

## Copyright FAQ

**What is copyright?** Copyright is a property right that exists in original literary, dramatic, artistic and musical works. Like the name suggests, copyright laws protect against unauthorised copying of a copyright work. Copyright does not protect the idea embodied in a copyright work, only the way in which that idea has been expressed.

**Does original mean unique?** No. Under NZ copyright law "original" means not copied from anything else. Another way of expressing this is that the work must be the product of the author's own time, labour, skill and judgment.

**Is there copyright in my product?** Maybe. Because "original" means not copied, copyright will exist in an original design drawing or prototype of a product. However, it will not normally exist in the mass produced product itself as that mass produced product will be a copy of the design drawing or prototype and therefore not original. For this reason it is important to keep copies of design drawings, patterns, templates and prototypes and to record the author, date of creation.

**Are there any other conditions for protection?** Yes. The author of the work must be a citizen or resident of New Zealand or a country which is a signatory to a copyright convention (in practice this includes most of our major trading partners), or the work must have been first published or broadcast in New Zealand (or a convention country).

**Who owns copyright?** Generally speaking the creator of a copyright work is the first owner of the copyright rights. However exceptions apply to (1) works which have been made on commission, (2) works which have been created by an employee and (3) where the parties agree who owns copyright (for example in an employment agreement or contract).

**Do I have to register my copyright?** No. In New Zealand there is no system of registering copyright works and hence no cost. In some circumstances it may be possible to register the shape of an article as a registered design (refer to the "**Registered Designs FAQ**").

**How long does copyright last for?** It depends on the type of copyright work, but generally speaking 16 years for works that have been put into production, and 50 years from the death of the author for other works.



**What rights do I have?** The owner of copyright has a number of rights including the right to copy a work, to issue copies of a work to the public (i.e. sell), to make an adaptation of a work, and to authorise another person to do any of these things.

**Will my copyright be recognised overseas?** In most cases yes, as New Zealand's major trading partners are members of a number of international copyright conventions. However care needs to be taken where a product depicted in a copyright work has been put into production, as some countries limit the term of protection or require the copyright work to be formally registered as a design for protection.

**Can I sell my copyright?** Yes. As copyright is a property right it can be sold or licensed like other forms of property.

**Is it true that I can copy anything I want as long as I change 20%?** No. The test for infringement in New Zealand involves asking whether the alleged copy looks objectively similar to the copyright work, showing that there is a connection or link between the alleged infringement and the copyright work (in the sense that the copyright work is the source of the alleged infringement) and showing that the alleged infringement takes a substantial part of the copyright work. This last enquiry looks at the quality of the part taken not the quantity. For example, copying one line from a short story or poem might amount to infringement if that line is the essence or most memorable part of the story or poem. Therefore the idea that changing a set percentage of a work will avoid infringement is misleading and largely irrelevant.

**Where can I find out more information on copyright?** You can find out more by reading our *Guide to the protection of innovation and goodwill*, available as a pdf download from the Media/Publications page on our website, or by contacting our Copyright experts.

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