researchers in Sharia to search for the rulings on new images. What has appeared to us in the modern era are issues related to artificial intelligence, and among these issues is the expansion in the use of artificial intelligence until it is used to steal the intellectual rights of creators, whether they are poets, writers, inventors, artists, etc., and the search revolves around the ruling on this theft, from which a new image is generated that the user of artificial intelligence wants to have intellectual rights in it. In this paper, we search for this issue and explain the jurisprudential ruling on it.

The importance of research.

The importance of the research lies in these points:

- Dealing with contemporary developments in artificial intelligence issues.
- Statement of the legal ruling on contemporary developments.
- The absence of research that talks about the theft of the rights of others by artificial intelligence.
- Expanding the use of artificial intelligence in the intellectual rights of others.

Research objectives.

The research objectives in this paper can be summarized as follows:

- Statement of the technical concept of artificial intelligence.
- Explain the terminological concept of intellectual property.
- Warning of the danger of violating the intellectual property rights of others.
- Deriving the legal ruling on usurping the intellectual property rights of others in Islamic jurisprudence.

Research problem.

The main research problem is in the question: What is the ruling on the violation of intellectual property rights by artificial intelligence in Islamic jurisprudence?

Research questions.

Several questions arise from this problem:

- 1- What is meant by intellectual property rights?
- 2- What is meant by artificial intelligence?
- 3- What is the Islamic ruling on violating the intellectual rights of others?

Research methodology.

In this paper, the researcher followed the analytical inductive approach. He used Islamic jurisprudence and extrapolated the general rules to extract the jurisprudential ruling for the research issue, considering it a contemporary development, so he combined induction and analysis.

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.

Section One: Definition of Intellectual Property Rights.

Section Two: Definition of Artificial Intelligence.

The third topic: Violation of intellectual property rights in Islamic jurisprudence.

Conclusion: It includes the results and recommendations.

Section One: Definition of Intellectual Property Rights.

When we talk about intellectual property rights, we are talking about three words: right, which in the language is the opposite of falsehood. Every right must have a source, which is a specialization that determines - whether it is Sharia or law - an authority or a duty. Ownership is taken in the language from kingship, which is the containment of something and the ability to monopolize it, monopolize it and

dispose of it. As for intellectual, it is taken from thought, which is the hesitation of the heart regarding something. ⁽¹⁾Intellectual property generally refers to the creativity produced by humans that is unique to them and attributed to them. It has been defined in several ways, including:

- Definition of the World Intellectual Property Organization: "Rights in literary, artistic and scientific works, such as artistic performances, chromo grams, 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."⁽²⁾

- WTO definition: "as the rights which human beings have over the products of their mental creations, which include industrial property rights as well as literary property rights."⁽³⁾

- It is also known as: "moral rights that give their owners the exclusive right to exploit a new substantive 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."⁽⁴⁾

Section Two: Definition of Artificial Intelligence.

Intelligence in language: is quick wit and sharpness of heart. The intelligent person is quick and complete in with.⁽⁵⁾

Some of them defined it and said: It is "the speed of sparking results, and it was said: persistence in the matter, and the speed of deciding the truth."⁽⁶⁾ It was said: "The strength of the soul is prepared to acquire opinions according to language."⁽⁷⁾

Artificial in the language: attributed to artificiality, from the verb "to make", which is what was made unnaturally. It is said: an artificial rose, and an artificial heart. ⁽⁸⁾

As for the definition of artificial intelligence in terminology Artificial Intelligence: "Artificial intelligence is one of the fields of science and technology that has developed over the past thirty years, and its development has relied on many fields of knowledge, the most important of which are electronic

(1) See: Al-Misbah Al-Munir, Ahmad bin Muhammad Al-Fayoumi, Beirut, Lebanon Library, 1st ed., 1987 AD, p. 55.

(2) Intellectual Property Rights, Curtis Cook, Learn about Intellectual Property and its Impact on the Global Economy, translated by: Dar Al Farouk Translation Department, Dar Al Farouk, Cairo, Egypt 2006, p. 105.

(3) Intellectual Property Protection and Technology Transfer in the World Trade Agreement, a symposium entitled The Future of the Intellectual Property Rights Agreement in Light of Some Opposition Trends at the Global Level, Foreign Trade Research and Studies Center, Helwan University, Egypt, April 9-10, 2001, p. 10

(4) Intellectual Property Rights, Curtis Cook, Learn about Intellectual Property and its Impact on the Global Economy, p. 107.

(5) Al-Ain, (5/399), and Al-Sahah Taj Al-Lughah, (6/2346).

(6)Dictionary of the Keys of Sciences, (1/200).

(7) Colleges, (1/456), and Constitution of Scholars, (2/89).

(8) See: Dictionary of Contemporary Arabic Language, (2/1323).

engineering, computers, cybernetics, and psychology, especially with regard 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⁾

Some define artificial intelligence as: “the study of mental abilities through the use of computational models.”⁽⁴⁾

Some define it as: “The study of how to make computers do things that humans do better at the present time.”⁽⁵⁾

Some of them say that it is: “The study and design of intelligent agents, as the intelligent agent is a system that understands its environment and performs actions that increase its chances of success in achieving its goals.”⁽⁶⁾

Some of them defined it as: “The set of efforts made to develop computerized information systems in a way that enables them to act and think in a manner similar to humans. These systems can learn natural languages, and accomplish actual tasks in an integrated manner, or use images and cognitive forms to rationalize physical behavior. At the same time, they can store accumulated human experiences and knowledge, and use them in the decision-making process.”⁽⁷⁾

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.⁽⁸⁾

Despite the differences between academics, philosophers and scientists in defining and specifying the concept of intelligence itself, the consensus on the concept of artificial intelligence has been present since the emergence of the first research in the early 1950s. Artificial intelligence is the scientific and technical

(1) Artificial Intelligence Methods in Accounting, Ahmed Hani Bahri, (3).

(2) Artificial Intelligence Methods in Accounting, Bahri, (3).

(3) Translated chapters on artificial intelligence, translated by Fahd Al-Qasim (3).

(4) The same source.

(5) The same source.

(6) The same source.

(7) A collective book entitled: Artificial Intelligence Applications as a Modern Trend to Enhance the Competitiveness of Business Organizations, (13).

(8) Artificial Intelligence, by Playwright, (15).

trend that includes the methods, theories and techniques that aim to create machines capable of simulating intelligence.⁽¹⁾

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; however, 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.

It can also be said that artificial intelligence applications aim to have:

Apps that think like humans.

Apps that think rationally.

Applications that work like humans.

Applications that work rationally⁽²⁾

In other words: think like a human, think reasonably, act like a human, and act reasonably.

Artificial intelligence is either general or limited. General intelligence is an attempt to make a machine perform human mental, physical, or emotional tasks successfully. Many scientists believe that the idea of general intelligence does not exist at all.

Narrow AI: It is a group of specialized systems that can handle a limited set of tasks.

For example, some applications can master a certain game, making it difficult for a person to beat it, but they cannot defeat him in another game.

At the beginning of work on artificial intelligence applications, the game of chess represented an exciting challenge and a good example of intelligent human behavior. In one of the matches in 1997, the computer called (Deep Blue) in defeating the world chess champion (Gary Kasparov), but today smart machines and smart applications can play chess and other things better than ever before.⁽³⁾

Examples of current AI applications include email spam classification applications, Google Translate, Apple's Siri application, Amazon's Alexa application, Microsoft's Cortana application, speech recognition applications, untargeted advertising classification, and prediction applications such as smart writing, which suggests to the user texts that he can write in his messages.

Today, artificial intelligence is entering the fields of healthcare, aviation, transportation, media, energy, security, education, and entertainment.

The third topic: Violation of intellectual property rights in Islamic jurisprudence.

Contemporary people have come to consider intellectual property as a right, because it usually brings profits to its owner. Regardless of the difference in the definition of money in jurisprudence, the reality tends towards the financing of rights, especially if they can be translated into money through buying, selling, owning, and transferring.

Some contemporary scholars have made an effort to define intellectual rights in Islamic jurisprudence: as the authority of a person over something intangible that is the fruit of his thought, imagination, or activity, such as the author's right to his works, the artist's right to his artistic creations, the inventor's

(1) Artificial Intelligence between Reality and Hope: A Technical Field Study, (6), with some modifications.

(2) Translated chapters on artificial intelligence, translated by Fahd Al-Qasim, (6) with some modifications.

(3) Artificial Intelligence, by Blay Whitby, (20) with modifications.

right to his industrial inventions, and the merchant's right to the trade name, trademark, and customer trust.⁽¹⁾

This is what the world is like today. The American magazine Forbes announced the list of the hundred most valuable brands in the world for the year 2018, and the Apple brand topped the list with an estimated value of 182.8 billion dollars.⁽²⁾

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 Lawgiver 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.⁽³⁾

Islamic jurisprudence also states that "Whoever is the first to do something that no Muslim has done before him, it is his."⁽⁴⁾

Intellectual and moral production is one of the permissible matters that its discoverer or creator has previously owned. Its monopoly 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 is what Muslims applied in their history, as 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

(1) Intellectual Property Protection in Islamic Jurisprudence and its Economic Implications, Nasser Mohammed Al-Ghamdi, a research paper submitted to the Third International Conference on Islamic Economics, College of Sharia, Umm Al-Qura University, Muharram, 1424.

(2) Al-Eqtisadi website: <https://manhom.com/aliqtisadi/1098772/10/8/2024> at 10:30 PM.

(3) Intellectual Property in Islamic Law, Ali Abdullah Asiri, p. 203

(4) Sunan Abi Dawood (4/679) No. (3071).

were the only ones competent to consider this type of violation, and those courts used terms such as theft, violation, raid, usurpation, distortion and plagiarism for those violations.⁽¹⁾

Intellectual property abuse by artificial intelligence in Islamic jurisprudence.

We have presented that jurisprudence respects intellectual rights and considers them as money and their owner is more entitled to them and to what they produce, whether the product is financial or moral. In modern times, the phenomenon of theft and robbery of intellectual rights has grown in various ways. What has recently appeared to us is the robbery of intellectual rights using artificial intelligence. Due to its danger, robbery using 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 wrote (The Miracles and Characteristics of the Long and the Short) and stole what was in them using my expressions that those with insight know, and he went beyond the theft and attributed it to himself unjustly and aggressively."⁽²⁾

It has been decided that intellectual rights are rights, and there is no disagreement in jurisprudence about the prohibition of attacking rights, whether moral or material, and making attacking property akin to attacking 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."⁽³⁾

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 the one who finds it to write from it and then return it? He said: No, rather he should ask permission. Then he writes⁽⁴⁾

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.

Results and recommendations.

- 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.

(1)Criminal Protection of Intellectual Property, Salwa Gamil Ahmed Hassan, PhD Thesis, Faculty of Law, Ain Shams University, 2015, p. 42.

(2) The difference between the author and the thief, Abdul Rahman Al-Suyuti, Alam Al-Kutub, 1998 AD, p. 48. See: The nature of criminal protection of intellectual property rights, Muhammad Mukhtar Al-Sayyid Shalabi, Mansoura University, Faculty of Law, Graduate Studies Administration, Department of Islamic Sharia.

(3) Sahih Muslim (4/38) No. (1218).

(4) Ihya' Ulum al-Din, Muhammad al-Ghazali, Dar al-Ma'rifah, Beirut, Lebanon, p. 96.

- 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.
- Some contemporary scholars have made an effort to define intellectual rights in Islamic jurisprudence as: the authority of a person over something intangible that is the fruit of his thought, imagination, or activity, such as the author's right to his works, the artist's right to his artistic creations, the inventor's right to his industrial inventions, and the merchant's right to the trade name, trademark, and customer trust.
- Contemporary jurisprudence views intellectual rights as a valuable benefit and a financial benefit.
- It is not permissible in Sharia to violate the rights of others, including intellectual rights.
- One of the established rules of Sharia is that the tax is subject to guarantee, and this requires that the yield and fruit of the thing be for the one who bears responsibility for it. Moral rights arise from the creativity of their owner, 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.
- Islamic jurisprudence also stipulates that whoever is the first to do something that no Muslim has done before him, it is his.
- Intellectual and moral production is one of the permissible matters that its discoverer or creator has already discovered. Monopolizing it is the right of its owner, and attacking it is contrary to Sharia.
- 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 responsible for any harm that results 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.

Recommendations:

- [1] The most important recommendations of this research are as follows:
- The importance of preserving the intellectual rights of creators.
 - The necessity of combating all forms of aggression against the moral intellectual rights of creators.
 - The need for individuals and entities to cooperate to combat attacks that seek to take away the rights of creators.
 - Enacting deterrent laws to stop those who violate intellectual property rights through artificial intelligence.
- [2] The most important references and sources
- [3] Revival of the Religious Sciences, Muhammad al-Ghazali, Dar al-Ma'rifah, Beirut, Lebanon.
- [4] Artificial Intelligence Methods in Accounting, Ahmed Hani Bahri, Faculty of Commerce, Zagazig University, research published on the World Wide Web.
- [5] The Crown of Language and Correct Arabic, Ismail bin Hammad Al-Jawhari, Dar Al-Ilm Lil-Malayin - Beirut, 1990 AD.
- [6] Artificial Intelligence Applications as a Modern Trend to Enhance the Competitiveness of Business Organizations, a collective book coordinated by Abu Bakr Khawaled, Arab Democratic Center for Strategic, Political and Economic Studies, Berlin, Germany.
- [7] Intellectual Property Rights, Curtis Cook, Learn about Intellectual Property and its Impact on the Global Economy, Dar Al Farouk, Cairo, Egypt 2006.
- [8] Criminal Protection of Intellectual Property, Salwa Gamil Ahmed Hassan, PhD Thesis, Faculty of Law, Ain Shams University, 2015.

- [9] Intellectual Property Protection in Islamic Jurisprudence and its Economic Implications, Nasser Mohammed Al-Ghamdi, a research paper submitted to the Third International Conference on Islamic Economics, College of Sharia, Umm Al-Qura University, Muharram, 1424.
- [10] Intellectual Property Protection and Technology Transfer in the World Trade Agreement, a seminar entitled The Future of the Intellectual Property Rights Agreement in Light of Some Opposition Trends at the Global Level, Foreign Trade Research and Studies Center, Helwan University, Egypt.
- [11] The Constitution of Scholars, Judge Abdul Nabi bin Abdul Rasool Al-Ahmad Nakri, translated by: Hassan Hani Fahs, Dar Al-Kotob Al-Ilmiyyah - Lebanon - Beirut, 1st ed., 2000.
- [12] Artificial Intelligence between Reality and Hope: A Technical Field Study, Samia Shahyi, Bay Muhammad, Haizia Krouch, International Conference "Artificial Intelligence: A New Challenge for the Law", Algeria, 2018.
- [13] Artificial Intelligence, Play and Play, Dar Al Farouk for Cultural Investments, Giza, Egypt, 2008.
- [14] Modern legal challenges to protect copyright on the Internet, a study in the light of comparative jurisprudence, Ben Azza Mohamed Hamza, Sawt Al-Qanoon Magazine, Algeria, Volume 5, Issue 2, October 2018.
- [15] Sunan Abi Dawood, Sulayman al-Sijistani, Dar al-Risala al-Alamiya, 2009
- [16] Al-Sahih is the crown of language, Ismail Al-Farabi, Dar Al-Ilm Lil-Malayin, Beirut, 1987 AD.
- [17] Sahih Muslim, Muslim al-Naysaburi, Issa al-Babi al-Halabi Press, Cairo, 1955 AD
- [18] The Eye, Al-Khalil bin Ahmed Al-Farahidi Al-Basri, Dar and Library of Al-Hilal.
- [19] The difference between the author and the thief, Abdul Rahman Al-Suyuti, Alam Al-Kutub, 1998 AD.
- [20] What is the criminal protection of intellectual property rights, Mohamed Mokhtar Mokhtar El-Sayed Shalaby, Mansoura University, Faculty of Law, Graduate Studies Department, Department of Islamic Sharia.
- [21] The Illuminating Lamp, Ahmed bin Mohammed Al-Fayoumi, Beirut, Lebanon Library, 1st ed., 1987 AD.
- [22] Dictionary of Contemporary Arabic Language, Ahmed Mukhtar Abdel Hamid Omar, Alam Al-Kutub, 1st ed., 2008.
- [23] Dictionary of the Keys of Science, Abd al-Rahman al-Suyuti, Library of Arts - Cairo - Egypt, 2004 AD.
- [24] Al-Eqtisadi website:<https://manhom.com/aliqtisadi/1098772/10/8/2024> at 10:30 PM.
- [25] Dictionary of Contemporary Arabic Language, Ahmed Mukhtar Abdel Hamid Omar, Alam Al-Kutub, 1st ed., 2008.