

# JOURNAL OF INTELLECTUAL PROPERTY AND INFORMATION TECHNOLOGY LAW

# JIPIT

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## Editorial

The Centre for IP and IT law (CIPIT) launched the inaugural volume of JIPIT in 2021 to actively provide legal solutions for Intellectual Property (IP) and Information Technology (IT) issues in the Global South. For several reasons, this was an exciting development for scholars, policymakers, and the general public.

The law, understandably, often plays catch-up with technological advancements given the sporadic and swift nature of innovations. The discord between the law and such innovations is widened in Africa and the larger Global South traversing through different phases and spheres of development. Cognizant of the foregoing, JIPIT was established to fill this lacuna by providing a platform where refined works can be published promptly and consistently. JIPIT is a critical journal that seeks to advise governments and policymakers, inform scholars, and educate the general public on IP, IT and AI matters.

Against this backdrop, I am delighted to present this second volume which is illustrative of JIPIT's unwavering commitment to continuously advance legal scholarship in the Global South. With this volume, JIPIT pursues its passion for consistency and furthers its objective by bringing together luminary scholars from Kenya, Botswana, Nigeria, and several other countries. The volume features five articles and a policy brief addressing multi-disciplinary issues such as cybersecurity, Artificial Intelligence (AI) disruption of IP rights, deepfakes and misinformation, artist resale rights, data privacy, and mobile health solutions. These articles are as follows:

In *Lessons for Nigeria: Determining Authorship and Inventorship of Artificial Intelligence Generated Works*, Eloghene E.

Adaka and Dr Ifeoluwa A. Olubiyi present a thesis grounded on addressing the IP problem that AI poses as creators. The authors find that the laws in Nigeria are yet to progressively respond to this complexity as they solely recognize natural persons and corporations as IP rights holders but fail to make a pronouncement on the status of AI-generated works. Drawing lessons from carefully curated jurisdictions on the subject, the authors recommend that Nigeria updates its jurisprudence to accommodate AI systems as authors or inventors with a presumption of law that allows ownership, rights, and liabilities to be borne by the owners of such systems.

Flora Alohan Onomrerhinor, in *Eliminating Safe Havens for Transnational Cybercrimes in the African Continental Free Trade Area*, appraises the jurisdictional and procedural challenges with cybercrimes and the inadequacy of the extant laws to combat the quagmire in Africa. Given the interconnection between trade, the internet, and cybersecurity in the modern era, the author finds fate in the African Union Convention on Cyber Security and Personal Data Protection (the Malabo Convention). Onomrerhinor advocates for operationalisation of the Malabo Convention by annexing it to the African Continental Free Trade Area (AfCFTA), with few amendments from the lessons garnered from the Budapest Convention.

In *Assessing the Interoperability of mLab and Ushauri mHealth Systems to Enhance Care for HIV/AIDS Patients in Kenya*, Dr Cathy Mwangi, Collins Mukanya Mudogo, and Christine Maghanga pragmatically study two mobile health solutions in Kenya. The authors recognise the imperative role that ICT plays in the health sector and seek to facilitate this role through the study. The central hypothesis that the authors attain successfully is that the mLab and the Ushauri systems developed to care for persons living with HIV/AIDS are not entirely interoperable as required by law and that this disharmony orchestrates several challenges within the sector. They offer pragmatic solutions to solve this setback.

Jacob Holland and Tebo Motlhaping, in *Artist Resale Right: Should Botswana Codify?*, study the art industry of Botswana and the plight of the artists. The authors note that the current design of intellectual property rights disfavours this category of rights holders. Hence, the authors constructively weigh the double-pronged arguments on Artist Resale Rights to suggest that Botswana codifies the right to bolster the arts industry and financially reward artists upon resale of their artistic works in secondary markets.

In *The Regulation of Deepfakes in Kenya*, Faith Amati-ka-Omondi champions a timely conversation on misinformation that occurs through video and photo manipulation, especially using AI and other editing tools. The author fashions a case for strong collaborations amongst institutions to detect and regulate the negative application of such technology without stifling innovation.

Lastly, in *Africa's Ed-Tech Platforms: Protecting Children's Right to Privacy*, Rachel Achieng' Odhiambo, Emmah Wakoli, and Michelle Rodrot advocate for the protection of children's data in Africa. Specifically, the authors observe that children are exposed to online learning platforms (Ed-Techs) which merit regulation. From a sample of twenty-two studied cases, the authors identify gaps that they meticulously address through practical policy recommendations to help realise the full potential of data protection laws and Ed-Techs for children in Africa.

It is my pleasure to welcome readers to interact with the authors' works duly summarized above. I appreciate all the authors for their quality contributions and wonderful collaboration with the Peer Review Board throughout the editorial phases. Also, I invite future scholars to consider publishing in subsequent volumes. Similarly, I wish to thank this volume's expert reviewers and consulting editors, *Prof Osogo Ambani*, *Dr Angeline Wairegi*, and *Michael Butera*. We value your contribution which greatly improved the quality of these publications.

To the next editorial board, I conclude by noting that the infinitely bright light of JIPIT has just begun to shine and we are fortunate to be part of the few individuals chosen to contribute to its formative years. I wish you all the best and the world awaits the evolutionary outcome of your contribution.

**Collins Chidera OKOH,**  
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*September 2022*  
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