

# What is intellectual property?

## WHAT IS IP?

- IP in the classroom
- What is copyright?
- What is a trade mark?
- What is a patent?
- What is a design?
- More IP assets
- IP & commercial work
- What are moral rights?
- What are performers' rights?
- IP showcases

Intellectual property (IP) is the umbrella term for 'creations of the mind'.

IP assets like copyright for original creative work, trade marks for marketing products and services, and patents for new inventions, have associated legal rights that allow people to control and be rewarded for their creative and innovative efforts.

*Learn more!*

IP showcases

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## IP in the classroom

Intellectual property protection respects and places value on classroom based creativity. There are no age barriers to owning IP assets. Every time a student creates an original work in New Zealand they automatically get copyright protection.

Media studies teachers and students use patent protected inventions like recording equipment branded with well known trade marks.

When a software package is installed on a PC, the administrator has to agree to abide by the terms and conditions of the licence to activate the program. The licence affects all users who operate that PC. Attempt to burn a backup copy and you get another pop screen asking you to enter the unique serial number from the software manual.

Go to the movies or watch a DVD and all viewers are reminded that the dramatic work is protected by copyright.

Our language is littered with intellectual property terms. Walkman, nylon, escalator and transistor were all originally trade marks. A dot before the abbreviation 'com' used to only be part of a domain name. Now 'dot com' is used for a successful ICT company or Internet trader.

The number of IP related words continues to grow as new technologies are commercialised and brand names are devised and become part of popular culture.

### Try searching online!

Use an online search engine to find IP articles. Try keywords such as Dilbert blog and copyright.

Remember that IP law can differ from country to country.



### IP showcases

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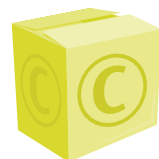
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## What is copyright?

In New Zealand, copyright automatically comes into existence **as soon as an original work is created**.

There might be a number of copyright layers to the work and more than one copyright owner involved. Think of an original piece of music with copyright protected lyrics, score, orchestration and sound track(s).

There is no New Zealand copyright register so you and your students can use the [copyright indicator](#) to identify original work and show ownership. The copyright indicator can act as a “keep off the grass” notice, reminding others that the listed copyright owner(s) have control over how the work is used.

Permission to use a copyright work must be in writing (e.g. release or licence). The copyright indicator shows who to get in touch with if you need permission to reuse (adapt, remix, cover, copy) the work or are thinking about collaborating with the copyright owner on new material or projects. The year the work was created is important for calculating how long the copyright protection lasts.

[Copyright Council of New Zealand resources](#)



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The general rule of thumb in New Zealand is that copyright expires 50 years after the death of the author or creator. Here are some relevant exceptions: Films and sound recordings are protected for 50 years from the calendar year when it was made or first released, whichever is later. 'Commercialised product designs' like set designs and costumes have copyright protection lasting 16 years from first commercial use. Performers' rights last 50 years from the event date. Publishers' rights to an edition last for 25 years from the edition issue year.

*Ministry of Education resource*

Before your students begin their projects, read the [Ministry of Education's publication](#).

Trade mark

Copyright



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## What is a trade mark?

**Trade marks** are often referred to as 'brands', 'logos' or 'labels' by the creative industries.

Trade marks are unique signs that identify one trader's product lines and services from their business competition.

For legal and marketing reasons, each owner's trade mark must be distinctive. Trade marks are selected to stand out from the competition and attract customers.

Trade marks are the business reputation workhorses with an unlimited lifespan. They can be used throughout the business life, licensed, or on-sold to new owners.

In New Zealand, trade mark owners have the option of applying for registration under goods and service classes or relying on protection under common law for unregistered trade marks.

Trade mark registration gives the owner exclusive nationwide rights including the right to use the ® symbol after the registered trade mark on packaging and promotional material distributed in New Zealand.

Legal rights under common law for an unregistered trade mark are acquired through use over time, and limited to where the business reputation in the trade mark has been built up.



I

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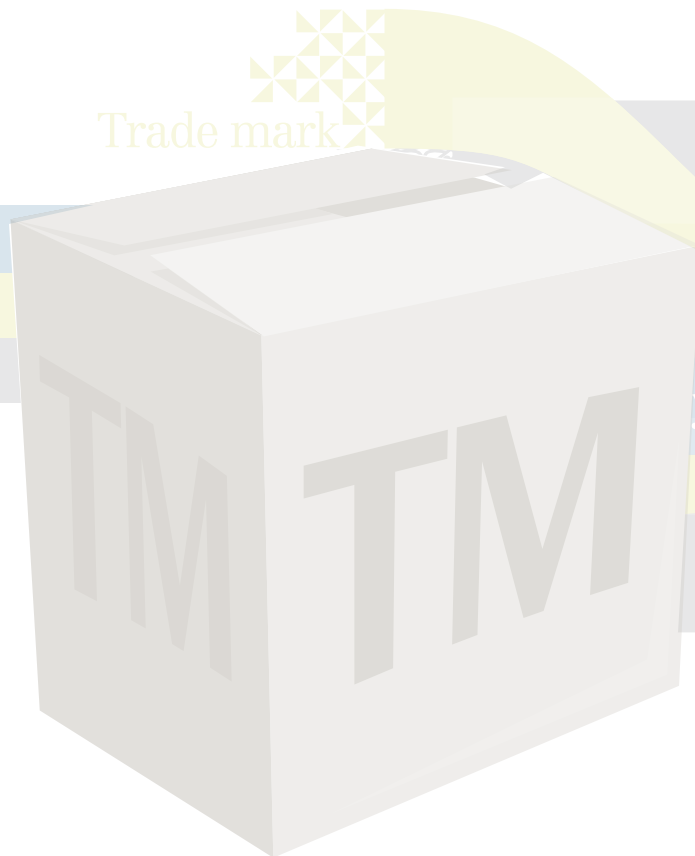
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Trade marks can include:

- words or letters like studio acronyms, film titles and names for television shows
- devices like character images and television show or movie logos
- colours
- sounds like advertising jingles or voice character catch phrases
- three dimensional shapes
- smells like a distinctive perfume fragrance
- or any combination of these as long as they can be graphically represented.



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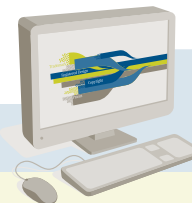
## What is a patent?

**Patents** protect the technical aspects of new inventions. The complete specification accurately describes how the invention works, how it's made and can be modified for different uses. Exactly what is protected is set out in the patent claims.

The patent owner may exclude others from commercialising the invention as claimed for up to 20 years. Drafting a **patent specification** is a skill that requires technical aptitude and knowledge of the intellectual property law.

The patent claims can't be too broad that they cover what's already known or used, or too narrow that the owner misses out on potential revenue for their innovation.

Say someone invented a new and improved digital storage product. The patent claims might be directed to: the new product; the manufacturing assembly process, and any novel components that could be used in this new product or other known hardware products.



[Clever Kiwis stamp resource](#)



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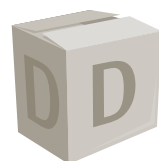
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## What is a design?

A registered design protects the eye-appealing product design features that attract customers: shape, configuration, pattern and ornament.

The product design needs to be new or original, and can't be purely functional.

Exactly what design features are claimed is set in the 'Statement of novelty' and shown in the filed representations. The maximum term for a registered design right is 15 years.

When a New Zealand patent or registered design expires or lapses, the invention or product design as shown and described in the patent and design documents can be used by the public and business competitors. The off-the-shelf commercial product may still have IP assets associated with it. For example, the product casing might be a new copyright work and sold under a protected trade mark.

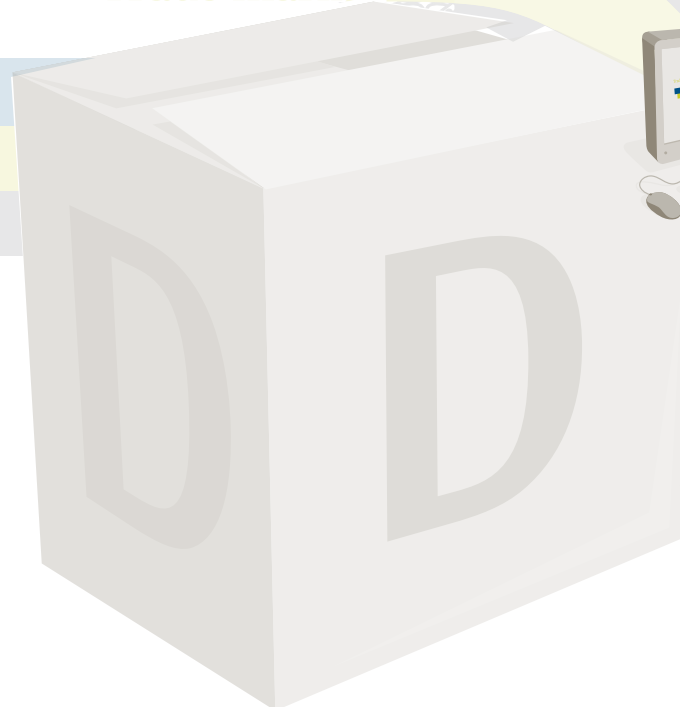


*IP information discovery!*

### New Zealand Design online database

Investigate product packaging to find keywords such as product line descriptors like "plunger", IP owners' names, and allocated numbers like NZ Des. No. 28358.

Trade mark



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## More IP assets

Intellectual property assets that might be tied up with services provided by the creative industries include:

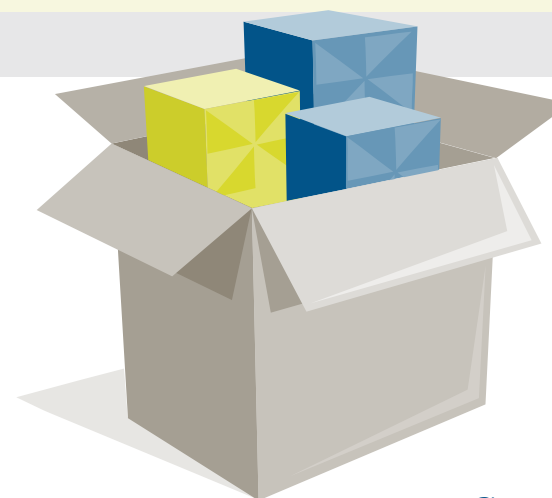
- confidential information
- patented technology
- copyright works owned by the client or licensed to them, and use of the client's trade marks, company name and domain names.

Confidential information can include everything from a trade secret production technique and other technical know-how through to cast and customer databases. This special 'insider information' and knowledge' is not disclosed and protected for as long as possible.

The creative industries tend to use confidentiality/ non-disclosure agreements, non-compete clauses in employment contracts, and security systems to prevent the information from being released or used without authorisation.

A company name is essentially the legal identity of a business. The registered company name is used on all legal documents like contracts, licences and assignments.

A domain name is registered with the Internet service provider. The domain name is used in URLs to identify and bring users to the owner's web pages.





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## Traditional knowledge

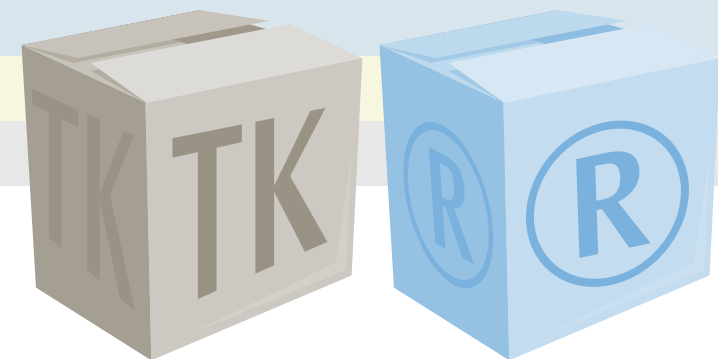
Traditional knowledge includes the creativity, innovations and practices of indigenous people and local communities. The knowledge doesn't need to be 'old' but is created in a traditional context. For Māori, Mātauranga Māori and cultural taonga are embedded in the traditional knowledge term.

New Zealand intellectual property law can, in some cases, be used to protect, preserve and safeguard unauthorised use of traditional knowledge by others.

Documented kōrero tuku iho oral histories can be protected as confidential information and trade secrets or under copyright when used in original creative works like books, films or sound and video recordings.

## Did you know?

The Māori Trade Marks Advisory Committee is appointed by the New Zealand Commissioner of Trade Marks under section 177 of the New Zealand Trade Mark Act 2002. The Committee can be called on to provide advice when a trade mark application is received that includes a Māori word or image. The Committee is asked to consider whether the trade mark would be likely to cause offence if used or registered.



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## IP &amp; commercial work

Intellectual property is a valuable collection of business assets. Regardless of what product a business makes or service it provides, it will encounter, create and use intellectual property. To survive and grow, a business person needs to know how to capture, protect and manage IP assets, and how to avoid conflict with someone else's IP rights.

Intellectual property is just like real estate or stock market shares. Someone always owns and can benefit economically from it. The owner can be a person or a group of people, a business enterprise, or the Crown (government).

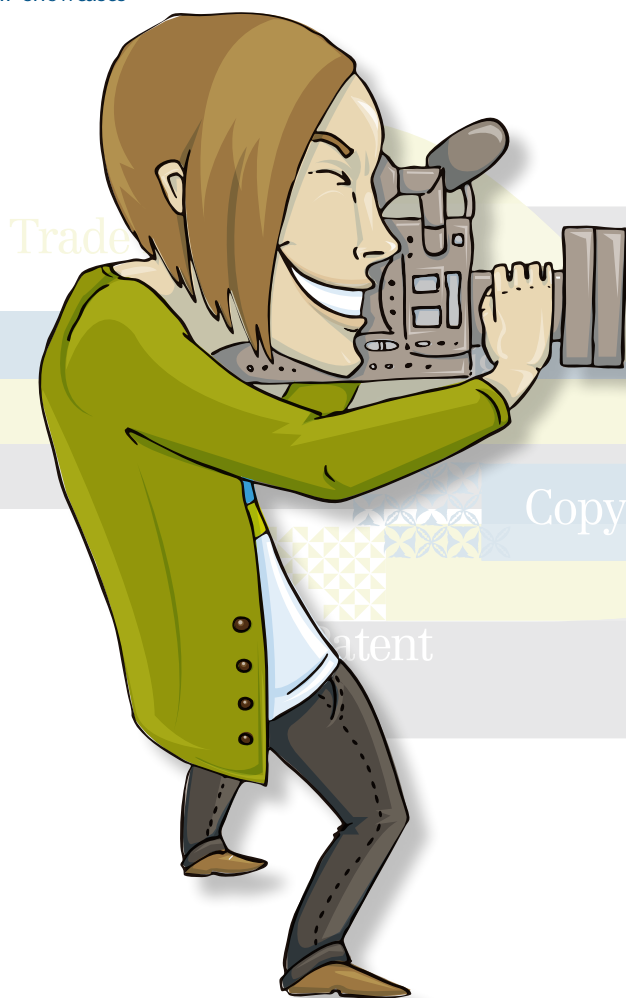
IP assets can be bought, sold and licensed. **Licensing** is like a rental agreement where the IP owner sets down terms and conditions to authorised use.

Just as a landlord collects rent from their tenants, so too can you charge "rental" for using your intellectual property. This rental charge is usually referred to as a licensing fee or royalty. You can also sell your rights in the work to someone else who, in turn, can benefit economically from it.

*Try searching online!*

Use an online search engine to find IP articles. Try these key words:

- Tasmin and Trelise Cooper with trade marks
- Coldplay music and National party
- Google and authors'/publishers' copyright suit.



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## What are moral rights?

Moral rights are held by the author or director of a creative work.

They can be transferred when the author or director dies.

Moral rights ensure that users of creative work act in good faith.

As the author or director of a creative work, you have the right to:

- be credited for any use or adaptation of your work
- require others to maintain the integrity of your work
- take legal action if any adaptation of your work damages your professional reputation
- take legal action if work is falsely attributed to you.

Trade mark

Registered design

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Patent



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## What are performers' rights?

Performers have the right to authorise or prohibit recording, broadcasts, and copying a recording of their performance. Performers can be cast members including extras; bands, back-up singers and musicians; comedians; principal dancers, corp de ballet, and guest artists.

Student and educational staff performances, news reading, sporting activities and audience participation are not covered.

Performers give authorisation in writing (legal term = consent). Contracted performers usually have a consent clause in their contract. Once consent has been given it can't be withdrawn.



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## IP showcase

Intellectual property (IP) is all about creativity, innovation and enterprise.



*Use you mouse to  
discover more!*



Trade mark

Registered design

Copyright

Patent

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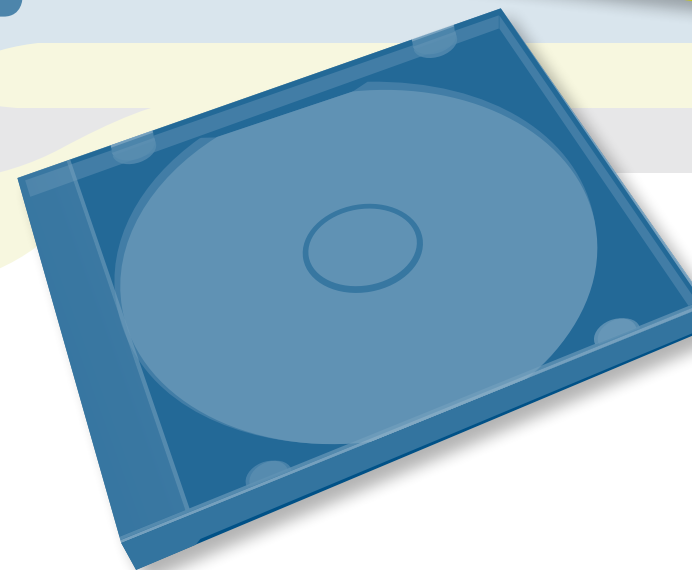
## Creative work showcase

Intellectual property (IP) can be like a layer cake. Each creative work can have a number of IP assets, owners, and people who are contracted to contribute their skills, expertise and creative energy to produce the final product.

A number of intellectual property assets and owners might be tied up in a single product such as a compact disc (CD) or digital versatile disc (DVD).



Use your mouse to  
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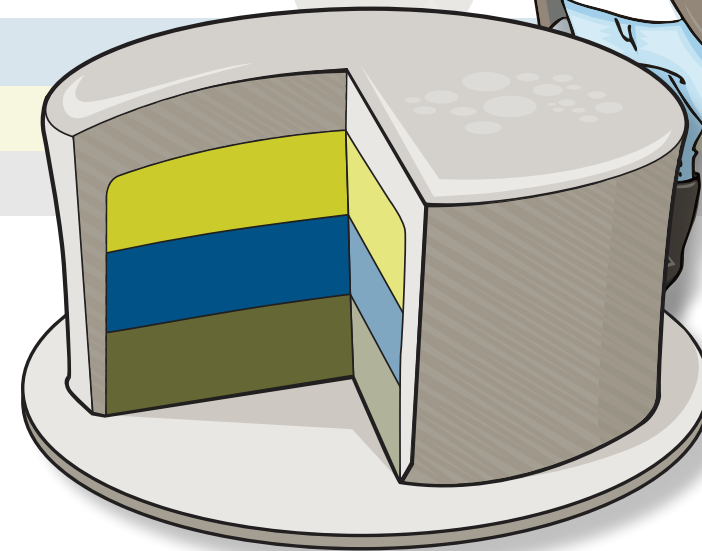
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## Music & film production showcase

Take a music composition with lyrics, score and the musical arrangement when it's recorded. This copyright work could be captured as sheet music, overlay tracks, a digital complication or a MP3 file. The negotiated deal could mean that the record studio owns rights to the master and recorded overlays while the singer/songwriter owns copyrights in the original music composition (score, lyrics and concert performances).

Ever wondered what it takes to produce a music video?

*Use your mouse to discover more!*



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## Novel publication showcase

Getting a novel published can involve a number of people who contribute their skills expertise and creative energy to produce the final product.

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