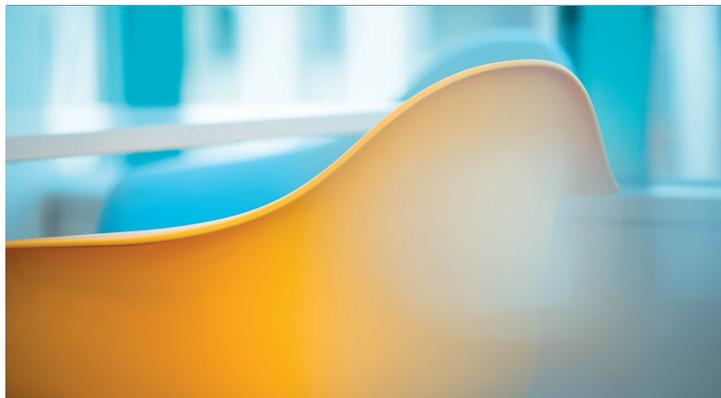


# Introduction to registered designs



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

## What is a registered design?

A registered design is a form of intellectual property protection that protects the appearance of a product. It will not protect how a product works or what materials it is made from – a patent may be able to do that.

A registered design may be used to protect the shape of a product, the pattern applied to a product, or both.

## What rights does a registered design provide?

A registered design provides its owner with the exclusive right to make, sell, hire, or import for sale or for use in any trade or business, the product bearing the registered design.

Registered designs are territorial. If you would like to protect a design in New Zealand, you will need to apply to the Intellectual Property Office of New Zealand. Similarly, if you would like to obtain design protection in the United States, Australia, or another country, you will need to apply to the design office of that country. You cannot obtain a registered design that covers the whole world.

## How long is the term of a registered design?

The term of a monopoly right provided by a registered design varies between countries, but in New Zealand the design is initially registered for a term of 5 years. This term is extendable to a total term of 15 years by paying renewal fees at the fifth and tenth year anniversaries from the date on which the first application to register the design was filed.

## What are the requirements of a registered design?

Requirements may differ from country to country. Generally, an application for a registered design must be made before the product bearing the design is used, shown non-confidentially to others, or offered for sale.

Also, the design must be applied to a product – it is not possible to obtain registered design protection for an image alone.

The designs of some products are not eligible for registered design protection. We can advise you about whether your product design falls into this category.

## What limitations are there to obtaining a registered design?

In most countries, it is not possible to obtain a registered design for the shape of a product if that shape is dictated solely by the function that the product is to perform. That is, if the product is designed to be of that particular shape in order to function, then the design will not be accepted for registration. However, if the product design also includes one or more features that are part of the design for aesthetic reasons only, then the design may be able to be registered. Again this can vary between countries.

## Can a product design be protected by copyright?

Copyright will not necessarily protect the design of a product (i.e. its appearance) overseas. However in New Zealand, both two dimensional and three dimensional designs have automatic copyright protection in covering the drawings, prototype models, moulds, and so on relating to the design. Where three-dimensional designs have been industrially applied (i.e. more than 50 products have been made), effective copyright protection is usually limited to 16 years or 25 years from that date depending on the nature of the design. This term may be less if the design has been the subject of a New Zealand patent or a New Zealand design registration which has ceased to be in force.

Copyright protection can exist together with registered design protection in New Zealand, but it can only be used to prevent a third party from copying your design. Without registered design protection, a third party could independently develop a product having an identical design, or a design substantially similar in appearance to your design, without infringing your copyright.

## Can a product design be protected by a registered trade mark?

The ability to register a trade mark to protect the shape of a product varies from country to country. In New Zealand, it is possible to protect the shape of a product for an indefinitely renewable period by registering the shape as a trade mark. However, such registrations are difficult to obtain. It is necessary to provide strong evidence that the shape of the product is readily identified by consumers as originating from your company.