

Register IP that has a Māori element

In the marketplace, Māori culture presents unique branding opportunities and commercial benefits.

New Zealand law prevents registering intellectual property (IP) that's considered offensive by a large number of people, including Māori.

To save you time and money, and to avoid causing offence, it's a good idea to have some understanding of Māori culture and protocols before developing your intellectual property.

Māori cultural elements

New Zealand intellectual property applications are assessed for Māori cultural elements. A Māori element is some aspect of the intellectual property that reflects, or is taken from, Māori culture. It could include such things as:

- a Māori word or design
- Māori traditional knowledge
- indigenous plants or animals
- Māori music or dance

The Māori element may be a small part of the intellectual property (such as the usage of a Māori design or word on a product not specifically related to Māori culture), or it may involve the entire intellectual property (such as the usage of a Māori song or dance).

If your intellectual property has a Māori element, that doesn't mean that it is any less eligible for registration than intellectual property that doesn't. To raise concerns the Māori element must have particular cultural or spiritual significance, and its use must be considered offensive.

Recognising Māori cultural elements

It may not be immediately obvious that intellectual property has a link to Māori culture.

For example, you might want to register the trade mark 'Tane' – meaning 'seed' in Japanese – for your new garden design consultancy. You may not realise that Tāne also refers to Tānemahuta, the Māori god of the forest. Tāne is sacred to Māori, and the name could be offensive to Māori as a trade mark in New Zealand. The application would need to go to the [Māori Advisory Committee for consideration](http://www.ipnz.govt.nz/maori-ip/maori-advisory-committees/) (<http://www.ipnz.govt.nz/maori-ip/maori-advisory-committees/>).

If a word of any language is recognised as a Māori word in New Zealand, it will be treated as Māori when we assess your intellectual property application. For example, 'amaru' is a Japanese word and also a Māori word. Even if you intend the word to be Japanese, for the purposes of your trade mark application it will be considered Māori.

The same principle may apply to [Māori imagery](http://www.ipnz.govt.nz/maori-ip/maori-imagery/) (<http://www.ipnz.govt.nz/maori-ip/maori-imagery/>). For example, a spiral - whether it is a koru or a Greek spiral design - is recognised as a Māori sign in New Zealand and will be treated that way when we assess your intellectual property

application.

Trade marks with a Māori element

All applications for trade mark registration in New Zealand are assessed for Māori elements or features derived from mātauranga Māori.

New Zealand law prevents registering a trade mark where its use or registration is likely to be considered offensive by a significant number of people, including Māori.

These resources may help you identify Māori elements in your trade mark:

- [Māori imagery](http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-imagery/) (<http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-imagery/>)
- [Māori designs and words you can freely use](http://mbie8.cwp.govt.nz/about-ip/maori-ip/words-designs/) (<http://mbie8.cwp.govt.nz/about-ip/maori-ip/words-designs/>)
- [Māori concepts to understand](http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/) (<http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/>)
- [Māori Dictionary](http://www.maoridictionary.co.nz/) (<http://www.maoridictionary.co.nz/>)
- [Te Ara – the Encyclopedia of New Zealand](http://www.teara.govt.nz/en/) (<http://www.teara.govt.nz/en/>)

Māori Trade Marks Advisory Committee

Most trade mark applications that look like they come from or contain a Māori element get assessed by the [Māori Trade Marks Advisory Committee](http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-advisory-committees/) (<http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-advisory-committees/>)

The Māori Trade Marks Advisory Committee considers whether a trade mark could be offensive to Māori and provides advice to the Commissioner of Trade Marks.

We will let you know if your trade mark application goes to the Māori Trade Marks Advisory Committee.

The process won't cost extra and in most cases doesn't delay the process.

Trade mark ownership

A trade mark is a valuable asset, and determining who will own it is an important decision. A trade mark can be owned by one or more individuals, a company, two partners, one or more company owners, or other legal entities such as an incorporated society or a runanga (the governing council or administrative group of a Māori hapu or iwi). Although ownership of a trade mark can be transferred after it is registered, it is preferable to clarify in advance who will own the trade mark. It may be advisable to get legal advice.

Patents with a Māori element

Patent law protects inventions and innovations, including those based on mātauranga Māori, such as rongoā (traditional Māori medicine) or processes where the formula or use has not been previously disclosed.

The Commissioner of Patents will request the advice of the Patents Māori Advisory Committee if either of the following applies:

- the invention is derived from Māori traditional knowledge

- the invention is derived from indigenous plants or animals

If either of these is true, the application will go to the Patents Māori Advisory Committee.

These resources may help you identify Māori elements in your patent:

- [Māori concepts to understand](http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/) (http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/)
- [Te Ara – the Encyclopedia of New Zealand](http://www.teara.govt.nz/en) (http://www.teara.govt.nz/en)

Māori Patents Advisory Committee

The [Māori Patents Advisory Committee](http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-advisory-committees/) considers whether the commercial exploitation of an invention (eg sale of a product) is likely to be contrary to Māori values, and provides advice to the Commissioner of Patents.

We will let you know if your patent application goes to the Māori Patents Advisory Committee.

The process won't cost extra and in most cases doesn't delay the process.

Designs with a Māori element

Design registration can be used to protect a new design that has a Māori cultural element in the shape, configuration, pattern or ornamentation of the article to which the design is applied.

Designs that contain a Māori cultural element mark may be sent to the [Māori Advisory Committee](http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-advisory-committees/) to assess whether or not they may be offensive to Māori.

If the consent of the person or group who are the traditional owners of the Māori cultural element within the design cannot be obtained, we may refuse to register the design, if the Committee finds it objectionable.

It is essential that a design not be published prior to applying for registration, as doing so will prevent registration or mean that the registration is invalid.

These resources may help you identify Māori elements in your design:

- [Māori designs and words you can freely use](http://mbie8.cwp.govt.nz/about-ip/maori-ip/words-designs/) (http://mbie8.cwp.govt.nz/about-ip/maori-ip/words-designs/)
- [Identification of Māori imagery](http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-imagery/) (http://mbie8.cwp.govt.nz/about-ip/maori-ip/maori-imagery/)
- [Māori concepts to understand](http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/) (http://mbie8.cwp.govt.nz/about-ip/maori-ip/concepts-to-understand/)
- [Te Ara – the Encyclopedia of New Zealand](http://www.teara.govt.nz/en) (http://www.teara.govt.nz/en)

Copyright and mātauranga Māori

While copyright can be used to protect the specific physical expression of some forms of mātauranga Māori, the underlying ideas, content, or style cannot be copyrighted.

Performers' rights

Performers' rights can be used to protect the expressions of some forms of mātauranga Māori, for example, the

performance or recording of performances such as waiata and kapa haka. Performers' rights are different and independent from any copyright that may exist in the work they perform.

Separate rights apply to each individual in a group performance. There is no concept of group ownership, and members of a group do not have collective rights in a group's performance. For example, in a kapa haka rōpū each member has individual rights in his or her performance as part of the overall kapa haka performance.

Plant variety rights and mātauranga Māori

Plant variety right (PVR) applications do not go to a Māori Advisory Committee, and there are no separate processes or criteria in relation to mātauranga Māori in the PVR application process. However, Māori elements may be taken into account by our examiners when considering an application.



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