



**anti  
counterfeit  
authority**  
*Promoting Genuine*

# ANTI-COUNTERFEIT NEWSLETTER

ELEVENTH EDITION - 2022



## Marking the World Anti-Counterfeit Day 2022 by launch of Intellectual Property Recordation to combat counterfeit trade

The Anti-Counterfeit Authority (ACA) joined the rest of the world in commemoration of the World Anti-Counterfeit Day. The day is globally organized by the Global Anti-Counterfeiting Group (GACG) - an international network of

national and regional IPR enforcement and protection organizations. In Africa, Kenya is the only member of the GACG through the Anti-Counterfeit Authority from East Africa, besides Nigeria and Zimbabwe.

...story continued on page 7

# TABLE OF CONTENTS

## FOREWORD

A word from Ms. Fridah Kaberia, Acting Executive Director

03

## CORPORATE NEWS BRIEFS

Meeting with the chairman of the European union  
Announcement of Yussuf Osman as Director of Enforcement  
3rd Cohort of Border Management training  
ACA hosts US Customs & Border Control Deputy Commissioner  
Kenya hosts Ghanaian Delegation on Customs and Border Security  
Meeting with Security Marks Makers De La Rue Representatives

04

## PUBLIC AWARENESS NEWS

Marking the World Anti-Counterfeit Day 2022  
Anti-Counterfeit Day partnership with Machakos County Government  
Legal Awareness Week  
Commemoration of the World IP Day 2022  
ACA Partners with KBC and Coro FM for Mt Kenya Region Road show  
ACA Embarks on Uniform Refresh in its Re-Branding Strategy  
Training for Lower Eastern and Nakuru County based Journalists  
Commemoration of World Consumer Rights Day 2022

07

## ENFORCEMENT

A doctor and two accomplices charged with selling counterfeit facemasks  
Motorcycle Assembling Plant Raided and Counterfeit Bodabodas Seized  
Illegal Alcohol Distillery Raided

12

## GUEST COLUMN

With Tobias Alando, Kenya Association of Manufacturers

14

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# Foreword

## Let's appreciate the power of Technology in the fight against counterfeit trade.

### Ms Fridah Kaberia

*Acting Executive Director*



Greetings and welcome to our eleventh (11) Edition of the Anti-Counterfeit Newsletter.

This edition focuses on our revamped strategy of employing technology in the war against counterfeit trade in Kenya. We enlighten you on the Intellectual Property Recordation that were introduced by the provisions of the Anti-Counterfeit (Recordation) Regulations 2021. By design this goes in line with this year's World Anti-Counterfeit Day theme "Leveraging Technology in the Fight Against Counterfeit Trade".

With innovation still outpacing government regulation, new technologies mean sophistication of counterfeiting and other forms of illicit trade. We have seen emergence of new online marketplaces that are being abused by perpetrators of illicit trade. As a Government Agency in order to deliver on our mandate, we are obliged to employ innovative measurers to catch up with the

changing ways of doing business. Recordation is indeed the game changer in this war and we welcome you to gain deeper insights on this subject.

Also in this edition, we give highlights the Authority's public awareness activities geared towards cutting the demand side of counterfeiting. The media both traditional and online has been a key partner in this war. We give light to our live coverages and Roadshows in central Kenya during the planting season. We had various stakeholder engagements with the peak being commemoration of this year's World Anti-Counterfeiting day. We have also had several multi-agency level and county level sensitization forums to county officers and the national government officers. We have had several interactions with intellectual property rights owners, manufacturers, farmers and universities among others.

Finally, the Guest column bring you the views of the Kenya Association of Manufacturers about the recordation system. I call upon all stakeholder- importers, rights owners and their agents to support the Authority towards full implementation of the project. The authority remains committed in employing innovative strategies in order to win the war against counterfeits. We look forward to your collaboration for a better tomorrow. It is our unity of effort and collective responsibility that we can make Kenya "A Counterfeit-Free Country".

**Ms. Fridah Kaberia,  
Acting Executive Director**

# Corporate News Briefs

## Meeting with Chairman of the European Union

*Nairobi, 6th May 2022*

We played host to the Chairman of the European Business Council Mr. Darren Gillen and the European Union in Kenya Regional Trade Advisor Mr. Martijn Boelen.

The consultative meeting happened in the wake of the implementation of the IP Recordation System sought to strengthen intellectual property protection & enforcement between our countries. Chairman Gillen welcomed the initiative and called for greater collaboration with the private sector and trade partners to ensure a seamless implementation of the system.



*(Right) Chairman of the European Business Council Mr. Darren Gillen and the European Union in Kenya Regional Trade Advisor Mr. Martijn Boelen (Left)*

## Announcement of Mr. Yussuf Osman as Director of Enforcement Directorate *2nd June 2022, Nairobi.*

### **Mr. Osman will provide strategic leadership to the core directorate of enforcement and oversee more than 100 Inspectors and branches country-wide.**

The Anti-Counterfeit Authority has announced the appointment of one Mr. Yussuf Osman Ahmed as the new Director of the Enforcement Directorate. The appointment was made after a successful interview and will take over his new role immediately.

Mr. Osman has a vast Experience in law enforcement and leadership having worked with the Anti-Counterfeit Authority for more than 12 years. His career is checkered in Consumer protection and intellectual Property Right Enforcement for over 20 years. He started as an Investigating Officer and Prosecutor with the Weights and Measures Department under Ministry of Trade and Industry in the year 2000.

Before, his current appointment, Mr. Osman has worked with the Anti Counterfeit Authority in various ranks. He started at entry level as Anti- Counterfeit Inspector II in 2010 and rose through the ranks to become Regional Manager Eldoret in 2016 and later the Regional Manager, Mombasa in 2018 where he was in in charge of the Coast region including the Port of Mombasa and the Lunga Lungu border. He was responsible for regional supervision of staff and enforcement activities as well as stakeholder relationship working closely with other Law enforcement agencies under the multi-agency framework against illicit trade in the region.

“Osman Brings a wealth of experience to his new role of providing strategic leadership in managing the core function of the Enforcement Directorate. His key responsibility will be to spearhead and coordinate the enforcement function of the Authority in respect to the protection of Intellectual Property among other duties” said Acting Executive Director Ms. Fridah Kaberia in a circular to staff of the Authority. His appointment comes in the wake of

renewed government efforts in the war against illicit trade with the government establishing Multi-Agency Anti-Illicit Trade Working groups from government agencies tasked with fighting illicit trade.

Mr. Osman will play a key role in promoting the inter-agency collaboration in policy implementation and operational coordination in the fight against counterfeit trade and illicit trade in the country.

### ***Mr. Osman has worked with the Anti Counterfeit Authority since 2010 in various ranks***



Mr. Osman holds a Bachelor of Education Science (Mathematics / Chemistry) from Kenyatta University and a Master's degree in Intellectual Property from Ankara University, Turkey. He has Diploma in Intellectual Property from Mount Kenya University and holds advance certificate on Trademark, Industrial Design and Geographical indication, Copyright and related Rights from the World intellectual property Organization(WIPO) He has undertaken Strategic Leadership Development Program Training from Kenya School of Government, and other professional and management training certificates.

## ACA Hosts visiting US Customs and Border Control Protection Deputy Assistant Commissioner for International Affairs

*15th June 2022, Nairobi.*



The US CBP Deputy Assistant Commissioner for International Affairs Mr. Clint Lamm addresses the team.



The ACA Chairperson Flora Mutahi hands a gift to the Visiting DAC Mr. Lamm

The Anti-Counterfeit Authority played host to the US CBP Deputy Assistant Commissioner for International Affairs Mr. Clint Lamm at the sidelines of the World Anti-Counterfeit Day commemorations at the Crown Plaza Hotel Nairobi. Mr. Lamm was accompanied by Mr. Anthony Baccari, the CBP Director Africa, Middle East & Asia, Mr. Benito Montiel Senior Advisor of the CBP Security Governance Initiative and Mr. Harrison Koech the CBP Program Manager Kenya. The team was hosted by the Chairperson of the Board of Directors Ms. Flora Mutahi together with Senior Management team of the Authority led by the Acting Executive Director, Ms Fridah Kaberia.

“US CBP supports programs and activities with partners around the world under Customs Mutual Assistance Agreement to facilitate and secure legitimate trade through improved customs and border security” he said. At the center of the discussions was finding ways of harnessing collaboration in securing borders from counterfeit trade and on technical support to the Anti-Counterfeit Authority.

Kenya and the United States signed a Customs Mutual Assistance Agreement for collaboration on security and trade facilitation between the two countries in 2014. The Agreement calls for collaboration and support to combat illicit cross-border activities to prevent, detect and investigate

customs offenses. A number of activities have been undertaken including the operationalization of the Border Control Operations committees on enforcement, legal and public affairs.



ment, Intellectual Property Recordal system, ICT, Research & Public outreach activities. Acting Executive Director Ms. Kaberia said the “The Authority is implementing the Intellectual Property Recordation system that the CBP has been using for border enforcement. We look forward to learning from their experience to ensure seamless implementation in Kenya”.

The US Customs and Border Protection is one of the world's largest enforcement organizations whose main responsibility is keeping terrorists and their weapons out of the US and at the same time facilitating legal movement of people and trade.

## 3RD COHORT OF BORDER MANAGEMENT TRAINING

*9th May 2022, Nairobi*



The Anti-Counterfeit Authority Acting Executive Director Ms. Frida Kaberia officiated the opening of the third cohort training on the Kenya Coordinated Border Management Program (KCBMP) at the Kenya School of Government at the Lower Kabete Headquarters in Nairobi. The training is an initiative of Border Management Services and the Kenya and Security Management Institute (SMI).

The ten days training was sponsored by UNODC with the aim of equipping border control officers with

knowledge and up-to-date skills to execute their jobs. These border management skills are themed on Security, facilitating legitimate trade, travel & to enhance cooperation between government agencies by eliminating the silo mentality.

Ms. Kaberia mentioned that the “Curriculum was crafted in a manner that prioritizes the principle of the whole-of-Government approach and also qualifies as a form of innovation that will greatly transform operations in our sea, land and air border points”.

## **KENYA HOST GHANAIAN DELEGATION ON CUSTOMS AND BORDER SECURITY**

*Nairobi, 1st March 2022*

The Anti-Counterfeit Authority played host to a delegation Ghana government officials tasked with Border security in an event organized by the US Customs and Border Protection office and the U.S embassy in Nairobi, Kenya at the Carnivore Hotel. In attendance were representatives from the U.S Embassy, the representatives from Border Security Agency Ghana, ACA Kenya among others.

In her welcome address, the Anti-Counterfeit Authority Board Chairperson Ms. Flora Mutahi lauded Ghana's efforts in the fight against counterfeiting saying that Ghana already had in place a national intellectual property policy and strategy. She said that both countries stood to benefit from sharing experiences on how to protect intellectual property rights and how to create favorable conditions for entrepreneurship, innovation and industrialization.

Ms. Flora Mutahi further underscored the vulnerability of the both Ghana and Kenya as conduits of illicit and called for greater collaboration and sharing of experience. "We need to streamline border security management in order to facilitate free trade and economic partnerships within our regions". Both Kenya and Ghana are leading economic powerhouses in their respective regions with Kenya being a big player in the East African Community and



## **Meeting with Security Marks Makers De La Rue Company Representatives**

*Nairobi, 5th April 2022*

In a move towards collaboration in trademark & brand protection strategies in combating illicit trade; the Acting Executive Director Ms. Frida Kaberia met the Country Director of De La Rue Plc Mr. Toby Kendall at the Authority's headquarters.

De La Rue Plc is one of the leading global suppliers of product identification security systems and brand authentication labels that can help in the fight against counterfeiting and illicit trade. "This can help in securing government taxes, revenues and assist in protecting brands" Mr. Toby.

Ms. Kaberia was accompanied by Principal Inspector on Recordation Mr. Caspar Oluoch. The miscellaneous Amendment of the Anti-Counterfeit Act 2018 introduced IP recordation & calls for a database of Intellectual Property Recordation for information relating to goods to be imported into the country.



(From left to right) Principal recordation officer Mr Caspar Oluoch, Mr. Toby Kendall the director of De La Rue, Acting Director of ACA Ms Frida Kaberia and ACA member Rachel Mutisya

# Public Awareness News

## Marking the World Anti-Counterfeit Day 2022

*Nairobi, 15th June 2022*

...continued from page 1



The day brings together National and international IP organizations to raise public awareness of the negative impact of counterfeit and pirated goods on the health, safety and security of consumers raise The theme of this year's campaign is to 'This year's theme: "Leveraging on Technology to Combat Counterfeiting" went at par with planned launch of the Intellectual Property Recordation System for all imports into the country.

***The level of public awareness on counterfeiting stood at 66% in 2018, yet 88.7 per cent of consumers in Kenya buy counterfeit goods***

Ms. Fridah Kaberia, the Acting Executive Director at the Anti-Counterfeit Authority said, "Recordation is a game changer in the war against counterfeits. We are seeking to create Intellectual Property Rights Database that will be used by officers at border points to easily flag counterfeits before entering into the market".

She added that the theme "This is an innovative

technology measure that will use image processing software to assist custom and border point inspectors to have brand information and counter entry of counterfeits into the country".

The Anti-Counterfeit Authority Chairperson Ms. Flora Mutahi said the launch comes amidst revelations from the National baseline survey on counterfeiting and illicit trade of that found the magnitude of illicit trade in Kenya rose from Kshs 726 billion in 2017 to Kshs 826 billion in 2018. Kenya is currently losing between Sh85 billion and Sh100 billion annually to counterfeiting activities.

"The war against counterfeiting can be won by dealing with the supply of counterfeits through enforcement and the demand for counterfeits through sensitization of the public about the dangers of counterfeiting. We have strategized our public awareness approach to target key sectors of the economy in order to translate to a low demand for counterfeit goods". Ms. Mutahi

According to ACA's research, the level of public awareness on counterfeiting stood at 66% in 2018, yet 88.7 per cent of consumers in Kenya buy counterfeit goods for various reasons includ-

ing being cheaper compared to original brands. The statistics show there is little behavior change among consumers away from counterfeit goods and this calls for a change in the strategy. In an effort to address The Anti-Counterfeit Authority (ACA) has renewed its effort to curb counterfeit trade by introducing more stringent measures.

The Authority has strengthened its legal regime by enacting the Anti-Counterfeit (Recordation) Regulations, 2010. In implementing the regulations, the Authority has rolled out the intellectual property rights (IPR) recordation process..

***IPR Recordation has been lauded as one of the most effective international best practices in prohibiting the importation of counterfeit goods.***

IPR Recordation involves the creation of a database of IPR information relating to trademarks, copyrights, trade names, or any other protected intellectual property rights, for all goods to be imported into Kenya.

The Chief Guest the Deputy Head of Public Service, Mr. Wanyama Musiambo and the national coordinator of the enforcement Multi - Agency Team against illicit trade in Kenya called for increased collaboration within government agencies and the and the private sector in order to eliminate counterfeit and illicit trade, for health, safety and prosperity of Kenyans.

IPR Recordation has been lauded as one of the most effective international best practices in prohibiting the importation of counterfeit goods. "It will untimely improve information on the magnitude and effects of counterfeiting on the economy, which in turn will enable the government develop more effective policies and programmes to combat the illicit practices". said Mr. Musiambo at the event.

## World Anti-Counterfeit Day 2022 partnership with County Government of Machakos in Stakeholder Sensitization Forums

*Nairobi, 8-9 June 2022*

As a precursor to the commemoration of the World Anti-Counterfeit Day, the Anti-Counterfeit Authority partnered with the County Government of Machakos in a series of public outreach activities. The first activity held at the Machakos International Convention Centre brought together County & National Government Officers in sensitization forum followed by the county business community sensitization forum at the Semara Hotel in Machakos the next day.

In her opening remarks, acting Executive Director Frida Kaberia noted that the reason for choosing Machakos County for the public awareness events was because of recent findings of the National baseline survey on counterfeiting and illicit trade that ranked Machakos third at 29% in terms of counterfeit hotspot after Nairobi and Nakuru standing at 39% and 34% respectively.

The Chairperson of board of directors at ACA Ms Flora Mutahi called on counties to come up with anti-counterfeiting & anti-illicit measures saying combating illicit trade creates an “enabling business environment for manufacturers & promotes fair trade” She said the growing rate of illicit trade that stood at Ksh 826B in 2018 has made the government to take up extra measures to address the problem including partnering with county government to enhance enforcement, information sharing, awareness-raising and collaboration.

In a speech read by Chief Executive Committee member Eng. Morris Aluanga the Machakos county Governor H.E Dr. Alfred Mutua recognized the significance of fair trade in economic growth & the importance of protecting Intellectual Property in accelerating socio-economic transformation. The Governor added that trade in counterfeit and illicit trade have disastrous effect on legitimate businesses particularly SMEs and can “stifle their growth and ability to contribute to national development”. In welcoming the partnership he said his government fully supports the program and looked forward to further training and sensitization to staff, County Residents & business community.



*The Chairperson of board of directors at ACA Ms Flora Mutahi hands a copy of the training manual to Lucas Muore, the Chief Officer of Health in Machakos County (left) and a member of the Machakos County Security Committee.*



*County & National Government Officers pose for a picture with the ACA team after the sensitization forum followed by the county business community sensitization forum at the Semara Hotel in Machakos*



## LEGAL AWARENESS WEEK

*Nairobi, 29th June 2022*

The legal awareness week is an annual event that draws participants from the criminal justice system comprising of investigators, prosecutors and judicial officers. The event presents an ideal forum for the Anti-Counterfeit authority to enlighten them on the provisions of the Anti-Counterfeit Act 2008 and the protection of intellectual property rights as well as the offenses and penalties as prescribed in the Anti-Counterfeit Act.

**Members of the public visited the ACA Exhibition booth at Milimani Law Courts Yard where ACA officers sensitized them on the role in ACA in combating counterfeits.**

Speaking at the start of the event, Senior Awareness Officer at the Anti-Counterfeit Authority, Ms. Annie Obiero said; "We are here to raise awareness on the problem of counterfeit products that pose great risks to public health and safety. Trade in counterfeit goods lead to the loss of competitiveness by intellectual property owners, loss of government revenue, stifles creativity and innovation and leads to loss of trade and investment competitiveness".

These public outreach efforts are part of Multi Agency Anti-Illicit Trade Outreach (MAAITO) programs spearheaded by government agencies and are contained in the National Action Plan Against Counterfeiting and Illicit trade. The plan that was launched in 2019 calls for a coordinated approach by government agencies tasked with combating illicit trade to partner with the private sector and other Non-State Actors like the Kenya Association of Manufacturers (KAM) to address the demand side of counterfeiting and change consumer attitudes through public education.

## Commemoration of the World IP Day 2022

**The Anti-Counterfeit Authority partnered with other stakeholders to raise public awareness of the importance of intellectual property protection.**

*Nairobi, 26th April 2022*

Kenya participated in the World IP Day 2022 following announcement by the World Intellectual Property Organization (WIPO) for the day is observed on April 26. This year's theme was "IP and Youth: Innovating for a Better Future". It celebrated how young people were stepping up to innovation challenges while creating a sustainable future. "Young people using their energy, ingenuity, curiosity, and creativity to meet innovation challenge" read a statement from the World Intellectual Property Organization.

The Anti-Counterfeit Authority partnered with other stakeholders in the Intellectual Property Rights ecosystem in Kenya to raise public awareness of the importance of intellectual property protection. The partners included the Kenya Industrial Property Institute (KIPI), Kenya National Chamber of commerce & Industry (KNCCI), Ministry of Trade, US Embassy and World Intellectual Property Organization (WIPO)-.

The event was officially opened by Amb. Kirimi Kaberia, PS for The State Department of Trade and Enterprise Development, in his speech, He recognized and appreciated Intellectual Property IP as an important instrument for technological and social-economic development.

He stated that the Ministry through KIPI had rolled out various reforms to encourage IP rights, including waiving registration fee for youth innovators.

The celebration saw the awarding of five 2021 WIP Day winners (SMEs) and three 2022 winners (Youth Innovators) for their exemplary ideas, ownership and use of intellectual property to generate value for their businesses. Presenting the 2021 awards, KNCCI IP Committee Chair Ms. Angela Ndambuki encouraged SMEs and youth entrepreneurs to register their business ideas, in order to own and protect them and be able to reap full benefits from their innovations.

This year's focus among the youth on IP follows a similar partnership the authority has had with tertiary and university colleges in the country.

Speaking in commemorating this year's event, the Anti-Counterfeit Authority Senior Public Education and Awareness Officer Ms. Annie Obiero said that "We have had some great success with programs targeting youth. Key among them include the University of Nairobi Innovation week, The Kenyatta University Career Week, the National Industrial Training Authority, Jomo Kenyatta University of Agriculture and Technology among other colleges".

The Authority eves also developing a training program through a virtual academy that will offer training on intellectual property rights. The platform will be accessible to youth and IP enthusiasts and will seek to train on the importance of IP Protection and the dangers of counterfeit products.

Last year's theme was based on the role of Intellectual Property (IP) to SMEs: Taking Ideas to the Market. The theme rhymed with every business incubation cycle since every business starts with an idea. Ms. Obiero commending the success of last year's event added that SMEs are the backbone of many economies in the world saying, "They hatch breakthrough innovations and inspiring creations, and they create jobs; some become the world-leading businesses of tomorrow".



*KNCCI IP Committee chair Ms Angela Ndambuki hands out the WIP day awards.*

## ACA Partners with KBC TV and Coro FM for Mount Kenya Region Road show

*Nyeri, 26th February 2022*

The public awareness team from the Authority together with CORO FM News crew and KBC TV co-organized a two-day Roadshow targeting the Mt. Kenya Region that coincided with the planting season in the region.

The Anti-Counterfeit Authority Deputy Director in charge of Public Awareness, Mrs. Agnes Karingu said the Authority had resulted to using vernacular radio stations towards creating awareness to small-scale farmers. "This is strategic communication to reach as many farmers as possible to educate them on how to avoid buying counterfeit Agro-inputs to improve their farming outcomes". She said.

Speaking at Makutano town during the flag-off, the Anti-Counterfeit Authority Acting Executive Director Ms. Fridah Kaberia said the Authority is committed to creating awareness to the public since counterfeiting jeopardizes public health and safety & at same time undermines legitimate businesses. "Counterfeiting jeopardizes the health and safety of consumers through counterfeit food, medicines, alcoholic beverages, electronics. We have had people who have died or lost eyesight due to consuming counterfeit alcoholic beverages". She said.

The CORO FM presenter moderated Roadshow offered stop-over discussion with the farmers/consumers to learn more about counterfeit trade. Some narrated nasty experiences with counterfeit products & resolved to report any suspicious dealing of counterfeit trade to the authorities.

The well attended caravan crisscrossed the whole of Mount Kenya east with stop-overs in major towns of Muranga County, Kirinyanga, Nyeri and Laikipia Counties. The Road shows were also attended by private sector partner organizations like the Agro-Chemical Association of Kenya together with other government agencies tasked with fighting counterfeits and illicit trade like Kenya Plant Health Services, Pest Control and Poisons Board and officers from the Ministry of Agriculture.



*Deputy Director Public Awareness Mrs. Agnes Karingu engages with the onlooking crowd at the roadshow co-organized by the Anti-Counterfeit Authority and Coro FM.*



*Acting Executive Director Ms Fridah Kaberia educates the crowd on the dangers of consuming counterfeit goods.*



*The ACA team rallies the crowd.*

## ACA Embarks on Uniform Refresh in its Re-Branding Strategy Towards the Improved Corporate Image

*Nairobi, 1st March 2022*

We're living in a culture based on first impressions and as a government agency committed to improved service delivery, it is important to make our corporate image stand out in the crowd as an agency that delivers. Improved organization image is a reflection of how it is regarded by its multiple stakeholders and a sure bet towards improved reputation.

In the last two years, the Authority embarked on a re-branding mission to ensure a positive perception of its brand. This followed the transitioning of the Anti-Counterfeit Agency to an Authority after the enactment of the miscellaneous Amendment Bill of the Anti-Counterfeit Act in 2018. The re-branding borrowed a lot from the previous brand manual taking into consideration the ethos and culture of the Authority with an overall objective of improving its corporate reputation.

When embarking on this project, the re-branding team was adamant they wanted to make a holistic branding of both the physical and non-physical branding targeting all the corporate assets that carry the ACA identity.

The non-physical rebranding involved Logo redesigning that was incorporated in the ACA website and social media platforms as well as email signatures. The physical re-branding involved stationeries and Information education and communication materials, all staff uniforms including Front line staff, enforcement staff uniforms, and complementary items. A uniform refresh ensured we are on the trend and identifiable with an immediate point of difference.



*The ACA inspection team.*



*ACA staff members pose for a group picture.*

## TRAINING FOR LOWER EASTERN AND NAKURU COUNTY BASED JOURNALISTS

*Nairobi, 2nd February 2022*



*ACA Deputy Director Public Awareness Mrs. Agnes Karingu leads the training session.*

The authority in its efforts towards improved stakeholder relations and improved corporate image undertook two-day training forums for journalists based in Machakos and Nakuru Counties. The forums were attended by more than 100 journalists drawn from Electronic, Print, Vernacular and local community opinion leader and social media influencers.

The Anti-Counterfeit Authority Principal Public Communication Officer, Mr. Tom Muteti speaking at both events said the authority recognized the role media in heightening public awareness and in messaging towards changing public opinion. 'Media are great partners in the war against counterfeits, we want to bring them on board and make them understand the role of the Authority in the fight against

counterfeits and to enhance their skills in Intellectual Property protection e are going country wide to make journalists carry the ACA flag. Once they gain deeper insights on counterfeits issues they become our brand ambassadors since they start to appreciate the need to protect IP". He said.

The training was led by the Deputy Director Public Awareness Mrs. Agnes Karingu. She said that the Authority looked forward to bringing on board all stakeholders in the war since counterfeits affected all members of the society and hence media practitioners should be at the forefront in airing and publishing content against buying counterfeit products. Participants were also taken through Intellectual property rights recordal system by the Principal Officer Recordation Mr. Caspar Olouch.

# Enforcement

## ***A medical doctor and two entrepreneurs charged with selling counterfeit facemasks***

*Nairobi, February 2022*

Three suspects were arraigned in court and charged with selling 20,000 counterfeit face masks worth Sh11million branded “3M” without the authority of 3M Company, the registered owner of “3M Trade Mark No.42326” to a leading Nairobi Hospital. The accused, Dr. Kimani Muthami, a medical doctor together with Mr. William Muthee & Ms. Sylvia Wambui denied the 7 counts of conspiring to sell counterfeit goods, aiding the sale of counterfeit goods, importing counterfeit goods, controlling & selling of the said counterfeit facemasks.



The accused who are defended by lawyers Kibiru Njenga and Gachie Mwanza were arraigned before the Milimani law courts senior principal magistrate Ms. Esther Kimilu. denied the charges and prayed for release on bond.

In her ruling, Ms Kimilu said: “After considering the submissions by defence lawyers Njenga and Mwanza and considering that the prosecution is not opposed to the release of the accused on bond I hereby direct the accused to deposit in court a bond of Ksh 700,000 or alternative cash bail of Ksh300,000.”

Ms Kimilu fixed the case to be mentioned on February 7, 2022 for pre-trial directions. The case is still on-going by the time of publishing this newsletter.

## **Motorcycle Assembling Plant Raided and 54 Counterfeit Boda Bodas Seized**

*Kisumu, 18th May 2022*

The Anti-Counterfeit Authority Inspectors busted a motobike assembling go-down and shop in Homa-bay Town and seized 54 suspected counterfeit Motorcycles worth Ksh. 7,020,000. The go-down and shop identified as Ndisimart Enterprises Ltd was assembling motorcycles going by the trademark counterfeit Bajaj Boxer which were passed off as original to unsuspecting customers.

The raid followed a complaint lodged by Mr. Paul Ramara of Spoors and Fischer Law firm the Agents of the Indian origin brand of motorbikes. Upon receipt of his complaint that was made in the Kisumu Regional office, the ACA Inspectors raided the premises and managed to confirm the allegations. Mr. Ramara clarified that ‘All Bajaj Boxer Motorbikes are made in India as opposed to China as in this case’.

Confirming the raid, the Kisumu and Western Kenya ACA Region Inspector Mr. Weldone Sigei said the raid was a great concern among motorcycle dealers and cyclists in the country. Investigations also established that the business had been in operation for some time. Mr. Sigei cautioned cyclists saying that “Counterfeiting does not only cause economic harm and unfair business practice, it also defrauds consumers and poses danger to public safety”. He added that the usage of fake spare parts could be responsible for most vehicular accidents in the country. He advised traders to always sell genuine parts saying that dealers were critical stakeholders in ensuring safety on our roads.

When asked how an ordinary consumer would know if the parts of a motorcycle are counterfeit or original, Mr.Sigei cautioned cyclist to buy motorbikes and spares from authorized dealers and beware of price discounts from suspicious sources.

He added that consumers need to scrutinize products physically for unfamiliar packaging, misspelling of names or fonts or sound and vibrations produced by counterfeit parts.



***There is a high likelihood that fake parts won't work well like original, and may not work well with other genuine parts***

Mr. Paul Ramara the Bajaj/ Boxer Agent said that the original manufacturers had invested in Research and Development and studied how problems concerning counterfeit motorcycles or motor parts relate to accidents. He said that after disassembling a number of counterfeit or copycat motorcycles and studying their parts, it was discovered that the interiors were very rusty and the bolts were not firmly tightened so they tend to disengage easily and as such can pose accidents to users’.

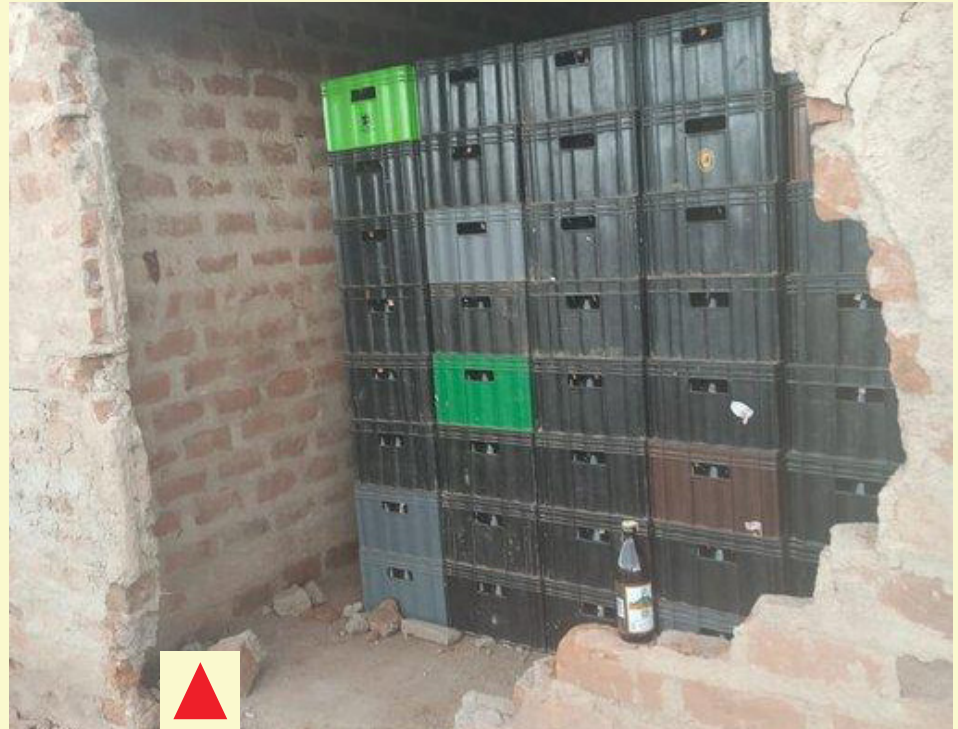
He added that “since counterfeit parts don't usually conform to safety and conformity to standards, there is a high likelihood that fake parts won't work well like original and may not work well with other genuine parts”. This is a serious issue since these incompatibilities often result in motorcycles with inferior body structure and vibration and hence ac-

## Illegal alcohol distillery raided

*Taita Taveta, 1 June 2022*

A Multi-Agency operation comprising officers from the Directorate of Criminal Investigations, Kenya Revenue Authority and the Anti-Counterfeit Authority raided an illegal distillery in Voi town, Taita Taveta County and confiscated 392 crates of counterfeit alcohol worth approximate Ksh. 2 M. The products were made in a very unhygienic premises with cement and other building materials being stored at the premises to conceal the manufacturing process. The owner of the premise arrested pending further investigation.

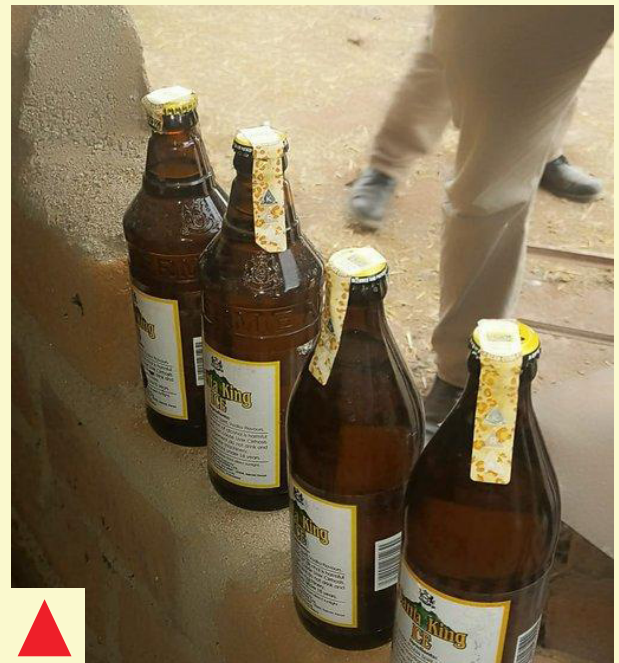
Speaking during the raid, Mombasa based Anti-Counterfeit Inspector Hassan Maningo said the raid followed reported cases of counterfeit alcohol in outlets in the coast region. He warned members of the public saying "Drinking counterfeit alcohol poses huge risk to health & even cause death" He added that disrupting criminal trade is at the heart of multi-agency strategy to clamp down on illicit trade since it undermines legitimate trade.



*There were 392 crates full of counterfeit alcohol on the site where the raid was conducted in Voi. The value of the bottles comes to a total of Ksh 2million.*



*Several of the empty bottles that were being used by the perpetrators to repackage the bogus counterfeit branded alcohol.*



*Some of the sealed bottles of booze that were seized during the raid.*

# Guest Column

## What the Intellectual Property Recordation Program means for manufacturers.

### Tobias Alando

*Kenya Association of  
Manufacturers -  
Head of  
Membership and  
Governance Affairs*



The illicit economy continues to have a reverberating effect on various sectors, posing a threat to the achievement of development goals. International trade statistics show that the total value of illicit trade was KSh 726 billion in 2017 and KSh 826 billion in 2018, a 14% increase. In terms of their GDP share, this represents an increase from 8.9% in 2017 to 9.3% in 2018.

The growth in international trade, advances in technology and changes in trading methods have come with new challenges that call for advanced strategies to effectively and efficiently combat illicit trade.

Over the years, Kenya has made strides to fight the vice, with the biggest win being the establishment of the Anti-Counterfeit Authority (ACA) in June 2010. Additionally, Government established the Inter-Agency Anti-Illicit Trade Executive Forum and Technical Working Group (Multi-Agency Team for Combating Illicit Trade) to strengthen interventions toward curbing illicit trade and facilitate the exchange of information between agencies and enhance enforcement.

Besides ACA, different agencies, anchored on various laws, continue to collaborate to sustain the fight against counterfeiting and related forms of illicit trade. Some of these institutions include Kenya Revenue Authority, Kenya Industrial Property Institute, Pest Control Products Board, Kenya Plant Health Inspectorate Service, National Police Service, Kenya Copyright Board and Kenya Bureau of Standards, among others.

However, despite these efforts, illicit trade still threatens the economy. The National Baseline Survey on Counterfeits and Illicit Trade found that the worst-hit sectors are Building, Mining and Construction (23%), Energy, Electrical and Electronics (15%), Textiles and Apparel (14%), Plastic and Rubber

and Metal and Allied sectors (9% each). The five sectors accounted for 70% of illicit trade in sixteen manufacturing sectors in 2018. Complaints from the private sector and consumers were on counterfeiting, piracy, uncustomed goods and substandard goods. The lead form of illicit trade complaints received was counterfeit, which accounted for 71% of the total complaints received between 2016 and 2018.

The impact of counterfeiting and other forms of illicit trade cannot be ignored. The vice has impacted the health of consumers who unknowingly consume counterfeited goods. It has also led to revenue loss for businesses and government, the decline in investments and job losses as a result of unfair competition from illicitly traded products.

Various stakeholders have observed that existing initiatives to combat counterfeiting were largely reactive, with few complaints from a narrow spectrum of complainants being filed. They, therefore, agreed to take a more proactive approach, by embarking on voluntary recordation of intellectual property rights. This was through the Intellectual Property Rights (IPRs) recordation program for all imports, rolled out by ACA since 28th February 2022.

Under the programme, ACA aims to develop a database of intellectual property information for goods to be imported into the country. Kenya is the second country in Africa to implement the IPR recordation program after South Africa. Internationally, other countries in the Americas, Europe, Middle East and Asia have also implemented the program.

The United States has a robust intellectual property enforcement program. The US Customs and Border Protection enforces federally registered trademarks and copyrights that are recorded through the e-recordation program, utilizes automated risk-management systems to analyze and targets imported intellectual property infringing goods, and has the legal authority to detain, seize, forfeit, and ultimately destroy IP infringing merchandise entering the country.

Once implemented, the IPR Recordation Programme shall guarantee consumer health and safety while protecting local manufacturing entities from cheap counterfeit imports. It will spur both domestic and foreign investments, and as a result, lead to economic growth and job creation.

The recordation programme has come at an opportune time when Kenya is gearing up to trade under various agreements, such as the Africa Continental Free Trade Area (AfCFTA). As such, prioritizing the fight against illicit trade shall enhance market access, increase investments and drive economic growth.