



# SOUTH AFRICAN Intellectual Property *Law Journal*



Contains papers from the Emerging Researchers and Postgraduates Symposium, 2025

## ARTICLES

### Recent Developments in IP Law

AI copyright policy considerations for Botswana and South Africa – Compensation for starving artists feeding generative - *Al Setso Dennis Mareka*

Convergence of intellectual property and competition law objectives for Africa: A TWAIL reconsideration of the copyright issues arising from the 6th amendment of the Nigerian Broadcasting Code - *Damola Adediji*

The implementation of the fair use exception into South African copyright law in the age of artificial intelligence: A fever dream or a justified reform? - *Alvizo Miggels*

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### AfCFTA

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Protocol to the agreement establishing the African Continental Free Trade Area on intellectual property rights: An opportunity for a Sui Generis protection of indigenous knowledge in Africa - *Tshimangadzo Donald Mukwevho*

The implementation of the AfCFTA Protocol on intellectual property rights: Examining possible ways to alleviate access to medicine in Africa - *Michael Saidu Dumbuya*

### IP and Frontier Technologies

Blurring boundaries: Piracy, algorithmic authorship and creativity among designers in Kenya - *Grace Njeri Gatere*

IP and data rights in Africa's digital economy: A protective-adaptive blueprint - *Tanaka Dakacha*



**SOUTH AFRICAN  
INTELLECTUAL  
PROPERTY LAW  
JOURNAL**

Special Edition  
Volume 13 Issue 2 2025



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Published in association with the Faculty of Law, University of Cape Town.

ISSN: 2309-4532

Cover design: Drag and Drop

Typesetting: Peter Howe

Printed by:

Publishers:

Juta and Company (Pty) Ltd

1st Floor Sunclare Building

21 Dreyer Street

Claremont

[www.juta.co.za](http://www.juta.co.za)

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The *IPLJ* is a peer-reviewed journal that publishes contributions in the area of intellectual property law. The *IPLJ* aims to be essential reading for intellectual property academics and for those seeking perspectives from Africa generally and South Africa specifically. The *IPLJ* is published once a year.

## **CITATION**

This journal should be cited as *IPLJ 2025 Volume 13 Issue 2*.

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## **ACKNOWLEDGEMENT**

The symposium and this special edition were generously supported by the National Research Foundation (Grant number: 115716) awarded to the DSTI-NRF SARCHI Research Chair in Intellectual Property, Innovation and Development, the International Development Research Centre (IDRC), Grant #109930-001, via the Open African Innovation Research (Open AIR) network and the University of Cape Town. Special recognition goes to Charlene Musiza for her editorial assistance and to Juta for their support of the open access to this special edition.

# FOREWORD

This special issue of the South African Intellectual Property Law Journal marks a significant milestone in African intellectual property (IP) scholarship. Conceived as part of the Emerging Researchers and Postgraduates Symposium, organised by a team led by Dr Charlene Musiza and Prof Caroline Neube at the South African Research Chair (SARChI) Intellectual Property, Innovation and Development,<sup>1</sup> the issue reflects Africa's dynamic IP landscape at a time of transformation. The symposium provided a platform for early-career researchers and postgraduate students to engage with Africa's IP challenges and opportunities under the guidance and mentorship of established IP scholars, enabling them to refine their ideas and develop publishable papers. Against the backdrop of the African Union's Agenda 2063 and the African Continental Free Trade Area (AfCFTA), the contributions in this special issue interrogate how IP can catalyse development, innovation, and sustainability across the continent.

The articles in this special issue cover a wide range of themes. They examine recent developments in copyright law, including proposals for fair use reform and the implications of artificial intelligence for authorship and compensation. Other contributions explore the intersection of IP and competition law, the alignment of copyright frameworks with continental aspirations, and the role of geographical indications in advancing the Sustainable Development Goals (SDGs). The AfCFTA Protocol on Intellectual Property Rights (IP Protocol) features prominently, with analyses on trademark use requirements, indigenous knowledge protection, and strategies to improve access to medicines. Further, the issue engages with frontier technologies and Africa's digital economy, addressing algorithmic creativity, piracy, and data rights in an era of rapid technological change.

The articles draw on diverse jurisdictions, reflecting the geographic breadth of African IP scholarship. Country-specific analyses include developments in Botswana, South Africa, Nigeria, Kenya, and Uganda, complemented by continent-wide perspectives on the AfCFTA IP Protocol and regional integration. Some contributions adopt a comparative lens, juxtaposing legal developments across African countries, identifying convergences and divergences in approaches to copyright reform and indigenous knowledge protection. The diversity underscores the complexity of Africa's IP environment and the need for nuanced, context-specific approaches to IP policy and governance that recognise both national priorities and regional aspirations.

The published articles underwent multiple stages of review. First, a review process was undertaken to select papers for presentation at the symposium. Second, at the symposium, each presenter was allocated a senior scholar as discussant, who then gave input on both the draft paper and presentation,

1 UCT South African Research Chair, available at: <https://law.uct.ac.za/ip-chair>.

which was complemented by peer feedback in the symposium discussion sessions. Following the symposium, improved and revised papers were then subjected to the journal's usual peer review process. Collectively, these articles highlight the urgency of shaping IP policies that respond to Africa's developmental priorities while promoting equitable participation in global innovation systems and safeguarding cultural heritage. By amplifying the voices of emerging IP scholars, this special issue contributes to a growing body of research that seeks to position Africa as an active architect of global IP governance. We invite readers to engage critically with these perspectives and to join efforts to ensure that IP serves as a tool for inclusive growth and sustainable futures.

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