

WEBBER WENTZEL

in alliance with > **Linklaters**



KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022





KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022

2021

Adoption of digital channels accelerated in 2021 due to continuous lockdowns and consumers' preference for transacting virtually. There was a surge in tech investment in multiple sectors, particularly in financial services, where numerous new fintech initiatives were launched. Social media and other online platforms moved into the spotlight as regulators attempted to address market concentration and consumer protection.

2022

We expect industry players will take further steps to refine the customer experience during digital transacting and interacting. This development is likely to be fuelled by innovative Fourth Industrial Revolution technologies, such as artificial intelligence tools like chatbots and connected devices powered by the Internet of Things. Investors will respond to opportunities in digital platforms, which will mean another year of joint ventures, M&A transactions and general commercial arrangements in the tech sector. A key issue which will continue into 2022 is the patentability of new technologies, and investors will choose to invest in jurisdictions where their IP/tech assets can be protected.

Top tech development to watch in 2022

GreenTech

The road to net-zero is high on the agenda for most, if not all nations, following the pledges made at COP26. Boards of directors around the world are applying their minds to how the private sector can meaningfully contribute to a greener future. GreenTech attracted significant investment during 2021, and this is likely to increase in 2022. There are many opportunities for technology innovators and investors to create net-zero solutions.

Examples include technology solutions that track, measure and report on carbon emissions. Artificial intelligence that reduces carbon emissions by recycling waste or using renewable energy resources will also be sought after in 2022 and beyond. The scalability and success of these solutions will hinge on regulatory clarity on reporting and compliance requirements.

[Read more](#)





KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022

	▼ 2021	▼ 2022
1	<p>Compliance with data protection legislation Businesses needed to be fully compliant with POPIA by 30 June 2021. Read more Read more</p> <p>The Information Regulator published various guidelines in 2021 to help businesses interpret and comply with POPIA. Read more Read more Read more</p> <p>Draft POPIA Regulations were published for public comment. Read more</p> <p>The functions of the South African Human Rights Commission under the Promotion of Access to Information Act, 2000 (PAIA) were transferred to the Information Regulator. New PAIA Regulations and an updated PAIA guide were published, as well as the Information Regulator’s PAIA Manual. Read more Read more</p> <p>All public and private bodies were required to compile a PAIA manual by 31 December 2021. Read more</p>	<p>Data breaches and increased data protection enforcement Data breaches are likely to continue escalating into 2022, given the ongoing COVID-19 pandemic and the resultant global shift to a digital / hybrid environment.</p> <p>In 2021 the Information Regulator intended to launch a complaints handling system to help it to deal with the high volume of complaints it expected to receive once POPIA became operational. This system was not launched and is likely to be activated in 2022.</p> <p>We anticipate increased POPIA enforcement by the Information Regulator during 2022, aided by streamlined internal processes in the office of the Information Regulator and technological developments (such as an automated complaints management system).</p> <p>We also anticipate the publication of further guidance notes by the Information Regulator, as well as the development of POPIA-related case law by South African courts. These developments will assist in interpreting POPIA.</p> <p>Organisations that are required to obtain prior authorisation to process certain categories of personal information needed to obtain this authorisation by 1 February 2022. Read more</p>
2	<p>Cybercrimes Act signed into law and becomes partially operational The President signed the Cybercrimes Bill in May 2021. This Bill, now called the Cybercrimes Act, 2020 (Cybercrimes Act), criminalises various cybercrimes, including illegally accessing a computer system or intercepting data, cyber fraud, cyber forgery, cyber extortion and theft of incorporeal property. Read more</p> <p>On 1 December 2021, some parts of the Cybercrimes Act came into operation, including the sections that create types of cybercrimes and malicious communications; jurisdiction of the courts; and the investigation and search and seizure powers of the South African Police Service and investigators. Read more</p>	<p>Remainder of the Cybercrimes Act to become operational The remainder of the Cybercrimes Act is likely to become effective in 2022, including the sections that create reporting obligations for electronic communications service providers and financial institutions.</p>



KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022

	▼ 2021	▼ 2022
3	<p>Crypto assets scams create risk for investors</p> <p>Numerous crypto scams occurred in 2021, such as the Africrypt scam, which resulted in investors losing billions of dollars. The Financial Sector Conduct Authority (FSCA) has been edging towards regulating crypto assets by including them as financial products under the Financial and Intermediary Services Act, 2002. This would give the FSCA jurisdiction over these assets, a move which would minimise the risk for investors.</p>	<p>Financial Sector Conduct Authority plans to regulate crypto assets</p> <p>The transition from traditional investing to crypto investing will gain more momentum in 2022, and the FSCA is still working on a framework of rules to regulate this. Enhanced regulation is aimed at (among other things) ensuring the efficiency and integrity of financial markets and promoting responsible innovation.</p>
4	<p>Amendments to Patent and Design laws</p> <p>There were no further developments on the draft Patents Amendment Bill or the draft Designs Amendment Bill submitted to Cabinet for approval in 2020.</p>	<p>Further developments in amending Patent and Design laws</p> <p>We remain hopeful that there will be clarity on the content of the draft Patents Amendment Bill and the draft Designs Amendment Bill in 2022.</p>
5	<p>Patents and AI</p> <p>The South African patent office granted a patent for an AI invention created by the Device for the Autonomous Bootstrapping of Unified Sentience (Dabus). The EU, UK and US patent offices rejected patent applications for the invention created by Dabus.</p>	<p>Patents and AI</p> <p>Global controversy about patents being awarded to AI systems will persist in 2022.</p>



KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022

	▼ 2021	▼ 2022
6	<p>Amendments to the Copyright Amendment Bill and the Performers’ Protection Amendment Bill</p> <p>The Copyright Amendment Bill and the Performers’ Protection Amendment Bill were advertised for public comment after the President sent them back to the National Assembly in 2020 due to constitutionality concerns. Read more</p>	<p>The Copyright Amendment Bill and the Performers’ Protection Amendment Bill – will 2022 be the year of finalisation?</p> <p>Public comments on the advertised amendments to the Copyright Amendment Bill and the Performers’ Protection Amendment Bill were due by 21 January 2022.</p> <p>It remains to be seen whether these Bills will be signed into law in 2022. There are likely to be further delays in progressing them due to the controversial nature of the proposed amendments.</p>
7	<p>ICASA issues final invitation to apply for High-Demand Spectrum</p> <p>The Independent Communications Authority of SA (ICASA) issued a final Invitation-to-Apply (ITA) for international mobile telecommunications (IMT) spectrum, also known as high-demand spectrum. This development follows a year of stop-start, when various interested parties launched proceedings to interdict ICASA from proceeding with these ITAs.</p> <p>ICASA has separated the auction of the wireless open-access network (WOAN) from the licensing of IMT spectrum.</p>	<p>High-Demand Spectrum and WOAN licensing</p> <p>Applications for IMT spectrum were due by 31 January 2022. We remain hopeful that the subsequent stages of the award process will be concluded during 2022.</p> <p>ICASA intends to communicate the process for WOAN licensing by March 2022.</p>
8	<p>Public hearings on the White Paper on audio and audiovisual content services</p> <p>The Department of Communications and Digital Technologies held public hearings on the White Paper on audio and audiovisual content services that was published in 2020.</p>	<p>Revised White Paper on audio and audiovisual content services</p> <p>A revised White Paper, incorporating inputs from the various stakeholders that participated in the 2021 public hearings, is due to be released. The revised version is likely to differ from the original version in some respects, given the controversy around the original proposals.</p>



KEY TECH AND IP DEVELOPMENTS IN SA: 2021 / 2022

	▼ 2021	▼ 2022
9	<p>4th Industrial Revolution report still in early stages</p> <p>The 4th Industrial Revolution (4IR) report that was published by the Presidential Commission in 2020 gained little traction in 2021. This report, which is still in its initial draft form, contained strategic recommendations to enable SA to participate in the 4IR.</p>	<p>4th Industrial Revolution report unlikely to gain momentum in 2022</p> <p>The report is still in its infancy, so there is still limited information available on how its proposals will be delivered. We do not foresee significant legal developments in this space during 2022.</p>
10	<p>Market inquiries and advocacy</p> <p>The Online Intermediation Platform Market Inquiry (OIPMI) moved swiftly ahead in 2021. Several requests for information were issued to stakeholders and public hearings took place in late 2021.</p>	<p>Market inquiries and advocacy</p> <p>The OIPMI will hold closed in-camera hearings in early 2022 and publish its provisional report by May 2022. The final report is scheduled to be published in November 2022. It is likely that the recommendations contained in the final report will have far-reaching consequences for firms operating in digital markets.</p>



"Praised for its enviable ability to handle significant commercial matters in the IP space." - **Chambers Global**

FOR MORE INFORMATION ON KEY TECHNOLOGY
AND IP RELATED DEVELOPMENTS IN AFRICA,
CONTACT US

Johannesburg

90 Rivonia Road, Sandton, Johannesburg, 2196
t: +27 11 530 5000

Cape Town

15th Floor, Convention Tower, Heerengracht,
Foreshore, Cape Town, 8001
t: +27 21 431 7000

www.webberwentzel.com

WEBBER WENTZEL

in alliance with > **Linklaters**