



Strathmore University

*Centre for Intellectual Property and
Information Technology Law*

Artificial Intelligence and Intellectual Property in Africa: The Role of National and Continental AI Strategies in Shaping Future Governance



Table of Contents

Executive Summary	3
1. Introduction	4
2. Scope and Methodology	5
3. The Role of Intellectual Property Law within the AI Ecosystem	5
4.0 Mapping of African Regional and National AI Strategies: Provisions on Intellectual Property	9
4.1. AU Continental AI Strategy	9
4.2 National AI Strategies	10
4.2.1 Ghana	10
4.2.2 Côte d'Ivoire	11
4.2.3 Mauritius	11
4.2.4 Nigeria	12
4.2.5 Zambia	12
4.2.6 Kenya	12
4.2.7 Lesotho	13
5.0 African AI Strategies as Soft-Law Governance Instruments: Prospects for Legislative and Regulatory Influence	14
6. Conclusion	17
Bibliography	19

Executive Summary

This report asks whether Africa's national and continental AI strategies meaningfully engage the intellectual property (IP) questions AI raises, and whether these largely non-binding instruments can still shape future IP law-making. The report, in assessing the AI strategies of Ghana, Côte d'Ivoire, Mauritius, Nigeria, Zambia, Kenya, and Lesotho, addresses emerging intellectual property (IP) issues arising from the development and use of AI, including AI-generated works, training data licensing, and AI-related infringement. However, as AI strategies increasingly serve as foundational instruments for shaping AI governance frameworks across the continent, the report considers the extent to which they recognise these emerging IP issues and position intellectual property within broader AI policy objectives. It finds that, although the strategies consistently acknowledge intellectual property as an important enabler of AI-driven innovation, they engage only to a limited extent with the emerging IP questions raised by AI. Consequently, their principal contribution lies in signalling regulatory priorities, establishing the policy foundations for future legislative and institutional development, and identifying areas requiring further legal reform.

As such, drawing on the theory of international soft law, the report argues that these strategies are not thereby without effect. Their non-binding, imprecise form is precisely what allows them to function as agenda-setting, coordinating and norm-legitimizing instruments capable of shaping legislation over time.

1. Introduction

Artificial intelligence (AI) systems are built upon and, in turn, generate intellectual property. Large language models and other machine-learning systems are trained on vast bodies of text, images and code, much of which is protected by copyright;¹ they rely on databases whose compilation may itself attract sui generis or copyright protection; and their outputs, such as inventions, designs, texts and images, raise unresolved questions of authorship, inventorship and ownership. In parallel, an increasing number of African countries and the African Union itself have adopted national and continental AI strategies as their principal instrument for articulating a vision of AI-enabled development.

These questions are becoming increasingly relevant to the development of AI governance in Africa. The African Union and a growing number of African states have adopted AI strategies and related policy instruments to define national priorities, support innovation and provide direction for the responsible development and use of AI.² By July 2024, the African Union Executive Council had endorsed the *Continental Artificial Intelligence Strategy*,³ and at least thirteen African states, including Algeria, Benin, Egypt, Ethiopia, Ghana, Kenya, Lesotho, Mauritius, Nigeria, Rwanda, Senegal, Tunisia and Zambia, have published national AI strategies.⁴ These instruments are more aspirational, broad in scope, and generally non-binding. The issue is therefore not whether they resolve emerging intellectual property questions, but whether they identify these issues, establish coherent policy priorities, and provide sufficient direction to inform subsequent legislative and regulatory development. As such, this report seeks to discuss African national and continental AI strategies and how they engage unresolved intellectual property questions raised by artificial intelligence, and to what extent these soft-law instruments influence law-making and enforcement.

This report argues that while African AI strategies increasingly recognise intellectual property as a component of innovation policy, most fail to speak to unresolved AI-related IP questions, such as the use of training data, AI-generated outputs, ownership, licensing, and enforcement. Nevertheless, these strategies can still shape future legislation and regulatory practice by

¹ See generally Joint Comment to WIPO, 'Comment on Copyright and Artificial Intelligence' (Program on Information Justice and Intellectual Property, infojustice.org, 2020) <https://infojustice.org/archives/42009> accessed 30 June 2026, discussing whether unauthorised use of copyrighted works for machine learning constitutes infringement and the case for explicit text-and-data-mining exceptions.

² African Union, *Continental Artificial Intelligence Strategy: Harnessing AI for Africa's Development and Prosperity* (July 2024) https://au.int/sites/default/files/documents/44004-doc-EN-_Continental_AI_Strategy_July_2024.pdf accessed 26 July 2026.

³ African Union, 'Continental Artificial Intelligence Strategy' (African Union, 9 August 2024) <https://au.int/en/documents/20240809/continental-artificial-intelligence-strategy> accessed 30 June 2026; see also Digital Watch Observatory, '(AU) Continental Artificial Intelligence Strategy' (dig.watch, 26 August 2024) <https://dig.watch/resource/au-continental-artificial-intelligence-strategy> accessed 30 June 2026, recording endorsement at the 45th Ordinary Session of the AU Executive Council in Accra, Ghana, 18–19 July 2024.

⁴ Global Majority and International AI Governance Project, 'The Global Majority in International AI Governance' (arXiv, 2026) <https://arxiv.org/pdf/2601.17191> accessed 30 June 2026, fn 3, listing thirteen African states with AI strategies or draft AI policies as of July 2025, citing C Okolo, 'National AI Strategies in Africa' (2024).

functioning as soft-law governance instruments that influence policy agendas, institutional coordination and norm development. As such, the report examines the role of IP within the AI ecosystem; maps the African regional and national AI Strategies and their provisions on intellectual property; and assesses these strategies as soft-law governance instruments capable of shaping future legislation and regulatory practice.

2. Scope and Methodology

The report undertakes a qualitative documentary review of the African Union Continental Artificial Intelligence Strategy and selected national AI strategies and related policy instruments from Ghana, Côte d'Ivoire, Mauritius, Nigeria, Zambia, Kenya and Lesotho. The instruments were selected because they contain express provisions on intellectual property or make related commitments concerning the protection of AI innovation, the review of existing legal frameworks, AI-generated works or institutional responsibility for IP-related reform. The review reflects instruments and official information publicly available as at 15 July 2026.

3. The Role of Intellectual Property Law within the AI Ecosystem

The rapid advancement of artificial intelligence (AI) technologies has ignited a global conversation about their intricate relationship with intellectual property (IP) law, fundamentally challenging traditional concepts of creativity, inventorship, and ownership.⁵ As AI systems become increasingly sophisticated, capable of generating works of art, literature, and music, and contributing to groundbreaking inventions, existing legal frameworks are being tested in unprecedented ways.⁶

Intellectual property serves as a crucial lever within the AI ecosystem, primarily designed to incentivise innovation and creativity.⁷ Historically centred on human ingenuity, IP laws aim to reward innovators' efforts and encourage investment in research and development (R&D).⁸ This principle extends to AI development, where IP protections are seen as a means to foster investment in new AI models, algorithms, and applications.⁹ By granting exclusive rights, IP enables developers to potentially reap financial returns from their creations, funding further R&D and stimulating economic growth.¹⁰

5 Dr Rahul Kailas Bharati, 'AI and intellectual property: Legal frameworks and future directions' (International Journal of Law, Justice and Jurisprudence, 2024, 4(2) 207–15) <https://www.lawjournal.info/article/141/4-2-31-193.pdf> accessed 20 August 2025.

6 *ibid*, 207

7 Dennis D Crouch, 'Using Intellectual Property to Regulate Artificial Intelligence' (2024) 89 *Missouri Law Review* 781 <https://scholarship.law.missouri.edu/mlr/vol89/iss3/5> accessed 20 August 2025.

8 Using Intellectual Property to Regulate Artificial Intelligence, 8

9 World Intellectual Property Organization (WIPO), *Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit* (Geneva, 2024) <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2003-en-getting-the-innovation-ecosystem-ready-for-ai.pdf> accessed 20 August 2025.

10 *Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit*, 28

IP also plays a vital role in protecting various AI-related assets throughout their lifecycle. This includes the core AI models and algorithms, which are the foundational technologies enabling AI.¹¹ Software underlying AI models, for instance, typically benefits from copyright protection, and in some cases, patent protection.¹² Beyond the core technology, IP covers:

- AI-assisted inventions, where humans utilise AI as a tool in the inventive process, such as in drug discovery or engineering design.¹³ While AI may optimise and speed up problem-solving, significant human input and experimentation are still often required.¹⁴
- AI-based inventions, which incorporate AI as a core component of a novel product, process, or solution, like an electron microscope with AI-enhanced image clarity.¹⁵
- Proprietary AI systems, their algorithms, and training data are frequently protected as trade secrets.¹⁶ This form of IP is particularly appealing for AI innovations
- because, unlike patents and copyrights, trade secret law does not require a human author or inventor and is inherently supported by the black box nature of many AI systems, making reverse engineering difficult.¹⁷

Furthermore, IP can facilitate commercialisation and knowledge dissemination. By providing legal certainty, IP rights like patents enable companies to license and sell their technologies.¹⁸ The disclosure requirement for patents encourages the sharing of technical specifications, promoting the dissemination of knowledge and facilitating cumulative innovation.¹⁹ Contracts and licensing agreements are increasingly central in managing access to data and resolving IP disputes in the AI context.²⁰

Despite its established role, the intersection of AI and IP is fraught with significant gaps and challenges that strain traditional legal concepts. One of the most fundamental challenges is the authorship and inventorship dilemma. IP laws have historically required a human author

11 Alexander Cuntz, Carsten Fink and Hansueli Stamm, *Artificial Intelligence and Intellectual Property: An Economic Perspective* (WIPO Economic Research Working Paper No 77/2024, Geneva, 2024) <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-econ-stat-wp-77-en-artificial-intelligence-and-intellectual-property-an-economic-perspective.pdf> accessed 20 August 2025.

12 Artificial Intelligence and Intellectual Property: An Economic Perspective, 20

13 Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 13

14 *ibid*

15 Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 14

16 AI and intellectual property: Legal frameworks and future directions, 209

17 Using Intellectual Property to Regulate Artificial Intelligence

18 Mark Findlay, Ariffin Kawaja, Ong Li Min and Sharanya Shanmugam, *Conversations at the Intellectual Property and Artificial Intelligence Interface: Understanding the Needs of Singapore's Innovation Community* (SMU Centre for AI & Data Governance Research Paper No 05/2022, July 2022) <https://cdl.smu.edu.sg/sites/cdl.smu.edu.sg/files/2025-03/Conversations%20at%20the%20Intellectual%20Property%20and%20Artificial%20Intelligence%20Interface.pdf> accessed 20 August 2025.

19 Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 28

20 Lee Tiedrich, Karine Perset and Sara Fialho Eposito, *Intellectual Property Issues in Artificial Intelligence Trained on Scraped Data* (OECD Artificial Intelligence Papers No 332, OECD, Geneva, February 2025) https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/intellectual-property-issues-in-artificial-intelligence-trained-on-scraped-data_a07f010b/d5241a23-en.pdf accessed 20 August 2025.



or inventor for protection, based on concepts like the author's own intellectual creation or conception of the invention by a natural person.²¹ However, AI systems are now capable of generating content and contributing to inventions with minimal human input, leading to questions about whether an AI system can be considered an author or inventor.²² The widely publicised DABUS cases, where an AI system was named as an inventor, have highlighted this issue, with most patent offices and courts rejecting AI as a legal inventor, citing the requirement for human involvement.²³ This exclusion raises concerns about the protection and commercial exploitation of such works, potentially stifling innovation and investment in AI-powered creative industries.²⁴

Closely related are the difficulties in determining originality and novelty for AI outputs. The black box nature of many AI systems makes it challenging to trace the creative process and assess if their outputs are truly original, especially if they are based on patterns in vast training data.²⁵ AI's ability to process enormous amounts of data rapidly also complicates the evaluation of inventive step or non-obviousness, as what might be inventive for a human could be routine for an AI.²⁶

Ownership and liability issues become complex when AI systems are involved. Identifying the

²¹ AI and intellectual property: Legal frameworks and future directions

²² *ibid*

²³ Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 26

²⁴ Aakib Khan and Prashant Vaishnav, 'Intellectual property law in the era of Artificial Intelligence' (2024) 6 *International Journal of Law, Policy and Social Review* 125 <https://www.lawjournals.net/assets/archives/2024/vol6issue2/6056.pdf> accessed 20 August 2025.

²⁵ AI and intellectual property: Legal frameworks and future directions, 210

²⁶ Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 15, 27

appropriate rights holder, whether it's the AI developer, the user, or even the AI system itself, is unclear, particularly as AI systems become more autonomous.²⁷ Similarly, determining responsibility for IP infringement when AI systems generate infringing content, either directly or indirectly, without direct human oversight, poses significant legal challenges, especially across national borders.²⁸

The critical need for data access versus data protection also presents a significant challenge. AI models require vast amounts of training data, often acquired through data scraping from various online sources.²⁹ This practice raises concerns about copyright infringement, as scraped content often includes protected works.³⁰ The debate revolves around whether using copyrighted works for AI training falls under fair use or requires licensing.³¹ The potential for successful web scraping lawsuits to stifle innovation by denying access to large datasets is a serious concern.³² There is also a discussion about creating new *sui generis* rights to protect the investment in creating and curating AI training datasets, or for AI models themselves, to balance innovation incentives with public interest.³³

Adding to the complexity is the international divergence in regulatory approaches. Different countries and regions are adopting varied stances on AI and IP. For example, the U.S. and EU tend to emphasise human inventorship, while some Asian countries like Japan and South Korea are more open to AI's role in IP creation and are exploring legal reforms.³⁴ This lack of harmonisation leads to a fragmented IP landscape and legal uncertainty for AI developers operating across borders.

Ultimately, while IP plays an important role in incentivising AI innovation and protecting its components, its narrow focus on rewarding creators makes it ill-suited for managing the broader societal implications of AI, such as infringement, privacy violations, bias, discrimination, and job displacement.³⁵ Therefore, policymakers are striving to adapt existing IP regimes and develop new frameworks that balance fostering AI innovation, protecting human creators' and inventors' rights, and addressing public interest and ethical considerations in this rapidly

27 Conversations at the IP and AI Interface, 29

28 Intellectual property law in the era of Artificial Intelligence, 128

29 Lee Tiedrich, Karine Perset and Sara Fialho Esposito, *Intellectual adopt varying Property Issues in Artificial Intelligence Trained on Scraped Data* (OECD Artificial Intelligence Papers No 332, OECD, Geneva, February 2025) https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/intellectual-property-issues-in-artificial-intelligence-trained-on-scraped-data_a07f010b/d5241a23-en.pdf accessed 20 August 2025.

30 *ibid*

31 AI and intellectual property: Legal frameworks and future directions, 211

32 Using Intellectual Property to Regulate Artificial Intelligence

33 Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 30

34 Lee Tiedrich, Karine Perset and Sara Fialho Esposito, *Intellectual Property Issues in Artificial Intelligence Trained on Scraped Data* (OECD Artificial Intelligence Papers No 332, OECD, Geneva, February 2025) https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/intellectual-property-issues-in-artificial-intelligence-trained-on-scraped-data_a07f010b/d5241a23-en.pdf accessed 20 August 2025.

35 *ibid*

evolving technological landscape.³⁶ With this in mind, the development of AI strategies presents African jurisdictions with a unique opportunity to inform how to leverage IP principles to support the wholesome development and exploitation of AI.

4. Mapping of African Regional and National AI Strategies: Provisions on Intellectual Property

A growing number of African states have adopted or published national AI strategies.³⁷ These strategies, on the surface, indicate that IP and its interaction with AI are significant considerations in the development of AI strategies across Africa, emphasising the need to address IP rights, particularly concerning AI-generated content and the use of data for AI training, to create enabling legal environments that incentivise innovation.

This section therefore examines how intellectual property is treated in the African Union Continental AI Strategy and the selected national instruments. The purpose of the mapping is not to compare or rank the jurisdictions; rather, it is to identify the forms of IP engagement that appear across the instruments and the extent to which the provisions move beyond general recognition of IP to identify specific AI–IP issues.

4.1 AU Continental AI Strategy

The Continental AI Strategy in addressing intellectual property recognises it as a critical aspect that requires careful management for Africa’s development and prosperity in the age of Artificial Intelligence.³⁸ Firstly, the strategy explicitly integrates intellectual property rights as one of the ethical principles for the responsible and unbiased use of AI.³⁹ This principle is part of the broader framework guiding the adoption and implementation of AI systems in Africa, ensuring that such technologies adhere to established legal and ethical standards.⁴⁰ However, the strategy also identifies intellectual property as a significant structural risk associated with AI development and deployment.⁴¹ Specifically, it highlights concerns regarding generative AI technologies, noting their potential to infringe upon data privacy, enable surveillance, lead to copyright violations, and facilitate the appropriation and use of digital material.⁴² These risks are acknowledged as being exacerbated by advanced AI systems, making them more complex

36 Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit, 26

37 Centre for Intellectual Property and Information Technology Law (CIPIT), *The State of AI in Africa Report* (2025) <https://aiconference.cipit.org/documents/the-state-of-ai-in-africa-report.pdf> accessed 31 July 2025

38 African Union, *Continental Artificial Intelligence Strategy: Harnessing AI for Africa’s Development and Prosperity* (Continental AI Strategy, July 2024) https://au.int/sites/default/files/documents/44004-doc-EN-Continental_AI_Strategy_July_2024.pdf accessed 31 July 2025

39 Continental AI Strategy, 5

40 *ibid*

41 Continental AI Strategy, 25

42 *ibid*

to address.⁴³

To mitigate these risks and establish a robust governance regime, the strategy emphasises the importance of existing legal frameworks, including intellectual property laws.⁴⁴ It suggests that African Union Member States will need to review and potentially amend their current laws to effectively safeguard against AI-related harms.⁴⁵ This approach aligns with the need for adaptable regulations on how to design, train, and operate AI systems in a trusted and ethical manner, respecting the rights, culture, and values of the African population.⁴⁶ Moreover, the strategy underscores the necessity of creating an enabling environment for a thriving AI start-up and enterprise ecosystem, which includes the provision of conducive intellectual property regimes.⁴⁷ To foster economic growth and allow AI solutions created in Africa to scale, the strategy recommends harmonising intellectual property laws at regional levels across the continent.⁴⁸ This harmonisation aims to promote market access for development-oriented AI solutions and ensure that incentives are in place to attract and retain AI talent and enterprises within the region.⁴⁹

The Continental Strategy therefore engages intellectual property in three principal ways: as a component of responsible AI governance, as a potential source of risk associated with generative AI, and as part of the enabling environment required to support African innovation. Its call for legislative review and regional harmonisation provides policy direction but does not establish substantive standards on training-data licensing, AI-generated works, ownership or infringement.

4.2 National AI Strategies



4.2.1 Ghana

Ghana's national AI strategy includes a recommendation to review and clarify laws for copyright, patents and intellectual property.⁵⁰ As part of its efforts to accelerate AI adoption across sectors, the intention is to encourage investment in research and development at start-ups and companies by supporting intellectual property and to engage a broad IP community in Ghana, including the registrar of companies, to protect the property rights of innovators.⁵¹

⁴³ ibid

⁴⁴ Continental AI Strategy, 32

⁴⁵ ibid

⁴⁶ Continental AI Strategy, 3

⁴⁷ Continental AI Strategy, 43 - 44

⁴⁸ ibid

⁴⁹ ibid

⁵⁰ Republic of Ghana, *National Artificial Intelligence Strategy: 2023–2033* (Ministry of Communications and Digitalisation, October 2022), 7; 36, <https://www.africadataprotection.org/Ghana-AI-Strat.pdf> accessed 19 August 2025.

⁵¹ Ghana's National AI Strategy, 36

Ghana's strategy therefore treats intellectual property principally as an innovation and investment enabler and identifies the review of existing laws as a necessary policy action. It does not provide further direction on the application of copyright or patent law to training data, AI-generated outputs or AI-assisted inventions.



4.2.2 Côte d'Ivoire

Côte d'Ivoire's AI strategy emphasises the fundamental need for a strong legal and ethical framework for responsible AI adoption.⁵² Under its Governance and Ethics pillar, it specifically aims to develop and update the legal framework for AI, which explicitly includes *propriété intellectuelle* (intellectual property).⁵³ It also calls for the update of intellectual property laws to include rights related to AI-generated creations.⁵⁴ Côte d'Ivoire's strategy moves beyond general recognition by identifying rights relating to AI-generated creations as an area for legislative attention. It does not, however, determine the content or allocation of those rights, leaving questions of authorship, ownership and the required degree of human contribution to subsequent legal development.



4.2.3 Mauritius

Mauritius' AI Strategy highlights the importance of a robust yet friendly regulatory, ethical, and data protection environment to foster a conducive environment for AI.⁵⁵ Mauritius has an Intellectual Property Promotion Scheme (IPPS) aimed at encouraging the protection of innovation through its industrial property system.⁵⁶ Its strategy specifically recommends supporting intellectual property protection, namely by adopting the IP bill in parliament and by signing international treaties such as the Madrid, PCT, and Hague systems. A key principle is that, even with government support, the IP should remain in its totality with the private developer of AI solutions.⁵⁷ The strategy also notes that outdated regulations in terms of mobile payment, crowdfunding and crowdlending, amongst others, are hindering the expansion of the sector, suggesting a need for IP-related regulatory updates in areas like Fintech.⁵⁸

52 Ministère de la Transition Numérique et de la Digitalisation (Côte d'Ivoire), *Stratégie Nationale de l'Intelligence Artificielle* (Isaac Bayoh, Ph.D, supervisor: Ministère de la Transition Numérique et de la Digitalisation, Côte d'Ivoire, 2024) <https://telecom.gouv.ci/new/uploads/publications/174196670372.pdf> accessed 19 August 2025.

53 Côte d'Ivoire *Stratégie Nationale de l'Intelligence Artificielle*, 57

54 Côte d'Ivoire *Stratégie Nationale de l'Intelligence Artificielle*, 58

55 Mauritius Government, *Mauritius Artificial Intelligence Strategy* (Ministry of Technology, Communication & Innovation, May 2025) <https://intec.gov.mz/wp-content/uploads/2025/05/Mauritius-AI-Strategy-7.pdf> accessed 19 August 2025.

56 Mauritius AI Strategy, 20

57 Mauritius AI Strategy, 67

58 *ibid*

4.2.4 Nigeria



Nigeria's AI strategy⁵⁹ explicitly outlines the application of its existing intellectual property laws, the Copyright Act, Trademarks Act, and Patents and Designs Act, to inventions and creative works like algorithms and AI models, which are critical to promoting innovation and protecting the intellectual property rights of developers.⁶⁰ The strategy also acknowledges the role of the Federal Competition and Consumer Protection Commission Act 2020 in protecting against unfair competition arising from AI algorithms and data use.⁶¹ Nigeria's strategy situates AI within the country's existing copyright, trademark, patent and competition frameworks, providing a clearer indication of the laws regarded as applicable to AI-related innovation.

4.2.5 Zambia



Zambia's National AI Strategy⁶² identifies the development of frameworks to protect AI innovations as crucial to encouraging investments in AI development.⁶³ It states that policies and regulatory frameworks developed to facilitate AI innovation must ensure regulations uphold ethical considerations, data privacy, security, and intellectual property rights.⁶⁴

Zambia's strategy recognises the protection of AI innovations and respect for intellectual property rights as components of an enabling regulatory environment. Its treatment remains at the level of general policy commitment and does not identify the particular reforms or institutional measures through which AI-related IP questions would be addressed.

4.2.6 Kenya



The Kenya AI Strategy recognises intellectual property (IP) as a critical area requiring attention within the nation's growing AI ecosystem.⁶⁵ The strategy outlines a flagship project under its Governance theme to review relevant legislation (employment and labour relations, intellectual

59 Federal Ministry of Communications, Innovation and Digital Economy (Nigeria), *Draft National Artificial Intelligence Strategy* (draft, 1 August 2024) https://ncair.nitda.gov.ng/wp-content/uploads/2024/08/National-AI-Strategy_01082024-copy.pdf accessed 19 August 2025.

60 *ibid*

61 *ibid*

62 Ministry of Technology and Science (Zambia), *National Artificial Intelligence Strategy 2024–2026* (February 2025) <https://www.mots.gov.zm/wp-content/uploads/2025/02/Zambia-AI-Strategy-Book-option-2.pdf> accessed 19 August 2025.

63 National AI Strategy (Zambia), 25

64 National AI Strategy (Zambia), 33

65 Ministry of Information, Communications and the Digital Economy (Kenya) *National Artificial Intelligence Strategy 2025–2030* (March 2025) available at <https://ict.go.ke/sites/default/files/2025-03/Kenya%20AI%20Strategy%202025%20-%202030.pdf> accessed 19 August 2025.

property, computer misuse and crimes, etc.) to reflect the demands of AI and other emerging technology.⁶⁶ This commitment stems from the acknowledgement that while Kenya possesses existing legal frameworks, including those related to IP, they are currently deemed insufficient to address the complexities of AI.⁶⁷ Furthermore, the strategy underlines the importance of IP protection for fostering local innovation by setting the number of patents, trademarks and copyrights registered for AI as a key performance indicator (KPI) for accelerating AI research and development (R&D) and innovation capacity,⁶⁸ indicating that safeguarding intellectual property derived from AI innovation is central to measuring Kenya's progress and competitiveness in the global AI landscape. However, the strategy fails to address critical AI-specific IP challenges, including the copyright status of AI-generated works, the patentability of 'novel' AI algorithms, and the protection of valuable curated datasets. Moreover, institutional capacity is limited as Kenya's IP office has yet to issue interpretive notes or sector-specific guidelines. Without these, the strategy risks being aspirational rather than actionable, leaving innovators uncertain about the scope of their rights.

Kenya's strategy identifies the review of intellectual property legislation as a flagship governance action and includes AI-related patent, trademark and copyright registrations among the indicators for research and innovation, creating a basis for monitoring policy attention to IP.

4.2.7 Lesotho



Lesotho has an Artificial Intelligence Policy and Implementation Plan,⁶⁹ which includes specific provisions regarding IP, recognising its crucial role in fostering innovation and ensuring a robust legal and regulatory environment for AI development.⁷⁰ A primary focus of the policy is to create an enabling legal and regulatory environment that supports the responsible use of AI while also protecting public interests and stimulating innovation.⁷¹ Central to this is the adaptation of existing intellectual property laws. The policy specifically calls for updating these laws to cover AI-generated works and innovations, with a particular emphasis on clarifying ownership rights in cases where AI systems contribute to the creation of such works.⁷² This legislative effort is intended to provide necessary legal protections and incentives to encourage AI research and development within Lesotho.⁷³

⁶⁶ Kenya National AI Strategy, 79.

⁶⁷ *ibid* 55.

⁶⁸ *ibid* 74.

⁶⁹ Government of Lesotho, *Draft Artificial Intelligence Policy Implementation Plan – 0.1 (second draft)* (Ministry of Information, Communications, Science, Technology and Innovation, 21 January 2025) https://www.gov.ls/download/draft-artificial-intelligence-policy_1-0/ accessed 19 July 2025.

⁷⁰ Government of Lesotho, *Draft Artificial Intelligence Policy Implementation Plan* (n 19) 22

⁷¹ *ibid*

⁷² *ibid*

⁷³ *ibid*

Observably, Lesotho's AI policy and implementation arrangements contain more specific references to the adaptation of intellectual property laws to AI-generated works and innovations, including the clarification of ownership where AI systems contribute to a creative process. They also connect IP to institutional responsibility and international research agreements, thereby providing implementation pathways recognising IP as an innovation enabler. The detailed content of future ownership rules and the treatment of training data, inventorship and infringement nevertheless remain matters for subsequent legal development.

In summary, African nations share a common understanding of the critical importance of intellectual property rights in the emerging AI landscape, which is reflected in the following points:

- **Adapting Existing Laws:** A broad consensus on the need to review and update intellectual property and copyright laws to address AI's unique challenges and opportunities, particularly regarding AI-generated works and innovations.
- **Incentivising Innovation:** Linking strong IP protection to the fostering of AI research and development, investment attraction, and support for local AI startups and innovators.
- **Addressing Generative AI:** Explicitly noting the concerns raised by generative AI technologies regarding the appropriation and use of digital material and its impact on intellectual property rights.
- **Clarifying Ownership:** Countries such as Lesotho and Côte d'Ivoire aim to update their laws to clarify ownership rights in cases involving AI contributions, whereas Mauritius maintains that IP should remain with the private developer.
- **Integration within Governance:** IP considerations are often embedded in broader discussions of AI governance, ethics, data privacy, and regulatory compliance, underscoring their integral role in building a trustworthy and responsible AI ecosystem.

In conclusion, not all of the identified strategies address IP in the excerpts. While a majority of the discussed strategies address IP, others focus on related legal and regulatory frameworks, data governance, and ethical considerations, without explicitly mentioning intellectual property, copyright, or patents. Additionally, some of the discussed strategies, such as those in Kenya and Ghana, address intellectual property, often highlighting the need to update existing laws to address AI-generated content, clarify ownership, and provide incentives for AI research and development.

5.0 African AI Strategies as Soft-Law Governance Instruments: Prospects for Legislative and Regulatory Influence

The strategies as reviewed above are not without governance significance, as such, assessing their true significance requires a framework capable of explaining how instruments without direct legal force may set policy agendas, coordinate institutions and inform later legislation or administrative action. This section therefore draws on soft-law scholarship while recognising that the AU strategy and national policy instruments operate at different governance levels

and may derive their influence from different institutional arrangements.

Contextually, on Kenneth Abbott and Duncan Snidal's influential account, legalisation varies along three dimensions; obligation, precision and delegation, with 'hard' law scoring high on all three and 'soft' law relaxing one or more of them.⁷⁴ African national and continental AI strategies sit close to the softest end of this spectrum, as they impose no binding obligation, are drafted in aspirational and often imprecise language, and delegate no interpretive or enforcement authority to any court or tribunal.⁷⁵ Yet Abbott and Snidal's central insight is that this softness is not a defect but a rational institutional choice, as soft instruments are easier to conclude, allow states to manage the deep uncertainty that still characterises AI regulation, and preserve the sovereignty that African states are, for good historical reasons, reluctant to cede in fast-moving technological fields.⁷⁶ Understood this way, the AI strategies discussed in Part 3 can be read as a first, low-cost stage in a longer regulatory process, rather than as a failed attempt at binding regulation.

That reading is reinforced by scholarship specific to AI governance. Carlos Gutierrez and Gary Marchant's empirical survey of AI soft law programmes shows that non-binding instruments such as codes, guidelines, and strategy documents have become the dominant mode of AI governance worldwide precisely because formal legislation cannot keep pace with the technology, and because soft instruments can be revised as understanding of the risks matures.⁷⁷ On this account, soft law is best understood not as a substitute for legislation but as a precursor to it in that guidelines and strategies test norms in practice, generate the evidentiary and political record that later legislative drafting can draw on, and allow the norms that prove workable to 'harden' into statute or regulation over time.⁷⁸ The same dynamic is visible in comparative AI law more generally. Japan's recent choice to anchor a promotion-oriented AI statute around institutional coordination, while leaving substantive standards to guidelines and sectoral law, illustrates how soft instruments and framework legislation can function as complements rather than alternatives.⁷⁹

Three specific functions help explain how the African strategies discussed in Part 4 can shape future intellectual property legislation and regulatory practice, notwithstanding their non-binding form. First, agenda-setting. Simply by naming intellectual property as a governance concern, a strategy document places the issue on the legislative and bureaucratic agenda in a way that would not occur if AI and IP were left to develop in separate policy silos. Kenya's designation of intellectual property law reform as a flagship project under its Governance pillar, and its use of patent, trademark and copyright registrations as a key performance indicator,

74 Kenneth W Abbott and Duncan Snidal, 'Hard and Soft Law in International Governance' (2000) 54 *International Organization* 421, 421–423.

75 *ibid* 434–435.

76 *ibid* 423–426.

77 Carlos Ignacio Gutierrez and Gary E Marchant, *A Global Perspective of Soft Law Programs for the Governance of Artificial Intelligence* (Sandra Day O'Connor College of Law, Arizona State University, 2021) 3–5 <https://lsi.asu.edu/softlaw/wp-content/uploads/sites/7/2022/08/final-database-report-002-compressed.pdf> accessed 6 July 2026.

78 Gary Marchant, Lucille Tournas and Carlos Ignacio Gutierrez, 'Governing Emerging Technologies through Soft Law: Lessons for Artificial Intelligence' (2020) 61 *Jurimetrics Journal* 1, 4–6.

79 'How "Hard" are Hard Laws? AI Legislation, Soft-Law Governance, and Comparative Lessons from South Korea and Japan' (ScienceDirect, 2026) <https://www.sciencedirect.com/science/article/pii/S2212473X26001069> accessed 6 July 2026.

converts what would otherwise be an abstract concern into a measurable commitment that officials must report against.⁸⁰ Ghana's and Côte d'Ivoire's explicit calls to review and update copyright, patent and intellectual property law perform a similar function, even though neither instrument amends a single statute; each creates a documented policy commitment that civil society, the private sector and development partners can invoke to hold ministries to account.⁸¹ This is precisely the agenda-setting role that soft law is understood to play in other African Union contexts, such as the non-binding Model Law on Access to Information for Africa, adopted by the African Commission on Human and Peoples' Rights in 2013, which is widely credited with reshaping the continent's access-to-information landscape and informing subsequent national statutes, despite having no binding force of its own.⁸² There is no principled reason why a continental AI strategy, or the model instruments it may generate, could not perform an equivalent function for AI-related intellectual property law.

Second, institutional coordination. The AU Continental AI Strategy's call to harmonise intellectual property laws at the regional level does not, by itself, harmonise anything.⁸³ Its significance lies instead in directing attention toward the institutional architecture through which harmonisation could occur, principally the African Regional Intellectual Property Organization (ARIPO) and the Organisation Africaine de la Propriété Intellectuelle (OAPI), and the long-standing but still unrealised proposal for a Pan-African Intellectual Property Organization (PAIPO).⁸⁴ Existing scholarship on African IP harmonisation cautions that linguistic and colonial-era institutional divides between ARIPO and OAPI have historically frustrated continent-wide coordination on IP;⁸⁵ a caution that applies with equal force to AI-specific IP questions such as text-and-data-mining exceptions or the protection of training datasets. By placing IP harmonisation on the AU Continental AI Strategy's agenda, the African Union creates an occasion, though not a guarantee, for ARIPO, OAPI and national IP offices to coordinate on AI-specific reforms in a way that has not previously occurred, drawing on WIPO's established convening role in the region.⁸⁶

Third, norm development and legitimation. Several of the strategies surveyed in Part 3 go beyond exhortation and articulate normative positions; for instance, Lesotho's and Côte d'Ivoire's calls to clarify ownership of AI-generated works, and Mauritius's contrasting insistence that IP arising from AI-assisted innovation should remain with the private developer.⁸⁷ Even though none of these positions has legislative force, their public articulation serves a

80 Kenya National AI Strategy

81 Ghana's National AI Strategy; Côte d'Ivoire Stratégie Nationale de l'Intelligence Artificielle.

82 African Commission on Human and Peoples' Rights, Model Law on Access to Information for Africa (2013); see Columbia Global Freedom of Expression, 'Model Law on Access to Information for Africa and Other Regional Instruments: Soft Law and Human Rights in Africa' <https://teaching.globalfreedomofexpression.columbia.edu/resources/model-law-access-information-africa-and-other-regional-instruments-soft-law-and-human> accessed 6 July 2026.

83 Continental AI Strategy.

84 African Union, 'Establishing a Pan African Intellectual Property Organization: A Concept Paper' EXT/AU/EXP/ST/8(II); Caroline B Ncube, 'A New Intellectual Property Organization for Africa?' (2013) 8 Journal of Intellectual Property Law & Practice 114.

85 Marumo Nkomo, 'Regional Integration in the Area of Intellectual Property: The Case for Southern African Development Community Involvement' (2014) 18 Law, Democracy and Development 317, 319–321.

86 'What Is WIPO? Explaining Its Impact On South African IP Law' (De Beer Attorneys, 26 October 2024) <https://www.debeerattorneys.com/post/what-is-wipo> accessed 6 July 2026.

87 Government of Lesotho, Draft Artificial Intelligence Policy Implementation Plan; Mauritius AI Strategy.

legitimizing function by signalling to courts, drafters, and international negotiators what the state's considered policy position is, ahead of and independently of formal law reform. This is consistent with the broader account of soft law as a mechanism through which contested norms are tested, refined and gradually legitimated before being reduced to binding form.⁸⁸

However, these functions should not be overstated, as the primary weakness of soft law remains its limited enforceability. Abbott and Snidal note that soft instruments are, by design, weakly enforceable and easily disregarded once the political attention that produced them shifts.⁸⁹ The proliferation of AI soft-law documents poses a significant coordination challenge, as observed in Gutierrez and Marchant's database, which records hundreds of such instruments produced since 2015;⁹⁰ without a clear pathway from strategy to statute, African states risk accumulating an uncoordinated collection of parallel documents rather than a coherent body of law. The case of Kenya, where a strategy sets IP targets without accompanying interpretive guidance from the national IP office, illustrates this challenge; such initiatives risk remaining aspirational rather than actionable.⁹¹ Ultimately, whether the African strategies surveyed in this report actually shape legislation, or instead join the wider inventory of unimplemented policy documents, will depend less on their drafting than on whether AU organs and national legislatures treat them as a mandate for follow-up action rather than as an end in themselves.

6.0 Conclusion

This report set out to establish whether African national and continental AI strategies meaningfully engage the unresolved intellectual property questions that AI raises, and whether these largely non-binding instruments can nonetheless influence the law that ultimately governs AI in Africa. The answer to the first question is mixed. As Part 3 demonstrated, AI systems implicate intellectual property across their entire lifecycle, from the copyright status of training data, through the trade-secret protection of models and algorithms, to the unresolved authorship and inventorship questions raised by AI-generated outputs, and these questions remain contested even in jurisdictions with mature IP systems. Part 3's mapping of the AU Continental AI Strategy and thirteen national instruments showed that African strategies are generally alert to this landscape, as intellectual property appears, in some form, in the Continental Strategy and in the strategies of Ghana, Côte d'Ivoire, Mauritius, Nigeria, Zambia, Kenya and Lesotho. Yet, with the partial exceptions of Lesotho's and Côte d'Ivoire's provisions on AI-generated works, none directly resolves the harder questions identified in Part 3: the copyrightability of AI output, the patentability of AI-generated inventions, and the licensing status of scraped training data remain open in every instrument surveyed.

The answer to the second question, addressed in Part 5, is more affirmative. Read through

88 British Institute of International and Comparative Law, 'Bridging Soft and Hard Law in AI Governance' (BIICL Blog) <https://www.biicl.org/blog/121/bridging-soft-and-hard-law-in-ai-governance> accessed 6 July 2026.

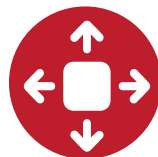
89 Abbott and Snidal 435–437.

90 Gutierrez and Marchant 3.

91 Kenya National AI Strategy; see Part 3 above.

the lens of soft law theory, the very features that make these strategies legally unenforceable, including their imprecision, their non-binding form, and their absence of institutional delegation, are also what allow them to function as agenda-setting, coordinating and norm-legitimizing instruments in advance of formal legislation. There is therefore no structural reason why AI-related IP strategies could not follow a similar trajectory, provided that the African Union, ARIPO, OAPI and national legislatures treat them as the beginning of a reform process rather than its conclusion.

On this basis, the report concludes that African AI strategies, considered as a corpus, occupy a genuine but preliminary stage in the continent's governance of AI-related intellectual property issues. Their principal current value lies not in the substantive answers they provide, which remain largely absent, but in the institutional attention, commitment and normative groundwork they create for the harder work of legislative reform, regional harmonisation through ARIPO, OAPI or a revived PAIPO initiative, and the capacity-building that national IP offices such as Kenya's will need if the ambitions recorded in these strategies are to become enforceable law. Whether that potential is realised will depend less on the strategies themselves than on the sustained institutional follow-through of the bodies that adopted them.



Bibliography

- Abbott KW and Snidal D, 'Hard and Soft Law in International Governance' (2000) 54 International Organisation 421 https://sc.edu/study/colleges_schools/law/internal/current_students/registrar/first_readings/pdfs/spring2026_ai_law_sellavilla-hard-soft-law.pdf
- African Commission on Human and Peoples' Rights, Model Law on Access to Information for Africa (2013), <https://achpr.au.int/en/node/873>
- African Union, 'Continental Artificial Intelligence Strategy' (African Union, 9 August 2024), <https://au.int/en/documents/20240809/continental-artificial-intelligence-strategy>
- African Union, Continental Artificial Intelligence Strategy: Harnessing Africa's Development and Prosperity (Continental AI Strategy, July 2024) https://au.int/sites/default/files/documents/44004-doc-EN-Continental_AI_Strategy_July_2024.pdf
- Bharati RK, 'AI and Intellectual Property: Legal Frameworks and Future Directions' (2024) 4(2) International Journal of Law, Justice and Jurisprudence, 207, <https://www.lawjournal.info/article/141/4-2-31-193.pdf>
- British Institute of International and Comparative Law, 'Bridging Soft and Hard Law in AI Governance' (BIICL Blog), <https://www.biicl.org/blog/121/bridging-soft-and-hard-law-in-ai-governance>
- Centre for Intellectual Property and Information Technology Law (CIPIT), The State of AI in Africa Report (2025), <https://aiconference.cipit.org/documents/the-state-of-ai-in-africa-report.pdf>
- Columbia Global Freedom of Expression, 'Model Law on Access to Information for Africa and Other Regional Instruments: Soft Law and Human Rights in Africa', <https://teaching.globalfreedomofexpression.columbia.edu/resources/model-law-access-information-africa-and-other-regional-instruments-soft-law-and-human>
- Côte d'Ivoire, Ministère de la Transition Numérique et de la Digitalisation, Stratégie Nationale de l'Intelligence Artificielle (2024), <https://telecom.gouv.ci/new/uploads/publications/174196670372.pdf>
- Crouch DD, 'Using Intellectual Property to Regulate Artificial Intelligence' (2024) 89 Missouri Law Review, 781, <https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=4679&context=mlr>
- Cuntz A, Fink C and Stamm H, Artificial Intelligence and Intellectual Property: An Economic Perspective (WIPO Economic Research Working Paper No 77/2024, Geneva, 2024), <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-econstat-wp-77-en-artificial-intelligence-and-intellectual-property-an-economic-perspective.pdf>
- De Beer Attorneys, 'What Is WIPO? Explaining Its Impact On South African IP Law' (26 October 2024), <https://www.debeerattorneys.com/post/what-is-wipo>

Digital Watch Observatory, '(AU) Continental Artificial Intelligence Strategy' (dig.watch, 26 August 2024), <https://dig.watch/resource/au-continental-artificial-intelligence-strategy>

Federal Ministry of Communications, Innovation and Digital Economy (Nigeria), National Artificial Intelligence Strategy, <https://ncair.nitda.gov.ng/wp-content/uploads/2025/09/National-Artificial-Intelligence-Strategy-19092025.pdf>

Findlay M, Kawaja A, Min OL and Shanmugam S, Conversations at the Intellectual Property and Artificial Intelligence Interface: Understanding the Needs of Singapore's Innovation Community (SMU Centre for AI & Data Governance Research Paper No 05/2022, 2022),

Ghana (Republic of), National Artificial Intelligence Strategy: 2023–2033 (Ministry of Communications and Digitalisation, October 2022), <https://www.africadataprotection.org/Ghana-AI-Strat.pdf>

Global Majority and International AI Governance Project, 'The Global Majority in International AI Governance' (arXiv, 2026) <https://arxiv.org/pdf/2601.17191>

Government of Lesotho, Draft Artificial Intelligence Policy Implementation Plan – 0.1 (second draft) (Ministry of Information, Communications, Science, Technology and Innovation, 21 January 2025), https://www.gov.ls/download/draft-artificial-intelligence-policy_1-0/

Gutierrez CI and Marchant GE, A Global Perspective of Soft Law Programs for the Governance of Artificial Intelligence (Sandra Day O'Connor College of Law, Arizona State University, 2021), <https://lsi.asulaw.org/softlaw/wp-content/uploads/sites/7/2022/08/final-database-report-002-compressed.pdf>

'How "Hard" are Hard Laws? AI Legislation, Soft-Law Governance, and Comparative Lessons from South Korea and Japan (ScienceDirect, 2026) <https://www.sciencedirect.com/science/article/pii/S2212473X26001069>

Joint Comment to WIPO, 'Comment on Copyright and Artificial Intelligence' (Program on Information Justice and Intellectual Property, infojustice.org, 2020), <https://infojustice.org/archives/42009>

Kenya, Ministry of Information, Communications and the Digital Economy, National Artificial Intelligence Strategy 2025–2030 (March 2025), <https://ict.go.ke/sites/default/files/2025-03/Kenya%20AI%20Strategy%202025%20-%202030.pdf>

Khan A and Vaishnav P, 'Intellectual Property Law in the Era of Artificial Intelligence' (2024) 6 International Journal of Law, Policy and Social Review 125, <https://www.lawjournals.net/assets/archives/2024/vol6issue2/6056.pdf>

Marchant G, Tournas L and Gutierrez CI, 'Governing Emerging Technologies through Soft Law: Lessons for Artificial Intelligence' (2020) 61 Jurimetrics Journal 1, <https://lsi.asulaw.org/softlaw/wp-content/uploads/sites/7/2021/04/01-18-gets-through-soft-law->

[special-issue-intro.pdf](#)

Mauritius Government, Mauritius Artificial Intelligence Strategy (Ministry of Technology, Communication & Innovation, May 2025), <https://intic.gov.mz/wp-content/uploads/2025/05/Mauritius-AI-Strategy-7.pdf>

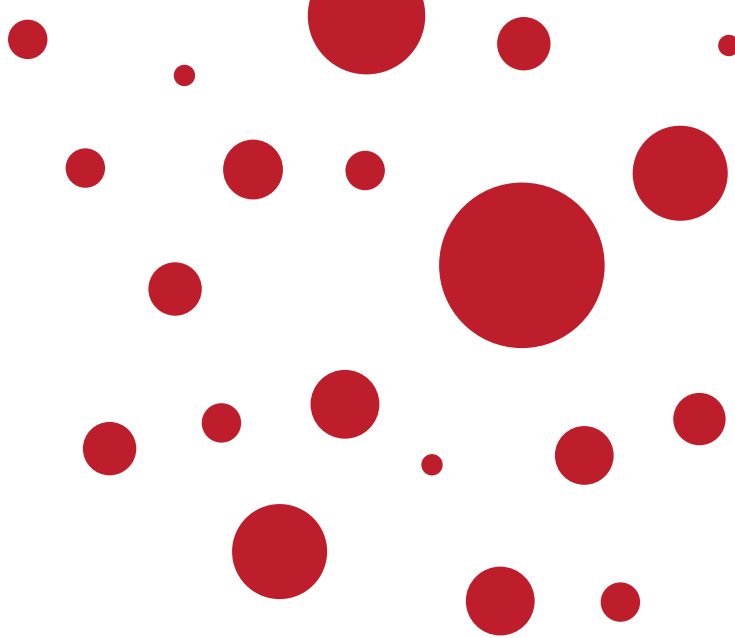
Ncube CB, 'A New Intellectual Property Organization for Africa?' (2013) 8 Journal of Intellectual Property Law & Practice 114, <https://open.uct.ac.za/bitstreams/2ad1d428-c63a-42d0-9a11-f40a411bb091/download>

Nkomo M, 'Regional Integration in the Area of Intellectual Property: The Case for Southern African Development Community Involvement' (2014) 18 Law, Democracy and Development 317, https://scielo.org.za/scielo.php?script=sci_arttext&pid=S2077-49072014000100016

Tiedrich L, Perset K and Esposito SF, Intellectual Property Issues in Artificial Intelligence Trained on Scraped Data (OECD Artificial Intelligence Papers No 332, OECD, Geneva, February 2025), https://www.oecd.org/content/dam/oecd/en/publications/reports/2025/02/intellectual-property-issues-in-artificial-intelligence-trained-on-scraped-data_a07f010b/d5241a23-en.pdf

World Intellectual Property Organization (WIPO), Getting the Innovation Ecosystem Ready for AI: An IP Policy Toolkit (Geneva, 2024), <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-2003-en-getting-the-innovation-ecosystem-ready-for-ai.pdf>

Zambia, Ministry of Technology and Science, National Artificial Intelligence Strategy 2024–2026 (February 2025), <https://www.mots.gov.zm/wp-content/uploads/2025/02/Zambia-Ai-Strategy-Book-option-2.pdf>



Funded by



© 2026 by Center of Intellectual Property and Technology Law (CIPIT). This work is licensed under a Creative Commons Attribution – NonCommercial – ShareAlike 4.0 International License (CC BY NC SA 4.0). This license allows you to distribute, remix, adapt, and build upon this work for non – commercial purposes, as long as you credit CIPIT and distribute your creations under the same license: <https://creativecommons.org/licenses/by-nc-sa/4.0>