OPENING THE FLOODGATES TO UNTAPPED MARKETS: THE ROLE OF INTELLECTUAL PROPERTY AND THE AFRICAN CONTINENTAL FREE TRADE AGREEMENT IN PROMOTING THE AFRICAN START-UP ECOSYSTEM

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ABSTRACT

Africa's start-up ecosystem has become a defining feature of the continent's innovation economy, yet its capacity to scale regionally is constrained by fragmented intellectual property regimes and uneven enforcement. Intellectual property (IP) is the foundation upon which ideas are secured, commercialised, and transformed into competitive advantage. The African Continental Free Trade Area (AfCFTA), through its emerging IP Protocol, offers a structural opportunity to embed IP into the architecture of continental integration, positioning it as a developmental currency rather than a technical afterthought.

This paper examines the current state of IP in Africa, tracing challenges of duplication, prohibitive registration costs, and weak institutional capacity, while analysing how AfCFTA can harmonise substantive law, streamline procedures, and embed enforceability. It argues that a robust IP framework under AfCFTA is indispensable for building a resilient start-up ecosystem across the continent. Once secured, these innovations naturally diffuse into SMEs and MSMEs, broadening participation in regional value chains and ensuring that the benefits of start-up dynamism extend beyond Tier 1 economies into Tier 2 and 3 markets.

The analysis concludes that the strength of Africa's innovation economy will depend on how effectively the IP lifecycle, pre-registration safeguards, registration processes, recognition of priority dates, and enforceable terms of protection is contextualised within AfCFTA's framework. By embedding these stages into continental practice, Africa can provide clarity and certainty for founders, reduce risks of appropriation, and create pathways for scaling ideas into enterprises. A robust IP regime under AfCFTA thus ensures that start-ups become engines of inclusive growth and sustainable integration.

KEYWORDS: AfCFTA, African start-ups, intellectual property rights, innovation, IP lifecycle, SMEs/MSMEs

1. Introduction

Africa's start-up ecosystem has experienced remarkable growth in the past decade, with over US$1.1 billion raised in 2024 alone.[1] Yet this growth is

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1 Disrupt Africa 'The African Tech Startups Funding Report 2024', available at: https://disruptafrica.com/wp-content/uploads/2025/03/The-African-Tech-Startups-Funding-Report-2024.pdf (viewed on 18 July 2025) 4.

https://doi.org/10.47348/SAIPL/v13/i2a7

uneven, concentrated in Tier 1 economies such as Nigeria, Kenya, South Africa, and Egypt, while Tier 2 and 3 economies remain underfunded.[2] This imbalance is not merely financial but structural, rooted in the fragmented intellectual property (IP) landscape that governs innovation across the continent. While not all start-ups are necessarily IP-driven, for purposes of this study, we focus on those whose value lies in patents, trademarks, copyrights, and trade secrets that protect novel products and services, distinguishing them from traditional SMEs/MSMEs. Without predictable and enforceable IP regimes, scaling across borders becomes prohibitively costly and uncertain.[3]

African IP regimes are characterised by overlapping memberships in regional organisations, weak national enforcement mechanisms, and legal transplants from colonial powers.[4] This 'spaghetti bowl' of IP rules creates duplication, inconsistency, and investor uncertainty.[5] For example, a Kenyan fintech start-up seeking to expand into francophone West Africa must navigate OAPI's unitary system while simultaneously maintaining ARIPO filings, incurring duplicative costs and facing divergent enforcement standards. Such fragmentation deters venture capital and undermines the scalability of African innovation.[6]

The African Continental Free Trade Area (AfCFTA), ratified by nearly all AU member states, represents the most ambitious attempt to harmonise trade and IP regimes on the continent. Its Protocol on Intellectual Property Rights,[7] adopted in 2023, introduces principles of national treatment,[8] most-favoured nation status,[9] and regional exhaustion of rights.[10] Importantly, it extends protection to areas such as traditional knowledge,[11] creative industries,[12] and digital innovations.[13] This development-oriented approach is essential since Africa's comparative advantage lies not only in high-tech innovation but also in agriculture, creative industries, and indigenous knowledge systems. By embedding these domains into the AfCFTA IP Protocol, African states signal a commitment to tailoring IP law to their socio-economic realities rather than merely transplanting Western models.

2 Disrupt Africa 'The African Tech Startups Funding Report 2024', available at: https://disruptafrica.com/wp-content/uploads/2025/03/The-African-Tech-Startups-Funding-Report-2024.pdf (viewed on 18 July 2025) 4.

3 C Ncube (eds) *Intellectual property and continental integration in Africa* (2023), available at: https://library.oapen.org/bitstream/id/05a2226e-7cb2-4776-b30b-2a60b75dce94/9781000915761.pdf (viewed on 25 July 2025) 12.

4 Ibid.

5 J Ogbodo 'Beyond the "spaghetti bowl": assessing the role of the AfCFTA Protocol on Intellectual Property in Africa's complex regulatory environment' (2025) 20 *J Intell Prop L & Practice* 308.

6 Ibid.

7 African Union 'Draft Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights', available at: en_-_draft_protocol_of_the_afcfta_on_intellectual_property_rights.pdf (viewed on 5 June 2025).

8 Article 6 of the AfCFTA IP Protocol.

9 Article 5 of the AfCFTA IP Protocol.

10 Article 19 of the AfCFTA IP Protocol.

11 Article 18 of the AfCFTA IP Protocol.

12 Article 2(g) of the AfCFTA IP Protocol.

13 Article 17 of the AfCFTA IP Protocol.

https://doi.org/10.47348/SAIPL/v13/i2a7

Despite these developments, scholarship linking AfCFTA's IP Protocol to the start-up ecosystem remains limited. Existing literature focuses either on doctrinal analysis of the Protocol or on descriptive accounts of African start-up funding trends. Few works integrate these strands to show how harmonised IP regimes can directly enable start-up growth and SME/MSME integration into regional value chains. This paper addresses that gap by situating African start-ups within the broader IP harmonisation agenda, substantiating case studies, and offering policy pathways for business-centric IP governance.

This paper contributes to IP and trade literature in three ways. First, it foregrounds IP as the structural axis of Africa's start-up ecosystem, showing that innovation cannot scale without predictable and enforceable rights. Second, it analyses AfCFTA's IP Protocol through the lens of harmonisation, highlighting both its promise and pitfalls. Third, it substantiates case studies from Kenya, Nigeria, South Africa, and Tunisia, demonstrating how IP regimes shape innovation outcomes in practice. By doing so, it advocates for a unified, innovation-friendly IP regime as the foundation for equitable and sustainable intra-African trade.

The discussion begins by clarifying the distinction between start-ups and SMEs/MSMEs, with particular attention to how their intellectual property strategies diverge and why those differences matter for growth and investment. From there, the analysis turns to Africa's fragmented IP landscape, tracing the overlapping regional and national frameworks that have created uncertainty and duplication. Building on this foundation, the paper examines concrete case studies of African innovation, illustrating how IP regimes have either enabled or hindered the development of sectors such as ICT, agrotech, creative industries, and fintech.

The AfCFTA IP Protocol is then assessed in detail, with emphasis on its TRIPS-plus provisions and the institutional overlaps that complicate its implementation. Attention is also given to the ways in which start-up innovations can diffuse into the wider MSME economy, allowing smaller enterprises to plug into regional value chains. The discussion culminates in a set of policy pathways designed to embed IP as a business asset, focusing on harmonisation, enforcement, and sector-specific strategies. Finally, the paper draws these threads together in a conclusion that synthesises the findings and offers forward-looking recommendations for building an IP regime that supports both continental integration and sustainable innovation.

2. Conceptual Foundations: Startups, Smes, and IP as Currency of Innovation

The distinction between start-ups and SMEs/MSMEs is critical to understanding how intellectual property functions within Africa's innovation ecosystem. Both categories contribute to economic development, but their structures, ambitions, and strategies diverge in ways that directly affect their engagement with IP. Start-ups are typically designed for rapid growth and scalability,

https://doi.org/10.47348/SAIPL/v13/i2a7

often aiming to disrupt existing markets or create entirely new ones.[14] On this basis, startups are innovative, tech-driven ventures designed for short-term exponential growth, often operating with high capital costs and minimal initial revenue.[15] Put differently, 'a startup is a human institution designed to create a new product or service under conditions of extreme uncertainty'.[16]

SMEs, by contrast, prioritise steady growth and operational stability, serving local or regional markets with proven products and services. Their innovation tends to be incremental, focusing on process improvements or customer service enhancements rather than market disruption.[17]

This divergence is reflected in funding patterns. Start-ups frequently seek external capital from venture capitalists, angel investors, or accelerators to fuel their high-growth trajectories.[18] Such funding is often contingent on the strength of their IP portfolios, which signal market potential and defensibility. SMEs, on the other hand, rely more on internal financing, bank loans, or government grants, reflecting their lower risk profiles and modest growth expectations.[19] The willingness of investors to commit resources to start-ups is closely tied to the ability of founders to demonstrate ownership of unique intellectual assets.[20]

Risk tolerance further distinguishes the two. Start-ups embrace uncertainty and experimentation, often operating under conditions of extreme volatility. Their success hinges on securing IP rights early to protect novel ideas and attract investment.[21] SMEs are generally more risk-averse, focusing on predictable revenue streams and long-term sustainability. Their IP engagement may be limited to brand protection or compliance, rather than strategic growth.[22] This difference in orientation underscores why IP must be understood as the *currency of innovation* — it is the medium through which start-ups convert ideas into assets, while SMEs use it primarily to safeguard reputation and ensure compliance.

14 African Union 'Startup Model Law Framework' 6, available at: https://144526406.fs1.hubspotusercontent-eu1.net/hubfs/144526406/StartupModelLawFramework_summary.pdf (viewed on 10 July 2025).

15 F Odufuwa & M Mureithi 'Positioning African Tech Startups as engines of growth and development: Comprehensive analysis of the startup ecosystem in Africa' *Mozilla Corporation* (13 June 2023), available at: https://mozilla.africa/wp-content/uploads/2023/11/africa-startup-ecosystem-report-1g.pdf (viewed on 5 March 2025).

16 E Ries *The Lean Startup: How Today's Entrepreneurs Use Continuous Innovation to Create Radically Successful Business* 1 ed (2011) 37.

17 K Maina 'What are SMEs and How do the differ from Startups?' *Startup Graveyard* (20 November 2024), available at: https://startupgraveyard.africa/blog/what-are-smes-and-how-do-they-differ-from-startups (viewed on 17 July 2025).

18 Maina (n17).

19 Maina (n17).

20 Maina (n17).

21 Maina (n17).

22 MSME Africa 'Am I an MSME or startup? Understanding the differences and similarities between MSMEs and startups', available at: https://msmeafricaonline.com/am-i-an-msme-or-startup-understanding-the-differences-and-similarities-between-msmes-and-startups/ (viewed on 20 July 2025).

https://doi.org/10.47348/SAIPL/v13/i2a7

Within the African context, the absence of a continent-wide definition of what constitutes a start-up complicates policy design. Some stakeholders argue that African start-ups include both tech and non-tech ventures, while others insist, they must be strictly tech-enabled.[23] Regardless of classification, one element remains central: IP is the foundation of value creation. Whether through patented algorithms, protected trademarks, or copyright-secured digital platforms, IP transforms ideas into investable assets.

Founders are often African by birth, residence, or diaspora ties, but definitions also hinge on market orientation and economic value creation.[24] For instance, startups serving African markets or domiciling value locally are more likely to be considered authentically African.[25] However, diaspora-led ventures tend to attract more funding and scale faster than locally based founders, raising equity concerns within the ecosystem.[26] This may be tied to global exposure and familiarity with IP systems, signalling the necessity for inclusive IP advocacy and infrastructure for local-based founders.

The African Union's Startup Model Law Framework attempts to address these definitional challenges by proposing labelling systems that certify ventures as start-ups based on criteria such as age, turnover, scalability, and innovation potential.[27] Tunisia's Startup Act, enacted in 2018, provides a practical example of how such labelling can work in practice. By certifying high-growth ventures and offering tax incentives, grants, and export facilitation, Tunisian startups surged by 31% between 2017 and 2021 and spurred initiatives like the World Bank's €66.9 million fund for innovative SMEs.[28] This demonstrates how legal clarity and institutional support can transform IP-driven ventures into engines of growth.

The conceptual foundation of this paper therefore rests on three interlinked propositions. First, start-ups and SMEs/MSMEs must be distinguished in terms of their IP strategies, funding models, and risk orientations. Second, IP must be recognised as the currency of innovation, enabling start-ups to convert ideas into assets and SMEs to protect incremental improvements. Third, harmonised IP regimes under AfCFTA must accommodate these differences, creating pathways for both disruptive innovation and incremental growth. By grounding policy in these distinctions, AfCFTA can ensure that IP functions not as a barrier but as a bridge, linking start-ups and SMEs into a unified continental innovation ecosystem.

23 F Odufuwa & M Mureithi 'African tech startups as engines of growth & development: Positioning – comprehensive analysis of the start-up ecosystem in Africa' *Mozilla Africa Innovation Hub* (November 2023) 15, available at: https://mozilla.africa/wp-content/uploads/2023/11/africa-startup-ecosystem-report-1g.pdf (viewed on 26 November 2025).

24 Ibid.

25 Odufuwa & Mureithi (n23) 16.

26 Odufuwa & Mureithi (n23) 15.

27 African Union (n14) 6.

28 Startup Tunisia 'Annual Report 2021', available at: https://startup.gov.tn/sites/default/files/2023-07/Annual%20Report%202021%20-%20English%20Version_compressed.pdf (viewed on 20 July 2025).

https://doi.org/10.47348/SAIPL/v13/i2a7

3. Mapping Africa's Fragmented IP Landscape

Africa's IP landscape is defined by fragmentation, historical legacies, and overlapping institutional frameworks.[29] Rather than a unified system, the continent operates under a patchwork of national laws, regional organisations, and continental initiatives, many of which conflict or duplicate one another.[30] This complexity creates uncertainty for innovators and investors, raising transaction costs and limiting the scalability of start-ups across borders.

The roots of this fragmentation lie in colonial legal transplants.[31] In the late nineteenth and early twentieth centuries, African territories were incorporated into international IP treaties such as the Berne[32] and Paris Conventions[33] without meaningful participation in their drafting.[34] These frameworks were imposed to serve colonial interests, embedding Western conceptions of IP into African legal systems.[35] After independence, many states retained these transplanted laws, often without adapting them to local socio-economic realities.[36] The result has been a system that privileges formal, Western-style IP categories while marginalising indigenous knowledge systems and informal innovation practices.[37]

Regional organisations have attempted to provide coherence, but their overlapping mandates have often exacerbated fragmentation.[38] The African Regional Intellectual Property Organization (ARIPO), composed largely of Anglophone states, operates a flexible system that allows members to choose which protocols to adopt.[39] By contrast, the Organisation Africaine de la Propriété Intellectuelle (OAPI), composed of Francophone states, operates a unitary system where ratification binds all members to uniform rules.[40]

While both organisations aim to streamline IP administration, their coexistence has created duplication for innovators seeking protection across linguistic and legal divides. A Kenyan fintech expanding into Cameroon, for example, must navigate both ARIPO and OAPI systems, incurring duplicative costs and facing divergent enforcement standards.

Continental harmonisation has also struggled. The Pan-African Intellectual Property Organization (PAIPO) Statute, adopted but not yet in force, was intended to create a single continental IP body.[41] However, it has faced

29 Ncube (n3) 20.
30 Ibid.
31 Ncube (n3) 22.
32 Berne Convention for the Protection of Literary and Artistic Works (1886) 1161 U.N.T.S. 3.
33 Paris Convention for the Protection of Industrial Property (1883) 21 U.S.T. 1583, 828 U.N.T.S. 305.
34 Ncube (n3) 22.
35 T Kongolo *African Contributions in Shaping the Worldwide Intellectual Property System* (2016) 8.
36 JF Morin & ER Gold 'An integrated model of legal transplantation: The diffusion of intellectual property law in developing countries' (2014) 58 *International Studies Quarterly* 781.
37 Ibid.
38 Ibid.
39 Ncube (n3) 22.
40 Ibid.
41 Ncube (n3) 207.

https://doi.org/10.47348/SAIPL/v13/i2a7

criticism for failing to reflect Africa's socio-economic realities and for duplicating the mandates of ARIPO and OAPI. To date, only a handful of states have ratified the statute, leaving its future uncertain.[42] The AfCFTA IP Protocol, adopted in 2023, represents the latest and most ambitious attempt to overcome fragmentation.[43] By embedding IP within the broader framework of continental trade integration, it seeks to harmonise rules, reduce duplication, and provide legal certainty for innovators.

The challenges of fragmentation are not merely administrative but have direct economic consequences. Innovators face high costs for duplicative filings, delays in enforcement, and uncertainty over jurisdictional precedence.[44] Investors, in turn, are deterred by the lack of predictability, limiting the flow of capital into African start-ups. Fragmentation also undermines the protection of traditional knowledge and cultural expressions, as overlapping regimes fail to provide clear recognition or enforcement.[45] These obstacles illustrate why harmonisation is not simply a legal aspiration but an economic necessity.

The AfCFTA IP Protocol attempts to address these challenges. Yet its success will depend on whether it can overcome the entrenched fragmentation of Africa's IP landscape. Without effective coordination between national offices, ARIPO, OAPI, and potential continental institutions, the Protocol risks becoming another layer in the spaghetti bowl rather than a solution to it.

4. Case Studies of African Innovation

Examining national and regional experiences provides insight into how intellectual property regimes shape innovation outcomes across Africa. These case studies illustrate both the promise of IP as a catalyst for growth and the pitfalls of fragmented or weak enforcement systems. They also demonstrate the diversity of Africa's innovation landscape, ranging from ICT hubs in East Africa to small business ecosystems in West Africa, creative industries in the South, legislative reforms in North Africa, and Pan-African initiatives that link innovation to regional IP frameworks.

4.1 Kenya: Commercialisation and policy reform

Kenya's innovation ecosystem has expanded rapidly, with Nairobi emerging as a continental hub for ICT and creative industries. Patent applications have increased steadily, with Kenya ranking among the top five designated states under ARIPO.[46] Universities and research institutions have established

42 Ncube (n3) 188.
43 Ncube (n3) 217.
44 Ogbodo (n5) 308.
45 T Adebola 'Mapping Africa's complex regimes: Towards an African-centred AfCFTA Intellectual Property Protocol' (2020) 1 *African Journal of International Economic Law* 232, available at: https://www.afronomicslaw.org/sites/default/files/journal/2021/TAdebola-Mapping-Africa%E2%80%99s-Complex-Regimes-1-AfJIEL-232-2020.pdf (viewed on 26 November 2025).
46 African Regional Intellectual Property Organization (ARIPO) 'Annual report 2023', available at: https://www.aripo.org/storage/annual-report/1718114848_ARIPO%202023%20ANNUAL%20REPORT.pdf (viewed on 26 November 2025).

https://doi.org/10.47348/SAIPL/v13/i2a7

technology transfer offices to manage patent applications and support academic start-ups, while WIPO's Technology and Innovation Support Centers (TISCs) have strengthened local capacity by providing access to patent databases and training.[47]

Despite these advances, commercialisation outcomes remain limited. Many patented innovations fail to reach the market, particularly those originating from universities where research is often treated as an academic exercise rather than a commercial opportunity.[48]

Policy reform has sought to address these gaps, with Kenya's third attempt at a national IP policy emphasising harmonisation of governance, stronger enforcement, and integration of traditional knowledge and biodiversity into IP frameworks.[49] This aligns with AfCFTA's IP Protocol, positioning Kenya to benefit from harmonised regional regimes.

4.2 Nigeria: Start-up and small business ecosystem

Nigeria's innovation ecosystem is one of the most vibrant in Africa, with Lagos serving as a hub for ICT, creative industries, and small business growth. The Nigerian Startup Act of 2022 provides a statutory definition of start-ups and embeds IP protection within the mandate of the National Council for Digital Innovation and Entrepreneurship.[50] Copyright, trademarks, patents, industrial designs, and trade secrets are the primary categories of protection available, and empirical studies show that SMEs/MSMEs with at least one registered IP right are significantly more likely to experience growth.[51]

Challenges remain, including low awareness, registry backlogs, and funding constraints.[52] Strategies for overcoming these include proactive registration, contractual provisions clarifying ownership, and technological measures such as encryption and virtual data rooms.[53] Nigeria's case demonstrates both the potential and limitations of IP in supporting start-up growth. Legislative recognition of IP under the Startup Act provides a strong foundation, but enforcement and awareness gaps continue to undermine effectiveness.

47 World Intellectual Property Organization (WIPO) 'Technology and innovation support centers (TISCs) report 2020', available at: https://www.wipo.int/edocs/pubdocs/en/wipo-pub-1059-20-en-technology-and-innovation-support-centers-tiscs-report-2020.pdf (viewed on 26 November 2025).

48 OR Otieno 'Intellectual property (IP) commercialization in Kenya: A situational analysis of patenting and challenges faced towards its commercialization' (2025) *Hougaku Journal* 106(1) 1 8.

49 CIPIT (Strathmore University Centre for Intellectual Property and Information Technology Law) 'Shaping Kenya's IP future: The third attempt at a national IP policy and strategy', available at: https://cipit.strathmore.edu/shaping-kenyas-ip-future-the-third-attempt-at-a-national-ip-policy-and-strategy/ (viewed on 26 November 2025).

50 F Ogini, S Anekwe & E Oboni 'Intellectual property strategies for startups and small businesses in Nigeria', available at: https://www.gelias.com/images/Newsletter/Intellectual_Property_Strategies_for_Startups_and_Small_Businesses_in_Nigeria_2.pdf (viewed on 26 November 2025).

51 S Amoroso & AN Link 'Intellectual property protection mechanisms and the characteristics of founding teams' (2019) *JRC Working Papers on Corporate R&D and Innovation* No 01/2019, available at: https://iri.jrc.ec.europa.eu/sites/default/files/contentype/publication/workingpaper/1568811387/Intellectual%20Property%20Protection%20Mechanisms%20and%20the%20Characterisics.pdf (viewed on 26 November 2025).

52 Ogini, Anekwe & Oboni (n50) 5.

53 Ogini, Anekwe & Oboni (n50) 5.

https://doi.org/10.47348/SAIPL/v13/i2a7

4.3 South Africa: Legislative framework and commercialisation strategies

South Africa's IP regime is among the most developed in Africa, but its complexity and uneven enforcement highlight the challenges of aligning innovation policy with commercialisation. The Patents Act[54] subscribes to an absolute novelty requirement but operates as a non-examining jurisdiction, leading to concerns about invalid patents clogging the register.[55] TRIPS-compliant provisions such as bolar-type exceptions, compulsory licensing, and parallel importation illustrate how IP law can balance innovation incentives with public health needs.[56]

Commercialisation strategies emphasise licensing, franchising, joint ventures, and outright sales as pathways for monetising IP, with guidance from the Africa IP SME Helpdesk highlighting the importance of valuation, contractual clarity, and compliance with South African law.[57] South Africa's experience demonstrates both the strengths and weaknesses of a mature IP system, underscoring the importance of harmonisation not only in law but also in practice.

4.4 Tunisia: Patent validation and national innovation system

Tunisia's innovation ecosystem demonstrates how legislative reform and international collaboration can strengthen IP protection. The 2018 Startup Act introduced labelling systems that certify ventures as start-ups based on age, turnover, and innovation potential, granting them tax incentives, grants, and export facilitation.[58] Beyond national legislation, Tunisia has leveraged international partnerships to expand IP protection, signing a patent validation agreement with the European Union in 2016 that allows European patents to be validated locally.[59]

Tunisia's broader National Innovation System reflects both progress and persistent challenges. Agencies such as the National Agency for Scientific Research Promotion (ANPR) and programs like PASRI were designed to support

54 Patents Act 57 of 1978 (South Africa).

55 S Gregory *Intellectual property rights and South Africa's innovation future* (Trade Policy Report No 23, South African Institute of International Affairs 2008) 12, available at: https://saiia.org.za/wp-content/uploads/2013/06/23-dttp_rep_23_gregory.pdf (viewed on 26 November 2025).

56 Ibid.

57 Africa IP Helpdesk (European Commission) 'Commercialisation strategies in South Africa: The dos and don'ts', available at: https://intellectual-property-helpdesk.ec.europa.eu/system/files/2024-12/Africa-IP-Helpdesk_Commercialisation_Strategies_in_South_Africa_the_Dos_and_Donts_FV.pdf (viewed on 26 November 2025).

58 African Union (n14) 6.

59 Africa IP Helpdesk (European Commission) 'Patent validation system in Tunisia: Case study', available at: https://intellectual-property-helpdesk.ec.europa.eu/document/download/048d203c-4463-4302-bebe-bddaaa7dc7a0_en?filename=Africa_IP_Case_Study_Patent_Validation_System_in_Tunisia.pdf (viewed on 26 November 2025).

https://doi.org/10.47348/SAIPL/v13/i2a7

research commercialisation and technology transfer.[60] Yet underinvestment in R&D and fragmented governance have limited outcomes. WIPO statistics confirm that Tunisia ranks sixth in Africa for patent applications, with resident filings increasing by over 40% in recent years, but international filings remain modest.[61]

4.5 Pan-African innovation and regional IP frameworks

Beyond national examples, Pan-African innovation initiatives highlight the importance of regional IP frameworks in enabling scale. ARIPO and OAPI provide mechanisms for patent, trademark, and design protection across multiple jurisdictions, reducing duplication and transaction costs.[62] The Madrid Protocol facilitates international trademark registration, allowing African businesses to secure brand protection across multiple countries through a single application.[63]

Examples of Pan-African innovation linked to regional IP frameworks include biotechnology collaborations under ARIPO, where patents filed regionally provide protection across designated states, and creative industries leveraging OAPI's unitary system to secure copyright and trademark rights across Francophone Africa.[64] Tunisia's EU patent validation system illustrates how international agreements can extend protection seamlessly, while Kenya's participation in ARIPO and the PCT demonstrates how regional and global frameworks converge to support innovators.[65]

Yet the effectiveness of these frameworks depends on consistent national implementation. The Tanzanian Court of Appeal in *Lakairo Industries Group Co. Limited & others v. Kenafrica Industries Limited & others*[66] confirmed that ARIPO trademarks registered under the Banjul Protocol had no legal effect in Tanzania because the Protocol had not been ratified domestically.[67] This ruling meant that regional registrations could not be enforced without parallel national filings, even where confusion and market overlap were evident. Far from being

60 M Khanfir *How to harness the national innovation system in Tunisia: To enable technology transfer and strengthen the innovation capability* (Final Report, United Nations Economic and Social Commission for Western Asia, 9 February 2016), available at: https://archive.unescwa.org/sites/www.unescwa.org/files/page_attachments/tunisia_science_technology_and_innovation_landscape_analysis.pdf (viewed on 26 November 2025).

61 World Intellectual Property Organization (WIPO) Intellectual property statistical country profile: Tunisia 2024', available at: https://www.wipo.int/edocs/statistics-country-profile/en/tn.pdf (viewed on 26 November 2025).

62 African Regional Intellectual Property Organization (ARIPO) *Harare Protocol on Patents and Industrial Designs within the framework of ARIPO* (1982).

63 World Intellectual Property Organization (WIPO) *Madrid Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks* (1989, entered into force 1996).

64 Organisation Africaine de la Propriété Intellectuelle (OAPI) *Bangui Agreement Relating to the Creation of an African Intellectual Property Organization* (as revised 1999).

65 World Intellectual Property Organization (WIPO) *Patent Cooperation Treaty (PCT) Yearly Review 2024: The International Patent System* (WIPO Publication No 901, Geneva 2024), available at: https://www.wipo.int/edocs/pubdocs/en/wipo-pub-901-2024-en-patent-cooperation-treaty-yearly-review-2024.pdf (viewed on 26 November 2025) 35.

66 Civil Appeal No 593 of 2022 [2025] TZCA 999 (Court of Appeal of Tanzania, 26 September 2025).

67 Ibid.

https://doi.org/10.47348/SAIPL/v13/i2a7

an isolated incident, it exemplifies the 'spaghetti bowl' of overlapping regimes and fragmented enforcement across Africa, where innovators face duplicative filings, enforcement gaps, and uncertainty when scaling across borders.[68]

4.6 Linking case studies to AfCFTA's startup agenda

Taken together, these case studies demonstrate that IP is both the foundation and the bottleneck of Africa's innovation ecosystem. Kenya's policy reform, Nigeria's legislative recognition, South Africa's mature but uneven enforcement, Tunisia's international collaborations, and Pan-African frameworks all reveal the centrality of IP in enabling start-ups to scale. Yet they also highlight persistent fragmentation, enforcement gaps, and underutilisation of IP assets.

AfCFTA's IP protocol provides the continental framework to address these challenges. By harmonising regimes, reducing duplication, and embedding protections tailored to Africa's socio-economic realities, AfCFTA can transform IP from a fragmented obstacle into a strategic asset. For start-ups, this means lower transaction costs, greater investor confidence, and clearer pathways to scale across borders. For SMEs, it means access to innovations through licensing and diffusion. Ultimately, AfCFTA's IP protocol positions intellectual property not as a peripheral concern but as the structural axis of Africa's start-up ecosystem, enabling the continent to shift from exporting raw materials to exporting ideas.

5. AfCFTA'S IP Protocol – Promises and Pitfalls

The AfCFTA IP protocol arrives at a decisive moment for the continent. Africa's IP landscape has long been characterised by fragmentation, overlapping regimes, and uneven enforcement. National offices, regional organisations such as ARIPO and OAPI, and continental aspirations under the African Union have often pulled in different directions, creating what scholars describe as a 'spaghetti bowl' of rules.[69] For start-ups and SMEs, this patchwork translates into high transaction costs, duplicative filings, and uncertainty when scaling across borders. The protocol promises to change this by embedding IP into the AfCFTA's single market framework, but its success will depend on how it navigates both promises and pitfalls.

On the promise side, the protocol is designed to be more than a transplant of global standards. By incorporating TRIPS-plus provisions, such as regional exhaustion of rights and enhanced safeguards for traditional knowledge and biodiversity, it seeks to reflect Africa's socio-economic realities.[70] The UNDP's One African Market Guide underscores that IP rights are not abstract legal

68 Spoor & Fisher 'Tanzania: Suspension from ARIPO's regional trade mark system' (30 October 2025), available at: https://www.spoor.com/knowledge-centre/legal-updates/tanzania-suspension-from-aripos-regional-trade-mark-system (viewed on 26 November 2025).

69 Adebola (n45) 233.

70 African Union *Protocol on Intellectual Property Rights to the Agreement Establishing the African Continental Free Trade Area* (2023), arts 5, 6, 17, 18.

https://doi.org/10.47348/SAIPL/v13/i2a7

tools but practical instruments for businesses to secure competitive advantage and revenue in the AfCFTA market.[71] For young entrepreneurs in creative industries, agribusiness, and ICT, the ability to protect trademarks, designs, and trade secrets across multiple jurisdictions is essential to building investor confidence and accessing regional value chains. Adebola's mapping of Africa's complex regimes adds that the protocol offers a timely opportunity to reconstruct Africa's multi-layered IP architecture by aligning conflicting sub-regional systems with development-oriented aspirations.[72] In this sense, the protocol is not simply about harmonisation; it is about re-imagining IP as a developmental asset.

Yet the pitfalls are equally clear. Institutional overlaps remain a major risk. ARIPO's flexible system and OAPI's unitary system embody different governance logics, and without careful coordination, AfCFTA could add another layer of complexity rather than resolve it.[73] Mupangavanhu cautions that strong IP standards alone are not a guarantee of economic growth; indeed, poorly designed regimes may stifle local firms' ability to imitate, adapt, and innovate.[74] This is particularly relevant in Africa, where much innovation occurs in informal sectors and outside formal IP institutions. A continental framework that ignores this reality risks marginalising the very entrepreneurs it seeks to empower.

Procedural inefficiencies compound the problem. In Nigeria, trademark applications can take more than a year to process, discouraging early-stage ventures.[75] In South Africa, the non-examining patent system has allowed invalid patents to clog the register, raising litigation costs and undermining confidence.[76] These examples illustrate a broader point: harmonisation must address not only substantive law but also bureaucratic realities. Without tackling enforcement delays, registry backlogs, and weak institutional capacity, the Protocol risks becoming aspirational rather than operational.

The digital economy adds another dimension. Lemma's ODI framework shows that commitments under the AfCFTA Protocol on Digital Trade could reduce trade costs, expand e-commerce, and foster digital inclusion, but only

71 United Nations Development Programme (UNDP) *The One African Market Guide: Intellectual Property Rights* (2024), available at: https://www.undp.org/sites/g/files/zskgke326/files/2024-11/972_undp_ghana_simplified_guide_to_ipr_in_africa_28102024_compressed.pdf (viewed on 26 November 2025).

72 Adebola (n45) 235.

73 Adebola (n45) 235.

74 Y Mupangavanhu 'Generative AI and South Africa's intellectual property law: Exploring a balance between protectionism and innovation' (2025) 29 *Law, Democracy and Development* 30–57, available at: http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S2077-49072025000100002&lng=en&nrm=iso;DOI:https://doi.org/10.17159/2077-4907/2025/ldd.v29.2(viewed on 25 November 2025).

75 Ogini, Anekwe & Oboni (n50) 5.

76 Gregory (n55) 13.

if regulatory fragmentation is overcome.[77] For start-ups in fintech, ICT, and e-commerce, robust IP protection in digital environments is essential to secure data, algorithms, and platforms. Without it, Africa's digital entrepreneurs will remain vulnerable to appropriation and unable to fully leverage the continent's growing digital market.

Finally, the Protocol must be understood in the context of Africa's broader development agenda. Duma's policy brief on science-economic diplomacy emphasises that IP must be harnessed to strengthen competitiveness and industrialisation.[78] AfCFTA offers a platform to embed IP as a catalyst for structural transformation, enabling start-ups and SMEs to move beyond raw commodity exports and into higher-value goods and services. Aligning the Protocol with Agenda 2063 and the SDGs ensures that IP protection is not an end in itself but a means to inclusive growth, job creation, and sustainable development.[79]

The challenge for AfCFTA is therefore twofold: to harmonise substantive IP law across diverse jurisdictions, and to streamline the bureaucratic processes that currently hinder effective protection. If implemented effectively, the Protocol could transform IP from a fragmented obstacle into a strategic asset, enabling African start-ups to scale across borders with confidence. If not, it risks replicating the spaghetti bowl rather than resolving it. The stakes are high; the Protocol will determine whether IP becomes the structural axis of Africa's start-up ecosystem or remains a barrier to its growth.

6. Diffusion of Start-up Innovation to SMEs and MSMEs

Although the central concern of this paper is the role of IP and AfCFTA's IP Protocol in shaping Africa's start-up ecosystem, it is important to acknowledge a positive outlook that emerges from this reality, the potential for start-up innovation to diffuse into the wider SME and MSME sector. This diffusion is not the essence of the paper, but it demonstrates the broader utility of AfCFTA in promoting inclusive growth and integration.

Maintaining the theme of inclusive integration under AfCFTA and its IP Protocol, the success of Africa's start-up ecosystem must be measured not only by its ability to scale regionally, but also by its capacity to enable broader participation, particularly by SMEs and MSMEs. These enterprises form the backbone of Africa's economy, accounting for over 90% of businesses and

77 A Lemma *Framework to assess the impact of the AfCFTA Protocol on Digital Trade* (ODI Report, Overseas Development Institute, London 2024), available at: https://odi.org/en/publications/framework-to-assess-the-impact-of-the-afcfta-protocol-on-digitaltrade/ (viewed on 26 November 2025).

78 S Duma *Science-Economic Diplomacy: Harnessing the African Continental Free Trade Area (AfCFTA) to Promote Indigenous Technological Capabilities* (Policy Brief, Human Sciences Research Council & Department of Science, Technology and Innovation, Republic of South Africa, June 2025).

79 Ibid.

https://doi.org/10.47348/SAIPL/v13/i2a7

80% of employment across the continent.[80] The convergence of start-ups and SMEs/MSMEs within AfCFTA's regional value chains offers a strategic pathway to inclusive growth, industrialisation, and trade competitiveness.

Start-ups, by virtue of their agility and innovation intensity, are uniquely positioned to develop IP-backed solutions that address systemic challenges in African trade.[81] When scaled and shared, these solutions can serve as enabling infrastructure for SMEs and MSMEs to participate in regional commerce. To realise this potential, deliberate policy mechanisms are required to recognise and prioritise such innovations. One such mechanism is start-up labelling, where ventures are certified based on their innovation maturity and IP assets, allowing governments to channel incentives toward those building foundational tools for SME/MSME integration.

Ogundaini observes that African technology start-ups often thrive by responding to gaps left by institutional systems, particularly in financial services, healthcare, and agriculture.[82] Through innovation and value co-creation, these start-ups diffuse technology beyond core users, creating auxiliary opportunities for inclusion and economic participation.[83] For such diffusion to be effective and sustainable, however, it must be accompanied by supportive policy frameworks, IP protection, and infrastructure investment, all key elements now woven into AfCFTA's approach.[84] SMEs and MSMEs, often constrained by informality and limited resources, can benefit from these start-up-led ecosystems if mechanisms for adoption and plug-in are structured and deliberate.

A compelling example of this dynamic is Interstellar, a deep-tech start-up that co-developed the PAPSS African Currency Marketplace (PACM) in partnership with Afreximbank and the Pan-African Payment and Settlement System (PAPSS). Launched in 2025, PACM is a blockchain-powered platform that enables real-time, local currency exchange across African borders, eliminating the need for intermediary hard currencies and reducing foreign exchange costs by an estimated US$5 billion annually.[85] Built on enterprise-grade,

80 V Amendolagine 'Linking Southern African small firms into global value chains' *The London School of Economics (LSE)* (14 November 2024), available at: https://blogs.lse.ac.uk/gild/2024/11/14/linking-southern-african-small-firms-into-global-value-chains/ (viewed on 21 July 2025).

81 O Ogundaini *Diffusion of Tech Startup Innovations to Drive Inclusion of Informal Businesses in AfCFTA: A Rapid Review* (2022) 5.

82 Ibid.

83 Ibid.

84 Ibid.

85 Pan-African Payment & Settlement System (PAPSS) 'PAPSS and Interstellar unveil African Currency Marketplace eliminating $5 Billion trade bottleneck' (7 July 2025), available at: https://papss.com/media/ (viewed on 12 July 2025).

https://doi.org/10.47348/SAIPL/v13/i2a7

permissioned blockchain infrastructure, PACM ensures institutional-level security, scalability, and compliance with national regulations.[86]

PACM's transformative impact lies in its ability to unlock liquidity for SMEs and MSMEs. Traditionally, smaller enterprises have been excluded from cross-border trade due to currency inconvertibility, high transaction costs, and settlement delays.[87] PACM addresses these barriers by allowing businesses to settle transactions in their local currencies within minutes. For instance, Kenya Airways can now exchange Nigerian Naira directly for Kenyan Shillings without routing through USD or EUR, a process that previously took weeks and incurred significant fees.[88]

From an IP perspective, Interstellar's innovation is not only technological but also strategic. Its blockchain infrastructure, branded protocols, and smart contract systems are protected under IP regimes that enable licensing, replication, and integration by third parties. This ensures that SMEs, MSMEs, fintechs, and even national payment switches can plug into PACM's rails without reinventing the wheel. Such IP-backed duplicity is essential for scaling innovation across fragmented markets and ensuring that smaller enterprises can access the same tools as larger ones. By embedding IP into the platform's design and deployment, Interstellar ensures that its innovation is protected, monetizable, and interoperable, creating a sustainable model for ecosystem-wide adoption.

To fully leverage such innovations, SMEs and MSMEs must be supported through regulatory supplementation, capacity building, and access to IP infrastructure. Governments can facilitate this by integrating PACM into national SME/MSME support programmes, allowing small businesses to access cross-border payment tools via local banks and fintechs. They can also provide IP education and registration support to SMEs/MSMEs that build complementary solutions on PACM's rails. Finally, co-labelling mechanisms can be introduced, where SMEs/MSMEs that adopt certified start-up technologies receive secondary labels unlocking trade incentives under AfCFTA.

This approach not only democratises access to innovation but also fosters value chain integration, where start-ups provide the rails and SMEs/MSMEs provide the cargo. As Ogundaini contends, diffusion must be intentionally

86 V Mahe 'Interstellar: The visionary co-architect behind the PAPSS Marketplace, unlocking intra-African trade' *Issuewire* (8 July 2025), available at: https://www.issuewire.com/interstellar-the-visionary-co-architect-behind-the-papss-marketplace-unlocking-intra-african-trade-1837027511328079#:~:text=Mahe%2C%20Victoria%20Jul%208%2C%202025%20%28Issuewire.com%29%20%20Interstellar%2C,the%20newly%20launched%20PAPSS%20African%20Currency%20Marketplace%20%28PACM%29 (viewed on 15 July 2025).

87 O Kaya 'Late payments to SMEs – a factor that affects their access to finance', available at: https://ssrn.com/abstract=4606894 or DOI: http://dx.doi.org/10.2139/ssrn.4606894 (viewed on 26 November 2025).

88 I Nwachukwu 'PAPSS, Interstellar to eliminate $5bn trade bottleneck with African currency marketplace' *Business Daily Nigeria* (8 July 2025), available at: https://businessday.ng/africa/article/papss-interstellar-to-eliminate-5bn-trade-bottleneck-with-african-currency-marketplace/ (viewed on 21 July 2024).

supported through IP-led frameworks and participatory policy.[89] SMEs and MSMEs can contribute to regional trade through specialised production, localised services, and niche exports, provided they have the tools to transact, comply, and scale.

Thus, while not the core of this paper, the diffusion of start-up innovation into the SME/MSME sector represents a positive outlook and utility within AfCFTA's reality. It reinforces the argument that AfCFTA's IP Protocol is more than a legal instrument: it is a developmental tool capable of catalysing inclusive growth and ensuring that the benefits of Africa's start-up dynamism extend across the wider business landscape.

7. Intellectual Property, AfCFTA, and the African Start-Up Ecosystem

In light of the foregoing, the African start-up ecosystem must be understood not only as a collection of innovative ventures but as a system whose growth is inseparable from the legal and institutional frameworks that govern intellectual property. The preceding sections have shown how Kenya's policy reforms, Nigeria's legislative recognition, South Africa's mature but uneven enforcement, Tunisia's international collaborations, and Pan-African initiatives all converge on one truth: intellectual property is the structural axis of innovation. AfCFTA's IP Protocol is the first continental attempt to embed IP into the architecture of trade integration, and its significance lies in the way it repositions IP from a technical matter into a developmental instrument. It is therefore not a peripheral annex but the very backbone of Africa's ambition to transform start-ups into engines of continental integration.

The argument rests on the recognition that IP is the currency of innovation. Ethiopia's coffee trademarking initiative, which increased the export price of Ethiopian coffee by over 200%, demonstrates how branding and IP can convert local products into global assets.[90] Rooibos tea's Protected Designation of Origin status in the EU shows how geographical indications preserve cultural heritage while opening markets.[91] The Water Efficient Maize for Africa project, built on patented drought-resistant crops, boosted yields by 25% across Sub-Saharan Africa, proving that IP can directly address food security.[92] In healthcare, licensing agreements have enabled Aspen Pharmacare in South Africa to

89 Ogundaini (n81) 6.

90 L Borgatti & N Balchin *Harnessing Intellectual Property Rights for Innovation, Development and Economic Transformation in Least Developed Countries* (Commonwealth Secretariat and United Nations Conference on Trade and Development, January 2024), available at: https://thecommonwealth.org/publications/harnessing-intellectual-property-rights-innovation-development-and-economic (viewed on 26 November 2025).

91 R Treisman 'Rooibos Tea is Africa's first food to join the EU's list of protected products' *NPR* (28 July 2021), available at: https://www.npr.org/2021/07/28/1021690071/rooibos-tea-south-africa-protected-products-list (viewed on 31 July 2025).

92 EF Chiwenga 'The role of IPR on maize output in Zimbabwe' (Trade Policy Training Centre in Africa, MPRA Paper No 38570, 2010), available at: https://mpra.ub.uni-muenchen.de/38570/1/Role_of_IPR_on_Maize_output.pdf (viewed on 1 August 2024).

https://doi.org/10.47348/SAIPL/v13/i2a7

produce generic antiretrovirals, expanding access to HIV treatment.[93] These examples are not isolated; they show that IP, when strategically deployed, is already delivering dividends in sectors central to Africa's development.

Start-ups are uniquely positioned to generate such IP-backed solutions. Ogundaini's review highlights how African technology ventures thrive by filling institutional gaps in financial services, healthcare, and agriculture, diffusing innovation beyond core users and creating auxiliary opportunities for inclusion.[94] The Interstellar-PAPSS African Currency Marketplace (PACM) exemplifies this dynamic. Launched in 2025, PACM is a blockchain-powered platform enabling real-time local currency exchange across African borders, eliminating intermediary hard currencies and reducing foreign exchange costs by an estimated US$5 billion annually.[95] By embedding IP into its blockchain infrastructure, branded protocols, and smart contract systems, PACM ensures that SMEs and MSMEs can plug into AfCFTA value chain without reiterating these startup-led innovations. This demonstrates how start-up innovation provides the rails while SMEs and MSMEs provide the cargo, creating inclusive regional value chains.

AfCFTA's framework must therefore facilitate deliberate mechanisms for adoption, such as start-up labelling, co-labelling for SMEs that adopt certified technologies, and integration of IP education into national support programmes. The UNDP's *One African Market Guide* stresses that IP literacy is essential for businesses to protect and monetise their creations,[96] while WIPO's *Enterprising Ideas* guide shows that IP must be integrated into business models and plans from inception, not treated as an afterthought.[97]

7.1 African startups and the IP lifecycle

The IP lifecycle is central to understanding how Africa's start-up ecosystem can be secured under AfCFTA. At the pre-registration stage, innovators must guard their creations against premature disclosure, since novelty is destroyed if inventions are revealed before filing. This mirrors the concern raised in valuation practice that intellectual property loses utility once disclosed, as depreciation or obsolescence erodes its market value.[98] Confidentiality agreements and trade secret protection are therefore critical, particularly in Africa's informal innovation spaces where appropriation risks are high.

93 SP Edos, K Brüning, MF Macedo & AC Siani 'Production of antiretroviral drugs in middle- and low-income countries' (2014) 19 Suppl 3 *Antiviral Therapy* 49–55 DOI: https://doi.org/10.3851/IMP2900 (published online 13 October 2014).

94 Ogundaini (n81) 7.

95 PAPSS (n85).

96 UNDP (n71) 4.

97 World Intellectual Property Organization (WIPO) *Enterprising Ideas: A Guide to Intellectual Property for Startups* (Intellectual Property for Business Series No. 6, WIPO Publication No. 961, Geneva, 2021) ISBN: 978-92-805-3265-4, DOI: https://doi.org/10.34667/tind.43200 (viewed on 25 November 2025).

98 MA Makhkamova 'Life cycle of innovation and assessment of intellectual property value in enterprises' (2021) 289 *E3S Web of Conferences* 07032 at 1, DOI: https://doi.org/10.1051/e3sconf/202128907032 (viewed on 25 November 2025).

At the registration stage, rights are formalised through national or regional offices. Unlike copyright, which accrues automatically, patents, trademarks, and industrial designs require formal applications. The legal regulation of IP objects is essential for competitive advantage and an innovation climate.[99] AfCFTA's Protocol can reduce duplication here by harmonising procedures across jurisdictions, ensuring that start-ups do not face prohibitive costs when seeking protection in multiple countries.

The priority date is decisive in establishing ownership. Under international frameworks such as the Paris Convention and the Patent Cooperation Treaty, the first filing date secures precedence even if subsequent filings occur elsewhere. For African innovators, securing early priority dates is crucial to prevent larger competitors from appropriating their innovations, on the basis that exclusive rights can be invalidated or lost if not maintained properly.[100]

At the end of the protection stage, the commercial lifespan of IP determines how long exclusivity can be leveraged. Patents generally last twenty years, trademarks can be renewed indefinitely in ten-year increments, industrial designs typically last ten to 25 years depending on jurisdiction, and copyright endures for the life of the author plus 50–70 years. Yet the effective value of IP often declines before legal expiry, as technological obsolescence or market saturation shortens its relevance,[101] a reality African start-ups must anticipate when scaling under AfCFTA.

Africa's uniqueness lies not in the mechanics of the IP lifecycle, which are broadly similar to other jurisdictions, but in its insistence on autochthonisation. Adebola and Duma argue that Africa must embed geographical indications, plant variety protection, and traditional knowledge into AfCFTA's framework, reflecting comparative strengths in agriculture, biodiversity, and culture.[102] By contextualising the IP lifecycle within these realities, AfCFTA can transform fragmented protection into a developmental currency, ensuring that African start-ups and SMEs/MSMEs scale under one market while safeguarding the continent's distinctive assets.

AfCFTA's IP Protocol, if implemented effectively, can transform IP from a fragmented obstacle into a strategic asset. It can harmonise substantive law, streamline bureaucratic processes, embed enforceability, and reduce duplication. It can lower transaction costs, increase investor confidence, and create pathways for start-ups to scale across borders. Most importantly, it can catalyse inclusive growth by ensuring that the benefits of start-up dynamism diffuse into SMEs and MSMEs, integrating them into regional value chains. As such, the African start-up ecosystem's future depends on treating IP not as a technical afterthought but as the developmental currency of AfCFTA's single market.

99 Makhkamova (n98) 2.
100 Makhkamova (n98) 2.
101 Makhkamova (n98) 3.
102 Duma (n78).

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8. Conclusion

Africa's start-up ecosystem is surging with energy, but its trajectory will be determined by whether IP is treated as a developmental currency within AfCFTA's single market. Throughout this paper, the argument has unfolded that IP is not a sterile legal category but the scaffolding that allows ideas to travel, scale, and endure. AfCFTA's IP Protocol is therefore more than a harmonisation exercise; it is a continental strategy to transform fragmented protection into a coherent framework for innovation. The analysis has shown how overlapping regimes and uneven enforcement create uncertainty for innovators, and how continental harmonisation can reduce duplication, lower costs, and embed enforceability. This is not simply a matter of legal tidiness; it is the difference between start-ups struggling with prohibitive barriers and start-ups scaling confidently across borders. By streamlining registration and recognising priority rights, AfCFTA can ensure that African innovators are not left behind in global competition.

Equally important is the question of participation. Start-ups may generate the infrastructure, but it is SMEs and MSMEs that carry the weight of Africa's economies. Their integration into regional value chains is essential if innovation is to translate into inclusive growth. Mechanisms such as labelling schemes, IP literacy programmes, and targeted support can bridge this gap, allowing smaller firms to plug into continental networks rather than remain confined to local markets.

Africa's uniqueness lies in its insistence on contextualisation. The continent does not reject global IP norms; it adapts them. By embedding protection for traditional knowledge, plant varieties, and cultural expressions alongside patents and trademarks, AfCFTA can safeguard Africa's comparative strengths while remaining interoperable with international systems. This autochthonous approach ensures that IP serves developmental goals rather than merely replicating external models.

Finally, clarity on the IP lifecycle underscores the practical dimension of this paper. Pre-registration safeguards, registration processes, recognition of priority dates, and enforceable terms of protection are not abstract procedures; they are the mechanisms by which African innovators secure ownership, attract investment, and build confidence. Without them, innovation risks being appropriated or undervalued; with them, it becomes the foundation of sustainable growth.

Start-ups embody both the fragility and the promise of Africa's innovation economy. They are agile enough to pioneer solutions, yet vulnerable without the legal certainty that IP provides. AfCFTA's Protocol offers the possibility of turning that vulnerability into strength by embedding IP into the continental market as a developmental tool. If this opportunity is seized, Africa can build one market underpinned by innovation, protected by law, and driven by inclusive integration. The future of African start-ups — and by extension, Africa's economic transformation — depends on whether IP is allowed to function as the bridge between ingenuity and scale.

https://doi.org/10.47348/SAIPL/v13/i2a7