

LEGAL NOTICE NO. 118

THE ANTI-COUNTERFEIT ACT

(No. 13 of 2008)

IN EXERCISE of the powers conferred by Section 37 of the Anti-Counterfeit Act, the Cabinet Secretary for Industrialization, Trade and Enterprise Development makes the following regulations—

THE ANTI-COUNTERFEIT (RECORDATION) REGULATIONS,
2021

1. These regulations may be cited as the Anti-Counterfeit (Recordation) Regulations, 2021. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
 - “Act” means the Anti-Counterfeit Act, 2008; No. 13 of 2008.
 - “agent” means a person duly appointed to act on behalf of an intellectual property right owner, and includes a licensee;
 - “application” means an application made to the Executive Director under the Act;
 - “certificate of registration” means a certificate relating to protection of intellectual property rights issued under any written law;
 - “copies” means copies of any document issued under the Act or these Regulations;
 - “Executive Director” means the Executive Director of the Authority appointed under section 10 of the Act;
 - “raw materials” means items used as ingredients in the manufacture of goods; and
 - “registrant” means the owner of an intellectual property right who has recorded the same with the Authority and includes its authorized agent or licensee or assignee.
3. (1) Pursuant to section 34B(3) of the Act, an application to record an intellectual property right relating to goods to be imported into Kenya shall be made by the owner of the intellectual property in the Form ACA1B set out in the First Schedule and accompanied by the fee specified in the Second Schedule to these Regulations. Application for recordation.
 - (2) Within thirty days of receipt of the application under paragraph (1), the Authority shall, in writing and pursuant to section 34B (2) of the Act, notify the applicant of the approval or denial of the application.
 - (3) Notwithstanding the provisions of these Regulations, it shall be the responsibility of any person seeking to import goods for commercial purposes to ensure that the intellectual property right relating to the good recorded.

4. A person, other than a registrant, seeking to import any goods shall, in addition to any other requirements under any written law, notify the Authority of such intention in the Form ACA 2B set out in the First Schedule and accompanied by the fee specified in the Second Schedule. Submission of particulars of imported goods.
5. (1) Pursuant to section 34B (8) of the Act, where there is a change in ownership of a recorded intellectual property right and the new owner seeks to continue with the recordation, the new owner shall immediately make an application to continue with the recordation in the Form ACA 3B set out in the First Schedule and accompanied by the fee specified in the Second Schedule. Change of ownership.
 - (2) Where the new owner of a recorded intellectual property right seeks to discontinue the recordation, the new owner shall notify the Authority within a period of thirty days of the date of the change in ownership in the Form ACA 4B set out in the First Schedule.
6. Where there is a change in name of the registrant of a recorded intellectual property right and such registrant wishes to continue with the recordation he shall immediately notify to the Authority of the change of name in Form ACA 5B set out in the First Schedule and accompanied by the fee specified in the Second Schedule. Change of name.
7. Pursuant to section 34B(11) of the Act, an application for renewal of a recordation shall be made to the Authority— Renewal of recordation.
 - (a) in the Form ACA 6B set out in the First Schedule;
 - (b) accompanied by the fee specified in the Second Schedule; and

not later than thirty days to the expiration of the current recordation.
8. Where a recordation of an intellectual property right is cancelled or revoked, the Authority shall notify the registrant within a period of thirty days from the date of such cancellation or revocation. Cancellation or revocation of recordation.
9. The Authority shall maintain a register of all recorded intellectual property rights. Register.
10. Any person seeking to establish the particulars of any recorded intellectual property right shall make an application for an official search in the Form ACA 7B set out in the First Schedule and accompanied by the fee specified in the Second Schedule. Search.
11. Any person seeking copies of any document submitted under these Regulations shall apply to the Authority in the Form ACA 8B set out in the First Schedule and accompanied by the fee specified in the Second Schedule. Copies of documents.
12. (1) The owner of an intellectual property right may appoint an agent to act on his behalf in the recordation of an intellectual property rights or any procedure related thereto. Appointment of agents.
 - (2) An intellectual property rights owner who ordinarily resides outside Kenya or has a principal place of business outside Kenya may be represented by an agent in recordation of an intellectual property rights.

(3) The appointment of an agent in the recordation of an intellectual property shall be conducted in accordance with the provisions relation to appointment of an agent under the Anti-Counterfeit Regulations, 2010.

L.N. 126 of 2010.

13. A person who—

False declaration.

- (a) with intent to deceive or mislead, gives any false information in relation to any application made to the Authority;
- (b) removes, adds to, alters, defaces, or renders illegible any information on any form provided under these Regulations in relation to any goods or tools; or
- (c) without authority or reasonable cause alters any entry made under these Regulations,

commits an offence and shall be liable, on conviction, to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months, or both.

14. (1) The forms specified in the First Schedule to these Regulations shall, with such modifications, be used for the purpose indicated therein. Forms.

(2) Notwithstanding the provision of these Regulations, a document which deviates from the specified form shall not be void by reason of the deviation which does not affect the substance of the document, unless it is calculated to mislead or deceive in which case regulation 13 shall apply.

FIRST SCHEDULE
FORMS

FORM ACA 1B

(r. 3(1))

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

APPLICATION TO RECORD INTELLECTUAL PROPERTY RIGHTS

The Executive Director,

The Anti-Counterfeit Authority

1	Name of the owner of the intellectual property right	
2	Telephone number, postal and physical address of owner	
3	Details of the intellectual property rights owner or partners of the association	
4	Name of agent or local distributor if any	
5	Telephone number, postal and physical address of agent or local distributor	
6	Sample or photographic representation of the protected goods	
7	Name and address of each foreign person or business entity authorized or licensed to use the intellectual property right	
8	The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the intellectual property right abroad	
9	Place of manufacture of goods bearing the recorded trade mark	
11	Remarks	

Dated this day of 20.....

Name of Applicant..... Signature

For official use only

THIS APPLICATION IS APPROVED/NOT APPROVED

.....
EXECUTIVE DIRECTOR

NOTES:

3. If space provided is not sufficient, please use a separate sheet of paper
4. This application shall be accompanied by a copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the Applicant;
5. The application shall also be accompanied by a fee set out in the Second Schedule to the Act.

FORM ACA 2B

(r. 4)

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

INTELLECTUAL PROPERTY RIGHT PARTICULARS FOR IMPORTED GOODS

The Executive Director,

The Anti-Counterfeit Authority

1. Name and address of exporter/consignor	2. Name and address of importer/consignee	3. Name and address of agent
4. Shipment mode (sea, air, etc.)	5. Country of Origin	6. Port of Destination

	Declared HS Code	Product Description	Quantity	Unit of Measure	Brand Name	Name And Address of Owner of Intellectual Property Right	ACA Recordati on Reference Number	Remarks
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

Dated this day of 20.....

Name.....Signature

NOTES:

1. If space provided is not sufficient, please use a separate sheet of paper
2. This Form shall be accompanied by certified copies of certificates of registration of the intellectual property rights or information which furnishes authorship or creation.

FORM ACA 3B

(r. 5(1))

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

APPLICATION TO CONTINUE RECORDATION ON CHANGE OF OWNERSHIP

The Executive Director,

The Anti-Counterfeit Authority

1.	Name of the new owner of the intellectual property right.	
2.	Telephone number, postal and physical address of the new owner of the intellectual property right.	
3.	Name, telephone number, postal and physical address of the previous owner of the intellectual property right.	
4.	Effective date of the change of ownership.	
5.	Description of the time limit, if any, of the rights transferred.	
6.	Remarks	

Dated this day of20.....

Name of Applicant.....Signature

For official use only:

THIS APPLICATION IS APPROVED/NOT APPROVED

.....
EXECUTIVE DIRECTOR

Notes:

1. If space provided is not sufficient, please use a separate sheet of paper
2. This Form shall be completed and filed with the Authority in quadruplicate.
3. This application shall be accompanied by a certified copy of the certificate of registration and the prescribed fees.

FORM ACA 4B

(r. 5(2))

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

NOTICE OF DISCONTINUATION OF RECORDATION

The Executive Director,

The Anti-Counterfeit Authority

NAIROBI

This is to notify you that..... (*indicate name of the proprietor of the recorded intellectual property right*) holder of recordation numberhas with effect from the date of this notice discontinued the said recordation.

Dated at Nairobi this.....day of.....20.....

.....
(*Name of Proprietor of the Intellectual Property Right*)

Note:

The form shall be signed by an authorized officer or agent or representative of the registrant.

FORM ACA 5B

(r. 6)

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

NOTICE OF CHANGE OF NAME

The Executive Director,

The Anti-Counterfeit Authority

NAIROBI

This is to notify you that.....(*indicate name of the proprietor of the recorded intellectual property rights holder*) has with effect from.....(*indicate the date, month and year*) changed its name to.....(*indicate the new name*).

Dated at Nairobi this.....day of.....20.....

.....
(*Name of Proprietor of the Intellectual Property Right*)

Note:

1. This form shall be accompanied by a certified copy of the certificate of registration showing title in the new name and the prescribed fees.
2. The form shall be signed by an authorized officer or agent or representative of the proprietor.

FORM ACA 6B

(r. 7)

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

APPLICATION FOR RENEWAL OF RECORDATION OF INTELLECTUAL
PROPERTY RIGHT

The Executive Director,

The Anti-Counterfeit Authority

1	Current recordation reference number	
2	Name of the owner of the intellectual property	
3	Telephone number, postal and physical address of owner	
4	Name of agent or local distributor if any	
5	Telephone number, postal and physical address of agent	
6	Description of the recorded intellectual property right	
7	Validity and subsistence of the trademark intellectual property	
8	Remarks	

Dated this day of 20.....

Name..... Signature

NOTES:

1. If space provided is not sufficient, please use a separate sheet of paper
2. This Form 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;
 - (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.

FORM ACA 7B

(r. 10)

ANTI-COUNTERFEIT ACT, 2008

Anti-Counterfeit Authority

APPLICATION FOR OFFICIAL SEARCH

Executive Director

Anti-Counterfeit Authority

NAIROBI

Kindly supply the undersigned with details of the following recorded intellectual property right:

Nature of Intellectual Property Right	
Name of proprietor	
Nationality of Proprietor	
Postal Address of Proprietor	
Physical Address of the Proprietor	
Local Agent of Proprietor, if any	
Date of Recordation	

.....
 APPLICANT

FORM ACA 8B

(r. 11)

THE ANTI-COUNTERFEIT ACT, 2008

The Anti-Counterfeit Authority

APPLICATION FOR COPIES OF DOCUMENTS

The Executive Director,

The Anti-Counterfeit Authority

1	Name of the applicant	
2	Telephone number, postal and physical address of the applicant	
3	Record Number	
4	Reason(s) for seeking copies	
5	Remarks	

Dated this.....day of, 20.....

Signature.....

OWNER/AGENT

SECOND SCHEDULE

FEES (r.3; r.4; r.5; r.6; r.7; r.10; r.11)

<i>No.</i>	<i>Forms</i>	<i>Purpose</i>	<i>Amount</i> <i>(United States Dollars)</i>
1	FORM ACA 1B	Application to Record intellectual property rights	90 for the first class, 10 for each subsequent class
2	FORM ACA 2B	Submission of Particulars of Imported Goods	20
3	FORM ACA 3B	Change of ownership	20
4	FORM ACA 5B	Change of Name	20
5	FORM ACA 6B	Renewal of Recordation	50
6	FORM ACA 7B	Application for Search	5
7	FORM ACA 8B	Application for copies	0.5 per page

Made on the 30th June, 2021.

BETTY MAINA,
*Cabinet Secretary, Ministry of Industrialization,
Trade and Enterprise Development.*