

A guide to intellectual property law in South Africa

Issued by [Starbright](#)

28 Oct 2019

In South Africa, intellectual property (IP) law encompasses all legislation which concerns patents, designs, trademarks and copyright protection. [Intellectual property](#) refers to assets which are intangible, making them easily susceptible to exploitation by third parties, which were created through human intellect. IP law is taken seriously in South Africa and across the world due to its power in protecting intangible intellectual property which can hold immense value. It is crucial for intellectual property to be protected legally in order to restrict the usage of what is rightfully that of the inventor or creator.



The other main purpose of IP law, and the mission of IP law firms operating across Africa, is to **encourage the creation of intellectual goods**. By giving people and businesses property rights to what they create, the desire to innovate is stimulated through economic incentives due to the fact that they have the right to profit exclusively from their inventions and ideas.

Types of IP Protection

In South Africa, there are **four main types of IP protection**:

1. **Trade Marks** – A trade mark is a device, name, signature, letter, shape, pattern or configuration, among others, which is used to identify goods or services. Once a trade mark is successfully registered, the use of identical or similar marks in relation to similar goods or services would be an infringement. IP lawyers can advise you on the [process of acquiring a trade mark](#) and how to go about registering your marks or devices.
2. **Patents** – A patent provides inventors with the right to exclude others from making, using, or commercialising the patented invention for the allocated term. A patent will therefore give the holder the opportunity to challenge others who may use their invention. Specialised IP lawyers in South Africa can assist you with the registration process when [applying for a patent](#).
3. **Copyright** – [Copyrights protect your expression of ideas](#), this is generally considered to be artistic works which include, but are not necessarily limited to:

- Literary works

- Musical works
- Artistic works
- Cinematograph films, and more.

Copyright exists automatically upon creation of the work if it is in the class of work recognised by the Copyright Act. Your work therefore does not have to be registered for copyright, unless it is a film whereby a copyright lawyer can help you register.

4. **Designs** – A design registration affords protection specifically directed at the visual features of an article/item. The Designs Act distinguishes between two types of designs:

- Aesthetic Designs – design which is purely aesthetic and judged solely by the eye
- Functional Designs – design which is necessitated by the function which the article is to perform.

The [filing and prosecution of registered design applications](#), as well as the enforcement of design rights, can all be handled by expert attorneys who specialise in IP law.

Looking for IP Attorneys in Pretoria, or Across Africa?

For advice on registering your idea or creation, how it can be protected and what can be done if infringement occurs, [get in touch](#) with attorneys who specialise in IP law. [Attorneys in Pretoria](#) include those from Africa's leading IP law firm who provide clients across the African continent with a full range of legal services in relation to intellectual property rights.

For more, visit: <https://www.bizcommunity.com>