SmartAI IP

ADAMS & ADAMS
Realise African Enterprise

Bi-Monthly News Report on AI & IP Developments for Africa | January issue

Two Minute Read:

In the high profile Getty Images case (see September and November editions) Getty Images has secured permission to appeal aspects of the UK High Court's Stability AI decision, meaning that the copyright status of AI training models remains unsettled. In the United States, attention has shifted from blockbuster copyright suits to how AI is embedded in innovation workflows, with the USPTO issuing refined inventorship guidance clarifying how examiners will assess human contribution in AI-assisted patents. In parallel, EU general-purpose AI transparency duties are no longer novel rules but are now reshaping contracts, procurement and due-diligence practices. Regulators are also looking beyond copyright: New York's new disclosure and personality-rights laws show how synthetic media is being governed through advertising and identity frameworks. For African businesses, rights-holders and universities, the message is consistent: AI/IP risk is now managed through governance, documentation and appeals, and are guided by international case law developments.

If you want to understand your business or organisation's state of readiness today, take our online AI IP Readiness Assessment at www.smartaiip.adams.africa. It takes just a few minutes to complete.

Please join us at our Crammer® 2026 Decoding the Future: Law, Leadership & Legaltech in a Fragmented World (March 19 @ The Leonardo, Sandton, 12:00 – 19:00) RSVP at SmartAIIP@adams.africa

Further information: links and take-outs

Getty Images v Stability AI: appeal permission granted – copyright questions return to centre stage [UK Court of Appeal, December 2025]

Summary: Getty has obtained permission to appeal the High Court's rejection of its secondary copyright infringement case, ensuring that the treatment of AI model weights under UK copyright law will be reconsidered.

Context: The first-instance decision was covered in our November newsletter. The appeal re-opens the analysis and confirms that the legal position on AI training remains in flux.

Why this matters:

- **In-house teams:** do not treat the High Court ruling as final; maintain conservative positions on AI training risk.
- **Rights-holders:** the appeal preserves leverage around training-data theories thought to be closing.
- **Educators & researchers:** a live appellate case study on how courts conceptualise AI models.

Link: Judgment (PDF): hhttps://ipkitten.blogspot.com/2026/01/permission-to-appeal-granted-in-getty.html



USPTO clarifies inventorship standards for AI-assisted inventions [USPTO guidance, November 2025]

Summary: Revised USPTO guidance reinforces that only natural persons qualify as inventors and clarifies how examiners will assess human contribution where AI tools are used.

Context: The principle is not new, but the updated guidance signals how it will be enforced in practice. You will recall that South Africa's Companies and Intellectual Property Commission (CIPC) made history in 2021 by becoming the first patent office in the world to grant a patent listing an artificial intelligence, rather than a human being, as the inventor. Since then, international tribunals have largely moved away from this position.

Why this matters:

- **In-house teams:** document human decision-making in AI-assisted R&D to protect patent rights.
- **Rights-holders:** clearer standards reduce uncertainty but raise evidentiary expectations.
- **Educators & researchers:** highlights the growing gap between technical creativity and legal inventorship.

Link: https://www.mayerbrown.com/en/insights/publications/2025/12/united-states-patent-and-trademark-office-issues-revised-guidance-on-inventorship-for-ai-assisted-inventions

EU AI Act GPAI transparency duties move into contracting practice [EU implementation, late 2025]

Summary: GPAI transparency rules are now shaping real-world procurement and contracting as well as compliance checklists.

Context: Earlier editions covered the rules themselves; this period shows how they are being operationalised.

Why this matters:

- **In-house teams:** expect AI supplier diligence to resemble ongoing regulatory audits.
- **Rights-holders:** training-data summaries create new licensing pressure points.
- **Educators & researchers:** provides concrete material for teaching regulatory spill-over.

Link: https://www.hsfkramer.com/notes/ip/2025-09/ai-regulation-hasnt-taken-a-summer-break-transparency-requirements-re-training-data-and-compliance-with-copyright-law-come-into-force

Synthetic media regulation expands beyond IP: New York's AI advertising and likeness laws [Reuters, December 2025]

Summary: New York enacted laws requiring disclosure of AI-generated performers and expanding protection for digital replicas.This applies to synthetic performers in advertisements distributed to New York audiences, regardless of whether the advertiser is located outside of the state. A "synthetic performer" is a digital asset that is created, reproduced, or modified by computer using generative AI or a software algorithm and that is intended to give the impression of an audio, audiovisual, and/or visual performance by a human performer.

Context: Rather than copyright, lawmakers are using consumer-protection and personality-rights tools to regulate AI outputs.

Why this matters:

- **In-house teams:** AI compliance now extends into marketing and brand governance.
- **Rights-holders:** broader control over commercial exploitation of identity.
- **Educators & researchers:** demonstrates fragmentation of AI governance across legal domains.

Link: https://www.reuters.com/legal/legalindustry/new-york-legislation-requires-disclosure-ai-generated-performers-advertising--pracin-2026-02-05/



AFRICAN AI GOVERNANCE NOTE

No major new African AI-specific IP cases emerged in this period. The focus has instead been on governance uptake, with South Africa's King V Report increasingly referenced in board-level technology and risk frameworks, signalling a shift from AI policy discussion to director accountability.

Reference:

https://www.iodsa.co.za/page/iodsa-kingv

EDITORIAL NOTE: WHAT WE CHOSE NOT TO REPEAT

SmartAI IP is intentionally cumulative rather than repetitive. Where a story has not materially moved since the last edition, we have not re-covered it. Where developments have occurred, we have focused on what has changed (appeals, implementation, enforcement or governance) and referenced earlier editions for context. Our aim is to help in-house teams, rights-holders and educators track legal momentum.

Join us at Crammer® 2026

Decoding the Future: Law, Leadership & Legaltech in a Fragmented World

March 19 @ The Leonardo, Sandton, 12:00 – 19:00

This year's theme will explore what it practically means for organisations navigating complexity, innovation and change across Africa and beyond.

The programme brings together senior legal professionals and business leaders for thoughtful, practical discussion on emerging technologies, adaptive leadership and future-ready governance frameworks. Graeme Codrington is our keynote speaker, offering perspective on the future of work and leadership.

RSVP at SmartAIIP@adams.africa

How we can help:

Vetting Services | Policy Creation | Education | Intellectual Asset Management
Contract Drafting | Monitoring

Contact us for a coffee: smartaiip@adams.africa | www.smartaiip.adams.africa

