



Intellectual Property Rights Infringement by Artificial Intelligence In Law: Analytical study

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Research Summary

This research aims to show how the law deals with intellectual property rights, because the modern era has witnessed violations of intellectual property by various means, the latest of which was the use of artificial intelligence, which any user can make changes to the intellectual property of others and then attribute them to others. In this research, the researcher followed the analytical inductive approach, as he sought to clarify the nature of artificial intelligence and the nature of intellectual rights, then he investigated the opinion of the law on the violation of intellectual rights and reached several results, the most important of which are: that the law respected and preserved the intellectual rights of creators, and this is a global behavior, and that the attack by artificial intelligence is no different from the attack by any other means, and that everyone must preserve the intellectual rights of creators, otherwise society will lose before the individual, especially if the individual refuses to be creative because his rights are violated.

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the introduction:

The theft of intellectual rights of creators is an indicator of the danger that society experiences because it causes losses to society before the individual. Violation of rights, whatever it may be, causes anxiety in society, but the violation of intellectual rights affects the elite of society, which are the creators, and makes them want to be creative, and this is an indicator of danger. In our modern era, the violation of intellectual rights has become easier than before, as any user of the Internet and artificial intelligence programs can change creative texts, audio or video clips, or others without bothering to be creative. He can compose the poetry of this person with the voice of that person, the melody of this person with the words of that person, the face of this person with the acting of that person, and so on, and he produces a new version of the previous versions and attributes it to himself. Until writing these lines, there are no programs that prevent these works or refrain from them, although the law stands with creators in protecting their rights. In this paper, we emphasize the importance of the law protecting intellectual rights that are violated by all means in general and artificial intelligence in particular.

The importance of research:

The importance of the research lies in these points:

- Dealing with contemporary developments, including issues of artificial intelligence.
- Statement of the legal ruling on a new ruling in contemporary issues.
- The title has not been searched before.
- The emergence of a danger indicator in the use of artificial intelligence to violate the intellectual rights of creators.

Research objectives:

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

- Technical definition of intellectual property.
- Technical definition of artificial intelligence.
- Warning against the danger of violating the intellectual property rights of others in general and by artificial intelligence in particular.
- Statement of the legal view of the theft of intellectual property rights of others.

Research problem:

The main research problem is in the question: What is the legal view of the infringement of intellectual property rights by artificial intelligence?

Research questions:

Several questions arise from this problem:

- 1- What is the definition of intellectual property?
- 2- What is the definition of artificial intelligence?
- 3- What is the legal view of infringement on the intellectual rights of others?

Research methodology:

In this paper, the researcher followed the analytical inductive approach, and sought to clarify the technical definitions of both intellectual rights and artificial intelligence, then took from law books what confirms their view of intellectual rights and their protection.

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.

Section Three: Infringement of intellectual property rights in the law.

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, chromograms, 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

(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).

development has relied on many fields of knowledge, the most important of which are electronic 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.

Section Three: Infringement of intellectual property rights in the law.

The term intellectual property in law is a broad term, as it includes one of three types of rights: literary, artistic and scientific property rights, industrial property rights, and commercial property rights. This term also includes a number of other non-traditional intellectual rights, such as: rights related to copyright, i.e. the rights of performers and producers of phonograms, and radio broadcasting organizations, as well as rights contained in modern information networks, digital technology, especially

(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.

databases. It also includes geographical indications, integrated circuit fees, and the protection of confidential information.⁽¹⁾

Intellectual production is characterized by its 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 international means of protection.⁽²⁾

When we talk about the infringement of intellectual rights, we aim to protect these rights by creating a strong and integrated legal system that guarantees protection for innovators for their inventions and for authors for their works, and to protect competing projects from the risk of imitation or theft of intellectual property elements in general.⁽³⁾

Some studies have shown the negative effects that individuals and society suffer from as a result of the violation of intellectual rights:

- Low sales of original products and lost opportunity for profits resulting from that.
- 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.⁽⁴⁾

To avoid these negatives and others, 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.

(1) Towards Globalization of Legal Protection of Intellectual Property, Ibrahim Al-Dessouki Abu Al-Layl, a paper presented to the Sixth Annual Conference of the Faculty of Law, Mansoura University, Cairo, March 2002.

(2) International Experiences in Developing and Improving Intellectual Property Protection, Ibrahim Ahmed Ibrahim, a working paper presented to the Kuwait Conference on Intellectual Property Protection, October 2001.

(3) GATT and its impact on the economies of Arab countries, Nabil Hashad, a research paper published in the Industrial Bank Letters Series, Industrial Bank of Kuwait, Issue 42, 1996.

(4) The nature of criminal protection of intellectual property rights, Muhammad Mukhtar Shalabi, Faculty of Law, Mansoura University, 2020 AD.

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 this legislation, 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.⁽¹⁾

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.⁽²⁾

Results and recommendations.

Results.

- Intellectual rights are defined as 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.
- Artificial intelligence is 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.
- The term intellectual property in law is a broad term, as it includes one of three types of rights: literary, artistic and scientific property rights, industrial property rights, and commercial property rights.
- There are negatives that harm the individual and society as a result of the infringement of intellectual rights, including: low sales of original products and the loss of the opportunity to obtain the profits resulting from that, ignorance of the consumers of counterfeit products, with the resulting loss of these projects' opportunities to sell or market their other products that can 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 imitated 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 a license from their owners may result in a decrease in their commercial value and the destruction of their fame and acceptance and the weakening of their market value.
- 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 become prominent with the increasing need to raise the level of protection granted to these rights.

Recommendations:

The most important recommendations of this research are as follows:

- Enacting laws and legislation to deter infringers of intellectual rights.

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(2)The nature of criminal protection of intellectual property rights, Muhammad Mukhtar Shalabi, Faculty of Law, Mansoura University, 2020 AD.

- The need to work on programs that prevent the use of intellectual property rights in artificial intelligence.
- 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.

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