

The Role of Saudi Arabia's Copyright Law in Governing the Modern Video Game Landscape

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Abstract

Saudi Arabia's billion-dollar gaming industry is experiencing a rapid transformation marked by exponential growth and substantial investment. The Kingdom is the 19th biggest gaming market worldwide, with an investment of \$6.4 billion to support the industry's development. The exponential growth and substantial investment in the Kingdom's gaming industry emphasize the significance of understanding the role of its Intellectual Property law, particularly copyright, in administering this dynamic landscape. Understanding this role will help to demonstrate the Kingdom's dedication to encouraging the growth and development of the video game industry. As part of its 2030 Vision, Saudi Arabia's Public Investment Fund (PIF) has entered the gaming sector by establishing Savvy Gaming Group, which invested \$1.05 billion to acquire FACEIT and ESL, forming the ESL FACEIT Group. This article examines the intersection of video games and Intellectual Property law, focusing on copyright to explore how the Kingdom's current copyright framework accommodates the distinctive elements of the video gaming industry and addresses the legal ambiguities that potentially undermine the industry's copyright protection and overall growth and development. The article analyses the levels of existing copyright protection and legal ambiguities in the Kingdom of Saudi Arabia. Consequently, this article proposes a copyright system tailored to the video gaming industry to address the Kingdom's specific challenges in this domain. Conclusively,

it contends that existing copyright laws do not adequately accommodate Saudi Arabia's dynamic video gaming industry. It advocates for discussions on a new regime that caters to the industry's unique aspects and safeguards the interests of publishers and creators in the emerging gaming sector.

Keywords: Video Games, Saudi Arabia, Saudi Copyrights Act, IP Protection.

1. Introduction

The video gaming industry is among the fastest-growing globally in recent decades. Market analysis confirms that the video gaming market may reach \$211.2 billion by 2025. Having realized considerable growth in the video gaming industry in recent years, Saudi Arabia is making significant investments and efforts to establish itself as a player in the industry, demonstrating its recognition of the industry's economic potential, its dedication to diversifying beyond oil, and desire to align with broader national strategies, such as Saudi Vision 2030. In light of this, Saudi Arabia is investing \$38 billion to establish itself as a player in the video game industry. This move is part of its strategy to diversify its economy. Initially, they focused on the e-sports sector, which has recently faced challenges. However, its subsidiary, Savvy Games Group, is expanding its efforts to develop, publish, and acquire high-quality games while supporting the gaming industry's growth. Saudi Arabia aims to diversify its economy under the Saudi Vision 2030. It has a growing number of game developers who create innovative games and game publishers who release or distribute these games. Further, the country is experiencing exponential growth in video game players, with 67% of its population constituting 23 million gamers playing them.

Saudi Arabia's investment in the gaming industry continues to attract global attention and strategic partnerships. Strachan (2022) notes that Saudi Arabia continues making substantive investments in the video gaming industry, citing the recent \$1 billion

shares acquisition in the European video distribution company known as the Embracer Group by Saudi Arabia's Public Investment Fund. In 2022, the country's sovereign wealth fund acquired a 96% share of the Japanese video game software and hardware company SNK, known for the Samurai Shodown and other fighting video games (Strachan, 2022). Saudi Arabia's Savvy Games Group owns 7.08% of Nintendo, the Japanese gaming giant (Middle East Monitor, 2023). These increased acquisitions should encourage the Saudi Arabian government to create laws that protect the video gaming industry and encourage partnerships and collaborations among local and international video game developers to boost local and global competitiveness. Having the appropriate copyright laws will ensure the legal enforceability of measures against entities violating their intellectual property rights, ultimately enhancing fairness in business practices within the video gaming industry.

The Entertainment Media Use in the Middle East report explores the challenges the video gaming industry faces regarding regulations within the region. It discusses the complex legal environment for developers and game publishers. The report emphasizes how enforcing regulations has become more challenging with the rise of digital distribution that bypasses traditional content control mechanisms. The recent World Forum held in Riyadh showcased the growing potential of Saudi Arabia in gaming and e-sports. Industry experts like Sebastien Borget and Yat Siu emphasized the need for a framework to support the industry. The discussions also highlighted the value of assets and the tech-savvy population of Saudi Arabia. Noteworthy partnerships and agreements, including those between the Qatar Esports Federations, Coda Payments, and Etihad Etisalat, underscored this sector's rapid growth and strong government backing (Arab News, 2023).

The diverse technologies being integrated into video games by different players contribute to the increasing yearly disputes regarding the violation of video game rights. Video games combine various art forms, including music, videos, plots,

paintings, scripts, and characters. Video games allow players to engage with the virtual world, ranging from simple puzzle games to complex simulations covering various genres. Video games are not singular creations but compositions of distinct individual copyright elements, such as songs and characters, which demand legal protection. Studying the development stages of these works is critical to discuss the evolution of their legal nature. Accordingly, this study analyzes the protection of video games as distinct, complex, creative works of authorship. The study examines the protection of these works within Saudi Arabia's copyright laws. The history of video games dates back to the 1950s. They captured the public's imagination in the 1970s and 1980s with iconic arcade games and the advent of home gaming consoles. During this period, there was a rise in games and series, which laid the groundwork for the industry's rapid expansion. Over the decades, video games have evolved from 8-bit graphics to incredibly lifelike environments.

The modern video game environment is a dynamic meeting point between technology, entertainment, and legal frameworks, with digital IP laws being one of the key elements defining this field. The presence of good IP laws is likely to encourage the growth of the industry. unclear legal regulations to govern this industry complicate this problem as the country cannot render effective, definitive interventions. Thus, this research gives a multidimensional analysis since it is based on the fusion of legal studies with technological innovation and the integration of Saudi Arabia's cultural aspects. Saudi Arabia's video gaming industry's distinctive character arises from the connection of contemporary video games with the growing trajectory of intellectual property legislation specific to Saudi Arabia. The research theme scrutinizes the dynamic interrelationship between fixed and changing trends in regulatory systems and the speedily growing video gaming industry, considering Saudi Arabia's social and cultural factors. The study focuses on national law, analyzes Saudi Arabia's IP law's role in managing the contemporary video game

ecosystem, and evaluates its impact. The research conducts a multidimensional analysis to explore how the Saudi IP legislature compares and aligns with the changing demands of the video game industry, enhancing understanding of vital aspects like trademark and copyright. The ultimate objective is to determine the appropriateness and adequacy of Saudi copyright laws that protect creative works, especially video games embedded in forms of content and their digital distribution platforms, to restrain piracy. Besides, brand name garnishing has been a consistent concern for all the brands, causing gaming franchises and merchandising ventures to outsource trademark protection.

Copyright protection is critical in shaping Saudi Arabia's video gaming industry landscape. Saudi Arabia is a member of several entities that govern international copyright laws. For example, World Intellectual Property Organization (2003) notes that it is a member of the Berne Convention of 1971, the principle copyright treaty that protects artistic and literary works. Consequently, the government is obligated to enforce copyright protections by revising its copyright laws to protect developers in the nascent industry and ensure compliance with international copyright protection treaties. It must extensively enhance awareness among video developers and publishers to sensitize them about this legal obligation to avoid copyright violations. Instructing these agencies is necessary, considering Saudi Arabia's intention to invite international video game developers to work with its local creators to create new games and hasten the new industry's growth.

This research examines Saudi Arabia's budding video gaming industry to establish whether it has robust, readily accessible, and well-understood copyright laws. The research demonstrates why Saudi Arabia must have a dedicated framework to enable video game developers to navigate the dynamic industry effectively while observing the relevant copyright protections, such as those encapsulated in international treaties, such as the Berne Convention.

2. The Role of Technological Advancements in the Gaming Industry in KSA

The video gaming industry has undergone an unparalleled evolution, propelling it from a peculiar form of entertainment to a cultural phenomenon. Upcoming technological innovations have powered this evolution, engendered changes in consumer needs, and exponentially grew the video game market. The evolution of gaming platforms is a crucial driver of this revolution (Babu & Mohan, 2022). The change has transformed gaming from a confined console experience focused on specific milestones to a more accessible, diverse, and immersive form of entertainment. Powerful gaming devices in living rooms worldwide now boast intricate graphics and a sense of virtual realism, thus enhancing the pursuit of victory in video game development.

Simultaneously, the emergence of smartphones and tablets brought countless audiences to mobile gaming, where casual game titles and app-based games had already gained millions of users globally. The emergence of the internet has changed the course of playing games as players can even connect on diverse gadgets and simultaneously play with many players. Games like “World of Warcraft,” “Fortnite,” and “League of Legends developed into cultural sensations that attracted gaming enthusiasts and non-play audiences fascinated by watching gaming competitions between high-level professionals. Gaming became a part of mainstream entertainment, and esports tournaments took over arenas that usually host big games such as football (Migliore, 2021).

According to Jaiswal (2021), electronic sports (popularly known as e-sports) is a form of competitive tournaments in online games. Professional players can participate either individually or as part of multiplayer teams. The video gaming industry and e-sports are experiencing a significant transformation in Saudi Arabia.

The country is witnessing robust consumer engagement; hence, actively supporting the sector's growth. The market is attracting more consumers, which brings opportunities for increased investment. About 67% of gamers in Saudi Arabia actively engage in gaming. The market has experienced revenue growth, with an anticipated increase from 2.6 billion SAR in 2020 to a projected 4.9 billion SAR in 2023, marking an 88.5% increase. Saudi gamers provide 2.9 times more average revenue per user than their closest competitor in the MENA region (Deloitte, 2024). According to Awni (2023), there is a need to develop a strategy that encompasses IP monetization, protection, and enforcement. This is particularly important given that new technologies for consuming and distributing e-sports are coming up.

3. Video Games and Intellectual Property Law: Establishing A Regulatory Framework

It would be prudent for the government of Saudi Arabia to establish the necessary legal framework for protecting intellectual property rights. As a result, it is crucial to engage all stakeholders interested in Saudi Arabia's video gaming industry. This would involve bringing together local and international video game developers and intellectual property rights experts (both local and global) to create the necessary legal framework for protecting intellectual property rights. Currently, the Saudi Arabian government faces several challenges because of the lack of a legal framework for supporting the young video gaming industry. Consequently, it should develop a framework that demonstrates the process it uses to enforce copyright protections, the procedures for litigation against copyright violations, and the system it uses to license and implement copyright agreements among local and international developers working remotely or within the Kingdom's jurisdiction under the government's facilitation. The Saudi Authority for Intellectual Property extended protections relevant to the video gaming industry by introducing the Regulation for the optional registration of copyrighted works back in 2021, which covers computer

software and applications, photographs, and artistic works, among other developments (Saudi Authority for Intellectual Property, 2023, p. 6). These immersive technologies offer interactive experiences and continue growing in popularity, necessitating robust intellectual property protection development and effective implementation. Saudi Arabia should first create original video games and related components and register them with the pertinent copyright protections such as the Saudi Authority for Intellectual Property to copyright them. Registration may involve submitting the relevant documentation to show intellectual property ownership. After registering the creative works, copyright holders can pursue several approaches to enforce their rights to infringing parties, including giving cease-and-desist notices or pursuing litigations that may involve filing suits against entities that illegally reproduce, alter, or distribute the copyrighted content to seek damages and enforce protection (Kretzschmar & Stanfill, 2019).. The dynamic nature of the international gaming industry continues to cause multiple difficulties and challenges, including disputes on jurisdiction zones and international intellectual property protection law applications, among other concerns.

Cooperation through establishing licensing agreements can help handle industry intellectual property rights. Licensing agreements are familiar with game creation projects, which involve, for instance, reference to music third parties, trademarks, or characters. Developers control these third-party elements to allow the integration of required references in games (Friston et al., 2017). Well-defined and complete agreements enable the creation of rules under which this licensed content is used, royalties collected, and other matters relating to protection handled. Notably, coordinated projects among developers consider business ownership of intellectual property, entailing agreements honoring proprietary rights and outlining responsibilities for each party. International treaties and conventions are crucial in achieving harmony and protecting the video game market's intellectual property, like

characters. The Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are crucial instruments that protect rights and other branches under the sphere of copyrights and related rights (Morcos & Khneisser, 2020).

Video Game Governance in SA: Savvy Games Group and other Institutions

In Saudi Arabia, several key institutions enforce copyright enforcement to protect intellectual property rights within the video gaming industry. For example, Savvy Gaming Group, a Public Investment Fund subsidiary, enforces copyright by investing in the gaming sector to foster compliance with copyright laws and inspire creativity and innovation within the industry. On the other hand, the Saudi Authority for Intellectual Property is the central regulatory body that oversees copyright enforcement and implements intellectual property laws across diverse sectors, including video games. The entity plays a vital role in registering copyrights, issuing licenses, and resolving mediating disputes related to intellectual property violation conflicts. Further, Saudi Arabia's February 14, 2023, implementation of the Intellectual Property Prosecution is a considerable step towards its dedication to protecting intellectual property rights within the budding video gaming domain. This new IP entity is authorized to investigate and litigate cases that breach intellectual property rights (Saudi Gazette, 2024). The move headed by the attorney general, is vital to encourage a thriving video gaming ecosystem that fosters knowledge-sharing and collaboration among video game developers. Consequently, stakeholders in the sector will feel protected, thus encouraging them to invest in the budding video gaming industry, accelerate its growth, popularize the country's economic and cultural significance locally and globally, and boost its socio-economic development.

4. Copyright Law in Saudi Arabia versus other Countries

Saudi Arabia's current copyright law attempts to define what amounts to protected work and incidents where protection can or cannot be applied. Although the words video games do not appear in the law, the industry is still part of the creative sector; thus, industry players can expect some degree of protection from the law. For instance, the law is cognizant of the fact that many business interests break down due to finances; hence, Article 9 is dedicated to the financial obligations that accrue to protected works. The law goes further to envisage circumstances whereby a third party is interested in using or sharing part of the protected works. Without protection, video game content can easily be pirated; thus, Article 11 comes in handy to explain how copyrights can be assigned, inherited and transferred. Most importantly, the law covers the duration of protection, which cannot exceed 50 years (Copyright Law, 1989).

Saudi Arabia's copyright law has some key similarities with other international laws, such as the European law on copyrights. For instance, both aim to protect original, creative works. They also grant authors/owners exclusive rights to distribute, reproduce, and adapt their works. However, European law is considered more friendly to creators, unlike the Saudi Arabian law, which focuses on economic considerations instead of the rights of creators. The European law protects creative works for 70 years, compared to Saudi Arabia's law, which grants exclusive rights for 50 years. The fair use doctrine is also more explicit in European law, granting limited use of protected works for research and critical review purposes. Besides, it is notable that European law protects computer applications, while in Saudi Arabia, such applications must be patented first before being granted full protection. Enforcement is also easier in Europe, which has the necessary legal system for dealing with cases of intellectual property disputes. The harmonized legal framework in the European Union also benefits video game developers since it stretches across

member states. The EU's copyright directives ensure protection for video game content; they ensure that all involved nations have similar processes and laws regarding enacting copyright practices. Furthermore, the EU's model of protection for moral rights (including the right of attribution and protection against message distortion) prescribes the authorship and integrity of creators, demanding ethical practices among game authors. EUIPO is among the most crucial trademark offices in Europe and globally.

In the USA, video game developers largely depend on copyright law to protect their creative works. Games, graphics, music, and stories are protected as a form of written work. Legislation protects copyright acts, encompassing original expressions fixed in any tangible art form, among other elements with different intellectual property rights levels. Moreover, the Digital Millennium Copyright Act (DMCA) outlaws the shielding of technological countermeasures and offers a cover against plagiarism and unauthorized entry into video game content (He, 2017). In the US, trademark laws protect identifications such as names, logos, and symbols, which are mandatory for practicing games, especially in a highly hybridized market with a tremendous threat of counterfeiting products with changing technologies.

5. Copyrights and Video Games: Challenges and Opportunities for KSA

The existing copyright law in Saudi Arabia is relatively well-established. However, the unique qualities of digital and interactive video games require changing laws to enhance the responsiveness of the legal systems (Larouche & de Streel, 2021). Concerns have arisen about creating digital content that adheres to existing regulations. For instance, online platforms facilitating the sharing of user-generated content may violate copyright laws by encouraging piracy and other unlawful modes of online streaming.

Another challenge is the global and interconnected nature of gaming. Most of the major video game publishers, developers, and players operate worldwide. Copyright law varies in different national jurisdictions, with variations also occurring in the cultural perceptions of intellectual property and the territorial scope of IP protection within the borders of each country, thus demanding harmonization (Walsh et al., 2021). International treaties and conventions, including the Berne Convention and TRIPS, focus on providing a legal framework for cross-border protections to reduce IP piracy, although problems regarding uniformity still exist. Digital distribution platforms and the widespread popularity of online multiplayer entertainment cause problems with piracy and illegal sharing. A most troubling aspect of digital files is how easily they can be copied and distributed, thus presenting a real threat to the economic interests developers and publishers enjoy. Digital Rights Management (DRM) tools are designed to oppose pirating, although consumers resist them because they demand restraints on how lawfully acquired games are used.

Emerging technologies also foster profitable innovations and adaptation opportunities within the IP legal setting (Fasnacht & Fasnacht, 2018). Due to ever-evolving technologies, the gaming industry's dynamic and volatile nature implies that intellectual property protection laws must evolve similarly to guarantee their effective function. Additionally, the sector absorbs and shares knowledge through cooperation with partners that challenge prevalent approaches to IP management. This collaborative working approach enables them to create strategies to protect intellectual property rights. While effective joint-venture partnerships can bring significant benefits, they have challenges due to a lack of clear-cut contracts and licensing agreements to guide navigation through collaborative ventures while ensuring partners understand what is expected of them.

The creation of game content based on the feedback generated from online, video game communities results in increased fidelity to ownership rights and stimulates

user interaction (Sun et al., 2023). Contrastingly, it raises certain issues in proprietorship, benefit allocations, and violations. Developing constructive frameworks that promote creativity while respecting the creative rights of both developers and users remains challenging. Developed business models in the gaming industry that offer exceptional scope for effective IP management exist, especially in the rapidly growing field of subscription services, such as Xbox Game Pass and Play Station now, which create new revenue streams and consumption patterns. The new models, such as building licensing agreements and contracts that comply with these innovative structures, ensure developers are rightfully paid for their contribution towards these services.

Blockchain technology presents the gaming and IP industry with a vital opportunity (Pittaras et al., 2021). Real-life options can be used to establish properly identifiable, transferable, and interchangeable virtual properties because blockchain will create transparent ownership of in-game assets. Non-fungible tokens such as (NFTs) can represent distinctive in-game items, providing authentic proof of ownership and ensuring the consideration of the items' holders. Implementing blockchain solutions to games is nonetheless a legal process evaluated with consideration of proper legal frameworks that guarantee their compliance with players and appropriate protections for developers.

Sharing the benefits of intellectual property with the users of products enables a standard of respect toward developers' efforts (Bican et al., 2017). Industry coalitions and advocacies that address issues, such as the ESA's protection efforts, demonstrate commitment to protecting creative works in the country.

6. Conclusion

Saudi Arabia is a significant player in the Middle East North Africa (MENA) games market, with high spending power and revenue generation (Pocket Gamer Connects, 2022). The Saudi Arabian government is investing roughly \$40 billion in the sector, targeting thirty video games and creating approximately 40,000 job prospects by 2030. This substantial investment in the gaming industry is a strategy to boost its economy and lessen its dependence on oil, which constitutes roughly 42% of its gross domestic product. Consequently, the government should consider updating its copyright laws to encourage the creation of jobs, expansion of its gaming industry and market, foster economic growth, attract local and global industry players, and generate revenue.

In this regard, Saudi Arabia should urgently consult with diverse professionals specialized in various aspects of the video gaming industry, such as players and copyright protection experts, to create a customized copyright protection law. The law will protect its local developers' creations and sensitize them to be careful when developing games to avoid incorporating copyrighted works into their creations. The law should also cover copyrightable video game aspects such as characters and gameplay. It is necessary to hire professionals who can conduct grassroots and national campaigns to sensitize developers around the country desiring to participate or actively engage in developing video games to avoid copyright breaches, including by appropriating other cultures' practices without consent. The Saudi Arabian government also desires to incorporate various aspects of Arabic culture in its video games, and the government can support effective game modification by using its varied cultural symbols and practices to increase local and global visibility.

This research recommends that the Saudi Kingdom must first create a customized legal framework for copyright protection and its developers and other relevant stakeholders. Creating recurrent platforms where open discussions and collaboration

are promoted will enable the exchange of concepts, practices, and intellectual property protection issues in the video gaming environment. Through collaborative discussions, all stakeholders can mutually establish problems, search for solutions, and create policies that sustain the video gaming industry. Collaboration between the various stakeholders in this ecosystem can result in more people-centered policy formulation processes that can benefit the video gaming industry players. Therefore, it is vital to create a framework that contains provisions on how the government will engage developers to teach them about copyright law and its implications on their work. This knowledge will help local developers engage among themselves and other developers globally to create and copyright unique works.

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