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The Jurisprudential Grounding (Tasil Shari) of Intellectual Property Rights and its Impact on Uae Legislation: An Analytical Study

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Abstract

This analytical study investigates the jurisprudential grounding (ta'ṣīl shar'ī) of intellectual property rights (IPRs) and evaluates its impact on the legislative framework of the United Arab Emirates (UAE). Driven by the growing economic and moral significance of creative and technological innovations, the research addresses the legal basis for protecting intellectual property under Islamic law and assesses how Sharia principles inform UAE statutory regulations. The study aims to clarify the concept and legal nature of IPRs, establish their legitimacy through primary Islamic sources the Qur'an, the Sunnah, and major legal maxims (al-qawā'id al-fiqhiyyah) and examine UAE statutory provisions to identify points of convergence with Islamic jurisprudence. Utilizing a descriptive-analytical methodology, the study analyzes key jurisprudential rulings alongside primary UAE legislation, including Federal Decree-Law No. (38) of 2021 on Copyright and Neighbouring Rights, Federal Law No. (11) of 2021 on Industrial Property Rights, and Federal Decree-Law No. (36) of 2021 on Trademarks. The study concludes that IPRs possess established Islamic legal legitimacy grounded in the higher objectives of Sharia (maqāṣid al-Sharī'ah), particularly the preservation of wealth (ḥifẓ al-māl), protection of rights, and prevention of harm. It finds that UAE legislation provides a robust protective framework whose goals functionally converge with Sharia principles, without implying direct verbatim derivation of all statutory rules from classical jurisprudence. Furthermore, the findings highlight critical modern challenges, including digital piracy, artificial intelligence, and fair-use boundaries. The study recommends enhancing regulatory enforcement, promoting legal awareness, and fostering inter-institutional collaboration to balance creators' rights with public welfare. Ultimately, the research bridges Islamic jurisprudential foundations with contemporary statutory regulations governing intellectual property.

keywords: Intellectual Property Rights, Jurisprudential Grounding, UAE Legislation, Sharia Objectives, Legal Protection

Introduction

Intellectual property rights (IPRs) have emerged as a critical subject of legal and jurisprudential inquiry in contemporary times. This prominence is attributable to accelerated scientific and technological developments, which have broadened the horizons of innovation and given rise to diverse forms of intellectual, literary, industrial, and commercial output. Today, these rights represent substantial economic and moral value for individuals and institutions alike, playing a pivotal role in fostering scientific research, encouraging investment, facilitating knowledge transfer, and driving sustainable development. Consequently, modern legal systems have prioritized the regulation and protection of IPRs to prevent unauthorized exploitation and infringement. Concurrently, investigating the Islamic legal (Shar'ī) foundation of these rights has become essential to determine the degree to which statutory protections align with Islamic principles governing the preservation of wealth, the protection of rights, and the realization of social justice (Al-Tayyar, 2023).

Although the modern terminology of "intellectual property" does not appear in classical Islamic legal treatises, Islamic jurisprudence (fiqh) establishes comprehensive general principles capable of grounding these rights. Textual sources in Sharia strictly prohibit the unlawful appropriation of others' assets and rights, mandating honesty, integrity, and the prevention of fraud and harm. Furthermore, contemporary jurisprudential reasoning (ijtihād) has affirmed the legitimacy of intellectual rights as recognized economic assets (māl), granting rights-holders the authority to utilize and dispose of their creations within Islamic parameters. Notably, the International Islamic Fiqh Academy, in its **Resolution No. (43) of 1988 regarding Moral Rights**, confirmed the legitimacy of copyright, patent, and innovation rights and stressed the necessity of protecting them against infringement. This resolution underscores the capacity of Islamic legal maxims and objectives to accommodate contemporary developments in intellectual production and technological progress (Al-Rawi, 2023).

In the United Arab Emirates, IPRs have received significant legislative attention, evidenced by the enactment of comprehensive federal laws regulating various categories of intellectual property and defining their protective scopes. Key statutes include

- Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights
- Federal Law No. (11) of 2021 on the Regulation and Protection of Industrial Property Rights
- Federal Decree-Law No. (36) of 2021 on Trademarks

Collectively, these statutes establish a robust legal framework governing literary, scientific, and artistic works, inventions, and trademarks regulating their transfer and establishing enforcement mechanisms against infringements. They further reflect the UAE legislature’s commitment to cultivating an environment that encourages creativity while safeguarding the economic and moral interests of rights-holders (Al-Shanta, 2026).

The central research problem lies in establishing the Islamic legal foundation of IPRs and analyzing how jurisprudential principles namely the preservation of wealth, the prevention of harm, and the respect for established rights are reflected in UAE legislation. This inquiry is particularly imperative given modern challenges presented by digital transformation,

artificial intelligence (AI), and the pervasive online exploitation of creative works. Accordingly, this study aims to:

1. Define the concept and legal nature of IPRs.
2. Ground their legitimacy in the light of the Qur'an, the Sunnah, and Islamic legal maxims.
3. Analyze Islamic jurisprudential perspectives on the disposition of intellectual rights.
4. Examine UAE IPR legislation to identify convergences between Sharia principles and statutory protection, as well as operational implementation challenges.

To achieve these objectives, the research adopts a descriptive-analytical methodology, examining Islamic legal principles alongside statutory provisions in UAE intellectual property law. The goal is to develop an integrated understanding of the relationship between Islamic jurisprudential grounding and modern legal regulation, demonstrating how the objectives of Sharia (maqāṣid al-Sharī'ah) can enhance statutory protection while balancing the private interests of innovators with the public interest of society (Al-Qaidi & Al-Rawi, 2024).

Concept and Legal Nature of Intellectual Property Rights in Islamic Jurisprudence and UAE Law

Intellectual property rights have assumed growing significance in contemporary society due to rapid scientific and technological advancement and the expanding scope of innovation. Conceptually, IPRs refer to the bundle of legal rights accrued by individuals as a result of their intellectual, scientific, literary, artistic, or industrial output. These rights grant creators legal authority to exploit their works and protect them against unauthorized use or infringement. Unlike traditional property rights (al-milkiyyah al-taqlīdiyyah), which attach to tangible physical assets, IPRs govern intangible subjects—specifically, innovative ideas once expressed in a legally protected form, inventions, and commercial trademarks. Thus, intellectual property has become a cornerstone in protecting the economic and moral interests of individuals and enterprises while incentivizing investment in knowledge and innovation (Humeid, 2026).

In classical Islamic jurisprudence, the modern legal term "intellectual property" was not explicitly used by early jurists (al-fuqahā'). However, general Sharia principles provide a solid foundation for recognizing rights arising from intellectual effort and human creativity. Islamic law fundamentally safeguards wealth and rights, prohibiting their unlawful appropriation. This is anchored in divine textual authority, such as the Qur'anic directive:
"And do not consume one another's wealth unjustly" (Surah Al-Baqarah, 2:188).

Furthermore, recognition of these rights relies on the foundational legal maxim **"Harm must be eliminated"** (al-ḍarar yuzāl), which mandates preventing infringements upon legitimate interests. From this perspective, intellectual output qualifies as a recognized subject of financial right (ḥaqq mālī), provided it yields a lawful benefit (manfa'ah mashrū'ah) and holds customary economic value ('urf). Nevertheless, contemporary jurists have engaged in scholarly debate regarding the scope of intellectual rights and the degree of exclusive exploitation permitted, emphasizing that protection must not prejudice the public interest or obstruct legitimate access to knowledge and science.

Legally, IPRs possess a sui generis dual nature, combining both economic (financial) and moral dimensions:

- **The Economic/Financial Dimension (Al-Jānib al-Mālī):** Grants the rights-holder exclusive authority to exploit their intellectual creation, reap economic returns, and license its use to third parties under legally defined conditions.
- **The Moral Dimension (Al-Jānib al-Ma'nawī):** Inalienably links the work to its creator, protecting their intellectual identity and safeguarding the creation against unauthorized alteration, distortion, or mutilation.

This dual nature is particularly prominent in copyright law. Conversely, the legal nature of patents and trademarks varies according to the specific subject matter and statutory provisions governing them, reinforcing the understanding that intellectual property is not a monolithic right, but a composite system of distinct rights varying in content, duration, and legal effect (Ambar & Edris, 2026).

In the UAE, the federal legislature has established specialized statutory protections across several federal enactments, led by **Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights**. Article 1 of the Law defines a "Work" (al-mu'allaf) as any original creation in the fields of literature, arts, or science, regardless of its type, mode of expression, significance, or purpose. Article 2 extends protection to authors and neighboring rights-holders against domestic infringements, encompassing books, scientific literature, computer software, smart applications, databases, and artistic works. This demonstrates that the UAE legislature adopted the criteria of originality and expression as the foundational basis for legal protection, without requiring specific scientific or commercial thresholds (Al-Rawi, 2023).

Legislative protection in the UAE extends beyond copyright to encompass industrial and commercial property. **Federal Law No. (11) of 2021 on the Regulation and Protection of Industrial Property Rights** regulates patents, utility models, and industrial designs. Complementing this, **Federal Decree-Law No. (36) of 2021 on Trademarks** governs distinctive marks used to differentiate goods and services. These legislative acts highlight the UAE's commitment to recognizing the economic value of innovation, providing legal guarantees to rights-holders, promoting fair competition, and curbing unauthorized commercial exploitation (Rayan, 2022).

The overarching purpose of IPRs under UAE statutory law aligns with the primary objectives of Sharia (maqāṣid al-Sharī'ah) regarding the preservation of wealth (ḥifẓ al-māl), the protection of rights, and the prevention of harm. Statutory protection ensures that creators enjoy the fruits of their intellectual labor while preventing unlawful expropriation. However, this alignment does not imply that every statutory provision is directly derived from classical Islamic jurisprudence; rather, it reflects a functional convergence between Sharia principles and modern statutory governance, emphasizing the necessity of balancing private creative rights with the public interest in accessing knowledge and technological advances (Al-Rawi, 2023).

Jurisprudential Foundations (Al-Asās al-Shar'ī) of Intellectual Property Protection in the Qur'an, Sunnah, and Legal Maxims

The protection of intellectual property rights in Islamic law is grounded in overarching principles aimed at safeguarding wealth, honoring rights, upholding justice, and preventing harm. Although "intellectual property" was not codified as a distinct legal category in classical legal compendiums, general Sharia principles accommodate its recognition as a protected financial and moral interest. Contemporary Islamic scholars have examined intellectual output through the lens of economic value (māliyyah) and exclusive utility (ikhtiṣāṣ). Notably, the International Islamic Fiqh Academy concluded in **Resolution No. (43) on Moral Rights** that copyrights, patent rights, and technical innovations constitute exclusive private rights that hold recognized customary financial value (māl mu'taqawwam) in modern commercial practice. Consequently, they may be validly transferred or assigned under Sharia rules and are legally immune to infringement (Al-Qaidi & Al-Rawi, 2024).

The primary scriptural basis for IP protection is derived from Qur'anic verses establishing the inviolability of property and rights. God Almighty states:
"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent." (Surah An-Nisa, 4:29)

This divine injunction strictly prohibits the unlawful acquisition of another's property. Applying this principle to intellectual property is valid because creative works possess recognized economic value and form legitimate subject matter for commercial transactions. Similarly, the Qur'anic command:
"And do not deprive people of their due things" (Surah Al-A'raf, 7:85)
serves as a broad ethical and legal prohibition against diminishing others' legitimate entitlements. It directly applies to prohibiting plagiarism, unauthorized commercial exploitation, and the misattribution of creative works (Al-Tayyar, 2023).

In the Prophetic Sunnah, numerous traditions affirm the sanctity of property and contractual obligations. The Prophet Muhammad (peace be upon him) declared during his Farewell Sermon:
"Verily, your blood, your property, and your honor are sacred to one another." (Sahih Al-Bukhari & Sahih Muslim)

This tradition establishes a foundational legal doctrine protecting legitimate private interests from infringement. Once intellectual creations are recognized as legally valid property (māl), they fall squarely under this protection. Furthermore, the Prophet's statement:

"Whoever cheats us is not one of us." (Sahih Muslim)
establishes the prohibition of fraud, misrepresentation, and deceit in commercial interactions. In modern intellectual property law, this principle directly justifies prohibiting trademark counterfeiting and commercial piracy, both of which deceive consumers and inflict economic harm on legitimate businesses (Humeid, 2026).

Islamic legal maxims (al-qawā'id al-fiqhiyyah) play a pivotal role in articulating the jurisprudential rationale for IPR protection:

- **"Harm must be eliminated" (Al-ḍarar yuzāl):** Mandates the removal and prevention of harm, serving as a legal basis for prohibiting unauthorized copying, software piracy, and patent infringement.
- **"Custom is authoritative" (Al-'ādah muḥakkamah):** Validates the modern customary practice ('urf) of recognizing intellectual output as intangible asset (māl ma'nawī) capable of ownership and commercial transfer.
- **"Gain comes with risk" (Al-ghunm bi-al-ghurm):** Establishes that economic benefits derived from intellectual rights carry corresponding obligations, liabilities, and fair-use limitations (Rayan, 2022).

Finally, the jurisprudential grounding of IPRs aligns directly with the Higher Objectives of Islamic Law (Maqāṣid al-Sharī'ah):

Preservation of Wealth (Ḥifẓ al-Māl): Protects legitimate financial assets and prevents economic exploitation.

1. **Preservation of Intellect (Ḥifẓ al-'Aql):** Encourages research, education, and innovation by establishing a supportive environment for knowledge production.

Protecting the rights of authors and inventors serves both private interests and broader social welfare. However, Sharia principles dictate that IP protection must not become an instrument of monopolistic abuse (iḥtikār) or unduly restrict fair public access to knowledge. These jurisprudential foundations offer a coherent normative framework for interpreting UAE intellectual property legislation, confirming that modern statutory regulation shares the Sharia's core objectives of establishing justice, protecting valid rights, and serving the public good (Kameel & Elrefae, 2025).

Islamic Jurisprudence (Fiqh) on the Legitimacy of Intellectual Property Rights and Regulating Their Transfer

The legitimacy of intellectual property rights constitutes a prominent contemporary jurisprudential issue (mas'alah fiqhiyyah mu'āṣirah) that has sparked scholarly debate, largely due to the absence of direct, explicit codification in classical Islamic legal texts in their modern form. This debate centers on the legal characterization of intellectual rights specifically, whether they qualify as recognized property (māl) capable of ownership, assignment, transfer, and financial exploitation. One main trend in contemporary Islamic jurisprudence recognizes the legitimacy of these rights, drawing upon general Sharia evidences that protect property, beneficial interest (manfa'ah), and acquired rights. Conversely, a second trend expresses reservations regarding the monopolization of knowledge or the commercialization of specific intellectual outputs, particularly those pertaining to religious sciences and essential societal knowledge. This divergence reflects the dynamic nature of Islamic legal reasoning (ijtihād) when addressing novel economic and technological developments while striving to harmonize private individual rights with the broader public interest (Rayan, 2022). Scholars supporting the legitimacy of IPRs argue that intellectual output represents the fruit of lawful human endeavor, entitling the creator to legal protection and economic benefit. In Islamic jurisprudence, property (māl) is not strictly confined to physical, tangible objects; it encompasses intangible benefits (manāfi') and rights (ḥuqūq) recognized by customary practice ('urf) as possessing economic value. Proponents argue that authors and inventors

dedicate time, effort, and expertise to produce works or innovations that confer tangible benefits on society. Allowing unauthorized expropriation or commercial exploitation without consent inflicts direct financial harm and dampens creative incentives. This view aligns with **Resolution No. (43)** of the International Islamic Fiqh Academy (Fifth Session, Kuwait, 1988) on Moral Rights, which solemnly affirmed that copyright, patent, and innovation rights are inviolable under Sharia (maṣūnah shar'an), grant rights-holders exclusive authority to dispose of them, and are protected against infringement.

On the other hand, the conservative jurisprudential trend posits that knowledge and science constitute public goods (manfa'ah 'āmmah) that should remain freely accessible to society without restrictive barriers that could cause collective harm. This view emphasizes the religious imperative of disseminating knowledge and the prohibition against withholding it (kitmān al-'ilm). However, these considerations do not inherently negate all financial rights for creators. A scholarly distinction can be drawn between open public knowledge which cannot be monopolized and specific original works or inventions that fulfill valid legal criteria for protection. Thus, a fair compromise can be achieved between the creator's right to equitable remuneration and society's right to access knowledge within the bounds of public interest (al-maṣlaḥah al-'āmmah) and Sharia parameters (Massadeh et al., 2023).

Regarding the rules governing the transfer and disposition of IPRs, Islamic jurisprudence fundamentally permits transactions involving legally recognized financial rights—whether through sale, licensing, or other valid contracts—provided the subject matter is permissible (mubāḥ) and clearly specified (ma'lūm). Contracts must explicitly define the rights and obligations of all parties to prevent contractual uncertainty (gharar) and dispute. Furthermore, transactions must remain free from fraud, misrepresentation (tadlīs), or infringement upon third-party rights. Consequently, authors and inventors may lawfully receive monetary compensation in exchange for authorizing the commercial exploitation of their creations under a valid contract. A critical legal distinction must be maintained between assignable **financial/economic rights** (al-ḥuqūq al-māliyyah) and non-assignable **moral rights** (al-ḥuqūq al-adabiyyah). Moral rights are inextricably bound to the creator's personality such as the right of attribution and the right to prevent plagiarism and cannot be alienated or commercialized in the same manner (Kameel & Elrefae, 2025).

These regulatory parameters also mandate maintaining a balance between private interests and public welfare. Intellectual property protection must not serve as an instrument for collective harm or obstruct essential societal needs. Moreover, financial protection must not be treated as an absolute or perpetual right; it remains subject to statutory terms and fair-use limitations. The impact of these considerations is clearly reflected in UAE law under **Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights**, which regulates both moral and economic rights, specifies permissible modes of commercial exploitation, and establishes statutory limitations and exceptions. This framework safeguards the legitimate rights of creators while permitting specific fair uses for educational, research, or public interest purposes under strictly defined statutory conditions (Al-Qaidi & Al-Rawi, 2024).

The contemporary jurisprudential consensus affirming the legitimacy of IPRs aligns most closely with the Higher Objectives of Islamic Law (Maqāṣid al-Sharī'ah) in preserving wealth, safeguarding rights, and encouraging productive human endeavor—provided safeguards

remain in place to prevent harmful monopolies, fraud, and societal prejudice. The UAE legislative framework serves as a modern legal application whose objectives closely parallel this jurisprudential trend by protecting works and inventions and regulating their transfer. Nevertheless, a conceptual distinction must be maintained between a statute's functional convergence with general Sharia principles and demonstrating a direct derivation of its detailed provisions from Islamic jurisprudence. Ultimately, the legal legitimacy of intellectual property rests not merely on recognizing an author's private economic interest, but also on achieving equity and balance between individual rights and society's scientific and educational advancement (Hassan, 2025).

Statutory Regulation of Intellectual Property Rights in UAE Legislation

The UAE legislature has prioritized intellectual property protection as a vital pillar of economic growth, innovation, and the protection of scientific, literary, industrial, and commercial output. This commitment is evidenced by the enactment of comprehensive federal legislation regulating various intellectual property categories, defining rights-holders' entitlements, and outlining third-party obligations. UAE statutory protection recognizes both the economic and moral values of intellectual production, equipping rights-holders with procedural and legal mechanisms to prevent infringements and seek judicial compensation for damages. Crucially, UAE statutory regulation aims to strike an equitable balance between the private interests of creators, inventors, and brand owners and the broader public interest in knowledge dissemination, fair market competition, and technological progress (Al-Tayyar, 2023).

Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights serves as a principal cornerstone of IP protection in the UAE. Article 2 explicitly extends protection to authors of works and owners of neighboring rights. Protected works encompass books, scientific manuscripts, computer software, smart applications, databases, audiovisual works, and other forms of creative expression. The Law explicitly protects **moral rights**—which are attached to the author's persona, including the right of attribution and the right to preserve the work's integrity against distortion—alongside **financial/economic rights**, which empower the author to exploit the work commercially or license its use under statutory conditions. Thus, the UAE legislature safeguards both the economic yield of a creation and the enduring moral bond connecting an author to their work.

In the realm of industrial property, **Federal Law No. (11) of 2021 on the Regulation and Protection of Industrial Property Rights** governs patents, utility models, and industrial designs. The statute lays down strict substantive requirements for patentability, including novel inventiveness, non-obviousness, and industrial applicability. It further regulates registration procedures, commercial exploitation, assignment, and enforcement against infringement. This legislation provides robust legal guarantees for inventors and innovators, stimulating scientific research and technology investment while preventing unauthorized commercial exploitation affirming the statutory recognition of innovation as an economic catalyst for sustainable development (Elyat et al., 2024).

Regarding commercial distinctive signs, **Federal Decree-Law No. (36) of 2021 on Trademarks** provides legal protection for marks used to distinguish goods and services. It establishes procedures for trademark registration, protection renewal, assignment, and legal remedies

against trademark counterfeiting and unauthorized usage. This protection is vital for maintaining commercial trust, preventing consumer deception, and preserving corporate goodwill. These statutory provisions directly reflect Islamic legal principles prohibiting fraud, misrepresentation (tadlīs), and unlawful expropriation, as trademark counterfeiting harms not only trademark owners but also consumers and market integrity at large (Humeid, 2026). Furthermore, UAE intellectual property governance extends beyond substantive rights to encompass robust procedural and regulatory enforcement mechanisms. **Cabinet Resolution No. (47) of 2022 issuing the Executive Regulation of the Copyright Law** governs the copyright register, legal dispositions of rights, and collective management organizations (CMOs). Specialized IP statutes prescribe administrative measures, civil remedies, and criminal penalties for IP violations, alongside statutory rights to claim damages. This demonstrates that legislative protection in the UAE is backed by operational mechanisms that enable rights-holders to defend their rights effectively upon infringement (Elyat et al., 2024).

The statutory regulation of IPRs in the UAE reflects a legislative strategy that harmonizes private economic and moral interests with the promotion of national creativity. This approach converges with general Sharia principles regarding the preservation of wealth, the protection of rights, and the elimination of fraud and harm. However, maintaining the efficacy of this protective regime requires continuous refinement of legislative and oversight mechanisms to combat digital piracy, unauthorized online exploitation, and counterfeit goods. By balancing creator rights with the public interest in knowledge accessibility, UAE legislation offers a comprehensive legal framework whose overarching objectives align with Sharia principles of justice, rights preservation, and public welfare.

The Impact of Sharia Principles and Rulings on the Regulation and Protection of IPRs in UAE Law

Islamic legal principles play a foundational role in grounding the statutory protection of IPRs through core values governing wealth preservation, rights protection, justice, and harm prevention. These principles provide a jurisprudential reference point when interpreting the legal legitimacy of rights arising from human creative and intellectual endeavors. Contemporary Islamic jurisprudence overwhelmingly recognizes the economic value (māliyyah) of intellectual rights as protected legal entitlements. This jurisprudential orientation mirrors UAE legislative policy, which recognizes and regulates the rights of authors, inventors, and trademark owners. However, this convergence reflects a shared alignment in overarching objectives (maqāṣid) rather than a direct verbatim derivation of every detailed statutory provision from classical jurisprudence (Al-Shanta, 2026).

The impact of the Sharia principle of **Preservation of Wealth (Ḥifẓ al-Māl)** is paramount. In contemporary fiqh, property (māl) extends beyond tangible assets to embrace legally recognized intangible rights and financial utilities. **Resolution No. (43) of 1988** of the International Islamic Fiqh Academy confirmed that copyrights, patents, and innovations are legally protected assets over which owners exercise exclusive rights of disposition. This principle directly converges with **Federal Decree-Law No. (38) of 2021 on Copyright and Neighboring Rights**, which secures an author's economic rights to exploit or license their work, prohibiting unlawful expropriation without valid legal authorization.

A similar convergence is evident in the protection of **Moral Rights (Al-Ḥuqūq al-Adabiyyah)**. Islamic law heavily emphasizes honesty, trust (amānah), and truthfulness while strictly prohibiting plagiarism and false attribution. This aligns with the divine directive:
"And do not deprive people of their due things" (Surah Al-A'raf, 7:85)
which establishes a general mandate to respect others' rights. Under UAE law, Article 5 of **Federal Decree-Law No. (38) of 2021** enshrines the author's moral rights, including attribution and the right to object to unauthorized modifications that breach the work's integrity. Statutory protection of an author's intellectual identity directly mirrors Islamic legal principles enforcing moral integrity and prohibiting plagiarism (Al-Qaidi & Al-Rawi, 2024).

Furthermore, the legal maxim **"Do not cause harm or return harm" (Lā ḍarar wa-lā ḍirār)** serves as a core pillar of IP enforcement. This principle mandates preventing infringements that cause economic prejudice to rights-holders or society. Practical legal applications of this maxim appear across UAE legislation, including **Federal Law No. (11) of 2021 on Industrial Property Rights** (safeguarding patents and designs) and **Federal Decree-Law No. (36) of 2021 on Trademarks** (preventing commercial counterfeiting and unauthorized usage). These statutes mitigate economic losses, protect commercial trust, and prevent consumer deception.

Finally, Sharia principles aid in achieving equilibrium between private rights and public interest (al-maṣlaṣah al-'āmmah). In Islamic legal theory, exercising private rights must not cause collective prejudice or impede public welfare. UAE law reflects this principle by establishing finite protection terms, statutory exceptions, and fair-use limitations such as permitted uses for educational and research purposes under **Federal Decree-Law No. (38) of 2021**. These statutory limitations align with the objectives of Sharia (maqāṣid al-Sharī'ah) in promoting public benefit, averting harm, and facilitating knowledge transfer without undermining creators' valid rights.

The influence of Sharia principles in intellectual property lies in providing a value-driven and jurisprudential framework that harmonizes with UAE statutory goals—specifically in preserving wealth, respecting rights, preventing fraud, and achieving balance among competing interests. Drawing upon these principles can further enhance legislative responses to emerging technologies, artificial intelligence, and digital content creation. Ultimately, the relationship between Islamic jurisprudence and UAE statutory law in intellectual property is one of functional convergence and complementation, supporting innovation while maintaining an equitable balance between individual entitlements and societal progress (Al-Qaidi & Al-Rawi, 2024).

Legal and Jurisprudential Challenges in Protecting IPRs and Enhancement Mechanisms in the UAE

Despite the presence of specialized legislation including **Federal Decree-Law No. (38) of 2021**, **Federal Law No. (11) of 2021**, and **Federal Decree-Law No. (36) of 2021**—the protection of IPRs in the UAE faces evolving legal and jurisprudential challenges driven by rapid technological innovation and widespread digitization. In practice, implementation raises complex questions regarding statutory scopes of protection, evidentiary burdens in establishing infringement, and jurisdictional liability for unauthorized digital usage. These challenges are equally significant from an Islamic legal perspective, which seeks to protect

financial and moral rights while safeguarding the public interest and preventing collective harm.

Digital Infringements (Al-I'tidā'āt al-Raqmiyyah): The proliferation of the internet and digital platforms has facilitated the unauthorized copying, distribution, and public communication of literary, scientific, and artistic works. Similarly, proprietary computer software and digital applications are frequently exploited beyond license scopes. These online activities complicate identifying infringers, proving digital violations, and quantifying extraterritorial damages across borders. Although **Federal Decree-Law No. (38) of 2021** establishes civil remedies and criminal penalties, effective protection requires upgrading digital surveillance, enhancing regulatory oversight, and fostering collaborative enforcement among Internet Service Providers (ISPs), law enforcement, and rights-holders (Hamouda, 2025).

Artificial Intelligence (AI) and Generative Technologies: The deployment of AI technologies presents novel legal questions regarding ownership of AI-generated content, copyrightability of autonomous outputs, and the legality of scraping protected works to train machine learning models without authorization. Under the originality and human authorship requirements in **Federal Decree-Law No. (38) of 2021**, addressing these challenges requires drawing a clear line between AI outputs involving human creative contribution and fully automated machine generation. Establishing legal liability for AI-driven infringements necessitates clear regulatory guidelines and statutory interpretations tailored to digital technologies without diluting human authors' rights (Al-Rawi, 2023).

Jurisprudential and Ethical Boundaries of Knowledge Access: From a Sharia perspective, a key challenge lies in defining the precise boundaries of private financial exclusivity over essential knowledge. While contemporary fiqh affirms the legitimacy of IPRs as protected financial assets, it stresses that protection must not prejudice public health, education, or social welfare. While **Resolution No. (43) of 1988** of the International Islamic Fiqh Academy established the general legitimacy of IP rights, applying these principles to modern critical technologies—such as life-saving pharmaceuticals or essential educational software—raises questions regarding the permissibility of compulsory licensing and fair public access. Balancing private rights against society's needs requires adhering to the higher objectives of Sharia (Maqāṣid al-Sharī'ah) in preserving wealth, intellect, and human life (Al-Shanta, 2026).
Legal and Jurisprudential Awareness: Deficits in legal literacy regarding IPRs among individuals and institutions remain a persistent issue. The failure to distinguish between permissible private use and unauthorized commercial exploitation frequently leads to inadvertent copyright and trademark infringements. Moreover, widespread internet availability leads some users to incorrectly assume that publicly accessible online content is free from copyright restrictions. Mitigating these violations requires expanding public educational campaigns emphasizing that respecting IP rights is not merely a statutory obligation, but an ethical requirement rooted in Islamic values of honesty, trust (amānah), and respect for others' labor.

Mechanisms for Enhancing Protection in the UAE: Strengthening IPR enforcement in the UAE requires continuous operational and regulatory updates to keep pace with technology:

1. **Procedural & Oversight Infrastructure:** Enhancing technological capabilities of regulatory authorities to detect, investigate, and curb digital piracy.
2. **Alternative Dispute Resolution (ADR):** Promoting specialized arbitration and mediation frameworks tailored to complex IP and technology disputes.
3. **Institutional Collaboration:** Fostering partnerships between legislative bodies, universities, research centers, and Islamic scholarly institutions to formulate legal frameworks bridging statutory requirements with Sharia principles.
4. **Flexible Licensing:** Developing clear regulatory guidelines for AI utilization, digital works, and flexible licensing models that facilitate lawful access while securing creators' financial and moral rights (Ambar & Edris, 2026).

Overcoming these challenges requires an integrated approach combining efficient statutory enforcement, public legal education, and sound Islamic legal grounding. Striking an equitable balance between creator incentives and societal access serves as the benchmark for a successful IP ecosystem. UAE legislative development should remain grounded in evaluating emerging technology, refining statutory rules, and drawing upon Sharia principles of wealth preservation, harm prevention, and public welfare thereby fostering an environment that drives innovation, protects rights, and supports sustainable economic and intellectual development.

Conclusion

This study demonstrates that intellectual property rights possess a firm jurisprudential grounding (ta'ṣīl shar'ī) rooted in Islamic legal principles that protect wealth, preserve rights, and prevent harm. Contemporary Islamic jurisprudence overwhelmingly recognizes the legal legitimacy of rights arising from authorship, invention, and innovation as protected assets carrying both financial and moral value.

Furthermore, the study illustrates that the UAE legislature has established a specialized, modern legislative framework providing robust legal protection for authors, inventors, and trademark owners. A clear functional convergence exists between Sharia principles and UAE legislative objectives in promoting creativity, enforcing justice, and prohibiting fraud and harm—though this convergence reflects an alignment in overarching goals (maqāṣid) rather than a direct derivation of all detailed statutory provisions from classical jurisprudence.

The study also highlights modern operational challenges arising from digital piracy, generative AI technologies, and defining fair-use boundaries. To address these issues, the study emphasizes the ongoing necessity of refining UAE statutory provisions, enhancing public legal literacy, and strengthening enforcement mechanisms. Utilizing the higher objectives of Islamic law (Maqāṣid al-Sharī'ah) will assist in maintaining an optimal balance between protecting creators' private rights and advancing the broader public interest, thereby supporting sustainable national innovation and knowledge-based development.

Theoretical and Contextual Contributions

Theoretically, this research advances contemporary Islamic jurisprudence and comparative legal scholarship by conceptualizing intellectual property not as an alien transplant, but as a functionally integrated doctrine rooted in the higher objectives of Islamic law (Maqāṣid al-Sharī'ah). By articulating how intangible creative assets align with the protection of wealth

(ḥifẓ al-māl), public welfare (maṣlaḥah), and harm prevention (raf' al-ḍarar), the study expands orthodox property theory to accommodate the non-rivalrous dynamics of modern digital and technological assets. Contextually, the study provides a critical, jurisdiction-specific bridge between classical legal philosophy and positive statutory enforcement in the United Arab Emirates. It illustrates how an emerging global innovation hub reconciles heritage-informed normative values with cutting-edge statutory regimes, offering practical legislative and policy guidance to calibrate intellectual property enforcement against emerging disruptions such as generative AI, digital piracy, and fair-use boundaries in knowledge-driven economies.

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