

# BHP's Anglo American takeover bid: Spotlight on SA's patent system

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As South Africa contemplates the vast implications of BHP's proposed takeover of Anglo American, a closer examination of both companies' patent portfolios is critical, not just for stakeholders but for the broader patent system in the country.



Image source: Rabia Elif Aksoy – [123RF.com](#)

In 2023, nearly 14,000 patents were filed in South Africa, yet less than half were from domestic sources. The relatively low cost of filing belies the deeper issues at play, including strategic utilisation of patents for business leverage. The competitive parity in the number of patents filed by BHP and Anglo since 2001 underscores a strategic alignment in leveraging intellectual property, but the recent buy-out proposition brings these strategies into sharp relief.

Both companies have showcased robust innovation, particularly in mining support technologies like ventilation and anchoring, critical for modern mining operations and notably valued in regions transitioning away from open-pit mines due to environmental pressures. This highlights not only the ingenuity within South African companies but also the potential underutilisation of local innovations in domestic patent filings.



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## Strategic value of patents

The BHP bid to unbundle Anglo American's South African assets places a spotlight on the strategic value of patents. Patents are not merely legal rights but pivotal assets that can dictate corporate strategies and market dynamics. The public and constitutional recognition of IP in South Africa further complicates BHP's intentions and potential strategies regarding

the disposition of these assets.

Moreover, the defensive utility of patents is a significant aspect of corporate strategy, often aimed at preventing competitors' access to key technologies rather than fostering innovation. This raises questions about the future of BHP's patents in South Africa if the company reduces its operational footprint. Will these patents be relinquished or leveraged differently?

This corporate manoeuvre and its implications on patent strategy and valuation illuminate the broader challenges and opportunities facing South Africa's patent system. It is an opportune moment for policymakers and corporate leaders alike to reassess the strategic value of intellectual property in fostering innovation and economic stability in South Africa.

## ABOUT THE AUTHOR

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