

Introduction to copyright law in artistic and literary works



Please contact us if you would like our advice about how we can help your business.

What is copyright?

Copyright protects original literary, artistic, musical, and dramatic works from unauthorised forms of copying, provided that certain conditions are met.

In New Zealand, "literary work" includes books, brochures, labels, software, multimedia works, and computer databases. "Artistic work" includes films, photos, sketches, plans, drawings, packaging, and three-dimensional models.

Limited copyright protection also exists for industrial designs in New Zealand. This does not always exist in other countries. For further details on copyright protection for industrial designs, please refer to our separate information sheet "Introduction to New Zealand copyright in industrial designs".

It is important to remember that copyright protects the particular expression or embodiment of an original work, rather than a general idea or concept underlying that work.

What rights does copyright provide?

Copyright provides the copyright owner with the right to prevent others from reproducing, recording, broadcasting, or copying any original work, or a substantial part of that work, which is protected by copyright. If your original work is copied by another person without your permission, copyright should provide you with legal recourse.

How long is the term of copyright?

The effective term of copyright protection varies depending on the nature of the copyright work. Copyright in New Zealand usually lasts for 50 years from the end of the year in which the author of the copyright work dies. The term of copyright in the United States, Europe, and Australia is generally 70 years. New Zealand may adopt the same term in the near future, following the Trans-Pacific Partnership Agreement (TPPA).

What are the requirements of copyright protection?

Unlike some overseas countries, New Zealand does not have an official copyright registration system to record or assert ownership of copyright. Instead, copyright protection arises automatically once an original literary, artistic, musical, or dramatic work is made.

However, you should be aware that there are some international conventions which require more from any would-be copyright owner. For instance, the Universal Copyright Convention requires that an original work also includes a copyright notice, which must display the copyright symbol ©, the name of the copyright owner, and the year of first publication.

What limitations are there in relying on copyright protection?

Copyright protection prohibits unauthorised copying of the original work by others. However, copyright will not preclude others from independently developing and commercialising the same or a substantially similar work. This means that if a person's work is very similar to an existing original work, but that person can prove that his or her work was independently created and not copied, there will be no copyright infringement. Both works will be considered original and both will be protected by copyright.

To rely on copyright law to prevent someone from copying your product, it is usually necessary to show that the person copied your original work. However, as illustrated above, it is not always easy to show that copying actually occurred. Therefore, if the original work is a form of intellectual property that can be registered as a patent, trade mark, or design, we recommended that you also register your work in this way.