

IP COLLEGIUM
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COUNTERING COUNTERFEITING IN
KENYA

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Kenya at a glance

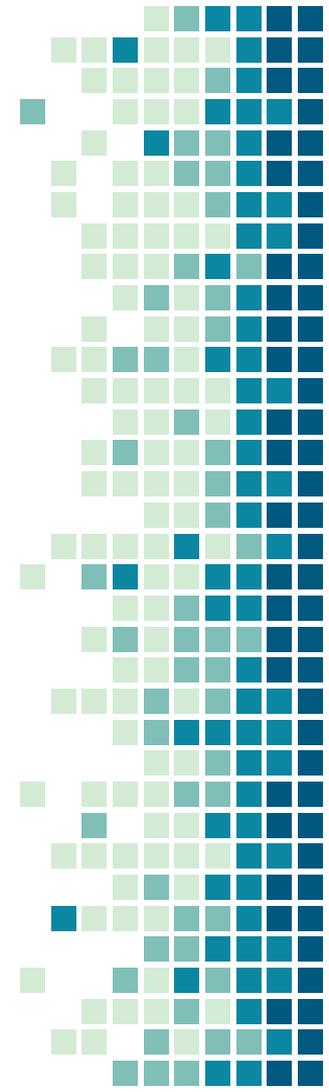


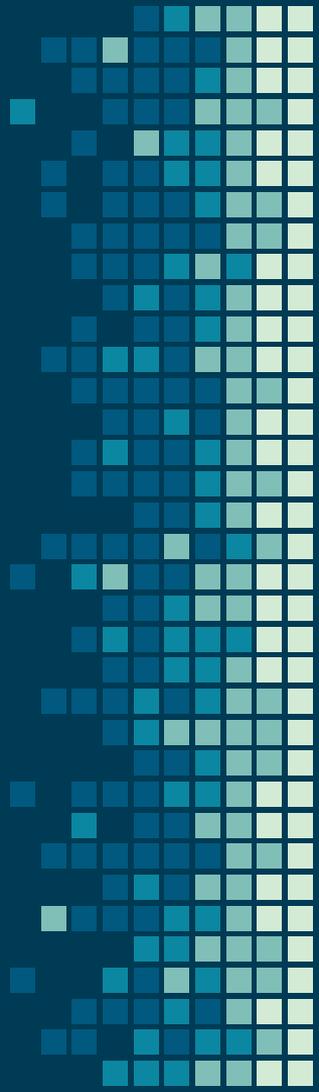
Area	582,646 km ²
Population (2017)	49.7 million
GDP (2016)	US\$ 71.58 billion
GDP per capita (2016)	US\$ 1,587
FDI Flows (2016)	US\$ 394 million — UNCTAD
GDP Growth Rates (2016)	5.8% and a projection of 6.1% in 2017 (WB)
Currency	1US\$ - KES 100
Total Imports Volume	US\$ 14.3 billion
Total Exports Volume	US\$ 5.8 billion

Kenya's Anti-counterfeiting Institutional And Regulatory Framework

The main enforcement bodies against counterfeiting in Kenya are the following;

1. **The Anti-counterfeit Agency**
2. **The Kenya Revenue Authority (Customs)**
3. **The Kenya Copyright Board (KECOBO)**
4. **Kenya Bureau of Standards (KEBS)**
5. **Court System**

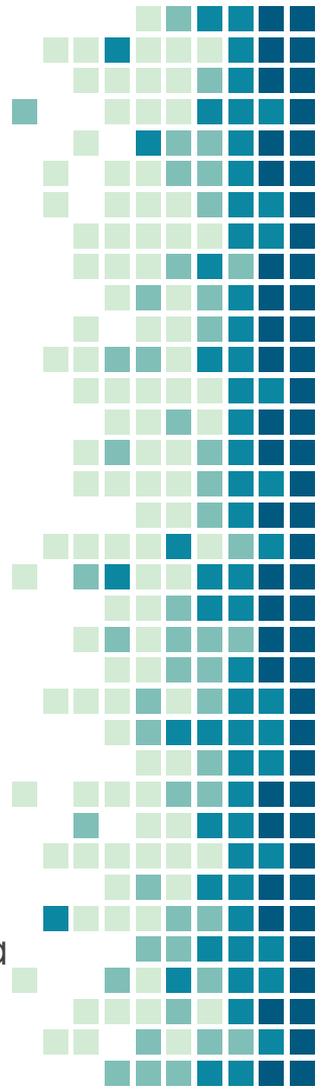




THE COUNTERFEITING PROBLEM

Enforcement: The Anti-counterfeit Agency

- The agency has mandate to receive all complaints against counterfeits from a brand owner.
- It has power to enter, search and seize goods suspected to be counterfeit.
- The owner of the seized goods can also however apply to the court for a declaration that the goods are not counterfeit.
- The agency has power to destroy seized counterfeit goods but must obtain an order from the court.
- For a first conviction, the penalty is a prison term of up to five years and/or to a fine not less than three times the value of the goods
- A subsequent conviction attracts a prison term of 15 years and a fine not less than five times the value of the goods.



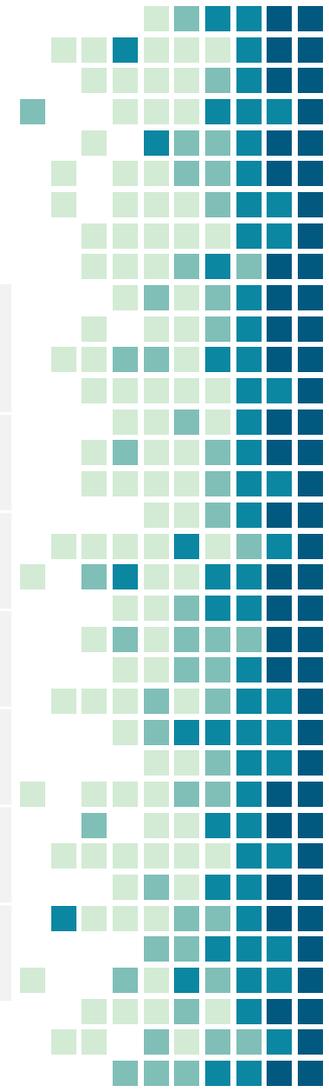
Enforcement by ACA: Prosecution

Financial Year	IPR Complaints Received
FY 2013/2014	162
FY 2014/2015	205
FY 2015/2016	185
FY 2016/2017	252
FY 2017/2018(As at Quarter 2)	82
Total	785

Financial Year	Cases Prosecuted
FY 2013/2014	12
FY 2014/2015	37
FY 2015/2016	39
FY 2016/2017	27
FY 2017/2018(As at Quarter 2)	16
Total	131

Enforcement: Border Control of Counterfeit Products

Financial Year	Value of Seized Goods	Value of Seized Goods Destroyed
FY 2013/2014	Kshs. 210,682,971.00	Kshs. 21,682,971.00
FY 2014/2015	Kshs. 44,077,359.00	Kshs. 245,022,958.50
FY 2015/2016	Kshs. 235,035,826.00	Kshs. 12,988,594.75
FY 2016/2017	Kshs. 610,099,251.00	Kshs. 320,357,049.25
FY 2017/2018(As at Quarter 2)	Kshs. 81,890,868.00	Kshs. 24,555,498.00
Total	Kshs. 1,181,786,275	Kshs. 624,607,071.50



Enforcement by Right Holder

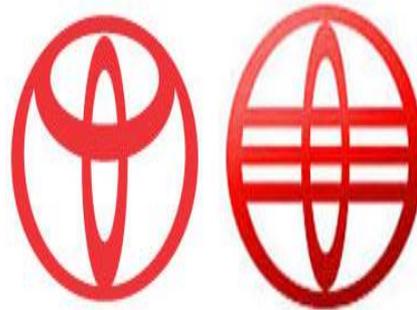
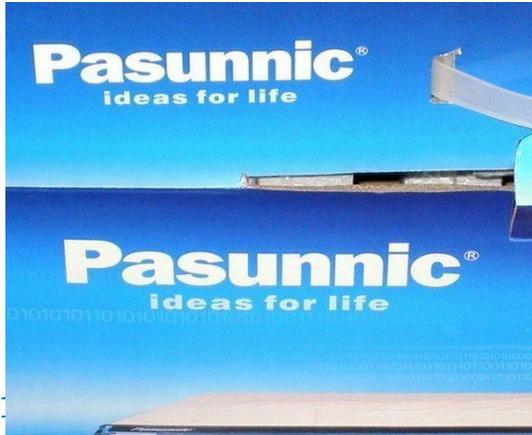
- Upon suspicion / knowledge of counterfeits, a right holder can apply to the customs for the suspension of the counterfeits goods at the border.
- The commissioner of customs, is mandated to seize and detain goods suspected to be counterfeit at the border upon application by a brand owner.
- However, the ACA and the KRA is marred with a lot of challenges regarding border control of counterfeits and the rising influx of counterfeits manufactured in the market.
- To increase efficiency the ACA performs impromptu raids, random inspections and increase in number of regional offices at the border



Global trade in counterfeit goods is worth about \$461 billion, or 2.5% of the world total global exports– OECD Report 2013.

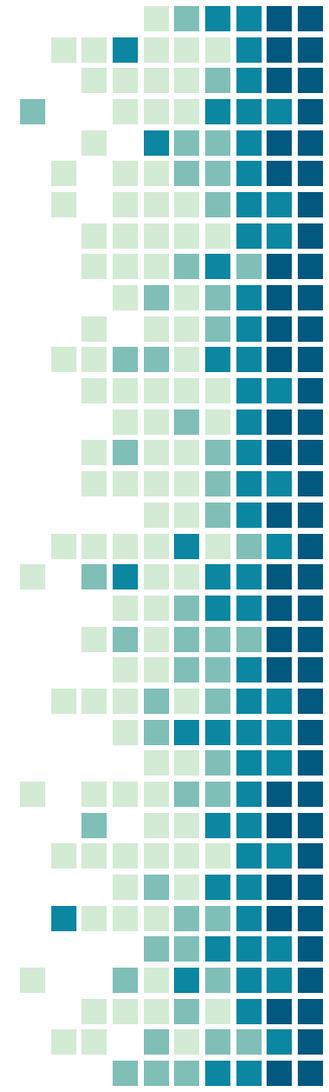
Counterfeits In The Kenyan market.

- Counterfeits in Kenya covers a wide range of products such as consumer products, electronics, pharmaceuticals, clothes, automotive components and spare parts.
- Kenyan manufacturers lose about \$300,000 per year to counterfeits, while the Government loses \$60,000 annually in foregone tax revenue.



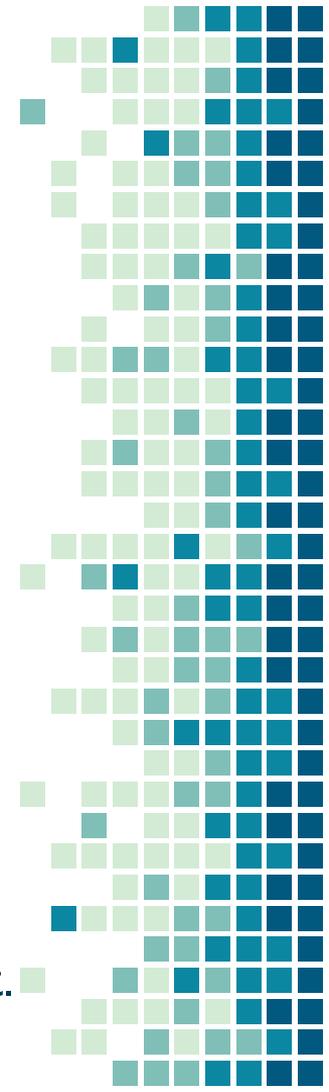
The Counterfeiting Problem: Challenges

- i. Non-collaboration by of brand owners to file a complaint of counterfeits with the ACA;
- ii. Failure to impound imports of counterfeit goods at the ports of entry,
- iii. Overlapping agencies
- iv. Lack of adequate awareness of the importance of IP for development
- v. Inadequate capacity and skills in IP institutions



Counterfeiting and Foreign Direct Investment

- Deepened trade relations
- Robust economic growth
- Production of value-added products with strong IP protection.
- The importance of a strong Intellectual property system is paramount to economic advancement.
- IP rights ought to be applied according to a country's strategic development plan. (Kenya Vision 2030)
- Efficient Ip system for boosts confidence in investment which in turns attracts more FDI for economic development.



Counter- Measures and Outlook



Private sector/ brand owner coordination

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Enhanced inter-agency cooperation



Database system for IP rights to enhance border control.



Improved legal system and stricter border control policies.



Increased public outreach and awareness .



Production of quality but low-cost products

THANKS!

Any questions?

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