

SUB-SECTION 3 - INDUSTRIAL DESIGNS

ARTICLE 17.33 - International agreements

Each Party shall make all reasonable efforts to accede to the Geneva Act (1999), if it is not already party to it.

ARTICLE 17.34 - Protection of industrial designs

1. Each Party shall provide for the protection of independently created industrial designs that are new and original.¹ This protection shall be provided by registration² and shall confer an exclusive right upon owners of such industrial designs in accordance with the provisions of this Sub-section.
2. The owner of a registered industrial design shall have the right to prevent third parties not having the owner's consent at least from making, offering for sale, selling, using or importing products bearing or embodying a design which is identical or similar³ to the registered industrial design, when such acts are undertaken for commercial purposes.

ARTICLE 17.35 - Duration of protection

Each Party shall ensure that the total duration of protection available for registered industrial designs amounts to at least 10 years from the date of filing of the application.

ARTICLE 17.36 - Unregistered appearance of products

1. The Parties recognise that the appearance of a product may be protected through industrial designs, copyright or unfair competition law.
2. Each Party shall provide legal means to prevent the use of the unregistered appearance of a product if such use results from copying the unregistered appearance of the product, to the extent provided by its laws and regulations.

ARTICLE 17.37 - Exceptions

Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of registered industrial designs and do not unreasonably prejudice the legitimate interests of the owner of the protected industrial design, taking account of the legitimate interests of third parties.

¹ For the purposes of this Article, a Party may consider that a design that is distinctive or that has individual character is original.

² For greater certainty, for the purposes of this Sub-section, Australia may interpret "registration" as "registration and certification".

³ For greater certainty, for the purposes of this Sub-section, Australia may interpret "similar" as "substantial similarity in overall impression".