

BANKI HADDOCK FIORA

LAWYERS

INTELLECTUAL PROPERTY RIGHTS FOR DESIGNERS -- KEY CONCEPTS --

Copyright protects original “works” including artistic works; e.g. hand-drawn drawings, computer-generated graphics, photographs, paintings, sculptures, “works of artistic craftsmanship” (works whose creation involves a special craft or skill where artistic concerns outweigh functional concerns); no need to register; automatic protection for 70 years after the death of the creator.

Examples: a drawing of a chair; a photograph of a table featured in an ad or a catalogue; a screenprint on a lampshade; a bespoke, handcrafted jug

Registered design protects the appearance of a product with an industrial or commercial use; covers both two-dimensional aspects (pattern and ornamentation) and three-dimensional aspects (shape and configuration); must be new and distinctive when compared with other designs; protection available for up to 10 years; must be “certified” before being enforced against copiers.

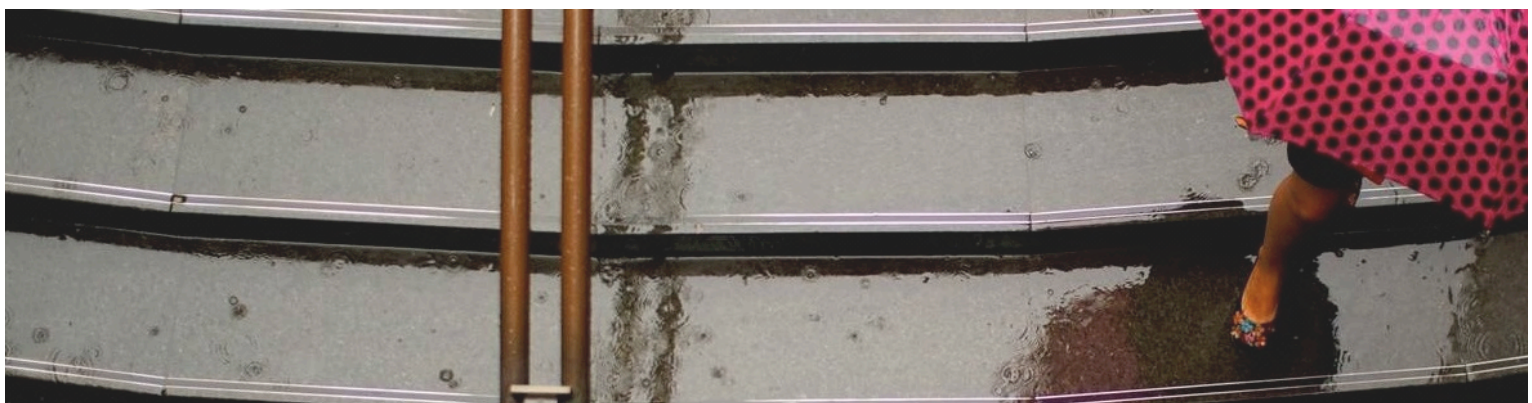
Example: an item of furniture (whether or not mass produced); a watch; a screenprint on a lampshade

Registered trade mark protects a brand used to distinguish a trader’s goods or services: e.g. a company or individual’s name, a product name, a logo, a slogan, a shape (e.g. a chair; a perfume bottle; Bodum coffee plunger); operates as a badge of origin i.e. to indicate the origin of the products or services that have that branding applied; can be registered for an indefinite period so long as it continues to be used.

Example: “STYLECRAFT”; “ARNE JACOBSEN”; David Jones houndstooth print; Tripp Trapp chair shape; Ferragamo clasp shape

Passing off effectively protects unregistered trade mark rights; a trader with “goodwill” (reputation) in a name or “get up” (i.e. product look and feel) can prevent another trader from damaging that goodwill by misrepresenting to consumers that its products or services are the same as, or associated with, another’s.

Example: company A makes and sells copies of company B’s well-known lights, and markets them without any reference to the fact that they are unauthorised



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Australian Consumer Law prevents a trader from engaging in misleading or deceptive conduct in relation to consumers (similar to passing off), or making certain false or misleading statements about its goods or services (e.g. that they are of a particular standard or quality, or have the same features as the goods or services of, or sponsorship or approval from, another trader).

Example: company A sells lights and falsely markets them as having been made from certain ecologically sound materials

Patents protect devices, substances, methods or processes that are new, inventive and useful; must be registered, with protection available up to 20 years.

Example: an innovative joiner for modular furniture; furniture paint with a new, special feature

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