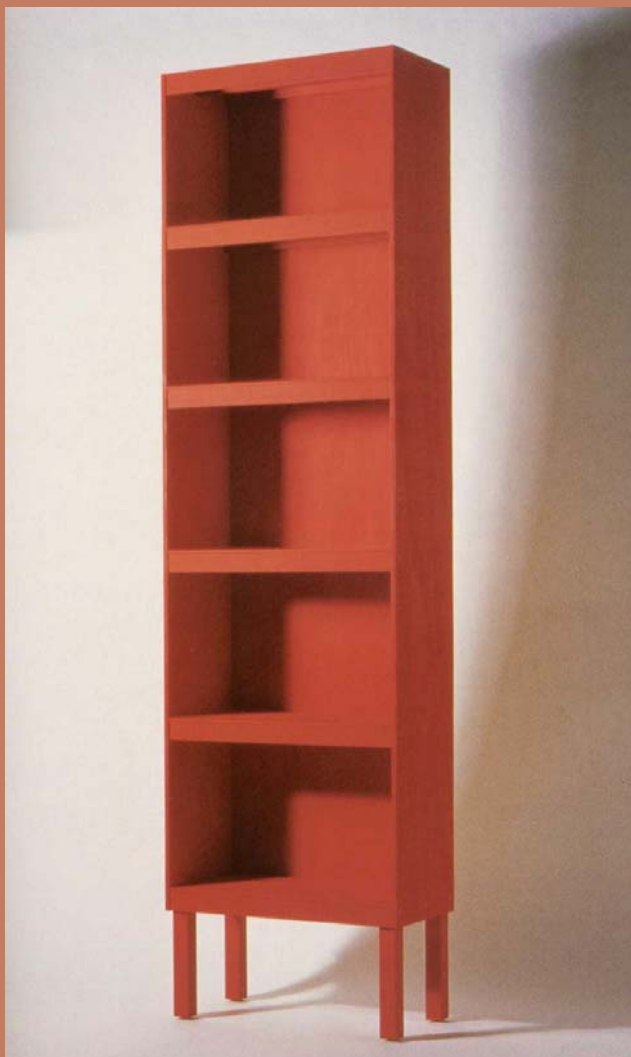


# Protecting Creativity

A guide to getting financial value from your creativity



**creative**  
*nz*  
ARTS COUNCIL OF NEW ZEALAND / TOI AOTEAROA

Tall Red Shelves  
Humphrey Ikin

**Intellectual property law** is a way you can protect your creativity. This pamphlet provides an introduction to the main aspects of intellectual property law: copyright, moral rights, licensing, designs, patents and brands. It aims to help you:

- understand your rights
- avoid infringing the rights of others
- know where to get further advice on intellectual property matters.

## Copyright

**What is copyright?** Copyright is the right to stop (or allow) others to COPY, ADAPT, PUBLISH, PERFORM OR REPRODUCE certain works. This includes:

- written works: e.g. novels, play scripts, screenplays
- paintings, drawings, photographs, films
- music: e.g. compositions, recordings
- three-dimensional works: e.g. sculptures, jewellery, furniture, clothes.

To have copyright, a work must be original. The work itself cannot be a copy.

**How do I get it?** Copyright is an automatic right when you create a work. In New Zealand, you do not need to register it and you don't have to pay any registration fee.

**Who owns it?** The person or persons who create the work generally own the copyright.

If more than one person contributes to the creation of a work, it is essential to agree and write down the circumstances under which the work may be copied (reproduced, performed, published, adapted, etc.).

If someone commissions you to create a work, you may not own the copyright (depending on the type of work). It is therefore important to sort out copyright ownership details as part of any commissioning contract.

If you create a work as part of your employment, your employer owns the copyright, unless there is written agreement that you will own the copyright. If you think it might be difficult to determine whether a work is created as part of your employment, you should sort out copyright ownership details in your employment contract.

**How long does copyright last for?** In New Zealand, copyright generally exists for 50 years after the death of the creator (or author) of the work. For three-dimensional works, the copyright exists for 16 or 25 years depending on the type of 'work'. For film, copyright lasts for 50 years from the end of the year in which the film was made or first played in public, whichever is later. Copyright may last longer in some countries.

**How do I indicate copyright?** It is advisable to mark all copyright works you create with the copyright symbol, your name and the year of creation: i.e. © name of creator, year.

**Moral rights** The author/creator of a copyright work is entitled to certain moral rights. Moral rights are automatic and the most important of these are the rights:

- to be identified as the author/creator of the work. This right must be asserted by the author/creator
- to prevent the work from being treated in a derogatory manner.

You cannot transfer your moral rights but you can waive them. Waiving your moral rights means that you agree never to enforce them.

If you create a work as an employee or contractor for the government you do not get moral rights. The government automatically owns the copyright of that work.

**Licensing copyright** The most common way to obtain income from a copyright work is to issue a written licence that allows another person or company to use the work. A fee or royalty is usually paid in return for the right to reproduce (copy) the work in a specific place ("territory" e.g. North Island), in a specific media (e.g. theatre, film) and for a set period of time.

**Assigning copyright** The owner can transfer (e.g. sell) copyright. This is usually referred to as an "assignment of copyright" and it must be in writing.

Further information on licensing and assignments of copyright should be obtained from an agent or lawyer with specialist knowledge of your area of activity.

## Designs

**What is a design?** A design can be registered for a new pattern, shape or ornamentation: e.g. in jewellery, ornaments or furniture.

**Can I register a design?** A design can be registered at the Intellectual Property Office of New Zealand. However, it must be new. As with trademarks (see Branding), registration covers only New Zealand. Additional applications can be made in other countries.

**How long does registration last?** A design can be registered for up to 15 years. Renewal fees must be paid on **year five** and **year ten** of the registration.

**What are the benefits of registration?** Registration means you can stop others from making the same design.

**Note:** to obtain a valid registration, do not reveal your design until it has been filed.

## Patents

**What is a patent?** A patent protects the way something works rather than the way it looks: e.g. a new product, process, use, method or a new invention.

**How do I get it?** You should obtain patent attorney advice to help file the application at the Intellectual Property Office of New Zealand.

**How long does a patent last?** A patent can be valid for a period of up to 20 years.

**Where am I protected?** You are protected only in the territory where you filed a patent application. In other words, you must file a patent application in each territory where you require patent protection.

**Note:** to obtain a valid patent, do not reveal your invention to anyone until after your application has been filed.

## Branding

**What is branding?** Branding refers to the name and/or logo of products or services. These can be registered as trademarks.

**Do I have to register a brand?** You can use a brand without registering it. However, it may be difficult to stop others from copying your brand if you haven't registered it.

Before using a brand it's a good idea to do a **trademark search** to make sure that no one else in your industry is using or has registered the same or a similar brand.

**Where do I register my brand?** You can register your brand as a trademark at the Intellectual Property Office of New Zealand. The brand must be distinctive but it must not describe the goods or services. Registration protects your brand throughout New Zealand (or in any other country where you register it) for your particular good or services.

**How long will a brand last?** A registered trademark must be renewed every ten years. If a registered trademark is unused for three years or more, it can be removed.

**What if someone else registers or uses my brand?** You should seek immediate legal advice to find out if you can get your brand back.

**Note:** If you intend using the internet to promote your brand, goods or services, it's advisable to register your brand name as a domain name (website address).

## Further information

This brochure contains only introductory information. A work may qualify for more than one form of intellectual property law protection (e.g. copyright, patents and/or designs). It is therefore recommended that you seek advice about how intellectual property law rights apply to your creative work.

If you think that your work is being infringed (used without your consent) it is important to seek immediate advice. Advice can be obtained from various sources, including arts organisations, agents and legal professionals.

**For general information**, you might contact one of the following arts organisations:

- Dance: Dance Aotearoa New Zealand (DANZ) - [www.danz.org.nz](http://www.danz.org.nz)
- Literature: New Zealand Society of Authors - [www.authors.org.nz](http://www.authors.org.nz)
- Music: Centre for New Zealand Music Trust (SOUNZ) - [www.sounz.org.nz](http://www.sounz.org.nz)
- Music: the Music Industry Commission - [www.nzmusic.org.nz](http://www.nzmusic.org.nz)
- Theatre: Playmarket - [www.playmarket.org.nz](http://www.playmarket.org.nz)
- Visual arts and craft/object art: Artists Alliance - [www.artistsalliance.org.nz](http://www.artistsalliance.org.nz)

**For specific inquiries**, you should contact a lawyer, agent or patent attorney. Here are some useful websites:

- Institute of Patent Attorneys - [www.nzipa.org.new](http://www.nzipa.org.new)
- New Zealand Law Society - [www.lawyers.org.nz](http://www.lawyers.org.nz)
- Intellectual Property Office of New Zealand - [www.iponz.govt.nz](http://www.iponz.govt.nz)
- Copyright Council - [www.copyright.org.nz](http://www.copyright.org.nz)

Published by  
Creative New Zealand  
PO Box 3806  
Wellington  
Phone: (04) 473 0880  
Fax: (04) 471 2865  
Email: [info@creativenz.govt.nz](mailto:info@creativenz.govt.nz)  
Website: [www.creativenz.govt.nz](http://www.creativenz.govt.nz)

### Disclaimer:

The information in this brochure is of a very general nature only. It is not to be treated as a substitute for specialist advice.



Choreographer and dancer Raewyn Hill

