



**anti  
counterfeit  
agency**

*educate, enforce, eliminate*



# THE ANTI-COUNTERFEIT NEWSLETTER

Fourth Edition-August 2017



*Anti-Counterfeit Agency Enforcement and Legal Services Deputy director Johnson Adera (right), Industry, Trade and Co-operatives Cabinet secretary Adan Mohamed (centre) and Principal secretary Nduati Mwangi inspect counterfeit goods before their destruction at Export Processing Zone in Athi River.*

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## Editorial Team

Tom Muteti  
Dr. John Akoten(PhD)

### ABOUT ANTI-COUNTERFEIT AGENCY

Anti-Counterfeit Agency is a state corporation within the Ministry of Industry, Trade and Cooperatives. It is established by the Anti-Counterfeit Act, 2008 and is responsible for coordinating the Kenyan Government efforts in protection of Intellectual Property (IP) rights, including patents, designs, trademarks and copyrights. The Agency sees IP enforcement, whether civil or criminal, as crucial for innovation and economic growth, and as such supports the coordination and cooperation across the IP community to tackle counterfeiting and piracy.

#### VISION

A Counterfeit-Free Kenya.

#### MISSION

Prohibit Counterfeiting  
through Promotion and  
Enforcement of Intellectual



*Mr. Elema Halake the new Executive Director ACA*


### Taking Responsibility

This is my first letter to you for quarter 1 of the financial year 2017/18 following my appointment as the Executive Director of the Anti-Counterfeit Agency in July 2017. Words cannot adequately capture my pleasure as I joined a team that has shown dedication towards making Kenya 'a Counterfeit-Free Nation'.

Over the short period of stay at the Agency, I have learnt that the fight against counterfeiting is about small marginal gains rather than one major offensive, and all brand owners, government agencies, and consumers have a role to play on the battleground. This battle starts with each one of us.

In this fourth edition, we bring to your attention the launch of the 2nd Strategic Plan for the period 2017-2022. It was developed through public participation and provides a path forward in the fight against counterfeits for the next five years. This is a commitment for all of us. We all have a role to make the much needed difference in this war.

Over the reporting period, we had enforcement operations that included destruction of counterfeit goods all the way to the North-rift Kenya in Eldoret. This was coupled by raids and seizures of counterfeit goods across the country. The Public



This battle starts with each one of us.

Awareness team went a notch-higher. They looped the Hindu Council of Kenya in consumer awareness. By bringing on board faith based organizations (FBOs), this is the right direction as we endeavor to increase our engagement and reinforce local partnership. All of us at the Agency are very excited about the new scope and breadth of our outreach efforts by the awareness team.

In the coming months, you will be hearing more about the Agency's expanded efforts in collaborations. We also will be working more closely with other agencies of the national and county governments as well as the private sector.

But, as I indicated earlier, this war is about small marginal gains; we need your support and ideas as well. So while you are enjoying reading this issue please be thinking of ways we can better serve you. If you have any comments or suggestions, please send them to [info@aca.go.ke](mailto:info@aca.go.ke) or through our twitter and Facebook handle [@ACA Kenya](https://www.facebook.com/ACAKenya).

Welcome and enjoy the reading!

Elema Halake  
Executive Director  
Anti-Counterfeit Agency

# CORPORATE NEWS

## Agency launches 2nd Strategic Plan 2017-2022



*PS for Investments and Industry, Mr. Nduati Mwangi, KAM CEO Phyllis Wakiaga and the Executive Director Elema Halake clapping after the pompous launch of the strategic plan*

We are delighted to officially announce the launch of our Strategic Plan for 2017-2022 that has set out both our direction and plan for the next five years. The journey towards the launch of the strategic plan (SP) began in May, 2015 with consultancy from the Kenya School of Government.

This was followed by series of stakeholder consultations, drawn from staff, the board of the agency and other intellectual property (IP) protection interest groups. The development of the plan allowed us the opportunity to reflect on all of the progress made since inception in the year 2010 based on the first strategic plan that elapsed in June 2017. The first strategic plan left an indelible mark on the road towards enforcement of intellectual property rights in the country.

The continued threat by trade in counterfeits

brought about the need to re-evaluate our enforcement and public awareness strategies to address both the supply and demand side of counterfeiting. It is our ambition to build on the progress that was made by the first strategic plan by strengthening existing strategies and to identify new opportunities in order to make Kenya a counterfeit-free country.



*A show of the new strategic plan by the ACA board*

## APPOINTMENT



**MR. ELEMA  
HALAKE**

We are pleased to announce the appointment of Mr. Elema Halake as the new Executive Director of the Anti-Counterfeit Agency, effective Friday, May 13, 2017.

Halake has a long stunning career in public administration spanning over 20 years working in various capacities in different parts of the Country. He has vast experience in wildlife conservation / management and coordination at National, Regional and International levels having served at KWS for a long time. He has served previously as the Vice chair for Interpol Wildlife Working group, in the Environmental program as well as the Chair of the East-African Wildlife cross border forums. He has also represented and being part of National delegations to various International and regional conferences and Foras including CITES, Interpol, EARPPCO, Lusaka Agreement, cross border forums besides the National collaborations and Co - operations with key state and non-state actors and partners like Interpol National Central Bureau and Regional Bureau, NEMA, Provincial/ County administration, Kenya Forest Service, Lusaka Agreement Task Force, Police and host of other non-state actors. He has also been on the Board of Kenya School of Adventure at Mt. Kenya. To his strength, he has built a web of professional contacts and network at local, regional and international levels. He holds a Bachelor of Arts and a Master's degree in Development Studies from the Catholic University of Eastern Africa. He has Diploma in Wildlife Management and Advanced Diploma in Social Work. He holds also a graduate certificate from the Virginia University, USA and other professional and management training certificates. He is a Federal Bureau of Investigations (FBI) National Academy graduate and has a graduate certificate in criminal justice from FBI National Academy in Virginia, USA. Mr. Halake has also undertaken extensive investigation and intelligence trainings at International Law Enforcement Academy in Gaborone, Botswana, Georgia and Roswell in USA besides national training in criminal intelligence, investigation and prosecution at the CID training School and National Intelligence Service.

Before his current appointment to the position of Executive Director Anti-counterfeit Agency, he was a Director at the Independent policing Oversight Authority (IPOA). Halake also served at KWS HQs at the rank of Senior Assistant Director. He has travelled for work, trainings and conferences within Africa, United Kingdom and to America, France, Brazil, Asia and Israel amongst other countries. Halake was decorated with Silver Star (SS) of Kenya medal by his Excellency, The President of the Republic of Kenya in 2006 for his courage and commitment to duty.



**MR. LINDSAY  
KIPKEMOI**

We are pleased to announce the appointment of Mr. Lindsay Kipkemoi as the Manager in charge of Enforcement, after a national search. Mr. Lindsay's appointment was effective from June, 2017 and succeeds Mr. Abdikadir Mohammed, who retired after 7 years of service to pursue personal interests. He will manage the Agency operations in its mission to combat trade in counterfeits by leading the investigations and enforcement team of inspectors across the country. Prior to his current role, Mr. Lindsay Kipkemoi served for six years as chief of security at Rural Electrification Authority, directing all investigations, combating vandalism in the electricity industry, supervision of investigators, installation of security equipment's and budgeting for all security issues undertaken within Rural Electrification Authority. He also has over eleven years' experience with the Directorate of Criminal Investigation (DCI) dealing with Forensic Investigations, within the Forensic Ballistics Department. Before leaving the DCI service, he had risen to the level of Superintendent of Police (SP) Deputy Officer in charge of Forensic Ballistic Department dealing with murder cases, anti-poaching cases, robbery with violence cases involving firearms and crime scene management. Mr. Lindsay Kipkemoi received a Bachelor of Science (B.Sc) Degree from Moi University and a Master's of Science in Governance Peace and Security from Africa Nazarene University. He is also an enlisted consultant with the International Criminal Court in Forensic Ballistics on cases dealing with firearms, ammunition and shooting crime scene reconstruction within the East, central and Southern African region.

**We ask you to join us in congratulating Mr. Elema Halake Mr. and Mr. Lindsay Kipkemoi on their appointment and welcoming them to the ACA family. We are glad to have them.**



## INTERNATIONAL COLLABORATION

Our partnership with the People's Republic of China saw the Chinese Embassy in Nairobi sponsor 8 members of ACA staff to attend a seminar in Beijing.

The seminar is part of the Human Resource Development Cooperation programs in the framework of China's foreign aid for officials from developing countries.

The 'Seminar on Anti-counterfeit, facilitating legitimate trade and improving product quality for Kenya 2017' took place on 21st

June to 11th July 2017 at the Renmin University of China (RUC) in Beijing, China.

The seminar was funded by the Ministry of Commerce of the People's Republic of China and organized by the School of Economics of Renmin University of China.

The three week training had participants drawn from various government agencies involved in protection of Intellectual Property, legitimate trade and improving product quality for Kenya.

***The seminar was funded by the Ministry of Commerce of the People's Republic of China and organized by the School of Economics of Renmin University of China***



## ADVOCACY VISIT TO UGANDA PARLIAMENT

The Agency through invitation from Ugandan Anti-Counterfeit Network (ACN) participated in a high-ranking advocacy meeting in Kampala, Uganda. ACN are the local caucus of anti-counterfeiting bodies drawn from the public and private sector that advocate for increased recognition of intellectual property laws in Uganda by policy makers.

The purpose of the visit was to sensitize and educate Ugandan Members of Parliament on the dangers of buying/using counterfeit products in the hope that MPs can champion the fight against counterfeits and energize the legislative call for

stronger and more responsive anti-counterfeit measures and laws in Uganda.

The event was in the form of an Expo and Panel Discussion at the Member's lounge within the Ugandan Parliament in April 2017 with the chief guest being the Speaker of the Ugandan Parliament. Present at the discussion were Ugandan legislators led by the Chairman of the Parliamentary committee Trade Hon. Kenneth Lubogo.

The then acting Executive Director Dr. John Akoten represented the ACA. In his presentation,



*Dr John Akoten, handshake with Chairperson Committee on Trade Parliament Uganda Hon. Kenneth Lubogo*



*Dr. John Akoten with panelists at the event. Flanked by Mr. Fred Muwema, CEO of CAN on his right and Hon. Lubogo on his left*

he highlighted the implications of counterfeit practice to legislators and the cross-border effects of trade in counterfeit goods on the economies of the region. Participants appreciated the legal and regulatory framework in Kenya tremendous and welcomed the idea to make similar laws in Uganda.

He later on participated in the launch of the “Don’t be Fake, Buy/Sell Genuine” program; a consumer awareness campaign in Uganda.

So far, in the spirit of regional collaboration, the

Agency together with the East African Community Secretariat and the East African Business Council and other partners, organized two (2) regional Anti-Illlicit trade conferences in Nairobi. The outcome has seen the increased harmonization of regional Intellectual Property laws in the country.

The Agency has also signed a memorandum of understanding with the Tanzania's Fair Competition Commission, the Ethiopian Government (under the Special Status Agreement signed on 16th June 2016) among others.

## AGENCY RECEIVES STUDY ON EAST AFRICAN COMMUNITY INTELLECTUAL PROPERTY RIGHTS REGIME

The Agency has received a study from Kenya Association of Manufacturers titled “East African Community Intellectual Property Rights Regime”.

The study funded by the Trademark East Africa has a deep analysis on the Intellectual Property regime among member of the East African Community and adds to our IP knowledge database in the



*The report handover wider caption from deletes view point*

region. The overarching aim is to enhance regional protection of IPRs, as a contributor to achieving regional industrialization agenda.

The Chief Guest, the Principal Secretary in the State Department of Industry, Mr. Nduati Mwangi;

while speaking at the event noted in order to achieve our regional development agenda there is need for evidence-based policy making in driving industrialization, job creation and protecting local industries.

“There is need for increased partnerships in all our development agendas, both at the government agency levels as well as the private sector in the country and also at the East African Community level” added PS Nduati.

The ACA Executive Director, Mr. Elema Halake congratulated KAM and the Trademark East Africa for the financing and commissioning of the study. He noted that the Agency is working in partnership with all stakeholders in the war against counterfeits.

Speaking during the event, KAM Chief Executive, Ms. Phyllis Wakiaga welcomed the partnership call by the Agency that has seen increased protection of local manufacturers from counterfeiters. “KAM will continue to work with ACA on matters of enforcement of members’ IP rights as well as on capacity building issues to enforcement officers across the country” added Ms. Wakiaga.

**“There is need for increased partnerships in all our development agendas, both at the government agency levels as well as the private sector in the country and also at the East African Community level”- PS NDUATI**

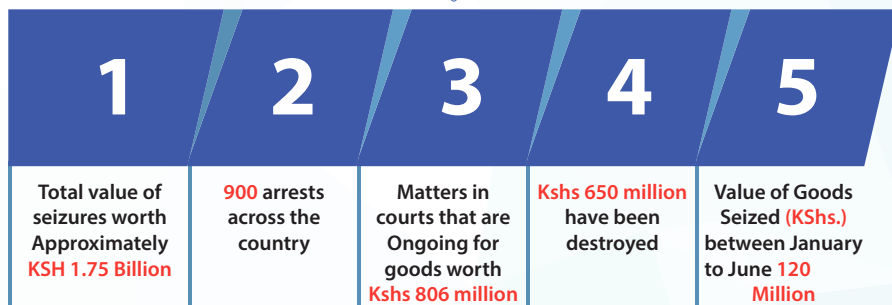




# ENFORCEMENT NEWS

From January to June this year close to Ksh 120 Million suspected infringing items were seized by our Inspectors across the country. We are also happy to report the arrests of over 300 suspects across the county.

Figures in last six years



We do commend all those enforcement officers who work diligently and sometimes take

personal risks to secure the right results for rights owners, the Kenyan economy and most

importantly the safety of the public.

## ANTI-COUNTERFEIT AGENCY DESTROYS GOODS WORTH KSH 24M, PUSHES FOR STIFFER PENALTIES ON IP RIGHTS INFRINGEMENT



*Cabinet Secretary Mr. Adan Mohammed speaking at the function on the destruction of counterfeits.*

In a high profile destruction of counterfeits event, the Agency destroyed counterfeit goods worth approximately Kshs.24.5 million at EnviroSAFE Waste Handlers, EPZ grounds in Athi-River Machakos County.

The destruction was the culmination of a series of activities including investigations, seizures and dispute resolution in courts of law and through alternate dispute resolution. The value of

goods destroyed was based on the current value of the genuine version.

The destruction was presided over by the Cabinet Secretary Ministry of Industry, Trade and Cooperatives, Mr. Adan Mohammed, EGH, assisted by the Principal Secretary State Department for Investments and Industry Mr. Nduati Mwagi. It was also graced by a number of ACA Board of Directors. The ED of ACA, Mr. Halake led the ACA team.

The destroyed goods included food products, stationery, and alcoholic beverages. Some of them pose a danger to the society and may result into fires, accidents, machine breakages, deaths, as well as environmental

degradation. They included ball bearings worth Kshs 10.2 million from SKF that are used in moving parts of most appliances. Others were electronics and electrical goods, clothing, cosmetics/detergents, petroleum products, and vehicle spare parts.

Speaking at the event, the Cabinet Secretary, Ministry of Industry, Trade and Cooperatives, Mr. Adan Mohammed said the government was concerned with increasing counterfeiting of consumer goods including medicine. "All these pose a health and safety hazard to our people. It is therefore inevitable that for the sake of health and safety 'we must work together', let us all take our responsibility towards winning this war," said the Cabinet Secretary.

## DESTRUCTION OF COUNTERFEIT PRODUCTS WORTH SHS.7MILLION IN ELDORET

The Agency has spread its counterfeit destruction wings this time to the Northern Rift Valley of Kenya in the Uasin Gishu County, Eldoret Town. The destruction was presided over by the Trade Principal Secretary, Dr. Chris Kiptoo, alongside his colleagues, Dr. Belio Kipsang (Education) and Dr. Dinah Mwinzi (Technical and Vocational Training). Also present was the Managing Director of the Kenya Plant Health Inspectorate Services (KEPHIS), Dr. Esther Kimani.

They said counterfeit merchants were denying the government income since they do not pay taxes for the goods. Dr. Kiptoo said there was need for increased sensitization and awareness on contrabands especially, when farmers are preparing for the planting season. He lamented that the cartels dealing in counterfeits were taking advantage of farmers to sell them fake seeds and fertilizer. He cautioned farmers to be more careful and alert when purchasing farm inputs including pesticides.

The then acting ACA Executive Director, Dr. John Akoten, led the team from the Agency.

The counterfeit goods were seized from various supermarkets, retail and wholesale shops in the area. Dr. Akoten said most of the goods were imported into the country by unscrupulous traders while others were intercepted while on transit to South Sudan.



PS, State department of Trade, Dr. Chris Kiptoo accompanied by the ACA Regional Inspector Yussuf Mohammed supervise the burning of counterfeits at the kiln

## SKF KENYA PARTNERS WITH AGENCY TO LAUNCH AUTHENTICATION APP

A number of global brands have embarked on a strategy based on the moral aspect of counterfeiting; transforming the war against IP infringement into a crusade for all that is right and just. Their most loyal customers are the foot soldiers.

### *This is the story of SKF*

SKF Kenya, a subsidiary of SKF, a Swedish based manufacturer and supplier of bearings and other industrial products has launched a new mobile application, '2authenticate', to enable consumers to detect counterfeit bearing parts in the Kenyan market. This is code based software that scans SKF products at the point of sale and can relay real-time information on the authenticity of a product, SKF is connecting end-users with their Intellectual property protection strategy by using digital technology. The mobile application enables consumers to scan a special Data Matrix Code, which is similar to a QR code, to get an answer on authenticity.

Speaking during the launch, SKF Kenya Ltd Managing Director, Mr. Harris Kariuki said, "The Kenya office was picked to run the pilot programme due to the increased mobile and internet penetration in Kenya and the collaboration we have with Government Agencies like ACA in eradication of counterfeits."

In response, Dr. Akoten appreciated the warm and cordial collaboration with SKF and added: "The Agency has so far netted counterfeit ball bearings worth over Kshs12 million in raids across the country. We are delighted to be partners in the pilot anti-counterfeit programme to authenticate products in the market and protect Kenyans from these products."

The mobile application enables consumers to scan a special Data Matrix Code, which is similar to a QR code, to get an answer on authenticity.

Ambassador Johan Borgstam addresses the guests at SKF launch of anti-counterfeit app, which detects the authenticity of SKF Products



## SKF KENYA LTD GIFTS ACA WITH A MERITORIOUS AWARD

The then Acting Executive Director Dr. John Akoten received a meritorious award on behalf of the Agency from the Swedish Ambassador to the Republic of Kenya, His Excellency, Ambassador Johan Borgstam and SKF Kenya Ltd SKF Managing Director Harris Kariuki. The event took place at the residence of the Swedish Ambassador in Nairobi.

This was a great fete to the Anti-Counterfeit Agency Kenya for a job well done in nabbing trade in counterfeits ball bearings in the Kenyan market.

The Agency endeavors to heighten its partnership role in the fight against counterfeit trade in the country.



ACA receives an Award for its excellent work against counterfeit Products. From left: Mr. Harris Kariuki, CEO SKF Kenya, Ambassador Johan Borgstam, Dr. John Akoten, the then Acting Executive Director, Anti-Counterfeit Agency of Kenya and Mr. Johan Bravert, SKF Group. — In Nairobi, Kenya

# PUBLIC AWARENESS ROUND-UP

Opening up new  
dialogues

## ACA PARTNERS WITH HINDU COUNCIL IN SENSITIZATION PROGRAM



The Agency has opened up to new partnership with religious actors in the war against counterfeits. This value-based strategy is anchored on the undeniable role that religion can play towards inculcating values in a society. By involving religious leaders in this war, the Agency plans to hold joint meetings with their followers so that they can influence consumer behavior against purchasing counterfeits.

Speakers at such events will show-case the ethical responsibility against counterfeits as they are not only affecting our economy but poses a great health and safety risk to consumers.

The Agency wants to expand the network and include other faith-based organizations that

have deep networks in the rural and sub-urban areas. With the endorsement and passing of anti-counterfeiting messages from faith based leaders, the implementation of the mandate of the Agency will gain greater acceptance and validity. This will pose a great impediment in the trade of counterfeits.

The Agency is happy to report the success of the pilot sensitization seminar that was held in collaboration with the Hindu Council of Kenya on Saturday the 6th May 2017 in Nakuru CGHU hall. A good number of members of the Nakuru Hindu Community attended the event. They promised to become part of the solution in the counterfeit problem by becoming anti-counterfeit ambassadors to their members.

## AGENCY PARTNERSHIP WITH KENYA ASSOCIATION OF MANUFACTURERS (KAM) IN COUNTY SENSITIZATION IN MT. KENYA REGION

Towards deepening our reach to the counties, the Agency in partnership with KAM continued with the county inter-agency interventions on counterfeits and other forms of illegal trade. This time-round in April, the events were taken to Nyahururu, Laikipia Counties.

Speaking at the event, KAM Chairlady, Ms. Flora Mutahi called for more coordination between the county and national government on one hand as well as the private sector in order to win this war. 'Time to

work together is now. We have a great opportunity to work with county governments towards making Kenya a country-free Country".

Laikipia Business Forum Chairman, Mr. Daniel Wanjohi stated that creating awareness on counterfeits is crucial in fighting counterfeits and other forms of illicit trade.

"We need to educate the business community and consumers in order to reduce the extent of counterfeits and

other forms of illicit trade as they conduct their routine commercial activities". Other participating bodies included Kenya Revenue Authority, Retail Trade Association of Kenya, the Kenya Bureau of Standards (KEBS), the regional Kenya National Chamber of Commerce and Industry, among other institutions. They engaged the business communities in the town hall workshops sensitizing distributors and consumers on how to combat counterfeits in the region.

## NAIROBI INNOVATION WEEK HELD AT THE UNIVERSITY OF NAIROBI GROUNDS



*Participants at the ACA Booth during the 2017 innovation week at the University of Nairobi*

The Agency participated in the 2017 Nairobi innovation week

from the 6th to 10th March at the University of Nairobi main

campus grounds. Organized by the University and other stakeholders, the event brought together various stakeholders to celebrate, re-focus and energize the innovation efforts in Kenya and the region.

The Agency being at the forefront in protection of innovators was glad to participate and reach out to the many upcoming innovators, students, lecturers, policy makers and IP lawyers at the function.

The theme of this year's event was "INNOVATING TO SOLVE PRESSING LOCAL AND GLOBAL CHALLENGES".

## ROADSHOW BY TRADE PRINCIPAL SECRETARY CHRIS KIPTOO IN KENYA'S NORTH RIFT VALLEY

In an effort to promote awareness to farmers, the Agency in collaboration with the State Department of Trade and other stakeholders launched an awareness campaign to influence the adoption of quality seeds by subsistence and commercial farmers in the North

Rift valley of Kenya. The region named as the "grain basket" of Kenya due to its high grain and agricultural productivity had farmers complain of poor harvests that they attributed to counterfeit seeds and fertilizer in the last planting season. The campaign started with the

destruction of counterfeit goods worth KShs 7 million at the Moi University Referral Hospital incinerators in Eldoret town.

The destruction and campaign was attended by the Principal Secretary, State Department of Trade Dr. Chris Kiptoo, alongside



*PS Chris Kiptoo speaking to the media during the destruction of counterfeits in Eldoret*

his colleagues, Dr. Belio Kipsang the Principal Secretary Education, Ministry of Education Science and Technology, and Dr. Dinah Mwinzi Principal Secretary Vocational and Technical Training, among other dignitaries.

The campaign involved a high media presence with local and vernacular media houses engaged. They were meant to carry the anti-counterfeit message and get their audience communities involved in this war. The target audience in the many stop-overs of the campaign was the rural subsistence and semi-commercial farmers in the area.

Addressing the press before the start of the roadshow, Dr. Kiptoo assured farmers that the government was interested and had taken steps to protect them against unscrupulous traders. "We are also promoting use of quality seeds and educating traders against sale of counterfeit seeds. The expected outcome is reduction of counterfeit seeds trade and increased yields from our smallholder farmers" added Dr Kiptoo.

Dr. John Akoten, the then Acting Executive Director assured Rift Valley farmers of the Agency's preparedness in the war against counterfeits. He informed them that the Agency had opened up a new Branch office in Eldoret town and those farmers and all stakeholders should take advantage and report any suspicions of trade in counterfeits in the region.

### **TRADE WEEK 2017, KENYATTA INTERNATIONAL CONVENTION CENTRE (KICC),**

In the spirit of Inter-Agency collaboration in the fight against counterfeits, the Agency partnered with its parent ministry, the Ministry of Trade,

Industry and Cooperatives in organizing and participating at the Kenya's first Trade Week from the 10th- 12th July 2017 at Kenyatta International Convention Centre in Nairobi.

The event attracted industry players from public and private sector, comprising of The National Treasury, Ministry of Livestock and Fisheries, Kenya Investment Authority, Brand Kenya Board, Trade Mark East Africa (TMEA), Kenya Revenue Authority (KRA), Kenya Network Trade Agency, Central Bank of Kenya (CBK), Kenya Commercial Bank (KCB), Retail Trade Association of Kenya (RETRAK),



*From Left; the PS, State Department for Trade, Dr. Chris Kiptoo, CS, Ministry of Trade, Industry and Cooperatives, Mr. Adan Mohammed, EGH & Mr. Henry Rotich, CS, The National Treasury listening to the demonstration at the ACA stand;*

Metropolis Credit Bureau, Kenya National Chamber of Commerce and Industry (KNCCI), Capital Markets Authority, Kenya Private Sector Alliance (KEPSA) and Kenya Association of Manufacturers (KAM), among others.

The highly attended event climaxed with the launch of the national trade policy meant to encourage trade and policy reforms in the country towards making Kenya a regional trade leader. Key message to the participants was the assurance of reforms in trade policy that ensures Kenya has the right business environment with fair trade laws and competition.

This is meant to spur up innovation and creativity in the ever changing business environment.

The participation of the Agency positioned the government's position as a defender of innovation and creativity; which forms the basis of intellectual property towards economic growth and development in Kenya.

# OUR CSR PROGRAM

**We are not inheriting the Earth from our ancestors, we are merely borrowing it from our children**



In alignment with our commitment to corporate social responsibility, this year, the agency was involved in planting trees at the counterfeit destruction site owned by EnviroSAFE EPZ Athi-River in Machakos County. On the sunny day of 21st July, the day of counterfeit destruction, amidst the bellowing smoke above the burning kilns, a group of close to 80 participants planted trees around the site.

The participants were drawn from employees of Agency and our stakeholders. We were also lucky enough to be graced by the presence of Mr. Nduati

Mwangi (EBS) Principal Secretary in the State Department for Investment and Industry, among other dignitaries.

Around 80 tree saplings of hardwood species were planted to make a life perimeter fencing for the facility.

There is an ancient Indian proverb that says, "We are not inheriting the Earth from our ancestors, we are merely borrowing it from our children". It is hoped that what little we did on the day will blossom into lush trees to green our children's earth.

Pictorial



Participants during the launch of the 2nd strategic plan



KAM CEO presenting the report to PS Nduati Mwangi.



A section of the Hindu community follows the sensitization proceedings



ACA Prevention and Awareness Officer Ms. Katherine Namachi talks to participants at the Nakuru event.





The Central Bank, Governor, Dr Patrick Njoroge, Ph.D. & PS, Dr. Chris Kiptoo visiting the ACA stand at KICC.



Ms. Agnes Karingu, Manager, Education and Public Awareness, sensitizing women on the commemoration of the International Women's Day in Muranga



PS Nduati Mwangi planting a tree. Behind him is the Executive Director Elema Halake from ACA



Senior members of the ACA management water a tree after planting.



A visit to the Bureau of Commerce (Harbin Province)

# GUEST INTERVIEW



## MR. JOSEPH WAIRIUKO

The Executive Officer Anti-Counterfeiting & Illicit Trade, Kenya Association of Manufacturers

### Questions:

**1. Kindly give us an overview on the role of KAM and what it has done to protect intellectual property to its members.**

#### Who we are:

KAM is the representative organisation for manufacturing value-add industries in Kenya. KAM provides an essential link for co-operation, dialogue and understanding with the Government by representing the views and concerns of its members to the relevant authorities.

#### What we do:

In pursuit of our core mandate of policy advocacy, KAM promotes trade and investment, upholds standards, encourages the formulation, enactment and administration of sound policies that facilitate a competitive business environment and reduce the cost of doing business.

In line with our slogan/ tag line which is "Driving Global Competitiveness" by promoting competitive and sustainable local manufacturing, KAM acknowledges and embraces the fact that protection and enforcement of Intellectual Property Rights (IPR) is a key driver to driving the industrialization agenda both nationally and regionally. We are therefore committed and dedicated to promote the respect for IPR through enhanced collaboration, cooperation and coordination with like-minded organizations and institutions from both the public and private sector. In order to ensure that there is enforcement mechanism within our IP territory, we have been in the forefront in the advocacy agenda for the enactment of the relevant laws in order to curb IPR infringement in Kenya. We have also continued to partner with various institutions in order to create the necessary awareness on the vice - counterfeiting through various forums and media targeting the public, the industry and the enforcement officers and institutions across the entire justice chain.

**2. From the feedback you get from your members who are manufacturers, what array of goods are mostly counterfeited in the country?**

The most counterfeited goods are the Fast Moving Consumer Goods (FMCGs). These include all goods that are needed by the consumers on a day to day basis and hence have a high demand. Such include food and beverages

(both alcoholic and non-alcoholic) and food additives, electrical and electronic goods, cosmetics, motor vehicle/ motorcycle spare parts, pharmaceutical products, farm inputs like planting seeds, fertilizers and insecticides and pesticides among other fast moving consumer products.

**3. Does KAM have a code of good manufacturing practice that sanctions against its members found to be in the business of manufacturing and selling counterfeit goods?**

All our members (KAM membership is voluntary in nature) adhere to a particular code of good manufacturing practice and any company that wish to join the Association as a member must be endorsed by at least two members from the same sector (i.e. members manufacturing same products range).

In addition, KAM requires all her members to sign the "Code of Ethics for Business in Kenya" which is an initiative by the business community of Kenya to promote and enhance the ethics of business conduct in Kenya in line with the 10 principles of the United Nations (UN) Global Compact in the areas of Human Rights, Labour Standards, Environment and Anti-Corruption. This Code requires members to run their business with responsibility, to act in compliance with applicable laws and to be actively involved in corruption prevention. The Code also requires companies to truthfully communicate on their products and services and take responsibility for their safety and quality while ensuring they meet health and safety standards. Non-Adherence to the Code has consequences that can lead to the exclusion of an offending company from the Code until it is satisfied that the transgression has been corrected.

**4. We are in the global environment; the growth of online shopping is associated with spurring trade in counterfeit products. How prepared are your members in this era of on-line shopping?**

Our members adhere to the above code of good manufacturing practice as well as adhere to the standards set in Kenya for the Kenyan market. As such, they have a high respect for the existing National standards and this is witnessed by the fact that all products manufactured by our members are traceable to the source, meaning that they are genuine and thus they guarantee their consumers that these products have met the laid down standard and hence they will perform as per the expectation of the consumer and as per the label description on each product. The consumers must therefore be sensitized on the need to verify a product before purchase and in case they fall into the trap of being supplied with counterfeit products, they need to be proactive enough (knowing their rights as a consumer) by blacklisting the supplier of such products (through sharing widely on their experience) and even reporting such matters to the relevant government enforcement agencies for enforcement purposes.

*5. In Kenya, we can almost contend that lack of consumer awareness and public indifference towards the problems resulting from product counterfeiting is an impediment in the fight against this war. What action has manufacturers done in an effort to educate consumers?*

KAM in her endeavor to raise the respect for the IPR in the country has continued to collaborate with like-minded organizations in order to create the necessary awareness on the vice to both the consumers and the enforcement officers across the entire justice chain. This is in an effort to demystify the notion that counterfeits are cheap alternatives to genuine products in the market.

This notion has continued to create the demand for these counterfeit products as well as affect how justice is administered from the enforcement point of view.

We have for example collaborated with all the enforcement agencies in the entire justice chain including the Judiciary in order to have in place a One-Point-of-Reference for purposes of enforcing against any form of illicit trade including counterfeiting. This has been documented on the 2015 "Enforcement Manual to Combat Illicit Trade in Kenya." We also continue to carry out various sensitization forums targeting consumers and players at the end of the product distribution chain across the country after identifying any hot-spot of counterfeiting activities in various regions/ counties.

*6. The penalties under the Anti-Counterfeit Act, No 13 of 2008 and recent amendments provide both civil and criminal remedies on matters of counterfeits. Different stakeholders give different opinions with*

*regard to these penalties. What would you consider as an appropriate Penalty?*

An appropriate penalty is the one that deters the menace of counterfeiting in such a way that its evident that counterfeiting is no longer taken as an alternative way of doing business but rather it is illegal just like any other felony. A penalty that brings justice to both the IPR holder and the consumers at large (i.e. promoting fair competitiveness within the markets for the case of IPR holder) as well as ensuring healthy and safety of consumers are safeguarded) by making sure that there is no repetition of such counterfeiting activities and even those who are not yet caught can withdraw their counterfeiting operations before hand as they are aware about the immediate repercussion if they are caught.

*7. What insights can you give for an effective strategy for dealing with counterfeiting in Kenya and the greater East Africa region?*

An effective strategy is one that co-opts all stakeholders where they collaborate and cooperate willingly in addressing the menace of counterfeiting and illicit trade at large. A strategy that is anchored to a common regional policy that is derived from the need to have one Intellectual Property Rights territory that promotes respect for IP through effective protection and enforcement of the same (IPR) as a key driver to regional and national industrialization agenda and creation of wealth and job opportunities through creative thinking (new ideas) and innovation for the benefit of the People and the Society of this Region.

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## Contacts

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