

TECHNOLOGY, MEDIA & TELECOMMUNICATIONS ALERT

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INCORPORATING
KIETI LAW LLP, KENYA

IN THIS ISSUE

KENYA

Commencement of Implementation of the Requirement for Recordation of Intellectual Property Rights with the Anti Counterfeit Authority in Kenya

Through an amendment to the Anti-Counterfeit Act (the Act) in 2019, and the adoption of the Anti-Counterfeit (Recordation) Regulations, 2021 (the Regulations), Kenya established its legal framework for the recordation of trade marks and other intellectual property rights (IPRs) with the Anti-Counterfeit Authority (the 'ACA'). The ACA is the regulatory body that is established and mandated under the Act to combat counterfeiting, trade and other dealings in counterfeit goods in Kenya.

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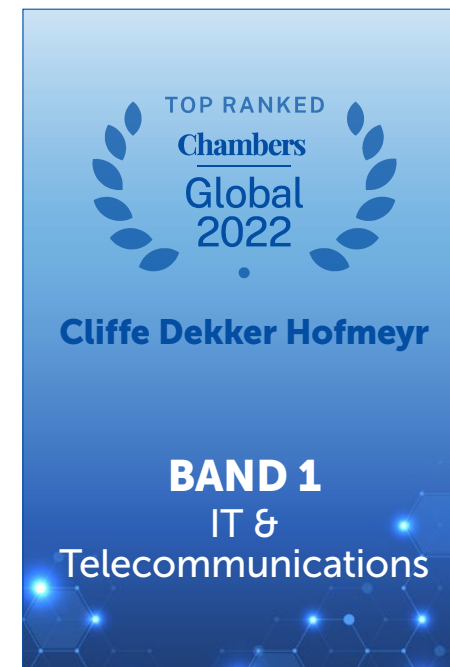
The aim of the establishment of the recordation framework is to aid the ACA to readily know and identify the rightful owners of IPRs that are applied on imported goods and to facilitate the process of identifying and restricting the importation of any counterfeit goods, that is, goods on which such IPRs have been applied without the lawful authorization of the rightful owner of the IPRs. Our previous summary of the legal framework for the recordation of IPRs with the ACA and the salient features of the Regulations may be read [here](#).

Through a public notice published by the ACA on 26 April 2022 (the Public Notice), the ACA notified the general public of the commencement of the implementation of the following mandatory requirements with effect from 1 July 2022:

- a) the mandatory requirement for recordation by IPRs owners of any such IPRs that are applied on goods that are imported into Kenya; and
- b) the mandatory requirement for declaration by importers of the particulars of any IPRs that are applied on goods that they import.

The ACA has established an online Integrated Management System (AIMS) which may be accessed [here](#) for purposes of facilitating the various functions in this regard including:

- lodging applications for the recordation of IPRs;
- lodging declarations of the particulars of IPRs that are applied on imported goods;
- lodging applications for the renewal or change of particulars of any existing recordations of IPRs;
- lodging mandatory applications for admission as an IPRs recordation agent; and
- lodging reports in relation to any counterfeit goods.



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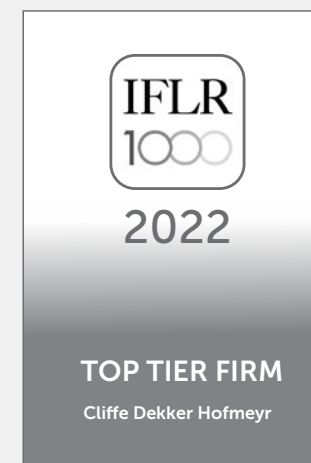
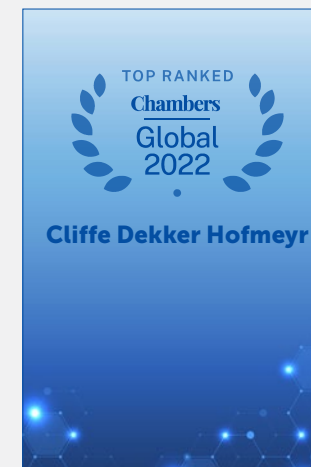
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It is important to note that the Act provides that the importation into Kenya, of any goods or items bearing a trade mark, trade name or copyright that has not been recorded with the ACA is an offence that is punishable upon conviction to a jail term and/or a fine as follows:

	JAIL TERM	FINE
First Conviction	Up to 5 years	Not less than 3 times the value of the prevailing retail price of the goods. This fine is to be imposed in respect of each article or item involved in the particular act of dealing in counterfeit goods.
Second or any subsequent conviction	Up to 15 years	Not less than 5 times the value of the prevailing retail price of the goods. This fine is to be imposed in respect of each article or item involved in the particular act of dealing in counterfeit goods.

In case of any inquiries or if you require any further information or advice on how the Implementing Regulations could affect your business, please feel free to contact

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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