



# What to do about copyright infringement

## What is Copyright Infringement?

Copyright infringement happens when someone uses all or a significant part of someone else's work without permission. This could be copying, sharing, performing, adapting, or changing the original work. Selling, distributing, or importing unauthorised copies also counts. Even telling someone to infringe copyright or providing them with the tools to do so is infringement.

*It doesn't have to be the whole work that has been copied. Even a small part being copied could be an infringement, if it is the important part that makes the original artwork special.*



## What Is Allowed?

Certain uses are allowed under copyright law without needing permission. These include research, private study, reviews, criticism, and reporting, which fall under Fair Dealing.

Special provisions also exist for educational institutions, libraries, and public bodies. In New Zealand, we do not have "Fair Use." That is a part of the legal system in other countries, most notably, America, that does not exist in New Zealand law.



## Penalties in New Zealand

In New Zealand, the maximum penalty for copyright infringement is \$150,000 and 5 years in prison. So what can a copyright owner do to deter infringement, and to deal with it, if it happens to them?



## Protect Your Work

- Use digital rights management (DRM) software.
- Add watermarks to your work.
- Upload low-resolution images.
- Disable screenshots.
- Limit the time or location your work is shown.
- Use the © symbol on all your work and include your contact information.
- Regularly search for your name and images online to check for unauthorised use.
- Check your options for opting out of use by AI.

Consult with industry professionals to find the best tools for you. It's also smart to understand your rights, and using contracts or agreements every time someone wants to use your work means that you both have a clear understanding of what the use will be, and what fees there will be.



# What to do about copyright infringement

## What to do if there's a breach?

There are no copyright police, so it's up to the copyright owner to take action. Your advocacy body or collecting agency, like Copyright Licensing New Zealand for authors and artists, or APRA-AMCOS for musicians, might be able to provide support and advice, so check their websites.

### 1. Decide What You Want:

*Think about how you want the issue resolved. You might ask for attribution (to be properly named,) or for the work to be taken down, payment, or to licence your work. It's up to you; it doesn't have to be fines and punishments.*

### 2. Contact the Infringer

*You might resolve things informally by explaining your concerns. Send an email with the details of where you saw the infringement, what work is being infringed, and what you would like to happen. Not every infringer understands copyright, so be kind but firm.*

### 3. Take Down Notice

*If the infringer doesn't respond, you can send a Take Down notice for online infringement. You can find many takedown notice templates online. Include the URL and title of the content, your contact information, your signature, and a statement that you own the copyright and did not give permission. Many companies have their own forms, but if you're unsure, use a template you find online or hire someone to help.*

*Start by sending a Take Down notice to the website owner or company. If the site owner doesn't comply, they are liable for copyright infringement. If they don't respond, send another one to the internet service provider, the search engine and the web host. This notice tells all of those parties that they are hosting or linking to material that infringes on copyright. The company must remove the material quickly.*

### 4. Cease and Desist

*Consider legal advice to understand your rights and options. There are Intellectual Property (IP) lawyers, and most advocacy organisations can help you find someone reputable in your field of work. You should use a lawyer to send a Cease and Desist letter. This step is usually the final shot before legal action. A Cease and Desist letter is used to tell the infringer that legal action will begin, if they refuse to stop doing the illegal act.*

### 5. Court Action

*This can be costly, so weigh the benefits carefully. Consult with an experienced lawyer before deciding whether to take legal action. Some infringements are criminal offenses and can lead to fines or jail time, especially for commercial piracy.*





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## Tips to remember:

Every year, millions of books, songs, artworks, and films are created and shared. We are a very creative species! If someone else creates something similar to your work by coincidence and didn't copy you, it's not copyright infringement. This is called independent creation, and it's a complete defence. So, even if two works look very similar, if neither was copied from the other, there's no copyright issue.

If someone uses your work without permission, it's up to you to take action. There are no copyright police. You decide what to do if your work is used in ways that aren't legally allowed. You're not alone, though. Many arts organisations and resources can help guide you through the process and decisions. Reach out to these groups for support and advice.

For more detailed information, contact a legal professional or visit industry focused websites, including [www.copyright.co.nz](http://www.copyright.co.nz)

