

NEWSLETTER

DEC. 2020 | ISSUE 2



SOUTH AFRICAN RESEARCH CHAIR:

Intellectual Property,
Innovation and Development

Contents of this issue:

Publications 2
Conferences 4
Website news & views 5
other online contributions 6
Graduations 7

Editor:s Chijioke Okorie & Caroline Ncube

Contributors: Caroline Ncube, Desmond Oriakhogba, Sanelisiwe Mthlane, Muofhe Tshifularo, Morite Makola, Bianca Bresler & Angie Montandon

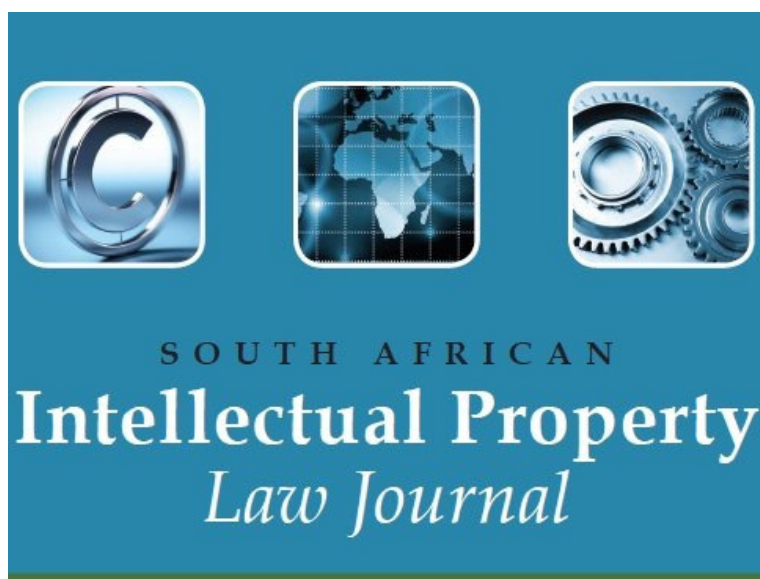
Layout & Formatting: Caroline Ncube & Chijioke Okorie

2020...what a year it's been...

Here is our second Newsletter and as usual, we provide you with updates on the activities of our team throughout the year. With the outbreak of the Covid-19 and the declaration of the pandemic, it has been a challenging year for us as with the world. But, we have rallied...

We hosted a very successful launch event to celebrate the publication of our postdoctoral research fellow's book, *Multi-sided music platforms and the law: Copyright, law and policy in Africa* (Routledge 2020). We also produced a [podcast](#) showcasing green innovations and IP across Africa to commemorate World IP Day 2020. Our team also presented at webinars, online workshops and conferences with several research outputs that we share with you here. The Chair, Professor Caroline Ncube was inaugurated, with others, as a Member of Academy of Science of South Africa (ASSAf) at a virtual Awards Ceremony in October 2020. She also became a member of the African Policy, Research & Advisory Group on STI and the African Scientific Technical and Research Innovation Council (ASRIC) Taskforce on IP Protection in Joint Research and Collaboration During Outbreaks. We are also putting finishing touches to our arrangements for upcoming courses and workshops to be hosted by the SARChI IP Chair in 2021. Visit our website at www.ipchair.uct.ac.za to follow our work and learn more about our activities. Also, our video highlighting on [IP Program at UCT Law](#) highlights the SARChI IP Chair's teaching and research program.

The screenshot shows the University of Cape Town website. The header includes the university logo and name, a search bar, and navigation links for Home, About UCT, UCT Libraries, Alumni, Staff & HR, and Vacancies. Below the header is a main navigation menu with categories like MAIN, STAFF, and STUDENTS. A secondary menu lists various university services. The main content area features a banner for 'Research groups' with a background image of the university campus. Below the banner is a sidebar with links for Overview, Research news, Rankings, Leading researchers, Awards, and Global research partnerships. The main text area is titled 'South African research chairs' and provides information about the SARChI initiative, managed by the National Research Foundation (NRF). It lists the Faculty of Law and its members: Associate Professor Elena Moore, Professor Caroline Ncube, and Professor Hanri Mostert.



Thanks to our contributors and reviewers, the 2020 Issue of South African Intellectual Property Law Journal co-edited by the Chair, Professor Caroline Ncube, is currently in production and will be available to the public this December. The journal publishes incisive research and insights on law and developments in the area of intellectual property in South Africa and other countries on the African continent. As usual, contributions may be sent to the editors via email: editoriplj@uct.ac.za. Read more about the journal [here](#).

Publications

Our research work listed as “forthcoming” in our [2019 Newsletter](#) have now been published. Building upon the evidence drawn from their WIPO scoping study on access to copyright works by persons with disabilities, Professor Caroline Ncube’s paper (with Dr. Desmond Oriahkhogba and Professor Blake Reid), “Beyond the Marrakesh VIP Treaty: typology of copyright access-enabling provisions for persons with disabilities” ([Journal of World IP](#)) identifies and discusses specific access-enabling technologies for persons with various disabilities and shows how, and the extent to which states’ ratification of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (Marrakesh Treaty) has enabled the making of accessible format of copyright works for persons with disabilities.

Our team continues to work on projects within the OpenAIR partnership. Read the [Scaling Up Report](#) and 2020 (26) [African Journal of Information and Communication \(AJIC\)](#) for the latest updates on the partnership’s work and

Professor Ncube’s paper on “[Africa’s International Intellectual Property Law Regimes](#)” has now been published in Oxford Bibliographies in International Law and Dr. Okorie’s paper titled, “[Lessons in Protecting and Enforcing Copyright in Screenplays in Nigeria](#)” has been published in Business Law Review journal.



QUEEN ELIZABETH *Scholars*

Publications

Other publications from our team include:

Ncube C.B. & Rutenberg I. 'IP and 4IR Technology' in Mazibuko-Makena Z. & Kramer-Mbula E (eds) Leap 4.0: African perspectives on the Fourth Industrial Revolution (MISTRA, 2020) 393 - 416

de Beer J., Armstrong C., Elahi S., Kawooya D., Kramer-Mbula E., Ncube C., Oguamanam C., Rizk N., Rutenberg I. and Schonwetter T. 'Open Innovation in Africa: Current Realities, Future Scenarios, and Scalable Solutions' in Smith ML & Seward RK (eds) Making Open Development Inclusive: Lessons from IDRC Research (MIT Press, IDRC, 2020) 403 – 430

Okorie, C. "The Constitutional Court of South Africa provides guidance on patent prosecution policy in South Africa". (2020) Intellectual Property Forum, Issue 120, pp. 101-103.

Okorie, C. Book review: The Object and Purpose of Intellectual Property edited by Susy Frankel (Edward Elgar Publishing, 2019). (2020) South African Law Journal, 137(1), pp. 173-177.

Okorie, C. "Corporate governance of copyright collecting societies in Nigeria: are (some) interventions under the Copyright Act lawful?" (2019) Nigerian Institute of Advanced Legal Studies Journal of Intellectual Property, Volume 6, pp. 76-108.

Oriakhogba, D. "Applying competition regime to Collective Management Organisations in Nigeria: Lessons from US and EU Law" (2020) 1(1) Journal of Contemporary Commercial and Industrial Law 1-32 (UNIPOINT).

Forthcoming:

Ncube, C.B. *Science, Technology & Innovation and Intellectual Property* (JUTA, 2021)

Okorie, C. "Nigeria's Federal High Court relies on physical evidence and shipping documents to nullify registered designs". (Journal of Intellectual Property Law & Practice).

Okorie, C. "South Africa with Kenya and Eswatini seek waiver of certain provisions of the TRIPS Agreement to align intellectual property rights with access to medicine in the fight against COVID-19". (Intellectual Property Forum).

Oriakhogba, D. "What if DABUS came to Africa? Visiting AI inventorship and ownership of patent from the Nigerian perspective (Business Law Review)

Oriakhogba, D. (with IA Olubiyi) "Implications of the Nigerian Broadcasting Code on broadcast copyright and competition". (GRUR Journal of European and International IP Law).

Oriakhogba, D. *Copyright, collective management organisation, and competition in Africa: Regulatory perspectives from Nigeria, South Africa and Kenya* (JUTA, 2021)

Both Dr. Okorie and postdoctoral researcher, Dr. Desmond Oriakhogba has published the papers from their respective research as Queen Elizabeth Scholars under the Open African Innovation Research (Open AIR) project. Dr. Okorie's analysis on promoting gender equality in South Africa's creative sector, appears in Africa Portal (October 2020) and Dr. Oriakhogba's paper, "Empowering rural women crafters in Kwazulu-Natal, South Africa: The Dynamics of Intellectual Property, Traditional cultural expressions, innovation and social entrepreneurship" has been published in South African Law Journal.

Conferences

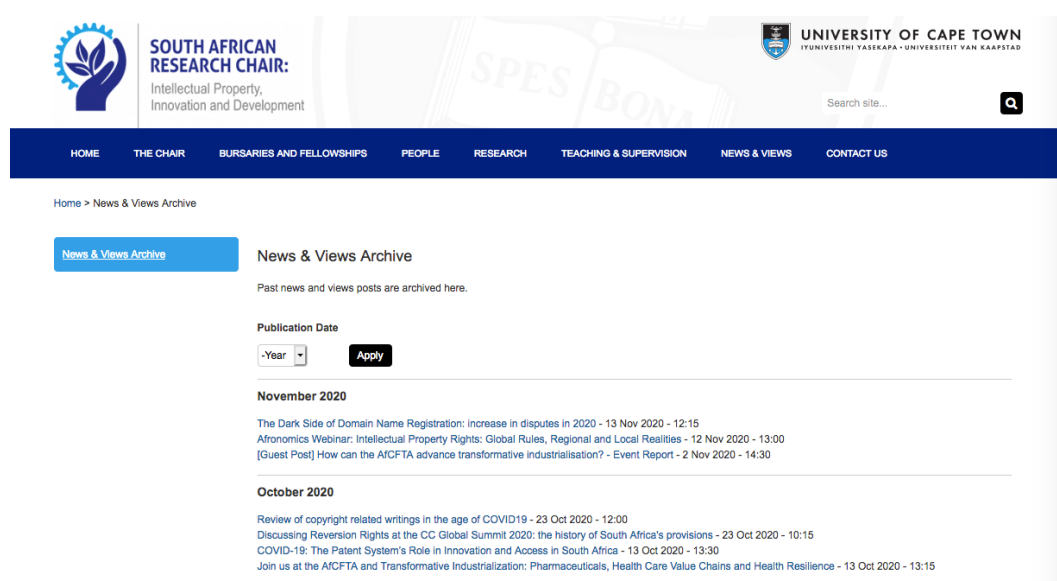
Due to the lockdown restrictions imposed by various national governments to slow the spread of the coronavirus, many conferences and workshops were either cancelled or moved online. Our team presented at various webinars on intellectual property law, innovation and development-related issues. Here's a list of all the online conferences/webinars we spoke at, please visit the [News and Views](#) section of our website to read more about all the papers we presented. We attended many more events as participants.

Month	Team panelist/speaker(s) & events
February	<ul style="list-style-type: none"> Dr Okorie: Book Launch – Multi-sided Music Platforms & the Law: Copyright Law and Policy in Africa
March	<ul style="list-style-type: none"> Dr Okorie: Panel Discussion – The Digital Creative Economy : Copyright, Law and Policy in Africa
April	<ul style="list-style-type: none"> Dr Okorie: On Jazz, the Digital World and Intellectual Property – Kaya FM Podcast
May	<ul style="list-style-type: none"> Prof Ncube: Colloquium on COVID-19 and the AfCFTA
July	<ul style="list-style-type: none"> Prof Ncube: Series of Webinars for African SMEs, organized by WIPO
October	<ul style="list-style-type: none"> Prof Ncube and Dr Oriakhogba: Afronomics Law Blog Webinar on IPRs: Global Rules, regional and National Realities Prof Ncube: Creative Commons Global Summit 2020 Prof Ncube: Webinar on AfCFTA and Transformative Industrialization
November	<ul style="list-style-type: none"> Prof Ncube: Creative IPR workshop: The Changing Regimes of Authorship
December	<ul style="list-style-type: none"> Prof Ncube: Science Forum South Africa (SFSA) session on the POPIA: A Code of Conduct for Research Prof Ncube: Investment, Competition Policies, and Intellectual Property: Making the AfCFTA work for women in business (hosted by International Trade Centre)



Website News & Views

The overarching theme for 2020 has been navigating through and adjusting to life during a pandemic. Pre-lockdown and COVID-19 surge in South Africa, we experienced a glimpse of normalcy as the IP Chair had the great pleasure of hosting the launch of Dr Chijioke Okorie's new book 'Multi-sided Music Platforms and the Law' at UCT's law faculty. Shortly after, Dr Okorie participated in a conversation on Kaya FM, centred around the intellectual property implications of artists taking their performances onto digital platforms in the wake of social distancing and subsequent cancellation of events.



Professor Caroline Ncube partnered with the Nelson Mandela School of Public Governance in a virtual colloquium to share her thoughts on COVID-19 and the African Continental Free Trade Agreement (AFCFTA), more specifically, how the AFCFTA could stimulate an inclusive and developmental post-COVID-19 economic revival. Prof. Ncube was went on to partake in a series of webinars, most notably, the webinars for African Small and Medium Enterprises (SMEs) organized by the World Intellectual Property Organization (WIPO).

As part of their research contributions, the IP Chair's Research Assistants were tasked with collating articles and news on IP issues and thereafter writing them up in piece for publication on the IP Chair website. The first piece, written by Morite Makola, focused on the Patent system's role in innovation and access in South Africa where he explored challenges to policy reform and South Africa's commitment in terms of the Doha Declaration.

In the second piece, Sanelisiwe Mthlane undertook a review of copyright related writings in the age of COVID19 . The piece compared 'fair use' vs 'fair dealing' approach to copyright limitations and exceptions and ultimately, which may be more conducive for online learning and a digitised society. Muofhe Tshifularo shared her thoughts on the increase in domain name registration and disputes in 2020, exploring the primary means of domain name dispute resolutions via alternative dispute resolution platforms, per Regulation 4 of the South African ADR Regulations.

Other online contributions

Our team continues to use blogging to more effectively communicate our research and to attract new audiences.

Our postdoctoral research fellow, Dr Chijioke Okorie is the IPKat's Africa Correspondent. The IPKat is a blog that covers copyright, patent, trademark, designs, info-tech, privacy and confidentiality issues from international and national perspectives. As Africa Correspondent for The IPKat, Dr Okorie contributes to a more internationally representative IPKat blog and comments on IP matters on the African continent.

Professor Ncube occasionally blogs on her personal website on issues pertaining to various IP matters. In addition, both she and Dr Chijioke Okorie are contributors to the Afro-IP blog. Professor Ncube, Dr. Okorie and Dr. Oriakhogba occasionally blog on the AfronomicsLaw blog – a blog that focuses on the International economic law Landscape as it relates to the Africa. The book symposium on Dr. Okorie's new book – Multisided music platforms and the law: Copyright, Law and Policy in Africa, was published on AfronomicsLaw blog in March 2020.

In addition, Professor Ncube's post on "The musings of a copyright scholar working in South Africa: is Copyright Law supportive of emergency remote teaching?" was part of AfronomicsLaw blog's [COVID-19 Symposium](#) on Intellectual Property, Technology and Agriculture. Professor Ncube's piece questioned whether copyright is supportive of emergency remote teaching in alignment with the right to education in the higher education context.

In January 2020, the Chair held a research workshop for new and existing research students supervised by Professor Ncube or co-supervised by Dr. Okorie. It was an opportunity to share ideas on how to make the best of the research journey as well as the nature of support available to researchers from the Chair.

From March 2020 (once lockdown restrictions were imposed by the South African national government), our monthly internal research meetings where the team shared research work and discussed planned and ongoing research publications, moved online. We have also used online platforms and conferencing tools to continue to provide research supervision and support to several masters and doctoral candidates.

Graduations

Congratulations
Dr Caroline
Mwaura!



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

EXAMINING THE ROLE OF INTELLECTUAL PROPERTY LAW IN KENYA'S
OIL AND GAS SECTOR

By
Caroline Wambui Mwaura (MWRCAR001)
LL.B (Nairobi), LL.M (Cape Town)



SUBMITTED TO THE UNIVERSITY OF CAPE TOWN
In fulfillment of the requirements for the degree of Doctor of Philosophy
FACULTY OF LAW, UNIVERSITY OF CAPE TOWN

September 2019

Supervisor: Professor Caroline Ncube
Department of Commercial Law

#UCTGrad2020

Several PhD and Masters students under the Chair's research supervision, completed their studies this year and two participated in the virtual graduation ceremony held on 14 December. Cedrine Ernstzen undertook research on crypto-assets and graduated with her LLM in Commercial Law and Dr Caroline Mwaura completed her doctoral research on IP in Kenya's Oil and Gas sector. Her thesis is available [here](#).

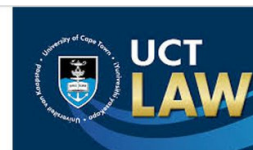
Our 4 LLB research assistants (Morite Makola, Sanelisiwe Mthlane, Muofhe Tshifularo, Bianca Bresler and Angie Montandon) also completed their LLB Degrees in November and will graduate in 2021.

...And with that, we close the curtain for 2020! Please stay safe during and after the holidays and see you on 11 January 2021, when our work resumes!

Congratulations
Cedrine
Ernstzen!



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



REGULATING A PSEUDONYM
Namibia's Regulatory Response to Cross-Border Cryptocurrency Transactions
By
Cedrine Venca Ernstzen
GLNCED001
UNIVERSITY OF CAPE TOWN
Masters Degree in Commercial Law

Supervisors: Prof. Caroline Ncube and Mr. James Leach

#UCTGrad2020