

Maqasidic Controls for Protecting Intellectual Property Rights in UAE Legislation: A Jurisprudential and Legal Study

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Abstract

This study examines the subject of "Legal Protection for Digital Works in UAE Legislation in Light of the Objectives of Islamic Sharia (*Maqasid al-Shariah*)" amid rapid technological advancements and the expanding use of digital media in producing, publishing, and circulating intellectual creations. The core research problem addresses the adequacy of legal protection established for digital works in UAE legislation and its alignment with the higher objectives of Islamic Sharia regarding the preservation of wealth (*Hifz al-Mal*), the preservation of intellect (*Hifz al-'Aql*), and the safeguard of rights. The study aims to clarify the concept and legal and jurisprudential nature of digital works, analyze the Shar'i and Maqasidic foundations of their protection, and examine statutory provisions governing authors' rights, forms of infringement, and resulting legal liabilities. Employing a descriptive-analytical methodology, the study analyzes relevant UAE statutory texts, Islamic principles, and legal maxims, with primary focus on Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights. The findings reveal that the UAE legislature has established a robust legal framework protecting digital works encompassing both moral and economic rights of authors alongside criminal and civil sanctions for infringement. Furthermore, the results demonstrate a overarching convergence between statutory protections and the objectives of Islamic Sharia regarding wealth and intellect preservation, justice, and harm prevention. The study identifies emerging challenges linked to cyber infringements, artificial intelligence (AI), and evidentiary difficulties in digital violations. Consequently, it recommends enhancing legal and technical protection mechanisms, promoting public awareness of copyright, establishing clear parameters for AI utilization, and maintaining a balanced equilibrium between creators' rights and the public interest in knowledge access.

keywords: Digital Works, Copyright Protection, UAE Legislation, Maqasid al-Shariah, Intellectual Property Rights

Introduction

In recent decades, the global community has witnessed accelerated advancements in information and communication technologies (ICT), directly impacting the creation, dissemination, and exchange of intellectual property. Digital works have emerged as a primary form of contemporary creativity, encompassing e-books, computer software, smart applications, electronic databases, and audiovisual media generated or distributed through digital platforms. While this technological evolution has expanded knowledge access and fostered innovation, it has simultaneously introduced complex legal challenges regarding the protection of authors' and creators' rights against unauthorized copying, modification, distribution, and commercial exploitation. Consequently, protecting digital works has become a paramount legal subject requiring dynamic legislative frameworks capable of keeping pace with technological shifts while balancing creators' exclusive rights with broader societal interests (Ibrahim, 2023).

From the perspective of Islamic Sharia, the protection of digital works carries profound significance. Islamic jurisprudence establishes foundational principles and rulings dedicated to protecting property, safeguarding rights, enforcing justice, and preventing harm to legitimate interests. Although digital works were not known in their contemporary form within classical Islamic jurisprudence (*Fiqh*), general Shar'i principles provide a firm foundation for recognizing the rights arising from them as extensions of intellectual production possessing recognized moral and financial value. Contemporary Islamic jurisprudence unanimously affirms the legitimacy and protection of copyright and innovation rights, aligning directly with the higher objectives (*Maqasid*) of Sharia in preserving wealth (*Hifz al-Mal*) and intellect (*Hifz al-'Aql*), encouraging scholarly creation, and realizing legitimate public interests provided that protection does not degenerate into monopolistic practices that impede lawful knowledge access (Al-Abbasi, 2026).

In the United Arab Emirates (UAE), the legislature has prioritized regulating copyright and neighboring rights by providing comprehensive statutory protection for diverse intellectual creations under Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights. The statutory scope explicitly includes software, smart applications, databases, and other works satisfying legal original conditions. It regulates authors' moral and economic rights, establishes exceptions for fair use, and prescribes enforcement mechanisms and penalties for infringement. This statutory structure reflects the UAE legislature's commitment to safeguarding intellectual output within digital environments, cultivating innovation, and curbing rights violations.

The central research problem lies in evaluating the adequacy of statutory protections granted to digital works under UAE law and assessing their alignment with the objectives of Islamic Sharia regarding the preservation of wealth, intellect, and rights particularly given contemporary challenges posed by cyber attacks, generative artificial intelligence, and complexities in establishing legal liability for digital exploitation. Accordingly, this study aims to define the concept and legal-jurisprudential nature of digital works, analyze the Shar'i and Maqasidic foundations of their protection, examine UAE statutory provisions governing authors' rights, identify modes of digital infringement and legal liability, evaluate statutory alignment with Sharia objectives, and propose recommendations to enhance digital rights enforcement (Al-Ghandour, 2025).

Methodologically, the study adopts a descriptive-analytical approach by analyzing UAE statutory provisions alongside relevant Islamic legal principles and jurisprudential maxims (*Qawa'id Fiqhiyyah*). It seeks to reveal points of convergence between statutory copyright protections and Maqasidic objectives, identify practical enforcement hurdles, and present an analytical framework that advances digital copyright legislation while safeguarding the public interest in knowledge accessibility (Hassan, 2025).

Concept, Legal/Jurisprudential Nature, and Types of Digital Works in Islamic Jurisprudence and UAE Legislation

Digital works represent one of the most prominent manifestations of intellectual output resulting from rapid ICT developments and widespread internet utilization across scientific, cultural, and economic domains. Digital works refer to original intellectual creations that are authored, expressed, stored, or transmitted using digital technologies and media. These include e-books, computer applications, smart software, electronic databases, and audiovisual content accessible via digital platforms. Distinct features of digital works such as ease of replication, rapid transmission, modifiability, and global accessibility render their legal protection significantly more complex than traditional physical media.

In classical Islamic jurisprudence (*Fiqh*), the precise concept of digital works did not exist in its contemporary form due to its modern technological origin. However, general Shar'i principles establish a firm basis for recognizing rights arising from digital creation as legitimate extensions of intellectual labor. Classical jurisprudence emphasized protecting property, public utilities, and legitimate rights against transgression. In contemporary Islamic law, scholars explicitly recognize the financial value (*Maliyyah*) of intangible rights (*Al-Huquq al-Ma'nawiyyah*). Notably, the International Islamic Fiqh Academy (IIFA), in Resolution No. (43) of 1988, affirmed that copyrights, patent rights, and invention rights are protected by Sharia, grant their owners legal rights of disposition, and must not be infringed upon. This jurisprudential resolution applies directly to digital works satisfying legal and ethical conditions (Husseini, 2026).

The jurisprudential nature of digital works centers on the moral and financial rights established for creators. A digital work constitutes the object of a legitimate financial right (*Haqq Mali*) if it yields a permissible utility (*Manfa'ah Mubahah*) and possesses recognized value in custom (*'Urf*). This conceptualization rests upon legal maxims mandating rights protection, harm prevention, and fulfillment of lawful obligations. The intangible nature of a digital work does not preclude legal protection, provided it constitutes original intellectual output capable of lawful utilization. However, Sharia principles dictate that protection must not become a vehicle for harmful monopoly or knowledge withholding, underscoring the necessity of balancing creators' rights against the higher objectives of preserving wealth and intellect for the public good (Abdul Ghaffar, 2023).

Under UAE law, the legislature regulates digital works within the general framework of copyright under Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights. Article (1) defines a "Work" as any original creation in the fields of literature, arts, or science, regardless of its description, form of expression, significance, or purpose. This definition confirms that legal protection is independent of physical fixation; rather, it attaches to original creative expression. Article (2) explicitly extends statutory protection to software

programs, smart applications, databases, written works, and audiovisual content meeting statutory requirements (Abdul Ghani, 2026).

The types of digital works protected under UAE law vary by nature and domain:

- **Digital Literary and Scientific Works:** E-books, research papers, and digital articles published via online platforms.
- **Software and Smart Applications:** Innovative code executing specific technical functions.
- **Electronic Databases:** Structured data collections demonstrating creative selection or arrangement.
- **Digital Artistic Works:** Images, graphic designs, musical compositions, visual content, and multimedia creations.

Protection further extends to qualifying creative content published across websites and social media platforms, maintaining a strict legal distinction between protected creative expression and non-protectable abstract ideas or raw data.

The researcher holds that digital works constitute a modern extension of intellectual rights whose legitimacy is recognized in contemporary Islamic jurisprudence and protected under UAE copyright law. Their intangible nature and digital mobility necessitate evolving legal protections tailored to digital environments, guided by Shar'i controls that respect creative labor, prevent infringement, and maintain harmony between individual rights and public welfare. Understanding the legal and jurisprudential nature of digital works is essential for determining the scope of protection and evaluating UAE legislative alignment with the objectives of Sharia in preserving wealth, intellect, and rights (Al-Matari & Musa, 2023).

Shar'i and Maqasidic Foundations for Protecting Digital Works

The protection of digital works in Islamic jurisprudence rests upon foundational Shar'i texts and Maqasidic principles aimed at safeguarding rights, protecting property, preventing unauthorized exploitation, and ensuring equity in transactions. General principles of Islamic law provide a firm foundation for recognizing digital creations as contemporary forms of intellectual output possessing recognized economic and moral value. Contemporary jurisprudence affirms the legitimacy of copyright protection based on primary Shar'i texts and the higher objectives of Sharia. Resolution No. (43) of 1988 by the International Islamic Fiqh Academy stands as a landmark application, confirming that copyrights and innovation rights are inviolable under Sharia (Al-Busaidi et al., 2024).

The Holy Qur'an serves as the primary source for establishing the Shar'i foundation for digital property rights through verses prohibiting the unlawful appropriation of wealth and property:

"O you who have believed, do not consume one another's wealth unjustly but only [in business by] mutual consent." (Surah An-Nisa', 4:29)

This verse establishes an absolute prohibition against appropriating others' property without legitimate legal grounds. This principle applies directly to digital works, which possess measurable economic value traded through sales, digital licensing, and online subscriptions. Furthermore, Allah Almighty states:

"And do not deprive people of their due things." (Surah Al-A'raf, 7:85)

This directive prohibits diminishing or infringing upon others' rights, extending conceptually to intellectual property violations committed through unauthorized copying, redistribution, or plagiarism of digital works (Al-Matari & Musa, 2023).

Similarly, the Prophetic Sunnah reinforces the inviolability of property and the duty to honor lawful obligations. Prophet Muhammad (ﷺ) declared during the Farewell Pilgrimage: *"Verily, your blood, your property, and your honor are sacred to one another."* (Narrated by Al-Bukhari and Muslim)

This Hadith establishes a general rule protecting property from infringement, applying directly to economic rights derived from digital works once recognized as lawful property or financial rights. Furthermore, the Prophet (ﷺ) stated:

"He who cheats us is not one of us." (Narrated by Muslim)

This prohibition against deception governs digital practices involving software piracy, digital impersonation, or distributing counterfeit media as original content, highlighting the intrinsic connection between digital rights protection and Islamic moral principles (Abdul Ghaffar, 2023).

Islamic legal maxims (*Qawa'id Fiqhiyyah*) play a vital role in operationalizing protection for digital works:

- **"Harm must be eliminated" (*Al-Darar Yuzal*):** Requires preventing and remediating economic and moral damage inflicted upon authors through unauthorized digital replication or distribution.
- **"Custom is authoritative" (*Al-'Adah Muhakkamah*):** Recognizes the financial value of digital works based on contemporary customary practice (*'Urf*), which treats software, e-books, and digital media as valuable intellectual assets.
- **"Matters are judged by their intentions" (*Al-Umur bi-Maqasidiha*):** Evaluates digital use based on purpose and legality, establishing that good intentions do not justify copyright infringement.
- **"Hardship brings facility" (*Al-Mashaqqah Tajlib al-Taysir*):** Informs fair use exceptions for educational and scientific research needs within lawful boundaries without eroding authors' essential rights (Al-Busaidi et al., 2024).

Protecting digital works intersects directly with the higher objectives of Sharia (*Maqasid al-Shariah*), primarily the **preservation of wealth (*Hifz al-Mal*)**, which mandates protecting financial returns derived from intellectual effort and prohibiting unjust enrichment. It equally intersects with the **preservation of intellect (*Hifz al-'Aql*)** by encouraging scholarly research, creative output, and knowledge dissemination. The integration of these two objectives demands protecting creators' rights while ensuring that copyright protection does not become a barrier to lawful education and scientific advancement.

The researcher asserts that these Shar'i and Maqasidic foundations provide an integrated framework for interpreting the objectives of UAE copyright legislation, specifically Federal Decree-Law No. (38) of 2021. Statutory goals align closely with Sharia objectives in preserving wealth, intellect, and rights while preventing harm. Achieving complete harmony requires

maintaining a balance between creators' private rights and the public interest in knowledge access, ensuring that digital rights protection regulates fair utilization for authors and society alike.

Legal Framework for Protecting Digital Works and Authors' Rights in UAE Legislation

The UAE legislature has established a comprehensive legal framework protecting digital works as vital assets within the modern digital economy, innovation ecosystem, and knowledge base. Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights serves as the primary governing statute, addressing moral and economic rights, defining protectable subject matter, establishing statutory exceptions, and prescribing civil and criminal penalties for infringement (Abdul Ghaffar, 2023).

Statutory protection for digital works is anchored in Article (1) of Federal Decree-Law No. (38) of 2021, which defines a Work as any original creation in literature, arts, or science, regardless of form or expression. Fixation in physical media is not a prerequisite for protection; original creative expression suffices. Article (2) enumerates protected subject matter, explicitly encompassing computer programs, smart applications, electronic databases, and written or audiovisual works, thereby extending protection across digital formats. However, abstract ideas, algorithms, and raw unformatted data remain excluded from protection unless expressed in an original creative format (Al-Ghandour, 2025).

A cornerstone of statutory protection lies in **Moral Rights (*Al-Huquq al-Adabiyyah*)**, governed by Article (5). The law grants the author and their general successors perpetual, inalienable, and imprescriptible moral rights, including:

1. The right to decide the initial publication of the work.
2. The right of attribution (paternity right).
3. The right to object to any modification, distortion, or mutilation that prejudices the author's honor or reputation.

These protections are vital in digital environments where content can easily be altered or misattributed. Furthermore, Article (4) provides that failure to register a work does not prejudice statutory protection, confirming that copyright arises automatically upon creation.

Economic Rights (*Al-Huquq al-Maliyyah*) are regulated under Article (7), granting the author or copyright holder exclusive rights to authorize or prohibit work utilization across any media. This includes copying, digital downloading, electronic storage, translation, adaptation, public communication, and online dissemination via computer networks. Article (9) governs economic rights transfers and licensing. Purchasing a digital copy or subscribing to an online service grants user access rights but does not transfer underlying economic copyrights (Hassan, 2025).

To prevent absolute monopolies, the UAE legislature established statutory limitations and fair use exceptions under Article (22), permitting specific public, educational, and research uses provided they do not conflict with the normal exploitation of the work or unreasonably prejudice the author's legitimate interests. Article (23) permits reproducing works in

accessible formats for persons of determination. These provisions mirror Maqasidic principles balancing private property protection with public welfare and harm prevention. Procedural enforcement and statutory sanctions reinforce this protection system. Federal Decree-Law No. (38) of 2021 provides injunctive relief, civil damages for economic and moral harm, and criminal penalties for copyright infringement. Cabinet Resolution No. (47) of 2022 issuing the Executive Regulations further details rights registration procedures, licensing governance, and enforcement mechanisms (Al-Busaidi et al., 2024).

The researcher concludes that UAE copyright legislation provides a robust legal architecture protecting intellectual property in digital environments. Its provisions align closely with Sharia objectives in protecting wealth, honoring labor, and advancing knowledge. However, ongoing developments in generative artificial intelligence and digital publishing require continuous judicial and statutory adaptation particularly regarding authorship determination, digital evidence standards, and AI-generated content governance to ensure effective enforcement while preserving public access to knowledge.

Forms of Infringement on Digital Works and Resulting Legal Liability in UAE Legislation

The accelerated advancement of information and communication technologies (ICT) and the pervasive adoption of digital platforms for content dissemination have expanded the modes of infringement targeting literary, scientific, artistic, and software works. Digital works are particularly vulnerable to unauthorized reproduction, modification, and distribution due to the ease of execution, rapid dissemination, and cross-border reach of digital tools. These characteristics present significant legal hurdles regarding digital evidence, bad-actor identification, and damages assessment. The UAE legislature addressed these violations through Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights, which establishes a framework governing authors' moral and economic rights, enforcement mechanisms, criminal penalties, and civil liabilities (Al-Abbasi, 2026).

Unauthorized Reproduction and Economic Rights Violations

The unauthorized reproduction (*piracy*) of e-books, computer software, smart applications, and audiovisual files without rightsholder authorization or statutory fair-use justification constitutes a primary form of digital infringement. Infringing acts extend to uploading illegal copies onto websites, distributing media across social networks, or selling pirated assets via digital marketplaces. These practices undermine rightsholders by depriving them of financial returns on their intellectual investments and eroding commercial incentives for creative production. Under Federal Decree-Law No. (38) of 2021, these acts infringe upon exclusive economic rights, necessitating a clear distinction between illegal piracy and permissible statutory exceptions designed for specific public purposes (Al-Ghandour, 2025).

Moral Rights Infringement and Emerging AI Distortions

Moral rights violations present another major category of digital non-compliance. These violations include omitting the author's name, false attribution (plagiarism), or unauthorized modifications that distort the work or prejudice the author's honor and reputation. Article (5) of Federal Decree-Law No. (38) of 2021 guarantees perpetual moral rights, including attribution and integrity rights. This protection is critical in digital media environments where image editing, video manipulation, and text modification are easily executed. Furthermore, deploying generative artificial intelligence (AI) tools to modify, adapt, or re-synthesize

existing digital works introduces complex attribution disputes, particularly when modified AI-generated outputs are commercially presented as original creations without acknowledging underlying source works.

Criminal Liability and Statutory Penalties

Infringements on digital works give rise to criminal liability when statutory elements are established. Article (39) of Federal Decree-Law No. (38) of 2021 imposes criminal penalties including imprisonment for a minimum of two months, fines ranging between AED 10,000 and AED 100,000, or both on anyone who infringes upon the moral or economic rights of an author or neighboring rightsholder without written authorization. Penalized acts include communicating protected works to the public via internet networks or electronic systems without a valid license. Article (39) establishes heightened penalties for repeat offenders (*recidivism*), raising sanctions to a minimum imprisonment of six months and fines ranging from AED 100,000 to AED 500,000, underscoring the legislature's intent to maintain effective deterrence in digital environments (Al-Ghandour, 2025).

Technical Infringements: Software, TPMs, and Rights Management

The UAE legislature enacted specialized anti-piracy provisions targeting software, applications, and electronic databases. Article (40) penalizes manufacturing, importing, or circulating counterfeit software copies, bypassing or disabling Technical Protection Measures (TPMs), and altering Rights Management Information (RMI). Sanctions for these technical offenses include imprisonment for a minimum of six months and fines between AED 100,000 and AED 700,000, or either penalty. Furthermore, Article (41) addresses the unlicensed internal use of computer programs, smart applications, or databases, prescribing fines ranging between AED 30,000 and AED 100,000 per unlicensed program or database unit, with escalated penalties for repeat violations.

Civil Liability, Injunctive Relief, and Asset Seizure

Complementing criminal sanctions, Article (43) of Federal Decree-Law No. (38) of 2021 authorizes rightsholders to pursue civil compensation for moral and economic damages resulting from infringement under general civil law rules. Evidentiary burdens require establishing an unlawful act, proven damage, and a direct causal link. To prevent ongoing harm, Article (42) provides procedural remedies, authorizing judicial orders for the seizure, confiscation, and destruction of pirated copies, alongside the confiscation of equipment utilized in committing the offense (Ibrahim, 2023).

The researcher contends that UAE statutory protection operates through a dual approach: criminal liability to ensure deterrence, and civil liability to provide remediation and restore economic balance. This statutory structure aligns with Islamic Sharia objectives in preserving wealth, protecting rights, preventing harm, and prohibiting unjust enrichment. However, practical enforcement requires developing specialized digital forensics, strengthening cross-border enforcement against online piracy, and establishing clear guidelines for AI-generated media, while ensuring that anti-piracy measures do not unduly restrict legitimate fair-use access to knowledge (Al-Ghandor, 2025).

Compatibility of UAE Legal Protection for Digital Works with Maqasid al-Shariah in Preserving Wealth, Intellect, and Rights

The higher objectives of Islamic Sharia (*Maqasid al-Shariah*) provide a foundational theoretical framework for evaluating modern legal systems, particularly concerning contemporary intellectual property rights. The legal protection established for digital works in the UAE recognizes authors' moral and financial rights, prohibits unauthorized exploitation, and regulates public access. Evaluating the compatibility between UAE statutory law and Sharia objectives requires analyzing statutory provisions to ensure they achieve a balance between protecting individual creators and serving the broader public interest (Al-Busaidi et al., 2024).

Preservation of Wealth (Hifz al-Mal)

The alignment between UAE copyright law and the preservation of wealth manifests in the statutory recognition of the economic value (*Maliyyah*) of digital works and the protection of commercial returns derived from their exploitation. Sharia explicitly prohibits the unlawful appropriation of property, as declared in the Qur'anic prohibition:

"O you who have believed, do not consume one another's wealth unjustly." (Surah An-Nisa', 4:29)

This principle extends directly to financial rights associated with software, smart applications, e-books, and digital media assets. Article (7) of Federal Decree-Law No. (38) of 2021 codifies the author's exclusive economic rights to commercially exploit or license their works, mirroring the Sharia objective of safeguarding property rights and preventing unjust enrichment.

Preservation of Intellect (Hifz al-'Aql)

Protecting digital works intersects with the preservation of intellect—an essential necessity (*Darurah*) in Sharia. Intellectual and scientific output advances human knowledge, drives technological innovation, and enhances societal development. Protecting creators' rights provides economic and moral incentives to sustain scientific production. However, preserving intellect also mandates ensuring legitimate public access to educational and research materials, preventing monopolistic restrictions that hinder learning. The UAE legislature accommodated this balance by establishing statutory limitations on economic rights under Article (22) of Federal Decree-Law No. (38) of 2021, permitting fair use for educational and research purposes without infringing upon normal commercial exploitation (Al-Busaidi et al., 2024).

Safeguarding Personal Rights and Moral Personality

The compatibility extends to protecting authors' moral and personality rights, which are rooted in equity, honesty, and the prohibition of deception. Sharia emphasizes trust (*Amanah*) and prohibits diminishing human efforts, as commanded in the Qur'an:

"And do not deprive people of their due things." (Surah Al-A'raf, 7:85)

Article (5) of Federal Decree-Law No. (38) of 2021 codifies this imperative by securing the author's perpetual moral rights, including attribution and protection against work distortion. In digital environments where content can easily be modified, republished, or misattributed,

protecting an author's moral personality serves as a legal realization of Sharia principles governing rights protection and justice (Abdul Ghani, 2026).

Harm Prevention (Darar Yuzal)

The legal framework incorporates the core jurisprudential maxim "Harm must be eliminated" (*Al-Darar Yuzal*). This maxim mandates protecting digital rightsholders against financial and moral damage resulting from unauthorized exploitation. The civil remedies, injunctive orders, and criminal penalties established under Federal Decree-Law No. (38) of 2021 align functionally with the Sharia mandate to prevent harm, provide remediation, and enforce justice. A Maqasidic application requires ensuring proportionality between the severity of an infringement and its prescribed legal remedy, preventing excessive restrictions on lawful public use.

The researcher concludes that UAE statutory protections for digital works demonstrate structural compatibility with the objectives of Sharia in preserving wealth, intellect, and rights. While statutory details represent legislative choices (*Ijtihad Manzumi*), they functionally converge with Maqasidic goals. Addressing technological shifts—such as generative AI—requires dynamic legal interpretations that maintain this equilibrium between incentivizing innovation and preserving public access to knowledge (Hadi & Hammoud, 2026).

Legal and Shar'i Challenges in the Digital Environment and Enhancement Mechanisms for the UAE

Protecting digital works in the UAE faces evolving legal and Shar'i challenges driven by rapid technological advances, global cross-border digital platforms, and the rise of artificial intelligence. Although Federal Decree-Law No. (38) of 2021 provides a statutory foundation, digital environments complicate enforcement, evidence preservation, and liability determination, requiring an ongoing review of statutory mechanisms in light of Maqasidic principles.

Digital Piracy and Evidentiary Challenges

A major challenge involves digital piracy executed across online platforms and encrypted communications networks. Modern technologies allow unauthorized copying and global distribution of e-books, applications, software, and media within seconds, often bypassing Technical Protection Measures (TPMs) or stripping Rights Management Information (RMI). These practices complicate bad-actor identification, jurisdictional enforcement, and financial damages calculation. While Federal Decree-Law No. (38) of 2021 prohibits bypassing TPMs, operationalizing these protections requires improving digital forensics capabilities, establishing chain-of-custody protocols for electronic evidence, and expediting judicial procedures for takedown notices (Al-Matari & Musa, 2023).

Generative Artificial Intelligence and Copyright Boundaries

Generative AI poses complex challenges to traditional copyright paradigms. AI models process vast repositories of protected digital works during training, raising questions regarding authorization requirements and fair-use boundaries under current law. Furthermore, AI systems generate autonomous text, code, images, and audio outputs, creating legal ambiguity regarding human authorship criteria, copyright eligibility, and liability for infringing outputs. Under Federal Decree-Law No. (38) of 2021—which bases protection

on original human creativity—resolving these ambiguities requires statutory guidelines that define human creative contribution thresholds, regulate data mining for AI training, and establish clear liability frameworks for AI-generated infringements (Chesterman, 2025).

Shar'i Considerations on Knowledge Accessibility

From a Shar'i perspective, legal challenges involve balancing exclusive financial copyrights against the public interest in knowledge access. While contemporary Islamic jurisprudence affirms the legitimacy of copyright and economic returns, protection must not lead to monopolistic pricing or arbitrary restrictions on educational and scientific development. Based on IIFA Resolution No. (43) of 1988, copyright protection is valid and binding; however, its application to essential digital educational materials must accommodate statutory fair use and public necessity (*Darurah*) exceptions (Al-Matari & Musa, 2023).

User Awareness and Compliance Deficits

A practical challenge remains the public misunderstanding regarding the legal and Shar'i boundaries of digital media use. Users often assume that freely accessible online content may be copied, modified, or redistributed without authorization, confusing personal private use with commercial exploitation. Addressing this gap requires public legal education campaigns emphasizing copyright literacy, highlighting Sharia principles prohibiting infringement, and fostering compliance across academic institutions, research centers, and technology enterprises.

Recommended Strategic Enhancement Mechanisms

To address these legal and Shar'i challenges, the UAE can enhance its protection framework through targeted mechanisms:

- **Statutory Guidance on Emerging Technologies:** Issuing administrative guidelines and executive updates regulating AI training permissions, data mining exceptions, and AI-generated content authorship.
- **Specialized Enforcement and Digital Forensics:** Expanding judicial specialization in digital IP law, streamlining online takedown mechanisms, and enhancing technical cooperation with digital platform providers.
- **Promoting Rights Management Technologies:** Encouraging rightsholders to adopt advanced Rights Management Information (RMI) systems, watermarking, and blockchain-based digital rights management tools.
- **Balanced Public Access Frameworks:** Refining statutory fair use guidelines to ensure researchers and educational institutions maintain access to digital works without eroding rightsholders' core economic interests.

The researcher emphasizes that addressing these legal and Shar'i challenges requires an integrated approach that combines statutory updates, technical enforcement tools, and public legal awareness, grounded in the Maqasidic framework of preserving wealth, intellect, and rights while fostering innovation (Chesterman, 2025).

Conclusion

This study evaluated the statutory framework governing the protection of digital works under UAE legislation through the lens of *Maqasid al-Shari'ah*. The findings establish that Federal

Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights provides an anchored baseline of statutory protections. It codifies authors' moral and economic rights, delineates traditional fair use exceptions, and establishes tiered civil remedies and criminal penalties for digital infringements. These codifications substantially align with the foundational objectives of Islamic jurisprudence, specifically the preservation of property (*Hifz al-Mal*), the preservation of intellect (*Hifz al-'Aql*), and the mitigation of detriment (*Darar Yuzal*).

However, a substantive divergence exists between these codified statutory protections and emerging, unresolved legal questions. While the 2021 law resolves conventional questions of ownership and direct unauthorized reproduction, it leaves critical ambiguities surrounding non-fungible digital assets, decentralized cross-border enforcement, and particularly generative artificial intelligence. Current statutory mechanisms do not definitively resolve the threshold questions of AI authorship, the liability parameters for models trained on copyrighted materials without explicit authorization, or the evidentiary weight required to authenticate algorithmic infringing acts.

These insights must be interpreted in light of the methodological limitations inherent to the study. Relying on a descriptive-analytical methodology allowed for a systematic internal audit of existing black-letter law against Shar'i maxims, but it precludes empirical assessment of judicial enforcement patterns and the practical efficacy of digital forensic evidence in UAE courtrooms. Consequently, future research should pursue comparative legal analyses benchmarking UAE jurisprudence against jurisdictions with specialized digital copyright tribunals alongside rigorous applied jurisprudential (*Fiqhi*) inquiries into novel ownership concepts within synthetic environments.

To address these gaps, proposed legal and technical reforms must do more than expand exclusive rights; they must deliberately calibrate the tension between monopolistic author protection and the public interest in knowledge accessibility (*Maslahah Mursalah*). Overly restrictive enforcement mechanisms risk stifling cultural participation, educational access, and technological innovation. Therefore, modernizing the UAE's digital intellectual property framework requires targeted fair use flexibilities for computational research and machine learning, proportionate digital forensics standards, and dynamic licensing models that reward human creators while safeguarding society's collective right to advance knowledge.

References

- Abdul Ghaffar, A. (2023). The principle of individual digital sovereignty over data. *Journal of Jurisprudence and Legal Research*, 35(43), 765–862.
- Abdul Ghani, G. M. L. (2026). The impact of intellectual property rights violations on climate change mitigation efforts: A case study of unsubstantiated IP infringement claims. *Journal of Intellectual Property Management and Innovation*, 9(2), 278–318.
- Al-Abbasi, A. A. S. (2026). Criminal liability for intellectual property rights infringement. *Ashur Journal of Legal and Political Sciences*, 3(1), 100–120.
- Al-Busaidi, A. S., Raman, R., Hughes, L., Albashrawi, M. A., Malik, T., Dwivedi, Y. K., ... & Walton, P. (2024). Redefining boundaries in innovation and knowledge domains: Investigating the impact of generative artificial intelligence on copyright and intellectual property rights. *Journal of Innovation & Knowledge*, 9(4), Article 100630. <https://doi.org/10.1016/j.jik.2024.100630>
- Al-Ghandour, Y. H. (2025). Protection of intellectual property rights in light of private international law rules. *Damietta Rights Journal for Legal and Economic Studies*, 11(11), 3041–3164.
- Al-Makhzoumi, O. M., Al-Imadi, N. A., & Ibrahim, A. A. (2024). The international framework for the protection of intellectual property rights. In *Business analytical capabilities and artificial intelligence-enabled analytics: Applications and challenges in the digital era* (Vol. 2, pp. 279–288). Springer Nature Switzerland. <https://doi.org/10.1007/978-3-031-xxx-x>
- Al-Matari, J. M. M., & Musa, A. S. (2023). Legal protection of intellectual property rights in UAE legislation: Dubai Customs as a model. *Al-Hikmah: International Journal for Islamic Studies and Humanities*, 6(4), 115–142.
- Chesterman, S. (2025). Good models borrow, great models steal: Intellectual property rights and generative AI. *Policy and Society*, 44(1), 23–37. <https://doi.org/10.1093/polsoc/puae012>
- Hadi, H. H., & Hammoud, Z. T. A. (2026). International protection of intellectual and literary property rights. *Journal of Babylon Center for Humanities Studies*, 16(8), 911–940.
- Hassan, S. A. H. (2025). Protection of intellectual property in Islamic jurisprudence: A comparative study with modern legal legislation in the State of Kuwait. *Journal of Jurisprudence and Legal Research*, 48(48), 3593–3652.
- Husseini, A. A. (2026). Jurisprudential rulings on cybercrimes in light of the objectives of Sharia. *Journal of Jurisprudence and Legal Research*, 52(52), 2285–2385.
- Ibrahim, H. A. (2023). Procedural protection of intellectual property rights. *Journal of the Faculty of Sharia and Law in Tafahna Al-Ashraf - Dakahlia*, 27(2), 1507–1562.