

## Rights and requirements

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There are a number of ways of obtaining the various intellectual property rights and the requirements for doing so can vary. Some rights are obtained by registration, while others are created by statute or arise at common law. The scope of rights can vary, and each intellectual property asset can be supported by more than one type of intellectual property right.

## Copyright Protection

New Zealand does not have a copyright registration system, like some overseas countries. Copyright automatically comes into existence upon the creation of an original work. While copyright is not registrable in New Zealand, the owner of copyright in an original work can prevent others from copying that material or product. The right to prevent copying is the right to prevent production of an identical work or a work that is very similar. If someone's work is very similar to an existing original work, but that person can prove that the work was independently created and not copied, there will be no infringement.

New Zealand copyright law is complex and we recommend obtaining specific advice where copyright is involved.

## Marking

The New Zealand **Copyright Act 1994** does not require owners to display copyright notices on

works in which copyright is claimed. Nevertheless, displaying a copyright notice is a prudent measure to assert the copyright claim.

To enjoy the full benefits of the Universal Copyright Convention, to which New Zealand is a signatory, all copies of the copyright work published by the owner must include a copyright notice. The notice should include:

- the copyright symbol ©,
- name of the copyright owner, and
- the year of first publication.

The notice should be placed in such a location and manner so as to provide reasonable notice of the copyright claim.

### **How long does copyright exist?**

Copyright in New Zealand usually lasts 50 years from the end of the year in which the author dies. The term of copyright in the United States, Europe and Australia is generally 70 years.

We recommend you obtain specific advice on this issue as they vary between countries.

There is a specific exception in New Zealand for three dimensional works, where the effective copyright protection in New Zealand is either 16 or 25 years from the date when the three dimensional design was first industrialised (more than 50 copies made) anywhere in the world.

The term will depend upon whether the design would qualify as a work of artistic craftsmanship, in which case the longer term would apply. Other countries do not have this protection.