



## SOUTH AFRICAN RESEARCH CHAIR:

Intellectual Property,  
Innovation and Development

# Newsletter

December 2022 | Issue 4



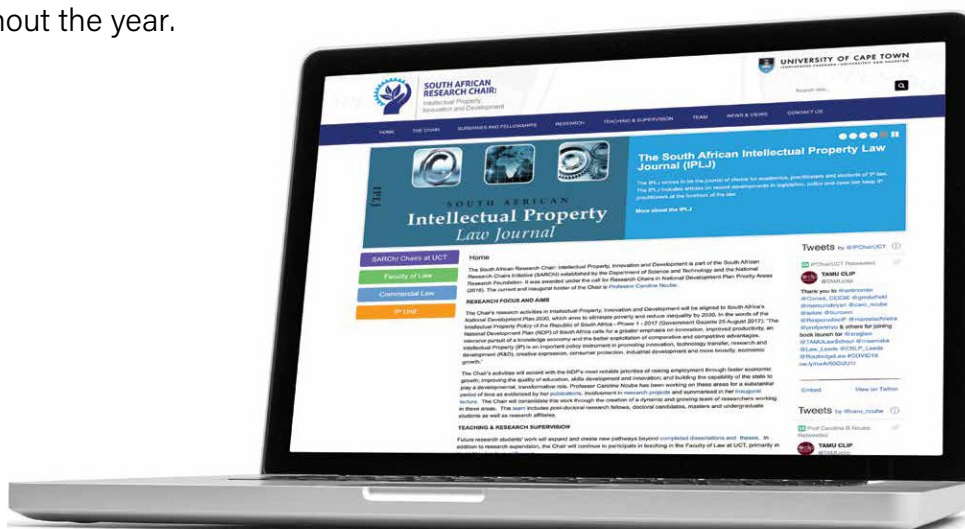
Mzimasi Mayeza and  
Prof Ncube  
Graduation Dec 2022

Welcome to our fourth annual newsletter. 2022 saw a gradual return to on site teaching and research, while accommodating a hybrid style which enabled our team to still continue remote work where necessary and beneficial. As restrictions on travel were lifted, we were able to engage in various important academic and policy meetings physically.

We also celebrated graduations and other milestones of our team members who have worked immensely hard to meet their individual academic goals and the team's corporate goals. This issue of the newsletter shares progress on our Intellectual Property (IP) related work.

## Website news and views

Our website's [news and views](#) section provides an update on most of what we got up to in the year. There you'll find the blog posts listed under the team member who is profiled in this newsletter. We have regular event reports as well as research reports. As you'll see from our conference and publication lists, our team continued to present and write about diverse issues throughout the year.

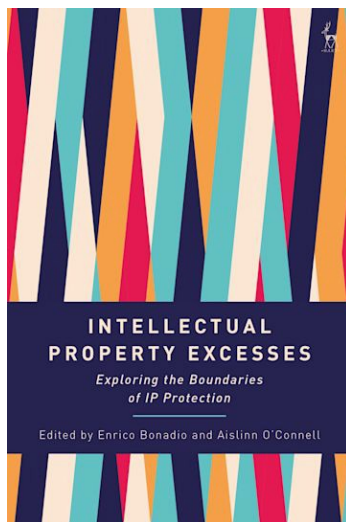




## Publications

Here are our team's most recent publications, based on Chair-funded research. We also submitted several other pieces, which we will update you on next year.

### Book chapter



Ncube, C.B. 'Limiting Access to Life-Saving Medications: Three South African Case Studies' in Enrico Bonadio and Aislinn O'Connell (ed.s) *Intellectual Property Excesses: Exploring the Boundaries of IP Protection* (2022) Hart 163 – 177

### Policy brief and Opinion

Hlomani, H. and Ncube, C.B. (2022) *Data Regulation in Africa: Free Flow of Data, Open Data Regimes and Cyber Security*. African Economic Research Consortium (AERC) Policy Brief.

Beiter, K. D., Fiil-Flynn, S. M., Forere, M., Klaaren, J., Ncube, C., Nwauche, E., Rens, A., Samtani, S., & Schonwetter, T. (2022). *Copyright Reform in South Africa: Two Joint Academic Opinions on the Copyright Amendment Bill [B13B 2017]*. Potchefstroom Electronic Law Journal, 25, pp 1 – 45.

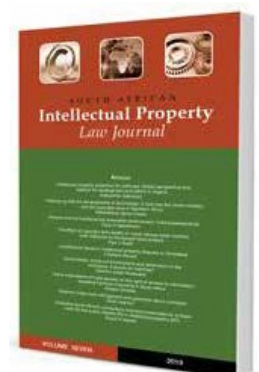
### Journal articles

dos Santos, F., Ncube, C. B., & Ouma, M. (2022). *Intellectual property framework responses to health emergencies – options for Africa*. *South African Journal of Science*, 118(5/6).

Ncube, C.B. (2022). *Intellectual property and the African continental free trade area: lessons and recommendations for the IP protocol*, *Journal of International Trade Law and Policy*, 21(2) 105 - 121

Chidede, T. (2022). *The role of intellectual property rights' protection in advancing development in South Africa* 26 *Law, Democracy & Development* 168 - 189.

The 2022 issue of the [South African Intellectual Property Law Journal](#) co-edited by our team, will be published shortly.





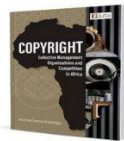
## SOUTH AFRICAN RESEARCH CHAIR:

Intellectual Property,  
Innovation and Development

### Event: Empowering Youths in Africa's Creative Industry: The Role of Collective Management 25 April 2022

This event was hosted by the Chair in collaboration with the University of Venda to mark World IP Day included a robust engagement on the potential of collective management, in keeping with the themes of Dr Oriakhogba's book that was being launched. Dr Edward Kwakwa, the Assistant Director General, Global Challenges and Partnerships Sector, World Intellectual Property Organization, who gave the keynote speech, laid the foreground for the day's discussions, where he drew attention to the potential of collective bargaining power that is inherent in a well-structured collecting society. Dr Chijioke Okorie took the discussion further by exploring some of the pitfalls of collecting societies and providing recommendations on ways to mitigate these challenges, drawing from Dr Oriakhogba's book and many of the insights it provides. Dr Joel Baloyi provided a robust exposition on the nature of collecting societies and highlighted their operational models and utility to African creators in the 4th industrial revolution. Dr Marisella Ouma's presentation addressed the possibilities of leveraging technology for effective collective management of copyright and other intellectual property rights. [Watch a video recording of the event.](#)

## WORLD INTELLECTUAL PROPERTY DAY 2022



**SOUTH AFRICAN  
RESEARCH CHAIR:**  
Intellectual Property,  
Innovation and Development



**DR EDWARD KWAKWA**  
KEYNOTE SPEAKER



**DR MARISELLA OUMA**  
DISCUSSANT



**DR CHIJOKE OKORIE**  
DISCUSSANT



**DR JOEL BALOYI**  
DISCUSSANT

### "Empowering Youths in Africa's Creative Industry: The Role of Collective Management Organisations"

MON  
DAY

APRIL  
25

2  
PM

Moderators: Dr Desmond Oriakhogba, Dr Omowamiwa Kolawole

DEPARTMENT OF MERCANTILE AND PRIVATE LAW, SCHOOL OF LAW, FACULTY OF MANAGEMENT, COMMERCE AND LAW  
SARCHI CHAIR ON INTELLECTUAL PROPERTY, INNOVATION AND DEVELOPMENT, UNIVERSITY OF CAPE TOWN



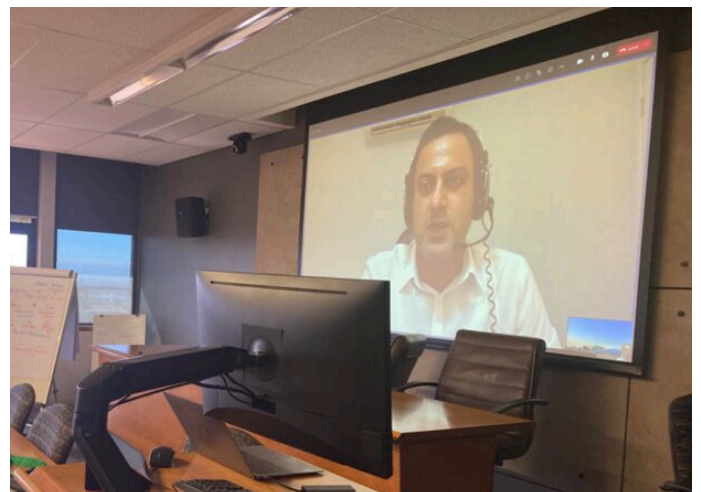


## Visiting Doctoral Researcher: Devanshi Saxena

Our visiting doctoral researcher from the University of Antwerp engaged in an examination of GI's and their relevance to cultural norms, practices and creations. Drawing from her doctoral research and her initial scoping of the South African landscape on GI's she made a case for a re-examination of the practical utilities of GI's to local manufacturers and producers, would in turn lead to a re-evaluation of the laws, if they are to keep with the goals of sustainable development. Drawing from the work of other scholars who she became exposed to by way of her visiting research grant, Devanshi also considered the implications of a superimposition of TRIPS on local ways of meaning making and drew on the ever-expanding field of decoloniality to call for deeper engagement with the issues. Devanshi wrote this [blog post](#) about both her research visit and the seminar she presented.



Devanshi and the IP research team



Dr Abbas

## Virtual Guest Lectures: Dr Abbas, Victor Nzomo and Dr Oriakhogba

Prof Ncube organised three virtual guest lectures for the LLM in IP cohort in 2022. On 8 March, Dr Muhammad Abbas of the QUT Faculty of Business and Law spoke on 3D printing and IP. The class had lots of questions and there was a lively discussion after the presentation, moderated by Dr Kolawole. On 22 March Victor Nzomo, a PhD candidate at the Chair, gave a brief synopsis of copyright exceptions and limitations in Kenya and on 26 April 2022, Dr Desmond Oriakhogba, a collaborator of the Chair, presented a guest lecture on 4IR and IP.

## Seminar: Dr Edwini Kessi (WTO) - 12 May

Dr Edwini Kessi (World Trade Organisation) presented a seminar on the topic 'The Multilateral Trading System at a Crossroads: The Preparations for the 12th Ministerial Conference'. He was a guest to the Department of Commercial Law and participated in several other activities. This seminar was organised by the Chair and Dr Kolawole made the logistical arrangements.



## SARChI Research Chair

### Prof Caroline B Ncube

#### Blogs

- [Blind SA v Minister of Trade, Industry and Competition and Others CCT320/21: A note on s19D](#) (30 September 2022)

#### Conferences

##### Prof Abbe Brown's Talk on Clashing Forms of Regulation and Right

On 2 December 2022, Professor Abbe Brown (University of Aberdeen) presented a talk on her project to develop new theoretical approaches and practical ways which can be applied to regimes to address societal challenges in environmental sustainability, health and climate change through data and technology. The talk was hosted by the Scottish Law and Innovation Network (SCOTLIN) and the event was moderated by Dr Guido de la Nota (University of Stirling). As a discussant, Professor Caroline Ncube's take away was that there should be no perceived no-go areas in any of these regimes, and all aspects need to be directly engaged with by multi-stakeholders so that the potential clashes between regimes be adequately addressed so that technology and data can offer increased societal benefits.

##### World Science Forum South Africa

At the forum hosted in Cape Town, South Africa from the 5th to the 9th of December 2022, Prof Ncube co-moderated a session with a focus on "establishing an African knowledge democracy for increased social justice and development" alongside Prof Iqbal Parker. The productive session had two parts; focusing on current methods for the assessment of science, scientists and journals as well as how knowledge can be democratised. The session was well attended, with hardly an empty seat in the venue. The speakers' talks were very well received and there was robust discussion in the Q&A sessions.

##### Constitutional Court Review Conference 2022

The Constitutional Court Review Authors Conference was held from 1- 2 December 2022. Professor Ncube spoke on the second panel on Disability Rights providing an analysis of the Constitutional Court's decision in *Blind SA v Minister of Trade, Industry and Competition and Others* [2022] ZACC 33.

##### Symposium for Contributors to Research Handbook on Law and Technology

Prof Ncube and Thabiso Phiri, one of the Chair's LLM researchers, attended an online authors' workshop as co- authors of a chapter on Voices Shaping Law and Technology in a Research Handbook on Law and Technology. The event was held between 16-18 November 2022. Prof. Ncube and Thabiso presented on 16 November 2022, sharing on their research methodology and on voices speaking on technology use and privacy. The handbook is scheduled to be published in 2023.

##### Africa Accelerating Conference

This conference was hosted by the Canada-Africa Chamber of Business in Johannesburg from 25 - 27 October 2022, in hybrid format with participants joining the summit from Canada and South Africa. At the conference where the current Prime Minister, Justin Trudeau gave the welcome address and the South African President, Cyril Ramaphosa gave the opening remarks, Prof Ncube spoke at the panel examining "realising the African Continental Free Trade Agreement: Canada's ongoing role as a trusted third-party partner for long-term prosperity".



## SOUTH AFRICAN RESEARCH CHAIR:

Intellectual Property,  
Innovation and Development

### Celebrating 30 Years of Academic Excellence for Transformative Leadership in Africa

At its 30th anniversary, Africa University hosted a conference under the theme 'Celebrating 30 Years of Academic Excellence for Transformative Leadership in Africa'. Prof Ncube spoke on the topic 'Leveraging Intellectual Property policies to engender inclusive and innovative research outputs' on 20 October 2022.

### Distinguished Lecture: uOttawa CTLS

The University of Ottawa Centre for Law, Technology and Society in collaboration with the OpenAIR partnership hosted a Distinguished Lecture presented by Prof Ncube on 12 October 2022, entitled 'Africa United as Never Before: The AfCFTA, Development, Industrialisation, and Value Chains'.

### Intellectual Property and the SDGs Regional Workshops

As part of a larger inter-continental book project on IP and sustainable development goals, which Prof Ncube is a part of, three regional authors workshops were convened by the editors in order workshop draft chapter of the book. The workshops were immensely generative and are a good indicator of the intended seminal value the project will be.

### WIPO-UNIGE Summer School on IP

The University of Geneva, together with the World Intellectual Property Organisation (WIPO), hosted the WIPO- University of Geneva Summer School on Intellectual Property from 20 June to 1 July 2022. There, Prof Ncube spoke on the panel discussing 'Recent Trends and Hot Topics for IP Students and Practitioners'.

### World Trade Organisation's 12th Ministerial Conference

Prof Ncube attended the WTO's MC12 in Geneva from 12 to 17 June 2022 as part of an NGO delegation. Her specific interest was the deliberations on the TRIPS Waiver proposal.

### AfCFTA Secretariat IP Protocol Brainstorming Session hosted by the AfCFTA Secretariat

The African Continental Free Trade Area (AfCFTA) Secretariat hosted a Brainstorming Session on the IP Protocol on 25 February 2022. It was attended by the AfCFTA Secretary General, the directors general of the African Regional Intellectual Property Organisation (ARIPO) and L'Organisation Africaine de la Propriété Intellectuelle (OAPI) and several experts, including Prof Ncube who participated in the session.

### IP & Innovation Researchers of Asia (IPIRA) Network Conference 2022

The IP & Innovation Researchers of Asia (IPIRA) Network hosts annual conference was hosted virtually in 2022 from 9 -12 February 2022. Prof Ncube participated in the third plenary session which examined IP and sustainable development.



### Appointment to AfCFTA Trade and Industrial Development Advisory Council

Prof Ncube was appointed to the AfCFTA Trade and Industrial Development Council in February 2022. [Read the announcement](#)

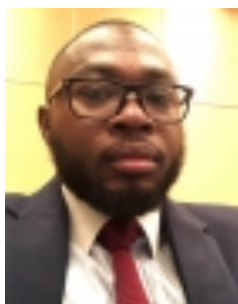


## Postdoctoral Fellow and Researcher

### Dr Omowamiwa Kolawole

#### Blog posts

- World Intellectual Property Day 2022: Celebrating youth innovation in Africa and exploring the role of collecting societies in unlocking creative potential
- 'The public deserves a return on the medicines governments support' published by 360info.org as part of their 'Who owns IP' series.



Dr O Kolawole

#### Conferences attended

Dr Kolawole was accepted into and participated in the Future Africa Emerging scholars post- doctoral fellowship. His paper titled; "Vaccine for me, but none for thee: Unpacking Intellectual Property Law and the replication of global inequities" is being rewritten for peer-reviewed publication.



#### Teaching

Research seminars with LLM students on thesis writing, identifying a relevant research question and structuring a thesis.

#### Research activity

Dr Kolawole is the Chair's Post-doctoral fellow. His work is on how and where the law on drug patents may be restructured to prioritize the public good in instances of public health crises by a rethinking of property rights and the incentives that drive innovation. He is currently working on individual publications and a joint publication with the research chair, considering the possibilities of an ubuntu approach to drug patents, as well as the implications of such an approach to realising global vaccine equity.

### Dr Ogochukwu Monye

Dr Monye is a postdoctoral researcher affiliated with the Chair. She undertook research examining the database rights in AI-generated electronic health records (EHRs) focusing on the legal and ethical considerations for data sharing in EHRs. This research will be published in 2023.



Dr O Monye





## LLM Research Assistants

### Blog posts



Joseph Mugauri (L)  
Thabiso Phiri (R)

#### Laura Gehle

- Event Report: South Centre webinar on the WTO 12th Ministerial Conference Decision on the TRIPS Agreement

#### Joseph Mugauri

- Blockchain: Securing copyright agreements through smart contracts
- A Reflection on the Consequences of the WTO Appellate Body's collapse

#### Thabiso Phiri

- Section 15(3A) of Copyright Act – a technology agnostic provision that could be supportive of development through large scale 3D house printing projects in South Africa
- New section 13A of the Copyright Act limits copyright holders' exclusive rights in literary works for the benefit of visually and print disabled persons
- Event Report: Prof Abbe Brown's (En)lightening Talk on Clashing Forms of Regulation and Right

---

### Research activity

The LLM research assistants were involved in multiple research projects during the course of their tenure. This involved research and writing on assigned topics, attendance at research events and compiling reference lists. Thabiso is co-authoring a book chapter with Prof Ncube for an edited volume on Law and Technology.

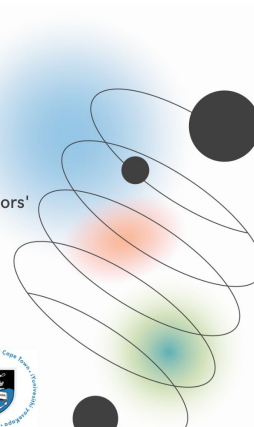
#### Voices Shaping Law and Technology

Research Handbook on Law and Technology: Authors'  
workshop  
16 November 2022

Caroline Ncube and Thabiso R Phiri



**SOUTH AFRICAN  
RESEARCH CHAIR:**  
Intellectual Property,  
Innovation and Development







## Doctoral Researchers

There are several doctoral researchers under Prof Ncube's supervision or co-supervision. Their theses cover a broad range of topics on the application of IP. For example, in the AfCFTA, the regulation of the music business/industry with regards to Collective Management Organisations and competition, the regulation of Fourth Industrial Revolution technologies, like Artificial Intelligence (AI), Big Data and the Oil and Gas sectors.



Hanani Hlomani

### Hanani Hlomani

---

#### Research activity

Hanani Hlomani is one of our doctoral researchers, working on data governance and its regulation. In addition to his PhD, he is involved in several exciting research projects, including one with Prof Ncube on Data Governance and Sound Policymaking in Africa under the auspices of the African Economic Research Consortium (AERC).

---

#### Blog posts

- [More Clouds over Africa: What Will They Bring?](#)
- [Responses To Information Disorders: What can governments do?](#) (with K Shilongo and A Sey)
  - [African Data and Digital Dialogues Report: Synthesis of the First and Second Knowledge Dialogue Workshops](#) (with A Gilwald, A Rens and DP Zongwe)

---

#### Conferences attended

1. Patent Policy for the 5G Era: Licensing Standard Essential Patents presented by Daniel Spulber
2. Measuring Digital Inclusion and Q&A with Matthew Sharp
3. Driving Digital Transformation: International Comparisons of Spectrum Policy by International Telecommunications Society
4. Big Digital Tech and the International Application of Competition Law presented by Dr. Robert G. Picard
5. Shaping Responsible Data Governance Institutions in Africa by the Centre for the Study of the Economies of Africa (CSEA).
6. Trade Secret? How AI is Changing Trade and How Trade Agreements Address AI by The Digital Trade and Data Governance Hub.



## Graduation: LLMS



Elissa Duku

Several LLM in IP Law graduated in March and December 2022. Amongst them were these three students who completed their mini-dissertations in IP law at the Chair:

**Elissa Duku**

Dissertation topic: TRIPS Flexibilities and Access to Essential Medicines in South Africa'

Supervisor: Prof Ncube



Mzimasi Mayeza

**Mohammad Amusa**

Dissertation topic: *Sui Generis* Protection of Traditional Knowledge in Nigeria: Lessons to be Learnt from Selected African Jurisdictions

Supervisor: Prof Ncube

**Mzimasi Mayeza**

Dissertation topic: Copyright in the Music Industry: The Protection of Artists' Rights Against Exploitation in South Africa

Supervisors: Prof Ncube and Dr Okorie

## Graduation PhDs



Dr Chuma-Okoro

**Dr Helen Chuma-Okoro**

Thesis title: Promoting creative economies in Nigeria and South Africa through communal and collaborative intellectual property rights strategies

The thesis investigates whether the tensions between tradition-based arts and crafts and intellectual property rights can be mitigated and the threats in commercialising tradition-based arts and crafts avoided using communal trademarks in Nigeria and South Africa.

Supervisors: A/Prof Schonwetter and Prof Ncube



Dr Sinkala

**Dr Ruth Mulenga Sinkala**

Thesis title: Protection of traditional knowledge, an incomplete victory? Towards inclusion of gender considerations in traditional knowledge protection: A Zambian perspective.

The thesis demonstrates the absence of gender considerations in the protection of traditional knowledge in Zambia and the need for legislative changes to protect women in traditional knowledge and contribute to attaining national and international development goals.

Supervisor: Prof Ncube



## LLBs : UPDATE



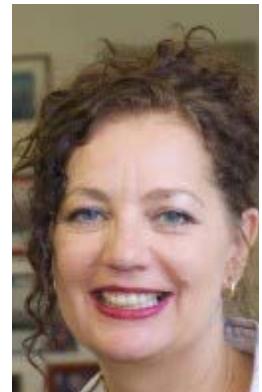
**Angie Montandon**



**Simamkele Gosa**



**Muofhe Tshifularo**



**Bianca Bresler**

Our former cohort of LLB student research assistants continue to make waves and we're celebrating more graduations.

**Angie Montandon** graduated with an LLM in IP Law, with distinction.

**Simamkele Gosa** graduated with her LLB.

**Muofhe Tshifularo** graduated with an LLM and is off to Gauteng to serve articles of clerkship.

**Bianca Bresler** graduated with her LLB.



**Prof Ncube and Muofhe Tshifularo**  
Graduation Dec 2022

Editors: Caroline Ncube and Omowamima Kolawole.

Contributors: Caroline Ncube, Omowamima Kolawole, Hanani Hlomani, Laura Gehle, Joseph Mugauri and Thabiso Phiri.

Design and Layout: Elsabe Gelderblom, farmdesign.co.za