

Why register a design?

A registered design can become a valuable business asset that can be bought, sold, transferred or licensed like any other property. The more successful a design, the more valuable it can become to the owner and this makes registration all the more worthwhile.

Isn't my design protected by copyright?

It is possible that your design is protected, provided it meets the copyright protection requirements of being a new and original work, with some artistic quality or level of skill.

If so, copyright protection is automatic and immediate. Copyright protection is free and does not require registration.

However, without registration you may never know if copyright gives you adequate protection until it is challenged by another person or business. You may not be able to prove that your design is new or original, or created before a competitor's design, so the assumed protection is not there.

So what are the benefits of registering?

A stronger legal barrier

Registration gives you a higher degree of protection than relying on copyright because it requires a search first for similar or identical New Zealand registered designs. This helps to establish whether your design is new and original.

If someone does copy the design, registration is the basis on which legal action can be taken. It is far easier to prove ownership or authorised use of a registered design than for copyright where there is no registration.

Registering your design also allows you to officially record and document a commercial asset. Your registration on the publicly searchable IPONZ design database tells others that someone owns the right to that particular design and acts as a deterrent and legal barrier to the breach of these rights.

Market competitiveness

Successfully registering your product design gives you the exclusive trade right to that design in New Zealand for a period of up to 15 years.

This right can improve the competitiveness of your business because it prevents others from copying or imitating the design without permission.

Added business value

A registered design can add value to a product, as the design is often what makes it attractive to customers. In many cases the design becomes the unique selling point. This makes it a potentially valuable asset worth protecting.

Just as you can protect your investment in your brand through trademark protection, registering a design can increase market awareness of your business and enhance your business reputation.

The collection of registered designs can be searched by the public who may be potential licensees, stockists, investors or customers. Registration gives you the right to sell, transfer ownership of the design or license the use of the design to another business.

Priority rights

Registration also allows you to secure the filing date as a priority date for any corresponding design applications you make overseas within the following six months. This can help to establish that you created the design before a person or business overseas. Finally, the cost of design registration is modest in relation to the potential benefits of protecting your intellectual property.

Who enforces registered design protection?

A registered design is personal property and it is the responsibility of the owner to pursue any remedies for infringement. It is recommended that you seek advice from a professional advisor.

Does my protection apply overseas?

No. Registration will only protect your design within New Zealand. To obtain overseas protection you will need to make separate applications in the countries in which protection for the design is required. This normally needs to be done within six months of the New Zealand application.