



# BRIGHTLINE LAWYERS

Technology | Intellectual Property | Brand

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# Protecting design IP

- Copyright
- Registered trade marks
- Passing off / unregistered trade marks
- Registered designs
- Registered business and company names

# Copyright



- Automatic, free
- Can protect:
  - forms
  - layouts
  - graphicsas well as copy



- Only copying, not independent creation
- Only expression, not idea / concept
- Only original creative work, not just facts
- Need to *prove* subsistence, ownership, originality, reproduction

# Registered trade marks



- Relatively low-cost
- “Mark” includes words, graphics (colour, shape, smell...)
- Absolute exclusivity (within product spec)
- Public register, relative ease of enforcement
- ® !



- Not automatic
- Some limiting rules about registration
- Cost increases with range of products
- First-come, first-served similarity rules
- Only restricts use “as a trade mark”

# “Passing off” / “Unregistered TM”



- Automatic (if you have a trading reputation)
- Purpose: to prevent market confusion



- Need to prove trading reputation
- Need to prove public / trade confusion
- Protection may be limited by geography, product
- Difficulties in gradual-expansion cases

# Registered designs

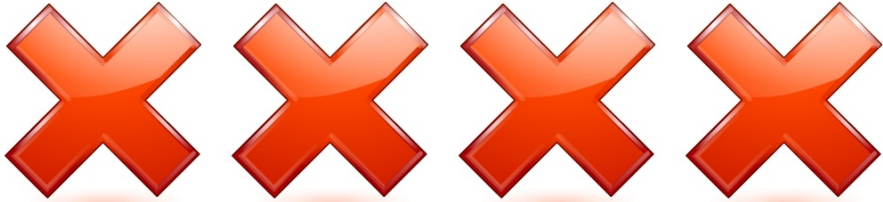


- Relatively low-cost
- Protects overall appearance:  
shape, configuration,  
pattern, ornamentation
- Absolute exclusivity  
(within product spec)



- Normally applied to  
physical design eg chairs
- Could be applied to  
websites / screen  
displays / UI's
- Must be new (globally)

# Business and company names



- You do **not** gain IP rights from business name (Fair Trading) or company name (ASIC) registration



- “First come, first served” similarity rules prevent registration of another *identical* name
- May assist in showing trading reputation for passing off action



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Thank you.

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