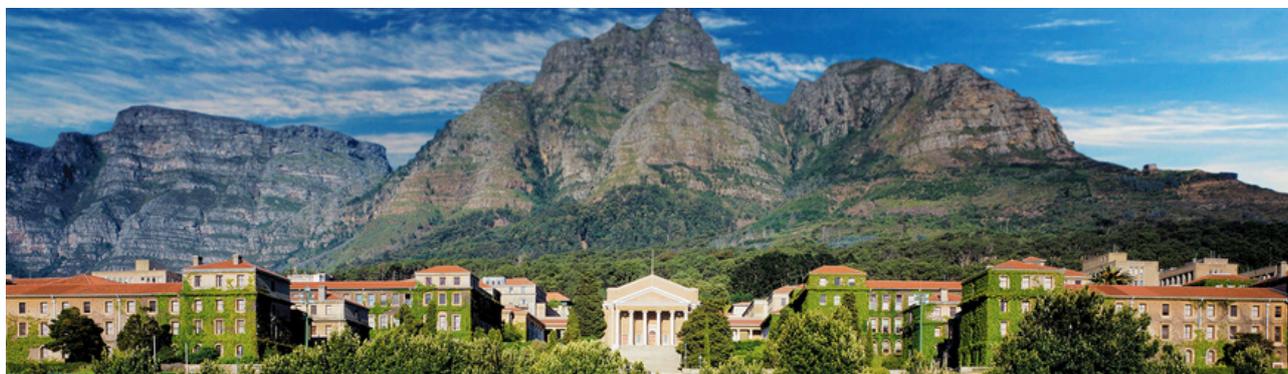




SOUTH AFRICAN RESEARCH CHAIR:
Intellectual Property,
Innovation and Development



Quartely Update



Here’s what has happened in the last few months and what’s to come!

Greetings to our esteemed community.

As we navigate through the year, we are delighted to present the second quarter update newsletter of the DSI-NRF SARChI Intellectual Property, Innovation and Development. This past quarter has been marked by remarkable achievements, insightful research, and meaningful collaborations that continue to propel us forward in our mission to explore and innovate within our respective fields.

In this edition, we share the latest updates, celebrate our collective successes, and look ahead to the exciting opportunities and challenges on the horizon.

In our first quarter update we announced the much anticipated WIPO-WTO Colloquium for IP Teachers,

Academics and Researchers and the IP Scholars Africa (IPSA) Conference being held at the University of Cape Town from August 5 to 9, 2024. In this quarterly update we are excited to share more news of these upcoming events.

Additionally, we are particularly excited to welcome new team members who underscore our commitment to driving impactful research and development.

As always, we are grateful for your continued support and enthusiasm. Your involvement and feedback are crucial to our success, and we invite you to join us in reflecting on our recent milestones and gearing up for the promising months ahead. Together, let’s continue to push the boundaries of knowledge and innovation.

In this update you can expect:

Event Reports & Updates

WIPO-WTO Colloquium & IPSA Conference

Recent Publications

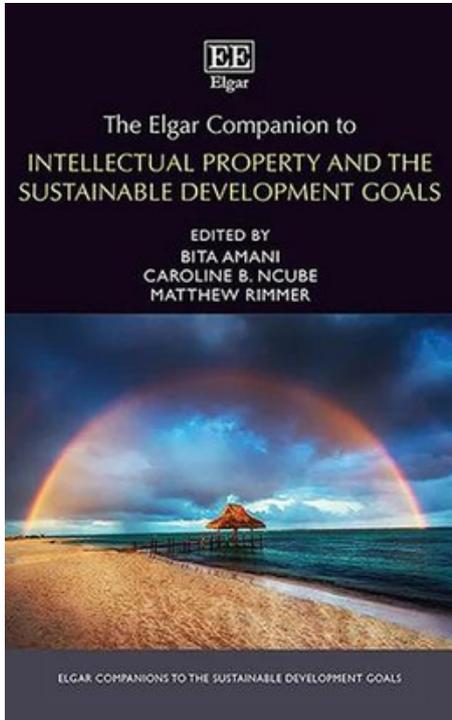
Current Research Spotlight

Team Updates

Local & Global IP Highlights

Event Reports & Updates

Virtual Launch of The Elgar Companion to Intellectual Property and the Sustainable Development Goals.



On April 22, 2024, the SARChI Research Chair in Intellectual Property, Innovation and Development hosted a virtual book launch to debut the [Elgar Companion to Intellectual Property and the Sustainable Development Goals \(2024\)](#). The newly published book, edited by Bitá Amani, Caroline Ncube, and Matthew Rimmer, gathers insights from IP experts around the globe to provide a thorough examination of how IP law interacts with and impacts the United Nations (UN) Sustainable Development Goals (SDGs).

This event featured a keynote address by Edward Kwakwa, the Assistant Director General of the World Intellectual Property Organization (WIPO). Additionally, the virtual launch included a lively panel discussion moderated by Ntando Sindane, featuring distinguished experts who contributed to the volume:

- Dr. Emmanuel Oke
- Professor Jan Osei-Tutu
- Professor Lonias Ndlovu
- Dr. Faith Majekolagbe
- Dr. Titilayo Adebola
- Associate Professor Desmond Oriakhogba

The panelists delved into the themes of the book, unpacking the debate around IP and the SDGs, as well as the goals and priority areas of the African Union (AU) Agenda 2063. Their insights highlighted the complexities and opportunities at the intersection of IP law and sustainable development, emphasizing the need for continued dialogue and innovative approaches.

The book was reviewed by [Jocelyn Bosse of IPKat](#). In her review she highlights five chapters that cut across different SDGs and areas of intellectual property to illustrate the breadth and richness of this volume.

Nicole Forrest from [UCT News](#) wrote about the book and the webinar, highlighting intellectual property as a tool for achieving the UN SDGs. In this piece she places focus on the fact that the 17 SDGs and their associated 169 targets provide a framework for ending poverty. Despite this massive opportunity, we find ourselves just 15% of the way to achieving these goals and targets. This slow progress can, in part, be attributed to the fact that technology and the benefits associated with it are not evenly distributed across the globe. The Chair, Prof. Ncube speaks about the reasons for the creation of this volume stating that “The idea is that there are very clear linkages between IP and the SDGs, but there has never been a comprehensive look at all 17 of the SDGs in the light of IP. So, the idea was to create this substantial volume that deals with this topic,”

For more insights, be sure to read Bitá Amani, Caroline B Ncube and Matthew Rimmer (ed.s) [Elgar Companion to Intellectual Property and the Sustainable Development Goals \(2024\)](#) Edward Elgar.

Event Reports & Updates (continued)

From April 25 - 26, 2024 the [Creative IPR Conference 2: Intellectual Properties in Colonial and Postcolonial History](#) was hosted by the Africa Museum in Tervueren, Brussels, featuring a lecture by Prof. Caroline Ncube. This event brought together experts to delve into contemporary experiences of intellectual property (IP) in Africa, highlighting the nuanced challenges and opportunities faced by creators in the region. Prof. Ncube delivered a thought-provoking lecture titled "Contemporary Experiences of Intellectual Property in Africa." Her presentation explored the complex landscape of IP in Africa, using real-world examples such as the Maxhosa fashion brand in South Africa and its copyright infringement case against Zara. Prof. Ncube also addressed the role of sharecroppers, content creators, and platforms in IP and value creation. Her lecture emphasized the importance of understanding how these roles intersect and impact the economic and legal landscape of IP in Africa. This lecture shed light on the ongoing debates and challenges in the field of intellectual property, particularly within the African context.



The 2024 Professor Bill Cornish Memorial Lecture



On May 7, 2024, the Chair, Prof. Ncube, delivered the second annual LSE Bill Cornish Memorial Lecture titled "Intellectual Property Norms in the Polycrisis – (Still) Omnipresent, Distracting, Irrelevant?". Professor Uma Suthersanen from Queen Mary University of London served as the discussant for this lecture. The Bill Cornish Memorial Lecture series was established by LSE academics Dr. Martin Husovec and Dr. Luke McDonagh to honour the late Professor Bill Cornish, who passed away in 2022. The series features eminent scholars who, like Professor Cornish, have significantly contributed to the study of authorship, creativity, innovation, and IP ownership.

The 2024 Professor Bill Cornish Memorial Lecture (continued)

In her lecture, Prof. Ncube reflected on Professor Bill Cornish's legacy, emphasizing his seminal work, *Intellectual Property: Omnipresent, Distracting, Irrelevant?*, published in 2004. This influential book remains a cornerstone in IP law, where Professor Cornish explored how IP rights have permeated new technologies, at times becoming both pervasive and problematic. He categorized IP rights into three groups: omnipresent, distracting, and irrelevant, discussing how they spread, cause persistent issues, or are rendered obsolete by technological advancements.

Prof. Ncube revisited these themes within the context of today's polycrisis—a term capturing the interwoven challenges of health emergencies, climate change, and armed conflict. She focused on the relevance of IP in medical and health contexts, echoing Cornish's concerns about the impact of patenting on developing countries, particularly regarding access to essential medicines.

Reflecting on the last 25 years, Prof. Ncube identified three pivotal moments for IP reform: the HIV/AIDS crisis, the recent TRIPS waiver negotiations, and the ongoing WHO Pandemic Accord discussions. Each presented opportunities to enhance public welfare through IP policy, yet significant challenges remain. Developing countries often struggle with implementing TRIPS flexibilities due to pressure from technologically advanced states.

In her closing remarks, Prof. Ncube stressed that while IP remains omnipresent and relevant, it frequently falls short of delivering equitable public health outcomes. IP rights often serve as distractions, achieving little of their intended purpose but causing significant complications. She pointed to proposals for a peace clause and technology transfer mechanisms as potential solutions, though their acceptance in current negotiations seems unlikely.

The lecture highlighted the need for ongoing dialogue and innovative policy solutions to address the complexities of IP in the context of global crises. As the world faces future health emergencies and the broader challenges of the polycrisis, rethinking IP norms will be crucial to ensure they support, rather than hinder, public welfare and sustainable development.

For those who missed this lecture a video recording is available [here](#). Additionally, a paper based on the lecture was published by the *Journal of Intellectual Property Law & Practice* and can be found [here](#).



On May 16-17, 2024, the IP Chair team attended the highly anticipated conference, "Open for Business: The AfCFTA, Africa Trade and Innovation Conference," held at UPSA Law School in Accra, Ghana. The theme, "Taking Stock of the Implementation of the AfCFTA: Continental Efforts, State Commitment, and Private Sector Involvement," drew experts and stakeholders from across the continent to discuss the progress and challenges of the AfCFTA. Special Guest of Honour, H.E. Wamkele Mene, Secretary General of the AfCFTA Secretariat, underscored the importance of developing a robust legal and

intellectual framework for the AfCFTA. He praised the agreement as one of the leading legal instruments on trade law globally, emphasizing that Africans have crafted a legal framework that is now sought after for advice on trade issues. He highlighted the significance of the ratification process—with 47 countries having ratified it. He also pointed out the critical role of the private sector in realizing the commercial value of the trade agreement. In the keynote address, Professor Melaku Desta, Coordinator of the African Trade Policy Centre at the United Nations Economic Commission for Africa, elaborated on the origins and objectives of the AfCFTA. He emphasized two main themes:

- Economic Prosperity: Driving growth and development across Africa.
 - Political Stability: Promoting peace and stability through economic integration.
-

Prof. Caroline Ncube was one of the distinguished guest speakers. She addressed the complex backdrop against which the AfCFTA is being implemented. She referred to this as a "polycrisis," highlighting the multitude of challenges such as wars, the COVID-19 pandemic, economic inequity, and climate change. Despite these hurdles, the AfCFTA is forging ahead, driven by the necessity to find solutions within the unique context of the African continent. She emphasized the importance of crafting norms to complete the legal architecture of the agreement. With eight protocols already in place—including those on intellectual property, investments, competition, digital trade, and dispute resolution—she challenged participants to move beyond critique and actively seek solutions to improve these frameworks.

Another significant contribution came from Ngonidzaishe Gotora, who presented a paper analyzing the structural and systemic barriers to the AfCFTA's implementation in protecting traditional knowledge and cultural heritage. His critical analysis within the context of African trade law shed light on the need for robust measures to safeguard these invaluable aspects of Africa's heritage in the face of increasing globalization.

The overarching message of the conference was clear: creativity and innovation are essential to enhancing complementarity in trade across Africa. The discussions highlighted the importance of starting with bilateral trade, identifying and addressing issues as they arise,

and the necessity of patience and commitment—"Rome was not built in a day." The conference called for ongoing engagement, building partnerships with academics and NGOs, and incorporating AfCFTA studies into educational curriculums to ensure a comprehensive understanding and effective implementation of the agreement. The event reinforced the notion that while the challenges are significant, the potential for transformative impact through the AfCFTA is immense. With concerted efforts and collaboration, the vision of a more integrated and prosperous Africa can be realized.



OPEN FOR BUSINESS: THE AfCFTA, AFRICA TRADE AND INNOVATION CONFERENCE

**INTERNATIONAL CONFERENCE ON THE FUTURE OF
AFRICAN TRADE AND THE AfCFTA**

THEME

Taking Stock of the Implementation of the AfCFTA: Continental Efforts, State Commitment, & Private Sector Involvement



Towards the end of this quarter, Prof. Ncube attended the Stellenbosch University Faculty of Law Conference held on June 22, 2024. The conference was focused on Researching, Teaching and Lawyering in the Age of Unsettled Democracies, AI and Climate Change.

Prof. Ncube was a panelist on the panel titled Interactive panel: AI and the law: Challenges and opportunities where she presented her paper on Agenda 2063 and Trade: Addressing IP regulatory puzzles posed by AI within the African Union. She remarked that the conference made for an educational and insightful day.

WIPO-WTO colloquium for IP teachers and IP Scholars Africa Conference



WORLD TRADE ORGANIZATION



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Department of Science and Innovation
REPUBLIC OF SOUTH AFRICA



National Research Foundation



SOUTH AFRICAN RESEARCH CHAIR:
Intellectual Property,
Innovation and Development

WIPO-WTO Colloquium & IP Scholars Africa Conference

We are a month away from the beginning of the WIPO-WTO Colloquium and the IPSA Conference! The finishing touches are underway and the entire IP Chair team is excited for these two events.

The WIPO-WTO Colloquium provides IP academics from Africa a platform to enhance their understanding of international developments in IP law and policy; share comprehensive updates on the status of WIPO and WTO agreements; foster insights on current activities in both organizations relevant to the African region; map existing IP teaching and scholarship in the region; and facilitate debate and collaboration among the academic community in Africa. Further information is available [here](#).

The IPSA Conference offers researchers from Africa the unique opportunity to present their works-in-progress on the latest topics in the field of IP, network, exchange ideas, and gain constructive feedback from peers. The Conference includes plenary and parallel sessions, alongside keynotes and panel discussions with senior scholars and officials from international organizations.

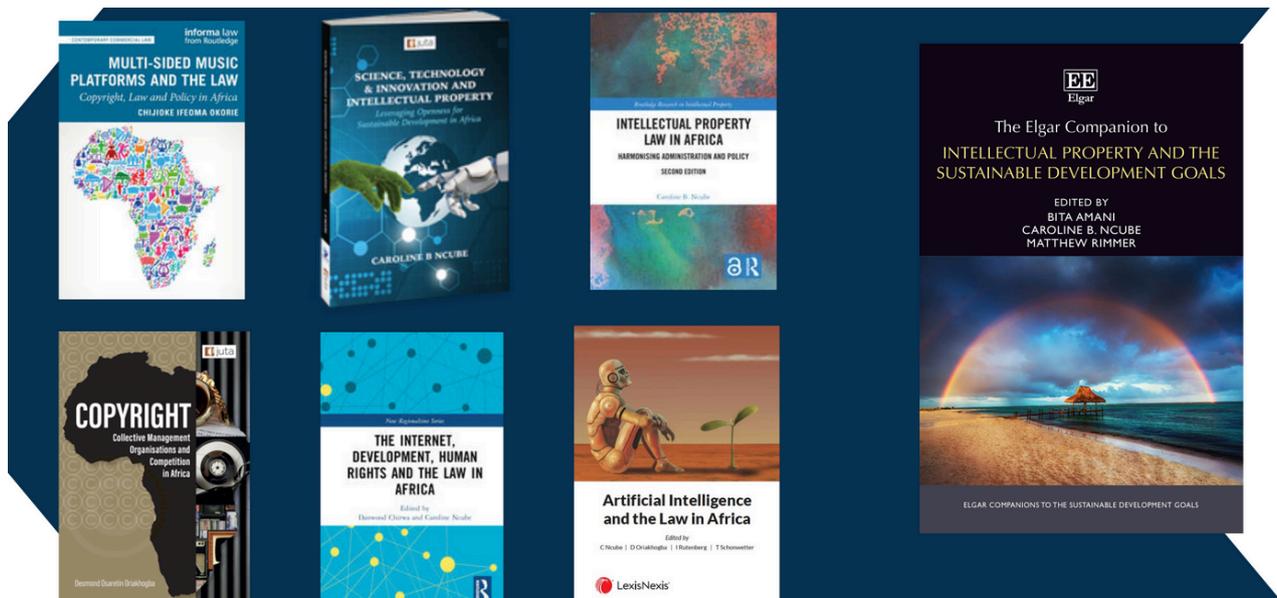
Both events will focus on research and scholarship on:

- Recent developments in IP Laws and regulations within WIPO and WTO;
- United Nations Sustainable Development Goals (UNSDGs);
- African Continental Free Trade Area (AfCFTA);
- Innovation and technology adaptation;
- Climate change and environmentally friendly technologies;
- Traditional knowledge and genetic resources;
- Frontier technologies, such as artificial intelligence, and business;
- Global public health (including the COVID-19 pandemic and diversifying production of vaccines and other key technologies); and
- Building capacity of universities to transform ideas into tangible assets.

After the Colloquium there will also be study visits to UCT's d-school Afrika and Groot Constantia for attendees.

For those registered to attend the IPSA Conference, be sure to follow updates on our dedicated [webpage](#) and on our social media channels available at the end of this update.

See you there!



Our recent publications

These latest publications are shaping the future of intellectual property, innovation, and development.

Journal articles:

- Caroline B Ncube, Intellectual property norms in the polycrisis—(still) omnipresent, distracting, irrelevant?, *Journal of Intellectual Property Law & Practice*, 2024,; jpae054, <https://doi.org/10.1093/jiplp/jpae054>

Working papers:

- Caroline B Ncube & Jeremy de Beer, Trade Rules as Regulatory Tools for Inclusive Innovation: Connecting Digital Trade and Clean Technology to Achieve Sustainable Development Goals, *OpenAIR Working Papers*, 2024, <https://openair.africa/trade-rules-as-regulatory-tools-for-inclusive-innovation-connecting-digital-trade-and-clean-technology-to-achieve-sustainable-development-goals/>

Web posts:

- Forrest, N. *Intellectual property - a tool for achieving the UN SDGs*, *UCT News*. Available at: <https://www.news.uct.ac.za/article/-2024-04-26-intellectual-property-a-tool-for-achieving-the-un-sdgs>

Current & Ongoing Research Spotlight

Welcome to the section dedicated to showcasing the cutting-edge research currently being conducted by our talented team members. In this segment, we delve into the innovative projects and studies that are driving our mission forward. From pioneering work in intellectual property to groundbreaking developments in innovation and sustainable development, our researchers are at the forefront of addressing some of the most pressing challenges of our time.

Ghati Nyehita

Ghati is currently conducting research on various areas of human rights, intellectual property, trade and regulations. However, we are highlighting one piece of research she is currently working on titled 'Navigating Intellectual Property Rights in the context of the AfCFTA: Implications for Education Access in Africa'. The African Union (AU) designated 2024 as the Year of Education, under the theme "Harnessing Education's Power to Transform Africa," with the aim of revolutionizing education across the continent. Within this context, the African Continental Free Trade Agreement (AfCFTA) is expected to foster cross-border flows of educational and cultural materials while striving to harmonize intellectual property (IP) regimes among member states through its recently adopted Intellectual Property (IP) Protocol. However, as IP rights are crucial for fostering innovation, concerns arise regarding their potential impact on access to educational resources and equitable participation in the digital economy. Against the backdrop of AfCFTA's economic integration goals, her article will evaluate how education is prioritized within the trade framework. The article will explore various aspects of IP law, including copyright, patents, trademarks, and trade secrets, and their impact on the availability and accessibility of educational and cultural resources. Specifically, the article will scrutinize the IP protocol's stance on the accessibility of educational materials, considering factors such as access restrictions, fees, open licensing, currency of information, and availability in machine-readable formats. Additionally, it will assess the aspects of quality and equity related to educational access. By utilizing legal frameworks and empirical data, the article will highlight challenges and opportunities in realizing the right to education amidst trade liberalization. The paper will contribute to understanding the complex relationship between trade agreements, IP rights and human rights in Africa.

Ngonidzaishe Gotora

Ngonidzaishe has been looking into image rights and performers' protection rights in the face of the looming threat of Deepfakes globally. His article that is currently under review for publication demonstrates and examines the limitless capabilities of the Internet allow for the widespread sharing of media and information, assuming one has access to a reliable internet connection and a compatible device. Technological progress has empowered tech enthusiasts to develop software that can interchange faces, superimposing the likenesses of celebrities, politicians, and ordinary individuals onto others in videos. These advanced technologies now leverage Artificial Intelligence (AI) to produce videos and photos so realistic they're often indistinguishable from authentic footage. The term 'deepfakes' has emerged as a key descriptor for these creations. While there are harmless applications of this technology, it has also been exploited for creating deepfake pornography. Such illicit use often involves the unauthorised use of personal images from social media to create pornographic content without the subject's consent, profoundly impacting victims' lives by violating their sexual privacy and hindering their internet usage and job prospects. Most of the research on non-consensual dissemination of explicit content has been focused on the distribution and sharing or on blackmailing individuals with existing, unfabricated content. The article aims to address the gap in research on non-consensual deepfake pornography and existing image-based offences from a South African law perspective. Ultimately, it analyses the existing legal frameworks and whether they can provide adequate recourse to victims of non-consensual explicit deepfakes. The article asserts that whilst existing laws can adequately deal with scams, and defamation, the current legal framework falls short of the threat of the use of deepfakes in non-consensual sharing of intimate images or videos. Amid the discussion, this article recommends a principled strategy for a well-rounded regulatory reaction to deepfakes, which are described as artificial performances generated through AI technologies. This strategy is applied practically by suggesting the utilisation of South Africa's performers' rights legislation and policies as an appropriate mechanism for deepfake regulation.

Team Updates

We are thrilled to welcome 2 new members to our dynamic research team. Each brings a wealth of knowledge, diverse experiences, and a shared passion for advancing intellectual property, innovation, and development. In this section, we introduce these talented individuals who are poised to make significant contributions to our mission.

Join us in getting to know our newest colleagues, their unique expertise, and the fresh perspectives they bring to our research team.

We are excited to see the impact they will have as we continue to push the boundaries of research and innovation together.

Dr. Tebogo Lefifi

Tebogo joined the team in the second quarter of the year as a Junior Research Fellow. She is also the Senior Program Manager: Stakeholder Relations at the Nelson Mandela School of Public Governance, University of Cape Town. She holds a PhD in Commerce: Chinese Law and Investments in Africa (University of Cape Town, 2023), an LLM in Chinese Business Law (Hong Kong Open University), and a BCom from the University of KwaZulu-Natal (1997).

Since 2018, Tebogo has been convening and teaching an LLM course and an executive development course in Chinese Law and Investments at UCT. Her expertise includes international business strategy and research, China-Africa relations, strategic marketing, and reputation management.

In her previous roles, Tebogo has served as a senior government official and established the first official nation brand agency in China. In this capacity, she profiled and positioned South Africa and Africa to attract Chinese investments and promote market entry for African products in China. She has been a Chief Representative for various organizations in China, providing strategic advice to private sector companies and senior officials in the public sector.

Tebogo serves on advisory boards for various China-Africa businesses and initiatives, including the Africa China Law Desk (ACLD). She co-founded the Sino-Africa Centre of Excellence (SACE), an applied think tank that published and conducted the China Business Perception Index in various African countries. She has also served on advisory boards for initiatives such as the China-Africa Wildlife Conservation Council (CAWCC), an Aspen Institute and Africa Wildlife Foundation initiative, Yale University's Visiting Women's Executive Exchange Program (VWEEP), and the South Africa China Business Association (SACBA).

As a Junior Research Fellow at the UCT Intellectual Property Chair, Tebogo's research interests focus on the development of Chinese intellectual property as part of economic development strategy and lessons for the African Continental Free Trade Area (AfCFTA). She was a 2020 fellow for the prestigious Olu Akinkugbe Business Law in Africa Fellowships (OABLAF). Her groundbreaking doctoral research received the Vice Chancellor's Award in 2020 and 2021, the Siri Johnson Scholarship Award, and the K.W. Johnston Bequest Scholarship Award.





Dr. Charlene Musiza

Charlene Musiza joined the Chair's research team in the second quarter of 2024. She is a lawyer licensed to practice in Zimbabwe. She previously worked as legal associate at a law firm, focusing on corporate and commercial law. Her research interests lie at the intersection of intellectual property and development, particularly how small scale producers can leverage appropriate IP rights. She has published her research focusing on various IP subject matter. Her postdoctoral research project examines how small scale entrepreneurs can overcome market-related challenges through the adoption of collective IP ownership strategies within industrial clusters. She is an alumni of the Queen Elizabeth Scholar – Advanced Scholar

(QES-AS) and has worked at the World Intellectual Property Organization (WIPO) and the Open African Innovation Research Network (Open AIR). She has consulted on developing sector specific IP policies and designing appropriate legal protection schemes for SMEs. She has a Bachelor of Laws degree from the University of Zimbabwe, Master of Laws degree (specializing in commercial law) and PhD in Commercial Law from the University of Cape Town.

Ngonidzaishe sat down with Charlene for a short Q&A when she joined the Chair:

- **Tell us briefly about yourself and your research?**

I am a lawyer, researcher, consultant and passionate advocate for small businesses.

- **What attracted you to the IP Chair?**

I have always admired Professor Ncube. Her work in promoting IP with a developmental focus is inspiring. I have also had the privilege to work with and learn from her.

- **What are your research plans for your postdoctoral - fellowship at the chair?**

My project builds upon my doctoral thesis, it explores industrial clustering as a strategy to build frameworks for small scale entrepreneurs to use collective IP rights. I will investigate the market-related challenges faced by small scale entrepreneurs and how clusters can help overcome some these challenges. I will examine the patterns of clustering activities and potential for synergies in clusters which can form the foundation yo use certification and collective trademarks.

- **How do you envision your work contributing to broader societal issues? Are there any particular outcomes or breakthroughs you are aiming for?**

I am hoping this research can provide insights into how to make IP actually work for small scale entrepreneurs. Though legal frameworks already exist, application remains a challenge with limited participation of small scale entrepreneurs in the IP

system. Taking advantage of clusters will not only improve the efficiency of small businesses but enable the use of collective IP rights to advance market access for small scale entrepreneurs. This will in turn promote the sustained growth of small scale entrepreneurs.

- **Will you be collaborating with other researchers or institutions? How important do you think interdisciplinary collaboration is in your field? What role do you see community engagement playing in your research?**

I will be collaborating with other researchers, particularly because this research is interdisciplinary. Law doesn't operate in a vacuum, it is applied in a society and as such it is important to adopt an interdisciplinary approach to legal research. Though there will not be any community engagement as the research is primarily desk based.

- **Do you have any advice for young researchers or students interested in this field?**

Be curious and open-minded. Read widely and engage broadly. Take advantage of opportunities that come your way.

- **What do you enjoy doing outside of your research work?**

I enjoy photography, I take lots of photos of anything and everything with my old Canon EOS 500D.



IP Highlights: 2nd Quarter 2024

Welcome to our new section; Intellectual Property Highlights, where we spotlight the most significant developments and achievements in the realm of intellectual property each month. In this segment, we provide coverage of a key highlight from each month in the quarter, offering insights into groundbreaking research, policy advancements, regulatory advancements, case law and innovative practices that are shaping the future of intellectual property.

April

A report released by WIPO in April just before World IP Day, titled 'Mapping Innovations: Patents and the United Nations Sustainable Development Goals' showed that SDG 9 (Industry, Innovation, and Infrastructure) boasts the highest number of patents, with 2.9 million active patent families, followed by SDG 13 (Climate Action). The report further highlights IP's impact on achieving the SDGs and overarching trends in sustainable innovation.

May

A fresh looking pineapple hit the streets in the USA in May. The pineapple has a red outer skin and costs nearly R7,250 per fruit. The producers of this pineapple obtained a US plant patent No. 33,544, 3 years prior to its release. According to this patent, the fruit is called Vintage Ruby.

June

On June 11, 2024 the German Federal Court of Justice handed down a decision on DABUS AI and patents. The decision provided that even for an AI-generated invention, there is always some human being around that had a decisive influence on the generation of the invention. What kind of influence that is, is of no importance. The human contribution need not be inventive. This human being must be identified and designated as inventor. The conclusion of this decision was that you can get a patent for an AI-generated invention.



In Closing

As we conclude this update, we reflect on the incredible progress and exciting developments from the past quarter. Our team's dedication and hard work continue to drive our mission forward, and we are grateful for the unwavering support of our community. As we look ahead, we are filled with anticipation for the opportunities and challenges that lie before us. Thank you for your continued engagement and support. Together, we will continue to innovate, inspire, and make a lasting impact.

Thank you for reading!

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