



anti
counterfeit
authority
Promoting Genuine

ANTI-COUNTERFEIT NEWSLETTER

12th Edition - 2023



Kenya's Intellectual Property Rights Enforcement Agencies participate in workshop on Recordation of IP Rights

Kenyan enforcement agencies tasked with the protection of intellectual property rights underwent a two-day sensitization workshop on Intellectual Property Rights recordation at the Movenpick Hotel in Nairobi.

The training held from 4th to 5th October 2022, aimed at increasing the front-line enforcement officers' skills in the recordation of intellectual property rights.

...story continued on page 08

TABLE OF CONTENTS

FOREWORD

A word from Dr. Robi Mbugua Njoroge, Executive Director.
Editorial note from Tom Muteti, Editor/Head of Public Communication.

03

CORPORATE NEWS BRIEFS

Cross-border Collaboration in Combating Counterfeits in the East Africa region Kenya-Uganda Agencies in Bid for Corporation to Tackle Trade in Counterfeit Trade.

05

It's "All Hands on the Deck" Kenya National Chamber of Commerce and Industry comes on board for enhanced collaboration (KNCCI)
Anti-Counterfeit Authority Names Dr. Robi Mbugua Njoroge as Executive Director and Chief Executive Officer

ENFORCEMENT

Kenya's Intellectual Property Rights Enforcement Agencies participate in workshop on Recordation of IP Rights About AfrIPI

08

US National Intellectual Property Rights Coordination Center Training on IP Rights

Anti-Counterfeit Authority Eyes a Plan to Partner with e-commerce Platforms to Weed Out Online Counterfeiting

LEGAL AFFAIRS

Man fined Ksh 750,000.00 for manufacturing and in possession of counterfeit Alcoholic beverages by a Nairobi Court.

14

Woman sentenced to six (6) Months imprisonment for selling counterfeit HP Toners

PUBLIC AWARENESS

DCI Director General Amin Mohammed Opens a Training Forum for Anti-Counterfeit Inspectors

15

Brand authentication training by Japan External Trade Organization (JETRO).

Partnership with NITA to develop Training of Trainers Curriculum and Training Manual.

GUEST COLUMN

Let's tackle illicit trade head on

19

Foreword

Dr. Robi Mbugua Njoroge

Executive Director



This is my first signing of the Anti-Counterfeit Newsletter that's on its 12th Edition after joining the Anti-Counterfeit Authority as the Executive Director less than five months ago. I am glad to have joined a spirited team of staff eager to deliver on the promise of making Kenya a Counterfeit Free Country.

I attest that Kenya is in the top league in Africa of those nations with the requisite legal and regulatory frameworks to combat the crime of Intellectual Property theft. This legal strength is buttressed by a robust multi-agency approach by lead government agencies tasked with fighting counterfeit and illicit trade. However, despite having made these great achievements, the menace of counterfeits trade still continues to grow and at an increasing rate every year. While there is no one dose treatment to

illicit trade epidemic, it needs a broad-based approach to address identifiable gaps in policy, strategy and operations in order to win this war. Kenya's intellectual Property governance will need a community of partnerships bringing together all stakeholders in the IP-ecosystem.

A "league of genuine" to include public sector players, private sector, interest groups and consumer organizations both at the national, regional and international level. Due to the changing world of IP crime, we are equally implied to change our strategies from being reactive to being proactive in all our activities. We are engaging in strategic collaboration in enforcement, outreach and research with desirous partners while at the same time adopting new technologies which we believe will have significant impact on IP protection.

Top on our agenda is the implementation of the IPR Recordation system to address intelligence inadequacy and monitoring of goods being imported into the country. We call for full collaboration with all stakeholders as we implement this system in order to promote fair trade and encourage investment in the country. After all, a genuine pebble is preferable to a fake diamond. The economy is affected by counterfeit goods in terms of commerce, investment, employment, innovation, and—most significantly— consumer health and safety.

We wish you enjoyable reading and look forward to an exciting journey of partnership in the year 2023 towards making Kenya "A Counterfeit Free Country".

Editorial Note

Tom Muteti

*Editor/ Head of Public Communication.
Anti-Counterfeit Authority.*



We welcome you to the 12th edition of Anti-Counterfeit Newsletter by offering you a window into the Authority's efforts in IP protection as we move towards a counterfeit free Kenya.

In this edition, we give you news on the ongoing implementation of the IPR Recordation system that has taken the shape of stakeholder collaboration both at the national and regional but at the international stage. The climax of this collaboration being our lead story of hosting an international workshop on Recordation of IP Rights sponsored by the Africa Intellectual Property Rights and Innovation Project in Africa (AfrIPI) through funding from the European Union and implemented by the European Union Intellectual Property Office – EUIPO.

We also give you coverage of our public awareness efforts made towards address

ing the demand side of counterfeiting in holding targeted training and awareness forums, exhibitions. Key among being the Japanese Government Brand Authentication Training. Lastly in our guest column, we quote an African proverb that says “Until the lion learns to speak, the tales of hunt will always favor the hunter”. Our guest is the CEO Kenya Association of Manufacturers. The idea is to give the private sector an opportunity to tell their story in the war against illicit trade.

We look forward to hearing your feedback so as to make the future editions more relevant, enjoyable and informative to our IP publics.

Tom Muteti
Editor/ Head of Public Communication Anti-Counterfeit Authority.

Corporate News Briefs

Cross-border Collaboration in Combating Counterfeits in the East Africa Region Kenya-Uganda Agencies in Bid for Corporation to Tackle Trade in Counterfeit Trade.

19th September 2022

Kenya's Anti-Counterfeit Authority and Ugandan Anti-Counterfeit Network Africa (ACN) held a meeting "to exchange ideas on how to improve collaboration in the fight against counterfeit trade with a major call for regional cooperation to tackle the problem". ACN is a non-profit registered entity in Uganda that aims to bridge the intervention gaps between the multiple stakeholders that affect and are being affected by counterfeits and illicit trade.

The meeting was a follow-up of previous efforts between the two organizations in the last five years. The Anti-Counterfeit Authority was involved in the sensitization of Ugandan Members of Parliament on the Kenyan preparedness in the war against counterfeiting and for the MPs to champion the fight against counterfeits and energize the legislative call for stronger and more responsive anti-counterfeit measures and laws in Uganda.

In his opening remarks, the Anti-Counterfeit Authority Executive Director Dr. Robi Njoroge Mbugua emphasized on the need for regional collaboration saying Kenya and Uganda shared a number of problems arising from international trade, transshipment of goods through the port and at border points. He noted that while regional trade is beneficial to the two countries, counterfeit and other forms of illicit trade are a serious challenge and should be dealt with.

Dr. Robi further noted that Kenya has a number of legal instruments for protecting intellectual property (IP) rights holders and to promote regional legitimate trade. He said that IP protection is anchored in the Kenyan Constitution, in International Agreements and Statutes, and a number of Kenyan Laws and Government policy

on multi-agency collaboration. "Kenya has one of the progressive constitutions in the region directing the Government to support, protect and promote Intellectual Property Rights (Article 40 (5), Article 260 of Kenya Constitution 2010). Kenya also recognizes International treaties under World Trade Organization and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)." He added.

The Anti-Counterfeit Network Africa Director for Legal and Corporate Affairs. Mr. Fred Muwema echoed the collaboration message, emphasizing the need to bring on board regional countries and all interested parties into a network to boost in the fight against Counterfeiting. He said they had established the "League of the Genuine (LoG)" that symbolizes the coming together of all players including government agencies, traders, and consumers into a commitment to eliminate counterfeiting. Sharing the Ugandan experience, Mr. Muwema said that Ugandan government did not have a dedicated government agency dealing with counterfeiting and that the ACN was a private sector initiative to

bridge the gap. He said, "The fight against counterfeit trade in Uganda takes the shape of Private Public Partnership. It is a multi-sectoral partnership of national and international organizations and agencies such as USAID, European Union, Uganda Ministry for Agriculture and the regulator of the Communications sector."



ACA Executive Director Dr. Robi Mbugua Njoroge with ACN Director for legal and corporate affairs Mr. Fred Muwema during their meeting at the ACN headquarters in Uganda.

He concluded his remarks by stating that ACN had petitioned the International Criminal Court (ICC) to declare counterfeiting of certain commodities to be a crime against humanity; and to be at the same level with terrorism. He argued that counterfeiting is a threat to human existence. He stated that the main challenge with doing the petition is that ACN is not a member state of ICC and therefore welcomed any assistance to push through the petition.

ACA Executive Director Visits Uganda to Further Regional Collaboration in Fighting Counterfeit Trade

3rd November 2022 Kampala, Uganda.

The Anti-Counterfeit Authority Kenya Executive Director Dr. Robi Mbugua Njoroge made a maiden visit to Kampala Uganda under the invitation of the Uganda's Anti-Counterfeit Network Africa (ACN) to attend various stakeholder forums on regional efforts towards combating counterfeit trade.

Dr. Robi attended a number of stakeholder events and visited several government institutions tasked with protection of intellectual property rights. He visited the Uganda Communications Commission, the Uganda Registration Services Bureau that conducts Registrations and provides Information pertaining to Civil, Business and Intellectual Property matters and climaxed his visit by attending a forum for Ministry of Agriculture, prosecutors, magistrates, law enforcers, and farmers among others. While rallying the collaboration call, Dr. Robi noted that the fight against counterfeiting needed collaboration at all levels of stakeholder spectrum both at national, regional and internal

stage. "We are here to exchange ideas on how better to improve collaboration in the fight against counterfeit trade with a major call for regional cooperation to tackle the problem". He said in his keynote address at the Magistrates and Prosecutors training workshop at Protea Hotel in Kampala, He emphasized the need for cross-border collaboration due to the transformational and international nature of counterfeiting crime.

"It is important to have counterfeit measures and collaboration at the national and regional level if we want to defeat this crime," He further called for informed criminal justice system players (magistrates, investigators, and prosecutors), stressing that the "effective Intellectual Property (IP) justice system relies wholly on the effectiveness of fast-tracking counterfeit related cases and bringing justice of IP disputes".

Citing Kenya's multi-agency efforts in enforcement and public outreach, Mbugua called on

Uganda to emulate the Kenya's national action plan on counterfeiting and illicit trade. He said the plan contained practical approaches to deal with problems including weak regulatory regimes, uncoordinated enforcement mechanisms, limited agency resources, low catch-up with technological advancements, low consumer awareness, inadequate screening of cargo and long unmanned borders.

Trade in counterfeit and contraband goods remains a major problem for East African Nations despite a decade of unprecedented legal and institutional efforts to control it. Dr. Mbugua called for enhanced institutional collaboration saying 'institutions combating counterfeiting are not fully collaborating in the war against counterfeits.' He said the region remained vulnerable to counterfeits mainly because it has long porous borders with Somalia, Uganda and Tanzania (across Lake Victoria), which reduce the ability to detect counterfeit smugglers.



ACA Executive Director Dr. Robi Mbugua Njoroge and the Uganda's Anti-Counterfeit Network Africa (ACN) team during his visit to the Authority.

It's "All Hands on the Deck" Kenya National Chamber of Commerce and Industry comes on board for enhanced collaboration. (KNCCI)

Both organizations resolve to enhance their collaboration through structured engagement and working more closely towards combating trade in counterfeit goods.

Nairobi, October 25, 2022.

The ACA Executive Director Dr. Robi Mbugua Njoroge paid a courtesy call to the President of Kenya National Chamber of Commerce and Industry Mr. Richard Ngatia at his office in Nairobi. Attendees included senior members of ACA Management and the Chief Operating Officer Mr. Patrick Nyangweso and committee members of the Chamber. Dr. Mbugua underscored the need for a collaborative approach in combating counterfeiting saying the authority was looping in all stakeholders in the public and private sector. "The government cannot win this war alone. It requires a concerted effort by all players including government agencies, private sector organizations and their members, consumers and development partners working closely together in a multi-sectoral approach".

Chamber President Mr. Ngatia applauded government efforts in tackling counterfeiting and illicit trade saying it posed great challenge to upcoming innovators and SME's since they were vulnerable to unfair market competition. Mr. Ngatia said the chamber members who are mostly drawn from small, micro enterprises (MSEs), were open to work and collaborate with government agencies. "The Chamber and business are proud to continue its alliance with law enforcement to prioritize solutions to eliminate counterfeit and illicit trade. We urge the government to provide favorable commercial, trade and investment environment that supports enterprise expansion". ACA Executive Director in response

assured chamber members saying, "The protection of intellectual property is at the core of ACA's vision, mission and mandate. We look forward to greater results through the enhanced partnership with the chamber and its members."

Intellectual property rights protection is globally recognized as a key economic development enabler known to spur innovation, creativity and technology development. Protection of IP enables and incentivizes local and foreign direct investment and global trade. The slightest sense that IPR protection is insecure can jeopardize investor and private sector confidence to invest in a country. To that end, the two organizations resolved to enhance their collaboration in IP protection through member targeted campaigns, training and capacity building, research, enforcement and in legal and regulatory reforms.

In addition, KNCCI agreed to include the Anti-Counterfeit Authority in the Chambers Intellectual Property Committee and to co-organize nation-wide training forums on IPR recordation and Import declaration. "We will co-opt ACA in the IP Chamber committee and work with you in training members to ensure they comply to avoid penalties as a result of non-compliance". Mr. Nyangweso said.



The new ACA Executive Director Dr. Robi Mbugua Njoroge and the President of Kenya National Chamber of Commerce and Industry Mr. Richard Ngatia at KNCCI.



ACA Executive Director Dr. Robi Mbugua Njoroge, AG. Director Corporate Services Ms Rephah Kltavi, Director Enforcement Mr. Yusuf Osman and Deputy Director Education and Public Awareness Mrs. Agnes Karingu and the KNCCI team led by KNCCI president Mr. Richard Ngatia.

Anti-Counterfeit Authority Names Dr. Robi Mbugua Njoroge as Executive Director and Chief Executive Officer

Dr. Mbugua will take charge of the organization tasked with the mandate of combating counterfeit trade in Kenya. He will spearhead and coordinate government efforts in the protection and promotion of Intellectual Property rights.

Nairobi, August 1, 2022



*The new ACA Executive Director
Dr. Robi Mbugua Njoroge.*

The Anti-Counterfeit Authority Board has appointed Dr. Mbugua Njoroge as the new Executive Director to succeed Ms. Fridah Kaberia who leaves the Authority after serving for two years in an Acting capacity. The appointment takes effect from August 1, 2022. Dr. Njoroge joins the Authority from the Kenya Association of Music Producers (KAMP) where he served as the Chief Executive Officer.

In her welcome statement the Anti-Counterfeit Authority Board Chairperson Ms. Flora Mutahi said that “Dr. Mbugua has vast experience in management and leadership having worked in both public and private sectors. He has extensive leadership skills in developing and building a strategic partnership that comes as a key asset in leading the Authority to the next level.”

The hiring of Dr. Njoroge comes at a time when the Anti-Counterfeit Authority together with other government agencies is implementing the National Action Plan against illicit trade and counterfeiting. The plan is in compliance with Executive Order No.1/ of 2018 by H.E. Uhuru Kenyatta which directed the formation of a multi-agency task force to combat illicit trade. The Action Plan seeks to address the challenges faced by the manufacturing sector and genuine traders due to illicit trade. Dr. Njoroge affirmed that he will “build on

the progress made in the last few years by working closely with all stakeholders in the Intellectual Property (IP) industry and law enforcement agencies to address the multiple and growing challenges posed by counterfeiting and illicit trade in the country”. The new CEO added that “There is need to continually evaluate and reassess our actions so as to tackle the vice in order to protect our consumers from the health and safety risks posed by the use of sub-standard goods.” Dr. Njoroge has over 20 years of experience in media, Intellectual Property, communication, legal and leadership. Media Council of Kenya, Tom Mboya University College the Public Relations Society of Kenya (PRSK).

He was also a member of the Taskforce for Improvement of Government Information and Communications Functions to Align them with Emerging Public Sector Dynamics and Expectations. Dr. Njoroge holds a Ph.D. from Kenyatta University, an MA (Communication Studies) from the University of Nairobi, a Master in Intellectual Property (MIP) from Africa University Mutare-Zimbabwe; a Postgraduate Diploma in Mass Communication from the University of Nairobi, a Bachelor of Law (LLB) from Mount Kenya University and a Bachelor Degree in Education (B.Ed) from Egerton University.

ACA Kenya gets ISO 9001:2015 Quality Management Systems Re-certification

The Anti-Counterfeit Authority was re-awarded ISO 9001:2015 Quality Management Systems Certification at a handover ceremony held on December 1, 2022, at Its headquarters in Nairobi. The Executive Director of the Anti-Counterfeit Authority Dr. Robi Njoroge Mbugua received the certificate accompanied by staff and Senior members of management.

Speaking at the Ceremony, Dr. Mbugua applauded staff of the Authority for continuously embracing the quality management system in services provision calling it an important achievement for the Authority. The Kenya Bureau of Standard National Quality Unit conducted audits of the Authority's Quality Management System (QMS) in November 2021 and March 2022 and found the Authority to be compliant with the requirements of ISO 9001:2015 leading to its re-certification. In his congratulatory remarks, the Head of the National Quality Unit Mr. Charles Maru speaking on behalf of the KEBS Managing Director, Lt Col (Rtd.) Bernard Njiraini said ACA's commitment to implementing the standard was a demonstration of commitment to customer satisfaction and continual improvement. Saying 'Choosing to be certified does not only prove commitment to best practice, but also that excellence matters to the Authority'.



The KEBS Head of the National Quality Unit Mr. Charles Maru handing over the ISO 9001:2015 Quality Management Systems Certification at a handover ceremony held on December 1, 2022, at Its headquarters

The ACA Executive Director reiterated the Authority's commitment to quality service and promised to provide the necessary support to staff towards improved customer satisfaction. "We will review our quality objectives and policies while executing our mandate of prohibiting counterfeit trade through Research, awareness, and collaboration with relevant stakeholders and enforcement of Intellectual Property rights". He added. Mr. Maru thanked the Authority for partnering with the KEBS in the "journey of excellence" and reminded the authority that ISO 9001:2015 certification was just the beginning and that the Authority needed to continue providing quality services and improving on all aspects to meet international standards and exceed customer expectations.

ACA and KIPI in revamped plan to fortify promotion and protection of Intellectual Property rights

Effort geared to heightening existing collaboration in public outreach and education, and collaboration in research and innovation.

Nairobi, October 12, 2022

The Anti-Counterfeit Authority and the Kenya Industrial Property Institute announced renewed efforts in collaboration to promote and protect intellectual property rights in the country. In a meeting attended by the Anti-Counterfeit Authority Executive Director Dr Robi Njoroge Mbugua and Mr. John Onyango the Acting Managing Director, the institutions agreed to implement a number of joint activities in training on IP, consumer awareness on the dangers of buying counterfeit goods and working together to implement the IPR Recordation system. "For Intellectual Property to gain legal protection in Kenya, it must have been registered by KIPI or recognized by Kenya Copyright Board for Copyrights. The overall IPR protection is offered by ACA" said KIPI Acting Managing Director John Onyango. "Because of this inter-linkage, our partnership with the ACA is meant to build a joint effort in IP protection." He added.



Anti-Counterfeit Authority Executive Director Dr. Robi Njoroge Mbugua (centre), Principal Public Communication Officer Mr. Tom Muteti, Director Corporate services Ms. Rephah Kitavi and KIPI Acting Managing Director Mr. John Onyango and his staff members pose for a photo after the meeting.

Dr. Mbugua on his part added that, "IP protection needs a collaborative approach by relevant government institutions since none of the many agencies have the capacity to handle it alone. We need to expand our partnerships by strengthening cooperation and coordination to protect our innovators, industries and our consumers from consumption of IP infringing goods".

They agreed to periodically call for evaluation meeting to monitor progress of the National Action Plan against illicit trade to which both institutions are members. The National Action Plan against illicit trade to which both institutions are members. The National Action Plan calls for a One-Government coordinated approach in enforcement and public outreach activities among other areas by mandated government agencies.

Enforcement

Kenya's Intellectual Property Rights Enforcement Agencies participate in workshop on Recordation of IP Rights

.....continued from page 1

Nairobi, 05th October 2022.

Kenyan enforcement agencies tasked with the protection of intellectual property rights underwent a two-day sensitization workshop on Intellectual Property Rights recordation at the Movenpick Hotel in Nairobi. The training held from 4th to 5th October 2022, aimed at increasing the front-line enforcement officers' skills in the recordation of intellectual property rights.

The workshop was sponsored by the Africa Intellectual Property Rights and Innovation Project in Africa (Af-RIPI) through funding from the European Union and implemented by the European Union Intellectual Property Office – EUIPO. It brought together ACA Enforcement officers, first-line enforcement officers from other government agencies and key stakeholders in the IP control process in Kenya. Speaking at the opening ceremony, the Anti-Counterfeit Authority Executive Director Dr. Robi Njoroge Mbugua said the workshops' objective was to 'build capacity on emerging trends in counterfeiting and have peer-to-peer learning from organizations with experience and knowledge in the enforcement of IP recordation.'

He said the workshop drew a diversity of speakers from the Mauritius Revenue Authority (MRA), South African Revenue Service (SARS), EU, Algeria and Austrian customs saving. He said that the Authority works with international partners because of the existential international threat posed by

trade in counterfeit goods. Dr. Mbugua further called upon all stakeholders to work with the Authority to protect the IP rights of Kenyans and consumers in general. He called on IP owners, IP Agents, importers, and the shipping and freight industry to work with the authority to ensure a seamless implementation of the recordation project. The Chief Guest, the outgoing Cabinet Secretary for the Ministry of Industrialization, Trade and Enterprise Development Ms. Betty Maina noted the government efforts in the war against counterfeiting and called for improved enforcement and collaboration in the war against counterfeiting and illicit trade in order to protect legitimate trade for economic development.

The CS noted that the success in combating illicit trade largely depended on the cooperation amongst the government agencies and the support received from the private sector. The CS concluded by reiterating the support of the government in promoting IPR to ensure investment. The workshop was also graced by the ambassador and head of the delegation of the European Union in Nairobi, H.E Henriette Geiger. She appreciated the continued collaboration with Kenyan authorities in protecting innovators and the creative industry saying that the future of our economies lies in the creative economy.

The Chairperson of the Board of Directors of the ACA, Ms. Flora Muthahi, said the Authority had initiated a number of measures to address the growing threat posed by counterfeiting and illicit trade key among them is the implementation of the IPR Recordation system. She clarified that the recordation system was a proactive model in IPR enforcement as opposed to previous reactive enforcement measures applied before. "The system seeks to stop the entry of counterfeit goods at the border points and hence it is a preventive innovative system". She assured the stakeholders that the authority will seek to involve them to ensure that they appreciate the importance of the system thus improving self-compliance, and private sector buy-in.

The event was also attended by representatives from the Kenya Private Sector Alliance (KEPSA) Kenya Association of Manufacturers (KAM) and the European Business council among others. The private sector players were involved in a panel discussion on the impact of the recordation system on the private sector upon implementation. They appreciated the government's effort in the war against counterfeit trade and the planned implementation of the recordation system to help in the address of importation of counterfeit products that are locally manufactured.



Kenyan enforcement agencies tasked with the protection of intellectual property rights pose for a photo after undergoing a two-day sensitization workshop on Intellectual Property Rights recordation at the Movenpick Hotel in Nairobi.



Kenyan enforcement agencies heads pose for a photo after undergoing a two-day sensitization workshop on Intellectual Property Rights recordation at the Movenpick Hotel in Nairobi.



The training progress at the sensitization workshop on Intellectual Property Rights recordation at the Movenpick Hotel in Nairobi.

About AfrIPI

AfriPI is a pioneering intellectual property cooperation project that engages in joint action between the EU and Africa to boost intra-African trade and facilitate Africa-Europe investment for economic growth and sustainable development. The project is co-financed by the European Commission, through the Directorate General for International Partnerships (DG INTPA), and by the EUIPO.

It is implemented by the EUIPO in partnership with African regional and national institutions, notably the African Union (AU) Commission, the African Intellectual Property Organization (OAPI), and the African Regional Intellectual Property Organization (ARIPO).

US National Intellectual Property Rights Coordination Center Training on IP Right.

Kenyan Intellectual Property Rights investigators, judges, prosecutors, regulators and customs officials from the Anti-Counterfeit Authority, Kenya Revenue Authority, Office of the Director of Public Prosecutions, Pharmacy and Poisons Board and the Kenya Bureau of Standards received training on Intellectual Property Rights to target transnational criminal networks. The five-day training was held at the Kenya School of Government in Nairobi and was supported by the US State Department's Bureau of International Narcotics and Law Enforcement Affairs; Department of Justice, Office of Overseas Prosecutorial Development, Assistance, and Training; Customs and Border Protection (CBP), and the U.S. Patent and Trademark Office.

The training included intellectual property rights investigative methods with participants gaining increased understanding of the threats, impacts and enforcement challenges identified in the intellectual property environment, including the increasing health, safety and economic risks posed by counterfeit goods. Participants got case-study presentations on pharmaceuticals, electronics and investigative methods to combat transnational intellectual property and commercial fraud crimes.

Speaking at the event the Anti-Counterfeit Director for Legal Services Mr. Johnson Adera said the training was important to participants in sharing best practices and gaining more insights in combating IPR violations. He added that, "By bringing together stakeholders in the IPR criminal justice system and sharing with our counterparts from other countries, we're able to make our work more successful."

Counterfeit rice valued at Ksh.40 Million seized; Cartel busted in Mombasa.

**Mombasa Kenya,
31st August 2022**

The Anti-Counterfeit Authority impounded more than 10,000 bags of 50kg bags of counterfeit Rice valued at Ksh.40 Million at a go-down in Shimanzi area at the Kenyan sea port of Mombasa. Investigations are underway to establish the particulars of the importer and the other outlets involved in the trade.

The Coast Region head Ms. Elina Mnari who led the investigation said they acted on a complaint reported by Capwell industries Ltd, the owners of a leading brand of rice. She said the trademark owners had received numerous customer complaints about rice bearing their trademark that was being sold in the market. Upon investigations, they found out that the products in the market did not belong to them and the brand owner did not authorize their sale.

They called on law enforcement agencies to protect their trademark against the counterfeiters since the trade was injurious to their brand reputation and staged unfair competition and loss of their market share. Preliminary Investigations revealed that the trade involved cartels who imported packaged and branded rice bearing Kenyan known brands and offered for sale disguised as locally manufactured. Capwell Industries Limited is a Kenyan company that started its operations in 1999 with a maize milling factory in Thika. They pride to manufacture high quality maize flour, pulses, rice, porridge and wheat flour using the best processes and modern technology available.



Over 10000 50 Kg bags of counterfeit rice valued at Shs.40 Mimpounded by the Anti Cpoounterfeit Authority during a raid at Shimanzi in Mombasa

The Coast Regional head described the case as detrimental to achievement of government efforts to increase domestic production and improved food security. "Food security and manufacturing is at the heart of Kenyan government big 4 agenda. To achieve increased domestic rice production and improved food security, it is necessary to fight trade in both counterfeit agro-inputs and protect the industries and mills that generate value addition to create employment opportunities."

Added Elina. "The Anti-Counterfeit Authority has a responsibility to make sure that when consumers buy a product, what is on the label is what is in that product," Elina said. "All we're asking for is that the trademark to be truthful and the goods to be safe for human consumption." "The rice we have seized today could have ended up in people's homes and restaurants." Elina noted.



Over 10000 50 Kg bags of counterfeit rice valued at Shs.40 Mimpounded by the Anti Cpoounterfeit Authority during a raid at Shimanzi in Mombasa

Anti-Counterfeit Authority Eyes a Plan to Partner with e-commerce Platforms to Weed Out Online Counterfeiting.

Mombasa Kenya, 31st August 2022

The Anti-Counterfeit Authority is touting a plan to partner with Kenya's Digital Markets to ensure that the e-commerce platforms are not conduits of counterfeiting. The plan is to have online platform owners evaluate their vendor base to ensure that they meet certain requirements to weed out rogue sellers who trade in counterfeits.

The plan was unveiled in a meeting with representatives from leading Kenyan Digital markets. The meeting came in the wake of increased cases of reported online counterfeiting that have shifted to online platforms, social media, and instant messaging services.

Counterfeiters are now using popular digital domains to distribute their products to consumers who buy them unknowingly. Speaking at the meeting, the Nairobi Region Head of Enforcement Mr. Martin Lurther cautioned attendants that "Online counterfeiting is a crime just like physical counterfeiting". He added that; "Online counterfeiting is a form of cyber-crime in the country. It is the

responsibility of e-commerce platform operators to sanctify their trade to avoid criminal liability". ISP (Internet Service Providers) who allow counterfeiting has a contributory liability in connection with counterfeiting. The Authority has in the past conducted research to determine the level of online counterfeiting in the country.

The studies found that the levels stood at 18% in 2017 and grew up to 20% in 2022. The increase was attributed to by increased counterfeiting during the COVID-19 pandemic due to social distancing and fewer physical interactions, perpetrators adjusted their business models by offering for sale counterfeit products through online channels.

The meeting called for the establishment of a collaboration framework for enforcement, public awareness, and sharing of information. Participants resolved to support the efforts of law enforcement authorities in the fight against Intellectual Property crime.



The Nairobi Region Head of Enforcement Mr. Martin Lurther speaking during their partnership meeting with the Anti-Counterfeit Authority at the ACA headquarters.



The Nairobi Region Head of Enforcement Mr. Martin Lurther speaking during their partnership meeting with the Anti-Counterfeit Authority at the ACA boardroom.

About the IPR Center

For more than two decades, the IPR Center, working collaboratively with its public-private sector partners, has led the effort in the government's response to combat global intellectual property theft and enforce intellectual property rights violations.

The center was established to combat global intellectual property theft and accordingly, has a significant role policing the sale and distribution of counterfeit goods on websites, social media, and the dark web.

Counterfeit Motor Vehicle Engine Oil Trade Busted in Busia Kenya - Uganda Border Town.

Busia Kenya, 25th August 2022

Anti-Counterfeit Inspectors raided a motor vehicle and engine oil outlet in the Kenya-Uganda border town of Busia and seized counterfeit motor vehicle engine oil that was packaged and ready for sale. The container and their labels were designed to pass off and confuse consumers to buy thinking they belonged to those of a popular motor vehicle engine oil brand.

Leading the operation, the Anti-Counterfeit Authority Western Kenya Regional Head, Mr. Ibrahim Bulle said they had seized a total of 38 boxes containing 467 pieces of counterfeit TOTAL lubricants worth over KSH 500,000.00 from an outlet named Sonko Auto spares. "We also found other plastic packages and labels of various known brands which we are investigating. Search and investigations are ongoing. The owner identified as a notorious cross-border businessman escaped arrest.

The raid followed a complaint by Total Energies, an oil and lubricants company in Kenya about the



presence of counterfeit products at the border town. The company preferred enforcement action to defend their brand and interest. The representative said. "We are very thankful to the Anti-Counterfeit Authority who identified the outlet and conducted the raid. These products are made of poor-quality ingredients and don't comply with the technical specifications. They can damage engines and in extreme cases, they cause explosions, overheating, and even fires."

This is not the first raid on counterfeit motor vehicle oil and lubricants by the Authority. "We have had joint operations with the Petroleum Institute of East Africa (PIEA) in Nairobi and also along the Kenya-Uganda border at Lwakhakha, Bungoma in multi-agency operations. We have found counterfeiting of engine oils affecting all leading brand names. We advise buyers, dealers, and stockists to buy genuine goods from appointed distributors and fully fledged petrol stations to avoid falling prey to criminals." Mr. Bulle said.

Estimates by the Anti-Counterfeit Authority on the proportion of counterfeit lubricants being sold in the market are as high as 20 percent. "In the last five years, we seized products worth over Sh65 million in different operations in Nairobi and upcountry towns," said Mr. Bulle. This is a big portion of their market share going to the black market.

Counterfeit Motor Vehicle Engine Oil Trade Busted in Busia Kenya - Uganda Border Town during a raid by the Anti-Counterfeit Inspectors.

Inspectors on Vehicle Check Seize 4,400 bottles of Counterfeit Alcohol.

Machakos County, Kenya. 27th August 2022

A raid by Multi-agency enforcement team dealing with illicit trade intercepted a motor vehicle of registration number KCY 596D and found 220 Boxes containing 4400 bottles of counterfeit alcoholic drinks of a known Kenyan brands in Matuu town, Machakos County. The alcohol approximated to be worth Kshs 880,000.00 and the vehicles were seized and booked at the Matuu Police station. The driver was arrested and is assisting officers with investigations.

The officers drawn from Kenya Police, Anti-Counterfeit Authority, the Directorate of Criminal Investigation (DCI), and Kenya Revenue Authority (KRA) acted on a tip-off from local bar owners who suspected the supplier to be selling counterfeit alcoholic drinks.

The suspect will be arraigned in court once investigations are concluded. The owner and/or the driver of the motor vehicle will be charged with failure to comply with provisions of the Excise Duty Act of 2015 and regulation 30 and 32 of Excisable good management system 2017 laws of Kenya. It is an offence to be in possession of excisable products affixed with counterfeit stamps and conveyancing of the same using a motor vehicle. The Anti-Counterfeit Authority officers will prefer charges against the suspects based on possession of counterfeit goods with the intent of sale in violation of the provisions of the Anti-Counterfeit Act 2008 among other charges.

Mr. Abdikadir Adan, an Anti-Counterfeit Inspector who participated in the raid thanked members of public who shared information leading to the nabbing of the notorious supplier saying, “These products are often dangerous to the health and safety of consumers. In the past we have had cases of death and loss of sight due to consumption of counterfeit alcoholic drinks”.

He added that; “We shall interrogate the suspect to tell us more about the manufacturing point and to establish the distribution chain to ensure that we get all similar alcohol out of the markets. We want to warn the traders in such a trade that their days are numbered. We shall extend our operation to the retail outlets to ensure that what is sold to our people is safe and approved by the relevant agencies,” said Mr. Adan.

The supplier is believed to have been supplying illicit liquor in various major towns within Machakos, Kiambu and Kitui counties among others.



Counterfeit Alcohol Busted in Machakos Kenya during a raid by the Multi-agency enforcement.

COURT ROUND-UP

Man fined Ksh 750,000.00 for manufacturing and in possession of counterfeit Alcoholic beverages by a Nairobi Court.

MILIMANI CR. NO. 234/2018 REPUBLIC VERSUS DOMINIC NGIGI KAHURIA

A man from Ruai, Kamnyonge Area in Nairobi County who manufactured counterfeit alcoholic beverages was convicted on two counts on 28th October 2022.

The Accused was charged with manufacturing and possession of counterfeit goods contrary to Sections 32(b) and 32(a) respectively as read with Section 35 (1) of the Anti-Counterfeit Act No. 13 of 2008.

The Accused person was found manufacturing and in possession of counterfeit goods on 6th February 2018 at Ruai, Kamnyonge Area. He was also found with 1000 bottles of 250ml Moonwalker Vodka Portable Spirit and 20 bottles of 250ml Legend Brandy Portable Spirit using 1 Alcoholmeter, 2 rolls of counterfeit KRA duty stamps, Moonwalker Vodka Metallic Bottle Caps, 8 Water Filter Cartridges, Moonwalker flat boxes, Carton Dividers, 1 Capping Machine, 2 Pedrollo Water Pumps, 1 Measuring Cylinder, 250 Liters (1 Drum) of an alcoholic spirit and African Spirits Labels without the authority of the registered intellectual property owners.

The Accused Person was convicted and sentenced to pay a fine of Kshs. 750,000/= or in default one-year imprisonment. The goods were forfeited to the Authority for destruction.

Woman sentenced to six (6) Months imprisonment for selling counterfeit HP Toners

MILIMANI CR. NO. 695/2019 REPUBLIC VERSUS LYDIA MUTHONI WAMBUI T/AL-YMPH DICE ENTERPRISES

A Nairobi woman was convicted on 5th October 2022 after being charged with having in possession in the course of trade counterfeit goods contrary to section 32(a) as read with section 35(1) of the Anti-Counterfeit Act No. 13 of 2008.

The Accused person was found in possession of counterfeit goods in the course of trade on 25th January 2019 at Kampala Business Centre along River Road/Duruma Road junction within Nairobi town. He was found in possession of 19 pieces of HP Tonners without the authority of the registered Intellectual Property Right Owner (IPR), Hewlett Packard Group LLC and which goods imitated the protected goods.

The Accused Person was convicted and sentenced to serve six months' probation as she mitigated that she was remorseful and had also voluntarily paid destruction fees to the Authority. The counterfeit goods were forfeited to the Authority for destruction.

Public Awareness

DCI Director General Amin Mohammed Opens a Training Forum for Anti-Counterfeit Inspectors.

1st December 2022. Nairobi, Kenya.

The Director General of the Directorate of Criminal Investigation Mr. Amin Mohammed officially opened an ACA Enforcement officers training forum at the DCI Academy in South C.

The DCI Academy is a regional premier law enforcement learning and research institution tasked with training in matters of investigations in the National Police Service Authority and has a long experience in training criminal investigation enforcement officers.

The two weeks' conference (27th November to 9th December, 2022) will empower 25 officers on the dynamism of investigation on emerging criminal space. Among major crime threats identified are Online counterfeiting, cybercrime and transnational crimes and in general illicit trade. The training subjects are themed in response to these evolving forms of crime on Infringement of intellectual property rights. Unscrupulous traders have taken advantage of advancement of technology to offer counterfeit goods for sale through online platforms.

ACA Executive Director Dr. Robi Mbugua Njoroge said, "This training has come at an opportune time as it imparts skills and knowledge on how to tackle emerging issues in investigating offences of counterfeiting and related illicit trade. So as a law enforcement agency, we need to equally change in the way we do our business to respond to these criminals who are usually

ahead of law enforcement". In his remarks the Director of Criminal investigations the Anti-Counterfeit Authority for collaborating with the Academy in capacity building and upskilling of the officers. He underscored the need for enhanced collaboration in talking counterfeiting and illicit trade that had taken a global dimension.

Trade in counterfeit goods is a global, multibillion dollar crime being undertaken by organized criminal networks. There is need for enhancing collaboration by law enforcement authorities both at the national, regional and at the global stage to tackle this trade". Mr. Amin also called for developing and utilizing innovative tools as well as capacity building to officers in order to win this war.

According to the World Economic Forum, illicit trade creates an annual drain on the global economy of USD2.2 trillion – nearly 3 per cent of the world's economy. According to the National Baseline Survey on Counterfeit and Other Forms of Illicit Trade in Kenya, the total size of illicit trade was estimated at KSh 826 billion in 2018, having risen from KSh 726 billion in 2017 translating to 8.9% and 9.3% of GDP respectively.



The ACA Executive Director Dr. Robi Mbugua Njoroge, The Director General of the Directorate of Criminal Investigation Mr. Amin Mohammed and ACA Director enforcement, Mr. Yussuf Osman Ahmed.



The ACA Executive Director Dr. Robi Mbugua Njoroge and The Director General of the Directorate of Criminal Investigation Mr. Amin Mohammed.



The ACA, DCI teams and the inspectors pose for a photo After the training forum at the DCI academy.

Brand authentication training by Japan External Trade Organization (JETRO).

In partnership with Japan External Trade Organization (JETRO), ACA co-organized the first online and physical training on product authentication for ACA enforcement officers. Participating Japanese companies included CANON, CASIO, KOYO, NGK, WBA, NISSAN and TOYOTA whose representatives took the officers through the trademark features of their trademarks.

While speaking during the training, ACA Kenya Executive Director Dr. Robi Mbugua Njoroge urged the intellectual property rights owners to enhance training to law enforcement officers on how to distinguish counterfeit products from genuine products. The training forum attracted over 70 officers drawn from ACA enforcement wing and other government officers tasked with combating illicit trade.

The training is one of the ongoing collaboration initiatives between ACA and JETRO to protect and promote intellectual property rights through training, benchmarking initiatives on best practices and capacity building among others. In attendance was Director of JETRO Nairobi Mr. Tsubasa Nakagawa, the Second Secretary of the Economic Affairs and Economic Cooperation Section Mr. Uchikoshi Fumihiro and Mr. Keisuke Seki IP Attache Middle East and Africa.



The ACA Executive Director and the JETRO team during the Brand authentication training by Japan External Trade Organization.



The ACA executive Director Dr. Robi Mbugua Njoroge, ACA Director Enforcement Mr. Yussuf Osman Ahmed and the JETRO team pose for a photo after the training.

Partnership with NITA to develop Training of Trainers Curriculum and Training Manual.

10th September 2022. Naivasha, Kenya.

The Anti-Counterfeit Authority has partnered with the National Industrial Training Authority to develop a Training curriculum on Intellectual Property enforcement. A first of its kind on counterfeiting matters that emanates from infringement of IP in Kenya will be available to all IP enforcement stakeholders in the country and is open to our counterparts in the region.

The need for education on matters of counterfeiting and intellectual property is no longer limited to academic institutions or specialist IP practitioners but open to business executives, government agencies dealing with IP and non-jurists interacting with the IP ecosystem. Despite these academic institutions offering IP, IP education is relatively new to many, and principles and methods in teaching IP are still evolving.

Against this backdrop, the authority has proposed curriculum and training program tailored in response to the current dynamic evolution of IP and increasing counterfeiting across all sectors and in the supply chain. It offers basic or additional IP skills as well as up-to-date knowledge about emerging IP issues applicable to their business activities, regulatory mandates, and career development.

Speaking at the inauguration event held at a Naivasha hotel, 'The curriculum will be part of the learning curve, and we look forward to making a stronger IP protection and enforcement knowledge base for all our stakeholders.' Said Dr. Mbugua. The target audience for the training will include not only ACA staff who join the authority with basic skills or no previous skills on issues of counterfeiting, but also external stakeholders who require the skills, competencies, and knowledge to combat counterfeit within their mandate or in collaboration with ACA.

The National Industrial Training Authority (NITA) is a state corporation established under the Industrial Training (Amendment) Act of 2011 mandated to promote the highest standards in the quality and efficiency of Industrial Training in Kenya and ensure an adequate supply of properly trained manpower.

The Anti-Counterfeit Authority seeks to enhance management of partnerships in the war against counterfeiting and to establish an informed network of government agencies stakeholders who can cross-share intelligence on matters counterfeiting and collaborate with ACA within their niche of operation.

Meeting with communication regulator to tackle counterfeit communication gadgets and on-line counterfeiting.

Nairobi, 13th Dec 2022

In an effort to address the growing threat of on-line counterfeiting and counterfeit communication gadgets, the ACA Executive Director Dr. Mbugua Njoroge held a consultative meeting with the Communications Authority (CA) Director General, Mr. Ezra Chiloba at the CA headquarters in Nairobi. The CEO identified a number of collaboration areas including joint consumer awareness activities, signing a MOU to establish a collaborative framework, joint enforcement to tackle online counterfeiting, intelligence and data sharing through the digital forensic laboratory among other areas.

Kenya like other countries is experiencing a growing problem of counterfeit trade targeting communication devices and on-line counterfeiting. Counterfeit products pose serious health and safety risks and exposes manufacturers & governments to revenues losses in sales and taxes.



The ACA staff pose for a photo with the Communications Authority (CA) Director General, Mr. Ezra Chiloba after the consultative meeting at the CA headquarters in Nairobi.



The ACA Executive Director Dr. Mbugua Njoroge held a consultative meeting with the Communications Authority (CA) Director General, Mr. Ezra Chiloba at the CA headquarters in Nairobi.



The ACA staff pose for a photo with the Communications Authority (CA) Director General, Mr. Ezra Chiloba after the consultative meeting at the CA headquarters in Nairobi.



The ACA Executive Director and (CA) Director General, Mr. Ezra Chiloba pose for a photo at the CA headquarters in Nairobi.

Connecting with Partner government agencies, Business and Trader Community On Recordation as the new enforcement tool.

Nairobi 4th December 2022.

During the months of November and December 2022, the Authority held more than Twenty (20) forums dedicated to sensitizing participants on the Intellectual Property Rights (IPR) Recordation System that was scheduled for January 1st, 2023 implementation. ACA teams made regional visits to all major land, sea and air borders points across the country in town hall meetings. The programs involved keynote addresses from Regional National government officers, county governments and ACA leadership, sensitization and training on Recordation system, open discussion sections and localized solutions to the challenges of counterfeit trade.

During the launch of the country-wide activities at retailer and importers forum at the KICC in Nairobi, the Anti Counterfeit Authority CEO Dr. Robi Mbugua Njoroge reiterated the need for bringing all stakeholders on board saying “collaboration and partnerships benefited the whole society including manufactures, traders, importers, customers and the government. Dr. Mbugua further told the traders that counterfeit trade was detrimental to fair trade as it hurts genuine business through unfair trade practices such as undercutting of prices and tax evasion.

On Recordation System Dr. Mbugua added that “Importers stood to benefit from reduced clearance time and losses arising from enforcement interventions at points of entry or in the market”. Speaking at the forum, ACA Board Chairperson MS. Flora Mutahi assured the trader community of ACA’s commitment to engage stakeholder while implementing its enforcement mandate. She called for support of the Recordation system calling it a preventive enforcement tool to stop anti counterfeit at the source countries and as opposed to previous destination enforcement. She added that ACA is committed to promoting a fair and competitive trade environment using innovative measures like recordation.

The Traders Chairman Mr. Ben Mutahi appreciated the engagement approach employed by the Authority and implored members to accept and comply with IP Recordation and Import requirement to avoid losses of seizures and enforcement stop orders.



The Traders Chairman Mr. Ben Mutahi and the Anti Counterfeit Authority CEO Dr. Robi Mbugua Njoroge during the launch of the country-wide activities at retailer and importers forum at the KICC in Nairobi



The ACA head of recordation Mr. Caspar Oluoch during the launch of the country-wide activities at retailer and importers forum for connecting with Partner government agencies, Business and Trader Community On Recordation as the new enforcement tool at the KICC in Nairobi.



Angela Ndambuki representing Kenya chamber as Chair of the IP Committee and IFPI organization during the SME training on recordation.

Let's tackle illicit trade head on

Anthony Mwangi

*Chief Executive of
Kenya Association of
Manufacturers.*



The recent crackdown on various forms of illicit goods revealed the extent to which criminal networks have proliferated in our nation and posed a threat to the lives and safety of all citizens. The initiative has unearthed many illicit products, among them pharmaceutical products, cosmetics, and alcoholic products, as reported in the media.

According to the National Baseline Survey on Counterfeit and Other Forms of Illicit Trade in Kenya released in 2020 by the Anti-Counterfeit Authority (ACA), the total value of illicit trade was KES 826 billion in 2018, a 14% increase from KES 726 billion in 2017. In terms of their GDP share, this represents an increase from 8.9% in 2017 to 9.3% in 2018. Currently, ACA estimates that the numbers have hit more than KES 1 trillion this year. Illicit trade is a longstanding grave issue, that has grown in scope and magnitude and is derailing economic development. Despite being run by criminals, citizens and legitimate businesses bear the burden of illicit trade.

For instance, entrepreneurs spend more resources to protect their products and services, whereas citizens not only spend money without value from counterfeits but are exposed to potential health risks posed by such products and services. Illicit trade manifests itself in six major and interrelated ways: smuggling; transit fraud/dumping; trade in prohibited goods or products; illicit cash flows; human and wildlife trafficking; trade in small arms and light weapons; and counterfeiting, piracy, and substandard goods.

piracy, and substandard goods. In Kenya, counterfeiting is the most prevalent form of illicit trade.

It not only takes away the citizen's right to quality and genuine products but also puts lives at risk by infiltrating the market with substandard and, in many cases, highly wildlife trafficking; trade in small arms and light weapons; and counterfeiting, piracy, and substandard goods.

Additionally, illicit trade, especially counterfeiting, undermines the value of authentic products and the investments that legitimate businesses put into their brands. Such products are manufactured cheaply for sale at low prices disregarding quality and standards, and end up hurting the

market share of genuine products. On the other hand, the reputation of legitimate manufacturers is impacted negatively due to bad consumer experiences. Some manufacturers have had to restructure their operations due to the influx of counterfeit products in the country. On the other hand, the reputation of legitimate manufacturers is impacted negatively due to bad consumer experiences. Some manufacturers have had to restructure their operations due to the influx of counterfeit products in the country.

Furthermore, many counterfeit products evade taxation, and in doing so, they appropriate portions of our national revenue. This leads to the loss of billions in government taxes every year, depriving the public sector of significant revenue to direct towards the delivery of public services such as education, health, and infrastructure. Illicit trade also undermines the concept of a free and open market, which is fundamental to improving competitiveness, increasing investment, creating jobs, and improving the economic situation of not only Kenya but also of the EAC partner states. In light of this, the Kenya Association of Manufacturers (KAM) continues to work with the Government to create awareness among consumers on the presence of counterfeit products in the market. By working with institutions such as ACA, our goal is to see that members of the public are well-informed so that they may purchase genuine goods and, consequently, enjoy value for their hard-earned money. KAM also advocates for interagency collaboration, coordination, and cooperation among the national enforcement institutions mandated to combat various forms of illicit trade.

Businesses rely heavily on intellectual property rights (IPR) as they drive innovation. However, where they do not exist or are not enforced, rouge individuals and businesses can capitalize unfairly on those who invest valuable resources in the research and development of products. Such actions disincentivize innovation, which is key to developing new products and services that address societal needs.

KAM's analysis indicates that about 30 per cent of counterfeit products in the Kenyan market are produced in the country, while the rest emanate from imported goods. ACA's IPR recordation program seeks to protect consumer health and safety while shielding local manufacturing entities from cheap counterfeit imports. This will spur both domestic and foreign investments and, as a result, lead to economic growth and job creation.

David Luna, the former Chair of the OECD Task Force on Charting Illicit Trade, noted, "As humans, we tend to exaggerate the risks of spectacular events that are extremely rare, but that result in many losses immediately — a factory fire, a terrorist attack, a natural disaster. Meanwhile, we underestimate the risks of long-term events that affect us every day in small ways, adding up to a major impact. Illicit trade is one of these risks". As we seek to realize our development goals, we must secure the health and safety of our citizens and drive industrialization.

Anthony Mwangi

*Chief Executive of Kenya Association of
Manufacturers.*

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