

AI IP Legal Risk Briefing for Business Leaders

Why this matters

Artificial Intelligence (AI) is transforming industries. Its interaction with Intellectual Property (IP) law creates significant uncertainty. Businesses adopting AI tools or developing AI solutions face risks that could affect ownership, liability, and reputation.

1. Ownership and Inventorship Risks

Most jurisdictions only recognise natural persons as inventors. South Africa's DABUS patent (AI as inventor) is the exception, for the time being. AI-created works may not qualify for IP protection, leaving ownership claims vulnerable.

2. Training Data and Copyright

AI models often train on large datasets containing copyrighted material. Global lawsuits test whether this is infringement. Businesses risk liability if vendors use unlicensed data.

3. Outputs and Infringement

AI outputs may reproduce or mimic existing protected works. Use of AI-generated images, text, or code could trigger infringement claims.

4. Trade Secrets and Confidential Information

Using AI tools for sensitive business information may inadvertently disclose trade secrets, risking data leaks, loss of exclusivity, and breaches.

5. Governance and Compliance

Regulatory approaches are diverging. The EU has an AI Act, Africa has a patchwork of laws. Businesses face compliance burdens across jurisdictions, making governance frameworks essential.

Practical Steps for Leaders

1. Audit AI use in your business.
2. Review contracts with AI providers.
3. Implement responsible AI policies and IAM registers, especially for unregistered rights.
4. Engage counsel early for AI-driven products.
5. Monitor litigation and policy developments globally and in Africa.

Bottom Line

AI offers opportunity but also new IP legal risks. Proactive governance, careful contracting, and awareness of evolving case law will help protect your business.