

PODCAST



The Africa Law Tech Podcast explores the latest in legal technology and innovation in the African Continent. Follow and Listen to the Podcast on Spotify, Apple Podcasts, and all other leading podcast platforms.

OPINION

Kenyas' Minimum Tax Ruling a win for Small and Medium Entreprises (SMEs)

INTELLECTUAL PROPERTY

Pressure Mounts on US to Share COVID-19 Vaccine Technology

Biden's administration has privately urged both Pfizer and Moderna to get into joint ventures where they would license their technology to contract manufacturers




Newsletter

ISSUE 8 | SEPTEMBER 29 | 2021

www.lawyershub.org @lawyershubkenya

LEGAL TECH

STARTUPS

SOUTH AFRICAN

Crunchbase estimates that LegalTech Startups have topped \$1B In Funding This Year

Legal tech companies have already seen more than \$1 billion in venture capital investments so far this calendar year, according to Crunchbase data. The number surpasses the \$510 million invested last year and the all-time high of \$989 million in 2019. ers create their own bespoke wills within a few minutes.



PHOTO:APPLE

CRYPTO AND DIGITAL CURRENCIES

You can now tip your favourite Twitter Accounts in Bitcoin

Twitter tipping feature, Tips is rolling out to users with more payment options to choose from including crypto. The feature allows users to drop links to their payment profiles in their bios and in their Tweets. Tips makes this easier to do, offering one fixed spot, right on your profile, where you can link to your Cash App, Chippercash Patreon, Venmo or crypto wallets for other users to support you.

Nigerian businesses can now accept Apple Pay on Paystack

Paystack, the African fintech company that powers and processes payments for businesses, today announced that it is launching Pay with Apple Pay on its platform. Pay with Apple Pay

is a new payment channel that lets you accept international payments quickly and securely from millions of Apple Pay users. This makes Paystack the first payment gateway in Nigeria to support Apple Pay.

Kenya Startup, Koa, pitches at Startup Battlefield Disrupt 2021

Koa, a Kenyan-based fintech startup was among the five finalists for the Startup Battlefield challenge 2021. Koa is competing for \$100,000 and the Disrupt Cup. Koa, a digital savings app that offered Kenyans an easy and modern way to save some money and accomplish their goals while earning better interest than competitors was the only African fintech among finalists.

Flutterwave and 9PSB partner to promote inclusive financial services

Flutterwave, Africa's leading payments technology company and Nigeria's first payment service bank, 9PSB have entered into a partnership agreement that will help facilitate seamless financial services for Nigerians. The partnership seeks to create a seamless payment ecosystem by aggregating and simplifying transactions for banking agents, merchants, and consumers.

DATA PROTECTION NEWS

Data Privacy Rights test in Rubis, Gulf Buyout Dispute

■ A dispute between Gulf Energy and Rubis Energy is expected to answer the question on ownership as concerns recovered deleted data and information contained in somebody's bought computer, and further whether you can use such information to make a claim against the seller. Rubis, which bought key assets owned by Gulf Energy, is claiming that the assets had been overvalued and thus seeking to be refunded. This is after they had conducted aggressive data recovery methods on the computers that had all data erased from them prior to the hand over. Gulf has since filed a privacy violations claim against Rubis in the use of the recovered data.



African Bank warns on Data Breach with Personal Details Compromised

■ African Bank has confirmed that one appointed professional debt recovery partner, Debt-IN, was a target of cyber criminals in April 2021, which resulted in a data breach- where a number of customers, including African Bank loan customers, under debt review, had been compromised. A robust mitigation plan has been implemented by Debt-IN to contain and reduce further adverse impact. The necessary regulatory authorities were also notified and the parties are in the process of alerting customers who have been affected, via email and SMS.



Vattenfall Europe Gets \$1M Data Protection fine

■ Vattenfall Europe was fined about \$1 million Germany for encroaching on the privacy rights of 500,000 people between August 2018 and December 2019. The Hamburg Data Protection Authority stated that the company had violated transparency rules under the EU's General Data

Protection Regulation. They however noted the extensive cooperation given by the company which stopped the disputed practice of comparing old and new data on customers without their knowledge as soon as investigations commenced, conduct which led to a cut in the fine.

DIGITAL ID NEWS

Every Indian Citizen To Have Digital Health ID Card

■ Prime Minister Narendra Modi announced the nationwide rollout of the National Digital Health Mission (NDHM), a scheme that will enable Indians to create and access digital health records. The mission, under which every Indian will get a unique 14-digit health identification (ID) number, has been renamed the Pradhan Mantri Digital Health Mission (PM-DHM). Under this, a unique digital health ID will be provided to the people, which will contain all their health records.



ARTIFICIAL INTELLIGENCE NEWS

UK Unveils National Artificial Intelligence Strategy

■ The UK has unveiled its 10-year National Artificial Intelligence Strategy with the aim of securing the country's place as "a global AI superpower".

The National AI Strategy builds on the UK's strengths but also represents the start of a step-change for AI in the UK, recognising the power of AI to increase resilience, productivity, growth and innovation across the private and public sectors.

INTELLECTUAL PROPERTY NEWS



Pressure Mounts on US to Share COVID-19 Vaccine Technology

Pressure continues to grow on American drug companies - particularly Moderna, to share their formulas with manufacturers in nations that are in desperate need of more shots. Biden's administration has privately urged both Pfizer and Moderna to get into joint ventures where they would license their technology to contract manufacturers with the aim of providing vaccines to low and middle income countries

Amazon Bans Hundreds of Chinese Brands from System

Amazon has permanently banned 3000 different seller accounts for knowingly, repeatedly and significantly violating Amazon's policies in particular those that review abuse. The company vows to continue to improve abuse detection and take enforcement action against bad actors including those that knowingly engage in multiple and repeated policy violations.

Artificial Intelligence Cannot be the Inventor of a patent; Appeal Court Rules

The debate on whether a law written for human inventors can be applied to machines continues to rage. A UK Court of Appeal recently ruled against one Stephen Thaler, the creator of a system called Dabus who lodged a case against the UK's Intellectual Property Office after it refused to grant patents to his AI. Thaler has already lost a similar case in the US. The Court has ruled that under UK law an inventor must be a real human person arguing that a patent is a statutory right and it be granted to a person.

EVENTS

Global Financial Fitness Summit 29th October 2021

The Global Financial Fitness Summit brings hundreds of people together to discuss financial fitness. Due to Covid-19 restrictions, this will be a hybrid event that will be partly virtual. The event expects to have speakers with expertise and experience in financial literacy from different countries led by America's leading financial fitness coach, Steve Down.

Forum on Internet Governance in Africa 28th - 30th September 2021

The Collaboration on International ICT Policy for East and Southern Africa (CIPEA) will host the eighth edition of the annual Forum on Internet Freedom in Africa (FIFAfrica). The Forum is a landmark event that convenes a wide spectrum of stakeholders from across the internet governance and digital rights arenas.

East African Mining & Energy Conference 12th to 14th October 2021

This is a hybrid conference and expo that will bring together the entire extractives sector that includes both petroleum and mining to discuss and explore numerous business opportunities both on a regional and international scale

The Africa CEO Forum - Digital Edition September 28th to 30th

The Africa CEO Forum is the largest gathering of the African private sector, providing a platform where the continent's most influential decision-makers can make their voices heard on the new world before us. It's also a prime opportunity to discuss how African businesses can best adapt to and stay competitive in an ever-evolving environment.

Threat Landscape 2022: How to Future Proof Your Cybersecurity Strategy 9th October 2021

In this webcast, a panel of IT security leaders will offer their predictions for the coming year and their advice for navigating the cybersecurity landscape, creating a security culture on campus, and updating your security strategy for a new era.

The 2021 Emerging Legal Technology Forum 4th November 2021

This forum offers a comprehensive look at how a pandemic year has accelerated (or in some instances derailed) the ongoing industry disruption of the past several years. What projects or initiatives are business and technology leaders prioritizing in a world struggling to regain momentum? What lessons has a year (or two) in quarantine taught us about technological investments and implementation going forward? And are law firms and corporate or government entities truly equipped to handle the demands of a new work environment?

Africa Law Tech Festival 2021: CIPESA Underscores Strategies to Cutting through Common Emerging Barriers to Access to Justice Despite the COVID-19 Pandemic

At the onset of the COVID-19 pandemic, governments across Africa implemented measures to curb the spread of the virus that greatly disrupted judicial processes, slowing down access to justice. Such measures include [suspension of all in-person court activities like mentions, hearings and appeals as well as execution of court judgements](#). Gradually, courts looked to adopting technological measures to aid in the delivery of justice; measures which despite the noble intentions, had to be grounded in law.

These developments informed the Collaboration on International ICT Policy for East and Southern Africa (CIPESA)'s masterclass at the second edition of the Africa Law Tech Festival, a five-day annual conference that convenes different stakeholders in Africa to deliberate on digital policy issues. In line with this year's theme, 'Digital Policy for Economic Growth', the class explored The Role of Lawyers and Courts digital access to Justice amidst the Covid 19 Pandemic. CIPESA affirmed that for many African countries, the basis for e-justice can be founded on the supreme law- the Constitution. In July 2020, the Supreme Court of Nigeria ruled in favour of virtual courts and [dismissed suits](#) by Lagos and Ekiti States in which they sought to have virtual courts declared unconstitutional and null and void.

Since the emergence of COVID-19, the African Judicial system has greatly changed. Courts have developed guidelines and practice notes for development of virtual courts and adopted online case management systems. As at December 2020, at [least 20 African states](#) had adopted e-filing and e-service and incorporated virtual hearings. Despite these successes, there are various challenges inhibiting the growth and adoption of virtual courts in Africa including:

Costs of acquisition

The costs of acquisition of hardware and software needed for virtual courts. Africa has the lowest internet penetration rate caused by high cost of services and connectivity devices. In 2020, the Alliance for Affordable Internet [reported](#) that Africa had the least affordable smart devices globally costing about 62.8% of individual monthly income. Unaffordable devices raise the cost of connectivity for most Africans, pushing many offline. Conversely, those offline are not able to effectively utilize and participate in virtual courts, thus limiting access to justice. In Uganda, the judiciary obtained support from [the UNDP to purchase](#) zoom licenses. In Kenya, the judiciary [partnered with the Ministry of ICT](#) to acquire licenses for teleconferencing facilities and technical officers to provide support in respective court stations.

Africa's increasing digital divide has further degenerated access to justice.

The [International Telecommunication Union](#) reports that Africa has the [lowest percentage](#) of persons using the internet globally. Moreover, urban areas have [twice as much](#) home internet access than rural areas. Despite having internet access, the reliability may be affected by constant [power outages](#). Other justice actors like prisons would also need to be meaningfully connected. [Previous efforts](#) to implement the e-

filling system and virtual courts by the judiciary in Kenya were slowed down due to lack of digital infrastructure and unreliable electricity in courts. As the adoption of virtual courts becomes widespread, it is crucial to ensure accessibility for all by addressing issues of digital infrastructure, device and broadband affordability otherwise justice would be [discriminatory](#) and a violation of their right to access to justice.

Law and policies regulating the internet are not favourable.

For instance, taxation of the internet leads to high data costs which in most cases aggravates digital exclusion. In 2021, Uganda replaced the unpopular social media tax of 200 shillings (USD 0.02) by introducing a [12% excise duty on the internet](#). In 2018 Zambia [introduced a daily tax of USD 0.03](#) on internet voice calls following research that 80% of the citizens were using internet voice calls like WhatsApp, Skype and Viber. Recently, Kenya [raised excise duty](#) on internet services by from 15% to 20% further raising the cost of internet. Such tax raises the cost of the internet, decreasing affordability for most citizens. Limitation on access and usage stifles innovation and ultimately access to justice as litigants would also be required to meet these high costs whether directly or indirectly.

Rise in cybercrimes

While digital security is important for a safe digital space, there has been a rise in cybercrimes during the COVID-19 pandemic. This includes malware [that was previously dormant](#). The Communication Authority of Kenya reported a [152.9% increase](#) in cybercrimes during the pandemic as cyber criminals exploit vulnerable computer systems. With [recent cyberattacks](#) in Uganda's financial system as well as South Africa's healthcare, there is concern over capacity to deal with cyberattacks given the sensitivity of judicial proceedings. Cyberattacks and crime are usually associated with a chilling effect on the use of digital platforms.

Lack of the required digital skills

Meanwhile lack of the required digital skills pose a challenge to use of ICTs. While the goal remains to leave no one in Africa offline, African participation may be hindered by lack of digital skills. According to a study by the International Finance Corporation, by 2030, [over 200 million jobs](#) in Africa will require digital skills. This means that Africans should strive to have the basic skills required that allows for full participation in virtual court system such as the filing of documents or attendance of virtual hearings. This is especially so in critical times like the pandemic [where isolation could cause one to be away from those with the digital skills](#).

From the aforementioned highlights, it is necessary to undertake practice measures that harness access and use of technology for justice. This would in turn lead to maximization of the benefits of e-justice. Similarly, governments should undertake a favourable licensing policy and legal frameworks that encourage investment and connectivity in ICTs.

Kenyas' Minimum Tax Ruling a win for Small and Medium Enterprises (SMEs)



The Finance Act, 2020 introduced SEC. 12D of the Income Tax Act, providing for Minimum Tax at the rate of 1% of gross turnover effective January 2021.

The Guidelines on Minimum Tax defined gross turnover as 'gross receipts, gross earnings, revenue, takings, yield, proceeds, sales or other income chargeable to tax under section 3(2) excluding a person's income which is chargeable to tax under sections 5, 6A, 12C, the Eighth or the Ninth Schedules and exempt income under any provision of the Income Tax Act, Cap 470.'

The publication of the Finance Bill, 2020 led to a petition filed by registered officials of the Isinya East Sub County Bar Owners Association who operate their businesses within Kitengela, Isinya, Athi River and Mavoko.

In their submissions, the petitioners averred that, the tax did not constitute Income Tax as prescribed under ART. 209(1) of the Constitution. Further, the tax did not fall under the realm of VAT or excise duty.

They also argued that the tax went against the principles of fair taxation and economic capacity which state that the percentage of taxable income cannot exceed the wealth objectively available. The petitioners cited SMEs in their sub-

missions, stating that by subjecting SMEs, that are often loss-making before they return profits, to the minimum tax, the taxman imposes a tax on such businesses capital and not profits. Coupled with high costs of licenses and permits, the tax would have the effect of creating a heavy burden of taxation on such businesses and individuals compared to their more established counterparts.

The respondents on the other hand submitted that the payment of taxes is an obligation imposed on all businesses. Therefore, if the court upheld the petitioners' argument, they would open the floodgates to all businesses raising similar issues.

Among other issues, the Respondents submitted that ART. 209 of the Constitution exists to assert the powers of imposing taxes to the National Government and not to limit the scope of taxes. The respondent also recognised the importance of the Act as a crucial piece of legislation that affects the entire budget. If interfered with, the budget could suffer a deficit that would affect government operations.

In its judgment, the court found the law unconstitutional as the imposition of the tax has the potential of not only subjecting people to double taxation but also unfairly targeting people whose businesses are in a loss making positions to pay taxes from their capital rather than their profits.

The court was of the view that the respondents ought to focus on detecting dishonest dealers and not sacrificing those in a genuine loss making positions.

In a ruling delivered early this year on the same matter, the Judge can be quoted saying, 'The death of a business is certainly not a damage that can be remedied by way of damages.' The declaration of the Minimum Tax as unconstitutional is not only a show of the need to implement fiscal policies that are sound and fair to all but a show of the recognition of what it takes to set up and run an SME in a country where they make up the larger percentage of the business community.

“ The petitioners cited SMEs in their submissions, stating that by subjecting SMEs, that are often loss-making before they return profits, to the minimum tax, the taxman imposes a tax on such businesses capital and not profits.

Apple says it has improved Face ID security with iOS and iPadOS 15

According to Apple, there was a Face ID vulnerability where "a 3D model constructed to look like the enrolled user may be able to authenticate via Face ID." The company has apparently closed this vulnerability by "improving Face ID anti-spoofing models." No more using 3D printers to fake out Face ID.



Safaricom plans to commercialise their 5G network in 2022

Mobile operator Safaricom has announced that it will increase its number of sites to 200 by the end of the year and commercialise the service in 2022. Safaricom has been testing 5G in Kenya, Nairobi, Kisumu, Kisii and Kakamega for over a year. The telecoms market leader initiated the operation on March 26, 2020 with the technological expertise of Nokia and Huawei companies. On Wednesday September 22, Peter Ndegwa, CEO of Safaricom, said 200 5G telecom towers will be installed in other parts of the country to bring mobile ultra-broadband to more consumers.



Facebook warned over ‘very small’ indicator LED on their “smart” Ray-Ban glasses

Facebook’s lead privacy regulator in Europe has raised concerns about a pair of “smart” Ray-Ban sunglasses the tech giant is now selling. The glasses include a face-mounted camera that can be used to take pictures and short videos with a verbal cue.

Ireland’s Data Protection Commission (DPC) said that it has asked the tech giant to demonstrate that an LED indicator light also mounted on the specs — which lights up when the user is taking a video — is an effective way of putting other people on notice that they are being recorded by the wearer. Facebook has not demonstrated it conducted comprehensive field testing of the device with a view to assessing the privacy risk it may pose, it added.

“While it is accepted that many devices including smartphones can record third party individuals, it is generally the case that the camera or the phone is visible as the device by which recording is happening, thereby putting those captured in the recordings on notice. With the glasses, there is a very small indicator light that comes on when recording is occurring. It has not been demonstrated to the DPC that comprehensive testing in the

field was done by Facebook or Ray-Ban to ensure the indicator LED light is an effective means of giving notice,” the DPC wrote.

Facebook’s lead EU data protection regulator goes on to say it is calling on the tech giant to “confirm and demonstrate that the LED indicator light is effective for its purpose and to run an information campaign to alert the public as to how this new consumer product may give rise to less obvious recording of their images”.

“ While it is accepted that many devices including smartphones can record third party individuals, it is generally the case that the camera or the phone is visible as the device by which recording is happening, thereby putting those captured in the recordings on notice.

Join our membership and be a part of a great community that includes legal and tech professionals, students, startups, organizations and government representatives. Over the past year, members have benefited through Networking Opportunities, Collaboration Opportunities, Invitations to speak at events, Mentorship, Access to the Lawyer’s Hub Innovation Space and to cutting-edge technology tools. This year, we have revamped our offers to make it even better and more accessible to many across Kenya & beyond our borders. These benefits include;

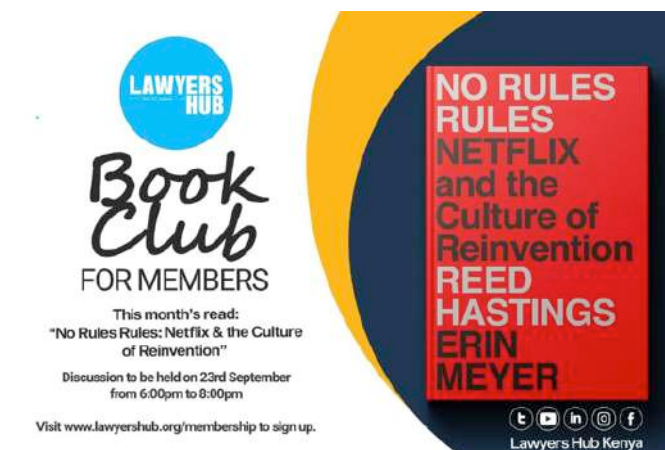
1. CODING FOR LAWYERS

It is important for lawyers to learn the fundamentals of coding as the legal industry becomes more tech and data driven. The Lawyers Hub has taken the initiative to ensure that its members develop these skills by curating a coding course that is set to start on the 1st of October 2021.



2. BOOK CLUB

September read: No Rules Rules; Netflix and the culture of Reinvention by Reed Hasting and Erin Meyer. Applications to join are open. 1st discussion will be held on 23rd September 2021.



3. DANCE CLASS

We care about our members' mental health and fitness as these are crucial to everyone's wellbeing. The Lawyers Hub hosts two choreographed dance classes every week that will tick all your mental health boxes in Upper Hill at Ack Garden House. You also get to network with working groups. Your 1st dance class is on the house. Join us!

4. DISCOUNTS ON LAWYERS HUB AMENITIES

Have you been looking for an office to work from? Tired of working from home and need a change in work environment? Having issues with power or the internet? The Lawyers Hub has amazing deals on its amenities for members such as 10% discounts on virtual office, private office, hot desks, meeting and conference rooms, and event space with great features suited to help you take your business to the next level.

We also have amazing deals on our media and events services for virtual, physical and hybrid events if you are looking to convene conferences, trainings, host webinars, launches, AGMs, you name it!



Book a tour with us today!
 Sign up today to get access to these amazing offers.
 Visit www.lawyershub.org/membership
 or call +254784840228 for inquiries.



The Lawyers Hub event space is equipped to serve a variety of event types from AGMs, Conferences, Webinars, Launches, socially oriented events such as parties, Workshop and Trainings. We also offer video conferencing and live streaming services that will take your event to the next level. Book today, call +254784840228 to get a quote.

LAWYERS HUB CO-WORKING SPACE

Our serviced office space provides individuals and organizations in the Law & Tech space with everything you need to grow and innovate. Come and work with like-minded professionals in the industry, accelerate your business growth, and unlock your potential in our well-designed work environment. We offer hot desks, private offices and meeting rooms all at flexible rates.



CO-WORKING SPACE

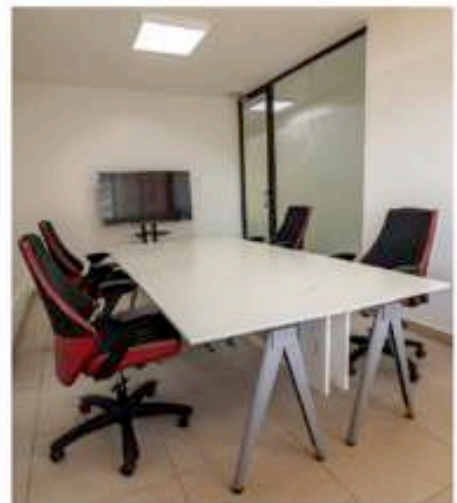
For Individuals in the Law & Tech Ecosystem

info@lawyershub.ke
 www.lawyershub.org
 1st Ngong Avenue, Upper Hill, Nairobi

MEETING ROOMS
 Suitable for Staff Meetings, Workshops and Teleconferencing.

PRIVATE OFFICE
 Suitable for Private Meetings, Consultations, Virtual Hearings and Mediation.

HOT-DESKS
 Suitable for people who are working remotely but need to step out of for a day or two to get things done.



Complementary Services include: On-site Staff Support, 150 mbps WiFi throughout the building, Print, Copy, & Scan, Complementary Coffee, Tea, and Water

Lawyers Hub Kenya
 (+254) 784 840 228