

**Africa Intellectual Property Newsletter Vol. 77**

**Kenya: The Intellectual Property Rights (IPRs) Recordation System**

**CONTENTS**

1	PURPOSE OF THE SYSTEM .....	2
1.1	Introduction .....	2
1.2	The ACA .....	2
1.3	Counterfeiting – an IPRs recordation system.....	2
1.4	Some words of caution .....	2
2	BACKGROUND .....	3
2.1	The IPRs recordation system .....	3
2.2	Announcement of the IPRs recordation system - Section 34B .....	3
2.3	Commentary on Section 34B - the recordation requirement .....	5
2.4	Summary of the recordal requirement.....	6
3	OUTLINE OF THE SYSTEM .....	7
3.1	IP recordal.....	7
3.2	Renewals of IPRs records .....	7
3.3	The purpose / rationale.....	8
3.4	Date of operation .....	8
3.5	The situation on the ground – discussions with the ACA.....	8
3.6	Offences and penalties.....	8
4	SUMMARY OF THE ACA GUIDELINES .....	9
4.1	The Guidelines .....	9
4.2	Summary of the User Guidelines.....	9
5	SCOPE OF THE IPRs TO BE REGISTERED.....	10
5.1	What IPRs needs to be registered? .....	10
5.2	5.2 So what does this mean? .....	10
6	Anti-Counterfeit Authority Integrate Management System (AIMS) - Step by step guide.....	11
7	Q & A.....	25
7.1	General .....	25
7.2	Operation.....	26
7.3	Registration of IPRs .....	26
8	RESPONSES TO THE SYSTEM BY COMPANIES AND OTHER INTERESTED PARTIES IN EACH COUNTRY.....	27
9	REFERENCES .....	28
10	Annexure 1.....	28
11	Annexure 2.....	30
12	Annexure 3.....	31

## **1 PURPOSE OF THE SYSTEM**

### **1.1 Introduction**

Like much of Africa, Kenya has a problem with counterfeit goods. Unlike much of Africa, however, Kenya has taken considerable steps to deal with the problem of counterfeiting. Most notably it has:

- passed specific anti-counterfeiting legislation, the Anti-Counterfeit Act No. 13 of 2008 (“the AC Act”).
- created a dedicated anti-counterfeiting body, the Anti-Counterfeit Authority (“the ACA”).
- recently introduced an ACA recordal process – it is this process that is the subject of this report.

### **1.2 The ACA**

The ACA’s mandate is set out on its website, <https://www.aca.go.ke/>. The ACA is required to:

- enlighten and inform the public on matters relating to counterfeiting;
- combat counterfeiting, trade and other dealings in counterfeit goods in Kenya in accordance with this Act;
- devise and promote training programmes on combating counterfeiting;
- co-ordinate with national, regional or international organizations involved in combating counterfeiting;
- advise the government on policies and measures concerning the necessary support, promotion and protection of Intellectual Property Rights (“IPRs”) as well as the extent of counterfeiting;
- carry out inquiries, studies and research into matters relating to counterfeiting and the protection of IPRs.

### **1.3 Counterfeiting – an IPRs recordation system**

The Kenyan authorities, including the ACA, have seemingly come to the view that, despite the fact that the country has specific anti-counterfeiting legislation and a dedicated anti-counterfeiting body, it is still not winning the war against counterfeit goods. They have concluded that further measures are required. The further measures have now come in the form of an IPRs recordation system. It is this system that forms the basis of the report.

### **1.4 Some words of caution**

It should be pointed out that from the view of IP professionals, the introduction of the IPRs recordation system has been far from perfect. Some of the official material that has been published is unclear and, at times, even contradictory.

As a result there is not only concern about the IPRs recordation system, but even some scepticism - cynics have suggested that it is little more than a revenue-generating exercise. Yet the IPRs recordation system is here and IPRs owners certainly will need to engage with it.

Having said all of the above, recordation, if implemented properly, with Customs playing an important role as the first line of defence for goods imported into Kenya, will be very efficient in fighting counterfeiting.

## 2 BACKGROUND

### 2.1 The IPRs recordation system

Kenya has introduced a system whereby IPRs owners are required to record their IPRs with the Anti-Counterfeit Authority (ACA) – the initial announcement can be found at the following link:

<https://www.aca.go.ke/recordation/commencement-of-recordation-of-ipr>

It is important to note that the recordal system is additional to, and separate from, any Kenyan registrations that the rights owner may have.

The purpose of recordation is seemingly to make it easier for the Kenyan authorities (in the form of the ACA) to identify counterfeit goods at the country's borders, and thereby intercept and destroy counterfeit goods.

But what exactly is recordation? This is the lengthy explanation that appears on the site <https://public.aims.go.ke>

*'Recordation is the process of collecting information from the intellectual property owners / holder about their registered trademarks, copyrights or any other protected intellectual property right, and then entering that information into an electronic database for all goods to be imported into the country. This information is then used by border protection offices to verify the recordation status of the goods to be imported.'*

*Owners of copyrighted works, industrial property rights with Kenya Industrial Property Institute (KIPI) or any other international registering authority (irrespective of the place of registration) shall duly record these rights, if valid, with ACA to prevent importation into Kenya of infringing foreign goods.'*

### 2.2 Announcement of the IPRs recordation system - Section 34B

It is worth noting that there was no mention of an ACA recordal program / requirement in the AC Act which, dates back to 2008 – the ACA recordal program came about as a result of an amendment to the law in 2018. It's also worth noting that even after the 2018 amendment there was a lengthy delay before Regulations were published, fees were finalised and processes were put in place. The authorities have, it must be said, not shown a great deal of urgency on this issue.

The introduction of ACA recordation was widely publicised. This happened in the following ways:

#### 2.2.1 A public notice - Section 34B

Recordation was introduced by the Statute Law (Miscellaneous Amendments) Act of 2018, and the introduction of Section 34B of the Anti-Counterfeit Act 13 of 2008. According to the authorities there had been extensive public participation in respect of the issue of recordation. The recordation requirement was announced in the following public notice:

Public Notice: Commencement of Recordation of Intellectual Property Rights, Public Notice No. 1/2022. Pursuant to Section 34B of the Anti-Counterfeit Act No. 13 of 2008, Legal Notice No.117 of 2021 and Legal Notice No. 118 of 2021.

The public notice specified an effective date of 1 July 2022. It described the requirement of IPRs recordation in the following terms:

- *'IPRs relating to goods to be imported into Kenya, irrespective of their place of registration, shall be required to be recorded with the ACA via the link <https://public.aims.aca.go.ke>.*
- *'It is an offence to import into Kenya, goods whose IPRs have not been recorded with the ACA.'*
- *'All recorded IPRs shall be afforded proactive protection against counterfeit imports in accordance with the provisions of the Anti-Counterfeit Act.'*
- *'No IPRs agent shall be eligible to perform any function with ACA from 1 July 2022 unless they are so admitted and registered. IPRs agents are hereby reminded to apply to ACA for admission and registration.'*
- *'ACA also notifies prospective importers of the mandatory requirement to declare particulars of intellectual property rights for goods to be imported into Kenya as from July 2, 2022.'*

#### 2.2.2 An announcement<sup>1</sup> on the ACA website – <https://www.aca.go.ke>

This read as follows:

- *'Intellectual Property Rights (IPRs) recordation refers to the process of collecting and entering into an electronic database information from Intellectual Property Rights owners regarding their registered IPRs...'*
- *'It shall be an offence for any person to import into Kenya any goods or items bearing an IPR that has not been recorded with the ACA.'*
- *'It shall be an offence for any person to import into Kenya, in the course of trade, any goods or items except raw materials that are unbranded.'*

#### 2.2.3 An announcement on the Anti-Counterfeit Authority Integrated Management System (AIMS), <https://public.aims.aca.go.ke>.

This made a number of claims:

- It described recordation as *'the creation of a database of IPRs information relating to trademarks, copyrights, trade names, or any other protected intellectual property rights, for all goods to be imported into Kenya.'*
- It said that *'counterfeit imports shall be subjected to proactive seizures and forfeiture or prosecution in accordance with the provisions of the Anti-Counterfeit Act. Goods bearing IPRs that are not recorded with ACA shall be prevented from being imported into Kenya.'*
- It went on to say that preventing counterfeits *'in effect translates to proactive protection of health and safety of consumers' who are protected from 'unfair competition from counterfeit imports.'*

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<sup>1</sup> <https://www.aca.go.ke/faqs-intellectual-property-rights-recordation>

- It claimed that Kenya is the second country in Africa to have a recordal system, and that the system follows examples in the USA, the United Arab Emirates (UAE), China, Mauritius and Indonesia.

2.2.4 In the User Guidelines for Application for Admission as an Agent, Anti-Counterfeit Authority Integrated Management System (AIMS), which is 'Annex 2' of the announcement referred to in 2.2.3 above, <https://public.aims.aca.go.ke>.

This makes an important point:

*'It shall not be mandatory for an IPR owner to record all the registered IPRs relating to one product'* (our emphasis).

### 2.3 Commentary on Section 34B - the recordation requirement

These various announcements tell us a number of things:

- 2.3.1 The Kenyan authorities have introduced what is, in effect, a dual registration system. An IPR owner importing goods into Kenya is required to record its rights separately with the ACA, in the sense that it is an offence to import goods for which there has been no recordal, and such imports will be intercepted. Recordation establishes a database of IPRs affecting imported goods. The benefit of recordation for the IPRs owner is that Customs officers will seize counterfeits.
- 2.3.2 Although counterfeiting tends to deal primarily with trademark rights - and the term 'trademarks' is referred to throughout the documentation - the law seemingly applies to all IPRs. The term 'copyrights, trade names or any other form of intellectual property rights' appears in Section 34B. The term "intellectual property right" is defined in Section 2 of the law to include copyright, plant breeders rights, trademarks and any other right protected under the Industrial Property Act, 2001 (No. 3 of 2001).
- 2.3.3 Having said that, our view is that recordation (and anti-counterfeiting legislation) is primarily about trademarks. A recordal of a design registration may be feasible and warranted in some cases, for example where the design is an important distinguishing or source-indicating feature of the product.

From a practical level, discussions between Spoor & Fisher and the ACA (discussed in greater detail later, see 3.5) suggest that the ACA would be unable to do a meaningful recordal for a patent, and is unclear about recording design registrations. In our view, recordals would also be very difficult in the context of copyright.

- 2.3.4 Many goods feature multiple IPRs. There appears to be a contradiction between the ACA's website (<https://www.aca.go.ke>) - which says that 'goods bearing IPRs that are not recorded with ACA shall be prevented from being imported into Kenya' - and the User Guidelines - which say that 'it shall not be mandatory for an IPRs owner to record all the registered IPRs relating to one product.'

Our view is that if a product has a house brand and a product brand, recordals of the house brands should be sufficient. It also means that if there is a trademark on the product which is the subject of a design registration, registration of the trademark will be sufficient.

- 2.3.5 It might be reasonable to assume that only Kenyan registrations can form the basis of a recordal. But this is not the case. The use of the term *'irrespective of the place of registration'* makes it clear that foreign registrations qualify too. As does the fact that the term *'certificate of registration'* is defined in the Anti-Counterfeit (Recordation) Regulations 2021 ("the Regulations") as *'a certificate relating to the protection of intellectual property rights issued under any written law'*.
- 2.3.6 In cases where there has been an ACA recordal the authorities will pro-actively seize counterfeit goods. This would appear to be the main benefit of recordal.
- 2.3.7 A number of criminal offences have been created and the penalties are severe: five years imprisonment or a fine of three times the value of the goods in the case of a first offence; 15 years imprisonment or a fine of 15 times the value for subsequent offences.
- Section 32(j) says that it is an offence to import into Kenya any goods bearing a trademark, trade name or copyright that has not been recorded.
  - Section 32(k) says that it is an offence to import into Kenya any goods (other than raw materials) that are unbranded.
  - Section 32(l) says that it is an offence to fail to declare any IPRs subsisting in any goods being imported.
  - Section 32 (m) says that it is an offence to falsely declare the quantity of the IPRs subsisting in goods being imported.
- 2.3.8 There is a process whereby an IPRs owner who suspects that an offence has been committed under Section 32 can file a complaint with the Executive Director under Section 33.

## 2.4 Summary of the recordal requirement

There are ambiguities and aspects that are not as clear as they might be. So, the assessment of the situation is as follows:

- 2.4.1 The ACA recordal is essential (a requirement) if a company wishes to import goods into, Kenya - it is unlawful to import goods for which there is no recordal. Please note that a recordal is not required if goods are exported from Kenya
- 2.4.2 It is advisable for the companies to register their trademarks in Kenya, particularly if the trademarks are used in Kenya. Although it is possible to rely on a foreign registration as a basis for a recordal, it is necessary to have a Kenyan registration in order to institute legal proceedings. When the Kenyan application goes through to registration it can take the place of the foreign registration in the ACA recordal.
- 2.4.3 In some views, not all the IPRs relating to a product need to be recorded.
- 2.4.4 An important benefit of recordals (other than making importation lawful) is that ACA will seek to intercept counterfeits of the company's products.
- 2.4.5 Recordals need to be renewed annually.
- 2.4.6 It is unlawful to import unbranded goods, although there is an exception for raw materials. These are defined in the Regulations as *'items used as ingredients in the manufacture of goods'*.

2.4.7 The role of Customs as the first government agency to come into contact with counterfeit goods when they are imported, has not been fully outlined.

The full wording section of Section 34B is set out in **ANNEXURE 1**.

### **3 OUTLINE OF THE SYSTEM**

The most important features of the new recordal system are as follows:

#### **3.1 IP recordal**

Before detailing the process, it is worth remembering that no recordal is required for a trademark that is used for raw materials or a trademark that is used simply for services.

There are rules about who can register, see Articles 2, 3 and 4 of the Regulations. These state that the registrant should be the owner of the IPR. If the importer is not the registrant, a form must be submitted with information about the rights holder and the registration number to the ACA.

There is a detailed recordal process for all other types of trademarks and this is set out on <https://public.aims.aca.go.ke>. The application entails:

- 3.1.1 Creating an account, using a Form ACA18.
- 3.1.2 Providing details of the rights owner, places of manufacture, and a sample of digital photos of goods bearing the trademark.
- 3.1.3 Providing the identities of authorised foreign users and distributors.
- 3.1.4 Providing the identity of a parent or subsidiary company of the user of the trademark.
- 3.1.5 Providing a certified copy of an IPR registration certificate.
- 3.1.6 Paying a fee of KES 9.000 (US\$90) for the first class and KES1000 (US\$10) for each additional class. This is subject to change.
- 3.1.7 On approval of an application the ACA issues a certification mark in the form of an anti-counterfeit security device – the obligation is then on the trademark owner to apply the device to its goods, as the ACA can destroy goods that do not bear the device. The implementation of the security device is still a long way off.
- 3.1.8 The recordal is valid for a period of one year from the date of approval of recordal, or the remainder of the registration period of the IPR registration, whichever is the shorter. Annual renewal is required. The onus is on the IPR owner to provide evidence of renewal of the recorded IPR to the ACA – if no evidence is provided, the ACA recordal will lapse. The ACA will not warn brand owners, and the onus to keep the ACA informed of the IPR renewal, and also to renew the recordal itself, rests with the brand owner.
- 3.1.9 In the case of an assignment of rights the ACA must be advised of the new owner's details.

#### **3.2 Renewals of IPRs recordals**

The following points are important:

- Renewal shall be annual.
- The application for renewal must be submitted no later than 30 days before the expiration of the recordal.
- A status copy of the IPR registration certificate must be submitted, together with details of change of ownership (if applicable).

### 3.3 The purpose / rationale

The rationale behind the dual recordal process is that ACA inspectors will have the same powers as customs officers in respect of imported counterfeit goods. It is felt that this new system will lead to more seizures of counterfeit goods at ports of entry.

### 3.4 Date of operation

The new system was due to come into operation on 1 July 2022 (Public Notice No. 1/2022 Anti-Counterfeit Authority). This deadline was subsequently extended until 1 January 2023 (Public Notice No.2/2022 Anti-Counterfeit Authority).<sup>2</sup>

But there are concerns about 1 January 2023. First of all, this date follows the long December holiday and the 1st of January is a public holiday in most countries.

### 3.5 The situation on the ground – discussions with the ACA

As mentioned, although the legislation refers to *'intellectual property rights,'* it does seem that the main focus is trademarks. Previous discussions with the ACA suggest that:

- 3.5.1 When it comes to trademarks recordals, these should ideally be limited to the major or most important trademarks - perhaps the company's house mark.
- 3.5.2 It is unclear whether the ACA would be able to handle registered design recordals.
- 3.5.3 The ACA would certainly not be able to deal with any patent recordals.
- 3.5.4 The short-term goal is primarily to compile statistics - in a noteworthy revelation the ACA advised our firm that in the short term they are unlikely to seize any goods for which there has been no ACA recordal.

The ACA's position is that in the short term the main aim is simply to compile statistics and encourage brand owners to have a registration on file for the next phase of the system. The next phase will involve enforcement in the sense of identifying, intercepting and destroying counterfeits. This advice does seem a bit odd given that recordal is said to be *'mandatory'*.

### 3.6 Offences and penalties

There are a range of offences set out in Section 32. These state, inter alia, that it will be an offence to:

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<sup>2</sup> <https://www.aca.go.ke/extension-of-deadline-commencement-of-recordation-of-ipr>



- 3.6.1 Import into Kenya any goods or items bearing a trademark, trade name or copyright that has not been recorded with the agency – Section 32 (i).
- 3.6.2 Import into Kenya in the course of trade any goods or items except raw materials that are unbranded - Section 32 (k).
- 3.6.3 Fail to declare the quantity or the IPRs subsisting in any goods being imported into Kenya - Section 32(l).
- 3.6.4 Falsely declare the quantity of, or the IPRs subsisting in, any goods being imported into Kenya - Section 32(m).

Section 35 provides that the penalty for any such offence can involve imprisonment for up to 5 (five years) and/or a fine.

## 4 SUMMARY OF THE ACA GUIDELINES

### 4.1 The Guidelines

The ACA has issued two separate Guidelines, namely:

- 4.1.1 User Guidelines for application for IPRs recordation, and
- 4.1.2 User Guidelines for Admission as an Agent.

The Guidelines can be found at <https://www.aca.go.ke/recordation/user-guidelines-aims-application-for-ipr-recordation-and-agent>

These Guidelines are also attached to this report marked **ANNEXURE 2** and **ANNEXURE 3**.

### 4.2 Summary of the User Guidelines

What follows is a summary of the User Guidelines for IPRs recordation which, would be imagined, is the most relevant to Japanese companies. It is recommended that the full wording be consulted whenever an application for recordal is being lodged.

- 4.2.1 An IPR owner or an agent can log in – an agent requires a notarised Power of Attorney.
- 4.2.2 Recordation can be done as an individual, partnership or company.
- 4.2.3 The type of IPR must be specified.
- 4.2.4 If the IPR is a registered trademark or a registered design the relevant classes covered by the registration must be inserted.
- 4.2.5 Details of the registration must be submitted including the classes covered in the case of a trademark or design registration.
- 4.2.6 Details of the manufacturer, subsidiaries, agents, parent companies, licensees, must be submitted.
- 4.2.7 Product details must be submitted together with photographs.
- 4.2.8 An invoice will be generated.
- 4.2.9 The invoice must be paid through one of the specified and approved methods.
- 4.2.10 The application must be submitted and it will be dealt with within a period of 30 days.
- 4.2.11 A recordation certificate will be issued, this will be valid for 12 months and a renewal will be available at a cost of US\$50. This fee is subject to change.

## 5 SCOPE OF THE IPRs TO BE REGISTERED

### 5.1 What IPRs needs to be registered?

The issue of exactly what companies should be recording is a vexed one. It may be useful to refer to point 2.3 of this report, where there is some discussion on the point.

There are two main points to consider:

- 5.1.1 The general rule is that the IPRs used on goods that will be exported to Kenya need to be recorded with the ACA.
- 5.1.2 Yet the AIMS User Guide does say that not all the IPRs that appear on a product need to be recorded with the ACA.

### 5.2 So what does this mean?

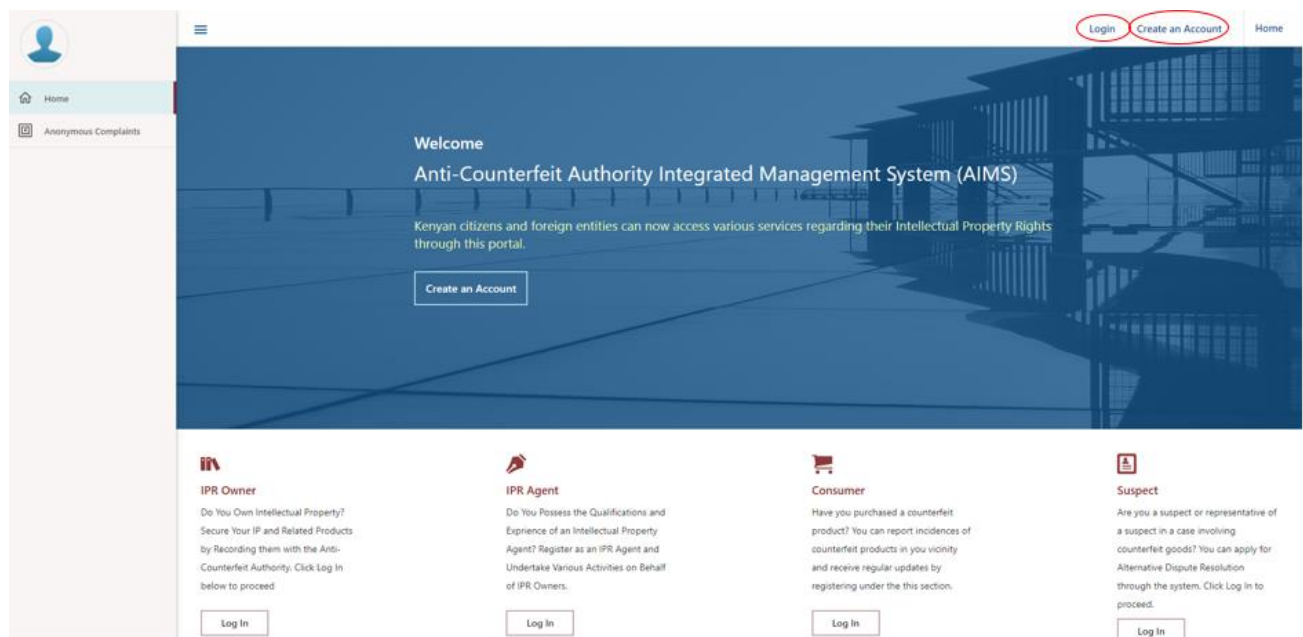
No explanation is offered in the published documentation, and it seems that rights owners will need to interpret this as best they can. Our interpretation is as follows:

- 5.2.1 The recordation system is essentially aimed at tackling counterfeiting.
- 5.2.2 Counterfeiting is far more closely associated with trademark rights than any other IPRs. Patents seldom, if ever, come up in the context of counterfeits. A registered design could possibly be relevant and so, perhaps, could copyright. But in the great majority of cases counterfeit cases involved trademarks.
- 5.2.3 From a purely practical perspective rights owners should be concentrating on recording their trademark rights with the ACA.
- 5.2.4 As to exactly which trademark rights should be recorded, a pragmatic approach would be to concentrate on the house mark which, we assume, would appear on all products.
- 5.2.5 As for secondary/product marks - which might even include product shape marks - the rights owner may need to decide on an *ad hoc* basis whether recordal is warranted.

## 6 Anti-Counterfeit Authority Integrate Management System (AIMS) - Step by step guide

**Homepage - <https://public.aims.aca.go.ke/home>**

From here you can create an account or login if you are an existing user.



**Creating an account:**

**ACA** anti counterfeit authority

**CREATE AN ACCOUNT**

[Have an Account? Login Here](#)

**1. Provide Your Name Below**

First Name  
Enter Your First Name

Last Name  
Enter Your Last Name

Phone Number (Select Phone Code and Enter Your Phone Number)  
--Code-- Enter Your Phone Number

Company Name  
Enter Your Company Name

Designation  
Enter Your Designation

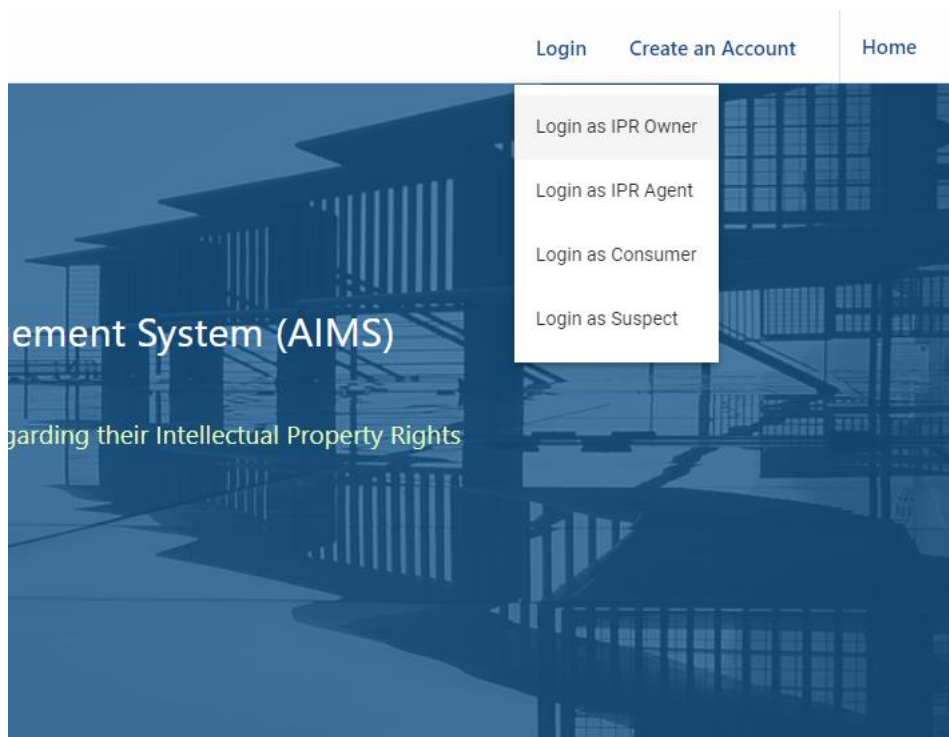
**2. Enter Your Email and Create a Password**

Email  
Enter Your Email Address

Password Rules:  
i. Ensure you're password is at least 6 characters long.  
ii. Ensure you're password has at least 1 uppercase letter, 1 lowercase letter, 1 number and 1 special character. Example: **Apple20\$**

Password

**Logging in:**





## LOGIN

[Not Registered? Register Here](#)

Your Email Address

Your Password

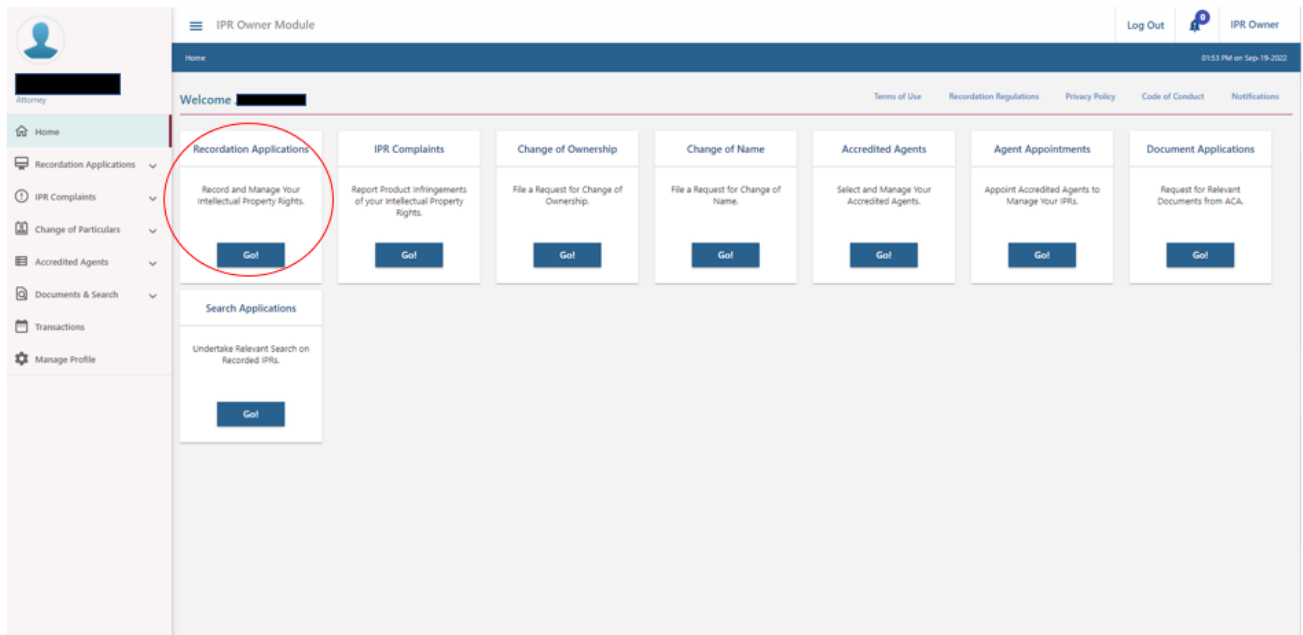
Remember My Login

[Forgot Your Password? Click Here](#)

Once logged in, the dashboard will look like the image below.

From here, you can do a variety of functions. For the purpose of recordals application, we will focus on same.



**My recordal applications:**

This is a summary of all the pending applications under your account, each with an application reference number, details of who the IPR is, the application date, and the status of the application.

To submit a new application, simply select the 'new application' button.

The screenshot shows the 'My Recordation Applications' page. At the top right, there is a 'New Application' button highlighted in red. Below it is a table with the following data:

No.	Type	Name	IPR Name	Application Date	Application Status	Type	Current Role
[Redacted]	NEW	[Redacted]	[Redacted]	15-Sep-2022	PaymentVerification	Corporate	FINANCEOFFICER
[Redacted]	NEW	[Redacted]	[Redacted]	12-Sep-2022	PaymentVerification	Corporate	FINANCEOFFICER
[Redacted]	NEW	[Redacted]	[Redacted]	06-Sep-2022	PaymentVerification	Corporate	FINANCEOFFICER
[Redacted]	NEW	[Redacted]	[Redacted]	29-Aug-2022	PaymentVerification	Corporate	FINANCEOFFICER
[Redacted]	NEW	[Redacted]	[Redacted]	24-Aug-2022	PaymentVerification	Corporate	FINANCEOFFICER

New IPR recordation:

**Section 1: Applicant details**

In this section the applicant populates the empty space with his/her details.

The screenshot shows the 'New IPR Recordation' page. The form is titled '1. APPLICANT DETAILS' and includes the following sections and fields:

- Basic Details:**
  - First Name: [Redacted]
  - Last Name: [Redacted]
  - Email Address: [Redacted]
  - Code: [Redacted]
  - Phone Number: [Redacted]
  - Identification Type: NationalID
  - ID Number/Passport Number: [Redacted]
  - Nationality: [Redacted]
  - Tax ID / Tax PIN (Optional): [Redacted]
- Postal Address:**
  - PO Box: [Redacted]
  - Postal Code: [Redacted]

On the right side, there is a 'Sections' sidebar with a checklist:

- 1 - Applicant Details
- 2 - IPR Owner Details
- 3 - IPR Information
- 4 - IPR Agents
- 5 - Related Products
- 6 - Confirmation
- 7 - Invoice
- 8 - Submitted

Nationality

Tax ID / Tax PIN (Optional)

Postal Address

PO Box Postal Code

City Country

Physical Address

Street/Building/Floor

City Country

Save your details by clicking the Save Details button below.

Save Details

Previous Next

The next step is to select the type of business the IPR is. There *must* be a selection.

The selection of either will prompt the next steps. For this purpose, we will select “company”.

IPR Owner Module

Log Out IPR Owner

Home > Recordation Applications > New IPR Recordation

Notifications: 0

New IPR Recordation

Go Back

2. IPR OWNER DETAILS

a) Select the type of IPR Owner whether Individual, Partnership or Company.

Individual  Partnership  Company

Sections

- 1 - Applicant Details
- 2 - IPR Owner Details
- 3 - IPR Information
- 4 - IPR Agents
- 5 - Related Products
- 6 - Confirmation
- 7 - Invoice
- 8 - Submitted

## **Section 2: IPR Owner Details**

In this part of the application, the AIMS system requires various information regarding the IPR.

Some information is required, and some is optional. All required information has to be inserted or provided.

**2. IPR OWNER DETAILS**

a) Select the type of IPR Owner whether Individual, Partnership or Company.

Individual  Partnership  Company

b) Based on the type of IPR Owner selected, complete the form below. For partnership, click the *Add Partner* button.

**Company**

**Company Details**

Company Name

Email Address

Code  Phone Number

Certificate of Incorporation Number

PIN No.

Country of Registration

**Sections**

- 1 - Applicant Details
- 2 - IPR Owner Details
- 3 - IPR Information
- 4 - IPR Agents
- 5 - Related Products
- 6 - Confirmation
- 7 - Invoice
- 8 - Submitted



**Postal Address**

PO Box	Postal Code
City	Country ▼


**Physical Address**

Street/Building/Floor	
City	Country ▼

**Certificate of Incorporation (Required)**


A Certificate of Incorporation must be provided.

Attach a copy of your Certificate of Incorporation, in PDF format only, by clicking the button below. (Must be less than 4 MB)

Attach 

**Company PIN (Optional)**

Attach a copy of your Company PIN, in PDF format only, by clicking the button below. (Must be less than 4 MB)

Attach 

Save your company details by clicking the Save Details button below.

[Previous](#) [Save Details](#)

**Section 3: IPR information:**

Section 3 of the application requires details of the intellectual property itself. In this case, we will select trademark protection as shown below:

IPR Owner Module Log Out IPR Owner

Home > Recordation Applications > New IPR Recordation Notifications: 0

### New IPR Recordation Go Back

**3. IPR INFORMATION**

Please complete the IPR Details section first before proceeding to the remaining sections.

Select the IPR Type from the list provided below.

Trademark	<input checked="" type="checkbox"/>
Industrial Design	<input type="checkbox"/>
Patent	<input type="checkbox"/>
Utility Models	<input type="checkbox"/>
Copyright	<input type="checkbox"/>
Others	<input type="checkbox"/>

Provide the IPR Name, Expiry Date and IPR Number in fields provided below.

IPR Name

IPR Expiry Date

Hint: Click on the Calendar icon to select the Expiry Date

Sections

- 1 - Applicant Details
- 2 - IPR Owner Details
- 3 - IPR Information
- 4 - IPR Agents
- 5 - Related Products
- 6 - Confirmation
- 7 - Invoice
- 8 - Submitted

IPR Owner Module Log Out IPR Owner

Home > Recordation Applications > New IPR Recordation Notifications: 0

### New IPR Recordation Go Back

**3. IPR INFORMATION**

Please complete the IPR Details section first before proceeding to the remaining sections.

Select the IPR Type from the list provided below.

Trademark	<input checked="" type="checkbox"/>
Industrial Design	<input type="checkbox"/>
Patent	<input type="checkbox"/>
Utility Models	<input type="checkbox"/>
Copyright	<input type="checkbox"/>
Others	<input type="checkbox"/>

Provide the IPR Name, Expiry Date and IPR Number in fields provided below.

IPR Name

IPR Expiry Date

Hint: Click on the Calendar icon to select the Expiry Date

Sections

- 1 - Applicant Details
- 2 - IPR Owner Details
- 3 - IPR Information
- 4 - IPR Agents
- 5 - Related Products
- 6 - Confirmation
- 7 - Invoice
- 8 - Submitted


The rest of this section requires the applicant to provide further details of the IPR's intellectual property - its trademarks in this case.

This means, the name of the IPR, when it expires and its registration number.

Lastly, the applicant must attach copies of its trademark registrations and renewal certificates as proof of registration.

Provide the IPR Name, Expiry Date and IPR Number in fields provided below.

IPR Name

IPR Expiry Date 

Hint: Click on the Calendar Icon to select the Expiry Date


IPR Number

**Attachments**

1. Certificate for Registration of IPR


A Certificate for Registration of IPR must be provided.

Attach a copy of your Certificate for Registration of IPR, in PDF format only, by clicking the button below. (Must be less than 4 MB)

Attach 

2. Certificate for Use in Legal Proceedings (Optional)

Attach a copy of your Certificate for Use in Legal Proceedings, in PDF format only, by clicking the button below. (Must be less than 4 MB)

Attach 

Trademark Classes    Industrial Design Classes

To select Trademark Classes, choose the Trademark IPR Type above.

If the applicant selected trademarks from the “Select the IPR type from the list provided”, the next step will be to select trademark classes.

This now gives the applicant the opportunity to select any of the classes he/she seeks protection in. It is done by a simple selection procedure. The system lists the class headings from the Nice Classification.

Please note that this class selection will determine the prescribed costs of the recordal.

Please also note that the applicant has to produce trademark certificates which correlate with the classes of protection selected. For instance, the IPR must have protection in class 1 and 2 for the application to select classes 1 and 2, otherwise the application will be rejected.

Select the classes that appear on your IPR Certificate from the list provided below.

Trademark Classes

Industrial Design Classes

Select Trademark Class

<input checked="" type="checkbox"/>	<b>Class 1</b> Description Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.
<input type="checkbox"/>	<b>Class 2</b> Description Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.
<input type="checkbox"/>	<b>Class 3</b> Description Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.
<input type="checkbox"/>	<b>Class 4</b> Description Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.
<input type="checkbox"/>	<b>Class 5</b> Description Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Items per page: 5 1 - 5 of 45 < >

Once the details have been saved, the option to provide details of manufacturer(s), foreign entities, parent/subsidiaries, and licensees becomes available.

As shown, the details of the manufacturer(s) is compulsory and therefore has to be provided to continue

Items per page: 5 1 - 5 of 45 < >

To select Trademark Classes, choose the Trademark IPR Type above.

Save your IPR Details by clicking the Save Details button below.

**Save Details**

**Provide Your Manufacturer(s) Details (Required).**

**Provide Your Foreign Entities' Details.**

**Provide Your Parent/Subsidiaries Details.**

**Provide Your Licensees Details.**

At least one manufacturer must be provided.

**Previous** **Next**

At this point, the applicant needs to insert the details of the manufacturer to continue. The information under the other tabs (foreign entities, parent/subsidiaries and licensees) are optional. Once the manufacturer information is saved, the applicant can proceed to the next section.

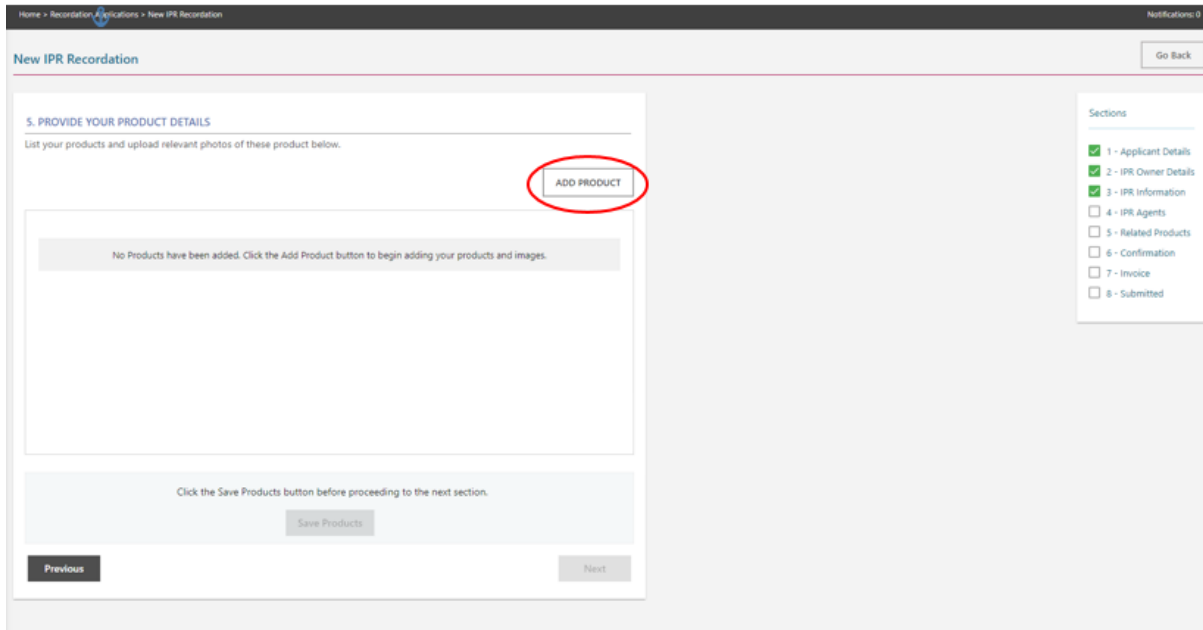
**Section 4: IPR Agents:**

This section gives the applicant an opportunity to appoint a local agent to act on its behalf. It is not mandatory and the applicant can proceed without making a selection.

**Section 5: Related products**

This section requires the applicant to provide images of the goods and/or trademarks as they are applied to the goods.

First the applicant will start by selecting “add product”.



Once 'add product' has been selected, a pop-up will appear as shown here. The applicant must then provide the name of its product along with a short description. After that, the applicant can upload six (6) images of the goods and then press 'save'. Please note that the applicant can only upload 6 images here but can repeat this process of 'add product' continuously, each time adding 6 images. Once done, the applicant can select save products and proceed to the next section.

**ADD PRODUCT AND PHOTOS**

Give the product name, description and upload relevant product photos.

Product Name

Product Description

Click the Upload button to upload images/photos of the product. (Must be a .jpg, .jpeg or .png file types). Each image/photo must be less than 4 MB.  
(NB: A maximum of 6 photos is allowed).

**Upload**

You must upload images of the product.

**Section 6: Confirmation:**

The next section will be a summary of the application.

Please note, that this page will provide you with your reference number, application status and creation date. This is also emailed to you as confirmation.

At the bottom of this page the applicant has to tick two boxes in order to proceed:

There are no pending legal proceedings regarding this IPR.

I certify that the information submitted in this application is true and correct to the best of my knowledge. I further understand that any false statement may result in rejection of the application. (Required)

Go Back

Next

Once they are selected, the 'next' button will become selectable.

The second page gives you a summary of the cost of your prescribed fees which is calculated at the number of classes you selected at section 3 in Kenyan Shillings (KSH).

If you select one class, the quantity is 'one' (see screenshot below).

You can also download a PDF of this invoice. Please note that this is the best time to download the invoice.

## INVOICE

Invoice Date: 19-Sep-2022  
Invoice Ref: 74A209190133

Billing Address:  
[REDACTED]

Anti-Counterfeit Authority  
National Water Plaza  
3rd Floor, Dunga Machakos Rd Junction,  
Industrial Area,  
P. O. Box 47771 - 00100,  
Nairobi, KENYA.

PDF

Item	Quantity	Unit Price (KShs)	Sub Total (KShs)
IPR New Recordation	1	10,837.00	10,837.00
IPR Subsequent Class	0	1,204.00	0.00
Total			10,837.00

The Total Amount due is KShs 10,837.00

The following payment methods can be used:

- MPESA Xpress: MPESA-Xpress provides a faster and more convenient way to pay for goods and services. Simply provide your Safaricom phone number and a prompt with the requisite amount will be sent to your phone for approval.
- MPESA Paybill Number: The amount payable can be remitted through the standard accessing Lipa na MPESA > PayBill services on your phone. Enter the ACA Paybill number; the provided code as the Account number; the required amount and finally your PIN to complete the process.
- Credit/Debit Card: Payment by Credit and Debit Card can be done through the system by entering your valid card details and authorizing deduction of the required amount. A notification will be sent immediately funds are received.
- Offline Payments: These include payments that are typically undertaken in the bank that may include Cash Deposit of the required amount, Electronics Funds Transfer (EFT), Real Time Gross Settlement (RTGS) and via Bankers Cheques. A copy of the proof of payment must be uploaded on the payment sections of the application process.

### Section 8: Payment:

The last section deals with the payment the applicant has to make in order to finish the application.

The applicant has two (2) options:

1. M-Pesa Xpress; or
2. Receipts / Transaction Slips.

For purposes of this illustration, we will focus on Receipts / Transaction Slips.

**New IPR Recordation**

M-Pesa Xpress    Receipts/Transaction Slips

**M-PESA XPRESS**

Safaricom's MPESA-Xpress provides a faster and more convenient way to pay for goods and services.

1. The amount to be paid is KShs 10,837.00.
2. Please enter your Safaricom Phone Number in the space provided below and click the Send button.
3. You will receive a prompt on your phone. Enter your MPESA PIN to complete payment.

+254 \_\_\_\_\_  
Enter Your Safaricom Phone Number. (Format +254 7\*\*\*\*\*)

**Send**

The Receipts / Transaction Slips give the applicant extra options in respect to payment, i.e. Cash Deposits, EFT, Bankers Cheques or RTGS.

**New IPR Recordation**

M-Pesa Xpress    Receipts/Transaction Slips

1. Indicate the type of offline payment and provide a brief description.

Cash Deposit    EFT    Bankers Cheque    RTGS

Description \_\_\_\_\_

2. Click the button below to attach your Payment Document (in PDF format only). (Must be less than 4 MB)

Attachment

The applicant can then select either one, write a sort description for the financial officer that will review the application and then add an attachment as proof.

Once everything is done, the 'save details' button becomes selectable allowing the applicant to "Submit Application".



Click the Submit Application button below to submit the Application for review by ACA.

**Submit Application**

Once the application is submitted a confirmation email will be send to the email address that the applicant provided under Section 1.

The email will only contain the reference number and confirmation that the recordal was done. No further details are provided at this point.

Further details should be obtained from the AIMS dashboard.

## 7 Q & A

Here are some frequent questions together with our answers:

### 7.1 General

- **What is the purpose of the recordation system?**

The main purpose as explained by the ACA is to make it easier for the ACA to identify counterfeit goods. It is important to bear in mind that a registrant will be provided with a certification mark (in due course) that will be applied to the goods to be imported into Kenya.

- **Does the recordation system contravene international treaties such as the Paris Convention or the Kenyan Constitution to require registration of IPRs outside Kenya?**

This is an interesting question. The Paris Convention, of course, requires a member state (like Kenya) to grant the nationals of another contracting state (like Japan) the same rights as it grants to its own nationals. Clearly Kenya does grant Japanese nationals the same rights as it does to its own nationals when it comes to obtaining IP protection in Kenya.

Yet, by introducing the ACA recordal Kenya is arguably creating obstacles for foreign companies that local companies do not face. We are not sufficiently *au fait* with Kenyan constitutional law to answer the query and we would need to get an opinion from a Kenyan expert. Such an expert might also be able to offer an opinion as to whether there is any possible contravention of the Kenyan Constitution.

- **Is there a possibility that the recordation system will be extended to the EAC countries and other countries in the future?**

We have no knowledge of any plans for extension.

## 7.2 Operation

- **What are the products that are considered raw materials?**

These are defined as *'items used as ingredients in the manufacture of goods'*.

- **If the trademark is on raw materials, does it constitute raw materials (raw materials do not need to be registered)?**

Section 32 (k) provides that it is only lawful to import unbranded goods if they constitute raw materials. We do not think that it follows from this that if the goods are branded they are not raw materials? The issue is surely a practical one – are they raw materials or finished goods?

## 7.3 Registration of IPRs

- **Which intellectual property rights should be registered? Is it sufficient to register only a trademark?**

In our view recordals are almost exclusively about trademarks. Yet there is provision for recordal of other forms of IPRs.

From our discussions with the ACA, whilst they have indicated that the recordal of different IP rights will be done in phases, they are only focusing on trademark rights at this time.

- **To what extent should a trademark be registered?**

If goods featuring the mark are being exported to Kenya the trademark should be recorded.

- **If a product has multiple trademarks, which one/s should be registered?**

For reasons set out in the text above we would recommend that the main trademark / house mark be recorded. Such a recordal is likely to be more valuable than a registration for sub-brands.

- **Is it sufficient to register a trademark for a house mark?**

As mentioned above we believe that the house mark should probably be the first choice.

- **If the product trademark is more famous than the house mark, should I register the product trademark as well?**

Yes.

- **Is it necessary to register a descriptive trademark on the packaging of a product that has no trademark on it?**

If the descriptive trademark is the only trademark used on the product then we feel that recordal is worthwhile.

- **Can you rely on IRs designating Kenya?**

Yes – you simply need to ensure that the examination term has passed, and the designation is valid. If the designation is deemed to be registered it may be used as a basis for recordal. Note that as KIPI is not issuing Statements of Grant, an extract from WIPO's database will be sufficient.

- **Do you need certified copies of trademark registrations?**

No. We only require a scanned copy of the registration certificates and the most recent renewal certificate.

- **Who should register?**

We understand that many brand owners are considering leaving recordal up to their importers. We think that this is a mistake.

We recommend that the brand owner registers with the ACA and provides details of the importer. This way the brand owner has control over the process and the recorded rights, and can ensure that the importer does not take matters into its own hands by also registering trademark rights in its own name. It is worth bearing in mind that if the ACA needs to notify a party of any suspected counterfeit products that party has a short time frame within which to act.

- **What about trans-shipment products?**

The ACA's advice is that if the goods will not enter Kenya there is no need for such goods/ rights to be registered with the ACA. Our advice would, however, be that the trademarks should at least be registered in Kenya lest the goods (or counterfeits of those goods!) find their way into the country.

- **What images do we need to produce?**

This is not dealt with in the Regulations. Brand owners can supply images of the goods and their packaging showing the trademarks concerned (all angles recommended), as well as brand catalogues etc.). If the brand owner has guides on how to identify counterfeits we CAN include these.

- **Can a defensive mark, which is registered in Kenya, be used as part of the recordal?**

Yes.

## **8 RESPONSES TO THE SYSTEM BY COMPANIES AND OTHER INTERESTED PARTIES IN EACH COUNTRY**

International companies have shown considerable interest in, and concern about, the new recordation requirement. What follows is a summary of our perceptions:

- Many companies are concerned that a failure to record with the ACA will constitute an offence, and they are therefore preparing to record their rights. We recommend registration in order to avoid any difficulties or complications on import.
- A number of international companies are realising that their trademark rights are not sufficiently protected in Kenya. The strong recommendation is that where a mark is being used in Kenya, that it be registered on a national level with KIPI. The absence of any Kenyan trademark registrations should delay the brand owner from registering with the ACA. The recommendation is that the brand owner file a national application with KIPI (rather than international registrations designating Kenya, which presents some pitfalls), and include evidence of other registrations when recording with the ACA. Once the Kenyan trademark has matured to grant, this can be communicated to the ACA in due course.
- Brand owners will in future need to monitor the renewal of both their trademark registrations and their ACA recordals.

- There are already delays - ACA recordals are taking longer than the stipulated period of 30 days. We strongly recommend that brand owners start the recordal process as soon as possible, and certainly long before the cut-off period. We anticipate that there will be a rush in December 2022.
- The ACA has assured us that for the foreseeable future genuine goods being imported into Kenya will not be intercepted, even if there has been no recordal. The reason - the ACA feels that its priority is to establish a database, whereas the application of the security device to goods is considered the final phase. At this stage it is not clear when actual policing of imported goods will start.
- We recognise the importance of implementing legislation and creating an ACA recordal program to combat counterfeit goods, and Kenya is one of only a handful of territories in Africa to take this step. Whilst the system will likely have many teething issues, in the long term, it is expected that it will go a long way in assisting brand owners in the fight against counterfeits.

## 9 REFERENCES

<https://www.aca.go.ke>

<https://public.aims.aca.go.ke>

<https://www.aca.go.ke/recordation/commencement-of-recordation-of-ipr>

<https://www.aca.go.ke/faqs-intellectual-property-rights-recordation>

The Anti-Counterfeit Act 13 of 2008, <https://www.aca.go.ke/legislations/20-the-anti-counterfeit-act>

The Anti-Counterfeit (Recordation) Regulations 2021 <https://www.aca.go.ke/legislations/299-the-anti-counterfeit-recordation-regulations-2021>

## 10 Annexure 1

### Section 34B

1. *Trademarks relating to goods to be imported into Kenya, irrespective of the place of registration, shall be recorded* with the Agency, in the prescribed manner if the registration is current.
2. *Applicants for recordation of trademarks shall be notified of the approval or denial of an application filed under this section in a prescribed manner by notice in the Anti-Counterfeit newsletter published by the Agency.*
3. *An application to record one or more trademarks shall be in writing in the prescribed manner and addressed to the Agency and shall include the following information—*
  - a) *the name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);*
  - b) *the places of manufacture of goods bearing the recorded trademark;*

- c) sample of the trademarked goods or a sufficient digital photographic representation of the trademarked goods with appropriate details for identification and differentiation from any counterfeits;
  - d) the name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and
  - (e) the identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad.
4. The *application shall be accompanied by* -
- a) *a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the Applicant;*
  - b) *the application shall be accompanied by a fee set out in the Second Schedule to the Act: Provided that if the trademark is registered for more than one class of goods, the fee for recordation shall be for each class.*
5. The recordation of the trademark and protection thereunder shall be effective on the date an application for recordation is approved.
6. *The recordation of a trademark shall remain in force for a period of one year from the date of approval of the application for recordation or the current registration period of the trademark, whichever is shorter.*
7. Recordation of a trademark shall be cancelled if the trademark registration is finally cancelled or revoked.
8. If there is change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the Agency, the new owner shall apply immediately by -
- a) *complying with subsection (4) hereinabove; [Rev. 2018] Anti-Counterfeit No. 13 of 2008 25.*
  - b) *describing any time limit on the rights of ownership transferred;*
  - c) *submitting a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the new owner; and*
  - d) *paying a fee as prescribed in the Second Schedule to the Act.*
9. *If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the Agency accompanied by* -
- a) *a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name as changed; and*
  - b) *a fee as prescribed in the Second Schedule to the Act.*
10. The owner of a recorded trademark shall submit a written application in the prescribed manner to the Agency not later than 30 days to the expiration of the current recordation.
11. An application for renewal of recordation shall be accompanied by -
- a) *a status copy of the **certificate of registration certified by the registering authority** showing the title to be in the name of the applicant; and*
  - b) *a statement describing any change of ownership or in the name of the owner and any change of addresses of the owners and places of manufacture;*

c) a fee as prescribed in the second schedule to the Act.

**12. The provisions of this Section shall apply to the recordation of copyrights, trade names or any other form of intellectual property rights mutatis mutandis.**

**13. The Agency shall after satisfying itself that imported goods have complied with the provisions of this section issue to the importer of goods a certification mark in the form of an anti-counterfeit security device at a fee to be set out in the Second Schedule to the Act.**

**14. The Agency shall have the power to seize and destroy any goods originally imported into Kenya.**

## 11 Annexure 2

### 1. User Guidelines for Application for IPR Recordation.

To apply for recordation of an Intellectual Property Right;

- a) Visit <https://public.aims.aca.go.ke>.
- b) Create an account. Upon creation of an account, you shall be prompted to verify your account through the email address provided.
- c) Log in as an IPR Owner or log in as an IPR Agent and follow the agent admission process.
- d) To be admitted as an agent, you will be required to provide;
  - A valid Power of Attorney in Form ACA 15, stamp duty paid, certified as a true copy of the original and notarized if foreign,
  - Proof of membership to a statutory professional body in Kenya or proof of compliance with the Private Security Regulation Act, No. 13 of 2016.
- e) You can apply for recordation as an individual, a partnership or a company as follows;
  - As an individual, you shall provide a certified copy of Passports/Identification Card
  - As a partnership, you shall provide the full details of the partners, certified copies of their Passport/ identification cards and a partnership registration certificate.
  - As a company, you shall provide the company details, a certified copy of the certificate of incorporation and tax pin certificate (optional).
- f) Select the type of IPR you wish to record, i.e. a trademark, an industrial design, a patent, a utility model, a copyright or any other.

NB

- For a trademark you shall select the applicable Nice Classes as provided in the registration certificate.
  - For an industrial design, you shall select the applicable Locarno Classes as provided in the system
  - It shall not be mandatory for an IPR owner to record all the registered IPRs relating to one product.
- g) Provide the details of the IPR, including the name of the IPR, IPR registration number and expiration date and attach a certified copy of the valid IPR Registration Certificate.
  - h) Submit the details of the manufacturer, foreign entities, parent company, subsidiaries and licensees if any.
  - i) If you are an IPR owner, you may select an agent from the list of accredited agents from the system. Alternatively, an IPR owner can still issue an agent with a power of attorney (Form ACA 15) for them to follow the agent admission process.

- j) Provide the product details, including the product name and product description and upload clear representative images of all products trading under the registered IPR, including all SKUs, models and variations.
- k) A downloadable invoice is then generated; USD90 for the first class and US\$10 for every subsequent class of a trademark or an industrial design. IPR types with no multiple classes shall only attract a fee of USD90 per IPR.
- l) Payments shall be made against the invoice through M-PESA, Credit/Debit Card or Cash deposit/EFT, Bankers' Cheque or RTGS and proof of the offline payment attached.
- m) All payments shall be made to:

**ANTI COUNTERFEIT AGENCY  
KENYA COMMERCIAL BANK  
KIPANDE HOUSE BRANCH  
ACCOUNT NO: 1128466090  
BANK CODE: 01  
BRANCH CODE: 101**

**OR MPESA PAYBILL: 682067, ACCOUNT NO: (enter application reference number as indicated on the invoice)**

- n) Upon completion of payment, submit the application to ACA for consideration.
- o) ACA will review and consider for approval all applications within a period of 30 days.

NB

- *Additional information may be required from the applicant before an approval is done.*
- *ACA also reserves the right to reject an application on reasonable grounds.*
- p) Upon approval of an application, the applicant will receive a recordation certificate through their email or through the AIMS portal. The recordation shall remain valid for a period of 12 months subject to annual renewal at USD50.

## 12 Annexure 3

### 1. User Guidelines for Application for Admission as an Agent.

To apply for admission as an Agent;

- a) Visit <https://public.aims.aca.go.ke>.
- b) Create an account. Upon creation of an account, you shall be prompted to verify your account through the email address provided.
- c) Log in as an IPR Agent.
- d) You can apply for admission as Agent as an individual, a partnership or a company as follows;
  - As an individual, you shall provide a certified copy of Passports/ Identification Card. (*Ensure the power of attorney is in the name of the individual applying for admission as an agent*).
  - As a partnership, you shall provide the full details of the partners, certified copies of their passport/identification card and a partnership registration certificate. (*Ensure the power of attorney is in the name of the partnership applying for admission as an agent*).
  - As a company, you shall provide the company details, a certified copy of the certificate of

incorporation and tax pin certificate (optional). (*Ensure the power of attorney is in the name of the company applying for admission as an agent*).

- e) You shall be required to upload a valid Power of Attorney in form ACA 15. The power of attorney must have stamp duty paid, certified as a true copy of the original and notarized if foreign.
- f) You shall be required to upload proof of membership to a statutory professional body in Kenya or proof of compliance with the Private Security Regulation Act, No. 13 of 2016.
- g) A downloadable invoice of KES. 10,000 is generated.
- h) Payments shall be made against the invoice through M-PESA, Credit/Debit Card or Cash deposit/EFT, Bankers' Cheque or RTGS and proof of the manual payment attached.
- i) All payments shall be made to:

**ANTI COUNTERFEIT AGENCY  
KENYA COMMERCIAL BANK  
KIPANDE HOUSE BRANCH  
ACCOUNT NO: 1128466090  
BANK CODE: 01  
BRANCH CODE: 101**

**OR MPESA PAYBILL: 682067, ACCOUNT NO: (enter application reference number as indicated on the invoice)**

- j) Upon payment, submit this application to ACA for consideration.
- k) ACA will review and consider for approval all applications within a period of 30 days.

**NB**

- *Additional information may be required from the applicant before an approval is done.*
- *ACA also reserves the right to reject an application on reasonable grounds.*

Upon approval of an application, the applicant will receive a certificate for admission as an agent through their email or through the AIMS portal. The registration shall remain valid for a period of 12 months subject to annual renewal at KES. 5,000.

For more information, visit [www.aca.go.ke](http://www.aca.go.ke), or call +254-(0)-20-2225130, or email [recordation@aca.go.ke](mailto:recordation@aca.go.ke).



[Commissioned by JPO]

Africa Intellectual Property Newsletter Vol. 77

[Author]

Spoor & Fisher

**spoor • fisher**

patents • trade marks • copyright

[Published by]

Japan External Trade Organization Dubai Office

**JETRO**  
JAPAN EXTERNAL TRADE ORGANIZATION

Published in October 2022

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