



المعهد القومي للملكية الفكرية

The National Institute of Intellectual Property
Helwan University, Egypt

المجلة العلمية للملكية الفكرية وإدارة الابتكار

دورية نصف سنوية محكمة يصدرها

المعهد القومي للملكية الفكرية

جامعة حلوان

العدد الخامس

ديسمبر ٢٠٢٢

الهدف من المجلة:

تهدف المجلة العلمية للملكية الفكرية وإدارة الابتكار إلى نشر البحوث والدراسات النظرية والتطبيقية في مجال الملكية الفكرية بشقيها الصناعي والأدبي والفني وعلاقتها بإدارة الابتكار والتنمية المستدامة من كافة النواحي القانونية والاقتصادية والإدارية والعلمية والأدبية والفنية.

ضوابط عامة:

- تعبر كافة الدراسات والبحوث والمقالات عن رأى مؤلفيها ويأتي ترتيبها بالمجلة وفقاً لإعتبارات فنية لا علاقة لها بالقيمة العلمية لأى منها.
- تنشر المقالات غير المحكمة (أوراق العمل) فى زاوية خاصة في المجلة.
- تنشر المجلة مراجعات وعروض الكتب الجديدة والدوريات.
- تنشر المجلة التقارير والبحوث والدراسات الملقاه في مؤتمرات ومنتديات علمية والنشاطات الأكاديمية في مجال تخصصها دونما تحكيم في أعداد خاصة من المجلة.
- يمكن الاقتباس من بعض مواد المجلة بشرط الاشارة إلى المصدر.
- تنشر المجلة الأوراق البحثية للطلاب المسجلين لدرجتى الماجستير والدكتوراه.
- تصدر المجلة محكمة ودورية نصف سنوية.

ألية النشر فى المجلة:

- تقبل المجلة كافة البحوث والدراسات التطبيقية والأكاديمية في مجال حقوق الملكية الفكرية بكافة جوانبها القانونية والتقنية والاقتصادية والإدارية والاجتماعية والثقافية والفنية.
- تقبل البحوث باللغات (العربية والانجليزية والفرنسية).
- تنشر المجلة ملخصات الرسائل العلمية الجديدة، وتعامل معاملة أوراق العمل.
- يجب أن يلتزم الباحث بعدم إرسال بحثه إلى جهة أخرى حتى يأتيه رد المجلة.
- يجب أن يلتزم الباحث باتباع الأسس العلمية السليمة في بحثه.
- يجب أن يرسل الباحث بحثه إلى المجلة من ثلاثة نسخ مطبوعة، وملخص باللغة العربية أو الانجليزية أو الفرنسية، فى حدود ٨ - ١٢ سطر، ويجب أن تكون الرسوم البيانية والإيضاحية مطبوعة وواضحة، بالإضافة إلى نسخة إلكترونية Soft Copy، ونوع الخط Romanes Times New ١٤ للعربى، و١٢ للانجليزي على B5 (ورق نصف ثمانيات) على البريد الإلكتروني: ymgad@niip.edi.eg
- ترسل البحوث إلى محكمين متخصصين وتحكم بسرية تامة.
- في حالة قبول البحث للنشر، يلتزم الباحث بتعديله ليتناسب مع مقترحات المحكمين، وأسلوب النشر بالمجلة.

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المراسلات

ترسل البحوث إلى رئيس تحرير المجلة العلمية للملكية الفكرية وإدارة الابتكار بجامعة حلوان
جامعة حلوان - ٤ شارع كمال الدين صلاح - أمام السفارة الأمريكية بالقاهرة - جاردن سيتي

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<http://www.helwan.edu.eg/niip/>

ymsgad@niip.edu.eg

Copyright protection for digital content
Salma Metwally Ali

Copyright protection for digital content

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Introduction

One of the most prominent challenges of digital content in the world in general and the Arab world is protection, which includes protection against piracy and theft or protection against corporate manipulation and exploitation. These challenges have been emerging over the years in the growth of the Internet, its networks, and digitization and have prompted countries to enact domestic and global laws in which they have gone through several stages; The United States began in 1998 with the activation of the Millennium Digital Copyright Act, which implements two treaties of 1996 of the World Intellectual Property Organization, criminalizing the production and dissemination of technology, devices or services aimed at circumventing procedures that control access to copyright-protected works. Several actions followed, including the Employee Privacy and Data Confidentiality Act, until they were innovative and developed mechanisms and programs in information and content protection. The most recent was the amendment to the Content Protection Act, ratified by the European Union in 2019, which states that online platforms must ensure that content posted through them does not violate property rights and that large companies such as Google are forced to pay for their presentation of links from newspapers and media organizations in private search results.

Unfortunately, As Arabs, even though we have intellectual property rights, copyright, and copyright law, the application is weak, depending on how to deal with the situation after the breach or infringement of the right. It is to give the rights holder recourse to the law, to prosecute the trespasser, to prevent him from repeating the act, and to seek compensation for any damage he may have caused to the owner of the right, but this is Arab and with the difficulty of the legal transactions, their complex procedures, and the high cost with the long period they are taken.

For years, the Internet has been one of the most prominent places of breach and encroachment on intellectual property and copyright, and digital content in all its forms has become a straightforward catch for hackers and an expected availability spread by netizens regardless of their intentions and benefits. As content makers have grown globally, and as they have made significant attempts to keep content from being stolen and trespassed, most prefer to make their website display content or later through smartphone apps to ensure that their content is protected. As social media sites dominate and provide a fertile law-breaking environment, international laws require global sites to monitor content and prevent publishing what breaks publishing and property rights laws.

The different social media platforms later developed particular policies to protect users' content and content makers to ensure they stay in them and continue to feed them with content. These methods varied. Post-hacking reporting initially evolved and started using automatically

operating techniques and algorithms to monitor and control content and prevent publication before it matches or resembles their registered content within intellectual property. This helped immensely to reduce the spread of stolen content. Digital Millennium Copyright Act, a content protection specialist named DMCA.com, has implemented the Digital Millennium Copyright Act, making it easier for all concerned to remove stolen content as websites and other networks were dependent on the Internet. The "conscience" of its owners is mostly non-existent. So, some solutions have emerged to protect digital content, the most important of which is to stop a site that is hacking or trespassing intellectual property rights (DMCA Takedown).

Finally, the activation of policies for the protection of digital content and the enactment of laws that increase and enhance the security of digital content is essential to support and increase Arabic content on the Internet and respect its makers, perhaps creating global neutral censors with content By supporting ideas and actors that use modern technologies and industrial intelligence to develop solutions to enhance the protection and preservation of content from theft and circumvention before theft or infringement, global content-neutral regulators can be established.

Digital content and copyright

Copyright is a type of intellectual property right (IPR) that gives the creator of an original work (creative work) a set of ownership over that work for a specific amount of time.

The copyright holder has the exclusive right to reproduce their work in any medium, including printed publications and sound recordings, make copies and translations available, broadcast or make the work available, and license and lend it. For example, it can be adapted (to turn a book into a film) or performed based on the text.¹

The relationship between copyrighted digital works (such as cinema, music, and art) and user licenses and rights associated with computers, networks, and electronic devices is referred to as "digital rights." Access and control of digital information are frequently referred to as digital rights.

Technological development has led to many challenges for local and global growth, especially after the widespread of international use of databases and the resulting infringements of copyright that accelerated international cooperation to regulate this area; the need emerged for a minimum standard rule that would protect digital copyrights as one of the essential elements of digitization through intellectual property rights.

Although copyright laws differ widely from country to country, they always have the same goal: to allow authors to profit from their work and prevent unlawful use, such as reproduction, publication, and adaptation of original material (literary, artistic, or musical). Under most circumstances, whether an author/creator owns the copyright or has assigned it to a publisher or organization, their work remains in copyright until 70 years after death.

¹ <https://www.oecd.org/sti/ieconomy/Chapter5-KBC2-IP.pdf>

A job will be copyrighted until it is published. Any content in digital form or any content stored and managed by today's technology devices, such as a laptop or a smartphone, is referred to as digital data. These data may also speak to writings, such as books and magazines, and voice data, such as melodies and so on. They may also talk to photographs or video data or speak to PC programs.

The music, television, and film entertainment industries are undergoing significant transformations, with the rise of internet-based streaming services fundamentally altering how creative content is created, sold, and distributed. For the sake of simplicity and realism, music-only streaming is occasionally included when discussing VOD formats¹. Hereunder are some of the new business models. VOD (video on demand) is a video media distribution that allows consumers to watch TV and movies on demand. Instead of watching shows at a particular time, they can watch content whenever they want. FOD (accessible on request) is a streaming service that is free for the user either because the provider is public or because the user must watch occasional advertisements (e.g., Netflix, YouTube, Facebook, or VEVO), in which case it is called AVOD (ad-supported video on demand). The AVOD structure is similar to that of television, but with demographic targeting and automated advertising. Transactional video on demand (TVOD) and subscription video on demand (SVOD) are the two primary categories of the pay-on-demand market (SVOD). In SVOD, a customer signs up for a subscription service that allows access until the customer cancels or the

¹ <https://www.uksg.org/sites/uksg.org/files/18-Cole-22L0382L04V75345.pdf>

contract expires. SVOD services include Netflix, Amazon Prime Video, YouTube Premium, MUBI, and HBO. SVOD services are often based on monthly subscriptions with no limit on how much content can be viewed.

Consumers can sign up for a free account or create a free profile on TVOD, and prices depend on the amount of content or type of content consumed. Apple iTunes, Google Play, MUBI, and YouTube Movies follow this approach. Customers are charged on a pay-per-view basis, while rights holders are compensated for transactions. TVOD services mainly focus on movies and music, but the model has also been applied to live events, such as sports. A pay-what-you-want mode is available on some TVOD services. Some platforms have tried to merge subscription-based and ad-supported content services. These hybrid models (for example, Spotify) typically take the form of increased payment for fewer advertisements or use the 'freemium' model. The basic model is free, but desirable upgrades such as ad-free experience and access without an internet connection or higher quality require a subscription. Video-sharing platforms, such as Dailymotion, Facebook, Instagram, and YouTube, are platforms that disseminate user-generated content (UGC), which is any content that has been produced by users on the platforms. Video sharing platforms are experimenting with new business models, such as hybrid models.

Copyright infringement of digital content

Even though it deals with intangible creations of thinking, copyright law mandates fixation. Fixed copies of the original thing could formerly be viewed, given away, traded, and so forth. The digital items, on the other hand, are not the same. They can, however, be given away or shared in different ways without losing access to the "original." The digital copies tly the same. This is not the same as tangible objects. This concept has had a significant impact on debates regarding the originality of the work, its connection to copies, and the first sale in the digital age. Digital media, such as CDs or software applications on a hard drive, are considered fixed formats when deciding whether creation is eligible for copyright protection.¹

Users can create, modify, share, and display the information on a scale that has never been possible before, thanks to the features of digital works and the data connections, precisely the nature of the identical copy and the ease of copying works. On the other hand, these abilities include the manipulation of copyrighted content. Since any data can be transmitted, copied, distributed, and shared without the copyright holder's permission, it is illegal. For example, users downloading and sharing copyrighted music or movies of unlawful websites are likely infringing. If you want to copy, distribute, rent, or lend copies of the author's work, or modify, perform, display, or broadcast it, you must first get permission from the copyright owner. This remains applicable for online

¹https://www.researchgate.net/publication/343787597_Copyright_Issues_in_Digital_Media

work as well. On the other hand, the copyright owner is under no commitment to grant such authorization.

Duplication of a CD or other recorded media containing copyright material without the permission of the copyright holder; unauthorized downloading of copyrighted material and sharing of recorded music over the Internet, often in the form of MP3 files; unauthorized use of text content on the internet by copying from one site to another without the consent of the author, and so on are some examples of copyright infringement in the digital environment. If someone participates in one of the acts that takes the author's exclusive right, that person will be infringing the author's copyright. Aside from direct copyright infringement, one might be held liable for helping another infringer. The first type of infringement is contributory infringement, which occurs when someone "materially contributes" to another's direct infringement (by assisting the infringer somehow). Another is vicarious liability, which occurs when someone profits financially from another's infringement but might have prevented it in the first place. Copyright is established to encourage creativity, progress, and innovation by securing the authors' economic and moral rights while making copyrighted works accessible to the public. In various methods, a balance has been maintained between the interests of copyright owners in receiving adequate compensation for their work and the interests of copyright users in having the proper access to copyright materials. Because it is critical to balance these two opposing interests, the authors are awarded certain rights, while the public has the right to use the work under certain conditions. These constraints pertain to the subject matter's

copyrightability, the length of the protection period, the work's public availability, and the requirements of its use. In most cases, educational and informational purposes, criticism or review, and scientific study are considered fair and do not constitute a copyright violation.¹

Depending on the methodology utilized in the websites that provide access to the unauthorized content, four types of online copyright infringement can be described²: streaming, downloading, stream-ripping, and torrent. Streaming: any website that primarily allows unlicensed content to be accessed via online streaming directly from an end-user's web browser. Websites usually have much content that may be searched now from the site. Some websites explicitly contain pirated content, but most give links to other websites. Download: Any website that primarily allows unauthorized content through a direct download in the user's web browser is classified as a download. Websites usually include a wide range of content that may be searched immediately from within the website and downloaded in its entirety. Instead then hosting the content themselves, the websites link to other websites that do. Stream ripping refers to any website that allows users to convert audio into downloadable MP3 files. This procedure is carried out entirely within a user's web browser. Typically, the user only needs to provide a URL to begin downloading the MP3 file right away. Stream

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https://www.researchgate.net/publication/339077032_COPYRIGHT_INFRINGEMENT_IN_DIGITAL_ENVIRONMENT

² https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/quantification-of-ipr-infringement/online-copyright-infringement-in-eu/online_copyright_infringement_in_eu_en.pdf

ripping is most commonly used to rip the audio from music videos, often obtained legally. Although some websites allow users to pull video content and store it as a video file, most websites in this category only enable users to rip audio content. Torrent: A torrent download portal allows visitors to search for any content and then download one small file that begins downloading the entire product.

Users using streaming sites must have a torrent client installed on their device. Because this is a peer-to-peer (P2P) download, the content is obtained from other torrent users who share the same content. Regarding the copies that end-users make available for others to download, there is frequently also an act of communication to the public involved. Torrenting can be public, where everyone can use all torrent download portals, or private, where only website members can log in and view the site's material. The majority of private torrent sites have an invite-only membership policy.

The video-sharing website YouTube has grown to become one of the most popular and profitable websites on the Internet. What began as a platform for individuals worldwide to share videos in February 2005 has grown into a billion-dollar business that is now a part of the Google corporation. While YouTube's growth and popularity are undeniable, the underlying copyright issues at the heart of the platform are far from resolved. The recent high-profile litigation initiated by entertainment corporation Viacom International highlights the legal uncertainties surrounding

YouTube's operation¹. The case filed in the United States District Court for the Southern District of New York and any following appeals could be one of the most essential copyright judgments in the digital era. YouTube is not the first user-generated intermediary that has run into legal issues; instead, it is an example of the copyright issues that user-generated intermediates face. Indeed, the advent of Web 2.0 and other new digital technologies has made it possible to quickly replicate and distribute digital information online without the copyright owner's authorization.

Although considering the very personalized style of content generation that blogs and wikis, for example, allow, copyright issues are likely to be increasingly prominent in many circumstances. In this regard, it should be observed that, despite several cases filed against blogs and bloggers that have failed to proceed to trial, there has yet to be a significant published ruling concerning copyright infringement issues on a blog or wiki.

Protection of copyright in the digital content

Due to the apparent Internet's massive development, more users than ever before have access to nearly any sort of news or data. However, when consumers use various web-based workarounds and tools to distribute and exchange enormous volumes of pirated digital products instantly around the world, this technological innovation also fosters digital piracy. As a result, the Internet is used for

¹ <https://casetext.com/brief/viacom-international-inc-et-al-v-youtube-inc-et-al-memorandum-of-law-in-support-re-177-motion-for-summary-judgment-regarding>

substantial digital piracy. The regulatory frameworks in place on a local level are critical in avoiding digital piracy. Copyright holders have the legal right to sue infringers and claim damages for any losses they may have incurred. A robust legal framework can help minimize digital piracy, but a weak one can be perceived as permissive to illegal activities, allowing piracy to thrive. This notion appears to be supported by several studies, which revealed that economies with robust copyright protection laws had lower pirate rates.¹ Legal structures, on the other hand, are only successful if the laws are followed in practice. The value of conventional rules and regulations to copyright owners is low if enforcement resources are insufficient if public authorities do not otherwise enforce intellectual property rights. Even the most stringent legislation could thus not affect the scope of digital piracy.

Furthermore, the danger of discovery and subsequent legal action must be weighed against the potential penalties for infringers, such as the size of any predicted monetary penalty or the probability and length of any possible jail sentences. Digital piracy is difficult to detect across national borders. The worldwide flow of pirated digital items from vendors to distributors to manufacturers is more difficult for law enforcement agents to trace than the transfer of physical goods. The large number of people engaged adds to the difficulty of efficient international collaboration amongst law enforcement agencies.

¹ https://www.researchgate.net/publication/262903930_National-Level_Determinants_of_Global_Music_Piracy_and_Online_Music_Sales_An_Exploratory_Study

The digitalization of content and the expansion of the Internet have posed numerous issues to the protection, licensing, and management of copyright-protected material. The Berne Convention, which was signed in 1886, was the first significant international treaty to establish national treatment. It has been updated several times, yet it remains the most critical global pact. Afterward, many issues and legal questions in regards to digitization resulted in the two latest international copyright treaties: the WIPO Copyright Treaty¹ and the WIPO Performances and Phonograms Treaty², which were both signed in December of 1996. The US Congress enacted the controversial Digital Millennium Copyright Legislation in 1998. (DMCA). The DMCA was the most significant reform to the Copyright Act in addressing copyright in the digital age. Its words and effects were and continue to be debatable. The DMCA accomplishes several important goals, including protecting Internet Service Providers (ISPs), making it illegal to bypass copyright access except in limited instances, and giving copyright owners the power to manage access to works they hold the copyright. The DMCA bans the circumvention of copyright protection systems, which was enacted to comply with international treaty responsibilities. These are technologies that regulate who has access to copyrighted works. People can break the DMCA just by unlocking an "electronic lock" to obtain access to a result, even if they don't infringe on the copyright in that work later — for example, by copying for "fair use." Both civil and criminal sanctions

¹ <https://www.wipo.int/treaties/en/ip/wct/>

² https://www.wipo.int/edocs/pubdocs/en/wipo_pub_227.pdf

may be used to enforce these laws. Only those who act "willfully and for the purpose of commercial profit or private financial gain" face criminal sanctions.¹ One of the contrasts between European and American copyright legislation is that, since the first Berne convention in 1886, the moral rights of the author have always been part of the European copyright heritage. In contrast, they have never been part of American law. The WIPO Performances and Phonograms Treaty, signed in 1996, clearly defines composers' moral rights for the first time in US copyright law. In copyright theory, moral rights refer to a position in which the author, composer, or director has nearly complete control over how connected they resented or modified. In copyright law, moral rights are an expression of considering creator rights to be natural rights. Although authorship rights vary by country, the Berne Convention protects the right of integrity and the right of attribution. The right of integrity protects an author's work from being mutilated or distorted and from being linked to something that might hurt the creator's reputation. The author's right to be connected with their work (and not work attributed to someone else) is referred to as the right of attribution. Thus, European law has supported the interests of artists and publishers for the past century, whereas American law has professed to serve the interests of the general public. The law that applies to the potentially infringing action is usually the domestic law that applies to that action. When dealing with online activities, the problem becomes even more complicated.

¹ <https://www.ubcpres.ca/asset/12342/1/9780774810869.pdf>

Copyright holders perceive a flood of cheap, quick copies and a substantial increase in the number of people who can produce those copies as a threat. Copyright owners are less likely to sue those who exchange software, video, or music files via the Internet due to the vast volume of illegal usage and little return on suing anyone. Instead, copyright holders sue direct facilitators such as Napster, software developers who create file-sharing software, those who provide tools to crack encryption that protects copyrighted works, search engines that help people find infringing material, eBay, and even credit card companies that help people pay for infringing activity. The majority of these lawsuits are based on ideas of secondary liability, focusing on individuals who offer services or design software that can be utilized in an infringement action.

Creative Commons (CC) is a global non-profit organization that offers free tools, such as Creative Commons licenses and software to enable authors, researchers, artists, and educators to mark their creative works with the individual intellectual property rights they want. CC's objective is to promote a balanced intellectual property rights system by advocating a 'some rights reserved' system rather than the traditional 'all rights reserved' approach. In the face of increasingly restrictive copyright restrictions, CC is committed to developing a flexible copyright regime. It promotes fair, creative work sharing, remixing, and reuse and provides a legal framework for the growth and development of digitally enabled creative culture. CC works to rectify overly restrictive intellectual property protection by simultaneously combining distributive and legal

procedures. CC is assisting in implementing open access to knowledge by advocating a fair and user-friendly structure of intellectual property rights. Creativity and innovation have always been based on a solid foundation of previous academic work. This collaborative creative activity is set to explode due to digital communications. Digital communications, on the other hand, are not readily available and are saddled by excessive legal restrictions under an 'all rights reserved' system. One of CC's main goals is to provide a simple, accessible, and extensible content infrastructure that allows for an appropriate balance of freedoms and rights, paving the way for and encouraging the growth of genuinely dynamic web culture.¹

The advent of various pirated content on multiple media platforms has prompted several governments in the middle east to take action against this practice and implement different legislation taken to tackle content piracy, protecting copyrighted material, blocking illicit websites, and any other illegal cyber activity. The law in the UAE is intended to combat unauthorized broadcasting signal transmission and protect copyrights. The UAE Federal Law No. (7) of 2002² Concerning Copyrights and Neighboring Rights contains provisions to safeguard rights holders against TV broadcast piracy. Furthermore, this law imposes harsh penalties for actions of noncompliance. Fines, labor confiscation, and prison term are among the penalties. This regulation is in place to safeguard the broadcasting business. The UAE government has explicitly

¹ <https://creativecommons.org/>

² <https://wipolex.wipo.int/en/text/124611>

stated the consequences for those who break and violate the law and the authority's rights and legislation to its viewers and residents. However, piracy remains a significant issue in the country. There are laws in Egypt that deal with the internet and copyrights. The Egyptian parliament enacted Law No. 82, the Intellectual Property Rights Law, in May 2002¹. (IRP). This law covers four main areas: trademarks, patents, new plant varieties, and copyrights.

Another law in Egypt, the Cyber-Crime law, was proposed and enacted. The Egyptian parliament and its members drafted and approved this legislation in July 2018. The Cyber-Crime law was designed to target any illicit computer, internet, or social media networks that duplicate and disseminate copyrighted material or content without the possessor's or owner's permission. Furthermore, one of the critical goals of this regulation is to track down and raid any online syndicate that is illegally distributing premium material or services. "The law, which for the first time in Egypt legislates digital evidence, also aims at stamping out any information inciting violence or hatred, addressing various other types of computer crimes such as hacking, fraud, or any attack on private and public information systems and networks².

Several laws have been enacted to combat the Internet, digital piracy, and content theft in the Middle East, particularly in the United Arab Emirates (UAE) and Egypt.

¹ <https://wipolex.wipo.int/en/legislation/details/1301>

² <https://itida.gov.eg/English/MediaCenter/News/Pages/ITIDA-Egypt-Launches-Digital-Forensic-Lab-to-Improve-IPR-Protection-and-Enforcement.aspx>

Even though these regulations were created and enforced to prevent copyright infringement and illicit combat activities, they did not affect the phenomenon. Although the enforcement of these rules did not result in any changes in piracy levels, the only difference observed by these legislations was the sort of pirated content. Furthermore, no regulation was explicitly created to address the issue of media piracy.

Conclusion

The different laws and regulations are unable to keep up with technological advancements. All efforts must be taken to modify copyright laws to address the influence of technology on related legal concerns, incorporate the most up-to-date provisions for copyright protection, and protect users' interests. The majority of users are unaware of copyright laws and the behaviors that lead to copyright violations. Through various literacy programs, users can be made aware of their rights and owners' rights. It is the obligation of today's library and information professionals to avoid any legal dispute between the two. Users must also be taught how to manage electronic data and what does not fall under the fair use theory.

In the Arab world, the number of people using the internet and various social media sources is rapidly expanding. As a result, online piracy in the Middle East has received much attention. It is vital to note that no law in Egypt aims to prevent or eliminate media piracy. As a result, we must examine measures to combat this criminal

act and make users aware of copyright laws and copyright infringement on the different platforms.

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