

## How do I enforce my intellectual property rights?

Select from the options below to ask a question about the Intellectual Property Office or this website.

What would you like information on?

Once you own IP, you are responsible for monitoring the way it is used and protecting it against infringement. To ensure you get the best out of your protection - safeguard and maintain secrecy, be prepared to communicate your legal rights and if necessary, defend your rights through legal action.

In New Zealand, a number of statutes provide enforcement procedures and remedies for owners of intellectual property that have had their rights infringed. The statutes include:

- [Consumer Guarantees Act 1993](#)
- [Copyright Act 1994](#)
- [Crimes Act 1961](#)
- [Designs Act 1953](#)
- [Fair Trading Act 1986](#)
- [Layout Designs Act 1994](#)
- [Patents Act 1953](#)
- [Plant Variety Rights Act 1987](#)
- [Trade Marks Act 2002](#)

Depending on the nature of the intellectual property right you own and the nature of the alleged infringement, various New Zealand enforcement agencies may be able to assist. Before contacting any of these agencies, it is recommended that you consult with either a patent attorney or a legal professional specialising in intellectual property. For a list of Registered Patent Attorneys please see the [New Zealand Patent Attorney Register](#). See below for [Administrative Agencies in New Zealand](#).

## Civil enforcement and existing criminal offences and penalties

### The Copyright Act 1994 and the Trade Marks Act 2002

Under the Copyright Act 1994 and the Trade Marks Act 2002 the courts have a wide range of civil remedies available to them (under the respective Acts and under common law) to compensate aggrieved owners of copyright and registered trade marks for infringement of their trade marks or copyright rights. These include damages, injunctions, orders to account for profits, and orders to deliver up infringing goods to right holders.

The Copyright Act 1994 and the Trade Marks Act 2002 also contain criminal offences for the infringement of copyright works and counterfeiting of registered trade marks for commercial gain. A person convicted for such activity may be imprisoned for up to five years or fined up to NZ\$150,000. The New Zealand Police are able to investigate and prosecute copyright pirates and trade mark counterfeiters.

### The Fair Trading Act 1986

The [Fair Trading Act 1986](#) is also relevant to commercial activities relating to goods that infringe a registered trade mark owner's rights. The Act imposes criminal liability for forging a trade mark or falsely applying or using a trade mark or sign so nearly resembling an existing trade mark as to be likely to mislead or deceive. It is also an offence to trade in products bearing misleading and deceptive trade descriptions. The applicability of these provisions to commercial activities involving counterfeit goods will depend on the facts of the particular case.

The [Commerce Commission](#) enforces legislation that promotes competition in New Zealand markets and prohibits misleading and deceptive conduct by traders. The Commerce Commission does not give advice or take civil actions on behalf of the public. Consumers or businesses seeking compensation for a breach of the Fair Trading Act can take a civil action through the Disputes Tribunal or the District Court.

## Border control measures

New Zealand has implemented border enforcement measures in accordance with our obligations under the [TRIPS Agreement](#). These measures allow trade mark and copyright owners and licensees to request the detention of suspected infringing goods while they are subject to the control of the [New Zealand Customs Service](#). Border enforcement measures do not, however, apply to goods imported by a person for their private and domestic use.

Right holders can request the assistance of the New Zealand Customs Service by lodging notices of their New Zealand registered trade marks and goods subject to copyright protection. When a notice has been lodged, Customs is able to detain suspected infringing copies of trade marked goods or goods subject to copyright protection.

Customs can detain goods subject to a notice for a period of ten working days. Notices are valid for a period of up to five years, after or until the period of copyright protection or trade mark registration expires or otherwise revoked, cancelled or declared invalid.

The right holder must complete a form of indemnity and pay a \$5,000 bond to cover costs that might be incurred by the Customs Service (such as storage, transport and legal costs) in enforcing notices.

Where goods are detained, Customs notifies right holders so that they can assess whether the goods are infringing and if legal action should be taken against the importer. If a right holder does not commence proceedings within the ten-day period, Customs is required to release the goods to the importer.

For further information, the New Zealand Customs Service has prepared an [information sheet on the process for lodging a notice](#). Their website also contains a list of [trade mark notices](#) and [copyright notices](#) that have been accepted by the Service.

## Administrative agencies within New Zealand

[New Zealand Commerce Commission](#)

[New Zealand Customs Service](#)

[New Zealand Police](#)