

AUSTRALIA: REGISTERED DESIGN FAQs

1. What is a design?

Design is all about the way an object looks: its shape, its visual appeal...it's all in the design! The appearance will result from one or more visual features, such as the shape, configuration, pattern or ornamentation of a product.

2. What is a design registration?

Design registration is an Intellectual Property right which permits a designer to exclude others from making, using or selling a product embodying the registered design during the term of the registration. In Australia, the term of a design registration is a maximum of 10 years.

3. What can be registered as a design?

Not all designs can be registered. Protection is given to the way a product looks. It is important to recognise that a registered design protects how a product looks and not how it works.

A design can be registered in relation to a product in Australia, provided it is both:

'new' - meaning it must not be identical to any design previously published anywhere in the world (including on the internet), nor any design previously used in Australia; and

'distinctive' - meaning it must not be substantially similar in overall impression to any design previously published anywhere in the world (including on the internet), nor any design previously used in Australia.

4. Why is Design Protection Useful?

Registered designs can offer protection where patent protection cannot (for example because the product is not functionally or technically innovative) and can also complement patent protection for new products, especially against copycat products. Enforcing design protection can be considerably less complex and expensive than enforcing patent protection.

5. How long does it take for a design to be registered?

Once a design application is filed, it will be checked for formalities and then will proceed to either registration or publication. This timeframe is generally within about 4-6 weeks from filing the application. Examination of the newness and distinctiveness of the design is optional, and can be requested after registration. A registered design must be examined by the Australian Designs Office and a certificate of examination issued before it can be enforced against third parties. The Australian Designs Office will examine the registration and then either issue a Certificate of Examination, or revoke the registration if it is not valid.

6. Is it expensive to obtain a design registration?

The cost to obtain a design registration in Australia will be approximately \$1,500 (including all official fees). Given that a design will remain registered for a period of five years extendable for a further five years, this equates to approximately \$250-\$300 per year.

The optional step of requesting examination of a design registration will be approximately \$1,450 (including all official fees) based on clear examination.

Please contact us for further information