



KENYA'S INTELLECTUAL PROPERTY RIGHTS (IPR) RECORDATION REGIME: A STRATEGIC IMPERATIVE FOR BRAND OWNERS, IMPORTERS AND RIGHTS HOLDERS

Strengthening Intellectual Property Protection, Brand Protection and Anti-Counterfeiting Enforcement in Kenya

INTRODUCTION

As intellectual property increasingly becomes one of the most valuable assets owned by modern businesses, the protection of brands, trademarks, copyrights, patents, product innovations, proprietary technologies and other commercially valuable intangible assets has become a strategic business priority. Across Kenya, East Africa and global markets, businesses are facing growing threats arising from counterfeit goods, trademark infringement, unauthorized imports, product diversion, online brand abuse, parallel imports, digital impersonation and increasingly sophisticated forms of intellectual property infringement.

Against this backdrop, Kenya's Intellectual Property Rights (IPR) Recordation regime administered by the Anti-Counterfeit Authority (ACA) has emerged as one of the most important

intellectual property enforcement and brand protection mechanisms available to rights holders. The regime reflects a broader global trend toward strengthening customs enforcement, border protection measures and anti-counterfeiting frameworks as governments seek to combat illicit trade, protect consumers and preserve innovation-driven investment.

For brand owners, manufacturers, importers, distributors, franchise operators, technology companies, pharmaceutical companies, agribusinesses, investors and multinational enterprises operating in Kenya, Intellectual Property Rights Recordation should no longer be viewed merely as a regulatory compliance requirement. Rather, it should be regarded as an integral component of a sophisticated intellectual property protection, brand protection and risk management strategy.



UNDERSTANDING KENYA'S INTELLECTUAL PROPERTY RIGHTS RECORDATION FRAMEWORK

The Intellectual Property Rights Recordation framework was introduced through amendments to the Anti-Counterfeit Act, 2008 and subsequently operationalized through the [Anti-Counterfeit \(Recordation\) Regulations, 2021](#). The framework significantly enhanced the enforcement powers of the Anti-Counterfeit Authority by establishing a system through which intellectual property rights associated with imported goods may be recorded and monitored for enforcement purposes.

The regime forms part of Kenya's broader intellectual property protection architecture and complements existing protections available under the [Trade Marks Act \(Cap. 506\)](#), the [Copyright Act \(Cap. 130\)](#), the [Industrial Property Act \(Cap 509\)](#) and related legislation governing intellectual property rights. It is also aligned with international intellectual property enforcement trends reflected in the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), World Intellectual Property Organization (WIPO) frameworks and customs enforcement systems adopted in major commercial jurisdictions around the world.

This framework enables proactive enforcement by equipping regulators and agencies to identify legitimate rights holders, monitor imports entering Kenya, and intercept suspected counterfeits before they reach consumers. For further details on the process and requirements of recordation in Kenya, please refer to our [article](#).

WHY INTELLECTUAL PROPERTY RIGHTS RECORDATION MATTERS

The economic significance of intellectual property has expanded dramatically over the past two decades. For many businesses, intellectual property assets now account for a substantial portion of enterprise value. Trademarks, copyrights, patents, industrial designs, trade secrets, proprietary technologies, digital assets and brand goodwill often represent a company's most valuable commercial assets and key sources of competitive advantage.

At the same time, counterfeit trade continues to grow globally, creating substantial risks for rights holders. Counterfeit products undermine legitimate businesses by eroding revenue, diluting brand value, damaging consumer trust and exposing consumers to potentially unsafe or substandard products. The growth of e-commerce platforms, digital marketplaces and increasingly complex supply chains has further amplified these risks by creating new channels through which counterfeit goods can enter local and international markets.

The Intellectual Property Rights Recordation regime seeks to address these challenges by enabling rights holders to work more effectively with the Anti-Counterfeit Authority and other enforcement agencies. By recording intellectual property rights with the Authority, businesses enhance the ability of regulators to identify infringing goods, facilitate customs interventions and strengthen enforcement efforts against counterfeit products entering the Kenyan market.

In practical terms, recordation functions as an important first line of defence in a broader intellectual property enforcement strategy. It creates a framework through which enforcement agencies can distinguish legitimate products from counterfeit products and facilitates more efficient investigations, detentions, seizures and enforcement actions.

INTELLECTUAL PROPERTY RECORDATION AS PART OF A COMPREHENSIVE BRAND PROTECTION STRATEGY

Leading global businesses no longer view intellectual property protection as a standalone legal exercise. Instead, intellectual property protection has become an integral part of enterprise risk management, corporate governance, brand management and commercial growth strategies.

An effective brand protection programme typically integrates trademark registration, copyright protection, patent protection, intellectual property recordation, customs enforcement measures, anti-counterfeiting investigations, market surveillance, online brand protection, domain name enforcement, digital monitoring and intellectual property litigation.



Businesses that adopt this integrated approach are generally better positioned to preserve brand value, protect market share and respond effectively to evolving infringement risks.

Within this broader framework, Intellectual Property Rights Recordation serves as a critical bridge between intellectual property ownership and practical enforcement. While registration establishes legal ownership of intellectual property rights, recordation significantly enhances the ability of rights holders to enforce those rights against counterfeiters and unauthorized market participants.

THE GROWING IMPORTANCE OF CUSTOMS ENFORCEMENT AND BORDER PROTECTION

Globally, customs authorities have become increasingly important participants in intellectual property enforcement. Counterfeit networks frequently exploit international trade routes and cross-border supply chains to distribute infringing products across multiple jurisdictions. As a result, customs enforcement and border protection measures have become critical tools in protecting intellectual property rights and maintaining market integrity.

Kenya's recordation framework supports this objective by enhancing cooperation between rights holders, customs authorities and enforcement agencies. Through recordation, intellectual property owners are better positioned to assist authorities in identifying counterfeit goods, verifying legitimate products and facilitating enforcement interventions at ports of entry.

LOOKING BEYOND COMPLIANCE

Although the recordation regime imposes important compliance obligations, its true significance lies in the strategic advantages it offers to rights holders. Businesses that proactively record and manage their intellectual property rights are often better positioned to respond to counterfeit threats, protect consumer confidence and preserve long-term enterprise value.

The increasing convergence of physical and digital commerce has created new opportunities for counterfeiters while simultaneously raising the

stakes for brand owners. Intellectual property rights are no longer confined to traditional trademarks and physical products. Businesses must now protect digital content, software, proprietary technologies, artificial intelligence-related assets, digital brands and online commercial identities.

Consequently, intellectual property enforcement is becoming increasingly sophisticated, requiring businesses to adopt integrated protection strategies that combine legal, regulatory, technological and commercial solutions. Recordation should therefore be viewed not merely as a compliance exercise, but as an important component of a broader intellectual property risk management and business protection framework.

HOW CM ADVOCATES LLP CAN ASSIST

CM Advocates LLP advises local, regional and international clients on the full lifecycle of intellectual property protection, commercialization, enforcement and value preservation. Through our Intellectual Property, Brands & Commercialization (IPBC) Practice and the Brand Rights, Anti-Counterfeiting & New Developments (BRAND) Unit, we help clients develop and implement comprehensive intellectual property and brand protection strategies tailored to evolving business and regulatory environments.

Our team regularly advises on intellectual property audits, trademark protection, copyright protection, patent strategies, intellectual property recordation, anti-counterfeiting programmes, customs enforcement, market surveillance, digital brand protection, online enforcement, technology commercialization, intellectual property transactions, investigations and complex intellectual property disputes.

Working closely with manufacturers, innovators, technology companies, pharmaceutical businesses, agribusinesses, investors, distributors, franchisors and multinational enterprises, we assist clients in protecting intellectual assets, preserving market integrity, safeguarding innovation and maximizing the value of intellectual capital across local, regional and international markets.



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CONCLUSION

As intellectual property, innovation and brand value continue to drive enterprise growth and competitive advantage, businesses must adopt increasingly proactive approaches to intellectual property protection, trademark enforcement, customs enforcement and anti-counterfeiting compliance.

Kenya's Intellectual Property Rights Recordation regime represents a significant opportunity for rights holders to strengthen their enforcement

capabilities, enhance brand protection and mitigate risks associated with counterfeit trade. Businesses that integrate recordation into broader intellectual property protection and commercialization strategies will be better positioned to protect their investments, preserve consumer trust and sustain long-term commercial success.

In an increasingly interconnected and technology-driven global economy, proactive intellectual property protection is no longer optional. It is a business imperative.

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